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PROCEEDINGS AND DEBATES OF THE 102th CONGRESS, SECOND SESSION

SENATE—*Thursday, July 23, 1992*

The Senate met at 9:20 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us remember Senator BURDICK, who is in the hospital in Fargo, ND; and the son of Senator STEVENS, Walter, who had serious surgery yesterday.

* * * *Blessed be the name of God for ever and ever: for wisdom and might are his: And he changeth the times and the seasons: he removed kings, and setteth up kings: he giveth wisdom unto the wise, and knowledge to them that know understanding.*—Daniel 2:20,21.

Eternal God, everlasting Father, Lord of history, the times and the seasons are known to You, the end from the beginning and all in between. History, its origin, and its consummation are ordered by You, its author, not its victim.

Ruler of the nations, You know the schedule of empires, their derivation, their development, their decline, their demise. You know where we are in our American journey. God of the macrocosm, the cosmos is Your creation, and You plan every moment and movement of its existence. God of the microcosm You know when a sparrow falls to the ground, You know every detail of our private and corporate lives, from conception to death. Lead us in the way You have planned for us, in the way of justice, righteousness, and truth—the way of love. Save our Nation from such total fragmentation lest, like Humpty Dumpty, "* * * All the king's horses and all the king's men couldn't put (it) together again."

In the name of the Prince of Peace, incarnate Love and Truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 23, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be permitted 10 minutes to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection the Chair recognizes the Senator from Minnesota [Mr. WELLSTONE] for 10 minutes.

Mr. WELLSTONE. Thank you, Mr. President.

THE HIGHER EDUCATION ACT

Mr. WELLSTONE. Mr. President, I think we are at a moment in the history of our country where people all over the country are redefining national security. I think what people are saying is that a big part of the definition of national security for our Nation is going to be not only, of course, to have a strong defense in military terms, but also to have a strong economy.

People are talking about how we can invest in our economy so that we have an economy that does well for businesses, and that also produces the kind of jobs that people can count on, jobs that pay a decent wage under decent working conditions.

It is in this context, Mr. President, that I would like to talk about the Higher Education Act, which will be signed by the President today. And I will immediately acknowledge the important vision, and really the leadership, over the years, of Senator PELL, who is chairman of the Education Subcommittee, that I really feel privileged to serve on.

Mr. President, I just want to make a few comments about this bill. First of all, I want to make it crystal clear that as a former teacher, I am absolutely convinced—and I think 99.999 percent of the people in our country are convinced—that education is crucially linked to economic performance.

That is to say, we will not do well unless we have a literate, trained, productive work force. So to invest in education in our country is really to invest in our economy.

Second of all, let me make a point which is not made as often, which is that I think education is critical to a democracy. We simply have to have women and men who can think on their own two feet, who understand the world that they live in, and who understand what forces of action are available to them to make our country better, to make the world better, and to make life better for their children and themselves.

Mr. President, I am pleased with this Higher Education Act. I was privileged to sit on the conference committee, and to be a part of how this public policy was formulated in the U.S. Congress. It is not all that I would want, and as Senator PELL well knows—he has been here far longer than I—we still have to work with the Appropriations Committee and make sure we have the funding for the programs that have been authorized.

But there are a couple of features of this bill that I would like to emphasize, because I really think they are rooted in hearings that Senator PELL gave me permission to conduct in the State of Minnesota.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

I went out to Minnesota, and I had a hearing in the Minneapolis Community College, and then another one up at the University of Minnesota in Duluth. The focus of these hearings was on the nontraditional students.

I had taught at a college where just about all the students were ages 18 to 21 or 22. But what I realized, after holding these hearings, was that maybe the nontraditional students have become the traditional students. Students are no longer all 20 years old and living in the dorm. So many students in our country are older and going back to school; many women, many single parents. This represents, really, a transformation in our society, and the sooner we adjust to that, the better we will be as a nation.

So I would just like to highlight a number of aspects of parts of this bill that I was able to work on with the support of many people in Minnesota, that I am really proud of.

First of all, I am really pleased with an amendment that I offered that was accepted by Senator PELL to this bill which calls for $20 million for institutions for child care services. Twenty million dollars is not a huge amount of money, but, finally, we are acknowledging the fact that if we are serious about providing educational opportunity for students in this country, a good number of those students are older. And many of them, again, are women; many with children. So child care and support for child care is critically important.

The bill goes on to make it clear that child care allowances are to be figured in as part of the definition of need, of the cost of attendance. Again, we are finally coming to terms with the new kind of student and with the new reality within our country.

Then finally, within the Pell grant, we provide for a $750 allowance for child care.

Second, Mr. President, another concern that was voiced by Minnesotans and people all over this country was where the middle- and moderate-income families fit into this.

One of the things that we have done in this bill that I think is very important is we have removed home and farm equity from being considered as part of need assessment. For those people that come from farm or agricultural areas, you know what I mean when I say you can look rich on paper in terms of farm assets, and you might not even be cash flowing.

So I think what we have done in this Higher Education Act is extremely important in terms of the availability of loan programs, not just for low-income, but for middle- and moderate-income people, as well.

Third, we have not made the Pell Grant Program an entitlement program. I think we should. I think it is in the national interest. But the maximum level has been raised to $3,700 in 1993 with a maximum increase of $200 per year over the next 4 years.

Again, by raising the definition of who is eligible so that it includes the moderate middle-income range, and by raising the maximum grant level—if we can now be successful with the level of appropriations, we will have taken an important step toward making sure that higher education will be affordable and that students will not have to rely just on loans, because there will be more grant money available. That is terribly important.

Fourth, and I think this is really something that I would not want people to lose sight of, we have made sure in this bill that Pell grant assistance will be available for part-time students—that is very important—without a time limit. All too often, what has happened has been that part-time students have been ineligible for Pell grants. It is a catch-22. They are going to school parttime because they do not have the money, and they are not eligible for Pell grants because they are not full-time students. We have now made sure they are eligible. I heard students testifying about this over and over again at the community college and at the University of Minnesota, Duluth.

Finally, I would like to express my appreciation to Senator PELL, Senator KENNEDY, and Representative FORD, and others, that we were able to restore authorization for funding for 2-year medical schools such as the University of Minnesota, Duluth. The University of Minnesota, Duluth has done a stalwart job in training med students who go on to practice family medicine in rural, small town communities. So often, those communities are underserved. I think this program is extremely important. I am delighted that we have authorized the funding.

There will be much discussion about the direct loan program. I thank Senator SIMON and Senator PELL, and I thank Senator DURENBERGER, and others. I think it is important that we set up this demonstration model, that we have eliminated the middle man, and I think this could be a very successful program.

In conclusion, Mr. President, for my own part, this is the way I thought it would be. You go home, you hold hearings, you listen to what people say, you come back, you translate that into specific initiatives, you work with your chair. Senator KENNEDY is now here on the floor, and I appreciate his support. You work hard, you dig in, you get it into the committee bill, you work on the conference committee, and then you see some tangible results. I am very pleased that there is a good deal of support for nontraditional students in this bill. I am very pleased that the Pell Grant Program and the Stafford Loan Program will reach well into the middle-income range. I am delighted that the President will sign this bill. It makes me very proud that we have really passed a piece of legislation that I think directly leads to the improvement of people's lives.

Mr. President, I hope we will do well in appropriations. We have authorized it and we need to have the appropriations for it, because I think this is really a very important step forward for those of us who believe education is so important in our country. I think it is not just those of us in the Senate or the House, I think this is something that the vast majority of the American people support.

Mr. PELL. Mr. President, I thank my friend and colleague from Minnesota for his very kind words. I observe also that, without the support of the Senator from Massachusetts [Mr. KENNEDY] this bill would not have gone through.

This legislation has one priority: the needs of students and their families. It recognizes that financing a college education is a hardship that begins with those who are not well off and extends to hard-pressed middle-income families who today find themselves unable to obtain federal student aid.

In determining a family's ability to pay for a college education, we make several historic changes that will help low and middle income families alike. We remove the consideration of home and family farm equity in determining financial need. Often, this did not measure a family's ability to pay for a college education, but instead penalized families for whom the home was the only real asset.

For families who previously have been punished if they scrimped and saved for their children's education, we will now protect those savings. And, we call a halt to the practice that required students to save an unreasonable amount of their summer and school year earnings for their education.

For the first time, we will have one system for analyzing and determining need. We will have a simplified application and reapplication process with shortened forms printed in plain and simple language. What a relief these changes will be to families who have found applying for Federal aid a detailed, complex, and virtually incomprehensible process.

We stress the importance of the Pell grant as the foundation of our Federal student aid efforts, and call for increasing the maximum grant to $3,700.

But we also recognize that the grant is unable to cover the cost of paying for a college education. Accordingly, we provide for modest increases in loan limits. Most important, we provide a new loan program for middle-income families who may not qualify for a regular Federal student loan, but still need help in paying for their children's college education.

We have also made many changes designed to improve the operation and administration of the Federal loan programs. We prohibit participation by schools with default rates above 25 percent, and do not allow the use of commissioned salespersons to recruit students. We require fair and equitable refunds for students, and provide stiffer penalties for those who would cheat students and the Federal Government.

We significantly strengthen the process of accreditation, eligibility and certification, and State licensing. We have new Federal requirements to insure that this process is both strong and credible, and that only good institutions make it through. Our goal is a simple one: to make sure that students receive a quality education wherever they go to school.

This legislation is the product of almost 2 years of very hard work.

It is legislation that brings the opportunity of a college education within the reach of millions of young and adult Americans who, without our financial help, would not be able to attend college.

It is legislation that opens education and training possibilities to individuals who otherwise would find none available.

It is legislation crafted to make sure that a quality education is available to every American pursuing postsecondary education.

It is legislation truly designed to keep America strong where it counts the most—in the education and character of its people.

Mr. KENNEDY. Mr. President, first of all, I think all of us in this body want to pay tribute to our friend and colleague, the chairman of the Education Committee, Senator PELL, as well as the minority ranking member, Senator KASSEBAUM, for their extraordinary leadership in bringing us to the position where later on today the President of the United States will sign this legislation. I think all of us are very much aware of the extraordinary contribution that the Senator from Rhode Island has provided in this very basic and fundamental area which is of such enormous importance to families in the United States, and that is in the area of education. We pay tribute to Senator PELL for his continued leadership.

Mr. President, I join in commending President Bush for his decision to withdraw his veto threat and sign The Higher Education Amendments of 1992. This legislation will greatly expand opportunities for students to enroll in higher education. It is an indispensable part of our efforts to restore domestic growth and competitiveness in world markets. Our increasingly technological and complex modern workplace demands highly skilled and educated workers. We cannot afford to have members of our work force hindered by incomplete education or poor preparation.

Unfortunately, over the last 15 years, the cost of college education has increased much faster than the cost of living. Higher education has increasingly moved out of reach for low- and middle-income Americans. Unlike other industrialized democracies, America expects its students and their families to bear the primary burden of paying for higher education. This bill will ease that burden, give millions more students the chance to pursue a college education and achieve their full potential, and build a stronger America in the coming decades.

One of the central goals of this bill is to expand student aid for low- and middle-income families. The legislation accomplishes that goal by authorizing a long overdue increase in the size of Pell grants, and by raising loan limits and expanding eligibility for Stafford loans in order to help students keep up with the rising cost of tuition.

In addition, we have eliminated consideration of home and farm equity in determining eligibility for student aid. No longer will the value of a family home or farm disqualify hardworking middle-income families from student aid. A second provision of the bill greatly simplifies access to student aid. The current process discourages many students, especially in lower income families, from applying for student aid. The bill establishes a single need analysis formula to calculate eligibility for aid, and it also mandates the use of a single, simple application form.

A third issue of serious concern is the fraud and abuse in the current Student Loan Program. In the past 5 years, we have seen a massive increase in loan defaults. Most of these defaults are caused by fly-by-night schools that fail to deliver on their promise to prepare students for the job market. Too often we have seen a proliferation of schools more interested in making a profit than educating students.

To achieve reform here, we have strengthened various aspects of the school approval process and we have adopted many recommendations by Senator NUNN following his excellent and extensive investigation of abuses in the Student Loan Program.

A fourth reform involves teacher recruitment, retention, and development. A new Teacher Corps Program will provide college aid to prospective teachers, in return for a commitment to teach in underserved areas. We have expanded programs to recruit nontraditional teachers and other outstanding individuals into teaching, and we have established national and State teacher academies for in-service teacher training and school leadership training.

A fifth major reform is the expansion of early intervention initiatives. To prevent students from dropping out of high school, and to encourage them to pursue a college education, we must reach out to them as early as possible in the educational pipeline. These initiatives will identify at-risk students early in the education pipeline and make funding available for early intervention programs to keep them in school. These programs, operated by community-based organizations or local schools in conjunction with the State educational agency, will continue throughout high school and provide supportive services throughout high school.

Finally, in one of its most innovative features, the bill includes a direct loan demonstration program—and I commend our colleagues, Senators SIMON, DURENBERGER, BRADLEY, and others, for the support of that—to enable colleges to make loans directly to students, instead of relying on the current costly practice of using banks as a middleman. I believe that direct loans are the way of the future, and I look forward to the results of this important test. Direct loans offer substantial savings and will enable us to stretch our scarce college aid dollars much further.

It is no secret that this legislation survived many serious obstacles. It is a great relief to many current and future college age Americans that the President decided to withdraw his objection to the expansion of aid to the middle class and the Direct Loan Program. The enactment of this bill will almost certainly rank among the most notable achievements of this Congress.

Nonetheless, a critical challenge lies ahead—to match our rhetoric with our resources in the appropriations bill to come. Shortchanging college aid is shortchanging America. It is time to take down the dollar sign that too often blocks the path to our colleges and universities. If the higher education bill is fully funded, it can do as much for our country in the years ahead as the GI bill of rights did a generation ago.

Educational excellence is the key to competitiveness in today's world. The Higher Education Act is one of the most effective means the Nation has to help students achieve their full potential, and help America reap the rewards of their accomplishments. It is a central part of our longrun goal to revitalize our economy and invest in our future and I commend all those in Congress, the administration, and on campuses across the country who have helped us to fashion these far-reaching reforms.

Mr. President, I ask unanimous consent that a factsheet summarizing the act may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJOR IMPROVEMENTS IN REAUTHORIZATION OF HIGHER EDUCATION ACT[1] AS AGREED TO BY THE CONFERENCE COMMITTEE

(1) EXPAND STUDENT AID FOR MIDDLE-INCOME FAMILIES

(a) Increase size of Pell grants (increase minimum and maximum grants).

(b) Raise loan limits and expand eligibility for Guaranteed Student Loans.

(c) Eliminate consideration of home and farm equity in determining eligibility.

(d) Factor cost of tuition into determining size of Pell grants.

(e) Make student loans available to all students, regardless of financial need.

(2) SIMPLIFY ACCESS TO STUDENT AID

(a) Establish single need analysis formula to calculate eligibility.

(b) Provide simplified, single application form.

(c) Establish automatic eligibility for neediest students.

(d) Create new, streamlined reapplication process.

(e) Exclude all assets from need analysis for families filing 1040EZ tax return.

(3) IMPROVE INTEGRITY IN THE LOAN PROGRAM

(a) Strengthen three parts of school approval process (federal eligibility and certification, state licensing, and private accreditation).

(b) Make schools with default rates over 25 percent ineligible.

(c) Eliminate short-term proprietary school programs and correspondence schools.

(d) Implement provisions of Nunn report on curbing fraud and abuse in student loan programs.

(4) EXPAND PELL GRANT PROGRAM

(a) Increase middle income eligibility to $42,000.

(b) Increase maximum grant from $3,700 in 1993 to $4,500 in 1997 (current maximum is $2,400).

(c) Automatic eligibility for AFDC recipients.

(5) EXPAND EARLY INTERVENTION EFFORTS

(a) Establish new National Early Intervention Scholarship and Partnership program to encourage the establishment of tuition guarantee programs (such as Eugene Lang's "I Have A Dream").

(b) Provide early notification of college opportunities to elementary school students and continuous academic and social counseling.

(c) Establish Kohl Be All You Can Be program to advertise college opportunities.

(6) STRENGTHEN ACADEMIC ACHIEVEMENT

(a) Create Presidential ACCESS scholarship program to reward students who take rigorous academic courses in high school.

(b) Expand Byrd Scholarship program for high school students with outstanding records.

(c) Strengthen existing provisions on academic achievement as a condition of receiving federal student aid.

(7) STRENGTHEN TEACHER RECRUITMENT, RETENTION, AND DEVELOPMENT

(a) Establish new Teacher Corps programs to provide college aid to prospective teachers in return for commitment to teach in underserved areas.

(b) Expand programs to recruit non-traditional and outstanding individuals into teaching.

(c) Establish national and state teacher academies for inservice teacher and school leadership training.

(d) Expand Christa McAuliffe Teacher Program to recognize and retain outstanding teachers.

(e) Expand early childhood teacher training.

(f) Support alternative routes to teacher certification.

(8) STRENGTHENING GRADUATE AND PROFESSIONAL EDUCATION

(a) Assure supply of highly trained faculty members and research personnel.

(b) Increase access for underrepresented Americans to graduate and professional schools.

(9) ESTABLISH A DIRECT STUDENT LOAN DEMONSTRATION

(a) Test the effect of making loans directly to students and eliminating subsidies currently paid to middlemen.

(b) Includes an income contingent repayment feature for many borrowers.

(c) Authorize a large number of colleges and universities to participate in a direct loan demonstration program.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. DURENBERGER].

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER, Mr. KOHL, and Mr. DASCHLE pertaining to the introduction of S. 3011 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURENBERGER. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois [Mr. SIMON].

THE HIGHER EDUCATION ACT

Mr. SIMON. Mr. President, this afternoon or late this evening President Bush is going to sign the Higher Education Act. That is a significant step forward—not as big a step forward as Senator DURENBERGER and I and some of the members of the committee wanted to make, but it is a significant step forward. And we have to give credit to Senator KENNEDY, Senator PELL, Senator KASSEBAUM, as well as our colleagues on the House side, Congressman FORD, and particularly the one aspect I want to speak about, Congressman PETRI. The Republican Senator from your State, Mr. President, has been very helpful in this area.

What we were able to get into this bill is $500 million as a demonstration for direct lending. According to the GAO if we had gone as far as Senator DURENBERGER and I wanted to, we would have saved $1.3 billion, believe it or not, that we make in the subsidies to the banks.

I am grateful to the banks for the assistance they have provided our students, but the bill, after all, is a Higher Education Assistance Act not a Banking Assistance Act. And we particularly ran into the opposition of the Student Loan Marketing Association, Sallie Mae, which we created to help students. They became a barrier. I have just looked at the latest report, and my colleague from Minnesota will be interested. The compensation of the chief executive office of Sallie Mae this past year was $2.1 million and the fifth ranking executive makes about two and a half times what the President of the United States makes.

They were out sounding like they were defending the rights of students. They were defending their own little bailiwick that we created. I do not suggest they have not made a contribution, but I think as we move along we are going to have to take a look at Sallie Mae and what we have created there.

This particular provision helps students because it is universally available regardless of income, it is not income contingent. The original bill would have had it all contingent. Thirty-five percent of the schools will benefit from this, and the Secretary will have to pick for the $500 million. That will be 250 to 400 schools that will benefit from that. So that you pay back on the basis of your income. Right now there is a flat sum regardless of your income and we have a high default rate as a result.

This year, we will spend $3.4 billion, believe it or not, on student loan defaults. We had this set up where you pay the Treasury rate plus 2 percent, and that 2 percent will more than take care of what defaults there may be because of death, or people unemployed, or whatever it may be.

But if you make $100,000, you pay back more. If you are a social worker or teacher and do not make that much, you do not pay back that much. Or if you are unemployed, you do not pay back anything, but you are not losing your credit and you are not doing harm to yourself.

Students benefit. Schools benefit. It is simpler. And the taxpayers benefit because we do not end up harming the budget with huge student loan defaults. The country benefits because more students will be able to take advantage of education.

My hope is that we can move beyond where we are on this, and do it quickly. I hope, whether it is Bill Clinton or George Bush, that we can move after we come back in and take a look at where we are and do something even more significant.

I heard Senator KENNEDY a few minutes ago refer to the GI bill after World War II. The Presiding Officer and I may be the only two here old enough to remember the GI bill after World War II. If you take that and put an inflation index on it, that today would average a grant, not a loan, of $8,100 a year. That was conceived of as a gift to veterans. It turned out to be a massive investment in our own future.

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[1] S. 1150, The Higher Education Amendment of 1992, complies with all aspects of the Budget Enforcement Act. The new provisions and improvements have been paid for by offsetting reductions in other programs.

Economists do not agree on very much, but whether it is Lester Thurow and his new best-selling book "Head to Head," economists agree on one thing: Our Nation is going to have to invest in education. That is our future. And this bill is a step in the right direction.

I am grateful to my colleagues on both sides of the aisle for their work on this, as well as our House colleagues.

And I particularly want to commend my colleague, Senator DURENBERGER, for joining me in this effort that did not go as far as we wanted but is a significant step forward.

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am prompted by those comments and those of our colleagues from Rhode Island and Massachusetts, and my colleague from Minnesota, to say something about what is going on in our offices right now. This is the 23d day of July. Parents and prospective students are going to the campuses of their choice trying to sign up for one form or another of student aid, since the cost of higher education in this country is now rising about as fast the cost of health care and everyone is looking around for some kind of help.

Somehow or other, even though the President has not yet signed the bill, the word has gotten out that the effort that my colleague from Illinois has just detailed, the demonstration of the value of investing in students who are willing as beneficiaries to return the payment for that investment, the word has gotten out and people are calling all of our offices for information about how they apply for this form of sort of investment assistance.

I think we are going to have, and I hope we have, over the next few months some kind of a reaction, if you will, to the fact when people get to the campuses and talk to the financial aid officers—many of these financial aid officers are enthusiastic about our proposal and many others not so enthusiastic about it—they are going to have to explain why providing an up-front investment in young or older people in higher education, which they are willing to repay out of their income, not a handout, not a freebie that you do not have any personal investment in, why this is not available today, and particularly when it would have positive Federal budget consequences in the near-term as well as the long-term to do it.

If we had been able to pass the legislation that we have proposed, if we had been able to do that, we would have saved, as my colleague from Illinois says, $1.3 billion a year, $1.3 billion a year. That is conservative. I think the first figure was $2.1 or $2.7 billion. That is the most conservative estimate of the savings when you see the current system as $3.4 to $6 billion in default.

That is an immediate savings to the Federal deficit and future generations that are funding that deficit. But the long-range savings to people who are able to get an education, people who are able to select the kind of educational program, the kind of educational institution that they want, not the one they have to go to because they cannot afford the one that they want, that investment in the future of this country is immeasurable.

So I stand here, No. 1, disappointed that we were not able to make this program available to all Americans; and pleased that those of my colleagues who presented this case, particularly the chairman of Labor and Human Resources, who is still on the floor, who spoke to this issue 12 or 13 years ago, and who made it possible this year; the chairman of the Labor Committee in the House of Representatives, BILL FORD, who did not think much of this idea for some period of time but when he became familiar with it became very committed to it. It was the leadership in these committees and particularly on the Democratic side that made this possible.

So I rise to—I hesitate to do this, I suppose—I rise to compliment that leadership, and I rise to compliment the Democratic platform. I have read the Democratic platform. It says that all Americans ought to have the opportunity to invest in their own education as long as they are willing to repay the cost of that education out of the value they receive from that education.

People ought not to be penalized for going into low-income jobs, for going into public service, for going into teaching and social work, and so many of these professions we need so desperately; being family care doctors rather than superspecialists. They ought not to be penalized by the current system.

On top of $2 million for Sallie Mae, on top of the transactional costs in banking, we are depriving the Nation of what we really need, and that is people who will work in public service professions; who will work in those kinds of professions like the family practice of medicine and not be driven by the cost of education into some of those selective high-paying professions.

I hope since we still have 3 or 4 weeks before my party goes to the convention in Houston, I hope that those who are platform writers for my party will go out and listen to the young people who cannot get into college, to the people who want to go into what are currently called low-paying professions, whose parents who are striving to make ends meet in their families and having a difficult time anticipating the cost of 4 or 5 years of higher education, I hope they go out and listen to them and go to our convention and do what the other party's convention did and endorse the concept, which today is a demonstration, will not happen for 2 years unless the President of the United States comes back from the convention, comes back from the election and says next year we are going to make this a permanent program. It is good for America, it is good for the young and the older people of this country.

I congratulate those of my colleagues, particularly those who have been named, and particularly my Republican colleague, TOM PETRI from the House of Representatives, and his staff, Joe Flader, particularly, who slaved on this issue for 11 years, for their commitments to seeing that this job gets done.

I congratulate the people of my State of Minnesota for their support for the IDEA bill, the Income-Dependent Education Assistance Act, which my colleague and I introduced. I congratulate BILL BRADLEY, a leader on this issue, SAM NUNN, and others here on this side of the aisle. I just hope the people of this country who currently are out there searching for opportunities to get into college will recognize this as their opportunity and will make it clear to all elected officials and all people seeking elective office that this is a crucial element in building a strong future in this country.

I yield the floor.

Ms. MIKULSKI. Mr. President, today the reauthorization of the Higher Education Act becomes law. This is a law that will give help to those who practice self help.

What do I mean by that? Mr. President, last year I stood on this floor and put forth my own education framework. A kind of navigational chart for middle-class families who are drowning in debt trying to send their kids to college.

I am proud to say that many of the provisions I put forth at that time are in this bill today.

This bill opens doors and creates opportunities for middle-class families and for those who would like their kids to have some opportunities they never had themselves.

First, under this bill, more middle-class families will qualify for student loans. Far too often families who worked hard to take care of their families and put a little aside were punished for their efforts.

So if you had two earners in the family and together they made more than $35,000, the Government said they couldn't get a student loan.

And if that same family had any assets—a home or farm—it was even worse. The value of that home or farm would be added to the income and knock hard-working families right off the chart.

This bill fixes that problem. It takes homes and farms out of the calculations. So more middle-income families will have access to the funds that are available.

Second, this bill makes applying for loans easier. You used to need your own accountant just to understand and fill out financial aid forms. As I traveled through Maryland I heard many people say they just couldn't get past the application. Some gave up. Now, there will be just one simple form.

Third, the bill raises the amount of money given out in individual Pell grants.

And finally, this bill has a built in mechanism to help pay for itself. This bill is paid for and it's a good use of Americans' money.

This bill cracks down on student loan defaults and tightens up the whole Student Loan Program—to ensure accountability and timely repayment.

Mr. President, that was truly a problem that had to be dealt with. The cost to the Federal Government from student loan defaults increased dramatically, from $239 million in 1980 to $3.4 billion in 1992.

It's high time we cracked down on those defaulters. We can use the funds they owe to help others enjoy the same opportunity.

With the reauthorization of the Higher Education Act we expand the scope of opportunities. And we are doing what government is meant to do, help those who work hard to help themselves.

Mr. SARBANES. Mr. President, I rise today in support of the conference report on S. 1150, the Higher Education Amendments of 1992, reauthorizing the Higher Education Act for 5 years. As you know, when the Higher Education Act was first enacted in 1965, opportunities were created and doors were opened for millions of citizens who otherwise would not have had the chance to obtain a higher education. I was very pleased to be able to participate actively in the reauthorization of this act which provides the basic statutory authority for our Nation's commitment to educational opportunity and excellence and look forward to its enactment later today.

The passage of this legislation is particularly significant in my view in light of the repeated attempts by administrations over the past decade to reduce drastically the role of the Federal Government in student aid programs. The Reagan and Bush administrations have consistently tried to minimize the role of the Federal Government in helping students finance their higher education—actions which have resulted in a fundamental shift in the balance of Federal assistance available to needy students. For example, in the mid-1970's, approximately three-quarters of Federal student aid was available in grants, intended to be the foundation of Federal assistance to financially needy students. However, by the late 1980's, loans had replaced grant aid as the primary source of assistance, with about two-thirds of aid to needy students for postsecondary education available only in the form of loans. While still falling short of what I think we need in terms of financial aid in the area of higher education, I am pleased that the Congress has taken steps in this reauthorization bill to begin restoring the relationship between grants and loans originally intended for Federal Student Assistance Programs.

In the same manner, although the Higher Education Act reauthorization legislation we submitted to the President yesterday is not everything I would like it to be, it does sustain our Nation's longstanding commitment to access, choice, and opportunity in higher education. Every society places a premium on education in terms of developing a skilled and trained work force in the next generation, and the more complex economically the world becomes, the more urgent it is to address this aspect of developing our human resources. In our society, however, education carries two other very important responsibilities which make this whole complex of programs we are talking about essential to the health and vitality of the society.

The first is that we are one of a handful of countries that has maintained a democracy over a sustained period of time. Obviously, education is essential to a literate citizenry capable of making democracy work. The other dimension is that education in America represents a ladder of opportunity. We take great pride in being an open society in which people can move up and forward, and the way they do that is essentially through the educational ladders provided in the programs we are reauthorizing in the Higher Education Act. However, all of the programs we are addressing in this legislation are not solely to benefit the individual, as important as that part of it is. These programs are part of our national effort to include people in our society rather than excluding them, an essential concept in my view to the harmonious working of American society.

The enactment of the reauthorization of the Higher Education Act is a critical step in our efforts to maintain access and choice in higher education. We must continue to acknowledge the vital importance of education in this country, to sustain and hold on to the educated base we have created, and to commit ourselves to a quality education for all our Nation's citizens.

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

Mr. CONRAD. Mr. President, last night we had a vigorous debate on the question of the transportation of trash across this country. Last night the debate was a question of who decides whether or not trash can be sent into a State or not.

Last night the Senator from Nevada offered an amendment, along with the Senator from South Dakota and myself, that would have provided the Governor of a State could stop the importation of trash.

Mr. President, that amendment went down last night, although we had a vigorous debate. Mr. President, I believe we made a serious mistake. I have additional evidence this morning that relates to my home State which I believe indicates clearly how serious a mistake was made last night and how deeply flawed the bill before us really is.

Mr. President, I have now received the story from my home State press entitled "GM's Sludge Coming to North Dakota." It is a fairly stunning story, Mr. President. This is nonhazardous waste. That was what we were talking about last night—nonhazardous waste. Now we find out waste from 100 General Motors Corp. factories, according to their story, will roll into North Dakota for a disposal at a landfill site near Sawyer, ND. A company called Municipal Services Corp. will accept all nonhazardous industrial waste generated by the giant auto maker. There is nothing the State of North Dakota can do about it.

My colleagues who do not represent North Dakota may be thinking, well, so what? North Dakota is going to get all the waste from GM plants all across the country. That is not our problem.

Mr. President, it may not be your problem today, but it may be your nightmare tomorrow because, under the bill we are passing, once a community has entered into a contract, there is nothing the Governor can do to stop it. There is nothing the State can do to stop it. And despite all of the promises that we heard yesterday about this bill protecting States, the only States that are getting protected are the big trash importing States, the four of them, that are taking more than 1 million tons a year. If you are not one of those States, if you are not Virginia, if you are not Pennsylvania, if you are not Ohio, if you are not Indiana, you are in trouble.

Last night there was sort of an attitude of, well, this is better than nothing. You know, you take something or you get nothing. And those who are the big trash-exporting States were here threatening. They are saying, well, if you do not take this, we will filibuster the whole bill and the whole bill will go down. Maybe the other side, maybe those of us who are offering the amendment ought to operate that way.

Maybe we ought to have been threatening last night. Maybe we ought to act like the bully if that is what it takes around here to get fair treatment.

Mr. President, there is something wrong here. My State of North Dakota, 630,000 people, a rural State with a pristine environment, where the air still smells sweet, the cleanest air in the country, the first State in the Nation to meet the environmental standards on clean air, and we are being told that because one small town allowed a contractor to come in and establish a landfill, that contractor has now entered into a contract with the giant General Motors Corp., the biggest industrial corporation in the world; that my little State, that little town of Sawyer, is going to take all of the waste from 100 GM plants across this country, and there is not one thing that can be done to stop it.

This bill that is held out as the savior and as the hope is an absolute sham; absolute sham. There is no protection here because, unless the community agrees that has entered into this pact, the Governor can do nothing. That is not what has been represented to people, but that is the fact. Unless that local community agrees, the Governor can do nothing. It does not matter that surrounding communities are all affected.

I know the facts in this case very well. Where is this landfill? In the south or middle of nowhere? I think some might look at it and see that—if they did not know what is beneath the ground, if they did not know that this landfill sits right on top of an aquifer—it is the water supply for thousands of people. That is what we are dealing with.

Now the waste from 100 GM plants is going to come into that State, is going to be dumped in that landfill, and if it leaks—God knows, human beings are not perfect when they build landfills or do most anything else. And if that aquifer is damaged, the lives of thousands of people will be affected.

And it does not end there. When the trucks start rolling, there will be hundreds of trucks bringing GM waste from all over this country to the little town of Sawyer, ND. When those trucks start rolling and they start beating up the highways of North Dakota, that has an effect not just on the people of Sawyer, ND. That has an effect on the taxpayers statewide. Yet they have no say in it. The people of the neighboring town of Minot, ND, have no say in it. Sawyer is a small town, a very small town; Minot, a town of 40,000. A very small town enters into an agreement; the larger town has no say. The Governor has no say. The State has no say, and we are passing a bill that is held out to be a bill that is protecting people from the trash merchants.

Mr. President, if all of that is not bad enough—and if my colleagues think, well, this is an isolated incident, it is way out there in North Dakota, we do not have to worry about that, Mr. President—wait until it is your turn. Wait until it is my colleagues' turn where some big company makes a deal with some small community, hard pressed economically, and they decide they are going to dump all of their sludge from all over the United States in this little town in their State, and there is not one thing they can do to stop it, not one thing they can do to keep the hundreds of trucks from rolling with that garbage. And wait until they find out that the company that is managing the landfill is not exactly coming with clean hands. Wait until they find out, like we have, that the company involved has a record at other waste facilities that it operates that involves—let me read the record, Mr. President—hundreds of violations and millions of dollars in assessments and penalties against 12 other facilities operated by the same company.

Hundreds of violations, millions of dollars in fines and assessments, because this company has been irresponsible. And now we learn a special prosecutor is investigating the activities of one of the subsidiaries, activities in connection with efforts to build a hazardous waste incinerator in Pennsylvania. The investigation concerns allegations of illegal lobbying, real estate acquisitions and violations of securities laws.

Mr. President, we are about to make a big mistake. We are about to make a huge mistake, because we are going to pass a bill that suggests to the American people that we are actually doing something about this problem.

Mr. President, if you are in Virginia, if you are in Pennsylvania, if you are in Ohio, or in Indiana, this bill does give you some comfort, because you are importing more than 1 million tons of other people's trash a year. Your Governor is going to be able to freeze at least the amount of that trash, based on 1991 and 1992 levels. But if you are in the other 46 States, forget it, because you are not even going to have that protection. Oh, yes, they say, we have provided the means by which the Governor, in conjunction with the local community, can abrogate new contracts.

You know, it has a good ring to it. I was sitting in the chair last night when this was all discussed and explained, and I remember feeling some comfort in that language until I started asking questions about what it really meant. What I found out, Mr. President, is that it means next to nothing, because unless that local community that has entered into the contract concurs with the Governor, asks the Governor to abrogate those new contracts, there is not one thing the Governor can do.

So, Mr. President, I say to my colleagues: Maybe North Dakota today, maybe South Dakota tomorrow, maybe Minnesota next week, maybe Nebraska, and Iowa, and Kansas, and Oklahoma, and Wyoming; it might even be Colorado that is picked out by some large company, and they might find a small, vulnerable community and make them a deal they cannot refuse.

I was told last night that small, hard-pressed communities are being offered the Moon. These trash merchants are going in and they are telling that small, hard-pressed local community, "You know, if you will just take this waste dump, we know that your school is getting old and needs to be replaced; we will build you a new school. And, you know, we have seen that dilapidated city hall of yours falling down and in ill repair. We will completely renovate that city hall for you."

And that small town that is suffering economically, streets are in ill repair, and maybe some of the streets and towns in my State are not even paved, and they come in and say, "You know, another thing we want to do for you is pave those streets, the ones that have never been paved. We want to take care of that for you here in the community, those streets you cannot repair anymore and maintain because you have been through a tough economic time. You know what, we are a good corporate citizen, and we want to repair Main Street for you. We want to provide a maintenance budget for all of the streets in town. While we are at it, we want to replace the lights in town, and while we are at it, the water treatment facility is in trouble. We know that EPA has been to your local community and said you have to spend several millions of dollars bringing your waste water treatment facility up to standards. We are willing to take care of that for you. By the way, just so that your local leaders are completely familiar with what a good job we do, we want to take your local leaders and look at landfills around the country that we operate, and we want to fly them by corporate jet out to our landfills out in California, and February might be a good time to do that, or late January when it is really cold; that might be a good time to come visit our landfill in southern California. By the way, why do you not bring along your wife and all of the members of the city council. Why do they not come along and bring their spouses along, and we can go down to southern California and look at our landfills there and, just to show you that it is not just one coast that we are operating on, we will take you to Florida, too."

Mr. President, this is a serious matter. I can just feel where this issue is going, when people find out that a small community can enter into an agreement with a big company, and they can start taking the waste from 100 facilities of the major automobile manufacturers in the world. The entire State is going to feel the results, but they have nothing to say about it. Just that little town and a few people in that town can make a decision that affects everyone else, and nothing can be done. That is the kind of legislation we are passing here today, and we wonder why the people in this country think we are disconnected from reality, and we wonder why people feel we are not performing.

The bill is not solving the serious problems the communities are going to be faced with. And we are not talking theoretically; we are talking of a specific example of how this legislation absolutely will fail to protect people that deserve protection. We had an amendment offered last night, endorsed by this Nation's Governors, and this Chamber just blew it off. It did not matter that the Governors have said, hey, we are going to have this garbage coming into our State; we ought to be able to make a judgment on whether that is in the State's interest. I indicated last night that I have four towns in my State that are incorporated, that have less than 10 people, and those towns could make a decision that affects the whole State, and the Governor cannot do one thing about it. That is wrong.

Mr. President, I hope that cooler heads will prevail and that we will think very carefully of what we are doing, because today it might be North Dakota; tomorrow it might be your State.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, is this Senator correct that we are still in morning business?

The PRESIDING OFFICER. The Senator is correct.

Under the previous order the Senator is to be recognized for up to 10 minutes.

Mr. GORTON. Thank you, Mr. President.

Mr. President, throughout the debate over the spotted owl and old growth in the Northwest, I have maintained the position that we must strike a balance between a complete, or near complete, lock up of our national forests and a return to historic harvest levels. Natural resources in the Northwest are under extreme pressure, both from those who use those resources and those who wish to preserve them.

If true balance is to be achieved, we in Congress must find a way to address both pressures: we must be sensitive to wildlife and aesthetic values and we must ensure a stable supply of Federal timber, albeit at a level below the historic harvest. This is balance and this is what I support.

When Secretary Lujan introduced the preservation plan for the northern spotted owl in March of this year, it was roundly criticized as being an "extinction plan," newspaper articles reported that it would allow the northern spotted owl to die out on the Olympic Peninsula and in the north Cascades, and Secretary Lujan was accused of violating the Endangered Species Act. Mr. President, those predicted outcomes are unacceptable and I would be unable to support a plan that resulted in these alleged atrocities. They were not, however, features of the Lujan proposal.

Even so, when I introduced legislation implementing the preservation plan, I found myself accused of the same goals attributed to Secretary Lujan. But my legislation went well beyond the Secretary's plan. I added ecosystem management approaches on the Olympic Peninsula and in the north Cascades. I added spotted owl protection zones where owl habitat would otherwise go unprotected. And I retained the prohibitions against physical injury to owls outside the habitat preserves in the preservation plan. My legislation added three additional layers of protection beyond those of the preservation plan.

On the socioeconomic scale, my legislation is a far cry from the two bills considered by the Agriculture and Interior Committees in the House. Those bills would reduce employment from historic levels by 19,000 and 21,000 jobs respectively in Washington State alone. My legislation would save 5,000 to 7,000 of those loses in Washington, just 3,000 fewer than those in the preservation plan.

From both perspectives socio-economic and ecological, my bill is truly balanced.

I have no desire to allow the spotted owl to die off on the Olympic Peninsula and the northern Cascades.

The scientific review panel for the preservation plan itself said "The probability that the northern spotted owl would become extinct across the range in 100 years under this alternative is low, meaning that it is highly unlikely that extinction would occur within this period." It is clearly not an extinction plan and the scientists have confirmed that. So, I would add three additional layers of protection for spotted owls in those areas.

Finally, two giant national parks and several wilderness areas totaling just over 3 million acres lie at the core of the Olympic Peninsula and the northern Cascades. As we all know, Federal law prohibits any timber harvesting on those 3 million acres. Spotted owl habitat inside those national parks and wilderness areas will not change when the preservation plan is implemented.

No, Mr. President, the administration has not proposed and do not support an extinction plan.

The preservation plan was the first scientifically credible plan for the spotted owl to strike a balance between the needs of timber communities and the stability of owl populations. For that reason, it set a precedent. That is why I introduced legislation to implement it. I continue to believe, however, that the best vehicle for resolution of the entire problem is a so-called process bill that allows for the implementation of a long-term substantive management plan through a decentralized planning process, rather than a bill that implements a plan immediately upon passage.

The best vehicle, therefore, is the Forest and Families Protection Act and so I urge the Senate Energy Committee to act on that bill. I am prepared to offer my legislation, with modifications, as an amendment to unrelated legislation unless I am convinced that the Energy Committee is making progress on the Forests and Families Protection Act.

There remains a small window of opportunity this year for the resolution of this thorny issue. We must put aside the misunderstandings and misrepresentations. We all talk about balance, but when our positions are not accurately perceived, the framework for that balance is shattered. I urge my colleagues in this body and in the House to review the preservation plan and my bill, the Northern Spotted Owl Preservation and Northwest Economic Stabilization Act, S. 2762. These bills strike the necessary balance.

I would also like to take a moment to discuss a matter that has had a tremendous impact on the supply of timber from Federal forests on both the eastside and westside of my State. The Forest Service's administrative appeals regulations have served little more than as a tool for preservationist organizations to stop completely the harvest of timber from Federal lands. The same organizations that complain that the Forest Service sells its timber for a price below the cost of preparation are themselves driving those costs through the roof by tying practically every timber sale in knots with administrative appeals.

In 1991, nearly 1,400 appeals were filed in every resource area of the Forest Service, including the timber program, where appeals were filed against 636 timber sales. This represents more than a 600-percent increase over the number of appeals filed annually in the early 1980's. The 1991 appeals cost approximately $11 million and used up 152 years of staff time for the Forest Service. An administrative appeals process is worthwhile if it results in actual modifications to the underlying management decisions, for one would assume that modifications are the true objective of a citizen appellant. Yet, the 1,400 administrative appeals in 1991 led to changes in only 6 percent of the underlying management decisions.

The worst example of appeals abuses are the cookbook appeals. College students at Wesleyan University in Connecticut have developed a computer software program that allows them to generate administrative appeals on timber sales they have never even set their eyes on clear across the country in Oregon and Washington. This group simply has filed over 30 timber sale appeals in the past 2 years in Oregon and Washington and these appeals have cost the Forest Service an estimated $238,000 to process. The only difference between the 30 appeals is that the name of the timber sale is changed from appeal to appeal.

The Department of Agriculture has proposed a set of changes to the Forest Service administrative appeals regulations. These changes will expand predecisional public participation and limit the availability of administrative appeals to forest plans and their revisions and amendments. The Forest Service estimates that these new Forest Service appeals regulations will save the agency nearly $150 million in future savings.

This is the best method I have seen yet for eliminating below-cost timber sales and I applaud Secretary Madigan and Chief Robertson. I simply urge the Secretary to move forward with this proposal and issue a final regulation as soon as possible. The supply of timber in the Northwest does not need any additional obstacles than already exist in the spotted owl and Federal court injunctions.

MEASURES PLACED ON THE CALENDAR

The PRESIDING OFFICER. There are two bills to be read a second time. The clerk will read H.R. 1435 the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 1435) to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior.

The PRESIDING OFFICER. Is there objection to the further consideration of the bill at this time?

Mr. PRYOR. Objection.

The PRESIDING OFFICER. Objection is heard from the Senator from Arkansas.

The bill will be placed on the Calendar of General Orders pursuant to rule XIII.

The clerk has a second bill to be read a second time, S. 3008.

The assistant legislative clerk read as follows:

A bill (S. 3008) to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

The PRESIDING OFFICER. Is there objection to further consideration of this bill at this time?

Mr. PRYOR. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the Calendar of General Orders pursuant to rule XIV.

Is there any Senator seeking recognition?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

EXTENSION OF MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent that the period for morning business be extended until 11:10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The period for morning business is extended until the hour of 11:10 a.m.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. I thank the Chair.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 3012 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR. Mr. President, I see no one else asking for recognition. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt runup by the U.S. Congress stood at $3,982,449,525,016.30, as of the close of business on Tuesday, July 12, 1992.

On a per capita basis, every man, woman, and child owes $15,504.42—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

EXPERIENCES OF MONTANA DELEGATION

Mr. BAUCUS. Mr. President, I am pleased to submit for the RECORD articles from the New York Times that appeared in the July 13 and July 18 editions regarding the Montana delegation's experiences in New York City during the Democratic National Convention. Delegates from Montana at the convention were: Kelly Addy, Jean Atthowe, Evan Barrett, Nadine Brown, Steve Bullock, Dana Christensen, Representative Mary Ellen Connelly, John "Harp" Cote, Lynne Fitzgerald, Peggie Gaghen, Carra George, Mike Gustafson, Mary "Peg" Hartman, June Hermanson, Holly Kaleczyc, Helen Kerr, Kenneth Kubesh, Larry Mavencamp, Kathleen Meyer, John Morrison, Donna Small, Don Sterhan, Bill Whitehead, and Don Wilkins; pages were Pat Isabell and Jenny Kaleczyc.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 13, 1992]

DELEGATES FROM MONTANA SHARE FAITH IN THE PARTY

(By Sara Rimer)

Two days after the Phillips County Democratic Central Committee collected $120 in a one-pickle-jar fundraiser at the Westside Cafe in Malta, Mont. (population 1,800), Larry Mavencamp was coming into Manhattan on a bus from La Guardia Airport.

"I like this city," said Mr. Mavencamp, a farmer's son who is the committee's chairman, tilting his head to take in the tall buildings.

At the age of 25, Mr. Mavencamp is the youngest member of the Montana delegation to the Democratic National Convention. In the seat in front of him was the oldest member, 71-year-old Carra George, a retired elementary schoolteacher from Laurel (population 10,000), also in eastern Montana. Mr. Mavencamp has never been to New York before. Mrs. George has been here once—in 1940, for the World's Fair.

"I wanted to come to the convention more than I've wanted anything in my entire life," said Mrs. George, who was wearing her yellow "Carra for Clinton" button. Yes, anything.

Everyone knows Bill Clinton is going to be the nominee, and the party's platform is not expected to hold too many surprises. The convention is a four-day formality, apparently of so little interest to vast numbers of Americans that the networks have sharply curtailed coverage this year.

But to Carra George and Larry Mavencamp, and many of the others among the 4,319 delegates, this week is the fulfillment of their work in the political trenches, their chance to be players, too.

Mrs. George and Mr. Mavencamp are not jaded about the campaign; they haven't had the opportunity. None of the candidates, with the national news media trailing behind, has visited Montana so far.

"People told me, 'Carra, if you want to be a delegate, you're going to have to campaign for it,'" Mrs. George said.

And she did. So did Mr. Mavencamp. Neither of them got to New York because they knew the right people or donated big sums of money or are related to anyone famous. They got it because they worked for it. Mrs. George has spent her adult life walking door to door for candidates and causes (aerobic campaigning, she calls it), making telephone calls late at night, attending meetings of everything from the Laurel Democratic Club (she is president) to the National Organization for Women.

She recently lobbied a young man who had come to fix her toilet. She said, "I said, 'Mark, what has the Republican party done for you?' He didn't say anything. I said, 'I'm waiting.' I said, 'What has George Bush done for you?' "

Mrs. George was one of 11 children raised on a farm in northern Alabama. She can talk forever about what one President, Franklin Delano Roosevelt, did for her family.

"They couldn't make the payments on the farm, and they were about to lose it," she said. "My mother wrote a letter to President Roosevelt. I remember my dad saying, 'It won't do you any good to write to the President.' She wrote anyway. A letter came back from Washington telling her to go to the Federal Farm Bank in Gadsden. They went, said they saved the farm."

Last spring Mr. Mavencamp went to the courthouse with his father, Norman. After years of struggle with creditors, the Federal Government was auctioning off much of his farm.

"They advertised it in the newspaper," Mr. Mavencamp said. "It was humiliating."

Mr. Mavencamp, who has been repairing his father's farm machinery for sale, is still trying to finish college. He keeps having to drop out to go to work—busing tables in Washington or laying underground telephone cable in North Carolina.

Montana's youngest delegate is from a long line of Republicans. But losing the farm helped make him a Democrat. "I don't think George Bush can relate to regular people," he said. "They're just worried about making the payment on their house, and the insurance is due."

For five days and six nights in New York, Mr. Mavencamp has a budget of $1,500. That includes his $400 round-trip air fare and the $300-a-night suite at the Kimberly Hotel that he is sharing with two other delegates. He would obviously have preferred cheaper accommodations.

"I'm counting on a lot of free food at parties," Mr. Mavencamp said.

The first one was Sunday night, at Windows on the World. The host, New York Life, had originally planned the affair for the Rainbow Room, but an employee strike intervened.

Still, the Rainbow Room is where Mr. Mavencamp was at midnight Thursday. He got there in his pick-up. And he didn't have to cross a picket line, or wear a jacket to get in. This Rainbow Room, in Hinsdale, Mont. (population 200), has peanut shells on the floor. And the view is of the ceiling, where local farmers pay a small fee to inscribe their names. Drinking a beer, Larry Mavencamp could look up and see his father's name.

[From the New York Times, July 18, 1992]

MONTANA DELEGATES HEAD HOME AFTER A ROUSING GOOD TIME IN NEW YORK

(By Sara Rimer)

Larry Mavencamp went home to Montana yesterday with a Yankee cap and a briefcase full of mementoes of his first political convention—Clinton-Gore buttons, newspaper clippings, autographs from Senators Bob Kerrey and Joseph R. Biden Jr. and, the one that means the most, a snapshot of himself with the Rev. Jesse Jackson.

The picture had been taken near midnight Wednesday when, lingering in the lobby of their hotel on East 50th Street, Mr. Mavencamp and another Montana delegate, June Hermanson, looked up and saw the man who had electrified them from the podium the night before.

"He walked right over to us and said, 'Hi, I'm Jesse Jackson,' " said Mr. Mavencamp, a 25-year-old farmer's son from tiny Saco (pop. 171). "I believe he asked where we were from; I don't even remember, it was so exciting. Someone that powerful, and he was right there, talking to us. Especially Jesse, who's always spoken for the farmer. You see these people, and they're up on stage, and you're listening to them, and it's great. Hearing Bill Clinton was great.

But Jesse was right there."

Mr. Mavencamp lives across a gravel road from the railroad tracks in a place where not even the freight train stops anymore, a place, he says, that "isn't on the edge of the earth, but you can see it from there." But for four days in New York, he and his 23 fellow delegates from Montana were right there, too, in ringside seats at the Democratic Party's quadrennial show.

WE GOT PLUGGED IN

"You feel like you're out in the wilds of Montana," said Kelly Addy, the vice chairman of the state Democratic Party. "This week we got plugged in." Montana only has 810,000 people, and Bill Clinton has not campaigned there.

Devoid of any real decisions, the convention was four days of political symbolism, a pep rally for a bruising campaign to come. For the delegates, and especially for Mr. Mavencamp, who is from eastern Montana, where Democrats are hard to find, it was a perfect America: Everyone was a Democrat, and everyone voted.

"It's about finally having some hope that things can be different," Mr. Mavencamp said. "It's given me the drive to do twice as much as before. It's just a crock that all these politicians are no good. We're willing to believe in Clinton and Gore."

Mr. Mavencamp didn't listen only to the politicians, but also to the delegates from all over the country who rode the courtesy buses to Madison Square Garden. "This older man from Charlotte told me, 'You young people should be mad, why aren't you mad' " he said. "I thought, 'Yeah!' When we got to the convention, I gave him my Montanans for Clinton and Gore button."

Four years ago, Montana's youngest delegate was so alienated he didn't even bother to vote. But this spring, after watching his father, Norman, lose most of his farm to his creditors, the Federal Government, Mr. Mavencamp became the chairman of the Phillips County Democratic Central Committee. The 15-member committee meets in the library in the town of Malta. Seven members had collected $120 at a fund-raiser at the Westside Cafe to help send Mr. Mavencamp to New York. He has been repairing his father's farm machinery for sale and his father paid him an advance on his wages to cover the rest of his expenses.

New York was full of politicians with agendas this week, and Larry Mavencamp had one, too: He told everyone who would listen: "We have to do something about saving the family farm."

He also tried to persuade his Senator, Max Baucus, who headed the delegation, to show up at the Phillips County committee's $10-a-plate fundraiser on Sept. 5. Mr. Baucus seemed interested, but said he would have to check his calendar.

Carra George, a 71-year-old retired schoolteacher from Laurel, said she could not remember a time when she had not watched the convention on television or listened on the radio. "I remember in 1952 we didn't have television and I was listening to the radio, and suddenly it went dead," she said. "So I ran out to the car and listened until I wore the battery down. Then I ran to my neighbors and asked if she had an extra radio I could borrow."

This year for the first time she was there, and not just in the delegates' stands, but on stage, one of those chosen from all over the country to stand there with Bill Clinton and Al Gore as the convention closed Thursday night. These were, she said, the four greatest days of her life.

She went home with plans to start campaigning door-to-door—her specialty—on behalf of Bill Clinton.

Mr. Mavencamp may find people a little more willing to listen, at least at first. Before he left, his participation in the convention had rated only three sentences on page three of the weekly Phillips County News. In this week's issue, he made the front page. The headline: "SACO Democrat Makes It Big in New York."

TUBERCULOSIS PREVENTION AND CONTROL AMENDMENTS ACT OF 1992

Mr. FOWLER. Mr. President, I rise today to alert you to one of the most serious public health threats to emerge in this country in recent years, namely the ominous return and resurgence of tuberculosis [TB]. Many people mistakenly believed that TB had been conquered by modern medicine, but it has once again appeared all across this country, striking persons of all ages, and walks of life.

After decades of decline, TB rates have climbed dramatically in the past several years. In 1990 there were almost 26,000 reported cases of the disease. That is a 9-percent increase over the previous year and the largest single increase since nationwide reporting began back in 1953. Between 1990 and 1991, my State of Georgia saw a dramatic 14-percent increase in new TB cases. But my State is not unique. This outbreak is occurring all across the country. It is affecting cities, suburbs, and even rural areas, with more than half of all cases reported in communities of less than 250,000 persons.

Mr. President, even more ominous is the emergence of a new deadly strain of TB that is resistant to traditional medical treatment. This strain, known as multi-drug-resistant TB or MDR TB, is expensive to treat and, more alarming, is fatal in up to 75 percent of all cases.

TB poses great threats to all types of people, but it particularly hurts the poor, homeless, and persons with HIV. Those who work with the poor and homeless in shelters or public service agencies, and those who care for the sick in our hospitals are also particularly vulnerable to this dreaded disease. Even our children and senior citizens are susceptible because of their frail immune systems.

Health officials across my State and this country have warned us that this recent outbreak in the more vulnerable segments of our society is a grim warning of what the general population may soon face, if we do not act now to stem the tide of this growing epidemic.

The good news is that TB is preventable and, in most cases, a curable disease. Treatment for TB generally is a regimen of up to three or four drugs taken daily for between 6 and 9 months. However, failure to follow this regimen faithfully or to complete the full course of medication can result in the development of MDR TB.

To combat this scourge we desperately need more public health workers to monitor and ensure the successful completion of a patient's drug therapy program. This program, known as directly observed therapy, is a tried and true method of TB control which imprudently has been neglected in recent years. Furthermore, we need to bolster our current CDC and NIH programs to improve testing methods and to find a cure for MDR TB. Finally we must reequip our hospitals which treat the largest number of TB cases.

Because TB is transmitted through the air by coughing, many hospitals will find it necessary to improve ventilation systems to control the flow of bacteria-infected air. Hospitals will also need to install UV lighting, which is known to kill airborne TB, in waiting rooms, hallways, and wards.

The bill that I introduced on Monday along with Senators AKAKA, BUMPERS, COCHRAN, CRANSTON, D'AMATO, INOUYE, and MOYNIHAN will address all these needs. This legislation increases authorizations for current Centers for Disease Control [CDC] TB prevention and control programs and for National Institutes of Health [NIH] TB research programs. I want to point out that these TB prevention programs are highly cost effective. HHS has estimated that we save between $3 and $4 for every dollar of TB and prevention and control funds expended.

My legislation will also provide for Public Health Service grants for TB-related capital improvements to hospitals. Finally this legislation will allow States to extend Medicaid eligibility to those who test positive for TB and meet a State's poverty guidelines.

Mr. President, the deadly resurgence of TB should have never occurred. We are experiencing the dramatic comeback of this dreadful disease because we have failed to maintain vigilance in this area of public health. And let me stress, it is not the fault of our doctors or public health officials, who were able to steadily reduce the TB rate until the mid-1980's. The blame lies in the mistaken health care cuts of the past decade which have rendered our Federal TB programs helpless against this brimming tide of TB.

We know how to combat and fight this dreaded disease. We must act now to curb this outbreak before the problem worsens. Delay will only unnecessarily threaten thousands of more lives and increase health costs exponentially.

I ask my colleagues to help stop this deadly resurgence of TB by supporting this bill.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor to speak in support of the Tuberculosis Prevention and Control Amendments Act of 1992. This bipartisan legislation addresses the serious and often deadly disease of tuberculosis and the difficult medical, social, and economic problems caused by a resurgence of this disease—a resurgence happening not only in New York but also in the urban and rural areas of all parts of the United States.

This bill will give us the weapons we need to fight this deadly resurgence of TB by significantly increasing the funding available for TB prevention and control at the Centers for Disease Control [CDC] and National Institutes of Health [NIH].

Only recently, tuberculosis was viewed as a disease of the past. Unfortunately, after decades of decline, tuberculosis is coming back—and in epidemic proportions. In 1990, the rate of tuberculosis increased 9.4 percent as compared to 1989—the largest increase since national reporting began in 1953.

This deadly disease can affect all segments of our population. It hits hardest among populations such as the homeless, the elderly, the HIV-infected and the drug-abusers. We are now seeing the disease in our newly arrived immigrant populations. We are also seeing the disease striking particularly hard in minority communities, and at an earlier age. We are seeing a dramatic increase in the number of cases in children, especially in children under 5. In New York City, the tuberculosis rate among children under 15 years of age rose 97 percent over the 1989 rate. We now have outbreaks of tuberculosis in crowded institutional settings, in hospitals, nursing homes, shelters for the homeless, and correctional facilities. Those whose immune systems are compromised by AIDS, cancer, or any other immune-suppressing diseases are especially at risk in institutional settings.

Of grave concern are the outbreaks of a multidrug-resistant strain of tuberculosis. While, with a long-term, monitored course of drug therapy, tuberculosis can be cured, the drug-resistant strains often develop in patients who do not complete the course of drug therapy. We are seeing the drug-resistant strains in hospitals, in patients and in health care workers.

TB can be, and often is, fatal without proper medication and treatment. Untreated, TB kills half its victims within 2 years after symptoms appear. CDC estimates that TB causes 26 percent of preventable deaths around the world.

To successfully combat this new epidemic of tuberculosis we must ensure that those who have this deadly disease receive and complete a course of treatment and that those who have had contact with infected individuals receive preventive therapy. To prevent future outbreaks, we need better testing methods, with faster results, more effective training and equipment and capital improvements to hospital facilities—better ventilation, more UV lighting.

This legislation will address these urgent needs by authorizing badly needed funding for CDC to expand therapy programs, purchase and distribute medication, purchase new diagnostic and testing equipment, and provide training and materials for health care workers. NIH will fund needed research to develop new testing methods and ways to combat multidrug-resistant TB. The Public Health Service will receive funds to be used for project grants for capital improvements to hospitals to improve ventilation systems, install UV light and supply appropriate supplies and materials.

This legislation also permits the States to make individuals who test positive for TB and who meet a State's poverty standards eligible for Medicaid for TB services only. This will help us ensure that those who need treatment will receive that treatment.

I urge each of my colleagues to join in our bipartisan effort to address this disease. It is imperative that we provide adequate funding for prevention and control. For every dollar of TB prevention and control funds spent, we can save an estimated $3–$4. Equally important is the savings in terms of human suffering, repeated and prolonged hospitalizations, family disruption, and emotional damage.

Mr. President, let me again stress that the TB epidemic is not an isolated phenomenon limited to our Nation's urban areas. TB is an infectious disease that knows no geographic boundaries. It is spreading at an unprecedented rate. The good news is that, with the proper resources, we can control it. Let us commit the necessary resources to winning the battle against TB by passing this legislation without delay.

Mr. AKAKA. Mr. President, I rise today as an original cosponsor to speak in support of S. 2988, the Tuberculosis Prevention and Control Amendments Act of 1992. This urgently needed legislation, introduced on July 20, 1992, by my colleague from Georgia, Senator FOWLER, seeks to prevent, control, and eliminate tuberculosis [TB].

Many people think of TB as a disease of the past. TB, a contagious airborne bacteria which can destroy the lungs, was the primary killer of Americans at the turn of the century. This disease was so deadly that it was called the "captain of all men of death." After World War II, antibiotics and public health efforts nearly wiped out the disease, and the infamous sanitariums were closed.

In recent years, however, there has been an alarming resurgence in the number of TB cases nationwide. This disease used to be 100 percent curable. Unfortunately, because people are not taking their medication properly, the disease became resistant to the antibiotics. Without monitoring, some patients fail to take the drugs for the full 6 months or more needed to wipe out the disease. These patients again become contagious with a more dangerous strain that does not respond to conventional treatments.

The dramatic increase in TB cases parallels the increase in AIDS cases. Persons with AIDS have a suppressed immune system. They are more likely to contract the disease if exposed to it.

In my State of Hawaii, TB is a definite threat to public health. In 1991, Hawaii reported the second highest tuberculosis case rate in the Nation. 17.2 cases per 100,000 behind only New York State. We have seen an increase in the number of cases reported every year since 1988. Our Hawaii State Department of Health reported 201 cases of tuberculosis in 1991 and expects 240 cases this year, a 20-percent rise.

According to Department of Health data, 75 percent of these patients are foreign-born. Most of them are recent immigrants from less developed countries in the Asia/Pacific region, where TB is highly prevalent. Hawaii has the highest percentage of such TB cases of any State.

A recent survey conducted by the Centers for Disease Control [CDC] found that Hawaii reported the third highest percentage of multiple-drug-resistant tuberculosis [MDR–TB] cases in the nation, behind New York and New Jersey. In Southeast Asia, where most of Hawaii's TB cases originate, the problem is compounded because TB drugs are available without prescription and are taken inappropriately.

We are not powerless against TB. This is a preventable disease; one that is usually curable. Curing active TB requires daily drug therapy for 6 to 9 months. If this regimen is not followed strictly, MDR–TB can develop. MDR–TB treatment is not merely lengthier and more expensive; only about half of the patients recover.

Mr. President, the bill we introduced earlier this week would help attack the TB problem by increasing authorizations for current CDC and National Institutes of Health [NIH] programs. The critical need is for more public health outreach workers to monitor and ensure the effective completion of patients' drug therapy programs. That is the key to controlling the alarming resurgence of this disease: monitoring treatment.

Hawaii's $1.2 million program screens 28,000 people annually, x rays 15,000 people and treats about 200 active cases. About 30 active TB patients in Hawaii are at risk for developing MDR–TB. Only a third of them can be closely monitored by the Health Department's three outreach workers.

This legislation also creates new programs to stem this epidemic. It would permit States to make persons who test positive for TB and who meet a State's poverty standards eligible for Medicaid—for TB services only. It would also provide capital improvement grants to certain hospitals for the installation of UV lighting, known to kill airborne TB, and proper ventilation systems.

Mr. President, I strongly urge my colleagues to support the Tuberculosis Prevention and Control Amendments Act of 1992. We must act to target funds, especially to areas reporting a significant percentage of foreign-born and MDR–TB cases. Now is the moment to halt this epidemic in its tracks, before it needlessly claims more victims.

Mr. President, I ask unanimous consent that an article appearing in the June 17, 1992, Honolulu Star Bulletin be inserted in the RECORD immediately after my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Honolulu Star Bulletin, June 17, 1992]

STATE RINGS AN ALARM BELL ON TB THREAT

(By Linda Hosok)

To stop the dramatic spread of tuberculosis in Hawaii, state workers should literally watch sick people take their pills to increase their chances of a cure, a TB expert says.

The practice also would prevent people from developing drug-resistant TB strains, which can cost up to $120,000 a patient to treat, said Dr. Lee Reichman, American Lung Association president.

"This disease used to be 100 percent curable," said Reichman at a forum yesterday at the Pacific Club. "But because we didn't make sure people took their medication appropriately," the disease became resistant to the antibiotics.

About 3 percent of the state's 201 TB cases don't respond to the two best drugs that treat it, said Dr. Azucena Ignacio, the state Health Department's tuberculosis branch chief.

Most of Hawaii's TB cases occur in people who immigrate from Southeast Asia, Ignacio said.

In New York City, about 33 percent of the cases are drug-resistant, Reichman said. New York has the nation's highest TB rate and Hawaii the second highest, with 17.2 cases per 100,000 people.

Both Ignacio and Reichman said they fear the disease could get out of control in Hawaii. The United States already has declared TB control a national emergency.

"This should have been wiped out," Ignacio said, adding that the local situation will become explosive if people with AIDS get drug-resistant TB strains.

TB, a contagious bacteria that eats holes in lung tissue, was the No. 1 killer of Americans at the turn of the century. Antibiotics almost eradicated it, causing public health officials to close sanitariums and shift dollars to other diseases, Reichman said.

But without monitoring, some patients failed to take the potent drugs for the full six months, allowing the disease to make a comeback. Patients again became contagious, but with a strain that didn't respond to conventional treatments.

"It was entirely predictable," Reichman said, adding the alternative antibiotics are less effective, more toxic and more expensive.

Reichman also said the increase in TB cases paralleled the increase in AIDS cases. People with AIDS have a suppressed immune system, which means they are likely to get the disease if they are exposed to it.

TB is transmitted in the air but is hard to spread, Reichman said.

Exposed persons may never get infected, which means they have a positive TB test. And an infected person may never develop an active case. "You don't catch it riding the subway," he said, adding that a person exposed to TB for eight hours a day for six months has a 50 percent chance of getting it.

Nationally, rates began rising in 1984, jumping 0.4 percent in 1990. More than one-third of the world is infected; highest rates in Southeast Asia and Africa.

The TB problem in Southeast Asia is compounded because people can get TB drugs without a prescription and take them inappropriately, Reichman said.

Reichman praised the state's overall TB program but said it lacks resources to effectively monitor the disease. He said the state needs outreach workers to make sure patients take their pills correctly. And he said the state needs to track immigrants on a computer system.

The state's $1.2 million program annually screens 28,000 people, X-rays 18,000 people and treats about 200 active cases, Ignacio said.

She estimated that about 65 percent or 170 take their medication on schedule. But that leaves about 30 who may be at risk for developing drug-resistant strains.

The department's three outreach workers closely monitor only about 12 patients, said Paul Tribble, an adviser from the Centers for Disease Control in Atlanta.

The state hopes to receive federal money for four more outreach workers in July, said Charlene Young, deputy director of health promotion and disease prevention. But the state projects an increase of 40 cases this year, she said.

Reichman said some mainland health care workers have caught drug-resistant strains, putting them at risk for death. Two Hawaii outreach workers have become infected since 1983, but neither has developed an active case, Ignacio said.

She said the number of TB deaths here increased to five last year, a number not seen since the 1970s.

Worldwide, tuberculosis kills 3 million people annually, Reichman said.

BLATANT ABUSE OF FEDERAL FUNDS

Mr. PRYOR. Mr. President, I am here today to address an act that I still cannot believe actually happened. I refer to information obtained by the Associated Press under the Freedom of Information Act, that revealed that the Agriculture Department has spent $750,000 to redecorate the offices of some of its highest-ranking employees.

In a blatant abuse of Federal funds, $750,000 was spent to hang new drapes, install two kitchenettes, and construct scalloped cornices above some windows. As if that were not enough, construction workers were called in after hours and paid overtime to move offices from one end of the USDA building to another.

Mr. President, this comes at a time when the outlook for the American farmer could be described as bleak at best. According to a report released by the USDA itself in May 1992, fully 55 percent of all farm households experienced losses from their farming operations. Yet $750,000 was spent to make the bureaucracy more comfortable.

Mr. President, since 1980, expenditures in rural development programs have decreased by 65 percent or by $17 billion—well, now we know where some of that money is going—to accommodate the bureaucracy. The same bureaucracy, I might add, that the administration has continually criticized.

Mr. President, I would like to quote my distinguished colleague from South Dakota, Senator TOM DASCHLE, who said, "The only thing that ought to be remodeled in the Department of Agriculture is their farm policy * * * if they were as determined to get a decent price as they are fancy offices, we'd have happy farmers instead of happy bureaucrats."

Mr. President, maybe the administration and the Secretary of Agriculture consider this criticism to be unwarranted, that in the overall scheme of a massive Federal budget, $750,000 is a minor amount, hardly worth debating. Tell that to the family farmer who is struggling to repay a $200,000 loan, tell it to the farmers who are having their assets sold by creditors because there is no market for their product. $750,000, or just a fraction of that, could provide a chance to turn things around for some. What may determine the success or failure of a family farm that has existed for generations is mere pocket change to a bureaucrat who callously uses that money to redecorate.

Seven hundred and fifty thousand dollars. Mr. President, I would like to demonstrate what that amount of money could mean to some of the farms in my home State. In Arkansas, where we lost 1,000 family farms between 1990 and 1991, a small fraction of that money could be put to good use by the remaining farms. For $135,000 to $150,000 a farmer could buy a new combine, for $150,000, a four; row cotton picker; or for $90,000 to $120,000 a new tractor depending on type. In the primary rice producing area of my State, the expected cost to drop a 10-inch irrigation well is between $35,000 and $50,000. In Arkansas, the average size farm is 337 acres. When one considers that on the average it costs $15 an acre for fuel expenses, $35 an acre for chemicals, $25 an acre for fertilizer, $10 an acre for hauling and $25 an acre for maintenance, we are talking about real money.

Mr. President, I venture to say that if you took all of the farmers who made half of what the USDA spent on redecoration, you would not be able to fill up one of their new suites.

In defense of this expenditure, a USDA spokesman said, "We have cracked and deteriorating pipes, air-conditioning units that were in poor condition that allowed humidity to creep in and deteriorate walls." And so $750,000 was tossed at the problem in order that the USDA's top administrators would have a comfortable atmosphere in which to work. But who are they working for? Who are they looking out for Mr. President? According to the USDA's own figures, almost 22 percent of all farm households have total income below the poverty line.

"Cracked pipes," and "deteriorating walls" are the least of rural America's problems. Many family farms would probably like to redecorate too, but when faced with overwhelming debt, little or no substantial government policy, and a noncompetitive export stance from the administration, physical comfort is the least of concerns.

Unfortunately, the poor condition of the administration's offices was the closest that they would ever come to the poor condition of the family farm. But in a response that was so typical of the administration in general, the real problems were glossed over, concealed by the new drapes hanging in the offices.

Mr. President, most of us have had the pleasure of sitting around a campfire at one point in our lives. As you might recall, there was warmth and comfort sitting around the fire and we were all able to see each other clearly in the darkest of night as long as we stayed by the light of the flames. But we must remember, Mr. President, this administration especially, that men who surround themselves in light have a limited range of vision. So, while all is well in the Secretary's office, the family farmer is engulfed in a darkening economic horizon. What the Secretary of Agriculture and the administration need to remember is that men in darkness see all.

WET PROCESS PHOSPHORIC ACID PRODUCTION WASTES

Mr. DOLE. Mr. President, on June 13, 1991, after 12 years of extensive EPA study, investigation, and judicial review, EPA issued a final regulatory determination, pursuant to the Resource Conservation Recovery Act [RCRA], on wet process phosphoric acid production wastes (56 Fed. Reg. 27,300). In related action, prior to EPA's final determination, 19 Senators joined in letters to the Administrator on this matter, including myself and Senators BURNS, DIXON, SYMMS, PRYOR, SIMPSON, CRAIG, BOREN, MCCONNELL, COCHRAN, CONRAD, HARKIN, MACK, HEFLIN, GRASSLEY, NICKLES, KERREY, EXON, and DASCHLE.

Based on EPA's investigation, EPA determined that the regulation of wet process phosphoric acid production waste as a hazardous or nonhazardous waste under RCRA would impose unsustainable costs and impacts. EPA estimated that RCRA subtitle C and D regulation, the hazardous and nonhazardous regulatory Programs, of wet process phosphoric acid production waste could cost $1.287 billion per year. These costs would be in addition to other environmental regulatory compliance costs imposed under other State and Federal laws.

Therefore, EPA determined that the development of a management program specifically designed to address wet process phosphoric acid production waste should be considered under other pertinent environmental statutes. EPA's regulatory determination also reserved the right of the agency to address any imminent and substantial endangerment that might be posed by such waste under RCRA. The environmental community did not challenge EPA's June 1991 regulatory determination in court.

The proposed amendment, that I will not offer here today, but needs to be addressed at some point in the future, preserves EPA's regulatory determination concerning the regulation of wet process phosphoric acid production wastes while leaving EPA free to exercise its RCRA imminent and substantial endangerment authority, as reserved in the regulatory determination.

The proposed amendment does not exempt wet process phosphoric acid production wastes from Federal regulation. By excepting these wastes from RCRA's definition of solid waste, except for the purposes of EPA's imminent and substantial endangerment authority, this amendment simply echoes EPA's June 1991 regulatory determination, shifting regulation to the Toxic Substances Control Act [TOSCA] which allows broad authority to regulate production of a chemical, require certain production methods, labeling and/or warnings, monitoring and recordkeeping, particular disposal methods, and provides citizen petitions for rulemakings.

Mr. President, I would ask that additional background material regarding the need for phosphoric acid be included as a part of the RECORD.

AGRICULTURAL NEED FOR PHOSPHORIC ACID

Phosphoric acid is an essential agricultural nutrient that is of utmost importance to our Nation's high agricultural productivity.

This important agricultural nutrient is provided solely by U.S. domestic procedures either headquartered in or have production facilities in Illinois, Kansas, Mississippi, Florida, Louisiana, Texas, Idaho, Montana, Wyoming, and North Carolina.

The top 20 ranking States for agricultural nutrient consumption and for top agricultural production in 1991, were: Illinois, Indiana, Kansas, Ohio, Texas, Iowa, Minnesota, Nebraska, California, Missouri, Michigan, Florida, Arkansas, Wisconsin, Oklahoma, Kentucky, Mississippi, North Dakota, Tennessee, and North Dakota, Tennessee, and North Carolina.

Our Nation's crops need the nutrient phosphorous to grow. U.S. corn and wheat farmers need about a pound of phosphate to produce a bushel of corn or wheat.

Phosphorous is a nutrient essential to all living things, and must be present in every living cell of all plants and animals. Animals and humans obtain phosphorous in the food they eat. The most abundant source of phosphorous for food crops comes from phosphoric acid.

Wet process phosphoric acid production is necessary because phosphate is an extremely hard and insoluble material for food crop or animal feed use. Because of its insolubility, phosphate material is an inefficient source of crop phosphorous or for animal feed. Chemical treatment of phosphate material is necessary to produce water-soluble phosphoric acid that is readily used by farmers as fertilizer or as an animal feed supplement. A necessary byproduct of phosphoric acid production is a high volume, low hazard processing waste.

Animals get some phosphorous from the levels that are present in hay, pasture, grain, and protein feeds. Their further phosphorous needs must be supplied by a supplemental source, the type that is manufactured for farmers by the U.S. phosphate industry. Phosphorous dietary supplements for beef cattle, sheep, goats, turkeys, laying hens, and poultry for the human diet are produced from phosphoric acid. There are also special supplements with a high calcium content using phosphoric acid for dairy cattle. Phosphoric acid is also present in food products such as soft drinks and processed foods.

Phosphorous is essential for sustaining America's abundant supply of food and maintaining our competitive position in a global economy. U.S. crops consume large amounts of phosphorous from the soil. For a corn crop, when averaged over the growing season, phosphorous must be completely replaced six or seven times each day. This means the nutrient phosphorous, in the form of phosphate fertilizer, made from phosphoric acid, must be added to the soil in order to maintain high levels of U.S. food crop production.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

The PRESIDING OFFICER. The clerk will report the pending bill.

The legislative clerk read as follows:

A bill (S. 2877) entitled "Interstate Transportation of Municipal Waste Act of 1992."

The Senate resumed consideration of the bill.

Mr. BAUCUS. Mr. President, I believe the Senator from Vermont [Mr. JEFFORDS] would like to enter into a colloquy with me, and I urge the Chair to now recognize the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from the great State of Montana for his willingness to enter into a colloquy with me. I certainly want to commend him and the Senator from Rhode Island on their tremendous diligence in trying to take what may, to some, seem like a rather simple issue but becomes very complex and yet very important.

I confess, though, that I have a few concerns about this bill, but I do not want to impede its progress. I also do believe my colleague from Montana was on the floor yesterday when I thanked him for consideration of a national deposit law, so I would like to thank him again while he is here in saying that he would be happy to have a hearing. I do not know about happy but have a hearing anyway on that issue.

There is one outstanding issue that is particularly troubling to me: What happens in conference? We have all worked hard on reauthorizing RCRA, but there are still a few issues remaining to be resolved. Some have speculated that this bill will conference with RCRA on the House side and become a RCRA conference report. Given the hard work of the chairman of the subcommittee and all the subcommittee members, I do not believe it appropriate for this bill to become RCRA in conference.

Will my colleague commit to bringing only interstate provisions back from the conference?

I am happy to yield to my colleague from Montana.

Mr. BAUCUS. Mr. President, my colleague will understand it is impossible to anticipate the exact context of the upcoming conference with the House. However, I believe the Senate has spoken very strongly on the issue of interstate transport of municipal waste, and it is my intention to resist any changes outside the scope of that issue. We are working on legislation which addresses the interstate transport of municipal solid waste only.

We are not dealing with other Resource Conservation and Recovery Act issues. Waste minimization is one example. Recycling would be another example. The bottle bill, which the Senator from Vermont is so interested in, would be a third example. It is my intention to resist any changes that would lie outside the scope of the legislation we are now considering. I will urge my fellow conferees to do likewise. I cannot fully anticipate what the circumstances of the conference will be, but it is my very strong intention to resist the changes.

Mr. JEFFORDS. I yield to my friend from Rhode Island.

Mr. CHAFEE. Mr. President, I am committed to oppose attempts to broaden this interstate waste bill in conference with the House.

By passing this narrow bill on interstate waste the Senate is not authorizing us to expand this bill into a full-blown RCRA reauthorization bill in conference.

The conference on this bill just is not the place to do a RCRA reauthorization. RCRA reauthorization is far too important to write in conference in a haphazard manner.

I am strongly in agreement with the position of the Senator from Vermont.±

Mr. COATS. Mr. President, there has been a strong and widespread consensus here that every attempt will be made to maintain what we call a clean interstate waste bill. I appreciate the responses of the floor managers of this legislation. Also I want to assure the Senator from Vermont that I share not only his concerns, but I believe that every attempt will be made to keep this legislation free from additions to it, which in my opinion would jeopardize final acceptance of this legislation.

The administration has clearly indicated that they do not see this as an appropriate way to deal with important RCRA legislation, and it would jeopardize it—probably doom—the opportunity to pass this year an interstate provision as we are seeking to do on the floor.

So I want to add my assurances to the Senator that I will make every effort to make sure that this does not happen.

Mr. JEFFORDS. Mr. President, I appreciate the comments of the Senator from Indiana, and the sponsor of the bill. I agree with him; that this is an important issue as we are seeing as each day passes, and having it doomed by actions in conference I do not think anybody wants to see.

I have a couple of other questions just on a few points. Two reasons. One is to let you know I read the amended bill; second to clarify these issues.

With respect to what is or is not grandfathered under the bill, the bill says that landfills cannot be grandfathered unless the landfills or incinerators are in compliance. What cost does this mean? Does it mean in compliance. What cost does this mean? Does it mean in complete and total compliance at all times with all regulations?

I yield to the Senator from Montana for his reply.

Mr. BAUCUS. In response, I would say that the landfill serving out-of-State municipal waste must be in compliance on the date of enactment with all applicable State laws related to the design and locational standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure care and corrective action. If a landfill is not in compliance with the State requirements, then the landfill could be prohibited from receiving out-of-State waste. Whether or not a landfill is in compliance will be based on EPA criteria for determining compliance.

Mr. JEFFORDS. I appreciate that answer. I think we will find that there will be attempts along the way, probably by those who have other desires to try to get away from what was intended in the bill.

Second, does this bill apply to waste generated during interstate commerce? What is the point where generation occurs? This may seem silly but I want to close a possible loophole.

Suppose a train leaves from Atlanta for Indianapolis. Which State gets credit for the waste generated by the passengers, Georgia or Indiana? If we say Georgia, technically, Indiana might have to ban these wastes or open her borders to anyone.

I think in my hypothetical example the State of Indiana is the State in which the waste is voted out. Can we agree the waste provided by this bill is not waste provided by individuals during transportation, or what insignificant amount of their own waste that private individuals may carry across State lines? In other words, the waste haulers cannot try to get around the law by citing such incidental interstate waste transport.

I yield to the Senator from Montana.

Mr. BAUCUS. It is my intent, I say to the Senator from Vermont, for the bill not to regulate waste generated by private individuals during transportation across State lines. In fact, in subsection (d)(4), the bill explicitly exempts from the bill any solid waste generated incident to the provision of interstate, intrastate, foreign or overseas air transportation.

Mr. JEFFORDS. I thank the Senator from Montana for those answers. I know they will help us make sure this bill works as well as we hope it will.

I would like to thank my colleagues for their time and their hard work. At this point, I would like to place a short written statement into the RECORD raising some issues I hope my colleagues can address in conference. I did not want to raise these points as amendments so as not to impede your progress.

I would ask my colleagues to consider two issues in conference. First, there are no provisions in this bill to allow for emergencies. Provisions should be added to this bill for a Governor or the President to temporarily waive the provisions in this bill in times of emergency. Bad things happen in this world, and we cannot foresee every eventuality.

This bill precludes a Governor from discriminating against any State. In other words, if you take wastes from one State, you may have to take wastes from all States. As a general rule, I think this is fair. But, I believe we should give a Governor temporary authority to open the State's borders to another State in a discriminatory fashion for some small amount of time just to account for all the unknown events that could arise. Suppose for example, you are on the Eastern Shore and the Chesapeake Bay Bridge is knocked down and that there is not enough capacity for Maryland wastes on the Maryland portion of the Eastern Shore. Are wastes to be trucked all around the bay? Suppose another hurricane strikes putting landfills temporarily out of commission. Do we want waste piling up? I do not think so. I believe we should consider giving a Governor some temporary emergency authority to override local interests on an emergency basis until public hearings can be held. Given the politics of garbage, I do not think this authority would be abused. Any Governor abusing this authority would come to regret it.

Second, I have concerns about making this a permanent part of American law. Our laws should reflect our unity and our need for unity. I can understand why this legislation is important while we sort out the larger question of our solid waste problem. I would suggest a 15-year sunset. By then, nearly every landfill in existence today will probably be closed, and we should have a national recycling program to make sure everyone is doing their part. Then, we should be encouraging the use of the best landfill, not the use of the politically expedient landfill.

I ask my colleagues to consider these thoughts in conference.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, we do not have many amendments remaining. We are working on the colloquy now between Senator INOUYE and myself.

In addition, an amendment by Senator BINGAMAN will be in order. He is not able to come to the floor. I will offer the amendment in his behalf.

It is my understanding that the Senator from Michigan [Mr. LEVIN] also would have a second-degree amendment concerning a study of interstate municipal waste transportation issues between Canada and the United States. That would be a second-degree amendment to the Bingaman amendment. There are some questions concerning that study at this point. But once we get those worked out, and I do think they will be worked out fairly quickly, I hope to be able to go quickly to third reading of this bill.

So I urge the Senator from Michigan to come to the floor so he can offer a second-degree amendment. I hope in the meantime we can work out the colloquy with the Senator from Hawaii.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, earlier we heard the distinguished Senator from Indiana indicate the desire to keep this a so-called clean bill. I do not know how you keep a bill that is about trash clean, but perhaps that is possible.

Mr. President, as I indicated earlier in remarks on the floor, I believe if that is the outcome here, we will have made a very significant mistake. I explored this morning the new case that I have learned of in my State that involves industrial waste, that involves an agreement between General Motors Corp., the largest industrial corporation in the world, with a very small town in my State, a town called Sawyer, with 319 people. That little town is going to take all of the sludge and industrial waste from 100 General Motors plants, and there is nothing the Governor can do to stop it.

Mr. President, we had the debate last night with respect to municipal waste and the question of whether or not a Governor has some ability to influence an outcome that affects the whole State. That is clearly the case with respect to the case before us now. We made the decision last night, some of us vigorously opposing it, that unless the Governor is joined by the community itself in wanting to abrogate a new contract, it cannot be done.

In other words, Mr. President, we have a situation in which if a small town, economically hard pressed, enters into an agreement with a giant corporation to take all of their waste—that is what we have in North Dakota right now—take it all from 100 plants, there is nothing the Governor of that State can do about it. It does not matter that thousands of people in surrounding communities are affected. It does not matter that the State road system is affected. It does not matter that the health and safety of the residents of the area are threatened. The Governor can do nothing about it.

Mr. President, that is just fundamentally wrong. In this bill, what we have is protection for the four large importing States, those that are now taking municipal waste of over 1 million tons a year. There has been a conscious decision, as they went through the process, to exclude industrial waste from this calculation. I just say to my colleagues: If you were in the shoes of the State of North Dakota and you were presented with a situation in which General Motors and the 100 plants of General Motors are going to dump all of their industrial waste in a town of 319 people, and there is nothing that can be done about it, you would expect your representative in this body to do something about it.

Mr. President, there has to be some rational outcome here. There has to be an ability for the majority of the State to be able to make decisions that fundamentally affect the State.

Mr. President, we look upon ourselves as the breadbasket of the country, out in my part of the country. The breadbasket, not the trash basket. We think it is just reasonable that a Governor of a State, the Governor of a sovereign State, ought to be able to have some say when a small community enters into agreement with a large corporation to take all of their trash. It does not just affect that community. It does not just affect that whole community. Who can seriously stand on the floor and say that taking all of the sludge from 100 General Motors plants in a town of 319 does not affect the people beyond the borders of that small town?

Mr. President, I hope that somehow reason will prevail here, and we will find a way to allow a State to have reasonable input into the decisionmaking process. If that means this bill has to be altered a little bit, then that should be done, because, very frankly, to solve the problems of some of the exporting States and a few of the large importing States and leave the rest of us hang is really not an acceptable outcome. That is just not an acceptable outcome. I hope that reason prevails, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am very sensitive, as I am sure all the members of the Environment Committee are, to the concerns voiced by the Senator from North Dakota.

I think we have to remember what we are dealing with here. We are dealing with a very narrow subject. This particular legislation deals solely with municipal waste, trash.

When you are talking about municipal waste, you are talking roughly 200 million tons a year, of which about 15 million tons are involved in interstate commerce. So I am not slighting the fact of 15 million tons; that is a sizable amount. But in the universe it is relatively small, because what the Senator from North Dakota is talking about is industrial waste. Industrial waste generates not the municipal waste which I said was 200 million tons a year; industrial waste is 8 billion tons a year, 8 billion with a "b." So you are talking a vastly increased amount over what we are concerned with in this legislation.

If we should try to tinker with this bill that we have spent now 3½ days on to include industrial waste, we would be getting into all kinds of problems, problems that we really do not know about. We have had hearings on this particular measure, and we have dealt with it, because the Senator from Indiana has been, as I mentioned before, doggedly pursuing this issue for 3 years. So we are familiar with it. We know who the exporting States are. We know who the importing States are. We know the amounts that are involved. We have had contact with the Governors and the attorneys general and a host of officials who were involved with this.

The Senator from North Dakota is stunned by this news of General Motors taking what is referred to as "sludge" to his State. And that is not carefully defined. Apparently, it is nonhazardous, as best we can tell from the newspaper article. The Senator is rightfully concerned that a small community in North Dakota, the town of Sawyer, is prepared to accept this. He says to us: Do something. But that is imposing on us a very, very difficult problem.

As the manager of the bill has mentioned several times, we have passed out of the committee RCRA legislation, resource conservation recovery legislation, and that is available to come on the floor. But that is a contentious item. And I do not think we will see it this year, because there are so many objections to it.

I do not mean to be facetious, and I am not trying to be ultrastern on North Dakota, but it is incumbent on North Dakota—and perhaps they have done this already—to subject its landfills to stiff requirements, as far as environmental soundness. Maybe North Dakota has done that. I do not know what has taken place in North Dakota.

But there is a suggestion—and the Senator from North Dakota knows much more about this than I—that it is inexpensive for General Motors to ship from all over the country to the Sawyer landfill in North Dakota, and I can only assume that is because the Sawyer landfill can charge low rates because the environmental requirements for safety, environmental safety, are relatively modest. Otherwise, I would assume that the charges would be much higher because of the cost of putting in the various requirements that we are all familiar with.

And I would hope that in North Dakota they would review their environmental standards for their landfills. But what can we do at this late date? I think there is very little that we can do. Maybe somebody can come up with an ingenious assistance. But we are getting, again I want to mention, into an area of tremendous consequences and size.

When you are talking 8 billion tons a year of industrial waste, for us to tack that on to a bill that is dealing with 15 million tons of defined material—and in this legislation there is a definition of what municipal waste is.

So, it seems to me, that unless the Senator or somebody can come up with a modest fix of some type, that I do not foresee, it seems to me that the avenue for the Senator from North Dakota to pursue is the passage of the RCRA legislation, resource conservation recovery amendments, that we have reported out of committee but have run into roadblocks. And as it seems now we will have to reconsider it and, indeed, we will reconsider it, the first part of next year.

There, I would suggest the Senator from North Dakota or Senators from North Dakota—and indeed the chairman of our committee is from North Dakota—would pursue in that legislation a solution to the problem that the Senator is seeking.

But at this late date, on this narrow bill, it would appear to me extremely difficult to come up with a satisfactory solution that does not awake all sorts of slumbering giants that are involved with still wastes and will come to this floor realizing that their situations are affected as either shippers or receivers of industrial waste.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, it is always interesting to listen to the Senator from Rhode Island. I think if he were in our position he might have a different view.

If all of GM's sludge was headed toward Rhode Island, some small town there entered into an agreement to take it, we might hear a different argument from the Senator from Rhode Island.

The Senator from Rhode Island talks about the fact that the bill we have before us deals just with municipal waste. Indeed, it does, I understand that, and that is relatively small in terms of a comparison to the industrial waste problem in this country, which is really what we confront in North Dakota.

Mr. President, there is a principle embodied in this legislation that involves municipal waste that is going to set a precedent for follow-on legislation that might deal with industrial waste. In fact, there are two principles here that I find very disturbing.

Principle one is a small community can make a decision that affects surrounding communities and, indeed, the entire State, and the State cannot do anything about it.

There is something wrong with that principle, and we have a specific example in my State now of what is wrong with it. The town of Sawyer, 319 people, entered into an agreement with a company that has now contracted with General Motors to take all of our industrial waste from 100 plants and put it in a little town in North Dakota, and the State cannot do anything about it.

When the trucks roll with their tons of sludge from these plants from all over the country and that affects the State of North Dakota and that affects the health of the residents in North Dakota and that affects the taxpayers of North Dakota—and who made the decision? Did the State of North Dakota make the decision? Did the Governor make the decision? Did the legislature make the decision?

No. The city council in little Sawyer made that decision.

If that is a principle upon which this legislation is based, I do not know how we can endorse that principle.

Principle No. 2 is, who is protected under this legislation? The large importing States are protected. If you are in Virginia, your Governor can freeze the amount based on 1991 and 1992 levels. If you were in Pennsylvania, in Ohio or Indiana, more than a million tons a year, you are protected. Everybody else, their Governors cannot even freeze the amounts based on 1991 or 1992 levels.

Mr. President, those two principles that are embodied in the legislation before us will serve as a precedent to what is to come. And it is really not reasonable, at least by this Senator's lights—and I might say I have talked to the Governor of my State this morning, talked to him about the specific situation that we confront, and he feels very strongly—very, very strongly—that we have to stand up for ourselves.

These principles are not right. It is not right that a little town can commit a whole State. It is not right that a little town can commit a whole series of surrounding communities.

Let me just remind my colleagues that were not here this morning, when I reviewed some of the facts here on the floor, the company that is involved here, we talk about clean hands not exactly a company that comes with clean lands, the company that is involved here has hundreds of violations.

Let me repeat that—hundreds of violations—millions of dollars in penalties have been assessed against 12 other facilities operated by subsidiaries of this same company.

And a special prosecutor is investigating activities in connection with efforts to build a hazardous waste incinerator by these same folks in Pennsylvania. The investigation concerns allegations of illegal lobbying, real estate acquisitions, and violations of security laws.

Mr. President, that is the vehicle we have before us. It solves problems for some people. It does not solve problems for my State. And what is worst, it embodies principles that you can be certain will serve as a precedent for follow-on legislation.

Mr. President, I think if my colleagues for a moment would think about how they would feel if they learned a small community in their State has just agreed to start taking all of the industrial waste from 100 GM plants, there is not one thing their State legislature or Governor can do to stop it, they would feel the necessity to try to stand on this floor and fight it.

I yield the floor.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Montana.

Mr. BAUCUS. Mr. President, I understand the concerns of the Senator from North Dakota. The announcement that General Motors, is beginning to send industrial waste to a town in North Dakota, the town of Sawyer, ND, is upsetting the Senator and it is upsetting I assume to some people in North Dakota.

I think it is important to realize what is going on here. First of all, Sawyer, ND wants this industrial waste. Nobody is foisting upon the town any solution that the town of Sawyer does not want. Sawyer, ND wants to receive this industrial waste.

Landfills and decisions as to whether a community accepts waste or not are essentially very local decisions. It is not like air pollution. It is not like water pollution, both of which cross State boundaries. We have very stringent regulations, national regulations, under the Clean Air Act which are very prescriptive. We have very prescriptive, precise national regulations under the Clean Water Act.

Solid waste is intentionally, under our scheme of laws, is given much more control by local communities, in combination with the States.

Mr. CONRAD. Will the Senator yield?

Mr. BAUCUS. I will later.

That is the reason, under the framework of the Resource Conservation and Recovery Act—particularly subtitle V, which handles solid waste—and solid waste decisions are left largely to States.

Now, it is true that many States both import and export solid waste. In fact, much more solid waste is imported and exported than many people realize; 42 States export solid waste, 43 import solid waste.

We set up a scheme which begins to crank down on the amount of solid waste that will be exported to the various States. And the numbers show, and logic compels one to realize, that, as the standards that apply to landfills increase and become more stringent, a lot less waste is going to be shipped across the country, in many cases because the tipping fees, which are now low at many landfills, are going to be much higher. And they are going to be higher because the landfills will be more expensive to operate.

Again, Sawyer, ND, wants this waste. It is a decision that the community of Sawyer, ND, has made. If this bill does not pass, then not only Sawyer, but no other community in North Dakota or any other State will be able to say no to solid waste coming into the State.

The bill before us gives communities the power to say "yes" or to say "no." Because of the "not in my backyard" syndrome, most communities are inclined to say "no." Sawyer has said "yes." That is a decision for Sawyer, ND, to make. They have made that decision. Sawyer could have said, "no." But Sawyer has not said "no." Sawyer has said "yes." The people who live in that community, affirmatively want industrial waste to come there.

Now, the Senator from North Dakota says there is nothing the Governor can do. "The Governor cannot do anything about it." Those are his exact words. That is not correct. There is a lot that North Dakota can do about this problem. For one thing, North Dakota can enact regulations with respect to industrial waste.

The bill we are dealing with here today concerns municipal solid waste. It is the transportation of municipal solid waste, not the transportation of hazardous waste, not the transportation of industrial waste. Now, what can North Dakota do about industrial waste?

The Senator from North Dakota explicitly states there is nothing the Governor can do. That is not correct. There is a lot North Dakota can do about this if North Dakota wants to.

First of all, the landfill requirements in North Dakota are some of the lowest in the Nation with respect to landfills generally and with respect to the disposition of municipal solid waste. The lowest in the Nation.

In North Dakota, for solid waste landfills, there are no minimum requirements, and whatever requirements there are are determined on a case-by-case basis. With respect to nonhazardous industrial waste landfills—and essentially that is what we are dealing with here, as I understand the Senator from North Dakota—North Dakota has no minimum requirements and, instead, whatever requirements there may be are determined on a case-by-case basis. If one looks at the——

Mr. CONRAD. Will the Senator yield?

Mr. BAUCUS. Let me finish. The Senator will get plenty of opportunity to speak.

Mr. CONRAD. The Senator is going to have a long opportunity, then.

Mr. BAUCUS. Most other States, I would say 90 percent of the other States in the Nation, have stronger requirements.

So what could North Dakota do? Regardless of what North Dakota's present nonhazardous industrial waste requirements are today, North Dakota could raise its standards with respect to nonhazardous waste landfills to such a high level, if it would so decide, so as to effectively prohibit any community in North Dakota from receiving out-of-State nonhazardous industrial waste.

Now, it is true those same requirements would apply to all communities in North Dakota because, so far, we in the Congress have not passed legislation which under the commerce clause of the Constitution would allow a State to discriminate. But, nevertheless, the approach I outlined is one approach that some States have taken to reduce the disposal of nonhazardous waste into their State.

There are many other options the State could take. For example, a State could impose fees on all industrial waste. I am not talking about municipal waste. Or they could raise their fees.

Now, as I understand it, one reason why the nonhazardous industrial waste is potentially going to go to Sawyer, ND, is because of the very low fees that Sawyer, ND, has imposed. It is commercially more advantageous for General Motors to ship the nonhazardous industrial waste to a site where there are low fees.

Again, we are not talking about municipal waste. We are talking about nonhazardous industrial waste, which is the subject being addressed by the Senator from North Dakota. And the State of North Dakota could enact higher fees for nonhazardous industrial waste.

I do not know how many nonhazardous industrial wastesites there are presently in North Dakota. I would guess there are not very many. But, regardless, if the problem is the receipt or the disposition of nonhazardous industrial waste in a State, the Governor has many tools at his disposal to deal with that.

Now, what other actions can the Governor take? There are many. A State, in conjunction with the legislature, can say no landfills can be within so many miles or feet of a river or a lake or a stream or an acquifer or a national park or a State park or a geological fault. There are infinite numbers of actions a State can take to deal with this problem. So it is not true that there is nothing a Governor and/or a State can do. There are many things.

The fact is the problem we are discussing with the Senator from North Dakota is essentially a State problem. It is a North Dakota problem. Why do I say a North Dakota problem? Because part of North Dakota wants to accept the nonhazardous industrial waste. I guess other parts of North Dakota do not want it. This is essentially an internal question.

Now, communities on their own, in a number of areas, decide whether or not they want to site facilities. For example, Sawyer, ND, might want a malting plant. They may want a number of different kinds of plants or operations. Maybe Sawyer, ND, wants a pulp mill. Should we, the Congress, say, through the commerce clause, to the Governors that they should have the authority to say no to communities that want to site a plant in their communities? I do not think we want to get into that. I do not think we want to do that.

Now, the response might be, well, this is garbage. Well, I understand that garbage has all kinds of overtones, all kinds of aromas, if you will. But the requirements, both the Federal and the State requirements, for landfills are getting very stringent, over time. For example, I know the Senator knows EPA has already promulgated new regulations which apply to all landfills across the country. They do not go into effect until January 1, 1993. That is not too far from now, 6 months, roughly.

Mr. CONRAD. Will the Senator yield for a question?

Mr. BAUCUS. Just more minute and I will yield.

Those apply to all landfills. All landfills must be upgraded to meet the new requirements. That is going to make it more difficult to ship waste to North Dakota.

In addition to that, after 1995 all newly constructed landfills have to meet much more stringent requirements. That is absent any action the States take. States can always pass laws that apply even more stringent landfill regulations if they so desire.

There is, I think, a potential opportunity here for North Dakota because we are dealing with nonhazardous industrial waste, not municipal waste, which makes it easier for North Dakota to substantially raise fees or substantially raise requirements on a particular kind of landfill which I think could go a long way to dealing with the Senator's problem.

I would be happy to yield to the Senator from North Dakota.

Mr. CONRAD. The first question I would have for the Senator from Montana—and I appreciate the advice he has given to North Dakota on what it can do—the first question I would ask is, if we can do all these things and stop it, then why not allow an amendment that just states that the Governor has to be consulted and can stop it?

What is your problem?

Mr. BAUCUS. If the amendment were to be agreed to—first of all, as the Senator knows, there are Senators—not this Senator, but there are Senators here—who are so strongly in opposition to the Senator's amendment that they would stand on the floor to prevent it from being agreed to. I do not know what the Senator has in mind.

But if the Senate were to amend the pending legislation to make it similar to, let us say, the Reid amendment, which gave the Governor the authority over the entire State, because of the "not in my backyard" syndrome temptation, Governors would be pushed politically to close the doors and prevent importation of municipal solid waste into their States. And that would totally disrupt a very complicated system that exists in our country today. Some 40 States both receive and export solid waste.

The legislation we are, hopefully, passing will crank down on the interstate transport of waste. It will give States and local communities much more authority than they now have to limit and prevent the importation of solid waste into their communities.

It is true the pending bill does not immediately give the Governors total control to stop it. But it is also true there are many provisions in this bill which will have the effect of reducing importation of waste.

Take my State of Montana. Because we in Montana today do not receive out-of-State municipal waste, if a company were to go to a local Montana community and say, "We would like to ship waste to you," that Montana community would have the option of saying "no; we do not want it." And we could ban it, as is the case for every community in North Dakota under this bill.

Let us not forget, this bill allows any community in any State to say "no", if no waste has been coming in prior to 1991, which is the case here. But it gives that discretion to the community.

We also have a mechanism in the bill which requires a local request to say "no" to be in conjunction with the Governor, through any solid planning district. So the Governor would have some say, in conjunction with local communities, as to whether or not to receive the waste.

This is a 50-State bill. The Senator from North Dakota several times has said this is a 7 State or 6 State solution to a 50-State problem.

It is true this is a 50-State problem. This is also a 50-State solution. And it is a 50-State solution because absent the passage of this bill, communities will be unable to say "no." With the passage of this bill, communities will have the right to say "no."

It just so happens that in North Dakota, a community which will have the right to say "no," wants to say "yes."

Mr. CONRAD. First of all, Mr. President, so many assertions have been made here, I am somewhat at a loss as to where to start.

First of all, we do not know, with respect to the specifics of this proposal, whether the community wants it or not. The community has an industrial facility, and the company that owns that facility has made this agreement. We know the community wanted to permit ash to be dumped there. I do not know if the community has ever had a chance to speak on this question of the General Motors plant.

But let us assume for the moment that the community does want it. That is fundamental to the problem this Senator has with the legislation before us. It embodies a principle that I think is flawed.

If a community of 319—or theoretically, a community of 10, because we have 4 incorporated towns in my State of 10 or less—decides they are going to take all of General Motors' waste, affecting thousands of people in surrounding areas, nothing can be done. The Governor cannot say "no" unless the community agrees. I do not understand that principle, frankly. I really do not.

This is industrial waste. All of the waste of 100 General Motors plants going into a town of 319, and the Governor cannot stand up and say that is not in the State's interest? There is something wrong with that.

No. 2, the Senator said this is not water and it is not air; this is trash. Or in this case, it is industrial waste. I wanted to know if the Senator would have a different view if water were involved?

I assume from the Senator's comments that he would have a different view if water were involved. I ask the Senator, does he have a different view if water is involved? The Senator's statement was: "This is not air and it is not water."

Would the Senator have a different view if water were involved?

Mr. BAUCUS. The fact is, Mr. President, we have a Clean Water Act which deals with water pollution in our Nation's lakes and rivers and streams; and nonpoint source pollution, point source pollution, and so forth.

And that is why it is as national and prescriptive as it is.

Mr. CONRAD. I just say to my friend, in this case, this particular landfill sits over an aquifer. The aquifer does not just feed 319 people in the community of Sawyer. It affects thousands of people in the surrounding area.

Mr. BAUCUS. If the Senator will yield for a question, if I may ask the Senator a question, why does the State of North Dakota then not pass legislation prohibiting landfills over aquifers?

Mr. CONRAD. Mr. President, I presume that perhaps is an option open to the State of North Dakota.

Mr. BAUCUS. I think it is.

Mr. CONRAD. I do not know the answer to that question. I say this: An aquifer is involved.

So we know we have a situation in which potentially water is involved. Maybe 319 people in Sawyer want to take that risk. Maybe the larger community that is affected does not. But, you know what? The larger community has no role in the decision under the principles embodied in this legislation.

There is something wrong with that. People who are affected ought to have some role in the decisionmaking.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. BAUCUS. The majority of the people of North Dakota do have a say. They do. They can go to their legislature and say: We do not want industrial, nonhazardous waste landfills to be placed over aquifers. The people downstream—above ground or below ground—can march to the State legislature and the Governor and say "no." They do have a say.

Mr. CONRAD. The problem is we are faced with the situation today. The situation is today. The trucks are going to start rolling.

Our legislature only meets once every 2 years. We do not have a situation like some States, where the legislature meets every year. Our legislature meets every 2 years. So we are faced with a situation today.

Mr. BAUCUS. But it meets next January. It meets 6 months from now.

Mr. CONRAD. Let me go further in answering the Senator's points, Mr. President, because the Senator said there are a lot of things North Dakota can do. "North Dakota can raise their fees on everybody." That is a great solution.

We can raise fees on everybody. That is exactly what is wrong around the country. Minnesota has done exactly that. They raised the fees on everybody making all of their industry less competitive. We wonder why the United States is in trouble with this kind of thinking: Raise the fees on everybody in order to keep out somebody else's and force them into the neighboring State. That is exactly what is going on, and it is not good for the country, it is not good for the industries of America, it is not good for our competitive position. But that advances the answer: Just erect a high fee wall that affects everybody.

I do not think that is seen as much of a solution. We in North Dakota would like to encourage industry in our State. I will tell you what we do not want to encourage. We do not want to encourage other States' industry to foul their nest, fill up all their waste sites, and then shove it over into North Dakota, and North Dakota cannot do very much about it. The only way the Governor can stop it, the only way under this legislation, the principle embodied here is that the Governor has to act in concert with the local community. If the local community wants it, the Governor cannot stop it. That is precisely the point I made earlier, and it is precisely the point under this legislation. The Senator says a lot of things the State can do to stop it. If that is the case, why not let the Governor in on the deal right from the start?

Mr. President, the problems that I have with this legislation—and I understand it is municipal waste versus industrial waste—is the principle involved. The principle is, if a community wants it, no matter how small, 10 people can decide, they can affect thousands around them, they can affect the State's taxpayers, and there is no recourse for the Governor, except, I suppose, to raise fees on everyone in the State. I do not know what kind of a solution that is. That does not strike me as a very good one.

Mr. President, this bill, which purports to solve one problem, sets a precedent that I think is a fatally flawed one for the much larger problem which is to come. Frankly, we do not take much relief in the idea that there are other ways we can deal with this. Why not the straightforward way?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, as I did last evening, I appreciate the concerns that the Senator from North Dakota has raised. The issue that he faces is similar to an issue that many of us have faced. But I think it is important to note here the distinctions between the Senator's situation and the situation that we are dealing with in this particular legislation. There are many types of waste that flow between our States. There is industrial waste, construction waste, hazardous waste, even nuclear waste.

No one is saying that we should not address this national problem of transfer of waste between States. What we are attempting to do with this particular legislation is address a segment of that because, at least to this point in our legislative battle, we have not been able to address it at all on a comprehensive basis. The Senator knows that the RCRA legislation is bogged down for a number of reasons. We are attempting to deal with a certain type of waste, municipal solid waste, garbage, the everyday ordinary type of waste that people dispose of in their garbage bags and put out at the curb or take to the local collection point.

That is a significant problem in our country, a significant problem in terms of shipment between States, and we are trying to deal with that in this bill. To expand this now to include every other type of waste to address a particular problem that the Senator from North Dakota faces is, I think, by general consensus, something designed to defeat this narrow effort.

So we are trying to do what we can with a certain type of waste. We understand that to expand it to deal with the Senator's particular problem is to open it up to all kinds of other types of waste and the particular problems inherent in that and to, therefore, end up with no legislation this year, which certainly does not advance a solution toward the Senator's particular problem.

Second, the contention that this is some kind of special deal for just a few States is simply not true. It is not factual. The Senator made that argument last evening. He makes it again today. It is not a valid argument. This Senator from Indiana was the one who insisted on expanding the rights to all States that originally were intended for the four largest recipient States. And the language of the bill before us, which is now accepted by a strong majority of the Senate, extends that privilege and that protection to every State in the Union, including the State of North Dakota.

In our survey of the amount of out-of-State municipal waste received in the State of North Dakota, the North Dakota Department of Health indicated to us that about roughly 60,000 tons of out-of-State waste is received in North Dakota. That level now can be frozen because of the extension of the authority to the State of North Dakota included in this bill. The four States that the Senator alludes to as having some kind of sweetheart deal are talking about freezing levels at millions of tons. They have accepted that as a way to stop the increase and as a way to advance this legislation and ultimately deal with the problem. So it is not correct to say that authority is not extended to States like North Dakota. The authority that is extended would allow that State to freeze at an extremely low level, relative to most other States in the Nation, the amount of out-of-State waste that is coming into North Dakota.

Mr. CONRAD. Will the Senator yield for a question on that specific point?

Mr. COATS. I will be happy to.

Mr. CONRAD. Is it not true that the State would only have the authority to freeze at the request of the local community?

Mr. COATS. That is my third point that I want to make to the Senator. It is. But the whole bill is premised on the fact that we give the people the option of deciding whether or not they want the solid waste or do not want the solid waste.

The Senator keeps talking about this principle, the principle that the decision of a community in his own State denies the rest of the people in his State options to go forward to restrict them. But that works both ways. What the Senator wants is, in order to preserve the right of a State to make a decision on behalf of every community, he is taking away the right of every community in every State in the United States to make a decision. So to protect one right, he is taking rights away from all the other communities. What if a Governor says, "I do not see any problem with interstate waste, I do not see any problem with sludge coming into North Dakota," and the people of Sawyer say, "Wait a minute. Do we not have a say in this?"

I have a town in Indiana of 250 people called Center Point. Center Point is the landfill and is the situation that prompted this whole debate and discussion, because the 250 people of Center Point suddenly found themselves the recipients of out-of-State waste and there was nothing they could do about it. Those people decided that they wanted to do something about it, and this legislation is, frankly, the result of their efforts. That is where all this emanated from in the first place. That community is now granted the right, under this bill, as is every other community, to say no to out-of-State waste. But in order, as I said, to protect the right the Senator wants to establish for a particular Governor, he wants to take away the rights of every other community in every other State in the United States that are protected under this particular bill.

Finally, I would say to the Senator, who is searching for a solution—it is a valid search—I simply repeat the arguments of the chairman of the committee which are simply, if the State of North Dakota wants to assert authority over this particular situation, there is nothing to stop the State from doing so. The Senator seems to want to come down to this floor and argue that because his State, his Governor, or his legislature is not willing to assert authority over this particular problem, only Congress can fix it.

There are numerous options open to the State of North Dakota to deal with this particular problem. The Senator from Montana outlined a number of those options. The reply of the Senator from North Dakota was, well, our legislature is not in session. If it is enough of an emergency, the Governor can call a special session of the legislature. If it is a threat to the water supply of North Dakota, that certainly would be enough of an emergency to call a special session of the legislature and impose restrictions on what types of landfills can be established over aquifers. There are a number of options open in terms of what restrictions can be placed on receipt of industrial waste.

So the Senator seems to be arguing that because the State of North Dakota does not want to do something about this now, it wants Congress to do something. It is not precluded from taking action in this particular regard.

I say to the Senator, I appreciate his problem. We are not without sympathy to the situation that exists. I think the Senator from North Dakota understands that were we to attempt to try to find a specific single fix to this particular problem, we end up with no legislation at all. All if we end up with no legislation, at all, the Senator's situation is not solved and we have then not solved a number of other problems which exist in all 50 States across the Nation.

Mr. BAUCUS addressed the Chair.

Mr. CONRAD. Will the Senator yield for a question?

Mr. COATS. I will be happy to yield.

Mr. CONRAD. I say to the Senator from Indiana, my friend, when did the Senator switch positions?

Mr. COATS. The Senator has not switched positions.

Mr. CONRAD. I was on the side of the Senator——

Mr. COATS. I appreciate that.

Mr. CONRAD. In the good old days when the Senator stood for the Governor being able to protect his State borders at least to some degree. I was with the Senator. Now, all of a sudden, I hear this great argument from the Senator from Indiana about how we ought to retreat from that principle. I do not know why. I have not retreated.

Mr. COATS. I would like to reclaim my time to respond to the Senator's statement. This Senator has not switched his position. This Senator has said there is a way in which we can accomplish what the Senator was trying to do by enacting legislation that not only gives Governors backup authority but gives our committees the first right of defense. That is a stronger defense from out-of-State waste than just simply giving one person in one State the authority to act.

That is much stronger, because I give every citizen in the State of Indiana the authority to say no to out-of-State waste, No. 1. No. 2, this Senator is working for this particular piece of legislation because, as we all know, the only hope of stopping the flow of out-of-State waste is this piece of legislation which is before us today.

We all know that if we revert back to the proposal of the Senator from North Dakota, it is going nowhere. I know that because for 3 years I have tried to get it to go somewhere, and we have not been able to do so. This is the only thing possible that can break the deadlock and give every citizen the right to say no. I think it is a superior right. I would much rather give the 5½ million citizens of Indiana, even the 250 in Centerpoint, IN, the right to say no than to simply vest it in one person and not know what that one person might or might not do. We had a vote on it last night, and the Senate clearly expressed its will by a 2-to-1 majority.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, the problem with the argument of the Senator from Indiana is that it is just not so. We have not given the ability of every citizen in the State of Indiana or every citizen in the State of North Dakota to stop this. That is not what we have. The fact is one small town can enter into an agreement and nobody can stop it.

Look, I have it. I was arguing on the participle last night. I find out I have the real world situation right now. All of GM's waste is going to be dumped into a town of 319 people and the State cannot stop it, the legislature cannot stop it, and the Governor cannot stop it. How much is it? The Senator was referring to the small amounts of industrial waste we have in the State of North Dakota. Absolutely true. It is all going to change. They have an operation that, according to the latest press reports we have just received, can take 400 tons a day.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. I have not finished my point. Then I will be happy to yield.

They are going to take 400 tons a day. And the only way they can freeze at those previous levels is if the local community agrees. The local community thus far has not agreed, and there is nothing that can be done.

The trouble I have with this bill—the Senator says this deals with the municipal waste problem. It is a small part of the problem, but it is a part of the problem. If we do not do this, we do not do anything. The problem I have with that is the principle embodied in this legislation which is if a small town decides to go out and cut a deal with some company, that is it. They have made the decision. They have made a decision that can affect thousands of people, and there is little or no recourse.

That is the problem I have.

I am happy to yield to the Senator from Montana.

Mr. BAUCUS. I have learned in public life, and I know the Senator from North Dakota has, sometimes everything you read in the newspaper is not entirely accurate. Sometimes there are inaccuracies.

My office just called North Dakota and the information we have as to the amount of industrial, nonhazardous industrial General Motors waste is different from what is in that newspaper report the Senator from North Dakota is referring to.

According to the State of North Dakota, from a telephone call to the relevant department in North Dakota just about half an hour ago, the amount of waste is really much less than that. North Dakota says it is not all of GM's waste. North Dakota says it will be 2 to 8 percent of GM's industrial waste—not all, but 2 percent.

In addition, this Sawyer facility has two 3,000-yard storage cells that could temporarily accept waste, and there has been one shipment. But the landfill site in question, Sawyer, will have a double 60-mil liner as well as a composite liner, and it has received one load of waste. Liners are going in starting on July 27. The facility will take 15 to 30 loads a week. The average load will be 18 cubic yards. And this amounts to 2 to 8 percent of GM's nonhazardous industrial waste.

I do not know if that information is accurate. I do not know if the information as reported in the newspaper is accurate. I only know the information that I just gave to the Senator from North Dakota comes from the relevant department in the State of North Dakota. That is their information.

There is another conclusion that one can draw from all this, and that is this is a very recent development. We really do not have the facts. It is probably inappropriate for Congress to legislate a solution over something we know very little about, particularly when there are other solutions as I and other Senators have outlined for North Dakota. Sawyer, ND, is putting in double liners, one 60-mil liner and also a composite liner. That is pretty hefty.

In my home State of Montana I spend 1 day a month in the workplace. I show up at 8 o'clock in the morning, bring a sack lunch and work all day. I tease people at home by saying 1 day a month I do an honest day's work. I worked at a plant in Miles City that makes these liners. It was interesting watching this machine make these liners. I can tell you that a 60-mil liner is a pretty hefty liner.

Mr. CONRAD. Mr. President, let me just say that for me it is not a question of if it is 20 tons or 400 tons a day. That is not the thing that sticks in this Senator's craw. What sticks in this Senator's craw is the underlying principle that one small town can cut a deal and they can affect others outside that town, and there is nothing anybody else can do about it, or not very much they can do about it.

Oh, yes, there are some things. They could raise fees on everybody. There are some other things you could do that affects everybody. That just does not strike me as the solution.

I just say to my colleague, from press reports that I have, it says the first shipment last week contained 20 tons. That is according to the Grand Forks Herald. I would just read from the Grand Forks Herald report from July 22, which says:

> Municipal Services Corporation is holding a giant open house for its Echo Mountain landfill near Sawyer, North Dakota, which began accepting nonhazardous industrial waste from the auto-making giant last week. By the end of 1993, the facility will be accepting all such waste generated at about 100 GM factories. MSC's open house features tours of the facility, which includes an administration building, a lab, processing building, and the storage cell designed to swallow up the 400 tons a day of waste.

Mr. President, I find it interesting in looking at these press reports about some of the other details from this facility. The company involved has hired 31 workers, ranging from clerks and technicians to administrators and equipment operators. The company promises to employ 50 workers eventually. The signs displayed Wednesday said that by the end of 1993 the company and its workers will be paying $550,000 in State taxes. But that does not comfort many area residents who fear the landfill will have adverse consequences for area water and air.

The Senator from Montana was talking earlier: This is just waste; it is not air, it is not water. Local residents do not see it that way. Many of them, are refusing to sign good neighbor agreements that the company is offering under which the company would provide $60,000 a year for community projects in exchange for the community's support—$60,000 a year for community projects in return for the community support, and a town of 319 can take all of GM waste from 100 plants.

The company is also acquiring more land adjacent to the site, and some residents fear the first cell is just a foot in the door. "We are just going to be a garbage State," said a woman who is involved in organizing the community against this project. She said, "North Dakota should think better of itself." People touring the site Wednesday had little comment but they had plenty of questions.

Mr. President, the thing that troubles me the very most is the principle that is being applied in this legislation, the principle that a community can go out and cut that deal and everybody else who is affected has no voice in the decision.

The Senator from Indiana was a giant on this subject some time ago and now he has retreated in the face of resistance, in the face of threats from the exporting States.

Mr. President, I do not know where this can lead. I have not ever been an obstructionist in the U.S. Senate. I have been here 6 years. I have never been an obstructionist. I have never tried to stand in the way of something even if I disagreed with it to the extent of engaging in an ongoing filibuster. But I must say, Mr. President, this is very, very troubling to me, and it is troubling to my State, and troubling to my State's Governor.

I simply say to my colleagues I would hope that we could find some way to send a message of some sort that the Governor in a State ought to be able to have a way if there is an agreement that is going on between a community and a company that is absolutely unacceptable. I hope we are able to work something like that out.

I yield the floor.

AMENDMENT NO. 2740

(Purpose: To provide for a study of solid waste management and solid waste management issues associated with increased border development)

Mr. BAUCUS. Mr. President, I send an amendment to the desk, and it is on behalf of Senator BINGAMAN, Senator LEVIN, Senator RIEGLE, Senator DECONCINI, and Senator MCCAIN. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. BINGAMAN (for himself, Mr. LEVIN, Mr. RIEGLE, Mr. DECONCINI, Mr. MCCAIN, and Mr. D'AMATO) proposes an amendment numbered 2740.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free-Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in sections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free-Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—

(A) the Immigration and Naturalization Service of the Department of Justice; and

(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

Mr. BAUCUS. Mr. President, this is a combination amendment essentially offered by the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Michigan [Mr. LEVIN] for studies of interstate transport of municipal solid waste, on the one hand Mexican-United States transport of municipal waste, and on the other United States-Canadian municipal solid waste. It is asking the Administrator of the EPA to study a boundary for the municipal solid waste studies.

I think it is a good amendment. It has been cleared all the way around. I urge its adoption.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator D'AMATO be added as a cosponsor to the Levin amendment dealing with Canada.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I agree that this is a good amendment. It is a study of both the Mexican border and the Canadian border to be conducted by the Administrator of the EPA.

Mr. BINGAMAN. Mr. President, I rise to offer an amendment on behalf of myself, Senator LEVIN, and others to the legislation currently before the Senate that addresses a problem of increasing urgency: The disposition of solid waste along the United States-Mexico and United States-Canada borders. As the United States, Mexico, and Canada formalize and strengthen their trade relationship, increased border development is inevitable. With that development comes new challenges for the transport and disposal of solid waste. This is not just an issue for the Governments of the United States, Canada, and Mexico. It is also an issue for the border States that will deal with the waste itself and will do so on an interstate as well as an international basis. To capitalize upon the opportunity offered by the North American Free-Trade Agreement, we are going to have to plan for it. This means conducting the necessary research on the scope of the challenges.

This amendment directs the Administrator of EPA to conduct a study of solid waste management issues associated with anticipated increased border use, in order that States and localities can properly plan for waste treatment, transportation, storage, and disposal. The study will address six key issues:

First, planning for additional landfill capacity;

Second, relative impact on border communities of a regional siting of solid waste storage and disposal facilities;

Third, research on methods of tracking the transportation of materials to and from border industries;

Fourth, the need for materials safety training for workers;

Fifth, the adequacy of existing emergency response networks in the border region; and

Sixth, a review of solid waste management practices in the border region.

Mr. President, it was my original intent that this amendment include a study of hazardous waste issues, including a review of the manifest tracking system for the transportation of hazardous materials in the border region and a study of the relative impact on border communities of siting hazardous waste disposal facilities. However, I understand that the managers of S. 2877 are urging Senators to refrain from offering amendments that do not directly relate to the interstate transportation of municipal waste. Accordingly, I will plan to offer an amendment dealing with border hazardous waste issues when the Senate considers comprehensive RCRA legislation.

It is my expectation that the Administrator, in order to fulfill the requirements of this amendment, may enter into a contractual agreement with one or more qualified entities such as universities, university consortia, or other public or private institutions.

Mr. President, I am convinced that the North American Free-Trade Agreement will create economic opportunities for New Mexico and States in both border regions. If we manage these opportunities correctly, we can create prosperity without compromising our health and environment. This amendment is a useful step toward that goal.

Mr. LEVIN. Mr. President, I am pleased that the managers of the bill and Senator BINGAMAN, the author of the amendment, are willing to accept my modifications to this amendment. It will add the United States-Canada border region to the area in which the EPA must perform a study of numerous important solid waste management issues. The amendment will also require that these studies be completed and reported to Congress within 2 years. Additionally, EPA will have to propose a method by which border traffic in solid waste between the United States and Canada, and the United States and Mexico, can be tracked by source and destination.

My intention is not to create a paperwork burden or force any requirements that would violate our current trade agreements. However, the State of Michigan, and I am sure many other states along the United States-Canadian border, have experienced a great back and forth flow of garbage which no one is tracking. For long-term planning and safety and environmental reasons, Michigan requires the data that will be produced by this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from New Mexico? If not, the question is on agreeing to the amendment.

The amendment (No. 2740) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KOHL. I commend the Senator from Montana and the Senator from Indiana on their efforts to address the complicated issue of interstate transport of municipal solid waste, and to grant States explicit authorities to regulate the waste coming into their borders from other States. I would like to clarify however, the effects of this bill on Wisconsin's recycling law, which includes certain interstate solid waste transport provisions.

Wisconsin's recycling law, as of January 1, 1995, prohibits the disposal of any amount of specified types of recyclable solid waste in Wisconsin landfills, unless the municipality where the solid waste is generated has an effective recycling program (as specified in S.159.11, WI. stats.) This requirement applies not only to Wisconsin communities, but also to out-of-State communities disposing their solid waste in Wisconsin landfills.

Since this recycling requirement is the basis of Wisconsin's law, and since this requirement applies equally to in-State and out-of-State waste, it is expected that the effective recycling program requirement of the Wisconsin law will be upheld if challenged on constitutional grounds, and therefore needs no specific congressional authority to be valid.

With this understanding, it is my further understanding that S. 2877 would in no way preempt Wisconsin's law, or otherwise prevent it's implementation. As the chief sponsor of this bill, is this the understanding of the Senator from Montana as well?

Mr. BAUCUS. Yes, absolutely. The purpose of this bill is to give States more authority to control the solid waste that they import, in light of recent Supreme Court cases restricting that right. Because the effective recycling program provision of Wisconsin's recycling law places the same restrictions on out-of-State waste entering Wisconsin landfills as it does on in-State waste entering Wisconsin landfills, and absent a court ruling that the Wisconsin law is unconstitutional, it is certainly not the intent of this legislation to preempt Wisconsin's law. And it certainly should not have that effect.

Mr. BREAUX. Mr. President, I rise to make a brief explanation to the Senate. It was my intention to offer an amendment to this legislation that would have expanded the authority granted to local and State governments by S. 2877 to cover restrictions on the importation of out-of-State municipal sewage sludge. I have decided not to offer this amendment in the interests of allowing this legislation to go forward.

My State of Louisiana receives imports of this noxious material, the most infamous instance of which was the so-called poo-poo choo-choo that brought 63 carloads of stinking sewage sludge from Baltimore to sidings near Shriever, Labadieville, and Donaldsonville, LA. These 63 open cars full of sludge were to be disposed of in a landfill in my State. Fortunately, after weeks of exposing these small towns to open cars full of sewage, the private landfill operator in question was forced to send the train back where it came from.

The amount of sludge that the United States will have to deal with in the future is growing. Within the last 16 months, New York City and 8 surrounding New York and New Jersey communities finally halted ocean dumping of sewage sludge. New York City had been dumping approximately 3,878,125 wet tons per year into the Atlantic Ocean, 10,625 per day. The surrounding communities had been dumping a similar amount, for a total of nearly 8 million tons per year. These communities are now in the process of building treatment works for the sludge they used to dump into the ocean, but completion is 6 years away. This sludge now needs a home—a place to be disposed of. I find it disturbing that while my State and a number of others import sludge, the State of New Jersey does not allow any landfilling of sewage sludge in that State—either at monofill or codisposal sites. Western and Southern States should not become dumping grounds for other States' sewage sludge any more than they should become dumping grounds for municipal solid wastes.

My amendment would not have interfered with interstate shipments of sewage sludge that were destined for beneficial uses, such as agricultural fertilizer and soil nutrition. Beneficial use is an acceptable disposal practice, so long as sufficiently stringent State and Federal regulations regarding the content of sludge are followed. This bill, I would remind Senators, deals only with shipments bound for landfills and incinerators.

Mr. President, if we are going to address the municipal waste problem, I would have liked to see us address the whole problem. Sewage sludge shipments are every bit as controversial and potentially hazardous as municipal solid waste. I have other problems with this legislation—it does not adequately protect those States that are neither large exporters nor the largest importers. We will be the recipients of the waste that is left over. However, I will conclude by saying that it is indeed unfortunate that we are not finishing the task we started three days ago on the Senate floor.

Mr. BOREN. Mr. President, the Breaux amendment would have included municipal sludge under the provisions of the bill. This measure is extremely important to my State which has seen a rapid rise in the number of companies interested in applying municipal sludge to land in Oklahoma. However, were this amendment to succeed, it would effectively prevent the bill from being passed by both Houses. We simply cannot afford to let another year pass without taking at least a first step to solve the interstate garbage problem.

Let me explain why the Senate needs to address the sludge issue in the future. Most often, the communities which are targeted by waste disposal companies have no idea what metals or other hazardous materials may be included in the sludge. An analysis of municipal sludge from New York City performed by the Oklahoma Department of Health found it to be very high in hazardous metals. The sludge contains significantly higher levels of heavy metals like copper, zinc, arsenic, and lead than communities throughout Oklahoma in which levels of these toxins are barely detectable.

Because the imported sludge does not undergo as much pretreatment as local sludge, out-of-State sludge often exceeds State guidelines outlining permissible levels of heavy metals.

Only through the extraordinary efforts of grassroots organizations have communities in Oklahoma been able to fend off the disposal of sewage sludge in their community.

In order to ensure the health of rural communities, we must arm local communities with the right to refuse municipal sludge coming in from other States. We must respect and support the efforts of communities to guard and preserve their land.

The bill before us gives communities the right to say no to municipal waste coming in from out of State. I think the bill would have been better had it included municipal sludge, and I will work to see this issue resolved in the future.

Mr. INOUYE. Mr. President, it is with reluctance that I ask permission of the Senate to withdraw my proposed amendment to S. 2877, which would have added language to the Resource Conservation and Recovery Act to authorize the Administrator of the Environmental Protection Agency to accord tribal governments a status similar to State governments for purposes of certain provisions of the Resource Conservation and Recovery Act. This language is identical to a provision that is contained in the bill, S. 976, that was reported by the Committee on Environment and Public Works to reauthorize the Resource Conservation and Recovery Act.

In my view, the amendment is germane to the measure before us because it is absolutely necessary to consider Indian lands when addressing matters of interstate transportation of solid waste, if we intend not to create a significant gap in a comprehensive scheme. The jurisdiction of Indian tribal governments over lands within the exterior boundaries of their reservations is critical to the resolution of these matters. However, I respectfully concede to my colleagues, Senators BAUCUS and CHAFEE, that there may be others who would disagree with my assessment regarding germaneness. Therefore, in the interests of allowing this legislation to move forward, I have asked the cosponsors of our proposed amendment, Senators McCAIN, BURDICK, and WELLSTONE, for their agreement to withdraw the amendment. They have so agreed.

However, I would like to explore with my colleague from Montana whether he would agree that the Congress needs to adopt such an amendment in order to clarify that tribal governments may be accorded a status similar to that of State governments under the Resource Conservation and Recovery Act, just as tribal governments are accorded that status under all other major environmental statutes, including the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and the Comprehensive Environmental Response Compensation Liability Act.

Mr. BAUCUS. First, I thank my distinguished colleague, the chairman of the Select Committee on Indian Affairs, for his agreement to withdraw this amendment at this time. Certainly, I agree that such an amendment is needed and supported inclusion of identical language in S. 976. I should note, however, that I sponsored the amendment in committee with the specific understanding that the committee report states that the provision is "not intended to expand or limit the scope of existing tribal authority under applicable Supreme Court decisions."

Mr. INOUYE. As my colleague knows, under the proposed language, the treatment of tribal governments as States would not be automatic. In order to be accorded such status, a tribal government must be recognized by the Secretary of the Interior, must be capable of carrying out substantial governmental functions, the functions must be within the tribal government's jurisdiction, and the tribal government must, in the judgment of the Administrator of the Environmental Protection Agency, be capable of carrying out the functions it is authorized to exercise. If there are provisions of the act where treatment of tribal governments as States is not feasible, the Administrator may include other methods for administering those provisions.

Mr. McCAIN. I strongly support the proposed amendment and would like to assure my colleagues that, while I fully understand the reasons for withdrawing the amendment at this time, I am committed to enactment of these provisions in this Congress. While RCRA does treat tribes as municipalities for purposes of hazardous waste, it is silent on the matter of solid waste. Court cases have held that States do not have environmental jurisdiction over Indian lands. This means that Indian tribal governments must deal with the issues of waste management on their own until Congress can act to resolve the matter of delegating the same Federal authority to tribal governments that we now delegate to State governments.

Despite the fact that tribes have never been eligible for grant assistance, tribal governments are still required to meet RCRA waste disposal standards. In addition, these standards can be enforced against a tribe for noncompliance with RCRA. Recent case law supports the conclusion that sovereign immunity may be waived under RCRA and a tribal government may have to participate in remediation costs. It is ironic that a tribal government may be liable for damages in a given situation because of its inability to secure moneys to develop programs to ensure a healthy environment for lands under its jurisdiction. Such programs are clearly needed to address the environmental problems on Indian reservations. The protection of environmental quality on Indian reservations is in the best interest of all residents of a reservation community as well as adjacent non-Indian communities. In the event that S. 2877 becomes the subject of a conference with the House in which the House bill contains the Indian RCRA provisions, may I ask my colleagues if they would be willing to consider receding to the House?

Mr. BAUCUS. As my colleagues understand, it is impossible to anticipate the context of an upcoming conference with the House and, consequently, whether a provision such as this amendment will be an appropriate part of the conference report. However, I agree that this amendment is important, and I hope that we will have an opportunity to enact this and other important RCRA provisions soon, preferably as part of a comprehensive RCRA reauthorization, such as S. 976.

Mr. CHAFEE. Mr. President, while I support the Senator's amendment and would be willing to take up this language in conference, I must stress that I am committed to oppose attempts to broaden this interstate waste bill in conference.

By passing this narrow bill on interstate waste, the Senate is not authorizing us to expend this bill into a full-blown RCRA reauthorization bill in conference.

The conference on this bill is not the place to do a RCRA reauthorization. RCRA reauthorization is far too important to write in conference in a haphazard manner.

But, if the scope of the conference on this bill is expanded beyond the bill we are passing today, I will make every effort to include these provisions in the conference report.

Mr. McCAIN. As an alternative, would my colleagues be willing to entertain the inclusion of this amendment in another bill in this session of Congress.

Mr. BAUCUS. I would be willing to entertain this amendment on an appropriate vehicle.

Mr. CHAFEE. Yes; I would also like to add that I too support the provision that would treat Indian tribal governments as States for purposes of certain sections of RCRA. It is very important to bring all of our major environmental statutes into conformance in this very important area. As I stated in my additional views which were included in the report accompanying S. 976, I believe that the tribal government provisions are important and I certainly hope that the Senate can consider them at a more opportune time.

However, I must also note for the record that there are several members on our side that have serious concerns with this amendment.

Mr. INOUYE. I thank my colleagues and wish to make clear my intention to include this amendment on a bill within the jurisdiction of the Select Committee on Indian Affairs but which does not address or raise any other environmental issues.

Mr. GORTON. Mr. President, I do not argue with providing tribes with federally delegated authority to administer environmental problems in Indian country as advocated by Senator Inouye, the distinguished chairman of the Select Committee on Indian Affairs and others. I understand that several other Federal statutes regarding environmental regulations, like clean air and clean water, allow tribes to be treated as States. I have no quarrel with the tribes exercising this authority on tribally owned land.

I do remain concerned that a tribe's authority to administer its own programs on its reservation conflict with the rights of private property owners who own land on reservations, be they Indian or non-Indian. I have discussed the conflict of private property rights versus a tribe's right to administer its environmental regulations with the EPA. I am pleased that the EPA has considered the issue of tribal enforcement of environmental regulations on private, non tribal land. I am concerned, however, that the EPA does not go far enough in protecting private property rights and misses a major constitutional point. I will briefly outline the Agency's position on the matter and my concerns.

The Agency believes it has protected the rights of private property owners in two ways. First, to receive delegation of environmental authority from the EPA, the agency requires a tribe to create an administrative review process regarding decisions reached by a tribe's court. Anyone with a grievance about a tribal court decision may appeal to this administrative review. The administrative review is designed to be outside of the control of the tribe's court, but it remains under control of the tribe's government.

Second, to further protect the rights of property owners, the EPA says it will review claims that a tribe is unfairly administering its regulations at the regional administrator level. I was told that if the regional administrator finds enough evidence that a tribe is systematically denying due process to those it regulates, the EPA may withdraw delegation of authority.

I doubt that either an additional tribal review of a case or a subsequent revocation of authority will do much to please someone denied due process or discriminated against because he or she is not a tribal member or because the tribe wants to ensure the property is used for something other than that desired by the owner. The EPA is widely perceived as being indifferent to the concerns of the private sector, but at least its actions can be challenged in court. Those of tribal agencies cannot.

I am not just singling out tribal governmental here. I have the same concerns regarding nontribal governments. The difference is that State and Federal Governments are subject to the Constitution of the United States, tribal governments are not.

Just look at what other governmental entities have done with the kind of authority we are delegating to the tribes. Recently, the Supreme Court said in Lucas versus South Carolina Coastal Council that the State of South Carolina had overstepped the bounds of law by confiscating almost all value of a million dollar piece of property without compensation. It was only the individual's recourse to the Supreme Court that saved this individual's property from unwarranted seizure by the government of South Carolina.

Like the States, once the EPA's regulations are in place, tribes will be eligible to control almost all facets of environmental regulations on reservations throughout the country. This is sweeping regulatory authority that Congress is allowing EPA to delegate to the tribes.

Unlike the States, Mr. Chairman, the tribes' decisions with regards to these matters are not subject to the Constitution. It is the constitutional issue of the delegation of Federal authority to the tribe to regulate environmental activities which bothers me the most. The Court has ruled in several cases, including Duro versus Reina, that the Congress cannot delegate the implementation and enforcement of a Federal law to entities which are not subject to the Constitution.

Mr. President, at this point I will not offer my amendment to require tribes to be held accountable for actions taken under the Solid Waste Disposal Act. I will not do this because no provision of this bill refers to tribes being treated as States for purposes of that act.

I do intend to offer this amendment at the appropriate time and place. For the information of my colleagues, my amendment will not block the EPA from delegating authority to administer these programs to the tribes. It will only require that, where a tribe exercises authority under the act which affects nontribal land, the tribe will be subject to the Constitution of the United States. Therefore, under my amendment, individual property owners will be able to seek State or Federal court relief from arbitrary tribal decisions affecting their property.

Mr. President, I do not believe it is unreasonable for Americans to be protected from the uncompensated seizure of property by any government, be it Federal, State, local, or tribal. I intend to provide this protection for private property owners as the Senate debates the Resource Conservation Recovery Act.

Mr. President, I ask unanimous consent that the text of my amendment appear in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

At the appropriate place in the bill, insert the following:

SEC. . SOVEREIGN IMMUNITY.

(a) Indian Tribe; Members.—Notwithstanding any other provision of this Act, or any other law, in each case in which an Indian tribe, following the date of enactment of this Act, exercises an option, otherwise agrees, or is required, under the Solid Waste Disposal Act to accept or have the responsibility for carrying out any part of such Act by reason of being considered to be a State for that purpose, or by reason of an inherent power, such Indian tribe, prior to exercising such option or acting pursuant to such agreement or requirement, or carrying out such inherent power, shall enter into an agreement with the Secretary of the Interior, in such form and containing such conditions and other matters, as the Secretry shall prescribe, pursuant to which the Indian tribe agrees:

(1) as to tribal members—

(A) to comply with the provisions of the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.); and

(B) to waive its sovereign immunity in any civil action against such tribe, tribal government, agency, department, corporation, agent, contractor, or official in any United States court involving a claim or other action by a tribal member arising out of or in connection the alleged failure of such tribal defendant to comply with the Indian Civil Rights Act of 1968; and

(2) as to those nonmembers of the tribe and non-Indians over whom the tribe possesses inherent authority—

(A) to comply with the provisions of the United States Constitution and all Acts of Congress, including but not limited to, the provisions of subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act); and

(B) to waive its sovereign immunity in any civil action against such tribe, tribal government, agency, department, corporation, agent, contractor, or official in any United States court involving a claim or other action by a nonmember of the tribe or a non-Indian arising out of or in connection with the alleged failure of such tribal defendant to comply with the provisions of the United States Constitution and all Acts of Congress, including but not limited to the provisions of subchapter II of chapter 5 of title 5, United

States Code (commonly referred to as the Administrative Procedures Act).

(b) NONMEMBERS; NON-INDIANS.—Nothing in this section shall be construed as requiring an Indian tribe, possessing inherent sovereignty over a nonmember of the tribe or non-Indian in a particular matter, to allow such nonmember or non-Indian the rights of a tribal member to participate in the tribal government of such tribe.

Mr. BAUCUS. Mr. President, the only remaining matter yet to be dealt with will be some technical amendments.

There are two leadership amendments. I do not know if either the majority leader or the minority leader intends to exercise their right to offer amendments.

But we are virtually at a point where we can finish this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, as I have indicated repeatedly today, the underlying principle of this legislation causes significant trouble to my State. It caused us trouble before we knew of the specifics of this latest arrangement between General Motors and the small town in North Dakota.

I regret very much that I am put in this position of having to resist this legislation. But I do not know of an alternative. If what we have here is a rush to judgment in which we are saying that the principle that is going to guide us, not only with respect to this bill that involves solid waste, but the principle that we are setting as a precedent for future legislation, is the same as the principles that are the underlying fundamental principles of this bill, that is just not acceptable. I do not know how to say it any more clearly.

If the managers of the bill could find some way to have a statement that the principle here is not going to serve as precedent for future bill that would involve industrial waste, perhaps that would be a way that we could get around this hurdle. But I do not want to be a party to a bill going through that says that the way we are going to deal with these problems in the future is any community that goes out and cuts any deal—and the Governors, unless called on by the community, are just left out there hanging. They do not get to pass judgment. This is too serious an issue, and it is too important, and it is not fair.

So I hope that we will find a way to structure language that would make clear that this does not set a precedent for future legislation that would deal with industrial waste. I hope that can be accomplished.

I yield the floor.

(Mr. GRAHAM assumed the chair.)

Mr. BAUCUS. Mr. President, again, we are sympathetic with the problems of North Dakota. But, in a very real sense, the Senator is asking the Congress to solve North Dakota's problems, problems which North Dakota itself could solve.

I have many times yesterday and today indicated various options to North Dakota, options that North Dakota can take. I strongly urge North Dakota to seriously consider those options.

It is true that North Dakota's legislature is not in session. But it is also true that the next session of the North Dakota legislature probably is in 6 months, in January of 1994. That is the standard pattern.

One other point here. The public is somewhat frustrated with the Congress because they perceive gridlock. They feel Congress does not act to meet their problems. In many cases, that is true. In my experience, Congress has become more gridlocked over the last several years than it was in preceding years, and there are various explanations for that, a great number of reasons which have caused it.

But I think it has happened partly because different segments in America, different interest groups in America—whether they are States, communities, or interest groups that are defined in some other category—want to have it all their way only, and they are willing to stop the process in order to get all that they want. It is the principle of it. If I cannot get what I want, I do not want anybody else to get anything.

Well, I understand that. That is part of human nature. People want things for themselves. But if America is going to be great, if America is going to respond to the challenges of the 1990's and in the 21st century, it is this Senator's opinion that our country must work better together; that we need more teamwork; there must be more shared responsibility between various groups, whether it is business, Government, management, labor, States or local communities, or what not. There has to be more a sense of working together.

Interstate transport of solid waste is a very complicated problem. North Dakota has a point of view. New Jersey has another point of view. Indiana has a third point of view—50 States with 50 different points of view.

We have worked out a solution, although it is not perfect for any one single State. The Senator from New Jersey [Mr. LAUTENBERG] does not like this bill. The Senator from New York has several problems with this bill. The Senator from Indiana, by definition, must have concerns about this bill, because it is not in line with the earlier bill introduced, which was his preference. The Senator from Montana would prefer a different bill than this.

But we are a country, a nation, and we have to give it our best shot. And the vast majority—I say vast majority of the Members of the U.S. Senate—think this is a good solution. The evidence I have is the vote on the Reid amendment yesterday, which is essentially the view propounded by the Senator from North Dakota. Sixty Senators voted against the Reid amendment. They said, no, they like the system that is being worked out here, because it is an accommodation of various State interests.

The bill we have worked out is, while not perfect, good. No bill is perfect. We cannot let perfection be the enemy of the good. It might not be quite good enough of everybody, but for the country, for most States, it is quite good. It is far better than current law for all States, including North Dakota. It is far better than the present situation for all States, including the State of Montana, the State of Indiana, but particularly the State of North Dakota, because it does give local communities the right to say no, if they want to. It gives Governors the right to freeze, if they want to. It gives lots of power to both Governors and local communities if the local communities and the Governors, in their discretion, choose to exercise their right to say "no."

Does it immediately give Governors the right to say absolutely no to all imports of municipal solid waste in a State? No. For it to do that would cause unmitigated chaos in this country.

Garbage would pile up on streets. It would pile up who knows where. Why? Because Americans continue to generate garbage. We generate 4½ pounds per person per day. It has to go somewhere and, because over 40 States export solid waste to other States, if the Governors all said "no," where is it going to go? A lot of States do not have sufficient instate landfill capacity today. Some do, but many do not. Where is it going to go?

It is clear that States must be much more self-sufficient in export, and this bill very much helps accomplish that. Frankly, if the Senator from North Dakota wants to go further, and I am sure he does, he can join with this Senator who, in conjunction with the other Members of the Environment and Public Works Committee, a committee of which the Presiding Officer is also a member, in helping us next year pass reauthorization of the Resource Conservation and Recovery Act. I wish we could have that bill up before us today. I very much wish we were considering that bill today. That was my first preference. But, because there are so many holds by so many Senators on that legislation, we cannot proceed to it.

So we can only deal with what we have, and sometimes a single step is better than no steps. Sometimes a partial loaf is better than no loaf. The interstate transport of municipal solid waste now before us is a first step. It is a partial loaf. Does it take all the steps necessary we should take in this country? No. I wish we could, but we cannot do that today. Does it go as far as I would like it to go and as far as I am sure the Senator from North Dakota would go? No.

It does take several steps and empower communities and States, including North Dakota communities and North Dakota's Governor, to have a lot more power and to much more significantly restrict the amount of municipal solid waste that comes into his State.

Basically my main point is, no, it is not perfect. But if we are going to live up to it, if we are going to defy some of the American people's expectation that Congress cannot act, that Congress is always gridlocked, that Congress cannot do anything, at least we can get this legislation passed and address other issues at another day. And in the meantime, as I have said so many times, and I must continue to remind all Senators, all Governors, all legislators, all mayors, all county commissioners, that there is a lot that States can do in addition to the provisions of this bill to control and to deal with municipal solid waste in their States.

Now, the Senator from North Dakota, I must say mischaracterizes an earlier statement I made when I suggested fees. I did not suggest fees for all municipal landfills. I suggested fees only for nonhazardous industrial waste landfills. According to my information, there are four offsite nonhazardous industrial waste facilities in North Dakota. I do not know—perhaps the Senator can help me—where North Dakota exports nonhazardous industrial waste to any other State. You have no idea. If we were to close the door today, immediately close the door, say, on nonhazardous industrial waste, that is going to cause a lot of problems under Superfund. I could tell the Senator where we are trying to clean up Superfund sites, some sites which include nonhazardous industrial waste, a lot of that waste is exported. And those are issues we will deal with when we finally get the reauthorization of the RCRA considered. I hope that happens much sooner rather than later.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first I want to say as to the gracious offer of my colleague from Montana to join him next year on supporting RCRA, I am not going to be here. I am retiring at the tender age of 44 so I will not be around to participate in that effort. I wish him well in it.

Let me say, Mr. President, that certainly the American people are frustrated with gridlock. I think they are even more frustrated when we pass legislation that is not good legislation. The reason I have taken the time to engage in this discussion today is I very much fear we are about to pass something that sets a precedent that is wrong.

Now, the Senator says last night we voted on this proposition. Indeed we did. One of the major considerations was that we were operating under a threat; the threat was if you did not pass this you are not going to get anything, because the other side is going to filibuster; the exporting States are going to filibuster.

I heard Senator after Senator told in the well last night, "You better vote for this, or we are not going to get anything, because the other side is going to filibuster."

I guess two can play that game. I guess we can have other people operate that way and say if it is not my way it is no way. I do not believe in operating that way. I have never conducted myself that way ever. But I say to my colleagues I believe this is so seriously flawed that I am going to resist until there is some movement so it is not just a local community making this decision.

I say to my colleagues, it would be a very simple change in this bill that I think would be reasonable. It would not give the full authority to the Governor, but it would not leave it all just with some small community.

As I have said over and over, I have 4 incorporated towns in my State with 10 people or less. The alternative that I would propose is on page 2 under "Interstate Transportation of Municipal Waste" on line 12, and I read the whole paragraph.

> "(1)(A) Except as provided in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government and, if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit, a Governor may—

And I would simply insert the word "or" on line 12, and take out the word "both" on line 11. That would at least provide a situation in which a wider area than a local community has to be in on the agreement.

It certainly is not everything that I want, but at least you would have a situation in which a town of 10 does not make a decision that affects thousands, and the thousands have no say in the decision made by 10. There is just something wrong about that.

In addition, the Senator from Indiana had language that I think would be useful as well.

I understand the problem with it is the other side, the exporting States—I mean they have taken a very hardball stand here and they say, "My God, if every jot and tiddle of the agreement that was made was not agreed to, we filibuster."

That is on their heads, I guess. I think this bill could be improved and should be improved and I would like to contribute to that process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, it is interesting.

There are two responses really to that suggestion. One is that it does not solve the Senator's problem. It does not do what I think the Senator would like to do. And, second, if it does what the Senator thinks it does, it is going to run into a whole host of problems with other Senators.

Let me take the first one first. This is a municipal solid waste bill, so changing the word "and" to "or" on line 12, page 2, would be dealing with municipal solid waste, not with industrial hazardous waste. That is number one.

Mr. CONRAD. Mr. President, will the Senator yield on that point?

Mr. BAUCUS. Yes.

Mr. CONRAD. I hope the Senator understands, I am fully aware this will not deal with the specific problem we face in North Dakota.

Mr. BAUCUS. Right.

Mr. CONRAD. Mr. President, the thing that is important to me that it does do is set a precedent for the time that I hope we deal with industrial waste; when we deal with RCRA. Because if we fail to set the precedent now that this is more than just any local community, I very much fear when we get to the question of industrial waste, which does bear directly on the problem in North Dakota, we are left with the problem we have here today.

Mr. BAUCUS. If the Senator will yield, I am even more perplexed than I was earlier. Because it sounds like now the intent of this amendment is not to deal with any actual problem that exists in North Dakota. Rather, the intent of the amendment is to deal with the hypothetical problem that may occur in North Dakota, or may occur in any State.

I heard the Senator from North Dakota this morning and last night talk about nonhazardous waste, and he read newspaper articles about it. That is a whole different category of waste. That is nonhazardous industrial waste. That is the problem I heard the Senator address and keep talking about.

Now I hear the Senator say no, that is not the problem. We have a different problem.

That is perplexing to this Senator.

Mr. CONRAD. Mr. President, I do not know whether the Senator does not want to listen or is not listening. I have tried to be very clear and I have tried to be helpful, but apparently there is no desire to be helpful and no desire to have somebody be helpful. I guess that is where we are.

And if that is the case, then I am prepared to talk a long time.

Mr. BAUCUS. I was trying to be helpful by pointing out the Senator's amendment does not solve the industrial waste problems which I thought the Senator was addressing.

Mr. CONRAD. Apparently, the Senator did not listen to this Senator from North Dakota, who tried to be helpful and tried to be clear.

I understand it does not solve our problem. I also understand it at least sets a precedent that something other than one small town makes a decision that affects lots of surrounding communities. I do not know how I could be more clear.

I was willing to back off; not solve my problem in this legislation. I was willing to try to set a principle and a precedent for what I assume will come later.

But if there is no willingness to provide anything, fine. Then I am willing to talk a long time.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as I understand it, the concerns of the Senator from North Dakota are, as he mentioned several times, the precedent that is being established. It is his worry that the adoption of the legislation that we have before us, in its current form, will be the model for subsequent legislation in RCRA that will deal with industrial waste.

And thus the Senator believes, or is concerned, that this will be accepted in toto; that is, the outline that we use, the approach that has been used here, where there is a requirement that the request originate by the local elected officials.

And, as I understand—and I think I am correct in saying that—the Senator from North Dakota believes that we will be setting the precedent, and I think he used the word "precedent" several times, so that when we deal with subsequent legislation, we will use this as a model.

Am I correct in that, if I might ask the Senator from North Dakota?

The PRESIDING OFFICER. Does the Senator from North Dakota yield for a question?

Mr. CONRAD. I do, Mr. President. I would be happy to respond.

The problem that I have is twofold.

One is with respect to the municipal solid waste legislation we have before us, the underlying principle being that a single community can make decisions that affect many others, and the others have no say. So I have a concern with respect to the municipal waste problem that is before us in this legislation.

Beyond that, as the Senator from Rhode Island correctly states, I have a concern with the precedent that we are setting, the precedent that could be followed in follow-on legislation that would involve industrial waste, which is the specific case of concern in North Dakota that I have referred to with respect to the General Motors Corp.

So I have two concerns. And my initial position was the Governor ought to be able to block these determinations. I understand there are problems with that. Well, there is an alternative to that: Not just to leave it to the local community, but to have a planning district that is between the local community and the Governor. At least, they have a broader area of responsibility and concern.

As I have said over, and over, and over, I have a situation where I have 4 towns of less than 10 people. Are we going to set in stone legislation that says any one of those towns can go out and make a deal with General Motors and dump all their garbage in there, and nobody else has any say?

It is not right. It is not right.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I recognize, as the Senator from North Dakota said several times, he has these communities that are very, very small. I think he indicated that there are 4 communities in his State where the population is 10 or less. And that is unique; no question about it.

The trouble with the suggestion of the local solid-waste planning units is, it seems to me, twofold.

First, these are appointed entities that have no accountability. Yes, eventually they can be replaced, but they are not elected entities. And the Senator from North Dakota would suggest—or he has proposed—by substituting the word "or" in place of the word "and" on page 2, line 12, he would give these local planning units tremendous power.

First of all, as I mentioned before, they are appointed, and thus they lack the accountability that exists with the local government.

Second, they frequently involve interstate entities. In other words, they are not always just for that State, because it is all too often these situations arise across borders, entities that are close to the border of an adjacent State. And so that is a tangle.

Also, I think that the whole purpose of one of these solid-waste planning units is to take care of their own dumps. And I think the answer would be inevitably that they would appeal to the Governor to shut off imports.

And one of the worries we have here in devising this legislation is, as has been mentioned several times, 43 States in the Nation export solid waste—or in this instance, garbage—and 42 import. So this is not something that is some figment of our imagination and we can just sit here and draw up laws that can affect various States, thinking: Well, none of it is happening now, and this will prevent it from occurring. Already we have tremendous interflow.

Somebody pointed out yesterday that if you drew a map of the United States with arrows going from one community to another community, and from one State to another State, it would look like a jar full of polliwogs—lines all over the chart. So, therefore, we have to proceed with considerable caution here.

I would like to, if I might, address the concerns of the Senator about precedent and principle. I do not think that because this is the way we have handled this particular problem of municipal waste, that inevitably it follows that that is exactly what we will do when we come to industrial waste. Industrial waste is a far larger problem than municipal waste. I gave those statistics earlier. I think my statistics show there are 200 million tons of municipal waste and 8 billion tons of industrial waste. So we are going to start fresh when we deal with industrial waste. Industrial waste is so much more complicated.

So I do not think the Senator's concerns that whatever we do here is going to be etched in stone are really justified. He feels that way, but I am trying, to the degree I can, to reassure him that certainly this Senator, who has been on the committee and acted on it for many years, is not necessarily going to say, "Well, that is the way we did it with municipal waste, that is the way it has to be done, this is the way we have to handle industrial waste. Take that prior act we passed in July last year—and just take the language right out of it—and that is the way we will handle it."

The Senator has mentioned he is not going to be here. I regret he is leaving, but I think his concerns about precedent and principle should not be so overriding. I do not know whether he will accept some form of solace it or not.

Mr. CONRAD. I appreciate the Senator's attempt, but it does not provide much solace, frankly. The Senator makes the point, if we alter the language in the way that I propose, that gives a lot of power to the planning district, the solid waste management district.

I say to the Senator, what we have here gives veto authority to a town that may be as few as 10 people; a veto authority over the planning district, a veto authority over the State, a veto authority over the Governor, a veto authority over the State legislature, and there is just something wrong about that.

I know how legislation works around here. I have been here long enough to see what happens. I have been here long enough to have heard the arguments, over and over, "That is the way we solved the problem in the last bill, and that is the way we will handle it in the next piece of legislation."

The thing that troubles me very much is that, without any change, we are left with this underlying principle that I believe will serve as precedent for what is to come.

Not only am I concerned about the precedent, I am concerned about this bill, too. That is why I was vigorous in my defense of the amendment that was offered by Senator REID last night. I remember very well one of the key arguments that was made against that amendment, which would have given the Governor a say in what happens within his State's boundaries, was that, if we do that, if that amendment would have passed, we would have then faced a filibuster by the Senator from New Jersey and we would have no legislation and no bill.

My own view is that this legislation is so flawed I am not sure it is worth much anyway. I guess it is worth something if you are in Indiana. It is worth something if you are in Ohio. It is worth something if you are in Pennsylvania. It is worth something if you are in Virginia. It is worth something if you are an exporting State like New York or New Jersey. They were all up on their feet singing its praises. I guess I can understand that.

But, if you are in a State like mine, there is not much here because individual, vulnerable communities can get picked off one by one and nobody else has much of a say. There has to be a better way than that.

Mr. President, might I add, the Senator from Indiana has some language—I do not know what has happened to the Senator from Indiana. He had some language that I thought was very helpful. It would have been useful language to put into this legislation. I do not know what happened to that language or what happened to the Senator from Indiana. But it just seems to me we have a significant difference of opinion, and there ought to be some way to resolve that difference of opinion.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so that I may proceed for 7 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 3019 are located to today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I thank the Chair and yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the regular order?

The PRESIDING OFFICER. The regular order is the consideration of S. 2877, the Interstate Transportation of Municipal Waste Act.

Mr. BAUCUS. Mr. President, I also have a series of technical amendments to the bill.

AMENDMENT NO. 2741

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2741.

On page 4, line 7, strike "(date of introduction)" and insert "June 18, 1992".

On page 5, line 10, insert "annual" before "amount equal".

On page 5, line 22, strike "such landfills" and insert "each such landfill".

On page 5, line 23, insert "annual" before "volumes".

On page 6, line 2, strike "or" and insert "and".

On page 7, line 4, strike "section" and insert "paragraph".

On page 7, line 15, insert "from" before "a Governor".

On page 8, line 11, insert "as determined in accordance with subparagraph (C)" after "1992" and before the comma.

On page 8, line 13, insert "under subparagraph (C)" before "as having".

On page 10, line 11, strike "location" and insert "locational standards".

On page 10, line 12, insert "constructed" after "landfill cells".

On page 10, line 22, insert "the land or" after "over".

On page 11, line 11, strike ", glass, and rock" and insert "and glass".

On page 12, line 8, strike "the" before "property".

On page 12, line 11, insert "generated" after "solid waste".

On page 12, line 16, insert a comma after "composition".

On page 12, line 19, strike "such other" after "mixed with".

On page 13, line 6, strike "(date of introduction)" and insert "June 18, 1992".

On page 10, line 12, insert "on and" after "cells".

On page 12, line 4, strike "industry" and insert "industrial facility".

On page 2, line 26, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 5, line 13, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 7, line 9, after "and", insert "the first six months of".

On page 7, strike line 22 and insert "and the first six months of calendar year 1992, and".

On page 8, line 11, after "and" insert "the first six months of".

On page 2, strike lines 12 through 14 and insert "ment; and an affected local solid waste planning unit, if such local solid waste planning unit exists under state law, a Governor may—".

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Montana.

Mr. BAUCUS. Mr. President, these are simply technical amendments. We do not need adoption of them. Once this bill goes to conference, we can do these in conference. It is not all that urgent. Since they are technical amendments, it makes more sense to clean up legislation as much as possible as we can as early as we can. I think it makes sense to adopt these amendments at this time regardless of what happens to the rest of this bill.

I urge adoption of these technical amendments.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

Mr. CONRAD. Mr. President, is there a consent request before us?

The PRESIDING OFFICER. The amendments en bloc are pending for adoption.

Mr. CONRAD. I object.

The PRESIDING OFFICER. There is no unanimous-consent request.

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2741) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have attempted throughout the afternoon to try to find some way, first of all, to alter the bill before us so that we would not be left with the situation in which a tiny community can take action that would bind the other surrounding communities, bind the whole State, while also attempting to do that not only for the purposes of this legislation but in terms of the precedent for legislation that will follow. We have been unable at this juncture to reach a meeting of the minds.

I think it is important for people to understand what is at stake here. I think it is important for colleagues of mine to understand what is at stake here.

Last night, we debated the question of whether or not the Governor should have the ability to block the importation of out-of-State trash when a local community has made an agreement with a company, and we had a vote on that question. And the Senate spoke its mind. That is fair. I accept the judgment of the Senate on that question.

I argued last night that that was a very troubling concept because we can have the trash merchants coming into a State going to a small community. I indicated last night I have 4 towns with less than 10 people in them. A company can make a deal with them to take out-of-State trash that affects surrounding communities, affects the taxpayers of the State, and there is no way to stop it unless the local community agrees and, of course, the local community is probably unlikely to do so if it has already entered into the contract.

So, Mr. President, we then developed the argument. As I say, we were unsuccessful in sustaining that argument. Then we learned this morning, something that was rumored last night, that General Motors Corp. had made an agreement with a small town in my State of 319 people, the town of Sawyer, to take all of their industrial waste to that facility. And there is no State agreement. There is no county agreement. There is no wider community agreement. Yet we are faced with the prospect of thousands of loads of industrial waste coming into our State because a handful of people have decided that is what is to happen. There is something wrong with that, Mr. President.

Mr. DASCHLE. Will the Senator yield?

Mr. CONRAD. I am happy to yield to my friend and colleague from South Dakota.

Mr. DASCHLE. Let me commend the Senator from North Dakota for again raising this issue. As he said, this was a subject of a very contentious debate for a while yesterday, last night. We had our vote. We failed to persuade many of our colleagues of the consequences of the decisions that we were making regarding waste in this issue.

So given developments in the last 24 hours in North Dakota, the Senator from North Dakota once again felt compelled to come to the floor to do what he could to explain what this once seemingly innocuous bill could be doing to the State of North Dakota. We have had virtually identical problems in the State of South Dakota in this regard—small communities cutting deals that look extraordinarily lucrative for that particular community but having extraordinary problems statewide.

Problems related to the quality of water, whether or not the aquifer under that community could be poison, is still a question left unresolved. Every community in that area is going to be affected. This is not just an issue related to Lone Tree, SD, one of the communities involved. This is an issue affecting a lot of communities all over western South Dakota. Questions having to do with transportation, a level of transportation, the tremendous amount of commerce, the tonnage far exceeds the capacity of the roads to tolerate it.

So what happens? Is it going to be Lone Tree that is going to come up with the highway network necessary to get the garbage from one end of the State to the other? No. Long Tree cannot handle that kind of garbage magnitude. Lone Tree is not going to build the roads. Lone Tree is not going to build the rail spurs. They are not going to be the ones to worry about it.

Somebody is going to have to come up with the money necessary to build the bridges, highways, rail spurs, to do all that it takes to set up the infrastructure required to ensure that small community can keep its deal with some out-of-State waste company. That is what we are talking about here.

So why not involve some entity at the State level to give them the opportunity to take into account these extraordinary economic and environmental and infrastructure situations?

We do not do that. That is why it is so abundantly clear to us that unless we make additional accommodations in this legislation, it is simply unacceptable to Western States. It does not take into account the problems this is going to cause.

I know how narrowly drawn the bill is, that in terms of scope, a lot of things are not covered here. The fact is that is also one of the problems, because if these areas are not covered, what do we do about them? How do we handle them?

The question of the Senator from North Dakota relating to industrial waste brings up that issue. How do we address that? How can you have industrial and municipal waste and decisions being made about one and then the other?

That was the reason we went to the floor last night.

It is the reason why again we raise the issue this afternoon, trying to accommodate the needs of these local communities who indeed, for many good reasons, may want to bring in municipal waste, may want to find some source for economic development, as dwindling as they are in size, and in economic viability.

But this is not the way. We ought not to paralyze or jeopardize the entire State or region of a country simply to ensure that one small community, 10 or 20 people, have the ability to cut a deal with an out-of-State waste company and leave the rest of that State, the rest of their population, at great peril. I do not think it is right.

Frankly, I think we have a lot of work cut out for us as we address these issues.

Somebody said last night that we are facing the prospects of no legislation at all if we cannot simply pass this. Frankly, Mr. President, I have come to the conclusion that this is not better than nothing at all. It creates the extraordinary problems for our State, environmental and infrastructure problems, and the wide range of problems that we have attempted to address both last night and again this afternoon.

So I only rise again to commend the distinguished Senator from North Dakota and to urge our colleagues to think very carefully about this legislation prior to the time we make what may be an irrevocable commitment to a path that will be extraordinarily damaging for many of our people and many Western States.

I yield the floor.

Several Senators addressed the Chair.

Mr. CONRAD. Mr. President, I yielded to the Senator from South Dakota for the purpose of a question. I did not lose my right to the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I regret that we have not been able to find some way to accommodate those of us who have a situation that is very serious. I would say to any of my colleagues, if you came in this morning or yesterday morning and learned that all of General Motors' sludge was coming your way from 100 plants, and a relatively small community had agreed to take it—in this case, it is not clear, by the way, that small community has agreed to take it. But for the moment, let us assume that is the case—and you found that there was nothing that your Governor could do to stop it, I think you would find that there was something wrong in the legislation we are about to pass.

I understand this relates to municipal waste. We also understand that is going to set a precedent for what is going to come regarding industrial waste.

In a small community in my State, where we have 4 towns of 10 or less, 10 people could have a veto on what is in the interest of thousands of people and, in fact, on what is in the interest of the whole State. That stands democracy on its head, absolutely stands democracy on its head. Since when do we have 10 people making a decision that affects thousands, and have absolutely no chance for others to have an affect on the outcome?

Mr. President, that just cannot be the final conclusion. Last night, so many people voted against the Reid amendment, which would have given the Governor the right to block these decisions—so many people said, well, if you do not pass this bill, you get nothing, and you will get no protection. Really, if you examine this bill, it is very useful for Pennsylvania, Ohio, Indiana, and Virginia. It is not so useful for other States; it is not so useful for North Dakota, and it is not so useful for South Dakota, when we can find that trash merchants move in, make a sweetheart deal with a small town, and in comes the junk and nobody can stop it. If anybody thinks, because of the debate they heard last night, that it is somehow different, and really there are ways to stop it, I tell you, look at the

North Dakota experience, because you will find, sadly, that all of the sweet mutterings about how you can intercede is not going to work.

Mr. DASCHLE. If I could ask the Senator from North Dakota, does he know, for this particular site the Senator is referring to, the degree to which environmental analyses have been done with regard to the aquifer, let us say, for example? Have there been any environmental studies done to determine the feasibility of a waste facility of that magnitude?

Mr. CONRAD. Well, I know this: There were permits that were in question with that facility, which is an industrial waste facility, who was going to take ash from out of State.

And that ash was going to go to that facility. The State challenged it on the basis that they were concerned about the effect on an underlying aquifer. The company challenged that determination by the State, and so now we are poised for a new hearing that will be held later this year.

As far as I know, there has been absolutely no analysis of the magnitude of the industrial waste that is contemplated under this agreement with General Motors. You can imagine taking all the still waste from 100 General Motors plants from around the country and sending it to this small town.

Mr. DASCHLE. If the Senator will yield again, that is exactly the experience we have had in South Dakota. There have been extraordinary cursory studies done with regard to the environmental consequences of sites such as this, and it is for that reason that we have found the need to draw into the discussion and the decisionmaking the State authorities to give us a better appreciation of the environmental consequences, to give us some ability to determine what effect, detrimentally or favorably, a facility of this consequence would have on surrounding areas.

Let me ask the Senator a second question. To what degree has study been accomplished with regard to the infrastructure needs that they are going to have to serve the site? Has any effort been made to better appreciate the infrastructure requirements for a site of this size?

Mr. CONRAD. That is a very good question, Mr. President. The answer is none. All of a sudden, the State of North Dakota is faced with the prospect of taking the waste, the industrial waste from General Motors plants from around the country. And obviously, that has an effect beyond the borders of that small town.

There is no analysis that has been done. Of course, why would there be, since, because of the terms of this legislation, a small community can cut a deal with a company and there is no State review unless the local community asks for it. You are stuck.

Can you imagine being a Governor of a State faced with a situation in which you have the responsibility for the transportation system—you have the responsibility, by the way, for waste planning—and yet, a local community can completely disrupt your statewide plan, a community potentially as small as 10 people can totally throw into question a statewide waste management plan, can totally throw into question a statewide transportation plan, and the Governor has nothing to say about it?

Mr. DASCHLE. Mr. President, will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. DASCHLE. In South Dakota, we have communities that are served by merely county roads, that do not have any State roads coming in at all. So here you may have a community completely served by inadequate transportation routes now having just cut a deal for millions of tons of garbage, with absolutely no access to that community except for whatever the State will provide in as expeditious a way as possible.

What an incredible antiplanning approach that you conjure up here. I mean, to what degree is it the responsibility of the community to come up with whatever financing mechanism to ensure that there is adequate transportation? There is none.

They are going to say: It is in your lap, Mr. Governor. You find a way to make good the contract that we have just made with this waste company.

Mr. CONRAD. Mr. President, I just say in response to my friend, the Senator from South Dakota, I talked with my Governor this morning. You can imagine how he feels.

He said to me, "You know, on the one hand, down there in the Federal Government, you tell me I am responsible for planning statewide municipal waste. That is what you tell me. Then, on the other hand, you put legislation through like this bill that says, well, any local community out there can completely disrupt that State plan. It just does not make sense."

Just to give you some idea of the magnitude of what we are talking about here, I say to my friend from South Dakota, the company gave an open house the other day and featured tours of the facility, which includes an administration building, a lab, a processing building, a storage cell designed to swallow up to 400 tons a day—400 tons a day. And I say to my friend from South Dakota: That is a lot of garbage; that is a lot of trash; that is a lot of industrial waste.

And the implications for the road network, the implications for the infrastructure, and the implications for the air and water quality of the surrounding area are enormous. To take the industrial waste from 100 General Motors plants from all around this country, and to stick it into a little town of 319 people—nobody can interpose objection; nobody can be involved at the State level in terms of fashioning a plan—there is something just radically wrong with it.

So that is the reason for the resistance that I am putting up here today.

It seems to me that there really needs to be some better thinking about what we are doing here, because this is just wrong. I do not think it can be sustained. I do not think it can stand the light of day. I do not think it can stand much attention or much focus, because sooner or later our colleagues who are listening are going to realize: It might be North Dakota today; it might be Montana tomorrow. It might be North Dakota today; it might be South Dakota tomorrow. It might be North Dakota today; it might be Minnesota tomorrow.

And when people have a chance to review what is being done here, they will realize that the siren song that you have got protection is not much protection here at all. It sounds good, but what you find out when you study this bill is the Governor can only act if the local community and the local planning authority asks him to abrogate a new contract. He cannot do anything; his hands are tied, otherwise.

Then they say: Well, you know, if you are a big importer, if you are importing more than a million tons a year, you have protection because the Governor can freeze the amount.

That is fine. How many States does that cover? How many States do you think that covers? Four.

Mr. COATS. Mr. President, will the Senator yield on that point?

Mr. CONRAD. I am happy to yield without losing my right to the floor, Mr. President.

Mr. COATS. This point has been made over and over, and I responded over and over on it: Freeze authority extends to all 50 States. It does not extend just to four States.

That was what the original proposal was. This Senator from Indiana insisted it was not fair to solve the problem of a few States, and simply to export that problem to an additional State or another State. So we extended the freeze authority to all States.

My question to the Senator is—I find the reasoning so curious—that because one of his towns agreed to accept out-of-State waste, the Senator's actions will deny every other town in North Dakota the right to say no to out-of-State waste? And his actions mean that tonight, tomorrow, the next day, an uninterrupted, unlimited flow of out-of-State waste could flow to every other town in North Dakota, without any of those citizens having the ability to say no to that?

And so to protect the town that has agreed to it is sacrificing every other town in North Dakota who might not agree to it.

That is very curious reasoning, to this Senator.

Mr. CONRAD. I will be happy to explain it, Mr. President. It is the position that the Senator from Indiana used to adhere to. He remembers that. That is when I used to support him when he was taking the very same position I am taking now. He used to be right on this issue, and now he has backed off. I can perhaps understand why he did it.

But the fact is I am adhering to the position that the Senator used to have, and he defended it very articulately and very well on this floor.

And the simple concept is: Look; I am faced with the reality of what is, versus the hypothetical.

I am faced today with the situation in which a small town is going to be taking all of GM's industrial waste from 100 plants, and nobody else can say anything about it. My Governor has no say; my legislature has no say; the community planning districts have no say.

Mr. COATS. But the citizens do have a say?

Mr. CONRAD. The citizens of one town have a say. Where are the rest of the folks? This is an interesting notion of democracy and representative government, when a city of 10—a city of 10—could make a determination that impacts tens of thousands. That does not make any sense. That is what we have before us.

Let me say, on the other point the Senator made, I appreciate the point that he makes.

It is also true, is it not, that in order for a community or a State to have a freeze, it has to be asked to do so by a local community?

Mr. COATS. That is correct.

Mr. CONRAD. So we are right back at the problem that causes my States so much difficulty. There is something wrong with legislation that, in principal, sets a precedent that a community of 10 can make a decision that affects tens of thousands, and the other folks, other than the 10 who make the decisions, cannot stop it.

Mr. COATS. Would not the Senator's proposal leave the decisions in the hands of 1 rather than the 10 or the 250 or the 3,000 of a particular community? Because what the Senator's proposal would do is say that the decision of one person, the Governor, would override any decision of a community. And were a Governor to agree that, for an economic benefit for his State, this was a favorite proposal, the citizens of the community in receipt of the waste would absolutely have no say whatsoever.

Mr. CONRAD. Well, I say to my friend, that is the proposal that I was part of last night, and I would like to see a Governor have the ability to represent a State's interest. I think the State's broader population ought to have their interest represented.

Mr. DASCHLE. Would the Senator yield?

Mr. CONRAD. Yes, I am happy to yield.

Mr. DASCHLE. That is why we elect Governors and Senators and Congressmen, to make decisions on behalf of all of us, to make the tough decisions, to take into account more than just one special interest. That is what we are talking about here, the special interest of a very select group of people, maybe 10 people.

And we talk as if those 10 people are unified. You may have a 6-to-4 vote in some of these towns, if South Dakota is any indication. It is a very divisive issue in these communities themselves. It may be that the powerful within that small community have had the ability to generate just enough to get over the top and have what would be considered a majority, but they certainly do not reflect any unanimity, any cohesion within the community itself.

But, certainly, when it comes to budget, when it comes to all of the decisions made regarding the long-term future, the overall effect of all of these issues on the people at large, we elect a Governor to help us make that decision, to set up mechanisms by which a more judicious decision can be made.

So it is not just one person, I say to the Senator from Indiana, it is a decisionmaking mechanism that we have subscribed to now for 200 years, at the Presidential level nationally, at the gubernatorial level in every State. And certainly I cannot think of a better alternative than that. To say that 10 people ought to be making that decision for, in our case, 700,000 people is something that is just not only unacceptable but, frankly, undemocratic.

Mr. COATS. Will the Senator yield?

Mr. CONRAD. Mr. President, I retain my right to the floor. I yielded to my friend from South Dakota for the purpose of a question.

I would be happy to yield to my friend, the Senator from Indiana.

Mr. COATS. I appreciate that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. As I said earlier, there are many of us here on this side of the issue that are very sympathetic to the arguments that the Senator is making, and we were trying to reach some effective way of addressing that particular problem. And I will not go through all the arguments that we have been through before.

However, the legislation itself defines the term "affected local government" as whatever body of people, whatever jurisdiction, pursuant to State law. So the State can define whatever jurisdiction or body of individuals in the State of North Dakota or South Dakota that it wants to in terms of the question of request for denial of the receipt of out-of-State wastes.

On page 10, under definitions, section (d)(1), it says:

> The term "affected local government" means the elected officials of each city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

I suggest that as one option, and we have suggested a number of other options to deal with the Senator's problem. Because this is industrial waste, it does not fit the definition of municipal solid waste. It will result in no bill, which means no community is protected, including no State, yours or mine, because there are powers that flow to the Governor of a State, health authorities of a State, that your State currently has and can exercise relative to this particular situation. What we are asking is that your State exercise the powers it has. So it does not deny our States the opportunity to do something about the flow of trash that we can now not do a thing about.

So we are just asking, out of courtesy to the Senator from North Dakota, that his own State take action that it already has power to do and allow the other 49 States to deal with something that we do not have the power to do.

Mr. CONRAD. Let me answer that question if I might. It is a good question that deserves a respectful answer.

Let me just read the language to you of the solution the Senator proposes:

> The term "affected local government" means the elected officials of each city, town, borough, county, parish, district, or other public body created by or pursuant to State law with primary jurisdiction over the use of the land on which the facility is located.

Now, I say to my friend, I used to be the State tax commissioner in North Dakota. In that position, I have dealt with a lot of the finest legal minds in the country. And I will tell you, I have done battle with some of the finest Philadelphia lawyers, I say in deference to the current occupant of the chair, Mr. WOFFORD. They are very good.

I can tell you what they will do. If the State of North Dakota would take the action the Senator from Indiana proposes, they would be in a court in a Philadelphia minute. Do you know what they would be asserting? "You are attempting to discriminate against the interstate transportation of a commodity." The commodity happens to be junk. The commodity happens to be industrial junk.

But, do you know what? They would probably prevail, because, unless the State of North Dakota made a decision to change the rulings for every jurisdiction which has primary jurisdiction over control of that land, that type of facility, you would be acting in a discriminatory manner with respect to that community that is set to act as a host community for that sludge.

And I say to my friend, it sounds good, but if you think about it and think carefully about the rights of the company and their willingness to go to court—and by the way this company as already been to court once on a question of the use of this landfill—I do not find much relief in that proposal.

And I go back to the fundamentals of what is at stake here. Who decides? Who decides? Should it be just a few people in a town that decides something that impacts the lives of hundreds of thousands perhaps tens of thousands of people? I think not.

Mr. DASCHLE. If the Senator will yield, some would say there is another precaution, another way in which States can intervene, and that is the permit process, that they can simply require a series of permits that in and of themselves could preclude an out-of-State waste facility from being constructed.

The problem is that this has already been in the courts, and the courts have said that you cannot discriminate against an out-of-State waste facility; that whatever do you with your other facilities, you have to do with this one.

So regardless of the size, regardless of how ominous it may be for the entire State, regardless of how many problems, practical and otherwise, it may create, the permitting process has already been demonstrated to be ineffectual in dealing with this very problem.

So we really are defenseless. There is no way with which to address this issue. We cannot do it through the permitting process. This legislation precludes us from doing it through the State legislature or the Governor's office.

So if you are sitting 5 miles or 10 miles or 15 miles away from a community like this, and you have property values that are good, you have a pristine stream that runs by that is good, you have a quiet residential community that is good, you have a school system that is adequate, and you see all of that threatened with the prospects of this huge new GM facility or community facility that is going to put their waste dump next to your town, you say: "Look, I'm sorry. We just did not have the resources to stop them. There is nothing we can do."

So, what happens? What happens when the stream is gone and the transportation system is destroyed and the community no longer looks like it used to and property values have plummeted? I guarantee you then we will be back in this Chamber, then we will be starting to talk about the issues that are confronting us in a lot more realistic way.

As long as we can talk hypothetically it is no problem. We can just work it out. Let us see if we can understand one another. The problem is when that happens, it is too late. Then you cannot restore it.

The Senator from North Dakota and I have talked about another problem that we continue to talk about prospectively that is all too real in our States and that is the loss of farm communities. We have told people with the legislation that has come before us time and time again, if we do this we are going to see the loss of farm communities.

It is happening. Our worst expectations in some cases are being realized. and there is a parallel here. There is a relationship between our warnings about the effect of legislation on these communities and the effect, again, of legislation we are describing today on those very communities. It is a double whammy—first with regard to rural policy that virtually does not exist and has not for 12 years. And now, second, another element of rural policy, which is: Just send the trash west. Let them take care of it. Give one community an opportunity to override the will and perhaps even the very best appreciation of what it takes to live in a rural America—override all of that and simply allow a small community to make up for the fact that we do not have a rural policy by taking trash somehow in the name of economic development.

It is pathetic. It is absolutely pathetic. Yet we are doing it again before the eyes of all of those who can appreciate this in North and South Dakota. We may be committed unalterably to a course that is going to accelerate the demise of these small towns.

I just hope people realize the ramifications of this before it is too late, and I thank the Senator for yielding.

Mr. CONRAD. I thank my colleague from South Dakota. It really makes the point the Governor of my State was making to me in a lengthy phone conversation this morning. He said, you know I thought it was summed up well in a letter to the editor by one of our constituents who said, "We are the breadbasket, we are not the trashbasket."

Now we are seeing a situation develop in which more populous States to the east, including our neighbor to the east, have raised all of their fees on trash and on industrial waste. So, you know what the companies are doing who are headquartered there, where they have the jobs, where they are supporting the tax base? They are looking around for a place to dump their junk. And you know what they are finding? Some nice little rural community in North Dakota that has been hit by 4 years of drought, low farm prices, an economic crisis that is forcing people to their knees. And a big company comes in and the company says, "Gee, you know, your schoolhouse needs tending. We can help with that. You know, we look at your streets, they need repair. We can help with that. And we notice a senior citizens center that is in need of some refurbishing. We can help with that."

The next thing you know that community has agreed to take the waste.

I tell my colleagues, if you think this is hypothetical, forget that. My State now faces the prospect of all of General Motors' industrial waste coming to one small town and nobody can do anything about it. My Governor said to me this morning, this is part of the pattern we are seeing play out. Our small, rural States that have been hit by very hard times economically, and we see our young people going to the big cities and we see our population actually in decline, and now what happens? We become the dumping ground for those urban centers, those places where we send our young people, where we send our capital, where we sell our goods wholesale. Now what do we get back? We get back the junk, the garbage, the industrial waste.

On the basis of a decision by a lot of people? By the legislature? By the Governor? By county authorities? No; the decision of one small community. As I said last night, we have a situation in which I have four incorporated towns in my State with less than 10 people.

Mr. DASCHLE. Will the Senator yield on that point?

Mr. CONRAD. I will be glad to.

The PRESIDING OFFICER (Mr. DODD). The Senator from South Dakota.

Mr. DASCHLE. I mentioned Lone Tree earlier. We have another community. The Senator mentioned four towns with fewer than 10 people. We have had similar situations in South Dakota. We had an incident a couple of years ago in Rosebud, where a company, Eastern State company, came in and cut a deal with an Indian tribe. It was all done largely in secret. Nobody knew about it until afterward. And, really, in one of the most spectacularly beautiful parts of the entire State, very near the area where the movie "Dances With Wolves" was filmed, with striking panoramic views and incredible beauty, wildlife. There were people living on the land as they have for hundreds of years undisturbed.

I can recall going up to Horseshoe Butte, looking out over this vast, extraordinarily striking, breathtaking area that had never been touched at all by commerce, by mining, by any one of a number of efforts in the past that have been made to try to get into this area. It was the protection of the land, the attachment to the land and appreciation of incredible beauty that for generation after generation has led decisionmakers to say no, we are not going to allow the disruption of this magnificent land.

Could we make money on it? Absolutely. Will we find ways in which to dig into this and from whatever resources there are, make huge amounts of money for this generation at the expense of the next and the next and the next? The answer was always "no."

Lo and behold, somebody came in, talked to these tribal leaders promising thousands of dollars to certain people, and ultimately the decision was made. We are going to disrupt tens of—perhaps, I think, hundreds of acres if not thousands of acres, if I recall, of this particular land that had never been touched before.

How are we going to get the garbage in there? Nobody could tell us.

What affect was it going to have on the aquifer below? Nobody could tell us.

To what degree was this decided by the community itself? No one could tell us.

Time and again, as hard questions were asked about the impact this particular site was going to have on the land and on the people, no one could tell us.

But, fortunately, many of those tribal leaders were thrown out of office shortly thereafter, simply because, as it became more public, as the commitment became better understood, the decision was unacceptable to the vast number of people.

But that is really what we are talking about here. Who is going to be there to ensure that the best interests of all the people are taken into account? Who is going to be there to ask the tough questions without the dollars dangling in front of the faces of those who are temporarily given charge to make decisions of this kind? Who will be there to argue for the next generation and the next? Who ought to value the land in all of its resources and beauty, as our predecessors have?

This issue has to be more than just about dollars. It has to be what we treasure most in life. The quality of life in our State is not measured, fortunately, in dollars. If it were, our quality would not be very good because we are a poor State. But I daresay we have quality of life second to none, in part because of our beauty, in part because of our land, in part because of all of the incredible resources we have, in part because of our people.

We endanger that real beauty and quality of life if we do not take adequate precautions, if we do not ensure there is a good decisionmaking process locked in before we commit ourselves to decisions that could cause devastating consequences down the road.

This is more than just a question of trash. It is a question of how well we can protect the quality of life for future generations. It is a question that goes beyond economics. It goes to the very heart of why it is that some of us live in South Dakota and in North Dakota; why it is we hold pride for the land we live on.

And so I hope that as we consider all this more carefully, we also consider what it is we are deciding here; that we remember that what may be a good decision for a local community could be an irresponsible decision for the State. What may be a very appropriate money-making venture for a local community could be a money-losing venture for the State. What may be the opportunity for a couple of jobs in a local community could mean the loss of many jobs for the State. What could mean improved quality of life for one or two people in a community could mean a devastating loss in the quality of life for the State.

What we are saying here is, well, let us just see if we can work it out, let us see if the Governor and local community can somehow come to grips with this thing and we will give the local community for the first time veto power over the Governor as we try to come to some conclusion about these ramifications.

We cannot accept that. The problems are too significant, too consequential. They go way beyond what value they may be for one community.

It is not often this Senator comes to the floor to talk at this length about something of this consequence, but I must say that I do not know unless we talk about it to the extent that we have today and last night people are fully appreciative of what it is they are in store for. I do not want to have to say several years from now: We told you so. I do not want to have to say several years from now: If only back then we had decided differently. I do not want to have to say now that the deal is done there is nothing we can do.

But I daresay we are rushing headlong into that kind of a scenario, an unacceptable scenario for most of us, a scenario affecting reservations, farm communities, rural areas, tourism, recreation, and even the way we govern in Western States. We just cannot accept that. And if we cannot find an amendment that works, then we have to find another way to accommodate these concerns and these interests. The stakes are too high and the problems are too great.

And so, Mr. President, I hope that we consider this very, very carefully, and that is we consider the community of States, States with a lot of population who have a problem, and States with less population who may ostensibly on the surface appear to have a solution to that problem. Consider each other's interests more carefully, consider the way with which we must resolve these matters, and that is with a full appreciation and understanding that one person's solution may be another person's problem, because that is exactly what we have here.

I can see very easily why some of the larger States would view this as an ideal solution, out of sight out of mind, get the garbage out of the State and we will not have to worry about it, especially if it is for as low a price as has been proposed in my State, but out of sight out of mind does not work with garbage. It is never out of sight out of mind entirely. It would be very much on the minds of those affected, those affected not only this generation but the next, and the next, and the next as we have to deal with it in a more comprehensive way.

So I hope, Mr. President, people understand that and deal with it and fully appreciate the problem that those of us from Western States have. We are not trying to be obstructionist, obstreperous. We are simply trying to find a way in which to resolve this problem in a more meaningful, a more reasonable fashion.

So I hope the experiences of South Dakota over the last several years can be understood, can be dealt with, and can at long last be put to rest. I do not want to have to come to the floor 2 or 3 years hence and give this body updates, further reports on the degree to which our quality of life has declined, simply because we failed to deal with it effectively in July 1992. That is really what we are up against.

So I know that the Senator from North Dakota feels as strongly about this as I do. Last night, the Senator from Nevada spoke passionately about the consequences this issue has in his State. The senior Senator from Arkansas came to the floor when fully appraised of the consequences for his State and spoke passionately and emotionally about how detrimental this could be for States like his as well.

It is not just a Western State issue. It is affecting every State that is faced as we are with companies who would like to buy off a community so as to move their trash out of sight and, therefore, out of mind. We just cannot accept that, not when the pristine beauty, not when the quality of life, not when the environmental consequences of these decisions are at stake to the extent that they are in this bill.

I know that there are many who say that this is just a first step; that there are ways with which to deal with this issue later on, but I fear with this step, we set our course irrevocably. I do not know if once we set this precedent we can go back with regard to industrial waste or any one of the other environmental issues that ultimately we are going to have to address with RCRA and say: Even though we made one set of decisions with regard to municipal waste, we are going to make entirely different decisions with regard to industrial waste, hazardous waste, nuclear waste; that somehow this is so unique, municipal waste so unusual that we can put an entirely different set of policies in motion with regard to these other kinds of wastes. That is not going to happen.

I can almost guarantee the Members of this body that whatever it is we do here, you can pretty well count that we are going to be doing something very similar in the future in other forms of waste as well. So that gives us great pause. That causes us a lot of concern.

I can see it happening sometime in the very near future when we come to the floor again and say we have already set a precedent with regard to municipal waste. It is already a done deal, and as a done deal, all we can do now is to accept additional kinds and categories of waste as we have already begun to do with municipal waste in 1992.

Mr. President, that is just unacceptable. That is something we are going to have to address at some point in the future, and I want to have the confidence that we are doing it more effectively and with greater appreciation of the magnitude of the problems we are creating than we appear to be doing with this piece of legislation.

So I, again, reiterate to all of my colleagues to take care as we consider this bill, as we consider the ramifications for future generations, as we consider what it will mean for States such as ours. The stakes are just too high, and the problems too great, and the circumstances far too controversial for us simply to sit idly by and watch decisions like this made without full benefit of an understanding of those consequences prior to the time we make them.

I thank the Senator from North Dakota for yielding this time. I yield back the floor to him.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The majority leader is recognized.

Mr. MITCHELL. Mr. President, will the Senator from North Dakota yield to me for the purpose of making an inquiry of the Chair without his losing the right to the floor?

Mr. CONRAD. I will be pleased to do so.

Mr. MITCHELL. Mr. President, a parliamentary inquiry. It is my understanding that notwithstanding the fact that the Senator from North Dakota has the floor, that I have an absolute right to file a cloture motion, and I inquire as to whether that understanding is correct?

The PRESIDING OFFICER. The majority leader is correct.

CLOTURE MOTION

Mr. MITCHELL. Accordingly, Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 2877, the Interstate Transportation of Municipal Waste Act of 1922:

George Mitchell, Max Baucus, Dan Coats, Harris Wofford, John H. Chafee, Conrad Burns, Alan Cranston, Daniel J. Akaka, Frank R. Lautenberg, Paul Simon, Edward M. Kennedy, Christopher J. Dodd, Alan J. Dixon, Bob Dole, Al Simpson, Jake Garn.

Mr. MITCHELL. Mr. President, for the information of Senators, I would like now to describe where we are with respect to this bill and what course of action I believe will be necessary to deal further with it.

We began this bill on Monday with the hope and the expectation we could complete action on it by the close of business Wednesday. That has proved not possible, as is now obvious, and we are now completing the fourth day of debate on this bill. It is an important bill, but there is much other important business with which the Senate must deal. I believe it is imperative we bring debate on this bill to a close.

The Senator from North Dakota has indicated his opposition to the bill in its current form and his intention to use his rights under the rules to attempt to prevent the Senate from acting on the bill or, failing that, to delay action for as long as possible. Therefore, I have just filed a cloture motion which, if approved by 60 Senators, will enable us to bring debate on this bill to an end and complete action on it so we can deal with the other pressing matters which await our consideration.

Under the rules, that cloture vote will not occur until the second legislative day after the end of today. I do not know when that will be because I do not know what other action will occur between now and then.

It had been my intention to call for a procedural vote on a motion to instruct the Sergeant at Arms to request the presence of Senators, but that has proved not necessary as that was to be a step in the obtaining of the necessary signatures on the cloture motion and the filing of the motion. So that vote will not now be necessary.

Under a previous order, printed at page 2 of the Senate calendar, by unanimous consent the Senate vested in me the authority to set a time for a cloture vote on the motion to proceed to the energy bill. It is my intention to exercise that authority later today following consultation with the Republican leader, with the chairman and ranking members of the Energy Committee, and other interested Senators.

So it appears at this point debate will continue for a time at least on the interstate waste bill, and as soon as I am able to complete consultation with the Republican leader and the chairman and ranking members of the Energy Committee, I will make a decision on the time for the vote on cloture on the motion to proceed to the energy bill.

I will simply say in closing that it is very difficult to get anything done in the Senate under any circumstances, and we are now at the point where it appears that cloture, that is, movement to terminate debate, is required on almost every step we take in the Senate. Senators, of course, have the absolute right to exercise their prerogatives under the rules, but the one thing Senators cannot have is sessions 3 days a week and have no votes after 7 p.m. and also require cloture on every bill and every motion to proceed that we have.

So I simply say we are going to proceed. We are going to finish this bill. It is possible that completion will be delayed. Senators have a right to delay, but by a 2-to-1 vote the Senate has already voted on the matter now being debated.

So it is not as though this is something the Senate has not considered. It has considered and voted on it in a decisive way.

I simply say to Senators we are going to stay and finish this bill, whenever that is, and we will proceed to other matters and complete action on them as necessary, however long it takes, however many days it takes, and however many hours of each day it takes.

I thank my colleagues for their courtesy, and I now yield the floor.

Mr. CONRAD. I thank the majority leader for his courtesy. I thank my other colleagues for their patience as well.

This is a matter of very serious concern to our States. The Senator from South Dakota outlined very eloquently the problem we face.

I say again to my colleagues, if you came to your Senate office and you learned that all of a sudden 100 plants of General Motors are sending all of their industrial waste your way, sending it to your State, because they had a company which had agreement with a small town and there was no way for the Governor to intercede, there was no way for the Governor to raise objection, there was no way for the Governor to stop that kind of arrangement, you would be mighty exercised as well. One hundred plants of General Motors Corp., the largest industrial corporation in the world, all of that waste is coming to a little town in North Dakota, and we cannot do anything about it. A little town has the ability to veto what is in the interest of the State's population. There is something wrong with that.

That is the principle entailed in the legislation before us. That is the principle many of us are fearful will be carried over into an agreement on industrial waste. That is the agreement that is in place with respect to municipal waste. It is really not acceptable. It is not acceptable to the Governor—not just the Governors of our States, the Governors of all the States.

The national Governors made a very clear stand on this question, and as I have said to my colleagues earlier and repeatedly, in a discussion with my

Governor this morning he felt very strongly that he is presented with a situation which is really intolerable and yet his hands are tied.

I have a State that is not unlike other rural States where there are many small towns. Many of them are very hard pressed economically. We have just been through a decade, the decade of the eighties, when we had the lowest farm income of any 10-year period since the Great Depression. We have been through a period in which we have faced 4 years of drought, a drought that is more intense than any drought since the 1930's.

Many of the small towns of my State are in very serious economic trouble. It is pretty appealing when a big company flies in in their corporate jet and comes around and tells that local community: We can take care of your problem. We can employ people. We can put people on our payroll. We can rebuild the city's streets. We can rebuild the water system, the sewer system. We can help refurbish the local school. We can help assure that your school is not consolidated with the neighboring town.

It is a pretty appealing set of inducements. The result, unfortunately, is that over and over communities hear that siren call, respond to it, react to it, and accept it.

Under the terms of this legislation, there is nothing a Governor can do if they decide to sign up to take the trash from the city of Chicago, take the trash from the city of New York, take the trash from the city of Minneapolis or, in the case of industrial waste, be faced with a situation in which a little State like mine, a small town in our State, is now lined up to take the industrial waste of the General Motors Corp.

Mr. CHAFEE. Will the Senator yield for a question without losing his right to the floor?

Mr. CONRAD. I am happy to yield.

Mr. CHAFEE. I have followed the discussion of the Senator from North Dakota most of the day, but not all of his presentation. He deplores the situation that industrial waste is going into the small town of Sawyer. So he is filibustering the bill. Could he tell me what will happen if he is successful and defeats the bill? Where is he then? Where is the town of Sawyer or the State of North Dakota in that situation?

Mr. CONRAD. Very good question. We are in a better position. Why are we in a better position? Because the pressure stays on to have a solution that deals with the problem that we have. Right now we have a situation where there is a lot of pressure from Ohio, and a lot of pressure from Indiana, a lot of pressure from Pennsylvania, a lot of pressure from these other States to get their problem taken care of. If their problem gets taken care of, they are out the door.

Let me just finish my answer, if I might.

So, as we see it, we would like the opportunity to get our problems addressed as well.

I understand this is a municipal waste bill. I would like to extend it. I would like to have industrial waste covered in this bill as well. But the one thing you know for sure around the United States Senate is a precedent that is set in this bill is going to have weight on what comes later.

One of the things we are concerned about is if we established the principle here that a local community can cut a deal with an out-of-State company, and the Governor cannot override that deal unless he is invited to by the community, we have a problem when it comes to industrial waste as well, understanding we have a problem with the principle that relates to municipal waste. But we also have a problem that the precedent is being set for the future on industrial waste.

Mr. CHAFEE. So if I could pursue that question, am I correct that the conclusion is that General Motors industrial waste—when the Senator has completed his successful maneuver here, if he is successful, nothing will change as far as Sawyer, ND, or North Dakota itself is concerned?

Mr. CONRAD. Not, not at all.

Mr. CHAFEE. General Motors industrial waste will still continue to pour in, through this legislation, and if the Senator should prevail, there will be no law whatsoever.

Mr. CONRAD. That is not the Senator's goal. The Senator's goal—perhaps the Senator from Rhode Island is not aware of the Senator's goal. The Senator's goal is I would like to amend this. I would like to see the legislation that is before us amended so it is not just up to one community, 10 people, to decide what happens to thousands. If I were successful in achieving that goal, we would improve this legislation that is before us, we would guard my State against trash merchants coming in and dumping their municipal waste in my State. In addition, we would set the precedent for the future handling of industrial waste.

So the question is, Would we be better off in my State if we are able to amend this bill? Absolutely. That is why we tried last night to amend it, amend it to allow the Governor to have a say.

When the Senator from Rhode Island was a Governor, I will bet he would have been signing on with the other Nation's Governors who said to us, amend this bill, and give the Governors a greater say.

The Senate turned down that position last night. So now I have gone to a fall-back position. I say instead of just letting one small community have a veto, on page 2, instead of an "and" put in an "or" and at least allow some broader district to be involved.

Mr. CHAFEE. Has the Senator presented an amendment to do that?

Mr. CONRAD. The Senator cannot under the terms of the unanimous-consent agreement that is in place. As the Senator well knows, the managers have two amendments reserved, and if there was a determination to solve the problem that way, we could all go home. We would have improved this bill. We would have set a precedent for the future in the handling of industrial waste. And I might say that it would probably get pretty good support.

Mr. CHAFEE. In conclusion, should the Senator prevail in killing off the bill before us, Sawyer, in North Dakota would still be in exactly the same position it is today; is that correct?

Mr. CONRAD. No. That is not correct. The Senator is not seeking to prevail in killing this bill. It has never been the Senator's goal. The Senator's goal has been I think abundantly clear; it has been to improve this bill. It has been to fashion legislation, to help fashion legislation that would prevent the absurd situation of what we face in North Dakota today. One small town enters into an agreement with a company, the town of several hundred makes a decision that affects tens of thousands, the several hundred make the decision, and the tens of thousands have no role. What kind of democracy is that? What kind of decisionmaking is that? What kind of legislation is that? What kind of precedent is that?

So it has never been my goal to kill this bill.

We have heard from the other side. We heard from the States that are exporting the garbage last night. Boy, if you do not take this deal, we will filibuster and we will kill this bill. And, boy, did everybody dance to that tune.

Remember last night here in this Chamber when the exporting States, the States that have the big trash that they want to dump someplace, they want to dump on the rest of us? Boy, they were tough. They were saying if you do not take this, you get nothing. Unfortunately, maybe that is what we will wind up with. Maybe we will wind up with it if there is not a way to accommodate the views of others.

My State is a recipient State. My State is a State that is on the receiving end. My State is a State that is vulnerable. My State is a State that now is faced with the prospect of taking all of General Motor Corp.'s sludge from 100 plants around this country. There is nothing anybody can do about it because the small town has made a decision, and under the terms of this legislation, under the precedent being established here, the small town cuts a deal, that is it. See you later, Charlie, you are out of luck.

Mr. CHAFEE. I wonder if the Senator would yield to another question without losing his right to the floor.

Mr. CONRAD. I am happy to.

Mr. CHAFEE. What does the Senator say about page 10 of the legislation, little (d)? And I will read it because the Senator has eloquently spoken here for the last 2 days on the situation in North Dakota where I think he said there are 4 towns where the total population is 10 people or less. He points out that these towns of 10 people or less would enter a contract with General Motors or some mammoth sludge processing company and open a great big dump there.

And, indeed, that is his point about Sawyer, which has something less than 400 people in it. Here, it seems to me, is an escape hatch for the State of North Dakota, where it says: "The term 'affected local government'"—that means the entity that can appeal to the Governor, saying: We do not want this—"The term 'affected local government' means the elected officials of each city, town, borough, county, parish, district, or other public body, created by and pursuant to State law, with primary jurisdiction over the use of the land on which the facility is located."

If North Dakota feels so strongly about this possibility, they could easily make the term "affected local government" be a county, for example. Why is that not a solution to the Senator's problem?

He has these very small towns. I suppose, once upon a time, they were sizable; and with the decline of the population in the rural districts, people moving to the cities, what was once a thriving town of a couple thousand people may well be a town now of 400 people, or maybe even 10 people.

So the State can say that the term "affected local government," as it applies to this legislation, passed by the Congress of the United States on such-and-such a date is the county?

Mr. CONRAD. Mr. President, it was a very good question. It was asked earlier by the Senator from Indiana. My response then and my response now will be simply this:

I was State tax commissioner in my State before I came to the Senate. I have dealt with a lot of very good lawyers. I can tell you precisely what would happen if the State of North Dakota moved in that way.

Unless the State of North Dakota did it with every jurisdiction—unless the State of North Dakota did it with every jurisdiction—a legal action would arise in which the lawyers for the company would go to court and say: The State of North Dakota is discriminating against taking our waste. Federal law prohibits that, and the State of North Dakota is violating our rights.

And in a Philadelphia minute, the court would rule that the State of North Dakota was discriminating. And do you know what? We would lose.

We have been down roads like that before, and unless you treat everybody that is in a class in the same way, you are discriminating. And I think it would be highly impractical to treat every town similarly situated in the same way in the State of North Dakota, and all of a sudden have the counties make all of these decisions. They are not set up to do that. That is the problem with that particular solution.

I say to my friends, it is almost as though we talk past each other. If there are all these solutions, all these things that a State can do to protect itself, then why not accept the simple amendment to allow the Governor to be involved? If you do not like that one, why not accept a simple amendment to interpose a planning district or a county government? How about that for a solution? I ask that question of my friend, the Senator from Rhode Island.

If we have all these things that are available to the State of North Dakota to protect itself, then why not say to the people who are resisting our solution: Hey, why not allow the county government to go to the Governor and agree with him to stop a new contract? Why not?

If we have all these supposed tools that are available to us, why not do it in a more straightforward way?

Mr. CHAFEE. Well, Mr. President, I think we really better go back a little way here, and discuss what are the concerns of the Congress of the United States; and, indeed, going way back to the Framers of the Constitution, about States having the arbitrary right to cut off interstate commerce. That was decided when this country was founded.

When this country was founded, those who drew the Constitution very, very wisely said that one State does not have the ability to shut off commerce coming from another State. The Senator is a thoughtful individual and a student of history, and he well knows that the commerce clause is an integral part of our Constitution.

And, indeed, this Nation would just be a bunch of satraps if we did not have that, instead of being a massive unit, where we all grow. Because of the exchange of crops to one State, going across the borders and back, from its machinery and equipment, with no tariffs, no intercessions whatsoever, no nontariff trade barriers, this country is going to be the richest in the world.

Then we come to the very real problem of what about the power to intercept things that might be considered distasteful; namely, trash.

And so the Supreme Court has dealt with this in a very, very careful fashion. The Supreme Court has said that a State cannot arbitrarily just decide that they will refuse to accept imports from another State. They then said that if the Congress gives certain powers, then that is possible, and we, in this Congress, approach this very carefully. Because, as we have pointed out innumerable times in this discussion, 43 States of our States are exporting States of trash, and 42 are importing States.

And it is a matter that there cannot be each tub standing on its own bottom. We cannot have a situation where each State will say: Nothing doing; we are neither going to export nor import; we are going to keep it within our boundaries, because we believe that would create tremendous additional expenditures and not be a wise way to proceed.

So as the Senator well knows, the courts have decided that—indeed, in the Supreme Court case shown to the Senator earlier today, it is very clearly pointed out that a Governor, within his State, can say at a landfill: You are going to be reduced; it is going to be capped, how much can you take.

The only point is that that must apply equally to out-of-State trash, as it does to in-State trash.

Mr. CONRAD. If the Senator will yield on that point, is it not also true that in order to invoke that clause, the local community has to request the Governor to do so?

Mr. CHAFEE. No, no, no. That line that I quoted to you is what exists now in the law. That has nothing to do with the legislation we have before us.

Mr. CONRAD. I was referring to the ability of a Governor to freeze, based on the previous levels——

Mr. CHAFEE. The Senator is talking about our legislation. I was talking about existing law as quoted in the Supreme Court case that was shown him earlier today.

In that Supreme Court case, it points out that limitations can be made on an individual landfill, but they cannot be directed against out-of-State trash; in other words, if a landfill last year took 10,000 tons, and the Governor decreases it this year, and it will only take 5,000; he has that power, if the State law gives it to him. There is, and he can do that. But he cannot say it is restricted to 5,000 tons this year and only domestic, only State-created trash is possible. So we proceeded, in crafting this legislation, to try to direct ourselves to the problems that have arisen that the Senator is well familiar with.

What we recognized is—and the Senator mentioned that I had the privilege of serving as Governor, and many others in the Senate have likewise—any Governor is under tremendous pressure to restrict all incoming trash. We all know that. There is no group out there that is demanding that the State be a repository for garbage, and, indeed, have heard the Senator speak about the loveliness of his State and how some of its citizens deplore they are going to be a trash heap.

We voted on this last night 60 to 30. If we just give the Governor the unilateral authority to say no, we know what will happen. That will end all interstate transfers of trash in this country very quickly, and we believe that will be detrimental to the Nation. Maybe someday we can work to that goal, but not straight out of the box. That is the first national legislation ever passed to deal with trash. That is what has been one of our guiding principles.

Mr. BAUCUS. I wonder if the Senator, without yielding the right to the floor, will answer a question?

Mr. CONRAD. If I might first respond to the Senator from Rhode Island.

The Senator from Rhode Island makes the point we are united States, we are a collection of States, and we have mutual obligations, and, without question, that is the case. That is the underlying rationale for the commerce clause. It seems to me a fundamental principle that a group, small group of people, citizens of a small town ought not to be able to veto something which is in the interest of the larger community, the people of the State. The legislation we have before us does just that.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. Let me finish the point, and I will be happy to yield.

The fact is we are faced now with a situation in my State that involves industrial waste, different than the municipal waste that is covered in this legislation. Nonetheless, we face a situation that is in many ways similar to what we might face with municipal waste. A small town makes a deal with a company; they are going to take all of GM's industrial waste. And the Governor has his hands tied. Unless that small town asks him—asks him—unless that small town agrees, his hands are tied.

There is something wrong with that.

And those of us who live in States that are very vulnerable—we can read the tea leaves here. We know what is about to happen. Restriction is put on the States that are big importing States now—Pennsylvania, Virginia, Ohio, Indiana. Where is the trash going to go? I know where it is going to go. We have already seen where this industrial waste is going. It is coming to these sparsely populated States that are under economic pressure where the companies can go in and make an inducement to a small town, and the next thing you know here comes a tidal wave of garbage, tidal wave of industrial waste, tidal wave of municipal waste, and the Governor has his hands tied because the citizens of a small town can veto any intercession. It is just wrong. I do not know how else to say it.

I am certain that the Senator from Rhode Island, if he were still the Governor of Rhode Island and if he faced a situtіon in which he woke up and read in the paper all of GM's industrial waste is coming to Rhode Island and he was told, "There is nothing you can do about it, Governor, unless that small town asks you or agrees with you," he would wonder what has happened in Washington that would lead to a result like that.

I am happy to yield.

Mr. BAUCUS. The question I really want to ask the Senator has to do with an earlier statement he made that suggested that perhaps the Congress could designate counties as the local authority to make these decisions.

As I understand the situation in North Dakota, that might help, frankly, because Sawyer, ND, is apparently in the same county as Minot, ND, and it is my understanding that the people of Minot are not very happy with the decision made by the folks in Sawyer.

If the Senator is serious about his proposal that the Congress designate counties as the appropriate, relevant local authority here and not have States do it, I am just surprised, frankly, because it seems to me that what he is asking us to do is asking Congress to make a decision that probably most people in most States think the States should be making. Is the only planning unit which will make this request a county, or is it a town, or is it something else?

I think most people in most States would want to reserve that decision for themselves. Most people in most States would like the States to decide, the legislatures, and through their legislative process make that decision as to what is the relevant local authority. I do not think most people would like the Congress to say, in all cases, for every State in the Union, it is a county, or for all cases in every State in the Union it is a municipality, for all cases for every State in the Union it is a solid waste planning district, or whatever.

In response to the Senator's point, if I understood it correctly, and I perhaps misunderstood it, if I understood it correctly, he suggested that we in the Congress designate counties as the local planning unit.

Mr. CONRAD. The Senator did perhaps misunderstand. Here is the thought that I had. If you look on page 2 of the bill, section 2 on page 2, interstate transportation of municipal wastes in (1)(A):

> Except as provided for in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government and, and if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit, a Governor may—

And then there are a series of authorizations for a Governor's power.

Mr. BAUCUS. That is right.

Mr. CONRAD. The point I was making earlier, I had suggested that instead of "and" we put in "or." And then objection was raised by the Senator from Rhode Island saying those local planning districts are appointed; we ought to have elected officials making these decisions. I simply offered the alternative, instead of having the local planning district be it or in juxtaposition to the local communities, have a county, so that, in the situation we face in Sawyer, ND, which is in Ward County, the county could make a request to the Governor and this would trigger his authority.

Mr. BAUCUS. I understand that. I appreciate the clarification. Obviously, the State of North Dakota can accomplish the same result by the State designating the county as the affected local government. And I heard the Senator's earlier response to that suggestion, that it might be interpreted by the courts as discriminatory. It would not be so long as the State of North Dakota said it is up to each county to decide whether to accept the sites or not and that would be a county decision.

It would not be discriminatory for the State of North Dakota to designate the local affected government as the county. I do not think any court would call that discriminatory so long as each county, when it made the decision, would decide—"No, we do not want this out-of-State municipal solid waste to come into our county." North Dakota, as I understand it, does not have—or maybe it does have—local solid waste planning units. I do not know if it does or not. If it does, they can abolish them so the counties can do it. All I am saying is there are ways that North Dakota can designate counties as the local affected unit in a nondiscriminatory way to solve this problem.

Mr. CONRAD. Let me just say, I know the Senator is struggling to find a way here that works and is helpful, and I appreciate that.

In discussions earlier, we explored some of these alternatives with the State, and their reaction was twofold:

One, if you do not do it with everyone, as the Senator states, then you have the discrimination problem, and the earlier proposal that some had made would present that difficulty. The other problem from the States' perspective is if you start changing who has these authorities for everyone, now you have a whole other set of problems that arise.

Mr. DASCHLE. If the Senator will yield, there is another question. I would be interested if the distinguished Senator from Montana might address this.

If I recall, a couple weeks ago we passed legislation that said municipalities in a Superfund site would only be liable for 4 percent of the cost. That legislation as I understand it, limited municipalities to 4 percent of the overall liability. Were a municipal waste facility to become a Superfund site and this legislation is enacted into law—I do not know where it is in the legislative process, but I know the Senate passed it—who, then, in the view of the distinguished Senator from Montana, would be responsible for the other 96 percent?

Mr. BAUCUS. Obviously, that is a whole different kettle of fish, because we are dealing there with the Superfund liability. It is extremely complicated and extremely onerous on a large number of parties, not only the responsible parties but potentially the lenders and municipalities. It really got to the question, I think, of bond ratings and financial viability of the communities. That is why we enacted that provision.

As I recall, the Superfund liability, I think, is joint and several. I am not sure. There are a lot of parties involved, so it is very difficult to know who is responsible for the other 96 percent. If I am right that it is joint and several liability, then it is who never is jointly and severally liable.

Mr. DASCHLE. Will the Senator agree, just based on past experience, and his understanding is far beyond that of this Senator, that States oftentimes have been held liable for some of the responsibility. They are not precluded from being liable for issues of this magnitude. And so it is likely that, were that limitation to be in effect, other parties, including the State, would be brought in as participants in determining the ultimate liability of that Superfund site. Would that not be the case?

Mr. BAUCUS. It may or may not be. But I do not see the relevance to this issue.

Mr. DASCHLE. The relevance is very simple. If a municipal waste facility becomes a Superfund site, and that Superfund site then develops serious legal ramifications, the municipality could, according to this legislation, be limited to 4 percent, and a State ultimately then may be liable for additional responsibility beyond that 4 percent.

So you have a fairly plausible scenario. A municipal site is developed. A municipal site 20 years hence becomes a Superfund site. A municipality is limited to 4 percent liability. Among other parties, the State is brought in as one of those responsible for the liability beyond that 4 percent. It just goes again to the point that I think the Senator from North Dakota and I have made on many occasions, that beyond infrastructure and beyond property values and beyond all the other issues, you have a legal question having directly to do with the site that is not addressed adequately in this legislation.

Mr. BAUCUS. Well, the answer to that question is very clear. This is not an energy bill. This is not a defense authorization bill. This is not an agriculture bill. This is not a Superfund liability bill. This is a municipal solid waste interstate transport bill. That is all this is.

Next year, the Environment and Public Works Committee, under the leadership of the chairman of the Appropriations Subcommittee on Transportation, Senator LAUTENBERG, is going to be addressing Superfund liability. That is the time to address Superfund liability questions. That may or may not apply because of industrial waste disposal. That is not in this bill.

I can tell the Senator that it is a valid concern, it is a concern that many people around this country have. But there is no way in the world on this bill we are going to deal with that. That is the first time this issue has ever been raised. No one else has ever raised Superfund liability questions on the interstate bill.

Superfund liability is a separate issue which we will take up next year if we take up Superfund authorization. If the question is infrastructure, there are ways for dealing today with infrastructure problems.

What are they? Well, No. 1, that State could do all kinds of things.

But I have heard this concern that this site in Sawyer, ND, is on an aquifer. There is nothing in the world that precludes the State of North Dakota from passing legislation stating that sites will not be located on aquifers or near aquifers. That is certainly within the power of the State. There is no problem there whatsoever.

A State could also impose fees, if it wants to, on industrial waste sites. Now maybe it can even do so on offsites. And in North Dakota there are 4 offsites and I think there are 16 or something onsites. It could impose the fees on the offsites, which will have no effect on the onsites, if North Dakota would so desire.

Or, North Dakota, if it wanted to, could raise the standards of offsites for industrial waste to such a high level that it would preclude out-of-State and in-State waste.

If North Dakota wanted to—South Dakota may not like this—it could ship industrial waste to other States which may not want it. Who knows? Sawyer, ND, did want it. Some do not.

Mr. CONRAD. We just came up with a solution. I just realized it. We are going to take all that sludge, those 400 tons a day that is coming our way, and we are just going go to load it up into trucks and bring it over to Montana. We will find a nice small town over there that is hard pressed economically that wants this stuff, and we will dump it all over there. And your poor Governor will be in the position of our poor Governor, wondering what happened to him.

Mr. BAUCUS. If I might, you know, for this site, really there are a couple of questions. What is the opposition? Is the opposition because of a health or safety hazard? That is one question. Is the opposition because of infrastructure? That is the second question. And is the opposition because we just do not like somebody else's garbage? That is another question.

But to the degree that the problem is the first one, it presents some kind of health or safety hazard with aquifers or whatever it might be, the Governor has it within his police power to stop it.

There is nothing in the Constitution today that prevents the State from exercising its police power to protect the health and safety of its citizens and stop a site. It is true that it could not discriminate against out-of-State. But in this case, the Sawyer site, for example, if it truly is a health and safety hazard, it can just close down the site. Period.

It would not discriminate because neither in-State nor out-of-State waste could go to that site. That is not discriminatory.

But then those folks in Sawyer or other parts of the State would have to go to some other sites. That might be the answer here if, in fact, the Sawyer site does present a health and safety hazard.

Mr. CONRAD. I am happy to yield to the Senator from South Dakota without losing my rights to the floor.

Mr. DASCHLE. I thank the Senator from North Dakota.

First of all, I think it is important we not become too site specific. This is not a referendum on Sawyer, ND.

I do not know all of the specifics with regard to Sawyer. South Dakota has had some experiences over the last several years that relate very directly to this debate that have nothing to do with Sawyer.

The issue is not exclusively to what extent is the problem an environmental one; to what extent is the problem a legal one; to what extent is the problem a property value one, an economic one—all of those questions are very real, as we consider this. And it is the process, not the specific environmental problem, or economic problem, or legal problem that is the question here. It is the process.

Because, as one analyzes a specific problem relating directly to that locality, you could easily come up with a different solution, or different answer than you would get with the analysis of a problem that is far more regional in its nature.

The economic consequences for the State would be different, perhaps, than the economic consequences for that particular locality. That is the experience of South Dakota.

I know the Senator from Montana said earlier that this is not a Superfund issue today. But it has very specific relationships to Superfund.

Let us assume that the company responsible for that particular waste facility went bankrupt. Let us assume, going back to the earlier question about the 4-percent liability, that a community is held to 4 percent. Who, then, takes responsibility for the balance? You have a bankrupt company, a community limited to 4 percent. Ultimately it is going to be the State. I do not think there is any way around that. We have to address the consequences economically, and legally, of a site such as this. And certainly that would have to be addressed at the State level.

So I think it is really important that all people—as understandably concerned as the Senator from North Dakota is—look beyond one industrial site in the State of North Dakota.

That is not the entire reason why those of us who are arguing this issue are standing here this afternoon talking about it. We are talking about it because it goes way beyond a Sawyer, ND, or a Rosebud, SD. It goes to the process. And it really goes to setting in motion a precedent that will likely be referred to again and again as we address this issue in the future.

If, indeed, this becomes the understanding, that local communities will have the opportunity to decide for themselves with an out-of-State company what future there will be for that particular venture, without including other communities and the State as a whole, then I think we are setting a very dangerous precedent that very likely is not going to be adequately addressed in the future either.

Mr. BAUCUS. Will the Senator yield? Perhaps I can help the Senator on that point?

Mr. DASCHLE. I yield the floor on that point—assuming the Senator from North Dakota yields the floor.

Mr. REID. Will the Senator from North Dakota yield?

Mr. CONRAD. I will be happy to.

Mr. DASCHLE. The Senator from Montana wanted to respond to a point I made.

Mr. CONRAD. I will be happy to yield to the Senator from Montana for the purpose of responding to the Senator from South Dakota if I do not lose my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. It is a point, frankly, I know the Senator from North Dakota is interested in as well, and that is the precedent here. As manager of this bill and as chairman of the relevant subcommittee, I can say I in no way treat this as precedent with respect to hazardous waste. That is, the structure that is set forth in this bill with respect to the transport of municipal solid waste in my personal view is not in any way precedent for what we may or may not do in the future with respect to industrial hazardous waste.

Having said that—

Mr. CONRAD. How about nonhazardous industrial waste?

Mr. BAUCUS. Including nonhazardous industrial waste.

Having said that, I must say this is an area which is very complicated. It is very important. And an area where the EPA, the States, the Congress, have not addressed the situation as well as we should. About 7 billion tons of this stuff is generated every year. A lot more industrial waste generated each year than municipal waste, a lot more.

Frankly, there is so much industrial waste generated, and because it is so difficult to deal with industrial waste as well as municipal waste, we in the reauthorization of RCRA this year only began to touch the tip of the iceberg with respect to industrial waste.

Most industrial waste generated by companies is disposed of on-site, settling ponds or what not. A lot of industrial waste, however, is transported to some other site, and much industrial waste is transported intracompany. That is, a company that generates industrial waste will often transport it to some other site owned by the company within the State or another State and dispose of it there. It is very complicated. It is a very large issue because of the large tonnage involved, 7 billion tons a year.

And, I must say to the Senators, there are many Senators even on the committee who want to very tightly restrict industrial waste, including oil and gas waste—whether it is drilling muds, or tank bottom sludge, or associated wastes. Associated wastes are the parts of oil and gas wastes which are potentially the most carcinogenic, or the most dangerous. Refineries today must treat tank bottom associated waste as hazardous waste, but associated waste out in the field—tank bottom waste out in the field—is not treated as hazardous waste today. It is just treated as industrial waste.

There are many groups that say it has to be regulated very, very tightly.

Then there is mining tailings; there is mining waste. The question is: What should be done about mining waste?

All I am saying to the Senator is that it is a very big area. He has raised some very good questions. But as far as this Senator is concerned, in no way do I intend that the structure we have set forth in this bill governing the interstate transport of municipal waste be precedential with respect to what conditions or limitations we may enact in the future with respect to interstate transport of industrial waste. I do not know what we are going to do with it, frankly. It is a whole different ball of wax, a whole different area.

A very specialized area, obviously, is hazardous waste; and hazardous waste as the Senators know, under subtitle (c), is very, very tightly regulated because it is hazardous. And there are not very many hazardous waste disposal sites in this country. There are very few. And the reason there are very few is because it is such wicked stuff, and the standards and requirements are so stringent. As Senators know we do not allow States to ban the importation of hazardous waste. Again, we do not in our Federal legislation, because there are so few sites.

But I am just trying to help the Senator's concern about this being precedential. I do not mean this to be precedential, but I must say, it is a difficult problem because it is so complicated and next year I hope we can deal with it very responsibly.

Mr. REID. Will the Senator from North Dakota yield to the Senator without losing his right to the floor?

Mr. CONRAD. I will be pleased to yield to the Senator from Nevada.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Nevada.

Mr. REID. Mr. President, through you, to the Senators of North Dakota and South Dakota, I want them to know, especially my friend from North Dakota who spent so much time today, that the absence from the floor of the Senator from Nevada in no way is any indication of my nonsupport of what is being accomplished here today. The Senator from North Dakota should know the Appropriations Committee is marking up four bills today. They are being marked up right now, and I have to go down there and participate on the Commerce, State, Justice; Agriculture—which is important to his State—DC, and Energy and Water.

I think this matter should be resolved. I know how hard the chairman of the subcommittee has worked. But that in my opinion does not allow this Congress to pass a bill that is not good for the country as a whole. I think it is fortuitous that my friend from North Dakota learned today of what is happening in a town called—Sawyer, I believe is the name of the city, in North Dakota. Because there will be places like Sawyer called by many different names as we proceed through the years. It will be places in the State of Nevada, trying to stop the flow of waste coming over the borders from the massive State of California. And I would think those trying to work this matter out should take into consideration maybe we should have a different standard in the Western part of the United States. Maybe in fact the Governors of those States west of the Mississippi should have the authority that was sought in the amendment that was defeated here last night on the Senate floor.

I do not know what consideration has been given to that. It would seem to me that would be constitutionally allowed.

But unless we get something like that where the Governors of the States, the Western States, have the power to stop the flow of garbage coming into their State, I am afraid we are going to wind up with no bill. I think that really would be too bad.

I would be interested in hearing from—I see on the floor the Senator from Indiana who has worked on this. I would refer a question to him as long as the Senator from North Dakota would not lose his right to the floor. That question would be, would the Senator have a problem with those States west of the Mississippi having the Governor have the authority, as sought in the amendment, that was defeated on the Senate floor last night?

The PRESIDING OFFICER. The Senator from North Dakota has the floor and would be required to yield.

Mr. COATS. If the Senator from North Dakota will yield for purposes of answering the question.

Mr. CONRAD. I am pleased to yield to the Senator from Indiana without losing my right to the floor.

Mr. COATS. Mr. President, in response to the Senator from Nevada, we have been attempting now for the past several hours to find a solution to the particular situation of the Senator from North Dakota. We have suggested a number of alternatives. As I speak, we are seeking to resolve an additional solution and proposal.

As I have said many, many times and will say again, the intent of the Senator's effort is one that I am very sympathetic to and one that I offer, and the Senator was a great ally when I offered that, and I appreciated that support and assistance.

So it is not something that I am not sympathetic with. However, while it made great rhetoric, the reality was that we could not enact it into law.

Mr. REID. If I could interrupt my friend and ask if he would direct his attention to the question, and that is, what would be wrong with giving the States west of the Mississippi the authority sought in the amendment that was placed on the floor last night rather than the whole country?

Mr. COATS. We would entertain any serious effort—and I believe this is a serious proposal—at attempting to resolve this impasse. However, as we have discovered here, as I have discovered, frankly, over the last 3 years, but particularly as we have discovered in the last 4 days on this floor, any time we attempt to fashion a solution in one direction, it creates a problem in the other. When we try to address a particular State's problem unique to that State or a particular problem of a group of States unique to that group of States, then it creates another problem in some other State or some other groups of States.

And so while we might come forward and address the problem the Senator has raised in a manner satisfactory to the Senator from Nevada or the Western States, all of a sudden, we now have problems with Senators from the Eastern States. Reconciling the needs and interests of all 50 States has been an extraordinarily difficult problem, and we have climbed a number of mountains in this effort. I thought we were there.

I appreciated the debate that was made yesterday. It was some good debate. We went to a vote. None of the arguments we are making today are really substantively any different than what were made yesterday. The State had an opportunity to work its will on the proposal of the Senator from North Dakota and it voted by a more than 2-to-1 margin to defeat that effort because it believed the point that this Senator has been making, not that the substance of the Senator's argument was flawed, but they believed that the only hope of producing any relief to any communities or any States lie with the extraordinarily complex and difficult agreement hammered out over a period of days and that was the only way we were going to move the bill.

So if we went back in the direction the Senator wants us to go, having lost that battle last night, 61 to 30, if we went back the other way, then we would just find ourselves dealing with a problem on the other side.

Mr. CONRAD. I say to my friend from Indiana, I want to acknowledge we have had a good going back and forth today, and I have taken some shots at my friend from Indiana, he having been in the position I am in now and was an early leader on this subject and I do it in good humor and I do it with respect to the strong position he had taken. He reached a conclusion that he could not accomplish more than what is in the current bill.

The bill is this, I say to my friend from Indiana: Last night, I saw many votes influenced in the well by the exporting States threatening that if anybody went further, if the amendment that the Senator from Nevada offered last night were to be adopted, that the Senators from the exporting States, the big trash producers, would then filibuster the bill and kill it and there would be no protection for any of the States. The large importing States that did get some protection last night were other States that had some additional benefit perhaps of what is in this bill.

Unfortunately, it still leaves us with a very, very serious problem. Those of us who represent rural States, those of us who represent States with small towns that are hard pressed economically, who are vulnerable to inducements offered by large corporations to come in and tell them, boy, do we have a deal for you. Here you are struggling, your school is failing, your streets need repair, there are not many jobs around, we can solve all those problems for you right there in this little town, we can take care of these problems for you. You know what we will do? We will have a big waste dump and we will employ some of your folks around town, some of the young people who are leaving town because there is no place to get a job, we will fix up those streets and we will take care of the infrastructure and all you have to do is sign on the dotted line. And you know what, you know what? You can enter into this agreement with us and nobody can stop it.

It does not matter if by doing this you burden the roads in the surrounding communities and the surrounding counties and burden the State transportation plan. It does not matter if you have upset the State's solid waste management plan. It does not matter if you are creating air and water problems in the area because all that matters is that a local community signs on with a company. From that point, we go forward and have a deal.

Last night, we were arguing theoretically. About halfway through the debate last night, somebody came up to me and said they had seen a press report in Ohio that General Motors is going to send all their industrial waste to, guess where? My State. They are going to send it to a little town of Sawyer, ND. The industrial waste from 100 General Motors plants is all coming to my State.

I dismissed it. I thought that cannot be, that cannot be. I talked to the senior Senator from Montana. He said, oh, no, that cannot be happening. It seemed too far-fetched. It seemed far-fetched to me. But you know, lo and behold, it is true. It is all coming to North Dakota.

I talked to my Governor this morning, Gov. George Sinner, an excellent Governor, very serious minded. And I asked him, what posture are you in with respect to General Motors' industrial waste that is coming to North Dakota?

He said, well, it is just unacceptable. A little town can make an agreement and the Governor cannot intercede. The Governor cannot have an effect on the decision.

He said, you know, we had a letter to the editor from a woman who said we are the breadbasket, not the trash basket. He said, you know, the thing I resent the most is that I am told as Governor I have a responsibility to manage the solid waste of this State and to have a plan. We have a plan, and yet a community can come in, make a deal, and totally disrupt the State plan, and there is nothing I can do about it.

There is something wrong with that. And so that is the reason some of us have talked at some length today, in the hope we would be able to reach an accommodation, reach an understanding, find a way to compromise this issue, so that with respect to solid waste there would be some additional statement in this particular legislation, but beyond that we would not set a precedent which would allow perhaps a community of only 10 people to veto a plan that was in the larger interests of the State and the surrounding communities. That is really what this discussion is all about.

Now, I am told there is language that is now being discussed on two amendments that perhaps could resolve this issue if we could reach a meeting of the minds on them.

One of those amendments would say, on page 8, that "except as provided in paragraph (1)(C), at any landfill that receives more than 100,000 tons of out-of-State municipal waste in any calendar year, the Governor can limit the disposal of out-of-State municipal waste at that landfill during that year to 30 percent of all municipal waste received."

The Governors support this amendment. They think it would be useful to them if this amendment were included in the legislation before us today.

In addition, we are working on a study amendment that would allow us to better understand, when we turn our attention to the question of industrial waste, what we are really dealing with. Because when you turn your attention to the larger issue, one finds there is very little known about industrial waste in this country: What are the volumes of industrial waste being produced in the various regions in the country; what are the sources of that industrial waste; where is it going; how is it being treated; what are the risks of that industrial waste? Those are questions to which we ought to have answers.

So we have language that calls for a proposed study on industrial waste that says the following:

> The administrator shall conduct a comprehensive study of the transportation and disposal of nonhazardous industrial wastes, including the transportation of such wastes across State lines for the purpose of disposal. The study shall include consideration of the hazards posed by the transportation of such waste, the sources, the volume and location and production of this waste, the current pattern of movement of this waste, the location of the disposal of the waste by volume, the type of facility where the waste is disposed, proposals to reduce the interstate flow of this waste, and the overall capacity available for the disposal of this waste in the country.
>
> Further, that the report shall be submitted to the Congress no later than January 1, 1993.

Now, these are two amendments which we think are important. The Governors would like to see these amendments adopted. We would like to see these amendments adopted.

I am hopeful that, as we proceed, those who want to see some sort of rational outcome will be supportive because it has never been the desire of this Senator—I am certain not the desire of other Senators who have participated in this extended discussion—to kill this bill. We do not want to do that. But if we are going to be left with nothing, then it is better to have no bill. It is better to keep those who are energized on this issue as part of the team to do something about it for the future, because this is an enormous problem in this country. It is growing. And every other State is going to face what my State is facing today.

It is kind of your worst nightmare coming true. You wake up and you find out that some company, in this case General Motors Corp., the largest industrial corporation in the world, is sending your State all of its industrial waste. Where is it going? A small town that is not really able to defend itself, maybe even a small town that wants that waste to come there, even though it may not be in the larger interests of the community. Maybe it is not in the larger interests of the surrounding communities. Maybe it is not in the larger interests of the State.

The State cannot stop it. The county government cannot stop it because a deal is a deal. And in this legislation we have been working on today we are establishing the principle whereby a community can enter into an agreement with a company and achieve a result that will mean the importation of hundreds and thousands of tons of waste, impacting the road systems, impacting the infrastructure, impacting surrounding communities, threatening air and water quality, and the Governor cannot act. The legislature cannot act.

So I would ask my colleague from Montana if the amendments that have been provided have been reacted to by others and what their reaction is.

Mr. BAUCUS. Mr. President, if I may respond to the Senator from North Dakota, without the Senator from North Dakota losing his right to the floor, I asked relevant staff to contact their Senators to see what reactions they would have with respect to the 30-percent amendment in particular. I have not heard back on that amendment. As I understand it, there is also an effort to contact Senators with respect to deleting the word "and" and inserting "or" on line 12, page 2 of the bill. I do not think there has been a response to that yet, either.

I must say to the Senator, one slight problem we are having is that one of the key Senators involved is in appropriations markup, particularly the transportation bill, and it is difficult to get the Senator's attention to this proposed amendment. But we are working on it and trying to get some reaction to it.

If the Senator will also yield again, the Senator not losing his right——

Mr. CONRAD. I will be happy to yield without losing my right to the floor.

Mr. BAUCUS. Mr. President, earlier the Senator from Nevada suggested there be a separate regime or constructure, scheme, for Western States and Western Senators. I guess the implication was that perhaps this bill was not adequately reflecting Western, more sparsely populated States' interests.

I must say, Mr. President, that the Environment and Public Works Committee, has five very able Senators from the West: The chairman of the committee, the senior Senator from North Dakota, steering this makes sure it has a very adequate Western point of view; myself, from a Western State, Senator SYMMS from a Western State, Senator REID from a Western State, and Senator SIMPSON from a Western State. There are very adequate Western State interests represented on this committee.

When Senator REID in committee offered essentially the proposal we are now in some sense discussing, it was defeated by all Senators but for one. Senator REID was the only one who was in favor of his amendment. Other Western Senators felt it was not necessary.

The main point is this committee has very adequately gone the extra mile to help the West.

I am thinking particularly of two major bills which were very helpful to the West as well as to other parts of the country. One is the Clean Air Act and the other is the Highway Act. In the Clean Air Act, for example, we in the Environment and Public Works Committee included what is called the clean States exemption. That provision exempted States which emitted fewer than 50,000 tons of sulfur dioxide per year in their utilities from phase 1 and phase 2 of the act which would require those States to ratchet down the amount of SO_2 they were otherwise emitting into the air.

That is a very progressive bill. It is probably one of the most significant bills this Congress has passed and will pass in, say, 10 or 25 years. It will have the effect of reducing overall sulfur dioxide emissions from 20 million tons, as was the case 1 or 2 years ago, down to 10 million tons by the year—past the year 2000.

The point is the clean States exemption was specifically put in that amendment because Western States had done a very good job in limiting their SO_2 emissions, and the beneficiary was also North Dakota.

There are many other provisions in that bill which very dramatically helped Western States, again which came out of the Environment and Public Works Committee.

Second, the highway bill. Eastern States did fine by that, but Western States also did well under the highway bill, with considerable Federal highway dollars going to Western States. I am sure the same is true for other States as well. But Western States, I know, received more dollars per capita than they did in the past. It came out very, very well.

The fundamental point is that at some point the Senate must decide. The basic principle, articulated by the

Senator, was already decided in committee, and lost unanimously but for one vote. The same basic principle was before this Senate last night.

Senator REID spoke earlier in support of the Senator from North Dakota. It is basically the same point, the same amendment. We voted on it, and the vote on that amendment was 60 to 31. By a 2-to-1 margin, the Senate decided. So here we are, in essence asking for the third bite of the apple. I guess we can keep on going for the fourth bite of the apple and the fifth bite of the apple.

But, essentially, No. 1, Western interests in all areas are very well accommodated. No. 2, we have already decided this issue.

I do not want to get into a fight here with the Senator from North Dakota. But just so the RECORD is accurate, the Senator keeps mentioning over and over, about the 400 tons a day that go into this facility.

It is my information that it could be wrong; I will check again with the State of North Dakota. I found out that that is not what the figures are. According to the State official that my staff consulted with in North Dakota—I brought it all; I do not know what all these newspaper articles are all about—but the newspaper articles are wrong. He just volunteered this to my staff.

My staff said: What is right, what is the information? Again, the information is there are 60 mil double liners, and a composite liner, going in. Fifteen to thirty loads per week, an average of 18 yards a load, which comes out not to all of General Motors' industrial waste, but 2 percent of the industrial waste produced by the company.

I think the RECORD should state what the officials of North Dakota stated, what the facts are, at least given to my staff and to me, and who volunteered on his own, without being prompted, that the newspaper articles are just wrong; they just do not have the right information.

So I think it is important that the RECORD show that at least the North Dakota officials that we have consulted with—and maybe they are the wrong officials; I do not know—have a different point of view as to the magnitude of the situation in Sawyer, ND.

Mr. CONRAD. Mr. President, let me just say that frankly my position would be the same whatever the specific numbers are. The press accounts say that 20 million tons have already been delivered—20 million tons. They say that the capacity of the plant is 400 million tons a day.

Then they say that all of the industrial waste from 100 GM plants is coming to this site. I do not know if those specific numbers are accurate or not. But they are not just in one press account, but in press account, after press account, after press account. Press accounts are sometimes wrong. Goodness knows, any of us in public life knows that. I have had many situations in which I was involved in a story, and I read the press account and it bore almost no relationship to what was happening.

But aside from the specifics of what might be going to this plant, it highlights the problem. And the problem, as the Senator from South Dakota said, is a process problem. Who decides what is going to happen within a State's boundaries? Can it be that a small town makes a decision, and nobody else can have an impact on it, even though it impacts other people's lives? That is the principle that is at stake here. I hope we are able to resolve this in some way that is acceptable.

I suggest to my colleague that we put in a quorum call and await the working out of this language, if it can be worked out.

If it cannot be worked out, we will cross that bridge when we come to it.

But I suggest, if there is not an objection, that I put in a quorum call and see if we can get reactions to this language.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—DEBATE ON THE MOTION TO INVOKE CLOTURE ON THE MOTION TO PROCEED TO H.R. 776

Mr. MITCHELL. Mr. President, pursuant to a previous order, approved unanimously by the Senate and printed at page 2 of today's calendar of business, I have the authority to set the time for a vote on the motion to invoke cloture on the motion to proceed to H.R. 776, the energy bill, following consultation with the Republican leader.

Mr. President, I have consulted with the Republican leader, as well as with the chairman of the Energy Committee and the manager of the pending bill, and I now announce that the vote on the motion to invoke cloture on the motion to proceed to Calendar No. 493, H.R. 776, the energy bill, will occur at 7:30 p.m. this evening.

Mr. President, I now ask unanimous consent that the 40 minutes prior to that time be for debate on the motion to invoke cloture on the motion to proceed to the energy bill with the time controlled as follows: 10 minutes each for Senators BENTSEN, PACKWOOD, JOHNSTON, and WALLOP.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised by the Senators involved in discussion of the pending matter that negotiations are underway, indeed have been ongoing for some time in an effort to resolve the matter the way a majority of Senators would find acceptable. Under this procedure, that can continue until 6:50 p.m., approximately another 1½ hours, at which time we will turn to the energy bill. I hope and I encourage my colleagues to try to reach agreement in a way that will permit us to finish the pending interstate waste bill. If agreement cannot be reached, either between now and 6:50 or thereafter, then the cloture motion on the pending bill, which I earlier filed, will ripen under the rules on the second legislative day following today, unless there is agreement otherwise.

I wish merely to restate my intention that we will at some point, sooner or later, I hope sooner, but in any event sooner or later complete action on the interstate waste bill. I encourage my colleagues to try to do that in a way that we can complete action on it this evening.

Again, so that Senators can adjust their schedules accordingly, between 6:50 p.m. and 7:30 p.m. there will be 40 minutes of debate on the energy bill, with 10 minutes each under the control of Senators BENTSEN, PACKWOOD, JOHNSTON, and WALLOP and the vote on the motion to invoke cloture on the motion to proceed to the energy bill will occur at 7:30 p.m.

Mr. President, I thank my colleagues. I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I just reported to the majority leader, we are making progress on the pending matter and hopefully we can complete that before the end of the day. We have made substantial progress in the last hour or so and hopefully it can be resolved in a way that is acceptable to all parties.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the previous order relative to debate on the cloture vote on the motion to proceed to H.R. 776 be modified to delete the 10 minutes for debate under Senator PACKWOOD'S control, and that the cloture vote occur at 7:20 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH VALUE ECONOMIC GROWTH PACKAGE

Mr. DOMENICI. Mr. President, yesterday, I came to the floor and spoke for a few moments about a measure that Senator SPECTER and I introduced which is styled S. 2612. We introduced that bill on April 9, 1992.

Since then, as I indicated last night, we picked up six additional cosponsors, and I included those six cosponsors in the RECORD last night. But let me repeat them tonight: Senator RUDMAN, Senator SIMPSON, Senator SMITH, Senator BURNS, Senator MURKOWSKI, and Senator WARNER.

Mr. President, it is obvious to this Senator that while the economy of the United States is growing, the unemployment in the country is not diminishing as it should commensurate with that growth. So this measure is more important today than it was when we introduced it. This bill, when we introduced it last April, contained five provisions. Each of those provisions meets a very high test. They create jobs, reduce the cost of capital, reduce the cost of labor, and act as an investment incentive for the here and now to keep us on the track of economic recovery.

So this is Senator SPECTER'S and my definition of a high-value economic growth package and what it should look like. Let me indicate that there are other tax measures either working their way through the House, or through the appropriate committees of the Senate, and I submit that many of the measures which we introduced in April will be similar in these measures. So it will not be hard to modify our high value economic growth package to include these other changes, which are also vital to our Nation's economy: The enterprise zone provisions of H.R. 11, the repeal of the luxury tax, the extension of most of the expiring provisions. And then we would like to submit to the Senate for its consideration the way these would be paid for, consistent with the pay-as-you-go provisions of the current budget arrangement.

Mr. President, a lot of days have passed. I have been to the floor a couple of times urging that we pass something like this. The controversial issue, when we failed to pass this—for the Democrats the issue was capital gains; for the Republicans, it was how we paid for the capital gains and the other provisions.

What we had decided to do in this bill days and days ago was to take the capital gains out and take the tax increase out and bring to the floor the remaining measures. If they were all good, they certainly ought to be still very good, without the capital gains provision. I have spoken to a number of Senators who feel that capital gains is absolutely imperative.

This Senator believes capital gains should be added to any litany or inventory of tax changes which are apt to cause the American economy to grow and prosper and produce jobs. But I believe most of those who think we ought to have capital gains would also think that rather than do nothing, we ought to take the capital gains out, the controversial democratic tax increase out, and pass the rest of it and add the provisions I alluded to, such as the enterprise zones, the extenders for research and development tax credits, and the like.

So, Mr. President, we are prepared, and we urge the Senate, we urge the President, we urge the Democratic leadership here, to put this measure before the Senate at the earliest possible time. I bring this up because we cannot—the Senator from Pennsylvania and the Senator from New Mexico—originate a tax bill here on the floor. But we do want to call to the Senate's attention that when a tax bill appears—and there happens to be one almost with us in the body of the energy bill—the Senator from Pennsylvania and the Senator from New Mexico truly believe we ought to affix this package, which will cause growth in the American economy and produce jobs.

Having said that, I want to just, one more time, tick off the proposals that we were for, that we voted for, and that died because of the controversy over the two items I have alluded to:

A 15-percent investment tax allowance. Everyone has on their shopping list of what this country should do to stimulate prosperity and growth some significant investment tax credit or allowance. This was a temporary one, 15 percent, spreading over this year and next year. We ought to pass it. We ought to pass it.

Second, simplify and change the alternative minimum depreciation. Everyone now knows that is causing punitive, punitive taxes on those who would invest and grow in many American industries, and as a result they do nothing. Passive loss relief, we are all aware of that, $5,000 first-time home buyer credit, facilitate real estate investment by pension funds, and penalty-free IRA's for the two purposes that we had in mind: One of which was home buyers and the other that was for automobiles, and we can adjust that to what the majority feels is most appropriate. Add to that the enterprise zone. Add to that the extension of expiring tax credits, and you have a package that reduces revenues or cuts taxes by $20.3 billion in a very targeted manner, high valued in terms of jobs, lowering the cost of capital, and the other matters that I mentioned.

We will now again ask that the RECORD include at the end of my remarks the offset provisions for that $20.3 billion. I do not believe any of those are so controversial that they would cause the bill to die, as happened before.

So I send those to the desk again for the inclusion in this RECORD so that we put the package together so everyone understands this is a "can do" if we only want to create jobs in this country and to do it quickly.

I ask unanimous consent that the material be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Mr. President, I urge the leadership to give serious thought to this. I urge the President to support this kind of measure. I believe we were right on April 9, and I believe we are more right tonight. The only thing is we already have lost some serious, serious gains that could have been there for working men and women in the country and for those who are in need of jobs.

EXHIBIT 1

REVISED HIGH VALUE ECONOMIC GROWTH ACT

[In billions of dollars, fiscal year 1992–97]

	1992	1992–97
Short-term growth proposals:		
15 percent investment tax allowance	....	−2.3
Simplify and enhance AMT depreciation	−(1)	−1.4
Passive loss relief	−0.1	−2.5
$5,000 first time homebuyers credit	....	−6.1
Penalty-free IRA w/d for 1st time homebuyers	....	−.6
Facilitate real estate investment by pension funds	−(1)	−.3
Enterprise zone/urban-rural distressed areas (H.R. 11):		
Create 50 enterprise zones	....	−2.5
Additional assistance for tax enterprise zones	....	−.5
Extension of expiring provisions for 18 months:		
Research and experimentation tax credit	−.2	−1.7
Health insurance for self-employed	−.1	−.6
Targeted jobs tax credit	−(1)	−.6
Mortgage revenue bonds and credit certificates	−(1)	−.4
Qualified small-issue bonds	−(1)	−.2
Repeal luxury excise tax on airplanes, jewelry, furs, and boats, index automobile luxury excise tax	−(1)	−.5
Subtotal, revenue losers	−.4	−20.3
Offset options:		
IRS 45-day processing rule	....	.3
Eliminate CSRS lump sum	....	5.0
Patent and trademark surcharges	....	.2
Customs user fees	....	1.5
VA housing reforms	....	.8
FEHB reforms	....	.4
Extend depreciation period for certain real estate	(1)	3.1
Mark-to-market for securities dealers	.1	2.7
Taxable years of partnerships	....	.2
Tax treatment of certain FSLIC financial assistance	.2	.4

REVISED HIGH VALUE ECONOMIC GROWTH ACT—Continued

[In billions of dollars, fiscal year 1992–97]

	1992	1992–97
Corp est tax, modify and extend permanently		3.2
Tax precondition gain on partnership redemptions	(1)	.2
Extend 53 percent and 55 percent estate tax rate on large estates thru 97		1.4
Reporting for seller-financed mortgages	(1)	.6
Increase excise tax on certain ozone-depleting chemicals (on top of increase in energy bill)		.3
Repeal diesel fuel tax exemption for motorboats		.1
Subtotal, possible offsets	.4	20.3
Deficit impact	0	0

[1] Gain or loss of less than $50,000,000.

Mr. DOMENICI. Mr. President, whatever time I have remaining I will yield to Senator SPECTER, and I assume he might ask for a few minutes on his own.

The PRESIDING OFFICER. The Senator from Pennsylvania has a minute and 30 seconds.

Mr. SPECTER. Mr. President, we had been in a quorum call. I ask unanimous consent that I might proceed as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC RECOVERY PROGRAM

Mr. SPECTER. Mr. President, I am delighted to join my distinguished colleague from New Mexico, Senator DOMENICI, in urging the adoption of an economic recovery program which has essentially been agreed upon by both the Congress and the President.

We are regrettably in a state of gridlock in the Government today. The political air in Washington is so thick you can cut it with a knife. It is high time that the Congress and the executive join together to break that gridlock.

When the President submitted an economic recovery program to the Congress there were 7 points, and the program was summarily rejected by the Congress, I will submit, on political grounds. The Congress then crafted its own economic recovery program, sent it to the White House. Candidly it got equally short shift.

Senator DOMENICI and I conferred, examined both of the legislative proposals, and found that there were core provisions which were the same in both of the plans. That led us to introduce legislation which really had been agreed upon. As already outlined by my distinguished colleague from New Mexico, the legislation involves provisions which really have been as solid as apple pie and milk.

The issue on an investment tax allowance would stimulate the purchase of hard goods, stimulate job opportunities. The provision for a $5,000 tax credit for first-time home buyers would allow young Americans to buy houses to stimulate the real estate industry. The provisions on passive losses on real estate would be geared to allow a reinvigoration of the real estate industry. And the provision to change the investment opportunities for pension trusts on real estate matters would again stimulate the economy.

Mr. President, there is widespread disenchantment in America today with politics as usual. We have seen the emergence of a potential third-party candidate in Ross Perot, who essentially was a question mark, but a question mark that millions of Americans thought preferable to either of the major parties.

We have the situation in this country where millions of Americans are hurting and are out of jobs. I see that as I travel the 67 counties of Pennsylvania. Pennsylvanians are looking for a stimulus to the economy.

These four basic points, which have already been subject to agreement, ought to be enacted promptly. The result would be a very substantial stimulus to the economy.

My colleague, Senator DOMENICI, and I had previously introduced legislation which would utilize the existing funds in IRA's for stimulating the economy. We abandoned the IRA's pretty much in 1986 but in the last couple of years there has been a proposal for a Super IRA which would be a new form of IRA. This proposal, sponsored by more than 70 United States Senators would allow IRA funds to be used to purchase major items such as new homes, medical expenses, and tuition.

When we took a look last fall at the economic straitjacket that this country was in where we had a budget agreement that provided a "priming of the pump," Senator DOMENICI and I noted that there were $800 billion in IRA's and 401(k)'s in addition to approximately $3 trillion in other retirement funds. We then introduced legislation which would allow middle-income Americans, those earning individually $75,000, or married up to $100,000, to be able to withdraw from the IRA's $10,000, without tax and without penalty in 1992. The $10,000 would be repaid to the IRA's, $2,500 a year over 4 years, 1993, 1994, 1995, and 1996. Or, in the default on replenishing the IRA, an individual would pay a tax on $2,500 in each year of 4 successive years.

An independent analysis showed that our plan would yield up to $120 billion in immediate investment if that $10,000 would be used for big ticket items such as homes, tuition, medical expenses, and new cars.

That is a proposal which is certainly worth considering. It passed as an amendment to the Senate version of the tax bill but was stripped in conference. That proposal is separate and distinct from the four points which Senator DOMENICI and I have outlined today. That is a proposal for another day.

There may be some disagreement as to that proposal but, on the four items already enumerated, I join my colleague, Senator DOMENICI, in calling for prompt action by the Congress for legislation to go to the desk of the President. We have every reason to believe it would be signed, because those are the President's proposals as well.

I thank the Chair and yield the floor, and note my colleague Senator DOMENICI has moved to the podium again.

Mr. DOMENICI. Mr. President, will the Senator yield me the 2 minutes remaining of the Senator's time?

Mr. SPECTER. I will.

Mr. DOMENICI. Mr. President, let me put this another way. I say to my fellow Senators had we done this, it is our estimation that 1.2 million families could be moving into new homes today. Instead houses that should have been sold are still on the market, many of them with for sale signs on them, many of them are empty. They have signs on them instead of children playing in the yards. It is not too late. We ought to do it now.

Second, the 15-percent investment allowance for American business large and small would clearly have boxes of equipment to make workers more productive, arriving right now in response to that investment tax allowance. Instead of doing something we keep talking, and we keep talking about competitiveness. That poor word is going to probably ask that it be changed to something else. It is used so much.

But had we done something instead of the word "competitiveness," new equipment would have been flowing, the people who would have been making it would have been employing people, the people who would have bought it would have been getting the equipment and improving themselves so that the American marketplace would be creating better jobs. Instead, we are talking again.

I just note for the record, one of the committees that I serve on, the Banking Committee, held 23 hearings on how to make America competitive since that bill was introduced. It seems to me, the time is right to do something about it.

I yield the floor and yield back whatever time remains with Senator SPECTER.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

The Senate continued with the consideration of the bill.

Mr. BAUCUS. Mr. President, I ask unanimous consent that notwithstanding the consent agreement with respect to limited amendments on this bill, that the Senator from North Dakota, [Mr. CONRAD] be allowed to offer an amendment to the bill.

The PRESIDING OFFICER. If there is no objection—without objection, it is so ordered. The Senator from North Dakota is recognized.

AMENDMENT NO. 2742

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 2742.

On page 10, delete line 18-23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the use of the land on which the facility is located.".

Mr. CONRAD. Mr. President, I ask unanimous consent to amend—or modify the amendment, in the second to the last line, by saying "primary jurisdiction over the land or the use of the land on which the facility is located." That is the actual language that has been agreed to.

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection? The Senator from Montana.

Mr. BAUCUS. Reserving the right to object—the Senator is correct. Those are two words that were suggested some time ago and unfortunately were not included in the last draft. Those two words should be included and I do not object.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, No. 2742, as modified, is as follows:

On page 10, delete lines 18-23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located.".

Mr. CONRAD. Mr. President, let me just indicate very briefly that what this does is allow the Governor to designate a unit of government, other than just the town, to make the decision on whether or not we should go forward with a particular project or not. This would allow the Governor to designate an entity of government that could interact with the Governor to then make the final decision.

Mr. President, we think this is a dramatic improvement over what was in front of us before. Basically, what it would allow is that we are not in a situation in which a very small town can enter into an agreement and not have the ability of the Governor to intervene. Instead, the Governor, if he acts within 90 days, could designate the county to be the affected entity of government. We think that makes great sense.

I would like to thank the chairman of the subcommittee and his staff for their patience. I would like to thank the ranking member and his staff for their assistance. And I would like to very much thank my colleague from South Dakota, Senator DASCHLE, who has been very active in this effort to improve the legislation.

I ask unanimous consent that Senator DASCHLE and Senator REID appear as original cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I want to indicate that we not only feel this makes a significant improvement to the legislation before us, but also sets a precedent for legislation that may come later; not a legal precedent, but it serves as an outline of what can be done to assure that we do not find ourselves in a situation in which a small town can be unduly influenced, and nobody else would be in a position to review the decision.

So, Mr. President, I will conclude my remarks by saying this has been a long day. It has been a difficult day in many ways. But there was certainly good-faith effort by all those concerned to work something out, and I think we have achieved that.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I heartily commend the Senator from North Dakota. He has stood here on the floor diligently, in the last couple of days, protecting the interests of North Dakota.

He had a very legitimate concern. It is a concern that we all appreciated; a concern we have all been working with. Frankly, it is largely—in fact, almost primarily—because of his diligence and, I must say, the diligence of other Senators, as well, that we have been able to find this agreement, this accommodation.

The Senator from North Dakota will be the first to admit it is not a perfect solution for North Dakota, but it is a significant contribution compared with the pending legislation. I heartily commend him, and the Senator from South Dakota, who has worked as diligently in representing South Dakota, and helped us find a solution.

I urge its adoption.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, one of the joys in the Senate, particularly in serving on committees, is that you get to know the Senators quite well, and you get to know their speeches quite well. In fact, there is a capacity to deliver their speeches for them, in case they flag or flail.

I do not serve on any committees with the distinguished Senator from North Dakota, but through the course of these 3 days, particularly the last day, I have memorized his speeches. In fact, he has given the same speech several times, and it is a good speech: "I have, in North Dakota, some four towns with a population less than 10." And on from there.

He is a tenacious advocate, and I think deserves a lot of credit for pursuing this so diligently, and his associate from South Dakota, likewise. I have not mastered the speeches of the Senator from South Dakota, but I will, because he serves on the Finance Committee, likewise, and there we will have an opportunity in future days.

But the Senator from North Dakota will be leaving us, and I am glad to have had a chance to work with him in connection with this matter.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I also want to commend those who have been involved so diligently over the last couple of days. I do not know what else can be said for the distinguished Senator from North Dakota. He has done a very effective job in providing important leadership and giving us an opportunity to at least partially resolve this very difficult problem. The amendment does not go all the way, but it makes a real improvement in the bill.

Obviously, there are ways, as the Senator from Montana has alluded, that we could address this more effectively, but this amendment does give us some hope that someone other than the proverbial town with four people will have some say with regard to an issue of this magnitude and consequence.

So I think it is a very significant improvement. It allows me the confidence that we are going to be making some decisions that reflect, in part, the beliefs, the attitudes, and the concerns of people beyond those who may be directly the ones to benefit from any facility, or any contract relating to a facility.

So I commend the Senator from North Dakota. I thank the managers of the bill for their cooperation, their efforts, and their willingness to work with us. I urge the adoption of this amendment, as well.

I yield the floor.

Mr. CONRAD. Mr. President, if I might, before we conclude this, I just want to again thank the chairman of the subcommittee, who has shown remarkable patience today. This has certainly tried his patience. I do appreciate very much his willingness to work with us to try to get a resolution. This was not easy. We understand the forces on the other side that did not want something like this. He has really gone the extra mile, and it is appreciated.

I also want to say to the ranking member, who has also shown great patience, I think I only gave that speech maybe six or seven times—it may have seemed like several dozen—but I was prepared to give it some more. So I appreciate his patience and generosity, as well.

I want to conclude by saying, again, a special thanks to my very dear friend and colleague from South Dakota, who stood with me during these long hours in trying to achieve a result. It really made a difference. I just want to say to my friend from South Dakota, I deeply appreciate his assistance on this.

I ask unanimous consent that Senator RIEGLE be shown as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I would like to say to the Senator from North Dakota, it is always a pleasure to work with my neighbor to the east. North Dakota and Montana share a border, with many things in common.

One is, I find whenever I want to get something on the news in Montana, very often I have to go to Williston, ND; go to the TV stations and newspapers in the western part of North Dakota, to reach eastern Montana.

I appreciate working with him.

Mr. President, I ask for the regular order.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2742), as modified, was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I think there is one other matter we have to deal with. That is another amendment.

I ask unanimous consent, notwithstanding the consent agreement with respect to this amendment and this bill, that the Senator from North Dakota be allowed to be recognized for the purpose of offering an amendment to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2743

Mr. CONRAD. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

Mr. President, I first ask unanimous consent that Senator DASCHLE and Senator METZENBAUM be shown as original cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself, Mr. DASCHLE and Mr. METZENBAUM, proposes an amendment numbered 2743.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of nonhazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of nonhazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial nonhazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial nonhazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy; and

(5) solid waste regulated under subtitle C of the Resource Conservation and Recovery Act.

Mr. CONRAD. Mr. President, this is a simple study amendment, but we believe it is an important one.

One of the things we have learned as we have gone through this long day is that there is not much very good information on the question of industrial waste: What are the sources of it? What are the movements of industrial waste? What are the volumes? A whole series of other questions that are addressed in this amendment. Suffice it to say, we think the Senate, if it is to deliberate on these matters in the future, could use some basic information. We, hopefully, have outlined the information needs in this amendment. I urge my colleagues to support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BAUCUS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2743) was agreed to.

Mr. BAUCUS. Mr. President, I think there is no more business. I ask for the regular order.

Mr. CHAFEE. I move to reconsider the vote.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I am pleased we are finally able to deal with the issue of interstate trash. It is an issue that I know has taken a lot of thought and negotiation. However, I believe we have achieved a good result and a workable compromise that provides protection for States like Kansas that are threatened with long haul imports from the east coast.

Frankly, the timing of this legislation couldn't be more appropriate.

In a June 1, 1992, opinion, the U.S. Supreme Court struck down a Michigan statute that allowed the State's counties to regulate out-of-State solid waste disposal differently from solid waste generated within the county for no other reason other than place of origin. The Court highlighted the point that the interstate movement of wastes is protected by the commerce clause of the U.S. Constitution unless Congress says so otherwise.

Also, after nearly a month, and 3,000 miles later, a 2,200-ton trash train that originated in the South Bronx, NY, and at one point found its way into Kansas City KS, finally has been off-loaded at a landfill on Staten Island. It only serves to underscore the point that something needs to be done about the interstate transportation of trash and the responsibility individual communities need to take toward this issue.

I am also pleased the legislation allows for flexibility for our own border areas, such as the Kansas City area and the southeast Kansas area, to continue to provide sanitary landfill services for the region as has been the practice and desire over the years.

Mr. President, I applaud the level of cooperation that resulted in this agreement. Senators COATS, SPECTER, WAR-

NER, and CHAFEE have worked overtime to find ways to accommodate States that have an interest in this issue. Also, the solid waste and railroad industries who have to live with these requirements and are working to provide these services under strict environmental controls have been cooperative as well.

The concept of allowing communities the right to choose whether they will accept interstate garbage is fundamentally sound. In the absence of this legislation, the commerce clause of the Constitution controlled the flow of interstate trash. Now, communities can say no to out-of-State trash if they want to. Likewise, they can negotiate directly with trash companies if they choose to.

This legislation is also important for what it doesn't do: disrupt contiguous State flows in Kansas and other States where arrangements already exist. Six landfills in Kansas accept out-of-State trash in a mutually acceptable arrangement. This legislation will allow those landfills to continue this practice. The Kansas City area is largest, and has the greatest potential for unnecessary disruption. However, the legislation has a specific provision to allow the Governor the authority to freeze out-of-State trash coming into these landfills at 1991 or 1992 levels. This protection was built into the legislation to protect States like Kansas from becoming the dumping ground for long-haul trash from big east coast States.

Mr. President, this is a workable compromise and provides adequate protection for small States that fear they are targets for east coast garbage. I believe we have substantially eliminated the threat that was highlighted in McPherson last summer and provided important new protection for communities who want to say no to out-of-State trash.

Mr. DODD. Mr. President, I rise to express my strong support for S. 2877, the Interstate Transport of Municipal Solid Waste Act of 1992. My compliments to the managers of this measure and Senator COATS in working to develop a balanced approach to address this difficult problem.

Garbage, while not anyone's favorite subject, is however one of the most prevalent realities of our everyday life. Our Nation generates over 180 million tons of waste each year—over half a ton for every man, woman, and child in the United States.

The issue here today is what we should do about all this garbage. In the past, the answer has been relatively simple—dump it. But the dumps are filling up; some are worse than full—they are dangerous; and, as we all know from experience in our own States, there are few communities volunteering to host new dump sites.

The reality of this crisis was brought home to many in the saga of the trash train which traveled across the Nation for 26 days in search of a place to dispose of its cargo. The train began its long journey in New York City with 2,200 tons of municipal waste from the Bronx and traveled through the Midwest looking for a dump site. The train was ordered out of at least three States and was forced to return to New York State, monitored by local sheriffs, planes, and helicopters ensuring it departed each State without pause. Mr. President, this is no way to manage our Nation's solid waste.

S. 2877 is an important step in the right direction. However, today's debate is about moving garbage, not about how to reduce it, and I believe that reduction of our waste stream is truly the best way to alleviate our Nation's garbage crisis.

I recognize that the managers of this measure have chosen a strategy, which they believe is necessary, to move this important bill forward—a strategy defining a very narrow scope for this measure and limiting other amendments. I understand this effort, but think it is most important and appropriate that we take a little time to discuss some of the other steps which should and must be taken to reduce our waste stream.

Reduce, reuse, and recycle—are the buzz words of a new environmental movement. Children, families, neighborhoods, and communities have been inspired by the difference they, as individuals, can make by adopting this simple ethic. Their interests are reflected in new corporate policies on products, advertising and packaging to respond to the public commitment to reduce, reuse, and recycle.

In many communities, the effort has moved beyond sorting trash at the curb. In Greenwich, CT, the National Audubon Society, Procter & Gamble, and the Greenwich Audubon Society earlier this year sponsored a month long experiment in wet bag composting; 700 households in Greenwich participated in the experiment. They collected food waste, yard waste, wet and soiled paper, cereal boxes and other items normally considered nonrecyclable. These compostables were collected at curbside and transferred to the Fairfield compost facility, a state-of-the-art composting facility constructed in 1989, where the waste is being processed for use as compost. While the final results are not yet out, I understand that the program reduced the overall volume of household waste significantly, produced usable compost and was popular among the participants.

While communities across the Nation work to address the issues confronting their neighborhoods, we in Washington must move ahead to address the national issue of municipal solid waste. Most importantly, it is my hope that we will see action on the Comprehensive Resource Recovery and Conservation Act this year. While this issue is complex and mired in some controversy, we cannot delay reauthorizing this important measure.

There are other steps which I believe would move us forward. I am an original cosponsor of the national bottle bill. Connecticut has had a very successful bottle bill since 1980. We have achieved a recycling rate of nearly 85 percent for beverage containers. And the bottle bill has not impacted curbside recycling programs which now serve many communities in my State. Connecticut's experience with the bottle bill is not unique, other States have enjoyed similar results. It is time we move ahead to adopt this important legislation.

On another front, we should also continue our efforts to expand the marketplace for recyclables. Today, all Government documents are printed on recycled paper. We must look at other ways the Federal Government can assist this emerging market.

Mr. President, S. 2877, the bill before us, is also an important step in this comprehensive effort to address the issue of municipal solid waste. It provides States and local governments with additional control over garbage entering their States. This legislation gives the Governor of any State, on the request of local officials, the authority to ban municipal solid waste imports or cap imports at the 1991 or 1992 level—which ever is less—provided that present contracts are not abrogated.

This is a carefully balanced approach to a difficult problem. Forty-three States in our Nation export waste and 42 States import waste. Legislation impacting the movement of waste will obviously affect nearly every State. We have been fortunate in my State of Connecticut—to a great extent, our State government's waste management efforts have been successful. Unfortunately, other States have not had the same experience. Many local communities across the Nation feel that they do not have the tools necessary to address the disposal of out of State waste in their communities. This bill gives Governors and local officials these tools. No State should be a dumping ground for another's garbage and this measure will prevent that. It will reduce exports, and provide significant local control over waste imports into their communities.

I know some would be reluctant to look at this balanced piece of legislation before us, which deals only with municipal solid waste, as a precedent for future waste legislation. However, we cannot ignore that, as a Nation, we have yet to resolve the issue of high level nuclear waste and, to some extent, the issue of low level waste has been thrown into question by the recent Supreme Court decision. There are recognized efficiencies in limiting the number of these facilities in our Nation and it behooves us little to set policies today which hamper the resolution of these problems tomorrow.

Mr. President, it is clear this legislation is only a first step in confronting our Nation's municipal waste crisis and that we must rededicate ourselves to moving forward on the other critical pieces of legislation in this area that await our action. However, as I think of the 26-day journey of that train, it is also clear how critical this step is to communities and States across this Nation and I would urge my colleagues to join me in supporting this measure.

Mr. McCONNELL. I would like to expand and clarify with my friend from Indiana a point he made in a colloquy with the senior Senator from Idaho on Tuesday. In that colloquy, the Senator from Idaho was concerned that the legislation before us might expand States' authority to impose restrictions on materials other than municipal waste. In response to that concern, the Senator from Indiana indicated that he did not believe that this legislation would corrupt the requirements of narrow tailoring and compelling State interest that have been developed by the Supreme Court over the years.

My concern is with the corollary of the proposition offered by the Senator from Idaho. Is it the intent of this measure to prevent States and localities from using their authority under other Federal, State, or local laws, to curb the importation of other wastes that are not included in this bill, provided such laws are found to be consistent with the commerce clause and Supreme Court precedent?

Mr. COATS. No, it is certainly not the intent of this bill to limit State and local governments from controlling other problem solid and hazardous wastes. The definition of municipal solid waste in this bill is not all-encompassing, and there are certain types of wastes that are not included here, that are of significant public concern because of their potential toxicity. These include combustion ash from incinerators, sludges from waste water plants and industries, medical wastes, and other commercial, industrial and institutional wastes. This bill supplements whatever authority State and local governments have to regulate the transportation and disposal of those wastes.

Mr. McCONNELL. Is it fair to say then that this bill does not intend to preclude such State and local measures that are found to be constitutional.

Mr. COATS. That is correct. There is no attempt to preclude State and local initiatives, provided such initiatives are otherwise lawful and would not be considered by a court to be unjustifiably discriminatory under the so-called dormant commerce clause. The purpose of this legislation is to explicitly delegate Congress' authority to regulate municipal solid waste. It is not intended as a limitation on the authority of States to regulate any other type of waste if it is found constitutional by the Supreme Court.

Mr. McCONNELL. Then, the legislation before us is intended neither as an expansion nor a limitation on the authority of local governments to regulate wastes that are not municipal waste.

Mr. COATS. The Senator from Kentucky is correct.

Mr. McCONNELL. Would the Senator from Indiana be willing to include language to this effect in the conference report to clarify the purpose of this legislation.

Mr. COATS. Yes.

Mr. McCONNELL. I thank the Senator.

INTENT OF S. 2877 TOWARD THE RETREADING INDUSTRY

Mr. BUMPERS. Is it the Senator's intent to restrict retreading in any way?

Mr. COATS. No. The list of specific materials that are exempt under item 4(c) is essentially a laundry list of the most commonly recycled materials in municipal waste. The intent of this section is not to have a conclusive list of such materials. The example that Senator BUMPERS raises is an excellent one. I certainly recognize that recyclable tire casings intended for retreading must move across State lines, and nothing in this bill is intended to interfere with retreaders obtaining their necessary raw materials.

Mr. HEFLIN. Mr. President, I am pleased to come to the floor today in support of legislation granting States the power to restrict importation of municipal solid waste generated in other States.

Our country stands in the midst of a solid waste disposal crisis as the number of landfills has dropped dramatically, the siting of new landfills has become extremely difficult and the volume of interstate waste has exploded. Understandably, States currently receiving large amounts of out-of-State waste do not want their waste disposal capacity to be used up by garbage generated outside their borders. These States do not want other States to evade their responsibility to manage trash responsibly. Most of all, these States do not want their own communities to become dumping grounds for the rest of the country.

In States like Alabama which imports only one-fifth of the waste it exports, legislators have desperately enacted a variety of bans and restrictions on waste imports in an effort to protect the health, environment and future of their communities. However, courts are consistently striking down these statutes on the grounds that they violate the commerce clause of the Constitution which forbids States to interfere with interstate commerce without congressional authorization. Just 6 weeks ago, in fact, the Supreme Court struck down related laws enacted by Michigan and Alabama.

Fortunately, the bill before the Senate today responsibly addresses the concerns of States like Alabama which are net importers of waste. At the same time, the bill seeks to address the concerns of States like New Jersey and New York which are net exporters of waste. Those States argue that they are trying to become self-sufficient in waste disposal but that they need more time to avoid economic disruption and environmental damage from improper disposal.

The Coats-Baucus bill would address these concerns by enabling Governors to immediately ban disposal of out-of-State garbage in any landfill or incinerator which did not receive such waste in 1991. For those facilities which did receive out-of-State waste in 1991, the Governor would be permitted to freeze the volume of waste at the 1991 level. The bill would also deprive a Governor of this right to restrict or ban out-of-State waste if all of the municipal waste landfills operating in the State are not in compliance with all design, location and schedules by 1997.

This bill represents a real departure from current law by removing the commerce clause as a barrier to a State's assertion of control over solid waste coming into its borders. It may also prove to be a forerunner of efforts to restrict the interstate transportation of other types of waste. I urge my colleagues to join me in supporting these changes in the law by voting for this legislation.

Mr. LIEBERMAN. Mr. President, on Monday, July 20, 1992, Senator COATS suggested that many states, including Connecticut, could not take actions to deal with their solid waste because they are being "inundated in the flowing of trash from other States that overwhelms our ability to take reasonable steps to decide our own environmental future."

For the purpose of clarifying the record on this point, I want to note that Mr. Richard Barlow, the chief of the bureau of waste management of the Connecticut Department of Environmental Protection spoke to my office, indicating that with respect to the State of Connecticut, this statement is not correct. According to Mr. Barlow, the State is implementing a solid waste management plan based on and addressing the needs of the State of Connecticut; the State's ability to take action to deal with its own solid waste is in no way being hampered by trash from other States, according to Mr. Barlow.

My staff has reviewed the interstate issue dealt with in this bill extensively with the Connecticut DEP during the course of the last 3 years. The Connecticut DEP has indicated that it would like the authority to ensure that additional waste disposal facilities built in Connecticut, if any, be sized to meet the needs of the citizens of the State. Some local officials also have expressed similar interests, as well as a desire to vest the decisionmaking authority in local governments. This legislation provides Governors, in conjunction with the local governments, such authority, in addition to other authority to restrict the flow of waste.

Finally, Mr. President, I want to note the Connecticut DEP shares my frustration that the Senate's consideration of solid waste issues is focusing only on this interstate transport issue, rather than including critical issues such as recycling and pollution prevention. I hope we can come back to these issues later in the year.

Mr. PRESSLER. I supported the Reid amendment last night because of exactly the reasons you have been hearing today. Governors should have the right to a say in the location of the landfills within their borders. The infrastructure of the State is always affected—roads and bridges, and so forth. Once garbage is moved in, it is there to stay. The potential for pollution always exists.

An out-of-State company, RSW from Colorado, has been trying to bring out-of-State waste into South Dakota. They have not succeeded as yet, but that is only because of eight lawsuits that have been filed against their plans.

Now, the same company is willing to sell a huge landfill site to any Indian tribe that will take jurisdiction of the landfill site for the sum of only $1. That tells me that trash is a big business. I strongly opposed this action. I met with Secretary Lujan regarding the tribal land issue. I talked about this on the floor of the Senate on May 19, 1992.

Two years ago, the Rosebud Sioux tribal officials signed an agreement with a Connecticut company to accept out-of-State trash. I worked hard to help the local people defeat this measure.

There are trash brokers out looking for small, rural communities to take trash. One of my constituents brought a Reader's Digest article to my attention. It is entitled "Will this Man Trash Your Town?" It tells the story of a trash broker that is looking for communities like those that can be found in South Dakota or North Dakota or other States that are perceived to have the land space for the huge amount of garbage generated each day.

There is also the loss of agriculture lands due to siting of large landfills.

Mr. President, I ask unanimous consent that the article to which I previously referred be printed in the RECORD.

[From the Reader's Digest, July 1992]

WILL THIS MAN TRASH YOUR TOWN?

(By Trevor Armbrister)

In Vincentown, N.J., new owners take control of the Big Hill landfill. Throughout its 12-year history, the dump has accepted only ten truckloads of garbage per day. Much more, engineers warn, could worsen the pollution already appearing in the area's ground water.

Ignoring this advice, the new owners dramatically increase the volume of trash over the next five years. Nearby residents complain of litter, noise and a growing stench. Then one side of the landfill collapses, and a river of mud and garbage pours into the kitchens and living rooms of neighborhood homes. Authorities order the dump closed.

Near Ravenna, Ohio, the 127-acre Portage landfill is cited for violating the law. State officials threaten to close it down. Then an East Coast businessman appears with a plan to solve the problems.

The landfill begins accepting trash from out of state. Soon it's collecting nine times the amount the law allows; it's also receiving vast quantities of industrial waste. Hazardous juices called leachate flow into nearby Breakneck Creek at the rate of 42,000 gallons per day. "I used to fish in this creek, even swim in it," says resident Tom Hooks. "Now it's not fit to fall in." After 14 months, the state closes the dump; the man with the plan walks away.

In tiny (pop. 250) Center Point, Ind., a limited partnership buys the town dump. Soon the facility is taking tractor-trailer loads of asbestos, more than all other landfills in Indiana combined.

Then truckloads of garbage pull in from Brooklyn and Queens, N.Y., and elsewhere. Poking through the bales, inspectors find hypodermic needles, blood bags and I.V. tubes—medical waste meant for special disposal at other sites.

These nightmares, and others like them, have a common denominator—an elusive 47-year-old former schoolteacher named David Ehrlich. For nearly two decades, Ehrlich has been involved in almost every phase of the garbage trade. He has been an officer in companies that owned or operated landfills, as he was in New Jersey, and a broker of landfill sales, as he was in Indiana. In recent years, he has been orchestrating the dumping of thousands of tons of urban trash in rural communities in several Midwestern states.

Trash and Run: Operating from different positions in various corporations and partnerships, Ehrlich has found a treasure in trash. But in his wake lies controversy, litigation and environmental anxiety. Three of the dumps to which he has been connected have been designated as federal "Superfund" sites and will cost the taxpayers at least $80 million to clean up.

"Ehrlich is a Pied Piper of polluters," says Maurice Hinchey, chairman of the New York State Assembly's Environmental Conservation Committee. "The garbage haulers he services have wreaked havoc." Adds Alan A. Block, a professor at Pennsylvania State University and co-author of "Poisoning for Profit," a book on the scandal of toxic-waste disposal in America: "Ehrlich is a callous profiteer, adept at moving from state to state with virtually no opposition from law-enforcement and environmental regulators."

Born in Merion, PA., in 1945, the only child of a shirt salesman and a mother who died when he was young, Ehrlich attended local schools, graduated from the Philadelphia College of Textiles and Science, then earned a master's degree from Johns Hopkins University in Baltimore. After two years as a substitute teacher in Philadelphia, he teamed up with Richard Winn, a real-estate developer from Pottstown, Pa. Ehrlich would seek out and recommend undervalued properties. If Winn bought them, he'd give Ehrlich a finder's fee.

In 1976, Ehrlich met a sand and gravel contractor named Anthony Amadei, who needed financing to expand his landfill activities. Winn put up some money, and Ehrlich got a piece of the deal.

Playing the Game: Anyone could see that East Coast landfills were rapidly running out of space, and tighter government regulations would force "Mom and Pop" landfill owners to make costly improvements, sell out or shut down. Enormous profits could be made in collecting urban trash and hauling it to faraway disposal sites.

Ehrlich, Winn and Amadei acquired the rights to operate three landfills in southern New Jersey. When Winn and Amadei dropped out, Ehrlich found new partners and pushed west to Ohio, Indiana and Kentucky.

One common thread in these activities is a greatly increased volume of trash delivered to landfills in rural, sparsely populated communities. Then there are the families whose lives have been disrupted by the dumps:

In 1973, after Bill and Sharon Worrell started building a home in Florence Township, N.J., officials approved the siting of a small landfill across the street. No more than 15 trucks would be going to the dump weekly, the Worells were told.

Soon that number shot up to between 60 and 75 a day. Then in 1976, a firm called Jersey Environmental Management Services (JEMS) began operating the landfill. Ehrlich was an officer and part-owner of JEMS. One day, Sharon counted 225 trucks. By law, landfill employees were supposed to cover the trash every day, but for weeks they applied no cover. The stench was putrid, the noise unending; at night the Worrells could see rodents scampering across the road.

Aware of mounting complaints, Ehrlich met with township residents, "He told us he was doing nothing to damage the environment," Sharon says, "He said he was doing what he came here to do, and there was nothing we could do about it."

Then a fierce fire broke out at the dump, terrifying the neighbors. Shortly after, state officials rejected JEMS's application to expand and cited it for repeated violations. Ehrlich and his partners left town, and eventually the landfill was closed.

"To think this could go on year after year across the country," Sharon Worrell says. "Who can stop this man?"

Early in 1983, Diane and Walter Zarzycki of Chester County, Pennsylvania, purchased a home atop a steep hill in rural Newlin Township. Soon after moving in, the Zarzyckis discovered that the 22-acre Strasburg landfill was just over the hill behind their property. Through a limited partnership, Ehrlich was part-owner of the land that was leased to the landfill operator. The dump had already been cited for violations, and Ehrlich and his associates were trying to expand it to four times its original size.

In April 1983, after discovering significant levels of toxic chemicals at the site, the Pennsylvania Department of Environmental Resources (DER) fined its operator $53,025 and directed it to make the necessary repairs. When the operator failed to act, the agency ordered the dump closed.

For their household needs, the Zarcyckis used a deep well. When DER hydrogeologists tested the water, they found 20-odd hazardous chemicals. The Zarzyckis shelled out almost $6000 to drill a second well, but its water was contaminated too. Today, both wells contain high levels of benzene.

Last December, the Environmental Protection Agency warned the Zarzyckis and 200 other families living in the area about hazardous-waste contamination from the landfill: "Residents could potentially experience increased risks of cancer."

One evening in September 1988, businessman John Moore of Center Point, Ind., said to his wife, "Terri, I have really bad news." They had known their lakefront home lay just a third of a mile from the local dump, but they had been assured it would never expand. Now, John had spotted drilling pipes on the property across the street from the dump—a clear sign that change was imminent.

The invasion of out-of-state refuse began in July 1989. Prairie Resources, a company listing Ehrlich as an officer, arranged for the dumping of millions of pounds of trash at the site. Terri researched Indiana's environmental laws and convinced her neighbors they could fight back. She and her Dump Patrol then launched their counterattack.

Six mornings a week, they documented with copious notes and photographs every truck entering the dump. Some were far heavier than the 80,000 pounds allowed by law. Terri gave her reports to the Indiana Department of Environmental Management and the media. Pressure to stop the trash invasion intensified. In July 1990, with just three weeks remaining on its permit, the limited partnership—which included Brazil Holdings, Inc. (president: David Ehrlich)—sold the landfill.

In one year at Center Point, more than 100,000 tons of trash had been dumped. But the operator had never installed a leachate collection system, and Terri Moore is convinced it's only a matter of time before contaminants enter the water supply. "They used us as a garbage can," she says. "I want to find a way to hold Ehrlich and the others responsible for what they've done."

Vanishing Act: Ehrlich, however, is hard to track down. John A. MacDonald, a former deputy attorney general of New Jersey, conceded, "I have never laid eyes on him. It is very hard to find people who have." In Indiana, the senior environmental investigator said, "He's like a piece of smoke."

After months of trying to locate him, I got a tip to check out a New York City address. Another source gave me the unlisted phone number. For days I called and left messages. Finally, my phone rang.

"I'm not trying to be mysterious," Ehrlich said, "but there are public-relations problems being David Ehrlich. My hands are clean, but I don't want the aggravation. These stories of loot and scoot are just not true."

Did he feel sorry that tens of millions of dollars would be needed to clean up the dumps? Absolutely not, he said, adding that he and partner Winn had spent $1.7 million implementing a court order to remove leachate from the Strasburg site. That order had been unjust, he continued, because "we never ran the landfill. We were officers of a company that owned an interest in the land." Pennsylvania's Environmental Hearing Board agreed, ruling in 1989 that although the company was liable for cleanup costs, Ehrlich and Winn were not. Concluded Ehrlich: "I think taxpayers owe us money."

Taxpayers Billed: Cleaning up the Strasburg facility, a SuperFund site, will cost at least $10 million. The other SuperFund sites in New Jersey will require a total of at least $70 million. Big Hill is not on the SuperFund list, so the state's taxpayers are shouldering some $20 million there. "We're going to have to pay out tens of millions and then sue to get it back," says John MacDonald.

Ehrlich may be spending a lot of time in court. New Jersey's Department of Environmental Protection has filed an action against hundreds, including Ehrlich. The firm that insured one of the three landfills in that state has sued him—as well as former partners Amadei and Winn—in U.S. District Court. The defendants have denied any wrongdoing. For what happened at Ohio's Portage landfill, Ehrlich and others are being sued by the state.

Despite these troubles, Ehrlich is hardly destitute. By his own admission, he receives salaries from four different corporations—two of which broker trash. Those brokers earn a commission of about $2.50 for every ton of garbage they move. The dollars add up. In 1991, for example, the Ehrlich-brokered Spring Valley landfill in Wabash, Ind., agreed to accept some 1000 tons of trash every day. The broker's cut of that: $2500 per day—from a single dump.

Ehrlich spends most of his time today in Florida seeking ways to expand to other states. "I would head anywhere to make a living," he said.

That may be difficult for him now. In 1978 the U.S. Supreme Court ruled that the commerce clause of the Constitution precluded states from barring garbage from other states. But the Court has recently heard two new cases that could overturn that finding. A decision is expected soon.

Ehrlich is watching the Supreme Court carefully. "A negative decision would mean I would not be able to broker interstate shipments of waste," he told me.

In a weed-strewn lot in Chester County, Pennsylvania, stands a gleaming white sign: "Strasburg Landfill. U.S. EPA SuperFund site, Danger, Hazardous Materials. No Trespassing."

Jack Hines, West Bradford, Pa., town manager, points to the marker and offers advice to people who might be tempted by the Pied Piper's promises: "Stop the trash trucks before they start. If you don't, they're going to ruin your community."

MODIFICATION TO THE BINGAMAN AMENDMENT

Mr. LEVIN. Mr. President, I am pleased that the managers of the bill and Senator BINGAMAN, the author of the amendment, are willing to accept the modification I have proposed. It will add the United States-Canada border region to the area in which the EPA must perform a study of numerous important solid waste management issues. Additionally, the modification requires the EPA to propose a method by which border traffic in solid waste between the United States and Canada, and the United States and Mexico, can be tracked by source and destination.

The State of Michigan, and I am sure many other States along the United States-Canadian border, have experienced a great back and forth flow of garbage which no one is tracking. For long-term planning and safety and environmental reasons, Michigan requires the data that will be produced by this amendment.

Mr. President, the bill that we are discussing is very important to the State of Michigan's efforts to protect its natural resources and environment. This bill will provide the States with the authority to ban or restrict the importation of solid waste under certain circumstances.

Right now, in large part due to the Supreme Court's recent decision in the Fort Gratiot Landfill versus Michigan Department of Natural Resources case, States, counties and local governments are at the mercy of landfill operators who may choose to contract for the importation of large quantities of out-of-State municipal wastes. This bill allows the local people responsible for long-term management of local resources to take some measure of control over the solid waste coming into their area. In Michigan's case, they are required by State law to work together at all levels of government to manage their waste responsibly so that there will be sufficient capacity for locally generated waste.

Mr. President, S. 2877 is a step in the right direction of self-sufficiency, pushing States that have been slow to manage waste generated within their boundaries to enact more responsible laws and programs in those States. S. 2877 is necessary, given the Supreme Court's decision, to allow States to continue to operate with some ability to prevent out-of-State waste from displacing locally generated waste and prematurely filling sited landfills or forcing the siting of new landfills. S. 2877 is a good basis from which I urge the conferees to develop a better bill, one that would encourage States to adopt model solid waste management programs like Michigan's.

As the National Governors Association, the National Association of Counties, and the National Association of Towns and Townships have indicated to me, a better bill can be obtained. I ask unanimous consent that those organizations' letters to me be printed in the RECORD following my remarks.

As S. 2877 is presently written, prohibition of waste imports may only occur when several levels of government are in complete agreement—the local government, the solid waste planning unit, and the Governor. Achieving agreement to obtain this prohibition should not be a serious problem in Michigan, since State law already requires the development of management plans requiring cooperation by the local government, the local planning unit—the county in Michigan's case—and the Governor.

Mr. President, this bill is not perfect. The parliamentary situation is such that amendments to substantially improve the bill cannot be passed. But this bill is better than no bill for Michigan. My preferred option would have been to simply authorize Michigan's program in this bill, thereby providing explicit congressional approval of that program, which the Supreme

Court found to be partially unconstitutional. I cosponsored an amendment that would have had the effect of authorizing Michigan's program. However, as the vote in the Senate last night on that amendment shows, the majority of Senators felt that the amendment did not help their States enough.

I encourage my colleagues to consider making changes to this bill in conference that will incorporate the need for long-term capacity planning, increase the options for States to prevent the importation of out-of-State waste, and provide greater flexibility and authority to States and local governments to adopt management schemes that best suit their circumstances. This bill can be improved in these areas and I will be working with the conferees to do that.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
TOWNS AND TOWNSHIPS,
Washington, DC, July 21, 1992.

Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: On behalf of the 13,000 local governments represented by the National Association of Towns and Townships (NATaT), I am writing to express concern over a provision in S. 2877, the Interstate Transportation of Municipal Waste Act.

NATaT and its members have a concern about the provision in Section 4011 that requires the written request of both an affected local government and an affected local solid waste planning unit in order for the Governor to prohibit the disposal of out-of-state municipal waste. NATaT strongly believes that this language should be changed to read that a request by the "affected local government or, if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit" can be made to the Governor.

Local governments are solely responsible for the disposal and management of solid waste. If a local government does not want to accept out-of-state waste and the planning unit does want to accept it, the local government should be able to request the Governor to halt the import of the waste. The local government is responsible for the roads that surround the landfill, the safety of the water near the landfill, and other responsibilities that the solid waste planning unit does not have. Thus, the local government should not have its hands tied by the wishes of the planning unit.

On behalf of NATaT's members, I urge you to support language that requires only the request of either the affected local government or the solid waste planning unit to allow the Governor to prohibit the disposal of out-of-state municipal waste.

Thank you for your attention to this important matter.

Sincerely,

JEFFREY H. SCHIFF,
Executive Director.

Washington, DC, July 17, 1992.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEVIN: We are writing to you about S. 2877, the interstate waste bill introduced by Senators Max Baucus and Dan Coats. This bill addresses interstate transportation of municipal solid waste and its disposal in unwilling states and communities, one of the most pressing problems facing state environmental managers.

The nation's Governors have agreed that state self-sufficiency in the management of municipal solid waste is the best long-term solution to this problem. We also agree that differential fees and limited bans to protect and ensure optimal use of state capacity offer the best way to encourage states to take responsibility for their own waste, while avoiding short-term disruption of interstate waste markets. In our view, S. 2877 is an important step forward in empowering states and communities to deal with interstate waste, but stops short of giving states the tools needed to respond adequately to this problem.

We suggest the following improvements:

Provide Governors Direct Authority to Protect Wider State Interests. We recognize the important and legitimate interests of local governments in the issue of waste importation. This bill, however, must also give Governors direct authority to represent the numerous state interests and responsibilities that lie beyond those of a single local government.

States are responsible for coordinating state-wide solid waste management plans including long-range disposal capacity planning and source reduction and recycling efforts. We also have a stake in the effect on transportation patterns, the concerns of neighboring communities, the total "loading" of disposal facilities on the state's economic, political, and ecological environment, potential near and long-term environmental liabilities of a facility, and the state's overall economic development philosophy and image.

The bill, as written, provides no direct authority, even to the four largest importing states, to protect state interests at facilities that did not receive waste in 1991 and at future facilities. States would not be able to protect in-state capacity needs or limit the development of capacity that far extends states needs and is used primarily for waste imports.

Because there may be an economic incentive for a community to accept waste from outside the state rather than waste from a neighboring community, more communities may be hurt than helped by a system that does not encourage the coordination of capacity needs. These conflicts can be averted by allowing states to ban waste imports that would conflict with in-state capacity needs. In addition, states should be permitted to set limits on waste imports so that facilities handle primarily in-state waste. These limits could be expressed as a ratio of in-state to out-of-state waste handled at each facility, unless a waiver is granted.

Authorize states to impose a fee on waste imports that will compensate the importing state for the costs of state oversight of facilities as well as for long term liability costs. Unfairly, citizens of importing states end up subsidizing the costs of state programs to carry out these responsibilities for waste generated outside the state.

Authorize all states to freeze waste imports at 1991 or 1992 levels at facilities that received waste in 1991, upon the Governor's initiative. As written, the bill allows only four states currently importing more than one million tons per year of out-of-state waste to exercise such authority.

Delete the loss of authority section. This provision requires that all operating landfill cells in the state meet the 1993 federal design and location standards by 1997 or be on a closure schedule for the year 2000. If a facility fails to meet this test, the Governor of the state in which the facility is located loses all interstate waste authorities. This provision is illogical from an environmental standpoint because it requires that if one landfill cell in the state is not meeting design and location standards then the floodgates must open to out-of-state waste. This inappropriately places the burden on the importing rather than exporting states.

Unlike the bill, the federal landfill rule makes no reference to operating landfill cells. It sets standards for the landfill as a whole based on whether it is an existing or new facility. If the effect of this ambiguity is that the more stringent standards for new facilities will be applied to all operating landfill cells, even if they are part of an existing facility (one that was receiving waste in 1993), a Governor would be forced to decide between shutting down an environmentally-sound facility that a community may depend upon or losing all interstate waste authority. The bill also does not recognize that states will be permitted flexibility under the rule for design standards if the state has an approved permit program.

Allow either the affected local government or the local waste management planning unit, if one exists, to request a freeze or ban. The bill requires that both entities initiate the request.

State governments are implementing a wide variety of progressive solid waste programs. Interstate waste transport, along with market development for recycled materials, are areas where we need assistance from Congress. While we have raised serious reservations about this bill, S. 2877, with the above changes, would provide a predictable means of reducing waste flows, encourage waste reduction and recycling efforts in both importing and exporting states, and contribute to better capacity planning efforts.

Sincerely,

GOV. GEORGE A. SINNER,
Chairman,
GOV. NORMAN H. BANGERTER,
Vice Chairman, Committee on Energy and Environment.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, July 20, 1992.

DEAR SENATOR: As the Senate begins debate on interstate transport of solid waste, I am writing to reiterate the position of the National Association of Counties (NACo) that local governments or solid waste planning units, in those states where they exist, should have authority to decide whether a landfill or incinerator can accept solid waste from another state. NACo is pleased that this principle is recognized in S. 2877.

Counties and solid waste planning units are best positioned to assess the health, social, economic and physical impact of waste disposal facilities on the immediate community. In incorporating these facilities into economic development strategies, some communities have successfully negotiated terms, conditions and fees under which they are operated to provide environmental safeguards. NACo recognizes a state role to ensure that facilities meet applicable state and federal environmental laws.

A closely related problem that NACo hopes the Senate will consider during its deliberation on S. 2877 is the ability of state and local governments to designate waste to particular facilities and limit the export of locally generated municipal waste to another site. Counties currently face problems in financing state of the art landfill, recycling and waste-to-energy projects unless they can assure lenders that sufficient waste will be available to allow a facility to function efficiently and meet its financing costs. Control over the disposition of locally generated waste is important to the success of municipal waste management.

NACo urges you to consider both aspects of the import/export equation so that counties can undertake effective planning and implement comprehensive municipal solid waste plans. Attached are NACo resolutions on these critical issues. I thank you for your attention.

Sincerely,

LARRY E. NAAKE,
Executive Director.

Mr. GLENN. Mr. President, I rise today in strong support of passage of S. 2877, the Interstate Transportation of Municipal Waste Act of 1992. While this bill does not provide everything I would like, it is a major step in the right direction and a substantial improvement in the current situation.

The accumulation of solid waste in municipal landfills is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials today. According to the Ohio Environmental Protection Agency [OEPA], all the landfills in Ohio could be full by the year 2000.

The legislation before us gives States the authority to prohibit and limit out-of-State waste at landfills and incinerators. Under an amendment which I cosponsored, the bill also gives additional powers to large importing States. It permits Governors to freeze imported municipal waste imports and to decrease levels of waste accepted in the future if requested by the local government. This authority is particularly important to large importing States like Ohio whose volume of imported waste declined from a peak of 3.7 million tons in 1989 to 1.7 million tons in 1991. This decline in imports is in all likelihood a temporary aberration as new Federal RCRA subtitle D regulations on landfills take effect in all States, more waste may move toward Ohio's already existing new best available technology [BAT] facilities.

Mr. President, it is important to note that the authority to reject out-of-State waste is linked to a State's demonstration of planning and siting of environmentally sound capacity within its own borders. Banning imported waste is not a substitute for long term and comprehensive solid waste management. That's why we need an overall evaluation of where we and our environment stand now and where we're headed on this issue. For this reason, the General Accounting Office [GAO] at my request, is researching questions that need to be answered in order to create long-term solutions to the increasing waste problem. I have asked GAO to focus on several critical issues including: options for dealing with waste disposal, management and transportation, the role of the U.S. Environmental Protection Agency, and ways to coordinate States' efforts to dispose of solid waste.

As old landfills are closed or filled up, Ohio has reached the point where of 88 counties, 28 have no landfills and 35 have 5 years or less capacity. We cannot implement our environmental objectives and handle thousands of tons of imported trash at the same time. Requiring my State and others to manage both their own solid waste problems as well as other States' problems is neither fair nor possible.

We owe it to future generations not to simply act in the short term, or to just sweep all this garbage under the rug. Our environment is too fragile and the impact on our citizens is too severe for us to ignore this problem any longer.

Mr. President, we must act decisively and we must act now to avert a national crisis in solid waste disposal. I urge my colleagues to join me in supporting S. 2788.

Mr. BRADLEY. Mr. President, it has been a long 4 days. We have spent a lot of time on the Senate floor and a lot of time in intense negotiations.

Mr. President, I am informed that the bill before us, as amended, is acceptable to my State of New Jersey. This bill will not be punitive. Garbage trucks will not be backed up on the interstates. Trash will not fill up in our streets while we wait for new facilities to be built. There will be no sticker shock. My constituents won't be forced to pay untold millions in garbage ransom to politicians in a hostile State. New Jersey has asked for time to provide for a transition and this bill will give us the time we need.

Having said that, however, I must return to the central focus and purpose of this bill. This legislation is not intended to improve the environment. It's not likely to create jobs. It is now and has always been driven by local politics and not public policy. As public policy, this legislation is sadly misguided. It pits State against State, Governor against Governor. It makes many decisions increasingly political that should be based on environmental and economic criteria. This bill makes it likely that we'll soon be facing other attempts to manipulate crassly and politically issues that are best considered in light of their national implications.

Today, we start with a focus on municipal waste—household garbage—a less than pernicious commodity. What is the rationale for stopping with garbage? Why not include sewage sludge or hazardous waste, as some would demand? Why not address nuclear waste, as the Senators from Nevada would surely prefer? The problem with this bill is that there is no good response to these questions. Now, we deal piecemeal with an issue that must be considered comprehensively. If any such interstate waste restrictions ever make sense—and I am skeptical that such a case can be made—it has to be as one element of a national solid waste policy. In isolation, this legislation represents little more than a political assault on our federation of States, dividing and diminishing our collective strength.

Mr. COATS. Mr. President, I wonder if I could just take one moment to acknowledge the very real help of the chairman and ranking members of the committee, the floor managers of this bill. Senator BAUCUS and I have been working on this matter for a long time, and it has been a long, tough, hard road. He has been someone who has kept his word and negotiated in good faith. I appreciate his patience and his persistence.

I also want to thank my friends from North and South Dakota for their willingness to work out an admittedly serious and difficult problem, and, once again, reiterate my sincere sympathy with their concerns and trust that this will go a long way to resolving them.

I also thank our staffs, particularly Sharon Soderstrom and Ziad Ojakli, on my staff, and others who have worked so extraordinarily hard and for so long on this.

Senator BOREN and Senator MCCONNELL have asked to be original cosponsors, and I ask unanimous consent to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, first, I would like to thank the manager of this bill for all he has done in connection with it. I know he made a commitment to Senator COATS the end of last year, and he followed through on that commitment and has driven our actions in the Environment Committee in trying to report something out because the distinguished Senator from Montana felt he made this commitment and was going to pursue it and fulfill that commitment. I think that is very honorable, and I know he has given a lot of time and careful thought and patience to this legislation.

I also would like to thank the majority leader, who has permitted us to work on this for 3½ days now, which is a long time for a very small piece of legislation.

Next, I would like to commend the staff. Senator COATS had already mentioned Sharon Soderstrom and Ziad Ojakli, on his staff, and I know that Senator BAUCUS will mention those on his staff. I would like to join in tribute to Cliff Rothenstein and Tom Sliter and Mike Shields; on our staff, of course, Steve Shimberg and Claudia McMurray, Rich Innes, Cheryl DeSiena; and with Senator METZEN-

BAUM, Ellen Bloom; Morrie Ruffin with Senator SPECTER; Ann Loomis with Senator WARNER; and Greg Schnacke with Senator DOLE. All of these folks have made a tremendous contribution.

I must say we soon learn that the staff knows the details and knows how to reach accommodation. Thank goodness they were all here, and it is because of their work these various accommodations were made possible.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I heartily join the Senator from Rhode Island in his thanks to the staff. We all know that, as often said—it is essentially true—the Senate sometimes is run by staff; maybe not all the time but certainly many times they are the people who enable us to do what we do.

In addition to the minority staff, on our side, Cliff Rothenstein and Tom Sliter, Jim McCarthy, and those who are staff members of the principal Senators involved in this issue, namely, Rick Erdheim with Senator LAUTENBERG and Roy Kienetz with Senator MOYNIHAN on the majority side, in addition to Senator CONRAD and Senator DASCHLE with respect to this amendment. I would also like to thank Kate Kimball, Rich Innes, Steve Shimberg of the Environment and Public Works Committee.

I would like to also pay particular attention to and thank Mr. Jim McCarthy. Jim McCarthy, on the floor seated second to my left, is delegated to our staff from the CRS. Jim McCarthy is the one who thought up the solution to this amendment. I must say Jim McCarthy is not a lawyer. He sat back and watched all this, working diligently, and it was he who came up with this suggested solution. It is he who found a way to solve this puzzle and to untie the Gordian knot. Cliff Rothenstein, Tom Sliter, and Jim McCarthy have been a super team on our side, and I particularly thank them.

Mr. CONRAD. Mr. President, might I add my own words of commendation to Mr. McCarthy because he came up with a very creative solution to a difficult problem. It has divided us for many hours, and he really does deserve all of our commendation and thanks. I want to add my voice to that as well and thank my own staff person, Liz Magill, who was here late last night and all day today, and I very much appreciate the efforts of all staff who contributed, as well as the staff of Senator CHAFEE, who also pitched in creative suggestions.

Mr. COATS. Mr. President, I wonder if the Senator will yield for 30 seconds. I do not want to turn this into an Academy Awards effort here this evening.

Mr. BAUCUS. Why not. Why not.

Mr. COATS. I was remiss in not mentioning the extraordinary patience of Senator MITCHELL, who was reluctant to even schedule this legislation in the first place, given the busy Senate Calendar, with few remaining legislative days in this session. Senator MITCHELL not only scheduled the legislation but extended it on two occasions—extraordinarily helpful to this Senator and to others.

I would just relate the very brief story relative to this final solution being devised by someone who is not an attorney. When I first left law school and went to work for a business that employed attorneys, on hiring me, the president of the company called me in and said, "You know, we operated this business for 35 years without an attorney. You are the second one hired and they tell us we need a third. We never knew we had a problem until we hired an attorney."

I do not know what relevance that might have for the future of this body, but it may be we need more Jim McCarthy's around to help solve our problems.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Is there further debate?

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the vote on final passage of S. 2877 occur immediately following the cloture vote scheduled to occur at 7:20 p.m., notwithstanding the outcome of that cloture vote, provided that if the cloture vote is vitiated, then the vote on final passage of S. 2877 occur at 7:20.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I rise this evening to congratulate the managers of S. 2877, Senator BAUCUS and Senator CHAFEE, and all those who worked so hard on this legislation.

I especially commend and congratulate my colleague from Indiana, Senator COATS, who has worked tirelessly to see that States are given the necessary tools to deal with the problem of out-of-State waste.

The "Trash Train Terror" or the "P.U. Choo Choo" could be the title of a grade B movie or a horror novel. Unfortunately, Mr. President, it was a horror for my State of Missouri. I talked to the people. I talked to the folks who picketed the landfills to stop the trash from coming in. I talked to the local officials who were terrified that their landfills would be overwhelmed by trash that had not been planned for that community.

It happened once, it could happen again. I am certain if we do not do something it will happen again, and I think that is why we need this bill and need it so urgently.

The bill managers, joined by Senator COATS, Senator SPECTER, and others, yesterday agreed on the compromise. Many provisions in this bill were compromised. I think it is reasonable and balanced. Clearly it is not everything that any of us really wanted, but that, as they say, is a sign of good compromise. The key point is that we do have a compromise, one which everybody can live with. They can be sullen but not rebellious, and I hope we can see this legislation passed by both Houses and signed into law.

This action tonight moves us one step closer to giving States the authority that they so badly need to control their trash destiny.

Mr. President, this is a bill that we need very badly. It is not the most pleasant subject we have ever dealt with on the floor of the Senate, but at least we have been able to deal with it at a distance. Those people in the communities threatened by the invasion of unwanted garbage will now have some means of protecting their future and planning for their communities.

I thank the Chair.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPROVED ENERGY EFFICIENCY

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to the previous order there will now be 30 minutes of debate relative to the motion to invoke cloture on the motion to proceed to H.R. 776.

The Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Wyoming [Mr. WALLOP] each control 10 minutes of the debate time.

Mr. BENTSEN. Mr. President, tonight we can pave the way for the passage of a very comprehensive energy bill to help production, to help conservation, and to curtail dependence on foreign oil.

In accordance with the unanimous-consent agreement reached prior to the Fourth of July recess, we are scheduled to vote on cloture today on the motion to proceed to H.R. 776, the House-passed energy bill.

As my colleagues are well aware, the Senate has already considered and passed energy legislation once this year. In February, the Senate, after debating at length, passed by an overwhelming 94 to 4 vote S. 2166, the National Energy Strategy Act of 1992. The House, however, did not act on that particular bill. Instead, the House acted on a new bill—H.R. 776. And they included in it an energy tax title, in addition to the nontax titles.

Of course, since the Senate had already acted once on energy legislation, it would have been easier to have gone straight to the conference on the House bill by unanimous consent. That would have been the most direct approach. However, some Senators raised objections to that approach, as was their right. Thus, H.R. 776 was referred to the Finance Committee for review of its tax provisions, and the Finance Committee promptly reported out a substitute for the tax title. When the Senate turns to H.R. 776, the energy legislation we will consider will combine this new tax title with the nontax provisions from S. 2166 passed by the Senate in February.

I urge my colleagues to vote for cloture so that we can move expeditiously to consider this bill—to debate and vote on the merits of the legislation. It is a major energy conservation measure. It is important to the future well-being of our country. We have a lot of work to be done in conference to iron out the differences between the House and Senate bills, and we have a short time to get it done.

Undue delay in the Senate—of a bill that has, in large part, already been passed by the Senate—could well be fatal to passage of energy legislation in this Congress. But this energy bill is simply too important to delay indefinitely on procedural grounds. Most of us know that. Ninety-four of us have already voted for S. 2166. And the Finance Committee has approved the new tax title.

These are important provisions that are critical to the development of a meaningful national energy policy—something I think this entire country has been without for far too long. For many, it took a war in the Persian Gulf to drive that point home. In fact, the U.S. energy policy as it exists today is best described by just two words: Desert Storm.

We simply cannot continue to go down the road of an increasing—and I believe a very dangerous—dependence on foreign oil. We now import almost half of the oil we consume—some 46 percent on a gross basis. That represents an increase by almost one-half over our import dependence in 1985.

This trend of increasing imports is expected to continue. I do not see it turning around, even under the most optimistic production estimates, assuming we can maintain current production levels, estimates place U.S. oil dependence in excess of 50 percent by the middle of this decade. But it is far from clear that domestic production is going to hold. For example, in the last 6 years, domestic oil production has plunged nearly 15 percent, resulting in production that is at its lowest level in over 30 years. A quick look at the active drilling rig count—which recently dropped to the lowest level since World War II—does not bode well for future domestic production either.

We talk about the loss of jobs in the automobile industry. Perhaps we have had far more loss of jobs in the oil industry. People do not seem to share the concern on that. Yet, if you look at the deficit in trade and merchandise trade, almost 75 percent of that comes from oil.

If you look beyond the current decade, the Congressional Office of Technology Assessment suggests that oil imports could reach almost 70 percent by the year 2010. Let me give you an example of what that means. That means 36 supertankers every day. Thirty-six supertankers every day to meet that kind of a need. That is what they will have to deliver.

That kind of dependence has obvious energy and national security consequences, and so far this is just a sampling of the possible consequences. By our dependence on foreign oil, we have had a very adverse effect on our economy every year. Look at our balance of payments deficit. In 1991, oil imports accounted for about $50 billion, or as I stated earlier, some 75 percent of our $66 billion merchandise trade deficit. As import levels increase, we can expect our oil import trade deficit to also mount.

We must act this year to address this kind of a situation, and we should not imperil energy legislation by further procedural delay.

All of you are familiar with the nontax provisions that the Senate passed in February, and I will leave it to the distinguished chairman of the Energy Committee to get into that detail and make those very valid points. Let me speak to how the Finance Committee's tax provisions address the growing dependence on foreign oil, and also at the same time doing things to benefit our environment. I think fending off 36 supertankers filled with oil every day is one of those things that reflect concern for the environment.

These provisions follow, to a significant extent, the so-called green tax package that was adopted by the House. There are three main components to the Finance Committee package.

First, the Finance Committee amendment encourages energy conservation to reduce our Nation's energy consumption. For example, it encourages conservation in the transportation sector—which accounts for almost two-thirds of our oil consumption in this country. It does it by tilting the tax treatment of employer-provided transportation benefits more toward mass transit and less toward parking provided by employers for their employees. It also promotes conservation in the residential, commercial, and industrial sectors by excluding utility rebates, and they do that to encourage the use of conservation machinery and equipment. It excludes those measures from the taxpayer's income. So he has a major bonus if he utilizes it.

Second, the Finance Committee amendment stimulates the development of alternative and renewable energy sources that will lessen our reliance on foreign oil and also provide significant environmental benefits. For example, it provides tax credits for solar, geothermal, ocean thermal, wind, and renewable biomass energy sources. It also provides tax incentives to further the use of domestically produced, clean-burning fuels in both cars and trucks used on our Nation's highways—clean-burning fuels, such as natural gas, electricity and, as the Presiding Officer is well concerned and interested in—methanol and ethanol.

Third, the Finance Committee amendment provides incentives for the domestic production of oil and gas by providing limited relief from the minimum tax, to reduce our reliance on foreign oil.

Thus, the Finance Committee amendment offers a balanced approach. Its tax components complement the energy bill that the Senate has passed. And it has the backing of major environmental groups, who recognize the importance that energy conservation and alternative energy sources, in particular, will have on our energy future. These groups, incidentally, also back the excise tax increases on ozone-depleting chemicals that are used to pay the energy tax provisions in the committee amendment.

I urge my colleagues to vote to invoke cloture on the motion to proceed so we can ensure that these provisions are enacted this year.

We should at least have the opportunity to debate the substance of the provisions, and we should do nothing that jeopardizes the enactment of this very important energy policy legislation. The Senate has spoken very strongly on the nontax provisions, and the Finance Committee strongly supports the provisions it reported out.

I urge my colleagues to support this piece of legislation and proceed on it.

The PRESIDING OFFICER. The time has expired.

Mr. BENTSEN. I yield to my distinguished friend, the chairman of the Energy Committee, who has done a massive, excellent effort in putting this legislation together.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank my colleague from Texas.

I yield myself 5 minutes.

Mr. President, when we set out to craft an energy bill some time ago, we did it in the afterglow of Desert Storm when we had sent 500,000 American troops on account of energy to the Middle East. We did it at a time when energy production was going down fast, when energy consumption was going up fast, when the country was taking no steps, no steps to reverse that trend.

So we set about to put together a comprehensive, balanced, effective energy bill that would reverse the trend. And some thousand pages and over a year later, we have it, and it has passed this Senate by 94 to 4. A similar bill, not exactly the same, has passed the House by almost a 10 to 1 margin, and the question tonight is whether the Senate is going to allow us to consider that bill.

Mr. President, we are being held hostage to those who want to pass other legislation or who oppose other legislation and will not let us get to the bill.

This is a highly controversial bill that has many sections that are going to take a long time to work out. We have transmission access which is part of the Public Utility Holding Company Act reform, is one of the most far-reaching, one of the most controversial, one of the most difficult areas of the law that anybody ever considers. I think we can work that section out, but it is going to take a lot of time.

We cannot do it overnight. We have got everything in this bill—from alternative fuels that mandates 4 million vehicles by the year 2000, to use alternative fuels. That is in the Senate bill. The House has no such mandate. That is a central question that is going to take a lot of time to work out.

Mr. President, if we do not get to this energy bill tonight, if we do not invoke cloture, I fear for the future of this bill. I do not think we are going to have time. I mean you just cannot get over there and work it out in a few hours. This is over 1,000 pages long.

There are a lot of people who would like to see this bill defeated—big oil does not much like this bill; some of the bigger utilities do not particularly like this bill. They like the natural monopoly they have but across the broad range of American energy users and consumers, and environmentalists and most producers like this bill very, very much. And to use the words of a letter just received today, "it would be tragic if this well-crafted legislation, representing strong bipartisan and multi-interest efforts, were allowed to flounder after having passed both Houses with an overwhelming majority of votes."

Mr. President, this letter, by the way, urges prompt Senate action on this Comprehensive Natural Energy Policy Act, and points out that "The result, if enacted, will be vigorous competition in wholesale power generation and more efficient use of wholesale electricity transmission grids, benefiting electricity consumers, the environment, and America's international competitiveness."

That letter is signed by the Sierra Club, the American Wind Energy Association, Citizen Action, Electricity Consumers Resource Council, Friends of the Earth, Integrated Waste Services Association, National Wildlife Federation, American Public Power Association, Consumer Federation of America, Environmental Action, Independent Energy Producers, National Rural Electric Cooperatives Association, Texas Industrial Energy Consumers, and the Union of Concerned Scientists.

Mr. President, I ask unanimous consent that the letter referred to, signed by the environmental groups, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 23, 1992.

Re Conference on S. 2166 and H.R. 776—National Energy Strategy.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: We, the undersigned, are a broad and diverse coalition representing industrial and residential electricity consumers, competitive power generators, electric utilities, and environmental advocates. We write to urge prompt Senate action on the Comprehensive National Energy Policy Act, recently sent to the Senate by the House and amended by the Senate Finance Committee.

Each signatory has worked closely with Members of the Senate and House to ensure that the electricity title—amending the Public Utility Holding Company Act of 1935 ("PUHCA") and expanding access to electricity transmission systems—contains strong incentives to bring competition and increased efficiency into the country's wholesale electric power markets. While the House and Senate bills differ in how they would achieve such a wholesale power market, we are confident that the Senate provisions can be reconciled with the greater competitive incentives and consumer protections contained in the House proposal.

As you know, Congress has been debating PUHCA reform for over ten years. In the past two years, our unique coalition has found common ground by integrating PUHCA reform with expanded access to electricity transmission systems. The result, if enacted, will be vigorous competition in wholesale power generation and more efficient use of wholesale electricity transmission grids, benefiting electricity consumers, the environment, and America's international competitiveness.

We understand that difficult issues have delayed Senate action. However, it would be tragic if this well crafted legislation, representing strong bipartisan and multi-interest efforts, were allowed to founder after having passed both Houses with an overwhelming majority of votes.

In closing, we thank you for your leadership and urge you to bring this important legislation to the Senate floor and to conference with the House as soon as possible.

American Wind Energy Association, Citizen Action, Electricity Consumers Resource Council, Friends of the Earth, Integrated Waste Services Association, National Wildlife Federation, Sierra Club, American Public Power Association, Consumer Federation of America, Environmental Action, Independent Energy Producers, National Rural Electric Cooperatives Association, Texas Industrial Energy Consumers, Union of Concerned Scientists.

Mr. JOHNSTON. Mr. President, I read this because this is sort of the environmental side of this equation. I could have an even longer list of those who consume, such as the National Association of Manufacturers, such as the Chamber of Commerce, those who produce, from big utilities to those who produce natural gas, down the line.

This is the most balanced bill we have ever had.

If we do not get cloture tonight, then just what do we do? We move on to other legislation. We have a bill in here that the majority leader has promised to consider on dealing with abortion. How long is that going to take? Before we know, we will be out for the August recess and we will not be coming back until September 7. And there is not going to be time.

This Senate has to make up its mind whether it is going to sacrifice this bill which is supported by the Democrats, supported by the Republicans, supported by the Senate, supported by the House, supported by the President, supported by the environmentalists, by the producers, by the consumers, by everybody, and yet the question is, are we going to tie ourselves in knots and not even consider the bill?

America is watching and America has been watching, Mr. President, as we have not acted on various pieces of legislation. They call it gridlock, and some people in Congress say, well, the American people just do not understand, they do not understand how difficult this legislation is.

Mr. President, the question is the very simple, straightforward: Are you going to consider this legislation or not? And if you vote not to consider it, then count yourself as a Member who stands for gridlock. And if this bill goes down because we do not have time to work it out, then point the finger at yourself if you vote no on cloture.

We need to get to cloture. We need to do it tonight because we have a lot of work to do, and I hope the Senate will invoke cloture.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BREAUX). The Senator has 3 minutes remaining.

Who yields time?

The Chair will advise that the time will be deducted equally between the Senator from Louisiana and the Senator from Wyoming if no one yields time.

Mr. JOHNSTON. Mr. President, who has time remaining?

The PRESIDING OFFICER. The Senator from Wyoming controls 10 minutes, and the Senator from Louisiana has approximately 3 minutes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent, since I do not have but 3 minutes, that the time be deducted from those who are not here, since they are not here to defend themselves, and I do not think they are coming.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Hearing none, it is so ordered. The time will be deducted.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, with the time charged as previously stated.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I realize that time is controlled by Senator JOHNSTON. I ask unanimous consent that the remaining minute be yielded to me.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes remaining.

Mr. JOHNSTON. Mr. President, I yield 1 remaining minute to the Senator from Colorado.

Mr. WIRTH. I thank the distinguished Senator for yielding. I wish to commend him, Senator WALLOP and others on this legislation. It is absolutely imperative that we vote for cloture. This is one of the single most important pieces of legislation that we are going to face this year.

We have an opportunity now, for the first time in well over a decade, to do something about energy. The situation that we face was clearly illustrated over and over and over again. We are seeing ramifications of that now with all the potential reaction from the Persian Gulf war, plus the enormous hemorrhaging of our scarce national treasury that is going out for energy.

I just wanted to come over and put in a word or two in support of the chairman in proceeding to H.R. 776, which we have to do as rapidly as possible.

I hope my colleagues all vote for cloture, and let us get on with this very, very important piece of national legislation.

Let us get to the point. This bill is our one and only chance to enact an energy policy this year. If we stop here, we are not going to get another chance. If we want an energy bill, now is the time.

The chairman of the Energy Committee and the chairman of the Finance Committee have made clear their intention to substitute the text of the energy bill the Senate passed last February for the nontax provisions of the House bill, and to resist all amendments to those provisions.

I am going to support that strategy, and support it strongly. I urge all my colleagues to do the same.

The Senate-passed bill was thoroughly debated. Dozens of amendments were offered, debated, and decided. We went through every issue, and everyone had their fair shot. The chairman had to make major changes in the bill in order to get a consensus on moving it forward. To his credit, he made those changes, because he was committed to getting the best bill possible enacted into law. Not a perfect bill. Not everything I wanted. Not everything the chairman wanted. Not everything the administration or the ranking member of the committee wanted. But the best—the most—that could actually be successfully passed by this body.

The bill took the Energy Committee a year to put together. After it was reported, it took us months to get to the point where we could proceed. To the credit of all involved, we did find that point, and kept moving forward. Let us not stop now.

Was the result perfect? No. But it must have been pretty good, because we passed it 94-4.

That is the way the legislative process is supposed to work. It worked last February. Let us not forget that. We passed an enormously complicated, comprehensive, 400-page energy policy bill, by an overwhelming margin. Let us not lose sight of that for one minute.

Let us not lose that now in an effort to see who can use the threat of killing this bill to get more into it. We have already been through that. We had to set aside some very important issues in order to reach consensus. Let us not destroy that consensus, or kill its product. If we want the Senate to work, we should honor the work we have already done.

Mr. President, there is a very strong argument to be made that the single best thing we could do for this country's energy policy would be to require our automobiles to go further on less gasoline. This bill would not do that. But I also know that an amendment to raise the CAFE standards would cut the consensus behind this bill to shreds. So I strongly believe such an amendment should not be offered now.

Mr. President, there is strong disagreement on some of the tax items in this bill. But we will not get to vote on those issues and move forward if we do not get cloture on the motion to proceed.

I want to remind people what is in this bill, and why we need to move forward on it. The Senate version of this bill includes conservation initiatives which will cut consumers' energy bills by more than $30 billion over the next two decades. It creates a comprehensive energy planning process which, for the first time, will be aimed at meeting our energy needs at the least cost. It will change the way we regulate our utilities to enable far greater competition in the generation of electric power, and change utility regulation to encourage private investment in even more energy conservation.

It provides a breakthrough in requiring us to develop real, workable alternatives to gasoline as a fuel for our cars and trucks. Without those alternatives, we are doomed to increasing dependence on imported oil.

It takes giant steps in streamlining the approval of new natural gas pipelines, and in promoting the use of natural gas as an efficient, cleanburning, and domestically produced fuel for our future.

And the tax provisions of this bill not only help promote the development of solar, wind power, and other renewable energy resources, but also provide significant aid to independent oil and gas producers, enabling them to continue to explore to replace the fuel reserves we are using up today.

Can we turn our backs on that? I hope not. If you are interested in achieving some real, on-the-ground progress on energy policy in this country, please vote for cloture on this bill. Without that vote, all our work, and all the on-the-ground results I spoke of before, will die.

I urge all my colleagues to join in keeping this energy bill alive.

Mr. President, I think that uses up my time. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will now state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency:

J. Bennett Johnston, David L. Boren, Alan Cranston, Fritz Hollings, Bob Kerrey, Robert Byrd, Howell Heflin, John Breaux, George Mitchell, Howard M. Metzenbaum, J. Lieberman, J.R. Biden, Jr., F.R. Lautenberg, Jim Sasser, Slade Gorton, Warren B. Rudman, Phil Gramm, Connie Mack, Jake Garn, Frank H. Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 776, an act to provide for improved energy efficiency, shall be brought to a close? The yeas and nays are required. The clerk will now call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 58, nays 33, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—58

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—33

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Gorton
Gramm
Hatfield
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Pressler
Rudman
Seymour
Simpson
Smith
Thurmond
Wallop
Warner

NOT VOTING—9

Burdick
Garn
Gore
Hatch
Helms
Packwood
Roth
Stevens
Symms

The PRESIDING OFFICER. On this vote the yeas are 58, the nays are 33. Three-fifths of the Senators duly chosen not having voted in the affirmative, the motion is not agreed to.

Under the previous order, the next order of business is the vote on final passage of S. 2877, as amended. The yeas and nays have been ordered. The clerk will call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to ask the majority leader a question before we have the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, despite the best efforts of the majority leader and those of us who are trying to pass this bill seems to be the victim of what is being called gridlock across America. I wonder if the majority leader has any idea about where we might go from here. Do we reconsider this at some time or do we abandon the energy bill? I am wondering if the majority leader has some advice for us.

Mr. MITCHELL. Mr. President, I am disappointed that we were not able to obtain cloture on the motion to proceed to this bill. I think it is a very important measure. It contains a large number of provisions that are desirable and in the national interest.

To answer the specific question raised, it is not my intention to abandon the bill, but, rather I think it now best if the distinguished chairman of the committee, myself and other interested Senators meet to consult and attempt to determine the best course of action with respect to the bill.

Mr. JOHNSTON. I wonder, Mr. President, if I may ask whether there is any hope that those who are working on the so-called Rockefeller amendment might be able to resolve that tonight and we might bring the bill back tomorrow and perhaps finish it up at that time.

Mr. WALLOP. Mr. President, will the majority leader yield?

Let me just say that we worked in Senator BYRD's office. We were not able to get to that conference until 5:30. We worked right up until the moment that the vote was called. And in that process we were very close.

There are not many things that need to be resolved. There is a scoring problem on one of the resolutions that we thought we had. It seems to me that with a good-faith effort we can get finished so we can proceed to the bill.

I regret, more than the majority leader because I think there is more in this bill that I like than he likes, that we were unable to do that. But I think it is important that we resolve this tax issue, that is, tax applied to people to satisfy an obligation which was incurred by people other than themselves. We are trying to solve the problem in a way that is equitable.

The problem is rather simple. There are some families and miners in this country who were, or thought they were beneficiaries of contracts. Their companies now no longer exist or their companies have abandoned or pulled out of union contracts, one thing and another, and those are people whose concern is shared by Senator ROCKEFELLER, Senator FORD, and myself. The other concern is whose obligation it is to satisfy it.

We think we are very close, we are trying hard, and I believe we will get it done.

Mr. JOHNSTON. I know the Senators are working hard, as this has been pending for 4 or 5 weeks, if I recall. I just wonder if they are going to meet again tonight and whether we might expect to be able to move tomorrow or is it some undetermined time next week when the next meeting is?

In other words, a lot of Senators are going to be heading out tomorrow unless we are going to be considering this bill, I guess.

Mr. DOLE. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Certainly.

Mr. DOLE. I want to underscore what the Senator from Wyoming has said. I was sort of an observer in the meeting in Senator BYRD'S office. There was a lot of progress made. If we resolve it, there need not be any motion to proceed; we could proceed to the bill. It should not take long to pass it. We passed it once in the Senate 94 to 4. It has already been through this body one time. Hopefully, there would not be any amendments.

So I think with a little more patience and the good faith negotiations they were having in Senator BYRD'S office with Senator ROCKEFELLER, Senator FORD, Senator WALLOP, and Senator BYRD, this could maybe be resolved by Monday.

Mr. JOHNSTON. I thank the Senators.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

The Senate continued consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the yeas and nays have been ordered on final passage of the bill S. 2877, as amended. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

On this vote, the Senator from Utah [Mr. HATCH] is paired with the Senator from Idaho [Mr. SYMMS]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Idaho would vote "nay."

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 2, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—89

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—2

Mack
Simon

NOT VOTING—9

Burdick
Garn
Gore
Hatch
Helms
Packwood
Roth
Stevens
Symms

So the bill (S. 2877), as amended, was passed, as follows:

S. 2877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Waste Act of 1992".

SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end thereof the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—

"(1)(A) Except as provided in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government, and an affected local solid waste planning unit, if such local solid waste planning unit exists under State law, a Governor may—

"(i) prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government; or

"(ii) with respect to landfills covered by the exception provided in subsection (b)(1), limit the amount of out-of-State municipal waste received for disposal at each such landfill in the State to an amount equal to the amount of out-of-State municipal waste received for disposal at the landfill during the calendar year 1991 or twice the volume of the first six months of 1992, whichever is less, as determined by the Administrator in accordance with paragraph (4) of this subsection.

"(B) Prior to submitting a request under this section to prohibit or limit the disposal of out-of-State municipal waste, the affected local government and the affected local solid waste planning unit, if any, shall—

"(i) provide notice and opportunity for public comment concerning any such proposed request; and

"(ii) following notice and comment, take formal action upon any such proposed request at a public meeting.

"(C) A Governor may not exercise the authority granted under this section if such action would result in the violation of or failure to perform any provision of—

"(i) a written, legally binding contract that was lawfully entered into by the affected local government and which authorizes a landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government;

"(ii) a written, legally binding contract for disposal of municipal waste generated outside the jurisdiction of the affected local government that was in effect on (date of introduction) except to the extent that the actual amounts of municipal waste generated outside the jurisdiction of the affected local government received for disposal at the landfill or incinerator under such contracts exceed the amount imported under such contracts in 1991 or twice the volume of the first six months of 1992, whichever is less (this clause shall not apply after June 18, 1999, to the extent that such contract prevents a Governor from exercising the authority granted by paragraphs (2)(A)(ii) and (3)); or

"(iii) a written, legally binding contract for disposal of municipal waste generated outside the jurisdiction of the affected local government that is consistent with, and was lawfully entered into after June 18, 1992, as the result of—

"(I) a host agreement; or

"(II) a written, legally binding, contract that was lawfully entered into by the affected local government and authorizes a landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government.

"(D) A Governor may require that contracts covered by (i), (ii), or (iii) of subparagraph (C) of this paragraph be filed with the State.

"(2) Except as provided in paragraph (1)(C), a Governor, of a State identified by the Administrator in accordance with paragraph (4) of this subsection, as having received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991 may, with respect to landfills covered by the exceptions provided in subsection (b), beginning with calendar year 1993—

"(A) notwithstanding the absence of a request in writing by the affected local government and the affected local solid waste planning unit, if any—

"(i) limit the amount of out-of-State municipal waste received for disposal at each such landfill in the State to an annual amount equal to the amount of out-of-State municipal waste received for disposal at the landfill during the calendar year 1991 or twice the volume of the first six months of 1992, whichever is less; and

"(ii) limit the disposal of out-of-State municipal waste at landfills that received, during calendar year 1991, documented shipments of more than one hundred thousand tons of out-of-State municipal waste representing more than 30 per centum of all municipal waste received at the landfill during the calendar year, by prohibiting at each such landfill the disposal of out-of-State municipal waste in annual volumes greater than 30 per centum of all municipal waste received at the landfill during calendar year 1991, and

"(B) if requested in writing by the affected local government and the affected local solid waste planning unit, if any, prohibit the disposal of out-of-State municipal waste in landfill cells that do not meet the design and locational standards and leachate collection and ground water monitoring requirements of State law and regulations in effect on January 1, 1992, for new landfills.

"(3) Except as provided in paragraph (1)(C) and in addition to the authorities provided in paragraph (1)(A) beginning with calendar year 1999, a Governor of any State which receives more than 1 million tons of out-of-State municipal waste, if requested in writing by the affected local government and the affected local solid waste planning unit, if any, may further limit the disposal of out-of-State municipal waste as provided in paragraph (2)(A)(ii) by reducing the 30 per centum annual volume limitation to 20 per centum in each of calendar years 1998 and 1999, and to 10 per centum in each succeeding calendar year.

"(4)(A) Any limitation imposed by the Governor under subparagraph (A), of paragraph (2), shall be applicable throughout the State, shall not discriminate against any particular landfill within such State, and shall not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(B) In responding to requests by affected local governments under subparagraph (1)(A) of this subsection, and subparagraph (B) of paragraph (2), the Governor shall respond in a consistent manner that does not discriminate against any particular landfill within the State and does not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(5)(A) Any Governor who intends to exercise the authority provided in this paragraph shall, within sixty days after the date of enactment of this section, submit to the Administrator information documenting the amount of out-of-State municipal waste received for disposal in the Governor's State during calendar year 1991, and the first six months of calendar year 1992.

"(B) Upon receipt of such information, the Administrator shall notify the Governor of each State and the public and shall provide a comment period of not less than thirty days.

"(C) Not later than sixty days after receipt of information from a Governor who intends to exercise the authority provided in this paragraph, the Administrator shall determine—

"(i) the amount of out-of-State municipal waste that was received at each landfill covered by the exceptions provided in subsection (b) for disposal in the State during calendar year 1991 and the first six months of calendar year 1992, and

"(ii) whether the State received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991.

The Governor of each State and the public shall receive notice of the determinations of the Administrator.

"(D) Not later than one hundred and twenty days after the date of enactment of this section, the Administrator shall publish a list of—

"(i) the amount of out-of-State municipal waste that was received at each landfill covered by exceptions provided in subsection (b) for disposal in the State during calendar year 1991 and the first six months of calendar year 1992 as determined in accordance with subparagraph (C), and

"(ii) the States identified by the Administrator under subparagraph (C) as having received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL WASTE.—Except as provided in subsection (a)(2), the authority to prohibit the disposal of out-of-State municipal waste provided under subsection (a) shall not apply to—

"(1) landfills in operation on the date of enactment of this section that—

"(A) received, during calendar year 1991, documented shipments of out-of-State municipal waste; and

"(B) on the date of enactment of this section, are in compliance with all applicable State laws (including any State rule or regulation) relating to design and locational standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action;

"(2) proposed landfills that, prior to April 29, 1992, received—

"(A) an approval from the affected local government to receive at such landfill municipal waste generated outside the county or the State in which the landfill is located; and

"(B) a notice of decision from the State to grant a construction permit; or

"(3) incinerators in operation on the date of enactment of this section that—

"(A) received, during calendar year 1991, documented shipments of out-of-State municipal waste;

"(B) are in compliance with applicable performance standards under section 129(a) of the Clean Air Act (42 U.S.C. 7429(a)) and applicable monitoring requirements under such section, and otherwise meet applicable requirements of section 129 of such Act; and

"(C) are in compliance with all applicable State laws (including any State rule or regulation) relating to facility design and operations.

"(c) LOSS OF AUTHORITY.—Notwithstanding the authority provided in subsection (a), after January 1, 1997, a Governor may not prohibit or limit the disposal of out-of-State municipal waste unless all operating municipal waste landfill cells in the State—

"(1) meet the design and locational standards that are applicable to landfill cells constructed on and after October 1993; or

"(2) are on enforceable schedules—

"(A) to stop receiving waste by January 1, 2000; and

"(B) to implement a closure plan.

"(d) DEFINITIONS.—As used in this section:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, of other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with state law.

"(3) With respect to a State, the term 'out-of-State municipal waste' means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal waste generated outside of the United States.

"(4) The term 'municipal waste means refuse (and refuse derived fuel) generated by the general public and from residential, commercial, institutional, and industrial sources, consisting of paper, wood, yard wastes, plastics, leather, rubber, and other combustible materials and noncombustible materials such as metal and glass. Such term does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001 of this Act;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under sections 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or otherwise diverted from municipal waste and has been transported into the State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the proviso of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste as to physical and chemical state, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste;

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'host agreement' means a written, legally binding agreement, lawfully entered into between an owner or operator of a landfill or incinerator and an affected local government that (A) authorizes the landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government and (B) if executed after June 18, 1992, was available for public review and comment prior to execution.".

SEC. 3. BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in subsections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—

(A) the Immigration and Naturalization Service of the Department of Justice; and

(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

SEC. 4. STUDY OF INTERSTATE TRANSPORTATION OF NON-HAZARDOUS INDUSTRIAL WASTES.

(a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of non-hazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of non-hazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial non-hazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial non-hazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining or uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy; and

(5) solid waste regulated under subtitle C of the Resource Conservation and Recovery Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

CHANGING OUR WAYS

Mr. CRANSTON. Mr. President, the Carnegie Endowment National Commission on America and the New World—an outstanding panel of academics, former senior government officials, and heads of international organizations—has just issued a remarkable report called, "Changing Our Ways."

I urge my colleagues to obtain a copy of this report and study it. It's available at the Brookings Institution here in Washington. It is a challenging document for us all.

The 90-page report, the product of 6 months solid work, concludes that as currently constituted, we are not prepared for the future.

In grappling with issues foreign and domestic, with the uncertainties of the moment and the dilemmas of the future, this Commission has concluded that simply altering our policies will not suffice.

Citing Albert Einstein's trenchant observation that, "The release of atom power changed everything except our way of thinking", the Commission declared that, "what troubled Einstein troubles us."

We have to change our "way of thinking." About what is important. About making the most of our third chance. About our engagement abroad and renewal at home. About the promise for a richer, cleaner, safer, and freer planet. Changing our ways, America can lead such a world into the 21st century.

The Commission declared that three fundamental principles should guide America:

First, our foreign policy must be founded on a renewal of our domestic strength; rebuilding our economic base is now our highest priority.

Second, our national interests require continued American leadership in the world; we must not retreat into neo-isolationism or protectionism.

Third, our leadership must be of a new kind—one that mobilizes collective action; few great goals can be reached without America, but America can no longer reach many of them alone.

The Commission advocates four broad objectives for the United States.

For a more prosperous America and a more prosperous world we must:

Adopt an aggressive strategy for economic revival at home that favors investment in the future over consumption for the moment;

Overall the international system of trade and finance, moving toward effective collective leadership by the major industrialized countries;

Renew our commitment to help poor nations; and

Invest in the future of former Communist countries.

For a more livable planet we must:

Increase our energy efficiency by significantly raising energy prices, lifting our performance toward that of other industrialized countries;

Give high priority to improving the environment through sustainable economic growth and ecological agreements;

Resume decisive American leadership in world population policy;

Develop a stronger multilateral approach toward humanitarian crises and migration; and

Combat our drug problem where it counts—at home.

For a safer world we must:

Remain the leading military power even as we significantly reduce our defense spending and overseas deployments;

Realign NATO and CSCE to deal with the new security problems and overseas deployments;

Strengthen the peacekeeping capacities of the United Nations and regional organizations;

Promote collective leadership by adding Japan and Germany as permanent members of the U.N. Security Council; and

Strive for a less militarized world by cutting in this decade global defense expenditures to half of their 1988 peak, reducing weapons of mass destruction and halting their proliferation.

For a freer world we must:

Practice at home what we preach abroad about liberty and justice; and

Build democracies through multilateral pressures and incentives;

The commission notes that—

These goals frequently overlap and tend to reinforce one another. The advance of democracy enhances prospects for peace. The promotion of cost-effective energy efficiency helps national security, economic growth and the environment. But our goals can clash as well. Rapid democratization can produce instability. Rapid adjustment to "greener" policies can disrupt industries.

The goals we have proposed will not be easily achieved. They will require sustained, unified national effort. We will have to make hard choices. As we go forward, the United States must be unsentimental in separating the essential from the desirable.

What is required is a fusion of our values and our needs. Now that the Cold War is over, America must not revert to a cycle of expansive idealism alternating with narrow self-interest—both, at heart, forms of unilateralism. It is time to build a consensus on new priorities.

I wholeheartedly endorse that sentiment:

> It is time to build a consensus on new priorities.

The members of the commission brought widely varied backgrounds and experiences to their task. Each of them are renowned and respected. I ask unanimous consent that a list of the individuals who participated in the commission's deliberations, together with brief biographical summaries, be printed in the RECORD after my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CARNEGIE ENDOWMENT NATIONAL COMMISSION ON AMERICA AND THE NEW WORLD

Winston Lord, Chairman, former U.S. Ambassador to the People's Republic of China; former President of the Council on Foreign Relations, Inc.; former Director of U.S. State Department Policy Planning State.

Morton I. Abramowitz, President, Carnegie Endowment for International Peace; former U.S. Ambassador to Turkey and Thailand; former Assistant Secretary of State for Intelligence and Research.

C. Fred Bergsten, Director of the Institute for International Economics. Chairman of the Competitiveness Policy Council; former Assistant Secretary of the Treasury for International Affairs.

Stephen W. Bosworth, President, U.S.-Japan Foundation; former U.S. Ambassador to the Philippines and Tunisia; former Director of U.S. State Department Policy Planning Staff.

John Brademas, former President of New York University; former U.S. Congressman (D-Indiana).

Frank C. Carlucci, Vice Chairman of the Carlyle Group; former U.S. Secretary of Defense; former Assistant to the President for National Security Affairs.

Henry G. Cisneros, Chairman, Cisneros Asset Management Company and Cisneros Benefit Group; Deputy Chairman of the Federal Reserve Bank of Dallas; former Mayor of San Antonio, Texas; former President of the National League of Cities.

Barber B. Conable, Jr., former President of the World Bank and Distinguished Professor, University of Rochester; former U.S. Congressman (R-New York).

Admiral William J. Crowe, Jr., former Chairman of the Joint Chiefs of Staff and former Commander-in-Chief, U.S. Pacific Command.

John Deutch, Institute Professor, Massachusetts Institute of Technology; former Provost, MIT; former Undersecretary of the U.S. Department of Energy.

Thomas R. Donahue, Secretary-Treasurer, AFL-CIO; former Assistant Secretary for Labor-Management Relations, U.S. Department of Labor.

Daniel J. Evans, Chairman, Daniel J. Evans Associates; former United States Senator; former Governor, state of Washington.

Craig J. Fields, President and CEO of the Microelectronics and Computer Technology Corporation; former Director of the Defense Advanced Research Projects Agency (DARPA).

Richard N. Gardner, Henry L. Moses Professor of Law and International Organization at Columbia University; of Counsel, Coudert Brothers; former United States Ambassador to Italy; former Deputy Assistant Secretary of State for International Organization Affairs.

David R. Gergen, Editor-at-Large for *U.S. News and World Report;* political commentator for "The MacNeil/Lehrer Newshour." former Communications Director in the White House.

William Gray, President, United Negro College Fund; former U.S. Congressman (D-Pennsylvania).

Richard Holbrooke, Managing Director, Lehman Brothers; former Assistant Secretary of State for East Asian and Pacific Affairs.

James T. Laney, President of Emory University; former Dean, Candler School of Theology, Emory University.

Jessica T. Mathews, Vice President of the World Resources Institute and columnist for *The Washington Post*; former Director of the Office of the Global Issues on the staff of the National Security Council.

Alice M. Rivlin, Senior Fellow of the Brookings Institution; former Director of the Congressional Budget Office (CBO) and Assistant Secretary for Planning and Evaluation in the U.S. Department of Health, Education, and Welfare.

Paula Stern, President of the Stern Group; former Chairwoman and Commissioner of the International Trade Commission (ITC); former Senior Associate, Carnegie Endowment for International Peace.

Richard N. Perle, Resident Scholar, the American Enterprise Institute for Public Policy Research; former Assistant Secretary of Defense for International Security Policy.

James R. Schlesinger, Counsellor for the Center for Strategic and International Studies; Chairman of the Mitre Corporation and Senior Advisor, Lehman Brothers; former U.S. Secretary of Energy; former U.S. Secretary of Defense; former Director, Central Intelligence Agency.

Richard N. Perle and James R. Schlesinger participated in the deliberations of the Commission but chose not to associate themselves with the report.

Bill Moyers and Condoleezza Rice were original members of the Commission. Their schedules precluded their participation.

Mr. CRANSTON. I yield the floor.

SIGNING OF THE HIGHER EDUCATION ACT

Mr. BINGAMAN. Mr. President, I am very pleased that today the President signed into law the Higher Education Amendments of 1992. To reauthorize this bill took an enormous amount of work, and I wish to thank all those in both the House and the Senate who have made this signing possible today. I would especially like to thank Senators PELL, KENNEDY, KASSEBAUM, and HATCH for their leadership in guiding this process to its successful conclusion.

After more than a year and a half of gathering information and negotiating provisions, we have made a major statement with regard to our commitment to and investment in postsecondary education in this country. There are many aspects of this bill that are noteworthy, but I would like to highlight only a few.

Clearly, one of the most historic provisions of this bill is the Direct Student Loan Pilot Program with 35 percent of the pilot institutions offering an income contingent repayment option to their student borrower. This provision, more than any other aspect of the amendments, focuses on the growing needs of middle-income families to pay for the college education of their children. The students of the middle class and nontraditional students were the primary focus of Senator BRADLEY'S proposed legislation, The Self-Reliance Loan Program. As an original cosponsor of that legislation I believe, as Senator BRADLEY did, that there had to be an alternative way for families from the middle class and families of nontraditional students to finance a college education. I commend Senators BRADLEY, SIMON, and DURENBERGER for their efforts to legislate an innovative alternative to financing postsecondary education. Access to a college education is vitally important to our country's future. This provision will allow hundreds of thousands of students who were ineligible for guaranteed student loans to obtain financing to pursue a college education or postsecondary training.

Other aspects of major importance are the simplification provisions for applying for student aid such as a single needs analysis for all Federal student aid programs, elimination of several elements from needs analysis, necessary notification to the student when his or her loan is sold, and a reduction in the number of loan deferment categories as well as a free Federal form. Having reviewed previous student aid forms, I can sympathize with any family that has had to go through this process, and I will be very thankful to the committee for these provisions when my own son applies to college in a few years.

An issue of serious concern was the fraud and abuse in the current student loan program. This year alone there will be $3.2 billion in unpaid student loans. This act has many excellent provisions for increasing the availability and integrity of Federal student aid programs. However, the one area of the bill which I believe should be stronger is institutional integrity. While many strides were taken to ensure that only quality institutions participate in the Federal student aid programs, we did not go far enough to tighten State licensing standards.

Over the past several years, the Guaranteed Student Loan [GSL] Programs have been spotlighted in Federal and State investigations and reports, lawsuits, and newspaper and television exposés because of fraud and abuse. Most the horror stories have arisen from unscrupulous schools that exploit students to gain access to Federal student loan dollars. During the many hearings held over the past 4 years by Congressional Education and Investigative Committees and the Department of Education, witnesses came forth to ask for stringent guidelines for State licensing. Even organizations representing State education officials asked for Federal government leadership in this area.

The Senate bill contained provisions requiring States to implement licensing standards and requirements which should be the first step in the process. They should ensure consumer protection. They should guarantee that the citizens of the State who become students of its institutions will not be exploited and that the institutions meet all State laws.

Unfortunately, the State licensing standards were not included in the final version of the bill. However, many of the sensible requirement for schools that were in the Senate provisions were included as requirements for schools to participate in Federal student aid programs. States must now create State boards to review institutions. The Secretary of Education has the right to direct these boards to review schools that appear to have problems or are failing to serve students appropriately.

I am concerned, however, that these boards do not have the authority to act on their own to initiate reviews. In the past the Department of Education has been the last to recognize problems with schools. State agencies and officials working on the front lines are the first to know when there are problems and they should be allowed to act whenever a school fails to meet minimum standards. They should not have to wait many weeks, months, or even longer until the Department of Education recognizes the problem before they can act. While the boards are waiting for information from Washington, students will be exploited and precious Federal student aid dollars will be squandered.

I was very pleased that in title V—educator recruitment, retention and development—of the act we were able to incorporate several new programs to encourage talented individuals to pursue teaching careers. I have been actively involved in legislation to recruit teachers, particularly minority and women teachers, in high needs areas as well as legislation with respect to education standards. The provisions in the act focus on improving the quality of the Nation's teachers by increasing the number of available fellowships for teachers, increasing the number of minorities and nontraditional students entering the teaching profession and improving teaching standards.

It is my belief that, in the future, we will need to work more closely with our Latin American neighbors in cooperative educational arrangements that benefit both us and our Latin American counterparts. I was pleased to see that another of my provisions was included allowing for Department of Education grants for the purpose of expanding cooperative education programs between State education agencies and offices, schools, and school systems, institutions of higher education, appropriate educational entities and private sector establishments involved in education between the United States and the Republic of Mexico.

I am especially pleased that an amendment I proposed to part (a) of title III of the act, creating a $45 million grant program for Hispanic serving institutions was incorporated into the act. These institutions under this provision are high need colleges and universities enrolling significant numbers of low income Hispanic students. This provision provides funds to strengthen these institutions' capacities, facilities, faculty, and curriculum development, acquisition of scientific or laboratory equipment, purchase of library, periodical and other educational materials, academic tutoring, counseling programs, and student support services to better serve their students.

I firmly believe that education reform should be a major priority of everyone in this country. This act goes a long way to address some of the major issues confronting our educational system. This act expands access to education, creates new opportunities to finance a college education for many students, simplifies access to student aid, attempts to address the fraud and abuse in the current Student Loan Program, and enhances efforts to recruit teachers and to retain them. We will need to monitor what we have legislated and evaluate whether or not our legislation addresses the concerns they were meant to address adequately. As we monitor and evaluate the postsecondary Federal programs we will also have to address in pending legislation the many concerns in the elementary and secondary schools which educate and prepare the students for college and for work. This is only the very beginning of the overall systemic changes that will be needed to address the concerns of our education system and the impact that our education system has with respect to our overall competitiveness in the international arena.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER TO PROCEED TO CONSIDERATION OF S. 3026

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate begin consideration of S. 3026, the Commerce, State, Justice appropriations bill on Monday July 27, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 101-549, appoints Mr. John Doull, of Kansas, to the Risk Assessment and Management Commission.

THE PACIFIC YEW ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3836, the Pacific Yew Act, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; further that any statements relating to this measure be placed in the RECORD at an appropriate place; further, I ask unanimous consent that Calendar No. 528, S. 2851, the Senate companion measure, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (H.R. 3836) was deemed read three times and passed.

PACIFIC YEW ACT

Mr. JOHNSTON. Mr. President, on July 1, the Committee on Energy and Natural Resources unanimously reported S. 2851, the Pacific Yew Act, as amended. The amended legislation incorporates a number of primarily minor and technical suggestions made by the administration during a hearing the committee held on June 24 as well as other suggestions the committee received. These changes include amendments the House incorporated in House companion legislation, H.R. 3836, which was approved by that body on July 7. The House-passed bill and the Committee-reported bill are essentially the same.

This important legislation will improve the management of the Pacific yew—taxus brevifola—a bush-like tree which grows wild in some of the forests of the Western United States from central north California to the southeastern tip of Alaska. It is most abundant in the moist areas of Oregon, and has also been found in some areas of Idaho and Montana. The bark of this tree is the source of taxol, one of the most promising drugs used to treat ovarian cancer.

Ovarian cancer is the fourth most frequent cause of cancer mortality in women. About 1 in every 70 women will develop cancer of the ovary and 1 in 100 will die from this disease. An estimated 20,700 cases of ovarian cancer were diagnosed in 1991, and approximately 12,500 deaths were attributed to it last year.

Right now, there is no diagnostic method accurate enough to be used for routine screening in women who experience no symptoms. Because most women have no symptoms in the early stages of this form of cancer, most women have widespread disease by the time it is diagnosed. Only 39 percent of women diagnosed with ovarian cancer survive 5 years.

Taxol was first subject to clinical trials in 1983, and the results are very encouraging. Previously treated ovarian cancer patients have experienced a remission rate of about 30 to 35 percent. Indeed, many believe taxol may be effective in treating a number of other cancers including breast, lung, and colon cancer as well as childhood leukemias. Initial studies in women with advanced breast cancer, for example, have shown a response rate of about 50 percent. No one has been cured, but it is fair to say that many experts believe taxol may be one of the most important anticancer agents discovered in the last decade.

One of the major problems in taxol development is the difficulty faced in obtaining sufficient quantities of the drug. The sole current source of taxol for human use is the bark of the Pacific yew. Collecting the bark is a labor-intensive, time-consuming process. The slow-growing yew reaches a height of about 30 feet and a diameter of 8 to 10 inches and most commonly is found in old growth forests, scattered among the Douglas fir and other giants, in shady moist areas. Although not considered rare, except in a few locations the yew is also not a dominant species and can be difficult to locate. It is believed that there are approximately 23 million yew dispersed across some 11.5 million acres of National Forest System lands and some 6.5 million yew scattered across 2.1 million acres of Bureau of Land Management lands. Once found, current harvesting technique requires that the tree be cut and the bark stripped from the tree. There is no clearcutting of the yew, given the scattered nature of its distribution, and the remaining stump often resprouts and produces another tree.

Progress is being made in increasing the number of yew available for use in the production and development of taxol. Significant efforts are now underway to propagate Pacific yew from branch-tip cuttings in nursery-like settings at the Coeur d'Alene, ID, Carson, WA, and Chico, CA Forest Service facilities as well as BLM's Horning Tree and Seed Orchard at Colton, OR. The long-term success of these efforts however has yet to be demonstrated. In addition, Bristol-Myers Squibb, under contract with Weyerhauser, has planted over 4 million yew trees with plans to plant an additional 10 million trees this year on various privately owned lands under nursery-like conditions. It is expected that these seedlings will grow into a 2 or 3 foot tree within 2 to 3 years, and will be available for processing into taxol at that time. Important research efforts are also being undertaken to try to extract taxol from other parts of the yew—such as yew needles and from other varieties of yew found outside the Pacific Northwest—and to produce taxol through cell cultures. I would also note that great strides have been made in trying to develop a synthetic version of taxol, a process which is very difficult because of the complexity of the molecule.

We all hope that the efforts underway to find alternate and renewable sources of taxol will have positive results very soon, but for the next 2 to 3 years, according to the National Cancer Institute, the only source we are likely to have is the bark of the Pacific yew. Moreover, because a product produced from needles or synthetically must meet good manufacturing practices to be approved for human use and an infrastructure for production and distribution put into place in the case of a synthetic, it is expected that we will continue to need bark from the Pacific yew for the next 4 or 5 years.

I would also point out that the demand for taxol is expected to increase significantly when the new drug application [NDA] is approved, perhaps as soon as early next year. Therefore it is necessary that we make every effort to improve forestry management and assure that we do not waste this lifesaving resource.

This legislation will make sure that Pacific yew trees are fully harvested before commercial loggers enter Federal lands. Steps have been taken administratively to improve harvesting practices but more remains to be done. Since about 50 percent of the bark used to extract taxol comes from trees on Federal lands, this legislation is particularly important.

In addition, once the NDA is approved and taxol becomes available commercially, the bark must be sold. Currently, the bark is provided to the manufacturer—which was selected by a competitive process—through a Cooperative Research and Development Agreement [CRADA] as authorized by the Federal Technology Transfer Act. This bill will allow it to be sold, consistent with current requirements for commercial applications.

This bill also contains important provisions to help conserve the yew. It takes the bark of approximately three mature trees to supply enough taxol for one patient for one year, and we must make sure that we conserve this resource for future patients until alternative sources are available. Therefore, section 4 requires an inventory of the Pacific yew on Federal lands, and section 5 requires research to be undertaken on the ecology of the yew, utilizing other parts of the tree to extract taxol, research on other yew species, and also provides for a propagation program in both agricultural and commercial settings.

I believe this bill will help us use this resource wisely by maximizing the availability of the yew bark while making sure that sufficient numbers of yew remain available for the future. It is critical that we do so if we are to meet the demands for taxol from many cancer patients who have no other hope right now.

I strongly support this legislation and believe it will ensure that yew bark is not wasted, and that the availability of taxol for cancer patients, whose very life may depend on access to this drug, is expedited.

I urge my colleagues to support this measure, and the Senate to adopt it.

RELIEF OF MARY P. CARLTON AND LEE ALAN TAN—S. 295

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 295.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 295) entitled "An Act for the relief of Mary P. Carlton and Lee Alan Tan", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. IMMEDIATE RELATIVE STATUS FOR MARY P. CARLTON AND LEE ALAN TAN.

(a) IN GENERAL.—Subject to subject (b), for the purposes of the Immigration and Nationality Act, Mary P. Carlton, the window of a citizen of the United States, and Lee Alan Tan, the stepchild of a citizen of the United States, shall be considered to be immediate relatives within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in these cases.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if Mary P. Carlton applies to the Attorney General, on behalf of herself and Lee Alan Tan, for adjustment of status pursuant to such subsection within 2 years after the date of the enactment of this Act.

(c) ADJUSTMENT OF STATUS.—Mary P. Carlton and Lee Alan Tan shall be considered to have been lawfully admitted to the United States, and be eligible for processing, for purposes of adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(d) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Mary P. Carlton and Lee Alan Tan shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the Senate concurred in the amendment of the House.

Mr. DOLE. I move to lay that on the table.

The motion to lay on the table was agreed to.

RELIEF OF THE PARINI FAMILY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3289, a bill for the relief of members of the Parini family, received earlier today from the House, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (H.R. 3289) was deemed read three times and passed.

ORDER FOR STAR PRINT—REPORT NO. 102-320, TO ACCOMPANY S. 2864

Mr. MITCHELL. Mr. President, I ask unanimous consent that Report No. 102-320 to accompany S. 2864, the Export Enhancement Act, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:08 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System.

At 5:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that it has passed the following bills and joint resolution:

H.R. 2735. An act to make miscellaneous changes in the tax laws;

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergion Manuel Parini;

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; and

H.J. Res 502. An act disapproving the extension of non-discriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

The message also announced that the House has passed the following bill, with amendments; in which it requests the concurrence of the Senate:

H.R. 2607. An act to authorize the activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times, and referred as follows:

H.R. 2735. An act to make miscellaneous changes in the tax laws; to the Committee on Finance;

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; to the Committee on Finance; and

H.J. Res. 502. An act disapproving the extension of non-discriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times, and placed on the Calendar:

H.R. 1435. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior; and

S. 3008. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3644. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1991; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3645. A communication from the Acting Comptroller of the Department of Defense, transmitting, pursuant to law, reports of violation of section 1517 of title 31, United States Code; to the Committee on Appropriations.

EC-3646. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 404 of title 37, United States Code, to make a technical correction to ensure the continued intent of travel and transportation allowance entitlements with the dissolution of the Military Airlift Command and inception of the Air Mobility Command; to the Committee on Armed Services.

EC-3647. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on United States costs in the Persian Gulf conflict and foreign contributions to offset such costs; to the Committee on Armed Services.

EC-3648. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on transportation security; to the Committee on Commerce, Science, and Transportation.

EC-3649. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3650. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the development of a uniform needs assessment instrument; to the Committee on Finance.

EC-3651. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the establishment of an International Criminal Court; to the Committee on Foreign Relations.

EC-3652. A communication from the Archivist of the United States, transmitting, pursuant to law, a report on the offer to buy original documents that may have once been in the congressional files; to the Committee on Governmental Affairs.

EC-3653. A communication from the Secretary of the United States Postal Rate Commission, transmitting, pursuant to law, a report on a petition to the United States Postal Rate Commission requesting the Commission to initiate a rulemaking proceeding; to the Committee on Governmental Affairs.

EC-3654. A communication from the Chairman of the United States Railroad Retirement Board, transmitting, pursuant to law, the annual report on the financial status of the railroad unemployment insurance system; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes (Rept. No. 102-329).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2896. A bill to authorize the Secretary of the Interior to revise the boundaries of the Minute Man National Historical Park in the State of Massachusetts, and for other purposes (Rept. No. 102-330).

By Mr. HOLLINGS, from the Committee on Appropriations, without amendment:

S. 3026. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-331).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 3031. An original bill to reauthorize housing and community development programs, and for other purposes (Rept. No. 102-332).

By Mr. ADAMS, from the Committee on Appropriations, with amendments:

H.R. 5517. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–333).

By Mr. BUMPERS (for Mr. Burdick), from the Committee on Appropriations, with amendments:

H.R. 5487. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–334).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 225. A bill to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia (Rept. No. 102–335).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 684. A bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes (Rept. No. 102–336).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1704. A bill to improve the administration and management of public lands, National Forests, units of the national Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands (Rept. No. 102–337).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2563. A bill to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes (Rept. No. 102–338).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 3051. An original bill to grant a right of use and occupancy of a certain tract of land in Glacier National Park to Gerald R. Robinson, and for other purposes (Rept. No. 102–339).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1216. A bill to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes (Rept. No. 102–340).

H.R. 2790. A bill to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes (Rept. No. 102–341).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. Daschle, Mr. Kasten, Mr. Kohl, Mr. Wellstone, Mr. Burdick, and Mr. Pressler):

S. 3011. A bill to equalize the minimum adjustments to prices for fluid milk under milk marketing orders, to require the Secretary of Agriculture to study the solids content of beverage milk, and to provide for a manufacturing allowance for milk under the milk price support program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRYOR:

S. 3012. A bill to amend title 10, United States Code, to limit the amount expended by the Department of Defense for the recruitment of persons for accession into the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. BRADLEY (for himself and Mr. Lautenberg):

S. 3013. A bill to suspend temporarily the duty on Pentostatin; to the Committee on Finance.

S. 3014. A bill to suspend until January 1, 1995, the duty on certain thermosetting polyimide resins; to the Committee on Finance.

S. 3015. A bill to suspend temporarily the duty on 5-(N,N-dibenzylglycyl)-salicylamide, 2-(N-benzyl-N-tert-butylamino)-4′-hydroxy-3′-hydromethylacetophenone hydrochloride, flutamide, and loratadine; to the Committee on Finance.

S. 3016. A bill to provide for additional extension periods, not exceeding 2 years in the aggregate, in the time allowed for reexportation of certain articles admitted temporarily free of duty under bond; to the Committee on Finance.

By Mr. JOHNSTON:

S. 3017. A bill to extend the temporary reduction of duty on caffeine; to the Committee on Finance.

By Mr. DECONCINI:

S. 3018. A bill to extend the temporary suspension of import duties on cantalopes; to the Committee on Finance.

By Mr. SPECTER:

S. 3019. A bill to strengthen the international trade position of the United States; to the Committee on Finance.

By Mr. McCONNELL:

S. 3020. A bill to repeal the prohibition in the District of Columbia on individuals carrying self defense items such as MACE; to the Committee on Governmental Affairs.

By Mr. SPECTER:

S. 3021. A bill to suspend until January 1, 1995, the duty on n-butylisocyanate; to the Committee on Finance.

S. 3022. A bill to suspend until January 1, 1995, the duty on 3,5,-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide with application adjuvants; to the Committee on Finance.

S. 3023. A bill to suspend until January 1, 1995, the duty on p-nitrobenzyl alcohol; to the Committee on Finance.

S. 3024. A bill to suspend temporarily the duty on certain mounted television lenses; to the Committee on Finance.

By Mr. BROWN:

S. 3025. A bill to amend the Harmonized Schedule of the United States to extend the temporary suspension of the duties on certain infant nursery intercoms and monitors; to the Committee on Finance.

By Mr. HOLLINGS:

S. 3026. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. AKAKA (for himself and Mr. Inouye):

S. 3027. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

By Mr. D'AMATO:

S. 3028. A bill to suspend until January 1, 1995, the duty on certain glass articles; to the Committee on Finance.

S. 3029. A bill to provide for a temporary suspension of duty for certain glass articles; to the Committee on Finance.

S. 3030. A bill to extend until January 1, 1997, the existing suspension of duty on certain infant nursery intercoms and monitors; to the Committee on Finance.

By Mr. RIEGLE:

S. 3031. An original bill to reauthorize housing and community development programs, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. BRYAN (for himself and Mr. Reid):

S. 3032. A bill to extend the temporary suspension of duty on three-dimensional cameras; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. Bond):

S. 3033. A bill to suspend temporarily the duty on Pyrantel Tartrate with Zeolex; to the Committee on Finance.

S. 3034. A bill to suspend temporarily the duty on Procaine Penicillin G (Sterile and Nonsterile); to the Committee on Finance.

S. 3035. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. Kohl):

S. 3036. A bill to extend until January 1, 1995, the existing suspension of duty on 6-Hydroxy-2-naphthalenesulfonic acid, and its sodium, potassium, and ammonium salts; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. Breaux):

S. 3037. A bill to reliquidate certain entries on which excessive countervailing duties were paid, and for other purposes; to the Committee on Finance.

By Mr. KOHL:

S. 3038. A bill to extend the temporary suspension of duty for certain timing apparatus; to the Committee on Finance.

By Mr. DANFORTH:

S. 3039. A bill to extend until January 1, 1996, the existing suspension of duty on triallate; to the Committee on Finance.

By Mr. SPECTER:

S. 3040. A bill to suspend until January 1, 1995, the duty on cyclohexylisocyanate; to the Committee on Finance.

By Mr. BENTSEN:

S. 3041. A bill to amend the Internal Revenue Code of 1986 to establish a national commission on private pension plans; to the Committee on Finance.

By Mr. KOHL (for himself and Mr. Danforth):

S. 3042. A bill to suspend until January 1, 1995, the duty on DMAS; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. Bradley, and Mr. Lautenberg):

S. 3043. A bill to extend the existing suspension of duty on corned beef in airtight containers; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3044. A bill to suspend until January 1, 1995, the duty on Pyrrolo (3,4-C) Pyrrole-1, 4-Dione, 2,5-Dihydro 3,6-Diphenyl; to the Committee on Finance.

S. 3045. A bill to extend until January 1, 1995, the existing suspensions of duty on tartaric acid, potassium antimony tartrate, and potassium sodium tartrate; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. DODD, Mr. SANFORD, and Mr. LEVIN):

S. 3046. A bill to amend the Tariff Act of 1930 to improve the antidumping and countervailing duty provisions, and for other purposes; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. LOTT) (by request):

S. 3047. A bill to amend the Merchant Marine Act, 1936, as amended, to establish a contingency retainer program and improve the United States-flag merchant marine; to the Committee on Finance.

By Mr. BOND:

S. 3048. A bill to suspend temporarily the duties on Pentotreotide; to the Committee on Finance.

By Mr. DURENBERGER:

S. 3049. A bill to suspend temporarily the duty on Bisphenol AF; to the Committee on Finance.

S. 3050. A bill to suspend temporarily the duty on capillary membrane material; to the Committee on Finance.

By Mr. JOHNSTON:

S. 3051. An original bill to grant a right of use and occupancy of a certain tract of land in Glacier National Park to Gerald R. Robinson, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. BOREN:

S. 3052. A bill to extend for 3 years the existing suspension of duty on stuffed dolls and the skins thereof; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 3053. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Finance.

By Mr. BRYAN:

S.J. Res. 327. A joint resolution to designate October 8, 1992, as "National Firefighters Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SANFORD (for himself and Mr. SIMON):

S. Res. 326. A resolution to express the sense of the Senate that a National Institutes for the Environment should be established; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. DASCHLE, Mr. KASTEN, Mr. KOHL, Mr. WELLSTONE, Mr. BURDICK, and Mr. PRESSLER):

S. 3011. A bill to equalize the minimum adjustments to prices for fluid milk under milk marketing orders, to require the Secretary of Agriculture to study the solids content of beverage milk, and to provide for a manufacturing allowance for milk under the milk price support program, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

MIDWEST DAIRY EQUITY ACT

Mr. DURENBERGER. Mr. President, I rise today to introduce a bill very important to the dairy farmers of the Upper Midwest and, as a matter of fact, I would not be doing this if I did not think it was also extremely important to dairy farmers and consumers of dairy products, particularly milk, throughout the United States of America. S. 3011, the Midwest Dairy Equity Act put forth what I believe is a fair deal for all dairy farmers in every area of the United States.

But, more importantly, this bill sends a signal to the Department of Agriculture that their time to act is up. The Congress gave the USDA until January 1, 1992, to make recommendations for milk marketing order reform. Despite thousands of pages of testimony from the dairy industry, at hearings around the Nation, USDA refused to offer any proposals for change. It is now time for Congress to bring fairness to our dairy farmers.

Federal milk marketing orders were authorized by Congress in the late 1930's as a way to establish pricing and other conditions to ensure that an adequate supply of fresh fluid milk was available in all parts of this country and to establish fair prices for producers. In the 1930's those were good objectives and the orders were good tools. However, 60 years of improvement in transportation, refrigeration and other things in this country has made the milk marketing orders of 1930's obsolete.

The General Accounting Office and the U.S. Department of Agriculture have also criticized the Federal milk marketing order as being outdated, yet no one has been able to act. The 1990 farm bill gave hope that the Midwest dairy producers would finally be able to compete with farmers in other areas of the country, the promise that the dysfunction in the Nation's milk market would be removed.

The Congress and the Department of Agriculture know what farmers need. They need fair milk prices, and so do the consumers of this Nation. This bill S. 3011 will accomplish that.

The Midwest Dairy Equity Act would level the playing field for all dairy producers and assure farmers a fair policy for milk that is sold for fluid beverage use.

What the bill does is first take the class I price differential paid to farmers for fluid milk and set it at a flat $1.80 per hundredweight in all milk orders. This would eliminate the unfair advantage the farmers in Southern region have over Midwest producers. This is what makes the whole market dysfunction. Dairy farmers in southern Florida today receive $4.18 per hundredweight differential to Minnesota's $1.20 per hundredweight.

The second thing we do, a minimum price of $13.20 per hundredweight is set for fluid beverage milk. The price difference between $13.20 and the market price for milk used for manufacturing would be deposited into a national pool. The national pool of funds would then be equally distributed to dairy farmers in all regions of the country. This would protect farmers from the huge swings in dairy prices that have forced so many farmers off the farm in the past 10 years.

Lastly, the Midwest Dairy Equity Act provides for a study of increasing the protein levels of milk through fortification with nonfat dry milk. There are many in the dairy industry who believe that fortified milk would be better tasting for consumers and more profitable for dairy producers.

The bill also increases the USDA manufacturing allowance for cheese to $1.52 per hundredweight, and $1.37 per hundredweight for nonfat dry milk. This provision will help put the midwest dairy processors on an equal ground with competitors in California and other areas of the country.

The Midwest Dairy Equity Act is supported by Land O'Lakes, Minnesota Milk Producers, Associated Milk Producers Incorporated-North Central Region, and the Farmers Union Milk Marketing Cooperative.

Mr. President, this bill sends a clear message to the USDA that they have failed to address the number one concern of dairy farmers—Federal milk marketing order reform. Just as important, the USDA has failed to carry out the direction Congress gave it in the 1990 farm bill.

This bill, the Midwest Dairy Equity Act, provides a fair price and a level playing field for farmers across the United States. I encourage my colleagues to join with me in support of this bill.

Mr. President, I ask unanimous consent to print the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act shall be known as the "Midwest Dairy Equity Act".

SEC. 2. EQUALIZATION OF MINIMUM PRICE ADJUSTMENT FOR CLASS I MILK FOR ALL MARKETING AREAS.

(a) USE OF SAME PRICE.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) in the third sentence—

(i) by striking "Throughout" and all that follows through "order involved), the" and inserting "The"; and

(ii) by striking "on the date" and all that follows through the end of the table in that sentence and inserting "shall be the same for each marketing area subject to an order and shall be $1.80 per hundredweight of milk having 3.5 percent milkfat, with a transportation surcharge determined by the Secretary to compensate handlers for the actual cost of moving milk within and between orders."; and

(B) by striking the fourth sentence; and

(2) by adding at the end the following new paragraph:

"(M)(i) Providing that the basic formula price used for the purpose of computing the price of Class I milk under milk marketing orders issued pursuant to this section may not be less than $13.20 per hundredweight."

"(ii) Notwithstanding any other provision of law, the Secretary—

"(I) shall provide for the uniform national pooling among producers of milk in all milk marketing orders of all funds that represent the difference between the price of Class I milk as determined under this paragraph and the price of Class I milk as determined without regard to this paragraph;

"(II) shall distribute the funds to all persons who are producers under any milk marketing order at a uniform rate per hundredweight; and

"(III) is authorized to make such temporary modifications in the operation of milk marketing orders as are necessary to carry out this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of enactment of this Act.

SEC. 3. STUDY OF SOLIDS CONTENT OF BEVERAGE MILK.

(a) FINDINGS.—Congress finds that current standards for milk solids not fat contained in class I milk for fluid use produced in geographic areas covered by milk marketing orders issued pursuant to section 8c of the Agricultureal Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, are below the average levels of milk solids not fat contained in unprocessed fluid milk that is produced on farms of producers.

(b) STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall—

(1) study the desirability and effects of fortifying class I fluid milk described in subsection (a) with additional nonfat solids, including consumer acceptance of fortifying the milk; and

(2) report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 4. MANUFACTURING ALLOWANCE.

Section 204(c) of the Agricultural Act of 1949 (7 U.S.C. 1446e(c)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) MANUFACTURING ALLOWANCE.—

"(A) MINIMUM ALLOWANCE ESTABLISHED.—For purposes of supporting the price of milk through purchases of the products of milk under this section, the Secretary shall establish—

"(i) the manufacturing allowance for milk manufactured into butter and nonfat dry milk at not less than $1.37 per hundredweight of milk; and

"(ii) the manufacturing allowance for milk manufactured into cheese at not less than $1.52 per hundredweight of milk.

"(B) MANUFACTURING ALLOWANCE DEFINED.—For purposes of this paragraph, the term 'manufacturing allowance' means an amount (determined for purposes of the price support program for milk) applied separately to milk manufactured into butter and nonfat dry milk and to milk manufactured into cheese that, when added to the support price for milk, will enable a manufacturing plant of average efficiency in manufacturing these products to pay producers, on average, a price not less than the rate of price support for milk in effect during a 12-month period under this section when selling these products to the Commodity Credit Corporation.

"(C) COSTS AND RETURNS REFLECTED IN ALLOWANCE.—A manufacturing allowance shall reflect both the costs of manufacturing and selling products to the Corporation and the returns the plant receives from byproducts (other than whey solids pursuant to section 106 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e note)) not purchased by the Corporation.

"(D) FACTORS ESTABLISHING THE VALUE OF MILK PRODUCTS PER HUNDREDWEIGHT.—For purposes of supporting the price of milk through purchases of the products of milk, the Secretary may not take into consideration any factors establishing the value per hundredweight of milk of—

"(i) butter in excess of 4.48 pounds;

"(ii) nonfat dry milk in excess of 8.13 pounds;

"(iii) cheese in excess of 10.1 pounds;

"(iv) whey fat in excess of .25 pound; and

"(v) buttermilk solids in any amount.

"(E) BENEFIT OF INCREASE FOR PRODUCERS.—To the extent practicable, additional receipts that a manufacturing plant receives as a result of an increase in the manufacturing allowance under subparagraph (A) shall be passed through to producers supplying milk to the plant.".

Mr. KOHL. Mr. President, I am proud to join my colleagues today in introducing the Midwest Dairy Equity Act. This bill makes needed changes to the Federal milk marketing order system and other aspects of the Federal dairy program.

To many, these issues may seem obscure. But to the dairy farmers in the upper Midwest, the promise of the future is clouded by the unfairness of the current milk marketing order system. These marketing orders are built on the assumption that the upper Midwest is the Nation's only source of extra fluid milk on a year-round basis. At one time, that was true. At this time, it is not.

When the marketing orders were designed, we needed to encourage two things: The movement of fluid milk from the upper Midwest to areas that didn't have enough supply, and increased production in those other areas. Now we don't need to encourage either. New technology and increased production in all geographic areas has created a new reality. And in this new reality there is no justification for a system that continues to reward milk production in some areas of the country by punishing production in our area. There is no justification for a Federal policy that gives producers in areas outside the upper Midwest higher prices for fluid milk. There is no justification for our failure to make policy reflect reality.

This bill simply provides consistency that is lacking in Federal dairy policy. For dairy products purchased by the Government, there is one uniform support price. However, for fluid milk the Federal Government establishes wide variations in price throughout the country. These regional variations are no longer justified. We are attempting to level the playing field on the fluid milk side just as we have had on the dairy product side for many years.

In 1988, the General Accounting Office and USDA's Economic Research Service released separate reports on Federal milk marketing orders. Both reports concluded that the original justification for distance differentials for fluid milk pricing is no longer warranted. The GAO concludes that "the premises for milk pricing under Federal orders are outdated. A need no longer exists to encourage and maintain a locally produced supply of milk."

A number of us urged the Secretary of Agriculture to hold nationwide hearings on this issue. And in the fall of 1990, he did hear about the need for changes in market orders—especially the need to reform the use of distance differentials to determine the price of fluid milk. He heard about it—but he didn't do anything about it.

Then, last month, the Secretary held another set of hearings, this time on alternatives to the current Minnesota-Wisconsin pricing system. And there are some indications that he might decide to tinker with the current pricing system—but, once again, without addressing the marketing order system. If that is what he does, it will be a mistake. It makes no sense to make changes in the Minnesota-Wisconsin price series without also modifying the class I distance differentials. The two are inextricably linked, and have to be addressed simultaneously. To act on one without the other makes no sense. It would be like rearranging the deck chairs on a sinking ship and then asking the passengers to stop and enjoy the aesthetic improvements instead of running for the lifeboats.

This bill addresses the flaws in the current system, and other issues related to dairy policy, as well. First and most fundamentally, the bill would level the playing field for fluid milk by establishing uniform differentials across the country. Second, it would prevent disastrous price fluctuations in the fluid milk market by setting a minimum formula price for fluid milk. Third, the bill would require USDA to study issues regarding fortification of fluid milk with additional nonfat solids. And finally, it would assure that "make allowances" adequately reflect the cost of manufacturing dairy products.

Mr. President, we all hope that this legislation will force policymakers to rethink the role of the Federal milk marketing order system. It is a system which is based on out of date assumptions and it is putting too many of our farmers out of work. The bill suggests some of the changes that need to be made. We are willing to work with other people who have other ideas. But the central idea that we all ought to agree on is simply this: the current system does not work, will not work, cannot work and must be changed. We cannot afford continued inaction and we cannot afford to continue to pit region against region. It is time to make some changes. And this legislation identifies many of the changes that need to be made.

Mr. DASCHLE. Mr. President, regional inequities in the Federal milk marketing order system are a particularly frustrating phenomenon for producers in South Dakota and other States in the Midwest. Under the order system, dairy farmers in our region receive nearly $3 per hundredweight less for milk used for fluid consumption than producers in some parts of the country. This price disparity has contributed to a steady decline in the dairy industry in an area that has traditionally led the country in dairy production.

The 1990 farm bill directed USDA to conduct a series of hearings to review the Federal milk marketing order system. After a lengthy process, USDA essentially decided to follow the status quo. This was not a welcome outcome for producers in the upper Midwest. When USDA announced its package of limited reforms, Secretary Madigan expressed a desire to explore the question of whether more fundamental reform of the orders was needed, but it does not seem likely that USDA will take significant action in the near future. That is why my colleagues from upper Midwest, Republican and Democrat, have joined to introduce legislation that would address the primary complaints of the dairy industry in our region of the country.

Marketing orders play an important role in providing a stable milk supply in the country; however, the proposed changes in the orders that were recently announced by the Department have not adequately addressed the regional biases that currently exist in the marketing orders. While the Department's proposed rule on marketing orders does address some of the regional concerns of the upper Midwest, it completely ignores the question of class I price differentials. Current differentials are the result of a legislative mandate in the 1985 farm bill, not economics. The Department failed to react to, or comment on, evidence submitted by dairy interests from the Midwest that substantiated the contention that current differentials are having an adverse impact on the dairy industry in that region.

Unresponsiveness to regional concerns is not the only argument for a legislative response to the Department's decision on milk marketing orders. A proposal submitted by a coalition of upper Midwest industry groups would have lowered class I differentials nationwide, resulting in tens of millions of dollars in savings to consumers. Last year, the administration proclaimed itself the champion of consumers by opposing dairy price support reforms on the grounds that consumer costs would increase. Ironically, consumer costs seem to have had little bearing on the Department's deliberation on milk marketing order reform.

This legislation would address Midwestern concerns regarding marketing orders in several ways. First, the class I price differential that is paid to producers for fluid milk consumption would be established at a uniform, nationwide level of $1.80/ctw. This provision would ensure equitable treatment for producers in all regions of the country. Second, a minimum price of $13/ctw would be established for milk used for bottling purposes. When milk prices for nonbottled milk fall below $13/ctw, the price for bottled milk would remain at $13/ctw. The price difference between $13 and the market price for other types of milk would be deposited in a national pool from which uniform payments would be distributed to milk producers in all regions of the country. This provision would benefit producers in every part of the country by providing protection against seasonal price declines. The bill would also increase the manufacturing allowance allowed by USDA to cover the cost of manufacturing cheese, butter, and nonfat dry milk and direct USDA to report to Congress on the feasibility of fortifying fluid milk with nonfat powder.

These reforms are needed to return equity to the Federal milk marketing order system. I encourage my colleagues, whether they are from the Midwest or other parts of the country, to recognize the disparities that exist in the current system and join us in the effort to rectify them.

By Mr. PRYOR:

S. 3012. A bill to amend title 10, United States Code, to limit the amount expended by the Department of Defense for the recruitment of persons for accession into the Armed Forces of the United States; to the Committee on Armed Services.

LIMITATION OF DEPARTMENT OF DEFENSE RECRUITING EXPENDITURES

Mr. PRYOR. Mr. President, I am today introducing legislation which will attempt to correct a disturbing trend from within the Pentagon that simply does not make sense. The $2 billion Military Recruitment Program is out of touch with the realities of today, the realities of Pentagon cutbacks, and our bill will try to restore budgetary order in this area of military spending with regard to recruitment.

The cold war is over and our military is getting smaller; it is decreasing before our very eyes. Our total defense employment; military, civil service, and contractor jobs are vanishing by an estimated rate of 1,000 jobs every day between now and 1997. The military alone is reducing its manpower by 25 percent. Some 500,000 military positions will be eliminated. As a result, we are literally begging people to leave the armed services. In addition, over 30 bases will be closed nationwide by 1995 with more to come.

Mr. President, 5 months ago, just days after the President submitted his fiscal year 1993 budget request, I asked a very simple question here in this chamber: How can we justify increasing the Pentagon's $2 billion budget for recruiting young men and women to join the Armed Forces when, at the same time, we are paying large sums to people who promise to quit the military? My question was soon answered by none other than the distinguished chairman of the Senate Appropriations Committee, Senator ROBERT C. BYRD, who said, "This is an anomaly. It is juxtaposition of incongruous concepts. It does not make sense." I heartily agree with the distinguished President pro tempore of the Senate.

Mr. President, since 1989 our military has cut back the number of recruits who can join the military by 34 percent. What is amazing, however, is that while the military continued to seek fewer and fewer good men and women over the past 3 years, the recruiting budget hovered around $2 billion. In fiscal year 1993, to recruit a projected 370,000 inductees, the Pentagon wants to spend just over $2 billion. By my calculations, that comes to about $5,700 per recruit. This includes active duty, reserve, enlisted, officer, prior-service and non-prior-service recruits. In 1989, the services brought in over 550,000 new recruits for about the same price tag of $2 billion, or $3,900 per recruit.

What is going on here? In 1989, we spent $3,900 per recruit, and in 1993 we want to spend $5,700 per recruit. Certainly we can do better. We must do better. The legislation I am introducing today would attempt to do so by allowing DOD to spend a maximum of $4,700 per recruit in fiscal year 1993, and would adjust this figure by the Consumer Price Index for each year thereafter. It is my belief that the Department of Defense can run a more efficient recruiting operation without jeopardizing the quality of recruits who will serve in our Armed Forces. These budgets can be reduced without reducing the effectiveness of our military or its capacity to provide for our national security.

Mr. President, efficiency is the key. It is the buzz-word of the 1990's. All too often, our Government compromises the taxpayer's trust by assuming that bigger is better. How can our military recruiting program become more efficient? Mr. President, the possibilities are endless.

To start with, the taxpayer's $2 billion supports a massive fleet of 31,000 recruiters who are spread out over 6,000 recruiting offices. These offices are on street corners and in shopping malls all across America. If you walked through the streets of many towns across the country, you would see a Navy recruiting office on one side of the street and a Marine Corps office on the other. Why not simply combine these offices, share the office space and supplies, and reduce the number of recruiters who operate and support these recruiting offices?

In addition, a large number of these 6,000 offices are operated on a part-time basis. Many are open for only 1 or 2 days a week. However, we still pay full rent for these leases, we still pay incredible amounts for the support of these recruiting offices across our country. These are very wasteful practices.

Mr. President, perhaps the most well-known aspect of the $2 billion recruiting program are those elaborate TV ads that usually end up in the NFL playoffs or on other expensive media slots. Whether you see knights on horseback or men jumping from airplanes, you can bet that these commercials are very expensive to produce and no less expensive to air.

Mr. President, earlier this month the House of Representatives passed their Department of Defense authorization bill which included a $75 million cut in the President's total recruitment budget request for fiscal year 1993. The legislation I am introducing today would expand on this initiative. This bill would give the Department of Defense the flexibility in determining how to rightsize its recruiting. The services claim that their advertising campaigns provide vital support to their recruiting efforts. This bill would not prohibit advertising. However, if the services feel that it is crucial to spend millions of dollars on advertising each year, then they must find other areas to cut.

Again, let me stress that this bill will not keep the Pentagon from recruiting quality individuals. Just 3 years ago, in 1989, we attracted the best and brightest young men and women in America for less than $4,000 per individual. These new recruits were brilliant in the Persian Gulf war with our cutting edge technology and military hardware. Mr. President, this legislation is about efficiency. The entire Pentagon is working I hope to give the taxpayer "more bang for the buck" and the Recruitment Program is no exception to that rule.

Mr. President, I now send the legislation that I am introducing to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. LIMITATION ON DEPARTMENT OF DEFENSE RECRUITING EXPENDITURES.

(a) IN GENERAL.—Chapter 134 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2246. Limitation on recruiting expenditures

"(a) IN GENERAL.—Funds appropriated or otherwise made available to the Department of Defense for a fiscal year may not be expended for the recruitment of persons for accession into the armed forces in excess of the maximum amount determined under subsection (b).

"(b) MAXIMUM AMOUNT.—(1) The maximum amount which may be expended by the Department of Defense for any fiscal year for the recruitment of personnel for accession into the armed forces (other than as cadets or midshipmen referred to in subsection (d)) is the amount determined by multiplying the number of persons accessed into the armed forces in that fiscal year by the amount determined under paragraph (2).

"(2)(A) For fiscal year 1993 the amount of the multiplier under paragraph (1) shall be $4,700.

"(B) The Secretary of Defense may adjust the amount of the multiplier annually for each fiscal year after fiscal year 1993 by the percentage by which the Consumer Price Index for June of the fiscal year preceding that fiscal year exceeds the Consumer Price Index for the preceding June. If the amount of a multiplier determined under the preceding sentence for any fiscal year is not a multiple of $100, the amount shall be rounded to the next lower multiple of $100.

"(C) In this paragraph, the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(3) Paragraph (1) may not be construed to limit the amount that may be expended for any fiscal year for the recruitment of personnel for accession into any one armed force or any component of an armed force to the amount determined by multiplying the number of persons accessed into that armed force or that component, as the case may be, in that fiscal year by the amount determined under paragraph (2).

"(c) COVERED RECRUITMENT EXPENSES.—This section applies to the following expenses for the recruitment of persons for accession into the armed forces:

"(1) Pay of Department of Defense personnel whose duties include—

"(A) recruitment;

"(B) the management of such Department of Defense personnel in the performance of the recruitment duty; or

"(C) supporting the personnel in the performance of duties referred to in subparagraph (A) or (B).

"(2) Allowances and expenses of such personnel in performing those duties.

"(3) The cost of providing support for such personnel for the performance of those duties.

"(4) The cost of providing facilities, utilities, services, and supplies for the use of such personnel in the performance of those duties.

"(5) Advertising expenses related to recruitment.

"(6) The costs carrying out and supporting military entrance processing.

"(7) Amounts paid under sections 302d, 308a, 308c, 308f, 308g, 308h (for a first enlistment), and 308i of title 37, relating to bonuses and other incentives.

"(8) Amounts deposited in the Department of Defense Education Benefits Fund pursuant to section 2006(g) of this title.

"(9) Payments under the provisions of chapters 105, 107, and 109 of this title.

"(10) Any other expenses that the Secretary of Defense determines to be recruitment expenses.

"(d) EXPENSES NOT COVERED.—This section does not apply to the recruitment of persons for appointment as cadets at the United States Military Academy, as midshipmen at the United States Naval Academy, or as cadets at the United States Air Force Academy.

"(e) REQUIREMENT TO SPECIFY BUDGET REQUESTS FOR RECRUITING.—The documents submitted to the Congress by the Secretary of Defense in connection with the submission of the budget for each fiscal year pursuant to section 1105 of title 31 shall include the following:

"(1) An itemized list of the programs, projects, and activities provided for in the budget that are programs, projects, and activities conducted for the recruitment of persons for accession into the armed forces.

"(2) A specification of the amount provided in the budget for each such item.

"(3) The estimated cost of recruiting each person for accession into the armed forces.

"(f) APPLICABILITY.—This section applies with respect to recruiting activities for accessions of officer and enlisted personnel (including prior service personnel) into the regular components and the reserve components of the armed forces.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"2246. Limitation on recruiting expenditures.".

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3013. A bill to temporarily suspend the duty on pentostatin; to the Committee on Finance.

S. 3014. A bill to suspend until January 1, 1995, the duty on certain thermosetting polyimide resins; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY

Mr. BRADLEY. Mr. President, I rise to introduce two bills on behalf of the New Jersey based Warner-Lambert and Rhone-Poulenc. Both pieces of legislation will temporarily suspend the duties on a compilation of imported chemicals. Joining me is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1964 and H.R. 3382 by Representatives ZIMMER and GUARINI.

"Nipent" or pentostatin, the orphan drug which Warner-Lambert imports, is used to treat hairy cell leukemia patients. Currently, hairy cell leukemia affects about 2,500 patients in the United States. According to Warner-Lambert, clinical tests indicate positive results from the drug's usage. Warner-Lambert also maintains that due to its small patient population, the tariff suspension would cause no appreciable revenue loss to the Treasury.

Rhone-Poulenc imports certain chemical compounds which are generically known as polyimide resins. Polyimide resins are incorporated in several strategic missile systems and are used for high-speed computing. Rhone-Poulenc claims they will use the savings of a duty suspension to fund additional research and development.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Warner-Lambert and Rhone-Poulenc to import the chemicals at reasonable prices making its products more competitive in the international market and ultimately more affordable for consumers in the domestic market.

Mr. President, I ask unanimous consent that these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PENTOSTATIN.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Pentostatin (provided for in subheading 2934.90.47)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THERMOSETTING POLYIMIDE RESINS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.39.12	1H - Pyrrole-2,5-dione, 1,1-(methylenedi-4, 1-phenylene) bis-polymer with 4,4-methylenebis [benzenamine] (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3015. A bill to suspend temporarily the duty on 5-(N,N-dibenzylglycyl)-salicylamide, 2-[N-benzyl-N-tert-butylamino]-4′-hydroxy-3′-hydroethylacetophenone hydrochloride, flutamide, and loratadine; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. BRADLEY. Mr. President, I rise to introduce legislation that will temporarily suspend the duties on a compilation of imported chemicals on behalf of Schering Corp. of Madison, NJ.

Joining me is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 4879 by Representative ARCHER.

This legislation would suspend the import duties applicable to four chemicals. These chemicals are used in the production of finished pharmaceutical products. In turn, the pharmaceutical products have a wide range of usage; from serving as a relief for patients of bronchospasms and allergies to treating prostatic cancer.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Schering Corp. to import the chemicals at reasonable prices making its products more competitive in the international market and ultimately more affordable for consumers in the domestic market.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSIONS OF DUTY ON 5-(N,N-DIBENZYLGLYCYL)-SALICYLAMIDE, 2-[N-BENZYL-N-TERT-BUTYLAMINO]-4′-HYDROXY-3′-HYDROMETHYLACETOPHENONE HYDROCHLORIDE, FLUTAMIDE, AND LORATADINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.31.12	5-(N,N - dibenzylglycyl)-salicylamide (LBH-B/C, CAS No. 30566–92–8) (provided for in subheading 2922.30.3000)	Free	No change	No change	On or before 12/31/94
9902.31.13	2-(N - benzyl-N-tertbutylamino)-4′-hydroxy-3′-hydromethylaceto-phenone hydrochloride (Glycyl Hydrochloride, CAS No. 24085–08–3) (provided for in subheading 2922.30.3000)	Free	No change	No change	On or before 12/31/94
9902.31.14	Flutamide (CAS No. 13311–84–7) (provided for in subheading 2924.29.3950)	Free	No change	No change	On or before 12/31/94
9902.31.15	Loratadine (CAS No. 79794–75–5) (provided for in subheading 2933.90.2600)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3016. A bill to provide for additional extension periods, not exceeding 2 years in the aggregate, in the time allowed for reexportation of certain articles admitted temporarily free of duty under bond; to the Committee on Finance.

EXTENSION OF TIME FOR REEXPORTATION OF CERTAIN ARTICLES

Mr. BRADLEY. Mr. President, I rise on behalf of General Electric Astro-Space Division to introduce legislation that would extend the duty suspension on communications satellite components entered under temporary importation under bond. Joining me is my friend and colleague, Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1835 by Representative SMITH.

The components that GE Astro imports would remedy numerous problems engendered by the *Challenger* disaster and subsequent failures of launch vehicles for communications and other satellites. GE Astro claims that failures of unmanned launch vehicles, such as the *Challenger* disaster, have added a delay to the exportation of communications satellites. This delay can cause a failure to export an imported component within the maximum 3-year period. As a result of the time lag, GE Astro has not been able to benefit from the initial suspension and would like an extension.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. This legislation enables GE Astro to import these components at reasonable prices making its products more competitive in the international market and more affordable for manufacturers in the domestic market.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REEXPORTATIONS OF COMMUNICATIONS SATELLITE ARTICLES.

(a) IN GENERAL.—

(1) EXTENSION.—The first sentence of U.S. Note 1(a) to subchapter XIII of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by striking the period at the end and inserting the following: ", and (3) for articles imported under heading 9813.00.05, the time for exportation may be extended for 1 or more further periods which, when added to the initial 1 year, shall not exceed a total of 5 years, but any application for an extension beyond the 3rd year must be accompanied by the importer's certification that the articles are dedicated for incorporation into a communications satellite.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply with respect to goods entered on or after the date that is 3 years before the date of the enactment of this Act.

(b) EXPEDITED MITIGATION OF PENALTY ASSESSMENTS ON REEXPORTATIONS DELAYED BY LAUNCH SYSTEM FAILURES.—Goods imported under heading 9813.00.05 of the Harmonized Tariff Schedule of the United States after January 1, 1983, and before the effective date established under subsection (a)(2) that are certified by the importer—

(1) as having been dedicated for incorporation into a communications satellite; and

(2) as not having been exported within the time required for exportation under the applicable bond directly or indirectly as a result of launch schedule delays resulting from any launch failure, launch system failure, or technical delay;

are subject to liquidated damages not exceeding 1 percent of the liquidated damages established in the applicable bond.

By Mr. DECONCINI:

S. 3018. A bill to extend the temporary suspension of import duties on cantaloupes; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DECONCINI. Mr. President, today I am introducing legislation to extend the temporary suspension of import duties on cantaloupes during the winter months when they are available only from non-domestic sources. My bill is identical to H.R. 4814, introduced earlier this year in the House of Representatives by the chairman of the Committee on Agriculture, Mr. DE LA GARZA. That language has been incorporated in H.R. 4318, the miscellaneous tariff and duty suspension bill which has been reported favorably by the House Ways and Means Committee.

Canteloupes are grown widely in the United States but only during the warmer months. In May, commercial production of cantaloupes starts in Texas and, to a limited extent in California, Florida, and Georgia. By June cantaloupes are available from Arizona, California, Florida, Georgia, South Carolina, and Texas. In July, August and September, many States including Colorado, Illinois, Indiana, Maryland, Michigan, New Jersey, and New York are major producers of cantaloupes. In October and November, small shipment of cantaloupes are available only from Arizona, California, Georgia, and Texas.

In the winter months of December, January, February, March, and April, there is no commercial production of cantaloupes in the United States. The only source for the American consumer is non-domestic. The major cantaloupe producers in the winter include Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Mexico, and Panama. Much of the cantaloupes from Mexico are shipped into the United States through Arizona and Texas.

Duty suspension on cantaloupes has been in effect for a decade and there have been no adverse effects on domestic agriculture. The reason is simply a matter of geography. Even my home State of Arizona cannot compete with Mexico in the winter for weather warm enough to grow cantaloupes. We are simply too far north to grow cantaloupes so non-domestic sources are needed to meet the demands of today's consumer who wants a wide range of fresh fruits and vegetables throughout the year.

A temporary duty suspension does not harm our farmers; on the contrary, it helps them. When fruits and vegetables are seasonal, consumers tend to forget about them until the season is back in full swing. In the meantime, sales have been lost. But, when non-domestic supplies make fruits and vegetables available throughout the year, there is a smooth transition to the domestic supply when warm weather returns.

Arizona, California, and Texas are the major producers of cantaloupes in summer. Mexico is a major supplier in winter.

The duty suspension I am introducing today is not a new idea. My bill, like the de la Garza bill, would extend the current duty suspension for 2 years after its scheduled expiration at the end of this year. Everyone benefits from this bill: American consumers who will be assured a supply of reasonably priced cantaloupes through the winter months, and American food store workers and operators, shippers, distributors and truck drivers. They all benefit from having a plentiful supply of lower priced foods to sell.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CANTALOUPES.

Subheading 9902.08.07 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/94".

The amendment made by the first of this Act applies with respect to goods entered, released, or withdrawn for consumption after December 31, 1992.

By Mr. SPECTER:

S. 3019. A bill to strengthen the international trade position of the United States; to the Committee on Finance.

TRADE EXPANSION AND ENFORCEMENT ACT

Mr. SPECTER. Mr. President, today I am introducing the Trade Expansion and Enforcement Act of 1992 which will allow the United States to expand trade opportunities for U.S. producers by greatly improving access to overseas markets and to improve enforcement mechanisms under U.S. law to deter unfair trade practices by our trading partners which have the deleterious effect of taking U.S. jobs.

Mr. President, I believe in free trade, but free trade means the cost of production plus a reasonable profit. It does not mean subsidizing goods—goods where there are subsidies by foreign governments. It does not mean dumping, where goods are sold in the United States at prices lower than those charged in their home market.

The essential ingredient of free trade is reciprocity. The United States ought to have equal access to foreign markets just as importers to the United States have access to our markets. But regretably, that is not the case. In 1988, we enacted a Super 301 provision which gave authority to the executive branch to enforce our trade laws. Regretably, it has now lapsed, and this bill will reauthorize the Super 301 provisions.

Beyond the Super 301 provision, Mr. President, this legislation will provide for a private right of action so that injured parties may sue in the Federal courts to enjoin goods from coming into the United States which are subsidized or dumped or to get damages for goods which come into this country which are subsidized or dumped.

The remedies at the present time in the International Trade Commission are totally inadequate—no teeth, no deterrence, really very ineffectual.

Recently, the steel producers brought a series of actions with the U.S. Trade Commission and also the Department of Commerce because that is their only available remedy. But it would be enormous—I was about to say enormously more effective, which is not correct. It would be effective. You could go to court and stop dumped, subsidized goods from coming into this country. But there really is no effective enforcement mechanism under the International trade Commission and the Department of Commerce.

I think back, Mr. President, to 1984 when the International Trade Commission rendered a decision in favor of the American steel industry. The matter then went to the White House for decision by the President. Our late colleague, Senator Heinz, and I visited the Cabinet officers and we received support from Secretary Bill Brock, the U.S. Trade Representative, and from Secretary Malcolm Baldridge of Commerce. But when we got to the Defense Department and to the State Department, we had a flat statement that those Secretaries would urge the President to overrule the International

Trade Commission in the interest of foreign policy and in the interest of State Department policy.

It is inappropriate, Mr. President, to have decisions on trade made in terms of foreign policy or defense policy. If U.S. policy requires certain action along those lines, it ought to come out of the general revenues of the United States as opposed to any one specific industry.

The steel industry in Pennsylvania has been victimized by an attitude which has permitted so much steel to come into the United States for the collateral considerations of State Department policy or foreign policy, and in 1984, regrettably, the President overruled the International Trade Commission, giving further damage to the American steel industry.

This legislation which I have pushed for many years would rectify that problem by making it an issue for the courts where justice would be interpreted so that we stop dumped and subsidized goods from coming into this country.

This legislation, Mr. President, would further reinstate the voluntary restraint program, a program which lapsed on March 31 of this year, and with its lapse especially in the specialty steel industry we are having an influx of subsidized and dumped goods.

Mr. President, I believe the United States should promote the policies of free trade providing there is reciprocity, which is not the fact in the world today. In any event, subsidized and dumped goods do not fit into the pattern of free trade under any interpretation. Experience has been that steel, for example, has been subsidized as much as $250 a ton. We find the American aircraft industry is forced to compete against foreign airplane manufacturers, which subsidies are given by the governments of Germany and France and other foreign governments, and that is a line of conduct which simply ought not to be tolerated.

This bill contains some provisions recently adopted by the House of Representatives such as reauthorization of the "Super 301" provision under our 1988 Trade Act, and investigation of trade practices and policies of our partners in their markets with the principle mission of increasing U.S. access to such markets. It also contains several provisions which I believe are integral to the enforcement of our trade laws, namely the private right of action to enforce customs fraud, dumping and illegal subsidies.

Mr. President, I believe reciprocity is the cornerstone of free trade policy. United States companies should have unfettered access to foreign markets, like for instance, Japan's, just as we permit such access to our markets. If they are not able to obtain such access because of official policy or other nonmarket barriers, then the U.S. Government should impose appropriate sanctions until such reciprocity is assured. In this way the "market" will run its course. And, more importantly, American jobs will not be lost because of lack of access to foreign markets or unfair trade practices here.

Some of my colleagues will question whether we should be enacting a trade bill while negotiations are under way relative to the Uruguay round and the North America Free Trade Agreement. I would respond, however, by saying that a successful GATT—Uruguay round does not seem imminent and the NAFTA would address only part of the world. Moreover, we have witnessed the expiration of the voluntary restraint agreements for the steel industry in the face of an apparent collapse of negotiation of a multilateral steel agreement. Meanwhile, American jobs—Pennsylvania jobs—are being lost or put at risk because companies cannot access certain markets or they must compete against dumped or subsidized goods. Hence, our constituents can ill afford for us to wait for the negotiators to reach agreement.

I want to impress upon my colleagues this point, Mr. President, the direct consequence of unfair trade practices is loss of U.S. jobs. This was brought in clear view for me early this year when I conducted a series of Judiciary Committee field hearings in my State in January. Those hearings were held in Philadelphia, Pittsburgh, Harrisburg, and Allentown on the general subject of unfair foreign trade practices and their effect on jobs. The participants included business and labor leaders representing every major industry group in the State. They were asked to prepare testimony on how their businesses have been affected by unfair trade practices. Virtually every witness was able to reference specific foreign trade practices which adversely impacted their business activities.

The bill I am introducing will redress many of the concerns expressed in those hearings. In particular, the bill would reauthorize the "Super 301" provision of the Omnibus Trade and Competitiveness Act of 1988. This provision will require the U.S. Trade Representative to identify annually foreign countries and practices that are trade liberalization priorities and, barring an agreement to end such practices, retaliate against those countries. This provision has proven to be an effective tool against unfair trade practices and should be reauthorized.

We have a serious problem, Mr. President, with market access in the Far East relative to automobiles, auto parts, rice, and rice products. This bill addresses these problems by obligating the administration to initiate section 301 investigations against Japan for autos and auto parts, and Japan, Korea, and Taiwan for rice and rice products, and to negotiate trade agreements to overcome the market access problem.

The bill also contains provisions that would modernize procedures to handle customs related matters, including improvements in customs enforcement. In this regard, the bill contains an important provision that would truly facilitate the enforcement of our customs laws, deterring customs fraud in particular. That is, this bill would provide a private right of action for individuals injured by customs fraud to sue in Federal court. A similar enforcement provision would be available for American businesses that have been injured by dumped or subsidized imports.

Consistent with my efforts since 1982 to enact such legislation, on April 1, 1992, I introduced S. 2508 which would provide a private right of action for dumping, illegal subsidies, and customs fraud. For purposes of consolidating trade enforcement mechanisms, however, I have included the substance of S. 2508 in this trade bill.

Mr. President, we have found that our trade has been crippled by subsidies, by dumping, and by customs fraud. The Federal Government is simply unable to handle these issues alone. If private parties had access to the courts to stop subsidies, dumping, or customs fraud, I suggest it would be enormously helpful to trade in our Nation.

We need some teeth to have an effective remedy to subsidized, dumped, or fraudulent goods from coming into this country. Immediate injunctive or monetary relief rather than prospective duties as currently authorized under our trade laws is the sort of teeth that is needed.

I am well aware that whenever there is a request to expand the jurisdiction of the Federal courts, there are complaints from many quarters that the Federal courts are overburdened at the present time. I agree that there are too many cases in litigation in this country. But the issues at stake are too great and I believe the Federal Government is itself too burdened to effectively redress the pernicious effects of subsidized and dumped imports and customs fraud. Accordingly, as I have said over the past decade in trying to enact such legislation, there is a real need to allow private plaintiffs the opportunity to enforce our trade laws.

Industry suffers the dual dilemma of competing against foreign protectionism and having no forum to pursue their grievance other than the executive branch. Mr. Hank Barnette, senior vice president and general counsel of Bethlehem Steel, who testified at the Judiciary Committee hearing in Pittsburgh provides a level of support for the private right of action concept. Mr. Barnette is very familiar with the broad range of our trade policy and was appointed by President Bush to serve on his Advisory Committee on Trade

Policy and Negotiations. He appeared before the Judiciary Committee to echo the support he voiced for private right of action legislation back in 1985:

> I said then, and am equally convinced today, the current prospective antidumping remedies provide an inadequate deterrent to dumping. We know that to be a fact. In our industry the practice of dumping has continued unabated for nearly 20 years and it is rampant today. The establishment of an effective private right of action against dumping in the United States Federal Courts would provide a much needed remedy.

The particular provisions in this trade bill would provide a private right of action for injunctive and monetary relief in Federal court to individuals or corporations who have been injured by dumping, subsidies, or customs fraud violations. The provisions would allow the affected industries to seek immediate relief through the Federal courts to halt the illegal importation of products.

Another important provision contained in the legislation I am introducing deals with the March 31 lapse of the voluntary restraint agreements for the steel industry and the subsequent lapse of negotiations for a multilateral steel agreement. Simply put, this bill would extend the voluntary restraint agreements for specialty steel products until March 31, 1995. This date anticipates that a multilateral steel agreement would be successfully negotiated by that time. The extension of VRA's is necessary as a method for stopping dumped and subsidized steel products from coming into this country. The American steel industry has long been victimized by subsidized and dumped steel imports. This clearly violates principles of free trade. This bill would correct that.

Mr. President, I am hopeful that the Senate can move quickly on this legislation. I recognize there are several pressing issues before this body such as the economy and our cities. But, I submit that limited access of U.S. exporters to certain foreign markets coupled with illegal imports into this country, both having a severe adverse effect on American jobs, make this trade legislation no less important. I urge, therefore, my colleagues to join me in supporting this bill.

By Mr. McCONNELL:

S. 3020. A bill to repeal the prohibition in the District of Columbia on individuals carrying self-defense items such as Mace; to the Committee on Governmental Affairs.

REPEAL OF PROHIBITION ON CERTAIN SELF-DEFENSE ITEMS

Mr. McCONNELL. Mr. President, I rise today to introduce a bill to give residents and visitors in the Nation's capital—particularly women—a means of defending themselves against violent crime. My bill would restore to men and women in this city the right to carry Mace—an effective deterrent and means to defend themselves against assault.

It is no secret that people in this city are in the grips of a violent crime epidemic. Members of Congress have been victimized. Staff members have been terrorized, brutalized, and even murdered. Residents in every quadrant of this city are at risk. Scared. And virtually, legally, defenseless.

Mr. President, as my staff has been making calls to other offices to garner cosponsorships for this bill, many more instances of violent crime—around the Senate buildings and parking lots—have come to light.

Staffers feel besieged, and are apprehensive when they walk to their cars at night—in Capitol Police-patrolled lots.

It should come as no surprise that female staffers are particularly concerned about random violence. For women who are approached by an assailant, losing their purse is the least of their concerns. Women have the additional, and incomprehensible, fear of being raped and otherwise brutally assaulted.

Mr. President, for Capitol Hill staff, walking to their cars, the Metro, or home—in the dark—goes with the job. We can make that walk a little less perilous by enacting this legislation. At the least, we will give staff a means of protecting themselves with something other than their car keys or I.D. cards. Passage of this legislation would give some staffers a sense of security when they leave the confines of these buildings. It would give everyone in this city an added measure of security.

I would like to bring to the Senate's attention a letter I received from a constituent who had recently made her first trip to this city. While touring, her purse was searched at a security checkpoint and the Mace she was carrying was seized. This young woman was told she was committing a crime and had the option of giving the Mace up to be destroyed or being arrested.

As you might imagine, the experience was frightening and enraging. The worst result, in her view, was that: "The law left me vulnerable in a city that by its own admission is perilous and crime-ridden."

Another dramatic, and tragic, illustration of the need for this bill: A year and half ago, a man attacked a woman who was walking home from church in the District. He grabbed her from behind. She took Mace from her purse, sprayed it at the assailant, and escaped. As she was running to a phone to call the police, her sister who was also walking home after church, saw a man rubbing his eyes—not knowing her sister had Maced him a few minutes earlier, she inquired as to whether he was OK. He grabbed her, dragged her into an alley, and raped her.

He was caught, convicted, and will soon be sentenced. But his victims have already been sentenced. Sentenced to a lifetime of coping with the physical and psychological trauma of rape.

Granted, this bill is no panacea. It will not stop rape or the random violence that terrorizes people in this city. It would, however, reverse a ridiculous situation whereby women, in particular, have been forced to give up one of the only means available to defend themselves, short of carrying a gun which also is not legal in this city, getting a black belt in a martial art, or walking everywhere with a large, protective, dog.

Mr. President, I have been informed that some women have resorted to carrying small cans of Easy-Off oven cleaner in lieu of Mace as a means of defense. This is an absurd and unacceptable situation.

Will there now be calls to ban the sale of Easy-Off in the District?

The bill I am introducing today gives District of Columbia officials until January 1, 1993 to rescind the Mace-ban. If they do not take the initiative, this bill will kick in and do it for them.

By Mr. SPECTER:

S. 3021. A bill to suspend until January 1, 1995, the duty on n-butylisocyanate; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. SPECTER. Mr. President, today I am introducing legislation that will temporarily suspend duties on two chemicals imported and used by my constituent, Miles, Inc., of Pittsburgh, PA, to supply makers of end-use products of importance to the agricultural market in the United States.

Miles Inc. (formerly Mobay) is a Fortune 100, research-based company with businesses in chemicals, health care, and imaging technologies. Headquartered in Pittsburgh, the company has major operations throughout the United States, with 1991 sales of $6.2 billion.

Because neither chemical is produced in the United States, Miles imports both n-butylisocyanate [NBI] and cyclohexylisocyanate [CHI] to supply the North American market. NBI and CHI both serve as key ingredients in the manufacture of herbicides and fungicides that are used in the highly competitive agricultural market. Miles supplies NBI and CHI to the manufacturers of these end-use products.

My constituent has represented to me that these requests for duty suspensions will help them maintain price stability over time. This will assist those they supply, and ultimately the end-product users in the U.S. agriculture industry, to contain costs and remain competitive.

As you are aware, Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation.

In this regard, consultations have taken place with the Ways and Means Subcommittee on Trade of the House of Representatives, which has jurisdiction over the companion bills, H.R. 5371 and H.R. 5372, and the office of Representative RICK SANTORUM, the sponsor of H.R. 5371 and H.R. 5372. Both offices have stated that they are aware of no domestic opposition or other opposition to Miles' duty suspension requests. Inquiry has also been made of the Commerce Department, which advises that they will not be able to respond until companion legislation is introduced in the Senate.

In sum, Mr. President, my constituent has represented to me that this legislation will benefit the domestic agriculture industry. Failure to suspend these duties also will adversely affect the international competitiveness of domestic manufacturers who require these chemicals to supply their products to the agriculture industry. For these reasons, I urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3022. A bill to suspend until January 1, 1995, the duty on 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide with application adjuvants; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. SPECTER. Mr. President, today I am introducing legislation that will suspend temporarily the existing import duties on 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide [KERB] and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide with application adjuvants used by my constituent, Rohm and Haas Co., in the production of amide-type herbicides. Rohm and Haas expects to import KERB both as a technical grade, active ingredient and as formulated material [KERB 50W]. In the United States, KERB is used primarily as a lettuce herbicide. It is also used, however, as a herbicide for seedling alfalfa and clover, and turf and ornamental plantings.

Rohm and Haas is seeking a temporary suspension of the duty on these products since this will allow the most efficient production of pronamide, and therefore, result in the continued, stable supply of a cost-effective herbicide for U.S. lettuce growers.

Rohm and Haas, a multinational company with main offices in Philadelphia, PA, is principally involved in the manufacture of chemicals and plastics. I am informed that Rohm and Haas is the only manufacturer of pronamide worldwide, it being manufactured at the company's Philadelphia plant and its Mozzanica, Italy plant. The company represents that it intends very shortly to consolidate its operations in its Mozzanica, Italy plant. Accordingly, there will no longer be a need for the U.S. to impose a tariff on these products to protect an American industry.

In the company's judgment, there are no herbicides that are directly competitive with pronamide and its major uses. KERB is a standard treatment in California where 70 percent of the Nation's lettuce is grown.

Duty suspension legislation, Mr. President, is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Rohm and Haas will not gain any such advantage by this legislation.

My staff has consulted with the Department of Commerce's Office of Industrial Trade, the office of Congressman MIKE ANDREWS, the sponsor of the companion bill, H.R. 4777, and the House Ways and Means Subcommittee on Trade, which has jurisdiction over H.R. 4777. Each of these consultations have confirmed that there is no domestic opposition and no other opposition to Rohm and Haas' duty suspension requests.

In sum, Mr. President, this legislation will allow the most efficient production of KERB. For these reasons I urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3023. A bill to suspend until January 1, 1995, the duty on p-nitrobenzyl; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

Mr. SPECTER. Mr. President, today, I am introducing legislation that will suspend temporarily the duty on p-nitrobenzyl alcohol. Merck & Co., Inc., is seeking this duty suspension legislation in order to remain competitive in the world marketplace with the manufacture of Primaxin/Tienam at its Danville, PA, plant. I am informed that this product is one of the world's leading antibiotics having a broad spectrum of activity against gram-positive and gram-negative aerobic and anaerobic bacteria, including strains resistant to penicillin, cephalosporins, and aminoglycosides.

As you are aware Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Merck & Co., will not gain any such advantage by this legislation. My staff has consulted with the Commerce Department's Office of Industrial Trade, the House of Representatives Committee on Ways and Means, Subcommittee on Trade, which has jurisdiction over the companion legislation, H.R. 4701, and with the office of Representative PAUL KANJORSKI, the sponsor of H.R. 4701. The Trade Subcommittee and the office of Representative KANJORSKI have stated that they are aware of no domestic opposition or other opposition to Miles' duty suspension requests. The Commerce Department advises that they will not be able to respond until companion legislation is introduced in the Senate.

Merck & Co. represents that without such duty suspension, it is faced with operating at an economic disadvantage vis-a-vis its foreign competitors insofar as Merck & Co. must pay a duty on p-nitrobenzyl alcohol it imports from England. According to Merck & Co., p-nitrobenzyl alcohol is not manufactured in the United States.

In sum Mr. President, without this duty suspension, the ability of Merck & Co., Inc., to preserve its integrity and continue to compete in the world marketplace while maintaining its manufacturing facilities in Danville, PA, is made more difficult. For the foregoing reasons, Mr. President, I, therefore, urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3024. A bill to suspend temporarily the duty on certain mounted television lenses; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

Mr. SPECTER. Mr. President, today I am introducing legislation that will suspend temporarily the duty on closed circuit television [CCTV] lenses used by my constituent, Burle Industries, Inc. of Lancaster, PA in the production of closed circuit television camera equipment. Burle is seeking this suspension to remain competitive in the world marketplace with its product.

Burle Industries, a Pennsylvania corporation, is principally involved in the manufacture of CCTV cameras and other security equipment and electron tubes. I am informed that Burle is one of a very few remaining domestic companies still engaged in manufacturing closed circuit television cameras in the United States. I am further informed that because CCTV lenses meeting Burle's specifications are generally not available from any other U.S. manufacturer, Burle must purchase from foreign sources the CCTV lenses identified in this legislation. The only other domestic manufacturer, JML Direct Optics, does not, I am advised, produce lenses in sufficient quantities to meet Burle's requirements.

As you are aware, Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Burle Industries will not gain any such advantage by this legislation. I am informed that the language in the companion House bill, H.R. 2769, introduced by Representative ROBERT WALKER, was revised to comply with a change requested by the Department of Commerce in order to satisfy other domestic importers of CCTV lenses that there would be no exclusive benefit to one single manufacturer. The legislation I am introducing reflects the Department of Commerce's requested change in language.

My staff has consulted with the Department of Commerce's Office of Industrial Trade, the office of Congressman WALKER, the House Ways and Means Subcommittee on Trade, which has jurisdiction over the companion bill, and the office of Congressman SAM GIBBONS, chairman of the Subcommittee on Trade. Each of these consultations have confirmed that there is no domestic opposition and no other operations to Burle Industries' duty suspension request.

In sum, Mr. President, my constituent has represented to me that this legislation is vital to its operations, and without it, its ability to remain competitive internationally is jeopardized. For these reasons I urge my colleagues to join me in supporting this legislation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3027. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

WORKING FAMILIES TAX RELIEF ACT

Mr. AKAKA. Mr. President, today I am joined by the senior Senator from Hawaii [Mr. INOUYE] in introducing legislation to provide tax relief to working families throughout America. Our bill would restore value to the child and dependent care credit by requiring that the credit be adjusted for inflation.

Mr. President, the evidence in support of improving the child and dependent care credit is clear. Over 56 percent of all mothers with children under 6 years old work outside the home, and over 70 percent of women with children over age 6 are in the labor market. Furthermore, the number of single mothers working outside the home has dramatically increased in recent years.

The percentage of Hawaii households in which both parents work outside the home is even higher than the national average. According to projections developed by the Bank of Hawaii based on the 1990 census, 61.8 percent of all Hawaii families have both parents employed, and 71.3 percent of all households have at least two individuals in the work force.

The increased participation of single mothers in the labor market and the large number of two-parent families in which both parents work outside the home has made the dependent care credit one of the most popular and productive tax incentives ever enacted by Congress. Unfortunately, the value of the credit has declined significantly over the years as inflation has slowly eaten away at the value of this benefit. Measured in constant dollars, the maximum credit of $2,400 has decreased by 45 percent since it was enacted in 1981.

The maximum amount of employment-related child care expenses allowed under current law—$2,400 for a single child and $4,800 for two or more children—has simply failed to keep pace with escalating care costs. Unlike the earned income tax credit [EITC], the standard deduction, the low-income housing credit, and a number of other sections of our Tax Code, the dependent care credit is not adjusted for inflation.

The purpose of this credit is to partially offset the expense of dependent and child care services incurred by parents working outside the home. Yet, while the cost of quality child care has increased as demand exceeds supply, the dependent care credit has failed to keep up with the spiraling costs. The bill we introduce today corrects this problem by automatically adjusting the dependent and child care credit for inflation. Under this legislation, both the dollar limit on the amount creditable and the limitation on earned income would be adjusted annually.

Mr. President, in the past 12 years, the average middle-class family with children has seen its income fall 5 percent, almost $1,600 after inflation. A family of four earning $35,000 a year has seen its tax burden increase since 1981. In part, this is due to the diminished value of the child and dependent care credit.

In 1981, the flat credit for dependent care was replaced with a scale to give the greatest benefit of the credit to lower income working families. Since that time, neither the adjusted gross income figures employed in the scale, or the limit on the amount of employment-related expenses used to calculate the credit, have been adjusted for inflation.

Our bill provides a measure of needed relief to working American families. It would index the child and dependent care credit and restore the full benefit of the credit.

The average cost for out-of-home child care exceeds $3,500 per year per child. Child care or dependent care expenses can seriously strain a family's budget. This burden can become unbearable for single parents, almost invariably single mothers, who must balance the need to work with their parental responsibilities.

Numerous economic studies have shown that the economic policies of the 1980's had a disastrous impact upon the incomes of middle-income families. Inflation-adjusted wages for the median worker fell 7.3 percent from 1979 to 1991. Working Americans have been losing ground in their struggle to preserve their standard of living.

To compensate, American families have been forced to work longer hours, deplete their life savings, and go deeper into debt. There is an urgent need to enact changes in our Tax Code that are profamily and prochildren. The Working Families Tax Relief Act meets both of these goals.

Mr. President, I urge my colleagues to support this important legislation. I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Families Tax Relief Act.".

SEC. 2. INFLATION ADJUSTMENT OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Subsection (e) of section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end thereof the following new paragraph:

"(10) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, each dollar amount contained in subsections (c) and (d)(2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

By Mr. D'AMATO:

S. 3028. A bill to suspend until January 1, 1995, the duty on certain glass articles; to the Committee on Finance.

S. 3029. A bill to provide for a temporary suspension for duty for certain glass articles; to the Committee on Finance.

S. 3030. A bill to extent until January 1, 1997, the existing suspension of duty on certain infant nursery intercoms and monitors; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. D'AMATO. Mr. President, I rise today to introduce three pieces of legislation to amend the Harmonized Tariff Schedule of the United States in order that these will be considered part of the Senate miscellaneous tariff bills of 1992.

The first bill suspends the duty on certain glass particles until January 1, 1995. My colleague, Congresswoman KENNELLY, has introduced companion legislation in the House.

The second bill provides for a temporary suspension for duty for certain glass particles. Congressman MCGRATH has introduced companion legislation in the House.

The third bill extends until January 1, 1997, the existing suspension of duty on certain infant nursery intercoms and monitors.

Mr. President, I ask unanimous consent that the text of the bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 3028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN GLASS PRODUCTS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.85.01	Planar optical glass waveguide couplers produced by thallium doping utilizing ion exchange (provided for in chapter 85 or 90)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GLASS ENVELOPES AND FUNNELS FOR ENVELOPES.

Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.70.10	Tinted monochrome glass envelopes, complete with sealed faceplate; and funnels for envelopes, having a straight skirt of over 2.54 centimeters which is designed to meet the faceplate at a 76° angle on all four (4) sides, having a display diagonal of 38.11 centimeters or 43.19 centimeters (provided for in subheading 7011.20.00)	Free	No Change	No Change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN INFANT NURSERY INTERCOMS AND MONITORS.

Headings 9902.85.25 and 9902.85.26 of the Harmonized Tariff Schedule of the United States (relating to certain infant nursery intercommunication systems and monitor systems, respectively) are each amended by striking "12/31/92" and inserting "12/31/96".

By Mr. BRYAN (for himself and Mr. Reid):

S. 3032. A bill to extend the temporary suspension of duty on three-dimensional cameras; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

• Mr. BRYAN. Mr. President, today I am introducing legislation with the senior Senator from Nevada to extend the temporary duty suspension for 3-D cameras. This suspension was enacted in 1990 through legislation we sponsored but is due to expire at the end of this year.

The Nishika Corp., which has located in Henderson, NV is the sole owner of the worldwide patent rights for 3-D cameras. Since the initial duty suspension legislation, the company's work force has more than quadrupled and the company has invested over $4 million into its facilities, becoming a significant employer in the Henderson community.

The camera is unique and uses standard 35mm film on which it produces a three-dimensional photograph that can be viewed without special glasses. The permanent tariff schedules do not adequately reflect the unique nature of this camera. New classifications need to be created for new products such as the 3-D camera.

I urge my distinguished colleagues to support our bill to extend the 3-D camera duty suspension from December 31, 1992, to December 31, 1994.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SUSPENSION OF DUTY ON THREE-DIMENSIONAL CAMERAS.

(a) In General.—Heading 9902.90.06 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting in lieu thereof "12/31/94".

(b) Effective Date.—

The amendment made by this section applies with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1992.•

• Mr. REID. Mr. President, today I am joining Senator Bryan in introducing legislation to extend the temporary duty suspension for 3-D cameras. This suspension was enacted in 1990 through legislation we sponsored on behalf of Nishika Corp. in Henderson, NV. Since the initial duty suspension legislation, the company's work force has more than quadrupled, and the company has invested over $4 million into its facilities, becoming a significant employer in the Henderson community.

The Henderson company currently employs more than 135 persons in research and development, photo finishing, marketing, and administration for 3-D cameras. This camera is unique and uses standard 35mm film on which it produces a three-dimensional photograph that can be viewed without special glasses. The camera itself and its photofinishing process have been improved by the Nevada employees.

The permanent tariff schedules do not adequately reflect the unique nature of this camera because, in general, they cannot respond automatically to new developments and technology. New classifications need to be created for new products such as the 3-D camera.

However, the duty suspension for 3-D cameras will expire at the end of this year, as will almost all such suspensions enacted in 1990. Unless this suspension is renewed, many of the Henderson company's employees may see their jobs disappear. I urge my colleagues to support our bill to extend 3-D camera duty suspension from December 31, 1992 to December 31, 1994.•

By Mr. DANFORTH (for himself and Mr. Bond):

S. 3033. A bill to suspend temporarily the duty on Pyrantel Tartrate with Zeolox; to the Committee on Finance.

S. 3034. A bill to suspend temporarily the duty on Procaine Penicillin G (sterile and nonsterile); to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator Bond, I am introducing today two miscellaneous tariff bills. These bills are virtually identical to two previous bills introduced last year, S. 1485 and S. 1486, except for certain technical corrections. The bills we are introducing today are intended to supersede those previously introduced bills. I ask unanimous consent that the texts of the two new bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 3033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PYRANTEL TARTRATE WITH ZEOLEX.

(a) In General.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Pyrantal Tartrate with Zeolex (provided for in subheading 3003.90.00)	Free	No change	No change	On or before 12/3/94".

(b) Effective Date.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROCAINE PENICILLIN G (STERILE AND NONSTERILE).

(a) In General.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Procaine Penicillin G (Sterile and Non-sterile) (provided for in subheading 2941.10.20)	Free	No change	No change	On or before 12/3/94".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. DANFORTH (for himself and Mr. BOND):

S. 3035. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator BOND, today I am introducing legislation to suspend temporarily the duty on nine chemicals used in the manufacture of generic penicillin and cephalosporin drug products in the United States. Generic drug manufacturers have not been able to obtain these chemicals domestically. Nor do there appear to be any competing substitutes that are available from a domestic supplier at this time. At a time of skyrocketing health care costs, the low-cost generic drugs produced from these chemicals are critically important to many U.S. consumers, especially the poor, elderly, and the very young. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN CHEMICALS.

(a) CHAPTER 29 CHEMICALS.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.31.12	D-dihydrophenyl glycine (provided for in subheading 2921.30.20)	Free	No change	No change	On or before 12/31/94
9902.31.13	D(-)-4-hydroxyphenyl glycine (provided for in subheading 2922.29.23)	Free	No change	No change	On or before 12/31/94
9902.31.14	D(-)-alphaphenyl glycine (provided for in subheading 2922.49.35)	Free	No change	No change	On or before 12/31/94
9902.31.15	Bis-Trimethylsilurea (provided for in subheading 2931.00.50)	Free	No change	No change	On or before 12/31/94
9902.31.16	7-amino-desscetoxy cephalsophoranic acid (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/94
9902.31.17	6-amino penicillenic acid (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/94
9902.31.18	Penicillin V potassium (provided for in subheading 2941.10.10)	Free	No change	No change	On or before 12/31/94
9902.31.19	Penicillin G potassium (provided for in subheading 2941.10.10)	Free	No change	No change	On or before 12/31/94".

(b) CHAPTER 35 CHEMICALS.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is further amended by inserting in numerical sequence the following new headings:

"9902.35.07	Penicillin G amidase (provided for in subheading 3507.90.00	Free	No change	No change	On or before 12/31/94".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. DANFORTH (for himself and Mr. KOHL):

S. 3036. A bill to suspend until January 1, 1995, the existing suspension of duty on 6-Hydroxy-2-naphthalenesulfonic acid, and its sodium, potassium, and ammonium salts; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator KOHL, today I am introducing legislation to extend temporarily the existing suspension of duty for Schaeffer Salt (6-Hydroxy-2-naphthalenesulfonic acid). Schaeffer Salt is used in the production of certain food coloring and is not currently available from a domestic supplier. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY ON 6-HYDROXY-2-NAPHTHALENESULFONIC ACID, AND ITS SODIUM, POTASSIUM, AND AMMONIUM SALTS.

(a) IN GENERAL.—Heading 9902.29.10 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section applies to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 1993.

By Mr. DANFORTH (for himself and Mr. BREAUX):

S. 3037. A bill to liquidate certain entries on which excessive countervailing duties were paid, and for other purposes; to the Committee on Finance.

RELIQUIDATION OF CERTAIN ENTRIES ON CERTAIN EXCESSIVE DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator BREAUX, I am introducing today legislation to correct certain clerical errors by the Customs Service that have prevented the Bunge Corporation of St. Louis, MO from receiving refunds on excess countervailing duty deposits previously paid by Bunge.

Under our trade laws, where an import is subject to a countervailing duty order, the importer of the product is required to pay countervailing duty deposits based on the estimated countervailing duty rate established by the Department of Commerce. Later, if the actual countervailing duty rate is found to be lower than that previously estimated, the importer is entitled to a refund on the excess deposited, plus interest.

During the 1980's, one division of Bunge imported cotton yarns from a related company in Peru. Those imports were subject to an outstanding countervailing duty order, and Bunge therefore paid deposits on each of these imports based on the estimated countervailing duty rate. Unfortunately, due to some clerical errors, Customs liquidated—that is, closed-out certain entries prior to the determination of the actual countervailing duty rate that was to apply. By the time Bunge became aware of this problem, it was too late for the Customs Service to correct the error and refund Bunge its excess deposits. It is therefore necessary to introduce this legislation to authorize the reliquidation of these entries so that the excess deposits can be refunded to Bunge with appropriate interest.

Mr. President, I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR RELIQUIDATION AND PAYMENT OF INTEREST.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to section 2, upon proper request filed with the appropriate customs officer within 1980 days after the date of the enactment of this Act—

(1) any entry listed in section 3 that was not reliquidated as of such date of enactment shall be reliquidated so as to reduce the amount of countervailing duty imposed on such entry to the amount found by the Secretary of Commerce to be owed as a result of final review under title VII of the Tariff Act of 1930 and a refund of any excess countervailing duty so found shall be made to the importer of record; and

(2) interest on the amount of any excess countervailing duty found as a result of—

(A) any reliquidation under paragraph (1); or

(B) a reliquidation of any entry listed under section 3 that occurred before such date of enactment;

shall be paid to the importer of record.

SEC. 2. ADMINISTRATION.

(a) REQUEST INFORMATION.—A request filed under section 1 shall contain sufficient information to enable the United States Custom Service—

(1) to locate the entry in question; or

(2) to reconstruct the entry if it cannot be located.

(b) INTEREST.—Interest shall be paid under paragraph (2) of section 1 on the excess countervailing duty imposed on an entry from the date of the liquidation of the entry to the date of the reliquidation.

(c) TIME FOR MAKING REFUNDS AND PAYMENTS.—

(1) The refund of excess countervailing duties, and the payment of interest thereon, resulting from a reliquidation under section 1(1) shall be made within 90 days after the date of the reliquidation.

(2) The payment of interest or reliquidations described in section 1(2)(B) shall be made within 90 days after the date on which the request therefore is filed under section 1.

SEC. 3. ENTRIES.

The entries referred to in section 1 are as follows:

Entry No.:	*Date of Entry*
	Date of Entry
832779703	05/06/83
832779716	05/06/83
832782677	05/31/83
832782680	05/31/83
832785852	06/23/83
832793174	08/11/83
832796074	08/29/83
841387694	06/20/84
841390432	07/11/84
841616064	08/15/84
842683627	02/03/84
842691732	03/30/84
842691745	03/30/84
842716484	08/27/84
842720098	09/20/84
855108089	10/10/84
855118613	11/26/84
856113838	11/01/84

By Mr. DANFORTH

S. 3039. A bill to extend until January 1, 1996, the existing suspension of duty on triallate; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, today I am introducing legislation to extend temporarily the existing suspension of duty for triallate (S-(2,3,3-trichlorallyl) diisopropyl thiocarbamate). Triallate is the active technical ingredient of a herbicide used to control wild oats in small grain crops such as wheat and barley. There has been no U.S. manufacturer of this product since 1986, and the duty on this product has been suspended since passage of the 1988 Trade Act. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY ON TRIALLATE.

(a) IN GENERAL.—Heading 9902.29.60 of the Harmonized Tariff Schedule of the United States (relating to S-(2,3,3'-trichloroallyl)diisopropylthiocarbamate) is amended by striking "12/31/92" and inserting "12/31/95".

(b) EFFECTIVE DATE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, after December 31, 1992.

By Mr. BENTSEN:

S. 3041. A bill to amend the Internal Revenue Code of 1986 to establish a national commission on private pension plans; to the Committee on Finance.

NATIONAL COMMISSION ON PRIVATE PENSIONS ACT

Mr. BENTSEN. Mr. President, I am pleased to introduce legislation that would create a National Commission on Private Pension Plans.

ERISA, the Employee Retirement Income Security Act of 1974, passed the Senate by a unanimous vote in 1974. But as one of the authors of that legislation, let me assure you that it wasn't easy. There were a lot of hurdles to jump. Senator Javits had been trying to get pension legislation enacted for 7 long years. When I first joined the Finance Committee in 1973, enactment of ERISA became my highest priority. Working with Jake Javits and Senator Harrison Williams of New Jersey, who was then Chairman of the Labor Committee, we jumped all those hurdles. After long years of effort, President Ford signed the bill in the Rose Garden on Labor Day of 1974.

ERISA was enacted because enough members of Congress agreed on this basic point: the Federal Government has a role in creating a system where American workers earn private pension benefits to supplement Social Security benefits and a role in ensuring that promised pension benefits are paid. ERISA made sure that workers a day short of retirement wouldn't have to fear being fired and losing that pension they had worked for years to attain. ERISA created the Pension Benefit Guaranty Corporation to ensure that workers didn't lose their pensions just because their employer went bankrupt. ERISA required that employers fund their retirement promises and imposed fiduciary obligations on the individuals responsible for investing those pension assets. ERISA created private rights of action to ensure that workers could protect their retirement benefits.

But a great deal has happened since that day in the Rose Garden in 1974. The size and structure of retirement plans have changed and the rules governing retirement plans have changed—often on a piecemeal basis.

According to the Department of Labor, pension coverage increased from 26 million workers in 1970 to over 42 million in 1989. Over that same period, the number of retirees receiving a pension from a private plan jumped by almost 300 percent. Retirement benefit payments rose from $7.4 billion in 1970 to over $133 billion in 1989.

Assets held in pension plans have also risen dramatically. According to the Employee Benefits Research Institute the assets held in all pension plans in 1990 equaled almost $3 trillion, up from only $241 million in 1970. And pension plans now own almost 25 percent of the corporate equity in America.

This staggering growth in pension plans has occurred despite numerous changes in the laws governing the private pension system over the last decade. These changes have made the system more complex, and the administrative burden of maintaining retirement plans has risen substantially. Since 1980, legislation on retirement plans has been enacted in almost every year. IRS regulations have also multiplied, both in number and in length. Many of these changes were adopted without any analysis of the cumulative impact on our private pension system.

As we approach the 20th anniversary of ERISA, it is time to reevaluate where our private pension system stands and to look at ways to improve it. It's time to look anew at a great success story—the benefits that ERISA has provided to millions of Americans and see how we can make things even better.

According to a study by the National Federation of Independent Business, only 18 percent of small employers provide retirement coverage to all their employees. Medium-sized and large employers cover over 80 percent of their workers and government employers cover about 90 percent. In many cases, small employers simply do not have the financial resources to provide pension coverage. But more and more, they are being discouraged from establishing new plans because they are unable to deal with the complexity of the pension laws and regulations. We need to look for ways to get the employees of small employers into the private retirement system.

The Pension Benefit Guaranty Corporation [PBGC] fulfills the important function of protecting retirement benefits for over 30 million workers. But it seems that every few years the PBGC comes to Congress requesting premium increases of other legislative changes. We need to look for ways to make sure that any problems at the PBGC are dealt with once and for all.

The dramatic rise in retirement plan assets has led to increasing questions of how active these retirement plans should be in corporate governance. In addition, the investment decisions involving plans that hold trillions of dollars in assets are worthy of further analysis.

Our pension system works. It delivers trillions of dollars in retirement security to millions of Americans who have worked hard and earned the right to financial security in retirement. But we must not assume that it is working perfectly. That is what the Commission created by this bill would look at. Over a period of less than 2 years the National Commission on Private Retirement Plans would be charged with reviewing existing Federal incentives and programs that encourage and protect private retirement savings. This is an important step and urge my colleagues to join me in support of this legislation. I ask that a copy of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

"(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall consist of—

"(A) 6 members to be appointed by the President;

"(B) 6 members to be appointed by the Speaker of the House of Representatives; and

"(C) 6 members to be appointed by the President pro tempore of the Senate.

"(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

"(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

"(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

"(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1994, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

"(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

"(1)(A) Members of the Commission shall be appointed during the period beginning February 1, 1993, and ending March 1, 1993, for terms ending on September 1, 1994.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4) The Commission shall meet at the call of the Chairman.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

"(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classification and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United Stats Code, as the Commission determines to be necessary to carry out the duties of the Commission.

"(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

"(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993 and 1994, such sums as may be necessary to carry out this section.

"(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

"(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

"(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 41, United States Code."

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7524. National Commission on Private Pension Plans."•

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. DODD, Mr. SANFORD, and Mr. LEVIN):

S. 3046. A bill to amend the Tariff Act of 1930 to improve the antidumping and countervailing duty provisions, and for other purposes; to the Committee on Finance.

1930 TARIFF ACT AMENDMENTS ACT

• Mr. ROCKEFELLER. Mr. President, I am today introducing legislation to address a number of problems that have emerged in our antidumping and countervailing duty laws over the past 13 years of experience with them. Mr. President, these laws are not new—they date back over 70 years—but they are virtually our only line of defense against unfair trade practices, and it is important that we keep them current.

Last updated in 1979 following the Tokyo round of trade negotiations, these laws represent a GATT-consistent means of addressing two kinds of unfair trade practices that have become increasing problems in the global marketplace. The countervailing duty law is designed to offset government subsidies, and the antidumping law is designed to deal with dumping, which is defined as selling below one's home market price, a third market price, or the cost of production.

In both cases, the theory is that these practices, the former by governments and the latter by individual producers, distort the market system and thereby confer an unfair advantage. Because of that, the General Agreement on Tariffs and Trade has erected multilaterally agreed-upon codes intended to provide some discipline over these practices. U.S. law embodies those codes.

I should emphasize, Mr. President, that these laws are not designed to be either punitive or arbitrary. If an unfair practice is found, the penalty is a duty on the import in an amount calculated to offset the dumping or subsidy. In order to obtain such a duty, a domestic complainant must demonstrate both that the unfair practice is occurring and that the domestic industry has been injured by it. Over the life of these statutes there have been numerous cases where the subsidy or dumping is clearly established, but the International Trade Commission has determined that, even so, there has not been material injury.

While the laws are not punitive, we do want them to be effective. The United States is somewhat unusual in the world in its reliance on its legal system and relatively transparent procedures to deal with these problems. Most countries find other, less formal means—sometimes outright quotas or other import limits, sometimes informal arrangements that result in the voluntary limitation of imports after government pressure. This is why American manufacturers are so concerned with the Uruguay rounds Dunkel draft, which would require changes that would weaken U.S. law and would weaken discipline over these practices. Other countries can make these concessions because they don't rely on these laws. If we do the same, we have nothing else as a fallback.

Even without the Dunkel draft, however, the effectiveness of these laws is declining, largely because, over time, importers learn how to evade them or how to minimize the impact of the penalties. This is not a new problem. We have been plugging leaks in these dikes for years, passing amendments piecemeal as we encounter new types of violations. The proper approach at this point would be a complete overhaul, as we undertook in 1979, but realistically, that is most likely to occur after the conclusion of the Uruguay round, an event that will probably occur after Congress adjourns this year, if it happens at all.

In the short run, however, there are a number of problems that have been identified that can easily be addressed without a comprehensive revision of the laws. Some of them have already been identified by others. The anticircumvention language in this bill, for example, is the same as that proposed by Congressman ROSTENKOWSKI, the chairman of the Ways and Means Committee, in his omnibus trade bill, H.R. 5100, which passed the House on July 8. Other provisions can hardly be called major changes in the law, but each of them is intended to address a serious problem of current procedure or legal interpretation that has arisen in recent years. A number of them relate to the experiences of West Virginia firms with the trade laws, particularly those in the steel industry. I would also note, however, that since most of these provisions would apply to cases begun after the date of enactment, they will not have an effect on pending cases, including those filed by the steel industry.

It is my hope, now that the House has sent us a trade bill, that the Senate can address these issues this year and not let any more time pass before taking remedial action. I will be working to that end, Mr. President, and hope that other Senators will join me in that effort.

Since these provisions, not to mention current law, are complicated, they deserve some explanation in a way that I hope will be clear to both Senators and members of the public who read these remarks after they are printed. Accordingly, let me try to summarize each of the provisions in the bill and the problems they are trying to address.

First, standard for initiation: Current law mandates a fairly low standard for accepting antidumping or countervailing duty petitions. Over the years, however, the Commerce Department bureaucracy has effectively raised the standard to demand more information and evidence before accepting a petition. This has had the effect of increasing the expense of filing and deterring cases from being pursued.

Mr. President, congressional intent on this matter was expressed very clearly in 1979. We wanted a low standard for accepting petitions because we wanted every citizen to have access to this important administrative process. In some respects, the procedures we adopted in 1979 made winning a case somewhat more difficult—particularly in the case of a subsidy complaint, where we added an injury test—and Congress felt, therefore, it was very important that we give petitioners every opportunity to have their complaint fully and carefully considered.

The bill would address this problem by clarifying the statute to require that petitions contain "a short and plain statement of the elements necessary for the imposition of the duty . . . and adequate information to give notice of the factual basis for the petitioner's allegations." While current law is also an adequate expression of Congressional intent, its meaning has been distorted over time by the Department, and it is appropriate to state again in statutory form our determination that the standard for accepting a petition be a low one.

Second, determination of material injury—volume of imports: When the International Trade Commission votes on injury in a dumping or countervailing duty care, it considers whether the industry is injured at the time of the vote. That can lead to negative decisions in the numerous cases where the act of filing the petition had an impact on the quantity of imports. Importers often reduce their shipments during the period of investigation due to the market uncertainty the petition creates or in the hopes of securing a negative decision from the Commission by arguing that the domestic industry could not be injured because imports have declined.

The bill addresses this problem by simply making clear that no negative inference can be drawn from a record of declining imports after the filing of a petition.

Third, price competition: Normally, when considering a purchase, a consumer would compare the actual prices he would have to pay for competing goods. The Commission, however, sometimes compares an import's price at the port to the domestic product's factory price. This can lead to the conclusion that the import sells at a higher price than the domestic product, when from the actual consumer point of view the opposite might be true.

The bill would address these situations by directing the Commission to compare prices of goods as they are sold to the ultimate consumer. That should produce a more appropriate comparison.

Fourth, cumulation: As countries develop and the production/manufacturing process becomes increasingly decentralized, we have begun to encounter the phenomenon of similar imports from a wide variety of countries, many of them with only a small share of our market. Pursuing an unfair trade complaint against only the largest importers, however, is often helpful only in the short term, as those importers, once subject to dumping or countervailing duties, are quickly replaced by others who were not subject to the trade action.

American industry has responded to this problem first by filing cases against more than just the biggest importers and by encouraging the Commission to cumulate imports in its consideration of injury—that is, to determine whether all the imports collectively from the various countries subject to investigation were causing injury rather than whether the imports from each country were individually causing injury.

This provision of law, which first appeared in law in 1984 and was subsequently amended in 1988, has produced some unexpected problems in its administration, one of which relates to the circumstance of a complaint being filed against a new source of imports after a final affirmative determination has been made on the other sources of imports. At that point, the new imports cannot be cumulated with the old ones, because the latter are no longer subject to investigation. As a result, the law effectively encourages what might be called serial dumping—the repeated entry of new dumped imports from new sources after each old source is addressed through a trade complaint.

The bill addresses this problem through a look-back provision, which directs the Commission in the above circumstances to consider the injurious dumping over the previous three years as an important factor in determining the vulnerability of the industry to injury in the present case.

Fifth: A related problem in the administration of the cumulation provisions relates to the Commission's 1988 authority to exclude negligible imports from an investigation. Following an affirmative final determination on the remaining imports, those that were dropped on the grounds of negligibility can and probably will grow significantly and become a new dumping problem. Just as in the previous provision, these imports are hard to reach because they cannot be cumulated with the earlier imports.

The bill addresses this problem in a manner similar to the direct cumulation problem above. If a subsequent petition is filed within 3 years of an earlier affirmative determination—the Commission's normal investigative period—on imports that had been found negligible, the imports covered by the later petition will be deemed to be causing material injury if the Commission would have reached an affirmative decision on them had the pattern of their volume, price, import penetration, and other factors been of similar dimensions during the earlier period of investigation when the imports were found to be negligible.

Sixth, suspension agreements: Current law gives the administering authority the option of suspending an investigation, along with any duties that might be imposed, in return for commitments by the importing parties, generally to cease the injurious activity. If the agreement is subsequently violated, the case would essentially pick up at the point it was suspended. Although the government has quite properly entered into very few of these agreements over the years, concern has arisen that the way the law is structured it could be to the advantage of a foreign party to enter into such an agreement temporarily and then violate it at a point when economic conditions made the likely outcome of the case when it was resumed more favorable to them. In other words, someone who was dumping might agree to suspend such activity because he anticipated losing the case, but he might at some later point deliberately violate the agreement and resume dumping in the expectation that the domestic industry could no longer establish injury or dumping of the same magnitude.

The Commission commented on this possibility in its decision last year on Sheet Piling from Canada:

> . . . Congress has directed the Commission not to consider the effect of the suspension agreement when determining which merchandise is subject to investigation. 19 U.S.C. 1673c(j). Subsection (j), however, does not direct the Commission to ignore the impact of a suspension agreement on relevant economic indicators, such as changes in the volume or price of imports brought about by an agreement to eliminate LTFV sales. Such an interpretation would provide a benefit to importers who violate suspension agreements. Moreover, it would create an incentive for all importers to violate suspension agreements as soon as prices rise, imports drop, and the condition of the domestic industry improves.

The bill provides that, in an investigation that has been resumed because of such a violation, the Commission may not consider a decline in the volume of imports or an improvement in the condition of the domestic industry—both of which may occur as a result of a suspension agreement—to be indicators that the domestic industry is not injured. Similar language precluding the Commerce Department from considering changes in the foreign market value or the U.S. price of the good after the date of the suspension agreement is also included. This language is consistent with congressional intent and an appropriate clarification of an unanticipated problem when the 1979 changes were made.

Seventh, concentration of imports: In an investigation involving a regional industry, the Commission may find injury only "if there is a concentration of subsidized or dumped imports into" the region. The legislative history of this provision makes it clear that such concentration exists when the ratio of the dumped or subsidized imports to the consumption of the imports and the domestic product is clearly higher in the regional market than the rest of the U.S. This is essentially a market share test, and the Commission initially applied it in a manner faithful to Congressional intent, as in certain steel wire nails from the Republic of Korea (1980), and cut-to-length carbon steel plate from the Federal Republic of Germany (1984).

More recently, however, the Commission has tended to ignore this standard and has begun to look simply at whether the region in question accounts for a large share of the imports. With an occasional exception, the Commission has generally found that standard satisfied when the region accounts for at least 80 percent of the imports, as in Gray Portland Cement and Cement Clinker from Mexico (1989). This standard is not what Congress intended, and it has in several cases resulted in finding no import concentration in situations where use of the proper standard would likely have resulted in the opposite conclusion. Examples are Gray Portland Cement and Cement Clinker from Japan (1991), and dry aluminum sulfate from Sweden (1989).

The amendment solves this problem simply by incorporating into the statute the language from the legislative history of the Trade Agreements Act of 1979, ensuring that the Commission in future investigations will apply the clearly higher standard Congress intended.

Eighth, definition of subsidy: Although the Tokyo round made some progress in defining what a subsidy is, our experience since then has made clear that both the round's Subsidies Code and United States practice do not adequately reach some government subsidies that have a clear impact on an industry's ability to export. In particular, the Commerce Department currently does not apply countervailing duties against international development bank—the World Bank or its counterpart regional institutions—loans or loan guarantees, even if they are at concessionary rates or even if the loan would not have been available from commercial sources—in other words, when the recipient is not creditworthy.

The bill's response to that gap is very straightforward. It simply includes such loans in the statutory definition of a subsidy.

Similarly, a problem has arisen with respect to loans or loan guarantees for the expansion of production or improvements in existing production when the effect of such loans is to increase production for export purposes. In such cases, the loan or loan guarantee is in reality an export subsidy, even though it may not be explained that way by the offending government.

In order to plug that gap, the bill defines as an export subsidy any loan by a government for expansion of production, or for improvements to existing production where one-third or more of the output can reasonably be expected to be exported.

Ninth, circumvention: One of the most difficult and complex problems this bill attempts to deal with is circumvention of dumping duties. This problem was not anticipated in 1979, but it should come as no surprise that over 13 years importers and foreign manufacturers have learned a great deal about our law, including its loopholes, and have discovered how to exploit those gaps to their advantage. The trend toward globalization of production has also contributed significantly toward the problem by making it easier for producers to move their production or assembly from place to place to stay ahead of dumping duty orders.

At the most obvious level, Mr. President, circumvention is fraud, which is already addressed in our law. If, for example, duties have been imposed on photo albums from Korea, and the same albums suddenly start appearing from another country, such Singapore, falsely labeled as originating in the new country, then we have adequate statutory authority to address the problem, although sufficient enforcement resources is always a problem in case of this kind. It is not hard for a determinated importer consistently to stay ahead of Customs enforcement authorities.

The more complicated situations, of course, are when the product in question is in some fashion transformed in the second country, thus permitting the argument that the import is no longer of the dumping country's origin. Often that also involves a Customs Service decision as to whether the product has been sufficiently altered or sufficient value has been added in the second country to transfer origin. Most complicated in this category is when assembly of a finished product is moved into the United States. In that case, the dumped end product is no longer being imported, but most or all of its component parts are, for assembly here. Since both U.S. law and GATT rules limit attaching dumping duties to the "like" product, the duties cannot simply and easily be transferred from the finished product to its parts.

Another, related, problem, deals with what is known as diversionary dumping. It occurs when intermediate goods on which there is an outstanding dumping duty order are shipped to a third country and are there incorporated into a finished product which is subsequently imported into the United States. An example would be steel sheet or coil from Taiwan which has been found to be dumped in the U.S. and which is then shipped to Korea and made into pipe and tube, which is then imported into the United States. Current law does not address this problem, and the Administration has regularly opposed any serious effort to deal with it.

The solution to the first problem, the case where final assembly is in the United States and the components are imported from countries other than that covered by the initial duty order, the bill would apply the existing order in cases where the same company was involved in the assembly in the United States and the parts came from historic suppliers. This is the same approach as that proposed by Congressman ROSTENKOWSKI, the chairman of the Ways and Means Committee, in H.R. 5100, his recently passed omnibus trade bill.

The problem of diversionary dumping is addressed with language that is a somewhat revised version of a proposal first made by several members of the Finance Committee in 1986 and 1987. A version of this provision was initially incorporated into the Senate markup vehicle for the 1988 trade bill but was ultimately removed due to opposition from the Reagan administration. A much more modest version was incorporated into the bill, but it is so limited it has not successfully dealt with the problem.

Tenth, monitoring: Current law provides for Commerce Department monitoring of imports in the limited circumstance where more than one antidumping duty order on the same merchandise is already in effect. Despite numerous requests, there has never been a monitoring program initiated under this provision, which is unfortunate, since the act of monitoring can have a discouraging effect on dumped imports without forcing hard-pressed domestic industries to go to the expense of filing a formal complaint.

The bill would broaden somewhat Commerce's authority by permitting a monitoring request when there is only one other antidumping duty order outstanding. That would not reduce the Commerce Department's discretion but would at least expand the universe of situations where monitoring could occur.

Eleventh, upstream subsidies: One of the post-1979 problems Congress attempted to address in the 1980s was that of upstream subsidies—a manufacturer's use of an input or component part that benefits from a subsidy. Accepting this concept, as we have done, leaves the Commerce Department with the technical problem of determining the value of the benefit of the subsidy to the manufacturer.

In the first case where this issue was raised, Certain Agricultural Tillage Tools from Brazil, Commerce established a hierarchy of price comparisons for determining such a value.

In general, the methodology is to compare the price paid to the subsidized input supplier to:

First, prices charged by unsubsidized producers of the inputs in the same country;

Second, prices paid for unsubsidized imports of the input for use downstream producers;

Third, information on world market prices in cases of commodity products;

Fourth, the best information available to calculate a benchmark price.

This construct, in my judgment, is an adequate elaboration of congressional intent, and it appears to have been successful in practice. Now, however, the Department has announced its intention to abandon this methodology and instead compare the price paid by the producer to a subsidized supplier in the country under investigation to F.O.B. prices of subsidized and unsubsidized foreign suppliers. This is an unwarranted and uncalled-for change in an otherwise acceptable practice. The amendment in my bill would prevent this change simply by putting into the statute the previous Commerce practice.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STANDARD FOR INITIATING PETITION.

(a) COUNTERVAILING DUTIES.—

(1) PETITION REQUIREMENTS.—The first sentence of section 702(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671a(b)(1)) is amended by striking "which alleges" and all that follows through "allegations" and inserting "which contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 701(a) and adequate information to give notice of the factual basis for the petitioner's allegations".

(2) PETITION DETERMINATION.—Paragraph (1) of section 702(c) of such Act (19 U.S.C. 1671a(c)(1)) is amended by striking "contains information" and all that follows through "allegations" and inserting "contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 701(a) and adequate information to give notice of the factual basis for the petitioner's allegations".

(b) ANTIDUMPING DUTIES.—

(1) PETITION REQUIREMENTS.—The first sentence of section 732(b)(1) of such Act (19 U.S.C. 1673a(b)(1)) is amended by striking "which alleges" and all that follows through "allegations" and inserting "which contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 731 and adequate information to give notice of the factual basis for the petitioner's allegations".

(2) PETITION DETERMINATION.—Paragraph (1) of section 732(c) of such Act (19 U.S.C. 1673a(c)(1)) is amended by striking "contains information" and all that follows through "allegations" and inserting "contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 731 and adequate information to give notice of the factual basis for the petitioner's allegations".

SEC. 2. DETERMINATION OF MATERIAL INJURY.

(a) VOLUME OF IMPORTS.—Section 771(7)(C)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(i)) is amended by adding at the end thereof the following new sentence: "An inference shall not be made that there is no material injury, if the volume of imports has decreased after the initiation of an investigation under section 702 or 732.".

(b) PRICE COMPETITION.—Section 771(7)(C)(ii) of such Act (19 U.S.C. 1677(7)(C)(ii)) is amended by inserting immediately after subclause (II) the following flush sentence:

"For purposes of this clause, the Commission shall compare the price at which imported merchandise is sold to the ultimate consumer with the price at which like products of the United States are sold to the ultimate consumer.".

(c) CUMULATION.—Section 771(7)(C)(iv) of such Act (19 U.S.C. 1677(7)(C)(iv)) is amended by adding at the end thereof the following new subclause:

"(III) LOOK-BACK.—For purposes of clauses (i) and (ii) and subparagraph (F), if a petition is filed under this title with respect to a product or like product which was the basis of a final affirmative determination during the 3 years preceding the filing of such petition, the Commission shall consider as part of its investigation of the new petition the previous injurious dumping or subsidization as an important factor in determining the industry's vulnerability to material injury.".

(d) NEGLIGIBILITY.—Section 771(7)(C) of such Act (19 U.S.C. 1677(7)(C)) is amended by adding at the end thereof the following new clause:

"(vi) TREATMENT OF NEGLIGIBLE IMPORTS IN SUBSEQUENT INVESTIGATIONS.—Notwithstanding clause (v), in the case of a petition filed under this title with respect to the importation of merchandise which was the subject of a final affirmative determination during the 3 years preceding the filing of such petition, importation of merchandise otherwise considered negligible shall not be considered negligible and shall be treated as having an adverse impact on the domestic industry, if the pattern, volume, price, import penetration, and other factors of such imports, when considered as part of the current investigation, would result in an affirmative determination.".

(e) CONCENTRATION OF IMPORTS.—Section 771(4)(C) of such Act (19 U.S.C. 1677(4)(C)) is amended by adding at the end thereof the following new sentence: "Concentration of subsidized or dumped imports exists with respect to a market, if the percentage of subsidized or dumped imports to consumption of imports and domestically produced like products in such market is clearly higher than the percentage is in the rest of the United States.".

SEC. 3. EFFECT OF SUSPENSION AGREEMENTS ON FINAL DETERMINATION.

Section 734(j) of the Tariff Act of 1930 (19 U.S.C. 1673c(j)) is amended—

(1) by striking "In making a final determination" and inserting:

"(1) IN GENERAL.—In making a final determination", and

(2) by adding at the end thereof the following new paragraph:

"(2) OTHER FACTORS.—In a case in which a suspension of investigation has been terminated under subsection (i)(1) or an investigation has been continued under subsection (g), in making a final determination—

"(A) the Commission shall not consider as a factor supporting a negative determination any decrease in imports subject to such investigation or any improvement in the condition of the domestic industry which occurred after the suspension agreement became effective, and

"(B) the administering authority shall not consider as a factor supporting a negative determination any decrease in foreign market value of imports subject to such investigation or any increase in United States prices which occurred after the suspension agreement became effective.".

SEC. 4. DETERMINATION OF SUBSIDY.

(a) LOANS BY INTERNATIONAL DEVELOPMENT BANKS.—Section 771(5)(A)(ii)(I) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(A)(ii)(I)) is amended by inserting "(including loans or loan guarantees by an international development bank)" after "loan guarantees".

(b) CAPITAL AND LOANS TO EXPAND PRODUCTION.—Section 771(5)(A) of such Act (19 U.S.C. 1677(5)(A)) is amended by adding at the end thereof the following new clause:

"(iii) The provision of capital, loans, or loan guarantees by a government for the expansion of production or improvements in existing production, if one-third or more of the output from such production can reasonably be expected to be exported.".

SEC. 5. PREVENTION OF CIRCUMVENTION OR DIVERSION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—Section 781(a) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) is amended to read as follows:

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—In determining whether imported parts or components are circumventing an antidumping or countervailing duty order or finding and whether to include such parts or components in that order or finding, the administering authority shall consider—

"(A) the pattern of trade,

"(B) the value and sources of supply of parts or components historically used in completion or assembly of the merchandise subject to an antidumping or countervailing duty order,

"(C) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (2) applies, and

"(D) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

"(2) MERCHANDISE THAT MAY BE INCLUDED IN ORDER OR FINDING.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or 303,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components supplied by the exporter or producer with respect to which such order or finding applies, from suppliers that have historically supplied the parts or components to that exporter or producer, or from any party in the exporting country supplying parts or components on behalf of such an exporter or producer, and

"(ii) the value of the imported parts and components referred to in clause (i), whether considered individually or collectively, is significant in relation to the total value of all parts and components used in the assembly or completion operation, excluding packing, of the imported merchandise covered by the order or finding, or

"(C) consideration of the factors set forth in paragraph (1) otherwise establishes a pattern of circumvention with the effect of evading an antidumping or countervailing duty order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.".

(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—Section 781(b) of the Tariff Act of 1930 (19 U.S.C. 1677j(b)) is amended to read as follows:

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—In determining whether merchandise completed or assembled in a foreign country is circumventing an antidumping or countervailing duty order or finding and whether to include such merchandise in that order or finding, the administering authority shall consider—

"(A) the pattern of trade,

"(B) the value and sources of supply of parts or components historically used in completion or assembly of the merchandise subject to an antidumping or countervailing duty order,

"(C) whether the manufacturer or exporter of the merchandise described in paragraph (2)(B) is related to the person who uses the merchandise described in paragraph (2)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(D) whether imports into the foreign country of the merchandise described in paragraph (2)(B) have increased after the issuance of such order or finding.

"(2) MERCHANDISE THAT MAY BE INCLUDED IN ORDER OR FINDING.—If—

"(A) merchandise imported into the United States is either of the same class or kind or incorporates an essential component that is of the same class or kind as merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303; and

"(B)(i)(I) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to such order or finding, is produced in the foreign country with respect to which such order or finding applies, or is supplied by the exporter or producer with respect to which such order or finding applies or by suppliers that have historically supplied the parts or components to that exporter or producer, and

"(II) the merchandise referred to in subclause (I) which is used in the assembly or completion of the imported merchandise has a value that is significant in relation to the total value of all parts or components used in the assembly or completion operation, excluding packing, or

"(ii) consideration of the factors set forth in paragraph (1) otherwise establishes a pattern of circumvention with the effect of evading a countervailing or antidumping duty order or finding, and

"(C) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.".

(c) CONSTRUCTION PROVISION.—Section 781 of the Tariff Act of 1930 (19 U.S.C. 1677j) is amended by adding at the end the following new subsection:

"(f) CONSTRUCTION PROVISION.—Nothing in this title shall be deemed to limit the authority of the administering authority to include provisions in any final order issued pursuant to—

"(1) an antidumping duty order issued under section 736,

"(2) a finding issued under the Antidumping Act, 1921, or

"(3) a countervailing duty order issued under section 706 or section 303,

the purpose of which is to prevent the evasion of any remedy provided for in such finding or order or to otherwise safeguard the integrity of such finding or order.".

SEC. 6. DETERMINATION OF COMPETITIVE BENEFIT IN UPSTREAM SUBSIDIES.

Section 771A(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1677-1(b)(1)) is amended—

(1) by striking "Except" and inserting "(A) Except",

(2) by striking "another seller" and inserting "an unsubsidized seller" in subparagraph (A), as redesignated by paragraph (1), and

(3) by adding at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A), determination of the price the manufacturer or producer would otherwise pay for the product in obtaining it from an unsubsidized seller shall be based on the following factors in the order in which such factors are listed:

"(i) the price paid by the manufacturer or producer to an unsubsidized seller located in the same country as the seller of the input product,

"(ii) the price paid by the manufacturer or producer to an unsubsidized seller located in a country other than the country of the seller of the input product,

"(iii) information on prices (including all delivery fees) from an unsubsidized seller of the input product located in the same country as the subsidized seller of the input product, or

"(iv) information on prices (including all delivery fees) from an unsubsidized seller of the input product located in a country other than the country of the subsidized seller of the input product.".

SEC. 7. DIVERSIONARY INPUT DUMPING.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 (19 U.S.C. 1677 et seq.) is amended by inserting after section 771B the following new section:

"SEC. 771C. DIVERSIONARY INPUT DUMPING.

"For purposes of this title, diversionary input dumping occurs when—

"(1) a producer or manufacturer incorporates into merchandise under investigation a component or a material which is the product of another country (other than the United States), and which is the subject of—

"(A) an antidumping duty order issued under section 736, or

"(B) an international arrangement or agreement described in section 734, if such arrangement or agreement was entered into after an affirmative preliminary determination was made under section 733(b), and

"(2) the producer or manufacturer under investigation purchased the material or component at a price which is less than the foreign market value (determined under section 773(e)).".

(b) FOREIGN VALUE.—

(1) IN GENERAL.—Paragraph (2) of section 773(a) of such Act (19 U.S.C. 1677b(a)(2)) is amended by inserting "(or, if the administering authority finds there is a reasonable basis to believe that diversionary input dumping is occurring which has a significant effect on the cost of producing the merchandise under investigation)" after "paragraph (1)(A)".

(2) SPECIAL RULE FOR DIVERSIONARY INPUT DUMPING.—Section 773(e) of such Act (19 U.S.C. 1677b(e)) is amended by adding at the end thereof the following new paragraph:

"(5) DIVERSIONARY INPUT DUMPING.—If the administering authority determines that diversionary input dumping is occurring and has a significant effect on the cost of producing the merchandise under investigation, the administering authority shall, in calculating the cost of the material or component under paragraph (1)(A), include the amount of the diversionary input dumping determined to exist with respect to such material or component. For purposes of the preceding sentence, the amount of the diversionary input dumping is the difference, if any, by which—

"(A) the foreign market value of the input material or component involved, as calculated under this title, exceeds

"(B) the purchase price of the input material or component paid by the producer or manufacturer of the merchandise under investigation.".

(c) PROCEDURES FOR INITIATING AN ANTIDUMPING INVESTIGATION.—Section 732(a) of such Act (19 U.S.C. 1673a(a)) is amended by adding at the end thereof the following new paragraph:

"(3) CASES INVOLVING DIVERSIONARY INPUT DUMPING.—The administering authority shall investigate whether diversionary input dumping is occurring whenever the administering authority has reasonable grounds to believe or suspect that—

"(A) diversionary input dumping (as defined in section 771C) is occurring,

"(B) such diversionary input dumping has a significant effect on the cost of producing the merchandise under investigation, and

"(C) official Government or other reliable, generally accepted trade statistics indicate that subsequent to the imposition of an antidumping duty order or entry into force of an international agreement relating to imports into the United States of the material or component in question, shipments to the United States of the merchandise under investigation have increased (either in quantity or market share).".

(d) TIMETABLE FOR PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Section 733(b)(1) of such Act (19 U.S.C. 1673b(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) IF DIVERSIONARY INPUT DUMPING INVOLVED.—If, as part of a petition filed under section 732(b), or an investigation commenced under section 732(a), the administering authority has reasonable grounds to believe or suspect that diversionary input dumping is occurring, the administering authority may treat the investigation as an extraordinarily complicated case under subsection (c) and may extend the period of time for making a preliminary determination accordingly.".

(e) CLERICAL AMENDMENT.—The table of contents for subtitle VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 771B the following new item:

"Sec. 771C. Diversionary input dumping.".

SEC. 8. MONITORING.

(a) IN GENERAL.—Section 732(a)(2)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1673a(a)(2)(A)(i)) is amended by striking "more than one" and inserting "one or more".

(b) DOWNSTREAM PRODUCT MONITORING.—Section 780(a)(2)(B)(iii) of such Act (19 U.S.C. 1677i(a)(2)(B)(iii)) is amended by striking "at least 2" and inserting "1 or more".

SEC. 9. APPLICATION OF AMENDMENTS TO CANADA.

The amendments made by this Act apply with respect to goods imported into the United States from Canada.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) STANDARD FOR INITIATING PETITION; DETERMINATION OF INJURY.—The amendments made by section 1 (relating to the provisions of sections 702 and 732 of the Tariff Act of 1930) and section 2 (relating to the provisions of sections 771(7)(C) and 771(4)(C) of the Tariff Act of 1930) apply with respect to investigations initiated on or after the date of the enactment of this Act.

(c) PREVENTION OF CIRCUMVENTION.—The amendments made by section 5 (relating to section 781 of the Tariff Act of 1930) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.●

By Mr. BREAUX (for himself, and Mr. LOTT) by request:

S. 3047. A bill to amend the Merchant Marine Act, 1936, as amended, to establish a contingency retainer program and improve the United States-flag merchant marine; to the Committee on Finance.

MARITIME REFORM ACT

● Mr. BREAUX. Mr. President, I, along with my colleague, Senator LOTT, am introducing a bill today, the administration's Maritime Reform Act of 1992, by request. I hope this bill, or a comparable bill that I intend to introduce, will lead to a much needed overhaul of the U.S. maritime industry. For the first time in 20 years, we have a major maritime reform effort that has the potential to give the maritime industry in this country the boost it so desperately needs. I believe that it is imperative that my colleagues and I work together to reach an agreement on a viable maritime reform bill before the industry reaches the point of no return.

Over the last 20 years, the U.S. maritime industry has been in a continuous state of decline. Lykes Lines, a Louisiana shipping company and one of the oldest in the country, has been forced to begin replacing its U.S.-flag fleet with foreign-flag vessels. The two largest U.S.-flag carriers, American President Lines and Sealand, have vowed to follow Lykes's lead unless a bill that will revitalize the industry is passed in the near future. That is why it is so important that this bill be introduced today.

I wish to point out to my colleagues that I do not believe that this bill is the ultimate cure for all that ails the industry. Aside from containing what I believe to be a number of substantive flaws, I understand that it may also present some budgetary problems. That is why I intend to introduce a maritime reform bill of my own soon. In the meantime, however, I hope that the introduction of this bill, the administration's bill, will serve as a catalyst for the reform and revitalization of the U.S. maritime industry.

Mr. President, I request that the test of the bill and my statement be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO THE MERCHANT MARINE ACT, 1936

SEC. 101. SHORT TITLE.

This title may be cited as the "Maritime Reform Act of 1992".

SEC. 102. CONTINGENCY RETAINER PROGRAM.

(a) The Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101 et seq.), is amended by inserting after title III the following new title:

"TITLE IV—CONTINGENCY RETAINER PROGRAM

"SEC. 401. The Secretary of Transportation shall encourage the establishment of a fleet of active, militarily useful, privately owned vessels to meet Department of Defense and other security requirements, while also maintaining an American presence in international commercial shipping. The fleet shall be known as the 'Contingency Retainer Fleet.'

"SEC. 402. (a) The Contingency Retainer Fleet shall consist of up to 74 privately owned, United States-flag vessels for which there are in effect operating agreements under this title.

"(b) A vessel may not be included in the Contingency Retainer Fleet unless—

"(1) it is operated by an "ocean common carrier" as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), or it is a roll-on/roll-off vessel; "(2) it is not more than fifteen years of age on the date an operating agreement is entered into under Section 403, unless it is included in an operating-differential subsidy contract and meets the requirements of Section 103;

"(3) it is operated in foreign trade;

"(4) the Secretary of Defense determines, within 30 days after receiving notification from the Secretary of Transportation of the intent of the Secretary of Transportation to include a vessel in the Contingency Retainer Fleet, that the vessel is militarily useful for meeting the sealift needs of the United States with respect to national emergencies;

"(5) the owner or operator of the vessel enters into an operating agreement with the Secretary of Transportation that includes that vessel; and

"(6) the owner or operator of the vessel is a citizen of the United States under Section 905(c) of this Act.

"(c) The Secretary of Transportation shall, after receiving an application for inclusion of a vessel in the Contingency Retainer Fleet and after consultation with the Secretary of Defense, determine whether the vessel is eligible for inclusion in the Contingency Retainer Fleet.

"(d)(1) A vessel shall not be considered to be ineligible for inclusion in the Contingency Retainer Fleet and shall not be excluded from coverage of an operating agreement, solely because it was not constructed in the United States.

"(2) A vessel not constructed in the United States that is included in the Contingency Retainer Fleet shall be deemed to have been United States-built for the purposes of sections 901(b) and 901b of this Act.

"SEC. 403. (a) The Secretary of Transportation shall require, as a condition of including any vessel in the Contingency Retainer Fleet, that the owner or operator of the vessel enter into an operating agreement with the Secretary of Transportation pursuant to this section.

"(b)(1) An operating agreement pursuant to this section shall require that, during the effective period of the agreement—

"(A) each vessel covered by the operating agreement—

"(i) shall be operated in the foreign trade, and

"(ii) shall not be operated in the coastwise trade of the United States or in mixed domestic and foreign trade; and

"(B) the owner or operator of a vessel covered by the operating agreement shall have the vessel documented under chapter 121 of subtitle II of title 46, United States Code, and maintain that documentation.

"(c)(1) An operating agreement under this section shall provide that the Secretary of Transportation pay to the owner or operator of a vessel that is included in the operating agreement, in accordance with this subsection, an amount per year per vessel which shall not exceed:

"(A) for fiscal year 1994, $2,500,000;

"(B) for fiscal year 1995, $2,500,000;

"(C) for fiscal year 1996, $2,330,000;

"(D) for fiscal year 1997, $2,160,000;

"(E) for fiscal year 1998, $1,990,000;

"(F) for fiscal year 1999, $1,820,000; and

"(G) for fiscal year 2000, $1,600,000.

"(2) The Secretary of Transportation may not enter into an operating agreement under this section unless appropriations sufficient to cover the entire term of the agreement are available. There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 through 2000.

"(3) The amount per year paid to the operator of a vessel under an operating agreement pursuant to this section shall be paid at the beginning of each month in equal installments.

"(4) The amount of a payment under this subsection for a vessel shall not be reduced by reason of operation of the vessel to carry civilian or military preference cargoes pursuant to—

"(A) section 901(a), 901(b) or 901b of this Act;

"(B) section 2631 of title 10, United States Code; or

"(C) section 1241-1 of title 46, Appendix, United States Code.

"(5) The Secretary of Transportation shall not make any payment under this subsection for a vessel—

"(A) that is subject to an operating-differential subsidy contract under title VI of this Act;

"(B) with respect to any period in which the vessel is not operated or maintained in accordance with the operating agreement; or

"(C) that is not offered and accepted for enrollment in a sealift readiness program approved by the Secretary of Defense.

"(d)(1) In consultation with the Secretary of Defense, an operating agreement under this section shall require that, upon a request of the Secretary of Defense during time war, national emergency, or when deemed necessary by the Secretary of Defense in the interest of national security, the owner or operator of a vessel covered by the operating agreement shall either make the vessel available or provide vessel space on a guaranteed basis, as determined by the Secretary of Defense, to the Secretary of Defense as soon as practicable—

"(A) at the first port in the United States the vessel is scheduled to call after the date of submission of the request;

"(B) at the port in the United States to which the vessel is nearest after the date of submission of the request; or

"(C) in any other reasonable manner, as specified by the Secretary of Defense in the request.

"(2) The Secretary of Transportation shall not reduce the amount of equal monthly installment payments under subsection (c) to an owner or operator who makes a vessel available or provides vessel space to the Secretary of Defense pursuant to this subsection.

"(3) The Secretary of Defense shall, upon the termination of the need for which a vessel is delivered under this subsection, return the vessel to the owner or operator of the vessel—

"(A) at a place that is mutually agreed upon by the Secretary of Defense and the owner or operator of the vessel; and

"(B) in the condition in which it was delivered to the Secretary of Defense, excluding normal wear and tear.

"(e) An operating agreement executed pursuant to this section shall be effective for a period of not more than seven years, ending September 30, 2000.

"SEC. 404. DEFINITIONS.

"For the purposes of this title:

"(1) The term 'citizen of the United States' means a person that is a citizen of the United States under section 905(c) of this Act.

"(2) The term 'operating agreement' means an operating agreement that takes effect under section 403, covering one or more vessels included in the Contingency Retainer Fleet.".

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on the date which is 120 days after the date of enactment of the Maritime Reform Act of 1992.

SEC. 103. ELIGIBILITY OF VESSELS INCLUDED IN OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.

(a) VESSEL AGE LIMITS.—

(1) Any vessel fifteen years of age or less included in an operating-differential subsidy contract may be offered for inclusion in the Contingency Retainer Fleet.

(2) Any vessel more than fifteen years of age included in an operating-differential subsidy contract may be offered for inclusion in the Contingency Retainer Fleet within ninety days after the date of enactment of this Act.

(3) No vessel that is twenty-five or more years of age included in an operating-differential subsidy contract shall be included in the Contingency Retainer Fleet unless the owner or operator—

(A) has a contract in place with a shipyard for the delivery of a replacement of that vessel for the Contingency Retainer Fleet no later than thirty months from the date of enactment of this Act, or

(B) acquires a replacement of that vessel for the Contingency Retainer Fleet meeting the requirements of section 402 of title IV no later than twelve months from the date of enactment of this Act.

(b) The vessel ages specified in subsections (a)(2) and (3) shall apply as of the date a vessel is offered for inclusion in the Contingency Retainer Fleet.

SEC. 104. OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.

(a) After the date of enactment of this Act, the Secretary of Transportation shall not enter into any new contract for an operating-differential subsidy under title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*).

(b) Notwithstanding any other provision of this Act, any contract in effect under title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*) on the day before the date of enactment of this Act—

(1) shall continue in effect under its term and terminate as set forth in the contract; and

(2) may not be renewed.

(c) With respect to liquid or dry bulk cargo carrying vessels receiving operating-differential subsidy under contracts in force on the date of enactment of this Act, upon termination of those contracts on the termination dates set forth in those contracts as of the date of enactment of this Act, section 506 of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1156), shall not apply to the vessels included in those contracts.

SEC. 105. CONSTRUCTION-DIFFERENTIAL SUBSIDY.

(a) Section 503 of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1153), is amended by adding at the end thereof the following new sentence:

"Any vessel constructed with the aid of construction-differential subsidy and not included in the Contingency Retainer Fleet, whose owner entered into an operating agreement with the Secretary of Transportation under title IV of this Act for other vessels, is not required to remain documented under the laws of the United States, so long as there remains no debt due the United States arising under title XI of the Act.".

(b) Section 511(c) of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1161(c)), is amended by adding the following new sentence at the end of the subsection:

"This subsection shall not apply to deposits made to a construction reserve fund after the date of enactment of the Maritime Reform Act of 1992.".

SEC. 106. AMENDMENTS TO TITLE VI.

(a) Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171, *et seq.*), is amended as follows:

(1) Section 605(b) (46 App. U.S.C. 1175(b)) is amended by adding the following new sentence at the end of the subsection:

"After September 30, 1992, the Secretary of Transportation shall enter no new formal order under this subsection.".

(2) Section 607 (46 App. U.S.C. 1177) is amended as follows:

(A) By substituting "subsection (c)(1)" for "subsection (k)(1)" in the first sentence of subsection (a).

(B) By striking out the second sentence in subsection (a) and inserting a new second sentence as follows:

"Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels documented under the laws of the United States for operation in the foreign or domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under section 136(c) of the Internal Revenue Code of 1986.".

(C) By striking out "subsection (b)(1)(A)" in the third sentence of subsection (a) and inserting in lieu thereof "section 136(a)(1)(A) of the Internal Revenue Code of 1986".

(D) By striking out subsection (k)(1)(A), and by redesignating subsections (k)(1)(B) and (k)(1)(C) as subsections (k)(1)(A) and (k)(1)(B).

(E) By striking out subsection (k)(2)(A), and by redesignating subsection (k)(2)(B) as subsection (k)(2)(A).

(F) by inserting a new subsection (k)(2)(B) as follows:

"(B) which the person maintaining the fund agrees with the Secretary will be operated in the foreign or domestic trade or in the fisheries of the United States.".

(G) By striking out subsection (k)(2)(C).

(H) By substituting "subsection (d)" for "subsection (1)" in subsection (k)(6).

(I) By striking out subsections (b) through (i),

and by redesignating subsections (j) through (m) as subsections (b) through (e).

(J) By inserting a new subsection (f) as follows:

"(f) Cross Reference. For rules applicable to the tax treatment of fund deposits, earnings, and withdrawals, see section 136 of the Internal Revenue Code of 1986."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for taxable years beginning after the date of enactment of the Maritime Reform Act of 1992: *Provided*, That any withdrawal made within 120 days after such date of enactment shall be a nonqualified withdrawal, if used in connection with the acquisition, construction, or reconstruction of a vessel—

(1) that is not constructed or reconstructed in the United States, or

(2) that will not be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

SEC. 107. AMENDMENTS TO TITLE IX.

(a) Title IX of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1241 et seq.), is amended as follows:

(1) Section 905 (46 App. U.S.C. 1244) is amended as follows:

(A) By striking subsection (a) and inserting a new subsection (a) as follows:

"(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country, and shall also include trade between foreign ports."; and

(B) By striking subsection (c) and inserting a new subsection (c) as follows:

"(c) The words "citizen of the United States" include a corporation, partnership, association, trust, joint venture, or other entity if it owns a vessel eligible for documentation under chapter 121 of subtitle II of title 46, United States Code, and, in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall be not less than 75 per centum, as defined in section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802).".

(2) A new section 910 is added as follows:

"SEC. 910. (a) Notwithstanding any other provision of the Maritime Reform Act of 1992, a vessel constructed, reconstructed, or repaired in a foreign shipyard with the aid of subsidies or equivalent measures determined by the United States Trade Representative to cause, or threaten to cause, significant adverse effects on shipyards in the United States, or significant distortion in trade in vessels shall not be permitted to participate in the following benefits—

"(1) consideration as a qualified vessel for purposes of inclusion under the Contingency Retainer Program;

"(2) eligibility for any qualified withdrawals from the capital, capital gain, and ordinary income accounts under section 136 of the Internal Revenue Code of 1986;

"(3) immediate eligibility for the carriage of cargo preference goods; and

"(4) reduction in ad valorem duty on repairs of vessels contained in Section 203 of Title II of the Maritime Reform Act of 1992.

"(b) In making the determination referred to in subsection (a), the United States Trade Representative shall consult with appropriate Executive agencies.

"(c) any denial of benefits pursuant to subsection (a) shall be prospective from the date of an affirmative determination by the United States Trade Representative and shall not affect a vessel on which a contract for construction, reconstruction, or repair in a foreign shipyard had been entered into prior to such date.

"(d) The United States Trade Representative shall publish rules implementing this section not later than 90 days after the date of enactment of this Act.

"(e) Nothing in this section shall create a cause of action or any other claim or defense that may be asserted by a private party in any Federal or State court of the United States.".

SEC. 108. FOREIGN-FLAG FEEDER VESSELS.

(a) The provisions of law set forth in 46 App. U.S.C. 1241(a), 1241(b)(1), 1241–1, and 1241f, and 10 U.S.C. 2631 requiring the use of United States-flag vessels shall be deemed fulfilled, as to the total of any shipment, if the actual ocean transportation of each shipment for which the United States-flag carrier has issued its own through bill-of-lading between the original port of lading and the port of final discharge, consists of transportation of the cargo by a combination of United States and foreign-flag vessels. The use of foreign-flag vessels shall be as authorized by the Secretary of Transportation under such terms and conditions as the Secretary shall prescribe by rule under section 204 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114).

SEC. 109. CARRIAGE OF CARGO PREFERENCE GOODS.

(a) After the date of enactment of this Act, bulk cargo vessels constructed after the date of enactment and liner vessels shall be deemed to have been United States-built for the purposes of sections 901(b) and 901b of the Merchant Marine Act, 1936, as amended.

(b) The amendments made by subsection (a) shall be effective beginning on the date which is 120 days after the enactment of the Maritime Reform Act of 1992.

SEC. 110. REEMPLOYMENT RIGHTS FOR MERCHANT MARINERS.

(a) Title III of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1131), is amended by inserting after section 301 the following new section:

"SEC. 302. (a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to the same reemployment rights and other benefits as the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty. The enforcement mechanism provided by chapter 43 of title 38, including the right to adjudication in the Federal courts, shall be applicable.

"(b) an individual shall be entitled to the benefits of subsection (a) of this section if such individual—

"(1) was employed in the activation or operation of a vessel used by or under contract to the United States for war, armed conflict, national emergency, or maritime mobilization need (including training purposes or testing for readiness and suitability for mission performance); and

"(2) during the period of such employment possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable), and did not commit an act prohibited by chapter 77 or chapter 115, of title 46, United States Code.

"(c) (1) Upon request, the Secretary of Transportation shall issue to an eligible individual a certification of entitlement, which, for purposes of reemployment rights and benefits provided by this section, shall be considered to be the equivalent of a certificate referred to in clause (1) of section 2021(a) of title 38, United States Code.

"(2) An individual may submit an application for certification of entitlement under this subsection to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (b) with respect to which the application is submitted.".

SEC. 111. AMENDMENT TO THE OIL POLLUTION ACT OF 1990.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking "$50,000,000 in any fiscal year" and inserting in lieu thereof $44,000,000 in fiscal year 1993, $37,000,000 in fiscal year 1994, $43 million in fiscal year 1995, $50,000,000 in fiscal year 1996,

$42,000,000 in fiscal year 1997, and $50,000,000 in any fiscal year thereafter”.

TITLE II—INTERNAL REVENUE CODE AND TARIFF ACT AMENDMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the “Capital Construction Fund Amendments of 1992”.

SEC. 202. INTERNAL REVENUE CODE AMENDMENTS.

(a) Section 7518 of the Internal Revenue Code of 1986 is amended as follows:

(1) Subsection (a)(1)(D) is revised to read “the receipts from the investment or reinvestment of amounts held in such fund, less the taxes described in subsection (h)(1)(B).”.

(2) Subsection (a)(2) is amended by substituting “lessor” for “owner”.

(3) Subsection (c)(1)(A) is amended by deleting “and section 607 of the Merchant Marine Act, 1936”.

(4) Subsection (c)(1)(C) is deleted.

(5) Subsection (c)(1)(D) is amended by deleting “and section 607 of the Merchant Marine Act, 1936”.

(6) Subsections (c)(1)(D) and (c)(1)(E) are redesignated as subsections (c)(1)(C) and (c)(1)(D), respectively.

(7) Subsection (c)(3) is added as follows:

“(3) EARNINGS TREATED AS DEPOSITS.—The earnings of any capital construction fund for any taxable year, less the amount described in subsection (h)(1)(B), shall be treated as an amount deposited for such taxable year.”.

(8) Subsection (d)(2)(B) is revised to add at the end thereof ‘and”.

(9) Subsection (d)(2)(C) is revised to read “aftertax amounts referred to in subsection (a)(1)(D).”

(10) Subsection (d)(2)(D) is deleted.

(11) Subsection (d)(3)(A) is revised to read “amounts representing long-term capital gains (as defined in section 1222) and referred to in subsection (a)(1)(C), reduced by”.

(12) Subsection (d)(3)(B) is revised to read “amounts representing long-term capital losses (as defined in section 1222) on assets held in the fund.”

(13) Subsection (d)(4)(B)(i) is revised to read “amounts representing short-term capital gains (as defined in section 1222) and referred to in subsection (a)(1)(C), reduced by”.

(14) Subsection (d)(4)(B)(ii) is revised to read “amounts representing short-term capital losses (as defined in section 1222) on assets held in the fund, and”.

(15) Subsection (d)(4)(C) is revised to read “amounts received from a transaction described in subsection (a)(1)(C) that are not referred to in paragraphs (2)(B), (3)(A), or (4)(B)(i).”

(16) Subsections (d)(4) (D) and (E) are deleted.

(17) Subsection (e)(1)(B) is amended by deleting “or” at the end thereof.

(18) Subsection (e)(1)(C) is amended by substituting “, or” for “.” at the end thereof.

(19) Subsection (e)(1)(D) is added to read:

“(D) the payment of amounts that reduce the principal amount of a qualified lease of a qualified vessel or a barge or a container which is part of the complement of a qualified vessel.”.

(20) The last sentence of subsection (e)(1) is revised to read:

“A qualified lease is considered a debt instrument issued for property to which section 1274 applies and the date the lease is entered into by the parties is considered the ‘date of the sale or exchange’ referred to in section 1274(b)(2)(A).”.

(21) The heading and first sentence of subsection (f)(4) are revised to read:

“(4) ADJUSTMENT TO BASIS OF VESSELS, ETC., WHERE WITHDRAWALS PAY PRINCIPAL ON DEBT OR LEASE OBLIGATION.—If any portion of a qualified withdrawal made to pay the principal on any indebtedness pursuant to subsection (e)(1)(C), or to reduce the principal amount of any qualified lease pursuant to subsection (e)(1)(D), is made out of the ordinary income account or the capital gain account, an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund.”.

(22) Substitute “subsection (i)” for “subsection (h)” in subsection (g)(1).

(23) Subsection (g)(3)(B) is revised to read:

“(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of long-term capital gain (as defined in section 1222), and”.

(24) Subsection (g)(3)(C)(i) is amended by deleting “no interest shall be payable under section 6601 and”.

(25) Subsection (g)(3)(C)(ii) is revised to read:

“(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be payable in accordance with section 6601 from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and”.

(26) Subsection (g)(4) is deleted.

(27) Subsection (g)(5)(B) is deleted.

(28) Subsections (g)(5) (C) through (E) are redesignated as subsections (g)(5) (B) through (D).

(29) Subsection (g)(6)(A) is amended by substituting “paragraph (4)” for “paragraph (5)” and by revising the last sentence to read:

“With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year and to which section 1(h) or 1201(a) applies, the rate of tax taken into account under the preceding sentence shall be the rate specified in section 1(h) or 1201(a), whichever applies.”

(30) Subsections (g)(5) and (g)(6) are redesignated as subsections (g)(4) and (g)(5), respectively.

(31) Subsections (h) and (i) are redesignated as subsections (i) and (j), respectively, and a new subsection (h) is added to read:

“(h) TAXATION OF EARNINGS ON INVESTMENTS.—

“(1) IN GENERAL. The tax imposed by chapter 1 shall be determined—

“(A) by excluding from gross income the earnings from the investment and reinvestment of amounts held in a capital construction fund, and

“(B) by increasing the tax imposed by chapter 1 by the product of the amount of such earnings and the highest rate of tax specified in section 1 (section 11, in the case of a corporation).

“(2) MAXIMUM RATE ON NET CAPITAL GAINS.—With respect to fund earnings that are net capital gains (as defined in section 1222), the rate of tax taken into account in paragraph (1)(B) shall be the rate specified in section 1(h) or 1201(a), whichever applies.”.

(32) Subsection 7518(j), as redesignated by paragraph (31) is revised to read:

“(j) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED LEASE.—A qualified lease is a lease of property, with a term at least equal to the applicable recovery period for such property under section 168, and with respect to which, for all purposes of the Internal Revenue Code, the parties agree in writing at the time the lease is entered into to treat the lessee as the owner of the qualified vessel (and barges and containers, if any, which are part of the complement of the qualified vessel).

“(2) MERCHANT MARINE ACT.—If not otherwise provided by this section, any term defined in section 607(c) of the Merchant Marine Act, 1936, as amended by the Maritime Reform Act of 1992, which is used in this section (including the definition of ‘Secretary’) has the meaning prescribed by section 607(c) as amended by the Maritime Reform Act of 1992.”.

(b) Section 56(c)(2) of the Internal Revenue Code of 1986 is amended:

(A) By substituting “(A) and (B) of section 7518(c)(1)” for “(A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such section 607)” in subparagraph (A).

(B) By amending subparagraph (A)(ii) to read as follows:

“(ii) any earnings (including gains and losses) after December 31, 1986 and before the first taxable year beginning after the date of enactment of the Maritime Reform Act of 1992, on amounts in such fund, and”.

(C) By striking “(or the corresponding provisions of such section 607)” from subparagraph (B).

(c) Section 136(a) of the Internal Revenue Code of 1986 is amended:

(A) By striking paragraph (4).

(B) By redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(d) Section 543(a)(1)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B) interest on amounts set aside in a capital construction fund under section 136 or in a construction reserve fund under section 511 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1161),”.

(e) The Internal Revenue Code of 1986 is amended as follows:

(1) By redesignating section 136 as section 137.

(2) By redesignating section 7518 as section 136.

(3) By amending the table of sections for part III of subchapter B of chapter 1 by deleting the item referencing section 136, and adding the following items:

“136. Tax incentives relating to Merchant Marine capital construction fund.
“137. Cross references to other Acts.

(4) By deleting the item referencing section 7518 in the table of sections for chapter 77.

(f) The amendments made by Section 202 are effective for taxable years beginning after the date of enactment.

SEC. 203. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466), is amended as follows:

(1) By striking the words “50 per centum” and inserting in lieu thereof “25 per centum” effective October 1, 1993, in section (a); and

(2) By repealing the section in its entirety effective October 1, 1994.●

By Mr. BOND:

S. 3048. A bill to suspend temporarily the duties on Pentetreotide; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

● Mr. BOND. Mr. President, today, I am introducing a bill to suspend temporarily the duties on Pentetreotide.

Pentetreotide is a chemical intermediate used in the manufacture of a radiodiagnostic product that will provide for the early detection of a variety of cancers in children and adults.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.—That subchapter II of chapter 99 of the Harmonized Tariff Schedules of the United States is amended by inserting in numerical sequence the following new subheadings:

9802.98.00	Pentetreotide (Cas. No. 138661–02–6) (provided for in subheading 3822.00.50).	Free	No change	On or before 12/31/94

SEC. 2. The amendment made by the first section of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. BOREN:

S. 3052. A bill to extend for 3 years the existing suspension of duty on stuffed dolls and the skins thereof; to the Committee on Finance.

EXTENSION OF TEMPORARY SUSPENSION OF CERTAIN DUTIES

● Mr. BOREN. Mr. President, on behalf of the domestic jobs produced and consumers served as a result of the stuffed doll products sold in the United States, I ask unanimous consent that the following bill be introduced and referred to the appropriate committee and that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subheading 9902.95.01 of the Harmonized Tariff Schedule of the United States are each amended by striking out "12/31/92" and inserting "12/31/95."

SEC. 2. The amendments made by the first section of this Act apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after December 31, 1992.●

By Mr. KENNEDY (for himself, and Mr. KERRY):

S. 3053. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Finance.

UNEMPLOYMENT COMPENSATION BENEFITS EXTENSION ACT

Mr. KENNEDY. Earlier this month, Congress passed legislation extending the Federal Emergency Unemployment Benefits Program. This law was a halfway measure that was widely misunderstood. It provided a desperately needed safety net to 1½ million unemployed workers across the country who will exhaust their State unemployment benefits in the coming months. The recession is clearly not over; the jobs are still not there. As a result, like the nearly 2 million workers who have already received Federal emergency benefits, these unemployed workers needed the protection that the Federal benefits provide.

Unfortunately, while the law passed earlier this month ensured that the more recently unemployed will receive Federal benefits, it did not provide additional Federal benefits for the long-term unemployed whose Federal benefits have ready been exhausted. Those whose benefits have run out are enduring real hardship. They face a national unemployment rate of 7.8 percent, and the future holds little hope that jobs will soon be available.

Workers want jobs, not more unemployment benefits. But in the current situation, Congress must do what it can to help them survive this long and painful recession.

For this reason, Senator KERRY and I are today introducing legislation to provide an additional 13 weeks of Federal emergency benefits to unemployed workers whose previous Federal benefits have run out. It will also provide 13 additional weeks to those who are still receiving Federal benefits or who qualify for these benefits in the future.

It will be an uphill battle to pass this legislation. It will cost approximately $5 billion, and a great deal will depend on the level of unemployment in the months between now and the time Congress adjourns this fall.

I plan to work with the Senate Finance Committee to identify appropriate revenue sources to offset the cost of this legislation. I hope the President will agree to work with us as well in order to turn this proposal into law. Unemployed workers in Massachusetts and across America deserve this help, and Congress must not abandon them.

Mr. KERRY. Mr. President, I am pleased to cosponsor this legislation, which will address a serious problem faced by many hard working Americans trying to house, feed, and provide for their families during a depressed economic climate.

This bill will offer a lifeline of 13 additional weeks of emergency unemployment benefits under the Emergency Unemployment Compensation Program. In Massachusetts, we have endured a protracted period of high unemployment and this bill will address the individuals there and in many other places that just want assistance while they continue to try to provide for themselves and their families. When we voted to extend emergency unemployment benefits earlier this month, individuals who are eligible to receive but had not received emergency benefits and those currently participating in the program were protected. However individuals who have exhausted their State benefits and were about to exhaust or had exhausted emergency benefits were not included in the July extension. These individuals, many of whom live in areas of high unemployment and negative economic growth, are facing mortgage payments, health care costs, utility bills, and other expenses necessary for themselves and their families with no income and without any resources they previously had dissipated during their months of unemployment. These individuals are not lazy nor did they choose to be unemployed for over 1 year because they do not want to provide for their families. People in this dilemma deserve relief.

This bill would provide 13 additional weeks of benefits for individuals who previously had been told that they had exhausted all State and emergency benefits. The eligibility criteria for benefits remains the same, so this bill will not expand the number of individuals participating in the Emergency Unemployment Compensation Program. It is important to also note that the extension will be available regardless of the length of the benefit period in a given State. Whether a person lives in a State offering 26 or 20 weeks of extended benefits, a year-long period of unemployment has a devastating impact.

Ultimately, the best relief for the long-term unemployed is the security of a full-time job. It is imperative that long-term measures be taken to resuscitate our economy. But while we grapple with that challenge, too many individuals are among the long-term unemployed or are employed in positions that are inadequate to support their families. This bill represents an interim step, in the form of continued assistance to those particularly hard hit by a stagnant economy.

ADDITIONAL COSPONSORS

S. 1002

At the request of Mr. SHELBY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

S. 1398

At the request of Mr. REID, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1398, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S.

1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1658

At the request of Mr. NICKLES, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1658, a bill to require the Secretary of Labor, with respect to contracts covering federally financed and assisted construction, and labor standards provisions applicable to nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act, to ensure that helpers are treated equitably, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2254

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 2254, A bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes.

S. 2323

At the request of Mr. CRANSTON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2323, a bill to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service disabled veterans' insurance for totally disabled veterans, and for other purposes.

S. 2372

At the request of Mr. CRANSTON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2372, a bill to amend 1718 of title 38, United States Code, to provide that the compensation of veterans under certain rehabilitative services programs in State homes not be considered to be compensation for the purposes of calculating the pensions of such veterans.

S. 2389

At the request of Mr. BRADLEY, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2389, a bill to extend until January 1, 1999, the existing suspension of duty on Tamoxifen citrate.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2560

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2560, a bill to reclassify the cost of international peacekeeping activities from international affairs to national defense.

S. 2652

At the request of Mr. BIDEN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2652, a bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

S. 2656

At the request of Mr. FORD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2656, a bill to amend the Petroleum Marketing Practices Act.

S. 2682

At the request of Mr. BUMPERS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2749

At the request of Mr. SEYMOUR, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2749, a bill to grant a right of use and occupancy of a certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange, and for other purposes.

S. 2826

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2826, a bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States.

S. 2877

At the request of Mr. COATS, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2877, a bill entitled the "Interstate Transportation on Municipal Waste Act of 1992."

S. 2899

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2899, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

S. 2907

At the request of Mr. KERRY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2907, a bill to reform the National Flood Insurance Program.

S. 2949

At the request of Mr. KENNEDY, the names of the Senator from Illinois [Mr. SIMON], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 3001

At the request of Mr. DOMENICI, the names of the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 3001, a bill to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes.

S. 3004

At the request of Mr. SANFORD, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 3004, a bill to provide for the liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties.

SENATE JOINT RESOLUTION 306

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 311

At the request of Mr. SEYMOUR, the names of the Senator from Florida [Mr. MACK], the Senator from Georgia [Mr. FOWLER], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Texas [Mr. BENTSEN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week," and for other purposes.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Colorado [Mr. BROWN], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Wyoming [Mr. WALLOP], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

SENATE RESOLUTION 326—RELATING TO THE ESTABLISHMENT OF A NATIONAL INSTITUTES FOR THE ENVIRONMENT

Mr. SANFORD submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 326.

Whereas the Earth and its inhabitants are threatened by unprecedented environmental degradation;

Whereas human health is dependent on the health of the environment;

Whereas the United States spends more than $115,000,000,000 annually on environmental protection but invests only a small fraction of that amount on environmental research;

Whereas a strong scientific and research community is essential for effective programs to protect the environment;

Whereas many efforts to protect the environment are reactive and therefore expensive and inefficient;

Whereas there is no overall coordinated effort by the Federal government to understand how the environment functions and how people affect, and are affected by, the environment;

Whereas the United States lacks solutions to many environmental problems and the experts to develop and implement solutions;

Whereas the United States lacks mechanisms for stable support of long-term environmental research;

Whereas the United States lacks mechanisms to establish priorities for comprehensive environmental research; and

Whereas incentives for public and private funding of basic and applied environmental research are virtually non-existent: Now, therefore, be it

Resolved, That it is the sense of the Senate that a National Institutes for the Environment should be established—

(1) to provide a coordinated, nationwide program for establishing priorities for comprehensive environmental research; and

(2) to support, through competitive awards, basic and applied environmental research and training that encompasses a wide variety of disciplines and is aimed at understanding, preventing, and solving environmental problems.

• Mr. SANFORD. Mr. President, we are all familiar with the wide range of environmental issues facing us today, from ozone depletion and loss of biological diversity to global warming and groundwater contamination, and these are only a few.

We also know that, for a variety of reasons, we are lacking effective analysis and solutions for many of these environmental problems.

I strongly believe that a new Federal research funding agency, to be called the National Institutes for the Environment, has great potential for addressing the environmental issues of the day. It is for that reason that I am here today to introduce a resolution expressing the sense of the Senate that a National Institutes for the Environment [NIE] should be established.

In contrast to the $115 billion that goes into fighting pollution in the United States each year, our Federal Government spends less than $3 billion a year on environmental research. The variety and scope of environmental matters facing us today demands that we invest more in this important area of concern.

Some people may be skeptical about the need for more research, but I believe that there are several inadequacies in our present system.

First of all, as we all know, controversy due to lack of agreed-upon scientific evidence results in political inaction. One side cries that the sky is falling, and the other side demands that we have more research; in the meantime, nothing gets done. This was the case for many years with the depletion of the ozone layer. We are now learning that the ozone is being depleted much faster than we previously thought. How many more cases of skin cancer will we see due to the inaction that resulted from the controversy that we had over the ozone depletion theories? And we still know very little about the effect of ozone loss on plants and marine species, many of which we depend on for food. Many of us wish we had conducted more ozone layer research earlier.

Global warming is another example of controversy and inaction. Many scientists believe that current global temperature trends suggest a human induced warming of the world's climate. Other people chalk up the rise in temperature to the natural and recurring variations in the Earth's climate. The dilemma arises again: Do we have enough research to know whether or not should we act? If so, what are the most cost-effective solutions?

Clearly, these example show that our present system is not meeting our environmental research needs. This is where the National Institutes for the Environment would help. The NIE will help sponsor the research which we so badly need. By authorizing and funding the NIE, we can move away from controversy and inaction and move toward timely research and sound solutions.

I realize that some people may worry that spending more on environmental research will just lead to more environmental regulations, and thus, increase the cost of business and increase the Federal bureaucracy. I do not believe it. It is the poorly conceived regulations, based on inadequate or faulty data, that sometimes prove unnecessarily expensive for Government, business, and consumers. The NIE, by sponsoring thorough research on such issues, would not only help us better analyze the problems, but also better formulate the solutions.

The contamination of our surface and ground water with pesticides is one example. If we had had more environmental research, we would have better regulated the use of pesticides. We would have understood the transport of pesticides into water and would have been developing better methods of pesticide application and more alternatives to chemical pesticides. Such research could have saved us lost crops and farmland and prevented costly contamination of drinking water and wild areas.

This is just one example where the NIE, by sponsoring more and better research, has great potential for helping our Nation find the best and least costly solutions to our environmental dilemmas. As we face other uncertainties on such matters as dioxin, pesticides, and hazardous waste disposal, which affect both environmental and public health, we must have the best research available so that the Government's decisions are the wisest and the least costly. The NIE will help us in that effort.

The NIE can save us money in other ways, by shifting the emphasis from responding to environmental problems to preventing environmental problems. We currently spend billions of dollars on cleanup of environmental problems, but only a little on research of their causes; money would be far better spent preventing these catastrophies in the first place. It is far better and less costly to nip a problem in the bud.

Let me give you one example. My state is one of many dealing with the siting of a hazardous waste disposal facility. Calling it controversial is an understatement. As this siting process drags on, I can only wonder why we haven't done more to reduce the use of hazardous materials, rather than waste so much time, energy, and money on siting so many hazardous waste dumps. And this is just one example of where we could save more by researching and addressing environmental problems at the source.

One of the most important parts of the NIE proposal is the establishment of a National Library for the Environment that will help collect and distribute information on the environment. At the present time, we have no clearinghouse for information on the many environmental topics that concern us today. We need to collect information on the research that has been done and is being done by our Federal agencies, our State governments, industry, nongovernmental organizations, and our colleges and universities. By providing a central coordinator of information, linked through computer databases and accessible to anyone with a computer, we can help distribute valuable information to concerned groups across the United States so that the research can be put to use on the widest scale possible. This NIE Library will also coordinate research done through different agencies, and therefore, let us spend our research money more wisely.

One question which certainly arises from the discussion of a National Institutes for the Environment is: Why can't we just put more money into the existing Federal research agencies? It is true that we have several Federal Government agencies doing environmental research, including the National Science Foundation, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and others. Unfortuntely, most Government research is limited to regulatory and management needs and relatively little is directed at understanding the basics of environmental problems and their solutions or at broader issues. The money provided to these several agencies is well spent, but it is, nevertheless, an incomplete and inadequate system.

Rather than only putting more money into these agencies, we need research that would reach across and beyond specific agency needs and expand our research capabilities. And through the NIE's nonregulatory research, we could cut across various agencies and solve complex problems, like ecosystem management and resortation and pollution prevention and mitigation, which do not neatly fit within the purview of any one agency. A major function of the NIE would be not only to have agencies cooperating more effectively, but analyzing and evaluating current information so that those who need the information could more easily have it.

Given these many research needs, numerous scientific groups, environmental groups, private individuals, and legislators have given their support to the NIE concept. They believe, as I do, that the NIE has great potential to help us look at our problems and solve them in a thorough, effective, and scientific manner.

The NIE would use grant programs to sponsor nonregulatory and extramural environmental research. The NIE would not be a big Federal bureaucracy. It would not have its own research laboratories. It would provide grant money to the best scientists in every State of the Nation in order to ensure the highest quality research.

The NIE's research areas would address such topics as the relationship between humans and the environment, biological resources, ecosystem management and restoration, environmental change, sustainable resources and development, pollution prevention and mitigation, and environmental technology.

Through fiscal year 1991 appropriations and Federal Government grants, the National Academy of Sciences [NAS] is now conducting a study of the NIE concept. The NAS study should be finished early in 1993. Later in 1993, congressional legislation will be introduced to authorize and appropriate funds for the NIE.

And although this idea is a year or so away from authorization and funding, I believe that it is important to get the NIE concept moving in Congress now, and to hear praise and criticism, and to improve the blueprint for the NIE. This is an idea whose time has come, and the sooner we get this idea moving in Congress, the better off we all will be.

I invite my colleagues to join me in cosponsoring this resolution and in supporting the establishment of the National Institutes for the Environment.●

AMENDMENTS SUBMITTED

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTES

BINGAMAN (AND OTHERS) AMENDMENT NO. 2740

Mr. BAUCUS for (Mr. BINGAMAN for himself, Mr. LEVIN, Mr. RIEGLE, Mr. DECONCINI, Mr. MCCAIN, and Mr. D'AMATO) proposed an amendment to the bill (S. 2877), the Interstate Transportation of Municipal Wastes Act of 1992, as follows:

At the appropriate place, insert the following new section:

SEC. . BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free-Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in sections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free-Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—

(A) the Immigration and Naturalization Service of the Department of Justice; and

(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treat-

ment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

BAUCUS AMENDMENT NO. 2741

Mr. BAUCUS proposed an amendment to the bill (S. 2877), supra, as follows:

On page 4, line 7, strike "(date of introduction)" and insert "June 18, 1992".

On page 5, line 10, insert "annual" before "amount equal".

On page 5, line 22, strike "such landfills" and insert "each such landfill".

On page 5, line 23, insert "annual" before "volumes".

On page 6, line 2, strike "or" and insert "and".

On page 7, line 4, strike "section" and insert "paragraph".

On page 7, line 15, insert "from" before "a Governor".

On page 8, line 11, insert "as determined in accordance with subparagraph (C)" after "1992" and before the comma.

On page 8, line 13, insert "under subparagraph (C)" before "as having".

On page 10, line 11, strike "location" and insert "locational standards".

On page 10, line 12, insert "constructed" after "landfill cells".

On page 10, line 22, insert "the land or" after "over".

On page 11, line 11, strike ", glass, and rock" and insert "and glass".

On page 12, line 8, strike "the" before "property".

On page 12, line 11, insert "generated" after "solid waste".

On page 12, line 16, insert a comma after "composition".

On page 12, line 19, strike "such other" after "mixed with".

On page 13, line 6, strike "(date of introduction)" and insert "June 18, 1992".

On page 10, line 12, insert "on and" after "cells".

On page 12, line 4, strike "industry" and insert "industrial facility".

On page 2, line 26, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 5, line 13, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 7, line 9, after "and", insert "the first six months of".

On page 7, strike line 22 and insert "and the first six months of calendar year 1992, and".

On page 8, line 11, after "and" insert "the first six months of".

On page 2, strike lines 12 through 14 and insert "ment; and an affected local solid waste planning unit, if such local solid waste planning unit exists under state law, a Governor may—".

CONRAD (AND OTHERS) AMENDMENT NO. 2742

Mr. CONRAD (for himself, Mr. DASCHLE, Mr. REID, Mr. RIEGLE, and Mr. METZENBAUM) proposed an amendment to the bill S. 2877, supra, as follows:

On page 10, delete lines 18–23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located.".

CONRAD (AND OTHERS) AMENDMENT NO. 2743

Mr. CONRAD (for himself, Mr. DASCHLE, and Mr. METZENBAUM) proposed an amendment to the bill S. 2877, supra, as follows:

At an appropriate place in the bill, insert the following:

SEC. . (a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of nonhazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of nonhazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial nonhazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial nonhazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy, and

(5) solid waste regulated under Subtitle C of the Resource Conservation and Recovery Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9 a.m., in executive session, to mark up a National Defense Authorization Act for Fiscal Year 1993, and other pending legislation referred to the Committee on Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMTTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9:30 a.m., for a hearing on "Children of War: Violence and America's Youth".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on July 23, 1992, at 9:30 a.m. on Marine mammal legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 10 a.m. to hold a hearing on U.S. refugee programs for 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMTTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Thursday, July 23, 1992, at 10:30 a.m. to conduct a hearing on the state of the U.S. economy and America's global competitive position.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, at 10 a.m., to hold a hearing on S. 2064, the Nuclear Testing Moratorium Act and other nuclear testing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 23, at 2 p.m., in executive session, to mark up a National Defense Authorization Act for Fiscal Year 1993, and other pending legislation referred to the Committee on Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Select Committee on POW/MIA Affairs be authorized to meet on Thursday, July 23, at 4 p.m., in room 385 of the Senate Russell Office Building for an open meeting for further discussion on declassification of POW/MIA documents.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9:30 a.m., to hold a joint hearing with the Committee on House Administration, U.S. House of Representatives. The committee will receive testimony on S. 2813, the "GPO Gateway to Government Act of 1992" and H.R. 2772, the "GPO Wide Information Network for Data Online Act of 1991."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 23, 1992, beginning at 9:30 a.m., in room 485 Russell Senate Office Building, on S. 2833, the Crow Settlement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO FRANKFORT

• Mr. McCONNELL. Mr. President, I rise today to recognize the city of Frankfort in Franklin County.

Kentucky's capital city lies in a picturesque valley, marked by wooded bluffs overlooking the curving path of the Kentucky River. It is on the banks of this river, which rolls right through the center of the city, where one finds more than just laws being made.

High above the river on a prominent bluff is the historic Frankfort Cemetery, the final resting place for many of Kentucky's favorites sons. Sixteen Governors are buried there, as are Vice President Richard M. Johnson and Daniel Boone.

Surprisingly, only half of the people who work in Frankfort do so for the government. An underwear plant, automotive parts factories, and a distillery account for many of the nongovernmental jobs in the city.

Frankfort is proud to have Kentucky State University. The university has the lowest student-to-faculty ratio of any of the State's public universities and is currently starting on a $11.3 million physical education facility this summer.

Since becoming Kentucky's capital in 1792, all eyes focus on the city when the lawmakers assemble in Frankfort for their legislative sessions.

Winters in Frankfort are never dull even in the off years as the city plays host to one of Kentucky's favorite pastimes when it hosts the girl's State basketball tournament.

Although Frankfort is one of the smaller State capitals, it is a place where the charm of the historic downtown has not been overwhelmed by cold, bureaucratic edifices. The good people of Frankfort have created a city that all Kentuckians can be proud to call their capital.

Mr. President, I would like the following article from the Louisville Courier-Journal to be submitted into the RECORD.

The article follows:

THE PUBLIC TROUGH ISN'T ALL THAT FEEDS CAPITAL'S ECONOMY

(By C. Ray Hall)

Here is a perhaps astonishing fact about Frankfort: At any given time, more people in the state capital are making underwear than are making laws. This is not necessarily a bad thing, since, in the short term at least, life without laws is more imaginable than life without underwear.

Some savvy merchants might still save their ad budgets for the middle and the end of the month, timed to government paydays. But about half the people who work in Frankfort—like the 1,041 employees at Fruit of the Loom—make do without a government paycheck. They make an array of essentials from bourbon to concrete to car wheels to candy laced with bourbon.

Frankfort also makes history—a kind that's often as bittersweet as the boxwood fragrance waiting around Liberty Hall, the two-century-old home of Kentucky's first senator, John Brown. It's said to be haunted by a benign ghost called "The Gray Lady."

LIving in a town as steeped in history as Frankfort can be a consolation, as if a benign ghost were looking over your shoulder. You come to realize: Whatever happens has happened before, usually; and it was probably worse.

The 1978 flood was bad, but the one in 1937 was worse.

When FBI agents descended on the Capitol a few months ago in search of graft, they found it. But, graftwise, the bar was set very high a century ago by "Honest" Dick Tate, the state treasurer who disappeared, along with nearly $250,000. (First Methodist Church pastor William R. Jennings alluded to recurring scandals a few Sundays ago when he was preaching about Huck Finn's prayer problem. Jennings advised his flock to be thankful for what they had, instead of asking for more—advice a century too late for both Huck and Honest Dick.)

People who chafed at the presence of an empire-building governor named Wilkinson over the last four years had only to think of the empire builder who founded the town in 1786. Gen. James Wilkinson, who named the principal street for himself, once schemed to break off Kentucky from Virginia and align it with Spain.

One drama they don't play out any more: efforts to wrest the capital away from Frankfort that persisted for more than 100 years. Whenever Louisville or Lexington challenged Frankfort, the little town on the Kentucky River managed to keep the capital by finding funds at home and friends elsewhere.

"We were always able to get strength from out in the rural counties to keep it in Frankfort," says former mayor Frank Sower, the 81-year-old great, great grandson of one of the state's first two senators. Sower often goes up to the somewhat awe-inspiring Frankfort Cemetery to tend the begonias in the family plot. Up there in the constant breeze, near Daniel Boone's grave, you can see a tableau unlikely to be duplicated in many states: Stretched out below is the Capitol and, across the river, a wide pasture specked with grazing cattle. Frankfort looks like the capital of Ruritania.

So it is not surprising that it's a place where time seems to pass slowly. For example, when people say "the new Capitol," they mean the one that's only 82 years old. The famous floral clock behind the (new) Capitol might strike some as a sardonic symbol of state government: a functional ornament that suggests constant, smooth movement. Instead, the huge hands do not move smoothly: For 59 seconds every minute, they are still; then they jerk forward.

Frankfort is one of the smallest state capitals, so small that signs on the city buses simply say "East," "West" and so on.

As a little town with big impact, Frankfort is, on the whole, unlike any other place in the state. But it does share similarities with other Kentucky towns. Like Maysville, it is almost preciously quaint, even down to the brick sidewalks and the eclectic array of steeples, the most ornate of which sits atop the library named for artist Paul Sawyler; like mountain towns, it feels a bit claustrophobic in the middle; like Midway, it has a main street split in half by a railroad track.

Like Louisville, Frankfort is a river town where it's hard for the casual visitor to engage the river. It had a tourist boat, called the Shawnee Chief, that came to a bad end. "It took a trip over the dam last summer," notes river enthusiast Rick Isaacs. "The boat got loose in the middle of the night with no one on her."

Like Louisville, Frankfort has had its wrangles over school desegregation; highly publicized flaps over country clubs' snubs of minorities; episodes of urban renewal that fell hardest on black neighborhoods, resulting in cold, contemporary architecture that rises up like a bully over the gracious old town.

Like Bowling Green and Lexington, it has a state university that is trying to lay to rest controversies over presidents and purse strings. (Frankfort's episode is settled, apparently, with the installation of Mary Smith as president of Kentucky State University. It is the state's historically black college, but enrollment is 52 percent white, a condition that has prevailed since the late 1970s. This whitening of K-State also has been accompanied by a greening: a 1980s building boom that will continue this summer when construction starts on an $11.3 million physical-education facility.)

Like a lot of places in Kentucky, Franklin County is heavily Democratic. Republicans are outnumbered 23,294 to 2,131, a situation echoed somewhat awkwardly in the halls of the Old Capitol Annex. A gallery of governors' portraits features a wall of proper-sized Democrats surrounding a decidedly down-sized painting of Louie Nunn, the only Republican governor in the last 44 years. "Louie Nunn was good to Frankfort," says city clerk Ann Hoover, offering the ever-present olive branch. That's another thing about Frankfort: People are nice to strangers, including Republicans. You never know when you'll be working for, or with, them.

Like Lexington, Frankfort imbues many of its citizens with a spirit that they live in a chosen place. Clothing salesman Sonny Yates says: "I wouldn't move to Louisville if you paid me. . . . And I wouldn't move to Lexington if you gave me Spendthrift Farm."

But like other small towns in Kentucky, it betrays at least a trace of insecurity. At a recent tourism forum, a crafts-shop merchant, Rene Siria said, "I've . . . heard people say if it didn't come from Lexington or Louisville, it's not any good. . . . Is there something we can do to cheer up our own people?"

Such disparate urges tend to make the place introspective. Maybe a little too introspective sometimes. According to local mythology, Frankfort is the divorce capital of Kentucky. In truth, that distinction belongs to Logan County, with a divorce rate 2½ times that of Franklin County.

Unlike most places in Kentucky, Frankfort has a reasonably shock-proof economy. "We used to say having the capital here made it a Depression-proof place," says Sower. "Even in the 1929 Depression, you could make a living here," Gershman says. And a new businessman, David Stephenson, who as a Lexington banker foreclosed on failed businesses for 12 years, recently showed his faith in Frankfort's economy by opening a downtown restaurant with an upscale image and a downscale name: Bullfrogs. Explaining the inspiration for the name, he jokes, "Drunk."

Even with an army of stone-sober consultants, you'd be hard-pressed to think of a better name for a place specializing in steaks and frog legs.

Stephenson finds Frankfort "a tight community, like most small towns. Everybody knows everybody's business."

As the seat of state government, it is a town with a peculiar, tenuous social contract. "Every four years," says Irv Gershman, "we see the heirarchy come and go. We can't get attached to them. . . . A lot of people don't like to get too attached to them because they hate to lose their friends after four years."

He continues: "There is a definite difference in the politicians and the people who live in Frankfort. . . . You must understand, the legislators being in town only helps the restaurants, bars and hotels."

The most perceptible impact on Frankfort is this: When the legislators are in town, the place has a discernible night life. (This is still Kentucky, though, and the thing that brings motel-bursting numbers of people to town is not the legislature but the Girls' State Basketball Tournament.)

Community education director Terry Foster says: "When you move here, you think 'state government, state government, state government.' But so many people who work for state government have no interest in Frankfort at all, except as a place to work. They come in here and they use us and they go out."

And he doesn't just mean they get out after four years. He means they get out after 4 o'clock. State government employs 35,000 people 12,400 of them work in Frankfort; but only about 6,800 of those people actually work and live in Franklin County.

Frankfort bustles in the daylight, at least until 4:30, when, as the locals say, "the state lets off." Then it's a quiet and peaceful place again. Too quiet for some.

"A lot of friends my age (twenty-something) have chosen to live in Lexington or Louisville and commute," says Amy Carman, spokeswoman for the Kentucky Historical Society.

The most famous commuters, of course, are the 138 lawmakers who descend on Frankfort every other winter. Their presence doesn't always redound to Frankfort's glory, or even its gain. Some of them doubtless size up Frankfort against their hometowns, and figure the capital has what it needs.

"The perception," says Mayor Huston Wells, "is that Frankfort gets everything it wants. Quite the contrary. We have to beg and plead harder than any other community, because Frankfort is more or less taken for granted. Not just taken for granted, but overlooked as having needs. . . ." Frank Sower, the former mayor, takes the long view, as might be expected of a history buff, "I can't say there's any jealousy of Frankfort," he says. "When Frankfort improves, the people of Kentucky should be proud of their capital."

Population (1990); Frankfort, 25,965; Franklin County, 43,781

Per capita income (1989): Franklin County, $15,649, or $1,826 above state average.

Jobs (1990): State and local government, 14,371; wholesale/retail trade, 3,925; manufacturing, 3,912; services, 3,268; contract construction, 929.

Big employers: Fruit of the Loom, 1,041 employees; Topy (auto wheels), 515; Allied/Bendix (air brake components), 388; Jim Beam Brands, 325; Frankfort Plastics, 300.

Education: Kentucky State University, 2,534 students; Franklin County Schools, 8,222; Frankfort Independent Schools, 833; Good Shepherd School, 288; Capital Day School, 174; Franklin County Area Vocational School, 215.

Transportation: Air—Capital City Airport (one paved 5,000-foot runway); nearest airport with regularly scheduled commercial service, Bluegrass Airport, Lexington, 24 miles, Rail—CSX Transportation, Truck—44 lines serve Frankfort.

Media: Newspaper—Frankfort State Journal, daily, Radio—WFKY-AM/WKYW-FM (adult contemporary); WKED-AM (country), Television—Cable 10 covers local public affairs; 39 cable channels, including network outlets from Louisville, Lexington and Danville.

Topography: Bisected by the Kentucky River's S-shaped path, Frankfort lies in a picturesque valley marked by steep, wooded hillsides, exposed limestone cliffs and rolling farmland.

FAMOUS FACTS AND FIGURES

Frankfort's "Corner in Celebrities," a downtown section along Wapping Street, was home to some 40 statesman and other notables; governors, U.S. senators, Cabinet officers and Supreme Court Justices, Bibb lettuce, of all things, was invented by John Bibb in his back yard. Another resident was George Vest, who served in the U.S. Senate 25 years, but is best remembered for uttering the phrase "Dog is man's best friend" during the closing arguments of an 1870 trial over the killing of a dog.

Frankfort became Kentucky's capital in 1792. Frankfort's bid to become the capital was helped immensely by its offer of $3,000 (plus $140 worth of locks and hinges) to the new state. One of the selectors who voted for Frankfort was Robert Todd, who forsook his hometown, Lexington, Todd eventually became better known as the father-in-law of Abraham Lincoln.

When the Capitol burned in 1813, Frankfort guaranteed $19,600 to rebuild—and therefore keep—the capital. The only other bid was Woodford County's $550, in 1824, fire gutted the new capitol, and a third was built. It still stands and is known as the Old Capitol. The last efforts to wrest the capital away from Frankfort came in 1890 and 1904 from Louisville and Lexington.

With floods and fires, Frankfort has lived through many turbulent times, but none dicier than January 1990. That's when William Goebel, the Democratic candidate who claimed victory in a governor's election, was shot on the lawn of the Old Capitol. He died four days later, after having been sworn into office. But the controversy did not die, Democrats and Republicans both claimed to have the legitimate governor, Frankfort resembled an armed camp, and Kentucky teetered on the edge of civil war.

Daniel Boone, who died in Missouri in 1820, was brought back to Kentucky and reburied in the Frankfort Cemetery in 1846 after lying in state more than six weeks. The cemetery overlooking the Kentucky River is the resting place for at least 20,000 others (and perhaps twice that many, in unmarked graves). Sixteen governors are buried there, as are Vice President Richard M. Johnson and artist Paul Sawyler.

Founded in 1786 by Gen. James Wilkinson, Frankfort took its name from Frank's Ford a Kentucky River ford named for Stephen Frank, a settler killed by Indians in 1780.

With one professor for every 13 students, Kentucky State University has the lowest student-to-faculty ratio of any of the state's public universities.

Kentucky's time and place in American history could be divined in the rotunda the Capitol, where there are five statues: Abraham Lincoln, Henry Clay, Jefferson Davis, Alben Barkley and Dr. Ephraim McDowell. Only one of them, Barkley, lived in the 20th century.

When Henry Clay was a state legislator, he was called a liar and a poltroon by Humphrey Marshall before their fellow lawmakers. Clay challenged Marshall to a duel. They shot it out in Indiana, with Clay suffering a leg wound.

To see the only Kentucky house designed by Frank Lloyd Wright, go to 509 S. Shelby St. It was the home of a Presbyterian minister, Jesse K. Zeigler, who met Wright on a cruise.

When the old governor's mansion was being built, stonemason Thomas Metcalfe helped lay the foundation; Robert Letcher laid some of the brick. Later both lived there as governor (Metcalfe, 1828–32; Letcher, 1840–44)•

CORRIDOR G: ALMOST HEAVEN

• Mr. ROCKEFELLER. Mr. President, I rise today with pride as I share the enormous progress being made on the highway systems in my State of West Virginia.

As Senator from West Virginia and as Governor, I have been dedicated to the completion of the Appalachian Regional Commission corridor system. In West Virginia, the completion of corridor G would connect the coal and timber country to the vast trade market by providing safe, modern, and efficient road systems on which to travel. This connection will promote economic development, highway safety and much needed employment opportunities for southern West Virginia.

In 1989, I introduced precedent setting legislation resulting in the tapping of the highway trust fund surplus to fund the completion of the corridors. In 1991, the highway bill passed the Congress and was signed into law by the President. This legislation authorized the expenditure of $151 billion over a 6-year period, which included an $8 billion bonus from the trust fund surplus. These funds will be used to complete the corridors and many other vital transportation projects throughout the State, the Appalachian region and the Nation.

Earlier this month a segment of road, measuring only six-tenths of 1 mile, connecting the Tug Fork River Bridge and West Williamson was dedicated and opened to traffic. Although it may seem like a minuscule portion of construction to celebrate, for the residents of southern West Virginia it is a triumph over the craggy terrain of that area of our State. The immense rock wall that was removed created not only a physical but also a mental barrier for the people. It was an overwhelming obstacle to overcome in the effort to achieve economic parity for West Virginia.

At long last, the industries of southern West Virginia are no longer prisoners incarcerated by mountain barriers, but thriving enterprises in the global marketplace. It is truly a victory for the people of West Virginia to finally be moving toward economic equality with the rest of the Nation after years of victimization by the rugged terrain so prevalent throughout Appalachia.

No longer will barriers, such as the immense rock wall that barricaded road construction in Southern West Virginia, leave our roads half way to nowhere. Instead, West Virginia roads will be roads that lead to economic equality and employment opportunities for the State of West Virginia: this in turn will provide yet another strong, contributing link to the economic chain of existence of the United States.•

TRIBUTE TO FIREFIGHTER GEORGE MOTCHKOWITZ

• Mr. D'AMATO. Mr. President, very rarely is courage displayed as it was on March 3, 1992, when a brave and selfless man by the name of George Motchkowitz risked life and limb to do a job that is done everyday by the 2 million volunteer firefighters in the United States. The natural and complete professionalism that marked his actions on that fateful day should be lauded and I ask my colleagues, indeed, all Americans, to join me in celebrating the heroism that firefighters exhibit everyday.

Volunteer firefighters provide one of the most valuable services imaginable to this country and its people—that of saving lives; the lives of our families. Firefighters preserve the integrity of the safety in the communities they serve. Every year, volunteer firefighters are injured, and even die in the service of this country. The ability to act rationally and safely, under circumstances that would cause most people to panic, is second nature to these special individuals. Volunteer firefighting is one of the hardest jobs imaginable, and it is frequently rewarded only by the knowledge that the service they provide is vital to their community.

On March 3, 1992, a young man was walking in the fields near his school, the Great Neck North High School, when he fell into a well. The well was some 60 feet deep, and the youth incurred serious injuries to his neck and back. Fortunately for him, he was not walking alone. His brother and several friends were there to seek help. They ran back to the school and called for help. Those who quickly arrived on the scene were the Alert Fire Company and the Vigilant Fire Company of Great Neck, NY, and the Nassau County Police Department. The men and women of those brave squads acted with extreme valor to save the adolescent.

First Assistant Fire Chief George Motchkowitz of the Alert Fire Company volunteered to be lowered down to the young man. A true professional, George quickly recognized the nature of the boy's injuries, and braced him appropriately. Less than 1 hour after the accident, the youth was on his way to the hospital. Thanks to the amazing bravery of George Motchkowitz, and all the heroic rescuers in Great Neck that day, that young man was saved.

The everyday occurrences of fires, accidents, and natural disasters are made bearable only by the courageous actions of our volunteer firefighters and other emergency crews. The tragedy that almost occurred in Great Neck is not at all unique. Tragically, horrible things happen in our lives everyday. We need to be able to count on these citizens, whose loyalty to the safety of their community is undaunted by the greatest of disasters. For his heroic act at Great Neck I commend First Assistant Chief George Motchkowitz. I suggest that my colleagues, and all Americans, remember these unsung heroes, like George Motchkowitz, and consider the debt that each of us owes to those who give of themselves freely and gladly everyday for the safety and welfare of each of us.•

DEMOCRATIC HISPANIC TASK FORCE FIELD HEARING

• Mr. SIMON. Mr. President, last May in my home State of Illinois, I chaired a field hearing of the Senate Democratic Hispanic Task Force on Issues Facing the Hispanic Family—Education, Employment, and Health Care. I want to share with my colleagues in the Senate the recommendations and testimony of the witnesses at the hearing. Therefore, on Monday and Tuesday of this week I included a section of testimony presented at the hearing. I ask unanimous consent that a third section of testimony be included in the RECORD at this point.

The material follows:

TESTIMONY OF MARY GONZALEZ KOENIG, ASSISTANT TO THE MAYOR FOR EMPLOYMENT AND TRAINING, CHICAGO, BEFORE THE SENATE DEMOCRATIC HISPANIC TASK FORCE

Our Nation is just emerging from a prolonged recession, and national attention is focused on our economic future. Competitiveness and productivity of the workforce are of greater concern to policy makers and elected officials now than at any point in recent memory. Hispanics have much at stake. It is a time for choices and a time for action.

The marketplace for goods and services is shaped today by the global nature of competition. Technological changes have permitted employers to combine many jots into fewer jobs with broader responsibilities. The need for workers with more highly-developed skills has shifted labor demand away from unskilled, low value-added employment.

The education and skill requirements for employment have been elevated, as companies seek out workers who can respond to these complex demands. The kinds of blue collar jobs that were once available in abundance are largely gone and won't return again.

America's human capital is the element that will drive its standard of living. That is why the ability to access high-quality occupational training is the critical workforce issue facing the Hispanic population.

Hispanics currently have the lowest level of educational attainment of any major population group. Nationally, only about half of Hispanic adults are high school graduates; less than one in 10 graduates from college.

While Hispanics as a group are not highly educated, they participate heavily in the labor force. Hispanic employment in Chicago increased by a stunning 66 percent since 1983. Nearly 7 of 10 Hispanic city residents were working or actively seeking work, a proportion significantly higher than for the whole population citywide.

What is the result of this combination of factors?

Hispanics remain clustered in a narrow segment of the job market which is more likely to be affected by both sudden dislocations and the long-term trend of fewer factory jobs. Over 40 percent of Hispanic workers are employed in industrial sectors like manufacturing and wholesale trade, with higher than average unemployment rates and lower than average projections for employment growth, a proportion far larger than other race or ethnic groups.

Furthermore, Hispanics are conspicuously absent from occupational categories like managers and professional and technical workers, which are characterized by low unemployment and high growth potential. Only about 10 percent of Hispanics worked in these categories compared to about 20 of blacks and 30 whites. Hispanics are not yet well positioned to prosper in the high performance work organizations that will lead the technological advance of 21st century America.

What should we do about it? Let me suggest a general direction. I returned recently from a 2-week study tour of the education and job training systems of Germany, Denmark, and Sweden. Organized by the National Council of La Raza [NCLR], the largest national Hispanic organization, the tour was funded by the German Marshall Fund of the United States and the Ford Foundation.

Those nations have made a commitment to work based education and training programs that focus on individual human resource development. Such a commitment is imperative for this country and is in the particular interest of Hispanics—so long as unique cultural differences of diverse groups are recognized, and equal access to training and advancement is assured.

It was clear to us on the study team that U.S. policies and practices guiding job preparation need major restructuring, and—while the American solution must reflect our Nation's unique history, culture, and institutional systems—much can be learned for the European experience.

The European education and training systems we reviewed reflected strategic national directions. They had a legislative base and a taxing structure which supported a holistic training effort. That structure was characterized by genuine, ongoing, institutionalized collaboration among the key stakeholders in employment and training: government, business and industry, and unions, from the national to the local level. We have experimented with public-private partnerships in this country, and have established them in national programs like the Job Training Partnership Act. This concept should be expanded significantly.

The education and training systems we visited reflect a recognition of the need for lifelong learning, with opportunities for upgrading skills at various stages in the individual's working life. There is a growing emphasis on developing skills relevant to a family of occupations rather than one single job, as a means of developing a workforce adaptable to economic and technological changes.

Skill training must be affordable for young people and their families. The European countries already provide meaningful training wages, so even those from poor families can remain in long-term training. This makes skill training accessible to everyone—not just those who can afford to be without wages for a period which can last more than 3 years.

Hispanic workers now have earnings far below those of other groups. Will we remain a people of low wages or become a people of high skills? Access to the right kind of workforce training is the critical issue.

TESTIMONY OF PEDRO A. GALVA BEFORE THE SENATE DEMOCRATIC HISPANIC TASK FORCE

Good Morning, Senator Paul Simon, distinguished committee members, panel and visitors. Thank you for the privilege of testifying before this committee and to present ideas regarding the development of the Hispanic Community in the United States and the needs of this particular community in the overall development of our nation.

Hispanics represent a major force both politically and economically in the U.S. Numbers are growing and expected to continue to grow over a long period of time. We are supposed to become the number one minority by the year 2020. However, hasten to add that numbers do not translate into political power and economic advantages unless we can grow in level of empowerment, education and training. There is always a major lag in numbers and political and economic fruition. Although we have made major strides in the last decade, we are still far behind in the fulfillment of major goals in the areas of political, economic and educational achievement. I intend to concentrate my remarks on the effect of education and training as the foundation of the development of any community be that one large or small in the context of the larger society and what the Federal Government can or cannot do to enhance this educational empowerment that is so critical to the economic development of our community in this country.

As you well know, education and training is something that "no one can take away" from us. It cannot be stolen, denied, forbidden, postponed. It is for this reason that I propose that Employment and Training and education are the most critical elements in the development of any group be it minority, majority or otherwise. In particular I want to discuss the importance of employment and training to the economic development of our community.

First a few words about The College of Office Technology. We started offering employment and training services at the transition from CETA to JTPA back in 1982–83. Then we were known as Assurance Corporation Technical Institute (ACTI). We grew from training 60 participants per year to now training 360.

We offer a very versatile program providing a choice of curriculum and practical job training skills needed in today's automated office. Participants who successfully graduate from our program carry with them entry level skills in the following areas: Typing, word processing, data entry, accounting, calculating as well as remedial education in English and basic mathematics. All this is accomplished in a period of 16–20 weeks of full time training, seven hours per day, five days a week. Our program is a very intensive intervention and one in which the participant cannot be allowed to miss too many days of classes, if they do, they have to make up hours missed during evening hours. In a fast pace curriculum offering like this one, students who do not have the commitment and have not made arrangements necessary to concentrate their efforts in the training do not and cannot succeed.

With the single exception of 1982–83, our first year of operation, we have achieved placement goals between 79 and 89 percent for all of our programs. Over 70% of those placements have been training related and have been documented with letters of employment from the employer.

It has been our philosophy during those years to do exactly as the legislation calls for in its title. Comprehensive Employment Training Act meant that people must be trained for jobs in the private and public sector of the economy. When CETA was delivering no better than 36% placement rate nationwide, the agency that I worked for (SER-Jobs for Progress, Inc.) was consistently placing people on jobs at the rate of 75% or better. We concentrated our efforts in providing the best training possible with an eye on preparing the person for real and existing jobs in the economy at that time. It worked because we ran a no-non-sense program designed to prepare people that were ready to be trained and ready to enter the workforce after the training. Once you get that initial element, the rest is easy.

Story of Maria Perez, on public aid, became pregnant during the training program, goes on to complete the training and get job at the University of Illinois, finishes a bachelor of arts and become an insurance underwriter for a major insurance company. Angelina Becerra, cannot take the GED test because she is under 18 and not a year out of high school, ask for a second chance (she is going to die in six months), completes the program, gets hired by Standard Oil in downtown Chicago, "I am still waiting for her die". Jose Zaragoza, GED participant also, not interested in class, does not pass the GED Test but completes the program, get a training opportunity at his father's union carpentry shop, completes it and makes more money than the teacher was making at that time.

There are many more stories like the ones above. I can assure you that these programs work. I have seen them work every day of my life for the last 17 years.

What are the most critical issues facing the Hispanic community in this country? I believe that employment and training and public education are at the forefront of it.

There is nothing more critical and important to any young group of immigrants than to be able to get the education and/or training they need to meaningfully enter the workforce.

In years gone by, it was relatively easy. Agricultural and industrial societies allowed entrance into the middle class through hard work, very little education was needed. It has changed today and the only way of entering the middle class is through education and/or training.

JOB TRAINING PARTNERSHIP ACT [JTPA]

This is the only piece of legislation that specifically deals with transitioning people from unemployment and lack of job skills to the obtainment of those skills needed to enter the workforce.

JTPA has done an excellent job of providing both young and adult Hispanics with the skills necessary to be able to compete for jobs in the labor market. In 1982–83 only about 14 percent of the people served in the city of Chicago were of Hispanic origin, today this rate is between 27 and 28 percent. What is even more critical is that placement rates have been consistently higher for the Job Training Partnership Act [JTPA] than it was for its predecessor, The Comprehensive Employment and Training Act [CETA]. For the City of Chicago this rate has been between 60 and 70 percent over the last five years.

Hispanics need the services that JTPA offers. It is the only vehicle that we have, aside from the educational system, for bridging the gap between school and the world of work.

JTPA, as it undergoes the scrutiny of the Senate and House Conference Committee, should not be allowed to become the panacea for all the problems facing the unemployed. The beauty of JTPA, as it was initially conceived, was that it would serve those that were willing and ready to be trained for jobs. This type of training requires a concentrated effort not only on the part of educational agencies but more critically from the participants.

At present, the amount of paperwork, guidelines, mandates that service providers and participants must be subjected to is threatening to make of JTPA an ineffective tool for the delivery of effective employment and training services. This must not be allowed to happen.

The solution to problems being experienced by Hispanics and other minorities cannot be resolved by government hand-outs or even public service employment programs or the overregulation of these programs. The solution lies with creating more opportunities through JTPA or similar legislation in conjunction with the private sector.

JTPA may have minor problems of abuse typical of government programs. I can assure you that whatever problems it may have are not going to be cured by adding more regulations and more paperwork. They can best be minimized or cured altogether by increasing program. monitoring at all levels, Service Delivery Areas, State Government, Department of Labor: drop-in unannounced and ask to see participants records, train monitors well so that they know what to look for and how to evaluate program operation and whether legislative and regulatory mandates are being followed by service providers and other players in the system. This methodology will go a lot further in stamping out abuse in government programs than mountains of regulations and its accompanying cohort of paperwork.

One major weakness in the JTPA system is that *Recent immigrants*, including Hispanics, are not faring very well getting the services they need under JTPA, reasons are as follows:

(a) recent immigrants cannot afford to go to school full time because they have family commitments either here or back in their home countries.

(b) They need the support while in training existing under previous legislation but not in JTPA.

(c) Economic and job picture have changed in this country so that the level of education needed to gain meaningful employment has gone up consistently. It demands more skills today to obtain the same job than it did ten years ago.

What can be done to correct these problems? (a) liberalize eligibility mandates so that programs can be more flexible in its admissions procedures, (b) do not take the focus of JTPA away from jobs but lower the percentage of placement outcomes that this program must have in order to be successful. Today the only positive outcome for an adult is a job placement, there should be other outcomes that are considered positive terminations, (c) increase supportive services so that adults can participate without jeopardizing "bread and butter" on their table. I do not recommend a throw-back to the full allowance system but a little more liberal than it is at the present time.

I encourage you to expand the Job Training Partnership Act so that more people will have that second chance to break the cycle of dependency on government programs. JTPA has been criticized for not doing enough for the people most in need, namely of creaming, it is my belief that this is an unfair and unfounded criticism and this is why: (a) more than 40% of the people in the JTPA system are public aid recipients or receiving other types of government support (this was less than 15% under CETA), (b) It is not the goal of JTPA to create jobs, it is, in my opinion, to prepare people without skills and give them a level playing field to compete for jobs in the private sector, in this scenario, it is the employer that dictates the people they will hire and service providers must provide them with people with the skills employers require, (c) some of the so called "most in need" have other barriers to employment that are very difficult to resolve and must be intervened before a serious job training program starts (ex Offenders, substance abusers, homeless, etc.). If job training intervention is started while those problems are unresolved, there is a 70 to 90 percent chance of failure.

Finally, I want to leave you with the thought that effective employment and training programs such as JTPA are an investment in our future and should and must be expanded. It has been suggested by some experts that if we allow our present educational system to continue to deteriorate, do not expand successful interventions (such as JTPA) for those that the public school system has failed or is failing then, in not too distant a future, half of the population will have to work to care for the other half in public aid, social security, prison population, etc. this is a sobering thought and one that cries out for a larger and better system of employment and training in this country, as one of the solutions to this vexing and potentially ominous problem.

Thank you very much for your patience and God bless you.

ADDITIONAL TESTIMONY

The educational system

Education is a very critical issue facing our community and one in which the battle is not on the winning side. About 50% of Hispanics in this country do not stay long enough in our public school system to graduate from high school. What is even more sad, those who graduate are coming out without the basic educational skills to proceed to higher education or enter the job market. Clemente, Wells high schools in Chicago are typical example of high drop-out rates that predominates in the Hispanic community and that schools are facing. The Federal Government has a role as a catalyst for change in our system of public education. What is needed is not a set of new regulations and more paperwork to satisfy yet another set of rules imposed on our system but rather leadership from elected and non-elected officials to prod the system on to reform itself. For the future educational and economic health of our children, we beg for your leadership Senator Simon, other elected officials and community.

The U.S. is the only industrialized nation that does not have a coherent policy for moving its young people from school to the workforce. It is not for a lack of programs or expenditure in education and employment and training. I used the word coherent because that is what it lacks.

It is a quilt of programs fitting no pattern, coordination and therefore does not accomplish the results desired. The United States spends, per capita, more on education and training than any other industrialized nation, anywhere from $300 to $400 billion dollars is spent in the U.S. in public and private education.

The programs are there: Vocational Education Act, The Job Training Partnership Act, Title IV, Financial Aid programs, the private and public system of education, etc.

The reason that we do not get the results from our educational system as other industrialized nations are getting is due to the fact that we have imposed on our public school system the responsibility for dealing with the problems that we as a society, are afraid to face: racial integration (busing), hunger, disintegration of morality (teen pregnancy), disintegration of the home (divorce). A host of entities that have been created to live off our system of education. The farthest from the mind of some educators today is that the system was created to educate children (as the most important element of education) and not to provide jobs for teachers, administrators and others.

Until we change that equation, the system for transferring people from school and training programs to jobs is going to continue to be a haphazardous one.

Again, for the future of our children we must all get involved in creating a better system of public education for our sons and daughters. We cannot delegate this responsibility on the Federal Government alone, we must all get involved at the local level to do our part. I submit to you that providing a working employment and training and educational system for adults, youths and our children, is the most critical issue facing the Hispanic community in this country.

Thank you for your patience and God bless you.

TESTIMONY OF ADELA CEPEDA, ABACUS FINANCIAL GROUP BEFORE THE SENATE DEMOCRATIC TASK FORCE

Good morning Senator Simon. My name is Adela Cepeda. I own an investment management firm, Abacus Financial Group, based here in Chicago. I am also a board member of the Latino Institute, a research and advocacy group concerned with the interests of Latinos in Chicago and the state of Illinois. As part of its research effort in the area of economic development, the Latino Institute surveyed 136 Chicago Latino business owners in 1991 in order to develop a comprehensive data base on the status of Latino owned businesses. I will quote from the preliminary results of that survey in the course of my statement.

The establishment and growth of Latino-owned and operated businesses is critical to the development needs of the whole community: it stabilizes Latino neighborhoods, it nurtures a Latino professional class and major Latino institutions as well.

In order for Latino businesses to exist, there must be access to financial capital. Institutional roadblocks to securing business financing severely limit all small business development, but particularly inhibit growth in the Latino business community. The Federal government can remove these roadblocks and act as a stimulant to growth instead of remaining a deterrent through better distribution of existing pools of Federal dollars. The first level of capital necessary for the creation of a new business, called "venture" or "seed" capital, is virtually unavailable to Latino entrepreneurs. Because we are such a poor community, it is often impossible to raise this initial capital from informal sources. Institutions that make venture capital investments often look for businesses of a certain size that preclude many of us from accessing this source.

This barrier to capital remains for Latinos despite the fact that hundreds of millions of dollars earmarked for minority business entrepreneurial development are channeled through Minority Enterprise Small Business Investment Corporations, or "MSBIC's". More dollars, and greater access to financing for Latino businesses is imperative.

The next level of capital for small businesses is debt financing, where again billions of dollars are devoted by the Federal government for Small Business Administration, or "SBA", loans. The Latino Institute survey found that in spite of the existence of the MSBIC and SBA loan programs, 52% of the Latino business owner respondents found the Federal government or private lenders not to be helpful for their credit needs. Less than 1% found the Federal government to be a source of any business assistance whatsoever. This is consistent with how SBA loans are distributed. Of $4.9 billion SBA loans made in 1991, only 4.0% were made to Hispanic firms. Clearly, these very important sources of capital, are not reaching the Latino community. In a developing business sector, such as ours, Federal dollars are critical building blocks to successful emerging business enterprises.

As we all know, the Federal government guarantees bank deposits, therefore, indirectly subsidizing banks. These same banks nevertheless severely limit the number of mortgage loans made to Latinos. If this is the pattern with home loans, which are fully collateralized, what can we expect from banks in the area of business loans to emerging Latino corporations? The Federal government must be more aggressive in stimulating area banks to make commercial loans in the Latino community.

Nevertheless, with personal funds and the help of family members and local chambers of commerce, our entrepreneurial urges are strong and thriving, in spite of the barriers. In Illinois the Institute identified an 80% increase in the number of Hispanic-owned businesses to 9,636 firms in 1987 from 5,218 in 1982. But how can the Federal government help these firms stay in business, particularly in the early years when short track records and small size often preclude their competition on a level playing field?

Senators, there are some very real ways to support our small businesses. In 1990 the SBA set aside under its 8(a) program $3.8 billion nationally in Federal contracts for minority owned firms. Crain's Chicago Business reported that only 1.2% of this amount went to Illinois firms. The Resolution Trust Corporation, "RTC", charged with the job of repairing insolvent thrift institutions, awarded $1.8 billion in contracts since its inception in 1989—yet only 2.1% of these dollars went to Latino firms. We need to capture a more equitable share for Illinois and for the Latino community.

Finally, once we have managed to build a stable business, the rules are often changed. For example, the Department of Transportation, "DOT", has recently changed its definition of what constitutes a disadvantaged business enterprise. Firms with revenues exceeding $15 million no longer meet this definition—regardless of industry considerations. Many building contractors spend a significant portion of their revenues in cost of goods, such that $15 million in revenues is not a significant size by industry standards. Yet, they now stand to lose an important revenue source from DOT. The capricious application of set aside rules stand to hurt the same firms identified as needing assistance to enter competitive industries. More than anything, a serious, disciplined approach to set asides needs to be applied throughout the various federal agencies.

Thank you very much.

LATINO INSTITUTE, CHICAGO, IL

A 1991 Latino Institute survey of 136 Chicago Latino businesspersons revealed the following:

Where do Latino Businesspersons Go for Help?

Survey respondents were more likely to seek business assistance from family members, friends and other business people than from governmental agencies.

Survey respondents were more likely to contact a Latino chamber of commerce for assistance than a non-Latino chamber of commerce.

66.7% of respondents who contacted a Latino chamber of commerce found it "helpful" or "very helpful"; only 37.1% of respondents who contacted the U.S. Small Business Administration found it "helpful" or "very helpful."

How Latino Businesspersons Rate Infrastructure/Business Environment?

A majority of survey respondents found the following conditions to be "Excellent" or "Good": Auto Traffic Flow; Adequacy of Roadways; Public Transportation; Availability of Public Utilities; Adequacy of Fire Protection; and Market Access.

45.6% of respondents rated the availability of government assistance as "Poor" or "Very Poor"

How Latino Businesspersons Rate Obstacles to Better Business?

39.0% of respondents rate obtaining working capital as a "Major Problem"

36.8% of respondents rate parking as a "Major Problem"

41.9% of respondents rate crime as a "Major Problem"

A majority of respondents rate the following as "No Problem" or "Minor Problem": Zoning Restrictions; Traffic; and Machinery/Equipment.

Sources of Credit for Latino Businesses?

Half of surveyed businesses (52.2%) have not found the federal government or private lenders to be helpful for their credit needs.

Less than one percent (0.7%) of respondents cited the federal government as "most helpful" in acquiring credit.•

BRAIN INJURY REHABILITATION QUALITY ACT OF 1992—S. 3002

• Mr. CONRAD. Mr. President, I am pleased to be an original cosponsor of legislation intended to improve the lives of brain-injured Americans and their families, the Brain Injury Rehabilitation Quality Act of 1992. My interest and concern in this area has resulted from several cases brought to my attention by my constituents in North Dakota.

One specific case involves a Williston, ND, family whose son was the final victim of the well-publicized California "night stalker" slayings in 1985. This individual, a victim of senseless violent crime, was then further victimized by an unscrupulous rehabilitation facility. A second case describes a Glenfield, ND, family's state of turmoil as services that would provide their brain-injured son the chance to develop to his fullest potential are denied or dismissed as someone else's responsibility.

North Dakotans suffering from traumatic brain injury [TBI] and their families have told me of their frustration with patients slipping through the cracks between various Government agencies and private care providers. This occurs because there is no coordination of care or management of treatment and rehabilitation services. In addition, there is a lack of demonstrated, effective treatments for individuals with TBI, and there have been specific cases of waste, fraud, and even abuse in the head injury rehabilitation industry.

The Brain Injury Rehabilitation Quality Act of 1992 will assist the 2 million Americans who suffer traumatic brain injuries each year from various sources including automobile, motorcycle, and bicycle accidents, recreational accidents, assaults, and other tragic incidents. Approximately 500,000 of these victims will survive requiring expensive hospitalization. The cost of providing medical services for individuals who suffer traumatic brain injuries is estimated to be $25 billion a year.

Our bill allows for optional Medicaid coverage of case-management services for individuals with TBI. Case managers would assess, plan, and coordinate a broad range of services while making sure that the best value and highest quality care is achieved. In addition, the bill provides for marketing standards to protect consumers against the rising tide of waste, fraud, and abuse in the field of rehabilitation services. Finally, the bill establishes a national TBI registry and requires the agency for health care policy and research to conduct a study of the effectiveness of the treatment brain-injured patients receive.

The initiatives in the Brain Injury Rehabilitation Quality Act of 1992 would lead to the development of a more consistent, effective set of guidelines for head injury treatments and rehabilitation services. I am proud to be an original cosponsor of this important legislation.•

CAPTIVE NATIONS WEEK

• Mr. SIMON. Mr. President, this week commemorates the 33d anniversary of Captive Nations Week. Since 1959, we have used the third week of July to remind Americans of those people throughout the world who are not free in their own countries.

This anniversary is particularly meaningful. Last year at this time, there were still 15 different republics in Europe and Central Asia that were forced to pay allegiance to the Communist government in Moscow. Through the brave work of people like Boris Yeltsin and Mikhail Gorbachev, the citizens of the former Soviet Union have been set free and allowed to pursue their own vision of democracy. As we celebrate these triumphs, we also need to be supportive to these new democracies to ensure what former President Richard Nixon recently called the "victory of freedom."

Despite this year of unprecedented freedom for captive nations, we still need to remember those countries that continue to deny basic freedoms to their citizens. The Communist governments of China, Cuba, and North Korea provide the most egregious examples.

Since 1949, the People's Republic of China has not allowed over 1 billion people the most elementary freedoms that are taken for granted in most of the rest of the world. The freedom of expression, religion, and, as we all saw in Tiananmen Square in June 1989, even the basic freedom of assembly is brutally denied to Chinese citizens. In addition, the Chinese Government is trying to systematically destroy the formerly autonomous region of Tibet and the other minority groups who live along the fringes of the PRC. The unique culture, language, and religion of Tibetans may be extinguished if the Chinese Government continues its repressive tactics in this captive nation.

Only 90 miles south of the United States, Fidel Castro keeps Cubans captive in his cult of socialism. Without the generous Soviet subsidies, Cubans are now forced to live under even more austere conditions. Mr. Castro ought to allow his citizens to participate in a democratic process.

In North Korea, as Kim Il Sung prepares to pass his dictatorship along to his son, this Communist government continues to play a dangerous shell game with nuclear weapons. The peninsula of Korea and its citizens remain unnaturally divided because of the anachronistic views of a few people in Pyongyang.

We also need keep our attention on those people oppressed in countries we do not necessary consider captive. Haitians, Kuwaitis, Christians in the south of Sudan, the people of Kosova in Serbia, the Karens and the Rohingya Muslims in Burma, conservative Muslims in North Africa, the Baha'is in Iran, the Kurds in Iraq and black South Africans are all people who face hostile governments.

As we commemorate this extraordinary year in which the Soviet empire folded, let us remember that more than one in five people on this planet remain unfree. Let us do what we can in this body and in this country to bring about a peaceful end to the problem of captive nations.•

THE F/A-18E/F

• Mr. D'AMATO. Mr. President, $194 billion. That is what this country just committed to with the signing of a letter contract for the F/A-18E/F; $194 billion. And that Navy estimate, which came under punishing criticism by the DOD IG for both its assumptions and omissions, will certainly go up.

What do we get for $194 billion? One thing we do not get is an F/A-18 that brings to bear any more capabilities than F/A-18's currently serving with the fleet. To minimize cost and risk, the F/A-18E/F will have avionics no different than night attack F/A-18C/Ds. That means the same sensors, the same weapons, the same all-weather limitations. What we get for $194 billion is an F/A-18E/F that flies a few more miles and carries a few more pounds than those in production now.

Only DOD would force the American taxpayer to pay so much for so little.

We still do not have the required cost and operational effectiveness analysis for the F/A-18E/F. None of the cost data challenged by the Pentagon Inspector General has been corrected or independently validated. It is unclear whether the requirements established by the Under Secretary of Defense (Acquisition) for entry into Engineering and Manufacturing Development: "submission of a fully funded F/A-18E/F program * * * in the Navy Program Objectives Memorandum" and submission of "initial data [from] the comprehensive A-X COEA," were met. The F/A-18E/F juggernaut just keeps rolling along.•

THE LOS ANGELES VELOWAY

• Mr. CRANSTON. Mr. President, I rise today to bring to the attention of the Senate an innovative project in my State that seeks to create an efficient and environmentally beneficial transportation option.

It is called the veloway and it represents the kind of creative thinking we need in the future if we are to reduce successfully our traffic congestion and improve our air quality without compromising our economy or competitiveness.

The veloway is a bicycle route that would provide bike commuters in west Los Angeles with a safe and efficient route for their transportation needs. The elevated veloway would allow bicyclists to travel from Brentwood and west Los Angeles over the traffic-clogged 405 freeway to the UCLA campus and Westwood. It would serve 10,000 bicyclists in the communities of Santa Monica, Westwood, and Brentwood.

Without this route, riders must share streets with heavy, high speed traffic which discourages many people from riding their bikes. Offering a safer alternative route would increase bike ridership and benefit the community by reducing traffic congestion and reducing air pollution.

Los Angeles has long sought and has been supportive of transportation alternatives that are pollution free and reduce gridlock. Private, local, and State funds have been pledged to the veloway. It has the support of city officials, council members, and administrators from the neighboring UCLA campus.

I commend such attempts to solve complex transportation problems. Mr. President, this body has devoted a great deal of its time and effort to the issue of transportation efficiency. We know that a more efficient infrastructure benefits the economy, reduces air pollution, and saves energy. Congress has passed transportation legislation, clean air legislation, and energy legislation that encourages the development of these kinds of innovative and alternative transportation options.

But, unfortunately, Mr. President, the veloway will remain just a good idea; it will not become a reality. As beneficial as this project is to Los Angeles, it is being held back by the inflexibility and shortsightedness of the Department of Veterans Affairs.

The proposed route must cross the VA Medical Center property in order to avoid the heavily congested city streets. The proponents of the veloway have negotiated with the VA for several years. They have addressed concerns about the safety of the VA patients and about the impact of traffic on the property. The proponents changed the route several times trying to reach some kind of agreement with VA officials and agreed to accept any route the VA suggested.

All this has been to no avail. The VA has categorically denied any use of its property for the veloway. Rather than cooperate with the community to help solve its transportation problems, the VA rejected the request without an explanation.

This kind of project is important to Los Angeles. I believe the VA should work with the community to help it reach its goals of reducing traffic congestion and providing a cleaner transportation alternative. I hope the VA will reexamine the merits of this project and reconsider its decision.•

FEDERAL GRANTS FOR STATE AND LOCAL "GI BILL" FOR CHILDREN ACT

• Mr. DANFORTH. Mr. President, yesterday I introduced legislation with Senators HATCH, KASTEN, BROWN, COCHRAN, THURMOND, D'AMATO, SMITH, and PACKWOOD to encourage, assist and evaluate educational choice programs. I ask unanimous consent that the text of that legislation, Federal Grants for State and Local "GI Bills" for Children Act, S. 3010, be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Grants for State and Local 'GI Bills' for Children Act".

SEC. 2. PURPOSE.

The purposes of this Act are—

(1) to assist and encourage States and localities to—

(A) provide children from middle- and low-income families with more of the same choices regarding all elementary and secondary schools and other academic programs that children from wealthier families already have;

(B) improve schools and other academic programs by providing middle- and low-income parents with increased consumer power and dollars to choose the schools and programs that such parents determine best fit the needs of their children;

(C) more fully engage middle- and low-income parents in their children's schooling; and

(D) through families, provide new dollars at the school site that teachers and principals may use to help all children achieve the high educational standards called for by the National Education Goals;

(2) to encourage the creation and use of supplementary academic programs during and after regular school hours, on weekends, and during school vacation periods, for children of middle- and low-income families; and

(3) to demonstrate, through a competitive discretionary grant program, the effects of State and local programs that provide middle- and low-income families with more of the same choices regarding all schools, including public, private, or religious schools, that wealthier families have.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—For the purpose of carrying out this Act, there are authorized to be appropriated $500,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 2000.

(b) RESERVATION.—From the sums appropriated pursuant to the authority of subsection (a) for any fiscal year, the Secretary may reserve not more than $2,000,000 to carry out the national evaluation described in section 13.

SEC. 4. PROGRAM AUTHORIZED.

The Secretary is authorized to make grants, on a competitive basis, to States and localities to enable such States and localities to carry out educational choice programs in accordance with the provisions of this Act.

SEC. 5. STATE OR LOCALITY ELIGIBILITY.

A State or locality is eligible for a grant under this Act if such State or locality—

(1) has taken significant steps to provide a choice of schools to families with school children residing in the program area described in the application submitted under section 8, including families that are not eligible for scholarships under this Act;

(2) during the year for which a grant under this Act is sought, will, if awarded such a grant, provide scholarships to parents of eligible children that may be redeemed for elementary or secondary education for their children at a broad variety of public and private elementary and secondary schools, including religious schools, if any, serving that area; and

(3) permits all lawfully operating public and private elementary and secondary schools, including religious schools, if any, serving that area, to participate in its program assisted under this Act if such schools so choose.

SEC. 6. SCHOLARSHIPS.

(a) IN GENERAL.—Each grantee receiving funds under this Act shall use such funds to provide scholarships to the parents of eligible children described in section 7.

(b) AMOUNT.—The amount of each scholarship under this Act shall be the sum of—

(1) $1,000; and

(2) an additional amount, if any, of State, local, or nongovernmental funds.

(c) SPECIAL RULE.—Notwithstanding any other provision of law, the amount of scholarship assistance received under this Act shall not be deemed income of the parents for Federal income tax purposes or for determining eligibility for any other Federal assistance.

SEC. 7. ELIGIBLE CHILDREN.

(a) IN GENERAL.—Each grantee receiving funds under this Act shall provide a scholarship—

(1) to the parents of children who—

(A) reside in the program area described in the application submitted under section 8;

(B) will attend a public or private elementary or secondary school that is participating in a program assisted under this Act; and

(C) are from a middle-income or low-income family, as determined by the grantee in accordance with regulations prescribed by the Secretary, except that the maximum family income for eligibility may not exceed the State or national median family income (adjusted for family size), whichever is higher, as determined by the Secretary, in consultation with the Bureau of the Census, on the basis of the most recent satisfactory data available; and

(2) in each year of the grantee's program to each child to whom the grantee provided a scholarship in the previous year of the program, unless—

(A) the child no longer resides in the program area;

(B) the child no longer attends school; or

(C) notwithstanding paragraph (1)(C), the child's family income exceeds, by 20 percent or more, the maximum family income of families who received scholarships from the grantee in the preceding year.

(b) SPECIAL RULE.—If the amount of the grant under this Act is not sufficient to provide a scholarship to each eligible child in the program area who is from a family with an income level described in this section, then the grantee shall provide scholarships to parents of children in such area who are from the lowest income families.

SEC. 8. APPLICATIONS.

(a) IN GENERAL.—Each State or locality that wishes to receive a grant under this Act shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) CONTENTS.—Each such application shall contain—

(1) a description of the program area to be served;

(2) an economic profile of children residing in the program area, in terms of family income and poverty status;

(3) the family income range of children who will be eligible to participate in the proposed program, consistent with section 7, and a description of the applicant's method for identifying children who fall within that range;

(4) an estimate of the number of children, within the income range specified in paragraph (3), who will be eligible to receive scholarships under the program;

(5) information demonstrating that the applicant's proposed program complies with the eligibility requirements of section 5 and with the other requirements of this Act;

(6) a description of the procedures the applicant has used, including timely and meaningful consultation with private school officials, to encourage public and private elementary and secondary schools to participate in the program and to ensure maximum educational choices for the parents of eligible children and for other children residing in the program area;

(7) an identification of the public, private, or religious elementary and secondary schools that are eligible and have chosen to participate in the program;

(8) a description of how the applicant will inform children and their parents of the program and of the choices available to such parents and children under the program, including the availability of supplementary academic services described in section 11(2);

(9) a description of the procedures to be used to provide scholarships to parents and to enable parents to redeem those scholarships, such as the issuance of checks payable to both parents and schools;

(10) a description of—

(A) the procedures by which a school will make a pro rata refund to the grantee of the scholarship for any participating eligible child who, before completing 50 percent of the school attendance period for which the scholarship was issued—

(i) is released or expelled from the school; or

(ii) withdraws from the school for any reason; or

(B) another refund policy that addresses special circumstances the applicant can reasonably anticipate and that the applicant demonstrates, to the Secretary's satisfaction, adequately protects participating eligible children, in accordance with the purposes of this Act;

(11) a description of procedures the applicant will use to—

(A) determine a child's continuing eligibility to participate in the program; and

(B) bring new children into the program;

(12) an assurance that the applicant will cooperate in carrying out the national evaluation described in section 13;

(13) an assurance that the applicant will maintain such records relating to the program as the Secretary may require and will comply with the Secretary's reasonable requests for information about the program;

(14) a description of State and local funds (including tax benefits) and nongovernmental funds, if any, that will be available to supplement scholarship funds provided under this Act; and

(15) such other assurances and information as the Secretary may require.

(c) UPDATING.—Each such application shall be updated annually as the Secretary may determine necessary to reflect revised conditions.

SEC. 9. APPROVAL OF PROGRAMS.

(a) PROGRAM SELECTION.—

(1) IN GENERAL.—From applications received under this Act in each fiscal year, the Secretary shall approve applications for educational choice programs on the basis of—

(A) the number and variety of educational choices that are available under the program to families of eligible children;

(B) the extent to which educational choices among public, private, and religious schools are available to all families in the program area, including families that are not eligible for scholarships under this Act;

(C) the proportion of children who will participate in the program who are from low-income families;

(D) the applicant's financial support of the program, such as the amount of State, local, and nongovernmental funds that will be provided to supplement Federal funds, including not only direct expenditures for scholarships, but also other economic incentives provided to families participating in the program, such as tax relief programs; and

(E) other criteria established by the Secretary.

(2) SPECIAL RULE.—In considering the factors described in paragraph (1)(D), the Secretary may take into account differences in local conditions.

(b) GRANT DISTRIBUTION.—The Secretary shall ensure that to the extent feasible grants under this Act are awarded for programs in urban and rural areas and in different areas of the Nation.

SEC. 10. AMOUNT AND DURATION OF GRANTS.

(a) AMOUNT.—The Secretary shall award grants annually taking into account the availability of appropriations, the number and quality of applications, and other factors related to the purposes of this Act the Secretary determines are appropriate.

(b) DURATION AND RENEWAL.—Each grant awarded under this Act may be awarded for a period of not more than 4 years, and may be renewed for an additional 4-year period.

SEC. 11. USE OF SCHOLARSHIP FUNDS.

The Federal portion of any scholarship awarded under this Act shall be used in the following sequence:

(1) FIRST.—First, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if—

(i) the school is not the school to which the child would be assigned in the absence of a program assisted under this Act; and

(ii) the parents of an eligible child choose to use the scholarship funds for that purpose.

(2) SECOND.—Second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents that the grantee, in accordance with regulations prescribed by the Secretary, determines is capable of providing such services and has an appropriate refund policy.

(3) THIRD.—Third—

(A) if the child attends a public school, for use by such school to enable such school to conduct educational programs that help students at such school achieve high levels of academic excellence; or

(B) if the child attends a private school, any remaining funds shall be made available to the grantee to enable the grantee to award additional scholarships under this Act in that year or the succeeding year of the grantee's program.

SEC. 12. EFFECT ON OTHER PROGRAMS.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Notwithstanding any other provision of law, a local educational agency that, in the absence of an educational choice program that is funded under this Act, would provide services to a participating child under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, shall provide such services to such child.

(b) INDIVIDUALS WITH DISABILITY EDUCATION ACT.—Nothing in this Act shall be construed to affect the applicability or requirements of part B of the Individuals with Disabilities Education Act.

(c) SPECIAL RULES.—

(1) ASSISTANCE TO FAMILIES NOT INSTITUTIONS.—Scholarships under this Act are aid to families, not institutions. A parent's expenditure of scholarship funds at a school or for supplementary academic services shall not be construed to be Federal financial aid or assistance to that school or to the provider of those supplementary academic services.

(2) ANTIDISCRIMINATION PROVISIONS.—

(A) IN GENERAL.—Notwithstanding the provisions of paragraph (1), in order to receive scholarship funds under this Act a school or provider of academic services shall comply with the antidiscrimination provisions of section 601 of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 901 of title IX of the Education Amendments of 1972 (20 U.S.C. 1681), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) IMPLEMENTING REGULATIONS REQUIRED.—The Secretary shall promulgate regulations to implement the provisions of this paragraph, taking into account the purposes of this Act and the nature, variety, and missions of schools and providers that may participate in providing services to children under this Act.

(d) CONSIDERATION OF FEDERAL FUNDS PROHIBITED.—No Federal, State, or local agency may, in any fiscal year, take into account Federal funds provided to a grantee or to the parents of any child under this Act in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such grantee or to the school attended by such child.

(e) STATE LAW.—Nothing in this Act shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by religious or other private institutions, except that no provision of a State constitution or State law shall be construed or applied to prohibit any grantee from paying the administrative costs of a program under this Act or providing any Federal funds received under this Act to parents for use at a religious or other private institution.

(f) SECRETARY.—Nothing in this Act shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program assisted under this Act.

SEC. 13. NATIONAL EVALUATION.

From funds reserved under section 3(b), the Secretary shall conduct a national evaluation of the activities assisted under this Act. Such evaluation shall, at a minimum—

(1) assess the implementation of programs assisted under this Act and such programs' effect on participants, schools, and communities in the program area, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare educational achievement of participating children with the achievement of similar nonparticipating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of children who use scholarships provided under this Act to attend schools other than the schools such children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools such children would attend in the absence of the program.

SEC. 14. ENFORCEMENT.

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this Act.

(b) PRIVATE CAUSE OF ACTION PROHIBITED.—No provision or requirement of this Act shall be enforced through a private cause of action.

SEC. 15. DEFINITIONS.

For the purpose of this Act—

(1) the terms "elementary school", "local educational agency", "parent", "secondary school", and "State educational agency" have the same meanings given to such terms in section 1471 of the Elementary and Secondary Education Act of 1965;

(2) the term "locality" means—

(A) a unit of general purpose local government, such as a city, township, or village; or

(B) a local educational agency;

(3) the term "Secretary" means the Secretary of Education; and

(4) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 16. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of enactment of this Act.●

THE PROGRAM FOR TOMORROW

Mr. DOLE. Mr. President, if the majority leader will yield, I wonder if the majority leader has any idea what the program may be for tomorrow.

PROGRAM

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his inquiry.

It has been my expectation that the Senate would consider the energy bill tomorrow. As we know, cloture was not invoked on the motion to proceed to that bill.

Following that vote, the chairman and ranking member of the Energy Committee engaged in a colloquy regarding the discussions on the one issue which is the basis upon which cloture was not invoked.

I am advised that the participants have now returned to the meeting in which they were engaged. If those negotiations produce a result, it is my hope that we will be able to get consent to proceed to that bill tomorrow.

In any event, we will not know that until the morning. It is my suggestion that we now recess until tomorrow nothing, at which time I expect we will both receive a report on the status of those discussions.

Mr. DOLE. Will there be a period for morning business tomorrow morning?

Mr. MITCHELL. Yes, I anticipate there will be.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate

now stand in recess until 10 o'clock tomorrow morning; and that at 10 a.m. tomorrow, there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 8:19 p.m., recessed until Friday, July 24, 1992, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, July 23, 1992*

The House met at 9 a.m.

Rev. William L. George, Georgetown University, Washington, DC, offered the following prayer:

Lord God, You have created us in Your image and sustain us.

Dear Lord, as Your children we ask for Your guidance in leading our Nation, and in fulfilling the hopes and dreams of her people. Please give us the grace to face any challenge with courage. Give us the wisdom to know the truth and the vision to see our duty. We pray that You give us the strength to act with determination and fortitude.

Temper our actions with compassion, and temper our compassion with justice. Look kindly on our efforts to bring the full measure of Your gifts of liberty and prosperity to all across America. Above all, let us not lose sight that when we serve others, and sustain that sacred trust between the people and their Government, we serve You. Dear Lord, please bless these United States of America.

Please bless the Members who have gone before us marked with the sign of peace, especially our beloved Silvio Conte.

We ask Your special blessing on our Chaplain, Jim Ford. We pray that You continue to bless us with his service. As always, we thank You our Lord and our God forever and ever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Mexico [Mr. SCHIFF] come forward and lead the House in the Pledge of Allegiance.

Mr. SCHIFF led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REQUEST FOR PERMISSION TO VACATE PROCEEDINGS ON ATKINS AMENDMENT TO H.R. 5503, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. REGULA. Mr. Speaker, I ask unanimous consent that the proceedings on the Atkins amendment of last night be vacated.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. VENTO. Mr. Speaker, reserving the right to object, I do not know what the agreement was. I know the substance of this amendment and understand it is something that I favor. But I do not understand the gentleman's request and why he is asking it.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, the problem is that the amendment came up, and there was an agreement that there would not be anything controversial. Our colleague, the gentleman from Alaska, Mr. DON YOUNG, was advised he could go home, and he had an interest in raising a point of order on that amendment. And because of the statement that there would not be anything controversial, he was not here when the amendment was offered and, therefore, did not have his opportunity to offer his point of order.

Mr. VENTO. What would be the effect of agreeing to the gentleman's request?

Mr. REGULA. The effect would be to start over again on the Atkins amendment, and the gentleman from Alaska [Mr. YOUNG], would then have his opportunity to make his challenge to the amendment.

Mr. VENTO. Would the amendment still be pending?

Mr. REGULA. No; it would not be pending if it was vacated. It would have to start from the beginning. It is still in order.

Mr. VENTO. Further reserving the right to object, I will yield to the gentleman in a moment, but has the gentleman from Massachusetts [Mr. ATKINS] been apprised of this?

Mr. REGULA. No; he has not. I have not seen him.

Mr. VENTO. He is not on the floor, and I would ask the gentleman to withdraw his request until the gentleman from Massachusetts [Mr. ATKINS] has had an opportunity to speak.

Mr. REGULA. The chairman of the subcommittee is here.

Mr. VENTO. I understand that, and if the chairman of the subcommittee can speak for the gentleman from Massachusetts, I would speak to him.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I do not propose to speak for Mr. ATKINS. I do know that what the gentleman from Ohio is saying is correct, and I think the gentlemen know that as well as I, that controversial matters were supposed to be put over until this morning, and that as soon as the appearance of a rollcall came with the discussion of any of the amendments, then we were supposed to rise, and that is exactly what happened.

What happened was that last night a point of order was going to be made, but was made a little too late, and the gentleman is trying to protect the rights of the gentleman from Alaska in being able to make his point of order. And that is the reason for the request.

Mr. VENTO. Mr. Speaker, further reserving the right to object, what I am trying to do is to protect the rights of the gentleman from Massachusetts who in an orderly manner made his amendment, and there was not a point of order. I do not know if a point of order would lie against it, or if that would prevail, but the point is, I understand that this is a limitation on appropriations, and the fact is that in the RS2477 matter that is the substance of the disagreement between the gentleman from Alaska, myself, and the gentleman from Massachusetts, it was a measure that was included in the bill. That matter was the subject matter addressed in the bill. But for the fact of a point of order that I raised, it was removed.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I am pleased to yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I wonder if my good friend, the gentleman from Ohio, would allow us to amend the unanimous-consent request to just void the proceedings until the gentleman from Massachusetts [Mr. ATKINS], and the gentleman from Alaska [Mr. YOUNG], get here and then, rather than vacate the proceedings, just postpone the proceedings until they get here, and then we can, maybe, work it out then?

Mr. VENTO. I would prefer that. I want the gentleman from Massachusetts to speak for himself in terms of this, and I would ask the gentleman to withdraw, and just ask him to postpone the action on the vote on this until discussion can be had with the gentleman from Massachusetts [Mr. ATKINS].

Mr. REGULA. Mr. Speaker, I withdraw my unanimous-consent request.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

POSTPONING FURTHER CONSIDERATION OF ATKINS AMENDMENT TO H.R. 5503, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. REGULA. Mr. Speaker, I ask unanimous consent that further consideration in the Committee of the Whole of the Atkins amendment to the Interior appropriations bill be postponed until a subsequent point during consideration of the bill, at the discretion of the Chairman of the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive five 1-minute requests from each side.

VICE PRESIDENT QUAYLE'S PRO-CHOICE RESPONSE

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, last night in response to a hypothetical question Vice President QUAYLE was asked if he would support his daughter if she became pregnant and wanted an abortion. He responded:

> Obviously I would counsel her and talk to her and support her on whatever decision she'd make. I'd support my daughter. I hope she wouldn't make that decision.

Good for you, Mr. QUAYLE, and good for your daughter. Your daughter should make her own decision, and so should every daughter in America.

It is hard to understand how you can object to other women in America having the same choice you would give your own daughter. They are worthy of the same respect that you give your daughter.

Watching Vice President QUAYLE it was clear that his statement was painful, but the Vice President's statement was pro-choice.

CAMPAIGN LESSONS

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I want to rise first of all to thank my many friends who inquired during the primary, and to thank the people of Georgia for giving me their votes and allowing me to win the nomination in what was a very, very difficult race. This morning's Washington Post illustrates why it was so difficult in terms of outside groups and in what was a very tough night for incumbents in Georgia.

Let me just say to my colleagues on both sides of the aisle I got two messages out of a very hard-fought campaign. One is that the American people really want positive messages this year. They want people who intend in a positive way to address real problems, and in some way we could argue that if past campaigns had been the years of the wedge, this was the year of the magnet for everybody. People want positive answers.

The second thing is that the baby boomers are now mature enough and sophisticated enough, and have been through enough of these campaigns that they do not just want slogans. They want a genuine action plan.

I would simply say, coming back here in a very narrow race and very hard-fought campaign, I would say to my friends on both sides of the aisle I think the American people want this Congress to take steps this summer that help improve the economy, that help reform education and health, that help replace the welfare state with workfare, and do something about drugs and violent crime.

□ 0910

I would hope that all of us would look at these very close election results, these anti-incumbent trends, and decide to work together to pass some positive real reforms and implement an action plan for America.

DEFICIT-REDUCTION ENFORCEMENT PACKAGE TO BE INTRODUCED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, whether a Member voted for or against the balanced budget amendment which came before the House a few weeks ago, I think it is fair to say that every one of us knew that no incantation of words, no magic formulas that might eventually have been attached to the Constitution would really balance the budget or really reduce the deficit.

In every one of our hearts we knew that it would take willpower, and a plan and a program.

I was, therefore, very happy to see that the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget, is moving forward with an enforcement package, a deficit-reduction enforcement package, that would, perhaps, incorporate some type of freeze on spending, and a freeze on tax indexation, some kind of formula in which there would be 1 dollar's worth of tax increases for every 4 dollar's worth of spending cuts in the event that we did not hit our budget target and a sequester is necessary.

Mr. Speaker, I think it is very essential that we come forward with such a package this summer, because the American people are watching, and they are yearning to have something done with these terrible deficits. This enforcement package is a way to do it, better possible than the balanced-budget amendment which I suggested.

Let us move forward with it as soon as possible.

MALAISE MOMENT IN HISTORY NO. 1

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, Democrats like to complain about the last 12 years under Republican Presidents, but I am betting most Americans still remember how bad things really were the last time the Democrats controlled the White House and the Congress.

Thirteen years ago this month Jimmy Carter gave his famous malaise speech. It was not that long ago that we were living with 21-percent interest rates and double-digit inflation, the ayatollah and America held hostage, gas lines, stagflation, and the Soviet invasion of Afghanistan.

The American voter's memory is not as short as the Democrats might hope, and from time to time we will be happy to remind them of how much better off we have been over the past 12 years, especially when compared to the 4 that preceded them.

This "Malaise Moment in History"—the Jimmy Carter malaise speech—was brought to you by the National Democrat party 13 years ago this month, the last time they controlled Congress and the White House.

AMERICA'S NEW ENDANGERED SPECIES: LABORIS ECONOMIS MORTIS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Congress keeps debating and keeps worrying about all those little creatures known as endangered species. There is a red-headed woodpecker, there is the delta smelt, there is the gnatcatcher, the snail darter, the spotted owl, the shoot-em-up chinook salmon, the rock pocket mussel, the kit fox, the maltese falcon, on and on and on, and in fact, you could see special after special on cable TV if you can still afford it.

But I say that Congress should start concerning themselves with a new endangered species known as America's laboris economis mortis. If you can understand my slang Latin, that is the American worker who is dying literally on the street.

In fact, in the State of California, they will not even accept their IOU paychecks.

Think about it.

TAXES NOT THE ANSWER

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, we should learn about the effects of new taxes from our Governors around the country who have raised taxes.

We hear from the Democratic Presidential nominee that he is considering raising taxes. That is in his economic packages.

These taxes have negative consequences. For example, let us look at Connecticut. They have lost 20,000 jobs and have watched the rate of business bankruptcies soar to an all-time high since its Governor raised taxes. New Jersey's economic problems have been aggravated by its Governor's massive $2.8 billion tax hike. Despite a huge tax increase, California revenues are falling, and it faces a projected deficit of $11 billion this year.

Governor Clinton's economic plan fails to recognize that when high taxes reduce the reward for working, workers find something else to do with their time, typically something that does not produce Government revenues.

Mr. Speaker, our deficit problem does not exist from Americans being taxed too little. It exists because our Government spends too much.

DEMAND FOR DRUGS MUST BE REDUCED

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, the tragic war on drugs continues. We have gotten the news yesterday that Colombia's Medellin drug cartel leader Pablo Escobar has escaped from prison.

It seems to me that while we have been trying desperately to put forward the best face on the increase in drug consumption, it is absolutely essential that we as a Congress realize that we have a degree of responsibility.

Latin American countries produce drugs because Americans buy them. We have to realize that it is essential for us to try to decrease the demand, and the way we do that is to try and bring about a major change in the types of policies which we have been putting forth from this Congress.

We need to play a role in increasing individual initiative and responsibility. Reducing the level of dependence on government could certainly help.

I believe the escape of Pablo Escobar reminds us of the need for us to strengthen our resolve.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 0917

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, July 22, 1992, pending was the amendment offered by the gentleman from Massachusetts [Mr. ATKINS]. Further consideration of the amendment has been postponed by order of the House until such time as the Chair in its discretion announces the pendency of the amendment.

Pursuant to the order of the House of Wednesday, July 22, further amendments to be offered to the bill, and any amendments thereto, will be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS: On page 19, line 21, after Illinois, insert the following: ": *Provided further*, That of the amounts provided under this heading, $2 million shall be available for the design of and to initiate construction of a pedestrian walkway and interpretative Park (A Walk on the Mountain) in cooperation with the city of Tacoma, Washington".

Mr. DICKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. DICKS. Mr. Chairman, this is an amendment that relates to a project in Tacoma, WA, which has been agreed to, I believe, by the chairman and by the ranking member.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I am familiar with the gentleman's amendment, and I have no objection to it.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. DICKS].

The amendment was agreed to.

□ 0920

AMENDMENT OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS of Wyoming: Page 26, line 8, strike "*Provided further*", and all that follows through "receipts of the Treasury:" on line 13.

Mr. THOMAS of Wyoming. Mr. Chairman, let me first describe the purpose of the amendment. The amendment is designed to strike that portion which requires that the funding for MMS, Minerals Management Service Agency, be funded out of State funds. The purpose of this amendment, No. 1, is to make the bill appropriately consistent with the law. As a matter of fact, a year ago when this same thing was in there, there was a point of order under clause 2 of rule XXI, because it is clearly making statutory law in an appropriations bill.

Second, it is to deal with the matter of fairness and equity. The amendment basically strikes that portion of the bill which would take out all of the cost of collection of Federal mineral royalties before the distribution is made. It is very simple, very clear.

The Minerals Management Group has a budget of about $150 million that is required under this agency to collect those funds. Under this provision, half of that cost would be taken out of the share of the State which by law is prohibited.

First of all, let me say that there are several reasons I think for favorable consideration of this amendment. No. 1 is the inefficiency of the agency. The collection of royalties is not a brand new idea. It is done by all the States. It is done in the private sector. It is a relatively simple matter, and frankly, I have to tell you that $155 million for on-shore royalties is an awful lot of dough.

As an example, in the studies that were done last year the State collects royalties at a cost of $4.89 per $1,000. It costs $4.89 to collect 1,000 dollars' worth of royalties.

MMS, on the other hand, costs $115 per $1,000 to collect those royalties. It gives you some idea.

The collection per person that is employed, the collection in the State each person employed to collect taxes collects 6.5 million dollars' worth of royalties.

In MMS, on the other hand, each person collects 415,000 dollars' worth of royalties. It seems to me it is pretty clear that there is a great inefficiency here to do that.

Last year the Senate put into this bill a study to take a look at that and include the States. Unfortunately, the study came out pretty much as you would expect by the agency doing their own study. Self-analysis is seldom critical. It suggests they had to continue to do it, and indeed did not even let the States who were supposed to be a part of the study be a part of it in the end.

This is not just a Wyoming project. On the other hand, it affects 34 different States that have some mineral collections and 7 in a pretty major way. This is major. This is big money for Wyoming and many of the other Western States.

We paid last year about $15 million that we should not have paid at all. This year in this proposal it will be over $30 million. These are dollars that are used in the States for schools, for transportation, for social services, and these are big bucks in a State like ours, a State where 50 percent of the land surface belongs to the Federal Government, but the Federal Government does not provide the Services for the people who live or work there. The State and local governments do, and that is where this money goes.

As far as the policy issue is concerned, certainly the Nation benefits from these resources, clean coal, whatever, not just the people of Wyoming, and these charged legitimately belong in the national sector.

Let me just make this point one more time. I think it is an important point, and that is that the mineral leasing law specifically indicates:

> In determining the amount of payments to the States under this section, the amount of such payment shall not be reduced by any administration or other costs incurred by the United States.

That is the law.

So, Mr. Chairman, I urge in a matter of fairness, fan in a matter of equity, that this amendment be adopted.

Mr. CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 5 minutes.

Mr. YATES. Mr. Chairman, it is strange to hear my good friend, the gentleman from Wyoming, say that in the interest of fairness, in the interest of equity, the Federal Government should be required to pay all the expenses in connection with the gathering and distribution of the moneys in connection with onshore mineral receipts. These are royalties that come from production on Federal lands.

Mr. Chairman, all this money is derived from Federal lands. None of it comes from State lands.

The gentleman from Wyoming says this is big money for Wyoming. It is big money for the Federal taxpayers, too. It seems to me that if the gentleman talks about fairness, it is the essence of fairness to have a distribution of the expenses between the partners before the net receipts are distributed. Every partnership that I know of looks to an equitable division of the expenses of the partnership before there is an allocation of the net profits. That is what is at stake here.

The gentleman is correct, the basic law does provide that the Federal Government should assume those costs, but like so many other laws that were passed years ago, when special preference and subsidies were given to the States at the expense of the Federal Government, this has to be changed. We saw what happened with respect to grazing fees last night. The House voted to increase the grazing fees, considering that there was an unfair subsidy in connection with the use of Federal lands.

The same is true here. The Federal Government owns those lands. The Federal Government is required to pay the States a certain portion of the receipts that it gets as a result of production on Federal properties.

It seems to me that in all fairness and equity, to use the phrase of my friend, that the expenses of this operation, this Federal operation, if you please, ought to be split between the States and Federal Government in order to achieve a goal of fairness.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to my friend, the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the committee chairman has outlined it very well. I think it is a matter of fairness. The costs should come out before we have a distribution of the money. The administration essentially recommends this. They have supported requiring the States to share 75 percent of the costs of collection. Our bill proposes 100 percent cost sharing. Our bill is predicated on this amount coming into the Treasury. It seems to me it would only be fair that the expenses be shared.

I think the gentleman makes a good point, and it is something we ought to examine as to why the collection costs for the Federal collection of royalties is so much greater than that of the States. That is something that needs to be addressed.

But in any event, it still seems to me that it is equitable for both the Federal Government and the States if the costs are taken out prior to the distribution of the royalties.

I think for that reason, Mr. Chairman, the amendment should be rejected.

Mr. YATES. I urge defeat of the amendment, Mr. Chairman.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment offered by our colleague from Wyoming. While the impact of the Appropriations Committee's action is much less in my State of Nevada than the shortfall Wyoming would receive, it is nonetheless significant—about $1.5 million I am told.

More important, though, this is another instance wherein the authorizing committee has been subverted. The Interior Committee has never marked up a bill to allow the Federal Government to fence off its costs to administer the Mineral Leasing Act before sharing the remainder with the producing States. Yet that is exactly what this bill would do.

Mr. Chairman, I would like to remind my colleagues that but 2 short months ago, in the course of the floor debate on the Energy bill this body adopted language from the chairman of the Merchant Marine and Fisheries Committee regarding coastal communities impact assistance. That measure would share more OCS leasing receipts with coastal States—and it lacks any mechanism for deducting Federal costs first. Why do we not act consistently and strike the cost-sharing burden that this appropriation bill contains?

I urge your support of the Craig Thomas amendment.

□ 0930

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] has 1 minute remaining.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in opposition to this amendment. I think we can all understand the interest of our colleague from Wyoming trying to increase the State's receipts at the expense of the Federal budget. I do not think this is appropriate. I would hope that the House would defeat it.

Mr. Chairman, I also put into the RECORD my support for the RS 2477 provision that was pending in the House last night.

Mr. Chairman, I rise in strong support of the Atkins amendment, which was debated earlier, which is a funding limit that would in effect impose a moratorium on processing of claims based on section 2477 of the Revised Statutes, or RS 2477, for highway rights-of-way on Federal lands.

This is a very important issue relating to the management of Federal lands. The Federal Land Policy and Management Act of 1976—Public Law 94-579—repealed the 19th century law known as RS 2477, so that no new rights-of-way could be established under its sweeping language. However, that act did not deal with claims for rights-of-way supposedly established prior to the repeal.

The BLM reauthorization bill—H.R. 1096—passed by the House last year includes provisions requiring parties claiming these rights-of-way to record their claims in a timely way, so their validity can be determined.

The Senate has not yet acted on the BLM reauthorization bill, although a hearing has been held on it.

Meanwhile, however, there is evidence of an increase in claims of such rights-of-way, apparently brought forward in a rush responding to the pending legislation. This has particularly been the case in Utah—where the claims seem intended to interfere with possible designation of wilderness areas—and in Alaska, where the Hickel administration has been outspoken in its desire to press claims for many rights-of-way, including those within national parks and other conservation areas.

While this appropriation bill was being considered by the Appropriations Committee, I joined other Members in urging exactly the kind of funding limitation now being proposed by the gentleman from Massachusetts. The purpose was to maintain the status quo while the Congress completes action on the BLM reauthorization bill.

Unfortunately, the Interior Appropriations bill reported from committee did not include such a funding limit. Instead, it had language that is effect directed the implementation of the substantive provisions related to RS 2477 that are in H.R. 1096, the BLM reauthorization bill.

Certainly, I strongly support those provisions as a matter of public land policy. However, including them in this bill—H.R. 5503—constituted legislating on an appropriations measure in a way contrary to the rules of the House of Representatives.

Therefore, I joined Chairman Miller in objecting to that part of the appropriations bill, and asking that it be made subject to the point of order that in fact has now been sustained.

In other words, while I had a problem with the way the bill dealt with this issue. I strongly support the intent. That intent would be furthered by this amendment, in a way consistent with the rules of the House, and so I strongly support the amendment and urge its adoption.

Mr. THOMAS of Wyoming. Mr. Chairman, if I have a few seconds left, I yield myself the balance of my time simply to say that the administration did not ask for the full cost as was suggested here. They have asked for some. This is beyond that. I ask for a vote.

Mr. OWENS of Utah. Mr. Chairman, I oppose the proposed doubling of the administrative fees charged to the States out of mineral leasing royalties. This represents a very serious economic burden on the States, and if the legislation establishing the sharing of mineral royalties is to be amended, it should be done through the authorizing and not the appropriations process.

Obviously, we have a Federal budget crisis—but balancing our budget on the backs of the States is not the right solution. Utah alone would lose $2.5 million of needed funds next year, as its fees are doubled to $5 million per year. Utah would lose funds for higher education, community impact boards, the State board of education, the counties, and other purposes if this provision is allowed to stand.

I urge my colleagues to support this point of order.

The CHAIRMAN. All time has expired on the amendment.

The question is on the amendment offered by the gentleman from Wyoming [Mr. THOMAS].

The amendment was rejected.

AMENDMENT OFFERED BY MR. ATKINS

The CHAIRMAN. Pursuant to the order of the House of earlier today, pending is the amendment offered by the gentleman from Massachusetts [Mr. ATKINS].

The text of the amendment is as follows:

Amendment offered by Mr. ATKINS: Page 97, after line 3, insert the following new section:

SEC. 319. None of the funds made available in this Act may be used to record or process any claimed rights-of-way under section 2477 of the Revised Statutes (43 U.S.C. 932).

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] is recognized for 5 minutes in opposition to the amendment.

Mr. REGULA. Mr. Chairman, we accept the amendment on this side.

Mr. YATES. We accept the amendment on this side, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. ATKINS].

The amendment was agreed to.

REQUEST FOR TIME BY MEMBER

The CHAIRMAN. For what purpose does the gentleman from Oregon [Mr. AUCOIN] rise?

Mr. AUCOIN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. At this stage, under the time limit, the gentleman from Oregon will have to ask unanimous consent to get time to even strike the last word because under the unanimous-consent agreement, debate on amendments is all that is allowed.

Mr. AUCOIN. I thank the Chair.

AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN: Page 97, after line 3, insert the following new section:

SEC. 319. Total appropriations made in this Act for the Bureau of Indian Affairs are hereby reduced by $34,009,000.

Mr. DUNCAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Chairman, today I am offering an amendment that does one simple thing: It freezes the Bureau of Indian Affairs at the 1992 level. It does not cut the Bureau of Indian Affairs, it does not reduce the Bureau of Indian Affairs.

If my amendment is adopted, this will realize a savings of $34 million, or a reduction of about 2.12 percent that they are receiving under the budget as proposed.

The BIA is notorious as one of the worst run, most mismanaged agencies in the Federal Government.

I have with me an article from the Denver Post, dated September 1990, in which Senator DANIEL INOUYE, one of the most respected Members of the other body, calls for the abolition of the Bureau of Indian Affairs. Senator INOUYE says the entire agency should be abolished.

The headline says, "Senator Says BIA Has Outlived Its Usefulness."

Mr. Chairman, that is most interesting because in this article Senator INOUYE is described as the leading advocate for Indians in the entire Congress. In other words, the best friend the Indians have in the Congress has said that the Bureau of Indian Affairs should be abolished because it has outlived its usefulness.

Mr. Chairman, my amendment does not abolish the Bureau of Indian Affairs, it does not even reduce or cut the Bureau of Indian Affairs from their present funding.

In this fiscal year that we are talking about, fiscal year 1993, we will spend $4.76 billion on Indian programs in all the various agencies. This is up from $4.3 billion in 1990. These are very great increases. As we have all heard in recent months, this Nation is facing a national debt of $4 trillion. It is like a chain around the neck of our economy. This country could be booming if we did not have this tremendous debt.

Even worse than that, if something could be worse than that, we are suffering the loss of over $1 billion a day, adding to this debt at this time. It is clear to almost everyone that if we do not do something soon, we are going to face very severe problems economically. I think the American people believe the time has come that we should start cutting and reducing many of these agencies.

I will repeat once again, my amendment does not cut or reduce the Bureau of Indian Affairs from their present funding. It is a simple freeze. The National Taxpayers Union reported in 1990 that the Bureau of Indian Affairs was so mismanaged over $95 million was lost; not wasted, not misspent, but lost entirely.

In addition to that, there is a special distributions account in this particular appropriations bill which calls for $20 million appropriation for special distributions. The administration requested zero for that account. That is a 60-percent increase over what was spent for that last year.

In addition, this amendment does not touch the funding for the Indian Health Service, which is receiving a $175 million increase in funding.

Now I want to say that I have the greatest respect and admiration for the gentleman from Illinois, Chairman YATES, and the gentleman from Ohio [Mr. REGULA], the ranking member on the subcommittee. They are two of the most honorable, most respected men in this Congress, and I want to say this: That they have brought forth a bill that has lower increases than many of the bills that we have considered here in the last few weeks. But in spite of that, I do not think the Bureau of Indian Affairs deserves any type of increase.

I do not think we can afford it with our present financial condition of the Federal Government. We are presently spending over $5,000 for every man, woman, and child on a reservation in this country.

The Senate Committee on Indian Affairs a couple of years ago held hearings, which I have here with me today, and they estimated that 88 cents of every dollar spent on Indian programs goes to the bureaucrats and the costs of administration, while only 12 cents of every $1 goes to the Indians.

The Indians of this Nation would be better off if we did away with the Bureau of Indian Affairs and just gave them a direct subsidy, and we could save money in the process.

I will say once again that my amendment does not abolish or even cut the Bureau of Indian Affairs. All it does is freeze them at this year's level and does not give them an increase or a raise, which they do not deserve.

Mr. Chairman, I urge adoption of this amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 5 minutes in opposition to the amendment.

Mr. YATES. Mr. Chairman, let me say that I have the greatest respect for my friend from Tennessee. I do rise in opposition to the amendment.

I would like to point out that this is not a cut of BIA; this is a cut of necessary programs for the Indian people. BIA is only an instrumentality. And when you think that you are cutting an administrative agency, what you are doing is cutting the people whom the administrative agency serves.

Mr. Chairman, I would agree with what Senator INOUYE said about doing away with BIA. I was a member of the National Indian Policy Review Commission. I think it must have been over 10 years ago now. One of our recommendations was abolishing the BIA. We have argued for that in front of our Subcommittee on Appropriations, to do away with the BIA. But we cannot do it as an appropriations committee. It should be done, it should be reviewed by the authorizing committee.

But the fact that the BIA suffers from so many administrative faults does not mean that that same kind of attitude should be reflected on the operations of the Indian people.

I will tell the gentleman from Tennessee that there are a number of tribes in the Northwest that are now undergoing a pilot program that has been sponsored by our committee, looking toward making them independent, independent in their own right, and independent from BIA. The effect of his amendment would be to cut the Indian people, who have the worst standard of living of any group of people in this country, beyond the bounds of reason.

BIA was cut last night by $12 million by the Dorgan amendment already. This will be a cut of another $34 million.

What happens to the Indian schools when they are cut from the funding that they need to carry on their activities? What happens to the Indian trust management fund? What happens to hazardous waste removal?

Mr. Chairman, the Indian reservations all over the country are rife with hazardous waste dumps.

□ 0940

For all these reasons, Mr. Chairman, I think this amendment is very, very ill-considered. It brings back the times, oh, 100 years ago, when the Indians were subjected to the breaches of their treaties and allocations to their reservations, brings back the Trail of Tears from North Carolina, through Tennessee and on its way to Oklahoma. It brings back all the pain and barbarism the Indian people had to endure.

I hope this amendment does not prevail.

Mr. Chairman, I yield the balance of my time to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I yield to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise today in opposition to the amendment offered by my colleague, the gentleman from Tennessee [Mr. DUNCAN]. This amendment, which would reduce funding across the board for the Bureau of Indian Affairs by about $34 million, would have a drastic impact on the ability of Haskell Indian Junior College to continue to meet its mission of providing native Americans with a high quality education.

Haskell Indian Junior College has been meeting the educational needs of native American people for over 107 years. Haskell, a national intertribal college, has an average enrollment each semester of 830 students, who represent 139 tribes from 39 different States. Students select the program which will prepare them for transfer to an institution for a 4-year degree, or direct entry into employment.

The committee-approved bill would provide Haskell with a baseline level equal to last year's baseline level of funding. Further, H.R. 5503 provides $165,000 for the development of a teacher education program at Haskell. There is a well-documented and serious shortage of qualified native American teachers in the United States, especially on the reservations. This level of funding will allow Haskell to move toward offering a 4-year baccalaureate degree program in elementary education—a move that is certain to increase the number of native American teachers.

Finally, the committee-approved bill provides $3 million for phase 2 of the construction of a new 300-resident student dormitory. Each year, prospective students are unable to attend Haskell due to a shortage of on-campus housing. While current instructional space exists for 1,100 students, only 715 residential hall living spaces are available.

Mr. Chairman, I strongly support the committee-approved bill because I believe these funding initiatives are critical to the ability of Haskell Indian Junior College to continue to meet the educational needs of native American people.

While I believe it is important to reduce wasteful spending in Government programs, cuts in programs that provide education for native Americans are shortsighted. Educating our children, especially those who have been disadvantaged, such as native Americans, is an investment whose dividends will be returned to our Nation through highly skilled and productive members of society.

I urge my colleagues to oppose the Duncan amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in strong opposition to the Duncan amendment because it would cut essential services to Indian tribes, such as education and environmental protection.

The amendment may be well-intentioned. It purports to cut excess overhead in the Bureau of Indian Affairs [BIA]. I agree with that goal. However, the sponsor fails to recognize that such an amendment has already been adopted. The amendment which I offered with Representatives LAMAR SMITH and TIM PENNY reduced nonpersonnel administrative costs for the BIA by $12.5 million. The amendment specified that the overhead cuts should come only from expenses—for such nonpersonnel accounts as transportation of things, travel, office supplies and materials, communications, and utilities.

Unlike the Dorgan amendment, the Duncan amendment does not limit budget reductions to expenses in administrative accounts. It could, therefore, reduce program funds for education of Indian children, for the cleanup of toxic wastes, and other essential services instead of cutting excess overhead.

In a word, the House has already addressed the issue of administrative waste at the BIA. Further, the Duncan amendment does not directly tackle this problem and could have other adverse results. Consequently, I urge a "no" vote on the Duncan amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. DUNCAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DUNCAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 266, not voting 33, as follows:

[Roll No. 301]

AYES—135

Allard
Allen
Andrews (TX)
Applegate
Archer
Armey
Bacchus
Baker
Ballenger
Barnard
Barton
Bentley
Bilirakis
Bliley
Boehner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Clement
Coble
Coleman (MO)
Combest
Condit
Cooper
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gibbons
Gilman
Gingrich
Goss
Grandy
Guarini
Gunderson
Hall (OH)
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hunter
Ireland
James
Johnson (CT)
Johnson (TX)
Klug
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Luken
McCollum
McCrery
McEwen
McMillan (NC)
McMillen (MD)
Miller (OH)
Molinari
Moorhead
Murphy
Nichols
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Penny
Petri
Pickle
Pursell
Quillen
Ramstad
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shays
Sisisky
Smith (NJ)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Torricelli
Upton
Valentine
Vander Jagt
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—266

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barrett
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Camp
Campbell (CO)
Cardin
Carr
Chandler
Clay
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gilchrest
Gillmor
Glickman
Gonzalez
Goodling
Gordon
Gradison
Green
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kolbe
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Long
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McNulty
Meyers
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Pickett
Porter
Poshard
Price
Rahall
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (OR)
Snowe
Solarz
Spratt
Staggers
Stallings
Stokes
Studds
Swift
Synar
Tauzin
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NOT VOTING—33

Alexander
Blackwell
Carper
Chapman
Conyers
Coughlin
Cox (CA)
Cunningham
Dixon
Dornan (CA)
Feighan
Ford (MI)
Hansen
Hobson
Hyde
Kleczka
Kolter
Kopetski
Marlenee
McCandless
Mfume
Michel
Morella
Nagle
Neal (NC)
Peterson (FL)
Ray
Shuster
Stark
Tallon
Thomas (GA)
Traxler
Young (AK)

□ 1006

The Clerk announced the following pair:

On this vote:

Mr. Hansen for, with Mrs. Morella against.

Messrs. MOODY, RIGGS, and SHAW changed their vote from "aye" to "no."

Messrs. OXLEY, ROWLAND, and THOMAS of California changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. AUCOIN. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. AUCOIN. Mr. Chairman, I wish to direct an inquiry to the manager of the bill, the gentleman from Illinois [Mr. YATES].

Mr. Chairman, under "Soil, Water and Air Management" within the national programs of the Forest Service, in fiscal 1992 some $400,000 to $500,000 were included to continue water quality monitoring in the Bull Run Watershed, Mount Hood National Forest, to be undertaken cooperatively with the city of Portland.

Is it the committee's understanding that this same amount is built into the fiscal 1993 budget, and is it the intention of the committee that this vital activity continue at the current level, which adds no new money to the budget but merely continues an ongoing function between the Forest Service and the city of Portland?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentleman from Illinois.

Mr. YATES. That is my understanding.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 51, line 14, strike out "$1,320,937,000" and insert in lieu thereof "$1,304,047,500".

Mr. JONTZ. Mr. Chairman, I want to thank the gentleman from Illinois [Mr. YATES] and the appropriations subcommittee for bringing us a good bill. In many ways I believe this amendment makes the bill a little bit better by reducing funding for timber sales which lose money for the Federal Government.

The Forest Service itself admits that two-thirds of the forests at the present time lose funds. These below cost sales have lost an average of $300 million a year for each year during the 1980s.

This must end, not only because of the impact on the Treasury, but also the impact of these below cost sales on the environment. Sales which are in remote, fragile, high elevation, steep areas tend to lose money, and also tend to be very damaging from the standpoint of the impact of clear-cutting on wildlife and fishery resources.

□ 1010

By reducing the number of below cost timber sales, we can save the taxpayers money. And we can use the savings for fisheries restoration or other projects which help the environment, not hurt it.

Mr. Chairman, you will hear the argument that the timber sales program has already been cut, but let me set forth the facts. This bill provides for a 7.5 billion board-foot timber sale program. In 1991, we had a 6.2 billion board-foot program, and I doubt we will sell very much more timber than that this year.

Mr. Chairman, just a few weeks ago the chief of the Forest Service announced that agency's plan to take a more ecological approach, which I commend the chief for. And the chief estimated that the consequence of that would be about a 10-percent reduction in their sales program for this coming year.

That is exactly what this amendment provides for. It is a way of saving some money which is needed. It is a way of reducing the damage of timber sales, and it is a responsible way to see that the money which we appropriate through this legislation is used for the Nation's good.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member opposed to this amendment?

Mr. VOLKMER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Chairman, I yield myself 1 minute.

This amendment does not cut below cost sales. It does not resolve the below-cost sale problem. All this amendment of the gentleman from Indiana does is cut sale preparation money. And as a result, it will cost the Treasury approximately, net cost to the Treasury of $10 million.

It will devastate all of our National Forests because it does not distinguish between those forests that are in the Northwest or the Northeast or in central United States. It cuts all across-the-board. It is like taking a meat-axe to a problem.

We have worked on this problem in our subcommittee, the Subcommittee on Forests, Family Farms and Energy. The Forest Service has proposed regulations on below-cost sales.

One of the persons who has worked the hardest on this for over a year has been the gentleman from Virginia [Mr. OLIN] who I will recognize in a minute, for 1 minute, because it is his efforts that have brought this subcommittee to the point where we are trying to resolve this problem in a sensible way, not a nonsensible way, as this amendment would do.

Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I thank the chairman of the Subcommittee on Forests, Family Farms, and Energy for yielding time to me.

Mr. Chairman, it is true that we ought to do something about below-cost timber sales. This meat-ax approach, taking money out of the total appropriations, is not going to get it done. It will certainly take some money out; the Forest Service is going to have more trouble operating. There is no guarantee that their actions are going to reduce the below-cost sales in any way whatsoever.

This Subcommittee on Forests, Family Farms, and Energy has been working on this subject for about 2 years. We put together a bill which would, for the 65 forests that have some below-cost sales, we have come up with an approach that would help them to raise the revenue for the sales that they do make, cut out the scrubby timber that they have been cutting, and move ahead.

Mr. JONTZ. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, I hope that my colleagues would support the Jontz amendment.

We have an obligation, again, just as we saw in grazing fees, to stop the flow of taxpayer moneys to these below-cost sales. Let us understand what a below-cost sale is. That is essentially where the taxpayers pay people to harvest Federal resources; in this case, timber.

We can no longer sustain that effort with a $400 billion deficit. The administration has asked for reform in this program. The Taxpayers Union has asked for reform. The environmental community has asked for reform.

The Jontz amendment offers us that opportunity.

Mr. VOLKMER. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I urge my colleagues to reject this amendment. It is an anticonsumer amendment because while we talk about below-cost sales, it addresses the whole problem of timber preparation. Prices for lumber have already gone up 15 percent because of actions by this body. That adds to the cost of housing, and that means young people that want to buy a house, get that first home, are going to be faced with $2,000 to $3,000 in additional costs. And we certainly do not want to exacerbate the problem. That is what this amendment does.

Mr. JONTZ. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I would like to respond directly to the comments made by my colleague from Ohio just a moment ago. Only 20 percent of the Nation's lumber supply comes from the national forests. This has nothing to do with consumers. This has to do with whether or not we are going to continue selling our natural resources below the cost of doing so and costing the taxpayers millions of dollars; in fact, $257 million in 1990, at the same time that we unnecessarily do environmental destruction to the publicly owned lands.

I urge my colleagues to vote for the Jontz amendment. Take it seriously. This is a genuine effort to save money and to protect our environment at the same time.

Mr. JONTZ. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has 1½ minutes remaining, and the gentleman from Missouri [Mr. VOLKMER] has 2½ minutes remaining.

Mr. VOLKMER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, there is so much misinformation floating about on this issue of below-cost sales. First of all, we have to put this issue in the total context of what a national forest is and who it serves, recreation needs as well as forestry and the communities adjacent to and whose livelihoods are dependent upon the forests.

Taken in context, there is a net gain and a net benefit for the national economy out of the national forests, and a net benefit to the local economy.

Second, I want my colleagues east of the Mississippi, those in the Great Lakes States, to understand that this amendment would be devastating to those forests because these are forests in transition; 25, 30 years ago we were told, stop cutting the long-lived species, stop cutting the black spruce and balsam and jack pine and red pine, move to other varieties, like deciduous species. We have done that.

We have worked hard to move timber harvesting on these forests into new short-fiber species, thanks to research in wood chemistry that is showing ways we can use those species, even in papermaking, and now the critics say, "You are below cost." Baloney.

What is below cost is the understanding of this issue. Vote against the Jontz amendment. It will be devastating to the forests east of the Mississippi.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has the right to close this debate since the gentleman from Missouri [Mr. VOLKMER] is not on the committee.

The gentleman from Indiana [Mr. Jontz] has 1½ minutes remaining, and the gentleman from Missouri [Mr. Volkmer] has 1½ minutes remaining.

Mr. JONTZ. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. Scheuer].

Mr. SCHEUER. Mr. Chairman, I rise in support of the Jontz amendment. This amendment will reduce funding for Federal timber sales by 10 percent, thereby saving the U.S. Government close to $17 million.

For too long the Forest Service has been selling timber from American forests at too low a price. Lumber from our nation's forest is sold at 35 percent below market value, costing U.S. taxpayers billions of dollars. In 1991 alone the Forest service lost more than $500 million.

Reasonable people will differ about to what extent we should allow logging in our national forests, but if we are going to allow logging, we ought to get a fair price for our timber.

Paying people to come in and contribute to the degradation of our public lands is absurd. We should not subsidize the cutting down of our national forests.

The Jontz amendment will put an end to this absurd practice and ensure that we get fair market value for our timber. This amendment will protect our forests and help reduce the budget deficit.

Environmentalists and the National Taxpayers Union probably don't agree on many issues, but they agree that we should not subsidize the destruction of our national forests. Support the Jontz amendment.

□ 1020

Mr. VOLKMER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. Herger].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this amendment, which further reduces timber sales from the national forests. Just last week, it was announced that two more sawmills in my northern California district will close because of lack of timber supply, bringing the statewide mill closure total to 25 in the last 2½ years. The author of this amendment claims it will reduce Federal spending, but in fact it will decrease Federal revenues and add to the deficit. It would reduce Federal timber sale revenues by an estimated $27 million, income tax revenues by $41 million, and payments to counties by $6.6 million. The unemployment benefits for the 5,400 additional workers who would lose their jobs would cost $14 million. By attempting to save $16.8 million, this amendment actually would cost taxpayers an additional $82 million—I urge my colleagues to defeat it.

Mr. VOLKMER. Mr. Chairman, I yield myself 30 seconds.

I would advise the committee that the gentleman from Washington [Mr. Dicks] will be offering a substitute which will only apply to timber harvest administration and will not apply the money to sale preparation, which does the damage under the gentleman from Indiana's amendment, and therefore would put that aside and would reduce timber harvest administration. We will be supporting the amendment of the gentleman from Washington.

Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho [Mr. Stallings].

Mr. STALLINGS. Mr. Chairman, I rise in strong opposition to the Jontz amendment. It would devastate Idaho's timber communities.

Mr. Chairman, I rise to speak in opposition to the Jontz amendment which would cut $16.8 million, or 10 percent, from the Forest Service timber sale program.

This amendment will only cloud the existence of many rural, timber dependent communities of my State. And, if the impacts on these communities aren't enough, the amendment will further stall our efforts to ensure the health of Idaho forests.

If approved, the Jontz amendment would further slash the timber sale program which has already seen a major cutback. Both the administration and the House Appropriations Committee have reduced timber sale program funding by $30 million, and timber related forest road construction by $39 million.

These cuts will result in a 24-percent reduction in timber sale volume levels from the fiscal year 1992 levels. An additional 10-percent cut in funding would jeopardize jobs and decrease Federal revenues without justification. Even in these difficult fiscal times, the Jontz amendment goes beyond all reasonable standards of frugality.

For my own State of Idaho, we have already closed several mills in the past few years. These closures cost nearly 300 industry jobs and hundreds more throughout many local communities. The proposed cuts will mean the loss of 1,800 more jobs. In addition, the cuts will cost us another $3.3 million in Federal payments for local schools and counties.

Mr. Jontz has tried to link this cut in the timber sale program to the issue of below-cost timber sales on national forests. Report language already accompanying H.R. 5503 already directs the Forest Service to implement its below-cost sales policy. This directive is in step with the recent recommendation of the House Agriculture Committee which has conducted extensive hearings on this issue in the past year.

The Federal timber sale program provides thousands of jobs in every region of the country and affordable wood products for all Americans. The program further returns tens of millions of dollars to the Federal treasury in timber sale revenues and income taxes every year.

The Jontz amendment is an unjustified assault on a program whose belt has already been tightened. Again, I urge my colleagues to oppose this amendment.

Mr. VOLKMER. Mr. Chairman, I yield 30 seconds to the gentleman from Washington [Mr. Morrison].

Mr. MORRISON. Mr. Chairman, I thank our subcommittee chairman for yielding me the time. I rise in opposition to the Jontz amendment and in support of the substitute that will be offered by our colleague, the gentleman from Washington [Mr. Dicks].

The important thing is that, as the subcommittee attempts to find an answer in dealing with below-cost sales that, in fact, we do not short circuit that process by dealing with, attempting to deal with, this on the floor in an aribitary manner.

So I will support the gentleman from Washington [Mr. Dicks], in his substitute and oppose the gentleman from Indiana [Mr. Jontz].

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DICKS. Mr. Chairman, do I offer my substitute now or when the gentleman from Indiana completes his 1 minute?

The CHAIRMAN. The gentleman may offer it at either time, now, or reserve until the gentleman from Indiana has completed his time.

Mr. JONTZ. Mr. Chairman, I yield my remaining minute to the gentleman from Massachusetts [Mr. Atkins].

Mr. ATKINS. Mr. Chairman, this Interior appropriation bill marks a landmark in terms of stopping the public subsidy for large corporations and wealthy individuals to destroy our natural resources. It makes a number of important steps, and this amendment improves that legislation.

Since 1975 there has been $5.3 billion lost to the Treasury in Federal subsidies for the destruction of our national forests. This amendment would help stop that destruction.

This amendment would cut $16.8 million from the Forest Service's timber sales preparation budget, which would simply stop the number of forests where we are going in and paying timber operators to come in and cut the forests. It will not affect the cost of timber. It affects only 1.5 percent of all of the timber that is sold in the United States.

I would hope the amendment is adopted.

Mr. DOOLITTLE. Mr. Chairman, I strongly oppose this amendment. While it is masquerading behind the noble cloak of cost cutting, specifically reducing a Federal subsidy, in reality it will create economic havoc.

The timber sale program has already been drastically reduced by $30 million, and timber related forest road construction by another $39 million. These cuts result in a 24-percent reduction in timber sale volume levels over fiscal year 1992. More than 26,000 timber-related jobs are already threatened across the Nation and literally hundreds of mills already have closed.

An additional cut of 10 percent as this amendment proposes will jeopardize more jobs and slash revenues, all for no reason. It is estimated that timber sale revenues would drop by $27 million, Federal income taxes by another $41.4 million and payments to States by $6.6 million. In other words, we will be saving $16.8 million at a cost of $75 million. That makes no sense.

Proponents contend that this amendment addresses the problem of below-cost timber sales. In reality, report language already directs the Forest Service to address this problem.

The Federal timber sales program provides thousands of jobs and assures affordable wood products. It returns impressive revenues to the Treasury through timber sale and income tax revenues as well. I am all for responsible and fiscally prudent budget cutting wherever possible. However, this amendment does not qualify. I urge its defeat.

The CHAIRMAN. All time has expired.

AMENDMENT OFFERED BY MR. DICKS TO THE AMENDMENT OFFERED BY MR. JONTZ

Mr. DICKS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS to the amendment offered by Mr. JONTZ: In lieu of the number named in said amendment, insert $1,312,937,000.

POINT OF ORDER

Mr. JONTZ. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. JONTZ. Mr. Chairman, that is a substitute, not an amendment.

The CHAIRMAN. It is drafted as an amendment to the amendment. It has just changed the figure being inserted by the amendment offered by the gentleman from Indiana and it is drafted as an amendment.

Mr. DICKS. Mr. Chairman, let me say right up front what this amendment does. This amendment would reduce $8 million out of harvest administration and would not cut sales, timber sales preparation, which the Jontz amendment does.

Our committee has already reduced timber sales preparation by $12 million this year, below the administration request, and taken $3 million out of harvest administration. This additional cut would take that up to a $11 million cut and a $23 million cut in those two accounts.

Because of the injunction in Washington, Oregon, and in northern California, we can take some money out of harvest administration without doing any damage. But if we take it out of sales preparation, then we are losing the opportunity to prepare sales for the future when those injunctions are lifted.

So I am prepared to go halfway with the gentleman from Indiana, but I am not prepared to take these very much larger cuts, and a cut in an account that would really do serious damage to the timber program all over this country.

I want Members to know we have cut back on timber roads, we have cut back on timber sales preparation, we have cut back on harvest administration.

Mr. Chairman, I yield to the gentleman from Oregon [Mr. AUCOIN], who would like to comment on this and who is a cosponsor of this amendment along with the gentleman from Missouri [Mr. VOLKMER], chairman of the Agriculture Subcommittee.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding. I think he has made a very important statement, and I am happy to join him in this amendment. I hope my colleagues are listening.

Under the Dicks-Volkmer-AuCoin amendment the funding for harvest administration is actually a deeper cut than the Jontz amendment provides. But what it does not do is to cut into that critical timber sales preparation work which is the work that is necessary for future timber sales in outyears, not just current years, but in outyears. You need to prepare now in order to have a harvest sale level in the future.

We in the Northwest who are living under these court injunctions which have tied up harvest levels are living under a great deal of economic pain. We recognize that because of those injunctions we are not going to produce a harvest this year, and it is possible to make cuts in the harvest administration account. And the gentleman does that. But please, do not cut the pipeline. Do not cut the important work to prepare future sales at a responsible level for the outyears, or you will consign us to a permanent state of poverty in the Northwest when it comes to the timber communities.

Mr. DICKS. I appreciate the gentleman's comments.

Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me the time for a question. The gentleman's amendment would not affect supply, am I correct?

Mr. DICKS. That is exactly right.

Mr. REGULA. Whereas the Jontz amendment would affect the supply to the marketplace?

Mr. DICKS. This would in fact bring down some ability to sell, but we think there is excess of money in this account because of the court injunctions this year.

What we are worried about is he is going after sales preparation, which is absolutely crucial to the future.

Mr. Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me the time. I oppose the Jontz amendment.

Mr. Chairman, I rise in opposition to this amendment. The amendment clearly adds insult to the major uncertainty already faced by the citizens in rural timber dependent communities.

While endless lawsuits, endangered species recovery plans, forest plans, and most recently reduced funding levels from the administration and the Appropriations Committee have stalled the Forest Service timber sale program, this amendment rubs salt in the already sore wound of widespread unemployment and uncertainty.

Sponsors of this amendment allege a $500 million loss from the Forest Service timber sale program in fiscal year 1991. Yet the Forest Service and General Accounting Office accounting system reports that in fiscal year 1991, the program generated revenues of $1.1 billion, a profit after expenses of $472 million. This program paid $302 million in to States, and returned $171 million to the Federal Treasury.

So it's not a loss, but a $472 million profit. A close analysis of the critic's accounting points out the errors in their approach. To claim massive losses, critics must creatively inflate costs and creatively slash revenues.

A chronic timber supply crisis faces forest industry workers and the forest products industry. In my own district, lodgepole pine prices have risen 140 percent, and ponderosa pine prices by 46 percent in the same period. As a result local lumber yards, and the American consumer, are paying record high prices for lumber and other building materials.

For fiscal year 1993, the administration requested a timber sale level of 7.56 billion board feet. Final reductions approved by the Appropriations Committee this year further reduced the sale level to 6.3 billion board feet.

The 6.3 billion board foot goal represents a nearly 40-percent reduction in timber sale volume from the fiscal year 1987 level of 11.4 billion board feet. This program has been almost cut in half in just 5 years.

Four years ago, Forest Service timber supported 132,000 jobs. In 1991, that number had fallen to 103,000. With the cuts proposed for fiscal year 1993, this number will fall by 26,500 jobs. Now the gentleman from Indiana wants to further attack the timber sale program. Is 26,500 jobs not enough!

I turn and ask my colleagues, at what point do we recognize the residents in rural communities dependent on Federal timber for their livelihoods? We have scaled back the timber sale program to accommodate owls, woodpeckers, salmon, and many other endangered species.

But further reductions also chip away at our timber dependent communities. I urge my colleagues to reject this amendment.

Mr. DICKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON. Mr. Chairman, I rise in support of the Dicks amendatory language.

Mr. DICKS. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Washington [Mr. DICKS] has 30 seconds remaining.

Does any Member seek recognition in opposition?

Mr. JONTZ. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

Mr. JONTZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to inquire of the gentleman from Washington, why should we be spending any money at all to prepare below-cost timber sales?

□ 1030

Mr. DICKS. Mr. Chairman, if the gentleman will yield, we are not doing that, and I would say to the gentleman, he is on the committee that has jurisdiction over this issue, this is not an issue that can be addressed in the Committee on Appropriations or is not supposed to be. So what the gentleman needs to do is sit down with the members of the Committee on Agriculture and deal with this issue.

Mr. JONTZ. Reclaiming my time, why would we want to spend a dime of taxpayers' money to prepare a timber sale that loses money? Why would we want to do that? Why would the gentleman, as a member of the Committee on Appropriations, want to spend 1 dime of taxpayers' money for preparing a timber sale which will lose more money? Why would we want to do that?

Mr. DICKS. You have to remember I do not stand here in the well of the House defending below-cost timber sales, but I will say this: There are communities out there in the country that have workers who are dependent on that Federal timber sale to keep those jobs alive, and we have put a lot of burdens on the execution of these sales, with the Endangered Species Act and all the other legislation.

Mr. JONTZ. Reclaiming my time, the gentleman digresses. The gentleman from Washington quickly digresses from the point, because, in fact, there is no justification to spend one dollar to prepare a timber sale in this country which loses money, and I can assure you this is according to the accounting of the Forest Service itself.

Mr. DICKS. The gentleman's amendment has nothing to do with below-cost sales.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has the time, and if he does not wish to yield, he is not required to do so.

Mr. JONTZ. Mr. Chairman, reclaiming my time, two-thirds of the forests in this country habitually lose money on their timber sales. All we are doing is cutting 10 percent of the total appropriation for timber sales preparation.

Now, the Forest Service is quite able through their own analysis to identify 10 percent of the total sales which they would otherwise prepare and cut them, because they lose money. If they need any help identifying which forests to go to, we can go through and point out, for instance, the Beaverhead Forest in Montana which lost $2 million last year, according to the Forest Service's own accounting, or the Klamath Forest in California which lost $7 million, according to the accounting of the Forest Service itself, and there is no reason that we cannot cut this small sum of 10 percent of money that is going to go to prepare timber sales which lose money.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has 2½ minutes remaining.

The Chair would state that the gentleman from Washington [Mr. DICKS], a member of the committee, has the right to close. The gentleman from Washington [Mr. DICKS] has 1 minute remaining, and the gentleman from Indiana [Mr. JONTZ has 2½ minutes remaining, and he must use his time now.

Mr. JONTZ. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I hope this amendment to the amendment is not accepted.

What this amendment to the amendment does is it cuts in half the original cut. Proposers of this amendment are accepting the below-cost Federal subsidy for below-cost timber sales which cannot be justified. What they are trying to do is to reduce the amount of savings that would occur from the Jontz amendment.

The fact of the matter is that we are subsidizing enormous amounts of money for people to go in, and the Government pays them for the privilege of their cutting down our national forests. That makes no sense. It is an outrage. It is going to wealthy timber operators, destroying our national forests, and it is time to end this process.

The CHAIRMAN. The gentleman from Indiana [Mr. JONTZ] has 1½ minutes remaining.

Mr. JONTZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, let us understand that this amendment does no harm to the timber industry in this country. It simply indicates that some people who are receiving privileges that can no longer be justified in an era of $400 billion deficits.

We sit here and we tell our constituents all the time that somehow the Congress will not make the tough choices, that you will not make the tough choices. Well, here is an easy choice.

All we are saying to people is that if you get the privilege of harvesting the people's resources, pay the people the cost of preparing the sale. You can then have the trees, you can have the timber, you can have the lumber, but why should we subsidize that activity of preparing those sales so you can then take the timber. That is perfectly fair. It is equitable. It is fair to the taxpayer.

This is not one of the tough choices that you do not want to make about Social Security or entitlements. This is an easy one. We can no longer justify the program.

Mr. JONTZ. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, this bill appropriates more than $100 million for timber-sale preparation. About two-thirds of that will be used to prepare sales which lose money for the Federal Treasury.

All we are seeking to do is cut 10 percent. We are not talking about eliminating all below-cost sales. All we are talking about doing is cutting a small fraction of the timber sales which now lose money, about $250 million a year which are lost, and so there will be plenty of money to prepare timber sales that make money. What we are doing is cutting the funds for those which lose money just a little bit.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. JONTZ] has expired.

The gentleman from Washington [Mr. DICKS] has 1 minute remaining.

Mr. DICKS. Mr. Chairman, I yield 15 seconds to the gentleman from Montana [Mr. WILLIAMS], who knows something about this subject.

Mr. WILLIAMS. Mr. Chairman, when the gentleman from Indiana [Mr. JONTZ] asks that rhetorical question, should all timber sale roads lose money, of course the answer is "no." But the question is really different than that. Should the Forest Service or the Department of Agriculture be in the business of making money or breaking even? Do we hold the Department of Defense to that? Do we hold the Department of Education to that?

Government is not in business to make money or break even.

The worst of the timber-sale roads, of course, should not be allowed. But government is not in the business of making profit. It's purpose rather is to provide service.

Mr. DICKS. I yield myself 15 seconds.

Mr. Chairman, there is nothing in this Jontz amendment that has anything to do with below-cost sales. He could not offer it, because a point of order would have been raised. What he does is cut sales preparation and harvest administration.

Those two accounts have already been cut.

Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in strong and unmitigated opposition to the Jontz amendment and would suggest that there is no such thing as a below-cost timber sale in the context of the multiple-use commitments of the Forest Service.

Mr. Chairman, I rise today in opposition to this amendment which represents certain economic chaos for the many rural towns and communities in the Nation that are dependent upon the responsible management and harvest of our forest resources. There are three critical things to remember when casting a vote on this amendment: Education, jobs and economic development. Three concepts that go hand in hand with Federal timber sales.

For years national forestry receipts, generated from the very sales this amendment would eliminate, have supplemented the tax coffers of numerous rural governments. This year alone, Missouri taxpayers will see over $1 million returned from the Federal Government to counties containing national forest acreage for local needs—specifically local roads and school districts. In this time of budgetary restraint, these are dollars that will not have to be taken from the pockets of local taxpayers.

Are we running out of forest land in this country? Take Missouri as an example. Federal forest inventories have shown a gain of over 4 million acres of Missouri forest land in the past two decades. Missouri forests now cover nearly 14 million acres or 31 percent of the entire State, further illustrating both public and private efforts to expand our forest resources—not destroy them. Most important, the timber industry in my home State of Missouri employs over 22,000 hard-working men and women and contributes more than $2 billion in revenue annually to the Missouri economy.

Our Federal timber sale programs means revenues for regional tourism, better forest protection, improved local roads, outdoor recreation, and most importantly—our local schoolchildren. This is one success story that must continue and I urge my colleagues to soundly reject this amendment.

Mr. DICKS. Mr. Chairman, I yield the remainder of my time to the gentleman from Pennsylvania [Mr. CLINGER].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 10 seconds.

Mr. CLINGER. Mr. Chairman, as a representative of Eastern forests that will be grossly affected by the Jontz amendment, and it makes money, I rise in strong support of the Dicks substitute and against the Jontz amendment.

Mr. Chairman, I rise in very strong opposition to the Jontz amendment which will cut almost $17 million from the appropriation to National Forest System. This amendment follows that old adage "If you can't come in the front door, then let's try the back door." Except the back door approach to this issue does not make any sense and will actually worsen the situation.

The stated purpose of the proposed cut is to eliminate below cost sales; however, the amendment would not do that at all. It would just provide another general reduction to the entire timber sales program. What this means is that there would be less funds for the Forest Service to administer, manage, and provide oversight of the timber sales program—impacting all timber sales.

What we need to be looking at is the other half of the picture and that is not being discussed here. High administrative costs skew the other side of the balance sheet. And why do we have high administrative costs? For one reason, it is due to the skyrocketing number of administrative appeals. In the last 2 years, for the price of a postage stamp, more than 3,000 appeals have been filed resulting in costs exceeding $100 million; in 1991 the agency spent over $11 million to resolve appeals or about $8,000 an appeal. Most of these appeals are not serious efforts, but are used merely as a delay tactic. Less than 6 percent of these appeals were upheld. And they cost taxpayers millions and reduce the net profits generated from the timber sales program.

Congress has directed the U.S. Forest Service to take a hard line on below cost sales, and I support implementing the policy. Legislating through an appropriations bill, however, does not make for sound public policy. This is the role of authorizing committees.

The funds for the timber program have already been cut substantially by the administration and the Interior Appropriations Committee. Both the administration and the Appropriations Committee have reduced the timber sale program by $30 million—which is half the size of the program 3 years ago. It is now bare bones.

Like many Members, and unlike my colleague offering the amendment, I have a national forest in my district. The entire Allegheny Forest lies in my district and generates annual net profits of $12 million in timber sales and close to 4,000 jobs. During a recent oversight hearing in the Government Operations Committee, we found that this is not an unusual situation. The overall picture is good. Although some forests do lose money, 76 percent of the timber harvested from the National Forest System comes from forests with profitable timber sales programs. The latest TSPIRS report, the Forest Service accounting report, shows a net profit of $472 million for the Federal Government. Local communities received $300 million.

We, in Congress, are faced with a U.S. economy in very poor shape and hear about hundreds of jobs being lost daily. This amendment will not achieve its intended purpose, but would only cripple the entire timber sale program and hurt everyone—communities, workers, and their families. Do we want to be held responsible for this? Let us not throw out the baby with the bath water. I urge a "no" vote on the Jontz amendment.

Mr. RIGGS. Mr. Chairman, before us today is a proposal to cut funds to the U.S. Forest Service for the purpose of limiting its ability to prepare tracts of public land for timber sales. MR. JONTZ'S proposal to cut $16.8 million from the Forest Service has the effect of further undermining the economy's nascent recovery. It seems a peculiar paradox that on one hand this Congress can harp about creating more jobs, and on the other hand plunder an already decimated industry.

As we all know, protection of old-growth forests in the Pacific Northwest and northern California has taken on a new priority in this Congress, and this is another attempt to lock up more timberlands. The stated purpose is to address the perceived problem with below-cost timber sales, but the real result will be to hamstring the Forest Service when it prepares its timber sale programs, further exacerbating the timber supply situation. I agree that there needs to be some sort of reform, but we must do this scientifically and not with blanket restrictions.

In my district, which includes the north coast of California, employment is very dependent on natural resources. As we are already experiencing double-digit unemployment in the area, it is inconceivable to me how any Member here could vote for this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Washington [Mr. DICKS] to the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JONTZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 206, not voting 16, as follows:

[Roll No. 302]

AYES—212

Alexander
Allard
Allen
Andrews (NJ)
Anthony
Armey
Aspin
AuCoin
Baker
Ballenger
Barnard
Barrett
Bateman
Bentley
Bereuter
Bevill
Bliley
Boehner
Bonior
Brewster
Brooks
Browder
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Chandler
Chapman
Clay
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
Dickinson
Dicks
Dixon
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Fazio
Fields
Ford (TN)
Frost
Gallegly
Gallo
Gekas
Gephardt
Gillmor
Gingrich
Gonzalez
Goodling
Gradison
Grandy
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Harris
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hobson
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Inhofe
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (NC)
Kaptur
Kildee
Kolbe
Kyl
Lagomarsino
LaRocco
Laughlin
Lehman (CA)
Lent
Lewis (CA)
Lightfoot
Livingston
Long
Lowery (CA)
Marlenee
Martin
McCandless
McCrery
McDade
McDermott
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Mineta
Mollohan
Montgomery
Moorhead
Morrison
Murphy
Murtha
Myers
Natcher
Nichols
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Patterson
Paxon
Perkins
Peterson (MN)
Pickett
Pickle
Quillen
Rahall
Regula
Rhodes
Riggs
Ritter
Roberts
Roe
Roemer
Rogers
Rose
Roth
Rowland
Roybal
Sabo
Santorum
Sarpalius
Savage
Schaefer
Schiff
Schulze
Shuster
Sisisky
Skeen
Skelton
Smith (IA)

Smith (OR)
Smith (TX)
Snowe
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swift

Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Traficant
Unsoeld
Vander Jagt
Visclosky

Volkmer
Vucanovich
Walker
Weber
Whitten
Williams
Wilson
Wolf
Wyden
Young (AK)

NOES—206

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Atkins
Bacchus
Barton
Beilenson
Bennett
Berman
Bilbray
Bilirakis
Blackwell
Boehlert
Borski
Boucher
Boxer
Broomfield
Brown
Bruce
Bryant
Campbell (CA)
Cardin
Carr
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
DeLauro
Dellums
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Evans
Ewing
Fascell
Fawell
Fish
Flake
Foglietta
Frank (MA)
Franks (CT)
Gaydos
Gejdenson
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gordon
Goss
Green
Guarini

Gunderson
Hamilton
Hastert
Hayes (IL)
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hughes
Hutto
Jacobs
James
Johnston
Jones (GA)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Klug
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mink
Moakley
Molinari
Moody
Moran
Mrazek
Neal (MA)
Neal (NC)
Nowak
Nussle
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Payne (NJ)

Payne (VA)
Pease
Pelosi
Penny
Petri
Porter
Poshard
Price
Pursell
Ramstad
Rangel
Ravenel
Reed
Richardson
Ridge
Rinaldo
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roukema
Russo
Sanders
Sangmeister
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Solarz
Solomon
Spence
Stark
Stokes
Studds
Swett
Synar
Torres
Torricelli
Towns
Upton
Valentine
Vento
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Wise
Wolpe
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

Archer
Carper
Coughlin
Feighan
Ford (MI)
Hansen

Hyde
Kleczka
Kopetski
Morella
Nagle
Peterson (FL)

Ray
Tallon
Thomas (GA)
Traxler

☐ 1100

Messrs. BORSKI, NUSSLE, SHAYS, APPLEGATE, GUARINI, MARTINEZ, and MRAZEK changed their vote from "aye" to "no."

Mrs. VUCANOVICH, Mrs. PATTERSON, and Messrs. BAKER, PAXON, COBLE, EDWARDS of Texas, MILLER of Ohio, WALKER, GOODLING, and ESPY changed their vote from "no" to "aye."

Mr. WISE changed his vote from "present" to "no."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 19, line 11, delete "$237,806,000" and insert instead "$232,248,000."

Mr. YOUNG of Alaska. Mr. Chairman, this is a very simple amendment, and, Mr. Chairman, in recognition of the chairman of the full committee, the gentleman from Illinois [Mr. YATES], I will not ask for a vote on this amendment.

Mr. Chairman, this is an amendment that deletes $5,558,000 from a national park in Lowell, MA, that has absolutely no use at all for existing as an urban renewal project. I offer this amendment primarily to remind this House of one of the reasons we are looked upon as such a low body.

I say to my colleagues, "There is such a thing as honor in this House, honor and integrity, and we have to respect one another, and, when we lose that, we lose this House, and we're looked upon as those that are incompetent and those that lack the honor that they need to serve and represent the people they represent."

Mr. Chairman, last night we saw that transgression of honor. We sat here yesterday and tried to work with the gentleman from Illinois [Mr. YATES] on this bill, and we worked very well. We had good, legitimate debate. There was a contentious amendment that might have been offered, but it was agreed by this body that no controversial amendments would be offered, and in fact we were told that there would be no votes taken until later this morning, that in fact, if there was anything subject to a point of order, they would not be offered. And last night that word was broken.

So, Mr. Chairman, more than just to offer this amendment about Lowell, MA, I am bringing the honor to this floor. I say to my colleagues, "If you cannot work together, debate legitimately, then you should not be here because you lose the integrity that this House should be blessed with."

Now I am not suggesting that it was not legal. I am just suggesting that if my colleagues do not have the ability to communicate with one another, then this House is in sad shape, especially when it does not affect a district, a district of the amendment offerer, and it affects many, many other people.

So, Mr. Chairman, I am going to suggest to my colleagues, "Let's remember who we are, where we are, and who we represent," and I say that in good faith. I say it offering a hand. But if this continues, I do not care if it is the rest of this year, and it is going to get contentious because of the shortness of the session and a very, very controversial subject, we are going to have war on this floor. Maybe not physically—yes, maybe physically. But more than that, my colleagues, we are going to have a war, and nothing constructive can be achieved.

Now the amendment that was adopted later on this morning, on a voice vote, I am sure, will be taken from this bill. But again I go back to the concept of legitimate ways of conducting ourselves in this House.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I thank the gentleman from Alaska [Mr. YOUNG] for yielding to me. I can understand the gentleman's position. I think it comes about as a result of a failure of communication more than anything else.

The gentleman from Massachusetts [Mr. ATKINS], my good friend, I know would not have wanted to take advantage of the gentleman.

Mr. YOUNG of Alaska. I am not sure of that, but go ahead. I continue to yield to the gentleman.

Mr. YATES. I have served with the gentleman from Massachusetts [Mr. ATKINS] for 4, 5, 6 years now on my subcommittee, and I have always found him to be a man of his word. What happened last night, I think, is that we began to discuss an amendment that none of us really thought was controversial and which turned out to be controversial. When a point of order might have been made, the time had already gone by. It was subject to a point or order, as the gentleman well knows and as I well know. But I think it was a lack of understanding.

I wish the gentleman had been here, but I can understand perfectly well why he went home. I had given the assurance to the House that there would be no more rollcall votes after the one that had just been concluded, and I appreciate the gentleman's statement which I think is a superb statement respecting the relationships that we in the House have and ought to have with each other. There is a collegiality that should be here between us whether we are Republicans or whether we are Democrats. We are living together in this House, and we should observe the amenities.

Mr. YOUNG of Alaska. Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Alaska [Mr. YOUNG] is withdrawn.

There was no objection.

Mr. ATKINS. Mr. Chairman, I ask unanimous consent to address the Committee for 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. ATKINS. Mr. Chairman, what the gentleman was referring to was an amendment which I offered last night, and amendment that has wide and broad support in this House that would prevent the use of an archaic Civil War era statute to allow people to build roads through roadless areas, to allow them to destroy some of the most pristine and beautiful areas of this country, not lands that belong to one Member's district, but lands that belong to all Americans. I offered that amendment last night. Because of a lack of communication, Mr. Chairman, the minority side did not offer a point of order which would have lamed.

□ 1110

This morning, when they raised that issue, I was quite happy to go with the rollcall vote to find another way, just simply to allow this House to go on record on this issue. I made the offer. They and the gentleman from Alaska who spoke previously decided they did not want a rollcall, knowing full well that the House would have voted overwhelmingly in favor of my amendment.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. ATKINS. I am happy to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, let me ask the gentleman, do you agree or do you not agree it was subject to a point of order?

Mr. ATKINS. It was subject to a point of order.

Mr. YOUNG of Alaska. Did you or did you not know it was subject to a point of order? You waited until the late hours to offer it when we had gone home, knowing full good and well that we were not here to object to it.

Mr. ATKINS. There was no agreement.

Mr. YOUNG of Alaska. There may not have been agreement, but there is honor, and you know it.

Mr. ATKINS. Mr. Chairman, reclaiming my time, the gentleman is fully aware that I offered the amendment to the Republican side. The minority side was fully aware that the amendment was pending, and due to a mixup they did not offer a point of order. I offered to allow them to have a vote; they decided not to have a vote.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 63, line 21, strike "$412,597,000" and insert in lieu thereof "$386,892,000".

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Chairman, this is an amendment to try to bring a couple of accounts which are within this bill into the same range as what we had in the authorization bill that passed here in the national energy strategy.

There are two accounts in this bill, which overall does a pretty job of sticking with the authorization, which are well over. There are two accounts which are of concern to the administration. The Secretary of Energy has written a letter indicating that this coal liquefaction account and the fuel cell account are both of concern to the administration.

These are areas where we now have mature technologies, where we could have a cost share with private industry. At least that is the judgment of the authorizing committee.

So what I am seeking to do here is to simply bring these accounts back where they were as authorized in the energy strategy bill.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Michigan, who is a cosponsor of this amendment.

Mr. WOLPE. Mr. Chairman, I rise in support of the amendment offered by our colleague from Pennsylvania [Mr. WALKER]. It would trim $26 million from the fossil energy research and development budget by reducing the coal liquefaction and fuel cell programs. This amendment makes sense in terms of both fiscal policy and energy policy.

With regard to fiscal policy, this amendment is an example of the kind of common sense discipline that we must exercise if we are to get Federal spending under control. But I would emphasize that this is a reasonable amendment; it does not seek to gut programs. This amendment would only reduce these programs to the level authorized in the comprehensive energy bill passed by this body in May. We are never going to get a handle on Federal spending if we casually pass appropriations bills that exceed the spending limits included in authorization bills. We will be sending the wrong message to the American people if we cannot abide by a spending cap that we passed just 2 months ago.

With regard to energy policy, I would like to focus my remarks on the coal liquefaction program. In my view, this is a very low priority program that simply does not justify the funding level provided by the Appropriations Committee. I reached this conclusion after witnessing the Synthetic Fuels Corporation's futile attempts to develop this technology. This conclusion has been verified by an internal Department of Energy analysis of where, on the merits, we should be investing our limited energy research and development dollars.

In the spring of 1991, as part of the formulation of the fiscal 1993 DOE budget, the policy office of the Department of Energy launched an effort to determine which energy investments would be best on the merits without regard to political sensitivities. To implement this effort, the DOE policy office rank ordered in terms of their potential contribution to the achievement of the goals of the administration's national energy strategy.

The goal of interest to us today is the reduction of our vulnerability to an oil supply disruption. Programs relevant to this goal or "portfolio," to use the Department's term, were competed against each other on the basis of the following criteria: First, contribution to energy needs; second, contribution to economic growth; third, environmental impact; fourth, technical risk; and fifth, market risk. This process resulted in a score for each program that was used to establish an overall rank order.

The results of this ranking process are instructive. The oil vulnerability portfolio contains groups of programs. The five highest ranking groups of programs are all within the Office of Conservation and Renewable Energy. But the group entitled "Coal Liquids"—which includes the coal liquefaction program—ranked 15th out of 16 in the oil vulnerability portfolio.

The conclusions of this process are inescapable. If we want to reduce our vulnerability to an oil supply disruption, encourage economic growth, and protect the environment, we should be targeting our resources into the Department's energy efficiency programs. The Interior Subcommittee is to be commended for the funding level provided for these programs in this severe budget environment.

But, on the other hand, it is impossible to justify the funding provided for the coal liquefaction program, which—on the merits—ranked 15th out of 16 in the Department of Energy's internal analysis.

Interestingly, the priorities that emerge from the internal DOE analysis based on the merits also reflect the priorities of the American people. A recent poll indicates that 62 percent of the American people believe that energy efficiency renewable energy should be the Federal Government's highest funding priorities for meeting our Nation's energy needs. By contrast, only 3 percent of the American people cited coal as our highest priority.

But, unfortunately, funding decisions are not always based on the merits. All to often, energy spending decisions are determined by what is known as the iron triangle. Parochial interests in Congress, bureaucratic interests in the Department of Energy, and the special interests of large energy corporations join together in support of a program that cannot compete on the merits with other technologies.

But this kind of special interest spending has two major costs. First, if the Federal government continues to ignore both public opinion and the kind of analysis performed for the internal DOE study, the American public will only become increasingly cynical about the Federal Government's ability to establish public policy that is in the public interest.

The second major cost of such special interest spending is its impact upon our nation's energy future. As we all know, we face serious budget problems. Every dollar that is spent on a low priority program diverts scarce resources away from energy investments that will promote energy security economic growth, and environmental protection. And the coal liquefaction program is clearly a low priority program.

In conclusion, Mr. Chairman, this amendment makes sense in terms of both fiscal policy and energy policy. I encourage my colleagues to give it their support.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Michigan [Mr. WOLPE].

Mr. Chairman, I do want to commend the Subcommittee on the Interior of the Appropriations Committee on the work they did no this bill to try to stick with the authorization accounts in most instances. It does, though, strike to the heart of much of the work we do here in the accountability to the numbers of the authorizing committees. Especially when these numbers have been voted on and approved by this House, it seems to me it makes the whole process irrelevant if we do not take those numbers as a guide.

Many of the programs included in this bill are close to commercialization, and it is time now for private industry to start picking up close to 90 percent of the cost of the program, not just have the Federal Government pay for it. Decreasing the appropriation levels to those authorized by the committee of jurisdiction is good House policy and, in my judgment, good fiscal policy, and as the gentleman from Michigan points out, there are studies that show that it is also very good energy policy.

Mr. Chairman, I ask my colleagues to support this amendment with the authorizing committee in mind, so that our numbers should make sense within the process and also to save a little bit of money within the bill.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. YATES] for 5 minutes in opposition to the amendment.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment, and I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me make this clear. There is no authorization bill. We passed the bill in the House, and it is pending in conference but it is not the law of the land.

Point No. 2, the authorization bill that passed the House was $418 million. What we have in this bill is $409 million. We are $9 million below the authorization bill. So we are concerned, and we stayed below the House-passed authorization.

The real question here is priority choices. Actually the amendment would not accomplish the stated objective. It simply changes the total amount of the appropriation; it reduces it rather than dealing with the mix. In terms of the mix, we have increased natural gas 85 percent over last year's level, so we have tried to address the problem of natural gas.

The author of the amendment wants to do even more. He wants to cut coal liquefaction and fuel cells. Many Members here have projects in both areas. Let us face it, this is a coal nation in terms of our coal resources, and I do not think we want to cut money out of coal liquefaction because it has great potential. Certainly, as we deal with the Senate in conference, there will be a change again in the mix, but it seems to me it is a mistake to reduce the amount that we are putting into substitute, alternate fuels.

Most Members here have said that we need to develop alternate fuel sources. We are trying to do that, but now we come along with an amendment that cuts even below what the same authors had authorized in their bill. They authorized $418 million, and we are at $409 million because we are trying to be responsible, and because the mix does not suit them, they want to cut it even more.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me just add to what the gentleman from Ohio [Mr. REGULA] said. We are trying to follow the authorization as closely as we can. We have limited resources. We had less money available than we would have liked, and we were careful in our hearings this year. When Members came before the committee, they wanted more money for research.

We tried to fashion this bill in a manner that would make sure that we took care of the energy resources in the long term that would make a real difference in this country. Obviously, there is a slight difference between the authorization and what we appropriated. We know we will have to make an adjustment, but we also know, because we have coal resources for 600 years, that fuel cells and using coal have got to be concentrated on. In Pennsylvania we have lost 12,000 coal miners in my district in the last few years. This is something I have promoted in order to burn clean coal, and if we cut back on the research, we will have no possibility of ever ending up with coal as the alternate fuel.

If we continue in this direction, we will just continue to put more money in and let the oil companies and the gas companies put their research in. We are trying to do that. We are trying to have the private companies put more money in.

So, Mr. Chairman, I oppose the amendment offered by my good friend, the gentleman from Pennsylvania, and I hope the Members will allow us to go to committee so we can adjust these things.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I would point out and emphasize to the Members that our appropriation number is 7 percent below last year's. We are trying to be responsible, and yet we know that we need to develop these alternate fuel sources if we are to have energy independence.

Mr. WALKER. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] has 2 minutes remaining.

Mr. WALKER. Mr. Chairman, I yield myself the balance of my time for a wrapup, but first I yield for just a moment to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding.

There are three points that need to be understood clearly. First of all, the coal liquefaction number in the appropriation bill is $15 million over the number in the authorization bill that passed the House.

□ 1120

Second, this is not the first attempt to throw dollars into a program that has little justification. We tried that in the Synthetic Fuels Corporation. This is one of the least potentially significant technologies available to us to reduce our oil vulnerability.

Third, the Office of Policy at the Department of Energy took a look at all of the alternative technologies on the basis of their contribution to our energy supply, their environmental impact, and their impact on the economic security and future of America. They concluded that this was 15th out of the 16 programs in the portfolio concerned with our oil vulnerability. There is simply no justification for this kind of increase.

Mr. Chairman, I support the amendment of the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I would just make one other point. There is no $418 million figure in the authorization bill. What you have in the authorization bill is a series of figures. Each account is authorized. What we are trying to do is get those accounts back in line with this particular amendment.

I would say to the gentleman from Pennsylvania [Mr. MURTHA], this bill is up $110 million in clean coal. We are for clean coal in our committee.

What we are dealing with here is the coal liquefaction account which you are well over the authorization and well over what the administration wants.

Finally, the appropriators consistently complain that the House committees do not do their work. In this particular case we have done our work. We have outlined our priorities. You are right, there is a division between the two committees on what the priorities should be.

I will tell you, under House rules you are supposed to take our judgment, not your own, where those kinds of differences exist.

So what we are trying to do is say to you, fine, you have done a pretty good job along the way in a number of these accounts, but here is one where we think the authorizing committees' concerns ought to be addressed, and we are asking you in this particular amendment to address our concerns.

Mr. YATES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I respect the expertise of the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from Michigan [Mr. WOLPE]. They have studied the problems of our energy situation very carefully, and I respect their opinions.

The gentleman from Ohio [Mr. REGULA] and the gentleman from Pennsylvania [Mr. MURTHA] have already discussed the question of the reduction in coal liquefaction.

I cannot understand why in the world they want to cut research on fuel cells. We are engaged in a life and death struggle actually for superiority in this field with Japan and Germany. They are pouring vast sums of money into research on various kinds of fuel cells. It is a question as to whether or not we aim for the leadership in this field in our country.

Mr. Chairman, I urge Members to vote against this amendment.

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the Walker amendment to lower the coal funding by $25.7 million. The coal budget in our bill as incorporated in H.R. 776, was decreased by 17 percent from fiscal year 1992 levels. In a time of severe budget constraints the coal program bore the brunt of lack of adequate funding to continue important research and development activities. I disagree with the gentleman's amendment to reduce coal funding even further.

The Appropriations Committee's fiscal year 1993 funding levels for the entire fossil fuel R&D budget, $414 million, is below our authorized level of $418 million. I believe this action represents a good faith effort on the Appropriations Committee's part to accommodate, as much as possible, our intentions. The fact that two items within a $414 million funding package are above our levels is, in my opinion, not sufficient justification to further reduce funding for coal research and development activities.

I urge my colleagues to vote against the amendment.

The CHAIRMAN. All time has expired on this amendment. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 262, not voting 14, as follows:

[Roll No. 303]

AYES—158

Allard
Archer
Armey
Aspin
Baker
Ballenger
Barrett
Barton
Beilenson
Bennett
Bereuter
Berman
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Burton
Camp
Carper
Chandler
Clinger
Coble
Combest
Condit
Conyers
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
Dellums
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Fields
Frank (MA)
Franks (CT)
Gekas
Gilchrest
Gingrich
Glickman
Goodling
Goss
Grandy
Gunderson
Hammerschmidt
Hancock
Hefley
Henry
Herger
Hoagland
Holloway
Houghton
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Johnson (SD)
Johnson (TX)
Johnston
Klug
Kolbe
Kyl
Leach
Levin (MI)
Lewis (FL)
Machtley
Markey
Matsui
McCandless
McCrery
McDermott
Meyers
Miller (CA)
Mink
Molinari
Moody
Moorhead
Morella
Morrison
Neal (NC)
Nichols
Nussle
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Penny
Petri
Porter
Ramstad
Ravenel
Rhodes
Richardson
Ridge
Riggs
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Saxton
Schaefer
Scheuer
Schiff
Schulze
Schumer
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sikorski
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spence
Stearns
Stenholm
Studds
Stump
Swett
Synar
Taylor (NC)
Thomas (CA)
Towns
Upton
Vander Jagt
Vento
Walker
Walsh
Waters
Waxman
Weiss
Weldon
Wolf
Wolpe
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOES—262

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bacchus
Barnard
Bateman
Bentley
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Gradison
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Jenkins
Johnson (CT)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Marlenee
Martin
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moran
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Reed
Regula
Rinaldo
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Schroeder
Sharp
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (TX)
Spratt
Staggers
Stallings
Stark
Stokes
Sundquist
Swift
Tanner
Tauzin
Taylor (MS)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld

Valentine
Visclosky
Volkmer
Vucanovich
Weber
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yates
Young (AK)

NOT VOTING—14

Coughlin
Dymally
Feighan
Hansen
Hatcher
Hyde
Kopetski
Miller (WA)
Peterson (FL)
Ray
Tallon
Thomas (GA)
Traxler
Washington

☐ 1142

Messrs. CLAY, McCOLLUM, KASICH, and KENNEDY, Mrs. LOWEY of New York, and Ms. HORN changed their vote from "aye" to "no."

Messrs. HOUGHTON, SCHUMER, MILLER of California, SCHAEFER, RICHARDSON, DOOLEY, and MOORHEAD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, as the gentleman from Illinois [Mr. YATES] knows, I withdraw an amendment that I was planning to offer because it was not necessary, but I would like to clarify the legislative record. I would ask the Chairman, it is my understanding that none of the funds appropriated or otherwise made available by this act may be used by the Secretary of the Interior for the approval, study, planning, or development either of access from the George Washington Parkway to Potomac Yards in the Commonwealth of Virginia or for the use of any land or other assets of the Federal Government which are contiguous to the Potomac Yards to support a football stadium and complex at Potomac Yards in the Commonwealth of Virginia. Is that correct, Mr. Chairman?

Mr. YATES. Mr. Chairman, the answer to the question is, to the best of my understanding, that the gentleman is correct.

Mr. MORAN. If the gentleman will continue to yield, I thank the gentleman, because it is the fear of the Park Service and people from throughout this region that a stadium complex of this size in an area which is so deficient in surface transportation would require some sort of access in the future to the George Washington Parkway. This access would ruin the scenic and historic nature of this Federal parkway, as well as overload a parkway not designed to handle such traffic volume.

AMENDMENT OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEARNS: Page 85, strike lines 3 through 26 and insert the following:

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $145,839,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $30,116,000, to remain available until September 30, 1994, to the National Endowment for the Arts, of which $13,300,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devices of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

Mr. STEARNS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. OBERSTAR). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. STEARNS. Mr. Chairman, I rise to reduce the funding level for the National Endowment for the Arts to the fiscal year 1992 level. The committee has provided an increase of almost $3 million to the NEA. With our deficit skyrocketing and with so many critical Federal programs taking tough budget cuts, I do not believe we can justify such an increase.

In the past several weeks we have cut housing and facilities for our Armed Forces, we have eliminated funding for the superconducting super collider, we have cut our legislative budgets—yet we are going to increase funding for the NEA?

As Representatives of the people, we have to explain our spending practices to our constituents. They will ask why the NEA received more funding than breast cancer research last year. They will ask why we are increasing its funding by almost $3 million during a severe budget crisis. I don't know how to explain such inequity and lack of priorities to my constituent in central Florida.

This body has just defeated an amendment from the gentleman from Illinois that would have cut all funding for the NEA. I supported that amendment, but believe some very good points were made by the other side.

My amendment will not dismantle the NEA—it will not cripple it. What this amendment will do is keep spending at last year's funding level which was a generous $176 million. Frankly, I think that is too much, however, the majority of my colleagues have voted otherwise.

What my amendment does is provide a compromise. It provides the opportunity for both supporters and opponents of the NEA to vote for fiscal responsibility without devastating the organization.

Both the National Taxpayers Union and Citizens Against Government waste have expressed their strong support for this amendment. They think it is the least we can do given the enormity of our deficit.

When American businesses and families are cutting back across America, it is the duty of Congress to cut back as well. Our deficit is almost $400 billion. We have to ask ourselves "Is an increase of almost $3 million to the NEA absolutely necessary?"

Mr. Chairman, I thank my colleagues for their consideration.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Is there a Member in opposition?

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 5 minutes.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

☐ 1150

Mr. WILLIAMS. I thank the gentleman for yielding me the time.

Mr. Chairman, I agree with the gentleman from Florida, we have to explain our funding priorities, so let me explain what will likely be cut by this amendment.

When we authorized, in a tumultuous session, the National Endowment for the Arts in the previous Congress, this House asked for two significant changes: First, arts education, and second, an earmarking of 35 percent of the money for the coming year for the States. That is, each State arts council would decide how that arts money is to be spent.

If this $3 million cut goes forward, the way it will trickle out is that your States, which now believe they are going to receive $9 million in additional money, are going to be cut. Your States' arts councils are going to be cut if this amendment comes forward.

The other place that I anticipate this cut will come is in arts education. The way it works, the way Members voted for it to work 2 years ago, is every other dollar above $175 million is earmarked for arts education in the schools in your districts. If this cut goes ahead, it is likely that $1.5 million could be cut from arts education.

So do not let anybody tell you that this cut somehow has to do with all of that controversy that went on 2 years ago. This cut has to do with money for your State arts councils and arts education that goes on your schools.

I could list, if time permitted, all of the arts education that has done wonderful things for kindergarten, first, second, third grade, junior high school students in each of your States. We are about to cut if this passes, at least in my judgment, $1.5 million out of arts education for kindergarten kids, first-grade kids.

This is not money that goes directly to artists. This is money that your school children enjoy in your States.

Mr. STEARNS. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, let me pay my respects to the gentleman from Florida [Mr. STEARNS] for bringing this amendment forward, and let me pay my respects to the distinguished chairman of the subcommittee, the gentleman from Illinois [Mr. YATES], a person with whom we have contested over this issue for many years, and with whom the contest has always been very, very enjoyable. But the previous speaker, the gentleman from Montana [Mr. WILLIAMS] basically gave us a false predicate.

The predicate is that our education for our Nation's youngsters will be somehow diminished if we do not have this additional funding for the NEA. This has been a fundamental problem with the whole question of the NEA throughout all of the controversy we have ever had.

It is an affront to the esthetic tastes and the esthetic preferences and the esthetic pursuits that come natural to the people and to especially the children of this Nation for us to argue that there would not be such esthetic pursuit without this Federal funding. The fact is people love art, and they will pursue art, and they will most likely do it more enthusiastically, with less confusion if they are left to do it on their own, and if we do not have a Federal agency of the U.S. Government determining for the people of this country what is and what is not preferred artistic pursuit for those people.

This agency's existence is an affront to the concept of freedom of expression in the arts. This is a Federal agency that exists for the purpose of determining what is or is not art to be pursued by the American people.

Let me just say finally the gentleman from Florida's focus is more correct. His point is in this Nation of $400 billion deficits where we have to make so many difficult cuts, can we afford to increase spending on what is needed least and what is desired even less, an unnecessary intrusive agency of the Federal Government?

Mr. YATES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I just want to tell the very distinguished Republican, the gentleman from Texas [Mr. ARMEY] what another distinguished Republican thinks about the NEA. I am referring to Mr. Winton Blount, the former Postmaster General from Alabama. Listen to his words in testimony during our hearings:

> An NEA investment of $36,000 in the Alabama Shakespeare Festival this year is helping create new southern artistry, provide professional theater for hundreds of thousands, generate $10 million in tourism and educate 50,000 students. Where else do so few Federal dollars have such a large multiplier effect and enormous ultimate value? Any businessman would be happy with a fraction of such returns on their investments. I therefore trust that you will continue to invest precious Federal resources where such a high and valuable return is achieved.

That is from Postmaster Winton Blount.

Mr. STEARNS. Mr. Chairman, I yield myself 15 seconds to say that giving in the United States of America by private funding of the arts has reached $7.89 billion last year. This is just a pittance.

We will still have art education. Neither Mark Twain nor Ernest Hemingway received funding from the Government. Many of our greatest artists have contributed to the cultural development of our society without the support of Federal funds.

Mr. Chairman, I yield the balance of my time to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, just very quickly, we are going into debt, this House is putting the Nation into debt $1,093,000,000 today, tomorrow, Sunday, every religious holiday right through this fiscal year. We just cannot afford not to cut something out of this.

I rise in support of the Stearns amendment. Madonna signed a contract for $60 million, Mike Jackson for another $60 million. That is more than two-thirds of this budget. These people are not going to pay storage on their money. Let the artists making these incredible, astronomical incomes, let them help and pick up a little slack. We cannot afford it.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, 30 years ago John Kennedy said that one of the ways in which we measure the strength of our society is not only by measuring the strength of our military, but by measuring our commitment to the arts, to dance, to literature, to sculpture, to poetry, to painting, to music. By that measurement, this country does not have a very deep commitment to the arts. This amount the gentleman from Florida seeks to cut is about 7 hours of Pentagon spending. This is one of the finest programs in the Federal Government. It sustains some of the very best impulses of people, young people especially, all across the country. We ought to be doing more to promote this program, to promote the concerns of people who care about literature, dance, painting, sculpture, poetry, and all the arts.

This is a modest commitment to sustain such programs in small towns, big cities, and schools across the country. Surely the Congress can sustain and support the arts. I urge rejection of the amendment.

Mr. REGULA. Mr. Chairman, I just want to point out to my colleagues, the highest rated public broadcasting show was the Fourth of July concert on the Mall, and hundreds of thousands of people were there. It was a great program, and it was funded in part by the National Endowment for the Arts.

Mr. YATES. Mr. Chairman, I thank the gentleman from Ohio.

Mr. Chairman, I yield myself the balance of my time.

In conclusion, I merely want to reiterate what the distinguished gentleman from Montana [Mr. WILLIAMS] pointed out, and he should know what he is talking about because he wrote the authorizing legislation for the National Endowment for the Arts. As he pointed out, any amount of money made available above $175 million goes for two purposes. First, it goes for arts education for our children in this country, which is important at this time when so many of the local schools are cutting back on their arts and music programs. Second, the balance of the funding will go to sustain the programs of the arts commissions in the States.

So I hope that the Stearns amendment is voted down.

Mr. WEISS. Mr. Chairman, I want to express my opposition to the Stearns amendment. This amendment does not signal fiscal prudence but an attempt to straddle an agency that is given the mission of funding every type of artistic group throughout the Nation and promoting American creativity and culture.

The NEA's work in promoting the arts is not frivolous. The arts form the fiber of our national identity and soul. On a purely pragmatic level, they are also our greatest export, an important means to local economic development, and one of the greatest educational tools for our children.

NEA funds comprise one one-hundredth of 1 percent of the current budget. For this tiny sum, the NEA funds generate 10 times that amount in private funds. For instance, for fiscal year 1991, NEA Program grants totaling $140 million generated $1.13 billion in non-Federal funds. These funds are enormously catalytic. More so, they play a real and vital role in community vitalization and, thanks to the ingenuity of NEA initiatives and the committed work of those in the arts, they affect at-risk students, the elderly, the physically challenged, and every aspect of the community.

The argument is made that we cannot afford the arts in these times. I would assert that the arts are more important than ever. At a time of racial and class division in our cities, the arts are one of the most effective ways of achieving greater understanding.

The $3 million which Mr. STEARNS seeks to cut is an increase that will, on the whole, go to arts in education programs. Is that the gentleman's intent, to do away with a small increase for funds for arts programs for our children?

If that is not the intent, then this amendment is a false gesture, one which will affect the quality of life of our citizens and hamper an agency given the task of reaching arts organization in every corner of this country and developing and preserving our national culture.

I urge the defeat of the Stearns amendment.

□ 1200

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. STEARNS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 171, not voting 12, as follows:

[Roll No. 304]

AYES—251

Allard
Allen
Andrews (TX)
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Borski
Brewster
Broomfield
Browder
Bruce
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Costello
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Derrick
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Hopkins
Horn
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (TX)
Johnston
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
LaRocco
Laughlin
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Luken
Manton
Marlenee
Martin
Martinez
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison
Murphy
Myers
Neal (NC)
Nichols
Nussle
Ortiz
Orton
Owens (UT)
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Penny
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Ramstad
Ravenel
Reed
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torricelli
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—171

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Anthony
Atkins
AuCoin
Beilenson
Berman
Blackwell
Boehlert
Bonior
Boucher
Boxer
Brooks
Brown
Bryant
Bustamante
Campbell (CO)
Cardin
Carr
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Guarini
Hall (OH)
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Jefferson
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowery (CA)
Lowey (NY)
Machtley
Markey
Matsui
Mavroules
Mazzoli
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Pallone
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (MN)
Pickle
Rahall
Rangel
Richardson
Roe
Rose
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Slaughter
Smith (FL)
Smith (IA)
Solarz
Stark
Stokes
Studds
Swift
Synar
Torres
Towns
Traficant
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wolpe
Wyden
Yates

NOT VOTING—12

Annunzio
Coughlin
Feighan
Hansen
Hatcher
Hyde
Kopetski
Peterson (FL)
Ray
Tallon
Thomas (GA)
Traxler

□ 1218

Mr. VENTO changed his vote from "aye" to "no."

Mrs. LLOYD, and Messrs. ANDREWS of Texas, YOUNG of Alaska, OWENS of Utah, BEVILL, WISE, and HEFNER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 97, after line 3, insert the following new section:

SEC. 319. Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1.46 percent.

□ 1220

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Chairman, I want to congratulate the previous speaker for getting an amendment passed that reduced spending to last year's level. It was not that hard, I think, for us to vote for that spending cut, to live within the budget that we passed last year, the spending limits of last year.

Every single appropriation bill that we have passed this year so far, in total, has been higher than last year. Agriculture is $6.5 billion above last year; District of Columbia bill is $58 million above last year; Treasury, Postal Service, $2.9 billion above last year; and this bill is going to be close to $185 million above last year.

Now, what my amendment does is cut the spending in this bill back to last year's spending levels, as the previous amendment did for the National Endowment for the Arts.

The reason I think this is important is because of the statistical information on the two charts I am going to show you. There is a book that I have been talking about called "The Coming Economic Earthquake," by a man named Burkett, that I have been asking all of the Members to read. If any of you want a copy of it, I have them in my office and I would be glad to give you a copy.

Mr. Chairman, in that book it shows a chart put out by the Federal Reserve Board showing the progression of the national debt. This was the national debt in 1980, we are at $4.077 trillion in debt right now. This is where we are going to be conservatively, conservatively, by the year 2000, or 7.5 years from now.

Now, what this means simply is—take a good look at that, $13.5 trillion—it means that the interest alone on the national debt is going to be $1.2 trillion, which is almost the total cash revenues we are bringing into the Treasury today. Very simply, it means we are not going to bring in enough taxes just to pay the interest on the debt, let alone take care of Medicaid, Medicare, social security, and all of the other problems facing this country.

So we have to get control of our appetite for spending. A good place to start is to freeze spending at last year's spending levels. In addition to that, I have said it before and I will say it again and again and again, we have to address the problem of entitlements. I know that is a dangerous thing to say, politically, but the fact of the matter is if we do not slow the growth in entitlements, the people on fixed incomes, on Social Security, welfare and so on, 7½ years from now will be paying $25 or $35 for a loaf of bread.

Now, why do I say that? I say that because the Federal Reserve Board has the right to monetize the debt. And if we cannot get enough tax revenues to pay the interest on the debt, they are going to have to pay off part of the debt, a large part of it, and they will monetize maybe $6 trillion or $8 trillion in debt.

When they print that much money, we are going to have hyperinflation and the people that we really want to help in this country, people on welfare, people fixed incomes, are going to be the hardest hit.

So we have to pinch a little bit now so we do not face hyperinflation later, which will cause economic chaos later in this country.

I will say it one more time: All I am asking for is a reduction in this bill to last year's spending levels, to try to get control of spending now and in the future so we will not face hyperinflation down the road.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to my colleague, the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, I just want to, for the record, point out that we have already cut $59 million out of budget authority by the amendments which have been adopted. So, in effect, the gentleman's amendment would taken us below last year's level because we were at $185 million over last year on the BA, with $59 million we have cut on thus far by amendment action and in reality—I do not know if the gentleman would want to modify his amendment—but it does in fact take us $59 million below last year's level.

Mr. BURTON of Indiana. I would be very happy, in accordance with my colleague, to modify my amendment to take it down to last year's spending level, and I would so move, Mr. Chairman.

The CHAIRMAN. Does the gentleman ask unanimous consent to modify his amendment? And if so, he would modify his amendment in what way?

Mr. BURTON of Indiana. Just to take it down to last year's levels, not below last year but to last year's spending level.

The CHAIRMAN. The Chair would ask the gentleman to specify a change in the actual percentage level in the bill.

Mr. YATES. Mr. Chairman, reserving the right to object, we would like to have specific numbers.

Mr. BURTON of Indiana. It would take it from 1.46 percent down to a 1-percent reduction in spending on this bill.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding.

Mr. Chairman, the chairman of our Conference is here, and he and I were just looking at these charts. I would hope that the chairman of the Democratic conference, Mr. SAWYER, would do what I know Mr. LEWIS is going to do, and get smaller versions of these, laminated or otherwise, for our wallets or purses, because you want to blame this on George Bush, but I am willing to accept the blame as a 16–14-year Member of this Chamber. This is our doing here. This is a disgrace. Of course, I am going to support the amendment. These charts are nightmares. I have eight grandkids, too, who are supposed to deal with this and pay for this. This is a disgrace.

The CHAIRMAN. The Chair would say that pending is a unanimous-consent request by the gentleman from Indiana [Mr. BURTON] to modify his own amendment.

Mr. DORNAN of California. I am sorry, Mr. Chairman. I did not know that.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. BURTON of Indiana: Strike the figure, "1.46 percent." and insert in its place "1.00 percent."

The CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. BURTON of Indiana: Page 97, after line 3, insert the following new section:

SEC. 319. Each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1.00 percent.

Mr. BURTON of Indiana. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. YATES] for 5 minutes.

Mr. YATES. Mr. Chairman, the committee bill that we brought to the floor is a responsible bill. Many speakers who have taken the floor have acknowledged that fact. The bill was below the 602(b) allocation for budget authority by $918 million.

With floor action, another $56 million has been cut plus the $3 million that was just cut on the Arts amendment.

We have not been irresponsible in our attitudes. We have not been irresponsible in the amounts that we approved for our appropriations. The Department of the Interior agencies have been asked to absorb some $45 million in pay costs. This absorption will likely come in the same areas that this amendment targets.

Agencies in this bill slated for reduction by this amendment do not have that much money. Most of the money that we have put in over the President's budget was for the health of the Indian people. The amount of $613 million was also included for fire fighting, $95 million more than the current level, a vast amount which takes away the opportunity for discretion.

I suggest, Mr. Chairman, that many of the accounts are already below the 1992 appropriation. The committee has already reduced the National Park Service by almost $40 million below the President's budget.

I would recommend we vote against the amendment of the gentleman from Indiana [Mr. BURTON].

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] has 1 minute remaining.

Mr. BURTON of Indiana. Mr. Chairman, do I have the right to close?

The CHAIRMAN. No, the gentleman from Illinois [Mr. YATES] has the right to close.

Mr. BURTON of Indiana. Mr. Chairman, let me say, in conclusion, to my colleagues that every time I come to the floor to try to cut some spending, there are always 9,000 reasons why we should not do it. Everybody always says that we are always doing a great job.

Mr. Chairman, these are the figures. We are going to be $13.5 trillion in debt, and the interest alone is going to exceed the tax revenues in 7½ years.

We are not going to be able to take care of Social Security, Medicare, Medicaid, or whatever the health plan is that we have in this country, let alone the infrastructure and the defense needs of this country.

We have to get control of spending. I do not see what is wrong with starting by saying that we are freezing at last year's spending levels.

The future generations of this country—and I have said this before, and I say it again, to the gentleman from Illinois [Mr. YATES], I know he folds his arms when I say this—they are going to curse us for not getting control of this spending now. We can pinch toes a little bit now and still survive and deal with this problem. But if we wait, we are going to have hyperinflation, the kids are not going to have the job opportunities, the economic opportunities, and senior citizens and people on fixed incomes are going to be paying everything they have just to survive in the way of sustenance.

The CHAIRMAN. All time has expired.

The question is on the amendment, as modified, offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 218, not voting 19, as follows:

[Roll No. 305]

AYES—197

Allard
Allen
Andrews (TX)
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clement
Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Jacobs
James
Jenkins
Johnson (TX)
Jontz
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Long
Luken
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moody
Moorhead
Myers
Neal (NC)
Nichols
Nussle
Orton
Oxley
Packard
Patterson
Paxon
Payne (VA)
Penny
Petri
Porter
Pursell
Ramstad
Ravenel
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Russo
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—218

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Annunzio
Applegate
Atkins
AuCoin
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carr
Chapman
Clay
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Frank (MA)
Gallo
Gaydos
Gejdenson
Gephardt
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Livingston
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Reed
Regula
Richardson
Roe
Rogers
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schumer
Serrano
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Thornton
Torres
Traficant
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—19

Andrews (ME)
Anthony
Coughlin
Feighan
Frost
Hansen
Hatcher
Hyde
Ireland
Kolter
Kopetski
Lowery (CA)
Peterson (FL)
Ray
Savage
Tallon
Thomas (GA)
Towns
Traxler

□ 1249

Mr. SPRATT changed his vote from "aye" to "no."

Mr. GOODLING and Mr. JOHNSON of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1250

Mr. RIGGS. Mr. Chairman, I move to strike the last word, and to enter into a brief colloquy with the ranking member.

Mr. Chairman, I would like to take this opportunity to enter into a colloquy with my colleague, the gentleman from Ohio [Mr. REGULA], the ranking member of the subcommittee, concerning the Headwaters Forest in my district. This area is one of the very few remaining stands of old growth, uncut redwoods left in private ownership. Eleven million dollars was requested in the President's budget to preserve this significant redwood stand for future generations.

First of all, I would like to ask the ranking member, is there an authorization to provide funding for the Headwaters Forest acquisition?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, there is no authorization.

Mr. RIGGS. Furthermore, I would like to ask the ranking member, what is the committee's sentiment on the President's request for $11 million for the acquisition of the Headwaters Forest in Humboldt County, CA?

Mr. REGULA. Mr. Chairman, if the gentleman will continue to yield, the committee agrees with the administration that the Headwaters Forest is a unique and important ecological asset that must be preserved. Unfortunately, due to the tight allocation afforded this bill, the committee was not able to approve the administration's request.

Mr. RIGGS. Mr. Chairman, I thank the gentleman.

I would also like to ask the gentleman, what is the committee's feeling on the future of Headwaters Forest acquisition?

Mr. REGULA. Mr. Chairman, if the gentleman will continue to yield, the committee is concerned about the ultimate cost of the acquisition and directed the Forest Service to develop an acquisition plan with the State of California that gives priority to the use of land exchanges.

Mr. RIGGS. Mr. Chairman, I ask the gentleman, does the committee have any information on the future Federal funding requests that may be made for the complete purchase of the Headwaters Forest?

Mr. REGULA. Mr. Chairman, the Forest Service is in the process of doing an appraisal and will not have accurate figures until such time as the appraisal is completed.

Mr. RIGGS. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Clerk will read the last 2 lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1993".

The CHAIRMAN. Are there other amendments not precluded by clause 2(a) or 2(c) of rule XXI?

Mr. YATES. Mr. Chairman, before I move that the Committee rise, I want to thank and commend the Chairman for his parliamentary ability, his courtesy, and his efficiency in the way in which he handled the House.

Mr. COLEMAN of Missouri. Mr. Chairman, I rise today in support of the Interior appropriations for fiscal year 1993. Within the fiscal year 1993 budget for the U.S. Geological Survey, the committee made $100,000 available for preliminary studies of the properties of coal located in the Forest City basin of Missouri, Iowa, Kansas, and Nebraska in cooperation with the State geological surveys. The USGS is then required to report their findings to the committee, and make recommendations on further activity. I wanted to take this opportunity to thank Mr. REGULA and Mr. MCDADE, and their staffs, Barbara Wainman and Debbie Weatherly, for their efforts to direct the USGS to begin this important work.

Mr. Chairman, in Missouri, Kansas, Iowa and Nebraska, there is currently an effort to explore the potential for coalbed methane production. The Forest City basin, which lies within these four States, has similar geological structure to that of the Black Warrior basin in Alabama, where commercial production of coalbed methane has been extremely successful. Records from Missouri, Kansas, Iowa, and Nebraska, show that methane is present in the deep coal beds of the Forest City basin. However, the amount is unknown at present and requires further research to obtain geologic data.

The coalbed methane industry in the Forest City basin has the potential to generate significant amounts of new revenue for local economies in primarily rural, underdeveloped areas in the region encompassing northwest Missouri, southwest Iowa, northeast Nebraska, and southeast Iowa. In addition, we will foster continued development of high quality, domestic energy resources by providing funding for the exploration of coalbed methane resources in the basin.

I believe that this investment could do much toward promoting the further development of an important energy resource, and at the same time encourage growth of a new industry in the rural communities. Again, let me express my appreciation to the committee for their recognition of the significance of this research effort.

Ms. MOLINARI. Mr. Chairman, I rise today in support of the bill H.R. 5503 and commend the chairman and the ranking member for their work on this appropriations bill.

Specifically, I want to thank the committee for their inclusion of a desperately needed project in my district. A project that the National Park Service made their No. 2 construction priority nationwide. I am speaking of the Great Kills Bathhouse at the Great Kills unit of Gate Way National Park, a facility that has literally been washed out to sea.

The Great Kills Bathhouse was built in 1951 on reclaimed land. The facility is now in imminent danger of collapse because the soft coastal ground has been seriously undermined by erosion. Nearly half the bathhouse stands on 20 feet of exposed pilings.

The term bathhouse is misleading. Until OSHA closed the building earlier this year, the bathhouse contained the park police substation, maintenance shop and garage, food concession facilities, public restrooms, visitor center, environmental education classrooms, and other essential services. Some of these services have moved to makeshift structures, others have been curtailed altogether.

The $7.9 million included in the committee bill will help the Park Service complete design and start construction of replacement facilities. For the more than 1.2 million yearly visitors to Great Kills, this project is essential. Without these new facilities, the potential of this national treasure in our urban setting cannot be realized.

I appreciate all the committee has done to provide for the Great Kills facility, and I again commend you for your work on this legislation.

Mr. AUCOIN. Mr. Chairman, we have debated Forest Service and BLM forest funding in this bill today at a time when many national forests in the Northwest are in a state of ecological collapse. In some of the forests in eastern Oregon and Washington, 70 percent of the standing timber is dead or dying. Fuel loads on the forest floor are several feet deep in many places.

It is my belief that the public and elected officials must reflect on the multiple errors of judgment that have led to this crisis in forest management and act immediately to solve it. It took years to get into the mess; we will not get out overnight. But we must begin.

That's why this bill contains funds I recommended to carry out a forest health initiative, calling on the Forest Service to take into account the latest scientific knowledge and apply it to the job at hand.

I did this because I am convinced we must move to a new kind of forest management for our national forest system in the forests of the West. The new science we support requires new forestry. The revelations about the ecological collapse in the Blue Mountains of my State, and large scale declines in forest health and species everywhere demonstrate that we must change the way we do business in the woods.

Both Mother Nature and Forest Service scientists are telling us that, while we still must make use of standard forestry techniques as fire suppression, insect and disease control, and thinning—we must do it in a manner consistent with the requirements of the forest itself, or we will simply lose them.

Gifford Pinchot is rightly known and revered as the founder of scientific forestry in this country; a confidant of Theodore Roosevelt, it was his genius that persuaded Roosevelt to create the U.S. Forest Service, not to mention a large part of the present forest system itself. Pinchot came from Switzerland where there had been no primeval, natural forests for centuries, and where several generations of foresters, fearing timber, famine, had begun to apply the principles of intensive agriculture—monoculture plantations, thinning, pest and fire control—in an effort to make the central European countries more sufficient in wood. These are the basic techniques and principles, based upon the best knowledge of the time, that Pinchot brought over here. Due to the force of his powerful personality, they were applied nearly universally as governing tenets of scientific forestry, as the Forest Service practiced it.

For a long time these techniques seemed to work. The Forest Service, responding to the disastrous fires in the early part of the century, became the best fire suppression agency in the world; generations of silviculturalists came out of forestry school, knowing with certainty that trees could be made to grow like crops of corn, if only we would suppress their natural pests. Weeding, thinning, large scale monoculture, plantations—all these agricultural techniques, as derived from European forestry, were applied in most situations in our national forests. Forests of big old trees which had taken centuries to grow and evolve were clearcut, and replanted with more commercially desirable species. Communities next to the forest developed healthy industries designed to process these centuries-old trees, and several generations of workers in the wood products industry derive their livelihoods from this, confident in the assurances of the agencies that the agricultural "scientific forestry" techniques would produce continuing crops for their children, and their children beyond them, forever. Because the clearcutting produced more "edge" which was desired by some species such as elk and deer, game actually seemed more abundant; no one noticed, or cared much, about the decline of species which depended on large unbroken tracts of old growth forest, such as the spotted owl.

But what we did not know until recently is that Mother Nature has her own ways of dealing with fires and insects, and that the forests in our country have evolved over the ages; a natural forest is there precisely because it is adaptable to conditions of pests, disease, and fire. The scientists have told us in just the last few years that dead trees are not just fit to be salvaged and that is the only use for them; they also play a crucial function in the health of the forest ecosystem. And fire has a purpose too; in a mature forest, a catastrophic fire that kills all trees is very rare—the much more common situation is the one that the pioneers along the Oregon Trail saw—vast open parklike stands of giant old trees, with almost no underbrush, because that had been burned off in periodic fires. This was Mother Nature's way of dealing with forests, and it produced the largest, healthiest, and most magnificent stands of forests in the world.

The first pioneers who came here gave raptured reports of the richness and beauty of these forests, their abundant fisheries, the game everywhere, and wood for the asking.

Now the situation is very different. For the best of reasons, and in spite of the best intentions to produce crops of wood for the benefit of communities and the public forever, many forest ecosystems are collapsing—and with them, the communities which depended upon them for sources of timber. Eight decades of fire suppression have created a layer of underbrush and second growth of such proportions that these fuel ladders now pose the risk of a true wildfire conflagration which will literally kill all the remaining trees. Equally long decades of logging the biggest and healthiest trees have left severely weakened gene pools, which should be available to ensure future generations of the best trees: for wildlife, for fisheries, for forest health, and for timber.

Everywhere in the Northwest, the salmon fishing industry—a billion-dollar industry which provides 60,000 jobs in the Pacific Northwest—is in decline; some runs of salmon, steelhead, and bull trout are near extinction. It is not just the well-known spotted owl which has acted as a canary in the coal mine to warn us of forest collapse, Mr. Chairman, other species of birds, animals, and fish are also in catastrophic decline. They are telling us that we have to be much more careful in the future about how we manage forests, and that we have to listen to nature more carefully.

Yes, we could go along in the old ways for a little bit longer; we could put everything we have into a massive salvage program which basically took out all of the trees, healthy and unhealthy, converting essentially all the forest to monoculture plantations, all with the stated aim of restoring forest health. But it will not work; such a raid on the last of our forests would be the death knell of not only the forest, but all the communities that surround it. It would provide a few more jobs for now—and then none at all later—perhaps none for many lifetimes.

I will not countenance such a raid on our forests, Mr. President. This kind of approach to forest management would have the same effect as the raids on our capital system perpetrated by Miliken and Boesky and other corporate raiders 10 years ago at the height of the Reagan era; sure, they got rich, but millions of other little people were hurt, and our economy has not recovered yet.

There is a better way, and it is what the scientists tell us to do, it is in this appropriations bill, and I intend to see that it gets carried out the way we expect. We have money in the bill for fire suppression and for insect control just like we always have; but this time it is our intent and my intent that it be carried out in the most ecologically sound manner possible, consistent with the new findings of the scientists—and in such a way that it will not only provide wood to dependent communities, but also start us back on the long road to restoring the health of the whole forest.

What does this new ecological forestry mean, and how will our bill today help carry it out? It involves several basic principles, for example:

Reduced cutting of ecologically significant areas where the forest is healthy; the giant old trees there are the healthiest because they are in fact ancient, and have survived for so long. They have the best genes to be passed onto the new forest that we are going to rebuild; they provide the most shade for the streams where the fish thrive; they hold the soils together and prevent erosion, and supply us with our best water.

Address the most troubled areas first. This is generally areas that have been overgrazed or overcut, where basically all the forest cover has been removed, little is coming back properly, and there are no snags or forest structures remaining for the restoration of the wildlife to keep the pests down.

Continue to suppress fires where it is crucial for the protection of the forest, or human health and property. But this time we are going to do it in a much more ecologically sensitive way. It will require manual removal of some of the most massive accumulations of underbrush and other fuel ladders; and eventually, in many places, it will require a sensitive and careful reintroduction of fire, once the dangers of great conflagrations are removed.

It will require salvage and removal of the millions of trees that are dying or are dead because of the unnatural practices of the past. But it is my intent and the intent of this bill that such salvage only be performed where necessary to restore the health of the forest, and make it once again a productive and functioning ecosystem. We will not have salvage in roadless areas where generally the largest and healthiest live trees still remain; we will not salvage live trees. There is a tremendous volume out there of trees needing to be salvaged in the other categories, where such removals will actually help the forest, rather than further damage it.

I want to emphasize that this is just the beginning of a long process. It took us 80 years of application of the Gifford Pinchot principles on our native and natural forests to learn that all European forestry techniques will not necessarily work here in North America. We are fortunate that we still have healthy gene pools of natural forests remaining as the basic elements upon which to build and rebuild our native forests, and restore them to the vigor and splendor that the first pioneers saw when they came here. And once we do this, we will have even more fish and even more wildlife than before; and we will at last have a healthy and productive human ecosystem, too—a network of vibrant and thriving small communities who depend upon all the products of the forest and make economic use of it to sustain themselves and their children, this time forever.

This bill takes us a first step on this long road; at last we have learned that a healthy and biologically rich and diverse forest means a healthy and rich human society next to it. I am proud to have been a part of all this.

Mr. SLATTERY. Mr. Chairman, first of all, I want to thank Chairman YATES and his staff for the excellent work they have done on this bill. This bill represents a difficult task and I want to personally commend Chairman YATES and the committee for their efforts.

I specifically would like to speak in support of the funding in this bill which recognizes the importance of native American higher education.

Haskell Indian Junior College, which is one of the only two national colleges for native Americans in the country and which is located in Lawrence, KS, has an important mission for native Americans across the country.

In the past Haskell has survived severe budgetary setbacks and has provided quality education to native Americans across the country in spite of efforts by the previous administration to shut it down.

I am pleased the Appropriations Committee, under Chairman YATES' leadership, realized the importance of adequately funding Haskell, and I am especially pleased the committee agreed to restore $977,000 to Haskell's budget that President Bush had requested be cut.

This funding will bring Haskell's fiscal year 1993 instructional budget to the same level as the 1992 budget. More importantly, it will allow the popular and successful Summer School and Natural Resources Programs to continue next year.

Both the Summer School and Natural Resources Programs are proven and effective. Cutting these programs, as proposed by the Bush administration, would have been a tragic mistake and posed a severe setback for Haskell.

The sum $165,000 was approved for necessary program development at Haskell. This funding will help Haskell implement its "Vision 2000" plan, a comprehensive blueprint for improving the teacher training program at Haskell so that it will be possible for the school to achieve its goal of offering baccalaureate degrees in elementary education.

The ability to offer teaching degrees is critically important to the native American community given the well-documented shortage of native American teachers, particularly on the reservations.

I would like to commend the committee for including an additional $3 million which would allow Haskell to finance the construction of much needed on-campus housing. Housing is a top priority for Haskell as overcrowding has become a serious problem. Haskell has been attempting to deal with a serious housing shortage for several years.

Finally, I would like to thank the committee for rejecting the Bush administration's proposal instituting tuition charges for students at Haskell. The fact of the matter is that nearly 100 percent of the Haskell student body would currently qualify for student aid since most of these students come from disadvantaged and low-income families.

If self-determination and independence from government are to remain the benchmark of Federal efforts toward native Americans, then we must do all we can to see that this population has access to quality education. Haskell Indian Junior College provides the tools for such an endeavor.

I am grateful to my colleagues on the Appropriations Committee for recognizing that it would be a tragic mistake to jeopardize the quality of education at the single most important institution of higher learning in the native American community.

I urge my colleagues to support H.R. 5503.

Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 5503, the Interior and related agencies appropriations bill for fiscal year 1993.

I would like to take this opportunity to thank the honorable chairman of the Subcommittee on the Interior, Representative SIDNEY YATES and my colleague from Ohio the Honorable RALPH REGULA, and all the members of the subcommittee for bringing to the House floor, a very fair, bipartisan appropriations measure.

Mr. Chairman, it is my intent to address the section of the bill regarding our federally funded arts and humanities programs.

Of the many investments the Federal Government makes in America, the National Endowment for the Arts, the National Endowment for the Humanities and the Institute for Museum Services provided the greatest return to Americans at all levels of income, age and education.

For more than a quarter of a century, the NEA has celebrated the Nation's rich and diverse cultural heritage and made the arts more accessible to millions of Americans who might otherwise not have enjoyed them. For considerably less than $1 per citizen, it has supported the cultural life of America in all its forms. America's investment in the arts is far smaller than that of other industrial democracies. Moreover, NEA grants leverage funds from other private and public sources. Few Government agencies have a record of cost effectiveness that can match that of the NEA.

The number of performing arts groups has risen dramatically in this country, as has public attendance at cultural events. Even through the NEA does not have the financial capacity to provide funding for everyone, it does award approximately 5,000 grants annually to artists and nonprofit groups around the country.

In my hometown of greater Cleveland, my constituents are fortunate to be enriched by the arts. We take great pride in our orchestra, ballet, playhouses, and countless nonprofit dance and repertory theater companies, that are supported by our national endowments. Just last year, the Ohio Chamber Orchestra was awarded a $10,000 grant which provided programming for new audiences which mainly came from minority and low-income segments of the community. The Cleveland Musical Arts Association received an award to support educational concerts for students and daytime concerts at reduced prices. A grant was awarded to the Fairmount Theatre for the Deaf to support production costs. Mr. Chairman, these are just a few examples of the benefits the National Endowment for the Arts offers to my district.

Our federally funded arts programs are so important to the cultural wealth of this Nation. We must continue to let the National Endowment for the Arts do its fine work. I urge my colleagues to support H.R. 5503.

Mr. HOAGLAND. Mr. Chairman, I want to lend my support to the amendment offered by the gentleman from Indiana [Mr. JONTZ] yesterday. This amendment would have reduced the subsidy in the bill for below-cost timber sales on our National Forest System lands that fail to show a net return to the Treasury. Unfortunately, Mr. JONTZ' amendment was rendered ineffective when the House adopted the DICKS' amendment. Therefore, Mr. JONTZ and I voted against the Jontz amendment as amended.

Our national forests are among the most important natural lands in the country. They contain some of the richest and most diverse ecosystems of any land management system in the country. In addition, the U.S. Forest Service is one of the premier suppliers of outdoor recreation in the world, recording over 226 million visitors in 1989 alone. Of course, our national forest are also a significant supplier of timber, but they generally tend to be less productive than private forest lands. The timber cut from these lands is often of lower value than private land timber and more difficult and costly to access due to mountainous terrain and thin soil.

In other words, while most have high recreational and wildlife values, many are economically poor producers of timber. Even so, timber production has dominated the U.S. Forest Service agenda for decades even if it meant that the Forest Service sold it at a loss to the American taxpayer. In fact, for years, our National Forest timber sale program has been operating at a loss and 36 of our national forests have never produced timber at a profit to the taxpayer.

According to a recent GAO audit report, 60 percent of all forest timber sales lose money and in fiscal year 1990, the Forest Service lost over $68 million on large timber sales. Since 1975, taxpayers have lost more than $5.3 billion to below cost timber sales by the Forest Service. It is time for this practice to stop. We are not only wasting taxpayers' money, we are also losing ecologically valuable lands to cutting and road building.

Arguments have been made that this amendment will put domestic mill operations out of business by reducing wood supplies. In fact, a primary reason our domestic mills are shutting down is because a large portion of logs from Federal forest lands are being shipped overseas for processing, much of it to Japan. Many others are reducing their work force because of technological improvements in milling. Furthermore, only 9 percent of total domestic timber production is provided by the below cost forests. The Jontz amendment would only result in a 10 percent reduction in below-cost timber volume and is so small it would not affect the availability of lumber or paper in the United States.

It is time to send a message to the U.S. Forest Service that first, if the Government is going to operate a timber production and sale program, it should stop wasting taxpayers' money and not be a money-losing proposition, and second, we must use sustainable forestry practices that protect our Nation's natural heritage. The Jontz amendment did that and I urge Members to support it.

Mr. YATES. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. GLICKMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5503) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore (Mr. GEPHARDT). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mrs. MORELLA. Mr. Speaker, I was absent for two votes on amendments to the appropriations bill for the Department of the Interior and related agencies for fiscal year 1993. If I had been present, I would have voted as follows:

"No" on rollcall No. 301, the Duncan amendment to reduce funding for the Bureau of Indian Affairs.

"No" on rollcall No. 302, the Dicks amendment to the Jontz amendment.

COMMITTEE ON APPROPRIATIONS MARKUP OF THREE REMAINING APPROPRIATIONS BILLS

(Mr. NATCHER asked and was given permission to address the House for 1 minute.)

Mr. NATCHER. Mr. Speaker, I would like to announce to the membership of the Committee on Appropriations that beginning at 1:30 in our regular committee room we will mark up the three remaining appropriations bills: VA, HUD and independent agencies; Commerce, Justice, State, and judiciary; and Labor, Health and Human Services and Education.

Mr. Speaker, as my colleagues well know, we have 13 appropriation bills. Passage of this bill was number 10. There remain three bills. We mark them up this afternoon and with the gentleman's permission and the permission of the leadership, we will bring them to the House next week.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3007. An act to authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.

The message also announced that, pursuant to Public Law 102-166, the Chair on behalf of the majority leader and the Republican leader, appoints Ms. MIKULSKI, as a member of the Glass Ceiling Commission.

The message also announced that, pursuant to Public Law 102-166, the Chair on behalf of the majority leader of the Senate and the Speaker of the House, appoints Marion O. Sandler of California, Maria Contreras Sweet of California, and Earl G. Graves, Sr., of New York, as members of the Glass Ceiling Commission.

The message also announced that, pursuant to Public Law 102-166, the

Chair on behalf of the majority leader, appoints Joanne D'Arcangelo of Maine, as a member of the Glass Ceiling Commission.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 329, noes 94, not voting 11, as follows:

[Roll No. 306]

AYES—329

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Taylor (NC)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOES—94

Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bilirakis
Boehner
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Coble
Combest
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Ewing
Fawell
Fields
Franks (CT)
Gekas
Goss
Grandy
Hall (TX)
Hancock
Hastert
Hefley
Henry
Herger
Holloway
Hubbard
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Klug
Kyl
Leach
Lewis (FL)
Marlenee
McCollum
McEwen
Miller (OH)
Miller (WA)
Moorhead
Myers
Nichols
Nussle
Orton
Packard
Patterson
Petri
Pursell
Ramstad
Roberts
Rohrabacher
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Skelton
Smith (OR)
Solomon
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Wise
Wylie
Young (AK)
Zeliff
Zimmer

NOT VOTING—11

Coughlin
Feighan
Hansen
Hyde
Martinez
Peterson (FL)
Ray
Tallon
Thomas (GA)
Towns
Traxler

□ 1319

The Clerk announced the following pair:

On this vote:

Mr. Towns for, with Mr. Hansen against.

Mr. EWING changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1320

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1218

Mr. EDWARDS of Oklahoma. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 1218.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5503, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5503, the Clerk shall be authorized to make any necessary technical corrections.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, I just want to clarify that I do have a resolution of privilege that is available at the desk seeking once again to eliminate what we did yesterday in terms of trying to cover up the House post office investigation by not releasing the full transcripts of that investigation.

It would be my intention to bring that up at the earliest possible opportunity now that we are out of this.

The reason I mentioned this is because yesterday there was an immediate move to attempt to table my resolution rather than to allow it to be brought up. I do want the Members to be aware of what it is they will be voting on at the point my resolution comes before the House.

Mr. Speaker, with that, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PRIVILEGES OF THE HOUSE—DIRECTING COMMITTEE ON HOUSE ADMINISTRATION TO FORMALLY APOLOGIZE TO MEMBER AND TO CARRY OUT CERTAIN INVESTIGATIONS AND ACTIONS CONCERNING INVESTIGATION OF OPERATION AND MANAGEMENT OF OFFICE OF THE POSTMASTER OF THE HOUSE

The SPEAKER pro tempore. For what purpose does the gentleman from Massachusetts [Mr. OLVER] rise?

Mr. WALKER. Mr. Speaker, I am seeking recognition.

The SPEAKER pro tempore. The Chair has the discretion to recognize in this case, to inquire the purpose for seeking recognition.

Mr. WALKER. I was seeking recognition. He was not.

The SPEAKER pro tempore. For what purpose does the gentleman from Massachusetts rise?

Mr. WALKER. I am seeking recognition, and the gentleman from Massachusetts was not.

Mr. OLVER. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman from Massachusetts rise?

Mr. OLVER. Mr. Speaker, I rise to a question of privileges of the House, and I send to the desk a privileged resolution (H. Res. 525) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 525

Whereas on July 22, 1992 the Republican Members and staff of the Committee on House Administration and the Committee's Task Force to Investigate the Operation and Management of the Office of the Postmaster disseminated to the media and the public a document which although entitled "Report of the Committee on House Administration Task Force to Investigate the Operation and Management of the Office of the Postmaster" was in fact not the report of the Task Force but rather a report of the Republican Members of the Task Force; and,

Whereas at page 52 of that document the Republican Members of the Task Force indicate that a post office box was retained at the Brentwood Post Office on behalf of Representative John Olver and that the retention of such a post office box might raise certain concerns; and,

Whereas in fact the post office box referred to in the Report of the Republican Members of the Task Force was retained not by or on behalf of Representative Olver, a Member of the Democratic Party but instead on behalf of Representative Olver's predecessor, a Member of the Republican Party: and,

Whereas the inclusion of this false, incorrect, and improper reference to Representative Olver, and the widespread dissemination of the false, incorrect and improper information has caused unwarranted injury to the reputation and good name of Representative Olver, it is therefore,

Resolved, That the Committee on House Administration is hereby directed to issue a formal apology to Representative Olver and such apology shall be personally signed by all Members of the Task Force, and it is further,

Resolved, That any and all printing, distribution or other dissemination of the Republican Members Report shall cease and desist until such time as the text of the Republican Members Report is corrected to accurately reflect that Representative Olver did not have a post office box retained on his behalf, and it is further,

Resolved, That the Chairman of the Committee on House Administration is hereby directed to determine the cause of the incorrect attribution of a post office box retained on behalf of a Member of the Republican Party to a Member of the Democratic Party in the Report of the Republican Members of the Task Force, who was responsible for the publication and dissemination of this false information and whether further inquiry is warranted to determine whether the publication and dissemination of this falsehood constitute the violation of any Rule of the House or applicable legal standard.

The SPEAKER pro tempore. The resolution presents a question of the privileges of the House.

The gentleman from Massachusetts [Mr. OLVER] is recognized for 1 hour.

Mr. THOMAS of California. Mr. Speaker, we do not have a copy of the resolution.

Mr. WALKER. Mr. Speaker, can we get a copy?

The SPEAKER pro tempore. The Clerk will make copies available.

Mr. THOMAS of California. We were not given the courtesy of seeing the resolution.

The SPEAKER pro tempore. The Clerk will make copies available.

The Chair recognizes the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, the whole of the resolution has been read, and it is available to the Members of the House.

Mr. Speaker, this morning I picked up the Washington Post and read a page one story entitled "Post Office Probers Disagree" and much to my surprise, I read that the distinguished Member from Kansas, the Republican chair of the task force, released a report that included my name as part of a longer list of Members, and according to the leaked press reports, the investigation covered the period until 1990.

Well, since I was not sworn in to this august body until June 1991, I did not even have a rented apartment here in DC., much less have a rented post office box or, for that matter, know that there was a post office box available or where it might be.

Now, this morning a minority staffer presented a copy of a task force press release which said, "Records appear to be in error in indicating that Representative John Olver held a post office box through the House post office. The House post office documents are dated July 20, 1990."

Now, that letter does not represent an acceptable apology. I had not even set foot in Washington at that time.

I do not have any idea what the intended motivation is in this release. However, in the haste to gain some time advantage, some political advantage or whatever, the work of the task force on the minority side seems to me to be relatively shoddy and brings the good name of my predecessor into operation, and he is not even here to be able to defend himself.

Now, Mr. Speaker, the people of western Massachusetts sent me here to Washington to change business as usual, and I think this is a classic example of business as usual. If some of the energy that is used to throw political brickbats was instead focused on getting health care costs under control and a comprehensive health care program passed for this country, the country would be much better off today.

Where I come from you take responsibility for your actions; you do not blame mistakes on your staff or on someone else, and I believe that the ranking member of the task force, who released the minority task force report, ought to take responsibility for this total misinformation, and that I am owed an apology for the release of my name and the implications of that in the process of releasing that task force report.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from California for the purposes of debate only.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding.

In examining now for the first time this resolution that was introduced, and I believe I have the original copy, because copies have not been made for other Members to look at, I noticed in the first "whereas" clause the gentleman from Massachusetts indicates that the report was not in fact the report of the task force.

Is the gentleman aware that there was an agreement on the part of the task force, all six members signing a cover letter, which covered both the Democrats' report and the Republicans' report? Since the task force was composed equally of Democrats and Republicans, there was no majority or minority report, and that the cover letter signed by all six members of the task force was agreed to and adopted by the committee unanimously, and that both reports went together.

To characterize one of the reports as, in fact, not the report of the task force, I believe, is factually incorrect.

I might also inform the gentleman from Massachusetts that in his third "whereas" when he indicates that the mistake was, in fact, assigning the current gentleman from Massachusetts to a post office box held by the former gentleman from Massachusetts, that information is also incorrect. There is no evidence to show that it was a Silvio Conte post office box.

□ 1330

There was an employee of Silvio Conte who held a post office box. It was in the name of that employee and not in Silvio Conte.

In the first resolved clause, the gentleman asks that a formal apology be signed by all members of the task force. As I indicated, a cover letter signed by all six members of the task force carried forward both of those reports, yet the gentleman denies that a cover letter in the first "Whereas" has the force the gentleman now desires in his first "Resolved."

In the second "Resolved" clause, the gentleman indicates that he wants a correction. I have to urge and explain to the gentleman from Massachusetts that we already formulated a change on the page in the Republican report, which is page 52. We offered it to counsel for the House administration, Mr. Howell. He said that perhaps it was too late to make that correction; yet after the committee voted, the Democrats added a relatively large appendix to their report which had not been seen at the time that we placed the cover letter on the reports.

We have attempted to change our document to reflect the correction. We have not been allowed to make that correction by the Democrat staff. We stand ready to make that correction, if the gentleman can convince the Democrat staff to accept the change.

In addition, the mistake was in there because we asked the post office to send us documents. The document that they sent under the signature of the acting postmaster described that employee as yours.

We early on urged the task force that when we had information about Members or staff, for those people to come before the task force so we could ascertain whether or not that information was correct.

Mr. Oldaker, chief counsel for the Democrats on the task force, said that was not an appropriate procedure. We were not able to interview or cross-examine those individuals. We would have loved to have been able to make sure that that information had been cross-checked. We were denied that opportunity. What we did is what we said we did. We took all the records that had been given to us and we placed them in the document.

There was an error by the post office. We have discovered that, as well as the gentleman has. We have made the change that corrects the error, but the staff of the House Administration Committee will not allow that change to be placed in the Record.

I would ask the gentleman if he would ask unanimous consent, we certainly can make that change right here and now, and I thank the gentleman for yielding to me.

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. OLVER. Certainly, I yield to the distinguished chairman of the committee.

Mr. ROSE. Mr. Speaker, the gentleman from California [Mr. Thomas] makes it sound like I should apologize to him for this inaccuracy. Is that what the gentleman wants, I ask the gentleman from California [Mr. Thomas]?

In your portion of our report, you put the names of Members of Congress without any evidence that they had committed any wrongdoing and you put the wrong name of this man in the report. You put his name in the report. It did not belong in the report, and you have the gall to sit here and tell this House that it is the responsibility of the post office to give you the accurate information. You make the daggone decision to put his name in the report and it was Silvio Conte's box.

You ought to have the decency to publicly apologize to him and to every Member of Congress whose name you put in this report and tell them you do not have one shred of evidence, one shred of evidence that they did anything wrong, except to have their names on documents that were located in the post office, and to gain political advantage you want their names spread upon the record.

That is a shabby way for us to conduct our business. The ghost of Silvio Conte is stalking the halls of Congress right now, ready to talk to his famous brothers in the Republican Party about this little slip-up on your part.

I think you ought to apologize, I say to the gentleman from California [Mr. Thomas].

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I appreciate the gentleman yielding to me.

Obviously, the performance by the chairman indicates the degree of which they feel the pressure in the way in which this task force carried out its activity.

If we had been able to work together to produce a single document, there would be a number of corrections in both the Democrats' version and the Republicans' version.

As I indicated before, in following up to correct the error we discovered that it was not Silvio Conte's box, as was indicated in the privileged resolution in front of us. So apparently there is an error on your side as well, because you have composed the resolution assuming that it was Silvio Conte.

Where in the world do you get off putting that kind of information in a privileged resolution when you have no evidence that that occurred?

Now, I could carry on histrionically exactly the way the gentleman from North Carolina [Mr. Rose] has been doing in trying to make a political point. But it is not helpful.

There was a factual error. The information supplied by the post office was wrong. We are making a correction.

I am more than willing to apologize to the gentleman from Massachusetts [Mr. Olver] because we should have gone through and carried out an investigation in which those staff members and other members who were mentioned in documents were given an opportunity to testify.

Your staff refused to have that happen.

Yesterday on the floor we had two privilege resolutions up; one to provide the public with all the information, which was tabled. The second one after Members on your side of the aisle complained about leaks asked to send the question of the leaks to the Ethics Committee, to attempt to get to the bottom of the problem of people who make very good money and who signed an oath of confidentiality and who leaked. That motion was tabled as well.

Now, it seems to me that we can spend all afternoon attempting to make some kind of political hay. I am still waiting for the chairman or someone on the Democrat side to say that the corrected page could be placed in the document to correct the error and apologize to the gentleman from Massachusetts.

I would like to have the ability to correct the document.

We would also like the ability to add material to our report which the Democrats have added to theirs.

Now, if we can get on about our business, doing it in a professional way, then that is fine. Mistakes are made. Mistakes are corrected, but your side is not willing to make the correction.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. OLVER. Reclaiming my time, Mr. Speaker, the gentleman who has just spoken at an earlier point described the employee involved as one of mine. The simplest of investigations of the circumstances points out that the document from which that might be devised placed the dates before I was sworn into the Congress. The person involved is not nor ever was an employee of mine, and as a further answer to a whole series of points which he has made, I was not aware, I had no knowledge of the gentleman's suggestion that my name would be removed from this document that has been put out by the task force, which is of course my main interest in this. Having not been a Member at the time that these issues were raised, my interest is in making it perfectly clear that I who was sworn in on the 18th of June 1991, could not possibly have been in any way involved in the documents which the task force has released with dates in 1990.

So I am certainly interested in and accept the gentleman's apology for the inclusion of the name, and from my interest making certain that my name is not included in any reports is of course my major interest and satisfies my needs in the matter.

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. OLVER. I am glad to yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, I thank the gentleman for yielding to me.

My chief counsel came to me just before we began this exercise and indicated that he had been given this sheet of paper from the minority with this correction in it. It, of course, is accepted. It is a part, it will be a part of the RECORD.

I want the RECORD to show how sensitive the gentleman from Massachusetts was not only that his name be cleared in this regared, but that nothing be said to disparage on the good name of the gentleman from Massachusetts, our former colleague, Silvio Conte. Not only was there no evidence that his employee or Mr. Conte did anything wrong to violate any rules of the House, there was certainly no evidence that the gentleman from Massachusetts [Mr. OLVER] did anything wrong, and the RECORD will so reflect.

□ 1340

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I appreciate the gentleman yielding to me.

Mr. Speaker, I do now thank the gentleman from Massachusetts [Mr. OLVER] for taking this privileged resolution because, frankly, we were unable to get that corrected page in prior to this, and so I thank the gentleman for assisting us in making the correction.

Mr. Speaker, the language on page 51 and page 52 said, "United States Post Office receipts and documents retained by the House post office, recorded post office boxes at * * *," and the information was transmitted forward.

Under the task force rules, we were denied even the ability to make a phone call to those mentioned to determine the accuracy of that information. That was the gag rule that we had to follow under the task force arrangement. And I would tell the gentleman from Massachusetts once again, and especially the gentleman from North Carolina [Mr. ROSE], no one on this side brought Silvio Conte's name up. It was brought up in the privileged resolution, and it was brought up by the gentleman from North Carolina. It was not brought up by this side, nor was it brought up in the report. So I do not know how Silvio Conte is now in the middle of the story. As he should not be.

I thank the gentleman for yielding to me.

Mr. OLVER. Reclaiming my time, Mr. Speaker, I point out the name of my predecessor, who is revered by people on both sides of the aisle both here in Washington and back in my district, was not raised in the resolution whatsoever and that the name was raised by Members on the other side of the aisle, not on this side of the aisle.

But, Mr. Speaker, I hope that people will recognize that when you wake up in the morning and find your name brought into a list, in the major political paper of the area, and then in the Roll Call documents for today, where the name again is included in a list of persons being called to task by the task force report, the minority task force report, for whatever—we do not even really know, and at a time when I was not even a Member of the body, that my sensitivity perhaps is justified.

And I appreciate the apology on the part of the Member from California and appreciate the assurances that we will—that the page will be taken.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. OLIVER. I yield to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Speaker, if I am not mistaken, part of the privileged resolution was with reference to the fact that the titling of the task force report submitted by the Republican minority did not indicate that it was, in fact, a Republican minority task force report. And I would assume that Mr. THOMAS from California, who has always conducted himself in this House with some dignity, would want to correct that, because I have, unfortunately, somewhat of a similar story to that of Mr. OLVER, although for Mr. OLVER's sake, certainly not being here during the period of time over which the report was doing its investigation, makes it patently clear on its face that he could not have even been involved.

But on page 64 of the Republican minority task force report, item 10 indicates that express mail P300 account was used by some Members, staff, and officers of the House, and it ties it into nonofficial purposes with which—for which it was used by Postmaster Rota.

On page 65, my name is listed as having appeared 11 times as using the P300 account during the period of 1989 to 1990.

I had absolutely no knowledge of this, nor did I at any time receive a call or receive a communication from any member of the Republican task force.

Now, my understanding is that the only gag rule that was operating—and Mr. THOMAS may correct me if I am wrong—was on the staff of the task force, not on the members.

But, in any event, I received no call of any kind. I had no knowledge of any use of an account that was in the postmaster's office. My understanding is, as well, that up until 1991 we did not have separate accounts for mail; everything was charged to the Postmaster's account.

Now, when I asked my staff about this, I was told that back in 1988-89 we were having problems with our orange bag deliveries to our district office. For those of you that were not here before 1991, the orange bag was used to transmit supplies, documents, et cetera, from here in Washington to your district office or offices.

Well, we were having orange bags sent out from here but not delivered. They did not show up. They were either lost, stolen, or misplaced.

When we asked for a trace on some of them, we were finally told that two of them were found in the Fort Lauderdale main post office, ripped open and pilfered of their contents.

My administrative assistant at that time went to Mr. Rota and said, "What can we do about this?" And I have been told subsequently that other Members had problems with their orange bag deliveries. He said, "Anything that you feel is valuable, just bring it to me and to my attention, and I will secure it," which is apparently what they did, according to the task force, minority task force report, 11 times.

Now, my staff never got a receipt, never got anything. They just brought it in and Mr. Rota apparently took care of it.

I will say that I, like a lot of Members, although we are responsible for what goes on in our office, do not ever look at the way in which we mail mail or other items between our Washington office and our local district office. I never got involved in that process.

The receipts which I have subsequently secured from the majority, which apparently are the ones that are being referenced here by the minority, all show that the account was used to send goods from my office here to my district office. And my staff has confirmed that year-end supplies and other items were mailed on that basis.

Now, I understand that my name appears and there are receipts. My office never got those receipts. Mr. Rota took the goods in, assured us they would be sent so they would be safe. We never asked him how he was going to do that. We were never told there was any charge for that. We did not know what he was doing or which account he was using.

We assumed it was being done in the normal course of business like any other Member would have assumed: that if you gave it to the postmaster and it was normal mail or any kind of normal supplies being delivered between this office in Washington and your district office.

Now, my name appears, and all I would like, if Mr. THOMAS is willing to engage in a short colloquy, is just to ask if the appearance of my name here indicates anything improper or inappropriate. I have no idea what it is that I am claimed to have done, even though my name appears in the task force report.

I again say I would like to have been asked or just given a chance to, because when I say my name, I did not even know what this referred to and I had to talk to my staff.

So I would like an explanation if the gentleman from Massachusetts [Mr. OLVER] would yield to the gentleman from California [Mr. THOMAS] just to find out what it is, the purpose of putting my name in this report was for; that is all.

Mr. OLVER. Mr. Speaker, reclaiming my time, in regard to this resolution I have now had the apology from the gentleman from California, which I appreciate very much. I have also had assurance that the page that is part of the report that brings my name incorrectly into this issue and into the report will be issued by them and accepted.

And on that basis, that I think serves the purpose that I rose this morning for, to get my name out of an issue in which I had no possibility ever of having been a part.

Mr. ROSE. Mr. Speaker, before the gentleman makes that motion, would he yield briefly to me?

Mr. OLVER. I yield for a moment of debate to the gentleman from North Carolina.

Mr. ROSE. I thank the gentleman for yielding.

I would just like to give the gentleman from California [Mr. THOMAS] an opportunity——

Mr. THOMAS of California. I am going to seek unanimous consent.

If the gentleman from Massachusetts [Mr. OLVER] is satisfied with his resolution, we can close that matter, and I will ask unanimous consent to address the House.

Mr. OLVER. Mr. Speaker, I withdraw my resolution.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. OLVER] withdraws his resolution.

DISCUSSION RELATIVE TO INVESTIGATION OF OPERATION AND MANAGEMENT OF THE HOUSE POST OFFICE

Mr. THOMAS of California. Mr. Speaker, I ask unanimous consent that I be permitted to address the House on the subject of the investigation of the House post office.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1350

Mr. THOMAS of California. Mr. Speaker, I certainly would be more than willing to respond to my friend, the gentleman from Florida [Mr. SMITH], and he needs to understand that on page 64 of the report there is a discussion of the P300 account. The P300 account is not the orange bag account. The P300 account is the U.S. Post Office express mail, and I am sure the gentleman mailed year-end supplies by orange bag mail to his district because there had been damage to other orange bag or prioritized mail.

But the gentleman's name appears on page 65 by virtue of the receipts that the U.S. Post Office and the postmaster retained as receipts for express mail, and it is addressed to Hon. LARRY SMITH, 4000 Hollywood Boulevard, No. 360, North Hollywood, FL, attention: Perle. The express mail has to be signed for when it is received, and so for each of these instances there was someone who signed a receipt to accept express mail.

Express mail is normally required to be paid for out of a Member's account. It is not orange bag mail, and I would tell the gentleman that had the staff been able to make a phone call, we would have clarified it.

And the gentleman is correct. The phone call ban applied only to staff. Members could have made phone calls. In fact Members did make phone calls. And perhaps the gentleman did not receive a phone call because he was a Member of the Democratic Party.

Democrats on the task force, Members on the task force, called Republican Members in an attempt to intimidate Members of the task force into changing our document, but apparently the Democrat Members were not called because it did not provide the political opportunity of intimidation.

I would tell the gentleman that his name is on page 65 because of the express mail signed-for receipts, which was the P300 account, in 11 instances from the records of the postmaster.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman from California [Mr. THOMAS] for yielding to me.

I understand perfectly that it was not the orange bag account. As I indicated, my staff, my administrative assistant at the time, went to Mr. Rota and said, "We're having problems with pilferage and loss. What can we do?"

He said, "When you have anything important, bring it to me."

As I indicated, Mr. Rota never gave or asked for a receipt here on this end, and I say to the gentleman, "Of course you're correct. It was signed for at the other end, and you correctly indicated that they were all sent to my district office, and they were all signed for by Perle, who happens to be Perle Siegel, my district office manager." So, all of these were normal commerce in the course of conducting our offices between here and my district office.

Had I ever been asked, I might tell the gentleman now, had I ever been asked to voucher it or pay for it out of my normal expense, I would have. I think the whole thing, although the photostats, if the gentleman would just allow me to finish, the photostats do not allow for perfect reading of all the dollar amounts. It amounts to about $300 over the 2-year period of 1989 and 1990. I had surplus funds every one of those years. I turned back funds far in excess of that in my office account and would have been perfectly willing, had anybody from the post office said, "You should pay for it." Nobody ever did. Mr. Rota never asked us for it. We never asked him for any favors. All we did was bring these goods to him. He never told us how he was sending them out.

I understand this may not have been the orange bag account, but, as far as we are concerned, my office was not doing anything that Mr. Rota did not think was appropriate.

Mr. THOMAS of California. Reclaiming my time, perhaps the gentleman from Florida [Mr. SMITH] should find forgiveness from the gentleman from North Carolina who stood in the well and made the point quite eloquently that the Members were responsible, that their staff was not responsible, that the post office was not responsible, that the Member was responsible, and this Member accepted that, apologized to the gentleman from Massachusetts and attempted to substitute the page. But it was only when the gentleman from Massachusetts came and asked that the change be made that we were able to get that change in the document. We had been told we were not going to be able to make that change, it was too late, and I would tell the gentleman from Florida that the P300 account, which covered the cost of express mail, was not available to all Members, and if the postmaster went ahead and did something that the gentleman from Florida was not aware of, perhaps he would seek the gentleman from North Carolina's forgiveness because the gentleman from North Carolina pointed to the gentleman from California and said it was the Members' responsibility.

So I can only repeat what the gentleman from North Carolina said it wasn't the postmaster's fault that he mailed it for you. It wasn't your staff's fault that they signed it and you didn't know it.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Florida.

Mr. SMITH of Florida. As a Member, of course I am responsible for what goes on in my office, which is why I indicated that, had I been requested to voucher or in any other such fashion pay for this express mail privilege which I did not know my office was getting from the Postmaster, I would have done so, and the use by the Postmaster for me of this particular account was unknown to me, or anyone in my office, at the time. So, on that basis it was inappropriate, and I certainly am sorry for that. However it was done without the knowledge of any of my staff or me.

Now one other thing: The gentleman indicated that he was unable to call me because for some reason the Democrats were calling Republicans but did not call Democrats. I say to the gentleman, "The problem there, Mr. THOMAS, is that this is the minority report. My name does not appear in the task force report. It only appears in your report, and the majority did not know that my name was going to be in that report. Therefore, they could not have called me."

Mr. THOMAS of California. Reclaiming my time, Mr. Speaker, that statement is simply not factual.

Mr. SMITH of Florida. Oh.

Mr. THOMAS of California. Let me tell the gentleman why.

We provided a draft copy of our report 10 days before the final report, and the names were in it. The majority did not provide us a copy of their report until the day we voted on it. That material was available to the Democratic staff, and they could have persued it.

I, finally, will tell the gentleman that there is no pejorative attached to the P300 statement, that in fact the Postmaster was denied the use of it in 1991, and once again we were simply including the records for people to understand. A decision about that behavior is to be made by other bodies, not by the task force.

PRIVILEGES OF THE HOUSE—RESOLUTION DIRECTING COMMITTEE ON HOUSE ADMINISTRATION TO MAKE PUBLIC TRANSCRIPTS OF TASK FORCE INVESTIGATION OF HOUSE POST OFFICE

Mr. WALKER. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 526) involving a question of the privileges of the House and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. GEPHARDT). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 526

Mr. WALKER of Pennsylvania offers the following resolution:

Whereas on July 22, 1992, the House of Representatives voted to transmit to the Committee on Standards of Official Conduct the Committee Report and all records obtained by the Task Force to Investigate the Operation and Management of the House Post Office;

Whereas the Majority has selectively included portions of the transcript of the proceedings of the Task Force in the Appendix to their Report; and

Whereas matters have been raised which impugn the integrity of the proceedings of the House of Representatives: Now, therefore, be it

Resolved, That the Committee on House Administration is directed to make public complete transcripts of all proceedings of the Task Force, including depositions and statements of witnesses.

The SPEAKER pro tempore. The resolution constitutes a question of the privileges of the House.

The gentleman from Pennsylvania [Mr. WALKER] is recognized for 1 hour.

Mr. WALKER. Mr. Speaker, this is a resolution much the same as the resolution that was turned down yesterday by the House, but there is some additional information that has come forward since the House made that decision which I think makes it appropriate to bring it back, to have the issue revisited.

This is an attempt to make certain that there can be no allegation that the House of Representatives is covering up its investigation of the matters relating to the post office. In virtually every committee of the House of Representatives, when we hold hearings and when we do our business, those hearings, those depositions, those statements of witnesses, are made public. My Committee on Science, Space, and Technology does that. Virtually every other committee of the House does that.

Part of the understanding amongst the Members when we engaged in this task force proceeding, a bipartisan proceeding, was that we were going to have public proceedings. In fact, it was the impression of most of us, based upon what was said on the floor that day, that there would actually be public hearings held on these matters. As it turned out, there were no public hearings. This was all done behind closed doors. That is the way the task force decided to proceed.

This Member has no oar in that water. However it does seem to me that, given those particular understandings, that it does make sense that all proceedings of that task force now be made available, and I think we have just seen an example of why we ought to have those proceedings available. It would be helpful to have an understanding in complete context of what went on. It would be helpful to understand why these documents are brought forward. It would be very helpful to have all of the testimony, not just selected questions, raised.

The fact is that the majority report used selective information that was given to the task force. The fact is the minority report, the Democrat and Republican reports, both selectively used the information.

□ 1400

All this Member is suggesting is to put that in context it would be good to have all of the information available to the Members, available to the public, and available to the press, so that they can discern where the real truth lies. It is very difficult to get to the truth when you are dealing with only partial pieces of information.

Now, the new information that I have, that is different from yesterday, which is disturbing to at least some of us, is the fact that when the appendix to yesterday's report was released, it now turns out that some of the transcript material is being released. However, it is selectively edited material that appears in the appendix. It was selectively edited by the majority to help make their point, I guess.

For example, I have here in exhibit 2 and exhibit 3 from the appendix of the majority report an interview with Mr. Kerrigan, the Chief of Police of the Capitol Police.

It turns out that it was not the whole transcript of what Mr. Kerrigan said, it is only selective portions of the transcript that happened to fit what the majority put in their report. The fact is that Mr. Kerrigan said some very disturbing things when he was testifying, and some of those disturbing things are not included in the presentation that was made in the appendix to the report.

For example, it is my understanding that Mr. Kerrigan indicated at one point that he had a threat posed on him that the retirement benefits and the pay raises of his police might be opposed by the leadership if they did not knuckle under and get off the post office investigation.

Now, if that is in fact the case, when we are using Chief Kerrigan's testimony as a part of the report maybe it would be good to have that in. Of course, that does not make it.

That kind of information does damage to one of the points being made by the majority, and so, therefore, it does not make it into the appendix.

We ought to have at the very least all of Chief Kerrigan's testimony, not just selectively edited portions of it. We ought to have all of it. But we do not even have that.

Now, I do not want to get into an argument. I do not know which portions we ought to pull out, whether or not it is his testimony only. I do not know whether that is the only thing that ought to appear in the report.

I simply suggest that all of the materials ought to be released, that all of this information can be made public. There is no reason why this committee or this task force, like all other committees of the Congress, cannot put before the public what the people said that appeared before the committee and what the committee said in return. Those interviews, all of those statements, can easily be made public, and let the public sift out where the truth is based upon either the Republicans' presentation of it or the Democrats' presentation of it. It would be helpful to this Member to be able to discern it that way.

Yesterday, when we had a vote on this matter the vote was 207 to 200, with every Republican voting to make completely public the information and a number of Democrats joining us. I think there were almost 50 Democrats who joined us in saying it should be made public.

I think it would be a good idea maybe since we are selectively using some information, that now all the information be made public. That is what my resolution does.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be happy to yield to the gentleman from Michigan [Mr. HENRY], and then I want to yield to the gentleman from North Carolina [Mr. ROSE].

Mr. HENRY. Mr. Speaker, I want to thank the gentleman from Pennsylvania [Mr. WALKER] for renewing a similar motion in some ways, although substantially changed, from the one we had before us yesterday.

Obviously, we have a situation in which there is a given body of data. Questions have now been raised because the Democrats in their report have chosen to interpret that data one way and the Republicans in their report have chosen to interpret the data in another.

Why not then simply have the courage to let the data be out there, to let the public be the judge, and to scrutinize and let the truth out?

That is the issue. What do we have to fear by letting the public then make that choice? Let them have access to the data. Let them read the Democrat report, let them read the Republican report, and let them make their choice.

We also have an additional reason for doing that. That was just revealed in the previous debate we had on the privileged resolution.

I feel genuinely sorry for the situation in which our colleague, the gentleman from Pennsylvania, was placed. But it became very apparent that the reason for that was because an attempt to correct that report was not allowed to the Republicans.

It becomes very clear that when the gentleman from California [Mr. THOMAS] and others asked to make that correction, they were not allowed to make the correction.

Further, we now find out that when the Democrats released their report, they changed the ground rules for themselves and gave selective information, pulled in such a way as to add substance to their interpretation of the total data without providing the total data. Now we have two interpretations of a common body of data.

This is a question where the integrity of this House is at risk, the integrity of each and every Member; the integrity not only of the Members whose names have arisen in conjunction with the report, but the integrity of each and every one of us in this body. Every one of us now has to go home and try to apologize for not simply letting the data out so the truth will out.

So I rise in strong support of the motion of the gentleman from Pennsylvania [Mr. WALKER]. I commend the gentleman. He is right. Anyone who opposes this motion is by implication really taking a stand which effectively says to the American people, no, we do not want you to judge which interpretation is the correct interpretation of this data. We will do it by some kind of raw political vote in which each party seeks to cover its own tail.

Mr. Speaker, that is the wrong way to approach it. The gentleman from Pennsylvania [Mr. WALKER] is absolutely correct. Let the data out. Then we can let the truth out.

Mr. ROSE. Mr. Speaker, will the gentleman from Pennsylvania [Mr. WALKER] yield us the customary 30 minutes?

Mr. WALKER. Mr. Speaker, we just had a motion before this, and the pattern was that the gentleman from Massachusetts [Mr. OLVER], who had the resolution on the floor, yielded the time. I am perfectly willing to yield time to allow Members on that side to speak, but we ought to use the same process that was used for the majority Member.

Mr. ROSE. Mr. Speaker, I did not have anything to do with the resolution of the gentleman from Massachusetts [Mr. OLVER]. Yesterday when I had a resolution, I yielded 30 minutes to the other side.

Mr. WALKER. Mr. Speaker, I will be happy to yield 30 minutes. I want this to be fair. I would hope then, having been fair, that what the gentleman will do is allow the resolution itself to come to a vote and will not move to table it.

Mr. ROSE. Mr. Speaker, I am not going to move to table it.

Mr. THOMAS of California. Mr. Speaker, are we talking about dividing the remaining time?

Mr. WALKER. I have used some of our time. I would be happy to yield the gentleman 30 minutes.

Mr. Speaker, could the Chair inform us how much time each side has remaining?

The SPEAKER pro tempore (Mr. DERRICK). The Chair would advise Members that the gentleman from Pennsylvania [Mr. WALKER] has 20 minutes remaining and the gentleman from North Carolina [Mr. ROSE] has 30 minutes remaining.

Mr. ROSE. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, before we vote on this I think it might be useful if we climb down off this very high horse on which we have mounted ourselves and look at some very simple information with regard to the people, particularly the staff, at issue.

The material that this resolution would make public, all of it, is available to the Justice Department. All of it is available to the Committee on Standards of Official Conduct. So the idea that there is any coverup is ludicrous on its face.

Why then would we not want to make it public? Let me give a few reasons.

First of all, the material is raw. It is wholly unprocessed. Much of it is unsworn. Questions were asked such as, "Have you ever heard rumors about," and witnesses responded to questions like that.

Why were questions like that asked? Because there was never any belief that a resolution such as this, which I personally consider extraordinarily irresponsible, would be offered on the floor of the House, and because we had promised most of these witnesses confidentiality. A reason that this should not pass is that only some of the witnesses have even seen a transcript, and none have had an opportunity to make any corrections in the transcript.

Some, in fact, except for about the last 30 witnesses or so, there was no stenographer present. A little tape machine, I do not know whether somebody brought it from home or requisitioned it or what, was laid on the table.

Those have been transcribed. The firm that transcribed them called them unreliable because people's voices trailed off, and because, unlike with a normal stenographer, who was speaking was not identified in each instance and it was not readily identifiable from the voice. Other noises in the room covered up portions of the transcript.

□ 1410

So the people, the professionals who transcribed it, said the transcripts are unreliable.

All of this provided information which we, the members of the task force and our staffs who were present, could utilize effectively. But it was never produced in a form which would give to the public in general or to people who were not there the kind of specific kinds of information implied by this resolution. When you figure that we had talked to these people and we had said, "This will be kept confidential," and if this resolution passes, we will not be able to keep our word, ask yourself the question, what kind of a chill that will place any time in the future we would like to ask staff of this institution to cooperate in an investigation so that we can get to the bottom of things. If you were one of those staffers and you were, sometime in the future, offered confidentiality, "if you would only tell us what you know," what would you do?

I repeat again, everything we know, all of our records, all of the transcripts are sent to the two agencies, the House Committee on Standards of Official Conduct in terms of any violation of the House rules and to the Justice Department in terms of any violation of law. They can take this raw material, recognize it for what it is and probably not rely on it but use it for followup, if they saw anything there that would indicate need for any further information.

But this resolution, which appears to simply be doing what committees do regularly around the House, we have hearings and transcripts are made, this is not the same situation at all. This was not a committee holding a public hearing of which a stenographer was present and a transcript was made and the results, after being corrected and reviewed by the participants, were made public. This is a wholly different situation in which we gave to these people the promise of confidentiality so that we could get information in a much more informal way than the resolution would be made to appear. So that we could make judgments. Those judgments have been made. Those reports, both the Democratic report and the Republican report, have been made. And the material is available to other responsible agencies, I use the term in its legal sense, who may have need for it.

But to do what this resolution purports to do and purports to be innocent, an innocent effort to simply get information to the public, in fact, and I am going to repeat, provides raw, unprocessed information, much of it unsworn, almost all of it given under a promise of confidentiality, information which has gone to other responsible agencies, information which was not technically or accurately transcribed in the first place; this is not information that should go public.

Why? Because there are many of us here in this body that are likely to suffer from it. I frankly think that that is not the case, but there are reputations of staff of this House who cooperated in good faith that we need to consider. There is word given by the members of the task force to the participants that needs to be considered.

The chairman says he is not going to ask to table the motion, but I really hope, as my colleagues come to vote on this issue, they will not be driven by the idea that somebody may, back home, accuse them of coverup. When we have given it all to the Justice Department, there cannot be a coverup.

But do keep in mind that the reputation of the House in terms of the word of one of its constituted committees to the people it talked to, that if "you will just share with us informally what you can tell us about this issue, it will be confidential," will be broken. And in that sense, the honor of the House is truly at issue on this vote.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, is the gentleman aware that in his report there are selected pages from a witness interview with former Chief Kerrigan?

Mr. SWIFT. Mr. Speaker, yes, I am.

Mr. THOMAS of California. Mr. Speaker, if the gentleman will continue to yield, is that raw, unprocessed testimony?

Mr. SWIFT. Mr. Speaker, the question is, do we not have a portion of the transcript in a report. Yes, it is a small section dealing with Kerrigan. It is essentially the same material the gentleman has in a footnote in his report.

Mr. THOMAS of California. But it is 6 pages out of 40 pages of testimony, confidential testimony under oath. How does this portion that the gentleman included in his report differ from the description that he just placed over all of the material that should not be released?

Mr. SWIFT. Mr. Speaker, Mr. Kerrigan has had an opportunity to review and correct his transcript.

Mr. THOMAS of California. And he agreed that the gentleman should only put 6 pages of the 40 in which made the gentleman's point?

Mr. SWIFT. Mr. Speaker, I misstated myself. Mr. Kerrigan did not have an opportunity to review or correct.

Each side, the gentleman's side and our side, had an opportunity to review that transcript.

Mr. THOMAS of California. Mr. Speaker, that was not the point. The gentleman from Washington needs to listen.

He went on at some length about the data being unprocessed.

Mr. SWIFT. Mr. Speaker, that is correct.

Mr. THOMAS of California. He went on at some length about the confidentiality of the materials and that they ought not to be released.

Mr. SWIFT. Mr. Speaker, that is correct.

Mr. THOMAS of California. Yet in his own document, the Democrats have selectively edited out portions of an extensive interview to, I assume, reinforce a point that they are trying to make. How does this process differ or how does it violate the gentleman's concern about unprocessed material or confidentiality?

Mr. SWIFT. Mr. Speaker, does the gentleman suggest that the provisions of the transcript, the portions of the transcript that are in our report, similar to portions that are reported in the footnote of his report, are inaccurate? Or as the gentleman suggested, they were selective. Do they in any way distort the meaning?

Mr. THOMAS of California. Mr. Speaker, I would tell the gentleman from Washington, at no time did I hear in his long statement about the need not to release unprocessed or confidential material the question of inaccuracy. I am not talking about inaccuracy. I am talking about selective release of confidential information.

In addition to that, the gentleman has twice said that it is the same as the footnote in our document. Most people know that six pages of transcript do not equal a footnote.

Mr. SWIFT. Mr. Speaker, if the gentleman will check, it is a very long footnote.

Mr. THOMAS of California. Mr. Speaker, if the gentleman will continue to yield, there is selective material which corresponds to the Capitol Police report by a counsel on the Democrat side which the Department of Justice said were highly sensitive. They urged that they not be released and, coincidentally, that material, combined with this, pushes a point of view which may or may not have been substantiated if Chief Kerrigan's entire testimony had been placed in the gentleman's report.

So we get 6 of the 40 pages to make a point. That is exactly the point that the gentleman from Michigan made. Do not make decisions for people. We did not include any of the transcripts. If we are going to include any of the transcripts, we should include all of the transcripts.

Mr. SWIFT. Mr. Speaker, reclaiming my time, let me make my point again.

The point here is that all of the material we have gathered, all of it, this enormous body of transcripts are not transcripts as we normally think of them. The fact that there is some in the gentleman's report, the fact that there is some in our report does not in any way, in my judgment, change the fact that we are dealing, when we take this entire load and dump it on the street, does not in any way change the fact that it is unprocessed. It is raw. It is unsworn in many respects. There are, sometimes due to the nature of the fact that we did not anticipate that this was going to be made public in this fashion, there are leading questions to which witnesses were asked to respond. It does not deal with the fact that witnesses were promised that there would be confidentiality.

□ 1420

It does not deal with the fact that all of this information, all of this information, all of this information is made available to the U.S. Department of Justice and to the Committee on Standards of Official Conduct of the U.S. House of Representatives. I suggest that we are up on a rather high horse. I would suggest it is time to climb down from it. What we need is for this material to be examined by those agencies which have responsibility to deem if any wrongdoing was done. What we do not need is to simply make it available to a bunch of busybodies.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman from Washington [Mr. SWIFT] has 17 minutes remaining.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, here are the six pages of the excerpted interview with former Chief Kerrigan. At no time was Chief Kerrigan informed that there was to be an agreement of confidentiality. Here are the more than 50 pages of the actual interview.

Mr. Speaker, at this time I ask unanimous consent that the entire interview of Frank Kerrigan be entered in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. KLECZKA. I am sorry, Mr. Speaker, to what?

The SPEAKER pro tempore. Would the gentleman from California [Mr. THOMAS] please restate his request.

Mr. THOMAS of California. My request was that since six pages of the testimony of Chief Kerrigan have already been placed in the RECORD, and that Chief Kerrigan was at no time promised confidentiality in the interview, and the interview is more than 50 pages, I ask unanimous consent to place the interview of Frank Kerrigan in the RECORD.

Mr. KLECZKA. Mr. Speaker, I object.

Mr. SWIFT. Reserving the right to object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. THOMAS of California. Mr. Speaker, I think I might say now, we rest our case at this point, Judge.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. THOMAS] has expired.

Mr. SWIFT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to raise the issue again that the gentleman from Pennsylvania talked about earlier. I am puzzled over the procedures here. I heard an explanation of why my colleague, the gentleman from Massachusetts, had not been called before his name was erroneously put in the erroneously named minority task force report. The gentleman from Florida [Mr. SMITH] also asked.

I understood the explanation to be from the gentleman from California [Mr. THOMAS] that he and people on his side were not able to call the gentleman from Massachusetts to ascertain the truth of that report because Democratic Members had been calling Republican Members. I confess that I was never able to keep up with Abbott and Costello with "Who's on first," and I will have to add that explanation to those which baffle me.

I do think we have a rather serious problem here. A gentleman, a Member of this House, shall find his name put in a report, wholly erroneously. Errors happen, but they happen even more when there is no effort to prevent them. I still am curious as to how that happened without his having been asked for an explanation.

I also think the gentleman from Florida, who gave a wholly plausible explanation showing that nothing had been done wrong, again the answer was, "We could not call because Democrats were calling Republicans."

I would very much like to know why Members on the minority side who prepared that task force report did not call or make any effort to ascertain the facts before putting them into the report.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I am glad to yield if anyone can explain that to me. I yield to the gentleman from California.

Mr. THOMAS of California. I thank the gentleman for yielding. Mr. Speaker, the task force entered into an agreement of operation which required all staff members to sign a statement of confidentiality. Members were not asked to sign a statement of confidentiality. When the staff attempted to seek to interview staff of Members who were named, they were told that that was not a course that they wanted to go down, so the staff members were not able to carry out the interviews.

Mr. FRANK of Massachusetts. I would ask the gentleman, told by whom?

Mr. THOMAS of California. If the gentleman will continue to yield, the Democratic counsel. If the gentleman wants names, we will give him names.

Mr. FRANK of Massachusetts. Yes.

Mr. THOMAS of California. If the gentleman will yield further, as far as the Members are concerned, the gentleman from Massachusetts [Mr. FRANK] needs to know that the point I made about the chairman of the committee calling Republican Members was not to seek information but to get them upset and disturbed so they would call us in an attempt to intimidate us into modifying the draft.

Mr. FRANK of Massachusetts. Mr. Speaker, I want to take back my time. That is not the question I asked. I apologize if I gave the gentleman that impression.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] has the time and has reclaimed his time.

Mr. FRANK of Massachusetts. Mr. Speaker, I must say, I would not have thought that the gentleman from North Carolina would have to do anything to get Members on the other side upset. They seem to me to get upset quite spontaneously fairly frequently.

The point I was asking was why Members on the Republican side did not call the Members they were about to name. I still have not heard an explanation. I heard an explanation that the staff could not call staff, and that the chairman was calling other Members, but I do not understand why, if they were about to name someone in what was clearly going to be a somewhat negative context, there were not 100 people there, why would not Members have called the Members to say, "Is there some explanation?"

Frankly, that seems to me to show a lack of seriousness, and it resulted in some fairly irresponsible misnaming. Why did people not call?

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, perhaps the gentleman from Massachusetts [Mr. FRANK] did not hear me or he has not read the report in which we indicate that the information that is presented is from the U.S. Post Office or Postmaster records. Were we to call the gentleman from Florida, as he seemed so upset about——

Mr. FRANK of Massachusetts. Mr. Speaker, and I would add, the gentleman from Massachusetts, too.

Mr. THOMAS of California. If the gentleman will yield, no, the gentleman from Florida.

Mr. FRANK of Massachusetts. I would say to the gentleman, it is both.

Mr. THOMAS of California. Mr. Speaker, I would say that the gentleman from Florida, by his own admission on the floor a few minutes ago, knew nothing about anything, so he had no knowledge whatsoever, when we had receipts with his name on them. There is no dispute that the receipts that are in the record were sent to his office. The problem is he did not know.

Mr. FRANK of Massachusetts. Mr. Speaker, I will take back my time. The gentleman is simply not answering the question. I asked the gentleman why people were not called. He is simply reiterating the accusation that the gentleman did not know when he was first called. Had he been called, he would have gotten the information and given the explanation.

It is interesting, the gentleman from California [Mr. THOMAS] wants to avoid the question of the gentleman from Massachusetts. The fact is, if people's names are put in the report when they could have been called to get an explanation, they didn't do that, and in one case they would have left the name out altogether, and in another case they might have had an explanation. I think it shows a rush to judgment that is rather peculiar for people who claim to simply be interested.

I still have not heard why, for instance, the gentleman from Massachusetts was not called by a Member and asked for an explanation.

Mr. THOMAS of California. Will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California. I have not heard an answer.

Mr. THOMAS of California. Mr. Speaker, I would ask, what would have been the answer from the gentleman from Florida. He has stated he did not know.

Mr. FRANK of Massachusetts. I asked about the gentleman from Massachusetts. What about the gentleman from Massachusetts? Why was he not called?

Mr. THOMAS of California. Mr. Speaker, if the gentleman will continue to yield, perhaps the gentleman was not here when we said that what we published was information that was given to us by the Postmaster. We did not know it was inaccurate.

Mr. FRANK of Massachusetts. Mr. Speaker, taking back my time, I would say to the gentleman that I was here. The gentleman is refusing to answer.

Mr. THOMAS of California. I am not refusing, the gentleman will not let me.

Mr. FRANK of Massachusetts. The question was why the Members did not call him. I still do not have the answer, because we just see the irresponsibility here.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank my friend, the gentleman from Pennsylvania, for yielding time to me.

Mr. Speaker, I do not care why people did not call certain people. I would certainly hate to see, in the case of the gentleman from Massachusetts [Mr. OLVER] and the gentleman from Florida [Mr. SMITH], things like that to happen. I think we all ask that we get a fair hearing and that all the records come out.

I think when the gentleman refused to submit the 50 pages that Chief Kerrigan testified to before, shows the exact intent of the other side. It is a coverup, and when the gentleman from Washington [Mr. SWIFT] from the other side said, "How can there be a coverup when all information is sent to the Justice Department," the gentleman has already stated that the information is inept because it is on a little tape recorder. I want to guarantee that I ran a lot of investigations as the head of a fighter squadron. Every time I had an investigation, I had someone there to report. If a process is set up where everything that is heard cannot be documented, that is inept in itself. It is a poor way to conduct an investigation.

Allegedly there was testimony by one of the employees that there was criminal wrongdoing. Two of the others in another hearing took the fifth amendment. There is something wrong and a coverup to where we need to get it out in the open.

This Member, just like in the House bank case, where there was an attempted coverup to try and prevent it from coming out, then it was finally exposed. That is all we are asking, is let us bring forth the correct records, like the 50 pages, like the rest of it, that we have coming, because I guarantee the gentleman that like in the post office, where the Gang of Seven was active, in the 103d Congress Members are going to see between 130 and 150 new Members who are going to make things like this happen.

□ 1430

We are tired of the coverup, of the majority abusing its privilege of numbers to override everything that we try and do that makes it correct. And this Member would like to see a correction, and would like to have a public hearing on it.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman from North Carolina [Mr. ROSE] has 12 minutes remaining.

Mr. ROSE. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, it is very important I think to keep repeating, over and over again so it is not misunderstood, that every single thing we have is available to the Justice Department, every single thing we have will be transmitted to the House Ethics Committee. There is no way anybody in his right mind would do that and intend to cover up.

What there is in our mind is an attempt to be sure that we do not take raw material and dump it on the street. That is all, for all of the reasons that I listed before, which I am not going to list again, but it really involves protecting not Members of Congress but those employees that came forward, and under a promise of confidentiality shared with us information, much of it unsworn, much of it not pertaining to rules of evidence or any of those legalistic protections that are built into, for example, a grand jury system. We owe it to them, because those are the ground rules on which we came.

But everything, everything we have will be made available to those responsible agencies in charge of assuring that no rules of the House and no laws of the Nation have been broken. That is in no way a coverup.

Mr. WALKER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] has 17 minutes remaining.

Mr. WALKER. Mr. Speaker, I yield myself 3 minutes just to make a couple of statements here.

The gentleman from Washington [Mr. SWIFT] accused the resolution of being irresponsible a few minutes ago, and now has proceeded to talk about how they selectively took some of that unedited material and put their own spin on it, and put it in their report.

All we are suggesting is if it is responsible to take limited amounts of that material that he wants to guard so jealously and put it on the street, then it is just as responsible to take all of the material and put it on the street so that everybody can know what the truth is. So I really fail to understand the gentleman's point.

Second, I would point out that Congress does not cover itself under the Freedom of Information Act. That is very interesting, because if agencies are doing this kind of work, there are Members of Congress and committees here who go in and get raw data out of agencies based upon the Freedom of Information Act so that it can be used for political purposes on Capitol Hill. Congress chooses not to be covered under the Freedom of Information Act because we do not want that to happen to us. But in this particular case where we have a matter which is of vital concern to the public about whether or not there is corruption in the House or not, and where we thought that there were going to be public hearings, and it seems to me the gentleman from Washington has made a case for public hearings, but where we thought there were going to be public hearings, at the very least we think the information ought to be available and that is what we are asking to be done.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. THOMAS of California. Once again the gentleman from Washington has implored that we ought not to dump these data on everybody, that the information is being given to the Department of Justice. Ironically, some of the information that is being given to the Department of Justice is the Department of Justice's own information. Selectively drawn materials from reports of sensitive investigations of the Department of Justice have been placed in the Democrats' report. Selectively placed, alongside selectively edited interviews, to produce a slanted version that the public will read, because the Democrats' document is public.

The truth, all of the information is to be kept behind closed doors, sent to the Department of Justice when the Department of Justice did not want this material made public in the first place.

Mr. WALKER. I thank the gentleman for his point. I want to make one other point, and that is the gentleman from Washington has expressed concern about hearsay and rumors, and all of these kinds of things that may be contained in this information. I remember when people like Anita Hill were brought to Capitol Hill to testify, that they were asked about hearsay, and rumors, and all of those kinds of things out in public.

Now, if it is fair to bring people onto Capitol Hill and subject them to that kind of scrutiny out in public, then why cannot the information that was done behind, and given behind, closed doors also be given to the public? It is a double standard that we run in the Congress when what we suggest is that what we do should not be public and what someone else does should be public.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Chairman, I would like to question the gentleman from Pennsylvania. He made comments that one of the concerns from the gentleman from Washington was that some of the transcripts were illegible or inaudible or there were problems, and that we are dumping raw data. In the gentleman's resolution, does it require immediate disclosure of all of this information so there is not an opportunity to edit any of it?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I would respond to the gentleman that no, there is no such requirement. And in fact, I would be happy to enter into a colloquy with the gentleman from North Carolina to assure that these matters could be resolved, and that within a limited period of time, I do not want this to drag out for months, but within a limited period of time that the committee would report, having gone back to these witnesses and making certain that everything was accurate. So that could certainly be accommodated within this process.

I am not trying to do something here that would put inaccurate information on the street. But I think that the public does deserve the right to all of the accurate information, and it seems to me that what the real attempt here is, is to make certain that even the accurate information does not get out.

Mr. SANTORUM. Does that satisfy the gentleman from Washington's concern and the gentleman from North Carolina's concern, that that process be conducted?

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I am happy to yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, I would say to the gentleman that since I oppose this resolution I really think it would be rather disingenuous on my part to make any arrangement for the data. I assure the gentleman that should his side win, I would be back in touch to see if we could reach such an agreement, and I am sure being men of great honor and gentlemanliness, if you did win you would be still willing to make the same arrangement.

Mr. SANTORUM. Having no control over that, I would certainly add my vote to that type of arrangement.

We were here almost a year ago now in September 1991, and we were having these discussions as to whether we should disclose or not disclose. It was a different time, and we had an opportunity to put this all behind us, as we have heard so often in the last couple of days. Almost a year ago we chose not to put this all behind us. We chose to put it out into the newspapers for speculation, and out among the American public to have this institution dragged through the mud.

Here is another opportunity to come clean and just get it behind us, get it out and let the American public decide. This all has a very familiar ring to me, to let the American public decide with the information available, accurate information available, to decide and make judgments on their own. Who are we to stand and pass judgment, and that is what we are doing here, and that is what both sides attempted to do. Let the information out.

This has to ring true with some people here, that this is the way that this House must proceed in the future. Let the American public decide. Give the House back to the people. These are all familiar tunes that Members are hearing back home. We should apply them here in this Chamber.

□ 1440

Mr. ROSE. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, there is a quality here of a high school debate in which you get points for misdirecting. You get points for using lots of rhetorical tricks.

We must not lose sight of the basic points. I have made them, and I have made them before. Let me make a couple more.

Someone referred to the Ethics Committee. Let me tell you what the Ethics Committee does. Their committee records are only made public if charges are filed, and only such records as the committee authorizes. That is rule 10. The committee's policy has not been to release depositions and raw investigative details. This is consistent with House rule XI(k)(s) providing that testimony tending to defame shall be taken in executive session.

The task force, in fact, was functioning on a parallel course with what the Ethics Committee does, not like every other committee of the House as has been charged.

One last point, the gentleman over there raised the Justice Department investigation into this issue, and it just occurred to me, not being a lawyer, I did not think of it before, but I suspect that if we just take all of this stuff and dump it on the street, there is going to be something in there the Justice Department would like very much to not have made public. We could be jeopardizing the Justice Department's case by this rash action.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I find it amazing that the gentleman from Washington is now so sensitive at this point about the Department of Justice's concern about raw information when, once again, the Democrats' report contains investigative data that the Department of Justice asked not to be released.

I would ask the chairman of the committee, in your report, you have a portion of the Chief Kerrigan testimony which is stamped exhibit 2, and it starts on line 10, omitting the first 10 lines of testimony and in addition all of the pages have been whited out. Could the gentleman assist me and tell me what page exhibit 2 is on in the Kerrigan testimony, and what has been whited out in the first 10 lines? The second sheet is similar in that it has the last 18 through 25 lines whited out, and also the pages number whited out.

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from North Carolina.

Mr. ROSE. We will be happy to supply the actual pages for the gentleman if he does not know.

Mr. THOMAS of California. Could the gentleman explain to me why there was a need to white out the lines on the pages and white out the page numbers themselves?

Mr. ROSE. It was an editorial——

Mr. THOMAS of California. I thank the gentleman very much and reserve the balance of my time. It was an editorial decision.

Mr. ROSE. Just like the gentleman did in the body. You put your information from the transcript in the body of your report.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, as a member of the task force which brought forth the report yesterday, it was my hope that when we not only adopted the reports at the full committee, but also brought forth a privileged resolution sending the report and transcript to the Ethics Committee and also to making them available to the Justice Department, that we had put the issue behind us, and hopefully, it was my remarks yesterday, that we could move forward and do the business of the people.

But that is not the Republican agenda, my friends. The Republican agenda here today is to keep this issue alive day after day after day. Not only, as the gentleman from Washington has indicated, has the testimony been made available to Justice, but it also has been sent to the Ethics Committee.

The witnesses that came before us in that committee where told that their testimony would be confidential, and they came, and some talked and many did not talk. But what is the effect on the next investigation of some other portion of the activities of the House? Do you think any of our employees will come forward knowing that when the Walkerities of the House arise, all the confidentiality is thrown out the window? What a chilling effect. What a chilling effect that is.

And to say that the testimony was not used in the reports, clearly it has, in our report, although not verbatim. That is the testimony in different words. In the Republican report, that is the testimony, not verbatim, but put in different words.

But now to throw all of that out, open it up to the public who is waiting with bated breath, baloney. I think we have a right and responsibility to those people who came forward, the few that were very honest, and to violate that for some partisan baloney purpose, to violate that and hamper any further activity of the House for some pure partisan political purpose is not justified, my friends.

I ask you to stick with the committee and to vote "no." In fact, at the end of the debate, I will offer a motion to table. Mr. Speaker, vote to table this and put it behind us. This is getting ridiculous.

The gentleman from Massachusetts [Mr. FRANKS] asked the question, why did not the Republicans call the gentleman from Massachusetts [Mr. OLVER]; why did they not call the gentleman from Florida [Mr. SMITH], why did they not call them? Because they wanted to embarrass them. That is why they put their names in the report. And in the final hearings of the task force, we asked them, we cautioned them, No. 1, as far as post office boxes, we are told at least 25 Members had boxes, but we could not get the names, so Republicans put 6 or 7 Democrats in the report.

As far as the PL account, the PL–300, some $800,000 was expended there, but we found a few Democrats, and Republicans put them in their report citing they used the account. Many, many more people did to the tune of some $800,000 in a 10 to 12 month period. And we asked the Republicans not to put the names in the report, because, No. 1, they were not a complete list, and No. 2, it was not an accurate list as we hear today from the gentleman from Massachusetts [Mr. OLVER], our colleague who was blamed with having a post office box and not even being a Member of Congress.

The gentleman from Massachusetts [Mr. FRANK], that is why they did not call the Democrats, because they wanted to serve to embarrass them, even though they knew full well no rules of the House were ever broken or laws of this country were broken.

So the next time this body starts putting together a bipartisan task force, count me out. Those words do not exist, that animal is impossible to put together in this body, because even though we shared a responsibility and gave them the staff, made one of their members the vice chairman who ran the meetings, when it came to the final report, they would not permit their staff to meet with our staff to try to come up with a report.

On one Wednesday, I say to the gentleman from California [Mr. THOMAS], we had a heated meeting in the House Administration with the task force. We adjourned sometime around 3 o'clock, and the chairman, the gentleman from North Carolina [Mr. ROSE], said, "Between now and Friday, let us let the staffs get together and try to come out with a unified report." We met again on Friday. The staffs had not met. Our majority staff waited for the call, and it never came. Oh, they saw each other for 5 minutes and passed some report.

So there is no bipartisanship here. And motions like this will be made day after day after day in an effort to keep the postal thing alive.

My friends, it is dead. We issued the report. We ended the patronage. Let us let it go away now.

Read the reports. The issue has been cleaned up.

Mr. WALKER. Mr. Speaker, I yield myself 1 minute.

It is clear that whenever something happens in the House of Representatives that raises questions of corruption, the House does want it to go away, and I understand that. But I think that the public interest sometimes demands that the public be informed about what goes on here, and that is what we are attempting to do.

It was interesting to me to note that the gentleman who just spoke told us that the reports were adopted by the whole task force. We were told earlier today, I thought in a debate, that was not the case. You know, it has got to be one way or the other, folks.

We were also told about confidentiality here a minute ago. I am told when the witnesses appeared they were told that the confidentiality existed until the report was filed. The report has now been filed, as the gentleman so eloquently pointed out. We now have another question whether or not we want all of the data that went into that report to be made public.

That is what this gentleman is attempting to do. It seems to me if we do not want to be accused of coverup, what we ought to do is vote for this resolution.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

I am reading from the agreement of confidentiality. It says in the middle of it, "or until such time as the task force has released its final report."

The final report has been released. There is no reason, no barrier to releasing this to the public.

□ 1450

The media are going to insist that all this come forth, just like the check bouncing scandal. You cannot cover this up. It is going to come out. It is better if you really want to get this behind us to make it public and get it behind us.

I know you are trying to protect some people in this place. This is understandable, because it is predominantly on your side of the aisle; but the fact of the matter is it is going to come out anyhow, and you might as well make a clean breast of it and let the American people know.

When we go back to our districts, as we have been going back, we know that the people are fed up with this place. They are fed up with this place for myriad reasons, not the least of which is they do not trust us. There is a double standard. This must come out.

Mr. ROSE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Speaker, first of all, we ought to put this all in perspective. What are we covering up? What corruption are we trying to cover up?

First of all, we are sending all documents and all transcripts to the Ethics Committee and the Justice Department, so there is no coverup.

Is there any allegation in either report about any Member violating the law? The answer is no. There are inferences, there are suggestions, there are words of art that would implicate Members in the Republican report, but they do not say that there is a violation or that there is any corruption.

So what is this discussion about corruption about here? There is none.

So when you make all the records available to the Justice Department and to the Ethics Committee, it is not enough. So we have to get partisan to try to put more pressure on.

Now, why are we doing that? Is there anything in any of these reports, or anything that has happened in the bank scandal or in the post office problem that hurts one life, killed anybody, put more people on drugs, has hurt the economy? None of it has.

We have an economy that is sick. We have high unemployment. We have crack babies born every day. We have an educational system that cannot survive. Nothing is being done about it. We have the AIDS epidemic. Everybody wants to sweep it under the table. We have all these huge enormous problems.

And what are the people on C-SPAN watching? Are they watching us solve these problems? No. You do not want to solve those problems. God forbid that we should ever take a tough vote in the House of Representatives on solving these economic problems. God forbid, so we have to delay. We have to stall. We have to show them that we are doing something, and that is what we are doing. That is why they are going to kick a lot of us out of here, because they do not see us addressing the problems that they face every day, day in and day out; children, 1 in every 5 are born in poverty. Should we not do something about it?

Let us get off this. There is no corruption here. The corruption is that we will not face the facts.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, let me just say to my good friend, the gentleman from Illinois, who just said that we are not making the tough decisions around here about the economic problems that the people of this country are concerned about. Every day, every week we are in the well trying to cut the wasteful spending and do something about the deficit that is going to cause a major economic earthquake in this country, and every single vote that comes up is voted down by that side of the aisle. and we have a deficit that is over $4 trillion, heading toward $13½ trillion.

The problem is we are addressing these issues, but the issue before us right now is whether or not the public has a right to know what went on with the post office scandal, and we believe they do; but the other issues we are trying to address, we cannot get the votes necessary on that side of the aisle to deal with.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, the gentleman knows himself that on many of his cutting amendments that he proposed, I have voted with him.

What I have a difficult time understanding is that we are willing to cut peanuts on some issues, but when we have big major cuts for military defense nobody can find the time to cut 1 percent out of that budget.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, when we trash the public trust all over the lot, when we demean the people's right to know, we diminish our ability to get things done on the critical problems facing this body and this country.

I would submit to you, particularly the last gentleman who spoke, there is no more important mission that we have collectively than to restore the public confidence and trust in Government. This is deja vu all over again and we all know it; but let me draw the obvious analogy with the House bank situation.

First, the House Democratic leadership mismanaged the bank. In this instance, they mismanaged the post office.

Then they tried to thwart full disclosure. In fact, 131 Democrats, including the Speaker and the majority leader, voted to reject a lawfully issued subpoena.

The public does indeed have a right to know this information. We are not throwing political brickbats.

The busybodies that were referred to earlier are our constituents, and they have a right to know.

Personally, several months ago, I moved to investigate allegations of ghost employees, and while the vote was on the motion to table, a Member from this side of the aisle, a prominent Member of the Democrat leadership and the head of your campaign came over and threatened me on this floor for offering that motion.

I now read the minority report and there is evidence to substantiate allegations of ghost employees.

So I personally, talking about people who would like to protect their reputations here, would like that information shared with my colleagues.

Lastly, I believe that the chairman of the House Administration Committee owes an apology to Chief Kerrigan and to the Capitol Police for impugning their professional integrity and reputation.

I personally also believe that it is important that Chief Kerrigan's entire testimony see the light of day, and I am now puzzled by the gentleman who is now prepared to make a motion to table, puzzled why he would object to the disclosure of that testimony clarifying whether or not there was an effort to thwart the Capitol Police in their investigation.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman will state it.

Mr. WALKER. Mr. Speaker, do I have the right to close?

The SPEAKER pro tempore. The gentleman does have the right to close, and the gentleman has 5 minutes.

Mr. WALKER. And the gentleman from North Carolina has 1 minute?

The SPEAKER pro tempore. That is correct.

Mr. WALKER. I am the last speaker on my side.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania reserve his time?

Mr. WALKER. I reserve my time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. ROSE] is recognized.

Mr. ROSE. Mr. Speaker, this is the same vote we had yesterday. I have let this debate go forward so Members could hear in the light of what happened to our colleague, the gentleman from Massachusetts, what is very likely to happen if this motion is granted.

We have nothing to hide. Both of our reports point to no corruption by Members of Congress or coverup. We have given up all the justice to the Justice Department and the House Ethics Committee.

We will have a hard time in the future conducting such investigations if we break the confidence of those who testified before our committee.

I urge my colleagues not to grant the Walker resolution a favorable vote, but please continue with the vote that we had yesterday.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes to close the debate.

Mr. WALKER. Mr. Speaker, several points need to be made.

I am going to quote now from the transcript of the proceedings of the committee where the question came up of this whole business of confidentiality on which the majority has raised so much of their point. It is said in here at one point when this question of confidentiality came up, it says:

> I can assure you that that is not the case—

This is one of the staff members—

> Everyone in the room, all the staff members have signed an agreement of confidentiality to keep all, everything that is said in this room confidential. That is not to say that information that is relevant to the reporting of the operations of the post office back to Congress on May 30 will not become public at some point.

In other words, there was an understanding all the way along that what the committee was doing at some point could become public.

Now, the question is: Should it become public? It is not a question of confidentiality. It is a question of should it become public? This resolution says yes, it should. It should now be public.

The report has been filed. What we find in the report is that there are two rather different points of view about what the committee heard. The only way that we can sort that out is for the public to have access to the documentation.

We will try to do this in a way that works with the committee and assures that if they have some reason to believe that their material is inaccurate that they can get the accuracy that it deserves, but I would say that I am rather concerned about the argument that suggests because they are willing to send it to the Ethics Committee and willing to send it to the Department of Justice they have somehow done away with any idea of coverup. That is just baloney.

First of all, when you send it to the Ethics Committee, everyone knows here that sends it behind closed doors again. The committee acted behind closed doors, and now they want to send it behind another set of closed doors.

□ 1500

You know, that does not, that does not get any public information about this. The Department of Justice, they conduct their investigations behind closed doors, so that is more closed doors. The public is not going to be able to discern where the information is.

So now we have a new standard developed by the majority and that whenever there is a hint of corruption in the House and whenever there is a hint of mismanagement in the House, what they do is send the information behind closed doors. The American public is saying to us at this point that they want us to open up to them. They want some idea of how it is we operate and they want to have some impact on the way we operate.

That is what this resolution is all about. It seems to me that it is the same kind of standard that the Members of the majority rightly hold the administration to. Time and time again, if some clerk fouls up in some agency, you can bet there is some subcommittee on Capitol Hill that will scream "corruption," will scream "mismanagement" and will paint it all over the newspapers and hold public hearings.

They will call the Secretary of that department up here and make a big issue of what is going on. Well, in this particular case, there is no doubt that there was mismanagement in the House post office. As a matter of fact, both sides agreed to that, that there were major problems there.

Today we heard people come to the floor and talk to us about things that were going on in the post office that they had no idea of. But it sounds a little funny to me. When they start talking about the fact that the orange bags were not going through and all of a sudden the postmaster is doing special favors for people by sending stuff express mail that should have gone orange bag, the Members did not know anything about it, but yet it was going on; that is not only mismanagement, that borders on really questionable.

And if there is in fact a series of questions of that type, we ought to know about them.

Now, we have also heard the case of Mr. OLVER out here today. The only way to make certain that we do not have additional cases rise is to put everything in context, to assure everybody knows everything, so that everything can be put in the appropriate context.

That is what the public is expecting of us, that is what they really want.

We ought not have selectively edited comments. That is the final point.

The gentleman from North Carolina revealed the problem that we have here a few minutes ago when he said that the reason why there are blank spots on these pages is because they were edited that way. Well, we do not think that the public ought to get edited information in this case. We think that there is a big enough problem that has been identified in the House of Representatives that the public ought to have access to the transcripts and what was before the committee.

That is all this resolution asks. It does not ask any more than that. It seems to me it is a resolution that can be adopted by the House in good conscience because at that point we will have said to the public, "Yes, we agree, you should know what went wrong and you should know how we intend to correct it."

With that, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DERRICK). For what purpose does the gentleman from Wisconsin [Mr. KLECZKA] rise?

MOTION OFFERED BY MR. KLECZKA

Mr. KLECZKA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. KLECZKA moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Wisconsin [Mr. KLECZKA].

The question was taken, and on a division—demanded by Mr. WALKER—there were—ayes 18, noes 17.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 196, not voting 15, as follows:

[Roll No. 307]

YEAS—223

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gonzalez
Gordon
Guarini
Hall (OH)
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Pickett
Pickle
Price
Rangel
Reed
Richardson
Roe
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slaughter
Smith (FL)
Smith (IA)
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tanner
Tauzin
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—196

Allard
Allen
Andrews (ME)
Archer
Armey
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bruce
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Evans
Ewing
Fawell
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Inhofe
Ireland

Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Morella
Morrison
Murphy
Myers
Nichols
Nussle
Oxley
Packard
Pallone
Paxon
Penny
Petri
Porter
Poshard
Pursell
Quillen
Rahall
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stearns
Stump
Sundquist
Swett
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Coughlin
Dymally
Feighan
Goodling
Hansen
Hatcher
Hyde
Kolter
Laughlin
Peterson (FL)
Ray
Solarz
Tallon
Thomas (GA)
Traxler

☐ 1524

Mr. HEFLEY and Mr. SLATTERY changed their vote from "yea" to "nay."

Mr. SARPALIUS and Mr. JONES of North Carolina changed their vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret I was unavoidably detained with a constituent matter and missed voting on rollcall No. 307, a motion to table House Resolution 526, to make public direct transcripts of proceedings related to the House post office. Had I been present, I would have voted "no."

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DERRICK). The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, my parliamentary inquiry is, when is it in order to remove this matter that we have just now placed on the table from the table? When is it in order to remove from the table that which we have now placed on the table?

The SPEAKER pro tempore. The motion to take from the table is not a privileged motion.

Mr. DANNEMEYER. When is it in order to make that motion?

The SPEAKER pro tempore. It is not in order.

Mr. DANNEMEYER. Mr. Speaker, a further parliamentary inquiry: Would that kind of a motion be available in the 103d Congress?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 523 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 523

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except those made in order by section 2 of this resolution or the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order against the amendments printed in the report are hereby waived.

SEC. 2. It shall be in order at any time for the chairman of the Committee on Energy and Commerce, or his designee, to offer amendments en bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in the report of the Committee on Rules. Said amendments en bloc shall be considered as having been read, shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. Such amendments en bloc shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The original proponents of the amendments offered en bloc shall have permission to insert statements in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 3. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 4. After passage of H.R. 4850, it shall be in order to move to take from the Speaker's table the bill S. 12 and ask for its immediate consideration in the House. It shall then be in order to move to strike out all after the enacting clause of S. 12 and insert in lieu thereof the provisions of H.R. 4850 as passed by the House. It shall then be in order to move to insist on the House amendment to S. 12 and request a conference with the Senate thereon.

☐ 1530

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 523 is the rule providing for consideration of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Energy and Commerce Committee. It makes in order the Energy and Commerce Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The rule makes in order only the amendments printed in section 2 of the resolution and amendments printed in the report of the Committee on Rules. These amendments will be considered in the order and manner specified in the report and for the time specified. The amendments will not be subject to amendment except as specified and all points of order against the amendments are waived.

The rule also permits the chairman of the Energy and Commerce Committee or his designee to offer amendments en bloc consisting of the text of amendments printed in the report, with germane amendments and modifications. The amendments en bloc are not amendable nor subject to a demand for a division and will be debatable for 20 minutes. All points of order against the amendments en bloc are waived. In addition, the original authors of the en block amendments have authority to insert statements in the CONGRESSIONAL RECORD.

The rule provides for one motion to recommit with or without instructions.

Finally, the rule facilitates the ability to go to conference with the Senate bill, S. 12. It provides that, upon adoption of the resolution, the House is considered to have taken S. 12 from the Speaker's table, stricken all after the enacting clause and inserted the provisions of H.R. 4850, as passed by the House.

Mr. Speaker, this rule will allow the House to consider the Cable Television Consumer Protection and Competition Act of 1992. This bill requires the FCC to establish a rate regulation system for the basic service tier, and authorizes the Commission to reduce rates beyond this tier if a cable operator is charging unreasonable rates. It also requires cable operators to carry local commercial and public television stations; requires the FCC to set standards for customer service; and includes provisions designed to spur competition to the cable business.

Mr. Speaker, H.R. 4850 protects consumers by preventing unreasonable rate hikes, by improving the cable industry's customer service practices, and by promoting the development of a competitive marketplace. House Resolution 523 is a carefully crafted rule that will expedite consideration of this important legislation. I urge my colleagues to support the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to the membership that on this side of the aisle we do not intend to ask for a recorded vote on this rule.

Mr. Speaker, I rise in support of this rule for consideration of the Cable Television Consumer Act. House Resolution 523, while not a completely open rule, does not discriminate against any Republican Member. It does not gag any Republican Member who indicated the desire to offer germane amendments to this bill. Although we in the minority generally have concerns with preprinting requirements and rules that limit amendments, we do believe that such requirements should be undertaken in a fair manner. This rule is fair. Therefore, I urge Members on both sides of the aisle to support it.

I would like to thank the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], for dealing with a complex subject and reporting a rule that will permit the House to address the important issues and work its will through the amendment process. I would also like to commend the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], the distinguished ranking Republican, the gentleman from New York [Mr. LENT], and the chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY] and the ranking member, the gentleman from New Jersey [Mr. RINALDO] from coming to the Committee on Rules and requesting a rule that would permit every germane amendment to be offered on this floor.

Mr. Speaker, I would like to take a moment to recognize the efforts of the ranking member on the committee, the gentleman from New York [Mr. LENT]. He has chosen to bring his distinguished career in the House to a close with this 102d Congress and return to Long Island. Needless to say, we are all going to miss him dearly. Our New York delegation will especially miss him.

Mr. Speaker, the chairman of the Committee on Rules has thoroughly explained this modified closed rule. It provides up to an hour of general debate. It makes 17 amendments in order for consideration in the Committee of the Whole, including all 7 amendments submitted by Republican Members. It also permits the minority to have one motion to recommit with instructions, our traditional right.

Mr. Speaker, the administration opposes the committee bill, and the President's advisers will recommend a veto, if the bill is allowed in this present form. That is why I am supporting the rule, because it does allow amendments to be offered that would correct the problems which the administration might have with the bill.

I would like to submit the administration's statement of policy for the RECORD.

Mr. Speaker, the House will have an opportunity to consider a number of amendments that will improve the bill, including a clarifying substitute by the gentleman from New York [Mr. LENT], which, again, I would point out would allow the President to sign this bill. If the substitute of the gentleman from New York [Mr. LENT] is successfully passed on the floor, the President will be prepared to sign this bill.

The substitute that will be offered by the gentleman from New York [Mr. LENT] provides, I think, the best opportunity to craft a bill that can be accepted by the President. His substitute is very similar to the Cable Television Consumer Protection and Competition Act, which was passed by the House on a voice vote earlier during the 101st Congress, just 2 years ago.

Mr. Speaker, I again commend the chairman of the Committee on Rules for reporting a rule that is fair, I think, to both sides of the aisle. It does not gag any Member who would have germane legislative amendments, and it permits the minority to offer the Lent substitute and a motion to recommit with instructions.

Therefore, I urge everybody to support this rule.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 23, 1992.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4850—CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

The Administration strongly opposes sweeping reregulation of the cable television industry. If H.R. 4850, as reported by the House Energy and Commerce Committee, were presented to the President, his senior advisers would recommend a veto.

The Administration supports House passage of the amendment sponsored by Rep. Lent as an alternative to the reported version of H.R. 4850. The Lent amendment would eliminate or significantly modify many of the excessively regulatory provisions of H.R. 4850. It would also reduce one impediment to competition in the cable industry—the exclusive local franchise.

The Administration opposes the amendment to be offered by Rep. Tauzin concerning access to cable programs. It would restrict the discretion of cable programmers in distributing their product. Exclusive distribution arrangements are common in the entertainment industry and encourage the risk-taking needed to develop new programming. Requiring programming networks that are commonly owned with cable systems to make their product available to competing distributors could undermine the incentives of cable operators to invest in developing new programming. This would be to the long-term detriment of the American public. If competitive problems emerge in this area, they can and should be addressed under the existing antitrust laws.

The Administration opposes H.R. 4850 because:

It is anticonsumer. It would raise cable operating costs by $760 million to $1 billion annually. Rates would rise in many communities, and consumers additionally would be denied the benefits of improved service quality, new products and services, and expansion of cable to areas not now served.

It is reregulatory. It establishes a broad, intrusive regulatory structure that fails to provide incentives for cable systems to respond to consumer needs. The regulatory costs of the bill to Federal, State, and local governments would be $22 million to $60 million annually. These costs would be paid by taxpayers or consumers. The Administration believes that competition, rather than reregulation, creates the most substantial benefits for consumers and the greatest opportunities for American industry. Competition would drive down rates and improve service quality for consumers, while promoting industry development.

It would restrict foreign ownership of U.S. cable systems and other multichannel video delivery and programming-related services. Such a restriction invites retaliation by other countries and violates existing international obligations. It could stifle the growing investment of U.S. firms in foreign cable systems. It also threatens negotiations to: (1) eliminate the use of trade restrictions by other countries, and (2) open foreign government procurement to U.S. telecommunications products and services, an area in which the U.S. is in an increasingly strong position.

It would require cable operators and, perhaps, some direct broadcast satellite (DBS) operators to carry the signals of virtually all television stations. The signals would have to be carried regardless of whether those providers believe that the programming reflects the desires and tastes of their subscribers. The Administration believes that such "must carry" requirements would raise serious First Amendment questions by infringing upon the editorial discretion exercised by cable and DBS operators in their selection of programming.

It would interfere unnecessarily with business investment decisions made by cable operators. For example, the bill would apparently require the Federal Communications Commission (FCC) to adopt rules limiting the number of subscribers a multichannel video operator may serve nationwide. This would be done despite the lack of evidence of anticompetitive behavior by cable operators and the existence of antitrust laws to remedy such conduct should it occur. H.R. 4850 would also generally bar the sale of a cable system within three years after its purchase or construction. Such a provision would unnecessarily intrude into ordinary business decisions made by cable operators and prospective purchasers.

It would require that the FCC promulgate rules limiting the ability of multichannel video distributors to acquire ownership interests in video programming. Such vertical integration both increases the supply and quality of programming and permits operational efficiencies that ultimately benefit subscribers. If individual abuses occur, they can and should be dealt with under the antitrust laws.

The Administration is well aware of the widespread consumer concern about the structure and performance of the cable television industry. The task is to address these concerns in a way that benefits consumers and does not jeopardize the substantial benefits that the cable industry has produced for consumers since passage of the 1984 Cable Act. The Administration is convinced that this can best be accomplished by removing barriers to increased competition in the video services marketplace. The Administration, therefore, would support legislation to remove, subject to adequate safeguards, current prohibitions against telephone company provision of video programming and eliminate other barriers to competition in the video marketplace. The action of the FCC on July 16, 1992, in adopting a "video dialtone" framework for telephone company participation in video markets is an important step toward competition. Increased competition is the only way to ensure that cable legislation will benefit, rather than harm, American consumers.

Mr. Speaker, I include for the RECORD a copy of the statement of administration policy to which I referred.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, first of all, I rise in support of the rule.

□ 1540

Second, two individuals deserve enormous credit, the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Michigan [Mr. DINGELL], both of whom have constructed a bill that deserves very, very strong attention from this House.

Mr. Speaker, there are a lot of industry squabbles that are involved in this bill, but nonetheless, they have made the consumer provisions the heart of the legislation: They are: rate protection for cable consumers, universal customer service standards, ensuring that local over-the-air broadcast stations are carried on cable systems, and finally protecting customers from egregious behavior on the part of a limited number of cable operators.

I think what we must do, Mr. Speaker, is pass a bill that will be signed into law. Let us pass a good, moderate bill that does the job, that provides a solution to four issues that I mentioned before. Let us not make just a political statement on a whole set of other issues. Three years have been put into this bill. Let it not go to waste.

The second point that I want to make is that while there are legitimate consumer measures that the gentleman from Massachusetts [Mr. MARKEY], the gentleman from Michigan [Mr. DINGELL], and the minority have put in and that should be preserved, this is not, as one consumer organization claims, the consumer issue of the decade. We need to put this bill in perspective. This is an important consumer issue. Our constituents do want us to deal with cable rates, but it is also a vehicle for three powerful industries, the cable industry, the broadcast industry, and the program production industry, to settle disputes that will favor one group over the other.

I hope the final version of the cable bill preserves a regulatory environment that allows the cable industry and emerging competitors like DBS operators to have the freedom and incentive to invest in new programming, services, and infrastructure. From my perspective, a cable bill does need to be passed. So if the question is: Does the cable industry need new rules? The answer is yes. But does it need to be overregulated to death? The answer is no. Do they deserve to be regulated like a utility? The answer is no.

The 1984 Cable Act, for all of its shortcomings, was a success. Here is why. In 1984, 37 million Americans received cable. Now there are over 60 million Americans getting cable. And the average cable system in 1984 had 24 channels. Now the average system has 30 to 53 channels.

And the cable industry has produced an enormous amount of quality new programming: sports events, children shows, news, public affairs programming, entertainment, gavel-to-gavel coverage of the Congress, gavel-to-gavel coverage of the conventions, not by the broadcasting industry, but by cable.

We should build on the successes of the Cable Act and make changes that are fair, but not punitive.

Mr. Speaker, we have before us a good bill. There are a lot of amendments that are killer amendments and that would derail this legislation. I do believe that we have a compromise that can be signed. We need to move into conference with the Senate. This is important legislation, maybe not the most important consumer bill in the last 10 years, but clearly a bill that should become law. The consumer wants action, and at the same time we must deal with three industries with billions of dollars in revenue. Let us not tilt the balance among these industries unfairly. Let us keep it balanced, and most importantly, let us make sure that we pass legislation that still allow for new investment and incentives for programming and ultimately the American consumer.

Mr. SOLOMON. Mr. Speaker, I yield 7 minutes to the gentleman from Texas [Mr. FIELDS], a member of the Committee on Energy and Commerce.

Mr. FIELDS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule on H.R. 4850, the Cable Television Consumer Protection and Competition Act. I say I oppose this rule with all due respect to the gentleman from Massachusetts [Mr. MOAKLEY], and the ranking member, the gentleman from New York [Mr. SOLOMON], because I understand all of the political dynamics that are at work on this particular piece of legislation.

However, it is important for people to know that this rule prohibits my colleague, the gentleman from Ohio [Mr. ECKART], and myself from offering an amendment which is a germane amendment to the cable bill that would give broadcasters the right to control their only product, their signal.

Mr. Speaker, I am astounded that we have been denied the right to argue an issue that is central to the cable debate, I would say central to the future of television communication policy in this country.

As we discuss the legislation before us today, many statements will be made about the monopoly status of cable and about the need to foster competition in the industry. Yet the gentleman from Ohio [Mr. ECKART] and myself have been denied the opportunity to offer an amendment which would strengthen the competitive relationship between the broadcasters and cable.

While Congress should not be in the business of picking winners or losers in this debate, we do have an obligation to assure that the playing field is level. The Eckart-Fields amendment, otherwise known as retransmission consent, would have given local TV stations the right to negotiate with cable operators over the terms and conditions of their carriage on cable.

Currently broadcasters have no rights in the video marketplace vis-a-vis the cable. Under current law a local cable operator can take a local broadcaster's signal, the only product of the broadcaster, without permission of the broadcaster, and for free. The cable operator then turns around and sells that signal to the cable consumer at a monopoly price, and uses the profit to create competing programming which cuts into the broadcaster's audience and his only source of revenue, the advertising market.

Cable systems routinely pay the Discovery Channel, Cable News Network, TNT, and others to carry their programming, so why should they not pay the local broadcaster to carry the local news as well?

I think it is important to remember that in 1927 in the Communications Act Congress gave the right to control that signal to the broadcaster, be it TV or radio. In 1959, the FCC gave a special exemption to a fledgling industry, the cable industry. Now we have a $20 billion industry.

The amendment that the gentleman from Ohio [Mr. ECKART] and I want to offer would have restored the original congressional intent. However, in essence broadcasters are being forced to subsidize their chief competitor, which has evolved into a healthy $20 billion giant. I would ask my colleagues here in the House, can anyone think of a single other business where one company uses its competitor's products for free and then competes with that competitor by using the profits from selling that product? The gentleman from Ohio [Mr. ECKART] and I cannot think of any such situation.

Retransmission consent would have addressed the existing competitive imbalance by resolving the issue fairly in the marketplace to negotiations between the local broadcaster and the local cable operator.

Mr. Speaker, retransmission consent language is already in the Senate cable bill. It was approved by the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce before being removed at the full committee level for jurisdictional reasons. If we had been allowed the opportunity to debate the issue today, I am convinced that retransmission consent would have overwhelmingly passed the House.

I am sorely disappointed that the Committee on Rules has denied the Members of this Chamber the opportunity to support an amendment that is so vital to the future of free over-the-air television. It is clear that an open discussion was refused in order to please certain special interests who oppose our proposal.

Mr. Speaker, this action sends a terrible signal that we are satisfying the interests of the wealthy and the powerful at the expense of the viewing public. The issue central to this amendment was proprietary rights: who controls the signal, who controls the developed product. The result could be loss of local news. The result could be the loss of local public interest programming.

The loss of this particular amendment could mean at some point there is no free over-the-air sports.

Mr. ECKART. Mr. Speaker, will the gentleman yield?

Mr. FIELDS. I am glad to yield to my friend, the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, my colleague's statement expresses more eloquently than I could the view about how and why this matter should have been considered, known as retransmission consent. There is no doubt in my mind that we would have in fact prevailed. It was in fact germane, and it went to the central question of whether or not local broadcasters, the Nation's electronic front porch, will still have the standing, the wherewithal, and the ability to tell us what is happening in our neighborhoods and backyards.

□ 1550

But I join my colleagues in the expression of frustration of having worked out in the gym for 6 months waiting for the championship fight, and now finding out that it had been canceled. But I express to my colleagues my sincere hope that we are going to get that title belt anyway, and I feel confident and hopeful as this bill progresses that we will recognize the wisdom of the Senate provision which was adopted overwhelmingly in the other body, and which hopefully now the conferees can ultimately accede.

I thank my colleague for yielding.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, in 1984, as part of the deregulation swindle pushed by the Reagan administration and some Members of Congress, the Government withdrew its rate protection for cable TV consumers. Despite the fact that in community after community, in Vermont and throughout this country, there is no competition between different companies—that monopolies exist—the Government said to the cable TV industry, "You can raise your rates as high as you want. You can squeeze the consumer as hard as you want."

And what have been the results? The General Accounting Office determined that cable rates, on the national level, increased 61 percent from November 1986 to April 1991. And in recent years, cable TV rates have gone up even faster. They are going up off the wall.

Mr. Speaker, President Reagan and Members of this Congress deregulated the savings and loan industry, and the taxpayers of this country will be paying hundreds of billions of dollars in additional taxes as a result. President Reagan and Members of this Congress deregulated the cable TV industry, and consumers from one end of this country to the other are paying billions more than they should be paying in rates for the basic tier of cable TV services.

Mr. Speaker, it is not acceptable to me that in my own State of Vermont, according to the National Association of Broadcasters, rates for similar channel offerings since 1986 have gone up by 58 percent in Bennington, 123 percent in Montpelier 110 percent in St. Johnsbury, 34 percent in Burlington, and 34 percent in Rutland.

Mr. Speaker, where competition does not exist and a monopoly is in place, the Government has a legitimate right to make certain that citizens, especially our elderly citizens on limited incomes, can receive basic cable TV service at a rate that they can afford. That is a right of the people.

Mr. Speaker, last year I held hearings in Vermont on this issue and in my view, the people want regulatory protection. They want some control on the escalating costs of basic rates for cable TV, and this legislation begins that process.

Mr. Speaker, I urge support for the rule and support for the entire legislation.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I stand to echo the comments of the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] with respect to our disappointment that retransmission consent was not included in the rule, for I, too, think it would have passed.

Mr. Speaker, one of the most important services that our local television broadcasters provide is local news. That includes weather bulletins, public service programming, and public affairs programs as well as local happenings.

Because I feel strongly that local news is so crucial, I was supportive of the Eckart-Fields amendment to H.R. 4850, the Cable Television Consumer Protection and Competition Act, and am disappointed that it will not be offered. This amendment would give local broadcasters the opportunity to negotiate their terms of carriage with local cable operators and develop a second revenue stream which can help support the cost of local news and other programming. If local stations cannot bargain on the open market for the value of their signal—which is their only product—one of the first areas that local stations will have to cut back on is local news and other programming. In fact, we're already seeing that happen at many news departments around the country.

This right of retransmission consent, which the Eckart-Fields amendment would provide, is a local right. This is not, as some allege, a network bailout for Dan Rather or Jay Leno. Networks are not a party to these negotiations, except in those few instances where they own local stations themselves.

This is a fundamental rights issue, however, about what one business can do with the product of another.

Congress should act to ensure that local TV news and other local programming can continue to serve the American people. If we are not able to address this issue today, I urge the leaders of my Committee on Energy and Commerce to favorably consider it in conference.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the rule, House Resolution 523. It is a good rule, and deserves the support of our colleagues.

I would like to thank the Committee on Rules, and particularly its chairman, Mr. MOAKLEY, for the time that they spent yesterday crafting this rule. This is a complicated matter, and I am grateful that the committee was willing to hear from so many members on issues that are frequently difficult to comprehend.

In its wisdom, the Committee on Rules did not make in order amendments that are nongermane. This was a wise decision, particularly in that it will keep the House from debating extraneous matters that are time-consuming and complicated. I know that some who hoped to offer amendments are disappointed; however, in my view the House is well served by a rule of this type.

Two years ago, the House was able to pass a cable reregulation bill under suspension of the rules, with 40 minutes of debate. I very much regret that we will be unable to repeat that performance today. But the rule will help us to move this bill as expeditiously as possible, and we will do our best to avoid unnecessary delays.

Frequently, telecommunications legislation addresses disputes between what I like to characterize as the very rich and the very wealthy. In my view, this rule has helped us to avoid that situation. The rule has focused on the heart of the legislation—customer rates and service for cable subscribers. We are here to legislate on behalf of our constituents, and this rule will keep us on track.

I know that many of our colleagues are disappointed that the rule did not make in order consideration of the Eckart-Fields retransmission-consent amendment. I supported their right to offer that amendment. It is germane, and it addressed an important issue with respect to the relationship between cable system operators and television broadcasters.

But while I understand the disappointment that many here feel, I would remind my colleagues that the Senate companion bill, S. 12, contains a retransmission consent provision. Retransmission consent will be on the table in the House-Senate conference, and Members will be able to express their views on the conference report, which will reflect the outcome of that discussion.

Mr. Speaker, we have a long day ahead of us today, and I will not take more of the House's time. I would like to reiterate my appreciation to the Rules Committee and Chairman MOAKLEY for this rule, and urge my colleagues to support its adoption.

Mr. SOLOMON. Mr. Speaker, I yield 3½ minutes to the gentleman from California [Mr. ROHRABACHER], the star of the "Good Morning Show" this morning.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I do not have any great problem with this rule, but I rise in strong opposition to H.R. 4850.

Mr. Speaker, this bill's supposed purpose is consumer protection. Admittedly, people are up in arms about the rates charged by cable TV companies. But Mr. Speaker, this bill is ultimately anticonsumer, despite its good intentions. And despite its good intentions, this bill will end up decreasing, over time, the choices available to viewers and the quality of programming. Increased costs, decreased choice, lower quality—I ask you, is this protecting the consumer?

Granted, consumers are angry over their cable TV rates. But increased regulation is not the answer to high costs; it never is. No; the answer instead is increased competition. That is what Congress should be fostering, not additional burdensome, counterproductive regulation.

Instead of focusing on and requiring must-carry provisions, for example, we should instead be forbidding exclusive cable franchising practices which create cable monopolies. We should also be working to let the Nation's telephone companies into the cable marketplace—and to let the nation's cable companies into the switched-network telephone marketplace. Let us let the phone companies and the cable companies fight it out with each other over who can provide the best service, not only in the video market but in the telecommunications market as well.

Mr. Speaker, new technologies always foster increased competition, and new communications and information technologies are on their way. Direct broadcast satellite systems, for example are about to become commercially available. Fiber optics, digital television, advanced interactive information services, world-wide cellular telephone systems, and much, much more will also soon be here. In such a hothouse atmosphere of technological change who knows what other new capabilities and services will result? Which is precisely the point, Mr. Speaker.

This is the time to free this vital industry from the burden of regulation, not saddle innovation to the control of politicians and bureaucrats. We can expect expansion of service and product offerings, improved quality, and dramatic innovation as new technologies come on line—if there is competition, and if businessmen and entrepreneurs are free to manage their affairs, rather than be shackled with political and bureaucratic regulation.

Mr. Speaker, I urge my colleagues to withstand the temptation of offering something for nothing to our constituents at the expense of the future. I urge my colleagues to defeat this bill, although I have no great complaint with the rule.

☐ 1600

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I rise in strong support of this rule for the consideration of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. I support this rule and I support H.R. 4850, legislation reported by the Energy and Commerce Committee to reregulate the cable television industry.

Mr. DREIER of California. Mr. Speaker, I yield 3½ minutes to the gentleman from Louisiana [Mr. HOLLOWAY], a hard-working member of the committee.

Mr. Speaker, this important legislation would give consumers effective and immediate relief from unfair and unreasonable cable television rates and service. The bill would require the Federal Communications Commission to establish a rate regulation scheme for a basic tier of service that would include all broadcast signals and any public, educational, or government access programming.

The Commission would also be authorized to reduce rates for cable programming services outside of the basic rate regulated tier that are determined to be unreasonable.

In this respect, the bill responds to the concerns many of our constituents have expressed: unreasonable and excessive cable television rates must be brought under control.

Mr. Speaker, I also want to take this opportunity to thank the Rules Committee for making my substitute amendment to the Tauzin amendment on program access in order.

Mr. Speaker, should Congressman TAUZIN offer his amendment on program access, I plan to offer a substitute with my good friend and colleague, the gentleman from North Carolina [Mr. ROSE].

The Manton-Rose amendment is virtually identical to the program access provision contained in the cable reregulation bill that unanimously passed the House during the 101st Congress. The Manton-Rose amendment is a bipartisan compromise that has the strong support of the chairman of the Energy and Commerce Committee, the distinguished gentleman from Michigan [Mr. DINGELL] and the ranking minority member of the committee, my friend, the gentleman from New York [Mr. LENT].

The Manton-Rose amendment strikes a balance between the need to promote competition in the multichannel video marketplace and the need to protect the legitimate intellectual property rights of video programmers. I will speak in greater detail on the amendment when it is offered during consideration of the bill later today.

Mr. Speaker, I urge members to vote for the rule and to support the Manton—Rose substitute to the Tauzin amendment on program access during the consideration of this important consumer protection legislation.

Mr. HOLLOWAY. Mr. Speaker, I rise in opposition to the rule. I am troubled by the fact that the amendment on retransmission consent for broadcasters which was to be offered by my colleague from Taxes has not been made in order.

The Cable Act of 1984 has been successful, in that it has allowed cable to flourish. Dozens of new programming options have been created, and cable has grown beyond anyone's expectations. These successes have not been without cost, however, and that is why we are considering the bill before us today.

As we debate solutions to the problems that have arisen with cable, I agree with those who favor marketplace solutions wherever possible. We should avoid heavyhanded regulations, and look to competition as the cure. In my view, retransmission consent is a prime example of such an approach. It is designed to allow local broadcasters and local cable operators to address competitive issues with a minimum of Government intrusion.

The amendment establishing retransmission consent is simple. It provides that no multichannel provider may use the signal of a local broadcaster without first obtaining permission. A broadcaster's exercise of the must carry option would constitute such a grant of permission. For those who utilize their retransmission rights, it does not require payments, or impose taxes, fees, or surcharges. It does not affect any of the commercial networks. Retransmission consent simply establishes a mechanism by which two established commercial interests can negotiate with each other and both interests bring something of value to these negotiations.

While retransmission consent will allow such negotiations for the first time, it does not require an agreement or mandate that the parties come to terms. It places the broadcaster who opts for retransmission consent at risk, because the broadcaster must choose between must carry and retransmission consent and then enter into negotiations with the cable operator. If there is no agreement, the broadcaster can lose access to that part of his market that subscribes to cable for 3 years. Also, it is important to keep in mind that the broadcaster who deals with several or many cable systems is not required to lock in to retransmission consent or must carry for all of those systems. The broadcaster can choose between the two options for each cable system within the broadcasters market.

I just speak on these issues, because I am in a small market, 50,000-people station. News cost is tremendous, and I think each and every one of us depend on the commercial stations' newscasts in our local markets. The cost is rising. We all know how the cost is rising on news on our local stations. They do it all. They do all the newscasts. The market on advertising is shrinking, because the cables are getting part of it. It is limited to start with.

In closing, retransmission consent is a marketplace mechanism that allows two business interests to try and reach an agreement. It does not mandate any predetermined outcome. I am disappointed that we will not have the opportunity today to vote for this amendment.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I support H.R. 4850. However, an amendment, which to my disappointment has not been made in order, would have improved this bill significantly.

It was a procompetition amendment. It was a proconsumer amendment. It would have addressed a growing threat to something all Americans take for granted—that local TV stations are the principal means by which they can know and understand what is going on in their communities; the principal means by which their communities are reflected back to them.

In the last decade or so, much has changed in the way Americans receive their news and entertainment on their television sets. And, in the past, those local televisions stations provided all the services we call localism and made a lot of money doing it. Today, those same TV stations still provide those services—are still the only television service required by law, regulation, and license to provide those services.

But, during that time, the marketplace has changed dramatically. Local broadcast TV is no longer the gold mine it once was. Competition from new and diverse technologies has changed that. And that is OK. But if those broadcasters must compete with the added burden of providing local programming but with limitations on their ability to compete for revenue, the localism we take for granted can and will disappear with the TV stations themselves. None of the competitors to the local station are required to provide the viewing public with that localism service.

The amendment I wish had been made in order by this rule would have addressed this situation. It would have recognized broadcasters' retransmission consent rights, thus establishing fair competition in the local marketplace.

Further, retransmission consent relies on competition, itself—not regulation—to check any anticompetitive behavior of cable operators. It frees stations to negotiate with local cable systems without Government intervention or coercion. Retransmission consent does not intrude into the private business of either cable operators or local broadcasters. It permits negotiations, but does not dictate the terms of any agreements that these two parties choose to enter into. Indeed, it does not require that the two parties come to terms at all.

I believe that the majority of Members support legislation to address today's problems with the cable industry. But a retransmission consent provision would also protect broadcasters' rights in their signal, allow them to function more effectively in the marketplace and assure they can continue to provide the basic local service that only they have been required to offer since the Communications Act was first passed 58 years ago. I will vote for this rule, but it is unfortunate that we will not be able to include a retransmission consent provision in the legislation that will pass the House today.

☐ 1610

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER], a very hard-working member of the Committee on Ways and Means who is going to be carrying his brilliance to the other body in January.

Mr. CHANDLER. Mr. Speaker, I rise in opposition to the rule.

I am delighted to follow my fellow former broadcaster, the gentleman from Washington [Mr. SWIFT], in complaining about this rule.

Mr. Speaker, I rise today to express my dismay that the amendment to be offered by the gentleman from Texas [Mr. FIELDS] was not made in order. While I understand that there is varied opinion on this issue, I believe that it is an issue this House should have the opportunity to debate on the floor during debate on H.R. 4850.

The Fields amendment would have provided for a retransmission consent option for free, over-the-air broadcasters. The intent of the amendment was to give bargaining power to local broadcasters when negotiating the terms of cable carriage—not to serve as a subsidy for major networks. Unfortunately, we will not have the opportunity to fully address the merits of this proposal today.

Counter to what opponents may argue, retransmission consent is a local issue. It affects broadcasters and the public service which they provide to their communities. It is an issue of local stations, carrying local programming and news about local interests.

My first job out of college was with an ABC affiliate. In 1968, I began a 5-year period of reporting and anchoring with KOMO–TV in Seattle. I saw firsthand how valuable news and programming, produced by local broadcasters, is to communities. I also understand the impact that the cable industry has had on local television stations. Programming which serves the needs of a community are being rebroadcast by cable companies without any return to the affiliated or independent station for the effort and cost required to produce that public service.

Without a retransmission consent option, local broadcasters are literally being forced to subsidize their own competition. No industry should be subject to such an inequity. Broadcasters are merely asking to receive a portion of the payments that cable operators are already charging their customers for this service in their basic package rates.

Could you imagine a successful cable company which did not carry local broadcasting to its customers? Could you imagine turning on your television and instead of getting your local news on channel 4, your only news option was a superstation, or even a variety of superstations. I think my colleagues would agree that a great deal would be lost—a sense of community.

Cable operators will argue that they would never elect not to carry local networks. However, if the retransmission consent option is not considered, we may find that local networks are unable to survive the increasing revenue losses. Who then would be left to cover the story on a local high school football team winning a State championship, or the heroics of a little girl whose 911 emergency call saved her mother's life?

Mr. Speaker, this amendment would have provided a practical and reasonable response to one major inequity in today's video marketplace. I urge all of my colleagues to support retransmission consent later in the legislative process.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I would like to alert our colleagues to a very important amendment that is going to be coming up on this very important cable bill. The amendment is the Tauzin amendment. I would like to urge all our colleagues, those on the floor and back in their offices, to focus on that amendment. It is the heart and soul of this bill.

People on both sides of the aisle have said what they really want in cable TV is competition. Competition is the best way to lower prices for cable TV and improve service. Competition is the answer, and the only real way to get competition is through the Tauzin amendment program access. What program access does is allow competitive cable companies, in some cases these are going to be rival cable companies themselves. Sometimes they are going to be satellite dish companies. Sometimes they are going to be wireless cable companies. Lots of technologies are involved.

What the amendment does is give these companies a chance to buy the hot program, a chance to compete in the marketplace to buy the hot shows that people want to watch on TV because you can have cable company A and you can have cable company B, but if cable company B has none of the hot shows, nobody is going to want to subscribe. You are not going to have any real competition. So program access may sound like a technical amendment, but it is a vitally important amendment.

This bill is not a good bill without the Tauzin amendment.

I would also like to urge my colleagues not to be fooled by the Manton substitute. It looks good on the surface. It does not, however, provide real program access. It does not give these competitive cable companies a chance to go out and really bid on the program.

For example, it may help some satellite dishes, the 10-foot wide dishes, the old-fashioned dishes. It does nothing for the new dishes that everybody wants, the 2-foot wide dishes, the dishes that you can carry home in the trunk of your car, the dishes that you can set up easily where you live, including on your condo balcony or your apartment balcony, the dishes that are going to transform the video marketplace of this great country.

Let us have real competition in the delivery of multichannel video services. To do that, vote "no" on Manton, vote "yes" on Tauzin.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG], another of our many television personalities.

Mr. KLUG. Mr. Speaker, I was prepared to rise today in support of the amendment which should have been offered by my colleagues, the gentleman from Texas and the gentleman from Ohio. The amendment, as we have just heard several speakers talk about, was retransmission for broadcasters. I am disheartened by the fact that I am not going to have the opportunity to vote for this amendment to support my local broadcasters back in Wisconsin and to grant them the ability to control the use of their signals.

I bring the perspective of somebody who worked in broadcasting for 14 years, in Washington State, like my colleagues, the gentleman from Washington [Mr. CHANDLER] and the gentleman from Washington [Mr. SWIFT], here in Washington, DC, and back in my home State of Wisconsin.

If you look at my home television market of Madison, WI, it is a perfect example. There are three local network affiliates and one independent.

There is no guarantee that the local cable systems have to carry any of those stations, period. They might choose to carry two of them and eliminate the other two, which puts the two not carried at a great competitive disadvantage.

There is absolutely no ability for the local broadcasting stations to be paid for the fact that the cable system reaches out, grabs the signal, repackages it, sells it, and makes money off of it.

Finally, and perhaps more importantly, the local stations have no ability whatsoever to reach an agreement with the local cable system about what channel they are going to be replayed on. So a station, such as channel 7 here in Washington, might find itself channel 7 on one cable system, channel 17 on another, 27, 33, 52, 64, and the combinations are endless.

As the gentleman from Washington [Mr. SWIFT] and the gentleman from Washington [Mr. CHANDLER] have said, broadcasters today face a much different economic climate than they did in the past, and it is important that we lay down some fundamental principles, especially because of the new forms of video distribution which shortly will be arriving on the scene.

We have heard about the promise today of telephone company delivery of video, direct satellite broadcasting, and wireless cable. In the future there may be even more technologies. If broadcasters do not have the right to protect their signals and negotiate with these newer technologies, they will find in the future they may not be able to survive at all.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, let me first thank the chairman of the Rules Committee and the Rules Committee for the rule. Unfortunately, it does not contain a rule that will permit the consideration of the retransmission consent amendment that I think should be considered on this floor and hopefully will be considered in the conference.

The other body has already adopted such a provision. I think it is terribly important.

But the rule does permit—and we will see a great debate on the floor of this House before this bill is over. We will see a debate between the Tauzin amendments; but more importantly, that debate will be between the ability of the great cable monopolies to insist in this Chamber, as it has insisted in America, that it can raise rates at will and nobody can do anything about it, or whether we in this Chamber will answer consumers' legitimate concerns that they have a chance at a competitive price marketplace.

□ 1620

The Tauzin amendment will give you that competitive price marketplace. What it will do, we will show you, is that, according to the FCC, when competition exists in cable—and it only exists in 5 percent of the cable markets—where competition does exist, cable rates fall by as much as 34 percent. We will demonstrate for you that consumers are losing $4 billion annually to monopoly cable rates because the monopoly cable companies face no competition in 95 percent of the marketplace.

This law will decide between MANTON and TAUZIN, but to get to the Tauzin amendment, to give consumers the chance they got on the other side when the Senate voted 73 to 18 for a similar amendment like Tauzin, to get to that vote we are going to have to defeat the Manton amendment. It is an amendment crafted for the big cable companies, designed for the cable companies, and unless we defeat it we are never going to do anything for the consumers of television in America.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 2 minutes to a gentleman who, unfortunately, is going to be retiring from this body. I refer to our great judge from Tuscaloosa, the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we have heard a lot of misinformation about an issue that many in this Chamber hoped would be debated here today—retransmission consent.

The cable industry has spent a lot of money and effort at scaring the American people about this concept. They even ran ads on their cable systems and sent out flyers in their cable bills warning customers that if retransmission consent were enacted, they would have to begin charging a 20-percent surcharge on every cable bill to pay the networks for their programming.

Well, as we know now, this campaign of misinformation has been completely discredited. There is no 20 or any other percent surcharge on cable bills that would arise from this change in communications law. And networks would not even be a party to these local negotiations, except in those few instances where they themselves own a local station.

What retransmission consent will do is simply allow local stations to enter into negotiations with local cable operators for the right to use their only product—their broadcast signal. This is a fundamental communications right which has been granted to broadcasters since the Radio Act of 1927, but which an exception for cable was made in 1959, when cable was nothing more than an antenna service.

Today, cable is a $21 billion-a-year industry. It creates and owns much of the programming it provides on its wires. It is the sole gatekeeper for the video choices of over 60 percent of American homes. It no longer needs—and broadcasters can no longer afford—the subsidy which local stations must provide to cable when cable uses those signals without negotiations over the terms and conditions of that usage.

I do not know of any other area of American commerce where one business is allowed to take the product of a competitor for free—sell it to the public at a monopoly price—and then use the profits from that transaction to create competing products. But that is exactly what we have with cable and local broadcasters. And if it does not get corrected soon, local stations will simply be forced to cut back further and further on their local services, including local news, weather reports, public service, and public affairs programming. That hardly serves the public interest.

Mr. Speaker, I support the effort to include this provision when the House and Senate conferees meet to work out a final version of cable legislation. Such a provision is fair and reasonable. It would not force cable to pay one cent for anything. What it would do is allow there to be a marketplace between broadcasters and cable operators, and that is something all of us should support.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I have listened, Mr. Speaker, to a lot of my colleagues who have been explaining that they just regret we do not have an opportunity to vote on retransmission consent. Well, the answer is very simple, it is simple: Energy and Commerce basically could not legislate in the copyright area because that is within Judiciary's jurisdiction and they took it out in full committee to try to avoid a sequential referral, simple as that. I regret that because we were prepared to try to deal comprehensively with the entire law. You cannot do that piecemeal.

You know, retransmission consent is a broadcaster's Christmas in July. You know, they are addressing a problem that needs to be addressed. There is no question but that cable should not have a free ride for local signals. That is wrong. They have enjoyed that ride for a long time. But you do not solve that by giving broadcasters $1 billion and more.

The estimate is $1 billion, anywhere between $1 billion and $3 billion for the consumer. That is what you are talking about.

The answer is to try to deal with some of the copyright issues, and we hope to do that. A bill is moving through the Committee on the Judiciary, it is out of subcommittee, that will deal comprehensively with the whole compulsory license issue. That is what we need to do.

We need to provide that second stream of revenue for broadcasters, but, you know, all of a sudden they have gotten greedy. They see that instead of perhaps receiving $200 million or $300 million, there is potentially $1 billion to $3 billion which they will saddle on consumers.

So, before you lock yourselves into retransmission consent, read a little bit about what that means to not just telecommunications policy but to your consumers. When you do, you will see that there is another answer. It is not retransmission consent. It is not to give that kind of power to broadcasters, but to develop the kind of mechanism that we need to provide to try to sort this out in the context of copyright, which is where we can deal with those problems.

Mr. DREIER of California. Mr. Speaker, at this time I have no further requests, but I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this rule, and I also rise in support of the bill, H.R. 4850. I am, however, sorry that I was not able to have my sense of the Congress amendment regarding sports blackouts made a part of this rule, but there are other features of H.R. 4850 that I think are very worthy in this piece of legislation.

For example, it allows local governments to regulate program rates charged for any professional championship contests. While season ticketholders are sure to get tickets to the championship games, other supportive fans also deserve a chance to see the games at a reasonable rate.

For the last 2 years, for example, when the Chicago Blackhawks hockey team made it to the Stanley Cup playoffs, fans who had loyally supported the team throughout the season and were unable to get a ticket to the sold-out games found out they could only see the games on television and only on a pay-per-view basis. I think this is unfair, given the fact that in Chicago and other cities, professional teams play in stadiums and arenas partly financed by local government.

For many Blackhawk fans, hockey is a way of life and a needed diversion from the sometimes hard work of providing for their families. Many of these fans helped pay for arenas and stadiums through their taxes. We need to keep the televising of professional sports as accessible as possible.

Although cable and sports executives are quick to say that traditional championship games like the World Series, Super Bowl, and the NBA playoffs are not headed for pay-per-view, it is clear that putting hockey championship games on pay-per-view is the start of a trend. It is only a matter of time before more and more games will be offered only in this way.

When and if pay-per-view becomes the standard for sports, and I hope that it never does become the standard, we need to be sure that the rates are affordable for most fans. The last thing we need is a television system that further divides our country along economic lines. Regulation of pay-per-view is just one reason why I support this bill.

Mr. Speaker, this legislation provides for fair and equitable cable television rate regulation. I am not in favor of unnecessary regulation, but I believe the cable television industry has reached the point where it is necessary for Congress to pass legislation to protect consumers by bringing under control some of the problems we have experienced in the industry in recent years.

Since the Congress adopted the Cable Communications Policy Act 7 years ago, there has been tremendous growth of the cable industry. In 1985, only 37 percent of households had cable television; today cable is in 61 percent of American homes.

While the quality and diversity of programming has greatly increased during this period, subscribers are concerned because cable rates have skyrocketed. Between 1986 and 1991, monthly rates for the most popular basic rates increased by 61 percent, from an average of $11.71 to $18.84 per subscriber, according to the GAO.

This is a proconsumer bill that would ensure reasonable competitive-level rates for cable programming and offer some protection to consumers from unreasonable rate hikes. Unfortunately, many of the low income and fixed-income residents of my district cannot afford cable, and I am concerned that many of those who currently subscribe to cable may be forced to give it up if the rates continue at the current pace.

RATE REGULATION

Rate regulation is the heart of this legislation. One study shows that basic cable rates have risen an average of almost 65 percent in my district over the last 5 years. This bill extends Federal Communications Commission price protection to all tiers of programming. If the FCC finds the basic cable rates are excessive, the local franchising authority can reduce the basic service charge. This bill would limit basic rates to what would be charged in a competitive market, based on a formula established by the FCC. In 97 of the Nation's cable markets, operators face no real competition. Studies have shown that cable rates would be about 50 percent lower if cable companies faced the pricing pressures that come from being in a competitive market.

MULTIPLE FRANCHISES

The provision of the bill which allows for cities to offer multiple franchises offers a chance for the kind of competitive environment that could resolve some of these problems. I wish that perhaps the legislation had gone a step further and mandated multiple franchises so that customers would have a greater choice of programming and other services, but this is a good first step. I have been pushing the cable industry to find new ways of offering consumers a chance to make wider program choices. At some point these additional program choices will be made possible through new technologies and the eventual entry of telephone companies into the cable television business.

TELCOS

While I am on the subject of telephone companies getting into the cable, let me say that the Bush administration's most recent gambit of getting the FCC to let local phone companies transmit cable television does not negate the need for this legislation.

At some point down the road, competition from the telephone companies and other sources will work to keep cable prices down and offer consumers greater diversity in programming, but that is at least a decade away. Also, there are a number of questions that must be answered, including who is going to pay the billions of dollars needed to develop a video-telephone network.

Let us first attempt to rectify the problems that exist in the current cable structure, then look to expanding the marketplace.

EEO

This bill has provisions that call for continued rigorous enforcement of equal opportunity rules designed to improve opportunities for minorities and women.

Although there has been increased equal employment opportunities in the cable industry since 1984, when the first Cable Act was enacted, there is still room for improvement. A look at the FCC Employment Trend Reports shows that the majority of female and minority employees continue to be clustered in low-paying positions, particularly office and clerical positions.

The percentage of professional positions held by ethnic minorities has not increased significantly since 1985. In fact, in the case of African-American males, there has been a decrease. According to the FCC, in 1985, 4.1 percent of professional positions were held by blacks, compared with 3.6 percent in 1991. This bill requires licensees to establish a program that ensures cable operators hire and promote a workforce that reflects the diversity of the community it serves.

As I said in the beginning, it is not my intent to saddle the cable industry with unneeded regulation. This bill offers consumer protection, encourages competition, and sets much needed rate regulation. I urge my colleagues to vote in favor of this bill. It is time we joined the Senate in approving cable legislation that is proconsumer without being anticable.

I hope that everyone will support the bill and the rule.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. I thank the chairman of the committee for yielding this time to me.

Mr. Speaker, I must reluctantly rise in opposition to this rule today, because it fails to recognize the value of locally oriented broadcasting.

For years, many American TV viewers have come to depend on the local news, weather, public service, sports, and public affairs programming of their local television stations. These broadcasters have served us well as they meet their public interest obligations as FCC licensees.

But they face a grave future unless they can gain a more equal footing with their chief competitors. Given the current situation, where cable can take broadcast signals for free, sell them for a profit, then use those profits to create competing programming, broadcasters are now in the terrible position of having to subsidize a wealthy and successful competitor. If this goes unchecked, we will see local stations having to cut back on those local services which make them unique among video providers.

Mr. Speaker, we cannot afford to let that happen. We need strong, locally-licensed stations to provide that local programming which cannot be produced elsewhere. I had hoped that today, we could have voted on an amendment which my friends, the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] wanted to offer. That amendment, known as retransmission consent, would set up an option system for broadcasters.

Local stations could choose either must-carry, which is already a part of the bill, or they could waive must-carry and seek to negotiate the terms and conditions of their cable carriage directly with cable operators. This second option would give broadcasters the opportunity to bargain for the value their signals provide to local cable operators. And given that nearly two-thirds of cable viewing is of these local broadcast signals, it's clear that these stations deserve more than they are currently getting.

A recent survey conducted by the National Association of Broadcasters of 1,000 adults show that nearly 60 percent of those surveyed agree that it is unfair that cable systems do not have to pay broadcasters for the right to use their programming. That finding merely supports the commonsense approach I take, which is that retransmission consent is the only way broadcasters can recoup the value that their signals—their only product—provide to cable.

I share the disappointment of many here that this issue was not made in order as an amendment to the cable bill. The Eckart-Fields amendment has been extensively discussed in the Energy and Commerce Committee, and it absolutely deserves to be a part of today's debate. Since this resolution fails to rule the retransmission consent amendment in order, I cannot support it, and I strongly encourage my colleagues to vote "no."

□ 1630

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. Markey].

The SPEAKER pro tempore (Mr. TORRES). The Chair would advise the gentleman from Massachusetts [Mr. MOAKLEY] that he has 3 minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Massachusetts [Mr. MARKEY], so that he can close the debate here on the rule.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 4 minutes.

Mr. MARKEY. Mr. Speaker, I thank the gentlemen very much, the gentleman from California [Mr. DREIER] and my good friend, colleague, and leader, the gentleman from Massachusetts [Mr. MOAKLEY].

And I thank the Committee on Rules for their rule, and I think that it has helped to shape this debate so that the major issues, with the exception of the retransmission issue, will be out here on the floor, and I know that many Members are disappointed that the transmission issue will not be out here today. But I think most of us believe that it is absolutely essential that a retransmission consent provision be in the bill that is sent to the President for signature, and I can guarantee the Members that we are going to work toward that effort. I especially say those words to the gentleman from Ohio [Mr. ECKART] and the gentleman from Texas [Mr. FIELDS] who have dedicated a good part of the last year toward that effort.

The gentleman from Michigan [Mr. DINGELL] and I have worked with our staffs over the last year to shape this bill. We have worked as closely as possible with the minority, with my good friend, the gentleman from New Jersey [Mr. RINALDO] and the gentleman from New York [Mr. LENT] to bring a piece of legislation to our colleagues.

Now there are disagreements; there is no question about it. The Lent substitute, to a very large extent, is going to frame those choices for this body. Now whether it be blockage of foreign ownership of the cable system of our country, tougher regulations, tougher consumer protections, increased competition, which this bill has, the must-carry provision which protects television stations against being moved around indiscriminately or just bounced completely off the cable network completely; this bill has a long list of provisions which contrast sharply with the minority substitute which the gentleman from New York [Mr. LENT] will be making. It is my hope that since 1984, Members in this body understand that, although, with the best of intentions, there was a deregulation of the cable industry. It was for the purpose of getting the technology out as quickly as possible, into the hands of as many Americans as possible. Right now cable goes past 90 percent of the homes in America and 65 percent of all Americans subscribe to it. So, the technological benefits are out there now.

Now the question is: Do we return and clean up some of the unintended consequences which have manifested themselves over the last several years? We think that the proposal which we bring to our colleagues here today does that, and it does so in a judicious way. The issues that were unresolved, primarily this issue of access which the amendment of the gentleman from Louisiana [Mr. TAUZIN] brings out here to the floor, is one which ultimately will be determined in the course of the debate today.

Mr. Speaker, I think the chairman of the Committee on Rules and the members on our committee have done a good job in framing those issues for the body. I think by the close of the day today we will be well on our way to constituting a telecommunications policy for the 1990's, and I would hope that this body would give some respect to the product which came out by a vote of 31 to 12 out of the Committee on Energy and Commerce. We worked long and hard on this bill, and at the end of the day today I think we will be completing the House procedure that will then allow us to go to conference and to put a bill on the desk of the President. It is highly controversial and highly technical, but in the end we are protecting consumers, we have augmented competition, we are protected against the foreign takeover of this vital communications network in our country and, we think, produced a good bill for consideration today.

Mr. DREIER of California. Mr. Speaker, I am not particularly ecstatic about the rule or the bill in its present form, but I hope very much we will be able to craft something that will create a wider range of choices for the American consumer at the lowest possible price.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER por tempore. Pursuant to House Resolution 523 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4850.

□ 1635

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume, and that would be just briefly, to once again reiterate what a pleasure it has been to work with the gentleman from New Jersey [Mr. RINALDO] at the subcommittee level and with the minority staff, working, of course, in conjunction with the gentleman from Michigan [Mr. DINGELL] and all of the members on the majority side. We have tried to put together a piece of legislation in as collegial a fashion as possible.

Mr. Speaker, the issues out here today are the remaining issues that the full House will have to decide, and, as we reach this point, I would like to say that we really do have an historic moment. We made a big decision here in

Congress. It was that we wanted to create a technological revolution back in 1984, and we wanted to get it into the hands of the consumers as quickly as possible. Now that decision was made on a bipartisan basis back 8 years ago, and the fruits of that decision are in the hands of most consumers in the country right now.

But with it came a number of problems, a number of problems that have gone unaddressed, and that includes our ability to be able to protect against rate increases which are happening in many parts of the country without any concern for the impact upon consumers, the lack of competition against an industry that in 99 percent of the communities in which there is a cable system there is no competition, against the threat that, as we move forward, we learn that the purchase of two or three companies that have cable interests would give some foreign entity control over the latter-day, modern telecommunication network of our country, and in our opinion it is time for us to come back and to revisit these issues to ensure that there is protection of consumers, ensure that there is more competition, ensure that there is protection against foreign ownership of this vital network.

On the foreign ownership issue, Mr. Speaker, we do not allow them to own our television stations. We do not allow them to own our radio stations. We do not allow them to own our telephone networks across this country. And for good reason. And that reason is that it is a part of the vital infrastructure of our country, and the cable network has become the modern equivalent of those earlier telecommunications technologies. This piece of legislation ensures that equivalent legal treatment and protection will be given.

I, over the last several years, have requested GAO accounting studies of the cable industry and the rate increases.

□ 1640

We have found since deregulation the cost of basic service has ballooned 61 percent to cable consumers across the country. That is three times the rate of inflation since deregulation. Just this year it has seen the rate of cable TV go up 10 times the rate of inflation in the month of February and 4 times the rate of inflation in the month of April in this country. These dramatic increases have to end.

We are going through this legislation to give the tools to the relevant government agencies and to the consumers which will ensure they are protected against that kind of rate gouging. We are going to protect against the bad actors out there in the cable industry.

I think this is a good time to put out in the Record that there are many, many, many good cable operators in this country, but there are too many others who have in fact taken advantage of the lack of regulation and continue to exploit this inability of consumers, of local municipalities, to be able to protect their citizens against the rapacious conduct that has resulted in these dramatic increases in cable rates.

Mr. Chairman, this is a good bill. It is one which I think the full House should endorse today.

Mr. Chairman, I reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today, the House of Representatives will consider legislation to address concerns about the cable industry that have arisen since the Cable Communications Policy Act was adopted in 1984.

That law was enacted for a simple reason: The industry was being held back by unnecessary, burdensome requirements being imposed upon it. Testimony was given to us that, with deregulation, we would see fuller penetration of cable TV throughout the country. We would see greater consumer choice. And we would see greater investment by the industry in programming.

In short, deregulation was supposed to provide the industry the impetus it needed to reach its potential.

There is no doubt about the actions Congress took in 1984. The Cable Communications Policy Act was a success.

Once that law was passed, cable TV became one of the most talked-about developments in America.

More than 60 percent of American homes now subscribe to cable.

In many areas throughout the country, cable customers have access not just to dozens but to scores of cable channels.

C-SPAN and CNN have literally changed the way Americans receive information about politics, government, and local, national and international events.

In a word, Mr. Chairman, Congress made an important decision in 1984, and that decision was, and is, a success.

But in the years since 1984, we have also encountered problems.

In some jurisdictions, cable operators took advantage of price deregulation to raise rates above what was justified.

That is clearly wrong.

And unfortunately, in far too many of those instances, cable TV customers have had no other cable company to turn to. It was all-or-nothing with the only franchise in town.

At the same time, far too many cable operators were not ready for the number of homes who signed up.

Customer services was woefully poor in many areas. And it was far below the minimum level that rising cable prices demanded.

There have also been repeated complaints from other industries—including DBS, MMDS, TVRO and others—that the cable industry was refusing to provide programming to potential competitors.

On the one hand, cable operators were given freedom from price regulation, and on the other hand they were stifling any potential competition by locking up programming.

The Telecommunications Subcommittee has carefully examined the cable industry over the last 4 years and has compiled an extensive record on problems in the industry.

Our committee record provides clear evidence that there have been numerous instances of abusively high rates and poor customer service.

But when we have identified those problems, we have acted to deal with them responsively, effectively, and swiftly.

Nearly 3 years ago, I laid out a challenge to leaders of the cable industry. I told them the facts of life in Congress, and I said that if they were unwilling to clean up problems in their industry, Congress would do it for them.

I laid out a six-point plan for customer service, which included a restraint on rises in cable TV rates, hiring more customer service representatives, adding additional telephone lines if necessary. In short, I told them to do the job they should have been doing all along.

Not long after that, Chairman Dingell, Chairman Markey, Congressman Lent and I put together a responsible piece of legislation. It had broad, bipartisan support and it passed the House of Representatives overwhelmingly 2 years ago.

It died in the other body. But earlier this year, the other body tried to pick up where it left off.

I would like to commend my colleagues in the other chamber for attempting to follow our lead, but the fact is the legislation they passed is nothing like the bill the House of Representatives approved 2 years ago.

Frankly, I am distressed at how this issue has evolved in the last several months, for an important reason:

Our goal should not be to bash the cable industry. It should not be to undermine the success of the 1984 Act.

Our goal should not be any different from what it was 2 years ago:

We should pass a solid, effective, practical piece of legislation that addresses real problems in the industry, that protects consumers from excessive rate hikes, and that gives consumers the service they deserve.

We should not pass a wish list of proposals that will only do more harm than good.

I strongly support rate regulation for abusive cable operators, and I will vote for such an approach.

I also support strengthening the Federal law on stimulating competition. We should not allow members of the cable industry to refuse to deal with potential competitors, and that is why I am supporting the Manton amendment.

We must make sure that cable TV customers get the service to which they are entitled, and I support provisions that will improve customer service.

In conclusion, Mr. Chairman, I hope that we will work this afternoon to produce legislation that protects consumers.

As we consider this bill today, and as we continue toward a conference with the Senate, I am going to do everything I can to enact effective consumer safeguards, improve customer service, hold down rate hikes, and prevent unnecessary and unwarranted costs from being passed on to consumers.

I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in full support of this legislation. There is, however, an issue of great importance to me which is not addressed in H.R. 4850.

For several years, major league baseball and other professional sports leagues have repeatedly requested regulatory and legislative changes that would have the affect of hindering or preventing superstations from continuing to carry these sports into millions of homes across the Nation.

Many sports fans can't afford the high cost of taking their families to a professional game. That's why I attempted to have adopted an amendment to the cable bill, H.R. 4850, that would prevent major league baseball from blacking out baseball on superstations.

Across this Nation there are hundreds of thousands of sports fans, many of them senior citizens living on fixed incomes, who can not afford $30 or $40 to go watch a major league baseball game. These fans have watched baseball over superstations for over 15 years. They can't afford to go to the stadium and they will not be able to afford the higher price of viewing games on regional sports networks or pay per view.

Superstation sports have been an important counterbalance to the sports leagues, ensuring viewers inexpensive access to sporting events, particularly in sports short areas of the country. At the same time, it has been proven that sports telecasts over superstations do not have a negative affect on home team attendance. Eliminating superstation sports while the leagues' antitrust immunity continues would be a mistake for American sports fans.

Mr. Chairman, I think this is a good bill for consumers and I sincerely hope that, in conference it will not by allowing ninth inning proposals by baseball to create blackouts.

□ 1650

Mr. RINALDO. Mr. Chairman, I yield 6 minutes to the distinguished ranking member of the full committee, the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, in 1984, Congress deregulated the cable television industry for the express purpose of stimulating growth and diversity in the video marketplace. In large part, that objective has been achieved, and most expectations have even been exceeded.

Prior to deregulation, cable provided essentially an antenna service to those homes that could not receive clear, over-the-air signals. Since the 1984 act, cable has developed into something infinitely more valuable to the American consumer. Today, the average cable system offers 36 channels. One-fifth of the systems offer more than 50 channels. Without a doubt, cable has revolutionized the way Americans watch television. Cable has become a rich source of educational, informational, and cultural programming including CNN, C-SPAN, Nickelodeon, the Discovery Channel, the Learning Channel, Black Entertainment Television, and many others.

The American people, moreover, have responded enthusiastically to the quality, value and diversity of programming provided by cable. The numbers don't lie: Today, over 52 million homes receive cable.

By most measures, the 1984 Cable Act, therefore, has been an overwhelming success. Cable's success has not been achieved without problems. There have been instances of unreasonable increases in cable rates and unacceptable declines in the quality of customer service. These instances, however, have been the exception rather than the rule.

Mr. Chairman, I am as committed as anyone to taking the necessary steps to ensure that consumers receive the best service at the best possible price. But I am also concerned that we not act with too heavy a hand—because that will ultimately hurt consumers as much as the industry. The heavy handed approach places future industry investment in technology and programming at significant risk.

It was, after all, the investment in technology that brought cable to the American consumer and it is the vast array of innovative and diverse programming developed by cable which continues to attract subscribers to cable today. So we must seek to achieve a balance. The best possible rates and services for consumers brought about through fair and equitable rules on the cable industry, so that continued investment and future growth in the industry is assured.

We began a serious reexamination of the Cable Act in the last Congress. At that time, the members of the Energy and Commerce Committee worked in a bipartisan manner to craft consensus legislation that achieved the very balance I am talking about. Some of you may recall that this House approved such a bill on a voice vote.

Mr. Chairman, I had hoped that the consensus, bipartisan approach approved by the House last Congress would serve as a model for legislation this year. Certainly, the record demonstrates nothing had occurred in the last 2 years to support a dramatic change from the public policy we sought to advance last Congress.

In fact, according to a recent GAO study, commissioned by the chairman of the Subcommittee on Telecommunications and Finance, the evidence demonstrates that cable rates, which undeniably had risen dramatically in the first few years following deregulation, had by 1990 begun to moderate and essentially reflected the rate of inflation.

But something else had changed, Mr. Chairman, something we are all familiar with—politics. Because some believe the cable industry didn't play ball last Congress and consequently the cable bill passed by this House was not enacted into law. Thus, the cable legislation we are being asked to consider this Congress is more punitive in nature than corrective. The public policy considerations behind this bill represent nothing more than an advanced case of regulatory zeal, to regulate for the sake of regulating. This zeal, moreover, is not fueled by genuine concern for the American consumer. Rather, it is aimed merely at punishing an entire industry.

The committee vote on H.R. 4850 was along party lines, hardly a mandate for passage of this legislation. Sadly, I might add that this is the first time since the early eighties that the Energy and Commerce Committee has failed to produce a bipartisan, consensus communications bill.

Mr. Chairman, let me address, for a minute, one of the most onerous and burdensome provisions of the bill—rate regulation. H.R. 4850 would encourage the inclusion of cable programming in the traditional basic over-the-air broadcast tier. Because under the formula for setting rates contained in the bill the cable operator may recover the costs of adding programming to the basic tier, the cost to consumers will undoubtedly increase. Thus, ironically, this proconsumer legislation may result in higher, rather than lower, consumer cable bills.

Nor does H.R. 4850 offer any public policy rationale for regulating a tier which includes cable programming in addition to over-the-air broadcast signals.

It is one thing to regulate a basic tier composed only of local broadcast stations. I support that. In that instance, the cable company is simply providing an antenna service. Clearly, there is a substantial Federal interest in seeing that over-the-air broadcast stations that are licensed by the Government to serve local communities are available to the citizens of those communities by a cable system at reasonable rates.

However, there simply is no Federal interest or public policy rationale, for regulating cable programming such as ESPN or MTV. First, these channels do not use the public spectrum and are not licensed by the Government to serve local communities. Second, Government regulation of these channels amounts to a regulation of the speech of the cable operator and, therefore, probably violates constitutionally protected speech under the first amendment.

Cable television programming is not an entitlement program. It is not telephone service or electric service. It is entertainment programming, pure and simple. The American people are smart enough to know the difference. They are not looking to Congress to place arbitrary controls on their entertainment choices.

Indeed, one can only speculate where this Federal interest over the price of entertainment might end. Will we also regulate the price of movie video rentals, theater tickets, newspapers, and tickets to sporting events?

H.R. 4850 is also overly regulatory with respect to cable service and equipment requirements. Given that the industry spends millions of dollars annually in upgrades and investments in new plants, I am concerned that we risk creating significant financial disincentives for continued investment in new and improved technology.

H.R. 4850 could also discourage investment in new cable programming. Last year alone, the industry spent $3.5 billion on video programming. That spending created new business and roughly 8,000 new jobs in 1 year alone.

As this country struggles to regain a strong economic foothold, clearly the most important consideration in approving any legislation is its impact on the economy and jobs. If in our zeal to regulate the cable industry, we discourage the industry's capacity to invest in new technologies, to invest in the infrastructure and to develop new and innovative programming, all Americans will lose. Not only will we hurt the consumer, who has looked to us for help with rates and services, but we risk a substantial loss of American jobs as well as this country's competitive edge in telecommunications.

Another issue raised by the over-regulatory nature of H.R. 4850 is who is going to pay for this regulation? The American taxpayer. The Congressional Budget Office and the FCC estimate that the cost to taxpayers of implementing the regulation mandated by the bill will be an astounding $22 to $60 million per year.

Finally, if this body is serious about passing legislation to address consumer concerns, it should pass a bill that the President can sign into law. The administration's senior advisers have recommended that the President not sign H.R. 4850, if passed in its present form. H.R. 4850 will be conference against a bill with a similar veto recommendation.

Mr. Chairman, we should not be playing politics when the American consumer has turned to us for help. Instead, we should be passing legislation that makes the necessary corrections in the industry and which can be signed into law.

H.R. 4850 will not accomplish that goal. Consequently, I will be offering an amendment in the nature of a substitute that will. I urge my colleagues, therefore, to join me in opposing H.R. 4850, as reported by the committee, and in supporting the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, 8 years ago a fledgling industry came before the Congress in need of Government assistance. That industry got its wish, and Congress passed the 1984 Cable Act. That legislation eased regulatory controls on the price of cable television service, and created a compulsory license by which cable could procure quality programming.

The Cable Act has stimulated tremendous investment and growth in the cable industry in the past decade. Today over 60 percent of all Americans receive cable service. The average number of channels on cable menus has increased, and the quality of programming has greatly improved. Today, consumers enjoy an unprecedented diversity of quality cable programming: the Cable News Network, C-SPAN I and II, the Discovery Channel, Arts and Entertainment—outstanding educational, entertainment and news programming.

Unfortunately, this remarkable growth has been accompanied by rate increases that are, in some cases, unreasonable and unjustified. The GAO reports that cable rates have increased by 61 percent from November 1986 to April 1991—that's more than 10 percent per year. In some instances, the higher rates are somewhat justified by the increased diversity of excellent cable programming. However, some bad actors in the cable industry have abused their monopoly privilege and abandoned the principle and goal of customer service, fueling consumer anger against the entire industry. Because consumers have nowhere to turn for relief, we must legislate.

The legislation reported by the Energy and Commerce Committee will regulate the basic tier of cable programming. It will empower the FCC to punish bad actors in the industry, and reverse unreasonable rate increases where they occur. It will also require cable operators to meet minimum levels of customer service. These are provisions which will help consumers in the short term before true competition exists in the video marketplace.

In the long term, this market needs more competition. I urge my colleagues to support the amendment which will be offered by Representatives ROSE and MANTON—an amendment which will stimulate competition from alternative providers such as wireless cable and direct broadcast satellite systems by ensuring their access to cable programming. We must address this issue—without a program access section, the cable monopoly will continue to dominate the marketplace in the future.

Mr. Chairman, the Committee on Energy and Commerce has crafted this legislation with great skill, wisdom and balance. Chairman DINGELL and Chairman MARKEY should be commended for their hard work and diligence in this regard. They know, as I do, that it is very difficult to produce a public law to regulate this industry. This bill is our best, and perhaps last chance to do so. It is a bill that the President can, and will sign in this election year. I urge my colleagues to vote for this legislation.

□ 1700

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, H.R. 4850 is overregulatory in every respect. The bill, while promoted as proconsumer legislation, will result in higher, yes, higher rather than lower, cable bills. It has been estimated that it could add as much as $5 billion to the cost.

In addition to failing to accomplish its goals of lower cable bills for consumers, the CBO and the FCC estimate that the cost to taxpayers of implementing the regulations imposed by the bill will be an astounding $22 million to $60 million per year. The bill ignores the needs of small cable systems, and it only pays lipservice to small business by telling the FCC to take into account the administrative burdens.

The provision mandating that a subscriber need not take a programming tier service in order to access premium pay-per-view programming could destroy the programming structure of the cable industry. This provision is an unjustifiable Government intrusion, and there is no Federal interest in mandating how a cable operator must market or structure premium and pay-per-view services.

The New York Times just this week said this bill overreaches. We should adopt the Lent substitute, which we will have a chance to vote on later, which we have already passed, pretty much as it is written, in a previous Congress. That is what we ought to do to protect consumers.

If we pass H.R. 4850 and it goes to conference, then they add retransmission, we are looking at another $1 billion. If we think the cable companies are going to absorb it, we must think that the Moon is made of green cheese.

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, remarkable work has been done on this legislation. I want to salute and commend the members of the committee, the members of the subcommittee, and the distinguished chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for an outstanding job well done.

Mr. Chairman, I rise in strong support of H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992. This is a comprehensive piece of legislation that was supported by a bipartisan majority in the Committee on Energy and Commerce. I am confident that it will enjoy comparable support when the House votes on final passage.

In 1984, Congress passed legislation that resulted in the deregulation of the cable television industry. Since that time, cable has developed into a dominant player in the media marketplace. Today, nearly 70 percent of American homes watch television that is delivered by a local cable operator.

Since 1984, the number of cable channels has increased dramatically. The proceedings of the House are now available across America via C-SPAN. Millions were able to watch the gulf war live on CNN. Local news channels are proliferating. It appears that there is, or will soon be, a channel for every taste.

But this growth has not been without cost.

Since cable rates were deregulated by the FCC, millions of cable subscribers have been subjected to rate increases that never seem to end. Customer service is poor or nonexistent. Telephones go unanswered. Installation appointments are missed—and, when the installer decides to show up, they frequently do a shoddy job.

In short, cable has been behaving like an unregulated monopoly.

This should not come as any surprise. I was unenthusiastic about the 1984 law because I anticipated precisely these abuses. Thus, I am pleased that Congress has decided finally to reevaluate its decision made in 1984, and impose some meaningful protections for consumers.

H.R. 4850 does that. It provides for a formula that will be developed by the Federal Communications Commission and overseen by local franchising authorities. It requires the FCC to come up with tough customer service standards—and provides for effective enforcement. H.R. 4850 will ensure that cable operators are held accountable to someone other than their stockholders.

I do not pretend that this is a perfect bill. It is a compromise, and like all compromises, it contains provisions that are offensive to some. But it is a bill that deserves the support of the House here today. And I pledge to my colleagues that I will continue my efforts to improve the legislation as it makes its way to the President's desk.

Cable subscribers need the protections this bill contains. They need to have their rates controlled. They need improved customer service. They need to continue to have access to their local broadcast stations—both commercial stations and public stations. They need to be able to obtain remote controls and converter boxes at realistic and reasonable prices. They need to be able to purchase cable-ready TV sets confident in the knowledge that they are, indeed, cable ready.

Curiously, the cable industry needs legislation too. There are many responsible cable operators that have been tarred by the behavior of a few bad actors. In my district in Michigan, we are fortunate to be served by some of the best operators in the country. But many of you, I know, are not so fortunate. In my view, the industry needs the benefits of regulation that will either weed out the bad actors, or force them to clean up their act.

It is my hope that this is the last time we are going to have to bring a cable bill to the floor. I hope that, by the time we have completed the conference, the administration will have softened its stand against reasonable legislation, and that we will be able to have a bill signed into law.

Mr. Chairman, the go-go days of the eighties are over—for stockbrokers, for junk bond salesman, and for cable operators. it is time for the Congress to correct the problems that have been caused by deregulation and vote for this bill. I urge my colleagues to join me in supporting H.R. 4850.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, if it is our goal with this legislation to convince the American people that their frustrations with Congress are unfounded, we are about to miss a golden opportunity.

Today we have a chance to put partisan politics aside and work together on behalf of the cable consumer. We could attempt to balance the interests of consumer groups, broadcasters, and the cable industry in a single piece of legislation worthy of nearly unanimous support in the House. Although it may sound too good to be true, that is exactly what we accomplished 2 years ago. All it took was a common objective.

At some point over the course of the last 2 years, that bipartisan objective changed substantially. Consensus gave way to partisanship, rhetoric took the place of reason, and sound public policy fell victim to politics. With it went any real chance of having a sensible cable bill signed into law this Congress.

Although it was they who abandoned the consensus position, proponents of H.R. 4850 will undoubtedly characterize theirs as the consumer approach. Their claim is based on the 1970's belief that greater regulation and Government micromanagement will, by definition, benefit the cable customer. In reality, the opposite is true.

For try as we might, we can't have it both ways. We can't burden a particular industry with excessive regulation and expect it to produce similar results as if it operated in a free and open marketplace. Enactment of H.R. 4850 is certain to dampen reinvestment in cable plant, equipment and programming. Should this legislation prove to be our chosen course, we had better be prepared to explain why the diverse, quality programming to which cable subscribers have become accustomed just is not the same anymore.

Far from the mistake some claim it to be, the Cable Act—on balance—has been a significant success. But that's not to say it can't be improved. As pointed out in the findings section of H.R. 4850, "a minority of cable operators have abused their deregulatory status." Subscribers of these bad actor systems may require additional protections beyond what the Cable Act currently provides. By no means, however, is the kind of regulatory overhaul and overkill put forth by the Markey bill either warranted or appropriate. Nor is it likely to become law.

That is the bottomline for consumers. They are more interested in lower cable rates and improved customer service than they are in who wins a political battle long on rhetoric but short on results. Some have characterized H.R. 4850 as the consumer vote of the 102d Congress. I'm not sure that's true. But I am certain that from a cable subscriber's perspective, a true vote for the consumer—both procedurally and substantively—is one against the Markey bill, and for the Lent substitute. I urge a "no" vote.

□ 1710

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the distinguished chairman of the subcommittee for yielding time to me.

Mr. Chairman, the average household in America today will be watching about 7 hours of television, 7 hours, and 50 to 60 million of those American homes will be watching cable television. Unfortunately, in this great land of free enterprise and capitalism, 95 percent of the communities in this country are only able to choose one cable TV company, there is only one choice for them. They have no alternative. We might as well be living in Eastern Europe as far as 95 percent of the communities are concerned, because they can only sign up with one company. That is all there is.

Fortunately in 5 percent of our communities we know what competition and choice and free enterprise is all about, and in those 5 percent of the communities they have an alternative. If they do not like cable company A they can sign up with cable company B.

Now what are the results of that in the communities with competition? Guess what? Prices are 30 to 40 percent lower and the quality of TV is better. There are more offerings, and cheaper prices. That is what competition can do.

The goal of this body should be to allow all of our great country to enjoy the benefits of competition instead of just 5 percent that enjoy it today.

Allentown, PA, was one of the first communities in America to taste competition and multichannel video programming, and they are still enjoying it. The little communities such as Glasgow, KY, and the larger towns such as Huntsville, AL, there is no reason why their competitive example cannot be spread nationwide. That is the opportunity before this body and before the Senate.

The Senate has passed a very strong procompetition bill. We can do the same if we reject the Manton amendment and support the Tauzin amendment.

Mr. RINALDO. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Chairman, there are millions of Americans who rely on cable to provide them with access to a broad range of programming which just a few short years ago was not even to be imagined. And so millions of Americans are deeply concerned with the actions that we will take here today.

Through the legislative and political process we have been called upon to reregulate an industry which some 8 years ago we deregulated. Our vision then was to promote the growth of an alternative video delivery system, and we were remarkably successful in reaching the goal. The majority of cable subscribers now have access to 30 or more program channels and over one-fifth can get more than 50 channels. Cable networks provide consumers with a wide range of quality entertainment and children's programming, CNN, C-SPAN, Nickelodeon, the Discovery Channel, the Learning Channel, and the black entertainment television being prime examples of the program diversity cable has brought to American households.

Do we want in legislation to destroy the energy, the creativity of this emerging high-technology industry? I say "no." But H.R. 4850 has the opportunity to do that.

Cable's explosive growth has also made the industry a major contributor to the economic health of this country. In 1990 cable TV contributed some $42 billion to the GNP. In he same year the industry directly or indirectly provided over 500,000 jobs, generating income of $18.2 billion. They employed some 100,000 people earning nearly $3 billion annually, and suppliers directly or indirectly employ an additional 69,000 persons in cable-related jobs with personal income of $2.5 billion.

The regulatory course that we embarked upon in 1984 led to great success, but our vision then was not without its limitations. There are some egregious examples where customers have been overcharged, where there is only one cable company and they are the bad actors. But are we going to throw out this baby with the bath water for few or some bad actors?

Let us do something reasonable. Let us do something intelligent. We will find out about that possibility through the Lent substitute which will be offered soon.

We do not want to swing the pendulum from deregulation to overregulation and deliver a knockout blow to the economic well-being and the cultural diversity and entertainment capacity that has been brought on since we deregulated in 1984±.

We have been fairly successful. There have been cost increases, it is true, and part of it has to do with the way the cable companies bundle the channels together for billing. And if Members look at the cost increases just in isolated fashion, they look like they have really jumped up well beyond the CPI. But if Members look at cost increases on a per-channel basis, the increase has pretty well kept pace with the CPI. So the answer to this problem is to allow for separate pricing on a basic tier of cable channels. That's what the Lent substitute would do.

Yes, there are some service problems, and more needs to be done. The Lent substitute addresses this problem appropriately, with a rifle and not a nuclear bomb.

Investment capital is not inexhaustible in this country. We need more long-term investment. That is what the cable industry has in mind for its future. They plan to spend some $18 billion over the next 10 years to upgrade plants and equipment.

Approximately 60 percent of the existing systems will eventually be rebuilt, and a lot of optic fiber is going to be in here, in the trunk, in the feeder cable. There is HDTV out there, there is digital systems linked to computers, increased reliability and channel capacity, and all of these things do require investment.

My urging to my colleagues is to not do something that cripples this kind of long-term high-technology, high-creativity investment. Let us have innovation go forward. We have so little idea as to how a superregulatory bill like H.R. 4850 could impact on this industry and its growth and investment. And what about added FCC costs, up to $60 million in a year of $400 billion budget deficits.

But what concerns me far more than the FCC cost, and this is the bottom line, the main cost of all of this is the cost to the consumer. While some think we will be doing the consumer a favor with H.R. 4850, we will curtail investments, reduce the ability of the industry to produce its value; we don't add competition which is the real force to keep prices down and quality up. We will increase rate regulation litigation and we end up regulating to the point of actually increasing costs to the consumer.

Yes, this bill H.R. 4850 will increase costs to the consumer.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise in reluctant support of the bill before us. I compliment the gentleman from Massachusetts [Mr. MARKEY] and the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], for getting us this far, and I hope they can successfully conclude this with a bill that can be signed by the President. I intend to support the bill today.

I have three brief reservations about the bill.

One, I think the buy-through provisions that the gentleman from Massachusetts [Mr. MARKEY] has are too restrictive and could be counterproductive. They are not in the Senate bill, however, and that could be cured.

Second, the issue of access today. There will be a disagreement between the gentleman from New York [Mr. MANTON] and the gentleman from Louisiana [Mr. TAUZIN], and I intend to vote with the gentleman from New York. I think there are adequate safeguards in this regard.

Finally, I am disappointed that retransmission is not included in the legislation today. It is in the Senate bill.

Of particular concern to me is a matter that is taken care of in the en bloc amendment to be offered by the gentleman from Michigan [Mr. DINGELL].

□ 1720

That impacts the impact that exclusive contracts between college athletic conferences and regional sports programming networks have on the ability of local broadcasters to air local events for local college football fans. In most instances, college conferences sign exclusive contracts with regional sports broadcasting networks which govern the broadcasting or cablecasting of conference games, often prohibiting those games from being aired in the same time slot as so-called games of the week.

For instance, in my congressional district, a Fresno State University football game against a Pac 10 school was not aired by the regional cable network because the sports network decided to feature a different Pac 10 game. All other conference games were similarly prohibited from being aired at the same time as the featured game.

To make matters worse, this contract also prevented local television broadcasters for securing the rights to broadcast that game. As a result, my local fans were deprived of seeing a game that they should have been able to see.

Similarly, when a Fresno State game against another school was blocked out due to the other conference's contract, local viewers could not see any game because the local system did not carry the network.

My amendment very simply would direct the FCC to consult with the Attorney General to examine and conduct an analysis of the impact of these contracts. The amendment does not solve the problem 100 percent, but it provides for a solution to the problem. It is the first step toward solving the problem.

I urge its adoption.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I want to begin by complimenting the chairman, the gentleman from Massachusetts [Mr. MARKEY]. So many times we hear about the gridlock in the House of Representatives and in our respective committees. I want to say in regard to our chairman that I feel like our chairman was always fair to us on the minority side. I cannot say that we always agree, but I can say that I felt he was always fair, and I appreciate that as an individual member.

I say the same thing in regard to our ranking member. I think he has been fair to members on this side and has given us every opportunity to express ourselves.

I have to say continually that I am disappointed that retransmission consent is not in this debate today as a policy question. I think it would be an important part of this debate.

But, regardless, it is important and incumbent upon all of us as Members to look at the legislation that is before us, because we do have some choices.

Mr. Chairman, I am here to say that I think that the Lent alternative that will be coming up later is the best alternative, and I think there are several reasons why we should vote against H.R. 4850, this massive reregulation bill. First of all, I believe that H.R. 4850 in its present form is anticonsumer. Industry investment and programming quintupled, and channels typically available to consumers doubled since 1984. This piece of legislation would raise costs of cable service and limit the availability of programs to consumers.

Second, I think H.R. 4850 increases cost. Massive reregulation would cost, it is estimated, between $1.2 billion and $2.8 billion per year, which is the equivalent to about $23 to $51 per year for each cable subscriber.

A third reason that I think people should vote against H.R. 4850 and for the Lent alternative is the regulatory burden. The FCC is already empowered to permit States to regulate problem areas, and the FCC regulatory standard was recently toughened.

H.R. 4850's reregulatory costs to FCC, to the Federal Communications Commission, would be between 17 and 44 percent of its entire current budget.

I think there are alternatives to create competition in the video marketplace, which is what we want. Competition, not rate or service regulation, best keeps cable rates low and quality high. Competition could result in a $4.4 billion annual benefit, or an $80 per household savings.

I think to increase competition in the video marketplace there should be an outlaw of exclusive cable franchising practices. Personally I think telephone companies should be able to compete in offering cable.

And then, finally, we should look at ways to eliminate regulatory burdens on other competitors to cable.

Mr. MARKEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, Members of the Committee, I think the problem can be stated very simply: Since this Government deregulated the cable industry, something dramatic happened. The cable industry, first of all, concentrated in some very large national companies, and it vertically integrated. It does not only own the cable in our homes now, it owns the programs that go over those cables.

The second thing that has happened is the very few companies on the national level that control the program now have refused to sell that program to anybody else who would compete with cable, or they have offered it to competitors at excessively high rates.

If you take the C-band satellite industry where they are charging as much as five times as much for a consumer on the C-band satellite, the big dishes, to see the same programming that others might see on a cable somewhere in America, and they are doing the same thing when it comes to nonwire cable, what we call microwave or wireless cable, and they are doing the same thing when it comes to DBS, the new technology in the sky, new satellite technology that will be available to urban consumers as well as rural consumers.

That is the problem, monopoly concentration without regulation, and consumers that are catching it in the neck, no competition.

There are two ways to cure that problem. One is to reregulate, to give to the local communities the power to set rates and terms and conditions again. The other is to provide competition.

Now, our bill provides some regulation, but the real heart and soul of this bill ought to be to create competition.

The gentleman from Tennessee [Mr. COOPER] told us earlier what it brings, a 34-percent reduction in rates. How do we get competition?

The gentleman from New York [Mr. MANTON] will offer a solution, and I will offer now. Mr. MANTON's solution, drafted by the cable companies for the cable companies, will solve only the old problem of the old dishes. It will say to the new technologies, to wireless cable, "The big companies have to deal with you, but they can deal with you under any price and terms and conditions. In other words, they can charge you 10 times as much as anybody else. If you do not like the deal, sorry, no competition." That is the Manton substitute.

The Tauzin amendment is the only one that provides that programs will be available to competitors, that consumers will have choice, and out of choice comes lower prices and a control in this marketplace in the hands of the consumer, not the cable company.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, first I wish to commend the chairman for agreeing to the amendment that I offered in full committee that imposes EEO requirements on the broadcasting industry just as we did on cable in the 1984 Cable Act.

Mr. Chairman, I will be vigilant in this effort as we move through conference to ensure that women and minorities have the equal rights in terms of opportunity, in terms of hiring, in terms of professional advancement. This is something that the broadcasting industry, I understand, may try to replace or remove in the conference. We will make sure that that does not happen.

Second, I will be supporting the real consumer amendment in this legislation, and that is the Manton amendment.

Mr. Chairman, I come from a rural area. The Manton provisions will ensure access to home dish owners.

I have a letter in front of me from a major entrepreneur in the DBS business, Mr. Stanley Hubbard, of Hubbard

Broadcasting, expressing a preference of the Manton amendment because it will force programmers to negotiate with him in a free, open, and anti-competitive environment. That is why this DBS proponent prefers the Manton amendment.

But today we will deal with cable legislation, and the question is going to be this: We all know that cable needs to be regulated. The issue is now far do we go and at what point Congress imposes too much regulation that results in consumers being hurt over the long run. The Tauzin amendment is a clear example of going too far.

Mr. Chairman, I rise in support of the rule and in support of H.R. 4850, the Cable Television Consumer Protection and Competition Act. I do so not because this bill is perfect; it is not. But H.R. 4850, on the whole, is a balanced measure and the product of 3 years of hard work by subcommittee Chairman ED MARKEY, full committee Chairman JOHN DINGELL, and other Energy and Commerce Committee members. It represents the consensus of the committee, having passed by a 31-to-12 vote. And finally H.R. 4850, as reported by the committee, does accomplish important consumer objectives: It will bring cable rates under control, establish universal customer service standards, ensure that local over-the-air broadcast stations are carried on cable systems, and protect customers from egregious behavior on the part of cable operators.

These provisions are the heart of the bill. After all, the cable bill is supposed to be a response to customer dissatisfaction and complaints, not a vehicle for interindustry fights. Our constituents back home want a cable bill passed because they are angry about arbitrary price increases in their monthly cable bills, because they are tired of receiving lousy customer service, and because they have little control to stop serious abuses being committed by a limited number of cable operations.

As the Congress moves closer, however, to passing a cable bill this year, we also need to preserve a regulatory environment that allows the cable industry and emerging competitors like DBS operations to have the freedom and the incentive to invest in new programming, services, and infrastructure.

The 1984 Cable Act, for all its shortcomings and notwithstanding the need to amend it, was an enormous success. Ninety percent of all households how have access to cable television compared to 60 percent in 1984. The number of subscribers has jumped from 37 million in 1984 to almost 60 million subscribers in 1991. And the average cable system now offers consumers 30 to 53 channels today compared to just 24 channels before the enactment of the 1984 Cable Act. And consumers are clearly getting a better product today than they did in 1984.

Mr. Chairman, there is little disagreement over the need to impose new rules on the cable industry; everyone agrees that is necessary. So the debate today is not about leaving the cable industry completely unregulated. Let me make that clear: The cable industry will be reregulated.

Today's debate will be about how far do you go, and at what point does Congress impose too much regulation that results in consumers being hurt over the long run.

We will face that choice on the issue of program access. An amendment will be offered by Congressman TAUZIN to strip cable program networks of their right to enter into exclusive contract distribution arrangements and require them to sell their products at government-mandated wholesale prices, terms, and conditions. Mr. Chairman, that is an intrusive, unnecessary, and destructive proposal that should be rejected by the full House. I would urge my colleagues to support a more effective and reasonable solution to the program access problem that will be offered later by Congressmen TOM MANTON and CHARLIE ROSE.

I will speak later in the debate on program access when the Manton-Rose amendment is before the House. I will conclude by urging my colleagues to support the rule and to get this bill to conference so that the House can begin working with the Senate on a bill that will receive the President's signature, thereby giving consumers the benefits of this legislation.

Mr. Chairman, I am including for the RECORD a copy of the letter from Mr. Hubbard and copies of two letters as follows:

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 23, 1992.

THE MANTON-ROSE PROGRAM ACCESS AMENDMENT PROTECTS THE NEEDS OF RURAL AMERICA

DEAR COLLEAGUE: Before you make a decision on the "program access" issue, you should be aware of the consumer and rural protections in the Manton-Rose Amendment.

The Manton-Rose amendment completely satisfies the unique problems which have been raised by rural Americans who own C-Band, backyard dishes.

It requires cable networks to make their programming available to independent distributors of programming who serve the backyard dish market, at the same prices, terms, and conditions these networks offer other cable systems.

The debate about program access, therefore, is not as some have suggested, about whether rural America's C-Band home dish owners' needs will be served. The Manton-Rose amendment ensures that these needs are met.

Unlike the Tauzin amendment, however, which Representative Dingell and Lent have said in a Dear Colleague letter "is punitive and goes too far"—the Manton-Rose amendment represents a balanced approach to the issue presented by new technologies like Direct Broadcast Satellite (DBS) systems. It prohibits cable program networks from refusing to deal with new technologies "if such refusal would unreasonably restrain competition" but would not impose a blanket mandate of uniform price terms and conditions—these issues would be left to the marketplace except where violations were found.

The difference between the Tauzin and Manton-Rose amendments is how far the Congress will go in restricting the property rights of cable networks like CNN and Nickelodeon, in a way that unfairly tips the scales in favor of a few special interests. Manton-Rose offers a balanced solution to a limited problem. It is virtually identical to the relevant provisions of the cable bill which the House passed unanimously in 1990.

Sincerely,

BILL RICHARDSON,
Member of Congress.

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 23, 1992.

VOTE "YES" FOR THE MANTON-ROSE AMENDMENT TO H.R. 4850 DBS PIONEER SUPPORTS MANTON-ROSE OVER TAUZIN

DEAR COLLEAGUE: As you may be aware, when the House takes up the cable re-regulation bill (H.R. 4850) today, you will be presented with a choice between the Tauzin program access amendment and the Manton-Rose substitute. We urge your support for the Manton-Rose substitute.

Some of the proponents of the Tauzin amendments have argued that the Manton-Rose substitute will not protect the ability of emerging technologies such as Direct Broadcast Satellite (DBS) to compete with cable. They contend that new technologies cannot survive unless cable networks are forced to sell their creative product to all comers at government-mandated wholesale prices, terms, and conditions.

We would like to draw your attention to the position of Stanley S. Hubbard, President of United States Satellite Broadcasting Company, Inc., a DBS company that plans to launch in December 1993. Mr. Hubbard makes clear in a letter to the Energy and Commerce Committee Chairman his preference for the Manton-Rose program access substitute over the Tauzin approach. We intend to insert this letter into the Record during floor debate on H.R. 4850.

Here is what Mr. Hubbard says:

"USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for Section (a) of the Manton Amendment, Competition and Technological Development, because the Manton Amendment does not prescribe terms and conditions."

The proper course for Congress to take in providing a solution to the "program access" issue should be to promote competition and diversity in the delivery of video programming to the American consumer.

In the words of Mr. Hubbard, Congress needs to pass a program access provision that creates "a level playing field whereby we [DBS operators] can bargain in a free and open marketplace" for programming.

It is the Manton-Rose amendment, not the Tauzin amendment, that accomplishes that objective. We hope you will join us in supporting the Manton-Rose Substitute Amendment.

Sincerely,

TOM MANTON,
BILL RICHARDSON,
Members of Congress.

UNITED STATES SATELLITE
BROADCASTING CO., INC.,
St. Paul, MN, July 22, 1992.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN DINGELL: United States Satellite Broadcasting Company, Inc. (USSB) is constructing a Direct Broadcast Satellite (DBS) to be launched in December, 1993, with its programming service to commence in early 1994. USSB will share the satellite with a competitive DBS service to be provided by DirecTV, Inc., a subsidiary of Hughes Communications, Inc., Thus, DBS programming in the United States will become a reality in 1994.

USSB plans to preset new, innovative programming; however, in order to foster the growth of DBS service, we anticipate including some of the programming services presently available on cable television in our programming mix. Separate amendments to H.R. 4850 to provide for program access have been offered by Congressman Manton and Congressman Tauzin. USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for Section (a) of the Manton Amendment, Competition and Technological Development, because the Manton Amendment does not prescribe terms and conditions. Our only interest is that there be a level playing field whereby we can bargain in a free and open marketplace for our programming.

USSB is a subsidiary of Hubbard Broadcasting, Inc., which is also the managing partner of Conus Communications, a satellite news-gathering service. In turn, Conus is a joint venturer with Viacom, Inc. in the All News Channel, which has been primarily developed to provide a news service to C-band home satellite television viewers. A very limited number of cable systems also carry the All News Channel. By legislating the price, terms and conditions of sale to C-band, Section (b), Marketing of Certain Satellite Communications, of the Manton Amendment as well as the Tauzin Amendment would have a strong, adverse economic impact on comparatively new programming services, where cable provides not the primary but only the ancillary market. Accordingly, a relief from this blanket provision should be provided at conference by excluding services such as the All News Channel in order to maximize service available to the public.

If we can provide additional information regarding our positions on this important legislation, please let us know.

Cordially,

STANLEY S. HUBBARD,
President.

□ 1730

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I thank the gentleman for yielding to me at this time for a colloquy.

In taking up this cable television bill today, our attention naturally turns to the ways in which television can serve our national purposes and our No. 1 education goal, namely, making certain that our children are ready to learn when they go to school.

By the time a child sets foot in kindergarten, he or she is likely to have spent more than 4,000 hours watching telvision. We have television channels devoted exclusively to sports, weather, health, rock music, around-the-clock news. It seems reasonable that we ought to have one place on the TV dial that parents could turn to with confidence, a reliable source of enriching programming all day long. That is what Representative WYDEN and I have proposed in our ready to learn legislation.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I am glad to yield to my colleague, the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, I thank my colleague for yielding to me. It has been a pleasure to work with him on this legislation where we can harness the power of television on behalf of preschool kids. It is amazing to think that the commercial television stations are doing less in preschool programming now than they did 30 years ago.

Mr. Chairman, I appreciate the opportunity to work with the gentleman. I also want to thank the gentleman from Massachusetts [Mr. MARKEY] who has been a tremendous advocate for seniors, children, and consumers, and thank the gentleman for his assistance.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I share the views of both gentlemen.

I would say that I as well believe that television should help preschool kids get ready to learn. We will hold hearings on that part of the legislation that is being introduced here and which will come before our jurisdiction in the very near future.

Mr. PRICE. Mr. Chairman, I thank the subcommittee chairman.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, first let me just salute the gentleman from Massachusetts. He has done a remarkably good job, as has the subcommittee and staff in a very difficult area, and while I am not pleased with every aspect of the bill, I am not pleased with many aspects of bills that come out of the Committee on the Judiciary.

I rise in support of H.R. 4850, the Cable Television Consumer Protection Act. I think it is a good bill.

In our economic and political systems, unregulated industries usually work fine when there is real competition. They do not only serve us as well when there is little or no competition.

The cable television industry is one in which there is very little competition, and that, quite simply, is why we need this legislation.

In the absence of real competition, cable systems which too often enjoy local monopolies have jacked up their prices, scaled back service, and demonstrated attitudes toward their captive customers that range from indifference to insolence.

Under the deregulation which we enacted in 1984, there can be no governmental regulation of cable systems in communities where there is so-called effective competition. That might be acceptable if the term meant what it says.

It does not. Under current rules, about 60 percent of the cable systems and more than three-fourths of all customers are deemed to be in areas of effective competition. As a result, local government is prohibited by Federal law from regulating rates charged by these cable operators.

In fact, there is cable competition in only a handful of communities. There are some 13,000 cable systems throughout the country, but only 65 communities are served by more than one cable system. In the few communities where local government is allowed to regulate rates charged for basic cable service, operators resort to a tiering price system to subvert that regulation.

That competition is the solution is revealed in a very telling statistic: In those 65 communities with two cable companies, the average price to consumers is 34 percent lower. That suggests to me that cable companies are overcharging the rest of the country hundreds of millions of dollars a year by virtue of their monopoly situation.

There is another factor, though, and that factor is the cost to cable of the programming that it often charges consumers monopolistic prices for. While I strongly support H.R. 4850, H.R. 4850 only addressed the fees cable charges consumers, it does not and cannot address the fees cable pays program suppliers.

The prices cable pays for programming is governed by the copyright law, and is within jurisdiction of the Subcommittee on Intellectual Property and Judicial Administration of the Judiciary Committee, which I am privileged to chair. Under an antiquated and unfair system of compulsory licensing, the rates cable pays are set by Government regulation at artificially low rates. In two important areas, cable in fact pays nothing. These areas involve local television broadcast stations and distant network stations. As valuable as this programming is, under the copyright law, cable has an absolute right to take the broadcasters' signal for free and then charge consumers.

That is wrong, but it is only part of the picture. Under a ruling by the Copyright Office, competitors to cable, such as wireless cable are not entitled to the same privileges as cable. Along with Judiciary Committee Chairman JACK BROOKS and my distinguished ranking minority member CARLOS MOORHEAD of California, I introduced H.R. 4511, a bill to comprehensively resolve these issues in a fair way. H.R. 4511 will bring effective competition. H.R. 4511 will bring the best programming available, including sports, to the largest number of subscribers, and at the lowest possible cost.

We have been working hard to process our bill through the Judiciary Committee. Chairman JACK BROOKS has stated his intention of acting on the bill forthwith. But, a funny thing happened on the way to the full committee.

Broadcasters saw a pot of gold at the end of the retransmission rainbow. Even though H.R. 4511 for the first time provided a needed second stream of revenue for local broadcasters by requiring cable to pay for retransmitting local signals, broadcasters saw big—I mean big dollars in something called retransmission consent. Broadcasters want the right to negotiate with cable to retransmit their broadcast day. I agree they should have the ability to negotiate for copyrighted works that they own, and H.R. 4511 gives them this right.

But broadcasters do not want copyright owners of the programs they broadcast to have the same right. They want to leave in place the compulsory license for cable to take others' programming so that broadcasters only can negotiate. That is not a free market. This is special interest legislation at its worst: Leave government regulation in place for programming copyright owners, but remove that regulation for broadcasters so that broadcasters can sell the program copyright owners' works to cable at market rates.

Make no mistake, retransmission consent is nothing more than a copyright right in the sheep's clothing of the communications statute. The U.S. Copyright Office has agreed, stating that retransmission consent "alters the fundamental principle of the (copyright) compulsory licensing scheme: Signal availability."

The advocates of retransmission consent try to make a distinction between "signal" and "programming," arguing that retransmission consent only deals with the signal and copyright only deals with the copyrighted programming carried on the signal. This is sophistry. Consumers do not sit around and watch a signal. They watch programming.

The advocates of retransmission consent have also resorted to all sorts of maneuvering to avoid the Judiciary Committee's jurisdiction. They took retransmission consent out at the Energy and Commerce Committee after they learned that the Parliamentarian was going to give Judiciary a sequential referral.

Yesterday the Rules Committee did the right thing. It rejected a last-ditch effort to reinsert retransmission consent back in H.R. 4850.

Why do broadcasters want retransmission consent so much? As I said, money, lots of it. How much? Larry Tisch, president of CBS, and a very knowledgeable industry figure put a tag of $1 billion on retransmission consent. That money will be passed on to consumers.

Retransmission is bad policy and bad for consumers. This is why its advocates have been attempting to circumvent the normal committee process: They're afraid that once Members are aware of the devastating costs of retransmission consent to consumers, it will be rejected.

In conclusion, while I support H.R. 4850 in its current form, I urge rejection of retransmission consent if it is ever raised again.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON], a member of the committee.

Mr. BARTON of Texas. Mr. Chairman, I, too, want to commend the leaders on both sides of the aisle in their misguided and in my opinion unnecessary effort to reregulate cable.

This is the wrong bill at the wrong time for the wrong reasons. If we are worried about holding rates down, we ought to engage in more effective competition.

Congressmen COOPER and OXLEY on the committee have got a bill that will allow telephone companies into cable television. That would definitely provide some competition.

This is an industry that is an entertainment industry. It is not a public necessity. There is absolutely no reason to regulate it. I would hope that we would vote no, no, and then move on to more important things; but again, those who think we need to regulate cable on both sides have been fair in the hearings of the subcommittee and the full committee.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman and my colleagues, I urge your support for the Tauzin amendment to the Cable Television Consumer Act and ask you to accept no weakening amendments. The Tauzin program access amendment serves two purposes: It promotes competition and makes possible the wider distribution of information, education and entertainment to people in rural areas who have not fully benefited from this so-called Information Age.

As you probably know, 60 percent of the homes in this country have cable television, but less than 3 percent of these households have any alternative to the local cable monopoly. In the areas, where competition does exist, rates are substantially lower and customer service infinitely better and the cable companies still show a healthy profit. These findings indicate that with real competition in the marketplace, consumers benefit through greater choice and more reasonable prices.

However, rural America, and certainly many communities in Alabama, are not served by the present cable systems because of the cost limitations of cable technology. While many rural residents have invested in satellite dish delivery systems, they still have found themselves at the mercy of cable programmers who have refused to sell their programs to satellite program distributors or who greatly inflate the price of their programs as compared to what they charge their own cable affiliates. There are new and developing technologies which have the potential to deliver the full range of television programs to rural areas at affordable prices. Yet, without access to the programs people really want to watch, these systems may never get off the ground and the real losers are once again the viewing public.

The Tauzin amendment addresses this issue by preventing cable programmers which are vertically integrated with cable system operators from unreasonably refusing to deal with alternative multi-video providers. In other words, cable companies which also own programming cannot refuse to sell their programming to other distribution systems in order to choke off any competition. It also prohibits a vertically integrated cable company from discriminating in price, terms and conditions in offering its programming. The amendment does not set those prices, terms or conditions, but merely encourages good faith negotiations.

The Tauzin amendment is supported by the Alabama Rural Electric Association of Cooperatives, the National Rural Electric Cooperative Association, the U.S. Telephone Association, the National Rural Telecommunications Cooperative, the American Public Power Association, Consumer Federation of America, the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties among others.

Real competition is the best solution. Limited regulation will merely institutionalize increasing cable rates—they alone will never result in greater diversity or lower charges. While I support the rate provisions of H.R. 4850 as interim measures to protect consumers from abusive practices, I would like to point out that these provisions sunset when effective competition becomes a reality. Let us act now to promote this competition by supporting the Tauzin amendment.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in strong opposition to H.R. 4850.

Since when is it the Federal Government's job to regulate all economic activity, and since when is entertainment and communications an essential economic activity that needs to be regulated?

I have heard today that we have no competition when it comes to this type of communication. Give me a break. What about video cassettes? What about the radio? What about regular TV? What about books? What about CD's? What about audio tapes?

Hey, what about newspapers, and how about just sitting around in the living room talking to one another? Does the Federal Government really have to get in and regulate every single business in this country? When it does it messes things up.

We have some new technologies about to come on line to undercut the cable industry right now. These people have invested so much money, it is going to cause a lack of competition in the future because it is going to drive these people out of business at a time when new competition is coming in because of technology.

Mr. Chairman, let us defeat H.R. 4850.

□ 1740

Mr. MARKEY. Mr. Chairman, I reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. I thank the gentleman for yielding.

I just wanted to engage the gentleman from New Jersey [Mr. RINALDO] in a colloquy. As the distinguished ranking member knows, I have been pretty vocal in trying to make sure that an important amendment which helps a particular city in my district, the city of Dubuque, is included not only in the Republican substitute but also in H.R. 4850.

This amendment would permit the city of Dubuque to maintain its very unique rate regulation agreement with TCI Cable, which currently serves the Dubuque area. I just wanted to make sure to take this opportunity to verify that this amendment is still part of not only the Republican substitute but also H.R. 4850, the one we are considering today.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

Mr. Chairman, I assure the gentleman from Iowa that his persistence and hard work have paid off and that his amendment, which protects Dubuque from any inadvertent legislative action, is still included in both the Lent substitute and H.R. 4850.

Mr. NUSSLE. I thank the gentleman for his comments. As you know, Congressman Tom Tauke, my predecessor, was a very hard and diligent worker on this particular issue, and I wanted to make sure that it was a part of the bills as a result of the fact that Dubuque has such interesting terrain and makes it difficult for competition. I appreciate the fine work of the committee.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time in order to complete debate.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] has 3 minutes remaining.

Mr. MARKEY. I thank the chairman.

Mr. Chairman, the reason this legislation is needed is that the cable industry is a monopoly. When we passed the 1984 act, it was with the promise that cable companies would compete against each other, that if a cable system went into one system, another cable system would also come in and there would be two wires going down the streets of this country, and three or four.

It turns out, 8 years later, that they have an informal agreement not to compete, and in 99 percent of the communities in this country there is no competition.

So, now we must return to the original premise and regulate it not as a competitive industry but as a monopoly. To those who ask why do we regulate it, that is the answer. It is a monopoly.

Competition to cable is not reading a newspaper, competition to cable is not sitting in your living room twiddling your thumbs or going deep-sea diving or walking the dog. Yes, you can do all that as opposed to watching cable TV; but if you want to watch cable TV, there is only one cable TV in town, and it is owned by a monopoly.

That is why this legislation is going to pass tonight. That is why we are debating it.

Eight years later, we were wrong, there is no competition.

Now, the Consumer Federation of America says that because of the lack of competition or regulation—and we have neither—it costs the consumers of this country an extra $6 billion every year more than it should for the product which the cable industry provides on a monopoly basis.

Think of this vote tonight as a $6 billion tax cut for the consumers of America—$6 billion.

That is why it is endorsed by the Consumer Federation of America, that is why it is endorsed by the National League of Consumers, that is why it is endorsed by the National Council of Senior Citizens, that is why it is endorsed by the many members of the AFL–CIO and others who are in the forefront of the protection of the consumers of this country.

That is why we need this legislation.

Now, to those who want to walk the dog, those who do not really care about the consumers of this country, they can vote against protection of the consumer. However, I emphasize the bipartisan nature of this legislation. The bill was reported out of the Committee on Energy and Commerce on a bipartisan vote.

The Senate bill, which goes at least as far as this bill goes, was sponsored by the ranking Republican on the Commerce Committee, Senator DANFORTH, and it was voted out 73 to 18, with a majority of Senate Republicans voting "yes."

The reason for that bipartisan vote is very clear: It protects the consumers of this country. I would hope, as we complete general debate and move on to the amendments, that each and every Member of this body could keep that in the back of their minds, that $6 billion tax cut we are voting tonight for the consumers of this country.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY] a distinguished member of the committee.

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] is recognized for the balance of the time remaining, which is 2 minutes.

Mr. OXLEY. Mr. Chairman and Members, we really have, I guess, a philosophical difference here. There are those on that side, and I say this with great respect to my friend from Massachusetts, the chairman of the subcommittee, who feel that when something is successful out there in the business world, let us regulate it, and if it is really successful, then let us overregulate it.

That is really what we have got before us right now.

We are trying to kill a fly with a sledge hammer. And that sledge hammer happens to be the overregulatory bill that we have before us today; big, big mistake.

We did not make any mistake in 1984 when we deregulated cable. We saw one of the greatest growth industries in the history of this country, that has brought more entertainment and information to our people and indeed around the globe than any other thing that we could have done. It was a successful piece of legislation. That is not to say there are not some glitches out there. Clearly, there are some problems. We can deal with that.

Mr. Chairman, the Lent substitute, in fact, does deal with that.

I hoped that we could have passed that last session. It did not happen. We all know why it did not happen, but it did not happen.

So we have a choice: Instead of paying lip service, lip service to competition, we could bring up the bill that I have introduced along with Mr. BOUCHER, Mr. COOPER, and others, that would allow the Bell operating companies to get into cable, that would provide real competition to enhance the network, to bring broadband technology to the American public, and we could get off this reregulatory kick that we somehow get on that somehow we are going to protect that poor consumer out there.

Does anybody out there really think this bill is going to drive down the cost of cable to the average consumer? I would argue quite the contrary. Because we are unable to debate today the retransmission consent language for other reasons, we will not be able to get into the fact that it is going to cost the average consumers about $3 per head and some $20 billion more. That is going to be taken care of apparently in conference committee. Too bad; we had a chance, I think, to really do something and we simply did not do it.

Mr. POSHARD. Mr. Chairman, I rise in strong support of this legislation and the consumers it protects.

The General Accounting Office study of the period between November 1986 and April 1991, which shows that cable rates increased nearly 60 percent, is dramatic evidence in support of this bill. During those first 4½ years of deregulation, the cable industry took excessive advantage of its unregulated monopoly status to raise rates. At the same time, those of us in elected public office heard continuing complaints not only about price but about the service which they received from the companies.

In my rural Illinois district, cable television is a popular outlet to the rest of the world. Cable News Network and C–SPAN, the excellent public service offerings of the cable industry, have strong audiences in my district. I say this because I believe there is great promise for the cable television industry, and I know that in some ways the companies in my State and across the Nation have tried to address some of the issues under consideration in this bill. But they have not come far enough, and this legislation is critical to balancing the playing field, protecting consumers, and introducing competition.

I regret that the Rules Committee did not allow an amendment to provide retransmission consent for local broadcasters, and I urge the House conferees to stand up for that provision which is included in the Senate version of this bill.

The bill deserves strong support for the way it otherwise recognizes the needs of over-the-air commercial and public television stations. I was also pleased to support the Tauzin amendment to provide equal access to programming at nondiscriminatory prices by noncable technologies.

For all of those reasons, I strongly support the bill and commend the committee and the House for its excellent work.

Mr. KYL. Mr. Chairman, the cable television legislation before the House today is a mixed bag of some good and some bad proposals.

It includes must carry and channel positioning provisions that I believe are important and should be enacted: must carry to ensure the viability and availability of free, over-the-air broadcast television to the viewing public; and channel positioning to help avoid the confusion to viewers that might otherwise result from the shifting of stations from one channel position to another, not to mention the losses in viewership that local stations might suffer from viewers no longer able to find their favorite station.

The House won't have an opportunity under the rule to debate the retransmission consent issue. I would have supported retransmission consent, which would have allowed local stations the opportunity to negotiate with cable operators over the terms and conditions of their carriage on cable.

Unfortunately, some of these good things in the bill are far outweighed by the bad; namely the massive reregulation of the cable industry which in the end will increase, not decrease or stabilize, cable rates and jeopardize the high quality of service available to most cable subscribers.

Mr. Chairman, according to information I received from the Department of Commerce, regulatory costs imposed by this bill at the Federal, State, and local levels will increase by $22 million to $60 million annually, costs that will ultimately be paid by the taxpayers or by cable subscribers.

Cable operating costs will also increase, by as much as $1 billion annually. Who will pay? Cable subscribers.

Increased competition, not more regulation, is the direction this House should be moving. If the severe regulation is not removed from the bill, I will have to vote no on final passage. If the massive reregulatory approach is not removed, President Bush has vowed to veto the bill, and, if he does, the good things I had mentioned will be threatened along with the bad.

Increased competition, not more regulation, is the answer.

Mr. LEHMAN of California. Mr. Chairman, as a member of the Energy and Commerce Committee, I rise in reluctant support of H.R. 4850, the Cable Television Consumer Protection Act of 1992.

While I acknowledge the hard work of Chairman JOHN DINGELL, ED MARKEY, NORM LENT, MATT RINALDO, and their respective staffs, I would like to take this opportunity to note some of my continuing concerns that I have with the bill under consideration today.

Thanks in large part to this body which approved the Cable Act of 1984, the cable television industry has experienced tremendous growth over the past decade. It now reaches over 90 percent of all homes and is subscribed to by 60 percent of all American households. The cable television industry not only provides a clear picture to many locales that did not have broadcast signals, but now through the miracle of cable, millions of Americans enjoy a steady diet of HBO, ESPN, CNN, MTV, BET, Discovery and dozens of other programs developed by cable. The programming services and picture quality offered by cable and its competitors are here to stay and we owe the industry our gratitude.

However, as with all growth industries, there have been problems and cable has been no exception. Through the years there have been complaints of excessive rate increases, poor customer service, arrogant franchise operators, and incompatible equipment. In many instances, the cable industry has acknowledged its shortcomings and has taken many steps to solve these problems.

Yet, the bad apples do exist and the intent of H.R. 4850 is to rein in these few bad apples that threaten to ruin it for the majority of good ones. Though several of the concerns that I raised during the subcommittee consideration of the bill have been resolved and while I am generally supportive of the goals of H.R. 4850, I still have reservations of whether or not we will actually accomplish what we originally set out to do.

There is no doubt that the cable television industry is a monopoly. Single franchises dominate the landscape with competition provided in only 5 percent of the marketplace. Vertically integrated cable system and programming entities control the majority of programming currently available. In the absence of market-driven competition, however, it is not clear to me that the basic tier regulatory structure provided in the legislation will in fact reduce subscription rates and in the long term lower cable rates for our constituents.

Of particular concern to me is the impact of the buy-through prohibition in section 3 of H.R. 4850. The industry says that this will cost them and, ultimately, the consumer, $4 billion in additional costs to ensure that the appropriate addressable converter technology is available for consumers. Proponents argue that this provision makes sense, that the industry has been rapidly moving toward this technology, and that this gives the consumer more choices in determining how their discretionary entertainment dollar will be spent. Yet, there is no convincing evidence that the consumer will in fact continue to receive the type of diversified cable programming that is currently available nor at the same affordable rate.

I do, however, appreciate the concessions which were made by Chairman MARKEY in allowing the equipment cost to meet this provision to be passed along to the consumer, and for allowing the FCC to grant an additional 2 years to comply due to technological limitations.

H.R. 4850 unfortunately does not address the issue of access to programming. As a member of the committee, I am familiar with the controversy regarding this issue and it is unfortunate that the committee could not satisfactorily resolve this complex problem. I am, however, in support of the Manton substitute and in reluctant opposition to the proposal offered by my good friend and colleague from Louisiana, Mr. TAUZIN.

At the very heart of this issue is whether or not the alternatives to hard wire cable systems, either microwave or satellite services, have adequate access to video programming sources, much of which is controlled by cable entities. And are these current protections or the ones we are contemplating today sufficient to meet the needs of new DBS technology and possible entry by other competitors such as the telephone companies?

There is no doubt in my mind that the amendment offered by Mr. MANTON is fair and reasonable, and does, in fact, provide for the type of access to programming that the competition, both present and prospective, needs to have in order to foster true market competition. Does it go far enough to anticipate the technological and marketplace demands of tomorrow, of the next decade, that remains to be seen. The Manton substitute does, however, acknowledge the present issues and it is realistic in its approach.

The Manton substitute prohibits vertically integrated cable entities from refusing to deal with multichannel system operators where such refusal would "reasonable restrain competition." This provision provides adequate protection for existing programmers, yet ensures that other video delivery system operators have reasonable access to these programming sources.

Furthermore, the Manton amendment ensures that cable programming remains available to C–Band satellite dish at rates, terms and conditions comparable to cable—this provision is virtually identical to the approach embodied in H.R. 5267, which was approved overwhelmingly in the 101st Congress.

The Manton substitute is reasonable and fair, and it also provides assurance of access to programming sources for the competition.

Let me express my disappointment that H.R. 4850 does not include the so-called retransmission consent provision. Unfortunately, due to jurisdictional concerns, the Energy and Commerce Committee did not include this provision in H.R. 4850 and the rule did not make in order an amendment by my good friends and colleagues Congressmen ECKART and FIELDS. Fortunately, the Senate bill, S. 12, does include retransmission language, and, hopefully, this issue can be resolved in conference.

All of us believe in competition—putting your best product forward and going head to head in the marketplace.

But what has occurred in the cable industry is just the opposite. Instead of cable and its chief competitor, the broadcast industry, playing by the same rules on the same turf, we have a situation where broadcasters must subsidize their competition by being required to give away their programming to cable. No negotiations, no permission required. There is no other business in America which operates this way and it's time that we put a stop to it.

Retransmission consent is simple but effective. For those stations who choose it, this option would allow broadcast stations to retain the right over who may use their signals and under what terms and conditions. This is a simple and fair negotiated contract between two parties.

Furthermore, the negotiations would be strictly between the station and local cable operator—no networks, no outsiders. And it is not a surcharge or tax as has been alleged. The agreement may not be a financial agreement, it could include promotional considerations, channel positioning, or other non-monetary considerations.

Finally, many stations might not even opt for retransmission consent, and instead would simply opt for the "must carry" provisions already included in H.R. 4850.

The concept is simple, rational and fair. It allows competition on open terms and it removes an unfair advantage which the cable industry has had over the local broadcaster.

Finally, Mr. Chairman, let me thank my chairman of the committee for including my two amendments as part of his en bloc package.

Included in this package is my amendment which would amend section 18(b) regarding a study of sports migration. Section 18(b) requires that the Federal Communications Commission conduct a study of the carriage of local, regional and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The purpose of the study is to develop quantitative data regarding the migration of collegiate and professional sporting events from over-the-air broadcast signals to cable and pay-per-view [PPV] services.

While cable and PPV services may have increased the availability and diversity of televised sporting events, there is clear evidence that the migration of some events from over-the-air signals to pay cable services has been disruptive to both the broadcast industry and the local fan. The study is an important first step in resolving an issue which has been before the committee for several years now.

Of particular concern to me has been the impact which exclusive contracts between college athletic conferences and regional sports programming networks have had on the ability of local broadcasters to air these events and ultimately the impact on the college football fans. In most instance college conferences sign exclusive contracts with regional sports programming networks which govern the broadcasting or cablecasting of conference games, often prohibiting games from being aired during the same time slot as their so-called game of the week.

For instance, in my congressional district, a Fresno State University Bulldog football game against a PAC 10 school was not aired by the regional sports cable network because the sports network decided to feature a different PAC 10 game. All other conference games were similarly prohibited from being aired at the same time as that featured game. To make matters worse, that exclusive contract also prevented a local television broadcaster from securing the rights to broadcast that game. As a result, my local fans were deprived of seeing a game that they normally could have seen on a local television station.

Similarly, a Bulldog game against another conference school which had signed a similar exclusive contract with a regional sports network was not even carried on our local cable system, an effective blackout of the area. Area fans had absolutely no access to this game thanks to the exclusive contract.

This problem is not unique, it has occurred in university communities throughout the country, including California, Washington, Tennessee, Arizona, and Iowa, depriving both local broadcasters and sports fans with the opportunity to view these games live.

Though the report which accompanies H.R. 4850—House Report 102–628—alludes to this problem, my amendment provides some statutory direction. It would very simply direct the FCC to consult with the Attorney General to examine and conduct an analysis of the impact of these exclusive contracts between college athletic conferences and video programming vendors. The amendment provides some statutory guidance for the FCC sports migration study, and asks for a recommendation to solve the problem.

Fresno State fans, more commonly known as the "Red Wave" are among the best fans that any university community could ever want and they deserve to have access to the live broadcast of their hometown college team, whether it is on cable or over the air broadcast signals. Like the Washington Redskins, Bulldog fans fill their stadium every weekend and for every home game, and the hordes of rabid fans that follow the team throughout the West strike fear into the hearts of opposing teams.

If the Bulldogs can compete against the best schools in the West, then their fans deserve to view those games, live. My amendment would help to do just that. The taxpayers and the community of Fresno have built the stadium and the ballpark. They are the ones who support the teams through thick and thin. They deserve and demand the right to watch their hometown athletes shine wherever they play and against whomever, regardless of these artificial and legalistic restraints.

I have worked closely with both Chairman DINGELL and Congressman MARKEY since this problem first surfaced last fall and I agree with the thousands of Bulldog fans who contacted me then. And though this amendment will not eliminate the problem, my amendment is just the first step in solving this problem. I appreciate Chairman DINGELL and the ranking minority member, Congressman LENT, for including this amendment in their package. I urge the adoption of the amendment. Go 'Dogs!

My second amendment that is included in the en bloc package clarifies the channel positioning requirements contained in section 5 of H.R. 4850. As reported by the committee, the bill affords local television broadcasters protection against having their television channels shifted by cable operators.

H.R. 4850 permits a television broadcaster to be carried on the cable channel it occupied on July 19, 1985 or on its FCC designated channel number, at the option of the television station. In addition, a television broadcaster can be carried on such channel as is mutually agreed upon by the station and cable operator.

This provision was included in the bill to end the unfortunate practice by certain cable operators of unilaterally and sometimes repeatedly moving a broadcast station's channel position. Cable subscribers are accustomed to viewing these stations on their current channel assignments and broadcasters have marketed their stations based on the channel assignment. It should be noted that according to a 1988 FCC report, 974 cable systems had repositioned local stations a total of 3,000 times. The bill rectifies the unilateral repositioning of broadcast channels.

My amendment merely affords this protection to stations which commenced operation after 1985. It should be noted that the July 19, 1985 date is the date of the Quincy decision, which invalidated the FCC's must carry rules, *Quincy Cable TV* v. *FCC*, D.C. Cir.—H. Rept. 102–628, p. 48. Again, this is merely a technical amendment, and I appreciate its inclusion in the chairman's package.

Again, Mr. Chairman, let me reiterate that H.R. 4850 is not a perfect solution to the problems associated with the cable television industry. It is, however, the product of very serious negotiations by the entire Energy and Commerce Committee and is worthy of approval by this body. And while many advocate that the Lent substitute is a far less onerous package and that it more closely mirrors the legislation that this House approved in the previous Congress, the fact remains that the marketplace has evolved since then and H.R. 4850 is a result of that evolution.

This legislation has the broad support of a number of interests, including labor, the U.S. Conference of Mayors, consumer groups, and it does lay the foundation for sound and reasonable regulation of the cable industry. It is a good bill for our constituents, and I urge my colleagues to support H.R. 4850.

Mr. GREEN of New York. Mr. Chairman, alarmed and concerned over the skyrocketing costs of cable since deregulation, I should like to express my support for the cable regulation proposal offered by my friend and colleague from New York, Mr. LENT. However, in the event that the Lent cable substitute is defeated, I shall cast my vote in support of H.R. 4850, the Cable Television Consumer Protection Act of 1992.

At present, my constituents have no choice but to subscribe to one existing cable company. Many New Yorkers—who need cable just to get clear reception of regular network television due to tall building interference—have been forced to subscribe to an unregulated monopoly, which has consistently raised rates and rendered certain high-technology subscriber television and VCR equipment obsolete.

The Lent substitute, which would require that the rates of basic cable service be regulated in areas where there is no effective competition, provides a balanced approach that will protect the interests of cable consumers. The proposal protects the consumer without placing excessive regulatory burdens on existing cable companies that could discourage investment in new programming when the American consumer is looking to the industry for greater programming choices.

Should the Lent substitute be defeated, I shall vote for the Cable Television Consumer Protection Act, which redefines "effective competition" and requires the Federal Communications Commission to regulate rates charged by cable TV operators. The legislation also requires the FCC to establish customer service standards for cable operators and directs the Commission to control rates charged by cable companies for the equipment and installation necessary to receive service. While I am concerned with some of the legislation's more restrictive and burdensome provisions, I remain hopeful that they can be revised when the bill goes to conference with the Senate.

I have never been a proponent of costly and unwarranted regulation. Moreover, I have long advocated and sponsored legislation which would allow for competition in the cable industry by permitting telephone companies, such as NYNEX, to compete with current cable TV operations. However, while reregulation is not the ideal response it is the only alternative that the House has been given to consider that will protect the interests of the cable consumer. I should also like to encourage the leadership to permit the House to vote on legislation that would allow the telephone companies to offer cable services. After all, cable companies, which have been free from regulation since 1984, have also been free of any meaningful competition. If Congress really wants to lower cable costs, let us give the cable industry more competition and the cable consumer some more choices.

Mr. MORRISON. Mr. Chairman, I rise today to say that we should be very careful about regulating an industry which has experienced substantial growth during a recession. Growth is good. The American consumer has undoubtedly benefitted from the growth of the cable industry.

But our job here is to look out for the best interests of that same American consumer. Along with its successes, the cable industry has experienced some significant growing pains. In many areas, cable rates have far exceeded the rate of inflation. Customer service and equipment complaints continue. In an industry which serves as the sole provider of a particular service, the Government has a responsibility to protect the consumer from monopolistic tendencies. In areas where cable has no competitor, it is our duty to ensure that rates are reasonable and service responsive. Passage of legislation today will move us in that direction.

THE IMPORTANCE OF LOCAL BROADCASTERS

Before I get into the specifics of the bill before us today, I would like to speak out for the local broadcasters who continue to be so integral to communities across the country.

When you want to catch up on local news, who do you turn to? Your local television broadcasters. When the national network affiliates don't carry your city's pro football game on Sunday, who do you turn to? Your local television broadcasters. If you want to see talk shows, weekly town meeting shows, and educational programming specific to your region, who do you turn to? Your local television broadcasters.

There is no doubt that the cable companies are slowly improving in this area. Government access channels, local high school sports, and other similar programming are becoming increasingly available on cable. But the local affiliates continue to be the backbone of our community news and information. The action we take today will ensure that those local affiliates remain strong and vital.

At a minimum, we can give those affiliates the must carry protection they need. While the courts have not been kind to must carry, it is a provision of this bill I'm confident nearly every one of my colleagues supports, and that most cable companies do not have a problem with. It ensures that those with cable television won't be deprived of the local programming that keeps them in touch with their community.

The bill before us today does not contain the retransmission consent language which the broadcasters feel is vital to their continued existence. While it made sense 20 years ago for the cable companies to retransmit those signals at no charge, today finds the broadcaster subsidizing their main competitor.

Giving the local broadcaster the option of requesting mandatory carriage or negotiating a carriage agreement, gives them the freedom to be treated like any other cable programmer. In discussions with broadcasters in my district, most would simply ask for mandatory carriage. For those who choose to negotiate a carriage agreement, compensation would not have to be monetary, and joint advertising and promotional arrangements seem likely in many cases.

In short, it is important that we act today in the best interests of the consumer. That means reasonable rates and service. And it also means maintaining the role of the local affiliate as the provider of important news, information, and programming specific to each region and community in this country.

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Because I believe we should be careful about regulating a growth industry, I will support the Lent substitute when it comes to the floor. While it ensures that rates do not rise unfairly, it does not micromanage what has, for the most part, been the successful delivery of this service.

Should the Lent substitute be defeated, however, I will support final passage of H.R. 4850. I have concerns with a number of specific provisions of this bill. But in the best interests of the consumer, I believe this is a train that we must keep moving. Again, we shouldn't restrict this industry, but ensure that its growth does not do harm to viewers or local broadcasters. In most areas, cable continues to enjoy monopoly status in the delivery of multichannel programming. We must ensure that the consumer is treated fairly by an industry which enjoys these monopoly powers.

There are a number of specific concerns I have with this bill which I hope can be resolved in conference with the Senate. Let me go over a few of those here.

ANTIBUY THROUGH

This bill allows consumers to purchase premium channels without purchasing the basic tier. That may sound innocent and a proconsumer choice. Wait until the bill comes in to make every home addressable. The current legislation means cable companies must have the ability to provide every cable consumer with HBO but not basic services. Most don't currently have that capability. One of the primary purposes of this bill is to keep rates at a reasonable level, and this provision flies in the face of that goal. Let's instead encourage cable companies to reach that goal as soon as they can, without mandates, and without sticking the consumer with the bill.

LACK OF EMPHASIS ON COMPETITION

History has shown us that the best remedy for high rates and poor service is competition. Give folks a choice of their provider. The FCC opened the door for the telephone companies last week. The direct broadcast satellite industry also continues to grow. Let's do more in this bill to prohibit exclusive franchises, to encourage modern communications development through fiber optics, and give consumers the ability to switch providers of multichannel service if they are unhappy.

NO EXEMPTION FOR SMALL SYSTEMS

As a member who represents a rural region of this country, I can tell you that many of those for whom cable was first intended are still waiting. Fewer homes and televisions per mile means less incentive to install cable. Regulating the small companies that provide most rural services hogties them further and endangers service to folks who don't have as many entertainment options as their urban neighbors. They turn on their TV's for their trips to Broadway, and can't afford to have their small cable provider cut them off because that provider can't afford to pay for the increased burdens of regulation.

In short, I will support the concept of curbing unreasonable rates and improving service in the cable industry today, and support final passage of H.R. 4850. I'm hopeful we will see an improved version of this bill come out of conference with the Senate—one which does not micromanage a thriving industry. Our job is to make sure the continued growth of the cable industry does not occur at the expense of the consumer.

Mr. DOWNEY. Mr. Chairman, 3 years ago, dedicated sports fans on Long Island were almost denied the opportunity to watch the New York Rangers and Knicks playoff games because of a dispute between the local cable provider and the programmer. While this dispute was settled, it mobilized Long Islanders to fight for their rights as cable consumers.

For me, this dispute underscored the need to reexamine the cable industry and the negative impact of deregulation. Deregulation has not achieved its goals and the last few years have been a time of frustration for cable consumers. They have been subject to higher rates, a decline in basic programming and a loss of service, including the coverage of favorite sports teams. It has left cable watchers with a sense of helplessness at the hands of this unregulated monopoly.

I believe that the solution is to inject real competition into the cable industry. I am pleased that the FCC has agreed to ease the restrictions on the entry of telecommunications companies into the cable market. But this will take time and cable consumers cannot and should not have to wait any longer.

The Cable Television Consumer Protection and Competitiveness Act will protect consumers, require additional competition, and ensure reasonable rates for cable programming. It will also discourage the movement of championship professional sporting events from free television to pay-per-view. The amendment offered by Mr. TAUZIN to increase program access will further encourage competition.

The rights and interests of cable consumers must be respected and protected. This legislation will accomplish these goals and I urge my colleagues to support it.

The rights and interests of cable consumers must be respected and protected. This legislation will accomplish these goals and I urge my colleagues to support it.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS; DEFINITION.

(a) FINDINGS.—Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601."; and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Passage of the Cable Communications Policy Act of 1984 resulted in deregulation of rates for cable television services in approximately 97 percent of all franchises. A minority of cable operators have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates. The Federal Communications Commission's rules governing local rate regulation will not provide any protection for more than two-thirds of the nation's cable subscribers, and will not protect subscribers from unreasonable rates in those communities where the rules apply.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for local franchising authorities and the Federal Communications Commission to prevent cable operators from imposing rates upon consumers that are unreasonable.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling interest in making all nonduplicative local public television services available on cable systems because—

"(A) public television provides educational and informational programming to the Nation's citizens, thereby advancing the Government's compelling interest in educating its citizens;

"(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of $10,800,000,000 between 1972 and 1990 that provides public service programming that is responsive to the needs and interests of the local community;

"(C) the Federal Government, in recognition of public television's integral role in serving the educational and informational needs of local communities, has invested more than $3,000,000,000 in public broadcasting between 1969 and 1992; and

"(D) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to ensure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems.

"(9) Cable systems should be encouraged to carry low power television stations licensed to the communities served by those systems where the low power station creates and broadcasts, as a substantial part of its programming day, local programming.

"(10) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast television stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(11) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audience. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to reposition broadcast signals to disadvantageous channel positions, or both. Absent reimposition of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(12) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operator's provision of this access and the operator's economic incentives described in paragraph (11), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(13) Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services. A Government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the 'A/B' input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

"(14) At the same time, broadcast programming has proven to be the most popular programming on cable systems, and a substantial portion of the benefits for which consumers pay cable systems is derived from carriage of local broadcast signals. Also, cable programming placed on channels adjacent to popular off-the-air signals obtains a larger audience than on other channel positions. Cable systems, therefore, obtain great benefits from carriage of local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster. This has resulted in an effective subsidy of the development of cable systems by local broadcasters. While at one time, when cable systems did not attempt to compete with local broadcasters, this subsidy may have been appropriate, it is no longer and results in a competitive imbalance between the two industries.".

(b) DEFINITION.—Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended—

(1) by redesignating paragraphs (11) through (16) as paragraphs (12) through (17); and

(2) by inserting after paragraph (10) the following new paragraph:

"(11) the term 'multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel

multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming;".

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) COMPETITION PREFERENCE; LOCAL AND FEDERAL REGULATION.—

"(1) IN GENERAL.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section. No Federal agency, State, or franchising authority may regulate the rates for cable service of a cable system that is owned or operated by a local government or franchising authority within whose jurisdiction that cable system is located and that is the only cable system located within such jurisdiction.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition—

"(A) the rates for the provision of basic cable service shall be subject to regulation by a franchising authority, or by the Commission if the Commission exercises jurisdiction pursuant to paragraph (6), in accordance with the regulations prescribed by the Commission under subsection (b) of this section; and

"(B) the rates for cable programming services shall be subject to regulation by the Commission under subsection (c) of this section.

"(3) QUALIFICATION OF FRANCHISING AUTHORITY.—A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) shall file with the Commission a written certification that—

"(A) the franchising authority will adopt and administer regulations with respect to the rates subject to regulation under this section that are consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority has the legal authority to adopt, and the personnel to administer, such regulations; and

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties.

"(4) APPROVAL BY COMMISSION.—A certification filed by a franchising authority under paragraph (3) shall be effective 30 days after the date on which it is filed unless the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that—

"(A) the franchising authority has adopted or is administering regulations with respect to the rates subject to regulation under this section that are not consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations; or

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority do not provide a reasonable opportunity for consideration of the views of interested parties.

If the Commission disapproves a franchising authority's certification, the Commission shall notify the franchising authority of any revisions or modifications necessary to obtain approval.

"(5) REVOCATION OF JURISDICTION.—Upon petition by a cable operator or other interested party, the Commission shall review the regulation of cable system rates by a franchising authority under this subsection. A copy of the petition shall be provided to the franchising authority by the person filing the petition. If the Commission finds that the franchising authority has acted inconsistently with the requirements of this subsection, the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with the regulations prescribed by the Commission under subsection (b), the Commission shall revoke the jurisdiction of such authority.

"(6) EXERCISE OF JURISDICTION BY COMMISSION.—If the Commission disapproves a franchising authority's certification under paragraph (4), or revokes such authority's jurisdiction under paragraph (5), the Commission shall exercise the franchising authority's regulatory jurisdiction under paragraph (2)(A) until the franchising authority has qualified to exercise that jurisdiction by filing a new certification that meets the requirements of paragraph (3). Such new certification shall be effective upon approval by the Commission. The Commission shall act to approve or disapprove any such new certification within 90 days after the date it is filed.

"(b) ESTABLISHMENT OF BASIC SERVICE TIER RATE LIMITATIONS.—

"(1) COMMISSION REGULATIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) BASIC SERVICE TIER RATES.—A formula to establish the maximum price of the basic service tier, which formula shall take into account—

"(i) the number of signals carried on the basic service tier;

"(ii) the direct costs (if any) of obtaining, transmitting, and otherwise providing such signals, including signals and services carried on the basic service tier pursuant to paragraph (2)(B), and changes in such costs;

"(iii) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

"(iv) a reasonable profit (as defined by the Commission) on the provision of the basic service tier;

"(v) rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(vi) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers; and

"(vii) any amount required, in accordance with subparagraph (C), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise.

"(B) EQUIPMENT.—A formula to establish, on the basis of actual cost, the price or rate for—

"(i) installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control unit and, if requested by the subscriber, such addressable converter box or other equipment as is required to access programming described in paragraph (3); and

"(ii) installation and monthly use of connections for additional television receivers.

"(C) COSTS OF FRANCHISE REQUIREMENTS.—A formula to identify and allocate costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise.

"(D) IMPLEMENTATION AND ENFORCEMENT.—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

"(i) procedures by which cable operators may implement and franchising authorities may enforce the administration of the formulas, standards, guidelines, and procedures established by the Commission under this subsection;

"(ii) procedures for the expeditious resolution of disputes between cable operators and franchising authorities concerning the administration of such formulas, standards, guidelines, and procedures;

"(iii) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method; and

"(iv) standards and procedures to assure that subscribers receive notice of the availability of the basic service tier required under this section.

"(E) EFFECTIVE DATES.—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

"(2) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—

"(A) MINIMUM CONTENTS.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following:

"(i) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(ii) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(iii) Any signal of any broadcast station that is provided by the cable operator to any subscriber.

"(B) PERMITTED ADDITIONS TO BASIC TIER.—A cable operator may add additional video programming signals or services to the basic service tier. Any such additional signals or services provided on the basic service tier shall be provided to subscribers at rates determined under paragraph (1)(A).

"(3) BUY-THROUGH OF OTHER TIERS PROHIBITED.—

"(A) PROHIBITION.—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (2) as a condition of access to video programming offered on a per channel or per program basis. A cable operator may not discriminate between subscribers to the basic service tier and other

subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

"(B) EXCEPTION; LIMITATION.—The prohibition in subparagraph (A) shall not apply to a cable system that, by reason of the lack of addressable converter boxes or other technological limitations, does not permit the operator to offer programming on a per channel or per program basis in the same manner required by subparagraph (A). This subparagraph shall not be available to any cable operator after—

"(i) the technology utilized by the cable system is modified or improved in a way that eliminates such technological limitation; or

"(ii) 5 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, subject to subparagraph (C).

"(C) STUDY; EXTENSION OF LIMITATION.—(i) The Commission shall, within 4 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to consider (I) the benefits to consumers of subparagraph (A), (II) whether the cable operators or consumers are being forced (or would be forced) to incur unreasonable costs for complying with subparagraph (A), and (III) the effect of subparagraph (A) on the provision of diverse programming sources to cable subscribers.

"(ii) If, in the proceeding required by clause (i), the Commission determines that subparagraph (A) imposes unreasonable costs on cable operators or cable subscribers, the Commission may extend the 5-year period provided in subparagraph (B)(ii) for 2 additional years.

"(4) NOTICE OF FEES, TAXES, AND OTHER CHARGES.—Each cable operator may identify, in accordance with the formulas required by clauses (vi) and (vii) of paragraph (1)(A), as a separate line item on each regular bill of each subscriber, each of the following:

"(A) the amount of the total bill assessed as a franchise fee and the identity of the authority to which the fee is paid;

"(B) the amount of the total bill assessed to satisfy any requirements imposed on the operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels; and

"(C) any other fee, tax, assessment, or charge of any kind imposed on the transaction between the operator and the subscriber.

"(c) REGULATION OF UNREASONABLE RATES.—

"(1) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) criteria prescribed in accordance with paragraph (2) for identifying, in individual cases, rates for cable programming services that are unreasonable;

"(B) fair and expeditious procedures for the receipt, consideration, and resolution of complaints from any franchising authority or other relevant State or local government entity alleging that a rate for cable programming services charged by a cable operator violates the criteria prescribed under subparagraph (A), which procedures shall set forth the minimum showing that shall be required for a complaint to establish a prima facie case that the rate in question is unreasonable; and

"(C) the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable and to refund such portion of the rates or charges that were paid by subscribers after the filing of such complaint and that are determined to be unreasonable.

"(2) FACTORS TO BE CONSIDERED.—In establishing the criteria for determining in individual cases whether rates for cable programming services are unreasonable under paragraph (1)(A), the Commission shall consider, among other factors—

"(A) the rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

"(B) the rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(C) the history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

"(D) the rates, as a whole, for all the cable programming, equipment, and services provided by the system;

"(E) capital and operating costs of the cable system, including costs of obtaining video signals and services;

"(F) the quality and costs of the customer service provided by the cable system; and

"(G) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues.

"(3) LIMITATION ON COMPLAINTS CONCERNING EXISTING RATES.—On and after 180 days after the effective date of the regulations prescribed by the Commission under paragraph (1), the procedures established under subparagraph (B) of such paragraph shall be available only with respect to complaints filed within a reasonable period of time following a change in rates that is initiated after that effective date.

"(d) REGULATION OF PAY-PER-VIEW CHARGES FOR CHAMPIONSHIP SPORTING EVENTS.—A State or franchising authority may, without regard to the regulations prescribed by the Commission under subsections (b) and (c), regulate any per-program rates charged by a cable operator for any video programming that consists of the national championship game or games between professional teams in baseball, basketball, football, or hockey.

"(e) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic service, except that no Federal agency, State, or franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or other economically disadvantaged group discounts; or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(f) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(g) REVIEW OF FINANCIAL INFORMATION.—

"(1) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) CONGRESSIONAL REPORT.—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry. Such report shall include such recommendations as the Commission considers appropriate in light of such information. Such report also shall address the availability of discounts for senior citizens and other economically disadvantaged groups.

"(h) PREVENTION OF EVASIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions of the rates, services, and other requirements of this section and shall, thereafter, periodically review and revise such standards, guidelines, and procedures.

"(i) SMALL SYSTEM BURDENS.—In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 500 or fewer subscribers.

"(j) RATE REGULATION AGREEMENTS.—The provisions of this section (and the regulations thereunder) shall not apply to a cable system during the term of an agreement by a cable operator with a franchising authority that was entered into before July 1, 1990, and that authorizes the franchising authority to regulate the rates of such cable system for basic cable service, if such system was not subject to effective competition pursuant to the rules of the Commission in effect on July 1, 1990.

"(k) REPORTS ON AVERAGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(l) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(C) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act, except that the authority of the Federal Communications Commission to prescribe regulations is effective on such date of enactment.

SEC. 4. MULTIPLE FRANCHISES.

(a) UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.—Section 621(a) of the Communica-

tions Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;

"(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;

"(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the right of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way.".

(b) Municipal Authorities Permitted To Operate Systems.—Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended—

(1) by inserting "and subsection (f)" before the comma in subsection (b)(1); and

(2) by adding at the end the following new subsection:

"(f) No provision of this Act shall be construed to—

"(1) prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the geographic areas within the jurisdiction of such franchising authority, notwithstanding the granting of one or more franchises by such franchising authority, or

"(2) require such local or municipal authority to secure a franchise to operate as a multichannel video programming distributor.".

(c) Clarification of Local Authority To Regulate Ownership.—Section 613(d) of the Communications Act of 1934 (47 U.S.C. 533(d)) is amended—

(1) by striking "any media" and inserting "any other media"; and

(2) by adding after the period at the end thereof the following: "Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction.".

(d) Lease/Buy-Back Authority.—Section 613(b)(2) of the Communications Act of 1934 (47 U.S.C. 533(b)(2)) is amended by adding at the end the following: "This paragraph shall not prohibit a common carrier from providing multiple channels of communication to an entity pursuant to a lease agreement under which the carrier retains, consistent with section 616, an option to purchase such entity upon the taking effect of an amendment to this section that permits common carriers generally to provide video programming directly to subscribers in such carrier's telephone service area.".

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) Carriage Obligations.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator.

"(b) Signals Required.—

"(1) In general.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to one third of the aggregate number of usable activated channels of such system.

"(2) Selection of signals.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) Content to be carried.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking internal or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 46, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) Signal quality.—

"(A) Nondegradation; technical specifications.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) Advanced television.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(5) Duplication not required.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) Channel positioning.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) Signal availability.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at rates in accordance with section 623(b)(1)(B).

"(8) Identification of signals carried.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(9) Notification.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(10) Compensation for carriage.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

"(c) REMEDIES.—

"(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(d) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(e) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this section, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section.

"(f) SALES PRESENTATIONS AND PROGRAM LENGTH COMMERCIALS.—Nothing in this Act shall require a cable operator to carry on any tier, or prohibit a cable operator from carrying on any tier, the signal of any commercial television station or video programming service that is predominantly utilized for the transmission of sales presentations or program length commercials.

"(g) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to modify or otherwise affect title 17, United States Code.

"(h) DEFINITION.—

"(1) LOCAL COMMERCIAL TELEVISION STATION.—For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station for purposes of this section upon agreement to indemnify the cable operator for the increased copyright liability as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) EXCLUSIONS.—The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) MARKET DETERMINATIONS.—(A) For purposes of this section, a broadcasting station's market shall be determined in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section. In considering such requests, the Commission may determine that particular communities are part of more than one television market.

"(B) In considering requests filed pursuant to subparagraph (A), the Commission shall afford particular attention to the value of localism by taking into account such factors as—

"(i) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;

"(ii) whether the television station provides coverage or other local service to such community;

"(iii) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

"(iv) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.

"(C) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this paragraph.

"(D) In the rulemaking proceeding required by subsection (e), the Commission shall provide for expedited consideration of requests filed under this subsection.".

SEC. 6. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614, as added by section 4, the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION.

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each cable operator shall carry, on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), a cable operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that a cable operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the cable operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the cable operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the cable operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such cable operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), a cable operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the cable operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The cable operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) A cable operator of a system described in this paragraph which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990,

shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular cable operator and a particular such station, upon the written consent of the cable operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—A cable operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so, subject to approval by franchising authority pursuant to section 611 of this title, by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—A cable operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by a cable operator shall not assert any network nonduplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that cable operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—A cable operator shall retransmit in its entirety the primary video, accompanying audio, and line 21 closed caption transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the cable operator.

"(2) BAND-WIDTH AND TECHNICAL QUALITY.—A cable operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with band-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by a cable operator unless the cable operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system. The notifications provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local noncommercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local noncommercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

"(i) PAYMENT FOR CARRIAGE PROHIBITED.—

"(1) IN GENERAL.—A cable operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) DISTANT SIGNAL EXCEPTION.—Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station reimburses the cable operator for the incremental copyright costs assessed against such cable operator as a result of such carriage.

"(j) REMEDIES.—

"(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that a cable operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data, views, and arguments to establish that the cable operator has complied with the signal carriage requirements of this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the cable operator has complied with the requirements of this section. If the Commission determines that the cable operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the cable operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the cable operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) IDENTIFICATION OF SIGNALS.—A cable operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

"(ii) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B)); or

"(B) is owned and operated by a municipality and transmits predominantly noncommercial programs for educational purposes.

Such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.".

SEC. 7. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may establish and enforce—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the subscriber (including standards governing bills and refunds).

"(c) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

"(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by this title.

"(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b). Nothing in this title shall be construed to prevent the establishment or enforcement of any municipal law or regulation, or any State law, concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section, or that addresses matters not addressed by the standards set by the Commission under this section.".

SEC. 8. CUSTOMER PRIVACY RIGHTS.

Section 631(a)(2) of the Communications Act of 1934 (47 U.S.C. 551(a)(2)) is amended to read as follows:

"(2) For purposes of this section, other than subsection (h)—

"(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

"(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

"(C) the term 'cable operator' includes, in addition to persons within the definition of cable operator in section 602, any person who (i) is owned or controlled by, or under common ownership or control with, a cable operator, and (ii) provides any wire or radio communications service.".

SEC. 9. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators should use technologies that will prevent signal thefts while permitting consumers to benefit from such features and functions in such receivers and recorders.

"(b) COMPATIBLE INTERFACES.—Within 1 year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. The Commission shall issue such regulations as may be necessary to require the use of interfaces that assure such compatibility.

"(c) RULEMAKING REQUIRED.—

"(1) IN GENERAL.—Within 1 year after the date of submission of the report required by subsection (b), the Commission shall prescribe such regulations as are necessary to increase compatibility between television receivers equipped with premium functions and features, video cassette recorders, and cable systems.

"(2) FACTORS TO BE CONSIDERED.—In prescribing the regulations required by this subsection, the Commission shall consider—

"(A) the costs and benefits of requiring cable operators to adhere to technical standards for scrambling or encryption of video programming in a manner that will minimize interference with or nullification of the special functions of subscribers' television receivers or video cassette recorders, while providing effective protection against theft or unauthorized reception of cable service, including functions that permit the subscriber—

"(i) to watch a program on 1 channel while simultaneously using a video cassette recorder to tape a program on another channel;

"(ii) to use a video cassette recorder to tape 2 consecutive programs that appear on different channels; or

"(iii) to use advanced television picture generation and display features;

"(B) the potential for achieving economies of scale by requiring manufacturers of television receivers to incorporate technologies to achieve such compatibility in all television receivers;

"(C) the costs and benefits to consumers of imposing compatibility requirements on cable operators and television manufacturers; and

"(D) the need for cable operators to protect the integrity of the signals transmitted by the cable operator against theft or to protect such signals against unauthorized reception.

"(3) REGULATIONS REQUIRED.—The regulations prescribed by the Commission under this section shall include such regulations as are necessary—

"(A) to establish the technical requirements that permit a television receiver or video cassette recorder to be sold as 'cable ready';

"(B) to establish procedures by which manufacturers may certify television receivers that comply with the technical requirements established under subparagraph (A) of this paragraph in a manner that, at the point of sale is easily understood by potential purchasers of such receivers;

"(C) provide appropriate penalties for willful misrepresentations concerning such certifications;

"(D) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(E) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(i) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(ii) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(F) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (c) and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

"(e) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take into account the cost and benefit to cable subscribers and purchasers of television receivers of such standards.".

SEC. 10. TECHNICAL STANDARDS; EMERGENCY ANNOUNCEMENTS; PROGRAMMING CHANGES.

(a) TECHNICAL STANDARDS.—Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission shall update such standards periodically to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection.".

(b) EMERGENCY ANNOUNCEMENTS.—Section 624 of such Act is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any such rule, regulation, or order, each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations in subpart G of part 73, title 47, Code of Federal Regulations.".

(c) PROGRAMMING CHANGES.—Section 624 of such Act is further amended—

(1) in subsection (b)(1), by inserting ", except as provided in subsection (h)," after "but may not"; and

(2) by adding at the end the following new subsection:

"(h) A franchising authority may require a cable operator to do any one or more of the following:

"(1) to provide 30 days advance written notice of any change in channel assignment or in the video programming service provided over any such channel;

"(2) to inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority.".

SEC. 11. REGULATION OF CARRIAGE AGREEMENTS.

Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS.—Within one year after the date of enactment of this section, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators or other multichannel video programming distributors and video programming vendors. Such regulations shall—

"(1) include provisions designed to prevent a cable operator or other multichannel video pro-

gramming distributor from requiring a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) include provisions designed to prohibit a cable operator or other multichannel video programming distributor from coercing a video programming vendor to provide, and from retaliating against such a vendor for failing to provide, exclusive rights against other multichannel video programming distributors as a condition of carriage on a system;

"(3) contain provisions designed to prevent a multichannel video programming distributor from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors;

"(4) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(5) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(6) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(b) DEFINITION.—As used in this section, the term 'video programming vendor' means a person engaged in the production, creation, or wholesale distribution of a video programming service for sale.".

SEC. 12. EQUAL EMPLOYMENT OPPORTUNITY.

(a) FINDINGS.—The Congress finds and declares that—

(1) despite the existence of regulations governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

(b) STANDARDS.—Section 634(d)(1) of the Communication Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection.".

(c) CONTENTS OF ANNUAL STATISTICAL REPORTS.—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

"(i) Corporate officers.
"(ii) General Manager.
"(iii) Chief Technician.
"(iv) Comptroller.
"(v) General Sales Manager.
"(vi) Production Manager.
"(vii) Managers.
"(viii) Professionals.
"(ix) Technicians.
"(x) Sales.
"(xi) Office and Clerical.
"(xii) Skilled Craftspersons.
"(xiii) Semiskilled Operatives.
"(xiv) Unskilled Laborers.
"(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section.".

(d) PENALTIES.—Section 634(f)(2) of such Act is amended by striking "$200" and inserting "$500".

(e) APPLICATION OF REQUIREMENTS.—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video programming distributor".

(f) STUDY AND REPORT REQUIRED.—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

(g) BROADCASTING EQUAL EMPLOYMENT OPPORTUNITY.—Part II of title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"SEC. 617. EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS OF MUST-CARRY STATIONS.

"(a) APPLICATION OF SECTION.—This section shall apply to—

"(1) the licensee for any television broadcasting station that is eligible for carriage under section 614 or 615; and

"(2) any corporation, partnership, association, joint-stock company, trust, or affiliate or subsidiary thereof engaged primarily in the management or operation of any such licensee.

"(b) EQUAL EMPLOYMENT OPPORTUNITY REQUIRED.—Equal opportunity in employment shall be afforded by each entity specified in subsection (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

"(c) EMPLOYMENT POLICIES AND PRACTICES REQUIRED.—Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices and to promote the hiring of a workforce that reflects the diversity of its community. Under the terms of its programs, such entity shall—

"(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

"(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

"(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

"(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

"(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

"(d) COMMISSION RULES REQUIRED.—

"(1) DEADLINE FOR RULES.—Not later than 270 days after the date of enactment of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section.

"(2) CONTENT OF RULES.—Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible—

"(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

"(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, on an ongoing basis as a potential source of referrals for whenever jobs may become available;

"(C) evaluate its employment profile and job turnover against the availability of minorities and women in its service area;

"(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

"(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

"(F) analyze the results of its efforts to recruit, hire, promote, and use the service of mi-

norities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

"(3) REPORTS REQUIRED.—Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories—

"(A) Corporate officers.

"(B) General Manager.

"(C) Chief Technician.

"(D) Comptroller.

"(E) General Sales Manager.

"(F) Production Manager.

"(G) Managers.

"(H) Professionals.

"(I) Technicians.

"(J) Sales.

"(K) Office and Clerical.

"(L) Skilled Craftspersons.

"(M) Semiskilled Operatives.

"(N) Unskilled Laborers.

"(O) Service Workers.

"(4) ADDITIONAL CONTENTS OF REPORTS.—In addition, such report shall state the number of job openings occurring during the course of the year and (A) shall certify that the openings were filled in accordance with the program required by subsection (c), or (B) shall contain a statement providing reasons for not filling such positions in accordance with such program. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.

"(5) RULES AMENDMENTS.—The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

"(e) ENFORCEMENT.—

"(1) ANNUAL CERTIFICATION.—On an annual basis, the Commission shall certify each entity described in subsection (a) as in compliance with this section if, on the basis of information in the possession of the Commission, including the report filed pursuant to subsection (d)(3), such entity was in compliance, during the annual period involved, with the requirements of subsections (b), (c), and (d).

"(2) LICENSE RENEWAL REVIEWS.—The Commission shall, at the time of license renewal, review the employment practices of each entity described in subsection (a), in the aggregate, as well as in individual job categories, and determine whether such entity is in compliance with the requirements of subsections (b), (c), and (d), including whether such entity's employment practices deny or abridge minorities and women equal opportunities. As part of such investigation, the Commission shall review whether the entity's reports filed pursuant to subsection (d)(3) accurately reflect employee responsibilities in the reported job classifications and accurately reflect compliance with the equal employment opportunity plan in filing its annual reports.

"(f) COMPLAINTS.—Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The rules prescribed under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

"(g) PENALTIES.—

"(1) IN GENERAL.—Any person who is determined by the Commission, through an investigation pursuant to subsection (e) or otherwise, to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty of $200 for each violation. Each day of continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues subsequent to such notification. In addition, any person liable for such penalty may also have any license under this Act conditioned, suspended, or revoked. Whoever knowingly makes any false statement or submits documentation which he knows to be false, pursuant to an application for certification under this section shall be in violation of this section.

"(2) ADDITIONAL REMEDIES.—The provisions of paragraphs (2)(D), (3), and (4), of section 503(b) shall apply to forfeitures under this subsection.

"(3) NOTICE OF PENALTIES.—The Commission shall provide for notice to the public of any penalty imposed under this section.

"(h) EFFECT ON OTHER LAWS.—Nothing in this section shall affect the authority of any State or local government—

"(1) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees; or

"(2) to establish or enforce any provision requiring or encouraging any entity specified in subsection (a) to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(i)(3)(C)(ii)) or which have their principal operations located within the local service area of such entity.".

SEC. 13. HOME WIRING.

Section 624 of the Communications Act of 1934 (17 U.S.C. 544) is amended by adding at the end the following new subsection:

"(i) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.".

SEC. 14. SALES OF CABLE SYSTEMS.

Part II of title VI of the Communications Act of 1934 is further amended by adding at the end thereof the following new section:

"SEC. 618. SALES OF CABLE SYSTEMS.

"(a) 3-YEAR HOLDING PERIOD REQUIRED.—Except as provided in this section, no cable operator may sell or otherwise transfer ownership in a cable system within a 36-month period following either the acquisition or initial construction of such system by such operator.

"(b) TREATMENT OF MULTIPLE TRANSFERS.—In the case of a sale of multiple systems, if the terms of the sale require the buyer to subsequently transfer ownership of one or more such systems to one or more third parties, such transfers shall be considered a part of the initial transaction.

"(c) EXCEPTIONS.—Subsection (a) of this section shall not apply to—

"(1) any transfer of ownership interest in any cable system which is not subject to Federal income tax liability;

"(2) any sale required by operation of any law or any act of any Federal agency, any State or political subdivision thereof, or any franchising authority; or

"(3) any sale, assignment, or transfer, to one or more purchasers, assignees, or tranferees controlled by, controlling, or under common control with, the seller, assignor, or transferor.

"(d) WAIVER AUTHORITY.—The Commission may, consistent with the public interest, waive the requirement of subsection (a), except that, if the franchise requires franchise authority approval of a transfer, the Commission shall not waive such requirements unless the franchise authority has approved the transfer.

"(e) LIMITATION ON DURATION OF FRANCHISING AUTHORITY POWER TO DISAPPROVE TRANSFERS.—In the case of any sale or transfer of ownership of any cable system after the 36-month period following acquisition of such system, a franchising authority shall, if the franchise requires franchising authority approval of a sale or transfer, have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the franchising authority agree to an extension of time.".

SEC. 15. CABLE CHANNELS FOR COMMERCIAL USE.

(a) RATES, TERMS, AND CONDITIONS.—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) in paragraph (1), by striking "consistent with the purpose of this section" and inserting "consistent with regulations prescribed by the Commission under paragraph (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

"(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

"(B) standards concerning the terms and conditions which may be so established;

"(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section; and

"(D) procedures for the expedited resolution of disputes concerning rates or carriage under this section.".

(b) ACCESS FOR QUALITY MINORITY PROGRAMMING SOURCES AND QUALIFIED EDUCATIONAL PROGRAMMING SOURCES.—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming or educational programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(i)(3)(C)(ii) of this Act.

"(3) For purposes of this subsection, the term 'qualified educational programming source'

means a programming source which devotes significantly all of its programming to educational or instructional programming of such a nature that it promotes public understanding of mathematics, the sciences, the humanities, and the arts and has a documented annual expenditure on programming exceeding $15,000,000. Programming expenditures shall mean all annual costs incurred by the channel originator to produce or acquire programs which are scheduled to appear on air, and shall specifically exclude marketing, promotion, satellite transmission and operational costs, and general administrative costs. Nothing in this subsection shall substitute for the requirements to carry qualified noncommercial educational television stations as specified under section 615.".

SEC. 16. CABLE FOREIGN OWNERSHIP RESTRICTIONS.

(a) Findings.—The Congress finds that—

(1) restrictions on alien or foreign ownership of broadcasting and common carriers first were enacted by Congress in the Radio Act of 1912;

(2) cable television service currently is available to more than 90 percent of American households, more than 62 percent of American households subscribe to such services, and the majority of viewers rely on cable as the conduit through which they receive terrestrial broadcast signals;

(3) many Americans receive a significant portion of their daily news, information, and entertainment programming from cable television systems, and such systems should not be controlled by foreign entities; and

(4) the policy justifications underlying restrictions on alien ownership of broadcast or common carrier licenses have equal application to alien ownership of cable television systems, direct broadcast satellite systems, and multipoint distribution services.

(b) Amendment to Communications Act.—Section 310(b) of the Communications Act of 1934 (47 U.S.C. 310(b)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following new paragraphs:

"(2)(A) No cable system (as such term is defined in section 602) in the United States shall be owned or otherwise controlled by any alien, representative, or corporation described in subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection.

"(B) Subparagraph (A) of this paragraph shall not be applied—

"(i) to require any such alien, representative, or corporation to sell or dispose of any ownership interest held or contracted for on or before June 1, 1990, or acquired in accordance with clause (ii); or

"(ii) to prohibit any such alien, representative, or corporation that owns, has contracted on or before June 1, 1990, to acquire ownership, or otherwise controls, any cable system from acquiring ownership or control of additional cable systems if the total number of households passed by all the cable systems that such alien, representative, or corporation would, as a result of such acquisition, own or control does not exceed 2,000,000.

"(3)(A) For purposes of paragraph (1) of this subsection, a license or authorization for any of the following services shall be deemed to be a broadcast station license:

"(i) cable auxiliary relay services;

"(ii) multipoint distribution services;

"(iii) direct broadcast satellite services; and

"(iv) other services the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(B) Subparagraph (A) of this paragraph shall not be applied to any cable operator to the extent that such operator is eligible for the exemptions contained in subparagraph (B) of paragraph (2).".

SEC. 17. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "$50,000" and inserting "$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

(2) by adding at the end thereof the following new paragraph:

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

SEC. 18. STUDIES.

(a) Study of Video Programming Diversity and Competition.—

(1) Commission study and rulemaking.—The Commission shall conduct a rulemaking proceeding to review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such proceeding, the Commission—

(A) shall consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of such programming; and

(B) shall impose limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) Report.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(3) Proceeding required to review DBS responsibilities.—The Federal Communications Commission shall, within 180 days after the date of enactment of this Act, initiate a rulemaking proceeding to impose, with respect to any direct broadcast satellite system that is not regulated as a common carrier under title II of the Communications Act of 1934, public interest or other requirements on direct broadcast satellite systems providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) of the Communications Act of 1934 and the use of facilities requirements of section 315 of such Act to direct broadcast satellite systems providing video programming. Such proceeding also shall examine the opportunities that the establishment of such systems provide for the principle of localism under such Act, and the methods by which such principle may be served through technological and other developments in, or regulation of, such systems.

(4) Public service use requirements.—The Federal Communications Commission shall require, as a condition of any initial authorization, or renewal thereof, for a direct broadcast satellite service providing video programming, that the provider of such service reserve not less than 4 percent or more than 7 percent of the channel capacity of such service exclusively for noncommercial public service uses. A provider of direct broadcast satellite service may use any unused channel capacity designated pursuant to this paragraph until the use of such channel capacity is obtained, pursuant to a written agreement, for public service use. The direct broadcast satellite service provider may recover only the direct costs of transmitting public service programming on the channels reserved under this subsection.

(5) Study panel.—There is established a study panel which shall be comprised of a representative of the Corporation for Public Broadcasting, the National Telecommunications and Information Administration, and the Office of Technology Assessment selected by the head of each such entity. Such study panel shall within 2 years after the date of enactment of this Act, submit a report to the Congress containing recommendations on—

(A) methods and strategies for promoting the development of programming for transmission over the public use channels reserved pursuant to paragraph (4)(A);

(B) methods and criteria for selecting programming for such channels that avoids conflicts of interest and the exercise of editorial control by the direct broadcast satellite service provider; and

(C) identifying existing and potential sources of funding for administrative and production costs for such public use programming.

(6) Definitions.—As used in this subsection—

(A) the term "direct broadcast satellite systems" includes (i) satellite systems licensed under Part 100 of the Federal Communications Commission's rules, and (ii) high power Ku-band fixed service satellite systems providing video service directly to the home and licensed under Part 25 of the Federal Communications Commission's rules; and

(B) the term "public service uses" includes—

(i) programming produced by public telecommunications entities, including programming furnished to such entities by independent production services;

(ii) programming produced by public or private educational institutions or entities for educational, instructional, or cultural purposes; and

(iii) programming produced by any entity to serve the disparate needs of specific communities of interest, including linguistically distinct groups, minority and ethnic groups, and other groups.

(b) Sports Programming Migration Study and Report.—

(1) Study required.—The Federal Communications Commission shall conduct an ongoing study on the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The study shall investigate and analyze, on a sport-by-sport basis, trends in the migration of such programming from carriage by broadcast stations to carriage over cable programming networks and pay-per-view systems, including the economic causes and the economic and social consequences of such trends.

(2) Report on study.—The Federal Communications Commission shall, on or before July 1, 1993, and July 1, 1994, submit an interim and a final report, respectively, on the results of the study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such reports shall include a statement of the results, on a sport-by-sport basis, of the analysis of the trends required by paragraph (1)

and such legislative or regulatory recommendations as the Commission considers appropriate.

(c) PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee or from a cable system. In undertaking such rulemaking, the Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video programming, including without limitation, an electronic switching capability as a minimum feature on satellite television receiving equipment.

SEC. 19. ANTITRUST IMMUNITY.

(a) Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law.

SEC. 20. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those amendments made in order in section 2 of House Resolution 523 or printed in House Report 102-687. Said amendments shall be considered in the order and manner specified in the report, shall be considered as read, and shall not be subject to amendment, except as specified in the report. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

It shall be in order for the chairman of the Committee on Energy and Commerce, or his designee, to offer amendments in bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in House Report 102-687. Said amendments en bloc shall be considered as read, shall not be subject to amendment or to a demand for a division of the question, and are debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

The original proponents of the amendments offered en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

It is now in order to consider amendment No. 1 printed in House Report 102-687.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY: Page 9, beginning on line 1, strike all of section 3 through line 18 on page 28 and insert the following:

SEC. 3. RATE REGULATION.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"REGULATION OF RATES

"SEC. 623. (a) COMPETITION PREFERENCE; STATE COMMISSION REGULATION.—

"(1) IN GENERAL.—No Federal agency or franchising authority may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any State commission (as such term is defined in section 3(t) of this Act) may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State commission under this section. If the Commission finds that a cable system is not subject to effective competition, the rates for the provision of cable service by such system shall be subject to regulation by a State commission pursuant to a law of such State.

"(b) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among subscribers or potential subscribers with regard to the services offered or the rates charged for such services, or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(c) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(d) REPORTS ON AVERGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(e) DEFINITION.—As used in this section, the term 'effective competition' means that—

"(1) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(2) the franchise area is—

"(A) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(B) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(3) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

Does the gentleman from Massachusetts rise in opposition?

Mr. MARKEY. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

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Mr. OXLEY. Mr. Chairman, I offer this amendment for the purposes of trying to determine where regulation is going to take place. If we are going aschew the possibility of real competition in this bill, which it appears we are, then the next question arises: Who really does the regulating under this particular provision? The gentleman from Massachusetts, in his bill, would have the Federal Government, essentially the FCC, do the regulating. My amendment puts it back to the States, where I feel it belongs both naturally and from a standpoint of practicality. It allows the public utilities commissions from each State to indeed provide that kind of regulation. It also says that States with systems already in place, and there are 10 or 12 of those, may retain them under my amendment. It also says, if there is competition out there, as determined by the FCC, there is no need for regulation, and that competition is determined by the FCC. It essentially uses the same competition standards as provided by the gentleman's bill, H.R. 4850. This provides for the consumer more expedited and efficient relief because it allows the States to make that decision, and not Washington, DC. The States better understand the problems, I think, of their citizens. They are closer to the action. The voters would be more successful in holding those State officials accountable if they are not happy with what they are doing.

For the States, historically they have wanted to regulate cable. That was a big argument back in the 1960's where there was a rash of legislation. They have hesitated because they are unsure at this point if the Federal Government would preempt. Once assured of no preemption, several States ventured forth. Those States, like Massachusetts and New York, under my amendment the fear of preemption would be eliminated entirely, and they would have authority over those decisions.

NARU, the National Association of Regulatory Utility Commissioners, has supported my amendment, and hopefully those from my colleagues' particular States have contacted them for their support. They represent the utility commissioners from all 50 States, and the States better understand the needs of their consumers in their particular States far better than we do in Washington, DC, and can better address the needs.

The results of the FCC—rate regulation. Rate regulations under the Markey bill will cost the FCC $250 million over 5 years, or 44 percent of their annual budget. That was provided to us in a letter from Chairman Al Sikes just a couple of weeks ago. It will essentially take that responsibility away that they could normally do, providing for such things as modernization of the telecommunications industry, as they did with the video dial tone proceeding just last week. No cable regulatory bills, including H.R. 4850, have addressed the need for more money from the FCC, so it is going to take money out of one pocket of the FCC and put it in another. I just think that makes common sense in a regulatory scheme, and I would certainly ask that the Members seriously consider this way of regulating.

I say to my colleagues, "If you have got to regulate, it seems to me we are better off at the State level than we are with Uncle Sam here in Washington, DC."

Mr. FIELDS. If the gentleman will yield, Mr. Chairman, I appreciate the gentleman from Ohio [Mr. OXLEY] yielding to me, and I say to the gentleman, "It seems to me your amendment makes a great deal of sense, and I think you said that the National Association of Utilities Commissioners, which is composed of the 50 States' commissioners supports your amendment." You said also that 10 States have cable commissions already. My State of Texas does not, and my question is: "What effect would your amendment have on my State and on the States that do not have cable commissions?"

Mr. OXLEY. They would be in a position to create their own regulatory schemes. That would be the job, obviously, of the people of Texas to make that determination. That gives them a free hand, as it would in Ohio, for example, and I know that in Texas, as well as in Ohio, I have already had discussions with our PUCO in Ohio, and they have clearly indicated that that is their desire.

So, this would facilitate the States actually setting up the regulatory possibilities for cable within their own States, and that is why NARUC and all of the 50 States' commissions have supported my amendment.

Mr. FIELDS. Mr. Chairman, if the gentleman would continue to yield; then, if I understand the gentleman, he is proposing a situation that would allow us to deal with the problems on a State-by-State basis so that we can handle our own problems in my State of Texas in a much more expeditious manner and tailor it in a specific solution for the State.

Mr. OXLEY. Exactly. I think that, first of all, we cannot assume that we have got some monolithic cable system throughout the 50 United States. Obviously each State differs as to how they deal with cable. The gentleman's problems in cable in Texas may be totally different from some of the problems in Ohio. That is what the PUC's are for, to ferret that out and to make those determinations on a localized basis in the 50 States, and that really is what it is all about.

Plus I cannot emphasize enough the accountability factor. Those PUC's that are appointed by the elected governors of the States in most cases are accountable. The governor is accountable. He appoints them. Who is going to be accountable at the FCC level, and are we really going to hold the President of the United States, for example, accountable for the appointment of FCC commissioners that have to rule on these cases? It just makes absolutely no sense. So, the State level is really where to do it, and I appreciate the gentleman's interest and support.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume, and I rise in strong opposition to the amendment of the gentleman from Ohio [Mr. OXLEY]. I very greatly have respected the gentleman from Ohio for the last decade. He and I have worked together on telecommunications policy in the Committee on Energy and Commerce. But this amendment strikes at the heart of the legislation which we have before us here today because the Oxley amendment allows States not to regulate at all, and in States that do not adopt cable regulations consumers would be entirely unprotected, and that would frustrate Congress' ability in an effort to establish universal protections for all Americans.

The amendment of the gentleman from Ohio [Mr. OXLEY] would also fragment the video marketplace into 50 uncoordinated States with 50 uncoordinated, regulatory programs which would make it hard for us to have a national video marketplace which, after all, was the heart of the 1984 act and something which we worked hard to put together on a bipartisan basis back in 1984.

Third, the State regulators are unlikely to have the resources and the expertise to regulate cable. There is no question that the FCC is the agency of expertise in this country to be able to deal with this issue of the national video marketplace that we created through the 1984 Cable Act, and the complexities of that video marketplace are something that has to remain at that Federal level, and the Oxley amendment would again fragment this into 50 different pieces, shattering that uniformity and also making it difficult for us to have a sense of where this national marketplace is.

As well, Mr. Chairman, the Oxley amendment has never been considered in our committee. We have not had it before the committee, and the implication of transferring all of this power down to the State level is something that has tremendous ramifications for this country and for the video marketplace.

So, Mr. Chairman, it is my hope that the House today will reject the Oxley amendment. It goes to the heart of a bill which was voted out 31 to 12 out of the full committee and, in fact, is going to produce a new era of competition and consumer protection for the viewers of this country.

One of the most common criticisms of the bill heard here today is from Republicans and others who claim it is too regulatory.

I cannot resist pointing out to my colleagues that as originally introduced for markup in the Subcommittee on Telecommunications, this bill included a provision that would have empowered local subscribers to rely on themselves, rather than regulators, to keep their local cable company in check. It was opposed by these same Republicans.

The provision had three universal virtues:

First, it would reduce the need for the Federal intervention in decisions that can best be made by local franchising authorities;

Second, it would encourage local cable subscribers to participate in the regulation of their local cable monopoly; and

Third, it would accomplish these purposes without costing the Federal Government or the taxpayer a dime.

Here is how it would work. Local cable franchising authorities would be authorized to certify a cable subscriber group. The group would have to earn that certification, however, by demonstrating that at least 5 percent of cable subscribers were willing to pay a $10 fee and become a member of the group. The group would be voluntary, democratically run and cost the taxpayer nothing. Cable subscribers would be notified of their ability to join this group through an insert in the billing statement of the local cable operator. The insert would have to be neutrally worded and approved by the local franchise authority.

All incremental costs and expenses of these billing inserts would be reimbursed by the subscriber group to the cable company.

That's it. It is a simple method of keeping cable companies honest by empowering subscribers. The groups are not given any regulatory authority; they are given only the ability to provide an organized, democratic voice when the regulators make decisions affecting cable service and rates.

Now don't misunderstand me. This provision, perhaps more than anything we do here today, would be a serious threat to business-as-usual by cable companies.

At subcommittee, one of my colleagues asserted that these consumer groups are not mandated in any other industry, regulated or unregulated. But the fact is, these groups are tried and true. They have been authorized and overseeing regulated utilities in Wisconsin since 1979, in Illinois since 1983, in San Diego since 1983, and in Oregon since 1984. The State of New York is implementing this system this year.

So it is not the unknown that certain people are afraid of—it is the known, proven success of these consumer groups to save their consumers millions of dollars.

Clearly in the cable industry, where consumers have been subject to obscene rate gouging since 1984, cable subscribers are in desperate need of this kind of organized representation. Right now, cable operators are free to use cable profits to pay for lawyers to represent them in the myriad hearings on franchise renewal, rates and customer service standards that accompany cable regulation. We should rebalance this process by making it easier for cable consumers to get a foot in this regulatory door. That is what my provision would have accomplished.

The elegance of this approach should be obvious in an era of disenchantment with big government, big spending, and micromanagement by Washington. The cost of subscriber groups to the taxpayer is zero, the method of decisionmaking is grassroots democracy, and the quality of oversight is bound to be better than the regulation-by-remote-control on which we currently rely.

Symms Clothing likes to say in its TV advertisements that "an educated consumer is our best customer." But most businesses subscribe to a more ancient homily which says "Never give a sucker an even break." An educated empowered consumer is someone who cannot be suckered.

Despite its virtues, this provision was struck on the initiative of one of my Republican colleagues. I raise this point now only to remind my colleagues how hypocritical we sound to the voters when we rail against regulation but refuse to empower ordinary citizens. People are sick and tired of a system which is so easily captured by special interest here in Washington. They would prefer to rely on their own good judgment, to run their own lives, to accomplish tough oversight of communications monopolies without new Federal spending.

I urge any of my colleagues who are groping to understand the Perot boom to open their minds to citizens empowerment. The demand for this new approach will only grow.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LENT], the ranking member of the full committee.

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] has 1½ minutes remaining.

Mr. OXLEY. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio, [Mr. OXLEY] to transfer rate regulation from the FCC to State public utility commissions.

This amendment could bring faster relief to cable subscribers because a more local authority—the State Utility Commission—will be able to address the cable rate challenge or concern on a more expedited basis.

Many State and local authorities, as well as constituents, are skeptical about the Federal Government's ability to address regulatory issues adequately and efficiently. This amendment obviates that concern.

Several States have already set up cable commissions, and this amendment would just encourage further expansion of that framework to address issues about an industry that is truly local in nature.

The FCC is very concerned about Commission's ability to handle its cable regulation mandate under H.R. 4850 without further appropriations, which probably are not forthcoming in this budget-tight year.

FCC Chairman Sikes strongly supports this. And I urge my colleagues to support it too.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Chairman, on February 12, 1990, I testified at an FCC field hearing on cable in Los Angeles.

At that time, I said some cable regulation was necessary and that a State agency was best suited to accomplish the task of setting and reviewing rates.

I guessed that the FCC was not interested in that oversight chore and that to return rate regulation to cities was to return to the unworkable system that existed prior to 1984.

I feel the same way today. I believe the amendment from the gentleman from Ohio is an excellent one that should be supported by the House and I thank him for his commitment to sound cable policy.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, I rise in reluctant opposition to the amendment offered by my friend and colleague, the gentleman from Ohio [Mr. OXLEY].

I am normally an advocate of State rights. I believe, frankly, that State governments are in a better position to understand the needs of their citizens than the Federal bureaucracy in Washington, DC.

In this particular case, however, I feel compelled by the real world experience of a community in my congressional district to oppose the Oxley amendment. In specific, the city of Dunedin, FL, has experienced several problems with its cable system and seeks to exert more authority over the service provided within its borders.

The Oxley amendment would essentially grant State public service commissions responsibility for regulating cable rates. By this act, the relief that the city of Dunedin seeks would suddenly be transferred from their hands or from the FCC to Tallahassee. The regulatory dance card would shift, leaving Dunedin facing an uncertain future.

Perhaps, under the Oxley amendment, the State of Florida would act in their interest and with enough speed to resolve their concerns before the time for franchise renewal expired. But perhaps not. I do not want to run that risk.

Today, we are altering parts of the 1984 act which many believe accelerated the expansion of cable service and offerings, but which also had an impact on cable rates. While the new regulatory scheme of H.R. 4850 is not without its critics, I do not feel we should suddenly shift to another regulatory venue emanating from 50 State capitols.

We need to seek a balance which will benefit the real world communities like Dunedin, FL; Oldsmar, FL, and the thousands of other small communities which are seeking to provide the best service and the best deal to their citizens. The Oxley amendment will not accomplish this and I must urge its defeat.

Mr. MARKEY. Mr. Chairman, I yield my remaining time to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 2½ minutes.

Mr. DINGELL. I rise first to pay tribute to my dear friend, the author of the amendment, the gentleman from Ohio [Mr. OXLEY]. The gentleman is a fine and valued member of the committee and a great Member of this body.

However, the gentleman has offered the House a very bad amendment, and I urge the House to reject it. This is essentially a Potemkin Village which is offered to us, all facade and nothing behind.

First of all, what the gentleman does is offer an amendment which does not really afford any requirement that there be any regulations to protect the viewers of cable television. But beyond that, the gentleman very specifically and emphatically strips the bill in a way which is interesting to behold. Some 19 pages of legislation are reduced to 4. The parts which are dropped are interesting.

First, the gentleman eliminates the bill's protection of the viewer with regard to remote controls. The bill requires that remote controls be charged for fairly; the gentleman eliminates that. The same with regard to converter boxes. If this passes, no longer is there a requirement that converter boxes be billed for fairly. The bill's provisions with respect to pay-per-view of local sporting is eliminated.

Beyond that, the protection which would be afforded with regard to basic cable rates is excised by the amendment offered by my dear friend from Ohio.

The bad actor regulation, which addresses the problems of cable operators who are engaged in persistent and continuous misbehavior, is excised by the amendment.

A Potemkin Village? Perhaps worse. A sham? Probably worse. In point of fact, what this really is is essentially something which is done to skin the consumers of this country and to permit bad actors to continue to do so.

What we need here are real protections against serious misbehavior about which the consumers complain. The gentleman offers us something which would be worthy of a Ponzi or an Insull, because what it does is give much illusion, but no substance. In point of fact, if this amendment passes, the consumers of this country are in fact being skinned.

Mr. Chairman, I urge the rejection of the amendment.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OXLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 83, noes 327, not voting 24, as follows:

[Roll No. 308]

AYES—83

Allen
Anderson
Archer
Armey
Baker
Barnard
Barrett
Barton
Bentley
Bliley
Boehner
Broomfield
Burton
Campbell (CA)
Chandler
Clinger
Coble
Cox (CA)
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gillmor
Green
Gunderson
Hastert
Herger
Hobson
Horton
Houghton
Hunter
Inhofe
Johnson (CT)
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lowery (CA)
Martin
McCandless
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Nichols
Orton
Oxley
Paxon
Regula
Rhodes
Riggs
Rinaldo
Roberts
Roe
Rohrabacher
Saxton
Shuster
Sisisky
Smith (OR)
Smith (TX)
Taylor (NC)
Thomas (CA)
Thornton
Wylie
Zeliff
Zimmer

NOES—327

Abercrombie
Ackerman
Alexander
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Bateman
Beilenson
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Ridge
Ritter
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yatron
Young (AK)
Young (FL)

NOT VOTING—24

Berman
Conyers
Coughlin
Dymally
Feighan
Hansen
Hatcher
Hyde
Ireland
Kolter
Laughlin
Lehman (FL)
Levine (CA)
McDade
Olin
Peterson (FL)
Ray
Tallon
Thomas (GA)
Thomas (WY)
Washington
Weber
Wilson
Yates

□ 1827

Mr. PURSELL and Mr. SMITH of New Jersey changed their vote from "aye" to "no."

Mr. ALLEN and Mr. ROBERTS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1830

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RINALDO: Page 18, line 11, insert immediately before the period the following: ", except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station".

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. RINALDO] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from Massachusetts [Mr. MARKEY] stand in opposition to the amendment?

Mr. MARKEY. Yes, Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would make inclusion of super stations on the basic tier permissive rather than mandatory as is currently the case under H.R. 4850.

I would like to enter into a colloquy on this matter with the distinguished chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY]. Would the gentleman pledge to work with me in the forthcoming House-Senate conference on cable legislation to work out this issue to the satisfaction of the minority and other related parties?

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I am pleased to yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I say to the gentleman that yes, I will work with my good friend from New Jersey to assure that this is resolved to our mutual satisfaction in the conference committee.

Mr. RINALDO. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENTS EN BLOC OFFERED BY MR. SHAYS

Mr. SHAYS. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. SHAYS: Page 24, after line 3, insert the following new subsection (and redesignate the succeeding subsections accordingly);

"(d) ASSUMPTION OF REGULATORY JURISDICTION BY STATE AGENCY.—

"(1) STATE ELECTION.—A State may elect to assume regulatory jurisdiction with respect to any cable system that is not subject to effective competition (as determined under subsection (a)(2)). Any State desiring to make such election shall file with the Commission a statement that—

"(A) the State has enacted a law that authorizes or permits an agency of the State to assume such regulatory jurisdiction; and

"(B) such agency has the legal authority to adopt, and the personnel to administer, regulations consistent with the requirements of this section.

"(2) EFFECT OF ELECTION.—An agency of a State identified in a statement filed under paragraph (1) shall assume the duties, obligations, and authorities of—

"(A) the Commission under subsections (b) and (c) to prescribe regulations with respect to rates for basic cable service and for cable programming services;

"(B) the franchising authorities in such State under subsection (b) with respect to the administration and implementation of the regulations prescribed with respect to the rates for basic cable service; and

"(C) the Commission under subsection (c) to receive, consider, and resolve complaints concerning the rates for cable programming services.

"(3) WITHDRAWAL OF ELECTION.—A State may withdraw an election under this subsection by filing with the Commission a notice of such withdrawal. Upon receipt of such notice, the authority and jurisdiction assumed under paragraph (2) by the agency of such State shall revert to the Commission and the franchising authorities in such State, respectively.

Page 28, line 13, after "basis" insert the following: ", except that, for purposes of subsection (d), such term may, at the election of the State, include the video programming offered on a per channel or per program basis".

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. SHAYS] will be recognized for 7½ minutes, and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 7½ minutes in opposition.

The Chair recognizes the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I yield myself such time as I might consume.

Years ago States and local governments gave away cable franchises. They did not sell them. They gave them away and made instant millionaires of those who received the cable franchises.

As a State legislator from Connecticut, I in disbelief, watched as Congress, in 1984 took away the rights of States and local franchising authorities to regulate this monopoly, making multimillionaires out of individuals who owned cable franchise rights.

Why did Congress do this? The public did not ask for deregulation. They did not ask that cable operators be allowed to set whatever price they wanted to set. The consumers did not ask for it, but the cable operators did. And the cable operators won.

We now have an industry that is not competitive. It is a monopoly and it is not regulated.

I favor competition. That would be my choice. But we do not have it in the cable industry now. And we are not likely to have it in the near future.

Cable operators want it both ways. They want to continue in this environment where they are a monopoly with no competition. And they want to continue to have no regulations.

Congress has a moral responsibility to regulate an industry that is a monopoly, that is setting prices at will, and that is treating the consumer as if he or she does not count.

My amendment would allow States the right to regulate all tiers of service as did in the past. If they choose not to exercise this right, under my amendment the provisions of the bill take precedent and the FCC will regulate the basic tier programs. In either case, we will have some form of regulation.

Since cable deregulation took effect in 1986 we have seen prices increase 56 percent in general, and for the most popular services we have seen a 60 percent increase. In the State of Connecticut we have seen an 82 percent increase in rates since 1988. That to me to just unconscionable.

Mr. Chairman, the Wall Street Journal in 1989 said cable consumers were paying $12 billion, 50 percent more than they should and would pay if there was a competitive market.

I do not understand why Congress thinks deregulation was such a great deal—when the consumers paid $6 billion more than they should have paid.

Congress has made cable operators fabulously wealthy. Before deregulation a cable franchise was worth $600 per subscriber. After deregulation, each franchise is worth $2,000 to $2,800 per subscriber. That means if you have 1 million subscribers your franchise used to be worth $600 million. Nothing to feel sorry about. After deregulation, this same cable franchise is now worth more than $2 billion, courtesy of the U.S. Congress and the White House. Even a small cable franchise of 10,000 subscribers is worth over $20 million.

Before deregulation the Mets' allowed sports channel the right to broadcast their games for the next 30 years for $30 million. After deregulation the Yankees got $500 million by allowing Madison Square Garden [MSG] the right to broadcast its games over a 12-year period. The Yankees got $500 million because [MSG] knew ultimately it could pass the cost on to the consumer.

Please do not tell me that I or anyone else in the State of Connecticut has benefited from deregulation. Before deregulation I paid $6.95 for 25 programs under the basic tier. After deregulation I have over 35 programs but I pay nearly four times as much. I pay $24.95 for this basic tier. I'm getting programs I did not ask for and I'm paying nearly four times as much.

Maybe Members do not know it, but the Cable News Network costs the cable operators 34 cents per subscriber, the Discovery channel costs cable operators 8 cents per subscriber, and MTV costs cable operators 25 cents per subscriber, Sports News Network costs cable operators 8 cents per subscriber. They may have given me 10 more programs, but I do not like paying $18 more for something I never asked for and for something that only costs them a few dollars.

I urge all my colleagues to recognize that the cable industry cannot be allowed to continue to operate as an unregulated monopoly. Without true competition we need to reregulate this industry.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I would like to begin by saying that the gentleman from Connecticut [Mr. SHAYS] for the last 3 years has testified before our subcommittee on cable bill issues. He has lobbied on behalf of many provisions which are included in the legislation which we bring here tonight. He has given this Member and many other members of our subcommittee insights into issues that he had particular expertise to help us in guiding us in the drafting of this legislation. And I can say that there are very few members of our Telecommunications and Finance Subcommittee that rival the gentleman from Connecticut in terms of his expertise and the impact that he has had upon the drafting of this legislation.

□ 1840

Mr. Chairman, I would like to note that publicly, because he has dedicated an enormous amount of time, and he came out of Connecticut with this issue as something that he wanted to see addressed, and the impetus that he helped to provide us has helped to bring the bill and its many consumer protection provisions before the committee, before the House here tonight.

That is why I rise in reluctant opposition to the amendment to permit States to assume cable regulation for essentially the same reasons that I opposed the amendment offered by the gentleman from Ohio [Mr. OXLEY], and because we just had the debate on the Oxley amendment, I will be brief.

I oppose the amendment despite the fact that the gentleman from Connecticut has gone far to address many of the ills in the amendment of the gentleman from Ohio. The amendment, unlike the earlier amendment, would not gut the rate provisions of the bill, but, instead, would shift authority where those rate regulations are administered and implemented. I appreciate my colleague's efforts throughout the whole cable bill to enact meaningful rate regulation, and I know the goal of this amendment is not to subvert the intent of rate regulation but, in fact, to strengthen, and the spirit of the amendment is appreciated and, in fact, supported.

However, I must oppose the amendment, because it does suffer from two flaws. First, in my opinion, it would be a mistake to disperse the rate-setting powers of the FCC amongst the 50 States. Both consumers and industry would benefit from centralizing this responsibility in a single regulatory agency where the essential expertise was concentrated.

Second, and somewhat ironically, this amendment misses the mark because it takes away regulation from local officials and shifts that power to the more remote State agencies. This approach denies the officials closest to the problem the ability to use their knowledge and insights to regulate cable effectively.

While I have the greatest respect for the gentleman from Connecticut, and many of the other provisions in the cable bill have been dramatically affected by his interest in those provisions, on this one amendment I must reluctantly oppose.

Mr. ERDREICH. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I am happy to yield to the gentleman from Alabama.

Mr. ERDREICH. Mr. Chairman, I rise in favor of the legislation and against this amendment.

Mr. Chairman, we all enjoy turning on our television and having the luxury of being able to choose from many different channels to watch. We may watch everything from baseball to home shopping to movies.

Truly these are the best of times in terms of variety. However, these are not the best of times in terms of value. Cable rates are rising at sometimes 5 or 10 times the inflation rate, and service from these companies is too often inadequate.

I have heard from folks across the Sixth District over cable service. Many have said they cannot receive cable, even if the house down the street has it.

But even if you have cable, your troubles are not over. Many have called to complain of frequent and lengthy outages. And still, prices are skyrocketing.

In Jefferson County, basic cable rates in some systems increased by 99 percent over the past 5 years. Neighboring Shelby County was hit with close to a 13-percent increase just last year. Cable service in the city of Tuscaloosa rose by about 90 percent in a 12-month period.

Mr. Chairman, that is why I am supporting H.R. 4850. We have to improve programming, service, and cost.

This measure does not make extraordinary demands on cable companies. It is a proconsumer, procompetition measure that simply states, where there is no competition, there must be oversight by the FCC.

Such oversight is needed until competition is in place. Nobody wants unnecessary Government intervention. But, the fact is, that competition has not materialized, yet, in most areas served by cable.

To see a reasonable rate structure and adequate service, this bill is a must.

A vote for this bill is a vote for competition and a vote for the American consumer. I urge my colleagues to support it.

Mr. SHAYS. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, very briefly I would like to associate myself with the remarks of my colleague, the gentleman from Connecticut.

Being a former State legislator, I certainly can understand the depth of expertise that frequently exists here. The gentleman's effort, I think, is a noble and appropriate one. I think it would give consumers a larger and more significant voice in the process, particularly because the powermaking would be vested to the folks who are closer to the people.

Ultimately I think it would relieve from the Federal Government a significant regulatory burden, so the gentleman from Connecticut, I think, has brought a very thoughtful initiative here.

I appreciate him and the light in which this was offered, and also to my colleague from Ohio.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I hope everyone in this body and this country realizes the gentleman's terrific leadership role in protecting consumers' rights versus abusive cable companies. This gentleman has done so at great personal risk to his own political career. His district is not an easy one to do that in, as I understand there are several leading cable companies that have substantial operations there. He has stood up consistently for the little man, the consumer. I am proud of him for his leadership role.

I support his amendment. If you want regulation, and I think all of us would prefer competition, but if you want regulation, this is an excellent way to do it.

Traditionally States have had the right to regulate monopolies. Electric utilities and other monopolies are regulated by the States. Cable companies are similar sorts of monopolies.

Also, the gentleman has the only approach that will be before this House to regulate the prices on premium channels and pay-per-view channels, and that is what many of our consumers care most about.

If you are worried about overpricing on HBO and other premium channels, you had better support the Shays amendment.

Mr. SHAYS. Mr. Chairman, I yield myself the balance of my time, and thank the Members for their kind words.

In this industry that is not regulated and where there is no competition, the consumer is clearly at the mercy of the cable operators and has paid very dearly for this fact.

In terms of the issue of centralization, there is no compelling reason to have Federal legislation that would prevent the State of Connecticut to regulate State cable operations.

One reason why we had deregulation in 1984 was the fact that local franchise authorities did not do the kind of job they should do. My amendment purposely tries to avoid the abuse and problems we had in the past with local franchising authorities. That's why we give the power to the States to reregulate if they choose.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding. I know that he has taken great leadership in this area.

Mr. Chairman, I reluctantly rise in opposition to his amendment. For those of you who think that we should have some kind of national view of this whole thing and we should not have 50 States regulating 50 different sets, and this mandates the regulation, I think that——

Mr. SHAYS. Mr. Chairman, excuse me, reclaiming my time to correct the gentleman, my amendment allows States to regulate only if they choose to.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, I just wanted to say that if you are interested in a national system, this gives the States 50 different ways of regulating cable, and not only that, it even goes beyond that, the Markey bill, in terms of regulation, because it would regulate the premium services. Even in the Markey bill, and those of us who are opposed to the Markey bill for being too regulatory, the Shays amendment goes actually beyond Markey to regulate premium services, and I would urge defeat of the amendment offered by my friend, the gentleman from Connecticut.

Mr. MARKEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc offered by the gentleman from Connecticut [Mr. SHAYS].

The amendments en bloc were rejected.

AMENDMENT OFFERED BY MR. SLATTERY

Mr. SLATTERY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SLATTERY: Page 26, line 13, strike out "500 or fewer" and insert "1,000 or fewer".

The CHAIRMAN. Under the rule, the gentleman from Kansas [Mr. SLATTERY] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Does the gentleman from Tennessee [Mr. COOPER] stand in opposition?

Mr. COOPER. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Tennessee [Mr. COOPER] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I yield myself such time as I may consume.

The amendment I have before us is an amendment that is very simple, and I will not make a long speech in explaining it.

The amendment deals with the administrative burdens that this legislation would impose on small cable systems. The language in the legislation before us provides, and I quote:

> In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and costs of compliance for cable systems that have 500 or fewer subscribers.

The amendment before us, Mr. Chairman, would merely change the 500 to 1,000. The simple justification is that a lot of these small systems do not need this additional regulatory burden.

I would point out to my colleagues that 51 percent of cable systems were identified as having less than 1,000 subscribers in a 1991 survey, and under the bill, there are about 40 percent of the systems that would be in this category, if we had the 500-subscriber limitation.

So let me point out that we are not talking about exempting the systems, the smaller systems from regulation. We are merely saying that when the FCC composes the regulations that they will design, the regulations affecting the smaller systems, in such a way as to reduce their administrative burden and cost.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I endorse the amendment.

I commend the gentleman for offering it. This amendment does nothing whatsoever to diminish the bill's protections of consumers, second of all, it does a great deal to ease the administrative burdens on the small cable TV systems. It is a good amendment not only from the standpoint of the consumer, but, very frankly, from the standpoint of the small cable operators who are quite often incapable of offering the kind of service that they or the consumer would like.

I commend the gentleman.

□ 1850

Mr. Chairman, as always, I appreciate the support of the chairman of my committee.

Mr. COOPER. Mr. Chairman, I rise in reluctant opposition to the Slattery amendment. On the surface, this is a very simple and commonsense amendment. I think all of us are in favor of small businesses and small business exemptions where necessary to allow small businesses to cope with the terrific paperwork burden that they face; but this amendment is not drafted just to help the independent small businessman who has trouble with paperwork. The way this amendment is drafted, subsidiaries of the largest cable companies in America would benefit. Chains of small cable companies across America, some of which have the worst record of abuses of any cable companies in America would benefit.

We need to focus this amendment on its intended purpose. I hope in conference we will be able to do so, to help the independent small businessman and only the independent small businessman.

I am afraid in this case the small business exemption may well be a euphemism for poor service and high prices. Communities not only in Tennessee, but across the country, they may be small, but they are, as the gentleman pointed out, half of all the cable communities in America.

People there count, too. They should have the same rights as people who live in larger communities.

I would hope that in conference we could focus this amendment on the independent small businessmen and not allow the subsidiaries of the giants, the largest cable companies in America, to get exemptions that they do not deserve. These are companies that are more than capable of doing the paperwork, more than capable of providing topnotch service, and yet in so many cases they have failed to do so. They think that the big newspapers will not notice, because how many media outlets are in communities of this size? They think that the TV stations will not notice. They think they will not be reported; but I happen to represent a nearly all rural district, all small towns in my district, and people in these communities do matter. They should have the same rights.

That is why, even though I have seldom disagreed with my good friend, the gentleman from Kansas, he and I agree on most matters. He is a very capable and common sensical gentleman. I am just worried that the drafting in this particular effort needs to be focused so that we do not benefit the subsidiaries of the giant companies.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I am happy to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I thank my good friend for yielding to me.

The gentleman is absolutely correct. We seldom disagree on anything, but on this matter we do, simply because I think it is very important for us to do what we can to reduce the administrative burden on a lot of these small cable concerns.

The gentleman has raised a legitimate concern. I will say to the gentleman that I hope as we move forward in the process that we may be able to address this; but candidly to this point in the process, I have not been able to figure out how to speak to the legitimate concern of a lot of our small cable operators in this country who do not need this additional administrative burden and who are serving their communities quite well. I do not hear any objection from people in those communities, in all candor, in my part of the country.

I know the gentleman's deep concern and I will try to work with him as we move forward.

Mr. COOPER. Reclaiming my time, Mr. Chairman, the gentleman and I share a concern for the independent small businessman, but when that company is sold to a giant enterprise, when the ownership moves away to another State, another region, local accountability is oftentime lost.

And remember, cable companies when they enjoy a monopoly do not even have to answer the telephone. They do not have to provide any sort of quality consumer service. They tell you that if you do not like it, turn off the service, go to your video store, hook up an antenna, try to watch broadcasts. Even though so many of these communities are so many hundred miles from the broadcast centers, they cannot get quality broadcast reception.

So I hope the gentleman will try his best to exclude the subsidiaries of giants and also the chains of enterprises that may have no large cable subscriber base in one locale, but have tens of thousands of consumers across the country who are not getting the quality service that they deserve.

Mr. SLATTERY. Mr. Chairman, if the gentleman will yield for one point of clarification, we are not talking about exempting them from service regulations. We are talking about the question of rate regulation.

Mr. COOPER. But so often when we start letting them off the hook, when we do not know what the rates are or whether they are reasonable and when we are not making them file their papers, we lose track of what they are really doing and whether they are really serving the community.

Mr. SLATTERY. I understand that. I just wanted to clarify that point.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding to me.

I support the Slattery amendment, but I would like to say to the gentleman from Tennessee that as we move to the conference stage on this legislation, I think we can work amongst ourselves to try to draft language which deals with many of the issues we are concerned about, while preserving the core of the objectives the gentleman from Kansas seeks to support.

Mr. SLATTERY. Mr. Chairman, I appreciate the support of the subcommittee chairman.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. COOPER] has expired.

The Chair recognizes the author of the amendment, the gentleman from Kansas [Mr. SLATTERY].

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I am happy to yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, I just want to say to the gentleman that in my view small systems have not caused the problems that we are attempting to correct with this legislation.

The amendment that the gentleman is offering does not weaken any regulation that we seek to put into effect, but what it does is lighten the administrative burden, and with that the administrative costs.

Mr. Chairman, the minority is pleased to accept the amendment. It is a good amendment. It goes in the right direction.

Mr. SLATTERY. Mr. Chairman, I appreciate the gentleman's support.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to my friend, the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of the amendment introduced by the gentleman from Kansas to increase from 500 subscribers to 1,000 subscribers the maximum size of small cable systems for which the FCC must design rate regulations that would reduce the administrative burden and cost of compliance.

Mr. Chairman, I thank the gentleman for yielding to me. I thank the gentleman for his initiative. I certainly am supportive of this.

In my State alone, we have 115 communities that have fewer than 1,000 households who are served by the local cable system. They provide an important service to the rural customers. They have not been engaged in abusive practices, so I think the gentleman's amendment is highly appropriate and I thank him for his initiative. I urge my colleagues to support it.

As mentioned, the State of Nebraska has some 115 communities in which fewer than 1,000 households are served by the local cable system. Nearly 15 percent of those communities have more than 500 subscribers and would not be covered by the provisions included in the bill as it came to the floor, or they have nearly 500 subscribers and may soon lose that protection.

Yet, these are still very small communities. Generally, the smallest cable companies have not engaged in abusive practices. They are providing an important service to their rural customers, and we need to encourage them to provide this service in these small communities.

This Member encourages his colleagues to support this amendment and commend my neighbor, the distinguished gentleman from Kansas [Mr. SLATTERY] for his initiative in preparing and offering this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. SLATTERY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COOPER

Mr. COOPER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows.

Amendment offered by Mr. COOPER: Page 29, line 2, strike "a franchise" and insert "an exclusive or nonexclusive franchise".

The CHAIRMAN. Under the rule, the gentleman from Tennessee [Mr. COOPER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes. Does any Member stand in opposition to the amendment?

Mr. MARKEY. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Massachusetts will be recognized at the appropriate time in the debate.

The Chair recognizes the author of the amendment, the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I would like to enter into a colloquy with the chairman of the full committee.

I have been working with the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], because I have been very concerned about a provision that is very important to my constituents in Jamestown, TN. The people of Jamestown awarded an exclusive franchise to a cable operator in 1977, long before they knew competition in cable would ever be possible. But in 1984, Congress abrogated the provisions of the franchise to prohibit the city from regulating rates. Soon, rates began to rise, service declined and people got angry. The city got so fed up with the abuses of the cable monopoly that it built a competing system. But a 1991 State court ruling forced the city to shut down its system because it violated the exclusivity system in place, but they cannot enjoy the benefits of it because of a court's narrow reading of the 1984 Cable Act.

However, the purpose of the bill before us today is to foster competition at every turn, in every town and with every franchise. Section 4(a) of the bill provides that,

> [a] Franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator.

Section 4(b) of H.R. 4850 provides that nothing in this act shall be construed to prohibit a local government from operating a cable system, even if it has already granted one or more franchises to other cable operators. Is it your intent that these and other provisions would act to permit every city and town in America to award additional franchises, including Jamestown?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, first of all, I want to commend the gentleman for raising the question.

Second of all, I want to observe that he raises a very legitimate concern and commend him for that.

My reading of the language of the bill before us is that it would enable every city and town to award additional franchises. It is the intent of the bill to remove barriers to competition and to, therefore, make unenforceable any franchise provisions that would thwart competition.

Mr. COOPER. Reclaiming my time, I appreciate the chairman's kindness. As the gentleman knows, very few exclusive franchises exist today, and the ones that do exist were granted in the sixties or seventies or earlier. Consequently, if sections 4 (a) and (b) are to have any real meaning in practice, they must apply to and deal with existing exclusive franchises, including Jamestown, TN. I would hope that the chairman would agree that no provision of an existing franchise, whether it is an exclusive or nonexclusive contract, could be used as a reason for denying additional franchises.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to thank the gentleman for yielding to me, and to observe that to me, the language of the bill is general enough to cover every franchise to that effect. I am sensitive to the concern of the gentleman from Tennessee, and again I commend him for raising these questions, but I have been concerned that additional language might cause unintended problems. I intend to work with the gentleman as this issue progresses to resolve any concerns with improvements in the bill's language, should it be necessary.

Mr. COOPER. I appreciate the chairman's clarification and sensitivity to the concerns of the folks in Jamestown. Given this understanding, I would like to work with the chairman and Chairman MARKEY of the subcommittee in the conference to make this even more clear, but at this time I see no reason to push forward for a vote on my amendment. So I will withdraw it with the understanding that the clear congressional intent with regard to the existing language of the bill is that it would allow Jamestown to operate its competitive system again.

I appreciate the honor of working with the chairman of the full committee and the chairman of the subcommittee.

I appreciate the honor of working with the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY].

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee [Mr. COOPER]?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DOOLITTLE: Page 34, strike lines 9 through 11 and insert the following; subpart F of part 76 of title 47, Code of Federal Regulations.

"(C) The Commission shall revise the regulations relating to nonduplication protection and syndicated exclusively (47 C.F.R. 76.92 et seq.) to permit customers of cable systems in towns, cities, or communities with populations of less than 50,000 to receive network programs for each network from affiliated television stations that are located in the same State as such customers.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Does the gentleman from Massachusetts [Mr. MARKEY] stand in opposition?

Mr. MARKEY. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. I thank the chairman.

Mr. Chairman, on behalf of my colleagues, Messrs. GUNDERSON, BEREUTER, VISCLOSKY, HERGER, and HUNTER, I have an amendment to rectify an ongoing problem resulting from the Federal Communications Commission's syndicated exclusivity of network nonduplication rule.

Mr. Chairman, I would like to engage in a colloquy on this issue with the chairman of the Telecommunications Subcommittee.

Mr. Chairman, as a result of these FCC decisions, certain small communities in some State border areas are forced to watch out-of-state programming, losing valuable news and information relating to their own State. We have attempted to obtain relief from the FCC, to no avail.

I would like to ask if I could have the help of the gentleman from Massachusetts in resolving this matter.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, I have had several conversations with the gentleman from Wisconsin [Mr. GUNDERSON] over the last several years on this subject, and we have worked hard to try to resolve this issue. What I would say to the gentleman is that I would like to work with him, the gentleman from Wisconsin [Mr. GUNDERSON], and others who are interested in the issue so that we may reach a satisfactory resolution of the issue in this Congress.

Mr. DOOLITTLE. I am delighted to hear the gentleman from Massachusetts mention "in this Congress," because I know that will mean a lot to all of our constituents. There are just relatively speaking a handful across the country, but for the communities that fall into this category it is very important. I would appreciate the gentleman's help, the help of the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the ranking members, the gentleman from New York [Mr. LENT], and the gentleman from New Jersey [Mr. RINALDO].

Mr. BEREUTER. Mr. Chairman, this Member strongly supports the initiative found in the amendment filed by the distinguished gentleman from California [Mr. DOOLITTLE] that would exempt cable systems in communities of under 50,000 residents that are located in a state different from the broadcaster from having to comply with syndicated exclusivity and nonduplication rules. Frankly, this Member wishes the amendment could have been enacted at this point but, of course, I accept the gentleman's judgment that this issue will be resolved during this Congress, given Chairman MARKEY's stated assurances.

Since January 1990, when the Federal Communications Commission implemented syndex rules, this Member has heard from residents in the northeast most corner of Nebraska, residents of the Siouxland area, the tristate Sioux city Metropolitan area, regarding the inability of their local cable operators to carry programming from an Omaha, NE, station because that programming was being duplicated by a nearby Sioux City, IA, network affiliate.

This means that cable subscribers in that part of Nebraska are not receiving an adequate amount or desired amount of news about Nebraska state government and Nebraska's economic and cultural affairs as television viewers in other parts of Nebraska receive, because, quite naturally, the Iowa television stations tend to focus more on Iowa governmental, economic, and cultural affairs. These Nebraskans are being seriously disadvantaged in crucial daily information because of the FCC's syndex rules.

While the syndex rules were based on a regard for broadcasters' contractual programming rights, in these relatively unusual situations where communities of under 50,000 are not receiving the signal of their nearest instate broadcaster, we should provide an exemption.

This Member urges the committee to adequately address this concern during this Congress by influencing or otherwise demanding this FCC response and solution.

Mr. MARKEY. Mr. Chairman, will the gentleman yield further?

Mr. DOOLITTLE. I am happy to yield further to the gentleman from Massachusetts.

Mr MARKEY. I thank the gentleman for yielding.

If I may say to the gentleman from Nebraska, and also if I may, the gentleman from Indiana [Mr. VISCLOSKY], who has also been talking to me and talking to the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], we will work with them. We will work with them in the next month to try to resolve this issue.

Again, I thank the gentleman, and I especially thank the gentleman from Wisconsin [Mr. GUNDERSON], who has been working with us over the last few years.

Mr FAZIO. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate my friend from California. It seems that this is a problem that does need to be resolved, and it seems that we are going to do so with the support of the committee. I appreciate my friend bringing the issue that I know is very important to his district, but also to my constituents as well, to the floor. I thank the gentleman.

Mr. DOOLITTLE. I thank the gentleman.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding.

Mr. Chairman, I just want to join everyone in thanking the chairman for his help over the last 2 years in trying to get this resolved, and the staff on both sides of the aisle. And I certainly also thank the gentleman from California [Mr. DOOLITTLE] for working with all of us and for his taking the leadership in getting this resolved in this Congress.

Mr. DOOLITTLE. I thank the gentleman, and I, too, thank the staff.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The amendment is considered as withdrawn.

AMENDMENTS EN BLOC OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The texts of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. DINGELL:

AMENDMENT NO. 10. NEAL OF MASSACHUSETTS, NOTICE ON RATE INCREASES

Page 17, after line 12, insert the following new subparagraph (and redesignate the succeeding subparagraph accordingly):

"(E) NOTICE.—The procedures prescribed by the Commission pursuant to subparagraph (D)(i) shall require a cable operator to provide 30 days advance notice to a franchising authority of any increase of more than 5 percent proposed in the price to be charged for the basic service tier.

AMENDMENT NO. 11. NAGLE, RATE REGULATION AGREEMENTS

Page 26, strike out lines 14 through 22, and insert the following:

"(j) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

AMENDMENT NO. 12. DINGELL, TECHNICAL AMENDMENTS

Page 34, line 9, strike "title 46" and insert "title 47".

Page 79, line 22, strike "(17" and insert "(47".

Page 94, line 19, strike "(a)".

AMENDMENT NO. 13. LEHMAN OF CALIFORNIA, CHANNEL POSITIONING

Page 36, line 9, after "1985," insert the following: "or on the channel on which it was carried on January 1, 1992,".

AMENDMENT NO. 14. MCEWEN, MUST-CARRY REGULATIONS

Page 41, line 2, after the period insert the following: "Such implementing regulations shall include necessary revisions to update section 76.51 of the Commission's regulations (47 C.F.R. 76.51).".

AMENDMENT NO. 15. SCHUMER, FRANCHISING AUTHORITY LIABILITY

Page 82, after line 6, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 15. LIMITATION ON FRANCHISING AUTHORITY LIABILITY.

(a) AMENDMENT.—Part IV of title VI of the Communications Act of 1934 is amended by inserting after section 635 (47 U.S.C. 555) the following new section:

"SEC. 635A. LIMITATION OF FRANCHISING AUTHORITY LIABILITY.

"(a) SUITS FOR DAMAGES PROHIBITED.—In any court proceeding pending on or initiated after the date of enactment of this section involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

"(b) EXCEPTION FOR COMPLETED CASES.—The limitation contained in subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator's rights.

"(c) DISCRIMINATION CLAIMS PERMITTED.—Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority, or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity.".

(b) CONFORMING AMENDMENT.—Section 635(b) of the Communications Act of 1934 (47 U.S.C. 555(b)) is amended by inserting "and with the provisions of section 635(a)" after "subsection (a)".

AMENDMENT NO. 16. LEHMAN OF CALIFORNIA, PRECLUSIVE CONTRACTS

Page 93, after line 20, insert the following new paragraph:

(3) ANALYSIS OF PRECLUSIVE CONTRACTS REQUIRED.—In conducting the study required by paragraph (1), the Commission shall analyze the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations. In conducting such analysis, the Commission shall consult with the Attorney General to determine whether and to what extent such preclusive contracts are prohibited by existing statutes. The report required by paragraph (2) shall include a separate statement of the results of the analysis required by this paragraph, together with such recommendations for legislation as the Commission considers necessary and appropriate. For purposes of the paragraph, the term "preclusive contract" includes any contract that prohibits—

(A) the live broadcast by a local television station of a sporting event of a local college team that is not carried, on a live basis, by any cable system within the local community served by such local television station; or

(B) the delayed broadcast by a local television station of a sporting event of a local college team that is not carried, on a live or delayed basis, by any cable system within the local community served by such local television station.

AMENDMENT NO. 17. BROOMFIELD AMENDMENT, AS MODIFIED, SEXUALLY EXPLICIT PROGRAMS

Page 63, after line 15, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 10. NOTICE TO CABLE SUBSCRIBERS ON UNSOLICITED SEXUALLY EXPLICIT PROGRAMS.

Section 624(d) of the Communications Act of 1934 (47 U.S.C. 544(d)) is amended by adding at the end the following new paragraph:

"(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge—

"(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge,

"(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge,

"(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked, and

"(iv) block the channel carrying the premium channel upon the request of a subscriber.

"(B) For the purpose of this section, the term 'premium channel' shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association as X, NR-17, or R.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 10 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 10 minutes.

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will not take the full 10 minutes. My remarks are brief.

These amendments are provided for in the rule. They are offered by agreement between myself, the gentleman from New Jersey [Mr. RINALDO], the gentleman from New York [Mr. LENT] and the distinguished gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee.

Mr. Chairman, pursuant to the rule previously adopted, I rise to offer an en bloc amendment consistent of amendments that were made in order under the rule.

The amendments included in this amendment are as follows:

An amendment offered by Mr. NEAL of Massachusetts, designated as No. 10 in the Rules Committee report.

The Neal amendment provides that cable operators must provide at least 30 days advance notice of any increase in cable rates of over 5 percent.

An amendment offered by Mr. NAGLE of Iowa, designated as No. 11 in the Rules Committee report.

The Nagle amendment clarifies language in the reported bill that protects grandfathered rate regulation agreements between cable operators and franchising authorities.

An amendment offered by myself, designated as No. 12 in the Rules Committee report.

The Dingell amendment contains three technical amendments correcting drafting errors in the reported bill.

An amendment offered by Mr. LEHMAN of California, designated as No. 13 in the Rules Committee report.

The Lehman amendment adds an additional option to commercial broadcasters, by which they may choose to be carried on the channel positions they occupied as of January 1, 1992.

An amendment offered by Mr. MCEWEN of Ohio, designated as No. 14 in the Rules Committee report.

The McEwen amendment requires the FCC to update the list of the Nation's television markets in order to clarify whether a signal of a television station is considered to be local or distant.

An amendment offered by Mr. SCHUMER of New York, designated as No. 15 in the Rules Committee report.

The Schumer amendment indemnifies local franchising authorities against damages claims, except those damages claims based on discrimination of any type.

An amendment offered by Mr. LEHMAN of California, designated as No. 16 in the Rules Committee report.

The Lehman amendment requires that the study of sports migration mandated by the bill include an analysis of preclusive contracts between college athletic conferences and video programming vendors, and whether such contracts may have unduly restricted local college sporting events from being broadcast locally.

An amendment offered by Mr. BROOMFIELD of Michigan, designated as No. 17 in the Rules Committee report.

The Broomfield amendment requires that, when cable operators provide premium channels without charge, and those channels carry movies with an X, R, or NR-17 rating, they must give subscribers 30 days advance warning and enable subscribers to have those channels blocked.

As contained in the en bloc amendment, the 60 day advance warning period has been reduced to 30 days. This change, permitted under the rule, has been agreed to by Mr. BROOMFIELD, the minority, and those of us on this side of the aisle.

Mr. Speaker, these are noncontroversial amendments that have been cleared by the leadership on both sides of the aisle. I am offering them in this form in an effort to limit the amount of time that the House will have to spend on them. I would like to commend my colleagues who submitted these amendments for their willingness to work with us to make sure that the amendments are acceptable.

I know that many Members will want to speak on these amendments, several of which seek to address local problems back home. I urge my colleagues to support this package of amendments, and reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

Mr. Chairman, we have had an opportunity to review the numerous amendments presently being offered en bloc. After reviewing them, we have determined that they are good amendments and are not controversial, and they have been cleared on the Republican side, and we are prepared to support them en bloc. And I thank the gentleman for yielding.

Mr. DINGELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LENT. Mr. Chairman, I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, my amendment would restore to parents in this country some measure of control over what their small children see and hear.

It would give cable consumers the right to prevent certain cable channels from being broadcast into their homes.

What I am thinking of, in particular, are certain premium movie channels. HBO and Cinemax come most readily to mind.

These are called premium channels because cable consumers are forced to spend extra money to subscribe to them. The consumers may choose not to subscribe to the premium channels because of the additional cost, or like many American families they may choose not to subscribe to them because many of the movies these channels purvey contain so much violence and sex.

The premium channels have now found a way to circumvent parental choice. The method is called the free weekend.

Premium channels like HBO and Cinemax offer all cable subscribers, even those who originally chose not to subscribe, free access to its movies for one weekend, the so-called free weekend.

My colleague who offered this amendment in the other body has likened this promotional gimmick to a sample bar of soap. Put it in a hotel bathroom, or hand it out on a street corner, and see if someone will like it enough to buy a regular-sized bar. But instead of soap, he says, these merchants are peddling garbage.

To many mothers who are trying to raise their kids in difficult times it must seem like the old image of the street corner merchant of pornography. The one with the rumpled raincoat who stands on the street corner outside the local school and calls on unsuspecting little kids to come over and look at his assortment of dirty pictures.

It used to be that a child who was offended by the kind of stuff purveyed by the man in the rumpled raincoat could get away from him by running home. No longer. Now there is no escape. He's already in the home—on any number of television channels.

In an age when anything goes, this amendment may seem a little quaint to some. But I believe it will provide one small weapon that mothers and fathers can use in the battle to raise their children with a clear-headed respect for moral standards.

Earlier this week I received a call from a mother in my district. She had previously canceled her premium movie service because she didn't want her young children to accidentally turn the dial to an R-rated movie they couldn't handle.

She thought she had taken the necessary precautions to protect her family.

Yet last weekend, during a promotion, she discovered her children viewing some gory scenes from "Silence of the Lambs." Three days later the youngest child is still having nightmares.

The mother thinks this is a terrible irony because she is already so involved in the campaign against sleaze and violence on television. She is Terry Rakolta, director of Americans for Responsible Television. This is a grassroots organization with about 20,000 members who are dedicated to putting a stop to the escalation of random hard violence and exploitative sexual material on television.

R-rated movies are not uncommon during promotional weekends. Fully a third of the movies on both HBO and Cinemax during a promotional weekend in 1990 were rated "R."

The Motion Picture Association assigns movies this rating because they contain violence, graphic language, or sexually explicit scenes that are inappropriate for children.

My amendment will require cable companies to warn their customers well before a free weekend and to give those customers the option of having the service blocked.

It does not end promotional free weekends but it does give families the right to say they don't want sleazy movies shown in their homes.

It is an amendment that will once again put teeth into the sentiment that a family's home is its castle, and I urge my colleagues to vote for it.

Mr. SCHUMER. Mr. Chairman, I rise for the purpose of clarifying the intent of my amendment on franchiser immunity, which has been included in the chairman's en bloc amendment.

My amendment is based on H.R. 506, a bill I introduced to provide immunity to local franchising authorities against damages claims. The amendment is needed to protect local authorities from being pressured into making unmeritorious franchising decisions by the threat of expensive damages litigation by cable companies. This is not just a hypothetical threat: In Los Angeles, a multimillion dollar suit has been filed against the local authority over past franchising decisions, in an attempt to extort a lucrative settlement and to influence future franchising decisions by that and other local authorities.

The amendment's adoption is essential to ensuring that local authorities can negotiate the best contracts possible on behalf of cable consumers, in order to fulfill the consumer protection intent of the underlying cable bill. Accordingly, the amendment has been endorsed by the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties.

To resolve questions that were raised about an earlier draft of my bill, the amendment makes clear that franchising authorities are not immune from damages claims based on discrimination of any type.

I want to thank Chairman BROOKS, Chairman DINGELL, and Chairman MARKEY for their support and assistance in drafting this amendment.

I would also like to clarify two elements of my amendment:

The only purpose of section 628(b) of the provision is to clarify that the provision does not apply retroactively to completed cases. In other words, neither the cable operator nor the franchising authority involved in a case that is no longer subject to review may argue that this amendment allows them to reopen the case and relitigate the issue of damages. Subsection (b) does not mean that the decision in a case in Los Angeles that is no longer subject to review, for example, is binding on a franchising authority litigating the same issues in New York City. The franchising authority in New York City would be entitled to damages immunity under this section.

Subsection (d) of the amendment clarifies that nothing in this section shall be construed as creating or authorizing liability of any kind under any law, for any action or failure to act relating to cable service or the granting of a franchise—including a decision of approval or disapproval with respect to a grant, renewal, transfer or amendment of a franchise—by a franchising authority or other governmental entity.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COOPER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 2, not voting 29, as follows:

[Roll No. 309]

AYES—403

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Beilenson
Bennett
Bentley
Berman
Bevill
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—2

Hefley
Hunter

NOT VOTING—29

Anthony
Bateman
Bereuter
Bilbray
Coughlin
Dwyer
Dymally
Feighan
Frost
Gephardt
Hansen
Hatcher
Hyde
Jones (GA)
Kolter
Laughlin
Lehman (FL)
Levine (CA)
Lowery (CA)
Peterson (FL)
Rangel
Ray
Tallon
Thomas (GA)
Thomas (WY)
Traxler
Washington
Wilson
Yates

□ 1930

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAUZIN:

Page 65, after line 11, insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 11. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

"(a) PURPOSE.—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming to persons in rural and other areas not currently able to receive such service, and to spur the development of communications technologies.

"(b) PROHIBITION.—It shall be unlawful for a cable operator or a satellite cable programming vendor in which a cable operator has an attributable interest in violation of any regulation prescribed under subsection (c) to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming to subscribers or consumers.

"(c) REGULATIONS REQUIRED.—

"(1) PROCEEDING REQUIRED.—Within 180 days after the enactment of this Act, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to specify the conduct that is prohibited by subsection (b).

"(2) MINIMUM CONTENTS OF REGULATIONS.—The regulations to be promulgated under this section shall—

"(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the price, terms, and conditions of sale of, satellite cable programming to any unaffiliated multichannel video programming distributor;

"(B) prohibit discrimination by a satellite cable programming vendor in which a cable operator has an attributable interest in the price, terms, and conditions in the sale or delivery of satellite cable programming among or between cable systems, cable operators, or their agents or buying groups, or other multichannel video programming distributors; except that such a satellite cable programming vendor in which a cable operator has an attributable interest shall not be prohibited from—

"(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

"(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming;

"(iii) establishing different price, terms, and conditions which take into account reasonable volume discounts based on the number of subscribers served by the distributor; or

"(iv) entering into an exclusive contract that is permitted under subparagraph (D);

"(C) prohibit practices, understandings, arrangements, or activities, including exclusive contracts for satellite cable programming between a cable operator and a cable satellite programming between a cable operator and a cable satellite programming vendor, which prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

"(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

"(3) GEOGRAPHIC LIMITATIONS.—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution. Nothing in this section shall apply to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite, and shall not apply to any internal satellite communication of any broadcast network or cable network, except that satellite broadcast programming shall be subject to the requirements of this section.

"(4) PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

"(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

"(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

"(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

"(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

"(E) the duration of the exclusive contract.

"(5) SUNSET PROVISION.—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this Act.

"(d) ADJUDICATORY PROCEEDING.—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of this section, or the implementing regulations of the Commission under this section, may commence an adjudicatory proceeding at the Commission.

"(e) REMEDIES FOR VIOLATIONS.—

"(1) REMEDIES AUTHORIZED.—Upon completion of such adjudicatory proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

"(2) ADDITIONAL REMEDIES.—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

"(f) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data, including the right to obtain copies of all contracts and documents reflecting arrangements and understandings alleged to violate this section, as the Commission requires to carry out this section; and

"(3) provide for any penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(g) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competiton in the market for the delivery of video programming.

"(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

"(1) IN GENERAL.—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

"(2) LIMITATION ON RENEWALS.—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1) of this subsection.

"(i) APPLICABILITY OF ANTITRUST LAWS; NO ANTITRUST IMMUNITY.—Nothing in this section shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"(j) DEFINITIONS.—As used in this section:

"(1) The term 'satellite cable programming vendor' means a person engaged in the production, creation, or wholesale distribution of a satellite cable programming service for sale.

"(2) The terms 'cable system', 'multichannel video programming distributor', and 'video programming' have the meanings provided under section 602 of this Act.

"(3) The term 'satellite cable programming' has the meaning provided under section 705 of the Act.

"(4) The term 'satellite broadcast programming' means broadcast programming, other than programming of an affiliate of a national network, when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster."

Mr. MANTON. Mr. Chairman, I rise in opposition to the Tauzin amendment and I seek the 15 minutes provided in the rule.

The CHAIRMAN. Pursuant to the rule, the time will be equally divided 15 minutes each.

AMENDMENT OFFERED BY MR. MANTON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. TAUZIN

Mr. MANTON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment offered by Mr. MANTON as a substitute for the amendment offered by Mr. TAUZIN: In lieu of the matter proposed to be inserted by the amendment of the Gentleman from Louisiana insert the following:

SEC. 11. COMPETITION AND TECHNOLOGICAL DEVELOPMENT.

(a) PROHIBITION ON UNREASONABLE REFUSALS TO DEAL.—Part III of title VI of the

Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. PROGRAMMING ACCESS TO PROMOTE COMPETITION AND CONTINUING TECHNOLOGICAL DEVELOPMENT.

"(a) Unreasonable Refusals to Deal Prohibited.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1990, the Commission shall, in order to promote competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to prohibit any video programming vendor that controls, is controlled by, or is under common control with a multichannel video system operator and that engages in the regional or national distribution of video programming from refusing to deal with any multichannel video system operator with respect to the provision of video programming if such refusal would unreasonably restrain competition. Entering into or abiding by the terms of an exclusive contract that does not have the effect of unreasonably restraining competition shall not be considered an unreasonable refusal to deal. Nothing contained in this subsection shall require any person who licenses video programming for distribution to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(b) Remedies for Violations.—Any multichannel video system operator aggrieved by conduct that it alleges constitutes a violation of the regulations prescribed under this section may commence an adjudicatory proceeding at the Commission. Upon completion of such proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video system operator.

"(c) Procedures.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data as the Commission requires to carry out this section with respect to exclusive contracts or other practices and their effects on competitors, competition, or the video programming distribution market or on the development of new video distribution technologies; and

"(3) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) Sunset.—The regulations prescribed under subsection (a)(1) of this section shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, or on such earlier date as the Commission determines that a competitive national market for the delivery of video programming exists. Such regulations shall cease to be effective for any local market on such earlier date as the Commission determines that a competitive market for the delivery of such programming exists in such local market.

"(e) Reports.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (a), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(f) Exemptions for Prior Contracts.—Nothing in this section shall affect any contract (or renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(g) Definitions.—

"(1) The term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming.

"(2) The term 'video programming vendor'—

"(A) means any person who licenses video programming for distribution by any multichannel video system operator;

"(B) includes satellite delivered video programming networks and other programming networks and services;

"(C) does not include a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(D) does not include a network or service distributing video programming that is carried as a secondary transmission of a signal broadcast by a television station.

"(3) The terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

(b) Marketing of Certain Satellite Communications.—

(1) Findings.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(2) Amendments.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(2) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1992, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraph (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

The CHAIRMAN. The Chair announces that the time for the debate on both the amendment and the substitute will be fungible and that the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 30 minutes, and the gentleman from New York [Mr. MANTON] will be recognized for 30 minutes.

Mr. MANTON. Mr. Chairman, I ask unanimous consent that I be permitted to yield 15 minutes to the gentleman from New Jersey [Mr. RINALDO] under these 2 amendments and that he be permitted to yield slots of time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are about to debate what I believe and what many believe in this Chamber and certainly on the subcommittee and committee to be the heart and soul of this legislation. There are many on both sides of the aisle who have complained during this debate that regulation, reregulation of the cable industry was not the way to go, that the best way to go was to create competition for the cable industry in America.

I happen to believe that that is correct. I happen to believe that whatever regulation we include in this bill will only have a modest effect upon cable rates. In fact, I believe that the regulations contained in this bill will do little more than control, regulate upward the price of cable of Americans.

Very little in this cable bill will do anything to create competition and, thus, drive prices down, unless the Tauzin amendment is adopted.

The other body saw the wisdom of that argument by a vote of 73 to 14. They adopted a similar amendment to their cable bill.

The Tauzin amendment, very simply put, requires the cable monopoly to stop refusing to deal, to stop refusing to sell its products to other distributors of television programs.

In effect, this bill says to the cable industry, "You have to stop what you have been doing, and that is killing off your competition by denying it products."

It will do us little good to struggle with the C-band dish industry. It will do us little good to hope in vain for the advent of a DBS, direct broadcast satellite, industry or for the expansion of wireless cable in America as competition to this monopoly if none of it can get programming. Programming is the key.

Why did cable need network programming to get going? Why did cable need this Government to give it network programming free of change to get going? Because without programming, cable could not get off the ground. Without programming, competitors of cable are equally stymied and who is the big loser? The big loser is everyone in America who pays a cable bill.

Listen, election day is shortly coming. There is a cynicism in the land. There is a belief in America that this Congress can no longer deliver for the American people. There is a belief that we are beholden to special interests. There is a belief that the big cable monopolies in this country are going to run this House tonight, are going to force this House to adopt a sham amendment instead of the true consumer amendment.

The choices we will have tonight will be between the Tauzin amendment, which guarantees that the cable cannot refuse to deal, must deal in fair and equitable terms with others who distribute television programs, which will give to consumers choice in the marketplace and which will bring rates down.

The FCC recently did a study on 1989 and 1990 rates. Those of my colleagues watching this tonight in their offices, those in the Chamber, I hope they will pay attention to these charts. These charts illustrate what the FCC discovered.

What the FCC discovered is that in the few communities, 65 in America, where there is competition to cable, guess what happens? Rates fall dramatically.

In 1989, a 23.5-percent reduction; in 1990, a 34-percent reduction in rates were achieved in the communities that had competition. In 95 percent of the communities that did not have competition, rates went up 61 percent.

What does that mean to Americans? It means that everybody's cable bill could come down if the Tauzin amendment is adopted. It means if we refuse to adopt the Tauzin amendment, if we accept the sham Manton amendment drafted for and by the cable companies, rates will not only continue to go up but we will never see the benefit of reduced rates in American homes across this country.

Let me show my colleagues what it means in dollars. The next chart illustrates what America could be saving according to not my figures but the Federal Communications Commission of this administration. These are their numbers.

If America chose to adopt the Tauzin amendment in this House tonight, rather than to be beholden to the big few cable companies who run this show, Americans could have saved in 1989 some $2.4 billion. Americans could have saved in 1990, $4 billion. And the chart likely goes up.

We are not talking about peanuts here. We are talking about a major impact upon middle America. We cannot deliver a middle income tax cut this year, but we could give every American savings on his cable bill if we just had the decency to end this monopoly and to create some competition in television services.

How do we do it? We do it very simply. We prohibit the cable companies, those who control programming, from doing what they have been doing ever since we deregulated them.

Let me show my colleagues the graph and what they are currently doing to satellite services. In satellite services alone, we are not talking about what is happening in wireless services or what could happen in direct broadcast satellite. In C-band, that is a big dish industry alone, cable prices versus satellite dish prices are reflected on this chart. The average price per a subscriber for basic cable in the country is 17.34. Under this analysis, it is topped by 27.95 for a similar program package for those who dare to buy the dish, those who dare to buy some competitive system.

What does it mean? It means that cable is jacking the price upon its competitors so high that they can never get off the ground. In some cases they deny programs completely to those competitors to make sure they cannot sell a full package of services. So the hot shows are controlled by cable. The good shows, the good programs only come to you on the cable. And if you complain, you are told, like a constituent of mine in Homer, LA, recently, when she complained about having to buy a box and a controller, all of which she could have bought at Radio Shack very cheaply. Instead she had to rent it every month at 10 times its value from the cable company. She said, "Why do I have to do that?" She said, "They said 'That is our rule, ma'am.'"

She said, "What can I do about it?" They said, "you can move, if you don't like it. We are the only cable company in town."

I do not want her to have to move. And where would she move to except the 65 communities out of the 11,000 in America that have a little competition going on.

Folks, this is it in a nutshell. We either create competition for the American television viewing audience out there or we leave them strangled, in fact, raped by cable monopolies who can charge them what they want, force them to buy what they want in tiers they create and add to those services rental fees on equipment that could be easily purchased at Radio Shack, if we had the decency to think about the American consumer out there instead of big cable interests that control the situation.

It is this simple. There are only five big cable integrated companies that control it all. My amendment says to those big five, "You cannot refuse to deal anymore."

□ 1940

You have to offer your programs to other competitors, and you cannot refuse to deal by saying 'We will only give it to you at a much higher price.' Prices need to be comparable and fair.

There is an argument against our amendment someone made. The argument is that we no longer allow for exclusive type programs that are important to people who develop a product. Not so. Read the DSG report on our bill. The DSG report clarifies it very well. It says and our amendment says that exclusive programming that is not designed to kill the competition is still permitted. The FCC can grant exclusive programming rights under our amendment.

Why is our amendment preferable to the amendment of the gentleman from New York [Mr. MANTON]? The gentleman from New York is offering a substitute amendment. I have called it an amendment drafted for and by the cable industry. Let me tell the Members why. It is weaker, it is weaker than the bill we passed 2 years ago. Not only is it weaker in terms of who it covers, because it sets a new legal standard on what companies are covered, a legal standard that will tie a company up in courts for years, a standard of control rather than affiliation, and it is much weaker in who it covers, so that more of the big companies can escape its coverage.

It also sets an almost impossible proposition for all the other competitors other than the C-band dish. What it says to them is that cable has to deal with you, but the terms and conditions can be as discriminatory as they want. They can say, in effect, law by Congress tells me I have to deal with you, but here is my deal. You either pay me 10 times what my program is worth to other cable systems, or you cannot have it. Under the Manton amendment that is the kind of effect it has.

Are we going to have any competition under those terms? I suggest that we will get more of the status quo. It is this simple. If we want to support the cable monopolies tonight, the gentleman from New York [Mr. MANTON] will give us the chance. The gentleman from New York [Mr. LENT] will give us his chance with a substitute bill. If we want to stand for American consumers for a change, if we want to end this year of political cynicism out there, do something real for America. Give them a break on something critical in their lives, their television. Give them a break on what they pay for their cable rights and create for the millions of Americans who cannot get cable because they live in the hinterlands of our country, in the country lands, create for them a chance to get it from direct broadcast satellite, to get it from wireless cable, to get it from other systems that will come across as technology develops.

None of that will be possible unless we stand up tonight to the big interests out there. I know it is tough sometimes. It is an election year and they make contributions. They stand tall. However, I think it is time we stand tall. I think it is time the American public counts on us and we deliver.

Their cynicism is deep. We can either prove their cynicism tonight or we can do something right for America. We can give America something that this free enterprise system has promised us and delivered in so many other places. We can give them competition in television, and we can give them lower prices.

We can give them choice. What do Americans want most in a free enterprise system? Two stores in town, so if one store treats you badly, charges you too much, refuses to answer the phone, tells you to move if you don't like the service you are getting, you can go to the next store and get treated fairly. Two stories in town, that is what this debate is all about.

With the Tauzin amendment we will create two stores in the television marketplace. With the Manton amendment we are stuck with one, we are stuck with monopoly, we are stuck with high prices, and we are stuck with the cynical argument that this Congress cannot do anything right for the American people.

Stand up for them tonight. Break the cable monopoly. Let us create some competition. Let us adopt the Tauzin amendment.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I hope my colleagues are listening to the gentleman in the well who is the sponsor of the amendment. Let me tell the Members what is happening out West, as one who represents both rural areas and people who live in small cities.

My rural families, whether they own their own dish or not and draw their signals from a satellite, because of monopolistic practices by big conglomerate cable companies, the people who live in rural Montana pay 500 percent more rates than do their neighbors who live just down the road in cities.

The gentleman is absolutely right about the unfair, arbitrary, anti-free market prices of the cable conglomerates, and I commend him.

Mr. TAUZIN. Mr. Chairman, I reserve the balance of my time.

Mr. MANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering this substitute amendment with my good friend and colleague, the gentleman from North Carolina [Mr. ROSE], who has been at the forefront in the figt to protect the rights of rural Americans to receive quality video programming at reasonable rates.

Mr. Chairman, the Manton-Rose amendment offers the House a clear choice between our reasonable and balanced approach to program access and the far reaching, radical approach taken by my friend, the gentleman from Louisiana, [Mr. TAUZIN].

The Manton-Rose amendment is a strong but reasonable access to programming amendment that recognizes the need to promote competition in the multichannel video marketplace without abusing the legitimate rights of video programmers.

Our amendment is virtually identical to the program access provision contained in the cable reregulation legislation that unanimously passed the House during the 101st Congress.

This language was also included as a provision in H.R. 1303, cable reregulation legislation introduced earlier this Congress by the chairman of the Telecommunications Subcommittee, Mr. MARKEY.

Specifically, the Manton-Rose amendment would do the following:

First, it would prohibit vertically integrated video program suppliers from refusing to deal with any multichannel video system operator where such refusal to deal would unreasonably restrain competition.

In other words, a cable network, like CNN or Nickelodeon, could not refuse to deal with a cable competitor, such as a DBS operator or a wireless cable operator, in a manner that unreasonably restrains competition.

Second, the amendment expressly recognizes the validity of exclusive contracts between a programmer and a distributor that do not have the effect of unreasonably restraining competition.

Complaints alleging violations of this section would be resolved by the FCC in an expedited adjudicatory proceeding.

Furthermore, the FCC would be authorized to grant appropriate relief for violations of this section, including the power to establish price, terms and conditions of sale.

Finally, the amendment contains strong protections for the C-band home dish industry to make certain that cable programming remains available to dish owners at rates comparable to cable. The amendment would prohibit programmers from discriminating in wholesale price, terms and conditions between cable operators, and C-band home dish distributors.

Mr. Chairman, our amendment strikes a balance between the need to promote competition in the multichannel video marketplace and the need to protect the legitimate intellectual property rights of video programmers. It is the product of bipartisan negotiation and compromise.

The Manton-Rose amendment is supported by the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the ranking minority member of the committee, Mr. LENT. The amendment is truly a bipartisan effort.

Proponents of the Tauzin amendment lament that competition is being stifled by cable programmers who are refusing to make their product available to alternative technologies. However, the facts simply do not support these contentions. Indeed, cable's competitors have access to almost all of the popular programming produced by cable companies.

In fact, in many areas of the country, wireless cable operators and direct broadcast satellites are successfully engaging in direct competition with cable companies.

Mr. Chairman, the Tauzin amendment would require that all video distributors obtain programming at a Government regulated wholesale price. The Tauzin amendment is not about access, it's about wholesale price regulation.

The Tauzin amendment is an unprecedented and unwarranted abridgement of intellectual property rights that would effectively prohibit all exclusive contracts between a video programmer and a cable operator.

Mr. Chairman, exclusive contractual arrangements play an important and beneficial role in the multichannel video marketplace. The recognition of exclusive rights gives programmers and cable operators an incentive to invest in new and improved programming, thereby increasing the quality of diversity of programming available to consumers. Barring exclusive arrangements will have a chilling effect on the development of new products.

Mr. Chairman, the gentleman from Louisiana has repeatedly claimed that his amendment is designed to foster the growth of alternative multichannel video technologies, specifically high power direct broadcast satellites. However, a leading force in the DBS industry, the U.S. Satellite Broadcasting Co., believes the Tauzin amendment goes too far, and they have endorsed the approach taken in the Manton-Rose amendment.

In a letter to the Energy and Commerce Committee chairman, Mr. Stanley Hubbard, the president of the U.S. Satellite Broadcasting Co., stated the following:

> USSB desires that DBS operators have an opportunity to engage in good faith negotiations with program providers for cable programming. Our preference would be for section (a) of the Manton amendment, * * * because the Manton amendment does not prescribe terms and conditions. Our only interest is that there be a level playing field whereby we can bargain in a free and open marketplace for our programming.

Clearly, this DBS operator understands that the Manton-Rose amendment takes a balanced approach to program access that affords all distributors an opportunity to negotiate on a level playing field and does not tip the scales in favor of any one company or industry.

Finally, Mr. TAUZIN has called the Manton-Rose substitute a phony amendment. Let me take this opportunity to share with my colleagues what Mr. TAUZIN had to say about this phony amendment when it was part of the bill that passed the House 2 years ago. Here's what Mr. TAUZIN said:

> Finally, this bill really addresses the issue of competition. When services in video are delivered not simply by wire but through the air, through the advances in satellite technology and eventually the new KU-band satellites that will deliver services on a dish no bigger than the size of a table napkin. When those things are possible under this bill, the full-blown effects of competition will be realized, and I think consumers in America will greatly benefit.

And here is what the leading industry proponents of the Tauzin access language had to say in testimony before the Telecommunications Subcommittee just 1 year ago about the access provisions of H.R. 1303, which are virtually identical to the Manton-Rose substitute:

From Robert Bilodeau, Director of the Wireless Cable Association:

> We are willing to take up the challenge to prove ourselves in the market, but without the meaningful program access provisions in H.R. 1303 becoming law, we may never have the chance.

From Bob Bergland, vice president, National Rural Electric Cooperative Association:

> We can prove that we are being disadvantaged in pricing, and we think legislation like H.R. 1303 will give us the remedies we need so that we are not forced to pay more than cable companies would pay, and that is really the essence.

And from Charles C. Hewitt, president, Satellite Broadcasting and Communications Association:

> We're here to support H.R. 1303 * * * as it relates to access to programming, we want to point out that it will be very difficult for us to develop K-band systems and the high powered capability unless we have a jumpstart, and that jumpstart requires access to programming and the ability to provide competitive programming to the customer.

Mr. Chairman, now they apparently want more than a jumpstart—they want a free ride.

Mr. Chairman, there have been no dramatic changes in the marketplace over the past year that would warrant the radical and unprecedented abridgement of property rights proposed by Congressman TAUZIN.

I urge my colleagues to stick with the balanced, bipartisan and rational approach embodied in the Manton-Rose substitute. I urge a vote for the substitute.

☐ 1950

Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, there are almost 12,000 cable systems serving the American public. Of these, only 65 face head-to-head competition.

The Tauzin amendment is a positive step toward changing those numbers. It would prevent vertically integrated cable programmers—programmers, HBO or TNT for example, that are owned all or in part by cable system operators—from arbitrarily denying access to cable programming services to potential competitors.

At present 7 of the top 10 programming services on cable television are owned by cable operator parent companies.

As a result, when alternative systems seek out programming, often they are in effect buying it from the competition, a situation that is not conducive to competition.

In areas unserved by cable, home satellite dish owners often are charged five times more by cable programmers—CNN, HBO, etc.—for programs than are cable operators. The consumers have to bear the additional costs.

The Tauzin amendment, while it does not mandate access, does force programmers to negotiate with competitors.

There are those who argue that this amendment is unnecessary because the present antitrust laws can be used if there is truly no competition. That is a fine, but worthless, argument. Courts have consistently interpreted Robinson-Patman and other antitrust laws to exclude cable from the coverage of these laws as a "service" and not a "commodity" as is required.

Satellite T. Associates v. Continental Cable Vision of VA., 586 F.Supp. 973 (VA 1982); aff'd 714 F.2d 351 (4th Cir. 1983); cert denied, 465 U.S. 1027; HRM Inc. v. Telecommunications Inc., 653 F. Supp. 645 (Col. 1987); Rankin Co. Cablevision v. Pearl River Valley Water Supply District, 692 F. Supp. 691 (Miss. 1988); T.V. Communication Network v. ESPN, 767 F. Supp. 1062 (Col. 1991)]

Moreover, the Tauzin amendment prevents programmers that are vertically integrated with cable system operators from discriminating in the price, terms, and conditions that they offer to competing cable system operators or alternative program distribution technologies.

The Manton-Rose amendment offers no such protection to the competing technologies. Moreover, Manton-Rose would allow exclusive contracts between a cable operator and a cable programmer. Further, it allows cable to charge exorbitant prices, and destroys the ability of the new technologies to compete.

The rights of the video programmers must be balanced with the interest of the public in receiving access to video programming.

In 1976 Congress took steps to aid the development of the infant cable industry.

With Congress' help, the industry has been able to maintain unprecedented growth.

In 1984 Congress deregulated cable. As a result cable has been able to raise rates, and use the proceeds to fund an extraordinary array of video programming choices.

Consumers have footed the bill, now it's time that they get a fair return on their investment.

The industry is now strong enough to stand on its own, and face a little competition.

Just as Congress aided the infant cable industry to grow, it now should give the same consideration to fledgling technologies.

Without access to programming, new program distribution services will not be able to compete against entrenched cable monopolies.

Areas currently unserved by cable, such as rural Oklahoma, will not be able to take advantage of new technologies, such as satellite dishes and wireless cable, that would make programming choices available to them.

Oppose Manton-Rose. Support the Tauzin amendment. Ensure competition in the cable industry and access to cable TV for all Americans.

Mr. RINALDO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I want to say to my good friend, the gentleman from Louisiana, I think he is one of the bright lights of Congress. I am proud to serve with him on the Merchant Marine and Fisheries Committee and on the Coast Guard Subcommittee. I believe with him in the concept of competition and diversity, so I agree with his goals, but I just disagree with the work product before us tonight.

Mr. Chairman, the Tauzin amendment is regulatory overkill. It would force cable programmers to sell their product to any competitor at a Government-regulated price.

The result would be a litigation nightmare for cable programmers, operators, and competing delivery systems. Every programming contract would be subject to court scrutiny. The FCC does not have the manpower or the resources to address all the claims that would potentially be made under this bill.

It is not Congress' role to dictate how a cable company must distribute its product to competing delivery systems.

Cable programmers have certain proprietary rights and should be able to exercise control over their own material and to decide who should distribute it.

The Tauzin amendment would deny cable programmers the right to differentiate their wholesale price based on each distributors capital costs, marketing commitments, and financial stability.

Many competitors, like DBS, who want mandated programming are underwritten by large-scale companies like GE and Hughes Aerospace. These businesses have the financial resources to develop their own programming—they do not need any special treatment.

The Tauzin amendment is so restrictive on the issue of program exclusivity it would essentially deny these types of arrangements. If exclusive contracts were prohibited, a cable network like TNT would have never gotten off the ground. In order to gain commitments from cable operators to carry and pay for TNT, Turner had to offer exclusive distribution rights. Therefore, the Tauzin amendment would discourage programmers from investing in new products and would vastly diminish the diversity and quality of programming available to consumers.

REASONS TO SUPPORT THE PROGRAM ACCESS PROVISIONS IN MANTON SUBSTITUTE

The substitute ensures that cable's competitors have reasonable access to popular cable programming. It prohibits vertically integrated cable programmers from refusing to deal with any competitors to cable if such refusal would unreasonably restrain competition.

The provisions of the Manton substitute are virtually identical to those contained in the cable legislation that passed the House by unanimous voice vote in 1990. Moreover, the White House has indicated that the Manton language is acceptable while the Tauzin amendment would invite a veto.

The language allows exclusive contracts as long as those contracts do not impede competition.

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Mr. MANTON. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Chairman, I rise today in support of the program access amendment offered by Mr. MANTON and myself. Our amendment completely satisfies the concerns which have been raised by rural Americans who own C-Band backyard dishes.

Specifically, the Manton-Rose amendment requires cable networks to make their programming available to independent distributors who serve the C-Band backyard dish market at the same prices, terms, and conditions as are offered to cable operators. It thus protects the millions of rural Americans who depend on C-Band satellite dishes for their television.

Some of the supporters of the Tauzin program access amendment have contended that the Manton-Rose amendment will not protect rural America. This simply is not the case. In fact, the C-Band provisions of the Manton-Rose substitute amendment are identical to H.R. 3420, the C-Band satellite program access legislation introduced by Mr. TAUZIN earlier this Congress.

In conclusion, Mr. Chairman, the debate about program access is not about whether rural America's C-Band home dish owner's needs will be served. The Manton-Rose substitute amendment ensures that these needs will be met.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I would like to speak on behalf of the Tauzin amendment for two reasons.

First of all, the amendment is good in itself, and, second, it is a bit of damage control.

I am aware that many of you have already made up your minds, but I am also reminded of that wonderful admonition of Wilbur Mills that said that more votes have been changed at the House chapel than on the House floor. But I go ahead anyway.

Let me explain, 4850 is short of the mark. The reason is it puts a wet blanket over a particularly explosive industry.

In 1984, as you all have heard, cable was deregulated, but it really was not. Only the prices were. The access was not.

It was not possible for others to get in as they would like in most other businesses.

So what happened? Prices went up. There was no downward offsetting force to counteract that, and that means obviously competition.

So now we ask ourselves: What do we do? Do we free up competition as we did the prices, or do we go back to the old bureaucratic way, which is to regulate and reregulate and re-reregulate?

Sadly we have gone that second route, and this year when we face a Government deficit, and we put the Government into the equation where it was not before and we also charge the electorate for that privilege $25 million. The other route would have been to allow the competition to work. As you might have noticed, it does in other fields rather successfully. But enough of that. That is the philosophic stuff which is already sadly behind us.

We now face the issue: What can we do to make a porous bill livable? And that is the Tauzin amendment. Specifically it gives an even break to people who want to get in the business, and it does not jump-start, but it fairly helps other people get into the business. It helps the rural satellite people who need to get in here and who would not be wired anyway by the cable companies.

So this amendment, combined with an FCC decision on something called video dialtone, would help to put a semblance of good old American competition back into the process. It saves money, and it builds the business, and there are lots of jobs involved.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Chairman, I rise in support of the Manton amendment.

I do so, but would first like to commend the gentleman from Louisiana [Mr. TAUZIN] for seeking a competitive solution to the problems faced by a minority of cable consumers. In this respect, it is a far better approach than that taken by the underlying bill

But in our rush to greater competition in the multichannel video marketplace—a goal we all support—we can't ignore the simple matter of fairness. The quality programming which has made cable such a desirable commodity didn't come by accident, but through the investment of millions of dollars in untested programming. Last year alone, the cable industry reinvested $3½ billion in programming, nearly half of which went to basic.

In return for this investment, the cable industry has an understandable interest in protecting the identity and character of its product. Exclusivity has long been recognized as a legitimate means of not only guarding intellectual property, but as a way of encouraging program diversity as well. In this respect, exclusive rights actually work for, not against, competition.

I honestly cannot say I blame cable's current and future competitors for wanting access to that which has made cable television an enormous success. Nor could I fault the Colorado Rockies baseball team for wanting to pick and choose among the major league's best players rather than investing in their own untested rookies. It may make them more competitive sooner; it would undoubtedly sell more tickets; but it is anything but fair to the existing franchises.

The Manton amendment, on the other hand, recognizes the benefits of exclusive distribution arrangements—not only for the cable industry, but for consumers who appreciate diverse programming as well. It is a balanced and reasonable approach far more worthy of our support, and I urge its adoption.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Manton amendment anticipates and offers a balanced solution to potential future problems, occurring when new technologies like direct broadcast satellites [DBS] transmit to smaller dishes in direct competition to cable operators. It prohibits cable companies that own programming from refusing to sell it to any competitors to cable if that would violate antitrust principles.

By providing these new competitors to cable with access to cable programming, a competitive environment is created. Competition will force consumer price for quality video programming to be driven down, while increasing the quality of service to consumers.

Moreover, by promoting access for these new competitors, consumers will be given a wider variety of choices in terms of the type of programming they want to receive in the manner they want to receive it.

The provisions of the Manton amendment are virtually identical to those contained in the cable legislation that passed the House by unanimous voice vote in September 1990. The Manton amendment represents a bipartisan approach to a delicate and far-reaching concern.

The Manton-Rose amendment is a balanced proposal to the controversial topic of program access. It ensures that the video marketplace is not unfairly monopolized by requiring cable operators that own or have an interest in cable programming to make such programming available to competitors. In this manner new technologies are given access to the programming needed to compete with cable, without placing cable at an unreasonable competitive disadvantage.

Moreover, the White House has indicated that the Manton amendment is acceptable, whereas the Tauzin amendment would invite a veto. Therefore, in order to create a piece of legislation which will ultimately become law, it is necessary to vote in favor of a programming access provision which promotes competition without giving an unfair advantage to any one side.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I just want to underscore what the gentleman has said and subscribe to his views entirely.

I am also very much opposed to the Tauzin amendment and think certainly that the Manton amendment is clearly preferable. The amendment offered by the gentleman from Louisiana is actually punitive in nature, and we know that it is going to invite and elicit a veto from the White House, and the potential harm to the cable industry by overregulation in the area of program access far outweighs any savings the amendment could shave from the cost of $20 service, which is the average across the country for basic today.

□ 2010

The result could be a severe decrease in the type of educational, entertainment, and informational programming that the American consumer today enjoys across the United States.

Mr. RINALDO. Mr. Chairman, I want to thank my good friend, the ranking minority member of the full committee, for his support and for the approach that he just outlined.

Let me say in line with what Congressman LENT has said that the White House has indicated very strongly that the Manton amendment is acceptable, whereas the Tauzin amendment would invite the veto that the gentleman from New York [Mr. LENT] mentioned.

Therefore, if we really want to create a piece of legislation, if we want a piece of legislation that is acceptable, if we want a piece of legislation that is conferencable, if we want a piece of legislation that can get enacted and probably will be signed into law, then we should vote for the Manton amendment and let us create a piece of legislation that will ultimately become law and vote in favor of a programming access provision which promotes competition without giving an unfair advantage to any one side and without inviting a veto that will kill the entire bill.

Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of the Tauzin amendment.

The gentleman from Louisiana [Mr. TAUZIN] and the Senator from Tennessee, Senator GORE, and the House and Senate proponents of this approach to ensuring that there is a more vigorous advance in the development of technology in our country.

Now, to many who are listening to this debate, there is a bit of haziness in terms of what it is that we are discussing. In much the same way that in 1983 and 1984 when we were discussing the cable bill, most of the Members in the House did not know what we were talking about since we had yet to deregulate cable, so they were voting on technologies that they had yet to in fact enjoy in their own homes as of 1984.

Well, that bill helped to telescope the timeframe that it would take to get that technology into everyone's home. That is what this debate is about here today, but it is a debate about another technology which is also in its nascent stage.

Now, the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Tennessee [Mr. COOPER], the gentleman from Alabama [Mr. HARRIS] and others, made reference to something called C-Band. We all say in Boston or Baltimore or New York, what is C-Band? Well, C-Band is those giant dishes about 8 feet wide that you see in people's backyards when you drive out there into the country—with their pickup trucks and their shotguns up against the back porch. It is those C-Band dishes. They cost about three to five grand and you got to get a zoning variance to put them in.

Now, there will not be many of us in Boston or in Baltimore or in Cleveland or other major cities in America that will be seeing too many of these 8-foot dishes in our backyards, not if we want to keep our neighbors as our friends.

So the C-Band technology is a nice technology and it has access to programming, but limited.

The K-Band technology, which is what this debate is all about, is about 12-inch dishes, dishes you can put between the petunias out in the backyard. No one will even know that it is there, but it cannot grow unless it has access.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

Mr. TAUZIN. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts.

Mr. MARKEY. This dish, Mr. Chairman, out there in the backyard, this is the new revolution. This is the competition to the cable industry. It is clear they are not going to compete against each other. In 99 percent of the communities that have cable, no other cable company competes against them. They have got some kind of nonaggression pact that they put together.

Well, the satellite industry solves that problem by bringing in the 12-inch dish that will cost you $300. You put it out in the backyard, point it up in the air, and you are in business.

Now, we have got to make sure they have access to programming, and that is all this amendment does is just make sure that there is a sale of the video programming from the cable industry for a reasonable price over to the satellite industry, plain and simple competition, the same thing we did when we forced the broadcasters to give their signals for free over to the cable industry back in the mid-seventies so that we could give birth to that industry.

It is a very simple proposition, and by the way, by the year 2,000 it would obviate the need for any further rate regulation because you will have real competition out in the marketplace, which is at least a mantra which is being uttered on a constant basis by all Members on both sides of the aisle.

This is the way to get there. Support the Tauzin amendment.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I am pleased to rise in support of H.R. 4850, the Cable Television Consumer Protection and Competitiveness Act of 1992 and the Tauzin amendment. As a long time proponent of cable reform, I hope that the American consumer, especially rural Americans, will benefit from this initiative.

Since Congress deregulated the cable industry in 1984, the American consumer has been the victim of unrelenting rate increases. In less than 5 years, cable rates have increased 60 percent during a time when inflation has been negligible. This legislation responds strongly to unjustified rate increases through regulation in the short term and, more importantly, by making competition within the cable industry possible.

America was founded on free market principles—the belief that quality products at reasonable prices can best be delivered to the consumer through competition. Today, only 3 percent of Americans have a choice between cable companies. How can this be when the cable industry serves more than 51 million subscribers with annual revenues of $20 billion—almost two times that of ABC, CBS, and NBC combined? There's obviously enough money in cable to be shared by many competitors.

New technologies, such as wireless cable and direct broadcast satellite, are ready to compete with cable. These competing technologies want to offer similar channel selections at competitive prices. But the cable industry has done everything in its power to keep these competitors from getting off the ground. Cable programmers, who also own local cable companies, have denied competing technologies access to their programming—either by refusing to sell or by charging ridiculously high prices. For example, C-SPAN charges cable competitors 500 percent more for the same programming received by current cable companies. H.R. 4850 and the Tauzin amendment would require that cable programmers sell their channels to cable competitors at fair prices.

As a result, competition will flourish, consumers will have a choice, prices will go down and quality of service will go up. In addition, the new technologies will provide cable services to rural areas which today do not have cable.

I commend the committee for giving Congress the opportunity to pass legislation which will restore basic competitive fairness to the Nation's cable industry. In the short term, consumers will be protected from further unfair cable rates. And in the long term, cable rates and service will be regulated by the marketplace. Most importantly, the American consumer will finally have a choice.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEHMAN], a member of the committee.

Mr. LEHMAN of California. Mr. Chairman, I thank my colleague, the gentleman from New York, for yielding me this time.

Mr. Chairman, there is no doubt in my mind that the amendment offered by the gentleman from New York [Mr. MANTON] is fair and reasonable and does in fact provide for the type of access to programming that the competition, both present and prospective, needs to have in order to foster true market competition.

Does it go far enough to anticipate the technological and marketplace demands of tomorrow or the next decade? That remains to be seen.

The Manton substitute does, however, acknowledge the present issues and it is realistic in its approach.

The Manton substitute prohibits vertically integrated cable entities from refusing to deal with multichannel system operators where such refusal would reasonably restrain competition.

This provision provides adequate protection for existing programmers, yet it insures that other video delivery system operators have reasonable access to these programming courses.

Further, the manton amendment insures that cable programming remains available to C-band satellite dishes at rates, terms, and conditions comparable to cable.

This provision is virtually identical to one included in the bill that overwhelmingly passed this Congress.

Mr. Chairman, the substitute is reasonable and fair.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me this time.

The best way to provide lower rates and better service is through competition. That is my preference. In spite of the fact that I had an amendment to reregulate the cable industry, my preference, is to have competition.

The cable operators tell me that is their preference, too; but then they do everything they can to prevent competition.

To start with, cable operators do not want telephone companies to provide cable services, but they also oppose the Tauzin amendment which will allow satellite cable companies, wireless cable companies, and telephone companies access to the same programs the cable companies have access to. It does not make sense.

There will not be any competition if these companies cannot offer programs that the consumer wants.

So what are we left with? A monopolistic industry that will continue to set its own price with nothing to restrain it. Any way you look at it, the consumer is being ripped off, because the consumer is having to pay too much. With no competition, they are paying a monopolistic price. They are paying billions of dollars they should not have to pay for.

Mr. Chairman, I urge all my colleagues to open the door to true competition and support the Tauzin amendment.

Mr. MANTON. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

I understand that the gentleman from New Jersey [Mr. RINALDO] may also yield the gentleman some time.

Mr. RINALDO. Yes Mr. Chairman, I yield 2 additional minutes to the gentleman from New Mexico [Mr. RICHARDSON].

The CHAIRMAN. The gentleman from New Mexico [Mr. RICHARDSON] is recognized for a total of 4 minutes.

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Mr. RICHARDSON. Mr. Chairman, I come from a rural State. Per capita I have as many satellite dishes as anybody in this Chamber, and I will match my consumer rating with anybody on the other side of this issue.

I am supporting the Manton amendment for four reasons. First, it satisfies the problems raised by rural Americans who own backyard dishes; second, it guarantees access to programming in a reasonably balanced way; third, it promotes diversity and increases the choices available to consumers; and last, it protects the legitimate intellectual property rights of video programming creators.

Mr. Chairman, I am supporting the Manton-Rose amendment because it provides an effective and sufficient remedy for anticompetitive behavior. Cable programming networks will not be permitted to unreasonably refuse to deal with their competitors and cable programming must be made available to the C-band home satellite dish industry on nondiscriminatory prices, terms, and conditions. That is a sufficient and proper solution to the problems on program access.

The Tauzin amendment will take away a right from cable programmers that is given to everyone else in the entertainment industry: the right to control the use of their intellectual property.

Backers of the Tauzin amendment must really believe that money grows on trees, and programmers just go into the orchard to collect money when they have a programming idea. Let me remind my colleagues that money does not grow on trees—it is provided by entrepreneurs who are willing to take a risk in the marketplace and invest in a programming idea with the hope that if that program becomes a success, then they will have the legitimate right to exercise control over the pricing and distribution of that product.

If the Tauzin amendment passes, who in their right mind is going to risk their money in a programming idea. Because in the world envisioned by the gentleman from Louisiana, if your programming idea turns out to be a flop—too bad. And if it turns out to be a success, well then the Federal Government will step in and mandate that you sell it on certain terms, conditions, and prices. Now that is not an exciting investment opportunity, and it will starve the programming community of the investment needed for new program ventures.

The Manton-Rose amendment, by contrast, recognizes the benefits of exclusive distribution arrangements so long as they do not stifle competition. This is not some theoretical finepoint—this has real meaning for programmers in the marketplace. It has real meaning for someone like Mr. Robert Johnson, the president of Black Entertainment Television [BET]. Years ago, nobody wanted to invest in his programming idea for a black entertainment network—nobody would put up the financing for him. A cable operator did and with that investment, today Bob Johnson's BET is an enormous success. And if the Tauzin amendment passes, the Federal Government will reward Bob Johnson's success by forcing him to sell his product at Government-mandated wholesale prices, terms, and conditions. I urge my colleagues to reject Mr. TAUZIN'S extreme approach on this issue.

The story of Bob Johnson and BET is not that uncommon in the cable industry. In fact, cable operators have provided much of the financing for cable networks like CNN, Nickelodeon, and the Discovery Channel. Cable operators' investment was $1.5 billion for programming in 1991. It is this investment that is creating the programming everyone likes.

So let us be clear on what the Tauzin amendment is really about: it is not about access. Why is it not about access: Because alternative distribution technologies do indeed have access to popular cable programming. Forty-two cable program services are sold to MMDS wireless cable operators. The Wireless Cable Association has reported that all but one major cable program service is available to its members. So they do have access to cable programming.

What is this debate about: it is about wholesale pricing. It is not about the prices being charged to customers in rural areas. The National Rural Telecommunications Cooperative [NRTC] offers home satellite dish owners a package of 47 services; satellite dish owners can receive a package of programming comparable in retail price to basic cable packages.

Are rural dish owners paying more than cable customers? Let's look at the facts: A typical satellite dish owner pays a retail price of $16.93 and the price paid by cable customers for a comparable package is $18.84.

So if satellite dish distributors and wireless cable operators already have access to programming, which they do, and can provide popular programs to customers at competitive prices, which they can, what is the purpose of the Tauzin amendment? It is clearly an effort pushed by a few companies to get Congress to pass a law that will give a bigger margin of profit to wholesale distributors of cable programming. That is not in the public interest and it should be rejected by the House.

The Tauzin amendment allows MMDS operators and DBS operators to enter into exclusive contract arrangements, and there is no reason why they should not be allowed to do so. Why is it then that cable programmers cannot enter into the same lawful exclusive contract arrangements as their competitors can for future programming investments. That is simply unfair, and represents nothing more than a punitive attack on the cable industry.

Finally, I will conclude by saying that the program access issue has deeply divided the committee. Each side has very strong views on this subject and on how Congress should go about establishing a policy that provides consumers with the greatest diversity of programming.

But we should not kid ourselves about what passage of the Tauzin amendment means. The Tauzin amendment is a cable bill-buster. It is a killer amendment that will prompt an absolute and certain veto from the White House and that veto will be sustained. So if the Tauzin amendment is adopted, the cable bill will not become law. And for consumers, that means no rate regulation, no customer service standards, and zero protection. I urge my colleagues not to lead us down the road of a certain veto and jeopardize for consumers the benefits of this bill.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. I thank the gentleman for yielding this time to me.

Mr. Chairman, a great philosopher once said, "Let me speak tender words because I may have to eat them."

Mr. MANTON was trying to force Mr. TAUZIN to eat his words, referring to the 1990 previous debate.

Well, the fact of the matter is that what BILLY said—the gentleman from Louisiana [Mr. TAUZIN]—said 2 years ago about 1303 was true. But the tragic thing is that what is unfair is that what we have before us is not what the gentleman had spoke about several years ago.

The amendment before us is not what Mr. TAUZIN praised 2 years ago. It covers fewer programmers. It is not what Mr. TAUZIN praised 3 years ago; it covers fewer technologies. And it is not what we all agreed was good policy 2 years ago perhaps, because Mr. MANTON now wants to lower the standard.

In fact, it lowers the standard so much that what was a permanent law proposal in 1990 and which BILLY TAUZIN praised several years ago, is now only temporary law. Worse yet, the Manton substitute would sunset after only 7 years.

So to re-read the words back, let us do it in the context of understanding that what we have here is a very poor imitation, a very weak carbon copy.

Let me try to place this in some Members' contexts. Think about your word processor, your computer in your office. IBM, if they controlled the hardware for that unit, think what it would be like if you could only buy the word processing program from IBM. And that is what is at stake here. There is one single channel of programming, a choke point, a Straits of Hormuz through which the cable companies want to control the entire flow, not of oil, as happens in the Middle East, but of the programs that we use on our computers.

Until we fully understand that unless we open up that choke point, unless we allow more people to have access to that programming, it would be like the computer in your office where you are forced to go to IBM to buy only their programs because only their programs worked in our computers.

This is not what we should want for a true, free, democratic society. If you want real competition, you want more. More is Mr. TAUZIN's amendment and the programming access provision; it is not the cheap imitation of the Manton substitute.

Mr. Chairman, I rise in support of the Tauzin amendment.

Although it is absolutely vital that we protect consumers from rate gouging in the near term, the long-term key to stopping runaway rate increases and improve cable service is to promote competition.

There have been many irresponsible and inaccurate statements about this amendment that must be corrected. It is not extreme. It is not regulatory overkill. Mr. TAUZIN has altered his language numerous times to respond to complaints by the cable industry—to no avail. They have not taken one step toward the middle.

The cable industry has never been accused of being dumb. They are throwing every false accusation and misrepresentation at this amendment to defeat it. They know that if they maintain their stranglehold on this programming, they can shut down competition—even the deep pockets of the telephone companies for a decade or more.

This is the Straits of Hormuz; this is the choke point. Mr. TAUZIN's amendment is the only way that free and fair commerce will be possible in this industry.

If we don't pass the Tauzin amendment, we consign ourselves to returning to this issue in the next few years. We will be certain to hear an unending stream of complaints from our constituents asking "Why didn't we do our job?" "Why did we listen to the cable special interests instead of our constituents?"

RETRANSMISSION CONSENT

This debate also impacts on retransmission consent. I find it disingenuous that cable is arguing ferociously against being required not to arbitrarily refuse to sell cable programming when at the same time, day after day, year in and year out, they are walking away with broadcasters. I guess it is the old adage "we stole it fair and square." As we head into conference with the other house, I sincerely hope we can count on all those who would protect cable programmer rights to fight equally hard to protect broadcasters' programmer's rights with retransmission consent.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. SCHEUER. Mr. Chairman, will the gentleman yield to me?

Mr. BERMAN. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I rise in support of the Manton amendment.

Mr. Chairman, this legislation must address the issue of program access, assuring that alternative video systems can procure quality video programming, and thus compete with the cable industry. Without a program access section, this legislation will not stimulate real competition to the cable monopoly.

However, we must protect program access while also preserving the right of programmers to control their product. The Rose-Manton amendment will achieve both goals; the Tauzin amendment will not.

The Rose-Manton amendment would prevent programmers from unreasonably refusing to deal with alternative providers, such as wireless cable or direct broadcast satellite systems.

It would require programmers to make their products available to the home satellite dish industry on nondiscriminatory prices, terms, and conditions.

Last, it would provide an expedited review process by the FCC for any program access complaints.

This amendment is modeled after language approved by the entire House in 1990. Since that time, the availability of cable programming to alternative providers has increased, not decreased. In fact, these same alternative providers, such as wireless cable, endorsed the Rose-Manton amendment only 2 years ago. Why do they oppose it now? Because they know a handout when they see it, and the Tauzin amendment is a handout like none other.

The Tauzin amendment is unnecessary, and it will be a disincentive for future investment in quality cable programming. Only the Rose-Manton amendment will stimulate innovation and competition. I urge my colleagues to support Rose-Manton, and oppose the heavy-handed price controls offered by Mr. TAUZIN.

Mr. BERMAN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the Tauzin program access amendment and in support of the Manton substitute.

To my colleagues who represent areas that are unserved or underserved by existing cable systems, I want to say that as a matter of equity, I share your concern that your constituents have access to cable programming. That is why I do support a solution to the problem you have articulated.

But the fair solution is the Manton substitute, not the Tauzin amendment.

The amendment of the gentleman from Louisiana goes well beyond what is necessary to protect against anticompetitive behavior which may deprive alternative distribution technologies of popular programming. By barring exclusive distribution agreements even absent a showing of anticompetitive conduct, and by forcing the sale of programming at, in essence, uniform national prices, the amendment creates enormous new problems while purporting to solve others.

It is legitimate to consider what is fair to the competing commercial interests involved; certainly the interests of the C-band home satellite dish industry and the burgeoning direct broadcast satellite industry have been weighed in the debate today.

But by the same token, it is essential that we consider the impact of mandated program access at uniform prices on the commercial interests of program owners.

Program owners devote enormous creative powers and invest significant financial resources in their products. In marketing those products, it is only fair that they seek to get the best price they can. Denying them the ability to enter into exclusive contracts necessarily means that they cannot get top dollar from their customers.

Consider that there is no shortage of programming. Believe me, there is a proliferation of studios, large and small, which create television programming. Program owners seeking to sell their product in a highly competitive market often must guarantee exclusivity, and why not so long as they have not engaged in the anticompetitive behavior which the Manton substitute would proscribe?

In the name of fairness to consumers and commercial interests who have been the victims in those cases of demonstrable anticompetitive conduct by programmers who have flatout refused to deal, the Tauzin amendment would deprive program owners of a fair return on their creative and financial investment.

That is not fair. The Manton substitute solves a problem. The Tauzin amendment creates new ones, and I urge my colleagues to reject it.

Mr. MANTON. Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. I thank the gentleman for yielding time to me.

Mr. Chairman, many rural residents are not served by cable and because of the cost of laying the wire may never be. In order to get news, educational programs, and entertainment other than over-the-air broadcasts, they now must invest in satellite dishes at substantial expense. However, some cable programmers have chosen not to make available the very programming that rural viewers bought these dishes for or sell it at such grossly inflated charges that it prices rural citizens out of the information age.

There are new technologies that may soon be able to deliver programming to all american homes and businesses. However, without access to quality and diverse programs, these technologies may never get off the ground. Vertically integrated cable companies have the ability to choke off these potential competitors by keeping a stranglehold over programming.

The Tauzin amendment addresses these issues by preventing these cable programmers from unreasonably refusing to deal with alternative multivideo providers. It will also prohibit these programmers from discriminating in price terms and conditions in offering its programming. It does not set those prices, terms or conditions as its detractors claim, but rather encourages good faith negotiations.

It is important to remember that unlike the bill that the house passed during the 101st Congress, the Tauzin amendment includes all existing technologies—C-band satellite—as well as developing technologies. If the Tauzin language is adopted, the House will not be mandating which distribution systems will make it and which ones won't.

The Tauzin amendment is supported by the Alabama Rural Electric Association of Cooperatives, the National Rural Electric Cooperative Association, U.S. Telephone Association, the Consumer Federation of America, among others.

The Manton amendment is a weakened version of the program access section contained in H.R. 1303. It is so cable friendly as to raise suspicions and rightly so.

The exclusive contract language in the Manton amendment guts any real chance for competition by giving vertically integrated cable programmers a loophole big enough to drive a transfer truck through.

The Manton amendment will continue to allow cable companies to strangle at birth the development of any new multi-video distributions systems by failing to provide fair access with very limited exceptions to any other technology but C-band satellite service.

Vote "no" on Manton. It is a transparent attempt to include meaningful access to all Americans to the abundance of news, education and entertainment that we have come to rely on.

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Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, tonight some 50 to 60 million American households will be watching some form of cable television. Those watching C-Span will know that in short and simple terms the amendment of the gentleman from Louisiana [Mr. TAUZIN] offers them the chance to cut their monthly cable bills by one-third, 34 percent to be exact. The amendment of the gentleman from New York [Mr. MANTON], on the other hand, holds out the prospect of higher and higher monthly cable bills.

Mr. Chairman, I would urge all Members of this House to vote against the Manton amendment. They have to do that in order to have a chance to vote on the Tauzin amendment so that we can lower consumer bills all over American.

The Tauzin approach gives competition a chance. The Manton approach gives competition the runaround. This is proven by the groups that support these different bills. The Tauzin bill is supported by every competitor group that is out there: the satellite dish people, the telephone people, the wireless cable people, the other folks who want to have a chance to give us a choice in cable programming. The Manton approach, on the other hand, is supported by the giant monopolists.

"Look at the map of the country," I say to my colleagues, "and you'll see that almost all of America wants the Tauzin approach. They want their bills lowered, but in a few spots, a few spots with all the money, a few spots that own the cable companies and own the programming, they don't kind if prices go to the Moon."

Do not be fooled by this amendment, the primary force behind which is the second largest cable company in America, Time Warner, the company that has not only given us cop killer lyrics, but the company that wants to give us competitioner killer amendments. The Manton amendment is a step backward. It is weaker than the current bill that passed with a 3 to 1 majority in the Senate. It is weaker than 1303, which we passed here last year.

They are not virtually identical. It is true there may be a few words difference, but these words are all important. They amount to a $4 billion a year difference, 4 billion dollars' worth of consumers' money that we should and could be saving with the Tauzin amendment.

Mr. MANTON. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. DINGELL].

Mr. RINALDO. Mr. Chairman, I also yield my remaining 1 minute to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 4 minutes.

Mr. DINGELL. Mr. Chairman, the character of this debate in the amendment shows that good men and honorable men dedicated to public interest can differ. There are no two better men on the committee, or anywhere, than the gentleman from New York [Mr. MANTON] and the gentleman from Louisiana [Mr. TAUZIN]. They are fine Members, and their differences, I believe, are honest and honorable.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York [Mr. MANTON]. The Manton substitute provides a balanced approach to the contentious issue of program access. Moreover, it does so in a form that is acceptable to the administration. If you are interested in enacting a cable bill into law, I urge you to support the Manton substitute because the Tauzin amendment will produce a veto that cannot be overridden.

Access to programming is an extremely complicated issue, with compelling arguments on both sides. With all respect to my dear friend, the gentleman from Louisiana [Mr. TAUZIN], however, in my view the Manton substitute provides a far more balanced approach.

The reasons are really quite simple.

First, the Manton substitute provides an effective remedy for the problems faced by independent distributors of programming. It requires video programming vendors to sell into the backyard dish market at the same rates, terms, and conditions as they sell to cable distributors of their product.

This is the relief they have sought for many years. It will provide real relief that ought to be reflected in lower prices. Those of our constituents who have invested in backyard Earth stations should realize real benefits as a result of the adoption of the Manton amendment.

With respect to the new, higher power satellites, the Manton substitute recognizes that a balanced approach to potential problems is in order. It prohibits cable program networks from refusing to deal with new technologies "if such refusal would unreasonably restrain competition."

Unlike the Tauzin amendment, it does not impose Government price controls. It does not micromanage an industry that doesn't yet exist. Its balanced approach will give the new technologies the opportunity to compete, without skewing the outcome of that competition to favor a particular competitor.

A lot has been said here today about exclusive distribution contracts. If this term is used in a pejorative fashion, it sounds most pernicious.

But exclusive distribution contracts are a fact of life in the video distribution business, and have been for more than 40 years. They are not evil. The CBS Television Network has exclusive distribution contracts—with the more than 200 CBS affiliates around the country. Likewise with NBC, ABC, and Fox.

Program syndicators enter into exclusive distribution contracts as well. Only one station per market can show programs like "Wheel of Fortune," or "Cosby" reruns, or any of the other shows that are syndicated.

Sports leagues do it too. ABC has an exclusive arrangement with the NFL to show "Monday Night Football."

Not only are exclusive distribution contracts a fact of life in the video marketplace. Exclusivity provides the mechanism to achieve diversity—an important policy goal that benefits the public. With access to more choices, the public has an increased opportunity to select what they want to see on television. Diversity helps to preserve our democracy, and is essential to enlightened self-governance.

The Manton substitute will promote diversity in media programming by preserving incentives for the new technologies to develop new programming products. The Tauzin amendment not only removes these incentives for the future. It also will make the artists who now create these programs less willing to enter the video marketplace by removing their ability to control who exhibits their creative works.

Mr. Chairman, I urge the House to reject the excesses of the Tauzin amendment, and support the Manton substitute. The Manton substitute is acceptable to the administration. The Tauzin amendment is veto bait.

The balanced approach of the Manton substitute offers Members the opportunity to support meaningful program access provisions that have a chance of being signed into law. I urge my colleagues to support this substitute, and provide real relief to the backyard Earth station marketplace.

Mr. TAUZIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] and in opposition to the amendment offered by the gentleman from New York [Mr. MANTON], and I urge my colleagues to vote likewise.

Mr. Chairman, on behalf of my constituents in Kentucky I urge my colleagues to vote "no" on the Manton amendment and "yes" on the Tauzin amendment.

I urge my colleagues to remember you must vote "no" on the Manton amendment in order to vote on the Tauzin amendment.

Let us vote for the millions of Americans who deserve fairness as to the cost of cable television.

Mr. TAUZIN. Mr. Chairman, I say to the members of the committee, "You ought to ask yourself why Senators from 46 States in America voted for the Tauzin amendment when it was offered to the Senate by Senator AL GORE. You ought to ask yourself why, why if it's such a bad amendment as it was just described to you."

Mr. Chairman, I will tell my colleagues why. Here is a map of the United States that shows the congressional districts where the sellers of programs are located, the big cable companies that sell programs, and control those programs and sell them at monopoly prices to American citizens. My colleagues should look for their district on that map, and, if they do not find their districts in red, if their district is in white, as is most of the United States of America under this map, I will understand why 46 States had Senators who voted for the Tauzin amendment when it was offered on the Senate side.

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This is your chance to stand up for consumers. If you want to go back to your districts, your town hall meetings, and your campaign trails, and tell your constituents back home you like their cable rates, you like the monopoly cable companies, you understand cable did not want Tauzin to pass so you voted against it, you want to explain that to them, then vote for the Manton substitute.

If you want to lower cable rates in America, if you want competition in television, if you want to give consumers a break for a change, if you want to end this ugly cynicism in America that Congress cannot help the ordinary American citizen any more, you vote down Manton and vote for the Tauzin amendment. We will have competition and we will have lower cable rates for America.

Mr. THOMAS of Wyoming. Mr. Chairman, I want to thank Mr. TAUZIN for his leadership on this issue throughout this entire process. Mr. Chairman, I rise in support of the Tauzin amendment, and I do so for two simple reasons: To ensure rural access to cable programming and to encourage competition.

Of primary importance to me is the issue of access to programming. In Wyoming, as in rural areas throughout the country, many folks live in small, sparsely populated communities that are unserved by cable television. If this important group of Americans wants to receive the programming you and I take for granted, they must do it through other, sometimes costly technologies, such as satellite dish. I worked with these folks on a daily basis when I was with the Wyoming Rural Electric Association, and I hear from them today about the unfair prices they pay for programs, sometimes 500-percent more than cable subscribers, or their inability to even receive certain programs. The Tauzin amendment simply and justly ensures that satellite dish owners will have access to these programs at a fair price. Rural people are not asking to receive this programming for free, which, frankly, is the deal the cable companies have enjoyed. They simply want fair access.

This setup is a perfect example of how monopolies work. Certain cable companies have unfairly raised their rates, used these monopoly profits to purchase and create programming, then denied that product to their competitors. If that is not tightening the monopoly grip, I do not know what is. The Tauzin amendment would see that this monopoly practice is brought to an end. There are emerging technologies that can provide competition to cable. We all know what has happened in those communities lucky enough to have competing systems—rates have come down. The only thing standing in the way of fully developing these emerging technologies is access to programming. Cable should understand this better than anyone. We all prefer competition to regulation, and we ought to give emerging technologies this foot in the door that will allow competition to develop. If you are for competition, you should be for this amendment.

So, again, I thank Mr. TAUZIN for his leadership on this issue so important to folks in Wyoming's rural areas, and I urge adoption of the Tauzin amendment, and adoption of H.R. 4850.

The CHAIRMAN. All time for debate has expired. The question is on the amendment offered by the gentleman from New York [Mr. MANTON] as a substitute for the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MANTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announced that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The vote was taken by electronic device, and there were—ayes 162, noes 241, answered "present" 1, not voting 24, as follows:

[Roll No. 310]

AYES—162

Ackerman
Allard
Allen
Andrews (NJ)
Annunzio
Archer
Aspin
Barnard
Berman
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boxer
Broomfield
Burton
Campbell (CO)
Carper
Carr
Chandler
Coble
Collins (MI)
Conyers
Cunningham
Dannemeyer
Darden
Dingell
Dooley
Doolittle
Dornan (CA)
Edwards (OK)
Engel
Espy
Fawell
Fazio
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gekas
Gephardt

Gilchrest
Gillmor
Gingrich
Goodling
Gradison
Green
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Hertel
Hobson
Holloway
Hopkins
Horton
Hoyer
Hunter
James
Jenkins
Johnson (CT)
Johnson (TX)
Johnston
Kasich
Kildee
Klug
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)

Livingston
Lowery (CA)
Lowey (NY)
Luken
Manton
Martin
Matsui
McCollum
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Murphy
Nowak
Olin
Orton
Owens (NY)
Oxley
Panetta
Parker
Pastor
Paxon
Pelosi
Pickle
Price
Pursell
Ramstad
Rangel
Regula
Rhodes
Richardson
Ridge

Rinaldo
Ritter
Rohrabacher
Rose
Roukema
Russo
Sangmeister
Santorum
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Serrano
Sharp
Shaw
Shuster
Skaggs
Smith (NJ)
Smith (OR)
Solomon
Stearns
Stump
Swett
Swift
Taylor (NC)
Thornton
Torres
Towns
Upton
Vander Jagt
Walker
Waxman
Weber
Weldon
Wolpe
Young (FL)
Zeliff
Zimmer

NOES—247

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Applegate
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Blackwell
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Davis
de la Garza

DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
English
Erdreich
Evans
Ewing
Fascell
Flake
Foglietta
Frank (MA)
Gaydos
Gejdenson
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Goss
Grandy
Guarini
Gunderson
Hall (TX)
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hochbrueckner
Horn
Houghton
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Ireland

Jacobs
Jefferson
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Machtley
Markey
Marlenee
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McMillan (NC)
Meyers
Mfume
Michel
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar

Oberstar
Obey
Olver
Ortiz
Owens (UT)
Packard
Pallone
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (MN)
Petri
Pickett
Porter
Poshard
Quillen
Rahall
Ravenel
Reed
Riggs
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rostenkowski

Roth
Rowland
Roybal
Sabo
Sanders
Sarpalius
Savage
Sawyer
Schulze
Schumer
Sensenbrenner
Shays
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes

Studds
Sundquist
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Wheat
Whitten
Williams
Wise
Wolf
Wyden
Wylie
Yatron
Young (AK)

ANSWERED "PRESENT"—1

Weiss

NOT VOTING—24

Anthony
Coughlin
Dellums
Dymally
Feighan
Ford (MI)
Frost
Hansen

Hatcher
Hyde
Jones (NC)
Kolter
Laughlin
Lehman (FL)
Levine (CA)
Peterson (FL)

Ray
Solarz
Tallon
Thomas (GA)
Thomas (WY)
Traxler
Wilson
Yates

□ 2100

Mr. McDADE and Mr. EDWARDS of California changed their vote from "aye" to "no."

Mr. HENRY changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MURPHY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will advise Members that this vote will be 5 minutes in duration.

The vote was taken by electronic device, and there were—ayes 338, noes 68, answered "present" 1, not voting 27, as follows:

[Roll No. 311]

AYES—338

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Atkins
AuCoin
Bacchus
Baker

Ballenger
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Boehlert
Borski
Boucher
Boxer

Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)

Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Flake
Foglietta
Ford (TN)
Frank (MA)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Holloway
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe

Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
LaFalce
Lancaster
Lantos
LaRocco
Leach
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Petri

Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thornton
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weldon
Wheat

Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zimmer

NOES—68

Allard
Andrews (NJ)
Archer
Armey
Aspin
Barnard
Barton
Berman
Bilirakis
Bliley
Boehner
Bonior
Burton
Campbell (CO)
Coleman (TX)
Collins (IL)
Cox (CA)
Crane
Dannemeyer
Dixon
Doolittle
Dornan (CA)
Fawell
Fields
Fish
Franks (CT)
Goodling
Gradison
Hall (OH)
Hancock
Hefley
Herger
Hobson
Hopkins
Horton
Johnson (TX)
Klug
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Lehman (CA)
Lent
Luken
McGrath
Miller (OH)
Miller (WA)
Mink
Molinari
Myers
Olin
Orton
Oxley
Packard
Parker
Pastor
Pickett
Rhodes
Rinaldo
Rohrabacher
Roukema
Schaefer
Schroeder
Skaggs
Stump
Torres
Zeliff

ANSWERED "PRESENT"—1

Weiss

NOT VOTING—27

Anthony
Blackwell
Conyers
Coughlin
DeLay
Dymally
Early
Feighan
Ford (MI)
Frost
Hansen
Hatcher
Hyde
Jones (NC)
Kolter
Laughlin
Lehman (FL)
Levine (CA)
Peterson (FL)
Ray
Solarz
Tallon
Thomas (GA)
Thomas (WY)
Traxler
Wilson
Yates

□ 2108

Mr. RINALDO changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MARKEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 2110

Accordingly the Committee rose; and the Speaker pro tempore (Mr. OBERSTAR) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5620, URGENT SUPPLEMENTAL APPROPRIATIONS, 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–707) on the resolution (H. Res. 527) providing for the consideration of the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON H.R. 5677, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102–708), on the bill (H.R. 5677), making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

REPORT ON H.R. 5678, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102–709), on the bill (H.R. 5678), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

REPORT ON H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS ACT, 1993

Mr. NATCHER, from the Committee on Rules, submitted a privileged report (Rept. 102–710) on the bill (H.R. 5679), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. PURSELL reserved all points of order on the bill.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 523 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4850.

□ 2113

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] had been disposed of.

It is now in order to consider amendment No. 9 printed in House Report 102–687.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LENT

Mr. LENT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. LENT: Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS.

Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601."; and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Between the passage of the Cable Communications Policy Act of 1984 and July 1990, rates for cable television services have been deregulated in 97 percent of all franchises. The deregulation has resulted in the provision of diverse and quality programming to over 52,000,000 Americans. A minority of cable operators, however, have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for the Federal Communications Commission to ensure that, where there is no effective competition, cable operators provide basic service at reasonable rates.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling interest in making all nonduplicative local public television services available on cable systems because—

"(A) public television provides educational and informational programming to the Nation's citizens, thereby advancing the Government's compelling interest in educating its citizens;

"(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of $10,800,000,000 between 1972 and 1990 that provides public service programming that is responsive to the needs and interests of the local community;

"(C) the Federal Government, in recognition of public television's integral role in serving the educational and informational needs of local communities, has invested more than $3,000,000,000 in public broadcasting between 1969 and 1990; and

"(D) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to ensure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems as a separate and distinct purchase option for subscribers.

"(9) Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services. A Government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the 'A/B' input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

"(10) Cable systems should be encouraged to carry low power television stations licensed to the communities served by those systems where the low power station creates and broadcasts, as a substantial part of its programming day, local programming.

"(11) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast television stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(12) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audiences. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to reposition broadcast signals to disadvantageous channel positions, or both. Absent reimposition of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(13) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operators provision of this access and the operator's economic incentives described in paragraph (12), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(14) The public interest will be served by the development of competition in the marketplace for video programming and by encouraging new multichannel video programming distribution technologies. Prohibiting video program vendors in which a multichannel video system operator has controlling interest from unreasonably refusing to deal with other multichannel video system operators with respect to provision of video programming is necessary to help establish a competitive marketplace.

"(15) It is necessary and appropriate to promote competition between cable operators and other multichannel video system operators by facilitating access of such other multichannel video system operators to video programming, subject to exclusive contractual arrangements between programmers and cable operators that do not have the effect of significantly impeding competition.".

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) Amendment.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) In General; Limitations.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(b) Preference for Competition.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition, the rates for the provision of basic cable service shall be subject to regulation under subsection (c) of this section.

"(c) Establishment of Basic Service Tier Rate Limitations.—

"(1) Commission regulations.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) Basic service tier rates.—A formula to establish the maximum price of the basic service tier, which formula—

"(i) shall take into account only—

"(I) the number of signals required to be carried on the basic service tier pursuant to paragraph (2);

"(II) the direct costs of obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

"(III) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs; and

"(IV) a reasonable profit (as defined by the Commission) on the provision of the basic service tier; and

"(ii) shall not take into account—

"(I) any additional video programming services carried on the basic service tier pursuant to paragraph (4);

"(II) any costs of obtaining, transmitting, marketing, or otherwise providing any such additional video programming services or any other signal not required to be carried on the basic service tier pursuant to paragraph (2);

"(III) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any fee, tax, or assessment of general applicability which is applied in an unduly discriminatory manner against cable operators or cable subscribers; or

"(IV) any amount required to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels.

"(B) Equipment.—A formula to establish the price for installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control. Such formula shall not apply unless the franchising authority certifies that compatible converter boxes or remote control units are not available locally from retail equipment vendors not affiliated with the cable system.

"(C) Converter boxes and remotes.—Standards concerning the availability for lease or purchase and pricing of converter boxes and remote controls.

"(D) Costs of franchise requirements.—(i) A formula to identify and allocate costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise, and (ii) procedures by which the cable operator will recover from subscribers—

"(I) the costs described in clause (i) of this subparagraph, and

"(II) the costs of any amounts assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers and any fee, tax, or assessment of general applicability which is applied in an unduly discriminatory manner against cable operators or cable subscribers.

"(E) Implementation and enforcement.—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

"(i) procedures by which cable operators may implement and franchising authorities may oversee the administration of the formulas, standards, guidelines, and procedures established by the Commission under this subsection; and

"(ii) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method.

"(F) EFFECTIVE DATES.—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

"(2) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to all other tiers of service. Such basic service tier shall, except as provided in paragraphs (3), (4), (5), and (6), consist only of the following:

"(A) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(B) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(3) SMALL SYSTEM EXCEPTION.—The requirements of this subsection shall not apply to—

"(A) any cable system with 12 or fewer usable activated channels that has 300 or fewer subscribers, or

"(B) if the Commission grants a waiver to the system upon a showing that the system lacks the technical or economic means to create a separately available basic tier,

so long as such system does not delete any signal of a broadcast television station from carriage by that system.

"(4) ADDITIONS TO BASIC TIER PROHIBITED.—

"(A) PROHIBITION.—No cable operator may add any video programming to the basic tier that is not a signal or programming required to be included in such tier pursuant to paragraph (2). Any obligation imposed by a franchise that is inconsistent with this paragraph is preempted and may not be enforced. A contract or other agreement that requires carriage on the basic service tier, or that establishes a rate for carriage (as part of the basic service tier), of a signal or programming that is not required to be included in such tier pursuant to paragraph (2) may not be enforced by a video programming vendor (as such term is defined in section 705A(g) of this Act) unless such contract or agreement is applied to require carriage of such signal or programming on the next most widely subscribed level of service.

"(B) EXCEPTION.—Subparagraph (A) of this paragraph and paragraph (2) shall not prohibit a cable operator that does not have available for carriage pursuant to section 614 a qualified local commercial affiliate of a commercial broadcast network (as defined by the Commission regulation 73.3613(a)(1) (47 C.F.R. 73.3613(a)(1))), from carrying on the basic tier a channel that includes the video programming of that network.

"(5) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

"(6) TREATMENT OF EXISTING BROADCAST TIERS.—

"(A) CONTINUED CARRIAGE PERMITTED.—In the case of any cable operator that offered to subscribers a tier of programming as of January 1, 1992, consisting of not more than—

"(i) the signals of any broadcast television station carried on the system; and

"(ii) any public, educational, or governmental access or local origination programming;

the provisions of paragraphs (2) and (4) of this subsection shall not prohibit such operator from continuing to provide such tier.

"(B) RATE FORMULA ADJUSTMENT; RETIERING.—Any cable operator providing a tier of programming described in subparagraph (A) may—

"(i) continue to provide such tier to subscribers, subject to a formula for a maximum price established by the Commission, which formula shall comply with the requirements of paragraph (1), except that the Commission shall take into account additional costs described in subclauses (II) and (III) of paragraph (1)(A)(i) with respect to the signal of any broadcast television station not required by paragraph (2) to be offered on the basic service tier; or

"(ii) delete such programming from the tier described in subparagraph (A) as may be necessary to comply with the requirements of this subsection.

"(d) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic cable service, or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(e) REVIEW OF FINANCIAL INFORMATION.—

"(1) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) CONGRESSIONAL REPORT.—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry and making such recommendations as the Commission considers appropriate in light of such information.

"(f) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system; or

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than video programming required to be carried under subsection (c)(2) and video programming offered on a per channel or per program basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act.

SEC. 4. UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.

Section 621(a) of the Communications Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction, grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;

"(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;

"(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the right of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way.".

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator, subject to section 325(b).

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to 33 percent of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such signals shall be carried on its cable system, except that if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) Content to be carried.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio transmission, and line 21 closed caption of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking internal or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 47, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) Signal quality.—

"(A) Nondegradation; technical specifications.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) Advanced television.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(C) Signal quality responsibilities of station.—Notwithstanding any other provisions of this section, a cable operator shall not be required to carry any qualified local noncommercial television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission by regulation.

"(5) Duplication not required.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) Channel positioning.—

"(A) In general.—Except as provided in subparagraph (B), each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 2, 1992, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator.

"(B) Exception.—A cable operator may make a single election to carry all the signals of qualified local commercial television stations carried in fulfillment of the requirements of this section on channel numbers 2 through 13, inclusive. The channel position of any qualified local commercial television station carried on channels 2 through 13, inclusive, on July 19, 1985, or January 2, 1990, shall not be changed under this subparagraph without the consent of the station.

"(C) Disputes.—Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) Signal availability.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at reasonable rates.

"(8) Identification of signals carried.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(9) Notification.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notifications provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(10) Compensation for carriage.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

"(c) Remedies.—

"(1) Complaints by broadcast stations.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) Opportunity to respond.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) Remedial actions; dismissal.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(d) Input Selector Switch Rules Abolished.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(e) Regulations by Commission.—Within 180 days after the date of enactment of this Act, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section.

"(f) DEFINITION.—(1) For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station upon agreement to reimburse the cable operator for the incremental copyright costs assessed against such operator as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of -45dBm for UHF signals or -49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) For purposes of this section, a broadcasting station's market shall be defined as specified in section 73.3555 of title 47, Code of Federal Regulations as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include or exclude communities from such station's television market to better effectuate the purposes of this section.".

SEC. 6. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614, as added by section 4, the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each operator of a cable system (hereinafter in this section referred to as an 'operator') shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each operator shall carry, on the cable system of that operator, each qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), an operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that an operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), an operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) An operator of a system described in subparagraph (A) which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990 shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular operator and a particular such station, upon the written consent of the operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—An operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—An operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by an operator shall not assert any network nonduplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—An operator shall retransmit in its entirety the primary video and accompanying audio transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the operator.

"(2) An operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with bank-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by an operator unless the operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, an operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of an operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local television broadcast signals.

"(i) Payment for Carriage.—

"(1) An operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) Notwithstanding the provisions of this section, an operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station reimburses the operator for the incremental copyright costs assessed against such operator as a result of such carriage.

"(j) Remedies.—

"(1) Complaint.—Whenever a qualified local noncommercial educational television station believes that an operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such operator has failed to comply with such requirements and state the basis for such allegations.

"(2) Opportunity to respond.—The Commission shall afford such operator an opportunity to present data, views, and arguments to establish that the operator has complied with the signal carriage requirements of this section.

"(3) Remedial actions; dismissal.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the operator has complied with the requirements of this section. If the Commission determines that the operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) Identification of Signals.—An operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) Definitions.—For purposes of this section—

"(1) Qualified noncommercial educational television station.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; or

"(ii) is owned and operated by a municipality and transmits only noncommercial programs for educational purposes; and

"(B) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B));

such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) Qualified local noncommercial educational television station.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.".

SEC. 7. EXPANSION OF THE RURAL EXEMPTION TO THE CABLE-TELEPHONE CROSS-OWNERSHIP PROHIBITION.

Section 613(b)(3) of the Communications Act of 1934 (47 U.S.C. 533(b)(3)) is amended—

(1) by inserting "(A)" after "(3)";

(2) by striking "(as defined by the Commission)"; and

(3) by adding at the end the following:

"(B) For the purposes of subparagraph (A), the term 'rural area' means a geographic area that does not include either—

"(i) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

"(ii) any territory, incorporated or unincorporated, included in an urbanized area (as defined by the Bureau of Census as of the date of the enactment of this subparagraph).".

SEC. 8. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) Franchising Authority Enforcement.—A franchising authority may require, as part of a franchise (including a modification, renewal, or transfer thereof), provisions for enforcement of—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) Commission Standards.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. The Commission, in establishing such standards, shall take into account differences in cable system size. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the customer (including standards governing bills and refunds).

"(c) Availability of Technology; Proceeding Required.—The Federal Communications Commission shall—

"(1) within 60 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to determine—

"(A) whether equipment standards are necessary to permit the commercial availability, from cable operators or retail vendors that are not affiliated with cable systems, of converter boxes and remote controls compatible with cable systems; and

"(B) the feasibility of including converter and addressability technology for cable systems and other multichannel video systems in television receivers shipped in interstate commerce or imported from any foreign country into the United States for sale or resale to the public, taking into account (i) the impact on domestic manufacturers of including such technology in such television receivers, and (ii) the need for cable operators and other multichannel video systems to protect their signals against unauthorized reception; and

"(2) prescribe any standards determined to be necessary under paragraph (1).

"(d) Consumer Protection Laws and Customer Service Agreements.—

"(1) Consumer protection laws.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law of general applicability, to the extent not specifically preempted by this title.

"(2) Customer service requirement agreements.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b).".

SEC. 9. TECHNICAL STANDARDS.

Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission periodically shall update such standards to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection.".

SEC. 10. COMPETITION AND TECHNOLOGICAL DEVELOPMENT.

(a) Prohibition on Unreasonable Refusals To Deal With Multichannel Video System Operators.—Title VII of the Communications Act of 1934 is amended by inserting after section 705 (47 U.S.C. 605) the following new section:

"SEC. 705A. PROGRAMMING ACCESS TO PROMOTE COMPETITION AND CONTINUING TECHNOLOGICAL DEVELOPMENT.

"(a) Unreasonable Refusals to Deal Prohibited.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1990, the Commission shall, in order to promote competition and diversity in the multichannel video programming market and continuing development of communications technologies, prescribe regulations to prohibit any video programming vendor that controls, is controlled by, or is under common control with a multichannel video system operator and that engages in the regional or national distribution of video programming from refusing to deal with any multichannel video system operator with respect to the provision of video programming if such refusal would unreasonably restrain competition. Entering into or abiding by the terms of an exclusive contract that does not have the effect of unreasonably restraining competition shall not be considered an unreasonable refusal to deal. Nothing contained in this subsection shall require any person who licenses video programming for distribution to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(b) REMEDIES FOR VIOLATIONS.—Any multichannel video system operator aggrieved by conduct that it alleges constitutes a violation of the regulations prescribed under this section may commence an adjudicatory proceeding at the Commission. Upon completion of such proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video system operator.

"(c) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data as the Commission requires to carry out this section with respect to exclusive contracts or other practices and their effects on competitors, competition, or the video programming distribution market or on the development of new video distribution technologies; and

"(3) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) SUNSET.—The regulations prescribed under subsection (a)(1) of this section shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, or on such earlier date as the Commission determines that a competitive national market for the delivery of video programming exists. Such regulations shall cease to be effective for any local market on such earlier date as the Commission determines that a competitive market for the delivery of such programming exists in such local market.

"(e) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (a), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(f) EXEMPTIONS FOR PRIOR CONTRACTS.—Nothing in this section shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(g) DEFINITIONS.—

"(1) The term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming.

"(2) The term 'video programming vendor'—

"(A) means any person who licenses video programming for distribution by any multichannel video system operator;

"(B) includes satellite delivered video programming networks and other programming networks and services;

"(C) does not include a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(D) does not include a network or service distributing video programming that is carried as a secondary transmission of a signal broadcast by a television station.

"(3) The terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

(b) REGULATION OF CARRIAGE AGREEMENTS.—Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS REQUIRED.—Within one year after the date of enactment of this Act, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators and video programming vendors.

"(b) PREVENTION OF UNREASONABLE RESTRAINTS ON COMPETITION.—The regulations required by subsection (a) shall, to the extent necessary to prevent conduct that unreasonably restrains competiton, prohibit—

"(1) a cable operator or other multichannel video system operator from coercing a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) a cable operator or other multichannel video system operator from coercing a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system; and

"(3) a multichannel video system operator from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation in the selection, terms, or conditions for carriage of video programming vendors.

"(c) ADDITIONAL CONTENTS OF REGULATIONS.—The regulations required by subsection (a) shall also—

"(1) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(2) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(3) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(d) DEFINITIONS.—As used in this section, the terms 'video programming vendor' and 'multichannel video system operator' have the meanings provided by section 705A(g) of this Act.".

SEC. 11. MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.

(a) FINDINGS.—The Congress finds that—

(1) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(2) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(3) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(4) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(5) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(b) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(2) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1992, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraphs (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) of this section shall take effect 90 days after the date of enactment of this Act.

SEC. 12. EQUAL EMPLOYMENT OPPORTUNITY.

(a) FINDINGS.—The Congress finds and declares that—

(1) despite the existence of present legislation governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

(b) STANDARDS.—Section 634(d)(1) of the Communication Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection.".

(c) CONTENTS OF ANNUAL STATISTICAL REPORTS.—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

"(i) Corporate officers.

"(ii) General Manager.

"(iii) Chief Technician.

"(iv) Comptroller.

"(v) General Sales Manager.

"(vi) Production Manager.

"(vii) Managers.

"(viii) Professionals.

"(ix) Technicians.

"(x) Sales.

"(xi) Office and Clerical.

"(xii) Skilled Craftspersons.

"(xiii) Semiskilled Operatives.

"(xiv) Unskilled Laborers.

"(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section.".

(d) PENALTIES.—Section 634(f)(2) of such Act is amended by striking "$200" and inserting "$500".

(e) APPLICATION OF REQUIREMENTS.—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video system operator (as that term is defined in section 705A(g) of this Act)".

(f) STUDY AND REPORT REQUIRED.—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

SEC. 13. HOME WIRING.

Section 624 of the Communications Act of 1934 (17 U.S.C. 544) is amended by adding at the end the following new subsection:

"(g) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules and regulations concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.".

SEC. 14. CABLE CHANNELS FOR COMMERCIAL USE.

(a) RATES, TERMS, AND CONDITIONS.—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) by striking "consistent with the purpose of this section" in paragraph (1) and inserting "consistent with regulations prescribed by the Commission under paragraph (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

"(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

"(B) standards concerning the terms and conditions which may be so established; and

"(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section.".

(b) ACCESS FOR MINORITY PROGRAMMING SOURCES.—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(i)(3)(C)(ii) of this Act.".

SEC. 15. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "$50,000" and inserting "$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

(2) by adding at the end thereof the following new paragraph:

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

SEC. 16. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if this incompatibility is not resolved, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators and electronics equipment manufacturers should, to the extent possible, develop technologies that will prevent signal thefts while permitting consumers to benefit from premium features and functions in such receivers and recorders.

"(b) RULEMAKING REQUIRED.—Within one year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary—

"(1) to ensure that the signals a cable system transmits to subscribers are compatible with all operational functions of cable-ready television receivers and video cassette recorders, taking into account the need for cable operators to protect their signals against unauthorized reception;

"(2) to prohibit cable operators from scrambling or otherwise encrypting any local broadcast signal in any manner that interferes with or nullifies the special functions of subscribers' televisions or video cassette recorders, including functions that permit the subscriber—

"(A) to watch a program on one channel while simultaneously using a video cassette recorder to tape a different program on another channel;

"(B) to use a video cassette recorder to tape two consecutive programs that appear on different channels; or

"(C) to use advanced television picture generation and display feature;

"(3) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(4) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(A) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(B) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator;

"(5) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units; and

"(6) to establish technical standards and labeling requirements for television receivers and video cassette recorders that are marketed as 'cable-ready', such standards and labeling reuqirements to include information disclosing that all features of 'cable ready' television receivers and video cassette recorders may not be compatible with all cable systems.

"(c) EXCEPTION.—The regulations required by subsection (b)(1) may, if necessary to protect against the theft of cable service, permit a cable operator to scramble or otherwise encrypt video programming in accordance with such standards as the Commission shall prescribe consistent with the findings contained in subsection (a) of this section.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (e) and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

"(e) COMPATIBLE INTERFACES.—Within one year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. Within 2 years after the date of enactment of this section, the Commission shall issue regulations as may be necessary to require the use of interfaces that assure such compatibility.

"(f) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take into account the cost and benefit to cable subscribers of such standards.".

SEC. 17. STUDIES.

(a) STUDY OF VIDEO PROGRAMMING DIVERSITY AND COMPETITION.—

(1) COMMISSION STUDY.—The Commission shall conduct a review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such review and study, the Commission shall consider the necessity and appropriateness of—

(A) imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of such programming; and

(B) imposing limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(b) STUDY OF PROGRAMMING MARKET.—On or before January 1, 1996, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effects of exclusive licensing arrangements for video programming on competition between classes of multichannel video system operators. The Commission shall evaluate whether grantors or holders of exclusive licensing arrangements for video programming discriminate against classes of multichannel video system operators in a manner that deprives the public of access to diverse sources of programming. Such report shall include such recommendations for legislation as the Commission deems appropriate.

(c) PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee, or from a cable system. In undertaking such rulemaking, the Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video distribution, including without limitation, an electronic switching capability as a minimum feature on satellite television receiving equipment.

(d) STUDY OF LOW-POWER TELEVISION.—

(1) STUDY REQUIRED.—Within 12 months after enactment of this Act, the Federal

Communications Commission shall prepare and submit to the Congress a report on whether, and under what conditions, low power television stations (as defined in section 74.701(f) of title 47, Code of Federal Regulations, or any successor regulations thereto) which provide local origination programming should be entitled to carriage on cable systems whose service area encompasses the service area to which a low power television station is licensed.

(2) PUBLIC COMMENT; FACTORS FOR CONSIDERATION.—In preparing its report, the Commission shall provide an opportunity for public comment and take into account—

(A) whether and how many low power television stations provide local program services which serve the public interest, convenience and necessity;

(B) the status of low power television as a secondary service;

(C) the impact of carriage of low power television stations on the availability of channels for future communications needs;

(D) the burden on cable systems of carriage of low power television stations, the propriety of imposing such a burden, and any technical considerations relating to providing carriage limited only to the low power television station's community of license; and

(E) the extent of the burden presently imposed upon low power television stations as a result of charges for carriage imposed on stations by cable systems.

SEC. 18. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. LENT] will be recognized for 20 minutes and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this substitute amendment is similar to the major provisions of an amendment I offered in committee which was modeled on the bipartisan bill which passed this House on a voice vote just 2 years ago. That bill, H.R. 5267, reflected a balanced and reasonable approach to responding consumers' concerns about rates and services.

It was the hope of the Republican members of the Energy and Commerce Committee, that the bipartisan, cooperative approach which resulted in consensus legislation 2 years ago would guide our deliberations and actions this year. Unfortunately, given the nature of this very political year, that was not to be.

Energy and Commerce Committee Republicans sought to respond to the consumer's requests that Congress solve the specific problems with rates and services that our constituents have written and called about in recent years. Unfortunately, the committee chose to advance a bill which overregulates the cable industry and goes far beyond the clearly articulated concerns of our constituents.

This amendment focuses narrowly on the specific cable subscriber concerns. First, my substitute addresses the problems of rates. The amendment requires that all local, over-the-air broadcast signals and Government access channels be offered through a separate basic tier. Whenever there is no effective competition to the local cable companies, this tier must be regulated.

By regulating a separate and distinct basic tier composed only of over-the-air broadcast and Government access signals, my amendment gives all cable subscribers access to the system—and to the over-the-air broadcast signals they want—at the lowest possible rate. Regulation of this tier, moreover, would also serve to discipline the pricing of other cable programming offered by the cable operator.

I believe that this approach to rate regulation is a reasonable one. It is responsive to consumer needs. It is not overly intrusive, and it promotes the Communication Act's key principles of promoting localism and diversity. Finally, it reflects the approach overwhelmingly adopted 2 years ago.

In the area of programming access, my amendment again takes a balanced approach. It prohibits unreasonable refusals to deal, but recognizes the legitimate right of private parties to enter into exclusive contracts. This approach will ensure that cable competitors have a reasonable, and legally protected, opportunity to purchase programming. It also protects the intellectual property rights of copyright holders from unreasonable government intrusion. Consequently, my substitute does not create disincentives for future investment in the creation of new programming that might result from Federal interference.

My amendment also contains several other provisions designed to promote competition. The substitute would expand the rural exemption to the telephone cable cross-ownership restriction from an area serving 2,500 residents to an area serving 10,000 residents. Another provision would permit franchising authorities from granting exclusive franchises.

Overall, Mr. Chairman, I believe that my amendment is an appropriate and carefully measured response to the problems American consumers are confronted with today. Rather than simply regulating for the sake of regulating, I believe my amendment addresses today's problems without adversely impacting future investment in new cable programming and providing greater consumer choice.

Finally, let me say that the American consumer will be best served by this Congress passing legislation that will become law.

Unlike H.R. 4850, my amendment could become law and thus achieve the goal of resolving those concerns the American consumer has asked this Congress to address.

I urge my colleagues to support my substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in support of H.R. 4850, and commend both Chairman MARKEY and Chairman DINGELL for their efforts on this legislation. Obviously, the issues addressed in the bill are contentious. While it will not please everyone, it draws an extremely fine line between addressing the problems of an industry and assuring the industry's continued viability.

The bill we pass today provides protection for cable consumers. The bill gives greater power to local authorities to ensure that service is responsive and prices reasonable. While I have my concerns over any increases in regulation, the bill only regulates the cable operator in the absence of effective competition. This means that when an alternate provider—be that satellites or telephone companies or other cable providers—gives some choice to consumers, then regulation will no longer be applicable or needed. This is particularly relevant in light of the recent FCC decision to allow telephone companies to carry video signals on a common carrier basis and own up to 5 percent of video programmers.

Specifically, H.R. 4850 will provide consumer protection by: first, setting customer service standards; second, requiring regulation in the absence of competition; third, establishing a formula for setting maximum price for basic cable service; and fourth, helping preserve local broadcasting through its must carry provisions. These are needed changes, and, again, apply only in areas where there is no competition.

Let us be clear. Monopolistic tendencies in any business are inherently self-destructive. Consumers do not benefit, and the complaints engendered by a few abusive operators, who have no competition, have brought on today's legislative efforts. It is an unfortunate reality that in the absence of competition, regulation is necessary to prevent such abuses. As the New York Times editorial stated earlier this week, "until the day that customers can pick and choose among multichannel providers, reregulation is needed."

The Lent substitute amendment undermines the pro-consumer steps of H.R. 4850, and does not address the fundamental issues of reform which are needed. Cable rates have jumped three times the rate of inflation since 1987, and in 1991 alone, cable rates rose at a rate 250 percent higher than other goods and services.

The primary problem with the Lent substitute is that it will provide relief for less than 10 percent of cable subscribers. The substitute proposal allows for regulation of a closed basic tier which consists solely of local over-the-air broadcast stations and the public access channels. Less than 10 percent of existing cable consumers subscribe to this tier. Furthermore, the Lent substitute rolls back customer service standards to levels even less stringent than under current law. The amendment requires the FCC's minimum standards of customer service to be the highest permissible level of regulation, and prohibits municipalities from imposing stricter customer service requirements on cable operators. These provisions are even weaker than the language in H.R. 1303, the measure passed two years ago. Clearly, if you want to help the consumer, the substitute amendment does not suffice.

While the Eckart amendment on retransmission consent was not made in order, I would like to add my voice of support for this measure. The amendment will allow local broadcasters greater control over their signal, and will go a long way toward helping maintain the viability of local broadcasters.

Regarding the program access amendments, I have always felt that we need non-discriminatory language which recognizes exclusive contracts. Similar to my support for retransmission consent, there is a fundamental property right which needs to be respected when making policy decisions. While I felt the language in H.R. 4850, as reported out of subcommittee, did a fairly good job of avoiding the creation of a uniform pricing mechanism, I feel that the Manton amendment before us today does a better job of preventing discrimination while ensuring a fair degree of control over one's product.

I would briefly like to comment on two amendments which I sponsored during committee consideration and which were adopted. The first amendment increases the amount of education and public programming offered by cable companies. The second amendment calls for a study to review the number of local sporting events which are no longer being offered on broadcast television.

The first amendment will increase the amount of educational and public programming offered by cable companies. The amendment allows cable companies to substitute high-quality educational programming on channels which are currently set aside for public access programming. The original draft of H.R. 4850 allowed cable operators to reduce their leased access and public, educational and government [PEG] access obligations on a one to one basis, up to one-third, for minority programming. My amendment, which was adopted in committee, extends this exception to high quality educational programming.

Many of the access channels are underutilized. My amendment will ensure that there is sufficient access to national networks devoted to educational programming, while at the same time alleviating the problem of wasted channel space. It is important that positive, educational programming is available to everyone and be as accessible as possible. Television has been described as a vast wasteland—this amendment was designed to try and fill that void.

The amendment would ensure that only those channels which make sufficient programming investments to achieve quality could be substituted for channels that are currently dedicated to local public, educational, governmental and leased access purposes. Furthermore, while it would be at the operators discretion whether or not to utilize this option, such substitution could not exceed one third of the local and public access requirements. The amendment also would not alleviate any must-carry requirements defined in H.R. 4850.

The second amendment which I offered during full committee consideration dealt with the migration of sporting events from broadcast stations to cable and pay-per-view systems. The amendment requires the FCC to study the migration of programming, taking into consideration the economic and social consequences of this movement. The study will determine the effect of pay-per-view sports programming on the consumer as well as the various sports organizations. This study is an important first step toward assuring the accessibility of televised sports—especially local sports on broadcast stations. The commission will submit a sport by sport preliminary report by July 1, 1993, with their final report being due by July 1, 1994.

I would also like to briefly mention my support for the Lehman amendment to the sports migration study. This is a good amendment and I urge its adoption.

In conclusion, let me reiterate what I said during the committee consideration of this legislation. While I support the need for reform, we should strive to ensure that this is not a punitive bill. While many may wish to stick it to the cable industry, we shouldn't let a few bad actors bring disaster upon an industry. Cable TV has demonstrated that it has great potential. We shouldn't be quick to pass burdensome measures on a viable industry, and we should not allow a melt down to occur which would create a particularly onerous bill. I trust the conferees will heed this advice.

Again, I commend both the chairman of the full committee and the chairman of the subcommittee for their efforts on this legislation.

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Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. RINALDO], the distinguished ranking member of the Subcommittee on Telecommunications.

Mr. RINALDO. Mr. Chairman, I rise in support of the substitute amendment offered by my good friend, the gentleman from New York who has contributed so much to this body and unfortunately is retiring at the end of the year.

This amendment that he is offering this evening effectively regulates the problem areas of the cable industry, maybe not enough for some people, but I think it does the job, and it does the job as far as excessive rates are concerned, it does the job as far as poor customer service, must-carry, and programming access.

The substitute seeks to improve upon the 1984 Cable Act without retreating to the burdensome regulatory regime that stifled the cable industry prior to the 1984 legislation.

The substitute offers a balanced approach to cable regulation which addresses those areas which need to be addressed, rates and services, without providing disincentives for investment and growth of the cable industry in general.

While some may argue, as my good friend from Maryland just did, that the substitute does not go far enough in its regulatory measures, the fact is that it reasonably balances the concerns of the broadcast industry, cable operators, cable video programmers, new competitors of cable, and most importantly, the consumer. Moreover, the substitute reflects the consensus that members of the committee, and House, reached just 2 years ago.

Finally, and I think most importantly, the substitute represents legislation which could become law.

I know there are some people here who say, "Put a bill on the President's desk that he will not sign and it gives certain people a political advantage," and it is a campaign year, and I recognize that, but this particular substitute is a fair and balanced piece of legislation which could be realistically implemented, and not simply a proposal that runs the risk that it will be vetoed and therefore be of no benefit to anyone.

If we want to protect consumers, if we are really sincere in our desire to do that, then we will pass a bill that can be signed into law, and we will forget about politics and do the job that the consumer demands. That is the main reason I am supporting this substitute.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, I rise in support of H.R. 4850, and I am in reluctant opposition to the amendment offered by my friend, the gentleman from New York [Mr. LENT].

We have been asked to vote today for this substitute as a moderate alternative to H.R. 4850 that will protect consumers without stifling the growth of the cable industry. In fact, the Lent substitute protects cable operators at consumers' expense.

The Lent substitute only regulates a basic tier consisting solely of over-the-air broadcast stations; no regulation of cable programming is permitted. Popular programming services such as CNN, C-SPAN, ESPN, and Arts and Entertainment would be put beyond the reach of Federal, State, or local regulators. However outrageous the price they charge or poor the service they offer, and we have seen much of both, cable operators would be exempt from all regulation of cable offerings.

Further, the Lent substitute regulates a service that few consumers want. According to the Wall Street Journal, only 10 percent of cable consumers nationwide subscribe to the basic broadcast service. The Lent substitute would, therefore, protect a handful of subscribers who use cable as an antenna service and leave the vast majority of consumers, especially on Long Island, powerless to fight skyrocketing rates for popular programming services.

Please, vote "no" on the Lent amendment and provide consumers with real protection.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Chairman, what a difference 2 years make. It was just that long ago that we in the House last considered legislation designed to address the concerns of the cable consumer. I vividly remember voting for legislation—H.R. 5267—which the National Association of Broadcasters claimed "goes a long way toward resolving many of the problems consumers and broadcasters face in the video marketplace." What made the occasion particularly memorable was receiving a press release from the Consumer Federation of America praising my vote cast for the good of the cable consumer.

Although the Lent substitute is substantially similar to the House-passed legislation of 2 years ago, I doubt my vote in its favor will produce similar commendations. In fact, one interest group has creatively characterized the modest re-regulatory provisions of the Lent amendment as "a serious blow to the interests of cable consumers." This leads me to wonder what has changed so significantly since the closing months of the 101st Congress to warrant such a change of heart.

The fact is, having participated in subcommittee and full committee consideration of H.R. 4850, I have yet to hear a compelling reason as to why the legislation of 2 years ago is not every bit as appropriate today. Even so, the Lent amendment goes farther than the landmark agreement between broadcasters and cable on must-carry. It includes program access language which satisfies many of the concerns of the satellite dish owners. And it ensures the availability of an affordable "lifeline" tier while requiring compliance with customer service standards.

The most appealing quality of the Lent amendment from a cable consumer's perspective, however, may well be its future. Passage of this substitute will make it more likely that amendments to the Cable Act will be signed into law and less likely that we will be debating this issue two years from now. For as much as I know our constituents enjoy hearing us discussing issues of importance to them, they would probably prefer results.

I urge adoption of the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, I rise to express my strong support for this vital cable television bill. For several years I have been concerned about the increase in cable rates and the service problems consumers are facing. I would also like to express my appreciation to Chairman MARKEY and Chairman DINGELL for their hard work in getting this bill before us today.

One of the prime motivations behind the passage of the Cable Communications Policy Act of 1984 was a desire to foster the development of a healthy cable television industry. By any standard, that goal has been achieved. Everything connected with cable television is up—profits, number of subscribers, value of individual cable systems, and of course, rates. The average price for cable service rose by nearly 20 percent in 1987 and 12.6 percent in 1988. This increase has far outdistanced increases in the Consumer Price Index. I think we can all agree that the performance of the cable industry has not lived up to the promise.

Cable television now reaches 60 percent of U.S. households. In most service areas, no meaningful competition exists for the local cable provider. When Congress deregulated cable prices in 1984, most of the leverage State and local franchising authorities had over cable companies was also removed. We are now faced with a situation in which cable operators can raise rates and the local authorities have no control over the increases.

Rates have been rising at an unreasonable rate that has surpassed inflation. In my hometown of Springfield, the rate for basic service has increased 73 percent since 1986. One rate increase was as high as 15 percent. These increases are not fair to the consumer.

The number of stations has increased, but many customers believe they are spending more money and receiving less programming in return.

None of this is news to many of you—our mail has included one letter after another complaining about cable service. Before 1984, there was local input into major cable television decisions in each community. With deregulation, that community involvement was lost. This bill restores a measure of local control over service and rates.

I am also greatly concerned over the loss of free television. The Olympics begin in less than a week. Many Olympic events this year are available only on pay cable channels. Many other sporting events are moving over to pay channels. It is a trend that threatens to lead to the day when major sporting events—including those involving teams and leagues that have greatly benefitted from tax breaks and other Government assistance—are available only to those who can pay to see them.

Mr. Chairman, in 1989 the House approved a cable television re-regulation measure that did not make it to the President's desk. Since that time the situation has only gotten worse. Cable rates are up, service has not improved and the consumers of America are clamoring for some commonsense regulations for this industry. The cable industry benefits from the use of public right-of-way and is—in most communities—a monopoly. The industry has not been responsive to local communities and these regulations are the result of their misuse of 8 years of deregulation and their grab for unreasonable profits. I urge passage of H.R. 4850.

□ 2130

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, in our zeal to re-regulate and get rates under control, let us not squander the opportunity we have to pass meaningful and workable cable legislation.

H.R. 4850 goes way beyond simple rate regulation of the basic tier of the kind we passed in bipartisan fashion just a couple years ago.

I guarantee you this legislation will result in rate increases. Clearly, the $5 billion or so investment for addressable converters that are going to be needed to comply with H.R. 4850 is recoverable from consumers under the rate regulations of the bill. Consumers will pay.

But I ask you, is the Government-mandated investment the right investment in this growth industry?

Also, let us not forget the largest cost of regulation will not be borne by the cable companies. Do you think all this regulation comes free? It will ultimately be paid in the billions of dollars in costs for lawyers and consultants. It will be paid by the consumers, and all these lawyers and consultants will be involving themselves in cable rate reregulation proceedings required under H.R. 4850 at the Federal court level, at the State court level.

In the last analysis, what will the consumer receive? Lower rates? I emphatically say "no." Rather, the consumer will experience higher rates and the thing that will gall him or her the most is that they will have received no value for their money. They will not have received new programming, not better technology, not better service, not protection.

No, but they will be burdened by a new and unseen bureaucracy.

The Lent substitute is modest. It is workable. It protects against rate increases at a basic tier. It does not get into the whole enchilada.

Vote for the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I rise in opposition to the Lent substitute. The deregulated cable TV industry was supposed to create competition and increase consumer choice. But it did not.

Instead, what consumers got are price-gouging cable monopolies. According to a leading consumer group, those monopolies are overcharging American consumers more than $6 billion a year. Six billion dollars.

You know, cable deregulation is a snapshot of the Reagan-Bush economic debacle.

The big cable companies have been made into a cash cow—and consumers are the goat. Cable monopolies have seen their revenues soar since 1986, consumers have seen cable rates skyrocket at more than twice the rate of inflation.

But that is only the national average. In places in Oregon—and other spots around the country—prices have hit the stratosphere, because there is no way to stop price gouging. Let me give you the example of Salem, OR.

In 6 years, cable costs in Salem skyrocketed 134 percent—with no end in sight.

That is not a license to do business. That is a license to steal.

Let us dump the failed Reagan-Bush experiment in deregulation—and put people first for a change. Oregon cable customers are sick and tired of paying more for less. It is time we revoke the cable monopolies' license—and put the American consumer back in the drivers seat.

The way to do that is to defeat this substitute. It is a wolf in sheep's clothing that would gut the consumer protections of the committee's bill.

The Senate defeated a similar measure offered by the junior Senator from Oregon, and the House should do the same today.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I would like to engage in a colloquy with the chairman of the subcommittee.

Section 618(e) of H.R. 4650 governs the time period that a franchising authority may consider a cable operator's transfer request. The subsection states that a franchising authority has 120 days to act on such a request that, and I quote, "contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority." By this statement, is it the committee's intent that the time period not begin until the transfer request is accompanied by information required by both the FCC and the franchising authority?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield, yes, the committee does not intend for the 120-day period to begin until the transfer request is accompanied by information required by both the franchising authority and the FCC.

Mr. SCHUMER. I raise this issue because there is some confusion caused by the committee report accompanying H.R. 4850. The report language would indicate, consistent with the clear consistent language, that the 120-day period does not begin until the franchising authority has such information. Is that the committee's intent?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield again, yes. The franchising authority has the right to request information in addition to the information that is requested by FCC regulation.

Mr. SCHUMER. And one more question in this colloquy on consumer electronics equipment compatibility.

Section 624A(b) of H.R. 4850 requires that the Federal Communications Commission, in consultation with representatives of the cable industry and the consumer electronics industry, report to Congress on the means of assuring compatibility between televisions and video cassette recorders and cable systems.

Does the committee intend for the Commission to consult with such representatives in preparing the report to Congress and in drafting regulations?

Mr. MARKEY. Mr. Chairman, if the gentleman will yield further, yes. The committee fully expects the Commission to consult representatives of franchising authorities and consumers in drafting the congressional report and regulations. In addition to such consultations, we expect the Commission, as it often does in creating congressional reports and implementing regulations, will institute rulemaking and inquiry proceedings that give all interested parties an opportunity to be heard.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for this colloquy and for his leadership on this issue.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD], a Member who is rapidly rising in seniority on the committee.

Mr. MOORHEAD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Lent substitute and I want to thank the gentleman from New York for his continuing efforts on behalf of sound and workable national cable policy.

I believe the Lent substitute is the proper balance between over-regulation and not enough regulation. I think it will control the excesses of cable while still allowing cable the latitude to grow and enhance its product.

It has an opportunity of being supported by the administration and becoming public law.

Most importantly, I think the Lent substitute will better serve the interests of our constituents who are cable customers.

It is very, very important that this bill not become a political exercise, but it be in such form that it can be enacted into law.

I think the Lent substitute makes it such that it will become law and give cable the proper amount of control that has been sadly lacking over the past few years.

I want to see a bill put into law and I think the substitute will do the job. I urge a yes vote on the Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I rise in opposition to the Lent substitute.

I think it is important that we set down precisely what is occurring here. We just adopted a proconsumer amendment that establishes access to programming for competitive video systems. The House adopted that by a wide margin.

Were we to adopt the Lent substitute, we would be returning to the Manton proposal in essence.

Second, the Lent substitute is not even what we passed several years ago. The bad actor provisions are gone. It is less of a regulatory restrain on the cable companies being bad actors than even the modest bill we passed several years ago. An awful lot of bad acting has occurred, as we know, in the last 2 years.

But let me give a reason to those of you who have concerns about the regulatory features of the Markey bill, why you should vote against the Lent substitute and vote eventually for the bill as the House has now amended it with the Tauzin amendment.

You see, under the Markey bill, the regulations that are designed to prevent bad actor cable companies, the regulations that are designed to protect those communities where there is no competition, those regulations automatically disappear the moment that effective competition comes to your community.

The good news is that with the adoption of the Tauzin amendment just a little while ago, you have provided a mechanism for competition to come to your community I think very rapidly.

When that competition arrives, when effective competitive occurs, you will not only see cable rates drop in your community so that regulations do not really become necessary, but under the Markey provisions those regulations are not even effective anymore.

□ 2140

The Tauzin amendment cures any concern that you ought to have if you had any about overregulation.

I urge you to reject Lent and support the Markey bill.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT], a member of the committee.

Mr. HASTERT. I thank the gentleman for yielding.

Mr. Chairman, it is interesting that the gentleman from Louisiana just comes up and talks about competition. Let me tell you, ladies and gentlemen, this bill is not a competition bill, it is a regulation bill. What does that mean? Let us talk about common sense. This bill says the FCC shall regulate. It does not say how it shall regulate, it does not say that it is going to regulate rate of return, it does not say it is going to regulate on a fixed-rate basis, it does not say it is going to regulate on a variable-rate basis, it just says "regulate."

It says to regulate every cable television station in this country, thousands of them.

Where do we need to be, and what does this do? If you regulate, you limit people's choice. When you regulate any entity that is not a monopoly or could not be or may evolve out of monopolism, what you do is you say you limit people's choice, you give them the very least menu of alternatives. What you also do is say that you, as the operator, get a fixed rate of return. You do not offer the new technologies, you do not offer the new ideas.

What do we have coming for us and toward us? We have new technologies. We have wireless cable, we talked about that. We have micro dishes. We have telecom entry. We have low-powered TV. Those are new technologies.

If you allow them to compete and give them the ability to compete—and that is what the Lent bill is, it is less regulatory, it opens up the future to new technology, and that is certainly the path that we ought to take, not heavy-handed regulation.

It does not work, the consumer does not win. This world and this country does not stay up with the technological base of the world.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, my colleagues, since the mid-1980's, cable has enjoyed the best of both worlds; no competition and no regulation.

Unfortunately, Mr. LENT only restores one-half of that equation here. He does not give them any competition, and he persists in ignoring the regulatory problems that the legislation we have before us seeks to address.

Everyone understands what the real problems are with the cable industry. Rapidly rising rates, miserable customer service, and little or no competition.

If you like the status quo, if you honestly believe that the consumers of America, who now find that cable TV has for better or for worse become a necessity to them—witness Americans glued to CNN during the war in the Middle East just 1 year ago—then go ahead and turn the clock back, because the reality is if you believe we made a mistake in 1984 by surrendering the authority of local government to participate in an important granting of a franchise for consumers, then you realize that we needed to correct that mistake today.

Let me draw my colleagues' attention to one other point: Over 330 of you joined us in supporting Mr. TAUZIN's amendment, which would truly lower rates by providing more alternatives, real competition.

If you voted for the Tauzin amendment, you cannot now vote for the Lent substitute. It would be the height of hypocrisy; we would marvel at the gymnastic routines on the floor of this House by voting for Lent after having voted for Tauzin that would earn you a gold medal in Barcelona in just 1 week.

The fact of the matter is that the most master contortionists cannot have it both ways. Having adopted the Tauzin substitute, we have now told our constituents that we want real competition in a regulatory framework that guarantees better customer service, lower rates and real opportunities in the future to insure real innovative competition.

Now, if you care about sports, I think you ought to care an awful lot about the Lent substitute because there is a little kicker in here that is real interesting. It takes out from the regulatory penumbra envisioned under the Markey legislation that we have before us a popular little item known as ESPN. If you want to move basic sports programming such as ESPN from the regulated tier to the unregulated tier, and thus pay-per-view, go ahead and vote for the Lent substitute. But be fully prepared to tell your constituents that the Discovery Channel, Arts and Entertainment, C-SPAN and CNN, which have now become part of the staple of television service in America, now, go to pay-per-view.

I am not prepared to do that. The reality is that the Lent substitute will prevent cable operators from offering popular cable programming; it will reduce customer service standards to a simple wish and hope over the telephone.

The Lent substitute is not much more than what we have enjoyed in the past, and that is business as usual, a business that has gotten too expensive for all our constituents.

The CHAIRMAN. The Chair wishes to advise Members controlling the debate that the author of the amendment has 6 minutes remaining and the Member in opposition has 6½ minutes remaining.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], a member of the committee.

Mr. FIELDS. Mr. Chairman, I rise in strong support of the substitute offered today by the ranking Republican member of the Energy and Commerce Committee, NORM LENT. The Lent substitute is a commonsense approach to the perceived problems in the cable industry.

As many of my colleagues are aware, this substitute is almost identical to cable legislation the House overwhelmingly approved 2 years ago. This measure provides the best solution to the problem of escalating cable rates by combining reasonable regulatory constraints on the cable industry with incentives such as improved market access to cable programming for competing video delivery systems such as satellite, DBS, and microwave services.

Those people who are standing up saying that you cannot vote for Lent if you voted for Tauzin, Tauzin is only one part, a small part of the bill.

I will admit that while the debate today lacks the important, procompetitive elements of retransmission consent and allowing the telephone companies to compete with cable, the Lent proposal is the only approach which has the potential of being enacted this year.

That's why, I urge my colleagues to support the Lent substitute.

So, if you want to see a cable bill, you had better vote for the Lent substitute. The administration has vowed to veto H.R. 4850 in its current form. Additionally, the FCC has warned that the costs of regulating cable rates under this legislation would be unduly burdensome. While the heavy-handed regulatory approach embodied in H.R. 4850 will do absolutely nothing to solve the problems of high cable rates and poor customer service, it will stifle cable's ability to offer new and innovative programming and services. That is why I urge my colleagues to vote for the only alternative that has a chance of being enacted, and that is that Lent substitute.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the chairman of the subcommittee.

Let me thank the gentleman from Massachusetts for yielding this time and commend him on a job very well done.

Mr. Chairman, I rise in support of his bill and in opposition to the substitute offered by the gentleman from New York. The bill before us, which I hope we retain tonight, is procompetitive, it is pro-consumer, it is a good bill.

The Lent substitute is better than today's situation, but it lacks the reforms that are in the Markey approach, particularly in rate-setting, in which under the bill before us tonight local governments will have a role to play in rate-setting. That is a big issue in my community of Louisville.

There is also additional consumer and customer service regulation in the Markey bill. This bill promotes cable competition, and it includes the Tauzin amendment, not in the Lent substitute, which I think is very important because it limits the ability of cable-affiliated programming from being somehow monopolized or kept away from cables multi-channel competitors or have excessively high rates charged for it.

□ 2150

So, all in all the substitute offered by the gentleman from New York [Mr. LENT] is an advance on today's cable situation, but the real bill before us, and we should vote for it, is the Markey approach.

Oppose Lent. Support Markey.

Mr. LENT. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY], a member of the committee.

Mr. OXLEY. Mr. Chairman, I rise in support of the substitute offered by the gentleman from New York [Mr. LENT].

I have before me three editorials, the first from the Boston Globe, the second one from the New York Times, and the third one from the Cleveland Plain Dealer, all saying that the Markey approach is overregulation, it is one that would kill competition, would set up a regulatory scheme and is the wrong way to go. Essentially the substitute is the alternative and, indeed, the only viable alternative to this overregulatory scheme that is proposed in the Markey approach. These three newspapers do not have a lot of friends in the cable industry, but they recognize how important it is to provide competition in this industry, and this bill simply does not do it. At least we can open the door to some competition with the Lent substitute, and it is the only bill that has a chance of passing in this legislative session.

I say to my colleagues, "I urge you to support the Lent amendment as the only real alternative to competition in the cable industry."

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time in opposition, and I will complete debate for our side.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] has 5½ minutes remaining and is recognized to close debate on his side.

Mr. MARKEY. Mr. Chairman, I rise in strong opposition to the amendment in the nature of a substitute to H.R. 4850 by the ranking minority member of the Committee on Energy and Commerce, the gentleman from New York [Mr. LENT].

This is billed as a moderate alternative to H.R. 4850. The substitute, however, is a mere figleaf of protection for consumers beleaguered by skyrocketing cable rates.

The gentleman from Michigan [Mr. DINGELL] and I, working over the last year, have tried to construct a bill here for presentation out on the floor that would reflect the need for consumer protection across this country and a dramatic increase in rates for consumers over the last 8 years. That is what this bill does, and that is why we are proud of it from the Committee on Energy and Commerce, and the full committee chairman, and I and all of the members of our committee have tried hard to construct that piece of legislation for our colleagues.

Now my colleagues will hear that the Lent substitute closely resembles H.R. 1303, which contains provisions identical to cable legislation that passed the House 2 years ago and, therefore, should be acceptable today. Nothing could be further from the truth. H.R. 1303, which was a bill which we did produce last year, is a bill which I know. I know H.R. 1303 because I wrote H.R. 1303. H.R. 1303 was a friend of mine. And, Mr. Chairman, the Lent substitute is no H.R. 1303. It in no manner, shape or form resembles the work which the gentleman from Michigan [Mr. DINGELL] and I brought out to this floor 2 years ago, nor that passed unanimously on this floor. In fact, the bill which we are talking about here tonight is about as opposite of 1303 as any bill could be. It is not the son of 1303; it is not even a distant cousin to 1303. In fact, the Lent substitute and H.R. 1303 do not even share a common strand of DNA. On every significant proconsumer and procompetition provision, the Lent substitute is weaker—far weaker—than H.R. 1303.

First of all, Mr. Chairman, the Lent substitute prohibits any regulation of rates for cable programming. Let me repeat, under the Lent substitute, no local, State, or Federal authority would be permitted to regulate the rate charged for any cable offering, including popular advertiser-supported channels like CNN and ESPN, and premium cable channels like HBO. No matter how high the rates charged or how meager the services offered by a cable operator, every cable operator would be free from regulation by any regulatory body whatsoever.

This amendment is a license for mischief—worse for consumers than the way things are today.

The only tier of service that would be regulated under the Lent substitute is a tier of channels that most consumers can get for free today—a tier consisting only of local, over-the-air television stations and public access channels. The Wall Street Journal reports that less than 10 percent of cable subscribers nationwide purchase this basic tier. By its own terms, therefore, the Lent substitute promises to protect only 10 percent of Americans. And no one can seriously say that helping 10 percent of our constituents is consumer protection.

Second, the Lent substitute waters down the customer service protections of both H.R. 1303 and H.R. 4850. Under the Lent substitute, the minimum standard for customer service set by the Federal Communications Commission is the only permissible standard. State and local authorities are prohibited from enacting or enforcing any sort of tougher customer service standards to protect their own local consumers.

Third, the Lent substitute leaves cable systems vulnerable to takeover by foreign entities. It preserves a giant loophole in our existing telecommunications law that permits foreign ownership of cable television systems, direct broadcast satellite systems, and other new video distribution technologies while prohibiting foreign ownership of telephone and broadcasting companies. There is surely no reason for us to invite a breakdown of nearly 60 years of sound and consistent telecommunications policy, or to permit foreign ownership or domination of the next generation of telecommunications technologies.

Fourth, the Lent substitute forestalls the development of a competitive video marketplace. By enabling programmers—even vertically integrated ones—to enter into exclusive contracts with cable operators, the Lent substitute sanctions anticompetitive practices of cable operators that have the effect of denying access to programming to their would-be competitors.

Finally, the Lent substitute allows speculators to flip cable systems like flapjacks. It permits investors to trade cable systems anytime at will, to overextend their debt loads, and then to send cable subscribers the bill.

Voters say they want a change in our country. If the amendment offered by the gentleman from New York [Mr. LENT] is passed, the only thing consumers will have is spare change. There will be nothing left after they pay their cable bills.

The Lent amendment is bad for cable consumers. Vote "no" on the Lent substitute.

Mr. LENT. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. LENT] is recognized for 3 minutes.

Mr. LENT. Mr. Chairman, it is seldom that I agree with my distinguished colleague, the gentleman from Massachusetts [Mr. MARKEY], but I have to agree with him tonight when he said this bill is not the bill he authored 2 years ago which passed this House, H.R. 1303. This bill is better. This substitute is leaner. This substitute is cleaner. And one very, very important difference: The Lent substitute will be signed into law, will be signed into law.

H.R. 1303 was a bipartisan bill, although it was authored by the gentleman from Massachusetts [Mr. MARKEY] initially, and let me say this for that legislation: It reflected a calmer and more balanced approach to responding to consumers' concerns about rates and services. When the Committee on Energy and Commerce this year began deliberating the cable issue, we Republicans thought that we could return, at least, to H.R. 1303 with all its imperfections as a starting point, but I do not need to remind anybody here tonight that this is an election year, and politics is what this is all about.

The cable landscape has not changed much in the past 2 years. As a matter of fact, if my colleagues look at the GAO report that the gentleman from Massachusetts, the distinguished subcommittee chairman, ordered about pricing of cable, it points out that nobody in pricing has changed in the last 2 years in terms of cable rates for basic service.

□ 2200

According to that study, prices have actually moderated over the past 2 years, and today essentially cable rates reflect the rate of inflation. But the political landscape has changed, with the result that we have a bill before us tonight, which, as my colleague from Ohio indicated, the gentleman's hometown newspaper, the Boston Globe, the Cleveland Plain Dealer, and even that bastion of liberalism, the New York Times, have criticized as going over the line in terms of overregulation and micromanagement.

Mr. Chairman, that ought to give every Member here who has any idea of voting for the underlying bill a question. This bill, this bill that underlies us here tonight, will never become law. We all know that as we sit here tonight. Yesterday, and we have all seen it, the administration issued a statement clearly signaling a veto.

Mr. Chairman, let me say in conclusion that if you are truly in favor of real legislation, I mean thoughtful, meaningful, measured controls on the cable industry, you should vote for this Lent substitute. This substitute is a measure that will be signed into law by the President. This is a measure that will resolve the concerns of constituents about cable. This is a measure that Members pretty much voted for 2 years ago. I urge Members to forego the meager political triumph they may be trumpeting here tonight and vote for the substitute and against the Markey bill.

Mr. FRANKS. Mr. Chairman, why is it that when Congress votes on legislation we put business and the consumer at odds with each other? I believe the two go hand in hand. Good business cannot survive without consumers and consumers cannot survive without good business. The proponents of H.R. 4850 would like us all to think this is a proconsumer bill because it puts an entire industry—a business—under the oppressive foot of government control. I believe H.R. 4850 is an overly regulatory bill, which is not only detrimental to the consumer but to good business.

I don't think there is a question in anyone's mind that there are some cable companies who have taken advantage of their subscribers. Consumers have the right to fair prices and service, which some have not received. These companies should and will be dealt with. The question is, how do we deal with the bad apples while not damaging the innovation of the good? I believe that answer is to increase competition.

We need to enact measures that will bring down barriers between industries and increase competition among cable companies. We need to encourage satellite broadcasters, wireless systems, and telephone companies to offer competitive video services. Minus heavy-handed regulation, cable has brought into our homes, a variety of creative programming. With increased competition, we will receive more of this inventiveness and originality. And with increased competition I believe we will see rates go down and customer service go up.

The New York Times reiterates this view. In an editorial on July 20, 1992, the Times explained that the answer to bad service and excessive rates is not equally excessive rate regulation. Times change, technology changes and encouraging competition is what will keep pace with these changes, not stiff regulations. These regulations also are not implemented free of charge. Oppressive regulations will force companies to pay for the additional cost by charging the consumer higher rates or severely limiting any work toward new and better programming and service.

I read an article in the Washington Post that described the effects of competition. The article related the story of a cable company that continued to raise its rates with no expansion in service. As soon as a competing system began laying wires in the area, the company's rates dropped and it upgraded its service. This is the effect of competition.

Mr. Chairman, today I will vote for the Lent substitute to H.R. 4850 because it focuses on bringing in competition. It would protect the consumer and business with limited regulation while encouraging much needed competition. H.R. 4850 would enact overly burdensome regulations that would drive up costs, to be paid by taxpayers and consumers. It is not pro-consumer. And if it is not pro-consumer, it is not pro-business. Mr. Chairman, it is time we recognize the positive relationship between good business and the consumer. If we don't we will continue to enact legislation which harms them both.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. LENT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LENT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 266, not voting 24, as follows:

[Roll No. 312]

AYES—144

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chandler
Clinger
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Green
Gunderson
Hall (OH)
Hammerschmidt
Hancock
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Johnston
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lowery (CA)
Luken
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Olin
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Penny
Pickett
Porter
Pursell
Quillen
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schroeder
Shaw
Shuster
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Spence
Stearns
Stump
Taylor (NC)
Thomas (CA)
Towns
Upton
Vander Jagt
Walker
Weldon
Young (AK)
Zeliff
Zimmer

NOES—266

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)

Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Grandy
Guarini
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (MN)
Petri
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Roberts
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Snowe
Solomon
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)

NOT VOTING—24

Coughlin
Dymally
Feighan
Frost
Hansen
Hatcher
Hyde
Jones (NC)
Kolter
Laughlin
Lehman (FL)
Levine (CA)
Mineta
Moran
Peterson (FL)
Ray
Solarz
Tallon
Thomas (GA)
Thomas (WY)
Traxler
Weber
Wilson
Yates

□ 2223

The Clerk announced the following pair:

On this vote:

Mr. Thomas of Wyoming for, with Mr. Yates against.

Mr. SKAGGS changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. MFUME, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4850) to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes, pursuant to House Resolution 523, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 340, nays 73, not voting 21, as follows:

[Roll No. 313]

YEAS—340

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Cardin
Carper
Carr
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—73

Allard
Archer
Armey
Baker
Barnard
Barrett
Barton
Bliley
Boehner
Burton
Campbell (CA)
Campbell (CO)
Chandler
Clinger
Combest
Cox (CA)
Crane
Cunningham
DeLay
Dornan (CA)
Dreier
Fawell
Fields
Franks (CT)
Gillmor
Gingrich
Goodling
Hastert
Hefley
Herger
Holloway
Hopkins
Horton
Hunter
Ireland
Johnson (TX)

Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lowery (CA)
Luken
Marlenee
McCandless
McCrery
Michel
Miller (OH)
Miller (WA)
Molinari
Myers
Olin
Orton
Oxley
Packard
Parker
Penny
Pickett
Pursell
Rhodes
Ritter
Rohrabacher
Roukema
Schaefer
Schroeder
Shuster
Skaggs
Smith (OR)
Smith (TX)
Stump
Thomas (CA)
Walker
Zeliff

NOT VOTING—21

Coughlin
Dymally
Feighan
Frost
Hansen
Hatcher
Hyde
Jones (NC)
Kolter
Laughlin
Lehman (FL)
Levine (CA)
Peterson (FL)
Ray
Solarz
Tallon
Thomas (GA)
Thomas (WY)
Traxler
Weber
Yates

□ 2242

Mr. SKELTON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MARKEY. Mr. Speaker, pursuant to the rule, I move to take from the Speaker's table the Senate bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY].

The motion was agreed to.

MOTION OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MARKEY moves to strike out all after the enacting clause of S. 12 and insert in lieu thereof the text of H.R. 4850, as passed by the House, as follows:

H.R. 4850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS; DEFINITION.

(a) FINDINGS.—Section 601 of the Communications Act of 1934 (47 U.S.C. 521) is amended—

(1) by striking the heading of such section and inserting the following:

"PURPOSES; FINDINGS";

(2) by inserting "(a) PURPOSES.—" after "SEC. 601."; and

(3) by adding at the end thereof the following new subsection:

"(b) FINDINGS.—The Congress finds and declares the following:

"(1) Fair competition in the delivery of television programming should foster the greatest possible choice of programming and should result in lower prices for consumers.

"(2) Passage of the Cable Communications Policy Act of 1984 resulted in deregulation of rates for cable television services in approximately 97 percent of all franchises. A minority of cable operators have abused their deregulated status and their market power and have unreasonably raised cable subscriber rates. The Federal Communications Commission's rules governing local rate regulation will not provide any protection for more than two-thirds of the nation's cable subscribers, and will not protect subscribers from unreasonable rates in those communities where the rules apply.

"(3) In order to protect consumers, it is necessary for the Congress to establish a means for local franchising authorities and the Federal Communications Commission to prevent cable operators from imposing rates upon consumers that are unreasonable.

"(4) There is a substantial governmental and first amendment interest in promoting a diversity of views provided through multiple technology media.

"(5) The Federal Government has a compelling interest in making all nonduplicative local public television services available on cable systems because—

"(A) public television provides educational and informational programming to the Nation's citizens, thereby advancing the Government's compelling interest in educating its citizens;

"(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of $10,800,000,000 between 1972 and 1990 that provides public service programming that is responsive to the needs and interests of the local community;

"(C) the Federal Government, in recognition of public television's integral role in serving the educational and informational needs of local communities, has invested more than $3,000,000,000 in public broadcasting between 1969 and 1992; and

"(D) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

"(6) The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals—

"(A) promotes localism and provides a significant source of news, public affairs, and educational programming;

"(B) is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services; and

"(C) will enhance the access to such signals by Americans living in areas where the quality of reception of broadcast stations is poor.

"(7) Broadcast television programming is supported by revenues generated from advertising. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

"(8) Because television broadcasters and cable television operators compete directly for the television viewing audience, for programming material, and for advertising revenue, in order to ensure that such competition is fair and operates to the benefit of consumers, the Federal interest requires that local broadcast stations be made available on cable systems.

"(9) Cable systems should be encouraged to carry low power television stations licensed to the communities served by those systems where the low power station creates and broadcasts, as a substantial part of its programming day, local programming.

"(10) Secure carriage and channel positioning on cable television systems are the most effective means through which off-air broadcast television can access cable subscribers. In the absence of rules mandating carriage and channel positioning of broadcast television stations, some cable system operators have denied carriage or repositioned the carriage of some television stations.

"(11) Cable television systems and broadcast television stations increasingly compete for television advertising revenues and audience. A cable system has a direct financial interest in promoting those channels on which it sells advertising or owns programming. As a result, there is an economic incentive for cable systems to deny carriage to local broadcast signals, or to reposition broadcast signals to disadvantageous channel positions, or both. Absent reimposition of must carry and channel positioning requirements, such activity could occur, thereby threatening diversity, economic competition, and the Federal television broadcast allocation structure in local markets across the country.

"(12) Cable systems provide the most effective access to television households that subscribe to cable. As a result of the cable operator's provision of this access and the operator's economic incentives described in paragraph (11), negotiations between cable operators and local broadcast stations have not been an effective mechanism for securing carriage and channel positioning.

"(13) Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services. A Government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the 'A/B' input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

"(14) At the same time, broadcast programming has proven to be the most popular programming on cable systems, and a substantial portion of the benefits for which consumers pay cable systems is derived from carriage of local broadcast signals. Also, cable programming placed on channels adjacent to popular off-the-air signals obtains a larger audience than on other channel positions. Cable systems, therefore, obtain great benefits from carriage of local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster. This has resulted in an effective subsidy of the development of cable systems by local broadcasters. While at one time, when cable systems did not attempt to compete with local broadcasters, this subsidy may have been appropriate, it is no longer and results in a competitive imbalance between the two industries.".

(b) DEFINITION.—Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended—

(1) by redesignating paragraphs (11) through (16) as paragraphs (12) through (17); and

(2) by inserting after paragraph (10) the following new paragraph:

"(11) the term 'multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming;".

SEC. 3. REQUIREMENTS FOR THE PROVISION AND REGULATION OF BASIC SERVICE TIER.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) COMPETITION PREFERENCE; LOCAL AND FEDERAL REGULATION.—

"(1) IN GENERAL.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section. No Federal agency, State, or franchising authority may regulate the rates for cable service of a cable system that is owned or operated by a local government or franchising authority within whose jurisdiction that cable system is located and that is the only cable system located within such jurisdiction.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition—

"(A) the rates for the provision of basic cable service shall be subject to regulation by a franchising authority, or by the Commission if the Commission exercises jurisdiction pursuant to paragraph (6), in accordance with the regulations prescribed by the Commission under subsection (b) of this section; and

"(B) the rates for cable programming services shall be subject to regulation by the Commission under subsection (c) of this section.

"(3) QUALIFICATION OF FRANCHISING AUTHORITY.—A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) shall file with the Commission a written certification that—

"(A) the franchising authority will adopt and administer regulations with respect to the rates subject to regulation under this section that are consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority has the legal authority to adopt, and the personnel to administer, such regulations; and

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties.

"(4) APPROVAL BY COMMISSION.—A certification filed by a franchising authority under paragraph (3) shall be effective 30 days after the date on which it is filed unless the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that—

"(A) the franchising authority has adopted or is administering regulations with respect to the rates subject to regulation under this section that are not consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations; or

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority do not provide a reasonable opportunity for consideration of the views of interested parties.

If the Commission disapproves a franchising authority's certification, the Commission shall notify the franchising authority of any revisions or modifications necessary to obtain approval.

"(5) REVOCATION OF JURISDICTION.—Upon petition by a cable operator or other interested party, the Commission shall review the regulation of cable system rates by a franchising authority under this subsection. A copy of the petition shall be provided to the franchising authority by the person filing the petition. If the Commission finds that the franchising authority has acted inconsistently with the requirements of this subsection, the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with the regulations prescribed by the Commission under subsection (b), the Commission shall revoke the jurisdiction of such authority.

"(6) EXERCISE OF JURISDICTION BY COMMISSION.—If the Commission disapproves a franchising authority's certification under paragraph (4), or revokes such authority's jurisdiction under paragraph (5), the Commission shall exercise the franchising authority's regulatory jurisdiction under paragraph (2)(A) until the franchising authority has qualified to exercise that jurisdiction by filing a new certification that meets the requirements of paragraph (3). Such new certification shall be effective upon approval by the Commission. The Commission shall act to approve or disapprove any such new certification within 90 days after the date it is filed.

"(b) ESTABLISHMENT OF BASIC SERVICE TIER RATE LIMITATIONS.—

"(1) COMMISSION REGULATIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) BASIC SERVICE TIER RATES.—A formula to establish the maximum price of the basic service tier, which formula shall take into account—

"(i) the number of signals carried on the basic service tier;

"(ii) the direct costs (if any) of obtaining, transmitting, and otherwise providing such signals, including signals and services carried on the basic service tier pursuant to paragraph (2)(B), and changes in such costs;

"(iii) such portion of the joint and common costs of the cable operator as is determined, in accordance with regulations prescribed by the Commission, to be properly allocable to obtaining, transmitting, and otherwise providing such signals, and changes in such costs;

"(iv) a reasonable profit (as defined by the Commission) on the provision of the basic service tier;

"(v) rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(vi) any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers; and

"(vii) any amount required, in accordance with subparagraph (C), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise.

"(B) EQUIPMENT.—A formula to establish, on the basis of actual cost, the price or rate for—

"(i) installation and lease of the equipment necessary for subscribers to receive the basic service tier, including a converter box and a remote control unit and, if requested by the subscriber, such addressable converter box or other equipment as is required to access programming described in paragraph (3); and

"(ii) installation and monthly use of connections for additional television receivers.

"(C) COSTS OF FRANCHISE REQUIREMENTS.—A formula to identify and allocate costs attributable to satisfying franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise.

"(D) IMPLEMENTATION AND ENFORCEMENT.—Additional standards, guidelines, and procedures concerning the implementation and enforcement of the regulations prescribed by the Commission under this subsection, which shall include—

"(i) procedures by which cable operators may implement and franchising authorities may enforce the administration of the formulas, standards, guidelines, and procedures established by the Commission under this subsection;

"(ii) procedures for the expeditious resolution of disputes between cable operators and franchising authorities concerning the administration of such formulas, standards, guidelines, and procedures;

"(iii) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method; and

"(iv) standards and procedures to assure that subscribers receive notice of the availability of the basic service tier required under this section.

"(E) NOTICE.—The procedures prescribed by the Commission pursuant to subparagraph (D)(i) shall require a cable opertor to provide 30 days advance notice to a franchising authority of any increase of more than 5 percent proposed in the price to be charged for the basic service tier.

"(F) EFFECTIVE DATES.—An effective date or dates for compliance with the formulas, standards, guidelines, and procedures established under this subsection.

"(2) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—

"(A) MINIMUM CONTENTS.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which the rates prescribed under paragraph (1) shall apply and to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following:

"(i) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(ii) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(iii) Any signal of any broadcast station that is provided by the cable operator to any subscriber.

"(B) PERMITTED ADDITIONS TO BASIC TIER.—A cable operator may add additional video programming signals or services to the basic service tier. Any such additional signals or services provided on the basic service tier shall be provided to subscribers at rates determined under paragraph (1)(A).

"(3) BUY-THROUGH OF OTHER TIERS PROHIBITED.—

"(A) PROHIBITION.—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (2) as a condition of access to video programming offered on a per channel or per program basis. A cable operator may not discriminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

"(B) EXCEPTION; LIMITATION.—The prohibition in subparagraph (A) shall not apply to a *cable system that, by reason of the lack of addressable converter boxes or other technological limitations, does not permit the operator to offer programming on a per channel or per program basis in the same manner required by subparagraph (A). This subparagraph shall not be available to any cable operator after—*

"(i) the technology utilized by the cable system is modified or improved in a way that eliminates such technological limitation; or

"(ii) 5 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, subject to subparagraph (C).

"(C) STUDY; EXTENSION OF LIMITATION.—(i) The Commission shall, within 4 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, initiate a proceeding to consider (I) the benefits to consumers of subparagraph (A), (II) whether the cable operators or consumers are being forced (or would be forced) to incur unreasonable costs for complying with subparagraph (A), and (III) the effect of subparagraph (A) on the provision of diverse programming sources to cable subscribers.

"(ii) If, in the proceeding required by clause (i), the Commission determines that subparagraph (A) imposes unreasonable costs on cable operators or cable subscribers, the Commission may extend the 5-year period provided in subparagraph (B)(ii) for 2 additional years.

"(4) NOTICE OF FEES, TAXES, AND OTHER CHARGES.—Each cable operator may identify, in accordance with the formulas required by clauses (vi) and (vii) of paragraph (1)(A), as a separate line item on each regular bill of each subscriber, each of the following:

"(A) the amount of the total bill assessed as a franchise fee and the identity of the authority to which the fee is paid;

"(B) the amount of the total bill assessed to satisfy any requirements imposed on the operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels; and

"(C) any other fee, tax, assessment, or charge of any kind imposed on the transaction between the operator and the subscriber.

"(c) REGULATION OF UNREASONABLE RATES.—

"(1) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) criteria prescribed in accordance with paragraph (2) for identifying, in individual cases, rates for cable programming services that are unreasonable;

"(B) fair and expeditious procedures for the receipt, consideration, and resolution of complaints from any franchising authority or other relevant State or local government entity alleging that a rate for cable programming services charged by a cable operator violates the criteria prescribed under subparagraph (A), which procedures shall set forth the minimum showing that shall be required for a complaint to establish a prima facie case that the rate in question is unreasonable; and

"(C) the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable and to refund such portion of the rates or charges that were paid by subscribers after the filing of such complaint and that are determined to be unreasonable.

"(2) FACTORS TO BE CONSIDERED.—In establishing the criteria for determining in individual cases whether rates for cable programming services are unreasonable under paragraph (1)(A), the Commission shall consider, among other factors—

"(A) the rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

"(B) the rates for comparable cable systems, if any, that are subject to effective competition and that offer comparable services, taking into account, among other factors, similarities in facilities, the number of cable channels, the number of cable subscribers, and local conditions;

"(C) the history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

"(D) the rates, as a whole, for all the cable programming, equipment, and services provided by the system;

"(E) capital and operating costs of the cable system, including costs of obtaining video signals and services;

"(F) the quality and costs of the customer service provided by the cable system; and

"(G) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues.

"(3) LIMITATION ON COMPLAINTS CONCERNING EXISTING RATES.—On and after 180 days after the effective date of the regulations prescribed by the Commission under paragraph (1), the procedures established under subparagraph (B) of such paragraph shall be available only with respect to complaints filed within a reasonable period of time following a change in rates that is initiated after that effective date.

"(d) REGULATION OF PAY-PER-VIEW CHARGES FOR CHAMPIONSHIP SPORTING EVENTS.—A State or franchising authority may, without regard to the regulations prescribed by the Commission under subsections (b) and (c), regulate any per-program rates charged by a cable operator for any video programming that consists of the national championship game or games between professional teams in baseball, basketball, football, or hockey.

"(e) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among customers of basic service, except that no Federal agency, State, or franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or other economically disadvantaged group discounts; or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(f) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any individually-priced channel of video programming or for any pay-per-view video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such channel or programming shall not be deemed to be an affirmative request for such programming.

"(g) REVIEW OF FINANCIAL INFORMATION.—

"(1) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file, within 60 days after the effective date of the regulations prescribed under subsection (c)(1) and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(2) CONGRESSIONAL REPORT.—The Commission shall submit to each House of the Congress, by January 1, 1994, a report on the financial condition, profitability, rates, and performance of the cable industry. Such report shall include such recommendations as the Commission considers appropriate in light of such information. Such report also shall address the availability of discounts for senior citizens and other economically disadvantaged groups.

"(h) PREVENTION OF EVASIONS.—Within 120 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions of the rates, services, and other requirements of this section and shall, thereafter, periodically review and revise such standards, guidelines, and procedures.

"(i) SMALL SYSTEM BURDENS.—In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 1,000 or fewer subscribers.

"(j) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

"(k) REPORTS ON AVERAGE PRICES.—The Commission shall publish quarterly statistical reports on the average rates for basic service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(l) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(C) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect 120 days after the date of enactment of this Act, except that the authority of the Federal Communications Commission to prescribe regulations is effective on such date of enactment.

SEC. 4. MULTIPLE FRANCHISES.

(a) UNREASONABLE REFUSALS TO FRANCHISE PROHIBITED.—Section 621(a) of the Communications Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end thereof the following:

"(4) A franchising authority shall not, in the awarding of franchises within its jurisdiction,

grant an exclusive franchise, or unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a franchise shall not be unreasonable if, for example, such refusal is on the ground—

"(A) of technical infeasibility;

"(B) of inadequate assurance that the cable operator will provide adequate public, educational and governmental access channel capacity, facilities, or financial support;

"(C) of inadequate assurance that the cable operator will, within a reasonable period of time, provide universal service throughout the entire franchise area under the jurisdiction of the franchising authority;

"(D) that such award would interfere with the right of the franchising authority to deny renewal; or

"(E) of inadequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

"(5) Nothing in this subsection shall be construed as limiting the authority of local governments to assess fees or taxes for access to public rights of way.".

(b) MUNICIPAL AUTHORITIES PERMITTED TO OPERATE SYSTEMS.—Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended—

(1) by inserting "and subsection (f)" before the comma in subsection (b)(1); and

(2) by adding at the end the following new subsection:

"(f) No provision of this Act shall be construed to—

"(1) prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the geographic areas within the jurisdiction of such franchising authority, notwithstanding the granting of one or more franchises by such franchising authority, or

"(2) require such local or municipal authority to secure a franchise to operate as a multichannel video programming distributor.".

(c) CLARIFICATION OF LOCAL AUTHORITY TO REGULATE OWNERSHIP.—Section 613(d) of the Communications Act of 1934 (47 U.S.C. 533(d)) is amended—

(1) by striking "any media" and inserting "any other media"; and

(2) by adding after the period at the end thereof the following: "Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction.".

(d) LEASE/BUY-BACK AUTHORITY.—Section 613(b)(2) of the Communications Act of 1934 (47 U.S.C. 533(b)(2)) is amended by adding at the end the following: "This paragraph shall not prohibit a common carrier from providing multiple channels of communication to an entity pursuant to a lease agreement under which the carrier retains, consistent with section 616, an option to purchase such entity upon the taking effect of an amendment to this section that permits common carriers generally to provide video programming directly to subscribers in such carrier's telephone service area.".

SEC. 5. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting after section 613 the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations as provided by the following provisions of this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator.

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations up to one third of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) CONTENT TO BE CARRIED.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking internal or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 47, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) SIGNAL QUALITY.—

"(A) NONDEGRADATION; TECHNICAL SPECIFICATIONS.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) ADVANCED TELEVISION.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(5) DUPLICATION NOT REQUIRED.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) SIGNAL AVAILABILITY.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at rates in accordance with section 623(b)(1)(B).

"(8) IDENTIFICATION OF SIGNALS CARRIED.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(9) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(10) COMPENSATION FOR CARRIAGE.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal to the headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant

signals under section 111 of title 17, United States Code, as reimbursement for the incremental copyright costs assessed against such cable operator for carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

"(c) REMEDIES.—

"(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(d) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device, or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(e) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this section, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section. Such implementing regulations shall include necessary revisions to update section 76.51 of the Commission's regulations (47 C.F.R. 76.51).

"(f) SALES PRESENTATIONS AND PROGRAM LENGTH COMMERCIALS.—Nothing in this Act shall require a cable operator to carry on any tier, or prohibit a cable operator from carrying on any tier, the signal of any commercial television station or video programming service that is predominantly utilized for the transmission of sales presentations or program length commercials.

"(g) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to modify or otherwise affect title 17, United States Code.

"(h) DEFINITION.—

"(1) LOCAL COMMERCIAL TELEVISION STATION.—For purposes of this section, the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system. If such a television broadcast station—

"(A) would be considered a distant signal under section 111 of title 17, United States Code, it shall be deemed to be a local commercial television station for purposes of this section upon agreement to indemnify the cable operator for the increased copyright liability as a result of being carried on the cable system; or

"(B) does not deliver to the principal headend of a cable system either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, it shall be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(2) EXCLUSIONS.—The term 'local commercial television station' shall not include low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto.

"(3) MARKET DETERMINATIONS.—(A) For purposes of this section, a broadcasting station's market shall be determined in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section. In considering such requests, the Commission may determine that particular communities are part of more than one television market.

"(B) In considering requests filed pursuant to subparagraph (A), the Commission shall afford particular attention to the value of localism by taking into account such factors as—

"(i) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;

"(ii) whether the television station provides coverage or other local service to such community;

"(iii) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

"(iv) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.

"(C) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this paragraph.

"(D) In the rulemaking proceeding required by subsection (e), the Commission shall provide for expedited consideration of requests filed under this subsection.".

SEC. 6. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614, as added by section 4, the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION.

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each cable operator shall carry, on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), a cable operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that a cable operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the cable operator shall carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the cable operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the cable operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such cable operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), a cable operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the cable operator shall import the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The cable operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) A cable operator of a system described in this paragraph which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990, shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were carried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular cable operator and a particular such station, upon the written consent of the cable operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—A cable operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so, subject to approval by franchising authority pursuant to section 611 of this title, by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—A cable operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by a cable operator shall not assert any network nonduplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that cable operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—A cable operator shall retransmit in its entirety the primary video, accompanying audio, and line 21 closed caption transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the cable operator.

"(2) BAND-WIDTH AND TECHNICAL QUALITY.—A cable operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with band-width and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by a cable operator unless the cable operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was assigned as of March 29, 1990, and (B) deletion of the station from the cable system. The notifications provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local noncommercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local noncommercial television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

"(i) PAYMENT FOR CARRIAGE PROHIBITED.—

"(1) IN GENERAL.—A cable operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal to the principal headend of the cable system.

"(2) DISTANT SIGNAL EXCEPTION.—Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station reimburses the cable operator for the incremental copyright costs assessed against such cable operator as a result of such carriage.

"(j) REMEDIES.—

"(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that a cable operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data, views, and arguments to establish that the cable operator has complied with the signal carriage requirements of this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the cable operator has complied with the requirements of this section. If the Commission determines that the cable operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the cable operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the cable operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) IDENTIFICATION OF SIGNALS.—A cable operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

"(ii) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) (47 U.S.C. 396(k)(6)(B)); or

"(B) is owned and operated by a municipality and transmits predominantly noncommercial programs for educational purposes.

Such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.".

SEC. 7. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may establish and enforce—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the subscriber (including standards governing bills and refunds).

"(c) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

"(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by this title.

"(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b). Nothing in this title shall be construed to prevent the establishment or enforcement of any municipal law or regulation, or any State law, concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section, or that addresses matters not addressed by the standards set by the Commission under this section.".

SEC. 8. CUSTOMER PRIVACY RIGHTS.

Section 631(a)(2) of the Communications Act of 1934 (47 U.S.C. 551(a)(2)) is amended to read as follows:

"(2) For purposes of this section, other than subsection (h)—

"(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

"(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

"(C) the term 'cable operator' includes, in addition to persons within the definition of cable operator in section 602, any person who (i) is owned or controlled by, or under common ownership or control with, a cable operator, and (ii) provides any wire or radio communications service.".

SEC. 9. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable system operators should use technologies that will prevent signal thefts while permitting consumers to benefit from such features and functions in such receivers and recorders.

"(b) COMPATIBLE INTERFACES.—Within 1 year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to the Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. The Commission shall issue such regulations as may be necessary to require the use of interfaces that assure such compatibility.

"(c) RULEMAKING REQUIRED.—

"(1) IN GENERAL.—Within 1 year after the date of submission of the report required by subsection (b), the Commission shall prescribe such regulations as are necessary to increase compatibility between television receivers equipped with premium functions and features, video cassette recorders, and cable systems.

"(2) FACTORS TO BE CONSIDERED.—In prescribing the regulations required by this subsection, the Commission shall consider—

"(A) the costs and benefits of requiring cable operators to adhere to technical standards for scrambling or encryption of video programming in a manner that will minimize interference with or nullification of the special functions of subscribers' television receivers or video cassette recorders, while providing effective protection against theft or unauthorized reception of cable service, including functions that permit the subscriber—

"(i) to watch a program on 1 channel while simultaneously using a video cassette recorder to tape a program on another channel;

"(ii) to use a video cassette recorder to tape 2 consecutive programs that appear on different channels; or

"(iii) to use advanced television picture generation and display features;

"(B) the potential for achieving economies of scale by requiring manufacturers of television receivers to incorporate technologies to achieve such compatibility in all television receivers;

"(C) the costs and benefits to consumers of imposing compatibility requirements on cable operators and television manufacturers; and

"(D) the need for cable operators to protect the integrity of the signals transmitted by the cable operator against theft or to protect such signals against unauthorized reception.

"(3) REGULATIONS REQUIRED.—The regulations prescribed by the Commission under this section shall include such regulations as are necessary—

"(A) to establish the technical requirements that permit a television receiver or video cassette recorder to be sold as 'cable ready';

"(B) to establish procedures by which manufacturers may certify television receivers that comply with the technical requirements established under subparagraph (A) of this paragraph in a manner that, at the point of sale is easily understood by potential purchasers of such receivers;

"(C) provide appropriate penalties for willful misrepresentations concerning such certifications;

"(D) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with cable systems, of converters and of remote control devices compatible with converters;

"(E) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(i) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(ii) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(F) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to regulations issued under subsection (c) and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.

"(e) FEASIBILITY AND COST.—The Commission shall adopt standards under this section that are technologically and economically feasible. In determining the feasibility of such standards, the Commission shall take into account the cost and benefit to cable subscribers and purchasers of television receivers of such standards.".

SEC. 10. NOTICE TO CABLE SUBSCRIBERS ON UNSOLICITED SEXUALLY EXPLICIT PROGRAMS.

Section 624(d) of the Communications Act of 1934 (47 U.S.C. 544(d) is amended by adding at the end the following new paragraph:

"(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge—

"(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge,

"(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge,

"(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked, and

"(iv) block the channel carrying the premium channel upon the request of a subscriber.

"(B) For the purpose of this section, the term 'premium channel' shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association as X, NR-17, or R.".

SEC. 11. TECHNICAL STANDARDS; EMERGENCY ANNOUNCEMENTS; PROGRAMMING CHANGES.

(a) TECHNICAL STANDARDS.—Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission shall update such standards periodically to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection."

(b) EMERGENCY ANNOUNCEMENTS.—Section 624 of such Act is further amended by adding at the end the following new subsection:

"(g) Notwithstanding any such rule, regulation, or order, each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations in subpart G of part 73, title 47, Code of Federal Regulations.".

(c) PROGRAMMING CHANGES.—Section 624 of such Act is further amended—

(1) in subsection (b)(1), by inserting ", except as provided in subsection (h)," after "but may not"; and

(2) by adding at the end the following new subsection:

"(h) A franchising authority may require a cable operator to do any one or more of the following:

"(1) to provide 30 days advance written notice of any change in channel assignment or in the

video programming service provided over any such channel;

"(2) to inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority.".

SEC. 12. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

"SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

"(a) PURPOSE.—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming to persons in rural and other areas not currently able to receive such service, and to spur the development of communications technologies.

"(b) PROHIBITION.—It shall be unlawful for a cable operator or a satellite cable programming vender in which a cable operator has an attributable interest in violation of any regulation prescribed under subsection (c) to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming to subscribers or consumers.

"(c) REGULATIONS REQUIRED.—

"(1) PROCEEDING REQUIRED.—Within 180 days after the enactment of this Act, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and the continuing development of communications technologies, prescribe regulations to specify the conduct that is prohibited by subsection (b).

"(2) MINIMUM CONTENTS OF REGULATIONS.—The regulations to be promulgated under this section shall—

"(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the price, terms, and conditions of sale of, satellite cable programming to any unaffiliated multichannel video programming distributor;

"(B) prohibit discrimination by a satellite cable programming vendor in which a cable operator has an attributable interest in the price, terms, and conditions in the sale or delivery of satellite cable programming among or between cable systems, cable operators, or their agents or buying groups, or other multichannel video programming distributors; except that such a satellite cable programming vendor in which a cable operator has an attributable interest shall not be prohibited from—

"(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

"(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming;

"(iii) establishing different price, terms, and conditions which take into account reasonable volume discounts based on the number of subscribers served by the distributor; or

"(iv) entering into an exclusive contract that is permitted under subparagraph (D);

"(C) prohibit practices, understandings, arrangements, or activities, including exclusive contracts for satellite cable programming between a cable operator and a cable satellite programming vendor, which prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

"(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

"(3) GEOGRAPHIC LIMITATIONS.—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution. Nothing in this section shall apply to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite, and shall not apply to any internal satellite communication of any broadcast network or cable network, except that satellite broadcast programming shall be subject to the requirements of this section.

"(4) PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

"(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

"(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

"(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

"(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

"(E) the duration of the exclusive contract.

"(5) SUNSET PROVISION.—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this Act.

"(d) ADJUDICATORY PROCEEDING.—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of this section, or the implementing regulations of the Commission under this section, may commence an adjudicatory proceeding at the Commission.

"(e) REMEDIES FOR VIOLATIONS.—

"(1) REMEDIES AUTHORIZED.—Upon completion of such adjudicatory proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish price, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

"(2) ADDITIONAL REMEDIES.—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

"(f) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data, including the right to obtain copies of all contracts and documents reflecting arrangements and understandings alleged to violate this section, as the Commission requires to carry out this section; and

"(3) provide for any penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(g) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

"(1) IN GENERAL.—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

"(2) LIMITATION ON RENEWALS.—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1) of this subsection.

"(i) APPLICABILITY OF ANTITRUST LAWS; NO ANTITRUST IMMUNITY.—Nothing in this section shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"(j) DEFINITIONS.—As used in this section:

"(1) The term 'satellite cable programming vendor' means a person engaged in the production, creation, or wholesale distribution of a satellite cable programming service for sale.

"(2) The terms 'cable system', 'multichannel video programming distributor', and 'video programming' have the meanings to provide under section 602 of this Act.

"(3) The term 'satellite cable programming' has the meaning provided under section 705 of the Act.

"(4) The term 'satellite broadcast programming' means broadcast programming, other than programming of an affiliate of a national network, when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster.".

SEC. 13. REGULATION OF CARRIAGE AGREEMENTS.

Part II of title VI of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS.—Within one year after the date of enactment of this section, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators or other multichannel video programming distributors and video programming vendors. Such regulations shall—

"(1) include provisions designed to prevent a cable operator or other multichannel video programming distributor from requiring a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) include provisions designed to prohibit a cable operator or other multichannel video programming distributor from coercing a video programming vendor to provide, and from retaliating against such a vendor for failing to provide, exclusive rights against other multichannel video programming distributors as a condition of carriage on a system;

"(3) contain provisions designed to prevent a multichannel video programming distributor from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaf-

filiated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors;

"(4) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(5) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(6) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(b) DEFINITION.—As used in this section, the term 'video programming vendor' means a person engaged in the production, creation, or wholesale distribution of a video programming service for sale."

SEC. 14. EQUAL EMPLOYMENT OPPORTUNITY.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) despite the existence of regulations governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable television and broadcast industries;

"(2) increased numbers of females and minorities in positions of management authority in the cable television and broadcast industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

"(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

"(b) STANDARDS.—Section 634(d)(1) of the Communication Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, of this section, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3) of this subsection.".

"(c) CONTENTS OF ANNUAL STATISTICAL REPORTS.—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission on annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

"(i) Corporate officers.

"(ii) General Manager.

"(iii) Chief Technician.

"(iv) Comptroller.

"(v) General Sales Manager.

"(vi) Production Manager.

"(vii) Managers.

"(viii) Professionals.

"(ix) Technicians.

"(x) Sales.

"(xi) Office and Clerical.

"(xii) Skilled Craftspersons.

"(xiii) Semiskilled Operatives.

"(xiv) Unskilled Laborers.

"(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define job categories (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and that have supervisory authority are reported for such categories. The Commission shall adopt rules that define job categories (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in job categories (i) through (x) and the number of minorities and women in job categories (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section.".

(d) PENALTIES.—Section 634(f)(2) of such Act is amended by striking "$200" and inserting "$500".

(e) APPLICATION OF REQUIREMENTS.—Section 634(h)(1) of such Act is further amended by inserting before the period the following: "and any multichannel video programming distributor".

(f) STUDY AND REPORT REQUIRED.—Not later than 240 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of its procedures, regulations, policies, standards, and guidelines concerning equal employment opportunity in the broadcasting industry. In conducting such review, the Commission shall consider the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of such procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. In conducting such proceeding the Commission also shall review the effectiveness of penalties and remedies for violation of existing regulations and policies concerning equality of employment opportunity in the broadcasting industry. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting industry as it deems necessary.

(g) BROADCASTING EQUAL EMPLOYMENT OPPORTUNITY.—Part II of title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section.

"SEC. 617. EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS OF MUST-CARRY STATIONS.

"(a) APPLICATION OF SECTION.—This section shall apply to—

"(1) the licensee for any television broadcasting station that is eligible for carriage under section 614 or 615; and

"(2) any corporation, partnership, association, joint-stock company, trust, or affiliate or subsidiary thereof engaged primarily in the management or operation of any such licensee.

"(b) EQUAL EMPLOYMENT OPPORTUNITY REQUIRED.—Equal opportunity in employment shall be afforded by each entity specified in subsection (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

"(c) EMPLOYMENT POLICIES AND PRACTICES REQUIRED.—Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices and to promote the hiring of a workforce that reflects the diversity of its community. Under the terms of its programs, such entity shall—

"(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

"(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

"(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

"(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

"(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

"(d) COMMISSION RULES REQUIRED.—

"(1) DEADLINE FOR RULES.—Not later than 270 days after the date of enactment of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section.

"(2) CONTENT OF RULES.—Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible—

"(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

"(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, on an ongoing basis as a potential source of referrals for whenever jobs may become available;

"(C) evaluate its employment profile and job turnover against the availability of minorities and women in its service area;

"(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

"(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

"(F) analyze the results of its efforts to recruit, hire, promote, and use the service of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

"(3) REPORTS REQUIRED.—Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories—

"(A) Corporate officers.

"(B) General Manager.

"(C) Chief Technician.

"(D) Comptroller.

"(E) General Sales Manager.

"(F) Production Manager.

"(G) Managers.

"(H) Professionals.

"(I) Technicians.

"(J) Sales.

"(K) Office and Clerical.

"(L) Skilled Craftspersons.

"(M) Semiskilled Operatives.

"(N) Unskilled Laborers.

"(O) Service Workers.

"(4) ADDITIONAL CONTENTS OF REPORTS.—In addition, such report shall state the number of job openings occurring during the course of the year and (A) shall certify that the openings were filled in accordance with the program required by subsection (c), or (B) shall contain a statement providing reasons for not filling such positions in accordance with such program. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.

"(5) RULES AMENDMENTS.—The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

"(e) ENFORCEMENT.—

"(1) ANNUAL CERTIFICATION.—On an annual basis, the Commission shall certify each entity described in subsection (a) as in compliance with this section if, on the basis of information in the possession of the Commission, including the report filed pursuant to subsection (d)(3), such entity was in compliance, during the annual period involved, with the requirements of subsections (b), (c), and (d).

"(2) LICENSE RENEWAL REVIEWS.—The Commission shall, at the time of license renewal, review the employment practices of each entity described in subsection (a), in the aggregate, as well as in individual job categories, and determine whether such entity is in compliance with the requirements of subsections (b), (c), and (d), including whether such entity's employment practices deny or abridge minorities and women equal opportunities. As part of such investigation, the Commission shall review whether the entity's reports filed pursuant to subsection (d)(3) accurately reflect employee responsibilities in the reported job classifications and accurately reflect compliance with the equal employment opportunity plan in filing its annual reports.

"(f) COMPLAINTS.—Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The rules prescribed under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

"(g) PENALTIES.—

"(1) IN GENERAL.—Any person who is determined by the commission, through an investigation pursuant to subsection (e) or otherwise, to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty of $200 for each violation. Each day of continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues subsequent to such notification. In addition, any person liable for such penalty may also have any license under this Act conditioned, suspended, or revoked. Whoever knowingly makes any false statement or submits documentation which he knows to be false, pursuant to an application for certification under this section shall be in violation of this section.

"(2) ADDITIONAL REMEDIES.—The provisions of paragraphs (2)(D), (3), and (4), of section 503(b) shall apply to forfeitures under this subsection.

"(3) NOTICE OF PENALTIES.—The Commission shall provide for notice to the public of any penalty imposed under this section.

"(h) EFFECT ON OTHER LAWS.—Nothing in this section shall affect the authority of any State or local government—

"(1) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees; or

"(2) to establish or enforce any provision requiring or encouraging any entity specified in subsection (a) to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(i)(3)(C)(ii)) or which have their principal operations located within the local service area of such entity.".

SEC. 15. HOME WIRING.

Section 624 of the Communications Act of 1934 (47 U.S.C. 544) is amended by adding at the end the following new subsection:

"(i) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.".

SEC. 16. SALES OF CABLE SYSTEMS.

Part II of title VI of the Communications Act of 1934 is further amended by adding at the end thereof the following new section:

"SEC. 618. SALES OF CABLE SYSTEMS.

"(a) 3-YEAR HOLDING PERIOD REQUIRED.—Except as provided in this section, no cable operator may sell or otherwise transfer ownership in a cable system within a 36-month period following either the acquisition or initial construction of such system by such operator.

"(b) TREATMENT OF MULTIPLE TRANSFERS.—In the case of a sale of multiple systems, if the terms of the sale require the buyer to subsequently transfer ownership of one or more such systems to one or more third parties, such transfers shall be considered a part of the initial transaction.

"(c) EXCEPTIONS.—Subsection (a) of this section shall not apply to—

"(1) any transfer of ownership interest in any cable system which is not subject to Federal income tax liability;

"(2) any sale required by operation of any law or any act of any Federal agency, any State or political subdivision thereof, or any franchising authority; or

"(3) any sale, assignment, or transfer, to one or more purchasers, assignees, or transferees controlled by, controlling, or under common control with, the seller, assignor, or transferor.

"(d) WAIVER AUTHORITY.—The Commission may, consistent with the public interest, waive the requirement of subsection (a), except that, if the franchise requires franchise authority approval of a transfer, the Commission shall not waive such requirements unless the franchise authority has approved the transfer.

"(e) LIMITATION ON DURATION OF FRANCHISING AUTHORITY POWER TO DISAPPROVE TRANSFERS.—In the case of any sale or transfer of ownership of any cable system after the 36-month period following acquisition of such system, a franchising authority shall, if the franchise requires franchising authority approval of a sale or transfer, have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the franchising authority agree to an extension of time.".

SEC. 17. LIMITATION ON FRANCHISING AUTHORITY LIABILITY.

(a) AMENDMENT.—Part IV of title VI of the Communications Act of 1934 is amended by inserting after section 635 (47 U.S.C. 555) the following new section:

"SEC. 635A. LIMITATION OF FRANCHISING AUTHORITY LIABILITY.

"(a) SUITS FOR DAMAGES PROHIBITED.—In any court proceeding pending on or initiated after the date of enactment of this section involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

"(b) EXCEPTION FOR COMPLETED CASES.—The limitation contained in subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator's rights.

"(c) DISCRIMINATION CLAIMS PERMITTED.—Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity.".

(b) CONFORMING AMENDMENT.—Section 635(b) of the Communications Act of 1934 (47 U.S.C. 555(b)) is amended by inserting "and with the provisions of section 635(a)" after "subsection (a)".

SEC. 18. CABLE CHANNELS FOR COMMERCIAL USE.

(a) RATES, TERMS, AND CONDITIONS.—Section 612(c) of the Communications Act of 1934 (47 U.S.C. 532(c)) is amended—

(1) in paragraph (1), by striking "consistent with the purpose of this section" and inserting "consistent with regulations prescribed by the Commission under paragraph (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Commission shall, not later than 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, by regulation establish—

"(A) a formula to determine the maximum rates which a cable operator may establish under paragraph (1) of this subsection;

"(B) standards concerning the terms and conditions which may be so established;

"(C) standards concerning methods for collection and billing for commercial use of channel capacity made available under this section; and

"(D) procedures for the expedited resolution of disputes concerning rates or carriage under this section.".

(b) ACCESS FOR QUALITY MINORITY PROGRAMMING SOURCES AND QUALIFIED EDUCATIONAL PROGRAMMING SOURCES.—Section 612 of such Act is further amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming or educational programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes significantly all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(i)(3)(C)(ii) of this Act.

"(3) For purposes of this subsection, the term 'qualified educational programming source' means a programming source which devotes significantly all of its programming to educational or instructional programming of such a nature that it promotes public understanding of mathematics, the sciences, the humanities, and the arts and has a documented annual expenditure on programming exceeding $15,000,000. Programming expenditures shall mean all annual costs incurred by the channel originator to produce or acquire programs which are scheduled to appear on air, and shall specifically exclude marketing, promotion, satellite transmission and operational costs, and general administrative costs. Nothing in this subsection shall substitute for the requirements to carry qualified noncommercial educational television stations as specified under section 615.".

SEC. 19. CABLE FOREIGN OWNERSHIP RESTRICTIONS.

(a) FINDINGS.—The Congress finds that—

(1) restrictions on alien or foreign ownership of broadcasting and common carriers first were enacted by Congress in the Radio Act of 1912;

(2) cable television service currently is available to more than 90 percent of American households, more than 62 percent of American households subscribe to such services, and the majority of viewers rely on cable as the conduit through which they receive terrestrial broadcast signals;

(3) many Americans receive a significant portion of their daily news, information, and entertainment programming from cable television systems, and such systems should not be controlled by foreign entities; and

(4) the policy justifications underlying restrictions on alien ownership of broadcast or common carrier licenses have equal application to alien ownership of cable television systems, direct broadcast satellite systems, and multipoint distribution services.

(b) AMENDMENT TO COMMUNICATIONS ACT.—Section 310(b) of the Communications Act of 1934 (47 U.S.C. 310(b)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following new paragraphs:

"(2)(A) No cable system (as such term is defined in section 602) in the United States shall be owned or otherwise controlled by any alien, representative, or corporation described in subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection.

"(B) Subparagraph (A) of this paragraph shall not be applied—

"(i) to require any such alien, representative, or corporation to sell or dispose of any ownership interest held or contracted for on or before June 1, 1990, or acquired in accordance with clause (ii); or

"(ii) to prohibit any such alien, representative, or corporation that owns, has contracted on or before June 1, 1990, to acquire ownership, or otherwise controls, any cable system from acquiring ownership or control of additional cable systems if the total number of households passed by all the cable systems that such alien, representative, or corporation would, as a result of such acquisition, own or control does not exceed 2,000,000.

"(3)(A) For purposes of paragraph (1) of this subsection, a license or authorization for any of the following services shall be deemed to be a broadcast station license:

"(i) cable auxiliary relay services;

"(ii) multipoint distribution services;

"(iii) direct broadcast satellite services; and

"(iv) other services the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(B) Subparagraph (A) of this paragraph shall not be applied to any cable operator to the extent that such operator is eligible for the exemptions contained in subparagraph (B) of paragraph (2).".

SEC. 20. THEFT OF CABLE SERVICE.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "$50,000" and inserting "$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

(2) by adding at the end thereof the following new paragraph:

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

SEC. 21. STUDIES.

(a) STUDY OF VIDEO PROGRAMMING DIVERSITY AND COMPETITION.—

(1) COMMISSION STUDY AND RULEMAKING.—The Commission shall conduct a rulemaking proceeding to review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for video programming. In conducting such proceeding, the Commission—

(A) shall consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributions may engage in the creation or production of such programming; and

(B) shall impose limitations on the proportion of the market, at any stage in the distribution of video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

(2) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission shall continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.

(3) PROCEEDING REQUIRED TO REVIEW DBS RESPONSIBILITIES.—The Federal Communications Commission shall, within 180 days after the date of enactment of this Act, initiate a rulemaking proceeding to impose, with respect to any direct broadcast satellite system that is not regulated as a common carrier under title II of the Communications Act of 1934, public interest or other requirements on direct broadcast satellite systems providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) of the Communications Act of 1934 and the use of facilities requirements of section 315 of such Act to direct broadcast satellite systems providing video programming. Such proceeding also shall examine the opportunities that the establishment of such systems provide for the principle of localism under such Act, and the methods by which such principle may be served through technological and other developments in, or regulation of, such systems.

(4) PUBLIC SERVICE USE REQUIREMENTS.—The Federal Communications Commission shall require, as a condition of any initial authorization, or renewal thereof, for a direct broadcast satellite service providing video programming, that the provider of such service reserve not less than 4 percent or more than 7 percent of the channel capacity of such service exclusively for noncommercial public service uses. A provider of direct broadcast satellite service may use any unused channel capacity designated pursuant to this paragraph until the use of such channel capacity is obtained, pursuant to a written agreement, for public service use. The direct broadcast satellite service provider may recover only the direct costs of transmitting public service programming on the channels reserved under this subsection.

(5) STUDY PANEL.—There is established a study panel which shall be comprised of a representative of the Corporation for Public Broadcasting, the National Telecommunications and Information Administration, and the Office of Technology Assessment selected by the head of each such entity. Such study panel shall within 2 years after the date of enactment of this Act, submit a report to the Congress containing recommendations on—

(A) methods and strategies for promoting the development of programming for transmission over the public use channels reserved pursuant to paragraph (4)(A);

(B) methods and criteria for selecting programming for such channels that avoids conflicts of interest and the exercise of editorial control by the direct broadcast satellite service provider; and

(C) identifying existing and potential sources of funding for administrative and production costs for such public use programming.

(6) DEFINITIONS.—As used in this subsection—

(A) the term "direct broadcast satellite systems" includes (i) satellite systems licensed under Part 100 of the Federal Communications Commission's rules, and (ii) high power Ku-band fixed service satellite systems providing video service directly to the home and licensed under Part 25 of the Federal Communications Commission's rules; and

(B) the term "public service uses" includes—

(i) programming produced by public telecommunications entities, including programming furnished to such entities by independent production services;

(ii) programming produced by public or private educational institutions or entities for educational, instructional, or cultural purposes; and

(iii) programming produced by any entity to serve the disparate needs of specific communities of interest, including linguistically distinct groups, minority and ethnic groups, and other groups.

(b) SPORTS PROGRAMMING MIGRATION STUDY AND REPORT.—

(1) STUDY REQUIRED.—The Federal Communications Commission shall conduct an ongoing study on the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The study shall investigate and analyze, on a sport-by-sport basis, trends in the migration of such programming from carriage by broadcast stations to carriage over cable programming networks and pay-per-view systems, including the economic causes and the economic and social consequences for such trends.

(2) REPORT ON STUDY.—The Federal Communications Commission shall, on or before July 1, 1993, and July 1, 1994, submit an interim and a final report, respectively, on the results of the study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such reports shall include a statement of the results, on a sport-by-sport basis, of the analysis of the trends required by paragraph (1) and such legislative or regulatory recommendations as the Commission considers appropriate.

(3) ANALYSIS OF PRECLUSIVE CONTRACTS REQUIRED.—In conducting the study required by paragraph (1), the Commission shall analyze the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations. In conducting such analysis, the Commission shall consult with the Attorney General to determine whether and to what extent such preclusive contracts are prohibited by existing statutes. The report required by paragraph (2) shall include a separate statement of the results of the analysis required by this paragraph, together with such recommendations for legislation as the Commission considers necessary and appropriate. For purposes of the paragraph, the term "preclusive contract" includes any contract that prohibits—

(A) the live broadcast by a local television station of a sporting event of a local college team that is not carried, on a live basis, by any cable system within the local community served by such local television station; or

(B) the delayed broadcast by a local television station of a sporting event of a local college team that is not carried, on a live or delayed basis, by any cable system within the local community served by such local television station.

(c) PROCEEDING WITH RESPECT TO AREAS RECEIVING POOR OVER-THE-AIR SIGNALS.—The Federal Communications Commission shall initiate an inquiry and rulemaking to examine the feasibility of providing access to network and independent broadcasting station signals to persons who subscribe to direct broadcast satellite service and are unable to receive such signals (of grade B quality) over the air from a local licensee or from a cable system. In undertaking such rulemaking, the Commission shall take into consideration pertinent economic and technological factors, including the following:

(1) the extent to which individuals in rural, underserved areas are unable to receive broadcast television transmission; and

(2) potential ways in which operators of satellite-delivered programming services or the manufacturers or distributors of receiving equipment might enhance the ability of such persons to receive and readily access additional video programming, including without limitation, an electronic switching capability as a minimum feature on satellite television receiving equipment.

SEC. 22. ANTITRUST IMMUNITY.

Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law.

SEC. 23. EFFECTIVE DATE.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the enactment of this Act.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4850) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. MARKEY. Mr. Speaker, I move that the House insist upon its amendment to the Senate bill, S. 12 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts.

The motion was agreed to.

The SPEAKER pro tempore. The Chair will appoint conferees on tomorrow.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4850, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 12, CABLE TELEVISION CONSUMER PROTECTION AND COMPETITIVENESS ACT OF 1992

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendment to the Senate bill, the Clerk be authorized to correct section numbers, punctuation, spelling, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 4850.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I rise to inquire of our Republican colleagues who are handling the rule that is forthcoming whether they anticipate a recorded vote on the rule this evening.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for asking. I do not intend to ask for a vote on the rule, and I have heard no comment to the contrary.

Mr. BONIOR. Mr. Speaker, I thank my colleague.

PERSONAL EXPLANATION

Mr. KOPETSKI. Mr. Speaker, I had a medical emergency last night and this morning which prevented me from making the votes on rollcall Nos. 301, 302, 303, 304, and 305. If I had been present, I would have voted "nay" on rollcall No. 301, "aye" on rollcall No. 302, "nay" on rollcall No. 303, "nay" on rollcall No. 304, and "nay" on rollcall No. 305.

VOTING RIGHTS LANGUAGE ASSISTANCE ACT OF 1992

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 522 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 522

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4312) to amend the Voting Rights Act of 1965 with respect to bilingual election requirements. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(4) of rule XI are waived. After general debate, which shall be confined to the bill and which shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. No further amendment shall be in order unless printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 6 of rule XXIII prior to the beginning of consideration of the bill. Debate on each amendment to the committee amendment in the nature of a substitute, including any amendments thereto, may not exceed twenty minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

□ 2250

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, as we have heard read by the Clerk, House Resolution 522 is a modified open rule providing the consideration of H.R. 4312, the Voting Rights Language Assistance Act of 1992. The rule provides for 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

The rule makes in order the Judiciary Committee amendment in the nature of a substitute as an original bill for the purpose of amendment.

Only those amendments printed in the CONGRESSIONAL RECORD prior to today will be in order and will be debatable for 20 minutes each.

The resolution also waives clause 2(1)(4) of rule XI, requiring an inflation impact statement in the committee report, against consideration of the bill.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

H.R. 4312 amends section 203 of the Voting Rights Act of 1965 and reauthorizes it for 15 years. Section 203, which expires on August 6, provides for bilingual voting assistance in jurisdictions where a language minority is at least 10,000 persons or 5 percent of the population and is of limited-English proficiency.

Recognizing that language barriers to voting still exist, H.R. 4312 was introduced by the Hispanic caucus, and, under the excellent leadership of Chairmen BROOKS and EDWARDS of the Judiciary Committee, is before us today.

Mr. Speaker, the right to vote is so fundamental to our citizenship, so vital, that we as Members of Congress must make every effort to ensure that this right is a reality across the length and breadth of this great Nation.

Last month we approved legislation to increase voter participation. Today we have before us reauthorization of the bilingual language assistance section of the Voting Rights Act. Later we are scheduled to consider the Voting Rights Extension Act.

We have a responsibility to the people of America to remove as many barriers as possible to effective voter participation. The lack of proficiency in the English language is one such barrier which has been addressed in the Voting Rights Act since 1975 and should not be forgotten or ignored now. Bilingual voting assistance is still desperately needed.

Mr. QUILLEN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the gentleman from Missouri [Mr. WHEAT], has fully explained the provisions of this rule. While it is open, the rule does mandate that amendments be printed in the CONGRESSIONAL RECORD prior to consideration of the bill and limits debate to 20 minutes on each.

Madam Speaker, under current law, bilingual voting materials must be provided in States and political subdivisions where more than 5 percent of the voting-age citizens are members of a single language minority and are not proficient in English.

This legislation would extend current law for 15 years from August 6, 1992 when it expires. It would also expand it to include jurisdictions where more than 10,000, but less than 5 percent of the voting-age citizens are members of a single language minority and are not proficient in English. H.R. 4312 would treat Indian reservations as separate entities for purposes of determining whether political jurisdictions containing Indian lands must comply with the bill's requirements. Assistance provided would include printing additional information on ballots, notices, and forms and providing translators at polling places.

Madam Speaker, I would like to note that dissenting views were filed by some of the Republican members of the committee. They point out that there is no evidence that this law has been effective, and there is no evidence that it is needed. The administration, however, does support the bill. It would also support an amendment to increase from 10,000 to 20,000 the threshold at which bilingual voting assistance would be required.

Madam Speaker, I urge adoption of this rule.

Madam Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WHEAT. Madam Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Madam Speaker, I rise in support of the rule making in order the consideration of the bill H.R. 4312. As we will discuss at greater length in the Committee of the Whole, H.R. 4312 reauthorizes an important provision of the Voting Rights Act of 1965 providing for assistance to citizens who speak a language other than English.

The bill extends the language assistance section of the Voting Rights Act for 15 years. Currently, a jurisdiction must provide targeted voting assistance—including registration information, ballots and instructions—if 5 percent of its voting age citizens belong to a language minority and are not proficient in English.

I am pleased that the rule makes in order all amendments printed in the RECORD before the House begins consideration of H.R. 4312. I believe the Rules Committee has crafted a fair and workable rule for the consideration of this important bill, and I urge adoption of the rule.

Mr. WHEAT. Madam Speaker, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Madam Speaker, I rise in support of the rule. This legislation has worked well, it has brought many into the mainstream of American life, and has given those who because of matters beyond their control, like lack of an education, the ability to participate in the political process. I urge my colleagues to support the rule and the legislation.

Mr. WHEAT. Madam Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Madam Speaker, this is a very important piece of legislation.

I wish to express my strong support for the Voting Rights Improvement Act which expands bilingual voting assistance and affirms our country's historical commitment to dismantling the obstacles to voting.

As a Representative of New Mexico's Third Congressional District, which is 40 percent Anglo, 40 percent Hispanic, and 20 percent native American, I am well aware of barriers to the political process and the significance of bilingual voting materials in this process. Restrictions on bilingual voting materials are among a host of discriminatory practices—in education, housing, employment—which Hispanics, and other language minorities, continue to endure in this country.

It is essential for Congress to assert the right of all Americans to participate in the political process, regardless of their proficiency in English. Voter surveys have demonstrated that a significant percentage of Hispanics employ bilingual materials, when available. Exit polls in New Mexico, Texas, and California from 1984 to 1992 indicate that approximately 20 percent of Hispanics who were voting used bilingual ballots. In addition, an overwhelming percentage of Hispanic voters support bilingual voting materials. In one recent survey of Hispanic voters in Texas, 95 percent supported the continuation of printing bilingual ballots.

More importantly, the availability of bilingual voting assistance has coincided with a remarkable increase in the rate of voter participation among the Hispanic community. From 1980 to 1990, the rate of Hispanic citizens voting increased at a rate five times greater than the rest of the Nation. These figures reveal the significant role bilingual voting materials have played in the political empowerment of Hispanics.

This legislation also includes a much-needed measure for native Americans by basing eligibility for bilingual materials on the reservation, rather than county voting age population, thereby correcting an inequity which leaves many reservations ineligible for these materials. Without this correction, only 4 of over 500 native American tribes would be covered under existing bilingual voting assistance provisions. The alternative standard provided by this legislation reflects our commitment to the full participation of native Americans in the democratic process, as well as the preservation of native American languages which are among our Nation's cultural treasures.

Recently, a strong nativist movement has reemerged in our country. Numerous States have adopted English-only statutes and the English-only movement threatens to destroy many programs which provide vital services to non-English speakers. Just as literacy tests and poll taxes restricted minority access to the political process in past years, so do attempts to restrict bilingual voting materials. Bilingual voting materials do not divide us. Rather, they unite our Nation by bringing groups who have been the recipients of pervasive discrimination into the political arena, a process which joins millions of Americans.

For thousands of Hispanics, Native Americans, and Asian-Americans across the country, the right to vote in an informed manner remains at stake. Many Hispanics who use bilingual voting materials, especially those with low educational attainment and low incomes, have little other involvement in the political process. For these individuals, fair access to the voting process is all the more critical. I strongly support the Voting Rights Improvement Act and encourage its swift passage.

Mr. WHEAT. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 522 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4312.

□ 2255

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4312) to amend the Voting Rights Act of 1965 with respect to bilingual election requirements, with Mrs. UNSOELD in the chair.

The Clerk read the title of the bill.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. MICHEL was allowed to speak out of order.)

Mr. MICHEL. Madam Chairman, I have asked for this time that I might proceed for a moment to inquire of the distinguished majority leader how we intend to proceed for the balance of this evening and beginning tomorrow, so that Members will be better informed as to what the schedule is.

Mr. GEPHARDT. Madam Chairman, will the gentleman yield?

Mr. MICHEL. Yes, I am happy to yield to the distinguished gentleman from Missouri.

Mr. GEPHARDT. There will be no more votes this evening. The general debate will go forward on the Voting Rights Act which we just passed a rule for.

It would be our intention at 10 o'clock in the morning to go to the Voting Rights Act and try to finish it hopefully by 12:30, and then our hope is to go to the supplemental appropriations bill and try to finish it by 3 o'clock. We very much want Members to be done here by 3 o'clock.

Mr. MICHEL. I appreciate that. That will obviously require the cooperation of Members to do that. I think that seems to be the best way to proceed for the moment. We will I guess have to play it a bit by ear.

Mr. GEPHARDT. If everyone cooperates, we can finish both bills by 3 o'clock tomorrow.

Mr. MICHEL. Madam Chairman, I thank the distinguished majority leader.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS], will be recognized for 30 minutes and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Madam Chairman, in 1965, with President Johnson's signature on the Voting Rights Act, this Nation began to address the compelling need to protect one of the most fundamental attributes—and obligations—of citizenship: the right to vote. Similarly, the enactment 10 years later of section 203 of the act, the language assistance section, marked the beginning of the end of practices and procedures which, in a more subtle fashion, effectively excluded citizens of language minorities from participation in the electoral process. Just as the Voting Rights Act represents a fundamental commitment to preserve a fundamental right for all our citizens, section 203 constituted an equal commitment to affirmatively promote the exercise of that right—to ensure that all voices may be heard in the electoral process.

Section 203 has worked well for 17 years. The legislation before us today simply extends that section so that it will expire at the same time as the other provisions of the act and ensures that its targeted assistance is provided to communities where language barriers remain as an obstacle to participation in our democracy. The bill continues the practice of current law which provides local jurisdictions with maximum flexibility to balance the needs of minority language voters with those of efficient administration of the electoral system.

Because this important section will expire on August 6, the Judiciary Committee has moved the legislation swiftly to ensure that there is no gap in coverage—particularly during this crucial election year. I want to salute subcommittee Chairman Don Edwards for his strong and abiding leadership in this effort and in his constant vigilance in protecting the civil rights of all Americans.

There is no more important step we can take to preserve the American people's confidence in our Government than to support legislation which protects the right of all citizens to participate in our Nation's democratic system through exercise of the right to vote. Because this legislation furthers that goal, I strongly support it and ask all my colleagues for their support in this important effort.

Mr. MCCOLLUM. Madam Chairman, I yield myself such time as I may consume.

I rise to discuss this bill tonight for a few minutes.

Section 203 of the Voting Rights Act requires covered jurisdictions to provide multilingual assistance to voters. Proponents of H.R. 4312 wish to extend section 203 until the year 2007 and expand the number of jurisdictions subject to its provisions.

The purpose of enacting temporary provisions, such as section 203, is to allow the Congress to reexamine the effectiveness, use, and continued need for Federal action. The burden to justify the extension and broad expansion of section 203, therefore, rests on those who seek to extend this law for an additional 15 years. Based on the evidence presented to the Congress, it is highly doubtful, in my judgment, that this burden has been met.

Since the subcommittee first held hearings on this issue, we have repeatedly asked for reliable statistical evidence which shows that section 203 works. We have been looking for evidence that multilingual assistance has increased minority language voter participation in jurisdictions covered by section 203.

Unfortunately, we have not been able to find any such evidence. The information from the Census Bureau's current population survey indicates that rates of Hispanic voter participation have declined since the enactment of section 203, even relative to the overall decline in voter participation nationwide and even taking into consideration large increases in the number of Hispanics becoming citizens.

□ 2300

How can we justify extending a provision for 15 years and expanding its coverage when we do not know whether or not it works? We do not know whether section 203 has had any impact on minority language voting.

We also need to ask the question—do bilingual ballots stop voting discrimination? Under the U.S. Constitution, the States have primary authority to regulate elections. Congress can only intervene where there is a finding of discriminatory treatment or an unjustified restriction of the opportunity for citizens to vote.

In 1975, when the multilingual voting provisions were first considered, Assistant Attorney General for Civil Rights Stanley Pottinger testified before a congressional subcommittee:

> If a strong case were made of widespread deprivations of the right to vote of non-English-speaking persons * * * expansion of the special provisions of the act might be warranted. * * * In light of the other remedies available and in light of the stringent nature of the special provisions, the Department of Justice has concluded that the evidence does not require expansion based on the record before us.

There is no evidence that things have gotten worse since 1975. There is no evidence that there is widespread intentional use of English language ballots and voting materials to deprive citizens of their right to vote which would be remedied by the multilanguage assistance provisions of section 203. Therefore, the record, this year, appears to be less compelling in 1992 than it did in 1975 or 1982.

If anything, it seems that this bill is directed toward alleged discrimination in educational opportunities. If the problem we are trying to solve is in education—we should pass an education bill. Passing a 15-year extension of voting language assistance won't stop alleged discrimination in education and more important, it won't teach anyone English.

The assumption underlying this bill seems to be that once the number of non-English-speaking voters in a jurisdiction, for whatever reason, reaches a certain quantity, conducting elections in the English language becomes per se discriminatory, violating the 14th and 15th amendments. This assumption is quite extraordinary when one considers that most American political discourse is in English, that Americans of minority backgrounds strongly support English, and that our naturalization laws require a knowledge of English.

In addition to the lack of evidence of effectiveness and need, there is another reason why this proposal is troublesome. We all know that this Nation does not need to be further separated or fragmented along racial or ethnic lines. A Federal policy of multilingualism and ethnic separateness discourages our coming together as one people. By encouraging people to learn English, we encourage them to participate in a meaningful way in all aspects of this Nation's civic and social life. English, as our common language, is a unifying force and the federal government should not be discouraging its use.

In addition to extending section 203 for an additional 15 years—until the year 2007, H.R. 4312 will expand the number of jurisdictions subject to coverage by adopting an absolute population test of 10,000 voters and by covering native American reservations, if 5 percent of the population of the entire reservation is limited to English proficient. These new coverage tests will be extremely burdensome.

The 10,000 numerical trigger will require Los Angeles County, for example, to provide voting materials in six languages: Spanish, Chinese, Tagalog, Japanese, and Vietnamese. According to the Congressional Budget Office, Los Angeles County would have to endure a significant cost burden because its current election equipment cannot incorporate these additional languages.

While the administration supports reauthorizing section 203, it does not support the 10,000 voter trigger or the new Indian reservation formula. According to the Department of Justice, "lowering the trigger to 15,000 or 10,000 individuals would increase the number of jurisdictions required to provide language assistance without proportional increases in the number of individuals benefited by that assistance." Likewise, with respect to the Indian reservation formula, Attorney General John Dunne stated, "any effort to address [the Indian reservation situation] must target carefully those jurisdictions containing substantial numbers of native Americans who need language assistance." It is clear that the formulation as contained in the bill does not accomplish that task.

Under the 5 percent threshold, 18 jurisdictions are required to provide language assistance to 14,000 Indian voters. The new formula—as presently drafted—will add 59 new jurisdictions, but only cover an additional 4,900 voters. Over half of those new jurisdictions have fewer than 50 voters who will need assistance. Several of them have no native Americans who will need voting assistance, but they will still be covered under the act.

The new coverage formulas proposed by H.R. 4312, like those already found in section 203, are arbitrary and mechanical. They have no relationship to illegal discrimination and, as shown before in what I have said are burdensome and unworkable.

The intrusive nature of the bill is especially troubling when one considers that we have no data which tells us whether or not the language groups that will be covered in Los Angeles County or in other jurisdictions are already registering and voting. In addition, a number of these jurisdictions already provide bilingual voting assistance on a voluntary basis. How can we argue that they are discriminating against voters when they provide materials without a Federal mandate?

In conclusion, in the absence of evidence that multilingual ballots increase voter participation, in the absence of evidence of discrimination in voting, and with the certainty that our Nation is already being pulled apart and our divisive tendencies do not need to be further encouraged, serious doubts remain about the need to extend and expand section 203.

I will be offering two compromise amendments, which, if adopted will substantially address the concerns I have raised with respect to this bill. The first will extend section 203 for 5 years and require a study of effectiveness by the Bureau of the Census and the Department of Justice.

I do not believe that we need to extend this bill for another 15 years and that we certainly should not do it without a study to find out if it is working, the subject matter of what we are trying to do is working.

The second will require that jurisdictions subject to coverage under section 203 provide bilingual voting materials to citizens upon request. This amendment will reaffirm Congress' commitment that only citizens should vote and clarify, consistent with the Department of Justice regulations, that compliance with section 203 may be accomplished by targeting multilingual voting assistance to those who have the greatest need for such assistance.

It is surprising to me that, true, we do have jurisdictions in this country that are beginning to offer the opportunity to vote to noncitizens, and I certainly do not think we ought to be dictating the kind of voting requirements in this bill to those who are not citizens.

For those reasons, I have grave reservations about this bill, but I do have the amendments to offer.

Madam Chairman, I reserve the balance of my time.

Mr. BROOKS. Madam Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Madam Chairman, I yield 2 minutes to the gentlewoman from Florida, [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. I thank the gentleman for yielding time to me.

Madam Chairman, I urge my colleagues to support the voting rights improvement act, which will reauthorize and extend the federal requirement for bilingual ballots.

This important legislation will continue and improve section 203 of the Voting Rights Act which requires bilingual assistance in registering and voting. This requirement is scheduled to end next month. This bill will continue this section until the year 2007, the year the rest of the Voting Rights Act is scheduled to end.

Section 203 has ensured that language minority citizens, many of whom have resided in the United States for many years, are fully guaranteed the right to cast an independent, informed vote. It covers only those counties with a substantial language minority populations.

If this section is allowed to expire, minority language voters in 68 U.S. counties will have another barrier to overcome in participating in elections. Many of these voters are elderly American citizens who have contributed much to our Nation. By failing to continue this provision, they would be discouraged from participating in our system.

This bill will also improve the present section by expanding it to include many minority language communities which have previously not been covered, including such large areas as Los Angeles County and Cook County, IL. It will expand the present requirement that a county must provide bilingual assistance to voters if 5 percent of voting age citizens do not speak English well enough to make an informed vote. Under this bill, a county would also be covered if it has more than 10,000 voters who speak English poorly, that is, are classified as a single-language minority.

I can speak from personal experience, that bilingual ballots have been a major factor in opening the doors to many minority voters in south Florida who have registered for the first time. It has helped to open the doors to many who have fled tyranny to come to this Nation. It has permitted all of us to enjoy the fruits of participation in our democratic system.

I ask that you support this legislation which would help boost participation among many minority voters, who, in the past, have felt left out of our political system. That is why this bill has received the support of many nonpartisan organizations, as well as the support of both the administration, and Members of Congress in both parties. At a time when fewer Americans are participating in our political system, let us keep going forward, not backward, in this important area of voting rights.

□ 2310

Mr. McCOLLUM. Madam Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the committee.

Mr. SCHIFF. Madam Chairman, I thank the gentleman from Florida [Mr. McCOLLUM] for yielding this time to me, and, as a member of the Committee on the Judiciary, I appreciate his hard work on this bill and many other bills before the committee.

Madam Chairman, I rise in favor of H.R. 4312. In my adopted State of New Mexico; my native State is Illinois, but at the age of 21 I moved to New Mexico, and it is now my State, my adopted State of New Mexico; since I moved there in 1969, two individuals, Hispanic individuals, have been elected Governor of the State of New Mexico. Today in New Mexico the Governor is not Hispanic, however the Lieutenant Governor is Hispanic. The secretary of state is Hispanic. The speaker of the State house of representatives is Hispanic. The senate president pro tempore of the State senate is Hispanic. The chairman of the county commission for the county that surrounds the Albuquerque area is Hispanic. The mayor of Albuquerque is Hispanic.

Now in New Mexico we have bilingual ballots and bilingual voting materials in English and Spanish universally throughout the State. In every voting machine in the State of New Mexico, for each election, regardless of what city, or county or what neighborhood that voting is located in, the ballot position of office, the referenda, if there are any, the voting materials, are always available in English and Spanish.

Now I cannot prove precisely that the availability of voting materials universally in English and Spanish is the proof positive cause of our having so many Hispanic officials elected in the State of New Mexico. But I can suggest that, if the facts I have just related occurred in any other State which I am familiar, including my native State of Illinois, it would be national headlines: "Hispanic elected Governor," "Hispanic elected Lieutenant Governor," "Hispanic elected secretary of state" and so forth. We just do it, we do not think about it, and I suggest to my colleagues that suggests at least a correlation between language assistance and voting and greater participation in the electoral process, and since we do want greater participation of all our citizens in the electoral process, I urge the adoption of H.R. 4312.

Mr. McCOLLUM. Madam Chairman, I yield 7 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, I rise in opposition to H.R. 4312.

Madam Chairman, this legislation goes to the heart and soul of what America is all about, and I think it is really about time that some of us talked very frankly about this without fear of people calling each other names. There are a lot of people who believe in some of the things that I am going to say right now, but they have been afraid to say these things because they are afraid to be called racist, and I think that it is unfortunate that people of all religions and all faiths who love each other in a country like ours cannot be frank with one another because they are afraid that someone will relate this to some sort of malevolence in their heart, and I can assure my colleagues there is no malevolence in my heart toward anyone of any race or of any religion. Instead this is a heartfelt position, and I know it reflects that of a lot of other Americans of good will.

Madam Chairman, let us look at what America is all about and what this bilingual ballot, and bilingual education, and a bilingual America means.

What is America? America is a dream where people came here from every part of the world, from every race and every religion. They came here to this vast continent between two great oceans, and they came here from every ethnic background, speaking every language, from every race and religion. And they came here to live in peace and freedom and to use the opportunity that exists here and existed here that was available to all people to improve their lot, and to improve the lot of their families and to live in freedom.

There were two things that tied us together as a people. I am talking about the American people, all of those who came here. The two things that tied us together were, No. 1, a love of liberty, the love of the fundamental principles of freedom, and of dignity and decency for the individual. That kept us together as a people, and it kept us free.

But, yes, there was another factor that kept us together as a people and insured our freedom as a people, and that was that we were also tied together by the English language. Madam Chairman, my relatives did not speak English when they first came to America. Most people's relatives did not speak English when they came to America. They spoke many, many different languages, but they knew the importance of learning the English language. That had a lot to do, not only with the development of the United States of America and the protection of our freedom, but the fact that those individuals themselves were capable of enjoying the opportunity that existed in this great country.

Now throughout our history there have been few requirements as to being American. What an American meant was just anyone who came here who loved liberty and wanted to be part of this great experiment that God placed on this planet, that people who wanted to be together and live together in freedom could come here and enjoy this experiment. This experiment has been shown as an example and has been a hope for all mankind. Yes, there were a few requirements of being an American. We did not have a welfare system in those days, so self-sufficiency was a requirement, and, because we did not have a welfare system, anyone who wanted to be self-sufficient who could be was permitted to come to this country, and we had open doors. All they required was self-sufficiency, and they required a Pledge of Allegiance to our flag and to those principles of liberty that our Founding Fathers laid down, principles of liberty that were for all people, and they required a proficiency in English, and that was not a mistake.

Madam, Chairman, that was there because we knew to have one country, to have a country where opportunity for all was the order of the day, that we had to have a common language because it was an enabling language, not just for the people who came from England, but for the people who came from England, for the people who came here from Mexico, for the people who came here from France, the people who came here from every part of the world.

English has kept our Nation together, and I believe, I firmly believe, and I think many Americans of good will believe, that all official business in our country, Federal, State, or local, should be done in the English language. It was a mistake for our Federal Government to require State and local governments to print ballots in foreign languages in the first place. Command of the English language is a requirement for obtaining citizenship and for good reason. The English language binds us together as a nation, and separate language would divide us. If we require English proficiency as a requirement for citizenship, how is it we hear from proponents of this bill that printing ballots only in English is discrimination against non-English-speaking citizens? According to our naturalization laws, Madam Chairman, we should not even have non-English-speaking citizens. It is a requirement of becoming a citizen of this country.

The authors of this legislation are not content with simply perpetuating another mistake for another 15 years. They want to make it worse, and I think that tomorrow we will learn how; by lowering the threshold from a 5-percent requirement. They are changing the threshold from a 5-percent requirement, and that means 5 percent of the people speak another language, and they have to have a ballot in that language. Now we are going to lower it to 10,000. Not only is that bad for those individuals who are involved now who do not have the incentive to learn the language that they had before, but it almost makes it impossible for the process to work in some of the parts of our country.

□ 2320

In southern California we have had a massive influx of immigration and there are some problems with that. The illegal immigration part of it, the people involved with public services are destroying the social fabric of our country. They are destroying the social services because we cannot afford to take care of everybody in the world. We cannot afford to provide government services for everybody in the world who can make their way here.

But the people who are here legally, which is a whole other question, those people too have a right to become part of this system. They have every right as every other American to be treated as every other American, and part of that used to be learning to speak English. But if we try to print ballots in all of these languages, in southern California what that means is in some instances we will have six, seven, or eight languages required on the ballot. It will swamp the electoral process.

Madam Chairman, my amendment will be heard on the floor tomorrow that tries to handle that problem. I would ask Members to reject the whole idea of bilingualism and also to vote for my amendment tomorrow.

Mr. McCOLLUM. Madam Chairman, I reserve the balance of my time.

Mr. BROOKS. Madam Chairman, I reserve the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. EDWARDS of California) having assumed the Chair, Mrs. UNSOELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4312), to amend the Voting Rights Act of 1965 with respect to bilingual election requirements had come to no resolution thereon.

INTRODUCTION OF THE BANKRUPTCY JUDGESHIP ACT OF 1992

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, today I am introducing—along with Congressman HAMILTON FISH, the ranking minority member of the Judiciary Committee—legislation to authorize 32 additional bankruptcy judgeships.

Bankruptcy courts are an essential element of the Federal judiciary and the American economic system. Unfortunately, as clearly documented in a hearing in the Judiciary Committee's Subcommittee on Economic and Commercial Law earlier this year, extraordinary increases in bankruptcy filings over the past few years have overloaded—and in some cases overwhelmed—the courts.

In 1988, the year the most recent bankruptcy judgeship bill was enacted, 613,000 bankruptcy cases were filed nationwide. By 1991, that figure had soared to an estimated 944,000 cases—an increase of over 50 percent in just 3 years. This dramatic increase continued in the first 3 months of this year when more than 252,000 cases were filed—a pace that, if it persists, would result in more than 1 million filings for 1992.

The Brooks-Fish bill authorizing additional bankruptcy judgeships will relieve the staggering burden on the courts and help have these cases considered on a more timely basis—a move that would be of enormous benefit to debtors and creditors alike.

The case for additional bankruptcy judgeships is certainly compelling. But we cannot disregard another fact of life: The paucity of Federal funds that have resulted in immense Federal budget deficits. Each new judgeship, therefore, has been carefully targeted to assure the most efficient use of scant judicial resources. Every one of the judgeships authorized by the Brooks-Fish bill was recommended by the Judicial Conference of the United States after carefully weighing a number of factors, including the results of an objective new case-weighing analysis of the courts' workload.

Additionally, the Brooks-Fish bill enhances efficiency in the use of judicial resources by authorizing temporary judgeships—similar to the temporary judgeships authorized by law for article III courts—to avoid the permanent expense of bankruptcy judgeships that may well be unneeded as the economy recovers from the current recession. Seven of the thirty-two judgeships in the Brooks-Fish bill are designated as temporary and are, in effect, subject to a sunset provision. In each of the seven districts receiving a temporary judgeship, the first judgeship vacancy that occurs after 5 years and that results from the death, retirement, resignation, or removal of any judge in that district will not be filled. But, each individual appointed in a district that has a temporary judgeship will be eligible to serve a full 14-year term—and be eligible for reappointment to additional terms—the same as any other bankruptcy in any other district.

Mr. Speaker, this bill is carefully crafted, fiscally prudent, and urgently needed. I urge my colleagues to support it.

IN HONOR OF GEORGE ROEDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Madam Speaker, I rise today to honor Mr. George C. Roeding, Jr., for his many contributions to the Fremont area and our State of California over the past 91 years. He has been a pillar of community service and activism and will be recognized on Sunday, July 26, 1992, by the Washington Township Historical Society for his work.

George Roeding and his California Nursery have been a force behind much of the beautification and park expansion in the Alameda County area. He was one of the first five citizens to support the foundation of the city of Fremont, served on the recreation commission, and fought unsuccessfully to bring my district's campus of the California State College—now University—system to Fremont. In 1940, George also helped save the Alameda County Fairgrounds in Pleasanton from sale.

George is a strong advocate for good planning and beautification efforts; he even supplied the plants for landscaping around the California State Capitol in Sacramento and trees for that national treasure, Golden Gate Park. Many of his suggestions to the Governor for state highway beautification were incorporated into State policy years ago. The Vallejo Adobe on the nursery grounds is a national historical site and was for almost 30 years the home of annual flower shows that were a delight to behold.

Madam Speaker, I ask my colleagues to join the Washington Township Historical Society in celebrating a lifetime of service and dedication to neighbors and fellow citizens. Since 1917, the people of Fremont have been fortunate to have George Roeding as a friend and neighbor. I salute him and his significant contributions to our community.

BALANCED BUDGET ENFORCEMENT ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Madam Speaker, today I am introducing legislation that would establish a strong and rational legislative enforcement process for achieving a balanced budget by 1998.

Earlier this year, the House conducted a lengthy and emotional debate over a proposed constitutional amendment to require a balanced budget by 1998. That amendment failed. But a powerful and focused message came out of that debate from both supporters and opponents of the constitutional amendment. That message is that there is a strong desire in the Congress and among the American people for tough measures to bring about dramatic reductions in the deficit and, preferably, a balanced budget.

During the debate, I laid out some of the difficult choices that must be addressed if we are truly going to balance the budget. It now appears that those issues will be raised soon, for the first time, in the national political arena as well. In light of the debate on the constitutional amendment, it will be interesting to see the reactions of the public as well as the President and the Congress.

It is my view that no constitutional amendment will make it easier or more likely for elected leaders to face up to the tough choices. Therefore, I do not believe it makes sense to tinker with the Constitution and put unelected Federal judges into the position of making decisions about taxes and spending that the people's elected Representatives ought to be making.

What would be helpful, however, is a legislative mechanism that achieves the same goal as a constitutional amendment without raising the dangers associated with an amendment. Of course, such a mechanism would also have been necessary if the proposed amendment had been adopted and ratified.

During the period leading up to the House debate on the constitutional amendment, I introduced H.R. 5272, the Balanced Budget Enforcement Act of 1992. That legislation would have established a process leading to a balanced budget. It was designed to stand on its own, as a legislative means of balancing the budget, or as an implementing measure for a constitutional amendment.

During the debate on the amendment, I pledged, and the Speaker pledged, to bring to this floor either that bill or another bill establishing a process for reducing the deficit over the next several years.

Before the debate on the amendment even took place, I began meeting in bipartisan caucuses with the Democratic and Republican members of the Budget Committee to work on a balanced budget enforcement bill. We used H.R. 5272 as the basis for our discussions, but we considered a number of changes, based on concerns raised by both Democratic and Republican participants. We met nine times, beginning on May 28, with the last meeting taking place on July 22.

The bill I am introducing today is the product of those sessions.

Despite some differences, Budget Committee Democrats and Republicans had made a great deal of progress on some very difficult issues. But without bipartisan support, as everyone in this body is well aware, it is virtually impossible to face up to these issues.

The bill I am introducing today reflects a number of the changes discussed in the Budget Committee's bipartisan caucuses. It establishes a mechanism for achieving a balanced budget by fiscal year 1998, using a unified annual discretionary spending cap, entitlement and revenue targets, reconciliation, and sequestration as enforcement tools. It is a new approach in that it relies more heavily than past measures on the individual responsibility of congressional committees for achieving deficit reduction goals.

Like previous budget enforcement mechanisms, this measure seeks to pressure the President and the Congress to make the tough policy choices needed to achieve deficit reduction. And like those measures, it imposes across-the-board solutions when the regular budget, reconciliation, legislative, and appropriations processes fail.

Unlike those laws, however, it seeks to make sequestration as fair as possible, eliminating program exemptions and relying on a targeted freeze when it comes to comprehensive sequesters, and adding taxes to the mix in order to ensure that the wealthy bear a share of deficit reduction and that everyone has a stake in the success of deficit reduction legislation.

The bill would require a gradually increasing amount of deficit reduction each year, leading to a balanced budget by 1998. The President's budget, the annual concurrent resolution on the budget, and enacted legislation would be required to meet those targets. If the goals were not met by the enactment of specific spending cuts or tax increases, sequestration—across-the-board spending cuts and taxes—would be ordered.

In the case of discretionary spending, a breach of the annual cap would result in an across-the-board sequester of discretionary spending.

A separate sequester would apply for the combined category of entitlement spending and revenues. The type of sequester would depend on whether the President and Congress had agreed on deficit reduction priorities by enacting a bill incorporating the priorities established in the Congressional budget resolution.

If such a bill were enacted, a sequester would be imposed only on the entitlement programs, or revenues, within the jurisdiction of individual committees that did not meet their deficit reduction goals. The amount of the sequester would depend on how short the committee had come. In the case of revenues, a personal and corporate surtax would be imposed if revenues fell short.

If no bill signifying agreement between the President and Congress were enacted, there would be a comprehensive across-the-board sequester of entitlement spending and revenues based on a freeze formula. For revenues, the freeze would apply to income tax indexing and would be accompanied by a temporary rate increase for those with income over $250,000. This formula would produce about $4 in spending cuts for every $1 in increased revenues.

The bill also allows investment and growth initiatives to advance as long as they are paid for, a provision similar to the current budget process.

Madam Speaker, it is my hope that the committees with legislative jurisdiction over the bill will give it swift consideration and make sure that it comes before the full House in time to provide a real opportunity for action on the deficit this year.

A detailed explanation of the Balanced Budget Enforcement Act follows. I urge my colleagues to review it.

THE BALANCED BUDGET ENFORCEMENT ACT OF 1992

To achieve a balanced budget by 1998, the bill sets caps on discretionary spending and establishes entitlement/revenue deficit reduction requirements. The bill requires the President and Congress to meet those discretionary and entitlement/revenue savings requirements, and has automatic sequestration at the end of any session of Congress in which the requirements for the budget year are not fully met. To ensure that sound estimates are used by the President and Congress, the bill establishes a Board of Estimates to choose either OMB or CBO estimating assumptions and bill cost estimates.

(1) DEFICIT REDUCTION REQUIREMENTS

The bill sets required amounts of deficit reduction, which are in addition to the amounts required by the 1990 Budget Agreement, to reach a balanced budget by 1998. There are separate requirements for discretionary spending and for entitlements/revenues. Discretionary savings will be achieved by limiting appropriations to a single annual cap. The bill sets the required entitlement/revenue savings; how these savings will be achieved will be determined annually in the budget resolution. The Congress, for example, could choose to meet the targets solely through spending cuts. The deficit reduction amounts, as measured against the February 1992 current policy baseline, as well as the resulting interest savings (because the Government will have a smaller debt than if the policy savings had not occurred) are as follows:

[Savings in billions of dollars]

	1993	1994	1995	1996	1997	1998	Total
Discretionary	7	1	9	29	49	71	166
Entitlement/revenue	5	32	62	93	126	160	477
Debt service	*	2	5	12	23	39	82
Total	12	35	76	134	198	270	725

In 1993, the discretionary caps are set equal to the levels in the 1993 budget resolution. That is, the budget resolution already calls for the discretionary savings required in the bill for 1993; it cuts discretionary funding below the statutory caps set in the budget summit agreement. The bill also requires an additional $4.6 billion in entitlement/revenue savings in 1993 that was not reconciled in the budget resolution. Beginning in 1994, the additional deficit reduction amounts required each year (i.e. the increase in one year's requirements compared to the previous year's) represent a constant percent of GDP. Thus the annual impact relative to the economy is stable over the period.

This bill is not a repeat of GRH I and II, because it does not specify fixed deficit targets through 1997. Thus, if major fluctuations occur in the baseline deficit because, for instance, of a major reestimate in the timing of deposit insurance outlays and collections, the deficit reduction requirement is not altered in that year. The bill requires $35 billion in deficit reduction (including interest savings) for 1994 whether new estimates show the 1994 deficit to be higher or lower than currently projected.

If CBO's current projections prove too optimistic, the deficit reduction path specified in the bill will not achieve balance in 1998. Therefore, a fail-safe mechanism is included in the bill to ensure that the goal of a balanced budget is met in 1998. A projection will be made of the 1998 surplus or deficit assuming full compliance with the bill's basic deficit reduction requirements. If that projection shows a 1998 deficit rather than a balance or surplus, then the 1998 discretionary caps will be lowered and the 1998 entitlement/revenue savings requirements increased to eliminate that deficit. Although Congress can ultimately decide the distribution of these savings between discretionary programs and entitlements/revenues, the bill provides as a fallback that discretionary programs achieve one-third of the policy savings and entitlement/revenues the remaining two-thirds. The policy savings plus the attendant interest savings must eliminate the projected deficit. This process will also be used in 1999 and thereafter.

(2) USE OF SOUND ESTIMATES BY THE PRESIDENT AND CONGRESS

The bill establishes a Board of Estimates, whose members will be appointed by the President. The Board consists of the Chairman of the Federal Reserve and four private citizens, one each from lists made by the Speaker, the Minority Leader, and the Senate Majority and Minority Leaders. The Board is responsible for choosing either CBO's or OMB's major estimating assumptions, which must be used by the President and the Congress, and later the bill cost estimates. In addition, the bill requires CBO to provide bill cost estimates of unfunded mandates, consistent with a feature of the Financial Accountability, Impact, and Reform Act proposed by Rep. Moran.

At the beginning of the year, the Board will meet to choose the baseline and the major economic and technical assumptions to be used during the year. The assumptions are then locked in for the year; no updates or revisions are permitted. The Board makes its choice by selecting without change either all the calculations made by CBO or all the calculations made by OMB. The Board may not pick some of CBO's assumptions and others from OMB, nor may it make its own calculations. After Congress adjourns to end a session, the Board will meet to review the bill cost estimates made by CBO and those made by OMB and choose one set or the other (without modification). These bill cost estimates will then be used to measure compliance with the bill's deficit reduction requirements.

Although OMB and CBO are required to use the economic and major technical assumptions chosen by the Board in their subsequent calculations, that requirement does not by itself produce identical CBO and OMB bill cost estimates. Identical bill cost estimates are neither achievable nor desirable; each agency acts as a check on the other. However, this system is designed to accomplish three goals: (A) to have the most realistic assumptions used for establishing the presidential and congressional budgets; (B) to encourage OMB and CBO to converge rather than diverge in their initial estimates since a set of estimates that differs substantially from the mainstream is unlikely to be chosen; and (C) to have the deficit reduction requirements be the same for the President and the Congress.

Through 1997, by selecting the estimates of the deficit effects of enacted legislation, the board will determine the remaining deficit reduction needed each year to comply with the bill. Beginning in 1998, when the budget is required to be in balance, the baseline estimates chosen by the Board become more important. These estimates will show whether additional deficit reduction will be required to meet the goal of balance.

(3) SUBMITTING BALANCED BUDGETS

The bill requires that the President's budget use the assumptions chosen by the Board of Estimates, meet all discretionary caps and entitlement/revenue deficit reduction targets, achieve balance in 1998 and each year thereafter, and be voted on by Congress.

In addition, the bill requires that Congressional budget resolutions use the estimating assumptions chosen by the Board, meet all discretionary caps and entitlement/revenue deficit reduction targets, achieve balance in 1998 and each year thereafter.

(4) ENFORCEMENT

When faced with a deficit reduction requirement, Congress and President must work together to meet that requirement. Major disputes over philosophy, economic goals, and politics will make the negotiations and decisions within Congress and between the two branches contentious and difficult. The contention and strife, however, should eventually lead to resolution through the legislative process. But stalemate—a legislative inability to enact any law achieving the necessary deficit reduction—is a possibility. Therefore, this bill, like the three previous incarnations of the Balanced Budget and Emergency Deficit Reduction Act, includes sequestration as the ultimate deficit reduction vehicle.

Because the bill's deficit reduction requirements are divided between discretionary programs and entitlements/revenues, there is a separate sequester mechanism for each category as described below:

Discretionary.—Enforcement for discretionary programs is similar to existing law. In 1993, the Budget Enforcement Act sequestration rules are maintained—that is, the walls between the three categories (defense, international, and domestic) remain, but the budget authority and outlay caps for defense and international are lowered to the levels set in the 1993 budget resolution. Beginning in 1994, there will only be a single budget authority cap limiting appropriations. Failure to stay within the annual limit triggers an across-the-board reduction of all discretionary programs. That is, if a sequester is needed, discretionary budget authority is reduced across-the-board by a single, uniform percentage. There are no longer any "walls" separating defense, international, or domestic appropriations; all accounts are cut to achieve the required savings.

Further, there are no longer any exemptions (formerly, WIC was exempt) or limitations (formerly, Veterans medical care and some other medical programs were limited to a 2 percent cut under any sequestration). The President retains the option of partially or fully exempting any military personnel from sequestration, but if he uses that option, the additional amount that needs to be saved must come entirely from other defense spending.

The bill includes a special rule that designates transportation trust fund budget authority and outlays as discretionary. (Currently, the outlays are treated as discretionary and the budget authority, which represents contract authority, is treated as mandatory.) In addition, that special rule will allow a bill to raise excise taxes dedicated to the transportation trust funds and to appropriate an amount equal to the net tax increase. The budget authority caps would be raised accordingly to allow the extra spending.

The budget authority caps will be set at $515.7 billion in 1994 and each year thereafter. The caps will be adjusted each year for the following: changes in accounting concepts; changes in inflation; the amount of new budget authority needed to renew expiring multi-year subsidized housing contracts or to provide contracts to replace units lost due to prepayments; cap breaches in the current year (this replaces the current "within-session" sequester); and emergencies. In 1998, when balance is required, the caps could also be lowered to help achieve a balanced budget as required. In 1999 and thereafter, the caps will have to be set each year based on the estimate of the deficit or surplus.

Relying on a single budget authority cap has at least two advantages over the current system where the focus is on constraining outlays. First, it stops the President or Congress from assuming an unrealistic mix of appropriations that relies too heavily on slow-spending programs. Manipulating the mix of programs is not a way to control spending. Although it may reduce outlays in the near term, eventually the funds will be spent. Second, budget authority caps remove any possible advantage to the recent practice of "delayed obligations." The Appropriations Committee will be judged by how much it appropriates, not by how slowly it lets funds be spent.

Entitlements/Revenues.—The mechanism to enforce the entitlement/revenue deficit reduction requirements is more complicated, in part because there are two possible types of sequesters—targeted sequestration to enforce a budget reconciliation directive, or comprehensive sequestration. The type of sequestration applied in any year depends on whether a special law (the "spin-off bill," described below) is enacted codifying the reconciliation targets for each committee.

The entitlement/revenue deficit reduction priorities will be set each year through the annual budget process. The budget resolution (conference report) will include a reconciliation directive setting the dollar amount of deficit reduction to be achieved by each House committee through changes in entitlement and/or revenue law. Passage of the budget resolution will simultaneously generate a "spin-off bill" to be sent to the President stating those House committee deficit reduction targets. Enactment of the spin-off bill permits enforcement of the individual committee targets for direct spending and revenues. If a committee misses its entitlement target, all entitlement programs within that committee's jurisdiction will be sequestered by a uniform percentage to meet the target. If Ways and Means does not meet its revenue target, a uniform personal and corporate surtax will be imposed to meet that target (revenues cannot be used to meet the direct spending target).

If a spin-off bill is not enacted (and insufficient reconciliation savings are enacted), then a comprehensive sequestration formula will be applied. Under comprehensive sequestration, there will be a freeze of entitlement spending and some revenue provisions in the amount needed to hit the overall target for entitlement/revenue deficit reduction. The freeze formula will generate a percentage reduction in entitlement spending that will be applied uniformly at the program level to maintain equity among programs. For revenues, the freeze formula will be applied to tax indexing and annual income greater than $250,000. The income tax will be "de-indexed" by the amount of the uniform freeze percentage (except for the EITC), and the marginal tax rate of those making more than $250,000 will be increased by that percentage.

The freeze formula will produce about four dollars in spending cuts for every one dollar in revenue increases. The persuasiveness of the sequester threat lies not only in the undesirability of relying on a mechanical process, but also on how widespread the impact of a sequester would be felt. All should be required to share the burden of a failure to reach a compromise regarding deficit reduction. Only if revenues are included as part of a comprehensive sequester will there be an equitable distribution of the required reductions. In addition, the bill eliminates virtually all sequestration exemptions and limitations—including those for Social Security and other Federal retirement programs, Postal Service, veteran's programs, and low-income programs—for both the comprehensive and targeted sequester.

Clearly, enforcement through targeted sequestration (which requires enactment of the spin-off bill) is superior to the comprehensive sequestration formula for a number of reasons. First, it protects all the parties that agreed to the budget resolution from any major change in priorities. Second, it provides both a carrot and a stick when it comes to complying with the entitlement/revenue deficit reduction targets in the budget resolution. The committees are sequestered in their own home if they fail to meet their deficit reduction target (with no one else to share the burden of their failure); at the same time, if they do meet their target, they have bought sequestration insurance for their home. It protects the innocent and punishes the guilty, which is important for institutional equity among the major committees of Congress. The lack of this feature was a major flaw with GRH I and II. And finally, if one committee achieves more than enough deficit reduction, no other committee can use it; the result is lower deficits. Given the magnitude of the task, every extra bit helps.

Both the direct spending and the surtax sequestrations would be permanent, rather than one-year, changes in law. Since the amount of deficit reduction that is required grows significantly from one year to the next, the Government cannot afford to enforce this year's targets by one-year, temporary sequesters. The analogy is with reconciliation. Just as reconciliation savings must be permanent in order to ratchet down the deficit one year at a time, so must sequestration savings be permanent.

(5) OTHER FEATURES

The bill also includes the following other features:

Stabilization Reserve Fund.—The bill establishes a Stabilization Reserve Fund and requires that $10 billion be paid into the Fund in 1999 and $20 billion in each year thereafter. Because of that payment, the bill actually aims for a $10 billion surplus in 1999 and a $20 billion surplus each year thereafter. In addition, the Stabilization Reserve Fund will receive amounts equal to any actual surpluses that the Government runs. If the Government is provident enough to run surpluses during good economic times, then these surpluses can be transferred to the Treasury by enactment of a law during bad economic times, to help pay for the costs of a recession and to avoid depressing a weak economy. Thirty-four States specifically provide for such rainy day funds, and virtually every State achieves that result by putting the balances from the prior year on the books of the current year.

"De Minimis" Sequesters.—The bill sets a "de minimis" amount before sequestration can be triggered. In theory, this means that very small shortfalls in deficit reduction are not offset by sequestration. The de minimis amount is set for each of the different types of sequester.

Suspension of Requirements.—As with previous versions of budget enforcement legislation, this bill's deficit reduction requirements can be suspended in the event of a recession or war. Under current law, however, this is an all or nothing choice—all the deficit reduction requirements must be either suspended or retained. Under this bill, the deficit reduction requirements can be modified, such that any portion of the requirements can be suspended if Congress and the President agree.

Budget Act Changes.—The Congressional Budget Act is changed in ways to make it consistent with the requirements of this Act. Primarily, this requires making budget resolutions enforceable over five-year periods. That is current law, but that feature is due to expire at the end of 1995; this bill makes it permanent. Likewise, the definition of budget authority needs to be made complete in order for the control of appropriations through limits on budget authority (rather than outlays) to be fully effective. Finally, given that approach, Senate points of order that depend on spendout rates and other aspects that purely affect outlays are eliminated.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 60 minutes each day, on July 27 and 28.

Mrs. BENTLEY, for 5 minutes today, in lieu of previous 60 minutes approved.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. GLICKMAN, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BACCHUS for 60 minutes, on July 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. AUCOIN during debate on H.R. 5503 in the Committee of the Whole today.

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. RHODES in two instances.

Mr. SANTORUM.

Mr. HUNTER.

Mr. GUNDERSON.

Mr. DOOLITTLE.

Mr. GOODLING.

Mr. OXLEY.

Ms. MOLINARI.

Mr. VANDER JAGT.

Mr. BEREUTER in two instances.

Mr. BILIRAKIS.

Mr. EDWARDS.

Mr. SUNDQUIST in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. DINGELL.
Mr. MINETA.
Mr. ORTIZ.
Mr. NEAL of Massachusetts.
Mr. LANTOS.
Mr. VENTO.
Mr. BACCHUS.
Mr. MAVROULES.
Mr. WHEAT.
Mr. TRAFICANT in two instances.
Mr. LEHMAN of Florida.
Mr. SKELTON in two instances.
Mr. AUCOIN.
Mr. LEVINE of California.
Mr. TORRICELLI.
Mr. BROWN.
Mr. FORD of Michigan in four instances.
Mr. SPRATT.
Mr. COLEMAN of Texas.
Mr. KANJORSKI.
Mr. JOHNSON of South Dakota.
Mr. EARLY.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3007. An act to authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center; to the Committee on Education and Labor.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System; and

H.R. 5343. An act to make technical amendments to the Fair Packaging and Labeling Act with respect to its treatment of the SI metric system, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 249. An act for the relief of Trevor Henderson;

S. 992. An act to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, NV;

S. 2938. An act to authorize the Architect of the Capitol to acquire certain property; and

S.J. Res. 295. Joint resolution designating September 10, 1992, as "National DARE Day."

ADJOURNMENT

Mr. GONZALEZ. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 25 minutes) the House adjourned until tomorrow, Friday, July 24, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3956. A letter from the Comptroller General, the General Accounting Office, transmitting a report on the status of budget authority that was proposed for rescission by the President in the 4th through 101st special messages for fiscal year 1992, pursuant to 2 U.S.C. 685 (H. Doc. No. 102–364); to the Committee on Appropriations and ordered to be printed.

3957. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the U.S. Occupational Safety and Health Review Commission, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3958. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–239, "Temporary Panel of the Office of Employee Appeals Temporary Extension Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3959. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–240, "National Public Radio Revenue Bond and Real Property Tax Exemption Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3960. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–241, "National Learning Center Revenue Bond Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3961. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of the D.C. Act 9–242, "Howard University Revenue Bond Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3962. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–243, "Children's Hospital Revenue Bond Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3963. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–244, "Medlantic Healthcare Group Inc. Revenue Bond Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3964. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–245, "The Catholic University of America Revenue Bond Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3965. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–246, "Rental Housing Act of 1985 Elderly and Disabled Tenant Rental Housing Capital Improvement Relief Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3966. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–247, "Handgun Possession Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3967. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–248, "Uniform Controlled Substances Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3968. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–249, "Free Flow of Information Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3969. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Annual Report on the D.C. Depository Act for fiscal year 1990 and fiscal year 1991," pursuant to D.C. Code, section 47–117(d); to the Committee on the District of Columbia.

3970. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting copies of the original report of political contributions of John Cameron Monjo, of Maryland, to be Ambassador to the Islamic Republic of Pakistan; and of Harriet Isom, of Oregon, to be Ambassador to the Republic of Cameroon, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3971. A letter from the Inspector General, Department of Veterans Affairs, transmitting a correction to the semiannual report for the 6-month period ended March 31, 1992, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526, 2640); to the Committee on Government Operations.

3972. A letter from the Vice Chairman, Export-Import Bank of the United States, transmitting the 1991 management report, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Operations.

3973. A letter from the Farm Credit Bank of Baltimore, transmitting the annual pension plan report of the Farm Credit District of Baltimore Retirement Plan and Thrift Plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3974. A letter from the Deputy Executive Director, Federal Housing Finance Board, transmitting a copy of the actuarial and financial reports of the Federal Home Loan Bank System Pension Portability Plan for the years 1990 and 1991, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3975. A letter from the Seventh Farm Credit District, transmitting the annual pension plan report of the employees of the Seventh Farm Credit District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3976. A communication from the President of the United States, transmitting a draft of proposed legislation to designate certain lands in the State of Oregon as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

3977. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's annual report on the implementation of the Foreign Service Act of 1980, pursuant to 22 U.S.C. 4173; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3978. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the termination of the designation as a danger pay location for all areas in El Salvador, pursuant to 5

U.S.C. 5928; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3979. A letter from the Secretary of Commerce, transmitting the Secretary's annual report for fiscal year 1991; jointly, to the Committee on Energy and Commerce, Ways and Means, Government Operations, the Judiciary, Science, Space, and Technology, Post Office and Civil Service, Banking Finance and Urban Affairs, Foreign Affairs, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calender, as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5291. A bill to provide for the temporary use of certain lands in the city of South Gate, CA, for elementary school purposes; with an amendment (Rept. 102–689). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 5056. A bill to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; with amendments (Rept. 102–690). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 4323. A bill to improve education for all students by restructuring the education system in the States; with an amendment (Rept. 102–691). Referred to the Committee on the Whole House on the State of the Union.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3956. A bill to amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the act, and to improve enforcement, and for other purposes; with an amendment (Rept. 102–692). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1168. A bill to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances (Rept. 102–693). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5636. A bill to amend the Internal Revenue Code of 1986 to ensure that charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts (Rept. 102–694). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5637. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain buildings under the rehabilitation credit, and for other purposes (Rept. 102–695). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5638. A bill to amend the Internal Revenue Code of 1986 to permit losses on sales of certain prior principal residences to offset gain on a subsequent sale of a principal residence (Rept. 102–696). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5639. A bill to permit tax-exempt bonds to be issued to finance office buildings for the United Nations (Rept. 102–697). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5640. A bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions (Rept. 102–698). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5642. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain property and casualty insurance companies under the minimum tax, and for other purposes (Rept. 102–699). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5645. A bill to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes (Rept. 102–700). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5651. A bill to provide for the payment of retirement and survivor annuities to certain ex-spouses of employees of the Central Intelligence Agency and to provide for the tax treatment of certain disability benefits. (Rept. 102–701, Pt. 1). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5653. A bill to amend the Internal Revenue Code of 1986 to exempt the full amount of bonds issued for government-owned, high-speed intercity rail facilities from the State volume cap on private activity bonds and to require reporting of certain income and real property taxes (Rept. No. 102–702). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5660. A bill to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business, and for other purposes (Rept. 102–703). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 2694. A bill to amend title 11, District of Columbia Code, to remove gender-specific references (Rept. 102–704). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5622. A bill to authorize an additional Federal contribution to the District of Columbia for fiscal year 1993 for youth and anticrime initiatives in the District of Columbia (Rept. 102–705). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5623. A bill to waive the period of congressional review for certain District of Columbia acts (Rept. 102–706). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONIOR: Committee on Rules. House Resolution 527. Resolution providing for the consideration of the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes. (Rept. 102–707). Referred to the House Calendar.

Mr. NATCHER: Committee on Appropriations. H.R. 5677. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes. (Rept. 102–708). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 5678. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes. (Rept. 102–709). Referred to the Committee of the Whole House on the State of the Union.

Mr. TRAXLER: Committee on Appropriations. H.R. 5679. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes. (Rept. 102–710). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 918. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; with an amendment, referred to the Committee on Agriculture for a period ending not later than September 11, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X. (Rept. 102–711, Pt.1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4731. Referral to the Committee on Energy and Commerce extended for a period ending not later than August 7, 1992.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VANDER JAGT (for himself and Mr. THOMAS of California):

H.R. 5674. A bill to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes; to the Committee on Ways and Means.

By Mr. ANTHONY:

H.R. 5675. A bill to amend the Internal Revenue Code of 1986 to permit regulations waiving yield restrictions on tax-exempt bond arbitrage if the arbitrage rebate requirements are met; to the Committee on Ways and Means.

By Mr. PANETTA (for himself, Mr. STENHOLM, Mr. BEILENSON, Mr. PEASE, Mr. WISE, Mr. SPRATT, Mr. OBERSTAR, Mr. PAYNE of Virginia, Mr. ESPY, Mr. COOPER, Mr. SKAGGS, Mr. PENNY, Mr. SLATTERY, Mr. HUGHES, Mr. VISCLOSKY, and Mr. MORAN):

H.R. 5676. A bill to achieve a balanced Federal budget for fiscal year 1998 and each year thereafter, achieve significant deficit reduction in fiscal year 1993 and each year through 1998, establish a Board of Estimates, require the President's budget and the congressional budget process to meet specified deficit reduction and balance requirements, enforce those requirements through a multiyear congressional budget process and, if necessary, sequestration, and for other purposes; jointly, to the Committees on Government Operations, Rules, and Ways and Means.

By Mr. NATCHER:

H.R. 5677. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

By Mr. SMITH of Iowa:

H.R. 5678. A bill making appropriations for the Departments of Commerce, Justice, and State, and Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

By Mr. TRAXLER:

H.R. 5679. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes.

By Mr. ACKERMAN (for himself, Mr. BORSKI, Mr. BROWN, Mr. FLAKE, Mr. HOCHBRUECKNER, Mr. LANTOS, and Mr. RINALDO):

H.R. 5680. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture.

By Mr. ATKINS (for himself, Mr. ENGEL, Mr. DONNELLY, Mr. MARKEY, Mr. FRANK of Massachusetts, Mr. KENNEDY, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. STUDDS, Mr. MFUME, Mr. BORSKI, Ms. KAPTUR, and Mr. BLACKWELL):

H.R. 5681. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself, Mr. FOGLIETTA, and Mr. PALLONE):

H.R. 5682. A bill to provide more effective protection for marine mammals; jointly, to the Committees on Merchant Marine and Fisheries and Agriculture.

By Mr. DEFAZIO (for himself and Mr. AUCOIN):

H.R. 5683. A bill to authorize land consolidation and a recreational facility in the Willamette National Forest, OR; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. GLICKMAN:

H.R. 5684. A bill to require the Secretary of Transportation to require passenger and freight trains to install and use certain lights for purposes of safety; to the Committee on Energy and Commerce.

By Mr. MURPHY:

H.R. 5685. A bill to prevent States from reducing unemployment compensation benefits by certain remuneration for services in the military reserves; to the Committee on Ways and Means.

By Mr. RHODES (for himself, Mr. AUCOIN, and Mr. BEREUTER):

H.R. 5686. A bill to make technical amendments to certain Federal Indian statutes; to the Committee on Interior and Insular Affairs.

By Mr. SHAYS (for himself and Mr. MFUME):

H.R. 5687. A bill to amend title I of the Housing and Community Development Act of 1974 to establish an economic development block grant program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS (for himself and Mr. FISH):

H.R. 5688. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. OLVER:

H. Res. 525. Resolution relating to the privileges of the House; considered and withdrawn.

By Mr. WALKER:

H. Res. 526. Resolution relating to the privileges of the House; laid on the table.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

503. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the shipment of solid waste; to the Committee on Energy and Commerce.

504. Also, memorial of the Legislature of the State of Alaska, relative to implementation of the Indian Child Welfare Act; to the Committee on Interior and Insular Affairs.

505. Also, memorial of the Legislature of the State of Alaska, relative to commonwealth status for Guam; to the Committee on Interior and Insular Affairs.

506. Also, memorial of the Legislature of the State of Alaska, relative to native allotments process for the benefit of native military veterans; to the Committee on Interior and Insular Affairs.

507. Also, memorial of the Legislature of the State of Alaska, relative to Federal funding for the Alaska Volcano Observatory; to the Committee on Interior and Insular Affairs.

508. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to persecuted Haitians; to the Committee on the Judiciary.

509. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the Rodney King verdict; to the Committee on the Judiciary.

510. Also, memorial of the Legislature of the State of Alaska, relative to the Pan-American energy alliance; to the Committee on Ways and Means.

511. Also, memorial of the Legislature of the State of Alaska, relative to missing American service personnel; jointly to the Committees on Foreign Affairs and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. SANTORUM:

H.R. 5689. A bill for the relief of Wayne T. Alderson; to the Committee on Armed Services.

H. Con. Res. 351. Concurrent resolution expressing the sense of the Congress that the President should award a Medal of Honor to Wayne T. Alderson in recognition of acts performed at the risk of his life and beyond the call of duty while serving in the U.S. Army during World War II; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of July 22, 1992]

H.R. 112: Mr. MCCANDLESS.

H.R. 252: Mr. TOWNS.

H.R. 481: Mr. GOSS.

H.R. 643: Mr. PALLONE.

H.R. 1218: Mr. BENNETT.

H.R. 1311: Mr. DIXON, Mr. GONZALEZ, Mr. JOHNSON of South Dakota, Mr. OLIN, Mr. PURSELL, Ms. SLAUGHTER, and Mr. ZELIFF.

H.R. 1312: Mr. DIXON, Mr. GONZALEZ, Mr. JOHNSON of South Dakota, Mr. OLIN, Mr. PURSELL, Ms. SLAUGHTER, Mr. ZELIFF, and Mr. MCMILLEN of Maryland.

H.R. 1475: Mr. MCCLOSKEY.

H.R. 1495: Mr. THOMAS of California and Mr. BROWDER.

H.R. 1536: Mr. AUCOIN and Mr. SCHEUER.

H.R. 1886: Ms. HORN.

H.R. 2070: Mr. KOPETSKI.

H.R. 2089: Mr. DIXON.

H.R. 2248: Mrs. BENTLEY.

H.R. 2407: Mr. TAYLOR of North Carolina, Mr. HALL of Texas, and Mr. ATKINS.

H.R. 2872: Mr. SHAW and Mr. GREEN of New York.

H.R. 2890: Mr. FAZIO.

H.R. 2916: Mr. JONTZ and Mr. PALLONE.

H.R. 3071: Mr. HAYES of Louisiana.

H.R. 3138: Mr. ATKINS and Mr. BACCHUS.

H.R. 3210: Ms. DELAURO.

H.R. 3360: Mrs. ROUKEMA.

H.R. 3598: Mrs. MORELLA.

H.R. 3710: Ms. NORTON, Mr. GUARINI, and Mr. BEILENSON.

H.R. 3780: Mr. ALLEN.

H.R. 3871: Mr. VENTO, Mr. ENGEL, Mr. PORTER, Mrs. BOXER, Mr. ACKERMAN, Mr. EVANS, Ms. SLAUGHTER, and Mr. FRANK of Massachusetts.

H.R. 3973: Mr. PALLONE.

H.R. 4034: Mr. FRANK of Massachusetts.

H.R. 4141: Ms. KAPTUR.

H.R. 4206: Mr. CARPER.

H.R. 4207: Mr. ALLARD and Mr. ANDERSON.

H.R. 4278: Mr. HANCOCK.

H.R. 4399: Mr. CARDIN, Mrs. COLLINS of Michigan, and Mr. LEWIS of Florida.

H.R. 4427: Mr. THOMAS of Georgia, Mr. MARLENEE, and Mr. MORRISON.

H.R. 4507: Mr. DOWNEY and Mr. HALL of Texas.

H.R. 4551: Mr. ENGEL, Mr. MILLER of Washington, and Mr. OWENS of Utah.

H.R. 4595: Mr. UPTON.

H.R. 4600: Mr. PALLONE.

H.R. 4601: Mr. PALLONE.

H.R. 4602: Mr. PALLONE.

H.R. 4603: Mr. PALLONE.

H.R. 4604: Mr. PALLONE.

H.R. 4608: Mr. PALLONE.

H.R. 4695: Mr. PALLONE.

H.R. 4754: Mr. ROTH and Mr. SHAYS.

H.R. 4846: Mr. KOPETSKI, Mr. LEVINE of California, Mr. FROST, Mr. RANGEL, Mr. MARKEY, Mr. GUARINI, and Mr. MACHTLEY.

H.R. 5000: Mrs. Byron, Mr. Mfume, and Mrs. Bentley.

H.R. 5010: Mr. Torres.

H.R. 5070: Mr. Torres, Mrs. Mink, Mr. Ackerman, Mr. Brown, and Mr. Hughes.

H.R. 5177: Mr. Clinger, Mr. Allard, Ms. Horn, Mr. Wilson, Mr. Sisisky, Mr. Ballenger, Mr. Duncan, Mr. Bilirakis, Mr. Baker, Mr. Ewing, Mr. DeLay, Mr. Paxon, Mr. Bateman, and Mr. Zeliff.

H.R. 5208: Mr. Ackerman.

H.R. 5216: Mr. Campbell of Colorado.

H.R. 5250: Mr. Bunning.

H.R. 5282: Mr. Jontz.

H.R. 5297: Mr. Kleczka, Mr. Duncan, Mr. Tallon, Mr. Rinaldo, Mr. Geren of Texas, Mr. Burton of Indiana, Mr. Stearns, Mr. Hall of Texas, Mr. Bereuter, Mr. Rowland, Mr. Lewis of Florida, Mr. Thomas of Wyoming, and Mr. Wolf.

H.R. 5317: Mr. Hayes of Illinois.

H.R. 5357: Mr. Towns, Mr. Rangel, Mrs. Schroeder, Mrs. Unsoeld, Mr. DeFazio, Mr. Atkins, and Mrs. Collins of Illinois.

H.R. 5370: Mr. Emerson.

H.R. 5424: Mr. Atkins and Mrs. Collins of Illinois.

H.R. 5434: Mr. Traficant, Mr. Applegate, Mr. Frank of Massachusetts, and Mr. Dornan of California.

H.R. 5456: Mr. Waxman, Mr. Blackwell, and Mr. Stark.

H.R. 5491: Mr. Andrews of Texas, Mr. Archer, Mr. Armey, Mr. Barton of Texas, Mr. Brooks, Mr. Bryant, Mr. Bustamante, Mr. Chapman, Mr. Coleman of Texas, Mr. Combest, Mr. de la Garza, Mr. DeLay, Mr. Fields, Mr. Frost, Mr. Geren of Texas, Mr. Gonzalez, Mr. Hall of Texas, Mr. Johnson of Texas, Mr. Laughlin, Mr. Ortiz, Mr. Pickle, Mr. Sarpalius, Mr. Smith of Texas, Mr. Stenholm, Mr. Washington, Mr. Wilson, Mr. Montgomery, and Mr. Blaz.

H.R. 5507: Mr. Peterson of Florida and Mrs. Kennelly.

H.R. 5549: Mr. Shays.

H.R. 5550: Mr. Pallone and Mr. Jontz.

H.R. 5551: Mr. Allen.

H.R. 5552: Mr. Allen.

H.R. 5553: Mr. Lewis of Florida.

H.R. 5565: Ms. Pelosi, Mr. Rangel, Mr. Serrano, and Mr. Torres.

H.R. 5583: Mr. Blaz.

H.R. 5599: Mr. Mineta.

H.R. 5610: Mr. Paxon and Mr. Gordon.

H.J. Res. 216: Mr. Engel.

H.J. Res. 391: Mr. Hall of Texas, Mr. Barnard, Ms. Slaughter.

H.J. Res. 399: Mr. Young of Alaska.

H.J. Res. 450: Mr. Atkins, Mr. Olver, Mr. Thomas of California, and Mr. Sisisky.

H.J. Res. 453: Mr. Dixon, Mr. Gradison, Mr. Hammerschmidt, Mr. Hochbrueckner, Mr. Hubbard, Mr. Savage, Mr. Stokes, Mr. Tauzin, Mr. Valentine, Mr. Blackwell, Mr. Dellums, Mr. Duncan, Mr. Green of New York, Ms. Horn, Mr. Johnston of Florida, Mr. Kasich, Mr. Moody, Mr. Solarz, Mr. Swett, Mr. Wilson, Mr. Barnard, Mr. Clay, Mr. Coughlin, Mrs. Collins of Michigan, Mr. Flake, Mr. LaFalce, Mr. McGrath, Mr. Mavroules, Mr. Miller of California, Mr. Neal of North Carolina, Mr. Owens of New York, Mr. Rowland, Mr. Tallon, Mr. Walsh, Mr. Dymally, Ms. Norton, Mr. Pickle, Mr. Sarpalius, Ms. Slaughter, Mrs. Byron, Mr. Condit, Mr. Davis, Mr. de Lugo, Mr. Dwyer of New Jersey, Mr. Gekas, Mr. Gingrich, Mr. Hansen, Mr. Harris, Mr. Poshard, Mr. Roberts, Mr. Spratt, Mr. Whitten, Mr. Dannemeyer, Mr. Waxman, Mr. Owens of Utah, Mrs. Bentley, Mr. Dickinson, Mr. Lewis of Georgia, Mr. Mfume, Mr. Aspin, Mr. Jacobs, Mr. Carper, Mr. Edwards of Texas, Mr. Russo, Mr. Kostmayer, Mr. Bilbray, and Mr. Ballenger.

H.J. Res. 475: Mr. Emerson.

H.J. Res. 476: Mr. Valentine.

H.J. Res. 479: Mr. Huckaby, Mr. Kennedy, Mr. Walsh, Mr. Lagomarsino, Mr. Hall of Ohio, Mr. Gonzalez, Mr. Wylie, Mrs. Lloyd, Mr. Roemer, Mr. Kleczka, Mr. Zeliff, Mr. Wilson, and Mr. Panetta.

H.J. Res. 483: Mrs. Morella.

H.J. Res. 508: Ms. Slaughter, Mr. McDermott, Mr. Kostmayer, and Mr. Washington.

H.J. Res. 520: Mr. Coble, Mr. Hall of Texas, Mr. Hubbard, Mr. Murtha, and Mr. Nichols.

H. Con. Res. 326: Mr. Ritter, Mr. Kostmayer, Mr. Gaydos, Mrs. Collins of Michigan, Mr. Foglietta, and Mr. Wheat.

H. Con. Res. 345: Mr. Peterson of Florida, Mr. Sisisky, Mr. Zeliff, Mrs. Meyers of Kansas, Mr. Shays, Mr. Jacobs, and Mr. Rahall.

H. Res. 515: Mr. Torres.

[Submitted July 23, 1992]

H.R. 25: Mr. Wilson.

H.R. 75: Mr. Porter.

H.R. 999: Mr. Smith of New Jersey.

H.R. 1527: Mr. Smith of New Jersey.

H.R. 1590: Mr. Hertel and Mr. Kanjorski.

H.R. 2390: Mr. Engel.

H.R. 3122: Mr. James.

H.R. 3145: Mr. Allen and Mr. Inhofe.

H.R. 3164: Mr. Hochbrueckner and Mr. Gilchrest.

H.R. 3373: Mr. Downey.

H.R. 3475: Ms. Snowe, Mr. Feighan, Mr. Stokes, Mr. Foglietta, Mr. Borski, Mr. Hertel, and Mrs. Schroeder.

H.R. 3476: Ms. Snowe, Mr. Feighan, Ms. Norton, Mr. Stokes, Mr. Foglietta, Mr. Borski, and Mrs. Schroeder.

H.R. 3677: Mr. Sikorski.

H.R. 3780: Mr. Pallone.

H.R. 3794: Mr. Matsui, Mr. Andrews of Maine, Ms. Pelosi, Mr. Zimmer, and Mr. Pallone.

H.R. 4230: Mr. Foglietta.

H.R. 4325: Mr. Smith of Iowa, Mr. Hughes, Mr. Beilenson, Mr. Brown, Mr. Andrews of Maine, Mr. Mrazek, and Mr. Jontz.

H.R. 4326: Mr. Smith of Iowa, Mr. Hughes, Mr. Beilenson, Mr. Brown, Mr. Andrews of Maine, Mr. Mrazek, and Mr. Jontz.

H.R. 4327: Mr. Smith of Iowa, Mr. Hughes, Mr. Beilenson, Mr. Brown, Mr. Andrews of Maine, Mr. Mrazek, and Mr. Jontz.

H.R. 4343: Mr. Hayes of Illinois.

H.R. 4406: Mr. Porter.

H.R. 4543: Ms. Horn, Ms. Kaptur, and Mr. Hertel.

H.R. 4544: Mr. DeFazio.

H.R. 4700: Mrs. Meyers of Kansas.

H.R. 4725: Mrs. Roukema.

H.R. 4729: Mr. Owens of New York, Mr. Swett, and Mr. Pastor.

H.R. 4755: Mr. Lightfoot.

H.R. 4836: Mr. Johnson of South Dakota and Mr. Zeliff.

H.R. 4882: Mr. Kleczka, Mrs. Unsoeld, Mr. McCloskey, and Mr. Frank of Massachusetts.

H.R. 4883: Mr. Martinez, Mr. Kleczka, Mrs. Unsoeld, Mr. McCloskey, and Mr. Frank of Massachusetts.

H.R. 4884: Mr. Sisisky.

H.R. 4897: Mr. Solomon and Mr. Barton of Texas.

H.R. 4912: Mr. Boehner, Mr. DeLay, and Mr. Gallegly.

H.R. 5201: Mr. Pease and Mr. Scheuer.

H.R. 5211: Ms. Norton.

H.R. 5216: Mr. Hunter.

H.R. 5237: Mr. Dorgan of North Dakota.

H.R. 5310: Mr. Kennedy, Mr. Frost, Mr. Jefferson, Mr. Blaz, and Mr. Evans.

H.R. 5419: Ms. Molinari, Mr. Johnson of South Dakota, Mr. Aspin, Mr. Evans, Mr. Geren of Texas, Mr. Foglietta, and Mr. Atkins.

H.R. 5449: Mr. Levin of Michigan, Mr. Evans, Mr. Owens of New York, and Mr. Foglietta.

H.R. 5466: Mr. McCloskey and Ms. Snowe.

H.R. 5475: Mr. Barnard.

H.R. 5514: Mr. Kolter.

H.R. 5538: Mr. Evans, Mr. Lipinski, Mr. Murtha, Mr. Torres, and Mr. Vento.

H.R. 5600: Mr. Matsui, Mr. Borski, Mr. AuCoin, Mr. Foglietta, Ms. Norton, Mr. Sanders, Mr. Blackwell, Mr. Hertel, Mr. Dymally, Mr. LaFalce, Mr. Hayes of Illinois, Mr. Mazzoli, Mr. Scheuer, Mr. Sikorski, Mrs. Schroeder, Mrs. Unsoeld, Mr. Kopetski, Mr. Rahall, Mr. Berman, and Mr. Markey.

H.J. Res. 1: Mr. Lantos and Mr. Sikorski.

H.J. Res. 152: Mr. Moakley, Mr. Blackwell, Mr. Torricelli, and Mr. Traficant.

H.J. Res. 237: Mr. Johnson of South Dakota, Mr. Pallone, Mr. Durbin, Mrs. Lloyd, and Mr. Coleman of Texas.

H.J. Res. 336: Mr. Rose.

H.J. Res. 353: Mr. Bonior, Mr. Dwyer of New Jersey, Mr. Fish, Mr. Hastert, Mr. Manton, Mr. Mrazek, Mr. Murphy, Mr. Rose, Mr. Scheuer, Mr. Solarz, Mr. Staggers, and Mr. Yatron.

H.J. Res. 380: Mr. Paxon, Mr. Applegate, Mr. Bevill, Mr. Bliley, Mr. Poshard, Mr. Johnson of South Dakota, Mr. Hammerschmidt, Mr. Boucher, Mr. Bilbray, Mr. Brown, Mr. Hertel, Mr. de Lugo, Mr. Dornan of California, and Mr. Blackwell.

H.J. Res. 398: Mr. Bonior, Mr. Stokes, Mr. Staggers, Mr. Moakley, Mr. Packard, Mr. Rinaldo, Mr. Sisisky, Mr. Geren of Texas, Mr. Price, Ms. Slaughter, Mr. Weldon, Mr. Ridge, Mr. Blackwell, Mr. Bustamante, Mrs. Collins of Illinois, Mr. Conyers, Mr. Roe, Mr. Hansen, Mr. Colorado, Mr. Houghton, Mr. Brooks, Mr. Hochbrueckner, Mr. Schiff, Mr. Lewis of Florida, Mr. Grandy, Mr. Gilchrest, Mr. Schulze, Mr. Moran, Mr. Blaz, Mr. Allen, and Mrs. Vucanovich.

H.J. Res. 399: Mr. Coyne.

H.J. Res. 452: Mr. Alexander, Mr. Kasich, Mr. Tallon, Mr. DeLay, Mr. Anthony, Mr. Murphy, Mr. Stallings, Mr. Roberts, Mr. Orton, Mrs. Unsoeld, Mr. Callahan, Mr. Oxley, Mr. Hubbard, Mr. Hobson, Mr. Young of Alaska, Mr. Rhodes, Mr. Wolpe, Mr. Rose, Mr. Fish, Ms. Long, Mr. Bruce, Mr. McCloskey, Mr. Kildee, Mr. Parker, Mr. Pursell, Mr. Jontz, Mr. Feighan, Mr. Ravenel, Mr. Andrews of Maine, Mr. Hall of Ohio, and Mr. Klug.

H.J. Res. 483: Mr. Engel.

H.J. Res. 489: Mr. Gekas, Mr. McHugh, Mr. Anderson, Mr. Cox of California, Mr. Hochbrueckner, Mr. Houghton, Mr. Bliley, Mr. Lewis of California, and Mr. Condit.

H.J. Res. 523: Mr. Kolter, Mr. Nagle, Mr. Hefner, Mr. Kennedy, Mr. Archer, Mr. Regula, and Mr. Towns.

H. Con. Res. 223: Mr. Blackwell, Mr. Gilman, Ms. Molinari, Mr. Pallone, Mr. Visclosky, and Mr. Zimmer.

H. Con. Res. 344: Mr. Andrews of New Jersey, Ms. Slaughter, Mr. Pallone, Mr. DeFazio, Mrs. Lloyd, Mrs. Unsoeld, Mr. Towns, Mrs. Kennelly, and Mr. Feighan.

H. Con. Res. 347: Mr. Montgomery, Mr. Waxman, Mr. Dornan of California, Mr. Boucher, Mr. Ritter, Mr. Frost, Mr. Frank of Massachusetts, Mr. Towns, Mr. Blackwell, and Mr. Fawell.

H. Res. 388: Mr. GILMAN, Mr. SWETT, and Mr. BORSKI.

H. Res. 415: Mr. ANNUNZIO, Mr. ZIMMER, and Mr. HERTEL.

H. Res. 422: Ms. NORTON.

H. Res. 502: Mr. BAKER, Mr. SHAYS, and Mr. COX of California.

H. Res. 515: Mr. KOSTMAYER, Mr. SCHEUER, Mr. MAZZOLI, Mr. TOWNS, Mrs. JOHNSON of Connecticut, and Mr. HAYES of Illinois.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1218: Mr. EDWARDS of Oklahoma.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5620

By Mr. SOLOMON:

—On page 21, after line 11, add the following:

TITLE IX.—LEGISLATIVE LINE ITEM VETO ACT

SEC. 901. LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1992."

(b) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority for fiscal year 1993 which is subject to the items of this Act if the President—

(1) determines that—

(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

(B) such rescission will not impair any essential Government functions;

(C) such rescission will not harm the national interest; and

(D) such rescission will directly contribute to the purpose of this Act of limiting discretionary spending in fiscal year 1993; and

(2) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act for fiscal year 1993 or a joint resolution making continuing appropriations providing such budget authority for fiscal year 1993. The President shall submit a separate rescission message for each appropriations bill under this paragraph.

(c) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this section as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

(B) The period referred to in subparagraph (A) is—

(i) a congressional review period of 20 calendar days of session under subsection (e), during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval of disapproval;

(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message shall run beginning after such first day.

(d) DEFINITIONS.—For purposes of this section the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of discretionary budget authority for fiscal year 1993, in whole, rescinded in a special message transmitted by the President under this section.

(c) CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS.—

(1) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this section, the President shall transmit to both Houses of Congress a special message specifying—

(A) the amount of budget authority rescinded;

(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(C) the reasons and justifications for the determination to rescind budget authority pursuant to this section;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

(E) all factions, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(2) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(A) Each special message transmitted under this section shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(B) Any special message transmitted under this section shall be printed in the first issue of the Federal Register published after such transmittal.

(3) REFERRAL OF RESCISSION DISAPPROVAL BILLS.—Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

(4) CONSIDERATION IN THE SENATE.—

(A) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

(B) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to 1 hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

(5) POINTS OF ORDER.—

(A) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission budget authority transmitted by the President under this section.

(B) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

(C) Subparagraph (A) and (B) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

EXTENSIONS OF REMARKS

THE INTRODUCTION OF H.R. 5674

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. VANDER JAGT. Mr. Speaker, today I am introducing H.R. 5674, a bill to amend the Internal Revenue Code. H.R. 5674 will:

Forestall endless and expensive litigation between taxpayers and the Internal Revenue Service, by clarifying the eligibility of intermodal cargo containers for the investment tax credit and accelerated depreciation;

Remove a tax impediment that affects taxpayers saving for college education expenses;

Encourage competition in the property and casualty insurance industry by providing a special deduction for eligible small companies; and

Provide a level playing field for corporate taxpayers who acquire their outstanding debt from debtholders by issuing stock with a value less than the amount of the indebtedness.

I will describe briefly each major provision of H.R. 5674.

INTERMODAL CARGO CONTAINERS

H.R. 5674 will reverse a substantial retroactive change in the ability of U.S. companies to claim the investment tax credit and accelerated depreciation on the intermodal cargo containers which they lease to shipping companies and businesses. The legislation is specifically intended to overrule Revenue Ruling 90–9 with respect to containers placed in service by U.S. container lessors prior to January 1, 1991.

From its original enactment in 1962 until its general repeal in 1986, the investment tax credit generally was not allowed for property used predominantly outside of the United States. However, exceptions to this rule were provided for certain categories of assets used to transport people or property to and from this country. These exceptions sanction the predominant foreign use of transportation-related property as part of the credit's general goal to improve our competitive position in the world economy. One of these exceptions applies to containers used in the transportation of property to and from the United States.

Before January of 1990, there were no Treasury regulations or rulings interpreting the exception for containers, even though that provision had been in the law for more than 25 years. Consequently, container owners relied on a commonsense reading of the statute and the apparent congressional intent for the container provisions when determining how the credit applied to their containers. This interpretation also determined which containers qualified for accelerated depreciation. For more than 20 years, the audit practice of the Internal Revenue Service was to confirm the general availability of credits and deductions claimed by two groups of container owners—U.S. shipping companies and U.S. container leasing companies. For lessors, the container credit was by far the largest item on each tax return and could not have been simply overlooked by the audit agents. Over the years, the IRS also issued liberal interpretations of other transportation-related exceptions which further confirmed the lessor's general approach to the container exception.

Then, in 1984, IRS agents radically altered their audit practices with respect to container lessors and began disallowing the credit for containers because the lessors could not prove that each container touched the United States each year. In January of 1990, this approach was formally published in Revenue Ruling 90–9, which requires all container owners to demonstrate on a container-by-container basis that a substantial portion of a particular container's activity during the taxable year is in the direct transportation of property to or from the United States. "Substantial" is not defined or described in the ruling, so taxpayers have no basis on which to argue that they have met the ruling's requirement. The ruling defines "direct transportation" as involving only those trips that begins and end in the United States; trips between foreign ports are not taken into account, even if the property inside the container may eventually come to the United States. Neither of these adjectives—substantial and direct—is used in the statute, and neither has any support in the legislative history. Yet, the IRS applied the ruling retroactively.

Whatever the merits of the approach adopted by the revenue ruling, it represents a dramatic change from established practices. I believe it is fundamentally unfair for the IRS to retroactively interpret—and modify—the statutory container exception in this manner. First, while we could debate the intellectual niceties of whether the new position of the IRS represents a change in its position or, instead, the establishment of a position where none previously existed, such a debate could not obscure the fact that in the 20-year period following enactment of the credit, container lessors never had any indication that their records were inadequate to support their claiming the credit and deductions despite numerous audits. The IRS had opportunities to issue regulations or rulings on the container exception, but did not provide these or any other form of guidance. Indeed, an IRS project to provide guidance on the container exception that began in 1981 was closed a year later, after meetings with the container leasing industry, without any apparent change in existing practices.

Second, the IRS interpretation is inconsistent with judicial precedents which have liberally interpreted the investment tax credit provisions in general. I believe this interpretive approach of the courts, which is also reflected in IRS interpretations of other transportation-related exceptions which accompany the container provision, is consistent with congressional intent.

Third, as the Treasury and the IRS apparently have recognized in this case, such a major change in interpretive policy is a tax policy decision that requires careful review by the IRS and the Treasury, followed by publication in a national policy statement such as a published revenue ruling. Only through such a national pronouncement can all affected taxpayers be fairly put on notice that such a change has occurred. Any such major change of policy should be prospective only and should include complete relief under section 7805(b) of the Internal Revenue Code.

Fourth, any change in interpretive policy by the IRS with respect to the container exception should balance the IRS's strict—and possibly incorrect—reading of the statute against the need for a practical and reasonable resolution of the controversy. It is clear that Congress, in creating the container exception, did not contemplate that the IRS would interpret the provision in a manner which makes it practically impossible to utilize the benefits of the provision. The revenue ruling would require lessors to document retroactively the daily movements of individual containers. Providing such documents prospectively will be difficult enough, given that container lessors now typically manage fleets in excess of 200,000 containers that are used in carrying goods for lessees who are not under the control of the lessors. But retroactively providing such documents probably will be impossible. Lessors keep detailed records about their containers, but they cannot maintain records regarding container movements when they are not in control of the containers. Lessee documents, to the extent they have not already been disposed of, focus on shipments of cargo, not on the specific containers, and the cost of attempting to reconstruct the travel of a particular container probably would exceed the value of the credit. The willingness of lessees to provide such records to lessors—assuming the records exist—is a factor which lessors cannot reasonably be expected to influence retroactively.

The revenue ruling would apply to open taxable years, which generally include all of the 1980's for the leasing companies. That is a long period, but the lessors' exposure is even greater because the ruling also applies to containers placed in service in closed taxable years but which generated credit carryovers to open years. This extends the ruling's effect back as far as 1974.

If container lessors had had the benefit of a ruling or regulations 25 years ago, they could have taken the appropriate steps to qualify for the credit or to challenge the IRS interpretation in a timely manner. In any event, they could have set leasing rates and information requirements based on the costs of complying with the interpretation. But the retroactive imposition of a restrictive interpretation at this late date is unreasonable and unjustified.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

As an alternative to the substantive and recordkeeping requirements of the revenue ruling, a safe harbor has been provided in Revenue Procedure 90–10, published at the same time as the revenue ruling. It is interesting to read the portion of the revenue procedure which confirms that the revenue ruling's recordkeeping requirements are unfair, noting that a safe harbor is necessary because separate tracing of containers is too costly and difficult given the numbers of containers and the fact that lessees have physical control over the containers.

However, the safe harbor effectively allows little more than half of the credits at issue for prior years. This is not an adequate solution to the retroactive problem posed by the revenue ruling. Moreover, the practical effect of the IRS's proposed safe harbor is not only to require a predominant use test but to impose an exclusive use test for purposes of determining whether the credit is allowed in full. By way of example, I believe that the containers used by the affected taxpayers could achieve a 100-percent qualification for the investment tax credit under the theory of the proposed safe harbor only if every trip made by containers worldwide was either to or from the United States. Likewise, a majority of the credit would be allowable only if a majority of all container trips are to or from the United States. I believe that this is clearly inconsistent with the language and the intent of the statute.

Taxpayers have argued with the IRS for several years about this issue in an effort to achieve an administrative result which would fairly resolve the controversy. They will likely now challenge the IRS in court. A legislative resolution is essential to prevent the unfair retroactive impact of the IRS revenue ruling, and to avoid wasteful and protracted litigation.

HIGHER EDUCATION EXPENSES ANNUITIES

H.R. 5674 will also take a modest step in the direction of assisting parents to save for the staggering costs of their children's higher education expenses.

The compelling need for assistance is now more apparent than ever. The cost of sending a child to a private university for 4 years averages more than $50,000, while the cost of a 4-year public university education averages $18,000. By the year 2007, the Department of Education estimates the total cost to attend a private university will increase to $200,000 and to $60,000 for a public university. These statistics spotlight a major financial problem facing parents.

Accumulating the funds necessary to cover these costs will be very difficult with after tax dollars for most, if not all, middle-income parents. With the stress on higher education by the Federal Government and the need for parents to accumulate the funds to cover the escalating cost, middle-income taxpayers should receive some tax assistance to enable them to meet their future educational expenses.

Under H.R. 5674, assistance would be made available by providing that when a taxpayer purchases a predesignated annuity for him or herself, or for a child or grandchild, to cover qualified higher education costs, the withdrawal of funds from the annuity to pay such education costs would be exempt from the 10-percent penalty for premature distributions from annuity contracts that is now imposed under Internal Revenue Code section 72(q). Safeguards would be provided by requiring that the annuity be designated for education costs at time of purchase. Qualified higher education costs are defined to include only undergraduate expenses incurred at institutions of higher education. Finally, under the terms of the legislation, annuity premium payments for a higher education expenses annuity would not count as a gift for gift tax purposes.

Other Internal Revenue Code sections provide direct benefits to taxpayers financing the cost of higher education. Section 135 of the code allows income from U.S. savings bonds to be excluded from income under certain circumstances if the income is used to pay educational costs. Section 2503 generally allows an unlimited gift tax annual exclusion for gifts which pay higher education tuition costs. H.R. 5674 would provide a mechanism to directly address the needs of middle-income taxpayers to save for the higher education costs of their children, which will be financially overwhelming.

SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES

H.R. 5674 will begin to correct a gross inequity that exists between the current tax treatment of small property and casualty insurance companies and the current tax treatment of small life insurance companies, and improve the competitiveness of the property and casualty industry.

Small property and casualty insurance companies play an essential function in the insurance industry, by offering competition to the large insurance companies and by providing coverage in areas where the large companies often fear to tread. However, small property and casualty companies are more at risk than are the large diversified companies to the vagaries of nature. Massive earthquakes and damaging hurricanes can result in bursts of policy claims that can drive small property and casualty insurance companies to the brink of financial ruin. Small property and casualty insurance companies also are subject to surplus requirements that limit the amount of premiums they can write, thus making it difficult for such companies to grow. The Tax Reform Act of 1986 resulted in a significant increase in taxes on such small companies, thus hindering their ability to accumulate surplus.

Instead of imposing an impediment to the existence of small property and casualty companies, the tax law should at least provide a level playing field for such companies in relation to small life insurance companies.

Life insurance companies have the benefit of actuarial tables to aid in the prediction of losses, which makes the life insurance business inherently less risky than the property and casualty business. Small life insurance companies—those with total assets of less than $500 million—are entitled to the small life insurance company deduction under section 806 of the Internal Revenue Code.

H.R. 5674 will, over a 6-year period, put small property and casualty insurance companies and small life insurance companies closer to being on an equal footing for tax purposes. Under H.R. 5674, the small company deduction now limited to life insurance companies would be made partially available to property and casualty companies of similar size. However, due to revenue constraints, the exclusion percentage will be smaller and phased in as follows: 1992, zero percent; 1993, zero percent; 1994, 3 percent; 1995, 7 percent; 1996, 9 percent; and, 1997, 15 percent.

The same limitations that currently apply to small life insurance companies, for purposes of determining their assets and their insurance income, would apply to the deduction allowable to small property and casualty companies.

REPEAL OF THE STOCK-FOR-DEBT EXCEPTION

Finally, H.R. 5674 would provide for a level playing field by repealing the stock-for-debt exception that can now be used only by corporations that are in bankruptcy or that are insolvent.

The stock-for-debt exception is a judicially developed doctrine that is not grounded in sound tax policy.

The basic rule that applies to most taxpayers requires a taxpayer to recognize income when a debt is forgiven or otherwise canceled without full repayment by the taxpayer. When a corporation that is not insolvent or in bankruptcy transfers its stock to a creditor in satisfaction of its indebtedness, the corporation is treated under the code as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock. Thus, to the extent the indebtedness exceeds the value of the stock, the corporation has income.

However, two special rules apply to corporations that are insolvent or in bankruptcy court. Under this first special rule, a bankrupt or insolvent corporation whose debt is forgiven and which otherwise would have income as a result of the forgiveness is not required to include the amount in its gross income. The corporation is required to reduce its net operating losses and other tax attributes by the amount of debt cancellation.

Thus, a bankrupt or insolvent corporation will never incur a current tax when its debts are forgiven, but also will not have available the net operating losses and other tax benefits generated by the borrowed funds which the corporation no longer has to repay. That result strikes a proper balance between allowing financially distressed taxpayers a fresh start and treating all taxpayers fairly and equally.

The second special rule applicable to bankrupt or insolvent corporations does not strike that proper balance. Under the stock-for-debt exception, a bankrupt or insolvent corporation is deemed not to have a cancellation of indebtedness when it exchanges qualifying stock for outstanding debt, even though the stock is worth less than the face amount of the debt. Because no cancellation of indebtedness is deemed to occur for tax purposes under this special rule, the exchanging corporation is not required to reduce any of its tax attributes. Thus, by using the stock-for-debt exception, an eligible corporation can retire its debts while preserving its net operating losses as a tax shelter to use against future income—an advantage not available to other taxpayers. That result goes beyond what is necessary to give bankrupt and insolvent corporations a fresh start, and is plainly unfair to other taxpayers not eligible to use the special rule. Therefore, the stock-for-debt exception should be repealed.

In conclusion, so that these necessary changes to the Internal Revenue Code can be made, I strongly urge my colleagues to work for the prompt enactment of H.R. 5674.

TRIBUTE TO SYLVIA ARMENI SCOCCA AND GIOVANNI MONACO

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. TRAFICANT. Mr. Speaker, I rise before my colleagues today to honor Italian woman of the year, Sylvia Armeni Scocca, and also Italian man of the year, Giovanni Monaco. These upstanding citizens of my 17th Congressional District are fine role models for all.

Sylvia was born in Bovalino Marina in 1902 and immigrated to the United States in 1912. She has raised her seven children to be successful and productive members of society. Sylvia began her career in volunteering positions with the Sons of Italy Auxiliary Lodge. She has been an active member and volunteer at St. Anthony's Church since 1932. Recently, Sylvia passed her driver's test in order to relieve the burden of others driving her places.

Giovanni was born in 1897 in Santa Christina, Reggio Di Calabria. After serving in the Italian Army Alpine Corps, Giovanni emigrated to the United States and became a citizen on February 14, 1935. A lifetime member of Our Lady of Mt. Carmel Church, he has also assisted numerous immigrants in settling here, helping them find housing and employment, and helping them become an integral part of the community. Giovanni and his wife are enjoying 68 years of marriage.

These two citizens have been well-chosen for their positions as Italian woman and Italian man of the year for the 1992 Greater Youngstown Italian Festival. While raising outstanding families, they have also been leaders of their community. I extend my congratulations to Sylvia and Giovanni on their honorable achievements.

BETTY ISELIN—"MY FAIR LADY"

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, July 25, 1992, Mrs. Betty Iselin will be feted as "My Fair lady" at the Monmouth Park Charity Ball in Oceanport, NJ.

Mrs. Iselin is certainly a most deserving recipient of this high honor, and Saturday's tribute represents an expression of deep gratitude on the part of everyone involved with the Monmouth Park Charity Ball. Mrs. Iselin has served as chairwoman of the ball for 42 years, and has been active on the ball committee for 45 years. During those years, her strong leadership and deep sense of community commitment have been in large part responsible for making the charity ball the great institution that it is in Monmouth County and the State of New Jersey.

Mrs. Iselin's list of other associations and affiliations is indeed quite impressive. She has served on the New Jersey State Board of Institutions and Agencies, on the board of the Monmouth County Office of Social Services, and on the board of Monmouth Medical Center in Long Branch, NJ. She has also been active with the Monmouth Museum.

Her husband, the late Philip Iselin, was the president of Monmouth Park Race Track and the owner of the New York-New Jersey Jets. She is the mother of James Iselin and Kay Ahlstrom, and she has three grandchildren.

Mr. Speaker, I can think of no more fitting tribute for Betty Iselin than to be honored on the occasion of the event for which she has contributed so much of her time, talents, energy and concern. It is a great honor to cite her accomplishments before this House.

SAVINGS AND LOAN INDUSTRY BAILOUT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. VENTO. Mr. Speaker, the Bush administration's management of the bailout of the savings and loan industry has been erratic, particularly the resolution of institutions by the RTC and the Office of Thrift Supervision [OTS]. They have preferred programs with fancy acronyms—ERAM and ARP—that are really no more than Government gambles, a roll of the dice. The idea was that in keeping institutions open, troubled S&L's and banks would bloom into health, prosperity, and profitability. This rainbow chasing idea is touted as being less costly than liquidation. Director Ryan regularly and boldly predicts he can reap savings in the millions and billion of dollars if only Congress will provide him the billions of dollars he needs to propup these weak institutions. It is also interesting to note that this sort of behavior is contagious as some Members of Congress now espouse their own panacea and deny the reality of S&L problems.

I have repeatedly asked Director Ryan to provide me with actual data from an ERAM or an ARP, or even from the various adventures into open thrift and open bank assistance that characterized the decade of the 1980's. After much back and forth, he provided me with a so-called transaction summary which he asserted provided a conservative estimate of savings to be gained by Government gambles rather than conducting a straight liquidation.

In an effort to be fair, I asked Congressional Budget Office [CBO] to review this transaction summary, although it didn't seem to me to advance the debate over whether the Government ought to or is capable of, winning at the open thrift gamble.

The CBO has reviewed Director Ryan's transaction summary, and I would like to place their response into the record so that my colleagues in the House of Representatives can judge for themselves whether there is any basis, other than wishful thinking, for concluding that allowing regulators to out guess the market and gamble taxpayer dollars on which institutions will actually survive, is a viable public policy. The CBO concludes that prompt closure of a weak institution may be the least cost option. But Director Ryan's transaction summary rules out this possibility entirely.

This House is being asked to take the cost savings of a fancy acronym policy on faith. Until I see bottom-line data from actual transactions that unequivocally show that savings have been realized over the long run, I must conclude that accepting such weak justifications or granting such faith to the regulators, in view of their irresponsible record of poor management, would be seriously misplaced. The American taxpayer will not be any better served by the 1990's pattern of the Bush administration's regulators of S&L's and banks—postponing closures and granting forbearance—than they were by the 1980's pattern of the Reagan administration's regulators—procrastinating and granting forbearance. These 12 years of Republican administrations has seriously compromised and compounded the S&L bailout costs that we are paying today.

VENTO INVITES RTC AND OTS TO PROVIDE FOR LONG-TERM SAVINGS—WISHFUL THINKING AND ESTIMATES OVERSHADOW THE HIGH STAKE GAMBLES

WASHINGTON, DC.—Calling the Bush administration's early resolution and open thrift strategies for dealing with failing thrifts a government "roll of the dice," Congressman Bruce Vento (D-MN) today released a review of these programs by the Congressional Budget Office [CBO]. Vento questioned the rationale of the Resolution Trust Corporation [RTC] and the Office of Thrift Supervision [OTS] and invited both the RTC and the OTS to provide hard data of long term savings rather than estimates.

"The open bank/open S&L policy path needs to be documented with hard data because the temptation to use the insurance fund and taxpayer dollars to bail out stockholders who should have their investment at risk, is very real," said Vento. "We hear a lot of cold talk about free enterprise and risk, but when the opportunity prevents itself these free enterprise speeches are put aside and the blanket of deposit insurance is used improperly to cover stockholder assets."

"The wishful thinking and estimates involved with open thrift assistance strategies do not take into account that the taxpayers are spending their hard-earned money for this government gamble," said Vento. "A plan for long term savings is the kind of leadership the American public deserve."

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 6, 1992.

Hon. BRUCE F. VENTO,
Committee on Banking, Finance, and Urban Affairs, Washington, DC.

DEAR CONGRESSMAN: As you requested, the Congressional Budget Office [CBO] has reviewed the material on open thrift assistance provided to you by the Office of Thrift Supervision [OTS]. You are correct that the data provided by OTS does not advance the debate over open thrift assistance. Rather, it provides a hypothetical case to support its position, without providing real data or exploring fully the alternatives. I am enclosing a memorandum prepared by CBO staff that examines the OTS material.

I hope that this memorandum is helpful to your evaluation of open thrift assistance.

Sincerely,
ROBERT D. REISCHAUER,
Director.

RESPONSE TO CONGRESSMAN VENTO'S LETTER OF JUNE 15, 1992

The material provided by the Office of Thrift Supervision [OTS] is based on a hypothetical case of a weak thrift institution that is a candidate for the OTS's early resolution program. As with any example of this sort, the conclusions depend strongly on the assumptions. It is impossible to tell from the example how likely the assumptions are to hold in any particular real case or how frequently they may be met. In addition, the OTS example limits the options by ruling out the possibility that the weak thrift could be closed right away. Yet, prompt closure may be the least cost option. Despite these limitations, the example is instructive as to how the OTS views the problem of closing failed—or failing—thrifts.

The premise of the OTS example is that it is less expensive to resolve a "weak" (that is, financially troubled) thrift early when the thrift would be likely to deteriorate over time if left open. That proposition is virtually unassailable. The OTS's conclusion, however, that a specific form of early resolution—so-called open thrift assistance—is the best policy choice, is more open to question. The OTS conclusion is supported solely by the following two assumptions given in the example:

Shareholders will challenge in court any attempt to close an institution before it is insolvent on a book-value basis. Those court challenges will cost more than can be saved through early closure.

Closing some, but not all, weak thrifts before they become insolvent on a book-value basis would signal an informal increase in regulatory capital requirements as they apply to closure. Such a signal would make it more difficult for other thrifts to raise capital from external sources, thereby causing additional failures.

Because the OTS believes that it cannot successfully close an institution that is solvent on a book-value basis, it is left with essentially two choices: wait for the institution to deteriorate enough for it to become insolvent on a book-value basis, or provide a financial incentive to obtain shareholder assent to resolving the institution early. In addition to the problem of fending off court challenges, the OTS appears to believe that an early closing of institutions that are solvent on a book-value basis would create funding problems for the entire thrift industry because of a change in how the market perceives the regulator's minimum standards of capital. But this belief is not fully developed in the example, and it is hard to see how well-capitalized thrifts would be affected in the way suggested.

The fulcrum of the argument about early resolution is the question of whether the OTS should close a thrift that is solvent on a book-value basis but considered "weak." The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] strengthens the regulators' ability to close institutions that are currently solvent on a book-value basis, but it does not require closure. In addition to insolvency, FIRREA provides seven other grounds for placing an insured savings association into conservatorship; five of these relate to the likelihood of imminent failure. Because those criteria require subjective judgments concerning the safety and soundness of an institution's practices, the criteria are open to dispute and may be subject to judicial review by shareholders, who may seek compensation for "unjustified" closure.

In the OTS example, there is little doubt that the market value of the thrift's assets is already well below an amount sufficient for it to cover its liabilities. The thrift has little chance of getting better on its own; if left open, it will continue to lose money—although it may not choose to book those losses as they occur. Indeed, that is the justification for resolving it early. However, in the example, acting early saves no money because of court challenges. A possibility exists that the thrift could be recapitalized from external private sources, through an acquisition arranged by the OTS. Such a recapitalization would be cheaper than closing the institution and having the RTC resolve it. But because the institution is not closed by the OTS, the acquisition requires agreement by shareholders. In the OTS example, agreement by shareholders can only be obtained at a cost to the government. There are several other potentially important variables in the example, such as the percentage of deposits that are insured and the franchise value of the weak thrift. However, these all play a relatively minor role in the conclusion.

Thus, the issue can be reduced to a question that can only be determined on a case-by-case basis: Do court challenges and other expenses incurred in closing a failing thrift outweigh the payment that would be made to shareholders and the acquirer if open thrift assistance is provided? Empirical evidence on this key question is mixed. The OTS has been successful in recapitalizing some weak thrifts from private sources or arranging their acquisition at little or no cost to the government. But the record of such recapitalizations or acquisitions supervised by regulators provides no definitive answers. Not all such actions are successful; some result in closing the recapitalized or acquiring institution.

In addition, the search for outside capital or partners to merge with has not always been successful. Such unsuccessful searches add to the costs of resolution by delaying closure. Although the OTS argues that supervisory actions taken against weakly capitalized or insolvent thrifts help avoid costly losses associated with delay, an analysis of RTC resolutions (and even the OTS's own example) suggests that some costs could be avoided by prompter action.

Evidence on the OTS's ability to close thrifts, such as the one in its example, is also mixed. On the one hand, the OTS has successfully closed thrifts that were solvent on a book-value basis just before closure. An easy way to avoid the technical question of solvency is for the OTS examiners to require a thrift to mark down shaky assets. Doing so makes the thrift insolvent on a book-value basis and avoids the technical problem of closing a "solvent" institution. In the OTS's example, the thrift has "high-risk loans" and "unacceptable risk assets," which have loss rates of 36 percent and 50 percent, respectively. Writing down these loans would more than offset the value of stockholder equity, thus showing the thrift to be insolvent and potentially precluding challenges by shareholders in court. On the other hand, stockholders have sued the OTS and its predecessor agency for forcing closure and creating losses. Although those suits have had mixed success in the courts, they are time-consuming, expensive, and create uncertainty as to the final outcome.

TIMES MEDIA CRITIC QUITS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FRANK of Massachusetts. Mr. Speaker, one of the most important parts of our Constitution is the first amendment with its guarantees of freedom of expression. This is sometimes frustrating some of us when we read, occasionally, newspaper stories which are very inaccurate. But increasing the role of judicial or other governmental intervention seems to many of us a proposed cure far worse than the illness involved.

What is clearly the best antidote to media inaccuracy is a willingness on the part of the media itself to engage in the same sort of critical analysis of each other which the media applies to people in public life and elsewhere in our society. And I believe we have too few examples of this. Professional courtesy unfortunately interferes.

I was, therefore, particularly pleased to note that the Washington Post has begun a policy of providing a forum for thoughtful media criticism by one of its own leading journalists, Howard Kurtz. And an example of how important this function is came in two recent articles by Mr. Kurtz in which he documented the biased way in which the Washington Times presented a profile of Bob Woodward.

We ought to note and express our admiration for the courage of Don Kowet, who resigned as the media critic of the Washington Times precisely because the newspaper had handled his material in such a biased fashion. The role of Mr. Kowet, and the chronicling of that by Mr. Kurtz provide important examples for those interested in the kind of media self-analysis which will serve our democracy well and for that reason I believe it is useful that this material be reprinted here.

[From the Washington Post, June 26, 1992]

TIMES MEDIA CRITIC QUITS—WOODWARD PROFILE EDITED UNFAIRLY, KOWET SAYS

(By Howard Kurtz)

Don Kowet, the Washington Times' media critic for seven years, resigned yesterday, saying the paper's editors had "completely rewritten" his profile of Bob Woodward "to give it a far more negative spin."

"That piece has my signature on it, and it's not my piece," Kowet said in an interview. "I loved that paper, but I just can't work for them anymore. I want my byline to reflect what I write. . . . I want to be able to look at myself in the mirror when I get up."

Woodward, an assistant managing editor at The Washington Post, is a frequent target of Times Managing Editor Wesley Pruden, who refers to Woodward as "Mortuary Bob" in his column.

Pruden said he was "kind of astonished" at Kowet's account because "that's not what he told me. We discussed the editing of several of his pieces. He told me he was burned out on the media beat and he wanted to do other things."

"That's not true. . . . I specifically said I'm resigning over the Bob Woodward issue." Kowet replied. He said he complained that this was "part of a pattern" of unfair editing changes.

Kowet said Ken McIntyre, editor of the Life section, told him he had rewritten the

June 15 story; Kowet was on vacation at the time. He said McIntyre "indicated to me that he wasn't the only one involved in editing the piece." McIntyre's office referred questions to Pruden.

Pruden said he read the story before publication but did not recall making any changes himself. Asked if Kowet should have been consulted about wholesale changes in the article, he said: "I'm not going to get into a discussion of editing techniques."

In a note posted in the newsroom yesterday, Pruden said that Kowet had resigned "to pursue other projects on the horizons." Several staffers said they were upset about Kowet's resignation and protest.

The Times, which has a conservative editorial philosophy, maintains that its news columns are free of bias. "On certain sensitive stories my copy has been changed," Kowet said. "I detect a political correctness in some areas, which may be intensified" since Pruden succeeded Arnaud de Borchgrave as the paper's top editor last year.

In a similar controversy last fall, Dawn Weyrich Ceol quit the Times after Pruden rewrote her story about the Clarence Thomas-Anita Hill hearings in a way that she felt was unfair to Hill. Pruden said then that the Times is an "editor's newspaper."

Kowet, 54, is the author of 11 books, the former managing editor of Sport magazine and a former award-winning reporter for TV Guide. He said he considers himself a neoconservative on most subjects. The author of a book about Gen. William Westmoreland's libel suit against CBS, he has not been shy about criticizing the liberal press. Among other things, he has written that the PBS "Frontline" series is based on "left-wing bias and political paranoia."

Kowet's profile of Woodward, who with Carl Bernstein helped crack the Watergate scandal, was tied to the 20th anniversary of the break-in at Democratic headquarters.

Kowet said that 10 of the first 17 paragraphs were completely rewritten. According to Kowet:

Editors added that "the icon's credibility is under attack across the political spectrum. . . . Worse than the skepticism—of the now-classic Woodwardian reliance on anonymous sources, reconstructed conversations and interior monologues—is the ridicule."

This was followed by a reference to Pruden: "One columnist, noting Mr. Woodward's tendency to identify sources only after they are 'safely dead,' calls him Mortuary Bob."

Editors inserted the word "lurid" to describe Woodward's biography of John Belushi.

Editors added that The Post hired Woodward from the Montgomery Sentinel, where "he left the paper with a libel suit on its hands." Kowet said he believes the paper won the suit and saw no reason to mention it.

Editors inserted material from "Silent Coup," a book about Watergate that is sharply critical of Woodward.

Kowet had quoted University of Virginia political scientist Larry Sabato as saying: "When I read a piece by Woodward in The Post, I'm inclined to treat it very seriously because I know that he has some of the best contacts in Washington. But that doesn't mean I endorse all of his techniques. I find his stories insufficiently sourced sometimes. I think he asks the reader to trust him too much."

In the edited piece, the Sabato quote read: "I think that he asks the reader to trust him too much."

Kowet had quoted author Steven Weinberg as calling Woodward "one heck of a journalist. He understands how to look at an institution. And he knows how to ask the right question in just the right way." Weinberg also said that Woodward's use of anonymous sources sets "a terrible example" for other reporters.

The edited piece said, "Mr. Woodward may be 'one heck of a journalist,' agrees University of Missouri journalism professor Steven Weinberg, former director of the national group Investigative Reporters and Editors, but he 'sets a terrible example.'"

"There were dozens of things that skewed the piece to be negative," Kowet said. "To me, it was a 'hit.' . . . It was much meaner. . . . Quite frankly, when I started off, I had a fairly negative attitude toward Woodward." He said the original piece had been "tough but fair."

But Pruden said, "We were happy with the piece that ran. I don't think we've ever been unfair to Woodward. We've done some good reporting about Bob Woodward since he's become part of the story."

Kowet said minor editing changes were made before he and his fiancee went to Mexico on vacation. Because of the sensitivity of a piece involving the Times' main rival, he left his phone number and the hotel fax number and asked to be called if any changes were made. He said no editor called him, although a friend faxed him the piece the day it appeared.

Kowet, who turned down a transfer to the national staff, said he was tired of the media beat at the Times because "my main job seems to be to bash The Washington Post."

[From the Washington Post, June 30, 1992]

TIMES EDITOR AND EX-REPORTER AIR THEIR DIFFERENCES

(By Howard Kurtz)

It was one of those rare moments that only live television can provide: Don Kowet was on C-SPAN yesterday morning, explaining why he quit the Washington Times when a caller took him by surprise.

The man on the line was Wesley Pruden, the Times' managing editor. As Kowet sat shaking his head, Pruden declared that the reporter had just been through a divorce and was feeling "burned out." He is "not a very good writer," Pruden said, and his "stories have been rewritten constantly."

As for Kowet's charge that he resigned last week because the paper's editors had turned his profile of Bob Woodward into a hatchet job, Pruden said Kowet had been waiting "for the first suitable opportunity . . . to get his 15 seconds in the Style section of The Post, perhaps to enhance employment prospects at the expense of his colleagues here. . . ."

Kowet reached after the program, dismissed many of his ex-boss's comments as "a lie."

"I thought it was just trashy and sleazy for him to bring up my private life in order to smear me," said Kowet, who had been the Times' media critic for seven years. He added that "I never got rewritten on pieces that didn't have to do with politics."

Kowet rejected the suggestion that he milked the incident for personal reasons. He said he has no job lined up and that it was "the worst possible timing for me" because he is trying to sell his house and his fiancee is unemployed.

Pruden told The Post last week he was "kind of astonished" to hear Kowet's complaint about heavy-handed editing on the Woodward piece because "that's not what he told me." On C-SPAN, however, Pruden said, "Don did in fact say he was very unhappy with the editing of the Bob Woodward story."

Pruden said Kowet turned down a transfer from the Life section to the national staff, saying Kowet had told colleagues that "he didn't think he could take the pressure of working for a hard-charging editor like Fran Coombs," the national editor.

"There was no attempt in this case to make your story less or more negative or positive about Bob Woodward. . . . If anything, it had more polemics in it than the one we edited down," Pruden told Kowet on the air.

When Kowet noted he had won a feature writing award—"I can't be that bad," he said—Pruden shot back: "Don, you know as well as I do that awards are given for the finished product."

Pruden acknowledged that the incident may have hurt the paper's credibility, but added: "The Washington Times is a very different kind of newspaper. We are not politically correct." The Post, he said, is "running scared" and "doing everything they can do to hit us as hard as they can."

COLUMBIA'S FIAT CONNECTION

Furio Colombo, an Italian journalist and author, has just completed his first year on the faculty of Columbia University's Graduate School of Journalism.

Colombo also has an unusual sideline for a journalism professor: He is chairman of Fiat U.S.A., the public relations arm of the Italian car manufacturer. And his chair in international journalism is being funded by a $1.8 million grant from a state-owned bank in Italy.

Joan Konner, the school's dean, said yesterday that Colombo "is a recognized journalist. We checked his credentials with American and Italian journalists and found out he is indeed considered a fine journalist with a long list of credits."

Konner said she believed Colombo has retired from Fiat U.S.A., but a spokeswoman there said he is still the chairman.

The controversy came to light when Samantha Conti, a Columbia student, wrote a piece about it in the journal Lingua Franca. She quoted the head of foreign relations at Italy's San Paolo Bank as saying: "It was Furio Colombo's wish that we set up this professorship in international journalism."

Colombo, who has taught at other U.S. universities, could not be reached yesterday. He told the journal he had nothing to do with arranging the grant and did not see any conflict with his Fiat duties.

Konner said the journalism school would not have had the money to hire Colombo without the grant, but that it is a nontenured position and "is not tied to any specific individual."

Karen Rothmyer, a Columbia journalism instructor, said she was troubled by the appointment because "nobody else was interviewed for this chair. . . . The money and the person came as one thing." She said she had read one of Colombo's books and considered it "a piece of junk . . . I think they put a fast one over on the school."

As for Colombo's Fiat job, Rothmyer said the faculty was told that "they do things differently in Italy."

JULY 4TH SPEECH AT TRUMAN LIBRARY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SKELTON. Mr. Speaker, this past Fourth of July, at the annual celebration at the Truman Library in Independence, MO, I had the occasion to hear an outstanding speech. It was delivered by Col. Ollie L. Tracy, U.S. Army, retired, of Kansas City, formerly from Higginsville.

Colonel Tracy's speech is entitled "Challenging Old Glory," and I insert it in the RECORD to share with the other Members of this body.

CHALLENGING OLD GLORY

(Speech by Col. Ollie L. Tracy)

Thank you, Doctor Zobrist, for that gracious introduction. Distinguished Guests; Ladies and Gentleman—Good Morning!

First, I want to say that it is an honor and a privilege for me to speak on this special occasion at the Harry S. Truman Library. When Dr. Zobrist invited me to make this presentation, he mentioned that Mr. Truman used to give these speeches on Independence Day until he was no longer able to do so because of ill health. I remembered that this is not the first time I've followed Mr. Truman at a speaker's podium. While you're looking me over, I'll tell you about it briefly.

Mr. Truman was invited to speak to the student body of about 1300 career officers at the Command & General Staff College, Fort Leavenworth in the fall of 1959 as I recall. I was on the faculty at the College at that time, and I was scheduled to lecture the same class at one p.m., following Mr. Truman's talk at 11 a.m. This was about the time that the Cuban Crisis was beginning to heat up in the international arena. Mr. Truman gave the class one of his rousing "give-em-hell" speeches, and the class responded in kind. I was backstage at the time of his finish, and as he was leaving I approached him and said. "Mr. President, that was a great speech; you're going to be a hard act to follow. I have a class-lecture with them at 1 p.m." He smiled and said he had the easy job. His was before lunch; you'll have them after lunch when they're ready for a nap. So, I'm pleased that this presentation is in the morning.

Before I begin my speech I would like to take this opportunity to congratulate the Kansas City American Legion Band for a job well-done. As a military man, that type of band music always inspires me. And, it brings back memories when I was a trumpet player in the Higginsville Municipal Band. We played many concerts for Fourth of July celebration.

Ladies and Gentleman, before me is a beautiful sight! High above us, in the background, is "Old Glory", waving majestically in the morning breeze, a striking emblem of our country, a symbol of everything that is good about our republic. I have a special feeling, today, for I have had the honor of serving under it both in war and peace, as have many of you. And today, our nation's birthday, is a special day for us to show that we are proud to be Americans, and richly blessed to have the privilege of living in America. What a priceless heritage has been left to us by those who have lived in the days gone by. They withstood the challenges of their times; they persevered; they pledged their lives, their fortunes and their honor to build and maintain this nation founded on the principles of faith in God, freedom, justice, liberty, equality and a government that has served as a model of democracy to the world for over two centuries.

Here, by this ceremony, we commemorate the birth of our nation! The Declaration of Independence in 1776 proclaimed our status as an independent nation. The Constitution of 1787 established a system of free and popular government. Quote: "Never before in history of mankind has a group of men, in a limited period of time, set down in writing and won the acceptance of a blueprint for this new government. A government that declared man's natural rights, and at the same time instituted a legal framework for society that guaranteed that these rights would be preserved." That accomplishment is astounding! "Yet, too often we take it for granted, hardly understanding or caring just what Independence Day really means, or really comprehending just what the Constitution and Bill of Rights are, and what they accomplished".

What can we do, what must we do to keep these great blessings and privileges intact? How can we insure that these great principles and all these qualities of life will be here for our children and their children after we are gone? "For over 200 years now our citizens have had the obligation to make the Constitution work. It is a living document that must be interpreted by each new generation. We must constantly measure our current freedoms and responsibilities by its lofty criteria."

But today, our liberties are being threatened! "Old Glory" is being challenged again, not only by the indifference and apathy of millions of Americans, but by factors so insidious that many of us fail apparently to recognize the impacts of these invasions! Every day, in urban streets and rural communities alike, our rights and liberties are threatened by rampant crime, street violence aggravated by judicial irresponsibility, and eroded by special interest groups and undermined by moral and ethical shortcomings. A significant segment of our population seems to portray a startling lack of moral fiber and virtue! It has been suggested that some of our problems stem from the fact that we have virtually eliminated from the public schools and higher education, any effort to teach moral values. But perhaps the most important, in my opinion, is that our basic institutions—the Family, the Church and the Community, including certain components of the media and the entertainment industry, are not doing an adequate job of building character and promulgating responsibility!

While preparing for this talk, I ran across these words in a little booklet, titled "God Bless America": Quote: "The things that will destroy us are—Politics without principle; Pleasure without conscience; Wealth without work; Knowledge without character; Business without morality; Science without humanity; and Worship without sacrifice." How true those words!

Having said this, I hasten to add that these transgressions are reversible. Quote: "Most importantly, the American people as a whole are still best characterized as law-abiding, deeply patriotic and basically morally sound". Good solid Americans must, and will, meet these challenges of today, as we as a nation, have met previous challenges and proven time and again over two centuries our forefathers to be correct. "America has prospered. Today we remain the strongest, freest and most prosperous country in the world, and we will remain so if we sustain the resolve manifested by the framers of our Constitution and the courage embodied by generations of Americans since that historic summer in Philadelphia."

As concerned Americans, we must teach our children and grandchildren, our history and heritage, and deeply impress upon them not only the privilege of that heritage, but the responsibility of perpetuating American spirit and strength, I strongly feel that we must teach our youth (our future leaders) respect for authority; acceptance of responsibility; simple honesty; self-discipline; and the work ethic! Our real strength, as always, lies in love of God, Country and Family!

You may have noted that I've used the word "responsibility" several times. The President of the Freedoms Foundation, Valley Forge, sounds this warning: "Too many Americans nowadays focus almost exclusively on their rights, seldom on responsibilities. Public dialogue is dominated by talk of rights while ignoring responsibilities". And one of our Supreme Court Justices states: "Responsibility is more than the other side of the coin of freedom; it is the foundation of freedom!". You cannot have rights without responsibility; it fits in with our "checks and balances" concept.

The Freedoms Foundation, under the chairmanship of the then Chief Justice Warren Burger, and with the involvement of a number of leading scholars from throughout the nation have created a document titled: "A Bill of Responsibilities." This document is not an attempt to further amend or change the Constitution. This document is only a means of promoting further discourse among the people and to emphasize our citizens' responsibilities to our nation and to fellow citizens. Here is a list of "responsibilities" as presented in this document: (1) "To be fully responsible for our own actions and for the consequences of those actions; (2) To respect the rights and beliefs of others; (3) To share with others our appreciation of the benefits and obligations of freedom; (4) To give sympathy, understanding and help to others; (5) To do our best to meet our own and our family's needs; (6) To respect and obey the laws; (7) To respect the property of others, both private and public; (8) To participate constructively in the nation's political life (for example, fulfill our duty to vote); (9) To help freedom survive by assuming personal responsibility for its defense; and (10) To respect the rights and meet the responsibilities on which our liberty rests and democracy depends."

Ladies and Gentlemen: I think you will agree that this uncomplicated document sets out a citizen's responsibility to our nation, and to each other, within the framework of our free society. No longer can we take our freedoms for granted. Therefore, we must never forget that each succeeding generation of citizens must accept the responsibility of preserving our hard fought-for independence, freedom and liberties. I am confident that the challenges to Old Glory will be met! But we must be involved! A current television commercial lead-in warns that we are more concerned about what we put into our car than what we put into our body. I suggest that we should be much more concerned about what is put into our head! That is to say: We must ask intelligent questions, but much more importantly, we must listen intelligently to the answers. Remember: "Eternal Vigilance is the price of liberty".

In closing, I want to repeat that it has been a privilege to speak here, to this fine audience, on this celebrated occasion and at this historic site! I wish you and yours a most enjoyable and safe holiday on this glorious Fourth of July. As you leave this ceremony, take a long look at the "Stars and Stripes" still rippling gallantly in the morning breeze. Quote: "Think of it reverently, thank God for it and listen to its message of freedom and hope: Defend me! Never let my enemies tear me down from my lofty position lest I never return. Keep alight the fires of patriotism; strive earnestly for the spirit of democracy; worship God and keep His Commandments. Then, I shall remain the bulwark of peace and freedom for all mankind. I am your flag, the symbol of the spirit of America, the emblem for all the world to see, the one common bond for all Americans. I am Old Glory!" And finally, as you pay honor and respect to our flag, whether standing for the National Anthem or as the flag passes by, you should stand a little taller, hold your head a little higher and clasp your heart a little tighter—and be uplifted, be uplifted by the feeling of pride and confidence that our legacy will be sustained! The United States of America will remain the land of the free and home of the brave!

NORWAY FINDS A NEW WEAPON TO COMBAT BURMA'S TOTALITARIAN RULE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BEREUTER. Mr. Speaker, the people of Burma continue to be ruled by a ruthless totalitarian regime. The military dictatorship maintains control only by terrorizing the population, and they smother every hint of individualism with brutal efficiency. Anyone who dares question their dictatorial rule is arrested, or simply disappears.

This week marks the fourth anniversary of the arrest of Aung San Suu Kyi, the leader of the pro-democracy movement who despite her incarceration actually won a general election in May 1990. True to form, the military junta declared the election null and void, and kept Ms. San Suu Kyi under arrest.

With absolute control over all forms of information, the people of Burma are left totally in the dark. It would be understandable if they believed that no one was aware of their plight. They are offered no solace. They are offered no hope.

But this week the Norwegian Government has begun to broadcast to the people of Burma uncensored news, information, and cultural programming via shortwave radio. Delivered in their native tongue, this radio network serves as a voice for the democratic government in exile. It tells the Burmese people that they are not alone. Mr. Speaker, this Member applauds the initiative that the Norwegian Government has exhibited in initiating these radio broadcasts. While this body has approved a number of resolutions condemning the human rights abuses of the Burmese military junta, it is important that this issue continues to be raised at every opportunity.

Mr. Speaker, a recent editorial in the Lincoln Journal commends the efforts to the Norwegian Government to provide uncensored information to the people of Burma. It provides an instructive lesson in pro-active human rights policy. This Member would ask that the July 21, 1992, editorial from the Lincoln Journal, entitled "Broadcast in Burma's Behalf," be entered into the RECORD.

JUST STOP TESTING

President Bush's announcement the United States will halt producing plutonium and enriched uranium was no bold step.

This country ended processing nuclear-weapons-grade uranium 28 years ago. Plutonium production stopped in 1988. We've got a great abundance of the stuff on hand.

What would have been striking is a presidential order to end all nuclear weapons testing for a year. That is what governments in Moscow and Paris unilaterally decided upon, and are implementing.

The administration's posture, as developed in a letter earlier this month to Sen. J. Bennett Johnston, is that the number of nuclear weapons tests will be reduced to no more "than six tests per year over the next five years, or more than three tests per year in excess of 35 kilotons." And safety, or warhead reliability, is supposed to be the main purposes of those Nevada explosions.

Would the operational character of the nation's vast inventory of nuclear weapons be endangered if the United States matched the current Russian and French test moratoriums? No reputable scientist has said so. On the contrary, many take the opposing view.

The Senate should move on legislation cosponsored by 51 of its members directing a one-year testing recess. A bill to that effect carried in the House last month. Congress, not the executive, is on the right track about nuclear weapons testing.

BROADCAST IN BURMA'S BEHALF

Give Norway credit for creative diplomacy. Contradictory, too, some might say.

The Norwegian government maintains diplomatic relations with Burma's military government. But it admits its heart belongs to Aung San Suu Kyi, the Nobel Peace Prize winner who just completed three years under house arrest in her country. Her democracy movement won a national election two years ago but Burma's incumbent generals never allowed it to take office.

So, starting this week, Norway's government is allowing the democratic Burmese opposition to use the Norwegian Broadcasting Corporation's shortwave system one hour each day to beam a message to the people of Burma. The program broadcasts uncensored news, cultural programming, commentary and announcements from the dissident government in "internal exile."

The government of Oslo decided "we would do whatever we could . . . to help the democratic organizations of Burma," said Deputy Foreign Minister Jan Egeland. No doubt the broadcasts will enhance the stature of the opposition coalition. Egeland added: "I know of few other examples of any country going this far."

That's true. Lately the opposition has drawn some financial support from Canada and Europe, but mostly the world deplores the squelching of democracy in Burma without taking steps to remedy it. Washington is one of the capitals that has limited itself to hand-wringing. Last week our State Department issued a statement praising Aung San Suu Kyi's "courage and indomitable spirit." But it didn't even mention her government in exile, headquartered in rebel-held territory along the Thai border.

The Nobel laureate probably wishes a lake of oil would be discovered beneath her country. Then Washington would be lobbying the United Nations for action and placing its armed forces on alert. Meanwhile, Norway at least is doing something.

HOUSE RESOLUTION 516, PROVIDING FOR THE CONSIDERATION OF H.R. 2607

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. DINGELL. Mr. Speaker, I am providing this information for the RECORD to correct misstatements that were made during consideration of House Resolution 516 on Tuesday, July 21, 1992, by the House.

In his remarks on House Resolution 516, CONGRESSIONAL RECORD, July 21, 1992, page H6262, Representative RITTER, the ranking Republican of the Subcommittee on Transportation and Hazardous Materials, made statements that do not accurately reflect the intent of the committee with respect to the subject legislation. First, in addressing section 9 of the legislation, Representative RITTER stated that:

> Section 9 of this bill, an administration-requested provision, merely clarifies safety enforcement authority in a situation were (sic) a railroad has delegated total obligation and accountability to an outside contractor for a continuous and ongoing operation performed by the railroad and its employees. An example would be a small railread (sic) contracting out its entire signal system maintenance program. Correlatively, there is no intention to bring within FRA's authority individual contracts performed to a railroad's specifications—for example, repair of a particular section of track under the railroad's direction. This provision is merely confirming the legal status quo, not expanding FRA's reach beyond rail carriers.

The gentleman from Pennsylvania is correct that the provision was included in the legislation at the request of the administration and that it is intended merely to clarify the current scope of FRA's safety authority. However, Mr. RITTER's statements draw a blatantly erroneous distinction between: First, situations where a railroad delegates "total obligation and accountability to an outside contractor for a continuous and ongoing operation normally performed by the railroad and its employees"—that are, according to Mr. RITTER, covered by FRA's statutory authority; and second, situations involving "individual contracts performed to a railroad's specifications"—that are, according to Mr. RITTER, not covered under FRA's statutory authority. Correlatively, the factual examples given by Mr. RITTER of each type of situation do not reflect the intent of the coverage of section 9 of the legislation.

The clear and unambiguous language of section 9, which amends similar provisions in various rail safety laws, provides that rules, regulations, orders, and standards issued by the Secretary apply to a number of different persons, including "any independent contractor providing goods or services to a railroad" and "any employee of such * * * independent contractor." There is no distinction made in the legislation between the types of contractors described in Mr. RITTER's statements.

In the Committee's report on H.R. 2607 (H. Rpt. 102–205), we stated that section 9 "simply makes the Secretary's current authority explicit." We are unaware of any pronouncement by the Department of Transportation or the Federal Railroad Administration that draws the distinction described by Mr. RITTER. If such a distinction has been drawn by the administration, I request that such information be submitted in writing to the committee immediately, with an explanation of the history and rationale therefor.

During the floor debate on House Resolution 516, Mr. RITTER also addressed section 7 of the legislation, the provision that requires so-called end of train devices on most trains—CONGRESSIONAL RECORD, July 21, 1992, page H6262:

> * * * although the baseline standard will be the use of the new devices, this legislation carves out certain minimum exceptions, for example, for trains operated under 30 mile (sic) per hour. What I want to stress here, Mr. Speaker, is that although those exceptions are mandatory, they are not exclusive. Under the "public interest and consistency with rail safety" standard of this legislation, additional areas may well be exempted from the end of train requirement. One area that should be carefully examined in this regard are the operations of our short line and regional railroads, who through entrepreneurial grit have kept many marginal lines in operation, but who are not a deep pocket with a great ability to absorb increased regulatory costs.

While I believe the plain intent and meaning of section 7 is not in question, I will emphasize two points to clarify the intent of this provision. First, there are five categories of trains listed in new section 202(r)(4) that the Secretary is directed to exclude from the new regulations, including trains "that do not exceed 30 miles per hour and do not operate on heavy grades." However, categories of such 30-mile-per-hour trains may be subject to the regulations if they are "specifically designated by the Secretary." Thus, as to 30-mile-per-hour trains, the exclusion is not completely mandatory, as Mr. RITTER has stated, because the Secretary may designate categories of such trains that will be subject to, not excluded from, the requirements of the regulations.

Second, Mr. RITTER is correct that the Secretary, in addition to the five categories listed in new section 202(r)(4), as discussed above, may exclude "any category of trains or operations" from the regulations, if the Secretary determines "that such an exclusion is in the public interest and is consistent with railroad safety." This provision speaks for itself and I am confident the Secretary will apply both parts of the statutory formula—that is, public interest and consistency with railroad safety—to any specific category of trains or rail operations that the Secretary determines should be excluded from the regulations under this provision. The legislation—accurately reflecting our intent—does not direct the Secretary to consider any particular category of trains or rail operations in carrying out this provision nor does it address the degree of likelihood that the provision will be exercised by the Secretary in any respect.

OKLAHOMA SCHOOL OF SCIENCE AND MATHEMATICS

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. EDWARDS of Oklahoma. Mr. Speaker, we are all aware of the need to increase dramatically the mathematics and science skills of American students. I have long fought for higher standards of education and I am pleased to let other Members of Congress know about a public high school in my district that has achieved an extraordinary record of success in its 2 years of existence.

The school is called the Oklahoma School of Science and Mathematics, and it officially opened in September 1990. The inaugural class graduated in June of this year after compiling an impressive record.

I congratulate the Oklahoma School of Science and Mathematics, both faculty and students, for their excellence and want to share with my colleagues the following profile of the first graduating class.

OKLAHOMA SCHOOL OF SCIENCE AND MATHEMATICS

PROFILE

Class of 1992

An increase in ACT composite scores from 25.4 to 30.5.

A national Presidential Scholar.

Five national Presidential Scholar semifinalists.

Fourteen National Merit Finalists.

Thirteen National Merit Commended Scholars.

Seven Robert C. Byrd Scholars.

Six Academic All-Staters.

A Fleming Scholar.

Twenty who qualified for Oklahoma Higher Regents Scholarships.

Three students accepted into the OSU Engineering Scholars Program.

First Place in Oklahoma and Fifth Place in the nation for the President's Committee on Handicapped Concerns Journalism Scholarship.

Overall Outstanding Team Performance and Outstanding Written Presentation Team Award at the Oklahoma Meteorological Applied Problem Solving competition.

Governor's Commendation, winning school for the 1992 Ability Counts essay competition.

First Place, High School State Championship, Oklahoma Mathematics League.

First Place in state and Second Place in nation for Junior Engineering Talent Search Teams competition.

National Consortium of Schools Specializing in Science, Mathematics and Technology Scholar.

Howard Hughes Medical Institute Scholar.

Oklahoma Irish-American Society honoree.

Johnson Controls Incorporated Foundation Scholarship.

Oklahoma Elks Foundation Scholarship.

Ball Corporation John W. Fisher Scholarship.

Oklahoma Moose Lodge Scholarship.

American Airlines Scholarship.

Two Phi Beta Kappa Scholarships.

Vance Air Force Base Scholarship.

International Order of Foresters Scholarship.

Scottish Rite Scholarship.

Baptist Medical Center Scholarship.

ITT Hartford Insurance Group Scholarship.

Phillips 66 Corporation Scholarship.

Oklahoma Christian University Senior Day Examination Scholarship.

Ole Miss Honors Program and Alternate for the Ole Miss Chancellor's Leadership Class.

First Place, Buttram String Quartet Award.

Second Place, OU Fencing Tournament.

College acceptances include: Eight to MIT, four to Cal-Tech, and five to Rice. Other college acceptances include Boston University, U.C. at Berkeley, Duke, Dartmouth, Georgia Tech, Harvard, Notre Dame, Purdue, Stanford, Tulane, Yale, Vanderbilt, Washington University, Xavier University of Mississippi, University of Texas, USC, Texas A&M, OU, OSU, Tulsa University, OBU, OCU, Oklahoma Christian, Phillips, Southern Nazarene and the University of Central Oklahoma.

CONGRATULATING ANTHONY BARBIERI OF SAN JOSE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. MINETA. Mr. Speaker, some would have the American people believe that Government service is either home to perpetual mediocrity or a refuge for those who cannot find jobs in the private sector. I believe charges such as these to be myths perpetuated by cynics, and I am concerned that these cynics are having a negative impact on gifted young Americans who might consider a career in Government service.

Fortunately, Mr. Speaker, there are young Americans like Anthony Barbieri of San Jose. Recently, Mr. Barbieri was awarded a public service scholarship by the Public Employees Roundtable. This scholarship, 1 of 10 presented nationally, could not have been more deserved.

Mr. Barbieri wrote an essay about Government service to the Roundtable as part of his application for the scholarship. It is my pleasure to share that essay with you, Mr. Speaker, and my colleagues in the hope that it may help to stem the tide of cynicism about public service in America.

ESSAY BY ANTHONY JEROME BARBIERI

It has been said that "No man is an island, entire unto himself." This is very true, for each of us is a member of a greater continent of being, a society from which we receive benefit and unto which we owe our service. I have chosen a public service career because it offers me the opportunity to experience the three qualities I most desire in a career: civic participation, service to others, and personal fulfillment. The specific vocation to which I aspire is that of a community or state college professor.

First, I chose a career in public service because it gives me the chance to participate in the function of our great and multicultural society. I believe that the enduring cohesion and overall success of ours or any society depends on the active participation of its members. So many people complain of worsening conditions and structural deterioration in this country, but they refuse to accept responsibility on themselves. The greatest evil in a complex society is not the politician, but apathy on the part of the populace. Through a public service career in general, and specifically as a college teacher, I intend to actively participate in the greater arena of civic duty.

The second reason I have selected public service is that by very definition it presents me with the opportunity to serve my fellow man, to communicate to others the knowledge and talents I have acquired throughout my life. This is the key reason I have chosen to become a teacher. I have a passion for knowledge. I read constantly and am always eager to expand the horizons of my awareness. I have always wanted to communicate to others this passion, to try to inspire in them the same feelings of awe and connectedness I feel when I read a classic work of literature or open my mind to a previously unknown chapter in history. It is of fundamental and paramount importance in our society to encourage the age-old veneration of the teacher and his art, for I believe that to be a teacher is the greatest public service of all.

The third reason I chose a career in public service is that it gives me a greater sense of personal fulfillment than any other occupation I have undertaken. I have owned my own business; I have worked as a freelance writer; I have been a computer technician. But only when I was a teacher's aide did I feel a sense of reward or fulfillment at the end of each day. It was hard work, to be sure, but I felt that I was actually making a beneficial difference in someone's life. It is true that personal satisfaction may be the most selfish of my reasons, but it is a selfishness that takes joy in the selflessness of serving others.

I have attempted in this brief essay to demonstrate my justifications for selecting a career in public service. My belief is that public service offers me the greatest chance to experience civic participation, service to others, and personal satisfaction. The first step on my career path is to complete my B.A. degree in Asian and Islamic History at the University of Santa Cruz. I believe my goal is an honorable one, and I would greatly appreciate your financial assistance in helping me reach this goal.

HONORING OUR KOREAN WAR VETERANS—THE FORGOTTEN HEROES

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. KANJORSKI. Mr. Speaker, I am proud to pay tribute today to a very special organization of men and women from my district, the Korean War Veterans of Wyoming Valley. This Sunday, July 26, 1992, their dream of memorializing area servicemen who fought for their country in Korea, will become a reality, as hundreds of Korean War veterans and their families dedicate a monument on the grounds of the Luzerne County Courthouse. I am pleased to have been asked to participate in this important event.

The granite memorial, in four sections, contains the names of the 142 county residents who gave their lives for their country during the Korean conflict. Included in this list are the 33 members of the 109th Field Artillery who were tragically killed in a train wreck on September 11, 1950, en route to encampment. The monument will serve as a silent reminder of "The Forgotten War" for future generations.

The ceremony this Sunday will be the culmination of a 4-year project undertaken by the Korean War Veterans of Wyoming Valley under the distinguished leadership of Comdr. Bob Stochla. The dedication of Commander Stochla and ceremony chairman, Bob Alper, cochairmen, Earl Weigel and Marty Greenberg, as well as the committee members, Bob Mattern, Bill Stefancin, Jack Kline, John Washney, and Phil Weidner will long be remembered by all of the officers and membership of the Korean War Vets. I had the distinct pleasure of working with these fine men in helping to raise the funds needed to complete the project. All of these men exemplify patriotism in its purest form and I am proud to call them my friends.

Mr. Speaker, I would be remiss if I did not take a moment to pay special tribute to a man who was instrumental in waking up the entire Nation as the founder and coordinator of the acclaimed "Korean War Awareness Project," Tony Zdanavage of Berwick. Tony was held prisoner by the Chinese for 83 days. He relates the horror of his captivity in his book "Korea—The War America Forgot To Remember." Tony's relentless efforts have caused a national movement to erect a monument in our Nation's Capital. In Tony's own words, "All veterans should understand they are not alone with their feelings of being the forgotten survivors who lived through hell on Earth. We can be remembered."

In Korea, more than 1 million men and women fought to protect democracy and almost 55,000 gave their lives in a hopeless and unpopular war. I am pleased to have the opportunity to bring to the attention of my colleagues, and the Nation, the efforts of a small group of dedicated survivors, who are determined not to allow us to forget their sacrifice and courage. It is with great pride that I ask the Congress to join me in commending the Korean War Veterans of Wyoming Valley as they dedicate a permanent reminder for future generations, so that Korea will no longer be the forgotten war.

NEW ZEALAND REMEMBERS FIRST GI OFF THE BOAT

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FEIGHAN. Mr. Speaker, in commemoration of the 50th anniversary of the Second World War, I would like to take the time to honor a native Clevelander Nathan Cook. Mr. Cook was the first American to land on the shores of New Zealand during the troop buildup preceding the Pacific operations of World War II.

Mr. Cook, a member of the 37th Infantry Division of the Ohio National Guard, exemplifies the dedication and patriotism that helped the United States and the Allied Forces win the war.

Deciding not to wait for the draft, Mr. Cook joined the Guard July 15, 1940, at the age of 30. Nathan Cook and his fellow U.S.S. *Uruguay* soldiers were a core group of the 500,000 New Zealand bound troops. These Allied forces proved crucial in the strike against Japan after the Pearl Harbor bombing.

It was no coincidence that Mr. Cook was the first down the gangplank. Realizing the historic nature of their journey, a soldier pointed out that Nathan shared the name of the English captain, James Cook, who in 1769 discovered New Zealand, remembered the English captain. With that in mind, Nathan's commander tapped him to be the first man ashore.

Mr. Speaker, it was 50 years ago on June 12 that our Pacific operations began, and we honor all the troops that fought in World War II, we should also honor and thank the man—Nathan Cook—with the special name and the special courage who started it all off for us.

At this point, I would like to insert in the RECORD a recent Cleveland Plain Dealer article featuring Mr. Cook, and I urge my colleagues to read it.

NEW ZEALAND REMEMBERS FIRST GI OFF THE BOAT

(By Lou Mio)

Nathan Cook never figured to become a celebrity when he boarded a troop ship in California 50 years ago.

The USS Uruguay was jammed with troops from the 37th Infantry Division, the Ohio National Guard unit federalized by Washington and sent into action during World War II.

"I joined the guard July 15, 1940, before they were federalized," said Cook. "I was 30 at the time and figured, 'Why wait for the draft?'"

Four months later, the 37th became part of the Army. The Ohioans were shipped to Camp Shelby, Miss., for training, and by 1942 were en route to the war in the Pacific. Cook was a first sergeant in the 145th Infantry Regiment.

The 37th was headed for Auckland, New Zealand, and the Fiji Islands, part of the Allied buildup to strike back at the Japanese, unstoppable since the attack on Pearl Harbor and threatening to invade Australia.

"We didn't know our destination until a day and a half before we arrived in New Zealand," Cook said.

The troop commander on the Uruguay wanted to do something special since these were the first American soldiers to come ashore in New Zealand. Somebody on board had a sense of history and remembered the name of the English captain who discovered and charted all of New Zealand in 1769—James Cook.

"Because we had the same name, the troop commander designated me to be the first man to walk down the gangplank," said Cook, 82, of Triskett Rd. "I recall the day pretty well. It was June 12 (1942). I was company first sergeant and kept all the records.

"We docked at Princess Wharf," Cook recalled. "I remember the thrill of being the first soldier down the gangplank, the excitement of the soldiers and the enthusiasm of the people watching us disembark."

Cook and the others in the convoy were the vanguard of an estimated 500,000 Americans who passed through New Zealand. Last October, David Conway, an Englishman, and Del Sutton, his New Zealand wife, organized Operation U.S. Down-Under when they learned that the government had nothing planned to commemorate the American presence during the war.

"I started it and dragged David in," said Sutton, of Auckland. The couple got things rolling with $11,000 (about $6,000 U.S.) of their own money, but little governmental support until Conway wound up being interviewed in New Zealand's largest newspaper.

"I gave the government a well-deserved blast for its meanness," he wrote in a letter to the 37th Division Association. "It had the desired effect, because we now have all the money we needed so desperately in October.

"We say that our project is a people-to-people expression of thanks from the people of NZ to the people of America for saving us from the unthinkable," he wrote.

"There were half a million Americans here during World War II," Conway said in a telephone interview from Auckland. "You people had quite an impact. Things like Coca-Cola and hamburgers."

Sutton and her family saw a lot of GIs up close. The Army set up Camp Euart on their farm.

"My wife thought all New Zealand girls grew up with 5,000 Americans in the back garden," Conway said.

Conway and Sutton learned that Cook was the first American down the gangplank. They wanted to find him and bring him to New Zealand for this week's commemoration.

"I found out this month they were looking for me," Cook said. "I was surprised. It seems they were trying to get hold of me for a long time. There was a notice in the 37th Division newspaper. Somebody knew I was still around and called."

The prime minister of New Zealand offered to pay for Cook's trip. He had to decline.

"I checked with my doctor," said a disappointed Cook, who has emphysema and heart problems. "He said I would never stand it."

Undaunted, Conway contacted Cook and asked if he would say a few words on videotape. The tape was made Friday and sent to Conway.

"We want to show it in the Civic Theater in Auckland," Conway said. "It's a place Americans would know. The American ambassador will be there. Eleanor Roosevelt spoke there once."

American troops paraded down Queen St., the main street in Auckland, on June 19, 1942. The focal point of this commemoration will be a parade down the same street—50 years later.

Cook didn't stay long in New Zealand. The 37th went into action about one month later and fought continuously for 23 days on the island of Munda in New Georgia. Torn ligaments from a knee injury playing sandlot baseball caught up with Cook, who had been promoted to second lieutenant.

He was sent home and eventually discharged in July 1944.

On the videotape, Cook came close to tears while talking about his stay in New Zealand and the friendliness of its people.

"Many families requested us to send six or seven soldiers for dinner," he recalled. "They were very hospitable people. Many of them threw parties for us and even hired entertainers."

"We were in New Zealand about five weeks," he said. "To a man, I can say we all loved New Zealand and its people. I think they thought the same of us."

CALIFORNIA RATIFIES THE MADISON AMENDMENT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. LANTOS. Mr. Speaker, California has become the 40th State to ratify the Madison amendment. My good friend, State Senator Quentin L. Kopp, played an instrumental role in assuring its passage. I congratulate Senator Kopp for his fine work and I ask that Senate Joint Resolution 1, the bill calling for the ratification of the Madison amendment, be printed in today's RECORD:

SENATE JOINT RESOLUTION 1

Whereas the First Congress of the United States of America at its First Session, in both houses by a constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"The Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficient ends of its institution.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring*, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all or any of which Articles, when ratified by three fourths of the said Legislatures to be valid to all intents and purposes, as part of the said Constitution, viz.;

"Articles in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

"Article the second—No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened"; and

Whereas this proposed amendment will be valid as part of the Constitution of the United States when ratified by the legislatures of three-fourths of the several states; and

Whereas this proposed amendment has already been ratified by the legislatures of the following states Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming: now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That this proposed amendment to the Constitution of the United States of America be and the same is hereby ratified by the Legislature of the State of California; and be it further.

Resolved, That the Secretary of the Senate transmit certified copies of this resolution to the Archivist of the United States, Washington, DC, the President of the United States Senate, and the Speaker of the House of Representatives of the United States, with the request that it be printed in full in the Congressional Record.

TRIBUTE TO MR. HAROLD KENDLER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. PALLONE. Mr. Speaker, I would like to take a minute to pay tribute to a constituent of mine, Mr. Harold Kendler, who passed away this week. Harold Kendler was a man of extraordinary integrity and persistence, as well as one of the leading advocates in the country for Social Security notch justice.

As a railroad union official, Mr. Kendler was a tireless advocate for the common working man. As a retiree, he continued his dedication to the working men and women who had been shortchanged by the Social Security system. He cofounded the group End Notch Discrimination [END] and traveled all over the country organizing and rallying notch victims into a loud and unified voice for change.

It is fitting that we memorialize Harold Kendler today, Mr. Speaker, because today would have been the day that he testified before the House Ways and Means Committee about the need for notch reform legislation. For nearly 10 years, Congress has been holding up legislation designed to redress the grievances of the Social Security recipients born between 1917–26. Largely through Harold's championing of the notch issue, we have gathered over 280 cosponsors on the bill in the House of Representatives and have forced legislation to the closet point of passage in years.

Mr. Speaker, the motto Harold Kendler chose for his organization was, "Don't wait until we die * * * End Notch Discrimination Now." I only hope that Congress will take the example of his life, and not wait until other notch victims pass without receiving the benefits they so justly deserve.

Harold Kendler was a caring, light hearted man who enriched everyone he came into contact with. Without his presence, the notch community will be missing a fierce fighter and a true friend. He will be sorely missed.

DRUNK DRIVER KILLS FOUR YOUNG PEOPLE IN WORST ACCIDENT IN SANTA MONICA'S HISTORY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. LEVINE of California. Mr. Speaker, it is with deep sorrow that I rise today to pay tribute to four young people; three whose lives were ended abruptly and one whose valiant struggle to live was both hopeful and inspiring. Rita Morgan, Julie Dicks, Rob Cash, and Christopher Baker were hit by a drunk driver on the morning of June 7, 1992. This is the worst accident in Santa Monica's history.

Rita Morgan, the group's designated driver, had been in a coma since the accident. On June 30, 1992, she was disconnected from a respirator and began to breath on her own. Unfortunately, she gradually weakened and she stopped breathing Sunday morning, July 12. Rita graduated from California State University at Northridge with a degree in physical therapy last May. She previously worked as a physical therapist for the Los Angeles Clippers. In addition to her educational and professional accomplishments, Rita had been a great asset to the community. Her greatest joy had been her community service work as a clown. Rita, also known as Titi the clown, performed extensively with the volunteer organization visiting convalescent homes, children's hospitals, and the Special Olympics.

Julie Dicks and Rita Morgan had been friends since they attended Notre Dame High School. Julie graduated from San Diego State University in May 1992. She served this past year as a resident assistant in her dormitory, helping the incoming freshmen to adjust to college life. Julie planned to continue her education in order to establish a career in teaching. Although Julie lived in San Diego while attending school, she drove home every Sunday to visit her family and friends. She was also active in her church, singing in the choir, and setting an example to all who knew her.

Rob Cash had returned home to Santa Monica on June 2, after spending a year studying and working in Germany. Fluent in German, Rob graduated from the School of International Training in Brattleboro, VT, in June 1992 after completing his course of study and internship under the world issues program at that institution. Before transferring to the School of International Training, Rob attended Santa Monica College. While living in Santa Monica, he worked as a teaching assistant at the neighborhood nursery school. "Mr. Rob," as he was known to the children, also volunteered much of his time to various programs at the local YMCA. He also processed great love for and talent in soccer, having competed in the sport for much of his life.

Christopher Baker spent his life teaching and caring for the children in the community. Christopher worked full-time as a teacher at the neighborhood nursery school. Known to the children as Mr. Chris, Christopher, along with Rob Cash, provided the nursery school children with the rare experience of having male role models at that level. Following his work each day at the nursery school, Christopher had a second job as a coach at St. Joan of Arc School teaching athletics. He also taught tumbling at the YMCA on a voluntary basis. Even more than teaching, however, Christopher loved baseball. Christopher was involved with Santa Monica Little League for 16 years. He was manager and coach of a number of teams throughout those years and took great pleasure in the achievements of all of his players. He also took time out to give the players extra practice session and batting practice and to provide transportation to and from the games if necessary. In addition, Christopher played on three different softball teams, one of which plays in the Santa Monica Men's League.

The loss of these three young people who made such great contributions to the community is particularly tragic. The families, friends, coworkers and countless children and young adults whose lives they touched feel a great loss. They have now rallied together to more powerfully convey the message that drunk driving will no longer be tolerated in their community.

Julie, Rob, and Chris will be sorely missed. They provide a vivid reminder of the human cost of the crime of drunk driving. Congress must continue to find ways to get drunk drivers off the road and punish anyone who continues to drink and drive. I urge my colleagues to join with me in sending our deepest sympathies to the families of these four young victims; may the contributions of their sons and daughters be revered and long remembered.

I would like to submit for the RECORD a copy of the speech given by one of Christopher Baker's colleagues from the Santa Monica Little League. Dr. Barry Weichman helped Christopher coach his 1992 team and made these remarks at the dedication of the new batting cages at Memorial Park in Santa Monica to Christopher R. Baker.

SPEECH BY DR. BARRY WEICHMAN

> On Sunday I was informed of the tragic and senseless death of someone who had just recently become a friend and teacher, Chris Baker. Chris was my son Jeff's baseball coach this year. As assistant coach, I was fortunate to spend time with Chris both in the dugout and on the field. Chris knew baseball. Chris loved baseball. He imparted his knowledge of and love for the game with great zeal and great dignity. He was respectful of his players and would relish in their accomplishments. He had coached my oldest son, Jerry, as an allstar and he had befriended my youngest son, Joseph, whom he had hoped to coach in the future. Chris had no children of this own. He was 26 years old.
>
> Chris Baker was the ultimate volunteer. He nearly always chose to say "yes." In a world of take, I only saw Chris give. From his players he asked only that they do their best. So in losing Chris, what answers have I found? My friends, life is short. No one can predict when or even if we as individuals will be able to impact the world in which we live.
>
> From my perspective, Chris Baker impacted profoundly my life, my family's lives, as well as the lives of many other children and families in Santa Monica by doing something that he chose to do, by saying "yes" to coaching and teaching the children. It was not his job, he received no payment. Coaching the children was not a stepping stone to advance his career. He gave of himself because Chris Baker did not have a concept of his life in which he did not give. Sure, there were plenty of other things he could have done with his time and energy, but Chris' concept of himself included giving of himself to help others, and it felt good.

TRIBUTE TO THE COMMUNITY WEATHERIZATION PROGRAM IN YOUNGSTOWN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. TRAFICANT. Mr. Speaker, I proudly rise here today to honor a group of young men and women in my 17th Congressional District who took part in a wonderful program. The Community Weatherization Program is a program which takes young kids off of the streets to help rebuild homes of the elderly.

Recently, I received a letter from a Mrs. Elizabeth DaSaro in Boardman, OH. She is 77 years old and disabled. Her husband, who passed away a few years ago, was a disabled American veteran. Mrs. DaSaro's illnesses drained her savings years ago. Currently, she lives in a mobile home at a trailer park.

Mrs. DaSaro wrote:

> This wonderful group of young women and men pitched in with joy and gladness in their hearts to improve my mobile home. This to me was so welcome and heartwarming. I cried inside to be so richly blessed and rewarded.

Mr. Speaker, these young men and women are part of the Department of Energy's Weatherization Program that insulates and weatherizes homes for low-income families in Youngstown and in other communities nationwide. Part of the Youngstown Area Community Action Program, this program provides jobs and job training for 36 people. Many of the employees started as summer help and received practical job training.

Mr. Speaker, programs like this ultimately benefit the community in many ways. First, these programs provide tangible benefits such as jobs and job training. These programs weatherize homes for the winter. This conserves fuels and keeps fuel bills low.

Second, and most importantly, Mr. Speaker, this program shows those like Mrs. Elizabeth DaSaro, that somebody does care about their well being. Perhaps this is the most important benefit of all.

THE MARINE MAMMAL CAPTURE, EXPORT, AND PUBLIC DISPLAY PROTECTION ACT OF 1992

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BILIRAKIS. Mr. Speaker, today I am introducing a bill which will provide greater protection for our Nation's dolphin—and more broadly, marine mammal—population.

Simply put, more can be done to prevent the needless deaths of these animals. According to the Marine Mammal Commission 1991 Annual Report to Congress:

> Over the past decade and a half, there has been an increase in the incidence of unusual marine mammal mortalities throughout the world. These incidents have occurred in widely separated areas and have involved a variety of marine mammal species, including monk seals in the northwestern Hawaiian Islands, harbor seals in New England, manatees in Florida, and humpback whales in Cape Cod. Among the largest and most publicized were the deaths of more than 700 bottlenose dolphins along the U.S. Mid-Atlantic coast in 1987 and early 1988, and more than 17,000 harbor seals in the North Sea later in 1988.
>
> As noted in the previous annual report, there were two incidents of higher-than-normal bottlenose dolphin mortality in the Gulf

of Mexico in 1990. There also was a catastrophic die-off of striped dolphins in the Mediterranean Sea.

In light of these types of mass mortalities, Federal management of marine mammal protection laws must be taken even more seriously. Responsible policy must be established and enforced in an effort to respond to these mortalities and prevent needless deaths in the future.

Mr. Speaker, there is a dire need for the Federal Government to more strictly regulate the handling of marine mammals—the way they are captured and released, their transport between facilities, their care and handling in theme parks and oceanariums and their export to other nations. Dolphins and other marine mammals have died needlessly in captivity in the past, in numbers that are simply unacceptable, and we have a responsibility to address the reasons for these deaths. We cannot continue to carry on business as usual, but must carefully examine our procedures for dealing with marine mammals.

My bill would strengthen Federal law affecting the treatment of marine mammals in three main areas—capture, export, and public display. It would establish a tracking system in order to establish and maintain better records on the transfer of dolphins between facilities. Under this new tracking system, it would be easy to access an animal's health record, capture history, and other information vital to its handling. To stress the importance of such a tracking system, a moratorium would be established on the capture of marine mammals until this tracking system is in place.

Also, my bill would ban the export of marine mammals to other nations unless the animal is being exported in order to improve its health or well-being. It is simply not responsible policy to export dolphins captured in U.S. waters to other nations who may not enforce animal protection laws. It is inherently difficult to conduct oversight of other nations' enforcement of laws of this type, and unless oversight can be successfully achieved, the export of marine mammals is not responsible policy.

In addition, my bill would direct the Secretary of Agriculture to review the standards of care that must be adhered to by theme parks and other facilities that hold marine mammals in captivity. Many people have concerns that the environment in which marine mammals are placed in captivity differs too much from the environment from which they were taken. We have gained a great deal of knowledge about the needs and behavior of marine mammals in recent years, and this knowledge must be used to improve the quality of life of marine mammals held in captivity and prevent early deaths of these animals.

My bill also would require the Secretary of Agriculture to review standards established under the Animal Welfare Act for the care and habitat of marine mammals in captivity, and determine whether those standards are adequate, considering:

First, the sizes of marine mammals;

Second, current knowledge of marine mammal physiology and behavior, with respect to their need for exercise, auditory capabilities, and their pre- and post-natal requirements;

Third, their psychological and physical well-being;

Fourth, their needs related to social grouping, including minimum group size, gender, mix, and age composition;

Fifth, interspecies compatibility; and

Sixth, environmental modifications that might allow for more normal behavior and social interaction.

In addition, permits for research on marine mammals would be limited to 2 years under this bill, unless the Secretary of Commerce issues a special extension for a long-term study. Also, guidelines would be set up for releases of marine mammals taken for research back into the wild—so that this is done in the most humane manner possible. For example, the bill requires that the animals be released in their original site of capture.

Civil and criminal penalties for those who break the animal welfare laws must be increased to maintain adequate compliance. The bill would raise the penalties for those who violate provisions of the Animal Welfare Act relating to marine mammals to be equal with the penalties under the Marine Mammal Protection Act. Civil penalties would be increased to not more than $10,000 for each violation and criminal penalties for knowing violations would be increased to be not more than $20,000 for each violation, and/or imprisonment for not more than 1 year.

I simply feel that these issues outlined in this bill must be examined by Congress as a body and in the committees of jurisdiction. These are serious issues, and current law affecting the handling of marine mammals needs to be debated, considered carefully, and amended.

VACLAV HAVEL: HERO OF THE VELVET REVOLUTION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BEREUTER. Mr. Speaker, the prodemocracy movement in East and Central Europe has produced a handful of genuine heroes—Lech Walesa in Poland, Boris Yeltsin in Russia, and Eduard Shevardnadze in the former Soviet Georgia. But this Member is convinced that there is no greater figure than President Vaclav Havel of Czechoslovakia. In 1989, he led the Czechs and Slovaks in a marvelous, wondrous, bloodless velvet revolution. And he has become one of the world's leading voices of reason.

Now, however, with the Slovaks splitting away from the Czechs, President Havel is stepping down from the Presidency of the Czech and Slovak Republic. But this quiet, gentle man deserves the heartfelt thanks of us all. This Member only hopes that the people of Slovakia and the Czechlands will, in time, rediscover the message of peace and unity that Vaclav Havel espoused.

This Member would ask that the July 22, 1992 editorial of the Omaha World Herald be entered into the Record. As the World Herald correctly notes, both the "Czechs and Slovaks owe him a debt of gratitude that would be difficult indeed to repay."

[From the Omaha World Herald, July 22, 1992]

HAVEL'S VELVET INTERLUDE

Vaclav Havel, the playwright and philosopher who led Czechoslovakia out of the collapsing communist orbit, is out. He was brought down by the ethnic divisions that have plagued his part of Europe since the dawn of recorded history.

Czechoslovakia now heads toward a breakup into Czech and Slovak republics. Havel, who had served as president of the united republic, was blocked from a second term in office. He has resigned several months before the end of his first term.

Havel has been an admirable leader during a difficult time. About three years ago, he and a group of other dissidents and artists assumed power in what has since been called the Velvet Revolution, a bloodless ouster of the communist regime. Since then, he has gained international respect for himself and his government.

Havel used the sheer force of his intellect to help bring down communism and get the new republic on tract. He exercised a moral force that was due in part to his countrymen's respect for the years he spent in prison for his beliefs. His courage is unquestioned. His policies while president were mostly progressive and farsighted. And he brought a new humanist view to the once-repressive government.

But it was not to last. Havel worked hard to save the federation. He now concedes that the centuries-old ethnic resentments were so strong that the breakup of the country may have been inevitable once the heavy hand of communism was lifted.

Observers have predicted that the dissolution may be peaceful when it comes. The two states may simply break apart without a vote, each forming its own independent government and existing as neighbors. That would be in stark contrast to what was once Yugoslavia, where old ethnic resentments have erupted into a tragic series of civil wars.

But it is too bad that the Czechs and the Slovaks didn't respond to Havel's eloquent, responsible call to unity. Under his enlightened leadership, a united Czechoslovakia could have provided the rest of Europe an example of how different ethnic groups can get along—an example that can't be presented too often.

Factionalism is winning out over good sense, as it often does. But thanks to Havel, the transition from communism to freedom was smooth and bloodless. Czechs and Slovaks owe him a debt gratitude that would be difficult indeed to repay.

IN MEMORY OF MAYOR LARRY VICTOR TALBOT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SKELTON. Mr. Speaker, recently, an outstanding Missourian, the mayor of Bagnell, MO, Mayor Larry Victor Talbot, met an untimely death. His contributions to his community will long be remembered.

Born in Montgomery City, MO, in 1926, Larry Talbot later moved to Shelby County, where he spent most of his life. In 1968, he married Carol McSorely.

Talbot worked in bridge construction most of his life. Most recently, he was the operator of

Camp Bagnell, 5 miles downstream from Bagnell Dam. He was a Baptist, a veteran of the Korean war and was a member of the Lake of the Ozarks American Legion.

Larry Talbot is survived by his wife, mother, 4 daughters, 2 stepdaughters, 2 half-brothers, 3 sisters, 1 half-sister, and 11 grandchildren. He will be missed not only by his family and friends, but by the community he served.

TELLING THE FBI'S STORY

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. OXLEY. Mr. Speaker, John Collingwood, the inspector in charge of the new Office of Public Affairs and Congressional Services at the Federal Bureau of Investigation, is an old friend from my hometown of Findlay, OH. I congratulate John, and I commend the following profile from yesterday's Washington Times to the attention of my colleagues:

TELLING THE FBI'S STORY

(By Jerry Seper)

The first arrest John Collingwood made as an FBI agent was the realization of a boyhood dream, even if it was a little less glamorous than he'd pictured it.

No international terrorists. No dangerous spies. No white-collar thieves or La Cosa Nostra crime bosses. No corrupt public officials.

It was hijackers. Trucks. Small trucks. They stole shrimp. It wasn't a very big case.

But, Mr. Collingwood says, that experience as a member of the FBI's major theft squad in Detroit taught him a big lesson. And he hopes to keep it in mind during his most recent assignment as the FBI's chief flak catcher.

"The real keepers of the image of the FBI are the agents on the street," he says. "That's the story we want to tell, the story that the American public and the Congress needs to hear."

"Cases are being solved by agents who continue to knock on doors and ask the right questions," he says. "They're responsible for what the FBI has been and what it will become."

Mr. Collingwood, a lawyer and 17-year veteran of the Federal Bureau of Investigation, took over Thursday as inspector-in-charge of the new Office of Public Affairs and Congressional Services Office. Created by FBI Director William S. Sessions, the office combines two others—the Office of Public Affairs, headed by Thomas F. Jones (since named agent-in-charge of the FBI field office in Cleveland), and the Office of Congressional Services, formerly headed by Mr. Collingwood.

The appointment came as no surprise to those who work with Mr. Collingwood. Or to those who have known the Findlay, Ohio, native during his 12 years at FBI headquarters, where he also has served in the Legal Research Unit and as chief of the bureau's Civil Litigation Program.

Soft-spoken and articulate, Mr. Collingwood, 44, has kept his head down in the dog-eat-dog climate of bureau headquarters. He is one of a handful of FBI executives with immediate access to Mr. Sessions. As a special assistant to the director for two years, many believe he is one of Mr. Sessions' closest advisers.

"He has the director's ear, there's no question about that," one high-ranking FBI official says. "But more importantly, he knows when to use it and knows better than to abuse it."

"Genuinely likable and very charming," is another FBI executive's assessment. "He is determined, tireless, shows great self-discipline and has honed a no-nonsense management style that works."

That style may have been developed during his college days at Bowling Green University, where he received a bachelor's degree in 1970 from the School of Business. Or at the University of Toledo, where he got his law degree in 1975. Or at his family's Ford dealership in Ohio, where he worked for two years before entering law school.

In fact, he went to law school with the FBI in mind.

"I thought at the time that most everyone in the FBI was a lawyer and that it was the route to take if I wanted in the agency," he says. "So I took it."

The road to Washington began in 1975 at the FBI field office in Detroit, where he worked first on the major theft squad and later on the organized crime squad. (That first arrest in the great shrimp caper went down inside a brewery, but that's another story.)

In 1978, the bureau sent him to the Defense Language Institute in Monterey, Calif., a prestigious Pentagon facility. The school teaches more than a dozen languages to intelligence specialists and others, including the FBI. It is considered one of the most intense language courses in the country.

Mr. Collingwood's specialty was Cantonese, which he used on his next assignment at the FBI field office in Portland, Ore. He worked Asian gangs and foreign espionage cases. (Actually, he admits his first chance to use his newly acquired Cantonese came at a Chinese restaurant in San Francisco.)

Two years later, Mr. Collingwood arrived in Washington. He was coaxed here by John Mintz, former assistant director of the FBI's Legal Counsel Division. Mr. Mintz, during a visit to the Portland field office, was looking for agent/lawyers to bolster his legal staff.

"It was a good opportunity for me and I didn't hesitate to take it," recalls Mr. Collingwood, admitting that he and his wife, Mary Ann, also wanted to reduce the miles between them and their families in Ohio and Michigan.

"But I still miss being out in the field," he adds. "That's something that's ingrained in all agents. Solving crimes is what it's all about, and that's the story we hope to tell."

The Collingwoods live in Northern Virginia with son Mark, 10, and daughter Stephanie, 13.

In his spare time, Mr. Collingwood says, "I'm really into two things. My kids' sports—my life revolves around Little League and swimming—and the other thing is computers. You wouldn't expect a lawyer to be into computers, I guess, but I am."

Nothing fancy, just a regular personal computer he uses with on-line services and various kinds of software.

At work, his office's tasks are to tell the news media and the public what the FBI does and why; prepare FBI publications; respond to inquiries; manage congressional relations; oversee FBI testimony before congressional committees; and provide Congress with information on FBI operations, guidelines and accomplishments.

There is one particular story that many expect John Collingwood to try to tell, although without much fanfare.

A longtime loyalist, he is a staunch defender of Mr. Sessions—who recently has come under fire from inside and outside the bureau. In answering questions, Mr. Collingwood often defers to comments and policy statements his boss has made.

"The director is extremely motivated to do more and to better serve the public with the same or fewer resources.

"The director is a firm believer that Congress and the American public have every right to know what the FBI is doing. * * *"

The defense is not contrite, nor does it appear to be planned. Mr. Collingwood believes Mr. Sessions' cheerful approach to problem solving is misinterpreted by critics as weakness or lack of interest.

"His record at the FBI is clear," the public affairs chief says. "He has waded into some of the stickiest issues ever confronting the agency without hesitation."

The media and others have questioned the FBI director's policies and management style. The most potentially damaging and divisive criticism, however, may be that coming from many of his own agents who are angry over what they see as moves to initiate a quota system in the hiring of minorities and women.

The predominantly white FBI Agents Association, which represents more than 60 percent of the FBI's 10,400 agents, is seeking a court order to force Mr. Sessions into revealing the contents of an agreement he signed in April with black agents. That agreement guarantees job assignments, promotions and training opportunities. Hispanic agents won a similar pact three years ago in a race discrimination lawsuit.

Female agents balked at a recent equal treatment. The women said they were "tired of the separatism and group interest that appears to be growing within the ranks of the FBI."

Mr. Collingwood won't discuss allegations of a quota system, saying the matter involves pending litigation. He does say, though, that Mr. Sessions has not been afraid to take on extremely difficult issues.

"His view is that he'll do what has to be done and that the facts will speak for themselves," Mr. Collingwood says, in his first official defense of the director.

Mr. Collingwood's efforts to tell the public and the media about the FBI and its accomplishments may be an easier task today than it was before. It's no secret that former Attorney General Dick Thornburgh, who wanted to name his own man as FBI director, often moved to control and limit the FBI's access to the media.

Mr. Thornburgh resigned in August to run unsuccessfully for a Senate seat from Pennsylvania. His successor, Attorney General William P. Barr, has not instituted similar constraints.

Mr. Collingwood has no comment on all this, except to say that his office will operate under "clear mandates" handed down by Mr. Sessions.

"Our job is to serve our customers. That includes the media, the public and Congress," he says. "We are the servants of the American public, and it has every right to know what the FBI is doing."

UNITED STATES LAWYERS ARE WELCOMED BY RUSSIA

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SPRATT. Mr. Speaker, the Wall Street Journal recently ran an article describing the Central and East European Law Initiative [CEELI], a program which is sponsored by the American Bar Association. CEELI provides United States legal expertise to nations throughout Eastern Europe and the former Soviet Union as these nations restructure their legal systems. Critical to the success of CEELI is the principle that lasting political reform depends on a stable, respected, and well-functioning system of law.

CEELI attorneys have already helped to advise nations in the redrafting of commercial codes, judicial procedural rules, and even national constitutions. Even though CEELI does receive a modest amount of Federal funding, the cost to taxpayers is very small since all the American attorneys who participate in the program do so without compensation. CEELI is an excellent example of a public and private partnership providing an important service to new democracies. I support programs of this type which maintain America's role as the leader of the free world, and I encourage my colleagues to learn more about CEELI.

[From the Wall Street Journal, June 12, 1992]

United States Lawyers Are Welcomed by Russia

(By Jonathan M. Moses)

American lawyers, often reviled at home, are getting a warm reception in Russia. Not to mention Romania, Lithuania and Bulgaria.

Increasingly, U.S. lawyers, judges and law teachers are offering their services to help write laws and constitutions for the newly emerging democracies of the former Soviet bloc. While many in the U.S. contend that U.S. lawyers have made a mess of their own legal system, novice lawmakers in countries with leftover Marxist legal systems apparently think American and West European lawyers have something to offer.

"Perhaps we're on a continuum, and the reputation of lawyers here in the U.S. is well-deserved," said U.S. Appeals Court Judge Richard L. Nygaard, who has advised constitution writers in Romania, Lithuania and Bulgaria. "But there, it's quite the opposite. They really, truly need more lawyers."

And the lawyers are coming. From committees sanctioned by the American Bar Association to law professors independently dispensing legal advice as they travel through Central and Eastern Europe, the source is as varied as the issues that need confronting.

Much of the work so far has been in such non-commercial areas as constitution writing. The topics are broad. Civil rights, the structure of the judiciary and the power of the legislative and executive branches are all on the constitutional agenda. Other efforts have included criminal and administrative law reform, as well as a sister-law school program involving at least 90 U.S. law schools and nascent schools in Central and Eastern Europe.

Andras Sajo, a Hungarian scholar specializing in international law and comparative constitutions, says that the U.S. legal system also has been influential in technical areas such as environmental law, banking law and securities regulation. "These are systems that have never been seen before," said Prof. Sajo, who will be teaching at the newly created Central European University in Budapest.

Prof. Sajo, who was trained as a lawyer in Hungary, said that other, broader U.S. legal ideas are more difficult to transfer since the European Continental tradition has roots in Central and Eastern Europe. For example, he said, it is unlikely that the new republics will give up the European judicial system that limits the power of most judges in favor of a U.S.-style judiciary that gives most judges a crack at determining the constitutionality of laws.

One of the most active of the U.S. groups providing legal advice is the Central and East European Law Initiative, CEELI, of the American Bar Association. With a prestigious board that includes Associate Justice of the U.S. Supreme Court Sandra Day O'Connor, CEELI has been able to call on the elite of the American legal profession to participate in its programs.

Most of the legal advice is being provided without charge. To guard against conflicts of interest, CEELI requires participants in its programs to disclose any work that they or their law partners are doing in these countries and to agree not to promote their law firms in the course of providing advice. But many of the same firms also are looking toward the region to generate commercial business once the legal and political climates are ripe.

Often participants in CEELI programs offer line-by-line critiques of proposed laws or constitutions. Lawyers and legal scholars participating in these programs agree that some of the best advice they can offer is based on the experience they've had at home about what works and what doesn't. The U.S. experience shows up in suggestions such as those made by a legal counsel to the U.S. Senate that strict ethical rules be set up for legislators, and those made by a federal judge that women's rights be codified.

But the participants quickly reject the notion that they're pushing the U.S. system over others. "Frankly, I don't think our constitutional model is a very good model. I don't push it at all," says Herman Schwartz, a professor at American University Law School and a member of CEELI's advisory board.

Laurence Tribe, a professor at Harvard Law School who independently advises Central and East European nations, says it would be the height of "hubris" for U.S. legal scholars to view themselves as "wandering James Madisons." He adds that past experiences of legal scholars writing constitutions in new republics have proven to be a failure precisely because the U.S. authors imposed their own ideas over all others.

Indeed, the Central and East European lawmakers feel free to pick and choose from the varied choices on the world's constitutional menu. For example, most of the new republics appear to favor the specific language in Western European treaties on human rights, as opposed to the more general U.S. Bill of Rights. But it is the U.S. system of separation of powers, as opposed to the parliamentary systems of some West European countries, that is favored.

Even with the best legal advice the U.S. has to offer, there's no guarantee that a new constitution, or law, will be approved. Even Czechoslovakia, which has strong links with Western intellectuals and which is viewed as one of the more constitutionally advanced of the Central and East European nations, hasn't approved its constitution because of disputes between Czechs and Slovaks over power sharing.

As for the feeling U.S. lawyers and legal scholars have that they're getting the respect in Central and Eastern Europe that they no longer get at home, Prof. Sajo says that his U.S. colleagues shouldn't let it go to their heads. "They talk to other lawyers there, that's where that idea is getting reinforced. They're not talking to ordinary folks."

DISCRIMINATION AGAINST ASIAN AMERICANS IN COLLEGE ADMISSIONS CONTINUES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. HUNTER. Mr. Speaker, recently the chancellor of the University of California at Berkeley in an op-ed article in the Los Angeles Times attempted to justify the admission policies of that university. He admitted to the amazing fact that even such an academically renowned institution such as Berkeley admits only 55 percent of its undergraduate students on the basis of academic merit.

He tries to justify subjective selection of the other 45 percent of its students as an attempt to encompass a broad diversity. He claims this is culturally sound. He asks if this is fair and answers: "We think so, and in that sense it is fair."

On July 16, the Los Angeles Times published a letter to the editor from our colleague Dana Rohrabacher that demolishes this sophistry.

I insert in the Record Chancellor Tien's article and Congressman Rohrabacher's letter to the editor.

I also ask permission to insert another letter published the same day from apparently an Asian-American high school student denied admission who tells what he thinks of Chancellor Tien's fairness.

Mr. Speaker, I also insert a letter from Congressman Rohrabacher to Education Secretary Alexander setting forth the slowness of the Department in investigating Asian-American discrimination complaints pending at the Department.

Mr. Speaker, this is a continuing problem that the Department ought to act on immediately. I commend this correspondence to all who are interested in truly nondiscriminatory college admissions policies.

[From the Los Angeles Times, July 7, 1992]

A Diverse Student Body Serves a Diverse Society

(By Chang-Lin Tien)

After bidding farewell to 8,550 graduates, one of my most satisfying experiences, I am also faced at this time of year with one of my most unpleasant tasks: explaining to many parents why their fully qualified sons and daughters could not be admitted to UC Berkeley, their campus of first choice. I have calculated that each year since 1986, Berkeley has provided bad news to 12,000 families, and it is likely that this number will continue to increase.

The rationing of a finite good, the cost of which is borne in part by taxpayers, must be done with care and openness. This process is fraught with pitfalls because it is based on fundamental values of a democratic society—equality and individual merit—that, at times, are at odds with one another. Our responsibility is to seek a proper balance between the two. This requires continual attention and refinement of our policies.

Fortunately, the Legislature and the Regents of the University of California have given us guidelines for this ever-changing balancing act. The Regents' Policy on Undergraduate Admissions states: "Mindful of its mission as a public institution, * * * the University seeks to enroll, on each of its campuses, a student body that * * * encompasses the broad diversity of cultural, racial, geographic and socio-economic backgrounds characteristic of California." The Master Plan for Higher Education provides further boundaries by stating that only the top 12.5% of a high school graduating class is eligible for admission to the University of California.

Here is how we currently seek the proper balance. About 55% of our total admissions are based on academic criteria, a combination of grade-point average and test scores. This rate is much higher than at leading private universities. In the remaining 45%, we seek to "encompass the broad diversity" necessary for a quality educational experience. In a variety of ways, preferential consideration is given to applicants based on: special talents in athletics, music or debate; race and socio-economic disadvantage; disability; rural school attendance, and nontraditional grading systems. But remember, we are talking about the very best high school graduates in all of these categories.

Why do we strike this balance? First, because this is educationally sound. We know that grades and test scores are not the only measures of excellence. Measures such as leadership and special talent are also important.

Second, this is also culturally sound. In the wonderful heterogeneous environment we live in, we must produce future leaders who are from diverse backgrounds and who themselves thrive on diversity. Quite apart from California's dramatic and swift demographic change, and our responsibility to serve the needs of all Californians, our students' focus of attention must be the world community.

Finally, this approach is consistent with the longstanding tradition and principles of public education in a democratic society, particularly with regard to racial and social integration and access for the poor.

Is this process fair? Those students who worked very hard, did well academically and were not admitted might say no. But even if we admitted the entire freshman class strictly on grades and test scores, we would still turn away 1,500 students with perfect grade-point averages. Is this process in the best interest of society? We think so, and in that sense it is fair.

Can the process be improved? Because the variables we must take into account are constantly changing and to some degree out of our control, we constantly seek improvement and refinement. We cannot control the number of students who accept our offer of admission. Nor do we have any real control over the rate of eligibility of various high school graduates by ethnicity.

Are we succeeding in meeting our educational and societal mission? Yes, without any question. In what former UC President Clark Kerr has called the greatest experiment in higher education, UC Berkeley has succeeded in producing an undergraduate student body that surpasses any previous group in academic quality while at the same time being thoroughly heterogeneous. We have not only integrated the student body, our students are stronger academically than ever before. I see this every day as I talk with students around campus. I think this is a matter of great pride for the citizens of California.

[From the Los Angeles Times, July 16, 1992]

DISCRIMINATION AT UC BERKELEY

UC Berkeley Chancellor Chang-Lin Tien's column ("A Diverse Student Body Serves a Diverse Society," Commentary, July 7) is a thinly veiled excuse for racial discrimination.

It is disconcerting to discover only 55 percent of admissions decisions at UC Berkeley "are based on academic criteria." This travesty according to the chancellor is "educationally" sound, "culturally" sound and is consistent with a democratic society.

Nonsense! The chancellor left out "politically" sound, which is really the driving force behind his admissions policy. This is an example of racial politics, pure and simple, on the part of America's most prestigious academic institutions.

The chancellor is doing nothing less than bowing to the forces of political correctness, which insist on racial based decisions and admission quotas. Applications for admission to our universities should not include the name, age, sex or race of the applicant. The merit system and protecting individual rights are complementary to democracy, not juxtaposed goals. Everyone has an equal opportunity to compete and not to be discriminated against. That's what equality is all about. Unfortunately, Asian-American children are hurt the most by this racist imperative insisted upon by the liberal elite.

Chancellor Tien may serve as a good role model for young Asian-Americans, but he justifies discrimination that will keep those very same Asian-American children out of UC Berkeley only because of their race.

REPRESENTATIVE, DANA ROHRABACHER.

Long Beach.

As a recent high school graduate who was denied admission to the University of California, I completely disagree with Tien, who felt that the admission policies of UC Berkeley serve the needs of California. As a publicly funded institution, it is inexcusable that only 55 percent of all admitted applicants were based upon academic criteria while the remaining admitted students were admitted on any variety of the factors deemed necessary for the purpose of diversity.

Should Californians fully and blindly entrust these admission officers with the selection of students for this state's most prestigious university? How is this state served when thousands of hard-working, qualified students, who drudged through four years of high school, can be denied admission because one is unfortunate enough to be a member of the "improper" ethnicity? Is UC Berkeley a trophy case to display diversity?

I'd like to remind Tien and the UC regents that UC Berkeley belongs to the people of California, not the elite few who use our tax dollars to deny admission to thousands of fully qualified students so that they can realize their personal quest to bring salvation to society by creating the "perfect" student population.

ERIC LEUNG.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 25, 1992.

Hon. LAMAR ALEXANDER,
Secretary, U.S. Education Department; Washington, DC.

DEAR MR. SECRETARY: Next week, July 1, 1992 is a triple anniversary in the long history of Asian quota college admissions discrimination cases pending in the Department's Office for Civil Rights.

On July 1, 1992 it will be four and a half years since the start of the investigation of discrimination against Asian American applicants to UCLA. To date no letters of findings on the undergraduate or special admit program have been issued even though the letters have been written for months.

On that same day it will have been one year and nine months since the "violation" letter of findings in the UCLA graduate math program was issued. I find it inconceivable that the Department would let a civil rights violation exist for 21 months without taking enforcement action.

On July 1, 1992 it will have been 9 months since I filed a complaint against what appears to be a quota system in the admissions policies at the University of California, San Diego. So far no letter of findings has been issued in this case either.

As you know I have corresponded with you and other Department officials and talked to you repeatedly about this situation, but nothing seems to happen.

Clearly something is wrong in the enforcement of civil rights in the Department.

I think it would be fitting for you, me and Michael Williams, the Assistant Secretary for Civil Right, to sit down together on this anniversary day, July 1, and engage in a complete review of the status of these 3 severely delayed cases as well as the other 3 Asian American admission quota cases that have been pending at the Department for a long time.

I look forward to your favorable response to this request.

Sincerely,

DANA ROHRABACHER,
Member of Congress.

SALUTE TO LAUREL COUNTY SCHOOL SYSTEM

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. ROGERS. Mr. Speaker, I come before this body today to speak about the remarkable renaissance in education taking place in Laurel County, KY. Thanks to the work of the teachers, administrators, students, parents, and citizens in Laurel County, my district has been catapulted into the national spotlight as being a model for successful education reform. I want to take this time to give tremendous credit to the Laurel County school system for their success, and I urge my colleagues to look at their work as we work toward reforming education throughout the Nation.

True reform does not happen overnight, and the people of Laurel County have long been at the forefront of education reform. What has made Laurel County schools successful is the commitment of the people of Laurel County to improve the opportunities for their children.

There is no more committed community than Laurel County. Their commitment can be measured by their success. And Laurel County's success is demonstrated by the fact that Laurel County schools have been singled out to participate in several exciting national pilot projects on education reform.

What this means for our children is the best quality education possible, not just in southern Kentucky, but throughout the Nation. I cannot tell you how proud I am of Laurel County for their work.

Reform is not easy, but with caring and commitment it can and will succeed. And, Mr. Speaker, that is what we have seen in Laurel County. I commend them for their work and hope my colleagues will join me in recognizing their success.

TAPPING THE DBOF SLUSH FUND

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. IRELAND. Mr. Speaker, in early July, during consideration of the fiscal year 1993 defense appropriations bill, I offered an amendment to: First: Deny the use of $1.9 billion in excess defense business operations (DBOF) cash to pay for two DDG–51 destroyers; and; second, transfer the cash to the Treasury to reduce the deficit.

The defense appropriations bill calls for using $1.9 billion in excess DBOF cash to bankroll the purchase of two of the three DDG–51 destroyers funded in the bill.

Mr. Speaker, DBOF was set up in 1991 to better manage and account for the cost of purchasing spare parts, supplies and maintenance for the Armed Forces. Unfortunately, DBOF has been converted into another DOD slush fund. The idea of siphoning $1.9 billion from the DBOF slush fund to finance two DDG–51 destroyers is totally inconsistent with the legislation governing DBOF, the defense authorization bill, and the President's budget. It is deceptive and misleading, and I wanted to do everything possible to stop it.

The DDG–51 destroyers were requested in the budget by the President. They were authorized. Three DDG–51 destroyers are in the defense appropriations bill. Why is $1.9 billion in excess DBOF cash needed to pay for these ships?

The committee went outside of the bill to finance the destroyers. Two of the three destroyers were moved off budget—to the DBOF cash account—the preexisting cash pile. As a result, those destroyers are not counted in the $5.5 billion appropriated for the Navy Shipbuilding Program. The money for the destroyers is to be spent instead on two amphibious assault ships, sealift ships, and a AOE supply ship—none of which were either requested or authorized.

My amendment was defeated by voice vote, but not on the merits.

My opponents successfully shifted the focus of debate away from the issue—the use of the DBOF slush fund to buy special interest items. They characterized my amendment as an attack on the Navy Shipbuilding Program. It would kill the DDG–51 program, they charged. It would eliminate the amphibious ship construction capacity in the United States. It would put 11,000 shipyard workers on the street immediately. Moreover, scooping up excess defense dollars and reapplying them to a more efficient purpose, they claimed, is one of the historical functions of the Appropriations Committee.

Mr. Speaker, my amendment was neither directed at the DDG–51 destroyers nor at the Navy Shipbuilding Program. We are a maritime nation and depend on naval power for our national security. I want to make that crystal clear right now. My amendment was directed at the unethical and misleading way the DDG–51 destroyers are financed in the bill.

Scooping up excess defense dollars may indeed be one of the historical functions of the Appropriations Committee, but using excess DBOF cash to pay for special interest items is neither desirable nor appropriate. Excess, unneeded dollars, by their very nature, should be returned to the Treasury to reduce the mounting public debt.

Excess, unneeded dollars lying around the Pentagon—with little or no control and oversight—creates a dangerous situation. It is a recipe for abuse.

Slush funds, like DBOF and the M accounts, make it easy for the DOD money wizards to buy special interest items. Without slush funds, the DOD money wizards must endure the painful process of making offsets—cuts to make room for add-ons. DBOF simplifies and facilitates the process.

In order to understand why the plan to use $1.19 billion in excess DBOF cash to pay for two DDG–51 destroyers is a bad idea, it is first necessary to understand how DBOF works, and particularly how the excess cash is generated.

WHAT IS DBOF?

DOD created DBOF in October 1991 by consolidating the nine existing industrial and stock funds along with other activities such as the Defense Finance and Accounting Service, Defense Commissary Agency under the DBOF umbrella.

DBOF is not an institution or an organization. It has no commander or headquarters building. It is a bookkeeping operation run by the DOD comptroller.

Clearly, there is nothing in the DBOF charter that authorizes the use of cash balances to purchase major weapons systems, such as ships and aircraft.

HOW DBOF WORKS

The military services receive billions of dollars annually in direct appropriations from Congress to make purchases from DBOF. Unit prices of items sold are based on the valuation of inventories being sold plus the cost of storing, handling and managing those inventories. DBOF managers attempt to maximize the dollar value of sales to generate huge cash balances by inflating and otherwise manipulating prices. Prices are regulated by the need for cash.

DBOF is a mechanism to jack up the cost of defense and lower readiness. It is a cash generator for special DOD special interest items. DBOF makes bad business sense.

HOW DBOF UNDERMINES COMBAT READINESS

I now want to explain how the DBOF price-fixing scheme works, because this is the crux to the issue.

A hypothetical example will help to put the whole issue into better perspective.

The Air Force submitted a budget request in January for replenishment spare parts of, say, $1.7 billion. Included in that request is $5 million to purchase 100 landing gear parts for the F–15 fighter. The requirement for F–15 landing gear replacement parts is based on the projected flying hour program, wearout rates, and a unit cost of $50,000 per part. Congress reviews the request and approves $5 million for 100 F–15 landing gear parts.

The Air Force presents $5 million in appropriated funds to DBOF to purchase 100 F–15 landing gear parts. DBOF managers accept the $5 million but agree to provide only 50 parts—even though the market price of each assembly is still $50,000. DBOF purchases 50 assemblies for $2,500,000 and has them shipped to the Air Force. DBOF pockets the difference—$2,500,000—as the cost of doing business with DBOF—money allegedly needed to cover the cost of shipping, handling, and storing the assemblies. Capturing those costs is a laudable goal. Those costs must be paid in full. Unfortunately, that's not where the extra money goes. The $2,500,000 goes into the DOD honey pot—to be tapped by the DOD money wizards to pay for special interest items.

The Air Force does not get the 100 F–15 landing gear parts it needs to execute the flying hour program. With only 50 in stock, the flying hour program has to be cut back. Instead, of the required 20 flight hours per month to maintain proficiency, F–15 pilots will get just 12 to 14 hours per month. Combat readiness goes down.

The F–15 landing gear parts price-fixing scheme is repeated 150,000 times a year or more. With annual sales of $80 billion, it doesn't take long to accumulate billions in excess cash, and that's exactly where we are today.

In the short space of 8 months, price manipulation has generated a DBOF cash balance of $5.4 billion as of June 12, 1991. We know that $2.8 billion—or more than half the current cash balance—is excess. This includes the $1.9 billion identified by the House Appropriations Committee, and another $850 million identified by DOD in the fiscal year 1992 omnibus reprogramming measure submitted to Congress in May. How much more is excess?

What is the net effect of the DBOF price-fixing scandal. By agreeing to take $1.9 billion in excess cash from DBOF to pay for the DDG–51, we rob the readiness accounts—money needed to maintain combat training and readiness—all to pay for special interest items. The cost of defense goes up and readiness goes down. DBOF weakens our national security.

I hate to say it, but I really believe this is the true purpose of DBOF. This is why DBOF was created by clever Pentagon bureaucrats—to generate excess cash to give the DOD money wizards flexibility—a substitute for discipline in the accounting and finance process.

DBOF is a bad idea for other reasons as well.

DBOF ALSO UNDERMINES ACCOUNTABILITY

DBOF breaks down the integrity of the various appropriation accounts. Procurement, R&D, military personnel, O&M, and military construction moneys are already being pumped into DBOF, but the separation and identity of those accounts are not maintained in DBOF. Those moneys—once inside DBOF—are mixed and blended and then merged into one big pot as they were in the M accounts. As one Air Force financial manager put it, "Congress will no longer appropriate for specific purposes but simply ensure that the DOD Kmart is adequately capitalized." Once laundered through DBOF, the money can be used for anything. This is a recipe for abuse.

DBOF is nothing more than a mechanism for laundering congressional appropriations to allow DOD to cover a host of unauthorized activities beyond the purview of Congress.

I believe DBOF is inconsistent with sound financial management. It is inconsistent with congressional oversight. It is inconsistent with the law governing the use of appropriations—31 U.S.C. 1301(a).

DBOF SHOULD BE ABOLISHED

I had fully intended to offer an amendment to kill DBOF when the Armed Services Committee met to mark up its bill in May, but thanks to the hard work of Mr. HUTTO's fine staff, that did not seem necessary—at the time. The defense authorization bill, as passed by the House, imposes strict controls on DBOF—I thought. Section 331 of the bill, I thought, would keep DOD and Congress from using DBOF as a slush fund. How wrong I was.

A quick glance at the fiscal year 1992 omnibus reprogramming told me that more stringent controls are needed. DOD plans to use $838 million in excess DBOF cash to bankroll the omnibus reprogramming measure. We do not know where the $838 million came from, and we do not know where it will go. There is no audit trail. The DBOF laundry operation has washed it clean.

Then came the fiscal year 1993 defense appropriations bill and the proposal to take $1.9 billion in excess DBOF cash to buy two DDG–51 destroyers. That was the straw that broke the camel's back in my mind. That convinced me that DBOF should be abolished.

Excess cash lying around the Pentagon puts the money wizards in the driver's seat.

Mr. Speaker, we can never hope to reduce the deficit nor can we hope to bring some real reform to the Department of Defense and Congress until all slush funds and the political engineers, who create and run them, are eliminated and removed from the scene. I know both the Armed Services and Appropriations Committees share my apprehension about DBOF. I only hope the two committees are able to act more decisively next year and shut it down.

TRIBUTE TO SOUTHEAST QUEENS COMMUNITY BAPTIST MINISTERS ALLIANCE

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FLAKE. Mr. Speaker, it was with great joy and respect that I stood before the House of Representatives on Wednesday, July 22, 1992, to present a group of visiting ministers from my district in southeast Queens.

There are many people who ask the question, "What is the church doing to revitalize, to rebuild, and to bring social and economic opportunities to the people of this Nation?" Many have concluded that the solutions can come only from Government. As I presented these ministers, I wanted my colleagues in the Congress to know that these clergy members are involved in community revitalization initiatives. These ministers participated in seminars conducted by Government agencies that provided them with invaluable information regarding community development, economic empowerment, improved health care services in urban communities, and broader educational opportunities.

Several of my colleagues in the Congress attended the luncheon and reception to meet this August body of clergy persons. The Members in attendance were: Representatives LUCIEN BLACKWELL of Philadelphia, WILLIAM CLAY of St. Louis, JOHN CONYERS of Detroit, RON DELLUMS of Oakland, BILL GREEN of New York City, CHARLES HAYES of Chicago, BARBARA KENNELLY of Hartford, JOHN LEWIS of Atlanta, RAYMOND MCGRATH of Valley Stream, MICHAEL MCNULTY of Green Island, CHARLES RANGEL of New York City, THOMAS RIDGE of Erie, GUS SAVAGE of Chicago, CHARLES SCHUMER of Brooklyn, LOUIS STOKES of Shaker Heights, EDOLPHUS TOWNS of Brooklyn, MAXINE WATERS of Los Angeles.

Currently, this group, which came together in 1984 when I first ran as a delegate to the Democratic Convention, has stayed together, and has put together a 501(c)3 corporation. That corporation is now building 500 low-income housing units in the community in which I serve.

I am proud of them because they understand there is no separation in the role of prophecy and the role of performance. They have spoken. Now, through their performance, the community is better served. Their tireless efforts provide stability, housing, and an opportunity to give a level of community service that I think is worthy of relating to other communities throughout this Nation.

I am pleased that the Southeast Queens Clergy for Community Empowerment and the Baptist Ministers Alliance of Queens and Vicinity has come here today, and that Reverend Betts has shared with us the prayer this morning. The ministers in attendance were: Rev. Carl Baldwin, Godian Fellowship Church; Rev. Charles Betts, Morning Star Baptist Church; Rev. Freddie Brunswick, Salem Missionary Baptist Church; Rev. Alfred Cockfield, Battalion Pentecostal Church; Rev. Simon Cockfield, Battalion Pentecostal Church; Rev. Marie Cone, Hope Mountain Baptist Church; Rev. Edward Davis, Presbyterian Church of St. Albans; Rev. Steve King, Jr., Christ Gospel Baptist Church; Rev. James Missick, Antioch Baptist Church; Rev. Richard Moore, Holy Unity Church; Rev. Maxine Nixon, Morning Star Baptist Church; Rev. Charles Norris, Sr., Bethesda Missionary Baptist Church; Rev. Curtis G. Norton, Merrick Park Baptist Church; Rev. Martello Payne, Jr., First Church of God in Christ; Rev. M. Edward Reed, Mt. Carmel Baptist Church; Rev. Ernestine Sanders, Evangelical Christian Church; Rev. Lars Silverness, JFK Protestant Chapel; and Rev. Gregory Tucker, One Way Church of God.

TRIBUTE TO REV. S.L. ROBERSON

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FORD of Michigan. Mr. Speaker, I want to offer congratulations to Rev. S.L. Roberson, who is this weekend celebrating his 38th anniversary as pastor of the Metropolitan Memorial Baptist Church of Ypsilanti, MI. He was born in Moundville, AL, to Garther and Estella Roberson. The family moved to Ypsilanti shortly after he was born. S.L. Roberson received his formal training in the public schools of Ypsilanti, went on to study at Detroit Bible College and Eastern Michigan University. He received his doctor of divinity degree from Urban Bible College, and then served our Nation in the Marine Corps.

In 1954, Reverend Roberson was called to the Metropolitan Memorial Baptist Church family, where he is still pastoring the congregation. He has performed uncounted weddings, funerals, baptisms, and other services for the people of his church. His ministry has been productive and spiritual, and as evidence of his leadership he built the edifice in which the congregation worships. His future plans include an education unit at the church, and he takes great pride as a founder of the Harriet Street Commerce Center which will bring prosperity to the entire community of Ypsilanti.

Reverend Roberson is married to Hollie Roberson; they are the parents of 4 daughters and 1 son, and have 12 grandchildren.

Over the years, Reverend Roberson has exemplified the spirit of commitment and dedication to this Church and his God, and he continues to be a productive contributor to the community. I wish Reverend Roberson and his family many more years of health and happiness in serving the people of Metropolitan Memorial Baptist church.

IN TRIBUTE TO LOUIS LEVINE

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. HUGHES. Mr. Speaker, On Monday, July 27, a very special exhibit will be on display in the Rotunda of the Cannon Building. This exhibit is the art of Louis Levine, my friend and constituent. Louis was a well loved painter and personality in his native Atlantic City, and his adopted home of Mexico, where he spent much of his time.

When he was 15, Louis began his career by doing quick sketches of visiting tourists on the boardwalk in Atlantic City. Not long after, Louis earned the reputation of being the world's fastest artist at the 1939 World's Fair. Over the years Louis participated in many shows hosted by such well respected institutions as the Pennsylvania Museum of Fine Art in Philadelphia, the Academy of Fine Arts in

Philadelphia, and the prestigious Corcoran Gallery here in Washington, DC. Later, in San Miguel, Mexico, Louis concentrated on capturing the elusive spirit of Mexico and the character of its colorful people. He did this with uncommon ability and remarkable insight.

Sadly, Louis passed away a few weeks ago, before he could see his paintings displayed in the Rotunda. I know he was excited about this opportunity, and I am pleased that Louis' family and friends have carried out his plans for the exhibit. I hope you will visit the Cannon Rotunda between July 27 and August 7. I think you will agree that Louis Levin created a remarkable collection of vivid paintings that truly embody the beauty of Mexico.

HONORING IRA BORNSTEIN

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. FAWELL. Mr. Speaker, I rise today to join the French Government in honoring Mr. Ira Bornstein for his achievements in improving the quality of graduate education. As director of the International Student Exchange Program at Argonne National Laboratory, Mr. Bornstein recently received the L'Ordre des Palmes Academiques, an award honoring outstanding service in education, presented by the French Minister of National Education.

Now in its 16th successful year, the International Student Exchange Program is a model of international scientific cooperation in education. The program is conducted under the auspices of Argonne National Laboratory, the American Nuclear Society, the European Nuclear Society, and the U.S. Department of Energy. American students work at summer jobs at leading research centers in France, West Germany, or Japan. In turn, students from those countries work on summer research assignments at Argonne National Laboratory.

Under Mr. Bornstein's leadership, the International Student Exchange Program has allowed talented graduate students to work directly with top researchers and gain valuable insight into future scientific careers. Nearly all of the participants in the program have gone on to graduate studies in nuclear science and technology, and have proven to be outstanding ambassadors for their countries. The program has helped to sow the seeds of international scientific cooperation and understanding among its participants.

Mr. Bornstein has indeed distinguished himself as a leader in graduate education programs, and I applaud his dedication to the students of this program, who represent the world's future in nuclear science and engineering.

A TRIBUTE TO GLADYS JANE O'NEILL

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I wish to pay tribute to the passing of a wonderful human being. Today we all mourn the loss of one of our community's most loving, nurturing, and feeling members, Gladys Jane O'Neill. Gladys was born in October 1938 to John and Caroline Tenczar in Chicopee Falls, MA. Although she left our world at a relatively young age, she graced us with her presence to leave a lasting impression on everyone she met.

Mr. Speaker, residing in the Pioneer Valley for all of her life, Gladys O'Neill has demonstrated admirable qualities and has proven to be an outstanding member of our community. The compassion, the charity, and the love she presented to others was almost breathtaking to experience. She was the type of person who was always more concerned with the people around her than herself. This selfless individual should be remembered by the community as someone who they should attempt to exemplify.

Gladys O'Neill had a very close family and always spent every holiday with her family. She married Robert Walter O'Neill in July 1957 and had three children over the first 14 years of their marriage. From her children, Gladys received four wonderful grandchildren. This caring woman was the epitome of what is known as someone who possessed family values. Spending hour after hour with her children in order to educate them on the importance of trust, love, and good citizenship, Gladys O'Neill was able to see her tireless efforts succeed as her children raised four beautiful and loving grandchildren.

Not only was she a loving mother, but Gladys also worked at the F.W. Sickles plant for close to 10 years. Gladys was able to balance the rigors of raising a family and performing admirably on a full-time assembly job by relying on her relaxed, easy-going nature to satisfy such demanding requirements. She had the patience and also the faith of a saint. As a member of St. George's Parish in Chicopee, she was able to attend mass daily. Trusting her measureless faith, Gladys was able to offer her loved ones the very best support in any type of situation.

Mr. Speaker, although we are all saddened to see such a wonderful and caring individual pass away from our lives, I know that everyone who has come into contact with Gladys O'Neill has been touched in a very special way. In addition, the members of the Ludlow Country Club who enjoyed Gladys' time and company on the course will miss Gladys a great deal. They realize that their time spent with Gladys has given them a rejuvenated outlook on life. Mr. Speaker, I would like to pay tribute to Gladys Jane O'Neill and recognize the importance of her loving and caring qualities to the Second District of Massachusetts.

EXPLANATION OF RELATIONSHIP WITH THE POST OFFICE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. MAVROULES. Mr. Speaker, I would like to commend my colleagues on the task force that investigated the House post office for their fine work. Since I was named in the minority report, I would like to inform my colleagues of my relationship with the post office.

Mr. Speaker, I was unaware that a member of my staff had set up a postal box at the Brentwood Post Office facility in Washington until the press inquired about the matter in April. When I was made aware of its existence, I immediately ordered the closure of the post office box.

I have since learned that on several occasions, perhaps five to six times per year, mail from the postal box was delivered to the congressional office. The office never once requested the post office to make the deliveries. No one associated with my office was aware that these deliveries could constitute an impropriety. In fact, the task force that investigated the House post office said in its report released July 22 that "the task force did not receive any evidence that a Member violated a Federal law or regulation, or House rule, in connection with the post office boxes."

CAPTIVE NATIONS WEEK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. DINGELL. Mr. Speaker, only 3 weeks ago, we, as Americans, celebrated the 216th anniversary of the birth of our Nation. Americans are blessed with a hard fought national freedom. However, many nations cannot achieve the precious freedom we enjoy in this country. As the oldest surviving democracy in the world, the United States recognizes these captive nations July 20–24 in the 33d observance of Captive Nations Week.

It is important for the American people to recognize Captive Nations Week. It enables we, the people, to voice support for the liberation of all people oppressed by totalitarian regimes. It gives us an opportunity to celebrate the new found freedoms gained by millions of people in Eastern Europe, Central Europe, and Central Asia and to give inspirational support to the remaining captive nations in their fight against oppression. During Captive Nations Week, we, Americans, must reaffirm our democratic tradition and extend a message of hope that the human spirit will prevail over the autocratic, tyrannical governments which continue to deny freedom to well over 1 billion people in nations such as Cuba, mainland China, North Korea, Tibet, North Caucasia, Cossackia, Idel-Ural, and the Far Eastern Republic. The list of captive nations remains long and discouraging, but we must continue to view it as a symbol that we do not accept the oppressive activities of the Communist dictatorship or other forms of imperial rule.

Let us use Captive Nations Week as an opportunity, once again, to reaffirm publicly our commitment to freedom and to continue to negotiate and work for freedom of all nations. I look forward to a time when the observance of Captive Nations Week is no longer necessary, and when the freedom of those suffering under oppressive governments can be restored. Until that victorious day we will continue to offer prayers and support for the liberation of all captive people.

TRIBUTE TO HUMAN RIGHTS ADVOCATE MILTON TEPPER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BERMAN. Mr. Speaker, I rise today to salute a dear friend, valued adviser and extraordinary individual, Mr. Milton Tepper. Milton and I have been friends for many years and it gives me great pleasure to honor one of the San Fernando Valley's finest.

Throughout his life, Milton has been a pioneer in championing social and civil rights issues and is greatly admired and respected by all. Well recognized as an advocate for human rights and his single-minded determination to fight for what he believes, Milton has distinguished himself for his devotion to humanity and is a shining example of how important it is to help others.

He is a leading representative for virtually every senior group in the San Fernando Valley and has devoted time and energy to ensure that countless community organizations operate to their fullest potential. He has personally helped hundreds of older Americans to recognize the joy of living and the need to continue to live life to its fullest.

Milton works hard on numerous government advocacy committees and usually takes on the tough jobs himself, seeing them through to the end. He is a dedicated member of the Elder Abuse, Long Term Care, and Mental Health Task Forces. He has also been very active with the American Association of Retired Persons and was recently elected chairman of the local chapter. He is an outstanding ANDRUS volunteer and an active and hard working member of a long list of community organizations and advisory boards. His association with such a range of senior organizations makes him a fine representative of California's senior citizens.

I am personally grateful to Milton for his distinguished service as chairman of my senior advisory council, a council of senior leadership representative of the senior organizations in the San Fernando Valley community. During Milton's tenure as chairman he diligently worked to keep me updated on concerns of older Americans and the special needs of my constituency.

I am proud to be counted as one of Milton's friends and it is my distinct privilege and pleasure to ask my colleagues to join me in paying tribute to Milton Tepper.

TRIBUTE TO LT. LLOYD H. HUGHES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to Lt. Lloyd H. Hughes, a man whose gallantry and bravery earned him the Nation's highest decoration, the Medal of Honor.

To many, the thought of actively participating in a full scale war is unfathomable. But to Lt. Lloyd H. Hughes, it was merely a symbol of patriotism, an unquestionable act of love for his country. After being stationed at a variety of Texas and southwest bases, Lieutenant Hughes was called to active duty in June 1943. He departed the United States for duty in the European area, and upon his arrival in Africa, was assigned as a pilot.

On August 1, 1943, Lieutenant Hughes served in the capacity of pilot of a heavy bombardment aircraft participating in a long and hazardous minimum altitude attack against the Axis oil refineries of Ploesti, Romania, launched from the northern shores of Africa. Approaching the target through intense and accurate antiaircraft fire and dense balloon barrages at dangerously low altitudes, Lieutenant Hughes' aircraft received several direct hits causing serious physical damage. Despite the gasoline streaming from the left wounded wing of the aircraft, Lieutenant Hughes chose to continue his valiant mission fostered only by his unequivocal concept of duty. Rather than jeopardize the planned formation and sacrifice a successful attack, he unhesitatingly entered the blazing area and dropped his bomb load with commendable precision. After successfully bombing the objective, his aircraft emerged from the configuration with the left wing fully ablaze. It was then, and only then, that Lieutenant Hughes chose to forcefully land his aircraft, a crash landing that sent him to his death amidst the blazing fields on that August day in 1943.

Regardless of the consequences and utter disregard for his own life, Lieutenant Hughes' heroic decision to complete his call of duty rendered a meritorious and laudable service to our country in a time of battle. Though Lieutenant Hughes did not survive his mission, his admirable loyalty and devotion to his country will continue to live on in the everlasting annals of our Nation's history.

THE INCREASED RAILROAD LOCOMOTIVE VISIBILITY ACT

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. GLICKMAN. Mr. Speaker, on February 14, three Kansas teenagers tragically died when their car was hit broadside by a freight train at a rural railroad crossing. Eyewitnesses to the accident say the car's brake lights did not even flash prior to the accident. It seems as if the teenagers had no idea the train was coming, despite the train's approaching headlight and sounding whistle.

Nothing has been done to stop this kind of needless death. These accidents are occurring all over the United States because motorists either do not see or do not recognize oncoming trains. Existing regulations requiring trains to have an illuminated headlight and to sound their whistles at all crossings are obviously not enough to warn motorists of an approaching train. Headlights are often mistaken for street lights and whistles cannot always be heard over blaring car radios.

Today I am introducing legislation to give motorists better warning of an approaching train. My legislation will require all locomotives to be equipped with lights known as "ditch lights," which illuminate both sides of the engine and the areas contiguous to the tracks. The new lights, when combined with the headlight above, create a triangle of light which would be difficult to mistake for anything but a moving locomotive. Installation of ditch lights is not prohibitively expensive. In fact, some railroads already use them.

I urge my colleagues to join me in supporting this important safety legislation, so we can put an end to the needless deaths caused by rail accidents all over America.

BUCK BUCHANAN: NATIONAL CELEBRITY AND LOCAL HERO

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. WHEAT. Mr. Speaker, it is with sadness and profound regret that I report to my colleagues the death of Kansas City legend Buck Buchanan late last week. A Hall of Fame football great, a prominent community leader and a good friend, Buck was a genuine champion both on and off the playing field.

As an all-pro defensive lineman for the Kansas City Chiefs, Junious "Buck" Buchanan secured a lasting place in football history. A 1962 graduate of Grambling University, he helped lead the Kansas City Chiefs to two world championship games, including the first Super Bowl ever played in 1967 and a Super Bowl victory in 1970.

Characterized by his skill, strength and speed, Buck was also a member of six AFL All-Star Teams, two Pro Bowls, and was the Chiefs' most valuable player in 1965 and 1967. In 1990, he earned football's highest personal distinction when he was inducted into the Pro Football Hall of Fame.

Even though he could have comfortably retired to a life of leisure after his legendary football career, Buck chose to go forward and help tackle even bigger challenges facing his own community. And even though he had every right to boast about his Hall of Fame play, Buck remained a proud but unassuming man throughout his life.

A powerful advocate for minority business development, Buck was a founding member of the black Chamber of Commerce of Greater Kansas City and later served as that organization's president.

Through his leadership and enthusiasm, Buck almost singlehandedly organized a charity golf tournament in Kansas City to raise funds for the black chamber of commerce scholarship fund.

He coaxed his friends, cajoled his coworkers, and persuaded his associates to join in the effort. And as a result of his work, the tournament brought in tens of thousands of dollars for needy college-bound students.

Buck could barely contain his excitement on the night that he turned the proceeds over to the scholarship fund. The elation in his glowing expression was unforgettable and reflected his profound commitment and utter joy in extending hope and opportunity to our youth.

Concerned and committed to improving his community and State, Buck was also a board of elections commissioner for the State of Missouri and was appointed last year to the Board of the Kansas City Downtown Minority Development Corp.

Proud to lend his name and efforts to attracting more people to the city he loved so well, Buck also served as a board member of the Greater Kansas City Convention and Visitors' Bureau.

Despite a 2-year battle with lung cancer, Buck never gave up his role as an active civic leader. Notwithstanding his hardship, Buck continued to serve as a powerful role model reaching out and enhancing the lives of countless individuals.

Never one to complain, Buck was one of the most outgoing, unpretentious and unfailingly cheerful persons that I have known.

He was gentle giant who will never be forgotten by his grateful community, his many friends and admirers, and his loving family. I extend my sincere sympathies to Buck's devoted wife, Georgia, his sons, Eric and Dwaine, and his daughter, Nicole.

Although his life was cut short by cancer, Buck Buchanan lives on as a symbol of pride and inspiration to all those who knew him. His compassion, drive, and tireless commitment will be sorely missed but fondly remembered.

TRIBUTE TO SOUTH CAROLINA PEACH PRODUCERS

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. DERRICK. Mr. Speaker, today is Peach Day. As I speak, literally thousands of fresh, sun-ripened South Carolina peaches are being delivered to Members of Congress and their staffs.

South Carolina, a State known for its rolling hills, sun-baked beaches and fertile farm land, is a leading producer of peaches. In 1991, in my district alone, the counties of Aiken, Edgefield, Allendale and Barnwell produced nearly 125,000 pounds of peaches.

Mr. Speaker, when our peach industry prospers so does our economy. The planting, nurturing, harvesting, distribution and sale of South Carolina peaches provide hundreds of jobs.

On this special day, I ask that my colleagues join me in recognizing the work of South Carolina's peach producers. The peach producers of South Carolina are proud to continue their tradition of offering a sampling of the fruits of their fields to Members of Congress and their staffs.

THE 105TH ANNIVERSARY OF THE CITY OF COLTON

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. BROWN. Mr. Speaker, it is with great pride that I recognize the 105th anniversary of the city of Colton, CA, which I proudly represent.

I would like to draw the attention of my colleagues to the following, taken from a piece written by Hazel E. Olson which describes the rich history of Colton and all that it has offered in the last 105 years.

The Colton area began as two large privately owned ranchos. The vast San Bernardino Rancho, granted to Jose De Carmen Lugo family in 1839, completely absorbed the southeast corner of the present city of Colton. The Lugo family retained their holdings until 1851 when they sold it to the Mormon Colony.

The second land grant in the Colton area was the Jurupa Rancho, acquired by Juan Bandini in 1838. It lay south of the Slover Mountain along the Santa Ana River between Colton and Riverside. This became the site where New Mexican traders met from Taos and Sante Fe.

In 1841, the Lugos offered land to some of the New Mexican traders and their families if they would help drive off the raiders from stealing their cattle and horses. Some 20 families returned between 1842 and 1843.

Starting in the 1860's the Colton area began growing with various manufacturing companies starting up in the area. In 1861, Colton Marble and Lime Co. opened a quarry on the south side of the mountain and operated until 1887. It was then succeeded by the California Marble Co.

In the beginning, cement was imported from Germany and England. It was shipped to Colton and then packaged in sacks and barrels. In May 1881, the California Portland Cemetery Co. started manufacturing cement in the United States. The cement plant eventually grew and in 1927 presented the city of Colton with a highly developed park with a concrete bandshell and other facilities.

In 1875 the Southern Pacific Railroad placed its headquarters in Colton. It was officially decided to name the town Colton in honor of Gen. David Colton, a railroad official and attorney.

On July 18, 1887, the county board of supervisors, in accordance with the law, officially proclaimed Colton to be a city of sixth class. A week earlier, 176 citizens went to the polls to determine whether or not Colton should be incorporated as a city. After counting the ballots, 119 voted in favor of incorporation, with 57 against. The city of Colton now covers an area of approximately 16.1 square miles. It is governed by four council members and an elected mayor operating a council-manager type of government.

NAVY MUST BE HELD ACCOUNTABLE

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. EWING. Mr. Speaker, some sailors in our Navy are missing the boat. During the Persian Gulf war, women in our Armed Forces won our admiration as we watched them work side by side with their male counterparts to achieve victory. They proved themselves honorably. Upon returning home, however, some women in the Navy found that while they had gained our respect, they had not gained the respect of all their fellow sailors. The events which transpired at last year's annual Tailhook Convention in Las Vegas show us that there is a problem.

It is disturbing to me that there appears to be an unwillingness to admit that there is a need for change. Investigators have been thwarted in their attempts to identify the guilty parties because officers present at the convention have closed ranks and refused to cooperate. It is time for Congress to send them a message.

I have cosponsored House Concurrent Resolution 344 which expresses our anger and expectation that a full, uncompromising investigation will be completed and that the guilty parties, whomever they may be, will be punished. It is important that our Armed Forces know that this type of behavior will not be tolerated. I would urge all my colleagues to support this resolution.

As equally unbelievable is the fact that Congress is exempt from sexual discrimination laws. Theoretically, events similar to the Tailhook scandal could occur in Congress, but nobody could be held accountable because the laws could not be applied to Congress. I hope that others who have criticized the Navy for the Tailhook scandal will join me in demanding that Congress apply sexual harassment laws to itself.

As we all know, the Congress exempts itself from practically every law it passes, including such landmark legislation as the Civil Rights Act. Unlike the Navy officers who were sexually harassed, congressional employees who have been discriminated against cannot seek justice in Federal courts, but must instead go to some in-house, Member-run body for redress. The defendant, in other words, serves as the judge, jury, and appeals panel.

There are several bills such as the Congressional Accountability Act which would force Congress to live by the same laws it passes. I know this is a new idea to some in Congress but it should not be. For all those Members who find the Tailhook incident appalling, I encourage them to look right here in this body and join our effort to make Congress accountable for its actions. Sexual harassment is wrong, whether the offender is a sailor or a Member of Congress.

TRIBUTE TO JOSEPH E. PODGOR, JR.

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. LEHMAN of Florida. Mr. Speaker, in south Florida, many people spell clean water J-O-E P-O-D-G-O-R.

For almost two decades, Joe Podgor has been in the forefront of efforts to safeguard the Florida Everglades and the Floridan and Biscayne aquifers—the underground porous rock sponges that are the sole source of south Florida's drinking water supply.

When it comes to water quality issues, Joe has done it all: authored resolutions adopted by the Dade County Commission, creating model drinking water protection programs which are now being adapted for use around the country, testifying before congressional committees, serving on countless water quality study and advisory committees, and helping to draft regulations implementing water-related legislation.

Joe is currently executive director of Friends of the Everglades, Inc., one of Florida's most active and effective environmental groups.

It has been my pleasure to work with Joe Podgor over the past several years on water quality issues of importance to south Florida. Safe drinking water is crucial to the well-being of all of our citizens, and all of us are better off for Joe's efforts.

A BILL TO MAKE VARIOUS TECHNICAL AMENDMENTS TO CERTAIN FEDERAL INDIAN STATUTES

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. RHODES. Mr. Speaker, I rise today to introduce legislation to make two technical amendments to certain Federal Indian statutes.

The first amendment is a correction of a land description with respect to the Grand Ronde Indian Reservation in Oregon. The Grand Ronde Reservation Act, Public Law No. 100–425, 102 stat. 1594 (1988) (codified at 25 U.S.C. §713f note) established a 9,811.32 acre reservation for the Confederated Tribes of the Grand Ronde Community pursuant to the provisions of the Grand Ronde Restoration Act, Public Law No. 98–165, 97 stat. 1064 (1983) (codified at 25 U.S.C. §713 *et seq*).

Under the terms of the Restoration Act, the selection of lands available for establishment of the reservation was limited to public lands administered under the Federal Land Policy and Management Act of 1976. The lands eventually chosen consisted of a large tract of Oregon and California Railroad grant lands in Yamhill County, about 6 miles north of the town of Grand Ronde, previously managed by the Bureau of Land Management. To compensate for the Bureau of Land Management's loss of this tract, section 4 of the Reservation Act described and redesignated a series of Federal public domain land parcels in Yamhill and Tilamook Counties—a total of 12,035.32 acres—as Revested Oregon and California Railroad Grant lands. These lands were considered comparable to the new reservation lands in production of timber and annual revenues.

Section 4(b) of the act sets forth descriptions of 48 such land parcels. The 47th tract, however, is incorrectly identified by an incomplete subdivision measurement. This legislation would correct that oversight. It does not change the acreage of the tract, 185.8 acres, nor the total acreage of the redesignation.

There have been two prior corrections made to the land descriptions set forth in section 4(b): Act of November 1, 1988, Public Law No. 100–581, title II, §202, 102 stat. 2938; and act of May 24, 1990, Public Law No. 101–301, §4, 104 stat. 206. The Department of the Interior is fully supportive of the correction, as is the tribe.

The second proposed technical amendment is to the Ponca Restoration Act, Public Law No. 101–484, 104 stat. 1167 (1990) (codified at 25 U.S.C. §983 et seq). This act restored Federal recognition to the Ponca Tribe of Nebraska in 1990.

Section 10 of that act directs the Secretary of the Interior to establish an economic development plan with the tribe. Section 10(a)(3) directs that the Secretary submit the economic development plan to Congress within 2 years of enactment—by October 31, 1992.

The amendment would extend the 2 year deadline for submission by a year, and is necessary because the Ponca Act was signed into law on October 31, 1990, in the very early stages of fiscal year 1991. No appropriations were provided to fund the Ponca's economic development plan that year, and the tribe had to wait a full year—until fiscal year 1992—for the appropriation of its planning funds. By extending the submission deadline by 1 year, the tribe and the Secretary will be allowed a full 2 years to develop and submit the plan, in keeping with the original intent of the Congress.

Mr. Speaker, I am very pleased to note that Congressman AuCoin and Congressman Bereuter—in whose districts the tribes affected by this legislation reside—both join me in sponsoring this legislation. I look forward to the support of the rest of my colleagues in moving it expeditiously through the House.

FUNDING FOR LA CROSSE NATIONAL FISH LAB

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. GUNDERSON. Mr. Speaker, for a couple of years now, I have come to the floor during consideration of the Interior appropriations bill to thank members of the committee for their support of the La Crosse National Fish Lab in La Crosse, WI. I am here today to repeat that exercise.

However, this year, in a time of big deficits, and big spending cuts, I want to point out that the committee has made an extra effort to keep the mission of the lab on track as much as possible—not by increasing overall funding, but by prioritizing projects under the committee's jurisdiction. It is gratifying to know that the world-class work underway at the La Crosse Fish Lab warrants placement on the top of that priority list.

The single biggest aquatic problem facing the upper Mississippi River region today may very well be the threat of the zebra mussel. Last year, the species was found for the first time on the upper river, indicating that the threatening menace is descending from the Great Lakes region. There, it has caused millions of dollars of damage by clogging water intake pipes and valves, and killing other important aquatic wildlife.

Now, our region is threatened. Communities along the river stand to lose millions of dollars due to these same problems. The mussels can cause fouled water intakes, can hamper the gates and locks of our navigation dams, can possibly eliminate our native mussel population, and can cause tremendous economic loss to the towing and barge industry, due to resulting decreased fuel efficiency and massive maintenance problems.

Fortunately, the La Crosse lab has a comprehensive and targeted research program underway to combat the pest. In years past, I have made the case for funding this research at $500,000, some of which is passed on to university cooperative research in Ohio. That base funding has been secured. Last year, I requested an additional $350,000 for the research program, which was provided, for a total of $850,000. That same amount was provided this year.

I remain very concerned about the projected worsening funding shortage for the lab's operations account—underfunding by $250,000. But, given the tremendous pressure of budget constraints, I am hopeful the F&WS will make further adjustments in next year's budget request to meet these needs.

Thanks again to Chairman Yates, Representative Regula, and members of the committee for tending to the needs of the La Crosse lab.

TRIBUTE TO FRED PALMER, JR.

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. HOLLOWAY. Mr. Speaker, I am proud to pay tribute to my constituent and good friend, Fred Palmer, Jr., of Gonzales, LA. Fred and I have known one another for years. He is an oil distributor and a plant nurseryman, whose place of business is known for raising phalaenopsis orchids, flowers which I consider to be among nature's most beautiful.

Fred served with distinction for some 10½ years in the U.S. Air Force. He piloted the B–17 in the 8th Air Force during World War II, was shot down, and was a POW in Stalag Luft I. During the Korean conflict, he was the first pilot to land in Korea after the war, the first to deliver ammunition, and he evacuated the wounded. In the end, Mr. Speaker, Fred Palmer flew the peace conference team in and out of Tokyo and Seoul on many times. His service to his country, during times of war and peace, is a credit to him and his family.

Recently, Fred Palmer learned he only had a short time to live. He tried chemotherapy but in his own words, he gave it up "in a last ditch effort to regain some quality of life not possible under that possible life extending protocol."

I join with Fred's wife Mary and four children, Fred III, Mimi, Diane, and Vic, in paying tribute to him. He is truly a brave American hero. We would all do well to follow his example.

CORDOVA BEACON CELEBRATES FIRST ANNIVERSARY

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SUNDQUIST. Mr. Speaker, on August 7, the Cordova Beacon will celebrate its first anniversary of publishing in one of the Memphis area's fastest growing communities.

I have found in my district that community newspapers contribute to an area's sense of place, and I want to commend the Beacon's publisher, Buddy Murchison, for a job well-done. I look forward to seeing the Beacon grow along with the Cordova community.

GENERAL DE GALVEZ DAY

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. COLEMAN of Texas. Mr. Speaker, it is a privilege for me to rise today to recognize a true friend of the American people and a hero of the War of Independence who has received little recognition for his contributions to this country. Gen. Bernardo de Galvez was born on this day and so it is especially fitting that we honor him.

I speak today on behalf of the El Paso Chapter of the Granaderos de Galvez who have made it their mission to rewrite history so it might more accurately reflect the contributions of this patriot.

De Galvez, a Spaniard who passionately believed in American independence was the youngest governor of the Spanish colonies when the Revolutionary War erupted. In the early stages of the war, de Galvez provided cattle, money, munitions, and uniforms to American freedom fighters. And he would play a truly historic role in the war's conclusion.

As General Washington battled the British in the north hoping to corner them and force a surrender, his only concern was that British troops in the south might arrive to reinforce his foe. De Galvez seized the opportunity and personally led Spanish troops against British troops in the Louisiana Territory. He and his soldiers fought valiantly and drove the British from the territories back to the Gulf of Mexico. De Galvez efforts prevented reinforcements from reaching Yorktown enabling General Washington to secure his final War of Independence victory at Yorktown.

Mr. Speaker, Bernardo de Galvez is but one example of the many American patriots of culturally diverse backgrounds who have contributed so greatly to this country. Unfortunately, some of these citizens have been overlooked in favor of more traditional Anglo-Saxon heroes. Let us recognize today that all Americans have an appreciation of their history and the role their ancestors have played in shaping our Nation. I salute the Order of Granederos and Damas de Galvez in their efforts to have this great man's birthday honored as a national holiday.

TRIBUTE TO RICHARD HOVORKA

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. JOHNSON of South Dakota. Mr. Speaker, I'm pleased today to be able to honor a man who brought a great deal of credit to his community, State, and Nation: South Dakota State American Legion Com. Richard Hovorka, from Tabor, SD.

Richard honorably served his country in the Korean war, serving in the Army Signal Corps from 1952 to 1954. His activities in the American Legion have included serving as a past post commander, past Bon Homme County commander, past District 7 commander, past State vice commander, and was elected to the post of State Legion commander on June 16, 1992 at Watertown, SD.

Richard has been a farmer for 35 years, has served as the treasurer of his local school board, as Bon Homme County A.S.C.S. country committeeman for 18 years, and is a proud member of South Dakota Farmers Union.

He married Sharleen Kaiser in 1956, and that union has produced three sons and one daughter; they also are the proud grandparents of seven grandchildren.

Additionally, Richard has five brothers who all served in World War II, Lloyd, Willard, Lester, Cletus, and Alvin.

Richard's community of Tabor is honoring him on Saturday, August 29, with a parade at 2 p.m., a program at 3 p.m., and a free pork barbeque to follow, with the music provided by the Tyndall Accordian Club.

Our Nation is much greater because of the sacrifice of men like Richard Hovorka, Mr. Speaker, and it is my pleasure to honor him in this forum today.

TRIBUTE TO REV. EDMUND K. CHENEY, S.J.

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. EARLY. Mr. Speaker, I rise today to pay tribute to Rev. Edmund K. Cheney, S.J., who recently observed the 50th anniversary of his ordination in the Society of Jesus. Father Cheney, a native of Lowell, MA, who resides in Worcester, was ordained a Roman Catholic priest on June 13, 1942, and has spent these five decades as an outstanding educator, missionary, social activist/reformer, and chaplain while traveling throughout the world.

Prior to his ordination, Father Cheney spent 3 years studying and teaching in the Middle East, studying Arabic in Damascus, Syria in 1936 and 1937 and teaching chemistry at Baghdad College from 1937 to 1939.

His most noteworthy accomplishment began shortly after his ordination, when he was assigned to St. Mary's Mission at Above Rocks in the parish of St. Catherine in Jamaica and initiated a social, economic, and educational revolution. With the help of the village's inhabitants, Father Cheney set to work constructing schools and community centers. He first trained villagers in the building trades, then supervised the construction as architect, contractor and engineer while these villagers contributed the labor. Father Cheney spent 15 years at Above Rocks and his work and guidance helped produce a day school, a boarding school, a trade and crafts center for vocational training, a community dispensary, a convent, and a rectory. St. Mary's College, the equivalent of an American secondary school, was the first such Catholic school on the island in nearly 50 years and perhaps represents his finest achievement.

Additionally, Father Cheney oversaw growth in manufacturing, founded a credit union, developed a poultry cooperative and served on two school boards, as chaplain of the St. Vincent de Paul Society and as a member of the board of the directors for the Jamaica Social Welfare Commission. His contributions were recognized by Queen Elizabeth II and Princess Margaret, who received him during visits to Kingston in 1953 and 1955, respectively. The Holy See sent him as its observer to the U.N. Food and Health Commission Meeting in Trinidad in 1958.

Father Cheney returned to the United States in 1960, serving 4 years as chaplain at Boston City Hospital and 16 years as chaplain at Worcester City Hospital. He has served in various capacities in a number of fraternal and community organizations and remains active in his retirement, serving as head chaplain of the New England Region of the Order of Alhambra. His missionary work has continued as well, taking him to the Bahamas for parts of the last 5 years and to the Indian reservation in Perry ME. In April of this year, he made a pilgrimage to the Jesuit shrines of Rome.

Mr. Speaker, distinguished colleagues, please join me in recognizing Father Cheney for his lifelong devotion to the church, to missionary work and to people worldwide.

COMMENDATION FOR VERA WILEY AND DIANNE VAUGHN

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1992

Mr. SUNDQUIST. Mr. Speaker, I want to share with my colleagues a real success story. It is the story of a young woman and her mother, both of whom took advantage of the

Job Training Partnership Act in Columbia, TN, and completed their high school educations.

I have been proud to support JTPA over the years because of success stories like this one in my district. I want to commend Vera Wiley and Dianne Vaughn on their diplomas, and Elaine Newcomb and her staff at JTPA in Maury County, and I ask that this article from the Daily Herald be reprinted in its entirety in the CONGRESSIONAL RECORD.

[From the Daily Herald]

FORMER DROPOUTS, MOTHER, DAUGHTER GRADUATE TOGETHER

(By Gayle Coulter)

Dianne Vaughn and her mother, Vera Wiley know what it's like to be without both a job and a high school diploma.

But they found the gumption and the help they needed to do something about it.

Vaughn, 38, said she dropped out of school when she was in the 10th grade. Wiley, 60, dropped out when she was in the ninth grade.

Both mother and daughter made the decision to seek their GEDs through the Job Training Partnership Act program in the fall of last year without knowing of the other's plan.

Vaughn had heard about the program from her case worker at the Department of Social Services. Wiley heard about it when she was working at the soon to-be-closed-down Weather Tamer factory and JTPA officials come in to outline special services offered to displaced workers.

JTPA was established by federal law in 1982 to provide economically disadvantaged individuals the training they need to hold good jobs in the private sector.

To qualify for JTPA programs, people must be out of work or earning low incomes. Many people who join the program are receiving governmental aid such as Aid to Families with Dependent Children (AFDC), food stamps or worker's compensation.

There is also a special Dislocated Worker program designed to provide new job skills for those who have lost their jobs through no fault of their own.

The various JTPA programs offer skills assessment testing, job search assistance, relocation assistance, basic education training, on-the-job training, specific industry skills training and vocational skills training.

In many cases, the JTPA can even help provide people who qualify for the programs with child care while they receive their training during the day.

Vaughn's three children were in school during the day, so child care wasn't a problem for her. She said the only part of the program that gave her any problem at all was algebra.

"I didn't understand algebra," she said. But I enjoyed geometry. I would never have taken it in high school—just the name alone would have scared me—but I really enjoyed it."

Both mother and daughter agreed classes were more fun the second time around.

"They (JTPA teachers) made it fun and interesting," Vaughn said. "We brought home report cards. My kids would laugh and say, 'Do I get to sign your report card, mother?'"

Wiley, who worked for WeatherTamer for 22 years, became interested in JTPA because she learned about the program for displaced workers before she became one.

"A lot of things have changed since I was in school," Wiley said. "I just went up there and had fun while I was learning."

She said she was "excited, scared and shaking" when she walked across the stage to receive her GED in May. But she was "thrilled" when it was placed in her hand.

"Not many people can say, 'My grandchildren watched me graduate,'" Wiley said.

Now, at 60, she said she is continuing her education with JTPA and learning computer and typing skills.

Both women said they would definitely advise young people to finish high school and give serious thought to their career plans.

"The kids in school now ought to stay and get their diplomas," Wiley said.

"You used to could find a job in a week's time. Now you can look for a year and still not find one," Vaughn agreed.

Vaughn said she had a friend who had graduated from high school who was beaten out of a job as a dog catcher by an applicant with a college degree in "husbandry."

"There's a lot more competition and not enough jobs to go around," Vaughn said. "The more education you have, the better off you are."

SENATE—*Friday, July 24, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable BROCK ADAMS, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *If any man offend not in word, the same is a perfect man, and able also to bridle the whole body * * * the tongue is a little member, and boasteth great things. Behold how great a matter a little fire kindleth! And the tongue is a fire, a world of iniquity: so is the tongue among our members, that it defileth the whole body.** * *—James 3:2, 5, 6.

Eternal God, Author of truth, election campaigns involve words. Grant to those who manufacture speeches or television bites and those who use them, sensitivity to the destructive as well as edifying and motivating power of words. Our leaders are saying the right words: "family values," "decency," "seeking the moral and ethical center." Grant our leaders the honesty to mean what they say and the will to do it. Save us, Lord, from words without content, rhetoric without commitment. We have been reminded that what is morally wrong cannot be politically right. Give those who speak intellectual, spiritual, and moral authenticity.

To the glory of God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 24, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BROCK ADAMS, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ADAMS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that the leader time of the distinguished Republican leader and myself be reserved for use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for up to 10 minutes each.

Mr. MITCHELL. Mr. President, under the previous order, as stated by the Chair, there will now be a period for morning business during which time Senators will be permitted to speak for up to 10 minutes each.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

A NEW SECRETARY OF STATE

Mr. MOYNIHAN. Mr. President, I would take this occasion at the outset of the Presidential campaign to comment concerning reports we have read that our distinguished Secretary of State, James A. Baker III, is going to leave his present duties and move to the White House to assume direction of the President's reelection campaign. His prospective position has been described by someone in the White House as Executive Vice President.

It would appear—nothing more than that—that this decision was reached when the President and the Secretary of State were in the Rockies over the last weekend, taking a break—intelligently—in pursuit of the wily trout, as we say, and talking about this matter as they would properly do. They are old friends.

Secretary Baker managed Mr. Bush's campaign for the Senate in 1970. He carried Houston for him and has been with him, at his side, ever since. Nothing is more appropriate, more admirable in politics, than that kind of longstanding relationship.

And I might say, Mr. Baker, when asked about this move, said very deftly, as he usually does, "Do not believe it until you hear it from the President," which is scarcely a denial but probably a way of deferring the President's decision to the President himself.

So we can assume that this will now happen. From this Senator's point of view, it is entirely appropriate that it should happen if that is what the President wants and Mr. Baker is agreeable to it.

On the other hand, as a member of the Foreign Relations Committee, I would like to state—speaking only for myself but speaking from the record—if President Bush is to ask Secretary Baker to come to the White House to run his campaign, the Secretary must leave his post as Secretary of State.

This will be difficult for him to do, understandably, with so many matters in flux in the world. In the Middle East, where we see genuine progress, the statement by Mr. Rabin yesterday that there will be no new housing built on the West Bank is a very important change in policy in that region. The decision the United States, Great Britain, and France are about to make with respect to armed action against Iraq, where Saddam Hussein increasingly defies the United Nations, breaks all agreements—that is a matter of profound importance; there is a possibility of military action under the auspices of the United Nations. In the Balkans, the horror of those conflicts continues.

The New York Times had a gripping editorial yesterday which stated: "The blood from the Balkans is seeping under Europe's door." There are more refugees in Europe just now than at any time since the end of the Second World War. And the world round there are the kinds of crises associated with newly independent nations—ethnic groups demanding national status, conflicts over territory. We just saw a splendid example in Czechoslovakia, of a nation breaking up without going to war, internal war. But that is rare; the unusual case. At least it is not the necessary one. All over the world there are crises of a new era, a new world order trying to find and define itself.

It is not the best time for a Secretary of State to be leaving. But if the Secretary is to do so—and I believe some of my colleagues will discuss the same point—he must be succeeded by a Sec-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

retary of State. He cannot take leave and put that most nonpartisan position in the Cabinet in that compromised situation.

I can report, Mr. President, that the Congressional Research Service tells us that never in the history of the Nation has a Secretary of State involved himself in a Presidential election in the direct manner that is contemplated by Mr. Baker going to the White House—never.

It would be not just unprecedented but it would be in contravention of the struggles, and traditions of this Republic.

Secretary Acheson, in his wonderful book, "Present at the Creation," says that "A Secretary of State is always a political figure" but it is nonetheless rightfully important that overt partisanship in the foreign policy be minimized. This is how he put it. He says:

> [T]he doctrine and practice of nonpartisanship in foreign policy is a very practical political expedient, designed to moderate asperities inherent in our constitutional system. "The doctrine of the separation of powers," Justice Brandeis has explained, "was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy."

Then Acheson continues:

> Today in the determination of our policies toward "the vast external realm" with all its complexities and dangers, there is a superabundance of friction to save the people from the autocratic imposition of courses of action. The purpose of nonpartisanship is to ease the difficulties in the way of maintaining continuity and predictability in action. To borrow a phrase of Woodrow Wilson's it is the essential "oil of government."

So, sir, I would say, without the least intent of disparaging the Secretary of State, simply to put him on friendly notice that his office is the most important of any other office of the Government apart from the President himself, and that office has to continue. Our policies have to be pursued by a Secretary of State with full powers of office, nominated by the President, confirmed by the Senate. That is easily done. We ought to do, and will do. If the nominee should be Deputy Secretary Eagleburger, I cannot imagine there would be any objection, certainly not from this Senator who has known Mr. Eagleburger for a quarter of a century or more. But there must be a Secretary of State. It is unacceptable, it is extra constitutional, it is against all our history of practice to let that become a partisan political post by taking leave of it to manage a political campaign. That will not do. It need not happen. And it must not.

Mr. President, I see that other Senators are here to discuss this same point. I am happy to yield the floor.

I see my very able and learned friend from Pennsylvania is on the floor.

I yield the floor.

Mr. WOFFORD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. WOFFORD. Mr. President, I share all the concerns of the Senator from New York about the Secretary of State's role. He says the Secretary of State obviously historically and by the very nature of the office should wear only one hat, the hat of the most nonpartisan office in our Cabinet and in our Government, in our executive branch.

To my knowledge, as the Senator from New York has pointed out in his research, he has done so in the past historically.

But I am concerned about the two hats that the President of the United States wears, and the possible damage to the very confidence in the Presidency that is required to hold our country together.

The President does wear two hats. Aside from being Commander in Chief and Chief Executive Officer, he is also a political figure in our Constitution, and when the election season comes, of course, he is engaged in a campaign for his reelection when he is so nominated and chooses to do so.

But the historian of the New York Times is correct that the President is reaching out to the Secretary of State to come to the rescue of his political campaign, and if the President is really thinking of bringing him home from the most important front—this is world today in this time of extraordinary opportunity in the post-cold-war world to be thinking, if he is thinking, of bringing him home and assigning him a job in the White House, with apparently the expectation he would return to the Secretary of Stateship at some point—but leaving that point aside—to take a job in the White House to save his faltering Presidential campaign I think is mixing the two hats of the Presidency in a very damaging way to this Republic.

It is one thing for Mr. Baker to come back to resign his job to take another job in the political campaign to help a friend in need, his party in need, but I cannot understand how there could be any thought of his managing a campaign as a member of the White House staff. If ever there is a clear conflict of interest, that would be it.

My campaign manager was not on the Senate payroll. George Bush's campaign manager should not be on the White House payroll.

This conflict of interest is especially ironic when you consider that George Bush recently vetoed campaign finance reform even while accepting some $200 million in public financing for his own campaigns. Now, it seems it is so reported anyway, that he expects the taxpayers to pick up the tab for the salary of a chief political operative. I realize he set a precedent not long ago, a year and a half ago, when he permitted, in fact apparently encouraged, his Attorney General to step into, plan, a campaign that I happened to be involved in in Pennsylvania, at the same time as he continued to be Attorney General of the United States.

So I ask George Bush as President, as a man who has to, for the sake of this Republic, wear those two hats carefully, to think twice and thrice and long before he puts the very essence of the White House's integrity on the line in asking our Secretary of State to come back to take this political role in what would be an extraordinary unprecedented conflict of interest.

I yield the floor.

Mr. SARBANES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to commend my two colleagues, the very able and distinguished Senators from New York and Pennsylvania, for the points they are making here on the floor of the Senate today. I think it is very important to stop and think for just a moment about what the President is talking about doing and the cavalier attitude which the administration is taking toward I think some very important issues.

To my knowledge the Federal Government and its payroll are not there to be used by a sitting President to achieve his reelection in a very direct partisan fashion. I have very serious problems with the notion that anyone is brought into the White House staff for the purpose of running a campaign. I mean, stop and think about that for a moment. That is what is being said. Perhaps they will back off of that, and they will define a different nature for Secretary Baker and the White House. But what is being said is that the campaign is in trouble, they need to get directly into it, and therefore they have to bring Jim Baker into the campaign effort. And the way they are going to do that is not that Jim Baker is going to go to the campaign to become his manager or director—in other words leave the Federal service to go to the campaign which, of course, would preserve the dichotomy between public policy responsibilities and partisan political activity which all of us are very much aware of—but instead they want to bring him into the White House staff in order to help run the campaign.

That is, I think, the point that my colleague from Pennsylvania has made very well. In fact, I thought it was shocking that the Attorney General was in fact serving as Attorney General while preparing his campaign for the U.S. Senate in Pennsylvania. In the end he did not prevail, perhaps in part because of that reason. But the notion that he can continue to serve as Attorney General when he is clearly an active candidate is really contrary to the way we have done and the way we ought to do business.

I also want to address the suggestion that they are going to take the Secretary of State, at a critical time with respect to foreign policy issues, and simply shift him out of that arena. I think it ought to be recognized that the Nation will pay a large price for that.

Now, President Bush and Secretary Baker may choose to do that. But I think it ought not to go unnoticed that the Nation will pay a price for that. What will happen is that by drawing Secretary Baker into the President's reelection effort, the Nation's interests, in terms of losing the continuity, the knowledge, the experience, the skill that Secretary Baker has brought, will be harmed in order to serve the President's political interests.

Obviously, if Secretary Baker chooses to do that, he can do that. It is a free country, and he can go and help run the President's campaign, although I do not think he ought to do it on the public payroll and on the White House staff. Secondly, he certainly should not do it on the basis of some "leave of absence" as Secretary of State.

It is clear to me that if the Secretary of State chooses to run the campaign, the required and honorable course is for him to resign as Secretary of State. I frankly would regret that. I think, in effect, the administration and the Nation would have lost something in terms of dealing with foreign policy issues. But, nevertheless, if the President and the Secretary are going to put the President's political interests at such a high level, to give such weight to it, then the Secretary cannot simply take a leave of absence. I do not understand this concept of a leave of absence for Secretaries of State. As the able Senator from New York has pointed out, it has never happened before in our history, and it is some demonstration of how standards are being reduced for political purposes.

I do not want to overdraw the analogy, but we are now into the realm of negative politics. We have completely destroyed any sense of standards about how we conduct our political debate and exchange in this country, and now it is reaching the point that we are clearly undercutting the separation we have tried to maintain between running the Government or addressing public policy issues, and engaging in political activities. Here we have this incredible notion that the Secretary of State can simply take a leave of absence and go over and run the campaign.

Well, of course, then why not have the Secretary of Defense take a leave of absence and go over and help run the campaign, and on and on, down the list? No Secretary of State has ever done this. I frankly would regret the Secretary leaving his office, because I think there are important challenges that confront us including, most particularly right now, the Middle East, where the Secretary is presently located. In any event, there are new opportunities in the Middle East, hopefully, for a breakthrough, and we ought not to allow them to pass us by.

For a Secretary of State to become directly involved in the reelection campaign is really contrary to the bipartisan tradition of American foreign policy. Certainly, if he is to do that, the Secretary ought to resign as Secretary. This concept of a leave of absence, it seems to me, is totally unacceptable. There is no precedent for it. I doubt very much there is any statutory basis for it. We have been researching that. We have not been able to come up with any. In fact, there is a limitation of 120 days on having an office remain vacant.

So actually, the statutory framework runs in the opposite direction to any such notion of a leave of absence. Therefore, I very much urge the administration to reconsider what they are doing. Apparently, the President is desperate politically and feels he must have Secretary Baker's assistance. I do not know the answer to that question. Obviously, if we tell Secretary Baker not to move over to the campaign staff, they are going to say, well, you are just doing that because you do not want the President to be helped out politically.

I am trying to bring a broader view to it. I think the Secretary ought to stay as Secretary and address these foreign policy concerns. But if he is not going to do that, he certainly ought not to be promoting this unacceptable and strange concept of taking a leave of absence from being Secretary of State in order to run the President's reelection campaign and, to compound it, to do so on the White House staff on the public payroll.

Is there no sense of standards? Clearly, what ought to be done here, if it is going to happen, is the Secretary should resign. He should go to the campaign and be put on the payroll of the campaign as a campaign manager.

I would regret that, because I feel he ought to stay on as Secretary of State and address these pressing challenges for American foreign policy. But if the administration's perception of what the public interest requires, what the Nation's interests require, does not conform with this observation that the Secretary ought to remain as Secretary, then at the minimum, it seems to me, he needs to resign his post—no leave of absence. That is just wanting to have it all. They want it all. They want him to take a leave so he in effect remains potentially as the Secretary. They want him to go on the White House staff so he gets paid on the public payroll. It sort of takes your breath away. The audacity of it takes your breath away.

If someone here were to do the same sort of thing with someone on their staff, what do you think would happen? They would be in front of the Ethics Committee or the Federal Election Campaign Committee just that quickly.

My preference is that Secretary Baker stay on as Secretary of State, because I think we have important issues facing our Nation that he is in a unique position to deal with. I am sure some are going to say that I want him to stay because I do not want him to go over and help the President politically. The President is in desperate straits. The only one who can bail him out, or so a lot of people think, is Secretary of State James Baker, and therefore the campaign has to bring him over. Well, if they bring him over, he ought to resign as Secretary of State. He ought to go on the payroll of the campaign committee.

The thing ought to be done openly, it ought to be done cleanly, and it ought to be done fairly.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. I wonder if I could address this question to my two colleagues. Each of us is a member of the Committee on Foreign Relations, and we have been variously involved in these matters for a long while.

If the Secretary resigns, as we clearly agree he must do——

Mr. SARBANES. If he leaves.

Mr. MOYNIHAN. If he leaves.

Mr. SARBANES. I do not think he should leave. I think he should remain as Secretary. If he leaves to go run the campaign, I think he needs to resign.

Mr. MOYNIHAN. If he is to run the campaign, he must resign.

Does the Senator agree that in that situation—recognizing that time is pressing on the President and the political calendar—if he will nominate a Secretary, nominate a person to succeed Mr. Baker, the Committee of Foreign Relations will promptly, I mean instantly, be seized of the matter, have a hearing, and vote on whether or not to report it to the Senate, with the expectation that the President will have his choice in such matters and such that the new Secretary will be confirmed in short order. Thereafter the United States will be represented in the Security Council, in the council of world affairs, by a person fully authorized by the Senate to go forth and represent the Nation. Would the Senator from Pennsylvania agree to that?

Mr. WOFFORD. Indeed. The Senator from Pennsylvania recognizes that there has hardly been a time in American history when we more need a Secretary of State who has the confidence of the country, who is bipartisan, who does not have one foot in the political world and one in the international world. We need that kind of Secretary of State. We have had him, I think, in Secretary Baker. I would regret his loss as Secretary of State. But if he is needed on this other front, if that is the judgment that is made, it seems to me that the Senator from Maryland stated two clear points that are self-evident: One, he would have to resign, and, two, he should not go on the public payroll. The White House is costing a lot already, but it certainly is not supposed to be paying the payroll——

Mr. MOYNIHAN. And there should be a successor which the Senate will be completely cooperative with.

Mr. SARBANES. Promptly.

Mr. MOYNIHAN. Promptly.

Mr. SARBANES. If the Senator will yield, the successor would become the priority item before the committee of the highest magnitude and would be addressed immediately—and obviously it would need to be. I do not think there is any problem on that score, and the committee would not only be seized of the matter, but would respond and respond promptly and effectively in dealing with anyone that the President sent to us as a successor to be the Secretary of State. This is a very important position.

Mr. MOYNIHAN. And critical.

Mr. SARBANES. In all of this discussion going on in the press, my own reaction has been that the position of Secretary of State is being treated very cavalierly. The Senator read that quote from Secretary Acheson, which I thought was right on point and reflected a kind of a sensitivity and an appreciation of the responsibilities of the Secretary of State, which, unfortunately, seems to be missing in the present discussion.

Mr. MOYNIHAN. I wonder if I could read one more passage from Dean Acheson. He writes:

> A Secretary of State is always a political figure. Even General Marshal became such, perhaps to his surprise. But he does well to avoid purely partisan involvement and flights of partisan oratory. His office depends upon his party's success, but the success of his office will depend upon bipartisan support.

I think we have made our point, Mr. President. I yield the floor.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

AGRICULTURE APPROPRIATIONS—H.R. 5487

Mr. GORTON. Mr. President, the United States has the safest, most abundant food supply in the world. This luxury exists in part due to the importance we place on research in agriculture. H.R. 5487, the Agriculture and rural development appropriations bill for fiscal year 1993, proposes a research program that will help ensure that U.S. agriculture is productive and healthy. I support this bill and want to thank the chairman and ranking member of the Agriculture Subcommittee for their work and attention to projects that are important to Washington State.

The fiscal year 1993 agriculture appropriations bill provides funding for the construction of a research facility in Pullman. In addition, the bill includes funds for new and continuing research on numerous Washington State crops, food safety, agriculture and forest products trade, and animal health. In total, the 1993 agriculture appropriations bill provides over $6 million in direct funds to Washington State, and indirectly, over $17 million to the State.

I am pleased that the committee provided $800,000 for research of market opportunities for agricultural and forest-related products. The funding provided to Washington State University and the University of Washington for the IMPACT and CINTRAFOR programs, respectively, will allow these trade centers to continue identifying and promoting export opportunities.

Among the oldest foods cultivated are dry peas and lentils. The bill provides $387,000 to establish research centers focused on high priority issues affecting food legumes.

The bill provides $412,000 to complete the five year barley gene-mapping project. This 5-year project has made significant progress in basic molecular genetics and in the development of breeding strategies for barley.

The agriculture appropriations bill also includes $2.6 million for the construction of the Animal Disease Biotech Facility at Washington State University. This facility will link the veterinary teaching hospital with the Veterinary Sciences Building. The laboratory will be dedicated to enhancing animal health and well-being through prevention, improved diagnosis, and effective treatment of diseases infectious to both agricultural animals and humans. Though I requested $12 million for this project, I recognize the constraints under which the committee operated and will work to have the project fully funded next year.

I am pleased that the committee has allocated funds for the Geographic Information Systems Program. The $1 million included in the bill will be used to enhance and apply information processing technology for natural resource management. Central Washington University is among the academic institutions that receives assistance from this program. With GIS funds CWU has developed technology for growth management, land-use management, and assessments and linkages between natural resource values and management needs.

Two years ago, I began working to secure funding for the establishment of the Northwest Small Fruit Research Center. Last year, this project received more than $200,000. This year, it received only $187,000. I continue to believe that the research this facility will perform is needed and will work for increased funding.

The reregistration of minor-use pesticides is essential for the continued production of almost all the fruits, vegetables, herbs, and ornamental commodities grown in Washington State. I am pleased that the committee has provided $3.5 million in funding for the IR-4 Program. This program is the sole source of research support for farmers during the FIFRA reregistration process. The funding the committee provided for residue testing at Tri-State Pesticide Lab in Tri-Cities Washington will also assist agriculture.

A declining budget necessitates that resources be shared among research and educational institutions. This bill reflects that reality and appropriates over $1.2 million for Ag-Sat, a network of land-grant universities linked by satellite. Washington State University is among the schools that, through Ag-Sat, will extend research information, increase educational opportunities, and supplement and broaden college curricula.

Among several other essential agriculture programs for which I requested funding, I am pleased that Steep II as well as research on potatoes, the Russian wheat aphid, and TCK smut received appropriations. I also commend the committee for recognizing the importance of research on apples, dry beans, cereal rust, lygus bugs, and nursery crops and for directing the Department of Agriculture to provide adequate funding for this research.

Finally, the importance of agricultural trade has never been greater. I am pleased that the committee funded the Marketing Promotion Program [MPP] at $174.5 million. I strongly support this level of funding and encourage the Senate to resist compromising with the House of Representatives' $75 million appropriation for MPP.

Last but certainly not least, Mr. President, this bill provides over $2.8 billion for WIC. This program has a proven track record of success and I strongly support this level of funding.

Mr. President, this is an important bill, for farmers, consumers and the environment. It ensures that the United States will remain the leader in the production of safe, abundant foods. I thank the committee and subcommittee for their consideration of items important to Washington State. I support this bill and urge its adoption.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, as I indicated last evening after the Senate voted 58 to 33 not to invoke cloture on the motion to proceed to the energy bill, thereby falling 2 votes short of the 60 votes necessary to terminate debate on that bill and permit the Senate to begin its consideration, it was and is my hope that the Senators involved on the issues that are preventing us from taking up that bill would continue to meet and hopefully resolve the issues that would lead to us being able to begin consideration of the energy bill.

This is a bill that the Senate has already passed once by a vote of 94 to 4, and is important to our Nation's future.

It had been my expectation that we would be debating and voting on that bill today. However, a number of Senators opposed to one or more of the provisions in the bill would not permit the bill to be brought before the Senate for consideration. As a consequence the participants met late last night after the vote, and I am advised are meeting again today, in an effort to resolve their differences in a way that will permit us to take the bill up.

However, those meetings have not yet produced a final resolution of the matter, and it does not appear that such a resolution will occur within the next few hours. Therefore, I believe no useful purpose will be served in continuing in session to consider the bill today as I hoped we would be able to but as is now clear we will not be able to.

Accordingly, there will be no rollcall votes today and shortly, following the remarks by the distinguished Republican leader and any responses to those remarks, it is my intention that the Senate will recess until Monday, at which time, under an order agreed to last evening the Senate will take up the Commerce, State, Justice appropriations bill. It is my hope that we can complete action on that bill on Monday and then be prepared to take up many of the other appropriations bills on which we must act and other important measures that await Senate action.

Mr. President, I yield the floor until the distinguished Republican leader completes his remarks.

Mr. DOLE. First, I want to join the majority leader in hoping that the matter that is holding up the energy bill can be resolved. I know they are meeting again this morning. I understand from some of the participants there are two or three issues that are still unresolved. But if that can be done, I think it would not be necessary to have any more votes on the motion to proceed but just proceed to the bill and hopefully pass it rather quickly, because it passed here before by a vote of 94 to 4. So it is not controversial but it is important.

Mr. President, I have a couple of brief statements. One is an example of what some would say is more balance in public broadcasting.

MORE "BALANCE" FROM PUBLIC BROADCASTING?

Mr. DOLE. Mr. President, it was not very long ago on this floor that we had a serious debate about funding for public broadcasting, and about public broadcasting meeting its requirements of balance and objectivity.

Now comes word of two new public affairs programs that raise serious questions about the Corporation for Public Broadcasting's commitment to balance this election year.

And I know it is difficult to have balance, and there are some on either side of any issue that say well, you cannot legislate balance, and that was not my effort before and it is not my effort now.

But this week—and I have a CPB report and they proudly announce two extremely worthwhile programs entitled "Voice of the Electorate," programs designed to focus on issues of concern to black and Hispanic voters.

Certainly that is very appropriate. There is no problem there. Everybody ought to be all for it. And the report says, "Public television reaches out to minority voters." And that certainly would be a worthwhile project, and it ought to be done. It ought to be reaching out to all voters because in some States about half the electorate participates on election day.

What does concern me is that despite being produced by the Independent Production Fund, a so-called nonpartisan organization, both programs are being hosted not by objective journalists, for example, but by two partisan Democrat politicians.

This is supposed to be balance. And this again is according to their report, not my report.

According to CPB's press release, former Democrat Congresswoman Barbara Jordan will host one of the shows. The last time I saw Barbara Jordan, she was delivering one of the keynote addresses at the Democratic national convention. The other new program will be hosted by the former Democrat mayor of San Antonio, Henry Cisneros, who recently popped up on a list of possible Bill Clinton running mates.

Now, we are told this is balance. This is how you balance the program when you talk about Hispanic or black voters. You get two liberal Democrats who have been participants in Democratic politics to go on CPB and this is being funded partly by the Government.

Now, perhaps these Democrat hosts will surprise me, but when an announcement like this comes so closely on the heels of all the assurances from CPB about addressing its so-called perception of imbalance, you have to wonder if the taxpayers are getting the objectivity they are supposed to be paying for it. It is even more troubling if the message is that only Democrats are somehow qualified to reach out to minority voters.

Are there not any qualified Republicans or independents? Only Democrats are qualified to be objective. Only Democrats are qualified to be representative of minority voters or other voters.

Mr. President, we have heard plenty of promises from the public broadcasting establishment that they will finally live up to their legally mandated balance requirements, which was in the original act passed in 1967.

But despite all the promises and hype to win a huge funding increase from Uncle Sam, it looks like the only balance CPB is worried about is its taxpayer funded balance at the U.S. Treasury.

Mr. President, I again would appeal to the CPB: There has to be some fairness. This is an election year. The stakes are very high. And I do not know why we have to fund programs that are going to be dominated by one political party, and one political agenda, and one political view.

I hope that those who, without much thought, supported the big, big increase in public funding would go back and take a look. We were not after Big Bird. We were not after "Sesame Street." We were after this kind of nonsense that goes on all the time.

I hope that Sheila Tate, who heads the CPB, would get out her dictionary and look up the word "balance" and "objectivity" and see if she can find under either one of those definitions that it has to be two members of the other party addressing issues that affect all Americans.

TIME TO REEXAMINE THE CLINTON RECORD

Mr. DOLE. Mr. President, on another matter that I think is important, and I know my colleague from Maine may not totally agree with me, President Bush has been subject to a number of speeches on this floor and a lot of criticism on this floor. We counted up about 783 times "Bush" has been mentioned in the past several months, not every time critically, but almost every time.

So I want to continue as I started earlier at least to take a look at the record. I am not going to attack anyone personally. That is not my bag. But I think we have to reexamine the Clinton record.

Bill Clinton, as I have said before, the Democrats had a good convention. It was very exciting. I watched all of it and I liked it. Just as an observer, I thought it was good theater, good television, but the policies they ended up with were not very good.

We have to take a look at the record, because the liberal media, which covered about most of it, sort of adopted this ticket now as their own. They are not liberals anymore. They are moderates. I think Dan Rather said they were conservatives, both Bill Clinton and our colleague, Senator GORE.

So I think we have to continue because at least on the Senate floor people on C-SPAN can listen to us. They may not agree with us, but at least we get some coverage, Republicans get some little coverage by speaking on floor.

We do not have the media, the Washington Post, the New York Times, and all the networks, and most everybody else out there trumpeting every day for the liberal ticket or now, excuse me, the moderate ticket, according to the media.

I have said it before, and I will say it again: Clinton-GORE is really Clinton/more—more taxes, more Government, more spending and more of the failed liberal agenda the American voters have rejected before and will reject again.

And if you look at the Clinton/Gore platform, it contains a lot less—less fiscal discipline, and less real reform. When it comes to the Clinton/Gore platform, balancing the Federal budget is missing in action—it makes no mention of balancing the Nation's books. And while Bill Clinton claims he will slash spending by $10 billion with the line-item veto, there is no line-item veto in the Clinton/Gore platform, and there is no support for the line-item veto in the voting records of most of Bill Clinton's allies in Congress, including his own running mate.

How is he going to pass the line-item veto? It has to go through Congress.

One of the main reasons for skyrocketing health costs in this country is our legal system, which amounts to a bonanza for trial lawyers. They give their money, 90-some percent, to Members of the other party and they are a big drain on America's wallets. That is why we do not have product liability reform and tort reform, because they have big, big political action committees and they know where to put the money. Bill Clinton's platform does not even mention liability or tort reform, genuine changes that can make health care more affordable and America's economy more competitive.

Also missing from the Bill Clinton platform, any mention of Government regulatory relief of the American economy. And while we are talking about missing in action, the Democrat platform makes no commitment to account for our Nation's POWs and MIAs.

And when you look at Governor Clinton's record in Arkansas, you have to conclude that if you like taxes, you'll love Bill Clinton. On 128 separate occasions, Bill Clinton has raised taxes or fees on the people of Arkansas. In fact, Clinton's tax increases alone account for 18 percent of his State's annual budget.

Oh, but he is soaking the rich, you must be telling yourself. Wrong. In Bill Clinton's Arkansas, everybody pays—the rich, the middle class and the poor. But do not take my word for it because I am the Republican leader. According to the Winthrop Rockefeller Foundation, a leading Arkansas public policy center, Arkansas has "a flat rate tax system," where a family earning $30,000 pays the same marginal tax rate as the billionaire family of the late Sam Walton. A 1988 study by the Center on Budget and Policy Priorities discovered that most of Clinton's tax increases were regressive, and disproportionately affect low-income households. In fact, Clinton was Governor for 3,689 days before the working poor won relief from the State income tax. Furthermore, it took Governor Clinton 2,190 days to sign legislation stopping his State from taxing food stamps.

Mr. SARBANES. Will the Senator yield for a question?

Mr. DOLE. Not quite yet. I want to finish my statement.

Mr. SARBANES. I just wanted to ask, what was the source of that quote?

Mr. DOLE. Winthrop Rockefeller Foundation, Public Policy Center.

Mr. SARBANES. Winthrop Rockefeller was the Republican Governor of Arkansas?

Mr. DOLE. He is deceased. He does not have much influence now.

Mr. SARBANES. He was the Republican senator.

Mr. DOLE. JAY ROCKEFELLER is a Member of the Senate on the Democrat side, and I have a lot of respect for him.

Mr. SARBANES. He is certainly a very able and distinguished Member, I might say.

Mr. DOLE. As was his uncle, I think—Winthrop. Winthrop Rockefeller certainly did great things for Arkansas and certainly there are no more politicians in the Winthrop Rockefeller Foundation than in the Kennedy School for Politics up in Massachusetts. So we can argue that later.

In 1991, Bill Clinton was one of only three Governors to raise both his State's sales tax and gas tax. We hear an awful lot around here from the other side of the aisle about tax fairness, but if you ask most Americans, this is hardly the record of fairness they are looking for.

And if you like big Government, you will love Bill Clinton. Since 1983, Bill Clinton has more than doubled State government spending. And judging by what his happened at the Arkansas Department of Human Services, it looks like Bill Clinton believes in the biggest bureaucracy the taxpayers can buy. Since 1983, administrative costs at the department have shot up an unbelievable 3,012 percent, a pretty big increase, and when it comes to the State payroll, Bill Clinton makes New York Gov. Mario Cuomo look like a real spendthrift. Thanks to Bill Clinton, Arkansas has 70 percent more State government employees per resident than New York. Every other person up there is an employee to somebody, some city government or Federal Government or State government.

And when it comes to reducing Federal Government spending, the only specific program that Governor Clinton wants to eliminate is the Honey Bee Program. There are about 1,800 programs. He found one, the Honey Bee Program. And that may be a tough battle, considering his own running mate has voted to keep the program alive time after time.

So, we have seen what Governor Clinton has done with Arknasas' $2.1 billion budget—imagine what he'd do if he got his hands on the tax dollars of everyone in the 49 other States, with his $150 billion tax increase, with his 22-page program for America and $200 billion in extravagant new spending.

We have heard a lot this year about "change." I think the word is a little overused, "change." Everybody wants to change for the better. But let us face it. The Democrats have a majority in Congress. I know they are very proud of that majority and they are all my friends.

We have an idea that we think ought to happen. We ought to have a Republican majority for a change. If Bill Clinton says George Bush has been—Republicans have been in office for 12 years in the White House and that is too long, how is he going to defend the Democrats on the House side who have been in power for 38 years? Thirty-eight years, the Democrats have run the House of Representatives and 32 out of 38 years they have run the Senate of the United States.

If we are going to have change, if 12 years ought to be the limit, well, then we ought to change the House of Representatives and we ought to change the U.S. Senate.

So, it seems to me if that is the change he wants to talk about, then we ought to talk about change.

I want to say one thing about President Bush. When you are down in the polls as we all know, we are in politics, it is easy to have everybody give you advice and everybody jump all over you and say you are doing this wrong, you are doing that wrong, you ought to change this, you ought to change this person.

My view is it is a very close race. It is probably about a 10- or 12-point race. It is not 30 points. It is no more realistic than saying George Bush had a 91-percent approval rating after the Gulf crisis. It was probably in his State of the Union message, that President Bush challenged Congress to enact a job-creating economic growth package. America could already have incentives for first-time home buyers. We are still going to try that again. America could already have capital gains rate reduction and urban enterprise zones, America could already have help for working families with a $500 per child increase in the personal exemption, and America could already have new incentives to boost small businesses. Well, it's 178 days later, and what did America get? Zero—more of the status quo from the anti-change, anti-reform Democrat congressional majority.

On February 6, President Bush unveiled his comprehensive health care reform plan to help bring affordable insurance within the reach of more Americans. America could already have health insurance market reform to make coverage more available and less costly, America could already have money-saving health care administrative reform, America could already have malpractice reform to fight skyrocketing health costs. What did America get? Zero.

And when the President proposed big funding increases for childhood immunizations, Healthy Start, infant mortality, WIC nutritional assistance, Head Start, and access to primary care/child care services, the House Labor Appropriations Subcommittee cut $308 million from the President's requests for immunizations, Healthy Start, infant mortality, and Head Start.

The House did that, controlled by the other party.

Three years ago, to boost educational excellence, President Bush submitted his comprehensive education reform bill, America 2000, and submitted a revised plan in 1991. The President has proposed big funding increases for national education goals, including more for preschool children, more for childhood development programs, and a record increase for Head Start. America could already have Federal aid for State and local GI bills for children, to help low- and middle-income families with scholarships to use at the school of their choice. But when it comes to school choice, what did America get? Zero.

So, year after year, the choice for the Democrat congressional majority has been politics over education reform.

On March 11, 1991, President Bush challenged Congress to approve his comprehensive anticrime bill to help make neighborhoods safe and keep dangerous criminals behind bars. America could already have real reform that includes an enforceable Federal death penalty for the most heinous crimes, an end to limitless and costly appeals, and provisions to keep obviously guilty criminals from going free on technicalities.

It is 502 days later, and what did America get? Zero.

When it comes to partisan sniping, the Democrat congressional majority takes the gold medal, the silver, and the bronze. In recent months, Democrat Senators have been on a furious pot shot frenzy, piling cheap shot after cheap shot on President Bush. In fact, since January alone, Democrat Senators have mentioned President Bush 683 times on this floor.

There may have been a few neutral comments, but most of them were critical. Most of them critical. I see they are already gathering, and the record holders are showing up now, some of the gold metal winners are now on the floor ready to go the extra 10 miles for whatever. I think the Senator from Maryland is probably one of the top high jumpers in the Senate. I think he has a gold medal and working on the other two medals. Maybe he will get them this afternoon. There may have been a few neutral comments but I feel safe in saying the overall majority references have not been complimentary.

Sure, President Bush ought to be criticized, and he is going to be criticized here for the next hour or two, I can already feel it coming, and I am outnumbered 3 or four to 1. But, at the same time, we have a right to take a look at the opponent's record. We do not have 10 opponents now; we have 1. It is Clinton versus Bush. Right now Clinton is ahead. It is going to a great race and a close race.

As I said, President Bush's poll number are down, but if we just lift a finger to help the American people, we might even help President Bush to get some of these economic reforms done and some of the other things the President has suggested over the past 3 years because he does have an agenda. But where is it? It is buried in Democratic-controlled committees. That is the way it works.

But we have not given up. Certainly President Bush has not given up, and I know my colleagues on this side of the aisle have not given up.

This is a very important year. We have had one very important convention, the Democrat convention. And I said, I was excited about it; it was a good convention. They were united. Everybody seemed to be having a good time and they are ahead in the polls, so they ought to feel good about it.

Now the Republican convention is coming. I hope we can do as well as the Democrats did; have a good time, be constructive. But after that is all done, after all the rhetoric and speeches, we have to look at what is best for America. Whose policy is best for America? I think that is when the serious attention, the focus, is going to come from the American voters, the independents, Republicans and Democrats. With Ross Perot out now it is a two-person race. It is not a three-cornered race it is a two-person race.

So, Mr. President, it will be our effort not to attack—never will we attack, at least this Senator will never attack anyone personally. But I think we do have an obligation from time to time to talk about the record. The record is there. You cannot change the record. It is public. Once we get beyond that, then maybe it is negative campaigning, maybe we should not make statements. As long as it is a record, as long as we have the facts—so far I have not been disputed and my colleagues on the other side will make the same argument about President Bush and some of his programs, but I will just say this. If you are trying to run a business and you are the CEO and you have a hostile board of directors, you have problems. So in America today, we have the President, who is a CEO, and he has a hostile board of directors called Congress. The Democrats have a big margin in the House, a 102-vote margin, and a big margin in the Senate. Now what is the President going to do?

Again, I say in conclusion, you talk about change. If 12 years is too long for some of my colleagues on the other side to have a Republican President, then you will have to confess that maybe 38 years of Democratic control in the House is too long, and surely 32 out of 38 years of Democratic control in the Senate is too long.

We cannot have it both ways. Bill Clinton and my friend AL GORE cannot go around the country, whether by bus, bicycle, horseback, foot, airplane, whatever, and say we have to have a change because Bush has been around for 12 years, but do not mention Congress. It did not take an FBI agent to find a Democratic Member at the convention. They do not want to focus on Congress. They have been around forever—38 years the Democrats controlled the House; 32 out of 38 years they controlled the Senate. If we want to change, we ought to start with who has been around the longest. Give us a chance. If Republicans cannot do any better, then throw us all out.

So I just suggest it is going to be an interesting August, what is left of July, and August and September, October, and then it will be election day and the American people will have spoken. Certainly it is going to be a very important election. I know that my colleagues are prepared to agree with me, so I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The majority leader is recognized.

Mr. MITCHELL. Mr. President, this has already been an unusual political year. But I think we are now beginning to see an even more unusual development; that while the Democratic Presidential ticket of Governor Clinton and Senator GORE is traveling the country, meeting the American people, and conducting their campaign around the country, the Republican campaign is apparently to be conducted here in the Senate with daily criticisms of Governor Clinton and Senator GORE and now lately the press and the media.

I checked the RECORD and I cannot find any record of complaints about media coverage back in January, February, March, and April when Governor Clinton was being pounded, criticized daily, when the television coverage on him was almost entirely negative. Maybe I missed something in the RECORD, but I have not yet uncovered criticism about the coverage at that time. And so far as the allegation that Democrats have the media, why, of course, all of us are familiar with the fact, documented, that the overwhelming majority of newspapers in America are owned by Republicans and have editorial policies that are Republican. I think this is a relatively new complaint which does not have any basis in fact and reflects the difficulty which the Republican ticket is now having.

I think if the President and the Vice President want to advance their interests, they would do well to discontinue the Senate campaign, because most of the Senators have already made up their minds how they are going to vote, and begin to conduct a campaign addressed to the needs of the country and to the American people.

I know my colleagues are here with some charts that they want to discuss, and so I just want to address two points that were raised by my friend, the distinguished Republican leader.

First, on the budget and the allegations about liberals and spending. It is not a well-known fact, but it is a fact that Congress has appropriated less money than President Bush has requested since he took office. Let me repeat that so there can be no misunderstanding. Congress has appropriated less money than President Bush has requested. Stated another way, if Congress had approved every budget submitted by President Bush precisely as submitted without changing a word, without changing a comma, without changing a number, the amount of spending would have been higher than it actually was. That being the case, how is it possible that Congress is responsible for the spending and the President is not? The answer, of course, is that such allegations are inaccurate and not correct.

The same is true, incidentally, of the Reagan years. The aggregate amount of money appropriated by the Congress during the 8 years in which President Reagan held office was less than that requested by President Reagan.

Furthermore, it is a fact, of course, that appropriations bills are just like every other bill; they can only become law with the President's signature or if Congress overrides the President's veto. As we all know, the President and members of his administration have rightly been proud of the fact that Congress has not been able to override any one of his vetoes. So every single penny spent by the Federal Government in the past 3½ years has been spent following the signature of the President on the spending bill.

The President has vetoed several appropriations bills, but almost all of them have been over abortion-related matters and not over the level of spending.

And finally, I would like to make one comment on the subject of taxes and the use of the words "taxing the rich," and the President's proposals on economic growth.

In March of this year, the Congress approved an economic growth plan which included six of the seven proposals made by President Bush, not all of them in a form identical to those which were proposed, but many of them were identical, and all of them were substantially similar.

The President vetoed that plan, which included his own economic proposals, because it included an increase in the tax rate on the wealthiest seven-tenths of 1 percent of Americans. In other words, in order to protect the economic interests of the wealthiest seven-tenths of 1 percent of Americans, the President vetoed a bill which included most of his own economic growth plan. I think that tells us a great deal about the President's priorities and the priorities of this administration.

It is true that Governor Clinton's plan proposes to increase the marginal tax rate on those Americans fortunate enough to have incomes over $200,000 a year. That is less than 1 percent of all Americans. It asks them to pay their fair share. And yet it is very clear that our colleagues and the President will under no circumstances—under no circumstances—agree to require the very wealthiest Americans, less than 1 percent, those whose incomes exceed $200,000 a year, to pay their fair share.

So we do have a difference in priorities. We do have a difference in emphasis. I think it is good that these economic proposals will be discussed in the campaign. I hope that the Presidential candidates will debate often. I would like to see five or six debates between the Presidential candidates, and perhaps even more than that between the Vice Presidential candidates.

I think it would be a very good thing if they are able to directly speak to the American people—President Bush and Governor Clinton, and Vice President QUAYLE and Senator GORE—in a series of debates all across this country on each of these subjects and see who is able to convey to the American people that economic program which will produce growth and job creation, which we all agree is necessary, and the fairness we all think is important in our society.

So I think we are going to have now, as I look around, a fairly spirited and lengthy discussion. I announced earlier my intention to recess the Senate. But I think it will probably be a while before we get to that recess, and we will now have a lengthy discussion.

So, Mr. President, I said what I want to say, and I will yield the floor to the distinguished Republican leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, I am glad some relief has shown up here—I mean some support. I knew it would be coming. I found one media outlet that wanted to talk to me at 12:30, so I did not want to pass up the opportunity. It does not happen very often on our side. So I did want to be on time.

But I did want to correct the RECORD. The Senator from Maryland does not get the gold medal; I made a mistake. He is not even really in the running.

According to our count, of the 683 times that President Bush has been mentioned on the floor, only 23 times were by the Senator from Maryland. The leader, the gold medal winner is the Senator from Tennessee [Mr. GORE]. And apparently it paid off for him; he is now on the ticket. He went after Bush 37 times, with little comments like "President Bush is guilty of the greatest abdication of leadership"—little things like that. "The Bush administration violating existing law"—just little charges like that.

My friend, Senator SASSER, was close behind, with 34 attacks. But he was bested by my friend from Michigan, Senator RIEGLE, who had 35 attacks. Those are only four of the front runners. So the gold would go to GORE; the silver would go to RIEGLE; and the bronze would go to SASSER.

Mr. SARBANES. The Senator just took my medal away from me.

Mr. DOLE. Right; I made a mistake, but I——

Mr. SARBANES. That is terribly unfair to do.

Mr. DOLE. But I think I——

Mr. SARBANES. The Senator should not have awarded the medal if he was going to take it away.

Mr. DOLE. We do that from time to time. I think before the day is out the Senator may qualify for a special medal.

Mr. SARBANES. I will try very hard to do so.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. I think the distinguished Republican leader may have just created a powerful incentive from our standpoint. If Senator GORE——

Mr. DOLE. Got on the ticket.

Mr. MITCHELL [continuing]. Is leader on that, and got on the ticket—the last time I looked, the polls showed him with something like 55 percent favorable; 10 percent unfavorable—he has had a lot of people around the country join the attack on President Bush. Look where it got Senator GORE. The American people seem to like it: 55 percent favorable; 10 percent unfavorable.

And the Vice President, I guess, who would get the gold medal for defending President Bush, has numbers that are not comparable to those, I guess is the best way I could put it.

I thank my colleagues.

I yield to the distinguished Senator from Maryland.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, this is very interesting. The Republican leader, Senator DOLE, said he watched almost every minute of the Democratic Convention, and he said we had a very successful convention. We had a very successful convention and a successful bus tour since the convention, and Senator DOLE has felt compelled to come to the floor virtually every day this week to launch a torrent of abuse.

It demonstrates exactly the truth of his assertion that we had a very successful convention. We have a very strong ticket. They are now out and across the country. The public is responding to them because they know this is a ticket that wants to deal with the Nation's problems and move the country forward.

Mr. President, I ran across a column—it is interesting how these things almost anticipate developments. It is really pertinent to the comments of the Republican leader on the floor today—by Marianne Means, who writes for the Hearst syndicate. I just want to quote some of this column because we heard it today, in the statement by the Republican leader and by President Bush.

I am now quoting Marianne Means. She said:

> With all the reelection pitches he has tested coming up short, President Bush's stalled reelection campaign seems in danger of sinking into a puddle of self pity.
>
> The President, whose approval rating is at an all-time low, is giving such erratic public performances that voters may well wonder if they are supposed to vote for him or feel sorry for him.
>
> Having oversold himself 4 years ago, he has no more sense of his own identity than we do.
>
> So he tries this, then he tries that, and when nothing works he whines that it's somebody else's fault.
>
> Bush hasn't yet claimed that the country suffers from malaise, but he's getting close. Bush alternates between grousing about a public lack of appreciation for all he has done for us and fits of anger at familiar sitting ducks like the media, Congress, and misguided liberals.
>
> Asked on CBS' "This Morning" show why voters should reelect him, the best Bush could do was claim he deserved it because he'd been elected once already.
>
> "People are going to say, 'Who has the experience? Who has the temperament to take on these big problems day in and day out?' * * * Not that I am perfect, but that I've got a proven record of being tested by fire," he said.

Then Marianne Means notes:

> The problem, however, is that a lot of "these big problems"—mostly stemming from a sick economy—got worse during those years he was being tested, suggesting that perhaps he flunked.
>
> The old repertoire is failing him, and he has found nothing to take its place.
>
> The unfulfilled absolutes with which he defined his 1988 campaign—unconditional promises not to raise taxes and to be the environment President, the education President, the everything-to-everybody President—cannot be trotted out again. When they collapsed from the weight of their own excess, they badly undercut his credibility.

I know it is difficult for the distinguished Republican leader to deal with all of this. But I think Marianne Means has outlined essentially President Bush's problem.

The Nation has been in a recession now for almost 2 years. We started a downturn in June 1990 and the unemployment rate was 5.3 percent. The rate is now at 7.8 percent. So we have gone from 5.3 to 7.8 percent.

Mr. President, the people across the country are hurting. The 7.8-percent rate is the official unemployment rate. Those are people completely out of work and looking for a job. We also have a measurement in this country of what is called the comprehensive unemployment rate, and that includes not only the people out of work and looking for a job, but also the people who want to work full time but can only find part-time work—there are six million of those in the country—and people so discouraged they dropped out of the work force. That gives you the comprehensive unemployment rate. That rate now has risen steadily over the 2-year period, and it is now at 10.9 percent, just under 11 percent.

Mr. President, it is important to note that these are quarterly figures and these figures have risen in every quarter throughout this recession. In other words, we have not had a quarter in which that rate went down a bit and then came back up. It has continuously gone up in each successive quarter, beginning at 8 percent, and it is now at 10.9 percent, just under 11 percent.

The reason I make that point of this consistent rise in the unemployment rate is because the Bush administration has consistently refused to recognize that we are in a recession and that we need to do something about it. In effect, what has been happening is the people have been saying to the President, "Mr. President, there is a problem," and the President has been saying, "No problem, no problem." People say, "No, no, Mr. President, there is a problem." The President says, "No problem."

Let me just give you an example of this. At a press conference on the night of June 4, the President said, "Now I think the economy is improving, so things are turning around, and yet at this juncture the American people have not felt it."

That was on Thursday, June 4. On Friday morning, June 5, the Bureau of Labor Statistics reported the latest monthly unemployment figure, which indicated that the unemployment rate for the month of May had risen three-tenths of a point, from 7.2 to 7.5 percent, which at that point was the highest rate of unemployment during this recession.

So, the night before, the President said the economy is improving, the next morning we got the unemployment figures and there was a jump in the unemployment from 7.2 to 7.5 percent.

Did not the President learn from that experience? Unfortunately, no. On the 25th of June, he was quoted in the paper as having said, "I think the economy is better than most of the American people think." A week later, the Bureau of Labor Statistics announced the unemployment rate for the month of June. The unemployment rate for the month of June jumped from 7.5 to 7.8 percent, again the highest level in this recession and the highest unemployment figure in more than 8 years.

So the President, a week earlier, said "I think the economy is better than most of the people in American think." Then, a week later, these latest unemployment figures are announced and the rate went up to 7.8 percent. We had a three-tenths of 1 percent rise in 2 successive months and a six-tenths jump in a 2-month period. Both months, the President was telling the American people that the economy was getting better and the American people did not realize it. So, again, the American people are saying, "We have a problem, Mr. President." The President says, "No. No problem, no problem." This has been a consistent attitude throughout this recession.

I am going to impose on my colleagues to take a moment or two more, Mr. President, to trace that through, and later I will come back with some other points I want to make. But this has been consistent throughout this recessionary period on the part of this administration.

Back in December 1990—this was after the unemployment rate went from 5.3 to 6.1 percent—Treasury Secretary Brady said, "I do not think it is the end of the world if we have a recession. We will pull out of it. No big deal."

Through the summer of 1991, as the unemployment rate continued to rise we kept trying to get the administration to extend the unemployment insurance benefits. In fact, in June 1990, it reached 7 percent. Throughout this period, this is what the administration was saying. In January 1991—unemployment was then 6.1 percent—the President said, "Most people who have looked at the economy feel that the recession will be shallow. It will not be a deep recession."

In the economic report of the President—I am now quoting—the administration said: "Our outlook is that the economy, after a relatively brief and mild recession, will rebound by the middle of the year." This was in February 1991. They said it was going to rebound by the middle of the year. Look at what has happened, Mr. President. It has continued in this pattern. It is now up at 7.8 percent.

In June 1991, the unemployment rate by this time had risen to 6.9 from 5.3 percent. In June 1991—that is a year ago—Marlin Fitzwater said, "We still believe that the recession is ending and we are on the road to recovery."

In July, when we were trying to extend the unemployment insurance, Dick Darman said to the Senate Budget Committee, "The recession can't be the reason the economy is turning up."

Michael Boskin said at a briefing, "The recession ended in the spring; a recovery has begun."

I am going into some detail on this, because it is important to understand the view and perspective the administration has taken throughout this recession.

Darman, in September, said, "I think the economy turned in May."

Then he said, "We are not on our way to a double dip recession."

Then he said something, Mr. President, which is really more accurate about White House forecasts. He said, "We are not necessarily credible, because administrations tend to be somewhat more optimistic than others, for understandable reasons."

Well, you can say that again, "we are not necessarily credible." That is absolutely right on target. In November, the President invited a group of small business executives to the White House during a photo session, and he said that the economy had turned the corner and was headed for recovery.

In another interview he said, "I do not believe this country is in a recession."

How do you come to grips with a problem when the unemployment rate keeps moving up, and the President keeps saying there is no problem. It continues even now. In the last 2 months, as I said earlier, the President said that "the economy is better than most of the people in America think," and then the unemployment figures came out, and they jumped yet again. They are at the highest level that they have been in over 8 years—7.8 percent. That is almost 10 million Americans completely out of work. There are another 6 million Americans working part time who want to work full time, and over a million that are so discouraged they are not even looking for a job; 17 million Americans are either fully or partially unemployed, and the President is telling us that the economy is improving.

The people know what the state of the economy is. It is the President who does not know what the state of the economy is.

So, Mr. President, I want to simply say that this attack mode is not going to work. There is a record here, and the administration has to address it. They have not come to grips with this problem, and that is the issue now that is going to be before the country over the next few months as we come to November 3 when the American people are going to make a fundamental decision about the future course of our Nation.

I appreciate that the Republican leader feels that we had a very successful convention, and that he watched most of it. It obviously was very difficult for him to watch it. I know he built up a lot of frustration over it, which he has been venting here on the floor of the Senate. But there have been months and months when the American people have been feeling tremendous frustration, because this unemployment problem is not being addressed.

Mr. President, I ask unanimous consent that the article by Marianne Means to which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PITY THE PRESIDENT

(By Marianne Means)

WASHINGTON.—With all the re-election pitches he has tested coming up short, President Bush's stalled re-election campaign seems in danger of sinking into a puddle of self-pity.

The president, whose approval rating is at an all-time low, is giving such erratic public performances that voters may well wonder if they are supposed to vote for him or feel sorry for him.

Having oversold himself four years ago, he has no more sense of his own identity than we do.

So he tries this, then he tries that, and when nothing works he whines that it's somebody else's fault.

Bush hasn't yet claimed that the country suffers from malaise, but he's getting close.

Bush alternates between grousing about a public lack of appreciation for all he has done for us and fits of anger at familiar sitting ducks like the media, Congress and misguided liberals.

Asked on CBS' "This Morning" show why voters should re-elect him, the best Bush could do was claim he deserved it because he'd been elected once already.

"People are going to say, 'Who has the experience? Who has the temperament to take on these big problems day in and day out?' . . . Not that I'm perfect, but that I've got a proven record of being tested by fire," he said.

The problem, however, is that a lot of "these big problems"—mostly stemming from a sick economy—got worse during those years he was being tested, suggesting that perhaps he flunked.

The old repertoire is failing him, and he has found nothing to take its place.

The unfulfilled absolutes with which he defined his 1988 campaign—unconditional promises not to raise taxes and to be the environment president, the education president, the everything-to-everybody president—cannot be trotted out again. When they collapsed from the weight of their own excess, they badly undercut his credibility.

"I'll be darned if I want to get into some other formula so you can come back and remind me of a broken pledge," he says now.

Nor can Bush fall back on the traditional campaign standbys of peace and prosperity on which incumbent presidents have relied in the past.

Without the nuclear threat posed by the Evil Empire, global peace doesn't look nearly as fragile as it used to. It occurs to voters that peace is quite possible to maintain, even by some guy who's inexperienced in foreign policy.

Prosperity doesn't work for Bush this year either. Few believe him when he says the economy is improving, and for good reason.

Voters don't care about the ups and downs of official statistics; they care about things they see for themselves, such as closed retail stores and lower real estate values and unemployed relatives.

Although Bush once promised to create 30 million jobs, the Bureau of Labor Statistics shows a net gain of only 205,000 private sector non-agricultural jobs in the past four years. During the same period, the working-age population went up by more than 5 million.

Last month the nation's unemployment rate shot up to 7.8 percent, the highest it's been since March 1984, and that figure reflects only the number of people looking for work, not the actual number unemployed.

Asked about the job shortage in the CBS interview, Bush touted enterprise zones, his plan to subsidize a limited number of businesses to entice them to locate in poor neighborhoods.

But this is basically an anti-poverty program aimed at disadvantaged youth, not an across-the-board effort to produce jobs for middle-class white-collar and blue-collar men and women of all ages who are ready to work but have no jobs to work at. And it is more likely to motivate companies to move to new locations than to expand the total number of jobs available.

Bush also repeated his support for the constitutional amendment to mandate a balanced budget that was recently rejected by Congress. This amendment, even if passed and proved workable—supremely doubtful assumptions—would not take effect for at least five years. What are the unemployed supposed to do in the meantime?

Neither idea is going to do the trick, and voters know it. This does not create the image of a president knocking himself out to generate new jobs and protect the American standard of living.

But there is still time for President Bush to find himself. Four years ago he spent a dyspeptic summer before shedding his wimp image to leap tall buildings with the speed of light and rescue a campaign that had seemed tied to the railroad tracks.

He'll have to drop the Pitiful Pearl number, however. Americans don't want to pity their president; they want to look up to him. They want to imagine he is stronger than they are, even when they suspect he isn't. They want a leader, not a limpet.

Mr. SIMPSON. Mr. President, I have been fascinated by the charts of Senator SARBANES. We have seen many of these in recent months. I used to say flippantly, "I think my friend from Maryland is going to get a hernia hauling those charts out here on the floor," but I will not say that in a humorous vein again, because I had a hernia operation a week ago; and I intend to leave out that kind of reference completely, and I shall not go back into the medical etiology of that experience.

I know that Senator DOMENICI also adeptly uses charts. I do not know what the American people are to believe with all the charts both parties utilize—but it has been a fascinating chart war in the last months.

Mr. SARBANES. If the Senator will yield, these are very light charts, and they were specifically designed that way in order not to run the risk of the sort of problem that the Senator from Wyoming just made reference to.

Mr. SIMPSON. I thank my colleague. That shows his compassion, his general nature and concern for his colleague from Wyoming. We will have to bring our own charts back. We will bring the polyethylene chart, which is a very lightweight chart.

I want to begin by commending the Democrats. They had a good convention. It was spirited, and they are on a high roll. It is kind of like gloating. But gloating does not sell very well with the American public. It may be fun, and it may put them on a "high" when they talk about the "poor, old, pitiful President," and gloat and engage in sarcasm. But, I assure you—people are turned off by that. I have never been able to pass a bill in all of my legislative experience using a combination of sarcasm or ridicule. It does not work. It lessens the stature of those who use it, and it is something that turns people off.

There are 100 days to go, and they will be tough ones for the President. This has been a tough political year. We are sure to see 100 tough political days ahead.

I said to the President in December: You are going to have to hang by your thumbs for 10 months and expect them to flail away on you. That is the way it is going to be. It will not be pleasant. It will be ugly. It will be painful. They will make fun of your wife, and your family. The Presidential candidate on the democratic ticket has already suffered that. Certainly, DAN QUAYLE has suffered it more than anyone that has ever held the office, and now they even seem to enjoy making fun of his wife.

Maybe I was the only person in Washington who spoke up when Gary Hart went through the fires. I did not see anybody on that side of the aisle stick up for Gary Hart. Not about what he did—but what I said was, "Has anybody thought about his wife, Lee Hart, and what she is going through—digging herself out of the rubble of all this?"

I also said to the media, "Would this really be as vital an issue if four FBI agents had been hiding in that hedge that night rather than four intrepid members of the fourth estate?" If it had been, the media would still be writing about it. Those four intrepid members of the fourth estate felt it was God's work that they should go forward and find the truth, because the candidate had goaded them to do that, baited them to do that. They had a good old time with that.

I have been here 13 years, and I have really enjoyed it. I am a legislator. I like legislating. I have been involved in the Superfund legislation. I have been involved in immigration reform, illegal immigration, and legal immigration. Nobody wanted to touch those with a stick, but I did. Thanks to my colleagues on both sides of the aisle we were able to attain reform.

I was heavily involved in the Clean Air Act and a lot of other important legislative areas. It is very dry work. We are here to legislate. We are not here to make speeches, cut ribbons, or to turn our entire staffs loose with all their energy simply to figure out day and night and how to best "diddle" the other side.

If the resources of the staffs of these Senators from both sides of the aisle were turned loose to figure out how to solve the Nation's problems instead of to lose sleep figuring out how to denigrate the President of the United States or to denigrate the other party, we would make some significant progress.

I came here in 1979. My first entry into the activity of the Senate was when Gary Hart and I were confronted with Three Mile Island. Suddenly we were in a helicopter headed to that crippled facility. And I learned about him, and I learned about the system.

I sat here and watched Ronald Reagan send up budget after budget. Please hear this, Americans, because you are going to hear a lot of it in the 100 days: the President of the United States never gets a single vote on the budget. I cannot wait to hear the prattle in response: "But the President of the United States has never sent up a balanced budget." You "ain't" kidding! There is no way he could with what the mandatory spending the Democratic Congress duped on him the year before. So we had to sit here and watch the President of the United States submit a budget which was immediately received with the cute words "dead on arrival."

And when the Republicans controlled this branch of the Congress for a very sweet time—a magnificent time actually, a particularly delicious time—the House of Representatives would take President Reagan's budget, whoop it up 20 percent, and ship it our way in a cynical giggle. They would then say: "Well, there it is. It is you Republicans who are treating the American people cruelly and shabbily and mean spirited. We, however, as saviors of the human weal, kicked up spending 20 percent and have shipped this budget your way so that the Republican Senate could do the heavy lifting, cut it down to some sensible measure, and catch hell for it."

That worked very well for them. I do not remember a single budget that was sent from the President to that body that was not marked "dead on arrival."

So George Bush did send budgets to us which were not in balance, and could never have been in balance, because of the expenditures of the year past. And the first cute thing that was always said when he sent his budget here was "dead on arrival." Is that not interesting?

So, George Bush, this "ogre" of a man, has taken America down this "hideous course" where we are now a "wrecked, ragged Nation of no hope, no possibility, no future." And who says that all day long? The people on the other side of the aisle with the charts.

Mr. President, George Bush shall be making no excuses in this campaign about being the environmental President. George Bush submitted a Clean Air Act. And thanks to the work of GEORGE MITCHELL and MAX BAUCUS, on that side of the aisle, and a lot of work over here from JOHN CHAFEE and myself, and many others, we passed a Clean Air Act. And that is good. Some say it is "too punitive"; some say it is "not punitive enough".

But I remember one night during Clean Air Act negotiations when the environmental groups were huddled over their camp fires about 3 in the morning, with rather pained visages—it looked like they had been eating pickles. They said, "Boy, they are really going to have to go down."

I said, "What are you cooking up now?"

They said, "We are figuring out a way to defeat GEORGE MITCHELL and JOHN CHAFEE at the next election."

I said, "You people ought to have rock in place of a brain, because that is the way you do your business. The extremists on both sides of every issue control the debate, with their emotional cries. George Bush has nothing to apologize for. He has been one fine environmental President.

The candidate for Vice President of the United States stood on this floor. First he harassed the President of the United States for many weeks for not going to Rio. Then when the President decided to go to Rio he beat him up for days, because he was going to Rio.

When George Bush went to Rio, the Vice Presidential candidate thought he ought to go down there and show them that the United States was just a poor wandering bunch of polluters. Our Nation has spent more bucks correcting and helping the environment than every other country on the Earth. I want to clear on that. Still the President went down there and had to wallow in what was described "self-pity" by the environmental Vice-Presidential candidate.

As an education President, George Bush should not have to bat an eye. What absurdity to say that George Bush has not been an excellent education President. He has the most extraordinary Secretary of Education that has ever served there in my memory. Lamar Alexander terrorizes the establishment of education, because he is right. He talks about flexibility; he talks about choice; he talks about tenure; and he takes on the teachers unions. And they do not like it a bit, because they love the status quo.

George Bush submitted a health care package to us. What happened to it? Nothing.

Let me tell you, Mr. President, we have 100 days to tell this story, and I can assure you that it will be told. George Bush has sent to this Democrat Congress more legislation to help the economy of the United States than any other President in history. And what has happened to it? It has been laughed out of House committees, and laughed out of House subcommittes. His Cabinet people and subcabinet people have been made fun of. They teed old Jack Kemp up over there and hit him like a golf ball back to the White House, and chuckled while they did it. While he was talking about HOPE—low income housing residents owning their own property, talking responsibility and empowerment—they just chuckled him right out of the building. That is what they have been doing. Because their mission in these last 3½ years has not had anything to do with helping America. It stems from the fact that the Democrats are so sick and so tired of seeing a Republican President of the United States that they said "we will stop it." The way to stop it is to make the President look like a boob who does nothing, cannot function, and is inept. The way we will do that will be to take every proposal that he sends us and rework it deftly. This is where staff really must have gotten a hernia. We will put enough in every bill to make it very difficult for him to sign. But George Bush had a lot of guts and he vetoed 31 of those turkeys. In both the House and the Senate responsible people, Democrat and Republican alike, often helped to sustain those vetoes.

That is what has been happening to George Bush's Presidency. And they have the gall to get on their hind legs and call it a failed Presidency when the Democrats controlled the House and the Senate every waking moment of George Bush's Presidency.

During the great convention caper in New York, I must say it was very difficult to discern exactly where the House and Senate Democrats were stationed. Apparently the high-technology stand was built so that the Democrat Members of Congress could be hidden under it. Thus, the American people would not know how they got into this situation. But we know why. Because of Democrats in the U.S. Congress who rammed it in George Bush's ear time after time after time, always deftly loading the detonating package hoping it would go off under him and he would have to veto, and they could make him look rough and boobish.

George Bush has sent up an incredible number of proposals: Growth incentives and tax reductions. He talked about capital gains in his campaign. Capital gains reduction is not about the rich. Capital gains tax reduction is about the guy who worked on the railroad in 1950 and bought a house for $30,000, and now would like to sell it for $100,000 and go take his trailer to Arizona and instead of paying 30 percent to do that, pay 15. If anybody can tell me how that "diddles" the little guy send a self-addressed envelope, and I will pick it up and try to respond.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. SIMPSON. I yield.

Mr. SARBANES. The individual would pay no tax on his residence, because under existing law he has an exclusion that more than covers the dollar that the Senator used and which already provided for the person who worked on the railroad and bought a house for $30,000 and sold it for $100,000.

He does not pay any tax whatsoever on that because he gets an exclusion that was instituted for that purpose. It is in the law for the working people of this country.

(Mr. KERREY assumed the chair.)

Mr. SIMPSON. I understand you are talking about the exception for over the age of 55, one-time house sale. That is not all that I am talking about. There are other examples about stocks and bonds that little people set aside that could be affected by the tax. There is much more to it. For instance, the fellow that worked, had his stock investment set aside, maybe had a deduction from his payroll for it and has that there right now, and is ready to sell and go into retirement—maybe 40 grand, maybe 75 grand of life savings. These are the little people. They are not recognized by the Democrat Party.

Mr. SARBANES. What about the example the Senator used? Does he accede that in that example that individual would not pay any tax whatsoever?

Mr. SIMPSON. No, I do not.

Mr. SARBANES. You gave me a fellow in 1950 who was working on the railroad. He bought a house for $30,000 and he has now sold it for $100,000 to move to Arizona. Now, he does not pay any tax.

Mr. SIMPSON. I am not only talking about that limited exception—I am talking about the entirety of a person's portfolio. I spoke of sales of houses—but what about stock and intangibles, and there are others. To say that the capital gains tax reduction is for the rich is a phony bit of class warfare, and it is.

I would be glad to enter into the record all of my material right now. I have the floor. I did not interrupt the Senator from Maryland while he had it, and I would like to finish.

The President set up comprehensive health care reform. What happened to that? I can tell you, ladies and gentlemen. Nothing.

He announced his plan on February 6, a market-based system that builds on the strength of the current system to provide access to affordable insurance for all Americans.

His proposal would reform the health insurance market to make coverage more secure and available and less costly for millions of Americans, including taking care of those millions who are uninsured.

It included a medical and health care insurance initiative to eliminate administrative costs; strengthen administrative activities. He sent up a malpractice reform initiative to reduce insurance, litigation, settlement, and defensive medicine costs. He proposed 100 percent deductibility for health insurance premiums for self-employed. He proposed a funding increase for preventive health care initiatives, including childhood immunization, up 18 percent; infant mortality/Healthy Start, up 17 percent; WIC nutritional assistance, up 9 percent; Head Start, up 27 percent; and access to primary care child care services, up 24 percent.

That is what this President did. And what has happened to his health care reform plan? Nothing. The Democrats have said publicly in the House of Representatives that they hoped and prayed they would not have to deal with the Republican health care plan because it looked like it might pass.

If that is not the ultimate crass behavior. They did not want to play with it over there, and I am citing the Washington Post article by Spencer Rich dated June 5, 1992, which I ask unanimous consent to be reprinted following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. Mr. President, now the American people are going to hear about that one in the next 100 days.

They are going to hear a lot about the Democrat Congress that also then took various other Presidential initiatives or education and job training programs and simply shot that one out of the saddle too. They just let it rot—or they sent it to him hoping he'll veto it.

He initiated the National Energy Strategy on March 20, 1991. And, finally, today, we are getting to an energy proposal, thanks to some thoughtful Democrats and Republicans, who probably are going to get a lot of flak from the higher political structure. "Why are you going to let that bill go forward when we have almost got him?" But they are going to do that.

He presented legislation which would provide hope for distressed communities, still including a comprehensive crime bill which languishes here.

The President proposed, with regard to the environment—and hear this—he proposed a 22-percent, a $3.4 billion increase for priority environmental investments, including protection and expanding of national and State parks, wildlife refuges, and other public lands; higher funding for Federal facilities and Superfund cleanup; wetland protection; increases in pollution control; and resource protection. This is George Bush—this "hideous, sinister figure" that I am speaking of.

He proposed expanded global change research. And do you know what happened? The House Appropriations Committee voted for significant reductions in the requested level of all of these activities.

The committee reduced funding for the President's America-the-Beautiful initiative in the Interior appropriations bill by $262 million, 14 percent. The committee bill uses the savings to fund, among other things, unneeded construction of Interior Department building facilities, a $173 million increase; increases for programs targeted by the President for termination or consolidation, $49 million.

He presented us with economic competitiveness initiatives. Those—civil justice reform, product liability reform, malpractice reform—all languish.

Ladies and gentlemen, the reason it languishes is because of the Congress of the United States.

He had a bill for work force development. That was submitted May 28, 1992.

No legislative action has been scheduled on Job Training 2000. Not a bit.

There had been no legislative action on the Youth Apprenticeship Program. That was submitted January 29.

There has been no action on the $500 million for the Weed and Seed Program. The House voted for a modified version. The House proposed no funds for Weed and Seed, which is to weed these terrible, poisonous criminals from these urban areas and then seed it with sensible capitalist endeavors.

I know sometimes that capitalism is not a good word here in the Congress, but other countries are dropping whatever they had before and trying to embrace it. We would not want to forget it as far as what it has done for this country.

He put enterprise zones out there, and he continues to fight for those. Nothing has happened there. An authorization of 50 zones, with a 50-percent reduction. At least Senator BENTSEN is considering it, he is a very able man, and he will consider it. If he said he will, he will do it. That is the way he is.

We have not even started on the appropriations bills. We will have a lot of fun in here with those, hoping to load them up, and get President Bush to veto them and look like again a mean-spirited, terrible, terrible man.

The VA-HUD Appropriations Subcommittee in the House funds a few vouchers. They prevented HUD from reducing housing subsidies to local housing authorities. The House Banking Committee rejected the administration's tenant management proposal—just threw it out.

Highway construction and rehabilitation? They reported a bill which had extraordinary pork in it. The House-passed transportation bill reduced the President's proposed air traffic modernization and air capacity investments by $300 million—$300 million. A permanent R&D credit went out the window. The President presented that, but that is why it went out the window—because the President presented it.

The House has voted to cut each of the President's 10 major applied research initiatives by well over half a billion dollars. They cut the President's basic seven research proposals by $300 million. And the Senate has yet to act.

The $5,000 homeowner credit? Nothing. Because? You know why. It is good. It is too palatable. It is too juicy in an election year. And when you are part of a party and you have a pledge that you made, when George Bush came here, that the first thing you wanted to do—so bad you could taste it—was to take back the White House—well sometimes your vision gets a little clouded in that process.

Now national defense. I have not heard much about the firewall yet because everybody finally figured it out except the candidate for President on the Democrat ticket. He wants to take $56 billion more out of defense. And, ladies and gentlemen, what we want to keep asking Bill Clinton is this: "Who is going to pay the bill, Bill?" And we want to ask him that on the defense budget. We want to ask him what he wants to do with the 2-, 3-, 400,000 people he is going to put back on the street, if you take the defense budget any further down than Colin Powell and Dick Cheney are recommending. "Who is going to pay the bill, Bill?"

Then you want to ask the candidate for President how he can possibly suggest to the American people that he is going to raise their taxes 156 billion smackers—which is twice what Mondale and Dukakis proposed. When the bus ride is over, it may be more like the train with the garbage on it, traveling through America trying to dump off the stuff and make the people of America believe someone else is going to pay the 156 billion bucks in increased taxes. And that is in there.

My good friend PETE DOMENICI will bring the charts on that one. They are heavier-weight charts than are used by the spokesmen on the other side of the aisle.

So those are just a few of the things that this Senator has observed in his time here. "Dead on arrival," for you, Mr. President; dead on arrival with every plan you have submitted until we can work it over, redo it, and load it with some of the things you want, and put you at the ultimate anguish of having to veto it, and then gleefully watching that happen, 31 times. A fascinating business. And the President of the United States never got a single vote, not one single vote on this budget, or any one of them. Yet the budgets were passed right here by us. That is the way that is.

So, as we go into the final 100 days, watching the candidate for President on the Democrat ticket trying somehow to be able to explain how he is in favor of a balanced budget amendment to the Constitution but that his Vice-Presidential candidate has voted against that many times; how the Presidential candidate for the Democrat Party is going to tell us about line-item veto and how he embraces that to his bosom, and how his running mate has voted against that a dozen times; and how somebody can tell the United Auto Workers, who I assume are the core constituency of the President and Vice President ticket on the Democrat Party, that the Vice-Presidential candidate suggested a carbon tax, which would absolutely decimate America, on coal and energy—including the State of the President pro tempore; a carbon tax, and a $1 per gallon gasoline tax. Try that one, all ye who would seek the Presidency of the United States. And that is what the candidate for Vice President talks about, in his book. Read the book.

Apparently, automobiles are to go the way of some other species long endangered, according to that book. And how about CAFE standards? Who do you think helped carry the ball in here on CAFE standards? The Vice-Presidential candidate on the Democrat ticket.

Those are realities. I hope the United Auto Workers will be observing that with great care. Because those votes were cast. They are public. Senator AL GORE is a wonderful man—and his wife Tipper and my wife Ann have worked very closely together on mental health issues. AL GORE'S father and my father served together here in the U.S. Senate, side by side, and I served with him. I have listened for months as he has prepared himself for this task on this floor. No one, I think, would argue that point. How he will reconcile his voting record with that of the platform and the speeches I heard from candidate Clinton in New York will be a remarkable thing for the American people to untangle. They are on opposite sides on almost every issue—of substance, at least, with the American public who tell us they want a balanced budget amendment. So does Governor Clinton, but his running mate does not.

People say, why do you not have a line item veto, Mr. President, and quit this rotten pork barrel posturing?

Senator GORE does not want that and has voted against that many a time.

And hear them talk about capital gains. I think the two of them probably will have to sit down and step away from the miniature golf courses and get out of their jogging togs, and talk about how they can possibly reconcile two totally opposite attitudes of Government. And there will not be any way to avoid those issues for the Senator from Tennessee because they are all right there at the desk, in the CONGRESSIONAL RECORD, one after another. He is the most liberal Senator that ever represented a Southern State. Bar none. Vote after vote after vote.

So, I say again: "Who is going to pay the bill, Bill?" And I will tell you who will pay it. Young people will pay it. You have the crassest example, several days ago of what happened to the balanced budget amendment. Some may say the balanced budget amendment might be silly, or it might be stupid, or it might be naive, or it might be a lot of things. But I will tell you, if you believe anybody in this body when they tell you all we need is self discipline and to get off our duffs and do what is right, have a laugh on me. That is never going to happen here. So you have to shackle yourself.

What happened to it over here? The AARP and other senior citizen groups and the U.S. Chamber of Commerce twisted the arms out of the sockets of 12 cosponsors of that measure. We used to call that a LBJ cocktail—it was a bourbon and water, and a twist of the arm. And that is what they did to 12 of those poor souls over there. And some seniors groups told America that your Social Security check would be cut $52. What an outrageous way to do business. And the people swallow that stuff and they all say do not take them on, there are 39 million of them.

That does not count the membership how many of the old magazines of Modern Maturity are still in the dentists offices from 2 years back. They have magazines that look like the Smithsonian, and it has pictures of the sleekest grayhaired cats you have ever seen playing golf and tennis and picking out Royal Viking cruises. Those are the ads.

But the editorial comment is how everybody over 65 in this country is somehow foraging in an alley for enough to live on. Which is bosh. Because, as we sit here and do the heavy lifting, and count on PETE DOMENICI and JIM SASSER to do our heavy work—and they try hard. And while they labor over a billion or so—a cost of living allowance goes through here like a fast freight every year. It is $23 billion for people on Social Security. And a third of it is going to people who are best described as comfortable. And a fourth of it goes to people who are best described as rich. I hold a lot of town meetings—but I made a hideous mistake the other day. I said, "I will take a final question from the grayhaired gentleman in the back." And he said, "I would rather have my hair turn gray than turn loose"—an abusive situation, I am sure you will agree.

So he then said, "I put in it from the beginning, Simpson, and I want it all out." I said, "Great; because if you put in it from the beginning, you put in 30 bucks a year for the first 8 years, and then you put in 174 bucks a year for the next 18 years." Get it? Hear it?

"Finally, they dinged you 300 bucks a year, and the ultimate indignity for the self-employed—then they rammed it to you for $500 a year. Boy, that was stiff. Finally, they took you to 1,700 bucks a year, and that was just crude. And you are knocking 720-bucks a month out of it and giving me lectures, and you please tell me how long that system will last. You get all your money back in the first 5 years, and your life expectancy is 9 to 13 years." That starts the debate.

There were 16 people paying into that when I was a freshman at the University of Wyoming, and today there are three people paying into it, and one taking out. When I was a freshman, 16 people were paying into it, and one taking out. And in 20 years, there will be two people paying into it, and one taking out. And we do nothing—nothing—with it. And neither of the parties is going to touch that one with a stick. We will hear a lot of marvelous babble.

Thank God that WARREN RUDMAN and PAUL TSONGAS are going to go "out on the road" in America and tell the American people what they have to hear. I could not entrust that duty to two finer people. Maybe that will sober them up a while out there.

But I always now take a little pile of those forms with me at town meetings, and tell the folks: Send in your Social Security number to Baltimore, and they will tell you how much you have put in and what you are going to get out; and if you do not like it after you get that information back, call me.

I do not hear from anybody, because they take that form and they put it in, and find out when they were 15, they paid 5 bucks a year for Social Security, and they find out in 1954 they put in 90 bucks a year, and they find out in the Army—where I spent 2 years—you did not put in anything. That is what they find out, and then they are embarrassed.

The reason the people of America are fed up right now at all the town meetings and everywhere else—with both parties—is because they have been sending people to Washington for 40 years to get them everything they wanted out of the Federal Treasury, Democrat and Republican alike. And if you did not deliver, you got beat. If you did not deliver the goods, you were beaten. And then they come to the next meeting and say, "Why don't you guys do something?"

I said: "I tried. I voted to cut the COLA; I voted not to give a benefit to a veteran who never served 1 year, never left the United States, and does not know a mortar tube from either end. I decided not to give them the same benefit we give to a combat veteran; I voted that way."

"You did?"

"Yes."

You know you can be a service-connected disabled veteran by tearing up your knee playing special services basketball at Heidelberg. While the occupant of the chair gave almost his entire fiber, soul, and body to this country. And he is of the legion of people we should take care of. There are 27 million veterans, and only 3 million of them were ever involved in any kind of combat activity or training accident. And the other 24 million just stand at the door and pound your brains in, and you swallow it.

Black lung; black lung. I do not mind giving black lung benefits. But I do not like giving black lung benefits to anyone who worked in the mines for 2 months, and smoked three packs of cigarettes for 30 years. Try that one on. That is a good way to get your brains beat in. That is where we are in this country. Tsongas knows it, and Rudman knows it, and we know it.

Let me just say a final thing. I know this is shocking. It is not meant to reflect on class warfare. But ladies and gentlemen, the poor do not hire people. People are hired by people with money. They are called capitalists. They are called employers. They are called entrepreneurs. Poor people do not hire anybody.

Sixty percent of the taxes in this country are paid by 20 percent of the taxpayers. You can go through all that bable about this rich 1 percent and, ladies and gentlemen, if you confiscated every single penny, took every single yacht, every single home, every single car of everyone in this country who has over a million bucks, it will run the country for only 7 months. Now, get it out there. This is absolutely stupid that we go through this exercise. And this is one cowboy who is not going to sit for 100 days and listen to this guff. The poor do not hire people.

So, when this administration came to power in 1980, capitalists in their individual capacity were paying 72 percent income tax rate. That was the highest rate. What is it today? Thirty-one.

I can tell you the first thing that will happen in the Clinton administration. And I say again: "Who is going to pay the bill, Bill?" I tell you what is going to happen. Unless you cannot read or write, you will know. In the House for the last 2 years, they have been saying: We will balance this budget by diddling the rich.

This is the greatest bit of sickening class warfare that I have ever heard—pure babble. As I say, you can confiscate every little old thing they have, and fill every swimming pool in with gravel, and it will run the country for 7 months. So that is not going to do it.

Who is going to help us take on the cost-of-living allowance on Social Security, which goes to people without a means test, which could save us 8 to 12 billion bucks a year? Join the club; raise your hand. I do not see that. I would not see a single arm poised.

So that is where we are in America. Misery index—good lord, I was here under Carter. I remember the misery index. It was a dazzler. Three-percent inflation today, and 7.8-percent unemployment. Under Carter, their was a 19.6 misery index at the end of 1980, with a 12.5-percent inflation rate. And it is 3 today.

So when you go to the grocery, you are not getting stuck four times harder than what you were under the Carter administration. That is the way it is. We are going to talk about that in the next 100 days.

I hope we can remember this, and it is very simple: If anyone believes that you create jobs by suddenly taking the top tax rate from 28 or 33 and on to 40 to 50 to 60, then send your name and address in an envelope, and I will try to get back to you on that, too. That is not the way you create jobs.

And if anybody can tell me how you create jobs by a dollar-a-gallon gas tax—as the Vice Presidential candidate has suggested, not only in his oral remarks but in his book—and do a carbon tax on the coal industry and tax gas industry, and then do CAFE standards, which would just simply throw Detroit out the window, then please let me know that, too.

I hope that when all the shot and shell is over, that we will remember what the whole creed of this exercise was. It is again: That when you want the White House so bad you can taste it, you will do anything—anything it takes—to distort, ridicule, and make fun of. And meanwhile, every single thing that this President has proposed to this Democrat Congress is either languishing in its original form, or is in a mutated pile of vegetation in some subcommittee or committee in this place, breathing just enough to create compost.

That is where we are. And if the American people cannot figure that out, they deserve everything they are going to get.

But the first thing they want to remember: What they are going to get, when they take that tax on the rich to 45 percent in the first few months of the administration, or 50 percent, is that it will affect everybody in subchapter S corporations. It would affect most sole proprietorships. You are messing around with 67 percent of the people of the United States, and they are called small business persons.

If they can explain their way out of that one for 100 days, I want to be here; I want to hear that one. That is exactly what you do, because 67 percent of the people in the United States pay their taxes as individuals or under subchapter S, in partnership or in sole proprietorships, and the Democrats do not have that figured out.

The American people will figure it out. If they are on the ropes now at 28 percent, well, then, get yourself a ring with your own ropes because it will be 44 percent, 54 percent, 64 percent, and where it was in 1978 at 72 percent. So it might be sober-up time for everyone. And if the American people cannot pick all that up in the great aura of the energy of the days to come, well, then, at least my job will be measurably diminished and I will be able to rest more, and will not have to be answering the phone as regularly. There will be nobody downtown answering it or responding. It will be easier times. There will be about 30 of us over here to try to make capitalism work. And we will leave it to the American people to once again ask the big question: "Who is going to pay the bill, Bill?"

EXHIBIT 1

[From the Washington Post, June 5, 1992]

HOUSE DEMOCRATS IN "GRIDLOCK" OVER NATIONAL HEALTH CARE PLANS

(By Spencer Rich)

Democrats who had expected to clobber President Bush this fall on the issue of health care now find their House members unable to agree on any single health plan they could be confident of passing.

In fact, some of them fear that if the Democrat-controlled House committees send a bill to the floor, Republicans could find enough support to substitute their own health care proposal and deliver political credit to Bush.

The Republican plan as introduced yesterday by a House GOP task force, would expand health insurance coverage by changing the private insurance market and targeting tax credits to help the uninsured.

Democrats consider it only a tiny solution to the problem, but House Minority Leader Robert H. Michel (R-Ill.) contended that the GOP plan could help provide coverage for as many as 20 million people of the 36 million who lack health insurance. Congress should "move forward with reforms on which there is agreement, rather than wait for any Utopian solution that frankly may never develop," Michel said.

After Pennsylvania Democrat Harris Wofford used the lack of a national health care policy last fall as a major plank of his successful Senate campaign against former Attorney General Dick Thornburgh, Democrats felt they had found a powerful issue for the coming elections.

But while Senate Majority Leader George J. Mitchell (D-Maine) appears to have a large proportion of his members behind a wide-ranging set of health care proposals, House Democrats are split.

"Gridlock, that's a rather succinct way of putting it," said Rep. Fortney "Pete" Stark (D-Calif.), chairman of the House Ways and Means health subcommittee. "There is not a two-thirds agreement on any one plan in Congress [needed to overcome Bush's expected veto] and there may not be a majority," said Stark.

Mike Bromberg, executive director of the Federation of American Health Systems, said, "I think there's a very small chance that anything could happen this year."

The drive to reform the nation's health care system comes not only because of the large number of Americans without health insurance, but because health spending for many years has been growing twice as fast as inflation.

But the plans for change come with huge price tags, either for government or business. One Democratic proposal is national health insurance for all, provided by the government, with mandatory limits on overall spending. Another requires all employers to provide health insurance to their workers or pay a tax to help the government cost controls.

The President, after considerable taunting from Democrats that he had no health proposal, came up with a plan to give tax credits or deductions to the poor and middle-class to help them buy insurance, and to reform private insurance rules and medical malpractice laws.

Like both the Senate GOP plan and yesterday's House GOP plan, which the White House and the Department of Health and Human Services helped develop, it seeks to correct flaws in the existing private-public insurance system without changing it to a government system or compelling employers to provide insurance.

Rep. Willis D. Gradison Jr. (R-Ohio) said the GOP plan could pass the House if Democrats ever let it get to the floor.

House Majority Leader Richard A. Gephardt (D-Mo.) has asked Democrats in all relevant House committees to approve a national health spending-cap bill by July 6, in time to send it to the House floor before the Democratic National Convention in mid-July.

Because President Bush has made clear he would veto such a plan, the Democrats could then argue in the campaign that they proposed real health cost controls but the President opposed them.

"We view the Gephardt bill as platform writing in the guise of legislation," said Bromberg, whose group, like virtually all hospital, doctor, pharmaceutical manufacturing and other medical services groups, opposes having the government set nationwide spending caps and fee schedules.

A Gephardt press spokesman said the leader believes "the number one problem with the health care system is the explosion of costs, and of course, the lobbyists and health care profiteers don't want costs held down.

The public does. The [July 6] date has to do with getting a bill to the President before this Congress expires."

At a closed meeting of Ways and Means Democrats Wednesday, some indicated they wanted an even broader, stronger bill—national health insurance. Some feared sending the bill to the floor lest the GOP pass its own bill with the help of conservative Democrats. Others favored a less comprehensive bill. Stark said yesterday he believed at least 15 Democrats would vote for the Gephardt proposal, but that is not enough if all the Republicans oppose it.

Sen. John D. "Jay" Rockefeller IV (D-W.Va.) looked for a silver lining.

"There has never been this much interest and focused activity on health care in my seven years in the Senate," he said. "The candidacy of Ross Perot could alter the outlook considerably in the next few months. It fundamentally challenges both parties to achieve something on health" in order to show that they can get things done.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SARBANES. Mr. President, will the Senator yield to me?

Mr. SASSER. I will be pleased to yield.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, if the Senator from Tennessee will accommodate me for just a moment or two, I want to make these observations on the comments of the Republican whip, the Senator from Wyoming.

It is very difficult, Mr. President, to have a reasoned debate if one side is going to use examples that are really completely inaccurate and inadequate and then stick to them even when challenged.

Now, the Senator from Wyoming gave an example on capital gains of a person working on the railroad who in 1950 bought a house for $30,000 and now wanted to sell it for $100,000 and move to Arizona. He was making a big deal that we needed the President's capital gains proposal in order that the individual mentioned in his example would pay less taxes. And he then said, if anyone challenged him on that, he wanted to hear from them.

Well, I challenged it right here. The fact is that this railroad worker would pay no taxes on the sale of that house because of the exclusion that is provided to him under Federal law. Now, that is just one example of a kind of litany of improper examples that have been given by my Republican colleagues.

I know I am imposing on the Senator's time. I just want to give a couple more examples. We had an example of a miner who worked 2 months in the mines and would collect black lung. Now, I am prepared to look at that example if he can produce it, but that is not my experience. My experience is that I have people coming in who have worked years and years in the mines and are seeking black lung payments and are being denied and rejected by the Bush administration.

Third, I want to be very clear on one thing. Going down this path of discussing the political season was initiated on the floor of this Senate by the Republican leader at the beginning of this week. Not only did he initiate it but he resumed it on at least 2 successive days and maybe more.

Now, I know that he watched the whole Democratic Convention. I know it was tough on him. But I want to be very clear that these exchanges were initiated by the Republican leader.

Now, I do not know what day and time you think it is, but one thing is for sure. They are not going to initiate this kind of an exchange without getting a response.

The Republican whip said that there were people who wanted the White House so badly they will do anything to try to take it—in effect, implying that attitude to this side of the aisle.

Let me make this clear. It was the President of the United States who said in an interview on television that he would do anything it takes in order to be reelected.

It was not this side of the aisle that made that kind of statement, the notion that we would abandon any standards whatever in order to win the election. It was the President of the United States who said that in an interview early this year; he would do anything it would take to be reelected. It is not the Democrats who have taken that position. It is not Governor Clinton or Senator GORE or Members on this side of the aisle who have taken that position. It is the close friend of the Republican whip who has taken that position publicly on national television, that he would do anything to be reelected, coming from a President of the United States, who is supposed to set some sort of national standard.

I could go on and on. The Republican whip talked about the weed and seed program, how important it was to have it. It was in the bill we passed. We included the weed and seed program. The administration made it very clear, on the House side, they would veto the legislation if the weed and seed provision was in it, just as the President vetoed the economic growth package which the Senate sent to him earlier this year.

Mr. President, we are ready to discuss these things in exquisite detail, if that is necessary, but we are not going to have these examples used which just do not work. We want to set the record straight. It was President Bush who said he would do anything that it takes to be reelected.

Mr. SASSER. Will the distinguished Senator from Maryland yield for a question?

I call the attention of my friend from Maryland to a chart captioned "Bush Growth Proposals." These were the economic growth proposals that were proposed by the President of the United States. Six of the seven economic growth proposals the President proposed were enacted by the Congress in legislation and sent to the President for his signature. As I am sure the Senator from Maryland is aware, the President vetoed this legislation which contained six out of the seven economic growth proposals he was advancing.

Why did he veto it? Because that legislation also included a tax cut for middle-income Americans that would have been paid for by a tax increase on the wealthy, that percentage of the American population that gained to dramatically economically during the decade of the 1980's, during the Reagan-Bush and Bush-Quayle tenure.

So I just wanted to call the attention of my friend from Maryland to that fact, that this Congress has, indeed, sent to the President of the United States an economic growth package with over 85 percent of what he requested, and he, of his own volition, vetoed the legislation that carried with it his request for economic growth proposals.

Mr. SARBANES. Mr. President, the Senator is making a very important point, and I think what needs to be understood is that all of this heartrending that we hear from the Republican side about taxes, and about Clinton and GORE on taxes, is to protect the wealthiest people in the country.

We sent, as the Senator from Tennessee said, the President a bill which would have given some tax relief for middle-income people. In order that we not increase the budget deficit, we paid for it by putting an additional tax on the wealthy. These are the same individuals who profited over the 1980's. Pretax income for people in the top 1 percent of the income scale has risen from $315,000 to $560,000. Their after-tax income has more than doubled, from $203,000 to $410,000.

That is what has been happening. They want to attack Governor Clinton and Senator GORE. The fact of the matter is the economic proposal that Governor Clinton has laid out in getting additional revenues where it emphasizes tax fairness and closing corporate loopholes would raise 90 percent of that money, 90 percent of it in the following ways: there would be an increase in the tax rates on the top 2 percent of the population, the top 2 percent. There would be a millionaires' surtax.

They would say to corporations that they could only deduct up to $1 million for the salary of a CEO. In other words, if you pay them more than $1 million, you cannot take it as a deduction on your tax returns.

Mr. SASSER. Let me see if I have that straight. In other words, my friend from Maryland is saying that if you pay the chief executive officer of a corporation over $1 million, the recess above $1 million, would not be deductible.

So that we would not have the situation we have had in recent years when the CEO's of a major automobile company had been laying off tens of thousands of hourly workers, the profits on the automobile companies have been going down, there market share, when compared with that of foreign automobile manufacturers, had been declining, the chief executive officers of these automobile companies are rewarded for their loss of market share—and for laying off tens of thousands of hourly workers—by exorbitant multimillion-dollar raises and stock options.

So that would not be deductible under the proposal advanced by Governor Clinton and Senator GORE.

Mr. SARBANES. They could still do it, but they could not take it on their tax return as a business expense and deduct it and therefore, in effect, reduce their taxes by paying these huge salaries and other benefits to their CEO. And this is only if executive compensation exceeded $1 million, corporations will still be able to deduct up to $1 million of their executives compensation.

The other element that Governor Clinton put forward was to prevent tax avoidance by foreign corporations.

Mr. President, what has been happening is that the incomes of the very wealthy—I am talking about the top 1 or 2 percent in this country—have been rising and their relative tax burden has been falling; whereas, the incomes of the middle-class in this country have been falling, and the relative tax burden has been rising.

Mr. SASSER. Will the Senator yield on just that one point? I would direct the attention of my friend from Maryland to this chart captioned "Concentration of Net Worth." And you will note that the top 1 percent of the population in this country, which consists of about 80,000 households, now controls 37 percent of the wealth of the country—the top 1 percent; whereas, the bottom 90 percent has only 32 percent of the wealth of this country.

During the period from 1981 to 1989, the top 1 percent of the population, and their percent of wealth went up from 31 percent of the total to 37 percent of the total during that period of time.

So the top 1 percent increased their hold on the net worth of this country by a very substantial margin, from 31 percent to 37 percent of the total in the brief period from 1981 to 1989. And that is the group that the Clinton-Gore tax proposal seeks to increase taxes, and pay for these various programs with.

Mr. SARBANES. If the Senator will yield. As I understand it, the top 1 percent hold more than one-third of the net worth.

Mr. SASSER. That is correct.

Mr. SARBANES. The people between the top 10 percent, so that includes that other pie shape over there——

Mr. SASSER. This one here is 90 percent to 99 percent. They control 31 percent.

Mr. SARBANES. So the top 10 percent control two-thirds of the net worth in this country.

Mr. SASSER. That is correct.

Mr. SARBANES. And the remainder of us, the other 90 percent, control less than one-third of the net worth of the country.

Mr. SASSER. I caution my friend from Maryland about directing peoples' attention to this problem because we will be accused of class warfare from those on the other side.

Mr. SARBANES. They have already waged their class warfare. They waged their class warfare during the 1980's, when they shifted this net worth, and when they changed the rates and the way the system worked in order to give this immense concentration of income and wealth to the top of the income scale.

Then you come along and say, we think everyone ought to participate in this. And particularly the ones who have had a real party in the 1980's, ought to come in and make a contribution.

Uh-oh, they say, that is class warfare. You cannot talk that way, after they have for 12 years followed an economic policy that has focused income and wealth into the very top of the scale in this country.

The country actually benefited greatly in terms of moving its economy by having a more equitable distribution of income and wealth. Even the Chairman of the Federal Reserve has indicated in testimony before our committee that he is concerned about this concentration of wealth and income which has taken place over this last decade.

I heard the Senator from Wyoming say he wanted to eliminate the cost of living for Social Security recipients. So he is putting that right up front, first and foremost. But he is seeking to protect any effort to get a somewhat more equitable taxing system, and get a more reasonable share out of the very wealthy people in this country.

Those are the priorities. And it has to be very clear because the Clinton plan is very careful. What it seeks to do is make people who have escaped the burden, and reaped the bonanza, in the 1980's, to make a contribution; and, to lift a little of the burden on middle-income and working people. And the Republicans are literally going up the wall.

I will give them credit. They know their constituency. They know that it is these very wealthy people that are at the very heart of their constituency, and they will do anything they can to defend them, including misrepresenting what the proposals are on the other side.

I appreciate the Senator making it very clear in terms of the concentration of net worth, and what is taking place in this country.

Mr. RIEGLE. Will the Senator yield for an observation?

Mr. SASSER. I am pleased to yield to my friend from Michigan.

Mr. RIEGLE. Part of that problem too is the detachment of the Bush administration from what is really going on at the grassroots level in America. Many of the people who hold the top policy positions in the administration are themselves individuals of great wealth, who have family trust fund incomes. And every week and every month checks roll in off that accumulated family wealth which, in many cases, got much larger through the 1980's because of this favorable tax cut to people in their situation.

So when you talk to them about the economic problem in the country, they say what problem, because they do not have a problem. They do not see the problem. The problem is not affecting them. It has not hurt their incomes, they are not standing in unemployment lines, their sons and daughters are not standing in unemployment lines. And when you look at what the data shows in terms of how the middle class is being squeezed and being ground down day in and day out, it has no relevance to them because they are not connected to that. It is as if they lived on a different planet. We had a situation this week in the Banking Committee where Alan Greenspan came in on Tuesday. Now, imagine this, it is Friday now. On Tuesday he came in——

Mr. SASSER. The chairman of the Federal Reserve Board.

Mr. RIEGLE. Exactly. He came in, and we asked him at that time, "How is the economy doing?" Because he has been telling us all along that the economy is about to get better and, of course, it keeps getting worse and unemployment keeps going up and so forth. He came in and gave us essentially an optimistic reading that things are about to get better. Within 2 days, the unemployment numbers came out and showed that last week—listen to this number—422,000 Americans became unemployed just last week alone, 422,000. That is the highest rate now that we have seen in some time.

I know the Senator from Maryland has been following this issue. But now we have virtually another half-million people added to the unemployment lines within 2 days of the time that the Federal Reserve Chairman came in and told us that, finally, things were getting better and about to improve. I was so struck by it, because he said, in part—in defending the policies of the Fed—the Fed has been very slow to respond to this economic crisis. They have waited until the statistics have gotten worse, and then they made a little tweak to the policy here, and a little tweak there, and so forth.

Part of his answer to us was: You know, we have adjusted policy now 23 times. I thought to myself, if you have a car that is not running right, and you take it down to the service station or the garage to get it repaired and the serviceman adjusts your car, and you bring it back home and it still does not run right, and you take it back again, and he fiddles with it again, and you bring it home, and you do this 23 times. On the 24th time when you take the car in and he says it is going to work this time, you know, just have confidence that it is going to work this time—how can anybody have confidence? People do not have confidence.

I mean, the bottom line here is the fact that 422,000 new individuals had to line up in unemployment lines last week because they lost their jobs.

Just yesterday, we had the board chairman of Smith-Corona—the last typewriter manufacturer in this country—come before the committee and tell us that they have now had to announce they are closing their factory in Cortland, NY, and they are going to move the 885 jobs down to Mexico, because they have been victimized by trade cheating by Japan. They followed the legal process to bring the laws against the trade cheating by Japan, and they had findings in their favor. But the Bush administration will not follow through with the remedies to correct the trade cheating, and now that factory is closing and the jobs are being lost. Workers with 20, 30 years seniority are being thrown out on the street.

That is what is happening in America. That is what is happening in America.

You have a President here who is like a one-eyed President. He can see the foreign policy problems, but he cannot see the problems here in America. If somebody goes and says to the administration, look, here is an economic problem in the Soviet Union, the President will say, yes, let us do something about that.

They came in here the other day asking for economic help for the Soviet Union. When somebody comes in and says we have a problem in China; we have to give most favored nation trading status to the Communist Chinese, the administration responds and says: By all means, do that. They twist a lot of arms to get that thing passed. Or Kuwait needs help. And here is help for Mexico. But when it comes to the problems of what is going on in the United States with the unemployment, the unfair income distribution, a lack of job creation, they cannot see out of that eye.

So the Bush administration has an economic program for every country in the world except this one, except for America. This is the country that needs one. That is why we have to have a change.

I was asked this morning in an interview with a newsman: "Suppose we get rid of Brady, Secretary of the Treasury, or Darman over at OMB?" Well, that might help a little bit, but that is not fundamentally going to fix the problem. We need a whole fresh feel, a fresh vision, new thinking, somebody who sees the problem in America and is going to go to work on the problem here. We need a new President, Vice President, and Cabinet with a new economic strategy. That is what is needed.

You know what the Treasury Secretary himself said yesterday, as reported in the Cabinet? This is just astonishing, so I want to take a minute and share it with my colleagues. A few months ago when the economy was languishing, as it is at the present time, someone asked Secretary Brady when things are going to get better; when were we going to see light at the end of the tunnel and see jobs coming back and so forth. He advanced what he called the light bulb theory.

He checked somewhere and found out that there were large inventories of unsold light bulbs being produced by the light bulb makers of this country, which indicated that people were not buying as many light bulbs as they should be buying. He concluded from that that because people are hanging on to their old light bulbs so long that they were delaying the purchases, and one of these days there was going to be a great rush of people going out buying light bulbs all over America, and that was going to jump start this economy, and things would improve, and we were going to see people being reemployed.

People heard this and they wondered first if he was kidding. And when they found out he was not, people were scratching their heads saying, this is the economic theory? Is this what we are relying on in the way of a notion as to how to get this thing going?

Yesterday it was reported—I was not there, but I take the report to be accurate—apparently in the Cabinet meeting the same issue came up as to what is it going to take to get the economy started. The report states that Jack Kemp said they needed an aggressive growth strategy. That went over like a lead balloon. That was hooted down.

Then Secretary Brady apparently advanced this theory: The thing that was going to now trigger a resurgence of this economy was that the American basketball team in the Olympic games was going to win the gold medal, and that once the basketball team won the gold medal in the Olympics, this was going to create such a surge of feeling in the United States of optimism, that it is going to get the economy going again. This is kind of a revised version of the light bulb theory.

Mr. SASSER. After the basketball team wins the gold medal, and you have this resurgence of confidence, is that when there is going to be a rush on all the light bulb manufacturers?

Mr. RIEGLE. Apparently, that is the theory. This thing has gotten so harebrained at this point. It is like they are sleep walking on the issue of the economy. Consumer confidence is dropping. The trade deficit has gotten worse. We are going to have a trade deficit this year with Communist China of $15 billion.

Mr. SARBANES. They are manipulating the trade relationship, and the administration will not recognize that. It is not as though that trade imbalance is coming out of fair, tough competition. The Chinese are manipulating the trading relationship, manipulating the currency. They have licensing arrangements. It is managed trade on their part, and they are managing their trade so that they have taken what was a trade balance in 1986 to where we are now approximately a $15 billion trade deficit, our second worst trade deficit with any country in the world. President Bush, when we say we have to do something about this, we ought to address the most-favored-nation status, which you want to give to China, because they are not playing by the rules, let alone the human rights violations, or the sale of missiles into dangerous areas of the world, the missile proliferation issue, and on the trade issue itself, they are breaking the rules and manipulating the relationship to gain an advantage of it, and the President is sitting still for it.

Mr. RIEGLE. What this is is the one-eyed President problem. He can see the foreign policy issue. He wants to help the Chinese. He is willing to bend over backwards to allow them to cheat in the trade area and suck $15 billion out of this economy, but when it comes to the effect—the damaging effect—here at home, he cannot see it because they cannot see the problems here in America. They do not have a plan for this country. They do not understand what is going on here. And they are basically saying: do nothing and things will get better. They have been doing nothing now for nearly 4 years, and things have not gotten better. That is why we need a new plan and some new leadership.

Mr. SARBANES. They will not even recognize the problem. They tell you recovery is right around the corner. They have gone around so many corners that they are bumping into each other, and they have not found a way out of the box. They keep telling us the economy is getting better. Greenspan, whom Bush appointed, said last summer that we were on the way to achieving our goals of solid recovery with unemployment down to its lowest sustainable level. In February, just this February, he said that the recovery should take hold in the second quarter.

The President, the day before these worsening unemployment figures came out, tells the American people the economy is getting better. But you do not know it is getting better. Then the next day we get these figures showing the economy is getting worse.

Mr. SASSER. Mr. President, I might say to the Senator from Maryland I think they are now starting to give up on talking about the economy. And we are seeing it here, on the floor of the U.S. Senate, over the past few days. We have seen various Senators from the other side of the aisle, particularly my good friend, the distinguished minority leader, the senior Senator from Kansas, come on the floor and attack the Clinton-Gore ticket.

My friend, the minority leader, has a well-deserved reputation for humor and razor wit. But, frankly, I say to may friend from Maryland, I do not believe the minority leader's heart is really in these attacks.

I remember back in 1987 when the minority leader was running what I thought was a very honorable and a very responsible campaign for the Presidency, and he was repeatedly labeled unfairly. His positions were distorted. His record on taxes were misrepresented.

I do not think any amount of heartening back to the past is going to blind people to the anxiety and to the aimlessness of the present economic policy of this administration as has been so ably described by my friends, the Senator from Maryland and the Senator from Michigan.

So now we are going to name calling, and I do not think I have heard the word "liberal" uttered so many times or "taxes" talked about so much in a single week since Spiro Agnew was Vice President of the United States. It is really as though our friends on the other side somehow think that the economic reality of American life is going to disappear if they continue to chant the dreaded "l" word or the dreaded "t" word. They pull out the "t" word and hold it up and brandish it around as though it were some sort of sign or symbol of the cross to scare away the vampires.

Mr. CHAFEE. Mr. President, is the Senator going to be long in this speech?

Mr. SASSER. Yes, I may very well be, I say to my friend from Rhode Island.

Mr. CHAFEE. I thank the Senator.

Mr. SASSER. We hear these grave protestations that the liberal press is prejudiced in favor of the Clinton-Gore ticket. We hear about a blackout on positive news about the President by the liberal press. We hear complaints about a lack of fairness by the liberal press.

The liberal press is a myth. There is no liberal press. It does not exist. In order to own a newspaper in this country, you have to be wealthy. In order to own a television station, that requires enormous amount of wealth. And most wealthy people do not fall out on the liberal side.

Yes, the liberal press is a myth propagated by our friends on the other side of the aisle. If the press is anything in this country, if the media is anything in this country, it is an establishment press and an establishment media that I find all too often simply take the handouts that come from the White House and print them or publicize them.

So, no, it is not the liberals, it is certainly not the liberals in the press that are the villains in this piece.

Now, one thing my friend the minority leader said that I certainly can agree with wholeheartedly, he said the American people are not going to be fooled, and I strongly agree with that. Indeed, the American people are not going to be fooled. And declaring that Governor Bill Clinton of Arkansas and ALBERT GORE of Tennessee are liberals, why that just is not going to stick. Nobody is going to believe that.

Ask Senator GORE'S colleagues, whether they be a Democrat or a Republican, that served with him on the Armed Services Committee, was he a liberal when he came on the floor of this body and supported weapons system after weapons system? Was he a liberal when he supported the President and voted to give him the power to wage war in the Middle East? Is that the sign of a liberal?

How about Governor Clinton? Is wanting to reform welfare, as Governor Clinton has stated time after time he will do if he is elected President, is this a liberal program? Is a targeted capital gains differential liberal? Is rebuilding the country's deteriorating infrastructure a liberal program? I think it is a reasonable program that most knowledgeable people would applaud.

And is discussing the problems of health care and promoting managed care networks in place of our haywire patchwork, overly expensive health care system, is that liberal? Or is it simply being realistic and addressing the problems of the day?

And is it liberal to ask of young people national service on behalf of their country, as Governor Clinton has done, in exchange for a college education, in exchange for a decent break in this life? That is not liberal. That is simply addressing the realities of the day.

These are new ideas, and that is what this country desperately needs. These are the winds of change that we see emanating from this dynamic ticket of two young leaders—winds of change that will at long last swell the slack sails of stagnation that have characterized the present administration.

No, name calling is not going to blind anyone to the 3 years of economic stagnation into which this President, President Bush, has led this country.

And, frankly to talk about the "t" word, as I have heard here today, the "t" word for taxes, for my friends from the other side, actually the "t" word has lost its force since George Bush repudiated his own lips just a few months ago and then he repudiated his repudiation and flipped back and decided he better repudiate the tax increase that he agreed to in 1990.

The simple fact is that there is good reason for my friends on the other side of the aisle to be on the Senate floor kicking up as much political dust as they can.

There is good reason for them to be attacking the news media in the hope that their charges will keep the press, intimidate the press, if you will, from covering the abysmal economic record of the Bush-Quayle administration.

That is the clear and obvious motive behind the statements that we have heard from our friends on the other side of the aisle this morning and earlier this week. It is simply a diversion. It is nothing more.

It is an effort doomed from the start to try to divert the public's attention from the worst economic performance of any President since the end of the Second World War. And that is the record, I say to my friend from Maryland, that is the record of President George Bush: the worst economic performance of any President since the Second World War.

President Bush is dead last in every statistical evaluation in every significant category of performance.

Let us look at the record.

In gross domestic product, in job growth, in growth of disposable income, in industrial production, in hourly wages, all across the board, the record of George Bush's 4 years in office is the worst economic record in a half a century, the worst in 50 years.

Now I say to my colleagues, President Bush is not the education President. He is certainly not the environment President, as my colleague, Senator AL GORE, has so ably pointed out time after time. But President Bush is quite literally the stagnation President. He is the economic stagnation President.

Let me just demonstrate to my colleagues what I am talking about. This is a chart that shows the economic growth records of Presidents during the postwar era.

And here it is for everyone to see, the average annual real per capita growth in gross national product, and that is the total wealth and growth of the economic product of the country divided by the population, and that gives you an idea how each individual citizen is faring.

We look and we see that since the Second World War, Lyndon Johnson is the champ. He gets the gold star, because there was 3.4 percent annual real per capita GNP growth when Lyndon Johnson was President. The standard of living was going up, wages were going up, production was going up. And Jack Kennedy was second. He was at 3.3 percent.

Close to the bottom had been Gerald Ford at seven-tenths of 1 percent, less than one-fourth of that of Lyndon Johnson in economic growth.

President Eisenhower did not do too well. He had only two-tenths of 1 percent growth during his 8 years in office.

But look, if you will, at President George Bush. Negative, negative real growth of GNP on a per capita basis. The standard of living actually declined under President Bush. A negative record of three-tenths of 1 percent annual contraction of GNP on a per capita basis. And what that means for the American people is they are worse off today economically than they were the day George Bush took office, the only President to be in that category in 50 years.

Well, let us look and see how the Presidents did with regard to creating jobs during their administrations. We have taken this study all the way back to Harry Truman—President Truman—who served from 1945 to 1952. During his administration, they created almost 6 percent more jobs than when he took office.

The much maligned Jimmy Carter, during his 4 years in office, there were 11 percent more jobs when he left office than when he went in.

Ronald Reagan, 9.8 percent more jobs when he left office, or created that many more jobs during his 8 years.

And look at who brings up the rear by far: George Bush. During the years of his administration, he has created only seven-tenths of 1 percent additional jobs during his 4 years in office, by far the worst record of any President since the Second World War.

And look at what he promised. He promised, when he came in office in 1989 that he would create some 15 million new jobs in 4 years. That is the promise up here, and this is the record in the yellow. Of that 15 million new jobs he promised he would create, he has actually created only 841,000; less than one-fifteenth of what he promised. Now this is the record, I say to my colleagues.

Well, how about industrial production? That is another good gauge of economic performance.

Again, we went back to the days of Harry Truman. And during President Truman's days industrial production went up 35 percent. It went up 36 percent under President Kennedy and President Johnson. It went up 14 percent under Richard Nixon; 15 percent under Ronald Reagan, his last term.

But look at George Bush. Industrial production has declined, has contracted, by four-tenths of 1 percent during the years that George Bush has been in office, the only President since the Great Depression to preside over a contraction in industrial production.

Well, how are people doing out there in the economy working, those who work by the hour? What has happened to hourly wages?

Well, again we went back as far as we could, and we could not take it back any further than the Kennedy-Johnson years because the data just was not available. But we found during the years of Kennedy-Johnson, from 1961 to 1965, hourly wages in real terms, corrected for inflation, went up almost 11 percent. And that meant that those who worked by the hour, they were doing better and their standard of living was going up by almost 11 percent.

Under Lyndon Johnson it went up another 12 percent. Those were the great days of the 1960's and Americans felt good about themselves and they were doing better and they were buying two cars, and two cars in a garage, maybe two bathrooms in the house for the first time in their history.

Under Richard Nixon, hourly wages went up almost 6 percent; continued to go up at a less dramatic rate under President Carter, and during the two terms of President Reagan.

But look at George Bush. In his 4 years in office hourly wages have shrunk, have contracted, by almost 2 percent. And what does that mean? It means that hourly workers are making less in real terms than they were 4 years ago, I say to my friend from Maryland.

Mr. AKAKA assumed the Chair.

Mr. SARBANES. If the Senator would just yield on that point, because it is extremely important.

First of all, the unemployment rate has gone up. There are some people out of work and looking for a job. And it is not just the 17 million that are out of work or only working part time; it is all of their families and dependents that are impacted as well.

But, in addition, if you have a job, you are slipping behind.

Mr. SASSER. That is right.

Mr. SARBANES. As these figures show, your standard of living is being eroded. And that is what is happening to working people and middle-income people.

The only people whose standard of living is improving, and it is improving dramatically, are the people in the top 10 percent. And especially the people in the top 2 percent of the income scale. That has to be understood.

There is a tactic of divide and diversion taking place on the other side of the aisle. They want to try to gloss over what is happening to the country.

I think the Senator is right. The American people are not going to be fooled. I am now quoting from a news story yesterday.

> The number of Americans filing first-time claims for unemployment benefits rose sharply in early July, dampening hope for anything more than minimal improvement in the unemployment rate this month. It was the biggest rise since late February. The level of claims was the highest since the week of May 2.

These are people out of work. What my colleague is showing is that people who are working are falling behind.

Mr. SASSER. Yes. And let me just show my friend from Maryland this particular chart here. This is a chart of disposable income. As the Senator from Maryland knows, that is after-tax income.

Look, if you will, at the record of the Bush administration, when contrasted with that of other administrations. The growth is just simply not there.

Mr. SARBANES. I would say, Mr. President, the only people whose after-tax income is growing are the people right at the top. Their after-tax income has grown by a dramatic percentage. Their pretax income, that of the top 1 percent, over the 1980's went up 78 percent. Their Federal taxes went up 34 percent. Their after-tax income went up 102 percent. They doubled.

Mr. SASSER. This is the top 1 percent.

Mr. SARBANES. The top 1 percent. In addition, overall there is a 1.2 percent drop in disposable income. That is for all of the population.

But for the top 1 percent, they doubled their disposable income over this period. And you have had this massive concentration of economic benefits at the very top of the scale.

I want people to prosper and move forward and make their way. But there ought to be some sense of equity. And there ought to be some appreciation for the fact that the people in the middle, the working people of the country, have to share and participate in these economic benefits. You cannot concentrate them all at the top and hope you are going to have a strong and viable economy. Trickle-down economics, which is the economic philosophy of this administration, will not work. It will not bring prosperity to the broad base of the American people.

What Governor Clinton and Senator GORE are talking about is bringing prosperity again to working people and middle-income people. As Governor Clinton has said, the people at the top got a big increase in income, and their tax burden has been reduced.

The people in the middle have seen their incomes shrink, as these charts indicate, and their tax burden go up. It is completely reversed from the way it ought to be.

Mr. SASSER. My friend from Maryland is correct, Mr. President. One of the real problems with getting this economy moving again is that people do not have any money to spend. What we have seen is such a concentration and a movement of resources up to the top 1 percent of the population that even those who are working in this economy, by the time they get through paying their health care, if they are lucky enough to have health-care coverage, by the time they get through paying for the basic necessities of life, there is virtually no disposable income left.

They now find they have two wage earners in the family. The wife is now having to assist the husband, who 20 years ago could make a living for the whole family. Now she is having to work. They are still falling behind. And they are being crushed under a burden of debt just to try to keep their standard of living equal to what it has been in years past.

This recession has been with us for a long time. This is the longest recession on record, the longest economic recession that this country has experienced since the Second World War.

At first, the President's reaction, and that of the administration, was denial—that we were not in a recession. They denied it month after month after month. There was an 18-month delay.

We now know, if you look at this chart—I direct the attention of my friend from Maryland to this chart. He will note the recession started in July 1990. The administration continued to deny we were in a recession, and during that period of time, 2½ million people lost their jobs.

When this recession started, about 6.4 million people were unemployed. Unemployment has risen dramatically since that time.

Finally, in January 1992, the President came before the Congress, after acknowledging we had a recession, and said he would propose an economic growth package. He proposed that economic growth package. The Congress passed six of the seven proposals that he asked for.

What did he do in March 1992? He vetoed that economic proposal that carried with it six of the seven proposals that he had outlined.

Mr. SARBANES. Mr. President, if the Senator will yield for just a moment, I want to point out one aspect of this unemployment problem, and the administration's refusal to recognize it and to try to do something about it. That is the dramatic increase in the long-term unemployed—persons unemployed 27 weeks or more. It was at about 600,000 when this recession began, and is now well above 2 million. It has risen through this period, and it is now up over 2 million. These are persons unemployed 27 weeks or longer.

The administration, throughout this rise, kept telling us that there was no problem. They would not recognize the problem. The President; the Secretary of the Treasury; Mr. Darman at OMB; Michael Boskin, the Chairman of the Council of Economic Advisers; Mr. Greenspan, their appointee over at the Federal Reserve, they are all singing from the same song sheet, which says: No; it is going to be short and shallow. Things are going to be better. Things are going to be OK.

The American people know that everything is not OK.

Mr. SASSER. Mr. President, they do know everything is not OK. The American people know that something is basically wrong.

We now know that 1 out of every 10 of our fellow citizens are on food stamps today; 1 out of every 10. Those who administer these programs say they see individuals, and groups of individuals, making application for food stamps that they have never seen before—what appear to be middle-income people, middle-level managers who have lost their jobs, who have never been unemployed before. And there they are, applying for food stamps. One in every ten Americans is on food stamps today.

So with a record like that you might have expected that at the beginning of this year there would be some move to alter the course, some effort to put some momentum into this country's economy.

At a time when we are mired in recession—and I might say, at the same time facing a long-term fiscal crisis; deficits literally going through the roof, unprecedented in either the peacetime or wartime history of the country—you might have expected some program, some action, some initiatives.

There were only two courses available, really. Either stimulate the economy into health and administer the needed deficit reduction medicine later—that is what Senator SARBANES and I proposed in January of this year. That is a very modest fiscal stimulus program that would have put a few billion dollars into the hands of State and local governments to get some work programs going to try to stimulate the economy and put some money into the hands of people and then get to the deficit reduction after the economy had recovered.

They did not want to do that. So then the other way to deal with the deficit was simply to attack it head on. Reasonable people can differ about which course was best, but President Bush and his advisers chose neither one. He spent the past 2 months telling the American people that he wants a balanced budget amendment to the Constitution even though this administration has never, never sent a budget to this Congress that is even anywhere close to balancing. But he wants a balanced budget amendment to the Constitution, oh, yes, which, by the way, will take effect some 5 or 6 years from now. Those are the facts. There is no way that a balanced budget amendment to the Constitution could be passed out of this body, the other body, and ratified by all of the States before 4 or 5 years have elapsed.

That is the record, Mr. President. What we have seen is pure fiscal inertia. This did not come about by accident. What we had was a conscious business-as-usual policy. This has been a caretaker administration that has relied on the classic, old trickle-down economics. But they have not even taken care of the property. They have let the economy that they inherited continue to decline and erode, and we find ourselves in the sad state that we are in now.

My friend, the minority leader, for whom I have great respect, and he knows that, I watch him quite often on television because he is so articulate and so quick-witted, and I find it is educational. But last week on television, the minority leader called the President's so-called growth plan—he discussed it this way, and I am quoting him directly. The minority leader said: "It's not going to turn the economy around." The minority leader is entirely right about that. The Bush growth plan, or so-called growth plan, was really never intended to get the economy moving. By the reckoning of the President's own Office of Management and Budget, the 1993 Bush budget would have produced almost zero stimulus to the economy, a stimulus amounting to only one-tenth of 1 percent of gross national product, and that is about one-tenth of what it traditionally takes by way of fiscal stimulus to move us out of recession.

So the growth plan was never intended to work. It was never seriously meant to try to push us out of this recession.

So, in summation, the President, sadly, has not aimed at long-term deficit reduction. The deficits have gone through the roof during his administration and will continue to if his policies are followed. He has not aimed at short-term economic recovery. He has no immediate plan, and he has no long-range vision. His policies have been self-confessed prescriptions for simply doing nothing. President Bush—and I say this sadly—has about the same claim for the mantle of change in 1992 that President Herbert Hoover had in making that claim in 1932.

Listening to a comedian the other evening on television, he said this, and I think he sums it up very ably and very wittily: "I've listened to the Bush-Quayle campaign theme, and I think I finally got it figured out. What they are saying is this: 'We've been in office for 12 years and if you want change, vote for us.' " That is what the comedians around the country are saying.

Mr. President, it is no surprise that as Governor Clinton and as my colleague, AL GORE, traveled through the heartland in a Greyhound bus, our fellow citizens came out by the tens of thousands to see them, to welcome them, because they sensed that these dynamic young leaders are their hope for change, and they sense that Bill Clinton and AL GORE have what it takes to get this country moving again in much the same way that the American people experienced in 1960, the feeling that John Fitzgerald Kennedy and Lyndon Johnson had what it took to get this country moving again.

So, Mr. President, I want to serve notice on our friends from the other side of the aisle, and I say this with affection, that if they are going to come out here and throw down the gauntlet, as they have done this week, then I shall be out here with my colleagues on this side of the aisle to pick it up, and we will do it time after time if they continue to throw it down.

Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I do not know whether this is a gauntlet or not, but let me have the floor for a few minutes to just talk a little.

I quote LEON PANETTA, chairman of the Budget Committee of the U.S. House:

> The Clinton plan does not, frankly, confront the issue of how we reduce the budget deficit. I do not see how he can take the level of revenues he's talking about or the spending cuts he's targeted and simply pump all that into added spending.

Mr. President, a lot has been said here about the last 4 years, the last 12 years, the last 30 years, maybe even the last 40 years. Frankly, so much has been discussed. I hope the American people are listening because, obviously, it is not for the Senate and not for the few people up there, but it is for C–SPAN and perhaps for a few press upstairs that might be interested. I hope they understand that you can do almost anything you want with statistics, and if you want to go back and look through economic history, you can produce almost any picture you would like.

I can vividly remember at least two of the three Senators on the other side who have been down here for an hour and a half or two looking at the last 4 Reagan years. Do you know those were not even good years, according to them? They were down here complaining about the kind of jobs that were produced, not by Ronald Reagan but by the economy of the United States, the small businesses, the medium-size businesses, the exporters, the research companies. They were down here saying those are all McDonald's jobs. Now, they almost hold up that 4 years and they want to forget that it has been part of the last 12 years. They would not even dare come down here and put a chart up that says, "Well, when was the last time you had all Democratic control?" Why do we not put that up there? When is the last time the Democrats controlled the Senate, the House, and the Presidency? Do not forget, that happened once not too long ago. Very nice, wonderful man in the Presidency. He had the Congress of his party. They could not get along, but that produced some marvelous economics, wonderful. Would not the American people like to have that back, a Democrat in the White House, Democrats in the Senate, Democrats in the House? They cannot have them anymore in the House. They have 102 votes more than the Republicans, and if you put the Socialist in, the one guy who is Socialist, he votes with them, so it is 103.

Tell me they could not do anything they wanted. Tell me the U.S. House could not pass anything they wanted. And if they want to talk about vetoes, bring the vetoes down here. We will see what bills he vetoed and whether they did anything for jobs in America. Motor-voter registration, correct the Hatch Act, all those things they wanted to pass did not add 14 jobs to the American economy, probably cost a few. But that is the last time. Let us just talk about that.

We think we have bad unemployment. It was over 10.5 percent.

We think we have bad interest rates. Some time ago when we had high interest rates, they had interest rates 22 percent, inflation 15 percent.

Think of that. Over 10.5 unemployment, 15 percent inflation. Think of that. Over 22 percent interest rates.

So let us do that again. Let us have not only two Houses of Congress, but let us also give all three to them. Why not put that up there, what happened during that period of time?

Now, Mr. President, I opened with a quote from LEON PANETTA, chairman of the House Budget Committee. Just in case somebody does not remember, he is a Democrat. In case you do not know, when the Democrats control things by having one more than the majority, all the chairmen are Democrats. Sometimes the people out there ask how does it happen. That is how it happens.

What he was saying does not have anything to do with 10 years ago. It has to do with right now. Almost every sensible person says beware of the deficit because it is going to affect your future. Almost every reasonable person says, move toward a balanced budget; do so as quickly as you can; get the economy going and then do not fool anyone. Take on the tough thing and get the deficit under control.

President Bush suggests that we adopt a constitutional amendment for a balanced budget. What do we get from the other side? Somebody says Governor Clinton balanced the budget 11 times in his State. The same people say we do not need a constitutional amendment. What do we want that for?

Governor Clinton balanced the budget 11 times because the law of his State, the Constitution, requires it. If it works there, why would it not work here? If you are going to brag about balancing it there, why not give the President the chance to have the balanced budget a mandate of law here? Then you put them on par.

The truth of the matter is the Democratic 22-page economic plan for America's future does nothing for the deficit. One hundred fifty billion dollars in new taxes, fellow Americans. You have heard a lot today about that is the upper 2 percent and we just want everyone to know we want to tax those people who have a lot of money and that distinguishes us from the other side. That is great policy.

Well, I will give you a couple of examples. Great policy. We want to put a tax on yachts. That is the last time we had the economic summit. I was there. We have to do something to show the American people, said the other side. We want to tax rich people. So tax pleasure yachts. Put a surtax on them, luxury tax.

Do you know who it hurt? Hundreds and hundreds of working men and women. The places that built yachts closed up all over America. The very States that voted "aye" are here quietly saying repeal that tax on the rich people. In fact, the first bill through here is going to have that on it. Do you think it is going to be Republicans alone for that? It is going to be Democrats, too.

Now, this 2 percent of the American-rich-people tax in the Clinton package, let me tell those who are listening what I think the tax package is. First of all, if you read it, it does not say who it purports to tax. It says "wealthy," or some such words. But is does not say $200,000 income. It just has dollars in new taxes.

We think it is exactly the same numbers that came out of the Finance Committee and came over here to the Senate floor, and guess what it is? It is $150,000 of income for a single taxpayer and $175,000 for two.

Now, that is interesting in terms of rich. Do you want to produce jobs? Who produces jobs in America? Not Governor Clinton, not President Bush, not President Reagan. American business produces jobs. If American business is not growing, you do not have permanent jobs.

You can spend taxpayers' money and create jobs. Some are saying spend taxpayers' money and put people to work in Government. My friends, we have already $350 billion of extra Government spending, pump-priming spending. That is the deficit each year. That is money thrown in to try to get people to go to work, put them on certain kind of Government jobs.

The truth of the matter is that if you tax Americans who are earning over $150,000, that is a tax on new jobs. Let us set it straight. It is a tax on new jobs.

Why? Because somewhere between 62 and 77 percent of those filing tax returns with $150,000 income, single taxpayer; $175,000, two, are small businesses, small corporations that elect to be taxed as partners.

What you are doing is taking the earned profits out of hundreds of thousands of American small business and thus taking the engine right out of the job-producing part of America. So do it with some idea about redistributing wealth. But what you are really doing is redistributing jobs and you are taking jobs away from working men and women in America.

If you want to stymie a recovery, put a tax on small business. If you want America to grow, give small business an incentive. Put an investment tax allowance on like President Bush asked for, which he did not get, of 15 percent so they can go out and buy things to improve their productivity. In buying, they produce jobs. In improving the equipment, they compete better. And that is the fire in the engine for jobs for America.

So I come to the floor today to say that anyone who wants to see a real comparison of what Governor Clinton is for for the next 4 years and what President Bush is for for the next 4 years has two blueprints. One is the blueprint that Governor Clinton gave us, however many pages it is, and the other is the midsession review document exceeding 420 pages by the President of the United States. He has gone back and looked at the last 4 years; what he asked for that Congress did not give him; what the deficit will look like for the next 4 years if his policies are followed.

Do you want a plan that gets the deficit under control, puts money in education, puts money in job training, puts money in research and development, continues to fund things like the highway program, which is a major public works program in America, and yet in 4 years reduces the deficit dramatically—in fact, has it down to $130 billion and only 4 years later close to balanced, or do you want a budget that with $150 billion in new taxes spends so much that all savings on defense, all the new taxes imposed are all eaten and the deficit as advertised is $175 billion.

But I will tell you the real deficit, not the as advertised—that is in the Clinton plan—but the real one when you take out such things, or add back such things, as pay for the middle-income tax cut that you give, it is not paid for in that plan. We just lower the taxes and assume, maybe we assume supply-side economics. But in any event, you do not pay for it, no arithmetic there. And a number of the asterisks, kind of smoke and mirrors. The real deficit is $292 billion 4 years hence. A huge tax has been proposed, the largest 4-year tax in the history of the Republic. And the only thing we will get for it is a bigger deficit.

But I will suggest that there is great optimism on their side. President Bush will put in his midyear, midsession review, 4.5 percent growth in the economy; say that is what we are going to get because things are going to be so great. They would be down here saying: Come on, Mr. President, be real. We do not need any phony things. We do not need any smoke and mirrors. How do you get 4.5 percent growth when it is only 2.5 now?

But those deficits I just described for the Democrat plan, those huge taxes that go in and get spent, $60 billion more in defense cuts that gets some way or another used up, there is going to be 4.5 percent growth that plan says, and even with that, the deficits are just what I described.

So there is a lot to talk about on both sides. And there is a lot of blame to go around.

I want to close, since people have been watching well over an hour of discussion about what President Bush has not done, to remind everyone President Bush had a U.S. House that was Democrat. There were 102 more of them than his party. And add in the fellow from up in northeast that ran as a socialist, they would have 103. That is a lot. They could have done anything they wanted. But I will tell you what they did. They did not let President Bush have anything he wanted.

Then look over here. They control the Senate. Clearly they control it enough to give him little or nothing that he asked for.

Let me just take one of them. Some comment was made on the other side about the education President. Now listen well. The President of the United States proposed a 7-point education plan. Governors of 36 States have begun adopting parts of it without this Congress. They think it is good enough.

Let me tell you how you can turn a President who has a good education plan into a President that did nothing in education. Let me tell you how.

Do you have a guess? Just have a Congress that will give him not one of them, not two, not three, but zero.

Where is your education plan, Mr. President? We have been waiting for it. And then pass not one single provision of what he asked for. Of course that is a self-fulfilling prophecy.

The environment: We will have an opportunity. We cannot do all of these, but we will explain what this President did on the environment.

The Clean Air Act of the United States that passed under this President's leadership is already forgotten because for some it does not matter how much you do on the environment; it is not enough. That is a masterpiece that puts the marketplace into cleaning up air pollution for the first time. And it actually does more than anybody thought we could ever do to clean up ambient type pollutants.

That is about enough for today. But if there is a concern about laying down the gambit, let me suggest if we choose to talk a little bit—that is all it has been in the last week, a little bit—about the Clinton plan, we will never catch up with the hours on end that this floor has been used to take on the President of the United States.

So we will do our share. We will try to be careful. We will try to be honest. We will try to be forthright. And we will try to be educational. But no one need worry that we do not have plenty to talk about. We might even start talking about what the Democratic House and Senate proposed item-by-item over the last 4 years to help American business produce jobs for the American people. I repeat—American business produces jobs. American business large and small needs occasionally incentives to get out of the doldrums.

And maybe the next round we will take a look not at Governor Clinton, but at what has happened up here for the last 4 years.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, there are a few things that my friend from New Mexico in his very partisan speech said that I agree with, like the need for a balanced budget amendment. But let me just add that there were a number of things I disagreed with. And one of the comments he made about the failure of the President to get what he wants in the field of education is very interesting that in the field of education we had an education summit where the President met with the Governors in Charlottesville, VA, and there was a great deal of publicity about it.

We have after 4 years of this Presidency yet to have an educational summit right here in Washington, DC, where the President gets together with Republicans and Democrats who are interested in doing something about education here. That is what we need.

Where we have been able to make progress, there are two significant things in the field of education in this Congress. One was the literacy bill that the White House first said they were going to veto, then it passed 99 to nothing in the Senate. And the President decided that he would sign the bill.

The second was the higher education bill, which the President signed yesterday. We had $500 million in there on a direct loan program that some of the banks did not like, and the Sallie Mae did not like. But that clearly was a help to schools and students and taxpayers.

Finally the President had a visit with some House Republican Members who went to the President and said, this thing makes sense. Do not veto it.

And the President yesterday signed the bill.

I am pleased he signed it but it is hardly an indication of strong leadership.

But let me mention one other thing, and this is my reason for coming over to the floor. Tomorrow is the first anniversary of the passage of the National Literacy Act. My friend from Maryland, Senator SARBANES, voted for it. My friend from Tennessee, Senator SASSER, voted for it. My friend, the Presiding Officer, Senator AKAKA, voted for it, as did all Members from both sides—99 Members voted for it. Many of the things that it called for have been voted for in appropriations, and we are making some progress.

But that bill set up a National Institute for Literacy to coordinate Federal literacy efforts and to provide national leadership among other things on research. Within 180 days of the passage of that bill we were supposed to have 10 names submitted to the Senate to function as the board for the National Institute for Literacy. Within 180 days. It is now 364 days, and we still do not have it.

In February we were told 10 names would be submitted in March. Well, March has come and gone. On June 3, I wrote a letter to the President, and I asked unanimous consent to have it printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 3, 1992.

Hon. GEORGE BUSH,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: The one-year anniversary of the passage of the National Literacy Act is just a few weeks away. Unfortunately, a crucial piece of the bill is not yet in place. The Act calls for a Presidentially-appointed Board of literacy experts and providers to oversee the National Institute for Literacy. It is my understanding that the nominees were selected months ago, but that the names have been stuck in the bureaucracy.

I am writing to urge you to make your nominations to the National Institute Board immediately. If the nominations are not made soon, there simply may not be enough time to clear them through the process in the Senate before Congress recesses this Fall.

Thank you for your urgent attention to this matter.

My best wishes.

Cordially,

PAUL SIMON,
U.S. Senator.

THE WHITE HOUSE,
Washington, June 15, 1992.

Hon. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: Thank you for your recent letter to the President regarding the nomination of individuals to the National Institute Board for the National Institute for Literacy.

We appreciate being advised of your interest in this matter. I have shared your letter with the appropriate White House officials for their review.

Thank you again for writing.

With best regards,

Sincerely,

NICHOLAS E. CALIO,
Assistant to the President for Legislative Affairs.

Mr. SIMON. On June 3, I wrote a letter to the President urging that he submit nominations immediately. On June 5, I received one of these innocuous letters that says nothing. And tomorrow, we celebrate the first anniversary of the signing of that bill into law, but we do not have the 10 names so that we can have the National Institute for Literacy.

We need to get going on this problem. We do not need public relations, photo opportunities in schools. What we need is action.

I hope we can get some action to have these people appointed for the National Institute for Literacy.

Clearly, somebody in the White House is falling down on the job, and I hope that somehow someone gets the message that I am delivering here today and that we get a little leadership in this area. That, frankly, is really lacking.

Mr. SARBANES. If the Senator will yield, the point is extremely important. This is not the only instance in which this has happened.

Mr. SIMON. Not by a long shot.

Mr. SARBANES. This administration is simply not governing. First of all, they oppose a lot of the legislation. When they finally accept it, they then do not implement it. If they seek to implement it, they try to do so by undercutting it.

Of course, as the Senator pointed out, this legislation was passed, and the President signed it. He will not appoint the Literacy Council provided for in the legislation.

The Senator from New Mexico earlier made the point about the President and the environment and the Clean Air Act. I want to say—because we have to have debate that at least tries to approximate the facts—the President did support trying to pass a Clean Air Act through the Congress, and, in fact, the support of the administration, was important to enacting the Clean Air Act. Fine.

We get the Clean Air Act on the books, the President signs it. He has a big photo opportunity, and then what happens? The Vice President, with his council, proceeds to undercut and to subvert the Clean Air Act by doing in the regulations that are necessary in order to implement it.

So then they say, we want to portray this President and administration as an environmental President. They cite the Clean Air Act. That is the first step. Then what happened? When they got it into law, they tried to undercut and subvert it. The American people are on to that. They know what the Vice President has been doing with that Competitiveness Council. Actually, he does these things without any public hearings, without anything on the record, with no opportunity, as generally happens, when the Departments develop regulations, to hear both sides and have an appreciation of what the arguments are. This is a secret door operation. They go through the secret door and make their complaints, and the Vice President undercuts the act.

So that is what has been going on. I think the American people have come to perceive it and understand it.

Mr. SIMON. My colleague from Maryland is absolutely right in this.

I might add, in this area of environmental control, it was not very many years ago when the United States produced 100 percent of the pollution control devices. We were out there, and this Competitiveness Council that the Vice President heads wants us to keep pulling back.

Today, we produce 30 percent of the pollution control devices. We are losing in all of these areas.

This National Institute for Literacy, when we passed the National Literacy Act, originally in the rough draft—I forget, I had 60 or 90 days for the President to make these 10-member appointments. Somebody said let us make sure the President has time. We gave the President 180 days. I thought we were bending over backwards. Now it is 364 days, and we still do not have those 10 appointments.

Mr. SARBANES. If the Senator will yield for a question. Why have they not made these appointments?

Mr. SIMON. That is a great mystery to me, other than, first of all, it has to reflect indifference, at best, and maybe hostility. I cannot figure out which one it is.

Clearly, if you do not have the board that can get this national institute going, we are not going to get the action that we had when the President signed it in front of all kinds of television cameras. I have to say that I was one of those who immodestly was there in front of the television cameras, too——

Mr. SASSER. If my friend will yield, I remember the Senator from Illinois standing there beaming in that instance, and I thought he made a magnificent television appearance, and I am astonished that nothing came of all of this. You mean this was just a photo opportunity, and you had been invited over there by the President, and this was just a photo opportunity?

Mr. SARBANES. Was this down at the White House?

Mr. SIMON. I was down at the White House and, obviously, my friend had good judgment when he said I made an outstanding appearance.

Mr. SARBANES. The President does not do a public White House signing ceremony for every bill. A lot of bills go down to the White House, and the

President signs them in a routine fashion. Occasionally, he does a public ceremony, and that is usually legislation to which you attach a particular importance and significance. I understand that is what took place in this instance.

Mr. SIMON. We had the full ceremony—the television cameras and reporters and every one. Frankly, to get these 10 members and get going, I do not care if we have a ceremony, or if the President wants to sneak the names in or what we do. Let us get going.

Mr. SARBANES. The fact of the matter is that the President made a big to do about this bill and about signing this bill. Do I understand that the Senator has been in constant contact with them about making the appointments; is that correct? Has the Senator let it slide for all this period?

Mr. SIMON. We have made six or seven calls, at least, to the White House urging that something happen. On June 3, I sent a letter again reminding him. Tomorrow is the 1-year anniversary of the signing ceremony. We still do not have 10 people named. The law says they should be named.

Mr. SARBANES. Have any of them been named?

Mr. SIMON. None of them have been named. We have to approve them. So we are stymied.

Mr. SARBANES. How can the purpose of this legislation be carried forward if none of the members of the council have been named?

Mr. SIMON. Well, on that particular portion, nothing clearly can happen. There are other things where we have appropriated money and where some things are happening. But the problem of illiteracy in our country is a major problem, and we ought to be coordinating Federal efforts. That is not happening, because we do not have this institute going.

Mr. SARBANES. I know of the Senator's longstanding concern about the illiteracy problem and the leadership which he has exercised. As I recall, even when he was a Member of the House, and then also since he has come here to the Senate—he has been a leader on this issue. In fact this is a very serious problem and people have looked at the competitiveness question between the United States and Japan and the advanced industrial European countries, and have always noted the fact that those societies are at about 99 percent literacy.

Mr. SIMON. That is correct.

Mr. SARBANES. Our failure to address this illiteracy problem is a significant handicap in the economic competition.

I just hope there is not some plan afoot at the White House to do in the council indirectly, as it were, to subvert it, as they have done with some other measures.

Mr. SIMON. Let me say real candidly to my friend from Maryland, my guess is that there is no plan afoot. It is simply another case of the White House floundering.

What we clearly need is some strong leadership that is going to move ahead. It may be that there is hostility there and the plan is do not appoint them, and we will not spend the money for this. My guess is that it is one of these things that seems unimportant, and they are floundering down there.

Mr. SASSER. If the Senator will yield, the Senator from Illinois makes a good case. This is just another example of the kind of caretaker attitude on the part of the administration, not really moving forward with any initiatives to deal with the problems of the day.

My great friend from New Mexico, just a moment ago, a Senator for whom I have the highest regard and respect—he is the ranking member of the Budget Committee, which I have the honor to chair, and I value his opinions highly on many things. But my friend from New Mexico indicated that he found fault with the economic plan of Governor Clinton, because it did not go far enough with regard to deficit reduction and indicated that the administration had some vigorous deficit reduction proposals that frankly had not been put into effect here by the Congress.

I just call my colleague's attention to a chart here.

Mr. SIMON. Mr. President, I am going to yield the floor to my colleague from Tennessee here.

Mr. SASSER. I thank my friend from Illinois. I think he renders a valuable service in coming to the floor today and pointing out the inactivity of the administration with regard to moving ahead in this very vital area of literacy.

Mr. SIMON. I thank my colleague from Tennessee and my colleague from Maryland.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. SASSER. I thank the Chair.

Mr. President, with regard to the President's deficit reduction measures, the Congressional Budget Office has done a study here. Bear in mind, this is the nonpartisan Congressional Budget Office, that I think all of us on both sides of the aisle—indeed, economists, and statisticians and others all across the country—have the highest regard for. We asked them to do a comparison of the President's deficit reduction efforts if his budgets were enacted as submitted from 1992 through 1997 and contrast that with a situation where nothing was done, where we just let current policy run on out.

The CBO found that if we did nothing, if the Congress and the President did nothing and just let the machinery of Government move ahead as it is now, there would only be a $3 billion difference between that and if we enacted the President's 5-year budget plan. In other words, over 5 years, if we enacted the Bush administrations' deficit reduction program or their budget, we would have only $3 billion in savings over what we would realize if we simply did nothing.

Mr. President, that would amount to less than one-one hundredth of 1 percent of actual savings. So you see, there is really no effort there to deal with the problem of the deficit.

With regard to the Congress defeating the President's proposals for economic growth, as I pointed out earlier, after first denying a recession and then floundering around for over 18 months, during which time an additional 2½ million Americans lost their jobs and joined the ranks of the unemployed, the President did propose an economic growth package.

That economic growth package consisted of seven elements. Of those seven elements the Congress passed six of them. We passed his request for penalty-free IRA withdrawals. We passed his request for real estate investment by pension funds. We passed his request for passive loss relief for the real estate markets. We passed the request here for a cut in the gains tax rate. We passed his request for an investment tax allowance. We passed his request for simplified depreciation rules. We in the Senate passed the first-time home buyers tax credit. Somehow that fell out in the conference. But we had six of the seven elements that he requested in his economic growth package.

It was the President who vetoed that economic growth package that had six of the seven elements that he requested. And just 2 days ago the Chairman of the Federal Reserve Board, Dr. Al Greenspan, testified that if the investment tax credit or allowance had been in effect we would have been realizing, in his view, greater capital spending than we are now.

One final point. The point was made, Mr. President, that Members of my party controlled both the House and the Senate and have for 4 years. That is true. But those who are familiar with the operation of American Government know that a President can exercise a significant effect on legislation both in its formulation and a President can certainly defeat legislation by use of the veto. This President has enacted the veto some 31 times. And the Congress has been unable to override that veto a single time. What we have had here is government by veto.

Just let me share with my colleagues some of the measures that the President has exercised his veto to defeat.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. SASSER. I am pleased to yield to my friend from Maryland.

Mr. SARBANES. Mr. President, this is basic American Government, but it is very important to understand that to pass a bill we need only a bare majority in both Houses; in other words, we can pass a bill here in the Senate 51 to 49 and the bill is passed.

To override a veto you need a two-thirds vote in each House; you need a two-thirds vote in the Senate and a two-thirds vote in the House. And in both the Senate and the House, the President's party, the Republicans, are clearly more than one-third. In this body of 100 Members there are 43 Republican Senators. They only need 34 to sustain a veto. So when we tried to override the veto of the unemployment insurance bill, the vote to override was 65 for the bill, 35 against the bill; 65 to 35. That is a very significant majority, but it was not enough to override the veto, because the President, using tremendous pressure, held on to 35 of the Members on the other side of the aisle. Actually, 8 of them voted to override, but they held on to 35 and that was enough to sustain the President's veto.

So when my colleague from New Mexico talks about the majority which the Democrats have in the Senate and in the House, that is a majority to pass the bill, but it is not anywhere near a sufficient number in order to override the veto of the President.

President Bush has vetoed important legislation, legislation in my judgment badly needed for the country, and then has been sustained on his veto either on the House side or on the Senate side, primarily by his Republican colleagues. And that is the simple fact of the matter; the President has used his veto or the threat of his veto numerous times during his administration.

Mr. SASSER. Mr. President, the Senator from Maryland is entirely right, and the American people I think have become frustrated with Government by gridlock or indeed the absence of Government and Government initiatives as a result of gridlock.

To give some examples of the vetoes that the President has exercised, or legislation that he has vetoed over the past few years: He vetoed the fair labor standards minimum wage, the so-called minimum wage bill, in 1989, legislation that in that year would have raised the minimum wage for workers to keep them at least level with the inflation that had taken place since the last raise of the minimum wage. The veto of that minimum wage bill was damaging to literally millions of minimum wage workers all across this country.

In 1990 he vetoed the family and medical leave bill, legislation which the distinguished senior Senator from Connecticut [Mr. DODD], had worked so long and so hard for. And all the family and medical leave bill did was simply to recognize the fact that we have an enormous number of women who are now in the work force, and this would simply have given these women—or men, as the case may be—the opportunity to take unpaid leave in the event of pregnancy, or in the event of a serious illness of a child or in the event of serious illness of a member of the family.

This bill was essentially a bill to try to strengthen the diminishing family bonds that have bound families together in this country. We have traditionally recognized the fact that the women in our society have been the principal care givers, for which we are all so enormously grateful. But they have been unable to give the care that they would wish to give to their infant children, the care they would give to a newborn baby, the care they would give to a sick child or a sick relative, because of the danger of losing their job in the work force if they took, unpaid leave to give such care. We passed legislation, the family and medical leave bill, to give unpaid leave, a minimum amount of unpaid leave to those who experience these family crises.

Well, the President vetoed that bill. We did not have the necessary two-thirds to override his veto. Then we passed the civil rights bill in 1990. Really, the civil rights bill plowed no new ground. It simply returned the status quo to civil rights legislation as it had been prior to a certain Supreme Court ruling. The President overruled that by way of veto; defeated it.

The Senator from Maryland is very familiar with the bill that he vetoed on China, the most-favored-nation bill.

Mr. SARBANES. Will the Senator yield on the civil rights bill?

Mr. SASSER. Yes.

Mr. SARBANES. Mr. President, I just want to point out, the effort to override that bill in the Senate had 66 Senators out of 100 in favor of the bill; 66 Senators out of 100 favored the bill even after the President vetoed it. In other words, it came back for a veto override, and 66 Members of the Senate wanted the bill to become law; 34 voted the other way. That is the bare minimum to sustain a veto.

But what I want to underscore, Mr. President, is the margin—66 to 34. That is an overwhelming margin, when you think about it. But it is not enough to overcome a veto. The President has used his veto power to thwart and to negate the making of public policy, and to cast the operations of the Government into an impasse and into a logjam.

Mr. SASSER. No question about it.

Take, for example, Mr. President, the campaign finance reform bill, a bill passed by both the House and the Senate by a substantial margin to try to do something about the exorbitant amount of money that is spent in campaigns across this country; to do something about the enormous amount of special-interest money that flows into campaigns in the House and Senate from all across this Nation every year, by the tens of millions of dollars. It passed on the floor of the Senate; it passed on the floor of the House. But when this campaign finance reform bill was sent to the President, he vetoed it—defeated it.

The list goes on and on. The Orphan Drug Act, the tax fairness bill, a bill to relieve the Mississippi Sioux Indians—something even that minor—was vetoed by the President.

So we must make the point here that even though the Members of my party might be in the majority in both Houses, our efforts many times are frustrated because of the exercise of the Presidential veto and our inability to muster the two-thirds votes to override it.

Mr. SARBANES. Mr. President, just a few months ago, we passed legislation in the Congress to condition the most-favored-nation status for China. China has been abusing the trade relationship, and manipulating it to their advantage.

In 1986, we had a trade balance with China; imports and exports were in balance. Now we have a $15 billion negative trade balance situation. Even the administration itself in one of its reports, has conceded that the Chinese are manipulating this trading arrangement in order to gain the benefit of it. We tried to do something about it.

The Chinese have also had an abysmal human rights record. And they have also been involved in the proliferation of missiles around the world, and all the dangers associated with that. Both Houses passed legislation to try to address that problem. The President vetoed it. The House voted first to override, and they did it by a very substantial margin, 357 to 61. It then came to the Senate. We were not able to do it. We lost the veto override, 60 to 38 in the Senate.

So again and again, as my colleague from Tennessee has pointed out, the President has used this veto in order to negate congressional action.

Now, we are just citing the instances in which the veto actually took place. There have also been many instances in which the President has threatened a veto in order to preclude action from moving forward in the Congress. The health care reform is one clear example of that. The President has put out a proposal which virtually everyone regards as inadequate. And yet he has indicated, that if any of the other proposals that are pending move along, he intends to use his veto against it.

Mr. SASSER. If my friend will yield, Mr. President, that is a classic example of Government by gridlock. And that is the problem that we are confronting.

In other words, everybody, I think, of fair mind, would concede that one of the greatest problems—if not the greatest problem—in the short term facing this country is what is to be done about guaranteeing affordable, quality health care to the American people.

We have seen a virtual explosion in health care costs. And we see the explosion in health care costs driving Medicaid and Medicare costs up through the roof, threatening to bankrupt the Medicaid system in the space of the next 2 or 3 years.

We know that over 35 million Americans have no health insurance whatever. And the tragedy of it is that most of these Americans have jobs and are working, but they still do not have enough health insurance.

Now we, here in the Congress, as we seek to grapple and deal with that problem, are handed an ultimatum by the President: Either you take my proposal—which we know is all form and no substance; which does not address the problem at all—or you take nothing. Because if you pass something, I am going to veto it, and you do not have the votes to override my veto.

That is a classic example of Government by gridlock. And that is precisely what has got this country into such serious straits over the past 4 years.

Mr. SARBANES. Mr. President, I say to my friend that I think one of the strongest arguments for electing Governor Clinton to be President is that he is committed to address this issue.

And I am confident that, if he were President, he would come to the Congress with a significant plan to address the health care issue; to address its affordability, its availability; to make it more preventive; to anticipate illness, rather than to try to make people well after they have become sick; to try to control the costs connected with health care; and to address the problem of the millions of Americans who have no health care.

And I think he would then be prepared, able, willing, and very successful in working with the Congress to that goal.

Mr. SASSER. Indeed, he would. My friend from Maryland is familiar with the new buzzword we are hearing now, that we have to do something about controlling entitlements. Everybody says we have to do something about controlling entitlements.

When you look down the list of entitlements—and I have them here: Medicaid, food stamps, veterans pensions, unemployment compensation, farm price supports, Federal civilian/military retirement, the whole list—what you find is that 85 percent of the growth in entitlements excluding Social Security comes from two programs: Medicaid and Medicare. It is the explosion in health care costs that are driving the so-called entitlement expenses through the roof. Make no mistake about it, when we talk about controlling entitlements, if you want to reduce entitlement expenditures, the only way to do it is try to reduce the expenditure for medical or medical-related services in some way. And that can only be done through a coordinated, comprehensive, and well-orchestrated approach. I think that is the type of approach that Governor Clinton and Senator GORE will be advancing in the event that they are given the opportunity to do so in a new administration.

Mr. SARBANES. I expect they are going to say, "Here is the challenge. We have to solve it together. We are prepared to look at your ideas, advance our ideas, and try to come up with a consensus."

What we have now is the President puts forward something; everyone looks at it and says, "That is inadequate. That is just papering over the edges. That will not really address the problem." Yet, the President is unwilling to look at the ideas that others have which would more successfully address the problem.

Mr. President, if my colleague will yield to me for just a moment, I want to address just one point my friend, the Senator from New Mexico, made when he was on the floor. That is this notion about how do you create jobs. Who creates jobs? His notion is the more money you give to the very wealthy, the more jobs they will create. In other words, it is just the very wealthy who create jobs. If you put an extra tax burden on the very rich, you are, in effect, taxing their capacity to create jobs.

Mr. President, who is going to buy the products that will be produced by the companies that are owned by the very wealthy, or indeed by others in the country, if you do not have a reasonable income distribution? You are not going to have a working class and a middle class that can buy these products produced by these companies owned by the people that they are talking about.

Henry Ford recognized that after World War I. He started paying his people a wage that shocked everyone at the time. But Henry Ford realized he was creating a working class with the purchasing ability to buy the very products that they were engaged in making. If you want to look at societies where all the tax benefits are given to the very wealthy and the same argument is made that this will now create jobs, look at some of the Third World countries with these gross disparities in income. There is plenty of money in the hands of the very rich. But they are not able to create jobs because there is no purchasing power in the broad base of the population.

We have created prosperity in this country from Franklin Roosevelt forward because we have advanced the proposition that you create economic prosperity by a percolate-up theory, not by a trickle-down theory. If the broad mass of the people has a reasonable degree of purchasing power you are going to create prosperity for them and for the people up the scale. The people at the top will share in that prosperity by definition. That is the way you do it.

The trickle-down theory, this notion that you are going to concentrate all of the wealth and income at the top of the income scale and then somehow it is going to trickle down to all the rest of the American people, it does not happen. Who is going to buy the products if working people and middle-income people do not have reasonable incomes with which to do it?

The Senator from Tennessee showed us charts earlier that show that working people in this country, middle-income people, are being squeezed down. In fact, hourly real wages have dropped under President Bush. Disposable income has dropped under President Bush. This means the great mass of the people who have been the engine of American prosperity has been shrunken down.

Governor Clinton understands that. That is why he is making the point that the incomes at the very top have gone up, their taxes have gone down; whereas the incomes of middle-income people have gone down and their taxes have gone up, and if you continue that process, you will turn us into a Third World country. It is beginning to happen. We have millions of people in this country with skills and talents that are unemployed, and we are concentrating wealth and income at the upper levels in a way that has not been seen since the 1920's.

Mr. SASSER. If the Senator will just yield on that point? You are quite right. We are concentrating wealth in the upper-income areas in a way that has not been seen since the 1920's. The partial consequence of that in the 1920's was the resultant recession and Great Depression that lasted throughout the early period of the 1930's. One theory given for that is that the wealth of the country was concentrated in too few hands. That is the reason Franklin Delano Roosevelt came to the Presidency saying, what we need is a new deal. We have to take these cards and reshuffle them and deal them out once again.

Yes, we are in danger of becoming a low-wage country. You see it all around you. Just a few weeks ago, BMW, the German automobile manufacturer, announced it was opening a plant in South Carolina. Why are they opening a plant in South Carolina? For the same reason Honda opened one in Ohio; for the same reason Michelin, the French tire company, opened a plant in South Carolina: Wages in the United States are cheaper and lower than they are in Germany.

One of the principals of the Michelin Tire & Rubber Co. that has a large French tire plant in South Carolina told me that some of their largest profits come from that plant because wages there are so much lower than they are in France.

Why is Honda building automobiles in Ohio and shipping some of them back to Japan and many of them all over Southeast Asia? Because their overall labor cost, building automobiles in Ohio, is lower than it is in Japan. The United States is becoming a low-wage country when you compare it to Germany, when you compare it with France, certainly when you compare it with Switzerland, Belgium, the countries of the European Common Market. And it is becoming a low-wage country when compared to some of the countries like Japan in Asia. That is what is happening to us.

Mr. SARBANES. What these other countries are doing some may say is a good thing, we will get the jobs and they will not have them. But these countries have an economic strategy to be a high-skill, high-wage country. So they are staying out there at the frontier of technology in order to ensure that their people actually can reap a high wage.

First of all, they do not have such gross disparities in their income distribution. They make the kinds of investments Governor Clinton has been talking about that we have not been making. Let me give just one example.

This chart shows nondefense research and development as a percent of your GNP. In other words, as a percent of your gross national product, how much are you putting in to nondefense research and development? What it shows is a great desparity between the United States and Germany and Japan. This line here is the United States, and these high lines up here are Japan and West Germany.

So you can see the difference, the gap that exists here between the United States in terms of our investment in nondefense research and development and what is being done by West Germany and Japan.

Mr. SASSER. According to that chart, if I may interrupt my friend from Maryland, in other words, Germany and Japan are investing twice as much of their gross national product in nondefense research and development as we are in the United States.

Mr. SARBANES. Almost, not quite twice as much.

Mr. SASSER. No wonder Mercedes Benz and BMW automobiles and Sony televisions work so well, if they are continuing to invest that much of their nondefense research and development in developing new techniques and new products.

Mr. SARBANES. The Senator is right. And let me just add to that problem or that challenge, it—it is a challenge—these things can be addressed, they can be dealt with. We need a President prepared to work with the Congress in order to do it. We are not so deep in the box we cannot come out of it. And Governor Clinton is right to have a basic optimism about America, and hope for the future and what we can do. But we need to unleash America's potential. We are being underled when we have a President who vetoes legislation after legislation and who pretends there is no recession.

This chart, Mr. President, shows the relationship between growth and productivity and public investment. You need public investment and you need private investment. But you need public investment in a transportation network, in a communications network, in education, in worker training, all of the things that build up our physical and human assets in order to be more effective economic actors.

This scale shows the percent of domestic product of public investment, and this scale shows productivity growth.

What this shows is the United States, which is low on the scale in public investment and low on the scale of productivity growth. And Japan, which is high in public investment, is also high in terms of productivity.

Mr. SASSER. So what the Senator is demonstrating with this chart is there is a direct correlation between public investment and growth in productivity, is that what this chart says?

Mr. SARBANES. I want to be careful because I do not assert that the only reason for this productivity growth is the public investment. There are other reasons as well, but there is obviously a correlation that exists here.

We are lagging on both counts and you can see that as countries increase their public investment, their productivity growth increases—and Governor Clinton, to his credit, is talking right to this subject. An essential part of his economic package is an investment strategy for America. He has an economic strategy for America to move us out of this situation, to address bringing down the deficit, to building our economic strength for the future, to restoring the incomes of our working families in America, for gaining greater equity in the workings of our economy and to move the Nation forward.

I heard my colleague over there talk about growth projections. It is one thing to talk about 4½-percent growth with the Bush economic plan, or lack thereof, and it is another thing to talk about 4½-percent growth with the kind of program that Governor Clinton is putting forward before the Nation. That is the challenge that is before us, and the American people have to ask those kinds of tough questions because we are now into the season of diversion and distortion and deception, and they have to see through these things. The other side has taken the floor every day this week. I ask my friend, this is the first time we have come to the floor this week to address this?

Mr. SASSER. First day.

Mr. SARBANES. That is right. They have been out here every day this week trying to tarnish Clinton and GORE, pour it on them, heap it on them. The American people have to see through that. The Vice President is running around saying everybody is going to put taxes on you.

That is not what Governor Clinton has said. In fact, he has been very clear on that very point. He is out to reduce the tax burden on middle-income Americans. And then they say, how are you going to pay for it?

He says, very simply, the ones at the top who have scored such great gains over the last decade are now going to be called upon to make a fair contribution—a fair contribution—by instituting a surtax on millionaires.

What is wrong with that? Why should the middle-income people be carrying a burden or the elderly who come in here?

The Senator from Wyoming wants to cut the cost-of-living for the elderly, and he wants to put that right up front, first and foremost. It is shocking. Before you ever put that up front why are not recovering some of the vast amounts that have gone to the very wealthy, the ones who had this party over the last decade? They ought to come in and pay a fair share. And then we can look around at how we have to continue to address our economic problems.

So I think Governor Clinton is offering a hope for the Nation. As my colleague from Tennessee said, it is almost laughable for the crew who has been in charge now for 12 years to claim they are for change. George Bush has been Vice President for 8 years and President for 4 years. And if he goes to the American people and is able to portray himself as Mr. Change, then we ought to be selling a lot of Brooklyn Bridges around this country.

I do not think he is going to be able to do it. I think they are underestimating the intelligence of the American people, and the American people know what is happening out there across the country. That is why tens of thousands of people are showing up in small towns in southern Illinois in order to see Governor Clinton and Senator GORE. Sometimes they are coming out and standing at the roadside hundreds deep, not to hear them, because there is no scheduled stop there, just to see the buses go through on to the next scheduled stop because they know that that bus caravan and the two men on it represent hope for America and represent their chance for the future. And, in fact, Governor Clinton and Senator GORE ordered the buses stopped in one small town in Illinois where they were not scheduled to stop, because of a large crowd that had assembled at the roadside with just a general store and a filling station. Hundreds of people standing out there. They waited 2 hours, at night in Vandalia, IL, for this caravan to come because they know it represents hope; hope for them and for their children and for our country.

Mr. President, I yield the floor.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 579, Linda Gillespie Stuntz to be Deputy Secretary of Energy.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF ENERGY

Linda Gillespie Stuntz, of Virginia, to be Deputy Secretary of Energy.

STATEMENT ON THE NOMINATION OF LINDA G. STUNTZ

Mr. WALLOP. Mr. President, on May 13, 1992, the Committee on Energy and Natural Resources favorably reported the nomination of Linda Stuntz to be Deputy Secretary of Energy by a vote of 19 to 0.

Ms. Stuntz is well qualified for the position to which she has been nominated. She has held numerous high-level positions at the Department of Energy, and is currently serving as Acting Deputy Secretary. Prior to joining the Department of Energy in May of 1989, she practiced energy regulatory and legislative law. From 1981 to 1987, Ms. Stuntz was a member of the staff of the House Committee on Energy and Commerce, serving as minority counsel and staff director from 1986 to 1987.

Ms. Stuntz holds a bachelor's degree in political science from Wittenberg University and earned her J.D. from Harvard Law School.

Ms. Stuntz played an integral role in the development of the national energy strategy now pending before Congress. She is familiar with the complex challenges facing the Department of Energy; and her background and experience have prepared her well to meet the responsibilities of this new position. She has earned the respect and confidence of Secretary of Energy Watkins and is held in high esteem by her colleagues.

Mr. President, I urge my colleagues to join me in supporting the nomination of Linda Stuntz to be Deputy Secretary of Energy.

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

THE WAR IN BOSNIA RAGES ON

Mr. DOLE. Mr. President, this week I met with the foreign minister of Bosnia-Hercegovina, Haris Silajdzic. This was our second meeting. When we first met—a few weeks after Serbia attacked Bosnia—the foreign minister prophetically warned that if the international community did not take strong, decisive action, the war against Bosnia would intensify, tens of thousands of people would die, and hundreds of thousands of civilians would flee their homes.

Tragically, he was right. Today, Bosnia is in its 14th week of war. Minister Silajdzic told me that more than 50,000 people are dead. More than 1.5 million people are homeless. And, all but a fraction of Bosnia's territory is under occupation by Belgrade-led forces.

The hallmark of this occupation is ethnic cleansing. Non-Serbs are forced out of their homes; if they are lucky they are able to make it to the border with Croatia and on to refugee camps there or in neighboring Italy, Austria, or Hungary. If they are not so fortunate, they find themselves in concentration camps. Serb extremists have set up 42 concentration camps in Bosnia and Serbia—an estimated 58,000 people are being held in those camps, most of them Muslims.

Last weekend, the New York Times carried an article which described the brutual war Serbia is waging against the civilians of Bosnia-Hercegovina—Muslims, Croats, and Serbs. I ask unanimous consent that this article be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 18, 1992]

A WAR ON CIVILIANS

(By Michael T. Kaufman)

ZAGREB, CROATIA, July 17.—Beyond the confusions of the war raging on many fronts in Bosnia and Herzegovina, and regardless of whether the armed factions abide by yet another cease-fire agreement that they signed in London today, what has been going on is fundamentally a Serbian war of aggression waged largely against civilians.

After six weeks of travels in Serbia, Montenegro, Croatia and Bosnia and Herzegovina, a visitor gets the overriding impression that whatever old scores are being settled, it is guns and ammunition supplied by Belgrade that are killing civilians in areas beyond the borders of Serbia. Most of the refugees fleeing battle are running from Serbs.

Serbian forces call themselves by different names in different regions, but everywhere they have resorted to the same tactic of sustained artillery shelling of cities, towns and villages. They have destroyed or damaged the hearts of metropolitan areas and have besieged populations of Croats and Muslims, trying to force them to leave so the territory can be given to serbs.

That is what happened in Vukovar, in Croatia, last year. That is what is now going on in Sarajevo, Mostar and Gorazde, in Bosnia and Herzegovina, and may be part of the reason for the renewed Serbian shelling of Dubrovnik, Croatia.

Cyrus Shahkalili, director of the office of the United Nations High Commission for Refugees in Split, Croatia, said what characterizes this conflict is the willingness of armies to attack civilians as the main form of warfare.

AN IRANIAN IS AMAZED

"In my experience I have not seen anything like this, neither among the Kurds with whom I worked nor during the war in Afghanistan," said Mr. Shahkalili, who is Iranian. He added that the policy had originated "with a small group of people in Belgrade in pursuit of what they call ethnic cleansing."

Almost every day brings credible accounts of attacks by Serbian units on civilians in places that have not been visited by foreign journalists. On Wednesday, artillery shells fired from Serbian positions in Bosnia killed at least 12 people and wounded 20 when they landed in a soccer field in the Croatian city of Slavonski Brod, where about 4,000 Bosnian Muslim refugees had been staying.

On Thursday, United Nations officials expressed grave fear for the almost entirely Muslim population of Bihac, a city of about 100,000 in northwestern Bosnia. They said they had received reports that people there were being rounded up and taken to a sports stadium to hear harangues intended to intimidate them and induce them to flee.

Since the fighting started a year ago, not a single part of Serbia or its allied state of Montenegro has come under attack from a Croatian or Muslim force, though Serbs living in Croatia and in Bosnia have been attacked and intimidated, and hundreds of thousands of them have fled to Serbia.

In Belgrade, the Serbian Government of President Slobodan Milosevic has sought to portray the Yugoslav warfare as several distinct conflicts involving different sets of adversaries.

In this view, which Mr. Milosevic has sought to spread abroad, civil wars broke out first in Croatia and then in Bosnia and Herzegovina as Serbs rose up to establish political control of their areas, rather than accept life in newly independent states where they, the largest and most powerful of the peoples of old Yugoslavia, would be minorities.

Mr. Milosevic has insisted that he lacked the muscle to rein in ethnic Serbs outside the borders of his republic. But such assertions are derided by diplomats and by his increasingly vocal political opponents.

WESTERN RETICENCE CONCEDED

One such opponent, Vuk Draskovic, who has led mass protests calling for Mr. Milosevic to resign, charged in an interview last month that the President had "from the beginning orchestrated the war by demagogically using television to play on the fears of Serbs and inflame passions for a greater Serbia."

Mr. Draskovic said Mr. Milosevic was doing this not because he believed in the idea but because, "as a former Communist, he is wrapping himself in the banner of Serbian nationalism simply to stay in power."

A Western diplomat, who was recalled after United Nations sanctions were imposed, lamented: "We never really said it as clearly as we should have. But from the start it was clear that the operating principle for the Milosevic Government was that whatever happened, Serbs could not live under or with any other people, though other people would have to live under Serbs."

This brutal war has brought repressed ethnic hatred to the surface. Accounts of atrocities circulate on all sides, both spontaneously and with the help of official propaganda. Some of the stories of rape, execution and torture, again involving all sides, are believable.

Throughout the area where fighting has take place, Serbian Orthodox churches have been damaged or destroyed, presumably by Croats, and Roman Catholic churches have been shelled, presumably by Serbs.

FIREPOWER AND SHOCK EFFECT

It is hard for those who have witnessed the rage and fury to imagine that the hostilities will come to a halt because of a document signed in London. There have been other agreements, and none of them has stopped the guns for long.

But the greatest evidence of brutality lies in the rubble of heavy-weapons fire. Why the Serbs are using so much firepower to destroy their targets is something that baffles visitors to places like Mostar or to the razed and gutted Croatian resort town of Slano or, most particularly, to Vukovar.

Vukovar, a city of 40,000 to 50,000, was destroyed last year, house by house, during three months of bombardment by artillery, tanks and planes. Today, eight months after the city fell, roses climb through the ruins and trees bear fruit, but the city remains virtually dead.

One explanation sometimes offered is that those who organized the attacks wanted fear and memories to linger for a very long time. Others like Petar Poljanic, the Mayor of Dubrovnik, explained the shelling of his famous old town by saying, "I think they want to destroy what they cannot have."

Mr. DOLE. So the slaughter goes on, while the international community engages in debates, an entire country is in the process of being wiped off the map of Europe while world leaders tinker with diplomacy—pleading for cooperation from the aggressors, and engaging the victims in endless rounds of negotiations which, ironically, seem to lead the people of Bosnia further and further from peace.

Mr. President, the time is long overdue for the world community to take concrete steps toward bringing peace to Bosnia.

The sanctions are working, but too slowly. If we wait for sanctions alone to force a change in Serbian President Milosevic's policies, there won't be a Bosnia-Hercegovina by the end of the year.

Despite the recent success of humanitarian flights into Sarajevo, many other towns have not yet received any relief. The people of Gorazde and Bihac are being starved while Serb forces shell them with increasing ferocity.

But, even the operation into Sarajevo is threatened. The shelling there has intensified. Today, two CNN journalists were wounded, one very seriously.

Yet, the U.N. Secretary General is unwilling to allow U.N. peacekeepers in Bosnia to take on the critical task of securing heavy weapons under U.N. control—so who will.

Well, as I have said for some time now, only NATO can stop Milosevic and his forces. The bottom line is: NATO has the experience, political clout, and military power to take on this mission.

I understand the complexities involved, both politically and militarily. I understand we would be breaking some new ground and taking some risks. But I also understand that thousands of people are dying, and in the eyes of the world no one seems to be doing much about it.

So, once again I say, this is a job for NATO. In over four decades, NATO has never failed to meet a challenge.

TODAY'S BOXSCORE OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the Congressional Irresponsibility Boxscore.

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,984,028,758,799.30, as of the close of business on Wednesday, July 22, 1992.

On a per capita basis, every man, woman, and child owes $15,510.57—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

INTERNATIONAL AFFAIRS AND POSTSECONDARY EDUCATION

Mr. PELL. Mr. President, the Congress has overwhelmingly passed and the President has signed the Higher Education Act, landmark legislation that makes the dream of educational opportunity a reality for our Nation's youth. My colleagues and I on the Education subcommittee have worked long and hard on this bill, and I am most proud of what we have achieved.

At this time, I find it especially appropriate to bring to your attention a recent speech by Dr. John Brademas, president emeritus of New York University and former United States Representative. This address, which he presented at the University of Michigan in May, focuses on two subjects that have always been of central concern to me and that are highlighted in the Higher Education Act reauthorization: international affairs and postsecondary education.

Dr. Brademas eloquently highlights our need to educate international experts, both to define our foreign policy objectives and to maintain our economic competitiveness in this time of unprecedented global change. He also stresses the interrelationship between domestic and foreign affairs, and the ways that we might bring nations together to address issues which concern us all, such as health care and the environment. Most important, Dr. Brademas underlines the leading role which our colleges and universities must play in promoting international expertise and in responding to world events.

The Higher Education Act contains a variety of international education programs, which promote the objectives outlined by Dr. Brademas. In this legislation, we provide assistance to colleges and universities to improve their international and area studies programs, to centers for international business education to promote the internationalization of business curricula, and to American overseas research centers to assist American scholars abroad in gaining access to research materials.

Mr. President, I would commend Dr. Brademas' address to my colleagues and urge that they give careful consideration to his insightful remarks. I ask that the full text of his address be reprinted in the RECORD at this time.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

(University of Michigan, Ann Arbor, MI, May 8, 1992)

ADDRESS OF DR. JOHN BRADEMAS, PRESIDENT EMERITUS, NEW YORK UNIVERSITY

"INTERNATIONALIZING HIGHER EDUCATION"

I am honored to have been invited to take part in a symposium that joins two near lifelong preoccupations of mine, higher education and international affairs.

That I am the child of a Greek immigrant father and a Hoosier schoolteacher mother impressed upon me from my earliest years both the importance of countries other than the one in which I was born and the indispensability to one's life of education.

From my school days, I had a keen interest in Latin America which as a college student took me to Mexico one summer to work with Axtec Indians and led me to write a thesis on a Mexican peasant movement and, still later, a Ph.D. on anarchosyndicalism in Spain.

Although during yet another summer as a student intern at the United Nations, I considered becoming an international civil servant, I decided, for reasons I shall not inflict upon you here, to pursue a career in politics and ran for Congress, from my home district in South Bend, Indiana.

First elected in 1958, I was a Member of Congress for twenty-two years, serving on the committee of the House of Representatives, Education and Labor, with chief responsibility for education, and there took part in writing nearly every major law enacted during that time to help schools, colleges and universities as well as the arts and humanities, libraries and museums and provide services for the elderly and the disabled.

While in Congress I made a number of trips abroad to learn of other educational systems and to talk about ours. I went to Argentina to study the role of universities in President Kennedy's Alliance for Progress and visited child day care centers, schools, technical institutes and universities in Israel, Poland, Norway, the People's Republic of China and the Soviet Union—and I authored legislation, of which I shall shortly speak, to assist American universities in the international field.

For over ten years, from 1981 to 1991, I served as president of New York University, the largest private university in our country and worked, as I shall explain, to strengthen its programs of international studies.

Beyond these political and academic careers, I have been and continue to be deeply engaged in a variety of activities with direct or indirect international dimensions. I serve on a number of boards, corporate and pro bono, with significant activities and programs abroad.

Right now, for example, I am one of two dozen members of the Carnegie Endowment National Commission on America and the New World. All of us, from former secretaries of defense to ex-ambassadors and White House staffers, former Senators and Representatives, have at one point or another held positions in the Federal government with some responsibility in foreign affairs. Our mission? To articulate a new rationale for U.S. foreign policy following the collapse of Communism.

You will, I hope, forgive these personal allusions but I trust they will better enable you to understand my long and intense interest in the subject of this symposium—universities and the increasing internationalization of what peoples and nations do.

Let me start by speaking of the international environment in the spring of 1992. It is a far, far different world than it was even a year ago.

In the former Soviet Union, the cascade of events has been dizzying—the crumbling of the Communist system, the disintegration of seventy years of totalitarian governments and command economies and the beginnings of reform of the old, inhuman and ultimately unworkable structures.

Last fall I was in Moscow, a city I had first visited over thirty years ago, and so I've seen with my own eyes something of the extraordinary changes during those three decades. Last summer I welcomed to New York University, nine days after his election as the first president of the Russian Republic, Boris Yeltsin, and what Yeltsin said then would have been unthinkable even three years ago. He endorsed human rights, a market economy, freedom for the Baltic states and the teachings of the Gospel.

In the Middle East, ancient enemies are flirting fitfully with the prospect of genuine dialogue about how to find a lasting peace.

In Central and Eastern Europe, nations formally under Communist rule now have elected governments and are working to strengthen democratic processes and develop mixed economies.

In Afghanistan, as Soviet power fades away, rebel forces are moving in.

Authors of the agreement that merged the European Community and the European Free Trade Association seek economic and other benefits for 380 million people in 19 nations. The North American Free Trade Agreement signed by the United States, Canada and Mexico promises a market of nearly as many consumers with a combined economic output of $6 trillion.

Alongside these generally positive development, however, are continuing Communist dictatorships in China and North Korea, violent ethnic struggles in Yugoslavia and some of the new republics of the former Soviet Union and ongoing strife in Kashmir and Cambodia.

Standing on the sidelines, as it were, with the bulk of the world's population and the least of its comforts, are the developing countries of Africa, Asia and Latin America.

Meanwhile, in Iraq, Saddam Hussein is still in charge, thumbing his nose at the U.S. and the U.N. and refusing to implement the agreement that ended the Gulf War.

And what about the situation in our own country?

Racial prejudice, a century and a quarter after the Civil War, is still with us. The events in Los Angeles are a tragic reminder that relations among the races, especially in the cities, are still a divisive, corosive, unresolved dilemma of America life.

Unemployment has jumped to a 7-year high and, as the people of Michigan certainly know, the nation's economy stagnates in recession.

The gap between rich and poor in the United States is now greater than at any time since the end of World War II. The youngest suffer most. In some American cities, infant mortality rates are worse than in Third World countries while a walk down the streets of any city in the land shows how far we are from solving the problems of the homeless.

One certainty in American life is the continuing rise in health care costs, 11 percent of GNP today and headed for 15 percent by the year 2000. Yet more than 35 million Americans have no health insurance at all.

Despite the conviction of Manuel Noriega, the United States still has no effective policy for coping with illegal drugs, and in many communities, crime, often drug-related, stretches police, courts and prisons to the breaking point.

Pollution of the air, land and water remains a threat to our quality of life. The country's deteriorating roads, bridges, tunnels, railways and airports—all indispensable to a vibrant economy—require an estimated $2 trillion to be restored to acceptable standards.

Yet I remember how Ronald Reagan, campaigning in 1980, promised the nation a balanced budget by 1984. Today, after nearly a dozen years of his and his successor's policies, the Federal deficit has soared to nearly $400 billion, over $1 billion a day, a development with profoundly crippling consequences for the American people and our strength at home and in the wider world.

It is my own deeply held conviction that in order to deal with every one of these challenges, both in our own country and abroad, we need all the knowledge, intelligence and imagination we can muster. Although it will in the best of circumstances be difficult to cope successfully with such formidable problems, it will be impossible without a cadre of highly educated men and women.

And to prepare a generation equipped to understand and handle issues, domestic and international, of such immense complexity will be the task of America's colleges and universities—and the responsibility of the American people.

Consider for a moment the impact of two major events of recent months—the demise of the Soviet Union and the Persian Gulf War. Both these developments leave no doubt that the United States is now the world's only military superpower.

But the American people are more and more coming to realize that the most crucial ingredient of global leadership today and for the years ahead is not military but economic.

"After the Cold War," reads a headline in a recent column in London's respected Financial Times (March 16, 1992), "Economics is King."

Is the United States ready to compete with Japan and a German-led Europe? Study after study in recent months warns that by allowing its investment in education to lapse, the United States is in danger of losing its lead in many of the key industries of the next few decades. In crucial areas of high technology, we are told, the United States is losing badly to foreign competitors. Where America a decade ago had a commanding lead, our companies are either no longer a factor in world markets or are expected to fall hopelessly behind over the next five years.

How well in this new, far more competitive international economy, are we in the United States performing in terms of education?

Well, you and I know that we have allowed our elementary and secondary schools to be weakened, dangerously eroding the capacity of the nation's work force. At the college and university level, on the other hand, America is still the world's leader. No other country can match the quality of our institutions of higher learning or the access of our citizens to them.

But when it comes to the subject of this symposium—how well we in the United States are doing to understand other nations, other peoples, other cultures, in a world that will never be narrow again—the picture is decidedly more mixed.

The litany of our shortcomings in international education—reiterated in a wave of reports over the last decade—includes: a scandalous incompetence in foreign languages on the part of American high school and college students; serious shortcomings in students' knowledge of geography; inadequate investment in research, instruction and advanced study of foreign languages and cultures.

Here I note a report issued in 1983 produced by a group I chaired, a panel of the National Commission on Student Financial Assistance, created by Congress, which deplored our deficiencies as a nation in advanced international studies. Entitled, Signs of Trouble and Erosion: A Report on Graduate Education in America, our study pointed to the dramatic fall-off over the preceding decade in general expenditures for university-based international studies. Our Commission identified a serious lack of American experts on the cultures, economies and foreign policies of the nations of Asia, Sub-Saharan Africa, the Middle East, Eastern Europe and the Soviet Union. Surveys by other organizations have paralleled these findings.

I am glad to say that many universities, including my own New York University, have reinstituted foreign language and other international studies requirements.

Indeed, when I came to NYU just over a decade ago, I said that one of my major commitments would be to strengthen international studies and research—and my colleagues and I have done so.

I knew that New York University already had one of the finest programs in the country in French culture and civilization.

Because as a Member of Congress, I represented the district where Studebaker automobiles and Bendix brakes were made, I was highly sensitive to the economic and political impact of Japan on my native Midwest. So once at NYU, I was determined to create a center in our graduate school of business for teaching and research on the entire spectrum of economic relations between the United States and Japan, and we have done so.

Given my Greek roots, you will not be surprised that I take particular pride in the establishment at New York University five years ago of the Alexander S. Onassis Center for Hellenic Studies.

In the presence of Italy's Prime Minister Giulio Andreotti two years ago, we dedicated our Casa Italiana, financed by a gift from NYU trustee Baroness Mariuccia Zerilli-Marimo.

Lewis Glucksman, another trustee, and his wife Loretta enabled NYU to establish an Ireland House while more than one foundation has contributed to the Skirball Department of Hebrew and Judaic Studies, largest of its kind in the United States.

We have had for some years the Hagop Kevorkian Center for Near Eastern Studies as well as a Deutsches Haus for our German program. My chief priority for New York University, in this Quincentenary year, is to establish a Center for Spanish Studies.

Nearly all of these foreign studies centers are part of our Faculty of Arts and Science but there are international dimensions to offerings at other NYU schools as well such as, most notably, Business and Law.

I am glad to say that my successor as president of New York University, L. Jay Oliva, an Irish-Italian, Gaelic-speaking Russian historian, shares my enthusiasm for such international offerings.

I have cited just a few examples of what we at NYU are doing but I am well aware that colleges and universities all over the United States are, in a wide variety of ways, responding to the increasing internationalization of human activities—economic, political, environment, cultural.

How to pay for such programs must, of course, be a fundamental concern of university leaders. My view, not surprisingly, is that we must seek funds for international studies from the diversity of sources that presently support higher education—individuals, business and industry, private foundations and governments. And I certainly do not confine myself in any of these respects to approaching benefactors in the United States. In our search for resources, we must not hesitate to look abroad. I'm of the Willy Sutton school of fundraisers.

I have nonetheless long believed that our own Federal government should be doing far more than it now does to support international studies. In fact, it was twenty-six years ago that as a fourth term Congressman, I authored the International Education Act, signed into law in 1966 by President Lyndon B. Johnson. This measure aimed at helping colleges and universities in the United States—it was not a foreign aid bill—promote, at both the undergraduate and graduate levels, teaching and research on other lands and cultures and on issues in international affairs.

All these years later I still believe the International Education Act was a first-class statute but unfortunately neither Presidents nor Congresses proved willing to press for or vote the money to carry out its purposes.

Although I am always suspect of simplistic cause-and-effect correlations, I am convinced that had we as a nation invested seriously in this effort to learn more about other countries and societies, the United States might have avoided some of the most wrenching problems we have suffered in recent years—in Vietnam, Central America, Iran and Iraq.

Here I recall that 25 years ago, Harvard's great authority on China, John King Fairbank, observed at an International Congress of Orientalists that there were no experts on Vietnam in attendance. Fairbank warned then that there were probably no more than eight full-fledged scholars in the United States pursuing research on Vietnam—this at a time when Vietnam was the overriding problem in U.S. foreign relations!

Consider more recently that when Iraq invaded Kuwait two summers ago, the U.S. military found only 18 of 3 million American active-duty and reserve troops fluent in the Arabic dialect spoken in Iraq.

The fact is that in instance after instance, American policymakers have proved disgracefully ignorant of the political, social, economic and religious backgrounds of countries involvement with which has cost our nation dearly in human life, treasure and national prestige.

It is obvious, for example, that the United States was caught unprepared for the breakup of the Communist empire and that even now we lack sufficient depth of personnel who know the languages, cultures and economies of most of the new republics of the former Soviet Union.

If you think education is expensive, someone once observed, try ignorance.

Well, what ought we now to be doing, those of us who assert that American colleges and universities must far more aggressively than we have been doing invest in international studies and research?

Here are some suggestions of mine.

First, we must, as Lincoln said, think anew. We must give serious, substantial, systematic intellectual attention to the new world of which we are a part, a leading part, to be sure, but no longer the commanding part.

This thinking must be done by scholars in the university, in think tanks and foundations, by leaders of business and industry, labor and the professions, and in government.

What are some of the questions we must ask?

To begin with, how is the new world different from the old?

Well, President Bush has spoken of what he calls the "the New World Order." But this is a phrase he does not understand and cannot define because there is no "new world order."

Despite the report last March of the "Pentagon Paper" advocating, as a long-term strategy, maintaining America's position as the world's only superpower, a nation's power cannot be calculated in military terms alone. The United States obviously possesses the strongest armed forces on the planet. Neither Europe nor Japan has the capacity of the U.S. to reach throughout the globe both militarily and politically. But the United States has not for over two decades enjoyed equivalent economic hegemony. Europe today matches the United States in both population and economic strength while Japan challenges us economically as well.

As former Secretary of State George Shultz said last fall, "In a time when people are talking about a New World Order, it is shortsighted indeed to focus our concern on things having to do with security and political relations and to essentially ignore economics."

In my view, the relative decline in American economic weight—and this is the subject of another speech!—is in no small part the result of policies adopted during the last dozen years in Washington, D.C., by the highest officials of the land, policies of borrow—now, pay later—of consuming lots and investing little, of wanting to fight wars but not to pay for them. Whatever the reasons, the American economic dominance that characterized the 20th century is waning.

If the global balance of economic forces has changed, so, too, have the ways in which one country relates to another. Capital and communications, trade and transportation, information and immigration—all these activities, rapidly expanding across national borders—mean that international relations can no longer be defined solely in terms of relations between and among sovereign states and their governments. Much more of the world's business, commercial and nonprofit, will be conducted outside the framework of governments. Indeed, in today's globalized economy, manufacturing, communications and finance are worldwide enterprises, often completely detached from governments, and in competition with one another, not with national units.

The internationalization of communications, capital, technology and trade has several consequences.

So far I have emphasized how the world has changed because of powerful changes in economic factors.

But in the post-Cold War world, we are compelled to acknowledge as increasingly potent two other pressures, better say in some cases, explosions—nationalism, on the one hand, and, on the other, the drive for democratic participation. And I need not insist that nationalism and democracy do not necessarily go hand in hand.

I cite yet another issue that has emerged on the international scene in recent years—human rights.

I was present when President Jimmy Carter, early in his presidency, spoke at the University of Notre Dame, in my home Congressional district, and declared that encouraging respect for human rights in other countries would be a hallmark of his foreign policy. It was, and now no leader of any nation can expect to avoid criticism if he demonstrates insensitivity to human rights abuses. George Bush will hear more this year about Tiananmen Square than he wants to.

Another fundamental question we must ask: How, in the post-Cold War era, do we define our national interests and, accordingly, determine the objectives of our foreign policy and our defense policy?

That we can no longer think of national security exclusively in military terms does not mean that we should not carefully consider our defense needs and provide the resources to meet them. Here I applaud the contribution of Congressman Les Aspin, of Wisconsin, chairman of the House Armed Services Committee, who has been doing just the kind of hard thinking for which I am calling. Chairman Aspin has produced a series of "Working papers" in which he proposes a new "threat-based" method for shaping and sizing the military forces the United States requires for a world in which the Soviet threat has basically disappeared.

In the old world, Aspin observes, there was only one threat but in the new one, there will be diverse threats and we have to learn what they are. In the old world, he continues, the policy of deterrence reduced the prospect of nuclear war but in the new world, deterrence will not always stop an adversary from threatening American interests.

Just ten years ago, in the first commencement at NYU at which I presided, I urged that American research universities give more scholarly attention to understanding the process of making national security policy, of determining our vital interests and how to defend them and deciding how much to spend to do so.

Now that we are in the post-Containment world, I believe American higher education has even more responsibility for scholarship and teaching on how American foreign policy and defense policy are in fact made, what current policies are and what in the future they ought to be. Certainly we must incorporate into these equations, in ways we have never done before, economic considerations.

Thinking anew, it must be evident, involves not only learning about other countries and cultures and studying foreign languages and literatures. To do all this effectively would itself be a monumental achievement but is still not enough.

Indeed, I must here interject that we cannot intelligently or realistically discuss America's role in the world without considering our domestic situation. The United States cannot effectively carry out a foreign policy that contributes to a decent world order if it refuses to get its own house in order.

I speak here both of making real for our own people the values we espouse on the international scene and of managing our Federal budget in responsible, adult fashion. If we fail on either count, we shall pay a high price abroad as well as at home.

I have said that we must focus more than we have ever done before on America's economic position in the new, competitive world. It is obvious that Japan and Europe are now, with the United States, the other great economic powers.

It is also clear that with the Cold War behind us, the threat of nuclear conflict has diminished. But we realize, too, that nuclear proliferation is a danger we have not yet surmounted.

We know as well that the developing countries, not without reason, are concerned that Western preoccupation with the former Communist world can marginalize them.

Although international trade is crucial, I think it evident that there will be much more emphasis on non-commercial issues that cut across national borders, issues of the environment, health, migration, narcotics, population.

In all these fields the transnational factors will mean increasing resort to multilateral institutions rather than action by individual nation-states. For example, despite the horrendous costs, there will be rising demands for international peacekeeping forces.

The implications of everything I've been saying are, I believe, profound for American government, American business, American science and technology and for American high education.

Reflecting on what America's foreign policy objectives ought now to be is a task not only of the Carnegie Endowment National Commission on America and the New World. Such groups are the Council on Foreign Relations and The Heritage Foundation are also studying the question. From what I gather, the Department of State and the National Security Council have not yet got around to reexamining such fundamental matters.

Here are some of the factors to which I suggest American colleges and universities must now attend, beyond the foreign policy, national security and economic questions I have cited.

How many American universities are prepared for research on and teaching about the new Europe, both the European Community and the former Communist states of Eastern Europe, the new Russia, new Ukrain and the other new republics?

How many American universities are ready to teach, in informed and sophisticated fashion, about the United Nations and other multinational organizations?

How prepared are we with first-class scholarship on the whole range of such problems as the environment, health and immigration responses to each of which almost by definition spill over national borders?

Now I am well aware that I have not exhausted the litany of challenges that confront American higher education in preparing students for what is more accruately called the "New World Disorder." I have said little, for example, about the implications—political, social and economic—of the increasing internationalization of culture.

I realize, too, that the range of subjects to which the internationalizing of huuman activities now summons colleges and universities, in the United States and in other countries, goes beyond history and economics, languages and literature, to embrace anthropology and the arts, sociology and the natural sciences, communications and public administration.

The breadth and depth of teaching and research on the international dimensions of all these subjects mean that it would be impossible for every university to attempt to cover all of them. No nation, including ours, has enough resources, human and financial.

That is why I am sure we shall see American universities paying much more attention, in an era of limits, both to specializing in certain fields and to cooperating more closely with each other, for example, sharing professors, libraries and even students.

I believe, nonetheless, that every college and university that pretends to be a serious center of teaching should be able to give instruction on the basic factors that define the New World scene and to do so at the undergraduate as well as graduate level. Every student who takes his or her baccalaureate degree should have a rudimentary knowledge of the world beyond his or her own borders and be able, as an educated person, even if such knowledge is not essential to his or her particular profession, to think intelligently about that world.

That concern with our deficiencies in international education is finding some resonance in Congress is demonstrated by legislation enacted late last year on the initiative of Senator David Boren, the Oklahoma Democrat who chairs the Senate Select Committee on Intelligence.

Senator Boren's National Security Education Act, signed into law last fall by the President, represents a major new effort to improve foreign language and international studies programs.

The law authorizes $150 million in new money, that is, beyond funds currently expended for international education. I understand that $35 million is to be released in fiscal 1992 and that $115 million will be fed into an interest-bearing trust fund to help finance the program in future years.

The Boren measure has three components: Twelve million dollars will be earmarked for undergraduate scholarships for study abroad, with priority to students going to countries not emphasized in other such U.S. programs.

Twelve million dollars will be provided for graduate fellowships in foreign language and international studies, with priority for areas of weakness in U.S. focus. The fellows would be required for each year of fellowship aid to teach or work for government agencies for one to three years. I note that $12 million represents a 100 percent increase over present levels of Federal support for such fellowships.

And twelve million dollars will be granted to universities to develop curricula for foreign language, international and area studies.

These new monies would add to the current Title VI Department of Education and State Department funds for similar programs.

Although there are still some problems to be worked out before the Boren Act program gets off the ground, some observers believe it the most promising advance for international education since the National Defense Education Act of 1958.

As I have said, there are important aspects of international studies I have not today attempted to discuss. I have sought to be illustrative rather than exhaustive.

At the start of my remarks, I said I would approach this subject from my experience as legislator and university president. It must be obvious that I am a vigorous advocate of substantially increased investment in what we commonly think of as foreign language and areas studies. The NDEA and the Peace Corps are, with the Fulbright exchanges, examples of our most enlightened government policies. They have served the national interest, enhanced the lives of the individual participants and strengthened the fields with which they become associated.

There are, however, certain issues I want to cite as worthy of careful attention. Let me say a few words about them.

We need a major expansion of international scholarly exchanges, of both students and professors.

We should give particular attention to bringing people from the former Communist world to the United States. I speak not only of full-time students and teachers but of managers who could come for relatively short stays to learn how a business works through a combination of both formal classes in American business schools or continuing education programs and internships in the companies.

My friend, James H. Billington, the Librarian of Congress and eminent authority on Russian history, has called for "the international mobilization of scientific and business talent for the large-scale conversion of industrial from military to peaceful uses." Conversion of the former Soviet defense machine to civilian purposes is profoundly in the interest of the West as well as the peoples of the East. Prodded on one side by Richard Nixon and the other by Bill Clinton, even George Bush finally acknowledged that it was imperative that the United States help Russia, the Ukraine and the other republics reform their economies and build democratic political institutions.

I reiterate that there are significant roles here for American colleges and universities. Leaders of American higher education should certainly, both individually and through our several institutional associations, do what they can to encourage in Eastern Europe and the Commonwealth of Independent States the development of free and open technical institutes, academies and universities.

At least some American universities should create programs or centers to study the European Community, in all its aspects, political, economic, military and cultural.

I have urged attention to systematic teaching and research on multilateral institutions and I include here not only the United Nations, the World Bank and IMF but also international nongovernmental organizations such as the Red Cross, international philanthropic foundations and educational, health and scientific associations.

Earlier this year, the Carnegie Commission on Science, Technology and Government issued a report, Science and Technology in U.S. International Affairs, which called for "sharply improved incorporation of scientific and technological insight into the nation's international policies." The report notes how "science and technology transform foreign relations and usher in new choices, risks and benefits that societies around the world must confront individually and in common. Greenhouse gases, the AIDS virus, agricultural biotechnology, advanced energy systems, new pharmaceuticals, information technologies . . . shape global competition and cooperation. The research base itself, supported by each nation, also needs cooperation if it is to grow and prosper."

Another subject that universities in the West and especially the United States must not neglect is the developed world of Asia, Africa and Latin America. The desperate needs of those continents will for many years to come pose political, economic and moral challenges to the industrial democracies. Despite the necessity of paying more attention to the former Communist empire, scholars must not abandon the poorer nations of the South.

Allow me now to make a broader point. As I reflect on what I've been trying to say to you about American universities and the post-Containment world, I believe the time has come for a reconsideration of the entire process of foreign policymaking by the government of the United States. I know that my friend and colleague, Dr. Madeleine Albright, president of The Center for National Policy in Washington, D.C., who served during the Carter Administration on the staff of the National Security Council, is convinced that in light of the enormous changes in the world since passage of the National Security Act in 1947, this is an especially apt moment for such a review.

On Capitol Hill, four of the nation's most respected legislators, Representatives Lee Hamilton, Indiana Democrat, and Willis Gradison, Ohio Republican, and Senators Boren and Pete Domenici, New Mexico Republican, are now pushing for an in-depth look at how Congress is organized to do its job and to recommend reforms. Certainly the role of Congress in shaping U.S. foreign policy must be on any agenda of reform.

Having spoken of Congress and foreign policy, I want to conclude this address with an observation that may appear to you partisan, especially in a presidential campaign year.

But you should not be surprised if someone who was fourteen times a candidate for Congress continues to have strong feelings about the course of our country and the policies of our national government.

My view on who should be elected in November is not, however, the reason I end my remarks on how U.S. universities should pursue international studies with the following plea. I believe the time is here for a searching reexamination of the principles on which the Founding Fathers based the Constitution of the United States and the American Republic and how those principles have been and are being applied in the field of foreign policy.

In our own lifetime, the threat to our physical security, first from Hitler and the Axis powers, next from the Soviet Union, led in the first instance to U.S. engagement in World War II; in the second, through the policy of Containment to American leadership of the West during the period of the Cold War.

Even, as I have said, several groups are now reassessing the assumptions on which U.S. foreign policy is premised, so, too, I believe, most scholars at the nation's universities undertake this effort. Central to any such reevaluation must be an examination of the roles of the Department of State and the National Security Council, of U.S. military forces and intelligence agencies, and, of course, of the responsibilities, in foreign affairs, of the President of the United States and the executive branch in general.

But we need a careful, hardheaded review not only of the President's obligations in the shaping and conduct of American foreign policy but of the duties of Congress as well.

To cite only recent events, I refer to the Iran-Contra scandal, U.S. intervention in both Panama and the Gulf War and reports over the last few months of how both the Reagan and Bush Administrations acted to strengthen the military and economic power of Saddam Hussein. All these developments, to one degree or another, are the subjects of three new books I have been reading—Mr. Bush's War, by Stephen R. Graubard; George Bush's War, by Jean Edward Smith; and The Imperial Temptation: The New World and America's Purpose, by Robert W. Tucker and David C. Hendrickson—and two articles in the latest (Spring 1992) issue of Foreign Affairs, one by Hendrickson and the other, "What New World Order?" by Joseph S. Nye, Jr.

Running through all these analyses is the blunt assertion that the present Administration in particular has, in the conduct of the nation's foreign affairs, in effect betrayed the fundamental ideals on which our country was founded.

This is a searing indictment. Indeed, I am sure this issue will be part of the presidential campaign this year, as it should be. Foreign policy, after all, is for any nation a life-or-death matter.

Based on my experience of twenty-two years in Congress, and having served with, not under, six Presidents—three of each party—and having closely observed the two since I left Washington, D.C., I must tell you that I have become increasingly disturbed by what I believe is a widening gap between the principles at the core of the American republic and the activities of American Presidents in foreign affairs. I am as well, I must acknowledge, increasingly critical of the failure of Congress, which for most of the years since my first election, in 1958, has been controlled in both bodies by my party, to carry out the responsibilities in foreign policy assigned to it by the Constitution.

If what I have said is controversial, so be it. With the end of the Cold War, with neither Democratic nor Republican political leaders, neither President Bush nor Congress, standing high in public esteem, now may be the time, whoever wins in November, for the Nation's scholars to go back to first principles, re-read the Constitution, seriously analyze the history of the postwar years, carefully assess the new post-Cold War world and to do so in light of the internationalizing developments of which I have been speaking.

In my view, the American people need a vigorous debate about these matters. Such a debate on such fundamental questions is the very stuff of a free society, the life's blood of a lively, energetic democracy.

And where should such discussion of America's values and America's place in the world begin if not in America's colleges and universities?

UNEMPLOYMENT IN RHODE ISLAND

Mr. PELL. Mr. President, it was announced yesterday that the unemployment rate in the State of Rhode Island increased once again in the month of June to 9.7 percent—the highest jobless rate in the State in 9 years.

There are now 49,300 Rhode Islanders who want and need work but who cannot find jobs. That means that nearly 1 out of every 10 Rhode Islanders who wants a job is jobless. And that is not just bad economic news, it is a personal economic tragedy for each of those willing but jobless workers and for their families.

In Rhode Island, as in so much of our Nation, things are not getting better; things are getting worse. This is another strong signal that we must have a change in the direction of our country and in our national economic policy.

Hoping that the economy will improve is not enough. Action is required to make the economy better. Among other things, we should tear down the artificial budget walls, and make it possible to use the savings in defense and military spending to increase spending on needed public works, public facilities, job training, and defense conversion.

What is most important is that the administration and the Congress break the deadlock caused by actual Presidential vetos and by threatened vetos and act with a new sense of urgency to restore economic growth, create jobs and rebuild public confidence in the future of our country. I ask that an article on the increase in unemployment in Rhode Island from the Providence Journal of today be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Journal, July 24, 1992]

JOBLESS RATE IN RHODE ISLAND HITS 9-YEAR HIGH AT 9.7 PERCENT—LONGER WORKWEEK A HOPEFUL SIGN

(By William J. Donovan)

Rhode Island's seasonally adjusted unemployment rate continued to climb in June, reaching 9.7 percent, the state's highest level in nine years.

Rhode Island has a higher unemployment level than the 11 largest industrialized states had in June. The federal government's survey of those 11 states is the only national survey reported on a monthly basis.

However, there was a glimmer of good news in the report from the state Department of Employment and Training. The average hours worked per week grew in June, suggesting that business is improving and local employers are paying more overtime to meet demand.

Leonard Lardaro, an economist with the University of Rhode Island, believes the June report indicates the economy is firming for a slow recovery. He noted that the workweek averaged nearly 41 hours last month, up 0.4 of an hour from May and 1 hour from a year ago.

Typically, employers will pay workers additional overtime at the start of a recovery, until they are certain the upturn will last.

"Almost 41 hours per week is high historically," said Lardaro. "I think we're at the point now where a number of manufacturing firms are going to have to resume hiring because they can't sustain the overtime."

But June's basic unemployment news was bad.

According to the Department of Employment and Training, the jobless level rose 0.4 of a percentage point from May's 9.3 percent and is well above the 8.5 percent rate of June 1991.

In terms of numbers, unemployment reached 49,300 in June, up from 48,900 in May and 42,300 in June 1991. There were 472,800 Rhode Islanders holding a job, up from 469,500 in May and 472,000 in June 1991.

The state's labor force also grew for the fifth consecutive month, to 522,100, from 518,300 in May. In June 1991 the labor force was 514,400.

Nationally, unemployment stood at 7.8 percent in June, up from May's 7.5 percent.

"We still have below-average unemployment increases," said Robert Langlais, supervisor of research with the Department of Employment and Training. "There are more people looking for work, but the jobs just aren't being created yet to absorb them."

WORST JOBLESSNESS SINCE 1983

The last time Rhode Island's jobless rate reached 9.7 percent was in February 1983, when the state was feeling the lingering effects of the recession of the early 1980s and beginning a decline in the unemployment rate that bottomed out at 2.8 percent in December 1988.

Among the 11 largest industrial states tracked by the federal government, only California's rate of 9.5 percent was close to Rhode Island's, New York was next at 9.2 percent, and Massachusetts was tied for fourth with Michigan at 8.8 percent.

As has been the case in recent months, job growth in June was below its average of recent years. During the past 15 years, the total number of jobs in the state has increased by about 2,900 from May to June. This year, the number of jobs remained unchanged at roughly 418,000.

Two areas in particular were disappointing. Manufacturing has averaged an increase of 1,000 jobs in June during the past 10 years, but grew by only 400 jobs this time. The wholesale and retail trade, which has averaged 1,900 new jobs during the same period, added 700 jobs this June.

Those gains were offset by a drop of 2,100 in services, where the decline was caused primarily by a dropoff in education employment. Teachers, cafeteria workers and other school workers who are taken off payrolls in the summer cause the job count to decline.

Lardaro, the URI economist, was encouraged by the fact that the level of jobs was constant. This, he said, "could be a signal that we're finally not going down anymore and that June might be the beginning of a sustained upward trend for the state."

But Lardaro was most impressed by the increase in the work week.

In Pawtucket, Norman Adams, president of Jenckes Machine Co., which makes forms for the latex industry, said the company recently had its first backlog before its annual vacation shutdown in five years. As a result he's been authorizing more overtime to meet the work.

However, Adams doesn't expect to add to his staff of about 15 full-time workers.

"You can't add people until you have more of an indication of long-term purchase orders," said Adams. "(The orders) just aren't there yet."

TRIBUTE TO THE SEVEN AMERICANS WHO DIED IN THE CRASH OF THE V-22 "OSPREY"

Mr. SPECTER. Mr. President, today I would like to pay tribute to the seven Americans who lost their lives in the tragic crash of a prototype of the V-22 *Osprey* at Quantico, VA, Marine Corps Air Station. The crash occurred as the aircraft was completing a 700-mile nonstop flight from Eglin Air Force Base, on Monday, July 20, 1992.

The deceased include civilians Tony Stecyk, crew chief, 36, of Lester, PA; Pat Sullivan, pilot, 43, of Aston, PA; Bob Rayburn, test director, 34, of Newark, DE, and Gerry Mayan, instrumentation engineer, 30, of Smyrna, DE. The marines were Maj. Brian J. James, copilot, 34, of Baltimore County, MD; Master Gunnery Sgt. Gary Leader, maintenance chief, 40, of Milwaukee; and Gunnery Sgt. Sean P. Joyce, 32, of San Francisco.

Mr. President, I would like to extend my condolences to each of the families and all the friends of the deceased, in particular the colleagues of Tony Stecyk, who are employed at the Boeing plant in Ridley Township, PA.

There is no greater service an American can provide to his or her country than to give their life in the line of duty and for the betterment of our Armed Forces. The marines and Boeing employees who lost their lives on Monday were all dedicated to the task of proving the military effectiveness of the V-22 *Osprey*, an aircraft employing a revolutionary tilt-rotor flight technology. Because of the bravery and sacrifice of these great Americans, future generations of American soldiers will have the benefit of a fully tested state-of-the-art system which has not been spared any developmental task as it has been introduced to our Armed Forces.

TRIBUTE TO AMBASSADOR JUERGEN RUHFUS ON THE OCCASION OF HIS RETIREMENT FROM THE GERMAN FOREIGN SERVICE

Mr. JOHNSTON. Mr. President, on behalf of all my colleagues, I extend a reluctant farewell to Ambassador Juergen Rufhus upon the occasion of his retirement from the German Foreign Service—a man who, during his tenure, I am very proud to say has been an excellent representative of Germany, an ardent supporter of United States interests globally and a close personal friend.

Ambassador Rufhus' retirement from the Foreign Service marks the end of 37 years of illustrious service for the Republic of Germany. He studied law and economics at the Universities of Munich and Muenster, during which time he received the prestigious Fulbright Scholarship and studied at the University of Denver/Colorado. After receiving a doctorate of law at the University of Muenster, he entered the Foreign Service and received assignments in Geneva, Dakar, and Athens.

He later was head of the Political Directorate for the Western Hemisphere, adviser to the Federal Chancellor on Foreign Affairs and Security matters, Ambassador to the United Kingdom of Great Britain and Northern Ireland, head of the Political Directorate-General for Third World countries, State Secretary of the Federal Foreign Office, and finally, from 1987 to present Ambassador to the United States of America.

The fall of the iron curtain, the reunification of Germany, the collapse of communism—these events were largely unforeseen and unanticipated and yet Ambassador Rufhus responded to each with a great deal of wisdom and vision.

Speaking to a meeting of the Board of Governors of B'nai B'rith, the world's largest Jewish organization, he sought to ease the fears that the prospect of a reunified Germany posed for the Jews and indeed many people around the world. "A democratic Germany will pose no threat to anyone," Rufhus said, emphasizing that Germany would remain firmly anchored in the West—that it would not be neutralist—and would continue its commitment to NATO as a political alliance.

Ambassador Ruhfus strived to ensure that during the often difficult process of reunification, the interests of the United States were always fully represented while maintaining a tireless dedication to his own country as well. He has earned the enduring respect of the citizens of Germany and of people throughout the world whose lives have been touched and enriched by his service to his fellow man.

Mr. President, the sweet sadness of the Ambassador's retirement is made especially acute by the fact that he will be accompanied in his departure by his wife, Karen. The Ruhfuses were truly a team in much of the official diplomacy of the German Embassy. In this regard, Mrs. Ruhfus had few peers in the diplomatic world. She will leave a huge vacuum in the lives of so many in this city who love her and who will miss her warmth, her sense of humor, and her zest for life.

INTERPRETING THE PRESSLER AMENDMENT: PART II

Mr. PRESSLER. Mr. President, on March 19, I addressed the Senate regarding the U.S. Department of State's interpretation of the so-called Pressler amendment. The amendment, which became law as part of the 1986 Foreign Assistance Act, was designed to curtail the Government of Pakistan's development of a nuclear weapon.

In 1990, when the President was unable to certify that Pakistan did not possess a nuclear weapon, all foreign assistance to that country was terminated. However, earlier this year, it came to my attention that the State Department was continuing to allow the licensing of arms exports to Pakistan pursuant to private sales.

As I explained in my statement of March 19, I asked the State Department for a copy of the memorandum of law it used to reach the policy decision that the Pressler amendment could be construed to allow for continued licensing of private, commercial sales of military parts, and technology. I was provided an unsigned paper purporting to outline the State Department's rationale for its interpretation of the amendment.

In a letter to Secretary of State Baker dated March 12, 1992, I explained the paper failed to answer how the State Department, as a matter of law, could permit the licensing of private sales to continue in light of what appears to be a straightforward statutory ban on the sale or transfer of any military equipment or technology to Pakistan. Part of my reasoning is based on the fact that during my tenure as a lawyer at the Department of State, departmental interpretations of legislation were based on memoranda of law written in a specific format and signed by the lawyer responsible for providing the opinion—not unsigned papers created in response to a congressional inquiry. I again asked for a copy of such a legal memorandum.

I received a response dated April 21, 1992, indicating "the paper was drafted by the staff on the Legal Adviser's Office and personally approved by the Legal Adviser as the legal opinion of that office on the interpretation of the amendment. You may treat it as such." Frankly, I found this approach to answering my question rather strange.

Last month, I again contacted Secretary Baker. The core of my concern continues to be that the unsigned paper appears to have been written to respond to my concerns rather than to be used to direct those responsible for policy decisions at the State Department. I asked again for a copy of the memorandum of law written at the time the Pressler amendment became law or, at the very least, at the time it was implemented. I would ask unanimous consent that the exchange of correspondence between the State Department and me be included in the RECORD following my remarks.

Mr. President, Senator PELL, chairman of the Senate Foreign Relations Committee, shares my interest in this issue. I am grateful to him for his help in scheduling a hearing of the Foreign Relations Committee to consider this matter more fully. That hearing is scheduled to be held next week. I hope that it will help to resolve the entire issue of the licensing of private, commercial sales of military parts, and technology to Pakistan.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 12, 1992.

Hon. JAMES A. BAKER III,
Secretary of State, Washington, DC.

DEAR MR. SECRETARY: I have reviewed the paper your staff prepared in response to the exchange you and I had during a Senate Foreign Relations Committee hearing on February 5, 1992, regarding application of the "Pressler Amendment" as it concerns assistance and military sales to Pakistan.

While I appreciate your efforts in responding to my concerns, the paper does not fully address the question I raised during that hearing. Specifically, you indicated in your answer that "[w]e reviewed the legislative history, and as a *legal matter* we do not believe it applies to commercial sales or exports controlled by the Department of Commerce * * *" (emphasis added). The paper provided by your staff provides "a recapitulation of the reasons why a suspension of such licensing was not legally required by the Pressler Amendment." However, it does not constitute a memorandum of law.

During my tenure as a lawyer at the Department of State, departmental interpretations of legislation were based on memoranda of law written in a specific format and signed by the lawyer responsible for providing the opinion. I understood from our discussion during the hearing that you were referring to that type of document when you stated that "as a legal matter it is the view of our lawyers that [the Pressler Amendment] does not apply to commercial arms sales or exports."

It is such a memorandum of law I am requesting to review. Thank you for your continued attention to this matter. I look forward to hearing from you in the near future.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

U.S. DEPARTMENT OF STATE,
Washington, DC, April 21, 1992.

Hon. LARRY PRESSLER,
U.S. Senate.

DEAR SENATOR PRESSLER: I am responding to your letter of March 12 to Secretary Baker concerning the application of the Pressler Amendment to commercial arms exports to Pakistan.

As your letter indicates, we earlier provided you with a paper stating the reasons why, in our view, a suspension of the licensing of such commercial arms exports was not legally required by the Amendment. The paper was drafted by the staff of the Legal Adviser's Office and personally approved by the Legal Adviser as the legal opinion of that office on the interpretation of the Amendment. You may treat it as such.

Without trying to revisit the legal issues dealt with in that paper, I would like to make several points which have been obscured or misstated in press reports on this subject. First, the Department's interpretation of the Amendment is identical to the way in which statutory provisions of this type have been consistently interpreted over the years. No special exception was made for Pakistan.

Second, the Department took care from the beginning to inform Congress of our interpretation of the Amendment, as well as the limits which the Department placed as a matter of policy on export licenses to Pakistan to preclude its acquisition of new military capabilities. In particular, our intention to continue granting licenses for limited types of commercial arms exports was clearly indicated in each of the unclassified quarterly reports to Congress under section 36(a) of the Arms Export Control Act, each of the Congressional Presentation Documents provided to Congress under section 25 of the Act, and the January 1991 issue of the Department's Defense Trade News (which was provided to your office and a number of the other members and staff of the Foreign Relations Committee).

Third, the Office of the Department's Inspector General has not expressed or taken any different view of the interpretation of the Amendment. In response to inaccurate media reports to the contrary, the Inspector General issued press guidance on March 3, 1992, which stated that: "The inspector General has not found any basis to object to the Legal adviser's opinion, and has made no statement nor issued any report which would suggest otherwise."

Finally, the Department has not sought to find "loopholes" in the Amendment to ease its impact on Pakistan. The Department is carrying out all the requirements of the amendment. All FMS sales and deliveries of military equipment to Pakistan, all government-to-government transfers of military equipment or technology, and all forms of assistance (except law from such prohibitions), have been suspended. Private arms exports have been significantly restricted—above and beyond what we believe is required by law—to preclude the acquisition of new military capabilities by Pakistan. The United States has made its concerns about Pakistan's unsafeguarded nuclear program known to the Pakistani Government at all levels and continues to stress the absolute necessity for taking the required steps before assistance and FMS sales can be resumed.

I hope this helps to put in better perspective our application of the Pressler Amendment. We would, of course, be happy to consult further with you on these matters at your convenience.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

U.S. SENATE,
Washington, DC, June 29, 1992.

Hon. JAMES A. BAKER III,
Secretary of State, Washington, DC.

DEAR MR. SECRETARY: I am writing in response to a letter I received from Janet G. Mullins, Assistant Secretary for Legislative Affairs, responding to my letter to you of March 12, 1992, regarding application of the "Pressler Amendment" to commercial arms exports to Pakistan. Ms. Mullins' letter was dated April 21, 1992.

As I prepare for a Senate Foreign Relations Committee hearing on this issue, scheduled for the end of July, I would like to pursue this matter with you further. In referring to the paper prepared by the State Department on this issue, Ms. Mullins' letter indicates that, "The paper was drafted by the staff of the Legal Adviser's Office and personally approved by the Legal Adviser as the legal opinion of that office on the interpretation of the Amendment. You may treat it as such."

Mr. Secretary, I find this approach to answering my questions rather strange. As I pointed out in my letter of March 12th, during my tenure as a lawyer at the Department of State, departmental interpretations of legislation were based on memoranda of law written in a specific format and signed by the lawyer responsible for providing the opinion. Yet, the unsigned paper appears to have been written to respond to my concerns rather than to be used to direct those responsible for policy decisions at the State Department. I am interested in reviewing the memorandum of law written at the time the Pressler Amendment became law or, at the very least, at the time it was implemented. I remain hopeful that you can provide such a document.

I also would like to direct your attention to the enclosed memorandum of law addressing the issues raised in your paper. The memorandum was drafted by an attorney with the Congressional Research Service at my request. I would be very interested in receiving the comments of your Legal Adviser on this analysis of the State Department position.

Again, Mr. Secretary, thank you for your attention to this matter. I look forward to hearing from you in the near future.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

A TRAGIC LOSS

Mr. SIMON. Mr. President, on Monday, July 21, we had a tragedy in Chicago, and today we mourn the loss of two dedicated Federal law enforcement officers from Chicago. Deputy U.S. Marshals Roy Frakes and Harry Belluomini were slain by a suspected bank robber who slipped out of his handcuffs while being transported from the Dirksen Federal Office Building in Chicago where he was standing trial. The prisoner grabbed a handgun from one of his guards and then shot and fatally wounded his other guard, Deputy Frakes. A moment later, Officer Belluomini arrived on the scene, but he was slain after fatally wounding the fleeing prisoner. The prisoner then fired upon himself.

Harry Belluomini had served as a law enforcement officer in Chicago for 35 years. Harry's expertise and careful methodology were recognized by his fellow officers; he personally trained many young Chicago police officers and received numerous commendations from his superiors. Harry Belluomini is survived by his wife and three children, including a daughter who has also chosen to serve the public as a Chicago police officer.

Deputy Roy Frakes was a relative newcomer to the U.S. Marshal Service. He was a young, educated and dedicated law enforcement officer, who should have been able to serve the United States for years to come. He leaves behind a new bride.

These families have suffered a terrible loss and so has the public that these dedicated officers protected.

Monday's catastrophe underscores the dangers and risks that our federal law enforcement officers face daily. We must study this fatal incident and learn from it, so that in the future we can better protect our officers, our marshals, our judges and our citizens. Courthouse violence in 1992 has claimed too many lives. We must not allow this type of tragedy to occur again.

MAGLEV TRANSPORTATION; WHAT IS THE ADMINISTRATION POSITION?

Mr. MOYNIHAN. Mr. President, as many of my colleagues know we have been at work on magnetic levitation transportation here in the Senate since at least 1987. Maglev, as we call it.

We have spoken many times of the importance of transportation to industrial societies. Transportation defines development. And in our history no transportation mode has developed without help from the Government. Transportation is in most cases a public good, naturally requiring public resources. Whether it was the canal system—starting with the Erie Canal in New York—the railroad system, automotive transport or aviation, the technology and infrastructure were developed with public support.

Maglev is one of those stories that seem to more and more frustrate us. We invent the technology and the Japanese and Europeans market it. Maglev was patented by two Brookhaven National Laboratory scientists in the 1960's. A few million dollars in Federal support were provided. But all of a sudden OMB cut off the money in 1975. All work stopped here. In the meantime, the Japanese and Germans went roaring ahead and are coming close to commercialization. Some say, that's fine, let's just buy it from them. And that is an option. But how will we see ourselves when the next mode of transportation is all imported. It will be as if we had no Boeing Co. in the aviation industry. Or no automakers at all. We will be a very different nation in the world.

And we reached a bipartisan conclusion here in the Congress. That, yes, it is worth our effort to compete in this industry. The Surface Transportation Act of last December put in statute a program to build a U.S. prototype. Some $500 million in highway contract authority and an additional authorization of $225 million from the general fund. It is to be a competitive program. And private industry would have to cost share to show their commitment. No free research money. Four teams are already in place. More want to participate.

Enthusiam has been generated. Companies had finally come forward. Organized and ready to go. Of a sudden, the administration said "No." Having signed the maglev program into law in December, a month later in January the President sent the Congress a budget which on page Appendix One-740 proposed taking all the money out for the maglev program. Fund some more studies. But don't move ahead on a prototype program. To quote, "The Intermodal Surface Transportation Efficiency Act [ISTEA] of 1991, section 1036, establishes a national magnetic levitation prototype development program. An obligation limitation of $0 is requested for this program." Translation: no money to build maglev.

We on the Environment and Public Works Committee, on a bipartisan basis, were stunned. We asked Secretary Card to explain how the President could sign the bill in 1 month, and then the very next ask for a new law not to fund it. Further, the ISTEA bill also included a major high-speed rail initiative. Again, the President requested no funding. We just could not believe it. But there it was. And all those companies who have been energized have now been forced to temporize pending this year's appropriations bill.

Thus to my surprise, I read this week in the New York Times that the Bush administration is critical of Governor Clinton for including in his economic strategy, "Putting People First," high-speed ground transportation.

Let me quote from the article on Tuesday, July 21, by Michael Wines, "Bush Attacks Clinton Economic Plan as Big Mistake."

> Other Administration officials expressed anger at Mr. Stephanopoulos's challenge to compare the Bush and Clinton program, noting that many elements of the Clinton plan are identical with Mr. Bush's proposals. They include proposals for a national integrated computer network, investments in magnetically levitated trains and "smart highways". * * *"

I am a bit puzzled. Isn't this the same Bush administration that proposed not to fund magnetically levitated trains. And has prevented both the Department of Transportation and the Corps of Engineers from taking any actions to implement the maglev prototype law? Perhaps it is not. Perhaps those who seem intent on killing the maglev program passed by the Congress, are not acting with the support of the President. I hope it so. Maybe they have had their minds changed. I hope it so.

But until we hear something different from the President—and I hope we do—I find it more than a little curious that administration officials would express anger at Governor Clinton and Senator GORE for supporting maglev. Indeed, in his most important book, "Earth in the Balance," Senator GORE writes on page 326, "New and improved forms of mass transit, like the magnetically levitated trains in Japan * * * should be enthusiastically encouraged." That's just what the 1991

ISTEA did. And that is just what the President's budget does not want to do.

How then can administration officials criticize Governor Clinton for somehow appropriating the administration's agenda, when Governor Clinton says he wants to do something the Bush administration has said it does not want to? It does not seem fair for the administration to take all sides of an issue. What is the administration position? The future of maglev in this Nation depends on knowing.

I ask unanimous consent that the article from the New York Times be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 21, 1992]

BUSH ATTACKS CLINTON ECONOMIC PLAN AS "BIG MISTAKE"

(By Michael Wines)

WASHINGTON.—President Bush today delivered his strongest attack to date on the Democratic Presidential candidacy of Bill Clinton, calling the Arkansas Governor's economic proposals "smoke and mirrors" and "a big mistake" that will increase the Federal deficit.

Mr. Bush said a 27-page economic plan Mr. Clinton issued in June would damage the economy by raising taxes and the deficit. He also said Mr. Clinton's proposals to save money by streamlining programs and reducing "overhead" were illusory.

"What I see is a program that does not address itself to the deficit," Mr. Bush said in a Rose Garden talk with members of Boys Nation, an American Legion civics program. "I think we've got to get the deficit down. I don't think you need to go raise taxes on people right now. I think that's a big mistake. I think it's counterproductive."

BUSH IS TRAILING IN POLLS

The comments came as Mr. Bush's advisers gave him a mid-year report on the nation's economy, which most economists agree is stumbling partly under the weight of the Federal budget deficit that has doubled, to almost $400 billion a year, during Mr. Bush's tenure.

Mr. Bush's economic adviser, Michael Boskin, told the President that economic growth had declined in the second quarter from the 2.7 percent rate of the first three months of 1992, said one official who spoke on the condition of anonymity.

The President's remarks appeared to signal the opening of a tougher and more personal campaign style by Mr. Bush, who trails Mr. Clinton in public opinion polls by 20 points or more. Until now, Mr. Bush has left it to his aides and other Republican surrogates to mount direct attacks on Mr. Clinton and his running mate, Senator Al Gore of Tennessee.

'WORST ECONOMIC RECORD'

Mr. Bush has long said he would refrain from attacking his opponents directly until after the Republican convention next month, a pledge his press secretary, Marlin Fitzwater, repeated today. On Saturday morning, Mr. Bush stood off stage at a rally in Provo, Utah, as that state's retiring Senator, Jake Garn, criticized Mr. Clinton and Mr. Gore as "pretty boys" who had never held private jobs, and assailed Mr. Clinton's efforts to avoid the military draft during the Vietnam War.

Mr. Clinton's spokesman, George Stephanopoulos, ridiculed Mr. Bush's statement today, saying the Clinton campaign would match its economic proposals "up against his any day of the week."

"George Bush has the worst economic record of any President since Herbert Hoover," Mr. Stephanopoulos said. "If he wants to debate it, we're ready."

Mr. Clinton's economic plan proposes $220 billion in spending on new public works programs, education and tax cuts for families by 1996, to be offset by almost $300 billion in spending cuts.

The combination of spending cuts, improved productivity and higher economic growth would cut the Federal deficit by $150 billion over that four-year period, the document argues.

In his comments, the President said that he and Mr. Clinton "have a big difference on the economic approach" that the White House plans to highlight in the fall campaign. But the two Clinton proposals that drew much of Mr. Bush's fire today, commitments to reduce Government waste and to raise taxes on the wealthy, are as notable for their political significance as any money they would produce.

Merely making unspecified administrative changes, Mr. Clinton argues, would save $22 billion by 1996 and streamlining the Pentagon's inventory would save another $9.8 billion. Mr. Stephanopoulos said today that the savings would be produced by applying private business practices to the Federal Government and imposing a 2 percent cut in Federal spending on items other than payrolls.

The claim recalls Ronald Reagan's pledge, as a Presidential candidate in 1980, to reduce 2 percent of all nonmilitary Federal spending by cutting "waste, extravagance, abuse and out-right fraud." Many critics accused Mr. Reagan of engaging in sophistry at the time, and Mr. Bush said the same of Mr. Clinton today.

"When you analyze the program, they have this expression around here—'smoke and mirrors,'" Mr. Bush said of Mr. Clinton's savings plan "You're going to save it all by eliminating overhead, eliminating waste, and there's billions of dollars that is earmarked to do that, and I just don't think that's practical."

The President also attacked Mr. Clinton's proposal to raise $83 billion over four years, primarily by raising the tax rate for the top 2 percent of wage earners and placing a surtax on $1-million-plus incomes.

'SPENDING TOO MUCH'

"I think the Government is spending too much," he said. "I don't think people are taxed too little. I mean, I don't think that's the problem." The President called tax increases "a big mistake" that would prove "counterproductive," a reflection of the Administration's belief that tax increases reduce money for investment and stifle economic growth.

Mr. Stephanopoulos agreed today that the Clinton plan calls for more taxes on the wealthy, but he said some of that money would be returned to the middle class through a tax cut or a tax credit for children.

Other Administration officials expressed anger at Mr. Stephanopoulos's challenge to compare the Bush and Clinton programs, noting that many elements of the Clinton plan are identical with Mr. Bush's proposals. They include proposals for a national integrated computer network, investments in magnetically levitated trains and "smart" highways monitored by computers, tax credits for research and development, urban enterprise zones and incentives to convert defense industries to civilian uses.

"The one huge, screaming difference is that Clinton's is financed by a $150 billion tax increase, and ours is financed by cuts in entitlement spending and nondefense spending," said one senior Administration official who spoke on the condition of anonymity.

The group to which Mr. Bush spoke today, Boys Nation, teaches the tenets of democracy and politics by staging mock elections and legislatures, and by exposing young people to leading public figures. One person who got his first taste of politics at Boys Nation was Mr. Clinton, who still boasts a photograph of himself shaking the hand of President John F. Kennedy at a 1963 meeting of the group.

THE HIGHER EDUCATION BILL

Mr. SIMPSON. Mr. President, I listened intently yesterday to my fellow colleagues praise the President for not vetoing the higher education bill. There was no mention of the hard work of the President and his fine Secretary Alexander in formulating this bill.

The President's priorities in the higher education bill were access, excellence, and accountability. The bill was signed by the President because it included those key elements. The administration and many of my colleagues were adamantly opposed to the direct lending provision in the bill.

I supported the Presidents position on direct lending, due to my strongly held position that a full blown program would increase the Federal deficit, eliminate the limited amount of risk-sharing that exists in the current system, and give many schools and institutions with little or no experience in matters of high finance new banking and financing responsibilities.

The conferees settled on a $500 million demonstration program opting not to dedicate themselves to restructuring the current guaranteed student loan system but rather deciding to create a brandnew system.

We all know the old adage, "If it ain't broke don't fix it." The Democratic Congress decided to impose their will anyway by jettisoning the old system. Only time will tell if this new system will be sufficient to make loans more universally available to all who wish to advance their educational opportunities.

I commend the President for placing special emphasis on the education legislation. Just as he showed leadership in pushing for a new Clean Air Act, he also provided the impetus for Congress to enact education reform in a timely manner.

Secretary Alexander's tireless devotion and zeal for turning this country's education system around should be greatly applauded. His vision and insight into this country's education needs have truly been a great asset for advancing the President's education goals.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 5343. An act to make technical amendments to the Fair Packaging and Labeling Act with respect to its treatment of the SI metric system, and for other purposes;

S. 249. An act for the relief of Trevor Henderson;

S. 992. An act to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, Nevada;

S. 2938. An act to authorize the Architect of the Capitol to acquire certain property; and

S.J. Res. 295. A joint resolution designating September 10, 1992, as "National D.A.R.E. Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

The President pro tempore (Mr. BYRD) announced that on today, July 24, 1992, he had signed the following enrolled bill previously signed by the Speaker of the House:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System.

ENROLLED BILLS PRESENTED

The Secretary of the Senate announced that on today, July 24, 1992, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 249. An Act for the relief of Trevor Henderson;

S. 992. An Act to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, Nevada;

S. 2938. An Act to authorized the Architect of the Capitol to acquire certain property; and

S.J.Res. 295. A joint resolution designating September 10, 1992, as "National D.A.R.E. Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3655. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled the "Mid-Session Review" pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986; referred jointly to the Committee on Appropriations, and the Committee on the Budget.

EC-3656. A communication from the Acting General Counsel, transmitting a draft of proposed legislation to amend title 10, United States Code, to enhance the ability of the Department of Defense to provide counterdrug-related support in response to certain specific types of requests from law enforcement agencies; to the Committee on Armed Services.

EC-3657. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice that the Navy intends to offer for transfer, through the Director, Defense Security Assistance Agency, certain vessels to the Republic of China; to the Committee on Armed Services.

EC-3658. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a biannual report on Monetary Policy; to the Committee on Banking, Housing and Urban Affairs.

EC-3659. A communication from the President of the United States, transmitting a draft of proposed legislation entitled "Oregon Public Lands Wilderness Act"; to the Committee on Energy and Natural Resources.

EC-3660. A communication from the Assistant Secretary of State (Legal Adviser for Treaty Affairs), transmitting pursuant to law, a report on international agreements other than treaties; to the Committee on Foreign Relations.

EC-3661. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the annual report on the D.C. Depository Act for fiscal year 1990 and fiscal year 1991; to the Committee on Governmental Affairs.

EC-3662. A communication from the Chairman, Vice Chairman, and Member of the U.S. Merit System Protection Board, transmitting, pursuant to law, a report entitled "Workforce Quality and Federal Procurement: An Assessment"; to the Committee on Governmental Affairs.

EC-3663. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-239 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3664. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-240 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3665. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-241 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3666. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-242 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3667. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-243 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3668. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-244 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3669. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-245 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3670. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-246 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3671. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-247 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3672. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-248 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3673. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-249 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3674. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-250 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3675. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-251 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3676. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-252 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3677. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-253 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3678. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-254 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3679. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-255 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3680. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-256 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3681. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-257 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3682. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-258 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3683. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of

D.C. Act 9-259 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3684. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Funding Priorities—Research in Education of Individuals with Disabilities Program"; to the Committee on Labor and Human Resources.

EC-3685. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Priority for Fiscal Year 1993—Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Hearing Research Center"; to the Committee on Labor and Human Resources.

EC-3686. A communication from the Chairman of the John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, the annual report of operations for the John F. Kennedy Center for the Performing Arts and National Symphony Orchestra for calendar year 1991; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 3054. A bill to provide temporary duty-free treatment for certain digital processing units; to the Committee on Finance.

By Mr. METZENBAUM:

S. 3055. A bill to provide duty-free treatment of certain entries of shoes used by Shoes For Kids, Inc., a nonprofit organization; to the Committee on Finance.

By Mr. SHELBY:

S. 3056. A bill to suspend until January 1, 1995, the duty on 2-(2H-benzotriazol-2-yl)-6-dodecyl-4-methylphenol, branched and linear; to the Committee on Finance.

S. 3057. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

By Mr. DIXON:

S. 3058. A bill to suspend until January 1, 1995, the duty on Calan IR and Calan SR; to the Committee on Finance.

S. 3059. A bill to suspend until January 1, 1995, the duty on TFA and DM-8; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 3060. A bill to extend until January 1, 1996, the existing suspension of duty on copper acetate monohydrate; to the Committee on Finance.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 3061. A bill to provide increased duties on imported Axminster floor coverings; to the Committee on Finance.

By Mr. NUNN:

S. 3062. A bill to extend through December 31, 1994, the temporary suspension of duty on certain disposable surgical gowns and drapes; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 3063. A bill relating to the prevention of circumvention or diversion of antidumping and countervailing duty orders; to the Committee on Finance.

By Mr. MACK:

S. 3064. A bill to permit refund of customs duties on certain drawback entries upon presentation of certificates of delivery; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. HATCH, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. ADAMS, Mrs. KASSEBAUM, Mr. BINGAMAN, Mr. DODD, Mr. PELL, Mr. WELLSTONE, and Mr. METZENBAUM):

S. 3065. A bill to revise and extend the Rehabilitation Act of 1973, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. D'AMATO:

S. 3066. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to the drug fentanyl; to the Committee on the Judiciary.

By Mr. SANFORD:

S. 3067. A bill to suspend until January 1, 1995, the duty on 1,8-Dichloroanthraquinone; to the Committee on Finance.

By Mr. KENNEDY:

S. 3068. A bill to amend the Harmonized Tariff Schedules of the United States; to the Committee on Finance.

By Mr. BREAUX:

S. 3069. A bill to amend the Tariff Act of 1930 to clarify and extend the provisions relating to foreign repair of vessels; to the Committee on Finance.

S. 3070. A bill to amend the Harmonized Tariff Schedule of the United States with respect to the tariff treatment of 1,6-hexamethylene diiosocyanate; to the Committee on Finance.

S. 3071. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the rate of duty for certain jewelry boxes, and for other purposes; to the Committee on Finance.

S. 3072. A bill to suspend temporarily the duty on certain fine fabrics of synthetic filament yarn; to the Committee on Finance.

By Mr. SIMON:

S. 3073. A bill to suspend temporarily the duty on Tacrolimus (FK506) in bulk or measured dose form subject to approval by the Food and Drug Administration; to the Committee on Finance.

By Mr. ROTH:

S. 3074. A bill to suspend until January 1, 1995, the duty on Pigment Red 254; to the Committee on Finance.

S. 3075. A bill to suspend temporarily the duty on PCMX; to the Committee on Finance.

S. 3076. A bill to suspend until January 1, 1995, the duty on Pigment Blue 60; to the Committee on Finance.

By Mr. SYMMS:

S. 3077. A bill to provide for the duty-free liquidation or reliquidation of, and the refund of customs duties for, certain entries of tissue paper products; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 3054. A bill to provide temporary duty-free treatment for certain digital processing units; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. BENTSEN. Mr. President, I introduce legislation to provide temporary duty-free status for digital processing units commonly known as motherboards. This measure would suspend the current 3.9-percent duty through December 31, 1994. For reasons stated below, the suspension would apply retroactively, back to January 1, 1991. A substantially similar bill, H.R. 1499, was introduced in the House during the first session of this Congress by Mr. ARCHER.

The original tariff suspension for motherboards was included in the Omnibus Trade and Competitiveness Act of 1988. This suspension complemented another provision in this bill which provided the administration with specific negotiating authority to permanently reduce the tariff on motherboards through an international agreement. Since this negotiating authority was not utilized before its expiration date, the duty suspension on motherboards lapsed on December 31, 1990. It was hoped that negotiations in the Uruguay round would eliminate or reduce the tariff on motherboards, making a legislative extension of the duty suspension unnecessary. As you know, the Uruguay round has not progressed nearly as quickly as was anticipated, and therefore it is now appropriate to bridge the gap between the end of the lapsed suspension and possible future negotiations by passing this bill.

There appears to be no domestic market which would be harmed by this measure. No adverse comments have been received on Congressman ARCHER's bill.

There appears to be no domestic market which would be harmed by this measure. No adverse comments have been received on Congressman ARCHER's bill since he introduced it in March 1991. Accordingly, I urge my colleagues to support this bill and ask unanimous consent that a copy of the bill be printed in the RECORD, as follows:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN DIGITAL PROCESSING UNITS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.84.71	Digital processing units not classifiable under subheading 9903.41.20 or 9903.41.25 for automatic data processing machines, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon, certified as units designed for use other than in an automatic data processing machine (provided for in subheading 8471.20.00 and in subheading 8471.91.00)	Free	No change	No change	On or before 12/30/94".

SEC. 2. EFFECTIVE DATE; RETROACTIVE APPLICABILITY.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendment made by section 1 applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon a proper request filed with the appropriate customs officer before the date that is 180 days after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption of an article described in heading 9902.84.71 of the Harmonized Tariff Schedule of the United States (as added by this Act) which was made—

(1) after December 31, 1990, and

(2) before the 15th day after the date of the enactment of this Act,

shall be liquidated or reliquidated as though such entry occurred on the date that is 15 days after such date of enactment.

By Mr. DIXON:

S. 3058. A bill to suspend until January 1, 1995, the duty on Calan IR and Calan SR; to the Committee on Finance.

S. 3059. A bill to suspend until January 1, 1995, the duty on TFA and DM-8; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DIXON. Mr. President, I am introducing two bills today to temporarily suspend the duty on the following chemicals: 2,3,4-trifluoroanaline (TFA); Ethyl-ethyl-6,7,8-trifluoro-1,4-dihydro-4-oxo-quinolinecar-boxylate (DM-8); and Calan IR and Calan SR. TFA and DM-8 are used in the production of a quinolone class anti-infective agent. Calan IR and Calan SR are used in the production of hypertension drugs.

These bills are very simple and merely level the playing field among U.S. pharmaceutical companies. G.D. Searle & Co., an Illinois company, came to us with this reasonable request. Several U.S. pharmaceutical manufacturers have pending legislation, which would suspend the duty on products or extend duty suspension on products that compete directly with Searle's products. These bills only seek the same benefits that are provided for other U.S. competitors.

If customs duties are suspended for the products of U.S. pharmaceutical companies that directly compete with Searle's products, Searle will be at a distinct disadvantage. This would create great financial hardship for Searle, which only recently was restored to profitability. Searle is striving to remain competitive through significant investments in the research, development, and introduction of new products. Giving certain U.S. pharmaceutical companies a duty suspension advantage without giving Searle a similar duty suspension would not be fair.

I understand that the Finance Committee is considering putting together another miscellaneous trade and tariff bill; I strongly believe these provisions should be included in that measure.

Mr. President, these are meritorious bills, and I look forward to working with my colleagues to ensure their prompt enactment.

Mr. President, I ask unanimous consent that a copy of the two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CALAN IR AND CALAN SR.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Calan IR and Calan SR (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TFA AND DM-8.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.31.12	2,3,4-Trifluoroanaline (TFA) (provided for in subheading 2921.42.30)	Free	No change	No change	On or before 12/31/94
9902.31.13	Ethyl-ethyl-6,7,8-trifluoro-1,4-dihydro-4-oxo-quinolinecar-boxylate (provided for in subheading 2933.40.45)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 3060. A bill to extend until January 1, 1996, the existing suspension of duty on copper acetate monohydrate; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. GRAHAM. Mr. President, I am introducing legislation, along with my colleague Senator MACK, that would suspend the duty on copper acetate monohydrate through December 31, 1995.

Mr. President, we originally sought an exemption in 1990 when the Commerce Department determined that there were no U.S. producers of this product. The exemption was granted.

Today, the situation remains the same as it was in 1990. There still are no U.S. producers of consequence. There also are no imports of any size: 1 million pounds per year or less. We are therefore seeking a duty suspension extension through 1995.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 3063. A bill entitled "Prevention of Circumvention or Diversion of Antidumping and countervailing duty orders"; to the Committee on Finance.

PREVENTION OF CIRCUMVENTION OR DIVERSION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS ACT

Mr. D'AMATO. Mr. President, I rise to introduce legislation that deserves the urgent attention of this body. It should be coined the Smith Corona got dumped legislation. Without action on this legislation and without strong enforcement of our U.S. fair trade laws, companies and workers from all across this Nation will end up like Smith Corona—out on the street.

This legislation would eliminate the loophole whereby foreign companies found guilty of practicing unfair trade in the United States avoid paying penalties and continue business as usual by setting up temporary "screwdriver" assembly plants in third-party countries by applying a test that measures the "historic" suppliers used by the assembly plant operation.

This legislation will strengthen U.S. companies ability to compete in a fair marketplace. This legislation should be passed as a free-standing bill. It is too important to get weighted down. This legislation is cosponsored by my colleague Senator MOYNIHAN. Yesterday, the Banking Committee held a hearing on U.S. competitiveness. The hearing highlighted a true tragedy in our attempt to be not only globally, but domestically, competitive.

It is the story of the Smith Corona Corp. and the last American factory of the last American manufacturer of consumer typewriters. It is also a story, not so uncommon, about how we fail to provide a competitive environment right here in our own back yard it is not about investment in capital or research. It is about weak enforcement of U.S. trade laws and a weak commitment to U.S. industries and U.S. workers. It is about the revolving door syndrome whereby many, if not all, of our trade officials are more worried about paving their way to their next job-serving a foreign master—than with what is best for America.

It is also about fairness. Too often our trade officials take on the free trade cause without regard for its fairness. While I support free trade goals and believe they are admirable, they must be balanced with the realities of the overall trade environment. Just a few of the recent flagrant examples of this ineptitude include the willingness of our USTR to sell our domestic machine tool industry short, if not out, and allowing importers the courtesy of manipulating our tariff laws so that they can import multipurpose vehicles at 2.5-percent tariff rather than 25-percent tariff. The losers in both of these cases are American workers.

Smith Corona is led by G. Lee Thompson, chairman and CEO. Mr. Thompson announced on Tuesday of this week that the Smith Corona, Cortland, NY facility, home to 1,250 workers would be relocating to Mexico. Over the next 14 months, 875 people will be put out of work in central New York. Only 375 people will remain employed in Cortland and 50 will move with the plant to Mexico. This is a disastrous blow to the central New York economy and a continuation of the decline of the U.S. manufacturing base.

How did this happen? What is it that has left 875 people without a job? Predatory pricing by foreign competition, that is the beginning of the story. Wimpy enforcement of U.S. trade laws, that is the end of the story. And, the end of a century long commitment to the United States by a U.S. company.

Smith Corona has attempted for more than a decade to utilize U.S. fair trade laws to protect themselves from foreign companies who import to the United States and sell well below product cost—a practice known as dumping. We all know that in a free-market, companies cannot sell below cost and survive over the long run. Smith Corona, operating in the realities of a free-market economy, has been forced to bring eight separate antidumping cases before the U.S. Government. They won all eight cases. Their main Japanese competitor, Brother, Inc. was found to be selling well below product cost. For example in 1980, the Commerce Department found that Brother was selling portables below cost and called for duties of 48.7 percent. Last August, Commerce again found that Brother was guilty of dumping and imposed duties of close to 60 percent. Those are not insignificant violations of U.S. fair trade laws. They are obscene and outrageous. But, foreign importers have found a way to avoid paying them.

The 1988 trade bill created a new anticircumvention law to prohibit foreign manufacturers from avoiding duties by setting up U.S. plants. But, the Commerce Department interpreted the law so that duties only applied to the original country of import, not to third party countries from which parts can be imported. This narrow reading of the 1988 law created a huge loophole.

By setting up an assembly operation in the United States and importing from a third party country, they can totally avoid paying the anti-dumping duties. Importers can then afford to continue pricing their products below fair market value and drive competitive American manufacturers from our own, free, market. In the end, we've traded manufacturing jobs for often temporary assembly jobs. Thus, we weaken our economic base further.

In the case of Brother Typewriters, the dumping order directed that duties would apply to imports from Japan. Brother changed its distribution process by setting up an assembly plant—also known as a "phantom factory" or "screwdriver plant"—in the United States and importing its parts from Singapore and Malaysia. Despite the fact that the United States-assembled product was identical to the imported product, the fact that the routing skipped Japan meant that the importer skipped the duties.

While we work every day to level the playing field and open markets abroad, our own trade officials undercut our competitive position right here in our own back yard. While Mr. Thompson has stated that it is too late for Smith Corona, it is not too late for other U.S. companies who are prayed upon by foreign competition.

This legislation will close this loophole. Companion language is included in the House trade bill, H.R. 5100. We should endorse and pass this provision before we have another Smith Corona tragedy. American companies and American workers deserve this action.

We must not delay this action to correct the inadequate response of our U.S. trade officials to look out for the best interest of U.S. industry and U.S. jobs. Our U.S. industries should be investing in research, development, and capital, not in court battles. We must strengthen the law in order to ensure that our companies don't continue to be undercut by unfair trade practices.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—Section 781(a) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) is amended to read as follows:

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—In determining whether imported parts or components are circumventing an antidumping or countervailing duty order or finding and whether to include such parts or components in that order or finding, the administering authority shall consider—

"(A) the pattern of trade,

"(B) the value and sources of supply of parts or components historically used in completion or assembly of the merchandise subject to an antidumping or countervailing duty order.

"(C) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (2) applies, and

"(D) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

"(2) MERCHANDISE THAT MAY BE INCLUDED IN ORDER OR FINDING.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Anti-dumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or 303,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components supplied by the exporter or producer with respect to which such order or finding applies, from suppliers that have historically supplied the parts or components to that exporter or producer, or from any party in the exporting country supplying parts or components on behalf of such an exporter or producer, and

"(ii) the value of the imported parts and components referred to in clause (i), whether considered individually or collectively, is significant in relation to the total value of all parts and components used in the assembly or completion operation, excluding packing, of the imported merchandise covered by the order or finding, or

"(C) consideration of the factors set forth in paragraph (1) otherwise establishes a pattern of circumvention with the effect of evading an anti-dumping or countervailing duty order or finding, the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.".

(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—Section 781(b) of the Tariff Act of 1930 (19 U.S.C. 1677j(b)) is amended to read as follows:

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—In determining whether merchandise completed or assembled in a foreign country is circumventing an anti-dumping or countervailing duty order or finding and whether to include such merchandise in that order or finding, the administering authority shall consider—

"(A) the pattern of trade,

"(B) the value and sources of supply of parts or components historically used in completion or assembly of the merchandise subject to an antidumping or countervailing duty order,

"(C) whether the manufacturer or exporter of the merchandise described in paragraph (2)(B) is related to the person who uses the merchandise described in paragraph (2)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(D) whether imports into the foreign country of the merchandise described in paragraph (2)(B) have increased after the issuance of such order or finding.

"(2) MERCHANDISE THAT MAY BE INCLUDED IN ORDER OR FINDING.—If—

"(A) merchandise imported into the United States is either of the same class or kind or incorporates an essential component that is of the same class or kind as merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303; and

"(B)(i)(I) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to such order or finding, is produced in the foreign country with respect to which such order or finding applies, or is supplied by the exporter or producer with respect to which such order or finding applies, or by suppliers that have historically supplied the parts or components to that exporter or producer, and

"(II) the merchandise referred to in subclause (I) which is used in the assembly or completion of the imported merchandise has a value that is significant in relation to the total value of all parts or components used in the assembly or completion operation, excluding packaging, or

"(ii) consideration of the factors set forth in paragraph (1) otherwise establishes a pattern of circumvention with the effect of evading a countervailing or antidumping duty order or finding, and

"(C) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.".

(c) *Construction Provision.*—Section 781 of the Tariff Act of 1930 (19 U.S.C. 1677j) is amended by adding at the end the following new subsection:

"(f) *Construction Provision.*—Nothing in this title shall be deemed to limit the authority of the administering authority to include provisions in any final order issued pursuant to—

"(1) an antidumping duty order issued under section 736,

"(2) a finding issued under the Antidumping Act, 1921, or

"(3) a countervailing duty order issued under section 706 or section 303,

the purpose of which is to prevent the evasion of any remedy provided for in such finding or order or to otherwise safeguard the integrity of such finding or order.".

Mr. MOYNIHAN. Mr. President, I join today with my colleague Senator D'AMATO to introduce a bill to strengthen the U.S. antidumping and countervailing duty laws.

This continues an effort I have made on behalf of the workers of Smith Corona over many years.

Smith Corona fought one of the longest and most costly battles to get relief from unfair trade practices. They just didn't get the help they needed. In part, the law didn't keep up with the ability of foreign producers to evade it. Mostly, however, the administration refused to enforce those laws that were passed.

In 1979, Smith Corona first won an antidumping duty order on typewriters from Japan. Not long after, the Japanese producers began to evade the dumping duties by adding modest memory and calculator functions to change the United States tariff classification of the typewriters. Incomprehensibly, our Commerce Department then refused to collect dumping duties on those identical typewriters, now having a dollar or two in new components. In the 1988 Trade Act, I finally got enacted a change to the antidumping law that required the Commerce Department to apply antidumping duties to those "later developed" typewriters, with the small memory or calculator function.

And so the story went. Case after case, lawsuit after lawsuit. Until the cold and shocking decision announced this week to move all manufacturing operations to Mexico—875 jobs gone. Like that. Not a word in advance it seems.

The intent of the bill today is to make it more difficult for foreign producers who have been determined to be dumping or selling subsidized products in the U.S. market, to circumvent U.S. penalty duties by shifting the location of their production to another country or by assembling the final product in the United States with the components imported from the foreign country.

If we enact this bill, I hope we can keep those jobs in Cortland. But we need to hear from the management of Smith Corona on this. And it won't change the way in which the workers of Smith Corona were treated. Dismissal with no more notice than the minimum the law requires. More, with the Mexico free trade agreement moving on the fast track, and the administration adamant in its refusal to take account on the needs of American workers in the negotiations, I doubt it will stop the continued job losses to Mexico. Shame. Shame. Shame.

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. HATCH, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. ADAMS, Mrs. KASSEBAUM, Mr. BINGAMAN, Mr. DODD, Mr. PELL, and Mr. WELLSTONE):

S. 3065. A bill to revise and extend the Rehabilitation Act of 1973, and for other purposes; to the Committee on Labor and Human Resources.

REHABILITATION ACT AMENDMENTS

Mr. HARKIN. Mr. President, I rise today on behalf of myself, Senators DURENBERGER, KENNEDY, HATCH, DOLE, SIMON, JEFFORDS, ADAMS, KASSEBAUM, BINGAMAN, DODD, PELL, and WELLSTONE to introduce the Rehabilitation Act Amendments of 1992.

Mr. President, as you can tell by the list of cosponsors, this truly is a bipartisan bill. The process we used to reach consensus was marked by a commitment to positive, constructive discussion on the part of all parties.

I particularly want to acknowledge Senator DURENBERGER for his wisdom and counsel during this process. Senator DURENBERGER and his staff have worked long and hard on this bill and they deserve credit for their commitment to the consensus building process. In addition, we enjoyed input from a number of our distinguished colleagues here in the Senate from both sides of the aisle.

We also enjoyed the support and constructive guidance of the staff of the Department of Education. The subcommittee staff and the administration's staff met numerous times over the past many months to work out the details of the charges that are being made by the bill. Nell Carney, Commissioner of the Rehabilitation Services Administration, described this interaction in her testimony before the Subcommittee on Disability Policy and specifically applauded "the excellent spirit of cooperation between our staffs that has characterized the development of your bill."

As we worked on the reauthorization of this legislation, we had the assistance of many organizations, groups, and individuals. In particular, I want to express my gratitude to the Employment and Training Task Force of the Consortium for Citizens with Disabilities, the Council of State Administrators of Vocational Rehabilitation, the various national, regional, and local independent living organizations, organizations representing rehabilitation service providers and professionals, numerous State agency officials and private citizens whose thoughtful commentary and ideas have been so helpful in this process.

We have worked with the various groups interested in this legislation to develop a consensus bill that would incorporate the philosophy of integration and inclusion into the Rehabilitation Act. Paul Marchand, Director of the Arc, described the commitment made by the groups to this process in his testimony before the Subcommittee on Disability Policy:

> [W]e have devoted literally thousands of hours, thousands of people hours, meeting many, many times over the course of over a year-and-a-half actually, to attempt to achieve the kind of consensus that we do be-

lieve is necessary as we move forward in this era of the Rehabilitation Act.

He summed up the feelings of those involved in the development of the bill:

> [M]ost of us acknowledge that this bill, if enacted, represents real progress. It is a bill which we strongly support and which Congress ought to enact with pride. . . . [I]t represents sound public policy, and moves the field forward in a rational manner.

The Rehabilitation Act of 1973, Public Law 93-112, provides grants to States for the provision of comprehensive vocational rehabilitation services to individuals with disabilities with the primary goal of competitive employment.

The 1979 amendments to the Rehabilitation Act added a new title, Comprehensive Services for Independent Living. Those amendments authorized the provision of independent living services and established centers for independent living.

When the Rehabilitation Act was reauthorized in 1986, Congress expanded the services available to persons with severe disabilities and specified that supported employment was an acceptable employment outcome under the Federal-State Vocational Rehabilitation Program. In addition, a separate program of State allotments for supported employment was authorized and discretionary supported employment projects were added. Congress also acknowledged the role technology can play in expanding the opportunities available to individuals with severe disabilities and required that the States describe how technology would be made available and used in the rehabilitation process.

I am especially pleased to sponsor the Rehabilitation Act Amendments of 1992 authorizing the continuation of these vital programs for persons with disabilities. With the current state of the economy and the high unemployment rate among persons with disabilities, we simply must continue our commitment to meeting the vocational rehabilitation and independent living needs of these individuals.

The subcommittee heard the stories of persons who have received services from the Vocational Rehabilitation Program. Randy Wagoner of Wilder, VT, who has restricted mobility due to refractory rickets, testified about his experience with vocational rehabilitation upon graduation from high school.

> When I couldn't find employment, my guidance counselor at school suggested I contact Charlie Post, a counselor with the Division of Vocational Rehabilitation. Charlie helped me to take a realistic look at my own abilities and the local job market. He allowed me to make my own decisions about potential jobs. For example, he found a possible job at the Post Office. We went to look at the job and talk to the supervisor. I realized that it just wasn't for me.
>
> Charlie respected my opinion and we worked together to find other alternatives. I wanted the possibility for advancement and a career. We eventually found an opportunity with the Hartford Police Department as a dispatcher. Charlie was instrumental in opening this door for me. A key service that Charlie arranged and paid for was transportation. Vermont is a very rural state and at that time there was no public transportation in the area.

Charles Harles, executive director of the Inter-National Association of Business, Industry, and Rehabilitation, related how Projects with Industry programs can make a difference in the lives of persons with disabilities when he told the story of Major Holley who received services at Job Path, a Project with Industry Program in New York:

> The benefit of Job Path's training programs are illustrated by the story of Major Holley. He is a 31 year old resident of Brooklyn. When he came to Job Path in 1988, he had spent the previous six years in a day treatment program . . . . He had an IQ of 49, no reading ability, no math skills, and had never learned to travel on his own. Although he was eager to "better himself" as he put it, he was also extremely dependent, fearful of the movement from a comfortable day treatment environment . . . almost to the point of paralysis, and extremely shy with very poor socialization skills.
>
> Through Job Path's PWI program . . . Major Holley has been working at Canteen Corporation for over three years, since July 1989 [where] he earns a salary of $11,700 with full benefits.

Unfortunately, all clients have not enjoyed the same positive experiences. The subcommittee heard the testimony of Dan Klint from Coon Rapids, MN. Mr. Klint testified that during his undergraduate studies, he had a limited number of contacts with his rehabilitation counselor centered primarily on completing the necessary paperwork for reimbursement for services. He testified that "[t]here was very little discussion, if any, regarding my personal career goals or a plan to achieve those goals." Later, when he wanted to go on to law school, his counselor discouraged him. Mr. Klint related to the subcommittee:

> [T]he counselor . . . attempt[ed] to talk me out of going to law school. . . . I felt belittled, that I was talked down to, and that because of my disability, my long-term ambition of attending law school and practicing law was unrealistic. . . . At no time . . . did we discuss how I could make the necessary accommodations presented by my disability so that I could attend law school and practice law. Rather, the distinct impression that I received was that my expectations were too high and that it was foolish for me to believe that a person with a severe disability such as I have could successfully attend law school and practice law.

Mr. President, is it my heart-felt hope that this bill will enhance the likelihood that all clients receive the same quality of services that were provided to Randy Wagoner and Major Holley. Vocational rehabilitation programs can provide persons with disabilities with the tools necessary to become employed and to be fully involved as equal participants in the activities in their communities.

Two principles guided us in the development of this legislation:

First, unity. The groups interested in legislation regarding individuals with disabilities have learned that when they work together and stay together they can bring about greater change in the system to the greater benefit of all persons with disabilities. Remembering this lesson throughout the reauthorization process kept the groups together and working with us toward the goal of developing a consensus bill.

Second, everyone agreed that the changes made in the Rehabilitation Act should reflect the principles of respect for individual dignity, personal responsibility, self-determination, inclusion, integration, and full participation of individuals with disabilities; and support for individual and systemic advocacy and community involvement.

This bill reauthorizes the Rehabilitation Act of 1973, as amended, and the Helen Keller National Center Act and amends both to improve the operation of the programs and services provided. There are seven basic purposes for this legislation. They are:

To ensure that the philosophy of integration and inclusion of individuals with disabilities is incorporated into the Rehabilitation Act;

To improve the functioning of the vocational rehabilitation system by streamlining access, ensuring appropriate access for those individuals with the most severe disabilities, improving interagency working relationships and cooperation, improving relationships with business, industry, and labor, and providing for a comprehensive system of personnel development;

To promote a philosophy of independent living in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities by supporting statewide networks of centers for independent living and assisting States to provide, expand, and improve the provision of independent living services;

To increase consumer choice and involvement at the individual and the system level;

To increase accountability and quality of services provided;

To ensure that the basic formula grant programs remain state of the art by ensuring that the discretionary programs of research, demonstrations, and training respond to identified needs; and

To update terminology.

I will briefly describe the major provisions of the bill related to each of the purposes I have just outlined.

Provisions incorporating the philosophy of integration and inclusion of individuals with disabilities:

The bill includes several changes to the act to specifically incorporate the values that the groups agreed should be reflected in the act. The bill includes an overall declaration of purpose that comports with these principles and other purpose statements in the act are amended to reflect these values as well. Throughout the bill, changes are made to incorporate the philosophy of inclusion and integration, full participation, and self-determination.

Provisions improving the Vocational Rehabilitation Program:

Several changes were made to improve and fine tune the functioning of the basic State grant programs. The bill includes provisions to streamline the eligibility process by requiring greater use of existing data and information provided by other agencies and by the individuals with disabilities and their families. The bill requires that eligibility determinations be made within 60 days from the date of application, except under exceptional and unforeseen circumstances.

The bill clarifies that, in general, an individual is eligible for services under the basic State grant program if he or she is an individual with a disability and requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

The bill includes that an individual who has a disability or is blind as determined under title II or XVI of the Social Security Act shall be considered to have a physical or mental impairment in meeting the first prong of the definition of an individual with a disability.

The bill specifies that an individual with a disability is presumed to be capable of benefiting from vocational rehabilitation services unless the State agency can demonstrate by clear and convincing evidence that the individual cannot benefit. Further, if the severity of the disability is the reason for a determination of ineligibility, the State must first undertake an extended evaluation.

The bill amends a State plan provision to require the States to develop a comprehensive system of personnel development, including providing training in the provisions of this bill, for professionals and paraprofessionals to ensure that State agency personnel are appropriately and adequately prepared and trained. The bill includes personnel qualification standards similar to those set forth in the Individuals with Disabilities Education Act.

The bill amends a State plan provision to require the States to provide for interagency cooperation including, if appropriate, establishing interagency working groups and entering into formal interagency cooperative agreements that identify areas that can be coordinated among the agencies and identify available resources.

The bill clarifies that vocational rehabilitation services available under the basic State grant include personal assistance services, transition services, and supported employment services.

The bill specifies that the State agency must ensure coordination between school systems and vocational rehabilitation through establishing policies and methods to facilitate the development and accomplishment of vocational rehabilitation and independent living goals included in the student's individual education plan. The bill requires that the State agency facilitate the smooth transition from school to the Vocational Rehabilitation Program for those individuals who need these services upon graduation.

The bill includes several changes to fine tune the supported employment program provided under title VI, part C. The bill clarifies that those eligible for services under this title are individuals with the most severe disabilities as defined by the State plan and who, because of the nature and severity of their disability, need intensive supported employment services to enter or retain competitive employment.

The bill clarifies that title VI, part C is intended as a supplement to the basic State grant under title I and that individuals served under this part should receive a comprehensive assessment to determine rehabilitation needs and postemployment services under title I.

The bill allows supported employment services to be provided to individuals prior to the identification of the extended service provider, if there is a reasonable expectation that such services will be available. In addition, the bill clarifies that there is not a specific number of hours per week required for a successful supported employment placement, but rather placements should be for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of the individual.

Provisions promoting the philosophy of independent living:

The bill includes several changes to title VII of the act which authorizes independent living services and independent living centers.

The bill provides that the State agencies may continue to receive funds for independent living services, but must expend these funds consistent with the State plan for independent living which is jointly developed by the independent living council and the State agency.

The bill converts the independent living center program from a competitive grant to a formula grant.

The bill defines an independent living center as a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency that is designed and operated within a local community by individuals with disabilities and provides an array of independent living services.

The bill generally provides that, after a 1 year transition period, only nonprofit agencies may apply independent living center funds and the applicants for these funds must address the needs of all persons with disabilities.

The bill establishes a two-tiered system of administration of independent living centers. In those States in which the amount of Federal funds for centers exceeds the amount of State funds, nonprofits apply directly to the Commissioner of the rehabilitation Services Administration. The bill ensures that existing centers will continue to receive support if they meet certain standards and assurances.

For those States in which the amount of State money for centers exceeds the amount of Federal money, the State may, at its discretion, serve as the grantor—on behalf of the Commissioner—subject to the following provisos. First, if the State takes an adverse action against a center, the center may appeal to the Commissioner. Second, when the State monitors a center, the review team has to include a nonagency person proposed by the consumer council. Third, if there are funds available to support a new center in a State, a peer review committee jointly appointed by the State and the council must review applications and the State must accept the recommendation of the peer review committee, if the committee did not violate any Federal or State law.

Provisions increasing consumer choice and involvement:

The bill makes several changes to increase consumer choice and consumer involvement both at the individual and the policy development level.

The bill makes several changes to the individual written rehabilitation plan to ensure that the desires of the individual is taken into account during the rehabilitation process. The bill requires that the individual and the vocational rehabilitation counselor jointly develop, agree, and sign the individual written rehabilitation plan.

The bill requires that the rehabilitation plan be consistent with the strengths, priorities, concerns, and abilities of the individual and include a statement by the individual, in his or her own words, on how he or she was involved in the process of choosing among the alternative goals, objectives, services, providers, and methods used to provide or procure such services.

The bill also addresses the need to have individuals with disabilities included in the development of policy on the part of the programs authorized by this act in several ways.

The bill establishes a State Rehabilitation Advisory Council for the basic grant program a majority of whose members shall be persons with disabilities. The functions of the council are advisory in nature and include advice to the State agency in the areas of eligibility for services, including order of selection; the extent, scope, and effectiveness of the services provided; and the development of the State plan.

The bill establishes a State Independent Living Council, which as I previously explained, has joint authority with the State to sign off on the State plan for independent living.

The bill establishes the Rehabilitation Research Advisory Council within the Department of Education to advise the Director of the National Institute on Disability and Rehabilitation Research with respect to research priorities and the development and revision of the long-range plan. The majority of the members of the advisory council must be persons with disabilities or their family members. The bill applies this same membership requirement to the National Council on Disability.

The bill establishes authority for the Commissioner to fund projects to demonstrate ways to increase client choice in the rehabilitation process. The bill directs the Secretary of Education to promulgate regulations regarding the scope, quality, and cost of vocational services procured directly by the client.

Provisions increasing accountability and quality of services:

The bill makes changes to improve the accountability and quality of the programs provided under the act.

The bill provides for the development of a strategic plan for expanding and improving vocational rehabilitation services on a statewide basis and authorizes innovation and expansion grants for implementing this plan.

The bill provides that a State must develop an accountability system that facilitates the accomplishment of the goals of the legislation, including serving, among others, persons with the most severe disabilities. In addition, the bill requires that the State assure that the accountability system in no way impedes the accomplishment of the goals of the legislation.

The bill directs the Commissioner to issue performance standards and indicators for the Vocational Rehabilitation Program. The bill provides that if a State fails to meet the performance standards and indicators, the Commissioner and the State must jointly develop a program improvement plan. In addition, the bill includes specific policies for on-site monitoring of the basic State grant programs.

The bill directs the Commissioner to undertake a comprehensive review of the current system for collecting and reporting data under the act in order to develop recommendations for improvements in the data collection and reporting system.

Provisions ensuring that support programs respond to the needs of the formula grant programs:

The bill makes certain changes to ensure that the programs of research, demonstrations, and training respond to the needs of the vocational rehabilitation, supported employment, and independent living programs.

The bill directs the National Institute on Disability and Rehabilitation Research to place emphasis on research designed to improve the effectiveness of services authorized under the act.

The bill expands the responsibility of NIDRR to disseminate its findings to ensure the widespread dissemination of information generated by its activities to all interested parties including to providers of services authorized under the act and persons with disabilities.

The bill includes a requirement that research and training centers funded by NIDRR are of sufficient size, scope, and quality to carry out the required activities in an efficient manner consistent with appropriate State and Federal laws.

The bill retains the focus in current of the rehabilitation engineering centers on research and demonstrations and includes, to the extent consistent with the nature and type of research being conducted, the training of individuals and their families and training of researchers by the centers. The bill includes areas of focus for research or demonstrations by these centers in a specified list of life areas and an illustrative list of areas of function. The bill requires the centers to have an advisory committee, the majority of whose members are individuals with disabilities and their families. The bill changes the name of the centers to Rehabilitation Technology Research and Resource Centers to conform with the updated language changes made by the bill.

The bill authorizes the development of model systems of comprehensive services delivery similar to the spinal cord injury program and model personal assistance services systems and other innovative services systems.

The bill deletes the construction authority for rehabilitation facilities from title III and the title is reorganized to emphasize the importance of personnel training.

The bill includes a 20-percent setaside of funds appropriated for training for inservice training of personnel, if this can be done without defunding currently funded projects. The setaside is to fund training on these amendments to the act and for projects to recruit and retain qualified personnel, to provide for succession planning, and to provide for leadership development and capacity building.

The bill includes a new section authorizing special training initiatives to address unmet or emerging training needs, including the training needs of supported employment program personnel, client assistance program personnel, independent living center personnel, and rehabilitation technology personnel, the training needs of impartial hearing officers, and the training needs of individuals and their families.

The bill includes additional authority for demonstrations in the areas of client choice, alternatives to case closure, transition from medical facilities to community living, and improvement of vocational rehabilitation management and service delivery systems.

The bill moves the independent living program for older individuals who are blind to title III from title VII, part C.

Provisions updating terminology:

The bill updates the terminology used throughout the act. The bill changes all references to "individuals with handicaps" to "individuals with disabilities." In addition, the term "rehabilitation facility" is replaced by "community rehabilitation program" and the term "rehabilitation engineering" is replaced by "rehabilitation technology" and it is clarified that the term includes "assistive technology devices and assistive technology services."

Mr. DURENBERGER. Mr. President, I rise today with great pride, as the chief Republican cosponsor of the Rehabilitation Act Amendments of 1992.

As the ranking minority member of the Subcommittee on Disabilities, I have had the great honor to work closely with Senator HARKIN over many important disability bills, and this reauthorization process has continued the tradition. I would venture to say that more than any other subcommittee in the Senate, the Subcommittee on Disabilities truly represents a continuous bipartisan effort. That bipartisanship is due in no small part to Senator HARKIN's fine leadership, and to the tremendously talented subcommittee staff that he has gathered.

I also want to thank the other members of the subcommittee and their staffs for their input, including Senators JEFFORDS, Senator HATCH, and Senator METZENBAUM. We have assembled a broad bipartisan group of cosponsors from the Labor Committee, which is indicative of the strength of the bill.

The bill we are introducing today is a reflection of an extremely long and thoughtful process Senator HARKIN and I have carried out over the past year. We and our staffs have spent countless hours trying to build a consensus of opinion over the general and specific direction this reauthorization should be taking. This bill represents just that, a consensus.

There is no doubt that many people in the disability community have argued, and will continue to advocate for, more radical change than we have been able to achieve in this reauthorization, and as most of my colleagues already know, my sympathies are squarely with these advocates.

But like many of the dreamers of this world, what we can effect at any given point is subject to some harsh realities. Considering the financial restraints that this program and we as legislators are bound by, I believe this bill represents serious progress.

The major accomplishments of the bill include:

A revision of the act that ensures the concepts of empowerment for individuals with disabilities will be followed including respect for individual dignity, self-determination, inclusion, integration, and full participation of individuals with disabilities.

A streamlining of access to services for individuals with disabilities by shifting the burden of proof of eligibility to the State. A person will be assumed eligible, unless a State can prove otherwise.

Increased consumer involvement and choice by requiring a joint sign off between consumer and counselor in the Individualized Written Rehabilitation Program, by the creation of consumer councils, and by a choice demonstration project which gives States broad authority to implement choice programs.

Increased accountability and quality.

These changes are not token. They are important, and people in the disability community, providers and consumers alike, are counting on them.

I have the very great privilege of representing the State of Minnesota in the Senate. And Mr. President, I have the even greater privilege of representing Minnesotans.

Minnesotans, as a community, are extremely progressive. They seem to have an unlimited supply of new and creative ideas to address the more vexing problems in our Nation's approach to social programs. One of the things that I have worked hard on as a member of the Labor Committee, is making a Minnesota mark on the legislation which is considered and adopted by the committee. It is my job to make sure that the rest of this country is able to benefit from the special way that Minnesota administers its social programs, and in reauthorizing the Rehabilitation Act I consulted closely with the people in my State.

Two months ago, I had the honor of meeting and talking with some 40 members of the disability community in my Minneapolis office. And I must say, listening to this group of people, most of whom had disabilities themselves, was an extraordinary experience for me. The people in that room were intelligent, thoughtful, and honest; they were parents of people with disabilities, they were advocates of people with disabilities, they were consumers. They told their stories with clarity and feeling and I felt blessed to have heard them.

A representative of that room was able to come and testify at the hearing that the subcommittee held on the reauthorization of the Rehabilitation Act, on Tuesday June 30. Dan Klint's testimony was remarkable. He told in beautiful and brave words of how he had wanted to be a lawyer but was told by his rehab counselor that he should not consider law school because a person in a wheelchair would not be able to carry around the books he would need to study.

It was important that Dan come and testify. It was important that everyone in that room hear his story. I want to thank Dan for giving the time and having the courage to tell his story and I would like to ask that his testimony be placed in the RECORD.

Dan's experience with the rehabilitation system was unfortunate, but we should keep in mind that this particular encounter took place in 1981. Since then, the Minnesota State Rehabilitation Program has made great progress, and there is no better sign of the seriousness with which the Minnesota State Rehab Program approaches its commitment to quality care than the fact that they paid for Dan to testify at that hearing.

I want to thank the many other people in Minnesota that have provided crucial information and recommendations for this reauthorization including: Coleen Wieck, the director of the Governor's Council on Developmental Disabilities; Mary Shorthall, the director of the State Vocational Rehabilitation process; Paula Goldberg, and the other parent advocates in the group called Pacer; Jerry Krueger, Jay Johnson, and the other independent living directors in Minnesota; Charlie Lakin, and the many other members of the disability community in Minnesota who have consulted with either me or my staff about this legislation.

The notions of empowerment for people with disabilities that are reflected in this bill were directly affected by all these people and they have done a great service to all members of the disability community in this country.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF DAN KLINT

Mr. KLINT. Thank you Mr. Chairman, Senator Durenberger, Senator Simon. Good morning. I greatly appreciate the opportunity to testify before you on the reauthorization of the Rehabilitation Act of 1973. I have been asked to testify regarding my experiences in the vocational rehabilitation process. However, before I testify on my experience, I would like to give you a brief personal background which I think is important to put my experience in perspective.

In September of 1972, I broke my neck in a high school football game. Although I missed six months of school due to hospitalization and rehabilitation, I was able to graduate with my high school class in 1975. In the fall of 1975, I began my undergraduate studies at the University of Minnesota, and in 1979, I earned a bachelor's degree in business administration.

Long before I received my undergraduate degree in 1979, I knew exactly what I wanted to do. Actually, I knew in approximately the 8th grade when in a legal process class of social studies I got to play the part of an attorney in a mock trial. From that point on, I knew I wanted to be an attorney. That was my dream.

Throughout high school and college, I worked toward that dream. I took all the legal-related classes that were offered. In addition, I took classes such as writing classes to hone the skills that I thought would be necessary to do well in law school.

Although I had originally planned on attending law school right after completing my undergraduate degree, I had an opportunity to attend the graduate school of business through a fellowship. My plans included starting that fellowship in the fall of 1979, working through that year, carrying a heavy caseload, completing at the end of the summer, and starting law school in the fall of 1980.

However, I became ill and was unable to attend the fall quarter, and I had to revise my plan to attend winter and spring quarters with the intention of getting my MBA degree concurrently with my law degree.

During my undergraduate studies, I had minimal contacts with my vocational rehabilitation counselor. At most, I may have had two to three contacts per year with the counselor. Not only were there a limited number of contacts, but what contacts there were centered primarily on completing the paperwork necessary for reimbursement for services. There was very little discussion, if any, regarding my personal career goals or a plan to achieve those goals.

After completing my undergraduate work and during the time I was attending graduate school, I was contacted a number of times by my vocational rehabilitation counselor. It appeared to me that the primary purpose of each contact was for the purposes of determining if I was working, so that if I was, they could close my case. On each occasion that I was contacted, I informed the counselor of my plans of attending law school and practicing law.

In the spring of 1980, I began making arrangements for attending law school in the fall. As part of the process, I contacted the rehab counselor to see what services were available and how they could be of assistance. The counselor set up a meeting with me at my parents' house.

During that meeting, the counselor spent at least 45 minutes attempting to talk me out of going to law school. During that meeting, I felt belittled, that I was talked down to, and that because of my disability, my long-term ambition of attending law school and practicing law was unrealistic.

On numerous occasions during that meeting, the counselor put forward a number of sometimes silly reasons why I should not go to law school. Among those reasons were that law books were big and heavy, that law school would be very competitive and require long hours of hard work. He also informed me that the practice of law would involve considerable hours of work, implying that because of my disability I would not be able to put in the time and successfully practice law.

I was also reminded by the rehab department that they had already spent enough money on me and that it was time that I get a job and develop a work history, no matter what that job was. At no time during the meeting did we discuss how I could make the necessary accommodations presented by my disability so that I could attend law school and practice law. Rather, the distinct impression that I received was that my expectations were too high and that it was foolish for me to believe that a person with a severe disability such as I have could successfully attend law school and practice law.

After becoming totally frustrated with the counselor's attempt to talk me out of law school, I interrupted him and asked him to leave the house. I informed him that with or without the State rehab department or his assistance I was going to attend law school that fall.

As he gathered his papers to leave, he informed me that he would look into what possible assistance could be provided. After a number of phone calls and conversations and another meeting, some assistance was provided in the form of a modest grant to pay a portion of the cost of an aide who would help me during my first year of law school to get books and do research.

Even this assistance did not come without a price. On a number of occasions, I was reminded by the rehab counselor of the significant paperwork and extra effort that was required to get the assistance that I received.

Senator HARKIN. Dan can I ask, what year was that?

Mr. KLINT. This is 1980-81 timeframe.

Senator HARKIN. Okay.

Mr. KLINT. Because of the significant physical and emotional effort to get the assistance for my first year of law school, I decided it was not worth the time and effort to seek any further assistance for my second and third year. Rather, with the assistance of a strong support group made up of family and friends, I completed law school and graduate school concurrently in the spring of 1983.

I am happy to report to you that, contrary to the rehab counselor's belief, I successfully completed law school at the University of Minnesota, graduating with honors. After a long job search, I was able to find a job as an assistant county attorney in the Anoka County Attorney's Office in Minnesota.

I am telling my story not to be critical of an individual or a State department in Minnesota, but to be critical of a system that needs changing. That system is the outdated vocational placement concept which emphasizes placement at entry-level jobs and case closure. That system must be replaced with a system that embraces the philosophy of the Americans With Disabilities Act. That system should, at a minimum, be based on at least the following four concepts:

Career development. This means a change from an emphasis on the concept of rehabilitation and its short-term emphasis on closure, to a broader concept of career development which recognizes personal involvement, choices, and the recognition that a person's needs, desires, and goals change over time and that services should be available to assist in that process on an ongoing basis;

Personal empowerment, the second item. This concept recognizes that for any system to be truly successful, it must break the chains of dependency and emphasize education, option analysis, personal choice, and responsibility on the individual with the disability, all leading to independence;

The third factor, early intervention. Services should be provided early in the educational process to broaden the horizons of persons with disabilities so that we truly know that there are options for us in the future and that we can look forward to a full and fulfilling life;

The fourth factor is continuing assistance. Recognize that a person's goals and ambitions change over time; therefore, a truly successful system would provide for a continuum and a flexible set of services which evolve over time to meet the changing needs of the individual.

That concludes my testimony. Thank you for the opportunity to address this important issue.

Senator HARKINS. Dan, thank you very much for bringing to the subcommittee your story. Again, it clearly shows what we are trying to be about in revising the bill, in revising the Rehabilitation Act.

Senator DURENBERGER. Mr. Chairman, if you will yield, I appreciate your being sensitive enough to capture it. I wanted Dan to tell his own story here today because it is so typical and it is so frustrating. And it ain't easy to get into the University of Minnesota Law School. It wasn't easy to get into the University of Minnesota Law School back when he got it, and it is even harder to graduate with honors. And to have a system up there which says no to lifelong dreams by people who are willing to overcome any disability—and it doesn't have to be lawyers. Hopefully people will choose professions other than the law, but whatever, you know, this is the spirit of the ADA. Dan is the spirit of all persons with disabilities. But it is sure better coming from him than having me tell you about him. I am sure glad, Dan, that you came out here.

By Mr. D'AMATO:

S. 3066. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to the drug fentanyl; to the Committee on the Judiciary.

CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT AMENDMENTS ACT

Mr. D'AMATO. Mr. President, I rise today to introduce, at the request of the Drug Enforcement Administration, a bill that addresses the penalty differences in the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to heroin and the drug fentanyl. Fentanyl is closely related in chemical structure to heroin and is listed by its chemical name in 21 U.S.C. 841. Analogues of fentanyl include commercially available substances, such as sufentanil, as well as clandestinely produced substances.

Commercially available fentanyl is often used as an anesthetic in hospitals. Clandestinely produced substances, sometimes known as China white, can be 50 or more times as potent as heroin. It takes its nickname from the slang term for pure southeast Asian heroin.

Fentanyl is a schedule II drug and is legally used in as many as 70 percent of all surgical procedures performed in the United States. The drug is an excellent heroin substitute because of the analogous effect which blocks pain while causing euphoria. It is as addictive as heroin. A dose of fentanyl as small as 40 to 80 micrograms will induce a heroin-like euphoria, a 200-microorganism dosage is used in surgery and about 300 micrograms can kill by comparison, a standard aspiring tablet weighs slighly over 300,000 micrograms.

There are dangers inherent in exposure to fentanyl. Fentanyl, airborne in even very small amounts, can be absorbed through the skin or mucous membranes causing illness or possibly death. Full self-contained breathing apparatus and skin protection are worn by investigative and laboratory personnel when responding to potential clanestine manufacturing or distribution sites.

Unfortunately, clanestinely produced fentanyl has been encountered on the east and west coasts. I am introducing this legislation in order to make the thresholds for the penalties under 21 U.S.C. 841 for fentanyl and its analogues comparable to those for heroin, based on dosage unit equivalents.

Under current law, 2½ times more heroin than fentanyl is required for the penalties of 21 United States Code 841 to apply, even though fentanyl is 50 times more potent than heroin. The number of dosage units of heroin necessary to invoke the most severe penalties is one-tenth the number of dosage units of fentanyl.

This legislation has four components. First, it decreases the threshold for fentanyl and its analog by a factor of ten for the enhanced penalties under 21 United States Code 841(b)(1)(A) to apply. Second, it decreases the threshold for fentanyl and its analog by a factor of 10 for the enhanced penalties under 21 United States Code 841(b)(1)(B) to apply.

Third, it inserts the name fentanyl after its chemical name in order to clarify the penalties that refer to it and, fourth, it makes the thresholds for enhanced penalties for fentanyl and its analog the same; that is, 40 grams in 21 United States Code 841(b)(1)(A)(vi) and 4 grams in 21 United States Code 841(b)(1)(B)(vi).

During early 1991, a series of drug related deaths and injuries caused by apparent heroin overdoses occurred in the New York metropolitan area. Six deaths and 69 overdoses occurred in New York, 2 deaths and 30 overdoses in Connecticut and 10 deaths and 114 overdoses in New Jersey. Further inquiry disclosed that the powerful synthetic narcotic fentanyl, being sold in the south Bronx as heroin under the brand names "Tango and Cash" and "Goodfellas," was the cause of these deaths and overdoses.

The drug is so potent that it can cause death almost immediately. I am concerned that we must act now before this becomes a nationwide epidemic. Congressmen RANGEL and COUGHLIN have introduced a companion to this bill in the House and I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a copy of the bill be printed in its entirety following the conclusion of my remarks.

Mr. President, I am also concerned about the rise of heroin trafficking in the former Soviet Union. Although this is not directly related to the legislation I am introducing, I would like to take this opportunity to insert a July 6, 1992, article from Forbes magazine entitled "Lethal Harvest." I, therefore, ask unanimous consent that a copy of the article be inserted after the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That—

(1) section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(A) in paragraph (1)(A)(vi)—

(i) by striking "400 grams" and inserting "40 grams"; and

(ii) by striking "or 100 grams" and all that follows through the end of clause (vi) and inserting "(fentanyl) or any of its analogues;"; and

(B) in paragraph (1)(B)(vi)—

(i) by striking "40 grams" and inserting "4 grams"; and

(ii) by striking "or 10 grams" and all that follows through the end of clause (vi) and inserting "(fentanyl) or any of its analogues;"; and

(2) section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(A) in paragraph (1)(F)—

(i) by striking "400 grams" and inserting "40 grams"; and

(ii) by striking "or 100 grams" and all that follows through the end of clause (vi) and inserting "(fentanyl) or any of its analogues;"; and

(B) in paragraph (2)(F)—

(i) by striking "40 grams" and inserting "4 grams"; and

(ii) by striking "or 10 grams" and all that follows through the end of clause (vi) and inserting "(fentanyl) or any of its analogues;".

LETHAL HARVEST

(By Peter Fuhrman)

Chorsu Bazaar, the main food market in Tashkent, capital of now independent Uzbekistan. It's a fiery hot afternoon. Thousands of Uzbeks jostle to buy the year's first strawberries, cherries, tomatoes. And opium. Without the secret police to worry about anymore, an Uzbek man of about 40 offers a Forbes reporter opium in 10-gram packets. Price, 2,000 rubles ($16 at the current exchange rate), or just $10 in real greenbacks. On U.S. streets, that 10-gram packet could fetch $200.

The Tashkent dealer is anxious to clear last year's inventory, for a flood of new opium is coming this summer. Just 200 miles to the south, in the mountains near Samarkand, more than 1,000 well-tended fields of opium poppies are ready for harvest. It's the same in three other former Soviet republics in Central Asia—Tajikistan, Kazakhstan and Kyrgyzstan. "Drug production and trafficking [in Central Asia] are growing at an alarming rate," says Bernard Frahi of the United Nations Drug Control Program.

And not only in Central Asia. In the world's three major opium-producing countries—Afghanistan, Iran and Myanmar (formerly Burma)—governments are failing to crack down on opium cultivation. Their output, too, is set to rise significantly this year.

The certain and unhappy result: much more, and probably cheaper, heroin on city streets in the U.S. and Western Europe. How much more? It's anybody's guess. The U.S., which tracks opium cultivation elsewhere in Asia with spy satellites, has yet to assess fully Central Asian production.

Cultivating opium or even marijuana (which grows abundantly as a weed in the region) has long been a crime in all Central Asian republics. But that does not deter this century-old trade. The soil and climate are ideal. Opium is the top-paying crop for farmers. Uzbek government officials say an acre of opium poppies grosses 1 million rubles, over 50 times more than an acre planted with cotton, the main legal cash crop. The 10 pounds of opium produced from 1 acre of poppies will yield 1 pound of pure heroin, with a street price in the U.S. of $100,000.

The collapse of the Soviet Union has also seen the collapse of police and customs services capable of controlling illegal drugs. Uzbekistan, the size of California, has just 113 full-time drug-enforcement police. They are equipped with only 25 automobiles and no helicopters.

Most Central Asian opium travels by land to Western Europe, via open borders with Afghanistan and Iran. To these have recently been added new routes through the warring republics of Azerbaijan and Armenia, into Georgia. From there, heroin shipments either cross into Turkey or continue by road up to Ukraine and Byelarus before heading west. Seizures remain rare.

Already small groups of organized criminals from the former Soviet Union are becoming active in the drug trade, especially in Brooklyn, Drug Enforcement Administration officials say.

In the U.S., cocaine consumption appears to have peaked. Heroin use, however, is still expanding. So Colombia's cocaine barons have begun plowing under coca bushes and replacing them with poppy fields. Colombia's opium production went from virtually nothing in 1990 to about 5.5 tons last year. It would not be surprising if the Colombians cut deals to use their well-organized, well-armed distribution networks to speed Central Asian heroin to U.S. addicts.

By Mr. SANFORD:

S. 3067. A bill to suspend until January 1, 1995, the duty on 1,8-Dichloroanthraquinone; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. SANFORD. Mr. President, I rise today to introduce legislation that would suspend the duty on 1,8-Dichloroanthraquinone.

CIBA-GEIGY Corp. is a leading developer and manufacturer of agricultural chemicals, pharmaceuticals, dyes, plastics, and specialty chemicals in the United States and employs approximately 1,200 to 1,300 people in North Carolina. CIBA-GEIGY is a major importer of 1,8-Dichloroanthraquinone, a dyestuffs intermediate that is used in the production of high lightfast disperse dyes, some of which are used in the coloring of automotive fabrics. Major automobile manufactures have requested all suppliers to reduce cost to aid their competitiveness. CIBA-GEIGY has not found a supplier of this chemical in the United States. The company imports from a manufacturer in India and England.

Enactment of a duty suspension on 1,8-Dichloroanthraquinone will help CIBA-GEIGY moderate its cost and play an important role in making the U.S. automobile and textile industries more competitive.

I urge my colleagues to support inclusion of this duty suspension in any miscellaneous tariff legislation the Congress may adopt.

By Mr. BREAUX:

S. 3069. A bill to amend the Tariff Act of 1930 to clarify and extend the provisions relating to foreign repair vessels; to the Committee on Finance.

THE 1930 TARIFF ACT AMENDMENTS ACT

Mr. BREAUX. Mr. President, the bill I introduce today will renew and clarify for 2 years a previous duty suspension bill which by eliminating unreasonable and costly restrictions on spare parts for certain vessels, will contribute to the preservation of our essential merchant fleet.

Enactment of this bill is necessary to eliminate discriminatory duties levied against one of the major segments of the merchant marine, the surviving U.S.-flag LASH vessel operators. It is needed to preclude the assessment of a double duty on spare parts which U.S. vessel operators must import from abroad because the parts they need are not manufactured or produced in the United States.

Under the vessel repair statute (19 U.S.C. 1466 et seq.), LASH barge containers are subject to ad valorem duty at a high 50-percent rate when during the course of voyages, they necessarily purchase replacement equipment or require repairs in foreign shipyards. Other types of containers carried aboard containerships are not, however, subject to the 50-percent duty for equivalent repairs and parts. Furthermore, if the LASH vessel operators were to order and import those same parts for delivery, by air or by some other vessel operator, to the United States, those parts would be dutiable at the far lower rates ordinarily applicable to imports of those particular parts.

This artificial distinction was corrected 2 years ago through legislation which I introduced at that time. The legislation I introduce today renews this correction and makes one clarification. My bill provides that the proposed duty suspension shall also apply to spare parts installed prior to first entry to the United States. Since labor costs would remain a separate itemized dutiable item, there is no justification for additionally penalizing the installation of these spare parts through an elevated duty on the parts. The duty on these installed parts should be the same as the duty on parts imported and installed in the United States.

Mr. President, this legislation is critical to our U.S. merchant fleet. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DUTY EXEMPTIONS FOR CERTAIN FOREIGN REPAIRS MADE TO UNITED STATES VESSELS.

(a) IN GENERAL.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", or"; and

(3) by adding at the end the following new paragraph:

"(3) the cost of spare parts necessarily installed before first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

(b) APPLICABILITY.—Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) is amended to read as follows:

"(B) on or before December 31, 1994.".

By Mr. BREAUX:

S. 3070. A bill to amend the Harmonized Tariff Schedule of the United States with respect to the tariff treatment of 1,6-hexamethylene; to the Committee on Finance.

HARMONIZED TARIFF SCHEDULE AMENDMENTS ACT

Mr. BREAUX. Mr. President, today I introduce legislation which seeks to renew a tariff reclassification under the Harmonized Tariff Schedules for 1,6-hexamethylene diisocyanate [HDI]. This reclassification is necessary because of problems associated with the U.S. conversion to the harmonized tariff system in 1989.

Polysiocyanate resins are used by the U.S. paint manufacturing industry in the production of polyurethane coatings. In connection with the formulation of these advanced resins, certain U.S. manufacturers import a key raw material known as HDI. HDI is not produced in the United States in quantities sufficient to service total U.S. domestic needs. For this reason the U.S. industry must import HDI.

When the United States adopted the Harmonized Tariff Schedule in 1989, administrative reclassification of HDI inadvertently caused its duty to increase more than 100 percent, from 7.9 percent ad valorem, to 16.2 percent ad valorem plus $.029 per kilogram. This increase resulted entirely from the technical process by which conversion to HTS was implemented and did not reflect any affirmative determination that a higher duty on HDI was either warranted or appropriate.

This legislation substantiates the legislative intent underlying the conversion to HTS that conversion should be revenue neutral with respect to reclassified commodities. Since the current duty reduction on HDI expires in 1993, I urge that HDI be reclassified in a manner that will maintain a 7.9 percent duty rate on a permanent basis.

Mr. President, I ask unanimous consent that the text of the bill be printed in full at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 1,6-HEXAMETHYLENE DIIOSO- CYANATE.

(a) IN GENERAL.—Chapter 29 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description in subheading 2929.10.20:

"2929.10.25	1,6 hexamethylene diiosocyanate	7.9%	Free (CA,E,IL) 2.8% (CA)	15.4¢/kg+52%.".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, after December 31, 1992.

By Mr. BREAUX:

S. 3071. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the rate of duty for certain jewely boxes, and for other purposes; to the Committee on Finance.

HARMONIZED TARIFF SCHEDULE AMENDMENTS ACT

Mr. BREAUX. Mr. President, today I introduce legislation which seeks to retroactively clarify the Harmonized Tariff Schedules as they relate to point of purchase packaging for jewelry. My bill would establish new classification subheadings to HTS heating 4202 in order to specifically cover boxes and similar containers of the type in which articles of jewelry are presented and sold; point of purchase packaging.

Prior to 1989 when the United States converted its tariff schedules to the International Harmonized Tariff Schedules [HTS], jewelry point of purchase packaging boxes were classified according to the material that "the article is wholly or in chief value" comprised. This classification put point of purchase packaging under the category pertaining to "containers of rubber or plastics, with or without their closures chiefly used for the packing, transporting, or marketing of merchandise."

The United States adopted the international HTS in 1989 and converted its own schedules to the international ones intending only to change nomenclature, not to increase or decrease tariffs on any products. Only later when explanatory notes to the HTS were issued in Brussels did it become apparent that the new international HTS would put point of purchase packaging for jewelry under a higher dutiable category called jewelry boxes. Initial U.S. resistance to this explanatory note eventually succumbed to the interests of international consistency.

By creating subheadings within the current schedules, my proposed legislation would permit U.S. Customs to continue to implement the U.S. HTS heading 4202 consistently with the international explanatory notes and thus promote international uniformity of classification nomenclature. However, the legislation would return jewelry point of purchase packaging to the same tariffs and quotas as existed under the former U.S. tariff classification system. It is not the intent of this legislation to trigger any adverse quotas relating to textile flocking, or textile fabric which lines the boxes.

Mr. President, I ask unanimous consent that the text of the bill be printed in full at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JEWELRY BOXES.

(a) LEATHER AND LEATHER COMPOSITION BOXES.—Chapter 42 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 4202.91.00 and inserting the following new subheadings with the superior heading for subheading 4202.91 having the same degree of indentation as the article description for subheading 4201.00.60:

	"Other:			
4202.91	With outer surface of leather, of composition leather or of patent leather:			
4202.91.10	Golf bags	6.8%	Free (IL)	35%
4202.91.30	Travel, sports and similar bags	6.8%	Free (IL) 2.7% (CA)	35%
	Jewelry boxes and similar containers of the type in which jewelry is presented and sold:			
4202.91.51	Of plastics	3%	Free (A, E, IL) 2.1% (CA)	80%
4202.91.52	Of wood	Free		15%
4202.91.53	Of paperboard	2.8%	Free (A, E, IL) 1.1% (CA)	35%
4202.91.54	Of metal	Free		25%
4202.91.55	Other	7.8%	Free (A, E, IL) 4.6% (CA)	110%
4202.91.90	Other	6.8%	Free (IL) 2.7% (CA)	35%.".

(b) PLASTIC AND TEXTILE BOXES.—Chapter 42 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheadings with the superior heading for subheadings 4202.92.53, 4202.92.54, 4202.92.55, 4202.92.56, and 4202.92.57 having the same degree of indentation as the article description for subheading 4202.92.50:

	"Jewelry boxes and similar containers of the type in which jewelry is presented and sold:			
4202.92.53	Of palstics	3%	Free (A, E, IL) 2.1% (CA)	80%
4202.92.54	Of wood	Free		15%
4202.92.55	Of paperboard	2.8%	Free (A, E, IL) 1.1% (CA)	35%
4202.92.56	Of metal	Free		25%
4202.92.57	Other	7.8%	Free (A, E, IL) 4.6% (CA)	110%."

(c) OTHER BOXES.—Chapter 42 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 4202.99.00 and inserting the following new subheadings with the article description for subheading 4202.99 having the same degree of indentation as the article description for subheading 4202.92:

"4202.99	Other:			
	Jewelry boxes and similar containers of the type in which jewelry is presented and sold:.			
4202.99.11	Of plastics	3%	Free (A, E, IL) 2.1% (CA)	80%
4202.99.12	Of wood	Free		15%
4202.99.13	Of paperboard	2.8%	Free (A, E, IL) 1.1% (CA)	35%
4202.99.14	Of metal	Free		25%
4202.99.15	Other	7.8%	Free (A, E, IL) 4.6% (CA)	110%
4202.99.50	Other	20%:	Free (IL) 8% (CA)	45%."

(d) EFFECTIVE DATE.—The amendments made by this section apply with respect to goods entered, or withdrawn from warehouse for consumption, on the date which is 15 days after the date of enactment of this Act.

By Mr. BREAUX:

S. 3072. A bill to suspend temporarily the duty on certain fine fabrics of synthetic filament yarn; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. BREAUX. Mr. President, today I am introducing legislation which would correct a tariff inversion found in the Harmonized Tariff Schedules [HTS] which adversely affects certain American necktie manufacturers.

Under the current Harmonized Tariff Schedules, the duty on filament polyester fabric—HTS number 5407.53—used in the manufacture of men's neckties is currently 22.5 percent of its value, plus 24.3 cents per kilo. The duty on finished neckties is 13.5 percent of value, plus 26.5 cents per kilo. The effect of the current tariff schedule is that the tariff on the imported necktie raw material is significantly higher than the tariff on the manufactured neckties.

The anomaly which I just described runs contrary to generally accepted trade policy which holds that in order to encourage domestic production, tariffs on raw materials should be lower than tariffs on the finished goods. Under current tariff schedules, the resulting duty inversion encourages the production of neckties in offshore facilities. My legislation would reduce the duty on certain synthetic filament yarn to 11.2 percent, plus 12.1 cents per kilo. It would correct the tariff inversion and encourage U.S. production of neckwear. Quite simply, my legislation would create American jobs in accordance with generally accepted international trade practices.

While I appreciate the administration's attempts to remedy this problem through the Uruguay round of the General Agreement on Tariffs and Trade, I believe that under the circumstances, American neckwear manufacturers deserve immediate and certain relief. My bill will provide them with this relief.

Mr. President, I ask unanimous consent that the text of the bill be printed in full at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY DUTY SUSPENSION.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.54.07	Of yarns on different colors: The thread count of which per cm (treating multiple (folded) or cabled yarns as single threads) is over 69 but not over 142 in the warp and over 31 but not over 71 in the filling (provided for in subheading 5407.53)....(619).	12.1c/kg+11.2%	No change	No change	On or before 12/31/95".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

ADDITIONAL COSPONSORS

S. 1002

At the request of Mr. SHELBY, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

S. 1240

At the request of Mr. CHAFEE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1240, a bill to amend title XIX of the Social Security Act to provide criteria for making determinations of denial of payment to States under such Act.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Oregon [Mr. PACKWOOD], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 1698

At the request of Mr. SARBANES, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 2236

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

S. 2318

At the request of Mr. BENTSEN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2318, a bill to amend title XVIII of the Social Security Act to make technical corrections relating to the Omnibus Budget Reconciliation Act of 1990.

S. 2389

At the request of Mr. BRADLEY, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2389, a bill to extend until January 1, 1999, the existing suspension of duty on Tamoxifen citrate.

S. 2837

At the request of Mr. HARKIN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2837, a bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

S. 2866

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. WARNER] was withdrawn as a cosponsor of S. 2866, a bill to establish a program, to be known as the "ADEPT" Program, for the provision of international assistance in the deployment of energy and energy-related environmental practices and technologies, and for other purposes.

S. 2969

At the request of Mr. KENNEDY, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2969, a bill to protect the free exercise of religion.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the names of the Senator from Missouri

[Mr. BOND], the Senator from South Carolina [Mr. THURMOND], the Senator from Wisconsin [Mr. KASTEN], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Kansas [Mr. DOLE], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Joint Resolution 293, a joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week."

SENATE JOINT RESOLUTION 314

At the request of Mr. BURNS, the names of the Senator from Illinois [Mr. DIXON] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to designate the period beginning on August 16, 1992 and ending on August 22, 1992, as "National Convenience Store Appreciation Week."

SENATE RESOLUTION 91

At the request of Mr. METZENBAUM, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Resolution 91, a resolution expressing the sense of the Senate regarding human rights violations against the people of Kashmir, and calling for direct negotiations among Pakistan, India, and Kashmir.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from North Carolina [Mr. HELMS], the Senator from New York [Mr. MOYNIHAN], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

AMENDMENTS SUBMITTED

INDIAN EMPLOYMENT AND INVESTMENT ACT

McCAIN AMENDMENT NO. 2744

(Ordered referred to the Committee on Finance.)

Mr. McCAIN submitted an amendment intended to be proposed by them to the bill (S. 2254) to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory as follows:

At the end of the bill add the following new title:

TITLE ___—INDIAN EMPLOYMENT AND INVESTMENT

SEC. _01. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 of the Internal Revenue Code of 1986 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	**The Indian reservation percentage is:**
Reservation personal property	25
New reservation construction property.	33⅓
Reservation infrastructure investment.	33⅓.

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "**; Indian Reservation Credit.**"

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy Credit; reforestation credit; Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1992.

SEC. 3. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the lesser of —

"(1) the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year; or

"(2) the credit limitation amount determined under subsection (e).

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term "qualified employee" means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after July 1, 1992.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (b) of section 1395.

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55."

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT DEFINED.—The credit limitation for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employer health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred during calendar year 1991 with respect to employees whose wages (paid or incurred by the employer) during 1991 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section 1394 with respect to each such employer shall be its proportionate share of the wages and qualified zone employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 1992.

Mr. McCAIN. Mr. President, I rise today for the purpose of sharing with my colleagues an amended version of S. 2254, the Indian Employment and Investment Act of 1992. I believe S. 2254, as amended, goes a long way toward addressing the concerns which some of my colleagues had expressed about the bill as introduced. It is my hope that this legislation will be seriously considered for inclusion as a separate title into the tax legislation scheduled for markup next week by the Committee on Finance.

Before I explain the changes to S. 2254, as introduced, I want to take a moment to thank the Honorable Nicholas Brady, Secretary of the Treasury, for his personal leadership and assistance, and for the assistance of the Department, on this particular piece of legislation. Secretary Brady, of course, has worked diligently in preparing the administration's own proposals for stimulating national economic growth—a package, I might add, that the Congress should act upon without further delay.

Mr. President, earlier this year Senator INOUYE and I offered S. 2254, as introduced as an amendment to H.R. 4210, the National Economic Growth Package. Although the amendment was not accepted, and H.R. 4210 was later vetoed, I believe that debate was necessary in order to ensure that Native Americans—perhaps the most neglected and misunderstood segment of our society today—were not forgotten in a national debate about policies for strengthening the economy and creating jobs for people who are willing to work.

S. 2254, as introduced, offers two tax incentives to private employers as a means of encouraging urgently needed economic development and jobs throughout Indian country. Generally, the bill provides: First, an investment tax credit geared to reservations where the unemployment level exceeds the national average by over 300 percent; and second, an employment credit that would provide greater incentives to reservation employers having a work force with at least 85 percent Indians.

In response to concerns subsequently raised by some of my colleagues, and in recognition of current budgetary restrictions, Senator INOUYE and I have made certain revisions to S. 2254 that we believe respond to the concerns we have heard and that also minimize the budgetary impact. These revisions include:

First, antigaming restrictions, which would prevent both the investment and employment credits from being used with respect to the development and/or operation of gaming establishments on Indian reservations;

Second, restriction of the employment credit to new hires only, thereby emphasizing the bill's intent to create new jobs or to expand existing businesses on reservations;

Third, an antichurning amendment to the employer credit provision, to avoid creating an incentive for an employer to discharge current employees and replace them with new or rehired employees after enactment of the bill;

Fourth, an allowance of one-half of the investment tax credit for qualifying investments on reservations where employment exceeds 150 percent but does not exceed the 300 percent of the national unemployment rate, thereby recognizing serious Indian unemployment rates which do not rise to the 300 percent level covered by the general rule; and

Fifth, a technical revision to provide taxpayers contemplating substantial investments in Indian country with additional flexibility for determining at an earlier stage of the development process the potential applicability of the investment tax credit to the particular reservation under consideration.

I want to express my thanks to Chairman BENTSEN for his assistance in getting the revenue estimate prepared, and to the staff at the Joint Committee on Taxation for all their hard work. Senator INOUYE and I are already working to find an appropriate offset for S. 2254, as amended.

I want to underscore two points about the revenue estimate. First, it does not take into account a further amendment that Senator INOUYE and I intend to make to S. 2254 which, as explained below, reduces the original credit level for the Indian investment tax credit. We have been advised that the joint committee is working on a revised revenue estimate based on this additional amendment. Second, the letter from the joint committee indicates that the investment tax credit would not apply to gambling casinos on Indian reservations. That is correct. I would point out, however, that the same prohibition also applies to the wage credit offered in S. 2254, as amended.

As I noted above, S. 2254, as introduced, contained an unusually high investment tax credit for businesses locating on Indian lands. The reason for this was a direct result of intense public discussion at the time about whether the Congress was going to enact a nationwide ITC. As a result, the Indian ITC was purposely set at a higher level in order to create an Indian differential in recognition of infrastructure deficiencies and the lack of an ability for Indian tribes to compete on a level playing field with the rest of the nation. Now that a nationwide ITC is no longer under consideration, it is also appropriate to reduce the original credit amounts in half while still maintaining the necessary differential between Indian reservations and the rest of the country. That amendment, of course, will also be helpful to lowering the overall cost of the bill.

Mr. President, I would point out that providing a separate program for Indian country; that is, distinct from current proposals for urban/rural enterprise zones, is not discrimination based on race. Rather, separate treatment of Indian tribes is consistent with the unique political status of Indian tribes and the government-to-government relationship they enjoy with the United States. Such treatment of Indian tribes has been upheld by the U.S. Supreme Court. (See *Morton* v. *Mancari*, 417 U.S. 535, 551–554 (1974)). Moreover, because of the massive infrastructure deficiencies that continue to plague Indian economic development efforts, potential investors/employers will require somewhat more generous incentives in order to level the playing field with even the most economically distressed areas outside of Indian country.

Mr. President, I believe S. 2254, as amended, merits serious consideration for inclusion in the tax legislation that is scheduled for markup next week in the Finance Committee. I believe the bill provides appropriate Federal assistance to Indian tribal governments in their effort to strengthen Indian reservation economies. At the same time, I believe the amended bill described above goes a long way toward ensuring that the overall budgetary impact is reduced as well as the possibility for abusing the two tax incentives.

I urge my colleagues to give S. 2254 serious consideration. The consistent plea of Indian people over the years is a simple one: that the nature of their situation be recognized and acted upon. We have the opportunity to respond in S. 2254, as amended.

Mr. President, I ask unanimous consent that a copy of the July 22, 1992, letter and revenue estimate from the Joint Committee on Taxation and a copy of S. 2254, as amended, be inserted into the RECORD immediately following my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOINT COMMITTEE ON TAXATION,
Washington, DC, July 22, 1992.
Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: This letter is in response to your request dated February 26, 1992, for an estimate of the revenue effects of S. 2254, the Indian Employment and Investment Act of 1992.

This bill would provide a credit to employers equal to 10 percent of the qualified wages and qualified health insurance costs paid to an Indian on a reservation. A higher, 30-percent credit would be paid to reservation employers whose workforce comprises at least 85-percent Indians.

This legislation would also provide an investment tax credit of 25 percent for personal property, and a credit of 33 percent for construction and physical infrastructure on or near Indian reservations with unemployment rates exceeding the national average by at least 300 percent.

In a recent meeting with Dan Lewis from the staff of the Select Committee on Indian Affairs, we received a further request for an estimate of the revenue effects of these provisions with the following amendments:

1. The wage credit would apply only to new employment, which would be measured relative to the total wages paid by each firm in the year before enactment of this legislation.

2. The investment tax credit would not apply to gambling casinos.

The following estimates assume that the bill would be effective for taxable years beginning after December 31, 1992:

[In billions of dollars]

Item	Fiscal years					
	1993	1994	1995	1996	1997	1993–97
S. 2254, as introduced	−0.1	−0.2	−0.2	−0.2	−0.3	−1.1
S. 2254, as amended	([1])	([1])	−0.1	−0.1	−0.1	−0.3

[1] Loss of less than $50,000,000.

Note.—Details may not add to total due to rounding.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

HARRY L. GUTMAN.

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on Efforts to combat fraud and abuse in the insurance industry: part 6.

This hearing will take place on Wednesday, July 29 and Thursday, July 30, 1992, at 9:30 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Friday, July 24, at 9:30 a.m. for a hearing on the subject: The Star Wars Program and the role of contractors.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, July 24, beginning at 10:30 a.m., to conduct a hearing to consider S. 1491, the Partnerships for Wildlife Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, July 24, 1992, at 2 p.m., in executive session, to markup a National Defense Authorization Act for fiscal year 1993, and other pending legislation referred to the Committee on Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, July 24, 1992, at 9 a.m., in executive session, to markup a National Defense Authorization Act for fiscal year 1993, and other pending legislation referred to the Committee on Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

INVESTING IN THE CHILDREN

• Mr. ROCKEFELLER. Mr. President, I rise today to call to the attention of my colleagues an editorial appearing in Business Week entitled "Investing in the Children." I commend Business Week for addressing some of the most crucial problems facing our children today.

As chairman of the National Commission on Children, I witnessed firsthand the devastating effects that inadequate health care and education can have on children, as well as entire communities. I firmly believe that every child should have the opportunity to develop to his or her full potential. However, unless we take the necessary steps to realize this vision, our children will continue to lack the basic necessities and be unable to contribute to society as productive workers and citizens.

Ensuring prenatal care, fully funding the Women, Infants, and Children supplemental food program [WIC], and providing Head Start to every child who needs it at ages 3, 4, and 5 are fundamental investments to prepare our children for school and a promising future.

Studies show that women who receive early prenatal care are much more likely to have healthy, normal weight babies. In addition, when comparing prenatal care for a pregnant mother, which can be as little as $400, to the cost of an infant's stay in a neonatal unit, which can exceed $150,000, it seems almost inconceivable not to increase funding for prenatal care.

As a result of participating in WIC, women are less likely to have low-birthweight babies and more likely to receive prenatal care and immunizations for their children. Despite its recognized success, WIC has never been fully funded.

Educational reform is another critical issue facing this country today. As a nation, we are still lagging behind other developed countries in math, science, and reading. The dropout rate is far too high, and many of those students who finish high school lack the basic skills needed to get a job, or the required knowledge to be accepted and compete in college.

An uneducated youth today will inevitably lead to a stagnant economic, political, and cultural tomorrow. For that reason we must reach out to children in the early years, especially those who are disadvantaged.

Investing in our children is not just morally justified, but economically sound public policy. Investments today in prenatal care and WIC yield measurable savings over years. In order to achieve these long-term goals of good education and adequate health care for all young Americans, we must make short-term investments now.

In "The Power and the Glory," Graham Greene wrote that, "There is always one moment in childhood when the door opens and lets the future in." Let us as leaders in business and government, as community members, and as parents unite to ensure that future for our children, as well as our country.

In closing, I commend Business Week for calling attention to the needs of children and their families and ask that a copy of this editorial be printed in the RECORD.

The article follows:

[From Business Week, June 26, 1992]

INVESTING IN THE CHILDREN

Any politican knows that the family taps our deepest emotions as a haven of intimacy, safety, and comfort. Yet like much in modern society, the U.S. family is changing: About half of all American marriages end in divorce, and out-of-wedlock births have rocketed. The traditional two-parent family is becoming less common. The percentage of children raised by one parent grew from 9.1 percent in 1960 to 24.7 percent in 1990. Most children born today may spend at least some time in a single-parent household (page 90).

These are not easy problems to solve. But some policy implications are obvious. First, government should reform those welfare policies that actually encourage family disintegration and dependency. Second, talking about family values, however necessary, will not do much to help the real victims of family break-up: the children. That will cost money. Policymakers should focus on helping out parents who work in low-wage jobs, especially single mothers. Low-income parents could get access to better health care and tax credits for child care and housing. The current disincentives against full-time work by welfare recipients should be scrapped. It may be worth investigating ways to automatically deduct child support from the wages of absent fathers.

Compassion and decency are not the only reasons why policymakers should invest in these children. Good education and adequate health care for all young Americans are the best ways to ensure economic growth.●

WALLOP-BREAUX AQUATIC RESOURCES TRUST FUND

● Mr. WALLOP. Mr. President, with summer upon us, many Americans head for the outdoors. We tour our countryside on bikes. We roam through national parks and forests with backpacks. We stroll across our beaches. And we fish and swim in our bountiful rivers, lakes, and streams.

This year, a great many anglers and boaters will be pleased to find new fishing and boating facilities and older facilities in better shape than ever—projects made possible through the aquatic resources trust fund which, according to projections, will have disbursed roughly $300 million across the Nation by the end of this year.

Since the passage of the Wallop-Breaux amendments which created the trust fund, this user fee has created and improved fishing sites all over the country. It has created lakes, restored streams and wetlands and improved fish habitats. In addition, 39 States now have aquatic resource education programs that teach urban kids about the great outdoors.

For those not familiar with the Wallop-Breaux fund, revenue is collected through a user fee on motorboat fuel, as well as excise taxes on fishing equipment and imported pleasure craft.

In my home State of Wyoming, the residents of Thermopolis recently became a benefactor of these fishery funds when a new, state-of-the-art handicapped facility was unveiled on the Big Horn River. Wyoming game and fish department officials were on hand to dedicate a handicapped-accessible boat ramp and dock that are believed to be a first-of-a-kind facility on a free flowing river. The new boat dock allows handicapped individuals to be lowered into their boats, and a special take-out ramp is provided downstream. The 12-acre site also includes a paved parking lot and rest rooms, and will soon have paved paths enabling handicapped anglers to fish along the banks.

Recreational activities should be open to all Americans, and by providing disabled outdoorsmen river access for fishing and boating, they, too, can engage in one of the most sublime activities—to be on the water, fishing and enjoying themselves. I know that this will not be the last project of this nature.

The aquatic resources trust fund works because the role of the Federal Government is minimal and because it is based on a cooperative partnership between States, the private sector and an enthusiastic, outdoor-loving public. It is a success story worth repeating and I am proud to have played a part.●

NATIONAL APPLICATION DAY FOR THE AMERICANS WITH DISABILITIES ACT

● Mr. SIMON. Mr. President, as we mark the second anniversary of the passage of the Americans With Disabilities Act [ADA], and the effective date of the employment regulations for the act, I want to commend a group of individuals in Chicago who have initiated an innovative program to further the objectives of the act. On Monday, July 27, the Council for Disability Rights [CDR] in Chicago, IL, is conducting a National Application Day, which is an effort to inform people about their rights as guaranteed by the ADA and persuade them to act on their own behalf.

Under the Americans With Disabilities Act, a qualified individual with a disability is defined as "an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires." Josephine Holzer, the executive director of CDR, and Jim McGovern, the organizer of the event, have initiated Application Day to inform these qualified individuals with disabilities that they are, indeed, needed in the work force and are capable of seeking employment. They are encouraged to deemphasize their disabilities and emphasize their abilities. The objective is also to alert employers of the valuable contributions that these citizens can offer.

I would like to recognize these efforts on the part of CDR and encourage others to follow their lead. They are reminding us that there is much work to be done to carry out the intent of the ADA and to include our citizens with disabilities in all aspects of the life of our communities. They are truly promoting the essence of the ADA, which encourages our silent minority to speak up for themselves and highlight their much-needed skills. They should have confidence in doing so that they are helping not just themselves, but all of us.•

THE AHAVATH ACHIM SYNAGOGUE, NEW BEDFORD, MA

• Mr. KERRY. Mr. President, today I would like to recognize the Ahavath Achim Synagogue of New Bedford, MA, which celebrated its 100th anniversary on June 20, 1992.

From its establishment in May 1892, Ahavath Achim has been dedicated to assisting and serving immigrant Jews as they arrive in our country. The original congregation was composed of Lithuanian immigrants who declared through the charter that the purpose of the synagogue would be "To worship God, bury the dead and promote temperance and morality."

Ahavath Achim Synagogue has been the backbone of the New Bedford Jewish community; creating an interest free loan society which granted free loans to many aspiring businesses, educating the children about their faith and heritage, supervising foods to ensure that they met Jewish dietary laws, preparing the deceased for burial, and providing food, lodging, and assistance for visitors who were collecting money for Jewish institutions.

Under the current leadership of Rabbi Barry D. Hartman, Ahavath Achim has revitalized its community programs with two scholar-in-residence weekends and a Hebrew high school and youth group. Rabbi Hartman has also led the synagogue in providing assistance and hospitality to recent immigrants from the former Soviet Union.

I wish to congratulate Ahavath Achim Synagogue for continuing the outstanding community service it has offered for these past 100 years. In addition, I commend the admirable faith and spirituality of this congregation and its leaders. I am certain that these traditions will be continued for many years to come.•

THE LEARNING SCHOOL—FIRST PLACE WINNER OF "SET A GOOD EXAMPLE" CONTEST

• Mr. DIXON. Mr. President, I rise today to recognize the students of the Learning School in Mount Prospect, IL, for winning first place nationally in the Set a Good Example contest.

Set a Good Example is an annual contest that recognizes and awards participating schools and their students on their student designed programs to educate children on leading a positive life. The theme for this year was "Set A Good Example—Be Honest, Trustworthy, And Competent." The program is designed to encourage students to help their peers study, be industrious, take pride in themselves, and say "no" to drugs.

The participants of Set a Good Example, called the Happiness Kids, at the Learning School in Mount Prospect, IL, have conveyed that message superbly. Through music, song, and dance, the Happiness Kids of the Learning School have reached children throughout the Chicago area. Their message to children—study, do something well, be productive, keep your body and teeth clean, and say no to drugs—while simple, has been effective. The Happiness Kids have performed in front of numerous schools and youth groups, written poetry, drawn illustrations, and produced other visual art for use in their campaign.

The use of positive peer pressure as part of a national grassroots campaign to prevent delinquency, illiteracy, and drug use is the work of the Concerned Businessmen's Association of America. This group of business leaders and participating schools have worked together to better their community through the use of its most important investment—its children. As demonstrated by the Happiness Kids of the Learning School, children are effective communicators.

Mr. President, I commemorate the Happiness Kids of the Learning School for their hard work, their initiative, and their vision. If the Happiness Kids are an indication of what our young people can do, we can look toward the future with hope. To the Concerned Businessmen's Association of America, the local sponsor, and students and educators of the Learning School, I extend to you my personal thanks for your efforts to better this world. Your work will be a model for others to follow.•

PRICE INVERSIONS

• Mr. SIMON. Mr. President, on June 11, our colleagues in the House of Representatives conducted a hearing on H.R. 2966, the Petroleum Marketing Competition Enhancement Act. This bill is similar to legislation I have introduced, S. 2043. I would like to relate some details of that hearing to my colleagues in the Senate, as part of my efforts to continue to draw attention to price inversions which are occurring all over the country.

Witnesses at the hearing before the Energy and Power Subcommittee had numerous well documented illustrations of price inversions. Ron White, a marketer from Upland, CA, explained that passage of this legislation could not help him. It is already too late. He has been driven out of business as a result of prolonged price inversions in the petroleum market.

Another witness, David Perry, from Beaverdam, OH, presented firsthand evidence that a major part of the petroleum industry is being wiped out as a result of predatory pricing practices of major oil refiners. Perry testified that Marathon/Speedway regularly sells at its retail outlets from 22 cents to 5 cents below Marathon's wholesale price. According to Mr. Perry, "Inversions have gotten worse and lasted longer in the last 2 years. I attribute a loss of at least $100,000 in 1991 directly to the price inversions faced by my business."

Robert Phillips, a Tulsa, OK, marketer, showed invoices and street postings of Total and Phillips Petroleum, both of which supply him wholesale and compete with him at retail. At the time of the hearing, the refiners were charging Mr. Phillips a wholesale cost of $1,012 per gallon of regular unleaded while they were selling the same gasoline at their retail outlets for just $0.999 per gallon. Independent marketers are becoming increasingly concerned that if this dilemma is not resolved, that they will be unable to remain in business.

The marketing vice president of Chevron, David Smith, represented the American Petroleum Institute. As I understand it, Mr. Smith was unable to answer questions about the cost of selling a gallon of gasoline at one of his direct operated retail outlets. Confronted with the estimates from another company and the numbers provided by the marketer witnesses at the hearing, Mr. Smith was unable to gauge whether these numbers were low or high.

The marketing vice president of a major oil company does not even know what his average costs are. The truth is that the major oil companies don't need to know what it costs them. They want a certain marketshare, and they will price their gasoline at whatever price they need to achieve that control, even Mr. President, if that price is at or below the price they charge their wholesale customers.

Everyone must realize that the consumer is not benefited by this behavior. The consumer loses because the most efficient competitors are being eliminated. Higher prices will result as the less efficient refiners slug it out among themselves for their share of the market.

Mr. President, if this trend continues, there will be fewer and fewer competitors in the retail gasoline marketplace, and I strongly believe that this would adversely affect consumers in this country. Simply put, less competition will lead to higher prices for consumers. Congress needs to become involved, and I am happy to see that legislation addressing this issue has been introduced in both the Senate and the House. Hearings by the jurisdictional subcommittees have been held, and it is now time for Congress to act.•

ORDERS FOR MONDAY, JULY 27, 1992

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 1 p.m., Monday, July 27; that following the prayer, the Journal of proceedings be deemed approved to date; that following the time for the two leaders, there be a period for morning business not to extend beyond 2 p.m. with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M. MONDAY

Mr. DASCHLE. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 3:50 p.m., recessed until Monday, July 27, 1992, at 1 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 24, 1992:

DEPARTMENT OF ENERGY

LINDA GILLESPIE STUNTZ, OF VIRGINIA, TO BE DEPUTY SECRETARY OF ENERGY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Friday, July 24, 1992*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. HOYER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 23, 1992.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore on Friday, July 24, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

Rev. George A. Pera, D.D., L.H.D., pastor, Westminster Presbyterian Church, Alexandria, VA, offered the following prayer:

Almighty God, in whom is found all goodness and righteousness, we ask Thy blessing upon this assembly. We give Thee thanks for all those past and present who, by their leadership, have inspired in us a passion for excellence.

Whatever our tasks, may we do them honestly and well, knowing that the longings and aspirations of the people of this Earth rest on our deliberations. Make our hands eager to work effectively, our feet swift to walk in Thy ways, our ears, eyes, tongues, hearts, and minds dedicated to noble living and effective service. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MILLER of Washington. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of Washington. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until the end of the legislative day.

The point of no quorum is considered as withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio [Mr. APPLEGATE] for the purpose of leading us in the Pledge of Allegiance.

Mr. APPLEGATE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini; and

H.R. 3836. An act to provide for the management of Federal lands containing the Pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the Pacific yew.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2877. An act entitled the "Interstate Transportation of Municipal Waste Act of 1992."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 295) "An Act for the relief of Mary P. Carlton and Lee Alan Tan."

The message also announced that, pursuant to Public Law 101-549, the Chair, on behalf of the Republican leader, appoints Mr. John Doull of Kansas, to the Risk Assessment and Management Commission.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take no 1-minute speeches.

VOTING RIGHTS LANGUAGE ASSISTANCE ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 522 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4312.

☐ 1005

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4312), to amend the Voting Rights Act of 1965 with respect to bilingual election requirements, with Mrs. UNSOELD in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, July 23, 1992, 39 minutes remained in general debate.

The gentleman from Texas [Mr. BROOKS] has 29 minutes remaining and the gentleman from Florida [Mr. MCCOLLUM] has 10 minutes remaining.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Madam Chairman, I yield myself such time as I may require.

Madam Chairman, in 1965, with President Johnson's signature of the Voting Rights Act, this Nation began to address the compelling need to protect one of the most fundamental attributes—and obligations—of citizenship: the right to vote. Similarly, the enactment 10 years later of section 203 of the act, the language assistance section, marked the beginning of the end of practices and procedures which, in a more subtle fashion, effectively excluded citizens of language minorities from participation in the electoral process. Just as the Voting Rights Act represents a fundamental commitment to preserve a fundamental right for all our citizens, section 203 constituted an equal commitment to affirmatively promote the exercise of that right—to ensure that all voices may be heard in the electoral process.

Section 203 has worked well for 17 years. The legislation before us today simply extends that section so that it will expire at the same time as the other provisions of the act and ensures that its targeted assistance is provided to communities where language barriers remain as an obstacle to participation in our democracy. The bill continues the practice of current law which provides local jurisdictions with maximum flexibility to balance the needs of minority language voters with those of efficient administration of the electoral system.

Because this important section will expire on August 6, the Judiciary Committee has moved the legislation swiftly to ensure that there is no gap in coverage—particularly during this crucial

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

election year. I want to salute subcommittee Chairman DON EDWARDS for his strong and abiding leadership in this effort and in his constant vigilance in protecting the civil rights of all Americans.

There is no more important step we can take to preserve the American people's confidence in our Government than to support legislation which protects the right of all citizens to participate in our Nation's democratic system through exercise of the right to vote. Because this legislation furthers that goal, I strongly support it and ask all my colleagues for their support in this important effort.

Madam Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. EDWARDS], chairman of the subcommittee.

Mr. EDWARDS of California. Madam Chairman, I thank my chairman for yielding me this time.

Madam Chairman, I must admit that I participate in this debate today with feelings of reverence. The Voting Rights Act of 1965, together with the sister bill, the omnibus civil rights bill of 1964, are the brightest starts in America's constellation of achievements in human rights.

Many of my colleagues now Members of this House were too young to remember how life was in the early 1960's before the Voting Rights Act was passed. In many places in America African-Americans were not allowed to vote, and if they tried, or if they tried to register, they were assaulted, beaten, hosed down with fire hoses, bitten by police dogs, and some were murdered. Young Americans who went to these areas in 1963 and 1964 trying to help African-Americans to register and vote were similarly assaulted, beaten, jailed, and yes, Madam Chairman, some were murdered.

The Voting Rights Act of 1965 changed all of that. It guaranteed the right to vote. It provided machinery to protect the right to vote.

□ 1010

It brought sunshine, sunshine, liberty, and fair play to all Americans, and today, Madam Chairman, we, in this House of Representatives, have the honor and the privilege of participating in an important extension of this noble bill.

We are grateful to many Members who have aided us in this effort, particularly the author of the bill, the gentleman from New York [Mr. SERRANO], also the distinguished chairman of the Hispanic Caucus, the gentleman from Texas [Mr. ORTIZ], the Black Caucus, led by the able chairman, the gentleman from New York [Mr. TOWNS] gave us great help, members of my subcommittee, the gentleman from Michigan [Mr. CONYERS], the gentlewoman from Colorado [Mrs. SCHROEDER], the gentleman from Texas [Mr. WASHINGTON], the gentleman from Oregon [Mr. KOPETSKI], and my splendid staff, Catherine LeRoy, Melody Barnes, and we were assisted by minority staff member Kathryn Hazeem.

Madam Chairman and my colleagues, several amendments will be offered. Each, I regret to say, each, Madam Chairman, is designed to cripple the bill, to do damage to this great piece of legislation. We hope that all of them will be defeated.

We ask our colleagues to stand tall with us to defeat all of these amendments.

Mr. BROOKS. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI], chairman of the Subcommittee on International Law, Immigration, and Refugees, and a distinguished member of the committee.

Mr. MAZZOLI. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I rise in very strong support of the bill, which came out of our committee, and in opposition to the amendments which will be offered today.

Essentially speaking, the Voting Rights Language Assistance Act is part of a larger picture. It is important in its own right, because there are many American citizens who are not English-proficient, do not speak English language as proficiently as they will later on in their lives, and in the meantime, we have to give them some opportunity to know about elections in order to fully participate.

Madam Chairman, I look at this in the context of a larger picture, as a part of a larger picture, which would include the motor-voter bill. Now, our colleagues in the House will recall that the House itself passed the motor-voter bill. The President vetoed the motor-voter bill, which allows people, citizens, whether of Kentucky or elsewhere, a chance to register to vote when they apply for their automobile licenses or extend those licenses or at public places like libraries. They can register to vote and, of course, once registered, they are in a position to vote.

The President unfortunately vetoed that bill, as he vetoed the campaign finance reform bill, which also invigorates and changes and updates and modernizes the political process and does many things including limiting campaign spending, reducing the influence of special interests, again, to encourage people to vote by reviewing their faith in the political process.

So while this bill on its own feet and in its own stead is an excellent piece of legislation, and I certainly intend to vote for it, and I am happy that the White House seems disposed to sign this bill into law, I am certainly distressed that the President and people around him have counseled against other actions which this body has taken and the other body has taken that will and could encourage people to vote.

So I support the voting rights extension.

Mr. KOSTMAYER. Madam Chairman, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Will this legislation fund the printing of ballots in languages other than English?

Mr. MAZZOLI. It could. It has that possibility. It does not necessarily intend that, but it could yield that result.

Mr. KOSTMAYER. Can the gentleman tell me, describe to me, under what circumstances the legislation would finance the printing of ballots in languages other than English?

Mr. MAZZOLI. Well, I would also encourage my chairman to engage with me in this debate, but the gentleman's question has to do with the use of the money under the bill for printing of ballots in languages other than English. It only would occur, I would tell my friend, the gentleman from Pennsylvania, only in certain selected areas where either there are 10,000 people, of a certain ethnic group, who are not English-proficient, or, under the current Voting Rights Act, 5 percent of the voting-age population in a particular ethnic group is not English-proficient.

Mr. KOSTMAYER. If the gentleman will yield further, am I correct in saying that one must be in this country for 5 years before one can be a citizen and vote?

Mr. MAZZOLI. It could be less time. But that is roughly correct.

Mr. KOSTMAYER. Five years?

Mr. MAZZOLI. Roughly speaking, 5 years.

Mr. KOSTMAYER. So folks are here for 5 years and we are still going to print ballots in their native language because they do not speak English yet?

Mr. MAZZOLI. It could be done.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. TORRES].

Mr. TORRES. Madam Chairman, if we pass weakening amendments to limit the reauthorization of section 203 of the Voting Rights Act, we will have effectively gutted the law. We have not put restrictions on other laws meant to help people. We did not insert language into the Civil Rights Act of 1991 stating we are restoring our civil rights laws for only 4 years because discrimination will be no more by then.

We have not told disabled people that the Americans With Disabilities Act is only good for 6 years, because people with physical disabilities won't be discriminated against after that or be disabled. We are only seeking to reauthorize section 203 for 15 years, to 2007, to bring it in line and make it uniform with the rest of the Voting Rights Act.

Studies show that native Americans, and many Hispanic and Asian-American citizens who speak English poorly and are of voting age, who were the original intended beneficiaries of section 203 in 1975, still suffer the effects of unequal educational opportunities. In fact, evidence shows that 17 years later educational disparities in Hispanic, native American and Asian-American communities may even be worse now than they were in 1975. Obviously, language assistance as required by the act will continue to be both needed and used by these Americans for longer than 5 years and at least until 2007.

I urge all members to oppose all weakening amendments, and let us pass the Voting Rights Language Assistance Act of 1992. The right to vote is the cornerstone of democracy, we should be doing everything in our power to protect that right, not to take it away.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Madam Chairman, I rise today as chairman of the Congressional Hispanic Caucus in support of H.R. 4312, the Voting Rights Language Assistance Act of 1992. On behalf of the Hispanic Caucus, Congressman JOSÉ SERRANO introduced H.R. 4312, which would reauthorize and refine the Federal bilingual voting mandate.

Bilingual voting and registration assistance goes to the heart of American democracy.

It permits Hispanic, Asian-American, and native American citizens to participate in the political process.

It gives language minority citizens the power to have a voice in how our Government is run.

Opponents will argue that bilingual voting assistance inhibits the integration of Hispanics and language minorities into the mainstream of American life.

That argument is dead wrong.

Providing bilingual voting assistance is a way of encouraging citizens to participate in the most American of institutions—the political process.

By giving language minorities a reason to believe in American Government and by giving them a way to become invested in the decisions our Government makes, bilingual voting assistance can cultivate a sense of patriotism and civic duty that is sorely needed in today's anti-Government climate.

Time after time, Hispanics have shown that when they are given the chance to contribute to their country, they deliver.

Hispanic-Americans have earned 38 Congressional Medals of Honor in serving their Nation. Hispanic soldiers have received more Medals of Honor than any other minority group.

Because they want to believe in all the opportunities America has to offer, it is not surprising that Hispanics and other language minorities widely use bilingual voting assistance once it is provided.

Exit polls taken in the Southwest show that one in five Hispanic voters use bilingual voting assistance.

Nationwide that suggests that as many as 1 million Hispanic voters could benefit from bilingual voting assistance. Since the introduction of bilingual assistance in native American reservations, voter participation rates have soared by as much as 180 percent.

National census figures on voter participation—often cited by opponents—are next to useless in assessing the effectiveness of bilingual voting assistance.

Only 10 percent of the Nation's 3,000 counties provide bilingual voting assistance. The small number of Hispanic voters who receive and successfully use bilingual voting assistance are lost in large, nationwide figures.

By including a numerical benchmark in the formula used to calculate coverage, H.R. 4312 would ensure that more Hispanics who should be getting bilingual voting assistance receive it.

By giving more citizens greater access to the ballot box, H.R. 4312 can make our Government more responsive to the people.

And that is what America is all about—listening to the needs of all citizens, regardless of race, color, or ethnicity.

I urge my colleagues to cast a vote for democracy and support H.R. 4312, the Voting Rights Language Act of 1992.

□ 1020

Mr. McCOLLUM. Madam Chairman, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Madam Chairman, I rise in support of the bill. We must do more to open up our democratic process to all who have been shut out. Approving the voting extension bill today will do just that. It will allow American citizens, most of them elderly, the opportunity to read often confusing ballot language in their native language. Bilingual ballots allow Americans who have limited-English proficiency to have full access to our democratic process.

At a time when so many feel shut out of our electoral process, let us invite all Americans to help our democracy grow and prosper. Lo necesitamos. We need it.

Madam Chairman, I urge all Members to approve the bill and reject all amendments which seek to cripple complete voter access.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Madam Chairman, my experience with this section is a very personal one and one of reasons why I strongly support it.

In 1985, I ran for a position known as Bronx Borough president, an office I lost by less than 1 percent, and yet we were able to accomplish a few things. We found out right before the election that the board of elections was doing very little to assist language minority voters in the city of New York. We sued under section 203 asking for support.

The litigation was settled by stipulation and the board of elections was required to conduct an aggressive voter education campaign in the Spanish language media. They were supposed to recruit students and other bilingual people to serve as inspectors.

This, in my opinion, turned the Bronx around to the point where in the next 6 years we elected four Hispanic council members, a Member of Congress, two more assembly members, and two more senators.

There are many people who feel that this section of the Voting Rights Act is the most important one.

Now, I know some of the fears that are presented here that somehow support of this section is to turn against the essence of our country, which is to speak English.

Well, nothing in the studies that we have conducted indicates, unfortunately, that people hold on to their native tongues. In fact, by the second generation and surely by the third, none of the children any longer speak their native language.

What this says is that once a person is a citizen, you want to give them every possible opportunity to participate in the electoral process.

Others will argue that this costs some money, and therefore it should not be done unless we supply that money. Well, I do not know where in the Constitution it says that in order to receive civil rights, you should have someone pay for it. Civil rights is something that is very much a part of a person.

Now, the change in this bill, the changes we make is that we include by changing from 5 percent to 10,000 different counties throughout the Nation.

I know we are short of time, so I yield back the 10 seconds that I have left.

Mr. McCOLLUM. Madam Chairman, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Madam Chairman, I thank my colleague, the gentleman from Florida, for yielding me this time.

I just would like to carry on a colloquy with the gentleman from New York [Mr. SERRANO] to allow him some more time and just to ask a few questions.

As I understand it, roughly, a person must be here about 5 years before he or she becomes a citizen.

Mr. SERRANO. Madam Chairman, if the gentleman will yield; yes.

Mr. STEARNS. The argument would go then that after that period of time of 5 years they should have learned English well enough so that they could understand the ballot. So why does the Federal Government have to pay to promulgate another language in the United States where English is the official language?

Mr. SERRANO. Well, Madam Chairman, if the gentleman will yield further, there are two quick arguments I can think of on that.

First of all, the gentleman is discussing whether or not we should allow people to be citizens who speak limited English, having limited-English proficiency. That is another issue perhaps for another day.

If they need the assistance, they should be given the assistance in order to allow them to vote.

But in the case of my community, for instance, we are born in Puerto Rico. We are born American citizens with all rights under the law, yet we are born in a Spanish-speaking country. Should we then when we arrive within the 50 States not be allowed to vote because we do not fully understand the language?

Mr. STEARNS. Let us take Lithuanians, or let us take folks who speak in a variety of languages. I mean, do we go to all the languages?

Mr. SERRANO. If they meet the requirements of the law, I would say not only should we go through the language, but we should encourage that kind of participation.

The gentleman mentioned, incidentally, a group of people who are looking for freedom and liberty throughout the world. If they come here and we invite them to come here by our way of being and our freedom and democracy, we should do nothing to impair their ability to vote.

Mr. STEARNS. Well, I would just like to conclude then, what the gentleman is advocating is that we have foreign languages throughout the world and the United States should set up ballots for these foreign languages throughout the election process for everybody who speaks a different language.

Mr. SERRANO. If you meet the numbers, but the law does not provide for everybody in the world to have their language on the ballot, I assure the gentleman of that.

Mr. STEARNS. Madam Chairman, I thank my colleague.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I rise as an African-American whose family was once disenfranchised by the mere fact that our skin color was black. Therefore, I am in full support of H.R. 4312, the Voting Rights Improvement Act of 1992. This bill simply reauthorizes section 203 of the Voting Rights Act of 1965 to provide bilingual voting assistance for another 15 years and makes adjustments so that more language-minority Americans can receive this important help.

With fewer and fewer Americans voting these days, and these are our English-speaking citizenry, we need to take steps to encourage as many Americans as possible to participate in the electoral process. If thousands are discouraged or prevented from casting their ballots simply because they are not fully proficient in English, then voting is not truly for all Americans. There is no real democracy.

Citizens who want to exercise their fundamental right to elect those who represent them in Government, but have not completely mastered the English language, ought certainly be given bilingual assistance so that they can do so.

The current formula for providing bilingual assistance is almost useless in many large urban areas. In my own Chicago metropolitan district in Cook County, IL, there are 88,000 Hispanic-Americans who need bilingual assistance, but they are not eligible under section 203 under present law.

H.R. 4312 would expand coverage so that any county, such as Cook County, IL, that has more than 10,000 eligible voters who are not fully English proficient, would have to provide bilingual registration forms and ballots. There is nothing wrong with that.

H.R. 4312 is critical to eliminate disenfranchisement by language barriers, thereby enabling more Americans to exercise their fundamental right to fully participate in our democracy and to vote for free representation of and advocacy for their concerns.

Mr. McCOLLUM. Madam Chairman, I yield 3 minutes to the gentleman from Florida [Mr. JAMES], a member of the committee.

Mr. JAMES. Madam Chairman, understanding of English is a requirement of citizenship in the United States.

It is a practical requirement, because English is our language of political discourse and has been for 300 years.

And English is a legal requirement.

Naturalized citizens are required by Federal law to demonstrate the ability to "read, write and speak the ordinary usage of the English language."

That is as it should be. If there are people in America who do not understand English—people who do not know what it means to say "all men are created equal"—people who have never heard of "due process of law"—people to whom "government of the people, by the people and for the people" means nothing at all—people who cannot read the promise of the Statue of Liberty: "I lift my lamp beside the golden door," such people should not be voting.

Listening to the proponents of this bill, I wonder if there is wide-spread circumvention of our immigration law?

In fact, I do not believe that is the case. I believe our citizens understand English. In fact, I suspect our naturalized citizens have a better understanding of English than this Congress, facing a $400 billion deficit, understands compound interest.

And facing that $400 billion deficit, there is no need for this Government to spend $1 million—nor for the States to spend $10 million—to encourage voting among people who do not understand the word "vote."

Certainly, large numbers of Americans came here recently. That has been true through most of our history. And surely many recent Americans were born in lands where English was not spoken. That has been true for 200 years of our history as well.

These new citizens, like our ancestors before them, came to America to become Americans.

Most nations on Earth are held together by their past. Most nations are, or claim to be, people who are descended from common ancestors who have shared a common history.

We are a people held together by common goals and values; people who share a common future.

Let us reaffirm that future today. Let us reaffirm our confidence that these immigrants are as American as those who came before. And let us vote "no" on this divisive, destructive, expensive piece of legislation.

□ 1030

Mr. BROOKS. Madam Chairman, I yield 2 minutes to a distinguished Member, the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Madam Chairman, today, a few minutes ago, we heard that if a citizen of this country does not know English, that he or she should not be able to vote, the basic right of any citizen of this country.

Well, let me talk about the first citizens in this country, a people that we fought, that we conquered, the first citizens who today have to go to BIA schools, Government-run schools where they do not learn English properly.

They are on reservations, Madam Chairman. Our Government has put them there. But yet they are citizens of this country.

They would like to participate in this country, to make decisions for their people, and yet we deny them participation because this Government does not teach them English properly.

The native Americans of this country, the first citizens of this country, need to have a voice in their Government. If we are going to deny their vote because we do not teach them English properly, then shame on this country, shame on our society. Why should we exclude the native Americans because we try to treat them as second-class citizens? I ask my colleagues, there are many citizens the first citizens, of this country who have the right to vote; they only ask the assistance to be well informed and to participate in this Government like any other citizen should.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentlemen from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Madam Chairman, I rise before you today to encourage my colleagues to vote in favor of H.R. 4312, the Voting Rights Improvement Act. I speak on behalf of the millions of people in this country for whom English is a secondary language. Although the Voting Rights Act guarantees Hispanic, Asian, and native American citizens bilingual assistance at the polls, millions of them are left out of the process because the formula used to calculate coverage under the act is flawed. In large cities like Chicago, minority populations, although large, do not make up the required percentage of the total population required to be eligible for language assistance. H.R. 4312 would address this oversight by changing the guideline for assistance to include these large populations. For these individuals, bilingual voting assistance means the difference between casting a vote and being locked out of the electoral process. It is of great concern to me that in America, a country founded on the principles of freedom, justice, and equal representation under the law that there are literally millions of Americans who have been denied the right to vote. These individuals have not been refused their constitutional rights because they are not citizens, rather they have been denied access to the ballot because of a simple language barrier.

When the motor-voter bill, a bill that will make it easier for millions of Americans to register to vote was considered on the floor of this great House, it met great opposition from my colleagues on the opposite side of the aisle. Why are many Republicans so fervently against a measure that would make it easier for millions of minorities to vote? The answer to that is immoral, but simple: they know that by giving people the right to vote you empower them. They know that by giving people the right to vote, you give them a voice in our Nation. Finally, they know that by giving these disenfranchised people the right to vote they would have to answer to them, they might even have to address their needs to get elected and to stay in office. A scary thought for many Republicans, a scary thought for a politician who has built his career on catering to the needs of big business and the rich.

It is time, in this great country of ours to focus on what really matters. Not the needs of big business, not perpetuating our huge military machine, but it is time to concentrate on the needs of the people of our great country. The greatest legacy this country wills its citizens the right to vote. The right, by birth, to raise our voices and shout, this is how the system ought to work. Although it is shameful that more Americans do not exercise their God given birthright, that is their choice. It is inexcusable, however, that millions of Americans want to vote but cannot because they have been denied the tools necessary to help fulfill their obligation. It is imperative that we pass H.R. 4312, the Voting Rights Improvement Act of 1992, if only to remove the gag we have placed on millions of Americans by not allowing them to cast their votes. It is time to open the doors of opportunity in this country and make provisions to allow all Americans the right guaranteed them in our precious Constitution. The right to cast a vote.

Mr. McCOLLUM. Madam Chairman, may I inquire how much time each side has remaining?

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] has 4 minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 9 minutes remaining.

Mr. McCOLLUM. Madam Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Madam Chairman, as the principal sponsor of H.R. 123, I believe that English should be the language of Government and that all citizens should be proficient in the tongue that in our society is the economic door opener.

We need to be giving incentives to all citizens, whatever language they speak, to know and to be able to function in English. We do not want to degenerate into a situation such as that which exists in our neighbor to the north, Canada, where secession on the part of Quebec is a very real possibility, occasioned by language divisions.

Now, that is not to say that we should not have transition provisions or that we should not know other languages or cultures; indeed we should.

However, there should be one language of Government and the incentive factor should be geared to encourage everyone to know English sooner rather than later.

Our efforts vis a vis voting should be to move the English-learning factor forward faster rather than to make it easier to delay and put off learning English.

Madam Chairman, I am puzzled as to why the proponents of official other lingualism do not want people of those other tongues to have the necessary incentives to know English. English is the economic door opener in the United States of America, and we should concentrate our efforts on ensuring that all citizens know the tongue of this country very well. It will make a great difference in their economic livelihood as they progress throughout their lives.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. I thank the chairman of the distinguished Committee on the Judiciary for allowing me time to speak during general debate.

Madam Chairman, this country is great because of its diversity, and we often say those words without understanding the deep significance, the meaning that this implies as an obligation to this Government to do whatever we can, especially in the Congress of the United States, to open up the possibilities of participation.

All this bill does is to enlarge that scope of responsibility by saying to each of our counties that if there are 10,000 individuals eligible to vote of a particular limited-English-speaking minority, that those individuals should be given special assistance. This Congress has provided special assistance in numerous other kinds of incidences. What is more fundamental to the right of citizenship than the right to vote?

□ 1040

And, Madam Chairman, if that right to vote is impaired because of barriers that are structured because of possible intimidating factors surrounding the electoral process, because of its implications that the Government does not take time to explain, that liberty, my colleagues, is not a real liberty, and for thousands of people all over the country of Asian extraction it is an intimidating process to begin with. They need the assistance.

I do not have to remind this Congress how difficult it was for Asians in the first place coming to this country. In the beginning, we passed an exclusionary act and did not give them the opportunities of citizenship until 1952. And since 1965, with the enlargement of the Civil Rights Act, and the Immigration Act and all of those wonderful laws, Asian-Americans have been coming, for the first time, to this country. They need the assistance to be brought into this society, to be given the feeling that they belong, that they are entitled to elect their officials in a process that they understand.

Mr. McCOLLUM. Madam Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Madam Chairman, the bilingual portion of this bill is not in the best interest of our country. We, Americans, are people from all over the world. We are one people but from diverse cultures and from every country in the world. We have not had the problems they have experienced in Yugoslavia or the problems they have in Quebec. Why? Because we have this wonderful bond called the English language.

When my grandfather came from Odessa, he did not say, "I want to vote in Russian," or others did not say, "I want to vote in Hebrew," and others did not say they wanted to vote in German, Italian, or French. No, we wished to be Americans, and so we adopted the English language. That is the bond, the glue, that has kept our Nation together.

Madam Chairman, our motto is E Pluribus Unum, out of many, one; out of many people, one Nation; out of many countries, one Nation. That is our heritage. We are one people and one Nation, and let us keep it that way.

Mr. McCOLLUM. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, we have in this debate today a question of whether or not we are going to extend the Voting Rights Act for another 15 years as it applies to section 203, which is the section dealing with bilingual ballots. As I discussed at length last night, there is no record that demonstrates that we really need this kind of ballot. There are a lot of presumptions going on in certain areas that we do.

Madam Chairman, the balloting process only applies to a limited number of minority language peoples. It only applies to Hispanic-Americans, Asian-Americans and some native Americans and Alaskans. It does not apply to Poles, many of the African nations; it does not apply to most of the countries around the world or the people from those countries who are here. It is a very narrow application, and yet it is a very onerous burden, or could be, on many of the municipalities and counties around this country if we make the changes that are proposed in this bill to require even greater numbers of ballots to be printed without any proof.

Madam Chairman, what we really need is a study to do that, and I am going to offer an amendment in a few minutes in regard to that, and it seems that would be a much better way to do this, and not extend this 15 years longer, and require all of the States and the local governments to come up, as they are right now going to have to under this bill, with all kinds of different ballots in a language other than English.

Many of my colleagues made the point, and it is quite true, that anyone who becomes a citizen, with the exception of one jurisdiction, I think, everyone has to be a citizen to vote in the Untied States. They do have to be proficient in English. That is a requirement to become a citizen. So, there is no real need that I can see for the bilingual ballots in most instances, and it does not seem to me that it is necessary, particularly, for us to rush into this and extend it for another long period of time when we do not have any study at all to justify what we have done already for the past 17 years.

Mr. BROOKS. Madam Chairman, I yield such time as he may consume to the distinguished gentleman from El Paso, TX, Mr. COLEMAN, long a fighter and believer in this effort to extend the voting rights for all the people of this great country.

Mr. COLEMAN of Texas. Madam Chairman, I want to thank the chairman of the Committee on the Judiciary for yielding this time to me. As chairman of the Committee on the Judiciary, he has been at the forefront of attempting to address this issue in a way that probably, at least in terms of the Hispanic population of America, is not as significant as it is in California, or in my part of the State of Texas, or south Texas, or New Mexico, or Arizona perhaps. But let me say to him that I appreciate very much his leadership in bringing this legislation to the floor.

As my colleagues know, the issue at hand really goes beyond helping any specific group. Yet I submit to my colleagues that the people that will be assisted by this legislation are important. Why are they important? Because they are us. They are a part of the fabric and fiber of this Nation.

People suggested during the time we debated the Immigration Act that we had these great problems with immigrants. The truth of the matter is immigrants, whether they were here under documentation or without it, have played a very significant role in the future of this Nation. They work here. They live here. They are us.

I think it is only right and proper that this Congress at this point in time provide the necessary bilingual voting assistance that we should to all of our citizens, to all of the people in this country, and, after all, we are here talking about not those persons who are here in an undocumented fashion at all, but rather only citizens of these United States.

America, as we know, needs more, not less, bilingual educators. America needs more, not less, ability in terms of our foreign language proficiency. What in the world is wrong with an America that stands up and says, "Of course English is important; of course, to succeed, you're going to need to become proficient in English"? We know that. Does it mean that it is exclusive? That we cannot reach out a hand in a bilingual fashion, whatever that language may be, and tell them we will provide them the assistance to become proficient? We will provide them with the information necessary to act as a good citizen? To vote? To participate in elections? To pay taxes? To obtain a drivers license? To do all of those things that many of us who are fortunate enough to be born in this country take for granted? I would only say that, quite honestly, the failure to pass this legislation would further erode our political process.

I know many of us will recall recently that, when this Congress passed what became known as the motor-voter bill, the bill that permits quick registration and quick voting, we saw that legislation vetoed, and I have to say to my colleagues that I do consider that a very partisan act, one that was, quite honestly, not called for. I would only hope that on the other side of the aisle and this President would seriously consider the issues at hand here with this legislation. We should not act in a partisan, political way on legislation that helps our fellow citizens. I hope the administration will not seek to deny any citizen of the United States the opportunity to vote.

Madam Chairman, if we do not open the political process to all citizens, we know who the loser will be. It is us. It is America. Let us not further encourage cynicism or disillusionment.

As an original cosponsor of this bill, I feel very strongly about the rights of all the citizens of the United States to be full participants in what we call the American dream. Do we honestly believe it is in our best interest to deny that to anyone? Let us provide them the assistance and the ability to become proficient in English. Let us provide them the assistance and the ability to fully participate in these United States.

Mr. SERRANO. Madam Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I yield to the gentleman from New York.

Mr. SERRANO. Madam Chairman, one of the things the gentleman, I am sure, is aware of is the fact that none of us here, as the gentleman well knows, is interested in having our people not learn to speak the language. But one of the things that the people speaking against this bill continue not to realize is that we have a unique situation with the Commonwealth of Puerto Rico.

□ 1050

I was born an American citizen on the island. I was born on an island that speaks Spanish for the most part. Yet during the Persian Gulf war, no one said we will not take 16,000 troops out of Puerto Rico only because they do not speak English proficiently.

Some, unfortunately, did not return, who never spoke a word of English on the battlefield because they only spoke Spanish.

I really think the gentleman has in his words tried to put forth the fact that this is something we want to accomplish and something some of the people do not understand.

Mr. COLEMAN of Texas. Madam Chairman, reclaiming my time, if I might comment on the statement of the gentleman, without any question there has never been a requirement for a citizen of the United States, to defend this country, to act on behalf of this country, and I can honestly say to you that in my own congressional district there has never been a requirement. Men went out and fought and died for this country who never spoke a word of English. It has happened before, it will happen again.

There is nothing wrong with us aiding and assisting those of us who want to become proficient and become true participants in this American dream.

Madam Chairman, I thank the gentleman for his comments.

Mr. BROOKS. Madam Chairman, I yield my remaining time to the gentleman from Texas [Mr. WASHINGTON].

The CHAIRMAN. The gentleman from Washington is recognized for 1 minute.

Mr. WASHINGTON. Madam Chairman, I thank the gentleman from Texas [Mr. BROOKS], the chairman of my committee, for yielding me the last minute that he has.

Madam Chairman, I had not planned on speaking during this portion, but I heard the gentleman from Pennsylvania [Mr. KOSTMAYER] speak. I respect the gentleman a great deal, and I want to respond to some of the things that he said.

Certainly it is true that as a nation we need to do everything we can to bring all of our people together. But it cannot be gainsaid that if people have limited proficiency in English, for whatever reason, and they are citizens, that we should be denying them the right to vote. Because if we do not pass this voting rights extension, what we are saying to our people is unless you speak English, then you will not be allowed to vote.

If we are going to do that, then we ought to carry it to its logical conclusion and say those who speak correct English would be the only people who would be allowed to vote.

Now, I know a lot of people down in my part of Texas that speak broken English, but they vote every day. They say "ya'll" and other things like that, which is not correct English. But they are allowed to vote.

There are a lot of thoughtful people on both sides of this issue. Let us pass this extension, and then let us work between now and then. The gentleman from California [Mr. ROHRABACHER] and I are friends. The gentleman is a great intellect. Let us work to make sure that when it comes up again, every one of our citizens does speak English, and we will not have to worry about another extension.

Mr. SERRANO. Madam Chairman, I rise today in support of H.R. 4312, the Voting Rights Language Assistance Act of 1992, legislation I am proud to sponsor on behalf of the Congressional Hispanic Caucus.

The Voting Rights Act, and section 203 in particular, are largely responsible for the opportunity I have been given to serve in the Congress of this, the greatest, the most free and democratic nation in the world. I am proud of my accomplishments and those of the community of which I am a product. With pride in my community comes a debt, to ensure that those who follow me are offered genuine opportunities to themselves achieve. It is service to this debt which guides my work in Congress, and which has led me to sponsor this legislation.

I have a very personal appreciation of the need for and the value of the language assistance provisions of the Voting Rights Act. In 1985, I ran for the office of president of the borough of the Bronx.

I ran as a long-shot. I nearly won; after impounding the voting machines and conducting several court-ordered re-counts, officially I lost by less than 1 percent of the vote.

Several weeks in advance of the election, it came to my attention that the board of elections of the city of New York had few plans to assist language-minority voters, in spite of the fact that language-minority voters clearly exceeded 5 percent of the voting population. Not only was the board of elections hostile to the provision of bilingual services, some of its practices actually discouraged limited english speaking voters from exercising their franchise.

I turned to section 203 of the Voting Rights Act, to enforce the rights of Puerto Rican voters to participate effectively in the election, and to elect the candidate of their choice. I, and the Puerto Rican voters who joined my suit, alleged that the acute shortage of trained Spanish-speaking election inspectors and interpreters, coupled with the dearth of bilingual voter information conspired to disenfranchise thousands of New York City voters.

The litigation was settled by stipulation, pursuant to which the board of elections was required to conduct an aggressive voter education campaign in the Spanish language written press, radio and television. In addition, the board of elections was required to recruit students and other bilingual people to serve as inspectors and interpreters throughout the borough.

As I stated, I did not win that election, but thousands of Latino voters were enfranchised, for the first time. This, indeed, was a victory.

Section 203 is not a luxury. It is the essence of the franchise for a large and growing number of voting, American citizens.

Voting is the primary means by which citizens participate in the governance of their towns, counties, cities, States and Nation. It is a fundamental right protected by the U.S. Constitution, a right which goes to the essence of our democracy. It is the voice through which citizens are heard on those concerns and interests relevant to their lives and the tool with which they ensure that people sensitive to their needs are elected to govern. It is a right guaranteed to all Americans, no matter their heritage, educational or economic background and regardless of the language which they speak.

The Voting Rights Act was adopted to rid this country of discrimination in voting and to safeguard for minorities an equal opportunity to participate in the political process and to elect representatives. Section 203 of the Act is that tool by which the rights of limited English proficient voters are preserved and the barriers to their equal, effective participation are removed.

Citizens who are unable to effectively participate in an election because of the difficulty of language are denied this franchise, just as surely as they would be if literacy tests were administered or poll taxes levied.

The effectiveness of the assistance provided pursuant to section 203 has been proven in the Hispanic, Asian American, Native American and Alaskan native communities, and the continuing need for language assistance in voting remains significant.

Though successes achieved under section 203 are real and measurable, the communities served by the provisions still face real obstacles to empowerment and full and equal political participation in our society. Language minority communities, the intended beneficiaries of section 203, have grown dramatically during the past decade. However, while these communities continue to enjoy significant growth, formidable barriers to full and equitable participation in the political/electoral process remain. Latinos continue to suffer stark educational, economic, and health care disparities as compared with the general population.

Experience over these last 10 years with section 203 provisions confirms its effectiveness, but also reveals some inadequacies in the method by which jurisdictions are identified for coverage. Relying exclusively on the 5 percent trigger deprives large limited English proficient populations of badly needed assistance.

Significant jurisdictions such as Los Angeles County, Cook County, Queens County, Philadelphia and Essex County, all have significant limited English proficient Latino voters who have been denied bilingual voting assistance because none of these counties meet the 5 percent standard. These counties are densely populated major metropolitan areas in which it is virtually impossible for Latino voting populations to meet the 5 percent margin even though those populations are numerically large.

Similarly, large Asian American communities in Los Angeles, San Francisco and three New York City counties—Kings, Queens, and New York—are currently not covered though they have significant language minority populations.

Coverage of the Native American communities is also thwarted by an imprecise standard. Section 203 should be amended to require that a jurisdiction provide language assistance if there are more than 5 percent of a single-language, limited-English proficient Native American voters on the reservation.

We are a nation of many immigrants, comprised of all races, nationalities and religions. America was created by immigrants, and continues to evolve with the contributions of new immigrants.

Concerns about acculturation of immigrants are often related to the question of whether new immigrants will learn English. Research shows that today's immigrants, like their predecessors, overwhelmingly lose their mother tongues by the second or third generation.

Far from threatening the primacy of English in America, it is precisely tools such as section 203 which facilitate the integration of immigrants into the diverse culture of this Nation.

Bilingual elections do not promote cultural separatism, but instead help to integrate non-English speaking citizens into our system of democracy.

I urge my colleagues to vote for passage of H.R. 4312 and to oppose all weakening amendments.

Mr. RANGEL. Madam Chairman, as an original cosponsor of this important legislation, I rise in strong support of the Voting Rights Language Assistance Act.

When my colleagues and I, in Congress, passed the Voting Rights Act in 1975, we included section 203 to require counties that have large numbers of minority language citizens to provide bilingual voting assistance.

Since then, millions of Americans—Latinos, Asians, native Americans, and others throughout the United States who would otherwise have been disenfranchised—have benefited from this support and have exercised their most precious right—the right to vote.

Madam Chairman, the American people still need this legislation. The Voting Rights Language Assistance Act would reauthorize and refine the bilingual provisions of the Voting Rights Act, which are due to expire this year.

The bill extends existing law for 15 years, through 2007. This bill would also tighten current legislation to ensure that minority language communities are covered by the bilingual provisions of the Voting Rights Act.

To date, counties are only required to provide support if 5 percent of voting age citizens do not speak English well enough to cast a ballot. However, in densely populated cities like New York, huge limited-English-proficient populations may still comprise less than the required 5 percent. The Voting Rights Language Assistance Act would require that a country provide assistance if it meets the 5 percent minimum or if it has more than 10,000 voters who speak English poorly.

Bilingual voting assistance helps to guarantee a fundamental American right: the right to vote. Our democracy, Mr. Speaker, will succeed only if its citizens are able to participate in the political process, choose their leaders effectively, and influence the operation of their Government. When a community is disenfranchised because it has not yet become proficient in English, everyone loses the benefit of its contribution to our valued democratic process.

Bilingual voting assistance helps to bring diverse American communities closer together. No one, Mr. Speaker, can deny that a deepening divide separates Americans of different races. This bill will strengthen the American democracy by enhancing the quality of the political process.

Opponents of the bill would query: "If their English isn't good enough to cast a ballot, then how can they understand the issues well enough to make an informed decision? But, we know that a broad multilingual media network exists that provides language minority communities with the opportunity to keep abreast of current issues.

Moreover, bilingual voting assistance does not cost much. The total cost of providing written assistance averaged 7.6 percent of total election costs, according to the General Accounting Office, which predicted the costs would only decrease as election materials were recycled and election officials gain experience in providing bilingual assistance.

Section 203 clearly works. In New York alone, many Latino voters use bilingual voting assistance, and 4 out of 5 Asian-American voters would be more inclined to vote if ballots were also written in their native language.

For generations, Madam Speaker, good and honorable people have come to the shores of the United States from every continent, from every country on Earth.

They bring with them their desire to succeed, their love of freedom, and their own culture and language.

From the beginning, the United States has benefited and been enriched by these immigrants, different as they look and sound.

The music of many languages flows through the streets of New York; it is a rich heritage that should be nurtured, cherished and promoted.

When someone comes to America, they do not leave their language, history, and culture at the door. And we should not insist that they do.

I strongly urge my colleagues to pass the Voting Rights Language Assistance Act without any weakening amendments. Millions of Americans depend on this legislation. We must not let them down.

Mr. FRANKS of Connecticut. Madam Chairman, I rise today in opposition to H.R. 4312, which would extend the bilingual ballot provision of the Voting Rights Act to the year 2007 and also expand the number of jurisdictions subject to its provisions.

Section 203 of the Voting Rights Act of 1965, which requires jurisdictions that have more than 5 percent of a language minority to provide bilingual election materials, has been in place since 1975. When this section was enacted many proponents argued it was needed to increase voter participation among language minorities.

However, there is no evidence present that indicates section 203 has any impact on improving voter participation of language minorities, such as Hispanics. For instance, according to the Census Bureau, voter participation in the Hispanic community has declined since the enactment of section 203, even relative to the overall national decline of voter participation.

Another reason I do not feel H.R. 4312 is in the best interest of our Nation is because of the financial burden it would impose on our local governments. According to Congressional Budget Office estimates, this legislation will cost American taxpayers and local governments millions of dollars. In fact, in large urban areas where many different language minorities exist, costs would be increased to meet all these different languages. It is my feeling that this money could be better spent. For instance, funding for this bill would be better spent in assisting individuals to learn English so that they can better participate in American democracy.

I do support efforts which assist immigrants when they first enter America. It is important that we provide bilingual materials to our new American citizens until they have achieved fluency in English. In addition, I believe we should set goals that all Americans should understand English by a certain age. Programs like Head Start and other important educational programs will ensure that children from language minorities have the proper educational assistance in learning the English language. However, this bill does nothing to help language minorities learn English.

Our great Nation has a long tradition as a place where many nations can come together as one. This country was built with the hands of many great immigrants from different parts of the world. Yet we have been able to stand together despite all our cultural differences. The driving force behind this assimilation is our ability to communicate through one common language—English. We have relied on English since the birth of this country to unify and bring together different nationalities in helping to communicate and understand one another. Most importantly, English has allowed us to have a common link to participate in this great democracy.

In a time when our Nation is in desperate need of cohesiveness and a unifying force, I believe it is counterproductive to consider legislation in this Congress which gives individuals disincentives to assimilate into our society. Instead, we must focus our efforts on helping people learn to communicate in English, giving them a greater opportunity to be part of our great country.

For these reasons, I am opposed to the passage of H.R. 4312.

Mr. PANETTA. Madam Chairman, I rise today in strong support of the Voting Rights Language Assistance Act. As the former Director of the Office of Civil Rights, I am painfully aware that while our Nation is committed to equal opportunity, enforcement through legislation is desperately needed.

Under our Constitution, every citizen has the right to vote. However, this is an empty right for a citizen if he or she does not have access to the ballot or does not understand the ballot. The Voting Rights Act has required certain counties to provide language assistance to ensure that all citizens can exercise their right to vote. We must extend this requirement and improve it by changing the formula to include jurisdictions where there are at least 10,000 minority-language citizens.

The right to vote is the most fundamental component of our democracy. It is the right that empowers every individual to be heard. It is a right held by English speakers, and by non-English speakers, by college-educated persons and by those who did not complete high school, by men and by women, by wealthy and by impoverished, by people of color and by European Americans.

We are a government "of the people, by the people, and for the people." The key to having this type of government is to have the greatest possible number of citizens participating in the electoral process. In order to maximize electoral participation, we must require language assistance programs. It is through these programs that all citizens are able to have access to the ballot and able to make informed decisions.

I urge all of you to look at the real issue at hand, which is that language barriers bar some citizens from the electoral process. They have the right to vote under the Constitution, but cannot exercise it because they do not speak English. They make tremendous contributions to our society, but they cannot vote, because they cannot speak English well enough to register. They pay taxes, but they cannot vote because they cannot read the ballot.

A citizen's limited English proficiency should not preclude him or her from the electoral process. Rather, we should encourage every individual to learn English. My parents came here from Italy and did not speak English. However, they eventually learned. All citizens eventually learn to speak English. But, they should not be deprived of their fundamental rights simply because their English is, at first, limited.

Our Constitution does not require citizens to speak English, it does require that every citizen have the right to vote. Protecting the right to vote is the issue, and language assistance is the way.

Today we have the opportunity to show our strong support for equal opportunity and fairness. Let us do this by action, and not merely talk. I urge you to take a firm stand on voting rights and upholding our Constitution by supporting the Voting Rights Language Assistance Act.

Ms. NORTON. Madam Chairman, I am pleased and proud to rise in support of H.R. 4312, the Voting Rights Language Assistance Act of 1992, a bill to extend for 15 more years the commitment made by Congress in 1975 to provide bilingual voting assistance for many American citizens whose primary language in other than English.

Legislation to facilitate voter participation by non-English speaking American citizens is necessary and consistent with this Nation's history and philosophical creed. The United States has been called everything from a melting pot to a caesar salad to describe its splendid and diverse mix of races, ethnic groups, and cultures. People from all over the world have come and continue to come to this country, inspired not only by greater economic opportunity but also by the chance to be part of a democracy where political expression is not simply allowed, but is encouraged. Too few Americans entitled to vote do, in fact, vote. The right to vote is fundamental, and therefore must be fiercely protected and vigorously encouraged. The Voting Rights Language Assistance Act of 1992 does both.

The Nation's capital is home to a rich mixture of peoples. We celebrate and take pride in our cultural and ethnic diversity. Since the late 1970's the District has provided bilingual voting assistance in those areas of the city with significant non-English speaking populations. In this Presidential election year especially, and in the future as well, such voting language assistance efforts are particularly important to ensure that every citizen takes part in the political process.

We speak different languages and have different opinions; yet in the democratic process we meet on common ground. One person, one vote lies at the heart of our Government. It is the mechanism by which all our voices are heard—individually and collectively. By ensuring that all citizens have equal access to the ballot, this Congress is fulfilling its obligation to work toward achieving a fully participatory democracy. I encourage my colleagues to support this important and just legislation.

Mr. FAZIO. Madam Chairman, I rise today in support of H.R. 4312, the Voting Rights Language Assistance Act, a bill that will ensure that more Americans can exercise their constitutional right to vote.

The right to vote is the cornerstone of our democratic system. Yet, there are still millions of citizens who cannot fully exercise this right because they are not comfortable with English. If H.R. 4312 is passed, it will open up the electoral process to these Americans—most of whom are either elderly or native born—who are dependent on another language.

The current provision in the Voting Rights Act that affects this segment of our population helps citizens in large language minority communities register and vote by providing bilingual language assistance. However, it will expire on August 6, so we must act quickly.

By enacting H.R. 4312, we will extend this provision for another 15 years, through the end of the Voting Rights Act. We will also improve this provision by including more language minority citizens in its scope. If we do not enact H.R. 4312, millions of Americans will be locked out of the voting process.

As Susan B. Anthony, the American suffragist, said over a century ago:

> Here, in the first paragraph of the Declaration [of Independence], is the assertion of the natural right of all to the ballot; for how can 'the consent of the governed' be given, if the right to vote be denied?

Language should not be a barrier to any American citizen's right to vote. All Americans are entitled to full participation in our democratic system of Government, and we, here in Congress, have a responsibility to guarantee access to all segments of our voting age population. I urge my colleagues on both sides of the aisle to join me in removing this unnecessary obstacle that lies in the path of so many of our citizens. Let us open the door to democracy to all Americans.

Ms. PELOSI. Madam Chairman, I rise in strong support of H.R. 4312, the Voting Rights Improvement Act of 1992. I commend Congressman SERRANO, Chairman BROOKS, and Chairman EDWARDS for moving this important legislation.

The Voting Rights Improvement Act does exactly what its name implies: It reauthorizes and improves provisions of the Voting Rights Act which require bilingual voting assistance for communities who need it. There is no process more American than the voting process. All of our citizens deserve the opportunity to exercise their constitutional right to vote.

America is a nation of diversity, with people whose roots are traced back to many different lands. And many of these American citizens do not speak English well enough to fully participate in the electoral process. Let me underline the word citizen. This bill gives citizens the opportunity for a meaningful vote. The America I believe in does not allow discrimination against its citizens based on their language abilities or where their ancestors were born.

Language minority citizens comprise a significant portion of the electorate. How can we not provide them with the materials necessary for meaningful participation in the electoral process? The answer is that we cannot deny them such an opportunity and continue to call ourselves Americans.

If the Voting Rights Improvement Act is not passed, 68 counties in the United States would no longer provide bilingual voting assistance to citizens who need such materials. This bill is well-targeted by continuing a provision of current law which calculates coverage by counting only those citizens who do not speak English well enough to make an informed vote. We are not talking about some extravagant expenditure for a questionable cause. Today we are voting to preserve every citizen's right to vote for their elected representatives.

I urge my colleauges to support the Voting Rights Improvement Act and to oppose any weakening amendments.

Mrs. KENNELLY. Madam Chairman, I rise today to express my strong support for H.R. 4312, the Voting Rights Language Assistance Act. This bill, which I cosponsored, extends for 15 years the requirements that counties with large limited-English proficient communities provide bilingual assistance in registering and voting. It also expands the number of counties that are required to provide this assistance.

Madam Chairman, this bill is a significant step in ensuring that millions of American citizens—Hispanics, Asians, and native Americans—will have a role and importantly a voice in this Nation's political process. Linguistic barriers have often prevented many of our Nation's citizens from participating in the political process and exercising their right to vote. Let us not forget—this Nation was founded on the tenet that the right to vote was central to our democracy. Removing the language and other barriers will lead to increased voter registration.

Madam Chairman, I urge my colleagues to support this legislation, to give a voice to those citizens who have been left out. Expanding the number of counties will allow for the inclusion of those citizens often left out because the total population often dwarfs the minority language communities or because the current formula is based on percentage of total voting age citizens rather than the actual number of minority language citizens residing. This bill guarantees that crucial assistance be provided so that millions of Americans can participate.

Mr. CAMPBELL of California. Madam Chairman, I rise in support of H.R. 4312 without amendment. I would also urge my colleagues to vote in opposition to all amendments that will be offered.

Passage of this piece of legislation will not only reauthorize section 203 of the Voting Rights Act of 1965 for an additional 15 years, it also augments the mechanism that determines which jurisdictions must provide language assistance to certain language minority programs.

Historically, section 203 has provided language assistance for certain language minority populations. In 1975 and 1982, Congress found that discrimination against language minorities limited the ability of limited-English proficient [LEP] members of those communities to participate effectively in the electoral process.

Because of certain unintentionally restrictive elements of its coverage formula, section 203's current coverage standard fails to reach large concentrations of limited-English proficient [LEP] voters, who would benefit greatly from language assistance. To address this problem, H.R. 4312 amends section 203's coverage formula to better target significant populations of language minority voters in need of assistance by providing two alternative standards.

In addition to incorporating an alternative 10,000 voter benchmark the bill amends section 203 to provide an alternative coverage standard for native Americans.

Sec. 203's current standard fails to adequately identify native Americans needing language assistance because it does not take into account their unique history and demographics.

Native Americans comprise less than one percent of the total U.S. population. Most limited-English proficient [LEP] native Americans live on reservations or equivalent areas that often predate the existence of States or counties. In many cases Indian reservations are divided into two or more counties or States. This division has the effect of further diluting the native American limited-English proficiency vote resulting in an inability to reach the 5 percent trigger.

Without the alternative standard, only 4 of the more than 500 Indian tribes would be covered by section 203 alone. Today, 17 tribes in 15 counties receive language assistance under section 203 alone. If section 203 is reauthorized this year without the native American alternative standard the coverage drops to only 4 tribes in 5 counties.

Contrary to the dissenting opinions of this legislation, section 203 has produced an increase in voter participation in many counties. For example, from 1972 to 1990, the number of precincts with predominantly Navajo voters in Coconino County, AZ, quadrupled, while the numbers of registered Navajo voters increased by 164 percent and Navajo voter turnout increased by 120 percent. In Apache County, AZ, the number of precincts with predominantly Navajo voters tripled between 1972 and 1990.

In my district nearly 250 limited English proficiency native American voters will be affected, in two counties.

Equal opportunity to participate in the electoral process is a right every citizen of this country enjoys. As the only native American Member of this body I have said countless times the need for more participation from the native American population of this country. However without the alternative standards in place we jeopardize the vital participation of many native American people.

Again I would urge my colleagues to support H.R. 4312 without amendment to further guarantee the right to vote to all people.

Mr. STOKES. Madam Chairman, I rise today in support of H.R. 4312, the Voting Rights Language Assistance Act of 1992. I commend my distinguished colleague, Representative JOSÉ SERRANO, for his introduction of this bill, and the House leadership, and the Judiciary Committee, for bringing this legislation to the floor for consideration.

It wasn't very long ago that potential minority voters were excluded from participation in the electoral process through the use of literacy tests, poll taxes, and "English only" elections. Congress took strong legislative action to correct this problem by passing the Voting Rights Act of 1965, assuring equal access for all members of our society to the electoral process.

In 1975, section 203 together with two other language assistance provisions, were added to the Voting Rights Act. Section 203 is intended to prohibit discriminatory voting practices based on language, which violates the equal protection clause of the 14th amendment and the 15th amendment's guarantee to all eligible citizens of the right to vote. The inclusion of these provisions gave voting age citizens with limited-English proficiency [LEP], equitable access and effective participation in the electoral process. Moreover, section 203 has contributed to the rise in voter registration and participation by language minority communities where the need for language assistance in voting remains significant.

Current law provides that assistance must be provided if non-English speaking citizens make up at least 5 percent of the total population of the governing jurisdiction. H.R. 4312 would expand those requirements to cover areas in which non-English speakers do not make up 5 percent, but number at least 10,000 or more in total population.

Today as a body, we have an opportunity to reauthorize and improve section 203 of the Voting Rights Act. By doing so, we will reaffirm our Nation's commitment to guaranteeing all eligible citizens the right to vote. The extension of section 203 for an additional 15 years, will allow it to expire when the Voting Rights Act itself expires. Furthermore, the extension would provide for the continuance of much needed bilingual assistance to single-language minority communities.

Madam Chairman, section 203 has helped to break down many of the barriers to full participation in the electoral process encountered by Hispanic Americans, Asian-Americans, native Americans, and Alaskan Americans of native American descent. The right to vote is a fundamental right guaranteed under the Constitution. Unfortunately, millions of potential voters have been unfairly excluded from exercising this right, due in part to prohibitive language barriers which exist in our electoral process. I urge my colleagues to join me today in voting in favor of H.R. 4312, and by doing so, extend language assistance to single-language minority voters, thus ensuring that every member of our society has a voice in democracy.

Mr. OWENS of New York. Madam Chairman, I rise in strong support of H.R. 4312, the Voting Rights Improvement Act of 1992. This bill is vitally important to the hundreds of thousands of first generation Americans who come to this country who are not yet fluent in English but who have the right to and the great desire to participate fully in our democratic process by exercising their right to vote. Section 203 of the Voting Rights Act provides them access to the process by taking down the language barriers that would otherwise prevent them from participating.

Section 203 requires counties and localities to provide bilingual registration and voting assistance if more than 5 percent of voting age citizens need such assistance. The measure improves section 203 by closing a significant loophole which has caused thousands of otherwise eligible immigrants to be exempt from coverage. In very densely populated cities and counties, there may be thousands of immigrants in need of services under section 203, but if, despite their large number, they make up less than 5 percent of the population of the locality, they will not be covered. This bill would add as an alternate measure of applicability a numerical benchmark of 10,000 people in a locality in need of assistance.

This new benchmark would mean that in many of our Nation's cities where there might be thousands of first generation Americans who have not mastered the English language, but these thousands make up less than 5 percent of the voting age population, people who need language assistance to participate in the voting process would be able to receive this assistance and fully partake of their rights as citizens of the United States.

Section 203 is a wonderful example of the democratic process at work. In our country we accept immigrants from almost any country and introduce them to the democratic system at work. And in some counties and cities we must take extra steps to ensure that these new Americans can participate fully in the process. Section 203 has had great success at opening the doors to the voting process for these American citizens who may speak Spanish, Chinese, Japanese, Russian, German, Arabic, French, Lakota, and numerous other languages. By expanding the coverage of section 203 we will include even more of these special Americans.

I urge my colleagues to vote to support this bill and not allow its noble cause to be diluted by weakening amendments. Support every American's right to vote.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered as read. No further amendment is in order unless printed in the CONGRESSIONAL RECORD prior to consideration of the bill. Debate on each amendment, including any amendments thereto, may not exceed 20 minutes, and the Chair will divide the time equally between the proponent and an opponent.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voting Rights Language Assistance Act of 1992".

The CHAIRMAN. Are there any amendments to section 1?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Madam Chairman, I offer an amendment in the nature of a substitute. It has been printed in the RECORD.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MCCOLLUM: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voting Rights Language Assistance Act of 1992".

SEC. 2. FIVE YEAR EXTENSION.

Section 203(b) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a(b)) is amended by striking "1992" and inserting "1997".

On or before February 1, 1997, the Census Bureau, jointly with the Attorney General, shall prepare and submit a report to the Congress. This report shall include the following information:

(1) Voting participation rates among each minority language group, as defined in the Voting Rights Act, and among other groups of persons who speak languages other than English in the home.

(2) Voting participation rates among all voters and English-speaking voters.

(3) Increases or decreases, if any, in voting participation among and between each of the groups referred to in paragraphs (1) and (2).

(4) Jurisdictions in which there are at least 10,000 persons who meet the criteria for coverage under section 203(b) of the Voting Rights Act of 1965.

(5) Jurisdictions in which there are at least 20,000 persons who meet the criteria for coverage under section 203(b) of the Voting Rights Act of 1965.

(6) Jurisdictions which meet the criteria under section 203(b) of the Voting Rights Act of 1965.

(7) For jurisdictions listed in paragraph (4), (5), or (6), whether, and if so, what type, of multilingual voting assistance is available in each jurisdiction and the number of persons, in both absolute and as a percentage of general and language-minority populations, who utilize such assistance.

Mr. BROOKS (during the reading). Madam Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

Mr. McCOLLUM. Madam Chairman, I object to that. This is a very short amendment. I would like to have it read.

Mr. BROOKS. The gentleman wants to read the whole amendment?

Mr. McCOLLUM. Madam Chairman, it is a very short amendment. It will be done in less than a minute.

The CHAIRMAN. Objection is heard.

The Clerk will complete the reading of the amendment.

(The Clerk concluded the reading of the Amendment in the nature of a substitute.)

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment is a substitute for the bill. It is a very straightforward amendment. It is one that I strongly support. I can support the bill if this is adopted. The administration can support this bill if it is adopted.

It is a substitute amendment to the bill that would extend section 203 of the Voting Rights Act for 5 years rather than 15, and require a study of the effectiveness by the Bureau of Census and the Department of Justice.

The reason why I am offering this amendment is because there is no basic understanding of how effective this particular provision in the law is today.

We have heard a lot of people give personal testimony of their opinions as Members, and I am sure they are genuine and sincere about it. But we do not have any studies that have been done to demonstrate whether or not we really are doing anything that should be covered by Federal law.

We do not know whether there has been any discrimination in voting because of language barriers. We do not know if indeed there has been help really given to a lot of voters because there is a bilingual ballot. We just do not have any studies on it at all.

In addition to that fact, the bill itself today would change the provisions of law and require a far greater number of ballots to be printed in different languages than has been the case for the last 17 years.

The substitute I am offering today would stick at least for the next 5 years with the present requirements of law so we will not put this undue and additional burden on our supervisors of election around the country.

The present law has a requirement in it that for the minority language to be effected, you have to have 5 percent of the voting citizenry of that area be of the particular minority group that you are going to have to have a ballot printed for.

If you have 5 percent of that in any political subdivision, such as a county, then you have to have the ballot printed in that language. There are quite a number of localities around the country where bilingual ballots are today printed for Hispanics, and I am sure for Asians, for Indian Americans, native Americans, and for some of the Alaskans who are covered by this.

The bill, if this amendment of mine is not accepted or adopted, the bill would actually make the amount far less in numbers as a practical matter. Five percent sounds like it is low, but it is actually a sizable number of people in most jurisdictions, though I think there will be an amendment offered later on that will demonstrate how harsh that can be in really tiny jurisdictions where you have a very few voters altogether.

But the bill itself says 10,000 is all that is going to be required, or 5 percent, whichever one is lower in numbers. In most of the larger communities, of course, 10,000 could well be lower in numbers, and that would mean quite a number of other groups are going to be brought under this, quite a number of additional ballots in different languages would have to be printed, particularly in places like Los Angeles County in California, where I think there will be as many as five different languages that would have to be printed on ballots, as opposed to one under the 5 percent rule, which I believe is the Hispanic ballot.

Madam Chairman, I would like to call attention to the fact that within all but one jurisdiction in this country, it is required that a person be a citizen in which to vote in any election, and it is also a requirement under the law right now as it now reads under section 312 of the Immigration and Nationality Act that no person except as otherwise provided in this title shall be neutralized as a citizen of the United States who cannot demonstrate "an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language."

☐ 1100

It seems to me that we are stretching things a long, long, long way in the bill that is before us today. We are making assumptions that various groups simply cannot participate in voting if they do not have ballots in a native language, if there are a certain number of them in a given community.

I would submit to my colleagues that the number is not very material. There are going to be some who cannot, obviously, and it might be a much smaller community than the numbers that we have got there. Why are we taking the larger community? What evidence do we have that it requires 10,000, or whatever the number is, in order to need the bilingual ballots? States like New Mexico already have decided that in their States they want to require a bilingual ballot, that they need them. That is fine. Let the States do that.

I would submit that in most jurisdictions in this country where there is inequity like this, there already would be the provision under State law. That is the appropriate place for it to be. The States are the ones to provide the voting laws of this country, who determine eligibility to vote and so forth. We should not be unduly forcing the matter.

Especially, we should not do it unless we can show by some evidence or some study that there has been a problem.

That is what my substitute will do. It will do two things. One, it will not expand the Voting Rights provision with regard to bilingual ballots. It will not reduce the numbers so that it will create a greater number of ballots. It will keep the law as it is right now, and it will simply extend the law for 5 years and require a study to be done to find out what is indeed needed.

Mr. WASHINGTON. Madam Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. WASHINGTON. Madam Chairman, I follow the gentleman's logic, and it makes sense about the provision that the gentleman cited in the law for naturalization.

Of course, there are two things I want to call to his attention, which he, of course, already knows. One is, that does not cover the provision for persons born in this country. That is only for persons who are naturalized.

The other thing is, that means, it seems to me, that the process by which whomever is doing the testing on whether there is English proficiency sufficient to meet that is not doing a good job.

But the bottom line question is, as the gentleman very well knows, there are many ballot propositions other than voting for or against candidates, such as bond elections and the like, that the gentleman and I both know sometimes the legislature puts lots of language and lots of verbiage in there.

Is the gentleman not concerned that people who otherwise have limited proficiency in English and could decide whether they want to vote for the gentleman from Florida, BILL MCCOLLUM or the gentleman from Texas, CRAIG WASHINGTON can do that based on limited English proficiency, but what about these ballot propositions on bond elections and all of those things that are hypertechnical?

Mr. McCOLLUM. Madam Chairman, of course I am concerned. That is why I have asked for the study. Let us find out if that is the case. But the law right now only applies to American-Hispanics, Asian-Americans, and American natives and a few Alaskans. What about the Polish-Americans? What about certain African-American citizens who have come here, maybe not able to speak because they are recently naturalized? We do not know.

I am submitting we ought to leave the law as it is right now and just extend it for 5 years and do a study.

I am not opposing the idea of a concept. I am just suggesting, let us find out. Maybe this needs to be broader than it is. Maybe it needs to be narrower. We do not know. That is all I am proposing.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] controls the time in opposition.

Mr. BROOKS. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, I rise in opposition to this amendment. The amendment puts aside the history of the language assistance section of the Voting Rights Act by presuming that no factual basis exists for its existence. The language assistance provisions of the Voting Rights Act were enacted in 1975 after detailed congressional findings of dilatory practices which restricted the exercise of the franchise by language minority citizens. In 1982, the Congress reauthorized section 203 for another 10 years after making similar findings.

This year, the Judiciary Subcommittee on Civil and Constitutional Rights held 3 days of oversight hearings on the Voting Rights Act, and developed a record which adequately supports the reauthorization bill now before us.

There is no reason to require—as this amendment would do—Census Bureau and the Attorney General to file a report containing information which is, for the most part, not only currently available but which was used to consider the form and scope of H.R. 4312. Altering the extension period also is not advisable. The 15-year extension provided in the legislation is simply intended to bring the expiration of the language assistance provision in line with the other sections of the Voting Rights Act, and I oppose any effort to undermine that objective.

Mr. EDWARDS of California. Madam Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the chairman of the subcommittee.

Mr. EDWARDS of California. Madam Chairman, I subscribe to the remarks illustrating the fallacies of this amendment and the fact that it would do great damage to the bill.

In the first place, it is really nonsense to have a 5-year extension. That is not enough time. And let me point out that the administration, the Department of Justice, suggests a 15-year extension, as is in the bill. So our friends on the other side of the aisle are going against their own administration. And I think everybody knows that this administration and this Department of Justice are not known as champions for civil rights. But they have made it very clear that they feel a 15-year extension is essential.

Lastly, Madam Chairman, we had, in the hearings that my chairman mentioned, substantial evidence, over and over again, from credible witnesses that these language-assistance provisions are essential to increase voter participation and to make it possible for Americans to cast their vote.

Mr. McCOLLUM. Madam Chairman, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Madam Chairman, I rise in support of the McCollum amendment. I think it offers us the most logical procedure and plan for fulfilling the Voting Rights Act in this particular category.

This Nation is filled with diversity, and diversity offers an opportunity for cooperation. That cooperation comes by holding on to traditions, holding on to cultures and even holding on to languages.

But the cooperation part of that diversity comes when we feel that we are united as Americans, united as people that live in a community. And we are united as people who can cooperate on a variety of issues.

I think we should push bilingual languages in the United States. But as was mentioned earlier, the glue that holds the fiber of this Nation together as a nation, where people feel that they are participating, is the language. We do not want to become like Canada or Eastern European nations where we have a sense of isolation, where we are divided.

One of the few things remaining that offers us a chance for cooperation and unity is our language, and I think the offer of the gentleman from Florida [Mr. MCCOLLUM] of a 5-year study is the best way to go on this particular plan.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Madam Chairman, I would like to say that reference has been made that the administration is opposed to this bill. I think I would know if there was any veto threat. As far as I know, there is none. They do not like every provision in the bill, but certainly the administration, as I understand, is supportive of extension of the voting rights language bill.

Also, I think we have the cart before the horse here, because the allegation is made that the 10,000 limited English-proficient benchmark will create five different ballots in the city of Los Angeles. Of course, it will. And perhaps in New York, too. That is the whole purpose of it. What we are addressing here is numerically large language minority communities in big cities where the cities are so large that these numerically large minority communities cannot reach the current 5 percent standard. So they are effectively left out of the coverage of the existing law.

So the 10,000 benchmark is the answer, and the very reason we are going to have more ballots is because we do want to enfranchise these people that are currently swallowed up in a much larger population. So at this point, I just want to make those two points, that I am not aware of administration opposition to this bill and, second, that I think this numerical benchmark is critically important to the extension. I urge the defeat of this amendment.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentleman from Arizona [Mr. PASTOR].

□ 1110

Mr. PASTOR. Madam Chairman, there seems to be a misconception that we are here asking to divide America, to separate the ethnic groups, to separate the races. What we are doing, the best we can, is to encourage the objectives of the Founders, that the Founders of this country had, to be inclusive and to make sure that the voters of this democracy are well-informed.

All we are saying is, the system has failed us in many cases. There are people who have limited proficiency in English, and all we want to do is to include these citizens to be able to vote in a well-informed manner. We are not asking for division, we are only asking to ensure that this democracy has the greatest number of voters and that they are well-informed.

Mr. BROOKS. Madam Chairman, I ask for a no vote and I yield back the balance of my time.

Mr. McCOLLUM. Madam Chairman, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Madam Chairman, I urge all Members to reject this amendment and all amendments which seek to cripple voter access for all Americans. The 15-year extension is needed to ensure and guarantee that persons with limited English proficiency are assured that they have access to ballot language, which is often confusing to the voter.

This amendment reduces the authorization period of the bilingual voting requirement. Please reject this. English is not the primary language for so many Americans, yet they are Americans. A naturalized American has the same rights under citizenship as a native-born American. For many of these Americans, especially the elderly and those who have not been naturalized for long, they still find complicated ballot language on referendum questions to be confusing. Yes, they are Americans, but they have limited English proficiency. Do not punish Americans for that, stimulate voter participation. Do not repress it.

Let us hang a welcome sign by the voting booth; "bienvenidos todos," welcome all.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has 1 minute remaining.

Mr. McCOLLUM. Madam Chairman, I yield the balance of my time to myself.

Madam Chairman, this amendment I am asking the Members to vote today is very simple. It is a substitute for the bill. It extends present law as it now exists for another 5 years, and asks for a study. That is all it does. I think that study is very important when we consider the fact that in Los Angeles County alone there are more than 60 languages that they have to teach in the public schools out there for 60 different sources or derivations of language in this country.

The law that we would put into place by this bill is only going to cover five of those languages. Who knows, maybe we need to cover a whole lot more. We have no idea. We need the study that I am asking for in this bill. We need to extend present law for another 5 years. We should not do another 15. We should not let it sit around on our hands. I think the 5-year extension is appropriate.

I am not changing the law at all, but I am extending it for 5 years, and I am asking for the Government of the United States to find out if we need more, if we need less, how is it working, what is happening, and then let us come back and revisit it after we have had that time for a study. That is all it does, a simple extension.

I urge an aye vote for the McCollum substitute amendment to extend for 5 years the present law.

Mrs. MINK. Madam Chairman, I rise today in strong opposition to the McCollum substitute.

The right to vote, to participate in our political process is the most precious right we have as citizens. And since 1975, section 203 of the Voting Rights Act has served to protect and preserve this right for citizens who have limited English proficiency.

This is not a service, something that is being provided to be charitable, it is a necessity required to fulfill the most basic tenet of our Constitution—the right to vote.

And it is the responsibility of this body to provide the greatest assurances possible that every citizen in this Nation, no matter what their native language, is given the opportunity to vote.

Our experience over the last 13 years has shown that what the gentleman is proposing, a 5-year reauthorization under the current benchmark to trigger the bilingual assistance requirement, is not sufficient.

In fact, this substitute ignores the very lessons we have learned over the years in working with States and local communities to assure that the election process is free from language discrimination.

It ignores the fact that language minorities continue to suffer from inequities in our educational system that prevent them from learning English.

It ignores the fact that Asians and Hispanics are the fastest growing ethnic groups in the country. And as their population continues to increase the need for language assistance will also increase.

It ignores the fact that native Americans have been denied language assistance under current law.

It ignores the fact that the current benchmark which triggers the bilingual assistance has left large pockets of language minorities without assistance, without comprehensible information on the electoral process, and without a true opportunity to cast an informed and effective vote.

The change in the benchmark is most central to this bill. Under current law a language minority must make up at least 5 percent of the total population of an entire county. This means that large counties with very concentrated areas of language minorities do not qualify. Los Angeles County, San Francisco County, and the city and county of Honolulu do not qualify under this formula even though they have sizable language minority communities.

Mr. Chairman we cannot continue to deny the language minorities in these areas the assistance needed to fulfill their duty as citizens of this Nation because of a statistical benchmark.

I urge my colleagues to vote down the McCollum substitute. It falls far short of the means necessary to protect the constitutional right of all citizens to vote.

Mr. RICHARDSON. Madam Chairman, this amendment would reauthorize the bilingual voting assistance provisions of the Voting Rights Act without the two alternative standards intended to improve the coverage.

This amendment ignores the proven need to better identify and provide assistance to significant concentrations of limited English-proficient communities.

AGAINST THE 5-YEAR REAUTHORIZATION

Many of the original beneficiaries of bilingual voting assistance in 1975 are still suffering from educational inequalities they faced then, and continue to need language assistance in voting.

Exit poll surveys have indicated that the use of bilingual voting materials correlates directly with age and inversely with wealth, education, and English language proficiency. It is unlikely that the educational needs of these older voters who need bilingual assistance will be met within the next 5 years.

Hispanic students enter school later, leave school earlier, and receive fewer high school and college diplomas than any other community. These educational disparities are unlikely to change in the next 5 years.

The reauthorization of section 203 of the Voting Rights Act should coincide with the 2007 expiration date of the remainder of the Voting Rights Act.

Because the number of those who need bilingual voting assistance is increasing rather than decreasing, it is likely to be needed and used until the year 2007.

AGAINST REQUIRING A JUSTICE DEPARTMENT REPORT ON VOTING PARTICIPATION RATES

There is ample evidence of the wide need and use of bilingual voting materials. Further reports are unnecessary and would be a waste of Federal funds.

Any type of screening of required identification at the voting booth could be intimidating to language minority voters.

This could likely have the effect of reducing voter participation.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 233, not voting 59, as follows:

[Roll No. 314]

AYES—142

Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Browder
Burton
Byron
Camp
Campbell (CA)
Clement
Clinger
Coble
Combest
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Hammerschmidt
Hancock

Harris
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hutto
Inhofe
James
Jenkins
Johnson (SD)
Kanjorski
Klug
Kyl
Lagomarsino
Lancaster
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Murphy
Myers
Nichols
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Petri
Pickett
Porter
Pursell
Ramstad
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Rowland
Santorum
Saxton
Schaefer
Schulze
Sensenbrenner
Shays
Shuster
Sisisky
Skelton
Smith (NJ)
Smith (OR)
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Taylor (MS)
Taylor (NC)
Thomas (CA)
Vander Jagt
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOES—233

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
AuCoin
Bennett
Berman
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Darden
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Sikorski
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Washington
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Young (FL)

NOT VOTING—59

Allard
Andrews (TX)
Anthony
Atkins
Bacchus
Barnard
Barton
Boehner
Boucher
Boxer
Broomfield
Bunning
Callahan
Campbell (CO)
Chandler
Coleman (MO)
Conyers
Coughlin
DeFazio
Dwyer
Dymally
Early
Edwards (OK)
Feighan
Ford (TN)
Frost
Gaydos
Hansen
Hatcher
Hefley
Huckaby
Hyde
Ireland
Kolter
Laughlin
Levine (CA)
Lloyd
Markey
Martin
Martinez
Matsui
Morrison
Mrazek
Neal (NC)
Peterson (FL)
Ray
Riggs
Russo
Smith (TX)
Staggers
Sundquist
Tallon
Thomas (GA)
Thomas (WY)
Traficant
Waters
Whitten
Wilson
Yatron

☐ 1135

The Clerk announced the following pairs:

On this vote:

Mr. Riggs for, with Mr. Martinez against.

Mr. Thomas of Wyoming for, with Ms. Waters against.

Mr. GALLEGLY and Mr. KOLBE changed their vote from "aye" to "no."

Mrs. PATTERSON and Mr. LEHMAN of California changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no additional amendments to section 1, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. EXTENSION OF LANGUAGE MINORITY PROVISIONS.

Subsection (b) of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a(b)) is amended to read as follows:

"(b) BILINGUAL VOTING MATERIALS REQUIREMENT.—

"(1) GENERALLY.—Before August 6, 2007, no covered State or political subdivision shall provide voting materials only in the English language.

"(2) COVERED STATES AND POLITICAL SUBDIVISIONS.—

"(A) GENERALLY.—A State or political subdivision is a covered State or political subdivision for the purposes of this subsection if the Director of the Census determines, based on census data, that—

"(i)(I) more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and are limited-English proficient;

"(II) more than 10,000 of the citizens of voting age of such political subdivision are members of a single language minority and are limited-English proficient; or

"(III) in the case of a political subdivision that contains all or any part of an Indian reservation, more than 5 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient; and

"(ii) the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.

"(B) EXCEPTION.—The prohibitions of this subsection do not apply in any political subdivision that has less than 5 percent voting age limited-English proficient citizens of each language minority which comprises over 5 percent of the statewide limited-English proficient population of voting age citizens, unless the political subdivision is a covered political subdivision independently from its State.

"(3) DEFINITIONS.—As used in this section—

"(A) the term 'voting materials' means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots;

"(B) the term 'limited-English proficient' means unable to speak or understand English adequately enough to participate in the electoral process;

"(C) the term 'Indian reservation' means any area that is an American Indian or Alaska Native area, as defined by the Census Bureau for the purposes of the 1990 decennial census;

"(D) the term 'citizens' means citizens of the United States; and

"(E) the term 'illiteracy' means the failure to complete the 5th primary grade.

"(4) SPECIAL RULE.—The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.".

AMENDMENT OFFERED BY MR. CONDIT

Mr. CONDIT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONDIT: Page 7, line 2, after "State." insert "The prohibitions of this subsection also do not apply with respect to any State or political subdivision that does not receive a Federal grant to cover all expenses resulting from compliance with this subsection. The Attorney General may make such grants.".

The CHAIRMAN. The gentleman from California [Mr. CONDIT] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Madam Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Madam Chairman, I thank the gentleman for yielding. I rise in very strong support of this legislation.

Mr. CONDIT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first, let me say that I am in support of the bill.

My amendment to the bill, I believe, with all due respect to the committee, makes it a better bill. My amendment is real straightforward. It simply says that if you mandate this on the States and the counties that the Federal Government should come up with the funding source for local governments.

Given the circumstances that many States in this country, many counties, many cities face, I believe that it is incumbent upon the Federal Government, if we are going to mandate programs on them, that we come up with a reasonable funding source for them.

So I believe that this is about fairness, fairness to local governments, that we tell them that we are going to come up with a funding mechanism for them to implement this particular program.

Madam Chairman, I simply want to give you a couple of examples in a couple of counties that I represent. It has been told to me that it would double the cost in one county, Stanislaus County, that I represent, from $100,000 to $200,000, which may not sound like a lot of money to some of us, but for this county, which is already strapped, it is a lot of money. As to Merced County, they say it will cost them from $10,000 to $40,000 for each language that they are required to print. This may not sound like a lot of money to us, but to them it is a lot of money. They are already strapped. This morning I talked to representatives of Los Angeles County who say that it will cost them up to $1 million per language for them to implement this program.

□ 1140

It is a good program, but we need to find a way to reimburse local governments for this mandate. That is simply what I am trying to do, trying to come up with a way to fund the program.

Madam Chairman, I submit a press release for the RECORD:

CONDIT INTRODUCES AMENDMENT TO FUND FEDERAL ELECTIONS MANDATE

Congressman Gary A. Condit (D-Ceres) today offered an amendment to H.R. 4312, the Voting Rights Language Assistance Act of 1992, which would require that the Federal government pay for the law's implementation.

H.R. 4312 would require State and local jurisdictions which have more than 5% or more than 10,000 of voting age citizens who are members of a single language minority and are limited-English proficient to print voting materials in the native language of that minority group. The Congressional Budget Office has estimated that this bill would cost States and localities between 5 million and 10 million dollars to implement.

"With State and local governments all across the country encountering difficulties in balancing budgets this year, the last thing they need is for the Federal government to mandate a new program for them to implement without providing funding to pay for it. While H.R. 4312 has admirable goals, the Federal government should pay for it," Condit stated.

Local election officials in Stanislaus County, CA estimate that the costs to run elections could double under the provisions of H.R. 4312; Merced County, CA election officials estimate that printing costs alone would increase the costs of elections from 10,000 dollars to 40,000 dollars for each additional language in which ballot material would be written. Merced County could be required to print ballot material in as many as four different languages.

"I intend to introduce amendments to legislation in the future to prevent the Federal government from mandating new programs on the states, cities and counties without paying for them. It is very easy for Washington to come up with new programs for states and localities to implement and force the states and localities to pay for them. We have to stop passing the buck," Condit continued.

The CHAIRMAN. The gentleman from Texas [Mr. Brooks] is recognized for 10 minutes in opposition to the amendment.

Mr. BROOKS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, while this amendment has some initial appeal—seemingly requiring the Federal Government to pay for State and local compliance with the language assistance requirements—a close examination reveals that the amendment's effect would be to undermine every aspect of section 203 of the Voting Rights Act. The amendment requires jurisdictions to provide language assistance only if the Federal Government pays 100 percent of the costs. But the amendment does not require the Federal Government to do so. Instead, it leaves the decision to grant, or not grant, funds to the sole discretion of the Attorney General.

It makes no sense to limit funding of these provisions to the Federal Government; at a time of constrained fiscal resources, I cannot understand why such a limitation is necessary. Finally, the granting of funds should not be a discretionary act by the executive branch. If Congress intends these protective services to be offered, then they should be available whenever the test is met.

Mr. CONDIT. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, what this bill is trying to do is mandate the actions of State, local, and county governments. What this amendment is trying to do is bring some sense of responsibility to this body and saying that we just cannot tell the State, county, and local governments around the United States of America that they have got to spend millions and millions of their dollars and that we are going to be free of any responsibility for those actions.

This is the type of economic nonsense by this body mandating spending of other governmental bodies that is driving this country into bankruptcy.

This amendment should be applied not only to this act, but every act that takes place in this Government where we are mandating the actions of other governmental bodies in the United States.

What this bill will do to Orange County and Los Angeles County, the two counties I represent, if passed without this amendment, is to impose tens of millions of dollars of costs on governmental bodies that are already strained to the breaking point.

Now, we are prioritizing their spending. They have health care needs. They have educational needs, and we are just saying, "Hey, what we want counts. What you want in terms of the priority in spending does not count."

This amendment that is being offered by my colleague, the gentleman from California, is a step toward fiscal sanity and restoring fiscal integrity not only here in Washington, DC, but to our Federal, to our State, to our county and our local governments.

It is a responsible amendment and I support it fully, and I would hope that all of you do, too.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Madam Chairman, I know that my good friend, the gentleman from California, is well-intentioned. I know that he believes in extending civil rights to his constituents as well as to my constituents; but this argument that the Federal Government has a responsibility because it is trying to meet the objective that it have a well-informed electorate, this amendment will kill the extension of the Civil Rights Voting Act, this particular amendment for assistance in voting in the language that they need.

So Madam Chairman, I would ask my colleagues to please vote against this amendment. It is well-intentioned, but it will do nothing but kill this bill.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Madam Chairman, I will not take that much time, but I thank the gentleman for yielding me time.

The gentleman from California, the author of this bill, and the gentleman from California [Mr. ROHRABACHER] very conveniently forget that the city and county of Los Angeles are very much for this provision and have written a letter supporting it. I am sure they have a copy of the letter.

Also, the city and county of Los Angeles have worked out, in accordance with this bill and in accordance with the Voting Rights Act, favorable procedures. The expense is very, very low, compared to the great benefits that they receive from it.

The city of New York has also written us a letter asking that this bill be passed as it has been presented, without this amendment, which as my friend, the gentleman from Arizona [Mr. PASTOR] said would gut the bill. If they have to count on funding from outside, that means that local governments will not provide the assistance.

Mr. CONDIT. Madam Chairman, in closing, I would just say that this is an effort to let local governments know that we are not going to continually mandate things here without coming up with some funding mechanism.

Let me say how serious this is to the State of California. In the news this morning, the Bank of America has indicated they will not honor the IOU's from the State of California. The State of California has no money. They have no way to fund these kinds of programs.

We have got to stop in this place mandating things to local governments without some way to fund them, without some way of giving them the money to implement those programs.

We cannot continue to pass bill after bill mandating programs to local governments who are already strapped, without considering a way to give them the money. That is all I am trying to do in this amendment. I think it is fair, and I ask my colleagues to support it.

Mr. WASHINGTON. Madam Chairman, will the gentleman yield for a question?

Mr. CONDIT. Certainly, I yield to the gentleman from Texas.

Mr. WASHINGTON. Madam Chairman, I know the gentleman is well-intended.

I wanted to draw attention and try to focus on what I think is the major problem many of us have with the amendment.

While it is true that the Federal Government needs to come to grip with mandates they place on people, I hope the gentleman draws a distinction between a discretionary act, a thing that we may in our good graces decide ought to happen at the local level, and a constitutional act.

We are talking about the very fundamental raison d'etre, if you will, of this country, that is the right to vote. If we do not do everything to protect that right, what the gentleman is saying is that freedom has a price.

Is there not a distinction between the 55-mile-an-hour mandate that we may put on a State, and mandating that they remove all the vestiges of discrimination so that people can fully participate and vote? Does the gentleman not see a difference between those?

Mr. CONDIT. I agree with the gentleman that this is a right that we ought to ensure for everyone, but that does not mean that we cannot fund these programs at the local level.

It is a burden on them.

Mr. WASHINGTON. I agree.

Mr. CONDIT. If we see that it is necessary for us to mandate this, we ought to come up with a good way to let them know the money is coming.

Mr. WASHINGTON. Madam Chairman, just one other question, if the gentleman will yield further.

If the gentleman's amendment were adopted and we would not come up with the money, what would be the result?

Mr. CONDIT. We would have to come up with the money.

Mr. WASHINGTON. If we did not come up with the money, what would be the result? The result would be the people would not be allowed to vote.

Mr. CONDIT. That is not correct. We would come up with the money.

Mr. BERMAN. Madam Chairman, will the gentleman yield?

Mr. CONDIT. I yield to my colleague, the gentleman from California.

Mr. BERMAN. Madam Chairman, I respectfully suggest that the gentleman from Washington is correct. There would have been a way of writing this amendment which would have appropriated the funds as we had authorized them.

The problem is, the gentleman's amendment is generally a good amendment, but we are dealing here with a constitutional principle under the 14th and 15th amendments. If appropriations are not funded, the obligation will now disappear from the local governments to deal with language minorities. If we had written this in a fashion that automatically appropriated the funding through the authorization, as has been done in the past, then the mandate would work.

So I would suggest that in the future on this kind of an issue we try that approach, because I think the gentleman is right. When we decide to allow refugees into this country, we should fund them. When we make other kinds of obligations in a discretionary fashion, we should fund them; but this is a constitutional obligation. We should not let appropriations decide whether or not the rights that are amplified and specified in this bill, coming from the 14th and 15th amendments, whether those rights will actually obtain or not.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. FLAKE]

Mr. FLAKE. Madam Chairman, we come today to a moment where some of us from other cultural backgrounds, coming out of the era of poll taxes, realize that historically there have been various means that have been used to deny people the right to vote.

This morning we are not talking about refugees. We are talking about people who pay income taxes, people who pay property taxes, and we realize that this might be a burden on certain municipalities. But who makes up the municipality?

□ 1150

It is made up by a group of multiethnic, multicultural people, those people who do not speak the language, who still pay taxes, who still pay taxes for schools, residential taxes, they pay income taxes, and therefore they should have the right to vote.

I would urge us then to consider this on the basis of the reality that we are talking about the civil rights of human beings who are part of the fabric of this society, and not mistreat them nor discriminate against then, but allow them the privilege to accept their God-given right, guaranteed to them by the Constitution of this Nation, and that is the right to vote.

Madam Chairman, that is all we are asking this morning. I stand opposed to the Condit amendment and in favor of this bill and urge my colleagues to support it.

Mr. CONDIT. Madam Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN.]

Mr. MORAN. Madam Chairman and colleagues, what this bill does is needs to be done, and I am very supportive of it. But it is wrong for us to be telling State and local government to pay for things that we are not willing to pay for. If this is the right thing to do, then we ought to pay for it.

Madam Chairman, in Alexandria we thought about doing this, but we cannot manufacture money. If we spend money, it has to come from a finite source. We decided that it was more important to hire bilingual police officers than to put our money into something that we did not think was as high a priority.

Now, if this is a high priority in our local jurisdictions, the local jurisdictions would have found a way to do it. If we think that they are not going to do it, that it needs to be done, we come up with the money to pay for it.

We have got to stop unfunded Federal mandates. It is not right, it is not fair.

Madam Chairman, I am not trying to appeal to anybody here; all I am trying to do is to let you know what it is like to be the mayor of a city that is having to cut virtually every single program that we have had in operation.

If we pay for something, it comes from something else. If we put more money into this, even if it is only a 7 percent increase, it is going to come out of somebody else's salary. It means we are not going to be able to provide an incentive to hire bilingual police officers, or we are going to have to fire that community outreach person who goes into the neighborhoods and tries to interpret the human service publications that we have.

If we believe in something, we ought to have the courage to find the money to pay for it.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentlewoman from Hawaii [Mrs. MINK]. And then I will ask the gentleman from New York [Mr. FISH], to close.

Mrs. MINK. I thank the chairman of the Committee on the Judiciary.

Madam Chairman, we spend a great deal of time trying to instill in our children that being an American citizen carries with it certain innate responsibilities, one of which is to vote.

Voting is an essential performance that we expect of all our citizens. Yet there are thousands in our country who are not able to.

How can we put money as a barrier in the fundamental exercise of this responsibility? And yet that is what this amendment would do. It would say, if the Federal Government did not provide the money, the basic constitutional responsibility of the local entities can be avoided. Then this legislation would mean nothing.

Madam Chairman, it seems to me what we have to do is to pass this bill and then, if there are those in the communities who feel that the exercise of this fundamental right and the assistance which we are trying to provide is too costly for the local governments to pay for themselves, then go through the appropriations process and get this Congress to pay for it.

But vote down this amendment; it would destroy the ability of this Congress to provide basic assistance to voters all across the country who need this kind of help.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman for yielding.

Madam Chairman, I had not intended to speak on this amendment, but I do so because I think it is terribly important we understand what we are about to vote on.

The language of the amendment says that the prohibitions in the subsection would not apply to any State or political subdivision that does not receive a Federal grant to cover all expenses.

Now, I come from New York State, where we are particularly sensitive to unfunded mandates. If this amendment had been expressed as an appropriation, as my friend, the gentleman from California indicated was the case in the Immigration Act a few years ago where we did provide in the authorizing legislation billions of dollars to assist the States in the implementation of that legislation, I would support it.

If this were phrased as a sense of the Congress that we should appropriate where it is necessary to avoid a heavy burden on the States, I would support either of those efforts. But what we are faced with today is the possibility of allowing the States the option of not assuring voting rights if Federal money is not forthcoming. It would simply be defeating the very purpose not only of this legislation but a very basic constitutional right.

I understand the frustration of my colleagues over mandates, but I ask that, when we are considering voting by our fellow citizens, that we do not place our frustrations on the scales opposite justice and the Constitution.

Mr. BROOKS. Madam Chairman, I yield 30 seconds to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. I thank the gentleman for yielding.

Madam Speaker, this is 1992. I cannot believe some of the things that I am hearing. The right to vote is a precious right, and we should not place a price tag on the right to vote.

This amendment should be defeated. It is not good, it is a killer amendment.

Madam Chairman, let us pass the bill.

The CHAIRMAN. The gentleman from California [Mr. CONDIT] has 30 seconds remaining.

Mr. CONDIT. Madam Chairman, I yield 30 seconds to my colleague, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

Madam Chairman, the Condit amendment is right on. It answers the complaints that we have time and again from local governments, "You give us Federal mandates and no money to carry them out."

It will imbue this Congress with a new sense of thrift. It stands for accountability and we need to apply it across the board to programs that we mandate down to the local levels.

Mr. RICHARDSON. Madam Chairman, this amendment would condition the protection of the constitutional right to vote for language minority citizens on the provision of Federal funds. During periods of severe fiscal constraints, the practical effect of this amendment would be to deny language minority citizens the assistance they need to cast an informed and effective vote.

Providing assistance to language minorities in order to enable their constitutional right to vote should not be debated on the issue of cost.

Subjecting the voting rights of language minority citizens alone to cost considerations perpetuates the discriminatory treatment language minority citizens have historically suffered.

In implementing and assuring the guarantees of the Constitution, Federal laws have long imposed burdens upon States and localities without financial assistance.

Providing Federal funds to those jurisdictions with language minority communities which have historically suffered from discriminatory voting practices effectively rewards those communities that have practiced discrimination and/or failed to adequately educate language minorities.

However, one should note that the cost of providing bilingual voting assistance is minimal in relation to total election costs.

In 1982, the House Judiciary Committee concluded that where implemented in an effective manner, the cost of bilingual voting assistance accounts for only a small fraction of total election expenses.

A 1986 GAO report similarly noted that the total additional cost for written language assistance averaged only 7.6 percent of total election costs. Furthermore, the report noted that these costs declined over time.

For oral assistance, provided for native Americans, the costs were even less.

Needless to say, such minimal costs should be of little concern when viewed in the context of protecting the fundamental right to vote.

Mr. BROOKS. Madam Chairman, I yield back the balance of my time and ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CONDIT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONDIT. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 186, not voting 64, as follows:

[Roll No. 315]

AYES—184

Allen
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bevill
Bilirakis
Bliley
Boehner
Brewster
Browder
Burton
Byron
Camp
Campbell (CA)
Chapman
Clement
Clinger
Coble
Condit
Costello
Cox (CA)
Cox (IL)
Cramer
Crane
Dannemeyer
Darden
Davis
DeLay
Dickinson
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Durbin
Eckart
Emerson
English
Erdreich
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Gunderson
Hall (TX)
Hancock
Harris
Hastert
Hayes (LA)
Hefner
Henry
Herger
Hobson
Hochbrueckner
Hopkins
Hubbard
Hunter
Hutto
Inhofe
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Kanjorski
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lowery (CA)
Luken
Marlenee
Mavroules
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Moran
Murphy
Myers
Neal (MA)
Nichols
Nussle
Orton
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Rostenkowski
Roth
Roukema
Rowland
Sangmeister
Santorum
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—186

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Aspin
AuCoin

Beilenson
Bennett
Bereuter
Berman
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brooks
Bruce
Bustamante
Cardin
Carper
Carr
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Cooper
Coyne
Cunningham
de la Garza
DeLauro
Dellums
Derrick
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Ewing
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hertel
Hoagland
Horn
Horton
Houghton
Hoyer
Hughes
Jacobs
Jefferson
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Machtley
Manton
Markey
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Mrazek
Murtha
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Pickle
Quillen
Rahall
Rangel
Reed
Richardson
Roe
Ros-Lehtinen
Rose
Roybal
Sabo
Sanders
Sarpalius
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Stallings
Stark
Stokes
Studds
Swift
Synar
Thornton
Torres
Torricelli
Towns
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weber
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates

NOT VOTING—64

Allard
Andrews (TX)
Anthony
Atkins
Bacchus
Barnard
Barton
Boucher
Boxer
Broomfield
Brown
Bryant
Bunning
Callahan
Campbell (CO)
Chandler
Coleman (MO)
Conyers
Coughlin
DeFazio
Dicks
Dwyer
Dymally
Early
Edwards (OK)
Feighan
Ford (TN)
Frost
Gaydos
Hammerschmidt
Hansen
Hatcher
Hefley
Holloway
Huckaby
Hyde
Ireland
Kolter
Laughlin
Levine (CA)
Livingston
Lloyd
Martin
Martinez
Matsui
Morrison
Obey
Peterson (FL)
Ray
Riggs
Russo
Savage
Sharp
Smith (TX)
Staggers
Sundquist
Tallon
Thomas (GA)
Thomas (WY)
Traficant
Traxler
Whitten
Wilson
Yatron

□ 1219

The Clerk announced the following pairs:

On this vote:

Mr. Martinez for, with Mrs. Boxer against.

Mr. Riggs for, with Mr. Andrews of Texas against.

Mr. GORDON and Mr. RAHALL changed their vote from "aye" to "no."

Messrs. HANCOCK, APPLEGATE, HASTERT, CLINGER, and SHAYS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. VANDER JAGT

Mr. VANDER JAGT. Madam Chairman, I offer an amendment that has been printed in the RECORD pursuant to the rule.

The Clerk read as follows:

Amendment offered by Mr. VANDER JAGT: Page 5, line 24, insert "(but not less than 100 citizens of voting age)" after "voting age".

□ 1220

The CHAIRMAN. The gentleman from Michigan [Mr. VANDER JAGT] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes.

Mr. VANDER JAGT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment would exempt voting units from the requirement of providing bilingual ballots where the number of voters affected is fewer than 100.

The amendment arises out of a situation in Clyde Township in Allegan County in my district where there are 83 Hispanics of voting age.

They are not migrant workers. They are assimilated into the community. Their kids go to school, play on the sports teams, sing in the choir, attend the churches.

And over the past elections, Spanish ballots have been provided. And not once, not once has anybody ever requested a bilingual ballot.

Under Michigan law, it is the township that has the responsibility of conducting the election. It costs this little township $1,000 to print the ballots in the primary, $1,000 to print the ballots in the general. The total budget of the whole township for everything is $250,000.

So though $1,000 sounds tiny to us, it is an enormous financial burden to them. When the township clerk first discovered she had to do this a number of elections ago, the county clerk took mercy on this poor little township clerk and did the ballots for her with paste and Scotch tape, perforated the ballot on her sewing machine at night. They now go to a professional printer, and that is the $1,000 subsequent cost and no one has ever requested a Spanish ballot.

They feel that to the extent that they can facilitate voting, it would be far more effective to provide Spanish-speaking interpreters and interpreters who teach Spanish at a nearby college have volunteered to do this.

So it seemed to me, Madam Chairman, that this House should make it clear that we do not just want to impose burdens, even where they are unnecessary and where there is a more low cost efficient helpful way, helpful not just to the township but also helpful to the recipients.

I again repeat that in no election has anyone ever requested one of these ballots, and they feel very strongly, in this harmonious community, that it would be far more helpful to provide an interpreter rather than to go through the cost of printing the ballots that no one uses.

I would like to ask either the chairman of the community or of the subcommittee, what is the intent behind this law?

Mr. EDWARDS of California. Madam Chairman, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from California.

Mr. EDWARDS of California. Madam Chairman, I compliment the gentleman from Michigan on his attention to this matter because it is of grave importance to him. And we have had considerable discussions on the subcommittee as well as lawyers on both sides.

The gentleman understands now, and his staff understands now, that the law itself and the regulations are not insensitive to this problem. And the law and the regulations will not require ballots necessarily at all in the little township that the gentleman describes.

Alternative methods that still offer and satisfy the requirements of the law, that a person not be discriminated against and is able to vote with the language requirements somehow met with an interpreter or some other way, are perfectly in accordance with the law. I trust that this explanation satisfies the gentleman that there are alternative methods whereby this township can handle this situation.

Section 203 and H.R. 4312 do not demand the unreasonable from jurisdictions. Rather, the act and the regulations take into consideration the concerns of local jurisdictions and are flexible enough to address them. For example, the regulations state that it is the responsibility of the jurisdiction to determine what actions by it are required for compliance with the requirements of section 203. According to the regulations, jurisdictions with small language minority communities may not need to implement language assistance measures identical to those provided in larger jurisdictions. In planning compliance with section 203, a jurisdiction may, where alternative methods of compliance are available, use less costly methods if they are equivalent in their effectiveness to more costly methods.

Mr. VANDER JAGT. Madam Chairman, I thank the gentleman for his explanation. It does totally satisfy this gentleman.

Mr. BROOKS. Madam Chairman, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Texas.

Mr. BROOKS. Madam Chairman, we will consider the substance of the amendment in the future.

Mr. VANDER JAGT. Madam Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: At the end of the bill, add the following:

SEC. . CITIZENSHIP REQUIREMENT FOR ASSISTANCE.

Section 203(c) of the Voting Rights Act (42 U.S.C. 1973aa-1a(c)) is amended by inserting "to citizens on request" after "them".

Mr. McCOLLUM (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Madam Chairman, I yield myself such time as I may consume.

This is a very simple amendment. It simply adds the word "to citizens on request" to the existing statutory language to make it absolutely clear to everybody that the only people who are going to get this bilingual voting material are those who are citizens of the United States, and they are normally the only ones eligible to vote. And they are only going to get it if they request it. That is actually the procedure that is currently used. That is the way the current Voting Rights Act guidelines issued by the Department of Justice operate. That is the way I understand most of the supervisors of elections around the country operate. They only give this material out when there is a request.

We ought to put that in statute. It seems to me that that is very important now, especially in light of the fact that at least we have one jurisdiction already in this country, one municipality that is allowing noncitizens to vote. It is my understanding that the city of Washington, DC is considering allowing noncitizens to vote.

I, frankly, do not think we should encourage noncitizen voting. We should discourage it. That is one of the hallmarks of this Nation.

In fact, that is why a lot of people become a citizen, to have the right to vote. It is a very, very precious thing.

It occurs to me that by adopting this amendment in the Voting Rights Act extension regarding these bilingual ballots, we will make that very clear. We will make a statement by adopting this amendment that we only want citizens to be the ones voting in this country. And this material only should go to citizens. And clearly, that it should only be by request.

There is an interesting study that was found by the U.S. attorney in 1980 who investigated voter registration drives that were allegedly registering noncitizens out in San Francisco. He found that at least 27 percent and possibly as many as two-thirds of the registrants investigated were noncitizens. Investigation revealed that registration of noncitizens stemmed from a translation error in the multilingual registration materials. It did not make it clear to them that only citizens could register to vote, that noncitizens could not.

It would make sense, then, it seems to me to make clear to the registrars, to everyone else that this multilingual material is only to be for citizens because only citizens normally have the right to vote. And again, we do not encourage otherwise; in fact, discourage it, and that again only by request.

It would also save the waste of a lot of cost in some instances, if this is clarified by statute.

I would like to also address one objection that has been made to this already with me. Somebody has said that the amendment will create a separate hurdle that will discourage the use of multilingual voting material, because voters will have to prove they are citizens when they go to vote. That is not true. People who want to register to vote already have to prove they are citizens. You would not have to go through another hurdle to prove you were a citizen when you went to vote.

☐ 1230

A person would already have had to prove that in order to be registered to vote, and would not be voting if they were not registered. So I do not think there is any new hurdle created by this amendment. It is simply a clarification, that for the multilingual materials, a person has to be a citizen to get them, and that would be virtually everybody, anyway, who is supposed to be able to vote, with the exception of a couple of cities in the country where that is not true.

Second, it would have to be by request, and that is the standard operating procedure currently. We would not get into one of these situations where somebody could change that down the road.

Mr. FISH. Madam Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New York.

Mr. FISH. Madam Chairman, I never thought anybody but an American citizen did vote or was entitled to vote.

I do not understand the "on request." I would ask the gentleman from Florida [Mr. McCOLLUM] if he could clarify what those two words mean.

Mr. McCOLLUM. "On request" means a person would not get the bilingual material unless the would-be voter, who is already there, registered to vote, asks for the material that is there and available. They would not get it automatically given.

In other words, a supervisor of elections would not be required or could not be required down the road somewhere under this act to distribute this bilingual material to all his Spanish-speaking or all Asian, potential Asian-speaking Americans who are citizens who are registered to vote under some formula that is figured out. They would have to actually make the request for the material. They would have to come forward and say, "I would like that material." It would be available, but it would not be distributed or mailed out to everybody that is listed as Hispanic or Asian or native American or whatever.

By the way, that is the way it works today. The only way it works today, as I understand it, is by request, anyway. Those are the guidelines that the Justice Department puts out under the law currently as far as how the process works.

Mr. PASTOR. Madam Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from Arizona.

Mr. PASTOR. Madam Chairman, what happens in this situation, at least in Arizona, where the county recorders, in trying to ensure that the electorate is well-informed, they will mail out sample ballots which not only have the names of the candidates but also information on the different initiatives or referendums. People do not request it, it is mailed to them.

At least in the State of Arizona, knowing that we have native Americans, Mexican-Americans, Hispanics who the recorders want to make sure are well-informed, that information is mailed to them. If they could only get it when they request it, many of the people would not be able to be well-informed voters.

Mr. McCOLLUM. If I can reclaim my time, if a person votes by absentee ballot, they have to request the absentee ballot. They could request the voting material in the bilingual language at the time, just as they would if they were going to the voting booth.

Mr. PASTOR. If the gentleman will continue to yield, the question is not to their ballot or the question is not to the absentee, the question is to the material that is mailed to all the electorate.

Mr. McCOLLUM. If I can reclaim my time, the States can still do that. They can still publish it. There is no prohibition on that whatsoever.

I think that the law that we are passing today would require that material necessarily to be mailed out that way, anyway. I think what we are dealing with is the material that normally goes out officially, in anything that would go out officially and would be going out under request if it is an absentee request. We do not send that out automatically now to somebody until they go to vote or until they request an absentee ballot, so my proposal would not change that at all.

Madam Chairman, I reserve the balance of my time.

Mr. BROOKS. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, I rise in opposition to this amendment. The current regulations provide more than adequate flexibility to State and local jurisdiction to target language assistance. In some circumstances providing assistance on request may be sufficient to comply with the act, and in others it might not. The language minority citizens obviously will not request information if they do not know anything about it. It is pretty heard to ask for something a person doesn't know exists. What are they going to ask for? Probably the gentleman's address in Florida.

English language mailings sent to registered voters will obviously not assist language minority voters unless, at a minimum, the mail includes information in that minority language regarding how to request help. It is difficult enough to understand elections, ballots, and the language involving them and explaining them for us who are raised in this country and speak some kind of English all our lives. It is still difficult.

Imagine how complex it must be to understand the nuances of election requirements and provisions and bond issues and authority for the various State agencies when it is written out this long, this thick, one big fat paragraph on the ballot in a foreign language. It is difficult. I think it is unconscionable.

The amendment cannot result in the administrative savings for jurisdictions who will need to have materials in minority language on hand, at any rate. This is a bad amendment. Let us kill it and quite worrying about it.

Mr. PEASE. Madam Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend, the gentleman from Ohio.

Mr. PEASE. Madam Chairman, I think the chairman raises an excellent point. Perhaps the gentleman from Florida [Mr. McCOLLUM] could enlighten us. What happens if a Spanish-speaking person, for example, goes into a voting place, a person goes into the voting place which has ballots in the foreign language. Are the people behind the desk at the voting place allowed to say, "Would you like a ballot in this foreign language," or can they not do that, because under the terms of your amendment the person has to ask for it?

Mr. McCOLLUM. Madam Chairman, will the gentleman yield?

Mr. BROOKS. I will yield to the gentleman from Florida.

Mr. McCOLLUM. Madam Chairman, the gentleman has asked a good question. The answer is, of course they can say, "Would you like the ballot?" I cannot imagine they would not do that. There is nothing in here to prohibit a State from going forward, in my opinion, from going forward and doing things exactly the way they are doing them now.

The intention is simply to codify the presently existing practices and make it very clear that the Federal Government cannot go out and mandate the kind of detailed changes that otherwise would cause additional burdens on the States and local governments. We are simply codifying the present practices.

Mr. PEASE. Madam Chairman, I thank the gentleman for his response.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I rise for purposes not directly connected with the pending amendment, but as we discuss this voting rights bill, which I certainly endorse, I want to call the Members' attention to an insert put in the CONGRESSIONAL RECORD on Tuesday of this week on page 18764 It is titled "The Civil Rights Fight Continues." Let me read two or three sentences, because it pertains to a speech by former President Lyndon Johnson.

Madam Chairman, the article reads:

> "The Great Society is back in the news," said the Washington Post recently. The occasion, of course, was the contention of some national officials that the social programs of the 1960s were in some way responsible for the Los Angeles riots. "As a reminder of what the Great Society was about and of how another President approached the issues that recurred * * * in Los Angeles," the Post printed excerpts from a speech President Johnson delivered at Howard University in June 1965.

Madam Chairman, I commend this article to the Members' attention. This was the last speech that LBJ gave before he was called away a month later. It is good reading. It is compassionate, it is soulful, it is prophetic and very moving. I hope the Members have occasion to read the article.

Mr. McCOLLUM. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, my understanding is this amendment does two things. One, it says that a person has to be a citizen before they can vote. Then if the material is bilingual, they can get it on request. It does not define, I understand, the mechanism of request.

The State could include a bilingual postcard in the mailing of information. The gentleman from Arizona [Mr. PASTOR] was concerned about how people were going to get it. If in fact there is material put out to every person in the State, there are any number of ways that the contact could be made through a bilingual document which would allow a person to get that information.

The difficulty comes in terms of enormous amounts of money that are expended in areas in which there is no need or use for the bilingual material but for which they are produced anyway. We lost a vote in terms of getting mandates funded by two votes just a minute ago. This is a way in which we could save an enormous amount of money while putting no burden on anyone who wants material in a language that they feel more comfortable in.

I do hope that no one will vote against this because of the provision that says you have to be a citizen to vote.

□ 1240

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, because each and every one of us in this body has a responsibility to the Constitution to remove obstacles of participation to the voting process in this country, I rise in opposition to the McCollum amendment that would require limited-English citizens to affirmatively request bilingual ballot materials. I do this for two reasons, Madam Chairman.

First, as our distinguished chairman pointed out earlier, such a requirement would set up a separate but equal catch-22. How do you know to ask for these materials, how do you know of their existence, and how are you notified of them, perhaps by an English mailing.

Second, and even more important from my perspective, it has a chilling effect not altogether different from a poll tax or a literacy test.

I would like to share with my colleagues our experience in San Francisco on this subject. In the late seventies San Francisco required voters to request language assistance in order to receive it. After complaints from voters, the Justice Department sent out Federal workers to observe the process. These Federal observers found that because of this procedure, limited-English voters were confronted with hostile poll workers. They were not made aware of the existence of the language assistance materials, and were intimidated and made to feel embarrassed about their language abilities. As a result, many citizens opted not to vote rather than face these daunting obstacles.

Our chairman referred to the targeting that we are required to do. Once the registrar determines what precincts have significant numbers of limited-English voters, then bilingual poll workers can be put in these places at no additional cost to facilitate the use of language assistance materials.

There should not be an undue burden on limited English-speaking voters for appropriate materials. Rather the burden should be on the election officials to encourage and facilitate voting by all citizens.

I strongly urge my colleagues to vote against the McCollum amendment.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Madam Chairman, I want to thank the distinguished chairman of the committee for yielding time to me. And I want to speak very briefly now in two capacities, one as an American voter and two, I want to relate the immigrant experience.

I know that Members have probably all had the same experience I have had. You walk into a voting booth sometimes and it just overwhelms you, knowing the language fully. Can you imagine what it is to someone who has limited knowledge of the language, and he finds out or she finds out for the first time when she walks into that booth or he walks into that booth, what you are really doing, and then the word gets out and it is very confusing and hard to tell, and people are discouraged from voting. We should not want to do that. So from that practical sense it really does not make any sense to do it only on request. By that time it is too late.

As an immigrant myself, I know that most immigrants to the United States want to become fully Americanized as quickly as they can. But sometimes circumstances of community and locality and geography work against them. And why should we not encourage the people who want to participate, but who are not fully capable of doing it in English from doing so?

I do not understand the hurdles that are attempted to be put into place. We all brag about how we are a fully participatory democracy and we want everybody to take part. Well darn it, if we want everybody to take part, let us make it easy for people to take part.

Mr. McCOLLUM. Madam Chairman, I yield myself such time as I have remaining.

Madam Chairman, I think that this amendment is probably being mischaracterized or misunderstood perhaps by some who are arguing against it. It is not in any way intended to put another hurdle in the way of those who cannot speak English to vote. It is in no way intended to be discriminatory or to discourage. It is rather to simply clarify the existing practices as are understood today and make sure we do not see an abuse of those practices that costs the local governments a whole lot more money.

We just had an amendment out here a few moments ago that lost by two votes that would have required us in the Federal Government to pay the expenses of these multilingual voting materials instead of the local communities having to pay for them, thereby costing them more money for these unfunded types of propositions that we so often mandate. It lost by two votes, so local communities are going to have to pay for this material.

And if they have to submit this material, or somebody up here in the Federal Government comes down by regulation under this act and says, "Ah ha, you have to prepare all of this multilingual voting material and provide it out there, and mail it to everybody who registers to vote or who has registered who is a Hispanic American, or an Asian-American, or a Native American, or an Alaskan Aleut, or whoever," then we are going to cause a tremendous cost to the local taxpayer and the local government. It is a ridiculous thing to do.

Instead, my amendment simply says that the material is only going to have to be provided to citizens, and that is the only people I think it should be provided to, upon request, and if that request is made, of course, it will be provided. And the materials can be provided by the supervisor, or certainly they can be by cards and materials that have clearly printed on them that they will be given multilingual ballots and so forth if they request them. In other words, there can be notice of this very easily, and that is what the assumption would be, that the regulations would say that you would have to give notice that the bilingual material was available.

And do not forget, anybody who is a citizen anyway, under the statutes, has to be able to read and write and have a minimum proficiency, so surely they would have enough proficiency and understanding to make the request. That is the way it is done today, and that is the common practice.

I am not suggesting that we change current law. I am not doing that in this amendment. I am simply codifying the fact that only citizens would get the material so that we do not encourage the proliferation of noncitizen voting districts like is happening here now, and that those who do and who are citizens are only going to get it by request so that we do not waste a lot of money or have some regulations promulgated down the road somewhere that will waste a lot of money of the local communities. Since this burden is now on the local communities and they have to pay, we do not want that to happen. We want to keep it here in the simplest form possible, and we want to provide the access to this material to those who really need it. But we want to keep it in a narrow focus, and not waste a lot of money.

So again, my amendment does two things. It provides the requirement that you have to be a citizen in order to get the material. Second, you are required to request that material. And I urge an aye vote on this amendment, because if Members do not vote aye they are going to not be voting the way I think they would want to vote to encourage citizens only voting and request only that saves the local governments some money.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. MINETA], a former mayor and distinguished administrator.

Mr. MINETA. Madam Chairman, I appreciate the gentleman yielding me the time.

I rise today in strong opposition to the amendment.

The amendment before us would require that counties provide bilingual assistance or bilingual ballots only when citizens request it. On the surface, that seems reasonable.

But in fact, this amendment would make implementation of the bill more complex.

And more importantly, it would write a mandate into Federal law that some voters be singled out for official harassment and intimidation.

When I first saw the gentleman's amendment, I focused on the cost issues involved. Under the bill as reported, counties covered by the bill are allowed to selectively target their assistance to those precincts where it is needed the most.

But by basing the requirement on voter requests, a county would have to be prepared to offer bilingual assistance whenever it is requested: in any covered language at any polling place in the county.

I didn't initially focus on the word "citizen" in the gentleman's amendment. After all, who else but citizens will be registered to vote?

But now I find that the gentleman's amendment is designed to require verification at the polls that bilingual voters are, in fact, citizens.

Madam Chairman, what do we think the registars of voters in this country are doing?

The implication of this amendment is that, if you can't speak English well, then we will operate on the assumption that you lied when you registered to vote.

Madam Chairman, I have seen nothing, absolutely nothing, to tell me that we've got a problem with fraudulent registration by immigrants in this country.

If we do, then why focus only on people who aren't English proficient? It would be just as likely that hordes of Canadians, Irish, and Austrailians are sneaking into this country and attempting to manipulate our elections.

Madam Chairman, I reject the implication that simply because someone can't speak English they are worthy of our distrust.

When they come into a polling place, we cannot mandate the blatant intimidation of pulling them aside to be grilled about their citizenship.

Citizenship should be verified when people register to vote. Singling out one group of voters for interrogation at the polls is blantantly discriminatory.

It will achieve absolutely nothing except the intimidation of American citizens exercising the franchise guaranteed them by the Constitution.

I ask my colleagues to join me in defeating the amendment.

Mr. RICHARDSON. Madam Chairman, the voting process should be open to all those eligible, not just those who request the assistance to exercise a constitutional right.

Providing bilingual voting assistance should not place burdens on the recipients of the materials.

Language minority voters, particularly first time voters, are often hesitant to request help from election authorities.

Requiring an explicit request by a minority voter would likely seriously discourage participation, causing many to forgo bilingual assistance or to forgo voting.

Voters have already been screened before they enter the poll: only voters identified through community groups are targeted with bilingual voting materials. Because of this type of targeting, it should not be necessary for bilingual voters to request such materials.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 230, not voting 63, as follows:

[Roll No. 316]

AYES—141

Allen
Archer
Armey
Ballenger
Barrett
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Burton
Byron
Camp
Clement
Clinger
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Derrick
Dickinson
Dingell
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Hancock
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hutto
Inhofe
James
Johnson (SD)
Johnson (TX)
Kanjorski
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Lent
Lewis (FL)
Lightfoot
Lipinski
Lowery (CA)
Machtley
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Myers
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Penny
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Roberts
Rogers
Rohrabacher
Roth
Roukema
Rowland
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Upton
Valentine
Vander Jagt
Walker
Weber
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—230

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
AuCoin
Baker
Beilenson
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Bruce
Bustamante
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Long
Lowey (NY)
Luken
Manton
Markey
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Reed
Richardson
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Thornton
Torres
Torricelli
Unsoeld
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates

NOT VOTING—63

Allard
Andrews (TX)
Anthony
Atkins
Bacchus
Barnard
Barton
Boucher
Boxer
Broomfield
Brown
Bryant
Bunning
Callahan
Campbell (CO)
Chandler
Coleman (MO)
Conyers
Coughlin
DeFazio
Dicks
Dwyer
Dymally
Early
Edwards (CA)
Edwards (OK)
Feighan
Ford (TN)
Frost
Gaydos
Gephardt
Hammerschmidt
Hansen
Hatcher
Hayes (LA)
Hefley
Hubbard
Huckaby
Hyde
Ireland
Kolter
Laughlin
Levine (CA)
Livingston
Lloyd
Martin
Martinez
Matsui
Morrison
Mrazek
Peterson (FL)
Ray
Riggs
Smith (TX)
Sundquist
Tallon
Thomas (GA)
Thomas (WY)
Towns
Traficant
Traxler
Wilson
Yatron

□ 1308

The Clerk announced the following pairs:

On this vote:

Mr. Riggs for, with Mr. Martinez against.

Mr. Thomas of Wyoming for, with Mr. Andrews of Texas against.

Mrs. VUCANOVICH and Mr. NAGLE changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROHRABACHER: Page 5, strike "(I)".

Page 6, line 2, insert "and" after the semicolon.

Page 6, strike line 3 and all that follows through line 14.

The CHAIRMAN. The gentleman from California [Mr. ROHRABACHER] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, my amendment is simple and easy to understand. It would simply eliminate the huge expansions of bilingual ballot mandates included in H.R. 4312, leaving only the 15-year extension of the current authorization, which is consistent with the administration position on this bill.

One provision eliminated by my amendment would require Los Angeles

County, for example, to print all election materials in at least five additional languages.

The other provision eliminated by my amendment requires counties to provide election materials in an Indian language, even if it contains only a portion of an Indian reservation—as long as 5 percent of the Indians on the reservation speak another language—even if few or none of those Indians actually live within the county affected.

My amendment removes the most absurd aspects of this bill. If you think it's a good idea to require large counties like mine to print their ballots and other election materials in several languages, vote against my amendment. If you think it's a good idea to make small counties print their materials in Indian languages that may not even be spoken in their county, vote against my amendment.

But if you think it is time to stop imposing more ridiculous unfunded Federal mandates on our State and local governments, then vote for my amendment.

☐ 1310

Madam Chairman, I reserve the balance of my time.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to a distinguished Member, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Madam Chairman, I thank the chairman, JACK BROOKS, for his time and his leadership on this issue.

Madam Chairman, I rise in opposition to the Rohrabacher amendment.

We can make all sorts of excuses, slice it this way, cut it that way, et cetera; whatever we think on general language issues—and all of us hope and pray and want to work toward the fact that everyone will become integrated into America, the melting-pot society—that the most precious right is that to vote. People understand this Constitution was written with the belief that everybody ought to have that right to vote no matter who they are, no matter what language they speak. You take away people's effective right to vote, you are taking away the thing that our forefathers died for.

So I say to my colleagues this is special, and that, yes, States and counties and localities should go out of their way to assure that people are enfranchised.

There are no ifs about this, this is not something where you can cut the line here or cut the line there. If people cannot vote, for whatever reason, and you can say, "Well, they haven't made the effort to learn English, they haven't done this, they haven't done that," they are disenfranchised.

One thing history teaches us, when a sizable segment of the population anywhere in the world, certainly in this country, is disenfranchised, the country loses.

Madam Chairman, we are in a new world. We need every citizen of America to be part of our team, part of our Army to keep America No. 1.

Madam Chairman, this is a way to do that. This bill is a way to do that. This amendment is a way to stop that from happening.

I hope we will oppose the Rohrabacher amendment, support the bill and move this into law.

Mr. ROHRABACHER. Madam Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. HERGER].

Mr. HERGER. Madam Chairman, I rise in support of the Rohrabacher amendment, which would eliminate some of the confusion that this legislation will certainly cause. Without this amendment, we will continue another unnecessary congressional mandate on State and local governments. There is no proven need for federally mandated bilingual ballots, nor is there evidence that providing ballots and election information in numerous languages actually increases political participation by minorities.

The public strongly opposes the direction of this bill. In my State of California, 70 percent of the voters approved an initiative to eliminate foreign language ballots. In 1986, California's voters passed an English Language amendment by 72 percent of the vote.

These decisions, contrary to the claims of some, are not the result of racism, but common sense. In fact, minorities strongly support official status for English. In a poll by the San Francisco Chronicle, overwhelming numbers, including 78 percent of Hispanics, supported official English.

Foreign language ballots are just another step in the efforts of some to divide Americans by race, class, language, and religion. It is ironic that the party which only a week ago was attacking the President for supposedly dividing Americans between us and them is happy to divide people at the ballot box.

We should instead be working to unite this country, and a common language is the most effective tool for that. I am reminded of my father, who like so many others did not speak any English at all until he started school, but learned it because it was required and because it was needed to be successful in this country.

Bilingual education and foreign language ballots are crutches, which keep people from learning our national language rapidly and effectively. I urge adoption of the Rohrabacher amendment.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Madam Chairman, I rise in opposition to the Rohrabacher amendment.

Madam Chairman, today, we are attempting to pass another piece of legislation to empower the American people. This time, it is legislation to help language minorities at the polling place.

A few weeks ago we passed a bill to increase voter registration with the so-called motor voter bill. Unfortunately, the President vetoed it—as the American people tried to celebrate the Fourth of July.

Is there any mystery why the American people have turned off to politics? With that veto, the President said: We don't care about your vote.

Despite that very cynical act by our President, we have to send another message today to the American people, all American people: We want you to care about the political process, we want you to get involved, we want you to vote.

I urge my colleagues to vote "no" on the Rohrabacher amendment. "Yes" on the Voting Rights Language Assistance Act.

Mr. ROHRABACHER. Madam Chairman, I yield myself 2½ minutes.

Madam Chairman, there are a lot of Americans who are listening to this debate today, and they are Americans of goodwill, because all Americans come here from somewhere else. All of us have our ancestors coming from some other land. Most of us, most of those relatives came speaking another language. But today we are talking about something that does go to the heart and soul of America, it goes to our unity as a people, it goes to the opportunities available to the individual.

With the best of intentions, this bilingual nonsense is leading to linguistic segregation of the new immigrants of America. It is a bad idea for America. It is a bad idea for the individual citizens who are frozen out of America's opportunities, for lack of proficiency in the English language.

People all over the world are struggling to learn English. They make great sacrifices so their children can learn English, knowing that such knowledge will open up new opportunities for self-betterment.

How tragic it is that the bilingual balance and bilingual education that we are encouraging large numbers of our own people to freeze themselves out of the social and economic mainstream and to limit their own abilities to improve their lot in life.

With the best of intentions, this policy of bilingual balance and bilingual education is linguistically segregating America. It hurts each and every one of our citizens who does not then become proficient in English language.

I do not doubt the goodwill on that side of the aisle, those people who are advocating this type of bilingual policy for America; I would suggest that it is having the opposite impact and in the long run it is going to harm the very people that they seek to help.

Madam Chairman, I reserve the balance of my time.

□ 1320

Mr. BROOKS. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. TORRES].

Mr. TORRES. Madam Chairman, this Congress has had the honor to enact some very important civil rights laws, the American with Disabilities Act and the Civil Rights Act of 1991. I ask you, how can we make laws that prevent gender, skin color, and physical disability discrimination for jobs and housing, yet continue to alienate and discriminate against half the citizens of this country by depriving them of one of the most fundamental rights of democracy, the right to vote? We have a chance today to correct some horrendous mistakes made to our voting rights laws, to guarantee that all of our citizens are able to exercise their right to vote.

In 1975, section 203, together with two other language assistance provisions was added to the Voting Rights Act. Section 203 was added to increase the participation of American citizens who have problems voting in English. Section 203 was based upon the congressional finding that the unequal educational opportunities commonly suffered by limited English citizens often prevent these citizens from exercising their right to vote.

The intent of section 203 was to stop a discriminatory voting practice which violates the equal protection clause of the 14th amendment and the 15th amendment's guarantee to all eligible citizens of their right to vote. The practice in question is the failure of a jurisdiction to print ballots in a language other than English when another language is more fully understood by a significant number of voting age citizens. It is unrealistic and illogical to assume that people, regardless of color, have automatically learned English in school, when 1 in 5 adults in the United States are illiterate. In the late seventies Los Angeles County was required to print ballots in Spanish, but that requirement was lifted during the Reagan administration.

Section 203 was amended in 1982 to provide new guidelines for language assistance, this was suppose to ensure that those really needing language assistance received it. Unfortunately, the formula now used to decide who meets the language assistance criteria is seriously flawed. Now bilingual assistance is determined by an ill-conceived census question.

A county only has to provide bilingual help if the census shows that 5 percent of the limited English citizenry does not speak English well enough to make an informed vote. As a result, some highly populated areas are no longer covered because the total population overshadows the minority communities. For example, my own county of Los Angeles is no longer covered.

Even though Los Angeles County has approximately 8 million people which includes over 3 million Hispanics, Los Angeles is not covered by section 203. According to the census, the 200,000 voting age Hispanics who speak English poorly comprise less than 5 percent of the Los Angeles County's total population.

Ballots in Los Angeles County used to also be printed in Spanish, now ballots in the Los Angeles area are printed only in English. And, for the 200,000 Hispanic voters who are U.S. citizens, the Los Angeles County ballots are unintelligible—200,000 people, that's four packed RFK Stadiums; or 4,445 busloads of people; it's also half the population of Wyoming.

All U.S. citizens have a right to be equally informed, and if need be, ballots need to be translated in order for them to cast a proper vote, that is just common sense. Consequentially, the right to vote has effectively been denied to a large portion of limited and non-English speaking U.S. citizens.

The Voting Rights Improvement Act of 1992 would reauthorize and expand the bilingual provisions of the Voting Rights Act, section 203, to require jurisdictions with large language minority populations to provide both bilingual assistance and material to voters. Section 203 is due to expire on August 6, 1992, at which time 68 counties that are currently covered only by section 203—3 of which provide assistance in two languages other than English—will no longer be required to provide bilingual voting assistance. The Voting Rights Improvement Act of 1992 will give all citizens, including non-English speaking citizens, the right to cast an independent, informed vote. The amendment would also recognize native American reservation boundaries when determining bilingual voting assistance.

Non-English speaking voters need to be guaranteed the same assistance and explanatory materials as English-speaking voters.

The Voting Rights Improvement Act is not about immigration or patriotism. The bill is about the right of every citizen to be able to participate fully in their rights of citizenship.

Don't you think that we have a fundamental responsibility to ensure that all citizens have the opportunity to be part of the voting process and cast an informed vote? We, as legislators, should do everything in our power to ensure that all citizens of this country will be guaranteed their right to be part of the electoral process regardless of nationality or race.

Mr. BROOKS. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. ROHRABACHER].

Like many of us in the House, I am the son of immigrants. My father came to this country in 1902, and my mother in the twenties.

It was not until 1953, 51 years after he arrived in this country, that my father was allowed to become a citizen. Until that time, it was against the law in this Nation for any Asian immigrant to be naturalized.

Mr. Chairman, just as surely as those racial exclusion laws excluded my parents from citizenship, the Rohrabacher amendment would exclude the voices of today's newest Americans from our political life.

There are some in this country who argue that bilingual ballots will convince immigrants that learning English is not necessary. They believe that bilingual ballots are some kind of handout to lazy immigrants who can't be bothered to learn English.

Well, Madam Chairman, I have seen the community organizations and the schools straining to meet the demand for English classes.

I've spoken with the people we are discussing today: Good, honorable and loyal Americans who struggle every day to build a better life for their families.

They stand in line for English classes, and all too often end up on waiting lists or in overcrowded classrooms.

Should their voices be given any less weight because they are not yet English voices? Are their children less important to our country's future? Are they any less a part of America? Of course not.

They do not need politicians to tell them the importance of learning English. Cold hard reality is a much more effective, and much less patronizing teacher.

Bilingual ballots will not remove the barriers to getting a good job or going to college. They will not make it easier to report a crime to a policeman or tell a doctor that your child is sick.

But bilingual ballots can remove one roadblock to their full participation in our society by making something available to them that is the right of every American: The franchise.

The numerical threshold is crucial to that goal. This bill recognizes that. The Justice Department recognizes it, and the White House recognizes it.

I ask my colleagues to join me in opposing the amendment.

Mr. BROOKS. Madam Chairman, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Madam Chairman, I rise today in strong opposition to the Rohrabacher amendment, which strikes the very heart of this bill—the new benchmark which will trigger the requirement for language assistance.

Through the implementation of section 203 of the Voting Rights Act over the last 13 years we have found an enormous loophole, which has left thousands of individuals in our Nation without the necessary assistance to exercise the most fundamental right to vote.

And what the gentleman is asking us to do today, is to ignore the fact that this loophole exists; to return to current law; and to knowingly deny citizens of this Nation protection against language discrimination at the polls.

Under current law, language assistance is required only if the eligible voting population of the language minority with limited English proficiency totals 5-percent of the population of the entire country. This 5-percent requirement has excluded certain communities which have a high number of language minorities yet when counted along with the entire county do not meet the 5-percent benchmark.

Opponents to the new benchmark say that it will be too onerous and costly on local government. Madam Chairman, it will take money and effort to accomplish this. However, we are not talking about a frivolous program of numerous benefits and services. We are talking about protecting the most fundamental right in the Nation, the right to vote. And we cannot knowingly deny people of that right.

The bill sets forth a fair and sound benchmark of 10,000 limited English proficient individuals within a county.

The new benchmark is vital to the Asian-American community and their participation in our electoral process. Under the 5-percent trigger only three counties in the entire Nation were required to provide languages assistance in one Asian language, Japanese. Those three counties happen to be in my district.

With the new benchmark the Census Bureau tells us that according to the 1990 census data 10 counties across the Nation will be required to provide Asian language assistance, which include four different Asian languages.

It is important to remember that while Asian-American as a collective group make up the fastest growing minority in the Nation it has been difficult for them to qualify for language assistance because each separate Asian language must meet the 5-percent trigger.

Even States like California, New York, Texas, and Illinois, which comprise 57 percent of the total mainland Asian-American population, cannot meet the 5-percent benchmark for any Asian language assistance.

The 10,000 person benchmark is essential to providing Asian Americans with the assistance needed to become full-fledged participants in our democracy.

Madam Chairman, I urge my colleagues to protect and preserve the constitutional rights of all citizens and vote against the Rohrabacher amendment.

Mr. BROOKS. Madam Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Madam Chairman, I rise in strong opposition to this amendment and urge my colleagues to join me in supporting H.R. 4312, the Voting Rights Improvement Act of 1992. This bill reauthorizes the bilingual provisions of the Voting Rights Act, section 203, and amends that section to better identify Hispanic, Asian and native American citizens who need language assistance in order to cast meaningful votes during an election.

The Second Congressional District of Arizona, of which I am privileged to represent, consists of large numbers of Hispanic-Americans and native Americans. About half of my constituents belong to these minority groups. Many of my native American and Hispanic constituents do not understand English well enough to use voting materials written in English.

In many other communities in the country—such as the Hispanic community in Los Angeles County or the Asian-American community in San Francisco—minority language citizens need bilingual voting assistance. Without proper translations, these citizens cannot exercise their fundamental voting right and as a result cannot take part in our representative Government. The language assistance provided by section 203 enables them to make their voices heard at the polls.

H.R. 4312 has special significance for native Americans because it improves section 203's coverage of native Americans living on Indian reservations who have limited English language skills. The current standard in section 203 excludes many reservations with significant populations of limited English proficient native Americans. Elsewhere, only parts of reservations are covered. This occurs because the current coverage standard does not consider the unique history and demography of native Americans. Native Americans living on reservations and other Indian lands comprise less than one-third of 1 percent of the total United States population. These relatively small populations are split by State and county lines, which were often drawn without regard for reservation boundaries when States entered the Union. As a result, most limited English proficient native Americans do not exceed 5 percent of a county's voting age population.

The legislation before us today, H.R. 4312, provides an alternative coverage standard for native Americans which more accurately identifies those needing language assistance: Where you have more than 5 percent of the native Americans voting age population of a reservation you will have to provide it under section 203. This alternative standard is necessary in order for section 203 to have real meaning for native Americans. Without it, only 4 of the more than 500 native American nations in the United States would receive assistance under section 203 alone.

I can offer a good example from my own district in Arizona. The Tohono O'Odham Nation is the fifth largest native American nation in the United States. Its reservation spans three counties in southern Arizona. According to the Census Bureau, several thousand voting age Tohono O'Odham members cannot speak English well enough to be well-informed in the electoral process. Nevertheless, none of the three counties on the Tohono O'Odham Reservation provide language assistance under section 203. The reason is that most Tohono O'Odham members live in the same county as the large, off-reservation city of Tucson, which has more than half a million residents. Even though the Tohono O'Odham members number in the thousands, they do not comprise more than 5 percent of the county's total voting population. Under H.R. 4312, the Tohono O'Odham nation would receive language assistance under section 203, according to preliminary Census Bureau predictions.

Some counties covered under H.R. 4312's proposed standard will have few native Americans who need assistance, simply because the incidence of native Americans in the population overall is low compared to other language minority groups by section 203. I do not believe this will present a hardship to covered counties because only oral assistance is required where languages have no common written form, as is true of most native American languages. The cost of oral assistance is minimal, according to a 1986 GAO report. Also, the Department of Justice regulations, which implement section 203, permit counties to target assistance only to those who need it. For example, if all the native language speakers live on the reservation portion of a covered county, that county can provide assistance only in the reservation precincts.

Native Americans have the right to use their languages in public proceedings, according to the Native American Languages Act of 1990. H.R. 4312 makes this right a reality by providing the language assistance which many native Americans—and other language minority groups—need to fully participate in the electoral process. We need to encourage more participation in our elections and not provide obstacles to participation.

I strongly urge my colleagues to join me in supporting H.R. 4312 in order to improve our civic responsibility to participate in the political process.

Mr. SOLARZ. Madam Chairman, I wish to declare my strong support for H.R. 4312, the Voting Rights Language Assistance Act. I am convinced that this legislation not only protects our cherished democratic system, but also promotes public participation in the electoral affairs of the Nation.

By reauthorizing the provisions of the Voting Rights Act that mandate bilingual voting assistance, this legislation ensures that those citizens who need bilingual assistance will continue to receive this essential service.

If, on the other hand, the Congress fails to adopt this legislation, 68 counties in the United States will no longer provide bilingual voting assistance, and hundreds of thousands, if not millions, of American citizens will effectively lose the franchise.

This bill will also ensure that more of our citizens who do not yet have full command of the English language will receive assistance in voting. Under current law, sizable communities of Hispanic and other voters are not afforded bilingual voting assistance. In California, for instance, Los Angeles County, even though it contains over 3 million Hispanics, is not required to provide such assistance. This bill, on the other hand, mandates such services in any county of the country that contains more than 10,000 voters who do not speak English well enough to make an informed vote.

The right to vote is one of the most basic of all American rights. If we make it more difficult for many of our citizens to play a role in electing their representatives, we undermine one of the cornerstones of democracy.

At a time when an ever larger percentage of the American electorate fails to vote, at a time when plummeting voter participation is the cause of considerable consternation and alarm, it is more important than ever that we adopt this legislation.

Indeed, in an election year marked by apathy and disillusionment, one might even make the case that this is one of the most important items on the congressional calendar this year.

This legislation can also serve an important cohesive function in American society. By giving Hispanics, Asian-Americans, Native Americans, and other minority citizens an opportunity to participate in the political process, this legislation will assist in cultivating a sense of civic duty, and help integrate all our citizens into the fabric of American society.

America—to its great credit—has long been seen as a land of opportunity and a home to freedom. Throughout our history, we have systematically redefined the concept of opportunity and expanded the scope of freedom, to include an ever larger number of Americans. Once again we have that chance. We must adopt this legislation—so that no citizen shall be inhibited from voting because he is not sufficiently proficient in English to master the intricacies of registration or the operation of voting machines.

This legislation has been endorsed by a wide coalition of civic and public interest groups, including: the AFL–CIO, the National

Puerto Rican Forum, the Chinese American Citizens Alliance, the Asian Law Caucus, the Puerto Rican Legal Defense and Education Fund, the National Urban League, the American Jewish Congress, and the ACLU.

Like these institutional sponsors, I, too, am convinced that this legislation is an essential tool in empowering disenfranchised communities, and I urge the Congress to move quickly in approving this important measure.

Mr. RANGEL. Madam Chairman, as an original cosponsor of this important legislation, I rise in strong support of the Voting Rights Language Assistance Act.

When my colleagues and I in Congress passed the Voting Rights Act in 1975, we included section 203 to require counties that have large numbers of minority language citizens to provide bilingual voting assistance.

Since then, millions of Americans—Hispanics, Asian Americans, native Americans, and others throughout the United States who would otherwise have been disenfranchised—have benefited from this support and have exercised their most precious right: the right to vote.

Mr. Speaker, the American people still need this legislation. The Voting Rights Language Assistance Act would reauthorize and refine the bilingual provisions of the Voting Rights Act, which are due to expire this year.

The bill extends bilingual voting assistance for 15 years, through 2007, while tightening current law to ensure that minority language communities are covered by the bilingual provisions of the Voting Rights Act.

To date, counties are only required to provide support if 5 percent of voting age citizens do not speak English well enough to cast a ballot. In densely populated cities like New York, however, huge limited-English proficient populations may still comprise less than the required 5 percent. The Voting Rights Language Assistance Act would require that a county provide assistance if it meets the 5-percent minimum or if it has more than 10,000 voters who speak English poorly.

Most importantly, bilingual voting assistance helps to guarantee a fundamental American right: the right to vote.

Our democracy, Mr. Speaker, will succeed only if its citizens are able to choose their leaders and thereby influence the operation of their Government. When a community is disenfranchised because it has not yet become proficient in English, everyone loses the benefit of its contribution to our valued democratic process.

Bilingual voting assistance helps to bring diverse American communities closer together. No one, Mr. Speaker, can deny that a deepening divide separates Americans of different races. This bill will strengthen the American democracy by enhancing the quality of the political process.

Moreover, providing written assistance averaged 7.6 percent of total election costs, according to the General Accounting Office, which predicted that costs would only decrease as election materials were recycled and election officials gain experience in providing bilingual assistance.

Section 203 clearly works. In New York alone, hundreds of thousands of Latino voters use bilingual voting assistance, and four out of five Asian American voters would be more inclined to vote if ballots were also written in their native language.

For generations, Mr. Speaker, good and honorable people have come to the shores of the United States from every continent, from every country on Earth.

They bring with them their desire to succeed, their love of freedom, and their own culture and language.

From the beginning, the United States has benefited and been enriched by these immigrants, different as they look and sound.

The music of many languages flows through the streets of New York; it is a rich heritage that should be nurtured, cherished, and promoted.

When someone comes to America, they do not leave their language, history, and culture at the door. And we should not insist that they do.

I strongly urge my colleagues to pass the Voting Rights Language Assistance Act without any weakening amendments. Millions of Americans depend on this legislation. We must not let them down.

Mr. ROYBAL. Madam Chairman, I rise in strong support of H.R. 4312, the Voting Rights Language Assistance Act. I commend Congressman SERRANO, Chairman BROOKS, and Chairman EDWARDS for moving this important piece of legislation.

As you know, this bill reauthorizes section 203 of the 1975 Voting Rights Act, requiring certain counties to provide bilingual voting assistance for minority language citizens—Hispanics, Alaskan Natives, Asian-Americans, and native Americans. In addition, this legislation expands the number of counties that are required to provide such bilingual assistance. This bill is needed to address the needs of language minority American citizens who are still removed from the voting process.

This legislation includes a vital provision which requires counties to provide bilingual assistance in metropolitan areas which were previously excluded. Counties are currently required to provide bilingual assistance only if 5 percent or more of the voting age citizens speak a minority language. This new provision mandates bilingual assistance in areas where 10,000 or more citizens share one minority language. This is essential in densely populated urban counties such as Los Angeles, which has over 3 million Hispanics, and is not currently covered because the total population dwarfs the minority language community. Additionally, this measure serves to enhance the voting rights of many non-English speaking native Americans by applying the 5 percent requirement to Indian reservations, rather than counties as under current law.

The right to vote is the most important characteristic of a true democracy, one that is essential to the legitimacy of government. This bill extends that right to millions of Hispanic, Asian, Alaskan Native, and native American citizens to ensure that they have access to the American political process and a voice in determining their future. However, for many of these Americans, the doors to the political process have been closed due to linguistic barriers. The Voting Right Language Assistance Act breaks through these barriers by providing bilingual voting assistance, thus enhancing the fundamental right to vote for all Americans.

I urge all my colleagues to stand up for the rights of all Americans when casting their vote for this bill. Support H.R. 4312, the Voting Rights Language Assistance Act and oppose all amendments designed to weaken this crucial legislation.

Mr. MATSUI. Madam Chairman, I rise today in strong support of H.R. 4312, the Voting Rights Language Assistance Act of 1992. This bill will help us make significant strides toward addressing historical discrimination against minorities in the United States.

In 1975, Congress recognized that many Asian Americans were being effectively deprived of their fundamental right to vote. Well-intended but virtually ineffective legislation aimed at ending this inequality was enacted that year. Under the 5 percent limited-English proficient voting age population trigger, not a single Asian American in the entire United States qualified for assistance. In fact, the 1990 census shows that only the Chinese American community in San Francisco would be eligible this decade for bilingual registration and voting assistance under section 203 of the Voting Rights Act.

Many Hispanic communities are also denied much-needed assistance under the legislation. For instance, almost 40,000 limited-English proficient Hispanic citizens in just three jurisdictions—Broward County, FL; Boston, MA; and Union City, NJ—are effectively denied their right to vote because they do not comprise 5 percent of their county's voting age citizen populations. The obstacles faced by these communities exemplifies the predicament confronting thousands of citizens across the country. H.R. 4312 not only preserves help for citizens who both need and desire language assistance, it also extends assistance to citizens for whom the legislation was initially intended.

The right to vote is fundamental to liberty, justice, and equity. The United States must preserve this right for all its citizens, and H.R. 4312 will help safeguard this constitutional right for all, regardless of race, color, national origin, or minority status.

Mr. BROOKS. Madam Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Madam Chairman, I rise in opposition to this horrible amendment.

Mr. BROOKS. Madam Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Madam Chairman, I ask my colleagues to defeat this amendment and pass the bill.

Mr. BROOKS. Madam Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. WASHINGTON], and then we will have our final speaker, the gentleman from New Mexico [Mr. RICHARDSON], and Chief RICHARDSON will wrap up for us.

Mr. WASHINGTON. Madam Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me, and I wish, I say to my good friend from California, that linguistic segregation was the only problem that we had left in our country, and, if it were, I think that we would be a lot closer to realizing the dream which the gentleman and I would like to have fulfilled. I will vote for bilingual Head Start next Congress. I will vote for bilingual education for elementary school children, secondary school children. I will vote for bilingual adult education. The bottom line of this amendment has nothing to do with that. I think the gentleman and I are going to get to the answers to the problem.

I say to the gentleman, "You and I want one society, and we move closer to that society when all people feel able to participate. But when we let the door down on one group, it's suspicious to them, and it's suspicious to others who have been similarly situated in the past."

Our average congressional district is about 500,000 people. Ten thousand people will be 2 percent. There are no Members of Congress in this room who would delude themselves, or the rest of us, by telling us if they had 10,000 voters out there who did not speak English that they would not find a way to communicate with them if my colleagues thought that they would vote for them. I say to my colleagues, "You wouldn't. You know you wouldn't."

So, Madam Chairman, the gentleman wants to take out the amendment to make it 10 percent of the people, and 5 percent of the people is 25,000 voters. He wants to raise the threshold to 25,000 voters, and he is saying that if there were 24,000 people, or 23,000, or 22,000, or 21,000, he would not want them to be able to vote for him. He would not want to communicate with them in Spanish, or Vietnamese, or whatever language.

I say to my colleagues, "You know that's not true. Let's kill that amendment."

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Madam Chairman, I cannot think of a more un-American amendment than this amendment. What this amendment would do is, the first Americans in this country, the native Americans, would be totally disenfranchised. No Indian reservation would be covered if this amendment is adopted because, by changing the jurisdiction by county, instead of reservation, one is disenfranchising the native American peoples of this country that are our first Americans. Nine percent of them vote right now because they are upset. They are forgotten, and they do not want to participate. I say to my colleagues, "If you want to take them out completely and also recognize that they are being disenfranchised, this amendment will eliminate all reservations in this country from participating in the electoral process."

I also want to emphasize the practical effect of this amendment in Orange County. It eliminates Vietnamese. It eliminates Chinese. Under the 5-percent trigger, several of the largest communities of Hispanic and Asian minority voters are not covered simply because these communities reside in very large metropolitan areas: only Los Angeles, New York, San Francisco, and Chicago.

We have had a long struggle, whether we are Hispanic, native American, Asian, to fully participate in this country. In one fell swoop the electoral process, by adopting this amendment, that disenfranchisement will take place.

Vote "no" on the Rohrabacher amendment.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Madam Chairman, we know that this amendment is a straight reauthorization. Therefore it knocks out the purpose of our being here. We have come to the realization that there are these large minority groups in large cities that simply do not count, are not counted under the threshold. I think everybody is aware of that, and that is the problem with this amendment.

There are some underlying currents here I would like to address for a minute. There is concern that by providing language assistance to limited English proficient citizens we may be fostering separatism by discouraging people from learning English. I think it is stretching things to say that facilitating a few moments at the polling place once a year is going to have a major effect on discouraging people from learning English. Separatism has not been the history of this country with large foreign language populations. It has been quite the reverse, an eventual total assimilation.

The second thing I would like to emphasize is that we are trying to allow more people into the system by this legislation, and the amendment before us would freeze them. We live in a time of diminishing participation in the electoral process and greater voter apathy. Faced with this situation, I think we should do everything within our power to encourage citizens to vote. It seems to me that by enabling language minority citizens to vote in an effective and informed manner, we are giving them a stake in our society. This assistance provides true access to government that, I trust, will lead to more, not less, integration and inclusion of these citizens in our mainstream.

Madam Chairman, I think those are the two points I would like to leave my colleagues with as we approach the end of the consideration of this legislation. I think it is critically important we defeat this amendment and go on and pass the bill.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI], a graduate of Notre Dame and a distinguished lawyer.

Mr. MAZZOLI. Madam Chairman, I thank the gentleman from Texas [Mr. BROOKS] for that endorsement. I appreciate it.

Madam Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. ROHRABACHER], and I salute the gentleman from New York [Mr. FISH], my friend, on his statement to commend my chairman, the gentleman from Texas, for having brought the bill up and the gentleman from California [Mr. EDWARDS] who has shepherded it to this point.

Let me just broaden the situation. I think we should not change the bill as the gentleman from California [Mr. ROHRABACHER] would wish, but beyond that we need to talk about encouraging people to vote.

Unfortunately, as I said earlier today, the President vetoed the motor-voter bill. The President vetoed the campaign finance reform bill. It is almost as if, whether it is his own desire or he is getting terrible information and advice, it is almost as if the President does not want people to vote. They are afraid of the people.

So, Madam Chairman, I encourage defeat of the Rohrabacher amendment. Support the gentleman from Texas' bill. Let us show the American people that we are not afraid if they are going to the polls. In fact, Madam Chairman, let us show them that we want them to come to the polls to vote.

Mr. BROOKS. Madam Chairman, I reserve the balance of my time, but I am ready to vote.

Mr. ROHRABACHER. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, let us get some facts straight. Madam Chairman, we have heard a lot of inflated rhetoric on this floor. Some of the rhetoric we just heard is so detached from reality.

Let me note that 176 jurisdictions, if my amendment passes, will still be covered by this requirement in the Voting Rights Act, and let me note that my amendment does not change the status quo of the Voting Rights Act. It keeps it the same in terms of the bilingual requirements.

☐ 1330

Everyone is talking about these massive numbers of people who will be disenfranchised. Those people are totally disenfranchised now. This is rhetoric that is way beyond reality.

Madam Chairman, let me note in terms of the discussions we have had about the effect on Indian reservations, under the 5-percent threshold, 18 jurisdictions are required to provide language assistance to 14,000 Indian voters. The new formula as presently drafted, that is, what we have today, and that will not change, 18 jurisdictions with 14,000 Indian voters. Under the new formula as presented in the draft, it will add 59 jurisdictions, but will only cover 4,900 voters. That is what we are talking about.

Over half of those jurisdictions, I might add, have fewer than 50 voters who will need assistance. Several of them have no native Americans who will need voting assistance at all, but they will still be covered under the Act.

I think that we have got to look at this whole issue of bilingual ballots and bilingual education and bilingualism in America.

Let me just note this: I would hope and I would pray that people in this body accept that people of good will can differ on this fundamental issue. I certainly have no problem at all in accepting that the people on that side of the aisle have the very best of intentions in mind. I happen to believe that this whole idea of separating America into separate linguistic groups is going to destroy the America I love and destroy the opportunity of those individuals who are involved. I am concerned, and I love those people we are talking about.

Mr. WASHINGTON. Madam Chairman, will the gentleman yield?

Mr. ROHRABACHER. I would really like a chance to finish this because I have been under attack here, but I will yield quickly.

Mr. WASHINGTON. Madam Chairman, does the gentleman from California [Mr. ROHRABACHER] send out any campaign material or will he send out any in any other language other than English?

Mr. ROHRABACHER. Madam Chairman, I would send out campaign material in languages other than English, but this bill simply eliminates the requirement for the local governments to do so. They can still do it if the local community feels it is necessary. They can still send out bilingual information. But should the Federal Government mandate this?

Let me note, the American dream is that we have an experiment here where people have come from all over the world, of every background, of every race, of every religion, to pray and worship God as they see fit, to improve their lot, to live in freedom.

The one thing that kept us together and kept that dream alive was a love of liberty, and another thing was the English language. If you dilute either the love of liberty or the English language, you are diluting the American dream for the people you are trying to help.

Mr. BROOKS. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROHRABACHER. Madam Chairman, I demand a recorded vote.

A recovered vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 253, not voting 66, as follows:

[Roll No. 317]

AYES—115

Allen
Archer
Armey
Ballenger
Barrett
Bateman
Beilenson
Bentley
Bilirakis
Bliley
Boehner
Burton
Clinger
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gillmor
Goodling
Goss
Gradison
Hancock
Hastert
Henry
Herger
Holloway
Hopkins
Houghton
Inhofe
James
Johnson (SD)
Johnson (TX)
Kanjorski
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lowery (CA)
Marlenee
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Patterson
Paxon
Petri
Porter
Pursell
Ramstad
Regula
Rhodes
Ridge
Rinaldo
Roberts
Rogers
Rohrabacher
Roth
Roukema
Santorum
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Smith (NJ)
Smith (OR)
Solomon
Spence
Stearns
Stump
Taylor (MS)
Taylor (NC)
Thomas (CA)
Vander Jagt
Walsh
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—253

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
AuCoin
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Bruce
Bustamante
Byron
Camp
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Condit
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeLauro
Dellums
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Reed
Richardson
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Thornton
Torres
Torricelli
Towns
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates

NOT VOTING—66

Allard
Andrews (TX)
Anthony
Atkins
Bacchus
Baker
Barnard
Barton
Boucher
Boxer
Broomfield
Brown
Bryant
Bunning
Callahan
Campbell (CO)
Chandler
Clement
Coleman (MO)
Collins (MI)
Conyers
Cooper
Coughlin
DeFazio
Dicks
Dwyer
Dymally
Early
Edwards (OK)
Feighan
Fish
Ford (TN)
Frost
Gaydos
Gephardt
Hammerschmidt
Hansen
Hatcher
Hayes (LA)
Hefley
Huckaby
Hunter
Hyde
Ireland
Kolter
Laughlin
Levine (CA)
Livingston
Lloyd
Martin
Martinez
Matsui
Morrison
Mrazek
Peterson (FL)
Ray
Riggs
Smith (TX)
Sundquist
Tallon

Thomas (GA)
Thomas (WY)
Traficant
Traxler
Wilson
Yatron

□ 1353

Mrs. VUCANOVICH changed her vote from "aye" to "no."

Mr. GEKAS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1355

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. HOYER] having assumed the chair, Mrs. UNSOELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4312) to amend the Voting Rights Act of 1965 with respect to bilingual election requirements, pursuant to House Resolution 522, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

MOTION TO RECOMMIT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. McCOLLUM. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCOLLUM of Florida moves to recommit the bill, H.R. 4312 to the Committee on Judiciary with instructions to report the same back forthwith with the following amendment:

On page 7, line 2, after "State." insert "The prohibitions of this subsection also do not apply with respect to any State or political subdivision that does not receive a Federal grant to cover all expenses resulting from compliance with this subsection. The Attorney General may make such grants.".

The SPEAKER pro tempore. The gentleman from Florida [Mr. McCOLLUM] will be recognized for 5 minutes in support of his motion to recommit, and the gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Speaker, the motion to recommit with instructions I have just offered is very simple. It is a revote of the Condit amendment that was defeated a few minutes ago by a vote of 184 to 186. It is a straight revote of that particular provision. It seems to me that the Members ought to have an opportunity to reconsider that.

If the Members will recall, the Condit amendment very straightforwardly simply ends the unfunded aspects of this bill as far as States and local governments are concerned, and says the Federal Government must pay for the cost of these bilingual ballots. We must pay for them. If we do not pay for them, then they do not have to abide by the restrictions we put out there.

This is the first of what we all hope will be a series of these types of votes we will take in the future that will end once and for all the kind of unfunded mandates that the Federal Government has been so prone to put down on the local governments. I would submit to my colleagues, for those of them who may not have understood it before, they should have no question about this. This amendment is not devious. It does not do anything else. It is very straightforward. It is simply an effort to end unfunded mandates to the State and local governments as far as this bill is concerned, and hopefully a precedent for other bills.

The gentleman from California [Mr. CONDIT] I think offered a very good amendment in the committee earlier, and now we will have a chance to revote this amendment. That is all this does. It would provide that Federal funds must be used in order to implement the law that we are passing today, in order to have the ballots printed and distributed, so the local communities will not have to bear that cost. Again, that is all that is involved, is a revote of the Condit amendment.

I would urge an "aye" vote on the motion to recommit with instructions to do this, and we can all get out of here and feel better about this bill.

Mr. BROOKS. Mr. Speaker, I oppose the motion to recommit. We just voted down this amendment about an hour ago. It is a killer amendment designed to deny States and other groups, counties, et cetera, an opportunity to pay for these ballots and just try to set another hurdle, a more difficult way for people to vote.

I hope that we can get this bill on the way and vote this motion to recommit down.

Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas [Mr. WASHINGTON].

□ 1400

Mr. WASHINGTON. Mr. Speaker, this amendment reminds me of the old shell game that people used to play where they would take one little eraser off a pencil and three little walnut shells and put them down, and then the object of the game was to figure out which one of the shells contained the little eraser, except the person with an adroit two fingers could remove them while they were switching them around, so whichever one you guessed, it was not going to be under any one of them. So the object of the game was for you to lose, regardless.

What this amendment says is we delegate the responsibility to the Attorney General of the United States to decide when, and under what circumstances, and where the Voting Rights Act will be enforced, because if the Congress does not fund it, and the Attorney General does not provide the money, then the Voting Rights Act does not mean anything. It is a wrong for which there is no remedy if the Attorney General does not enforce it. And the same people who want this would not vote to appropriate the money.

We understand the game. The game is to vote no, and let us get out of here, but feel good about ourselves by doing what is right, and the way we do that is to defeat the motion to recommit.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. HOYER]. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. McCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the passage of the bill.

This will be a 15-minute vote followed by a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 172, nays 195, not voting 67, as follows:

[Roll No. 318]

YEAS—172

Allen
Applegate
Archer
Armey
Ballenger
Barrett
Bateman
Bentley
Bevill
Bilirakis
Bliley
Boehner
Brewster
Browder
Burton
Byron
Camp
Campbell (CA)
Clinger
Coble
Combest
Condit
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Derrick
Dickinson
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Geren

Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Gunderson
Hall (TX)
Hancock
Harris
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Hubbard
Hunter
Hutto
Inhofe
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Kanjorski
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lowery (CA)
Luken
Machtley
Marlenee
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Moran
Myers
Nichols
Nussle
Orton
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Rowland
Sangmeister
Santorum
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Staggers
Stearns
Stenholm
Stump
Swett
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—195

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Aspin
AuCoin
Beilenson
Bennett
Bereuter
Berman
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brooks
Bruce
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Cooper
Costello
Cox (IL)
Coyne
de la Garza
DeLauro
Dellums
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hughes
Jacobs
Jefferson
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Manton
Markey
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Poshard
Price
Quillen
Rahall
Rangel
Reed
Richardson
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Stallings
Stark
Stokes
Studds
Swift
Synar
Thornton
Torres
Torricelli
Towns
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Yates

NOT VOTING—67

Abercrombie
Allard
Andrews (TX)
Anthony
Atkins
Bacchus
Baker
Barnard
Barton
Boucher
Boxer
Broomfield
Brown
Bryant
Bunning
Callahan
Campbell (CO)
Chandler
Clement
Coleman (MO)
Collins (MI)
Conyers
Coughlin
DeFazio
Dicks
Dwyer
Dymally
Early
Edwards (OK)
Feighan
Ford (TN)
Frost
Gaydos
Gephardt
Hammerschmidt
Hansen
Hatcher
Hayes (LA)
Hefley
Huckaby
Hyde
Ireland
Kolter
Laughlin
Levine (CA)
Livingston
Lloyd
Martin
Martinez
Matsui
Morrison
Mrazek
Peterson (FL)
Pickle
Ray
Riggs
Smith (TX)
Sundquist
Tallon
Tauzin
Thomas (GA)
Thomas (WY)
Traficant
Traxler
Wilson
Wyden
Yatron

☐ 1419

Mr. McGRATH and Mr. VALENTINE changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded±.

☐ 1420

The SPEAKER pro tempore (Mr. HOYER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The Speaker pro tempore. The Chair would remind Members that this is a 5-minute vote on final passage.

The vote was taken by electronic device, and there were—yeas 237, nays 125, not voting 72, as follows:

[Roll No. 319]

YEAS—237

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
AuCoin
Bennett
Berman
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brooks
Bruce
Bustamante
Camp
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Darden
de la Garza
DeLauro
Dellums
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Gallegly
Gejdenson
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kyl
LaFalce
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Poshard
Price
Quillen
Rahall
Rangel
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Thornton
Torres
Torricelli
Towns
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wise
Wolf
Wolpe
Yates
Young (FL)

NAYS—125

Allen
Archer
Armey
Ballenger
Barrett
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehner
Brewster
Browder
Burton
Byron
Clinger
Coble
Combest
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallo
Gekas
Goodling
Goss
Hancock
Harris
Hastert
Henry
Herger
Holloway
Hopkins
Hunter
Hutto
Inhofe
James
Jenkins
Johnson (SD)
Johnson (TX)
Kanjorski
Klug
Kostmayer
Lagomarsino
Lancaster
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lowery (CA)
Marlenee
McCandless
McCollum
McCrery
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Murphy
Myers
Neal (NC)
Nichols
Nussle
Orton
Oxley
Packard
Parker
Patterson
Paxon
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Roth

Roukema
Rowland
Santorum
Saxton
Sensenbrenner
Shuster
Skelton
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Taylor (MS)
Taylor (NC)
Thomas (CA)
Vander Jagt
Walsh
Whitten
Wylie
Young (AK)
Zeliff
Zimmer

NOT VOTING—72

Allard
Andrews (TX)
Anthony
Atkins
Bacchus
Baker
Barnard
Barton
Boucher
Boxer
Broomfield
Brown
Bryant
Bunning
Callahan
Campbell (CO)
Chandler
Clement
Coleman (MO)
Collins (MI)
Conyers
Coughlin
DeFazio
Dicks
Dwyer
Dymally
Early
Edwards (OK)
Feighan
Ford (TN)
Frost
Gaydos
Gephardt
Gingrich
Hammerschmidt
Hansen
Hatcher
Hayes (LA)
Hefley
Huckaby
Hyde
Ireland
Kolter
Laughlin
Levine (CA)
Livingston
Lloyd
Martin
Martinez
Matsui
McNulty
Morrison
Mrazek
Owens (UT)
Peterson (FL)
Pickle
Ray
Riggs
Schaefer
Schroeder
Skaggs
Smith (TX)
Sundquist
Tallon
Tauzin
Thomas (GA)
Thomas (WY)
Traficant
Traxler
Wilson
Wyden
Yatron

☐ 1431

The Clerk announced the following pairs:

On this vote:

Mr. McNulty for, with Mr. Huckaby against.

Mr. Thomas of Wyoming for, with Mr. Ireland against.

Mr. Pickle for, with Mr. Livingston against.

Mr. Wyden for, with Mr. Riggs against.

Messrs. HARRIS, CRAMER and BEVILL changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Texas?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. The pending business is the question of the Chair's approval of the Journal.

The question is on the Chair's approval of the Journal.

The Journal was approved.

COMMUNICATION FROM THE SERGEANT AT ARMS OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Sergeant at Arms of the House of Representatives:

HOUSE OF REPRESENTATIVES
Washington, DC, July 24, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you pursuant to Rule L (50) of the Rules of the House that five current or former employees of the Office of the Sergeant at Arms have been served with subpoenas issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the Clerk of the House, it has been determined that compliance with these subpoenas would not be inconsistent with the privileges and precedents of the House.

Sincerely,

WERNER W. BRANDT,
Sergeant at Arms.

BUFFALO SOLDIERS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 92) to designate July 28, 1992, as "Buffalo Soldiers Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I have no objection, but would like to yield for an explanation of this very important piece of legislation to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentlewoman from Maryland for yielding to me.

Mr. Speaker, I am pleased and honored to sponsor Senate Joint Resolution 92, which will designate July 28, 1992, as "Buffalo Soldiers Day." I am proud to share sponsorship of this resolution with my good friend, the gentleman from Michigan, Mr. JOHN CONYERS.

In 1866, Congress created six regular Army regiments composed entirely of African-American soldiers. These regiments served with distinction and valor as Americans moved to settle the West.

Although history has often ignored or forgotten the contributions of these brave African-Americans, today we recognize the tremendous sacrifices made by the more than 180,000 Buffalo Soldiers and honor their memory as some of America's greatest soldiers.

Dubbed Buffalo Soldiers by native American tribes who respected the buffalo for its courage, these African-Americans were subjected to discrimination and received the lowest quality equipment, food, and housing.

Despite these bleak conditions, the Buffalo Soldiers had the lowest desertion rates in the Army and members of these units received 19 individual Congressional Medals of Honor.

More than 100 years after these brave African-Americans volunteered to serve their country, I am pleased that we will finally recognize the contributions of the Buffalo Soldiers with the dedication of a monument in Fort Leavenworth, KS.

This monument, which is located at the site of Buffalo Soldier camps during the late 19th and early 20th centuries, will serve as a lasting reminder of the sacrifices made by dedicated and patriotic African-Americans.

Mr. Speaker, I again thank the gentlewoman for yielding.

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I want to thank the gentleman from Kansas [Mr. SLATTERY] for his sponsorship. This is a very important resolution for the Buffalo Soldiers.

Mr. Speaker, I yield to the chairman of the Subcommittee on Census and Population of the Committee on Post Office and Civil Service, the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. I thank the gentlewoman from Maryland for yielding to me.

Mr. Speaker, I pause only to associate myself with the gentlewoman's remarks on behalf of the two sponsors, the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Michigan [Mr. CONYERS], who have toiled mightily over the last couple of days to gather the signatures necessary for this important and worthwhile commemorative resolution.

Mr. Speaker, resolutions of this kind are often misunderstood, particularly when their names do not lend themselves easily to broad public recognition. But it is for precisely that reason that these resolutions are important in order to share the broad understanding across this body and to spread upon the public pages of its RECORD for all Americans to recognize the enormous contributions of those who are honored in this way. I pause today only to express particular thanks to the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Michigan [Mr. CONYERS] for their efforts in bringing this long-overdue recognition to this Chamber on this occasion.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I think it is important we do give recognition to these Buffalo Soldiers, who have served through the years with great, high morale, productivity, and great patriotism.

So, again I commend the leaders in this effort, the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Michigan [Mr. CONYERS].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 92

Whereas the Congress responded to the brave Civil War service of more than 180,000 African-American troops by voting on July 28, 1866, to create 6 regular Army regiments composed of African-American enlisted soldiers;

Whereas the 9th and 10th Cavalry regiments were among those regiments, which consisted of veterans of the Civil War and free men of color;

Whereas the 9th Cavalry was stationed at Greenville, Louisiana, and the 10th Cavalry was stationed at Fort Leavenworth, Kansas, from where they played a key role in the history of the American West, guarding wagon trains, surveying roads, building forts, and protecting settlers;

Whereas after a battle in 1867 near Fort Hays, Kansas, Cheyenne warriors remarked that the African-American soldiers fought as fiercely as buffaloes, and the cavalry thereafter adopted the name "Buffalo Soldiers" as a badge of honor;

Whereas the Buffalo Soldiers were an important part of American history and served the United States in many States and Nations, including Arizona, California, Kansas, Louisiana, Montana, Nebraska, New York, Oklahoma, Texas, Utah, Vermont, Virginia, Cuba, Mexico, and the Philippines;

Whereas the Buffalo Soldiers' military heroics included serving with Theodore Roosevelt and the Rough Riders during the Spanish-American War, and helping to capture Billy the Kid and Pancho Villa;

Whereas some Buffalo Soldiers became famous African-American military officers, including Henry Flipper, Charles Young, and Benjamin Davis;

Whereas the Buffalo Soldiers served with pride and maintained high morale and the lowest desertion rate in the Army, despite receiving the worst equipment and food, living in inadequate housing, and being subjected to discrimination;

Whereas the Buffalo Soldiers were repeatedly cited for heroism and dedication to duty, including numerous campaign and unit citations, as well as 22 individual Congressional Medals of Honor;

Whereas the Buffalo Soldiers served in the highest tradition of the United States military, but still have not been given their proper place in American history;

Whereas General Colin Powell, Chairman of the Joint Chiefs of Staff, recognized this omission in 1982 while serving as Deputy Commander at Fort Leavenworth, and set in motion efforts to construct a monument to these forgotten heroes;

Whereas a monument to the Buffalo Soldiers will be dedicated at Fort Leavenworth, Kansas, in July 1992, on a site where Buffalo Soldiers camped during the late 19th and early 20th centuries; and

Whereas the Buffalo Soldier Monument will appropriately recognize the great sacrifices and outstanding performance of the Buffalo Soldiers and their contributions to our Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 28, 1992, is designated as "Buffalo Soldiers Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I request this time in order to engage the majority whip, the gentleman from Michigan [Mr. BONIOR], in a colloquy as to the schedule for the remainder of the week and for next week.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the majority whip, and welcome him back to the floor.

Mr. BONIOR. I thank the gentleman from New York. It is nice to be back.

Mr. Speaker, we will meet on Monday next. We have a large number of suspensions, as the gentleman probably knows, 27 suspensions.

On Tuesday we will have votes by noon; Members should expect votes by noon on Tuesday next. Suspension votes will also be taken from the previous day, Monday.

On Wednesday, the 29th, and the balance of the week, the following bills will be considered: Wednesday has been designated as district day. That bill has not been pulled yet.

Let me just move on and suggest to my friend from New York that we will be doing the following bills for the balance of the week: On Wednesday, Thursday, and Friday we will meet, and I should tell my colleague that on Wednesday the annual gym dinner will be taking place. We are aware of that. We want to make sure our colleagues are aware of the fact that we understand that, although business will be conducted.

The bills that will be considered on Wednesday next will be the VA, HUD, and independent agencies appropriations; the Commerce, Justice, State appropriations for fiscal year 1993; the Voting Rights Extension Act of 1992, subject to a rule. That issue is still being discussed and considered, I might tell my friend from New York. Also, the Miscellaneous Tariff Act bill will also be on the agenda for the latter part of the week; and the Small Business Equity Enhancement Act.

Any votes, we will try to finish as we did today, by 3 next Friday.

Mr. SOLOMON. Let me clarify what the majority whip has said. We will take up 27 suspension bills on Monday, then we go to Tuesday and the majority whip did not mention two appropriation bills.

Mr. BONIOR. The gentleman from New York is correct. The urgent supplemental appropriations, 1992, which we had hoped to take up this afternoon but did not, will be up, as well as the Labor, Health and Human Services appropriations for fiscal year 1993.

Mr. SOLOMON. Very well. So there would then be no votes on Monday; we would come in and we would take up the 13 suspensions first on Tuesday before those 2 appropriation bills?

□ 1440

Mr. BONIOR. We will do the appropriation bills first.

Mr. SOLOMON. Therefore, the votes on the 27 suspensions, if ordered, would then come after the debate on the 13 suspension bills which would take place after the 2 appropriation bills were dealt with.

Mr. BONIOR. The votes on the 27 suspensions, if ordered, will be taken at the end of the day on Tuesday.

Now I cannot tell the gentleman with assurance. It depends upon the length of HHS and the urgent supplemental as to where we will be with the other 13 suspension bills.

Mr. SOLOMON. I see.

If I could, I would just call to the attention of the majority whip the second page, the list of suspensions on Tuesday, No. 11. That is H.R. 3161, which is the Federal Property Administrative Service Authorization Act. I would just point out to the majority whip that that is a very controversial bill. It is opposed by the ranking member of the relevant committee, as well as the administration, and certainly has no chance of passing on suspension. I would just call that to the gentleman's attention and hope that it could be pulled.

Mr. BONIOR. The whip is aware of the controversy on the bill, and I think, suffice to say, the awareness of its controversy is something that we will have to deal with in the coming days.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Iowa.

Mr. LEACH. If I could, Mr. Speaker, I would just like to raise this with the distinguished whip. This Member has been very concerned about the timely consideration of the Russian aid package, and I stress this: As my colleague knows, the President requested the IMF replenishment 16 months ago. He made a very special request to the Congress to act by June. The other body has acted.

Mr. BONIOR. That is correct.

Mr. LEACH. And one of the great concerns is, as we all know, we have the convention and the political dimension of the process. We also have a circumstance that it would be handy, and by "handy" I mean profoundly handy, to have it out of the way before the recess and in time for a House-Senate conference on the subject so that we do not delay further. And I would only raise one other aspect, and I do this as carefully as I can:

This is one of the few bills in the history of the United States in which we are restraining German, French, Japanese participation and assistance by our delay; that is, the delay of the Congress halts their assistance because it is tied with international financial institutions in the majority. And so, as plaintively as I can, and given the presence this week of Ambassador Strauss in Washington, I would urge the earliest possible consideration and suggest that perhaps even next week would be appropriate, and is there any reason it could not be brought up next week?

I realize there is the gym dinner. But perhaps this could be fit in before the dinner.

Mr. SOLOMON. Mr. Speaker, before yielding to the majority whip, I might just say there are a number of us who are members of the platform committee of the Republican National Convention who do have to be down in Houston on the Monday, Tuesday, and Wednesday before the convention, even though we are in session. Since the Democrat side was taken care of with a light schedule before their convention, I certainly hope we would get that kind of consideration.

I yield to the gentleman from Michigan.

Mr. BONIOR. On your point, I would say to the gentleman from New York [Mr. SOLOMON], we had a meeting earlier this afternoon with the minority leader and the minority whip, and they expressed to us your very concern, and I think we'll do the best we can to be accommodating. My sense is that we will be accommodating as best we can to take into consideration the concerns that you have and your needs that last week.

On the Russian aid issue, Mr. Speaker, I will tell my friend, the gentleman from Iowa [Mr. LEACH], that we had, as he correctly stated, meetings with Ambassador Strauss throughout the week. I had two meetings with him yesterday, as well as a number of my other colleagues, and I want to tell my colleague that having the vote is critical, and I understand his need, and the need to move in an expeditious and a timely manner, and the historical significance of this vote. I do not deny that this is one of the most historically significant pieces of foreign legislation that we could address.

Let me also add, to my friend from Iowa, that we, some of us, here are trying to get the administration to understand the significance of some of the domestic needs that we have here at home, and, without getting into that whole debate here late on a Friday afternoon, it is with deep respect that I made suggestions to the Ambassador, as well as others, that he take back to the White House, and he has because I talked to him today about it, with respect to legislation that would create some public works jobs and put some people to work here in this country.

Now that is not to suggest that all of the people on our side of the aisle feel that this linkage is something that has to happen. I am just suggesting that I think we have a mutual concern here. Both of us are concerned about the need to take care of something as delicate as what is happening in the former Soviet Union in regard to making sure international obligations are met and that the French, and Germans and others can feel fully complemented in what they have done, and we can move expeditiously.

On the other hand, Mr. Speaker, I think many Members on the other side of the aisle, as well as us here, feel that we need to take that last step. We have done unemployment compensation extension, we are about to do an urban aid package, and we hope the public works job component, which many of us on both sides of the aisle have argued for, will bring us all together and that we will be able to do this in a very short order.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Speaker, I appreciate what the gentleman from Michigan [Mr. BONIOR] is saying, but I would just say as strongly as I can that there have been a whole series of linkages that have been put forth by his party. This gentleman has been supportive of most all of them, and all I would say is:

Those are important issues that we are prepared to deal with forthrightly, but that doesn't mean they have to be linked, and I would certainly hope that this Congress acts in its own discretion, in its own way, on the merits of the issue, and this gentleman is prepared to be constructive in all of these issues.

For the sake of historical circumstance, Mr. Speaker, I would certainly, as strongly as I can, suggest that the likelihood of a sympathetic package of this type of measure in my judgment declines over time rather than increases, and I hope we do not delay too much longer.

Mr. SOLOMON. Reclaiming my time, Mr. Speaker, I think the majority whip wants to respond to that, but let me make one thing perfectly clear:

I hope there is no linkage between Russian aid and some domestic program, I would say to the gentleman from Michigan. Don't think for a minute that the Russian aid program is an exclusively Republican initiative by the White House. It is a bipartisan effort of both political parties, I can assure you. Some of us in my political party do not support aid in the form of gifts and grants to the former Soviet Union, not after what they put us through all during the 1980's when we went through a peace-through-strength program, building up our military. We eventually brought down the Soviet Union at great expense to the taxpayers of this Nation.

So, let us get one thing straight. Let us make sure there is no linkage here; and, if there is going to be aid to the former Soviet Union, it will be bipartisan because it will never come from the Republican side of the aisle alone. I will see to it.

I yield to the minority whip.

Mr. BONIOR. When and if it goes ahead, and I expect that it will, it will go ahead in a bipartisan fashion, and when and if the last component, and important component on domestic jobs for people here in this country goes ahead, I expect it will go ahead, as well, with Republican and Democratic support.

Mr. SOLOMON. I thank the gentleman from Michigan [Mr. BONIOR], and I would just like to ask one further question on the schedule. I hate to take up the majority whip's time, but I do call attention to the fact that the House will meet at 10 o'clock on Tuesday, and that is unusual. We normally meet at 12. I would just ask this question: If the urgent supplemental is going to be brought up, there will be a vote on that rule, so there will be a vote early in the day. If the Labor and Health and Human Services appropriation bill is being brought up first, there will be no rule on that, so we would not expect an early vote. I would just ask if the majority whip knows which one of those bills would be brought up first.

□ 1450

Mr. BONIOR. Mr. Speaker, Labor-HHS would be first.

Mr. SOLOMON. I think that would accommodate the Members, too.

Mr. BONIOR. We are hopeful that at some point we can negotiate out, at least at this point in the week, next week that we come in at 9 o'clock on Thursday and Friday so we can get an earlier start and Members can have more time to work and Members can get back home to their families in the evening.

Mr. SOLOMON. That sounds good to me, Mr. Majority Whip.

ADJOURNMENT TO MONDAY, JULY 27, 1992

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. McMILLEN of Maryland). Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HOUR OF MEETING ON TUESDAY, JULY 28, 1992 AND THURSDAY, JULY 30, 1992

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, July 27, 1992 it adjourn to meet at 10 a.m., on Tuesday, July 28, 1992; and that when the House adjourns on Wednesday, July 29, 1992, it adjourn to meet at 9 a.m., on Thursday, July 30, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HOUR OF MEETING ON FRIDAY, SEPTEMBER 11, 1992

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, September 10, 1992, it adjourn to meet at noon on Friday, September 11, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NAFTA AND MOVE OF SMITH-CORONA TO MEXICO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, as President Bush and his advisors are rushing to complete a free-trade agreement with Mexico, some companies are rushing to Mexico even faster.

Earlier this week Smith Corona announced that it was closing down its manufacturing operations in Cortland, NY, and moving them to Mexico. It will mean the loss of 775 permanent local jobs and 100 temporary positions.

The move will have a devastating impact on the local economy. According to a State labor department official, the pullout will increase the county's unemployment rate by 50 percent to about 11 percent. Most importantly, the manufacturing jobs were good high paying jobs in the community.

Smith Corona is not an economically troubled company. In fact, its net income was $22.1 million, an increase over its earnings of $19.6 million a year earlier. Nonetheless, the prospect of cheap Mexican labor appeared irresistible to corporate management.

According to the company president, the move will cut production costs by 80 percent and save $15 million.

As President Bush and his trade advisers rush to put their signatures on a North American Free-Trade Agreement to make it still easier for companies to rush to Mexico for cheap labor, there has been little word from the White House about their strategy for dealing with the problems of these devastating job losses and the huge numbers of unemployed workers in the United States who have already lost their jobs to countries overseas.

Smith Corona's move to Mexico tells us that with or without a free-trade agreement, there will continue to be manufacturing job losses to Mexico. When the President argued for fast-track authority for the approval of trade agreements, he promised that the agreements would be good, because they would provide side benefits, such as environmental protection, health and safety protections, and provisions for displaced workers. My question today is where are those provisions for those already displaced? The President is on record as being basically opposed to giving added unemployment compensation to those workers whose jobs he has already sent to Mexico, Japan, Germany, as well as Asian countries.

The Bush administration appears to view the loss of good high-paying manufacturing jobs in the U.S. economy to be inevitable. Perhaps that is why the announcement by Smith Corona seems to have generated no response by the White House. Instead they choose to stay the course toward a North American Free-Trade Agreement, with no explanation of how to restore these high-paying quality jobs to the economy.

Therefore, I have seen little evidence of these side benefits being seriously negotiated. An environmental catastrophe exists for both Mexico and the United States along our border, yet there is little serious consideration of how the cleanup costs will be paid. There appears to be no consideration given to making companies like Smith Corona that are moving to Mexico to exploit its cheap labor to pay these costs.

While the environmental benefits remain in doubt, there is also concern that the free trade agreement, along with the GATT agreement currently being negotiated, will actually be used to weaken health and safety and environmental laws in the United States.

Increasingly, U.S. laws, such as the requirement in the Marine Mammal Protection Act for dolphin-safe tuna fishing practices, have been attacked as being contrary to international trade agreements.

The Committee on Energy and Commerce recently reported House Concurrent Resolution 246 to express the sense of Congress that international trade agreements should not be allowed to weaken our laws on the environment and health and safety. The President has promised that these laws will not be threatened, but the Congress will have an opportunity soon to vote to make clear that it will not approve any agreement that jeopardizes these laws.

ANOTHER ATTACK ON THE CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, I want to say at the outset I agree with the gentlewoman from Illinois [Mrs. COLLINS]. In fact, I am going to talk on another aspect of that matter right now.

Mr. Speaker, the State of California has been notified by the U.S. Department of Transportation that commercial driver's licenses from Mexico must be honored by the State police. If California does not follow this directive, then Federal highway funds will be withheld.

This action is an attack on the Federal system both at the State level and in the separation of powers between the executive branch and the Congress.

I understand that State law cannot be preempted by any agency or court unless it is nonconforming with existing Federal law or is an unconstitutional act. The California commercial driver license standards, to the contrary, were the result of a 1986 Federal law—passed by this body, supported by the Department of Transportation, requiring in all States, among other things, an understanding of English for the driver to be allowed on the roads with commercial loads.

This being the case—has the power of the State of California and the Congress been circumvented—in a memorandum of understanding signed between the President and the Government of Mexico last fall?

Yet another agreement with the Congress has been broken. Remember when we were supposed to be consulted at every step along the way to the North American Free-Trade Agreement? I do and this is a giant step. Correct me if I am wrong, but as a Member of this body I was not notified at the time the memorandum was being signed that a Federal law would be struck in a unilateral action by the executive branch, before we even came to a vote on the Mexican agreement.

It is my understanding that the constitution of the State of California mandates a court appeal on the striking of State power by the central government, but I understand, also, that the current California administration has been strangely agreeable to this usurpation of power. Not so the legislature. The legislature has passed a resolution calling upon the State to uphold the Federal law and the Teamsters Union is in court filing what is to all intents and purposes a writ of mandemus to make the State obey not only their own constitution, but also a law drafted and passed by the Congress of the United States.

Am I naive? Have I missed something in my education or, in my understanding of the power of the Congress and the States—of the Constitution? I think not.

It is inconceivable to me, as it should be to any member of this body that a President can—to all practical effect—annex another nation to this country without a vote of the Congress. If this statement seems extreme, consider what it will mean when Mexican drivers can whiz back and forth across the border with relative freedom.

Mexican drivers are paid little more than $7 per day. Much less than our hourly minimum wage. Why would a trucker on either side of the border hire an American and be bound by our laws when a foreign national can qualify if hired south of the Mexican border?

If trucks from Mexico are not even stopped to check the drivers' credentials, how long will it be, until, familiarity breeding contempt—Mexican shipments run back and forth across the border without being stopped at all.

When that border effectively disappears, we will have accepted the addition of all of the Mexican States, plus the migrants through Mexico from the rest of Latin America, as part of our labor force, as our dependents. We will be going back to the future when half the United States was free and half slave. This time the slavery is poverty, ignorance and hopelessness sanctioned by a government over which we will have no control.

Now, it is appealing to believe that we can—through the North American Free-Trade Agreement [NAFTA]—raise Mexico up from the economic depths created by 400 years of foreign exploitation and corrupt governments, colonial rule at its worst—but it is not true. Transferring our manufacturing jobs—the source of our value-added wealth creation—to Mexico will impoverish our workers more and only enrich an entrenched Mexican ruling class responsible for the appalling conditions which we find there now.

□ 1500

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman for yielding to me.

I want to thank her for her concern about the American trucking industry and also her concern about the prospect of having a lot of people on the roads of California and other States who are not, in some cases, able to read the road signs, in some cases do not know how to handle their rigs in a safe manner and, in some cases, will, in fact, imperil drivers on American highways.

It is kind of important, when you are driving in the United States, to be able to read the words "wrong way, stop," and other things. The idea that this administration would in cavalier fashion simply wave through a host of drivers who have not passed the minimum qualifications for drivers licenses for having the right to operate vehicles on American highways is a little bit unnerving. I think that we in Congress should be very upset about this.

Second, it is a fact, it is a tragic fact, but it is a fact that a lot of cocaine is now coming through our borders on trucks from Mexico, and now and again we make a big bust. Some of the busts that we make are only made when we have prior knowledge or intelligence concerning a particular vehicle.

But what this means now is that instead of at least having to unload, you are going to have trucks from Mexico going throughout the United States, in some cases carrying narcotics.

U.S. BORDER PATROL

The SPEAKER pro tempore. (Mr. McMILLEN of Maryland). Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, let me thank the gentlewoman from Maryland, once more, and just talk with her a little bit about what is happening on the border. I wanted to move into another area, if I could, for just a minute. And that is this: In recent months, the Border Patrol of the United States has been subject to a great deal of criticism, especially since the crash in Tomekla, CA, just north of the San Diego border.

It was a very tragic crash in which some illegal aliens, who had been pursued at one time by the Border Patrol, ran into and killed a number of American schoolchildren. It brought to light the great frustration with the problem of smuggling across the California border, both the smuggling of aliens and also the smuggling of narcotics.

I just wanted to say that this criticism of the California Border Patrol, which is an outstanding agency made up of many courageous individuals, is not deserved.

The Border Patrol is a very small force of personnel who have now this massive job of, in part, securing the 2,000-mile land border between the United States and Mexico. Over the last year or so, in the San Diego sector, they have increased the cocaine and marijuana interdiction by over 700 percent of what it was about a year and half ago.

They are now building a fence out of steel landing mats across a 14-mile smugglers' corridor between Tijuana and San Diego. They have totally shut down the drive-through traffic.

In some places, we had drug trucks driving through at the rate of more than 300 per month that would stream across the border and go up into the highway system in California and leave with their load of cocaine or marijuana to ultimately poison the young people of America, going right out into the Interstate Highway System. And the Border Patrol, with this very small group of people working with the Army Reserve and with the National Guard, is now building 14 miles of fence and 14 miles of road across that smuggler's corridor.

I just wanted to say one other thing. I asked the chief of the Border Patrol in the San Diego sector, Gus de la Vina, to let me know what his people were doing.

The Border Patrol does not advertise. It is a little bit like the Secret Service. It does not advertise the good works of the agents.

Generally, the Border Patrol makes the newspapers when somebody divines that they think the Border patrol has done something wrong, and then they are in for a healthy shot of criticism. But every day their people are out there risking their lives, not only with people that are smuggling aliens but people who are smuggling now million-dollar narcotic loads.

I just wanted to go over a couple of things that have happened in the last several years. One agent, while he was performing his assigned duties in the Tijuana River bottom, heard gunshots coming from Mexico and observed two men being chased by four assailants. This agent immediately drove his service vehicle to a position between the assailants and the victims. These were people who were shooting at illegal aliens. And he pulled the victims to cover behind his vehicle, even as gunfire was being directed toward the victims. Pulling his weapon, he prudently held fire to avoid hitting innocent people directly behind the assailants.

After the assailants fled, this agent immediately called for emergency assistance and rendered first aid to one of the victims who sustained a gunshot wound to the chest.

My colleagues will notice I did not give any name to that Border Patrol agent. That is because it is the custom of the Border Patrol not to release or reveal the names of their agents who are involved in a war on a daily basis protecting American interests.

Here is another agent, January 5, 1991. This agent was performing patrol duties in North County, San Diego County, and two fellow agents requested backup for a suspected smuggling load they were in pursuit of on northbound I-5. The driver of the smuggling load was driving in an evasive manner when he realized he could not shake his pursuers. He slowed his vehicle to around 15 miles an hour and jumped out, leaving the van in gear.

The van continued down the highway, out of control. This agent was able to position the service vehicle beside the van, and he was then able to jump from the service vehicle. He is a Border Patrol man, leaping from a moving car on the highway. This is like an old John Wayne movie, leaping onto the lead horse in the stagecoach.

He was able to jump from his vehicle into the smuggler's vehicle. At this time the agent was able to stop the van, saving the 15 Mexican nationals in the back of the van from almost certain injury or death, another example of Border Patrol men saving lives.

These are lives of people who have been smuggled illegally into the country. For this there were no parades, no tickertape. There was no writeup in the newspaper. This was just another day at the job for a Border Patrol man, leaping from a moving car on a freeway into another one to save the lives of the people that you are paid to stop at the border.

Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman for yielding to me. I think we should let our audience know that the gentleman's district actually goes right down to the Mexican border. The gentleman is very familiar with all of this activity.

Mr. HUNTER. My district covers the entire California-Mexican border and goes literally from the ocean, from the border right there at Tijuana and San Diego all the way to Yuma, AZ.

I thank this gentlewoman, incidentally. We might mention that her district is in Maryland and yet she cares enough about our truckers to point out this injustice by allowing unlicensed truckers to ride on our highways.

□ 1510

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEARS 1992–1993

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of revenues for fiscal years 1992 through 1996 and spending for fiscal year 1992. Spending levels for fiscal year 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

This is the eighth report of the 102d Congress for fiscal year 1992. This report is based on the aggregate levels and committee allocations for fiscal years 1992 through 1996 as contained in House Report 102–69, the conference report to accompany House Concurrent Resolution 121.

The term "current level" refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, July 22, 1992.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate enforcement under sections 302 and 311 of the Congressional Budget Act, as amended, I am herewith transmitting the status report on the current level of revenues for fiscal years 1992 through 1996 and spending estimates for fiscal year 1992, under H. Con. Res. 121, the Concurrent Resolution on the Budget for Fiscal Year 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

The enclosed tables also compare enacted legislation to each committee's 602(a) allocation of discretionary new budget authority and new entitlement authority. The 602(a) allocations to House Committees made pursuant to H. Con. Res. 121 were printed in the statement of managers accompanying the conference report on the resolution (H. Report 102–69).

Sincerely,
LEON E. PANETTA,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES: FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1992 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 121 REFLECTING COMPLETED ACTION AS OF JULY 21, 1992

[On-budget amounts, in millions of dollars]

	Fiscal year 1992	Fiscal years 1992–96
Appropriate level:		
Budget authority	1,269,300	6,591,900
Outlays	1,201,600	6,134,100
Revenues	850,400	4,832,00
Current level:		
Budget authority	1,269,681	NA
Outlays	1,205,942	NA
Revenues	853,366	4,834,000
Current level over(+)/under (−) appropriate level:		
Budget authority	+381	NA
Outlays	+4,342	NA
Revenues	+2,966	+2,000

Note.—NA=Not applicable because annual appropriations acts for those years have not been enacted.

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority for fiscal year 1992 that is not included in the current level estimate for that year, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 121, to be exceeded.

OUTLAYS

Any measure that (1) provides new budget or entitlement authority that is not included in the current level estimate for fiscal year 1992, and (2) increases outlays in fiscal year 1992, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 121, to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate and exceeds $2,966 million for fiscal year 1992, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 121. Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal years 1992 through 1996, if adopted and enacted, would cause revenues to be less than the appropriate level for those years as set forth in H. Con. Res. 121.

DIRECT SPENDING LEGISLATION

[Fiscal years, in millions of dollars]

	1992			1992–96		
	BA	OLS	NEA	BA	OLS	NEA
House Committee:						
Agriculture:						
Appropriate level	0	0	0	3,720	3,540	4,716
Current level	−2	−2	−1	−1	−1	(1)
Difference	−2	−2	−1	−3,719	−3,539	−4,716
Armed Services:						
Appropriate Level	0	0	0	0	0	0
Current level	0	−7	−7	0	−83	—
Difference		7	−7		83	83

DIRECT SPENDING LEGISLATION—Continued

[Fiscal years, in millions of dollars]

	1992		NEA	1992–96		NEA
	BA	OLS		BA	OLS	
Banking, Finance and Urban Affairs:						
Appropriate level	0	0	0	0	0	0
Current level	28	28	0	177	177	0
Difference	+28	+28		+177	+177	
District of Columbia:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Education and Labor:						
Appropriate level	0	0	56	0	0	20,153
Current level	−305	−270	−305	−329	−339	−350
Difference	−305	−270	−249	−329	−339	−20,503
Energy and Commerce:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Foreign Affairs:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Government Operations:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
House Administration:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Interior and Insular Affairs:						
Appropriate level	0	0	0	0	0	0
Current level	−2	−2	0	5	5	0
Difference	−2	−2		+5	+5	
Judiciary:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	16	16	16
Difference				+16	+16	+16
Merchant Marine and Fisheries:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	(1)	0	0	(1)
Difference			(1)			(1)
Post Office and Civil Service:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Public Works and Transportation:						
Appropriate level	16,358	0	0	117,799	0	0
Current level	18,514			113,048	0	0
Difference	+2,156	0	0	−4,751	0	0
Science, Space, and Technology:						
Appropriate level	0	0	0		0	0
Current level	0	0	0		0	0
Difference						
Small Business:						
Appropriate level	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference						
Veterans' Affairs:						
Appropriate level	0	0	484	0	0	6,811
Current level	−3	2	378	−4	15	2,182
Difference	−3	+2	−106	−4	+15	−4,629
Ways and Means:						
Appropriate level	0	0	0	0	0	620
Current level	8,016	8,016	8,986	12,835	12,835	14,295
Difference	+8,016	+8,016	+8,986	+12,835	+12,835	+13,675
Permanent Select Committee on Intelligence:						
Appropriate level	0	0	0	0	0	0
Current level	(1)	(1)	(1)	(1)	(1)	(1)
Difference	(1)	(1)	(1)	(1)	(1)	+1

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(1) Less than $500,000.

DISCRETIONARY APPROPRIATIONS FISCAL YEAR 1992

[In millions of dollars]

	Revised 602(b) subdivisions		Latest current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Commerce-Justice-State-judiciary	21,070	20,714	21,088	20,721	18	7
Defense	270,244	275,222	262,763	272,658	−7,481	−2,564
District of Columbia	700	690	700	690	0	0
Energy and Water development	21,875	20,770	21,870	20,718	−5	−52
Foreign operations	15,285	13,556	14,295	13,449	−990	−107
Interior	13,102	12,050	13,077	12,186	−25	136
Labor, Health and Human Services, and Education	59,087	57,797	59,074	57,832	−13	35
Legislative	2,344	2,317	2,303	2,270	−41	−47
Military construction	8,564	8,482	8,427	8,413	−137	−69
Rural development, agriculture, and related agencies	12,299	11,226	12,285	11,220	−14	−6
Transportation	13,765	31,800	13,752	31,798	−13	−2
Treasury-Postal Service	10,825	11,120	10,824	11,119	−1	−1
VA–HUD-Independent agencies	63,953	61,714	63,315	61,707	−638	−7
Grand total	513,113	527,458	503,773	524,781	−9,340	−2,677

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 22, 1992.

Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1992 in comparison with the appropriate levels for those items contained in the 1992 Concurrent Resolution on the Budget (H.Con.Res. 121). This report is tabulated as of close of business July 21, 1992, and is summarized as follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 121)	Current level +/− resolution
Budget authority	1,269,681	1,269,300	+381
Outlays	1,205,942	1,201,600	+4,342
Revenues:			
1992	853,366	850,400	+2,966
1992–96	4,834,000	4,832,000	+2,000

Since my last report, dated June 3, 1992, the Congress has cleared and the President has signed a bill providing disaster assistance for Los Angeles and Chicago (P.L. 102–302) and Unemployment Compensation Amendments (P.L. 102–318). The Congress has also cleared for the President's signature the Higher Education Amendments bill (S. 1150), and H.R. 5412, providing for the transfer of certain naval vessels. These actions changed the estimates of budget authority, outlays and revenues.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

PARLIAMENTARIAN STATUS REPORT 102D CONG., 2D SESS., HOUSE-ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS JULY 21, 1992

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,617	727,237	
Appropriation legislation	686,331	703,643	
Mandatory adjustments [1]	(1,208)	950	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted [2]	1,260,198	1,199,288	853,364
ENACTED THIS SESSION			
Emergency unemployment compensation extension (Public Law 102–244)	2,706	2,706	

PARLIAMENTARIAN STATUS REPORT 102D CONG., 2D SESS., HOUSE-ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS JULY 21, 1992—Continued

	Budget authority	Outlays	Revenues
American technology preeminence (Public Law 102–245)			(3)
Further continuing appropriations, 1992 (Public Law 102–266) [4]	14,178	5,724	
Extend certain expiring veterans' programs (Public Law 102–291)	(3)	(3)	
1992 rescissions (Public Law 102–298)	(8,154)	(2,499)	
Disaster assistance for Los Angeles and Chicago (Public Law 102–302) [5]	81	15	
Unemployment compensation (Public Law 102–318)	980	980	
Total enacted this session	9,788	6,923	(3)
PENDING SIGNATURE			
Higher education amendments (S. 1150)	(305)	(270)	
Transfer of certain naval vessels (H.R. 5412)			2
MANDATORY ADJUSTMENTS [1]			
Technical correction to the Food Stamp Act (Public Law 102–265)	(3)	(3)	
Total current level	1,269,681	1,205,942	853,366
Total budget resolution	1,269,300	1,201,600	850,400
Amount remaining:			
Over budget resolution	381	4,342	2,966
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the concurrent resolution on the budget (H. Con. Res. 121).

[2] Excludes the continuing resolution enacted last session (Public Law 102–145) that expired Mar. 31, 1992.

[3] Less than $500,000.

[4] In accordance with section 251(a)(2)(D)(i) of the Budget Enforcement Act the amount shown for Public Law 102–266 does not include $107,000,000 in budget authority and $28,000,000 in outlays in emergency funding for SBA disaster loans.

[5] In accordance with section 251(a)(2)(D)(i) of the Budget Enforcement Act the amount shown for Public Law 102–302 does not include $995,000,000 in budget authority and $537,000,000 in outlays in emergency funding.

Note.—Amounts in parentheses are negative.

PAPERWORK THREATENS OUR NATION'S SMALL BANKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, excessive bank regulation is strangling our economy by making bankers spend more time filling out Government forms then in approving loans.

A recent article entitled "Adding Banks to Endangered Species List" by Dennis Jacobe in the Washington Times tells the results of this over regulation on small banks. Mr. Jacobe relates how one small community bank in Missouri is for sale because its board of directors can no longer keep up with ever-changing Federal regulations. The local community is going to lose its locally owned and controlled bank because of Federal paperwork burdens.

Mr. Jacobe points out how community banks are the institutions which must lead us out of the current recession, since they are the institutions which lend to small and medium size businesses. It is those businesses which create most of the jobs in the country. Without them, we have no hope of ending the current recession and returning to prosperity. They must have access to the credit that they get from community banks. Those banks must be allowed to make loans, rather than waste time filling out useless Government forms.

Mr. Jacobe's article shows that small and medium size banks are stronger than the nation's largest banks. His analysis is confirmed by an article in the July issue of the Federal Reserve Bulletin, which shows that small and medium banks have higher risk-based capital ratios than large banks. Smaller banks are healthier than larger banks.

Mr. Speaker, we need to reduce the unnecessary paperwork burden that is driving small banks out of business. It is good supervision, not good paperwork, which protects the deposit insurance funds from loss. We can maintain safe and sound banks without unnecessary paperwork. Mr. Jacobe's article is an excellent discussion of the risk we run of burying our community banks under tons of paper.

I recommend Mr. Jacobe's article to the Members, and ask unanimous consent that it be printed in the RECORD.

[From the Washington Times, May 30, 1992]

ADDING SMALL BANKS TO ENDANGERED SPECIES LIST

(By Dennis Jacobe)

The bank president couldn't have been more blunt. Our board of directors is fed up with the Feds, he said, so we're giving up and selling out.

After nearly a century and a quarter, the small Bank of Atchison County in Rock Port, Mo., is on the block. It is for sale, in large part, because of the near-impossible task of keeping up with ever-changing federal regulations, the bank's president said in a recent letter to the Federal Deposit Insurance Corp.

This is not the first time the directors of a community-oriented bank or thrift institution have made the decision to sell out because of frustration with the federal regulatory and supervisory process. Unfortunately, it likely will not be the last, either.

This is unfortunate for the individuals involved, for their communities, and for the nation at large, because the data show that local institutions of this type—and not international and money-center megabanks—are the backbone of our nation's banking system.

Economic recovery and sustained economic growth hinge upon the ability of community-banking institutions to survive and to prosper.

Community banking institutions—commercial banks and thrift or savings institutions—derive the bulk of their funding from savers. They lend primarily to home buyers, consumers, local builders and other small and medium-size businesses.

Roughly, 9,250 of the nation's 13,500 banks and thrifts have assets or investment portfolios of $100 million or less. Their combined assets represent less than 10 percent of the total for all banks. In contrast, 27 internationally oriented banks control nearly 25 percent of the individual's assets.

But are these biggest banks our strongest and most reliable source of financing? A look at their books on Dec. 31, 1991, showed they had a return on assets of a mere 0.26 percent, and their trouble assets represented 82.2 percent of their capital—capital that is the buffer between a bank's survival and a taxpayer bailout.

In stark contrast, the remaining banks and thrifts had a return on assets of 0.64 percent, and troubled assets of 37.3 percent of capital. The bulk of those institutions fit the community bank profile.

With the nation's economy struggling to recover from extended recession. Washington needs to focus sharply on improving the operating environment for community banks. They, after all, provide three times the home mortgage loans of the megabanks. They provide more consumer credit as well.

Most important in this period of economic recovery is the role community-oriented institutions play in financing small and medium-sized business.

A Small Business Administration study covering the period 1976-1988 showed that firms with 20 employees or less created 37 percent of the new jobs. Some 60 percent of all new jobs were created by firms with fewer than 500 employees.

These small and medium-size business are not customers of the megabanks. According to the Federal Reserve, these business deal almost exclusively with local institutions, such as the one for sale in Missouri.

Clearly, economic recovery and sustained growth depend heavily on the availability of businesses to find financing. Washington must adjust its regulatory and supervisory responses accordingly.

For starters, the regulatory reporting burden must be reduced. Federal Reserve Board Chairman Alan Greenspan recently criticized Washington for weighing down the banking sector. New laws enacted last year have imposed "significant costs by absorbing real resources and removing desirable flexibility," Mr. Greenspan said in Chicago. The American Bankers Association estimates the cost to banks of required regulatory reports and other compliance measures at possibly as much as $1 billion annually.

Secondly, the regulatory and supervisory environment must be stabilized. The rules of the game change too rapidly and foster uncertainty among lenders. It becomes difficult if not impossible to plan long range. Normal risk-taking is avoided out of fear that a change in Washington's mood will suddenly disallow a practice that has been considered good business in the past. The credit crunch that has gripped this nation for more than two years will only be alleviated when Washington stops micromanaging the lenders' marketplace.

Finally, some means must be found to moderate the competitive impact of federal deposit insurance premiums paid by banks and thrifts to the Federal Deposit Insurance Corp. These are the funds used to pay off depositors when banks fail.

The premiums paid have nearly tripled over the past decade, and they are likely to rise again soon. Lending institutions cannot continue to eat these costs. They will have to be passed along to customers. When they are passed along, bank products become disadvantaged in contrast to those of nonfinancial firms, such as money market mutual funds.

Unfortunately for the small and medium-sized businesses, these non-financial firms are rarely if ever a source of financing for business startup and expansion.

Washington has much to do if the valuable economic resource represented by community lending institutions is to be unleashed to help lead us out of recession.

AMERICA'S NATIONAL GUARD AND ARMED FORCES IN RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 10 minutes.

Mr. MONTGOMERY. Mr. Speaker, I have just learned that in the other body they have completed marking up in the full Senate Committee on Armed Services the armed services bill to run our Nation in our defense for the next fiscal year, starting in October.

As most of my colleagues know, I have been very active in trying to keep a strong National Guard and Reserve for this country. I have had some disagreements with the Defense Department. They would like to cut our Reserve forces, and maybe in my opinion cut those forces too much. We have added strengths back to the Reserves, about which the Defense Department was not particularly happy, but it is good news that the Senate has gone along with what the House has done in making a strong National Guard and Reserve.

In fact, the Defense Department had sent over to the Congress a request to close one out of every three armories in the National Guard of this country. One out of every three would be closed in my State and in other States around the Nation. These armories in these different small communities are really the center of activity for that community, and it would have been a very very serious mistake if we would have closed one out of every three armories in this country.

I am happy to say today, and that is the reason I am taking the floor, it looks like we will be able to protect the strength levels of the Guard and Reserve. The National Guard and Reserve is a good buy for the taxpayers. It costs the taxpayers one-third of the amount of money that it would cost to run an active duty unit, doing the same type of training, such as a tank battalion versus a National Guard tank battalion. It costs one-third to have that tank battalion in the National Guard and Reserve.

Maybe in some cases the training is not as good, maybe that Reserve or National Guard unit might not be as effective, but if we give the Guard and Reserve the time to train, to get ready, give them equipment, give them good lesson plans, then it works out for the National Guard and Reserve.

A one-third savings on a military unit is quite a bit, and as we cut back on our military units around the country and our forces around the world, it does make a lot of good common sense to turn these missions over to the Reserves.

I am a little concerned about going too far in cutting our defense forces. When we spend money on defense, and if we are spending money in a correct manner, we get two things for that money: We get a strong defense and we give jobs to people. We give jobs to people, both in the military that wear the uniform, and we give civilian jobs. The Members would be surprised, when we cut back on military spending in the civilian sector, how much it affects those individuals. I would much rather have these people in the civilian sector having a job, not having to be on unemployment or getting on welfare, as it may be, if they cannot find another job.

We have felt very strongly here in the Congress that we need a strong National Guard and Reserve. We do not need to cut them back that much. The same thing applies to our active duty forces. I am worried about the cutbacks of our shipbuilding facilities that we have around the country, of building naval warships. We have good facilities in Virginia, Maine, and Mississippi and a few other States where we built good battleships, built good cruisers, destroyers, and carriers. Under the cutback of the defense program that has been recommended, we might have to close some of these shipyards. When we close a shipyard, we put a lot of people out of work. The problem is we just cannot start that shipyard back up overnight.

We know that we have a lot of good things out in front of us now with the fall of the Soviet Union. It is really not there any more. The missiles aimed at this Capitol today have been turned off. Those missiles are not on in Russia, in the Ukraine, so that is a good sign. However, there are a lot of problems in the world, even though the Soviet Union is gone. We have a lot of other areas we should be concerned about. Saddam Hussein is not gone in Iraq. He is giving us problems. We saw what happened in Panama.

My point is that we just do not want to close down our shipyards, our big foundries, because we cannot start them back up again quickly if we need to. We will get in trouble. We did a pretty good job getting started again after World War I when we had to go into World War II.

I think we will make it.

AMERICA'S VETERANS

Mr. Speaker, I would like to shift into another subject, if I may. I am talking about the two subjects I know best, Defense and the National Guard and Reserve, and veterans' programs.

We are proud of our veterans that we have in this country. We have about 25 million veterans that are living now. We are losing too many of our veterans. Maybe we have less than 50,000 World War I veterans left. Three years ago we had over 200,000, but these great veterans of World War I have reached the ages of 88, 89, maybe 90 years of age, and they are leaving us.

We have some veterans that marched off to war at the different times our country has needed to call, and they have been doing the job. We do have an obligation. I am chairman of the House Committee on Veterans' Affairs, as my colleagues know, and we need to help these people. Congress is the best friend that the veteran has. We have some wonderful programs out there.

As I mentioned, we have about 25 million veterans still living, and when we count their dependents, which are about another 50 million, we have over 75 million veterans and their dependents living in this country today. Many of them do depend on our veterans' services.

We are very proud of our veterans' hospitals, as I tell my colleagues today. We have 171 hospitals. We had 172 hospitals, but we closed one down in California only recently because that hospital was located on a fault out there, an earthquake fault. It made sense and we had to close that hospital.

We are very proud of the service we give these veterans, as my colleagues know here today.

□ 1520

We feel because of our 171 hospitals and our 234 outpatient clinics, and because of our many veterans' nursing homes and State veterans' nursing homes, these veterans, because of the service they have given their country, are now being helped out, and they are living in less pain because of these veterans' hospitals, and they are living a lot longer. I hope we can continue that service.

Next week on the House floor we will vote on a bill that will pertain to appropriations on the Veterans' Committee, and from the Appropriations Committee that we have authorized, and that will be funded next week. We would like to get more money, but we all know of the budget crunch that we have, and we do have some problems on funding. But I hope my colleagues, when we vote on this appropriation bill, will be fair, as they have been in the past to our veterans, and will see that they are properly taken care of.

Mr. Speaker, I yield back the balance of my time.

COMMUNICATION FROM CHAIRMAN OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Permanent Select Committee on Intelligence:

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE,
Washington, DC, July 24, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L of the Rules of the House that the Permanent Select Committee on Intelligence has been served with a subpoena issued by the United States District Court for the District of Columbia in connection with a trial that is ongoing in that court.

After consultation with the General Counsel, I will notify you of my determination as required by the Rule.

Sincerely,

DAVE MCCURDY,
Chairman.

COMMUNICATION FROM THE HONORABLE JOE KOLTER, THE HONORABLE AUSTIN MURPHY, AND THE HONORABLE DAN ROSTENKOWSKI, MEMBERS OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOE KOLTER, the Honorable AUSTIN MURPHY, and the Honorable DAN ROSTENKOWSKI, Members of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 24, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House, Congress of the United States, Washington, DC.

DEAR MR. SPEAKER: On July 22, 1992, we received subpoenas issued by the United States Attorney for the District of Columbia. These subpoenas were issued on the day that the task force organized by the Committee House on Administration to investigate the House Post Office released its report finding no merit whatsoever to any allegations that we or anyone else abused the stamp procurement process of the House.

Pursuant to House Rule 50, we are advising you of our receipt of these subpoenas. We also are advising you that we do not expect to assert any legislative privilege with regard to the subpoenas. However, for the reasons stated in the accompanying letter, we will assert other constitutional privileges to stop this fishing expedition and political witch hunt once and for all.

It is amazing that the U.S. Attorney is continuing this investigation when the task force report so thoroughly resolves any of the issues within the proper scope of the investigation. Moreover, every report of every former employee of the House Post Office has refuted any notion that we engaged in any conduct that the U.S. Attorney could legitimately investigate. In order to check the U.S. Attorney's exercise of uncontrolled power to waste taxpayer money on an improper and groundless investigation and to preserve our constitutional right to be free from political harassment and persecutorial overreaching, we have written the accompanying letter we now make part of the record in this matter.

Sincerely,

JOE KOLTER.
AUSTIN MURPHY.
DAN ROSTENKOWSKI.

The SPEAKER pro tempore. Without objection, the accompanying correspondence will be included in the RECORD.

There was no objection.

The correspondence referred to follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 24, 1992.

Re: Grand jury matter 91-3.

JAY B. STEPHENS, Esquire, U.S. Attorney,
District of Columbia, Washington, DC.

DEAR MR. STEPHENS: On July 22, 1992, each of us was served with subpoenas issued by John Campbell in your office. These subpoenas called for us to appear to testify less than a week later on July 28, 1992.

The day these subpoenas were served, a report was issued by the Committee on House Administration, pursuant to House Resolution 340 relating to an investigation of the House Post Office. The report was the result of a five-month study which addressed every conceivable issue arising out of the operation and management of the House Post Office, including all the topics in which your office could possibly be interested.

While containing some disagreements, the report is clear that there is no evidence whatsoever that any of us took part in any way in activities that would violate any federal law or rule. Nothing in the report would warrant further investigation by you or a grand jury.

According to statements made by representatives of your office, your investigation has been premised solely on newspaper accounts of one person, Jim Smith, a post office employee. It was reported that Mr. Smith alleged that Congressman Rostenkowski or his office had engaged in some transaction in which stamps were somehow exchanged for cash. Subsequently, Mr. Smith was quoted stating that any such allegation was both "crazy" and "wrong." Nevertheless, unsourced and unsubstantiated newspaper articles continued repeating the allegations. The task force report, however, includes Mr. Smith's interview in which he once again refutes the truth of that charge.

So, it comes as quite a surprise that, notwithstanding the refutation of the only basis for the investigation, we have all been subpenaed to appear before a grand jury. There is no evidence for us to refute; no charge to explain; and no person making a public allegation who needs to be rebutted.

Some weeks ago, assuming your inquiry was sincere, Congressman Rostenkowski offered to provide your staff with information in order to put this matter to rest. They stated that they wanted this information in the grand jury or not at all. That did not seem like a sincere request to obtain relevant information, but a tactic to create a needless confrontation and media event.

We can only conclude that the subpenas for us are a product of an overall fishing expedition in an election year. This conclusion is supported by an article in this morning's *Washington Times* in which someone obviously has leaked to the press the fact that subpenas were issued. This article specifically includes "law enforcement officials" as sources.

The Constitution provides all American citizens—whether Members of Congress or not—with only one recourse by which to resist prosecutorial overreaching. That route, of course, is the right to refuse to testify under the fifth amendment of the Constitution. We, therefore, assert that constitutional right against testifying in this matter. We decline to lend any credence to any inquiry that lacks credibility and should be promptly closed.

Sincerely,

JOE KOLTER.
AUSTIN MURPHY.
DAN ROSTENKOWSKI.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MATSUI (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

Mrs. LLOYD (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. TAUZIN (at the request of Mr. GEPHARDT), after 2 p.m. today, on account of medical reasons.

Mr. YATES (at the request of Mr. GEPHARDT), after 6 p.m. Thursday, on account of illness.

Mr. MCNULTY (at the request of Mr. GEPHARDT), after 2 p.m. today, on account of family reasons.

Mr. CLEMENT (at the request of Mr. GEPHARDT), after 1:15 p.m. today, on account of official business.

Mr. MARTIN (at the request of Mr. MICHEL), for today, on account of personal business.

Mr. CALLAHAN (at the request of Mr. MICHEL), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes today, in lieu of previously approved 60 minutes.

Mr. HUNTER, for 5 minutes, today.

(The following Members (at the request of Mrs. COLLINS of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. PURSELL.

Mr. GRADISON.

Mr. GILMAN in two instances.

Mr. WELDON.

Mr. CRANE.

Mr. BLILEY.

Mr. SOLOMON.

(The following Members (at the request of Mrs. COLLINS of Illinois) and to include extraneous matter:)

Mr. COLEMAN of Texas.

Mr. DORGAN of North Dakota.

Mr. MATSUI.

Mr. HOYER.

Mrs. KENNELLY in two instances.

ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 24 minutes p.m.) under its previous order, the House adjourned until Monday, July 27, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3980. A letter from the Director, the Office of Management and Budget, transmitting a report on revised estimates of the budget receipts, outlays, and budget authority for fiscal years 1992-97, pursuant to 31 U.S.C. 1106(a) (H. Doc. No. 102-365); to the Committee on Appropriations and ordered to be printed.

3981. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-250, "Safe Streets Forfeiture Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3982. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-251, "Tissue Transplanation Distribution Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3983. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-252, "Regional Airports Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3984. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-253, "District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3985. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-254, "District of Columbia Public Hall Regulation Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3986. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-255, "Uniform Disposition of Unclaimed Property Act of 1980 Dormacy and Clarifying Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3987. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-256, "Law Enforcement Witness Protection Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3988. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-257, "Zei Alley Designation Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3989. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-258, "Retired Police Officer Redeployment Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3990. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-259, "Prevention of Transmission of the Human Immunodeficiency Virus Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3991. A letter from the Secretary of Education, transmitting notice of final priority for fiscal year 1993—Special projects and demonstrations for providing vocational rehabilitation services to individuals with severe handicaps—Hearing Research Center, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3992. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Departments of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 92-31), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3993. A letter from the Chief Judge, U.S. Court of Veterans Appeals, transmitting the annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the Court of Veterans Appeals Retirement Fund; to the Committee on Government Operations.

3994. A letter from the Federal Aviation Administration, transmitting the 1990 through 1991 Aviation System Capacity Plan; to the Committee on Public Works and Transportation.

3995. A letter from the Clerk of the House, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to 5 U.S.C. App. 6 103 (H. Doc. No. 101-366); to the Committee on Standards of Official Conduct and ordered to be printed.

3996. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation entitled "Housing and Community Development Act of 1992"; jointly, to the Committees on Banking, Finance and Urban Affairs and Education and Labor.

3997. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled "Maritime Reform Act of 1992"; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

3998. A letter from the Chairman, Merit Systems Protection Board, transmitting a report entitled "Workforce Quality and Federal Procurement; An Assessment"; jointly, to the Committees on Post Office and Civil Service and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3168. A bill to amend the Mineral Leasing Act to provide for leases of certain lands for oil and gas purposes; with amendments (Rept. 102–610, Part 2). Ordered to be printed.

Mr. ASPIN: Committee on Armed Services. H.R. 3168. A bill to amend the Mineral Leasing Act to provide for leases of certain lands for oil and gas purposes; with amendments (Rept. 102–610, Part 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1219. A bill to designate wilderness, acquire certain valuable inholdings within National Wildlife Refuges and National Park System Units, and for other purposes; with an amendment (Rept. 102–682, Part 2). Referred to the Committee on the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 3243. A bill to direct the Administrator of the Federal Aviation Administration to publish routes on flight charts to safely guide pilots operating under visual flight rules through and in close proximity to terminal control areas and airport radar service areas; with amendments (Report No. 102–712). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSE: Committee on House Administration. Investigation of the Office of the Postmaster, pursuant to House Resolution 340 (Rept. 102–713). Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5193. A bill to improve the delivery of health care services to eligible veterans and to clarify the authority of the Secretary of Veterans Affairs (Rept. 102–714, Pt. 1). Ordered to be printed.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5491. A bill to designate the Department of Veterans Affairs medical center in Marlin, TX, as the "Thomas T. Connally Department of Veterans Affairs Medical Center" (Rept. 102–715). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5641. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain nonprofit organizations providing health benefits, and for other purposes (Rept. 102–716). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5644. A bill to provide that certain costs of private foundations in removing hazardous substances shall be treated as qualifying distributions. (Rept. 102–717). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5648. A bill to amend the Internal Revenue Code of 1986 to revise the application of the wagering taxes to charitable organizations (Rept. 102–718). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5650. A bill to amend the Internal Revenue Code of 1986 to allow nonexempt farmer cooperatives to elect patronage-sourced treatment for certain gains and losses, and for other purposes (Rept. 102–719). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5661. A bill to amend the Internal Revenue Code of 1986 to exempt transportation on certain ferries from the excise tax on transportation of passengers by water. (Rept. 102–720). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5400. A bill to establish in the Department of Veterans Affairs a program of comprehensive services for homeless veterans; with amendments (Rept. 102–721). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3927. A bill to extend and revise rulemaking authority with respect to government securities under the Federal securities laws, and for other purposes; with an amendment; referred to the Committee on Banking, Finance and Urban Affairs for a period ending not later than August 7, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(d), rule X (Rept. 102–722, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VOLKMER:

H.R. 5690. A bill to amend the Internal Revenue Code of 1986 to provide for full deductibility of health insurance costs for self-employed individuals, to establish a National Health Care Commission, to provide for uniform health claims forms and uniform reporting standards, and to amend the Social Security Act to expand Medicare coverage of preventive services and to improve health insurance for small employers; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. COBLE (for himself, Mr. BALLENGER, Mr. TAYLOR of North Carolina, Mr. NEAL of North Carolina, Mr. VALENTINE, and Mr. PAYNE of Virginia):

H.R. 5691. A bill to promote expansion of international trade in furniture with Mexico, and for other purposes; to the Committee on Ways and Means.

By Mr. JACOBS (for himself, Mr. DOWNEY, and Mr. MATSUI):

H.R. 5692. A bill to provide for the inclusion of specific items in any listing of impairments for the evaluation of human immunodeficiency virus [HIV] infection prescribed in regulations of the Secretary for use in making determinations of disability under titles II and XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. MAZZOLI (for himself and Ms. SLAUGHTER):

H.R. 5693. A bill to amend the Immigration and Nationality Act to permit the spouses of citizens and permanent resident aliens to file classification petitions for immediate relative and second preference family status and to permit the use of credible evidence in spousal waiver applications for removal of conditional permanent residence; to the Committee on the Judiciary.

By Mr. RHODES:

H.R. 5694. A bill to amend the Land and Water Conservation Fund Act of 1965 to ensure sufficient funding for Federal and State projects, to encourage multipurpose acquisitions, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SKEEN:

H.R. 5695. A bill to amend title XVI of the Social Security Act to allow more people to become eligible for supplemental security income benefits; to the Committee on Ways and Means.

By Mr. DANNEMEYER:

H. Res. 528. Resolution providing for the consideration of the joint resolution (H.J. Res. 240) proposing an amendment to the Constitution of the United States relating to voluntary prayer in the schools; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

512. The SPEAKER presented a memorial of the legislature of the State of Alaska, relative to the WIC Program; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 261: Mr. SHAW.

H.R. 481: Mr. PALLONE.

H.R. 786: Mr. ERDREICH.

H.R. 1241: Ms. OAKAR and Mr. CARPER.

H.R. 1611: Mr. JOHNSON of South Dakota.

H.R. 3258: Mr. MRAZEK and Ms. MOLINARI.

H.R. 3710: Mr. JEFFERSON.

H.R. 3918: Mrs. BENTLEY, Mr. SANDERS, Mr. FISH, Ms. NORTON, and Mr. YATRON.

H.R. 4192: Mr. MOODY and Mr. HAYES of Illinois.

H.R. 4334: Mr. HASTERT, Mr. EDWARDS of Oklahoma, Mr. NICHOLS, Mr. GALLEGLY, Mr. HOLLOWAY, Mr. GILLMOR, and Mr. GILCHREST.

H.R. 4585: Mr. CAMPBELL of Colorado, Mr. HUGHES, Mr. CLAY, Mr. STOKES, Mr. LAFALCE, Mr. SIKORSKI, Mr. CONYERS, Mr. RAHALL, and Mr. RANGEL.

H.R. 4600: Mr. JAMES.

H.R. 4604: Mr. JAMES.

H.R. 4708: Mr. GILLMOR.

H.R. 4724: Mr. CONDIT, Mr. RANGEL, and Mr. TAUZIN.

H.R. 4961: Mr. LAGOMARSINO.

H.R. 5003: Mr. BATEMAN, Mr. JONTZ, and Mr. PACKARD.

H.R. 5123: Mr. MARKEY and Mr. SIKORSKI.

H.R. 5237: Mr. BORSKI.

H.R. 5321: Mr. ALLEN, Mr. GEKAS, and Mr. MONTGOMERY.

H.R. 5400: Mr. BLAZ, Mr. HALL of Ohio, Mr. JENKINS, Mr. HEFNER, Mr. RICHARDSON, Mr. STENHOLM, Mr. PAYNE of Virginia, Mr. PARKER, and Mr. HARRIS.

H.R. 5416: Mr. SPRATT, Mr. LANCASTER, and Mr. HAYES of Illinois.

H.R. 5434: Mr. KLUG and Mr. ENGEL.

H.R. 5491: Mr. HAMMERSCHMIDT, Mr. JENKINS, Mr. HEFNER, Mr. RICHARDSON, Mr. PAYNE of Virginia, Mr. PARKER, and Mr. HARRIS.

H.R. 5507: Mr. SCHEUER.

H.R. 5521: Mr. SAXTON and Mr. ROHRABACHER.

H.R. 5549: Mr. ZIMMER and Mr. JAMES.

H.R. 5550: Mr. ZIMMER.

H.R. 5551: Mr. ZIMMER.

H.R. 5552: Mr. ZIMMER.

H.R. 5553: Mr. ZIMMER.

H.R. 5554: Mr. ZIMMER.

H.R. 5572: Mr. ANNUNZIO, Mr. APPLEGATE, Mr. BERMAN, Mr. BUSTAMANTE, Mr. CLINGER, Mr. DE LUGO, Mr. ESPY, Mr. FAZIO, Mr. FISH, Mr. GONZALEZ, Mr. HEFNER, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. MAZZOLI, Mr. MCDERMOTT, Mr. MCHUGH, Mr. MCMILLEN of Maryland, Mr. MORAN, Mrs. MORELLA, Mr. NOWAK, Mr. OWENS of Utah, Mr. QUILLEN, Mr. SCHEUER, Mr. SCHIFF, Mr. STARK, Mr. TOWNS, Mr. VANDER JAGT, Mr. WAXMAN, Mr. WOLF, Mr. YATRON, Mr. STOKES, Mr. DYMALLY, Ms. PELOSI, Mr. HAYES of Illinois, Mr. KASICH, Mr. LAGOMARSINO, Ms. NORTON, Mr. MCNULTY, Mr. GUARINI, and Mr. SISISKY.

H.R. 5585: Mr. MINETA.

H.R. 5681: Mr. REED, Mr. HOCHBRUECKNER, and Mr. MURTHA.

H.J. Res. 159: Mr. VISCLOSKY, Mr. SPRATT, and Mr. PASTOR.

H.J. Res. 237: Mr. ALEXANDER, Mr. ANDREWS of Texas, Mr. ANDERSON, Mr. ANNUNZIO, Mr. BARRETT, Mr. BARNARD, Mr. BENNETT, Mr. BILBRAY, Mr. BLILEY, Mr. BORSKI, Mr. BOUCHER, Mr. BREWSTER, Mrs. BYRON, Mr. CARDIN, Mr. CARPER, Mr. COOPER, Mr. COX of Illinois, Mr. DE LA GARZA, Mr. DINGELL, Mr. DONNELLY, Mr. DOOLEY, Mr. DOWNEY, Mr. DREIER of California, Mr. ECKART, Mr. EDWARDS of California, Mr. FIELDS, Mr. FLAKE, Mr. GLICKMAN, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HENRY, Mr. HOAGLAND, Mr. HOBSON, Ms. HORN, Mr. HOYER, Mr. KANJORSKI, Mr. LEACH, Mr. MCDADE, Mr. MCMILLAN of North Carolina, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MURTHA, Mr. NAGLE, Mr. NEAL of North Carolina, Mr. OXLEY, Mr. PARKER, Mr. PASTOR, Mrs. PATTERSON, Mr. PAYNE of Virginia, Mr. PICKETT, Mr. PICKLE, Mr. PRICE, Mr. ROHRABACHER, Mr. ROWLAND, Mr. SAWYER, Mr. SCHAEFER, Mr. SCHUMER, Mr. SIKORSKI, Mr. SMITH of Iowa, Mr. SOLOMON, Mr. STUDDS, Mr. SYNAR, Mr. WISE, Mr. WYDEN, Mr. WOLPE, Mr. GEJDENSON, Mr. LEVIN of Michigan, and Mr. CLAY.

H.J. Res. 240: Mr. HANSEN and Mr. RAHALL.

H.J. Res. 336: Mr. BORSKI, Mr. BREWSTER, Mr. DWYER of New Jersey, Mr. BACCHUS, and Mr. LANTOS.

H.J. Res. 520: Mr. CONDIT, Mr. HOYER, Mr. LANCASTER, and Mr. LENT.

H. Res. 490: Mr. ENGEL.

H. Res. 515: Ms. KAPTUR, Mr. ROEMER, Mr. OBERSTAR, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. PEASE, Mr. JEFFERSON, Mr. GONZALEZ, Mr. MILLER of California, Mrs. MORELLA, Mr. RANGEL, and Mr. COLORADO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2460: Mr. INHOFE.

EXTENSIONS OF REMARKS

REMARKS BY MARTIN S. DAVIS ABOUT PROTECTIONIST ACTIVITIES BY THE EUROPEAN COMMUNITY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. TORRICELLI. Mr. Speaker, I want to insert into the RECORD a statement about European Community trade practices made by Paramount Communications Inc, chairman, Martin Davis, at the European Chairman's Symposium.

His statement reveals a deeply disturbing trend within the European Community to restrict the purchase of United States-produced programming. Members of the European Community are claiming that the cultural integrity of its member-nations are threatened by American programming. But Mr. Davis effectively argues that the cultural integrity argument is simply a facade for the protection of European production facilities.

I urge my colleagues to read Mr. Davis' insightful and informative remarks.

PROTECTIONISM: A DEADLY VIRUS

(Remarks by Martin S. Davis)

As we meet here in the center of Europe, we see a world around us light years away from a world we knew just a decade ago. There is nothing as constant as the constancy of change.

And nowhere is that more evident than in the transformation of the Company I am privileged to lead.

Just a few years ago we were known as "Gulf & Western Industries." Our businesses spanned the alphabet—from A-autoparts to Z-zinc.

Today, we are a totally different enterprise. Beginning in 1983, we carried out as thorough a strategic restructuring as any I know. We reshaped and refocused by divesting capital intensive, low profit or no profit businesses. At the same time, we continued—through a series of specialized acquisitions—to build our core operations in entertainment and publishing. Reflecting that restructuring, our name is now Paramount Communications.

In entertainment, our Paramount Pictures was one of America's motion picture pioneers—the first to distribute a full length feature film and the first to present motion pictures in color. So we reached back into our own history and brought forward a name that consumers all over the world easily recognize.

You might ask: "why did we divest all those commodity and heavy industrial businesses to focus our energies and resources on entertainment and publishing? It was because we saw a future in which consumers not only in America but throughout the world would be eager to see our films . . . or to read our novels . . . or to enjoy our television programs . . . or to learn more about the universe around them.

We envisioned an unprecedented global demand for these inventions of the mind and of the creative spirit. And we were prepared to make the investments, to take the risks, and to reach out to new markets beyond our shores—from the Pacific to Latin America and to the European heartland.

We also witnessed the startlingly swift emergence of advanced technologies that injected a new dynamism into our markets. Consider these facts:

In 1980, the home video market was virtually non-existent. Today, there are over 200 million VCRs in use throughout the world.

Books, not much changed from the days of Gutenberg, now appear on audio cassettes, on CD/ROMs and on discs. And through high speed data links they can be sent from a library to a university to home and back again in a matter of minutes.

Television programming, once carried locally by microwave relay antenna systems, is now transmitted by orbiting satellites—instantly—to anywhere in the world, leaving a truly "global footprint."

These leaps of technology made it possible to reach out to consumers in all corners of the Earth. We can now watch the CNN news in our hotel room here . . . or in New York . . . or in Rome. Or, if we desire, the early edition of The Wall Street Journal or Handelsblatt can be "faxed" to us within minutes over AT&T's fiber optic telephone lines with the latest digital switches.

We live in an environment in which technology has made it possible to move from a climate of scarcity to one of abundance. Now, we are no longer confined to a few channels telecast over the air. We can transmit programming on broad band—or multiband channels. As the chairman of our Federal Communications Commission has observed, one can no longer simply "leverage profits" by controlling a limited spectrum—the race is now open to all.

Just as communications technology opened the gates to the "global village," another sweeping trend profoundly changed the economic scene—the "privatization" of the means of communications.

Today, telephone companies in Europe are being turned over to private hands. European television, once state-dominated, has now attracted continental investors like Canal Plus, Kirch, Havas, Elsevier, Feruzzi, Wallenberg, and Berlusconi.

In the United States, our own publishing industry has drawn non-U.S. investors like Reed International of the UK, Bertelsmann of Germany, Thomson of Canada, and Hachette of France. Old-line American publishing houses like Doubleday, Addison-Wesley and Grolier are now owned by non-U.S. enterprises. And, such non-U.S. companies as Sony, Matsushita, Phillips and EMI have major stakes in the U.S. entertainment industry.

We welcome those changes and we welcome the healthy competition they bring. These cross-border investments exemplify the international scope of the media and publishing industry and just how vast it has become—with revenues of some $1.4 trillion worldwide.

These technological and commercial changes did not take place in a vacuum. They occurred in the midst of sweeping political change.

The cold war is over. Ironically, some observers have linked the breakdown of oppressive Eastern Bloc regimes to the influence of television and radio, which expose the world to Democratic values and ideas. Germany is reunified and the Common Market soon will be a reality. We are now on the threshold of what President Bush has described as a "new world order."

But what kind of world will it be? Will it be a world of free and fair trade? Or will it be a world that slips behind a newly erected wall of protectionism?—a subject that was high on the agenda of the just-concluded G-7 summit meeting a few miles from here.

I am not an alarmist by nature. But I believe that a return to protectionism would be a disaster for us all. It would certainly be a disaster for the European Community—not only the world's largest market, but the world's largest exporter. Last year, for example, the EC's total exports were $1.36 trillion. Our future prosperity and growth are intertwined with yours. They both depend on open avenues of trade.

Foreign markets make up an ever increasing share of our business as well. In 1985, U.S. motion picture, television and home video export revenues were $1.9 billion. In 1990, they were $7.5 billion.

Altogether, the motion picture industry returns some $3.5 billion in surplus to the U.S. balance of payments account. It is a bright spot in an otherwise dismal deficit picture. Consumers everywhere have a large appetite for American films, which are perennial box office leaders worldwide.

Yet, these gains, and indeed the very growth of our businesses, are threatened by a new wave of protectionist sentiment and activity.

Protectionism crops up in the most unexpected places, like a virus. It is so pervasive, says Arthur Dunkel, the Director of GATT, that "only collective action by governments can defeat it."

The "National Trade Estimate" prepared by the U.S. Government—the catalog of all the Trade Barriers we exporters face—is as big as the telephone books of many major cities. And it is full of unfair trade practices, overt and covert.

One of the most troublesome of these unfair practices is the EC directive, ironically mislabeled "Television without Frontiers." It requires that all members states place a restrictive quota on television programming produced by non-Europeans—reserving at least "a majority" of programming for European productions.

In their zeal to implement this directive, the French government has actually gone even further by slapping a 60% European quota on U.S. television programming. These are restrictions aimed directly at American companies, their writers, producers, directors—and shareholders. And they defy the basic trade precept of reciprocity. We have no such quotas in America.

And that is not all. European directives are now diverting millions of dollars derived

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

from levies on our videocassettes away from American producers. These levies are being used to subsidize our competitors, the local production companies. This is unfair!

Let me emphasize an important point. We are not seeking any special privileges. We ask only to play by the rules of the trade game. Given us a level playing field and let us compete. The consumer should be the ultimate decision maker.

The purpose of the quota on U.S. television programming, it is said, is to protect the Europeans against the invasion of America's "mass popular culture." I doubt that the culture of Moliere or Goethe is really that fragile. As the French writer Patrick Wadjsman astutely observed, "France is in trouble if it is really threatened by Mickey Mouse and Donald Duck. A child's laughter has no nationality, no passport, no ideology."

In France, the most popular U.S. made television show—"Knots Landing"—competes directly with "Sebastein, C'est Fou." In Germany, "ALF" competes head-to-head with "Wetten das." In italy, "Twin Peaks" goes up against "Festival di San Remo."

Just recently, a new French-German cultural TV network was launched called "Arte." That kind of cultural competition is just fine with us.

And if consumers all over the world dislike our products, their choice is simple. They won't turn on that channel. Or they won't go to the motion picture theater that day.

Years ago, I started my business career working with the great movie mogul Samuel Goldwyn, who was famous for his colorful sayings. When he was told about the poor attendance at his studio's latest film, he just shrugged his shoulders and said, "Listen, if they don't want to come—you can't stop them."

In my opinion, and in the opinion of many others in my country, as well as on the continent, the purpose of this television quota is not to preserve European culture, but rather to protect the local production industries—the very form of protectionism I just referred to.

Tolerating piracy is another unfair trade practice that places an enormous burden on all of us. When governments fail to crack down on piracy, they hurt us. They also hurt their own local industries and their own legitimate distributors. The theft of books, films, videocassettes, computer software and recorded music owned by U.S. companies exceeded $4 billion last year alone—and we are still counting! As businessmen, we are offended by the sheer lack of effective safeguards against the relentless disregard of our copyrighted properties.

All of the historical trends we are talking about today have common themes. They are supposed to be about the emergence of free market economies, private ownership and the entrepreneurial spirit. In fact, they are observed more in theory than in practice.

Let us have fair trade, not just talk about it. Let us have television across all frontiers, not just within European borders. If we prize the right of the individual to travel freely, let us not blockade the free travel of ideas, information, and entertainment.

This is the time to be vigilant. It would be folly to engage in trade wars or to drift ever so dangerously into a twilight zone of subtle or not so subtle projectionist measures.

Today, we have some marvelous opportunities for progress. As enlightened businessmen, we must not waste them.

So, first, let us urge our political leaders to resolve their differences over farm subsidies and get on with a meaningful GATT services agreement. Trade liberalization will allow us to roll back those EC television quotas and usher in new safeguards against the piracy of intellectual property.

Second, let us collaborate as partners in the research and development of the new technologies so that modern communications systems will not be fragmented. Advances such as high definition television, video compression, digital transmission and broad band delivery must be harmonized so that these systems, wherever deployed, are compatible with each other. Years ago, motion pictures were standardized in a 24 frame per second/35mm format. This opened up the windows of enjoyment for consumers across the globe.

And, third, let us vow never to return to the trade wars of the past. Consumers, not bureaucrats, should dictate choice.

What we are celebrating here, it seems to me, is the triumph of history over ideology. Communism collapsed, not because Adam Smith won the argument and Karl Marx lost. It happened because ordinary people all over the world, most of whom never heard of Adam Smith, decided that individual freedom and the right to make choices were worth fighting for.

We are truly living in Marshal McCluhan's "global village." Gone are the days when dictatorial governments could ban books, jam broadcasts, control communications and keep people in ignorance.

And if dictators could not—then neither, in our time, should democracies.

ADDRESSING THE PROBLEMS OF OUR INNER CITIES

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Ms. WATERS. Mr. Speaker, I strongly recommend the following article about the Federal Government's failure to address the severe problems in our inner cities. Despite the rebellion in Los Angeles over 2 months ago, and much media attention to the deep-seated anger and frustration of inner city residents nationwide, next to nothing has happened to address the underlying economic causes of the pain.

The $1.1 billion supplemental appropriations bill signed by President Bush replenished the Small Business Administration [SBA] and Federal Emergency Management Agency [FEMA] disaster funds, and spent $500 million for 6- to 8-week summer jobs for school kids.

The urban aid package passed by the House is an experiment. No one really knows whether enterprise zones will actually encourage business relocation in inner cities. Moreover, even if it does work, it will be years before these businesses create any jobs.

The net effect is that millions of Americans are waiting to see if Washington cares. There are things we can do, that is what the attached letter outlines. I hope every Member of Congress reads it and heads its message.

THE MILTON S. EISENHOWER FOUNDATION,
Washington, DC, July 10, 1992.

Hon. MAXINE WATERS
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSWOMAN WATERS: In the wake of the Eisenhower Foundation's national policy conference on the Los Angeles riots and the inner city in Washington, D.C. on June 24, 1992, I am writing you, and other leading Members of Congress, with information about the inadequacy, in the view of our conferees, of the policy currently being negotiated between Congress and the Administration for at-risk children, youth and the inner city.

The conclusions of the Milton S. Eisenhower Foundation's national policy conference (agenda attached), which was held at the Washington, D.C. law offices of Eisenhower Trustee Harry C. McPherson, included (though were not limited to) the following:

Over the last decade, federal policy has demonstrated questionable moral values—by increasing taxes on the poor and the working and middle classes and reducing taxes on the very rich, by doubling prison cells while reducing by more than half the budget authority for low income housing, and by placing one of every four young African-American males in prison, on probation or on parole at any one time. (The ration is one-in-three in California, which often is ahead of future trends in the rest of the nation.)

The $1.2B "short-term" emergency urban package signed into law on June 22, 1992, was a band-aid—too little, too late—after the Los Angeles riots.

The summer jobs part of the $1.2B package will not provide inner city youth with the education and training needed for long-term employment, so that they can become productive, taxpaying citizens.

The additional, "middle-term" urban package now being negotiated in Congress and between Congress and the Administration, including enterprise zones and "week and seed," is a "quick fix" that will not spend taxpayer money in a cost-effective way and that is not based sufficiently on scientific evaluations over the last twenty years of what really works. After the first year of this "middle-term" package as passed by the House of Representatives, there is no extra room to provide even these inadequate funds under existing spending caps.

Enterprise zones are another failure of the "trickle-down" economic of the last decade, which only has resulted in the rich getting richer and the poor (and working class) getting poorer.

Enterprise zones have been tried in most states—and scientific evaluations have shown that they do not provide many jobs for the high-risk inner city youth who need them—like the Crips and Bloods in south central Los Angeles. There is little scientific evidence to predict that federal enterprise zones will work any better.

The enterprise zone plan currently proposed is even more inadequate because it is spread over too many locations. This repeats the failure of the Model Cities Program of the 1960's to concentrate only on places of greatest need. Congress and the Administration have not learned the lessons of history, and the American taxpayer again will suffer.

Even with new provisions for less "weed," the "weed and seed" program is a gimmick that is not comprehensive—especially when it comes to replicating at a sufficient level of funding scientifically evaluated successful programs for all eligible at-risk children and youth—like Head Start for all eligible children for three years and remedial education, intensive year-long job training and job placement in the primary labor market for all eligible at-risk youth, in ways that, in part, build on the successful Job Corps Program.

The first major scientific evaluation of the Job Training Partnership Act (JTPA) shows that it is a failure for at-risk youth under age 22—with youth in the program doing worse than "comparison" youth not in the program. JTPA needs to be reformed to function more like Job Corps-like initiatives.

Congress and the administration have not really considered what most knowledgeable observers conclude is the most logical point of departure—a preventive rather than reactive policy over many years that offers adequately funded, comprehensive "multiple solutions to multiple problems" in the inner city, and for children and youth.

Long-term, comprehensive policy must balance human investment in children and youth with economic "bubble-up" (not "trickle-down") development of inner city housing, businesses and infrastructure.

Inner city educational reform should be based on Head Start, Jule Sugerman's Childrens' Investment Trust, Yale University Professor James Comer's School Development Plan, businessman Eugene Lang's "*I Have a Dream*," the plan of the Carnegie Council on Adolescent Development, and the plan of the Carnegie Foundation for the Advancement of Teaching.

Between preschool for young children and Job Corps-like training and placement for young adults, the nation needs a rapid but orderly replication of scientifically evaluated grass-roots, nonprofit organization successes that mentor intermediate-age school youth, prevent their dropping out of school, and offer them extended family "sanctuaries" off the street for social support and discipline—like the Argus Community in the Bronx, the Challengers Boys and Girls Club in south central Los Angeles (where President Bush spoke), and Centro Isolina Ferre in Puerto Rico. A national non-profit Corporation for Youth Investment and Management is needed to replicate success and teach sound business management to inner city leaders.

Economic development in inner cities should "bubble-up" through direct federal grants to new, minority-owned inner city development banks, modeled in part on the South Shorebank in Chicago, and through private non-profit community development corporations (CDC's), using existing successful private non-profit national intermediary models, like the Ford Foundation's Local Initiatives Support Corporation (LISC) and developer James Rouse's Enterprise Foundation, to continue to expand the number of CDC's to teach sound management, and to link non-profit and for-profit enterprises.

After sufficient social and economic infrastructure is "bubbled up" via federal funding to community-based, grass-roots, youth and economic development non-profit organizations—which tailor their own local solutions, are well managed and incorporate social goals as part of their bottom line—then we can expect for-profit businesses to invest more in the inner city, not before.

Europe and Japan have been more responsible, morally and economically, than the United States over the last decade in investing in children, youth and urban infrastructure.

Only the U.S. Federal Government has enough resources to generate change that will have a significant national impact and that can leverage the additional private and local public funds needed.

Long-term comprehensive policy should be financed through a number of well discussed, bi-partisan plans—like breaking down the budgetary "Berlin Wall" that now proscribes reallocating defense and foreign aid funds into domestic investment, increasing taxes on the richest one percent (who had their taxes reduced and incomes increased by 120 percent over the 1980's) and redirecting some pension fund investments in ways that benefit our children, youth, and cities.

Present plans to repeal the luxury tax on boats, airplanes, jewelry, and furs and to provide tax breaks for for-profit real estate developers (some of whom were in part associated with the $7B HUD scandal of the 1980's) are the wrong way to proceed.

To release the present political gridlock and counter special, monied interests which have betrayed the American democracy, we need new political leadership; grass-roots political organizing like the kind that caused Head Start funding to increase over recent years; voter registration of the disempowered; reform so our elections more closely resemble the short, inexpensive British system; and electronic media messages over the next decade by respected moral leaders, who communicate how we know what works, and how it is cheaper, more effective and more morally sound than prison building.

Apart from new leadership, the new American democratic insurgency that is needed must originate among ordinary people who more assertively question the conflict between what they are told by political public relations "spin controllers" and what they see and experience.

A number of sound, long-term plans have been proposed for children, youth and the inner city, and there is not yet a clear consensus on their cost, but the general direction points to hundreds of billions of dollars over at least a decade, not a few billion in quick fixes over a few years.

The speakers at the Eisenhower Foundation's national policy conference on June 24 included neighborhood leaders, representatives of city halls, national non-profit leaders, researchers, government officials and political leaders.

Not everyone agreed to all of the above conclusions, but there was considerable convergence.

The implication from the conference is that Congress and the Administration need to:

reconsider the "intermediate" urban package now being negotiated to more realistically base it on replicating what works, given scientific evaluations over the last twenty years;

need to downplay enterprise zones and other experiments; and

need to re-enforce sound moral values that target the truly needy—not the better off.

Enclosed is the list of speakers and other participants at the June 24 Eisenhower national policy conference and a summary of the specific ten year, $300B policy that Trustees of the Eisenhower Foundation presented at the conference. A more detailed review of the conference recommendations will be available soon.

The Milton S. Eisenhower Foundation is prepared to provide more information, should you require it.

Over the next 2 years, the foundation will organize other policy hearings on children, youth and the inner city and hold major national conferences, with associated reports, to commemorate the twenty-fifth anniversary of the 1967 Kerner Riot Commission Report and the 1968 (Milton) Eisenhower Violence Commission final report. We would like to invite you and your staff to be participants, and will write more details later.

With best wishes, I remain,

Sincerely,

LYNN A. CURTIS, Ph.D.,
President.

CONGRESSIONAL REFORM AND THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. COLEMAN of Texas. Mr. Speaker, I rise today in support of House Concurrent Resolution 192, to establish a Joint Committee on the Organization of Congress. During this Congress, Members from both sides of the aisle have continually stressed the need for reform. We should all be able to agree that the time has come to make a serious commitment to improve the way in which this body operates; to begin to formulate the solutions to the problems so many of us recognize.

The joint committee established by this resolution will carry out an indepth examination of the organization and operation of both the House and the Senate and the relationship between the two bodies. It will also examine the relationship between Congress and the Executive. This will give us the opportunity to address the stumbling blocks standing in the way of making real progress on the pressing issues facing us today.

I regularly receive letters from my constituents asking me to take steps to curb congressional spending, and I would venture to say that every other Member receives similar correspondence. We have an opportunity to make in intensive study of where we may be able to make the cuts the American people are asking for. Last week, we all agreed we need to address the Federal budget deficit. Let us use this opportunity to lead from the front; to demonstrate to the American people that we have the budget discipline necessary to lead the country out of the recession that has been generated by 12 years of Republican-led fiscal mismanagement.

The recommendations made by the joint committee will also enable us to determine what changes are necessary to begin to break the legislative gridlock which has apparently set in over the past decade. We were sent here to legislate. Yet, in this year of record retirements a common complaint is that the legislative gridlock prevents us from doing our job. We have the opportunity today to take the first step toward alleviating some of the problems that have caused us all to feel this same frustration. Let us seize this opportunity and take the first step.

BAKER'S UNEARNED REPUTATION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. FRANK of Massachusetts. Mr. Speaker, one of the greatest gaps that exists in Washington today is between the reputation of Secretary of State Baker and the reality of his performance. On the one hand, Mr. Baker has a superb record of diverting attention from the failures for which he ought to be held responsible. There is no better example of this than the crisis in the savings and loan industry, which grew to a flashpoint during his years as Secretary of the Treasury. One of the most glaring examples of a failure to bring administrative resources to bear that we have ever seen is Secretary Baker's essentially sidestepping any responsibility for this problem as it got worse and worse. In fact, it is to the credit of Secretary of the Treasury Nick Brady, Mr. Baker's successor, that he at least face up to this problem after 4 years of Mr. Baker's successfully dodging it.

In his current position, Secretary Baker has managed to avoid responsibility for one of the great foreign policy blunders in American history, the disastrously wrong courting of Saddam Hussein from the period after the end of the Iraq-Iran war up until the moment that he invaded Kuwait. Ambassador Glaspie has been unfairly criticized in my judgment simply for carrying out Secretary Baker's orders, and those of President Bush. And it is clear that Secretary Baker was a major force in pushing ahead in the courting of Saddam.

In addition, despite his gentlemanly image, Secretary Baker has been at the forefront of the most virulent negative tactics in American campaign history during his management of the Bush campaign in 1988. Now that he may be returning to the Bush campaign helm in 1992, heralding among other things a return to this kind of destructive negativism, I think it is appropriate for people so see Secretary Baker as he really has been. He is one of the most unvarnished partisans in our Government, and his record as Secretary of State and Secretary of the Treasury ought to get fuller scrutiny.

The Boston Globe last week published an editorial which is very much on point in this regard and I ask that this editorial be printed here.

BAKER'S UNEARNED REPUTATION

Republican notables have been telling reporters how elated they are that Secretary of State James Baker will soon be changing jobs. Citing his past performances as a political operative, they express their eagerness to see Baker bestow order, coordination and coherence on the campaign to reelect his old friend, President Bush.

But Republicans who look to Baker as a savior had better hope that he can do a better job directing the Bush campaign than he did guiding US foreign policy.

Baker's knack for winning over the press corps with his charm allowed him to skip from one blunder to another while keeping intact a reputation for sage statecraft. His record is too often at odds with that reputation.

Baker's efforts to initiate Mideast peace talks have been widely praised, but as he prepares to leave his diplomatic post he can take credit only for arranging the formal preliminaries—while much hard negotiating remains to be done.

Declassified documents and the testimony of former officials indicate that Baker and Bush willfully persisted in acting as Saddam Hussein's dupes until Iraqi tanks rolled across the Kuwaiti border. Baker pressured other Cabinet members to reverse sound decisions to deny Saddam US-guaranteed loans and technology with military applications. He refused to heed warnings about Iraq from his own specialists and from officials in other departments of the government.

After Saddam exterminated thousands of Kurdish civilians with poison gas in the village of Halabja, Baker should not have let Bush confine the American reaction to muted, pro forma expressions of dismay. In February 1990, when Saddam gave a virulent anti-American speech at an Arab summit in Amman, Jordan, shocking and scaring even his pliant neighbor, King Hussein, Baker ought to have advised Bush to reconsider the administration's groundless policy of supporting Saddam in order to encourage his "moderation."

In the same vein, Baker blundered when he paid for Syria's participation in Desert Storm by giving Hafez Assad an American blessing for his de facto annexation of Lebanon.

Less costly but no less disguised by Baker's skill at image-making were the errors in Soviet policy during his watch. Until Mikhail Gorbachev let the satellites of Easter Europe go their own way, Baker presided over a policy so blinded by Cold War habits that it provoked the retired Ronald Reagan to chide his successor for wasting the good will he had invested in US-Soviet relations.

Then, almost until the moment the Soviet Union imploded, Baker and Bush went on backing Gorbachev and the communist central government against the dreaded specter of "instability."

To rescue Bush's campaign from the wrath of the voters, Baker will have to do more than merely refashion his friend's image. The domestic failures of the last four years are more transparent to the voters than foreign-policy blunders.

IT'S COOL TO HAVE VALUES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. PORTER. Mr. Speaker, It's cool to have values. That's the message from the students at the Learning School in Mount Prospect, IL.

I rise today to commend the Learning School in Mount Prospect, IL. This school was chosen No. 1 in the Nation, from among 624 schools enrolled in the competition, by the judges of the sixth annual American set a good example contest. To win, these outstanding students designed the best projects to influence their peers to set a good example, be honest, trustworthy, and content.

The young men and women of the Learning School are models for young people and adults everywhere. They are committed to ending drug use and promoting high personal standards. They try to set good examples in the school and at home through their own conduct. They work with younger children, try to keep their word once given, are truthful and honest.

In America, there is a rising problem of youth going astray. Many young people are falling prey to the influence of drugs and delinquency. In order to restore the moral and social consciences of our children, we need strong morals to be taught in the home and more hands on groups like the Concerned Businessmen's Association of America [CBAA]. This group has been getting involved and making a difference for the last 10 years. It was the CBAA which created the set a good example program and contest. Children are the future of this country. We must take the time to instill in them a well developed social conscience.

The CBAA is an organization of business leaders who have achieved success and want to return some of their good fortune to their communities. These men and women care about our country and it's future. In an effort to improve our country's social values this group created the set a good example program and contest, a grassroots campaign created to restore common sense social values. This contest gets students active in their own grassroots campaign to help get drugs off school grounds, prevent delinquency, illiteracy, and drop outs through positive peer pressure. Since its establishment seven years ago, this contest has become one of the most effective youth programs in America. CBAA has provided books and supplemental resource materials for the nearly 6 million students participating. The goals of the CBAA and set a good example program are my goals as well, and should be the goals of all Americans. We must never forget that our country's most valuable commodity is our children.

The success of the young people at the Learning School could not have been achieved without the help of interested adults. A special thank you goes to Jacquelynn Meyers, a teacher at the Learning School, for teaching the students how to be model citizens. In addition, this program would not have been possible without the sponsorship from business in Chicago, Arlington Heights, Mount Prospect, Brookfield and surrounding areas. I would like to give special commendation to the Concerned Businessmen's Association of America and it's chairperson Barbara Ayash for taking such an interest in the young people of this country.

I extend to the Learning School congratulations and my complete support. I wish you continued success.

STUDENT FINANCIAL AID

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. HUBBARD. Mr. Speaker, I recently received an excellent letter from one of my constituents, Marsha Frizzell of Benton, KY, a student at Paducah Community College in Paducah, KY.

In her letter, Marsha voices her deep concern over the high cost of postsecondary education and the onerous financial burden placed on students from middle-income families because of their inability to qualify for financial aid.

I congratulate my colleagues on recently approving a major reform of the Higher Education Act, to rectify this terrible injustice by increasing the availability of financial aid to middle-income families. I am delighted that the President signed this measure into law yesterday.

I urge my colleagues to read Marsha Frizzel's letter. It follows in its entirety:

BENTON, KY, *July 15, 1992.*

DEAR CONGRESSMAN HUBBARD: My name is Marsha Frizzell and I am a student at Paducah Community College. In the summer of 1990 I became employed at Druthers in Calvert City, KY, presently Dairy Queen. As I started out, I didn't work too many hours. As time progressed, I graduated from high school and went on to college immediately that summer.

During my first year of college I was involved in the Vocational Rehabilitation program with Connie Talent at Murray State University. During this first semester of college everything was taken care of sufficiently. At the end of the second semester, I was notified that tuition was going to be the only thing Rehabilitation would take care of. At this time I had a Pell Grant that would take care of the rest of my school expenses.

I recently left Dairy Queen to work for Franklin College in Paducah as a secretary. I still planned to go to school at night to further my education. By working a full forty-hour week my Rehabilitation was dropped. I still had my Pell Grant to use for schooling. My Pell Grant was turned down because I worked too many hours at Dairy Queen the year before. This raised the household income to slightly over twenty thousand a year.

My father is employed for Pip Johnson Construction Company and will be retiring within the next two weeks. Pip Johnson Construction Company is closing down. He will not receive is social security for another ten months after retirement until he turns 62 next May. My parents have raised five children on what he has made alone.

Acceptance of a Pell Grant should not be based upon income of the household. A household making a little over twenty thousand a year and who owns their own home, still has expenses which they are responsible. With the cost of living the way it is today, and the benefits that are available, you're better off either dirt poor or pregnant. It seems that they are the ones who qualify for grants and the only ones who receive them.

Congress has messed up this whole system. Pell Grant is supposed to be raised to $3600.00 in the upcoming year. A question I have for you is, "Where is the money going to come from?" People don't have the money to raise taxes. If minimum wage is raised, the only thing that will come from that is the cost of living goes up and businesses fail. The U.S. is in debt enough already. Congress should worry about what is important to the people and what there needs are to live, rather than what is unimportant and not necessary for life.

I am currently enrolled in summer classes at Paducah Community College. Mr. Hubbard, school is too expensive to go for a couple of years and then never finish. Now, I think of going to school as time, energy, dreams, and money wasted. It's a shame when someone who wants to make it in life has a downfall like this.

Sincerely,

MARSHA FRIZZELL.

ARMS CONTROL THAT BUILDS LASTING PEACE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. CRANE. Mr. Speaker, the United States joined free nations around the world in relishing the collapse of communism and totalitarianism in the Soviet Union last year. Indeed, the future holds great hope for peaceful and mutually beneficial relations between our country and each of the former Soviet Republics. At this time, however, many security concerns remain regarding the former Soviet nuclear arsenal, and in the long run these issues could pose the most serious threat to lasting peace. Frank J. Gaffney, Jr. wrote an article that appeared in the Wall Street Journal on June 26, 1992, which warns about the need to address these concerns. Mr. Gaffney asserts our need to incorporate provisions in the Strategic Arms Reduction Treaty [START] to resolve these issues before the agreement is ratified by the Senate. I commend Mr. Gaffney's article to my colleagues' attention and urge them to read and consider his arguments.

[From the Wall Street Journal, June 26, 1992]

AMEND START FIRST, RATIFY LATER

(By Frank J. Gaffney, Jr.)

The Senate faces a historic challenge. It is being asked by the Bush administration to give its "advice and consent" swiftly to a strategic arms reduction agreement (known as START) that is, in important respects, seriously flawed. Ironically, in the "joint understanding" on nuclear arms reductions initiated last week by Presidents Bush and Yeltsin, the White House implicitly acknowledged some of START's shortcomings. The Senate would do itself and the nation a favor by postponing action on this treaty unless and until it can be significantly reworked.

The joint understanding, in effect, amends the START treaty by roughly halving the number of strategic nuclear warheads each side is nominally to have. More important, it also eliminates the right the former Soviet Union was accorded under START to field and modernize 154 of its dreaded SS-18 heavy intercontinental ballistic missiles and hundreds of other threatening multiple-warhead ICBMs.

The missile force Moscow could retain under the unamended START treaty—but not under the accord as modified last week—would leave Russia with the ability to execute a fearsome pre-emptive strike against the U.S. The threat that such an attack might actually be launched has receded for the moment, thanks to the collapse of Soviet totalitarianism and the policies adopted by democratic successors led by Boris Yeltsin. But until the former Soviet Union's first-strike weaponry is actually dismantled, that threat could quickly re-emerge.

Unfortunately, recent developments in the old Soviet empire have underscored the dangers of confusing permanent changes with ones that can be rapidly reversed. The renewed assertiveness of imperialist elements—evident in the increasingly belligerent rhetoric of, among others, the new Russian defense minister, Gen. Pavel Grachev—is seen in Russia's involvement in an escalating conflict in Moldova.

Other bloody crises may be in the making as Moscow "assists" ethnic Russians or Slavs elsewhere. The ascendancy in the Yeltsin cabinet of leading figures from the Soviet military-industrial complex, moreover, augurs ill for the domestic transformation so urgently needed—to say nothing of the prospects for a permanent, peaceable realignment of Moscow's foreign relations.

Under these circumstances, it behooves the Senate to use its unique status under the Constitution—that of a partner with the executive branch in treaty making—to effect two changes in the Bush administration's approach to START:

First, the Senate should insist that the administration abandon its current two-track strategy: prompt ratification of the present treaty and then separate action on the amendments entailed in the Joint Understanding in the form of a "START II treaty." Instead, President Bush should be directed to present as quickly as possible the fleshed-out agreements outlined in that understanding as a protocol to START—an integral part of the original treaty that would be considered simultaneously by the Senate. In this manner, the danger would be reduced that we will be stuck with a strategic arms reduction treaty bereft of changes that even the administration agrees (at least implicitly) are needed.

Whereas effort to fix a crucial defect in START by linking its ratification to the elimination of all SS-18s might once have been resisted on the ground that it would be a deal-breaking "killer amendment," that argument no longer applies. Today, this defect can be fixed merely by formally incorporating in the treaty, before it is ratified, the Russians' expressed commitment to dispense with their SS-18s.

While we are at it, the negotiations on such a protocol should readdress other problems with the START treaty. Most of these problems, like START's grandfathering" of 154 SS-18s, were incorporated when the Bush administration acquiesced to Mikhail Gorbachev's intransigence. If the starkly contrasting spirit of cooperation and flexibility that Mr. Yeltsin seemed to exhibit in Washington is real, we should be able to correct such other serious—but as yet unaddressed—deficiencies as:

Moscow's right to deploy hundreds of mobile ICBMs—systems designed to defeat U.S. monitoring and verification.

The latitude Russia will enjoy to retain every single missile and warhead taken off-line to meet reduction requirements. If such systems are not destroyed, they could be used to field a significant covert offensive force.

Limitations on verification activities that preclude: the continuous U.S. monitoring of former Soviet missile production facilities, the "tagging" of missiles to assist in distinguishing between legal and illegal ones, and the freedom to inspect all sites suspected of concealing prosribed activities or systems.

Delaying START's ratification would also give the signatories a chance to clear up seemingly conflicting commitments made by Russia and the other three Soviet successor states now parties to START (Ukraine, Belarus and Kazakhstan). As it stands now, Russia may delay ratification of the treaty until the latter give up all nuclear weapons deployed on their territories and conform to the Non-Proliferation Treaty—something that may not happen anytime soon.

Second, the Senate should encourage the executive branch to engage in some new thinking about arms control. Specifically, the Bush administration should be urged to concentrate less on the symptomatic treatment of the residual Soviet threat (traditional arms control) and more on systemic therapies (approaches that address its underlying cause). After all, only when a genuinely democratic political system and a free-market economic system have fully displaced the persisting institutions of empire and militarism can fears of renascent danger from the former U.S.S.R. be allayed.

In this regard, the Senate may want to urge the Bush administration to propose a deal: The U.S. will help in securing generous, multiyear relief of the $80 billion-plus in international debt that was the crushing legacy of Soviet misrule once START's shortcomings have been formally fixed and the amended treaty ratified.

By these two initiatives, the Senate could help transform the START treaty from a major liability into a useful instrument for constructive change in the former Soviet Union and for stable, peaceful relations between the U.S.S.R.'s successor states and the U.S. advice and consent to anything less would be an abdication of the Senate's constitutional role and a disservice to the nation's strategic interests.

(Mr. Gaffney, a senior arms-control official in the Reagan Defense Department, now directs the Center for Security Policy in Washington.)

TRIBUTE TO SARAH BREMER

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mrs. MINK. Mr. Speaker, I have the privilege to submit an essay written by a young constituent, Sarah Bremer, that won first place for the State of Hawaii in the National Peace Essay Contest sponsored by the U.S. Institute of Peace. As a State winner she received a $500 scholarship and competed in a special awards program in Washington, DC, where I had an opportunity to meet this talented young woman.

Sarah's award-winning essay, "From Wars to Words: The Possibility for Peaceful Negotiation in the 21st Century," is an impressive critique of United States foreign policy, demonstrating insight into the complexities of the Cuban missile crisis and the Persian Gulf war. She eloquently stresses the need to rethink America's role in the post-cold war world.

It is so inspiring to see a young person articulate with such clarity and conviction her views on U.S. foreign policy and the larger goal of world peace. Sarah feels, as do I, that we should continue to promote academic and cultural exchanges between the United States and other countries through organizations such as the U.S. Institute of Peace, in order to achieve better understanding and mutual respect.

Mr. Speaker, I am submitting Sarah's essay with these remarks so that all Americans may be encouraged to rise to the challenge of securing a more peaceful future for our world:

FROM WARS TO WORDS: THE POSSIBILITIES FOR PEACEFUL NEGOTIATION IN THE 21ST CENTURYS

For nearly half of the twentieth century, the U.S. and the U.S.S.R.'s battle for world dominance steered the course of American foreign policy. Their precarious power balancing act stocked arsenals capable of destroying the world several times over. The disintegration of the Soviet empire left the weapon-laden U.S. without a counterbalancing military force.

The Persian Gulf War revealed the unbalance of power the arms race had created between the U.S. and other nations. Whereas 305 American and 244 allied troops died in the conflict, Iraqi deaths totaled approximately 230,000, about half of them civilian.[1] An estimated 90,000 tons of bombs dropped by American and Allied forces on Iraq and Kuwait destroyed civilian hospitals, sewage and power plants, markets, and water supplies.[2] This carnage created in just 47 days demonstrated that the current U.S. military is simply too strong to launch an offensive attack without violating the codes of morality and justice on which our country runs.

In resolving international conflict, the U.S. should instead take the route established in the Cuban Missile Crisis: the lowest level of defensive military action possible combined with high-level diplomacy. Complemented by a pro-active agenda for peace which uses the opportunities sprouting from the thaw of the cold war to their full advantage, this approach provides a means of international negotiation which maximizes respect and understanding while minimizing bloodshed.

When Iraq invaded Kuwait on August 2, 1990, America and the Soviet Union became allies for the first time since the end of World War II. Their cooperation unified the UN Security Council, providing an unprecedented opportunity to use non-military pressure to induce Iraqi President Saddam Hussein to withdraw his troops from Kuwait.

Though he supported UN resolutions to use economic sanctions and diplomatic pressure against Iraq, U.S. President George Bush remained in the Cold War mindset which viewed military power as omnipotent. Immediately after the invasion he deployed American troops to the Saudi Arabian border. During the next several months of Iraqi occupation of Kuwait, Bush increased the troops to 430,000. He pushed the November 29, 1990 passage of Resolution 678 authorizing the use "all necessary means" to force Iraqi observance of UN resolutions after January 15, 1991.[3]

When the deadline arrived, diplomatic relations with Iraq had barely begun and analysts predicted that another 3-9 months of sanctions would debilitate Iraqi military forces.[4] Nonetheless, Bush, with "an underlying belief that war might be the wise option," launched attack on Iraq.[5]

In October of 1962, the U.S. discovered that the Soviet Union was positioning offensive ballistic missiles and other weapons in Cuba, 90 miles off the coast of Florida. The U.S. had to take action to preserve U.S. security and restore the balance of power in the Soviet-American arms race.

A military attack on Cuba could have produced a civilian massacre like that of the Gulf War and risked provoking a Soviet retaliation on Turkey. An air strike would have to be "massive" and could still not guarantee complete destruction of the missiles.[6] Against the judgments of the Joint Chiefs of Staff, who unanimously supported military attack as the only alternative strong enough to be effective, President Kennedy decided that an attack risked too much without ensuring positive results and chose instead to instigate a naval blockade, the lowest level of defense available, around Cuba.[7]

In carrying out the blockade, Kennedy made sure "never to put [Soviet Chairman Nikita Krushchev] in a corner from which he [could] not escape." To avoid antagonizing the Soviets and spurring a hasty reaction, Kennedy chose not to board the Soviet tanker *Bucharest* and instead let it pass through the quarantine line after it identified itself. Kennedy instead selected the *Marcula* as the first ship to board because, as an American-made, Lebanese-owned ship under charter to the Soviets, a search would not constitute a personal affront as would a search of the Soviet-owned *Bucharest*.[8]

In offering a settlement to Krushchev, Kennedy explicitly stated his concessions to the Soviet Union: upon the removal of all weapon systems from Cuba, the U.S. would immediately lift the blockade and would ensure that Cuba would not be invaded.[9] Had Bush followed such a careful, conciliatory procedure in the Gulf Crisis diplomacy, the outbreak into war could possibly have been prevented. As it was, Bush faced Hussein with a firm "no compromise" stance.[10] He offered Hussein no possible way to withdraw from Kuwait gracefully. Even token conciliations similar to those Kennedy lined out for Krushchev, such as a timetable for stopping economic sanctions with Iraqi withdrawal, an agreement to replace Iraqi troops in Kuwait with a peace-keeping force, or allowing Hussein to present his grievances to the world court, may have softened Hussein's position.[11]

Because Bush and Hussein approached each other on different cultural planes and neither understood the other's position, they could not converge on a solution. By increasing the power of the U.S. Institute of Peace, the U.S. could instigate a program of cultural and peace education which would improve diplomacy's future effectiveness. To provide students with an awareness of the contributions of non-Western societies, America should establish a high-school graduation requirement of at least one year of non-Western history. An increase in government international exchange programs and colloquiums would also break down the prejudices barring the achievement of peace.

During the Cuban Missile Crisis, Kennedy had the legal and moral backing of western hemisphere coalitions. An OAS charter confirmed the legality of the quarantine, and NATO and OAS support for U.S. actions strengthened the blockade's influence.[12] The U.S. did not, however, have any support from the WARSAW pact countries nor from any other nations under the Soviet domain.

In contrast, opposition to the Iraqi invasion was backed by the strongest UN in history. Since the UN's inception, the U.S. and the U.S.S.R. had used their powers as Security Council members to veto each other's resolutions and held the organization static. With the U.S. and the Soviet Union as allies, the UN provided a strong international coalition to influence Iraq.

Without such a unifying force, economic sanctions would probably have followed in the footsteps of the embargo against Cuba in 1960. Though in pre-Castro years the U.S. and Latin America supplied 80 percent of Cuba's imports and bought 65 percent of its exports, the U.S.'s 1960 embargo against Cuba had very little effect. The Socialist bloc simply replaced the U.S. as a trading partner, providing 80 percent of Cuban imports and consuming 82 percent of Cuban exports by 1966.[13]

Less than a week after the invasion of Kuwait, the U.N. established compulsory international economic sanctions against Iraq which blocked 97 percent of the country's exports and over 90 percent of its imports.[14] Iraq's GNP was cut in half, "an amount 20 times greater than the average impact of history's most successful sanctions."[15] As an embargo of this magnitude and scale was unprecedented in modern history, analysts disagreed about the time required for the sanctions to take effect. Retired Admiral William Crowe, Jr., ex-chairman of the Joint

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Footnotes at end of article.

Chiefs of Staff, spoke the thoughts of many when he asserted that sanctions would ultimately "bring [Saddam Hussein] to his knees" and that waiting for embargoes to work instead of hastily waging war would "be more than worth it."[16]

To further strengthen the United Nations influence as a peacekeeping force, we must disentangle it from the Cold War mentality which excluded the vanquished nations of Japan and Germany from the Security Council. The roles which these two countries play in today's political and economic arenas make them essential to comprehensive and just solution to global conflicts.

As America leaves the Cold War era to enter the twenty-first century, we have the opportunity to steer towards reasoned and fair conflict resolution. The replacement of military confrontation with peaceful negotiation provides a firm foundation on which to build a stable world community.

FOOTNOTES

[1] "The Ones that Got Away," Newsweek, January 26, 1992: 18.

[2] Eric Hoskins, "Pity the Children of Iraq," Middle East International January 24 (1992): 16–17.

[3] Daniel C. Diller, ed., "The Middle East," 7th ed. (Washington, D.C.: Congressional Quarterly Inc., 1991) 320–322.

[4] George J. Mitchell, "Should the Congress Authorize the Use of Military Force Against Iraq?" Congressional Digest 70 (1990): 79.

[5] Diller, 329.

[6] Graham T. Allison, "Essence of Decision: Explaining The Cuban Missile Crisis" (Little, Brown, & Co., 1971) 209.

[7] Robert Kennedy, "Thirteen Days" (New York: W. W. Norton & Co., 1969) 36.

[8] * * *

[9] Kennedy, 103.

[10] Charles Lane, "Saddam's Endgame," Newsweek January 7, 1991: 14–18.

[11] Steven V. Roberts, "Bush in the Bazaar," U.S. News & World Report December 24, 1990: 24–27.

[12] Kennedy, 51 and 96.

[13] Donald L. Losman, "International Economic Sanctions: The Case of Cuba, Israel, and Rhodesia" (Albuquerque: U. of New Mexico P., 1979) 22–24.

[14] George Bush, "The President's Letter to Congressional Leaders," Congressional Digest 70 (1990): 69.

[15] Richard A. Gephardt, "Should the Congress Authorize the Use of Military Force against Iraq?" Congressional Digest 70 (1991): 89.

[16] "Even the War Experts Disagree," Newsweek December 10, 1990: 32.

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MAYOR BLACKWELL RECOGNIZED FOR DEDICATION

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. ESPY. Mr. Speaker, I rise today to give tribute to Unita Blackwell, the mayor of Mayersville, MS, for being a recent recipient of the MacArthur Fellowship. The honor was awarded to Mayor Blackwell for her unselfish dedication to community service and civil rights. She is a true career public servant. She is a small town leader with ideas and energy big enough to improve the world.

As the first African-American woman mayor in Mississippi, Ms. Blackwell has helped build bridges between the races and promote understanding. Since 1976 as mayor of this small delta town, she has brought water and sewer services and housing to the impoverished. In announcing her fellowship, the John D. and Catherine T. MacArthur Foundation noted that even while working to improve her community, Mayor Blackwell continued her own development by earning a master's degree in regional planning.

Mayersville and all of Mississippi are proud of the accomplishments, work and dedication of Mayor Blackwell. She is a mentor for many and an inspiration for all. She has proven that one person can make a difference.

CAPTIVE NATIONS WEEK

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. SOLOMON. Mr. Speaker, I rise today to commemorate America's observance of Captive Nations Week.

During the past few years, the world has seen unprecedented ideological and political changes across the European and Asian landscapes. Totalitarian governments and empires have collapsed, igniting the sparks of democracy and freedom. However, despite these immense strides of political and ideological progress, the world has not yet been completely purged of the evils of totalitarian dictatorship. As stated in the proclamation below, the people of fourteen nations of the world still remain under the manipulative bureaucracies of Communist dictatorships.

As Americans, who ardently espouse and cherish those exact freedoms being withheld from these nations' citizens, it is imperative that we, as a nation, continue to strive for their realization of democracy.

It is in this spirit of patriotism, democracy, and responsibility that States and cities across America declare the week of July 19–25, 1992, to be Captive Nations Week and issue the following Captive Nations Proclamation.

Whereas, the dramatic changes in Central Europe, within the former Soviet Union, Central Asia, Africa and Central America have fully vindicated the conceptual framework of the Captive Nations Week Resolution, which the United States Congress passed in 1959 and President Eisenhower signed into law as Public Law 86-90; and

Whereas, the resolution of 1959 demonstrated the foresight of the U.S. Congress and has consistently been, through official and private media, a basic source of inspiration, hope and confidence to all the captive nations; and

Whereas, the recent liberation of many captive nations is great cause for jubilation, it is vitally important to bear in mind that numerous other captive nations are under Communist dictatorship and the residual structure of Soviet Russian imperialism still exists among others: Cuba, Mainland China, North Korea, Tibet, North Caucasis, Cossackis, Idel-Ural (Tartarstan) and the Far Eastern Republic (Siberyaks); and

Whereas, the freedom-loving peoples of the remaining captive nations (over 1 billion) look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence from Communist dictatorship and imperial rule; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90, establishing the third week in July each year as "Captive Nations Week" and inviting the people of the United States to observe such a week with appropriate prayers, ceremonies and activities; expressing their great sympathy with and support for the just aspirations of the still remaining captive peoples.

Now, therefore, The cities and states listed below, do hereby proclaim that the week commencing July 19, 1992 be observed as "Captive Nations Week" and call upon their citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the remaining captive nations.

As of today proclamations have been issued by the States of Alabama, Arkansas, California, Idaho, Iowa, Kentucky, Montana, New York, Nebraska, North Carolina, South Carolina, Tennessee, Texas, and West Virginia.

Proclamations have also been issued by the cities of Akron, OH; Albany, NY; Argyle, NY; Buffalo, NY; Clearwater, FL; Dayton, OH; Elizabeth, NJ; Erie, PA; Fairfax, VA; Freemont, CA; Glens Falls, NY; Greenwich, NY; Honolulu, HI; Hudson, NY; Independence, MO; Jackson, MS; Jacksonville, FL; Mechanicville, NY; Mesa, AZ; Modesto, CA; Nashville, TN; Pittsburgh, PA; Portsmouth, VA; Providence, RI; Riverside, CA; Salt Lake City, UT; Santa Rosa, CA; Shreveport, LA; Sunnyvale, CA; Tampa, FL; Washington, DC; and Waterford, NY.

RESTORING MFN TO ROMANIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. HOYER. Mr. Speaker, on June 22, 1992, President Bush submitted the United States-Romanian trade agreement to Congress. Once ratified, this agreement will restore the coveted most favored nation [MFN] trade status to Romania—status that former dictator Nicolae Ceausescu renounced in 1988, rather than face congressional criticism of his regime's appalling record on human rights.

I look forward to supporting this trade agreement, correctly perceived as a symbol of United States commitment to democratic and market reform in Romania. But congressional approval of the agreement may be premature if it comes before Romania holds its general elections, now scheduled for September 27.

Shortly after the bloody events of December 1989 that ousted Ceausescu from power, the National Salvation front [NSF] that has assumed control in Romania reversed Ceausescu's renunciation of MFN. Many Romanian officials believed that the United States would immediately respond. Instead, the United States wisely chose to withhold the legitimization MFN status would provide until the new Romanian authorities had demonstrated their commitment to democracy. Free and fair elections were flagged as a cornerstone of that commitment.

Unfortunately, the May 1990 elections that swept the NSF to power were preceded by a lopsided campaign of harassment, intimidation, and media monopolization. One month later, the world recoiled in horror as President Ion Iliescu warmly thanked the miners who rampaged through Bucharest, bludgeoning anti-Communist demonstrators in University Square and ransacking opposition party headquarters. The Romanian leadership's democratic intentions were immediately thrust into doubt. The 2 years since then have seen the thorny struggle of the Romanian authorities to restore the confidence and trust of the people of Romanania and the international community at large.

Despite severe economic dislocation, pernicious inter-ethnic tensions, and a debilitating legacy of social atomization and mistrust, real progress has undeniably been made. Prime Minister Theodor Stolojan and his caretaker government—formed in September 1991 following the miners' fourth assault on Bucharest, which forced the ouster of his predecessor Petre Roman—have overseen the adoption of a new constitution, the continuation of economic reforms, and the holding of free and fair elections at the local level in February 1992.

The local elections were particularly significant, not only for their procedural improvements relative to the elections of May 1990, but also because they demonstrated a major shift in the political inclinations of the Romanian voters. The Democratic Convention, an opposition alliance, won the mayorships of many important urban centers, including the capital Bucharest. The National Salvation Front, in contrast, saw its support decline dramatically—from 66 to 33 percent of the vote.

Yet developments since then have been less than encouraging. The date for Romania's general elections, originally targeted for May, was repeatedly postponed. Furthermore, the parliament passed electoral legislation purporting to restrict the role of domestic observers, contravening the spirit of Romania's CSCE commitments. And certain aspects of the electoral law seem to have been designed to inhibit the strength of the opposition.

MFN remains a powerful symbol of legitimization. In seeking to attain that symbol, all political forces in Romania should work to ensure that the September 27 elections are truly free and fair. The Romanian authorities are well aware that free and fair elections have been a critical component of our policy on restoring MFN. The preparation and administration of the September 27 elections will be an important indicator of the Romanian authorities' commitment to democratic institutions.

MAZIE MONIQUE BOND NAMED SPECIAL POSTER CHILD

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. PURSELL. Mr. Speaker, I rise today to pay tribute to Mazie Monique Bond of Salt Lake City, UT, who has been selected as the national special poster child by the Improved Benevolent and Protective Order of Elks of the World, Department of Special People.

For the next year, Mazie will utilize her own gifts and talents to demonstrate to our Nation that there are millions of special people of the world—persons who, because of physical or mental challenges, have very special needs. Mazie will spend the year encouraging others to assist, provide for, and improve the quality of life of all special persons.

I also want to commend the department of special people of the IBPOE of W for their outstanding work on behalf of people with special needs. Through their efforts, the attention of our country will focus on the needs of special people and what all of us can do to assist special people in achieving their own unlimited potential.

I salute the IBPOE of W for their contributions to the health and welfare of our Nation and I urge my colleagues in the House of Representatives and the Senate, and the President of the United States, to join me in designating August 3, 1992, as "National Special People Day."

CLARIFICATION OF TERMINOLOGY

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. SWIFT. Mr. Speaker, yesterday we debated at length the propriety of releasing raw and unprocessed transcripts of interviews made by the Task Force on the Post Office. I noted then that all of the information the task force possesses, including those transcripts, are available to the House Ethics Committee and the Justice Department who are charged, respectively, with enforcing the House rules and the laws of this Nation.

In that regard I referred to busybodies. The context makes clear what I meant, but lest there be the slightest doubt, I would note that when I used the word I meant and should have specified I was talking about "legislative" busybodies.

There are those in our body who are never satisfied with the work of anyone else—even when there is equal partisan representation, even when there is equal access to all information by both sides of the aisle, and even if both parties can and did put everything they wanted into the task force report.

There are always those Members who can never be satisfied. It was to them that I referred.

THE MINERAL LEASES SHARE TO THE STATES

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, the Appropriations Committee, in seeking additional Federal revenues to pay for our spending measures, must use some reasonable restraint. In the case of the committee's provision that changes the share of mineral lease revenues to be shared with the States, it has not used proper restraint, and that is why I object to this part of this bill.

Both the Mineral Leasing Act and the longstanding implementation of that act provide for States and Federal agencies to split the revenue collected on Federal mineral leases. That policy has been observed for many years, and the law specifically prohibits the Federal agencies from taking their administrative costs out of the revenue before sharing the income with the States. The committee bill alters that practice without any consideration by the authorizing committees for such a change in policy.

This is essentially Federal revenue sharing in reverse. The bill arbitrarily requires States to give part of their share to the Federal Government. It is particularly disturbing that the bill requires the States to provide part of their share of revenue to help pay for a bloated, inefficient minerals management bureaucracy that the States have no role in controlling or reforming.

This provision of the bill takes $75 million from State treasuries, an amount they can sorely afford to give up, and does it without consultation with the States and a chance for the States to be heard.

LOCAL YOUTHS WIN STATE BOWLING CHAMPIONSHIP

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. WELDON. Mr. Speaker, I rise today to recognize and commend five Chichester High School students for their performance in the Young American Bowling Alliance's [YABA] Pennsylvania Bowling Tournament in Altoona. These five young men, Fred Bartholf, Kevin Bartholf, Steve Green, Lenny Katerynczuk, and Brian McMullen, captured first place in the statewide tournament.

The success of these students in the tournament involving 2,500 teams is very impressive. Their hard work and team spirit brought recognition to their local communities of Marcus Hook and Boothwyn by winning them the title of YABA 1992 Pennsylvania State

Champions. I commend the effort and determination of these young gentlemen which led to their victory.

In a time when so much of our attention is focused on the negative, it gives me great pleasure to be able to single out these young men for their positive accomplishments. The residents of these two towns and I are proud of the manner in which these students represented us in this State competition. I congratulate them on their success.

TRIBUTE TO PHOENIX HOME LIFE MUTUAL INSURANCE CO.

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mrs. KENNELLY. Mr. Speaker, since its founding in Hartford, CT, in 1851, Phoenix Mutual Life Insurance Co. has been a vital and visible part of the Greater Hartford community.

Located since the 1960's in its unique, two-sided headquarters building on Constitution Plaza in downtown Hartford, The Phoenix today merges with Home Life Insurance Co. to form Phoenix Home Life Mutual Insurance Co., the 12th largest mutual life insurance company in the Nation.

During its long history in Hartford, The Phoenix has contributed to the economic growth of the region as an employer and it has contributed to the area's overall well-being as a fine corporate citizen. The Phoenix has contributed both financial resources and the talents of its employees to programs in such vital areas as health, housing, and education, programs that have a direct impact on the residents of the community.

Now, as a merged company, Phoenix Home Life has pledged to build on this fine tradition. It will maintain its corporate offices in Hartford and continue to contribute to the region's economy as a major employer. And it has committed itself to continue its corporate social responsibility program, which has established a fine record of contributing to programs that can be demonstrated to help the community. The Greater Hartford community is pleased that Phoenix Home Life will continue its traditions there.

OCCUPATION OF CYPRUS MUST BE TERMINATED

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. BLILEY. Mr. Speaker, 18 years ago, thousands of Turkish troops invaded the Republic of Cyprus. Today, approximately 35,000 Turkish troops still remain in Cyprus.

This illegal seizure and occupation has been discouraged by this body and the United Nations since the beginning. The United States must help the United Nations and NATO resolve regional disputes, such as this one, that have long been overshadowed by the Soviet threat. Although Turkey has been an important friend in the Middle East region, we should not allow our ties to influence our actions. We have a responsibility to the world community to work for peace, and to end aggression. Above all, we must continue to help enforce a standard of international law as we have for decades.

Most recently in Kuwait, the United States led an international coalition against the invaders from Iraq in an effort to show the world that aggression and violations of international law would not be tolerated. We must carry on our campaign against violations of international law in every area of the world.

We must not condone violations by any country, even our allies. The Turkish occupation of Cyprus has been responsible for countless human rights abuses and years of oppression. The Greek-Cypriots have suffered long enough, the time has come to end this conflict. I understand that Turkey has been an important ally of the United States for many years, but we can not allow this fact to stand in the way of action.

The occupation of Cyprus must be terminated as expeditiously and as easily as possible. We must be prepared to take action against Turkey so that this matter is resolved. In the past we have continued to give them aid while attempting to negotiate a fair settlement. This has had little success to date. The time may have come for the United States to consider stronger actions to induce a settlement.

Mr. Speaker, I realize that this is an extremely important matter, and I hope that any action taken by this Congress should be in the name of democracy. We must strive toward the ultimate goal of sovereignty for the Republic of Cyprus, and I urge my colleagues to join me in support of the restoration of a true democratic government in Cyprus.

COMMEMORATING THE 33D OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. CRANE. Mr. Speaker, for 33 years Captive Nations Week has served to remind Americans of the continuing ordeal of those living in nations that have lost their independence to communist aggression. The world has changed dramatically since 1959 when President Eisenhower designated the third week in July as a time to reach out to the nations of the world that do not enjoy the freedom so cherished in America. In 1992, there are far fewer people held captive by oppressive governments, yet the specter of communism has not yet been eradicated. Still well over 1 billion people are not free to express their opinion or to pursue their dreams. Among others, the people of Cuba, mainland China, North Korea, Tibet, North Caucasis—Chechen, Ingush—Cossackia, Idel-Ural—Tartarstan—and the Far Eastern Republic—Siberyaks—remain captive.

Throughout the long course of human history, freedom has been on the defense. However, through the triumphant aftermath of Ronald Reagan's tenure as President, freedom and liberty are now on the offensive and the United States must continue to take an active role in fostering world freedom and ending totalitarianism.

As Captive Nations Week comes to a close let us continue to keep in mind the over 1 billion people who still suffer under oppressive rule. Although the world has seen the end of the cold war and has made great strides toward eliminating communism from the face of the Earth, the list of captive nations remains extensive. Therefore it is imperative that we continue our struggle for universal self-determination as the world moves into the 21st century.

THE ESCAPE OF DRUG BARON PABLO ESCOBAR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. GILMAN. Mr. Speaker, on June 19, 1991 the world's most infamous drug trafficker surrendered to Government officials in Colombia. Pablo Escobar, the leader of the world's largest illicit narcotics trafficking organization—the Medellin Cartel—surrendered on conditions that would make any fugitive rush to surrender. One year later, he has escaped from his ranch house prison, which he himself had designed and tunneled.

Mr. Speaker, last year, we were outraged when we heard the news that Escobar would be spending his time in a luxury prison near his home. Furthermore, the fact that Escobar continued his deadly drug operations unabated from his prison cell was a betrayal of the Colombian Government and of all those who have lost their lives at the hands of this one man.

Evidence points to Pablo Escobar for single-handedly ordering the assassination of innumerable judges, newspaper editors, security officials and politicians. He is also largely responsible for the misery of drug abuse throughout our Nation's cities, towns and villages. Escobar's cartel is the source of much of the drug-related violence that occurs all over the world—from the small towns in middle America, to the streets of London, Paris, and Tokyo, to Medellin, Colombia.

In order to curtail this drug baron's conduct of worldwide business from his prison cell, it was encouraging to note President Gaviria's decision to move Escobar to a maximum security prison. Unfortunately, as we now know, Escobar and his lieutenants, learning of the plan to move him, overpowered their guards, took hostages, and eventually escaped under the noses of 400 commandos. It is now incumbent upon the Colombian Government not only to fully investigate this operation, as it appears, that Escobar had help in his escape, but also to conduct an extensive manhunt for the escapees.

Mr. Speaker, it is time to treat this man as the criminal that he really is, a ruthless, murderous criminal who broke his agreement with the Colombian Government from day one. I urge the Colombian Government to treat this situation as the war against drugs that it truly is. Colombia should make no mistake in the future, that Escobar is a deceitful criminal. The Colombian Government should never again afford any special treatment to outlaws who cannot be trusted to live up to their agreements.

Mr. Speaker, I request that the editorial concerning Escobar which appeared in this morning's Washington Post be inserted at this point in the CONGRESSIONAL RECORD:±

PABLO ESCOBAR: THE GETAWAY

In the international war on drugs, few nations have paid as high a price in lives, justice and democratic freedoms as Colombia. But the recent bizarre escape of Medellin drug kingpin Pablo Escobar from his customized hilltop jail has delivered a devastating blow to the credibility of Colombian law enforcement and President Cesar Gaviria's policy of leniency toward drug lords. Recapturing Pablo Escobar is a mandatory first step if Colombia is to have any chance of regaining the confidence of an understandably skeptical international community.

From the beginning, there were those here and in Europe who believed Colombia gave away too much by offering to suspend extradition and reduce the sentences of cocaine drug lords who surrendered and confessed. Well-known weaknesses in the country's judicial system only increased those misgivings. Doubts deepened further when Pablo Escobar took the government's deal and ended up ensconced in a comfortable hometown jail where he held court for his friends, neighbors and wanted members of the Colombian underworld, one of whom had 13 arrest warrants on his head when he stopped by.

Following a wave of criticism, President Gavaria moved to halt some of the rule-bending at the prison. But Pablo Escobar's mockery of the penal system continued almost as if the government didn't exist. Consider this: Corrections officers carefully selected by the government to avoid Mr. Escobar's control were found to have been brided and corrupted; the prison, which the government claimed was no different from those found in the United States, was found to have an underground tunnel that Mr. Escobar and other inmates are believed to have dug to the outside; the government's "extraordinary steps" to prevent Mr. Escobar from continuing his illegal operations from jail failed to stop him from using the place as a court in which cartel rivals were brought to jail and "tried" to be executed after they left. And reportedly he never quit masterminding his drug operations from prison.

To its credit, when the Colombia government got evidence of this—thanks in part to U.S. intelligence—it moved in with 400 soldiers to transfer Mr. Escobar to a more secure military prison. To the Colombian government's shame, Pablo Escobar and other drug dealers eventually made their getaway while hundreds of armed troops stood ringing the jail.

It has been going this way in Colombia for the past four to five years. But again to the credit of Colombians, the past wave of assassinations, bombings and terrorism—and now the latest audacious act of one of the world's most despicable criminals, including his reported call from hiding to strike a preposterous deal to return to his cell with U.N. protection—have not caused them to lose heart. President Gaviria's government is determined to fight back and demonstrate that justice can be done. Bringing in Pablo Escobar on Colombia's terms would be a start.

TRIBUTE TO MAJ. GEN. ROBERT C. THRASHER

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1992

Mr. MATSUI. Mr. Speaker, I am honored to rise today to bring to my colleagues' attention the lifelong accomplishments of an outstanding Sacramentan and U.S. citizen-soldier, Maj. Gen. Robert C. Thrasher.

His career in the California National Guard spans more than 38 years and includes assignments as commander, headquarters detachment, military aide to then Governor Ronald Reagan, State inspector general, and many other key positions.

Since March 23, 1987, he has served as the adjutant general of the California National Guard. Under his watch, the Guard has responded admirably and professionally to numerous natural disasters and public emergencies including the Loma Prieta earthquake and the Los Angeles riots. Many units of the California National Guard also served with distinction in Operation Desert Shield/Storm, fulfilling every mission for which citizen soldiers must be prepared to do.

Mr. Speaker, it is with pleasure that I ask my colleagues to join me now to salute this great American and wish him well as he retires July 31, 1992. The United States, the State of California, and the Sacramento community owe Maj. Gen. Robert C. Thrasher their deepest thanks and congratulations on his outstanding accomplishments.

HOUSE OF REPRESENTATIVES—*Monday, July 27, 1992*

The House met at 12 noon, and was called to order by the Speaker pro tempore (Mr. MONTGOMERY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 24, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on Monday, July 27, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The SPEAKER pro tempore. The prayer will be offered by the Chaplain.

Welcome back, Chaplain Ford.

Chaplain FORD. Thank you, Mr. Speaker.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we gather each day to do the work of this assembly and to serve the needs of our Nation and all the people, may we not forget to reflect on the demands of justice, to meditate on the unity that is our desire, and to give thanks for the gifts of life. May our tasks not be so overwhelming that we do not take the opportunity to remember You, O God, our Creator and Redeemer, and each day to seek Your blessing and with faithfulness and integrity, serve the people committed to our care. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will ask the gentleman from Iowa [Mr. GRANDY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. GRANDY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE INDEPENDENT COUNSEL LAW: TIME FOR REFORM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the time has come for the House to comprehensively reform the law setting up the Office of Independent Counsel.

The law expires December 15.

But we are told that Democrats do not want to reform it because "things have gotten so political and so angry this year."

Where was all this Democrat sensitivity about politics when they recently demanded that Attorney General Barr make a decision on an independent counsel for "Iraqgate," just before the Republican Convention?

Could there possibly be a tinge, a smattering, a barely discernible trace of hard-ball politics to that Democratic Party demand?

Furthermore, the General Accounting Office has been violating the independent counsel law for years by not carrying out specific oversight functions the law calls for.

Why have not the Democrats, who control the Congress, done anything about this open violation of the law?

We do not have the customary appropriations process to reform the law because independent counsels are funded by a permanent appropriation not subject to congressional review.

Mr. Speaker, let us reauthorize that law now. Let's build in safeguards that will eliminate endless costly witch hunts—now. Let's have regular appropriations—now.

And if Democrats like the law so much, let's make Congress subject to the independent counsel law—now.

If Congress comes under the law, who can then complain about politics any more?

Either reform this law now or stop using it as a partisan political club with which to beat up on Republicans.

WE NEED FUNDAMENTAL ECONOMIC CHANGE

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, once again I have returned from Wyoming, talking to people there and the concerns that they have, and the most often mentioned concerns are overspending, the deficit, big government, and overregulation.

Mr. Speaker, I have never seen an issue that is more important, of more interest to more people, and one that gets less attention in this place.

We will have appropriations bills before us this week that have increases of 10 to 11 percent over last year's level of spending. Get real, you cannot change the results of things like the deficit by continuing to do what we have been doing and what has been going on in this place for 30 years, more spending and more deficits.

The Democrat pep rally last week in New York talked about fixing all kinds of things, everyone's problems in the country, but not a word about doing something about the deficit, not a word of balancing the budget.

There are only two ways to balance the budget. One is clearly to increase taxation, increase revenues. The other is to reduce spending or some combination of the two.

The fact is you have to change fundamentally the things we have been doing. My folks want less government, not more; want more interest in the private sector, not less; less regulation, not more; more personal freedom, not less.

We need fundamental change, and it is time to begin right here this week.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 28, 1992.

RELATING TO CHARITABLE REMAINDER BENEFICIARIES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5636) to amend the Internal Revenue Code of 1986 to ensure that charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts.

The Clerk read as follows:

H.R. 5636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REQUIRED NOTICES TO CHARITABLE BENEFICIARIES OF CHARITABLE REMAINDER TRUSTS.

(a) GENERAL RULE.—

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(1) Section 6036 of the Internal Revenue Code of 1986 is amended—

(A) by striking "Every receiver" and inserting "(a) GENERAL RULE.—Every receiver", and

(B) by adding at the end thereof the following new subsection:

"(b) SPECIAL RULE FOR TRANSFERS OF REMAINDER INTERESTS DESCRIBED IN SECTION 2055(e)(2)(A).—In the case of an estate claiming a charitable contribution deduction for the value of a transfer of a remainder interest in property described in section 2055(e)(2)(A), the executor or other fiduciary shall provide written notices to each organization described in section 2055(a) which has such an interest in the time and manner set forth in the following paragraphs:

"(1) QUALIFICATION NOTICE.—Within 60 days of the date of the executor's qualification, the charitable beneficiary shall be notified of such qualification and such notice shall include—

"(A) the name, address, and date of death of the decedent;

"(B) the name, address, and identification number of each fiduciary of the estate;

"(C) the name and address of each charitable beneficiary;

"(D) a copy of the governing instrument relating to the transfer in trust; and

"(E) a description of the interest to which such charitable organization may be entitled, and any preliminary statements (if required by law) on the financial condition of the estate.

"(2) TAX RETURN FILING NOTICE.—On or before the due date for the filing of a Federal estate tax return on which a charitable deduction is claimed, the charitable beneficiary shall be notified of such filing and such notice shall include—

"(A) a copy of the pertinent parts of the Federal estate tax return, and

"(B) such other information as may be required by form or regulation.

If any notice is provided to a charitable beneficiary under paragraph (1), no notice shall be required to be provided to such beneficiary under paragraph (2) unless such beneficiary agrees to reimburse the executor or other fiduciary for the reasonable costs of providing such notice."

(2) Section 6034A of such Code is amended by adding at the end thereof the following new subsection:

"(c) ANNUAL NOTICE TO CHARITABLE REMAINDER BENEFICIARY.—

"(1) IN GENERAL.—The fiduciary of any charitable remainder trust required to file any return under chapter 61 for any taxable year shall, on or before the date on which such return is required to be filed, furnish each charitable beneficiary—

"(A) a copy of such return (including all schedules), and

"(B) such other information (or deletions) for purposes of carrying out the internal revenue laws as the Secretary may require.

If a fiduciary furnishes the information required under the preceding sentence to any charitable beneficiary with respect to any trust taxable year, such fiduciary shall not be required to furnish information under the preceding sentence to such beneficiary with respect to any subsequent trust taxable year unless such beneficiary agrees to reimburse such fiduciary for the reasonable costs of furnishing such information.

"(2) PENALTIES.—

"For provisions relating to the failure to furnish on a timely or complete basis the information required under paragraph (1), see section 6652(c)."

(b) PENALTIES.—

(1) Paragraph (2) of section 6652(c) of such Code is amended to read as follows:

"(2) RETURNS UNDER SECTION 6304 OR 6043(b) AND NOTICES UNDER SECTION 6034A(c) OR 6036(b).—

"(A) PENALTY ON ORGANIZATION, TRUST, OR FIDUCIARY.—In the case of—

"(i) a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations),

"(ii) a failure to furnish any notice required under section 6034A(c) (relating to annual notice to charitable remainder beneficiary), or

"(iii) a failure to furnish any notice required under section 6036(b) (relating to a qualification notice or tax return filing notice),

on the date and in the manner prescribed therefore (determined with regard to any extension of time for filing), there shall be paid by the organization, trust, or fiduciary failing to file such return (or furnish such notice) $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization, trust, or fiduciary for failure to file any 1 return (or furnish any 1 notice) shall not exceed $5,000.

"(B) MANAGERS.—The Secretary may make written demand on an organization, trust, or fiduciary failing to file any return (or furnish any notice) under subparagraph (A) specifying therein a reasonable future date by which such filing (or furnishing) shall be made for purposes of this subparagraph. If such filing (or furnishing) is not made on or before such date, there shall be paid by the person responsible for failing to so file (or furnish) $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return (or furnish any 1 notice) shall not exceed $5,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act; except that such amendments shall not apply in the case of a trust created before such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before beginning discussion on the merits of H.R. 5636, I would like to make a general statement on behalf of the Committee on Ways and Means and its chairman.

Mr. Speaker, the Committee on Ways and Means has reported to the House of Representatives 29 miscellaneous tax bills. If all of these bills were to be passed by the House, the staff of the Joint Committee on Taxation estimates that the deficit would be reduced by over $300 million through 1997.

However, some of the bills may by themselves lose revenue. The committee has been very careful to schedule these bills in a way to assure that such bills which lose revenue will not be called up until it is preceded by a bill that raises enough revenue to cover the trailing revenue-losing bills. In other words, we are not going to call up any bills that lose revenue until we have passed through the House those that pick up revenue.

It is my understanding that the chairman and the committee anticipate that many of these bills will be combined before they are sent to the President for his signature, and on behalf of the chairman, I want to assure my colleagues that the committee will do everything in its power to assure that the bills comply with all the budget rules prior to presenting them to the President for signature.

□ 1210

Having said that, Mr. Speaker, I want to emphasize that these are 29 bills, some of them are totally noncontroversial. Some of them are of very little interest to anybody except the persons involved in them.

Some of them I think are very good bills that need to be enacted.

There will be some debate and some discussion and some dissension on the others. I am sure that some of the revenue raisers will cause some extended discussion; but we do not intend to call up bills in this series of 29 until all the revenue raising has been done and those that lose revenue will trail those that raise revenue.

Now, Mr. Speaker, I wish to discuss my bill, H.R. 5636. I have presented this on behalf of some charitable remaindermen. Now, what is a charitable remainderman? A charitable remainderman is the person who receives the corpus of an estate after the part of the estate has been distributed to intermediary beneficiaries.

Usually a charitable remainder trust will go something like this:

> I leave to my worthless children who I have adequately bestowed plenty of worldly gifts on, the remainder, the interest on my well-earned, hard-earned, honestly earned product of my very productive life, and I leave the remainder at their death to this wonderful charity that is going to help poor children and unfortunate people.

Well, that is a good trust and we need to encourage those kinds of transactions; but in the real world it has been discovered that sometimes the remainderman never knows that he is the beneficiary of a trust. The word just never gets to him. There are thousands of probate areas around the United States.

So this bill simply requires the trustee of these remaindermen trusts when they file for tax exemption or for tax deductions under the estate tax law to send copies of those returns to the beneficiaries, the ultimate beneficiary, the remainderman, so that, first, the remainderman knows that he is a remainderman and that second, if anything comes up during the administration of the trust, the remainderman will have knowledge of it, knowledge in time to protect his interest if his interest is challenged by any of the decisions of the trustee or any of the administration of the trust.

When this bill was being considered by the committee, we got some protests from some of the trustees. They said, oh, it will be horribly expensive and terrible to administer.

Well, it is not horribly expensive nor terrible to administer. The expense is just copying those tax returns that you send to the government anyway. You are not preparing anything special. You put them in an envelope addressed to the remainderman, put a stamp on it and mail it to him. That is all that we require to be done here.

If the trustee is so penniless and so badly pressed for that, he can charge the remainderman the reasonable cost for mailing him those documents.

Now, I do not mean by reasonable costs any fancy attorney fees or fancy administration fees. I am just talking about the cost of putting a stamp on the envelope and making a copy of the tax return that was filed.

I do not think that most trustees will bother themselves with that insignificant cost.

The remainderman and the charitable trust that receives the remainder will be far better protected than they are now under the current law.

Now, Mr. Speaker, when we get this bill over to the Senate, there may be some other amendment needed to the bill. One is the effective date. I think we ought to look back and pick up all those trusts that are out there where there are remaindermen involved, and second there may be some suggestions on the part of some in the Senate or perhaps on the House side that it would be a good idea if the testator wanted to relieve his trustee of this terribly onerous heavy duty of simply mailing a copy of the tax return to the remainderman, that perhaps he be allowed to do that.

I do not know of any substantial opposition to this bill. This is a good bill. It makes common sense. It just means that the remainderman has an opportunity to be notified that he is a remainderman, to be notified as to the tax claims that the trustee may make.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. GRANDY. Mr. Speaker, the bill offered by the gentleman from Florida is well-intentioned in its desire to provide notice to charitable remainder beneficiaries of their future interests. The means chosen to accomplish this purpose, however, does raise some concern.

The bill would require executors and trustees to provide ongoing information to charitable beneficiaries in situations where the donor may have decided against such notification. By overriding the interests of charitable donors, the bill may have the unintended effect of discouraging charitable gifts. Some donors may wish to remain anonymous and would hesitate to make a gift if they would be identified. Other donors may fear the potential for interference from remainder charities, especially in situations where the initial beneficiary is a spouse or other family member.

It might be preferable for estate planners and bank trust departments to encourage donors to notify charities of their future interests in all situations where the donor wishes to do so.

At this point, Mr. Speaker, I would say the Republicans on the committee do not intend to oppose this legislation, but we would like to discuss with the gentleman from Florida if he would consider in conference allowing charitable donors to decide if they would be willing to agree to some sort of accommodation to provide the donor to remain anonymous if he or she chooses to do so.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. GRANDY. I am pleased to yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I appreciate the gentleman yielding to me, and I will be glad to respond to that question.

I really do not have any objection to including in conference or something a well-thought-out requirement that will allow the donor to exclude the remainderman from any knowledge that he is a remainderman, or the identity of the testator, or the grantor of the trust.

Frankly, I have set up a few of these remaindermen trusts. I never saw a testator who did not want the remainderman to know everything that is going on; but I guess I assume there could be some cases in which the remainderman would wish that his trust would remain anonymous.

I will be glad to consider that.

Mr. GRANDY. Mr. Speaker, I appreciate the chairman's deference on this. I would just say that we have received some concerns from estate planners and others who are afraid that perhaps without the assurance of some kind of anonymity, or at least the permission to the donor to designate whether or not they wanted notification. Unless we provide some kind of leeway, the testator may discourage the creation of charitable remainder trusts, which I am sure is something we do not want to encourage.

Also, the other concern was that perhaps without some kind of leeway to the testator there might possibly be potential harassment of the life beneficiary. This is probably unlikely, but I appreciate the gentleman's deference on this and the willingness to work in conference on this particular piece of legislation.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman.

Mr. GRADISON. Mr. Speaker, as you and the other Members of the House know, I have consistently opposed bills which have violated the Budget Act or increased the deficit. Furthermore, I generally oppose bringing up spending and tax bills under suspension of the rules. The rules of the Democratic caucus include the guideline that bills involving more than $100 million should not be considered under suspension of the rules. This guideline should be followed.

A number of these bills might also violate the Budget Act were they not considered under suspension of the rules. The miscellaneous tax bills reported out of the Ways and Means Committee July 23, however, fall into a different category. Individually, each bill may gain or lose revenue, but, as a package, they reduce the deficit by $227 million over the next 5 years.

According to the Joint Committee on Taxation, the miscellaneous tax bills have the following aggregate revenue effect (in millions of dollars as of July 24):

1992	−84
1993	−109
1994	+150
1995	+96
1996	+78
1997	+103
Total	+227

While the package loses money in 1992 and 1993, as of July 24 there was sufficient money in the paygo account, $329 million, to avoid a sequester. Pending legislation, however, could quickly erode this balance.

I have been assured that, under the procedure developed by Chairman ROSTENKOWSKI, no bill will be called up unless the preceding bills generated a revenue surplus sufficient to cover the revenue loss associated with the bill under consideration. If a recorded vote is requested on one of the bills containing a revenue surplus, then the trailing revenue losing bills would be pulled, and not be considered by the House until there was sufficient revenue to cover their cost.

Furthermore, I understand that it is the chairman's intention to package these bills before they go to the President for his signature, and that they will fully comply with the Budget Act. I commend the chairman for his consistent desire to reduce the deficit, and for developing a procedure to protect the Treasury. I trust that the same concern for not increasing the deficit will be evident in any other tax bills the Ways and Means Committee brings to the floor throughout the remainder of the year.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5636.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HOME SALE TAX FAIRNESS ACT OF 1992

Mr. GIBBONS. Mr. Speaker, pursuant to the direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5638) to amend the Internal Revenue Code of 1986 to permit losses on sales of certain prior principal residences to offset gain on a subsequent sale of a principal residence.

The Clerk read as follows:

H.R. 5638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Home Sale Tax Fairness Act of 1992".

SEC. 2. LOSSES ALLOWED AGAINST GAIN RECOGNIZED ON SALE OF PRINCIPAL RESIDENCE.

Section 1001 of the Internal Revenue Code of 1986 (relating to determination of amount of and recognition of gain or loss) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) LOSSES ALLOWED AGAINST GAIN RECOGNIZED ON SALE OF PRINCIPAL RESIDENCE.—In the case of an individual, the amount of gain which would (but for this subsection) be recognized on the sale or exchange after December 31, 1993, of a principal residence of such individual shall be reduced (but not below zero) by the aggregate of the losses (if any) sustained by such individual on the sale or exchange after the date of the enactment of this subsection of prior principal residences of such individual which were not allowed as a deduction and which were not previously taken into account under this subsection. For purposes of the preceding sentence, the term 'principal residence' has the same meaning as when used in section 1034."

SEC. 3. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

□ 1220

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, the gentleman from Texas [Mr. ARCHER] is the principal sponsor of this legislation. I will defer to the other side and reserve my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am the designee of the gentleman from Texas [Mr. ARCHER] on this legislation.

Mr. Speaker, I rise in support of H.R. 5638 which was introduced by the distinguished gentleman from Texas [Mr. ARCHER]. The bill would provide fairness in the tax treatment of home sales.

Under current law, if a taxpayer sells his or her principal residence at a loss, that loss may not ever be used to offset the taxpayer's income. On the other hand, if the taxpayer sells the same residence at a gain, that gain may be subject to tax. The bill would eliminate this unfair difference in treatment.

The bill would allow gain recognized on the sale of a principal residence to be reduced by the aggregate losses which were not allowed on prior sales of principal residences.

The bill is paid for without any tax increase. Instead, it provides sufficient revenue by improving on current information reporting with respect to home sales. The bill would require real estate settlement agents to include in the form 1099–S that they already file information concerning the real estate taxes paid by the buyer at settlement.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5638.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO VETERANS' FLIGHT TRAINING EXPENSES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1168) to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances.

The Clerk read as follows:

H.R. 1168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN REIMBURSED FLIGHT TRAINING EXPENSES.

(a) IN GENERAL.—In the case of a taxable year beginning before January 1, 1980, the determination of whether a deduction is allowable under section 162(a) of the Internal Revenue Code of 1954 for flight training expenses shall be made without regard to whether the taxpayer was reimbursed for any portion of such expenses under section 1677(b) of title 38, United States Code (as in effect before its repeal by Public Law 97–35).

(b) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this bill is sponsored by the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. Speaker, I reserve the balance of my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1168. H.R. 1168 would provide consistent tax treatment to all veterans who deducted certain flight training expenses. Currently, some veterans have been permitted to deduct the expenses, and others have been prohibited from deducting them. This bill would allow the deduction of the expenses, with a special 1-year window in which veterans could file for refunds. It would cost less than $500,000 over 6 years.

IRS inconsistency is responsible for this problem. First, in an IRS publication, the IRS told veterans that they could deduct the expenses. Then, it changed its mind and began auditing veterans who deducted the expenses. Finally, after losing in court, it told veterans that they could deduct the expenses. Unfortunately, the statute of limitations had closed for many veterans by the time that the IRS reached its final decision. H.R. 1168 would correct that injustice. All taxpayers would be treated equally under the tax law.

Mr. CLEMENT. Mr. Speaker, as a cosponsor of H.R. 1168, I am pleased to join my colleagues in urging passage of this bill, which would provide much-needed relief to approximately 200 veteran pilots throughout the country.

The importance of this bill was brought to my attention by several constituents who are currently unable to obtain refunds from the Internal Revenue Service for taxes they paid which the Service later ruled were unnecessary. These constituents, and hundreds of other pilots, had followed written IRS instructions in reporting expenses incurred with flight training.

As my colleagues know, the IRS issued Revenue Ruling 80–173 in which it retroactively repealed a provision which had been in force since 1962. The service issued this rule against veteran pilots who had previously been allowed to receive educational benefits from the Department of Veterans Affairs and to claim a deduction for tuition expenses. The result of the IRS reversing its own ruling retroactively was that veteran pilots were charged back taxes, interest and penalties.

Nothwithstanding its ruling, in 1986 the Service decided to concede the remaining open cases and issue a refund where a timely claim for a refund remained outstanding. Thus, some veteran pilots have been successful in receiving refunds of the tax, while others have not been as fortunate. This is why this measure is needed.

H.R. 1168, introduced by my Tennessee colleague DON SUNDQUIST, would provide a 1-year grace period for these pilots to file for a refund of the taxes they have paid. I firmly believe this is the most equitable way for the pilots and the Federal Government to resolve this matter.

I urge support for H.R. 1168.

NASHVILLE, TN,
March 31, 1991.

Hon. BOB CLEMENT,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN CLEMENT: Since approximately 1982, I have been trying to correct, along with a group of fellow veterans of the Vietnam War, an injustice done to us by the Internal Revenue Service. This battle has been waged in the courts and in Congress over the past decade. (We call ourselves the ATR Defense Group).

The problem arose during the 1970's when I and many other pilot veterans undertook VA-approved aviation education programs to improve our skills and enhance careers as commercial pilots, using the G.I. Bill. Using the IRS's own Tax Instructions, we claimed tax exemptions which had been allowed for eighteen years by the IRS to hundreds of other veterans. In a 1980 ruling, the IRS reversed their own ruling RETROACTIVELY, and charged us back taxes and interest. After numerous costly court challenges with mixed results, the IRS admitted their mistake and ruled that any taxes not paid at that time were no longer due. However, those of us who had already paid were again discriminated against by not receiving a return of taxes and interest. Additionally, those pilot veterans whose cases were resolved in certain Judicial Districts early on were able to file and get refunds, whereas those of us who received judicial relief later, were told by the IRS that it was simply too late to file. In other words, the IRS is simply going to keep the money.

Two of our group have received help from their Congressional delegation. I attach correspondence copy from the IRS to Senator Paul Sarbanes, from Senator Sarbanes to taxpayer J.E. Bisby, and a copy of the check from the IRS to Mr. Bisby. Also, copies of certain correspondence relating to the successful efforts of Congressman D. French Slaughter of Virginia to help Mr. William Smithdeal get his refund. It can be done.

This has been a long and frustrating fight. I am outraged that the IRS can blithely (A) change its own rules and policies retroactively and (B) arbitrarily and unfairly allow reimbursement to some taxpayers while denying identical claims of others. This is a Federal system and all taxpayers should be given fair and equal consideration regardless of their geographical location in the United States.

In addition to your kind consideration of my case, for which I would be most appreciative, I ask that you please consider becoming a co-sponsor of H.B. 1168, introduced by Congressman Sundquist, referred to the Committee on Ways and Means. This proposal (which was also before the 101st Congress) would grant these Vietnam War pilot veterans a one year grace period to file for refunds of taxes that their government mistakenly compelled them to pay. Passage of this measure would, of course, resolve our problem.

I have reached my wits' end in this matter and have turned to you in hopes that you would be able to help me recover my funds from the IRS. Thanking you in advance for your kind consideration and effort, I remain

Sincerely yours,

______.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, September 9, 1991.

Hon. BOB CLEMENT,
Cannon House Office Building, Washington, DC.

DEAR MR. CLEMENT: The Chief Counsel, Abraham N. M. Shashy, Jr., has requested that I reply to your letter forwarding the inquiry of . . . to the Internal Revenue Service.

In his letter of March 31, 1991, Mr. ____ states that he is a veteran of the armed forced and that he took a flight training course under the auspices of the G.I. Bill. Presumably Mr. ____ was reimbursed for the cost of the course by the Veterans Administration, in accord with that agency's procedures. He states he deducted the cost of the courses and that his deduction was disallowed pursuant to Rev. Rul. 80–173, 1980–2 C.B. 60. He indicates that he paid the tax so determined and that he has not received a refund.

Rev. Rul. 80–173, 1980–2 C.B. 60, held that deductions for the cost of flight training courses, when the trainee had been reimbursed for the course by the Veterans Administration, were not allowable. The revenue ruling was applied retroactively to all open tax periods. The retroactivity of this revenue ruling was the subject of much litigation. The position of the Service was affirmed by three circuit courts of appeal, as well as the Tax Court. See *Manocchio* v. *Commissioner*, 710 F.2d 1400 (9th Cir. 1983), *aff'g* 78 T.C. 989 (1982); *Rivers* v. *Commissioner*, T.C. Memo. 1983–567, *aff'd* 727 F.2d 1103 (4th Cir. 1984); *Olszewski* v. *Commissioner*, T.C. Memo. 1983–68 *aff'd* 55 AFTR2d 85–536 (1st Cir. 1983). The Eleventh Circuit, in *Baker* v. *United States*, 748 F.2d 1465 (11th Cir. 1984), ruled in favor of the taxpayer of this issue.

In 1986, the Service decided to dispose of the remaining cases of this issue without further litigation as the issue was not recurring or of sufficient importance to warrant Supreme Court review and the amounts at issue were relatively small. Accordingly, although the Service's position, that Rev. Rul. 80–173 should be applied retroactively, did not change, the Service decided it would concede the remaining open cases. Where a timely claim for refund remained outstanding, the Service issued a refund. This decision, however, does not automatically entitle a taxpayer to a refund at this time. In order to be entitled to a refund, the tax must have been paid and a claim filed within the time limits prescribed in section 6511(a) of the Internal Revenue Code. That section provides generally that a claim for refund of an overpayment of income taxes must be filed within 3 years from the time the tax return was filed or 2 years from the time the tax was paid, whichever of such periods expires later. These requirements are longstanding legal prerequisites which must be satisfied before a refund can be issued. The Service has no discretion to waive the requirements of the law if they have not been complied with.

Mr. ____ states that persons he knows of have received refunds. The disclosure provisions of I.R.C. §6103 prohibit us from releasing information regarding third party taxpayers. If, however, the Service made an error and issued a refund improperly, the mistake would not entitle Mr. ____ to obtain a refund in contravention of legal requirements.

Sincerely yours,

DANIEL J. WILES,
Deputy Assistant Chief Counsel (Tax Litigation).

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 1168.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CLARIFYING TREATMENT OF THE REHABILITATION CREDIT.

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5637) to amend the Internal Revenue Code of 1986 to clarify the treatment of certain buildings under the rehabilitation credit, and for other purposes.

The Clerk read as follows:

H.R. 5637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TREATMENT OF CERTAIN BUILDINGS UNDER REHABILITATION CREDIT

A building shall not be treated as being ineligible for the rehabilitation credit by reason of being relocated if the rehabilitation of such building at the relocated site began before the date of the publication of proposed Treasury Regulation 1.48–12(b)(5).

SEC. 2. INCREASE IN SIZE OF LOANS PERMITTED UNDER CERTAIN BOND-FINANCED PROGRAMS.

(a) IN GENERAL.—Paragraph (2) of section 1316(a) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence:

"A loan shall not be treated as failing to meet the requirements of subparagraph (B) by reason of exceeding the maximum amount permitted under such subparagraph if the maximum amount of such loan does not exceed $40,000."

(b) Effective Date.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 3. ADDITIONAL SUBSTANTIATION REQUIREMENTS FOR CERTAIN MEALS AND ENTERTAINMENT EXPENSES.

(a) General Rule.—Subsection (d) of section 274 of the Internal Revenue Code of 1986 (relating to substantiation requirements) is amended by adding at the end thereof the following new sentence: "In the case of an expense for any meal referred to in paragraph (1) or an item referred to in paragraph (2), the taxpayer shall not be treated as meeting the substantiation requirements of this subsection with respect to the amount of such expense or item unless such amount is shown on a receipt which is prepared by the provider of the meal, entertainment, amusement, or recreation (as the case may be) and which is provided at the time of (or within a reasonable period of time after) the furnishing of the meal, entertainment, amusement, or recreation (as the case may be)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses paid or incurred after December 31, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this is a bill introduced by the gentleman from Texas [Mr. PICKLE], and I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I recommend passage of legislation I have proposed which will make three technical, but important, changes of our Tax Code.

First, H.R. 5637 makes an important clarification to the rehabilitation tax credit, which was enacted in 1981 to encourage the preservation of older and historically important buildings. Our Government provided a credit from between 15 and 25 percent, depending on the age or historical significance of the building. Neither the statute, nor any legislative history, specifically prohibited the movement of the structure in order to qualify for the credit. When the Treasury Department 4 years later issued regulations implementing the tax credit, it retroactively prohibited buildings between 30 and 40 years old from being moved and qualifying for the tax credit. Unfortunately, a few taxpayers, relying on the statute, had already moved and initiated substantial rehabilitation.

H.R. 5637 provides that the Treasury regulations be prospective. That is, the prohibition on allowing the tax credit for 30- and 40-year-old buildings, which have been moved, will apply only after the publication of the 1985 Treasury regulation. Thus, those taxpayers who relied on the 1981 statute, moved 30- to 40-year-old buildings, and who began rehabilitation, will not be treated unfairly, as the Treasury regulations threatened to do. This provision costs $2 million over 5 years. The cost is negligible, hardly measurable.

The second provision has to do with the Texas Veterans' Land Program. Since 1946, my State has had a program under which low cost loans have been made available to veterans to assist in the purchase of land, and, current Federal law allows tax-exempt bonds to finance these loans. The State of Texas sees this program as a good way to reward those who have served their country in the armed services; and recently our legislature increased the amount that can be loaned to individual veterans from $20,000 to $40,000. H.R. 5637 simply conforms the maximum loan amounts to the State-law maximum of $40,000. I would emphasize, however, that the bonds remain under the State volume cap just as they are under current law. The provision costs $7 million over 5 years.

H.R. 5637 pays for both provisions by clarifying current law substantiation requirements of business meals and entertainment. Currently, regulations require that if a taxpayer wishes to deduct a meal or entertainment expense for business purposes, he or she must provide documentary evidence to prove that the expenditure actually took place. For most taxpayers, this means maintaining a receipt of the expense.

Unfortunately, some taxpayers create receipts or obtain blank receipts which they subsequently fill out. Sometimes expense amounts are exaggerated, sometimes meals which never occurred are deducted. When this happens, the Federal Government loses millions of dollars in revenue.

H.R. 5637 improves compliance by requiring that receipts used to justify a business meal or entertainment expense be provided by the provider of the meal or entertainment. Credit card or charge card receipts would meet this requirement. The result is simple. If a taxpayer wants to take a deduction then there must be a legitimate receipt from the provider. I would stress that this is what the overwhelming majority of taxpayers already do.

This provision raises $31 million over 5 years and, I want to emphasize, is supported by the National Restaurant Association.

Mr. Speaker, the bill I present today makes minor changes in tax law, with modest revenue implications, and is paid for. But the bill makes important changes in tax law that will improve the fairness of our Tax Code and the ability for the State of Texas to help its veterans. I urge adoption of the bill.

☐ 1230

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have heard no objection from Republicans to H.R. 5637. The revenue losing portions of the bill are quite narrow. The bill would modify a Treasury regulation denying the rehabilitation credit to buildings that have been moved.

The regulation had a retroactive effective date, and the bill would make the regulation prospective from the date of its promulgation. The bill also, consistent with State law, raises to $40,000 from $20,000 the amount that may be loaned to an individual under the Texas veteran loan bond program.

The cost of these two provisions would be offset by requiring greater substantiation of business meals and entertainment expenses.

I have concerns about any provision that increases paperwork and recordkeeping. I understand, however, that this provision would not change the current $25 safehabor established under Treasury regulations and would not affect the deductibility of business meals and entertainment expenses generally. I also understand that the gentleman from Texas has worked closely with the restaurant industry in formulating this proposal. With that understanding, I do not object to the provision.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5637.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO THE INVOLUNTARY CONVERSION RULES FOR DISASTER-RELATED CONVERSIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5640) to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions.

The Clerk read as follows:

H.R. 5640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.

(a) In General.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rules for Principal Residences Damaged by Presidentially Declared Disasters.—

"(1) IN GENERAL.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) TREATMENT OF INSURANCE PROCEEDS.—

"(i) EXCLUSION FOR UNSCHEDULED PERSONAL PROPERTY.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) OTHER PROCEEDS TREATED AS COMMON FUND.—In the case of any insurance proceeds (not described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) EXTENSION OF REPLACEMENT PERIOD.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) PRESIDENTIALLY DECLARED DISASTER.—For purposes of this subsection, the term 'Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term "principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, today I rise in support of H.R. 5640, a bill to modify the Internal Revenue Code to the benefit of victims who suffer property loss during presidentially declared national disasters. While this bill is prompted by the Oakland firestorm which killed 25 persons and destroyed more than 3,000 homes, and hundreds of apartments in the disastrous wildfire that swept through the cities of Oakland and Berkeley, the provisions of this bill would be applicable to any disaster after September 1, 1991.

The East Bay blaze was the most destructive urban wildfire in U.S. history and it was particularly difficult because it came before many Californians had received their disaster assistance for the earthquake damage the year before. Yet disasters are not unique to California. South Carolina, the Virgin Islands, and Puerto Rico are still rebuilding from the damage caused by Hurricane Hugo in 1989. What with hurricanes, earthquakes, tornadoes, and floods like the recent one in Chicago, no State is immune from such disasters.

The provisions in H.R. 5640 come from the suggestions of CPA's who have volunteered their services to assist the firestorm victims comply with the tax laws.

H.R. 5640 would make the following changes in the Tax Code:

First, extend the time to rebuild or buy a new home from 2 to 4 years.

Second, exclude gain on any unscheduled personal property. Insurance proceeds rarely if ever reimburse a taxpayer fully for their loss and this provision would minimize the record keeping involved in listing losses of all personal property and replacement cost of normal household personal property.

Third, treat insurance proceeds covering personal property and insurance proceeds covering real property as one common fund which a taxpayer would use to replace their real and personal property. Current law requires real property proceeds to be used only for real property replacement and personal property proceeds to be used only for personal property replacement. The change would provide that there is no gain to the taxpayer as long as all the insurance proceeds are reinvested in replacing their home and furnishings and allows the taxpayer to allocate the insurance proceeds between real and personal property as their needs dictate.

All provisions would apply to losses from federally declared disasters on or after September 1, 1991.

I urge your support of H.R. 5640.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from Florida [Mr. GIBBONS] for yielding this time to me, and I also thank my distinguished colleague, the gentleman from Florida [Mr. JENKINS] for his very kind and generous remarks and support of the bill, H.R. 5640.

With those remarks, Mr. Speaker and Members of the body, let me first thank the chairman of the full committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], thank my distinguished colleague, the gentleman from Florida [Mr. GIBBONS], the distinguished gentleman from Iowa [Mr. GRANDY] and the members and staff of the staff of the Committee on Ways and Means who assisted us in drafting this legislation. I would specifically like to thank my distinguished colleague, the gentleman from California [Mr. STARK], and his staff for their diligence, their understanding, their caring and compassion in this situation.

Mr. Speaker, H.R. 5640 provides relief in certain tax related aspects in any disaster when the President subsequently determines that the affected area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

The bill that we are considering today provides important relief to victims of the Oakland-Berkeley firestorm that destroyed thousands of homes in those two towns. As if the destruction that each person endured—destruction that consumed all of their worldly possessions—were not enough, people discovered that the tax rules failed to give them enough time to plan their recovery and completely governed the manner in which they could rebuild their shattered lives.

As a result, we have introduced legislation to solve the tax related aspects of this national tragedy. The bill before you today includes three of the elements of that original proposal. While this is not the comprehensive list the legislation does provide real solutions that will meet and solve a widespread and substantial problem, a problem common to disaster victims throughout the Nation.

Specifically, the bill does three things to assist victims in Presidentially declared disasters.

First, it would extend from 2 years to 4 years the period in which individuals have a chance to reinvest insurance proceeds before capital gains calculations will take effect. Several reasons exist for this modification, including the fact that widespread destruction makes the very act of rebuilding proceed far more slowly because of infrastructure devastation, stretched resources and overwhelmed municipal and local government administrative structures. In addition, disaster victims need an extended opportunity to assess their situation and to make their personal choices about how and where to rebuild their shattered lives, a process that is made more complicated by the scale and omnipresence of the disaster that befell them.

Second, the bill would exclude from capital gains consideration any insurance proceeds paid as compensation for losses of unscheduled personal property. Again, numerous reasons exist for enacting such a provision. For those who have lost everything, reconstructing records to show the IRS what they had in order to show how they replaced it, is an almost impossible physical job. This is compounded by the mental and emotional anguish that such a process evokes in people who must remember all that they have lost. Finally and significantly, we should recognize that insurance proceeds never compensate individuals fully for their loss. How can we insist that capital gains is possible for unscheduled items of ordinary use when we know in our hearts that these victims will never receive proceeds sufficient to replace their losses.

Third, the bill would provide that insurance proceeds for real property and valuable personal property may be combined and spent for the purposes of reestablishing one's home or furnishings or reinvesting in similar items, such as art. This would allow those in changed circumstance or with inadequate insurance coverage either for real property or personal property to chart the appropriate course for their own recovery. For example, an individual who may have lost a valuable art piece that is literally irreplaceable but who has a newly arisen responsibility to care for an aging parent could use proceeds from the lost art to finance reconstruction to care for an aging parent. They could, for example, use proceeds from the lost art to finance reconstruction of their house in a fashion that would create a new living space for the dependent parent. Alternatively, those with grown families who do not need as large a House, may be able to use some of the proceeds from their real estate coverage to buy furniture and other necessary personal items.

My constituents in Oakland and Berkeley, like disaster victims throughout the Nation have experienced horrendous suffering. Let us enact this legislation and relieve them and future victims of the cruel administrative burden that would place a straitjacket on them as they seek to emerge from the disaster. Let them choose the course of their recovery, while preserving the integrity of our Tax Code.

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Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5640. The bill would provide relief to taxpayers who suffer from disaster losses. Currently, some technical rules involving the taxation of involuntary conversions can create hardships and administrative difficulties for affected taxpayers. This bill would relieve taxpayers from some of these more technical and onerous provisions.

I might say also parenthetically, Mr. Speaker, that last week the House saw fit to pass a similar disaster-related provision as it relates to livestock producers and farmers in this country. I think it is certainly in keeping with the spirit of this House also to pass a provision that affects home owners in federally designated disaster areas.

Mr. Speaker, I have no requests for time. I urge adoption of these provisions, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise only to pay tribute to the gentleman from California [Mr. DELLUMS] for having originated the thought that is in this bill. He first presented to me and other Members of the committee a fine written letter outlining the problems that his district faced and the people of his district faced. He pushed vigorously ahead to get the appropriate attention of the committee to the problem, and he has worked closely with the committee to try to get this law enacted.

I regret that because of monetary restraints we could not do all the things he asked for in his original proposal, but this is a good proposal and it makes good common sense. I know the gentleman can be very proud of what he started here.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield to me?

Mr. GIBBONS. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank my colleague for his very generous remarks, and I appreciate having the opportunity to work with the gentleman.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5640.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXCLUDING CERTAIN SPONSORSHIP PAYMENTS FROM UNRELATED BUSINESS INCOME OF TAX-EXEMPT ORGANIZATIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5645) to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes.

The Clerk read as follows:

H.R. 5645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 of the Internal Revenue Code of 1986 (relating to unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection, the term 'qualified sponsorship payment' means any payment by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than—

"(A) the use of the name or logo of such person's trade or business in connection with any qualified public event under arrangements (including advertising) in connection with such event which acknowledge such person's sponsorship or promote such person's products or services, or

"(B) the furnishing of facilities, services, or other privileges in connection with such event to individuals designated by such person.

"(3) QUALIFIED PUBLIC EVENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified public event' means any event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c) or by an organization described in section 511(a)(2)(B) if such event is—

"(i) a public event (other than a sporting event) the conduct of which is substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization conducting such event, or

"(ii) any public event not described in clause (i) but only if such event is the only event of that type conducted by such organization during a calendar year and such event does not exceed 30 consecutive days.

An event shall be treated as a qualified public event with respect to all organizations referred to in the preceding sentence which receive sponsorship payments with respect to such event if such event is a qualified public event with respect to 1 of such organizations; except that a payment shall be treated as not being from an unrelated trade or business by reason of this sentence only to the extent that such payment is used to meet the expenses of such event or for the benefit of the organization with respect to which such event is a qualified public event (determined without regard to this sentence).

(B) EXEMPT PURPOSE.—For purposes of subparagraph (A), the term 'exempt purpose' means any purpose or function constituting the basis for the organization's exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), the exercise or performance of an purpose or function described in section 501(c)(3)).

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the purposes of this subsection through the use of entities under common control."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to events conducted after the date of the enactment of this Act.

SEC. 2. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OLYMPIC ORGANIZATIONS

In the case of a qualified amateur sports organization described in section 501(j)(2) of the Internal Revenue Code of 1986 or an organization which would be so described but for the cultural events it organizes in connection with national or international amateur sports competitions—

(1) for purposes of section 512(b) of such Code, the term "royalty" includes any income received (directly or indirectly) by such organization if a substantial part of the consideration for such income is the right to use trademarks, designations, or similar properties indicating a connection with the

Olympic Games to be conducted in 1996 or related events or the participation of the United States Olympic Team at such Games or events, and

(2) nothing in section 514 or 512(b) of such Code shall be construed as treating any amount treated as royalty under paragraph (1) as an item of income from an unrelated trade or business.

SEC. 3. TREATMENT OF AMOUNTS RECEIVED IN CONNECTION WITH AFFINITY CARDS.

(a) GENERAL RULE.—Subsection (b) of section 512 of the Internal Revenue Code of 1986 (relating to modifications to unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding any other provision of this part, any amount received or accrued in connection with the direct or indirect sale, exchange, lease, rental, or other grant of—

"(i) the right to use the name of the organization, identifying symbol, or similar item on a credit or debit card, or

"(ii) the right to use a list of members, customers, or contributors in connection with the issuance of credit or debit cards,

shall be included as an item of gross income derived from an unrelated trade or business regularly carried on by the organization. There shall be allowed all deductions directly connected with amounts so included under this subparagraph.

"(B) Subparagraph (A) shall not apply to a credit union exempt from tax under section 501(c)(14)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received or accrued after July 9, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS], who is the original sponsor of this legislation.

Mr. JENKINS. Mr. Speaker, a year ago, along with my colleague, the gentleman from Washington [Mr. CHANDLER], I introduced legislation to assure the tax-free treatment—in fact to assure continued tax-free treatment—of corporate sponsorship funding of amateur athletic events. Specifically, my bill was intended to stop the Internal Revenue Service's [IRS] effort to tax, as unrelated business income, the corporate sponsorship funds received by college football bowl organizations.

At the beginning of this year, the IRS proposed audit guidelines for the taxation of corporate contributions to tax-exempt organizations. The tax-exempt community—from the bowl committees to youth athletic programs, from county fairs to museums and performing arts groups, and from the United Way to the smallest of local charities—responded immediately and uniformly in opposition. The guidelines threaten the vitality and viability of practically all tax-exempt entities and their local and national educational and charitable purposes.

More than 100 Members of the House have cosponsored my original bill, including Congressman ROD CHANDLER. We have heard from many charitable organziations from around the country and with their assistance, and the tireless efforts of the Ways and Means Committee staff, both majority and minority, we have worked out a new proposal, H.R. 5645, which satisfies the concerns of nearly all interested parties. Regrettably, the Treasury Department and the IRS, which received more than 350 objections to the proposed guidelines, do not agree with our approach. This is difficult to reconcile with the Bush administration's emphasis on voluntarism and charitable efforts.

H.R. 5645 clarifies that in certain circumstances corporate contributions to tax-exempt entities, whether or not made in furtherance of the entities' exempt purpose and whether made in support of a sporting activity or other public event, will remain tax-free.

Let me explain the conditions required for tax-free treatment. When a corporation helps fund an exhibit at your city's art museum—a program which is directly related to the museum's tax-exempt purpose—the contribution is tax free, however long in duration the exhibit is scheduled.

On the other hand, if that same art museum, or more probably, your local chapter of the American Heart Association or Cancer Society were to conduct a fundraising event for which it receives corporate support—an activity not directly related to the entity's tax-exempt purpose—the contribution would be tax free only as long as the event is undertaken and concluded within a consecutive 30-day period and the event is the only one of its kind conducted during a 1-year period. It is the committee's intent and understanding that fundraising event routinely conducted by organizations like the Heart Association and Cancer Society, such as telethons, bikeathons, and walkathons are each separate and distinct types of events under this proposal.

The 30-day-once-a-year requirement also applies generally to the tax-free treatment of corporate sponsorship of sporting events, whether or not the event is directly related to the tax-exempt purpose of the recipient organization. Under this part of the proposal, corporate sponsorship of college football bowl games, the various NCAA national championship tournaments, PGA and LPGA tour events, as well as of local 10-K road races and other sporting activities conducted by hospitals, neighborhood schools, and countless charitable organizations to raise money for their educational and community programs, would remain tax free. In regard to sporting events, it is the committee's intent and understanding that the national competitions conducted by the NCAA, whether between men's or women's teams, whether in different sports, for example, ice hockey and baseball, or among different divisions in the same sport, for example, divisions 1, 2, and 3 of basketball, each constitute separate and distinct types of events under this proposal.

Finally, this bipartisan proposal clarifies that royalty income received by the local organizing committee for the 1996 Summer Olympic games and the U.S. Olympic Committee will remain tax free. There is reason to be concerned about how the IRS might view royalty income paid to the organizations charged with planning for and conducting the 1996 games because of the direction the IRS is taking in the UBIT area generally. It is projected that the 1996 summer games will cost $1.5 billion to conduct, and no public funds are expected to be allocated. This clarification simply assures the 1996 games and same tax treatment accorded the 1984 Los Angeles games by the IRS itself.

We all appreciate the role played by organizations like the Heart Association and the Cancer Society, particularly as Federal health care research funds continue to shrink. Tax-free corporate contributions to these and so many other like-minded groups mean that more money will be available to fund critical research programs.

Tax-free treatment of corporate contributions will assure the future of cultural programs for all the people, whether in the art museum, on the stage, or at the annual county fair.

Taxing the corporate sponsorship income received by college football bowl organizations could result in the end of some of the smaller bowl games and certainly would result in a significant loss of revenue to university programs. The 1991–92 bowl season resulted in the distribution of more than $64 million to more than 100 colleges and universities, which fund scholarships, academic programs, and women's athletic programs in compliance with title IX. The pre-New Year's Day Peach Bowl, played in Atlanta, attracted 40,000 out-of-town visitors in 1991, who contributed between $35 and $50 million to the local economy. Eighteen cities host annual bowl games, generating significant taxable revenue.

Taxing the corporate sponsorship income received by the NCAA also will result in the loss of revenue to women's intercollegiate athletic programs, and in the probable end of youth athletic programs nationwide funded by the NCAA. Taxing corporate sponsorship of PGA and LPGA tour events would result in fewer dollars to the numerous local charities supported by those events—estimated last year to be approximately $25 million.

Over the years the Congress has consistently determined that charitable and corporate sponsorship contributions should be tax free. The courts have upheld the circumstances in which the Congress has determined that they should remain so. The IRS disagrees. Where will the millions, the hundreds of millions of dollars that fund the tax-exempt community's objectives come from if we allow corporate sponsorship income to be taxed away? The IRS does not have the answer to this question. We do. Vote yes on H.R. 5645.

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Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5645 is a collective effort by several members of the Ways and Means Committee, Mr. JENKINS, Mr. CHANDLER, Mr. ANTHONY, and Mr. McDERMOTT.

The bill is intended to address the tax issues surrounding corporate sponsorship of events conducted by charitable organizations. This legislation has been prompted by the release earlier this year by the Internal Revenue Service of audit guidelines that created more fear than certainty. Charities across the country, from college bowls to local fairs and zoos, have been subjected to audits.

This bill is intended to say that the covered corporate sponsorships, which now provide a significant part of the necessary funding for certain charities, will not be subjected to tax. It also provides special tax rules for the 1996 Olympic games.

The bill contains a revenue offset which taxes receipts from affinity credit cards issued by nonprofit organizations.

The bill's revenue offset codifies the position already being taken by IRS that receipts from affinity credit cards issued by nonprofit organizations are taxable. This provision will bear watching as the bill moves further through the legislative process to see whether opposition to the revenue offset develops.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Speaker, I oppose this legislation, and I do so respectfully. We are here today because the Internal Revenue Service made a decision. The Treasury Department decided that the bowls have gone over whatever ill-defined line there is and should not be entitled to the kind of tax break they have gotten in the past.

Let me be very clear, the Treasury is not saying that county fairs, that fundraising activities for cultural events, that the Olympics in Atlanta, should not be entitled to special tax treatment. What they are saying is that the college bowl system has changed dramatically in the last 10 or 15 years, and in fact it has changed.

The question from a tax policy standpoint is are the bowls given a special advantage in the marketplace that their competition might not be allowed? I think it is a valid question that our committee has had no hearings on and that Treasury intends to have hearings on to try to define for every organization around the country what the appropriate standards should be.

Mr. Speaker, it is clear to anyone with an objective view that what was a college bowl game has changed dramatically, and in fact the bowls have moved to be small superbowls as opposed to the bowl system that we have all grown up to know and care about.

In fact, it is no longer the Sun Bowl in El Paso that features teams from that part of the country; it is now the John Hancock, Inc., Bowl. It is not just the Cotton Bowl anymore; it is the Mobil Cotton Bowl, and Mobil is written across the field and players have Mobil insignias on their uniforms. And in fact other companies have gotten into the business.

Now we have the Poulon Weedeater Bowl and the Blockbuster Video Bowl. These organizations know full well exactly what they are getting for their money.

College athletics in some cases have become too commercialized. In the bowls it has gone way beyond any bounds of what is appropriate for education. This has led, unfortunately, to some very embarrassing situations.

The University of Oregon, the Ducks, played in the Freedom Bowl and earned $600,000 for that participation. The university itself netted $5,000 after the bowl game. That is just wrong. That is not what the bowls should be set up to accomplish.

The Washington Times reported this morning that the John Hancock Insurance Co. bragged that by sponsoring the John Hancock, Inc., Bowl, they got $5.1 million worth of advertising for only a $1.6 million investment. That is not the goal of the college bowl games. That is not what our universities should be all about.

Now, I understand that this bill will likely pass on the floor tomorrow, and I understand that it may become law. Should it not, however, I would hope that the NCAA, that the bowls themselves, that the Congress, and that the Treasury Department, take a second look at what these bowls are about and see if we can define some guidelines that would bring them within the gambit of what their goals should have been and have been in the past. I think that is the only important thing that we can do.

Mr. Speaker, finally, we learned just in the last few days how this provision is paid for. As the gentleman from Georgia [Mr. JENKINS] stated earlier, it is paid for by taxing affinity cards. This is a very important revenue source for many nonprofit organizations across this country, including colleges and universities. The American Heart Association, the Sierra Club, the National Wildlife Federation, and the American Rivers Conservation Council all oppose this bill, and they do so because of the way the bill is paid for.

Mr. Speaker, I think we should defeat this legislation. I think we should go back to the drawing board. We should respectively try to make these bowls the best that they can be, what they ought to be, and let us try to make tax policy that is driven by tax policy considerations, and not by the fact that all of us like golf or all of us like college football, and let us try to make some decisions that make good sense for the tax policy and taxpayers of this country.

Mr. ANTHONY. Mr. Speaker, today, we are considering a proposal that will insure that countless works of charity undertaken by nonprofit organizations in our districts are protected from the long reach of the IRS. As you know, the IRS recently issued audit guidelines that for good reason have sent a panic through the local nonprofit community.

The audit guidelines propose to tax corporate sponsorship payments received by local charities. For instance if a soft drink manufacturer sponsors signage or other promotional material, your local county fair may be subject to the new guidelines. If a charity is subject to tax, 34 percent of the money received from the sponsor will be diverted from community service in your hometown and sent to Washington in the form of taxes. This all from an administration that prides itself with its vision of 1,000 points of light as a way to deal with the mounting social problems facing our already strapped local communities. How can these 1,000 points of light work if 34 percent of their funds are being used to pay Federal income taxes?

I have joined with ED JENKINS, ROD CHANDLER, and JIM McDERMOTT in seeking a solution that merely codifies a U.S. circuit court case that the IRS has chosen not to follow. Our solution does not change current law, but merely provides more certainty to a gray area of the Internal Revenue Code. Our bill says that an event is not "regularly carried on" if an event is held only once a year by the nonprofit entity and that event does not transpire over a period that exceeds 30 consecutive days. Under current law, if an event is not "regularly carried on", its income is not subject to the unrelated business income tax.

All of us have a festival, a county fair, or other charitable event that benefits the people back home. I have a charitable golf tournament in my district that has generated significant assistance for Opportunities, Inc. over the past 3 years. Opportunities, Inc. is a nonprofit organization in Texarkana, AR, that works with developmentally disabled children and adults. I don't know about you but I would hate to be the one to tell the people in Texarkana, AR, that they have 34 percent less to work with to make the lives of these citizens a little better.

You may have heard from the IRS that it is premature to take legislative action to clarify this area of the law. They may have told you they are conducting hearings so that they can narrow the impact of their guidelines. While some representatives of the IRS are speaking with a voice of reason, other officials continue to take the hard line. As Members of Congress, it is our duty to define the law and determine how it will impact our constituents. Today is the right time to act. For the sake of the charitable organizations throughout the country and those in your district, I ask you to vote for this bill.

Mr. McMILLEN of Maryland. Mr. Speaker, I rise in opposition to H.R. 5645. As many of you know, I am very concerned with the direction which college athletics have been taking, particularly in regard to the commercialization of college sports. The bill before us today exacerbates this tendency, not mitigates it.

The bill is a definite setback toward defining a clear boundary between nonprofit college athletics and for-profit business ventures. By exempting certain organizations from the so-called unrelated business income tax for proceeds from sponsorship of certain events, we are providing preferential tax treatment for the commercialization of college sport. This tax shelter is geared specifically to the sponsorship payments given to college universities in connection with football bowl games. Consequently, this bill will encourage universities to secure the largest sponsorship payments possible.

The legislation will favor large and athletically powerful institutions and conferences, thus widening the gap between funds available for these entities and for cther institutions. Such funds are of importance to both athletic programs and other campus activities, which makes it imperative that we promote policies which ensure a fairer distribution of revenues. Allowing college athletics to continue to look like a business, and act like a business, without playing by the rules of a business will only contribute to the continued demise of college athletics. Unfortunately, such demise ultimately comes at the expense of the student-athlete.

As I have stated previously, because the NCAA has proven its inability to clean its own house, a benevolent dictator should step in to assert itself in the governance of college sports. I believe Congress, with the help of the college presidents, should perform this task. The Collegiate Athletic Reform Act, which I introduced last July, proposes fundamental reforms that will restore the emphasis on education at our Nation's universities. The primary concern, to facilitate change, should be in the area of financial reform.

The bill before us today takes us in completely the wrong direction. If schools persist in treating college athletics as a business, it is only fitting that everyone else—the athletes, the IRS—treat them as a business as well. For this fundamental reason, I have serious reservaiions about the tax exemption for sponsorship proceeds of the Olympics and other events (H.R. 5645), and urge my colleagues to oppose it.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5645.

The question was taken.

Mr. ANDREWS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RELATING TO RETIREMENT AND SURVIVOR ANNUITIES FOR CERTAIN EX-SPOUSES OF THE CIA AND TO THE TAX TREATMENT OF CERTAIN DISABILITY BENEFITS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5651) to provide for the payment of retirement and survivor annuities to certain ex-spouses of employees of the Central Intelligence Agency and to provide for the tax treatment of certain disability benefits.

The Clerk read as follows:

H.R. 5651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANNUITY BENEFITS FOR CERTAIN EX-SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SEC. 101. SURVIVOR ANNUITY FOR CERTAIN EX-SPOUSES OF CIA EMPLOYEES.

(a) SURVIVOR ANNUITY.—

(1) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—Any person who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System (CIARDS) and who was married to such participant for not less than 10 years during such participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Central Intelligence Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), shall be entitled, except to the extent such person is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(A) the unreduced amount of the participant's annuity, as computed under section 221(a) of such Act; or

(B) the unreduced amount of what such annuity as so computed would be if the participant had not elected payment of the lump-sum credit under section 294 of such Act.

(2) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 226 of such Act.

(b) LIMITATIONS.—A former wife or husband is not entitled to a survivor annuity under this section if—

(1) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(2) the former wife or husband is less than 50 years of age; or

(3) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of such Act before December 4, 1991.

(c) COMMENCEMENT AND TERMINATION OF ANNUITY.—

(1) COMMENCEMENT OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this section shall commence—

(A) in the case of a former wife or husband of a participant or retired participant who is deceased as of October 1, 1992, beginning on the later of—

(i) the 60th day after such date; or

(ii) the date on which the former wife or husband reaches age 50; and

(B) in the case of any other former wife or husband, beginning on the latest of—

(i) the date on which the participant or retired participant to whom the former wife or husband was married dies;

(ii) the 60th day after October 1, 1992; or

(iii) the date on which the former wife or husband attains age 50.

(2) TERMINATION OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this section terminates on the last day of the month before the former wife's or husband's death or remarriage before attaining age 55. The entitlement of a former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

(d) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this section to a survivor annuity or to the restoration of the survivor annuity unless the former wife or husband elects to receive it instead of any other survivor annuity to which the former wife or husband may be entitled under CIARDS or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(e) APPLICATION.—

(1) TIME LIMIT; WAIVER.—A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than October 1, 1993. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(2) RETROACTIVE BENEFITS.—Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1992.

(f) RESTORATION OF ANNUITY.—Notwithstanding subsection (e)(1), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored after October 1, 1992, under subsection (b)(1) or (c)(2).

(g) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—

(1) ENTITLEMENT.—Except as provided in paragraph (2), this section shall apply to a former wife or husband of a CIARDS participant who has elected to become subject to chapter 84 of title 5, United States Code.

(2) AMOUNT OF ANNUITY.—The survivor annuity of a person covered by paragraph (1) shall be equal to 50 percent of the unreduced amount of the participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 and shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 8445 of title 5, United States Code.

SEC. 102. RETIREMENT ANNUITY FOR CERTAIN EX-SPOUSES OF CIA EMPLOYEES.

(a) RETIREMENT ANNUITY.—

(1) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—A person described in section 101(a)(1) shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to an annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former wife's or husband's pro rata share of 50 percent of such annuity (determined in accordance with section 222(a)(1)(B) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees).

(2) REDUCTION IN RETIREMENT ANNUITIES.—

(A) AMOUNT OF REDUCTION.—An annuity payable under this section shall be reduced by an amount equal to any apportionment payments payable to the former wife or husband pursuant to the terms of a court order incident to the dissolution of the marriage of such former spouse and the participant, former participant, or retired participant.

(B) DEFINITION OF TERMS.—For purposes of subparagraph (A):

(i) APPORTIONMENT.—The term "apportionment" means a portion of a retired participant's annuity payable to a former wife or husband either by the retired participant or the Government in accordance with the terms of a court order.

(ii) COURT ORDER.—The term "court order" means any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

(b) LIMITATIONS.—A former wife or husband is not entitled to an annuity under this section if—

(1) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(2) the former wife or husband is less than 50 years of age; or

(3) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of such Act before December 4, 1991.

(c) COMMENCEMENT AND TERMINATION.—

(1) RETIREMENT ANNUITIES.—The entitlement of a former wife or husband to an annuity under this section—

(A) shall commence on the later of—

(i) October 1, 1992;

(ii) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under such Act; or

(iii) such former wife's or husband's 50th birthday; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former wife or husband dies or remarries before 55 years of age, except that the entitlement of the former wife or husband to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(ii) the date on which the annuity of the participant terminates.

(2) DISABILITY ANNUITIES.—Notwithstanding paragraph (1)(A)(ii), in the case of a former wife or husband of a disability annuitant—

(A) the annuity of the former wife or husband shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (other than a disability annuity) or the date the disability annuity begins, whichever is later; and

(B) the amount of the annuity of the former wife or husband shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(3) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity unless the former wife or husband elects to receive it instead of any other annuity to which the former wife or husband may be entitled under CIARDS or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(4) APPLICATION.—

(A) TIME LIMIT; WAIVER.—An annuity under this section shall not be payable unless appropriate written application is provided to the Director of Central Intelligence, complete with any supporting documentation which the Director may by regulation require, not later than October 1, 1993. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(B) RETROACTIVE BENEFITS.—Upon approval of an application under subparagraph (A), the appropriate annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to an annuity under this section, but in no event shall an annuity be payable under this section with respect to any period before October 1, 1992.

(d) RESTORATION OF ANNUITIES.—Notwithstanding subsection (c)(4)(A), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored after October 1, 1992, under subsection (b)(1) or (c)(1)(B).

(e) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—The provisions of this section shall apply to a former wife or husband of a CIARDS participant who has elected to become subject to chapter 84 of title 5, United States Code. For purposes of this subsection, any reference in this section to a participant's CIARDS annuity shall be deemed to refer to the transferred participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986.

(f) SAVINGS PROVISION.—Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under title II or III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

SEC. 103. HEALTH BENEFITS.

(a) IN GENERAL.—Section 16 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403p) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ELIGIBILITY OF FORMER WIVES OR HUSBANDS.—(1) Notwithstanding subsections (a) and (b) and except as provided in subsection (d), an individual—

"(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

"(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); and

"(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant;

is eligible for coverage under a health benefits plan.

"(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1), except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.".

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)".

SEC. 104. SOURCE OF PAYMENT FOR ANNUITIES.

Annuities provided under sections 101 and 102 shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note).

SEC. 105. EFFECTIVE DATE.

Sections 101 through 103 shall take effect as of October 1, 1992. No benefits provided pursuant to those sections shall be payable with respect to any period before that date.

TITLE II—TAX TREATMENT OF CERTAIN RETIREMENT BENEFITS

SEC. 201. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—This section shall apply to any amount—

(1) which is payable to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term "State" includes the District of Columbia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY], the principal sponsor of this fine piece of legislation.

Mrs. KENNELLY. Mr. Speaker, I rise in support of H.R. 5651. First, let me thank the leadership of both the Ways and Means and Intelligence Committees, Congressmen ROSTENKOWSKI, GIBBONS, ARCHER, MCCURDY, SHUSTER, and GEKAS, for their great assistance in bringing this bill to the floor today. H.R. 5651 addresses two complicated areas of pension and tax law, but it has important consequences for individuals who have served our country and our local communities.

In the main, H.R. 5651 recognizes the contributions made by certain former spouses of Central Intelligence Agency employees and provides them much needed retirement security.

Throughout the 1980's, Congress enacted legislation to provide greater retirement equity for the spouses of Federal Government employees. The CIA Spouses' Retirement Equity Act of 1982 provided that qualified former spouses of CIA officers would presumptively receive upon divorce a pro rata share of the officer's retirement benefits, up to 50 percent, based on the length of the marriage during the period of Agency services prior to divorce. The qualified former spouses would also be awarded a similar share of the officer's survivorship benefits. These presumptive amounts could be adjusted by court order or spousal agreement.

This right, which is substantially the same as that provided to similarly situated former spouses of foreign service officers, has been extremely important for the financial security of older women facing divorce from clandestine officers of the CIA. We are all now well aware of how difficult it has been for women to secure an equitable division of marital assets upon divorce, and the financial deprivation that usually results. These difficulties have been compounded for CIA spouses who have been unable to reveal in open court basic details of their personal circumstances.

Under the 1982 law, unfortunately, in order to qualify as a CIA former spouse, an individual not only had to have been married to a CIA employee during at least 10 years of creditable service, but 5 years had to have been spent outside the United States by both marriage partners.

The Subcommittee on Legislation of the Permanent Select Committee on Intelligence, which I chair, has become aware that the 5-year overseas rule for the spouse has disqualified from retirement and survivorship benefits many former spouses whose sacrifices for family and country have been as great as those of the former spouses who met the requirement of the rule. These women also provided great support to their husbands and to the Agency by maintaining cover, accepting frequent transfers, and participating in service-related activities. They bore all family responsibilities stateside alone while the officer served overseas, and agreed to the extra demands on family income of maintaining two households. Like other CIA spouses, they found employment opportunities, when not precluded by the nature of the officer's work, to be very limited, and they too experienced the stress of living with secrecy and the fear for the physical safety of their partners. The subcommittee has found that these women were in some cases prevented from meeting the 5 years overseas rule by days because they were not allowed by the Agency to accompany the officers to war zone assignments or because they needed to bring a sick child back to the United States for medical care.

Congress last year repealed the 5-year overseas rule for former spouses divorced after December 4, 1991. H.R. 5651 addresses the plight of a relatively small number of individuals divorced before the repeal. It enables them to receive on a prospective basis retirement and survivor benefits equivalent to the amount they would have been presumptively been awarded, provided they meet the other former spouse requirements. In addition, these individuals will be allowed to purchase Federal health insurance benefits on the same terms available to other CIA former spouses.

Mr. Speaker, the tales of some of the women who will benefit from this legislation have been shared with the Subcommittee on Legislation, and they are heart rending. We are talking about people who were—and are—every bit as dedicated to the highest ideals of the Central Intelligence Agency as anyone employed there, but who have paid great costs financially and emotionally for their service.

I have had discussions about this bill with Mr. SHUSTER, the ranking minority member of the Intelligence Committee, and with Mr. GEKAS, the ranking minority member of the Subcommittee on Legislation, either directly or through staff, and I share their concern that any potential fiscal year 1993 shortfall to the CIARDS fund as a result of this legislation be addressed. I have assured both of these fine gentlemen from Pennsylvania, and the officials of the Central Intelligence Agency, that I will not push for final enactment of this bill until the potential fiscal year 1993 shortfall is remedied.

Mr. Speaker, the Subcommittee on Legislation held a lengthy hearing on issues facing former spouses on May 22, 1992. At this hearing, witnesses from the Association of American Foreign Service Women and an association of CIA spouses made a forceful case for the need to extend former spouse legislation to spouses who had not met the 5-years overseas rule. This is not a concept objected to by the Central Intelligence Agency or by the leadership of the Intelligence Committee. In fact, since the enactment of the Central Intelligence Agency Former Spouses' Retirement Equity Act of 1982, the Congress on three occasions has enacted legislation to address the needs of qualified former spouses where divorce or retirement had taken place prior to the effective date of the act.

Unfortunately, despite the substantial savings that have been made in the Intelligence Authorization Act of fiscal year 1993, the Intelligence Committee does not have within its jurisdiction as a wide range of options as would be desirable when it comes to the offsets required under the Budget Act to make improvements in the CIA retirement and disability system. Although the subcommittee undertook a massive rewrite and revision of the Central Intelligence Agency Retirement Act of 1964 for certain employees in the fiscal year 1993 intelligence authorization act, it limited the changes it made, in all but two minor matters, to technical adjustments.

Frankly, I was very frustrated by this situation, and made clear at each step in our legislative process that I would continue to work to extend former spouse legislation. We have today a solution to the roadblock—a bill which is under the joint jurisdiction of the Intelligence and Ways and Means Committees, and included in a package that includes Budget Act offsets. We thus have the opportunity to recognize today the unpaid and unsung contributions of CIA spouses and to ensure they enjoy basic retirement security.

The second section of H.R. 5651 simply excludes from gross income payments made to police and fire officials as a result of heart disease or hypertension incurred in the course of employment and misclassified for Federal tax purposes as a result of State errors.

This statutory change is necessary because a State law error in several States, including Connecticut, caused the IRS to rule that these benefits received by police and fire officials are taxable. These benefits were intended to be treated as workmen's compensation. For example, the error in the Connecticut State statute was the "irrebuttable presumption" that heart and hypertension conditions were the result of hazardous work conditions. This means that any policemen or firefighter who developed a heart condition or hypertension was automatically deemed to qualify for these benefits on the basis that the nature of the job caused the medical condition. The words "irrebuttable presumption" made the benefits taxable.

In Connecticut, at least, the State law has been corrected so that while there is a presumption that such conditions are the result of hazardous work, the State or municipality involved could require medical proof. Simply deleting the "irrebuttable presumption" made the benefits satisfy the IRS definition of workmen's compensation.

Therefore, all this section would do is to exempt from income those payments received by these individuals as a result of faulty State law but only for the past 3 years—1989, 1990, and 1991. From January 1, 1992 forward, those already receiving these benefits would have to meet the standard IRS test.

The importance of this amendment is that these individuals were led to believe that by following State law their benefits were exempt from Federal income tax. The cities and towns involved believed that they followed State law and therefore all parties involved believed that these benefits were not subject to tax.

However, the IRS currently has an audit project ongoing in Connecticut, and several other States, and has deemed these benefits taxable. All this section says is that all parties involved made a good faith effort to comply with what they thought the law was. The States were in error and where that error has been rectified these individuals on disability should not required to pay 3 years back taxes plus interest and penalties.

Again, I urge support of the House for this bill.

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Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Republican members of the Committee on Ways and Means have heard no objection to this bill. It is my understanding it is supported by the Permanent Select Committee on Intelligence. We do not object to passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the description given of the issue by the gentlewoman from Connecticut [Mrs. KENNELLY] is very accurate, and requires no embellishment. The only consideration that was brought to our attention, and in particular to mine when we were prepared to come to the floor today, was the fiscal implications; whether or not what would occur here in the natural course of the fielding of this legislation would violate the pay-as-you-go concepts that have been embedded into our budget process. I was worried whether or not the Office of the Budget was in approval of the funding sources for this piece of legislation.

Because of colloquies that we were able to undertake among the minority and majority members in the Select Committee on Intelligence, we are assured, and we want to put it on the RECORD, that once this legislation moves reasonably and foreseeably to the conference committee, that we will make certain through our representatives on that committee that the funding source will not violate pay-as-you-go, and will reasonably fund the proposed legislation.

Mr. GIBBONS. Mr. Speaker, I yield such time as she may use to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I would like to thank the gentleman from Pennsylvania [Mr. GEKAS] for those remarks. I do absolutely understand what he is saying and agree with what he is saying, and I make it very clear today that I understand, and unless it is pay-as-you-go, it cannot go.

Mr. GIBBONS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I want to thank the gentlewoman from Connecticut [Mrs. KENNELLY] and the other Members for all their hard work on this important measure. I am pleased to be associated with this piece of legislation, H.R. 5651. The bill will help to right a wrong that has been done to some of the most dedicated public servants in this country, police officers and firefighters, people who serve in critically important, and stressful, and difficult jobs. As a result, they are often the victims of stress-related diseases that cause heart problems and hypertension.

The State of Connecticut long ago recognized that these health problems were related to the pressures that firefighters and police officers suffer on the job, and began to award nontaxable pensions to these retired men and women who could not work due to the heart and hypertension problems. The Connecticut law did not require evidence of a direct relationship between a person's service as a police officer and a firefighter and the development of these diseases.

In 1991 the IRS held that these pensions were taxable and came looking to these disabled workers for back taxes. Over the last year the IRS has proceeded to levy taxes on these benefits and has proceeded to demand that these disabled public servants pay back taxes on 1989, 1990, and 1991 benefits as well. These were people who were complying with the law as best they knew it and were receiving disability benefits after years of public service.

The IRS has also threatened to assess penalties and interest on these retirees if they did not pay the taxes promptly. Under H.R. 5651, as described by the gentlewoman from Connecticut [Mrs. KENNELLY] and others, the IRS would be prohibited from collecting back taxes from those currently receiving heart and hypertension pensions for the years 1989, 1990, and 1992. This legislation would only impact those who are now, after many years of collecting these pensions, being asked for back taxes. It would not impact the tax status of future awards.

Today the disabled firefighters and police officers have been put on notice and are complying with their tax obligations. These disabled public servants deserve the relief granted by this bill, and I urge passage of H.R. 5651.

Mr. MCCURDY. Mr. Speaker, title I of H.R. 5651 concerns the Central Intelligence Agency Retirement and Disability System [CIARDS], a matter that is within the jurisdiction of the Permanent Select Committee on Intelligence. The Intelligence Committee's Subcommittee on Legislation has, under the able leadership of the gentlewoman from Connecticut [Mrs. KENNELLY] and her predecessor, the gentleman from New York [Mr. MCHUGH] devoted considerable effort to ensuring that CIARDS offers a retirement system to clandestine Central Intelligence Agency [CIA] officers as similar as possible to those available in the foreign service and civil service.

The fiscal year 1992 Intelligence Authorization Act contained an important CIARDS amendment which eliminated a requirement that a former husband or wife of a CIARDS participant, or former participant, must have spent 5 years outside the United States to qualify for former spouse benefits in the event of divorce. This requirement had operated to disallow the payment of benefits to divorced spouses who had been unable to meet the 5-year requirement through no fault of their own, often because operational conditions made it impossible for them to accompany their spouse overseas or because they had to return to the United States to care for family members who were ill. Unfortunately, the elimination of the 5-year rule, while making substantially more equitable the definition of "spouse" for retirement benefit calculations, had to be made prospectively because of the dictates of the Budget Enforcement Act.

When the fiscal year 1992 intelligence authorization was enacted, and the change in the 5-year rule became effective, we knew that there were a relatively small number of spouses, divorced before the date of enactment, who would continue not to qualify as former spouses and therefore not be entitled to retirement benefits. Mrs. KENNELLY has repeatedly made clear her intention to assist these individuals if it were legislatively possible to do so. I have supported that intention, and am therefore pleased that a way has been found, through the bill now before us, to address the requirements of the Budget Enforcement Act so that the benefits of the elimination of the 5-year rule may be made available to those the Intelligence Committee could not assist in the authorization process.

I understand the concern of the CIA that enactment of this legislation not produce a shortfall in fiscal year 1993 CIARDS funding. I believe that concern can be resolved as the legislative process continues. In that regard, I note Mrs. KENNELLY's assurances to our committee's ranking Republican, Mr. SHUSTER, and the ranking Republican on the Legislation Subcommittee, Mr. GEKAS. I will certainly do whatever I can to be of assistance.

Mr. Speaker, H.R. 5651 is important legislation which deserves the support of the House. I want to compliment Congresswoman KENNELLY on her tireless efforts to ensure that the contributions to the Nation made by those whose spouses were clandestine intelligence officers are properly recognized.

Ms. DELAURO. Mr. Speaker, thank you, Congresswoman KENNELLY, and other Members, for all your hard work on this important measure. I am pleased to be associated with this legislation, H.R. 5651, because it embodies one of the most basic reasons we are all here—to stand up for our constituents against the injustice of an often overzealous bureaucracy.

This bill will help right a serious wrong that has been done to some of the most dedicated public servants in this country—police officers and firefighters. People who serve in critically important, stressful, and difficult jobs. As a result, they are often victims of stress-related diseases that cause heart problems and hypertension.

The State of Connecticut long ago recognized that these health problems were related to the pressures firefighters and police officers suffer on the job, and in 1971 it began to award nontaxable pensions to these retired men and women who could not work due to heart and hypertension related problems.

In 1991, the IRS held that these pensions were taxable, and came looking to these disabled workers for back taxes.

Over the last year, the IRS proceeded to levy taxes on these benefits. But they were not content to simply tax 1992 and future benefits, they demanded that these disabled public servants pay back taxes on their 1989, 1990, and 1991 benefits as well. These were all people who were complying with the law as they knew it, and were receiving disability benefits after years of public service. Many individual tax assessments were more than $10,000. The IRS also threatened to assess penalties and interest on these retirees if they did not pay these back taxes promptly.

Under H.R. 5651, the IRS would be prohibited from collecting back taxes from those currently receiving heart and hypertension pensions for the years 1989, 1990, and 1991. This legislation would only impact those who are now—after many years of collecting these pensions—being asked for back taxes. It would not impact the tax status of future awards. Today, the disabled fire-fighters and police officers have been put on notice and are complying with their tax obligation.

These disabled public servants deserve the relief granted by this bill. There is no question about what they have given to their State, country, and communities, and no question that they deserve our help. We have an opportunity today to help people who have made careers out of helping others. We have a chance to right a wrong that has been done to them, and remove a heavy burden they should not be forced to carry in their retirement. I urge passage of H.R. 5651.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5651.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PERMITTING TAX-EXEMPT BONDS TO BE ISSUED TO FINANCE OFFICE BUILDINGS FOR THE UNITED NATIONS

Mr. GIBBONS. Mr. Speaker, by direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5639) to permit tax-exempt bonds to be issued to finance office buildings for the United Nations.

The Clerk read as follows:

H.R. 5639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX-EXEMPT FINANCING FOR UNITED NATIONS OFFICE BUILDINGS.

(a) IN GENERAL.—A bond described in subsection (b) shall be treated as described in section 141(e)(1) of the Internal Revenue Code of 1986, but section 147(d) of such Code shall not apply to such bond.

(b) BOND DESCRIBED.—A bond is described in this subsection if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance any office building (and land which is functionally related and subordinate thereto) for the United Nations or any agency or instrumentality thereof.

(c) EFFECTIVE DATE.—This section shall apply to bonds issued after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL], the author of this legislation.

Mr. RANGEL. Mr. Speaker, I rise to bring before the House H.R. 5639, a bill to authorize the issuing of tax-exempt bonds to finance offices for agencies of the United Nations.

Now that Germany has been reunified the German Government is moving its capital from Bonn back to Berlin. Thus, there will be a great deal of vacant office space in Bonn. As with any responsible government the German Government believes it has a need to put people back in Bonn to keep the local economy going.

To repopulate Bonn the German Government has offered several U.N. agencies now located in New York City free office space and moving expenses.

These agencies are UNICEF, the U.N. Development Fund, the U.N. Population Fund, and the U.N. Fund for Women.

The loss to New York City and the Nation beyond the blow to the international prestige is a loss of over 2,300 jobs and $200 million in salaries and other expenses.

To keep these agencies in New York City Mayor David Dinkins, in the face of the city's acute financial crises, is willing to have the city make sacrifices because of the importance of keeping these agencies in the city and the United States. The city has offered to consolidate these agencies in a few office buildings that the city would buy.

To finance the purchase of these buildings and keep the rents low the city will have to use tax-exempt debt. Unfortunately, the Internal Revenue Code does not provide for the use of tax-exempt bonds to finance facilities that would benefit the United Nations. The United Nations is not considered a government agency by the Tax Code. This bill would make the United Nations an eligible purpose for the use of proceeds of tax-exempt bonds.

Hopefully, between the lower interest allowing for lower rents and other inducements the city will offer there will be enough of an incentive for these agencies to stay.

Because the bonds are under the State bond cap and New York State generally used up all of its cap, New York will issue no more tax-exempt bonds than it now issues. Thus, there should be, at worst, a negligible revenue loss over the current status.

I want to make clear that the State Department and the U.S. Mission to the United Nations have indicated their support for New York City's efforts to retain the U.N. agencies.

I believe my colleagues will agree New York City should not have to take on the German Government by itself. The Federal Government should provide help through this provision.

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5639. The bill is limited and narrow, but appropriately so. H.R. 5639 would allow the United Nations to use tax-exempt bonds to acquire additional space.

State and local governments and charitable organizations have access to tax-exempt bonds; this bill would give the United Nation access to tax-exempt financing in this one circumstance. The bill permits the United Nations to use the tax-exempt bonds only to acquire new facilities in New York, and the bonds would count against New York's bond volume cap. I urge your support for the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, this is a very worthy bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5639.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO TAX-EXEMPT BONDS FOR GOVERNMENT-OWNED HIGH-SPEED INTERCITY RAIL FACILITIES

Mr. GIBBONS. Mr. Speaker, by direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5653) to amend the Internal Revenue Code of 1986 to exempt the full amount of bonds issued for Government-owned high-speed intercity rail facilities from the State volume cap on private activity bonds and to require reporting of certain income and real property taxes.

The Clerk read as follows:

H.R. 5653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR GOVERNMENT-OWNED HIGH-SPEED INTERCITY RAIL FACILITY BONDS FROM STATE VOLUME CAP.

(a) IN GENERAL.—Subsection (g) of section 146 of the Internal Revenue Code of 1986 (relating to exemption for certain bonds) is amended by adding at the end thereof the following new sentence: "Paragraph (4) shall be applied without regard to '75 percent of' in the case of any bond which is part of an issue referred to therein if all of the property to be financed by the net proceeds of such issue is to be owned by a governmental unit (determined in accordance with section 142(b)(1)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1994.

SEC. 2. INFORMATION REPORTING OF INCOME TAXES AND REAL PROPERTY TAXES.

(a) IN GENERAL.—Subsection (a) of section 6050E of the Internal Revenue Code of 1986 (relating to State and local income tax refunds) is amended to read as follows:

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes or real property taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local real property taxes aggregating $10 or more, shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name, address, and TIN of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 6050E of such Code is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E of such Code is amended to read as follows:

"(c) PERSON.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(3) REGULATORY AUTHORITY.—Section 6050E of such Code is amended by adding at the end thereof the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section in cases where real property taxes are paid by a person on behalf of another person."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 6050E of such Code is amended to read as follows:

"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050E and inserting the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made or received in calendar years after 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

□ 1230

Mr. GIBBONS. Mr. Speaker, the gentleman from Pennsylvania [Mr. COYNE] is the sponsor of this proposal and the gentleman from New York [Mr. RANGEL], will speak in his stead.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. Speaker, this bill would require that State and local governments properly inform taxpayers about any user fees which are not currently deductible from Federal taxes. State and local governments would not have the responsibility for determining which fees are nondeductible. The bill requires the Secretary of the Treasury to issue regulations providing guidance for enforcing this provision.

This is the funding part of the legislation which the gentleman from Pennsylvania [Mr. COYNE] has introduced, which would give us an opportunity to establish the United States as a player in the development of the cutting edge high-speed rail technology. The bill would enable State and local governments to use effectively their tax-exempt bond authority for the development of governmentally owned high-speed rail facilities.

This proposal simplifies the treatment of high-speed rail bonds by eliminating the requirement that 25 percent of a bond's value be allocated against a State's bond volume limitation. Under the current law, 75 percent of a high-speed rail bond's value is already outside of the cap.

The intent of this proposal, Mr. Speaker, is to place high-speed rail bonds on an equal footing with airport and dock bonds which are 100 percent outside the bond value cap.

Since 1988 the Internal Revenue Code has allowed the issuance of tax-exempt bonds for high-speed intercity rail facilities but not rolling stock. I urge the support of the House for this bill.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise reluctantly in opposition to this bill. While I certainly see merit in its effort to make high-speed rail part of our transportation infrastructure, its revenue offset will prove to be quite controversial.

H.R. 5653 would impose another unfunded mandate on State and local governments. This bill will force them to change accounting systems, information collection, and tax reporting. Any additional revenue the Federal Government receives from this change will be greatly outweighed by the administrative burdens on State and local governments. Unlike the Federal Government, State and local governments have been making hard choices and balancing their budgets. The last thing we need is the Federal Government making their jobs harder and picking up revenue at their expense.

Within the last several days, Members of Congress have received letters from county and other local governments expressing grave concern about this unfunded mandate. In light of the concern expressed by the people who would have to implement this provision, I think more careful study and analysis needs to be undertaken before any such change is made.

I would note at this point that the Committee on Ways and Means has not held a hearing on this particular proposal.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I can understand the concern expressed by the minority that there are questions with respect to the revenue raiser for this bill. I certainly do not favor measures which will impose administrative burdens on our counties. I speak in behalf of the principle of trying to create these types of bullet trains or intercity type of fast transportation. I would emphasize that in order to qualify for tax-exempt financing outside the State volume cap, the bond financed property must be governmentally owned.

I think this bill would encourage investment in new mass transportation systems that the country desperately needs. My own State of Texas is entertaining the possibility of a bullet train, and many problems remain to be worked out. But we do know overall that rapid transportation, interstate and intrastate, is clean, it is safe, and it puts a lot of people to work. It is one of the safest ways to move people, and though we may have some disagreement on how to raise revenue to pay for it as we move forward, this measure should be advanced so that at least we can try to work out our differences as the process moves forward. I think this is a good proposal that the gentleman from New York [Mr. RANGEL] has offered on behalf of the gentleman from Pennsylvania [Mr. COYNE].

Mr. GRANDY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I rise in opposition to H.R. 5653, a bill that exempts tax-exempt bonds issued to finance Government-owned high-speed intercity rail facilities from the State activity bond volume caps.

I believe that consideration of this bill under suspension of the rules is inappropriate. There have been no formal hearings on this particular bill that I am aware of. It seems to me that it is very unwise to pass such legislation without subjecting it to the full hearing process.

I would like to focus my objection to the bill on the mischief it could cause in the State of Texas. In May 1991, the Texas High-Speed Rail Corp. was awarded the franchise to build a 200-mph train to serve the major cities in Texas. The corporation beat out the competition mainly because of their pledge to build the system without using public money.

Over the past year, the proposed rail project has raised considerable controversy throughout the areas of Texas that will be affected by it. The people who live and work along the proposed train route are loudly protesting the project, citing loss of land, loss of mobility, possible ill effects on cattle and crops, as reasons for opposing the train. Others have asked the question, what is the need—the purposed served? Thus far, a purpose or need has not been demonstrated to many who have studied the issue. Partly because of this controversy, the corporation has found it difficult to find financing for the project.

In addition to the purpose and land use concerns, a number of us are concerned that the corporation will turn to public funds to build this controversial project. As I said earlier, the corporation originally pledged to use only private funds. However, recent quotes from supporters of the project lead me to believe otherwise. The following quote is from a news article in the Houston Post that discussed a possible supportive relationship between H.R. 5653 and the Texas high-speed rail project, in spite of the fact that the bonds referred to in the bill could only be used by Government-owned enterprises.

> But backers of the Texas rail projects say there are a number of ways to get around the Government ownership provision, including having the State take ownership of the bullet train in name while leasing it back to the private owners.

After reading this statement I believe it is clear that the corporation has grossly misled the people of Texas in promising to provide them with a privately funded rail project, and intends to use whatever means necessary to secure public funding. I feel that the project is premature, there is no evidence that demonstrates a need for a high-speed train, particularly one that will be disruptive to, and possibly confiscate, family farms and ranches. Mr. Speaker, do you know who will get left holding the bag should the project owners wheedle their way around the restrictions on these bonds, then default on bonds and the project? The Texas taxpayers, that's who. And how many rail projects in this country don't wind up being heavily subsidized by the Federal Government?

High-speed rail projects should be funded on their own merits by the private sector, not paid for a public that has little need or use for such a system.

Mr. Speaker, I object to the passage of H.R. 5653 under suspension of the rules because I believe that the effects of the bill need to be heard through the committee hearing process. Failing that, the Members of the House should at least have the opportunity to vote on the bill.

□ 1330

Mr. GRANDY. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the bill also, and my principal concern is that of unfunded mandates.

We talk a great deal about it. We shift a great deal of responsibility to local governments.

I want to tell you that in a small State, in a small community, local governments are burdened about as heavily as they can be. In the long run, my friends, I think one of the things that you are going to see and be most concerned about in this Congress is an active Congress seeking to do all kinds of good things for everyone with no money to do it with, and we will shift those costs either to local governments or, indeed, to employers.

So my leader, the minority spokesman, talked about hearing from national groups of county officials and others. I want to tell you about a group that comes from Carbon County, WY, a very small county having difficulty in the economy. They are concerned about this. They are concerned about the effort to pay for this provision of $150 million to require counties to report to taxpayers and the IRS the amount of property taxes paid, that is, deductible for Federal income tax purposes. The requirement applies to all taxing authorities and would be effective on January 1, 1994.

Let me give you some of the difficulties that a county would have, and that is making a determination as to whether a charge is a tax or a fee. For example, IRS findings include where part of an amount paid to a county water district covered maintenance charges and bond tax that the amount could not be determined, the entire amount of the deduction was disallowed. Taxpayer's one-time tap fee paid for the hookup to the city sewer system was characterized as a special assessment for an improvement benefiting the taxpayer's property and, hence, was held to be nondeductible as a capital improvement and on and on they go.

So, Mr. Speaker, we are dealing here with an additional imposed burden on local government, not only the cost of this copy of this notice to be sent to IRS without a Social Security number, by the way, so it makes it very ineffectual, but also to have to make the determinations not clearly made in the bill.

Mr. Speaker, I rise in opposition to the bill.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Let me just expand a little bit on what the gentleman from Wyoming talked about in terms of the unintended consequences of H.R. 5653.

The concern that the gentleman expressed and the concern that I mentioned in my remarks and that the gentleman from Texas [Mr. FIELDS] expanded upon is that we are perhaps unintentionally unleashing a potential section 89 on local governments. Try to imagine a local government attempting to separate which costs of a road project are solely for new construction and which are for maintenance. They would be obligated to do that under H.R. 5653.

If the coin bill becomes law, our State and local governments would need to completely overhaul their accounting systems, buy new equipment, add staff, all of which would be paid for with taxpayer dollars. City and county tax collectors rarely ever match Social Security numbers to property tax records. The tremendous burdens placed on these local governing boards to match property tax records and Social Security numbers would shift resources from other local services like police, fire protection, and education to compliance for this measure.

Another Federal burden on cities that does not improve life in the cities is not something we should be supporting at this time.

I can reiterate from my own personal experience, because I have small communities, sometimes under 10,000 citizens, that now have full-time employees doing nothing but complying with Federal paperwork.

This proposal has technical problems, because it would require the local tax collector to make a determination or get a ruling from the IRS about each item on the tax bill and segregate out those items deductible and those that are not deductible. This is a completely new reporting requirement, and there is not very much time, and there is not very much experience either, in the IRS or at the local level in making these kinds of determinations.

While this provision would apply to tax returns filed on taxes paid in 1994, it would be unadministerable for a period of time, because the IRS would be required to make determinations on basically every use of property tax money. Every city is then going to feel the need to file for determinations on just about every special assessment or use of property tax dollars, and the $2,000 filing fee for each of these determinations along with the inevitable backlog of filings will make this even more difficult to comply with.

Mr. Speaker, with those criticisms, I urge the House to reject H.R. 5653 at this point. Obviously this is an item that needs to be discussed in hearings with the proper committees of jurisdiction.

Mr. COYNE. Mr. Speaker, today the House has an opportunity to establish the United States as a player in the development of cutting edge high-speed rail technologies.

This bill would enable State and local governments to use effectively their tax-exempt bond authority for the development of governmentally owned high-speed rail facilities. My proposal simplifies the treatment of high-speed rail bonds by eliminating the requirement that 25 percent of a bond's value be allocated against a State's bond volume limitation. Under current law, 75 percent of a high-speed rail bond's value is already outside the cap.

The intent of this proposal is to place high-speed rail bonds on an equal footing with airport and dock bonds, which are 100 percent outside the bond volume cap. Since 1988, the Internal Revenue Code has allowed the issuance of tax-exempt bonds for high-speed intercity rail facilities but not rolling stock. Trains using such facilities must operate at speeds in excess of 150 miles per hour.

Unfortunately, the 25-percent bond volume cap allocation requirement places high-speed rail bonds in competition against industrial revenue bonds, mortgage revenue bonds, and other long-standing bond issues. My bill ends this anomaly in the Code and provides States with the ability to promote the development of modern, high-technology, high-speed rail transportation systems.

Enactment of this proposal will assist States in every region of the country where plans for high-speed rail systems are on the table. High-speed rail systems are now in various stages of planning and development in Pennsylvania, California/Nevada, Illinois, Minnesota, Florida, the Northeast corridor, Ohio, Texas, and Washington.

The United States has been unacceptably slow to join other advanced industrial nations in developing high-speed rail systems. We are losing ground quickly to Japan, Germany, and other Western European nations in building environmentally friendly high-speed rail systems.

The Federal Government has long played a central role in building highways and airports. We need a similar commitment to ensure the development of U.S. high-speed rail systems. The facts are that no new national transportation systems have been developed commercially in the history of our country without a significant commitment at the Federal level. High-speed rail systems using state-of-the-art, steel-wheel-to-steel technologies and systems using advanced, innovative magnetic levitation technologies will not proceed without this support.

The United States led early research efforts on maglev, but today we are at risk of losing out to foreign competitors in this field. This is exactly what happened with VCR technology which was lost to foreign competitors. High-speed rail systems using maglev technology would have the potential of relieving urban transportation congestion by offering reliable intercity transportation at speeds of up to 310 miles per hour.

The city of Pittsburgh, which I am proud to represent, is home to efforts to place the United States once again at the cutting edge of maglev research and development. Pittsburgh is the home of the Mellon Institute's High-Speed Ground Transportation Center at Carnegie-Mellon University. In addition, steps are being taken to develop the commercial potential of maglev technologies.

High-speed rail systems offer an answer to increased congestion on the Nation's highways and at the Nation's airports. The elimination of this gridlock will alleviate a significant inefficiency in the U.S. economy. According to the U.S. Transportation Department, traffic delays will cost $50 billion a year in lost wages and wasted gasoline by the year 2005. The FAA estimates that air traffic congestion will affect 74 percent of air passengers, compared with 39 percent in 1986.

High-speed rail systems provide significant environmental benefits. Earlier this year, Ms. Dawn Erlandson, tax policy director, Friends of the Earth, testified before the Ways and Means Committee in support of the use of tax-exempt high-speed rail bonds. She noted that assuming regional high-speed rail systems were phased in starting in 2000, the cumulative nationwide energy savings would be 6.6 billion barrels of oil over the first decade of the 21st century.

The use of tax-exempt high-speed rail bonds has been endorsed by nearly every major environmental group. In addition to Friends of the Earth, groups supporting high-speed rail bonds include the Sierra Club, the Union of Concerned Scientists, the National Wildlife Federation, the National Audubon Society, and the Natural Resources Defense Council.

My proposal includes a revenue offset which makes it deficit neutral. This offset would simply require States and local governments to provide taxpayers with the information they need to comply with existing tax law for claiming itemized deductions.

Under current law, taxpayers may claim an itemized deduction for real property taxes paid to State and local governments, but may not claim a Federal tax deduction for State and local government user fees. The revenue offset would simply require State and local governments to provide taxpayers with accurate information regarding the amount of tax deductible real property taxes.

This proposal has the added benefit of protecting taxpayers from Internal Revenue Service penalties for claiming incorrect itemized deductions. The General Accounting Office is currently completing an exhaustive study of this issue which will provide the IRS with much of the information required to pursue action against taxpayers claiming incorrect property tax deductions.

Mr. Speaker, high-speed rail merits effective access to State and local government tax-exempt bonds. This bill simply places high-speed rail on an equal footing with airports and docks. High-speed rail should have an opportunity to compete on a level playing field with other modes of transportation. Eliminating the 25-percent allocation requirement provides high-speed rail systems with that opportunity.

Mr. RAHALL. Mr. Speaker, I rise in opposition to H.R. 5653, a bill to exempt Government-owned high speed intercity rail facility bonds from the State volume cap.

At first glance, Mr. Speaker, the bill seems harmless enough. But on second and third reading, it is yet another unfunded Federal mandate which imposes tremendous new costs and additional administrative burdens on local governments. And the costs are applied to all taxpayers, whether you ever have a bullet train in your neighborhood or not.

I can't tell you, Mr. Speaker, how often Congress has done just that in the past—imposing more and more congressional mandates on localities, while yanking every other kind of support you can think of—leaving cities strapped for money and going bankrupt—just trying to comply with or deal with unfunded mandates.

All you have to do, is look at congressionally mandated wastewater and sewage treatment, or safe drinking water requirements that States, cities, and towns have to meet, and then look at the dwindling funds from the Federal level to help them pay for the improvements necessary in order to know that it just is not fair. States, towns, and cities can't fill the funding gaps anymore. And they can't raise the money or leverage it or appropriate it to pay for the mandates we mindlessly impose upon them. The resources just are not there.

This bill, Mr. Speaker, actually requires local taxing authorities to send a notice to the taxpayers and to the IRS, stating which taxes are deductible under Federal income tax rules. The local tax collector would have to make a determination, or get a ruling from the IRS, as to each charge included on the tax bill. And, if push comes to shove, in the administrative confusion bound to follow, the IRS can change its mind.

I shudder to think of the administrative chaos that would ensue administratively—not only for counties and cities, but school districts as well. School districts have got enough problems as it is.

I shudder to imagine a local government attempting to separate which costs of a road project are solely for new construction, and which are for maintenance.

Bullet trains, Mr. Speaker, are already 75 percent exempt from the cap. If a State desires to commit State funds or dedicate part of the State's bond cap, they could build these projects right now.

As it is, under this bill, if the cap is lifted taxpayers across the Nation will end up paying for projects that the beneficiary States refuse to fund for themselves, and that all States will not necessarily benefit from.

Afterall, the bullet train is not just like airports. The tax law requires airports to be publicly operated; the bullet train will be privately operated.

I am not quite ready to vote for this bill, Mr. Chairman. Perhaps a little more study, a few public hearings, a little more research into the technologies to be relied upon for future operation and maintenance—the way we usually try to do business around here.

Maybe after knowing a lot more about the probable effects of eliminating the cap, I can vote for such a bill. But not today.

Mr. CONDIT. Mr. Speaker, I rise in opposition to H.R. 5653, legislation to remove existing barriers in the ability of State and local governments to issue Federal tax-exempt high speed rail bonds. I do not oppose this legislation because I oppose the development of high speed rail transit systems. In fact, I believe high speed rail to be one of the solutions to our intercity transit problems. However, I oppose this legislation because the revenue offset provision will impose another unfunded Federal mandate on our local governments.

Under this revenue offset provision, State and local governments would be directed to provide taxpayers and the Internal Revenue Service with a notice stating which taxes are deductible under Federal income tax rules. This unfunded Federal mandate will impose tremendous new costs and additional administrative burdens on local governments. In fact, there is still some question as to whether our localities even have the resources to provide this information. Very few local governments have Social Security numbers on file and matched to property tax records. Without a Social Security number on the notice, the information will be useless to the IRS. In addition, there will be no way for the IRS to match this data with other Federal or State income tax files.

While H.R. 5653 has the admirable goal of advancing high speed rail, the Federal Government should not pass the costs on to our already financially strapped localities. If the Congress wants to provide beneficial tax treatment for the issuance of Federal tax-exempt high speed rail bonds, then the Federal Government should pay for it.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5653.

The question was taken.

Mr. FIELDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the nine bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5400) to establish in the Department of Veterans Affairs a program of comprehensive services for homeless veterans, as amended.

The Clerk read as follows:

H.R. 5400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Service Programs for Homeless Veterans Act of 1992".

SEC. 2. PILOT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs shall establish and operate, through September 30, 1995, a pilot program under this Act to expand and improve the provision of benefits and services by the Department of Veterans Affairs to homeless veterans.

(b) COMPREHENSIVE CENTERS.—The pilot program shall include the establishment of no more than four additional demonstration programs at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of specialized services, which may include those services authorized under sections 1712A, and 1730 of title 38, United States Code, section 115 of Public Law 100-322 (38 U.S.C. 1712 note), section 801(b) of Public Law 100-628 (102 Stat. 3257), and any other provision of law under which the Secretary may provide services to homeless veterans.

(c) PLACEMENT OF VETERANS BENEFITS COUNSELORS.—The pilot program shall also include the services of veterans benefits counselors at—

(1) no more than 45 sites at which the Secretary provides services to homeless chronically mentally ill veterans pursuant to section 115 of Public Law 100-322 (38 U.S.C. 1712 note);

(2) no more than 26 sites at which the Secretary furnishes domiciliary care to homeless veterans pursuant to section 801(b) of Public Law 100-628 (102 Stat. 3257);

(3) no more than 12 centers which provide readjustment counseling services under section 1712A of title 38, United States Code; and

(4) each of the demonstration sites established under subsection (b).

SEC. 3. GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs, during fiscal years 1993, 1994, and 1995, shall make grants to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans.

(b) CRITERIA FOR AWARD OF GRANTS.—The Secretary shall establish criteria and requirements for the award of a grant under this section, including criteria for entities eligible to receive such grants. The Secretary shall publish such criteria and requirements in the Federal Register not later than 90 days after the date of the enactment of this Act. In developing such criteria and requirements, the Secretary shall consult with the National Coalition for Homeless Veterans and to the maximum extent possible shall take into account the findings of the assessment of needs of homeless veterans conducted by the Secretary under section 5. The criteria established under this section shall include the following:

(1) Specification as to the kind of projects for which such grant support is available, which shall include (A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans, and (B) procurement of vans for use in outreach to, and transportation for, homeless veterans to carry out the purposes set forth in subsection (a).

(2) Specification as to the number of projects for which grant support is available, which shall include provision for no more than 25 service centers and no more than 20 programs which incorporate the procurement of vans as described in paragraph (1).

(3) Appropriate criteria for the staffing for the provision of the services for which a grant under this section is furnished.

(4) Provisions to ensure that the award of grants under this section (A) shall not result in duplication of ongoing services in excess of needs identified under section 5, and (B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and nonurban locations.

(5) Provisions to ensure that an entity receiving a grant shall meet applicable State and community fire and safety requirements, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to real property to be used by a grantee in carrying out the grant.

(6) Specifications as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of any project for which support is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

(c) Funding Limitations.—A grant under this section may not be used to support operational costs of a grantee, except as provided for under section 4. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the expansion, remodeling, alteration, acquisition, or procurement provided for under this section.

(d) Eligible Entities.—The Secretary may not make a grant under this section unless the applicant for the grant—

(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section (except that a nonprofit entity described in section 1718(b)(2) of title 38, United States Code, and which was established by employees of the Department of Veterans Affairs shall not be eligible for a grant under this section);

(2) has demonstrated that adequate financial support will be available to carry out the project for which the grant has been sought consistent with the plans, specifications, and schedule submitted by the applicant; and

(3) has agreed to meet the applicable criteria and requirements established under subsection (b) (and the Secretary has determined that the applicant has demonstrated the capacity to meet those criteria and requirements).

(e) Application Requirement.—An entity described in subsection (d) desiring to receive assistance under this section shall submit to the Secretary an application. The application shall set forth—

(1) the amount of the grant requested with respect to a project;

(2) a description of the site for such project;

(3) plans, specifications, and the schedule for implementation of such project in accordance with requirements prescribed by the Secretary under subsection (b); and

(4) reasonable assurance that upon completion of the work for which assistance is sought, the program will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided will serve clients who are not receiving such services as veterans.

(f) Program Requirements.—The Secretary may not make a grant to an applicant under this section unless the applicant, in the application for the grant, agrees to each of the following requirements:

(1) To provide the services for which the grant is furnished at locations accessible to homeless veterans.

(2) To maintain referral networks for, and aid homeless veterans in, establishing eligibility for assistance, and obtaining services, under available entitlement and assistance programs.

(3) To ensure the confidentiality of records maintained on homeless veterans receiving services under the grant.

(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 4.

(5) In the case of an application for a grant for a service center for homeless veterans, that—

(A) such center shall provide services to homeless veterans during such hours as the Secretary may specify in requirements established under subsection (b) and shall be open to such veterans during such hours on an as-needed, unscheduled basis;

(B) space at such center will be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center; and

(C) such center shall be equipped and staffed to provide, or to assist in providing, health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary; and

(D) such center shall be equipped and staffed to provide, or to assist in providing, job training and job placement services (including job readiness, job counseling, and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this subparagraph.

(6) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

SEC. 4. PER DIEM PAYMENTS.

(a) Per Diem Payments for Furnishing Services To Homeless Veterans.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 3 (or an entity eligible to receive a grant under section 3 which after the date of enactment of this Act establishes a program which the Secretary determines carries out the purposes described in section 3) per diem payments at such rates as the Secretary shall prescribe by regulation for services furnished to any homeless veteran—

(1) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

(2) for whom the Secretary, within three working days, has authorized the provision of services;

if such veteran is eligible for such services in a facility of the Department.

(b) Limitation.—The amount of per diem payments made with respect to a veteran under this section may not exceed one-half of the cost to the grant recipient (or other eligible entity) of providing such service.

(c) In-Kind Assistance.—In lieu of per diem payments under this section, the Secretary may, with the approval of the grant recipient, provide in-kind assistance (through the services of Department employees and the use of other Department resources) to a grant recipient (or entity eligible for such a grant) under section 3.

(d) Inspections.—The Secretary may inspect any facility of an entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be made to an entity under this section unless the facilities of that entity meet such standards as the Secretary shall prescribe.

SEC. 5. ASSESSMENT OF NEEDS OF HOMELESS VETERANS.

(a) Regional Assessments.—The Secretary of Veterans Affairs shall require the director of each medical center and the director of each regional benefits office of the Department (1) to assess the needs of homeless veterans living within the area served by the medical center or regional office, and (2) to catalogue programs of the Department, of other departments and agencies of the Federal, State, and local governments, and of nongovernmental organizations, which provide services to homeless persons in such area.

(b) Matters To Be Included.—Each such assessment shall—

(1) be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area;

(2) identify the needs of homeless veterans with respect to—

(A) health care;

(B) education and training;

(C) employment;

(D) shelter;

(E) counseling; and

(F) outreach services;

(3) indicate the extent to which the needs referred to in paragraph (2) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations; and

(4) be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(c) Use of Assessment.—The Secretary shall compile such assessment information for use in program planning and to assist in carrying out the provisions of this Act and other provisions of law under the jurisdiction of the Secretary of Veterans Affairs relating to assistance to homeless veterans.

SEC. 6. OUTREACH SERVICES.

(a) Assignment of VBA Employees.—The Secretary of Veterans Affairs shall assign such employees of the Veterans Benefits Administration as the Secretary considers appropriate to conduct outreach programs and provide outreach services for homeless veterans. Such outreach services may include site visits through which homeless veterans can be identified and provided assistance in obtaining benefits and services that may be available to them.

(b) LIMITATION.—No funds may be expended for the purpose of subsection (a) unless those funds are specifically identified for such purpose through the appropriations process.

SEC. 7. EXTENSION AND EXPANSION OF PROGRAMS FOR HOMELESS VETERANS.

(a) Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting "1995".

(b) Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended in subsection (c), by striking out the period at the end of the first sentence and inserting in lieu thereof "and, if funds remain available, to other homeless veterans who need such services, but the Secretary shall administer the provision of such services in a manner which gives priority to, and facilitates access to services for, homeless veterans who have a chronic mental illness.".

SEC. 8. AUTHORITY TO MAKE PROPERTIES AVAILABLE FOR HOMELESS PURPOSES.

Section 3735 of title 38, United States Code, is amended—

(1) in subsection (a),

(A) in paragraph (2)—

(i) by inserting ", lease, lease with an option to purchase, or donate" after "sell"; and

(ii) by inserting "or lease or donation" after "sale"; and

(B) in paragraph (3)(B), by inserting ", leased, or donated" after "sold"; and

(2) in subsection (b), by striking out "September 30, 1993" and inserting in lieu thereof "December 31, 1995".

SEC. 9. AUTHORITY TO LEASE CERTAIN PROPERTY OF THE DEPARTMENT OF VETERANS' AFFAIRS FOR EXTENDED LEASE TERMS.

(a) AUTHORITY.—Notwithstanding section 8122(a)(1) of title 38, United States Code, and subject to subsection (b), the Secretary of Veterans Affairs may lease to a representative of the homeless for a term in excess of three years any real property at the West Los Angeles Veterans Affairs Medical Center for which an application of the representative for the use of the property has been approved by the Secretary of Health and Human Services under section 501(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(e)). Any such lease shall be subject to the provisions of section 501(f) of such Act (42 U.S.C. 11411(f)).

(b) LIMITATION.—The Secretary may not lease real property under subsection (a) for a term in excess of three years to a representative of the homeless unless the representative agrees to use the property only as a location for the provision of services to homeless veterans and the families of such veterans.

(c) DEFINITION.—In this section, the term "representative of the homeless" has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4)).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act *(other than section 8)* $48,000,000 for each of the fiscal years 1993, 1994, and 1995. No funds may be used for the purposes of this Act *(other than section 8)* unless expressly provided for in an appropriation law. Nothing in this Act shall be construed to diminish funds for, or continuation of, existing programs administered by the Secretary of Veterans Affairs to serve veterans.

SEC. 11. ANNUAL REPORTS.

Not later than May 1 of each of 1994, 1995, and 1996, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this Act. Each such report shall, to the extent feasible, include information on (1) the number of veterans assisted, (2) the services provided, and (3) the Secretary's analysis of the operational and clinical effectiveness and cost-effectiveness of the programs established under, or with assistance provided by, this Act.

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Florida [Mr. STEARNS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 5400, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5400 is a comprehensive bill designed to help needy, homeless veterans. There have been reports that 30 percent of those who are homeless are veterans. Yet, of $761 million which Congress appropriated in fiscal year 1992 for major programs authorized by the Stewart B. McKinney Homeless Assistance Act, the $33 million which support VA programs for homeless veterans represents only 4.3 percent of the total amount. This thin slice of the total funding allocated to assist homeless veterans contrasts starkly with the number of homeless veterans in the streets of every major city in the country.

Veterans deserve better and this bill would authorize an additional $48 million in fiscal year 1993 to help alleviate the problem.

Mr. Speaker, the Congressional Budget Office estimates that H.R. 5400 would increase direct spending by $4 million in fiscal year 1993 and less than $500,000 in fiscal years 1994 and 1997.

Last Thursday, our committee ordered H.R. 5008 reported to the House. This bill contains cost saving provisions that total more than $197 million in fiscal year 1993. The bill will offset the total spending in several bills reported by the committee, including the bill now under consideration. We expect to bring H.R. 5008 to the floor before the August recess.

I call this to the attention of my colleagues in order to assure them that our committee will not report any direct spending bills this session unless we have reported measures to offset the cost.

Mr. Speaker, the bill was crafted by several members of the committee. The distinguished gentleman from West Virginia, HARLEY "BUCKY" STAGGERS," is the chief sponsor of the bill and deserves much credit for his leadership. HARLEY held several hearings, including some in the field, to gather information and data on the problems homeless veterans face in everyday living.

Since becoming chairman of the Subcommittee on Housing and Memorial Affairs, the gentleman from West Virginia was quick to do several things to enhance the lives of homeless veterans.

Previous bills he spearheaded have resulted in the establishment of transitional housing for veterans who participate in compensated work therapy programs. He is responsible for the enactment of legislation making it possible for nonprofit organizations to lease housing units from the VA for use as transitional group residences for veterans suffering from alcohol and drug abuse.

So the bill currently before us is one of several bills coming out of his subcommittee designed to provide much needed benefits for homeless veterans.

I also want to acknowledge the work of the gentleman from Massachusetts, the Honorable JOE KENNEDY, who introduced his own bill, H.R. 2648, last year that would expand programs for homeless veterans, with emphasis on nonprofit organizations.

The gentleman from Illinois, the Honorable LANE EVANS has been very much involved in programs to help the homeless and he was part of the team that developed this bill.

The gentlelady from California, one of the new members of the committee, the Honorable MAXINE WATERS, is another member of the group who helped draft the bill we are considering today. Two amendments offered by the gentlelady to provide specific help to homeless veterans in Los Angeles were adopted when the full committee marked up the bill last Thursday.

DAN BURTON and BOB STUMP made major contributions in drafting this bill, and I thank both of them for their cooperation and hard work.

I'm grateful to all members of the committee who worked together to get a good bill to the floor.

This is truly a bipartisan effort and I'm most grateful for the way everyone has worked together on this measure.

I now yield to the gentleman from West Virginia [Mr. STAGGERS].

Again, I want to thank the gentleman from West Virginia for the strong and active leadership he has provided as chairman of the Subcommittee on Housing and Memorial Affairs. So much has been done to reform VA housing programs under his leadership.

When he assumed the chairmanship, he proposed several reforms that had a dramatic impact in reducing the inventory of VA foreclosed properties. Mr. STAGGERS restructured the loan guaranty program, making it more fiscally sound. He constantly resisted administration proposals to increase loan fees, which has been no easy task considering the budget problems that have been with us for several years.

Mr. STAGGERS gave the national cemetery system a shot in the arm when it was most needed by holding numerous hearings to expose deficiencies in the program and get additional funds through the Appropriations Committee to correct those deficiencies.

I know I speak for all Members when I say thank you for the service the gentleman has rendered to our Nation's veterans. They are fortunate to have him in the Congress working in their behalf. They will miss him when he leaves the House a the close of this Congress and so will we.

□ 1340

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. EVANS] to explain this piece of legislation.

Mr. EVANS. Mr. Speaker. I appreciate the chairman bringing this legislation to the floor today and the gentleman's leadership on this issue.

I also rise in praise for the gentleman from West Virginia [Mr. STAGGERS] for his offering of this legislation.

I also join in praising the gentleman from Massachusetts [Mr. KENNEDY] who is reaffirming his traditional family commitment to the underprivileged and poor of our country by bulldogging this legislation through the process.

I also want to salute the gentlewoman from California [Ms. WATERS] for her leadership on this issue as well.

Mr. Speaker, the first thing I learned in the Marine Corps boot camp was that you were never supposed to leave anyone behind, and yet that is exactly what has happened to so many of our veterans who live on the streets of our cities and in the poor rural parts of our country.

From the streets of the District of Columbia to the beaches of California, veterans from every peacetime era and armed conflict since World War II, including the Persian Gulf war, are among the homeless. They constitute between 30 and 50 percent of America's homeless and it is estimated that between 150,000 and 250,000 veterans are homeless on a nightly basis in our Nation across the country.

It is a national tragedy that homeless veterans are denied the very privileges and rights that they fought to protect and that we take for granted everyday.

These men and women do not want to be homeless. They do not want to leave their friends and family. Most are high school graduates and more than one-third have either attended or graduated from college. Nevertheless, many have fallen victim to the continuing recession, high housing and medical costs, job skills that are not transferable to the general work force, and often, post-traumatic stress disorder [PTSD]—an illness for which few, it any, homeless veterans receive treatment.

One veteran I know is homeless despite being a qualified medical technician. The VA delayed authorizing medical treatment for his service-connected disorder and he lost both his job and his home. Now he and his wife are living in a local shelter here in the District of Columbia looking for a job, and still fighting with the VA.

Unfortunately, this story is played out around the country daily. Programs for homeless veterans remain far from fully funded and without exception, there are more eligible persons than spots in the programs. In fact, the Federal Government only has three authorized programs, that specifically target homeless veterans. Accordingly, 16 States do not have any federally funded programs and many others only have programs in one city in their States.

Thankfully, organizations around the country have noted this failure and sought to fill the void. Groups such as the National Coalition for Homeless Veterans [NCHV] have successfully established programs to assist homeless veterans return to, and remain in, mainstream society. For their dedication to our veterans, I would like to personally thank the homeless veteran service providers around the country. I especially want to thank the board of the NCHV—Bill Elmore of the Missouri Veterans Leadership Program, Ralph Cooper of the Veterans Benefits Clearinghouse, Jerry Washington of Base Camp, Robert Van Keuren of the Vietnam Veterans of San Diego, Michael Blecker of Swords to Plowshares, Ken Smith of the Vietnam Veterans Workshop, and Stephen Peck of Far from Home—as well as Joan Alker of the National Coalition of the Homeless.

These groups, however, are limited by the funding that they receive. While veterans comprise one-third of the homeless, programs that which target them receive less than 5 percent of the Stewart B. McKinney Homeless Assistance Act funds. This year, such programs will only receive about $34.5 million of the $792 million appropriated under the McKinney Act.

We are not advocating a redistribution of the existing McKinney Act funds. Such action would only complicate the problem by eliminating programs that benefit the entire homeless population. Rather, we seek to both increase overall funding and establish new programs.

As citizens and elected Representatives, we must join the battle against homelessness. We need to ensure that food, temporary shelter, clothing, medical care and mental health counseling, job training and referrals, and other essentials are made available to homeless veterans.

For these reasons, I urge you to support passage of H.R. 5400, The Comprehensive Service Programs for Homeless Veterans Act of 1992. Working with homeless veterans service providers, Representatives STAGGERS, KENNEDY, WATERS, and I drafted this unique legislation that will undoubtedly benefit homeless veterans and their families.

H.R. 5400 authorizes the Secretary of Veterans Affairs to establish up to four new comprehensive homeless centers, authorizes the services of veterans benefits counselors at certain homeless chronically mentally ill sites, at VA domiciles and vet centers. These veteran benefits specialists will be able to augment the range of services now provided.

The bill will also solidify the responsibilities of Federal, State, and local governments to help homeless veterans by authorizing the Secretary to provide grant support, up to 65 percent, to assist in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance. Per diem payments and in-kind services to grantees on behalf of a homeless veteran would also be authorized.

Lastly, H.R. 5400 authorizes the Secretary to make properties available for homeless purposes through leasing, leasing with option to buy and donations, assigns certain VBA employees to conduct outreach and requires the VA to assess the needs of homeless veterans living within the areas served by VA medical centers and regional offices.

Mr. Speaker, America's veterans have always answered the call to duty when freedom or this great Nation is threatened. Today, we have the opportunity to answer the call of need of America's homeless veterans. I, therefore, urge favorable consideration of this measure.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. STEARNS. Mr. Speaker, I rise today in support of H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992.

I want to commend Chairman MONTGOMERY, the ranking minority member, Mr. STUMP, subcommittee chairman, Mr. STAGGERS, and ranking subcommittee member Mr. BURTON for their efforts in developing H.R. 5400 and bringing to the floor this outstanding program on behalf of homeless veterans.

On February 26, 1992, the committee heard testimony regarding several innovative and positive approaches to the problems of homeless veterans. These programs focused on the chronic problems experienced by our country's veterans. These outreach services sought to combine clinical care, and rehabilitation efforts, that include among other things, substance abuse treatment and job training.

Obviously, this type of comprehensiveness is an effort to move beyond simple crisis intervention and bring substantial and long term assistance for the homeless veteran's reintegration into society.

The uniqueness of this approach cannot be overstated. Comprehensive rehabilitation worked. Instead of simply giving money to build shelters for homeless veterans, the VA will continue its efforts to assist the veteran as a whole person. An old proverb states that you can feed a man for one day or you can teach him to fish and he and feed himself for a life time. And that is precisely what this bill is going to do.

I commend this approach.

Mr. Speaker, I want to conclude my remarks by calling attention to how we are going to pay for these programs.

The Veterans' Committee is painfully aware that the VA cannot sustain its commitment to the VA health care system if other veterans programs have their budgets further stretched to pay other deserving VA programs. It becomes a paradox of robbing Peter to pay Paul. It is not good policy to develop worthwhile veteran programs and pay for them by pilfering other veteran programs. This member knows of no VA service or benefit that is so over budgeted that it can afford to have its funds cut for use in another program no matter how meritorious.

In light of that reality, the bill contains language which authorizes $48 million through the Stewart B. McKinney Homeless Assistance Act. Of the $761 million which Congress appropriated in fiscal year 1992 for this act for assisting our Nation's homeless, only 4.3 percent went to the homeless veteran, a group that comprises nearly one-third of our Nation's homeless population. Therefore, it seems only appropriate that one-third of the money used to fight homelessness comes from the McKinney fund. This does no violation to the McKinney Act as the money will go to the homeless.

Therefore, Mr. Speaker, I commend this bill to the full House.

□ 1350

Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume in order to thank the gentleman from Florida [Mr. STEARNS] for helping on this bill today. I note also that the gentleman from Arkansas [Mr. HAMMERSCHMIDT], also on our committee, is in support of this legislation.

Mr. Speaker, it is a good bill, a worthwhile measure. I urge my colleagues to support the bill.

Mr. STAGGERS. Mr. Speaker, I would first like to thank and commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his distinguished leadership and his contributions to, and strong support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP], and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and the subcommittee for their efforts and support. I especially want to acknowledge the work and contributions of the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], and the gentlelady from California [Ms. WATERS], without whom this bill would not have been possible. The individual members of the subcommittee have worked hard together to develop this legislation and I would like to thank each of them for their excellent contributions as well.

Mr. Speaker, H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992, will expand the scope of VA's existing programs for the homeless and seed new ones.

In its report to the Committee on the Budget on the President's proposed budget for fiscal year 1993, this committee identified among its recommendations a need to expand and create new programs to combat homelessness among veterans. The committee stressed that for many homeless veterans, psychiatric and medical problems exacerbate conditions which have led to dependence on homeless shelters or even to living on the streets.

Those problems have been a focus of committee concern over a period of years. Accordingly, the committee has helped shape, nurture and monitor a series of new VA programs targeted at rehabilitating homeless veterans. The most extensive of these are a 27-site residential rehabilitation program centered in VA domiciliaries and a 45-site VA-administered, community-based program aimed at homeless veterans with chronic psychiatric problems. Both these efforts combine outreach, clinical care, and rehabilitation, including such elements as substance abuse treatment and job training, to offer a degree of comprehensiveness which provides participants not simply crisis intervention, but a real hope for reintegration back into society.

These VA programs have expanded modestly since their inception as their successes have won recognition and respect. Yet, of $761 million which Congress appropriated in fiscal year 1992 for major programs authorized by the Stewart B. McKinney Homeless Assistance Act, the $33 million which support these 2 VA programs represents only 4.3 percent of the total. This thin slice of the total funding allocated to assist the homeless contrasts starkly with estimates projecting that one-third of America's homeless are veterans.

In view of such findings, the committee has gone on record as strongly supporting increased McKinney Act funding for existing VA programs. The committee has clearly documented the need for such funding, as well as the gains to be realized from linking existing programs targeted at homeless veterans with expansions of VA compensated work therapy projects and transitional housing programs. At the same time, while recognizing the important role to be played by VA in combating homelessness, the committee acknowledges that homelessness is also very much a societal and community problem. VA certainly has expertise it can share. This one Federal department cannot be seen, however, as solely responsible for addressing the complex array of problems which create and prolong homelessness, even among veterans. Indeed, the successes VA has had in helping this population underscore the importance of networking—among governmental and nongovernmental entities—to leverage the resources needed to develop effective programs.

In weighing the needs of homeless veterans, the committee has adopted a multipronged approach. It has proposed an expansion in the scope of existing VA programs and, through the reported bill, would seed new ones. Underlying the bill is the belief that veterans should receive a greater share of McKinney Act funding, and that with such increased support, VA rehabilitative programs—in concert with the community—can become a model in combating the ills underlying homelessness.

The bill is structure so as to proscribe the use of funds to carry out the new programs authorized in the bill unless such funds are expressly provided for in an appropriation law. H.R. 5400 would require $4 million in direct spending, which will be offset by H.R. 5008 which is scheduled for floor consideration next week. The remainder of funding is subject to the availability of appropriations of $48 million for each of fiscal years 1993, 1994, and 1995 to carry out its provisions. Hopefully, the funding will be made available when the House Appropriations Committee moves the VA, HUD, independent agencies appropriations bill of 1993 later this week.

GRANTS

Mr. Speaker, H.R. 5400 would call for the VA to establish a 3-year program of grant support to assist public or nonprofit private entities to establish new programs to serve homeless veterans. Grant support would be available to aid in establishing new programs to provide one or more of the following services: outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance.

The purpose of these grants is to develop services not previously available and to target those services primarily to veterans. Grants are to be targeted particularly to areas which, on the basis of VA-conducted needs assessments, are shown to have the greatest need for such services.

The grant program reflected in this measure incorporates elements of VA's successful State home construction grant program authorized in subchapter III of chapter 81 of title 38, U.S. Code. As in the State home program, grants under the bill would be available to support up to 65 percent of capital start-up costs, although such grants could not be used to pay for operational costs such as staffing. Like the State home program, grantees are not required to use the grant to provide services to veterans exclusively. A grantee may, for example, offer services to veterans and their family members, but must design and operate any program established with the grant in such a way that it provides at least 75 percent of its assistance to veterans. Under this measure, grants could be used to expand, remodel, alter, or acquire existing buildings for use as transitional housing or other facilities to serve homeless veterans.

The committee envisions that grantees will include, though not necessarily be limited to nonprofit private entities, operating under the constraints of limited budgets. In view of this consideration, the bill makes specific provision for a grant applicant meeting its start-up costs in whole or in part through provision of in-kind services.

PER DIEM PAYMENTS

Mr. Speaker, H.R. 5400 would require VA to institute a program of per diem payments under VA-prescirbed criteria. Payments under this provision, and subject to VA's criteria, would be made for particular services which those entities have furnished to a homeless veteran if the veteran were eligible to receive those services from a VA facility. The bill provides for making payments to both recipients of a grant under the reported bill as well as to entities which would have been eligible for a grant but which after the date of enactment of the bill have, through other means, established a program which carries out the bill's purposes.

Reflecting provisions of the State home per diem program, the bill limits the amount VA may pay. The bill provides that such a payment may not exceed half the cost to the applicable provider of furnishing the pertinent service or services.

AUGMENTATION OF VA PROGRAMS

Mr. Speaker, while H.R. 5400 seeks to expand VA-community partnerships to help meet the needs of homeless veterans, the committee also hopes through this measure to improve the effectiveness of VA's own efforts to serve these veterans. It does so through a number of provisions.

As stated previously, the Veterans' Health Administration has many programs that provide service to the homeless. Some of these programs include: Homeless Chronically Mentally Ill [HCMI]; Domiciliary Care for Homeless Veterans [DCHV]; Compensated Work Therapy/Independent Living Housing [CWT/ILH] Program; Community Residential Care [CRC] Program, and the Readjustment Counseling Service [RCS]. In most locations, these services are not coordinated, but function independently.

Therefore, H.R. 5400 would authorize the Secretary to establish and operate, through September 30, 1995, a pilot program to expand and improve the provision of VA benefits and services to homeless veterans by: First, including the establishment of no more than four additional comprehensive homeless centers and, second, authorizing the placement of veteran benefit counselors at no more than 45 VA sites where the Secretary provides services to homeless chronically mentally ill veterans, at not more than 26 sites at which the VA furnishes domiciliary care to homeless veterans, and at no more than 12 centers and at the four new comprehensive homeless centers.

Experience with the Dallas Comprehensive Homeless Center which opened in September 1990 and the Brooklyn Comprehensive Homeless Center which opened in October 1991 demonstrated a very successful model for assistance to the homeless. Based on these successes to date, H.R. 5400 proposes to expand the testing of the comprehensive homeless center concept on a wider geographic scale.

The additional veterans benefits counselors authorized under the bill would provide improved access to, and delivery of, VA monetary benefits and services. A team approach is envisioned. VBA staff would seek out homeless veterans and families within the community. Working as a team with HCMI coordinators, DCHV staff, vet center counselors, homeless outreach specialists would provide case management to each individual to ensure that claims assistance, appropriate counseling services, and medical treatment are provided. This specialized team would be particularly active in networking with various VA and non-VA resources to meet the shelter and other needs of homeless veterans.

Another function of the VBA veterans services division is to provide fiduciary oversight service to incompetent beneficiaries. In this capacity, veterans service division employees are required to do extensive travel throughout the jurisdiction served. H.R. 5400 would enable such employees to provide additional services in these areas in the nature of outreach to homeless veterans provided such services are clearly identified and budgeted for.

ASSESSMENT OF NEEDS OF HOMELESS VETERANS

Mr. Speaker, the bill would require the Secretary to assess the needs of homeless veterans. The Secretary would require the Director of each VA medical center and VA regional benefits office to assess the needs of homeless veterans living within their respective service areas. The assessment would be coordinated with representatives of State and local governments, other appropriate departments, and agencies of the Federal Government, as well as nongovernmental organizations that have experienced working with the homeless in that area and would focus on the areas of health care, education and training, employment, shelter, and outreach services. The Secretary would use the assessment in program planning and to assist in carrying out the provisions of the bill and other provisions of law under the Secretary's jurisdiction.

EXTENSION AND EXPANSION OF PROGRAMS FOR HOMELESS VETERANS

Mr. Speaker, as stated previously, the Homeless Chronically Mentally Ill [HCMI] Program targets homeless veterans with psychiatric difficulties and operates out of 43 VA medical facilities located in 26 States and the District of Columbia. The basic components of the HCMI Program are: active community-conducted outreach services, psychiatric and medical assessment and treatment, intensive case management, and residential rehabilitation. Since the program's inception, over 46,600 homeless veterans have been clinically assessed and over 11,800 have been placed in community-based residential treatment facilities. The bill extends authority for the Secretary to continue this highly successful program from September 30, 1992, to September 30, 1995.

Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988—Public Law 100–628; 102 Stat. 3257—authorizes appropriations for the treatment of homeless veterans who have a chronic mental illness disability. H.R. 5400 would amend Public Law 100–628 to authorize the use of moneys under the HCMI Program for any homeless veteran, if funds remain available, provided the Secretary administers the provision of such services in a manner which gives first priority to, and facilitates access to services for homeless veterans who have a chronic mental illness.

VA ACQUIRED PROPERTIES

Mr. Speaker, Public Law 100–198, the Veterans Home Loan Program Improvements and Property Rehabilitation Act of 1987, enabled the VA to sell acquired properties at discounted prices to State and local agencies, as well as nonprofit organizations, to provide shelter to the homeless.

Under VA regulations, to be eligible for sale under this program, the property must have been on hand for 6 months or more and be available for an as is cash sale. The sale price for such property is 50 percent of the latest listing price for cash.

It is the committee's understanding that only 8 properties have been sold under this program. Although the VA's inventory has decreased from an alltime high of 25,175 in March 1988 to its current inventory of 12,800—it's lowest point since December 1981—the committee believes that there are a number of homes located in areas appropriate for use by the homeless. Therefore, the reported bill authorizes the Secretary to make such properties available through leasing, leasing with option to buy or through donations. In promulgating its regulations, the Secretary may consider the regulations of the Department of Housing and Urban Development under the McKinney Act supportive housing demonstration lease-option agreement.

AUTHORITY TO LEASE PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS FOR EXTENDED LEASE TERMS

Mr. Speaker, Public Law 100–322 prohibits VA from excessing or otherwise disposing of property located at the west Los Angeles VA Medical Center. Title 38, United States Code [USC], section 8122, authorizes VA to outlease land or buildings for a term not exceeding 3 years. In accordance with title V, Public Law 100–77—42 USC 11411—section 501, VA is obliged to lease its unutilized and underutilized property, which has been determined both suitable and available to an approved homeless provider for a term of not less than 1 year, unless the applicant requests a shorter term.

H.R. 5400 would grant authority for the Secretary of Veterans Affairs to lease real property at the west Los Angeles VA Medical Center for a term in excess of 3 years to a representative of the homeless. The lease would be based on an application from the representative of the homeless, approved by the Secretary of Health and Human Services, under provisions of the Stewart B. McKinney Homeless Assistance Act. For purposes of the reported bill, the term "representative of the homeless" shall have the meaning given such term in section 501(g)(4) of the Stewart B. McKinney Homeless Assistance Act—42 USC 11411(g)(4).

AUTHORIZATION OF APPROPRIATIONS

Mr. Speaker, there are authorized to be appropriated to carry out the reported bill $48 million for each of the fiscal years 1993, 1994, and 1995. No funds may be used for the reported bill, with the exception of section 8, unless expressly provided for in an appropriation law. Nothing in the reported bill diminishes funds for continuation of existing programs administered by the Secretary.

ANNUAL REPORTS

Lastly, H.R. 5400 requires the Secretary to submit an annual report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, no later than May 1 of each of 1994 and 1995. Each report shall include the number of veterans assisted, the services provided, and the Secretary's analysis of the operational and clinical effectiveness and cost effectiveness of the programs established under the bill.

Mr. Speaker, America's veterans have always answered the call to duty when freedom or this great Nation is threatened. Today, we have the opportunity to answer the call of need of America's homeless veterans. I therefore urge favorable consideration of this measure.

Mr. KENNEDY. Mr. Speaker, H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992, is a culmination of 3 months' work between Mr. STAGGERS, Mr. EVANS, and myself. My distinguished colleagues and I combined our legislative ideas into one bill, H.R. 5400, in the hopes of getting the most possible funds for homeless veterans.

As part of our commitment to our Nation's deserving soldiers, let's not forget that a quarter million of them now live on the streets in every State of this country. This bill seeks to get veterans back into homes by improving existing VA homeless programs, initiating a Federal grant program to assist community-based organizations in starting and maintaining homeless veteran programs, and preventing homelessness by allowing the VA to lease or donate property to homeless veteran programs.

Many Members of Congress have already cosponsored my original homeless veterans bill, H.R. 2648. The bill we are voting on here today is actually an improvement. The original bill I authored established three types of programs: Drop-in service centers where veterans could have received outreach services such as benefits and legal assistance; mobile support teams which would have used medically equipped vans to bring services to veterans in hard to reach areas; and transitional housing programs which would have provided veterans in temporary residential programs with a wide array of medical and social services, including job training.

H.R. 5400 does all of that and more. It requires regional officers and medical center directors to assess the needs of the homeless veterans in each region so that programs can be developed to meet their specific needs. H.R. 5400 then gives community-based providers the means to develop and maintain homeless veteran programs by establishing a Federal matching grant program.

In short, this bill provides homeless veteran providers with maximum input into developing programs, and maximum support in maintaining them. It also significantly enhances existing VA homeless programs. I urge my colleagues to support this legislation, so that we can fund these desperately needed programs.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in support of H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992.

First, I wish to commend the chairman of the VA subcommittee with jurisdiction over this bill, Representative STAGGERS, and the ranking member, Representative BURTON of Indiana, for their hard work in crafting this legislation.

H.R. 5400 contains several effective measures to address the plight of our Nation's homeless veterans. Specifically, the bill would provide the Secretary of Veterans Affairs with the authority to establish comprehensive homeless centers. These centers would provide an array of services such as transitional housing, rehabilitation, job training and employment counseling.

Furthermore, H.R. 5400 requires local VA medical center and regional office directors to assess the needs of homeless veterans living within their area of service.

It is a sad irony that many of our Nation's homeless men and women were at one time members of our Nation's armed services. It is only fitting that we take action to assist them in getting back on their feet.

I urge my colleagues to support H.R. 5400.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5400, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HELSINKI HUMAN RIGHTS DAY

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 310) to designate August 1, 1991, as "Helsinki Human Rights Day."

The Clerk read as follows:

S.J. RES. 310

Whereas August 1, 1991, is the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas the Helsinki accords were agreed to by the Government of Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Byelarus, Canada, Croatia, Cyprus, Czech and Slovak Federal Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, the United Kingdom, the United States of America, Uzbekistan, and Yugoslavia;

Whereas the Helsinki accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have affirmed that the "ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right to freely express, preserve and develop that identity without any discrimination and in full equality before the law";

Whereas the participating States have recognized that the free will of the individual, exercised in democracy and protected by the rule of law, forms the necessary basis for successful economic and social development;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States recognize that "democratic government is based on the will of the people, expressed regularly through free and fair elections; and democracy has as its foundation respect for the person and the rule of law; and democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person";

Whereas on November 21, 1990, the heads of State or government from the signatory States signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the participating States;

Whereas the Conference on Security and Cooperation in Europe has made major contributions to the positive developments in Europe, including greater respect for the human rights and fundamental freedoms of individuals and groups;

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States; and

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1992, the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory States to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory State which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms continues to be a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain.

SEC. 2. The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors or representatives to the United States of the other fifty-one Helsinki signatory States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Joint Resolution 310, designating August 1, 1992, as "Helsinki Human Rights Day."

This measure, which is similar to legislation we have passed in previous years, was considered by the Committee on Foreign Affairs and reported favorably on July 22, 1992. The resolution was also referred to the Committee on Post Office and Civil Service which, because of the timeliness of the measure, waived consideration so that we could bring it to the floor today. I would like to thank the distinguished chairman of the Post Office Committee for his cooperation in this regard.

Mr. Speaker, while the Helsinki signatory countries, particularly those of Eastern and Central Europe, have made great strides in ensuring respect for human rights and fundamental freedoms in their countries in the last 2 years, serious problems still remain. Whether it is the vicious civil war in the former Republic of Yugoslavia with the deplorable ethnic cleanup imposed by Serbian authorities, or the plight of the Kurdish minority in Iraq and Turkey, the denial of the rights of ethnic or religious minorities continues to jeopardize these nations' progress toward democratization and the peace and prosperity of the entire region. Recent and disturbing events in several countries involving ethnic minorities demonstrate the need to continue to emphasize protection of human rights, especially ethnic and minority rights. These issues were highlighted at the recently completed summit of the 52 nations participating in the CSCE process which was held July 9 and 10 in Helsinki, Finland.

This resolution calls upon the President to commemorate August 1, 1992, as Helsinki Human Rights Day. It also urges the President to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki Final Act by all Helsinki signatories. The President is also requested to develop new proposals to advance the human rights objectives of the Helsinki process. I commend the chairman of the Helsinki Commission and chief sponsor of the resolution, Mr. HOYER, for his continuing efforts in this regard and I urge immediate adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my strong support for this resolution, and I commend my good friend, Chairman DANTE FASCELL, for his leadership in bringing this important resolution before the House today.

Senate Joint Resolution 310 designates August 1, 1992, as "Helsinki Human Rights Day." As many of my colleagues know, August 1 marks the 17th anniversary of the signing of the Helsinki accords in 1975. For each of those 17 years, Congress has passed resolutions designating August 1 as "Helsinki Rights Day."

The more than 50 nations who signed the Helsinki accords pledged themselves to respect human rights, including the right to freedom of thought and conscience for all. They pledged themselves to promote laws and practices that would respect fundamental human rights.

Unfortunately, for most of those 17 years, half of Europe was under the grip of Communist dictatorships. Despite the fact that most of these regimes had freely signed the Helsinki accords, they routinely violated the spirit and letter of the accords.

Nevertheless, we here in the United States and those in the rest of the free world continued to insist that the peoples then living under Communist rule were entitled to the same rights as we ourselves enjoyed.

I am pleased to say that this year, for the first time ever, we can celebrate the collapse of communism throughout Europe and the triumph of the values contained in the Helsinki accords. From the Atlantic to the Urals, people and governments are embracing the ideals of democracy and individual rights.

However, as recent events in Bosnia and other parts of Yugoslavia clearly demonstrate, the United States must continue to make the promotion of human rights a cornerstone of its European policy. There are still people in parts of Europe and the former Soviet Union whose fundamental rights are being violated.

The Helsinki accords provide the blueprint for a Europe that is whole and free. By designating August 1 as "Helsinki Human Rights Day," the Congress will send a message to the peoples of Europe that we will continue to work to protect their hard-won freedom.

Mr. HOYER. Mr. Speaker, as chairman of the Commission on Security and Cooperation in Europe, the Helsinki Commission, I rise in strong support of Senate Joint Resolution 310, legislation designating August 1, 1992, as "Helsinki Human Rights Day." I would like to take this opportunity to thank my distinguished colleagues, LEE HAMILTON, the chairman of the Europe and Middle East Subcommittee, and GUS YATRON, the chairman of the Human Rights and International Organizations Subcommittee, who have been tireless leaders over the years in the struggle for human rights throughout the world. We will miss GUS in the next Congress and his undaunting pursuit of human rights. Finally, I want to thank the chairman of the House Foreign Affairs Committee, DANTE FASCELL, who was instrumental in creating the Helsinki Commission and making the principles of the Helsinki Final Act a beacon for the transition to democracy that has swept Eastern and Central Europe and the Commonwealth of Independent States.

Mr. Speaker, Senate Joint Resolution 310 was introduced by the cochairman of the Helsinki Commission, Senator DENNIS DECONCINI and is identical to House Joint Resolution 508, which I, along with the other eight members of the Helsinki Commission and many more of my colleagues have introduced here in the House.

August 1, 1992, marks the 17th anniversary of the gathering in Helsinki of representatives from the 35 nations of Europe and the United States and Canada to sign the Final Act of the Conference on Security and Cooperation in Europe. This agreement marked a beginning of a new hope—a new hope to ease strained East-West relations; a hope for new exchanges of ideas and technologies; a hope that ever country might some day feel a sense of security within their own borders, and most importantly, for those suffering under the yoke of communism, a hope for a drastic improvement in fundamental freedoms and human rights.

This resolution, Mr. Speaker, in my opinion, reaffirms that hope. The breakup of the Soviet

Union, the creation of the Commonwealth of Independent States and the addition of 17 new members into the CSCE provides a fresh and exciting opportunity for further advancement of the goals of the Helsinki accords. Yet as we have witnessed in the last year, the fall of communism and the yearning for democracy have not instantaneously cured all of the human rights problems which have festered within the dark shadow cast by the former Iron Curtain. The death of communism has unleashed a new spectrum of problems—which we must, with a new sense of vigor, seek to address. The conflicts in Bosnia, Nagorno-Karabakh, Georgia, and Trans-Dniestr are examples of the new kind of crises that the new CSCE must confront.

Just recently, President Bush signed in Helsinki a new declaration which reinforces our common conviction that human rights form the cornerstone of security. The recent Helsinki meeting established a High Commissioner for National Minorities, who will help investigate and resolve problems involving national minorities in the early stages. Progress was also made in coordinating the institutions, mechanisms, factfinding missions, and political consultative processes that the CSCE has now established. Perhaps most important of all, agreement was reached on the principle that the CSCE may undertake peacekeeping in order to supervise and maintain cease-fires, monitor troop withdrawals, and provide humanitarian and medical aid.

The problems facing the 52 signatory nations present perhaps an even greater challenge than those of the past. In this respect, the ability of CSCE to manage change—not prevent it—will be its litmus test in the future. In that regard, the United States, along with all of the members of the CSCE, must remain dedicated, determined, and unwavering in its commitment to these accords. I urge adoption of this joint resolution and once again thank my colleagues for their prompt action on this legislation.

Mr. PORTER. Mr. Speaker, as one of the original sponsors of Senate Joint Resolution 310 and as a member of the Helsinki Commission, I am pleased to rise in strong support of this resolution which designates August 1, 1992, as Helsinki Human Rights Day.

The signing of the Helsinki accords on August 1, 1975, marked the start of a dynamic process which has led to historic changes in Europe over these past few years. When the leaders of 35 countries met in Helsinki to sign the Final Act of the CSCE, tensions between East and West were strong and cooperation between the two sides on matters relating to human rights and the rule of law was virtually nonexistent. Now, 17 years later, the countries of Eastern Europe are free, the Soviet Union has collapsed and democracy and peaceful change through free and fair elections is taking root through the region. The CSCE process deserves credit for its role in bringing about a common commitment to human rights and fundamental freedoms across Europe.

Although the cold war is over, the work of the CSCE is not over. It can now play a critical role in helping to address the issues facing postcold war Europe, such as the tensions over nationality which have arisen most notably in Yugoslavia and in newly independent countries of the CIS. The CSCE can also develop its role to ensure the full implementation of human rights guarantees in each of the 52-member countries. The task of the Helsinki process should now be to make irreversible the democratic advancements that have been made in Eastern Europe and the former Soviet Union and to consolidate mechanisms for preventing conflict and preserving peace throughout Europe.

Because the CSCE process has been such a useful forum to monitor international compliance to the Helsinki accords, I believe that model of the Helsinki Commission should be applied to other international agreements. For this reason, I have recently introduced legislation to create a Rio Commission.

The Rio Commission would oversee progress toward the policy goals produced at the U.N. Conference on Environment and Development [UNCED] in Rio de Janeiro in June. Like the Helsinki Commission, the Rio Commission would be composed of Members of Congress and the executive branch and would keep track of how the United States and UNCED conferees are implementing the commitments they made at the Earth summit to achieve environmental protection and sustainable development. It is my hope that by establishing a Rio Commission, we will make as much progress on Earth summit goals as we have made on the commitments that were included in the Helsinki accords.

I am pleased to join my colleague, Steny Hoyer, chairman of the Helsinki Commission, in marking the anniversary of the signing of the Helsinki accords and I urge the adoption of this resolution.

Mr. BROOMFIELD. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Fascell] that the House pass the Senate joint resolution, Senate Joint Resolution 310.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE ACT OF 1991

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3537) to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes.

The Clerk read as follows:

H.R. 3537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Tiltrotor Development Advisory Committee Act of 1991".

SEC. 2. CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE.

(a) Establishment.—The Secretary of Transportation shall establish in the Department of Transportation a Civil Tiltrotor Development Advisory Committee (hereinafter in this section referred to as the "Advisory Committee") to evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft and a national system of infrastructure to support the incorporation of tiltrotor aircraft technology into the national transportation system.

(b) Membership.—

(1) Appointment.—The Advisory Committee shall be composed of members appointed by the Secretary of Transportation, not later than 60 days after the date of the enactment of this Act, as follows:

(A) At least 1 representative of the Department of Transportation.

(B) At least 1 representative of the Federal Aviation Administration.

(C) At least 1 representative of the National Aeronautics and Space Administration.

(D) Representatives of other Federal departments and agencies, State and local governments, and private industry, as considered appropriate and necessary by the Secretary.

(2) Qualification.—Members appointed pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall be appointed from among individuals employed under the Federal departments and agencies described in such subparagraphs who receive an annual rate of basic pay which equals or exceeds the rate payable for level VI of the Senior Executive Service.

(3) Chairperson.—The Secretary of Transportation shall appoint a Chairperson of the Advisory Committee from among individuals employed under the Department of Transportation who receive an annual rate of basic pay which equals or exceeds the rate payable for level IV of the Executive Schedule.

(c) Duties.—The Advisory Committee shall—

(1) determine the costs, feasibility, and economic viability of developing a civil tiltrotor aircraft and establishing the necessary infrastructure to incorporate such aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(2) determine the benefits to the national economy and transportation system, including the potential for improved linkages and connections with other modes of transportation, of incorporating civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(3) determine further aeronautical research and development requirements needed to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(4) determine changes to regulatory standards governing use of the airspace which would be required to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system; and

(5) recommend which of the costs of developing civil tiltroter aircraft and establishing the infrastucture necessary to support civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft should be paid by the Federal Government and which of such costs should be paid by private industry.

(d) REPORT.—Not later than the 365th day following the date of the first meeting of the Advisory Committee, the Advisory Committee shall transmit to Congress a report containing its determinations and recommendations under subsection (c).

(e) TERMINATION.—The Advisory Committee shall terminate on the 30th day following the date of submission of its report under subsection (d).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, H.R. 3537 is an important step in ensuring that civil tiltrotor technology will become a part of our national Transportation system. This bill to define its parameters directs the Secretary of Transportation to establish a Civil Tiltrotor Advisory Committee. That Committee or Commission, as it may well be called, is the next logical step in the process of developing civil tiltrotor technology.

Mr. Speaker, NASA and FAA last year issued a comprehensive report on civil tiltrotor technology. The report concluded that commercial tiltrotor would be technically feasible, economically viable, and substantially would benefit airports and air travelers by relieving pressure on airport runway capacity.

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The primary purpose of the advisory committee would be to identify specific needs in the Nation's airport infrastructure, as well as air space regulatory changes that may be needed to effectively incorporate tiltrotor aircraft into the Nation's air transportation system. The Commission would also examine the appropriate role for the Federal Government and for the private sector in the future development of the civil tiltrotor. That advisory committee would include high level DOT, FAA, and NASA officials, as well as experts from State and local government and from the private sector.

How important is this V-22 technology? Well, at a recent conference I attended where there were participants from overseas, Japanese Government officials observed that they had been studying this technology for quite some time, found it very attractive and very exciting for high density market locations and that, quote, if the United States will develop this technology and build the aircraft, we will buy it. And they said, "But if you choose not to do so, sell us the technology; we'll build it and sell it back to you." If we do not proceed with the civilian application of civil tiltrotor, I am convinced that that is exactly what will happen. We will wind up somehow seeing this technology get into foreign hands, be developed overseas, and sold back to the United States.

The areas of this country where tiltrotor has civilian applications are precisely here on the east coast, precisely here on the west coast, where we have high density market areas, high concentrations of population and high frequency of short travel, and in this age of hub and spoke aviation, of short distance travel of the population to the hub airport, and there to be distributed out across the United States or into international markets, that is where we need such aircraft that can move into dense markets, not occupy a great deal of runway space and yet move large numbers of people very efficiently.

So, Mr. Speaker, I hope we will move ahead with this commission, identify the needs, the problems, and move on with the technology of actually developing the aircraft for civilian use.

I cannot conclude without observing, as all of us noted with shock, and dismay and concern, the crash of a V-22 Osprey in the Potomac River just a few days ago. An inquiry is already underway. The cause, as we have seen in other similar crashes of developmental aircraft, will be found and, with the proper application of technology, will be fixed. I am confident we will be able to proceed with this technology, but that incident makes it all the more important for us to move ahead with this broad-based Commission, to examine all the aspects of the application of the V-22 tiltrotor technology to civilian purposes.

I urge the adoption of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my appreciation to the chairman of our Aviation Subcommittee, the gentleman from Minnesota [Mr. OBERSTAR] and ranking member, the gentleman from Pennsylvania [Mr. CLINGER] for their work on this bill.

It is well known that airport congestion and airline delays continue to be serious problems in this country. They are bound to get worse in the future as air traffic increases.

Building new airports to relieve the congestion is expensive and often unpopular because of the noise associated with them.

Tiltrotor aircraft could help to solve the congestion and delay problems. They take off and land like helicopters and can operate from heliports located downtown or from separate areas on existing airports.

When operating from downtown areas, tiltrotor aircraft could save passengers time by allowing them to avoid street congestion that would otherwise be encountered in driving to and from the airport. Once airborne, the aircraft engines tilt forward to speed passengers to their destination.

It has also been suggested that this aircraft could play an important role in drug enforcement programs, search and rescue missions, and disaster assistance efforts.

Despite all these advantages, the tiltrotor program seems to be in a holding pattern at the moment. The problem is that we are faced with a chicken-and-egg type problem. Aircraft manufacturers are reluctant to build tiltrotor aircraft in large numbers without some airline orders. But airlines are reluctant to order the aircraft until these new planes have been built and demonstrated to be reliable.

Unfortunately, the tiltrotor program suffered a terrible set-back recently when one of the planes crashed into the Potomac River. While this tragedy certainly justifies a reassessment of the program, it should not necessarily cause us to abandon it. If the technical experts can fix the problem that caused this accident, tiltrotor technology could still provide significant benefits to inner-city travelers. And if we do not build the tiltrotor, the Japanese or some other foreign country probably will.

I agree with the gentleman from New Jersey [Mr. ROE] when he says, it is important to keep this issue alive. The advisory committee created by this bill can help to do that. This advisory committee will also be able to answer questions about the costs, feasibility, safety, and economic viability of the tiltrotor concept. I support this initiative and urge the House to approve this bill.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no further requests for time on our side. I just in conclusion want to observe that the tiltrotor represents 21st-century technology. It is technology on which, once again, the United States is on the leading edge. We have advanced the state of the art. We are positioned to move ahead with something very exciting in civil aviation. We ought not to lose the opportunity to do so.

I want to take this opportunity also to thank my colleague, the gentleman from Pennsylvania [Mr. CLINGER], for the time that he has devoted with me to the development of this legislation.

I compliment him on his splendid work and contribution, as always, in the field of aviation.

I urge enactment of this legislation.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending bill.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Minnesota?

There was no objecticn.

Mr. WELDON. Mr. Speaker, as an original cosponsor of H.R. 3537, the Civil Tiltrotor Development Advisory Committee Act of 1991, I rise in support of this bill. Tiltrotor technology has proven itself successful and the potential for this technology in civil aviation is tremendous. In order to continue the cooperation between military and civilian interests in tiltrotor technological development, however, the establishment of this advisory committee is imperative.

While the military continues development of the tiltrotor aircraft for military use, the Federal Aviation Administration will certify a derivative for civilian use. FAA oversight of production will hasten the transfer of this technology from the military to our civilian transportation system. This legislation will facilitate coordination between all Federal agencies involved in tiltrotor development efforts. This is certainly a minimal investment for such a huge potential payoff.

I hope my colleagues realize the potential for civilian tiltrotor aircraft and help support their development by supporting H.R. 3537.

Mr. ROE. Mr. Speaker, H.R. 3537 is an important step in ensuring that civil tiltrotor technology will become part of our national transportation system.

The bill directs the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee. The Commission is the logical next step in the process of developing civil tiltrotor technology.

Last year, NASA and FAA issued a comprehensive report on civil tiltrotor technology. That report concluded that commercial tiltrotors would be technically feasible, economically viable, and of great benefit to the Nation's airport capacity if steps were taken to develop the infrastructure to support tiltrotor operations. Our Aviation Subcommittee held a hearing and received testimony 2 years ago that led to similar conclusions.

The Advisory Commission created by the bill now before us would conduct the necessary analysis and identify specifically what needs to be done by the Federal Government and the private sector to ensure that tiltrotor aircraft become an integral part of our transportation system.

Without this Commission to provide a focus on what needs to be done with respect to incorporating tiltrotor technology into our transportation system, I believe we will see little more than lipservice to this potentially revolutionary technology.

This bill makes possible a dramatically different and improved transportation system for the 21st century.

Finally, as everyone knows, a V–22 Osprey tiltrotor aircraft crashed last week in the Potomac River. It will likely take some time for this tragedy to be fully investigated and understood, but it should in no way deter our efforts to clear the way for civil tiltrotor technology from being incorporated into our transportation system. We should recognize that the aircraft that did crash is a developmental aircraft. Whatever the cause of the accident, we can expect to see the problem understood and fixed, and the overall program continued.

The work of the Advisory Committee is parallel to the military program. While this accident is certainly a setback in the military program, there is every reason for us to continue to proceed on the civil side. The work of the Advisory Committee does not hinge on the investigation of the accident. The bill's purpose is to address financial and infrastructure issues associated with the civil tiltrotor.

In conclusion, Mr. Speaker, I urge adoption of this important legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 3537.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE XIII OF THE FEDERAL AVIATION ACT OF 1958 RELATING TO AVIATION INSURANCE

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5465) to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance, as amended.

The Clerk read as follows:

H.R. 5465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INSURANCE FOR DEPARTMENTS AND AGENCIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 1304(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1534(a)) is amended—

(1) by inserting after "under this title" the following: ", including insurance to cover any risk from the operation of an aircraft while such aircraft is engaged in intrastate, interstate, or overseas air commerce"; and

(2) by adding at the end the following new sentence: "In addition, such department or agency may, with the approval of the President, procure such insurance to cover any risk arising from the provision of goods or services directly related to and necessary for an operation of an aircraft covered by insurance procured under the preceding sentence if such operation is in the performance of a contract of such department of agency or is for the purpose of transporting military forces or materiel on behalf of the United States pursuant to an agreement between the United States and a foreign government.".

(b) CONFORMING AMENDMENT.—Section 1302(a)(3) of such Act (49 U.S.C. App. 1532(a)(3)) is amended by striking "Insurance" and inserting "Subject to section 1304(a), insurance".

SEC. 2. EXTENSION OF PROGRAM.

Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1542) is amended by striking "1992" and inserting "1997".

SEC. 3. ADMINISTRATION OF AVIATION INSURANCE PROGRAM.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958 during the Persian Gulf conflict for the purpose of determining methods of improving the efficiency of the administration of such program by reducing the paperwork and time period required for provision of insurance under such program.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the review conducted under subsection (a), together with any recommendations of the Comptroller General for improving the efficiency of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 5465, a bill to reauthorize for 5 years the Aviation Insurance Program included in title XIII of the Federal Aviation Act. This is the program which provides air carriers with Government-sponsored insurance when commercial insurance is unavailable or available at unreasonable rates due to world events. The need for this long-established program of war risk insurance, as it is conveniently called, was underscored during the Desert Shield and Desert Storm operation of the gulf conflict.

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If we had not had war risk insurance, commercial air carriers simply would not have been able to operate in the Persian Gulf area, either on a commercial basis or in pursuit of government policies and programs as they were under contract to do. The U.S. Government simply would not have had the necessary airlift capability to undertake the swift and efficient deployment of the military personnel and goods without that available commercial capacity, and that capacity in the private sector would not have been available if the air carriers had not been able to have in place insurance to cover possible losses for entering a war zone.

The significance of commercial air operations is underscored by the fact that more than 6,000 flights were operated on behalf of the United States military, carrying personnel and goods into the Persian Gulf area. Those operations received nonpremium insurance. That is, the carriers paid a fee of only $200 per aircraft for that insurance. More than 40 commercial flights received premium insurance. That is, they paid the Government a premium for the insurance they received. Happily or fortunately, there were no claims for damage or loss in the course of the gulf conflict. But unexpectedly and surprisingly, the Government did earn approximately $600,000 on the insurance that was provided for those operations.

Clearly, this is not a program that has been subject to abuse. It has been activated only a handful of times during the course of the history of this program, but when we have needed it, it has been essential. Based on our experience in the gulf and based on the testimony the subcommittee received during two hearings on the subject, we proposed to modify the existing program in some important aspects.

The bill authorizes the Government to provide insurance for carriers who operate domestic flights, that is, in the domestic United States on behalf of the military, in contrast to the existing program that insures only the international leg of operations. We found that those operations were continual. They started at one point in the domestic United States, terminated intermediately at another point in the United States, and then continued to an international destination. The entire operation, not just one leg of it, should have been covered, and that is what this legislation will do.

Second, the bill will direct a report by the General Accounting Office to be undertaken, with findings and recommendations on how the program has operated and in what ways it can be improved beyond those provided in this legislation.

We recommend this GAO study based upon concerns about the approval process necessary to receive the aviation insurance. There has been a number of concerns by private carriers that the process became overly complex and delayed and could be streamlined, and we think a GAO inquiry into the matter can provide some recommendations for streamlining the process. Carriers should know significantly in advance of operations whether they will be receiving insurance in order to notify passengers and in order to make necessary arrangements. I can cite from personal experience how complex that process can become, because I was called by a carrier at one point in the gulf conflict when the carrier did not know when it was going to operate. There were two Departments of Government, neither talking to each other, both of them unnecessarily delaying the operation, and I had to get involved in bringing them together and resolving the conflict. That should not happen. It ought to operate smoothly. The GAO ought to be able to study the issue and provide us some sound recommendations.

Finally, Mr. Speaker, the legislation authorizes the Government to insure the ground support operations necessary to service those flights operated on behalf of the Government. Presently, the program is authorized only to insure flights.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the War Risk Insurance Program is a little-known, but potentially very important, Federal program. It was first authorized in 1951 and has been used only sparingly since. However, it did play an important role during the Persian Gulf conflict. It was used to insure flights carrying troops and supplies to the Middle East.

In the past, the reauthorization of the War Risk Program had been handled routinely. Frequently we accomplished it without even the need to hold a hearing. However, experience gained during the Persian Gulf war justified a closer look at the program this time.

Our hearings on this subject focused on the issue of extending war risk coverage to domestic flights. Currently, war risk policies cover only international flights, but the airlines urged us to extend the program to domestic flights as well.

I am pleased that the bill addresses this issue, at least in part. It would extend the War Risk Insurance Program to some domestic flights, primarily those flights that carry troops and supplies for the Defense Department.

Another source of complaints about the War Risk Program concerned the bureaucracy and the redtape that airlines had to endure to get insurance coverage for specific flights. While the bill does not address this problem directly, it does require the General Accounting Office to study the matter and make some recommendations. This will give us a chance to revisit this issue once we have the benefit of GAO's analysis.

Mr. Speaker, the Public Works and Transportation Committee undertook a thorough review of the War Risk Insurance Program. I appreciate the time that the subcommittee chairman, Mr. OBERSTAR, and the ranking member, Mr. CLINGER, spent becoming familiar with the details of this highly technical program. I support this bill that is the result of those efforts, and commend Chairman ROE for moving it expeditiously through the full committee.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I want to again offer my compliments to my ranking member of the subcommittee, the gentleman from Pennsylvania [Mr. CLINGER], for his participation throughout the several hours of hearings we held on this issue and for the time he has devoted to shaping the legislation and bringing about the support we needed in committee to bring this bill to the House floor.

I want to offer my compliments especially to the staffs on both sides of the subcommittee who have labored long and hard, listening to the many interests and concerns on the side of both the military and the Department of Transportation, as well as the carriers involved, and who have done a splendid job in shaping this legislation.

Mr. ROE. Mr. Speaker, I rise in strong support of H.R. 5465, a bill to reauthorize for 5 years the Aviation Insurance Program in title XIII of the Federal Aviation Act. This program provides commercial air carriers with Government-sponsored insurance when commercial insurance is unavailable or is available at unreasonable rates due to world events.

The War Risk Insurance Program provided vital to the country's national interest during the Persian Gulf conflict when our Nation's carriers operated flights on behalf of the military. During the conflict, commercial insurance for flights to the Middle East increased so dramatically that operations to the area would have been prohibitively expensive if the Government had not been able to provide insurance. The kind of civil airlift that proved so necessary to our country's success in Desert Shield and Desert Storm would not have been available if air carriers were not assured that adequate insurance was being provided for their operations.

Desert Shield and Desert Storm exemplify the need to reauthorize this program without delay. Prior to the Persian Gulf conflict, this program had been used only a handful of times. Yet, when the need arose for this program to be implemented on a large-scale basis, on relatively short notice, the program succeeded in providing the necessary insurance and effectively assisting in the military effort.

In addition to reauthorizing the Aviation Insurance Program for 5 years, H.R. 5465 expands the existing program to authorize the Government to insure domestic flights being operated by commercial carriers on behalf of the Government. The present program authorizes insurance for international flights only. The committee considers that this expansion is necessary to ensure that there is no gap in insurance coverage when carriers are operating flights on behalf of the Government. Without the assurance that adequate insurance is available, carriers may choose not to operate flights on behalf of the Government, which would seriously reduce the Government's airlift capability.

The bill also requires the General Accounting Office to study how the Aviation Insurance Program operated during Desert Shield and Desert Storm. The GAO report will make recommendations to Congress about how the program could be improved.

Mr. Speaker, I urge my colleagues to support this very important legislation.

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending bill, H.R. 5465.

The SPEAKER, pro tempore Mr. McDERMOTT. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 5465, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROVIDING ADDITIONAL TIME TO NEGOTIATE A LAND DISPUTE IN SOUTH CAROLINA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5566) to provide additional time to negotiate settlement of a land dispute in South Carolina.

The Clerk read as follows:

H.R. 5566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Suits on possessory land claims may be commenced against tens of thousands of citizens in York, Lancaster, and Chester Counties, South Carolina, within the area claimed in the suit Catawba Indian Tribe of South Carolina against State of South Carolina, et al., Civil Action No. 80-2050 (D.S.C.).

(2) Tens of thousands of such suits would be costly to all parties, including the Federal judicial system, and would create a burden upon interstate commerce.

(3) The filing of such suits may be averted by settlement if additional time is made available for the parties to negotiate and implement the terms of settlement.

(4) The Congress has authority to enact this legislation under the Indian Commerce Clause and the Interstate Commerce Clause of the Constitution; and the Department of Justice concurs in this construction of Article I of the Constitution.

SEC. 2 PURPOSE.

The purpose of this Act is to prevent the social, economic, and judicial disruption that would result from the commencement of law suits against tens of thousands of citizens in York, Lancaster, and Chester Counties, South Carolina, and the burden on interstate commerce that such suits would impose. The parties to the above reference suit require additional time in which to negotiate and implement the terms of settlement; and if such time is made available, it may avert the necessity of thousands of law suits. The purpose of this Act is not to revive, renew, or extend any claim barred by any period of limitation, repose, or time bar as of the effective date of this Act.

SEC. 3 STATUTE OF LIMITATION.

(a) If any period of limitation or repose, or any other defense based wholly or partly on the passage of time, bars any claim brought by or on behalf of any Indian, Indian nation, or tribe or band of Indians claiming or asserting damages or an interest in land in York, Lancaster, or Chester Counties, South Carolina, under section 2116 of the Revised Statutes (25 U.S.C. 177; commonly known as the Indian Non-Intercourse Act), the Constitution of the United States, common law, or any treaty, as of the date of enactment of this Act, such period of limitation or repose, or other defense based wholly or partly on passage of time, shall bar any such claim, without regard to whether such claim has already been filed.

(b) If any period of limitation or repose, or any other defense based wholly or partly on the passage of time, has not barred any claim, filed or unfiled, by or on behalf of an Indian, Indian nation, or tribe or band of Indians claiming or asserting damages or an interest in land in York, Lancaster, or Chester County, South Carolina, under section 2116 of the Revised Statutes (25 U.S.C. 177; commonly known as the Indian Non-Intercourse Act), the Constitution of the United States, common law, or treaty, as of the date of the enactment of this Act, the running of any such period of limitation or repose, or any other defense based wholly or partly on the passage of time, shall be suspended as of the date of the enactment of this Act until October 1, 1993. On October 1, 1993, the time upon which any such defenses are based shall resume running. The period of time remaining for any time-related defense to become a bar to any such claim shall be the same on October 1, 1993, as it was immediately prior to the date of the enactment of this Act. Nothing in this subsection shall be construed to affect the application of any period of limitation, repose, or time bar to the claim of any individual Indian which is pursued under any Federal or State law generally applicable to non-Indians as well as Indians.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure before us, H.R. 5566.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5566 sponsored by Mr. SPRATT, preserves the legal status of the land claims of the Catawba Tribe of Indians of South Carolina 1 year. Unless this bill passes, the tribe is prepared to sue approximately 27,500 landowners in the State of South Carolina and will do so to meet the statute of limitations deadline which the tribe asserts falls on October 19 of this year. The tribe would be serving the defendant landowners at the end of this month to meet this deadline unless this legislation is passed immediately. Mere service of process in this case would result in great expense to both the tribe and the defendants.

This is an urgent matter and the committee has expedited its procedures to accommodate the tribe, the landowners and the State because the parties are engaged in negotiations which will hopefully result in a fair and equitable settlement of the Catawba claims.

This measure has the support of the administration, the tribe, the State, and the South Carolina delegation. I urge my colleagues to support it.

H.R. 5566

PURPOSE

The purpose of H.R. 5566 is to suspend the running of the limitations periods applicable to an Indian claim for damages and possession of land in York and Lancaster Counties, South Carolina. This bill is not intended to affect in any way the substantive claims or defenses either side may assert in the litigation of this claim. The bill does not address or affect litigation of this claim. The bill does not address or affect the substance of the land claim, or reflect any congressional intent to modify the claim or any defenses land holders may have to such claim, other than to suspend for a stated time statutory and common law periods of limitation and repose that may apply to the claim.

BACKGROUND

On October 28, 1980, a suit was filed in the U.S. District Court for South Carolina entitled *Catawba Indian Tribe of South Carolina* v. *State of South Carolina, et al.* The plaintiff, (the "Catawbas") alleges that in treaties made with the British Government in 1760 and 1763, a tract of 144,000 acres in South Carolina was reserved to the Catawbas; and that in return for guarantees of quiet possession, the Catawbas ceded the remainder of their lands held under aboriginal title. The Catawbas further allege that in 1840, the State of South Carolina, without federal participation or approval, negotiated a "treaty" with the Catawbas, attempting to extinguish Indian title so that the lands could be conveyed to non-Indians. The Catawbas allege that South Carolina failed to honor its promise to acquire a new reservation for the Catawbas. The Catawbas further allege that the 1840 "treaty" was void under federal law and thus conveyed no interest in the reservation lands to the non-Indian occupants. On December 14, 1943, the State of South Carolina, the Catawbas, and the federal Office of Indian Affairs entered into a "Memorandum of Understanding," providing for the extension of federal benefits to the Catawbas. The Catawbas contend that this MOU established a federal trust relationship. On July 1, 1962, by virtue of the "Catawba Division of Assets Act," 25 U.S.C. Section 931-938, the Catawbas' relationship with the federal government was terminated.

After a three-year effort to settle the claim without disruptive litigation failed, the Catawbas on October 28, 1980, filed suit in the U.S. District Court to regain possession of 140,000 acres in the U.S. District Court to regain possession of 140,000 acres purportedly ceded by the 1840 treaty. The suit was filed as a defendant class action naming 76 defendants as representatives of a defendant class then estimated to number 27,500. The Catawbas sought immediate certification of the defendant class, but the District Court, over their objection, postponed consideration of class action status in favor of first considering the named defendants' motion to dismiss based on the effects of the Catawba Division of Assets Act ("Act"). The court then dismissed the case, holding that the Catawba Division of Assets Act ratified the 1840 treaty, extinguished the Catawbas existence as a tribe and the federal trust responsibility for the land claim, and made state statutes of limitations applicable to the claim in such a way as to bar the claim. In 1984, the United States Court of Appeals for the Fourth Circuit reversed the District Court. *Catawba Indian Tribe of South Carolina* v. *State of South Carolina*, 740 F.2d 305 (4th Cir. 1984) (en banc, per curiam); (adopting panel opinion, 718 F2d 1291, 4th Cir. 1983). In 1986, the United States Supreme Court, reviewing only the question of whether the Catawba Division of Assets Act resulted in the application of South Carolina statutes of limitations to the claim, reversed the Fourth Circuit and held that state statutes of limitations should be borrowed and applied to the claim as a result of the Act. However, the court did not decide what effects their application would have on the claim. The Supreme Court instead remanded that question to the Fourth Circuit Court of Appeals. *State of South Carolina* v. *Catawba Indian Tribe of South Carolina*, 476 U.S. 498 (1986).

In, 1989, the Fourth Circuit ruled that because of South Carolina's prohibition against tacking (adding together) successive periods of adverse possession to achieve 10 years under the statute of limitations, the Catawbas' claim would be barred against only those named defendants who had possessed the land for 10 continuous years between July 1, 1962, which was the effective date of the Catawba Division of Assets Act, when state law became applicable to the Catawbas, and October 28, 1980, when the law suit was filed. *Catawba Indian Tribe of South Carolina* v. *State of South Carolina*, 865 F. 2d 1444 (4th Cir. 1989, en banc), cert. denied, 491 U.S. 906 (1989).

The case was remanded to the District Court and over the Catawbas' objection, the court postponed consideration of the plaintiff's class action motion in order to determine which of the seventy-six named defendants could establish ten continuous years' of adverse possession and thus be dismissed from the case. The court dismissed twenty-nine named defendants and thousands of acres from the claim. The court then took up the plaintiff's motion for class certification, and on February 19, 1991, the court ruled (1) that if the Catawbas were to prevail against the remaining named defendants, that would not affect the value and marketability of the lands of the absent class members, because many of them would have a statute of limitations defense, and (2) that no defendant class exists because the filing of the complaint and class action motion in 1980 did not toll the running of the applicable statutes of limitations. The court held that because of South Carolina's 20-year presumption of a grant, under which tacking is permitted, time continued to run against unnamed defendants after the claim was filed in 1980, and this common law presumption operated to bar the remainder of the claim. In addition, the District Court held that the 20-year limitations doctrine did not require an affirmative showing by each defendant that the land claimed by them had been adversely possessed for the twenty-year period. Both issues (dismissal based on adverse possession and denial of class certification) are currently before the Fourth Circuit on appeal and on mandamus petition respectively. Case Nos. 90-2446 and 91-2341.

By calculation of the Catawbas' attorneys, there was approximately 20 months left in the 20-year limitation period when the Catawbas filed their suit on October 28, 1980; or in other words, the Catawbas filed suit 18 years and 4 months after July 1, 1962. Because the District Court's rulings on February 19, 1991, on tolling and on the operation of the 20-year doctrine are not yet final, the Catawbas contend that in order to protect their claim, they must assume that the District Court will be reversed. They assume (1) that the running of state limitations periods was tolled by the filing of the complaint in 1980, and (2) that South Carolina law does require an affirmative factual showing that each parcel of land has been possessed adversely for the requisite period before the Catawbas' land claim can be barred. Thus, under these assumptions, as of February 19, 1991, when the District Court denied class certification, the statute of limitations began running again. As a result, the Catawbas believe that they now have less than 3 months in which to file suits against individual land holders before the 20-year limitations period expires on or about October 19, 1992. Unless the Fourth Circuit issues a Writ of Mandamus directing the District Court to certify a defendant class, or if no decision is issued soon by the Fourth Circuit, the Catawbas believe that they have no choice but to proceed against the current occupants of the land in question, now estimated to number about 40,000. The Catawbas' attorneys have informed the Committee that they must file their suits by September 2, 1992 in order to fulfill the requirements for service by the deadline of October 19, 1992.

ANALYSIS

The Supreme Court has recognized that the Catawbas assert a federal cause of action. *State of South Carolina* v. *Catawba Indian Tribe*, 476 U.S. 498, 507 (1989); see *Oneida Indian Nation* v. *County of Oneida*, 414 U.S. 661 (1974) (Oneida I). The Court of Appeals for the Fourth Circuit, on remand from the Supreme Court, held that the Catawba land claim arises under federal law for purposes of federal court jurisdiction under 28 U.S.C. Sections 1331, 1337, and 1362. *Catawba Indian Tribe* v. *South Carolina*, 865 F. 2d 1444, 1455-56 (4th Cir. 1989) (en banc); cert. denied, 491 U.S. 906 (1989). While the applicable periods of limitations derive from state statutory and common law, they have been made applicable to the Catawbas' cause of action by virtue of Congressional enactment—the Catawba Division of Assets Act. In the absence of this Act, there would be no statute of limitations, state or federal, applicable to the Catawbas' possessory claim. *State of South Carolina* v. *Catawba Indian Tribe of South Carolina*, 476 U.S. 498, 507-508 (1986); *County of Oneida* v. *Oneida Indian Nation*, 470 U.S. 226, 240-244 (1985) (Oneida II: "in the absence of a controlling federal limitations period, the general rule is that a state limitations period for an analogous cause of action is borrowed and applied to the federal claim."). Thus, the Catawba Division of Assets Act applied the normal rule that state law limitations periods would be borrowed and applied to the Catawbas' federal claim as a matter of federal law. See 476 U.S. at 518: "These are federal claims, [citing Oneida I] and the statute of limitations is thus a matter of federal law [citing Oneida II]." Justice Blackmun dissenting.

Because Congress, in the exercise of its plenary power over Indian affairs, permitted the borrowing of state law limitations periods for application to the Catawbas' claim, Congress may, through the exercise of that same power, preempt the application of the state limitations periods and suspend their applicability and operation for a period of time. It is not the intent of Congress to dictate or direct how state law is to be interpreted. The Department of Justice, in a June 24, 1992, letter to Senator J. Strom Thurmond, Senator Ernest F. Hollings, and Congressman John M. Spratt, Jr. concurred in this conclusion.

That Congress for a time may have permitted the federal courts to borrow South Carolina's analogous limitations periods and apply them to this land claim is no impediment to Congress' reassertion of the federal power in an area over which Congress has plenary authority. Many cases recognize federal power to insulate Indians form state power even after state power has attached *United States* v. *John*, 437 U.S. 634 (1978); *United States* v. *McGowan*, 302 U.S. 533 (1938) (land in Nevada purchased after statehood by the federal government and held in trust for Indians was Indian country); *Winters* v. *United States*, 207 U.S. 564 (1908); *Eastern Band of Cherokee Indians* v. *Lynch*, 632 F. 2d 373 (4th Cir. 1980). The last case is especially instructive. The Eastern Band of Cherokees was similar in its history to the Mississippi Choctaw involved in *United States* v. *John*, supra, in that they stayed in the east while others of the tribe were removed to the west. They became citizens of the State, bought some land for a reservation, and became incorporated under state law. The state taxed their lands and those lands were lost for nonpayment of taxes. The federal government redeemed those lands, took them in trust, and passed a statute in 1924, allowing state taxation of one additional year after which time it was no longer allowed. The state attempted to tax income earned on the reservation and to tax personal property thereon, but the court held that federal law preempted such authority.

CONCLUSION

Congress does not seek to revive any tribal claims that have already been barred. However, Congress may direct that the statute of limitations applicable to Indian claims be extended, as it did repeatedly in amending 28 U.S.C. Section 2415.

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Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Minnesota has already addressed the provisions of the bill in detail, and the need for its swift passage, so I will simply note that I add my support of H.R. 5566 to that of the tribe, the landowners, and the State of South Carolina.

I hope that the parties to Catawba Indian Tribe versus South Carolina will use the opportunity afforded by this bill to reach a fair and equitable settlement of the tribe's land claim.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT], the principal sponsor of this legislation.

Mr. SPRATT. Mr. Speaker, I rise in support of H.R. 5566. I introduced this bill to avoid massive disruption in my congressional district, disruption which would surely result if some 40,000 law suits were commenced against landholders in York, Lancaster, and Chester Counties, SC. To prevent the commencement of these suits, this bill must enacted before the recess in August. For that reason, I wish to express my gratitude to Chairman MILLER and Congressman YOUNG and Congressman RHODES for allowing this legislation to be considered on an expedited basis, as well as the gentleman from Minnesota [Mr. VENTO] and the gentleman from Wyoming [Mr. THOMAS].

The legislation is short and simple, but its background is long and complex. There is not enough time to cover it fully, but I need to give a summary to explain the purpose of this bill and why it is so urgent.

On October 28, 1980, a case entitled Catawba Indian Tribe of South Carolina versus State of South Carolina, et alia, was filed in the U.S. District Court for South Carolina. The plaintiff sued 76 defendants, alleging that a treaty made between the Catawbas and the State of South Carolina in 1840 was void under the Indian Non-Intercourse Act because it was never ratified by Congress. The treaty ceded 144,000 acres of land to the State of South Carolina, and 150 years later, the plaintiff seeks to recover the land and trespass damages. Among the 76 defendants are the State of South Carolina, local governmental entities, and major landholders. I was among the defendants named, because I then owned approximately 830 acres of land within the area claimed, and now own approximately 810 acres. When the suit was filed in 1980, the plaintiff moved to have the named defendants certified as a class representing not only their own interests but also the interests of all other landholders similarly situated in the claim area. The district court did not rule on plaintiff's motion for class action certification at the time, but instead granted the defendants' motion for dismissal. In 1986, the Supreme Court reversed the district court in part, but held that the land claim alleged by the plaintiff was subject to the statutes of limitation of State of South Carolina after July 1, 1962.

When the suit was finally remanded to the district court, the plaintiff renewed its motion for class action certification, which the court denied in February 1991. Because of the court's denial of class action certification, plaintiff's attorneys have announced that the plaintiff will have to sue an estimated 40,000 landowners in York, Lancaster, and Chester Counties, South Carolina. Attorneys for the plaintiff calculate that the 20-year period of limitations will run out on October 19, 1992; consequently, the plaintiff is preparing to file thousands of lawsuits by late August of this year.

The bill I am introducing would suspend the running of any period of limitations that has not already expired until October 1, 1993. Thus, it would grant both parties additional time within which to work out terms of settlement.

It goes without saying that 40,000 lawsuits would create chaos. Even though the vast majority of landowners would probably have a successful defense, they would have to retain an attorney to search their title, prepare affidavits, and file and argue a motion for summary judgment. All of this would be costly; and while the suits were pending, it would be difficult to transfer land and obtain title insurance.

Since the fall of 1989, Gov. Carroll A. Campbell, Jr., and I have sought to settle the entire suit out of court. We have made progress and narrowed the gap on most of the major issues. However, we have not yet reached full agreement; and even if we had, we would not be able to consummate a settlement agreement by enacting State and Federal legislation before October 19, 1992. At this point, the only way to avoid thousands of lawsuits, and the disruption they would cause, is to give the parties more time to negotiate and implement a settlement agreement.

This is the sole purpose of this legislation. It would not prevent the plaintiff from bringing thousands of lawsuits before October 19, 1992, if it chooses; but it would give the plaintiff another option: not suing now and negotiating instead for settlement. The bill would suspend until October 1, 1993, only those periods of limitation that have not run out by the effective date of this act. It would not revive, renew, or extend any claim barred by any period of limitation or repose, or any other time bar, as of the effective date of this act.

Before preparing this bill, I, along with Senator THURMOND and Senator HOLLINGS, sent a proposed draft of it to the Attorney General for review. I am submitting for the record a copy of our letter to the Attorney General and a copy of the favorable opinion letter received from Assistant Attorney General W. Lee Rawls, on June 24, 1992. I request unanimous consent that these documents be included in the RECORD immediately following my statement.

In addition, I submitted the bill for review to our South Carolina attorney general, Travis Medlock; and to Hale and Dorr, the law firm representing the State of South Carolina in this suit. And in developing the bill, I have worked with the law firm representing the plaintiff, the Native American Rights Fund [NARF] of Boulder, CO. As I already mentioned, we submitted the draft legislation to the Attorney General for his review and opinion at the specific request of NARF. The draft of the bill I am filing today differs somewhat from the draft submitted to the Attorney General; but the changes were sought by the Native American Rights Fund in order to strengthen the bill. The Native American Rights Fund is satisfied that the bill, as drawn, protects their client's interests as much as legally possible.

I have made clear what this bill is intended to do. I also want to make clear what this bill is not intended to do. This bill is not intended to affect in any way the substantive claims or defense either side may assert should the Catawbas' land claim be litigated. In drafting this bill, it was explicitly agreed by the Catawbas and by the landowners' attorneys that this legislation would not touch the substantive merits of their claim, but would merely suspend any period or statute of limitations until October 1, 1993, so that there would be additional time to negotiate. No party or court should read into this legislation any other meaning. In summary, this legislation does not address or affect the substance of the Catawbas' land claim, or reflect, even implicitly, any congressional intent to modify the Catawbas' claim or any defenses landowners may have to such claim, other than to suspend for a fixed period of time statutory and common law periods of limitation and repose that may apply to the claim.

In particular, H.R. 5566 does not state or imply whether the Catawbas are an Indian tribe today or were a tribe at any time relevant to their claim. Nor does the bill state whether any trust relationship ever existed between the Catawbas and the Federal Government. These are issues for a court to resolve if this land claim is litigated. Congress does not speak to these or any other such issues in this legislation.

I have disclosed to the House that I own land in the area claimed by the Catawbas and that I am a defendant in the suit now pending. I have a substantial interest in the outcome of this litigation. For the past 2 years, I have kept the House Committee on Official Standards of Conduct informed of my personal interest in the suit and my efforts to settle the claim. Within certain constraints, the committee has advised me that I may work for settlement of the claim, though I should not introduce settlement legislation. In regard to this bill, a staff attorney with the committee has advised me that since I am a named defendant already, this legislation will not affect my status in the pending suit, and I can introduce the bill and support its passage. To the extent that this bill allows more time for negotiation and settlement, it serves my personal interests, but it clearly serves the interests of some 30,000 to 40,000 constituents who own land in the area claimed by the Catawbas.

For the RECORD I include the correspondence referred to earlier.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 16, 1992.

Hon. WILLIAM P. BARR,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL BARR: We are writing to request an opinion from the Justice Department as to the constitutionality of draft legislation affecting a claim by the Catawba Indian Tribe of South Carolina against approximately 27,500 landowners in South Carolina. A copy of the proposed legislation is enclosed.

In 1980, the Catawba Indian Tribe of South Carolina brought suit against 76 defendants alleging that a treaty made with the State of South Carolina in 1840 was void under the Indian Non-Intercourse Act because it was never ratified by Congress. The treaty ceded 144,000 acres of land to the State, and the Catawbas seek to recover the land. The Catawbas moved to have the named defendants certified as a class, but the district court denied their motion for class action certification. The Catawbas have, therefore, announced that the tribe will sue approximately 27,500 individual landowners in York, Lancaster, and Chester Counties, South Carolina. Lawyers for the tribe are convinced that the 20-year statute of limitations, applicable under South Carolina law, runs out October 19, 1992; consequently, they are preparing to file their suits by late August 1992. The draft legislation we are proposing would grant the Catawba Indian Tribe of South Carolina an additional eight months in which to sue.

Obviously, 27,500 lawsuits would create chaos. Even though the vast majority of landowners would have a successful defense, they would have to retain an attorney to search their title, prepare affidavits, and file and argue a motion for summary judgement. All of this would be costly; and while the suits were pending, it would be difficult to buy or sell land and virtually impossible to obtain title insurance.

Governor Campbell and Congressman John Spratt have been negotiating since the fall of 1989 to settle the entire suit out-of-court. They have made significant progress and believe that they are close to an agreement. However, they will not be able to settle the suit and have an agreement consummated by state and federal legislation by October 19, 1992. The only way to avoid some 27,500 suits is to extend the deadline for eight additional months. This is what the draft bill is designed to accomplish.

The South Carolina Attorney General's office, the attorneys representing the State, and attorneys for the title insurance companies have all reviewed the legislation and find it in acceptable form. Attorneys for the tribe have also reviewed the legislation. In principle, they do not oppose an extension and are willing to refrain from filing the suits if Congress extends the deadline.

The Catawbas' suit came before the Supreme Court in 1986 on appeal of an order of dismissal. The Court noted that the Catawbas' relationship with the federal government had been terminated as of July 1, 1962; and in the termination act, Congress provided that as of the date of termination "all statutes of the United States that affect Indians because of their status as Indians shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner they apply to other persons or citizens in their jurisdiction." Consequently, the Supreme Court held that South Carolina statutes of limitation as to suits for recovery of land applied to the Catawbas. As indicated above, the Catawbas' attorneys now believe that the applicable South Carolina statute will run on October 19, 1992.

There is no federal statute of limitation applicable to their claim; but the tribe's attorneys believe that Congress probably has the authority under the Constitution to extend the time for filing the individual suits. However, they are not convinced of this conclusion, and they are concerned that if Congress passed a law extending the statute, a court might find that the deadline remained October 19 because the law is unconstitutional. The tribe's attorneys have requested a letter opinion from the Department of Justice confirming Congress's authority to provide additional time.

As you will see, the draft legislation cites Congress's authority under the Commerce Clause. There is no question that the filing of these suits would cause a significant impact on commerce in the claim area of 225 square miles, and specifically on interstate commerce since York and Lancaster Counties lie on the North Carolina border. However, if necessary, the legislation could also cite Congress's plenary authority over Indian matters.

If we are to avoid the suits and gain time for negotiating settlement, this bill must be passed before the August recess. Therefore, time is of the essence. We would appreciate your response within a week, at the latest. Thank you very much for your assistance.

Respectfully,

STROM THURMOND,
U.S. Senate.
ERNEST HOLLINGS,
U.S. Senate.
JOHN M. SPRATT,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 12, 1992.

Hon. WILLIAM P. BARR,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: In conjunction with the enclosed letter I have cosigned with Senators Thurmond and Hollings regarding draft legislation affecting the Catawba claim, I should disclose that I have an interest in the outcome of the suit.

I am one of approximately 75 defendants named in *Catawba Indian Tribe of South Carolina, Inc.* vs. *State of South Carolina*, Civil Action No. 80-2050, now pending in the District Court of South Carolina. The Catawbas intended for the named defendants to be constituted as a class representative of the 25,000-30,000 landowners in the claim area. The district court denied their motion for certification of the class, and the Catawbas have sought to have the Fourth Circuit Court of Appeals mandamus the court to certify the class. The Court of Appeals has not yet rendered a decision.

I own approximately 800 acres in the claim area. Along with about 55 other defendants, I moved for summary judgement, and the district court entered an order releasing my land from the suit and dismissing the suit as to me. However, the Catawbas have appealed the summary judgement orders issued by the district court. I expect my defense of title to prevail on appeal as to some 700 acres, but the Catawbas my obtain a reversal as to a tract of some 100 acres.

On October 14, 1990, I wrote the House Committee on Official Standards in order to present my situation and ask for guidance on how I could proceed. The Committee advised me not to introduce settlement legislation so long as I remained a defendant, but allowed me to engage in settlement negotiations with government officials and with the Catawbas, provided I disclosed my interest in the matter, which is the purpose of this letter.

Respectfully,

JOHN M. SPRATT, Jr.,
Member of Congress.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 24, 1992.

Hon. John C. Spratt,
*House of Representatives,
Washington, DC.*

DEAR CONGRESSMAN SPRATT: This is in response to your request for the views of the Department of Justice on the constitutionality of draft legislation affecting a claim by the Catawba Indian Tribe of South Carolina against approximately 27,500 landowners in South Carolina. The draft bill would have the effect of tolling the statute of limitations applicable to the Tribe's claims if the statute has not already run. We have briefly analyzed the draft bill in light of pertinent legal and constitutional issues. In our view, the legislation is constitutional.

The purpose of the proposed legislation is to preserve, for a brief period, the current legal status of the Tribe's claims under the applicable statute of limitations so that the parties have time to complete settlement discussions, and thereby avoid massive and burdensome litigation of the claims. The bill would provide that if the applicable statute of limitations has run by the date of its enactment, then all claims subject to it filed or unfiled, will remain barred. However, if the applicable statute of limitations has not run by the date of enactment, then

"* * * any action by a plaintiff shall be treated as commenced on the date of the enactment of this Act if such action is commenced on or before April 15, 1993[,] and any amendment to an existing claim, if otherwise permissible, shall be treated as if commenced on April 15, 1993."

The fundamental issue is whether Congress has the power to alter the statute of limitations applicable in this case. We would conclude that Congress has that power. First, the cause of action in the Catawba case is one "arising under" federal law for purposes of 28 U.S.C. 1331. The Fourth Circuit explicitly so held in *Catawba Indian Tribe* v. *South Carolina*, 865 F.2d 1444 (4th Cir. 1989) (en banc), and the Supreme Court so stated in *South Carolina* v. *Catawba Indian Tribe*, 476 U.S. 498, 507 (1985), although the issue was not squarely before the Supreme Court.

The Supreme Court first squarely recognized the federal character of such Tribal land claims in *Oneida Indian Nation* v. *County* *of Oneida*, 414 U.S. 661 (1974), and generally stated that the rules for decision of such claims were federal in character. *Id.* at 674. In a subsequent decision in that same case, the Court specifically ruled that state statutes of limitation do "not apply of their own force to Indian land title claims." *County of Oneida* v. *Oneida Indian Nation*, 470 U.S. 226, 240 n.13 (1985). Instead, such statutes are "borrowed and applied to the federal claim * * *" if the application of the state statute is not inconsistent with federal law. Id. at 240.[1]

This conclusion would appear to resolve two potential constitutional issues. First, it makes clear that the draft bill would effect no violation of the Tenth Amendment or other principles of state sovereignty. Congress clearly has the power under the Commerce Clause of Article I to regulate in this area. Tolling the statute of limitations applicable in this case would be merely an exercise of that power. It would do nothing more than alter a "borrowed" statute of limitations that, absent congressional action, has served as the applicable bar. The bill thus neither commandeers state legislative processes nor contains a direct mandate to states. Compare *New York* v. *United States*, Slip Op. at 28–29 (Supreme Court, June 19, 1992) (invalidating federal statutory provision requiring states that do not provide for disposal of low-level radioactive waste generated in state to take title to and assume liability for that waste). Cf. *Hodel* v. *Virginia Surface Mining and Reclamation Association*, 452 U.S. 264 (1980) (exercise of federal powers that preempt state law does not impermissibly intrude on state sovereignty).

Second, the bill does not appear to create separation of powers problems by interfering with the judicial function. By changing the applicable statute of limitations, Congress in the draft bill is compelling a change in the law, rather than a particular result or finding under old law. The Supreme Court has upheld this type of congressional action where it has been challenged as improperly affecting pending litigation. See *Robertson* v. *Seattle Audubon Society*, 112 S.Ct. 1407 (1992). In *Robertson*, the Court upheld a federal statute that altered the legal standard required under certain environmental statutes with respect to certain timber sales in the Pacific Northwest. The Court rejected the plaintiffs' claim that the provision at issue was an impermissible "statutory directive," holding that "[a] statutory directive binds *both* the executive officials who administer the statute *and* the judges who apply it in particular cases * * *. Here, our conclusion [is] that what Congress directed—to agencies and courts alike—was a change in the law, not specific results under old law." Id. at 1414 (emphasis in original).

Because it is within Congress's plenary power to alter a federal statute of limitations, we do not believe that accomplishing that end through a "deeming" provision such as proposed section 2(b) would interfere with judicial powers in violation of Article III of the Constitution. Since Congress could state that "any statute of limitations that has not expired on the date of enactment of this bill is extended to April 15, 1993," it would not be problematic for Congress to provide that any claims subject to such an unexpired statute of limitations on the date of enactment of the bill shall be treated as if filed before the date of enactment.

In conclusion, in our view the draft bill would not violate any applicable constitutional principles. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

CATAWBA NATION,
Rock Hill, SC, July 13, 1992.

Re H.R. 5566.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN MILLER: On June 3, 1992, the Executive Committee of the Catawba Indian Tribe of South Carolina met and voted unanimously to support legislation that would suspend the running of limitations periods applicable to the Tribe's land claim. The Catawba Tribe has, since it first undertook to resolve this claim in 1977, sought to avoid disruptive litigation in favor of a consensual settlement. Our attorneys have reviewed H.R. 5566 and are satisfied that it is drafted in such a way as to provide as much protection to our claim as can be provided. Our support for H.R. 5566 is based on our understanding that Congress does have the authority to enact such legislation.

I will be happy to provide further information or comment if you desire. Thank you for your consideration.

Sincerely,

GILBERT B. BLUE,
Chief, Catawba Indian Tribe.

□ 1420

Mr. VENTO. Mr. Speaker, I thank the gentleman from South Carolina for his detailed explanation of this. I think all of us understand the year extension of time is modest, considering the time and the magnitude of the issue that is being resolved. We hope that this time will result in a settlement and a fair result for the native Americans and other title owners in South Carolina.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of H.R. 5566, a bill to extend the statute of limitations regarding a land dispute involving the Catawba Indian Tribe over land in the State of South Carolina. It is my understanding that plaintiffs, defendants and potential defendants in the pending law suit are supportive of this legislation, and passage of this bill will increase the likelihood of consensual settlement of the litigation.

Mr. Speaker, while I support this legislation, I want to emphasize that I intend to continue my efforts to obtain passage of H.R. 5562, a bill to restore Federal recognition to the Catawba Nation. The two bills are independent of one another, and while Federal restoration may eventually be a part of the final settlement of the ongoing litigation, there is no reason for Congress not to restore recognition to these Indians, and every reason, including fairness and justice, that we do.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5566.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RAILROAD RIGHT-OF-WAY CONVEYANCE VALIDATION ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 711) to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co., as amended.

The Clerk read as follows:

H.R. 711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Right-of-Way Conveyance Validation Act".

SEC. 2. VALIDATION OF CONVEYANCES.

Except as provided in section 5, the conveyances described in section 3 (involving certain lands in Nevada County, State of California) and section 4 (involving certain lands in San Joaquin County, State of California) concerning lands that form parts of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489), hereby are legalized, validated, and confirmed, as far as any interest of the United States in such lands is concerned, with the same force and effect as if the land involved in each such conveyance had been held, on the date of such conveyance, under absolute fee simple title by the grantor of such land.

SEC. 3. CONVEYANCES OF LANDS IN NEVADA COUNTY, STATE OF CALIFORNIA.

The conveyances of land in Nevada County, State of California, referred to in section 2 are as follows:

(1) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and David G. 'Otis' Kantz and Virginia Thomas Bills Kantz, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–15995 in the official records of the county of Nevada.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Antone Silva and Martha E. Silva, his wife, grantees, recorded June 10, 1987, as instrument number 87–15996 in the official records of the county of Nevada.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Charlie D. Roeschen and

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[1] The Supreme Court in a variety of contexts has held that state statutes of limitations are "borrowed" in cases where gaps are left in federal law. These borrowed statutes of limitations thus apply as a matter of federal law, rather than of their own force and effect. The Supreme Court has applied this general "state borrowing" doctrine in countless cases, including the *Catawba* case. 476 U.S. at 507 & n. 18 (citing cases). See also *Lampf, Pleva, Lipkind, Prupis & Petgrow* v. *Gilbertson*, 111 S.Ct 2773, 2778–82 (1991) (recognizing borrowing rule but holding that state statute of limitations does not apply where Congress intended federal bar to apply); *Del Costello* v. *International Brotherhood of Teamsters*, 462 U.S. 151, 158–63 1983) (same).

Renee Roeschen, husband and wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15997 in the official records of the county of Nevada.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Manuel F. Nevarez and Margarita Nevarez, his wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15998 in the official records of the county of Nevada.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Susan P. Summers, grantee, recorded June 10, 1987, as instrument number 87-15999 in the official records of the county of Nevada.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James L. Porter, a single man, as his sole and separate property, grantee, recorded June 10, 1987, as instrument number 87-16000 in the official records of the county of Nevada.

(7) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert L. Helin, a single man, grantee, recorded June 10, 1987, as instrument number 87-16001 in the official records of the county of Nevada.

(8) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas S. Archer and Laura J. Archer, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16002 in the official records of the county of Nevada.

(9) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Wallace L. Stevens, a single man, grantee, recorded June 10, 1987, as instrument number 87-16003 in the official records of the county of Nevada.

(10) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Sierra Pacific Power Company, grantees, recorded June 10, 1987, as instrument number 87-16004 in the official records of the county of Nevada.

(11) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Truckee Public Utility District, grantees, recorded June 10, 1987, as instrument number 87-16005 in the official records of the county of Nevada.

(12) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Dwayne W. Haddock and Bertha M. Haddock, his wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16006 in the official records of the county of Nevada.

(13) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William C. Thorn, grantee, recorded June 10, 1987, as instrument number 87-16007 in the official records of the county of Nevada.

(14) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Jose Guadelupe Lopez, grantees, recorded June 10, 1987, as instrument number 87-16008 in the official records of the county of Nevada.

(15) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harold O. Dixon, an unmarried man, as to an undivided half interest, and Pedro Lopez, a married man, as to an undivided half interest, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16009 in the official records of the county of Nevada.

(16) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert E. Sutton and Patricia S. Sutton, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16010 in the official records of the county of Nevada.

(17) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Angelo C. Besio and Eva G. Besio, his wife, grantees, recorded June 10, 1987, as instrument number 87-16011 in the official records of the county of Nevada.

(18) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Lawrence P. Young and Mary K. Young, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16012 in the official records of the county of Nevada.

(19) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and the estate of Charles Clyde Cozzaglio, grantee, recorded June 10, 1987, as instrument number 87-16013 in the official records of the county of Nevada.

(20) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Noel T. Hargreaves, an unmarried woman, as her sole and separate property, grantee, recorded June 10, 1987, as instrument number 87-16014 in the official records of the county of Nevada.

(21) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Athleisure Enterprises, Incorporated, a Nevada corporation, grantees, recorded January 24, 1989, as instrument number 89–01803 in the official records of the county of Nevada.

(22) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Richard Bwarie, a single man as to an undivided one-half interest, and Roger S. Gannam and Lucille Gannam, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89–01804 in the official records of the county of Nevada.

(23) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William Campbell and Juanita R. Campbell, his wife as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01805 in the official records of the county of Nevada.

(24) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William E. Cannon and Lynn M. Cannon, husband and wife, as joint tenants as to an undivided one-half interest, and Brent Collinson and Dianne Collinson, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89–01806 in the official records of the county of Nevada.

(25) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton and Bernadette M. Eaton, husband and wife as community property, grantees, recorded January 24, 1989, as instrument number 89–01807 in the official records of the county of Nevada.

(26) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton grantee, recorded January 24, 1989, as instrument number 89–01808 in the official records of the county of Nevada.

(27) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Valeria M. Kelly, an unmarried woman, grantee, recorded January 24, 1989, as instrument number 89–01809 in the official records of the county of Nevada.

(28) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William J. Kuttel and Delia Rey Kuttel, husband and wife, grantees, recorded January 24, 1989, as instrument number 89–01810 in the official records of the county of Nevada.

(29) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas A. Lippert and Laurel A. Lippert, husband and wife, grantees, recorded January 24, 1989, as instrument number 89–01811 in the official records of the county of Nevada.

(30) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Fred J. Mahler, a single man, grantee, recorded January 24, 1989, as instrument number 89–01812 in the official records of the county of Nevada.

(31) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Francis Doyle McGwinn also known as Doyle F. McGwinn, a widower, grantee, recorded January 24, 1989, as instrument number 89–01813 in the official records of the county of Nevada.

(32) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James D. Ritchie and Susan Ritchie, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01814 in the official records of the county of Nevada.

(33) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William R. Smith and Joan M. Smith, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01815 in the official records of the county of Nevada.

(34) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Anthony J. Stile and Laura A. Stile, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01816 in the official records of the county of Nevada.

(35) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas R. Stokes, a single man, and Carla J. Stewart, a single woman, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01817 in the official records of the county of Nevada.

(36) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California Corporation, grantees, recorded January 24, 1989, as instrument number 89–01818 in the official records of the county of Nevada.

(37) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California corporation, grantees, recorded January 24, 1989, as instrument number 89–01819 in the official records of the county of Nevada.

(38) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and Harry M. Welch and Betty R. Welch, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01820 in the official records of the county of Nevada.

(39) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, grantees, recorded February 2, 1989, as in-

strument number 89-02748 in the official records of the county of Nevada.

(40) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Edward Candler and May Candler, husband and wife as community property, as to an undivided two-thirds interest; and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, as to an undivided one-third interest, grantees, recorded February 2, 1989, as instrument number 89-02749 in the official records of the county of Nevada.

(41) The conveyance entered into between the Central Pacific Railroad, grantor, and E.W. Hopkins and J.O.B. Gann, grantees, recorded April 7, 1894, in Book 79 of Deeds at page 679, official records of the county of Nevada.

(42) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and John David Gay and Elizabeth Jean Gay, as Trustees of the David and Elizabeth Gay Trust, grantees, recorded October 3, 1991, as instrument number 91-30654 of the official records of the county of Nevada.

SEC. 4. CONVEYANCES OF LAND IN SAN JOAQUIN COUNTY, STATE OF CALIFORNIA.

The conveyances of land in San Joaquin County, State of California, referred to in section 2 are as follows:

(1) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Ronald M. Lauchland and Lillian R. Lauchland, grantees, recorded October 1, 1985, as instrument number 85066621 in the official records of the county of San Joaquin.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Bradford A. Lange and Susan J. Lange, his wife, as to an undivided one-half, and Randall W. Lange and Charlene J. Lange, his wife, as to an undivided one-half interest, grantees, recorded October 1, 1985, as instrument number 85066623 in the official records of the county of San Joaquin.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Leo G. Lewis and Vasiliki L. Lewis, and Billy G. Lewis and Dimetria Lewis, grantees, recorded October 1, 1985, as instrument number 85066625 in the official records of the county of San Joaquin.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Louis J. Bennett, grantees, recorded October 1, 1985, as instrument number 85066627 in the official records of the county of San Joaquin.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Joe Alves Correia and Leontina Correia, his wife, grantees, recorded September 1, 1970, instrument number 33915, in book 3428, page 461, of the official records of the county of San Joaquin.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Willard H. Fike, Jr., and Dorla E. Fike, his wife, grantees, recorded January 7, 1988, instrument number 88001473 of the official records of the county of San Joaquin.

(7) The conveyance entered into between Central Pacific Railway, Grantor, and Nettie M. Murray and Marie M. Hallinan, Grantees, dated May 31, 1949, recorded June 14, 1949, in volume 1179 at page 394 of the official records of the county of San Joaquin.

(8) The conveyance entered into between the Central Pacific Railway Company, a corporation, and its Lessee, Southern Pacific Company, a corporation, Grantor, and Lodi Winery, Incorporated, Grantee, dated August 2, 1938, recorded May 23, 1940, in volume 692, page 249, of the official records of the county of San Joaquin.

SEC. 5. LIMITATIONS ON VALIDATION OF CONVEYANCES.

Nothing in this Act shall be construed to—

(1) diminish the right-of-way referred to in section 2 to a width of less than fifty feet on each side of the center of the main track or tracks maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) legalize, validate, or confirm, with respect to any land that is the subject of a conveyance referred to in section 3 or 4 any right or title to, or interest in, such land arising out of adverse possession, prescription, or abandonment, and not confirmed by such conveyance.

(3) diminish any of the right, title, or interest of the United States with respect to oil, gas, and other minerals, or with respect to prospecting for or mining or removal thereof, in any of the lands that are the subject of a conveyance referred to in section 3 or 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the measure before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 711, introduced by the gentleman from California [Mr. DOOLITTLE], would clear the title to certain lands in Nevada and San Joaquin Counties in the State of California that have long been in private hands, but that were originally granted for use as part of the right-of-way for the first transcontinental railroad. As a result, the United States has a reversionary interest in these properties.

The bill would ratify past conveyances of these tracts by the railroad, so far as it involves the surface estate, thus removing the cloud arising from the reversionary interest.

The Interior Committee amended the bill to include two additional transactions, both related to the same tract of land in the town of Truckee, CA. Information about this tract was provided after the bill's introduction and our hearing on it. The committee also adopted a second amendment, requested by the administration, to make more clear that the United States is reserving any mineral rights it now has in the railroad lands covered by the bill, although not asserting any claim to minerals that are not owned by the United States.

Mr. Speaker, I believe the bill as so amended is not controversial, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 711, which was introduced by Mr. DOOLITTLE, a member of the Interior Committee.

H.R. 711, which has been described in detail by Chairman VENTO, would legalize, validate, and confirm 50 conveyances of right-of-way lands in Nevada and San Joaquin Counties in California. These lands, which originally were part of 1862 grants to the railroads by the U.S. Government, are within the 400-foot-wide right-of-way originating from the 1862 land grant.

Most of the conveyances in this bill are within the town of Truckee, CA, and are occupied by homes, other structures, and front yards—some of which have been in existence for over 100 years.

H.R. 711 is intended to validate the physical occupation and ownership of individual property owners of these tracts. In doing so, it will remove the ambiguity surrounding the titles of these tracts.

Mr. Speaker, I urge my colleagues to support H.R. 711.

Mr. DOOLITTLE. Mr. Speaker, I am pleased to have this opportunity to speak in support of H.R. 711. First, I want to thank both the chairman of the Interior Committee and the chairman of the Subcommittee on National Parks and Public Lands for their help in moving this legislation. I also appreciate the hard work of the members on these committees.

H.R. 711 would legalize, validate, and confirm the conveyance of a portion of the railroad right-of-way located within the State of California which was originally granted by act of Congress on July 1, 1862. As introduced, H.R. 711 is comprised of 48 parcels of land and reaches into Nevada and San Joaquin Counties. Additional parcels were added in committee. These parcels form parts of the 400-foot-wide right-of-way granted to the Central Pacific Railway Co. [CP], now known as the Southern Pacific Transportation Co. [SP].

The city of Truckee, CA, as well as many small communities, was destined to grow up astride the original transcontinental line, and as growth manifested itself, homes and other structures were built within and encroaching upon the right-of-way. Property owners in Truckee are disproportionately affected by having 40 of the 50 parcels in their city. Many of these residences, structures, and front yards have been in existence since the late 1800's and early 1900's. To further complicate matters, there is difficulty in identifying the precise location of the original transcontinental line as it passes through the town of Truckee. For purposes of the conveyances, surveys provided by SP have been utilized.

The intent of this legislation is to validate the physical occupation and ownership of individual property owners and to remove the ambiguity of title relating to any portion of the property which may fall within the right-of-way as originally granted to CP. The ambiguity to title affects marketability as well as the ability of an individual to secure institutionalized financing. Only through legislation can the owners obtain clear title to the land they have held and paid taxes on for decades.

Mr. Speaker, I know of no formal opposition to H.R. 711, and I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I urge the passage of the bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 711, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING AND DIRECTING EXCHANGE OF LANDS IN COLORADO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1182) to authorize and direct the exchange of lands in Colorado, as amended.

The Clerk read as follows:

H.R. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Eagle and Pitkin Counties in the State of Colorado (hereinafter in this Act referred to as the "Counties") are offering to convey to the United States approximately one thousand three hundred and seven acres of patented mining claim properties owned by the Counties within or adjacent to the White River National Forest (hereinafter in this Act referred to as the "National Forest inholdings"), including approximately six hundred and sixty nine acres of inholdings within the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells Snowmass Wilderness Areas;

(2) the properties identified in paragraph (1) are National Forest inholdings whose acquisition by the United States, would facilitate better management of the White River National Forest and its wilderness resources; and

(3) certain lands owned by the United States within Eagle County comprising approximately two hundred and seventeen acres and known as the Mt. Sopris Tree Nursery (hereinafter in this Act referred to as the "nursery lands") are available for exchange and the Counties desire to acquire portions of the nursery lands for public purposes.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide the opportunity for an exchange whereby the Counties would transfer to the United States the National Forest inholdings in exchange for portions of the nursery lands;

(2) to provide an expedited mechanism under Federal law for resolving any private title claims to the National Forest inholdings if the exchange is consummated; and

(3) after the period of limitations has run for adjudication of all private title claims to the National Forest inholdings, to quiet title in the inholdings in the United States subject to valid existing rights adjudicated pursuant to this Act.

SEC. 2. OFFER OF EXCHANGE.

(a) OFFER BY THE COUNTIES.—The exchange directed by this Act shall be consummated if within ninety days after receipt of the Secretary's appraisal findings pursuant to subsection 3(c) of this Act, the Counties offer to transfer to the United States, pursuant to the provisions of this Act, all right, title, and interest of the Counties in and to approximately—

(1) one thousand two hundred fifty eight acres of lands owned by Pitkin County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 1–53 on maps entitled "Pitkin County Lands to Forest Service", numbered 1–11, and dated April 1990, except for parcels 20 (Twilight), 21 (Little Alma), the Highland Chief and Alaska portions of parcel 25 depicted on map 7, and parcel 52 (Iron King) on map 11, which shall remain in their current ownership; and

(2) forty-nine acres of land owned by Eagle County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 54–58 on maps entitled "Eagle County lands to Forest Service", numbered 12–14, and dated April 1990, except for parcel 56 (Manitou) on map 14 which is already in National Forest ownership.

(b) EXCHANGE BY THE SECRETARY.—Subject to the provisions of section 3, within ninety days after receipt by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") of a quitclaim deed from the Counties to the United States of the lands identified in subsection (a) of this section, the Secretary, on behalf of the United States, shall convey by quitclaim deed to the Counties, as tenants in common, all right, title, and interest of the United States in and to approximately one hundred and thirty-two acres of land (and water rights as specified in section 7 and the improvements located thereon), as generally depicted as tract A on the map entitled "Mt. Sopris Tree Nursery", dated October 5, 1990.

SEC. 3. RESERVATIONS AND CONDITIONS OF CONVEYANCE.

(a) RESERVATIONS.—In any conveyance to the Counties pursuant to section 2, the Secretary shall reserve—

(1) all right, title, and interest of the United States in and to approximately eighty-five acres of land (and improvements located thereon), which is generally depicted as tracts B (approximately twenty-nine acres) and C (approximately fifty-six acres) on the map referred to in section 2(b);

(2) water rights as specified in section 7(a); and

(3) any easements, existing utility lines, or other existing access in or across tract A currently serving buildings and facilities on tract B.

(b) REVERSION.—It is the intention of Congress that any lands and water rights conveyed to the Counties pursuant to this Act shall be retained by the Counties and used solely for public recreation and recreational facilities, open space, fairgrounds, and such other public purposes as do not significantly reduce the portion of such lands in open space. In the deed of conveyance to the Counties, the Secretary shall provide that all right, title, and interest in and to any lands and water rights conveyed to the Counties pursuant to this Act shall revert back to the United States in the event that such lands or water rights or any portion thereof are sold or otherwise conveyed by the Counties or are used for other than such public purposes.

(c) EQUALIZATION OF VALUES.—(1) Within one hundred and twenty days after the date of enactment of this Act, the Secretary of Agriculture shall complete appraisals of the lands to be exchanged pursuant to subsections (a) and (b) of section 2 of this Act, taking into account any effects on the value of such lands resulting from the use restrictions and reversionary interest imposed by subsection (b) of this section and any other factors that may affect value. The sum of $120,000 shall be deducted from the value of the Counties' offered lands to reflect any adverse claims against such lands which may be adjudicated pursuant to section 5 of this Act.

(2) The appraisals shall utilize nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.

(3) On the basis of such appraisals, the Secretary shall make a finding as to whether the values (after the deduction described in paragraph (1)) of the lands to be exchanged are equal and shall immediately notify the Counties as to such finding. If the values are not equal, any cash equalization which would otherwise be owed to the Counties by the United States shall be waived. Any equalization amount which may be owed to the United States by the Counties shall be satisfied through conveyance to the United States, within five years of the date of transfer of the nursery lands to the Counties pursuant to section 2(b) of this Act, of additional lands or interests in lands, acceptable to the Secretary, which the Counties own on the date of enactment of this Act or may acquire after such date. Such additional lands shall have a value as approved by the Secretary at least equal to the amount owed plus annual interest on such amount or unconveyed portion thereof, as applicable, at the standard rate determined by the Secretary of the Treasury to be applicable to marketable securities of the United States having a comparable maturity. Interest shall accrue beginning on the date the nursery lands are transferred to the Counties pursuant to section 2(b) of this Act.

(d) RIGHT OF FIRST REFUSAL.—The Secretary may dispose of any or all of the nursery lands reserved pursuant to subsection (a) of this section for fair market value under existing authorities, except that the Secretary shall first offer the Counties the opportunity to acquire the lands. This right of first refusal shall commence upon receipt by the Counties of written notice of the intent of the Secretary to dispose of such property, and the Counties shall have sixty days from the date of such receipt to offer to acquire such properties at fair market value as tenants in common. The Secretary shall have sole discretion as to whether to accept or reject any such offer of the Counties.

SEC. 4. STATUS OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM LANDS.—The National Forest inholdings acquired by the United States pursuant to this Act shall become a part of the White River National Forest (or in the case of portions of parcels 39, 40, and 41 depicted on map 9, and a portion of parcel 54 of map 12, part of the Gunnison and Arapaho National Forests, respectively) for administration and management by the Secretary in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) WILDERNESS.—The National Forest inholdings that are within the boundaries of the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass Wilderness Areas shall be incorporated in and deemed to be a part of their respective wilderness areas and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.

SEC. 5. RESOLVING TITLE DISPUTES TO NATIONAL FOREST INHOLDINGS.

(a) QUIET TITLE ACT.—Notwithstanding any other provision of law and subject to the provisions of subsection (c) of this section, section 2409a of title 28, United States Code (commonly referred to as the "Quiet Title Act") shall be the sole legal remedy of any party claiming any right, title, or interest in or to any National Forest inholdings conveyed by the Counties to the United States pursuant to this Act.

(b) LISTING.—Upon conveyance of the National Forest inholdings to the United States, the Secretary shall cause to be published in a newspaper or newspapers of general circulation in Pitkin and Eagle Counties, Colorado, a listing of all National Forest inholdings acquired pursuant to this Act together with a statement that any party desiring to assert a claim of any right, title, or interest in or to such lands must bring an action against the United States pursuant to such section 2409a within the same period prescribed by subsection (c) of this section.

(c) LIMITATION.—Notwithstanding section 2409a(g) of title 28, United States Code, any civil action against the United States to quiet title to National Forest inholdings conveyed to the United States pursuant to this Act must be filed in the United States District Court for the District of Colorado no later than the date that is six years after the date of publication of the listing required by subsection (b) of this section.

(d) VESTING BY OPERATION OF LAW.—Subject to any easements or other rights of record that may be accepted and expressly disclaimed by the Secretary, and without limiting the title to National Forest inholdings conveyed by the Counties pursuant to this Act, all other rights, title, and interests in or to such National Forest inholdings if not otherwise vested by quitclaim deed to the United States, shall vest in the United States on the date that is six years after the date of publication of the listing required by subsection (b) of this section, except for such title as is conveyed by the Counties, no other rights, title, or interest in or to any parcel of the lands conveyed to the United States pursuant to this Act shall vest in the United States under this subsection if title to such parcel—

(1) has been or hereafter is adjudicated as being in a party other than the United States or the Counties; or

(2) is the subject of any action or suit against the United States to vest such title in a party other than the United States or the Counties that is pending on the date six years after the date of publication of a listing required by subsection (b) of this section.

(e) COSTS AND ATTORNEYS' FEES.—(1) At the discretion of the court, any party claiming any right, title, or interest in or to any of the National Forest inholdings who files an action against the United States to quiet title and fails to prevail in such action may be required to pay to the Secretary on behalf of the United States, an amount equal to the costs and attorney's fees incurred by the United States in the defense of such action.

(2) As a condition of any transfer of lands to the Counties under this Act, the Counties shall be obligated to reimburse the United States for 50 percent of all costs in excess of $240,000 not reimbursed pursuant to paragraph (1) of this subsection associated with the defense by the United States of any claim or legal action brought against the United States with respect to any rights, title, and interest in or to the National Forest inholdings. Payment shall be made in the same manner as provided in section 6 of this Act.

SEC. 6. REIMBURSEMENT TO THE UNITED STATES.

(a) IN GENERAL.—As a condition of any transfer of lands to the Counties under this Act, in addition to any amounts required to be paid to the United States pursuant to section 5(e), in the event of a final determination adverse to the United States in any action relating to the title to the National Forest inholdings, the United States shall be entitled to receive from the Counties, and the Counties shall provide to the United States, reimbursement equal to the fair market value (as determined by the appraisal used for purposes of this Act) of the lands that are the subject of such final determination.

(b) AVAILABILITY OF FUNDS.—Any money received by the United States from the Counties under section 5(e) or subsection (a) of this section shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (and commonly known as the Sisk Act, 16 U.S.C. 484a).

(c) IN-KIND PAYMENT OF LANDS.—In lieu of monetary payments, any obligation for reimbursement by the Counties to the United States under this Act can be fulfilled by the conveyance to the United States of lands having a current fair market value equal to or greater than the amount of the obligation. Such lands shall be mutually acceptable to the Secretary and the Counties.

SEC. 7. WATER RIGHTS.

(a) ALLOCATION AND MANAGEMENT.—The water rights in existence on the date of enactment of this Act in the Mt. Sopris Tree Nursery, which comprise water well and irrigation ditch rights adjudicated under the laws of the State of Colorado, together with the right to administer, maintain, access, and further develop such rights, shall be allocated and managed as follows:

(1) The United States shall retain all such rights associated with the five existing wells on the properties.

(2) Unless the Secretary determines that all water from the five existing wells is necessary to meet water needs of the United States, the United States shall make available to the Counties, without charge, water from the five wells to serve reasonable culinary, sanitary, and domestic uses of the existing buildings conveyed to the Counties.

(3) All federally owned irrigation rights shall be conveyed jointly to the Counties as undivided tenants in common, subject to the condition that of any transfer of lands to the Counties under this Act, if requested by the United States, the Counties shall make every effort to cooperatively provide under the authority of subsection (c) of this section, without charge to the United States, water to serve future needs of the United States, or its successors, heirs, or assigns on tract B to the extent the Counties determine appropriate commensurate with their own needs on tract A. No such provision of water to the United States shall in any way be construed to constitute an abandonment of such water by the Counties.

(b) MODIFICATION OF ALLOCATION.—If the Secretary and the Counties determine the public interest will be better served thereby, they may agree to modify the precise water allocation made pursuant to this section or to enter into cooperative agreements (with or without reimbursement) to use, share, or otherwise administer such water rights and associated facilities as they determine appropriate.

(c) COSTS OF MAINTAINING CERTAIN WELLS AND DISTRIBUTION SYSTEMS.—The Counties shall bear proportionate costs of maintaining the wells and distribution systems as a condition to the water being provided at no cost from the five existing wells pursuant to subsection (a)(2) of this section.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) TIME REQUIREMENT FOR COMPLETING OF TRANSFER.—If the Counties make a timely offer, pursuant to section 2(a), the transfers of lands authorized and directed by this Act shall be completed no later than one year after the date of enactment of this Act.

(b) BOUNDARY MODIFICATIONS.—The Secretary and the Counties may mutually agree to make modifications of the final boundary between tracts A and B prior to completion of the exchange authorized by this Act if such modifications are determined to better serve mutual objectives than the precise boundaries as set forth in the maps referenced in this Act, so long as such modification does not result in a change of more than five acres in either tract.

(c) TRACT A EASEMENT.—The transfer of tract A to the Counties shall be subject to the existing highway easement to the State of Colorado and to any other right, title, or interest of record.

(d) VALIDITY.—If any provision of this Act or the application thereof is held invalid, the remainder of the Act and application thereof, except for the precise provision held invalid, shall not be affected thereby.

(e) FOREST HEADQUARTERS AND ADMINISTRATIVE OFFICES.—The White River National Forest Headquarters and administrative offices in Glenwood Springs, Colorado, are hereby transferred from the jurisdiction of the United States General Services Administration to the jurisdiction of the Secretary, who shall retain such facilities unless and until otherwise provided by subsequent Act of Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the measure now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1182, sponsored by Mr. CAMPBELL of Colorado, would provide for a land exchange between the United States and two counties in western Colorado.

Under the exchange, the two counties would receive about 132 acres of land near the community of El Jebel, outside national forest boundaries, that were once used by the Forest Service as a tree nursery. In return, the counties would transfer to the United States about 1,300 acres of national forest inholdings, including some lands within existing wilderness areas.

The tree-farm lands are located in a part of the valley of the Roaring Fork River, between Aspen and Carbondale, where rapid development is taking place and where many residents commute into Aspen to work. The counties want to use these lands for public recreation and similar public purposes. Under the bill, the counties could not transfer the lands, and the lands would revert to ownership of the National Government if used for any purpose that would significantly reduce their open-space character.

To assure that the National Government will receive fair value in the exchange, the bill provides that the Secretary of Agriculture will complete new appraisals of the values of all the lands involved, and the counties will waive any payments that the United States might otherwise have to make, if the national forest inholdings are more valuable than the lands to be transferred to the counties. On the other hand, under the bill the counties will have to pay—in money or in land—any equalization required if the tree nursery lands are more valuable than the national forest inholdings.

The national forest inholdings were originally patented as mining claims—that is, under the mining law of 1872 they were acquired from the United States for a very low price. But the mining companies that held these lands did not pay the property taxes on them, and the counties acquired them at tax sales.

Recently, the ownership of the lands has been subject to some disputes. Claims have been filed in the State courts, alleging that the counties do not have good title.

To protect the national interest, the bill provides that when appraising the national forest inholdings, the Secretary will deduct $120,000 from their value, as a partial offset against possible costs of defending the title. The bill also provides that any disputes about the title to these inholdings must be resolved in Federal court, and requires the counties to share equally in any litigation costs exceeding $240,000 for which the court does not order reimbursement to the National Government from the party contesting the title. In the event of a successful challenge to the title of any of the national forest inholdings, the counties are required to reimburse the United States, in money or in other lands acceptable to the Secretary of Agriculture.

Mr. Speaker, this is a good bill that will enable the local governments to make appropriate public use of open space lands no longer needed by the National Government and also improve the management of very valuable national forest lands, including important wilderness areas. I want to commend the gentleman from Colorado [Mr. CAMPBELL] for his hard work and persistence as well as that of the other involved parties. They have enabled us to resolve the somewhat complicated details and to bring to the floor a sound measure that properly balances the interests of the National Government, the two Colorado counties, and all others concerned. I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this proposal. The Republican side supports it as well.

The gentleman from Minnesota [Mr. VENTO] has explained it thoroughly. I think there is a couple of things that are very important. One is it has the effect of providing for local government some lands that are useful to them but not particularly useful to the Federal Government; in this case, the Forest Service.

The other, in exchange for that it locks up lands that are basically inholdings which are very difficult to manage. And after this is over, it will be a benefit to both parties.

H.R. 1182 has been thoroughly reviewed and revised by the Committee on Agriculture as well as the Committee on Interior and Insular Affairs. I believe it is a commonsense exchange and in the best interest of everyone. I urge support for H.R. 1182.

Mr. CAMPBELL of Colorado. Mr. Speaker, I am pleased to have been able to work with my friend Chairman BRUCE VENTO over the past several years on the important legislation before us today. I want to express my sincere appreciation for the dedication and hard work Chairman VENTO has put into this bill.

I introduced H.R. 1182, along with my colleagues in the Colorado congressional delegation, to allow Pitkin and Eagle Counties to acquire 132 acres of the Mount Sopris tree nursery in exchange for 1,307 acres of patented mining claims which are owned by the counties.

The Forest Service several years ago decided the entire Mount Sopris tree nursery property was no longer needed and reached agreement with the counties that would allow the counties to accommodate local public needs.

In exchange, the Forest Service would receive nearly 10 times as much land in the White River National Forest. Over half of the lands the Forest Service would acquire lie within designated wilderness areas. If these lands are not acquired by the Forest Service they have the potential of becoming a severe management problem. In fact, the Forest Service could be potentially responsible for the enormous expense of building roads and supplying utility corridors into many of Colorado's most sensitive areas.

The Forest Service and the counties attempted to complete this exchange administratively for many years. Unfortunately, the cost of clearing that title on every acre of the counties offered land on a timely basis makes an administrative exchange impossible.

Therefore, the bill establishes a process for dealing with claims that might be filed to prevent the United States from gaining quiet title to the patented mining claims it will receive from the counties pursuant to the provisions of the bill. The counties will share in the burden of paying to defeat challenges, if there are any.

H.R. 1182 was reported from both the Agriculture Committee and the Interior Committee with bipartisan support. The current draft is a product of prolonged and intense negotiations between myself, both committees, and the Forest Service. Important improvements have been made in the legislation—improvements that address the Forest Service's remaining concerns.

Under the legislation as it stands, any exchange of lands between Pitkin and Eagle Counties and the United States would occur only after the Secretary of Agriculture completes a new appraisal of the counties national forest inholdings and the Forest Service's tree nursery lands, and deducts $120,000 from the appraised value of the inholdings being offered by the counties to allow for possible costs of defending against adverse title claims.

If the appraisal determines that the tree nursery lands have a higher value than the national forest inholdings, the counties will equalize value by transfer to the United States of additional lands acceptable to the Secretary of Agriculture.

I want to express my sincere appreciation to Chairman VENTO, Chairman VOLKMER, and their staffs for their patience through these negotiations. Our difficulty in pushing forward with this proposal was particularly disconcerting considering the support the Forest Service's regional office has expressed for the transfer. Those familiar with the issue have realized that timely resolution of this transfer is imperative if the inholdings in these wilderness areas are to be protected from future development.

The bill has widespread support, ranging from the Colorado Association of Commerce and industry to the Sierra Club. It is also supported by both Colorado Senators. This bill deserves timely passage and needs to be enacted to save both the Federal Government and the local communities enormous amounts of money.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time on this land exchange measure, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1182, as amended.

The question was taken; and (two-thirds having voted thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING THE ACT OF AUGUST 7, 1961, ESTABLISHING THE CAPE COD NATIONAL SEASHORE

Mr. VENTO. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 4085) to amend the Act of August 7, 1961, establishing the Cape Cod National Seashore, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL PARK SYSTEM ADVISORY COMMITTEES.

(a) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776) are hereby waived with respect to any advisory commission or advisory committee established by law in connection with any national park system unit during the period such advisory commission or advisory committee is authorized by law.

(b) MEMBERS.—In the case of any advisory commission or advisory committee established in connection with any national park system unit, any member of such Commission or Committee may serve after the expiration of his or her term until a successor is appointed.

SEC. 2. MISSISSIPPI NATIONAL RIVER AND RECREATION AREA.

Section 703(i) of the Act of November 18, 1988 entitled "An Act to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes" (Public Law 100-696; 102 Stat. 4602; 16 U.S.C. 460zz-2) is amended by striking "3 years after enactment of this Act" and inserting "3 years after appointment of the full membership of the Commission".

SEC. 3. EXTENSION OF GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMITTEE.

Section 5(g) of the Act approved October 27, 1972 (16 U.S.C. 460bb-4(g)), is amended by striking out "twenty years" and inserting in lieu thereof "thirty years".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4085, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4085 places certain conditions on the operation of Federal advisory committees for National Park System units. H.R. 4085 was introduced by Congressman STUDDS, and approved by the Committee on Interior and Insular Affairs on July 1, 1992.

Public Law 87-126, which established the Cape Cod National Seashore in 1961, included authorization for the Cape Cod National Seashore Advisory Commission. Because the Commission is subject to the Federal Advisory Committee Act, the Department of the Interior must review and approve the Cape Cod National Seashore Advisory Commission's charter every 2 years. Continuing delays in approving the Commission's charter have stalled the Commission's operation for as much as 16 months in the past few years.

H.R. 4085, as introduced, would have waived the provision of the Federal Advisory Committee Act which requires the Department of the Interior to review and approve the Cape Cod National Seashore Advisory Commission's charter every 2 years. This bill would also have allowed members of the Commission to serve after the expiration of their terms until a successor is appointed.

Testimony presented at the hearing on H.R. 4085 indicates that the problems at Cape Cod are common to many of the National Park Service committees and commissions. The delays in approving charters and appointing new members prevent these legislatively established commissions from fulfilling their responsibilities and undermine local support for these units of the National Park System.

H.R. 4085, as reported by the committee substitutes language waiving the 2-year review and approval requirements for the charters of any advisory commission or advisory committee established by law in connection with any National Park System unit. This amendment also allows members of such advisory commissions to serve after the expiration of their terms until a successor is appointed.

Exempting these legislatively established commissions from the time-consuming process of reviewing and approving the charters and allowing their members to continue to serve until successors are named assures their continuous efficient operation. The exemption has been routinely included in recent legislation establishing the National Park System advisory committees and commissions. However, 30-35 of these boards are still required to undergo the 2-year review and approval. Rather than addressing these in 30-35 separate bills, I believe this issue is best resolved through this legislation waiving the provisions of section 14(b) for any such advisory boards established by law.

H.R. 4085 also addresses the Mississippi River Coordinating Commission specifically. The law establishing the Mississippi River Coordinating Commission directed the Commission to submit a comprehensive plan for land and water use within 3 years after enactment. Unfortunately, as in many cases, the Commission's work has been delayed because the Secretary of the Interior took 18 months to appoint the Commission, leaving members with only about half that time to develop an appropriate plan. Section 2 of the bill reported by the committee changes the requirement to 3 years after the appointment of the full membership of the Commission, which allows the Commission adequate time for this purpose.

The bill approved by the committee also extends the Golden Gate National Recreation Area Advisory Committee for an additional 10 years. The Advisory Committee was established in 1972 for a 10-year term, which was extended to 20 years in 1982, and is scheduled to terminate in October 1992. The complex issues and negotiations involved in the transfer of the Presidio from the U.S. Army to the National Park Service require careful planning and significant public input and support. In order to facilitate a smooth transition, the committee has extended the advisory committee's term for an additional 10 years.

Mr. Speaker, I believe H.R. 4085 effectively addresses a problem which has prevented the smooth operation of certain National Park System units, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4085, the bill which would remove certain administrative barriers from the effective operation of the National Park Service Advisory Commissions. Originally introduced by the gentleman from Massachusetts [Mr. STUDDS], the measure would have resolved certain administrative problems which have plagued the operation of the Cape Cod National Seashore Citizens Advisory Commission.

During the hearing the committee became aware that similar problems have impacted the operation of other citizen advisory commissions. Therefore, the committee approved an amendment which would facilitate the commission charter renewal and member reappointments in about 40 National Park Service advisory commissions.

One could argue that it should not be necessary to create the commission in order for park superintendents to seek the views of local persons. We have found that the legislative establishment of these commissions has proven essential in a number of cases. Therefore, I support this bill as an attempt to streamline the administrative burdens of ensuring that these commissions continue to operate and function properly.

I would support the minor site-specific amendments to the Golden Gate and Mississippi River Commissions adopted by the full Committee on the Interior.

Mr. STUDDS. Mr. Speaker, I rise in strong support of this bill H.R. 4085 started life as a bill that I introduced to remedy a problem involving the Cape Cod National Seashore Advisory Commission.

The current law—which requires the National Park Service to approve advisory commission charters every 2 years—has become a bureaucratic nightmare. It has created needless work for the agency and made it difficult for advisory commissions to operate efficiently.

Over the Cape Code Seashore Advisory Commission's 2-year history, there have been seven periods when it either had a no charter, or a charter but no members. In fact, for a total of 59 months—nearly one-quarter of the time it was supposed to be in existence, the Commission was nonfunctional—unable to perform its important function of advising seashore officials on the myriad issues affecting the park.

My bill would have waived the requirement in current law that the charter be filed and approved every 2 years. This was a needless exercise and a waste of the taxpayer's money. It also would have provided that Commissioner would continue to serve after the expiration of their term until successors are chosen. This would at least allow the Commission to function while the Secretary was selecting new Commissions.

Evidently, the chairman of the subcommittee, Mr. VENTO, knew a good idea when he saw one. He has amended the bill to cover all advisory commissions. This is good for the National Park Service, it is good for the advisory commissions, it is good for the taxpayers.

I want to thank the gentleman from Minnesota and the chairman of the full committee, Mr. MILLER, as well as the ranking minority members, the gentlemen from Alaska and Montana, for supporting this legislation and moving it along expeditiously.

Senator EDWARD KENNEDY has introduced an identical bill in the other body and I look forward to its rapid consideration and eventual enactment.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his support and participation. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4085, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to place certain conditions on the operation of Federal Advisory Committees for National Park System units.".

A motion to reconsider was laid on the table.

MARSH-BILLINGS NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2079) to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes, as amended.

The Clerk read as follows:

S. 2079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marsh-Billings National Historical Park Establishment Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to interpret the history and evolution of conservation stewardship in America;

(2) to recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of Man and Nature, statesman, lawyer, and linguist;

(3) to recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) to preserve the Marsh-Billings Mansion and its surrounding lands; and

(5) to recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller, and Laurance Spelman Rockefeller in perpetuating the Marsh-Billings heritage.

SEC. 3. ESTABLISHMENT OF MARSH-BILLINGS NATIONAL HISTORICAL PARK.

(a) In General.—There is established as a unit of the National Park System the Marsh-Billings National Historical Park in Windsor County, Vermont (hereinafter in this Act referred to as the "park").

(b) Boundaries and Map.—(1) The park shall consist of a historic zone, including the Marsh-Billings Mansion, surrounding buildings and a portion of the area known as "Mt. Tom", comprising approximately 555 acres, and a protection zone, including the areas presently occupied by the Billings Farm and Museum, comprising approximately 88 acres, all as generally depicted on the map entitled "Marsh-Billings National Historical Park Boundary Map" and dated November 19, 1991.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 4. ADMINISTRATION OF PARK.

(a) In General.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall administer the park in accordance with this Act, and laws generally applicable to units of the National Park System, including, but not limited to the Act entitled "An Act to establish a National Park Service, and for other purposes, approved August 25, 1916 (16 U.S.C. 1, 2-4).

(b) Acquisition of Lands.—(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands or interests therein within the park only by donation.

(2) If the Secretary determines that lands within the protection zone are being used, or there is an imminent threat that such lands will be used, for a purpose that is incompatible with the purposes of this Act, the Secretary may acquire such lands or interests therein by means other than donation.

(3) The Secretary may acquire lands within the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the granter, and the grantor's successors and assigns, such terms and easements shall be in a manner consistent with the purposes of the historic zone. Any changes in the operation and management of existing trails shall be subject to approval by the Secretary.

(c) Historic Zone.—The primary purposes of the historic zone shall be preservation, education, and interpretation.

(d) Protection Zone.—(1) The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings Mansion in such a manner and by such means as will continue to permit current and future compatible uses.

(2) The Secretary shall pursue protection and perservation alternatives for the protection zone by working with affected State and local governments and affected landowners to develop and implement land use practices consistent with this Act.

SEC. 5. MARSH-BILLINGS NATIONAL HISTORICAL PARK SCENIC ZONE.

(a) In General.—There is established the Marsh-Billings National Historical Park Scenic Zone (hereinafter in this Act referred to as the "scenic zone"), which shall include those lands as generally depicted on the map entitled "Marsh-Billings National Historical Park Scenic Zone Map" and dated November 19, 1991.

(b) Purpose.—The purpose of the scenic zone shall be to protect portions of the natural setting beyond the park boundaries that are visible from the Marsh-Billings Mansion, by such means and in such a manner as will permit current and future compatible uses.

(c) Acquisition of Scenic Easements.—Within the boundaries of the scenic zone, the Secretary is authorized only to acquire scenic easements by donation.

SEC. 6. COOPERATIVE AGREEMENTS.

(a) In General.—The Secretary may enter into cooperative agreements with such persons or entities as the Secretary determines to be appropriate for the preservation, interpretation, management, and providing of educational and recreational uses for the properties in the park and the scenic zone.

(b) Facilities.—The Secretary, through cooperative agreements with owners or operators of land and facilities in the protection zone, may provide for facilities in the protection zone to support activities within the historic zone.

SEC. 7. ENDOWMENT.

(a) In General.—In accordance with the provisions of subsection (b), the Secretary is authorized to receive and expend funds from an endowment to be established with the Woodstock Foundation, or its successors and assigns.

(b) CONDITIONS.—(1) Funds from the endowment referred to in subsection (a) shall be expended exclusively as the Woodstock Foundation, or its successors and assigns, in consultation with the Secretary, may designate for the preservation and maintenance of the Marsh-Billings Mansion and its immediate surrounding property.

(2) No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this Act.

SEC. 8. RESERVATION OF USE AND OCCUPANCY.

In acquiring land within the historic zone, the Secretary may permit an owner of improved residential property within the boundaries of the historic zone to retain a right of use and occupancy of such property for non-commercial residential purposes for a term not to exceed 25 years or a term ending at the death of the owner, or the owner's spouse, whichever occurs last. The owner shall elect the term to be reserved.

SEC. 9. GENERAL MANAGEMENT PLAN.

Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary shall develop and transmit a general management plan for the park to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2079, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2079 establishes the Marsh-Billings National Historical Park in the State of Vermont. S. 2079 was approved in the Senate on June 4, 1992, and was reported to the House by the Committee on Interior and Insular Affairs on July 1, 1992.

The Marsh-Billings mansion in Woodstock, VT, was the boyhood home of George Perkins Marsh, author of the 1864 book "Man and Nature" which became a basic text of America's early conservation movement. Frederick Billings, lawyer, railroad executive, and philanthropist, bought the home in 1869 and used the Woodstock estate to demonstrate scientific farming and progressive land management following the principles of George Perkins Marsh.

The Mansion, which was designated a national historic landmark in 1967, and the surrounding acres are currently owned by Laurance S. and Mary Rockefeller; Mary Rockefeller is Frederick Billings' granddaughter, and the Rockefellers themselves, especially Laurance, have made significant contributions as private benefactors of national parks and the conservation movement in general. Adjacent to the mansion grounds is the Billings farm and museum which functions both as a dairy operation and an exhibit on rural life in late 19th century Vermont.

S. 2079 establishes the Marsh-Billings National Historical Park to interpret the history and evolution of conservation stewardship in America. The park includes a historic zone of approximately 555 acres, comprised of the Marsh-Billings mansion, surrounding buildings, and the area known as Mount Tom. Also included is a protection zone of approximately 88 acres, including the areas presently occupied by the Billings farm and museum. A scenic zone outside the park boundary, including lands visible from the mansion, is established for the protection of portions of the natural setting.

The mansion and the property in the historic zone will be donated by the Rockefellers to the National Park Service. The Rockefellers have stated their intention to make a grant to the town of Woodstock to provide payments in lieu of taxes after transfer of title to the Federal Government. The Rockefellers would also endow a fund to provide for anticipated maintenance and preservation requirements of the mansion and its immediate surroundings.

The protection zone will continue under private ownership but will be restricted to compatible uses. The scenic zone will also continue under private ownership but will be restricted by the donated conservation easements to the NPS.

The Marsh-Billings National Historical Park will be the first unit of the National Park Service located solely in the State of Vermont. This park will also be one of the only National Park Service units to interpret the history and evolution of conservation in America. The National Park Service supports this legislation, and this is a very generous donation by the Rockefellers which will facilitate the recognition of the importance and trace conservation in American history during the 19th and 20th century.

□ 1450

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in support of S. 2079, a bill to establish the Marsh-Billings National Historical Park in Vermont.

Mr. Speaker, Mr. VENTO has already outlined the major elements of this measure. Let me just say that the story of the history of the conservation movement in America is an important one, a story which should be well interpreted within the National Park System. While there remain some questions as to whether the Marsh-Billings property is the best site at which to present that story, I have decided to support this measure.

The generosity of the Rockefeller family toward the preservation of such nationally important sites in this country as Grand Teton National Park is legendary. I note that the generosity of Mr. and Mrs. Rockefeller toward the establishment of this site is no less significant and I commend them for all their contributions in the work of preserving the heritage of this country.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I am pleased to yield such time as he may consume to the principal sponsor of this legislation, the gentleman from Vermont, Mr. BERNIE SANDERS, who as I said has been very diligently at work at the local level and with the committee members and myself to perfect and move this measure along.

Mr. SANDERS. Mr. Speaker, I thank my colleague for yielding time to me, and I want to thank Representative VENTO and his excellent staff for their months of hard work leading up to our consideration of this bill today.

Mr. Speaker, this legislation would create the very first national park in the State of Vermont—something which is very exciting and important to the people of our State. Although Vermont is well known for its natural beauty and for its leadership in environmental protection, it happens that today, over a century after the creation of America's first national parks, Vermont is one of a very few States that lacks a national park, and this legislation remedies that situation.

What is extremely exciting to me is that this beautiful homestead of George Perkins Marsh, and the surrounding 550 acres in Woodstock, VT, will be open free of charge to the people of our State and to the people of the entire country. For generations to come, therefore, our children and grandchildren will be able to enjoy this extremely beautiful and scenic site.

What is also very gratifying about this legislation is that in honoring George Perkins Marsh, a Vermonter, we are honoring one of the founders of our country's conservation movement and one of the leading environmentalists of his time. In passing this bill today we will be preserving both his boyhood home and a site for education about the environmental movement which he did so much to inspire.

Mr. Speaker, this legislation has extremely broad support in our State. My colleagues, Senators LEAHY and JEFFORDS, and I jointly introduced the legislation last November, and the State legislature, the Governor, the town of Woodstock, and such groups as the National Park and Conservation Association have all expressed their support for the project. The administration and the National Park Service support the proposal and have worked closely with us in drafting the legislation. Its development has benefited from broad public involvement, including the participation of such groups as the Woodstock Town Board of Selectmen, the Woodstock Planning Commission, the State government, and private conservation and business groups. This public involvement was exemplified by the meeting in Woodstock last summer at which the Rockefellers presented their idea to the town, and I am pleased that the National Park Service is committed to continuing public involvement in the months and years to come.

Mr. Speaker, when George Perkins Marsh called for a new relationship to our environment in his book, "Man and Nature," a century and a quarter ago, he was a voice crying in the wilderness. But his words inspired the growth of a movement which has become one of the most powerful political forces of our time. I am proud today that we can preserve this birthplace of the environmental movement, which will be a permanent reminder of the need for our society to begin to live in harmony with the natural world.

Once again, I thank my colleague for all his help on this bill.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the passage of this new unit in the Park System, the Marsh-Billings Historic Site, a site which largely really has been donated to us by the Rockefeller family. As I said, they have been extraordinarily interested and generous in providing both natural and cultural settings across the country either to expand parks or to establish them, and in this one they are literally donating one of their residences which has a rich history in the State of Vermont, and its ramifications go well beyond the State in terms of our American culture and heritage.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2079, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

EXTENDING LEASE FOR CERTAIN LANDS FOR ELEMENTARY SCHOOL PURPOSES

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5291) to provide for the temporary use of certain lands in the city of South Gate, CA, for elementary school purposes as amended.

The Clerk read as follows:

H.R. 5291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY USE OF CERTAIN LANDS FOR ELEMENTARY SCHOOL PURPOSES.

Nothwithstanding section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8(f)(3)), the city of South Gate, California, is hereby authorized to extend the existing lease (dated June 8, 1988) between the city of South Gate and the Los Angeles Unified School District on approximately three acres of South Gate Park for temporary elementary school purposes for a period not to exceed 8 years from the date of enactment of this Act in order to allow the School District sufficient time to permanently relocate Tweedy Elementary School.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1500

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1987, a hazardous waste site was discovered adjacent to Tweedy Elementary School in South Gate, CA. Hazardous materials were migrating onto the school property and students had to be evacuated. Temporary school facilities were set up on a 3-acre portion of the 97-acre South Gate Park. The parkland is subject to section 6(f)(3) of the Land and Water Conservation Fund Act, which provides in part that "No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses." The National Park Service in 1988, in light of the extraordinary circumstances involving the health and safety of children, granted approval for a 3-year nonconforming use of the 3-acre South Gate Park property.

The site adjacent to Tweedy Elementary School has been designated a Superfund site. The school can no longer be used and a new site for a new school is being found. Funding and building the new school will take several years, and concern was expressed by the Department of Interior about its authority and ability to continue to approve the use of the parcel in such a manner.

Representative MARTINEZ, in cooperation with the Department of the Interior, drafted legislation which was introduced on May 28, and approved with an amendment by the House Interior Committee on July 8. The legislation authorizes a temporary, 8-year, nonconforming use of the parkland, which would give the Los Angeles School District adequate time to build a new school.

The bill is supported by the Los Angeles School District, and the Department of the Interior. I am not aware of any opposition and urge the bill's immediate adoption.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5291.

The gentleman from Minnesota has laid it out properly.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is unfortunate that we have to pass legislation in an area such as this. I do not think the land-water conservation fund provisions would be greatly bent if the Secretary of the Interior had, in fact, extended for several years the opportunity to complete the construction of the new facility or school and the use of this land for a short period of time for temporary buildings to house the opportunity for kids to get an education.

But, nevertheless, they were, I guess, prepared to, in fact, fine and/or cite the State of California for violation of the land use agreement under the land-water conservation fund. Ironically, 50 percent of the dollars in that fund are paid for by the State of California.

I would just hope that the Secretary of the Interior would maintain this vigilant view with regard to all of his responsibilities. But, nevertheless, here we are acting today on hopefully what will remain noncontroversial.

But I question really whether the Secretary did not have the authority to act in that matter.

Mr. MARTINEZ. Mr. Speaker, H.R. 5291 provides for temporary use of certain lands in the city of South Gate, CA for elementary school purposes. It provides the flexibility necessary to meet the needs of elementary school students while protecting recreational resources. This legislation was drafted in close cooperation with, and is supported by the National Park Service and the Department of the Interior. It was passed with strong bipartisan support by the Committee on the Interior on July 8, 1992.

There is clear and urgent need for this legislation. In 1983 the city of South Gate, a low-income community in metropolitan Los Angeles, received two land and water conservation fund subgrants from the California Department of Parks to install a sprinkler system in the city park. As a result of these subgrants, which totaled slightly over $300,000, the entire city park is covered by the Land and Water Conservation Fund Act's protections against conversion of the land to nonrecreational uses.

In April 1986 toxic materials were found at the nearby Tweedy Elementary School. The industrial site which is located next to the school site was subsequently declared a Superfund site in February 1992.

To protect the health of these elementary schoolchildren, the school was moved to temporary facilities in the city park. Utilizing an abandoned archery range and a portion of the parking lot, the school facilities occupied approximately 3 acres of the 97-acre South Gate City Park. This has not significantly affected recreational use of the park.

In view of the serious public health issues involved, the National Park Service approved a temporary conversion of this portion of the park for temporary school use. There were no alternative sites readily available. The city of South Gate is relatively small and is heavily developed for industrial and residential use. Relocating the roughly 650 students of Tweedy Elementary School to other local schools was not a viable option: The area schools were already operating at approximately 50 percent above normal capacity on a year-round basis. Busing the students considerable distances would put these young students—mostly minority students from low income families—at greater risk of failure.

Good faith efforts have been made to permanently relocate the school and there has been substantial progress toward relocation. Tweedy Elementary School is part of the Los Angeles Unified School District. The district has spent approximately $1 million to identify an alternative site and to complete the necessary environmental impact reviews and to meet other requirements. In May 1991 the Los Angeles Unified School District Board of Education approved the construction of a new school. That same month the city of South Gate applied to the California State Allocation Board for funds to purchase the site for a new school to replace Tweedy School. Since the California State Allocation Board had exhausted its currently available resources, funds have not yet been allocated to purchase the site. On June 2, 1992, California voters approved the issue of bonds for school construction. Those funds are expected to become available for procurement of a new site for the school. Under State law, support for actual school construction cannot be sought until a site is obtained.

Requests for an extension of the temporary use of the park have been denied. The Department of the Interior has indicated that it does not have authority under current statute and regulations. In March 1992 the National Park Service denied a request from the city of South Gate for an extension. The Department has indicated that the school must be removed from the park by June 30, 1993, or that the city convert and replace the acreage by that date.

The deadlines are simply unrealistic in view of the school funding realities in California. Due to a serious and sustained economic downturn, California cut education funding by 12 percent in inflation adjusted dollars during the past 3 years—despite the rapid growth of the number of students in California schools.

Last year, Los Angeles Unified School District alone was forced to slash $275 million from its educational budget during the 1991–92 school year, and then in January 1992, it found that an additional $150 million has to be cut to meet additional shortfalls in funding. The current budgetary crisis in California threatens to force yet more cuts in a system that already has some of the highest student-teacher ratios in the Nation and that is eliminating nurses, librarians, counselors, and other vital services. In some cases these cuts have already left local classrooms short of textbooks and other basic instructional materials.

Protecting and enhancing our Nation's recreational and wilderness resources must remain one of our Nation's highest priorities. That is not the issue here. The school district and the city of South Gate have clearly demonstrated their intention to restore this entire city park to recreational use as soon as feasible without putting an unfair burden on these young children.

I urge that my colleagues join me in supporting this legislation which provides the flexibility needed to help these disadvantaged children while funding is obtained to build a new school at a safe site. I yield back the remainder of my time.

Mr. VENTO. Mr. Speaker, that being said, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5291, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BOUNDARY MODIFICATIONS: NEW RIVER GORGE NATIONAL RIVER, GAULEY RIVER NATIONAL RECREATION AREA, AND BLUESTONE NATIONAL SCENIC RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4382) to modify the boundaries of the New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River in West Virginia, as amended.

The Clerk read as follows:

H.R. 4382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY MODIFICATIONS.

(a) NEW RIVER GORGE NATIONAL RIVER.—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1992".

(b) GAULEY RIVER NATIONAL RECREATION AREA.—Section 201(b) of West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1992".

(c) BLUESTONE NATIONAL SCENIC RIVER.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR–BLU/20,000, and dated January 1987"; and inserting "BLUE–80,003, and dated January 1992".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4382, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4382, a bill introduced by my colleague and friend on the Interior Committee, Congressman NICK JOE RAHALL, makes various changes to the boundaries of New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River—three National Park System units in West Virginia. All the lands proposed for addition by the legislation will enhance resources already protected by these parks, including peregrine falcon sites and a Civil War battlefield. They will provide better visitor access to key sites and incorporate uneconomic remnants created by previous National Park Service acquisitions. The 7,000-acre ward property identified in the bill is proposed as a donation.

In hearings before the Subcommittee on National Parks and Public Lands on H.R. 4382, testimony was presented about this area's resources and the need to protect them. This bill also encourages increased cooperation with the State of West Virginia in providing public interpretation and coordinating walking trails between the National

Park Service and the State of West Virginia. H.R. 4382 is supported by the State of West Virginia.

The Committee on Interior and Insular Affairs amended H.R. 4382 with a very minor technical amendment which simply provided a section reference to previous legislation. Otherwise, the bill is unchanged from its introduction. Mr. Speaker, I endorse H.R. 4382 and support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 4382, a bill to expand the New River Gorge National Recreation Area by over 12,000 acres. I find that this measure represents just one more example of an unnecessary and unjustified park boundary expansion bill. While I do not advocate an absolute prohibition on all park expansion proposals, at a time when we cannot afford to adequately operate those parks we have, or have any hope of acquiring in the foreseeable future all the lands we have already authorized for inclusion in park areas, we must carefully scrutinize every expansion bill which is brought before this body.

This measure includes three types of lands: State park lands, uneconomic remnants of previously acquired lands outside the current NPS boundary, and private lands outside the boundary. The reason for including State park lands within the overall Federal boundary is supposedly to improve cooperation between the Federal and State governments. However, I'm aware of no barriers to the State and Federal Governments signing an agreement tomorrow to cooperate in the management of adjoining lands. The NPS also has adequate authority to deal with the uneconomic remnant situation through exchange, minor boundary adjustment or disposal. As for the over 8,000 acres of private lands, they are not known to contain any resources integral to the existing park and are not threatened by any development.

One aspect of the boundary expansion proposal of great concern to me is that use of the area by the recently reintroduced, endangered peregrine falcon is presented as a justification for park expansion. There has been a lot of discussion about reintroduction of the wolf into Yellowstone National Park, and I could envision a similar proposal for future expansion of that park based on this model.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentleman from Minnesota [Mr. OBERSTAR] has been advocating the exportation of some of the timber wolves from northern Minnesota. The gentleman still is not interested in them, in having any immigrants from northern Minnesota, is that correct, in the body of timber wolves?

Mr. THOMAS of Wyoming. I thank the gentleman for his suggestion, but I have some other suggestions as to what you might do with your wolves.

The New River Gorge, established only 15 years ago, has already been expanded twice. Yet, over 50 percent of the lands within the current park boundary remain unacquired. While the Congressional Budget Office estimates that this proposal may cost as little as $2 million, that is based on an unproven assumption that 99 percent of the private land will be donated.

I cannot support another unjustified park expansion bill which will place additional private property owners at the end of the multibillion dollar NPS land acquisition backlog list, absent some compelling justification. Therefore, I join with the administration in opposing this bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to my friend and colleague, and a great Congressman, the gentleman from West Virginia [Mr. RAHALL], the principal sponsor of this measure and one who has worked long and hard to establish these three units of the National Park System in his service in Congress, and who now knows, of course, that these are really minor modifications.

□ 1510

Mr. RAHALL. Mr. Speaker, I commend the gentleman from Minnesota and thank him for his leadership in allowing us to bring this bill to the floor today. The gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands of the Committee on the Interior and Insular Affairs has been very patients and diligent in his work, and we in West Virginia owe him a great round of applause and thanks for not only visiting our State and seeing these very valuable lands, but allowing West Virginians to come to Washington and express their opinion on a number of issues.

Mr. Speaker. As the distinguished gentleman from Minnesota has noted, H.R. 4382 would make minor boundary revisions to three units of the National Park Systems in southern West Virginia.

The bulk of the proposed boundary revisions contained in the bill pertain to the New River Gorge National River. Often referred to as the grand canyon of the East, the New River is famous for its whitewater rapids, smallmouth bass fishing, and abandoned coal towns.

This is, however, still very much a developing park unit.

In 1978, we carved out this national river designation along a 55-mile segment of what was primarily privately owned gorge land. Today, 62 percent of the land in the park unit are in Federal ownership and were all, I might add, acquired on a willing seller, willing buyer basis.

The majority of the parcels proposed for inclusion in the New River by this bill are remnants of tracts that already partially lie within the park unit. Most of these tracts have either been acquired, or are pending acquisition. I would further note that to my knowledge the owners of these tracts are agreeable to the boundary modifications.

The pending legislation also would make boundary adjustment to both the Gauley National Recreation Area and the Bluestone National Scenic River, both of which were established in 1988, to include adjacent State lands in order to complement the management of these two park units.

The State of West Virginia has no objection to this proposal. In this regard, I would reiterate what I said during the committee's deliberations of this bill.

When we drew the map for the Bluestone NSR we used a topographic map, as is normal, and simply took in up to the cliff line. We paid no attention to where the Pipestem State Park boundary was.

As such, today, part of the State park is within the scenic river and other portions lie outside of it. The same applies to Carnifex State Park and the Gauley NRA.

What this bill would do makes common sense. It simply would modify the boundary to follow the boundary of Pipestem State Park.

According to the Park Service, this would complement management of the national park units. There has been, and is, no attempt by the State to foist these State park lands on the Park Service.

I commend this legislation to the House.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Speaker, the gentleman spoke about a minor area. Is there not a 12,000-acre addition envisioned here?

Mr. RAHALL. Mr. Speaker, there is park land that is involved here to the magnitude the gentleman mentioned, but we are not seeking acquisitions of the State park.

Mr. THOMAS of Wyoming. There is no additional land to be acquired, then, under this bill?

Mr. RAHALL. The private lands are pending acquisition.

Mr. THOMAS of Wyoming. What would the cost of those be, does the gentleman know?

Mr. VENTO. Mr. Speaker, will the gentleman yield to me?

Mr. RAHALL. I yield to the gentleman from Minnesota.

Mr. VENTO. I think, Mr. Speaker, this is a case where we have uneconomic remnants, in fact where they have not been surveyed and the landowners are simply selling the land based on these current surveyed amounts, so that there is no access to some of these sites. In other words—they are uneconomic and it is impossible—the cost is probably more to try to subdivide and sell these than these pieces would be worth. Since they are adjacent to the park, they eventually are in the process either under contract or will become part ownership of the park. They are not in the park because the boundary obviously has to be modified to accommodate.

I think one could look at them and could argue from the standpoint of whether or not it is reasonable to include them because they have some administrative problems, but that has not been the tack obviously used.

Mr. THOMAS of Wyoming. It is my understanding, Mr. Speaker, that the uneconomic remedies represent about 800 acres. The State park represents 3,400 acres and private land represents about 6,000 acres.

Mr. VENTO. Mr. Speaker, if the gentleman will yield further, I do not know the amount of the gentleman's numbers, but there is a 7,000-acre donation. The donation of the Ward property that is anticipated to be donated, and that is what is anticipated, that is our intent. That is our understanding.

We do not have an ironclad guarantee, but that is anticipated, and the gentleman's observation is appropriate.

I would just direct the attention of the gentleman, we have made an effort in the report language based on the concerns raised by Congressman HEFLEY concerning the State park lands, that there is no intention, it is not the intent obviously in including these to actually purchase these. In fact, these are important park units to the State of West Virginia. They have no intention of donating them. They are flagship units. They are some of their most outstanding units, and that is simply what we expect.

I would be happy to go through this landowner by landowner, but I think the answer is going to come back pretty much on the basis that I have offered to the bill as an explanation at this point.

I would be happy to respond to further questions.

Mr. RAHALL. Mr. Speaker, in response to the question about costs, the CBO estimates that the Federal Government would spend $1.5 million to $2 million to implement this bill, but again I stress the private lands, as the gentleman from Minnesota has adequately stated, are in the process of negotiation now. They have either already been acquired or are in the process of being acquired through current appropriations. So what we are talking about here is just these minor modifications.

I might add also to the gentleman from Wyoming that the Pipestem State Park that we are adding here to this boundary modification is already the second largest revenue generated in the State park system in the State of West Virginia; so certainly the State of West Virginia has no desire to foist this State park on to the Federal bureaucracy or into the Federal system; so it is not the desire of the State of West Virginia to unload these State parks onto the National Park Service.

Mr. THOMAS of Wyoming. One final question, Mr. Speaker, if the gentleman knows.

There have been several changes in acquisitions and extensions in the last several years. Does this conclude the fund or will we have more changes in this?

Mr. RAHALL. Mr. Speaker, it is our anticipation this pretty much concludes it, yes.

Mr. THOMAS of Wyoming. There is nothing left in West Virginia—I am just kidding.

All right, I thank the gentleman very much.

Mr. VENTO. Mr. Speaker, I think the point here to be made is that while this extends the boundaries, these extensions are logical and basically at no extra cost to the National Park Service, because they are uneconomic remnants and indeed while there are costs involved in purchasing all of these units because we were forced to buy them on the basis of the survey and the actual landownership patterns in the area, other than the fact that we expect, of course, the substantial donation of land that expands the Park. So I think that is what is important. These were not given to us, but the fact is now that we are purchasing them to fulfill the mandate, now that the Park Service is purchasing it to fulfill the mandate of the various laws that were involved in these three units of the park system, it really makes common sense to in fact keep on and hold these lands that are adjacent. Of course, this would conclude it. There is no additional land that is being suggested to be purchased in this bill.

So Mr. Speaker, I would hope Members would go along with this. I think it is a very reasonable proposal.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4382, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADDITION TO HARRY S. TRUMAN NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3898) to provide for the addition of the Truman Farm Home to the Harry S. Truman National Historic Site in the State of Missouri as amended.

The Clerk read as follows:

H.R. 3898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPERTY ACQUISITION.

The first section of the Act entitled "An Act to establish the Harry S. Truman National Historic site in the State of Missouri, and for other purposes", approved May 23, 1983 (97 Stat. 193), is amended by adding at the end the following:

"(c) The Secretary is further authorized to acquire from Jackson County, Missouri, by donation, the real property commonly referred to as the Truman Farm Home located in Grandview, Jackson County, Missouri, together with associated lands and related structures, comprising approximately 5.2 acres.

"(d) The Secretary is authorized and directed to provide appropriate political subdivisions of the State of Missouri with technical and planning assistance for the development and implementation of plans, programs, regulations, or other means for minimizing the adverse effects on the Truman Farm Home of the development and use of adjacent lands.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3898, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3898 is legislation introduced by Representative ALAN WHEAT to authorize the Secretary of the Interior to acquire by donation the Truman Farm National Historic Landmark located in Grandview, MO, and add this property to the existing Harry S. Truman National Historic Site. Similar legislation has been introduced in the Senate by Senators BOND and DANFORTH.

Harry Truman, the 33d President of the United States, lived and worked on the Truman farm from 1906 until 1917. During these 11 years he did everything that was required for farm life including plowing, sowing, baling hay, repairing equipment, and building fences and a barn. He kept the books for the farm and experimented with relatively new practices such as crop rotation and soil conservation. Truman was the sole manager of the farm for 3 years after his father died in 1914, and he visited the farm frequently throughout the rest of his life.

The property was listed on the National Register of Historic Places in 1978. The farm was purchased by Jackson County in 1980 and was restored by a local foundation in 1984. The property was designated a National Historical Landmark in 1985, and the National Park Service conducted a study of alternatives on the site in 1990.

The Subcommittee on National Parks and Public Lands received testimony from several prominent historians including the Chief Historian of the National Park Service about the high degree of national significance of the Truman farm home property and the importance of the farm to the development of Truman's values of family and community and to shaping his views on agriculture. Testimony was also provided about the low cost of this proposal which calls for donation of the property by Jackson County and the use of existing National Park Service management resources at the Truman home in nearby Independence.

The Interior Committee adopted an amendment which authorizes the Secretary of the Interior to provide technical assistance to local governments for planning to encourage compatible development outside the Truman farm boundaries. The city of Grandview is receptive to working with the National Park Service to preserve the rural atmosphere of the undeveloped properties surrounding the farm home.

Mr. Speaker, H.R. 3898, as amended, is a very low-cost measure which would preserve a very significant site in the life of one of our greatest Presidents. Its addition to the existing Truman Historic Site would complement the properties already managed by the National Park Service and it would provide an excellent opportunity to interpret Truman's farm years which were so important in shaping the future President's life and values. I urge Members to support this measure.

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Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 3898, a bill to expand the Harry S. Truman National Historic Site by authorizing a Federal takeover of the Truman Farm Home. As the administration testified before the Parks Subcommittee in presenting their opposition to this measure, this site fails to pass the first test which all properties must pass in order to be eligible for inclusion in the National Park System, and that is the integrity of the site itself.

When the Park Service studied the site, they found that the 5.2-acre remnant of the former 600-acre Truman Farm did not pass muster because the former farm had been almost entirely engulfed by urban development. During our hearing, we did receive testimony from several historians that the Truman Farm, which former President Truman ran from 1906 to 1917, was important in shaping his understanding of rural life and political skills. I don't disagree with that, but the question we must answer with this measure is whether it is essential for the Federal Government to take over this compromised site in order to interpret the life of this President to the public. Will this site add in any significant way to the story presented to the public at the existing Truman National Historic Site, located just 15 miles away?

To answer that question, I'd like to quote from a National Park Service internal memorandum signed by the Associate Director of Cultural Resources:

> There are other reasons this property is not as suitable for Federal administration as the home in Independence, which was his home from 1919 until his death in 1972. They go beyond the mere strength and length of his associations with Independence, and the fact that Mr. Truman's neighborhood in Independence is also largely intact.
>
> Notably, the Truman farm home is no longer in a farming area; indeed, Truman himself sold the farm for development and it is now a suburban area. Thus, it is impossible to interpret his farm life there in a meaningful way. Additionally, unlike the home in Independence, which was donated to the Government fully intact and completely furnished with Truman belongings, the farm home lacks much curatorial potential.
>
> The primary motivation behind this bill, we suspect, is to free Jackson County from the financial burden of maintaining the property as a public park. We do not believe the Service should accede, for we suspect it will strengthen the pressure for additional Presidential sites of the second rank, as we must suggest this one is; we cannot advocate that the National Park System include all such properties, when other subjects cry out for representation in a system already top-heavy with Presidential sites, as opposed to those representing other great individuals and other aspects of the Nation's history.

The best thing that proponents can say about this measure is that it won't cost much, only about $0.5 million up front and $350,000 annually for eternity. That is a shallow argument, when you consider that the county paid nothing for this property, which they are now so anxious for the Federal Government to take over. In fact, Federal funds were originally used to acquire a 50-percent interest in the property and the balance was donated by the Truman family. These Federal funds were part of a cost-sharing program between the Federal Government and Jackson County, where the Federal Government would provide some up-front money for the site and the county would operate and manage it. Last year, Jackson County allocated just $2,000 of their $5 million park and recreation budget to this site.

I cannot disagree with the priorities of the county and why they have decided not to fund this project. I know there are many projects at all levels of government where we have good intentions to carry them out, but lack the funds. However, if this is not even a priority at the county level, I cannot agree that it should be a priority for the Federal Government and therefore I oppose this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. WHEAT], who has been a tireless advocate for the Truman site in Independence and for this very important measure before us today.

Mr. WHEAT. I thank the chairman, the gentleman from Minnesota [Mr. VENTO] for yielding to me.

Mr. Speaker, I rise in support of H.R. 3898, legislation I have introduced to allow the National Park Service to acquire and operate Harry Truman's farm home in Grandview, MO. As Chairman VENTO has described, this bill would allow the National Park Service to acquire the 5.2-acre farm home in Grandview by donation from Jackson County, MO and to operate the site as part of the existing Truman Historic Site 15 minutes away in Independence, MO.

The addition of the Truman farm home will greatly enhance our National Park System by allowing the Park Service to teach the public about a key period in the life of a great national leader. Federal management of this site has been postponed for too long. This bill has broad bipartisan support and has been introduced in the other body by Senators DANFORTH and BOND. According to the Congressional Budget Office, this proposal would not affect direct spending or receipts and would thus not involve any pay-as-you-go scoring under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. I urge Congress to act today to take long overdue action to authorize the Park Service to take over this important site and preserve it for posterity.

I am proud to represent a region of the country that calls Harry Truman its favorite son. Harry Truman is widely considered by Presidential scholars and citizens alike to be one of our Nation's greatest leaders. Truman is remembered for the Fair Deal—equality and justice for the average Joe. Historians believe that it was during Harry Truman's life as a working man, especially the 11 years of his early adult life that he spent on this family farm, that he developed the common sense, integrity, and compassion for which he is so famous.

Numerous historians and Truman scholars, including historians from the Park Service, have affirmed the significance of his time on this farm in the development of President Truman's singular character. Harry Truman lived on the original 600-acre farm from 1906 until 1917 when he left Missouri to serve in the First World War. Extensive historical documentation of Truman's day-to-day life on the farm, and reminiscences about his time there, are available through the nearly 1,200 letters that he wrote to his future wife, Bess Wallace, during this period.

The farm and the house, built in 1894, belonged to the Truman's maternal grandparents, Solomon and Harriet Young. When a flood destroyed the rented farm of Truman's father, John Anderson Truman, Harry and his brother, Vivian, quit their banking jobs in Kansas City in order to help their father run their grandparent's farm. From age 22 to age 33, Harry made his living planting, plowing, and generally managing the family farm. The habits of rising early and working hard never left the future President. Truman himself remarked in later years that "I spent the best 10 years of my life on a 600-acre farm south of Kansas City."

Truman never returned to live on the farm but did continue to visit the farm and take an interest in its operations. The family gradually sold off parts of the land due to financial distress.

After the farm fell into disrepair, in 1967 the community began to express its concerns about saving the Truman farm. In 1978 the National Park Service added the farm to the National Register of Historic Places. In 1985, the Park Service designated the farm as a National Historic Landmark. With Federal, State, and local help, volunteers formed the Truman Farm Home Foundation and The Friends of the Truman Farm Home. Together with Jackson County these groups worked to raise funds to purchase, restore and operate the farm home, which was opened for visitors in 1984.

Encroaching commercial development, lack of adequate resources and the need for professional management all combine to make passage of this legislation even more urgent for the future of this important historic site. After 8 years of hard work and struggle, the county and the volunteers are faced with a crisis. Lack of funds to complete a first-rate restoration have resulted in the farm being open to the public only a few days a week in the summer, staffed entirely by a corps of dedicated volunteers.

In 1989, at the behest of Congress, the National Park Service conducted a study of the site and possible management alternatives. The Park Service identified the option embodied in H.R. 3898—a takeover of the farm by the Park Service through donation by Jackson County—as one feasible solution to the management dilemma. Since the study, Jackson County has offered to donate the property to the National Park Service, believing strongly that Federal management of the site would be beneficial, in fact vital, to preserving the farm home for the public.

In Independence and surrounding areas, much of the history of Truman's life is visible. The addition of the Truman farm to the National Historic Site would provide a unique opportunity for the presentation in one region of the entire fabric of a Presidential life story. The farm in Grandview depicts Truman's roots as a common, working man. In Independence, Truman's courthouse office preserves the memory of his early political career. The Truman home, also known as the summer White House, is where he lived before he was elected Vice President and where he returned after his decision not to run for a third term of office. Finally, the Presidential library commemorates and preserves the documents of Truman's Presidency. Preservation of the farm home is necessary to the completion of this comprehensive biography of our 33d President.

Numerous possibilities exist for enhancing the interpretation of Truman's life story with the addition of the farm home to the current National Historic Site. To allow this landmark of Truman's life to deteriorate without proper maintenance, marketing, and interpretation would be to rob thousands of visitors of the opportunity to learn of a truly unique aspect of a President's early development. Further, this landmark represents a theme in American history which should not be ignored—the rich history of our country is built upon the agriculture that was the mainstay of our early economy.

Among other things, Harry S. Truman will most likely be remembered as the last American President to have worked as a farmer. Throughout his Presidency, Truman never lost empathy for the working man. This empathy was ingrained during Truman's own life as a working farmer. Acquiring the farm home would allow for the development and exploration of a complimentary and vital historical theme in the President's life—an important era that is simply indispensable to fully appreciating and understanding a truly great man.

I would like to take the time to specifically address some of the concerns that have been expressed by others in response to this proposal.

Recently, the National Park Service has questioned the historical value of the property. However, I would like to point out that the Park Service, in 1978, itself selected the Truman farm home to be a site listed in the National Register of Historic Places. Stringent criterion regarding the historical integrity of the resource must be met in order to receive this designation. Later, in 1985, the Park Service awarded the farm an even more prestigious designation by selecting it to be a National Historic Landmark. Now, the Park Service says that the Federal Government should not take over the site because it does not have enough historical integrity. Clearly, this new assertion flatly contradicts the Park Service's own findings that the farm home is indeed historically significant.

Further, no historian has disputed the historical value of this site or this period of Truman's life. Even the Chief Historian for the National Park Service emphasized the importance of this period to the development of this future President while testifying at the hearing on this bill. Given the Park Service's two previous designations, I can only assume that the administration's objections to this legislation stem primarily from a broad policy of opposition to most recent additions to our current park system.

Opponents of this legislation like to point out that Truman himself sold much of the farm land for development. They neglect to mention, however, the Truman family was forced to sell much of the land in order to settle the mortgage on the farm. In fact, because of the financial troubles that plagued Truman throughout his life, he lived most of the time in a house owned by his mother-in-law. The current historic site in Independence represents the Wallace family house. The farm home had always belonged to the Truman family.

It is true in this time of strained budgets and shrinking funds for State and local governments, Jackson County has been unable to provide the necessary funds to maintain this site at the level it deserves. However, the historical value of the site mandates that it be placed under the auspices of the National Park Service. No amount of funding support at the local level can make up for the historical, management, and interpretative resources that the National Park Service can and must bring to this nationally significant site.

In a time of Federal budgetary constraints, it is important that any added responsibility for the Park Service be carefully scrutinized, to ensure that it represents the best allocation of severely limited resources. The broad base of support for this legislation by historians, preservationists and by the public, the fact that this property was integral in the life of an American President, and the opportunity afforded to explain and interpret the compelling life history that took place at this site have coalesced into the broad bipartisan support for this legislation. I urge my colleagues to support H.R. 3898 to preserve Truman's legacy for future generations.

Mr. Speaker, I yield to my cosponsor, the gentleman from Missouri [Mr. EMERSON], who has been so very helpful throughout this entire process both in the writing and supporting of this legislation.

Mr. EMERSON. Mr. Speaker, this measure before the House is an important one for many, many respects.

The gentleman from Wyoming [Mr. THOMAS] referred to a memo, an internal memo sent within the Department of the Interior criticizing this acquisition.

I do not know who it is in the Department of the Interior who sits down and writes memos, one to the other; but I will tell you historians think this was a very important piece of real estate in the life and development of Harry Truman.

We are going, tomorrow, to hear a lecture by historian David McCullough, who has written a new biography, a very, very wonderful biography of President Truman. One would only need to read the chapters relating to the formative years of President Truman to understand the significance of this farm to his life and development.

As a native Missourian, I can conjure up a lot of memories from my own childhood relating to life in rural America that perhaps today others do not share. But I think it is very significant that there are only 5 acres left. I think we should preserve this entity. It is close to the other Truman landmarks in the Jackson County region. I think it fits in very comfortably and very well.

The point has been made that there are not funds to pursue an authorization at this point. I think it is important that we authorize it and that, as funds become available, they be appropriately allocated. But it is important that we authorize this measure now. This is a very significant property associated with the life of President Truman, and it is a national treasure, it truly is.

I think as evidence of that it should be noted that both of Missouri's Senators have sponsored the legislation in the Senate. The gentleman from Kansas City, the gentleman from Missouri [Mr. WHEAT], is a principal cosponsor in the House, joined by Congressmen SKELTON, COLEMAN, and myself. It is a very bipartisan measure that is before us. I would urge all Members to support it and commend my colleague from Kansas City [Mr. WHEAT] for his leadership in bringing this about and thank him again for yielding.

Mr. WHEAT. I would like to thank my friend and colleague, the gentleman from Missouri [Mr. EMERSON], for his strong support throughout this process. Obviously, this bill would not even be coming to the floor if he had not worked so ardently on it.

As he noted, this bill does enjoy broad bipartisan support. It has been introduced in the other body by both of Missouri's Senators. It has received support from historians, preservationists, from the general public. The fact that this property was an integral part in the life of an American President, and the opportunity afforded to explain and interpret the compelling life history that took place at this site have coalesced into the broad bipartisan support.

Mr. Speaker, I urge more Members to support H.R. 3898 to preserve Truman's legacy for future generations.

Mr. THOMAS of Wyoming. I yield myself such time as I may consume.

Mr. Speaker, one final observation: I certainly understand the interest that my colleagues have. I am a little concerned. Is it not Jackson County that has it now? It is owned by that county. It was purchased half with Federal money, to begin with, from the land and water conservation fund. It seems to me a $2,000 expenditure last year out of their $5 million budget was not exactly an overwhelming vote of interest on the part of local folks.

□ 1530

Mr. Speaker, I have no further requests for time.

Mr. VENTO. Mr. Speaker, I would just point out that the County of Jackson is not asking us to purchase the Harry S. Truman farm home. They are giving it back to us, and only 50 percent of the dollars of the land water conservation fund can be utilized to purchase that, besides which they have completely restored the house in a historically and in an appropriate manner consistent with the historic standards of the National Park Service. That is why it is on the register and, I believe, a landmark.

Furthermore, while there was some dissent within the Department of the Interior about the surrounding lands, nobody has attacked the house as being anything but accurate with regard to historic fabric. In fact, the chief historian of the National Park Service, Ed Barrs, testified at the hearing to the historic integrity and significance of this house with the life and formative years of President Harry S. Truman.

Furthermore, the community of Grandville—which surrounds this area—has and will receive some technical assistance from the Park Service to make a commitment to, in fact, develop the area around there in an appropriate manner so it be consistent with the designation that we are making.

I think Harry Truman, maybe his only problem is that he did not have income after he retired, and he had to sell off some of this property, and, Mr. Speaker, I do not think it is an altogether bad quality that he sustained himself in that way rather than some of the other creative methods that I have seen by former Presidents in terms of maintaining themselves.

So, Mr. Speaker, I would ask my colleagues to support this measure. It is a reasonable measure, and it will greatly enhance the Harry S. Truman Historic National Park Site in Independence, and I think there is great interest in it.

Mr. VENTO. Mr. Speaker, I yield back the balance of our time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3898, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BODIE PROTECTION ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4370) to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bodie Protection Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the western United States;

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated a National Historical Landmark in 1961 and a California State Historic Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals: mining in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghosttown character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghosttown character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bodie Bowl" means the Federal lands and interests in lands within the area generally depicted on the map referred to in section 4(a).

(2) The term "mining" means any activity involving mineral prospecting, exploration, extraction, milling, beneficiation, processing, and reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 4. APPLICABILITY AND MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) RESTRICATION.—Subject to valid existing rights, after the date of enactment of this Act Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be—

(1) open to the location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal for mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Manegment and the National Park Service. As soon as practicable after the date of enactment of this Act, the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) VALID EXISTING RIGHTS.—As used in the subsection, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this Act, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

(c) VALIDITY REVIEW.—The Secretary shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Bodie Bowl. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this Act. The Secretary shall make a determination with respect to the validity of each claim referred to under this subsection within 2 years after the date of enactment of this Act.

(d) LIMITATION ON PATENT ISSUANCE.—

(1) MINING CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITE CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before March 8, 1992; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 5. MINERAL ACTIVITIES.

(a) IN GENERAL.—Mineral exploration, mining, benefication, and processing activities on unpatented mining claims within the Bodie Bowl be subject to such regulations prescribed by the Secretary, in consultation with the Governor of the State of California, as the Secretary deems necessary to ensure that such mineral activities are conducted—

(1) in accordance with the rules and regulations promulgated under Public Law 94-429 (16 U.S.C. 1901 et seq.) as they relate to plan of operations, reclamation requirements, and bonding; and

(2) in a manner that does not cause any adverse effect on the historic, cultural, recreational and natural resource values of the Bodie Bowl area.

(b) RESTORATION OF EFFECTS OF MINING EXPLORATION.—As soon as possible after the date of enactment of this Act, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with regulations prescribed pursuant to subsection (a).

(c) ANNUAL EXPENDITURES; FILING.—The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) REGULATIONS.—The Secretary shall promulgate the regulations referred to in this section within 90 days after the date of enactment of this Act. For the purposes of this Act, the Bureau of Land Management shall promulgate and administer the rules and regulations referred to in section 5(a).

SEC. 6. STUDY.

Beginning as soon as possible after the date of enactment of this Act, the Secretary of the Interior, through the Director of the National Park Service, shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the pending legislation is to provide for the protection of a unique and nationally significant historic resource, known as Bodie, in the State of California.

Currently, Bodie is listed as a national historic landmark and is designated as a State historic park.

The significance of Bodie is that it is one of the West's oldest mining towns. At Bodie, visitors can see first hand how people lived in the mining camps that cropped up throughout California in the aftermath of the discovery of gold by John Marshall at Sutters Mill on the American River in 1848; a discovery that gave rise to the world famous California Gold Rush.

Today, at Bodie, such structures as a miner's union hall, a Methodist church, a general store, and many other historic buildings dating back to the 1800's stand in a state of arrested decay.

While Bodie stands as testament to the mining days of old—and despite its status as a national landmark and State park—the area is in jeopardy from the threat of modern-day mining activities.

In order to extract and process the gold and silver believed to be surrounding Bodie, large-scale mining techniques, such as strip mining, heap-leach piles, cyanide spraying, and waste ponds, most likely would be required.

Moreover, it happens that the company which is engaged in mineral activities in the area has a very poor environmental track record. This very same company is currently in the process of closing down a mine in Summitville, CO, where local rivers and reservoirs were contaminated by cyanide-laced water that seeped from a waste pond. The cost of the Summitville mine cleanup is estimated at $10 million.

Obviously, residents in the Bodie area fear this situation could be repeated.

H.R. 4370, the Bodie Protection Act of 1992, would provide some additional protections to Bodie in order to preserve its historic and visual integrity.

Under the bill, approximately 6,000 acres of BLM land surrounding the Bodie Park would no longer be open to location under the mining law of 1872, subject to leasing under the mineral leasing laws or available for disposal under the Mineral Materials Act.

The legislation would also prohibit the issuance of patents unless the right to a patent had vested as of March 8, 1992, the date of introduction of the measure.

However, the bill fully protects any valid existing rights in the withdrawn land. In other words, mineral activities could proceed on any valid mining claims that were in existence in the Bodie Bowl area prior to the bill's enactment date.

While mineral activities could proceed on valid mining claims, it is also necessary, and in the national interest, to ensure that they be undertaken in a way that does not adversely effect the historic resources at Bodie.

For this reason, the bill would require mining operations to comply with what we view as being reasonable regulations aimed at minimizing any potential adverse effects on Bodie. This is, after all, a State park and a national historic landmark.

Finally, under this measure, the National Park Service would conduct a study on other actions that may be taken to provide for the protection of Bodie and report its findings to the Congress.

Mr. Speaker, I want to commend the gentleman from California [Mr. LEHMAN] for introducing this measure and for all of his hard work on its behalf.

That concludes my explanation of the pending matter. I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition of H.R. 4370, the Bodie Protection Act. The bill would very likely effect a taking of the private property interests associated with unpatented mining claims in the Bodie Bowl of Mono County, CA. Despite the protestations of the majority to the contrary, there is indeed good reason to believe that imposition of Mining-in-the-Parks Act regulations upon the operator of these claims will make them uneconomic to develop further.

Mr. Speaker, we need only review the history of National Park Service implementation of this very misnamed law to understand that mining is essentially regulated out of existence under the act. I find little comfort in the provision of H.R. 4370 that makes the Bureau of Land Management the administrator of these regulations within the Bodie Bowl. Groups opposed to mining will likely protest every decision of the BLM on plans of operations that they believe could harm the ghost town. This would bring about a not-so-slow strangulation of any effort to mine the 1.25 million ounces of gold and 14 million ounces of silver identified in the claimed area west of Bodie.

Mr. Speaker, I see no inconsistency in allowing modern-day development of the mineral resource adjacent to the State historic park as protected under the terms the BLM has proposed in the pending Bishop resource management plan and as further protected by compliance with the California Surface Mining and Reclaimation Act [SMARA]. This view is supported by the Mono County Board of Supervisors who clearly have the insight into the best interests of their constituents.

Furthermore, because of redistricting the sponsor of H.R. 4370 will not represent the affected area in the 103d Congress. The Member of Congress who, God willing, will represent Mono County opposes this heavy handed approach to saving Bodie Ghost Town.

Last, Mr. Speaker, H.R. 4370 continues the majority's insistence that in order to patent one's mining claim that all the required technical steps in the patenting process had to have been met already—in this case 5 days after the bill was introduced by Mr. LEHMAN of California. This is blatantly confiscatory of private rights. Yes, Congress may change the rules with respect to receiving title to mining claims, but to do so in any manner other than prospectively is to invite serious inverse condemnation argument.

The mining interests in the Bodie Bowl have spent many millions of dollars in exploration of their claims and should not be foreclosed from the opportunity to develop a mine if it can be done within the confines of existing law. If it can't and we still want to bar mining, then let's stop the charade and buy them out. For these reasons the administration and I oppose enactment of H.R. 4370.

Mr. Speaker, I yield back the balance of my time.

□ 1540

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would conclude by saying that this legislation is supported by the California State Park and Recreation Commission, hundreds of citizens in the area, the National Trust for Historic Preservation, and numerous local and national environmental groups.

They, as does the Interior Committee, realize that without H.R. 4370, Bodie may become a distant memory.

I would also note that in 1990, the California State Legislature passed a resolution urging Congress to take the type of action that is embodied in this bill.

I urge my colleagues to support this bill.

Mr. LEHMAN of California. Mr. Speaker, today I rise in support of a piece of legislation which will protect the integrity of a very important landmark in the State of California and my congressional district: The Bodie State Historic Park and its surrounding lands.

Bodie, a former gold mine district and preserved authentic ghost town, was designated a national historical landmark in 1961 and a California State historic park in 1962. It is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey. The National Park Service listed Bodie as a priority 1 endangered national historic landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historical Landmarks," and recommended protection of the Bodie area.

The legislation that we will vote on today was developed and introduced at the recommendation of a resolution passed by the California State Legislature on September 4, 1990. It will attempt to preserve the ghost town character, ambience, historic buildings, and scenic attributes of the town of Bodie by withdrawing the public lands around the historic park from further mineral entry or patent.

Bodie was settled around 1859, when William Bodey discovered gold at Bodie Bluff. Seeking their fortune, many followed him to Bodie and established a mining town which in the form of the ghost town as it stands today, gives an outlook to the history of old time mining towns and offers reminders of the vibrant characters who made it unique.

The town of Bodie rose to prominence with the decline of mining along the western slope of the Sierra Nevada. Prospectors crossing the eastern slope in 1859 to "see the elephant"—that is, to search for gold—discovered what was to be the Comstock Lode at Virginia

City, and started a wild rush to the surrounding high desert country.

By 1879 Bodie boasted a population of about 10,000 and was second to none for wickedness, badmen, and the "the worst climate out of doors." Killings occurred with monotonous regularity, sometimes becoming almost daily events. Robberies, stage holdups, and street fights provided variety, and the town's 65 saloons offered many opportunities for relaxation after hard days of work in the mines. One little girl, whose family was taking her to the remote and infamous town, wrote in her diary; "Goodbye God, I'm going to Bodie." The phrase came to be known throughout the West.

Only about 5 percent of the buildings Bodie contained during its 1880 heyday still remain. Today, it stands just as time, fire, and the elements have left it—a genuine California gold mining ghost town in a state of arrested decay which courts over 200,000 visitors per year. It is my hope that this legislation will continue to promote, protect, and preserve the integrity of this area and its rich history for generations to come.

I urge my colleagues to support H.R. 4370.

Mr. MILLER of California. Mr. Speaker, H.R. 4370, the Bodie Protection Act merits our support.

Congressman RICHARD LEHMAN and I introduced the Bodie Protection Act, in response to legislation adopted by the California State Legislature in September 1990. The State-passed resolution asked the Congress to withdraw the Federal lands adjacent to the Bodie State Historic Park from the mineral leasing laws, in order to protect Bodie's natural, historic, and aesthetic values.

Located at an elevation of 8,400 feet, Bodie State Park represents the best preserved western ghost town. Many of the buildings along with the furniture, books, and other belongings left by miners from the 19th century remain at the park today. More than 200,000 visitors come to see the ghost town at Bodie each year.

Yet, ironically Bodie is threatened by mining, the activity that made Bodie famous. Galactic Resources, a Canadian company, began exploration activities in 1988 in an area outside and east of the Bodie State Historic Park. In response to the renewed mining interest at Bodie, the Interior Department designated Bodie a priority 1 national historic landmark. According to the Interior Department's 1991 report, "mining would alter and irreparably harm the integrity of the Bodie district."

Under H.R. 4370, valid existing rights are protected. However, new mining claims are prohibited within the Bodie bowl in order to protect the ghost town's natural and historic resources.

Major environmental and historic preservation organizations including the Wilderness Society, Natural Resources Defense Council, and the National Trust for Historic Preservation support H.R. 4370. In addition, the Los Angeles Times, Sacramento Bee, and Sacramento Union have editorialized in support of protecting Bodie. There also is significant support in the local community near Bodie.

The Bodie legislation is very similar to H.R. 2790, the Cave Creek Protection Act which withdrew certain lands in the Coronado National Forest from the mineral leasing laws to protect natural resource values. The House unanimously approved the Cave Creek legislation last year.

I appreciate Congressman LEHMAN's concern for Bodie, and also commend Subcommittee Chairman NICK RAHALL for his efforts in moving H.R. 4370.

I encourage my colleagues to support the Bodie Protection Act.

Mr. RAHALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4370, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

STOCK RAISING HOMESTEAD ACT AMENDMENTS OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 450) to amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes, as amended.

The Clerk read as follows:

H.R. 450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINING CLAIMS ON STOCK RAISING HOMESTEAD ACT LANDS.

(a) MINERAL ENTRY UNDER THE STOCK RAISING HOMESTEAD ACT.—Section 9 of the Act of December 29, 1916, entitled "An act to provide for stock-raising homesteads, and for other purposes (43 U.S.C. 299) is amended by adding the following at the end thereof:

"(b) EXPLORATION; LOCATION OF MINING CLAIMS; NOTICES.—

"(1) IN GENERAL.—(A) Notwithstanding subsection (a) and any other provision of law to the contrary, after the effective date of this subsection no person other than the surface owner may enter lands subject to this Act to explore for, or to locate, a mining claim on such lands without—

"(i) filing a notice of intention to locate a mining claim pursuant to paragraph (2); and

"(ii) providing notice to the surface owner pursuant to paragraph (3).

"(B) Any person who has complied with the requirements referred to in subparagraph (A) may, during the authorized exploration period, in order to locate a mining claim, enter lands subject to this Act to undertake mineral activities related to exploration that cause no more than a negligible disturbance of surface resources and do not involve the use of mechanized equipment, explosives, the construction of roads, drill pads, or the use or toxic or hazardous materials.

"(C) The authorized exploration period referred to in subparagraph (B) shall begin 30 days after notice is provided under paragraph (3) with respect to lands subject to such notice and shall end with the expiration of the 60-day period referred to in paragraph (2)(A) or any extension provided under paragraph (2)(B).

"(2) NOTICE OF INTENTION TO LOCATE A MINING CLAIM.—Any person seeking to locate a mining claim on lands subject to this Act in order to engage in the mineral activities relating to exploration referred to under paragraph (1)(B) may file with the Secretary of the Interior a notice of intention to locate a claim on the lands concerned. The notice shall be in such form as the Secretary shall prescribe. The notice shall contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. The legal description shall be based on the public land survey or on such other description as is sufficient to permit the Secretary to record the notice on his land status records. Whenever any person has filed a notice under this subparagraph with respect to any lands, during the 60-day period following the date of such filing, no other person (including the surface owner) may—

"(A) file such a notice with respect to any portions of such lands;

"(B) explore for minerals or locate a mining claim on any portion of such lands; or

"(C) acquire any interest in any portion of such lands pursuant to section 209 of the Federal Land Policy and Management Act of 1977 (43 U.S.C. 1719).

"(3) NOTICE TO SURFACE OWNER.—Any person who has filed a notice of intention to locate a mining claim under paragraph (2) for any lands subject to this Act shall provide written notice of such filing by registered or certified mail with return receipt to the surface owner (as evidenced by local tax records) of the lands covered by the notice under paragraph (2). Possession of the return receipt signed by the surface owner shall be necessary prior to entering such lands. The notice shall be provided at least 30 days before entering such lands and shall contain each of the following:

"(A) A brief description of the proposed mineral activities.

"(B) A map and legal description of the lands to be subject to mineral exploration.

"(C) The name, address and phone number of the person managing such activities.

"(D) A statement of the dates on which such activities will take place.

"(4) ACREAGE LIMITATIONS.—The total acreage covered at any time by notices of intention to locate a mining claim under paragraph (2) filed by any person and by affiliates of such person may not exceed 6,400 acres of lands subject to this Act in any one State and 160 acres or one-tenth of any contiguous parcel of land, whichever is greater (except that in no instance shall the total acreage exceed 640 acres), for a single surface owner. For purposes of this paragraph, the term 'affiliate' means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

"(c) CONSENT.—Notwithstanding subsection (a) and any other provision of law, after the effective date of this subsection no person may engage in the conduct of mineral activities (other than those relating to exploration referred to in subsection (b)(1)B)) on a mining claim located on lands subject to this Act without the written consent of the surface owner thereof unless the Secretary has authorized the conduct of such activities under subsection (d).

"(d) AUTHORIZED MINERAL ACTIVITIES.—The Secretary may authorize a person to conduct mineral activities (other than those relating to exploration referred to in subsection (b)(1)(B)) on lands subject to this Act without the consent of the surface owner thereof if such person complies with the requirements of subsections (e) and (f).

"(e) BOND.—(1) Before the Secretary may authorize any person to conduct mineral activities the Secretary shall require such person to post a bond or other financial guarantee in an amount to insure the completion of reclamation satisfying the requirements of this subsection and subsection (h). The bond or other financial guarantee shall be held for the duration of the mineral activities and for an additional period to cover the responsibility of the person conducting such mineral activities for revegetation under subsection (h)(6). Such bond or other financial guarantee shall also insure—

"(A) payment to the surface owner, after the completion of such mineral activities and reclamation, compensation for any permanent damages to crops and tangible improvements of the surface owner that resulted from mineral activities; and

"(B) payment to the surface owner of compensation for any permanent loss of income of the surface owner due to loss or impairment of grazing, or other uses of the land by the surface owner to the extent that reclamation required by the plan of operations would not permit such uses to continue at the level existing prior to the commencement of mineral activities.

"(2) In determining the bond amount to cover permanent loss of income under paragraph (1)(B), the Secretary shall consider, where appropriate, the potential loss of value due to the estimated permanent reduction in utilization of the land.

"(f) PLAN OF OPERATIONS.—(1) Before the Secretary may authorize any person to conduct mineral activities on lands subject this Act, the Secretary shall require such person to submit a plan of operations. The Secretary shall require that mineral activities and reclamation under such plan be conducted in such a way so as to minimize adverse impacts to the environment. A plan under this subsection shall also include procedures for—

"(A) the minimization of damages to crops and tangible improvements of the surface owner;

"(B) the minimization of disruption to grazing or other uses of the land by the surface owner; and

"(C) payment of a fee equivalent to the loss of income to the ranch operation as established pursuant to subsection (g).

"(2) The Secretary shall provide a copy of the proposed plan of operations to the surface owner at least 60 days prior to the date the Secretary makes a determination as to whether such plan complies with the requirements of this subsection. During such 60-day period the surface owner may submit comments and recommend modifications to the proposed plan of operations to the Secretary.

"(3) The Secretary may approve, require modifications to, or deny a proposed plan of operations. To approve a plan of operations, the Secretary shall make each of the following determinations:

"(A) The proposed plan of operations is complete and accurate.

"(B) The person submitting the proposed plan of operations has demonstrated that reclamation as required under subsection (h) can be accomplished under the plan and would have a high probability of success based on an analysis of such reclamation measures in areas of similar geochemistry, topography and hydrology.

"(C) The person submitting the proposed plan of operations has demonstrated that all other applicable Federal and State requirements have been met.

"(4) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsections (e) and (g).

"(g) FEE.—The fee referred to in subsection (f)(2) shall be—

"(1) paid to the surface owner by the person submitting the plan of operations;

"(2) paid in advance of any mineral activities or at such other time or times as may be agreed to by the surface owner and the person conducting such activities; and

"(3) established by the Secretary taking into account the acreage involved and the degree of potential disruption to existing surface uses (including the loss of income to the surface owner and such surface owner's operations due to the loss or impairment of existing surface uses for the duration of the mineral activities).

"(h) RECLAMATION.—Except as provided under paragraphs (5) and (7), lands affected by mineral activities under a plan of operations approved pursuant to subsection (f)(3) shall be reclaimed to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance. Except as provided under paragraphs (5) and (7), the surface area disturbed by mineral activities shall be backfilled, graded and contoured to its natural topography. Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities. For the purposes of such reclamation, the Secretary shall establish reclamation standards which shall include, but not necessarily be limited to, provisions to require each of the following; except that any such standard may be modified only with the consent of the surface owner as part of an approved plan of operations:

"(1) TOPSOIL.—(A) Topsoil removed from lands affected by mineral activities shall be segregated from other spoil material and protected for later use in reclamation. If such topsoil is not replaced on a backfill area within a time-frame short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a useable condition for sustaining vegetation when restored during reclamation.

"(B) In the event the topsoil from lands affected by mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands affected by the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in a like manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

"(2) STABILIZATION.—All surface areas affected by mineral activities, including spoil material piles, waste material piles, ore piles, subgrade ore piles, and open or partially backfilled mine pits which meet the requirements of paragraph (5) shall be stabilized and protected during mineral activities and reclamation so as to effectively control erosion and minimize attendant air and water pollution.

"(3) EROSION.—Facilities such as but not limited to basins, ditches, streambank stabilization, diversions or other measures, shall be designed, constructed and maintained where necessary to control erosion and drainage of the area affected by mineral activities including spoil material piles and waste material piles prior to the use of such material to comply with the requirements of this subsection, and for the purposes of paragraph (7), and including ore piles and subgrade ore piles.

"(4) HYDROLOGIC BALANCE.—(A) Mineral activities shall be conducted to minimize disturbances to the prevailing hydrologic balance of the area subject to mineral activities and adjacent areas and to the quality and quantity of water in surface and ground water systems in the area subject to mineral activities and adjacent areas.

"(B) Mineral activities shall, to the extent possible, prevent the generation of acid or toxic drainage during the mineral activities and reclamation; and the operator shall prevent the contamination of surface and ground water with acid or other toxic mine drainage and shall prevent or remove water from contact with acid or toxic producing deposits.

"(C) Mineral activities shall be conducted to prevent, to the extent possible, disruption to streamflow, or runoff outside the area covered by the plan of operations, and in no event shall be in excess of requirements set by applicable State or Federal law.

"(D) Reclamation shall, to the extent possible, also include restoration of the recharge capacity of the area subject to mineral activities to approximate premining condition; except that where surface or underground water sources used for domestic or agricultural use have been diminished, contaminated or interrupted as a proximate result of mineral activities, such water resource shall be restored or replaced.

"(5) PIT BACKFILLING/GRADING VARIANCE.—(A) The requirement to backfill, grade and contour land to its natural topography shall not apply with respect to an open mine pit if the Secretary finds that such open. pit or partially backfilled pit would not pose a threat to the public health or safety or have an adverse effect on the environment in terms of surface or ground water pollution.

"(B) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

"(6) REVEGETATION.—(A) Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5), the area affected by mineral activities, including any excess spoil material pile and excess waste pile, shall be revegetated in order to establish a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area affected by mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area.

"(B) In order to insure compliance with subparagraph (A), the period for determining successful revegetation shall be for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less.

"(7) EXCESS SPOIL AND WASTE.—(A) Excess spoil material and excess waste material shall be transported and placed in approved areas, in a controlled manner in such a way so as to assure long-term mass stability and to prevent mass movement. In addition to the measures described under paragraph (3), internal drainage systems shall be employed, as may be required, to control erosion and drainage. The design of such excess spoil material piles and excess waste material piles shall be certified by a qualified professional engineer.

"(B) Excess spoil material piles and excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

"(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be sealed when no longer needed for the conduct of mineral activities to ensure protection of the public, wildlife and the environment.

"(9) STRUCTURES.—All buildings, structures or equipment constructed, used or improved during the mineral activity shall be removed, unless the Secretary determines that the buildings, structures or equipment shall be of beneficial use in accomplishing the post-mining uses or for environmental monitoring.

"(i) STATE LAW.—(1) Nothing in this Act shall be construed as affecting any reclamation, bonding, inspection, enforcement, air or water quality standard or requirement of any State law or regulation which may be applicable to mineral activities on lands subject to this Act to the extent that such law or regulation is not inconsistent with this title.

"(2) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by mineral activities.

"(j) INSPECTIONS.—(1) The Secretary shall make such inspections of mineral activities under a plan of operations approved under subsection (f) so as to ensure compliance with the terms and conditions of such plan. The Secretary shall establish a frequency of inspections for mineral activities conducted under such an approved plan of operations, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter.

"(2) Any surface owner of land subject to this Act has reason to believe that they are or may be adversely affected by mineral activities due to any violation of the terms and conditions of a plan of operations approved under subsection (f), such surface owner may request an inspection. The Secretary shall determine within 10 days of the receipt of the request whether the request states a reason to believe that a violation exists, except in the event the surface owners alleges and provides reason to believe that an imminent danger, as provided in subsection (k)(2), exists the 10 day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the surface owner and such surface owner shall be allowed to accompany the inspector on the inspection.

"(k) ENFORCEMENT.—(1) If the Secretary or the authorized representative of the Secretary determines, on the basis of an inspection that the operator is in violation of the terms and conditions of a plan of operations approved under subsection (f), the Secretary or his authorized representative shall issue a notice of violation to the operator describing the violation and the corrective measures to be taken. The Secretary or his authorized representative shall provide such operator with a reasonable period of time to abate the violation. If, upon the expiration of time provided for such abatement, the Secretary or his authorized representative finds that the violation has not been abated he shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

"(2) If the Secretary or his authorized representative determines, on the basis of an inspection, that any condition or practice exists with respect to mineral activities conducted on lands subject to this Act, or that an operator is in violation of the surface management requirements established pursuant to this section, and such condition, practice or violation is causing, or can reasonably be expected to cause—

"(A) an imminent danger to the health or safety of the surface owner of land subject to this Act, or

"(B) significant, imminent environmental harm to land, air or water resources,

the Secretary or his authorized representative shall immediately order a cessation of such mineral activities or the portion thereof causing such condition, practice or violation.

"(3)(A) A cessation order by the Secretary or his authorized representative pursuant to paragraph (1) or (2) shall remain in effect until the Secretary or his authorized representative determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Secretary or his authorized representative. In any such order, the Secretary or his authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order. The Secretary shall require appropriate financial assurances to insure that the abatement obligations are met.

"(B) Any notice or order issued pursuant to paragraph (1) or (2) may be modified, vacated or terminated by the Secretary or his authorized representative. An operator, or person conducting mineral activities under section 201(b)(2), issued any such notice or order shall be entitled to a hearing on the record.

"(4) If, after 30 days of the date of the order referred to in paragraph (3)(A), the required abatement has not occurred the Secretary shall take such alternative enforcement action against the responsible parties as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action shall include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement.

"(5) In the event an operator conducting mineral activities under a plan of operations approved under subsection (f) is unable to abate a violation or defaults on the terms of the plan of operation the Secretary may cause forfeiture of the bond or other financial guarantee for the plan of operations to the extent necessary to ensure abatement and reclamation.

"(l) COMPLIANCE.—The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, in the district court of the United States for the district in which the mineral activities are located whenever an operator: (A) violates, fails or refuses to comply with any order issued by the Secretary under subsection (k); or (B) interferes with, hinders or delays the Secretary in carrying out an inspection under subsection (j). Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under clause (A) shall continue in effect until the completion or final termination of all proceedings for administrative review of such order, unless the district court granting such relief sets it aside or modifies it.

"(m) PENALTIES.—(1) Any operator who fails to comply with the terms and conditions of a plan of operations approved under subsection (f) shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. No civil penalty under this subsection shall be assessed until the operator charged with the violation has been given the opportunity for a hearing.

"(2) An operator who fails to correct a violation for which a cessation order has been issued under subsection (k) within the period permitted for its correction shall be assessed a civil penalty of not less than $1,000 per violation for each day during which such failure continues, but in no event shall such assessment exceed a 30-day period.

"(n) DAMAGES FOR FAILURE TO COMPLY.—(1) Whenever the surface owner of any land subject to this Act has suffered any permanent damages to crops or tangible improvements of the surface owner, or any permanent loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner, the surface owner may bring an action in the appropriate United States district court for treble damages, and the court may award such damages if such damages or loss results—

"(A) from any mineral activity undertaken without the consent of the surface owner under subsection (c) or an authorization by the Secretary under subsection (d); or

"(B) from the failure of a person conducting mineral activities on lands subject to this Act approved under subsection (f) to abate a violation under subsection (k).

"(2) The surface owner of any land subject to this Act may also bring an action in the appropriate United States district court for treble damages against any person undertaking any mineral activities on lands subject to this Act in violation of any requirement of subsection (b).

"(3) Treble damages awarded by the court under this subsection shall be reduced by the amount of any compensation which the surface owner has received (or is eligible to receive) pursuant to the bond or financial guarantee required under subsection (e).

"(o) PAYMENT OF DAMAGES.—The surface owner of any land subject to this Act may petition the Secretary for payment of all or any portion of a bond or other financial guarantee required under subsection (e) as compensation for any permanent damages to crops and tangible improvements of the surface owner, or any permanent or temporary loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner. Pursuant to such a petition, the Secretary may use such bond or other guarantee to provide compensation to the surface owner for such damages and to insure the required reclamation.

"(p) BOND RELEASE.—The Secretary shall release the bond or other financial guarantee required under subsection (e) upon the successful completion of all requirements pursuant to a plan of operations approved under subsection (f).

"(q) CONVEYANCE TO SURFACE OWNER.—(1) The Secretary may convey interests owned by the United States (including mineral interests) in lands subject to this Act to the surface owner pursuant to the provisions of section 209 of the Federal Land Policy and Management Act of 1976 without regard to the requirements contained in such provisions that findings be made under subsection (b) of such section.

"(2) The Secretary shall take such actions as may be necessary to simplify the procedures which must be complied with by surface owners of lands subject to this Act who apply to the Secretary to obtain title to interests in such lands owned by the United States.

"(3) Notwithstanding any other provision of law, the Secretary may not convey mineral interests in lands subject to this Act to any person other than the surface owner of such lands without obtaining the consent of such surface owner.

"(r) DEFINITIONS.—For the purposes of subsections (b) through (q)—

"(1) The term 'mineral activities' means any activity for, related to or incidental to mineral exploration, mining, and beneficiation activities for any locatable mineral on a mining claim. When used with respect to this term—

"(A) The term 'exploration' means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade and value;

"(B) The term 'mining' means the processes employed for the extraction of a locatable mineral from the earth; and

"(C) The term 'beneficiation' means the crushing and grinding of locatable mineral ore and such processes are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

"(2) The term 'mining claim' means a claim located under the general mining laws of the United States (which generally comprise 30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162) subject to the terms and conditions of subsections (b) through (q) of this section.

"(s) MINERALS COVERED.—Subsections (b) through (q) of this section apply only to minerals not subject to disposition under—

"(1) the Mineral Leasing Act (30 U.S.C. 181 and following);

"(2) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following); or

"(3) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).".

(b) FEES.—The Secretary may establish such user fees as may be necessary to reimburse the United States for expenses incurred in administering this section.

(c) TECHNICAL CONFORMING AMENDMENT.—Section 9 of the Act of December 29, 1916, entitled "An Act to provide for stock-raising homesteads, and for other purposes" (43 U.S.C. 299) is amended by inserting "(a) GENERAL PROVISIONS.—" before the words "That all entries made".

(d) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment.

(e) REGULATIONS.—The Secretary of the Interior shall issue final regulations to implement the amendments made by this Act not later than the effective date of this Act. Failure to promulgate these regulations by reason of any appeal or judicial review shall not delay the effective date as specified in paragraph (d).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Stock Raising Homestead Act of 1916 was one of the last western settlement initiatives through which individuals could gain title from the Federal Government to the surface of public lands in the West.

The pending measure, H.R. 450, seeks to address a longstanding dispute which not only predates the enactment of this act, but a controversy that this 76-year-old law originally sought to resolve.

This is the conflict that arises when those interested in the raising of livestock, and those engaged in the occupation of mineral exploration and development, seek to gain the use of the same parcel of land.

Throughout the Western States there are approximately 70 million acres of land on which title to the surface is held by private individuals as a result of the Stock Raising Homestead Act.

However, the mineral estate to these lands was not made part of the title. It continues to be owned by the United States and is subject to the various mining laws.

Today, the increased interest in gold exploration and development in States like California and Nevada has aggravated the inherent conflicts of this type of split estate land ownership.

In effect, enactment of this measure could avert a modern day range war between the cowboys and the miners, especially as gold fever continues to sweep through the Western States.

H.R. 450 seeks to strike a balance between the rights of the surface owner, and those interested in the underlying locatable minerals, by providing a procedure for gaining access to, and undertaking mining activities on, Stock Raising Homestead Act lands that takes into account the interest of the private surface owner.

This would be accomplished by requiring that miners give notice to the surface owner before entering the land for mineral exploration activities and the location of mining claims.

After this point, if the claim holder wants to then mine the claim, the preferable course would be that it be done with the consent of the surface owner.

However, in the event consent is not forthcoming, this legislation would require that the claim holder have a plan of operation approved by the Secretary of the Interior, fully reclaim damaged areas, and provide compensation to the surface owner for any loss of income or damage that results.

In this regard, I would note that this bill is supported by the National Cattlemen's Association. I include their letter of support for the RECORD.

NATIONAL CATTLEMEN'S ASSOCIATION,
Washington, DC, June 10, 1992.

Hon. NICK JOE RAHALL,
Chairman, Subcommittee on Mining and Natural Resources, House Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR CHAIRMAN RAHALL: The National Cattlemen's Association supports your substitute amendment to H.R. 450 offered on behalf of Congressman Richard Lehman. We believe this amendment provides important protection for the surface owner's land use and land value. Yet it also allows continued exploration and mining of the subsurface.

Four basic provisions in the bill establish a sound process for balancing the property rights of the surface owner with the prospecting and mining interests of the subsurface owner or leasee. Prospectors must give notice before entering a surface owner's operation, they must have a plan of operation approved by the Secretary of the Department of the Interior, they must fully reclaim damaged areas, and they must compensate for the loss of surface use and the disruption of the surface operation.

We appreciate your and Representative Lehman's commitment to enacting law necessary to protect the livelihoods of many landowners in a split estate situation.

Sincerely,

JIMME L. WILSON,
President.

Mr. Speaker, that concludes my explanation of the pending matter.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 450 as amended by the Committee on Interior and Insular Affairs. I am saddened to report that once again, the Interior Committee subverted the legislative process and marked up a bill upon which not one person testified, nor was any administration comment sought. This blatant disregard for the views of our affected constituents is becoming routine. Let me explain.

Mr. Speaker, H.R. 450 began life as the same bill which passed this body by voice vote in the 101st Congress. The Mining Subcommittee held a field hearing in Fresno, CA, in July 1989, to take testimony from Stock Raising Homestead Act surface owners and the Bureau of Land Management. H.R. 737, as amended, was a compromise that all parties could support. At issue then, as now, was the relative rights of the surface owner and the holder of the rights to the mineral estate, which is reserved to the United States in Stock Raising Homestead Act deeds.

It has been the policy of the Federal Government since 1916 that the so-called hardrock minerals beneath such lands are available for disposition under the Mining Law, except as modified by the 1916 act. In other words, prospectors and miners can locate mining claims on these lands, and may operate on such mining claims upon receiving permission from the surface owner and providing compensation for damages to the surface estate.

However, under current law, if a surface owner refuses such permission to renter the lands, the miner has the option of proffering a bond to the BLM for the estimated damages to the surface estate and operating without the surface owner's consent. This step is necessary if the mineral estate reserved to the United States is to be accessible, but few legitimate mining interests will ever choose to exercise it because an harmonious relationship with the landowner is always better.

Mr. Speaker, the bill we passed last Congress tightened up some requirements on miners for advance notice and reclamation but it did not make the reserved mineral estate off limits. The substitute to H.R. 450 adopted in the Interior Committee would do so. Again, let me emphasize to my colleagues, neither the Mining Subcommittee, nor the full Interior Committee, held a hearing on this substitute. It was brought to a markup in subcommittee 1 week after its release to the Members—1 week. The only views solicited by the majority were those of the California Cattleman's Association. They persuaded the national association to support the substitute as well, despite the group's earlier support of the Bingaman-Wallop bill in the Senate, S. 1187.

The substitute goes far beyond the original bill which had broad support, including that of the administration. The substitute would unduly restrict the right and ability to prospect for minerals that are strategic and critical to our Nation's needs. How would it do this? By imposing standards that ignore regional differences in soils, climate and vegetation in dictating the manner in which mining and reclamation must occur before a plan of operations would be approved by the Bureau of Land Management. This is contrary to the conclusions reached by the Committee on Surface Mining and Reclamation [COSMAR] of the National Academy of Sciences in the 1979 report to Congress, "Surface Mining of Non-Coal Minerals." This panel was convened under a mandate in the Surface Mining Control and Reclamation Act of 1977 [SMCRA] to assess whether or not the national standards dictated for coal mining and reclamation should be applied to hardrock mining. COSMAR concluded national standards were unworkable and I know of no study since which concludes otherwise.

Mr. Speaker, further it seems to me that this is one that really deals with the question of preemption, State preemption, which means a great deal to me. I think it is very important in our system. Also State rights. It has something to do with private rights in the private decision to do something with the surface which is owned by private individuals, not by the Federal Government. It also has to do with overregulation, and God knows we have plenty of that.

One of the problems in this place is that in the cookie cutter one fits all propositions, designed to fit in Maryland, Wyoming, West Virginia, and it does not work.

Mr. Speaker, H.R. 450 would bar mineral activities where rigid environmental standards could not be met, even if the surface owner agreed otherwise. In other words, the Bureau of Land Management would now be in the business of dictating how a private landowner may or may not be impacted by a mining proposal. Furthermore, decisions concerning water quantity that heretofore have been the sole domain of the States in the arid Western States now would be a decision for the Federal Government's authorized officer. My friends, this is dangerous precedent. But, since we had no hearing on the substitute there was no one to sound the alarm.

In summary, Mr. Speaker, H.R. 450, as adopted by the Interior Committee, ignores proper procedures and is substantively flawed as well. The administration and I urge my colleagues to vote "no."

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would conclude by saying that those of us from the Appalachian Region of this country certainly have had some experience with the conflicts that can arise between surface owners and those who hold the rights to the coal.

Under what are known as broad form deeds entered into during the late 1800's and early part of this century, at one time the owner of the coal could strip the land at will, without the surface owner's consent.

This situation has been remedied over the years by the courts. Today, the coal owner can no longer strip mine without the consent of the surface owner.

In a similar fashion, with respect to federally owned coal underlying privately held land in the Western States, the Congress in the Surface Mining Control and Reclamation Act of 1977 required the consent of the surface owner before this coal could be leased.

I would note that this action, as with the pending measure, was taken primarily to protect farming and ranching operations.

Finally, I would say that the Subcommittee on Mining and Natural Resources conducted a hearing in Fresno, CA, on the predecessor bill to H.R. 450. The House subsequently approved the bill during September 1989, but no action was taken by the other body.

Mr. Speaker, I daresay that if we had another hearing today on the pending matter, that we would have perhaps myself and the gentleman from California to once again be the only ones to show up, and I think it worthy to save the taxpayers' money and the trouble of going through this exercise, by rather relying upon the transcript of previous hearings on this legislation.

This year, however, I believe we will be in a better position to resolve this matter and I would thank the bill sponsor, the gentleman from California, [Mr. LEHMAN], for his tenacious efforts in this matter.

Mr. LEHMAN of California. Mr. Speaker, today I rise in support of H.R. 450, the Homestead Stockraising Act. This legislation addresses an ongoing problem that exists in the West with regard to lands with a split estate. That is, lands where title of the surface is held by a private land owner and the title of the mineral interest is held by the United States.

This bill which is supported by the National Cattlemen's Association and the California Cattlemen's Association, and many others, strikes a balance between the rights of private surface owners and those with interest in gaining access to the lands for mining.

The bill provides for four basic provisions to establish a sound process. First, prospectors must give a 30-day notice to surface owners, second, prospectors must have a plan of operation approved by the Secretary of the Interior, third, prospectors must fully reclaim damaged areas, and fourth, prospectors must compensate for the loss of surface use and the disruption of the surface operation.

I have worked very closely with cattlemen who have been affected by this type of situation in order to craft a piece of legislation which they feel adequately meets their concerns.

I urge immediate passage of this bill.

□ 1550

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 450, as amended.

The question was taken.

Mr. THOMAS of Wyoming. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SETTLEMENT IMPLEMENTING BETWEEN THE PUEBLO DE COCHITI AND U.S. ARMY CORPS OF ENGINEERS

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4437) to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the U.S. Army Corps of Engineers under the authority of Public Law 100-202.

The Clerk read as follows:

H.R. 4437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL AUTHORIZATION.

The Secretary of the Interior and the Secretary of the Army are authorized and directed to implement the settlement agreement negotiated under the authority of Public Law 100-202 by the Pueblo de Cochiti of New Mexico, a federally recognized Indian Tribe, and the United States Army Corps of Engineers, as set forth in the report of the

Corps of Engineers entitled "Report on Investigations, Wet Field Solution", dated July 24, 1990, addressing seepage problems at the Cochiti Dam on tribal lands.

SEC. 2. DUTIES OF THE SECRETARY OF THE INTERIOR.

In accordance with the settlement agreement and pursuant to the trust relationship between the United States Government and the Pueblo de Cochiti of New Mexico, upon completion of construction of the drainage system, the Secretary of the Interior, acting through the Bureau of Indian Affairs, shall be responsible for its maintenance, repair, and replacement, as provided in the settlement agreement.

SEC. 3. DUTIES OF THE SECRETARY OF THE ARMY.

In accordance with the settlement agreement, the Secretary of the Army is authorized and directed to construct the underground drainage system necessary to correct the high ground water problem at the Pueblo de Cochiti and to carry out all other provisions of the settlement agreement, except those specifically assigned to the Secretary of the Interior under the provisions of this Act.

SEC. 4. APPROPRIATIONS AUTHORIZED.

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act, and the settlement agreement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4437 is sponsored by Congressman RICHARDSON. The bill authorizes the Secretary of the Interior and the Secretary of the Army to implement the settlement agreement between the Pueblo de Cochiti and the U.S. Army Corps of Engineers to address the seepage problems at the Cochiti Dam. The settlement agreement provides for the construction of an underground drainage system, the restoration of the agricultural lands, the establishment of a fund for the operation and maintenance of the system, and for damages to the Pueblo.

Construction of Cochiti Dam has brought great hardship to the Pueblo. It has resulted in the loss of tribal lands, the destruction of important cultural and religious sites, and the flooding of tribal agricultural lands. This legislation resolves this longstanding dispute and compensates the Pueblo for their losses.

This bill enjoys the support of the Pueblo, the Department of Justice, and the Army Corps of Engineers. This measure has bipartisan support and I urge my colleagues to support it.

Mr. Speaker, I would like to include in the RECORD at this time, a letter from the chairman of the Committee on Interior and Insular Affairs, Robert A. Roe, regarding the agreement between our two committees concerning the consideration of this bill.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, July 24, 1992.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, DC.

Dear Mr. CHAIRMAN: I am writing with regard to your letter requesting our agreement to the consideration of H.R. 4437, a bill to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the U.S. Army Corps of Engineers, under suspension of July 27th. As you note, this legislation was jointly referred to our two committees.

Our Committee has reviewed this legislation and in recognition of the need for expeditious Floor action on the bill, I have no objection to its consideration under suspension of July 27th. This decision should, however, in no context be construed as a waiver of our Committee's jurisdiction over the subject matter of H.R. 4437, or of our inclusion in any conference thereon. I am pleased to be of assistance in this matter.

Warmest personal regards.

Sincerely,

ROBERT A. ROE,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4437, A bill to authorize funds for the implementation of the settlement agreement reached between the Pueblo deCochiti and the Army Corps of Engineers. The gentleman from West Virginia has adequately explained the bill's provisions, so I will keep my comments very brief.

The pueblo has long suffered from the construction of the Cochiti Dam in 1978. The dam and resulting reservoir occupy more than 10,000 acres of the pueblo's ancestral lands. Moreover, water seeping under the dam has flooded much of the pueblo's agricultural acreage, rendering it useless. This bill brings to a successful close the lengthy settlement process between the pueblo and the Army Corps of Engineers, and will enable the pueblo to return the affected land to beneficial use.

The administration fully supports this legislation, and I urge my colleagues to do the same.

Mr. RICHARDSON. Mr. Speaker, today the House will consider under suspension of the rules an historic bill that is critical to the Pueblo deCochiti Indian tribe in my district in New Mexico. I want to thank my colleague, Chairman MILLER of the Committee on Interior, for his interest and support in bringing this legislation to the floor.

For years, the Pueblo deCochiti has suffered from the adverse effects of a sever seepage problem at the federally constructed Cochiti Dam on the pueblo's lands. Today, the House will consider H.R. 4437, legislation I introduced to resolve this longstanding problem. H.R. 4437 authorizes the Secretary of the Interior and the Secretary of the Army to meet the terms of a settlement agreement negotiated by the Pueblo deCochiti and the Army Corps of Engineers.

The cultural life of the people of the Pueblo deCochiti is deeply rooted in agricultural and religious uses of pueblo lands. For hundreds of years the Cochitis have cultivated traditional crops such as maize, beans, and squash. In addition, the Cochiti people often preform sacred ceremonies and worship at religious sites on pueblo lands. This heritage has been severely compromised by the excessive ground water flow under Cochiti Dam.

Cochiti Dam, which was built in 1970, began to exhibit signs of extensive seepage from under the dam which elevated the water table and literally turned the Pueblo deCochiti fields into ponds and marshlands. Small scale drainage measures were undertaken by the Army Corps of Engineers to mitigate the damage caused by the seepage, to no avail.

In 1985, the Pueblo deCochiti filed suit against the Corps of Engineers to recover damages for the destruction of the agricultural lands and to force the corps to develop a solution to the seepage problem. The suit is still pending.

In 1988, Congress passed legislation which provided a means for the pueblo and the Corps of Engineers to resolve the issue outside of court. Under Public Law 100–202, the Army Corps of Engineers and the Pueblo deCochiti were directed to formulate a structural solution to the problem, and funding was provided for design and engineering. The legislation further provided that both parties would negotiate, and, if appropriate, submit to Congress a settlement that is acceptable to both parties.

I am pleased that the Pueblo deCochiti and the Army Corps of Engineers have reached a settlement agreement. The agreement includes provisions for the construction of a suitable underground drainage system to restore the traditional agricultural lands, compensation for past damages to the pueblo, and an operating fund for the drainage system.

Mr. Speaker, passage of H.R. 4437 will help the Pueblo deCochiti to restore the integrity of its land and return to its traditional and religious land use practices. I urge my colleagues to support this critical measure.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4437.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ZUNI RIVER WATERSHED ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4026) to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni River Watershed Act of 1992".

SEC. 2. FINDINGS.

Congress finds that—

(1) over the past century, extensive damage has occurred in the Zuni River watershed, including—

(A) severe erosion of agricultural and grazing lands;

(B) reduced productivity of renewable resources;

(C) loss of nonrenewable resources; and

(D) loss of water;

(2) the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation includes—

(A) Federal land;

(B) State land;

(C) Zuni Indian Trust land;

(D) Navajo Indian Tribal Trust and fee land;

(E) Ramah Band of the Navajo Tribe of Indians Trust land;

(F) individual Indian allotment lands; and

(G) private land;

(3) the Department of Agriculture, the Bureau of Indian Affairs, the Zuni Indian Tribe, the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation agree that corrective measures are required to prevent continued degradation of natural and cultural resources throughout the Zuni River watershed;

(4) with the passage of the Zuni Land Conservation Act of 1990 (Public Law 101-486), the Zuni Indian Tribe has the ability to take these corrective measures within the Zuni Indian Reservation;

(5) the implementation of a watershed management plan within the Zuni Indian Reservation will be ineffective without the implementation of a corresponding plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation;

(6) most of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation is within the Cibola National Forest or Indian Trust lands;

(7) the Secretary of Agriculture, acting through the Chief of the Forest Service and the Chief of the Soil Conservation Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, have the technical expertise to formulate a plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation on Federal, State, Indian, and private lands;

(8) an effective watershed management plan for the Zuni River watershed requires voluntary cooperation among the—

(A) Soil Conservation Service;

(B) Forest Service;

(C) Bureau of Indian Affairs;

(D) Zuni Indian Tribe;

(E) Ramah Band of the Navajo Tribe of Indians;

(F) Navajo Nation;

(G) State of New Mexico; and

(H) private landowners;

(9) all persons living within the Zuni River watershed will benefit from a cooperative effort to rehabilitate and manage the watershed.

SEC. 3. STUDY, PLAN, AND REPORT.

(a) STUDY AND PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Soil Conservation Service and the Chief of the Forest Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, shall—

(A) conduct a study of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation, as depicted on the map entitled "Zuni River Watershed" which shall be on file and available for public inspection in the—

(i) New Mexico State Office of the Soil Conservation Service;

(ii) Albuquerque Area Office of the Bureau of Indian Affairs; and

(iii) tribal offices;

(B) prepare a plan for watershed protection and rehabilitation on both public and private lands.

(2) PLAN COMPONENTS.—The plan required by paragraph (1)(B) shall include—

(A) a watershed survey describing current natural and cultural resource conditions;

(B) recommendations for watershed protection and rehabilitation on both public and private lands;

(C) management guidelines for maintaining and improving the natural and cultural resource base on both public and private lands;

(D) a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Indian Tribe;

(E) proposals for voluntary cooperative programs, that implement and administer the plan required by paragraph (1)(B), among—

(i) the Department of Agriculture;

(ii) the Department of the Interior;

(iii) the Zuni River Tribe;

(iv) the Ramah Band of the Navajo Tribe of Indians;

(v) the Navajo Nation;

(vi) the State of New Mexico;

(vii) private landowners within the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation; and

(viii) other public or private agencies;

(F) a project plan that—

(i) outlines tasks necessary to implement the plan required by paragraph (1)(B);

(ii) recommends completion dates; and

(iii) estimates the costs of the tasks; and

(G) a monitoring plan that—

(i) outlines tasks for monitoring and maintaining the watershed; and

(ii) estimates the annual cost of performing the tasks.

(b) REPORT.—Not later than 4 years after the date that funds are made available for the study and the preparation of the plan as required by subsection (a)(1), the Secretary of Agriculture, the Secretary of the Interior, and the Tribes shall submit to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a written report containing—

(1) the full text of the study and the plan; and

(2) an executive summary of the study and the plan.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4026 is sponsored by Representative RICHARDSON of New Mexico. The Zuni Watershed Act will help the Zuni Pueblo, Ramah Navajo Tribe, and the Navajo Nation to plan to restore severely damaged trust lands in the Zuni River watershed. This legislation will institute a comprehensive and effective plan for the proper management of the watershed, based on a cooperative collaboration of the Zuni Ramah, and Navajo Tribes, the State of New Mexico, private landholders and Federal agencies. H.R. 4026 is critical for the restoration and protection of important natural and cultural resources in the watershed.

This legislation is necessary for the implementation of the Zuni Conservation Act which passed in the last Congress. The act which passed in the last Congress was to protect the lands on the Zuni Reservation. This bill is to plan to protect the part of the Zuni watershed upstream from the reservation.

The bill has the support of the administration and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully support enactment of H.R. 4026, the Zuni River Watershed Act. I will only add to the statements of the gentleman from West Virginia by noting that the bill is endorsed by both the Bureau of Indian Affairs and the administration.

Mr. RICHARDSON. Mr. Speaker, extensive runoff of water from the Zuni River in New Mexico continues to erode the tribal lands of the Zuni Pueblo Indians, the Ramah Navajo Tribe, and the Navajo Nation. Severe damage to trust lands in this area have occurred for decades, destroying natural resources and significant archeological sites.

Today, the House will consider H.R. 4026, legislation I introduced that will institute an effective plan for the proper management of the Zuni watershed. The plan is based on a cooperative collaboration of the Zuni Tribe, the Ramah Band of the Navajo Tribe, the Navajo Nation, the State of New Mexico, the Soil Conservation Service, the Forest Service, the Bureau of Indian Affairs, private landholders, and other residents living within the Zuni watershed.

The plan takes a comprehensive approach to rehabilitating and managing the watershed and is comprised of several components, including a study of the portion of the Zuni River which is upstream from the Zuni Indian Reservation; recommendations for watershed protection and rehabilitation on both public and private lands; management guidelines for maintaining and improving the natural and cultural resource base on public and private lands; a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Tribe; and proposals for voluntary cooperative programs to implement and administer the plan.

This legislation also requires that the Secretaries of Agriculture and Interior and the tribes submit a report on the study and plan to Congress within 4 years after enactment.

Mr. Speaker, passage of H.R. 4026 is a critical step toward the restoration of the Zuni River watershed—a step that will help all residents living in the watershed. I urge my colleagues to join me in support.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4026, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INDIAN TRIBAL JUSTICE ACT

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4004) to assist in the development of tribal judicial systems, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Tribal Justice Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and independence of Indian tribes;

(3) Indian tribes possess the inherent authority to establish, empower, control, and supervise tribal justice systems;

(4) tribal justice systems are essential to self-government and integral to the fulfillment of the Federal Government's policy of self-determination;

(5) tribal justice systems are inadequately funded and the lack of adequate funding impairs their ability to administer justice effectively;

(6) each Indian tribe is free to establish its own institutions and form of government; and

(7) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "Courts of Indian Offenses" means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which administers justice, which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) The term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term "Office" means the Office of Tribal Justice Support of the Bureau of Indian Affairs established under section 101.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "tribal justice system" means the entire justice system of an Indian tribe, including but not limited to traditional methods and forums for dispute resolution, lower courts, appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record, and the employees thereof.

TITLE I—TRIBAL JUSTICE SUPPORT

SEC. 101. OFFICE OF TRIBAL JUSTICE SUPPORT.

(a) ESTABLISHMENT.—There is hereby established within the Bureau, the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems.

(b) TRANSFER OF EXISTING FUNCTIONS AND PERSONNEL.—All functions performed before the date of the enactment of this Act by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of the date of the enactment of this Act are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) FUNCTIONS.—In addition to the functions transferred to the Office pursuant to subsection (b), the Office shall perform the following functions:

(1) Develop and conduct programs of continuing education and training for personnel of tribal justice systems.

(2) Provide funds to Indian tribes for the development, enhancement, and continuing operation of tribal justice systems.

(3) Provide technical assistance and training to Indian tribes, tribal organizations, and inter-tribal consortia upon request.

(4) Study and conduct research concerning the operation of tribal justice systems.

(5) Promote cooperation and coordination between tribal justice systems, the Federal judiciary, and State judiciary systems.

(6) Oversee the continuing operations of the Courts of Indian Offenses.

(d) NO IMPOSITION OF STANDARDS.—Nothing in this section shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) ASSISTANCE TO TRIBES.—(1) The Office shall provide training and technical assistance to any Indian tribe upon request. Technical assistance and training which may be provided by the Office shall include, but is not limited to, assistance for the development of—

(A) tribal codes and rules of procedure;

(B) tribal court administrative procedures and court records management systems;

(C) methods of reducing case delays;

(D) methods of alternative dispute resolution;

(E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes and tribal organizations.

(f) INFORMATION CLEARINGHOUSE ON TRIBAL JUSTICE SYSTEMS.—The Office shall establish an information clearinghouse (which shall include an electronic data base) on tribal justice systems, including, but not limited to, information on tribal judicial personnel, funding, model tribal codes, tribal justice activities, and tribal judicial decisions.

SEC. 102. SURVEY OF TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Office shall conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding needed to provide for expeditious and effective administration of justice. The Office shall annually update the information and findings contained in the survey required under this section.

(b) LOCAL CONDITIONS.—In the course of any annual survey, the Office shall document local conditions on each reservation, including but not limited to—

(1) the reservation size and population to be served;

(2) the levels of functioning and capacity of the tribal justice system;

(3) the volume and complexity of the case loads;

(4) the facilities and program resources available;

(5) funding levels and personnel staffing requirements for the tribal justice system;

(6) the experience and qualifications of judicial personnel of the tribal justice system; and

(7) the training and technical assistance needs of the tribal justice system.

(c) CONSULTATION WITH INDIAN TRIBES.—The Office shall actively consult with Indian tribes in the development of the survey of conditions of tribal justice systems. Indian tribes shall have the opportunity to review and make recommendations regarding the findings of the survey prior to final publication of the survey. After Indian tribes have reviewed and commented on the results of the survey, the Office shall report its findings to the Secretary, the Select Committee on Indian Affairs of the Senate, and the Committee on Interior and Insular Affairs of the House of Representatives.

SEC. 103. BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—The Secretary is authorized (to the extent provided in advance in appropriation Acts) to enter into contracts, grants, or agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act for the development, enhancement, and continuing operation of tribal justice systems on Indian reservations.

(b) PURPOSES FOR WHICH FINANCIAL ASSISTANCE MAY BE USED.—Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

(1) planning for the development, enhancement, and operation of tribal justice systems;

(2) the employment of judicial personnel;

(3) training programs and continuing education for tribal judicial personnel;

(4) the acquisition, development, and maintenance of a law library or computer assisted legal research capacities;

(5) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(6) the development and operation of a records management system;

(7) the construction or renovation of facilities for tribal justice systems;

(8) membership and related expenses for participation in national and regional organizations of tribal justice systems and other professional organizations; and

(9) the development and operation of other innovative and culturally relevant programs and projects, including programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) multidisciplinary investigations of child abuse; and

(E) tribal traditional justice systems or traditional methods of dispute resolution.

(c) FORMULA.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary, with the full participation of Indian tribes, shall establish and promulgate by regulations, a formula which establishes base support funding for tribal justice systems. In the development of regulations for base support funding for tribal justice systems, the Secretary shall consult with and receive the recommendations of Indian tribes.

(2) The Secretary shall develop appropriate case load standards and staffing requirements for tribal justice systems that take into account unique reservation conditions. In the development of these standards, the Secretary shall work cooperatively with Indian tribes and shall refer to comparable relevant standards developed by the Judicial Conference of the United States, the Administrative Office of United States Courts, the National Center for State Courts, and the American Bar Association.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the case load standards and staffing requirements developed under this paragraph;

(B) the reservation size and population to be served;

(C) the volume and complexity of the case loads;

(D) the projected number of cases per month;

(E) the projected number of persons receiving probation services or participating in diversion programs; and

(F) any special circumstances warranting additional financial assistance.

(4) In developing the formula for base support funding for tribal judicial systems under this section, the Secretary shall ensure equitable distribution of funds.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) OFFICE.—There are authorized to be appropriated to carry out the provisions of sections 101 and 102 of this Act $7,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

(b) BASE SUPPORT FUNDING.—There are authorized to be appropriated to carry out the provisions of section 103 of this Act $50,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

TITLE II—JUSTICE GRANT PROGRAM

SEC. 201. JUSTICE GRANT PROGRAM.

Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall make grants to Indian tribes and Indian organizations for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to administer justice on Indian reservations.

"(2) The purposes for which funds provided under paragraph (1) may be used include, but are not limited to—

"(A) the enhancement of tribal justice systems through the advancement of tribal self-determination;

"(B) the training and education of tribal judges, court administrators, court clerks, probation officers, officers of the court, and other employees of tribal courts;

"(C) the development and revision of tribal codes, rules of procedure, and other judicial standards;

"(D) the development and implementation of traditional justice systems and forms of dispute resolution;

"(E) the development of programs to assist tribal victims of crime or victims assistance programs;

"(F) the development of new and innovative diversion programs for tribal offenders;

"(G) the development of tribal court reporting systems and publication of tribal court decisions; and

"(H) the establishment of innovative local and national programs for the advancement of tribal justice systems.

"(3) Notwithstanding the second sentence of subsection (b), the 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) required to be contributed by a grant recipient may be made in cash or through the provision of property or services, fairly evaluated, from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

"(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes and Indian organizations to the Secretary in such form as the Secretary shall prescribe.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803(e), and 803A"; and

(2) by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, for the purpose of carrying out the provisions of section 803(e).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4004 is the Indian Tribal Justice Act of 1992. The bill establishes an Office of Tribal Justice Support within the Bureau of Indian Affairs to provide funds for the development and continuing operation of tribal justice systems. In addition, the Office will provide training and technical assistance to tribes and function as an information clearinghouse. The bill also provides for grants to tribal organizations through the Administration for Native Americans. Under these ANA grants, tribes can enhance their justice systems and get supplemental assistance to improve the quality of justice. The committee took a great deal of testimony on the concept of Indian tribes forming their own judicial conference similar to those in States and the Federal Government. It is the committee's position that if tribes choose to form such a conference, this ANA funding will allow them the flexibility to do so. That way, the conference will emanate from the inherent sovereignty of tribes as opposed to a congressional delegation of this authority.

The committee supports the inherent right of tribes to maintain their own unique forms of justice systems. It is the committee's position that these tribal systems of justice should be allowed to flourish, but at the same time the civil rights of Indian people need to be protected. The Indian Civil Rights Act passed in 1968. It guarantees similar rights to Indian people as are guaranteed under the Bill of Rights. Since then, tribal courts have been forced to modernize at a rapid pace. After 5 years of hearings, the U.S. Civil Rights Commission concluded last year that the tribal courts had problems, but these problems all stemmed from a lack of funding. The Commission also recommended that tribal courts retain their independence from the Federal courts and be allowed to grow with additional funding. The bill will accomplish those objectives.

This measure has bipartisan support and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4004, the Indian Tribal Justice Act, as amended by the committee. The gentleman from West Virginia has adequately explained the bill's provisions, so I will simply address some of the important policy considerations underlying the substitute.

It is clear that there is a real need for the increase in both the financial and technical support afforded to Indian tribal justice systems by the substitute. Most tribal justice systems are woefully underfunded and, as a result, understaffed. Consequently, their ability to serve adequately the needs of the tribes and to uphold justice is undermined. Caseloads increase, backlogs develop, and enforcement of tribal laws and regulations lags.

As an example, the 1991 Report of the U.S. Commission on Civil Rights noted that inadequate funding seriously compromises the tribes' ability to comply with the Indian Civil Rights Act—the law guaranteeing to Indian residents of the reservations the same vital rights guaranteed to us by the Constitution. The substitute increases both funding and support for tribal justice systems to alleviate these problems.

The substitute also seeks to address the concerns raised by many tribes that a federally created tribal judicial conference, as envisioned in the bill as introduced, could intrude upon tribal sovereignty by imposing non-Indian concepts of justice on the tribes. The authority of each tribal court comes directly from the inherent sovereign power of each individual Indian tribe. While tribal justice systems are essential to the proper execution and enforcement of tribal laws, each tribe must determine for itself the structure and authority of its system. In eliminating a federally created tribal judicial conference and its attendant offices, the substitute avoids possible encoachment on the tribes' rights. Instead, the tribes are free, if they wish, to form their own conference or similar entity.

In addition, the substitute is more sensitive to those tribes with traditional, non-Anglo-American justice systems. Many tribes—such as the Pueblos of New Mexico and the Navajo—have justice systems based on traditional formats of dispute resolution. The language of the substitute reflects the committee's desire that these historic forms retain equal footing with the newer, nontraditional systems.

Finally, I note that the objectives of H.R. 4004 enjoy the support of the Department of the Interior.

For these reasons, I urge my colleagues to support passage of H.R. 4004 as amended by the committee.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4004, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALASKA LAND STATUS TECHNICAL CORRECTIONS ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3157) to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Land Status Technical Corrections Act of 1992".

SEC. 2. FORT DAVIS NATIVE ALLOTMENT.

Section 905(a)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by inserting "or within Fort Davis (except as provided in subparagraph (B))" after "Naval Petroleum Reserve No. 4)"; and

(3) by adding at the end the following new subparagraph:

"(B) The land referred to in subparagraph (A) with respect to Fort Davis—

"(i) shall be restricted to—

"(I) the allotment applications named in the decision published at 96 IBLA 42 (1987) and to the acreage involved in those applications; or

"(II) the heirs of an applicant who made an application described in subclause (I); and

"(ii) shall be subject to valid existing rights and an easement for the Iditarod National Historic Trail established by section 5(a)(7) of the National Trails System Act (16 U.S.C. 1244(a)(7)), but pending final determination of the trail's location, the easement shall be located on an interim basis by the Secretary, in consultation with the Iditarod Historic Trail Advisory Council.".

SEC. 3. NATIVE ALLOTMENT RELOCATION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of the date of enactment of this subsection, may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if—

"(i) the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

"(ii) the amended land description describes land selected by, tentatively approved to, or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

"(iii) the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

"(B) If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

"(2)(A) The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

"(B) The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled 'An Act to provide for the admission of the State of Alaska into the Union', approved July 7, 1958 (commonly referred to as the 'Alaska Statehood Act'), and section 906 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.".

SEC. 4. GIFT OF STOCK TO SIBLINGS.

Section 7(h)(1)(C)(iii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)(1)(C)(iii)) is amended by striking "or nephew" and inserting "nephew, or (if the holder has reached the age of majority as defined by the laws of the State of Alaska) brother or sister".

SEC. 5. SHAREHOLDER HOMESITE.

Section 21(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(j)) is amended—

(1) by striking "prior to December 18, 1991,"; and

(2) by striking "*Provided*, That" and inserting "*Provided*, That alienability of the Settlement Common Stock of the Corporation has not been terminated pursuant to section 37: *Provided further*, That".

SEC. 6. CHUGACH NATIONAL FOREST BOUNDARY CHANGE.

(a) BOUNDARY ADJUSTMENT.—The boundary of the Chugach National Forest, Alaska, is modified to include the approximately 9,300 acres as generally depicted on the map entitled "Official Map, Boundary Modification, Chugach National Forest" and dated September 1988. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(b) ADMINISTRATION.—Subject to valid existing rights, all Federal lands brought within the boundary of the Chugach National Forest by subsection (a) are added to and shall be administered as part of the Chugach National Forest.

(c) TERMS AND CONDITIONS.—(1) Nothing in this Act shall be construed to affect the validity of, or the terms and conditions of, any right-of-way, easement, lease, license, or permit on lands transferred by this section that is in existence on the date of enactment of this Act.

(2) Notwithstanding any other provision of law, the Secretary of the Interior shall delegate, as necessary, to the Secretary of Agriculture the authority to renew or reissue the authorizations described in paragraph (1). The change of administrative jurisdiction over these lands resulting from subsection (a) shall not constitute a ground for the denial of renewal or reissuance of the authorizations described in paragraph (1).

(d) LAND AND WATER CONSERVATION FUND ACT.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Chugach National Forest, as modified by this section, shall be treated as if it were the boundary of the Chugach National Forest as of January 1, 1965.

SEC. 7. RABBIT CREEK LIONS CLUB.

(a) CONVEYANCE.—Pursuant to the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (43 U.S.C. 869 et seq.) (commonly referred to as the "Recreation and Public Purposes Act"), and other laws of the United States, the Secretary of the Interior shall, upon payment to the Secretary of an amount equal to the fair market value of the lot, convey lot 253, Township 12 North, Range 3 West, Seward Meridian, Alaska, containing .93 acres, to the Rabbit Creek Lions Club. The conveyance shall—

(1) preserve valid existing rights-of-way and easements; and

(2) reserve all minerals to the United States.

(b) APPRAISAL.—The appraisal to determine the fair market value of the lot shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and shall not include any improvements currently on the lot.

SEC. 8. ISSUANCE OF NEW STOCK.

Section 7(g)(1)(B)(i)(I) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)(1)(B)(i)(I)) is amended by adding at the end the following: "and, at the further option of the Corporation, descendants of Natives born after December 18, 1971,".

SEC. 9. UNIVERSITY OF ALASKA.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey to the University of Alaska, by quitclaim deed and without consideration, all the right, title, and interest of the United States in and to—

(1) the lands of the University of Alaska Agricultural Experiment Station, consisting of approximately 16 acres, including improvements on the lands, located at Palmer and Matanuska, Alaska; and

(2) the lands of the University of Alaska Fur Farm Experiment Station, consisting of approximately 37 acres, including improvements on the lands, located at Petersburg, Alaska, subject to the terms of—

(A) the lease between the Forest Service and the University of Alaska dated March 29, 1978; and

(B) the agreement between the parties listed in subparagraph (A) dated March 2, 1983.

SEC. 10. MINORITY BUSINESS.

Section 29(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)) is amended by inserting "and economically disadvantaged" after "minority" each place it appears in paragraphs (1) and (2).

SEC. 11. SHAREHOLDER HIRE.

Section 29(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(g)) is amended—

(1) by striking "defined in" and inserting "of entities excluded from the definition of 'employer' by"; and

(2) by striking "section 701(b)" and inserting "section 701(b)(1)".

SEC. 12. ALASKA NATIVE ALLOTMENTS.

Section 905 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634) is amended by adding at the end the following new subsection:

"(f)(1)(A) Notwithstanding paragraphs (1) and (6) of subsection (a), and subject to subparagraph (B), each Alaska Native allotment application made pursuant to the Act entitled 'An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska', approved May 17, 1906 (34 Stat. 197), that—

"(i) was pending before the Department of the Interior on or before December 18, 1971; and

"(ii) describes lands within the National Petroleum Reserve-Alaska that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation,

is reinstated only for the purpose of this section, subject to this section.

"(B) The reinstatement under subparagraph (A) shall be carried out regardless of whether the application was—

"(i) relinquished by the applicant; or

"(ii) denied by the Department of the Interior, if the denial was based solely on the grounds that land within the National Petroleum Reserve-Alaska was unavailable.

"(2)(A) To the extent that the application describes lands (or any interest in the lands) that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation, the Secretary is authorized to accept from the Village Corporation or Regional Corporation the reconveyance or relinquishment of the lands (or any interest in the lands).

"(B)(i) To the extent that the application describes lands (or any interest in the lands) that a Village Corporation is not willing to reconvey or relinquish pursuant to subparagraph (A), the applicant may relinquish any claim to any portion of the lands (or any interest in the lands) or may, with the consent of the affected Village Corporation, amend the application to exclude the lands and include in lieu thereof a description of lands selected by, interim conveyed to, or patented to the Village Corporation of an acreage that is not to exceed the amount of land relinquished.

"(ii) The Secretary is authorized to accept the reconveyance or relinquishment of the lands (or any interest in the lands) described in the amended application from the Village Corporation or Regional Corporation in lieu of the lands (or any interest in the lands) described in the initial application.

"(C) If a Village Corporation or Regional Corporation reconveys lands (or any interest in the lands) to the United States under subparagraph (A) or (B), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation or Regional Corporation.

"(D) The authority of the Secretary to accept the reconveyance or relinquishment of lands (or any interest in the lands) under this paragraph shall terminate on the date that is 6 years after the date of enactment of this subsection.

"(3)(A) Subject to any valid existing rights, to the extent that the application describes lands that are authorized to be reconveyed or relinquished to the United States under paragraph (2), the Village Corporation shall file with the Secretary, not later than 3 years after the date of enactment of this subsection, the name of the applicant and the land description of each allotment proposed to be reconveyed or relinquished.

"(B) Upon receipt of the land description, the Secretary shall immediately notify the State of Alaska and all interested parties of the land description proposed to be reconveyed or relinquished, and any such party shall have 60 days following notification in which to file with the Department of the Interior a protest as provided in subsection (a)(5).

"(C) The Secretary shall then either—

"(i) if no protest is filed, approve the application; or

"(ii) if a protest is filed, adjudicate the legal sufficiency of any protest timely filed; and—

"(I) if the protest is legally insufficient, approve the application; or

"(II) if the protest is valid, issue a decision that closes the application and that is final for the Department.

"(D) The Secretary shall, with respect to each allotment approved pursuant to this subsection—

"(i) survey the allotment; and

"(ii) following reconveyance or relinquishment, issue a Native allotment certificate to the applicant or heirs of the applicant.

"(4)(A) To the extent a Village Corporation or a Regional Corporation reconveys lands (or any interest in the lands) to the United States pursuant to paragraph (2) and the conveyance results in a reduction in the acreage charged against the entitlement of the Village Corporation or Regional Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Village Corporation or Regional Corporation shall be entitled to make selections in lieu of the reconveyed lands (or any interest in the lands).

"(B)(i) The quantity of acreage of the surface estate reconveyed pursuant to paragraph (2) shall be added to the quantity of acreage of underselection, if any, for the Village Corporation. The Secretary shall provide for the selection of lands for replacement in accordance with the procedures for withdrawals and selections under section 22(j)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)(2)).

"(ii)(I) A Village Corporation described in clause (i) shall be entitled to select lands for replacement from the lands that have been withdrawn for selection by the Village Corporation pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1610(a)(1)).

"(II) In any case in which the lands described in subclause (I) are no longer in Federal ownership and the Village Corporation is entitled to make a selection pursuant to this subparagraph, the Secretary shall withdraw, and the Village Corporation shall select, Federal lands that are compact and contiguous with lands previously conveyed to the Village Corporation.

"(C) Lands (or any interests in the lands) in the replacement of lands (or interests in the lands) reconveyed by the Regional Corporation to the United States under this subsection shall be selected by the Regional Corporation from lands that are—

"(i) compact and contiguous with other lands previously conveyed to the Regional Corporation within the National Petroleum Reserve–Alaska; and

"(ii) beneath the surface estate of lands selected and conveyed to a Village Corporation.

"(D) The Secretary shall convey the lands selected pursuant to this paragraph in accordance with this subsection.

"(5)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (3) shall be subject to any existing easement or other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

"(B) Each conveyance by the Secretary to any applicant or to the heirs of the applicant under this subsection shall reserve to the United States—

"(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the conveyed lands, and the right of the United States, or a lessee or assignee of the United States, to enter on lands conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

"(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

"(C)(i) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in a reconveyance to the United States, the Secretary shall reserve from the reconveyance to the applicant or to the heirs of the applicant for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

"(ii) With respect to a reconveyance of lands (or any interest in the lands) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled—

"(I) to a reduction of the acreage charged against the entitlement under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

"(II) to select mineral interests to replace the acreage.

"(6) The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this subsection.".

SEC. 13. POINT HOPE TOWNSITE.

(a) DEFINITIONS.—As used in this section:

(1) The term "Act" means the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(2) The terms "Native" and "descendant of a Native" have the meanings provided the terms in subsections (b) and (r), respectively, of section 3 of the Act (43 U.S.C. 1602).

(3) The term "North Slope Borough surveys" means those lands within sections 11 and 14 of Township 34 North, Range 35 West, Kateel River Meridian, Alaska, that have been surveyed by the North Slope Borough, Alaska, in surveys identified as—

(A) "North Slope Borough Survey Plat of New Point Hope," dated December 1975, covering 137.49 acres;

(B) "Addition Number One" to the survey described in subparagraph (A), dated April 1978, covering 12.50 acres;

(C) "Addition Number Two" to the survey described in subparagraph (A), dated September 1980, covering 12.50 acres; and

(D) "Addition Number 3" to the survey described in subparagraph (A), dated March 1983, covering 30.374 acres.

(4) The term "Regional Corporation" means Arctic Slope Regional Corporation, the Native Regional Corporation established pursuant to section 7(d) of the Act (43 U.S.C. 1606(d)) by the Native residents of the North Slope of Alaska.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Village Corporation" means Tigara Corporation, the Native Village Corporation established pursuant to section 8(a) of the Act (43 U.S.C. 1607(a)) by the Native residents of the Village of Point Hope, Alaska.

(b) RECONVEYANCE.—(1) Subject to paragraph (2), the Secretary is authorized to accept reconveyance from the Village Corporation and the Regional Corporation of interests in specific, individual lots identified in the North Slope Borough surveys in any case in which the land (or any interest in the land) of the lots had been previously interim conveyed or patented to the Village Corporation and the Regional Corporation.

(2)(A) In making any reconveyance to the United States pursuant to paragraph (1), the Village Corporation shall—

(i) designate the individual to receive title to the specific lot; and

(ii) certify to the Secretary that the individual is a resident of Point Hope and an Alaska Native or descendant of a Native.

(B) Each reconveyance to the United States under this section shall be completed not later than 5 years after the date of enactment of this section.

(c) ISSUANCE OF DEEDS.—(1)(A) Subject to paragraphs (2) and (3), upon receipt of the reconveyance, identification, and certification described in subsection (b), the Secretary shall transfer each lot to the individual identified by the Village Corporation, by issuing—

(i) a restricted deed pursuant to subparagraph (B); or

(ii) an unrestricted deed pursuant to subparagraph (C).

(B) A restricted deed may be issued under this paragraph subject to the following conditions:

(i) The deed shall provide that the title conveyed is inalienable (except upon approval of the Secretary).

(ii) After the issuance of the restricted deed, the lot shall not be subject to taxation, to levy and sale in satisfaction of debts, contracts, or liabilities of the patentee, or to any claims of adverse occupancy or law of prescription.

(iii) The approval by the Secretary of the sale by an individual of a lot deeded under this section shall vest in the purchaser a complete and unrestricted title beginning on the date of approval, except that if the purchaser is an Alaska Native or a descendent of a Native, the purchaser shall receive a deed subject to the same restrictions as applied to the initial grantee.

(C)(i) Upon a finding by the Secretary that the individual identified by the Village Corporation is competent to manage the property and has petitioned the Secretary for an unrestricted deed, the Secretary shall issue the unrestricted deed in accordance with clauses (ii) and (iii).

(ii) Except as provided in clause (iii), if the Secretary issues an unrestricted deed, all restrictions as to sale, encumbrance, or taxation of the land subject to the deed shall be removed.

(iii) Except with respect to any obligation owed to the United States, the land subject to the deed shall not be liable to the satisfaction of any debt as a result of a contract in effect prior to issuance of the deed.

(2) Any interest in any lot conveyed by the Secretary pursuant to this subsection shall be subject to all valid existing rights.

(3) The aggregate amount of acreage of all lots conveyed under this subsection shall not exceed 195 acres.

(d) ALLOTMENTS.—(1)(A) If any lot identified pursuant to this section in the North Slope Borough surveys encompasses land (or any interest in the land) that—

(i) is the subject of a valid Alaska Native allotment application made pursuant to the Act entitled "An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska", approved May 17, 1906 (34 Stat. 197); and

(ii) includes land that has been interim conveyed or patented to the Village Corporation and the Regional Corporation,

the applicant for the allotment may, with the consent of the Village Corporation, submit an amended application that describes land that had been interim conveyed or patented to the Village Corporation and Regional Corporation (in lieu of the land described in the initial application) in an acreage that is equal to the acreage of the land described in the initial application.

(B) The Secretary shall accept the reconveyance of the land (or any interest in the land) described in subparagraph (A) from the Village Corporation or the Regional Corporation, in lieu of the land (or any interest in the land) described in the original application.

(2)(A) To the extent the Secretary accepts a reconveyance of land (or any interest in the land) pursuant to paragraph (1), the Secretary shall approve the amended application for the land reconveyed, and adjudicate the remainder of the allotment application. The approval of an amended application under this paragraph shall be a final and conclusive determination of the validity of the allotment.

(B) The Secretary shall—

(i) survey each allotment approved pursuant to this paragraph; and

(ii) issue a Native allotment certificate to the applicant or to the heirs of the applicant.

(3)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (2)(B) shall be subject to any existing easements or any other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

(B) Each conveyance by the Secretary to any applicant, or to the heirs of the applicant under this subsection shall reserve to the United States—

(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the land, and the right of the United States, or a lessee or assignee of the United States, to enter upon land conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

(C) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in any conveyance to the United States, the reconveyance by the Secretary to the applicant or to the heirs of the applicant shall reserve from the conveyance for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

(4) With respect to any reconveyance of land (or any interest in the land) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled either—

(A) to a reduction of the acreage charged against the entitlement under the Act; or

(B) to select mineral interests to replace the acreage.

(e) Reduction in Charged Acreage.—(1) Except as provided in subsection (d)(4), if the Village Corporation and the Regional Corporation reconvey land (or any interest in the land) to the United States under the authority of subsection (b) or (d)(1), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation and the Regional Corporation pursuant to the Act.

(2)(A) To the extent that the reconveyance to the United States of land, or interests in land, by the Village Corporation and the Regional Corporation under this section results in a reduction in the acreage charged against the entitlement of the Village Corporation and Regional Corporation under paragraph (1), the Village Corporation shall be entitled to make selections in lieu of the reconveyed land (or any interest in the land).

(B) The amount of any acreage reconveyed by the Village Corporation under this section shall be added to the amount of other acreage computed as underselection, if any, for the Village Corporation.

(C) The Secretary shall withdraw and the Village Corporation shall select replacement acreage under this paragraph pursuant to the authority in section 22(j)(2) of the Act (43 U.S.C. 1621(j)(2)).

(D) Except as provided in subsection (d)(4), in any case in which a Village Corporation receives an interim conveyance or patent to the surface estate selected pursuant to section 12(a) of the Act (43 U.S.C. 1611(a)), the Regional Corporation shall receive an interim conveyance or patent to the subsurface estate.

(f) Congressional Intent.—Nothing in this section shall be construed as satisfying, relieving, or otherwise affecting the requirements of section 14(c) of the Act (43 U.S.C. 1613(c)).

(g) Liability for Hazardous Substances.—The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this section.

SEC. 14. LAPSED MINING CLAIMS.

Section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2)(A)(i) Subject to valid existing rights, an unpatented mining claim or location, or portion thereof, under the general mining laws that is situated outside the boundaries of a conservation system unit (as such term is defined in the Alaska National Interest Lands Conservation Act) and within the exterior boundaries of lands validly selected by a Village or Regional Corporation pursuant to section 12 or section 14(h) and that lapses, is abandoned, relinquished, or terminated, declared null and void, or otherwise expires, after August 31, 1971, because of failure to comply with requirements of the general mining laws (including the mining laws of the State of Alaska), is deemed to be null and void for the purposes of this paragraph. The Secretary shall promptly determine the validity of such claims or locations within conservation system units.

"(ii) Subject to valid existing rights and to subparagraph (B), the lands outside a conservation system unit included in a mining claim or location described in clause (i) shall—

"(I) be considered part of the lands selected pursuant to sections 12 and 14(h) by the Village or Regional Corporation described in clause (i); and

"(II) be eligible for conveyance pursuant to this Act unless specifically identified and excluded from an initial selection application.

"(iii) Subject to valid existing rights and to subparagraph (B), any portion outside a conservation system unit of a mining claim or location described in clause (i) that is situated within the exterior boundaries of lands conveyed prior to the date of enactment of this paragraph from selections under section 12 or section 14(h) shall be conveyed pursuant to this Act.

"(B) No lands shall be conveyed pursuant to this subsection if the conveyance would result in the receipt of title to lands in excess of an acreage entitlement under this Act.".

SEC. 15. HAIDA CORPORATION ACCOUNT.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is amended—

(1) in section 2(a)—

(A) in paragraph (9)—

(i) by striking "as of January 1, 1995"; and

(ii) by striking "on January 1, 1995"; and

(B) by adding at the end the following new paragraph:

"(13) The term 'agency' includes—

"(A) any instrumentality of the United States;

"(B) any element of an agency; and

"(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code."; and

(2) by adding at the end the following new section:

"SEC. 13. HAIDA CORPORATION ACCOUNT.

"(a) Definition.—As used in this section, the term 'property' has the same meaning as is provided the term in section 12(b)(7) of Public Law 94-204 (43 U.S.C. 1611 note), as amended.

"(b) Establishment.—(1) Notwithstanding any other provision of law, except as provided in subsection (e), on October 1, 1996, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Haida Corporation Account.

"(2) Beginning on October 1, 1996, the balance of the account shall—

"(A) be available to the Haida Corporation for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

"(B) remain available until expended.

"(3)(A) The Haida Corporation may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale. Notwithstanding any other provision of law, the Haida Corporation may assign without restriction any or all of the accounts upon written notification to the Secretary of the Treasury and the Secretary of the Interior.

"(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

"(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

"(i) receive deposits;

"(ii) make deposits into escrow when an escrow is required for the sale of any property; and

"(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

"(c) Amount.—(1) The initial balance of the account established in subsection (b) shall be determined by multiplying—

"(A) the average value per acre of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3); by

"(B) the number of acres of selection rights that the Haida Corporation possesses as of October 1, 1996.

"(2) The average value per acre of the lands referred to in paragraph (1) shall be determined by dividing—

"(A) the fair market value of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3); by

"(B) the quantity of acres of the lands referred to in subparagraph (A).

"(3) The fair market value of the surface estate of lands shall be determined as of March 1, 1993, pursuant to subsection (d).

"(d) Appraisal.—(1)(A) As soon as possible after the date of enactment of this section, but not later than January 1, 1994, the Secretary of Agriculture shall commence an appraisal of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3). In conducting the appraisal, the Secretary shall include, among other uses of the lands, the value of the timber on the land (on a conversion return basis applicable for southeast Alaska within region 10 of the National Forest System) utilizing the markets then available to the Haida Corporation. The appraisal shall be based on the Uniform Appraisal Standards for Federal Land Acquisitions.

"(B) The Haida Corporation shall have the opportunity to present evidence of value to the Secretary of Agriculture. The Secretary shall provide the Haida Corporation with a preliminary draft of the appraisal. The Haida Corporation shall have a reasonable and sufficient opportunity to comment on the appraisal. The Secretary shall give consideration to the comments and evidence of value submitted by the Haida Corporation under this subparagraph.

"(2) The Secretary of Agriculture shall complete the valuation of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3) not later than January 1, 1996. On completion of the valuation, the Secretary of Agriculture shall submit the valuation to the Secretary of the Interior for certification. The Secretary of the Interior shall forward a certified copy of the valuation to the Haida Corporation.

"(3) If the Haida Corporation disputes the final valuation, the Secretary of Agriculture and the Haida Corporation may mutually agree to employ a process of bargaining or some other process of dispute resolution to determine the value of the lands in question.

"(4) The Secretary of Agriculture and the Haida Corporation may mutually agree to suspend or modify any of the deadlines under this subsection.

"(e) Election.—(1) Not later than 120 days after receipt of a certified copy of the final valuation from the Secretary of the Interior pursuant to subsection (d)(2), the Haida Corporation shall make an irrevocable election between the remaining selection rights of the Haida Corporation under section 10 and the account described in subsection (b), and shall notify the Secretary of the Interior of the election.

"(2) If the Haida Corporation—

"(A) elects to utilize the remaining selection rights described in paragraph (1); or

"(B) fails to notify the Secretary of the Interior of any such election in a timely manner,

the account described in subsection (b) shall not be established, the Haida Corporation shall permanently waive any right to the establishment of the account, and the selection rights of the Haida Corporation under section 10 shall remain unimpaired.

"(3) If the Haida Corporation elects to utilize the account described in subsection (b), the Haida Corporation shall waive any selection rights under section 10 as of the date the Haida Corporation notifies the Secretary of the Interior of the election.

"(f) Treatment of Amounts from Account.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

"(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

"(B) Amounts in an account created for the benefit of a specific Alaska native corporation may not be used to satisfy the property purchase obligations of any other Alaska native corporation.".

SEC. 16. LOCAL HIRE.

Section 1308(a) of the Alaska National Interest Lands Conservation Act (Public Law 96-487) is amended—

(1) by striking "a conservation system unit" and inserting in lieu thereof "public lands"; and

(2) by striking "such unit" each place it occurs and inserting in lieu thereof "public lands".

SEC. 17. SEALASKA CORPORATION AGREEMENT.

(a) In General.—(1) Subject to paragraph (2), the November 26, 1991, agreement entered into between the Sealaska Corporation and the Forest Service of the Department of Agriculture, entitled "Sealaska Corporation/United States Forest Service Split Estate Land Exchange Agreement", is hereby ratified as a matter of Federal law.

(2) The agreement described in paragraph (1) may be modified or amended, without further action by Congress, upon—

(A) the written agreement of all parties to the agreement described in paragraph (1); and

(B) notification in writing to the appropriate committees of Congress.

Any such modification may not take effect until 60 days after such notification.

(b) Conditions.—Any conveyance of subsurface acreage to Sealaska Corporation pursuant to this section shall—

(1) be deemed a conveyance of land pursuant to section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613);

(2) extinguish the entitlements of Sealaska Corporation under the Haida Land Exchange Act of 1986 (16 U.S.C. 3195 note);

(3) be subject to valid existing rights; and

(4) be in partial fulfillment of the entitlement of the Sealaska Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 18. HAIDA SUBSURFACE EXCHANGE AMENDMENT.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is amended by adding at the end the following new section:

"SEC. 14. OFFER.

"(a)(1) For and in consideration of the relinquishment and conveyance to the United States of all Haida Corporation's right, title, and interest in Lots 2, 3, 4, 5, and 6 of section 18, T. 77S. R. 84 E., C.R.M., and, in addition, all Haida Corporation's right, title, and interest in a road easement to be specified by the Secretary 100 feet in total width across Lot 1 of section 18, T. 77S. R. 84 E., C.R.M., from section 7 of T. 77 S. R. 84 E. C.R.M. to the cooperative information and education branch site, there are hereby offered to Haida Corporation the following lands and interests in lands: All right, title, and interest in the subsurface estate of the Haida Traditional Use Sites.

"(2) Any conveyance of the offered lands and interests described in paragraph (1) shall be subject to valid existing rights, and shall except and reserve to the United States the perpetual easements identified in paragraph 18 of the agreement executed September 8, 1988, entitled 'Agreement between United States of America and Haida Corporation Regarding Implementation of the Haida Traditional Use Sites Exchange Pursuant to §3(a) the Haida Land Exchange Act of 1986, Pub. L. No. 99-664'. Without limitation to any other rights reserved under the terms of said easements, any such conveyance shall also except and reserve the rock, sand, and gravel occurring within said easement boundaries.

"(b) Haida Corporation shall have 90 days from the date of enactment of this section within which to accept the offer provided in this section by providing to the Secretary a properly executed and certified corporate resolution binding upon the corporation with respect to the relinquishment and conveyance of all the corporation's right, title, and interest in the lands specified in subsection (a).

"(c) This section shall be ineffective, and no conveyances shall be made under this section, if the Secretary of Agriculture, on or before the date 60 days after the date of enactment of this section, determines implementation of this section would result in receipt by the United States of lands less in value than the value of the lands offered for conveyance to the Haida Corporation.".

SEC. 19. AHTNA GROUP SETTLEMENT.

(a) Withdrawal Opportunity.—As an offer of settlement, within one year after enactment of this section, any or all of the Ahtna Group Corporations of Lower Tonsina, Twin Lakes, Little Lake Louise, Slana, and Nebesna may withdraw by resolution transmitted to the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") a pending application for group eligibility under section 14 of the Alaska Native Claim Settlement Act (43 U.S.C. 1613) (as amended and supplemented). Such resolution shall preclude the corporation concerned from any administrative or judicial review of its entitlement to land and money under such Act, and such withdrawal of application shall be construed as a dismissal with prejudice of such corporation's action before the United States District Court for Alaska, Civ. No. A86-035 and shall be binding upon the corporation and its members.

(b) Offer.—In addition to those rights granted in section 1 of Public Law 94-204, for each Ahtna Group Corporation specified in subsection (a) which adopts a timely resolution to withdraw its section 14 application or group eligibility, there shall be a period of 180 days following transmittal of such resolution to the Secretary, during which each member of such Ahtna Group Corporation shall have the right to file with the Secretary an application for conveyance of up to 160 acres of land from the United States to such individual member as if it were an application for a primary place of residence under section 14(h)(5) of the Alaska Native Claim Settlement Act (43 U.S.C. 1613(h)(5)), regulations for such application, and subject to the following provisions:

(1) the availability of land subject to selection by the applicant shall be determined as of the date of the individual application: *Provided, however* That if the application is for lands selected by Ahtna Regional Corporation or the State of Alaska after the date of selection by the Group Corporation, then the subsequent selections shall not attach to the lands selected by the Group Corporation until after the deadline for filing an application for primary place of residence: and *Provided further*, That if the lands relinquished by the Group Corporation or the Ahtna Regional Corporation lie within the boundaries of a conservation system unit, as defined in the Alaska National Interest Land Conservation Act, and such selections are relinquished in order to permit the filing of an application for primary place of residence, the withdrawal of the conservation system unit shall not prevent the filing, adjudication, and conveyance of those lands subject to the application for primary place of residence: and *Provided further*, That any acreage granted to an applicant for primary place of residence shall be charged to the share of the Ahtna Regional Corporation under 45 CFR 2653;

(2) the eligibility of the applicant shall be determined as if the application is an application for a primary place of residence filed with the Secretary of the Interior on or before December 18, 1973; and

(3) any State selection filed after the date on which the relevant Ahtna Group Corporation filed its application for section 14 eligibility shall not attach to lands segregated for the benefit of such Ahtna Group Corporations until the applications of individual Ahtna Group members herein authorized have been identified, adjudicated, and conveyed.

(c) EXPEDITING.—In order to secure the rapid and certain resolution of Native lands claims, the United States shall endeavor to reach a final decision regarding each Ahtna Group member's application for primary place of residence within one year of its filing and shall otherwise complete the redetermination process for each Ahtna Group member as required by Public Law 94-204, as amended, provided that revenues distributed or subject to distribution under section 7(i) of the Alaska Native Claim Settlement Act (43 U.S.C. 1606(i)), shall not be retroactively affected by any change in enrollment occasioned by said redetermination.

SEC. 20. GOLD CREEK SUSITNA ASSOCIATION, INCORPORATED ACCOUNT.

(a) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) The term "agency" includes—

(A) any instrumentality of the United States;

(B) any element of an agency; and

(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code.

(2) The term "conservation system unit" has the same meaning as in the Alaska National Interest Lands Conservation Act.

(3) The term "Gold Creek" means the Gold Creek Susitna Association, Incorporated, an Alaska Native Group corporation, organized pursuant to section 1613(h) of the Settlement Act.

(4) The term "property" has the same meaning given such term by section 12(b)(7) of Public Law 94-204 (43 U.S.C. 1611), as amended.

(5) The term "Region" means Cook Inlet Region Incorporated, an Alaska Native Regional Corporation which is the appropriate Regional Corporation for Gold Creek under section 1613(h) of the Settlement Act.

(6) The term "Settlement Act" means the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.).

(b) ESTABLISHMENT.—(1) Notwithstanding any other provision of law, except as provided in subsection (e), on October 1, 1996, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Gold Creek account.

(2) Beginning on October 1, 1996, the balance of the account shall—

(A) be available to the Gold Creek for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

(B) remain available until expended.

(3)(A) The Gold Creek may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale.

(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

(i) receive deposits;

(ii) make deposits into escrow when an escrow is required for the sale of any property; and

(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

(c) LAND EXCHANGE.—No later than one year after the date of enactment of this section, the Secretary of the Interior shall enter into negotiations to attempt to conclude, under the authority of section 22(f) of the Settlement Act, a land exchange to acquire surface estate in lands not within any conservation system unit from the State of Alaska to enable Gold Creek to select public lands at Gold Creek, Alaska, as identified by Gold Creek but in no case to exceed 480 acres.

(d) AMOUNT.—(1) The initial balance of the account established in subsection (b) shall be determined by multiplying—

(A) the average value per acre by

(B) the 3,520 acre Gold Creek entitlement.

(2) If a conveyance is made to Gold Creek pursuant to subsection (c), paragraph (1), the account shall be reduced by the amount of the actual acres conveyed by the average value per acre. In order to make such adjustment, the conveyance must be made by the Secretary of the Interior by October 1, 1996.

(3) The average value per acre of the lands referred to in paragraphs (1) and (2) of this subsection shall be determined by dividing—

(A) the fair market value as found by the Secretary of the Interior in subsection (e), paragraph (1) by

(B) the 3,520 acre Gold Creek entitlement.

(4) The fair market value of the surface estate of lands shall be determined as of the date of enactment of this section pursuant to subsection (e).

(e) APPRAISAL.—(1)(A) As soon as possible after the date of enactment of this section, but not later than January 1, 1994, the Secretary of the Interior shall find the amount to be credited to the Gold Creek account by appraising the 3,520 acre Gold Creek entitlement by only considering parcels 320 acres or less in size, the access to which is secure and the subsurface to which is in separate ownership, which lie within 50 miles of Gold Creek and which have been sold since January 1, 1989, and by taking into consideration other land ownership conditions under the Settlement Act.

(B) Gold Creek shall have the opportunity to present evidence of value to the Secretary of the Interior. The Secretary of the Interior shall provide Gold Creek with a preliminary draft of the appraisal. Gold Creek shall have a reasonable and sufficient opportunity to comment on the appraisal. The Secretary of the Interior shall give consideration to the comments and evidence of value submitted by Gold Creek under this subparagraph.

(2) The Secretary of the Interior shall complete the valuation not later than 9 months after the passage of this Act. The Secretary of the Interior shall forward a certified copy of the valuation to Gold Creek.

(3) Gold Creek shall have the right to appeal the certified valuation by the Secretary of the Interior so long as any such appeal is filed no later than 60 days after the date of such finding to the Office of Hearings and Appeals. In the event Gold Creek files such a timely appeal, the Gold Creek account shall be immediately established for the amount set by the Secretary subject to subsequent upward adjustment pursuant to the outcome of the appeal process. If Gold Creek is not satisfied with the decision of the Office of Hearings and Appeals, it may appeal that decision within one year to the United States District Court.

(4) The Secretary of the Interior and Gold Creek may mutually agree to suspend or modify any of the deadlines under this subsection.

(f) IMPLEMENTATION.—(1) Notwithstanding any other provision of law, Gold Creek may assign without restriction any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior. Notwithstanding the provisions of subsection (g)(1)(B) of this section, in the event such assignment is to the Region on notice from Gold Creek to the Secretary of the Treasury and the Secretary of the Interior, the amount of such assignment shall be added to or made a part of the Region's Property Account in the Treasury established pursuant to section 12(b) of Public Law 94-204 as amended, and may be used in the same manner as that account.

(2) Upon certification by the Secretary of the Interior of the value of the account, or following the completion of Gold Creek's appeal of valuation pursuant to subsection (e), paragraph (3), Gold Creek shall be deemed to have accepted the terms of this section in lieu of any other land entitlement it would have received pursuant to the Settlement Act and such acceptance shall satisfy any and all claims Gold Creek had against the United States on the date of this enactment.

(3) Any land Gold Creek shall receive from the United States pursuant to subsection (c), paragraph (1) shall be deemed to have been conveyed pursuant to the Settlement Act.

(g) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska Native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

(B) Amounts in an account created for the benefit of a specific Alaska Native corporation may not be used to satisfy the property purchase obligations of any other Alaska Native corporation.

SEC. 21. IGIUGIG AIRPORT.

The Administrator of the Federal Aviation Administration shall execute such instruments as may be necessary to release the condition on lands conveyed pursuant to Quitclaim Deed dated November 1, 1961, recorded on January 2, 1962, in the Iliamna Recording District, Book 1, Pages 54 through 60, that such lands revert to the United States in the event that such lands are not developed, or cease to be used, for airport purposes: *Provided*, That the State of Alaska shall first notify the Administrator what lands are sought to be diverted from airport use and the Administrator shall then determine which lands may be diverted without adversely affecting the safety, efficiency, or utility of the airport, and shall confine the release of the reverter authorized by this section to those lands that may be so diverted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

□ 1600

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3157, the bill now under consideration.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a distinct privilege for me to stand here today in solidarity with the gentleman from Alaska [Mr. YOUNG], my dear friend, the sponsor of this bill.

Mr. Speaker, H.R. 3157 was carefully developed over the course of many months in close cooperation with the Alaska Native community, the State of Alaska, the administration, and other parties in Alaska.

In this regard, the committee has made a special effort to avoid environmental conflicts or other controversies.

By way of explanation, H.R. 3157 contains 20 provisions to resolve issues that have arisen in the implementation of the 1971 Alaska Native Claims Settlement Act and the 1980 Alaska National Interest Lands Conservation Act.

While the legislation makes primarily minor or technical changes to existing statutes, its provisions are significant for the affected individuals and entities, especially Alaska Natives.

When Congress passed the Claims Act in 1971, it took a unique approach to the settlement of aboriginal land claims of American Indians. The act established over 200 native-owned corporations to manage the land resources and money provided in that historic settlement.

It also restricted the sale of stock in the native corporations for 20 years, a date which Congress has extended to July 16, 1993.

Today, in this legislation, we renew our commitment to making the Claims Act work for the benefit of all Alaska Natives.

In this regard, I would compliment the gentleman from Alaska, the ranking Republican member of the Interior Committee, for introducing this legislation; which is cosponsored by Committee chairman GEORGE MILLER.

Mr. Speaker, that concludes my explanation of the pending matter. I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3157, the Alaska Land Status Technical Corrections Act of 1992. This bill is the result of a 3½-year effort of the State of Alaska, the Alaska Federation of Natives, the administration. Chairman MILLER, and the staff from both the majority and minority of the Interior Committee.

I want to especially thank the State of Alaska, the Alaska Federation of Natives, the Departments of Agriculture and Interior, Mr. MILLER and committee staff for their efforts to bring forth a noncontroversial Alaska lands technical corrections bill.

H.R. 3157 makes a number of technical changes to the Alaska Native Claims Settlement Act of 1971 [ANCSA] and the Alaska National Interests Land Conservation Act [ANILCA]. The bill also makes a number of substantive additions which address issues not anticipated at the time of passage of the acts.

Alaska is a young State, and many laws have been passed since statehood. This requires occasional changes to make the laws fit together, and react to changing situations.

This bill would make it possible for 18 Native allotment applicants at Fort Davis, AK to obtain their land under the Allotment Act. Under the 1906 statute, Natives who could prove family use of public land that was vacant, unappropriated and unreserved could apply for an allotment of up to 160 acres. Fort Davis, near Nome, was returned to the Interior Department in 1921 but the land designation was never changed to public land use from military. Unfortunately, BLM did not discover this until it was too late for these 18 applicants to apply for land elsewhere. This provision would approve the 18 allotment applicants at Fort Davis, AK.

Another provision would allow an adult shareholder to transfer settlement common stock to their brothers and sisters. The 1991 amendments provided for transfer of stock to a child, grandchild, great-grandchild, niece, or nephew. This provision takes it a bit further with the option of redistributing stock to brothers and sisters within the same family.

Section 5 of this bill would amend ANCSA to extend the deadline for the establishment of a shareholder homesite program by an Alaska Native corporation from 1991 until such time that shareholders vote to sell their stock on the open market. The shareholder homesite program allows corporations to transfer up to 1.5 acres to each shareholder for single family residency. Due to delays in receiving selected lands, some corporations have not had time to properly develop and implement a homesite program for their shareholders.

Another provision in this bill would provide an option for a native corporation to issue settlement common stock to descendants of Natives—lineal or adoptee—born after December 18, 1971. ANCSA originally provided that only those Natives who were living on December 18, 1971, were eligible to become shareholders in Alaska Native Corporations. "Native" was defined as those people with a minimum of one-fourth degree of Alaska Indian, Eskimo, or Aleut blood. This provision would allow a corporation, at their option, to issue common settlement stock to descendants of their original shareholders regardless of the degree of blood quantum.

Section 16 of H.R. 3157 amends section 1308(a) of ANILCA (Public Law 96-487) to expand the local hire program that was established for conservation system units in Alaska. The original program gave Federal agencies the opportunity to hire local residents who live near a conservation system unit and who have special knowledge or expertise concerning the natural or cultural resources of the unit. The expanded program will allow Federal agencies to hire individuals with special knowledge of specific public lands in Alaska. This section is specifically intended to encourage the hiring of Alaskans.

Mr. Speaker, this bill is purely a noncontroversial technical bill which addresses some of the unresolved land issues which have arisen since the passage of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act. Chairman MILLER of the Interior Committee and I introduced this bill in July 1991, the Interior Committee held a hearing on October 24, 1991, and the committee held a markup of the bill on July 8, 1992. This bill is noncontroversial and I urge that this body vote for passage of H.R. 3157. I thank the gentleman for the time to clarify some of the major provisions of this bill, and I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 3157, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS SPONSOR OF H.R. 5405

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that my name be removed as a sponsor of H.R. 5405.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

ANNUAL REPORT OF NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology:

To the Congress of the United States:

In accordance with 42 U.S.C. 1863(j)(1), I transmit herewith the annual report of the National Science Foundation for Fiscal Year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *July 27, 1992.*

THE POLITICIZATION OF SCIENCE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, the front-page article in the New York Times today unfortunately says what so many of us feared, and that is the continual politicization of science in this country.

I have never seen us politicize science before, and I think it will harm this country greatly, because we will see much more research move offshore. Today's front-page article got memos from internal documents in the National Institutes of Health, and those memos point out that what the administration said about fetal-tissue banks being adequate was wrong. They will not be adequate if the administration plans to do them and, therefore, people with Alzheimer's and Parkinson's diseases are not going to see those kinds of research projects done in this country because of that kind of restriction. I find that very tragic.

Tomorrow the House is going to be looking at another area where science has been politicized, and that is the denial of allowing RU–486 into this country for research in the areas of such important things as brain tumors, breast cancer, and so forth. I find this shocking.

We first saw politicization of the courts. We now see it of science, and I think that we will pay very heavily if we do not get this turned around.

Mr. Speaker, I am including at this point in the RECORD the article from the New York Times of today as follows:

FETAL-TISSUE BANK NOT VIABLE OPTION, AGENCY MEMO SAYS CALCULATIONS ARE SKEWED—HEALTH OFFICIALS SAY SUPPLY OF FETAL TISSUE IS NOT ENOUGH FOR PROGRAM TO SUCCEED

(By Philip J. Hilts)

WASHINGTON, July 25—In May, when the Bush Administration announced a plan to collect fetal tissue for medical research into Alzheimer's and Parkinson's diseases and other ailments, officials stated that they could supply all that would be needed without using tissue from induced abortions.

But newly obtained memorandums from officials at the National Institutes of Health show that the Administration greatly exaggerated the amount of fetal tissue that its storage bank could obtain from miscarriages and from ectopic pregnancies, in which the fertilized egg develops outside the uterus.

Since 1988 the Administrations of Ronald Reagan and President Bush have barred Federal financing of research using fetal tissue, on the ground that it could potentially encourage abortions.

ROUNDED TO UPPER LIMIT

When the tissue-bank plan was put forth in May, in the heat of a political battle over abortion issues, Dr. James O. Mason, head of the Public Health Service, said that a storage bank could initially collect usable tissue from 1,500 fetuses a year and that eventually the figure would rise to 2,000.

A spokeswoman for the Department of Health and Human Services said this week that medical experts remained confident that the tissue bank would fully meet researchers' needs.

But a top N.I.H. official who spoke on condition of anonymity said that the estimates of how much tissue could be collected had been misrepresented by senior H.H.S. officials.

"The numbers we used were rounded upward, and upper-limit estimates were always used because we were under a great deal of pressure to use the absolute outer-limits numbers," he said. "What we came up with—1,500 or 2,000 fetuses could be harvested—is literally the absolute maximum if you capture every single specimen throughout the entire country in every circumstance with a SWAT team of highly trained professionals in every bedroom and every hospital in the United States.

FLAWS ARE SEEN IN FETAL-TISSUE PLAN

"No one but the ardent pro-lifers believes those numbers," he said.

But the Administration is going ahead with plans to set up fetal tissue banks at six hospitals. "We really intend to make a good-faith effort to determine if such a bank is at all feasible," the N.I.H. official said. "We can gain a lot of knowledge in the process, and if it actually succeeds somehow, so much the better."

Experiments over the last decade indicate that transplanting of fetal organs or cells could help patients with intractable diseases like Parkinson's or Alzheimer's. Transplant recipients can tolerate fetal cells better than adult cells, and preliminary research found that cells from healthy fetuses, usually 7 to 16 weeks, can take over the functions of diseased cells.

When Congress voted earlier this year to lift the ban, President Bush vetoed the measure. The Administration's plan was offered as a way of meeting the needs of medical researchers without compromising the President's long-standing opposition to abortion and abortion rights. Critics derided it as a maneuver to find votes to uphold the veto. Last month, the House fell 14 votes short of the two-thirds majority required to override.

The President's Democratic challenger, Gov. Bill Clinton of Arkansas, has said he favors lifting the ban.

OFFICIALS' PRIVATE MISGIVINGS

The question in the fierce debate on Capitol Hill became this: How much usable uncontaminated fetal tissue could be harvested if dedicated tissue banks were set up by the Government?

Administration officials said there would eventually be tissue from 2,000 fetuses available for transplant each year, more than enough to meet the need. But privately, N.I.H. officials expressed misgiving about the estimates at the time.

In a memorandum written in March, Dr. Jay Moskowitz, the associate director for science policy and legislation of the N.I.H., told higher officials of the Department of Health and Human Services: "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality because they a) may represent inherently abnormal tissue b) have been subject to diminished blood supply c) exist in a poor in-vivo environment d) may have been retained in the body for five to eight weeks prior to expulsion. The state of disintegration of these tissues is another factor affecting viability."

Dr. Moskowitz added: "In the future, ectopic pregnancies as a potential source of fetal tissue will be further diminished because invasive surgical treatments are being replaced by pharmacological approaches."

HUGE SHORTAGES PREDICTED

Data from the medical centers, the memo continued, indicated that the amount of tissue from spontaneous abortions, or miscarriages, "would not be sufficient."

DOUBTS GROW THAT CRITICAL TESTS CAN BE CARRIED OUT WITH BUSH'S PLAN.

"Obtaining an adequate supply of tissue from ectopic pregnancies, as previously indicated, is more problematic," the memorandum states.

Taking into account the doubts expressed by N.I.H. officials, the staff of the House Subcommittee on Human Resources and Intergovernmental Relations estimated the number of fetuses that could be collected at 24 for the entire nation in a year. A separate estimate of about 1.4 fetuses per hospital per year, or about 8 if the bank starts at the six hospitals, was made by the head of a fetal transplant group at Yale University, Dr. D. Eugene Redmond, who has spoken against the ban.

These numbers are far short of what might be necessary, Dr. Redmond said. He estimates that if the ban is lifted, at least a half a dozen scientific teams will want to carry out 20 fetal tissue transplants each in the first year and more as research progresses. Because of the varying quality of the tissue, each transplant can require dozens of fetal samples, he said. Even samples from 2,000 fetuses a year would not meet the need.

In fact, 2,000 samples could be obtained through a tissue bank only if these assumptions prove accurate:

Every hospital in the United States will participate, with each creating four teams of surgeons and specialists to collect the material on an emergency basis around the clock, 365 days a year, according to N.I.H. memos and interviews with agency officials.

All women admitted to the hospital for a miscarriage will actually have them in the hospital. In fact, many abort at home and go to the hospital afterward for treatment of bleeding and infection, memos from Dr. Moskowitz say.

Fifty-five percent of the fetuses will be free of infection. But because miscarriages and ectopic pregnancies are unexpected emergencies, it is unlikely that that many will be uninfected, Dr. Moskowitz's memos say. Other estimates say 60 to 75 percent will be infected.

The Administration will be willing to spend hundreds of millions of dollars a year to maintain the system. The Administration estimated that it would cost $3 million in the first year and $24 million in the first five years, but this is only for feasbility studies. To make the bank work nationally, each hospital would probably have to spend $500,000 or more in salaries for the emergency collection teams alone. For the 6,600 hospitals in the United States, that cost alone would be $330 million per year, N.I.H. officials said.

All women who are asked will be willing to donate the fetal tissue. Currently, 20 percent refuse to donate tissue for transplants for privately financed research at Yale University, doctors say. In addition, the women would have to agree to be tested for hepatitis, H.I.V. and other diseases. Another 20 to 30 percent are likely to decline on those grounds, doctors say.

Even if these assumptions were correct, quality control could be assured only if the tissue bank expended as many of its fetuses in testing as it sent to researchers, N.I.H. officials said.

Researchers would have an ample supply if they were to use fetuses from induced abortions: of the 1.5 million abortions a year, roughly half would provide usable cells. Though such fetuses are being used in privately financed experiments, many scientists are unable or unwilling to proceed without Federal money.

"It is profoundly disturbing that the N.I.H. Revitalization Amendments were vetoed on the basis of smoke and mirrors masquerading as hope for victims of Parkinson's disease, Alzheimer's, juvenile diabetes and other devastating illnesses," said Representative Weiss, chairman of the House Subcommittee on Human Resources and Intergovernmental Relations, who has investigated the Administration's statements.

Alixe Glen, a spokeswoman for Health and Human Services, said "Our commitment to establish a fetal tissue bank is totally supported by medical experts who confirm that this bank would provide sufficient tissue to meet research needs."

She added that the Federal Government was exploring areas in addition to current, privately financed fetal tissue research. "We are doing a lot of other promising research in Parkinson's, Alzheimer's and diabetes, but opponents have tried to frame the debate as though, without research from induced-abortion fetuses, cures for these disease will never be realized," she said. "Not true."

"One thing lost during this debate," Ms. Glen said, "is the extension of appropriations and budget authority for N.I.H. is being held up with these political shenanigans."

Paradoxically, the Administration's tissue-bank proposal may be turned into a vehicle to overturn the fetal-tissue ban. Representative Henry A. Waxman, Democrat of California, chairman of the House Subcommittee on Health and the Environment, has introduced an amendment to the N.I.H. reauthorization bill that is expected to come up for a vote in the House by the end of August.

It would continue the ban on Federal financing of fetal-tissue research and proceed with the tissue bank, but if the bank did not produce all the tissue needed for research within one year, scientists would be permitted to use tissue from induced abortions. Scientists would be required, however, to go to the tissue bank first and to use all the tissue obtainable there before going to induced abortions.

Ms. Glen said: "Mr. Waxman is trying to circumvent our good-faith commitment to the tissue bank. His one-year deadline has absolutely no scientific basis whatsoever. This measure does not represent a compromise but an attempt to promote Federal funding for abortion research."

HUGH MERRITT RECEIVES BRONZE STAR MEDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to share with my colleagues a very pleasant experience I had this morning. I was honored and proud to be able to award the Bronze Star Medal to Henry Hugh Merritt, Jr. for meritorious service during the period December 7, 1941 to May 6, 1942 in the Republic of the Philippines.

On December 7, 1941, Hugh Merritt was a torpedoman's mate second class on the U.S.S. *Canopus*. The *Canopus*, a submarine tender, was under the command of Comdr. E. L. Sackett and stationed in the Philippines. After the Japanese attacked Pearl Harbor, they also launched an attack against the U.S. bases in the Philippines. Soon after the Japanese attack, the *Canopus* began supporting allied troops ashore with supplies, water and other aid. The *Canopus* also re-equipped motor launches as light armored attack boats. A short time later the *Canopus* was disabled and was hidden as "a" bombed-out derelict in a cove on the tip of Bataan.

Most of the crew along with other naval personnel formed the nucleus of the 4th Battalion, 4th Marines. After formation, this "Naval battalion" went ashore to fight as infantry. They dyed their white navy uniforms with coffee grounds to make them look khaki. This "Naval battalion" joined forces with U.S. Marines, U.S. Army, and Philippine scouts under the overall command of Gen. Jonathan Wainwright. A total 2,800 Navy and 200 Marine personnel were reassigned to the Army for the defense of the Philippines.

Hugh Merritt was assigned as a squad leader and his squad fought in actions in the James Ravine and other areas. These converted infantrymen were not skilled, trained, nor equipped as a regular infantry unit, but that did not daunt their courage or their tenacity. They fought gallantly and bravely until the bitter end when Corregidor fell on May 10, 1942.

However, the ordeal was not over for these defenders of the Philippines. Hugh Merritt was imprisoned in two different POW camps in the Philippines. Later, he was sent to Japan on one of several transport ships known as Hell Ships. Upon arrival he was put to work as a laborer in the copper mines.

Of all the prisoners taken in the Pacific Theater, less than 10 percent survived the POW and/or labor camps. Hugh Merritt was a survivor due to his determination and grit. He displayed courage and devotion to duty and now 50 years later, with pride and admiration, I presented to him on behalf of his grateful Nation, the Bronze Star Medal.

BUSH ADMINISTRATION HAD ACUTE KNOWLEDGE OF IRAQ'S MILITARY INDUSTRIALIZATION PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, last week I showed that this administration, President Bush's administration, deliberately and not inadvertently helped to arm Iraq by allowing United States technology to be shipped to the Iraqi military and to the Iraqi weapons factories. Throughout the course of the Bush administration, United States and foreign firms were granted export licenses to ship United States technology directly to Iraqi weapons facilities, despite ample evidence showing that these factories were producing weapons.

□ 1610

I also showed how the President misled the Congress and the public about the role United States firms played in arming Iraq.

Today I will show that the highest levels of the Bush administration, including the President himself, had specific knowledge of Iraq's military industrialization plans, and despite that knowledge, the President mandated the policy of coddling Saddam Hussein as spelled out in National Security Directive 26 (NSD-26) issued in October 1989. This policy was not changed until after the Iraqi invasion of Kuwait, by which time the Bush administration had sent Saddam Hussein billions of dollars in United States financial assistance, technology and useful military intelligence information.

I will also show how the President's policy of appeasing Saddam Hussein was at odds with those in the administration who saw Iraq as a major proliferation threat. This will help set the stage for next week's report which will discuss Iraq's clandestine technology procurement network and the Italian bank agency in Atlanta's role in funding that network.

We will bring out the very intricate system which up to now has not been elaborated upon other than through the great alarm sounded by the Commodity Credit Corporation's extension of guarantees through the letters of credit that were issued by this bank.

But it was more intricate, it was a lot more elaborate, and it was very well thought out by these overseas students or system, and its gaps, and its failures, which is the reason that I am here today and have from the beginning spoken out, that is on the vulnerability of our financial banking system to these external forces.

I would like to emphasize, however, that the administration knew about the procurement network, and I indicated some of that last week, and decided to go ahead and tolerate it.

From the beginning of the Bush administration Iraq received billions in United States financial assistance and sophisticated United States technology, what actually had started under President Reagan's first term in 1983 when the President took Iran off of the list of nations that he had listed as terrorist nations.

As is well known, the largest financial aid program for Iraq was the Commodity Credit Corporation and their export guarantee program. Between 1983 and the invasion of Kuwait in 1990, Iraq received $5 billion in CCC guarantees that allowed them to purchase United States agricultural products on credit. Over half of that program or $2.6 billion was authorized during the first 2½ years of this administration, the Bush administration.

The CCC program was the single largest chunk of financial assistance that Iraq received from what we call the West. It helped to feed the people of Iraq, and it freed up scarce resources that were first used to purchase weapons to fight the war against Iran, and later, during the Bush administration, it freed up resources, and those that were freed up were ploughed into Iraq's military industrialization program.

There have been many allegations, and there are still ongoing investigations that are attempting to determine if Iraq was diverting CCC guaranteed commodities to purchase weapons. And as I said from the beginning when I first started out on this 2 years ago exactly this month of July, there is not and never has been any attempt to verify the end use of the guarantees, that is the loan guarantees and the commodities as they were supposed to have been delivered. But there is still some investigation.

When we started ours, as it was in the beginning, has been and will continue to be, my single-minded purpose was the shoring up of the most vulnerable aspects of our national interest, and that is the banking and financial oversight or regulatory which is full of just absolute gaps, and loopholes, and we have been better analyzed by people all the way from Asia to Europe and the Middle East who have studied these vulnerabilities for years and are still making ample use.

As I have said repeatedly, my most worrisome problem is that there is no telling how many of these BNL's, how many of these BNL-like, how many of these guarantee programs are still being fed into international places that tomorrow can very well be listed as menaces or enemies, and all guaranteed by the U.S. taxpayer. This has been extremely bothersome to me, because I sat on a committee that has jurisdiction through such subcommittees as the Housing and Community Development Subcommittee, which I also happen to chair and have since 1981. And I hope my colleagues, those who were here then, and those who were not, would try to understand my travail as I have seen billions and hundreds of billions of dollars sanctioned through this committee for private gain for the bankers and the financial manipulators, both domestic as well as foreign, hoarding through greedy accumulation billions of dollars while we have to fight and fight and fight to try to get our communities, 65 percent of which now are strapped financially, taken care. It was in the name of the Subcommittee on Housing and Community Development and the full committee that I went to Rhode Island on May 25 last year, and it was a result of our action and our committee that we were able to get a feeble guarantee for that State to enable it and its government to be able to pay out the thousands of poor fellow Americans in Rhode Island who had all of their life savings, their little proceeds that had enabled some of the retirees to live from their pension funds all frozen in the Rhode Island S&L's and banks. Thank goodness, and thanks to the great efforts of Representatives, particularly JOHN REED who brought it to my attention, I responded and we went there. We got the legislation 1 month later in the June 28 Banking Act that the Committee on Banking, Finance and Urban Affairs approved.

But what about California today? The State of California is paying, to my pain, and I am a Depression era kid. I can recall when our schoolteachers, and when our public employees were being paid in script. Sometimes the bankers and the merchants would honor them at a discount. They would have to pay for that as if it were interest. Sometimes not. And I swore that if the Lord permitted me to ever be in a position where that could be avoided, I would do everything in my power to avoid it. So I cannot begin to describe the pain I felt as I looked into the eyes of those thousand or more Rhode Islanders that turned out to our hearings in Providence. I cannot begin to tell you the pain I felt, because it made me recall those haunting years of the Depression which I hoped and prayed and did everything within my power in between to try to eliminate, the horrible, real, excruciating, deathly poverty that existed, watching even relatives die slowly of tuberculosis where my city was known as the tuberculosis capital of the United States.

☐ 1620

Then later even after the war, areas there that were called the death triangle because they had the greatest rate of infant diarrhea deaths of any anywhere, and, yes, we are better off and, yes, I have had great privilege serving on the local level.

I was able to work between 1950 and 1953 for the San Antonio Public Housing Authority and see in that very death triangle the elimination and the destruction of earth-floor shocks with pit privies, all within a quarter of a mile of downtown San Antonio.

I was later elected to the city council, and my greatest, greatest satisfaction was to be able to work and change the system of self-perpetuating city water board. Those things had not happened since the rotten borough of England in the 1930's, and here we had them, and I was able to lead the fight. It took 3 years. It was mean. It was tough. But we changed that system, and for families within a quarter of a mile of city hall who had to buy water in barrels at 40 cents and 50 cents a barrel with wiggle worms in them, we were able to change that in less than 1 year after that forum, the city water board, came about, so when I speak to you, my colleagues, I speak as a man privileged under our system to work on every level of legislative representation our country has to offer, the local, and 5 years in the State Senate of Texas, and now I have been privileged to have served here for 30 years and 8 months in this great and august body, and I have the same determination.

So I hope those of you who have at first ridiculed and then slowly and by the dint, force, of circumstances have admitted that I have had a cause and that I have spoken out responsibly will realize the pain I feel to even get up now and have to reveal these things where I am just as much respectful of the institution of the Presidency as anybody, and maybe even more, and it is not that I love the system less. It is that I love it more. For without it, I would not have anyplace in the world that would have been able to duplicate the very actions I am taking today. And I know it.

So I bring these factors in to give you the background of how it pains me to see these quickly enacted billions of dollars of subsidies to the richest of the rich, the strongest corporations through tax giveaway. It pains me to see the housing programs that were structured by the Congress after many years of debate and hearings and which have served our country for 40 years; they housed America between 1940 and 1980. All of a sudden in the name of economy and budget exigency, they are faced with extinction or diminution to the point of extinction while billions and billions, much more than we have meekly offered since 1981 and 1982 and have not had, but watch these other billions just go through as fast as they could slip through a congressional process.

Do you think that makes me feel good or proud? Of course not. But it is the truth, and it is a fact of life, and when we see that a whole country has been raised to the point of war fever and a war psychosis, suddenly discovering that a man is a monster, a Hitler in the President's words, only to discover sadly that this same individual had been backed up, supported, and at the cost of taxpayers' liability, given billion of dollars.

We have to examine that, because I look around and see now where our Government has been extending similar guarantees backed by the taxpayer to other countries that just a few years ago we had them as a list of bitter enemies.

Now I say whether a nation and its people, above all, in the words written down in one of the halls here in our Congress, in our House of Representatives, when a people forget their hard beginnings, they are in for trouble, and they are in danger of losing maybe perhaps not directly forsaken, but certainly ending up in forsaking the heritage of freedom which is what is at stake today.

I will tell you why, and I am going to bring this out in separate addresses and messages to you, my colleagues, and that is that we have become accustomed and have lived in a state of emergency since 1932, the bank closing or the bank holiday edict issued by President Franklin Roosevelt.

Do my colleagues know that we are still living under emergencies? In fact, last week, last Tuesday, just before I got up to give the last special order, a message came from the President. It was lost sight of because there were three messages in a row, but the middle one said, "This will extend our state of emergency with respect to the crisis in the Persian Gulf and Iraq for another year." We ought to go into that, my friends, because we like to look down on countries that we consider lesser than us by saying, "Oh, look at the turmoil, and they have government by decree."

My colleagues, because Congresses have delegated that constitutional power and only because of that can the President issue that kind of emergency decree as we have been living under since 1942. In fact, I will go even before that and go to the National Espionage Act of 1917 most of which has never been returned to the Congress and which President Wilson asked for in time of war. And it has been a President's resorting to that one that has brought some very, very, I think, draconian actions against American individuals including some who have been charged with actual espionage under that act.

When Iraq invaded Kuwait in August 1990, it defaulted on $2 billion of the CCC credits advanced during the Bush administration. But the CCC Program was not the only financial benefit bestowed upon Iraq during the Bush administration.

As I have reported elsewhere, the Bush administration also authorized a $200 million credit program through the Export-Import Bank [Eximbank] that allowed Iraq to import various equipment and raw materials. The Eximbank Program was one of the largest of its type among the Western industrialized nations. This credit not only permitted Iraq to purchase United States equipment, it also freed up scarce resources for cash strapped Iraq, and was granted despite Iraq's shaky finances, under pressure from the highest levels of the administration.

Not to be overlooked is BNL-Atlanta's $5 billion in supposedly unauthorized loans to Iraq—well over $1 billion in commercial loans which were issued during the Bush administration. While the intelligence community has remained silent on what it knew about BNL's activities prior to the raid on BNL-Atlanta in August 1989, it is safe to assume that it would have been highly unusual for our intelligence community not to have noticed thousands of communications between Iraq's highest profile military organizations and BNL in Atlanta, GA. The same can be said of Iraq's front company in Ohio called Matrix-Churchill.

□ 1630

This is actually British-based and apparently British-controlled in London.

At a minimum, the Bush administration looked the other way and allowed BNL's and Matrix-Churchill's activities to continue. We must not forget the CIA has a history of neglecting to inform law enforcement officials about nefarious activities when those activities just happen to facilitate the administration's policy. The recent Bank of Credit and Commerce International [BCCI] and International Signal and Control [ISC] cases provide vivid examples of that phenomenon, or problem where the intelligence agency is totally controlled by the political program at that particular moment of the administration in power.

Later on I will add details to this particular phase.

During the period 1985–90, the Reagan and Bush administrations approved 771 export licenses for Iraq—as I brought out last week—239 of these approvals came from the Bush administration. Much of the equipment shipped to Iraq under these licenses ended up considerably enhancing Iraq's military capability. For example, licenses for the Iraqi Armed Forces and Iraqi weapons factories were routinely approved. As I showed last week, and provided the documentation, this was not done inadvertently; it was a written, but never publicly stated, Bush administration policy to help arm Iraq itself through the export licensing process, as we are again with other countries, as I will bring out in future special orders.

Given the administration's refusal to accept responsibility for facilitating the arming of Iraq, it is important to understand the context in which the billions in United States financial assistance and sophisticated technology flowed to Iraq. Once you understand the context of the decision to provide financial assistance and technology to Iraq, you will understand that it was United States policy to accommodate Saddam Hussein's military ambitions.

The Bush administration was acutely aware of Iraq's intentions, and knew that the financial assistance it was providing to Iraq facilitated Saddam Hussein's ambitious military industrialization effort.

GOAL OF IRAQ'S MILITARY INDUSTRIALIZATION EFFORT

To understand the Iraqi military industrialization effort, one must understand that since the 1970's the goal of Iraq was to become militarily self-sufficient.

It seems to me incredible that a Deputy Secretary of State, like Mr. Eagleburger, would come before the committee, and every one of them from the Secretary of State on down and the President act as if they did not know that ever since 1948 a state of war has existed between Iraq and Israel.

Now, Iraq, let me disabuse my colleagues of any conclusion they might have formed through our war propaganda that Saddam Hussein is looked upon especially in the Muslim-Arab world as a villain. He is a hero.

I brought out the special orders that I took when we returned after the break in August and Labor Day in September 1990, I laid out here before my colleagues, it is all in the RECORD, that Saddam Hussein had and still has the largest and most expensive news disseminating TV and radio network in all the Middle East and that particular portion of Asia.

He is a hero because he is considered the only one who stood up to what the Arabs feel has been an attempt to liquidate them.

I brought out, and it is in the RECORD, when Saddam Hussein properly was excoriated for having been charged with using poison gas against some of his own citizens at the time, the Kurds, but I pointed out that the first one to use chemical warfare, that is gas, was Winston Churchill in 1921 and 1923 against the Arabs, what he called the recalcitrant Arabs.

Who do you think they were? They were the Arabs where Iraq is today.

We must never forget also that we are talking about a country that is now named Iraq, but which has been the fountain place or the birth place of western civilization, Mesopotamia.

When we bombed and carpetbag bombed Baghdad, we destroyed artifacts of civilization that are priceless.

Now, if we once understand this, we will then understand why Iraq stood out as the only Arab nation that did not in the opinion of these Arab minds kowtow to Israel and the Western powers.

He was also anxious to get away from relying on the Russians, or the Soviet source of aid.

So he, unlike every other Arab nation, then decided to be the leading Arab military power. That goes back to early and even before the beginning of the Iraq-Iran war.

We must also never forget that Iran is not an Arabic nation. It is non-Arabic.

We must never forget that Syria under Assad was the only Arab nation that went against Iraq in the Iraq-Iranian war, and were it not for the great divisions that have existed among these Arab peoples and we are not aware, we have a tendency to look down on peoples who are extraneous to us and our language particularly, but that is a fatal flaw in our makeup that sooner or later we are going to have to try to correct.

To understand this policy, we have to understand that the goal of the 1970's in this country that was considered the only one that was responding to what segments of the Arab world were saying were attempts of genocide, which unfortunately we have had such a thing. It is unfortunate, but it is true. It is enough.

There is an old saying in equity law that says in an act in which equity or relief is sought to correct a wrong, that action must first be rooted in a wrong. We know from reading human history that the kind of actions that seem to us to be inexplicable in the proceedings of some of these countries, we must never forget that those actions are never born except out of a rooted wrong. That has been stamped into the human makeup no matter what we are by I am sure God's breathing life into our souls and bodies and with that saving water of freedom, no matter where, every human being desires freedom, no matter how much it seems he has accepted the chains of enslavement.

To understand the Iraqi military industrialization effort, I repeat, we have to go back to the beginning of a program of self-sufficiency.

Iraq wanted to have its own military industrial base so that it did not have to depend on the Soviet Union or Western arms suppliers and others for its national security.

The Iraq-Iran war placed the better part of Iraq's military industrialization program on hold because resources were used to purchase urgently needed finished military products such as tanks, fighter jets, ammunition, artillery, and other equipment.

□ 1640

However, during that war Iraq also continued to work on its highest priority indigenous military projects, and when the war ended Saddam Hussein began a massive military industrialization effort.

Iraq had several ambitious goals as it ended its long 8-year war with Iran. First, Iraq wanted to provide for its own national security. Second, Iraq wanted to remain the Arab world's strongest military power. Third, Iraq wanted to become the Arab world's strongest industrial power.

As a matter of fact, all the Arab countries, except one, Syria, supported Iraq in its war against Iran.

As I said before, Iran is a non-Arabic nation. Now, Arabic or not, my colleagues, I ask you how could we be supplying Iraq with everything from intelligence—because we had an intelligence-gathering agreement all during that war with Iraq—supplied them with everything else, even backed up foreign countries like France to make sure they supplied military things all the way from Mirages to Exocet missiles, one of which, incidentally, was the one that killed 37 of our sailors in the Persian Gulf.

Have we forgotten that? How did they get them? That way. And we helped. Do we think that these people, which we, like the British and others, tend to look down upon as inferiors, do not know that at the same time Colonel North and the other hosts and security advisers of Mr. Reagan were over in Iran conveying TOW missiles, do you think they did not check with each other to know? How many Iraqi soldiers died as a result of the TOW missiles we gave them in the Iran-Contra deal? I am sure they know.

Do you believe the Iranians did not know that a lot of their soldiers and a lot of their people and a lot of the destruction through the bombing of Iraqi warplanes did not come from the aid we were giving them? Well, of course they did. They are not inferior people. They happen to have come from an era of long-retarded development, that is all.

We must remember that our modern engineering, and mathematics—how many buildings based on engineering formulas do you think we could build with Roman numerals? It was Arabic numbers which came to Europe through Spain, through the 800-year occupancy of southern Spain by the Moors. Modern medical science, that came through Spain. In the 16th century, Spanish ships bringing colonists, and what have you, including my ancestors on my father's side, who got to the province of what is now the state of Durango in 1560-something, were being inoculated against smallpox.

Now, maybe they did not know about the germ theory, but they knew the cause and effect. Spanish doctors, or what have you, were inoculating the Spanish occupants of these ships on their way to the New World against smallpox in the 16th century.

Where do you think they gained that lore? From the Moors, the Arabs.

So, let us remember that it is always good to remember that God is no respecter of individuals or nations.

Evidence that the Bush administration knew of Iraq's plans is widespread. One example is an Export-Import Bank country risk report dated June 1989. The Eximbank report, which was based in part on intelligence information, was presented to the Eximbank board of directors along with representatives of the State Department, CIA, and Commerce Department. This report states:

> In addition to higher oil production, the government is planning to develop new state controlled industries to supply the military, the civilian market and export markets. Iraq's ambitious plans, unlikely to be completed even within the next five-to-ten years, include oil refineries, petrochemical complexes, specialty steel and aluminum plants, vehicle assembly and various manufacturing activities. These new industries will fashion products for the new arms industries, and produce goods for sale in the domestic market and perhaps export markets.

A year later the CIA reported:

> One of Iraq's main post-war goals is the ambitious expansion of its defense industries

What could be clearer? After the cease-fire in its long war with Iran, Iraq obviously did not have any plans to demilitarize. In fact, it is apparent from reading intelligence community reports that Iraq's highest postwar priority was expanding its military industrial base. Like the Eximbank, a 1989 intelligence community report similarly states:

> A dramatic reduction in domestic military and civilian state sector claims on oil revenues and non-oil production would provide resources for an earlier end to arrears and rescheduling. However, such a massive reduction in military and civilian absorption of resources seems very unlikely * * *.

Iraq's ambitious military industrialization plan called for civilian activities to be integrated into military production and vice versa. In a public speech to the nation in 1989, Saddam Hussein urged Iraqis to:

> * * * make use of civilian industry for military purposes * * * and military industry for civilian purposes using their surplus potential.

This point is further brought home in a June 1989 intelligence report which shows that:

> The Ministry of Industry and Military Industrialization [MIMI] planned to integrate proposed specialty metals, vehicle assembly, and other manufacturing plants directly into missile, tank, and armored personnel carrier industries.

United States knowledge that Iraq gave highest priority to development of its defense industrial base is further spelled out a year later in a July 1990 report which states:

> In May 1989, Hussein Kamil, the head of the Ministry of Industry and Military Industrialization (MIMI), proclaimed publicly that Iraq was implementing a defense industrial program to cover all its armed forces' needs for weapons and equipment by 1991. He stated that Iraq's industrialization program was intended to provide all of Iraq's basic industrial supplies from indigenous sources.

For Iraq the drive to develop its own weapons production capability required, to say the least, a complex and intensive undertaking. Not surprisingly, a 1990 CIA report noted that evidence indicated Iraq was devoting a considerable amount of its financial and labor resources on military industrialization.

An estimate of the magnitude of the effort is contained in a June 1989 Eximbank report which says that in 1988 Iraq devoted 42 percent of its oil revenues to military-related procurement.

FOREIGN FIRMS PLAY A BIG ROLE

Iraq had several motivations in embarking on such an ambitious military industrialization effort. First, Saddam Hussein did not want his national security beholden to foreign suppliers of military hardware. Foreign government policies change and Iraq had trouble developing secure long-term supply relationships for the supply of military hardware. The intelligence community stated in the summer of 1990:

> Iraq's desire for a large arms industry has grown during the past decade. President Saddam Hussein apparently believes an expanded arms industry will enhance Iraqi prestige and help solve security problems identified during the war such as lack of reliable arms suppliers.

□ 1650

In future statements I will show how Iraq used BNL money to pay foreign firms for their critical role in his ambitious military industrialization effort. Iraq clearly could not have achieved the success it did in its military industrialization program without massive assistance from firms in Europe and the United States.

As we all know, foreign firms played a critical role in many of Iraq's most dangerous and exotic weapons programs such as the Condor II ballistic missile and Gerald Bull's "big gun" project, which I have referred to from the very beginning 2 years ago.

While the resources and coordination required to successfully carry out Iraq's military industrialization effort was monumental, many within the administration believed that Iraq would take a practical approach to setting priorities. For example, in July 1990 the intelligence community stated:

> Although Iraq's stated goals almost certainly are over ambitious, we believe the regime recognizes its limitations and holds more pragmatic aspirations in private.

The goals of Iraq's military industrialization program, while ambitious, were considered substantial for several reasons. An executive branch report of July 1990 noted that:

> Baghdad has significant advantages in making this grandiose, but still substantial expansion of its defense industries a realistic goal:
>
> 1. It has cheap hydrocarbons;
> 2. Oil income is likely to increase long-term;
> 3. Large Iraqi military can absorb high levels of production;
> 4. Iraq has the most highly educated work force in the Arab world;
> 5. A potential supply of customers for exported arms exists.

These factors are still valid today—not just for Iraq, but also for Iran, Saudi Arabia, and the former Soviet Union. It was Iran that we were against. Where is Iran today? Well, for the first time in just recent weeks it has gone across the sea there, into Sudan. Never before, to the great travail of Egypt, which looks upon Sudan with a lot of fear. Besides that, it has obtained nuclear assistance from one of the now independent states of the former Soviet Union. How well has all of this been reported, and where does this leave the so-called stabilization of the Middle East for which we pay treasury and blood?

Our Government knew from Saddam's own words that Iraq's military industrialization effort was designed to make it difficult to distinguish between military and civilian end uses. As a result, huge industrial complexes in Iraq, many covering thousands of acres, contained civilian as well as military components.

In addition, Iraq did not allow very many foreigners to have complete access to these complexes. United States intelligence no doubt had plenty of satellite photos of Iraqi establishments, but given strict travel restrictions in Iraq, they had limited human intelligence about exactly what was going on in various facilities.

Iraq's mixed-use complexes made it difficult for export licensing officials and those concerned about proliferation to tell exactly where United States equipment was going in Iraq, and, as I pointed out, out of the 771 licenses, only 1 was followed through to try to make sure that the end-use purposes had been served. Only 1 out of 771. That is why postinstallation checks; the Bush administration did only one, as I said; should have been a prerequisite for approving the shipment of United States dual-use technology to Iraq. Without checking on the technology after it was installed, there was almost no chance of determining if it was being used for civilian purposes as claimed by Iraq. The lack of any checks, given that the administration knew what Iraq wanted to do and how it was going to develop military facilities is inexplicable.

That problem is illustrated in a July 1990 executive branch report which states:

> Iraq's military industrialization program presents a significant problem for controlling U.S. origin goods and technology and preventing its use in Iraqi military program, particularly strategic projects developing missiles and nonconventional weapons * * * dual-use equipment and technologies can be easily diverted from civilian to strategic military programs.

What could be clearer than that memorandum?

Iraq's close control of production and its mixed-use facility scheme was always a problem for policymakers. A declassified November 1989, State Department memo discussing how President Bush's mandate to increase trade with Iraq was at odds with efforts to stop Iraq's proliferation efforts put it this way:

> The problem is not that we lack a policy toward Iraq; we have a policy. However the policy has proven very hard to implement when considering proposed exports of dual-use commodities to ostensibly non-nuclear end-users, particularly state enterprises.

The memo goes on to state, as I have reported before:

> Complicating factors in decision making include:
>
> 1. A presumption by the Intelligence Community and others that the Iraqi government is interested in acquiring a nuclear explosives capability;
> 2. Evidence that Iraq is acquiring nuclear-related equipment and materials without regard for immediate need;
> 3. The fact that state enterprises * * * are involved in both military and civilian projects;
> 4. Indications of at least some use of fronts for nuclear-related procurement;
> 5. The difficulty in successfully demarching other suppliers not to approve exports of dual-use equipment to state enterprises and other ostensibly non-nuclear end users.

I will now provide a real world example of this dilemma using a BNL-financed glass-fiber factory that went to Iraq through Matrix-Churchill Corp.

One of the Iraqi military's highest priorities was carbon- and glass-fiber technology. Western militaries use carbon and glass fibers extensively in nuclear, missile, aerospace programs. These very lightweight fibers, when mixed with the proper ingredients, can protect metal from temperatures up to 3,000 degrees. For example, carbon and glass fibers can be used to insulate pipe in nuclear reactors. Carbon fiber technology is used to make nose cones and other temperature-resistant parts for rockets.

When properly fabricated these fibers can also be used to replace metal in many applications. For example, missile casings and many airplane fuselage parts are made with these fibers. These fibers are lighter and more heat resistant than metal. Carbon fibers can also be used to make parts for high-temperature applications such as uranium-enrichment centrifuges.

Carbon- and glass-fiber technology also has many civilian uses such as making the hull of a boat, computer casings, and even golf clubs. Given Iraq's military intentions and the priority they placed on military production, a carbon- or glass-fiber plant in the hands of Iraq was known to be dangerous.

Certainly they were not forming any golf greens anywhere in that desert, but with the help of a BNL loan and Iraq's front company Matrix-Churchill the Iraqis were able to obtain from the United States a glass-fiber factory for the Nassr state enterprise for mechanical industries—which was Iraq's prime ballistic missile maker and also an integral cog in Iraq's efforts to enrich uranium through the centrifuge method.

Even though the United States had severe restrictions on sending carbon-fiber technology abroad, Iraq was able to obtain glass-fiber technology through the United States export licensing process. The glass-fiber debacle dramatically illustrates how President Bush's mandate to increase trade with Iraq was at odds with the policy of limiting proliferation. Iraq's military industrialization strategy of mixing military and civilian production with the same complexes, repeatedly caused nightmares within the export licensing process.

A summer 1990 Government report reflecting the dangers of Iraq's strategy cautioned that:

> Development of missiles and non-conventional weapons was Iraq's highest priority and the program most at odds with U.S. policy of limiting proliferation. Iraq's activities clearly presented tough problems for controlling U.S. dual-use technology that can easily be diverted from civilian programs because Iraq integrates civilian and military production facilities.

□ 1700

But instead of heeding numerous warnings about Iraq's military intentions and dubious procurement activities, the Bush administration repeatedly approved export licenses of military useful technology to Iraq. The glass-fiber factory and many other military useful technologies and equipment were shipped to Iraq in order to improve trade.

We are still doing that. We have also seen a recent helter-skelter of the falling dollar. It was almost in a free fall. The Federal Reserve had to intervene and get 17 other nations in Europe to intervene.

But what have I been saying since the middle 1970's about that? That has been lost side up. It is on record. I felt it was my responsibility. Certainly not having too much power and being looked down upon by the tremendous powerful banking lobbyists as somebody that did not have clout on the Banking Committee, my words went unheeded.

But there is where our danger is. Iraq has done and its advisers, and it is brilliant, whoever advised them, and I suspect a lot of those were non-Arab or non-Middle East, but probably European. This is why the Europeans, beginning after World War I when they were doing the same thing, today and are going the same place as after World War I, they used to say not Uncle Sam, but Uncle Sap.

That is what we continue to be. We continue to be played as Uncle Saps. It aggrieves me to see this, whether it is Middle East, Far East, Asia, or Europe, where it is still an ongoing process.

Does anybody think as our leaders have for the last decade and a half or two that we can depend on help, relief, from friendly sources? If we as an individual family suddenly decided that we are going to depend on our well-being and the supply of our essential needs from some good will neighbor down the street, how many of us would say that was very precarious? But we have been doing that on a national level. Any warnings, any voices speaking out, have been marginalized, shunted aside, including my own, in all fairness to myself.

I have had to take the brutality of dismissal and criticism, and even accusation of perhaps lack of patriotism long enough. So if this be treason, then make the most of it.

Shortly after the BNL raid in August 1989, the U.S. attorney in Atlanta began investigations of several BNL-financed projects, because they got tipped off that something was wrong, even though everybody else that had anything to do with it knew it. So they decided that some rogue element officials in this Italian bank branch in Rome did not know anything about $5 billion-plus of extension of credit through this little branch, or agency as they call it, in Atlanta?

Well now, come on. Anybody that believes that believes in the tooth fairy still.

A Federal Reserve memo indicated what the assistant U.S. attorney [AUSA] thought of the project. The September 22, 1989, Federal Reserve memo of a conversation with the Atlanta U.S. attorney states:

> McKenzie said that everything being written about the missile sales is true. Matrix-Churchill made missile casings.

A Federal Reserve memo dated September 28, 1989, indicates that the DOD had real concerns:

> The Department of Defense is investigating allegations that BNL's funding was used at least in part to finance arms shipments to Iraq in violation of U.S. law. The Atlanta U.S. attorney Gail McKenzie has indicated orally that she believes that BNL-Atlanta made loans to Matrix-Churchill * * * to finance the purchase by Iraq of missile casings * * *.

My gosh, the Atlanta assistant attorney general left and went to work for Matrix-Churchill, and then comes back to the Justice Department and the Atlanta Office of the Federal Attorney.

Two months later, on November 24, 1989, Matrix-Churchill Corp., Iraq's front company in Cleveland, OH, applied for an export license to ship equipment for the glass-fiber factory to Iraq. The Matrix-Churchill export application states:

> Equipment to be used to control a glass-fiber production line with a capacity of 15 tons a day.

The end user listed in the Matrix-Churchill was the technical corporation for special projects, referred to as TECO or Techcorp. The Bush administration had information on TECO going as far back as far as the middle 1980's. For example, a September 1989 Government report says that TECO was involved in high priority military projects that included chemical weapons, antimissile programs, long-range missiles, and nuclear weapons.

A later document showed that TECO served as a focal point for defense related industrial construction and civil engineering and commercial contacts between Iraq establishments and foreign suppliers.

Thus, before the November 1989 date of the application for a license to ship the glass-fiber technology to Iraq, the Bush administration had clear information showing that Matrix-Churchill was part of Iraq's secret military technology procurement network, and that the network's goal was to procure technology for high-priority missile and nuclear weapons projects in Iraq.

They also had information showing that the end user of the technology was an integral part of Iraq's procurement network and that TECO was responsible for Iraq's highest priority clandestine missile and nuclear programs.

Meanwhile, on February 12, 1990, a secret State Department cable was sent to the U.S. Embassies of our closest allies in Europe and Asia. The State Department instructed the Embassies to warn host governments about Iraq's plans to procure nuclear and missile technology, especially carbon- and glass-fiber technology. Can we imagine that?

The cable, subtitled, "Possible Iraqi Missile and Nuclear-related Procurement" reported that the NASSR State Enterprize for Mechanical Industries had been seeking a glass fiber production plant and that NASSR had procured commodities for Saddam Hussein's nuclear and missile programs in the past.

Here is the State Department warning these vacant embassies, "Look out, this is what they are trying to do," and yet we are supplying them with the fiberglass factory.

As I revealed last week, as far back as 1988 the administration had abundant information showing that NASSR was the heart of Iraq's ballistic missile programs and also a critically important player in the nuclear weapons program. A Commerce Department memo related to an export license application for NASSR dated August 1988 sheds light on how far back our Government knew of NASSR's activities. The memo states of NASSR:

> The equipment will be used by the NASSR State Establishment for Mechanical Industries. After several reviews DOD recommended a denial because DOD alleges that we are dealing with a "bad" end-user. The ultimate consignee is a subordinate to the Military Industry Commission and located in a military facility.

An intelligence report on NASSR in May 1990 showed that:

> In the case of the missile program—the NASSR State Establishments for Mechanical Industries [NASSR] was instrumental to Iraq's missile development effort.

Amazingly, despite all this and in complete contradiction to the State Department's February warning, on May 30, 1990, the U.S. Commerce Department informed Matrix-Churchill that it did not even need a license to ship the equipment and the glass fiber technology to Iraq. Commerce told Matrix that the technology was G-DEST—in other words all Matrix-Churchill had to do was to have Techcorp verify in writing that is would not divert the technology to a third country. It is unbelievable.

Several weeks ago the committee interviewed a Matrix-Churchill employee assigned to the fiberglass project.

Let me pause at this point to give credit to one of the most indefatigable and brilliant professional staffers we have on the committee, Mr. Dennis Kane, and his able assistant, Debra Carr, under the leadership of our staff director, Mr. Kelsay Meek. I just cannot begin to describe to my colleagues what it has taken to get thousands of these documents. Some of them do not seem to make sense, they have numbers or codes, and they match them.

Mr. Kane and his helpers have worked all through the night and weekends. They have gone down even as tired as they are to Cleveland and talked to the Matrix-Churchill employees.

□ 1710

The moral of this zany, but dangerous story is this. When it came to Iraq, the general policy of thwarting proliferation was at odds with the President's policy of increasing trade with Iraq as spelled out in NSD 26. The Iraq policy permitted Iraq to obtain sophisticated United States military useful technology despite abundant evidence of Iraq's intentions and military programs and even despite our Government trying to stop these purchases elsewhere.

CONCLUSION

There is no way the administration can say that it did not know of Iraq's intentions. There is no way the administration can claim that it was not aware that it was helping to arm Iraq. The intelligence information and reports on Iraq's military industrialization program that I have discussed today and last week were widely disseminated within the administration.

Individuals at the White House, State Department, DOD, Export-Import Bank and the Commerce Department received all this information and much more throughout the entire Bush administration. In fact, the President himself received a good dose of this information in a national intelligence review which was sent to him in November 1989.

Last Friday the Los Angeles Times printed an article which stated:

> Administration officials maintain that any military assistance to Iraq was an inadvertent consequence of the attempt to moderate Iraqi actions. They said that they were unaware of the extent of (Iraq's) network in this country and that top officials were distracted by other foreign policy concerns.

This claim is patently false. The fact is that the Bush administration had excruciating detail on Iraq's military industrialization plans and intentions and that Iraq gave highest priority to expanding its indigenous weapons manufacturing capability.

It was in this context that President Bush issued NSD-26 even though he had evidence of Iraq's intentions and dubious practices showed growing danger. The Bush administration did nothing to significantly alter its strategy toward Iraq.

It was a written policy of the Bush administration to help arm Iraq. The Bush administration sent United States technology to the Iraqi military and to many Iraqi weapons factories, despite overwhelming evidence showing that Iraq intended to use the technology in its clandestine nuclear, chemical, biological, weapons and long-range missile programs.

And yet, in 1991 President Bush stated flat out that not one United States firm supplied Saddam Hussein with equipment that enhanced Iraq's military capability. Last week and this week I have shown that the Bush administration actively participated in enhancing Iraq's military capability by watching and even encouraging the flow of billions in United States financial assistance and technology to Iraq.

Any claim that the United States may have inadvertently helped to arm Iraq is a smokescreen to obscure the massive blunder that occurred during the coddling of Saddam Hussein. There is more to say about this.

Mr. Speaker, I include for the RECORD documents to which I referred.

FEBRUARY 1990.

From: Secstate Washdc
To: Amembassy Bern priority, Amembassy Bonn priority, Amembassy Madrid priority, Amembassy Paris priority, Amembassy The Hague priority, Amembassy Tokyo priority, Info Amembassy London, Amembassy Ottawa, Amembassy Rome.

Secret State 046278

E.O. 12356: Decl: Dadr.

Tags: PARM, KNNP, MNUC, PREL. IZ.

Subject: Possible Iraqi missile and nuclear-related procurement.

Refs: (A) 89 State 292127; (B) 89 State 292006.

1. Secret—Entire text.

2. Action addressees will recall reftels which describe

(Secret)

(Secret)

USG concerns about the nuclear programs of Iran and Iraq and steps they have taken to reinvigorate those programs. Reftels urged host governments not to provide either Iran or Iraq with commodities or training which could lead to the production of fissile materials directly usable for nuclear explosives. i.e., plutonium or highly enriched uranium. In particular, reftels cautioned against the export of so-called "dual-use" items to the nuclear programs of Iran or Iraq which could be important in a nuclear weapon program.

3. In an ongoing effort to impede further development of the nuclear programs of Iran and Iraq, department would like to bring to the attention of host governments efforts by Iraq to acquire carbon fiber—and glass fiber-related technology—dual-use technologies which could have both missile and uranium enrichment centrifuge applications. (Begin FYI: Department is currently considering additional approaches which may be made to allied governments regarding other Iraqi efforts to acquire missile and CW-related technology. End FXI.) Embassy is requested to raise this issue drawing on the following talking points, as appropriate.

4. Talking points.

(A) You will recall our discussions of last fall during which we expressed concern about efforts by Iran and Iraq to reinvigorate their nuclear programs.

(B) We urge your government not to provide to Iran and Iraq equipment, materials, technology, or training which

(Secret)

(Secret)

could lead to the production of fissile material directly usable for nuclear explosives, i.e., plutonium or highly enriched uranium.

(C) We also urged suppliers to be extremely cautious about transfer of so-called dual-use items to Iran and Iraq which could be important to a nuclear weapon program.

(D) In our continuing effort to remain alert to efforts by Iran and Iraq to acquire technology which could contribute to a nuclear explosives program, the USG wished to bring to your attention efforts by Iraqi entities to acquire dual-use technologies which could have both missile and uranium enrichment applications.

(E) The USG has learned that Iraqi entities have been seeking carbon fiber production technology. A carbon fiber precursor known as polyacrylonitrile, and equipment for producing carbon fiber fabrics and components.

(F) The USG has also learned that Iraq's Nasser State Enterprise has been seeking a glass fiber production plant. Nasser has procured commodities on behalf of Iraq's nuclear and missile programs in the past.

(G) Certain high-precision forms of carbon fiber and glass fiber technologies have both missile technology and uranium enrichment centrifuge applications. We believe it is possible that Iraq is trying to acquire this technology for use in one, or perhaps both, of these end-uses.

(H) We believe that the following companies possess this technology and may be approached by the Iraqis:

I. For the UK: (points are being passed to the UK Embassy in Washington)

(Secret)

(Secret)

Glass fibers: Courtalds, Ltd.

Carbon fibers: Courtalds, Ltd.

Filament winding machines: Plastrax and Courtalds, Ltd.

II. For the FRG:

Glass fibers and reinforced plastics: Lipex Anlagentechnik.

Filament winding machines: Josef Baer Maschinenfabrik, Bolenz and Schafer Maschinefabrik KG, and Maschinenbau-Gesellschaft MBH.

Other manufacturers of autoclaves which can be used for advanced fiber and reinforced plastic: F.G. Bode and Co. GMBH, and Deutsch and Neumann GMBH.

III. For France:

Filament winding machines: Berthiez, MFL and Senico.

IV. For Japan:

Carbon fibers: Sumika-Hercules Co., Ltd., a Japan-U.S. joint venture, and Toray Industries.

Filament winding machines: ASAHI.

V. For Switzerland:

Carbon fiber related technology (autoclave) manufacturers:

(Secret)

(Secret)

Nova Werke AG and Sulzer AG.

VI. For the Netherlands:

Carbon fibers: Hercules BV.

VII. For Spain:

We have not identified specific Spanish manufacturers which produce this type of technology, but we believe that such companies may be approached by Iraq.

VIII. For all:

(A) We would urge you to review cautiously license applications for the export of dual-use commodities and technology to Iraq that could be important in a nuclear weapon or missile delivery program, including carbon and glass-fiber technology and equipment.

(B) Filament winding machines and filamentary materials are covered by the so-called "second track" list, which nuclear suppliers agreed in 1984 to use best efforts to control. (This list contains items related to centrifuge enrichment and was adopted to complement the Zangger committee exercise on centrifuge enrichment which preceded it.) The list specifies "filament winding machines where the motions for positioning, wrapping and winding of fibers are coordinated and programmed in three or more axes, especially designed to fabricate composite structure or laminates from fibrous and filamentary materials" and "filamentary materials suitable for use in composite structures and having a specific modulus of greater than 12.3-times-ten-to-the-sixth-power and a specific strength greater than 0.3-times-ten-to-the-sixth-power in SI units."

(Secret)

(Secret)

(C) Filament winding machinery and filamentary materials are subject to COCOM control under IIL 1357 and IIL 1763, and are listed under category II of the equipment and technology annex of the missile technology control regime.

(D) A number of companies in the U.S. manufacture these items: the USG is exercising special caution to ensure that those companies are aware that a license is required for their export.

(E) Those companies are also being told that, given U.S. policy, licenses for the export to Iraq of these particular items would not be granted.

(F) The USG urges your government to take similar steps to ensure that Iraq is not successful in efforts to obtain these items, which could contribute to the development of Iraq's nuclear and missile programs.

End talking points. Eagleburger.

GLASS INC. INTERNATIONAL,
Covina, CA, February 22, 1990.

ROLAND DAVIS,
Matrix-Churchill Corp., 5903 Harper Road, Cleveland, OH.

DEAR ROLAND: I received your fax dated 2/22/90. I know that I promised you a fax regarding a schedule for supplying you with control drawings. I was unable to do this since our employee responsible for this activity was not able to attend work on the 21st. We now have arrived at a tentative date of March 9, 1990 for delivery of the documents under question, but I must advise you that we will not supply this data until we receive a signed copy of an Export License from the U.S. State Department authorizing the shipment of the Computer Control System software and related drawings, and or equipment.

Your office was advised in August 1989 that in our opinion an Export License was required for the Computer Control System.

Since you were unable to prepare the application for the Export License, we at our cost, prepared a draft of an Export Application and sent it to you on October 10, 1989 and revised it at your request on October 18, 1989.

Please note in the September Monthly Report Par A. and C., purchasing of the computer was delayed for two reasons, (1) Not being paid under the terms of Letter of Credit and (2) Not having received a copy of an approved Export License for the Computer, software, and related drawings. It was made very clear in each of the following Monthly Reports, October, November, December 1989 and January 1990, that the Computer Control System was not complete.

I would like to point out as I have in the past that to my knowledge it is a criminal offense to export from the United States anything related to Computers without an approved Export License. This point was discussed again with your office when we were advised by the Del Lavoro Bank that we have been investigated by the United States Government (F.B.I. and Customs), regarding exporting to Iraq. At that time I told your office that I was glad that nothing related to the Process Computer System had been supplied to Iraq.

We are doing our utmost to support MCC. Please note that if your Export Application is not approved what are we to do with all of this equipment as well as our engineering investment in the Control System.

Very truly yours,

ALBERT LEWIS.

TELEX NO.: 3-030.
DATE: MARCH 7, 1990.

To: Techcorp—Baghdad, Iraq.
Attn: Mr. Taha Salman.
Subject: Glass Fiber Project—Contract No. 3128, export license application control No. C120752.

(AA) This is to advise you that we have just been informed by the U.S. Department of Export License that our application (control code No. C120752) for the IBM personal computers (AT286) will be rejected as they are not allowed to be exported to Iraq.

(BB) From talking to the Iraqi commercial attaché at the Embassy earlier today, he informed me that there are similar cases on other projects for which the Embassy will contact the U.S. State Department to resolve. But he requested that they receive an authorization from you or the ministry to discuss our case. Therefore, you are kindly requested to Telex the Embassy immediately (with a copy to us) authorizing them to follow up on our case and to help in obtaining the export license. Please make sure that you refer to our project name, number, and the export license application No. as stated above.

Also, it will be of great help, if the commercial section of the American Embassy in Baghdad are contacted by the ministry for the same purpose. I do not see why they are objecting to export simple personal computers to Iraq, while they can be exported to most countries.

(CC) At our end, we are still in contact with the U.S. authorities, but I believe your official involvement will expedite matters considerably.

Best Regards,

A.T. QADDUMI.

MATRIX-CHURCHILL CORP.,
HARPER ROAD
Cleveland, OH, May 15, 1990.

To: Iraqi Embassy.
Atten: Yousif Abdul Rahman.
From: Mr. Roland Davis.
Subject: Export License.

Application for Export License No. C120752, Dated Nov. 17, 1989, Log No. D065531.

Presently in the hands of: Office of Export License, Mr. Dan. Hill (Since May 8, 1990) 1-202-377-4055; Last Contract was 5-14-90 @ 4:15 P.M. Said he had to talk with the Director of the Export License Office and would get back with me on Tuesday, May 15, 1990.

The Technology is that of Glass Inc. International and a letter explaining dated March 30, 1990 is attached.

Spent the better part of 2 days trying to get the status of our application for Export License application C120752. It seems that it has been rejected by:

1. Defense Dept.
2. Office of Export Enforcement.
3. Office of Technology and Policy Analysis.

It is presently in the Office of Export License who is leaning toward denial. The denial is not based on the computer, but the technology of the process, which is the process for manufacture of "E" Glass Fiber Technology.

Enclosed is the brief explanation of the technology that Glass Inc. International is providing along with Matrix-Churchill to Iraq.

We would like to bring this subject to your attention and request your assistance in this matter.

If you have any questions, please do not hesitate to call.

Regards,

ROLAND B. DAVIS.

GLASS INC. INTERNATIONAL,
Covina, CA, March 30, 1990.

MR. LOCKETT YEE,
U.S. Department of Commerce, BXA/OTPA/TTC, 41th E. Constitution Ave N.W., room 4068, Washington, DC.

DEAR MR. YEE: Enclosed find a copy of the Export License and supporting document for a commercial glass fiber plant in Peoples Republic of China. The technology being supplied by Matrix-Churchill to Iraq is a standard commercial glass fiber used as a reinforcement for plastics and asphalt. The generic name for the fiber is E–Glass. Its chemistry is typically 54.0 percent SiO_2, 15 percent Al_2O_3, 15 percent CaO/MgO, 11 percent B_2O_3, 2.0 percent F_2, 0.9 percent Na_2O/K_2O. This glass would not be suitable for light transmission since it contains large amounts of chrome and iron. Also, the process can not produce glass of the required quality or characteristics.

The fiber is essentially a single rod of glass having the above chemistry. The diameter of the fiber is typically, 10 to 14 microns. The glass making raw materials are melted in a large furnace approximately 24 feet long and 9 feet wide. The resulting glass is drawn into fibers using platinum bushing having 400 or more holes. These fibers are married together into rovings and/or chopped into fiber length form ¼ to 1½ inches.

See the attached picture of E–Glass Fiber Furnace.[1]

The fibers used in telecommunications are generally known as optic fibers. These are made using two different glasses; a core glass and a clad glass. The core glass is normally pure Quartz (SiO_2). The cladding glass may be a zinc lanthanum borate glass (ZNO, LA, B_2O_3).

See attached picture of Optic Fiber Furnace. Also, see attached picture of E–Glass products.[1]

Sincerely,

ALBERT LEWIS.

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF EXPORT ADMINISTRATION,
Washington, DC.

Export License Application, RWA Notice, Case Number: C120752.

Action Date: May 30, 1990.

The reason printed below explains why the referenced Export License Application is (r)eturned (w)ithout (a)ction. When an application has been returned without action and is being resubmitted, a new application form must be submitted. When a new form is submitted, it must reference the original application. The resubmission must be in accordance with the requirements existing at the time of the resubmission (see paragraph 372.4(G) of the Export Administration regulations).

Applicant reference number: C120752.

Applicant: M467939.

Matrix Churchill Corporation.

5903 Harper Road, Cleveland, OH 44139.

Consignee in country of ultimate designation: Techcorp, Ministry of Industry Building, Al Nidhal Street, Baghdad, Iraq. Reason: The equipment specifically identified on this application do not need a validated license and qualify for general license G–Dest.

Refer inquiries to: Exporter Assistance Staff, Office of Export Licensing, P.O. Box 273, U.S. Department of Commerce, Washington, D.C. 20044, or nearest district office (see Export Administration regulations for list of district offices).

MATRIX-CHURCHILL CORP.,
Cleveland, OH, May 30, 1990.

MR. ALBERT LEWIS,
Glass Inc. International
Chino, California

Subject: Glass Fiber Project—Export License

This is to advise you of my phone discussions with Mr. Richard Kress of the Department of Commerce—Office of Export Licensing, with regard to the subject of our export license. Mr. Kress called me today at noon in response to our letter dated May 25, 1990, copy attached. He advised me that after review of the technical data for the computers we are intending to ship for the plant, it was established that this equipment is classified as G-Dest, and as such does not require an export license. He advised me that we could go ahead and ship. However, I requested that they advise me in writing stating the above, which he promised to do immediately.

I then asked him about the Glass Fiber Technology itself, and whether it is also clear. His reply was that the only concern was with the computer equipment, and since no export license is required, the end user does not matter anymore, and that we can ship all the equipment for the plant including the computer. I stated to him that I would not ship the computer equipment until receipt of his letter.

As soon as we receive such letter, I will send a copy for your records.

Very Truly Yours,

A.T. QADDUMI,
Project Manager.

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF EXPORT ADMINISTRATION,
Washington, DC.

MR. A.T. QADUMMI,
Matrix-Churchill Corp.
Cleveland, Ohio.

DEAR MR. QADUMMI: Pursuant to our recent telephone conversations I am informing you of the following. The Office of Technology and Policy Analysis informed me that they concur with our determination regarding the 286 computer and peripherals on export license application C120752. This equipment is decontrolled under General License G–Dest and should be classified as 6565G. The technical data for glass fiber production can be shipped under General License GTDR with a letter of assurance. The glass fiber equipment qualifies for General License G–Dest and should be classified as 6399 G. Temperature and process controllers that are serially networked to the computer should be classified as 6599G and qualifies under General License G–Dest. The following item numbers identified in the equipment list provided by the applicant cannot be classified because of lack of technical parameters: 24, 49, 78, 89, 90, 91, 92, 93, 99, 101, and 105. For these items a formal commodity classification should be obtained in order to determine whether they require a validated license. For further information please contact Lockett Yee in OTPA–TTC at 377–1662 or Dale Jensen in OTPA–CS at 377–0708. The statements made in this response are based on information from the OTPA files for the export license application referenced above.

Sincerely,

RICHARD KRESS,
Strategic Trade Specialist.

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 1, 1990.

MR. LOCKETT YEE,
U.S. Department of Commerce,
Washington, DC.

Subject: Glass Fiber Project—Application for Export License.

Reference: Our Application No. C120752—Your Control Code No. D065531.

DEAR MR. YEE: As per your request, please find another copy of our application dated November 17, 1989. Also attached is a copy of Mr. Albert Lewis's letter dated March 30, 1990, to yourself on the specification of Glass Fiber. I will call Mr. Lewis today to ask him to send you a complete copy of the document he sent to you then.

You are kindly requested to review the above documents and to advise us whether we need an export license or not for exporting the technology of Glass Fiber, and if so, to grant us the export license. If you need additional information, please don't hesitate to call us.

Your urgent attention to this matter is greatly appreciated.

Very Truly Yours,

A.T. QADDUMI.

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 4, 1990

NAME: Mr. Adnan Al-Amiry.
COMPANY NAME: TDG—London.

DEAR ADNAN: Please fax the following (2) sheets to Techcorp as per our discussions earlier today. Also, if you may send it to our office in Baghdad for follow up.

Thanks,

A.T. QADDUMI

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 4, 1990.

MR. TAHA SALMAN,
TECHCORP,
Baghdad, Iraq.

Subject: Glass Fiber Project—Export License.

After a lengthy debate with the U.S. Department of Commerce—Office of Export License, we were able to obtain their approval to export the technology for the E-Glass Continuous Fiber on the condition that we receive a "Letter of Assurance" from the Importer, Technical Corps for Special Projects, that neither the technical data nor the direct product thereof is intended to be shipped, either directly or indirectly, to some specified countries, as per the list of countries in the attached letter text.

To enable us to transfer the technology, you are kindly requested to send a "Letter of Assurance" as per the attached text.

Very Truly Yours,

A.T. QADDUMI
Project Manager.

REPUBLIC OF IRAQ,
TECHCORP.

MATRIX CHURCHILL CORP.,
Cleveland, OH.

Subject: E-Glass Continuous Fiber Plant—Export License Application No. C120752 Letter of Assurance.

GENTLEMAN: This is to assure you that neither the technical data nor the direct product thereof from the above plant is intended to be shipped, either directly or indirectly to the following countries:

(1.) Country Group Q: Romania.

(2.) Country Group S: Libya.

(3.) Country Group W: Hungary, Poland.

(4.) Country Group Y: Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic, Laos, Latvian, Lithuanian, Mongolian People Republic, U.S.S.R.

(5.) Country Group Z: North Korea, Vietnam, Kampuchea, Cuba.

(6.) Afghanistan.

(7.) People's Republic of China.

(8.) Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R.

OSAMA HUMADI,
Technical Corps for Special Projects.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

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[1] Photographs not reproducible in RECORD.

(The following Member (at the request of Mr. YOUNG of Alaska) to revise and extend his remarks and include extraneous material:)

Mr. DELAY, for 60 minutes, on July 28.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. STAGGERS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. YOUNG of Alaska) and to include extraneous matter:)

Mr. SOLOMON.

Mr. BROOMFIELD.

Mr. MARLENEE.

Mr. DOOLITTLE.

Mr. GRADISON in two instances.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. MATSUI.

Mr. RANGEL.

Mr. SOLARZ.

Mr. BILBRAY.

Mr. KENNEDY.

Mr. MATSUI in three instances.

Mr. ANTHONY.

Mr. VENTO in two instances.

Mr. KOSTMAYER.

Mr. LIPINSKI.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to, accordingly (at 5 o'clock and 12 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, July 28, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3999. A letter from the Secretary of the Department of Education, transmitting a draft of proposed legislation to permit the Department of Education to make additional fiscal year 1992 allocations to certain counties under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and for other purposes; to the Committee on Education and Labor.

4000. A letter from the Department of State, transmitting the annual report for fiscal year's 1989 and 1990 on the Foreign Service Retirement and Disability System, pursuant to 31 U.S.C. 9503(a)(1)(8); to the Committee on Government Operations.

4001. A letter from the Secretary, Department of the Interior, transmitting notice of a proposed water reclamation project for the Fort McDowell Indian Community, pursuant to 43 U.S.C. 422d; to the Committee on Interior and Insular Affairs.

4002. A letter from the Secretary, Department of the Interior, transmitting notice of a proposed water reclamation project for the Ute Mountain Indian Tribe, CO, pursuant to 43 U.S.C. 422d; to the Committee on Interior and Insular Affairs.

4003. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4004. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4005. A communication from the President of the United States, transmitting a draft of proposed legislation to designate certain lands in the State of Wyoming as wilderness, as for other purposes; to the Committee on Interior and Insular Affairs.

4006. A letter from the Administrator of Management and Budget (Federal Procurement Policy), transmitting a draft of proposed legislation to amend the Miller Act to increase the statutory threshold; to the Committee on the Judiciary.

4007. A letter from the Administrator, General Services Administration, transmitting a copy of a building project survey, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4008. A letter from the Secretary of Labor, transmitting the annual report describing employment and training programs for veterans during program year 1989, pursuant to 38 U.S.C. 2009(b); jointly, to the Committees on Education and Labor and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Public Works and Transportation. H.R. 1489. A bill to increase the safety to humans and the environment from the transportation by pipeline of natural gas and hazardous liquids, and for other purposes; with an amendment (Rept. 102-247, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2407. A bill entitled the "Farm Animal and Research Facilities Protection Act of 1991"; with amendments (Rept. 102-498, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5465. A bill to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance; with an amendment (Rept. 102-723). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5466. A bill to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes; with an amendment (Rept. 102-724). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 3537. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes. (Rept. 102-725). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 4026. A bill to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes (Rept. 102-726). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on House Administration. House Joint Resolution 271. Resolution authorizing the Go For Broke National Veterans Association to establish a memorial to Japanese-American veterans in the District of Columbia or its environs; with amendments (Rept. 102-727). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5643. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses (Rept. 102-728). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5646. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of not-for-profit residual market insurance companies under the alternative minimum tax and to repeal the taxable income limitation on the recognition of built-in gain of S corporations (Rept. 102-729). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5647. A bill to provide that the special estate tax valuation recapture provisions shall cease to apply after 1992 in the case of property acquired from decedents dying before January 1, 1982 (Rept. 102-730). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5652. A bill to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain on the sale of a principal residence for the period the taxpayer has substantial frozen deposits in a financial institution (Rept. 102-731). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5654. A bill to amend the Internal Revenue Code of 1986 to provide that the harbor maintenance tax shall not apply to the movement of certain cargo within contiguous United States and foreign ports, and for other purposes (Rept. 102-732). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5656. A bill to amend the Internal Revenue Code of 1986 to exempt services performed by full-time students for seasonal children's camps from Social Security taxes, and for other purposes (Rept. 102–733). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5659. A bill to permit the simultaneous reduction of interest rates on certain port authority bonds (Rept. 102–734). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5674. A bill to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes (Rept. 102–735). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5675. A bill to amend the Internal Revenue Code of 1986 to permit regulations waiving yield restrictions on tax-exempt bond arbitrage if the arbitrage rebate requirements are met (Rept. 102–736). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows

Mr. BROOKS: Committee on the Judiciary. H.R. 455. A bill for the relief of Melissa Johnson (Rept. 102–737). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 712. A bill for the relief of Patricia A. McNamara (Rept. 102–738). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2345. A bill for the relief of William A. Kubrick; with an amendment (Rept. 102–739). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2563. A bill for the relief of Richard W. Schaffert (Rept. 102–740). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3664. A bill for the relief of Irwin Rutman; with an amendment (Rept. 102–741). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARLENEE:

H.R. 5696. A bill to provide for the management of lands and recreational resources at Canyon Ferry Reservoir, MT, and for other purposes; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 840: Mr. HAYES of Illinois.

H.R. 2872: Mr. BROOMFIELD and Mr. SMITH of New Jersey.

H.R. 3138: Mr. SANDERS and Mr. HOYER.

H.R. 3920: Mr. DIXON.

H.R. 4178: Mr. JOHNSTON of Florida.

H.R. 4207: Mr. LEHMAN of California and Mr. WALSH.

H.R. 4304: Mr. MACHTLEY, and Mr. KILDEE.

H.R. 4311: Mrs. JOHNSON of Connecticut.

H.R. 4427: Mr. BORSKI and Mr. WYLIE.

H.R. 4530: Mrs. LOWEY of New York, Mr. INHOFE, Mr. SWETT, and Mr. JAMES.

H.R. 5424: Mr. WELDON.

H.R. 5570: Mr. DANNEMEYER, Mr. OLVER, Mr. GUARINI, Ms. HORN, Mr. JACOBS, Mr. KOLTER, Mr. BURTON of Indiana, and Mr. BEREUTER.

H.J. Res. 398: Mr. BROWDER, Mr. MCDERMOTT, Mr. WHITTEN, Mr. HERTEL, Mr. MRAZEK, Mr. OWENS of New York, Mrs. LOWEY of New York, Mr. ANDREWS of New Jersey, Mr. SCHEUER, Mr. DE LUGO, Mr. PURSELL, Mr. CAMP, Ms. KAPTUR, Mr. DARDEN, and Mr. LEVINE of California.

H.J. Res. 422: Mr. BLACKWELL, Mr. BRUCE, and Mr. CARDIN.

H.J. Res. 474: Mr. RAMSTAD, Mr. GEKAS, and Mrs. BENTLEY.

H.J. Res. 488: Mr. FOGLIETTA, Mr. SCHEUER, and Mr. ENGEL.

H. Con. Res. 180: Mr. JONTZ.

H. Con. Res. 282: Mr. MOODY and Mr. GREEN of New York.

H. Con. Res. 325: Mr. BUSTAMANTE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5405: Mr. JOHNSON of South Dakota.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5620

By Mrs. ROUKEMA:

—At the end of the bill insert the following new section:

SECTION . From funds appropriated to the Department of Transportation or made available in Public Law 102–143 or any other act the Secretary of Transportation shall, notwithstanding any other provision of this Act or any other act, make available not to exceed $500,000 for emergency corrective actions to be undertaken at Route 515, near Breakneck Road, in Vernon Township, New Jersey.

SENATE—*Monday, July 27, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The prayer today is the poem, "The Day's Demand," by Josiah Gilbert Holland who lived in the last century:

"God, give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor—men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumbworn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo!
Freedom weeps, wrong rules the land,
And waiting justice sleeps."

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 27, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that the leader time of the distinguished Republican leader and myself be reserved for our use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, under the previous order, there is now to be a period for morning business to extend until 2 o'clock p.m. I ask that the period for morning business be stated.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, as just stated by the Chair, there will be a period for morning business, now to extend until 2 p.m., with Senators permitted to speak therein.

At 2 p.m., the Senate will begin consideration of S. 3026, the appropriations bill for the Departments of Commerce, Justice, State, and the Judiciary. It is my hope we can complete action on that appropriations bill today and that we can then proceed to consideration of other measures inasmuch as there are a large number of legislative measures on which the Senate has yet to complete action.

This will be a very busy time. I have previously stated on several occasions, and I want to repeat again, that the Senate will have sessions 5 days of the week during this legislative period with votes possible at any time, and votes will occur today, if necessary, to complete action on the Commerce, Justice, and State appropriations bill. I have asked the managers of the bill to complete action on that as soon as possible.

I thought, Mr. President, for the information of Senators, I would identify some of the many measures which are pending and which I hope we can proceed to take up and possibly complete action on as soon as possible.

The Appropriations Committee reported out three appropriations bills last week. We begin with the first of those appropriations bills today. I anticipate that the Appropriations Committee will report out several other appropriations bills during this week. Those are our highest priority as we must complete action on all of the appropriations bills, both initial passage in the House and Senate, then a conference, and then completion of the action on the conference reports, prior to the end of the fiscal year on September 30.

In addition, Mr. President, we have the energy bill, important legislation that we were unable to obtain cloture on, although 58 Senators voted in favor of taking up that bill, 33 against on last week. We will attempt again this week to obtain cloture on the motion to proceed. I hope that will not be necessary. As I understand it, negotiations among the parties are continuing in a way that suggests the possibility of a resolution which will permit us to proceed to that bill and complete action on it and send it to conference. That is a bill which passed the Senate by a vote of 94 to 4 earlier. It passed the House by a wide margin.

Among the other measures which I would like to bring up, and if possible complete action on, to the extent that time is available during this legislative period, are the Freedom of Choice Act, the Affordable Housing Act, the Equal Remedies Act, the legislation relating to most-favored-nation status for China, the Department of Defense authorization, the Water Resources Act, and the legislation that would make Social Security an independent agency. We also have the urban aid legislation which has now passed the House and which will be marked up tomorrow in the Senate Finance Committee.

In addition, Mr. President, there are five pending judicial nominations on the calendar on which I hope we can complete action during this legislative period. It is my intention that we will

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

do so during this legislative period. They are listed at page 3 of the Executive Calendar for today.

So all in all, it will be a busy period, and Senators are placed on notice with respect to the schedule for the approximately 3 weeks of this legislative period that there will be sessions 5 days a week, unless otherwise announced, with votes every day, and possible at any time during any day unless otherwise announced.

Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, I would just underscore what the majority leader has stated. I think with reference to the energy bill, there is only one issue as this Senator understands that needs to be resolved, and I understand there are still negotiations ongoing. I think it is a very ambitious schedule that the majority leader laid out. I am not certain all that can be done between now and the time we recess for the Republican Convention in Houston, TX, but in any event we will make every effort on this side to cooperate.

I would hope that we could complete action today on the State, Commerce, Justice appropriations bill. Is there anything else planned for today when that is completed? If we finish that, would that be it?

Mr. MITCHELL. That would be it for the day, if we complete action on that bill, although I had hoped to discuss with the Republican leader and other Senators during the day today the precise schedule thereafter. I have already identified the measures which we will take up.

I believe we have available the Agriculture Department appropriations bill, and the D.C. appropriations bill. In addition, the energy bill is one which I hope we can proceed to promptly as well.

But that is a subject that I will take up in further discussions with the distinguished Republican leader.

Mr. DOLE. I think the majority leader and the committee have open some judicial nominations. There are five judicial nominations that we hope to dispose of between now and the time of the recess. I assume there is only one controversial nomination. That is the Carnes nomination. That would include that nomination.

Mr. MITCHELL. That is one of the five that are now pending.

Mr. DOLE. I thank the majority leader.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, there are two other measures which have just been brought to my attention, which I did not list because we have already passed them but which we hope we will be able to get to conference on. They are the cable television bill, and the family leave bill. I recognize there is controversy with respect to both of them. The Senate has already acted on both of them. We will undertake the process by which we can get those bills to conference.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the introduction of Senate Joint Resolution 328 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 3079 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. Mr. President, I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

TRIBUTE TO SENATOR TOM HARKIN

Mr. METZENBAUM. Mr. President, I rise today to speak about one of our colleagues whose efforts are worthy of our recognition and praise today.

I am frank to say that my colleague does not know that I am going to speak about him. He did not ask me to speak about him, and I did not ask him if he wanted me to speak about him.

But I felt that the situation was such that I wanted to come over and say a few words about him.

Too often, we tend only to speak about the accomplishments of our fellow Senators when they have announced their retirement, or, frankly, when they have met with a more untimely end.

But the Senator about whom I speak is neither retiring nor in the twilight of his public service. Indeed, I expect him to be a Member of this body, or holding some high public office, for many years to come.

This Senator is not ailing, nor is he ill. As a matter of fact, he is in robust health and is a vigorous battler for the causes he cares about.

And this week, Mr. President, this Senator, TOM HARKIN, can rightly savor the victory of one of those battles.

Because of the efforts of Senator HARKIN, our Nation strides forward today on the long journey toward equal opportunity and basic civil rights for all our citizens.

This work week welcomes the implementation of the Americans With Disabilities Act, and all Americans, but especially physically challenged ones, owe TOM HARKIN a debt of gratitude.

It is my hope, Mr. President, that Senator HARKIN's role in bringing this historic legislation to the attention of the Congress, and his eventual success in making it the law of this land, will never be forgotten.

In the newspaper accounts marking the effective date for the ADA, I have seen no mention of TOM HARKIN's efforts to make this day a reality—and that is understandable. I am not faulting the press. The focus now moves from the few who worked to pass this law, and on to the millions who will benefit from its provisions.

I also noted that ABC news last Friday named Evan Kemp, EEOC Chairman, as their "Person of the Week" in connection with the ADA. It is true that Mr. Kemp was the driving force within the administration on the ADA, and he is deserving of that recognition, and I congratulate him. His efforts were of immeasurable help in passing the bill.

Mr. President, those of us who are involved in the legislative process know well that no one person carries the load alone. Colleagues, interest groups, and concerned citizens all contribute.

But every one of us knows that often one person does indeed embody the linchpin upon which success or failure hinges.

With respect to the Americans With Disabilities Act, TOM HARKIN was that man. His contribution cannot be overestimated. The bill did not have an easy road in Congress. TOM HARKIN took a massive, complicated, and controversial bill, faced down a veto threat, and forged a delicate compromise that all sides can embrace and look to with pride.

Much attention was paid in the recent Presidential primary race, in which TOM HARKIN ably competed, of Senator HARKIN's fiery speeches and his record as a rough and tumble fighter for working people.

It is true that Senator HARKIN is a master motivator on the stump, and an effective advocate for working families in this country, but there is another incident that I believe tells you more about TOM HARKIN than those anecdotes.

I will always remember the emotional moment on this floor when the Americans With Disabilities Act was put to a final vote, and Senator HARKIN delivered his final remarks in sign language, in order to speak directly with hearing impaired Americans, including his own brother. He combined his speech with the signing so that they might hear the speech in their own special way.

For me, that moment speaks volumes about the quality of his character and the level of his commitment. When TOM HARKIN makes his stand and speaks his mind, it is all coming from the heart.

I salute him today for this extraordinary accomplishment, and hope that his work on behalf of the disabled will be remembered for generations to come.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

IRAQ

Mr. LIEBERMAN. Mr. President, it appears this morning that Iraq has been spared for the time being from renewed allied military action. Saddam Hussein has pulled back from his refusal to allow U.N. inspectors into the Agriculture Ministry, where documents relating to his development of weapons of mass destruction were believed to be held.

But, Mr. President, has Saddam really "blinked" in this showdown? Has he really "backed down"? Or has he, in fact, won this skirmish?

U.N. inspectors are going into the Ministry, but Americans who were part of that international inspection team will not be allowed into the Ministry. Why was it necessary for the United States, having risked 500,000 of our own and won the war, to grant Saddam this favor? Why do we owe him anything at all?

And is it actually likely that the inspectors who are now going into that building are going to find anything of value after enough time has passed for the Iraqis to remove any incriminating evidence that might have been in that Agriculture Ministry?

Mr. President, it is a little bit like a drug dealer stopping a police SWAT team at the door of his House and telling them that they have to go get another search warrant; that he does not like the details of the one they have. He sends them away, and a couple days later they come back and he allows them inside. But, surprise of surprises, there are no drugs there. Of course, there are no drugs there. He has had the time to remove them. And that is exactly what I fear Saddam Hussein has pulled off in Baghdad.

My own concern, Mr. President, is that our so-called victory in this latest skirmish with Saddam Hussein is a very hollow victory at that.

The administration has pointed out—rightly—that Saddam's failure to allow inspectors into the Agriculture Ministry is but one of many violations of U.N. resolutions. The fact is that many of those other violations have been occurring for a long period of time.

In March of this year, on the anniversary of the cease-fire in the gulf war, I spoke in this Chamber and listed Saddam's many violations, arguing for stronger international action then to force his compliance, and, in fact, to force an end to his reign of terror in Iraq.

Unfortunately, those actions have not been taken. And so today we face an increasingly strengthened and increasingly defiant Hussein. Does anyone doubt that we will continue to be confronted by his arrogant disregard for international law and basic human rights as long as he stays in power?

Look at the record here. He has refused to comply with that section of the cease-fire agreement that he signed that requires him to begin negotiating the Iraqi border with Kuwait. He has refused to begin negotiating on the question of returning Kuwait prisoners of war. He continues to persecute Shiites in the south and Kurds in the north of his country and he has repeatedly thwarted the humanitarian efforts of the United Nations within Iraq.

I said in March, and I repeat today, that we should give sanctions more bite by establishing U.N. inspections of traffic between Jordan and Iraq which from all the reports looks like rush hour on one of our major American highways. We should station U.N. human rights inspectors throughout Iraq, especially in Kurdish and Shiite territories. We should expand American support for Iraqi opponents of Saddam at both the official and covert levels and help any indigenous effort that exists to topple Saddam Hussein. We should give Saddam a new deadline for compliance with all U.N. resolutions. Every day that goes by is another day that he stands in violation of those resolutions. And without a deadline he has a green light to continue his international lawlessness.

We missed important opportunities to topple Saddam Hussein in those important days after the cease-fire in the gulf war. We failed to support the Kurds and the Shiites, as they heroically began to rise up against Saddam—at our urging—after Desert Storm subsided. We failed to destroy more of his Army in the immediate aftermath of the fighting. And we are living with the consequences of those failures now.

But let us learn from those failures and take steps now to force Saddam Hussein into compliance with U.N. resolutions and, hopefully, to force him out of power at the same time.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

PROGRESS ON THE NORTH AMERICAN FREE TRADE AGREEMENT

Mr. BAUCUS. Mr. President, I rise today to discuss the recent negotiations on the North American Free-Trade Agreement, otherwise known as NAFTA.

The negotiating session this weekend was originally billed as an attempt to warp up the NAFTA negotiations. It is now clear that the negotiations fell short of that goal. But statements by Bush and Salinas administration officials indicate that the NAFTA negotiations are likely to be concluded within the next several weeks.

Mr. President, I have serious qualms about the apparent rush to conclude the agreement. I have long been a supporter of free trade. I voted for passage of both the United States-Canada Free-Trade Agreement and the United States-Israel Free-Trade Agreement. I argued strenuously for passage of fast track negotiating authority for the North American Free-Trade Agreement in the spring of 1991.

I also support the concept of North American free trade area. At a time when trading blocs are springing up around the world, the United States is well advised to seek closer trade ties with its neighbors.

Bush administration officials have insisted from the beginning that the pace and timing of the NAFTA negotiations should be dictated by substance. But it seems that the current rush is dictated more by American electoral politics than by the substance of the negotiations.

In many areas, the deal that is taking shape does not seem to be a good deal for the United States.

THE ENVIRONMENT

I am most concerned with issues involving the environment.

The Bush administration is—at best—recently convinced of the need to address environmental issues in the NAFTA.

In fairness to our negotiators—particularly Ambassador Hills—I must note that they have come a long way. When the congressional debate on fast track began in 1991, the Bush administration expressed concern about including any environmental issues in the NAFTA. By the time the congressional vote occurred, the administration had proposed addressing some issues in the agreement and others on a parallel track. Recently, the list of issues to be addressed in the agreement has increased.

But I am still not convinced that adequate steps are being taken to protect the environment.

In my mind, the NAFTA must meet three very important environmental objectives.

First, it must create a level environmental playing field. All parties should agree to enforce adequate environmental safeguards to ensure that the weak environmental protection is not used to attract investment or create a trade advantage.

Second, funds must be devoted by all parties to counter the environmental impacts of free trade. In particular, this will require a commitment of funds to clean up the border area.

Third, we must ensure that environmental laws and regulations are not challenged as trade barriers under the NAFTA.

Although I have not yet seen the texts negotiated over the weekend, I do not believe that any of these issues have been adequately addressed in the NAFTA. The administration seems to prefer to shuffle most of these issues off into side negotiations that yield only unenforceable agreements not directly linked to the NAFTA. This is simply unacceptable. The NAFTA must address environmental concerns directly.

WORKER ADJUSTMENT

The administration has only recently begun consultations with Congress on developing a worker adjustment program in conjunction with the NAFTA. Until the specifics of such a program are spelled out with funding commitments, it is impossible to judge the overall impact of the NAFTA on the U.S. economy.

OTHER ISSUES

I am also concerned that we are not getting the best possible trade deal in the NAFTA. In particular, I believe that we have not yet received adequate access for American forest product exports.

I am also not convinced that we have yet achieved the best possible deal for American auto workers. Mexico must agree to a quick phase out of existing barriers and provisions to ensure that Mexico does not become an export platform for Japanese autos.

CONCLUSION

There is no compelling reason to finish the NAFTA in the next few days.

This Congress will not have the opportunity to vote on the agreement this year, therefore there is no substantively valid reason to complete the negotiations this year.

If the agreement negotiated is not adequate, I will have no qualms about calling for renegotiation of the tentative next.

And if Governor Clinton is elected President—we do not know that he will be, but there is a chance he will be—I would likely advise him to renegotiate the NAFTA to ensure that concerns about the environment and worker adjustment were adequately addressed. The new Clinton administration would certainly have the opportunity to put its mark on an agreement it would be forced to defend before the Congress. It should not be locked into a politically motivated deal negotiated potentially and probably by the present administration to beat the election deadline.

I am interested in negotiating the best NAFTA possible. Under the circumstances, that just might mean stretching negotiations beyond the election.

COSPONSORSHIP OF THE ANTISTALKING STATUTE

Mr. THURMOND. Mr. President, I rise today to announce that I have joined Senator COHEN as a cosponsor of S. 2922, the Antistalking Legislation Act of 1992. This important legislation will come to the defense of millions of Americans who may be victimized by stalkers. Statistics from the National Women's Abuse Center estimate 4 million men kill, violently attack, or abuse women they live with or date. According to some studies of large metropolitan cities reported by the Seattle Times, 90 percent of all women murdered by their partners have notified police at least once and over half of these victims had called five times or more. The largely ineffective restraining orders, lack of effective laws, and increased public awareness of criminal acts by stalkers have given rise to the need for this important legislation.

The National Institute of Justice will be assigned the task of developing a model statute aimed at fighting the growing problem of stalkers. This statute will provide States with a prototype for better written antistalking laws. The model statute will assist in making State laws more enforceable and effective. States who have no established antistalking laws would benefit most from the NIJ's efforts. This bill does not require the allocation of additional funds to the National Institute for Justice. The bill does require the Attorney General to report to Congress within 1 year if there is any needed Government support. I would like to note that this bill does not federalize stalking. Rather, it recognizes that there is a problem and directs the appropriate Federal agencies to work with States in enhancing their efforts. All too often, the Congress has been too quick to federalize matters which have been traditionally left to States. This important bill recognizes that, as with other crimes, State and local officials are in the best position to fight stalking. I commend Senator COHEN for his leadership in this area and for his respect for federalism.

For these reasons, I am pleased to cosponsor this measure. I urge my colleagues to help curtail unnecessary harassment and victimization of millions of American citizens by favorably considering this bill.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,988,415,449,632.90, as of the close of business on Thursday, July 23, 1992.

On a per capita basis, every man, woman, and child owes $15,527.90—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

FETAL TISSUE RESEARCH

Mr. WELLSTONE. Mr. President, I am very concerned about an article in this morning's New York Times, by Philip J. Hilts, headed "Fetal Tissue Bank Not Viable Option, Agency Memo Says." I am concerned because of the evidence this article contains that the administration is playing politics with science on the subject of fetal tissue transplants. And I am concerned because the science we are talking about here has such tremendous potential to save lives.

I have spoken on this floor before in support of lifting the ban on fetal tissue research. Both of my parents had Parkinson's disease, and that is why I have been in the middle of this debate from the very time that it came before the Labor and Human Resources Committee. To people all over our country, whether they or their families are suffering from diabetes, or Alzheimer's, or Parkinson's disease, there is a real impact when they hear about the potential of some of the work that is being done with fetal tissue to find a cure.

It is so important an issue of human life, Mr. President. There have been two panels, at least, investigating the issue, one under President Reagan, and one under President Bush. Those panels were comprised of both pro-life and pro-choice members. Those panels overwhelmingly approved fetal tissue transplant research. Both those panels were very conclusive in determining that there is a clear separation between allowing this important research to go forward, and any decision by a woman to have an abortion. They are just not the same issue at all.

But President Bush refused to let the NIH reauthorization bill, which would have lifted the ban on this research, go forward. Instead, he proposed that tissue be collected from ectopic pregnancies and miscarriages from tissue banks at six hospitals around the country, relying on estimates from the NIH itself that this proposal could generate up to 2,000 fetuses a year. Scientists had told us when we first considered the President's proposal that this was far short of what they needed, and far short of what they would have if there were access to tissue from the 1.5 million legal induced abortions performed each year.

Now we learn from the New York Times article that scientists at the NIH itself, believed and still believe, that the likely number of successes with President Bush's plan will be not 2,000, but closer to 24. Not 2,000 tissue samples, but 24.

The article goes on to document the truly far-fetched scenarios these scientists were pressured to postulate to come up with that unrealistically high number. And NIH's Associate Director for Science Policy is quoted in this morning's New York Times as having told higher officials at the Department of Health and Human Services that "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality * * *."

Mr. President, it is very sad to learn that we cannot rely on the facts this administration would present to us in Congress. The NIH is the world's preeminent medical research institution. For it to be used, or I should say misused, in such callous fashion is an insult to the many dedicated men and women who have unselfishly dedicated their lives to conducting outstanding and honorable medical research. I hope that Secretary Sullivan will look into this matter and take appropriate steps to assure the Congress that a similar situation will never recur.

Mr. President, I ask unanimous consent that the article from this morning's New York Times that I have described be included at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 27, 1992]

FETAL-TISSUE BANK NOT VIABLE OPTION, AGENCY MEMO SAYS

(By Philip J. Hilts)

WASHINGTON, July 25.—In May, when the Bush Administration announced a plan to collect fetal tissue for medical research into Alzheimer's and Parkinson's diseases and other ailments, officials stated that they could supply all that would be needed without using tissue from induced abortions.

But newly obtained memorandums from officials at the National Institutes of Health show that the Administration greatly exaggerated the amount of fetal tissue that its storage bank could obtain from miscarriages and from ectopic pregnancies, in which the fertilized egg develops outside the uterus.

Since 1988 the Administrations of Ronald Reagan and President Bush have barred Federal financing of research using fetal tissue, on the ground that it could potentially encourage abortions.

ROUNDED TO UPPER LIMIT

When the tissue-bank plan was put forth in May, in the heat of a political battle over abortion issues, Dr. James O. Mason, head of the Public Health Service, said that a storage bank could initially collect usable tissue from 1,500 fetuses a year and that eventually the figure would rise to 2,000.

A spokeswoman for the Department of Health and Human Services said this week that medical experts remained confident that the tissue bank would fully meet researchers' needs.

But a top N.I.H. official who spoke on condition of anonymity said that the estimates of how much tissue could be collected had been misrepresented by senior H.H.S. officials.

"The numbers we used were rounded upward, and upper-limit estimates were always used because we were under a great deal of pressure to use the absolute outer-limits numbers," he said. "What we came up with—1,500 or 2,000 fetuses could be harvested—is literally the absolute maximum if you capture every single specimen throughout the entire country in every circumstance with a SWAT team of highly trained professionals in every bedroom and every hospital in the United States."

"No one but the ardent pro-lifers believes those numbers," he said.

But the Administration is going ahead with plans to set up fetal tissue banks at six hospitals. "We really intend to make a good-faith effort to determine if such a bank is at all feasible," the N.I.H. official said. "We can gain a lot of knowledge in the process, and if it actually succeeds somehow, so much the better."

Experiments over the last decade indicate that transplanting of fetal organs or cells could help patients with intractable diseases like Parkinson's or Alzheimer's. Transplant recipients can tolerate fetal cells better than adult cells, and preliminary research found that cells from healthy fetuses, usually 7 to 16 weeks, can take over the functions of diseased cells.

When Congress voted earlier this year to lift the ban, President Bush vetoed the measure. The Administration's plan was offered as a way of meeting the needs of medical researchers without compromising the President's long-standing opposition to abortion and abortion rights. Critics derided it as a maneuver to find votes to uphold the veto. Last month, the House fell 14 votes short of the two-thirds majority required to override.

The President's Democratic challenger, Gov. Bill Clinton of Arkansas, has said he favors lifting the ban.

OFFICIALS' PRIVATE MISGIVINGS

The question in the fierce debate on Capitol Hill became this: How much usable, uncontaminated fetal tissue could be harvested if dedicated tissue banks were set up by the Government?

Administration officials said there would eventually be tissue from 2,000 fetuses available for transplant each year, more than enough to meet the need. But privately, N.I.H. officials expressed misgiving about the estimates at the time.

In a memorandum written in March, Dr. Jay Moskowitz, the associate director for science policy and legislation of the N.I.H., told higher officials of the Department of Health and Human Services: "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality because they a) may represent inherently abnormal tissue b) have been subjected to diminished blood supply c) exist in a poor invivo environment d) may have been retained in the body for five to eight weeks prior to expulsion. The state of disintegration of these tissues is another factor affecting viability."

Dr. Moskowitz added: "In the future, ectopic pregnancies as a potential source of fetal tissue will be further diminished because invasive surgical treatments are being replaced by pharmacological approaches."

HUGE SHORTAGES PREDICTED

Data from the medical centers, the memo continued, indicated that the amount of tissue from spontaneous abortions, or miscarriages, "would not be sufficient."

Obtaining an adequate supply of tissue from ectopic pregnancies, as previously indicated, is more problematic," the memorandum stated.

Taking into account the doubts expressed by N.I.H. officials, the staff of the House Subcommittee on Human Resources and Intergovernmental Relations estimated the number of fetuses that could be collected at 24 for the entire nation in a year. A separate estimate of about 1.4 fetuses per hospital per year, or about 8 if the bank starts at the six hospitals, was made by the head of a fetal transplant group at Yale University, Dr. D. Eugene Redmond, who has spoken against the ban.

These numbers are far short of what might be necessary, Dr. Redmond said. He estimates that if the ban is lifted, at least a half a dozen scientific teams will want to carry out 20 fetal tissue transplants each in the first year and more as research progresses. Because of the varying quality of the tissue, each transplant can require dozens of fetal samples, he said. Even samples from 2,000 fetuses a year would not meet the need.

In fact, 2,000 samples could be obtained through a tissue bank only if these assumptions prove accurate:

Every hospital in the United States will participate, with each creating four teams of surgeons and specialists to collect the material on an emergency basis around the clock, 365 days a year, according to N.I.H. memos and interviews with agency officials.

All women admitted to the hospital for a miscarriage will actually have them in the hospital. In fact, many abort at home and go to the hospital afterward for treatment of bleeding and infection, memos from Dr. Moskowitz say.

Fifty-five percent of the fetuses will be free of infection. But because miscarriages and ectopic pregnancies are unexpected emergencies, it is unlikely that that many will be uninfected, Dr. Moskowitz's memos say. Other estimates say 60 to 75 percent will be infected.

The Administration will be willing to spend hundreds of millions of dollars a year to maintain the system. The Administration estimated that it would cost $3 million in the first year and $24 million in the first five years, but this is only for feasibility studies. To make the bank work nationally, each hospital would probably have to spend $500,000 or more in salaries for the emergency collection teams alone. For the 6,600 hospitals in the United States, that cost alone would be $330 million per year, N.I.H. officials said.

All women who are asked will be willing to donate the fetal tissue. Currently, 20 percent refuse to donate tissue for transplants for privately financed research at Yale University, doctors say. In addition, the women would have to agree to be tested for hepatitis, H.I.V. and other diseases. Another 20 to 30 percent are likely to decline on those grounds, doctors say.

Even if these assumptions were correct, quality control could be assured only if the tissue bank expended as many of its fetuses in testing as it sent to researchers, N.I.H. officials said.

Researchers would have an ample supply if they were to use fetuses from induced abortions: of the 1.5 million abortions a year, roughly half would provide usable cells. Though such fetuses are being used in privately financed experiments, many scientists are unable or unwilling to proceed without Federal money.

"It is profoundly disturbing that the N.I.H. Revitalization Amendments were vetoed on the basis of smoke and mirrors masquerading as hope for victims of Parkinson's disease, Alzheimer's, juvenile diabetes and other devastating illnesses," said Representative Weiss, chairman of the House Subcommittee on Human Resources and Intergovernmental Relations, who has investigated the Administration's statements.

Alixe Glen, a spokeswoman for Health and Human Services, said "Our commitment to establish a fetal tissue bank is totally supported by medical experts who confirm that this bank would provide sufficient tissue to meet research needs."

She added that the Federal Government was exploring areas in addition to current, privately financed fetal tissue research. "We are doing a lot of other promising research in Parkinson's, Alzheimer's and diabetes, but opponents have tried to frame the debate as though, without research from induced-abortion fetuses, cures for these diseases will never be realized," she said. "Not true."

"One thing lost during this debate," Ms. Glen said, "is the extension of appropriations and budget authority for N.I.H. is being held up with these political shenanigans."

Paradoxically, the Administration's tissue-bank proposal may be turned into a vehicle to overturn the fetal-tissue ban. Representative Henry A. Waxman, Democrat of California, chairman of the House Subcommittee on Health and the Environment, has introduced an amendment to the N.I.H. reauthorization bill that is expected to come up for a vote in the House by the end of August.

It would continue the ban on Federal financing of fetal-tissue research and proceed with the tissue bank, but if the bank did not produce all the tissue needed for research within one year, scientists would be permitted to use tissue from induced abortions. Scientists would be required, however, to go to the tissue bank first and to use all the tissue obtainable there before going to induced abortions.

Ms. Glen said: "Mr. Waxman is trying to circumvent our good-faith commitment to the tissue bank. His one-year deadline has absolutely no scientific basis whatsoever. This measure does not represent a compromise but an attempt to promote Federal funding for abortion research."

LINKS BETWEEN CONGRESS AND THE OFFICE OF SECRETARY OF THE NAVY

Mr. BYRD. Mr. President, a recent issue of Roll Call carried a comprehensive letter from Dr. R. Krasner concerning the ongoing relationships that have existed between the Senate and House of Representatives and the Office of Secretary of the Navy. I commend Dr. Krasner for taking the time to compose this thorough account of those who have served both in Congress and in the Office of Secretary of the Navy. Our colleagues will note that the letter particularly calls attention to the prior service of both Senator JOHN WARNER from Virginia and Senator JOHN CHAFEE from Rhode Island in recent years as Secretaries of the Navy.

In the interest of furthering our sense of history concerning this repeated feature of congressional history, I ask unanimous consent that Dr. Krasner's letter, "Navy Secretaries," as published in Roll Call, be included in the RECORD.

[From the Roll Call, July 16, 1992]

NAVY SECRETARIES

To the Editor:

In the Q&A section of your July 9 issue, your reader asked about the last Member of Congress to serve as Secretary of the Navy. You noted that Sen. John Warner (R–Va) was a Secretary of the Navy prior to moving to the Senate. There is a long tradition of moving both ways.

Thomas Jefferson reputedly preferred Sen. Samuel Smith of Maryland for the position of the nation's second Secretary of the Navy, but subsequently nominated the Senator's brother when the former declined the post, although Sen. Smith did serve temporarily until his brother could assume the responsibility.

William Jones, our nation's fourth Secretary of the Navy, who previously had served as a Republican Member of Congress, had the distinction of serving simultaneously as Secretary of the Navy and Secretary of the Treasury from May 1813 to February 1814. He reportedly cited exhaustion as a reason for his resignation.

His successor, Benjamin Crowninshield from Massachusetts, represented that state in the House after his own resignation as Secretary of the Navy. Samuel Lewis Southard from New Jersey, the son of a Congressman, served in the Senate (1821–1823) while his father was in the House and then became Secretary of the Navy in 1823.

He was later elected governor of New Jersey but resigned to return to the Senate and was eventually elected as President Pro Tem in 1841. When Tyler became president he became acting vice president of the United States.

John Branch, who served as Secretary of the Navy from March 1829 until May 1831, served as both governor and Senator from North Carolina. He was succeeded by Levi Woodbury, who is best remembered in Navy circles as the man responsible for abolishing the daily grog ration.

In 1834, Woodbury was appointed Secretary of the Treasury by President Jackson after the Senate refused to confirm Roger B. Taney. Ironically, Woodbury was appointed to the Supreme Court in 1845 and Taney was appointed Chief Justice in 1836.

Mahlon Dickerson was appointed Secretary of the Navy in 1834 at age 64 after an already long public career as governor of New Jersey and US Senator. He was succeeded by James Kirke Paulding, who may be best known for having been recommended for the position by the author Washington Irving after Irving declined it. He was followed by George E. Badger, who subsequently went on to represent North Carolina in the Senate.

The most tragic figure to go from the halls of Congress to the position of Secretary of the Navy had to be Thomas Walker Gilmer, who served only from Feb. 19 to Feb. 28, 1844.

President Tyler nominated Gilmer of Virginia to the post, and the candidate was confirmed the next day. Gilmer, Secretary of State Abel Upshur, and David Gardiner (the father of the President's fiancee) were killed, and Sen. Thomas Hart Benton and members of the Cabinet, Congress and the diplomatic corps were wounded when a demonstration of the new "Peacemaker" gun went awry during a celebration cruise to Mount Vernon on the Navy sloop Princeton.

Several subsequent Navy Secretaries had Congressional service, including John Young Mason, William Ballard Preston, and Claude Augustus Swanson of Virginia, and John Pendleton Kennedy of Maryland.

Former Secretary of the Navy William Alexander Graham was elected to the Senate from North Carolina after the Civil War, but was not allowed to take his seat by the Radical Republicans in control of Washington.

James Cochrane Dobbin, a former House Member from North Carolina, was Navy Secretary when an Assistant Surgeon named Squibb at the Brooklyn Navy Yard Hospital asked that his pay be increased because of his responsibilities and achievements for the Navy.

Although he had the strong support of his superiors, Squibb's request was denied, and he resigned to form E.R. Squibb and Sons. One of his descendants was former Sen. (now Gov.) Lowell Weicker (R-Conn), and a picture of Squibb used to hang in the Senator's Capitol hideaway.

Isaac Toucey represented Connecticut in the House before being elected governor of the state in 1846. He was defeated for reelection but appointed Attorney General by President Polk in 1848. He was elected to the

Senate in 1852, where he served until his appointment to the Navy post.

Subsequent Navy Secretary George M. Robeson represented New Jersey in Congress; Richard W. Thompson, Indiana; William E. Chandler, New Hampshire; Hilary A. Herbert, Alabama; John Davis Long, Massachusetts; Truman H. Newberry and Edwin Denby, Michigan.

William H. Moody had a fascinating career. As a district attorney he served as the prosecuting attorney in the 1893 Lizzie Borden trial and then was elected to the 54th Congress. He was subsequently chosen by Theodore Roosevelt as his Secretary of the Navy. After his tenure in that position, he was appointed Attorney General and in 1906 nominated to the Supreme Court.

Since the middle of this century, Navy Secretaries have tended to come from private industry or through the ranks of the executive branch. But, even in recent times, as noted in your response to the question, Secretaries of the Navy have gone on to become Members of Congress, most notably two sitting Senators, John Chafee (R-RI) and Warner.

R. KRASNER

WASHINGTON, DC.

Mr. HOLLINGS. Mr. President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The Senate will now proceed to the consideration of S. 3026, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3026) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I want to specifically acknowledge the tremendous contribution over the past 12 years the distinguished Senator from New Hampshire has made to this particular process. He came as a former attorney general. He had a tremendous interest in law enforcement. He is brilliant with respect to our defense needs, security needs of our country with respect to the Commerce and State Departments foreign policy provisions.

He has been most supportive and he always has been on the side of economy in Government. We have all known how over the years we have worked on Gramm-Rudman-Hollings and deficit reduction. But, that is not the only area. We worked on this particular bill—the Commerce, Justice, and State—throughout the last 12 years. I want to, once again, thank him for his dedication and his commitment, his brilliance and untiring work to provide for the needs of Government within the confines of fiscal restraint.

I will elaborate further with respect to the Senator from New Hampshire again at an appropriate time.

Overall, Mr. President, the funding is at $22.9 billion in discretionary budget authority, with total appropriations of $16 billion allocated caps for domestic, international, and defense programs.

Mr. President, in highlighting it, let me state that as we launched upon this particular assignment, we realized in the very first instance we were $360 million below last year's budget in current policy. In other words, you take this year's budget, extend it to 1993 with inflation, and we have $360 million in outlays we have to immediately start cutting.

If we look at the President's request, we are below the President's request to the tune of some $900 million in outlays and then it might be well noted in the record at this particular point, because I understand there are some amendments, colleagues should get a feel for the dilemma in which the staff and Senators on the subcommittee and full Appropriations Committee find themselves. We literally had over 635 individual senatorial requests submitted to the tune of in excess of $8.5 billion in add-ons.

Now, I do not know where they got the idea we had any such appropriating in mind. They should remember that when they introduce their particular amendments.

We brought this bill under our 602(b) allocation by various cuts. We cut $62.6 million from the polar-next satellite program. We cut $72 million from overtime payment for agents in the FBI and DEA for exercising 3 hours a week. We cut $31 million from the State Department for their foreign national employee pay raises and lavish entertainment expenses, and on down the list.

Mr. President, we gave priorities to five areas: the Justice Department's law enforcement programs, continuing efforts to enhance the Nation's premier research and development organization, the National Institute of Standards and Technology, maintaining and modernizing the National Weather Service, overseas trade and competitiveness programs, and of course the defense economic conversion programs that have been submitted on both sides of the aisle.

It should be noted that the Justice Department's budget in the past 5 years has been veritably doubled. Congress and the executive branch have put a particular emphasis on law enforcement, and we have an increase of some $757.9 million or 8.7 percent in the Justice Department.

With respect to the Bureau of Prisons, we increased there some $409.3 million for new construction projects, new prisons. We are building more prisons than we are schools in this country, sad to say.

We put in an increase of $34 million for the Drug Enforcement Administration and also an additional $31 million to build a new DEA and FBI training center at Quantico, VA. We increased the Department of Justice for the hiring of some 261 additional U.S. attorneys for the prosecution of violent and white-collar criminals. There was an increase there of $87.1 million. There was an increase of $13.4 million for the prosecution of health fraud, an increase of $18.3 million for the prosecution of financial institution fraud, and of course we allocated $173.7 million for the payment of claims under the newly created Radiation Exposure Compensation Act.

There was also a $697.7 million appropriation for the grant programs to assist State and local jurisdictions. That was $79.2 million above the President's request, and we rejected the President's elimination of the juvenile justice and delinquency prevention grants to the States.

In commerce, we had an increase of $350 million to the National Institutes of Standards and Technology. That is $200 million in the main there for a new construction account to be rebuilding the National Institutes of Standards and Technology equipment and facilities at Gaithersburg and Boulder. They have been allowed to decline over the years and not given the real attention they deserve. And as we move into technological competitiveness, we have to refurbish these particular facilities.

There is $186 million provided in the National Institute of Standards and Technology advanced technology and manufacturing technology center programs, and $109 million of this is provided for the economic conversion initiative.

With respect to the National Weather Service, there is an increase of $54.6 million over this year's level to maintain the weather stations across the country at current operations, and there is the amount of $177 million—these things cost money—for the Nexrad tornado-detecting Doppler radar and the other technologies used in that weather service.

That is a big hunk of that Commerce budget, but we have to move forward with these advancements in technology with respect to the weather service.

There is an increase of $5.1 million for the International Trade Administration's Import Administration, and the administration finally recognized in the minivan dumping case a dumping violation, and they have just been rejecting all the petitions out of hand. Perhaps we can move now to create a competitive trade policy with the enforcement of our dumping laws that are already on the statute books.

The steel industry and others are coming in now with their particular petitions, and there is a logjam that must be cleared, so we appropriated the $5.1 million additional there.

There is $35 million for the NOAA fleet modernization including $22 million to convert a Navy oceanographic ship. There is a $7 million increase for the Foreign Commercial Service to open up the new post in the former Soviet Union.

In the Judiciary, there was an increase of $108 million for the Supreme Court and the article 3 judges.

With respect to the Department of State, there is actually $30.1 million less in the overall budget and we limited domestic representation expenses. We provide $140 million, however, for the building of the Moscow Embassy in pursuance of the administration's agreement with Boris Yeltsin on his recent visit here to Washington, specifically reaffirming what has been in the Freedom Support Act bill, namely, that the Russians shall have access to the embassy at Mount Alto. The State Department wanted to make sure that particular language was in this particular bill.

There is a new account of $25 million to establish the diplomatic post in the new republic of the former Soviet Union: $20 million for climate and global change research; as a result of the President's visit down to the United Nations Conference in Rio, a $30 million increase in the USIA Fulbright Exchange Program. We had very excellent requests from several of the colleagues for several student exchange programs.

In large measure, the subcommittee that is working directly in this particular field understands that we have—not been negligent but we have not been funding the Fulbright Program as high as it should be, the flagship exchange program. So we tried to bring that back up to where it should be, not quite where we would like it, but rather than a proliferation of every Senator having his own exchange program, let us go and support the Fulbright Program which is, tried and true, proven, and finance it the best we can.

With respect to the U.N. peacekeeping, there is an increase of $83.1 million for a total of $460.3 million for the matter of U.N. peacekeeping.

There is a provision in here of $229 million under our 050 allocation, for defense economic conversion; $80 million of it is put in for EDA grants and the defense conversion account, but only upon approval of the Secretary of Defense certification on a case-by-case basis.

There is $80 million in the EDA grants, $40 million for subsidized, $735 million in SBA loan guarantees, and there are other matters in here that need to be highlighted.

OVERALL FUNDING AND CONSTRAINTS

Mr. President, this appropriations bill provides for $22.9 billion in discretionary budget authority. The new outlays in fiscal year 1993 associated with these appropriations total $16 billion. This bill is at our 602(b) allocation caps for domestic, international, and defense programs.

This has been a tough year, and it has been quite difficult to fashion a bill within the tight domestic 602(b) allocation. It has given new meaning to the phrase "just say no." The allocation available for this bill for new domestic program outlays is $11.2 billion. That is over $900 million in outlays below the President's request and $360 million below the CBO estimate of the cost just to maintain current programs.

There are a lot of reductions in this bill, for those who stand on the floor and say they want to cut Federal spending—then here is a bill that does just that. A lot of domestic agencies will receive funding below the currently enacted level. There is going to have to be a lot of belt tightening as agencies absorb increases for must-pay bills such as pay raises and GSA rent increases. But, it is time for a lot of folks downtown and up here on the Hill to realize that we cannot continue business as usual.

The bill proposes to terminate or significantly reduce several programs. And, the bill does not include any small business or economic development administration earmarks for university research or special grant projects.

We have had our committee staff ferret into these agency budgets and make old-fashioned budget cuts. We cut $62.6 million by stopping the NOAA Polar-Next Satellite Program. In the process we have given the American people a program that is more reliable and saved them millions. We have cut $72 million from the FBI and DEA for overtime pay which they were providing to agents for exercising 3 hours a week. We cut $31 million from the State Department for foreign national employee pay raises and for their lavish entertainment expenses.

In putting together the bill, the committee rejected taking an everyone gets their fair share approach. That would have been the easy way out. But, it would have been mindless and it would have devastated a lot of essential government programs. Instead, we have done our job and made tough choices.

The committee assigned priority to five areas: First, the Justice Department's law enforcement programs; second, continuing efforts to enhance the Nation's premier research and development organization—the National Institute of Standards and Technology; third, maintaining and modernizing the National Weather Service in support of its mission to protect the life and safety of Americans; fourth, overseas trade and competitiveness programs; and fifth, defense economic conversion.

JUSTICE

I have been one of the Justice Department's chief proponents since coming to the Senate 25 years ago * * * and I am not about to stop being a proponent for justice now. Since I took over this bill in 1987, the Justice Department's budget has doubled. And even in light of this year's budget constraints, this bill makes the necessary tradeoffs to provide the Justice Department with a $757.9 million increase in discretionary appropriations or 8.7 percent above this year.

It is just fine for the Senate to worry about peacekeeping in Cambodia and Yugoslavia. But it is about time to start worrying about peacekeeping here at home in America. People downtown need to start understanding that when I say I am concerned about the crime situation in Columbia, I do not mean a country in South America.

OUR RECOMMENDATIONS INCLUDE THE FOLLOWING HIGHLIGHTS

JUSTICE

The sum of $2.071 billion for the FBI, an increase of $145.3 million or 7 percent over this year's level. We have fully funded their program increases for 210 more agents and anticrime initiatives—such as addressing the Asian organized crime threat.

The sum of $2.166 billion for the Bureau of Prisons, an increase of $105.3 million over this year's level. We have included $409.3 million for new construction projects—$70 million more than the President's budget request.

The sum of $750.7 million, an increase of $34 million to fully fund the Drug Enforcement Administration. And, an additional $31.1 million has been provided to build a new DEA and FBI training center at Quantico, VA.

The sum of $807.8 million, an increase of $87.1 million, for the U.S. attorneys. This will enable the hiring of 261 additional assistant U.S. attorneys to investigate and prosecute violent and white collar criminals.

The sum of $57.3 million, an increase of $13.4 million to fully fund an initiative to investigate and prosecute health care fraud.

The sum of $278.5 million, A $18.3 million increase, to investigate and prosecute financial institution fraud.

The sum of $173.7 million to fully support payment of claims under the newly created Radiation Exposure Compensation Act.

The sum of $697.7 million for Justice grant programs to assist State and local jurisdictions in the war on crime—the recommendation is $79.2 million above the President's budget request, and rejects the proposed elimination of juvenile justice and delinquency prevention grants to States.

COMMERCE

The sum of $597 million for the National Institute of Standards and Technology, an increase of $350 million. Included is $200 million for a new construction account to begin rebuilding NIST's equipment and facilities and ensuring that the agency can continue to conduct cutting edge scientific advances.

Included is $186 million for NIST Advanced Technology and Manufacturing Technology Center programs; $109 million is provided under the committee's economic conversion initiative.

The sum of $401.8 million for the operations and staffing of the National Weather Service, which is $54.6 million more than this year's level. This will enable the National Weather Service to maintain stations across the country at current operations and staffing.

The sum of $177 million is provided for acquisition of NEXRAD tornado detecting Doppler radar, facilities and other technologies needed to modernize the National Weather Service so it can continue to issue warnings to protect Americans from severe weather.

The sum of $27.9 million is provided for the Import Administration, an increase of $5.1 million, to ensure the agency reduces its backlog of antidumping and countervailing duty investigations—and to put some teeth into our trade laws.

A cut of $62.6 million from the budget for the ill-conceived Polar-NEXT Satellite Program.

The sum of $37 million, an increase of $35 million above the budget to maintain the NOAA Fleet Modernization Program—an initiative this subcommittee started last year. $22 million is included to convert a Navy oceanographic ship for use by NOAA.

An increase of $7 million is provided for the United States and Foreign Commercial Service to open new posts in the former Soviet Union.

THE JUDICIARY

The sum of $2.102 billion is recommended for the judiciary, an increase of $108 million or 4.6 percent above this year's level. We have fully funded the requested increases for the Supreme Court, and increases for the salaries of article III judges.

STATE AND INTERNATIONAL PROGRAMS

We have recommended $2.102 billion for State Department operations, a cut of $30.1 million. And we have limited domestic representation expenses to $1 million. They were having a great time at Foggy Bottom having Ridgewell-catered parties.

The recommendation provides $140 million to support the budget request to complete the new secure building at the Moscow Embassy. The administration has agreed to let the Russians occupy their Embassy at Mount Alto—but we are still stuck with an unfinished, and thoroughly bugged Embassy in Russia.

Provides $25 million for a new account to help cover State Department and USIA shortfalls in establishing diplomatic posts in the New Republics of the former Soviet Union—or Commonwealth of Independent States—or whatever their name is this week.

The recommendation restores funding for the State Department Environmental Grant Program established last year and recommends an appropriation of $30 million; $20 million of this amount is for climate and global change research—the need for which was highlighted during the President's recent trip to the U.N. conference in Rio de Janeiro.

The sum of $125 million, an increase of $30 million above the budget request for USIA's Fulbright Exchange Program. This will restore scholarships for students, and will enable Fulbright scholars to be sent to new republics such as Ukraine and Kazakhstan. For the past few years Congress has been creating new exchange programs at the expense of the Fulbright. Our recommendation seeks to restore it to its status as our flagship exchange program.

Finally, we have included the administration's full request for U.S. Peacekeeping—$460.3 million or $83.1 million above the level appropriated by both this bill and the foreign operations bill in fiscal year 1992.

ECONOMIC CONVERSION INITIATIVE

Since 1985, defense procurement has declined in constant dollars from $127 billion to $54 billion. It is estimated that 1.4 million defense-related jobs will be lost by the mid-1990's. And military end-strength is forecast to fall by another half a million soldiers, airmen, marines, and sailors.

The impact on businesses and communities, like Myrtle Beach, is devastating. And, there has been a lot of talk by congressional task forces and even in the budget resolution, of what needs to be done to help industries to convert, individuals to transition, and communities to adjust. The programs that everyone points to—EDA, SBA, and NIST—are all under this subcommittee's jurisdiction.

The subcommittee has put together a $229 million package from our 050, National defense allocation, for defense economic conversion. In each case, the special appropriations are worded to ensure that the funds are only used to address valid defense impacts. For example, the $80 million put in the EDA defense conversion account is only available if Dick Cheney's Office of Economic Adjustment certifies on a case-by-case basis that the funds are required.

Specifically, we have recommended the following:

The sum of $80 million in EDA grants to assist communities with planning and infrastructure projects;

The sum of $40 million to subsidize $735 million in SBA loan guarantees for loans to businesses hurt by cutbacks in secondary defense contracts and for loans to help members of the Armed Forces to establish small businesses.

The sum of $109 million for NIST advanced technology grants to help the defense industry develop new nonmilitary technologies and for manufacturing centers to help regions and communities reduce their dependence on defense manufacturing.

WHY A SENATE-ORIGINATED BILL?

Members will notice that we are considering a Senate-originated bill. We are taking this action because I feel strongly that we have to get on with the business of governing and get these appropriations bills finished. Under the U.C. agreement by which we are operating, our action on this bill will be incorporated as amendments to the House companion measure, H.R. 5678.

My House colleagues have delayed for over a month because of the reductions that must be required under such low allocations. They are finally moving now, partly because we did not wait any longer. If we did not bring this bill to the floor now, we would not be able to proceed until well into September. With this being a Presidential election year—there are not many work days before the end of the 102d Congress.

We intend to bring back a conference report, hopefully before the Republican Convention. I want to dispel the inside-the-Beltway pundits who say that appropriations will be on a continuing resolution.

Let me say this before yielding to my distinguished ranking member.

RECOGNITION OF STAFF

I want to recognize, Mr. President, the staff who have worked so hard on this bill. Our minority staff, John Shank and Santel Manos; and on the majority side, Liz Blevins, Dorothy Seder, Jolene Lauria Sullens, and my subcommittee director, Mr. Scott Gudes, have all done an outstanding job.

The full committee staff worked hard on a day-to-day basis and enable not only the Commerce, Justice and State Subcommittee, but all appropriations subcommittees to get their bills through committees and to the Senate.

Bob Putnam, Jodi Capps, and our "one-man congressional budget office," Mr. Jack Conway deserve special recognition.

The executive branch has many programs to recognize its civil servants for performance. Here in the Senate we do not. We always wait until the end, and then in a rush of our colleagues to a final vote, they do not want to hear about anybody or anything. They want to vote and go home or whatever.

I want to recognize, in the first instance, that our appropriations committee staff members worked day in and day out, often on weekends and into the early hours of the morning. The executive branch has thousands of budget personnel proposing to spend money for the agencies and programs in this bill. We have but a handful.

Our staff are true professionals. They take personal pride in the technical accuracy of the bills and reports that our committee produces. And when they are not assisting with hearings or attending meetings, they are digging; they are digging into programs and budgets, forcing the executive branch to justify its budget estimates and how it is using past years' appropriations.

In this budget environment we ask them continuously—Senator RUDMAN and I both—to go back and try harder to find a way to bring in bills that are within these tight budget allocations. The roles of the staff are very important to the daily working of the U.S. Senate.

I remember when our distinguished former colleague, Senator John Stennis, retired, he attributed his successful career in main to good staff work.

While we do not have the programs that the executive branch does, it should not stop us from recognizing the people who support us. So I simply would like to note that our Appropriations Committee staff are true public servants in every sense of the word, and they are a credit to our committee. I particularly emphasize this with respect to our chairman of our committee, the Honorable ROBERT BYRD of West Virginia, and his chief of staff, director, Mr. Jim English. And our distinguished ranking minority member Senator HATFIELD, and the minority staff directors, Mr. Keith Kennedy.

I have some unanimous-consent requests but I will withhold, yielding to my distinguished ranking member.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, first I want to thank my friend from South Carolina, the chairman of this subcommittee, for his gracious remarks. This is the 12th year that I will come to the floor in some way connected with this bill, but actually it is the 8th or 9th year that I have managed this bill either as chairman or as ranking member.

I echo Senator HOLLINGS' remarks concerning our staff. But I want to simply address to him through the Chair my appreciation of the fact that he has been unfailingly cooperative and courteous, whether he was the chairman or the ranking member in this committee which deals with core programs of this Government of extraordinary importance, and he has never become bogged down in some partisan bickering that so often, in my view, slows down the work of this body.

So I want to thank him for that.

Mr. President, I join the Senator from South Carolina in presenting the recommendations of the Appropriations Committee for fiscal year 1993 for the Departments of Commerce, Justice, and State, the judiciary and related agencies. It is important to note at the outset that the section 602(b) allocation for the subcommittee is $865 million in outlays below the request of the administration. The subcommittee was faced with attempting to respond to the important increases requested for the Justice Department and the Judiciary while at the same time restoring funding for programs of congressional priority.

The allocation available to the subcommittee is not only below the level proposed by the administration, it is approximately 2 percent below the CBO baseline; therefore any increases above that level for individual programs and agencies result in further reductions below baseline funding—and in many cases below the enacted level—for other programs.

The committee approach has been to fund the core functions of government—the administration of justice and the protection of public safety—at the highest levels possible. As an even more dramatic illustration of the emphasis on law enforcement, approximately 82 percent of the new domestic discretionary outlays contained in these recommendations are generated by the Justice Department and the judiciary.

Total discretionary resources available to the Department of Justice would increase by $757.9 million, or over 9 percent, above the 1992 enacted level. The increase for the judiciary is almost $108 million, or 4.6 percent. Total budget authority for the judiciary has increased $745 million, or 44 percent, since fiscal year 1990.

The emphasis on law enforcement and the judiciary is nothing new for the subcommittee. Appropriations for the Justice Department totaled $2.45 billion when I became a Member of the Senate in 1981; the total recommendation for fiscal year 1993 is $9.8 billion. That represents an increase of 400 percent in 12 years.

Funding for the judiciary was $652.5 million when I arrived in 1981; the total recommended in this bill is $2.45 billion, an increase of 375 percent in 12 years.

The recommendations in this bill also provide important funding for the National Weather Service. The full budget request of $129.6 million is provided for the weather service modernization program, including the procurement of the new next general Doppler weather radars. In addition, $55 million of the $60 million increase in weather service operations is provided. This will avoid weather station closures and service reductions.

The bill also provides for important initiatives in trade and research and development. The full budget request for the International Trade Administration is provided, as well as a $7 million enhancement to open offices of the Foreign Commercial Service in the new republics of the former Soviet Union. In addition, the requested increase of $5.1 million has been provided to reduce the backlog of antidumping and countervailing duty investigations at the Department of Commerce. Finally, a $200 million construction and renovation program has been included for the laboratories and research facilities of the National Institute of Standards and Technology in Gaithersburg, MD, and Boulder, CO.

Within the subcommittee's defense allocation, we've included an economic conversion program to assist members of the Armed Forces and defense industries in the transition from military to civilian employment and manufacturing. Based on recommendations contained in the Republican task force on defense conversion, which I chaired, and on the recommendations of a Democratic task force chaired by Senator PRYOR, funds are provided through the programs of the Economic Development Administration, the National Institute of Standards and Technology, and the Small Business Administration.

Within the allocation for international programs, the bill provides for the full 1993 request for peacekeeping operations. In addition, funds have been provided to the Department of State and the United States Information Agency to open new posts in the Confederation of Independent States. The committee has not funded new educational exchange programs which have yet to be authorized, but has provided an enhancement of $30 million for the Nation's premier international education program, the J. William Fulbright exchanges. This will allow the Fulbright program to expand operations to the new republics of the former Soviet Union.

In conclusion I should make clear that, given the subcommittee's allocation and the shortage of funding for domestic discretionary spending in general, many of the agencies and programs in this bill are funded at a freeze level, or are reduced from the current year's level. This will cause problems for many of them, but it is the inevitable result of trying to balance the budget on discretionary spending alone.

Finally, I would like to thank my chairman, FRITZ HOLLINGS, for his leadership and cooperation. Since 1984 I have served as either the acting chairman, chairman, or ranking minority member of the subcommittee. It has been my privilege and pleasure throughout that period to have at my side the Senator from South Carolina.

Mr. President, Senator HOLLINGS and I are here to do business, and we would welcome anyone who has an amendment to come to the floor. Hopefully we can wrap up this legislation before this evening and allow the Senate to move on to another appropriations bill.

Mr. President, I would simply echo some of the things that Senator HOLLINGS said, and I will be brief. First, what we have attempted to do, and I believe we have done with this bill, is to fund the core programs that involve public health, public safety, and defense that are charged to this subcommittee. There are things that we would have liked to have done that we are unable to do. This, of course, comes about because we have been trying now with little success for 8 years to bring this budget into balance on the back of the discretionary programs alone. That cannot be done. It is mathematically impossible. And the sooner the people recognize that, the sooner we will have a serious opportunity to address the size of these deficits.

It is interesting to look at the demands that have been put on this committee by the increase in crime, drug activity, and the incarceration of Federal prisoners over the last 10 years.

I point out a very interesting statistic. Appropriations in 1981 for the Justice Department totaled $2.45 billion. This year that number is $9.8 billion, an increase of 400 percent in 12 years. If that does not say something about the problems in our society, nothing does. That is an enormous amount of money to be spent on something which is essentially nonproductive.

Where this country will go with these problems of crime and drugs, I do not know. But I know this: simply spending money on more prisons, more FBI agents, more DEA agents, more drug interdiction, is not the solution. Somebody will be standing here 12 years hence and will have a Department of Justice budget which will then be $20 billion or up 800 percent from 1981. That is the trend. None of the things that have been tried so far have truly worked.

Finally, I want to say this: I hope that our colleagues who are interested in offering amendments would come to the floor forthwith and do it. This legislation before the Senate has been in preparation since last January. We have done it carefully, but obviously there are those who will disagree with parts of it. That is fine. I hope that we are not standing here at 8 or 9 o'clock tonight waiting for people to offer amendments.

The Senate has a lot of things to do between now and the time we recess. This bill, with its amendments, ought to be finished by 6 o'clock tonight. We ought to debate any amendments, vote on them, and get on with our business. If we go into the late hours or early morning hours of tomorrow, it seems to me we are not doing our job.

So I understand from the staff that there are probably three or four people out there that have some amendments. With all due respect to time, I hope they will come to the floor and offer them now.

I thank the Chair.

Mr. HOLLINGS. Mr. President, I, too, join in the distinguished Senator's request. We are not going to sit here and dilly all day long, having quorum calls, and then start business up at 5 or 6 o'clock this afternoon. I do not mind calling for third reading, and I put everybody on notice that we are not trying to rush the bill. This bill is printed. You can see it here.

I have had the Senators who are interested, as the Senator from New Hampshire indicated, talk to me about their amendments.

Let me note one concern of my ranking member on our authorizing committee, the distinguished Senator from Missouri [Mr. DANFORTH]. He has a grave concern relative to FCC language. Senator RUDMAN and myself have agreed with him.

We will go forward on this particular bill. They are negotiating, the two staffs, along with each other, and Senator DANFORTH is not losing any right whatsoever to raise what point he may wish to raise, or what amendment he might wish to offer, or what objection he might wish to make. He will be notified before we move on any kind of consent, relative to that language.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. We worked with the colleagues, and in that light, I do have some unanimous-consent requests here that have been cleared on both sides of the aisle.

I ask unanimous consent that Jolene Lauria Sullens, of our staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2745

Mr. HOLLINGS. Mr. President, there are several accounts in which the House bill and the bill before us are very close, and a minor change would bring the two bills into agreement. So the following changes should be made in the Senate bill with respect to eight amendments.

I ask unanimous consent that we amend our bill here for the Fishing Vessel and Gear Damage Fund. On page 50, line 3, strike the sum of $1.281 million and insert in lieu thereof $1.306 million.

For the Fishermen's Contingency Fund, on page 50, line 8, strike the sum of $1 million and insert in lieu thereof $1.025 million.

Three, for the Foreign Fishing Observer Fund, on page 50, line 20, strike the sum of $571,000 and insert in lieu thereof $565,000.

Four, for the Commission of Agricultural Workers, on page 73, line 5, strike the sum of $585,000 and insert in lieu thereof $578,000.

Five, for the Department of State, Salaries and Expenses, on page 78, line 16, after the word "amended," delete the following, in parentheses "(22 U.S.C. 2669)."

Six, for the Repatriation Loans Program Account, on page 82, line 2, strike the sum of $1 million and insert in lieu thereof $624,000.

Seven, for the American Sections, International Commissions, on page 85, line 14, strike the sum $4.410 million and insert in lieu thereof $4.403 million.

Eight, for the Russian, Eurasian, and East European Research and Training Program, on page 86, line 17, strike the sum of $4.784 million and insert in lieu thereof $4.961 million.

I send the amendments, en bloc, to the desk and ask for their immediate consideration.

There are actually eight amendments. They have all been cleared on both sides.

Mr. RUDMAN. Yes.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 2745.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

For the Fishing Vessel and Gear Damage Fund—

On page 50, line 3, strike the sum "$1,281,000," and insert in lieu "$1,306,000".

For the Fisherman's Contingency Fund—

On page 50, line 8, strike the sum "$1,000,000," and insert in lieu "$1,025,000".

For the Foreign Fishing Observer Fund—

On page 50, line 20, strike the sum "$571,000," and insert in lieu "$565,000".

For the Commission on Agricultural Workers—

On page 73, line 5, strike the sum "$585,000," and insert in lieu "$578,000".

For the Department of State, Salaries and Expenses—

On page 78, line 16, after the "amended" delete the following: "(22 U.S.C. 2669)".

For the Repatriation Loans Program Account—

On page 82, line 2, strike the sum "$1,000,000," and insert in lieu "$624,000".

For the American Sections, International Commissions—

On page 85, line 14, strike the sum "$4,410,000," and insert in lieu "$4,403,000".

For Russian, Eurasian, and East European Research and Training Program—

On page 86, line 17, strike the sum "$4,784,000," and insert in lieu "$4,961,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2745) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2746

(Purpose: To provide for land transfers to support National Oceanic and Atmospheric Administration programs)

Mr. HOLLINGS. Mr. President, on behalf of Senators REID, BRYAN, INOUYE, and AKAKA, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. BRYAN, Mr. REID, Mr. INOUYE, and Mr. AKAKA, proposes an amendment numbered 2746.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, line 10, strike from "Sec. 206." through to and including "Louisiana." on line 13 and insert in lieu thereof the following:

SEC. 206A. The Under Secretary of Oceans and Atmosphere is authorized to construct a building, on approximately 15 acres of land to be leased for a 99-year term from the University of Southwestern Louisiana.

SEC. 206B. (a) The Under Secretary of Oceans and Atmosphere is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years, a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as a part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada, area.

(b) The Under Secretary is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 206C. (a)(1) The Under Secretary of Oceans and Atmosphere is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization program for the State of Hawaii, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair rental value as established by governmental appraisal.

(b) The Under Secretary is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

Mr. HOLLINGS. Mr. President, as I have indicated, this is on behalf of these Senators. It has been cleared on both sides of the aisle.

I urge adoption of the amendment.

NOAA ENVIRONMENTAL RESEARCH LABORATORIES

• Mr. WIRTH. Mr. President, I would like to engage in a brief colloquy with my friend, the distinguished chairman of the Subcommittee on Commerce, Justice, State, and Judiciary; Senator HOLLINGS. First, let me acknowledge my understanding of the very demanding circumstances that the chairman faces in this year of very tight budgetary constraints. He has done a difficult job well and let me assure him that I am well aware of the tough nature of the issues he must face in moving this bill forward.

With his indulgence, I would like to briefly discuss three programs of importance to the Nation operated by the National Oceanic and Atmospheric Administration's Environmental Research Laboratories in Boulder, CO. These are the PROFS Program, the Wind Profiler Program, and the Solar-Terrestrial Services Program.

PROFS is the backbone of NOAA's effort to modernize its weather offices with current data processing and weather information analysis. This program has and continues to develop new techniques that have demonstrated significant improvements in severe weather forecasting and is critical to continued transfer of new observational technology and forecasting techniques to the National Weather Service. It is also essential that the PROFS technology demonstrated in the Denver area to provide block-by-block advanced warning for tornadoes and severe thunderstorms be expanded to reach people in all parts of the country.

The Wind Profiler Program produces 6-minute vertical profiles of winds that are used to improve weather forecasting and commercial aircraft routing. Preliminary results have demonstrated that the high resolution wind information can significantly improve 3- to 6-hour forecasts of storms and of potential wind shear, a known cause of aircraft crashes. These wind profiles are also used to increase fuel savings for aircraft due to more efficient routing.

Solar-Terrestrial Services provides this Nation's space environment forecasts and warnings for near-Earth particle and magnetic storms that can cause disruption of communications, electronic navigation, power distribution, and space operations. Improved forecasts will result in reduced potential for northern and northeastern electrical blackouts, and allow protective action to reduce damage to communications and navigation systems, and reduce potential for injury in manned space activities caused by solar activity.

The Federal Government has already made prudent investments in these programs. Unfortunately, the funding provided by the Appropriations Committee in this bill would significantly hamstring these programs, reducing their effectiveness. As these programs are extremely important to all citizens through the services they provide, I hope that the chairman will work with me to craft final legislation that more closely approaches the appropriation detailed by the House of Representatives concerning these programs.

Mr. HOLLINGS. I say to my good friend, the senior Senator from Colorado, that I am pleased that he recognizes the severe budget contraints that we must operate within. I, too, recognize the importance of the PROFS, Wind Profiler, and STS programs to Colorado, and to the Nation. The House of Representatives provided a higher level of funding for these programs than has the Senate. I look forward to working with my friend from Colorado and my colleagues in the House to address these programs in conference with the House. We will see what we can do.•

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2746) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I am ready to move forward with amendments to the particular bill. I talked with one of the colleagues earlier with respect to a cut, for example, of the administrative costs. Let me emphasize again, that is one of the reasons I thank our staff. They already cut them.

As you can well see, we have been into the administrative costs. We have cut those administrative costs, and we would be in a position of having to resist or oppose, because the assumption is that we are not taking these things step by step and looking into each one anew; that we are casually just taking the administrative officers of the various departments ipso facto, approving them, and moving to the operation side.

We look at every particular section, every general administration request; all the subcommittee chairmen have to do this. We all have 602(b) allocations substantially less than what we have hoped for. You can see at a glance, in my opening comment, that we got an allocation of $81½ billion less than what some colleagues are ready to vote for here. So we are holding the line here, and we are ready for amendments.

I think my colleague from Montana, Senator BAUCUS, has a statement he wishes to include in the RECORD at this time, while we are waiting for Senators to come to the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2747

(Purpose: To provide funds for the Commission on Immigration Reform and to offset such funds from the "Salaries and Expenses" account of the Immigration and Naturalization Service)

Mr. HOLLINGS. Mr. President, on behalf of Senator KENNEDY and Senator SIMPSON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. KENNEDY (for himself, and Mr. SIMPSON), proposes an amendment numbered 2747.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 4, strike out "$990,894,000" and insert in lieu thereof "$990,694,000".

On page 20, between lines 14 and 15, insert the following:

COMMISSION ON IMMIGRATION REFORM

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $800,000.

Mr. HOLLINGS. Mr. President, this is a Kennedy-Simpson amendment for the Commission on Immigration Reform. The amendment appropriates $800,000 for the work of this important Commission.

The Commission was appointed earlier this year, a bipartisan group of eight Commissioners appointed by the Congress, and the Chairman, Cardinal Law, of Boston, appointed by the President.

The Commission has received no funding. It is within our 602(b) allocation and has been cleared on both sides of the aisle.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2747) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, while awaiting just a moment here, let me read the letter that we received from the Office of the Attorney General earlier this morning. It says to Senator RUDMAN and myself:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, July 27, 1992.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on the Departments of Commerce, Justice and State, the Judiciary and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you take the Commerce, Justice, State 1993 Appropriations Bill to the Senate floor, I urge you and your colleagues to provide no less than the amounts proposed in your Bill for the Department of Justice. I believe you and I agree that the Department of Justice provides, on behalf of all the American people, a core function of government.

Though the net change in total discretionary funding for the Department of Justice is some $257 million (or 2.67 percent) below the Administration's 1993 request, your Bill is some $820 million greater in net discretionary funding for the Department of Justice than the companion 1993 House Commerce, Justice, State Appropriations Bill reported by the full House Appropriations Committee.

I commend your leadership, and that of your Subcommittee colleagues, in focusing on the priority needed to be accorded the Department of Justice's program needs in areas such as violent crime, drug trafficking, and white collar crime in 1993. I also recognize, from a quick review of the Bill and accompanying Report, the difficult tradeoffs you made to provide the level of funding contained in the Bill for the Department of Justice.

I appreciate your support for the "Weed and Seed" initiative and the flexibility afforded me to execute this vital program. I am also heartened by your support across the criminal justice system for resources to support the investigative, prosecutive, incarceration, and State and local assistance programs of the Department in 1993.

You must know, however, that I am disappointed that for the second successive year the President's request for Department of Justice law enforcement initiatives are not fully funded. In major part, I understand this is caused by an inadequate 602(b) outlay allocation provided to your Subcommittee. This is a problem I hope we can jointly address in the coming year.

Once the Senate and House Bills pass the respective bodies, there are several serious non-appropriations matters, such as the reauthorization of the Legal Corporation contained in the bill, that we will need to resolve in conference.

In close, though your Bill does not provide all the funds needed, the Senate Bill is much preferred in its funding level for the Department of Justice compared to the companion House Bill. I urge you and your Subcommittee colleagues success in retaining no less than the amounts proposed for the Department of Justice both on the Senate floor and in the Conference Committee. I look forward to working with you in a continued spirit of trust, cooperation, and courtesy in the year ahead.

Sincerely,

WILLIAM P. BARR,
Attorney General.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2748

(Purposes: To ensure compliance with GAO requirements regarding the independent counsel)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2748.

At the appropriate place, add the following:

SEC. . The General Accounting Office is hereby directed to report to Congress by September 1, 1992, their explanation for failing to comply with Public Law 100-202, and to complete by the adjournment of Congress sine die of the 102nd Congress, the reports required to be submitted pursuant to Public Law 100-202.

Mr. DOLE. Mr. President, as many of my colleagues know, I have not been a big fan of the Office of Independent Counsel. In far too many instances, the investigations conducted by independent counsels have turned out to be partisan political fishing expeditions—expeditions which accomplished nothing more than wasting millions—and I say millions of tax dollars.

The most egregious example of this is, of course, the never-ending Iran-Contra investigation being conducted by Lawrence Walsh. This December, Mr. Walsh will celebrate his sixth anniversary as independent counsel, the same as a term for Senator. He has been there 6 years.

And since Mr. Walsh spends most of his time in Oklahoma, leisurely working on his memoirs, while his crew of attorneys are ensconced in some of Washington's cushiest office space, all enjoying the luxury of operating with an unlimited budget, there is little hope that the end is in sight.

Why would you want to give it up? They have it made. They may be here longer than most anybody in the State.

My intention in offering this amendment, however, is not to send a message to Mr. Walsh—who has already proven his inability to understand the simple fact that it is time to leave Iran-Contra to the history books.

Rather, my intention is to send a message to the General Accounting Office.

I know that many Senators shared my fiscal accountability concerns when Congress established a permanent indefinite appropriation to fund the expenses of all independent counsels.

Therefore, in the DOJ Appropriations Act of 1988, a provision was adopted that required the Comptroller General to perform semi-annual financial reviews of independent counsel expenditures. These reviews were then to be provided to the House and Senate Appropriations Committee, so we could tell the taxpayers how many millions of dollars we are spending on all of these things.

Unfortunately, as the GAO confirmed to my office this past week, no reviews have been provided to the House and Senate. No reviews have been provided to anyone. And the sad fact is that no reviews have ever been completed; not one review since 1988 by the Government Accounting Office, which is supposed to be the watchdog. They have not done one thing to see how many millions and millions and millions of tax dollars have been spent by all the independent counsel.

The GAO and Mr. Bowsher, the Comptroller General, are extremely apologetic for ignoring the specific request of Congress, as indeed they should be.

So this amendment is a simple one. And it is going to be complied with by GAO, I think. It just says you have to provide an explanation to Congress on their failure to comply with the law by September 1, 1992. Tell us why you cannot comply with the law. We will give you 2 months to do that, or about 6 weeks.

The amendment further requires the GAO complete and submit their financial reviews to Congress prior to adjournment.

Mr. President, I think it is an important amendment. We talked about accountability and the money that is spent and I hope the managers might be able to accept the amendment.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. We accept the amendment on this side and think it is well received and supported.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, the amendment addresses something that many have wondered about, and I am delighted that the minority leader has done so. We support it.

Mr. DOLE. I thank the managers.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2748) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

AMENDMENT NO. 2749

(Purpose: To provide for a loan military vessel obligation guarantee program)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for himself, Mr. HOLLINGS and Mr. RUDMAN, proposes an amendment numbered 2749.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the paragraph regarding the Ready Reserve Force on page 71 of the bill, on line 10 beginning with "for" through to and including "program." on line 21, and insert in lieu thereof:

"For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $146,000,000, to remain available until expended, of which $16,000,000 shall be available for the conversion of the U.S.N.S. HARKNESS: *Provided*, That funds available under this heading shall be available only to acquire ships which were registered in the United States on or before January 1, 1992, or to build Ready Reserve force ships in United States shipyards: *Provided further*, That reimbursement may be made to the operations and training appropriation for expenses related to this program.

MILITARY VESSEL OBLIGATION GUARANTEE PROGRAM

For the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $44,800,000: *Provided*, That the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of having naval and military utility in time of war or national emergency: *Provided further*, That such loan guarantees shall be available only for construction of vessels in United States shipyards: *Provided further*, for administrative expenses to carry out the Guaranteed Loan Program, $2,350,000, which may be transferred to and merged with the operations and training appropriations for the Maritime Administration."

Mr. BREAUX. Mr. President, both Senators RUDMAN and HOLLINGS are cosponsors of this amendment. I present the amendment to comply with the Credit Reform Act which now, of course, requires that all guaranteed loan programs by the Federal Government have appropriated, up front, the necessary funds not only to fund the risk of potential defaults of any new loan guarantees, but also to cover the costs of administering the loan guarantees.

This amendment provides $44,800,000 to fund the title XI loan guarantee program to build ships which would be required to be built in American shipyards. In other words, private industry would be able to borrow money on the commercial market, and have the Department of Transportation guarantee that loan, in order to construct vessels in U.S. shipyards.

The important point here is that this language clearly requires that these funds can only be used for the types and classes of vessels determined by the Secretary of Defense in consultation with the Secretary of Transportation to be capable of having naval and military utility in time of war or in time of national emergency and that, further, such loan guarantees can only be used for construction of vessels in U.S. shipyards.

The purpose of this program is to ensure that in a time of emergency, the U.S. Department of Defense would have the vessels that are capable of transporting men and women, equipment, goods, and services to serve the American military wherever they may be called upon to be utilized.

The recent example—and the chairman of our Commerce Committee knows this very well—was in the Persian Gulf when the military had to go out and find ships that were mothballed or in reserve to be used to transport helicopters, tanks, men and women to the Persian Gulf. They found that, in many cases, the ships had been laid up so long that they were not in proper condition to be used, No. 1, and; second, the crews were not available to run the ships when the ships were finally put into tiptop shape.

So this legislation and this amendment would merely add some funds in order to guarantee loans for the construction of vessels that can be used in military and national emergencies and that are built in U.S. shipyards. This legislation is necessary so that when the Secretary of Defense says we need some ships, those ships will be on the seas being used by the private industry and can be converted immediately, that day, if necessary, to be used for the military. They will have trained crews because they will be running those ships already. Second, the ships will be in top shape because they will be in actual use rather than sitting somewhere mothballed, just deteriorating while waiting to be used.

So this amendment provides essential money for the loan guarantee program, including the risk that would be associated with making these guaranteed loans and the costs of administering the loan guarantees. I recommend adoption of the amendment as offered.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this amendment has been cleared on both sides of the aisle.

Let me at this point commend my distinguished colleague from Louisiana, the chairman of our subcommittee. He has been working tirelessly on the lack, frankly, of a marine reserve capability in the United States and specifically commend, of course, Secretary Andrew Card.

I talked earlier this morning with Secretary Card. He is our first Secretary of Transportation in quite a while who had a real feel for the merchant marine, its needs and an understanding of the embarrassment we had under Desert Shield as we were gearing up in the fall of 1990 and moving forward. At one time, it appeared like instead of going into the gulf, we were going to invade Spain. Ships were falling apart, breaking apart in the mid-Atlantic, and we were limping into Spain. The plumbing and everything else, the outfitting was rusty.

As the distinguished Senator has pointed out, we did not have the crews—and I have been, as chairman of our Commerce Committee, on to this particular problem for years, meeting with generals and admirals and just meeting and meeting and nothing getting done and everybody crying on each other's shoulders and nothing happens.

Now this makes it happen. It keeps alive the title XI program. We can help finance construction and reconstruction in domestic shipyards of these vessels. That not only give the jobs, obviously, to the shipyard workers but more or less gives the Secretary of Defense a valid option in his military and security commitments whereby he will have vessels ready, willing, and able not only by way of soundworthiness, seaworthiness, I should say, but by way of crews themselves who are ready to go.

They are what we call ship fit and ready to go at any time.

I commend Senator BREAUX for presenting this amendment, Secretary Card's support, the administration's support and, of course, it has been cleared on both sides of the aisle.

Mr. BREAUX. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. BREAUX. I also thank the chairman of the Commerce Committee as well as the Appropriations Subcommittee for his attempts to guide this effort. Those of us who have been around Congress for quite a while here or in the other body have worked a long time to try to get a maritime policy that is a true U.S. maritime policy. It seems we never could get all the competing interests, the shipbuilders, the ship owners and the shippers, together. I think the chairman has spoken correctly about Secretary Andy Card's effort at trying to get something working so that we can come up with a new act which would set maritime policy for Americans.

I know that my ranking colleague on the subcommittee, Senator LOTT, from Mississippi, has been working in our subcommittee along with Senator INOUYE, to try to come up with a program, I think we are very close, certainly the closet I can remember in 20 years in Congress. I think we have made some progress. With the leadership of the chairman and this effort, I think we are getting closer day by day.

Mr. HOLLINGS. I thank my distinguished colleague.

Mr. President, the ranking Member, Senator RUDMAN, is momentarily taking a call but he has permitted me to say this amendment has been cleared on both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 2749) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

Mr. HOLLINGS. I suggest the absence of a quorum.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. If my colleague from South Carolina will withhold, I ask unanimous consent to speak for 5 minutes as if morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

TELEVISION VIOLENCE

Mr. SIMON. Mr. President, my colleagues may recall that a year and half ago, we finally, after a bit of a struggle, passed a bill that the President signed which made an exemption in the antitrust laws for 3 years so the television industry could get together and establish standards for violence on television.

Study after study has shown that violence on television is adding to violence in our society. Over the weekend—and I spent the weekend in Washington, DC, which I do not do very often—I had a chance to do some reading. I came across two books written by people I know and for whom I have great respect, and in both there is a reference to this problem. One is a book, "Today's Children," by Dr. David A. Hamburg, a physician by background, used to teach at Stanford and Harvard, president of the Carnegie Corp. Let me read a couple of sentences from his book.

> TV as a baby-sitter is not a substitute for intimate personal contact between parent and child. Television's graphic portrayal of violence as a means of dealing with life's problems has extensive repercussions. Although violence has long been an integral part of human history and of child development, no generation in history has ever grown up with so much exposure to vivid, immediate, and wanton violence divorced from moral as well as physical consequences.

This is not some far out kook who is talking; this is the president of the Carnegie Corp., a physician himself, former member of the faculty at Harvard and Stanford. Listen to another paragraph:

> Television is a persuasive presence in the lives of most American adolescents. One responsible estimate is that the average seventeen- to eighteen-year-old has spent 15,000 hours watching television, compared with 11,000 hours spent in school. Television programs often present violence and sex in an attractive way. Contraception is rarely mentioned. In effect, television provides young people with guidance about how to be sexy, but not much about how to be sexually responsible. Explicit linkage of sex and violence has increased in recent years. The vast exposure to television violence during the years of growth and development is well known. Some adolescents in turmoil are especially susceptible to this stimulation.

The second book, written by Fred Hechinger—he used to be on the editorial staff of the New York Times, is associated with the Carnegie Council on Adolescent Development—is titled "Fateful Choices." One section says:

> In a crisis that demands a comprehensive and urgent response, Prothrow-Stith says bluntly: "Our children are killing each other because we teach violence. We've got to do something to stop the slaughter."
>
> If violence prevention is to be successful, she warns, the television and film industry must be reached to change its ways. At present, she charges, the industry goes out of its way to portray violence as glamorous and painless. We had an incident at Boston City Hospital not long ago in which a 13-year-old kid came in with a gunshot wound," she recalls, "and he was surprised because it hurt."

Then there is another page here outlining why it is important that we deal with this problem of television violence. And then finally the recommendation that Fred Hechinger makes in his book:

> Today great efforts short of censorship should be made to purge the visual media, particularly television and rock programs, of their orgy of mindless violence. Sex reforms ought to begin with cartoons produced for young children that often make violence appear amusing.

We are, as I indicated, at the halfway point in this 3-year window we have given the television industry to come together and establish standards. One article recently published in the American Medical Association Journal estimates—on the basis of a study that they have made—that television has doubled the number of murders in our country as well as rapes and other attacks.

I do not know whether that is right or wrong. Suppose they are off by a factor of 90 percent. It is still a wanton, needless slaughter in our country.

I do not know, frankly, at this point whether the television industry is going to act and take advantage of this opportunity for voluntary standards on violence or whether they will not.

The cable industry has hired a distinguished researcher from the University of Pennsylvania to look at this. That is a good sign.

The broadcast industry has informally met twice. Whether, in fact, we are going to get any action or just spinning of wheels and public relations, I do not know. But I believe it is important for the country that we get action.

I think these comments by Dr. David Hamburg and Fred Hechinger in these two books illustrate the need for action.

Mr. President, if no one seeks the floor, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2750

(Purpose: To provide $300,000 in funding for follow-up activities to the United Nations Conference on Environment and Development)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk, on behalf of Senator PELL, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. PELL, proposes an amendment numbered 2750.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, line 15, after "(22 U.S.C. 2718(a))" insert the following: ", and of which $300,000 shall be available for the Bureau of Oceans and Environmental and Scientific Affairs, for staff for follow-up activities to the United Nations Conference on Environment and Development, including necessary travel".

Mr. HOLLINGS. Mr. President, this is an amendment that earmarks $300,000 within the salaries and expense accounts of the Office of Environmental and Scientific Affairs budget for the particular function in that section. In other words, it is in addition to the research funding that we have provided for $12.405 million that is contained in the OES Department's budget.

This is a $300,000 add-on that is taken care of within the 602(b) allocation. This is simply an earmark, and is part of providing some $30 million for research on a variety of environmental issues.

Mr. PELL. Mr. President, I want to congratulate the Senator from South Carolina [Mr. HOLLINGS] on his efforts to strengthen the Bureau of Oceans and International Environmental and Scientific Affairs within the Department of State. The Senator has provided the Bureau with $30,000,000 for research on a variety of environmental issues, including climate change and antarctic environmental protection. This money should significantly strengthen the U.S. research program in these critical areas affecting the global environment. It is particularly appropriate in the aftermath of the U.N. Conference on Environment and Development.

In this connection, I also want to thank the Senator for accepting an amendment that I have offered to earmark $300,000 within the Salaries and Expenses account for the OES Bureau for staff for follow-up to that meeting. I want to clarify with the Chairman of the Subcommittee that it is his understanding that this funding will be in addition to the research funding he has provided and the $12,405,000 that is contained for OES in the Department's budget request.

Mr. HOLLINGS. That is correct.

Mr. PELL. I thank the Senator for his understanding. I look forward to working with him in the future.

Mr. HOLLINGS. Mr. President, the amendment has been cleared on both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 2750) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, we are momentarily moving along. We have an amendment by the distinguished Senator from Connecticut [Mr. DODD] who is on his way to the floor, and several other amendments we are clearing; with respect to an amendment by the Senator from Delaware, and a few others.

I hope Senators will be forthcoming about amendments that we have not been notified about, because we are ready to move this bill right along.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, most respectfully we have killed a half hour now, or 40 minutes, under the words we received as managers of the bill that "I know of four Senators who are on their way to the floor."

Mr. RUDMAN. Nobody told us from where.

Mr. HOLLINGS. No. We have understood that there were several.

We will be here at 6:30, or 7 o'clock tonight. The leadership on both sides of the aisle counseled us that this bill would commence at 2 o'clock.

This particular Senator had to call off a longstanding commitment. I would have loved to have been there.

I know we all have to do these kinds of things to get the business of the Congress moving along. We want the colleagues to help us with a little bit better discipline.

I am prepared to move and I know some Senators on the other side of the aisle are trying to get out of here to make further commitments they have made this evening. I am going to cooperate to the fullest with them trying my best to bring this to a close momentarily.

Now we keep on hearing and waiting, and they are coming to the floor, and then the staff calls them to the floor, and everything else.

I do not see any reason to delay.

I yield the floor.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, there has been longstanding notice that we were going to have this bill on at 2. That was given last week. The majority leader made it clear, after consulting with the Republican leader, we are going to vote on Monday. I do not know how the Senator from South Carolina feels about this, but, frankly, I would like to make a request of the majority leader and Republican leader that at 5:30, if we have done all the business that is before us, that we simply put in a unanimous-consent request that, with the exception of the matter we have discussed with Senator DANFORTH, the bill is closed, because, obviously, without that granted we cannot go to final passage without the substitution, and essentially for all intents and purposes close the bill.

I am going to ask Senator DOLE if he would agree with that. I think that gives people 3½ hours to do what they want to do.

Mr. HOLLINGS. Right; and another hour-and-a-half to find their way to the floor. I think it is very much in order.

So everybody has notification now, so they cannot come, in fairness, and say they did not know, and that we acted peremptorily or without consideration.

We need consideration down here on the floor, all of us, to move all of these bills before we have to recess in 10 days' time, or a couple of weeks I guess it is, for the Republican Convention, and then come back after Labor Day with only a few weeks to close these matters out.

This Congress, this Senate, has very, very important business under time constraints that force us to move ahead, and we are prepared and ready to do so.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

AMENDMENT NO. 2751

(Purpose: To provide small business loan guarantees to displaced defense workers)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. LIEBERMAN, and Mr. PELL, proposes an amendment numbered 2751.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, line 25, strike all after "Armed Forces" up to and including page 77, line 2 and insert in lieu thereof the following: "of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement, a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement, or an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program,".

Mr. DODD. Mr. President, I ask further unanimous consent that the distinguished senior Senator from Rhode Island [Mr. PELL] be added as a cosponsor along with Senator LIEBERMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, let me begin by commending the distinguished chairman and ranking minority member for a very fine piece of legislation that they brought to the floor of the Senate today. This legislation is going to do a great deal to assist in the transition after the end of the cold war from an economy that is dependent on defense in many areas of the country. The $230 million of economic conversion assistance in this legislation will go a great distance toward helping defense companies and the surrounding communities as well as the employees who work in those communities and work for those companies.

The amendment I am proposing, along with my colleague Senator LIEBERMAN of Connecticut, and Senator PELL, is aimed at broadening the authority under the Defense Economic Transition Loan Program which is established in title IV of the pending legislation.

As reported, Mr. President, the legislation would do two things. First, it would extend loan guarantee assistance to small businesses that are prime contractors, or subcontractors, to the Pentagon. Second, it would provide loan guarantees to members of the Armed Forces who wish to start up their own businesses.

This amendment, Mr. President, would broaden the authority of this second provision to ensure that displaced defense workers, as well as members of the Armed Forces, are made eligible for this type of assistance. It replaces the language of the bill with the language included in the legislation that Senator LIEBERMAN and I introduced a few weeks ago, the Small Business Defense Economic Transition Assistance Act.

This language has also been included in the Small Business Credit and Business Opportunity Enhancement Act of 1992, which is a coordinated effort between the House and Senate small business committees. So Members can be confident that this language has received a full and careful scrutiny.

The logic behind this language lies in the fact that if we want to preserve the skills and talents of the defense industry, our focus should be on the people of the defense industry.

We often talk in this Chamber about the steps we are going to take to preserve the defense industrial base as we go about this downsizing of the defense budget. I know many Members of this body are concerned, as I am, that if we cut too fast and too deep, we will lose many of the vital skills and technologies that helped us to win the cold war.

This is one very simple step, Mr. President, that can help us prevent such an outcome. By providing loan guarantees to displaced defense workers, we are giving them a green light to take the technologies and skills that they learned in the defense industry and put them to work in the civilian sector. If there is a better definition of the term "conversion," Mr. President, I don't know what it is.

We have some experience with this in Connecticut, Mr. President. The recent cutbacks at Electric Boat, in Groton, threaten serious damage to the economy of the region. But if there is hope, Mr. President, it can be found in the many former workers of Electric Boat and other defense industries in the region who are taking business ideas of their own and putting them to the test.

In fact, the director of the local Small Business Development Center in Groton says he will counsel over 400 people this year—and about half of them are laid-off defense workers or veterans. That should say something about the importance of this type of assistance.

I will not take a great deal of time on this amendment because we talked with both the majority and minority staff about this particular proposal. But I believe very strongly that the people who have worked as our welders, pipefitters, designers and engineers over these past four and half decades, who contributed, essentially, to the victory of the cold war—these are in fact the veterans of the cold war. And in our debate of who needs to be thanked for what happened over the last four and one-half decades, certainly the American taxpayers and people in the uniformed services deserve recognition, but oftentimes these people who worked in the defense plants, subcontractors, suppliers, as well as the major industries, are left behind in that discussion.

This amendment merely says if these dollars are going to be used for economic conversion, that these people, as they lose their jobs—and thousands already have, in my State, in California, across the country deserve our recognition, and our assistance.

I want to thank Senator HOLLINGS and Senator RUDMAN for their support of this amendment.

Mr. PELL. Mr. President, the amendment offered by Senator DODD would simply broaden the coverage of small business loan guarantees being made in connection with defense adjustment.

As provided in the bill as reported, defense economic transition assistance under the Small Business Loan Guarantee Program would be extended to two groups: existing small businesses adversely effected by contract terminations or base closures, and new small businesses being established by former members of the Armed Forces.

This amendment would simply add another group adversely affected by defense curtailments, and that is former employees of defense contractors who have been laid off as a direct result of contract curtailment or termination.

The amendment would not increase the amount of authorized funding but would expand the number of potential applicants for the guarantees backed by the $40 million appropriation.

The actual impact is difficult to estimate, but I can say that a small but energetic minority of the 2,000 Electric

Boat employees being laid off in my State and nearby Connecticut are actively pursuing careers as independent entrepreneurs.

On their behalf I ask to be added as a cosponsor and I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Connecticut has indicated this recognition is long overdue. What it provides now is in conformance with our defense conversion provisions. It has been cleared on our side of the aisle, and I think on Senator RUDMAN's side of the aisle.

I urge the adoption of amendment.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2751) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire [Mr. SMITH].

AMENDMENT NO. 2752

(Purpose: To restore the Second Amendment rights of all Americans)

Mr. SMITH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2752.

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

Mr. SMITH. Does the manager of the bill wish a time agreement on this? I have no objection to a time agreement if you wish to have one.

Mr. RUDMAN. If my colleague from New Hampshire will yield for just one moment.

Mr. President, this will be very brief. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I suggest to my colleague from New Hampshire that we proceed with this amendment. We are unable to get an agreement at this moment for a limitation on debate on the amendment. We may have it in a few moments. When and if we do, I will ask the Senator to yield for the purpose of getting an agreement. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. I thank my colleague from New Hampshire and will inform him my remarks should not be more than 10 or 15 minutes and would inform any colleague of that fact in case they wish to make plans one way or the other regarding this amendment.

Mr. President, this amendment would simply repeal the District's liability gun law. This is a very strange, to say the least, and counterproductive law. It was enacted by the District of Columbia last year, as you know, and it would attempt to control the District's admittedly serious crime problem but in a way that is quite controversial and, frankly, unconstitutional by allowing the District of Columbia to determine what types of firearms residents of the 50 States may or may not buy.

It also makes manufacturers, as well as distributors, liable for a crime committed with a semiautomatic firearms in Washington, DC. The ramifications of that law, Mr. President, are startling.

Assume, for example, that a resident of South Carolina legally purchases a semiautomatic firearms, legally purchases a semiautomatic firearm manufacturered by, say, company Glock in Georgia. Assume further that the firearm is then stolen and transported into the District of Columbia where it is used by a drug dealer who shoots a rival drug dealer. Under the D.C. gun law, the injured drug lord could sue Glock, the company in Georgia who made the gun, and the South Carolina dealer to recover damages. In fact, the only party that the D.C. gun law would not allow him to sue is the criminal who shot him. The company gets sued who made the gun; the distributor gets sued who sold the gun; and the person who did the killing does not get sued. Both the manufacturer and the distributor do.

Surely there is some twisted sense of logic here that I fail to understand as we try to control crime, and we need to control crime, in the District of Columbia. The only conceivable rationale behind this misbegotten enactment is that the District of Columbia is trying to control its own crime problem by enacting national gun control. I think that is really the agenda here.

If the manufacturer of a semiautomatic firearm can be held liable for all damages and thus potentially put out of business every time one of its firearms is misused—not used—misused, the District of Columbia assumes that the national manufacture of semiautomatics will come to a complete halt.

While we are all concerned about the crime problem in D.C., this legislation creates far more problems than it could possibly solve. In the first place, the District's action threatens to cut off the sale of all firearms to Federal and local law enforcement authorities based in the District of Columbia. I want to make sure that is understood. It threatens to cut off the sale of all firearms to Federal and local law enforcement authorities based in the District. Why is this? It is because the one sure way that firearms manufacturers and dealers can avoid liability under the D.C. law is to deny the District jurisdiction over their operations, and this can be accomplished quite easily: By refusing to sell firearms of any type to the Capitol Police, the FBI, the Secret Service, the D.C. Police, the Bureau of Alcohol, Tobacco and Firearms, and other D.C.-based law enforcement officials or agencies.

Already, Colt Manufacturing Co.—this is very significant, Mr. President—Colt Manufacturing Co. of Connecticut, Gun South, Inc., of Alabama, Intratec of Florida, Action Arms Lts. of Pennsylvania, Beretta USA of Maryland, Springfield Armory of Massachusetts, and Sturm, Ruger & Co. of Connecticut have indicated either that they will cease doing business with District-based law enforcement authorities or that they are seriously considering doing so.

Mr. President, I ask unanimous consent that letters from Colt, Gun South, Intratec, Action Arms, Beretta, Springfield Armory, and Sturm, Ruger be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COLT'S MANUFACTURING CO., INC.,
Hartford, CT, November 19, 1991.

Congressman DANA ROHRABACHER,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: Colt's Manufacturing Company has been a proud supplier of reliable firearms to the United States Government and to America's law enforcement officers for over a century and a half. However, we are now faced with a law in Washington, D.C. unlike any other in history, and this new law may force Colt's to reconsider its sales policies regarding both the D.C. law enforcement community and the U.S. Government.

This unconscionable new law could make Colt's and other manufacturers liable in civil lawsuits to anybody claiming to be injured by anyone using, or misusing, certain firearms without regard to the conduct or misconduct of the person who fires the shot, and without regard to the care and safety with which the firearm is manufactured.

Because Washington, D.C. already has restrictive gun laws, Colt's does business there only with law enforcement and military agencies. Since the new law contains no exemptions for firearms sold to law enforcement or the military, all of Colt's future business in the District of Columbia could be in question. We may be forced to refuse to sell our products to such agencies in order to protect out company, its union work force and its management from the disastrous consequences of lawsuits which could be filed under the new law.

Sincerely,

JOHN HOLJES,
Vice President.

GSI INC.,
Trussville, AL, December 10, 1991.

Senator BOB SMITH,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SMITH: It is with deepest regrets that GSI Incorporated must reexamine our current marketing policies in regard to current sales to US Government and District of Columbia law enforcement agencies in the event legislation is passed that would make firearms manufacturers or their agents liable for damages to persons injured by criminal misuse of firearms. If such legislation is passed, it is our intention to refrain from participation in any procurement action made by all of the subject agencies in order to protect GSI from the adverse effects of litigation resulting from the proposed legislation.

Sincerely yours,

DONALD F. WOOD,
President, GSI Inc.

INTRATEC,
December 10, 1991.

Senator BOB SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: The following is in reference to the Washington, D.C. firearms manufacturers' liability law. This law could assign liability to us from persons claiming to be victimized by the use of firearms, irrespective of the behavior of the firearm user or the safety features accompanying the firearm.

We regret to inform you, that in the event this law goes into effect, it is our intention not to sell our firearms to any person, governmental agency, or law enforcement agency located in the District of Columbia.

We regret having to consider such an action, but the board and vague nature of the statute along with its unconstitutional expansion of liability dictates that such action be taken.

Sincerely,

MARTHA FERNANDEZ,
Office Manager.

ACTION ARMS LTD.,
Philadelphia, PA, December 10, 1991.

Senator BOB SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: Since our founding over 12 years ago, numerous federal departments, agencies services and bureaus have procured firearms from our company, and are continuing to do so. However, a new law in the District of Columbia has convinced us that a reassessment of this supply program is necessary. This law could assign liability to us from persons claiming to be victimized by the use of firearms, irrespective of the behavior of the firearm user or the safety features accompanying the firearm.

Our only sales within District boundaries are to U.S. government and security agencies. Restrictive gun laws have precluded us from selling our products to the commercial market. However, the fact that these agencies have not been excluded from the new law will have a devastating impact on our company by in effect making Washington D.C. off limits for U.S. governmental sales.

Sincerely,

JERRY STERN,
President.

BERETTA U.S.A. CORP.,
Accokeek, MD, November 19, 1991.

Congressman DANA ROHRABACHER,
House of Representatives, Committee on the District of Columbia.

DEAR CONGRESSMAN ROHRABACHER: I wanted to write to you to express my concern regarding the recent bill passed in the District of Columbia which would make firearms manufacturers responsible for damages to persons injured by the criminal misuse of a firearm. I understand that your committee has oversight authority with respect to legislative actions taken within the District of Columbia.

I have several concerns regarding this legislation. First, it is wrong to say that, when a company manufactures any of the firearms depicted in this legislation, they do so with the intent that the weapon will be misused by criminals. Firearms manufacturers make their products for use by the sporting public, for collecting, for use in law enforcement and for use in self-defense. Laws currently exist which penalize those who make or sell a weapon for use in criminal activity. The Beretta Model AR 70 rifle, specifically named in the D.C. legislation, has been sold by my company over the years to shooting enthusiasts, to collectors, and to law enforcement agencies. To suggest that Beretta should be held responsible for actions of criminals when Beretta's production and sales of the AR 70 rifle were made for legitimate pursuits smacks of gross unfairness.

Second, the D.C. bill is vague. While it lists some specific weapons as falling within its scope, it does not, on its face, define whether those weapons are listed as examples of firearms subject to the law, or whether they are simply demonstrative of firearms which would be subject to the jurisdiction of the law. My concern in this regard is increased by the introductory language of the bill, which makes a reference to handguns as contributing to crime problems in the District. A court, citing this language as expressing the intent of the law, could seek to hold the manufacturer of semiautomatic pistols or revolvers responsible for criminal acts committed with those products, even though the manufacturer had no notice of such potential liability.

Third, the bill may effectively rob government agencies located in the District of the ability to purchase weapons with which they can effectively respond to criminals. If the D.C. liability law becomes effective, Beretta, for example, will be compelled to consider ceasing any further sales to the D.C. police, the Park Police, the DEA, the FBI or any agency located in the District. Our concern, of course, would be that we not establish minimum business contracts in the District such that D.C. long arm statutes would be used to impose liability on Beretta for criminal misuse of any of our products. Stated more simply, we are concerned that court, citing as evidence sales by Beretta to the D.C. police department, the FBI and other agencies, will rule that Beretta, by virtue of its close business contracts with the District, has agreed to be governed by the laws of the District of Columbia and can be held liable for criminal acts coincidentally involving a Beretta product. The net effect of Beretta's refusal to do business in the District would be that the law enforcement agents who most urgently need its excellent and reliable products will be unable to purchase them.

I have other concerns about the D.C. liability bill, including its unconstitutional encroachment on interstate trade, its continuation of the erosion of vital Second Amendment rights, and its tendency to distract attention from the causes of crime—which supporters of the bill seem loath to address because these causes go to the heart of the failure of social and political institutions of which they are the major component—by placing attention on the mechanical devices which criminals sometimes use (or, in the case of the weapons listed in the bill, almost never use).

The D.C. liability bill will have no effect on crime, will impose liability on parties who are not responsible for the criminal conduct involved, is unconstitutional and vague, will with certainty involve the district in expensive legal defenses, and may strand District and Federal law enforcement agencies from the advances in technology which their counterparts and, ironically, the criminal element, will remain free to enjoy. For these reasons, I would encourage you to do everything possible to ensure that the bill is overturned by Congress.

Sincerest regards,

ROBERT L. BONAVENTURE,
Executive Vice President.

CALIFF & HARPER, P.C.,
ATTORNEYS AT LAW,
Moline, IL, November 19, 1991.

Hon. DANA ROHRABACHER,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: This office is general counsel to Springfield Armory, Inc., Geneseo, Illinois. I have been authorized to inform you that in the event the Washington, D.C. firearms manufacturers' liability law goes into effect, it is Springfield Armory's present intention not to bid on any contract nor sell any of its guns, both pistols and rifles, to any person, governmental agency, or law enforcement agency located in the District of Columbia.

Springfield regrets having to consider such an action, but the broad and vague nature of the statute along with its unconstitutional expansion of liability dictates that such action be taken.

With best regards, I remain,

Very truly yours,

WILLIAM H. DAILEY.

STURM, RUGER & CO., INC.,
Southport, CT, December 9, 1991.

Hon. BOB SMITH,
Attn: Mr. Corrigan
Dirksen Senate Office Building, Washington, DC.

DEAR MR. CORRIGAN: We would like to register in strongest possible terms our opposition to the above. Although we manufacture no firearms that appear on this list, we are most concerned that this is bad law, bad social policy, and bad precedent for any product, firearm or otherwise.

Sturm, Ruger & Company, Inc. was founded in 1949 and is a domestic manufacturer of high quality firearms for sporting, police, personal defense, and military applications. Federal agencies that have used Ruger firearms over the years include the Federal Bureau of Alcohol, Tobacco and Firearms, the U.S. State Department, the U.S. Customs Service, the U.S. Postal Service, the Department of Immigration and Naturalization, the Border Patrol, and the U.S. Marshall's Office. We have also recently sought to obtain U.S. government contracts from the U.S. Army, the F.B.I., and the D.E.A. We do no civilian business within the District of Columbia.

If not repealed by Congress, the courts will have to interpret the "doing business" aspect of the D.C. Long Arm Statute, and whether or not selling to a Federal agency within the District would thereby subject a manufacturer to this indefensible absolute liability sought to be imposed against lawful manufacturers of firearms many states away. Sturm, Ruger & Company, Inc. would then have to carefully consider whether the risk of payment of multimillion dollar judgments, without any available defenses under the Act, can support that relatively small portion of it's business that arises out of Washington-based Government sales.

I must stress that no such decision has yet been made, and indeed, it cannot be made until the law is either overturned or the appellate courts speak conclusively on this subject. However, suspension of any sales within the District would have to be considered if such sales were to be held a basis for long arm jurisdiction under the D.C. Act.

Thank you for allowing us to explain our position.

Very truly yours,
STEPHEN L. SANETTI,
General Counsel.

Mr. SMITH. Mr. President, the second problem with the District's strict liability gun law is that it threatens to bankrupt legitimate gun manufacturers and dealers through lawsuits brought by injured drug lords. Injured drug lords can bring suit against manufacturers and dealers.

How genuinely ironic it would be if 1,000 honest, hard-working people were thrown out of work in Florida, Connecticut, or Massachusetts in order to finance a D.C.-based drug empire, because that is exactly what would happen.

The third deficiency in D.C.'s approach has to do with its potential precedential impact on tort law. Historically, liability has not been applied to products that are lawfully manufactured, lawfully sold, lawfully distributed, and function properly. If the District can implement national firearms policy because of its distaste for guns, well, who is next Alcohol, cigarettes, condoms? As a result of the almost limitless implications of imposing strict liability on the manufacture or distribution of an otherwise lawful or nondefective product, virtually all of our Nation's top torts scholars oppose laws similar to this one.

Let me cite a couple. Victor Schwartz, author of "Schwartz on Torts" testified against the D.C. law in the House. Here is what he said:

> Let me quickly share with you a key point—the law of torts is not the place to try to ban or eliminate the manufacture of assault weapons. Assuming that a person is seriously wounded or killed by an assault weapon that was well-manufactured and worked the way it was supposed to work, the manufacturer should not be subject to liability for harms caused by that weapon.
>
> These views are not mine alone. My senior author, the late Dean William Prosser, author of the famous, "The Fall of the Citadel," a foundation piece for strict products liability, steadfastly maintained that such liability should not be imposed when products operate as they are suppose to operate and have nothing wrong with them. Lawyers would say that the product has "no defect." Dean Prosser and other great scholars, judges, and practicing lawyers helped formulate strict products liability in a 1965 document called, "The Restatement (Second) of Torts"
>
> Sec. 402a. It echoes the same theme. A principal comment to section 402a says that a product manufacturer is not to be held liable for "inherent characteristics of a product." These are characteristics that are commonly known and cannot be removed from the product without compromising its basis function.

Schwartz goes on to cite support from coauthors of the leading American textbook in the field of products liability, Jim Henderson of Cornell and Aaron Twerski of Brooklyn Law School, pointing out that courts have been steadfast in not applying the [strict liability] doctrine manufacturers when somebody else, a third party, a responsible party, uses the product in an improper way.

These are the scholars in the field, Mr. President.

I ask unanimous consent that the testimony by Victor Schwartz be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE IMPOSITION OF LIABILITY WITHOUT DEFECT IS UNSOUND PUBLIC POLICY ADVERSELY IMPACTING INTERSTATE COMMERCE

(Testimony by Victor E. Schwartz, partner, Crowell & Moring Before the House Committee on the District of Columbia, November 21, 1991)

Thank you Mr. Chairman for the opportunity to testify about legal issues that have been raised concerning the District of Columbia Assault Weapon Manufacturing Strict Liability Act of 1990 and the need for passage of H.R. 3712.

Let me briefly state my background regarding the subject of liability. Beginning in the late 1960's I was a Professor of Law at the University of Cincinnati and, subsequently, its Acting Dean. Apart from tort law, I taught conflicts of law which has some relevance to the issues of concern to this Committee. I have written many articles in the field of tort law and am the co-author of the most widely used torts-liability casebook in the United States, W. Prosser, J. Wade and V. Schwartz, *Cases and Materials on Torts*. The book is now in its Eighth Edition. From 1976 to 1980, under both Presidents Ford and Carter, I chaired the Federal Interagency Task Force on Product Liability—it conducted the most in-depth study of product liability that has been published in the United States to date. Since 1980, I have been a member of the Washington law firm of Crowell & Moring and co-chair its Torts and Insurance Practice Group. Over the past 25 years, I have represented both plaintiffs and defendants. My views today are based on all of these experiences—that is where I am coming from.

Let me make clear where I am not coming from. I am not a gun owner—I have never owned one. I have not and am not representing people who manufacture or distribute guns. From what I have read, I can truly appreciate the harms that so-called "assault" weapons have done in our society. I also have been informed that law enforcement officials have used these weapons to combat crime.

Let me quickly share with you a key point—the law of torts is not the place to try to ban or eliminate the manufacturer of assault weapons. Assuming that a person is seriously wounded or killed by an assault weapon that was well-manufactured and worked the way it was supposed to work, the manufacturer should not be subject to liability for harms caused by that weapon.

These views are not mine alone. My senior author, the late Dean William Prosser, author of the famous, *The Fall of the Citadel*,[1] a foundation piece for strict products liability, steadfastly maintained that such liability should not be imposed when products operate as they are supposed to operate and have nothing wrong with them. Lawyers would say that the product has "no defect." Dean Prosser and other great scholars, judges, and practicing lawyers helped formulate strict products liability in a 1965 document called, *The Restatement (Second) of Torts* §402A. It echoes the same theme. A principal comment to §402A says that a product manufacturer is not to be held liable for "inherent characteristics of a product." These are characteristics that are commonly known and cannot be removed from the product without compromising its basic function.

When §402A was debated, Dean Prosser said, "[T]he fact that the product itself is dangerous or even unreasonably dangerous to people who consume it, is not enough. There has to be something wrong with the product." Similar thoughts were expressed by, my now senior co-author, Dean John W. Wade. *See* Wade, *On the Nature of Strict Liability for Products*, 44 Miss. L. Jour. 825, 842 (1973).

In 1991, over 25 years after Restatement §402A was published, a number of prominent academics, assisted by advisors from courts and practice, conducted a five-year study for the American Law Institute entitled, "Enterprise Responsibility for Personal Injury." While they made many recommendations for changes in the law of products liability, they stated clearly:

"A product's design should be deemed defective if, and only if, there was a feasible alternative design which, consistent with the consumer's expected use of the product, would have avoided the particular injury . . ."

See A.L.I. Reporters' Study, "Enterprise Responsibility for Personal Injury," Vol. 2, p. 56 (1991).

The co-authors of the leading American textbook in the field of products liability, Professor Jim Henderson of Cornell and Professor Aaron Twerski of the Brooklyn Law School, have recently completed a seminal article dealing with the same topic. *See* J. Henderson and A. Twerski, "Closing the American Products Liability Frontier: The Rejection of Liability Without Defect," 66 N.Y.U. L. Rev. (1991) (to be published). This article, in an in-depth fashion, shows why it is unsound public policy to impose liability on manufacturers where there is nothing wrong with a product.

As the article indicates, some have suggested that the manufacturer of assault weapons is akin to what tort law has called an "abnormally dangerous" or a "ultra-hazardous" activity—some courts have ruled that conducting certain selected activities justifies the imposition of strict liability. A few such activities have been singled out by courts, such as blasting and the use of poisonous gas, principally because they are highly dangerous and "abnormal" to their environment. But there is a great deal of difference between that type of liability and imposing liability on a manufacturer of a product. Under the abnormally dangerous activity doctrine, the active party who causes the harm is the person who *engages in the activity itself*, he conducts the blasting or sprays the poisonous gas. Courts have been steadfast *in not* applying that doctrine to manufacturers when somebody else, a third party, a responsible party, uses the product in an improper way.[2]

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[1] 50 Minn. L. Rev. 791 (1966).

Legal niceties aside, what are the basic public policy reasons for this result? First, when a person is killed by an assault weapon, the wrongdoer is the person who pulled the trigger, not the weapon itself. Assault weapons have caused a great deal of harm in our society, but they have also been used safely, and for legitimate purposes. Our liability law should not *externalize* responsibility, that is, shift responsibility away from the people who did the wrong—the person who pulled the trigger, or any individual who, in violation of criminal law, sold him that weapon, and, instead, place blame on the so-called "deep pocket" manufacturer who did nothing more than produce a lawful product.

Tort law has properly concentrated on defective products, products that manufacturers could have made safer. In the classic case of the Ford Pinto, the gas tank could have been placed further away from the rear of the car and a firewall could have been installed. With these changes in place, an automobile would be less likely to be subject to fire in low impact collisions. In point of fact, there is no way to make a gun that can only be used for legitimate and not illegitimate purposes—it is impossible if the product is still to be a gun. The same is true of a knife, a hatchet, a rope, or any product that can be used to kill or maim. Let me get to a more practical example, alcoholic beverages. Many people enjoy alcoholic beverages without causing harm to others. Nevertheless, all of us know that alcohol has caused a great deal of harm in our society. The number of people killed by drunk drivers probably exceeds those who have been killed by assault weapons. Should this Congress support a principle that could subject manufacturers of alcohol to liability for every person harmed by a drunk into American law? I think not. The implications of this principle for businesses operating in interstate commerce are staggering.

When this new law is placed in the context of general American product liability law, it stands alone—all states now require that a plaintiff show that something is wrong with the product.[3]

The European Economic Community recently drafted an EC Directive on product liability. It is now law in eight countries (the United Kingdom, Greece, Italy, Luxembourg, Denmark, Portugal, Germany, and the Netherlands). The EC Directive, in clear language, states that for liability to be imposed, there must be a "defect" in the product. *See* Article 4.[4] The District of Columbia Assault Weapon Strict Liability Act of 1990 is isolated not only in the United States, but the entire commercial world. The most modern principles of foreign product liability law do not hold manufacturers or distributors of products responsible when that product has not been shown to be defective.

Some have said that the Assault Weapon Manufacturing Strict Liability Act of 1990 is confined to the perimeters of the District of Columbia. This is not in accord with practical fact. This law can affect manufacturers who never sell weapons privately in the District. If they sell weapons to law enforcement officers, but other weapons made by the same manufacturer find their way into the District, this well could be enough to provide District of Columbia courts with jurisdiction over the manufacturer if these other weapons are used for illegal purposes. The Assault Weapon Manufacturing Strict Liability Act of 1990, as the Congressional Research Service has reflected, has extraterritorial impact, there is no getting away from it.

The liability exposure from imposition of liability where a product works as it is supposed to is beyond any liability exposure that has been witnessed in the United States. Under the Assault Weapon Manufacturing Strict Liability Act of 1990, this exposure can be thrust on a manufacturer even though it produced a lawful product and broke no criminal law of the District of Columbia.

Our country has problems with our liability system as it is—many state statutes have been enacted to confine some of the excessiveness of the 1980's. Recently, a number of leading state supreme courts have taken similar steps. To impose liability on a product without defect thrusts interstate commerce on a deep, dark ocean of liability from which there is no point of return—it is a legal distortion that cannot be justified.

The Assault Weapon Manufacturing Strict Liability Act of 1990 placed tort law in the middle of a broad-based political fight between those who want to regulate and those who do not want to regulate assault weapons. That fight should be resolved within the framework of regulation—legislators and others who wish to ban or limit weapons in the United States should make their case and persuade persons that this is sound public policy for our society. That is the arena for the fight, not tort law.

I will end where I began. I am not a member of the NRA or any organization that either supports or opposes gun control. I have been in the field of liability law throughout my professional life. That experience says that manufacturers of guns should be subject to liability if they fail to provide adequate instructions to the product user, if they make weapons that blow apart or do not function properly; they should not be subject to liability when their product works as intended. In my judgment, H.R. 3712 represents sound public policy in repealing the Assault Weapon Manufacturing Strict Liability Act of 1990.

Mr. SMITH. Mr. President, in addition to Professor Schwartz, Justice Richard Neely, of the West Virginia Supreme Court of Appeals, testified in the House in opposition to the District of Columbia law, and he said this:

> Consequently, it appears to me that if D.C. Act 8-289 is allowed by Congress to stand and is then upheld against constitutional challenge by the courts of the District of Columbia and the Supreme Court of the United States, we will have recognized finally the Alice in Wonderland nature of America's product liability system. I would predict that after weapons manufacturers, the next target for tort law shutdown will be cigarette manufacturers.

Or perhaps the distributors of red meat, Mr. President. Who is next?

Mr. President, I ask unanimous consent that the full statement of Richard Neely be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY BY JUSTICE RICHARD NEELY, WEST VIRGINIA SUPREME COURT OF APPEALS

(Before the House of Representatives Committee on the District of Columbia, September 12, 1991)

Thank you Mr. Chairman and the other distinguished members of the committee for the invitation to discuss the impact on the national law of products liability of the Assault Weapon Manufacturing Strict Liability Act of 1990.

For those of us who favor a national law of products liability, and particularly for those of us who favor S640 currently under consideration in the United States Senate, D.C. Act 8-289 is, perhaps, a Godsend. This statute makes such a mockery of what are generally thought to be "legitimate" tort principles that D.C. Act 8-289 may succeed in forcing the Supreme Court of the United States—even in the absence of Congressional action—to create a new, national common law of products liability.

Current American tort law, particularly the law of products liability, rests on three pillars. D.C. Act 8-289 burdens each and every one of these pillars to the breaking point.

The first tort law pillar is the constitutionality of state long arm statutes that permit plaintiffs to sue out-of-state defendants in local courts when the defendants have some "minimum contact," such as doing business or advertising for customers, in the plaintiff's home state. The U.S. Supreme Court has been surpassingly liberal towards plaintiffs of late in its determinations of what is sufficient to constitute a jurisdiction-giving "minimum contact."

The second pillar of modern tort law is the constitution's full faith and credit clause which requires all other state courts to enforce judgments entered under jurisdiction conferred by virtue of a long arm statute.

The third pillar is substantive tort law. Today's tort law is increasingly based on insurance principles, so that theories like strict liability and comparative fault (which were thought unacceptably radical just twenty years ago) are now accepted by the courts everywhere. These theories, in turn, are premised on risk-spreading insurance principles and, as a practical matter, tort liability is something against which every company with assets insures.

D.C. Act 8-289 is, at late last, an official codification of what have previously been either thickly veiled or entirely unconscious schemes that redistribute wealth from out-of-state defendants to in-state plaintiffs through state tort law. Therefore, in order to understand how D.C. Act 8-289 mocks the tort system, laughing at the apparently sincere protestations of trial lawyers, law professors and state court judges that the states can be "fair and honest" in product liability cases, we must examine the current state of product liability law. Indeed, even before D.C. Act 8-289 was enacted, a national law of products liability was desperately needed!

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[2] *See Armijo v. Ex Cam, Inc.*, 656 F.Supp. 771 (D.N.M. 1987), *aff'd*, 843 F.2d 406 (10th Cir. 1988); *Perkins v. F.I.E. Corp.*, 762 F.2d 1250 (5th Cir. 1988); *Caveny v. Raven Arms Co.*, 665 F.Supp. 530 (S.D. Ohio 1987); *Riordan v. International Armament Corp.*, 132 Ill. App. 3d 642, 87 Ill. Dec. 765, 477 N.E.2d 1293 (1985); *Knott v. Liberty Jewelry and Loan, Inc.*, 50 Wash. App. 267, 748 P.2d 661 (1988).

[3] The only case that "went the other way" involving guns was in Maryland in a decision dealing with handguns. *See Kelley v. R.G. Industries, Inc.*, 304 Md.2d 124, 497 A.2d 1143 (1985) (handgun). That case was subsequently overruled by the Maryland legislature. *See* Md.Stat.Ann. at 27 §36(h)(1) (1987).

[4] Article 4 says that, "The injured person shall be required to prove the damage, the defect, and the causal relationship between the defect and damage."

I

I have been a judge of West Virginia's highest court since 1973, and I have served three times as West Virginia's chief justice. In that time, product liability law has undergone great changes, but as long ago as 1976 we were beginning to see a "competitive race to the bottom" in product cases. Typically, in a product liability case, there is an in-state plaintiff, an in-state judge, an in-state jury, in-state witnesses, in-state spectators, and an out-of-state defendant. When states (or the District of Columbia) are entirely free to craft the rules of liability any way they want, it takes little imagination to guess that out-of-state defendants as a class won't do very well.

Business justifiably complains of what appear to be utterly perverse results. For example, in 1976 John Newlin, a Pennsylvania farm manager, ordered an International Harvester Front End Skid Loader. That model came equipped with a roll bar, but Mr. Newlin requested that the roll bar be removed so the tractor could go through his low barn door. Jim Hammond, a farm employee, operated the skid loader for several months, but then one day in a freak accident turned the machine over and killed himself. Mrs. Hammond, Jim's widow, sued International Harvester and recovered a big verdict because the skid loader was defective for not having a roll bar—the roll bar that had been removed at the direction of the purchaser. This type of result is typical in product cases and is not necessarily even irrational if we want to create a no-fault insurance mechanism. But it is now time to give rational order to the insurance mechanism that we have created helter-skelter. The value, then, of D.C. Act 8-289 is that it focuses attention on the entire system's perversity and makes explicit certain premises that until now have been only implicit.

Until about 1960 a plaintiff in a product case had to show that the manufacturer was negligent, but now such a showing is no longer required. Today it is necessary only to demonstrate that the product had either a design or manufacturing defect that caused the plaintiff injury while the product was being used for either its intended purpose or another foreseeable purpose. Furthermore, juries are given such broad discretion that the purchaser—as in the Harvester case—can be entirely at fault yet an injured victim may still recover. None of this, however, was expressly admitted before the arrival of D.C. Act 8-289.

Unlike England, France and Germany (our major European competitors), the United States does not have one unified court system. Rather, we have fifty-three separate, uncoordinated court systems. First, there is the nationwide system of federal courts, which is divided into thirteen separate circuits that are only loosely held together by the Supreme Court of the United States. In addition to the federal courts, however, there are freestanding court systems in the fifty states, the District of Columbia, and Puerto Rico.

America's diversity of court systems leads to a diversity of law systems because American judges, like their English predecessors, have extensive law-making powers. Because each separate court system is administratively independent of the others, each separate court system is free to generate eccentric judge-made law at odds with the statutory and judge-made law of other jurisdictions. Thus, there is no "American" law of product liability in the sense of uniform national standards.

Given the profile of product liability suits, where the defendant is invariably from out-of-state, there is a "competitive race to the bottom" among state courts to create ever more liberal liability rules. This is not necessarily an intentional anti-business policy, but simply an exercise in economic self-defense: Any state court (or state legislature, for that matter) that does not keep up with the latest pro-plaintiff rulings is behaving entirely irrationally. That is why when one court pushes the frontier of product liability law further out because of an extraordinarily sympathetic set of facts, the new pro-plaintiff frontier quickly becomes the law for all, or nearly all, of the states. Now, however, with the advent of D.C. Act 8-289 the state legislatures have joined the fray, which will dramatically speed up the competitive race to the bottom.

Although my personal experience has been in a state with elected judges, I have found that many of the most pro-plaintiff decisions—like the Harvester case—have come from either federal judges or appointed state judges. This is because even appointed trial and appellate judges are swayed by the emotional incentives that favor the redistribution of wealth from out-of-state defendants to local residents, which is why product liability law becomes more and more oppressive to business. In the case of the District's strict liability bill for the manufacturers of certain types of firearms, product liability's oppression of those who cannot respond politically is finally explicit. It is certain as night follows day that the District would never have passed the statute now under consideration if firearm manufacture were a major taxpaying D.C. industry with employees who could vote and management who could make campaign contributions.

By pointing these dynamics out I do not mean to imply that every, or even most product liability decisions are the result of bias against out-of-state defendants or of a cavalier disregard by judges and juries of accepted standards of right and wrong. But it is not the overwhelming majority of ordinary cases or ordinary statutes that determine the contours of the law; rather, it is the extraordinary case, like the International Harvester case I discussed earlier, and the extraordinary statute, like D.C. Act 8-289 under discussion here today, that determine the contours of the law.

Thus, in close product liability cases where fact patterns are on the edge of existing law and the sympathies of a normally compassionate judge or juror would be aroused, there is no local incentive against nudging the case over the line in favor of, say, a widowed mother of four. However, these hard cases do not stand in isolation: As individual hard cases are nudged across the frontier by sympathetic judges, the frontier itself changes, but only in one direction. The District's strict liability law for certain types of firearms, however, is a new wrinkle in this whole process. Now, instead of an out-of-state defendant being required by local tort law to pay for an injury regardless of fault, tort law is being used to destroy an industry employing thousands of people who are total strangers to the jurisdiction abolishing the industry. This, then, dramatically highlights the most serious problem with current products liability law and shows conclusively why a national products law is necessary.

II

Product liability exposure is one of the most serious long-term problems facing the American economy, but the full dimensions of the problem are as yet only dimly understood by the public. In general, most large American companies have managed to live with current product liability law without going bankrupt or closing plants. But that is because most large American companies manufacture established products with known liability risks and have devised schemes—such as introducing new products off-shore—to keep their product liability exposure in the American market within manageable limits. Thus, the problem for the American economy is not that product liability will bankrupt otherwise solvent American companies, but rather that the defensive actions that American companies are forced to take to protect themselves from product liability exposure will move research, development and American jobs offshore.

Not all segments of American society face the same jeopardy from global competition. Thus, the upper middle class of lawyers, judges, university professors, doctors, and other "professionals" are not subject to having their jobs moved overseas. The District of Columbia is almost a one industry town, and that industry—national government—always takes its salaries, perks and benefits off the top! Skilled and unskilled labor in the private sector, on the other hand, as well as business managers, face constant competition from low cost foreign producers. America, then, is divided into two classes—those for whom America's international competitive position is a life or death issue, and those who are insulated from international competition.

The strength of the Roosevelt administration's New Deal was the breadth of shared economic concerns. Even those who had secure jobs during the 1930's still had parents, brothers, or friends who were out of work. The same broad unity of interest in economic matters does not exist today. Current social stratification produces a leadership class of professionals, journalists and academicians who are both psychologically and geographically removed from the lower middle class of blue collar and clerical workers threatened by foreign competition. Were this not the case, far greater attention would be paid in the media or our product liability law because the big loss from runaway product law is research and development not pursued, new technologies not developed, new products not introduced, market shares not dominated, learning curves not exploited and, most important, new jobs not created.

Draconian product liability rules discourage American companies from introducing new products in the American market until those products have been thoroughly tested abroad. However, if the initial product introduction is to be done, say, in Japan, then it is only intelligent to manufacture the product in Japan initially. Logically, if the manufacturing is to be done in Japan, then the research, development and engineering ought to be done in Japan as well. Inevitably, the product becomes a Japanese product and not an American product. The company doing the manufacturing may be an American company in the sense that it is owned by American shareholders, but the real wealth—namely the jobs associated with the production of the product and the technical skills acquired by managers and labor force—is owned by the Japanese. Firearms manufacture is a major worldwide industry. One effect, then, of D.C. Act 8-289 will be to encourage firearms manufacturers to relocate abroad.

If you ask the average state judge whether she would like to redistribute some wealth from, say, Colt firearms to a local resident who was severely injured in a shooting accident, the judge will probably answer "yes." But if you ask the same judge to make a choice between high local employment in Colt's plants on the one hand, and redistribution of Colt's money on the other, she is likely to favor high employment over simple wealth redistribution. The problem is that except for the U.S. Supreme Court, no American judge can affect these trade-offs.

If, for example, as a West Virginia judge I insist that West Virginia have conservative product liability law, all I will do is reduce my friends' and neighbors' claims on the existing pool of product liability insurance paid for by consumers through "premiums" incorporated into the price of everything we buy. This is the explicit rationale of Blankenship versus General Motors, 406 S.E.2d 781 (W.Va., 1991). Blankenship adopted the "crashworthiness" doctrine in automobile collision cases in West Virginia. In Blankenship I wrote for a unanimous court:

"[W]e do not claim that our adoption of rules liberal to the plaintiffs comports, necessarily, with some Platonic ideal of perfect justice. Rather, for a tiny state incapable of controlling the direction of the national law in terms of appropriate trade-offs among employment, research, development and compensation for the injured users of products, the adoption of rules liberal to plaintiffs is simple self-defense." 406 S.E.2d at 786.

Thus, as a state judge I have admitted in a unanimous opinion written for the highest court of one of the fifty states that we, as a state court, cannot be rational in the crafting of product liability rules. If this is true of the highest court of a state, it is equally true of the D.C. City Council or a state legislature. No matter, then, how responsible I or the other members of our court want to be as state court judges, we are powerless to improve the overall American product liability system or reduce the exposure of West Virginia manufacturers to the caprice or malice of out-of-state courts, out-of-state juries, and out-of-state legislatures.

By trying unilaterally to make such improvements, we will succeed only in impoverishing our own State's residents without doing anyone, anywhere, any measurable good. Unless we want to be "suckers," as state judges we must immediately incorporate the latest pro-plaintiff wealth redistribution theories applied in other states into West Virginia's decisional law. If we conceive and apply new wealth redistribution theories before anyone else, as the District of Columbia has in enacting D.C. Act 8-289, we can even garner for ourselves more than our fair share of the national product liability insurance pool. Every jurisdiction, then, must ultimately follow the most irresponsible state, or in this instance, the District of Columbia.

III

There is no question that the District of Columbia has a problem with violent crime, but the manufacture of firearms is legal everywhere in the United States under preemptive federal law. All West Virginians have a state constitutional right to own and carry firearms, yet West Virginia has the lowest crime rate in the United States. On the other hand, in the District of Columbia it is illegal to import or own a handgun not used for law enforcement purposes. Consequently, it is difficult to see how any firearms manufacturer could have "minimum contacts" with the District except through selling law enforcement agencies.

Under D.C. Act 8-289, a Connecticut manufacturer who legally produces a gun proscribed by D.C. Act 8-289 and then legally sells it to a West Virginia resident (from whom, perhaps, it is illegally stolen) will be strictly liable for injury done with that weapon in the District. Although an argument can be made that this spreads the risks of inevitable injuries from misused firearms, it makes a mockery of strict liability concepts because this is not a hazard against which manufacturers can insure, nor does the scheme collect the product liability "insurance premium" in the form of higher prices from the same class that either (1) commits the tort, or (2) suffers the injury. Manufacturers will either beat the "minimum contacts" requirement by never setting foot in the District, or go out of business.

No court in Connecticut, therefore, would willingly acquiesce in putting a local firearms manufacturer out of business by enforcing judgments rendered against Connecticut employers in the courts of the District. Given that under D.C. law a gun manufacturer is prohibited from doing business in the District (except when selling to law enforcement agencies), a state court asked to enforce a D.C. judgment against one of its own residents would be surpassingly reluctant to find the "minimum contacts" necessary to justify long arm jurisdiction. In other words, strict liability for manufacturers of certain firearms places an insupportable burden on principles of comity among state courts and stretches the full faith and credit clause to the breaking point.

For that reason, lawsuits filed under D.C. Act 8-289 will invite the U.S. Supreme Court to revisit its holdings on what "minimum contacts" are necessary to justify long arm jurisdiction when a litigant seeks to compel enforcement of a foreign judgment through the U.S. Constitution's full faith and credit clause.

Consequently, it appears to me that if D.C. Act 8-289 is allowed by Congress to stand and is then upheld against constitutional challenge by the courts of the District and the Supreme Court of the United States, we will have recognized finally the Alice in Wonderland nature of America's product liability system. I would predict that after weapons manufacturers, the next target for tort law shutdown will be cigarette manufacturers. After the cigarette manufacturers, states like Idaho and Louisiana may decide to establish strict liability for manufacturers and distributors of specialized medical equipment used in performing abortions. From there the health fascists can make a stab at imposing strict liability on the distributors of red meat.

And at that point the White Rabbit, perhaps in the form of Congress, will come by, look at his watch, and announce that the story is over.

Thank you Mr. Chairman.

RICHARD NEELY, WEST VIRGINIA SUPREME COURT OF APPEALS

CURRICULUM VITAE

Education: A.B. Economics, Dartmouth College, 1964 LL.B. Yale Law School, 1967.

Military: Captain, U.S. Army Artillery, 1967-69. Served on the personal staff of John Paul Vann in Republic of Vietnam, 1968-69; author of the economic development portion of the 1969 pacification plan. Awarded Bronze Star.

Business and professional: Practiced law alone in Fairmont, W. Va., 1969-73. Chairman of the Board of Kane & Keyser Hardware Corp., Belington, W. Va., 1970-1988. General Partner in Forest Festival Terrace, a West Virginia real estate holding company.

Government: Elected to the West Virginia House of Delegates for the 1971-73 term from Marion County. Elected state-wide to the West Virginia Supreme Court of Appeals in 1972 for a twelve-year term. Reelected to a full term in 1984. Chief Justice of the West Virginia Supreme Court of Appeals, 1980-81, 1985-86, 1990-91. This is West Virginia's highest court with administrative responsibility for all lower courts.

Major publications: "How Courts Govern America," Yale University Press (New Haven and London, 1981); "Why Courts Don't Work," McGraw-Hill (New York, 1983); "The Divorce Decision," McGraw-Hill (New York, 1984); "Judicial Jeopardy: When Business Collides With the Courts" (Addison-Wesley, 1986); "The Product Liability Mess," The Free Press (New York, 1988); "Take Back Your Neighborhood: A Case for Modern-day 'Vigilantism,'" Donald I. Fine, Inc. (New York, 1990); "The Politics of Crime," The Atlantic Monthly, (cover story) August 1982, pp. 27-31; "The Primary Caretaker Parent Rule: Child Custody and the Dynamics of Greed," 3 Yale Law and Policy Review, p. 168, (1985); "Why Wage-Price Guidelines Failed: A General Theory of the Second Best Approach to Inflation Control." 79 W. Va. Law Review 1, (1976).

Academic: Professor Economics, University of Charleston, Charleston, West Virginia, 1979-90; Frederick William Atherton Lecturer, Harvard University, 1982-83; Visiting Professor of Law, Fudan University, Shanghai, People's Republic of China, 1984.

Mr. SMITH. Mr. President, this brings us to the fourth principal problem with the D.C. law. It is unconstitutional, pure and simple. It is unconstitutional. Sometimes that does not matter around here, but it is unconstitutional. It is an effort by a local jurisdiction to bring a halt to interstate commerce in a particular commodity. That is what it is, pure and simple.

Let there be no mistake about the objective of this legislation. It is not to regulate guns. The objective is to eliminate the manufacture and distribution of an entire class of guns, and ultimately of all classes of guns. D.C. Councilman William Lightfoot admitted this when he said:

> It would seem that the merchants of death—and that's what they are, they are merchants of death, the people that manufacture these guns, distribute these guns and sell these guns are merchants of death. * * * It is time they no longer earned money and income from sales of these weapons. We cannot allow them to roam free in our society.

Honest, hard-working manufacturers and distributors, men and women across this country who produce weapons, are now merchants of death because somebody misuses that weapon and commits a crime. Has it really come to that, Mr. President?

Fortunately, neither the Constitution's commerce clause nor D.C.'s home rule charter permit the District of Columbia to regulate commerce between the States. As recently as last January, the Supreme Court reiterated this reading of the commerce clause in its decision Wyoming versus Oklahoma.

Now, Mr. President, I understand that there are many who are concerned about the rights of the District of Columbia under the Home Rule Act, and I share this concern. Traditionally, however, the committees of jurisdiction have applied a three-fold test which has allowed them to overturn a D.C. enactment if that enactment were, first, unconstitutional; second, a violation of the D.C. home rule charter; or third, an impingement on a Federal interest.

Mr. President, the D.C. gun liability law is an unconstitutional violation of the commerce clause. It violates the D.C. home rule charter which limits the District's jurisdiction to legislation dealing with the District's own affairs. This goes far beyond the District's own affairs. It interferes with Virginia. It interferes with New Hampshire, with Georgia, with South Carolina. It interferes with every State in the Union by telling a manufacturer he cannot manufacture or distribute a gun. Finally, it impinges on a Federal interest because it threatens to cut off the supply of weapons to Federal law enforcement agencies.

And you have heard it in the words of the people who sell and produce those weapons, that they would not feel they could do that without the risk of a lawsuit.

Mr. President, the District does have a serious crime problem. We all know that. But serious problems, however severe, do not justify unconstitutional and counterproductive legislation.

The crime problems in the District of Columbia should be dealt with by punishing the people who misuse the weapon.

Mr. President, at this time, unless there is further—there is further debate.

I urge adoption of my amendment, and at some point in the debate, Mr. President, I am going to ask for the yeas and nays.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, first of all, I think the Senator from New Hampshire has made a powerful argument why we ought to make the District of Columbia a State—so we do not try to handle every little iota of legislation. I think he probably is correct when he says this bill is unconstitutional.

But, Mr. President, I rise for another reason. I make a point of order that this is legislating on an appropriations bill, and I ask the Chair to rule on a point of order.

The PRESIDING OFFICER. The amendment by the Senator from New Hampshire, number 2752, constitutes legislation on an appropriations bill. It repeals existing law. The point of order is sustained.

Mr. SMITH. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there debate on the appeal of the ruling of the Chair?

Mr. HOLLINGS. Mr. President, I did my best to persuade the distinguished Senator from New Hampshire that this was not good procedure on this particular bill. I happen to agree with the substance of the argument of the Senator from New Hampshire relative to the little ordinance that they have down here in the District of Columbia, and for the many reasons as outlined by the distinguished Senator. But I was unable to persuade him. Unfortunately, now we get to the point of order. I could not assure him on the contrary.

I was assuring him that in all probability this could not be held in our conference because it belongs on the District bill and not the State, Justice, Commerce. I think, as the manager of the bill, I should make a record to that particular effect. While I am agreeing with the substance, I have to disagree with the procedure itself.

The PRESIDING OFFICER. Is there further debate? If not, the question is, shall the decision of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I will just take 3 minutes. The point is, first of all, that we are legislating on an appropriations bill. Unless it is an extreme situation, it is something the Senate ought to avoid. The Chair's ruling is a proper ruling, and the Senate should sustain the Chair on this.

But there is a second issue here; that is, we are dealing with something that is taking place by action of the City Council of the District of Columbia. If it is unconstitutional, the place to deal with that—I happen to think it probably is unconstitutional—is in the courts, not on the floor of the U.S. Senate. If the State of New Hampshire passes a bill that I believe is unconstitutional, I do not come into the U.S. Senate and offer an amendment to negate the action taken in the State of New Hampshire.

If we believe in home rule here, let us let the District of Columbia run its affairs. The Senator from New Hampshire has made, through his motion, a powerful argument for statehood for the District of Columbia. I assume, after that eloquent statement, that he will support statehood for the District of Columbia. But the way we settle constitutional disputes is in the courts, not to come in here with amendments on appropriations bills. The procedure is completely flawed.

So I made my point of order.

Mr. President, if no one seeks—I see my respected colleague from Idaho seeking the floor. I am sure he will agree with me 100 percent. So I will yield the floor to my colleague from Idaho.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, I hate to disappoint the Senator from Illinois. On this issue, I do not agree with him. I say so because I am one of those who recognizes this city as a Federal city. But it is also a city that I think has been tremendously irresponsible in the management of a problem that plagues all who reside here and that victimizes on a daily basis the citizens who live here as citizens of the District and who are law-abiding.

Of course, that is the crime that goes on in the city relatively unchecked. Yet, we see a city council who would pass legislation of a kind that my colleague, Senator SMITH, has recognized as unconstitutional and, at best, foolhardy. I do not know of any other way to explain this kind of legislation, the Assault Weapon Manufacturing Strict Liability Act of 1990.

I am not a lawyer, Mr. President, but I have read the comments of the American Tort Reform Association, and some of the leading tort lawyers in America speak to this and say, the longstanding principles of tort law, the principles, are based on our commonsense understanding of responsibility. When someone misuses a product or deliberately uses it to cause harm, tort law does not absolve the user of the responsibility. More importantly, then, responsible legislators and city council persons ought not try to absolve them by pushing this responsibility off on someone else as they have attempted to do here in the District of Columbia.

I in no way in my comments on this amendment attempt to downplay the crisis of violence that is occurring in this city. It is, without any other definition, that and that alone.

But the mentality that suggests, as this city council has for too many years, that the criminal is not the problem and that the criminal is innocent of the act, that for some reason it is the instrument of the criminal that is evil and not the act or the criminal itself, I suggest, by my earlier words, that that is, by some stretch of the imagination, foolhardy at best.

Our society, for a long time, has suggested that when someone perpetrates an act of violence, by that very action, they are the criminal, they are responsible. This city council and this city suggests otherwise, and this law of the city, if you will, the law of the city that my colleague, BOB SMITH, is attempting to suggest in this legislation is unconstitutional and would be outlawed by this amendment, is most appropriately spoken to.

I support the amendment. I hope to vote against the ruling of the Chair so that we can complete the debate on this and do as I think we ought to responsibly do when we see an act that we believe to be clearly unconstitutional. Speak to it and speak to it with our votes.

That concludes my comments. I yield the remainder of my time.

Mr. ADAMS. Mr. President, I am absolutely appalled by this amendment, and I hope that the point of order of my colleague from Illinois will be sustained. It should be.

It should be sustained first on the principle that has been enunciated by the Senator from South Carolina so well, Senator HOLLINGS, that this is an appropriations bill, and this type of legislation should not be put on an appropriation bill. We should be dealing with money matters and this is a highly substantive matter. That alone should be enough to defeat the amendment, regardless of how you feel about it on the merits.

The second point is that we have a committee, and if they wish to take these matters before them, it is available. There is a Senate committee that handles District matters, the Committee on Governmental Affairs, and a House District of Columbia Committee that has a certain type of jurisdiction, and if they wish to put a substantive piece of legislation forth, let them go to Senator SASSER and to the House side and do it.

The third point which is involved—I happen to be the subcommittee chairman of the D.C. Appropriations Subcommittee, and I would be fighting this the same way on the D.C. appropriations bill for the same reasons—is that these appropriations bills have special privilege status, and they are to be honored in that status by not being laden with legislation of this type.

Finally, I want to discuss substance itself. There have been some comments made here that to me are absolutely appalling, which is that a weapon, an automatic or semiautomatic weapon, an AK-47, a street sweeper, the Colt equivalent, an Uzi, these weapons should be protected under the general statement that a product used for its purpose should be allowed to move in interstate commerce freely.

That is preposterous. It has never been upheld by the Supreme Court of the United States. Things that are dangerous can be kept out of interstate commerce. I can say that as a former Secretary of Transportation and former chairman of the Constitutional Law Committee that drafted the home rule charter for the District of Columbia. Yes, I was one of those original authors of the home rule charter. It is true there is a divided jurisdiction, because the Constitution of the United States says that the Congress of the United States shall have jurisdiction over those areas that have been set aside for congressional action.

I think what has happened today has been the opening gun—it certainly changed my viewpoint—of let us have statehood for the District of Columbia and just a Federal enclave. We began by saying we would have home rule, and the District would enact its own legislation, and in their own way, Congress would keep its hands off the city, and we would make our payments for the use and assistance the District gives both in land and in personnel for the Federal presence.

But if we are going to have these arguments, which no State would ever accept, maybe because we happen to have some jurisdiction over the District of Columbia, and we have to fight that, I guess the one way is through statehood. I did not used to take that position. I felt we should have the Federal presence.

Let us go to the deep merits of this matter. There is a particular reason. I was appalled to hear it stated that people in the District of Columbia, the District Council, and the Mayor's office, favor the criminal rather than the instrument that was involved. They have placed people in jail to the point of overflowing—not only all the jails and prisons here, but they have rented space throughout the United States, including in my State, to put people in jail.

We have some of the strictest preventive detention laws on bail in this area of anyplace in the United States. We have literally been faced with an overwhelming attack by two things in this city since the invention of crack. As a former U.S. attorney, I am going to comment on that. I mentioned what I have done, so that it is not that I am just up here spouting that I have a theory about this.

Cocaine used to be—I say used to be—a very expensive, high-quality habit, and you had to fight it by means of certain detection devices and trying to arrest the kingpin and so on. With the invention of crack about 4 years ago—which is simply a baked cocaine product that is cracked later into small nugget like stones—the price of this product dropped dramatically from $200 or $300 a dosage to where people could buy rocks for $5, $10, $15 apiece. It changed the whole complexion of what was happening in this city and many other cities.

I will take just this city, because it goes to the merits of why they passed this law and why we should not interfere with this law.

What happened at that point was these little rocks became incredibly valuable. They give an immediate high and a very cheap way of obtaining it. So it moved out among the kids and among the teenagers, and gangs began to move in—Haitians, Jamaicans, those from New York—overwhelming the local communities and hiring local kids to do all kinds of things, because the product now is a street product. It was not a product that was dealing in high society. It was a product that was dealing on every street corner. It is what you see and hear about now with these terrible homicides we have in this city.

As many of you know, I personally directed my attention to this when we held the subcommittee hearings and had lengthy discussions with the Mayor and with the public, on that we have to stop these homicides. She has moved on this. But there are only two ways you can move on it. The two ways you move on this are: One, you have to put police presence in the whole area, and they are now up to nearly 5,000 policemen. These have to be quality policemen—put people on corners, not driving by in cars anymore. They have to be involved in the community, because the community is saturated with this drug. This drug leads to enormous highs and to enormous activity.

The second part of the problem is not just the individuals, but the weapons that they use. We just had people convicted here of these drive-by killings, and what is involved in that? It is the use of these kinds of weapons. My God, nobody in law enforcement that I know in the United States—I have discussed this at length with our chief of police—wants to have these kinds of weapons on the street. An Uzi, AK-47, and street sweeper, are all combat weapons.

As the occupant of the Chair at the present time, who is a veteran, knows, these weapons are dangerous in the jungle, and they are fired at will with indiscriminate spraying of bullets. What happens in the city when these weapons come into the city is that they are fired often by kids. When I am saying kids, I am talking about 13, 14, 15 year olds. When they fire down these blocks, people are killed indiscriminately in cross fires.

That is the merits of this. That is why they passed it. It was not protected criminals. They were trying to find a way to keep manufacturers from putting these weapons into the stream of trade, so they got it into the hands of the people in this city. We cannot pass a national gun law that requires people to register or to control these weapons, so they had to try to make people liable.

I hope that the manufacturers in the United States do not sell these weapons. I hope they do not sell them on the streets. If you worry about law enforcement, we will pass a law for it, and if we cannot, we will let them buy it directly abroad.

For God's sake, keep these out of the stream of commerce. We have just had not only the stream of commerce being involved, where these weapons could be moved, but they now also are being stolen directly out of UPS vans. When you see these weapons, you will begin to understand when you can put a clip of 26 at the bottom and spray the street with it, that you are not dealing with a standard item of commerce.

So I am talking about the merits of this matter. If this matter is going to be debated, we should debate it at length, and we will debate in on its constitutional basis, and on the powers of the District of Columbia. We will debate it on any basis that the Senator from New Hampshire wishes to, or the Senator from Idaho. But this should not be tacked on at 5 o'clock in the afternoon to a Commerce, Justice appropriations bill—and I sit on that subcommittee, where we have had no prior warning of the fact that this was going to be a major debate on this.

We should get it out of here on a point of order and then the Senator can bring it up in any form he wants and we will argue it. The bottom line that is going to come down on this matter is the fact are we going to allow in our major cities weapons of combat construction to be handled by everybody. It is bad enough when somebody has a 6-shot revolver or has a clip automatic. And I know the Senator in the chair and myself have both fired all kinds of these weapons.

I even fired a Thompson 38 machine gun. And I would not ever, ever want anybody in my family or any family that I know to ever have one of those anywhere close to them. They are not accurate. They take great skill to keep them anywhere under control. You start at the bottom of the target and move up across it. It throws out shells over a wide area. People are in danger up to a quarter of a mile from the explosions from it.

And the new sophisticated weapons are so much, much more dangerous. The reason they call it the street sweeper is because it is like a garden hose with bullets. You just sweep a whole area.

We just had a woman killed in a car. Two people were going by. She was not involved with anybody. She was caught in a crossfire. Maybe she would have had half a chance if they were using a revolver or automatic. If they are using an automatic weapon, a weapon with such power that is used in combat by the U.S. military, they do not stand a chance. Kids do not stand a chance. Kids are on a front porch. A little old lady, was shot sitting on her front porch.

I am appalled at anybody not wanting to shut these off.

What did the District do? These are my final comments. I hope the Senator from South Carolina and Senator from Illinois, and others, will join in. What they tried to do was this: They could not get a national gun law passed. There is a gun law in the District of Columbia, but it does not do any good, because weapons flow in from Virginia, Maryland, New York, every place in the country, they flow into the District, because they can be paid for in drugs.

The last deal that was made in the UPS case that is just being tried now was a swapping of drugs for guns, to bring guns into the District, bring drugs out of the District. They even raided police stations and stole weapons to swap for guns to become part of the drug trade. What the citizens of the District tried to say, and I think it was a valid attempt and I hope it works, was to say if you manufacture these weapons, you darn well better see who has them and who is using them. If law enforcement has them or legitimate gun clubs, and you know where they are, you are not going to be held liable. But if you have allowed these to go indiscriminately out in interstate you are liable for the effect of them. You are liable for what happens. And that to me was the only way they had left to try to control these weapons.

So instead of criticizing the District, instead of trying to do away with it, we should be trying to support them, support them in their efforts to get more police officers on the street, have them be on the street, and get rid of this artillery that is out there on the streets. I have suggested, for example, to the mayor that she try to recruit people out of the military as they are being discharged from MP units for the Metropolitan Police Department, and put them on the street corners. Imagine how they are going to feel if they are on the street corner armed at best with a 9-millimeter, probably with a short-barreled .38, and somebody is coming down the street with an AK-47 or with a Uzi, or with a street sweeper.

This is an incredible thing. And I do not know a police department in the United States that does not say: Get rid of these guns. Get them off the streets. Get them off the streets.

If the NRA wants to put out ads, fine. Let them put out ads, but let us beat them on this. I mean, there is a great, great difference between hunting rifles, pistols—all of us have used these—and a street sweeper. I sent my boys down to learn how from the NRA to be certain they fired a .22 in a correct manner, and so on. I do not have an ideological feeling that we should not be able to see a weapon or deal with a weapon. I just think if I can register my car and I can register my dog, I can register my guns, because if you do not you will never find them. You will never find them when stolen. You will never find them when they are out in trade, and never be able to help solve the burglaries and the killings in this city by being able to trace the weapon.

The same responsibility should go to the manufacturers. I would be very pleased to see these manufacturers cause all their weapons to be traced, or not sell them at all except to the military or to police departments.

Those are the merits of this matter. That is why the District of Columbia passed this. They did not pass it for some extraneous reason. They passed it because they could not think of any other way to keep the guns out of the District. It may not be successful, but it is a step forward. They should be commended for it. And I hope they will be commended for it. I hope that this law will stay in place, and I hope that we will stop having these weapons on the street.

If the Senator from New Hampshire, the Senator from Idaho, or anybody else can tell me a way, a system, of getting these automatic weapons off these streets other than through this kind of system, fine, let us pass it. We tried to pass a gun registration law. We tried to pass a waiting period law. We tried to pass a prohibition law. Now we will try to pass a manufacturer's liability law.

I do not think that ought to be on this bill. Let us get it out of here.

Let us get it before the Congress and let us debate. The chairman has been very patient in listening to my comments. I agree with the chairman. I do not think it ought to be on this bill. The chairman and I may be on different sides when it comes to the merits. Let us keep it out of the appropriations process and debate it fully with these Senators when they put it on a bill that is an appropriate bill, and we will debate whether or not people should be doing this and how they should be doing it.

I am pleased now to yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from New Hampshire.

Mr. SMITH. Mr. President, I am sorry my colleague from Washington is appalled. I am frankly appalled at the law. And the issue here is far more than guns. First of all, as the Senator from Washington knows, the D.C. gun control bill was passed in 1976, and every year since, murder has gone up with guns, so I do not see where the connection makes a lot of sense to me.

If the crime keeps going up where is the effectiveness of the law that the Senator talks about?

Mr. ADAMS. Mr. President, will the Senator yield on that point?

Mr. SMITH. I yield.

Mr. ADAMS. New York has a gun law and so does the District of Columbia. I will tell the Senator what the problem is. Because you cannot get a national gun law, all of these guns that are being used are ones that are coming from across the border from another State and other States where they manufacture these and have no control of it and they cannot stop them. If you do not stop interstate commerce they will continue pouring through.

I suggest to the Senator the case was just this week. It was on television last night about the UPS truck carrying all these weapons. There is an interstate problem.

Gun laws are only effective if you can make them effective where they are manufactured and where they are being shipped and sold. They are not being shipped and sold within the District.

Mr. SMITH. If I could just reclaim my time, the issue is not putting undue burden on those honest individuals throughout America who manufacture a product. It is what somebody does with the product when they get it in their hands. The issue is those people behind the weapon who commit the murder ought to be put away with mandated sentences so they do not get back out on the street to kill people again. That is where the problem is, and the Senator knows that.

We kill 58,000 people a year in automobiles. Do we want to ban all automobiles in America? How about when a baseball player swings a bat and hits someone in the stands and unfortunately kills him? Should we ban baseball bats so the player will come up to the plate without a bat?

Nobody mentioned knives in here. Guns are not the only things that kill people. It is the person behind the weapon that does the killing. It is a copout, and we all know it.

That is what the problem is bringing in the NRA. The NRA is not the issue. The issue is crime in this country. And the issue is whether or not we have the guts to put the people who commit the crimes off the streets, away from the innocent victims. That is the issue.

Mr. President, I wanted to briefly respond to District home rule and then I will yield the floor and be prepared to vote on the point of order.

Mr. President, a lot has been made here in remarks by Senator ADAMS and others about District home rule as an important consideration. It is not more important than the Constitution of the United States. We are not talking about only home rule in Washington, DC. This law that was passed in Washington, DC, interferes with the home rule in New Hampshire, Virginia, Florida, South Carolina, and every State in the Union, because it says that a manufacturer who produces a product is going to be liable if in fact that product is used to commit a crime.

And as I said in my opening remarks, this will have a negative effect on police, law enforcement individuals in the District of Columbia, because those manufacturers and distributors, because of the risk of liability, will not in fact sell those products to the law enforcement people and they have stated so, and I indicate that for the record.

Let me just quickly say, Mr. President, committees with jurisdiction over D.C. affairs, as I said, have applied this threefold test. The first is, is it constitutional? The second is, is it consistent with the Home Rule Act? And, third, does it interfere with a Federal interest?

Most tort scholars, as I stated, and many others, believe that the D.C. gun liability law is unconstitutional. Pure and simple, if it is unconstitutional, then it ought not to be the law. It is not law by definition.

As recently as last January, the Supreme Court overturned an Oklahoma enactment which made only minor impositions on interstate commerce in natural gas. Surely, the D.C. gun liability bill, which attempts to ban interstate commerce in an entire commodity, would run afoul of the same commerce clause prohibitions.

The D.C. gun liability also violates the home rule act, which limits the scope of the District's jurisdiction to issues of local concern. Earlier this Congress, the Senate passed, by unanimous consent, and the President signed legislation to overturn a D.C. enactment concerning the height of a building proposed to be constructed in the vicinity of the FBI headquarters on the basis that that enactment contravened the home rule charter.

Finally, the D.C. gun liability law impinges on a Federal interest because it forces gun manufacturers to cease doing business with Federal law enforcement offices located in the District. Among the Federal agencies which might be affected, as I indicated, are the FBI, the Capitol Police, Secret Service, and on and on. Surely, those of us in this body would not like to see that happen.

For all these reasons, I hope that my amendment will pass.

As of now, as I understand it, Mr. President, we do have a point of order raised, and I believe that that is the issue before the Senate.

At this time, I yield back my time.

Mr. ADAMS. Mr. President, this amendment would deprive the citizens of the District of Columbia their right—their right—of initiative. What the Senator's amendment seeks to do is to repeal a law that more than three-quarters of the district's voters said ought to be the law in this city. The initiative that they adopted provides that a manufacturer, importer, or dealer of assault weapons would be held strictly liable for damages that result from the use of the assault weapon in the District of Columbia. Let us make no mistake, this amendment is not about whether or not the letter of the law is constitutional, only a court can decide that. It is not about whether District citizens were within their rights to enact such a provision, the Home Rule Act grants them that right. It is about democracy. It is about whether U.S. citizens dare enact legislation that some in the Congress may disagree with.

It is about whether this body is going to take away from the citizens of the District the right to fight back against violence that takes the lives of the innocent as well as the guilty. We are all aware of the drugs and violence that grip the streets of our cities, including Washington, DC. We know that we have added more police, more drug treatment beds, more prisons, but the carnage continues. Is it any wonder that the people who live with this chaos would look to any measure that might relieve their suffering?

We can share their frustration. We can share their outrage.

However, we do not live where they live. We do not walk where they walk. We do not grieve where they grieve. We do not suffer the loss that they suffer. How can we decide what measures they should choose?

I can not make the case more eloquent than Rev. Beecher Hicks, of the Metropolitan Baptist Church, did before the House District Committee on November 21, 1991. Reverend Hicks is the chairman of the committee for strict liability. In his testimony he stated:

> Our position * * * is based on a position which we believe is ethically correct and morally just. We have been to too many emergency rooms, we have held too many hands, we have carried too many messages of bad news, and we have preached too many funerals. * * * Those who oppose the will of the people must live where we live and experience what we experience before they choose bullets over bodies and weaponry over humanity.

It may be that it is ill advised. It may be that this law is unconstitutional. But it is not for us to decide. The citizens, the government, and the courts of the District will decide those issues. For now 77 percent of the voters on November 5 have decided that this measure must be tried to stop the bloodshed in this city. It is the grossest act of cynicism to invalidate their franchise.

It is said that this legislation reaches beyond the District to effectively ban assault weapons nationwide. That seems to be an overly broad claim by the initiative's opponents. If there is any truth in that assertion then the courts will strike it down or the legislature will modify it.

Mr. President, there were countless initiatives passed across the country last election day. Many that every Member of this body could not vote for. However, we are not asked to vote on those that don't appear on the ballot outside our States, except when it comes to the Nation's Capital. We happen to work here so we hear about those that the local citizens initiate. Those citizens have no Senator in this body to speak for them so some feel compelled to second guess them. I urge my colleagues to guard the democratic prerogatives of the citizens of the District of Columbia just as ardently as they would those of the citizens of their own State. That is why we are called U.S. Senators.

If it is the will of this body to prohibit such local provisions the proper way to do it is to enact legislation to ban such provisions nationwide, not to invalidate the will of 77 percent of the citizens of the District of Columbia.

Mr. President, in closing I again want to share the words of Reverend Hicks with my colleagues, he said that:

> The referendum passed by the citizens of the District of Columbia, who have little voice and no vote at all within these walls, is not only morally just, it is the only reasonable response to an unreasonable and unacceptable situation. The Congress must not use the repeal of this referendum as a means of further extracting from the citizens of the District the privilege of self-determination which is theirs by right and by law.

Mr. President, I hope that everyone will vote in support of the ruling of the Chair which is that this amendment is out of order in this bill. The vote is yes.

I want at this time to say that when the Senator said that this was something that involved the District reaching out or doing something foolish, this came from an initiative of the citizens. Seventy-seven percent of the people in this District voted by initiative to try to stop the killing in the District.

You have a very simple vote. Vote to support the Chair, and you support people who are out on the streets endangering their lives, trying to keep from being killed. Vote to overturn it—in other words, voting no—means that you are voting with the gun manufacturers of the United States, and they can send their guns elsewhere.

So I hope that the Members will vote to support the ruling of the Chair, which is to vote "aye."

Mr. President, I ask unanimous consent that a statement by CRS that there are no provisions in the House Rule Act that appear to preclude enactment of the gun manufacturers liability statute, and an editorial from the Washington Post of November 21, 1991, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From CRS]

HOME RULE

Section 302 of the Home Rule Act states, in relevant part, that "* * * the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act.* * *"

No provisions in the Home Rule Act appear to preclude enactment of the gun manufacturers liability statute.

[From the Washington Post, November 21, 1991]

CONGRESS AND D.C. GUN LIABILITY

This morning the House District Committee will consider yet another act of intervention in the District's affairs—a bill that would repeal an action just taken by a good 77 percent of the voters of this city. The D.C. vote, an expression of desperation on the part of a city where gunfire is mowing down young and old day and night, was to hold manufacturers, importers and dealers of assault weapons liable for all injuries inflicted by certain assault weapons. The Congressional reaction—a bill introduced even before the polls closed on Nov. 5—would summarily dismiss the will of the voters. In its place would be the will of the NRA and its paid politicians on the Hill.

The only hope of letting the vote stand is a vote in Congress to kill the repeal bill. Any House District Committee member who has any respect for local self-determination in this country should vote to reject the repeal bill.

One of the arguments of the NRA Semiautomatic/Multiround Magazine Pushers is that the D.C. law stretches well beyond the city limits in its impact—which it does. It is a long reach for one city to wipe out the making and marketing of weapons considered legal elsewhere. And no doubt this aspect will undergo some court test. But the message of the ministers and families who led the campaign for the liability bill was—and still is—that the industries that supply these weapons of immorality that are made to kill people should bear the costs of their decisions to market such a deadly line of products.

Why not let a local law, supported by the local electorate, stand on its own—as it would if it were enacted in any other locality in the country? Or is this particular American city destined to remain forever the Last Colony?

Mr. KOHL. President, I do not endorse the D.C. law which holds the manufacturers of guns responsible for any injury caused by the weapons they produce. Actually, I think it is an unwise approach to the problem. If legislation along those lines were offered as a Federal policy, I would vote against it.

But that policy question is not before us now. What is before us is a simple question: Is the Smith amendment legislation on an appropriation bill and therefore a violation of the Senate rules? The answer to that question is yes. And, as a result, I will vote to sustain the ruling of the Chair.

I do, however, want to make one additional point, Mr. President. I find this situation ironic. In 20 minutes we can overturn a gun control law adopted by the District of Columbia. But over the last 20 years we have not been able to adopt Federal gun control legislation.

I was involved in shaping the compromise on the Brady Bill which this Senate approved last year as part of the crime bill. Ever since the crime bill fell victim to a Republican filibuster, I have been suggesting that we at least move on the Brady bill. But I am always told that we can not. It would be filibustered or vetoed by the President unless it was part of a larger crime bill. There is, Mr. President, something strange about a system which can overturn one city's effort—no matter how unwise—to enact gun control but, at the same time, be totally unwilling to consider the kind of gun control law which would make sense for the entire nation.

The PRESIDING OFFICER. Is there further debate? Is there further debate?

If not, the question before the Senate is, Does the decision of the Chair stand as the judgment of the Senate?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DIXON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. BURDICK], the Senator from Kentucky [Mr. FORD], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. GARN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Alaska [Mr. MURKOWSKI] would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 32, nays 50, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—32

Adams
Akaka
Bentsen
Biden
Boren
Byrd
Chafee
Cranston
Dixon
Exon
Graham
Harkin
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg

Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Riegle
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wofford

NAYS—50

Baucus
Bingaman
Breaux
Brown
Bumpers
Burns
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Johnston
Kassebaum
Lieberman
Lott
Lugar
Mack
McConnell
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Roth
Rudman
Sasser
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—18

Bond
Bradley
Bryan
Burdick
D'Amato
Ford
Fowler
Garn
Glenn
Gore
Helms
Inouye
Kasten
McCain
Murkowski
Sanford
Specter
Wirth

So the decision of the Chair was overruled.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2753 TO AMENDMENT NO. 2752

(Purpose: To restore the second amendment rights of all Americans)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2753 to amendment No. 2752.

In lieu of the matter proposed to be inserted, insert the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted. The provisions of the preceding sentence shall take effect one day following enactment.".

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I might just explain the amendment. It just says it is effective 1 day after enactment instead of day of enactment.

The PRESIDING OFFICER. Is there debate?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, my understanding is that upon adoption of this amendment the amendment would thereafter be open to amendment?

The PRESIDING OFFICER. Will the Senator withhold?

The amendment offered by the minority leader is a substitute amendment, and therefore its adoption would render it no longer amendable.

Mr. METZENBAUM. Mr. President, I am not prepared to vote on this amendment.

The PRESIDING OFFICER. Does the Senator from Ohio seek recognition?

Mr. METZENBAUM. I do.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, Members of this body, we sure go out of our way to accommodate the American people who have very little respect for the Members of Congress.

This amendment has no other purpose than our moving in and telling the people of Washington who have no representation in the Congress—or no real representation as far as voting rights are concerned—that some piece of legislation that was enacted by their city council is no longer valid; it is no longer applicable.

To me, I think it is absurd. In a community of about 750,000 people; they have no senatorial representation, they have no congressional representation as far as voting rights are concerned. We come along and tell them that an act that that body put into law we are going to undo.

What is so terrible about what they did? I think maybe we ought to talk about what it is that we are really trying to do. Let us take a look at the act that the Council of the District of Columbia put into effect.

First of all, there were a certain number of findings.

The Council finds that: (1) The incidents of criminal use of assault weapons are increasing nationwide and in the District of Columbia ("District");

(2) Assault weapons include both automatic and semi-automatic weapons and include some handguns and rifles;

(3) In 1976, the District recognized that handguns and machine guns (including, by definition, assault weapons) and the manufacture, sale, or importation of handguns and machine guns were abnormally and unreasonably dangerous, and, in an effort to reduce the risk associated with them, banned the further manufacture, sale, and importation, or limited the further possession of these weapons;

Does anybody really take issue with anything that the council stated to that point?

(4) For 11 years (1976–1987) after the enactment of the ban on the manufacture, sale, or importation of handguns and machine guns (including, by definition, assault weapons) and of the limits on their possession, the number of homicides by these weapons declined in comparison to the number of homicides in the District committed by these weapons in the years before enactment of the ban and limits;

Would anybody not want to be for that?

(5) In 1988, there were 372 homicides in the District—a 27% increase over the 1987 rate;

(6) In 1989, there were 438 homicides in the District, an 18% increase over the 1988 rate;

(7) In 1990 (through December 6), there have been 447 homicides in the District;

Which is a number substantially in excess of the 1989 figure, plus the fact that it was only as of December 6.

The ordinance want on to say:

(8) In the past 15 years, both before and after the enactment of the District's ban on the sale or distribution of handguns and machine guns (including, by definition, assault weapons), the number of justifiable homicides by these weapons has never exceeded 6 per year while the number of homicides by these weapons has never been less than 75 per year;

(9) According to the Metropolitan Police Department, the increase in homicides in the District has been accompanied by a proliferation of use of assault weapons (i.e., automatic and semi-automatic guns) in the community;

(10) Semi-automatic handguns represent a growing percentage of the handguns recovered by the Metropolitan Police Department—growing from 46% (1072 of 2,333) in 1989 to 50% (1108 of 2,228) in 1990 (Statistics for 1990 are through December 6).

The Metropolitan Police Department advises there has been a similar increase of percentage of semiautomatic handguns involved in handgun crime;

(11) In 1988, because of the number of assault weapons seized by the Metropolitan Police Department, the Metropolitan Police Department purchased semiautomatic pistols for the Metropolitan Police Department to replace the service revolvers used by the force," so they escalated the amount of military or semiautomatic weapons, guns, that could be used, first of all, by the criminals or alleged criminals, and then by the police department.

(12) Assault weapons, and the manufacture and distribution of assault weapons are abnormally and unreasonably dangerous, and pose risks to the citizens of and visitors to the District, which far outweighs any benefits that assault weapons may bring;

(13) It is foreseeable by manufacturers and distributors of assault weapons that the criminal or accidental use of assault weapons will cause injury and death;

(14) The manufacture and distribution of assault weapons are among the proximate causes of the rising number of homicides in the District, exposing the citizens and visitors to the District to a high degree of risk of serious harm.

So as a consequence, the City Council was trying to do something about it. There are more semiautomatic weapons coming in. There are more being used. There are more homicides in the District, and the District is trying to do something about it. The amount of crime in the District is an embarrassment not only to the people who live in the District but to Members of Congress as well.

(15) As between the manufacturer or dealer of an assault weapon on the one hand and the innocent victim of the discharge of an assault weapon on the other hand, the manufacturer or dealer is more at fault than the victim.

The bill then goes on with a list of definitions, which I will not read. Then it goes on to liability.

Any manufacturer, importer, or dealer of an assault weapon shall be held strictly liable in tort, without regard to fault or proof of defect, for all direct and consequential damages that arise from the bodily injury or death if the bodily injury or death proximately results from the discharge of the assault weapon in the District of Columbia.

This is the substance of the legislation. That is the crux of it. It is a matter of holding the manufacturer, the importer, or the dealer of an assault weapon strictly liable; if that weapon causes death or consequential damages, including bodily injury, but are proximately a result of the assault weapon in the District of Columbia.

It goes on to provide exemptions:

(a) No assault weapon originally distributed to a law enforcement agency or a law enforcement officer shall provide the basis for liability under this act.

(b) No action may be brought pursuant to this act by a person injured by an assault weapon while committing a crime.

(c) This section shall not operate to limit in scope any cause of action, other than that provided by this act, available to a person injured by an assault weapon.

(d) Any defense that is available in a strict liability action shall be available as a defense under this act.

(e) Recovery shall not be allowed under this act for a self-inflicted injury that results from a reckless, wanton, or willful discharge of an assault weapon.

Section 6. Applicability.

This act shall apply only to the discharge of an assault weapon that is manufactured, imported, or distributed after the effective date of this act.

Section 7. Effective date.

This act shall take effect after a 30-day period of congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

It refers to certain other technical phraseology.

Mr. President, this legislation does not make good sense. We are trying to pass an appropriations bill, and in attempting to pass an appropriations bill, we are moving in on the people of the District of Columbia to tell them what legislation they can or cannot enact into law. That is not right.

I think that the legislation that they enacted has merit. I do not know whether it is right or wrong. I know that it is wrong for the Congress of the United States to tell them what they can or cannot do. Who do we think we are? We do not pay taxes. We provide appropriations for them. But we certainly get our dollar's value for those appropriations. There are dozens and dozens of Federal buildings in this community with respect to which we pay no taxes. So we have to have an appropriations bill in order to help the District of Columbia in meeting its expenses.

Now we come along and say, yes, but if you want to get that money, you can only have the money if you will make ineffective an ordinance that you passed. We would not do that for any particular community in any other city in the country, and we have no right to do that. We should not have the right to do so here on the floor of the Senate.

This is the fun and games we play, the kinds of things we do that make the people of this country respect us so much. Sure, they respect us for telling the people of Washington what they can or cannot do.

There are arguments pro and con with respect to whether this is a good ordinance or bad ordinance. But there are arguments pro and con with respect to good and bad ordinances in communities across this country.

We do not say that the State of Ohio, or the State of South Carolina, or the State of New Hampshire, or any other State in the country cannot have the particular funding that we provide on a Federal basis because they have enacted a particular law in their community. But we do that for the District of Columbia. That is not right. It should not be. It is unfair. There is a kind of impropriety and offensiveness about it.

Now this amendment comes along, and the distinguished Senator from Kansas offers a second-degree amendment in the nature of a substitute so there can be no further amendments to it. Is that not a wonderful way to proceed? So now we cannot even amend the proposal that is before us.

Mr. President, I think this legislation ought to come up some other day, some months, or some years from now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER (Mr. KERREY). Objection is heard.

The bill clerk resumed the call of the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio be permitted to yield the floor to the Senator from New Mexico for the purpose of offering an amendment which is totally unrelated to the pending amendment and the substitute amendment, and that there be unanimous consent that the amendment be handled in a totally separate manner from the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I did not hear the request.

Mr. METZENBAUM. Senator Bingaman wishes to offer an amendment. I am asking for unanimous consent that he be permitted to do so, it having nothing to do with the pending amendment and the substitute amendment of the Senator from Kansas; and that immediately thereafter, Mr. President, I ask unanimous consent that the Senator from Colorado be recognized to be permitted to offer an amendment, again that amendment having nothing to do and not being applicable to either the pending amendment or the substitute amendment; and thereafter the Senator from Ohio retain his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Would the Senator from Ohio be willing to make the same request for the distinguished Senator from Colorado?

Mr. METZENBAUM. I just did that.

Mr. HOLLINGS. How about an amendment by the distinguished Senator from Connecticut, Senator DODD, that has been agreed upon?

Mr. METZENBAUM. What is that amendment?

Mr. HOLLINGS. That amendment has to do with the fees with respect to the investment advisors.

Mr. METZENBAUM. I add to my unanimous-consent request that the amendment of the Senator from Connecticut be permitted to be considered in the same manner and that the pending amendment, as well as the substitute amendment, retain its place on the calendar and it not be affected by any of the pending proposals.

The PRESIDING OFFICER. Is there objection?

Mr. RUDMAN. Parliamentary inquiry. I just want to make sure I get the last part of this. It is my understanding that, after the consideration of these three amendments, the Chair will then recognize the Senator from Ohio.

The PRESIDING OFFICER. The Senator is correct.

Mr. RUDMAN. I do not have an objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me thank the Senator from Ohio for his courtesy, and the floor managers and the Republican leader.

AMENDMENT NO. 2754

(Purpose: To provide funds for the Competitiveness Council)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2754.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 73, line 18, delete the figure "$750,000" and insert in lieu thereof "$1,750,000";

On page 43, line 8, delete the figure "$121,021,000" and insert in lieu thereof "$119,923,000".

Mr. BINGAMAN. Mr. President, this is a very simple amendment that adds a small amount of money to the budget of the Competitiveness Policy Council, which is a group we set up by statute in the Trade Act of 1988. It would allow them to continue to do their work, and they have commenced doing that work this last year.

This Council has done a tremendous job of putting together about 200 leaders throughout this country who are working in 8 different subgroups to try to come up with recommendations on ways to improve the competitive posture of the country. This is not, I should point out to anyone listening, this is not the Council which is somewhat more controversial, that the Vice President has headed in recent months, but this is the Competitiveness Policy Council established by the Omnibus Trade Competitiveness Act of 1988.

The amendment that I am proposing here is one that is acceptable to the managers of the bill on both sides. I commend it to the Senate for adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HOLLINGS. Mr. President, this amendment has been cleared on both sides. We are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2754) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, I wish to take one additional moment before yielding the floor.

I want to commend the managers of the bill, Senator HOLLINGS and Senator RUDMAN, for the superb work they have done on this legislation. I do think that this appropriations bill contains in it some very important initiatives that were recommended both by the defense conversion task force that Senator PRYOR headed and the defense conversion task force that Senator RUDMAN headed.

We have significant increases in funding for the advanced technology program. We have considerable increases for the Economic Development Administration; funding for NIST, necessary facilities at the NIST headquarters in Gaithersburg. We have also a very substantial increase in funding for small business loan guarantees.

I think all of these are very useful initiatives. They follow through with the recommendations that have been made by both Democrats and Republicans here in the Congress in recent months. I think the managers of the bill are to be commended for their excellent work.

Mr. President, with that, I yield the floor. I thank the managers for their assistance.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 2755

(Purpose: To insure that any new International Coffee Agreement is submitted to the Senate for advice and consent)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2755.

On page 83, line 10, after "Agency" insert the following: "*: Provided further*, That none of the funds made available by this Act may be used to implement or enforce any International Coffee Agreement which has not been submitted to the United States Senate for its advice and consent:".

Mr. BROWN. Mr. President, the amendment is quite straightforward. In this bill is funding in excess of $900,000 to fund the negotiation of a new coffee agreement. The last coffee agreement, when it was in effect, cost American consumers millions of dollars, literally millions of dollars. When quotas expired in 1989, the wholesale price of coffee dropped 46.1 percent worldwide, an enormous savings for American consumers.

The administration is now negotiating a new coffee agreement, one that could reverse those savings and could again cost American consumers literally billions of dollars. What this amendment simply does is hold in abeyance a new coffee agreement until the Senate has had an opportunity to lend its advice and consent. It does nothing more than to make it clear that this body will exercise its constitutional powers to review treaties; to make sure that this particular new agreement does not slip through the cracks.

Mr. President, if it were up to me alone, I would eliminate all money for negotiating a new cartel agreement. This amendment does not do that. What it does, though, is ask that at least this body have its opportunity to review the new agreement before it goes into effect.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, this amendment was cleared on both sides, and I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2755) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2756

(Purpose: To provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk for Senator DODD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. DODD, proposes an amendment numbered 2756.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, after line 8, insert the following new section:

SEC. 612. FEES FOR REGULATION OF INVESTMENT ADVISERS.

(a) IN GENERAL.—

(1) FEE.—

(A) CURRENTLY REGISTERED ADVISERS.—Each investment adviser registered under the Investment Advisers Act of 1940 prior to the effective date of this section shall submit to the Securities and Exchange Commission (hereafter referred to as the "Commission") an annual fee to be used by the Commission for recovery of the costs of supervision and regulation of investment advisers, as determined according to the schedule set forth in subparagraph (C).

(B) NEWLY REGISTERED ADVISERS.—Each person that becomes registered as an investment adviser in accordance with the Investment Advisers Act of 1940 on or after the effective date of this section shall pay the fees specified in the schedule set forth in subparagraph (C) upon such registration and annually thereafter.

(C) SCHEDULE.—The schedule set forth in this subparagraph is as follows:

Assets under management	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000	$500
$25,000,000 or more, but less than $50,000,000	$1,000
$50,000,000 or more, but less than $100,000,000	$2,500
$100,000,000 or more, but less than $250,000,000	$4,000
$250,000,000 or more, but less than $500,000,000	$5,000
$500,000,000 or more	$7,000

(2) USE OF FEES.—Fees collected in accordance with this subsection shall—

(A) be deposited as offsetting collections to the Securities and Exchange Commission appropriation for the fiscal year ending September 30, 1993;

(B) be available to the Securities and Exchange Commission in addition to any other funds provided for in this Act; and

(C) remain available until expended.

(b) EFFECTIVE DATE.—This section shall become effective upon the enactment of authorization legislation and adoption by the Securities and Exchange Commission of appropriate implementing rules and regulations.

Mr. DODD. Mr. President, let me say at the outset that this amendment has been worked out with the SEC, as well as with the industry. We also worked very closely with the manager of the bill, and I understand he supports it, and it has been cleared on both sides.

This amendment addresses the serious inadequacies in the SEC's current inspection program for investment advisers. It would establish a fee structure for registered investment advisers and the fees would be used as offsetting collections to fund an increase in the SEC examiner staff responsible for investment advisers.

The fees would be paid annually and would be based on assets under management. The fee for the smallest investment advisers would be $300, and the fee for the largest—those with over half a billion dollars under management—would be $7,000.

Mr. President, the public probably is more familiar with the term financial planner than investment adviser. The terms are used interchangeably by many people. Technically, an investment adviser is someone who receives compensation for giving advice relating to securities. Investment advisers are required to register with the Securities and Exchange Commission, and must comply with disclosure, recordkeeping, and other investor protection requirements.

Congress long ago determined that it was in the national interest to have strong Federal oversight of investment advisers. If we want people to have confidence in our securities markets, to invest in our markets and provide the funds necessary for capital formation, economic growth and, above all, jobs for American workers, we simply cannot permit unscrupulous investment advisers to take advantage of people who come to them for advice. Congress passed the Investment Advisers Act in 1940, and gave the SEC the responsibility to inspect advisers, for the protection of investors.

Unfortunately, we now have at the SEC an oversight program that, in the words of one official, "doesn't even pass the laugh test." How in the world can we represent to the public that we are supervising this industry, when the SEC has so few examiners that it inspects investment advisers, on average, once every 25 to 30 years.

In the past decade, the industry has grown dramatically; SEC staff resources have not. From 1981 to 1991, the number of advisers registered with the SEC increased from 4,500 to over 17,500, and the assets under their management soared from $440 billion to $5.3 trillion. That is an increase of more than 1,100 percent, and represents more than twice the amount deposited in U.S. commercial banks.

But, during the past decade, the SEC examination staff increased from 36 to just 46 examiners. That's 46 examiners to inspect over 17,500 firms—with assets of $5.3 trillion.

There is a reason why the industry has grown so fast. Quite simply, the financial services world has become incredibly complicated for the average American. More and more Americans are turning to professional advisers for help.

Those individuals who seek help from an investment adviser may be seniors—those who have retired and are looking for ways to make their savings last for the remaining years of their lives. They may be young couples planning for a family or saving for their children's college education. They may be couples reaching middle age, trying to invest so they can be comfortable in their retirement years. They may be widows or divorcees who have a small inheritance or a lump sum payment they need to invest safely, to provide for their future.

Many of them are unsophisticated and unsure, and they are looking for someone to trust. So they turn to an investment adviser. But, in some cases, investment advisers may be more interested in the fees they collect or in the commissions they generate than they are in rendering sound, objective advice to their clients.

At our subcommittee hearing on this issue, one investor, Elizabeth Faitella, from Unionville, CT, lost more than $30,000—most of her family's savings, as a result of dealing with an unscrupulous investment adviser.

The SEC and other experts share my concern that seniors may be the most vulnerable. The current low interest rate environment is forcing many of our seniors to look for alternatives to interest-bearing instruments. And, when they are taken in by con men, they, unlike many of us, have no opportunity to recoup their losses, because their income-earning days are over.

And, it is not just individuals who use investment advisers. Many cities and counties rely on professional investment advisers, to help invest tax receipts or other government funds. In just this past year, Iowa trust fund, a group of cities that invested funds with a California investment adviser named Steven Wymer, may have lost over $70 million in the taxpayer funds of that State as a result of his fraud.

When the SEC simply does not have enough cops on the beat, individual investors suffer, taxpayers suffer, and capital formation suffers—because investors lose confidence in our capital markets.

Now, the SEC and the industry have studied this problem for more than 5 years. They developed a bill, which we reported from the Securities Subcommittee with broad support by committee members and with the strong support of the industry. The bill, S. 2266, established a new fee structure for investment advisers and provided that those fees would be used as offsetting collections to fund an increase in the number of SEC examiners assigned to inspect investment advisers. The bill contained other provisions, to give the SEC authority to require fidelity bonds for investment advisers and to provide one-stop filings, so that advisers would not have to file separately with 50 States. It also contained provisions which removed certain restrictions on mutual funds trading for their customers—to provide savings of hundreds of millions of dollars, according to industry estimates. The Banking Committee voted to report the bill on May 21, and it is pending on the Senate calendar. But, in order to implement the fee provisions of the bill, the fees must be passed separately as part of the SEC's appropriations. My amendment contains that portion of the bill.

Let me underscore that the bill we reported is the only proposal that has achieved broad consensus—from the industry and the regulators alike. Consumer groups would like us to have gone further. I, personally, might like to see a few more things in the bill.

But, we worked this out very carefully. The industry has stepped up to the plate and said it is willing to pay an annual fee based on the assets under their management—ranging from $300 for small advisers to $7,000 for the largest ones, so long as the fees are used to fund an enhanced SEC inspection program.

If we pass this amendment, we finally will have more cops on the beat. The SEC will be able to inspect investment advisers at least once every 3 to 5 years.

This approach is endorsed by: The SEC, by State regulators, the Investment Company Institute, associations representing small financial planners, and by the securities industry association.

Mr. HOLLINGS. Mr. President, the Securities and Exchange Commission currently has 46 examiners assigned presently to score some 17,500 investment advisers. Obviously, the chance for an examiner to really review the activities is very, very limited. It is on the average about once every 25 or 30 days. The funds appropriated by the new fees in this particular amendment would permit the Securities and Exchange Commission to add approximately 120 examiners, and enable the SEC to reduce the inspection cycle to approximately once every 3 to 5 years.

The fee schedule provided has the support of the SEC, the industry, and the State regulators.

The amendment has been cleared on both sides. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2756) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Ohio is contemplating offering one or more amendments with respect to the pending amendment. But in the interim, while we are working to prepare it, I thought I would share with my colleagues what the papers have been saying about the action of the City Council of Washington, the action which the pending amendment would undo.

On November 1, 1991, the Washington Post said:

> ASSAULT WEAPON LIABILITY: YES
>
> Should the manufacturers, importers and dealers of assault weapons be held liable for all injuries inflicted by the use of assault weapons in this city? In the past, our answer has been no, but we believe it's time to say yes, with votes for Referendum 006 on the D.C. ballot Tuesday. Our opposition until now was on grounds that (1) these weapons already are banned in the District, (2) the effective answer would be federal action banning them everywhere in the United States, and (3) it is a long reach for one city to try to wipe out the making and marketing of firearms considered legal elsewhere. But too many innocent people in too many bullet-riddled neighborhoods are at wit's end—desperate for help that Congress and the White House refuse to extend by stopping the flow of weapons that have no purpose other than to maim and kill.
>
> Ministers, civic leaders and grief-stricken, angry relatives of victims see an opportunity in this vote not only to send a message to the industries that supply the world with these weapons of immorality but also to make them bear the costs of conscious marketing decisions that expose society to extraordinary, costly risks. The more than 125 ministers supporting this referendum proposal will tell you they are burying young people all the time, that the semiautomatic weapons specifically cited in the measure are playing an increasing role in the taking of lives that now is witnessed so frequently. "Something more has got to be attempted," says the Rev. Albert Gallmon Jr., pastor of Mount Carmel Baptist Church. "We can't just say, 'Let God take care of it.'"
>
> What would the proposal do? It might just cause the forces behind assault weapons to be a little more careful in their manufacturing and distribution. And though it would be one city acting on its own, it could show other cities and states a way to join up and increase the pressures. Supporters of the D.C. proposal note that in liability cases, the issue is not whether an activity such as making or distributing weapons is allowed to occur, but rather who should pay for the damage that results.
>
> The Rev. H. Beecher Hicks Jr., senior minister of the Metropolitan Church and chairman of the Committee for Strict Liability supporting the referendum measure, says that however complex the politics of this proposal may become, "We cannot be silent in the face of the misery confronting our city. Human life is at stake, and we are compelled to stand up for that life." The message of the ministers is compelling—and should be sent where it counts by the voters of this city.

What they are saying is that there are more and more human lives being lost by the use of assault weapons and semiautomatic weapons in this community, and there has to be a stop put to it. And they believe this is one way they can have an impact upon it.

Is that the only editorial, from the Washington Post? No: the New York Times. I am reading from the editorial, which was November 12, 1991; and the Washington Post editorial was November 1, 1991.

> Last week, voters in Washington, D.C., reversed their City Council's craven repeal of a law that would make gun makers and dealers liable for injuries caused by assault weapons. That sends a message to all jurisdictions where voters are fed up with gun violence and official reluctance to confront it.
>
> Late last year the Council enacted a law imposing "strict liability" on purveyors of 14 types of semiautomatic rifles and pistols designed for military use but prized by criminals. Strict liability allows victims to recover damages from the manufacturers and dealers even though they had nothing to do with gun crimes. The law already recognizes such liability for other businesses engaged in "abnormally dangerous" commercial activity, like shipping explosives or disposing of toxic wastes.
>
> Representative Thomas Bliley of Virginia, the ranking Republican on the House committee that supervises the District of Columbia, objected. Assault weapons are sold legally in his home state. In fact, Virginia is a big source of guns smuggled into the District. Mr. Bliley played hardball: he threatened to block $100 million in emergency aid for the District unless it repealed strict liability.

He may get onto the list of "Profiles in Courage" for offering that amendment—maybe not.

> Mayor Sharon Pratt Dixon and the City Council caved in.
>
> Supporters of the law then tried to repeal the repeal with a ballot initiative. Last week a 77 percent majority approved the initiative; the law will now take effect at Christmas. The gun lobby can be expected to press Congress to overrule the vote and test the law in court. But legislation would require support from a Senate that has already passed a ban on the same weapons.
>
> In 1985 Maryland's Court of Appeals upheld strict liability for makers of cheap "Saturday night special" handguns. There appears to be an even stronger case for classifying the sale of assault weapons as abnormally dangerous activity. (The Maryland finding no longer stands because the legislature subsequently overruled it when it passed an outright ban on Saturday night specials.)
>
> Some people question the whole idea of using liability law to advance gun control when legislatures refuse to approve more direct bans. But in Washington's case, both the City Council and Congress ignored the public demand expressed in the ballot initiative. Such an initiative, and strict liability, may be imperfect devices, but the daily bloodshed caused by assault weapons goes on.

Mr. BIDEN. Will the Senator yield for a second?

Mr. METZENBAUM. I yield without losing my right to the floor.

Mr. BIDEN. Mr. President, let me begin by saying I strongly support the position of the manager of this bill that this is legislating on an appropriations bill. I wish we could get on with the debate on the underlying appropriations as opposed to the legislating that is going on. And I respect my friend from New Hampshire for pressing the point.

But I kind of find it fascinating. I just sat through, as did the Senator from Ohio, the better part of 3 months of off-and-on debate—sometimes on—and very vigorous debate in the Senate Judiciary Committee, with a group of Senators—it turned out to be a bare majority, but a majority of Senators—who thought we should change the tort laws and liability law so that any book store owner who sold any material that turned out to be obscene, if that material was ever read by someone who committed a crime, a sexual offense, that that book store owner—not just the person who wrote the literature, but the book store owner—and everyone else should be liable for damages, et cetera, et cetera, et cetera.

I will not bore my friend, who knows the issue well. I took a glance at the vote on this amendment. The very people who are telling us that it is outrageous that we allow bookstore owners, whether they knew it or not, to sell any material out of the 20,000, 30,000, 40,000, 50,000, 70,000, 100,000 volumes of material they sell, that that person should be liable, even though there is no evidence of a causal connection between someone reading that book and crime being committed, they are ready to scuttle the first amendment, and they vote for or speak for or have voted for changing the tort law so that a bookstore owner, for example, will be held liable.

Pornography is a serious problem. Obscenity is a serious problem. Crimes against women are a horrendous problem, the worst single problem we face on the crime front in America. So I acknowledge it is arguable—I happen to not agree with the specific legislation—and now I find we come along here with guns and, lo and behold, the protectors of those in America who may or may not directly, indirectly, incidentally, or otherwise have been exposed to a piece of obscene material who may have later committed a crime, whether or not there is a causal connection, because they wish to protect the American people, they are willing to take the first amendment and basically drop it in a bin over here.

But when it comes to guns, 24,600 murders this year—24,600 murders.

This President has the worst record of any President in the history of the United States of America based on the statistics in terms of fighting crime. But when it comes to guns, that tort principle does not make sense; that is, to hold someone liable for selling a gun that ultimately is purchased by someone who commits a crime. I happen to think it is all, whether it applies to guns or to bookstore owners, very, very shaky law. I understand the view of the people from the city of Washington, DC, but I must say, as matter of a principle of tort law, it is a shaky principle to extend it this far, notwithstanding what the Washington Post thinks.

But all I want to point out to my friends here, those who are going to come to the floor today and argue that the D.C. law should be repealed because it is bad law, I hope you are going to be here when legislation comes forward relating to the first amendment because I am going to remind you of your votes. I am going to read back into the RECORD the same tort principles that you want to see changed and applied to the notion of obscenity and pornography, and yet unwilling to have it apply to guns.

I do not ever ask for consistency. Lord knows many of us are not consistent. Ralph Waldo Emerson said:

> A foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines.

We see it all the time here, inconsistencies. We seldom even see foolish consistency.

Without belaboring the point, I want to remind my friend from New Hampshire, my friend from Ohio, and all my friends on the floor of that old expression we heard our mothers grandmothers use: What is good for the goose is good for the gander. If it is good enough to stop murder, then maybe it is good enough to try is stop pornography-related sexual crimes, if that can be shown. If it is good enough to stop pornography-related sexual crimes, if it can be shown, maybe it is good enough to stop crimes resulting in maiming and death of individuals.

But we cannot have it both ways. Either we change the tort law and change the product liability law or we do not change it. To say bookstore owners are on the hook, but gun store owners are not on the hook, that seems to me to be a little bit frivolous. I thought I would remind my colleagues of that.

I thank my friend for being kind enough to yield the floor. I support his position in terms of getting this piece of legislation off this appropriations bill and let the folks of D.C. fight out what they think is the appropriate change, if any, in the law.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Delaware, as usual, makes a very persuasive argument, that if you are going to have one line of reasoning when it comes to the consequential effects of pornography, then you ought to have the same line of reasoning with respect to assault weapons. But the fact is the Members of this body, too many of them, feel differently. The committee discussed this for some weeks and indicated that, without any special causal relationship, those who sold pornographic material were to be held responsible. And that is what the people of the District of Columbia said.

I was in error when I spoke earlier because I talked about the enactment of the District Council. The fact is it was an enactment of the people of Washington, a referendum. Seventy-seven percent of the people indicated that they are sick and tired of having their sisters and their brothers and their fathers and their mothers and their grandparents and the babies mowed down by assault weapons put in the hands of maniacs who roam the streets, and they want to put a stop to it. So they tried to do the decent, responsible thing. But this great United States Senate says:

> Oh, no, you cannot do that which you think you should do in order to protect your community. We are going to tell you what to do because we have the power of the purse strings.

I think it is absurd, I think it is irresponsible, and I think it is shameful. Every editorial that has been written on the subject has indicated support for the District of Columbia position, at least every one that I have seen. I came across another one in Roll Call. Roll Call says:

DC'S GUN LIABILITY LAW, AND CONGRESS

> Earlier this year, Mayor Sharon Pratt Dixon and the DC City Council in an act of cowardice, agreed to rescind a law that held manufacturers and sellers of vicious semiautomatic assault weapons liable for the deaths and injuries they cause. On Tuesday, in a sharp rebuke, District voters, by nearly four-to-one, approved a ballot initiative to restore the legislation. This city is sick of violence, and sick of politicians who don't make fighting crime their top priority. Certainly, the gun liability law will end up in court, where we hope it will be upheld. But there's a more important issue at hand. Congress has the authority to pass its own legislation rescinding the initiative, and, even before the referendum passed, Reps. Dana Rohrabacher (R-Calif) and Larry Combest (R-Texas) submitted a bill to do just that. The gun-loving residents of Palos Verdes and Lubbock may not want a liability law to deal with disgusting weapons like the Tec-9 and the "Street-Sweeper" (a sawed-off shotgun that can fire 12 rounds in three seconds), but the residents of this city—especially the black residents, whose neighborhoods have been overrun by thugs—clearly do. For Congress to deprive the District of this defense against crime would be a crime itself, an affront to self-determination and human rights.

I say to my colleagues, how can you do this to a community? These are people, decent people who have children, who have parents, who want their families to grow up without being murdered in the streets every night, and, yes, too often in the daytime. But what happens? They pass a bill, an ordinance to do something about it. And what do we do? We come here because we are subject to the whims and the pressures of the National Rifle Association. They might not support somebody if we voted the wrong way with respect to this proposal.

So the National Rifle Association puts pressure on the Congress of the United States and the Congress of the United States buckles in and we say to the people of Washington, the ordinance that you passed by a 77-percent margin, you cannot have that legislation. We are going to tell you what to do. We repeal it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. SMITH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded with the understanding that the Senator from Ohio and such other Members on the floor may be involved in a colloquy, but not for the purpose of offering an amendment, and that immediately thereafter, the quorum call be put into effect.

THe PRESIDING OFFICER. The Chair is informed from a parliamentary perspective that the Senator may not qualify the conditions under which the quorum call may be rescinded.

Is there objection?

Mr. SMITH. Reserving the right to object——

The PRESIDING OFFICER (Mr. BRYAN). The Chair informs the Senator that there is not a provision for debating whether or not the quorum call can be rescinded.

Mr. SMITH. I withdraw the objection.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I assure the Senator from New Hampshire that I asked for the quorum call to be called off in order that I may engage in a colloquy with the distinguished manager of the bill.

Am I correct in the advice that has just been given to me that the Senator from South Carolina will be the chair of the conference committee, or rather will be the chair from the Senate side, and that the Senator from South Carolina has every intention of dropping the amendment that is presently pending before the body?

Mr. HOLLINGS. In response to the Senator from Ohio, I told our colleague from New Hampshire that is within the matter, at best, of the District of Columbia appropriations bill, and had no relation whatsoever to the Departments of Justice, State or Commerce, and that I did not see how we could hold it on the bill. I was more or less indicating no Senator could say we are going to knock it out or keep it in, but if I had bet on it, I would bet it would not be in the bill.

Mr. METZENBAUM. Does the Senator from South Carolina mean by his response that he would personally urge the conference committee to drop the amendment? I am aware of the fact that the Senator from South Carolina, I believe, has voted to overrule the chair in its decision on this subject.

Mr. HOLLINGS. Yes. I said at that particular time—and it is already a matter of record—that I agree with the Senator from New Hampshire as to the substance and not the procedure. Therefore, on the procedural point, it would not be in our bill.

Mr. METZENBAUM. It would not be in our bill?

Mr. HOLLINGS. Would not be in our bill.

Mr. METZENBAUM. Such a representation will be made to the conference committee, and you will make every possible effort to eliminate this amendment from the bill?

Mr. HOLLINGS. That is correct, and that is the position of the Senator from New Hampshire, as far as I understand it.

Mr. METZENBAUM. Is the Senator from New Hampshire available to respond?

Mr. HOLLINGS. He is on his way back.

Mr. METZENBAUM. I would like to put that question to him, as well, and I therefore suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I am not trying to interrupt their understanding, but just on two amendments that have been cleared on both sides, I would like to use this time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 2757

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senators from Rhode Island [Mr. PELL and Mr. CHAFEE] I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from South Carolina [Mr. HOLLINGS], for Mr. PELL for himself and Mr. CHAFEE, proposes an amendment numbered 2757.

On page 91, line 17 delete the period and insert in lieu thereof the following: ": *Provided further*, That $800,000 shall be available for the World Scholar-Athlete Games.".

Mr. HOLLINGS. Mr. President, this is an $800,000 earmark under the USIA budget for the World Scholar-Athlete Games to be held next June in Rhode Island.

Mr. PELL. Mr. President, on behalf of Senator CHAFEE and myself, I am offering an amendment to provide $800,000 in fiscal year 1993 for the World-Scholar Athlete Games to be held next June in Rhode Island.

These games will bring together some 2,000 scholars and scholar-athletes from more than 100 countries to participate in educational, cultural and athletic events.

In order to participate in these games, American and foreign participants will have to have high academic achievement, demonstrated proficiency in cultural or athletic endeavors, and clear leadership qualities.

The games will have three components: an educational portion revolving around topics such as world peace, drug abuse and the environment; a cultural program consisting of workshops in art and music; and athletic competition.

Our distinguished colleague from New Jersey, Senator BRADLEY, is the honorary chair of the games.

To date, more than 1,500 students worldwide, including young scholars from all 50 States and the District of Columbia, have been nominated to participate in the games.

The budget for the games is $4.3 million. The Institute of International Sport, which is organizing the games, has received donations from private contributors and corporations. However, that funding is not sufficient to cover all of the costs.

The amount sought from Federal funding is modest compared to the overall budget. Moreover, there is precedent for funding games such as these. The Pan Am Games and the World University Games are just two such examples.

As one who has been a long-time supporter of exchanges, I believe that these games will play an important role in educating and sensitizing these young people, many of whom may be future leaders, to the problems and the aspirations of other countries and other peoples.

This money is an investment in international understanding and future stability. I believe it is a good investment and I urge my colleagues to support it.

Mr. CHAFEE. Mr. President, I am pleased to cosponsor the amendment offered by my friend, the distinguished senior Senator from Rhode Island.

The World Scholar-Athlete Games should be a marvelous event. The games will bring together an equal number of young men and women from more than 100 nations and all 50 States to promote international understanding and cross-cultural exchange. More than 2,000 individuals are expected to attend the event that will be held in Rhode Island from June 20 to July 1, 1993.

Unlike the Summer Olympic Games that are currently underway in Barcelona, Spain, the World Scholar Games will not pit one nation competing against another in pursuit of gold, silver, and bronze medals. Instead, individuals will be chosen at random to participate in just four team sports: volleyball, soccer, basketball, and tennis doubles. Therefore, a team may be composed of scholar-athletes from a variety of nations—perhaps a Cuban and an American on the same basketball team, or an Israeli and a Palestinian on the same soccer squad. The focus will be on teamwork and participation, as opposed to nationalism and the quest for gold medals.

The games will be more than just an athletic event. In addition to the sport competitions, there will be a cultural component for a separate group of young singers, artists, writers, and poets. Each participating nation and state will join to craft songs and artistic exhibits celebrating the themes of international peace.

Let me describe the goals of the games:

To promote understanding, acceptance, and friendship among the youth of the world through experiences in sports, music, art, writing, poetry, and seminar discussions;

To establish open, nonpolitical, longstanding relationships among tomorrow's world leaders;

To utilize sport and the arts as a means of communication for learning rather than competition among nations; and

To renew the concept of amateurism in a major international sporting event.

Mr. President, now that the cold war is over and old adversaries are now friends, it is especially important to foster events such as the World Scholar-Athlete Games. We hope the next decade and beyond will be a period of peace and deepening understanding between the world's rich and varied cultures. The games will certainly play an important role by bringing together talented young people from around the globe.

I am proud to serve—along with Senator PELL—on the Diplomatic Council at the Institute for International Sport, the parent organization that developed the idea for the World Scholar-Athlete Games. The Institute does a fine job, and I look forward to welcoming both our international guests and the stateside competitors to the events next summer. It will be a wonderful celebration, and a great opportunity for American young people to meet and learn from our foreign visitors.

Mr. President, I support the amendment offered by Senator PELL and urge its adoption.

Mr. HOLLINGS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2757) was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the amendment again be temporarily laid aside so I can offer this amendment on behalf of Senator ADAMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2758

(Purpose: To provide equitable relief to Joseph Karel Hasek to allow him to be compensated for his losses)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. ADAMS, for himself and Mr. PELL, proposed an amendment numbered 2758.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. . (a) Pursuant to Private Law 98-54 and notwithstanding any other provisions of law, the Secretary of the Treasury is directed to pay from funds provided in this Act to the Department of State and identified by the Secretary of State to Joseph Karel Hasek, $250,000 (less than 5 percent of his losses), together with interest calculated under subsection (b), not later than 30 days after enactment of this Act.

(b) The interest to be paid under subsection (a) shall represent the amount of interest accruing on $250,000 from August 1, 1955, to August 8, 1958, at a rate which shall be determined by the Secretary of the Treasury.

(c) No amount in excess of 10 percent of any amount paid pursuant to this section may be paid to or received by any attorney or agent for services rendered in connection with such payment, and any such excessive payment shall be unlawful, any contract to the contrary notwithstanding.

Mr. ADAMS. Mr. President, I offer this amendment today to correct a grave injustice that has been done to a citizen of the United States.

This individual became a U.S. citizen in the middle of his life. He is a person who knows the value of the freedoms that this Nation was based on.

I am referring to Dr. Joseph Karl Hasek. Dr. Hasek is well known to some Members of this body. The chairman of the Committee on Foreign Relations, the Senator from Rhode Island, came to know Dr. Hasek when Senator PELL was a Foreign Service officer stationed in Prague, Czechoslovakia, in the mid-1940's. I have come to know him more recently as a strong defender of freedom and a fierce anti-Communist who has never gotten the justified compensation he deserves for his sacrifices on behalf of the United States and Western interests.

Mr. President, I want to give the Senate a brief background on the need for this amendment. In 1947 then Secretary of Commerce asked Dr. Hasek, then the head of a prominent Czech banking family, having taken over the business upon the liberation of Czechoslovakia after World War II, during which his father was executed by the Nazis, to undertake a study of United States trading patterns in major industrial centers. While in the United States in February 1948 to deliver his report to Secretary Harriman, the Communists took over his native Czechoslovakia and he was placed on a list of individuals to be arrested upon arrival. Dr. Hasek decided to remain here and applied for U.S. citizenship which was quickly granted. Eventually Dr. Hasek's mother, wife and two children were able to join him in the West and his adopted country. Unlike other Czechs who escaped Communist rule in Czechoslovakia, Dr. Hasek has not been fairly compensated for his loses.

For the past 40 years he has worked to free Czechoslovakia from the grip of the oppressive Communist regime that enslaved Czechs and Slovaks, and exiled him. With the realization of that dream there is one piece of unfinished business that must be attended to.

When Dr. Hasek left Prague he left behind more than $5 million in assets that have never been recovered, despite the fact that other Czechs that fled their country after the Communist takeover have been able to recover 100 percent, or more, of their lost resources. This was done through the Czechoslovak Claims Settlement Act of 1981, which established the Czechoslovak Claims Fund which collected $80 million from the Government of Czechoslovakia. While others received adequate compensation from this fund, sometimes more than had actually been lost, Dr. Hasek was unable to establish to the satisfaction of the Foreign Claims Settlement Commission the nature and true value of his holdings.

Mr. President, it should not be surprising that Dr. Hasek could not prove these holdings were confiscated after he became an American. Dr. Hasek came from a very prominent, well-to-do Czech family. While others who had defected could hire Czech lawyers, produce documents that they had brought out with them, and even travel to Czechoslovakia themselves to obtain affidavits, Dr. Hasek could do none of this. The Communists wanted to arrest him, they were certainly not about to admit to expropriating such vast personnel wealth from a man who was attempting to discredit them in the eyes of the world. And of course he did not know when he left Prague in 1948, that he would not return. Add to this some bureaucratic bungling at the State Department over whether the law applied to citizens and/or nationals and Dr. Hasek's claim was denied in toto.

In 1984 the Congress attempted to correct this inequity by enacting Public Law 98-54, which required that the Commission reopen his case and consider the, and I quote, "unique circumstances pertaining to that claim" unquote. Again the Commission ignored the Congress legislation and denied his claim in toto. The Commission paid him $6,220 for his mother's house in Prague, which was valued at $50,000, and which was not part of his claim since she was still living in it when he left Czechoslovakia in 1948 for what became a journey to United States citizenship.

Mr. President, efforts since then to right this injustice have not, as yet been successful. Dr. Hasek, now in his eighties, lives in Washington, DC, is recently retired from the international economics and trade consulting firm he started in 1948 after his exile and is sorting through boxes containing documents of four-score years of fighting against Communist oppression. Once they took his livelihood and his country. The Czechs and Slovaks have taken back his country, we cannot give him back his livelihood of the last 40 years, but we can give him a fair shake.

Mr. President, the amendment I propose would pay, within funds provided, Dr. Hasek $250,000, which is less than 5 percent the 1948 value of the holdings he left behind, plus interest from August 1, 1955, to August 8, 1958, to be computed however the Secretary of Treasury sees fit. It is a small gesture to a man who has been a friend of the United States for more than two generations, and a friend to Czechs and Slovaks for more than 80 years.

Mr. PELL. Mr. President, I rise in support of the amendment to correct an injustice by providing partial compensation to Dr. Joseph Hasek for properties seized by the Communist government of Czechoslovakia. As a young diplomat in Prague in the late 1940's, I knew Dr. Hasek well. In fact, I played a part in the invitation extended by the then Secretary of Commerce, Averell Harriman, to Dr. Hasek to come to the United States in early 1948 as an adviser on Eastern European economic issues.

As others have already pointed out, it was while Dr. Hasek was in Washington on this mission that the Communist coup took place. Subsequently, several properties of his, worth several million dollars were seized by the Communists, and Dr. Hasek was put on notice that he would be arrested if he returned to Czechoslovakia.

When the Czechoslovak Claims Commission was set up to adjudicate claims in connection with the agreement to return Czechoslovak gold and other assets controlled by the United States, Dr. Hasek filed a claim. However, because of his presence in the United States and his inability to return to Czechoslovakia, Dr. Hasek was placed in a uniquely disadvantageous position in providing the documentation required to substantiate his claim.

Although Dr. Hasek gathered as much information as he could, including affidavits from people who were familiar with his properties and circumstances, his claim was denied. In effect, he was penalized for having served on the advisory panel set up by Secretary Harriman. That is unfair, and we now have an opportunity to rectify matters. And here I would point out that the pending amendment does not provide full compensation to Dr. Hasek. In fact, it compensates him for only 5 percent of his losses. That is a token amount, but it is nevertheless an important token of recognition and appreciation for all that Dr. Hasek did, both in Czechoslovakia and in the United States, in the struggle against communism and in support of the United States interests in Eastern Europe.

Mr. HOLLINGS. Mr. President, this is pursuant to Private Law No. 98-54. The Secretary of the Treasury is directed to pay certain funds to Joseph Karl Hasek, and it has been cleared on both sides to proceed with that particular provision of the law, 98-54.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2758) was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Senator JOHNSTON be added as a cosponsor to the amendment No. 2749 offered earlier today by Senator BREAUX and myself establishing a loan vessel obligation guarantee program.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished Senator from Ohio and the Senator from New Hampshire and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the amendment momentarily be set aside so we can present this amendment on behalf of myself, subject to the consent, of course, of the distinguished Senator from Missouri [Mr. DANFORTH].

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2759

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. INOUYE, and Mr. GORTON, proposes an amendment numbered 2759.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend section 611 to read as follows:

SEC. 611. (a) None of the funds appropriated under this Act may be used by the Commission to develop, issue, implement, or enforce a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92-9, or any successor proceeding, unless the Commission meets the requirements of subsection (b) and incorporates the requirements of subsection (c) into such rule or order.

(b) Such rule or order shall not take effect until 90 days after it has been issued by the Commission.

(c)(1)(A) The Commission shall not redesignate, from primary to secondary, any use of the frequencies between 1850 and 2200 MHz by a qualified private fixed microwave entity.

(B) The Commission may permit frequencies between 1850 and 2200 MHz that are allocated on a primary basis to qualified private fixed microwave entities to be used on a shared basis, except that any entity that shares the frequencies between 1850 and 2200 MHz with a qualified private fixed microwave entity shall bear the burden of eliminating any harmful interference to a primary system of a qualified private fixed microwave entity.

(C) Any newly licensed system, or any modification of or addition to an existing system, operated by a qualified private fixed microwave entity on frequencies between 1850 and 2200 MHz shall bear the burden of eliminating any harmful interference to any emerging telecommunications technology entity whose license was issued at an earlier date than the license for such newly licensed system or such modification or addition.

(D) Any grant of a license to a qualified private fixed microwave entity for a new system, or for modification of or addition to an existing system, to use frequencies between 1850 and 2200 MHz shall be on a primary basis, unless no other qualified private fixed microwave entity is operating on those frequencies on a primary basis.

(E) The Commission shall not, for the purpose of preserving the availability of frequencies for emerging telecommunications technologies or other uses, deny any application of a qualified private fixed microwave entity for a license for modification of or addition to an existing system, to operate on frequencies between 1850 and 2200 MHz.

(2) The Commission shall not impede or restrict the ability of qualified private fixed microwave entities operating on frequencies between 1850 and 2200 MHz, or of licensees or proponents of emerging telecommunications technologies, to enter into voluntary agreements for the purpose of optimizing efficient use of spectrum, including but not limited to migration of facilities to other frequencies or media.

(3)(A) At a date no earlier than 8 years following issuance of a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92-9—

(i) any emerging telecommunications technology entity operating on or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any qualified private fixed microwave entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media; and

(ii) any qualified private fixed microwave entity operating or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any emerging telecommunications technology entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media.

(B) Any migration proposal under subparagraph (A) (i) or (ii) shall demonstrate that—

(i) the party proposing such migration has a license to operate on the frequencies used by the party subject to the migration or otherwise has the qualifications to use those frequencies;

(ii) there is a need for the proposed migration, including the unavailability to the party proposing the migration of other equally reliable frequencies at costs comparable to those for a system operating on frequencies between 1850 and 2200 MHz;

(iii) the party proposing such migration has in writing notified the party subject to migration (within a reasonable time sufficient to enable the parties to discuss entering into a voluntary agreement as described in paragraph (2)) of its intent to submit a migration proposal;

(iv) an alternative communications system for the party subject to migration would be available and would be at least as reliable in all respects as the communications system such party is operating at the time of the proposal; and

(v) the party proposing such migration will pay all costs associated with such migration and necessary to ensure the reliability of the alternative communications system, as such costs are incurred.

(C)(i) The Commission shall approve the proposed migration if the Commission finds that the migration proposal makes the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v).

(ii) If the Commission does not make the findings described in clause (i), the Commission shall not approve the proposed migration.

(iii) If the Commission approves the proposed migration, the Commission shall provide that the party subject to migration shall be provided an adequate period of time in which to construct and test the proposed alternative communications system and to complete migration. The party subject to migration shall not be required to cease using the frequencies between 1850 and 2200 MHz until the reliability of the alternative communications system has been established.

(iv) If the Commission approves the proposed migration, the Commission shall retain jurisdiction over the proposed migration to resolve all remaining disputes to ensure that the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v) are made.

(d) The Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which analyses the feasibility of allowing frequencies reserved for use by the Federal Government as of June 1, 1992, to be used by emerging telecommunications technology entities, or by any qualified private fixed microwave entity now operating on frequencies between 1850 and 2200 MHz.

(e) In this section, the following definitions apply:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "existing" means in operation on the date of enactment of this Act.

(3) The term "harmful interference" means any interference from any technology that exceeds the level of protection equivalent to that provided under section 94.63 of title 47, Code of Federal Regulations.

(4) The term "qualified private fixed microwave entity" means an entity licensed or permitted, or eligible to be licensed or permitted, under part 90 of title 47, Code of Federal Regulations, for Public Safety Radio Services, Special Emergency Radio Services, Power Radio Services, Petroleum Radio Services, and Railroad Radio Services.

Mr. HOLLINGS. Mr. President, we have been working with our distinguished ranking member of our Commerce Committee, the distinguished Senator from Missouri [Mr. DANFORTH] concerning the proposal of the Federal Communications Commission relative to assigning frequencies. As you well know, we have resisted over the years any interference from the Congress itself on assuming that kind of responsibility. It would envision all kinds of hearings and decisions that should be made by the administrative FCC and not by the Congress itself and, as chairman of the committee, I have always adhered to that particular principle and procedure.

However, earlier the Federal Communications Commission took up the matter of reassigning the current users of the 2 gigahertz band to make room for new technologies such as hand telephones and mobile phone services. The FCC held a hearing on this proposal that had some 22 witnesses from that particular new technology industry and only one representing the current users of the 2 gigahertz band. The users of the 2 gigahertz band encompass the public electric utilities, the private taxpayer-funded utilities as well as investor-owned utilities, the railroads, and oil, gas and water pipeline companies. You can go right on down the list of all of those that expressed tremendous concern about the reliability on the one hand, concern for safety on the other hand, and the expense, of course, of being forced to move to a different set of frequencies.

As a result, we included in the subcommittee markup what we thought was reasonable language that would protect these current users and at the same time allow new technologies to enter the market. We did not bar the FCC from going forward with its proceeding but we wanted to make sure that these concerns were noted here in this appropriations bill and it was reported by the full committee.

But now the distinguished Senator from Missouri, not agreeing by any matter or means to this particular amendment, has agreed to allow us to proceed with the following changes: That we change the 15-year protection to 8 years, that we remove the independent arbiter, giving the authority to the Federal Communications Commission, that we provide the utilities with notice before a proponent may file to move a utility, and that we require a proponent of a new technology to demonstrate that he needs those frequencies and no other frequencies are available before it can apply to move a utility.

It is a slightly complicated matter for those who are not familiar with the particular discipline assigning frequencies, but I think that generally sets out the understanding that we have in moving this particular amendment.

As I understand, the Senator from Missouri does not yield at all his rights to reconsider this provision on our authorization bill and the fact of the matter is if we can have a similar understanding on the authorization bill we would cut this out of the appropriations bill.

Mr. President, I would now like to explain this matter in more detail. In a proceeding numbered ET Docket 92-9, the Federal Communications Commission [FCC] has proposed to reallocate certain frequencies around 2 gigahertz [GHz] for new emerging technologies. In doing so, the FCC has proposed to downgrade the status of some of the existing users of these frequencies from primary to secondary after 10 to 15 years. This proposal could cause serious harm to the operations of electric power companies and rural electric cooperatives, railroads, and oil, gas, and water pipelines. These entities depend upon reliable microwave communications in the 2 GHz band to control the provision of their essential services to the public. While the FCC has proposed that these existing users could move their microwave facilities to other frequency bands, the FCC has not provided sufficient guarantee that the reliability of the communications services could be ensured in these new frequency bands.

For this reason, I added a new general provision to this appropriations bill in the subcommittee that ensures that the electric, railroad, oil, gas, and water pipeline companies that operate microwave communications systems in the 2 GHz band will continue to possess reliable communications systems. The provision ensures that utilities that currently use the 2 gigahertz band cannot be moved off that band for a certain period of time. Further, after this time period, the utility can only be required to move if it is established that other frequencies are available that provide equal reliability to the utility's current system. The provision also ensures that all costs associated with such a move will be paid for by the new technology that proposes the move. With these protections, a utility will not suffer any degradation of service and will not suffer any out-of-pocket costs.

This provision is supported by the National Rural Electric Cooperative Association, the American Public Power Association, the Large Public Power Council, the Association of American Railroads, the American Petroleum Institute, the Edison Electric Institute, and the Interstate Natural Gas Association of America.

Mr. President, I generally do not offer legislation concerning spectrum allocation matters at the FCC. I believe that these are matters that are often very technical in nature and should not be subject to the political process. In this case, however, the FCC has itself shown a lack of respect for the process involved in making frequency allocation decisions. The FCC has shown a blatant disregard for the legitimate concerns of the utilities who currently use this spectrum. For instance, the FCC held an en banc hearing last December at which only 1 of the 22 witnesses represented a utility, while the remaining witnesses represented advocates of new technology. In April of this year, I wrote a letter to the Chairman of the FCC indicating my strong concern about the FCC's proposal to move the existing users of this band. Several other Senators also wrote letters to me and to the Commission expressing their concern. In June, I held a hearing in the Commerce Committee specifically on this proposal. In each case, the FCC gave vague and noncommittal responses. In this situation, I believe that there is no choice but for Congress to offer legislation on this issue.

Contrary to some misrepresentations by proponents of new technologies, this provision does not stop new technologies from being deployed. This provision permits new technologies to use these frequencies on a shared basis with existing utilities. In other words, this provision allows new technologies to enter the market today as long as they do not interfere with the utilities who currently use those frequencies.

Let me clarify a couple of other points with regard to this provision.

First, this provision does not give the existing utilities a property right in the spectrum. The spectrum is a valuable public resource. This public resource must be administered by the Government on behalf of the general public; it cannot be handed out to or controlled by private entities. The provision I have crafted gives the FCC policy guidance on how to administer the spectrum with regard to its use by certain utilities that provide essential public services. This provision, for instance, does not give these utilities an absolute right to the renewal of their frequencies. A guaranteed renewal would be the equivalent of giving the utilities an ownership interest, or a property right, in the spectrum. I cannot support such a position. I do expect, however, that the FCC will continue to demonstrate great concern for the essential public service provided by these utilities in deciding license renewals. In most cases, utility license renewals have been granted on a routine, pro forma basis. I expect and encourage the FCC to continue to process renewal applications in this manner.

Mr. President, I would like to clarify one provision in section (c)(1)(E) regarding the meaning of the term "addition." It is my understanding that an "addition" refers to a new transmitter location that extends a fixed microwave system into a new geographic area in which the system has not previously operated.

Mr. GORTON. I want to lend my support to the efforts of Senators HOLLINGS, DANFORTH, and INOUYE to reach an agreement today on the issue dealing with a proposed FCC rulemaking involving the use of the 1.8 to 2.2 GHz bands.

This is an important issue to many of my constituents. I have heard from a number of present users of these bands in Washington State. These users include the very backbone of our State's infrastructure—electrical utilities, railroads, public safety officials, and others. I believe that it is absolutely imperative that any decision to require the relocation of these users must fully protect the present users both from cost impacts and equally importantly from any disruption or deterioration in the reliability of service.

Electrical utilities use microwave systems in Washington State throughout the generation, transmission, and distribution system. Some of the transmitters provide the means by which the central dispatch computers regulate the output of the plants to precisely match the demand for electricity. Others provide the data communication, or protective relaying by which power flows are instantaneously rerouted when a power line is knocked out of service by a storm or other unforeseen event. Absent this protection, minor outages would become major blackouts.

The railroads in my State have also made heavy investments in microwave systems. These systems are used to communicate between crews, dispatchers, trackside signals, and other personnel and facilities necessary for the safe and reliable operation of the railroads.

Last, I have heard from a number of public safety officials in Washington State. They point out the need for quick and reliable emergency communications services. The 1.8 to 2.2 GHz band width is heavily used by public safety officials who believe that other band widths in Washington State will not meet their needs even if financial accommodations could be made to these users. In particular, western Washington, which is heavily populated, has severe physical restraints due to mountains and water which make the use of higher band widths far more difficult than on flat land.

I am also aware of the intentions of some companies to offer Personal Communications Services [PCS] and their desire to use the 1.8 to 2.2 GHz bandwidth. While we do not even know what all of these new services will be, they are sure to be exciting and on the cutting edge of technology. The amendment agreed to today will allow future private microwave users of PCS to share frequencies with existing microwave users if they do not cause interference. Existing users will retain primary status and not be forced to move. After 8 years, the amendment allows for the new user to seek arbitration at the FCC to force the existing user to move so long as compensation is provided and that a reliable new frequency is available. Voluntary efforts to encourage the incumbent user to move are allowed at any time.

Mr. President, this is not a perfect solution. It deals with a complex and technical issue and one that I had hoped would be worked out through negotiations at the FCC. Unfortunately, Mr. President, while discussions have taken place at the FCC, no acceptable agreement has been reached to date. I therefore wish to support the amendment before the Senate today.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I have long believed and frequently said that I think that the relationship that I am privileged to have with my chairman on the Commerce Committee is as good as any ranking member enjoys with any committee chairman in the U.S. Senate.

Senator HOLLINGS and I have been allies on a number of issues. We have been opponents on some. We have always enjoyed a remarkably cordial relationship and today is further proof of that fact.

I am frankly concerned about undue rigidity in locking in the status quo with respect to the assignment of specific frequencies by the Congress of the United States. I am sympathetic to the concerns of the railroads and the concerns of the utilities. They do not want uncertainty. I understand that. But it seems to me that in meeting those concerns we also have to build in a degree of flexibility so that new technologies can come on the scene, and to me this is a kind of issue that is better left for the Federal Communications Commission.

This particular issue was raised in connection with this appropriations bill at the appropriations markup last Thursday and it was represented at that time I supported the version of this that was in the markup at that time, and that really was not the case; I did not support it. And we have been working since to try to modify what has been in the bill, and we have met with a certain degree of success in doing that. But I want to indicate that while I appreciate the cordiality of my chairman, I am still not fully satisfied with the result and I want to make it clear that while I will agree to go along with the bill on the floor of the Senate, and while I would not object to a unanimous-consent request to incorporate this Senate appropriations bill into a House bill, at the same time I do want to reserve my options for the future, particularly in conference and on the conference report.

I also want to explore with my chairman the possibility of bringing this matter before the Commerce Committee. We have already had a hearing on the subject. We have never had a markup on the subject.

It would normally be the case, I think, that the authorizing committee would be the place to bring this legislation up.

So I take the floor merely to express my appreciation to the chairman and his staff for working over this past weekend, and also to serve notice of the fact that I am grudgingly going along, at least insofar as this bill is on the floor of the Senate. I am keeping my options open for the future.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am very grateful to the distinguished Senator from Missouri for his cooperation and assistance in this particular regard this evening. I understand his misgivings. We have some of our own.

So we will be working together. I do appreciate it very much.

Mr. KERREY addressed the Chair.

The PRESIDENT OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I also appreciate the work the floor manager, the chairman of the Appropriations Subcommittee and the chairman of the Commerce Committee, has done in this regard.

It was my intent, over the weekend, to come to the floor and offer an amendment to strike this provision altogether. I will now not offer that amendment. I will yield to the agreement that has been worked out, because I have a great deal of respect for both the chairman of this subcommittee and the chairman of the Commerce Committee, and the ranking member.

I would point out to my colleagues that not only is this an effort to do authorizing language on an appropriations bill, but, further, I would point out that essentially what this is is a group of people who are not happy with action taken by a regulatory agency, and so we are making an effort to not just overturn the action, but actually to overturn potential actions.

The FCC has only indicated they might, in the next 6 months, take this action. And we are, with this effort, saying to the FCC, you cannot take the action.

I pointed out to many of the folks in Nebraska who are concerned about this, that it is not uncommon that we have citizens say: We do not like the action taken by the regulatory agency. Can you do something in Congress? And typically, we say, no, as the distinguished chairman has just said.

My own concern with this delay in this has to do with my strong belief that communications technology, properly applied, could change, in a very dramatic and positive way, the nature of our capacity to educate our people. I look forward to the opportunity to discuss and talk about that at a later time.

I understand the reservations based upon previous experience with direct broadcast and the action the FCC took in the early 1980's would not result in an allocation of a ban in this particular case. I believe it is compelling, when you examine the likely applications, that we might, in fact, be blocking the development of significant jobs here in America. And as I indicated, I believe that we are potentially blocking applications that would be enormously beneficial to our people as they struggle to try to learn and train themselves.

All that having been said, I concur with the compromise. I appreciate very much the chairman's willingness not only to compromise this language, but to indicate a willingness at a later date to take up the additional concerns that I have.

I have a great deal of respect for his knowledge and understanding of this particular issue.

Mr. HOLLINGS. Mr. President, I want to thank my colleague from Nebraska for his understanding and cooperation.

The amendment has been cleared on both sides. I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 2759) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I think we have to protect the quorum call here.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota seeks recognition.

Mr. DURENBERGER. Mr. President, I had intended to offer an amendment which would have increased the funding of the EEOC.

I wish to speak briefly to the subject and, if necessary, I ask unanimous consent to further set aside the matter that is pending before us so that I might speak to the amendment which I do not intend to offer.

Mr. METZENBAUM. Will the Senator yield?

Mr. DURENBERGER. Yes.

Mr. METZENBAUM. Do I understand that the Senator from Minnesota has no intention of offering any legislative proposal, but merely intends to speak?

Mr. DURENBERGER. The Senator from Ohio is correct.

Mr. METZENBAUM. I thank the Senator.

INCREASED EEOC APPROPRIATION

Mr. DURENBURGER. Mr. President, as I indicated earlier to the chairman of the subcommittee and the ranking member of the subcommittee, and others who are interested in the subject, I had intended, for the better part of the day, to offer an amendment to increase the funding for the Equal Employment Opportunity Commission, but I have been persuaded, both by them and by others, including a letter that I was given by the chairman of the subcommittee from the Attorney General, not to do that.

But I must express my deep concern—and I think it is concern that has been shared by members of the subcommittee, as well—about the adequacy of the funds available for enforcing two of the most significant civil rights laws that have ever been passed by this Congress: The Civil Rights Act of 1991 and the Americans with Disabilities Act of 1990.

We have all delivered impassioned speeches on this floor at the time those laws were considered. We consider them to be landmark pieces of legislation. But we really are not providing the resources, the financial resources, necessary to enforce them.

So despite all of the speeches that we gave and all of the promises that we made to the American people, we really cannot stand here today and say we intend to make a reality of civil rights for women, or civil rights for people with disabilities, unless we can guarantee the funds for enforcement.

I must say that the EEOC is an impressive organization. It is the Nation's lead civil rights enforcement agency. It is responsible for enforcing much of the Civil Rights Act of 1991 and title I of the ADA. For more than 10 years, Congress has cut this small law enforcement agency's budget in real dollar terms and we are about to do it again at a most critical time.

EEOC receives more than 60,000 charges per year. The Civil Rights Act of 1991 and the ADA will add another 15,000 to 20,000 charges annually for the EEOC to investigate. Yet the House and Senate Appropriations Committees have effectively not given them one penny to enforce these new laws.

Mr. President, the EEOC is recognized as a model Federal agency and has won awards for it management initiatives.

And lest you think they are the kind of organization that sits on its duff and does nothing, the reality is it is probably the most productive of any other Federal agency. EEOC's investigators investigate an average of 88 cases per year, nearly three times as many as the next closest Federal agency with a similar responsibility.

But, Mr. President, EEOC has reached the breaking point. Without additional resources, it is going to be very difficult to enforce the Civil Rights Act and the ADA. Even the House Appropriations Committee report on Commerce, Justice, State, the Judiciary and related agencies fiscal year 1993 (Report 102–000) states that:

> The Committee recognizes that this amount may not be sufficient to allow the EEOC to carry out the provisions of the ADA and the Civil Rights Act of 1991 adequately and continue its ongoing workload under existing statutes.

And the House provided $6 million more than the Senate did.

The administration requested $245 million of the EEOC in 1993. The Senate Appropriations Committee last week approved $212 million. If this is EEOC's budget for next year, we have not just placed the final straw that broke the camel's back—we may well have killed the camel.

The reality is, though, they have found themselves in a bind.

I will let the chairman speak for himself, but the committee concluded that if the administration wants to try to help the implementation of that act and if the administration is willing to deal more appropriately with funds that are allocated for the Justice Department and funds that are allocated for EEOC, that it would be up to the people at the Department of Justice and in the administration to make those kinds of decisions.

In order to get the $32,359,000 that is necessary, rather than propose that

Justice transfer all that money to EEOC, I was going to propose they transfer half; that we appropriate half of it tonight and allow Justice the discretion to do it in the future.

I am left without this amendment. We are left in the position where we must rely on the Justice Department to make as much of that $32,359,000 transfer as we possibly can.

So I must stand here and remind my colleagues of the difficulty of being on the Appropriations Committee, I guess, but also remind my colleagues of the extreme difficulty we face in passing legislation on one hand, and not providing the resources to enforce it on the other. It is not only discouraging to the people involved, it is discouraging to the folks at the EEOC.

It is not only discouraging to the people involved, but it is discouraging to the folks at EEOC, the men and the women who have to take on the responsibility of responding to the enforcement authority in this law.

So, I will not offer the amendment, but I do urge the President and I urge the Attorney General of the United States to take this matter seriously, and I urge my colleagues to join in that request so that the appropriate funds to enforce these two very important laws, the Civil Rights Act and the ADA, will be available.

Mr. President, I will yield the floor.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

AMENDMENT NO. 2752

Mr. METZENBAUM. Mr. President, it is time for us to take stock of where we are. The Senator from New Hampshire has offered an amendment. The Senator from Ohio feels very strongly about it, feels it impacts upon the legislative rights of the people of the District of Columbia. It does not belong on an appropriations bill, the Chair ruled. There was an appeal from the decision of the Chair, and this body indicated that they were willing to consider the amendment. That indicated it probably would have the votes to pass. The Senator from Ohio is strongly against it.

That amendment at this moment is subject to a second-degree amendment. The Senator from Ohio has a second-degree amendment to attach to this bill, a striker replacement law as a second-degree amendment. But I have been around here long enough to know that, if I were to do that, then many on the other side of the aisle would see fit to engage in a lengthy discussion. And I believe that this body too often finds itself engaged in useless effort and a waste of time. I am now satisfied that this amendment before us will not survive the conference committee, as it should not, because it is obviously not relevant to the appropriations bill. So, rather than play the games we play around here offering a striker replacement bill as a second-degree amendment, I think the more responsible thing is to permit it to go forward with the understanding that it will be dropped in the conference committee.

It is fair to say that no one can say that with absolute certainty. The conference committee consists of representatives from both sides of the aisle and representatives from both bodies. But I am satisfied it will not remain in the bill.

Under those circumstances, rather than offer an amendment to the amendment and tie up this body for a considerable length of time to no useful end, my concern is that the people of the District of Columbia have the right to enunciate their views, to make their decisions, and not to have the Congress of the United States tell them what to do.

So I will not offer the amendment unless I am misinformed as to what is contemplated in the conference committee.

Mr. BAUCUS. Mr. President, last year the District of Columbia passed a law which establishes the right of a victim of a criminal attack by a person using a so-called assault weapon to sue the manufacturer of the firearm for damages.

The net effect of this law is to hold manufacturers of semiautomatic firearms to a standard of absolute liability. Such a result sets a dangerous precedent. This logic holds that a firearm is capable of acting independently to commit an illegal and harmful act.

Traditional tort liability standards have long held that manufacturers may be held responsible for the uses to which their products are put when it can be shown that there is a manufacturing design or defect.

Absolute liability standards, on the other hand, are generally limited under tort law to activities or products which are deemed to be ultrahazardous. The use of explosives, for example, is one such activity to which absolute liability applies.

The reasoning behind an absolute liability standard is that regardless of the actions taken to minimize the hazards, the activity is so inherently dangerous that unforeseen consequential harm cannot be ruled out and thus must be accounted for by law.

Including firearms manufacturers in this category skews the criminal responsibility equation away from the user, in this case the criminal, and places it squarely on the manufacturer.

Any firearm can be dangerous if used in an improper or criminal manner. However, the vast majority of gunowners do not act in such a manner.

Moreover, suggesting that a firearms manufacturer should be held accountable for a criminal's actions is an absurd denial of centuries of American and English jurisprudence.

To those who believe that this is a home rule issue which should not be addressed by the Congress, I believe that nothing is farther from the truth. The applicability of such a standard could be expanded beyond firearms manufacturers.

As a precedent, it could apply equally to almost any product or service. For instance, automobiles, alcohol, and pharmaceutical drugs are products which come readily to mind which could potentially be affected.

Mr. President, the District law attempts to restrict the constitutional right to keep and bear arms. It narrows the choices which are available to an individual who wishes to own a firearm.

Manufacturers will look at the economics of semiautomatic manufacture given the implications of absolute liability and decide that it is no longer feasible to produce semiautomatics. Therefore, semiautomatic weapons will no longer be available to law-abiding citizens who wish to own them and use them for hunting, collecting, or target practice.

I sympathize with those who are attempting to deal with the violence that is becoming the norm in our Nation's Capital. I cannot, however, accept the convoluted logic that is behind a law which has no impact on crime but has the worst of impacts on American industry.

I support the Smith-Dole amendment to overturn this misplaced law, and urge my colleagues to do likewise.

Mr. HOLLINGS. Mr. President, momentarily, until we get this understood and finalized, I ask unanimous consent we set it aside so we can put a perfecting amendment to the Danforth and Hollings amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2760 TO AMENDMENT NO. 2759

Mr. HOLLINGS. Mr. President, for Mr. BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. BUMPERS, proposes an amendment numbered 2760.

On page 3, line 20, of the Hollings amendment, add at the end the following: "(except where such entity is a State or local government, or an agency thereof)".

Mr. HOLLINGS. Mr. President, that language right there is clear to the point, "except where such entity is a State or local government"—namely, the police departments use this frequency, and we wanted to protect them. That was just a perfecting amendment.

Mr. BUMPERS. Mr. President, I rise today to commend the managers of this bill for accepting my amendment regarding spectrum allocation in the 2 GHz band. As drafted by Senator HOLLINGS, section 611 of the appropriations bill for the Departments of Commerce, State, and Justice and the Judiciary was a wise and necessary proposal. This amendment will improve upon section 611 in one important respect.

My amendment will preserve and codify the grandfathering of the right of State and local governments to retain the portions of the 2 GHz band of the radio spectrum which they now control for use by public safety agencies. This amendment will, in effect, write into law, the current proposed rule of the Federal Communications Commission, issued last January, that provides for indefinite grandfathering of the rights of public safety users of the 2 GHz band. The FCC proposed rule would respect the priority of public safety users of the spectrum, as provided for by law.

I welcome the advances in communications technologies which are making the 2 GHz band so desirable to the companies which are pioneering those innovative technologies. Yet, I believe that we must give public safety clear priority in spectrum allocation, just as provided for in the Communications Act.

This amendment will protect public safety agencies of the State and local governments from being subjected to the danger of forced relocation to less desirable bands of the spectrum. As a result, the safety of our citizens will not be subject to competition or pressure from powerful private interests, and the resulting forced migration to other bands of the spectrum that might cause diminution of the capabilities of police, fire, and other public safety agencies. At the same time, where the public interest would be served, public safety agencies will be free to negotiate with private interests who desire the portions of the 2 GHz band now held by those agencies.

The value of the 2 GHz band to public safety users cannot be measured merely in dollars. If public safety users of the spectrum were forced to yield to market forces in the competition for spectrum, the results could be disastrous. For example in my State of Arkansas, at a cost of over $30 million, the State police have recently completed a statewide state-of-the-art microwave mobile communications system, which operates on the 2 GHz band. If they were forced to migrate to a higher band on the spectrum, that new system would be rendered a wildly expensive white elephant.

Replacement of that system could cost the taxpayers of Arkansas $100 million or more. Furthermore, there's no telling what the cost in confusion, accidents, and lost lives would be if public safety communications throughout Arkansas were forced to migrate to a higher band. It's a loss from which the people of Arkansas could never really be made whole.

This amendment leaves us with the best possible outcome: Public safety is protected indefinitely, utilities are temporarily protected, and private interests are free to compete in the marketplace. Each of these users of the spectrum is left with an outcome appropriate to its power in the marketplace and its importance to the community. I thank the managers for accepting this amendment.

Mr. RUDMAN. Mr. President, I inquire, because there is the possibility on our side that there is a request for a rollcall vote on a Dole substitute, if I could give it a few moments to see if maybe that request could be dealt with? I am not sure it can be. In the meantime, the chairman could possibly proceed with the amendments of Senator SEYMOUR, who has three amendments which we have both agreed to.

Mr. HOLLINGS. Let us adopt this one and then proceed to the Seymour amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2760) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2761

(Purpose: To require ongoing revisions on Border Patrol hot pursuit policy)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 2761.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

INS BORDER PATROL HOT PURSUIT POLICY

SEC. . CHANGES IN CURRENT BORDER PATROL HOT PURSUIT POLICY.

(a) IN GENERAL.—The Attorney General, after consideration with the Commissioner of the Immigration and Naturalization Service, shall revise and implement, by not later than January 1, 1993, U.S. Border Patrol Pursuit policies which shall improve safety and prevent future accidents such as that which occurred in Temecula, California, on June 2, 1992.

(b) IMMEDIATE ACTION.—The Attorney General, after consideration with the Commissioner of the Immigration and Naturalization Service, not later than 30 days after enactment of this Act shall—

(1) implement a schedule of stationing available helicopters at border checkpoints to assist in hot pursuit events;

(2) implement an effective communications system between INS, Border Patrol, and local and state law enforcement agencies, which effectively incorporates state and local law enforcement officials in the pursuit and apprehension of fleeing suspect vehicles.

Mr. SEYMOUR. Mr. President, last month, five innocent bystanders were tragically killed when a truckload of suspected illegal aliens, fleeing border patrol officers, ran a red light and crashed into a car and careened into two children walking to school in Temecula, CA.

The tragedy of this accident is that it could have been prevented.

Current Immigration and Naturalization Service vehicular pursuit policy allows U.S. border agents to pursue fleeing suspects at high speeds through residential neighborhoods.

This amendment I am offering today would simply require the Attorney General, in consultation with the Commissioner of INS, to implement a schedule of stationing helicopters at U.S. border check points to assist in the event of hot pursuits.

While serving as mayor of the city of Anaheim, CA, a similar untimely death occurred. After investigation, we found that use of helicopters in surveillance helped in these hot pursuits, that is helped to protect life and avoid the kind of tragedy that occurred at Temecula.

Additionally, this amendment would require INS to coordinate communications with State and local law enforcement officials to assist in the pursuit and apprehension of fleeing suspect vehicles. These changes would be implemented no later than 30 days after enactment of this act. Officials at INS have stated their intent to make changes in communication procedures, however, I have set a deadline to ensure these changes are made in a timely manner.

Finally, my amendment would require the Attorney General, in consultation with the Commissioner of the Immigration and Naturalization Service to revise existing border policies by January 1, 1993, to, additionally, improve safety to prevent future accidents such as the tragedy that occurred.

The amendment has been accepted on both sides. I urge its adoption.

Mr. HOLLINGS. The amendment has been cleared on both sides.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2761) was agreed to.

AMENDMENT NO. 2762

(Purpose: To require a report on the Prisoner Transfer Treaty Between the United States and Mexico)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 2762.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . REPORT ON PRISONER TRANSFER TREATY BETWEEN THE UNITED STATES AND MEXICO.

(a) FINDINGS.—Congress finds that—

(1) the number of aliens who come into this country illegally continue to be at enormously high levels;

(2) a greater proportion of aliens who come into this country illegally do so for the purpose of participating in organized drug trafficking or other criminal operations, or engaging in criminal activity within the United States;

(3) alien involvement in criminal activity nationwide has risen sharply during the past decade;

(4) the number of convicted criminal aliens in State prisons and local jails has risen sharply;

(5) in some jurisdictions, one out of every four prisoners in local jails is a criminal alien;

(6) the rise of criminal alien population has placed enormous costs on State and local governments and the taxpayers in the area;

(7) policies and programs that result in the expeditious deportation of criminal aliens from the United States are needed;

(8) one method to expedite the deportation of criminal aliens is to establish prison transfer programs where a convicted alien serves all or a portion of the sentence in his or her home country; and

(9) a determination of the methods and the costs to implement effective alien transfer programs in needed.

(b) IN GENERAL.—Not later than April 1, 1993, the Secretary of State and the Attorney General shall submit to the appropriate committees of the Congress, a report that describes the use and effectiveness of the Prisoner Transfer Treaty (hereafter in this section referred to as the "Treaty") with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(c) USE OF TREATY.—Such report shall include a statement of—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977 who would have been or are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens who have been transferred pursuant to the Treaty, and, of such number, the number of aliens transferred and incarcerated in full compliance with the Treaty; and

(2) the number of aliens in the United States who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens incarcerated in State and local penal institutions.

(d) EFFECTIVENESS OF TREATY.—Such report may include a list of recommendations to increase the effectiveness and use of, and ensure full compliance with the Treaty, as well as transfer programs initiated by State and local governments. Such recommendations may include—

(1) changes and additions to Federal laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(2) changes and additions to State and local laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) methods for preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty;

(4) a statement by officials of the Mexican Government on programs to achieve the goals of and ensure full compliance with the Treaty;

(5) a statement as to whether recommendation would require the renegotiation of the Treaty; and

(6) a statement of additional funds that would be required to implement the recommendation.

Such recommendations in paragraphs (1) through (3) may be made after consultation with State and local officials in areas disproportionately impacted by aliens who have been convicted of criminal offenses.

(e) IMPLEMENTATION.—The Attorney General and the Secretary of State shall implement no later than May 1, 1993, any administrative and regulatory recommendations as described in subparagraphs (d)(1).

Mr. SEYMOUR. Mr. President, each day it is estimated more than 8,000 aliens illegally cross our southern border. Only 2,700 of them, roughly one-third, are apprehended at the border itself. Certainly, many who cross the border are seeking opportunity, fleeing poverty and repression. However, more and more who cross our border come into the country seeking a different kind of opportunity—criminal opportunity. More and more aliens come into the country to traffic drugs, the foot soldiers of international Narcotraficante.

The evidence of the growing number of criminal aliens can be found in my State of California. Deportations at California's southern border surged to more than 500,000, the highest number since 1976.

In Los Angeles, one out of four inmates in county jails is a criminal alien. In the entire State of California, 1 out of 10 criminal aliens.

Mr. President, this amendment before us will make a real difference to that problem—to alleviate the burden on State and local governments by requiring the Attorney General and the Secretary of State to make changes in policy with respect to the 1977 Alien Transfer Treaty. Specifically, this treaty allows for the transfer of criminal aliens to their home country to serve all or a portion of the sentence they received for crimes committed in the United States. My amendment will require a thorough study of the effectiveness of this treaty, and the implementation of any changes needed to improve the effectiveness of the treaty.

We must pursue policies that get criminal aliens out of our country and out of our home and deported to their country of origin as quickly as possible. This amendment is designed to accomplish that important goal. This amendment has been agreed to by both sides. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2762) was agreed to.

AMENDMENT NO. 2763

(Purpose: To make available funds for 20 additional immigration judges.

Mr. SEYMOUR. Mr. President, I have a third amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 2763.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. —. PAYMENT OF SALARIES OF ADDITIONAL IMMIGRATION JUDGES

(a) The Attorney General shall evaluate the ability of the existing level of immigration judges to the Executive Office of Immigration Reform to meet its current and anticipated workload for fiscal year 1993 and the possibility of reprogramming of immigration examination fees to support additional immigration judges and personnel.

Mr. SEYMOUR. Mr. President, I rise to offer an amendment that will be of great assistance to the Federal Government's efforts to meet one of its major immigration responsibilities: to effectively and expeditiously deport convicted alien felons.

For many regions of the Nation, especially along the Southwest border, the growing presence of alien felons in our county jails and State prisons is a severe and costly problem. The State of California alone spends more than $250 million each year to identify, prosecute, incarcerate and deport alien felons. As my colleagues know, the deportation of convicted aliens the minute they are released from prison was identified by Congress as a top priority when they enacted the Immigration Act of 1990. We must not retreat from this goal.

But simply identifying this problem is not enough. We must make the necessary funding decisions to attack the problem and meet the priority. Modest but important steps have been taken by the Senate that reaffirm our commitment to this issue. Last year, the Senate adopted an amendment that I offered to the comprehensive crime bill which would create a new civil fine imposed on any individual who induces or coerces an alien to commit an aggravated felony. The money collected from this fine is to be deposited in the criminal alien identification and removal fund and used to assist the INS and the States to identify and deport alien felons and to fund any of the 20 additional immigration judge positions created under last year's immigration bill.

The amendment that we have before us right now, Mr. President, also represents an important step. This amendment will authorize the Attorney General to investigate its current personnel and work levels and hire, if needed, any additional immigration judges and support personnel that were called for in last year's Immigration Act. It is my expectation that this additional support is needed if we are to move closer to reaching our goal, one that will result in alien felons taking their first step outside a prison into a waiting vehicle, its destination beyond the borders of our Nation. This amendment will be of great importance to our efforts toward assisting the INS and the States in their efforts to identify and deport alien felons.

Mr. President, this amendment has been reviewed and accepted by both sides. I ask for its immediate adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2763) was agreed to.

Mr. SEYMOUR. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

INDICATION OF VOTE

Mr. SMITH. Mr. President, Senator KASTEN, who was unavoidably detained on rollcall vote 152 on the Smith amendment, asked me to indicate that had he been present, he would have voted no, which would have been a vote in favor of the Smith amendment. Also, Senator KASTEN favors the Dole substitute as well.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I just want to inform the chairman of the subcommittee that a vote which I thought might be required on the Dole substitute is now not required.

I understand that Senator SMITH has a brief statement that he would like to make, very brief, about another colleague of ours who was not here on the last vote, at which time I believe we will then voice vote if that is satisfactory with everyone.

Mr. HOLLINGS. That is satisfactory with the Senator from Ohio.

Mr. RUDMAN. I yield the floor.

The PRESIDING OFFICER. The junior Senator from New Hampshire.

Mr. SMITH. Mr. President, I will just say to my colleague, while he was conversing, I gave the statement and I do not wish a rollcall vote. I am prepared to proceed whenever the managers are.

Mr. RUDMAN. Mr. President, I then urge the adoption of the amendment.

AMENDMENT NO. 2753 TO AMENDMENT NO. 2752

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2753) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair informs the Senator that we still have the first-degree amendment, as amended, to be acted upon.

The question is on agreeing to the amendment, as amended.

The amendment (No. 2752), as amended, was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I rise today in support of the Commerce, Justice, State appropriations bill. This bill has an important provision to significantly expand community policing programs in Maryland.

Mr. President, this bill includes $500,000 that will be split between Prince Georges County and Baltimore City to expand their efforts to take back the streets from criminals and drug dealers.

When you hear the words community policing, you may not think of gun battles and high-speed chases. But community policing is strong, effective crime control.

Let me tell you about something that's taking place not too far from here in Prince Georges County.

In Prince Georges County police have taken to the streets in some of the highest crime areas. They know the neighborhood, and they walk the beat.

In Prince Georges County, the community has also gotten involved. Interfaith Action Communities has worked closely with the police department to educate the community and provide the assistance the police officers need.

The policeman is the vision of officer friendly that we all remember. He plugs himself into the neighborhood and finds out where the hot spots are.

More importantly, his presence and the intelligence he gathers help him disarm the criminals before the violence even starts.

Results, you bet. Crime in community policing areas in Prince Georges County has decreased dramatically. Drug-related calls in one area have dropped 45 percent. The number of crack houses in another area have dropped from 42 to 11 sites.

Mr. President, I say that's being tough on crime. With this program the policemen win, the residents win, and the criminals lose.

By training a community policing force, we are taking a new and innovative approach to fighting crime.

Community policing takes the best of the traditional approach of the officer walking the beat and combines it with the best in new technology.

It's making our neighborhoods safe again for residents to sit out on their porch and for kids to play ball on the street.

Capt. Terry Evans of the Prince Georges County Police Department recently said, "It's the only thing I've seen in 23 years of law enforcement that's had an impact, actually turned it around."

Community policing is also being developed in Baltimore City. Officers are being trained to work closely with the neighborhood in dealing with possible violent crime problems in the future.

Right now there are pilot programs being developed in east and west Baltimore. Police are building the neighborhood support. This grant will bolster those efforts.

Mr. President, this grant is a step toward recognizing that community policing has arrived and it's a needed tool for taking back our streets.

It's a proven method that we need to expand and make a major weapon in fighting crime in our neighborhoods.

DEFENSE ADJUSTMENT FUNDS

Mr. PELL. Mr. President, I am delighted to note that the fiscal year 1993 appropriations bill for Commerce, Justice, and State and related agencies provides $80,000,000 for economic adjustment grants by the Economic Development Administration of the Commerce Department to assist communities impacted by defense contract reductions and by closures of defense installations.

This authorization will augment the $50 million we provided in the context of the fiscal year 1991 Defense Authorization and Appropriation Acts for pass-through funding of EDA for defense adjustment purposes.

This augmented funding should breathe new life into the Economic Development Administration, which has been a candidate for closure under administration budgets for the past decade. But the survival of EDA is now clearly justified by the present need for creative intervention in the wake of post-cold war defense reductions.

Already several communities from my State of Rhode Island are applicants for economic adjustment grants from EDA as they face the burden of adjusting to cancellation of the *Seawolf* program at a time when the State's unemployment has soared to 9.7 percent.

I commend the Senator from South Carolina [Mr. HOLLINGS] and the members of the committee who have brought this bill to the floor for their attention to the recommendations of the Task Force on Defense/Economic Conversion, which was chaired so ably by the Senator from Arkansas [Mr. PRYOR]. They have done a responsible job in giving form and substance to the several recommendations of the task force, and the Nation will be better for it.

Mr. KOHL. Mr. President, I commend the work of the Appropriations Committee in meeting the Nation's need for fiscal restraint. It is a difficult job with many conflicting priorities to sort out, and Senator HOLLINGS had provided the leadership to resolve those issues. I would like to speak today about the funding for the Bureau of the Census and the Bureau of Economic Analysis. Let me first address the Census Bureau.

I have followed closely the activities of the Census Bureau, and am one of their biggest supporters. However, as we move away from the 1990 census and toward the 2000 census it is reasonable to expect some decline in their budget. The activities of one are coming to a close, and work on the next census is just beginning.

At a recent hearing by the Subcommittee on Government Information and Regulation, I indicated that efficiency is one of the challenges that faces the Census Bureau during this decade. The Census Bureau must find ways of doing its job more efficiently, and Congress must stop initiating new statistical programs without funding them.

I will continue to oversee the Census Bureau's activities and urge them to increase productivity.

I am concerned that increased productivity will not substitute for the proposed cut—a 1-year cut of 15 percent—from the agency's request. The implication of the Senate Appropriations bill is that there will be no new statistical initiatives, some programs will have to be cut, and the necessary research to improve productivity will be attenuated.

I am not going to offer an amendment tonight to reverse these cuts. However, I hope that in conference the committee will reconsider this funding level. I am concerned that if the Senate funding levels are maintained we could lose valuable ongoing programs such as:

County Business Patterns, the only comprehensive information for States and communities;

The Pollution Abatement Survey, which is critical for environmental policy and planning;

The Quarterly Plant and Expenditure Survey, which provides current information and future expectations of investment by industry.

In addition, this funding level could weaken the quality of the agricultural and economic censuses, and some of the information collected in the 1990 census will not reach the public which paid for it.

The failure to fund any new initiatives continues Congress' unwillingness to invest in the statistical infrastructure. I hope my colleagues will remember this the next time the inaccuracy of one of our economic indicators leads to misguided economic policy.

Finally, this funding level could endanger the fundamental reform the Congress has pushed the Census Bureau to undertake. It is folly to ask for fundamental reform and then fail to fund the research to provide that reform.

Many of the arguments about the Census Bureau also apply to the Bureau of Economic Analysis. The funding level proposed by the Appropriations Subcommittee could result in some programs being terminated, others weakened, and necessary research neglected.

The Census Bureau and the BEA are integral parts of the foundation of our statistical system. As we neglect repairs in that foundation we risk the integrity of the entire structure.

GENE PATENTING ISSUES

Mr. HATFIELD. Mr. President, one of the Federal agencies that receives funding under this legislation is the U.S. Patent and Trademark Office. As we proceed through this bill, I believe it is appropriate to highlight some of the grave concerns that are shared among several of my colleagues regarding an issue that rests squarely at the doorstep of the Patent Office.

The issue I refer to relates to the patenting of life. Since 1987, I have sponsored legislation to place a 5-year moratorium on the patenting of genetically altered animals, and succeeded in enacting a 1-year moratorium in 1987. One mouse, developed by researchers at Harvard University, was nevertheless patented in February 1988 following the expiration of this moratorium. Over 150 animal patents are currently pending.

Last year, the NIH caused a firestorm of controversy when it announced that it planned to seek patents on 340 sequences of genes from the human brain. A few months later, the NIH applied for patents on over 2,000 more human gene sequences, further complicating a very difficult policy question. The Patent Office has yet to rule on whether these gene sequences are patentable.

I am troubled that such monumental policy decisions have fallen solely on the shoulders of the U.S. Patent Office. The underlying ethical decision transcends our national borders, environmental policy, the profit motives of the marketplace, and our century-old patent laws.

It is my belief that this body must take a more active role in policy development in this area. In the past, Congress has attempted to initiate such a policy process. We established the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research in the 1970's and the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the 1980's. A Biomedical Ethics Advisory Committee was established in 1985.

Unfortunately, none of these efforts remains in place today to aid this body, government agencies, or the scientific community in developing a rational biomedical ethics policy. No congressional review board or advisory committee currently exists to make reports and recommendations to the legislative branch. In recent years, the ethical, economic, and environmental concerns about this technology have become more acute. Recent actions by researchers at the National Institutes of Health [NIH] underscore the urgent need for congressional oversight of this field.

Earlier this year I raised this issue in connection with the National Institutes of Health reauthorization bill and received commitments from Senators KENNEDY and DECONCINI to hold hearings in both the Labor and the Judiciary Committees pertaining to this issue. I am pleased to inform my colleagues that a hearing on gene patenting will be held before the Senate Judiciary Committee on September 22, 1992.

In addition, I am also working with interested colleagues to request a study in this area from the Office of Technology Assessment. I am aware of the ongoing work of the Committee on Life Sciences and Health, Federal Coordinating Council for Science, Engineering and Technology's [FCCSET] Genome Working Group in this area and look forward to reviewing its report.

It is my firm hope that these various avenues of inquiry will result in a more carefully defined Federal approach to policy in gene patenting. Congress has a responsibility to carefully consider the broad ramifications of the technologies it encourages through patenting.

I raise this in connection with the pending legislation because I want the Patent Office to be aware of the substantial ongoing efforts in this area. It is my hope that these efforts will be considered carefully in connection with any action the Patent Office proposes to take with respect to the thousands of relevant patent requests that it is currently reviewing.

SECTION 502

Mr. KERRY. Mr. President, I wanted to clarify one point with my colleague from South Carolina, and that relates to section 502 of the bill. This section permits the Department of State to transfer not more than 5 percent of an appropriations account to another appropriations account within the State Department. I applaud this effort to give the Department necessary budget flexibility. At the same time, however, I want to clarify that this provision will not allow the Department to transfer funds into an account in excess of authorized levels.

Mr. HOLLINGS. The Senator is correct. We did not intend this provision to allow transfers into an account in excess of levels contained in authorizing legislation.

Mr. HATFIELD. Mr. President, I would like to take this opportunity to compliment the chairman and the ranking member on the fiscal year 1993 Commerce, Justice, State appropriations.

This bill provides important increases for Justice programs, the National Institute of Standards and Technology, and Mitchell Act salmon hatcheries on the Columbia River.

In addition to these program increases, the bill provides $2 billion for the U.S. Information Agency. This represents a $111.7 million increase over the fiscal year 1992 level.

This USIA increase will provide new programs in the republics of the former Soviet Union, including the establishment of America Houses; will provide an enhancement for the Fulbright Program within the educational and cultural exchanges account; expand the East-West Center; and to establish a new center of technical assistance for the Russian Far East.

Overall, given the difficult allocation for this subcommittee, I think this is a well-balanced and well-crafted bill. A bill that provides additional resources for our war on drugs and responds to the challenges of the emerging democracy of Eastern Europe and the former Soviet Union.

Mr. KOHL. Mr. President, as chairman of the Senate Subcommittee on Juvenile Justice, I wish to commend my distinguished colleague from South Carolina for his leadership on juvenile justice appropriations.

We all agree that the juvenile justice system is in serious trouble. Some 700,000 juveniles enter the justice system each year. Every year we spend close to two billion in State and local dollars confining too many of these young people in facilities with recidivism rates that make them schools for crime. And in recent years we have seen an upsurge in arrests of adolescents for murder, assault, and weapon use.

Given these facts, some critics assert that the juvenile justice system—designed in earlier decades to handle so-called nicer kids—is virtually incapable of handling violent teens and protecting our communities. They conclude we should transfer all such juveniles to adult court and place them in adult prisons.

We all agree there is a problem. But my view of the juvenile justice system—shaped by visiting juvenile courts and detention centers, and presiding over subcommittee hearings—suggests we do not have to transfer all juveniles to adult court. We need to reform the juvenile system—not throw it all away.

In his appropriations bill, Senator HOLLINGS has increased funding for juvenile justice programs several million dollars above fiscal year 1992 appropriations levels. Although he and I would like to see further substantial increases, our current deficit precludes the Senate from so acting at this time. Given this budget climate, I commend Senator HOLLINGS for his leadership in refusing to cut funding for juvenile justice. The administration recommended a 90-percent budget cut, which the subcommittee resoundingly rejected. I urge my colleagues in the Senate to follow suit.

TRANSFER OF ASSETS FORFEITURE FUNDS FOR OPERATION CADENCE

Mr. McCONNELL. As my colleagues know, I am a strong advocate of programs related to juvenile justice and missing children, and appreciate the funding commitments they made in this bill.

I would also like to compliment my colleagues on the strength of the overall bill. In this highly charged political year, it is a welcome relief to act on legislation so crucial to the implementation of our international trade, law enforcement, and diplomatic efforts.

With regard to this broader, intentional agenda, I would like to take a moment to ask the chairman and ranking member of the subcommittee a few questions about their understanding of the foreign activities which the Department of Justice may support with resources available in the assets forfeiture fund. I am particularly concerned about use of this fund to expand or enhance DEA programs and personnel in Guatemala.

It is my understanding that the bill allows the Attorney General to transfer to other agencies roughly $50 million in unobligated 1992 balances.

Mr. HOLLINGS. My colleague is correct. The committee recommended that these funds be made available to procure vehicles and equipment and other capital investment for law enforcement, prosecution, and correctional activities. The $49,990,000 available in unobligated balances is expected to support nonrecurring expenses including $2.5 million for DEA's Operation Snowcap and Operation Cadence in Central and South America.

Mr. McCONNELL. As my colleague knows, there has been considerable discussion and effort by DEA to arrange the transfer of Blackhawk helicopters from the Defense Department to DEA and then use the forfeiture fund to retrofit the aircraft for deployment to Guatemala. I have read the chairman's letter to the Attorney General and was very impressed by the arguments he made opposing the use of the fund for these purposes.

There is absolutely no doubt about our mutual commitment to support drug interdiction efforts and the officers who wage this war. However, as the chairman and ranking member well know, we face tighter and tighter budget restraints which compel us to carefully assess spending priorities. When I was briefed on the expansion of Operation Cadence in Guatemala, I was troubled by DEA's apparent failure to coordinate with other agencies in defining both the threat which required this expansion and the resources available to combat the problem.

It struck me that this expansion was about competition between agencies not coordination. Customs and Coast Guard have been extremely successful in carrying out drug interdiction efforts in the Caribbean, and the State Department's International Narcotics Bureau has maintained a small, but effective air wing in Guatemala carrying out eradication missions and supporting DEA programs. I simply do not understand the logic of starting up a brandnew air wing on top of existing Customs, Coast Guard, and INM capabilities. Why are we thinking about duplicating existing resources which are not only in place but successfully carrying out their designated missions?

Now, if the job cannot get done—if our priorities have changed or there are new requirements—we should take a look at how we can improve our existing air wing before we finance and launch DEA in the international aviation business with new, very expensive, high technology aircraft. We cannot afford independent, competitive air wings when every agency, every program is competing for scarce resources.

With these reservations, and knowing of the chairman's concerns about this program, I seek his assurances that no money available in the assets forfeiture fund, nor any other account appropriated in this bill, will be used to deploy Blackhawk helicopters along with

DEA personnel to Guatemala. In particular, I want to know whether it was the committee's intention that report language referring to procurement and retrofitting of equipment and designating $2.5 million for Operation Cadence was intended to permit or include an independent DEA air wing in Guatemala.

Mr. HOLLINGS. I appreciate the Senator from Kentucky's raising these issues. I was and am concerned that the air operations which DEA plans to conduct in Guatemala present a risk to DEA personnel and equipment which outweighs the potential benefits. So, I do share the Senator's misgivings and I can assure him that it is not the committee's intention to permit the assets forfeiture fund, nor any funds appropriated in this bill to be used to expand DEA's air activities in Guatemala.

I am not closing the door completely. If DEA and the administration can put together a program to interdict aerial traffickers in Guatemala that responds to the concerns that have been expressed regarding security, effectiveness, and duplication of effort, this committee will be open to considering it. But no such initiative is funded in this bill.

Mr. RUDMAN. Let me also offer the Senator from Kentucky my commitment that his reservations will be addressed before any funding is approved for this program.

Mr. McCONNELL. I appreciate the chairman and ranking member taking the time to engage in this exchange. With their assurances, I am confident we will find and fund the most reasonable, well thought out, and successful counternarcotics programs for the region.

Mr. BIDEN. Mr. President, I rise today in strong support for this bill, in particular the provisions providing appropriations for the Federal effort against the epidemic of crime and violence. As every American knows, a rising tide of unprecedented violence continues to sweep our Nation. Murders, rapes, muggings, and criminal assaults each soared to the greatest—and most horrible—toll in America's history in 1990. And, the murderous violent crime toll grew even worse in 1991.

Combating this violence must be among our Nation's highest priorities. And, the bill before the Senate today, makes great strides in that direction. Let me be clear, the credit for this effort must go to the Appropriations Committee, in particular, Chairman BYRD, Subcommittee Chairman HOLLINGS and Senator RUDMAN.

Because of their efforts, the Senate has the chance to boost funding to the FBI by more than $145 million; to boost funding to the DEA by more than $35 million; to boost funding for organized crime drug enforcement task forces; to add 261 more assistant U.S. attorneys to the fight against violent crime; and to add $70 million to the President's request for prison construction funds. The Appropriations Committee has found the dollars to fully fund the President's request, and every Senator should vote in support of this effort.

I would also like to recognize Chairman HOLLINGS' efforts in a few key areas—crime fighting initiatives which will make a real difference on the front lines of the national fight against violent crime.

Chairman HOLLINGS and the Appropriations Committee have reversed what I believe is the single-most destructive decision called for by the President's crime budget—his proposal to slash more than $80 million from the Justice Department's effort to support State and local law enforcement.

As every Senator knows, I have long believed that the Federal Government must do much more for the Nation's State and local law enforcement officials—the police officers who do most of the fighting, and most of the dying, in the war against violent criminals. Because of Chairman HOLLINGS' efforts, the Senate—by passing this bill—has the chance to restore the more than $80 million cut by the President.

In another high-priority area—the Weed and Seed Program—Chairman HOLLINGS and the Appropriations Committee have boosted funding to $23 million. This will ensure the second-year funding for every weed and seed demonstration site—to $1.5 million—as well as allow more sites to join this program.

Earlier this year I introduced legislation to combat one of the most destructive areas of white collar crime—the scourge of health care fraud that is estimated to be robbing the American consumer of more than $70 billion every year.

This bill will boost the effort to combat health care fraud by about 30 percent—adding $13 million to the FBI effort to fight those who would rob America's health care system at a time when a lean, efficient system is a national imperative.

This bill will do all this and much more, Chairman BYRD, Subcommittee Chairman HOLLINGS, Senator RUDMAN, and every member of the Appropriations Committee have offered the Senate a strong, effective, efficient bill and I urge every Senator to support this bill.

(At the request of Mr. MITCHELL, the following colloquy was ordered to be printed in the RECORD:)

• Mr. SANFORD. Mr. President, I would like to engage the distinguished manager of the bill, Senator HOLLINGS, in a colloquy on the availability of funds for an estuarine resources center in the town of Washington in eastern North Carolina, and two other matters of importance to coastal North Carolina.

Mr. HOLLINGS. I would be happy to discuss these matters with the Senator from North Carolina.

Mr. SANFORD. In the eastern end of my State, the Pamlico-Tar River Foundation, a nonprofit group of over 2,000 members, and the town of Washington, NC, are seeking to establish the North Carolina Estuarine Resources Center. The major function of this center would be to educate the residents and visitors of northeastern North Carolina of the important concerns of watershed protection. The complex integrity of watersheds, wetlands, and estuarine systems are only now beginning to be understood, and it is imperative that new information is shared to provide insight into the vast resources in the Albemarle-Pamlico region. Decisions governing the management of these natural resources will carry significant implications, economic, ethical, and ecological, for each and every citizen in northeastern North Carolina. Therefore, public education on these issues is imperative, and a permanent educational facility located on the western side of the Albemarle-Pamlico Sounds is a necessary element.

The proposed center is designed as an estuarine education center for schoolchildren in the area as well as the many tourists to North Carolina. The center would also work with Federal and State agencies on environmental research projects such as coastal water quality and ecosystem management.

The people in Washington, NC, have already funded a feasibility study for the center, and they are eager to get this project on the ground. The town of Washington is expected to provide land for the facility. They are also working to fund the construction of the center using private sources and foundation support.

They do have one small request for Federal funding. They are seeking a one-time Federal appropriation of $40,000 to be used to pay for startup expenses for the center, to retain an employee to work with the town, local leaders, and State and Federal Government to construct the center, and to begin its operation.

I do hope we will be able to provide this small amount to the North Carolina Estuarine Resources Center. The community is committed to this project which will greatly enhance Federal efforts in environmental education, environmental research, and the protection of the Albemarle-Pamlico Estuary, a designated estuary of national significance under section 320 of the Clean Water Act.

I am aware from the Senate Commerce Appropriations Subcommittee report that an increase of $360,000 has been included for the National Coastal Resources Research and Development Institute [NCRI]. I am also aware that NCRI's mission includes efforts to encourage a stable and sustainable coastal economy, and the proposed estuarine center has a similar goal. By using education and research and bringing all interested groups together, the center will play a strong role in sustainable development of land resources and in improving water quality in order to improve commercial fishing and other water-based economic enterprises. For these reasons, I think that NCRI would be the right group to provide the seed money necessary to make the proposed estuarine center a reality.

Given the importance of our estuarines, the need for environmental education, and the great opportunity that an estuarine resources center would provide for coastal North Carolina, I would like to know if the Senator from South Carolina would be willing to allow $40,000 of the increased funding for NCRI be used to help with the efforts for the estuarine center in Washington, NC.

Mr. HOLLINGS. I thank the Senator from North Carolina for his comments in support of the estuarine resources center. I am very impressed by this proposal, and, as we go to conference with the House, I will certainly support specifying $40,000 of NCRI's fiscal year 1993 funding toward this effort.

Mr. SANFORD. There are two other matters that I would like to discuss briefly. The first matter deals with Buxton Woods, a maritime forest on the Outer Banks of North Carolina. Several years ago, Federal funds were provided to help purchase Buxton Woods. Due to some unexpected difficulties, however, additional time is needed to complete the purchase of this land.

It is my understanding that the House Commerce Appropriations Subcommittee has included in its report language to allow the money that has already been appropriated for the Buxton Woods acquisition to remain available for an additional year so that this rare habitat might be preserved. The House has also included language to allow up to $50,000 of this money to be available for the development of a special area management plan for Buxton Woods. It is my hope that the Senate conferees will accept the House language on this matter.

Mr. HOLLINGS. I believe we can accept the House language with regard to Buxton Woods, and I will work toward that end during our conference committee negotiations.

Mr. SANFORD. There is one last matter I would like to bring before the Senator from South Carolina, and that is funding for the fisheries laboratory in Beaufort, NC. This lab conducts valuable research in fisheries and coastal habitat protection. The House has included $182,000 to be used to upgrade and maintain the Beaufort facility, and to improve the laboratory's operational and scientific ability. I would ask that the Senate conferees do what they can to agree with the House's funding level.

Mr. HOLLINGS. As I and the other Senate conferees move to conference, I will certainly give careful consideration to accepting the House's funding level for the Beaufort Laboratory.

Mr. SANFORD. I thank the Senator from South Carolina for his time and for his consideration of these matters.•

ST. XAVIER UNIVERSITY'S INTERNATIONAL BUSINESS DEVELOPMENT CENTER

Mr. DIXON. Mr. President, I rise today in support of an exciting proposal from Chicago's St. Xavier University.

St. Xavier proposes to bring residents of the newly free Eastern European nations to the United States, and provide these individuals with hands-on experience in the workings of American small business procedures.

St. Xavier has already had proven results in Western Europe, where it has programs in France and Italy. Now, with Eastern Europe finally opening its borders to the west, St. Xavier promises to bring its resources to the nations that truly need American business knowledge—the nations of the former Soviet bloc.

Most of Chicago's businesses are of a relatively small size. As Eastern Europe attempts to move itself toward a free-market system, it needs guidance from the West. St. Xavier will provide Eastern European managers with a firsthand look at the operations of Chicago's small business industry.

Europe's new democracies will benefit from this innovative plan by gaining valuable experience within the United States. In addition, American businesses will gain valuable contacts within nations that just recently kept their borders closed to western innovations.

I urge my dear friend and colleague to support the St. Xavier proposal, and recommend that the U.S. Small Business Administration provide available funds for this program.

Mr. HOLLINGS. I understand the concern of the Senator from Illinois about this program. I would note that the committee has recommended against including any earmark appropriations for any university project. But, the Senator from Illinois makes some good points, and I request the Small Business Administration to review this project.

Mr. DIXON. I thank my colleague from South Carolina.

ECONOMIC CONVERSION INITIATIVE

Mr. WELLSTONE. Mr. President, I rise to express my support for the economic conversion initiative contained in the Committee on Appropriations report of S. 3026. I commend the committee and its chairman for supporting allocation of defense funds for critical economic conversion and adjustment programs. The Department of Defense not only has a moral responsibility to the members of the Armed Forces whose careers will be cut short, but also to the workers, defense contractors, and communities that have played a vital role in our defense effort for almost 50 years. To require them to fend for themselves during a time of recession would be the height of irresponsibility.

Both in its funding approach and in the conversion-related programs it supports, the committee initiative is fully consistent with the amendment to the budget resolution that I proposed and the Senate passed on April 10. My amendment stipulated that no less than $1 billion in budget authority provided for defense function 050 should be made available for defense conversion-related activities. It also called for funding the conversion and adjustment programs of the National Institute of Standards and Technology [NIST], the Economic Development Administration, and the Small Business Administration. The committee's astute decision to support these programs not only will facilitate economic conversion, but also help restore American competitiveness, revive our manufacturing base, and spur economic growth.

Mr. President, the bulk of the NIST funding in this bill, $100 million, is to be used for NIST external research grant programs intended to promote technological innovation and facilitate the conversion of U.S. industry to nondefense manufacturing. The NIST programs are designed to speed the commercialization of new technologies and ensure that American firms gain the benefits of American inventions, to aid small- and medium-sized manufacturers to modernize, increase productivity, and retain jobs, and to help State governments improve the effectiveness of vital technology and manufacturing extension programs. I commend the committee both for supporting these programs which will play a pivotal role in our economic recovery and for urging that priority for grants be given to defense firms proposing projects that show a potential to assist the defense industry in converting to nonmilitary production. Sustained congressional support of programs such as those of NIST are essential if America is to recapture and retain its technological edge in key nondefense sectors.

I particularly welcome the strong backing the committee has given to EDA efforts to assist defense-distressed communities. As we all know, EDA resources are used to improve economic opportunities in needy communities, and they include funding for basic planning, infrastructure development, and credit enhancement. Unfortunately, this administration, like the Reagan administration before it, has tried to kill EDA. EDA has not been included in a Presidential budget request since fiscal year 1981 and has been kept alive by congressional appropriations. Moreover, as the committee report notes, the $50 million provided EDA under the fiscal year 1991 DOD Appropriations Act, was held up for over a year. So far, only $100,000 of these funds has reached communities in need.

Despite chronic funding shortfalls, EDA remains the only Federal agency capable of providing communities with economic devastation assistance. In providing vitally needed backing for EDA, the committee has given new hope to defense-dependent American communities ravaged by recession and facing an insecure and uncertain future.

CENTER FOR INTER-AMERICAN FREE TRADE

Mr. DECONCINI. Would the distinguished chairman yield to this Senator for a question?

Mr. HOLLINGS. I would be pleased to yield to my friend from Arizona.

Mr. DECONCINI. I thank my friend. As the Senator knows, there is language in the report accompanying his bill which discusses the national law Center for Inter-American Free Trade [CIFT]. Is the chairman aware that the CIFT is a not-for-profit organization, located in Tucson, AZ, which has recently been established to facilitate the exchange of information, research materials, and experts on treaties, conventions, legislation, and case law pertaining to legal institutions involved in the exchange of goods and services among Canada, Mexico, and the United States?

Mr. HOLLINGS. I have been made aware of the existence of the CIFT, and of its accomplishments to date, by the distinguished senior Senator from Arizona.

Mr. DECONCINI. I thank the distinguished chairman for his remarks. If my friend would yield further, would he agree that it is important—for the furtherance of trade and commerce between and among nations—that information about national laws and regulations be exchanged?

Mr. HOLLINGS. I would agree that any information exchanges which assist in enhancing the understanding of these regulations can be beneficial.

Mr. DECONCINI. Would the distinguished chairman also agree that, if the State Department views the work of the CIFT worthy of allocating funding to assist in providing these services to U.S. businesses and institutions engaged in North American trade, the Department should encourage the CIFT to provide matching funds up to a level of $400,000?

Mr. HOLLINGS. I would say to my friend from Arizona that I would encourage the State Department to support matching funds for services of this type at an appropriate level.

Mr. DECONCINI. I thank my friend, the distinguished manager of the bill, and I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. HOLLINGS. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 3026, the Commerce, State, and Justice appropriations bill at 10 a.m. tomorrow, that the only amendments to be in order to the bill be three amendments by Senator GRAHAM freezing the overhead expenses for the Department of Commerce, Justice, and State; that Senator GRAHAM be recognized to offer these three amendments en bloc at that time; that there be 1 hour for debate on the amendments equally divided in the usual form; that at the conclusion or yielding back of the time, the Senate proceed to vote in seriatim on each of Senator GRAHAM's amendments with no further intervening action or debate; and, upon the disposition of Senator GRAHAM's amendments, the Senate proceed to the third reading of the bill, and that the preceding all occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that once S. 3026 has been read a third time, the bill be returned to the calendar; that upon receipt from the House of Representatives of the companion measure, the text of S. 3026 as of third reading be incorporated into the House bill, H.R. 5678, as Senate-passed amendments; that the House bill, as amended, be deemed read a third time and passed, and that the motion to reconsider be laid upon the table; provided, further, that the Senate insist on its amendments, and request a conference with the House; and that the Chair be authorized to appoint conferees; that all of the above actions occur without intervening action or debate; and, that S. 3026 then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreements follow:

Ordered, That at 10:00 a.m. on Tuesday, July 28, 1992, the Senate resume consideration of S. 3026, the State/Justice/Commerce Appropriation Bill, and that the only amendments remaining in order to the bill be three Graham amendments, freezing the overhead expenses for the Departments of Commerce, Justice, and State.

Ordered further, That the Senator from Florida (Mr. Graham) be recognized to offer these three amendments en bloc at that time and that there be 1 hour debate, to be equally divided and controlled in the usual form.

Ordered further, That upon the conclusion or yielding back of time, the Senate proceed to vote ad seriatim on each of the Graham amendments, with no intervening action or debate.

Ordered further, That upon the disposition of Senator Graham's amendments, the Senate proceed to third reading of the bill and that the preceding all occur without any intervening action or debate.

Ordered further, That once S. 3026 has been read a third time, the bill be returned to the Calendar, that upon receipt from the House of Representatives of the companion measure, the text of S. 3026 as of third reading be incorporated into the House bill, H.R. 5678, as Senate passed amendments.

Ordered further, That the House bill, as amended, be deemed read a third time and passed and the motion to reconsider laid upon the table.

Ordered further, That the Senate insist on its amendments, request a conference with the House, and that the Chair be authorized to appoint conferees.

Ordered further, That all of the above actions occur without intervening action or debate and S. 3026 then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let me thank our distinguished majority leader, and the minority leader, particularly my colleague, the Senator from New Hampshire, and the staff for all their work, and particularly our Commerce Committee staff who worked all over the weekend on unsnarling that SEC provision.

I think we have done a good day's work here and we should be completed under the unanimous-consent agreement on the bill here on the Senate side by midday tomorrow.

So let me thank the majority leader for his leadership and cooperation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPROVED ENERGY EFFICIENCY CLOTURE MOTION

Mr. MITCHELL. Mr. President, I move to proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency, and I send a cloture motion on the motion to proceed to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency:

J. Bennett Johnston, David L. Boren, Alan Cranston, Fritz Hollings, Bob Kerrey, Robert Byrd, Howell Heflin, John Breaux, George Mitchell, Howard M. Metzenbaum, J. Lieberman, Joe Biden, Frank R. Lautenberg, Jim Sasser, Slade Gorton, Warren B. Rudman, Phil Gramm, Connie Mack, Jake Garn, Frank H. Murkowski.

Mr. MITCHELL. Mr. President, I withdraw the motion to proceed to the energy bill, and I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed to H.R. 776 occur at 2:15 p.m. on Tuesday, July 28, and that notwithstanding the invoking of cloture on the motion, the Senate remain on the Agriculture appropriations bill until it has been disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening.

I thank my colleagues for their cooperation. I especially thank the managers for their diligence in handling the pending bill.

To summarize, for the benefit of Senators and their schedules, we will complete action on the pending State, Commerce, and Justice appropriations bill tomorrow. There will be a final series of amendments offered at 10 a.m. Votes on one or more of those amendments will occur at 11 a.m.

Following that, the Senate will, by previous agreement, proceed to the Agriculture appropriations bill at 2:15, following party caucuses.

We will vote on the cloture motion on the motion to proceed to the energy bill. If we have not by then completed action on the energy bill or the Agriculture appropriations bill, notwithstanding the result of the cloture vote, we will continue to remain on the Agriculture appropriations bill until it has been completed.

Then, if cloture has been invoked on energy, we will take up that bill following disposition of the Agriculture appropriations bill.

I thank my colleagues for their cooperation, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESALINIZATION RESEARCH AND DEVELOPMENT ACT

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 519, S. 2902, authorizing research into the desalinization of water; that the bill be deemed read a third time, passed; that the motion to reconsider be laid upon the table and that any statements relative to passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2902) was deemed read a third time, and passed, as follows:

S. 2902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Desalinization Research and Development Act of 1992".

SEC. 2. DECLARATION OF POLICY.

In view of the increasing shortage of usable surface and ground water in many parts of the United States and the world, it is the policy of the United States to perform research to develop low-cost alternatives in the desalinization and reuse of saline or biologically impaired water to provide water of a quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses, and to provide, through cooperative activities with local sponsors, desalinization and water reuse processes or facilities which provide proof-of-concept demonstrations of advanced technologies for the purpose of developing and conserving the water resources of this Nation and the world.

SEC. 3 DEFINITIONS.

As used in this Act—

(1) the term "desalinization" means the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes;

(2) the term "saline water" means sea water, brackish water and other mineralized or chemically impaired water;

(3) the term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(4) the term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive use; and

(5) the term "sponsor" means any local, State, or interstate agency responsible for the sale and delivery of "usable" water that has the legal and financial authority and capability to provide the financial and real property requirements needed for a desalinization facility.

SEC. 4. RESPONSIBILITY FOR THE PROGRAM.

(a) The Secretary of the Interior shall have primary program management and oversight for conduct of the research and development and the Desalinization Development Program and shall coordinate these activities with the Secretary of the Army.

(b) The Secretary of the Interior shall jointly execute the Desalinization Development Program with the Secretary of the Army.

SEC. 5. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—In order to gain basic knowledge concerning the most efficient means by which usable water can be produced from saline water, the Secretary of the Interior and the Secretary of the Army shall conduct a basic research and development program as established by this Act.

(b) For the basic research and development program the Secretary of the Interior and the Secretary of the Army shall—

(1) conduct, encourage, and promote fundamental scientific research and basic studies to develop the best and most economical processes and methods for converting saline water into "usable" water through research grants and contracts—

(A) to conduct research and technical development work,

(B) to make studies in order to ascertain the optimum mix of investment and operating costs,

(C) to determine the best designs for different conditions of operation, and

(D) to investigate increasing the economic efficiency of desalinization processes by using them as dual-purpose "co-facilities" with other processes involving the use of water;

(2) engage by competitive or noncompetitive contract or any other means, necessary personnel, industrial or engineering firms, Federal laboratories and other facilities, and educational institutions suitable to conduct research or other work;

(3) study methods for the recovery of byproducts resulting from the desalinization of water to offset the costs of treatment and to reduce the environmental impact from those byproducts; and

(4) prepare a management plan for conduct of the "Research and Development Program".

SEC 6. DESALINIZATION DEVELOPMENT PROGRAM.

(a) The Secretary of the Interior will have program responsibility.

(b) The Secretary of the Army and the Secretary of the Interior both shall have authority to design and construct facilities under the provision of the Desalinization Development Program.

(c) SELECTION OF DESALINIZATION DEVELOPMENT FACILITIES.—Candidate facilities must be submitted by the sponsor directly to the Secretary of the Army or the Secretary of the Interior. Sponsors will submit their application for the design and construction of a facility and certification that they can provide the required cost sharing. Facilities will be selected subject to availability of Federal funds.

(d) COST SHARING.—

(1) The "initial cost" of a facility shall include—

(A) design cost,

(B) construction cost,

(C) lands, easements, and rights-of-way costs, and

(D) relocation costs.

(2) GENERAL RULE.—The sponsor for a facility under the Desalinization Development Program shall—

(A) pay, during construction, 5 percent of the "initial cost" of the facility, and

(B) provide all lands, easements, and rights-of-way and perform all related necessary relocations.

(3) 25-PERCENT MINIMUM CONTRIBUTION.—If the value of the contributions required under paragraph (2) of this subsection is less than 25 percent of the "initial cost" of the facil-

ity, the sponsor shall pay during construction of the facility such additional amounts as are necessary so that the total contribution of the sponsor is equal to 25 percent of the "initial cost" of the facility.

(4) 50-PERCENT MAXIMUM.—The sponsor share under paragraph (2) shall not exceed 50 percent of the "initial cost" of the facility.

(e) the "initial cost" of a facility may not exceed $10,000,000.

(f) Operation, maintenance, repair, and rehabilitation of facilities shall be the responsibility of the sponsor.

(g) REVENUE.—All revenue generated from the sale of "usable water" from the facilities shall be retained by the sponsors.

SEC. 7. PARTICIPATION BY INTERESTED AGENCIES AND OTHER PERSONS.

(a) COORDINATION WITH OTHER AGENCIES.—

(1) Research and development activities undertaken by the Secretary of the Interior under this Act shall be coordinated or conducted jointly, as appropriate, with—

(A) The Department of Commerce, specifically with respect to marketing and international competition,

(B) as appropriate—

(i) the Department of Defense, Agriculture, State, Health and Human Resources, and Energy,

(ii) the Environmental Protection Agency,

(iii) the Agency for International Development, and

(iv) other concerned Government and private entities.

(2) Other interested agencies may furnish appropriate resources to the Secretary of the Interior to further the activities in which they are interested.

(b) AVAILABILITY OF RESEARCH.—All research sponsored or funded under authority of this Act shall be provided in such manner that information, products, processes, and other developments resulting from Federal expenditures or authorities will (with exceptions necessary for national defense and the protection of patent rights) be available to the general public consistent with this Act.

(c) PATENTS AND INVENTIONS.—

(1) Subject to paragraph (2), section 9 (a) through (k) and (m) of the Federal Nonnuclear Energy, Research and Development Act of 1974 (43 U.S.C. 5908 (a) through (k) and (n)) shall apply to any invention made or conceived in the course of or under any contract of the Secretary of the Interior pursuant to this Act, except that for the purposes of this Act, the words "Administrator" and "Administration" in that section shall be deemed to refer to the Secretary and Department of the Interior, respectively.

(2) Paragraph (1) shall not be construed to affect the application of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) to research under this Act that is performed at a Federal laboratory.

(d) RELATIONSHIP TO ANTITRUST LAWS.—Section 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5909) shall apply to the activities of individuals, corporations, and other business organizations in connection with grants and contracts made by the Secretary of the Interior pursuant to this Act.

SEC. 8. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary of the Interior is authorized to accept technical and administrative assistance from a State, public or private agency in connection with research and development activities relating to desalinization of water and may enter into contracts or agreements stating the purpose for which the assistance is contributed and, in appropriate circumstances, providing for the sharing of costs between the Secretary of the Interior and such agency.

SEC. 9. MISCELLANEOUS AUTHORITIES.

In carrying out this Act, the Secretary of the Interior or the Secretary of the Army, as appropriate, may—

(1) make grants to educational and scientific institutions;

(2) contract with educational and scientific institutions and engineering and industrial firms;

(3) engage, by competition or noncompetitive contract or any other means, necessary personnel, industrial and engineering firms and educational institutions;

(4) use the facilities and personnel of Federal, State, municipal, and private scientific laboratories;

(5) contract for or establish and operate facilities and tests to conduct research, testing, and development necessary for the purposes of this Act;

(6) acquire processes, data, inventions, patent applications, patents, licenses, lands, interests in lands and water, facilities, and other property by purchase, license, lease, or donation;

(7) assemble and maintain domestic and foreign scientific literature and issue pertinent bibliographical data;

(8) conduct inspections and evaluations of domestic and foreign facilities and cooperate and participate in their development;

(9) conduct and participate in regional, national, and international conferences relating to the desalinization of water;

(10) coordinate, correlate, and publish information which will advance the development of the desalinization of water; and

(11) cooperate with Federal, State, and municipal departments, agencies and instrumentalities, and with private persons, firms, educational institutions, and other organizations, including foreign governments, departments, agencies, companies, and instrumentalities, in effectuating the purposes of this Act.

SEC. 10. DESALINIZATION CONFERENCE.

(a) ESTABLISHMENT.—The President shall instruct the Agency for International Development to sponsor an international desalinization conference within twelve months following the date of the enactment of this Act. Participants in such conference should include scientists, private industry experts, desalinization experts and operators, government officials from the nations that use and conduct research on desalinization, and those from nations that could benefit from low-cost desalinization technology, particularly in the developing world, and international financial institutions.

(b) PURPOSE.—The conference established in subsection (a) shall explore promising new technologies and methods to make affordable desalinization a reality in the near term, and shall further propose a research agenda and a plan of action to guide longer-term development of practical desalinization applications.

(c) FUNDING.—Funding for the international desalinization conference may come from operating or program funds of the Agency for International Development, and the Agency for International Development shall encourage financial and other support from other nations, including those that have desalinization technology and those that might benefit from it.

SEC. 11. REPORTS.

Prior to the expiration of the twelve-month period following the date of enactment of this Act, and each twelve-month period thereafter, the Secretary of the Interior, in consultation with the Secretary of the Army, shall prepare a report to the President and Congress concerning the administration of this Act. Such report shall include the actions taken by the Secretary of the Interior and the Secretary of the Army during the calendar year preceding the calendar year in which such report is filed, and shall include actions planned for the next following calendar year.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated $5,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and for each of the fiscal years 1995, 1996, and 1997, such sums as may be necessary for the purposes of carrying out section 5 of this Act.

(b) There is authorized to be appropriated $50,000,000 over a five-year period for the purposes of section 6 of this Act. Any of the funds appropriated will be made available equally to the Department of the Interior or the Army Corps of Engineers civil works program.

DISCLOSURE OF RECORDS ON THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 552, S. 3006, a bill to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3006) to provide for the expeditious disclosure of records relative to the assassination of President John F. Kennedy.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments to the bill?

AMENDMENT NO. 2764

Mr. HOLLINGS. Mr. President, I send a technical amendment on behalf of Mr. GLENN to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] (for Mr. GLENN) proposes an amendment numbered 2764.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, strike lines 9 through 14 and insert the following:

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

On age 15, line 7, after "make" insert "immediately".

On page 15, lines 8 and 9, strike "not later than 300 days after the date of enactment of this Act".

On page 17, line 3, after "operations," insert "law enforcement,".

On page 22, line 15, strike "after receiving the report from" and insert "after reported by".

On page 25, line 7, strike "create" and insert "complete".

On page 26, line 1, after "(iii)" insert "request the Attorney General to".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2764) was agreed to.

Mr. GLENN. Mr. President, as the Senate considers passage of S. 3006, the President John F. Kennedy Assassination Records Collection Act, I wish to express my appreciation to Senator DAVID BOREN and Senator ARLEN SPECTER who introduced the initial legislation in the Senate earlier this year. Senators BOREN and SPECTER deserve enormous credit for their commitment to requiring the public disclosure of the records related to the assassination of President John F. Kennedy. They have both been extremely helpful throughout the consideration of the legislation by the Committee on Governmental Affairs. Similarly, I would like to personally acknowledge the significant role of my colleague from the House of Representatives, Congressman LOUIS STOKES. Congressman STOKES seized the initiative to require the release of the records and has taken a special interest in ensuring that the American public is given prompt and wide-ranging access to the information about the assassination.

I must acknowledge the full support and approval of all the members of the Committee on Governmental Affairs for the legislation. In addition, several specific members who came forward in support of this legislation deserve recognition. These include Senator BOREN, Senator SPECTER, Senator MITCHELL, Senator METZENBAUM, Senator LEVIN, Senator PRYOR, Senator LIEBERMAN, Senator AKAKA, Senator STEVENS, Senator COHEN, Senator DECONCINI, Senator WOFFORD, Senator MURKOWSKI, Senator GRASSLEY, and Senator LEAHY.

BACKGROUND AND NEED FOR THE LEGISLATION

On November 22, 1963, President John F. Kennedy was assassinated. It was a tragic and defining moment in American history. The desire by the American public to understand who assassinated President Kennedy, and why, has resulted in several official investigations and a broad spectrum of private inquiries and scholarship. Unfortunately, in the eyes of the public, each investigation and inquiry served to raise additional questions, and did so while increasing the volume of secret Government records about the assassination. In 1992, the public demand, fostered by increased media attention, the opening of secret files by changing governments around the world, and other factors, culminated in the recognition by the Congress and the executive branch that the records related to the assassination of President Kennedy should be fully disclosed.

In addition to the legislation considered by the committee, and its counterpart considered by the House Committee on Government Operations, four other related, though more limited, measures were introduced in the House of Representatives in 1992. Two bills mandating the release of all Kennedy assassination investigation records were H.R. 4090, introduced January 3, 1992, and H.R. 4108, introduced January 24, 1992. Two House resolutions directing the unsealing of the records of the Select Committee on Assassinations were House Resolution 325, introduced January 22, 1992, and House Resolution 326, introduced on January 24, 1992.

I share the belief in the importance of disclosing the records. I believe that all Government records related to the assassination of President Kennedy should be preserved for historical and governmental purposes; that all such records should carry a presumption of immediate disclosure; and, that all such records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.

The Committee on Governmental Affairs also closely examined the issue of whether legislation was necessary and concluded that it was. While disclosure of the records could be achieved through a nonstatutory approach—by each House of the Congress passing a resolution pertaining to its records, and the President issuing an Executive order to the same effect—a statute is necessary to ensure an independent and enforceable mechanism for disclosure under uniform standards for review.

In addition, the committee found that legislation is necessary because congressional records related to the assassination would not otherwise be subject to public disclosure until at least the year 2029—with uncertain disclosure of related classified executive branch records; because the Freedom of Information Act, as implemented by the executive branch, has impeded the timely public disclosure of the assassination records; because Executive Order 12356, National Security Information, has eliminated the government-wide schedules for declassification and downgrading of classified information and has prevented the timely public disclosure of assassination records; and because most of the records related to the assassination of President Kennedy are at least 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

The release of records and materials in the possession of the Federal Government pursuant to the legislation will significantly expedite public access to this information. Although certain records related to the assassination of President Kennedy have been made available over time to the public, the legislation will create opportunities for the public to review records which might otherwise not be possible for several decades. Importantly, the public will be enabled to make their own observations and judgments based on firsthand access to previously undisclosed records. S. 3006 creates a process to publicly disclose all records related to the assassination of President John F. Kennedy. The underlying principles guiding the legislation are independence, public confidence, efficiency and cost effectiveness, speed of records disclosure, and enforceability. In order to achieve these objectives, the act creates a presumption of disclosure upon the Government, and it establishes an expeditious process for the review and disclosure of the records. The act creates numerous requirements to ensure that the public will be enabled to make its own observations, judgments, and determinations with regard to the history of the assassination and related matters. In order to provide for the most comprehensive disclosure of records related to the assassination of President Kennedy, the act empowers an independent review board with the authority to request any additional information or records from relevant Government agencies and congressional committees. Finally, the determinations of the review board are reviewable and enforceable in a court of law.

These purposes and objectives were carefully addressed during the development of the new legislation. The President John F. Kennedy Assassination Records Collection Act—the act—reflects the many recommendations and ideas developed from the hearings, meetings with affected Government agencies, and views expressed by members of the public experienced in efforts to access records from relevant agencies in general, and with particular emphasis upon the assassination of President Kennedy. The bill also reflects the considerable research and expertise of the committee staff with regard to the law and policy of public access to Government information.

PURPOSE AND SUMMARY OF THE LEGISLATION

The legislation establishes the President John F. Kennedy Assassination Records Collection at the National Archives. The collection will be made known and accessible to the public by the creation of a subject guidebook and index to the records created by the National Archives. The collection will include all public assassination records at the National Archives at the time of enactment; for example, public records of the Warren Commission; all assassination records released by Government offices pursuant to this act; all postponed records as part of the protected collection; and all postponed records as they become publicly disclosed in the future. The public will also be able to request reproduction of records from originating Government agencies.

Government offices holding assassination records are required to begin organizing and reviewing such records upon enactment and have this work completed within 10 months of enactment. During this time, the Government offices will determine whether records qualify as assassination records and then whether they recommend to the review board that public disclosure of certain records be postponed for reasons of national security, confidentiality, and privacy, as established in the act. All assassination records which are not recommended for postponement must be made immediately available to the public through the Government office and by transmission to the National Archives. Records recommended for postponement are required to be reviewed by an independent assassination records review board, which makes determinations for release or postponement.

In the case of executive branch records and information, the President has the authority to override the review board's determinations with regard to release or postponement. For congressional records, in the event that the Congress disagrees with a determination by the review board, each House would be required to adopt a resolution to change or create a rule governing the disposition of its records at issue. Such rulemaking authority is preserved by the act. Finally, all postponed records undergo periodic review and must be disclosed in full no later than 25 years after the date of enactment unless, in the case of executive branch records, the President demonstrates that pubic disclosure will result in an identifiable harm to the national security, intelligence operations, or foreign relations of the United States.

The assassination records review board is an independent agency within the executive branch. The five-member review board will be appointed by the President with the advice and consent of the U.S. Senate. The confirmation hearings will be conducted by the Committee on Governmental Affairs. The act requires that the review board include at least one historian and one attorney, and that each member is a nationally recognized professional in his or her field. The legislation requires that prior to making the appointments, the President is required to consider recommendations from the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

To ensure a comprehensive search and disclosure of assassination records, particularly to enable the public to obtain information and records beyond the scope of previous official inquiries, the review board has the authority to direct any Government office to produce additional information and records which it believes are related to the assassination. It has the authority to subpoena private persons and to enforce the subpoenas through the courts.

The review board is authorized for a 2-year period and it may be extended by a majority of the review board for up to an additional year. The review board could decided to extend its existence to less than 1 year if that is the time determined as necessary to complete its work. Annual financial reports and other periodic reports are required to be provided to the Congress. The reports must include statements of progress, the level of cooperation of Government offices and agencies, and the possible need for additional time or authority from Congress.

Last, I wish to correct part of the language of the committee's report with regard to the autopsy records of President Kennedy. Certain words were mistakenly omitted from the last sentence on page 21 continuing on page 22. The sentence should read: "The Committee believes that there is a compelling justification for protecting the privacy of the Kennedy family from the unwarranted intrusion that would be raised by public disclosure of the records conveyed by the deed."

Mr. PRYOR. Mr. President, as a member of the Senate Governmental Affairs Committee which developed and approved S. 3006, the President John F. Kennedy Assassination Records Collection Act, I wish to assure the American public that this act will result in the widest and broadest possible disclosure of records related to the tragic assassination of President John F. Kennedy.

The American public wants to understand the history surrounding the assassination of President Kennedy, and I hope that this act will help answer many questions and possibly quell the spiraling speculation about the subject. As set forth in the act all records as related to the assassination of President Kennedy should be preserved for historical and governmental purposes; all such records should carry a presumption of immediate disclosure; and, all such records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.

The legislation takes important steps to establish a process of records review which will maintain, perhaps for the first time, the public confidence in such a process related to the Kennedy assassination records. An independent review board will make final determinations, and their conclusions will be reviewable and enforceable in a court of law.

To ensure a comprehensive search and disclosure of assassination records, particularly to enable the public to obtain information and records beyond the scope of previous official inquiries, the Review Board has the authority to direct any Government office to produce additional information and records which it believes are related to the assassination. It has the authority to request that the Attorney General subpoena private persons and to enforce the subpoenas through the courts.

DONATED RECORDS AND THE COST OF RECORDS REPRODUCTION

Finally, I wish to discuss two issues which have become controversial in the consideration of similar legislation before the House of Representatives. The first is whether records which have been donated to the Government through deeds of gift or donation should be treated as assassination records. The second is the cost that the public will be charged when it seeks to obtain copies of certain of the assassination records once they are released. In each case, the Archivist of the United States, Dr. Don Wilson, has unfortunately chosen to advocate and lobby the Congress to narrow public access to the assassination records. To the subsequent chagrin of certain Members of the House of Representatives who the Archivist persuaded to sponsor his provisions before the House Judiciary Committee, they have now learned that such proposals will hinder public access to the Kennedy assassination records. The Archivist's actions will have this effect because he wants all records which have been donated or gifted to the Government to be exempt from the definition of "assassination records"; and, he does not want the National Archives to be subject to the Freedom of Information Act fee waiver provisions for the Kennedy assassination records or any other records. As a result, important segments of the records related to the assassination of President Kennedy will not be covered by the new law, and the National Archives will make it too expensive for the public to obtain copies of the records.

With regard to the issue of deeds of gifts and donations, it is important to explain how records of past Presidents would be subject to such controls. Prior to the enactment of the Presidential Records Act, which first took effect during the Reagan administration, Presidential records were the personal property of each President. In recent decades, when any such records were returned to the Government, it was the custom to do so through a deed of gift or donation, and in some cases such deeds contained terms restricting access, or making such access consistent with official access requirements such as an Executive order on classified information. Such is the case for the papers, for example, of both President Johnson and President Ford. I mention these two examples because they illustrate how significant segments of official records possibly related to the assassination of President Kennedy would be excluded from public access under the new law. Indeed, we are talking about nothing less than the complete record collection of the Rockefeller Commission, created by President Ford which examined, in part, any possible ties between the CIA and the assassination of President Kennedy, as well as countless records donated by President Johnson, including literally thousands of personal tape-recorded telephone conversations of President Johnson.

The key issue is that of preserving the terms of deeds of donations and gifts, without preventing the official review and possible public disclosure of any records under the standards for review and other requirements of S. 3006. Unlike the action by Congress taken in the aftermath of Watergate to override the restrictions which President Nixon sought to place on his records and tapes, Congress has no such intent with records related to the assassination of President Kennedy. S. 3006 carefully balances these needs with provisions which do not override the terms of deeds, but which requires that the records, where appropriate, are treated as assassination records under the act. It is hoped that this approach will continue to be applied, and that the public will not be denied access to such important components of the Kennedy assassination files as sought by the Archivist.

Second, is the issue of the cost of records reproduction to the public, and the Archivist's insistence that the National Archives does not have to apply the fee schedule of fee waiver provisions of the Freedom of Information Act. Again, unfortunately, the Archivist is taking a position which directly undercuts the public's rights and means of access to the Kennedy files.

In developing the legislation, our committee carefully considered the cost of reproduction of the assassination records charged to the public and the application of the Freedom of Information Act fee waiver requirements to the National Archives and other Government offices which possess assassination records. Just as the definition of the term "assassination records" is the threshold test for public confidence in the scope of disclosure resulting from the act, public access itself is the single most important purpose of the act.

For example, it has been the experience of certain researchers including the Assassination Archives and Records Center, that it is more expensive to obtain copies of records related to the assassination of President Kennedy from the National Archives than from the originating agencies such as the Central Intelligence Agency [CIA] and the Federal Bureau of Investigation [FBI]. The committee specifically sought to determine the cost of reproduction of records which are on the shelf and for which no search is required.

The committee confirmed that it is more expensive for the public to obtain on-the-shelf records at the National Archives than at originating agencies. This is the result of two factors: Pricing policy and application of the fee waiver provisions of the Freedom of Information Act [FOIA]. The National Archives charges the public a higher price for reproduction and does not honor the fee waiver provisions of the FOIA in the belief that it is exempt from such provisions.

The committee investigated the fees at the agencies where the greatest public demand for Kennedy assassination records have been—the CIA and the FBI, and compared it to the National Archives. The committee found the pricing policy of the CIA and the FBI are identical. Where no search is required, the first 100 pages are free, and additional copies cost 10 cents per page—regardless of whether the public takes delivery in person at the agency or by mail. In comparison, the National Archives charges the public 10 cents per page for copies of records which are requested in person, and 25 cents per page for copies of records requiring mailing. The result has been that the National Archives has created an unnecessary and unreasonable burden on the public to shop around Government for the least expensive means of obtaining copies of records. As a result of these findings, and the National Archives determination to continue to charge more for records reproduction than agencies who comply with the Freedom of Information Act fee schedule requirements and guidelines, the act provides in section 5(h) that the public may also seek copies of assassination records from the originating agencies.

The committee next determined that it is less expensive for the public to obtain copies of records at originating agencies than at the National Archives because the agencies are faithful to the fee waiver provisions of the FOIA, whereas the National Archives is not. Again, the committee was especially concerned with the history of access to on the shelf records related to the assassination of President Kennedy. The Committee examined the National Archives claim that it is exempt from such provisions of the FOIA, the influence that this interpretation has had on the cost of records to the public, and the impact of such a policy on uniform and reasonable access and public disclosure costs under this Act.

Application of the FOIA fee waiver provisions are particularly essential with regard to the records related to the assassination of President John F. Kennedy. First, the National Archives is covered by the Freedom of Information Act, there is no exception to this requirement in law, and to create such an exception would undermine the application of the Nation's foremost means of public access and government accountability at the nation's foremost repository of government records. Second, without applying the FOIA fee waiver provision to the Kennedy assassination records the National Archives would be acting in a manner which undermines that law. Simply put, the public would lose its rights under the Freedom of Information Act as soon as any record record is transferred to the National Archives. Third, as with its pricing policy, its policy with regard to the FOIA fee waiver would create an unnecessary and unreasonable burden upon the public by requiring that it shop around the government for the least expensive means of records reproduction.

It is necessary to require the application of the FOIA fee waiver provisions to public requests for records contained in the President John F. Kennedy Assassination Records Collection because to do otherwise would seriously conflict with the purposes and intent of public access and disclosure under the Act. While the Congress cannot specify the exact cost of record reproduction under the Act, it is clearly intended that the costs be reasonable and that the FOIA fee waiver provisions apply at all executive agencies including the National Archives.

No one should obstruct access to the Kennedy assassination records, least of all the Archivist of the United States.

Mr. BOREN. Mr. President, I urge all of my colleagues to join in supporting passage of S. 3006, a bill calling for release of all Government records related to the assassination of President John F. Kennedy.

On March 26, 1992, Senator SPECTER and I introduced Senate Joint Resolution 282, a bill providing for a comprehensive process leading to the release of all Kennedy assassination records. The joint resolution, an identical version of which was introduced in the House of Representatives, represented a collaborative effort between our offices and the office of Representative LOUIS STOKES, the distinguished former chairman of the House Assassinations Committee.

Among the original cosponsors of our joint resolution was Senator GLENN, whose Governmental Affairs Committee has skillfully guided, the legislation to the floor. In a single hearing, the committee carefully examined all of the key issues concerning the legislation. I was pleased to testify at the hearing and explain the purpose and structure of the legislation. The Governmental Affairs Committee made a conscientious and comprehensive effort to refine the legislation, taking into account various interests and realities that came into play. The committee staff worked closely with the staff of the Senate Intelligence Committee, which I chair, as well as other offices in the legislative, executive, and judicial branches and many outside Government.

The version of the legislation now before us, S. 3006, is faithful to the tenets of the joint resolution we originally introduced. Input from various interested parties has reshaped some aspects of the release procedures, but the ultimate goal—full release of all the J.F.K. assassination files—remains the same. S. 3006 has chosen Presidential appointment of the Review Board, with Senate advice and consent, over our choice of judicial appointment, but as I testified at the hearing, this is an acceptable choice. I urged Senator GLENN'S committee to remove from the legislation an exemption for the Review Board from certain open Government laws, and I am pleased that the committee has done so.

As I said in introducing the legislation, the public, and particularly our young people, need to have confidence in the integrity and fairness of their Government. So long as key Kennedy assassination materials remained locked away, there will be those who will believe the Government has something to hide with respect to this heinous crime. We need to open the files. I don't know what is inside them. I don't know if there is any new information that could alter the findings of previous investigation. But the time has come to let the files speak for themselves. Let historians and journalists and the people read them and draw the appropriate conclusions.

It is time to review the records, not in terms of the old assumptions, but rather in light of the need for openness and to encourage confidence in the Government.

As a general principle, the intelligence community should make available its records after the passage of a reasonable amount of time when current sources and methods would no longer be compromised. The American people have a right to assure themselves to the greatest degree possible of the accuracy of the historical record of our Government. The timely release of all documents of historic value and importance helps to assure that even the most secret programs of our Government will be operated in accordance with basic American values. Current intelligence operations will be even more carefully conducted when it is recognized that they will be scrutinized by the public during the lifetime of many of those who administered the programs.

I feel confident that the great majority of the Kennedy assassination material can be promptly released with no adverse effect on the national security of our country, the law enforcement efforts of our Government, or the privacy rights of our people. We can take account of those interests in compelling cases, but the strong presumption in all cases should be in favor of disclosure. As with the original version of the legislation, S. 3006 properly requires that anything not released immediately must be marked with a recommendation of a specified time at which or a specified occurrence following which the material must be disclosed to the public. The public must also be promptly informed about each record withheld from immediate release.

With a few important exceptions—in particular, I would much prefer to ensure prompt disclosure of official records donated pursuant to deeds of gift—other than the autopsy materials—in the manner required by our original joint resolution and the House Government Operations version of the bill, and I don't see the need for a general exemption for tax returns—the differences between S. 3006 and the two versions of the legislation now under consideration in the House come down to minor points of implementation. I urge my colleagues in both Houses to come together promptly to reach a final version.

S. 3006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "President John F. Kennedy Assassination Records Collection Act of 1992".

SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes;

(2) all government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination;

(3) legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records;

(4) legislation is necessary because congressional records related to the assassination of President John F. Kennedy would not otherwise be subject to public disclosure until at least the year 2029;

(5) legislation is necessary because the Freedom of Information Act, as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy;

(6) legislation is necessary because Executive Order No. 12356, entitled "National Security Information" has eliminated the declassification and downgrading schedules relating to classified information across government and has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy; and

(7) most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the creation of the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration; and

(2) to require the expeditious public transmission to the Archivist and public disclosure of such records.

SEC. 3. DEFINITIONS.

In this Act:

(1) "Archivist" means the Archivist of the United States.

(2) "Assassination record" means a record that is related to the assassination of President John F. Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of—

(A) the Commission to Investigate the Assassination of President John F. Kennedy (the "Warren Commission");

(B) the Commission on Central Intelligence Agency Activities Within the United States (the "Rockefeller Commission");

(C) the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee");

(D) the Select Committee on Intelligence (the "Pike Committee") of the House of Representatives;

(E) the Select Committee on Assassinations (the "House Assassinations Committee") of the House of Representatives;

(F) the Library of Congress;

(G) the National Archives and Records Administration;

(H) any Presidential library;

(I) any Executive agency;

(J) any independent agency;

(K) any other office of the Federal Government; and

(L) any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy,

but does not include the autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records.

(3) "Collection" means the President John F. Kennedy Assassination Records Collection established under section 4.

(4) "Executive agency" means an Executive agency as defined in subsection 552(f) of title 5, United States Code, and includes any Executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President, or any independent regulatory agency.

(5) "Government office" means any office of the Federal Government that has possession or control of assassination records, including—

(A) the House Committee on Administration with regard to the Select Committee on Assassinations of the records of the House of Representatives;

(B) the Select Committee on Intelligence of the Senate with regard to records of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities and other assassination records;

(C) the Library of Congress;

(D) the National Archives as custodian of assassination records that it has obtained or possesses, including the Commission to Investigate the Assassination of President John F. Kennedy and the Commission on Central Intelligence Agency Activities in the United States; and

(E) any other executive branch office or agency, and any independent agency.

(6) "Identification aid" means the written description prepared for each record as required in section 4.

(7) "National Archives" means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

(8) "Official investigation" means the reviews of the assassination of President John F. Kennedy conducted by any Presidential commission, any authorized congressional committee, and any Government agency either independently, at the request of any Presidential commission or congressional committee, or at the request of any Government official.

(9) "Originating body" means the Executive agency, government commission, congressional committee, or other governmental entity that created a record or particular information within a record.

(10) "Public interest" means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President John F. Kennedy.

(11) "Record" includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

(12) "Review Board" means the Assassination Records Review Board established by section 7.

(13) "Third agency" means a Government agency that originated an assassination record that is in the possession of another agency.

SEC. 4. PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION AT THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

(a) IN GENERAL.—(1) Not later than 60 days after the date of enactment of this Act, the National Archives and Records Administration shall commence establishment of a collection of records to be known as the President John F. Kennedy Assassination Records Collection. In so doing, the Archivist shall ensure the physical integrity and original provenance of all records. The Collection shall consist of record copies of all Government records relating to the assassination of President John F. Kennedy, which shall be transmitted to the National Archives in accordance with section 2107 of title 44, United States Code. The Archivist shall prepare and publish a subject guidebook and index to the collection.

(2) The Collection shall include—

(A) all assassination records—

(i) that have been transmitted to the National Archives or disclosed to the public in an unredacted form prior to the date of enactment of this Act;

(ii) that are required to be transmitted to the National Archives; or

(iii) the disclosure of which is postponed under this Act;

(B) a central directory comprised of identification aids created for each record transmitted to the Archivist the under section 5; and

(C) all Review Board records as required by this Act.

(b) DISCLOSURE OF RECORDS.—All assassination records transmitted to the National Archives for disclosure to the public shall be included in the Collection and shall be available to the public for inspection and copying at the National Archives within 30 days after their transmission to the National Archives.

(c) FEES FOR COPYING.—The Archivist shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

(d) ADDITIONAL REQUIREMENTS.—(1) The Collection shall be preserved, protected, archived, and made available to the public at the National Archives using appropriations authorized, specified, and restricted for use under the terms of this Act.

(2) The National Archives, in consultation with the Information Security Oversight Office, shall ensure the security of the postponed assassination records in the Collection.

(e) OVERSIGHT.—The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the Collection.

SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE NATIONAL ARCHIVES, AND PUBLIC DISCLOSURE OF ASSASSINATION RECORDS BY GOVERNMENT OFFICES.

(a) IN GENERAL.—(1) As soon as practicable after the date of enactment of this Act, each Government office shall identify and organize its records relating to the assassination of President John F. Kennedy and prepare them for transmission to the Archivist for inclusion in the Collection.

(2) No assassination record shall be destroyed, altered, or mutilated in any way.

(3) No assassination record made available or disclosed to the public prior to the date of enactment of this Act may be withheld, redacted, postponed for public disclosure, or reclassified.

(4) No assassination record created by a person or entity outside government (excluding names or identities consistent with the requirements of section 6) shall be withheld, redacted, postponed for public disclosure, or reclassified.

(b) CUSTODY OF ASSASSINATION RECORDS PENDING REVIEW.—During the review by Government offices and pending review activity by the Review Board, each Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for purposes of conducting an independent and impartial review;

(2) transfer is necessary for an administrative hearing or other Review Board function; or

(3) it is a third agency record described in subsection (c)(2)(C).

(c) REVIEW.—(1) Not later than 300 days after the date of enactment of this Act, each Government office shall review, identify and organize each assassination record in its custody or possession for disclosure to the public, review by the Review Board, and transmission to the Archivist.

(2) In carrying out paragraph (1), a Government office shall—

(A) determine which of its records are assassination records;

(B) determine which of its assassination records have been officially disclosed or publicly available in a complete and unredacted form;

(C)(i) determine which of its assassination records, or particular information contained in such a record, was created by a third agency or by another Government office; and

(ii) transmit to a third agency or other government office those records, or particular information contained in those records, or complete and accurate copies thereof;

(D)(i) determine whether its assassination records or particular information in assassination records are covered by the standards for postponement of public disclosure under this Act; and

(ii) specify on the identification aid required by subsection (d) the applicable postponement provision contained in section 6;

(E) organize and make available to the Review Board all assassination records identified under subparagraph (D) the public disclosure of which in whole or in part may be postponed under this Act;

(F) organize and make available to the Review Board any record concerning which the office has any uncertainty as to whether the record is an assassination record governed by this Act;

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

(H) make available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under this Act.

(3) The Director of each archival depository established under section 2112 of title 44, United States Code, shall have as a priority the expedited review for public disclosure of assassination records in the possession and custody of the depository, and shall make such records available to the Review Board as required by this Act.

(d) IDENTIFICATION AIDS.—(1)(A) Not later than 45 days after the date of enactment of this Act, the Archivist, in consultation with the appropriate Government offices, shall prepare and make available to all Government offices a standard form of identification or finding aid for use with each assassination record subject to review under this Act.

(B) The Archivist shall ensure that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other.

(2) Upon completion of an identification aid, a Government office shall—

(A) attach a printed copy to the record it describes;

(B) transmit to the Review Board a printed copy; and

(C) attach a printed copy to each assassination record it describes when it is transmitted to the Archivist.

(3) Assassination records which are in the possession of the National Archives on the date of enactment of this Act, and which have been publicly available in their entirety without redaction, shall be made available in the Collection without any additional review by the Review Board or another authorized office under this Act, and shall not be required to have such an identification aid unless required by the Archivist.

(e) Transmission to the National Archives.—Each Government office shall—

(1) transmit to the Archivist, and make immediately available to the public, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of this Act, without any redaction, adjustment, or withholding under the standards of this Act; and

(2) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.

(f) Custody of Postponed Assassination Records.—An assassination record the public disclosure of which has been postponed shall, pending transmission to the Archivist, be held for reasons of security and preservation by the originating body until such time as the information security program has been established at the National Archives as required in section 4(e)(2).

(g) Periodic Review of Postponed Assassination Records.—(1) All postponed or redacted records shall be reviewed periodically by the originating agency and the Archivist consistent with the recommendations of the Review Board under section 9(c)(3)(B).

(2)(A) A periodic review shall address the public disclosure of additional assassination records in the Collection under the standards of this Act.

(B) All postponed assassination records determined to require continued postponement shall require an unclassified written description of the reason for such continued postponement. Such description shall be provided to the Archivist and published in the Federal Register upon determination.

(C) The periodic review of postponed assassination records shall serve to downgrade and declassify security classified information.

(D) Each assassination record shall be publicly disclosed in full, and available in the Collection no later than the date that is 25 years after the date of enactment of this Act, unless the President certifies, as required by this Act, that—

(i) continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, law enforcement, or conduct of foreign relations; and

(ii) the identifiable harm is of such gravity that it outweighs the public interest in disclosure.

(h) Fees for Copying.—Executive branch agencies shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.

Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of this Act if there is clear and convincing evidence that—

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public disclosure of the assassination is of such gravity that it outweighs the public interest, and such public disclosure would reveal—

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of which would interfere with the conduct of intelligence activities; or

(C) any other matter currently relating to the military defense, intelligence operations or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

(2) the public disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

(3) the public disclosure of the assassination record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest;

(4) the public disclosure of the assassination record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest; or

(5) the public disclosure of the assassination record would reveal a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and public disclosure would be so harmful that it outweighs the public interest.

SEC. 7. ESTABLISHMENT AND POWERS OF THE ASSASSINATION RECORDS REVIEW BOARD.

(a) Establishment.—There is established as an independent agency a board to be known as the Assassinations Records Review Board.

(b) Appointment.—(1) The President, by and with the advice and consent of the Senate, shall appoint, without regard to political affiliation, 5 citizens to serve as members of the Review Board to ensure and facilitate the review, transmission to the Archivist, and public disclosure of government records related to the assassination of President John F. Kennedy.

(2) The President shall make nominations to the Review Board not later than 90 calendar days after the date of enactment of this Act.

(3) If the Senate votes not to confirm a nomination to the Review Board, the President shall make an additional nomination not later than 30 days thereafter.

(4)(A) The President shall make nominations to the Review Board after considering persons recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

(B) If an organization described in subparagraph (A) does not recommend at least 2 nominees meeting the qualifications stated in paragraph (5) by the date that is 45 days after the date of enactment of this Act, the President shall consider for nomination the persons recommended by the other organizations described in subparagraph (A).

(C) The President may request an organization described in subparagraph (A) to submit additional nominations.

(5) Persons nominated to the Review Board—

(A) shall be impartial private citizens, none of whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President John F. Kennedy;

(B) shall be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President John F. Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and

(C) shall include at least 1 professional historian and 1 attorney.

(c) Security Clearances.—(1) All Review Board nominees shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(2) All nominees shall qualify for the necessary security clearance prior to being considered for confirmation by the Committee on Governmental Affairs of the Senate.

(d) Confirmation Hearings.—(1) The Committee on Governmental Affairs of the Senate shall hold confirmation hearings within 30 days in which the Senate is in session after the nomination of 3 Review Board members.

(2) The Committee on Governmental Affairs shall vote on the nominations within 14 days in which the Senate is in session after the confirmation hearings, and shall report its results to the full Senate immediately.

(3) The Senate shall vote on each nominee to confirm or reject within 14 days in which the Senate is in session after reported by the Committee on Governmental Affairs.

(e) Vacancy.—A vacancy on the Review Board shall be filled in the same manner as specified for original appointment within 30 days of the occurrence of the vacancy.

(f) Chairperson.—The Members of the Review Board shall elect one of its members as chairperson at its initial meeting.

(g) Removal of Review Board Member.—(1) No member of the Review Board shall be removed from office, other than—

(A) by impeachment and conviction; or

(B) by the action of the President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

(2)(A) If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal the President shall submit to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal.

(B) The President shall publish in the Federal Register a report submitted under paragraph (2)(A), except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

(3)(A) A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

(B) The member may be reinstated or granted other appropriate relief by order of the court.

(h) Compensation of Members.—(1) A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

(i) Duties of the Review Board.—(1) The Review Board shall consider and render decisions on a determination by a Government office to seek to postpone the disclosure of assassination records.

(2) In carrying out paragraph (1), the Review Board shall consider and render decisions—

(A) whether a record constitutes an assassination record; and

(B) whether an assassination record or particular information in a record qualifies for postponement of disclosure under this Act.

(j) Powers.—(1) The Review Board shall have the authority to act in a manner prescribed under this Act including authority to—

(A) direct Government offices to complete identification aids and organize assassination records;

(B) direct Government offices to transmit to the Archivist assassination records as required under this Act, including segregable portions of assassination records, and substitutes and summaries of assassination records that can be publicly disclosed to the fullest extent;

(C)(i) obtain access to assassination records that have been identified and organized by a Government office;

(ii) direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding, additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act; and

(iii) request the Attorney General to subpoena private persons to compel testimony, records, and other information relevant to its responsibilities under this Act;

(D) require any Government office to account in writing for the destruction of any records relating to the assassination of President John F. Kennedy;

(E) receive information from the public regarding the identification and public disclosure of assassination records; and

(F) hold hearings, administer oaths, and subpoena witnesses and documents.

(2) A subpoena issued under paragraph (1)(C)(iii) may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board.

(k) Witness Immunity.—The Review Board shall be considered to be an agency of the United States for purposes of section 6001 of title 18, United States Code.

(l) Oversight.—(1) The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and shall have access to any records held or created by the Review Board.

(2) The Review Board shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(m) Support Services.—The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis.

(n) Interpretive Regulations.—The Review Board may issue interpretive regulations.

(o) Termination and Winding Up.—(1) The Review Board and the terms of its members shall terminate not later than 2 years after the date of enactment of this Act, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if it has not completed its work within that 2-year period.

(2) Upon its termination, the Review Board shall submit reports to the President and the Congress including a complete and accurate accounting of expenditures during its existence, and shall complete all other reporting requirements under this Act.

(3) Upon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.

SEC. 8. ASSASSINATION RECORDS REVIEW BOARD PERSONNEL.

(a) Executive Director.—(1) Not later than 45 days after the initial meeting of the Review Board, the Review Board shall appoint one citizen, without regard to political affiliation, to the position of Executive Director.

(2) The person appointed as Executive Director shall be a private citizen of integrity and impartiality who is a distinguished professional and who is not a present employee of any branch of the Government and has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for Executive Director shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate shall qualify for the necessary security clearance prior to being approved by the Review Board.

(4) The Executive Director shall—

(A) serve as principal liaison to Government offices;

(B) be responsible for the administration and coordination of the Review Board's review of records;

(C) be responsible for the administration of all official activities conducted by the Review Board; and

(D) have no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure.

(5) The Executive Director shall not be removed for reasons other than by a majority vote of the Review Board for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Executive Director or the staff of the Review Board.

(b) Staff.—(1) The Review Board may, in accordance with the civil service laws but without regard to civil service law and regulation for competitive service as defined in subchapter 1, chapter 33 of title 5, United States Code, appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform its duties.

(2) A person appointed to the staff of the Review Board shall be a private citizen of integrity and impartiality who is not a present employee of any branch of the Government and who has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for staff shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate for the staff shall qualify for the necessary security clearance prior to being approved by the Review Board.

(c) Compensation.—The Review Board shall fix the compensation of the Executive Director and other personnel in accordance with title 5, United States Code, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(d) Advisory Committees.—(1) The Review Board shall have the authority to create advisory committees to assist in fulfilling the responsibilities of the Review Board under this Act.

(2) Any advisory committee created by the Review Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 9. REVIEW OF RECORDS BY THE ASSASSINATION RECORDS REVIEW BOARD.

(a) Custody of Records Reviewed by Board.—Pending the outcome of the Review Board's review activity, a Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review; or

(2) such transfer is necessary for an administrative hearing or other official Review Board function.

(b) Startup Requirements.—The Review Board shall—

(1) not later than 90 days after the date of its appointment, publish a schedule for review of all assassination records in the Federal Register; and

(2) not later than 180 days after the date of enactment of this Act, begin its review of assassination records under this Act.

(c) Determinations of the Review Board.—(1) The Review Board shall direct that all assassination records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that—

(A) a Government record is not an assassination record; or

(B) a Government record or particular information within an assassination record qualifies for postponement of public disclosure under this Act.

(2) In approving postponement of public disclosure of an assassination record, the Review Board shall seek to—

(A) provide for the disclosure of segregable parts, substitutes, or summaries of such a record; and

(B) determine, in consultation with the originating body and consistent with the standards for postponement under this Act, which of the following alternative forms of disclosure shall be made by the originating body:

(i) Any reasonably segregable particular information in an assassination record.

(ii) A substitute record for that information which is postponed.

(iii) A summary of an assassination record.

(3) With respect to each assassination record or particular information in assassination records the public disclosure of which is postponed pursuant to section 6, or for which only substitutions or summaries have been disclosed to the public, the Review Board shall create and transmit to the Archivist a report containing—

(A) a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceedings conducted by the Review Board with regard to specific assassination records; and

(B) a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act.

(4)(A) Following its review and a determination that an assassination record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board shall notify the head of the originating body of its determination and publish a copy of the determination in the Federal Register within 14 days after the determination is made.

(B) Contemporaneous notice shall be made to the President for Review Board determinations regarding executive branch assassination records, and to the oversight committees designated in this Act in the case of legislative branch records. Such notice shall contain a written unclassified justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards contained in section 6.

(d) PRESIDENTIAL AUTHORITY OVER REVIEW BOARD DETERMINATION.—

(1) PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in an assassination record, obtained or developed solely within the executive branch, the President shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement under section 6, accompanied by a copy of the identification aid required under section 4.

(2) PERIODIC REVIEW.—Any executive branch assassination record postponed by the President shall be subject to the requirements of periodic review, downgrading and declassification of classified information, and public disclosure in the collection set forth in section 4.

(3) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Review Board shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of assassination records.

(e) NOTICE TO PUBLIC.—Every 30 calendar days, beginning on the date that is 60 calendar days after the date on which the Review Board first approves the postponement of disclosure of an assassination record, the Review Board shall publish in the Federal Register a notice that summarizes the postponements approved by the Review Board or initiated by the President, the House of Representatives, or the Senate, including a description of the subject, originating agency, length or other physical description, and each ground for postponement that is relied upon.

(f) REPORTS BY THE REVIEW BOARD.—(1) The Review Board shall report its activities to the leadership of the Congress, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity.

(2) The first report shall be issued on the date that is 1 year after the date of enactment of this Act, and subsequent reports every 12 months thereafter until termination of the Review Board.

(3) A report under paragraph (1) shall include the following information:

(A) A financial report of the expenses for all official activities and requirements of the Review Board and its personnel.

(B) The progress made on review, transmission to the Archivist, and public disclosure of assassination records.

(C) The estimated time and volume of assassination records involved in the completion of the Review Board's performance under this Act.

(D) Any special problems, including requests and the level of cooperation of government offices, with regard to the ability of the Review Board to operate as required by this Act.

(E) A record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by this Act, and a record of the volume of records reviewed and postponed.

(F) Suggestions and requests to Congress for additional legislative authority needs.

(G) An appendix containing copies of reports of postponed records to the Archivist required under section 9(c)(3) made since the date of the preceding report under this subsection.

(4) At least 90 calendar days before completing its work, the Review Board shall provide written notice to the President and Congress of its intention to terminate its operations at a specified date.

SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDITIONAL STUDY.

(a) MATERIALS UNDER SEAL OF COURT.—

(1) The Review Board may request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination of President John F. Kennedy that is held under seal of the court.

(2)(A) The Review Board may request the Attorney General to petition any court in the United States to release any information relevant to the assassination of President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

(B) A request for disclosure of assassination materials under this Act shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury;

(2) the Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glaynoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and

(3) all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President John F. Kennedy consistent with the public interest.

SEC. 11. RULES OF CONSTRUCTION.

(a) PRECEDENCE OVER OTHER LAW.—When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file requests with any Executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code.

(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

(e) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—To the extent that any provision of this Act establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the

rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 12. TERMINATION OF EFFECT OF ACT.

(a) PROVISIONS PERTAINING TO THE REVIEW BOARD.—The provisions of this Act that pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o).

(b) OTHER PROVISIONS.—The remaining provisions of this Act shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this Act.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENDING BOUNDARIES OF GROUNDS OF THE NATIONAL GALLERY OF ART

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5059, a bill to extend the boundaries of the National Gallery of Art to include the National Sculpture Garden, just received from the House, and that the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5059) was deemed read a third time, and passed.

REVISED EDITION OF STANDING RULES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be directed to prepare a revised edition of the Standing Rules of the Senate, and that such standing rules be printed as a Senate document.

I further ask unanimous consent that 2,500 additional copies of this document be printed for the use of the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT—PM 264

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was reported to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with 42 U.S.C. 1863(j)(1), I transmit herewith the annual report of the National Science Foundation for Fiscal Year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *July 27, 1992.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3687. A communication from the Assistant Secretary of Energy (Environmental Restoration and Waste Management), transmitting, pursuant to law, a report detailing the expenditure of Fiscal Year 1991 Environmental Restoration and Waste Management funds for defense and non-defense activities and the accomplishments to date compared to the milestone for each task; to the Committee on Armed Services.

EC-3688. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on improvements in the National Technical Information Service; to the Committee on Commerce, Science and Transportation.

EC-3689. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for Fiscal Year 1993; to the Committee on Foreign Relations.

EC-3690. A communication from the Administrator of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Miller Act to increase the statutory threshold; to the Committee on Governmental Affairs.

EC-3691. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a report on the implementation of the Indian Self-Determination and Education Assistance Act, as amended, for fiscal year 1991; to the Select Committee on Indian Affairs.

EC-3692. A communication from the Chairman of the National Commission for Employment Policy, transmitting, a report entitled "Using Unemployment Insurance Wage-Record Data for JTPA Performance Management"; to the Committee on Labor and Human Resources.

EC-3693. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a notice on leasing systems for the Western Gulf of Mexico scheduled for August 1992; to the Committee on Energy and Natural Resources.

EC-3694. A communication from the Acting Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, a report entitled "Potential Impacts of Aircraft Overflights of National Forest System Wildernesses"; to the Committee on Energy and Natural Resources.

EC-3695. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the Fort McDowell Indian Community loan application; to the Committee on Energy and Natural Resources.

EC-3696. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the receipt of project proposals; to the Committee on Energy and Natural Resources.

EC-3697. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the annual report of the Inspector General for calendar year 1991; to the Committee on Environment and Public Works.

EC-3698. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the annual audit report of the Inspector General for calendar year 1991; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-430. A resolution adopted by the General Assembly of the State of New Jersey favoring the maintenance of the policy utilizing homeport based contractors to repair ships assigned to the New Jersey/New York homeport; to the Committee on Armed Services.

"ASSEMBLY RESOLUTION NO. 69

"Whereas, the current national recession has hit the New Jersey/New York region inordinately hard, resulting in a loss of 500,000 jobs since 1990, with 200,000 additional jobs projected to be lost in 1992; and

"Whereas, the United States Navy's policy of having ships assigned to a homeport repaired by homeport based contractors helps boost the industry and economy of the homeport area by utilizing the ship repair, technical, and management skills of homeport based contractors; and

"Whereas, the United States Navy's initial plan for the repair and maintenance of its ships that are assigned to homeports in the New Jersey/New York harbor called for the continuation of this policy of utilizing homeport based contractors to maintain and repair its ships; and

"Whereas, the United States Navy is currently taking steps to change this policy to allow East Coast contractors to bid on repair and maintenance contracts for ships assigned to homeports in the New Jersey/New York harbor; and

"Whereas, such outside based contractors, if awarded repair and maintenance contracts of Navy ships that are assigned to homeports in the New Jersey/New York harbor, would utilize their own employees and staffs; and

"Whereas, such a result would minimize the number of new job opportunities in the New Jersey/New York port region and would thus fail to provide the needed economic boost to the region that a homeport based ship repair and maintenance contract would provide; now, therefore be it

Resolved by the General Assembly of the State of New Jersey:

"1. Congress of the United States and the Secretary of the Navy are respectfully memorialized to maintain the policy of utilizing homeport based contractors to repair ships assigned to homeports in the New Jersey/New York harbor.

"2. Duly authenticated copies of this resolution shall be transmitted to the presiding officers of the United States Senate and House of Representatives and to every member of Congress elected from the State of New Jersey and the Secretary of the Navy.

STATEMENT

"This resolution calls on the United States Congress and the Secretary of Navy to maintain its policy of utilizing homeport based contractors to repair Navy ships operating out of the New Jersey/New York homeport. The Navy is currently accepting proposals for a five year maintenance and repair contract for its ships assigned to the New Jersey/New York harbor, and has, contrary to its past practices, advertised for bids form contractors outside the homeport based area. Such a policy would be harmful to the New Jersey/New York region as it would minimize the number of new job opportunities for homeport based industries and would thus fail to give the region a needed economic boost.

"Memorializes the United States Congress and Secretary of Navy to maintain the policy of utilizing homeport based contractors to repair ships based in the New Jersey/New York homeport."

POM-431. A resolution adopted by the Office of the Selectment, Assessors and Overseers of the Poor, favoring the operation, development, and diversification of the U.S. Naval Shipyard at Kittery, ME; to the Committee on Armed Services.

POM-432. A joint resolution adopted by the Legislature of the State of California, favoring the continuation of the essential components of the dual banking system; to the Committee on Banking, Housing and Urban Affairs.

"SENATE JOINT RESOLUTION NO. 24

"Whereas, this country maintains a dual banking system whereby banks in California may elect whether to be state chartered banks subject to regulation by the State banking Department or federally chartered banks subject to regulation by the Comptroller of the Currency; and

"Whereas, the State Banking Department is authorized to approve all applications for state chartered banks to engage in the business of banking in this state; and

"Whereas, State chartered banks in California are allowed to provide certain products and services under California law that federally chartered banks are not allowed to provide under current federal law; and

"Whereas, California banking laws promote capital availability, strengthen economic development,and encourage community reinvestment in this state; and

"Whereas, it is of great importance that the State of California retain the ability to equitably tax both state and federally chartered banks; and

"Whereas, the United States Treasury recently proposed a plan to reform and restructure this country's financial system by reducing or eliminating state regulation of banks in favor of increased regulation by the Federal Reserve; and

"Whereas, the Legislature of the State of California, reaffirms and restates its support for the continuation of the dual banking system in California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress, and the Treasury Department to retain and continue the essential components of the dual banking system and ensure that any reforms to the federal deposit insurance system apply equally to all depositors in financial institutions of any size; and recognize that it is imperative that any changes in federal banking laws not impair the ability of the State of California to tax banks in this state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the president and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of the Treasury."

POM-433. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation to improve air safety at major United States airports; to the Committee on Commerce, Science and Transportation.

"SENATE JOINT RESOLUTION NO. 9

"Whereas, a recent ground collision between a USAir jetliner and a commuter plane, which has so far left 34 people dead, has been attributed to air controller error and malfunctioning radar; and

"Whereas, those conditions might have been prevented had the Aviation Trust Fund spent some of the $10 billion it has set aside for modernization of the nation's air traffic control system; and

"Whereas, air traffic controllers, trained and hired by the Federal Aviation Administration (FAA), are short an estimated 3,000 controllers nationwide, according to the National Air Traffic Controllers Association, and some of these, according to Los Angeles Times research, appear to receive inadequate training at smaller airports before being stationed at major airports such as Los Angeles International Airport (LAX); Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to improve air safety at major United States airports, including provisions for a review of the number of air traffic controllers hired and trained since the 1981 strike, a determination of the additional number of controllers needed and the percentage of current controllers rated at full-performance level, and an investigation of the need for measures to facilitate emergency operations in the event of massive casualties in airport crashes; and be it further

"*Resolved,* That the Legislature of the State of California supports the implementation by the Federal Aviation Administration of internationally recognized standards of safety relative to uniform runway and taxiway operational parameters; and be it further

"*Resolved,* That the Legislature of the State of California requests an investigation by the Federal Aviation Administration into the interior safety of airplanes in regard to the flammability of, and the potential to produce toxic smoke, in materials used; and be it further

"*Resolved,* That the Legislature of the State of California requests the federal government to assist in the expeditious building, staffing, and operation of a new replacement air traffic control tower at Los Angeles International Airport (LAX); and be it further

"*Resolved,* That the Legislature of the State of California supports the expeditious release and appropriation by the Congress of moneys in the Airport and Airways Trust Fund; and be it further

"*Resolved,* That the Legislature of the State of California supports the expeditious implementation of the National Airspace System Plan and the procurement of Improved Airport Surface Detection Equipment (ASDE-3 radar) by the Federal Aviation Administration at all California commercial airports; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-434. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation requiring the Department of Transportation to adopt an emergency regulation to immediately reclassify metam sodium as a hazardous substance, and for other purposes; to the Committee on Commerce, Science and Transportation.

"SENATE JOINT RESOLUTION NO. 28

"Whereas, on July 14, 1991, a major derailment in Shasta County, California between Dunsmuir and Mount Shasta involving a Southern Pacific Transportation Company freight train caused a single-wall tank car to spill its contents of the chemical metam sodium into the Sacramento River, fouling the river, killing fish and wildlife, and sickening some nearby residents; and

"Whereas, between 1976 and 1990, 43 derailments or other accidents have occurred on this 20-mile section of track, and the metam sodium spill is the 20th rail accident in the past 15 years on the same three miles of track; and

"Whereas, single-wall rail tank cars experience punctures, and resultant dangerous leaks, in accidents twice as often as double-wall rail tank cars; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly* That the California Legislature respectfully memorializes the President and Congress of the United States to do all of the following:

"(1) Require the United States Department of Transportation to adopt an emergency regulation to immediately reclassify metam sodium as a hazardous substance so that it may be transported only in double-wall rail tank cars appropriately placarded and then adopt a regulation through the regular process with the same effect;

"(2) Require the United States Department of Transportation to investigate and review other chemical compounds not presently considered to be hazardous or toxic for possible reclassification as hazardous substances; and

"(3) Require the Federal Railroad Administration to increase the enforcement of rail speed limitations and the National Transportation Safety Board to investigate conditions on the 20-mile section of track between Dunsmuir and Mount Shasta; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Department of Transportation, to the Federal Railroad Administration, and to the National Transportation Safety Board."

POM–435. A resolution adopted by the General Assembly of the State of New Jersey favoring federal action to ensure that the incident involving the loss of arsenic drums from the 'Santa Clara I' is not repeated; to the Committee on Commerce, Science and Transportation.

"ASSEMBLY RESOLUTION NO. 56

"Whereas, on the evening of January 3, 1992, the 492-foot Panamanian-registered cargo vessel 'Santa Clara I' departed the port of Newark-Elizabeth, enroute to Baltimore, Maryland by way of the Ambrose Light, Cape Henolopen and the Chesapeake and Delaware Canal, carrying, among other items, intermodal containers of arsenic trioxide containing individual drums weighing approximately 374 pounds, which were lashed to her decks; and

"Whereas, during the passage the vessel encountered heavy weather resulting from the January 3rd and 4th storm that affected coastal Delaware, Maryland, and New Jersey, as the result of which a number of these containers were lost overboard, including four intermodal containers each loaded with 108 drums of arsenic trioxide, and nine drums from damaged containers that did not fall overboard, resulting in a total loss of approximately 441 drums of the total substance; and

"Whereas, the arsenic trioxide which was lost from the 'Santa Clara I' is a hazardous substance, which if discharged or released, can cause injury to humans through direct physical contact, inhalation or ingestion, and may also have an adverse effect upon marine animals and plants, which potential adverse effects have resulted in the closure of the waters in question to fishing by the United States Food and Drug Administration; and

"Whereas, the drums of arsenic trioxide were lost in an area of the Atlantic Ocean which is regularly used by commercial, sport, and recreational fishermen from New Jersey and Delaware, and that the presence of the arsenic trioxide in these waters could become a threat to the waters of southern New Jersey and the Delaware Bay, which support right, humpback and fin whales, bottlenose dolphins, loggerhead and ridley turtles, surf clams, ocean quahog, mackerel, summer flounder, striped bass, bluefish, scup, tuna and other species targeted by fishing vessels; and

"Whereas, it is altogether fitting and proper for the Legislature to express its concern over the presence of the arsenic trioxide drums in waters appertaining to those of this State, and to make known its sentiment that the appropriate committees of the Congress of the United States should undertake a thorough review, and, if necessary, revision of those laws and administrative regulations, respectively, which pertain to the transport of hazardous materials at sea, particularly relating to the question of allowing the transport of hazardous substances above, rather than below deck, and the procedures for inspections of vessels carrying this type of cargo, so that incidents of this nature can be prevented or minimized in the future; now, therefore,

Be it resolved by the General Assembly of the State of New Jersey:

"1. The Members of the Congress of the United States, particularly those members elected from this State, are respectfully memorialized to use their good offices to ensure that the federal government takes action to ensure that the incident involving the loss of arsenic drums from the 'Santa Clara I' is not repeated, and that the appropriate committees of the Congress review existing statutory laws and administrative regulations pertaining to the transport of hazardous material at sea, and to revise those laws or regulations in order to prevent such incidents from occurring in the future.

"2. A duly authenticated copy of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Chairman of the Senate Committee on Commerce, Science, and Transportation, the Chairman of the House Committee on Merchant Marine and Fisheries, and every member of Congress elected from this State.

STATEMENT

"This resolution memorializes the Congress of the United States to take certain actions regarding the loss of approximately 441 drums of arsenic trioxide from the freighter 'Santa Clara I,' in the waters approximately 30 miles east of Cape May.

"Specifically, the resolution memorializes the appropriate committees of Congress to review, and if necessary, revise by corrective legislation, those laws or administrative regulations governing the safe transport of hazardous materials at sea. At the time of the discharge incident, the intermodal containers which held the individual drums of arsenic trioxide were lashed above deck, rather than stored below.

"Memorializes U.S. Congress to take certain actions regarding lost arsenic drums in ocean waters off Cape May."

POM–436. A concurrent resolution adopted by the Legislature of the State of California favoring that a portion of Interstate 210 be officially designated the 'Foothill Freeway'; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 29

"*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the portion of Interstate 210 from its junction with Interstate Route 5 in Los Angeles, together with those portions of State Highway Route 30 which are constructed to freeway standards, to its junction with Interstate Route 10 in Redlands, be officially designated the 'Foothill Freeway'; and be it further

"*Resolved*, That the Department of Transportation is requested to determine the cost of erecting appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the official designation and, upon receiving contributions from nonstate sources to cover that cost, to erect those plaques and markers; and be it further

"*Resolved*, "That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation, to the city clerks of the cities of Los Angeles, San Fernando, Glendale, La Canada-Flintridge, Pasadena, Arcadia, Monrovia, Duarte, Irwindale, Azuza, Glendora, San Dimas, Highland, Redlands, La Verne, Claremont, Upland, Rancho Cucamonga, Fontana, Rialto, and San Bernardino, and to the county clerks of the Counties of Los Angeles and San Bernardino."

POM–437. A joint resolution adopted by the Legislature of the State of California favoring the prohibition against the use of federal funds for toll roads, except for demonstration projects currently authorized by Congress, toll bridges, and toll roads financed with interest bearing loans; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 15

"Whereas, the President of the United States has proposed a surface transportation reauthorization bill, which calls for tolls on interstate highways and federal subsidies for private toll roads; and

"Whereas, the California Department of Transportation has suggested that toll roads built under the President's proposal be modeled after the four toll road projects authorized in California by Section 143 of the Streets and Highways Code; and

"Whereas, the department has also suggested that Congress authorize the use of federal funds for the four demonstration projects authorized by Section 143; and

"Whereas, the language of Section 143 and the legislative history of the bill that added that section clearly indicate that only private funds were to be used to build the demonstration projects; and

"Whereas, the private developers selected for those projects have been given contracts containing the following provisions;

"(1) Large "franchise zones" within which competing projects, including improvements to many public roads, are prohibited.

"(2) The right of the developer to lease miles of airspace along toll roads for a nominal fee, on which the developers can build gas stations, restaurants, shopping centers, and other buildings.

"(3) No limit on the amount of tolls that the developer can charge.

"(4) Developers are allowed profits in excess of 20 percent from the tolls.

"(5) No limit on the profit developers can realize from airspace revenues.

"(6) Developers, through the Department of Transportation, may condemn land for the projects; and

"Whereas, the Legislature of the State of California finds that it is inappropriate to provide federal subsidies to private toll road investors; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to retain the prohibition against the use of federal funds for toll roads, except for demonstration projects currently authorized by Congress, toll bridges, and toll roads financed with interest bearing loans, and not to enact any surface transportation reauthorization act that includes the imposition of tolls on interstate highways; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-438. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring the authorization and directing of the United States Army Corps of Engineers to renegotiate the terms of their contract with the State of Louisiana on the Caernarvon Fresh Water Diversion project to allow the Plaquemines Parish local government to determine the operation procedures for the structure to achieve the greatest potential from the project; to the Committee on Environment and Public Works.

"Whereas, the Caernarvon Fresh Water Diversion project was in the planning stage almost twenty years ago; and

"Whereas, the United States Army Corps of Engineers designed the project based on a model to represent the effect of actual operations; and

"Whereas, when the diversion structure was finally completed the corps discovered that their operations model was defective; and

"Whereas, Plaquemines Parish has a great deal of physical experience with the operation of other fresh water diversion structures which the parish operates in the area; and

"Whereas, the legislature believes that the local governing authority is better suited to make the daily operating decisions to achieve the greatest potential from the structure; and

"Whereas, if the day to day operations of the structure is turned over to the local governing authority, the oversight, monitoring, and annual decisions regarding operations would still be reviewed by the interagency advisory council; and

"Whereas, the terms of contract between the Department of the Army and the State of Louisiana, dated November 18, 1985, December 1986, and June 10, 1987, pertaining to the United States Army Corps of Engineers furnishing the operations guidelines for the project should be renegotiated to allow the operations to be determined by Plaquemines Parish with oversight by the corps and the Department of Natural Resources of Louisiana.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to renegotiate the terms of their contract with the State of Louisiana on the Caernarvon Fresh Water Diversion project to allow the Plaquemines Parish local government to determine the operation procedures for the structure to achieve the greatest potential from the project.

"Be it further resolved that all other terms of the contract shall remain the same with oversight of the operations by the Louisiana Department of Natural Resources and the United States Army Corps of Engineers through the interagency advisory council.

"Be it further resolved that a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives, to each member of the Louisiana congressional delegation, the District Engineer, United States Army Corps of Engineers, Attention: CELMN-RE, P.O. Box 60267, New Orleans, Louisiana, 70160-0267, to the Secretary, Department of Natural Resources, P.O. Box 94396, Baton Rouge, Louisiana, 70804, and to the Parish President, Plaquemines Parish Government, Parish Administration Building, Port Sulphur, Louisiana, 70083."

POM-439. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring the authorization and directing of the United States Army Corps of Engineers to evaluate the federal interest in continuing to operate and maintain the Mississippi River Gulf Outlet, and that such an evaluation shall include consideration of the social, economic, and environmental benefits and costs associated with continued Operation and maintenance of the Mississippi River Gulf Outlet; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 207

"Whereas, Louisiana is losing its valuable coastal wetlands at an alarming rate; and

"Whereas, Louisiana has initiated an aggressive Program to reduce the rate of wetlands loss; and

"Whereas, the Mississippi River Gulf Outlet was 500 feet wide when it first opened for operation in 1968, but now exceeds 1,500 feet in width in some areas due to severe bankline erosion; and

"Whereas, the Mississippi River Gulf Outlet has caused enormous wetland losses since its construction, including the loss of over 5,000 acres of wetlands since 1968; and

"Whereas, during the next fifty years the wetland losses caused by the Mississippi River Gulf Outlet are expected to be approximately 5,000 acres; and

"Whereas, only a small portion of the cargo handled by the Port of New Orleans is shipped via the Mississippi River Gulf Outlet; and

"Whereas, approximately four deep-draft vessels utilize the Mississippi River Gulf Outlet per day; and

"Whereas, annual dredging of the Mississippi River Gulf Outlet costs the state and federal governments millions of dollars each year: Therefore, be it

"*Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to evaluate the federal interest in continuing to operate and maintain the Mississippi River Gulf Outlet, and that such an evaluation shall include consideration of the social, economic, and environmental benefits and costs associated with continued operation and maintenance of the Mississippi River Gulf Outlet, including but not limited to consideration of the costs to the Nation and to Louisiana of the continued wetland losses resulting from bankline erosion and saltwater intrusion associated with the Mississippi River Gulf Outlet: Be it Further

"*Resolved*, That in the event that such evaluation demonstrates that no clear and overriding federal interest exists for continuing to operate and maintain the Mississippi River Gulf Outlet, the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to develop and implement a plan to discontinue all operation and maintenance of the Mississippi River Gulf Outlet to deep-draft vessel traffic: Be it further

"*Resolved*, That in the event that such evaluation demonstrates a clear and overriding federal interest exists for continuing to operate and maintain the Mississippi River Gulf Outlet, the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to develop and implement a plan to mitigate the adverse social, economic, and environmental impacts of the continued operation of the Mississippi River Gulf Outlet, as well as any adjacency lands, including but not limited to consideration of the construction of continuous sheet-pile bankline stabilization on both banks of the Mississippi River Gulf Outlet, and the construction of saltwater entrustion prevention structures in the vicinity of Bayou La Loutre and in other appropriate locations: Be it further

"*Resolved*, That a copy of this Resolution be transmitted to the United States Congress, and to the members of the Louisiana congressional delegation, the House Committee on Public Works and Transportation, and the Senate Committee on Environment and Public Works."

POM-440. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation or regulations approving medicaid eligibility or otherwise eligible inmates in a county-operated detention or correctional facility; to the Committee on Finance.

"SENATE JOINT RESOLUTION NO. 22

"Whereas, California is experiencing steady growth in its incarcerated population; and

"Whereas, pregnant women, women with children, and minors comprise a significant portion of the incarcerated population; and

"Whereas, inmate health care costs are skyrocketing due to increased incidences of AIDS, substance abuse, and mental illness; and

"Whereas, in 1985, the federal government had a policy of providing medicaid for the first and last month of an inmate's incarceration; and

"Whereas, in 1985, the federal government reversed its policy and discontinued federal medicaid financial participation; and

"Whereas, currently, otherwise eligible persons are denied medicaid eligibility upon entering a county detention or correctional facility; and

"Whereas, counties must now fund inmate health care through county general fund moneys; and

"Whereas, these county general fund moneys could be used more effectively to provide other services, such as health care to the indigent; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation, or adopt regulations, approving medicaid eligibility for otherwise eligible inmates in a county-operated detention or correctional facility, or a county-operated juvenile facility; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Health and Human Services."

POM-441. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation or regulations permitting the certification of mobile prenatal health care van programs for reimbursement under the medicaid program; to the Committee on Finance.

"SENATE JOINT RESOLUTION NO. 4

"Whereas, California has been experiencing a brutal crisis in the access of indigent people to health care; and

"Whereas, preventive prenatal health care programs have been proven to be overwhelmingly cost-effective; and

"Whereas, low-income women often begin prenatal care late in their pregnancies or have too few visits, because of a lack of money, transportation, or child care, or because clinics are often not open at convenient times; and

"Whereas, at least one other state has addressed this problem by successfully implementing a prenatal health care program using mobile outreach units; and

"Whereas, at least one California hospital has proposed a similar program, which would utilize a mobile health van to provide prenatal care to the target population in an effective and efficient manner; and

"Whereas, since patients reached by such a program are usually Medi-Cal eligible, it is necessary that the program be approved for federal medicaid reimbursement by the Health Care Financing Administration; and

"Whereas, although the administration allows satellite clinics to be certified for medicaid reimbursement and although at least one mobile health care program has been approved for reimbursement, the federal government lacks clear statutory authority to certify those programs for medicaid reimbursement; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectively memorializes the President and Congress of the United States to enact legislation or require the Health Care Financing Administration to adopt regulations permitting the certification of mobile prenatal health care van programs for reimbursement under the medicaid program; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Director of the Health Care Financing Administration, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-442. A concurrent resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation authorizing states and local governments to collect sales taxes on interstate sales transactions; to the Committee on Finance.

"SENATE CONCURRENT RESOLUTION NO. 71

"Whereas, approximately $600 million in local sales taxes and $2.4 billion in state sales taxes go uncollected each year as a result of the United States Supreme Court's decision in *Bellas Hess vs. Illinois Department of Revenue*; and

"Whereas, the recent United States Supreme Court's decision in *North Dakota vs. Quill Corporation* held that the Congress of the United States has the authority to authorize state and local governments to collect sales taxes from interstate sales transactions; and

"Whereas, if federal legislation authorizes state and local governments to collect sales taxes from interstate sales transactions is enacted, the estimated tax revenues for the state of Louisiana are $30.7 million for the state and $24.9 million for local governments within the state; and

"Whereas, passage of such legislation is of vital concern to local governments in Louisiana due to the loss of federal revenue sharing and budget cuts at the state level; and

"Whereas, Louisiana retailers are at a distinct competitive disadvantage regarding the out-of-state retailers' exemption from the payment of state and local taxes. Therefore, be it

"*Resolved*, That the Legislature of Louisiana hereby memorializes the Congress of the United States to enact legislation authorizing states and local governments to collect sales taxes on interstate sales transactions. Be it further

"*Resolved*, That a copy of this Resolution be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-443. A joint resolution adopted by the Legislature of the State of California favoring the right of the State of Alaska in participating in any boundary negotiations involving its boundaries with the Soviet Union; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 20

"Whereas, every state has a compelling constitutional interest in determining its own boundaries with other states and foreign countries; and

"Whereas, the State of Alaska's boundary with the Soviet Union has been the subject of negotiations between the United States government and the Soviet government since 1981; and

"Whereas, the State of Alaska has never been permitted to participate in the negotiations carried on by the Department of State; and

"Whereas, the Alaska Legislature has vigorously protested this exclusion in the form of Senate Joint Resolution 12, which was passed unanimously by both houses and signed by Governor Steve Cowper in May 1988; and

"Whereas, the Department of State ignored these protests, and its negotiations have resulted in a proposed treaty titled 'Agreement with the Union of Soviet Socialist Republics on the Maritime Boundary,' which is now before the United States Senate for ratification; and

"Whereas, the California Legislature previously expressed its support for the State of Alaska for its right to participate in any negotiations affecting its boundaries in the form of Resolution Chapter 122 of the Statutes of 1987; and

"Whereas, it is settled procedure with respect to negotiations of state boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the terms of the proposed boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain over the boundary between Canada and the State of Maine in 1842); now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the California Legislature renews its support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union; and be it further

"*Resolved*, That the California Legislature (1) respectfully memorializes the President of the United States to withdraw the proposed treaty from consideration by the United States Senate and (2) requests the California United States Senators to decline to consider the proposed treaty, until such time as the State of Alaska has been able to participate fully in negotiations and has been guaranteed that its consent will be required for any agreement affecting its boundaries; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of Alaska, to the President of the Alaska Senate, and to the Speaker of the Alaska House of Representatives."

POM-444. A joint resolution adopted by the Legislature of the State of California favoring investigations into the conditions affecting the Assyrian/Chaldean people and to report their findings; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 35

"Whereas, the Assyrian/Chaldean people have a long and distinguished history, going back more than two millennia; and

"Whereas, the Assyrian/Chaldean people originated in the area of the Middle East generally considered the cradle of civilization, between the Tigris and Euphrates Rivers; and

"Whereas, many Assyrian/Chaldean are now living as ethnic minorities scattered throughout the Middle East and in refugee camps in northern Iraq and surrounding countries; and

"Whereas, there are as many as 70,000 Californians of Assyrian/Chaldean extraction, with approximately half of this number living in the San Francisco Bay area, 15,000 in the central valley, and a significant number in San Diego and Los Angeles; and

"Whereas, there has been until recently no central organization that has as its sole purpose the provision of relief, assistance, and aid to the Assyrian/Chaldean people; and

"Whereas, the Assyrian/Chaldean Life Line has been formed by patriotic Americans of Assyrian/Chaldean descent to provide urgently needed relief, assistance, and aid to the Assyrian/Chaldean people; and

"Whereas, the Assyrian/Chaldean Life Line is a totally volunteer organization that accepts only private nongovernmental support; and

"Whereas, the efforts of the Assyrian/Chaldean Life Line are in the finest tradition of human endeavor; and

"Whereas, the California Legislature applauds and commends the efforts of the Assyrian/Chaldean Life Line in providing relief, assistance, and aid to the Assyrian/Chaldean people: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to use their best efforts through the United Nations and other international agencies to look into the conditions affecting the Assyrian/Chaldean people and to report their findings so that the appropriate relief and aid might be organized to assist this ancient people whose history, arts, and sciences have literally filled the museums of the world: and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United

States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-445. A joint resolution adopted by the Legislature of the State of California urging the Department of State to seek the cooperation of Syria and Iran in compelling the organizations holding the seven Israeli POW's referred to in this resolution to grant immediate access to the POW's to the International Red Cross and to provide the POW's with all conditions required by the Geneva Convention; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 19

"Whereas, seven soldiers of the Israel Defense Forces have been missing in action for several years in Lebanon: Yehuda Katz, Zechariah Baumel, and Tevi Feldman have been missing since 1982; Samir Assad has been missing since 1983; and Ron Arad, Yosef Pink, and Rachamim Levi-Alsheech have been missing since 1986; and

"Whereas, all evidence points to their being held in territory controlled by the Syrians by organizations linked with Syria and Iran; and

"Whereas, these Israeli POW's are being held incommunicado, and are deprived of all basic rights, such as contacts with their families and meetings with the International Red Cross—and this treatment constitutes a blatant violation of the Geneva Convention and a cruel disregard for the ordeal of their families and loved ones; and

"Whereas, Syria, Iran, and the organizations holding the Israeli POW's have refused to acknowledge responsibility for the fate of the POW's and have further refused to divulge any information as to the location or welfare of these individuals; and

"Whereas, POW's are now being exchanged following the Persian Gulf War, and it is important that the Israeli POW's not be forgotten; and

"Whereas, discussions have resumed regarding the exchange of prisoners and western hostages; and

"Whereas, recent developments indicate that the region is moving toward peace talks on the Israeli-Arab conflict: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California hereby urges the United States Department of State to seek the cooperation of Syria and Iran in compelling the organizations holding the seven Israeli POW's referred to in this resolution to do both of the following as a first step towards a prisoner exchange in the very near future:

"(1) To grant immediate access to the seven Israeli POW's to the International Red Cross.

"(2) To provide the seven Israeli POW's with all conditions required by the Geneva Convention; and be it further

"*Resolved*, That the Legislature also urges the Department of State to work with other western nations, and with middle eastern nations desirous of stability in the region, to support all efforts to secure the rights of the seven Israeli POW's referred to in this resolution—efforts which should include a full disclosure of all information relating to their welfare and to the conditions of their imprisonment and the ultimate release of the Israeli POW's as part of a general prisoner exchange; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President, the Vice President, and the Secretary of State of the United States, to the Speaker of the House of Representatives of the United States, and to each Senator and Representative from California in the Congress of the United States."

POM-446. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring adequate fire protection in the form of fire sprinkler systems be a part of all high-rise buildings owned or used by the United States government; to the Committee on Governmental Affairs.

"HOUSE CONCURRENT RESOLUTION NO. 22

"Whereas, Congress and the President of the United States have taken a leadership role in supporting fire protection in high-rise hotels and motels through the passage of H.R. 94, the Hotel and Motel Fire Safety Act of 1990; and

"Whereas, fighting fires in high-rise buildings is extremely dangerous and extinguishing them is often impossible with conventional fire-fighting apparatus and personnel; and

"Whereas, in addition to the hundreds of millions of dollars in property lost, these recent incidents vividly demonstrate the tragic results of high-rise fires:

"Philadelphia—Office Building—three firefighters died; and

"Los Angeles—Interstate Bank Building—one occupant died, 35 occupants and 14 firefighters injured; and

"Atlanta—Peachtree 25th Building—six occupants died; and

"San Juan—Dupont Plaza—96 occupants died; and

"Las Vegas—MGM Grand—85 occupants died; and

"Whereas, the technology exists to safely, efficiently and effectively control and extinguish fires with fire sprinkler systems in place; and

"Whereas, in addition to the direct loss of property and lives, the cost to communities in terms of lost jobs, business interruption, and tax revenue loss can be significant: Therefore, be it

"*Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States and in particular the members of the Louisiana congressional delegation to ensure that adequate fire protection in the form of fire sprinkler systems be a part of all high-rise buildings owned or used by the United States Government: Be it further

"*Resolved*, That certified copies of this Resolution shall be forwarded to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-447. A joint resolution adopted by the Legislature of the State of California favoring equal treatment of all Americans, regardless of race, ethnicity, or religion and opposing any form of physical or emotional harassment of Arab American and other groups; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION NO. 13

"Whereas, the United States, in conjunction with Arab and European allies, unleashed a massive bombing attack on Iraqi armed forces in Iraq and occupied Kuwait on January 16, 1991; and

"Whereas, thousands of Americans of Arab descent live in the United States as American citizens; and

"Whereas, many Iraqi Americans now residing in the United States fled the brutality and persecution instigated by the Hussein regime; and

"Whereas, many Americans of Arab descent have fought in the United States armed forces against Iraq; and

"Whereas, hate crimes and other forms of physical harassment of Arab Americans have increased at an alarming rate since the beginning of the Iraq-Kuwait Crisis; and

"Whereas, in response to increased concerns about terrorism in the United States, the Federal Bureau of Investigation has reportedly conducted "interviews" and investigations in the Arab-American community based on the ethnicity or national origin of Arab Americans and without reasonable cause; and

"Whereas, the activities of the Federal Bureau of Investigation have unfairly aroused suspicion of Arab Americans and encouraged hate crimes against Arab Americans; and

"Whereas, the Congress of the United States is considering passage of House Concurrent Resolution 56, which expresses the sense of Congress that federal agencies should not engage in discrimination that threatens the civil liberties of Arab Americans and should assist in protecting Arab Americans from hate crimes and related discrimination.

"*Resolved by the Senate and the Assembly of the State of California, jointly*, That the Legislature of the State of California supports equal treatment of all Americans, regardless of race, ethnicity, or religion; and be it further

"*Resolved*, That this Legislature condemns any form of physical or emotional harassment of Arab Americans and other groups; and be it further

"*Resolved*, That federal agencies should assist in protecting Arab Americans from hate crimes and related discrimination; and be it further

"*Resolved*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to pass House Concurrent Resolution 56; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-448. A resolution adopted by the General Assembly of the State of New Jersey favoring the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating; to the Committee on the Judiciary.

"ASSEMBLY RESOLUTION NO. 70

"Whereas, the recent jury verdict to acquit four Los Angeles police officers in the beating of Rodney G. King has generated intense public outcry and frustration, which tragically manifested itself in civil unrest in Los Angeles, California and in other parts of the country; and

"Whereas, in a recent Newsweek poll conducted by the Gallup Organization, a large majority of Americans disagree with the acquittal of the police officers; and

"Whereas, this questionable verdict may seriously undermine the sense of faith and respect many Americans have in the system of justice in the United States; and

"Whereas, the United States Attorney General and the federal grand jury should pursue vigorously their responsibility to determine whether civil rights laws were violated in the beating of Rodney G. King; and

"Whereas, such steps will hopefully reinforce for the nation and for the people of Los Angeles our society's commitment to civil rights and its intolerance for any type of violence which violates those civil rights; and

"Whereas, such efforts would strengthen the faith Americans have in the system of justice in the United States, which has been undermined by the proceedings of this case; and

"Whereas, New Jersey should feel pride that while its citizens were equally outraged by the decision in the Rodney G. King case, the public's reaction, while freely expressed, has been measured and focused; and

"Whereas, in many respects, this peaceful protest can be traced to the sense of communication and cooperation that exists between New Jersey's civic, religious, and community leaders and the people of our great State: Now therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. This House respectfully memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and calls upon the United States Attorney General to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating.

"2. This House urges the citizens and residents of this State and Nation to show restraint in these difficult times and urges all Americans to recommit themselves to eliminating poverty, racism, ignorance, injustice, and all other barriers between people.

"3. Duly authenticated copies of this resolution shall be transmitted to the President of the United States, the presiding officers of the United States Senate and House of Representatives, to every Member of Congress elected from the State of New Jersey, and to the United States Attorney General.

"STATEMENT

"This resolution memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and calls upon the United States Attorney General to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating. Such an action will reinforce for the Nation and for the people of Los Angeles our society's commitment to civil rights and its intolerance for any type of violence which violates those civil rights. It will also strengthen the faith Americans have for the system of justice in the United States, which has been undermined by the proceedings of this case. The resolution also singles out the cooperation and communication that exists between New Jersey's civic, religious, and community leaders and the citizens of the State as a major factor in the measured, focused and freely expressed protests in New Jersey.

"Memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles."

"SENATE JOINT RESOLUTION NO. 25

"Whereas, it is the intent of the Legislature to support and enhance the opportunity and ability of all persons with disabilities who reside within California to lead productive, independent, personally empowered, and contributing lives; and

"Whereas, the Department of Rehabilitation provides a specialized constellation of case management, counseling, and the purchase of goods and services and provides a variety of assistance to persons with disabilities who have independent living, employment, and employability needs; and

"Whereas, this vocational rehabilitation system was originated and defined in 1920 by federal law whose current form and funding is embodied in the federal Rehabilitation Act of 1973, the intent of which is to promote more independent and productive lives for persons with disabilities; and

"Whereas, efforts to review and reform this original purpose have only led to minor changes in the service approach, philosophy, and funding patterns, despite evidence which indicates not only that persons with severe disabilities continue to experience 74 to 86 percent unemployment, major underemployment due to segregation and low expectations, and increasing waiting lists for services, but also that disabled youth and older persons are extremely underserved; and

"Whereas, with passage of the Americans with Disabilities Act of 1990, which sets forth a sweeping new and systematic declaration of human and civil rights for people with disabilities based on contemporary congressional findings and the assertion of cultural and societal values, dramatic increases in full participation and economic integration of all persons with disabilities will occur in America; and

"Whereas, No substantial effort has been exerted to look at the many areas of potential system improvements and economies that coexist between the public rehabilitation system, unemployment insurance, and workers' compensation in California that would lead to major benefits to the California economy; and

"Whereas, A revolution in technology, science, and support services exists that offers to expand the benefits to consumers of services and the public and private employer sector in California; and

"Whereas, Research from the last decade and the summing up of the best clinical and program practices has not been applied to the service delivery system in order to improve quality and economies to the consumer and tax paying public; and

"Whereas, The federal Rehabilitation Act of 1973, will be reauthorized by Congress by September 1991; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California urges the California Congressional Delegation to support a two-year reauthorization process of the federal Rehabilitation Act of 1973 that will provide widespread local hearings to ensure maximum public input to focus on establishing a paradigm shift in the rehabilitation system service design in keeping with the spirit and letter of the Americans with Disabilities Act; and be it further

"*Resolved*, That the Legislature commission a study to be completed not later than September 1, 1993, and to be coordinated by the Senate Office of Research in consultation with the Department of Rehabilitation, which parallels the congressional reauthorization timetable that will provide the Legislature with recommendations on the administrative, programmatic, and fiscal reorganization of the Department of Rehabilitation that will do all of the following:

"(a) Research and analyze cost-benefit data that currently exists.

"(b) Define performance standards and outcome measures for services to persons with disabilities.

"(c) Compare state-of-the-art service models and approaches to maximize the benefits and utilization of these best practices in serving people with disabilities.

"(d) Recommend appropriate levels of funding needed to meet the needs of disabled persons in service modes that are congruent with the modern mission of the department.

"(e) Install patterns of spending and utilization of federal funds that promote maximum success in achieving personal empowerment and productive independent living, including voucher systems and the creative mixing and matching of public and private funds.

"(f) Install service models that maximize economies consistent with the values, goals, and objectives of career-oriented support services and assessment approaches; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-450. A joint resolution adopted by the Legislature of the State of California opposing the United States Supreme Court ruling in the case of Rust v. Sullivan upholding the regulations prohibiting health care professionals from counseling their patients on, or providing referrals for, abortion, and for other purposes; to the Committee on Labor and Human Resources.

"SENATE JOINT RESOLUTION NO. 27

"Whereas, family planning clinics provide important access to health services for California's economically disadvantaged women; and

"Whereas, Federal Title X funds provide $12.2 million to California, financial assistance critical to over 200 family planning facilities statewide; and

"Whereas, the majority of women served by family planning clinics receiving Title X funding have no other alternatives for health care; and

"Whereas, California's family planning clinics are already experiencing significant financial stress as the result of below average reimbursement rates for services provided; and

"Whereas, California's law on "informed consent" requires physicians to advise their patients of all risks, benefits, and alternatives on any medical procedure, and any limits on informed consent would represent a violation of California law; and

"Whereas, California's physicians have a professional obligation to inform their patients of all their treatment alternatives, and any limits on this obligation would jeopardize the patient-physician relationship; and

"Whereas, the United States Supreme Court ruling of May 23, 1991, in the case of Rust v. Sullivan, upholds regulations adopted by the Secretary of Health and Human Services which prohibit family planning programs that receive Title X funds from providing abortion counseling or referral services to women; and

"Whereas, the people of California believe that the regulations adopted by the Secretary of Health and Human Services violate the fundamental rights to privacy and free speech, despite the United States Supreme Court's holding; and

"Whereas, family planning providers might be forced out of moral obligation, the exercise of their right to free speech, and their adherence to California's law on informed consent, to turn down federal Title X funding, thereby reducing the number of women served or closing family planning facilities; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California expresses its deep concern over the United States Supreme Court ruling in the case of Rust v. Sullivan upholding the regulations prohibiting health care professionals from counseling their patients on, or providing referrals for, abortion, and strongly supports federal legislation clarifying original congressional intent that Title X funding be used to provide unbiased and accurate information on reproductive health care for economically disadvantaged women; and be it further

"*Resolved*, That the Legislature of the State of California strongly urges that the United States Congress enact clarifying legislation and the President of the United States sign the legislation into law; and be it further

"*Resolved*, That the Legislature of the State of California registers its alarm that the United States Supreme Court ruling undermines a woman's fundamental right to privacy, including her right to choose an abortion; and be it further

"*Resolved*, That the Legislature of the State of California reaffirms its support for protection of these rights for all women, including economically disadvantaged women; and be it further

"*Resolved*, That the Legislature of the State of California expresses its serious concern that the United States Supreme Court ruling limits the First Amendment rights of free speech of health care professionals; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the President pro tempore of the United States Senate, to each Senator and Representative from California in the Congress of the United States, to the Chief Clerk of the United States House of Representatives, to the Secretary of the United States Senate, and to the presiding officer of each house of the legislature of each of the other states in the Union".

POM-451. A concurrent resolution adopted by the Legislature of the State of Michigan favoring the enactment of federal legislation establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION NO. 541

"Whereas, over 2.5 million reports of child abuse and neglect are made each year in the United States. Law enforcement officials suspect an indeterminate number of other incidents go unreported; and

"Whereas, it has been established that one in every three girls and one of every six boys will have been sexually abused before the age of eighteen. Moreover, over half of sexually abused children are victimized before they reach the age of seven; and

"Whereas, from 1989 to 1990, arrests for offenses against children grew faster than any other crime nationally. In addition, most child molesters are repeat offenders. According to the National Institute of Mental Health, the typical attacker of young boys molests an average of 281 youngsters; and

"Whereas, the time for establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks on individuals applying for jobs dealing with children has come. States that have established their own individual reporting systems have discovered over 6,000 individuals who had been convicted of serious criminal child abuse offenses; now, therefore, be it

"*Resolved by the House of Representatives (the Senate concurring)*, That we hereby memorialize the United States Congress to enact legislation establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the Michigan congressional delegation."

POM-452. A concurrent resolution adopted by the Legislature of the Commonwealth of Pennsylvania favoring the restoration of funds for State grants; to the Committee on Labor and Human Resources.

"S. CON. RES. NO. 142

"Whereas, section 2 of the Federal Mine Safety and Health Act of 1977 states "the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner"; and

"Whereas, section 2 of the act states one of the purposes of the act is "to cooperate with, and provide assistance to, the States in the development and enforcement of effective State coal or other mine health and safety programs"; and

"Whereas, there has been a reduction in accidents, suffering and loss of life since the passage of the act; and

"Whereas, Pennsylvania has had no mining fatalities in 1991; and

"Whereas, the President's 1992–1993 fiscal year budget for the Mine Safety and Health Administration was submitted to Congress without a request for State grants under the act; and

"Whereas, the requirements under the act remain; and

"Whereas, lack of funding will weaken the purposes of the act; and

"Whereas, the progress made over the past 15 years will come to a halt, the accident rate will climb, miners will die from accidents or suffer long-term illness from the effects of black lung, silicosis and other diseases; Therefore be it

"*Resolved (the House concurring)*, That the General Assembly of the Commonwealth of Pennsylvania memorialize Congress to restore funds for State grants under the Federal Mine Safety and Health Act of 1977; and be it further

"*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-453. A resolution adopted by the General Assembly of the State of New Jersey favoring certain private interests be permitted to construct, at no cost to the taxpayer, a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building; to the Committee on Rules and Administration.

"ASSEMBLY RESOLUTION NO. 66

"Whereas, the great American patriot Thomas Paine emigrated from his native England at the urging of Benjamin Franklin and lived in Pennsylvania and New York; and

"Whereas, Thomas Paine authored the American Crisis Pamphlets and the work called Common Sense, which was published in 1776 and called for American independence and limits on a government's authority, received wide public distribution at the time and helped to galvanize colonial discontent into action against Great Britain; and

"Whereas, the ideas expressed by Paine in these and other works were incorporated in the Declaration of Independence, and subsequently, the United States Constitution; and

"Whereas, Paine made the first published call for a written constitution to protect the rights of property owners and for the free exercise of religious beliefs; and

"Whereas, Paine donated his services and finances to the cause of American Independence and put his life in jeopardy for this cause; and

"Whereas, Paine is rightly honored in New Jersey, France and England for his advocacy of the causes of personal liberty, limited government and industry; and

"Whereas, it is fitting and proper that a permanent national monument be constructed in Thomas Paine's honor near the seat of the government he helped to create: Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. This House calls on the Congress of the United States to allow certain private interests to construct, at no cost to the taxpayer, a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be sent to the presiding officers of each House of Congress and each member of Congress from New Jersey."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1569. A bill to implement the recommendations of the Federal Courts Study Committee, and for other purposes (Rept. No. 102–342).

By Mr. MITCHELL (for Mr. INOUYE), from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2044. A bill to assist Native Americans in assuring the survival and continuing vitality of their languages (Rept. No. 102–343).

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 5373. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–344).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 3078. A bill to promote the conduct of biomedical research in space; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD:

S. 3079. A bill to require that an annual Federal financial report be submitted to American citizens; to the Committee on Governmental Affairs.

By Mr. PRYOR (for himself, Mr. BOREN, and Mr. PACKWOOD):

S. 3080. A bill to amend the Internal Revenue Code of 1986 to restore the exclusion from gross income for income from discharge of qualified real property business indebtness; to the Committee on Finance.

By Mr. RIEGLE:

S. 3081. A bill to change the tariff classification for light trucks; to the Committee on Finance.

By Mr. SIMPSON:

S. 3082. A bill to amend the Internal Revenue Code of 1986 to allow a waiver of the 3-year limitation on claiming a credit or refund; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ROBB):

S. 3083. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COCHRAN (for himself, Mr. BOND, Mr. BOREN, Mr. BURDICK, Mr. COHEN, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GARN, Mr. GLENN, Mr. HATCH, Mr. HOLLINGS, Mr. MCCAIN, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ROTH, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S.J. Res. 328. A joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 3078. A bill to promote the conduct of biomedical research in space; to the Committee on Commerce, Science, and Transportation.

BIOMEDICAL RESEARCH IN SPACE ACT

• Mr. BENTSEN. The purpose of this bill is to enhance cooperation on biomedical research between NASA and NIH, with a specific emphasis on expanding space-based research pertinent to solving medical challenges here on Earth. The bill is identical to H.R. 3922, introduced by Representative RALPH HALL, chairman of the House Subcommittee on Space. The bill is supported by both NASA and NIH as well as the broader aerospace medical community.

Since the beginning of the American space program, most biomedical research in space has focused on understanding the biological responses of astronauts to weightlessness and other conditions of spaceflight. Additionally, opportunities to conduct space-based biomedical research have been constrained by the limited availability in space of the space shuttle and the shuttle-based spacelab.

Biomedical research in space can and ought to be helping terrestrials as well as astronauts. Such research contains great potential to increase understanding of the cardiovascular system, cellular behavior, the behavior of the immune system, and such conditions as osteoporosis and arthritis. Nowhere but in space can the weightlessness essential to this research be found, and not until we have constructed a permanent station in space can such research achieve its full potential.

An excellent example of that potential is skin cancer research. The rapid depletion of the ozone layer has led to a dramatic increase in the rate of skin cancer, including the more deadly melanomas. From space, however, we can not only monitor the ozone layer in a manner we cannot here on Earth, we can also conduct experiments predictive of the amount of ultra-violent radiation that will be reaching the Earth in the future. Such experiments are simply too complicated to duplicate in a laboratory. In short, space offers us the twin opportunity to monitor the principal cause of skin cancer and to develop better ways of treating it.

In 1988 NASA and NIH signed a memorandum of understanding to foster a cooperative program between the two agencies aimed at enhancing the biomedical research capabilities of both. An interagency working group was set up, and conferences have been held among experts from both agencies. Nevertheless, NASA's understandable focus on spaceflight-related biomedical research continues to predominate over NIH's equally understandable focus on terrestrial medical problems.

I am convinced that medical research in space may hold the key to overcoming some important medical problems here on Earth. This bill is designed to further progress toward that end. Specifically, the bill would authorize the establishment of a joint NASA-NIH working group that will focus on the terrestrial applications of space-based biomedical research. The bill also would establish a program of joint, peer-reviewed biomedical research grants to be administered by NASA and NIH. The bill would further direct the NASA Administrator to establish and submit to Congress a plan for the conduct of joint space-based biomedical research with the republics of the former Soviet Union, including use of the Mir space station. The biomedical research capabilities on Mir are a far cry from those planned for space station *Freedom*, but they nonetheless could enhance near-term biomedical research progress.

Other features of the bill include establishment of an electronic data archive for biomedical research data obtained from space-based experiments and the establishment of an emergency medical service telemedicine capability. The latter involves creation of an international telemedicine consultation capability to support the provision of medical services in disaster-stricken areas—very much like the one temporarily set up after the Armenian earthquake of 1989.

Mr. President, in addition to enhancing space-based biomedical research's contribution to countering medical ills here on Earth, this bill has another very attractive feature: its modest price tag of $26,250,000 through the end of fiscal year 1994 is to be financed entirely out of money already authorized for NASA and NIH. No new money is needed or requested. Moreover, I know of no opposition to the bill. It is supported by NASA and NIH, as well as by such physicians and scientific organizations as Dr. Michael E. DeBakey, Dr. Charles A. LeMaistre, Dr. Richard E. Wainerdi, Dr. J. Alan Herd, the Aerospace Medical Association, and the American Astronautical Society.

The bill, in short, is a good buy for both American medicine and the American people.•

By Mr. CONRAD:

S. 3079. A bill to require that an annual Federal financial report be submitted to American citizens; to the Committee on Governmental.

ACT FOR AN ANNUAL REPORT FOR THE AMERICAN CITIZEN

Mr. CONRAD. Mr. President, I rise today to introduce the Act For an Annual Report for the American Citizens, which would require that an annual report of the financial condition of the Government be made available to all Americans.

Mr. President, this country is in trouble. We are deep in debt. We keep adding to that debt every year. Yet, we do not take the basic step of providing information on the financial condition of the country directly to the taxpayers of this country, directly to the people who vote in our elections to determine the future course and direction of our Nation.

Mr. President, this legislation would make Government more accountable to the people by making Government more businesslike. We often hear those words from our constituents, that Government should be more businesslike. Well, this legislation addresses a basic area where Government does not compare to business.

If you are a shareholder in a corporation in this country, Mr. President, you are considered a part owner and are afforded certain rights and privileges. As one of those rights, you are provided with an annual financial report on the performance of the company. Provision of that annual report to the stockholders is considered fundamental to the participation of the shareholders in the company's operation.

In a democratic society, all of our citizens are considered part owners of our Government. Our citizens are our shareholders in this Government. Yet, our citizens are not provided with an annual report on the actual performance of the Federal Government. True, there is no shortage of media reports on budget battles and summit deals between Congress and the administration, but the news stories very frequently do not tell the full story.

For 5 years, starting in 1987, budgets have been submitted under Gramm-Rudman deficit targets. The President would submit his budget and Congress would pass a budget resolution that would be in line with the annual target. But every year, the actual deficit for the year has turned out to be worse than the target set at the beginning of the year in the budgets.

In fact, over the past 5 years, from fiscal year 1987 to fiscal year 1991, the cumulative difference between the deficit estimate in the annual budget and the actual annual deficit totals over $410 billion; a $410 billion difference between what Congress was told was going to happen and what actually occurred.

Mr. President, in fact, for the most recent year alone, fiscal year 1991, the difference between the budgeted deficit and the actual deficit was a staggering $205 billion. Now the Office of Management and Budget tells us in its midsession estimate that the cumulative deficit for the current fiscal year through 1996 will be a shocking $1.38 trillion, missing the mark set in the original fiscal year 1992 budget by a staggering 160 percent. But adding to the concern of the public is the fact that the latest budget contains not one shred of evidence that the Federal budget will be in balance at any time in the future.

Washington has thrown in the towel in balancing the Federal budget. Mr. President, to be precise, this administration that presents the budget to Congress has thrown in the towel on doing anything about the growth in the Federal debt and doing everything about these ongoing Federal budget deficits. We hear the administration say they have a plan up here, a 5-year plan to do something about the Federal budget deficit, and indeed they do. They have a plan that will increase the national debt by this staggering sum of well over $1 trillion.

If the track record in recent years is any guide, the actual deficits in the coming years will be much worse than these current estimates. There is no question that the public is dissatisfied with the job the administration and Congress are doing in dealing with the deficit problem. In addition, the public continues to perceive that a significant amount of Government money is simply wasted through fraud and abuse. The continuing inability to deal with these problems is pushing us closer and closer to a crisis of confidence.

The public does not know how much its Government actually spends, or on what.

Mr. President, when I go back to my constituency and hold community forums, over and over people ask me for the basic information about how the Federal Government is spending its money. How big is the deficit? What is the outlook for the coming year? How is the money being spent? Where is it going? How much is going for defense? How much is going for welfare? How much is going for agriculture? How much is going for foreign assistance?

These are basic questions, and the taxpayers of this country deserve answers. They are not going to get it from the daily news media. There is no way that television is going to provide the kind of report that is needed by the American people to understand what is happening and why with respect to our national economic condition.

The people deserve to have some way of understanding precisely what is occurring and what are its implications. What difference does it make if we run up a $4 trillion national debt, which is where we are as we meet here today?

What difference does it make? What are the implications? What does it mean for the future strength of our economy? What does it mean for the future size of our economy? What does it mean for the incomes of American families?

Those are the important issues that need to be addressed, and one wonders how are they going to be addressed if the people that have to make the decisions in this democratic society do not have the basic information necessary upon which to make those decisions.

They are not going to get it on television. Rarely are they going to get it in the newspapers. Oh, yes; they will see reports that the deficit this year is going to be approximately $400 billion, and perhaps if they read carefully and closely, they will find out that the debt is now $4 trillion. And if we are not careful, it will be added to by approximately 50 percent over the next 5 years. But, Mr. President, that information is not presented in a way that is clear and concise and available to all the decisionmakers in this society, the voters of our country.

That is why the legislation that I introduce today moves to change that. The bill is straightforward and concise. It directs the Chief Financial Officer and the staff of the Treasury Department to prepare an annual report at the close of each fiscal year. The report would be readily available to all households through a request designation box on the individual income tax forms.

If the people do not want this information, there is no reason to send it to them. But if they are interested in the financial condition of their country, it should be available to them.

The report is to contain the basic information that any financial report would contain: An income statement, a balance sheet, information on special funds, a review of trends in revenues and expenditures, and a comparison of actual results to the forecasted amount for the most recent fiscal year.

Let us hold up the Office of Management and Budget to accountability. Let us hold the administration up to accountability. Let us let the American people see what was predicted and what is actually occurring.

The report would also contain short statements from the President, Senate and House leaders, as well as summary statements from the Chief Financial Officer and the Comptroller General.

Outside of these core requirements, Mr. President, the legislation would call on the Chief Financial Officer to oversee the preparation of the report. In addition, the legislation provides authority for the establishment of a citizens advisory group to ensure that the design of the report is most informative for the citizen users.

The cost of providing the annual report would be relatively small. The Department of Treasury Financial Management Service already has the staff and budget in place to prepare the Government's financial reports. But additional funds would be required for printing and mailing copies to the households requesting the report. The total cost, if all households were to receive the annual report, would not be over $30 million, a small price to pay for an informed citizenry.

To help defray the printing and distribution costs, the legislation establishes the authority for the receipt of contributions from corporations, foundations, and other private entities that would be willing to support this effort.

An objective of this bill is to bring clarity to a fiscal situation that to most people must appear very murky. Yet, it is widely recognized that the Government's accounting systems are a mess, and are only slowly getting better. It is now costing the Federal Government over $2 billion a year to make necessary improvements to its financial systems.

Last year, the Office of Management and Budget reported that in the early 1980's, "The Government had over 500 financial systems, many of them antiquated, incompatible, or redundant, and many not in compliance with applicable accounting standards."

Mr. President, likewise, the General Accounting Office has been very critical that there is not enough coordination and focus between the agencies on Federal accounting efforts.

The 1990 Chief Financial Officers Act took a very positive step toward bringing coordination to Federal accounting. But it does fall short. It does not require a governmentwide, consolidated financial statement by a date certain. This legislation would complement the Chief Financial Officers Act. The legislation that I introduced today provides the crucial incentive to the agencies and the chief financial officer to get the job done right, and get it done now. It sends the bureaucracy the message that the public deserves and will get good financial information on the fiscal conditions facing this Nation.

In the face of declining participation of the public in the electoral process, providing something so basic as an annual report would be a very positive action.

While the bureaucracy is given the message that it is past time to get its financial house in order, the report would serve as a reminder to the public that this Government exists for them; that we all share a part in finding solutions to these fiscal problems that our Government lives under.

Our great Nation was built by our Founding Fathers on a basis of democracy and public participation. Publication and broad distribution of an annual report on the finances of our Government are in keeping with those high ideals.

Mr. President, we face some very difficult challenges in the days ahead. We have now had a Presidential candidate remove himself from the race. But also, as he removed himself, he came out with a financial plan to get this Nation's fiscal house in order. The magnitude of that plan tells us something about how deep our financial problems are.

The plan that was advanced by Mr. Perot requires a reduction in the deficit of some $700 billion over the next 5 years. At the same time, we have seen the unveiling of a plan by the chairman of the House Budget Committee, Mr. PANETTA. His plan, too, calls for a reduction in the deficit over 5 years of some $700 billion.

Mr. President, that is not going to be easy to accomplish. It is going to require shared sacrifice. If the American people are going to be persuaded that shared sacrifice is really necessary, they are going to have to have available to them the basic information that leads a person to that conclusion.

Mr. President, they do not have that information today. I would say to my colleagues that if the American people had that basic information, if they saw what it means if we stay on the current course, that they would be more willing to change that course.

For those reasons, Mr. President, I believe this legislation is important.

I now ask unanimous consent, Mr. President, that the text of the bill be printed in the RECORD following these remarks.

There being no objection, the bill ordered to be printed in the RECORD, as follows:

S. 3079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Act for an Annual Report for the American Citizens".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Through our system of democracy and public funding of the Government, all citizens share an interest in the financial well-being of our Federal Government. Accurate, consistent, and broadly distributed reporting on the Nation's finances are central to the conduct of democracy.

(2) Recent Federal budget deficits have resulted in more than a tripling of the Federal debt. With prospects for enormous Federal budget deficits for the next several years, the debt is a burden that affects the present and future generations of Americans.

(3) The actual financial performance of the Federal Government often differs from the budget by tens, even hundreds, of billions of dollars. For example, the fiscal year 1991 budget was to result in a deficit of $63,000,000,000. Instead, the actual deficit for the year was $268,700,000,000.

(4) Billions of dollars are currently being spent to make changes in existing accounting systems in Federal agencies, but without adequate coordination and direction.

(5) The Federal Government continues to lose billions of dollars each year through fraud, waste, abuse, and mismanagement. Standardized reporting to the public is essential to the improvement of accountability of public programs.

(6) The growing Federal debt is hindering economic growth and competitiveness, and ultimately, reduces the standard of living of all Americans.

(b) PURPOSE.—The purpose of this Act is to—

(1) increase the participation and awareness of the public in finding solutions to the Federal Government's budget problems;

(2) require the President, Congressional leaders, and the chief financial officers of the Government to report to the public on the well-being of the Federal Government's finances as a part of their fiduciary responsibilities; and

(3) bring a focus to efforts already underway that seek to develop and improve financial standards, annual reporting, and systems in the agencies of the Federal Government.

SEC. 3. ANNUAL REPORT.

Section 3513 of title 31, United States Code, is amended by adding at the end thereof the following:

"(d)(1) The Secretary of the Treasury shall prepare and distribute to all taxpayers described in paragraph (5) an annual report containing, at a minimum—

"(A) the most recent 5-year actual trends in Federal receipts, expenditures, fund balances, assets and liabilities, and debts by major category or source;

"(B) a comparison of the actual budget totals for the most recent fiscal year to the budget projections;

"(C) statements from the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives regarding significant aspects of the Government's financial performance; and

"(D) any other relevant information on the Government's performance and contributions to economic growth, productivity, and investment in infrastructure.

"(2)(A) Preparation of the report shall be supervised and directed by the Deputy Director for Management of the Office of Management and Budget.

"(B) There is established an advisory committee to provide the Deputy Director for Management of the Office of Management and Budget with comments and suggestions on the design and content of the annual report. The advisory committee shall consist of 11 members as follows:

"(i) 5 members to be appointed by the President.

"(ii) 2 members to be appointed by the Majority Leader of the Senate.

"(iii) 1 member to be appointed by the Minority Leader of the Senate.

"(iv) 2 members to be appointed by the Speaker of the House of Representatives.

"(v) 1 member to be appointed by the Minority Leader of the House of Representatives.

"(3) The report shall contain statements by the Deputy Director for Management of the Office of Management and Budget and the Comptroller General attesting to the accuracy of the information contained in the report.

"(4) The report shall be prepared annually in a timely fashion after the close of each fiscal year.

"(5)(A) A taxpayer is described in this paragraph if such taxpayer designates on the form for the return of the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year that such taxpayer desires a copy of the report described in this subsection.

"(B) Space shall be made available for the designation referred to in subparagraph (A) on the first page of the tax return forms for such tax.

"(6) Nothwithstanding any other provision of law, the costs of preparing and distributing the report may be paid by contributions from corporations, foundations, and other private entities.".

SEC. 4. AUTHORIZATION.

For carrying out this act, there are authorized to be appropriated to the Secretary of the Treasury $10,000,000 for fiscal year 1993, and such sums as be necessary for fiscal years 1994 1995, 1996, and 1997. These amounts shall include any funds raised through the authority established in Section 3(6) of this Act.

By Mr. PRYOR (for himself and Mr. BOREN):

S. 3080. A bill to amend the Internal Revenue Code of 1986 to restore the exclusion from gross income for income from discharge of qualified real property business indebtedness; to the Committee on Finance.

DISCHARGE OF INDEBTEDNESS REFORM ACT

● Mr. PRYOR. Mr. President, many regions of this country are experiencing a decline in real estate values unprecedented since the Great Depression. This drop in real property values has meant ruin for many individual investors, and has endangered financial institutions around the country. As a result of this crisis, real estate financing and liquidity are virtually nonexistent.

More and more owners of rental real estate are struggling to come to grips with the inability of their properties to support the debt tied to those properties. These individuals are faced with the choice of foreclosure, deeding the property back to the lender, or, if they are more fortunate, restructuring the debt on the property to more accurately reflect the properties' ability to service the debt.

Unfortunately, for solvent property owners restructuring real property debt produces taxable income, but not the cash to cover the taxes. Because there is no cash on hand to pay the taxes, property owners often must sell other properties at distressed prices in order to cover their tax bill for the restructured property. These distressed sales only exacerbate the crisis in real estate values, and increase the pressure on financial institutions by making loan workouts more difficult to achieve.

Before the Tax Reform Act of 1986, the Tax Code better reflected the economic realities of restructuring arrangements. Since discharge of real property indebtedness produces only phantom income for solvent owners, pre-1986 law allowed owners to lower the basis in real property to the extent of the discharge of indebtedness. This allowed owners to defer the payment of tax until there was cash to pay the taxes from the sale of the property. The Tax Reform Act of 1986 repealed this treatment for all taxpayers except for bankrupt or insolvent taxpayers and farm property.

Committee report language indicates that Congress exempted farm property because of the existence of a serious credit and liquidity crisis for farm owners. A similar crisis now exists in our national real estate market. I, therefore, believe that it is time that we reinstate the election to reduce the basis of depreciable property in lieu of immediate tax liability in cases involving the discharge of real property. My bill would reinstate this treatment for individual taxpayers.

For example, an individual taxpayer owns an office building and an apartment building. The office building has a tax basis of $30,000 and the apartment building has a mortgage of $100,000. The apartment building, through no fault of the owner, has declined in value and the rental income from the property now services a debt of only $75,000. The lender, facing a foreclosing situation, reduces the mortgage to $75,000. Instead of forcing the taxpayer to find the necessary cash to satisfy tax on $25,000, usually through the distress sale of other property, my legislation would allow the taxpayer to defer the tax liability by reducing the office building's basis to $5,000.

I urge my colleagues to join with me in sponsoring this important legislation. Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This act may be cited as the "Discharge of Indebtedness Reform Act of 1992".

(b) AMENDMENT OF 1986 Code.—Except as otherwise expressly provided, whenever, in this Act an amendment or repeal is expressed in terms or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. RESTORATION OF EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) of the Internal Revenue Code of 1986 (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(D) the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 of such Code is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs (determined after any reductions under subsections (b) and (g)).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Indebtedness of the taxpayer shall be treated as qualified real property business indebtedness if (and only if)—

"(A) the indebtedness was incurred or assumed by an individual in connection with real property used in his trade or business, and

"(B) such taxpayer makes an election under this paragraph with respect to such indebtedness.

Such term shall not include qualified farm indebtedness."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) of such Code is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) of such Code is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraph (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 of such Code is amended by striking "Subsections (a), (b), and (g)" each place it appears in the heading thereof and in the text and headings paragraphs (6) and (7) and inserting "Subsections (a), (b), (c), and (g)".

(4) Subparagraph (B) of section 108(d)(7) of such Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) of such Code is amended by inserting "or under paragraph (3) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) of such Code is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) of such Code is amended by inserting "or (c)(1)" after "subsection (b)(5)".

SEC. 3. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—The amendments made by this Act shall apply to discharge after December 31, 1992, in taxable years ending after such date.●

● Mr. BOREN. Mr. President, I am pleased to join my colleague from Arkansas, Senator PRYOR, in introducing the Discharge of Indebtedness Reform Act of 1992.

Although the press coverage of the real estate crisis in the Southwest has declined dramatically, the crisis itself continues unabated. Real property values are depressed, and as a result, real estate financing and liquidity are often unavailable.

Financial institutions in Oklahoma and elsewhere in the Southwest are finding the path to recovery to be a long and difficult one. One of the biggest obstacles to recovery is the number of properties in this region that cannot support their debt load. Financially-strapped owners usually have three options: Declare bankruptcy, dump the property on the financial institution, or renegotiate the loan with the financial institution. The first two options only exacerbate the crisis for financial institutions, worsening their financial statements and increasing their capital requirements.

Unfortunately, the tax laws make the third option—renegotiating the loan with the bank or thrift—impossible for most owners because even though they are solvent, they lack the cash to pay the taxes owed after a restructuring. Since the Tax Reform Act of 1986, taxpayers who renegotiate debt secured by real property have been required to include discharge of indebtedness as income. The code provides for only two exceptions: family farmers and insolvent taxpayers.

The Discharge of Indebtedness Reform Act of 1992 would reinstate pre-Tax Reform Act tax treatment for individuals owning real property. Since discharge of indebtedness results in only phantom income for solvent taxpayers, this legislation would allow owners to lower their basis in real property to the extent of the discharge of indebtedness. This treatment would allow owners to defer the payment of taxes until the sale of the property, when they are more likely to have cash in hand to pay the additional taxes.

I urge my colleagues to join with the Senator from Arkansas and myself as cosponsors of this important legislation.●

By Mr. SIMPSON:

S. 3082. A bill to amend the Internal Revenue Code of 1986 to allow a waiver of the 3-year limitation on claiming a credit or refund; to the Committee on Finance.

CREDIT OR REFUND WAIVER AMENDMENTS

Mr. SIMPSON. Mr. President, I rise to introduce legislation to make a minor modification to the Tax Code, which I believe will be of important help to American taxpayers and to the integrity of the tax-collection process.

Mr. President, some weeks ago my office was contacted by constituents Ronald and Mary Jane See of Powell, WY. The story they told to me was a long and tragic one, and I will not go into all the details here. The essential points were these: The Sees were victims of a fire which destroyed most of what they owned, including their financial records. This fire occurred during a difficult period in their lives when they were experiencing other financial hardships, and led to a prolonged dispute with the Internal Revenue Service. This dispute was slow in resolution because of the loss in the fire of all of this couple's financial records. It became necessary for "substitute tax returns" to be prepared to determine the Sees' tax liability for a period of a few years.

I do not want to get into the specifics of who "is in the right" in this particular case. That is not what I have come here to the floor to discuss. Rather, I was very disturbed by something I discovered in the course of investigating this dispute.

I found that a strange situation arises when a couple inadvertently overpays their taxes over a period of a few years, and then underpays them in succeeding years. In this case, the amount of overpayment was reportedly larger than the amount of the underpayment—that is, on balance the IRS had reportedly received more of this couple's money than was actually owed.

Mr. President, under the law a real paradox arises out of such a situation. Even though, on balance, too much money might be paid to the IRS, the Internal Revenue Service will still in some instances come hard after the taxpayer and assess a liability for back taxes, and the corresponding interest and penalties as well.

This is not the result of the IRS running amok or acting out of any malice. It is the result of the way the law reads. Under current law, there is a 3-year statute of limitations on the credit one may claim for overpaying taxes, so in a situation like the one I have described, the overpayment, more than 3 years old, is forgotten while the underpayment is pursued.

Mr. President, let me say that I fully understand why there is a 3-year statute of limitations in the law. Under normal circumstances, certainly, there is no excuse for failing to file for a credit within 3 years of filing. My legislation would leave that 3-year statute of limitations in place.

But normal circumstances are not always there. Unusual circumstances sometimes obtain, and the law should have a modicum of flexibility to provide for that. My correspondence from the IRS states that "we know of no case where the Internal Revenue Service has been able to waive the statute, regardless of the hardship to the taxpayer." Which is to say, even though a couple may have overpaid their taxes over the years, and may be wiped out financially by new tax assessments, the law mandates that this occur. Mr. President, that is simply not right.

The legislation which I am introducing will make one small modification in the Tax Code to permit a waiver of the 3-year statute of limitations "upon a showing of good cause and reasonable diligence by the taxpayer."

I want to stress that this language places no new obligations on the IRS, nor does it undercut its ability to pursue taxes owed. What it does do is remove the barrier of the inflexibility of the law, which is apparently tying their hands in cases like this. I have purposely crafted the language so that it does not oblige the IRS to consider an old claim where there is no particular excuse or no particular hardship. All that my legislation would do would be to allow some flexibility in dealing with unusual, unforeseen circumstances, such as the one that I have briefly described today.

Mr. President, this is a moderate, minor change in the law, not intended to overturn the spirit of existing law, but rather to ensure that the spirit is properly upheld. It is certainly not part of the intention of any legislator here to see a working couple that have, on balance, overpaid their taxes, pursued for back taxes which are only owed because of a quirk in the law, to the point of financial ruin. I hope that my colleagues will support this change.

By Mr. WARNER (for himself and Mr. ROBB):

S. 3083. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

SHENANDOAH NATIONAL PARK ACT

Mr. WARNER. Mr. President, I rise today to introduce legislation which would authorize the Secretary of the Interior to transfer without reimbursement all right, title, and interest in certain lands in the Shenandoah National Park to the Commonwealth of Virginia.

In order to understand the necessity for this legislation one must first understand the history of the creation of the Shenandoah National Park.

In 1923, Stephen Mather, Director of the National Park Service, persuaded Secretary of the Interior Hubert Work to appoint a five-member committee to investigate the possibility of establishing a national park in the southern Appalachians. At this time there were no parks in the country east of the Mississippi River. In 1924, the committee was formed to find a site for such a park. Thus began the difficult 11-year effort to establish a park in the southern Appalachians.

On February 21, 1925, President Coolidge signed into law legislation which had been introduced by Senator Swanson of Virginia and Senator McKellar of Tennessee which called for the creation of a national park in the southern Appalachians and the Great Smoky Mountains.

In 1926, Congress authorized the park to be acquired by donation, without the expenditure of any Federal funds. This act did not officially create the parks but set forth the conditions of their establishment although in indefinite terms. The Secretary of the Interior and the committee were given the difficult task of raising the necessary funds for land acquisition. Therefore, while there was strong support for the creation of the park, its realization remained highly conditional since no Federal funds would be made available to purchase the park lands.

Although private donations were coming in, then-Gov. Harry F. Byrd realized the need to pursue other financing means if sufficient funds to acquire the acreage were to be realized. In January 1928, Governor Byrd asked the general assembly for a $1 million appropriation to make possible the purchase of park lands. A few days later, the legislature agreed and appropriated the funds. This $1 million appropriation coupled with the $1.25 million raised from private sources thus enabled Virginia to purchase the necessary acreage.

With the financial means in hand, the Virginia General Assembly passed in 1928 the National Park Act which authorized the State Commission on Conservation and Development to acquire land for transfer to the Federal Government to establish the Shenandoah National Park. In that same year, Senator Swanson and Representative Temple—both of Virginia—introduced identical legislation in both Houses of Congress "to establish a minimum area for the Shenandoah National Park, for administration, protection, and general development * * *" This legislation passed both Houses of Congress and was signed into law by President Coolidge on February 16, 1928.

Due largely to the appropriation by the State of Virginia and what historians have called Virginia's heroic land acquisition efforts, the necessary acreage was required and the land titles were given to the Federal Government. On December 26, 1935, the Shenandoah National Park was officially established.

The Commonwealth's generous donation of lands to the Federal Government for the creation of this great park has now placed the Commonwealth in an unfortunate situation in which the State can no longer maintain the roads within the park. My legislation addresses this situation.

The transfer of land from the Commonwealth to the Federal Government specifically voided all rights-of-way for road purposes except for U.S. Highways 211 and 33. According to the deeds, the Commonwealth transferred ownership of all other roads and road rights-of-way on those lands to the Federal Government. Absolutely no reservations were retained by the Commonwealth for such roads.

Since 1935, the National Park Service at Shenandoah National Park has allowed the Commonwealth to maintain existing secondary roads on the fringes of the park that it wished to maintain through documents called special use permits. The Department of the Interior Solicitor has recently reviewed the applicable statutes in 16 United States Code and 23 United States Code and has determined that continuation of these special use permits is not appropriate. Special use permits may be used only to grant a temporary use of lands in national parks. The Solicitor has ruled that the established roads are not a temporary use and require complete ownership and control of the lands by the user. These permits expired over 2 years ago and the Department of the Interior will not reissue them. VDOT continues to maintain the roads without the permits although there is no guarantee this maintenance will continue. Furthermore, the NPS does not have the necessary equipment to maintain these roads at Shenandoah National Park and therefore, future maintenance of these roads is in serious question.

Federal law does not allow the National Park Service to give away park land for secondary road purposes. The only legal means to grant the Commonwealth road rights-of-way is an equal value land exchange authorized under the Land and Water Conservation Fund Act.

Mr. President, facing this dilemma, the Virginia Department of transportation has acquired land for this purpose, thereby placing the Commonwealth in the position of buying private land to give to the Federal Government to reacquire the rights-of-way of land that the Commonwealth gave away when the park was established.

Due to the unique circumstances of the park's creation, this equal value land exchange requirement is strongly opposed by the local communities and elected officials.

This opposition led to the Virginia General Assembly's passage of Senate Joint Resolution No. 505 on April 15, 1992, which would "establish a joint subcommittee to study the purchase of land by the Virginia Department of Transportation, or any other agency of the Commonwealth, for purposes of transfer to the Federal Government in exchange for the rights-of-way of secondary roads within the Shenandoah National Park." The resolution also requires "that the Virginia Department of Transportation and all other agencies of the Commonwealth suspend all activities, for 1 year, involving the acquisition of land and the transfer of such land to the Federal Government in return for road rights-of-way within the Shenandoah National Park * * *."

Mr. President, the U.S. Congress can resolve this controversy by passing this legislation which I am introducing today which would allow the Secretary of Interior to transfer to the Commonwealth—without reimbursement—all right, title, and interest in and to the roads within the part specified in the legislation.

Due to the Commonwealth's generous donation of lands to the Federal Government for the creation of the park, the Commonwealth should not be required to give the Federal Government land for exchange for maintaining and improving roads within the park.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER TO THE COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may convey, without consideration or reimbursement, all right, title, and interest of the United States in and to the roads specified in subsection (c) to the Commonwealth of Virginia.

(b) CONDITIONS OF CONVEYANCE.—

(1) EXISTING ROADS.—A conveyance pursuant to subsection (a) shall be limited to the roads described in subsection (c) as the roads exist on the date of enactment of this Act.

(2) REVERSION.—A conveyance pursuant to subsection (a) shall be made on the condition that if at any time any road conveyed pursuant to subsection (a) is no longer used as a public roadway, all right, title, and interest in the road shall revert to the United States.

(c) ROADS.—The roads referred to in subsection (a) are those portions of roads within the boundaries of Shenandoah National Park that, as of the date of enactment of this Act, constitute portions of—

(1) Madison County Route 600;
(2) Rockingham County Route 624;
(3) Rockingham County Route 625;
(4) Rockingham County Route 626;
(5) Warren County Route 604;
(6) Page County Route 759;
(7) Page County Route 611;
(8) Page County Route 682;
(9) Page County Route 662;
(10) Augusta County Route 611;
(11) Augusta County Route 619;
(12) Albemarle County Route 614;
(13) Augusta County Route 661; and
(14) Rockingham County Route 663.

SEC. 2. TRANSFER TO THE SECRETARY OF THE TREASURY.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may transfer certain land located in Shenandoah National Park and described in subsection (c) to the Secretary of the Treasury for use by the Secretary of the Treasury as a detector dog training center for the United States Customs Service.

(b) CONDITIONS OF TRANSFER.—

(1) PROTECTION OF PARK.—An agreement to transfer pursuant to subsection (a) shall include such provisions for the protection of Shenandoah National Park as the Secretary of the Interior considers necessary.

(2) CONSIDERATION.—A transfer pursuant to subsection (a) may be made without consideration or reimbursement.

(c) DESCRIPTION OF LAND.—The land referred to in subsection (a) has the following legal description:

The Tract of land located just West of Road No. 604 about 1 mile South of Front Royal, Warren County, Virginia, and bounded as follows:

Beginning at (1) a monument in the line of the land of Lawson just West of Road No. 604; thence with the land of Lawson and then with a new division line through the land of Shenandoah National Park N 59 deg. 45 min. 38 sec. W 506.05 feet to (2) a Concrete Monument set, said point being N 59 deg. 45 min. 38 sec. W 9.26 feet from a monument a corner to the land of Lawson; thence with another new division line through the land of Shenandoah National Park N 31 deg. 31 min. 00 sec. E 1206.07 feet to (3) a Concrete Monument set in the line of the land of the U.S. Government; thence with the land of the U.S. Government for the following two courses: S 07 deg. 49 min. 31 sec. E 203.98 feet to (4); thence S 09 deg. 10 min. 06 sec. E 27.79 feet to (5) a corner between the land of the U.S. Government and the land of U.S. Customs Service Detector Dog Training Center; thence with a 282.896 Acre Tract of land of U.S. Customs Service Detector Dog Training Center for the following six courses:

S 10 deg. 38 min. 32 sec. E	152.47 feet to (6); thence
S 00 deg. 48 min. 32 sec. W	127.52 feet to (7); thence
S 08 deg. 25 min. 46 sec. W	422.15 feet to (8); thence
S 14 deg. 37 min. 16 sec. W	106.47 feet to (9); thence
S 27 deg. 13 min. 28 sec. W	158.11 feet to (10); thence
S 38 deg. 17 min. 36 sec. W	146.44 feet to the point of beginning, containing 9.888 acres, more or less.

Mr. ROBB. Mr. President, I rise today to join my senior colleague, Senator WARNER, in introducing a bill to transfer title of certain lands in the Shenandoah National Park [SNP] from the Federal Government to the Commonwealth of Virginia.

Mr. President, in 1928, the Commonwealth of Virginia authorized the State Commission on Conservation and Development to acquire land for donation to the Federal Government to help form the Shenandoah National Park. With a few exceptions, the Commonwealth did not retain highway rights-of-way.

For years, in recognition of the park's origin, the Park Service allowed the Virginia Department of Transportation to operate and maintain secondary roads with a series of special-use permits. Those permits have now expired, and the Interior Department has declared that it cannot authorize the Commonwealth to continue maintaining the roads unless the Commonwealth reacquires the rights-of-way, by exchanging land of equal value. Clearly, these circumstances create an inequity in which the citizens of Virginia are being asked to pay for the same land twice. In recognition of this basic unfairness, the Virginia State Senate and House of Delegates in April passed Senate Joint Resolution 505, which suspends most land exchanges involving the SNP for 1 year.

The legislation Senator WARNER and I are introducing today is meant to untie the hands of the Interior Department. The bill would authorize the Secretary of the Interior to convey to the Commonwealth of Virginia, without consideration or reimbursement, all right, title, and interests of the United States in certain specified roads within the SNP. All right, title, and interests in such roads would revert to the United States if and when they were no longer used as public roadways.

I hope that my colleagues will move swiftly to pass this bipartisan legislation.

By Mr. COCHRAN (for himself, Mr. BOND, Mr. BOREN, Mr. BURDICK, Mr. COHEN, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GARN, Mr. GLENN, Mr. HATCH, Mr. HOLLINGS, Mr. MCCAIN, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ROTH, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S.J. Res. 328. Joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

Mr. COCHRAN. Mr. President, I am introducing legislation today to designate November 23, 1992, as "National Military Families Recognition Day." I am pleased that 22 other Senators are cosponsors of this joint resolution, and that my friend and colleague from Mississippi, MIKE ESPY, has introduced this measure in the other body.

Military families deserve special recognition for the sacrifices they make and the hardships they often endure. Even in peacetime, frequent and extended separations, whether from a husband, wife, or children, often create special problems for the military family.

Most active duty personnel are reassigned every 2 years, thereby reducing career opportunities for spouses and limiting their ability to establish roots in any location. Military children must adjust to new schools and new neighborhoods on a regular basis.

This joint resolution would set aside a special day for the Nation to pay tribute to military families and thank them for their contributions to our Nation's security.

Mr. President, I ask unanimous consent that a copy of the joint resolution be printed in the RECORD.

Mr. President, I urge my colleagues to support this legislation.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 328

Whereas the Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas the people of the United States are particularly indebted to and respectful of the family members of the 569,000 military personnel deployed for Operation Desert Shield and Operation Desert Storm;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and education opportunities;

Whereas 72 percent of officers and 54 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses and children) account for more than 2,815,000 of the more than 4,880,000 in the active duty community, and spouses and children of members of the Reserves in paid status account for more than 1,320,000 of the more than 2,470,000 in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly 450,000, and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that the families have made on behalf of the Nation; and

(2) November 23, 1992, is designated as "National Military Families Recognition Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. MITCHELL, his name, and the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Texas [Mr. BENTSEN], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 33

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 33, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

S. 405

At the request of Mr. MITCHELL, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 405, a bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment.

S. 1372

At the request of Mr. GORE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Maryland [Mr. SARBANES], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1966

At the request of Mr. BIDEN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1966, a bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes.

S. 2167

At the request of Mr. SEYMOUR, the name of the Senator from Texas [Mr.

GRAMM] was added as a cosponsor of S. 2167, a bill to restrict trade and other relations with the Republic of Azerbaijan.

S. 2236

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

S. 2322

At the request of Mr. CRANSTON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2322, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2541

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2541, a bill to provide for improvements in the delivery of and access to health care in rural areas.

S. 2654

At the request of Mr. DECONCINI, the names of the Senator from Nevada [Mr. REID], the Senator from Alaska [Mr. STEVENS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2654, a bill to amend the Land and Water Conservation Fund Act of 1965 to ensure sufficient funding for Federal and State projects and for maintenance and security needs, to encourage multipurpose acquisitions, and for other purposes.

S. 2682

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2810

At the request of Mr. GORE, the names of the Senator from Indiana [Mr. COATS], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2889

At the request of Mr. BOREN, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2900

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2914

At the request of Mr. DURENBERGER, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2941

At the request of Mr. RUDMAN, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2979

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2979, a bill to amend the Internal Revenue Code of 1986 to encourage charitable contributions and improve compliance with the rules governing the deductibility of such contributions.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from New Mexico [Mr. DOMENICI], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Mr. SARBANES], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, AND STATE, JUDICIARY AND RELATED AGENCIES APPROPRIATIONS

HOLLINGS AMENDMENT NO. 2745

Mr. HOLLINGS proposed an amendment to the bill (S. 3026) making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

For the Fishing Vessel and Gear Damage Fund—

On page 50, line 3, strike the sum "$1,281,000"and insert in lieu "$1,306,000".

For the Fisherman's Contingency Fund—

On page 50, line 8, strike the sum "$1,000,000" and insert in lieu "$1,025,000".

For the Foreign Fishing Observer Fund—

On page 50, line 20, strike the sum "$571,000" and insert in lieu "$565,000".

For the Commission on Agricultural Workers—

On page 73, line 5, strike the sum "$585,000" and insert in lieu "$578,000".

For the Department of State, Salaries and Expenses—

On page 78, line 16, after the "amended" delete the following: "(22 U.S.C. 2669)".

For the Repatriation Loans Program Account—

On page 82, line 2, strike the sum "$1,000,000" and insert in lieu "$624,000".

For the American Sections, International Commissions—

On page 85, line 14, strike the sum "$4,410,000" and insert in lieu "$4,403,000".

For Russian, Eurasian, and East European Research and Training Program—

On page 86, line 17, strike the sum "$4,784,000" and insert in lieu "$4,961,000".

HOLLINGS (AND OTHERS) AMENDMENT NO. 2746

Mr. HOLLINGS (for himself, Mr. REID, Mr. BRYAN, and Mr. INOUYE) proposed an amendment to the bill S. 3026, supra, as follows:

On page 63 line 10 strike from "SEC. 206." through to and including "Louisiana." on line 13 and insert in lieu thereof the following:

SEC. 206A. The Under Secretary of Oceans and Atmosphere is authorized to construct a building, on approximately 15 acres of land to be leased for a 99-year term from the University of Southwestern Louisiana.

SEC. 206B. (a) The Under Secretary of Oceans and Atmosphere is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years, a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada, area.

(b) The Under Secretary is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 206C. (a)(1) The Under Secretary of Oceans and Atmosphere is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization program for the State of Hawaii, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) The Under Secretary is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

KENNEDY (AND SIMPSON) AMENDMENT NO. 2747

Mr. HOLLINGS (for Mr. KENNEDY and Mr. SIMPSON) proposed an amendment to the bill S. 3026, supra, as follows:

On page 20, line 4, strike out "$990,894,000" and insert in lieu thereof "$990,694,000".

On page 20, between lines 14 and 15, insert the following:

COMMISSION ON IMMIGRATION REFORM

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $800,000.

DOLE AMENDMENT NO. 2748

Mr. DOLE proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place, add the following:

SEC. . The General Accounting Office is hereby directed to report to Congress by September 1, 1992, their explanation for failing to comply with Public Law 100-202, and to complete by the adjournment of Congress sine die of the 102d Congress, the reports required to be submitted to Public Law 100-202.

BREAUX (AND OTHERS) AMENDMENT NO. 2749

Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. HOLLINGS, and Mr. RUDMAN) proposed an amendment to the bill S. 3026, supra, as follows:

Strike the paragraph regarding the Ready Reserve Force on page 71 of the bill, on line 10 beginning with "for" through to and including "program." On line 21, and insert in lieu thereof:

"For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $146,000,000, to remain available until expended, of which $16,000,000 shall be available for the conversion of the U.S.N.S. HARKNESS: *Provided*, That funds available under this heading shall be available only to acquire ships which were registered in the United States on or before January 1, 1992, or to build Ready Reserve Research force ships in United States shipyards: *Provided further*, That reimbursement may be made to the operations and training appropriations for expenses related to this program.

MILITARY VESSEL OBLIGATION GUARANTEE PROGRAM

For the costs, as defined in subsection 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $44,800,000: *Provided*, that the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of having naval and military utility in time of war or national emergency: *Provided further*, That such loan guarantees shall be available only for construction of vessels in United States shipyards: *Provided further*, for administrative expenses to carry out the Guaranteed Loan Program, $2,350,000, which may be transferred to and merged with the operations and training appropriations for the Maritime Administration."

PELL AMENDMENT NO. 2750

Mr. HOLLINGS (for Mr. PELL) proposed an amendment to the bill S. 3026, supra, as follows:

On page 79, line 15, after "(22 U.S.C. 2718(a))" insert the following: ", and of which $300,000 shall be available for the Bureau of Oceans and Environmental and Scientific Affairs, for staff for followup activities to the United Nations Conference on Environmental and Development, including necessary travel".

DODD (AND OTHERS) AMENDMENT NO. 2751

Mr. DODD (for himself, Mr. PELL, and Mr. LIEBERMAN) proposed an amendment to the bill S. 3026, supra, as follows:

On page 76, line 25, strike all after "Armed Forces" up to and including page 77, line 2 and insert in lieu thereof the following: "of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement, a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement, or an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program,".

SMITH AMENDMENT NO. 2752

Mr. SMITH proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

DOLE AMENDMENT NO. 2752

Mr. DOLE proposed an amendment to amendment No. 2752 proposed by Mr. SMITH to the bill S. 3026, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted. The provisions of the preceding sentence shall take effect one day following enactment."

BINGAMAN AMENDMENT NO. 2754

Mr. BINGAMAN proposed an amendment to the bill S. 3026, supra, as follows:

On page 73, line 18, delete the figure "$750,000" and insert in lieu thereof "$1,750,000";

On page 43, line 8, delete the figure "$121,021,000" and insert in lieu thereof "$119,923,000".

BROWN AMENDMENT NO. 2755

Mr. BROWN proposed an amendment to the bill S. 3026, supra, as follows:

On page 83, line 10, after "Agency" insert the following: ": *Provided further*, That none of the funds made available by this Act may be used to implement or enforce any International Coffee Agreement which has not been submitted to the United States Senate for its advice and consent:".

DODD AMENDMENT NO. 2756

Mr. HOLLINGS (for Mr. DODD) proposed an amendment to the bill S. 3026, supra, as follows:

On page 109, after line 8, insert the following new section:

SEC. 612. FEES FOR REGULATION OF INVESTMENT ADVISERS.

(a) IN GENERAL.—

(1) FEE.—

(A) CURRENTLY REGISTERED ADVISERS.—Each investment adviser registered under the Investment Advisers Act of 1940 prior to the effective date of this section shall submit to the Securities and Exchange Commission (hereafter referred to as the "Commission") an annual fee to be used by the Commission for recovery of the costs of supervision and regulation of investment advisers, as determined according to the schedule set forth in subparagraph (C).

(B) NEWLY REGISTERED ADVISERS.—Each person that becomes registered as an investment adviser in accordance with the Investment Advisers Act of 1940 on or after the effective date of this section shall pay the fees specified in the schedule set forth in subparagraph (C) upon such registration and annually thereafter.

(C) SCHEDULE.—The schedule set forth in this subparagraph is as follows:

Assets under management:	*Fee due:*
	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000	$500
$25,000,000 or more, but less than $50,000,000	$1,000
$50,000,000 or more, but less than $100,000,000	$2,500
$100,000,000 or more, but less than $250,000,000	$4,000
$250,000,000 or more, but less than $500,000,000	$5,000

	Fee due:
$500,000,000 or more	$7,000.

(2) USE OF FEES.—Fees collected in accordance with this subsection shall—

(A) be deposited as offsetting collections to the Securities and Exchange Commission appropriation for the fiscal year ending September 30, 1993;

(B) be available to the Securities and Exchange Commission in addition to any other funds provided for in this Act; and

(C) remain available until expended.

(b) EFFECTIVE DATE.—This section shall become effective upon the enactment of authorization legislation and adoption by the Securities and Exchange Commission of appropriate implementing rules and regulations.

PELL (AND CHAFEE) AMENDMENT NO. 2757

Mr. HOLLINGS (for Mr. PELL and Mr. CHAFEE) proposed an amendment to the bill S. 3026, supra, as follows:

On page 91, line 17, delete the period and insert in lieu thereof the following: ": *Provided further*, That $800,000 shall be available for the World Scholar-Athlete Games.".

ADAMS (AND PELL) AMENDMENT NO. 2758

Mr. HOLLINGS (for Mr. ADAMS and Mr. PELL) proposed an amendment to the bill S. 3026, supra, as follows:

At the end of the bill add the following:

SEC. . (a) Pursuant to Private Law 98-54 and notwithstanding any other provisions of law, the Secretary of the Treasury is directed to pay from funds provided in this Act to the Department of State and identified by the Secretary of State to Joseph Karel Hasek, $250,000 (less than 5 percent of his losses), together with interest calculated under subsection (b), not later than 30 days after enactment of this Act.

(b) The interest to be paid under subsection (a) shall represent the amount of interest accruing on $250,000 from August 1, 1955, to August 8, 1958, at a rate which shall be determined by the Secretary of the Treasury.

(c) No amount in excess of 10 percent of any amount paid pursuant to this section may be paid to or received by any attorney or agent for services rendered in connection which such payment, and any such excessive payment shall be unlawful, any contract to the contrary notwithstanding.

HOLLINGS (AND OTHERS) AMENDMENT NO. 2759

Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. GORTON) proposed an amendment to the bill S. 3026, supra, as follows:

Amend section 611 to read as follows:

SEC. 611. (a) None of the funds appropriated under this Act may be used by the Commission to develop, issue, implement, or enforce a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92-9, or any successor proceeding, unless the Commission meets the requirements of subsection (b) and incorporates the requirements of subsection (c) into such rule or order.

(b) Such rule or order shall not take effect until 90 days after it has been issued by the Commission.

(c)(1)(A) The Commission shall not redesignate, from primary to secondary, any use of the frequencies between 1850 and 2200 MHz by a qualified private fixed microwave entity.

(B) The Commission may permit frequencies between 1850 and 2200 MHz that are allocated on a primary basis to qualified private fixed microwave entities to be used on a shared basis, except that any entity that shares the frequencies between 1850 and 2200 MHz with a qualified private fixed microwave entity shall bear the burden of eliminating any harmful interference to a primary system of a qualified private fixed microwave entity.

(C) Any newly licensed system, or any modification of or addition to an existing system, operated by a qualified private fixed microwave entity on frequencies between 1850 and 2200 MHz shall bear the burden of eliminating any harmful interference to any emerging telecommunications technology entity whose license was issued at an earlier date than the license for such newly licensed system or such modification or addition.

(D) Any grant of a license to a qualified private fixed microwave entity for a new system, or for modification of or addition to an existing system, to use frequencies between 1850 and 2200 MHz shall be on a primary basis, unless no other qualified private fixed microwave entity is operating on those frequencies on a primary basis.

(E) The Commission shall not, for the purpose of preserving the availability of frequencies for emerging telecommunications technologies or other uses, deny any application of a qualified private fixed microwave entity for a license for modification of or addition to an existing system, to operate on frequencies between 1850 and 2200 MHz.

(2) The Commission shall not impede or restrict the ability of qualified private fixed microwave entities operating on frequencies between 1850 and 2200 MHz, or of licensees or proponents of emerging telecommunications technologies, to enter into voluntary agreements for the purpose of optimizing efficient use of spectrum, including but not limited to migration of facilities to other frequencies or media.

(3)(A) At a date no earlier than 8 years following issuance of a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92-9—

(i) any emerging telecommunications technology entity operating on or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any qualified private fixed microwave entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media; and

(ii) any qualified private fixed microwave entity operating or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any emerging telecommunications technology entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media.

(B) Any migration proposal under subparagraph (A) (i) or (ii) shall demonstrate that—

(i) the party proposing such migration has a license to operate on the frequencies used by the party subject to the migration or otherwise has the qualifications to use those frequencies;

(ii) there is a need for the proposed migration, including the unavailability to the party proposing the migration of other equally reliable frequencies at costs comparable to those for a system operating on frequencies between 1850 and 2200 MHz;

(iii) the party proposing such migration has in writing notified the party subject to migration (within a reasonable time sufficient to enable the parties to discuss entering into a voluntary agreement as described in paragraph (2)) of its intent to submit a migration proposal;

(iv) an alternative communications system for the party subject to migration would be available and would be at least as reliable in all respects as the communications system such party is operating at the time of the proposal; and

(v) the party proposing such migration will pay all costs associated with such migration and necessary to ensure the reliability of the alternative communications system, as such costs are incurred.

(C)(i) The Commission shall approve the proposed migration if the Commission finds that the migration proposal makes the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v).

(ii) If the Commission does not make the findings described in clause (i), the Commission shall not approve the proposed migration.

(iii) If the Commission approves the proposed migration, the Commission shall provide that the party subject to migration shall be provided an adequate period of time in which to construct and test the proposed alternative communications system and to complete migration. The party subject to migration shall not be required to cease using the frequencies between 1850 and 2200 MHz until the reliability of the alternative communications system has been established.

(iv) If the Commission approves the proposed migration, the Commission shall retain jurisdiction over the proposed migration to resolve all remaining disputes to ensure that the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v) are made.

(d) The Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which analyses the feasibility of allowing frequencies reserved for use by the Federal Government as of June 1, 1992, to be used by emerging telecommunications technology entities, or by any qualified private fixed microwave entity now operating on frequencies between 1850 and 2200 MHz.

(e) In this section, the following definitions apply:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "existing" means in operation on the date of enactment of this Act.

(3) The term "harmful interference" means any interference from any technology that exceeds the level of protection equivalent to that provided under section 94.63 of title 47, Code of Federal Regulations.

(4) The term "qualified private fixed microwave entity" means an entity licensed or permitted, or eligible to be licensed or permitted, under part 90 of title 47, Code of Federal Regulations, for Public Safety Radio Services, Special Emergency Radio Services, Power Radio Services, Petroleum Radio Services, and Railroad Radio Services.

BUMPERS AMENDMENT NO. 2760

Mr. HOLLINGS (for Mr. BUMPERS) proposed an amendment to the bill S. 3026, supra, as follows:

On page 3, line 20, of the Hollings amendment, add at the end the following "(except where such entity is a State or local government, or an agency thereof)".

SEYMOUR AMENDMENT NO. 2761

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

INS BORDER PATROL HOT PURSUIT POLICY

SEC. . CHANGES IN CURRENT BORDER PATROL HOT PURSUIT POLICY

(a) IN GENERAL.—The Attorney General, after consultation with the Commissioner of the Immigration and Naturalization Service, shall revise and implement, by not later than January 1, 1993, U.S. Border Patrol Pursuit policies which shall improve safety and prevent future accidents such as that which occurred in Temecula, California, on June 2, 1992.

(b) IMMEDIATE ACTION.—The Attorney General, after consultation with the Commissioner of the Immigration and Naturalization Service, not later than 30 days after enactment of this Act shall—

(1) implement a schedule of stationing available helicopters at border checkpoints to assist in hot pursuit events;

(2) implement an effective communications system between INS, Border Patrol, and local and state law enforcement agencies, which effectively incorporates state and local law enforcement officials in the pursuit and apprehension of fleeing suspect vehicles.

SEYMOUR AMENDMENT NO. 2762

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . REPORT ON PRISONER TRANSFER TREATY BETWEEN THE UNITED STATES AND MEXICO.

(a) FINDINGS.—Congress finds that—

(1) the number of aliens who come into this country illegally continue to be at enormously high levels;

(2) a greater proportion of aliens who come into this country illegally do so for the purpose of participating in organized drug trafficking or other criminal operations, or engaging in criminal activity within the United States;

(3) alien involvement in criminal activity nationwide has risen sharply during the past decade;

(4) the number of convicted criminal aliens in State prisons and local jails has risen sharply;

(5) in some jurisdictions, one out of every four prisoners in local jails is a criminal alien;

(6) the rise of criminal alien population has placed enormous costs on State and local governments and the taxpayers in the area;

(7) policies and programs that result in the expeditious deportation of criminal aliens from the United States are needed;

(8) one method to expedite the deportation of criminal aliens is to establish prison transfer programs where a convicted alien serves all or a portion of the sentence in his or her home country; and

(9) a determination of the methods and the costs to implement effective alien transfer programs in needed.

(b) IN GENERAL.—Not later than April 1, 1993, the Secretary of State and the Attorney General shall submit to the appropriate committees of the Congress, a report that describes the use and effectiveness of the Prisoner Transfer Treaty (hereafter in this section referred to as the "Treaty") with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(c) USE OF TREATY.—Such report shall include a statement of—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977 who would have been or are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens who have been transferred pursuant to the Treaty, and, of such number, the number of aliens transferred and incarcerated in full compliance with the Treaty; and

(2) the number of aliens in the United States who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens incarcerated in State and local penal institutions.

(d) EFFECTIVENESS OF TREATY.—Such report may include a list of recommendations to increase the effectiveness and use of, and ensure full compliance with the Treaty, as well as transfer programs initiated by State and local governments. Such recommendations may include—

(1) changes and additions to Federal laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(2) changes and additions to State and local laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) methods for preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty;

(4) a statement by officials of the Mexican Government on programs to achieve the goals of and ensure full compliance with the Treaty;

(5) a statement as to whether recommendation would require the renegotiation of the Treaty; and

(6) a statement of additional funds that would be required to implement the recommended.

Such recommendations in paragraphs (1) through (3) may be made after consultation with State and local officials in areas disproportionately impacted by aliens who have been convicted of criminal offenses.

(e) IMPLEMENTATION.—The Attorney General and the Secretary of State shall implement no later than May 1, 1993, any administrative and regulatory recommendations as described in subparagraphs (d)(1)

SEYMOUR AMENDMENT NO. 2763

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . PAYMENT OF SALARIES OF ADDITIONAL IMMIGRATION JUDGES.

(a) The Attorney General shall evaluate the ability of the existing level of immigration judges to the Executive Office of Immigration Reform to meet its current and anticipated workload for fiscal year 1993 and the possibility of reprogramming of immigration examination fees to support additional immigration judges and personnel.

DISCLOSURE OF KENNEDY ASSASSINATION RECORDS ACT

GLENN AMENDMENT NO. 2764

Mr. HOLLINGS (for Mr. GLENN) proposed an amendment to the bill S. 3026, to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; as follows:

On page 13, strike lines 9 through 14 and insert the following:

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

On page 15, line 7, after "make" insert "immediately".

On page 15, lines 8 and 9, strike "not later than 300 days after the date of enactment of this Act".

On page 17, line 3, after "operations," insert "law enforcement,".

On page 22, line 15, strike "after receiving the report from" and insert "after reported by".

On page 25, line 7, strike "create" and insert "complete".

On page 26, line 1, after "(iii)" insert "request the Attorney General to".

NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on H.R. 5191, the Small Business Equity Enhancement Act of 1992. The hearing (postponed from an earlier date) will take place on Wednesday, July 29, 1992, at 10:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patty Forbes, counsel to the Small Business Committee at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Monday, July 27, 1992, at 2 p.m. to conduct a hearing on S. 2907, the National Flood Insurance Reform Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, July 27, at 3 p.m. to hold a hearing on United States plans and programs regarding weapons dismantlement in the former Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHILD NUTRITION

• Mr. SARBANES. Mr. President, last Thursday the Senate Appropriations Committee reported the Agriculture appropriations bill for fiscal year 1993 which includes a $260 million increase for the Women, Infants and Children [WIC] Supplemental Feeding Program and a $5 billion increase for the Food Stamp Program. I applaud the committee's efforts as a commendable step to provide funding for programs essential to the health and well-being of many of our Nation's citizens. However, in my view, more needs to be done in this critical area, especially in terms of providing for our children.

According to a national study coordinated last year by the Food Research and Action Center [FRAC], 5.5 million American children under the age of 12 are hungry—one out of every eight children living in this country. Further, the study indicated that hungry children are two to three times more likely than other children to have suffered from individual health problems such as unwanted weight loss, fatigue, irritability, and headaches. Obviously, children who are faced with these distractions are much less likely to reach their full potential and become productive adults. If our Nation is to succeed in an increasingly competitive world, efforts must be expanded to ensure our children have access to basic nutrition. While I have discussed our Nation's history of Federal support for nutrition programs before, it is, in my view, important to review what was, for many years, a strong commitment to funding for food assistance programs.

The first significant history for Federal food donations was included in legislation enacted in 1935 which made funds available to the Agriculture Department to encourage the domestic consumption of agricultural commodities by diverting them from normal channels of trade. With passage of the National School Lunch Act on June 4, 1946, a major shift occurred in the purpose of food distribution programs. The stated purpose of this legislation was not only to provide a market for agricultural production, but also to improve the health and well-being of the Nation's youth.

A further shift in the primary purpose of food distribution programs from surplus disposal to that of providing nutritious foods to needy households occurred following the issuance of an Executive order in 1961 which mandated that the Agriculture Department increase the quantity and variety of foods donated for needy households. Congress continued to expand food and nutrition programs during the sixties and seventies, increasing reimbursements and expanding program eligibility to cover a wider range of low-income families. Critical new programs were put into effect, including the WIC Program and nutrition programs targeted at the elderly.

However, after nearly 45 years of almost uninterrupted growth, Federal funding for these critical food assistance programs was drastically cut through the Reagan administration's Omnibus Budget Reconciliation Act of 1981. This measure, which reduced Federal funding for all domestic programs by $35 billion in fiscal year 1982, cut approximately $1.4 billion from child nutrition programs.

These cuts in spending for child nutrition programs amounted to about 25 percent of the amount that would have been spent in fiscal year 1982 had no changes been enacted. The School Lunch Program received the largest dollar amount reduction, losing almost $1 billion in fiscal year 1982. The Special Milk Program was cut by 77 percent, grant funding for the Nutrition, Education and Training Program [NET] was cut from $15 to $5 million, and the Summer Food Service Program was reduced by 54 percent below the expected fiscal year 1982 level. A commodity reimbursement rate cut lowered fiscal 1982 spending for commodity distribution by an estimated 42 percent and the Child Care Food Program was cut by 29 percent.

Efforts to restore some of the cutbacks in these programs began in the mideighties with the passage of the Food Stamp amendments to the 1985 farm bill and the School Lunch and Child Nutrition amendments of 1986. In 1988, Congress passed the Hunger Prevention Act, major legislation later enacted into law, that mandated funding for commodity purchases for soup kitchens and food banks, expanded reimbursements and eligibility for the School Breakfast, Child Care Food, and Summer Food Service programs, and liberalized food stamp benefits and eligibility rules. In addition, Congress helped to spare further cuts in Federal funding for child nutrition programs by refusing to accept repeated requests from the administration to end all Federal support for meals served to nonpoor children. Had this request been implemented, it would have eliminated the broad-based nutrition support focus of the programs.

I am pleased that largely through these congressional efforts, Federal funding for food assistance programs has increased since the cutbacks of the early 1980's, with Federal support for these programs growing, according to the Congressional Research Service, by 72 percent, approximately 10 percent more than inflation. However, these levels are still far from what is required to ensure that all our country's children are adequately fed.

According to the 1990 U.S. Census, it is estimated that 33.6 million people live in poverty in the United States. While this number is clearly unacceptable and has increased from 24.5 million, the level in 1972, I am particularly concerned about the Census Bureau's data as it relates to children. An analysis of the Bureau's findings by the Children's Defense Fund shows that the number of children living in poverty grew by more than 1 million during the 1980's, an 11.2 percent increase from 1979 to 1989. The percentage increase is even higher when the 1990's numbers are compared to census statistics from the 1970's. That comparison shows the rate of children living in poor families has increased by an astonishing 33 percent, so that today, one in every five children is impoverished.

These figures are especially disconcerting since comprehensive programs, proven effective over time, have been in place to serve the needs of these children, only lacking the funding to address the problem appropriately. For example, according to a 1991 Congressional Research Service study, funding for the School Lunch Program, which serves the largest number of children of all the child nutrition programs, has not kept pace with inflation during the past decade, with overall participation declining by 2.5 million children, so that approximately 40 percent of all the children eligible for this program do not participate. This percentage would increase if the administration's fiscal year 1993 budget proposal to reduce by 20 percent the Federal subsidies for the School Lunch Program has been adopted.

As a cosponsor of S. 757, the Mickey Leland Childhood Hunger Relief Act, I am also very concerned that the administration's budget does not contain funding for this legislation, a bill thought by many to be the most important antihunger legislation this country has seen in 15 years. S. 757 directly addresses the issue of childhood hunger by encouraging a better diet for low-income people, promoting self-sufficiency among food stamp recipients and simplifying the administration of food assistance programs. It is my view that any comprehensive policy to alleviate childhood hunger must include funding for this critical measure.

While I note that the administration has proposed a significant increase in funding for the WIC Program, I regret that the increase in funding came at the expense of other important programs. In their analysis of the administration's fiscal year 1993 budget, the Child Welfare League of America indicated that overall spending for discretionary programs for children and families has been reduced by $433 million or 7 percent. I am further concerned that, even with the increase, the administration's proposal for funding WIC is still significantly less than what is necessary to assure that this very successful, cost effective program is available to all eligible individuals. As a cosponsor of S. 2387, the Every Fifth Child Act, a measure that would make appropriations to begin a phase-in toward full funding for WIC, I want to ensure that this meaningful program will meet the needs of the over 3 million low-income, nutritionally at risk women and children that were not served by this program last year.

As the necessity for increased funding for childhood nutrition programs has become painfully obvious and urgent, I wish to remind my colleagues, once again, of legislation to take down the arbitrary budget walls, enacted as part of the Omnibus Budget Reconciliation Act of 1990, which prevent savings from defense from being used for domestic purposes. These walls are based on assumptions about our defense needs, made almost 2 years ago, that have no relevance in the changed world in which we now find ourselves. While a strong military is still essential, the savings that would be procured from taking down these walls is substantial and could be used to fund many critical domestic programs, including the School Lunch Program, WIC, and the Every Fifth Child Act.

As you know, on February 25, 1992, I joined with Senator SASSER in introducing a measure to take down these walls and allow a rational choice between defense and domestic discretionary spending. I regret that the Senate did not vote in sufficient numbers to end the Republican led filibuster of this legislation and that the motion to invoke cloture and proceed to the bill failed by a vote of 50 to 48, 10 votes shy of the 60-vote majority needed to cut off debate. It is my view that continued administration opposition to this legislation has effectively prevented the opportunity for any reasoned debate on our national economic priorities.

Mr. President, this Nation's long record of strongly supporting child nutrition programs illustrates the high priority we have placed on ensuring that our children, this country's most precious resource, are adequately prepared to succeed in this increasingly competitive world. The unwillingness of the past two administrations to acknowledge this priority and accept the responsibility of funding these crucial programs is, in my view, an unmitigated tragedy. While I am pleased that the Senate Appropriations Committee has, under the artificial constraints of the Budget Enforcement Act, recognized the importance of childhood nutrition, we must continue our efforts to provide greater Federal support for critical nutrition programs which are of such great importance to many of our Nation's children.•

CELEBRATING MRS. RUTH HOLLIDAY WATKINS 100TH BIRTHDAY

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to Mrs. Ruth Holliday Watkins on her 100th birthday. Mrs. Watkins has been devoted to serving others for many years.

Mrs. Watkins was the founder and first president of the International Institute of Metro St. Louis in 1919. In 1989 she participated in their 70th anniversary. She has served with the Family and Children's Services, the YWCA, the Provident Counseling, and the Second Presbyterian Church. Mrs. Watkins organized and served as the first president of the St. Louis Science Center Woman's Division. In 1960, she received an honorary doctor of humanities degree from Lindenwood College for her loving dedication of intelligence and imagination to the community.

Thanks to Mrs. Watkins humanitarian contribution, the Horton Watkins High School was established in 1953. She donated the land for the school and its enlargements. The Horton Watkins High School is well respected and many students have enjoyed their teachings.

While still being an active and dedicated servant of the community, Mrs. Watkins raised three children and has three grandchildren and five great grandchildren. She still continues to support many local and national organizations.

Mr. President, the people of St. Louis are grateful for Mrs. Ruth Holliday Watkins years of service, loyalty, and dedication to its communities. I join her family and friends in wishing her a happy 100th birthday. St. Louis is indeed fortunate to have such a dedicated public servant as Mrs. Ruth Holliday Watkins.•

SOUTH DAKOTA HONORS CZECH DAYS AND THE SCOTTIE STAMPEDE RODEO

• Mr. DASCHLE. Mr. President, America truly is a melting pot of nations. Many people have traveled and continue to travel to our shores seeking refuge and a chance at a new life in the land of opportunity. One such group is the Czechoslovakian population that came and settled in South Dakota. In recognition of the contribution the Czech immigrants made to the culture of South Dakota, I am proud to draw the attention of my colleagues to the 44th annual Czech Days celebration which was held on June 19 and 20 in Tabor, SD. The South Dakotans of this area have tried to preserve the ways of the Czechoslovakian people, and, with great appreciation, I applaud the effort of those citizens who celebrate their heritage in this manner every year.

Another way we celebrate South Dakota's heritage is with a rodeo. Rodeos have always played an important role in our lives. In this spirit, I would like to recognize the 27th annual Scottie Stampede Rodeo to be held in Scotland, SD, on August 8 and 9, 1992. This event has rightly been billed as a great family-oriented event. Cowboys travel great distances to compete in Scotland. The Scotland Rodeo Club plans this event which acts to maintain rodeo as an active and vital part of South Dakota's heritage.

The South Dakota Legislature has passed resolutions commemorating Czech Days and the Scottie Stampede Rodeo, and I ask that the resolutions be printed in the RECORD at the close of my remarks.

Mr. President, I commend the sponsors of both of these events and the two resolutions and thank them for preserving the unique cultural character of the State of South Dakota.

The resolutions follow:

HOUSE COMMEMORATION NO. 1011

Whereas, Tabor Czech Days celebrates the rich cultural heritage that the Czech immigrants transported from their homeland to enrich their new home in South Dakota; and

Whereas, the peoples of Czechoslovakian descent have consciously preserved the language, customs, dress, spirit and cuisine of their immigrant ancestors; and

Whereas, this year's Czech Days' Royalty are: Queen Crystal Carda, daughter of Lawrence and Darlene Carda of rural Tabor; Prince Kyle Kreber, son of John, Jr. and Kim Kreber of rural Tyndall; Princess Selina Cimpl, daughter of Joe and Deb Cimpl of Tabor; and

Whereas, many fine attractions await those visiting the 44th Annual Czech Days, including the Czech Heritage Museum, Blachnik Museum, St. Wenceslaus Catholic Church, adult and children's programs in Sokol Park, live Czech music in Beseda Hall and two beer gardens: Now, therefore, be it

Commemorated, by the Sixty-seventh Legislature of the state of South Dakota, that the Legislature congratulate the Czech peoples of South Dakota for their outstanding, traditional celebration and invite all South Dakotans to participate in the 44th annual Czech Days on June 19th and 20th in Tabor, South Dakota.

HOUSE COMMEMORATION NO. 1042

Whereas, the 27th annual Scottie Stampede Rodeo held Saturday and Sunday, August 8 and 9, 1992, is a great family oriented event with talented cowboys from around the state and the nation coming to Scotland, South Dakota, to compete for prize money, fame and glory; and

Whereas, after the rodeo on Saturday night, there will be a country western dance at the Scotland City Hall that will be a great entertainment event; and

Whereas, the Scotland Rodeo Club does an outstanding job in promoting and hosting this fine event: Now, therefore, be it

Commemorated, by the Sixty-seventh Legislature of the state of South Dakota, That the Legislature congratulates the people of Scotland, South Dakota, for their outstanding celebration and invites all South Dakotans to participate in the 27th annual Scottie Stampede Rodeo on Saturday and Sunday, August 8 and 9, 1992, in Scotland, South Dakota.•

DEMOCRATIC HISPANIC TASK FORCE FIELD HEARING

• Mr. SIMON. Mr. President, last May in my home State of Illinois, I chaired a field hearing of the Senate Democratic Hispanic Task Force on issues facing the Hispanic family—education, employment, and health care.

At the Chicago field hearing, I heard from a diverse group of men and women who provided very useful testimony about the challenges facing the Hispanic communities in these areas. The witnesses who testified also made a series of important and serious recommendations in these areas. Over the past several days, I have included testimony from the witnesses at the hearing in the RECORD. I ask that the fourth of five groups of testimony be included at this point in the RECORD.

The testimony follows:

UNIVERSITY OF ILLINOIS AT CHICAGO,
Chicago, IL, May 5, 1992.

Hon. PAUL SIMON,
U.S. Senate,
Kluczynski Building, Chicago, IL.

DEAR SENATOR SIMON: I would like to reiterate my appreciation for your invitation to attend the community forum and field hearing on issues affecting the Latino community. Your involvement in these concerns, and your willingness to engage Latino leaders in the process will bring about greater sensitivity and, hopefully, more initiatives and resources from the U.S. Congress.

Enclosed please find some thoughts regarding the Hispanic Centers of Excellence which was alluded to by Dr. Aida Giachello during her testimony. Dr. Giachello and others spoke about the need for more bilingual, bicultural health professionals to address growing health problems among Latinos. The Hispanic Centers of Excellence, if approached appropriately, can provide a model to deal with health professions training, research, outreach health services, and policy-making for Latinos in Illinois and elsewhere in the nation.

In the spirit of a holistic, integrated approach to health and education problems affecting Latinos I urge you to consider the suggestions enclosed herewith. My colleagues in the Hispanic Centers of Excellence and I stand ready to assist you in any way you deem necessary. Thank you in advance for your consideration in this matter.

Sincerely,

JORGE A. GIROTTI, Ph.D.,
Assistant Dean and Director,
Hispanic Center of Excellence.

THE HISPANIC CENTERS OF EXCELLENCE (HCOE) A MODEL FOR AN INTEGRATED APPROACH TO HEALTH PROFESSIONS TRAINING, RESEARCH, OUTREACH SERVICES, AND POLICY-MAKING FOR HISPANICS

BACKGROUND

The legislation that established Hispanic and Native American Centers of Excellence was initially designed for Historically Black Colleges and Universities (HBCU). In 1987 Congress passed a bill to assist HBCUs which trained African American health professionals. There are currently four such schools receiving approximately $12.5 million per year to enhance their training programs. The extension to include Hispanics and Native Americans was passed into law in 1990. About $2.5 million were appropriated to fund this expansion. One million was designated for Native Americans, and $1.5 million for Hispanics. During its first cycle, five schools (four medical and one pharmacy) receive funding under the Native American, and seven (all medical) schools under the Hispanic Centers of Excellence. The University of Illinois at Chicago College of Medicine is among these seven. The average award per school is $200,000.

The idea of "Centers of Excellence," that is the recognition by the Department of Health and Human Services (DHHS) that some institutions have shown a consistent and substantial track record in educating groups of people who are underrepresented in the health professions, is a solid one. For African Americans, HBCUs represent a natural repository of this designation for they have been created to address those particular needs.

For Hispanics, however, there are no counterparts to the HBCUs. Hispanics in the U.S. have had to rely on "mainstream" institutions to address their educational and health needs. Some institutions, for a variety of reasons, have done better in this respect than others. Therefore, the idea of recognizing those institutions through the "Centers of Excellence" designation is still a solid approach. Unfortunately, the DHHS has stopped short on what could become a model to integrate the various aspects of health professions training, research, outreach services, and policy-making for Hispanics.

Some Questions and Answers Regarding an Integrated Model

Q: Is there a need to have Hispanic Centers of Excellence (HCOE) occupying a separate free-standing edifice on campus?

A: It would be ideal to have a building on campus whose sole purpose was to consolidate the variety of ongoing efforts to address Hispanic health professions education, research, community outreach services, and policy-making issues. For instance, the Chicago metropolitan area continues to see steady increase in the Hispanic population. Eighty-five percent of all Latinos who live in Illinois. reside in the six-county area surrounding Chicago. A building on the University of Illinois at Chicago campus would provide the impetus to bring together faculty, staff, community leaders, and students, both Latios and non-Latinos with an interest in the welfare of the community, to address pressing issues affecting the population.

Q: What would be the key elements of this kind of initiative?

A: To make the above a reality there would be a need to build a home for the HCOE; to have a core faculty, a well as adjunct faculty; to provide scholarship assistance to students; and to establish a multidisciplinary approach.

First of all, a structure that would provide appropriate facilities to carry out the various objectives of the HCOE would have approximately 45,000 square feet of laboratory, classroom and office space. Currently, such facility would cost an estimated $7 million to build. Secondly, such Center should begin with a core full-time faculty of at least ten individuals, and could provide opportunities for dual assignment of faculty with other departments on campus. At least ten individuals could initially be recruited. thirdly, scholarships are indeed a major problem for Latino students with the talent and interest in the health professions and biomedical research. Ideally the Center would support fifty individuals on an annual basis at various levels of training.

Finally, an inter-disciplinary approach would make more sense if we want to address the myriad problems affecting health care delivery for Hispanics. At the University of Illinois at Chicago the Colleges of Nursing, Pharmacy, and Public Health, as well as the Early Outreach Program should receive support for Hispanic initiatives. Probably $1 million per year would be necessary at this time to initiate efforts in those areas. However, it is important to note that support should be provided to medicine-based HCOEs first so that they can accomplish what they have set out to do, then move on to other professions and build those programs.

Q: Would it be appropriate for HCOEs to function as coordinating centers for other DHHS-funded initiatives on a regional basis?

A: To the extent that those public health, education, outreach, and research efforts are exclusively directed at the Latino population, then it would be fitting to include the HCOEs in some coordinating capacity, particularly if we are functioning in the ideal environment described above. It would behoove the DHHS and its agencies to consider such holistic approach.

Q: What could be described as examples of a coordinating function for NCOEs?

A: For instance, designating certain HCOEs to "specialize" in one disease which disproportionally affects Hispanics would be a most efficient way to invest Federal resources and make a widespread impact on the health status of Latinos in the U.S. In this regard it would be important to include all regions of this country where Latinos live. The Midwest is many times overlooked in favor of a "bi-coastal" approach to fund distribution. Illinois has the fifth largest Latino population in the U.S. and should be considered on an equal basis.

Q: What are some long term objectives for an integrated HCOE?

A: In terms of health professions education, here are some realistic objectives:

1. Provide an academic enrichment/health education program for sixth, seventh, and eighth grade students.

2. Develop and implement a big brother/big sister mentoring program between medical, undergraduate, high school, and grammar school students.

3. Design and implement collaborative programs with community colleges with large Latino student enrollment to enhance science and mathematics preparation, and to improve transfer rates into science-oriented programs at four-year institutions.

4. Develop and implement a post-baccalaureate program for Chicago-area Latino students.

5. Work with the Board of Education, and Local School Councils to design a curricular program that emphasizes preparation for the health professions and implement the design at schools where Latinos constitute the majority of the student body.

In terms of biomedical and clinical research:

1. Expand resources available for student research, both during the summer and possibly extend support to year-around projects in conjunction with individual departments in the College of Medicine.

2. Provide research opportunities to students by engaging in collaborative agreements with clinics that serve a predominantly Hispanic patient population. Students would work with physicians on site on a variety of projects relating to public health and disease-specific issues.

3. Organize a network of Latino health researchers who would not only provide opportunities for students to work on various projects but also would serve as mentors and role models.

4. Develop teams of researchers, both Latino and non-Latino, to tackle specific research issues that pertain to salient problems for the Latino population; involve students in these teams as integral part of the process of definition and implementation of individual projects.

Some objectives in health outreach services;

1. Involve students at all levels (from elementary to medical schools) in the development and dissemination of health education materials targeted to the Latino community.

2. Work with agencies in the metropolitan area whose purpose it is to provide health services of any kind to Hispanics. Engage students in working with those agencies in projects that benefit the Latino population.

3. Support health fairs and similar health awareness events and programs; participate in campaigns that target specific health issues such as immunization, blood pressure, and cholesterol screenings, etc.

4. Coordinate these initiatives with the University Hospital and Clinics, where Hispanic utilization of services continues to grow.

Finally, regarding health policy-making the ideal thrust would be engaging students (undergraduate and medical) in activities at the state and federal levels. The medical school curriculum does not present much information to students in this realm, although the impact of federal policies has far-reaching implications for the work of individual physicians. It is difficult to ascertain, at this initial stage of development, what general direction the HCOEs should follow in this regard.

CONCLUSION

The recommendations above provide a synopsis of a model which given the appropriate conditions, would permit the Federal government, through the Department of Health and Human Services, to make a definite, positive impact on the health status of Hispanic Americans. At this point the major concern among those of us in health professions schools is the trend within DHHS to dilute the Centers of Excellence initiative by spreading limited funding among large numbers of recipients, thereby not allowing the already established centers to achieve their promise. This approach will prove detrimental for the progress of Hispanics in the health professions since it encourages piecemeal strategies to deal with what has become a monumental problem; one that requires a bolder method of targeting programs which have proven successful in the past.

Jorge A. Girotti, Ph.D.

CHICAGO, IL, MAY 1992.

GENERAL ASSEMBLY, STATE OF ILLINOIS,
SPRING 1989

To the honorable members of the 86th General Assembly:

The Joint Committee on Minority Student Access to Higher Education was created by Senate Joint Resolution 72 on June 1987, and its work was continued with passage of Senate Joint Resolution 130 on July 1, 1988.

The Committee was established for the purpose of analyzing:

(1) The Chicago public schools' college preparation programs and course offerings.

(2) Their relationship to the proposed Illinois Board of Higher Education's increased undergraduate admissions requirements proposed to be implemented by 1993.

(3) The Illinois Educational Partnership Act, and

(4) The transfer rates of minorities from Illinois community colleges to four year institutions.

Pursuant to SJR 72 and 130, the committee conducted six public hearings. This report results from those hearings and subsequent committee deliberations.

As we enter the 1990's, Illinois' institutions of higher education face the growing challenges of preparing our future workforce. All Illinois children must be prepared in the years to come to meet the changing trends of the economy.

In order to ensure that minorities are better prepared to succeed in the workforce of tomorrow, Illinois institutions of higher education, the General Assembly, the business community, and primary and secondary local schools must exert leadership and pool their resources to reach out to minority communities.

The analysis and recommendations in this report offer a comprehensive approach to finding solutions.

This report was approved by the Committee on May 24, 1989 by unanimous vote.

Respectfully submitted,

MIGUEL DEL VALLE,
State Senator, 5th District.
ELLIS LEVIN,
State Representative, 5th District.

EXECUTIVE SUMMARY

The increased course standard requirements, as approved by the Illinois Board of Higher Education (IBHE), were unreasonable from their inception. Despite full agreement with the IBHE on the need for tougher college entrance requirements to improve the quality of the entering freshman, the committee agrees, based on testimony provided, that IBHE's proposal and implementation of the new requirements is seriously deficient.

First, the majority of the high schools in Chicago (47 to 64) do not adequately offer the courses to meet the requirements, and will be unable to offer these courses without substantial new revenue. Second, the new requirements improperly demand course offerings that are inappropriate for vocational schools, find arts academies, and schools with agricultural curriculae.

The committee supports the concept of increasing college entrance requirements. It is in everyone's best interest, including that of the minority community, to better prepare children for higher education and the workforce. However, it is clear that no new course pattern requirements should be mandated until these deficiencies are adequately addressed.

The state must ensure that no student be denied access to higher education due to the inadequacies that exist in inner city, rural, vocational, agricultural and some suburban high schools. Given the lack of resources for the state's high schools, the committee opposes the IBHE's implementation of increased course pattern requirements until such time as the State Board of Education certifies that all high schools in the state are offering the classes to meet these requirements. There should be a measure of flexibility in the standard to accommodate the diversity in high schools throughout the state.

Minority programs have been severely under-funded. Five percent of all new funds (for the next ten years) appropriated by the General Assembly for higher education should be allocated to minority programs and other services that enhances minority students access and retention. Increased funding of these programs must be a priority. A separate line item should be established in the IBHE budget for recruitment and retention programs.

Illinois universities' record of hiring tenured and non-tenured minority faculty is poor. This is a very complex problem to remedy due to the governance structure of academia. Yet, its resolution must have high priority.

The availability and adequacy of financial aid has become the single most important factor in minority student access and retention to Illinois colleges and universities. The committee recommends full funding of the Illinois State Scholarship Commission (ISSC), specifically for the Monetary Award Program (MAP). The ISSC must be more flexible and responsive to the needs of minority students.

Leading authorities in higher education must take a more aggressive role to improve minority access and retention by assuming ownership of the problem and identifying solutions, assigning high level institutional priority to minority scholarship funding and institutionalizing academic support programs.

A legislative oversight committee must be established to monitor programs that increase minority access and retention in Illinois public colleges and universities. The oversight committee would provide guidance and support through hearings, recommendations and follow-up on the progress of minority student program implementation and initiatives stemming from this report. The oversight committee can also review data collected by the governing boards of higher education, and study the budget requests submitted by the IBHE and institutions to the General Assembly.

The IBHE should develop a process by which uniform guidelines for all public institutions of higher education are to be established with regard to the recruitment and retention of minority students. Through the establishment of an Office of Minority Affairs, the IBHE will be able to assist all public institutions of higher education in their efforts to recruit and retain under-represented minority students, as well as perform other related activities outlined in this report.

Through partnership building, four year institutions and two year colleges should improve their articulation programs to increase transfer rates for all students, including minorities. To better inform and prepare students, community colleges should establish "transfer information centers" on and off campus, which are accessible to minority students. Such a program exists in California (as presented to the committee).

A partnership should be established between the business community and higher education to create opportunities and resources for minority students such as off-campus work study in the private sector, corporate college savings plans for disadvantaged children and others. At the committee's meeting with Chicago United business leaders in Chicago it was recommended that the establishment of such partnership is sorely needed.

MINORITY STUDENT ENROLLMENT AND RETENTION IN HIGHER EDUCATION

African-American and Hispanic students are under-represented in institutions of higher education. An analysis of the Illinois Board of Higher Education's 1988 Report on Minority Student Participation in Illinois Higher Education indicates that African-American and Hispanic students are not represented in institutions of higher education in relation to their population or in relation to their enrollment in elementary and secondary education. The following information from the report highlights the status of minority student enrollment in higher education. (See Appendix 2.)

SUMMARY OF INDEX NO. 2—TABLE A: CURRENT REPRESENTATION

African-Americans comprised 15.1 percent of Illinois' estimated 1985 population and 22.8 percent of the 1st grade population in 1987, but made up 10.8 percent of public university enrollment, 13.2 percent of private college enrollment and 14.7 percent of community college enrollment.

Hispanics comprised 6.5 percent of the estimated 1985 population and 9.7 percent of the first grade population in 1987, but made up only 3.2 percent of public university enrollment, 5.2 percent of private college enrollment and 6.9 percent of community college enrollment.

African-American and Hispanic enrollment generally decreases at each successive level of education from 1st grade to 9th grade to 12th grade and on through under-graduate and graduate/professional education.

African-American and Hispanic student enrollment is proportionately higher in community colleges than in public or private institutions.

African-American and Hispanic student retention is a problem. African-American students comprise 10.8 percent of the public undergraduate enrollment, yet account for only 6.3 percent of those receiving bachelors degrees.

SUMMARY OF TABLE 8: TRENDS IN UNDERGRADUATE EDUCATION

Trends for Hispanic and African-American students differ. Over the past four years, African-American student enrollment has decreased at community colleges, has remained stable at public universities although there was a decline in 1987, and increased at private institutions, although the numbers and proportions of bachelors degrees awarded decreased.

According to the University of Chicago Metropolitan Report "Declining Minority Access to Higher Education," since 1980, Hispanic enrollment in public universities in Chicago has fallen by 10 percent, and by 11 percent in both private colleges and universities.

Hispanic enrollment has slightly increased in most areas of enrollment and awarding of degrees, but is still below representation. Statewide, enrollment increased at public universities and community colleges, although there was a decrease in 1986–87.

African-American and Hispanic students continue to be under-represented as recipients of bachelors degrees (Tables 2A and 2B). The proportion of students receiving bachelors degrees decreased for African-Americans and increased for Hispanics.

Over the last nine years, the proportions of African/American students receiving bachelors degrees in education have decreased, while there have been increases in computer and information sciences. In engineering and in the biological and physical sciences, African-American representation remains very low.

Hispanics showed increases in receiving bachelor degrees in the fields of biological and physical sciences, business management, computer and information sciences, engineering, health professions, and psychology and social sciences, although representation in these fields remains very low.

According to the University of Chicago Metropolitan Report: "Declining Minority Access to Higher Education," since 1980, African-American enrollment at the University of Illinois at Chicago decreased by 48%.

MINORITY STUDENT PROGRAMS

Testimony

Minority student programs are the foundation for improving student retention and enrollment. These programs usually serve as centers which provide student academic and cultural support, as well as the overall guidance that enhances the student's success in higher education. Unfortunately, inadequate state funding and the lack of institutional commitment to mainstream these programs has resulted in critical under-staffing and limited delivery of services.

Numerous institutions presented testimony on the need to expand funding and plans to increase minority student enrollment and retention. Although these plans deserve merit for attempting to address the problem, the lack of financial support for these programs on the part of the same institutions poses a major obstacle in achieving their goals.

The Illinois Board of Higher Education, in its FY 1989–90 budget request, recommended a $305 million increase in General Revenue Funds (GRF) for state support of higher education. Of this, only $3.2 million, or 1 percent of the total would be allocated to minority programs.

In turn, the Governor's proposed 1989–90 budget requests $110 million in new funding, which is $185 million less than IBHE requested. Minority programs would only receive approximately $1.3 million of new funding.

Overall, since 1983 higher education spending through GRF increased by 34.4 percent. Although this level is insufficient to meet the needs of higher education, it should be noted that it appears funding for minority programs has not increased at all.

There are numerous excellent programs in higher education which have done a commendable job in recruiting and retaining minority students. The General Assembly, as well as the institutions, needs to substantially increase funding for the expansion of minority student programs.

RECOMMENDATION

IBHE should request that five percent of all new higher education funds should be allocated for minority student programs and services in its annual budget request to the General Assembly.

IBHE should create separate line item budget request to the General assembly for minority recruitment and retention programs.

HIRING MINORITY ADMINISTRATORS, FACULTY AND COUNSELORS

Role models are very important in the educational process, especially for minority youths from low income families who are often confronted with large, predominantly white institutions, unfamiliar surroundings, inadequate support services, and an environment sometimes perceived or actually hostile toward minorities.

Lack of minority staffing at all levels of higher education was evident in the testimony. More must be done by the institutions to attract minorities. Minority faculty should be trained and promoted for administrative posts. Aggressive recruitment campaigns should be initiated, and one way to identify prospective candidates is by establishing a curriculum vitae bank with the IBHE. The bank would maintain curriculum vitaes from throughout the country which would be accessed by Illinois institutions.

The Office of Affirmative Action or its equivalent at every public institution should be a part of all search and screen committees for administrative and faculty hirings. The Affirmative Action office would certify whether or not all affirmative action guidelines were utilized and if attempts were made to recruit minorities.

Testimony indicated that some private universities have increased minority faculty and counselor hirings by adding department positions designated as minority positions. These universities have generally found many highly qualified minority candidates for their positions.

Also, faculty members are often burdened with dual responsibilities of administering a minority program, meeting their teaching responsibilities and providing student support services. Often minority faculty are adversely affected in the tenure process, because their research time is decreased by all of these responsibilities.

The Tables below provide an overview of minority hiring in Illinois institutions of higher education in 1985.

TABLE 1.—FALL 1985 FULL-TIME EMPLOYEES BY RACE/ETHNICITY AND SYSTEM EXECUTIVE/ADMINISTRATIVE/MANAGERIAL

	White	African American	Hispanic	Asian	Native American
Board of Governors	419	68	13	5	4
Board of Regents	310	22	4	5	0
SIU	434	31	3	11	1
University of Illinois	932	89	7	26	3
System total, 2,387	2,095	210	27	47	8
Percent	88	8.8	1.1	2	.3
City College, Chicago, system total, 187	90	81	12	3	1
Percent	48.1	43.3	6.4	1.6	.5
Community colleges system total 3,427	2,973	336	46	60	12
Grand total, 6,001	5,158	627	85	110	21
Percent	86	10.4	1.4	1.8	.35

Source: State Board of Higher Education, "Statistical Report of Female and Minority Employment in Higher Education, Fall 1985," July 1986.

TABLE 2.—FALL 1985 FULL-TIME EMPLOYEES BY RACE/ETHNICITY AND SYSTEM TOTAL FACULTY

	White	African-American	Hispanic	Asian	Native American
Board of Governors	1,500	153	38	90	2
Board of Regents	1,960	54	22	100	4
SIU	1,471	38	14	101	2
University of Illinois	3,859	93	73	392	10
System total, 9,976	8,790	338	147	683	18
Percent	88	3.4	1.5	6.8	.2
City College, Chicago, system total, 1,229	790	338	24	76	1
Percent	64.3	27.5	1.9	6.2	.08
Community colleges system total, 4,128	3,888	153	33	43	11
Percent	94.1	3.7	.8	1.0	.27
Grand total, 15,333	13,468	829	204	802	30
Percent	88	5.4	1.3	5.2	.2

Source: State Board of Higher Education, "Statistical Report of Female and Minority Employment in Higher Education, Fall 1985," July 1986.

OFFICE OF MINORITY AFFAIRS OF THE IBHE

Testimony

The committee received testimony describing several programs in Illinois currently in place that, although limited in scope, are nonetheless innovative and effective in their efforts to attract, retain and graduate minority students. Unfortunately, these programs most often seem to be isolated from the rest of the institution and from the community of higher education as a whole.

Recommendation

By establishing the Office of Minority Affairs at the IBHE, a major initiative will be undertaken to coordinate university recruitment and retention efforts through a centralized, comprehensive mechanism that standardizes university efforts. This office would incorporate programs tested and found to be successful in Illinois and in other states.

The office would establish statewide uniform guidelines adopted by the IBHE and implemented by all public institutions on minority student recruitment and retention. Its policy will include procedures for centralizing information on all existing high school placement programs, community agency outreach, and campus remedial programs.

This office would reflect a renewed commitment and a call for action to address the status of minorities in our public universities. It would create specific goals and objectives, as well as a timetable by which these achievements are to be met. The model would also include a comprehensive evaluation of programs that service minority students to ensure efficient programming.

The Office of Minority Affairs would be responsible for carrying out the following tasks:

Assist all public institutions of higher education in their efforts to recruit under-represented students.

Develop and oversee the implementation of comprehensive recruitment and retention programs at each public university and community college system.

Develop policy pertaining to recruitment and retention.

Centralize data collection on recruitment and retention efforts.

Establish uniform data collection systems and form on minority students in higher education.

Conduct an annual evaluation (report card) on each university system and institution.

Report to the Governor and the General Assembly pursuant to P.A. 85-281.

Assist in the development of peer counseling programs.

Work with the private sector to identify areas of funding for scholarships, community outreach and employment.

Help facilitate recruitment for graduate programs.

Assist with minority administrative and faculty hirings.

USE OF "HARD MONEY" TO SUPPORT MINORITY STUDENT PROGRAMS

Testimony

The committee noticed a troubling pattern in presentations made by top level administrators of Illinois institutions of higher learning. There is a tendency to support minority student programs with "soft money" rather than through institutional budget allocations, or "hard money." "Hard money" refers to the general operating funds while "soft money" refers to programs receiving special allocations, grants or funds from outside sources. A good measure of an institution's commitment to expand minority student access and retention is its willingness to budget state funds appropriated by the General Assembly to programs specifically designed for those purposes. In part, "hard money" ensures continued funding for programs.

Recommendation

The Illinois Board of Higher Education should expand the use of institutional dollars to support minority recruitment and retention programs. Institutional funds should supplement minority programs.

The committee's hearings also highlighted the importance of awarding graduate, teaching and research assistantships to minority students. These assistantships offer minority students the opportunity to pursue education without incurring major financial commitments for tuition and other costs. Assistantships also allow minority students an important opportunity to associate with faculty and to learn the university system by participating in it.

RACIAL TENSION AND DISCRIMINATION ON CAMPUS

Testimony

The most alarming charges brought before the committee were the allegations of discrimination and increased racial tension on some state campuses. Racial tension appears to be growing in some Illinois institutions of higher education, and it has created an atmosphere non-conducive to the learning environment and to the retention and recruitment of minority students.

There has been an increase in reports of harassment, racial slurs, distribution of racist and anti-semitic literature (at Northern Illinois University) and other campuses. The absence of top level minority administrators on many campuses has created frustration, as evidenced by the testimony at the Northern Illinois University campus, in which students called for minority hirings of top level administrator and staff positions.

Recommendations

Require race relations instruction in the general education requirements of all programs leading to bachelor's and associate of arts or science degrees. This can be accomplished by offering initial instruction through existing coursework, and subsequently, through a separate course. The IBHE would be responsible for developing, budgeting and monitoring the establishment of the curriculum.

Increase the penalties for racial, ethnic and religious crimes committed on college campuses, if needed.

Require institutions of higher education to automatically report all cases of racism and discrimination to the Illinois Department of Human Rights and the Attorney General.

Require the universities' Office of Affirmative Action to verify in writing whether or not all efforts were made to hire minority staff for all new administration and faculty hirings, and if affirmative action guidelines were employed. This information should be submitted to the president of the institution for inclusion in the annual report of the Illinois Board of Higher Education to the Governor and the General Assembly on Underrepresented Students in Higher Education, pursuant to P.A. 85-281.

Promote culturally diverse activities on campuses which reflect the multicultural make-up of the different groups in the United States.

ANALYSIS OF THE ILLINOIS BOARD OF HIGHER EDUCATION'S FISCAL YEAR, 1990 BUDGET REQUEST AND THE GOVERNOR'S PROPOSED FISCAL YEAR 1990 HIGHER EDUCATION SPENDING

The Illinois Board of Higher Education recommended a $305 million increase in General Revenue Funds (GRF) for state support of higher education for FY 90. The current level of funding in GRF is $1.341 billion or only $16 million (1.2%) above the funding level of FY 87. The lack of state support for higher education has caused sharp tuition increases in the past two years and under-funding or elimination of critical programs.

HIGHER EDUCATION

[In millions of dollars]

	Actual fiscal year 1987	Actual fiscal year 1988	Actual fiscal year 1989	BHE fiscal year 1990	Gov. fiscal year 1990
IBHE request:					
GRF[1]	1,327,102.8	1,267,591.3	1,341,662.6	1,646,689.4	1,462,084.3
Other[2]	243,271.0	283,626.5	326,106.6	331,811.2	331,828.7
Total	1,570,373.8	1,551,217.8	1,667,769.2	1,978,500.6	1,793,913.0

[1] General Revenue Fund.

[2] Primarily tuition.

The Illinois Board of Higher Education argues that the $305 million increase cannot be appropriated without additional new revenues by the state. Coupled with a $404 million increase requested by the State Board of Education for elementary and secondary education, the education system is requesting a $709 million increase above the FY 89 level. Total state revenues are expected to be about $500 million above FY 89 in FY 90 from natural inflationary revenue growth.

While the IBHE and many public institutions of higher education publicly bemoan the decline of minority student enrollment in higher education, IBHE does not fulfill its obligation to expand minority programs by requesting only a one percent increase in its FY 90 budget.

This funding request of an additional $3.2 million for minority programs is insufficient at this time, given the need to increase minority student enrollment and retention, and to expand minority student programs and scholarships.

HIGHER EDUCATION TOTAL FUNDING

[In millions of dollars]

	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985	Fiscal year 1986	Fiscal year 1987	Fiscal year 1988	Fiscal year 1989	Fiscal year 1990
GRF	998.5	1,057.8	1,121.8	1,246.7	1,327.1	1,267.9	1,341.7	1,646.7
Other	216.6	238.2	301.8	350.2	399.1	449.4	485.7	331.8
Total	1,215.1	1,296.0	1,423.6	1,596.9	1,726.2	1,717.3	1,827.4	1,978.5

Since 1983, state general revenue funding for higher education has increased by 34.3%. This amounted to an average increase of 4.9% per year if it is not compounded each year. Although there has been a small amount of growth in state support for higher education, nevertheless there has been some growth. It would appear that funding for minority programs has not increased at all. Line-item spending is non-existent in university budget requests to the General Assembly, therefore statistics are not available to indicate increased spending for minority programs.

It is incomprehensible that neither the Board of Higher Education nor the individual universities can detail the amounts actually expended for specific minority programs.

The IBHE must take a fiscal leadership role in addressing minority enrollment and retention by requesting increased funding for minority programs in FY 90 and subsequent budgets, as well as by expanding minority recruitment and retention efforts with existing allocations.

Unless new revenue is generated by the state, education probably can expect the same funding crunch in FY 90 as we have seen during the past several fiscal years.

The implications of low funding levels in higher education are widespread and devastating for minorities and other lower socio-economic groups. Minority programs have not grown in numbers, quality, or effectiveness as evidenced by declining minority enrollment and retention.

According to the IBHE funding plan, if the requested $305 million increase in state funding for FY 90 is approved, minority programs will grow by $3.2 million or only one percent of the new revenues. Yet this budget request includes $120 million for salary increases of ten percent for personnel on top of a seven percent increase just recently awarded. While one percent goes for specific minority programs 40% goes to salary increases. IBHE has stated, as it did last year, that salary increases are the primary budget concern over the next three years. If less than a $120 million increase is approved for higher education in FY 90, most of it again will be directed to salary increases. Last year higher education received a $65 million increase ($250 was requested) and two-thirds of it went for salary increases while no new programs were implemented anywhere.

CONCLUSION

A comprehensive, multifaceted approach must be undertaken by Illinois' institutions of higher education to address the myriad of issues involving minority student participation and success in higher education. This approach must take into account changing trends and socio-economic needs of minority students.

Mandated increased requirements for college entrance cannot be implemented across the board at this time without adversely impacting students across racial, ethnic and geographic boundaries, due to the lack of available resources.

With renewed commitment and vigor on the part of all educational institutions, increased higher education funding and involvement on the part of all educational institutions, parents, the General Assembly, community colleges, agencies, and the private sector, Illinois can take its place as a leading state on minority achievement in higher education.

Equally important as full funding for minority higher education programs, is the institutional commitment to open the doors of opportunities for minority students, faculty, staff and communities through internal advocacy and promotion of equal opportunity and access.

The economy and jobs market leading into the 21st century will require higher educational and technical training levels of its workforce. The alternative is unthinkable.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Rick Carnell, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the United States-Asia Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Mr. Carnell in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Leslie Tucker, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Ms. Tucker in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Senator and Mrs. SIMPSON, to participate in a program in Turkey, sponsored by the Turkish-American Businessmen's Association of Izmir and the American-Turkish Friendship Council, Incorporation, from May 25–30, 1992.

The committee determined that participation by Senator and Mrs. SIMPSON in this program, at the expense of the sponsors, was in the interest of the Senate and the United States.●

THE PRESIDENT'S PROPOSED CREDIT AVAILABILITY AND REGULATORY RELIEF ACT OF 1992

● Mr. RIEGLE. Mr. President, I rise to discuss President Bush's proposed Credit Availability and Regulatory Relief Act of 1992.

A. INTRODUCTION

President Bush sent this proposed legislation to the Congress on June 24. In the executive communication that accompanied the bill, he had several things to say about it.

The President said that the bill would reduce regulatory burdens on depository institutions. On page 1 of his statement, he said "[t]he regulatory burden on the Nation's financial intermediaries has reached a level that imposes unacceptable costs on the economy as a whole."

And on page 2, he said "I would like to emphasize that none of the bill's provision will compromise in any way the safety and soundness of the financial system."

And, also on page 2, he said "the prompt corrective action framework mandating swift regulatory responses to developing institutional problems will remain unchanged."

These statements are not true.

B. SUMMARY OF THE BILL

Let me describe what the President's proposed legislation really does. My colleagues should know what an extraordinary bill this is.

We are in the middle of the worst banking crisis since the Great Depression. But the President's latest response to that crisis is to promote forbearance on failing institutions and elimination or weakening of various safeguards against unsound or fraudulent activities—provisions he personally agreed to and signed into law just last December.

Earlier this summer, we had the worst urban riots in a generation. Those riots came only a few months after the Federal Reserve released the first comprehensive data on lending discrimination, data showing that lending discrimination is a reality for millions of Americans. That is wrong and must be corrected. But the President's response—to weaken the Community Reinvestment Act—would be a stunning reversal in policy.

But the President's bill would be even more harmful. It would weaken important consumer protections, eliminate reporting requirements that promote better understanding of our banking system and our economy, and eliminate requirements for annual, onsite examinations by Federal banking examiners of our Nation's banking system. Annual, onsite examinations by Federal examiners are a cornerstone of the reforms enacted just months ago. I cannot imagine the President is even aware of this proposal being offered in his name.

Time does not permit me to go into every provision of this bill, but I want my colleagues to know about the bill's key features.

C. ANALYSIS OF ANTI-SAFETY-AND-SOUNDNESS PROVISIONS

Let me start by reviewing the provisions of the President's proposal that undermine safety and soundness in the financial system.

Put bluntly, this bill takes some of the core provisions of last year's banking bill, the FDIC Improvement Act, passed just last December—reforms that the administration then supported, and that the President himself signed into law—and guts them. Not entirely—it leaves in place the part where the American people loan tens of billions of dollars to the banking industry—but it scraps many of the key reforms needed to protect that taxpayer loan and ensure that it will be repaid on time and in full.

1. PROMPT CORRECTIVE ACTION

I'll start with prompt corrective action.

The prompt corrective action provisions of last year's bill are simple common sense. They say, in effect: "Regulators, you should act earlier and more aggressively when a bank or thrift begins to get into trouble. Get in there, correct the problems, and turn the place around, if you can. And if you cannot, sell the place, or close it down, before it becomes a loss to the deposit insurance system and a liability to the American people."

That's the gist of it. Tackle each problem early, while it is manageable, before together, they get out of hand and create a systemic risk to the entire banking structure.

The administration supported these reforms last year. The banking industry supported them. All the academics and public interest groups supported them.

The President says his bill would not modify these reforms. He's wrong. Section 115(b) of his bill would delay the effective date of the prompt corrective action requirements for a full year—until December of 1994.

What could do more damage to a requirement for prompt corrective action than delay? In effect, the President has proposed to delay dealing with the banking problem for a full year. Taxpayers lend to the banks now. Banks face up to their problems later.

Recent history can tell us a lot about what the consequences of this delay would likely be. We tried this approach for almost an entire decade. All through the 1980's, regulators delayed closing failed savings and loans with the acquiescence of the President and Congress.

The American people have paid dearly for this policy of delay. According to a report issued by the Congressional Budget Office last year, the costs of that delay came to some $66 billion, not counting the interest payments we will be making for the next generation. Mr. President, I ask unanimous consent to include a copy of that report in the RECORD at the conclusion of this statement.

(See exhibit 1.)

We have a commercial banking problem here and now. For the sake of America's taxpayers—for the sake of America's future economic vitality—we should deal with it here and now.

2. PROMOTING TOO-BIG-TO-FAIL

The President's bill would also promote the old "too-big-to-fail" policy by eliminating the requirement that the Federal Reserve set limits on how much banks can endanger themselves, through interbank deposits that expose them to the weaknesses of other banks.

The President, in his Executive Communication, characterized last year's bill as requiring the Federal Reserve to "write detailed 'bright line' regulations on the amount of credit one depository can extend to another."

The President is wrong when he says this is what Congress legislated last year. Let me read you the text of last year's bill. This is from section 308:

> The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other insured depository institution.

This does not require detailed, bright line regulations. It is a grant of broad authority to the Federal Reserve. The Fed can exercise that authority by regulation. It can exercise it by order, on a case-by-case basis.

What last year's banking bill did in this area was say, in effect: "Federal Reserve, Congress has identified a problem and you must fix it." We left it virtually one hundred percent up to the Fed to decide how the fix should work.

Now, maybe the President thinks the problem section 308 addresses isn't a real problem. If so, he's been getting some bad advice. I have previously put in the RECORD a scholarly article that explains the problem in some detail. Anybody with the slightest doubt about how interbank exposure is the heart of too-big-to-fail should read that article, which appears at pages S9978–87 of the CONGRESSIONAL RECORD for July 20.

The easiest way to understand the issue is to think back to how the too-big-to-fail policy got started. It was the Continental Illinois failure, back in 1984. There is still some debate about what the true story is, but one generally accepted version goes about like this: Continental Illinois got into trouble and the regulators were going to let it fail. Then somebody noticed that hundreds of small banks had all or more than all of their capital tied up in deposits at Continental Illinois. Let Continental go down and you bring down a lot of the system with it. So they bailed out Continental to keep the system alive.

Now, as I said, there's some debate about what really happened in the Continental case. Maybe we'll never know why or how the too-big-to-fail policy really got started. But if the story I just told didn't happen in Continental, it could easily happen today. Because the banks that are in trouble today—notwithstanding occasional administration statements to the contrary—include some of our very biggest banks, the banks where other banks also bank.

Now I hope we never see the day that one of those big banks starts to topple. But if that day comes—and it could—and we haven't taken appropriate steps to ensure that that bank's collapse does not jeopardize the rest of the banking system, the deposit insurance system and the American people will pay a terrible price for our neglect.

So that's the problem we addressed in section 308—a section the President's bill would repeal outright.

Now reasonable minds might differ about whether section 308 is the best way to deal with the problem. The administration did not address the problem at all in its bill last year. I would have listened very carefully if, at any step of the way, the administration had proposed its own approach to deal with this problem. But that never happened. They proposed nothing at all, and the administration never opposed section 308, to my knowledge. They just kept silent on the issue. So Congress crafted its own provision. I introduced this provision on March 5, 1991. Some 16 days of hearings followed its introduction. We consulted with the Federal Reserve. We consulted with representatives of the banking industry. We did not attempt to micromanage. We gave broad discretion to the Federal Reserve. We took a reasonable approach, and my mind is still open to other reasonable approaches. But in one form or another a safeguard is needed in this area—and one now exists and should be retained.

One thing is clear. For the President to propose to repeal section 308 altogether, without proposing an alternative, is not a reasonable approach to this very real problem.

3. PROMOTING INSIDER LENDING

The President's bill would also undermine key provisions of last year's banking bill that restrict insider lending at federally insured depository institutions.

My colleagues are all aware that the banking industry has been very critical of these provisions. We're all hearing a lot about what an unnecessary burden they are—how nobody will be willing to sit on a bank's board of directors if these limits remain in force.

Well, limits on insider lending are not an unnecessary burden. They are basic common sense. And the limits in last year's bill responded to a very real problem that our regulatory agencies were not addressing on their own. Anybody who has forgotten about that problem should review some of the articles that came out after Madison National Bank failed.

Mr. President, I ask unanimous consent to insert in the RECORD at the conclusion of my statement copies of some articles that appeared last year in the Washington Post and the New York Times, concerning abusive insider transactions at Madison National Bank, and a copy of a Post editorial on this subject that appeared this spring.

I am confident most Americans would agree that anyone who would demand—as a condition of serving on a bank's board of directors—that the bank should lend more than 100 percent of its capital to members of its board and other insiders is somebody who probably shouldn't be on the board in any event. And that is the limit we passed last year: a bank should not lend more than 100 percent of its capital to insiders.

President Bush's bill would weaken that limit in several respects. First, it would let banks with less than $100 million in deposits lend up to 200 percent of their capital to insiders. Where is the evidence that such an exception is necessary or appropriate or consistent with safety and soundness? I know of no such evidence.

Second, the President's bill would give the Federal Reserve broad discretion to make exceptions to the limit.

Recently, Federal Reserve Chairman Greenspan complained about limits on insider lending at a bank structure conference in Chicago. Governor LaWare also complained about these limits last month in testimony before the Banking Committee. My sense is that they just reject out of hand the whole notion that additional limits on insider lending are needed. If they were given broad discretion here, I have concerns as to how they would use it. Certainly, you can count on this: the Fed would be inundated with requests that it exercise its discretion. I see no useful purpose in setting those events in motion.

4. AUDIT REFORMS

The President's bill also takes direct aim at the audit and accounting reforms enacted last December.

It deletes the requirements that independent public accountants attest to management assertions regarding the effectiveness of internal controls, procedures for financial reporting, and compliance with regulations relating to safety and soundness.

It relieves audit committees of the duty to review the basis of independent accountant reports on internal controls and compliance.

It allows the Federal banking agencies to designate as "privileged and confidential and not available to the public" information that last year's audit reforms required be made public.

And it defers implementation of the few surviving auditing requirements of last year's bill for an entire year, until January 1, 1994.

Now these audit reforms weren't just some hare-brained notion. They were crafted to reflect years of study by the General Accounting Office, careful analysis of what went wrong at dozens and dozens of failed banks and thrifts, numerous reports, and many hours of expert testimony. And the sum and substance of all that effort is this: insured banks and thrifts fail when their internal controls fail. So if we want to be on top of the problems at insured depository institutions, where taxpayers' money is now at stake, we must be on top of the state of their internal controls.

Again, reasonable minds could probably differ over the best way to go at this problem. But there is no doubt that here, too, Congress faced a genuine public policy problem and enacted a policy to solve it. It is wrong for the President to urge that we go back to the old lax practices that helped cause the problem in the first place.

D. ANALYSIS OF ANTICONSUMER AND ANTICOMMUNITY PROVISIONS

The President's proposal also would weaken laws that protect our communities and consumers against abuses.

1. COMMUNITY REINVESTMENT ACT

Hot on the heels of the Los Angeles riots and less than a year after the Federal Reserve released, for the very first time, comprehensive data showing just how pervasive discrimination in lending really is, the President's bill would virtually destroy the Community Reinvestment Act.

Let me explain how.

First, it essentially exempts most rural banks from the requirements of the Act. Any rural bank with assets of under $100 million simply writes to its regulator and states that, in its own opinion, it deserves a CRA rating of satisfactory or outstanding. Self-certify that you have an adequate CRA record and you bypass the CRA examination and evaluation process completely. And you can keep bypassing it year after year after year, forever.

The only justification I know of for this kind of special treatment is that rural banks want it. I don't think that's enough. I've never seen a study that suggests redlining doesn't go on in rural communities. I don't know anybody who would seriously argue that rural poverty isn't a real problem. Maybe there are better ways to address the community reinvestment issue. My mind is open to that, but there is no alternative proposed in this bill.

The second thing the President's bill would do is provide a safe harbor from CRA protest for all banks that have received outstanding CRA ratings. Get an outstanding rating and you are no longer subject to any CRA protest. This is unnecessary. If a protest is filed in a given case, it should be evaluated on its merits. If an institution has received an outstanding rating, and truly warrants that rating, it should have nothing to fear from a protest.

The final thing to notice about the President's bill is that it directs the regulators who are conducting CRA evaluations and preparing CRA ratings to look favorably on investments made outside their own communities. This of course undermines the central premise of the Community Reinvestment Act: namely, that a financial institution should invest in the communities that invest in it. I commend the President's restraint in limiting this authority to investments in distressed communities, but I question this erosion of the Community Reinvestment Act's central tenet.

2. TRUTH IN LENDING ACT

Another thing the President's bill would do is seriously weaken the consumer protections of the Truth in Lending Act. Section 211(b) of the bill does this by limiting damages under the act to actual damages.

The practical effect of this amendment would be to make it far more difficult to recover enough through civil litigation to justify the cost of bringing suit. So there will not be as many suits. If the administration were vigorous in enforcing the consumer protection laws through the regulatory process, we would probably see far less litigation. But the sad reality is that civil litigation—and the threat of civil litigation—have become the primary enforcement mechanisms we have under this administration. The President is now attempting to weaken them, and this should not be done.

3. TRUTH IN SAVINGS ACT

The President's bill also takes direct aim at the Truth in Savings Act. Here, too, the approach his bill takes is to severely weaken its civil liability provisions, where the effect would be to seriously undermine compliance with the act.

Frankly, I am mystified and troubled by the intensity of the opposition this act has received from the banking industry recently.

There seems to be some perception that Congress, without need or notice, crafted the Truth in Savings Act in the dead of night and then ambushed the banking industry with it.

Nothing could be further from the truth. The Senate passed that bill three times, beginning in 1988, before it finally became law. The House also passed it several times.

The Truth in Savings Act responded to a real and growing problem. That problem was this: a lot of depository institutions were engaging in misleading advertising of their deposit rates. They would do things like advertise a rate of 6 percent, then pay that rate on less than 100 percent of your balance, so the rate you would receive as a consumer would actually be significantly less than the advertised rate. Some of our largest banks were doing this.

In my view, that sort of deceptive advertising verges on fraud. Congress should not have had to act to outlaw it because the industry and its regulators should never have permitted the practice in the first place. But since that didn't happen, Congress was fully justified in taking this step.

E. CONCLUSION

I haven't listed all the things this Administration bill does. There are many more provisions. A few of them are innocuous and relatively uncontroversial. Most, in my view, are ill-conceived and unsound.

Why has the President put his stamp of approval on this piece of legislation? He says it is to relieve burdens on banks. He says that all the regulations this bill would undo place excessive costs on banks.

We need to think about that assertion very carefully. I urge the President to think about it. I especially urge the banking industry to think about it.

Because bound up in this concept of excessive regulatory costs is a question: What are we buying with these costs?

The answer to that question is clear. We are buying a tremendous amount. Arguably, we are buying the very stability that makes it possible for the banking industry to survive its present crisis.

Let me remind my colleagues of two key facts.

First, the old deposit insurance system for banks didn't work and the insurance fund went broke.

Second, the American people have now put roughly $70 billion of their hard-earned money on the line to keep that system afloat—to say nothing of the hundreds of billions they are also paying to rescue the deposit insurance system for savings and loans.

Now we have a period of years for banks to strengthen themselves and repay the loan with higher insurance premiums.

We have maintained stability in the banking system, but there is a price for that stability. The revised and stronger deposit insurance system costs more than the old one that went broke—but no more so than is necessary to do the job properly.

The banking industry has only narrowly avoided a crisis of confidence that could easily have done far greater damage. And it is not out of the woods yet. Some people in the administration are trying to put out the line that the problem is now behind us. Well the chairman of the FDIC, Bill Taylor, does not think so, and he is in the best position to know. He testified before the Banking Committee on this subject just last month, and told us that we still have over a thousand banks, with over $600 billion in assets—20 percent of all the industry's assets—on the problem bank list. That number is growing, not shrinking. In fact, in the past 12 months, that number grew over 50 percent.

Those troubled banks and their troubled assets are the real problem. Last year's bill did not create that problem, it was an effort to solve it. And clearly, the President's bill undercuts that effort.

The American people are bearing tremendous burdens to preserve our deposit insurance system and, along with it, a stable operating environment in which banks and thrifts can continue to make money for bank shareholders. An entire generation of taxpayers will pay hundreds of billions to close failed savings and loans. In addition, they have now loaned tens of billions to close failed banks and they may have to loan tens of billions more. There remains a serious repayment risk.

Moreover, it is the American people, through ever higher monthly fees and minimum balance requirements, lower interest rates, and a variety of new charges that have crept into their banking transactions, who are paying for the banking industry's stability nickel by nickel and hour by hour.

Just a few weeks ago, the Comptroller General of the United States gave the House Banking Committee his views on this bill. Here is what he said:

> The supervisory reforms that are now under attack do nothing more than encourage banks and their regulators to recognize the realities of sound banking in the current environment. It is unfair to call these reforms burdensome because there should be no burden for well-run banks.
>
> I believe it would be a grave mistake to weaken the safeguards enacted to protect the financial integrity of the deposit insurance funds and, ultimately, the taxpayers. The regulatory lessons learned from the 1980s and the debacle of the savings and loan industry that consumed its insurance fund and presented the bill to the taxpayers must not be repeated. If the safeguards enacted by the FDIC Improvement Act are cast aside, then I believe the government is indeed setting the stage for another serious financial crisis for the deposit insurance funds and the taxpayers.

The Comptroller General has given us a powerful and important warning. We should heed that warning and not repeat past mistakes.

EXHIBIT 1

CBO STAFF MEMORANDUM—THE COST OF FORBEARANCE DURING THE THRIFT CRISIS

This memorandum was prepared by Philip F. Bartholomew under the supervision of Elliot Schwartz. Emily Kolinski and David Whidbee provided research assistance. Michael Crider, Kim Kowalewski, Thomas Lutton, Larry Mote, Sherry Snyder, and Bob Sunshine made substantial contributions to this memorandum. This analysis was conducted at the request of the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives. It provides an estimate of the cost of delay in closing failed thrift institutions resulting from the policy of forbearance. In accordance with the Congressional Budget Office's mandate to provide objective and impartial analysis, the memorandum contains no recommendations.

SUMMARY

Several federal regulators of depository institutions recently have suggested that a policy of regulatory forbearance might be granted to currently troubled banks and thrifts. Regulatory forbearance would permit these troubled depositories to remain open. Regulators argue that these institutions are suffering temporary financial setbacks and that, given sufficient time, they will be able to restore themselves to sound financial condition. This same argument was made during the early part of the thrift crisis. The Congressional Budget Office estimates that this policy increased the eventual bill for resolving failed thrift institutions by about $66 billion (in 1990 dollars).

To estimate the additional cost incurred because of the policy of forbearance, CBO examined data for 1,130 thrifts that were either resolved during the period 1980 through 1990 or are projected to be resolved in 1991. Of these failed thrifts, 57 percent had become insolvent on a book-value basis by year-end 1984, and 80 percent had become insolvent by year-end 1987. Although the federal regulators were aware of the insolvency of these institutions at the time, it took an average of 38 months to close and resolve them from 1980 through 1990.

The cost of not closing thrifts when they first became book-value insolvent represents over half of the estimated $127 billion cost (in 1990 dollars) of resolving the 1,130 thrifts. Thus, forbearance may have doubled the cost of the thrift bailout. The average failed thrift deteriorated in value at an annual rate of 37 percent between the time it first became book-value insolvent and when it was closed and resolved by the Federal regulator.

INTRODUCTION

At year-end 1980, there were 3,993 thrift institutions with assets of $604 billion whose deposits were insured by the Federal Savings and Loan Insurance Corporation (FSLIC). By year-end 1990, the number of thrifts had declined to 2,342; the nominal value of their assets had grown to about $1 trillion.[1] Most of this consolidation came through government closure rather than voluntary merger. During this 10-year period, 842 thrifts were

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NOTE.—All years are calendar years, unless otherwise stated.

[1] See tables A-1 for a detailed accounting of changes in the thrift industry from 1980 through 1990.

closed and resolved at a cost to the government estimated at the time to be $80.1 billion (approximately $85.4 billion in 1990 dollars) on a present-value basis.[2] At year-end 1990, 179 thrifts were in government conservatorships and 109 institutions were insolvent, judged by the book value of their tangible capital.[3] The Congressional Budget Office (CBO) projects that these 288 thrifts will be resolved in 1991 at an estimated cost of about $44 billion, or about $42 billion in 1990 dollars. Thus, the estimated cost of resolving these 1,130 thrifts exceeds $125 billion in 1990 dollars.[4]

FORBEARANCE

Forbearance is the discretionary practice of not enforcing an existing rule. In the 1980s, thrift regulators elevated forbearance to a general policy for the entire thrift industry—they did not close institutions when they became insolvent. Regulators did not violate statutes; rather, in altering agency regulations they interpreted those statutes in the most liberal way possible, thereby allowing themselves to avoid closing insolvent institutions.

In 1982, approximately 85 percent of all thrifts reported negative net income; 415 thrifts reported themselves to be insolvent on tangible basis (see Table A-1). Regulators initially responded to this problem by closing increasing numbers of insolvent thrifts. The number of annual thrift resolutions more than doubled between 1981 and 1982, from 28 to 63.

At the time, however, many observers argued that the thrifts' problems were temporary, brought on by high interest rates and deep recession. When interest rates declined, it was argued, and the economy recovered, thrifts would be able to regain solvency. Indeed, the industry as a whole experienced positive net after-tax income for the years 1983 through 1986. Net operating income, which measures the difference between interest earned on assets and interest paid on borrowing, was only slightly negative for the industry in 1983 and was positive and substantially improving for 1984 through 1986.

It was also anticipated that the Depository Institutions Deregulation and Monetary Control Act of 1980 and the Garn-St. Germain Act of 1982 would provide additional relief to the thrift by reducing regulatory burdens. Interest rate ceilings on deposits were phased out, and thrifts were permitted to engage in a wider variety of investment activities. Several states afforded their chartered thrifts more liberal investment options. Many observers thought that this regulation would allow thrifts to diversify that their investments and reduce the overall level of risk of risk of their portfolios.

The forbearance policy in part grew out of the recognition that the combined effects of economic recovery, lower interest rates, and statutory deregulations would take some time to affect the financial health of the thrifts. Thus, it was argued, regulators should not necessarily close troubled thrifts as quickly as strict accounting measures of solvency would indicate. Indeed, some thrifts benefited from this policy. Of the 212 thrifts that were tangibly insolvent in 1981, 16 were restored to solvency in 1982. Of the 415 thrifts that were tangibly insolvent in 1982, 51 were restored to solvency in 1983.

Another reason for granting forbearance was that the FSLIC did not have sufficient cash resources to close all insolvent institutions. Closure of all institutions that were tangibly insolvent in 1982 probably would have depleted the fund's cash. The required outlays for deposit insurance would have increased an already record federal budget deficit. Policymakers wanted to avoid asking taxpayers to foot the bill for FSLIC's losses, if the industry's problems were only temporary. Thus, regulators avoided closing institutions or arranging supervisory mergers. Losses were not recognized and the FSLIC remained financially solvent, at least until 1987 when the magnitude of the losses finally forced the recognition of the FSLIC's insolvency.

By the mid-1980s, however, many thrifts were still experiencing problems, and thrift regulators offered a new argument to avoid closing troubled institutions—that troubled thrifts could "grow out of their problems." Unfortunately, allowing them to does so did not anticipate either the subsequent decline in energy prices and its effect on the collapse of the credit quality of thrifts in the Southwest or the Tax Reform Act of 1986, which affected real estate values. By 1986, many thrifts that had previously been restored to financial health now suffered from a reduction in their asset values. In 1986, thrifts lost more than $1 billion in net nonoperating income, the accounting measure that best reflects asset losses. In 1987 and 1988 combined, thrifts lost $19 billion in net nonoperating income.

Thus, regulatory forbearance permitted the thrift industry to deteriorate. By not closing insolvent thrifts or requiring them to recapitalize, the regulators exacerbated the problem—inherent in insurance relationships—of moral hazard. Moral hazard is the term economists use to describe the reduced incentive of insured parties to protect themselves against risk if the potential losses associated with that risk are guaranteed (or insured) by another party. The U.S. system of deposit insurance addresses the risk of moral hazard through regulation and prudential supervision. When those safeguards failed, the adverse incentives of moral hazard were given free play.

Forbearance, therefore, set the stage for rampant investment speculation and fraudulent practices, all of which added to the ultimate cost of resolving the thrift crisis.

ESTIMATING THE COST OF FORBEARANCE

Recent studies of government accounting for deposit insurance suggest a method of estimating the cost to the government of the regulatory forbearance policies of the 1980s.[5] This method would recognize losses on a more timely basis by requiring the deposit insurer to record losses on the government's books once a depository was insolvent on a book-value basis.[6] Thus, a depository would be recognized as having failed when it became insolvent on a book-value basis, rather than when it was closed, as is current practice. In the unlikely event that an institution that was insolvent on a book-value basis recovered, the avoided resolution costs would be recorded as a receipt.

Retiming resolutions based on a tangible solvency rule

Financial statements (call reports) from all thrifts regulated by the Federal Home Loan Bank Board or insured by the FSLIC contain information that can be used to estimate the cost of resolving failed thrifts, if they had been closed when they were reported to be insolvent. The best available measure of solvency, which is contained in call reports, is tangible capital—the value of tangible assets minus liabilities. When tangible capital equals zero, an institution is effectively insolvent.

The effects of this insolvency criterion can be analyzed by applying it to the 1,130 thrifts that already have been or are expected to be resolved. This set of institutions includes 842 thrifts that were resolved by the FSLIC or its successor, the Resolution Trust Corporation (RTC), during the period 1980 through 1990. It also includes 288 unresolved thrifts that are projected to be resolved sometime in calendar year 1991–179 thrifts that were in RTC-conservatorships at year-end 1990, and 109 thrifts that were tangibly insolvent but not in government hands at the end of 1990.[7]

Most failed thrifts were not resolved until long after they became tangibly insolvent. Figures 1 and 2 compare the timing of when these 1,130 thrifts first became insolvent on a tangible basis with when they were resolved; Figure 3 shows the average length of time institutions were insolvent. About 57 percent of these thrifts were insolvent before 1985, yet the FSLIC had resolved only 15 percent. By year-end 1987, 80 percent were insolvent, but only 26 percent had been resolved. The average duration of insolvency before closure and resolution for the entire 1,130 thrifts was 38 months. Thrifts resolved in 1990 were, on average, insolvent for 49 months. Thus, by 1990, thrift owners, managers, and directors had had more than four years of forbearance to try to salvage their institutions and for moral hazard incentives to operate.

[Figures 1, 2, and 3 not reproducible in the Record.]

At the time an institution is closed, the RTC estimates—as did the FSLIC before it—the present-value cost of resolving the institution's assets and liabilities. This is the agency's best estimate of the cost of resolution. Thus, FSLIC and RTC estimates of resolution costs can be used to determine the final cost of resolving failed thrifts. Table 1 shows aggregate information on the 1,130 thrifts closed and projected to be resolved during the period 1980 through 1991. The estimated present-value costs of resolution are shown in nominal terms and recalculated in 1990 dollars. The estimated constant dollar cost of resolution totaled more than $125 billion over the 1980–1991 period.

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[2] Additional thrifts were merged with regulatory supervision at no insurance cost to the government.

[3] Tangible capital excludes the value of goodwill created through merger transactions.

[4] CBO currently projects that an additional 887 thrifts that are now solvent when measured on a book-value basis will need to be resolved by year-end 1995, because of their financial problems. If closed today, these thrifts would cost, on a present-value basis, an additional $33 billion to resolve.

[5] The Omnibus Budget Reconciliation Act of 1990 mandated the study of government accounting for deposit insurance by CBO and the Office of Management and Budget (OMB). Both agencies presented their mandated studies to the Congress at the end of May 1991. The studies included numerous options for reforming the accounting treatment of government deposit insurance.

[6] See Congressional Budget Office, "Budgetary Treatment of Deposit Insurance: A Framework for Reform" (May 1991).

[7] CBO currently projects that an additional 887 thrifts will require resolution by either the RTC or the Savings Associations Insurance Fund by 1996. These 887 thrifts are currently operating in a tangibly solvent condition, but based on the poor quality of their asset portfolio these thrifts will most likely fail and require government resolution in the near future.

TABLE 1.—CHARACTERISTICS OF INSTITUTIONS RESOLVED, 1980–1991

[In millions of dollars]

Year	Number of resolutions	Total assets	Average number of months of tangible insolvency	Resolution cost per dollar of assets [Percent]	Estimated present-value cost of resolution	
					Current dollars	1990 dollars
1980	11	1,458	5.4	11.5	167	262
1981	28	13,908	5.2	5.5	759	1,091
1982	63	17,662	12.9	4.6	803	1,087
1983	36	4,631	16.4	5.9	275	357
1984	22	5,080	23.4	14.6	743	928
1985	31	5,601	25.9	17.5	979	1,238
1986	46	12,455	30.6	24.6	3,065	3,609
1987	47	10,660	35.7	34.8	3,704	4,208
1988	205	100,660	42.0	31.0	31,180	33,994
1989	37	11,019	42.4	58.0	5,399	5,641
1990	316	117,191	49.0	28.4	33,031	33,031
1991 [1]	288	167,542	55.0	26.1	43,782	41,687
Total	1,130	467,867	42.1	26.5	123,887	127,133

(1) Projected.

Source—Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

Estimating the cost of delay in closing and resolving failed thrifts

A simple method to determine the cost of forbearance (or the cost of delaying the closure of insolvent thrifts) would appear to be to subtract the originally reported negative amount of insolvency from the estimated cost of resolution, which occurred some time later. This calculation, however, would misstate the losses incurred after an institution became insolvent on a book-value basis because of the inclusion of administrative costs in the resolution cost estimates and the exclusion of embedded market-value losses that are unrecognized in the book-value measure of tangible capital.

To account for both the administrative costs and the embedded losses, CBO calculated what the cost of resolution would have been had insolvent institutions been resolved when they reported negative tangible capital.[8] This calculated resolution cost was then compared with the actual estimated resolution cost made by the resolving agency (either FSLIC or RTC) when the institution was resolved. The difference between these two amounts represents the estimated cost of delay resulting from forbearance (see Figures 4 and 5). After adjusting for inflation, this calculation produces an aggregate estimated cost of delay, in 1990 dollars, of approximately $66 billion for the 1,130 thrifts.

[Figures 4 and 5 not reproducible in RECORD.]

The $66 billion cost of forbearance can be used to calculate the annual real rate of deterioration of the troubled thrifts that were allowed to remain open. The cost of resolving failed thrifts increased, in real terms, an average of 37 percent in each year that they were left open to operate. The median annual increase in costs for the 1,130 thrifts was 51 percent. The estimated resolution costs increased for 513 thrifts. The remaining thrifts either were resolved at no additional costs or were resolved in the year they became insolvent.

Calculating the cost of delay requires a number of simplifying assumptions. One assumption is implicit—that certain costs incurred in the process of resolving a failed thrift are the same whether it would have been resolved when it first became insolvent, or later, when it actually was resolved. These costs come from the government's administration of resolutions and the possible loss of franchise value that may take place if regulators act precipitously.[9]

The most important assumption is that the costs remaining after the calculated resolution costs are subtracted from the reported resolution costs represent the deterioration in net worth that could have been avoided if the institution had been shut down at the time of insolvency. Although the estimated cost of delay attempts to incorporate a write-down of the embedded losses, some of these losses may still be represented in the estimate. There is, however, sufficient reason to believe that a substantial portion of those losses represent additional costs that could have been avoided if institutions had been closed earlier. Many troubled thrifts attempted to increase their assets and funded that growth by borrowing at high rates. Undercapitalized thrifts paid costly premiums for their deposits and other borrowings. Financing growth is this way only reduced or made negative their net operating profits. Fraud and negligence, fueled by the incentive of moral hazard, have been well documented. On balance, the weight of available evidence indicates that much of the estimated $66 billion in added costs that occurred between the time of insolvency and the time of closure was the result of actions and investments made by thrift officials during the intervening period.

Two factors associated with calculating the cost of forbearance based on tangible solvency could change the estimated cost. First, some tangibly insolvent thrifts did recover. About 345 thrifts currently operating and tangibly solvent on a book-value basis were technically insolvent at some time during the 1980s. CBO projects that 70 percent of the 345 thrifts will ultimately fail and require resolution. Adjusting the earlier calculations of the cost of forbearance to account for the possible continued recovery of the surviving institutions would lower the estimate by only $1.5 billion.

A second factor, however, could raise the estimate of forbearance costs. Many analysts have suggested that earlier closure of failed thrifts might have benefited other, healthy, thrifts that subsequently also failed. Because undercapitalized or insolvent thrifts were permitted to compete with healthy thrifts (and banks), they bid up interest rates offered to depositors and bid down rates required of borrowers. The resulting squeeze on the profits of all financial competitors ran up the cost of the thrift debacle.

Thus, on balance, the forbearance policy practiced by thrift regulators during the 1980s must carry a large portion of the burden for escalating the cost of the thrift bailout. Had regulators acted more promptly, as much as $66 billion might have been saved.

TABLE A-1.—YEAR-END THRIFT INFORMATION, 1980–90

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Assets and Net Worth (billions of dollars):											
Number of institutions	3,993	3,751	3,287	3,146	3,136	3,246	3,220	3,147	2,949	2,597	2,342
Total assets (RAP basis)	604	640	686	814	978	1,070	1,164	1,251	1,352	1,157	1,005
Net worth (GAAP basis)	32	27	20	25	27	34	39	34	46	51	NA
Tangible net worth	32	25	4	4	3	9	15	9	23	36	38
Income (millions of dollars):											
Net after-tax income	781	−4,631	−4,142	1,945	1,022	3,728	131	−7,779	−12,057	−3,124	−964
Net operating income	790	−7,114	−8,761	−46	990	3,601	4,562	2,850	907	−3,549	−1,099
Net nonoperating income	398	964	3,041	2,567	796	2,215	−1,290	−7,930	−11,012	316	428
Taxes	407	−1,519	−1,578	576	764	2,087	3,141	2,699	1,952	−109	331
Asset Portfolio (percentage of total):											
Home mortgages	66.5	65.0	56.3	49.8	44.9	42.4	38.9	37.8	38.6	42.9	44.5
Mortgage-backed securities	4.4	5.0	8.6	10.9	11.1	10.4	13.1	15.6	15.4	14.0	14.5
Mortgage assets	70.9	70.0	64.9	60.7	56.0	52.8	52.0	53.4	54.0	56.9	59.0
Institution Type:											
Stock institutions:											
As a percentage of all institutions	20.0	21.0	23.0	24.0	30.0	33.0	37.0	40.0	44.0	44.0	44.0
As a percentage of total assets	27.0	29.0	30.0	40.0	52.0	56.0	62.0	70.0	74.0	75.0	75.0
Federally-chartered:											
As a percentage of all institutions	50.0	51.0	51.0	51.0	54.0	53.0	54.0	56.0	58.0	60.0	64.0
As a percentage of total assets	56.0	63.0	70.0	66.0	64.0	64.0	64.0	65.0	71.0	75.0	83.0
Tangible Capital-to-Asset Ratio (assets in billions of dollars):											
Greater than 6 percent:											
Number of thrifts	1,701	1,171	787	661	643	806	972	1,113	1,136	1,180	1,132
Total tangible assets	181	101	59	84	62	95	156	188	196	206	195
Between 3 percent and 6 percent:											
Number of thrifts	1,956	1,766	1,202	1,091	945	1,009	995	891	864	813	837
Total tangible assets	379	348	190	222	227	259	316	356	418	480	484
Between 1.5 percent and 3 percent:											
Number of thrifts	230	524	592	569	526	460	354	277	281	245	163
Total tangible assets	39	113	136	185	168	212	191	196	244	206	154
Between 0 percent and 1.5 percent:											
Number of thrifts	63	178	291	310	327	266	227	194	160	120	101
Total tangible assets	4	50	81	88	153	135	144	143	182	59	83

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[8] The calculation of what resolution costs would have been relies on data for reported levels of tangible net worth, both at the time of insolvency and at the time of resolution.

[9] The calculation also assumes that the time value of money and the resolution's cash flow were unchanged over time.

TABLE A-1.—YEAR-END THRIFT INFORMATION, 1980–90—Continued

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Less than 0 percent:											
Number of thrifts	43	112	415	515	695	705	672	672	508	239	109
Total tangible assets	0.4	29	220	234	336	335	324	336	283	192	89
Conservatorships (assets in billions of dollars):											
Number of thrifts	NA	NA	NA	NA	NA	NA	NA	NA	NA	281	179
Total tangible assets	NA	NA	NA	NA	NA	NA	NA	NA	NA	93	79
Resolutions (millions of dollars):											
Number of thrifts	11	28	63	36	22	31	46	47	205	37	316
Total assets	1,458	13,908	17,662	4,631	5,080	5,601	12,455	10,660	100,660	11,019	117,191
Estimated present-value cost	167	759	803	275	743	1,022	3,065	3,704	31,180	5,399	33,031
Estimated present-value cost, in 1990 dollars	262	1,091	1,087	357	928	1,238	3,609	4,208	33,994	5,641	33,031

Source: Congressional Budget Office using data from Federal Home Loan Bank Board, Office of Thrift Supervision, Resolution Trust Corporation, and Ferguson and Company. The format of this table is adapted from James R. Barth, Philip F. Bartholomew, and Carol J. Labich, "Moral Hazard and the Thrift Crisis: An Empirical Analysis," Consumer Finance Law Quarterly Report, vol. 44, no. 1 (Winter 1990), p. 23.

Notes: Data for 1990 are preliminary. For 1989 and 1990, industry data do not include those thrifts in conservatorships at year-end (the thrifts included are referred to as private-sector thrifts by the Office of Thrift Supervisions). Resolutions in 1988 do not include 18 "stabilizations" that had assets of $7,463 million and tangible net worth of negative $3,348 million, and an estimated present-value resolution cost of $6,838 million. Resolutions in 1989 do not include seven resolutions by the Federal Savings and Loan Insurance Corporation (reportedly at no cost to FSLIC) and two by the Resolution Trust Corporation (reportedly at no cost to the RTC). Home mortgages exclude multifamily and nonresidential mortgages. RAP—Regulatory Accounting Practice; GAAP—Generally Accepted Accounting Principles; NA—not applicable.

TABLE A-2.—ATTRITION AMONG INSTITUTIONS INSURED BY THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, 1980–90

[Assets and costs in millions of dollars]

Year	Resolutions requiring FSLIC or RTC assistance									Resolutions requiring no assistance	
	Liquidations			Mergers and other types of assisted resolutions			All assisted resolutions				
	Number	Total assets	Total cost	Number	Total assets	Total cost	Number	Total assets	Total cost	Management consignment cases and RTC conservatorships [1]	Supervisory assisted mergers
1980	0	0	0	11	1,457.6	166.6	11	1,457.6	166.6	0	21
1981	1	88.5	30.4	27	13,819.7	728.3	28	13,908.2	758.7	0	54
1982	1	36.1	2.9	62	17,626.0	800.4	63	17,662.1	803.3	0	184
1983	5	262.6	60.6	31	4,368.5	214.1	36	4,631.1	274.7	0	34
1984	9	1,497.7	583.3	13	3,582.5	159.3	22	5,080.2	742.6	0	14
1985	9	2,141.3	630.1	22	4,227.0	391.5	31	6,368.3	1,021.6	23	10
1986	10	583.8	253.7	36	11,871.3	2,811.3	46	12,455.1	3,065.0	29	5
1987	17	3,043.8	2,277.5	30	7,616.6	1,426.1	47	10,660.4	3,703.6	25	5
1988	26	2,965.2	2,831.7	179	97,694.7	28,347.8	205	100,659.9	31,179.5	[2] 18	6
1989	30	2,294.7	1,406.7	7	8,724.5	3,992.5	37	9,662.0	5,608.0	281	0
1990	144	22,544.6	10,685.5	172	94,646.2	22,345.9	316	110,253.0	31,305.0	179	0
Total	252	35,458.3	18,762.4	590	265,634.6	61,383.8	842	292,797.9	78,628.6	555	333

[1] After 1988, thrifts were placed into Resolution Trust Corporation (RTC) conservatorship before resolution; before 1989, many thrifts were placed into a management consignment program.

[2] Resolution of these institutions—called stabilizations by the Federal Home Loan Bank Board—was incomplete.

Source: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

Note: Costs are estimated present-value costs of resolution.

[From the Washington Post, May 13, 1991]

A Bank Built by Developers Crumbles—Madison National's Insider Loans Studied

(By Joël Glenn Brenner)

The neon sign that reaches to the top of Madison National Bank's downtown headquarters had long since short-circuited so that the letters B-A-N-K faded and flickered, leaving the five employees gathered below Friday night to talk in darkness.

More than seven hours earlier, the federal government had seized the bank, and the Madison employees were sharing gossip about the bank's demise—the second bank failure here in less than a year—and its sale to Signet Banking Corp. for $18 million.

"It's sad to see this happen, but it wasn't like we weren't expecting it," said Marjorie Gleason, who worked at the bank's main office. "This bank has been on the edge for years. If just came down to what would finally push it over."

Gleason's matter-of-fact explanation was borne out by recently released financial documents and interviews with federal banking regulators that showed Madision has been on the verge of collapse since the late 1980s.

The bank, which for years had thrived on real estate lending, particularly loans to the developers who sat on its board, was squeezed in the area's real estate bust. Madison records show that two-thirds of the bank's troubled loans went to officers, directors and their relatives.

That regulators had long been aware of Madison's troubles, and even helped prop it up in its last months, is likely to spark further debate in Congress over how regulators handle bank failures. [See story on Page 14.]

In Madison's case, many of the problems that contributed to its collapse date back to 1963 and the bank's original mission: to serve the region's real estate developers, many of whom sat on its board.

In 1963, the mission made perfect sense.

The Washington skyline then consisted largely of the Capitol, the Washington Monument and sprawling federal offices. The real estate boom sparked by the emerging Washington business community was just moving into full swing.

Some of Madison's founders already had made their fortunes building the apartments, offices and shopping centers that would soon overshadow the federal enclave.

Despite their stature and wealth, a few of these developers—Charles E. Smith, Jack Bender and Samuel Cohen—had never served on the boards of Washington's venerable oldline banks because of discrimination against Jews, according to longtime local businessmen.

According the those who remember that era, these developers set out to form a bank where they could have easier access to credit and could direct things to their liking. They were joined by several other prominent Washington players—developer Dominic F. Antonelli Jr., attorney Leonard L. Silverstein, accountant Morris B. Hariton and U.S. ambassador Kingdon Gould Jr.

In its first year of operation, Madison made a profit of $348,000. Its growth record was the best of any of the four new banks chartered at the time. Its success, Madison said then, was linked directly to the area's construction boom.

In just the first six months, the bank originated and serviced about $24 million in construction loans. By Madison's second year, that number had jumped to more than $100 million.

Although some of the original founders such as Smith bowed out early on, Madison maintained its strong ties to the area's commercial real estate community, inviting developers and other real estate professionals to serve on the board.

Ulysses "Blackie" G. Auger, real estate investor and owner of Blackie's House of Beef, joined Madison and became one of its largest shareholders. Antonelli, Bender and other directors, such as wholesale fish distributor and real estate investor William C. Eacho Jr., also began buying large blocks of stock. At one point, nearly 58 percent of Madison's ownership was concentrated in the bank's boardroom, which was one of the most close-knit in town.

Madison directors who resigned often were replaced by their relatives or friends. Jack Bender's sons, Howard and Stanley, for example, have continued in their father's place. Samuel Cohen's son-in-law, Morton Funger, became a Madison director as well. Even Smith, who has tried over the years to separate himself from the bank, remained tied to it through his son-in-law, bank director Robert P. Kogod.

In the early 1970s, rumors abounded among local businessmen that Madison was a "candy story" for its directors and their friends, who reportedly could get loans simply by asking.

In 1976, an investigation into Madison's lending practices by The Washington Post revealed that all but one of the real estate loans of $100,000 or more made by the bank over a three-year period went to directors, stockholders and former Madison employees. Among those who received loans for themselves or their business interests were Auger, Antonelli and Gould.

Although none of these insider loans caused losses, The Post investigation found that while Madison was busy funding its directors' projects, it was paying much less attention to the credit needs of the broader community. Several businessmen charged that they had been denied real estate loans and that "connections" were the only way to get Madison financing.

Then-chairman Louis C. Paladini defended Madsion against charges that its directors and stockholders had benefited unduly from self-dealing in loans and fees made on those loans. Federal regulators, saying that loans to directors and officers are legal as long as they are made at arm's length and at prevailing terms, also defended the institution.

But Madison's emphasis on lending to its board members caught the attention of Congress, which held a series of hearings to discuss the bank's operations.

Although the charges of insider dealing soon faded, Madison's reputation for lending to its board did not. The bank continued to market itself as a commercial real estate lender. As real estate boomed again in the 1980s, Madison found itself with the area's highest concentration of construction loans.

From 1985 through the third quarter of 1990, commercial real estate and construction loans grew from 24 percent to almost 44 percent of Madison's loan portfolio. Even Baltimore-based MNC Financial Inc., the biggest financier of local real estate development, has only 27 percent of its protfolio concentrated in office buildings and raw land.

Federal banking regulators said last week that they had been warning Madison for years about this lack of diversity. They also had warned bank officials to tighten their lending practices, which the regulators said included making high-risk real estate loans without collateral, providing full financing for real estate projects and lending "based on charter rather than cash flow."

In April 1989, the board promised it would address these concerns. But the bank's condition continued to deteriorate and real estate lending continued at the same rate, despite what had become a sharp downturn in the local real estate market, according to bank examiners. In late 1990, regulators forced the bank to sign a formal agreement to improve operations and the Federal Reserve began pumping cash into Madison to keep it alive.

To determine the depth of Madison's problems, federal bank examiners swarmed the bank's M Street NW headquarters in January of this year and began a loan-by-loan review of Madison's books.

Even before the exam began, Antonelli resigned from the board. The rampant overbuilding in the commercial real estate sector had battered Antonelli's real estate empire and forced him into bankruptcy reorganization he now owes Madison more than $7 million.

Another six board members resigned just before the examiners began their loan review. Most of them also were heavily involved in the real estate industry; the bank said they left to "concentrate on personal matters."

In the middle of the regulatory scrutiny, Madison's two top executives also resigned. Chairman K. Donald Menefee and President Norman Hecht reportedly left the bank at the request of the Office of the Comptroller of the Currency, which oversees the nation's banks. The two were replaced in late February by Michael F. Ryan, who also oversaw the National Bank of Washington in the final months before its collapse last year. Menefee and Hecht have declined to discuss why they left the bank.

But one Madison official, who requested anonymity, said last week that Hecht and Menefee were never the ultimate decision makers.

"The decisions that were made at the bank were made by the board," the official said. "They ran the place. They called the shots."

Sources say Madison board members always exercised direct control of the bank's lending. Recently released documents show they gave themselves, their relatives and Madison officers 20 percent of all the loans made by the bank company.

Many of those loans have since gone sour. According to a filing last week with the Securities and Exchange Commission, two-thirds of Madison's troubled loans are loans that were made to insiders to fund their real estate projects.

Madison said loans to its officers, directors and their relatives were made on the same terms as loans given to unrelated borrowers. However, bank regulators, who asked not to be identified, said last week that the relationships between the board and the bank are under formal investigation by the Federal Deposit Insurance Corp. Such a probe is common practice when a bank fails.

Said one regulator: "It's clear that these loans contributed significantly to the demise of the bank."

Ryan said lending to bank directors was simply "part of the corporate culture." He said Madison never directly funneled loans to the board, but because board members were developers it made sense to lend to them.

Madison employee Gleason, as she turned to look at Madison National one last time before heading home late Friday, took a different view.

"It's sad. We'd all heard what a mess the place was, with inside deals and stuff. And I think we all knew in our hearts that Madison wouldn't make it. But what's really a shame is that we all knew—and there was nothing we could do about it."

[From the Washington Post, May 10, 1991]

MADISON'S OFFICIALS HOLD BULK OF ITS SOURED LOANS

(By Joël Glenn Brenner)

Two-thirds of the troubled loans that have brought Madison National Bank to the brink of collapse were made to its own directors and officers to fund their real estate ventures, according to financial reports filed yesterday with the Securities and Exchange Commission.

Madison's parent, District-based James Madison Ltd., announced last week that Madison is insolvent, with liabilities exceeding assets. Losses at the Madison banking subsidiaries have been so large that a federal takeover could occur, it added. Sources said the Federal Deposit Insurance Corp. is trying to sell Madison and that a deal, with government assistance, could be completed shortly.

Madison made loans to insiders at a level that, while legal, is practically unheard of in the banking industry, analysts said. According to the SEC filing, $1 out of every $5 in Madison loans outstanding in 1990 went to bank directors, executive officers or their relatives for building commercial offices, buying land and constructing homes.

Among the bank company's directors and their relatives who have outstanding loans for real estate projects are developer Dominic F. Antonelli Jr., a Madison founder who resigned from the board last August and is now in bankruptcy; Antonelli's son John and his daughter Lee; Ulysses "Blackie" G. Auger, a Madison founder and owner of Blackie's House of Beef; Richard S. Cohen, president of Willco Construction Co., who resigned from the board in the fourth quarter; Cohen's brother, Ronald Cohen; Howard and Stanley Bender, both Madison directors and owners of Blake Construction Co.; and Richard A. Kirstein, a Madison director and president of Richmarr Construction Corp.

District land records show that even as recently as January, when real estate values were plummeting and the bank's fortunes were in question, Madison continued to make loans to its directors.

On Jan. 24, Angelo Puglisi, former head of Madison Bank of Maryland, and his partners received a $20,000 loan on vacant land at 21st and P streets NW. That was Madison's second loan on the property, according to a review of the land records by the Service Employees International Union.

None of these directors returned phone calls for comment yesterday.

Madison Chairman Michael F. Ryan, who recently took control of the institution, said the bank did not deliberately funnel loans to its board members.

"This bank was created by real estate developers and these were real estate-related loans," Ryan said. "The fact that [the loans] happened to be to directors is an issue of the employment of the directors. . . . It was a corporate culture."

Yesterday's disclosure included $43.9 million in loans to directors and officers that had not been reported to shareholders or regulators. Madison attributed the addition to "refinements to the company's loan classification system." Ryan declined to comment on why these loans had not been classified before as insider deals.

Problems with insider loans are nothing new at Madison, which became the subject of a congressional investigation in the late 1970s because of its heavy emphasis on lending to its board of directors. Antonelli and Auger were criticized then for loans they had received.

Unlike in the 1970's, however, insider loans made recently have contributed significantly to the financial problems of the bank company, which operates of the bank company, which operates the sixth-largest bank in the District and smaller banks in Maryland and Virginia.

Madison was founded in 1963 by a group of mostly Jewish real estate developers—headed by builder Charles E. Smith—who had found it difficult to get financing for their projects from other banks in the District. Madison has continued to focus on real estate lending, and its board of directors is still made up largely of those in the real estate industry.

Although lending to directors and officers is an accepted banking practice, it has been cited by industry experts as a key factor contributing to the failure of hundreds of the nation's savings and loans.

Federal regulators have said the problem of excessive insider dealings in the nation's commercial banks is not a significant problem. They say careful supervision by the Office of the Comptroller of the Currency (OCC) has kept banks from abusing the insider loan privilege.

Although banks report to federal regulators which loans they make to directors and officers, they are not required to disclose that information to shareholders unless the loans become troubled.

Madison said in the SEC filing that all of its insider loans "were made in the ordinary course of business and on substantially the same terms, including interest rates and collateral, as those prevailing at the time . . . and did not involve more than the normal risk of collectibility with respect to other loans in the company's portfolios."

However, according to the filing, federal regulators have criticized nearly half of the $132.2 million of loans that Madison has outstanding to its directors, officers and their relatives. Of those, $24 million in loans are no longer paying interest. Another $27 million are classified as troubled because they are collateralized by property that has lost substantial value or are otherwise "substandard."

In addition, Madison has written off $11.5 million of insider loans as uncollectible. That accounts for one-third of all the bank company's loan write-offs in 1990.

For the past several months, Madison has been the subject of intensive examinations by all three federal banking regulators, the OCC, the FDIC and the Federal Reserve Board. It has signed special supervisory agreements with all three that prohibit it, among other things, from making more loans to directors.

Madison said in its filing that any future action by the regulators could result in "substantial civil money penalties against" its directors and other affiliated parties.

Madison's deposits continue to be insured up to $100,000 per customer account.

EX-OFFICIALS AT MADISON INVESTIGATED

(By Joël Glenn Brenner and Kirstin Downey)

Former top officials of Madison National Banks of the District and Virginia are being investigated by seven federal agencies for possible illegal activity prior to the failure of the banks last month, according to regulatory documents and sources close to Madison.

According to these sources, investigations by the FBI, the U.S. Attorney's Office, the Internal Revenue Service, the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corp. and the Department of Housing and Urban Development are underway into a wide range of possible illegal activities, including making fraudulent housings loans, insider stock trading, check-kiting and falsifying bank documents.

Regulatory documents show that as of last summer, the FBI was investigating K. Donald Menefee, former chairman and chief executive of James Madison Ltd. in the District, in connection with possible money-laundering violations. Sources said that investigation was still underway at the time of the bank's collapse May 10.

Menefee could not be reached for comment.

Madison was formed in 1964 by a group of prominent local developers including Dominic F. Antonelli Jr. He and other directors have borrowed heavily from the bank over the years. The bank failures, which came after massive losses on real estate loans, are expected to cost the FDIC about $160 million.

The Office of the Comptroller of the Currency (OCC) said yesterday that it has decided to fine former Madison directors and officers, whom it did not identify, for "unsafe and unsound banking practices" and other violations of banking law, including violations of rules governing bank loans to their own officials.

In the five years before regulators shut down the banks, directors and officers were cited by the OCC more than 80 times for violating bank laws, including exceeding limits on loans to directors and falsifying financial documents, according to documents disclosed during a congressional hearing this month. However, monetary penalties were not assessed against the banks' leadership for these violations.

FDIC spokesman David Barr said his agency is investigating officers and directors for their role in the banks' collapse and could bar them for life from working in another bank or savings and loan, seek restitution from them, or both. He said it is too early in the investigation to tell what action, if any, the agency would take.

Officials from the SEC and the FBI refused to comment.

Internal regulatory memos dated Aug. 22, 1990, indicate that the FBI was investigating James Madison's then-chairman Menefee for his involvement with two unnamed bank customers under investigation by the bureau for possible money-laundering. Sources said the FBI's investigation into Menefee was continuing at the time of Madison's failure.

"It appears that while Mr. Menefee was a loan officer, he lent [these] two customers money personally," the memo said. The FBI, according to the memo, was trying to "determine what knowledge, if any Meneff has of these men's other business dealings." Madison, the memo said, was paying for Menefee's legal fees in connection with the investigation.

Menefee was forced to resign his position in the months before the bank collapsed in May. It could not be learned whether his resignation was related to the FBI inquiry.

Internal regulatory documents also state that John Broumas, former chairman of the Madison National Bank of Virginia, was forced to resign by the bank's directors last July after the board was informed that he was involved with a check-kiting scheme that defrauded the bank of $71,000 and with an insider stock-trading scheme that netted him $350,000. Check kiting involves drawing money illegally from several accounts through fraudulent transactions.

Broumas declined to return phone calls for comments.

Sources said the SEC is probing Broumas's stock transactions, which involved three other bank employees, two of whom resigned or were dismissed. According to the documents, Broumas asked the three employees to set up brokerage accounts in their names, with their Social Security numbers, using Broumas's money. Broumas executed more than 400 transactions in bank stock through the accounts between January and May 1990, making about $350,000 in profits, the documents report.

The stock trades violate SEC rules that require insiders to return any profit that was gained on stock held for less than six months to the company, the documents said. In addition, insiders are not allowed to trade stock in other people's names and must file forms with the SEC every time they buy or sell stock in their firm. Broumas never filed the required reports, the documents said, and he has never returned his profit to Madison, according to sources.

In addition to the trading violations, documents said Broumas and two friends were involved in a check-kiting scheme through the bank. The fraud was discovered by the bank's internal auditors, the documents said. Broumas repaid the $71,000 after he was forced to resign July 11, 1990.

Frank Cerutti, former president of Madison National Bank of Virginia, also is being investigated by the FDIC and the OCC, sources said, for allegedly falsifying minutes of a board meeting. Cerutti was forced to resign after the board discovered the changes in the minutes, sources said.

Cerutti could not be reached for comment.

According to documents, Cerutti altered the minutes to reflect approval of a loan for the benefit of his church. "His church had applied for a loan at the [Virginia] bank and apparently was pressuring him for an answer to the request," one document said. However, the loan officer was not prepared to present the loan to the bank's board for approval.

"After pressure from Cerutti," the document said, the board did approve its "intent to lend." However, a review of meeting minutes reflected the board's approval for the loan, the document said: "All roads led back to Cerutti, who apparently falsified the minutes to reflect approval. The [Virginia] board subsequently asked for his resignation."

Madison National Bank first came to the attention of the U.S. Attorney's Office in 1985 in connection with an investigation into fraudulently obtained loans insured by HUD's Federal Housing Administration, said Steven Tabackman, a former assistant U.S. attorney who headed the investigation between 1985 and 1988.

The probe, jointly conducted by HUD, the FBI and the IRS, has resulted in more than 60 criminal convictions. No Madison officials have been charged.

District land records show that Madison provided the money that allowed real estate investors to buy numerous small apartment buildings in Northeast Washington in 1982 and 1983. These properties were resold to investors with the use of fraudulently obtained FHA-insured loans, and the real estate brokers and investors split the proceeds from the sales, according to guilty pleas by participants in the transactions.

Madison would have received part of the proceeds from each transaction in exchange for financing the deals, Tabackman said.

Many of these transactions involved real estate investor Marvin Gitelson through two firms he owned, Sundust Investment Corp. and Bancies Inc.

In November 1989, Gitelson was charged with narcotics trafficking and HUD fraud, and later pleaded guilty to two counts of interstate transportation of property taken by fraud and making false statements to HUD.

Gitelson had 13 separate accounts at Madison, according to court documents, where he deposited the proceeds of his various business enterprises. Those enterprises included real estate investments and check-cashing services, Tabackman said.

HUD also is investigating whether Madison was involved in schemes to defraud the agency. "It's a hot matter right now," said Hilton Green of the HUD Inspector General's Office, who declined further comment. "We're looking into a lot of folks."

Former officials contacted about the probes said they were unaware of any inquiries into the banks' activity.

"I have no idea of any criminal investigation," said Norman F. Hecht Sr., former president of Madison National Bank in the District.

[From the Washington Post, Apr. 27, 1992]

KEEPING INSIDERS WITHIN LIMITS

When the curtain fell on the now-defunct Madison National Bank last year, the spotlight shifted belatedly to the huge number of shaky insider loans held by its directors, top executives and key shareholders. That costly discovery, along with similar findings at other failed institutions, prompted Congress to tighten restrictions on bank lending to insiders. Now some bankers are complaining that new Federal Reserve Board implementing regulations will cause banks to lose some of the best business they ever had. But weighed against the loss in public trust that imprudent insider deals can cost, the new bank boundaries make sense.

Before the clampdown, bank directors and other insiders could individually or collectively borrow more than 100 percent of the bank's equity capital, provided the loans weren't made on preferential terms. The new regulations will limit individual insider loans to 25 percent of equity capital, and the total of loans to all insiders could not exceed 100 percent in the case of large banks and 200 percent for small institutions. Even with these generous aggregate insider lender limits, bankers fear that the guidelines will force some of their most favored directors to choose between directorships and the continuation of their comfortable borrowing relationships. But if that is one of the eventual results, the guidelines will indeed be serving the public interest.

Opponents of the new banking discipline seem to have lost sight of a director's basic role. Bringing in business or adding prestige to a bank board, is (or should be) secondary to a director's principal duty, which is to protect the interests of the owners—shareholders—and depositors. That is the reason bank directors, unlike those in other businesses, take oaths of office. Their loyalty is owed to the institution they represent, not just to the chief executive who selected them or to the account officer who generously services their loans. Unfortunately, as illustrated by the long list of failed institutions, too many overborrowed directors and other insiders became too compromised by their own personal banking needs and relationships to give sufficient care and diligence to the safety and soundness of the banks they were sworn to protect. That alone is reason for Congress and the federal regulators to have acted as they did.•

OUTSTANDING ENGINEERING

• Mr. GORTON. Mr. President, the State of Washington is home to many of the most beautiful natural resources in the world. Mount Rainier, the Columbia River, and the amber waves of wheat in the Palouse are just a few of our natural wonders. These resources have great esthetic and economic value for the State of Washington.

But the list of notable landmarks in Washington State does not end with our natural resources. For the third year in a row, District 12 is the home of Civil Engineering magazine's "Outstanding Civil Engineering Achievement" prize. This year's recipient is the West Seattle low-level swing bridge.

This bridge is one experts said could not be built. It is a concrete segmental box-girder swing bridge with twin leaves weighing 7,500 tons each. It is the only hydraulically operated double-leaf concrete swing bridge in the world.

This unique bridge is the engineering solution to the challenge posed in the Duwamish Waterway improvement plan. The bridge enables large ocean freighters to better navigate the water to upriver marine terminals and industries. It will give industrial transportation a more direct access into the industrial areas that line the Duwamish River. And finally, it provides access to West Seattle, where about a quarter of the city's population lives. The bridge carries more than 70,000 vehicles per day, 12,000 of which are heavy trucks, with links to two interstate highways, a major State highway, and downtown Seattle.

Mr. President, I would like to congratulate the Seattle Engineering Department, which sponsored the project, and commend the Port of Seattle, King County, Washington State Department of Transportation, and the Federal Highway Administration for their involvement. I also ask that an article from the July 1992 issue of Civil Engineering entitled "Seattle Swings Again" be inserted in the RECORD.

The article follows:

SEATTLE SWINGS AGAIN

(By Rita Robinson)

Constructed as an industrial workhorse to divert truck traffic from an adjacent graceful high-level span, the $33.5 million West Seattle Low-Level Swing Bridge is becoming an aesthetic landmark in its own right. When a ship in the west channel of the Duwamish River approaches Harbor Island, the twin concrete segmental box girder leaves rise imperceptibly, part and swing toward the river banks in a slow-motion ballet, a spectacle that moves 15,000 tons of concrete in 2 min.

Each leaf has a 173.5 ft tail span and a 240 ft channel span, clearing the channel by 55 ft. This is 12 ft higher than the predecessor bascule structure, and the difference has reduced the need for openings for river traffic about by 30%. The swing bridge diverts some 3,000 trucks a day from the high bridge, giving them a more direct access into the industrial areas that line the river. As a bonus for pedestrians and cyclists, the bridge provides a more direct route for public access to West Seattle's beaches and trails (CE September 1990).

The unique design—this is the only hydraulically operated double-leaf concrete swing bridge in the world—is the engineering solution to the challenge posed in the Duwamish Waterway Improvement plan, which calls for widening the existing 150 ft channel to 250 ft. The existing bascule was skewed 45 deg. To the channel, and reusing the right-of-way meant a clear span length of 353 ft, an enormous reach for a bascule bridge. The answer was a swing structure with two pivot piers on the river banks rather than the usual single pivot midchannel.

In the final design, the span between the center line of the pivot piers is 480 ft, and constructing the leaves in the open position kept the channel open for shipping. Because the new piers and open leaves are well outside the channel markers, maritime officials feel that this stretch of the waterway is now reasonably collisionproof. Even with the existing channel, large ocean freighters are better able to navigate the waterway to upriver marine terminals and industries.

The transportation corridor that serves Harbor Island also serves West Seattle, where about a quarter of the city's population lives. It carries more than 70,000 vehicles per day, 12,000 of which are heavy trucks, with links to two interstate highways, a major state highway and the downtown area. For the engineers and contractors, the biggest site problems involved keeping major industrial traffic moving at all times of the day and night, moving an electrical tower and relocating water and telephone lines without disrupting service to 70,000 people.

Traffic detours were well publicized, and a toll-free van/shuttle carried more than 64,000 bicyclists and pedestrians over the high-level bridge during construction. (By themselves, they are excluded from the high bridge.) a design/construction oversight committee representing the community, businesses and local government agencies met regularly to discuss progress.

Migrating fish had to be protected at all costs, so in-water construction was halted between March 15 and June 15. During demolition of the old bridge piers, the contractor fabricated a temporary "air curtain" of polyvinyl chloride perforated pipe and high-pressure air pumps. The curtain absorbed about 80% of the pressure wave created by the underwater blasts, and no salmon or steelhead fish were lost.

Finally, the innovative design caused fiscal problems. When the cry was raised that no one had built such a heavy swing bridge before, the Federal Highway Administration declined to fund it, although the agency did contribute $7.2 million for approaches. The design team produced two alternates that were to hold down costs by increasing the bidding competition. The segmental concrete version came at $33.5 million, but no one bid on the composite concrete and steel design.

Moving the 7,500 ton leaves is an engineering feat in itself, and city officials were apprehensive about the innovations this entailed. No one was sure that the lift-turn pistons would work, so the city required testing of a half-scale model hooked to a computer that simulated 10 year's use. Taken apart after the test, the model shows no wear on seals or surfaces.

Normally, a swing bridge pivots on a fixed center bearing, with balance wheels to stabilize the span during operation and wedges to immobilize the span for roadway traffic. Seismic design considerations, as well as the unprecedented weight made these normal machines components impractical. The designers turned to hydraulics: A 9 ft. diameter hydraulic cylinder lifts the bridge off its stationary service bearings and provides an oil bearing for rotation. Hydraulic cylinders propel the leaves, drive and retract the center and tail locks. The skew, which had lengthened the span to problem proportions, shortened the retraction path of the leaves to 45 deg.

Redundancy was an important design factor. In each pier house, two of the three 100 hp, 125 gpm hydraulic pumps supply power for the hydraulic system, while designation of the spare third is rotated among them. In extreme emergencies, each leaf could be moved by only one slewing cylinder or even against the friction of the service bearings should the lift-turn cylinder fail to operate. These maneuvers would require manual overrides of pressure-relief valves in the hydraulic system, and could damage some of the service bearings.

Although the locks are designed to be driven against a ½ in. misalignment, each box girder has enough torsional stiffness so that locks are required only at the center line. In the operating position, a large steel locking bar at midstream connects the tips of the leaves together, and a similar tail lock connects the end of each movable leaf to the approach structure. The locks are driven and horizontally retracted by independent hydraulic cylinders operated by separate pumps. In a power failure, emergency generators housed in the lower level of each pier house come on line. These generators are rated at 350 kw, and burn diesel fuel stored in tanks located in the pier houses.

The control tower, adjacent to but separate from the west pivot pier, is 120 ft. above the water, giving the bridge operator clear views of the channel and the approach roadways. Normally, a computer controls the operation; it pushes the buttons, checks the interlocks and tracks status on a monitor. The human operator can, however, interrupt most of the steps with manual override. Each operation in the carefully orchestrated sequence must be complete and checked by the system before the next is started. For instance, all traffic and pedestrian safety gates are in place before the locks are withdrawn. Total elapsed time for an opening, including halting vehicular traffic with lights and gates, is 4.5 min.

To open the bridge, two hydraulic slewing cylinders with a 24 in. diameter piston and a 92 in. stroke rotate each leaf at 0.57 deg./sec. Hydraulic buffers stop each leaf in 0.44 deg. of travel. Open-position buffers are located on the roof of the pier house and contact stops on the inner surface of the transition element core. Tail-span buffers are located on the approach span piers. Because closing speeds are reduced to 35% of normal at the point of contact with the buffers, the buffer loads during normal operation are quite small.

The design engineers established the dimensions of each cantilever leaf according to its proximity to the high-level bridge. The leaves are bobtailed in the tail section—they could not be made symmetrical about the pivot shaft because of the restricted space available to clear the existing bridge pier. The east leaf, with its tail span of 173 ft, tucks under the high-level bridge during slewing, just clearing the nearest column; the west leaf is identical but its channel span tucks under the high-level bridge.

The pier houses are 42 ft in diameter, with 32 in. thick concrete walls. They house the machinery, emergency generators and part of the control system, and are carried by reinforced concrete footings that bear on 36 in. concrete-filled steel pipe piles. Each pier table is supported by a transition element that provides two load paths to the foundation. When the bridge is open to vehicular traffic, the load path goes through a conical shall to the walls of the pier house. (Service bearings composed of steel plates with reinforced elastomers separate the transition element from the roof of the pier house.)

In the operating position, the entire movable leaf, including the transition element and pivot shaft, is raised about 1 in. to transfer the load from the service bearings to the pivot shaft a concrete-filled steel shell resting on the hydraulically operated lift-turn cylinder.

The exacting tolerances specified for manufacture and installation of the mechanical components were similar to those used to set turbines and generators. The 12 ft diameter pivot shafts were made in three sections, machined and assembled in the shop, then subjected to a run-out test on a horizontal axis. The two journals are circular within 0.004 in., and the base of the cylinder is perpendicular to the axis within 0.007 in. Similar tolerances were met after the cylinders were disassembled, shipped and reassembled on site. The test were made both before and after the cylinders were filled with concrete.

DESIGN PRECAUTIONS

The design engineers took precautions to make the swing bridge earthquake resistant. They had to consider all elements of the project—approaches, movable leaves, piers and locks—in light of Seattle's designation as being in UBC Zone III. Soils near the mouth of the Duwamish River would be subject to liquefaction and potential ground subsidence in a severe earthquake. They range from hydraulic fill and recent alluvial sands and silts to heavily preconsolidated glacial till, all interspersed with lenses of loose silt. Depth to the solid till formation varies from 50 ft on the west 200 ft. on the east.

The engineers specified vibroflotation to densify the problem soils in order to prevent loss of lateral containment of soil around the upper portion of the piles supporting the piers, which are located in the sloping banks of the channel excavation. Special seismic isolation sleeves—48 in. diameter steel pipes—surrounding each pile control the elevation at which the piles begin to receive lateral support from surrounding soils. This arrangement creates a center of rigidity at the same location as the center of mass, minimizing torsional problems that would arise during an earthquake if the lateral stiffness varied from pile to pile. The sleeves also support the tremie seal, which is separate from the footing so these components can move independently during a shock.

Other precautions involved provisions for future maintenance. The designers provided safe access for inspectors and maintenance personnel plus adequate openings for removal and replacement of each piece of machinery. The 9 ft diameter hydraulic lift-turn cylinders, for instance, weigh about 5 tons each.

Because the concrete box girders have free ends rather than ends fixed to piers, control of long-term deformations was a major concern during design. The leaves contain more post-tensioning than required for stress control for the final dead-load balancing. As a precaution, there are several unbonded tendons that can be stressed in the future to account for unanticipated deflection.

Superplasticizers added to the high-strength concrete mix reduced water requirements and provided workability with minimum shrinkage and creep. Thermocouples embedded in the concrete permitted close monitoring of strength development, which in turn allowed early prestressing.

The segmental box girders were cast in place. First, the 60 ft long pier tables were cast in the closed position to control stresses on the service bearings that transmit the loads to the pier house walls. Then the pier tables were moved to the open position, and work proceeded simultaneously on both leaves so that incremental adjustments could be made for matching the elevations of opposing segments. Prior to casting the last two segments on each arm of the leaves, the bridge was swung to the closed position to check the alignment and profile. No major adjustments were required in the formwork as a result of these checks. A 2 in. thick overlay of latex-modified concrete provides the traffic surface.

CREDITS

The project, sponsored by the Seattle Engineering Department, is owned by the city of Seattle. Funding also came from the Port of Seattle, King County, Washington State DOT and the Federal Highway Administration. The joint venture West Seattle Bridge Design Team was composed of Andersen Bjornstad Kane Jacobs, Inc., Seattle, and the local offices of Parsons Brinckerhoff Quade & Douglas, Tudor Engineering, Inc., Contech Consultants (segmental concrete) and Hamilton Engineering Inc. (hydraulic machinery). Elcon, Portland, Ore., provided electrical design for power and illumination.

The construction contract was awarded to joint venture Kiewit-Global in December 1988, which completed the project in 608 workings days (about 28 months). If also involved 49 subcontractors. After utility work was completed, the bridge was opened to traffic in August 1991.

The West Seattle Low-Level Swing Bridge was nominated by Rich Hovey, Director of District 12. This is the third Outstanding Civil Engineering Achievement prize in a row for the District. In 1991, it went to the decade's effort by the U.S. Army Corps of Engineers in response to the eruption of Mount St. Helens, and in 1990, the winner was the Mount Baker Ridge Tunnel and its lidded approaches, in another part of Seattle.•

ORDERS FOR TUESDAY

Mr. HOLLINGS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Tuesday, July 28; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the first 30 minutes of morning business under the control of the majority leader or his designee; with Senator GORTON recognized for up to 10 minutes and Senator COATS for up to 5 minutes; that upon the third reading of S. 3026, the State, Justice, Commerce appropriations bill, the Senate then proceed to the consideration of Calendar No. 560, H.R. 5487, the Agriculture appropriations bill; that on tomorrow, Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. HOLLINGS. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:25 p.m., recessed until 9:15 a.m., Tuesday, July 28, 1992.

NOMINATIONS

Executive nominations received by the Senate July 27, 1992:

THE JUDICIARY

R. EDGAR CAMPBELL, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JOANNA SEYBERT, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

NATIONAL INSTITUTE FOR LITERACY

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL INSTITUTE BOARD FOR THE NATIONAL INSTITUTE FOR LITERACY FOR TERMS OF 3 YEARS (NEW POSITIONS):

JOHN CORCORAN, OF CALIFORNIA
HELEN B. CROUCH, OF NEW YORK
SHARON DARLING, OF KENTUCKY
JIM EDGAR, OF ILLINOIS
JON DEVEAUX, OF NEW YORK
RONALD M. GILLUM, OF MICHIGAN
BENITA C. SOMERFIELD, OF NEW YORK
SUSAN ANN VOGEL, OF ILLINOIS

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

GENE ERNEST BIGLER, II, OF CALIFORNIA
LESLIE C. HIGH, OF PENNSYLVANIA
HELEN MARGIOU, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 3, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

MICHAEL EMBACH THURSTON, OF WASHINGTON

DEPARTMENT OF AGRICULTURE

STEVEN D. SHNITZLER, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 4, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

LUCY K. ABBOTT, OF MAINE
AMIT AGARWAL, OF CALIFORNIA
THOMAS HART ARMBRUSTER, OF HAWAII
DORON DAVID BARD, OF MARYLAND
PETER HENRY BARLERIN, OF MARYLAND
BERTRAM DOMINICUS BRAUN, OF NEW YORK
PAULA M. BRAVO, OF CALIFORNIA
KEVIN L. BRISCOE, OF ILLINOIS
R. DOUGLAS BROWN, OF WASHINGTON
STEPHANIE LAFOREST BROWN, OF MARYLAND
GREGORY S. BURTON, OF VIRGINIA
ROGER AUGUSTUS CARIGNAN, OF MASSACHUSETTS
JOHN LESLIE CARWILE, OF MARYLAND
CHRISTIAN M. CASTRO, OF MASSACHUSETTS
GARY ALLAN CLEMENTS, OF MASSACHUSETTS
PAUL THOMAS DALEY, OF PENNSYLVANIA
JOHN PAUL DESROCHER, OF NEW YORK
DAVID DIGIOVANNA, OF NEW YORK
CHRISTOPHER ANDREW ELLIS, OF CALIFORNIA
SIGRID EMRICH, OF MINNESOTA
MARILYN ERESHEFSKY, OF CALIFORNIA
ARLENE LORRAINE FERRILL, OF CALIFORNIA
MICHAEL HAROLD FINEGAN, OF VIRGINIA
JOHN M. FINKBEINER, JR., OF CALIFORNIA
GEORGE ARMAND FORSYTH, OF TEXAS
ROBERT ARTHUR FRAZIER, OF TEXAS
MICHAEL ANTHONY GAYLE, OF VIRGINIA
PHILIP S. GOLDBERG, OF NEW YORK
JOHN FRYAR GUERRA, OF TEXAS
LINDA HALEY, OF TEXAS
ROBIN LORENE HAASE, OF FLORIDA
JAMES W. HABRON, JR., OF NEW JERSEY
MICHAEL A. HAMMER, OF CALIFORNIA
DAMIEN HINCKLEY, OF VIRGINIA
GEORGE HAMILL HOGEMAN, OF NEW YORK
PATRICK S. HOTZE, OF KANSAS
L. VICTOR HURTADO, OF COLORADO
TRACEY ANN JACOBSON, OF CALIFORNIA
DIANE ELIZABETH KELLY, OF NEW YORK
SUNG Y. KIM, OF CALIFORNIA
CLARA E. M. KYIM, OF NEW YORK
MARY BETH LEONARD, OF THE DISTRICT OF COLUMBIA
WILLIAM W. LESH, OF FLORIDA
KAREN T. LEVINE, OF NEW YORK
JOHN OREN MAHER, OF FLORIDA
THOMAS B. MCCUDDEN, OF ILLINOIS
GEORGE KENNETH MCGHEE, OF CALIFORNIA
MATTHEW MCKEEVER, OF THE DISTRICT OF COLUMBIA
ROBIN DIANE MEYER, OF THE DISTRICT OF COLUMBIA
MARC JENNEWEIN MEZNAR, OF TEXAS
SEAN MURPHY, OF MASSACHUSETTS
THEODORE GEORGE OSIUS, III, OF THE DISTRICT OF COLUMBIA
FRANK W. OSTRANDER, OF FLORIDA
GEETA PASI, OF NEW YORK
WILLIAM LEE RADA, OF OREGON
PENELOPE ADAMS ROGERS, OF HAWAII
DANIEL H. RUBINSTEIN, OF CALIFORNIA
CARL E. SCHONANDER, OF TEXAS
WILLIAM RYON SILKWORTH, OF NORTH CAROLINA
LAWRENCE ROBERT SILVERMAN, OF VIRGINIA
BEATRICE PEARSON SOILA, OF CALIFORNIA
JAMES A STEWART, OF OREGON
HERBERT L. TREGER, OF VIRGINIA
VICTOR A. VOCKERODT, OF MARYLAND
THOMAS WEINZ, OF WASHINGTON
ALICE G. WELLS, OF CALIFORNIA

DEPARTMENT OF AGRICULTURE

KATHLEEN MOORE, OF MARYLAND

U.S. INFORMATION AGENCY

AMY J. CRUTCHFIELD, OF CALIFORNIA
SUSAN DOMOWITZ, OF IDAHO
KATHLEEN M. FAIRFAX, OF TEXAS
KAREN DENISE KELLEY FAYE, OF VIRGINIA
DAVID HUNTER KENNEDY, OF VERMONT
MARK S. LUEBKER, OF TEXAS
PAUL BERNARD PATIN, OF TEXAS
DALE T. PRINCE, OF MICHIGAN
MARRIE Y. SCHAEFER, OF CALIFORNIA
JEFFREY R. SEXTON, OF NEVADA
SHIRLEY OLIVIA STANTON, OF TEXAS
MARY THOMPSON-JONES, OF CALIFORNIA
RAYMOND TRIPP, OF NEW YORK
PHILLIP JAMES WALKER, OF NEW HAMPSHIRE

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE, AGRICULTURE AND COMMERCE AND THE UNITED STATES INFORMATION AGENCY TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JULIE DEIDRA ADAMS, OF MARYLAND
GREGORY J. ADAMSON, OF CALIFORNIA
EILEEN ANNE AMER, OF OHIO
RANDY B. BECK, OF OREGON
JOSEPH ANDREW BOOKBINDER, OF NEW YORK
SCOTT DOUGLAS BOSWELL, OF NEW JERSEY
JOHN C. BRINDLE, OF VIRGINIA
ROBERT HAROLD CHRISMAN, OF FLORIDA
JAMES GREGORY CHRISTIANSEN, OF DISTRICT OF COLUMBIA
JOHN CHARLES COE, OF FLORIDA
JENNIFER L. DENHARD, OF MARYLAND
MARI DIETERICH, OF TEXAS
MARY DOETSCH, OF ILLINOIS
SAMUEL DICKSON DYKEMA, OF WISCONSIN
JONI ALICIA FINEGOLD, OF MASSACHUSETTS
MARIA M. FRATUS, OF OHIO
LARA SUZANNE FRIEDMAN, OF ARIZONA
JOYCE W. GILLGREN, OF FLORIDA
CHRISTINE ANNE HAROLD, OF MARYLAND
MARJORIE R. HARRISON, OF PENNSYLVANIA
JOHN DAVID HAYNES, OF COLORADO
MICHAEL G. HEATH, OF CALIFORNIA
GARY B. HILBURN, OF VIRGINIA
GLEN W. HOSKIN, OF VIRGINIA
KATHERINE HOWARD, OF MARYLAND
BRUCE K. HUDSPETH, OF ARIZONA
GERALDINE JOBES, OF WASHINGTON
LISA A. JOHNSON, OF VIRGINIA
MICHAEL ROBERT KELLER, OF FLORIDA
PATRICIA KATHLEEN KELLER, OF VIRGINIA
MAURA MARGARET KENISTON, OF NEW YORK
GEORGE P. KENT, OF VIRGINIA
KARLA B. KING, OF MARYLAND
PHILIP GRAHAM LAIDLAW, OF FLORIDA
CHARLES CHOULMOH LEE, OF MARYLAND
DAVID JON LYKINS, OF VIRGINIA
JOHN KEVIN MADDEN, OF ARKANSAS
SHERRIE LYNN MARAFINO, OF PENNSYLVANIA
RAYMOND DOUGLAS MAXWELL, OF NORTH CAROLINA
MARY BETH MCEVOY, OF NEW YORK
JUDITH SAYLER OLMER, OF MARYLAND
SANDRA JEAN PEACOCK, OF VIRGINIA
RENEE POLEWAY, OF VIRGINIA
JAMES PAUL POPE, OF VIRGINIA
EMIKO MIYASAKA PURDY, OF VIRGINIA
CHARLOTTE ALISON QUINN, OF MARYLAND
PHILIP THOMAS REEKER , OF NEW YORK
MICHAEL J. RICHARDSON, OF FLORIDA
R. STEPHEN SCHERMERHORN, OF COLORADO
CHARLES REVERDAN SCRIBNER, OF VIRGINIA
MADELINE QUINN SEIDENSTRICKER, OF FLORIDA
WILLIAM E. SHEA, OF FLORIDA
ROBERT A. SHEETS, OF VIRGINIA
GARY R. SIGMON, OF VIRGINIA
JOHN KIRBY SIMON, OF CONNECTICUT
MICHAEL WILLIAM STANTON, OF VIRGINIA
RODNEY M. THOMAS, OF VIRGINIA
MARK TONER, OF PENNSYLVANIA
LESSLIE CLAY VIGUERIE, OF THE DISTRICT OF COLUMBIA
SCOTT DAVID WEINHOLD, OF VIRGINIA
DALE EDWARD WEST, OF TEXAS
ROSA MARIA WHITAKER, OF THE DISTRICT OF COLUMBIA
CHRISTINE LOUISE WINES, OF FLORIDA
TERRENCE K.H. WONG, OF WASHINGTON
DIANA ELIZABETH WOOD, OF THE DISTRICT OF COLUMBIA
CHARLES B. WOODWARD, JR., OF VIRGINIA

EXTENSIONS OF REMARKS

PREVIOUS QUESTION FIGHT TUESDAY ON LINE-ITEM VETO AMENDMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. SOLOMON. Mr. Speaker, I am inserting these extensions of remarks to alert my colleagues that tomorrow, Tuesday, July 28, I will be joining with Representative DREIER in urging defeat of the previous question on the rule for the supplemental appropriations bill (H.R. 5620) in order to amend the rule to make in order a line-item veto rescission authority amendment.

The text of my amendment can be found in the CONGRESSIONAL RECORD of Thursday, July 23, at page H 6584. I am appending to these remarks a summary of the amendment.

In essence, my amendment is identical to H.R. 78 introduced by Representative JIMMY DUNCAN of Tennessee back on January 3, 1991, which has been languishing in the Committees on Rules and Government Operations ever since. The only difference from H.R. 78 is that my amendment would only apply to fiscal 1993 appropriations bills rather than being permanent authority.

Under the terms of the amendment, the President could rescind budget authority in any fiscal 1993 appropriations bill within 20 days after its enactment and submit a message to Congress notifying it of the rescission. Congress would then have a 20-day review period in which to pass a resolution of disapproval. If the disapproval resolution becomes law, the funds would be spent. If not, the budget authority would be canceled.

Mr. Speaker, the line-item veto alone will not bring our budget into balance, but it can be a very useful tool in moving us in that direction. According to a GAO report earlier this year, the deficit could have been reduced by up to $70 billion between fiscal years 1984 and 1989 if the President had had the line-item veto.

Our current rescission provisions under title X of the Budget Act are woefully inadequate as we already saw earlier this year since Congress can ignore or drastically alter any proposed rescission. The current law requires approval of a rescission by both Houses before the spending can be blocked. My amendment reverses that process by permitting a rescission to stand unless both Houses of Congress disapprove the rescission and that disapproval resolution becomes law.

This is the only meaningful way we can assure that Congress has a clear up-or-down vote on the President's rescission proposals.

I urge my colleagues to join us in voting down the previous question on the supplemental rule so that we can give the President this authority on a limited, 1-year trial basis. Let's at least give the concept a chance to work.

At this point in the RECORD, Mr. Speaker, I include a summary of my amendment, a copy of a "Dear Colleague" letter sent to all Members today, an excerpted summary from the GAO report, and a list of the 170 House Members who have sponsored or cosponsored line-item veto bills or constitutional amendments.

SUMMARY OF SOLOMON LINE-ITEM VETO RESCISSION AUTHORITY AMENDMENT TO SUPPLEMENTAL APPROPRIATIONS BILL

The amendment is based on H.R. 78 introduced by Rep. Jimmy Duncan (R–TN) on Jan. 3, 1991 (referred to the Committees on Rules and Government Operations; 123 current cosponsors), except that it would only apply to fiscal 1993 appropriations bills;

Under the terms of the amendment, the President could send Congress a special message within 20-days of session after the enactment of a fiscal 1993 appropriations bill, rescinding all or part of any discretionary budget authority contained in that bill;

The budget authority would be considered canceled unless both Houses, by majority vote, pass a joint resolution disapproving the rescission, in whole, with 20-days after the message is received, and the joint resolution becomes law;

After congressional passage of a joint resolution of disapproval, the President would have the constitutional ten days in which to sign or veto it, and, if it is vetoed, Congress would have an additional five-days of session in which to vote to override the veto (a two-thirds vote of both Houses being required under the Constitution);

A joint resolution of disapproval would be subject to ten-hours of debate in the Senate and in accordance with the rules of the House, and would not be subject to amendment in either House;

If Congress adjourns its final session sine die before the expiration of the 20-day review period, the rescission would not take effect, but the message shall be deemed to have been resubmitted on the first day of the new Congress.

COMMITTEE ON RULES,
Washington, DC, July 27, 1992.

VOTE "NO" ON PREVIOUS QUESTION FOR SUPPLEMENTAL RULE TO ALLOW FOR VOTE ON LINE-ITEM VETO AMENDMENT

DEAR COLLEAGUE: On Tuesday, July 28th, when the House takes up the rule on the supplemental appropriations bill (H.R. 5620), we urge you to vote down the previous question so that we can amend the rule to make in order a line-item veto rescission authority amendment for fiscal 1993 appropriations bills.

You may already be one of 170 House Members who have sponsored or cosponsored line-item veto bills or constitutional amendments. This may be your last opportunity in this Congress to go on record in the House in support of such authority.

The line item veto is supported by both President Bush and candidate Clinton and has broad bipartisan support in the House. Moreover, some 43 governors presently have some form of line-item veto authority.

According to a January, 1992 GAO report, "Line Item Veto: Estimating Potential Savings"; "If the President had had line item veto authority from fiscal years 1984 through 1989 and used that authority to reduce or eliminate each item to which an objection was raised in SAPs, we estimate that the savings would have ranged from $7 billion to $17 billion per year, for a cumulative 6-year total of about $70 billion."

Under the Solomon amendment, the President could submit a rescission message for any fiscal 1993 appropriations bill within 20-days of its enactment. Congress would then have 20-days of session in which to disapprove it by enactment of a joint resolution. The President would then have 10-days in which to sign or veto the disapproval resolution, and, if vetoed, Congress would have an additional five-days in which to override the veto.

For the full text of the amendment, see the Congressional Record of July 23, 1992, at page H 6584. If you have any questions, please contact Don Wolfensberger at the Rules Committee office (x5-9191).

Sincerely yours,
GERALD B. SOLOMON;
Ranking Republican.
DAVIS DREIER,
Member of Congress.

GAO REPORTS AND TESTIMONY: JANUARY 1992

BUDGET AND SPENDING

Budget Issues—Line Item Veto: Estimating Potential Savings

If presidential line item veto/line item reduction authority had been applied to all items to which the President objected during fiscal years 1984 through 1989, spending could have been cut by about $70 billion. This would have reduced federal deficits and borrowing by 6.7 percent, from $1,059 billion to $989 billion. These estimates, however, are fraught with uncertainties, and other administration documents suggest that they may overstate savings. GAO found that more than 70 percent of the line item veto savings in fiscal years 1984 through 1989 would have occurred in five areas that account for 20 percent of discretionary spending: (1) transportation; (2) commerce and housing credit; (3) education, training, employment, and social services; (4) income security; and (5) natural resources and the environment. Conversely, only two percent of the possible savings would have come in four areas that account for 70 percent of discretionary spending: (1) science, space, and technology; (2) national defense; (3) international affairs; and (4) veterans benefits and services.

HOUSE SPONSORS OF LINE-ITEM VETO BILLS AND CONSTITUTIONAL AMENDMENTS

("L" denotes legislative line item veto bills which give the President enhanced rescission authority; "C" denotes line-item veto constitutional amendments)

Allard (R–CO): C.
Allen (R–VA): L.
Archer (R–TX): L,C.
Armey (R–TX): L,C.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Bacchus (D–FL): L.
Baker (R–LA): L,C.
Ballenger (R–NC): L,C.
Barrett (R–NE): L.
Barton (R–TX): L,C.
Bateman (R–VA): L,C.
Bennett (D–FL): L,C.
Bereuter (R–NE): L,C.
Bilbray (D–NV): L,C.
Bilirakis (R–FL): C.
Blaz (R–GU): L.
Bliley (R–VA): L,C.
Boehner (R–OH): L,C.
Bruce (D–IL): L.
Bunning (R–KY): L,C.
Burton (R–IN): L,C.
Bustamante (D–TX): L,C.
Camp (R–MI): L,C.
Campbell (R–CA): L,C.
Cardin (D–MD): L.
Carper (D–DE): L.
Chandler (R–WA): L,C.
Clinger (R–PA): C.
Coble (R–NC): L,C.
Combest (R–TX): C.
Condit (D–CA): L,C.
Cooper (D–TN): L.
Costello (D–IL): L.
Coughlin (R–PA): L,C.
Cox (R–CA): L,C.
Crane (R–IL): C.
Cunningham (R–CA): L,C.
Dannemeyer (R–CA): L,C.
DeFazio (D–OR): L.
DeLay (R–TX): L,C.
Derrick (D–SC): L.
Doolittle (R–CA): L,C.
Dorgan (D–ND): L.
Dornan (R–CA): L.
Dreier (R–CA): L,C.
Duncan (R–TN): L.
Emerson (R–MO): L,C.
English (D–OK): L.
Ewing (R–IL): L,C.
Fawell (R–IL): L,C.
Fields (R–TX): L,C.
Fish (R–NY): L,C.
Franks (R–CT): L,C.
Gallegly (R–CA): L,C.
Gallo (R–NJ): L,C.
Gekas (R–PA): L.
Gibbons (D–FL): C.
Gilchrest (R–MD): L.
Gillmor (R–OH): L,C.
Goodling (R–PA): C.
Gordon (D–TN): C.
Goss (R–FL): L,C.
Hall (D–TX): L,C.
Hamilton (D–IN): L.
Hancock (R–MO): L,C.
Hansen (R–UT): L,C.
Hastert (R–IL): L,C.
Hefley (R–CO): L,C.
Herger (R–CA): L,C.
Hobson (R–OH): L,C.
Holloway (R–LA): L,C.
Houghton (R–NY): C.
Huckaby (D–LA): L.
Hunter (R–CA): L,C.
Hutto (D–FL): L.
Hyde (R–IL): L,C.
Inhofe (R–OK): L,C.
Ireland (R–FL): C.
James (R–FL): L.
Johnson (R–CT): L,C.
Johnson (R–TX): L,C.
Johnson (D–SD): L.
Kasich (R–OH): C.
Kleczka (D–WI): L.
Klug (R–WI): L,C.
Kolbe (R–AZ): L,C.
Kyl (R–AZ): L,C.
Lagomarsino (R–CA): L,C.
Lancaster (D–NC): L.
Lent (R–NY): L.
Lewis (R–FL): L,C.
Lightfoot (R–IA): L.
Livingston (R–LA): L,C.
Lloyd (D–TN): L.
Long (D–IN): L.
Lowery (R–CA): L,C.
Luken (D–OH): L.
McCandless (R–CA): L.
McCollum (R–FL): C.
McCrery (R–LA): L,C.
McEwen (R–OH): L,C.
McGrath (R–NY): C.
McMillan (R–NC): L.
Machtley (R–RI): C.
Martin (R–NY): C.
Meyers (R–KS): L,C.
Miller (R–OH): L.
Miller (R–WA): L,C.
Moorhead (R–CA): L,C.
Nichols (R–KS): L.
Nussle (R–IA): L.
Oxley (R–OH): C.
Packard (R–CA): L,C.
Pallone (D–NJ): L.
Parker (D–MS): L.
Patterson (D–SC): L.
Paxon (R–NY): L,C.
Payne (D–VA): L.
Pease (D–OH): L.
Penny (D–MN): L,C.
Petri (R–WI): L,C.
Poshard (D–IL): L.
Price (D–NC): L.
Quillen (R–TN): L,C.
Ramstad (R–MN): L,C.
Ravenel (R–SC): L,C.
Ray (D–GA): L.
Rhodes (R–AZ): L.
Riggs (R–CA): L,C.
Ritter (R–PA): L,C.
Roberts (R–KS): L,C.
Rogers (R–KY): L.
Rohrabacher (R–CA): L,C.
Ros-Lehtinen (R–FL): L.
Roth (R–WI): C.
Santorum (R–PA): L,C.
Saxton (R–NJ): C.
Schiff (R–NM): L,C.
Sensenbrenner (R–WI): L,C.
Sharp (D–IN): L.
Shaw (R–FL): C.
Shays (R–CT): L,C.
Skeen (R–NM): C.
Slattery (D–KS): C.
Smith (R–NJ): L.
Smith (R–TX): L,C.
Smith (R–OR): L.
Solomon (R–NY): L,C.
Spence (R–SC): L,C.
Spratt (D–SC): L.
Stearns (R–FL): L,C.
Stenholm (D–TX): L.
Stump (R–AZ): L,C.
Sundquist (R–TN): L,C.
Swett (D–NH): L.
Tallon (D–SC): L.
Taylor (R–NC): L.
Thomas (R–WY): L,C.
Upton (R–MI): L,C.
Vander Jagt (R–MI): L,C.
Vucanovich (R–NV): L,C.
Walker (R–PA): L.
Walsh (R–NY): L.
Weber (R–MN): L.
Weldon (R–PA): R.
Wilson (D–TX): L,C.
Wolf (R–VA): C.
Wylie (R–OH): L,C.
Young (R–FL): C.
Zeliff (R–NH): L,C.
Zimmer (R–NJ): L,C.

Totals: 170 Members have sponsored at least one bill or constitutional amendment: 128 Republicans and 42 Democrats.

TRIBUTE TO DR. CLAIRE A. QUINLAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Dr. Claire A. Quinlan, an outstanding citizen who is retiring from the California Department of Education after 17 years of dedicated service to the Sacramento community.

Dr. Quinlan should be commended for her many accomplishments since joining the department of education in 1975 as an education research and evaluation consultant. She was an original designer and coarchitect of the California Basic Educational Data System, providing the State of California with an annual collection on all public school demographic data. Dr. Quinlan also designed and conducted statewide evaluations of categorical programs, including the consolidated evaluation report of categorical programs. Her tireless dedication led to the appointment as administrator of the special studies and evaluation reports unit in 1989. Since 1991, Dr. Quinlan has served as assistant division director and has also been responsible for the California School Recognition Program and the local evaluation assistant unit.

Dr. Quinlan received her Ph.D. in research, statistics and measurement and her master's in educational psychology and guidance from the University of Northern Colorado. Her master's in business administration was obtained from the California State University at Sacramento and she received her bachelors degree in modern languages, English and education from the University of Rhode Island.

As an advocate for improving the quality and efficiency of public education, Dr. Quinlan's dedication as a leader in education, is life long. In 1951, she began her career as a public high school teacher where she taught in Vermont, Rhode Island, and Colorado for 9 years. From 1962–69, she actively served as assistant professor of psychology and assistant dean of psychological services at the University of Colorado, where she was responsible for the campus testing program and the primary research advisor for student personnel doctoral faculty. When she relocated to Jamestown College in North Dakota in 1969 Dr. Quinlan's appointments included vice-president for student affairs, dean of the social science division, and chairwoman of the psychology department.

Mr. Speaker, I highly commend Dr. Claire A. Quinlan on her accomplishments and contributions to the public education system, and I ask that my fellow colleagues join me in congratulating her as a devoted public servant. I extend my best wishes to her in all of her future endeavors.

THE BUSH ADMINISTRATION DEBATE POLITICAL STRATEGY FOR ELECTION YEAR S&L BAILOUT FUNDING

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. VENTO. Mr. Speaker, we now have in writing from President Bush's handpicked Chief Executive Officer [CEO] of the Resolution Trust Corporation [RTC], Albert Casey, a document recognizing that funding for the RTC would result in the embarrassing situation that would increase the deficit before the election. RCT CEO Casey, a man who serves at the pleasure of the President, has cynically set the spin that the administration should engage in at the week's meeting of the Thrift Depositor Oversight Protection Board.

Mr. Casey is suggesting that Congress should be ignored and that he be allowed to borrow money to cover estimated losses in order to shift thrifts from conservatorship to receivership. Appropriately, Secretary Brady rebuffed Mr. Casey's suggestion, ostensibly to keep faith with a promise he made in the fall of 1989. I would suggest that Secretary Brady has made a half-hearted effort to obtain loss funds, or Secretary Brady would have surely moved this issue to a priority on the President's agenda.

Mr. Speaker, we now have a smoking gun. The Bush administration is more interested in the political blame game than the goal of appropriating funds for the RTC. The only concern during this election year is that additional loss funds would increase the 1992 deficit. The Bush administration isn't working with the Congress to address the serious questions of the RTC operation and the soaring costs. Instead there is public proclamations by RTC CEO Casey and Office of Thrift Supervision [OTS] Director, Timothy Ryan, that the S&L-bank crisis is over and finished. The tune they are happily singing is a forbearance program for troubled S&L-banks. These lyrics sing the blues about Congress—because Congress didn't provide the Bush administration an additional $42 billion in loss funds. The fact of the matter is that it was Mr. Casey and Mr. Ryan who would not provide credible answers to the questions Congress asked to order to change the tune and the lyrics of the song.

I ask that Mr. Casey's letter and memo and Mr. Brady's reply be placed in the RECORD.

RESOLUTION TRUST CORPORATION,
Washington, DC, July 7, 1992.

Hon. NICHOLAS F. HARDY,
Secretary of the Treasury,
Washington, DC.

DEAR MR. SECRETARY: There is enclosed a memorandum regarding a possible solution to effect resolutions despite our lack of "less" funds.

We strongly urge that you call a special meeting of the Thrift Depositor Protection Oversight Board for the purpose of discussing and authorizing the suggested action. The preferable dates for this meeting are July 27 and 28 as we shall be appearing with you before the Banking Committees of the House and Senate on July 29 and August 5. Also, the afternoon of August 3 is the next regularly scheduled meeting of the Oversight Board. I propose to meet individually with the members of the Board to acquaint them with the need for this action.

As a separate initiative, we are considering using part of our $2.5 billion that we have held for emergencies to receive Home Federal in late September.

Sincerely,

ALBERT V. CASEY,
President and CEO.

Enclosure.

RTC has been considering alternative funding strategies given the situation in Congress. Every alternative we have been able to construct has resulted in the inescapable fact that the RTC would obligate the United States. For example;

If we use notes, no matter how we do so, the notes will be obligations of the U.S. Government.

If we draw funds from the Federal Financing Bank in excess of our ability to repay, we will obligate the U.S. Government.

If we buy assets from our receiverships (pay with notes) to advance funds for future transactions we will not be able to repay the Federal Financing Bank and again would create an obligation for the U.S. Government.

Given the foregoing we would recommend the following strategy for dealing with the Congressional impasse. The Oversight Board in concert with the Department of Treasury will notify the Congress to the effect:

That the preferred and correct process for funding the RTC is the U.S. Congress.

That the prospects of congressional funding before early next year (late February) is not likely and becomes less so as time passes.

As joint custodians of the public welfare, the Executive and the Congress need to move the S&L Cleanup forward; it is costing the taxpayer $2.5 million a day. Since the Congress is at an impasse the Executive finds that it must move the process forward not withstanding the fact that we believe the Congress should provide funding.

Accordingly we are instructing the Federal Financing Bank to provide less funds to the RTC so that it may continue the timely resolutions of failed thrifts and a prompt undertaking of the obligations of the U.S. Government to insured depositors.

In taking the foregoing action, it is critical that we are able to take the "high ground" with respect to the use of FFB funds for losses. The key to our position is that it is clearly the responsibility of Congress and we have on 1 separate occasion stood by that belief, but the situation today is unconscionable and we are therefore going forward fully aware that Congress may seek to prevent our initiative. We are clearly taking risks:

Deficit increases (before election)

If we can do this now, why have we on three occasions not done so?

The deficit increase speaks for itself. The second risk will be addressed by the Bill, that is why we must take the "high ground" again, at the outset admit that we are of the belief that Congress should provide the needed funds but the administration cannot sit by and allow the S&L cleanup to founder. (We will of course have to demonstrate that what we are going is legal and not a violation of the Constitution i.e. Congress must appropriate.)

It should be clearly understood that this initiative will only produce about $12 billion in loss funds as we will run up against the debt cap. More funds could become available as we sell assets. But, $10 billion is the realistic number.

THE SECRETARY OF THE TREASURY,
Washington, July 10, 1992.

Hon. ALBERT V. CASEY,
President and CEO, Resolution Trust Corporation, Washington, DC.

DEAR AL: Thank you for your July 7 letter in which you urge the Oversight Board to authorize the Resolution Trust Corporation (RTC) to borrow loss funds from the Federal Financing Bank (FFB). This proposal would allow the RTC to use FFB borrowing to exceed the amount specifically appropriated by Congress to pay for permanent losses incurred in resolving failed thrifts. As the two enclosed letters show, the Oversight Board has consistently stated, and Congress has repeatedly confirmed, that borrowing from the FFB should not be used to expand the amount available for losses.

I appreciate your efforts to consider every possible alternative that will allow the thrift cleanup to continue. However, I continue to believe that the best way to do this is to continue to urge Congress to provide adequate funds to the RTC so that the cost to the taxpayers can be held to a minimum.

I would be happy to discuss this matter further with you, either upon my return or at the Oversight Board meeting on August 5.

Sincerely,

NICHOLAS F. BRADY.

TRIBUTE TO MRS. MARGARET WONG LIM

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. MATSUI. Mr. Speaker, I rise today to salute Mrs. Margaret Wong Lim, an outstanding citizen who has dedicated over 40 years of her life to public service. On August 14, 1992, the Sacramento Chinese Community Center will be honoring Mrs. Lim for her many achievements.

Margaret Wong Lim, known to many as "Peggy," is a fourth generation native of Sacramento. She attended Sacramento's public schools of Washington Elementary, Sutter Junior High, and Sacramento Senior High prior to graduating from Sacramento City College. She continued her higher education at Stanford University and the University of California at Berkeley.

Mrs. Lim is a career life underwriter with the Franklin Life Insurance Co. since 1947. October of 1992 will mark her 45th anniversary and during her affiliation she has been awarded with membership recognizing outstanding achievement, such as the Key Club, Diplomat Club, $100 Million Club, and is life member of the Franklin Million Dollar Conference. For the past 27 years her participation with the National Life Underwriters Association earned her the National Quality Award and the National Sales Achievement Award each year.

Throughout her life, Mrs. Lim has also demonstrated her tireless dedication to the Asian community. She is an active member of the Chinese Community Church, serving in the past as a deacon of the Consistory and has currently been appointed member of the Greater Consistory. During 1981 through 1986, Mrs. Lim was the secretary, treasurer, and board member for the Asian job resource project. But her proudest moment came 5 years ago with the opening of Sacramento's unique 99-bed Asian Community Nursing Home. Long hours were dedicated serving and actively working on the finance committee to raise funds for the construction of their skilled nursing home.

Mr. Speaker, Margaret Wong Lim has served as an exemplary community leader and I commend her for her many contributions to the Sacramento area. It is with great pleasure that I rise to recognize Mrs. Lim, her achievements and dedication are truly worthy of praise and I invite my colleagues to join me in commending her.

PASS THE MILITARY FREEDOM ACT OF 1992

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday July 27, 1992

Mr. KOSTMAYER. Mr. Speaker, Col. Margarethe Cammermeyer joined the Army as a nurse in 1961. She spent 14 months in Vietnam during the height of the war there, administering aid to wounded and dying soldiers. For her valiant efforts, she received the Bronze Star. In the 1970's, she joined the Army Reserve, later transferring to the National Guard. Over the next two decades, she rose to the rank of chief nurse in the Washington State Army National Guard and was in line to become chief nurse for the U.S. National Guard. Along the way, she was named "Veterans Administration Nurse of the Year" in 1985, earned her doctorate in nursing at the University of Washington, and received the highest awards for clinical expertise and professionalism from the Surgeon General

On June 11, the Army expelled Colonel Cammermeyer. Why? Because she acknowledged that she is a lesbian. She refused to lie. Thus, due solely to her sexual orientation, Colonel Cammermeyer's exemplary military career has been destroyed.

Colonel Cammermeyer is not alone. The Pentagon's policy of banning gays and lesbians in the U.S. military continues to ruin the professional lives of hundreds of dedicated public servants each year.

The military has abandoned its most often cited historical reason for excluding homosexuals from serving. Its claims that gays and lesbians are a security risk, susceptible to blackmail, have been soundly debunked by at least three studies conducted by the Defense Department itself.

In fact, Defense Secretary Dick Cheney has even spoken of gay soldiers "who have served notably, served well." Furthermore, Secretary Cheney finds no problems whatsoever with gay civilians serving in the Defense Department, many of whom work at the highest and most sensitive levels. The Secretary himself labeled the blackmail argument "an old chestnut."

Oddly enough, the Pentagon's policy seems only to apply in times of peace. In the months leading up to the war in the Persian Gulf, the Defense Department suspended most investigations of suspected homosexuals because they were needed overseas. Hundreds of admitted gay and lesbian soldiers and reservists were shipped overseas to serve during the conflict. They served with honor and distinction.

The Pentagon's only remaining rationale for excluding gay soldiers is its claim that their presence in the Armed Forces makes it difficult "to maintain good discipline, good order, and morale."

No one suggested such absolute idiocy when gay and lesbian soldiers were dying on the field of battle. Actually, according to Department of Defense studies and records released in 1989, gays and lesbians in the military have the highest performance records on the average of any single subgroup, consistently in the top 5 percent.

If the "good discipline, good order, and morale" contention sounds familiar, it should. It is the same argument that was used to exclude blacks from the armed services for so many years. In fact, conservatives during the 1940's argued that integrating the Armed Forces would destroy our Armed Forces because whites would not serve alongside blacks. This contention turned out to be a red herring; indeed, after President Truman issued his Executive order in 1948 calling for the integration of the Armed Forces, the military took the lead in American society in welcoming minorities and in promoting equal opportunity for people of all races.

Mr. Speaker, it is time for the military to do the same with gay and lesbian soldiers. It is, in fact, long past time for the Government to reverse this policy.

Polls indicate that the public agrees: A 1991 poll showed that 80 percent of Americans believe that homosexuals should be admitted to the military. In addition, major editorial boards of leading newspapers support overturning the ban—the New York Times, the Washington Post, USA Today, the Philadelphia Inquirer, and many other publications have urged the Pentagon to overturn its policy of discrimination.

In addition to the enormous human cost that the policy entails, there is a staggering financial expense as well. In fact, if the public knew the financial costs of enforcing the Pentagon's discriminatory and absurd policy, the percentage of people who support overturning the band on gays and lesbians in the Armed Forces would certainly be higher.

A recently released Government Accounting Office [GAO] study shows how costly and wasteful this policy has been. Examining Defense Department data from 1980 to 1990, the report found that the various service branches discharge an average of 1,500 persons each year simply for being gay. Over the period studied, 16,919 service members were discharged due to their sexuality.

The Defense Department did not provide the GAO with a breakdown of the money it spends to investigate and remove lesbians and gay men from the military. However, GAO calculated the cost to the Government of recruiting and training replacements for the lesbians and gay men discharged in 1990 at $27 million. Because 1990 was the year with the fewest discharges of any year studied, costs for other years were presumably much higher.

In 1990, the Pentagon spent $28,226 to recruit and train each enlisted person and $120,772 per officer. Between 1980 and 1990 a total of 16,692 enlisted men and women and 227 officers either resigned or were discharged because of their homosexuality. In 1990 dollars, that works out to $498 million of wasted taxpayers' money. Keep in mind that this total represents only the cost to replace dismissed service members; it does not include the money that the military spends on investigating, prosecuting, and ultimately discharging gay service members. In today's fiscal climate, this is an unconscionable waste of the taxpayer's money to sustain an unconscionable policy.

In addition to documenting the financial costs that the Defense Department's policy involves, the GAO also states:

> Many experts believe that the military's policy is unsupported, unfair, and counterproductive; has no validity according to current scientific research and opinions; and appears to be based on the same type of prejudicial suppositions that were used to discriminate against blacks and women before these policies were changed.

The GAO report also found that other NATO countries which do not bar gays from the military have suffered no ill effects. Finally, the GAO reported that, within the United States, the eight municipal police and fire departments with openly gay and lesbian personnel have experienced only "a positive impact on management personnel relations."

The President of the United States, with a stroke of the pen, could overturn this mean-spirited and hateful policy today. I implore him to do so, now. Failing that, the Congress must enact legislation immediately to end this discriminatory policy. Legislation, known as the Military Freedom Act of 1992, has been introduced in both Houses of Congress which would do just that. The Military Freedom Act is very simple; it prohibits discrimination by the Armed Forces on the basis of sexual orientation and reaffirms existing Armed Forces rules and policies regarding sexual misconduct. The bill, thus, distinguishes between orientation and conduct, thereby attacking the stereotype of gay and lesbian individuals as incapable of serving their country professionally.

Anyone—homosexual or heterosexual—guilty of sexual misconduct harms morale, discipline, and esprit de corps. However, the mere confession of one's sexual orientation has nothing to do with one's professional behavior and capacity to serve.

Thousands of gay men and lesbians have served our country with the same dedication and professionalism as heterosexual soldiers. It is time to discontinue this intolerance and injustice to a part of our population that has served our country so courageously. It is time to end the Pentagon's policy of sanctioned discrimination as Japan and France have done.

The Federal Government, sustained by the tax dollars of all citizens, must set an example for the whole country by outlawing, not encouraging, discrimination against gay and lesbian citizens. Officially sanctioned discrimination only encourages hate and prejudice and even violence toward gay and lesbian Americans.

In dismissing Colonel Cammermeyer, the United States lost a model public servant who had dedicated her life to her country. We cannot afford to lose any more outstanding talent to discriminatory and myopic Government policy, nor can we as a nation accept such prejudice and bigotry. The Congress must act now to pass the Military Freedom Act of 1992.

TRIBUTE TO CHARLES RINKER

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. BILBRAY. Mr. Speaker, on Saturday, July 18, 1992, Nevada and America as a whole lost a living piece of history in the death of Charles Rinker, a veteran of two world wars. Engulfed with the American spirit, Charles Rinker volunteered for military service on his 16th birthday by lying to the recruiter claiming that he was 18 years old. He was immediately trained and shipped to France with the first American contingent of the "Doughboys."

During his time in Europe, he served with the 55th Company, 5th Regiment, and the 2d Regular Army at the Indian Head Invasion and at the age of 91, he was the last surviving member of his unit. By his 18th birthday, his Marine brigade had already served in five major battles, which were credited with turning the tide of the war.

In mid 1918, the 55th Company helped France stop the German advance at the town of Chateau Thierry. His unit along with others proceeded to drive German forces out of the Belleau Wood, a forest near the Marne. German forces then crossed into the Marne, where they were counterattacked by the 55th near the town of Soissons on July 18, 1918.

By mid September 1918, Allied troops had retaken the ground the Germans had gained since the spring. His company advanced and easily took the town of St. Mikiel. Mr. Rinker then participated in the last offensive of the war. The battle was known for the heavy fighting that took place between the Argonne Forest and the Meuse River.

A list of honors show the courage and valor which he exemplified during his service to the United States of America. He received a Silver Star, the French Croix de Guerre, Victory Medal with five battle stars, and the Green and Red French Croix de Guerre.

Mr. Rinker's service to his country did not end with the conclusion of World War I. He proceeded at the age of 43 to participate in World War II as an Army engineer in the South Pacific. He was a life member of the Veterans of Foreign Wars, the American Legion and the Second Division Inc. He also held membership in the ranks of the Veterans of World War I and the Marine Corps League.

Mr. Speaker, I cannot emphasize the loss that Nevada feels with the passage of this American hero. He served his country without hesitation when she called. He brought honor and distinction to his family, the State of Nevada, the city of Henderson, and most of all to the United States of America. The bravery, honor, and tenacity of Charles "Fred" Rinker will be sorely missed.

TRIBUTE TO JUNE WEINRAUCH

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to June Weinrauch of Arlington Heights, IL. Mrs. Weinrauch will celebrate her 75th birthday on August 2, 1992.

June Weinrauch was born in 1917 to Kitty Kiley and Harry Ellis of Chicago, IL. She grew up on the west side of Chicago attending Our Lady of Sorrows Parish. She was employed by the Zenith Co.'s Public Relations Department for over 15 years preceding her retirement in 1983.

Since 1983, Mrs. Weinrauch has enjoyed spending time with her family—4 children, 17 grandchildren, and 12 great grandchildren. Her children, Kathy, Kim, Jack and Nick, join their children and grandchildren in celebrating this important milestone in June Weinrauch's life.

Mrs. Speaker, I come to the floor today to recognize Mrs. June Weinrauch and her wonderful family. I hope that August 2 is a wonderful day for Mrs. Weinrauch and the first of many birthday celebrations to come. I know my colleagues join me and her family in wishing Mrs. Weinrauch a happy birthday and many happy returns.

IS MILOSEVIC GUILTY OF WAR CRIMES?

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. BROOMFIELD. Mr. Speaker, the ongoing carnage in Bosnia has shocked the world. President Slobodan Milosevic's policy of ethnic cleansing is essentially destroying Bosnia. Already, 8,000 innocent human beings have been killed, over 1 million have been displaced and billions of dollars in infrastructure damage has been done. The exodus of refugees from that battered republic is overwhelming neighboring Croatia and spilling over into adjoining countries. Milosevic and his immoral regime have destroyed a beautiful and peaceful region in an effort to build a greater Serbia.

While the Serbian strongman tries to distance himself from the ongoing tragedy—the worst in Europe since the Second World War—he still essentially orchestrates the actions of former Federal Army units in Bosnia. He also has influence over the Serbian irregulars who continue to shell the Sarajevo airport in an effort to disrupt the United Nation's badly needed relief flights. Federal Army units from Serbia and Montenegro have been called in to Bosnia to participate in the siege of Goradze, a Muslim town where 70,000 people are stranded and dying without food, water, electricity, or medical assistance.

It might be time for the world community to stand up to this Serbian madman and charge him and his henchmen for crimes against humanity, their aggression in Croatia, and their atrocities against the Muslim community in Bosnia. If we do not have the will to militarily right this wrong, we must at least bring international condemnation down on the head of Milosevic, Europe's new Hitler.

I would like to bring the following Financial Times article on Britain's views regarding this issue to the attention of my colleagues.

[From the Financial Times, July 17, 1992]

UK WARNS SERBIA OF ACTION ON "WAR CRIMES"

(By Ralph Atkins)

Britain signalled yesterday that it may press for international action to investigate allegations of war crimes committed by Serbs against Moslems in Bosnia-Herzegovina.

Baroness Chalker, the UK overseas development minister, said abuse against Moslems was "obviously a war crime under the terms of the Geneva Conventions, and we give due warning that is so".

She added: "The Serbs are following a systematic policy of 'ethnic cleansing' and that has to be dealt with by the international community."

Downing Street officials said there was sufficient prima facie evidence of torture and indiscriminate killing of civilians to justify an investigation, possibly under United Nations' auspices.

However, the Foreign Office said last night that it was unclear whether external countries could have jurisdiction over atrocities committed in another country's internal conflict.

Baroness Chalker was speaking after a meeting in London between Mr John Major, the UK prime minister, and Mrs Sadako Ogata, UN high commissioner for refugees, to discuss Britain's contribution to humanitarian aid for Yugoslavia.

Mrs. Ogata told the prime minister that she regarded the refugee problem in Yugoslavia as the worst in Europe since the Second World War.

Britain has sent medical staff to Yugoslavia at a cost of £25m.

Mr. Major promised he would use Britain's presidency of the European Community to persuade other member states to attend a conference on refugees and other humanitarian issues, called by Mrs Ogata in Geneva on July 29.

The conference is also likely to be used to press for international action to stop breaches of the Geneva Conventions.

Mr Major is also to write to other heads of government to highlight the scale of abuse in Yugoslavia.

Baroness Chalker said reports from Mrs Ogata and from UK officials in the region told of "the purposeful pinpointing" of Moslems in Bosnia-Herzegovina.

"Their houses are shot up at night to threaten them to leave the following morning, and, when these Moslems have left, the houses are then set on fire from the inside," said Baroness Chalker.

"I don't believe people know how bad it is."

Last night Mr. Major was due to meet Lord Carrington, chairman of the EC-sponsored peace talks.

TRIBUTE TO MR. GEORGE H. DEAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. MATSUI. Mr. Speaker, I rise today to salute Mr. George H. Dean for his outstanding public service to the community of Sacramento, CA.

Mr. Dean is presently the president of the Sacramento Urban League and for the past 13 years his involvement has been an instrumental success. He concurrently has been involved as one of Sacramento's media personalities as the producer and host for "Urban Times," a 30-minute talk show which airs on KOVR–13. Since December 1985, his involvement has expanded as a producer and host for KRXQ–93, a weekly radio talk show broadcasted throughout the community.

Mr. Dean holds a master's degree in industrial and labor relations from Cornell University, and a bachelors degree in sociology from Arizona State University. Before coming to Sacramento, Mr. Dean actively served as the president of the Urban League in Omaha, NE and made substantial commitments to the Los Angeles and Phoenix Urban Leagues.

As a community leader in Sacramento, Mr. Dean has extended his involvement in a variety of groups and causes including the Private Industry Council, Sacramento Metropolitan Chamber of Commerce, Sutter Hospital Commission on Program Planning and the Sacramento Symphony.

Mr. Speaker, it is with great pleasure that I rise to recognize Mr. George H. Dean. His achievements and dedication are truly worthy of praise and I invite my colleagues to join me in commending Mr. Dean.

CONFLICT OF CULTURES: EUROPEAN VERSUS INDIAN

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday July 27, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 127, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we, as a Congress, have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a recollection of an anonymous Micmac Indian, as published in a book entitled "Native American Testimony". The article recounts an exhibition of Indian culture currently not in favor. The editorial comment which precedes the article is provided also.

SILMOODAWA GIVES A COMPLETE PERFORMANCE

Following the example set by Christopher Columbus, the Spanish conquistador Hernando Cortez continued the ritual of sending Indians to Europe in order to parade them before royalty. At the court of Charles V, Aztecs posed for artists and juggled for gawking lords and ladies. Later, in the eighteenth century, Indian chiefs went abroad to discuss disputed territorial boundaries and present petitions. And in 1827, a party of Osage Indians undertook a three-year sightseeing tour of France. Such trips were encouraged not only for the entertainment Indians provided, but because officials wished to impress Native Americans with the splendors of Europe and the power of their governments. In 1870 an anonymous Micmac Indian—from Canada's Maritime Provinces—told the Reverend Silas T. Rand the following story about one "Real Live Indian" who turned the tables on his aristocratic audience.

Shortly after the country was discovered by the French, an Indian named Silmoodawa was taken to Planchean [France] as a curiosity. Among other curious adventures, he was prevailed upon to exhibit the Indian mode of killing and curing game. A fat ox or deer was brought out of a beautiful park and handed over to the Indian; he was provided with all the necessary implements, and placed within an enclosure of ropes, through which no person was allowed to pass, but around which multitudes were gathered to witness the butchering operations of the savage.

He shot the animal with a bow, bled him, skinned and dressed him, sliced up the meat, and spread it out on flakes to dry; he then cooked a portion and ate it, and in order to exhibit the whole process, and to take a mischievous revenge upon them for making an exhibition of him, he went into a corner of the yard and eased himself before them all.—ANONYMOUS, *Micmac.*

LEGISLATION TO ASSIST THE ST. PAUL PORT AUTHORITY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. VENTO. Mr. Speaker, on July 22, I introduced legislation to assist the St. Paul Port Authority. This is a unique and urgent matter which is essential to the viability of the economy of St. Paul.

The St. Paul Port Authority's Common Revenue Bond Fund Program consists of approximately 168 separate bond issues totaling over $332 million in outstanding bonds. These bonds have been issued over a period for 18 years, and have provided financing to industrial, residential, and commercial projects in the city of St. Paul and its immediately surrounding areas. The program has been the main industrial engine of the city of St. Paul, and has been responsible for creating and preserving over 38,000 industrial jobs.

Due to a number of factors, including a general deterioration in the economic conditions, the reserves supporting these bonds, are likely to be depleted in the year 2000. Unless this program is restructured, bonds maturing after that date would then be paid solely from project cash flow which without this change may not be sufficient to pay the principal and interest in the out-years.

H.R. 5659 will eliminate technical restrictions that currently impede the St. Paul Port Authority's plan to restructure the Common Revenue Bond Program to avoid this potential default. The bill is intended to apply solely to the St. Paul Port Authority because no other municipal bond issuer is in a similar situation.

H.R. 5659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN PORT AUTHORITY BONDS.

(A) IN GENERAL.—In the case of bonds described in subsection (b)—

(1) the simultaneous reduction of interest rates on such bonds shall not affect the tax-exempt status of the interest on such bonds, and

(2) such bonds shall not be treated as arbitrage bonds under section 148 of the Internal Revenue Code of 1986 by reason of the failure to reduce interest rates on loans made with the proceeds of such bonds before the date of such simultaneous reduction.

(b) BONDS DESCRIBED.—The bonds described in this subsection are bonds issued—

(1) by or behalf of a port authority created on August 17, 1932,

(2) pursuant to a resolution adopted on February 14, 1974, that established a common bond security fund program, and

(3) after September 3, 1980, and before May 30, 1991.

PERSONAL EXPLANATION

HON. PETE PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. PETERSON of Florida. Mr. Speaker, due to my wife's illness, I was unable to make rollcall votes 290 to 319.

On July 22, had I been here, I would have voted "aye" for rollcall No. 290, ordering the previous question; "aye" for rollcall No. 291, the rule for Interior appropriations; "aye" for rollcall No. 292, House Resolution 518; "aye" for rollcall No. 293, House Resolution 519; "aye" for rollcall No. 294, House Resolution 520; "aye" for rollcall No. 295, the Bennett amendment to Interior appropriations bill; "aye" for rollcall No. 296, the Dorgan amendment; "present" for rollcall No. 297, quorum call; "nay" for rollcall No. 298, the Crane amendment; "nay" for rollcall No. 299, the Brewster amendment; and "aye" for rollcall No. 300, the Stenholm amendment.

On July 23, had I been here, I would have voted "aye" for rollcall No. 301, the Duncan amendment to the Interior appropriations bill; "nay" for rollcall No. 302, the Dicks amendment; "aye" for rollcall No. 303, the Walker amendment; "aye" for rollcall No. 304, the Steams amendment; "aye" for rollcall No. 305, the Burton amendment; "aye" for rollcall No. 306, final passage of H.R. 5503; "aye" for rollcall No. 307, House Resolution 526; "nay" for rollcall No. 308, the Oxley amendment to the cable bill; "aye" for rollcall No. 309, the Dingell amendments; "nay" on rollcall No. 310, the Manton amendment; "aye" for rollcall No. 311, the Tauzin amendment; "nay" for rollcall No. 312, the Lent amendment; and "aye" for rollcall No. 313, final passage of H.R. 4850.

On July 24, had I been here, I would have voted "nay" for rollcall No. 314, the McCollum amendment to the voting rights language assistance bill; "aye" for rollcall No. 315, the Condit amendment; "nay" for rollcall No. 316, the McCollum amendment; "nay" for rollcall No. 317, the Rohrabacher amendment; "nay" for rollcall No. 318, the motion to recommit with instructions; and "aye" for rollcall No. 319, final passage of H.R. 4312.

LYME DISEASE AWARENESS WEEK

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. GEJDENSON. Mr. Speaker, I rise today to acknowledge that this week, beginning July 26, 1992, has been designated "Lyme Disease Awareness Week" by an act of Congress and the President.

It is vitally important that the facts about this painful and often life-threatening disease are brought to the forefront. This disease does not discriminate. It can strike anyone and is caused by the bite of a tick no larger than a speck.

In only the 3 years from 1988 through 1991, the number of reported cases nearly tripled from 362 to almost 1,000 per year in my State of Connecticut alone. If left unreported and untreated in humans, this serious illness can cause debilitating ailments including loss of vision, paralysis, and death.

Fortunately, last month, medical researchers from Harvard and Yale Universities announced the discovery of a promising vaccine to control this devastating disease. The vaccine, which to date has been proven successful on mice, has a remarkable side effect. Not only does it help protect the mice from Lyme disease, but when an infected tick attempts to contaminate a vaccinated mouse, the harmful bacteria in the tick is neutralized. If these unexpected findings in laboratory mice transfer to humans, it could lead to the complete elimination of Lyme disease.

Last fall, the Connecticut Department of Health Services was the recipient of a grant from the Centers for Disease Control to conduct a 2-year study to define and monitor the extent of Lyme disease in Connecticut. Connecticut is uniquely qualified to conduct this research because current results can be compared to similar data collected in 1977, after the disease was discovered in Lyme, CT. The grant will also be used to conduct tick studies and to develop and evaluate a Lyme disease education program for ninth grade students.

It is critical to keep the public informed about this disabling illness, and I am pleased that "Lyme Disease Awareness Week" will facilitate that process.

A STRATEGY TO CONTROL GOVERNMENT SPENDING

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. SAXTON. Mr. Speaker, this year, the Office of Management and Budget [OMB], estimates that the Federal Government will consume more than one-quarter of our Nation's wealth. In other words, the Federal Government is a bigger burden today than it was during the heyday of President Johnson's Great Society.

Many people may find this confusing. Reports coming out of Washington talk of the need to spend more funds on social programs. We are told that the Government has to keep up with the ever increasing needs of the people. However, many others believe that we need to rein in the astronomical growth of Federal spending. After all, the Federal Government spends more than twice as much today as it did when Ronald Reagan came to town in 1981.

TABLE I.—AMOUNT OF GOVERNMENT SPENDING: 1981–92

[In billions of dollars]

	Spending	Percent of GDP
1981	678.2	22.9
1982	745.8	23.9
1983	808.4	24.4
1984	851.8	23.0
1985	946.4	23.8
1986	990.3	23.5
1987	1,003.9	22.5
1988	1,064.1	22.1
1989	1,144.2	22.1
1990	1,251.8	22.9
1991	1,323.0	23.5
1992	1,475.4	25.2

Source.—Budget of the United States Government, Fiscal Year 1993: Supplement, February 1992.

The President, the Congress, and the American people need to realize that we must get a handle on Federal spending before it is too late. Every day we fail to control wasteful spending, future generations go deeper in debt.

DIAGNOSING THE DISEASE

There may be many reasons why spending is out of control, however, we should first recognize the cause of the disease. During the mid-1980's, the Gramm-Rudman budget enforcement rules forced the Federal Government to restrict spending. The goal of Gramm-Rudman was to balance the budget by controlling the growth of spending, allowing naturally increasing tax revenues to catch up.

Critics of Gramm-Rudman said it was a failure. However, the data present a different picture. Government spending was reduced from more than 24 percent of gross-domestic-product [GDP] down to 22 percent of GDP and the budget deficit dropped dramatically from more than 5 percent down to 3 percent of GDP. Today, with Gramm-Rudman effectively repealed as part of the 1990 budget deal, our deficit is approaching 7 percent of GDP.

The disease that is eating away at America's future is the Federal Government's apparent lack of discipline when it comes to spending other people's money. The Federal Government is like a young child in a toy store; we want everything in the store, but we don't take into consideration how much it costs. To further illustrate this, just look at the Congressional Budget Office's [CBO] projected accumulated budget deficit between 1993 and 2002. CBO estimates that the aggregate budget deficit will be $2.86 trillion, which will add an additional $285.6 billion a year to the national debt. CBO also forecasts that the budget deficit for the year 2002 will be $414 billion.

TABLE II.—*The deficit outlook through 2002*

[Billions of dollars]

1992	290
1993	258
1994	227
1995	210
1996	222
1997	254
1998	272
1999	298
2000	332
2001	369
2002	414

Source.—The Economic and Budget Outlook: Fiscal Years 1993-1997, Congressional Budget Office, January 1992.

PINPOINTING THE PROBLEM

Since our already declining defense budget may be cut by an additional $80 billion over the next 5 years, why are we spending at record levels? The answer may be found in the dramatic growth in domestic spending over the last 4 years. While defense spending has been declining, domestic spending has grown by an average of more than $45 billion per year, nearly three times the rate of growth during the Carter administration. Most dramatically, domestic spending is growing twice as fast as inflation.

Since spending is decreasing in most nondomestic categories—defense, international expenditures, and deposit insurance—the only way the budget can be balanced is by controlling domestic spending.

POSSIBLE SOLUTIONS

There are many ways to decrease the budget deficit. Theoretically, we can increase tax revenues to the federal government. By doing this, we can balance the budget since the revenues will increase to meet outlays. However, increased tax rates have an adverse effect on the economy—eventually leading to less revenue. The 1990 budget agreement, for instance, has lost $3 in revenue for every dollar it was supposed to raise.

In addition to the adverse economic effect, history has shown that since 1947, for every $1 of increased taxes we have increased spending by $1.59.

Another solution is a total freeze on spending. A freeze would cap spending at the previous year's level. Even though this tactic would balance the budget the fastest, it is politically unrealistic.

A "POLITICALLY CORRECT" SOLUTION

There is one solution that will not harm the economy and can be sold politically. A sensible way to balance the budget is one which controls the growth of government by limiting the skyrocketing growth in domestic spending and eliminating waste in Government.

This balanced budget solution will limit the growth of domestic spending to the growth of inflation—3.1 percent in 1991. The rationale behind limiting the growth of domestic Spending is simple. Non-domestic spending, which includes defense, international expenditures, and deposit insurance, is already scheduled to decrease over the next several years. Therefore, with limited and controlled growth in domestic spending at the rate of inflation, along with the already declining nondomestic spending, it is very possible that we can balance the budget in the next 6 to 7 years.

TABLE III.—SPENDING AND DEFICITS, OFFICE OF MANAGEMENT AND BUDGETS ESTIMATES VERSUS HOLDING DOMESTIC SPENDING TO THE RATE OF INFLATION

	OMB's spending	Deficit	Controlled spending	Deficit
1992	1,475.9	394.9	1,475.9	394.9
1993	1,523.8	354.8	1,502.3	333.3
1994	1,492.5	227.5	1,449.6	184.6
1995	1,558.4	211.7	1,497.3	150.6
1996	1,633.3	201.8	1,549.8	118.3

TABLE III.—SPENDING AND DEFICITS, OFFICE OF MANAGEMENT AND BUDGETS ESTIMATES VERSUS HOLDING DOMESTIC SPENDING TO THE RATE OF INFLATION—Continued

	OMB's spending	Deficit	Controlled spending	Deficit
1997	1,708.8	205.1	1,581.0	77.4

Source: Budget of the United States Government, Fiscal Year 1993: Supplement, February 1992; and staff calculations.

By additionally targeting a reduction in wasteful government spending, which the General Accounting Office [GAO] puts at more than $180 bilion, we can balance the budget much faster or we can use the waste dividend to increase funding for certain programs that politicians may want to increase faster than needed to keep pace with inflation.

CAN IT BE DONE?

There is no excuse for a $414 billion deficit in the year 2002. When one looks at CBO's budget deficit projections for the next 10 years and sees that there isn't even an attempt to balance the budget, it speaks volumes of what is wrong with Washington. Our job in Congress is to get a grip on what we are doing. If a welder in New Jersey or a teacher in New Mexico can live on a set salary—buy a house, raise children, put them through school, and even have enough to retire on, why is it so hard for us in Government to make the same tough choices?

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 28, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 29

8:00 a.m.
Judiciary
To hold hearings on the nominations of Alvin A. Schall, of Maryland, to be United States Circuit Judge for the Federal Circuit, Linda H. McLaughlin, to be United States District Judge for the Central District of California, Carol E. Jackson, to be United States District Judge for the Eastern District of Missouri, and Joseph A. DiClerico, Jr., to be United States District Judge for the District of New Hampshire.
SR-332

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up S. 2899, to revise the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and proposed legislation to authorize funds for programs of the Rehabilitation Act, and to consider pending nominations.
SD-430

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1993 for the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to examine the uses of telecommunication technologies in education.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

Special on Aging
To hold hearings to examine the problems associated with grandparents who are forced to care for their grandchildren due to their own children's inability or neglect.
SD-628

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the condition of credit unions across the United States.
SD-538

Finance
To resume hearings to examine the state of U.S. trade policy, focusing on proposed legislation to open foreign markets to U.S. exporters and to modernize the operations of the U.S. Customs Service.
SD-215

Judiciary
Juvenile Justice Subcommittee
To hold hearings on S. 1002, to make it a Federal criminal offense to leave or remain outside a State for the purpose of avoiding payment of arrearages in child support
SD-226

10:30 a.m.
Small Business
To hold hearings on H.R. 5191, to encourage private concerns to provide equity capital to small business concerns.
SR-428A

1:30 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
Business meeting, to mark up S. 287, for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father, S. 1103, for the relief of the estate of Dr. Beatrice Braude, S. 1181, for the relief of Christy Carl Hallien, of Arlington, Texas, S. 1652, for the relief of land grantors in Henderson, Union, and Webster Counties, Kentucky, and their heirs, S. 1859, for the relief of Patricia A. McNamara, S. 1947 and H.R. 238, for the relief of Craig A. Klein, S. Res. 170, to refer S. 1652 to the Chief Judge of the U.S. Claims Court for a report thereon, H.R. 454, for the relief of Bruce C. Veit, and H.R. 478, for the relief of Norman R. Ricks.
SD-562

2:00 p.m.
Finance
Medicare and Long-Term Care Subcommittee
To hold hearings to examine how Medicare payment policies affect physicians' choice of medical specialties.
SD-215

Judiciary
To hold hearings to review the U.S. response to Japanese competition policy.
SD-226

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

3:00 p.m.
Conferees
On H.R. 3033, to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the Act.
SD-430

5:00 p.m.
Finance
Business meeting, to mark up H.R. 11, to revise the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones for economically and physically distressed areas.
SD-215

JULY 30

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine cosmetic standards and pesticide use on fruits and vegetables.
SR-332

Appropriations
Labor, Health and Human Services, Education Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1993 for the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine issues relating to telemarketing fraud.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

10:00 a.m.
Finance
To hold hearings to review the Administration's current policy of extending Most-Favored-Nation status to China.
SD-215

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To hold hearings to examine money laundering activities of CAPCOM and the Bank of Credit and Commerce International (BCCI).
SH-216

2:00 p.m.
Foreign Relations
To hold hearings on commercial military sales to Pakistan.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:30 p.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on rail highway grade crossing safety, and on S. 2644, to require the Secretary of Transportation to require passenger and freight trains to install and use certain lights for safety purposes.
SR-253

Select on Indian Affairs
To hold hearings on S. 2481, authorizing funds for Indian health programs.
SR-485

4:30 p.m.
Foreign Relations
To hold closed hearings to review military options in Yugoslavia.
S-116, Capitol

JULY 31

10:00 a.m.
Foreign Relations
African Affairs Subcommittee
To hold hearings to examine the U.S. response to the drought in southern Africa.
SD-628

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on proposed legislation to conserve exotic, wild birds, including S. 1218, to provide financial assistance for projects for research, conservation, management, or protection of exotic birds, and S. 1219, to direct the Secretary of the Interior to issue regulations requiring the marking of exotic birds and to prohibit a person from importing exotic birds without a license.
SD-406

AUGUST 4

9:00 a.m.
Select on POW/MIA Affairs
To resume hearings to examine unanswered questions and United States efforts with regard to U.S. prisoners of war and soldiers missing in action, focusing on live sightings.
SH-216

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine the structure and activities of Asian organized crime groups in the United States, focusing on the international aspects of organized crime and its connections to the United States.
SD-342

Select on Indian Affairs
To hold hearings on S. 2617, to provide for the maintenance of dams located on Indian lands in New Mexico by the Bureau of Indian Affairs or through contracts with Indian tribes.
SR-485

2:30 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2577, to provide for the exchange of certain Federal lands within the State of Utah, between the State of Utah and the Secretary of the Interior.
SD-366

AUGUST 5

9:00 a.m.
Select on POW/MIA Affairs
To continue hearings to examine unanswered questions and United States efforts with regard to U.S. prisoners of war and soldiers missing in action, focusing on live sightings.
SH-216

10:00 a.m.
Finance
To resume hearings to examine the state of U.S. trade policy, focusing on proposed legislation to open foreign markets to U.S. exporters and to modernize the operations of the U.S. Customs Service.
SD-215

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Veterans' Affairs
Business meeting, to resume markup of S. 2575, to revise certain pay authorities that apply to nurses and other health care professionals, and other pending calendar business.
SR-418

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of Kent N. Brown, of Virginia, to be Ambassador to the Republic of Georgia, Richard Monroe Miles, of South Carolina, to be Ambassador to the Republic of Azerbaijan, Mary C. Pendleton, of Virginia, to be Ambassador to the Republic of Moldova, David Heywood Swartz, of Virginia, to be Ambassador to the Republic of Byelarus, Henry Lee Clarke, of California, to be Ambassador to the Republic of Uzbekistan, William H. Courtney, of West Virginia, to be Ambassador to the Republic of Kazakhstan, Stanley T. Escudero, of Florida, to be Ambassador to the Republic of Tajikistan, Joseph S. Hulings III, of Virginia, to be Ambassador to the Republic of Turkmenistan, and Edward Hurwitz, of the District of Columbia, to be Ambassador to the Republic of Kyrgyzstan.
SD-419

AUGUST 6

9:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on high-speed ground transportation.
SR-253

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to revise the Tohono 'Oodham Water Rights Settlement Act of 1982.
SR-485

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2890, to provide for the establishment of the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas, H.R. 2109, to direct the Secretary of the Interior to conduct a study of the feasibility of including Revere Beach, located in the city of Revere, Massachusetts, in the National Park System, S. 2244, to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict, H.R. 3665, to establish the Little River Canyon National Preserve in Alabama, S.J. Res. 161, to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in D.C. or its environs, and S. 2549, to establish the Hudson River Artists National Historical Park in New York.
SD-366

AUGUST 7

9:30 a.m.
Governmental Affairs
To hold hearings to examine the health risks posed to police officers who use radar guns.
SD-342

AUGUST 11

2:00 p.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on proposed legislation authorizing funds for activities of the Independent Counsel Law of the Ethics in Government Act of 1978.
SD-342

AUGUST 12

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on Indian trust fund management.
SR-485

POSTPONEMENTS

JULY 30

10:00 a.m.
Foreign Relations
International Economic Policy, Trade, Oceans and Environment Subcommittee
To hold hearings to examine how the Middle East is cooperating with environmental concerns.
SD-419

JULY 31

10:00 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold hearings to examine the financial strength of the Pension Benefit Guaranty Corporation (PBGC), which insures retirement benefits for American workers.
SD-215

HOUSE OF REPRESENTATIVES—*Tuesday, July 28, 1992*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LEWIS of Georgia).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 28, 1992.

I hereby designate the Honorable JOHN LEWIS to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May the words of peace, justice, respect, and honor that we so easily say with our lips, be validated in our actions and our deeds. Our prayers to You, O God, are uttered with intensity and great fervor and we eagerly place before You our needs and our hopes. O gracious God, giver of all life and all promise, breathe into us the power of Your spirit, so we will validate our words of prayer into good works and our deeds will become acts of faith and active in love. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Illinois [Mr. DURBIN] will lead the House in the Pledge of Allegiance to the flag.

Mr. DURBIN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

TRUSTING THE PRESIDENT

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, President Bush has announced that his campaign theme is trust. The President is entitled to respect, but the President must earn our trust.

The record of the Reagan-Bush years shows us that President Bush in fact can be trusted. He can be trusted to cut taxes on the wealthiest Americans; he can be trusted to veto unemployment benefits at the height of the recession; he can be trusted to enter into trade agreements which export the best American jobs.

Several weeks ago, I had an opportunity to attend the convention in Madison Square Garden, and last week in my own district in downstate Illinois I traveled on a bus trip with two men who are running against the Bush-Quayle team: Bill Clinton and AL GORE. In the darkness of the night on Highway 51 between Centralia and Vandalia, average families stood out on their lawns with little American flags in hand, and hand-lettered signs saying that they wanted a change, they want new leadership. They want a new generation of leadership to come in with fresh, new ideas to get America moving again.

It is not just a question of trust, it is a question of hope.

PRESIDENT BUSH'S EDUCATION REFORM

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, many months ago, our President requested a new educational program to upgrade and reform our failing system, and to create new ideas in education. It was called America 2000.

We, on the Education and Labor Committee, worked on a bipartisan bill that would accomplish change by the year 2000. I personally persuaded two school systems in my district to participate in a contest for creative ideas that was part of America 2000.

The Democrat leadership killed the bipartisan bill and created its own grant program which maintains the current failing system with little or no change.

Luckily, because part of America 2000 relied on private funding, the President's program is not totally dead. The contest for creative ideas is ongoing, and awards were made to 11 programs last week. I am proud to say that the only public school system to be selected as a grantee is from my district: The Gaston County School System.

Thank goodness the private sector recognizes the need for changing our educational system, because the NEA, the Democrat leadership, and the Clinton campaign do not.

It is only with reform of our educational system that we will see improvement. Only George Bush stands for reform.

PRESIDENTIAL TRUST

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the President is asking us to trust him. His latest campaign ploy is to attempt to rewrite current history by asking the American people to forget the last 4 years. Sure, we can trust George Bush. We can trust him to erode a woman's right to choose. We can trust him to thwart attempts to create American jobs. We can trust him to appoint unqualified Supreme Court justices. We can trust him to slash education funding. We can trust him to pander to polluters. We can trust him to block campaign finance reform. We can trust him to veto extending unemployment benefits.

And, when all else fails, and his polls are falling, we can trust him to trot out Saddam Hussein and other failed foreign policies.

The President had his chance last year and thousands of lives later, Saddam Hussein is still thumbing his nose at the United States.

Mr. Speaker, the American people know better. They want a President who will keep his word, who will put people first and begin to enact the real change this country needs. That's not George Bush.

MALAISE MOMENT IN HISTORY

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, at the convention, the Democrats spoke at length about a nightmare of Republican leadership and neglect, but business people remember that the last time the Democrats controlled both branches of Government was really a nightmare on Main Street.

The March 30, 1979, National Review reports:

> It seems that President Carter was trying to assure an audience of apprehensive busi-

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

nessmen about the state of the economy, and told them, "If I weren't President, I'd be investing right now." To which a canny businessman replied, "If you weren't President, I'd be investing right now."

Let's not forget that Republicans gave us 85 months of economic expansion and Democrats gave us economic malaise, and the Democrats have repeatedly killed President Bush's progrowth economic proposals in favor of policies that allow them to control the division of a smaller economic pie.

This malaise moment in history was brought to you by the National Democrat Party only 13 years ago, the last time they controlled Congress and the White House.

Mr. Speaker, the Democrats are the people that have proved to us that we can never believe it when they come to us and say they are from the Government, so we should trust them.

THERE SHOULD BE NO RUSH TO JUDGMENT ON THE NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, a year ago, I voted to give the President the so-called fast-track authority to negotiate with Mexico and Canada on a North American Free-Trade Agreement [NAFTA]. But, I voted for that, as did many of my colleagues in the House, with the proviso that the final agreement, not yet concluded, would have in it several safeguards, safeguards for the environment to make sure that additional industrialization does not hurt this planet, a retraining program so that U.S. workers who may be displaced by this agreement are given an opportunity to train for good jobs, a transition period to minimize any negative impact on U.S. workers, industry, and agriculture. Rules of origin which would make sure that those countries benefiting from the North American Free-Trade Agreement are those countries in North America: Canada, the United States, and Mexico.

Mr. Speaker, yesterday, the majority leader of the House, Mr. GEPHARDT, made an important speech in which he said that this NAFTA draft agreement does not contain these provisos and protections. I join the majority leader in expressing concern about this, and also suggest that I will not be able to support the final agreement unless it contains these protections.

Mr. Speaker, there is no need to rush to judgment on the NAFTA agreement. Let us take our time, and let us do it right.

□ 1010

FEDERAL GOVERNMENT PAYING EXCESSIVE LEGAL FEES TO PRIVATE LAW FIRMS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. DUNCAN. Mr. Speaker, little attention is paid to it, but one of the biggest scandals in the Federal Government today is in rip-off legal fees paid to private, large, well-connected law firms.

A few months ago, I spoke out about the ridiculous $600-an-hour rates paid by the FDIC to the New York law firm of Cravath, Swaine, & Moore.

Yesterday's Washington Post reported something even worse.

The Washington firm of Beveridge & Diamond charged the taxpayers $3.8 million dollars to recover a total of $40,000.

These fees were paid by the FDIC in the McLean Savings & Loan case.

Two defendants paid $40,000, and all other charges and defendants were dismissed.

Listen to how good a job this high-priced, over-priced law firm did.

According to the Post story:

> They failed to file the lawsuit before the Virginia statute of limitation expired.

Also according to the Post:

> The FDIC cannot collect about $1 million in settlements . . . because the government (represented by this law firm) filed papers in the wrong courthouse.

Some of these law firms are only interested in running up large fees.

They are doing a pitiful, terrible job for the taxpayers.

The FDIC should be using their own in-house lawyers, or paying private firms based on how much they recover.

However, most of these firms have former high-ranking Government officials as members, and they can get away with things like this, when a government becomes so big that it is really out of control.

Mr. Speaker, I am including the Washington Post article in the RECORD, as follows:

IN PURSUIT OF THE FAILED MCLEAN S&L

(By Sharon Walsh)

The Federal Deposit Insurance Corp., criticized in the past for not aggressively going after the directors and officers of failed banks and thrifts, did pursue former leaders of McLean Savings & Loan Association.

In nearly four years, the government spent more than $3.8 million on legal fees in its quest to recoup taxpayer dollars, according to the FDIC.

But thus far the FDIC's aggressive legal tactics in the McLean case have resulted in little recovery and a bungled prosecution, according to those familiar with the case.

Out of initial FDIC claims of $15 million against numerous officers and directors, two defendants settled charges with the agency for a total of $40,000. All other charges were dismissed May 1 when a federal judge ruled that attorneys at Beveridge & Diamond, the Washington law firm that handled the case for the FDIC, failed to file the lawsuit before the Virginia statute of limitations expired. In the lawsuit, the government charged that the negligence of former McLean officers and directors contributed to the S&L's failure, which the FDIC estimates will cost taxpayers $88.4 million.

But the statute of limitations issue was not the only pitfall for the prosecution, according to court documents and interviews.

A key government witness in the case, Anthony Satariano, is a fugitive, according to federal prosecutors. The FDIC cannot collect about $1 million in settlements with directors—who say they settled to avoid the cost of litigation—because the government filed papers in the wrong courthouse, according to legal documents.

The government also paid $860,000 for the right to pursue certain other claims against the McLean directors, according to court records. Those claims turned out to be worthless.

"It's shocking and distressing," said Jonathan Schraub, an attorney for some of the McLean directors. "The FDIC's shoot-now, ask-questions-later attitude is driven by a search for deep pockets and insurance money, not by a search for the truth. They had no case here whatsoever."

Alfred J.T. Byrne, general counsel for the FDIC, declined to comment on the specifics of the McLean case.

However, speaking generally about the agency's ability to monitor the work of outside law firms it hires, he said: "I'm certain, given the complexity and number of cases, we do not do it perfectly."

Judge Albert V. Bryon Jr., noted that there was "a genuine issue of fact as to the good faith business judgment" of the defendants. But because of the statute of limitations problems, the case could not be tried on its merits, he said. The FDIC has said it will appeal the ruling, relying on a federal statute that gives the agency three years to bring such cases.

FDIC Chairman William Taylor has asked the FDIC's inspector general, its independent internal investigator, to look into the handling of the case by lawyers inside and outside the agency, sources said.

The government has spent millions of dollars in the McLean case on a matter where it will not recoup its costs, sources said. The FDIC started out seeking $15 million from the defendants, but later reduced that amount to about $8.5 million. With legal fees for an appeal added to what it already has spent, the FDIC is unlikely to come away with much, if anything, for its own coffers.

Recovering money for taxpayers is only one of the FDIC's goals in such cases. The agency also files lawsuits to punish officers and directors of financial institutions for past offenses and to deter others from future wrongs.

The several million dollars spent on the McLean case is a tiny percentage of what the FDIC spends yearly on hiring private legal help. Last year the agency spent $374.2 million on outside legal fees and expects to spend about $266 million this year.

FDIC General Counsel Byrne said he personally looked into the handling of the McLean case after Judge Bryan dismissed it on May 1. Earlier this year, the FDIC fired Beveridge & Diamond and replaced it with the Washington firm of Bayh, Connaughton, Fensterheim & Malone.

"We were not satisfied that they [Beveridge & Diamond] were making the case as efficiently and cost-effectively as we would have liked," Byrne said.

Benjamin F. Wilson, the Beveridge & Diamond lawyer who filed the case for the FDIC, disagreed. "We feel that we handled the case appropriately and did a good job," he said.

The office of the FDIC's inspector general began its investigation of the handling of the case after one former director of McLean, Marshall C. McClean, complained publicly to FDIC Chairman Taylor of what he called a government "shakedown" of McLean directors and officers. [Details, page 13.]

Former McLean directors said the thrift's failure occurred because of the area's weak real estate market, not because of negligence.

The General Accounting Office recently criticized the FDIC for its lack of aggressiveness in bringing suits against high-profile officers and directors of failed banks and thrifts.

So far this year, by the FDIC's own count, it has brought only nine cases against former officers and directors in its attempt to recoup some of the taxpayer money lost when institutions fail. In 1991, 52 cases were brought, 47 of which still are active.

Many of the former defendants in the McLean case say they find it difficult to understand why the government chose them out of the many cases they could have brought.

"It was a totally groundless lawsuit," said Richard Blair, a former director of McLean and a retired Virginia attorney. "It leaves me very suspicious. I hope they aren't handling all the cases like this."

Judge Bryan has agreed with some of the defendants' arguments concerning how the case was handled.

Although he twice denied motions to sanction lawyers working for the government in the case, he did take the unusual step of awarding one defendant $6,600 in court costs arising from those complaints.

Many of those involved in the suit cited the government's reliance on Anthony Satariano as a weakness.

"The investigation was fundamentally flawed because of Satariano," said John E. Harrison, a Virginia banking attorney who has done work for the FDIC and who was sued by the FDIC as outside counsel to McLean.

When McLean failed in 1988, the FDIC fired most of the directors and officers at the Northern Virginia thrift, but kept Satariano on when they reopened the institution as McLean Federal Savings & Loan Association.

Satariano was made the chief financial officer at the new McLean. And the government relied on information Satariano provided them to bring cases against the former officers and directors of McLean, according to court documents.

But there may be a problem with relying on Satariano if the government's appeal should ever lead to a trial. Satariano, a federal fugitive who is believed by federal prosecutors to be in Malta, was indicted in February for allegedly embezzling $763,000 from NVR Savings Bank, a successor to McLean.

"When [Satariano] went south on them it was devastating," said Schraub, the attorney for some of the McLean directors. "It would have been virtually impossible to put on their case without him."

According to court documents, the defendants wrote to the FDIC's lawyers at Beveridge & Diamond telling them that their case was flawed because much of the evidence had come from Satariano.

But in court documents filed by the government, its lawyers contested the defendants' claims. "The FDIC's case is based on far more than Mr. Satariano. . . . Satariano was unlikely to have been called by the FDIC as a witness due to his unavailability, and the FDIC planned to prove its case on evidence other than his testimony."

Another problem involved the government's purchase of claims against the directors that turned out to be worthless.

In 1988, McLean Financial Corp. (MFC), which once had been a subsidiary of the thrift, filed for bankruptcy protection from its creditors. The FDIC paid $860,000 at that time to purchase claims against the former directors of MFC from the estate of the bankrupt corporation.

The claims, said several attorneys familiar with the case, were worthless because MFC was a private company that was no longer controlled by the FDIC.

The statute of limitations appears to be the biggest of the government's problems with the case.

FDIC General Counsel Byrne noted that it is well accepted in federal courts that the statute of limitations is three years from the date the government appoints a receiver and that Judge Bryan's decision will be overturned on appeal. A receiver was appointed in 1988 and the government's case was filed in November 1991.

The defendants also alleged in court documents that lawyers for the FDIC refused to discuss the basis for its claims until after it received information regarding the amount of insurance coverage the defendants had. FDIC chairman Taylor has said that the agency wants to ensure that defendants have the ability to pay before it brings a case.

"In other words," said one court filing by the McLean defendants, "the FDIC was . . . more concerned with the depth of the pocket than the factual or legal basis of its alleged claims."

WRONG MAN SITTING ON DEATH ROW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Justice Department now says they did not have all the facts when they convicted John Demjanjuk, the retired autoworker from Cleveland, as being the infamous Ivan the Terrible of Treblinka.

Mr. Speaker, that is a bold-faced, outright, despicable, disgusting lie.

In the FOIA request that I got, it shows that in August of 1978 our Justice Department knew that the real Ivan the Terrible was Ivan Marchenko, not Demjanjuk, but they chose to prosecute, and they continued to do the illegal thing, aiding and abetting the prosecution and conviction of this man, sitting on death row, without assisting to bring him back.

If they have a further investigation for Demjanjuk, fine. He is not Ivan. The Justice Department knows he is not Ivan, unless they are trying to convince us, folks.

They are a bunch of incompetent Katzenjammer Cops that do not know up and down.

I say Congress should assist, now, in doing the right thing. With a Justice Department like this, I do not know why America ever feared the KGB.

TRUST, CHANGE, AND NEW LEADERSHIP

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, George Bush is not going to be the President of change. Of course, he was not able to effect any changes in 4 years.

But his advisers for change have changed their minds, and now he is going to be the President of trust. He is going to say "Trust me."

Well, you remember when Ronald Reagan was talking about the Soviet Union. He called them the Evil Empire, and he said, "We have to trust them, but we must verify that trust."

The Soviet people could not do that. They could not trust their leaders, so they threw them all out, and they changed the whole system.

Well, America needs change. America needs trust, and America needs new leadership.

I will tell you this: The Democrats can give it to America, and if you think George Bush can be trusted for 4 more years, there is another leader in Iraq who George Bush trusted, and he, too, needs to be replaced.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes; and, Mr. Speaker, pending that motion, I ask unanimous consent that debate on this bill be limited to 30 minutes, the time to be equally divided and controlled by the gentleman from Michigan [Mr. PURSELL] and myself.

The SPEAKER pro tempore (Mr. LEWIS of Georgia). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

☐ 1015

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole

House on the State of the Union for the consideration of the bill, H.R. 5677 making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN (Mr. SHARP). Under the unanimous-consent agreement, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 15 minutes, and the gentleman from Michigan [Mr. PURSELL] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am pleased today to bring before the House the fiscal year 1993 appropriations bill which provides funds for the Departments of Labor, Health and Human Services, and Education, and related agencies. This bill appropriates $240,426 million for the 3 Cabinet Departments and the 18 independent agencies which come under the subcommittee's jurisdiction. This includes $11,825 million for the Department of Labor, $198,467 million for the Department of Health and Human Services, and $28,935 million for the Department of Education. These amounts are described in detail in House Report 102–708 which was filed in the House last Thursday.

I want to begin by saying that it has always been an honor and privilege for me to serve on the Appropriations Committee with my chairman, JAMIE WHITTEN. As a member of the subcommittee, he has helped us down through the years on this bill, and we appreciate his support. As you know, this is the last time that four members of our subcommittee will present a Labor-HHS bill to the House. I want to thank ED ROYBAL, BOB MRAZEK, VIN WEBER, and especially our ranking member, CARL PURSELL, for their hard work on the subcommittee each year. We will miss them. I also want to thank each of the other members of the subcommittee.

Mr. Chairman, I have been on the floor when each of the appropriations bills has been considered this year. Each time, the subcommittee chairman presenting the bill described what a difficult year this has been, what unpleasant choices had to be made, and how inadequate their resources were to address the Nation's problems. I can only repeat what my colleagues have said—this is the most difficult year I can remember since I have been on the Labor-HHS subcommittee. Our bill addresses the most pressing needs of our country—health, education and job training—yet under the terms of the Budget Enforcement Act, we don't have the resources that should be invested in these areas. We have done our best to fashion a good bill within the constraints of our budget allocations. It won't satisfy the expectations of all the Members—it doesn't satisfy our own. But we have done it the right way. We have made the hard choices rather than resorting to gimmicks like delayed obligations. The President's budget proposed almost $2.9 billion in delays; our bill contains none. In addition, we have tried to restore many of the program reductions proposed by the President which were not justifiable, even though it meant foregoing increases in worthy areas. Despite these constraints, we managed to provide increased funding in several important areas.

The bill provides $23,879 million for discretionary education programs, a $1,330 million, or 5.9 percent, increase over 1992. Areas receiving increases include compensatory education for the disadvantaged, special education, vocational and adult education, and student financial assistance. The committee took the responsible course of providing $704 million for the 1991–92 Pell grant shortfall. The alternative would have left us with a $1.4 billion shortfall to be paid next year. Putting things off until next year always looks good until next year arrives. We have faced up to the shortfall now rather than confront a crisis in 1994. Under the bill, the maximum Pell grant would be set at up to $2,300. The Impact Aid Program is restored to approximately the 1992 level. The bill also provides a $519 million increase for the Head Start Program.

The committee has not considered the President's $768 million request for the Educational Excellence/America 2000 initiative pending completion of authorizing legislation.

Biomedical research has long been a priority of the subcommittee, and the bill includes a $279 million increase for the National Institutes of Health. We would have approved a larger increase if we could, but the money was just not available. This is the first year that I can remember in which the committee bill is below the President.

The bill gives special attention to women's health issues. The report directs NIH to increase spending on breast, cervical, and ovarian cancer by no less than one-third over 1992 levels. In addition, the bill provides $43 million for the second year of the women's health initiative and $10.9 million for the Office of Research on Women's Health.

The bill includes approximately $1.98 billion for AIDS research, prevention, and treatment, which is $93 million above last year. Within this total, the Ryan White programs receive an increase of $50 million. Sufficient funding is provided to support the six cities that are newly eligible for assistance under title I of Ryan White without reducing grants to currently funded cities.

The committee is very concerned about recent outbreaks of tuberculosis in our cities and among vulnerable populations. The bill includes $105 million for tuberculosis control efforts, an increase of $59 million over 1992. Additional funds are provided for biomedical research related to TB.

The bill provides $4,201 million to carry out the Job Training Partnership Act, including $989 million for Job Corps; $30 million is designated for two new Job Corps centers, which will be competitively awarded.

Funding for childhood immunizations increases by $49 million over last year's level, to a total of $346 million. The bill provides a $19 million increase for the breast and cervical cancer screening program.

As I mentioned earlier, the committee was forced to reduce some programs below their 1992 level in order to provide increases for others within a very limited budget ceiling. Programs that are funded below 1992 levels include low income home energy assistance, refugee and entrant assistance, community services block grant, and health professions training. In addition, the bill reduces the 1993 appropriation for State legalization impact assistance by $562 million and includes language converting Medicare survey and certification activities to a fee-financed system, for a savings of $289 million.

Throughout the bill, the committee has taken a very tough line on Federal salaries and expenses, reducing these expenditures $253 million below the administration's request. We have provided the minimum increases necessary to prevent furloughs or reductions in force.

Because I know it is of concern to a number of Members, I will mention that the bill includes the traditional language prohibiting the use of funds for abortion unless the life of the mother is endangered. This language has been a part of the law since 1981. The bill does not contain provisions related to the so-called gag rule or parental notification.

I commend this bill to my colleagues. We have done our best to meet the needs of the country with the resources we were allocated. We have not exceeded our 602(b) budget authority and outlay ceilings. We ask for your support.

H.R. 5677, the fiscal year 1993 appropriations bill for the Departments of Labor, Health and Human Services, and Education, and 18 related agencies, includes appropriations totaling $240,426 million, which is $46 million below the amounts requested by the President, and $21,163 million over the comparable amounts available for 1992.

Entitlement programs, whose funding levels are determined by authorizing legislation, comprise more than 74 percent of the bill's total appropriations. The bill includes $178,826 million for these entitlements, an increase of $20,220 million above the amounts available for these programs in fiscal year 1992.

For discretionary programs, whose spending is controlled through the annual appropriations process, the bill includes $61,601 million for fiscal year 1993, which is a decrease of $51 million below the President's budget and $943 million above the amount available for fiscal year 1992. The committee has provided funding for currently unauthorized, ongoing programs at levels not in excess of fiscal year 1992 totals.

DEPARTMENT OF LABOR

The bill provides a total of $11,825 million for the Department of Labor, including $9,714 million for discretionary programs and $2,111 million for entitlements. The bill exceeds the President's request for discretionary programs at Labor by $292 million and the 1992 level by $299 million.

The bill includes $4,201 million for programs under the Job Training Partnership Act, an increase of $83 million over the President's request. This total includes $989 million for the Job Corps, which is $34 million over last year's level. This amount is sufficient to start two new Job Corps centers, as well as maintain the current centers. Community services employment for older Americans is supported at $391 million, an increase of $48 million over the request. Trust funds and general funds for State unemployment insurance and employment service operations total $3,281 million, $8 million above the request.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The bill includes $198,467 million for activities administered by the Department of Health and Human Services. For discretionary activities, the bill includes $26,808 million, which is a decrease of $29 million below the amount requested by the President and $668 million below the comparable amount available for these programs in 1992.

HEALTH RESOURCES AND SERVICES ADMINISTRATION

The bill restores about 75 percent of the President's proposed reductions in health professions training, providing a total of $248 million for these activities. AIDS programs are funded at $362 million, of which $327 million is appropriated for the three titles of the Ryan White Act—an increase of $50 million over last year's funding and $24 million above the President's request. Funding for community and migrant health centers, the infant mortality initiative, the Maternal and Child Health Block Grant, and the National Health Service Corps is maintained at approximately the 1992 level.

CENTERS FOR DISEASE CONTROL

The bill includes $1,619 million for the Centers for Disease Control, which is $131 million above the 1992 level. Major funding increases above 1992 include: $49 million for childhood immunizations; $59 million for tuberculosis control activities; $24 million for AIDS activities; and $19 million for breast and cervical cancer screening.

NATIONAL INSTITUTES OF HEALTH

The bill includes $9,211 million for the 20 appropriations which together fund the programs of the National Institutes of Health [NIH]. The total for NIH is $279 million above the amount available in 1992 but $165 million below the administration request. The committee reallocated $47 million within the President's request, principally from savings associated with freezing administrative costs and the blocking of the transfer of funds to the Agency for Health Care Policy Research, to provide additional research resources to the Institutes. The report highlights the committee's continuing commitment to women's and minority health issues.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

The bill includes $3,100 million for these activities. This is $28 million above the 1992 funding level but $141 million below the President's request. Mental health research funding increases by $12 million over 1992. Funding is increased for several drug abuse programs, including treatment improvement grants, the capacity expansion program, and substance abuse prevention programs. The committee bill reflects the current structure of these programs prior to the transfer of research activities to the National Institutes of Health. The committee expects this reorganization to be accomplished prior to submission of the 1994 budget request.

CAPITAL IMPROVEMENT FUND

This new activity is funded through a 1-percent transfer from all discretionary Public Health Service programs. The $165 million made available will be used for construction and fixed property repairs and renovations throughout the Public Health Service. Initially the fund is available to complete construction of the new Consolidated Office Building at the National Institutes of Health and the new facility for the National Institute of Environmental Health Sciences in North Carolina.

AGENCY FOR HEALTH CARE POLICY RESEARCH

The bill provides $106 million in general funds and Medicare trust funds, an increase of $32 million above the President's request and approximately the same as the 1992 level. The committee has included a limitation of $13 million on transfers from the other Public Health Service agencies, compared to the $51 million transfer requested by the President.

HEALTH CARE FINANCING ADMINISTRATION

The bill includes $84,411 million for the 1993 program level for the Medicaid Program, which is $11,908 million higher than the 1992 level; $1,628 million is provided for Medicare contractors and $15 million is included to continue the rural hospital transition demonstrations. The bill includes language establishing fees for survey and certification under the Medicare and Medicaid programs, for a savings of $289 million.

SOCIAL SECURITY ADMINISTRATION

The committee recommends that $4,652 million be expended from the Social Security trust funds for administrative costs of the Social Security retirement, survivors, and disability program. An additional $59 million would be available from fees for Federal administration of SSI State supplemental payments. This program level is $161 million more than the comparable 1992 operating level and will support a staff level of approximately 63,730 FTE and 66,093 work years.

ADMINISTRATION FOR CHILDREN AND FAMILIES

The bill includes $15,442 million for the 1993 program level for family support payments to States, which is $241 million above the 1992 level and the same as the administration request: $1,000 million is provided for the Job Opportunities and Basic Skills Training Program; $1,491 million is provided for low-income energy assistance programs, of which $891 million is available at the beginning of the fiscal year and $600 million is provided in an emergency fund, to be made available only upon submission of a request by the President designating it as an emergency; $322 million is provided for the refugee and entrant assistance program, which is $95 million above the President's request and $89 million below the 1992 level. The committee reduces 1993 funding for State legalization assistance grants by $562 million. These funds would instead become available on October 15, 1993. The committee restores the community services block grant to a level of $395 million. The President had proposed to terminate most of these activities. The bill provides $842 million for the child care block grant, an increase of $16 million over the 1992 level. The Head Start Program receives $2,720 million, an increase of $519 million over the 1992 level. Administration on Aging programs are funded at approximately the 1992 level.

DEPARTMENT OF EDUCATION

For the Department as a whole, the bill includes $28,935 million, an increase of $1,669 million over the 1992 level. The amount for discretionary programs is $23,879 million, which is $1,330 million, or 5.9 percent, above the 1992 level.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

The bill includes $6,749 million for chapter 1 of the Elementary and Secondary Education Act, which is $54 million above the 1992 level. The amount provided includes $5,470 million for basic grants to local school districts and $703 million for concentration grants. Also included is $89 million for the Even Start Program, and $40 million for capital expenses for private school students.

IMPACT AID

The committee bill provides $764 million for impact aid, $232 million over the budget request. This amount includes $585 million for category A and $135 million for category B payments, which are approximately the same as the 1992 levels.

SCHOOL IMPROVEMENT

The bill includes $1,558 million for the 20 activities which together comprise the school improvement account. This total is $63 million below the President's request, largely because the Weed and Seed Program will be funded through the urban aid bill; $612 million is provided for drug-free schools. Funding for math and science programs increases by $6 million over 1992 to a total of $246 million.

EDUCATIONAL EXCELLENCE

No funds have been included for the President's proposed $768 million educational excellence initiative. The committee was not able to provide funding since no legislation has been enacted to authorize the program.

BILINGUAL AND IMMIGRANT EDUCATION

The bill provides $231 million for these activities, which is $6 million above the 1992 level.

SPECIAL EDUCATION/REHABILITATION SERVICES

The bill provides $2,920 million for special education, which is $65 million above the 1992 level. The rehabilitation services and disability research account is funded at $2,125 million, which exceeds the 1992 appropriation by $48 million.

VOCATIONAL AND ADULT EDUCATION

The bill appropriates $1,199 million for the Carl D. Perkins Vocational Education Act, an increase of $58 million over the 1992 level and $56 million over the President's request. Included within this total is $981 million for basic grants, an increase of $31 million over 1992, and $120 million for tech prep, an increase of $30 million over 1992. The bill also provides $310 million for adult education, an increase of $22 million over 1992.

STUDENT FINANCIAL ASSISTANCE

The bill provides $8,101 million for student financial assistance, which is an increase of $1,204 million over the 1992 level and $412 million over the President's request—$704 million is provided to address the 1991–92 Pell grant shortfall. The committee bill provides funding for a maximum Pell grant of not to exceed $2,300. The bill restores $248 million to Perkins loans and $71 million to State student scholarships, both of which the President proposed to eliminate. Supplemental educational opportunity grants are funded at $571 million.

HIGHER EDUCATION

A sum of $118 million is provided for historically black colleges and universities. Special programs for the disadvantaged [TRIO] receive $376 million.

LIBRARIES

The bill restores the funding for the library programs to approximately the 1992 level. The President had proposed to reduce funding to $35 million.

RELATED AGENCIES

The bill includes $1,199 million for 18 related agencies. This amount is $17 million below the request and $18 million before the 1992 funding level. The total includes $272 million for 1995 funding for the Corporation for Public Broadcasting. Full funding of $294 million is provided for railroad retirement dual benefits.

□ 1020

Mr. PURSELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in my last opportunity to preside as the ranking Republican member on a great appropriations bill, one I love dearly, Labor, Health and Human Services. First, I want to commend a great chairman, the gentleman from Kentucky [Mr. NATCHER] who has been my leader and my mentor over the years that I have served on this committee.

I also want to thank Mike Stephens, Bob Knisely, John Blazey, Mark Mioduski, Susan Quantius, and my staff, Kevin Kraushaar, and Dr. David Recker, who have been helpful in putting this bill together professionally on both sides of the aisle.

I think it is a bipartisan bill.

I want also to thank Secretary Martin, Secretary Sullivan, and Secretary Alexander for contributing to this piece of legislation.

Mr. Chairman, I support this bill. It was one of the toughest bills I have ever worked on. The discretionary spending is $61.6 billion. That is only up 1½ percent from 1992.

Mandatory spending, however, over which we have no control as an appropriation subcommittee, is $178.8 billion, up 13 percent from fiscal year 1992.

Mr. Chairman, the problem with the budget deficit is not so much the discretionary part, as it is the need to put caps and change the entitlements, which are almost $1 trillion of a $1.6 trillion budget.

It is clear from these figures why our deficit continues to grow.

Delayed obligations were a serious problem in last years bill. I want to congratulate the gentleman from Kentucky [Mr. NATCHER], the chairman, again for resisting any temptation to include any delayed obligations in the bill this year. That was a bad practice and I am very proud of this subcommittee to see that the delayed obligation practice has ceased.

I am glad to leave this committee, without any new delayed obligations.

In the Labor Department, the Women's Bureau is $7.5 million. I wanted to mention Secretary Martin's continued work on the "Glass Ceiling Commission" and for her work in publishing the "Handbook on Women Workers." She has done an outstanding job.

In the Department of Health and Human Services, funding for the NIH is only up 3 percent. I wish that had been higher. The Institutes that comprise the National Institutes of Health are outstanding. They are the crown jewels of this appropriation bill.

I want to thank the gentleman from Ohio [Mr. STOKES] for working with me specifically on lupus, a disease which is prevalent primarily in women, particularly black women, and I want to thank the gentleman from Ohio [Mr. STOKES] for his personal partnership with me over the last few years.

I would like to congratulate the gentleman from Florida [Mr. YOUNG] also who has done some outstanding work on our side of the aisle for the bone marrow transplant program.

I have also had the honor to work with the nursing community on what I hope will eventually be the Nursing Institute. Ada Sue Hinshaw and her coworkers have contributed to the health community in an outstanding manner.

The entire AIDS budget is $2 billion for the entire bill this year. That is up $93 million from 1992, which is a 5-percent increase, and includes an increase of $51 million in the Ryan White program; a full 18-percent increase.

Funding for AIDS started in 1981, and was only $200,000. Since 1982, the Federal Government has spent $16.7 billion on AIDS programs, including research, to find a cure for AIDS. Of that $16.7 billion, $8.6 billion has been in the Labor, Health and Human Services bills.

Funding for the CDC is up $150 million, and we have an outstanding Center for Disease Control.

In the Education budget, we have had difficulty because most of the programs that Secretary Alexander has recommended have not been authorized, so this committee was unable to give him a lot of assistance this year and I deeply regret that.

Even Start is $89.1 million, and I want to thank the gentleman from Pennsylvania [Mr. GOODLING], who is the ranking member on the Committee on Education and Labor, for his leadership on that program.

The Higher Education Program is $831 million less than what the President recommended for higher education in this country.

Our Student Aid Program is $8.1 billion, up $1.2 billion from fiscal year 1992. The committee found ways and means to include $700 million to cover the Pell grant shortfall, but I think next year we are going to have a serious problem.

In conclusion, I want to thank the full subcommittee for its outstanding leadership, particularly the staff and my chairman, the gentleman from Kentucky [Mr. NATCHER] for some outstanding leadership over the many years in education, health and labor, the highest priority I think that this Congress should address in future years.

I want to thank also my personal staff for their assistance on this bill.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 5677, the fiscal year 1993 Labor, Health and Human Services, Education, and related agencies appropriations bill. This is the last time I will have the opportunity to commend my colleague, BILL NATCHER, for his fine leadership as chairman of this subcommittee. I've been a member of this subcommittee for many years. Each of these years BILL NATCHER has presented an outstanding Labor, Health and Human Services, and Education appropriations bill to the House of Representatives. I thank my distinguished chairman, BILL NATCHER, for his leadership and guidance. It has been a distinct honor to serve on his subcommittee.

I would like to acknowledge three other members of this subcommittee who will be leaving at the close of the 102d Congress. CARL PURSELL, the ranking minority member, Congressman VIN WEBER, and Congressman BOB MRAZEK. All three have been fine members of the Labor, Health and Human Services, and Education Appropriations Subcommittee and I wish them success in their future endeavors.

Mr. Chairman, the Labor, Health and Human Services, Education, and related agencies appropriations bill on the floor today contains programs which serve the most disadvantaged citizens in the United States. Migrant and dislocated farmworkers, individuals with AIDS, disadvantaged youth, immigrants, and victims of Alzheimer's disease and other chronic illnesses, are all recipients of the funds made available in this appropriations bill. It is highly unfortunate that these programs cannot be fully funded because of tight fiscal constraints and skewed budget priorities. I want to point out that this bill was marked up without delayed obligations. It presents a true picture of the financial realities faced by the subcommittee this year. Many programs remain at the fiscal year 1992 level, and then subject to the 1-percent across-the-board cut necessary to remain within the 602(b) allocation. I agree with the chairman: No one is completely satisfied with this bill, no one wants to see more cuts in funding for research, social services, or education programs. However, we must work within the restraints of the budget agreement.

The House fiscal year 1993 Labor, Health and Human Services, Education, and related agencies appropriations bill does include increases for several key programs: In the Department of Labor's Job Training Partnership Act, $28 million over the administration's request is included for dislocated worker assistance. An additional $30 million is available for construction of two new Job Corps centers. The committee also provided funds for community service employment for older Americans at just below the fiscal year 1992 level, rather than accepting the $48 million decrease requested by the administration.

Within the Department of Health and Human Services, additional funds are provided for Ryan White AIDS activities, including increases for the title I emergency assistance programs, as well as funds to continue the dental reimbursement programs for dental schools and postdoctoral dental education programs within title II. The committee realizes that education and prevention are imperative in fighting the AIDS epidemic and therefore provides additional AIDS moneys within the Centers for Disease Control for behavioral studies of underrepresented communities and development of educational materials for non-English speaking individuals.

The committee has also included increases tuberculosis activities at the Centers for Disease Control. Like AIDS, TB has reached epidemic proportions across the United States. Additional funding will be directed toward minority populations in the inner cities and border areas where the disease is most prevalent. The committee report to H.R. 5677 contains language which supports the CDC's efforts to involve Hispanic women in addressing public health problems in their communities. Through it's Hispanic women's leadership program, the CDC has moved forward in utilizing Spanish-language communication materials for education initiatives in several areas including immunization, tuberculosis, AIDS, and breast and cervical cancer.

The fiscal year 1993 LHHSE appropriations bill includes an increase of $18 million over the fiscal year 1992 level for the National Institute on Aging to continue its research into Alzheimer's disease and the changing needs of the elderly population. I am particularly pleased that funds are added to the NIA for the establishment of centers on applied gerontology research designed to better translate research findings into clinical applications for the elderly, especially among minority populations. Other aging programs housed within the Administration on Aging are funded at close to the fiscal year 1992 level as they await reauthorization. I applaud the committee's decision not to reprogram $2 million for the White House Conference on Aging as those funds can be better used elsewhere until there is an authorization for such a conference.

I support the committee's decision to utilize the $768 million requested by the Administration for America 2000 to provide increases in authorized programs within the Department of Education. As a result of this decision, funds are available for impact aid "b" payments, vocational education activities, and student loan programs. I agree with the committee recommendations to reject the administration's proposal to eliminate the Perkin's loans and State student scholarship programs. As the stated in the committee report, most of the activities within higher education were not authorized at the time of our subcommittee markup. These programs will be dealt with when we go to conference with the Senate. I am pleased, however, that a $1 million set-aside is included in the fund for the improvement of postsecondary education for continuation of the minority teacher training initiative that was begun in fiscal year 1992.

As the chairman well knows, the SLIAG Program remains one of my top priorities. In the fiscal year 1993 bill $561 million of the remaining $1.12 billion in SLIAG funds will become available for reimbursement to the States. The committee is acutely aware that this amount will not adequately cover all prior costs incurred by the States. However, I am reassured by the chairman's promise that the remainder of the funds will be appropriated in fiscal year 1994 for the final year of the SLIAG Program.

I commend Chairman NATCHER and my colleagues on the subcommittee on H.R. 5677, the fiscal year 1993 Labor, Health and Human Services, Education, and related agencies appropriations bill. I think that it sets clear priorities for the upcoming year. Perhaps other Members of this body, and constituents will question the sparse increases in this bill. I must reiterate that it reflects our budgetary reality. Mr. Chairman, I support you in the tough decisions you made regarding programs so important to all the people of the United States and I urge all my colleagues to vote in favor of H.R. 5677.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of H.R. 5677, the Labor-Health and Human Services-Education appropriations bill. I am deeply distressed about the lack of adequate funding for so many critical programs, and yet I recognize the extremely restrictive circumstances under which Chairman NATCHER and the subcommittee had to work in developing this year's bill.

I want to commend Chairman NATCHER and the subcommittee for their continuing support of women's health, particularly for research on breast, cervical, and ovarian cancer, the women's health initiative, and the office of research on women's health at NIH.

I am pleased that the committee provided funding to ensure that the natural history study of HIV infection on women can proceed in 1993 and reaffirmed its commitment to the enrollment of women and people of color into AIDS clinical trials. The committee has restored $5 million in funding reductions made in 1992 to CDC community-based AIDS prevention and education programs; these reductions were most devastating to prevention programs for women and people of color. Funding increases are provided for title I and II of the Ryan White Care Act; while these increases are far less than we had hoped, they will make a critical difference in the services provided to the cities with the highest incidence of HIV/AIDS.

I am also pleased with the high priority placed on residential substance abuse treatment programs for pregnant and postpartum women and their children. These efforts were expanded in the ADAMHA reauthorization bill and are critically needed.

I do have serious concerns with the reductions made in a number of other critical programs, such as LIHEAP, community health centers, family violence prevention and services, the job training partnership act, refugee resettlement programs, and Pell grants. I will work to improve the funding for these and other underfunded programs when the House and Senate meet in conference.

I recognize that the committee did the best that was possible under the restrictions imposed by this year's budget, and I commend the chairman for his continuing strong commitment to the health and education needs of our Nation.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Chairman, this is a bare bones bill.

Overall, the increase for domestic discretionary programs is 1.5 percent—less than inflation. Funds for many social programs were cut. In some instances where there are increases, the increase is not enough to keep up with inflation; in others, the increases are less than requested.

This is a bill that I don't think any member of the subcommittee is satisfied with. I know I'm not.

We should be doing more, not less in the areas of health, and education, and research.

Let's take the National Institutes of Health, although an increase has been provided for the National Institutes of Health, it is $165 million less than requested. This funding level is not adequate.

There are over 100 clinical trials of new drugs and therapies that will not be funded because we did not provide enough money in this bill. What are these diseases? Breast cancer; prostate cancer; multiple sclerosis; Alzheimer's disease; coronary heart disease and kidney disease; AIDS; and vaccines for many diseases, to name a few.

The number of new and competing grants—and the number of grants overall—to find the cause, and to prevent and treat so many diseases will decline. The budget request would have funded only 5,800 new and competing grants. A few years ago, we were funding over 6,000. Under the bill, this number will drop well below 5,800.

Grant awards, which are already reduced below peer-review recommended levels, will in all likelihood be cut even further—slowing research.

Success rates will fall further—from the 26 percent estimated in the budget request to less than 25 percent. Some institutes will probably fall to 20 percent or less.

Alzheimer's disease affects 4 million Americans. It costs this country $90 billion in health care costs for Alzheimer's patients. Yet, we now spend only $200 million for Alzheimer's disease research; 500,000 people die annually of cancer. Yet we could save 100,000 of those people if we could get earlier diagnosis and treatment for them.

An estimated 180,000 new cases of breast cancer will be identified in the United States in 1992. An estimated 46,000 women will die in 1992. Approximately 1 in every 9 women will develop breast cancer in their lifetime. Yet, we do not spend enough on research on breast cancer.

Among most American men, cancer of the prostate is the most prevalent from of cancer and the second leading cause of death. One of every ten men will develop prostate cancer sometime in this life.

A little over a month ago, a study was released indicating that in 8 years, 120 million people, including 10 million children, will be infected with HIV. Yet, we do not spend enough money for AIDS research.

We are now faced with a new drug-resistant strain of tuberculosis. Yet, we are unable to provide the additional resources we should to address this problem—one that is beginning to take U.S. lives.

Stroke is the third leading cause of death and the chief source of long-term disability. We should be spending more in this area. Rather, we will continue to spend more on health care costs for long-term care.

Osteoporosis affects 24 million Americans, mostly women. The economic costs—$7 billion to $10 billion annually—dwarf the $79 million we will spend on research on this condition this year.

What about some of the other health programs? We know that good prenatal care affects pregnancy outcomes. We know that immunization works. We know that these and other preventive care programs reduce morbidity and mortality. We should be spending more for these programs. We need to recognize that they save money in the long run. We are being penny wise and pound foolish.

We should be doing more in the area of mental health and substance abuse. We have declared war on drugs. But, we are leaving the wounded on the battlefield.

Funding for LIHEAP is not adequate. In 1985 and 1986, we appropriated $2.1 billion for the Fuel Assistance Program. For fiscal 1992, we appropriated $1.5 billion, of which $406 million was delayed obligations.

The budget request proposes $1,065,000,000, with $799 million in delayed obligations. Only $266.2 million would be available at the beginning of the cold weather season. In this bill, we were able to provide only $891 million, but none of the funds are delayed. And, as was the case last year, we have provided an emergency account. For fiscal 1993, we have increased the emergency account to $600 million.

Over the past year, the AFDC caseload has increased significantly, 24 percent. Over 3 million households receive food stamps who did not qualify before. All are eligible for the LIHEAP program, as are working poor households and many of the new UI recipients. Nearly 60 percent of LIHEAP recipient households have annual incomes under $6,000 per year. They spend almost 15 percent of their income for home energy expenditures.

Fewer families are receiving assistance, 900,000 fewer in 1990, and the amount of assistance is being reduced. States are reeling economically, and are in less of a position than ever before in being able to step in and help fill the gap.

Mr. Chairman, we are a wealthy nation, and we should be able to do better than this.

□ 1030

Mr. MARKEY. Mr. Chairman, I rise with very grave concerns about this legislation. While I recognize the need for fiscal austerity, the cut H.R. 5677 prescribes for the Low Income Home Energy Assistance Program [LIHEAP] will be devastating for low-income families throughout this country. And although the bill boosts funding for important programs like Head Start, it would hurt the same families that benefit from Head Start by cutting LIHEAP so drastically.

For over a decade, Presidents Reagan and Bush have each year targeted LIHEAP for enormous cuts. And as appropriations for LIHEAP dropped through the 1980's, energy prices were on the rise, squeezing the low-income families who rely on LIHEAP to help them heat their homes.

Once again this year, the President singled out LIHEAP for a tremendous cut—dropping the program to $1.1 billion. H.R. 5677 slashes

LIHEAP even further, to just $891 million. Although I am very pleased that the bill denies the President's attempt to again delay LIHEAP funding until the final day of the fiscal year, the total appropriation is still far too low.

As the chairman of the New England congressional energy caucus, I hear often from my colleagues from the New England region about the importance of LIHEAP to their constituents. This money helps struggling families meet a basic human need. And as the Bush recession continues, this cut hurts those now struggling as a result of our weakened economy. In Massachusetts, I understand that 25 percent of LIHEAP benefit applicants last year were first-time applicants. These are people who need this help now, because of the severe financial crisis we all face. Under H.R. 5677, we will not be able to offer any help. Over 21 million families are likely to lose their benefits if this funding level is maintained.

I hope we will be able to find a better solution in conference, Mr. Chairman, and I urge my colleagues who will be conferees on this bill to explore all possible options that might save LIHEAP from this devastating blow.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise to congratulate the gentleman and also the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER], for their fine work on this bill. Mr. Chairman, I am rising, having testified before the subcommittee, in support of title XX. That is the Adolescent/Family Life Program. I am glad to see there is money in the bill for that program. It is a small reduction, but nevertheless it is in there, and I am gratified to see that and hope that this provision will continue to be in the bill after it leaves here in the House of Representatives.

For those who are not familiar with the program, last year the National Commission on Children, which is a bipartisan task force chaired by Senator JAY ROCKEFELLER, issued a report after 2 years of comprehensive field work. The report placed strong emphasis on the importance of family stability and positive values in the lives of children and adolescents. Regarding adolescents, the Commission has recommended that:

> A broad array of community-based supports be available to all young people to promote healthy adolescent development and help them avoid high-risk behaviors that jeopardize their futures.

Following that, it said:

> We also recommend expansion of the Adolescent/Family Life Program, title XX, which encourages young people to abstain from early sexual activity, in order to prevent pregnancy and sexually transmitted disease.

This is a good program, this is a modest program. We are talking about $7 million versus what title X gets, which comes at the same problem but from a different direction and is funded at well over $100 million.

So this is a very modest program that we should keep in the bill so that we have some beacon here in the Congress that we are going to encourage young people to do the right thing, make the right choices in these difficult times in our society.

Mr. PURSELL. Mr. Chairman, I would like to enter into a colloquy with my chairman, the gentleman from Kentucky [Mr. NATCHER].

Mr. Chairman, the bill provides $33.6 million for domestic program activities related to international education and the report recognizes that the Secretary has discretion to allocate funds for authorized purposes. The committee stated, however, that the first priority for funding should be the maintenance of existing programs. With regard to the centers for international business education, is it the intent of the committee that the number of new business centers not be further increased?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct. The committee has indicated that the competition for additional centers under the bill before us should not be increased without additional funding.

Mr. PURSELL. I thank the Chairman for his comments.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I rise today to express my grave concern over the future of the Low Income Home Energy Assistance Program and the disastrous impact that this bill will have on the millions of low-income seniors and families with young children throughout the Nation.

I understand full well that the authors of this measure have been confronted with very, very difficult choices. It is not an easy task in this budget year.

Yet they have chosen not to assist millions of low-income seniors and families with children who are unable to pay their home heating bills and energy bills; I am certain that this House is aware of the impact that this cut in LIHEAP funding will have on their districts. Two hundred eighteen of our colleagues have cosponsored House Concurrent Resolution 282. This resolution clearly states that this body affirms that LIHEAP should be funded at a level greater or equal to last year's level, which was $1.5 billion. This year we are coming in at less than $900 million. That is a more than 40 percent reduction in LIHEAP funding for those among us who need it most.

Mr. Chairman, I do understand that cuts must be made in the budget, yet I do not understand why the low-income energy assistance program must sustain such a large, almost punishing, cut, a punishing cut. The proportion of this cut, in my judgment, is unfair and unreasonable. When the cold of winter is upon us again, it is my hope that your low-income elderly, their families and young families with children, unable to pay their energy bills, will understand the choices you have made. It is a punishing cut, and I regret that this body is making it.

Mr. MURTHA. Mr. Chairman, I wanted to take this opportunity to express my strong support for the Low-Income Heating Energy Assistance Program [LIHEAP].

LIHEAP has a strong history of helping people stay warm during the long winter months. You may recall in December 1989, when we had an unexpected cold streak, the LIHEAP Program helped many families afford the cost of heating their homes.

LIHEAP provides home heating assistance to people receiving public aid, the elderly, and those who are living below the poverty line. This means that our most vulnerable citizens—children, senior citizens, and the ill and disabled—are at risk. For many, the help they receive from LIHEAP means the difference between heating their homes and risking illness or death from exposure to cold.

The low-income, handicapped, and elderly are the least likely to cope with rising energy prices. They lack the discretionary income to invest in weatherizing their homes and other conservation improvements.

The Low-Income Heating Energy Assistance Program serves some of the neediest and most vulnerable citizens. Low-income households would have to devote as much as 15 to 30 percent of their limited incomes to payment of energy costs in the absence of LIHEAP assistance. This is at least three to four times the percentage of income middle-income households have to devote to payment of energy bills.

LIHEAP plays an essential preventative role by enabling low-income households who might otherwise be in danger of losing their essential heat-related services to retain this service, and thereby remain in their homes. Without heat or other basic utility services, it is extremely difficult for young children who are primary beneficiaries of LIHEAP assistance to function effectively in their homes.

LIHEAP continues to provide assistance for families who couldn't afford the high energy costs they face without the aid. We know the ability of the elderly to withstand winter's cold, and of children to study in a conducive environment is directly affected by household temperatures, and this program keeps temperatures reasonable.

In Pennsylvania, LIHEAP provides some 150,000 households with a basic cash grant averaging $211. It also provides a crisis intervention grant of up to $300 to some 120,000 households.

Mr. Chairman, for the above mentioned reasons, I respectfully request the LIHEAP Program be funded at last year's $1.5 billion level. Thank you for your consideration of this request.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. I thank the chairman for yielding this time to me.

Mr. Chairman, I rise in support of this bill. It is indeed an honor and a pleasure and a privilege to serve on this subcommittee under Chairman NATCHER's leadership. I also want to say what a pleasure it is to serve with the gentleman from Michigan, CARL PURSELL, and how much I have enjoyed working with him over the years that he has been here.

Mr. Chairman, there are some particular parts of this bill that CARL and I have worked on together, and it has been a pleasure to work with him. Under Chairman NATCHER, we have been able to include in this bill many important provisions relative to minorities, particularly minority health, and certain provisions relative to education.

So it is a good bill, it is indeed an honor to serve under Chairman NATCHER.

Mr. Chairman, I ask all my colleagues to support this legislation.

Mr. Chairman, I rise in support of final passage of H.R. 5677, the fiscal year 1993 Labor-HHS-Education appropriations bill. This was one of the most difficult years our subcommittee has faced in making appropriations for many of our Nation's education, employment, and health and human services programs. Despite the budget constraints we faced, Mr. Chairman, you displayed great skill in crafting a bill which recognizes the prevailing domestic needs which must be addressed, and which allocates funds according to these priorities. You are to be commended for your leadership in bringing this measure to the floor.

I also would like to commend the gentleman from Michigan, CARL PURSELL, the ranking minority member of our subcommittee for the significant contributions he has made to this year's bill, and the many contributions he has made to the subcommittee over the years. CARL has announced his retirement from Congress. His presence and leadership will be missed. I wish him success in all that he may endeavor to do.

As noted previously, the committee drafted H.R. 5677 in the midst of rigid parameters established by the Budget Enforcement Act. Despite the difficulties we faced, this bill provides a balanced approach to supporting many of the domestic programs serving students, the unemployed, the poor, the sick, and the elderly. In general, the bill before us today provides $240.4 billion for the Departments of Labor, Health and Human Services, Education, and related agencies in fiscal 1993, including $198.5 billion for HHS, $28.9 billion for Education, $11.8 billion for Labor, and $1.2 billion for 18 related agencies. The bill is $50 million under the President's budget request for discretionary spending programs, and $943 million, 1.5 percent, over the fiscal 1992 level for discretionary spending.

Under the bill before us today, there were many programs which did receive significant increases in funding. For instance, the committee was able to provide increases for Job Corps, AIDS treatment and prevention, the National Institutes of Health, Head Start and many of our Nation's education programs. I am proud to have been able to help secure increased funding for these programs, as well as those programs which improve the quality of life for my constituents as well as persons across the Nation.

Mr. Chairman, there are several programmatic provisions I would like to mention specifically. Under H.R. 5677, in the area of education, the title III undergraduate and graduate programs received $99 million and $11.59 million respectively. Language also was provided which urges the Department of Education to give high priority to funding an initiative to expand model programs dedicated to advancing minority Ph.D and faculty development. The special programs for the disadvantaged [TRIO] received $375.75 million and Howard University would receive $195.3 million. Language also was included which directs the Department of Education to lend its resources to the development of a program which will help to preserve historical documents located at historically black colleges and universities and land grant institutions.

In the area of health, under the Disadvantaged Minority Health Improvement Act programs, the committee provided $9 million for Public Housing Health Service grants; $23.7 million for minority centers of excellence; $17.3 million for minority scholarships; $11.1 million for health professions student loans; and $1.1 million for the faculty loan. Furthermore, the bill provides $13.7 million for the Office of Minority Health.

For those programs supported by the Centers for Disease Control, the committee provided a $5 million increase in funds for violence prevention activities in the Office of Injury Control, and $5 million in funding to restore reductions made in 1992 and to increase 1993 AIDS efforts with national minority organizations and community-based groups. Report language also reflects the need for special initiatives to prepare, recruit, and develop members of underrepresented minority groups for careers in public health prevention programs. In this regard, the committee directs the CDE to prepare a plan to address minority concerns and provide a report to the committee before the fiscal year 1994 hearings.

For the National Institutes of Health, special funding was provided to focus on research on health problems that disproportionately impact minorities and women. Both the Office of Minority Programs and the Office of Women's Health will each receive over $43 million to support special research in this area.

Unfortunately, despite the enhancement of these many programs, and in light of the budget constraints, the committee was forced to either level fund or cut some programs in order to keep the bill within the ceilings established by the 1990 Budget Enforcement Act. Programs targeted to receive some reductions in fiscal year 1993 include the health professions assistance programs, LIHEAP, refugee assistance, community services block grants and Medicare Program management.

Mr. Chairman, as I said before, you displayed remarkable skill in balancing the many competing interests contained in this bill. We had gut-wrenching decisions to make in drafting this bill. I am proud to stand with you in bringing this measure to the floor. I ask my colleagues to join me in final passage of H.R. 5677.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the distinguished senior member of the Committee on Appropriations, the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, I thank my colleague, the gentleman from Michigan, for yielding this time to me and for such nice remarks.

Mr. Chairman, I rise to compliment the gentleman from Kentucky, Chairman NATCHER, with whom I have worked a good many years, as well as the ranking member, the gentleman from Michigan, with whom I have worked, who will be leaving us, an absence we shall certainly all feel.

Mr. Chairman, I compliment the gentleman for a good bill under very difficult conditions.

However, I am a little critical of the fact that you did cut back the NIH budget from what the President requested. Fully recognizing that reductions have to be made across the board, but, as with the previous speaker, here, Mr. RIDGE, LIHEAP is not near as important, as far as I am concerned, as the health of this Nation. It seems to me that people's health is more important than these other programs.

So I wish that you had been able to provide a little more on cancer research, particularly research for breast cancer as well as cervical cancer. These are two areas that are the most rapidly growing diseases in our society, yet to cut back as much as you cut back, it seems to me is not the best. At least I hope that maybe when you go to conference, you can work out better numbers.

These are two areas, the NIH tells me and also the National Cancer Institute tells me, are right on the edge of maybe a breakthrough, probably even a cure for, possibly finding the cause of what is the most rapidly growing disease in our country, cancer. It is not the time to cut back.

But I do compliment the subcommittee. I realize, serving on the Committee on Appropriations, that every one of the subcommittees had to cut back this year from what we would like to have spent, because of the budget restraints that we have. I compliment the Member on a good job. I do hope that they can boost those, just those, just a little bit.

I thank them for the good job they have done in the past and for the continuation of programs so vitally needed for the health of our Nation.

Mr. PURSELL. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Michigan [Mr. PURSELL] has 1 minute remaining.

Mr. NATCHER. Mr. Chairman, on this side we have no further requests for time, and I yield back the balance of our time.

Mr. PURSELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. I rise in support of the bill.

Mr. Chairman, I rise in strong opposition to the committee's reduction of funds for the Low Income Home Energy Assistance Program—better known as LIHEAP. What we see here is a continuous, downward spiral of funding for this crucial program which serves low-income families and the elderly. There are already many needy families who are eligible for the program, but cannot receive assistance. With the proposed committee reduction, many more will be left out in the cold.

As one of many of my colleagues crying out for reductions in the Federal deficit, I can certainly appreciate the difficult choices that must be made. However, I would ask that as we pick and choose priorities, we keep the LIHEAP Program high up on the list. This is one of the few Federal programs that is not wrapped in bureaucratic redtape, but in fact satisfies its intended purposes—to assist the poor and elderly with energy assistance. Since it is a block grant there is minimal Federal administrative overhead, and funds go directly to States who in turn provide them directly to needy recipients.

Let us take a look at the facts. In 1986 Congress appropriated $2 billion for the program; in 1987 funding was reduced to $1.8 billion; and in the last few years funding was again reduced and has hovered around $1.5 billion. This year the President requested funding at slightly less than $1.1 billion and now the committee has chosen to cut funding for this program below the President's request—down to $891 million. This is almost $200 million less than the President requested and a 40-percent decrease from this year's level of funding.

So what kinds of real impacts are we talking about? Over 6 million needy households receive assistance from this program—yet conservatively only 35 percent of those eligible are getting any assistance. This is because there just isn't enough money to go around now. At the proposed fiscal year 1993 level, it is estimated that over 21 million eligible families would not get any assistance.

And who is receiving the funds? This program is targeted toward our neediest citizens—poor families and the elderly. Nearly 60 percent of LIHEAP households have annual incomes under $6,000 with energy expenditures disproportionately taking 14 percent of their income. In my own State of Pennsylvania, 35 percent are Social Security recipients, 26 percent are public assistance recipients, and 22 percent are the working poor. These are the folks that are just barely getting by.

With our current economic situation, this is not the time to cut funds for those who are most in need. This is a program that works. This is a program that benefits every State. At this funding level, it means more families freezing in the dead of winter and more of our senior citizens having to cope with unbearable heat that endangers their lives. I urge the committee to restore LIHEAP funding.

Mr. McDADE. Mr. Chairman, my friends, today we consider the 11th regular appropriations bill to come before this body—the fiscal year 1993 Labor, Health and Human Services, and Education, and related agencies appropriations bill—America's bill.

This bill provides appropriations for some of the most popular and most important programs over which this committee has jurisdiction—programs like child care, education for the disadvantaged, job training, student financial assistance, immunizations, Head Start, unemployment insurance, health research, funds to combat the spread and to ease the pain of AIDS, programs for the homeless, Social Security administrative costs, and numerous other low-income poverty programs. We help every American in this bill. This is America's heart and soul; this is America's bill.

The chairman and the ranking Republican, CARL PURSELL, who will be leaving us this year, have done a fantastic job in spite of a very difficult situation. CARL PURSELL came to the Committee on Appropriations in 1979, nearly 14 years ago. Two years ago after the untimely death of our colleague, Silvio Conte, the gentleman from Michigan became the ranking Republican on the subcommittee. A former high school teacher, he brought a special understanding of the needs of our youth to the subcommittee. He has done a fine job, and he leaves the committee and the House this year with an admirable bill, a job well done.

All in all, in the aggregate, total budget authority for labor, health and human services, and education programs considered in this bill is $240.4 billion, an increase of $21.2 billion over last year. Of that amount, $61.6 billion is slated for domestic needs and priorities. Approximately $3 billion in program increases are offset by approximately $2 billion of real program reductions. The subcommittee's recommendations are sometimes compatible with the President's proposals, but some are not. In some cases, certain increases proposed by the President which are fully justified had to be scaled back because offsetting reductions at the levels proposed were not supportable. Consequently, the bill before us is a bill that few Members will be totally satisfied.

But let me tell my friends: be happy, and don't look this gift horse in the mouth. As a result of the passage of the urban aid package and negotiations with the leadership on both sides of the aisle and my dear friend and colleague from Pennsylvania, the chairman of the Defense Subcommittee, Mr. MURTHA, this subcommittee got a one-time special deal—a reclassification of $500 million from domestic to defense. The revised 602(b) allocations that the Committee on Appropriations approved last week reflects this one time deal and permitted the committee to fund some of the very programs that I mentioned earlier at a level that would not have been possible under the earlier allocation. The bill, as the chairman of the subcommittee has said, is a good one, an honest one: no gimmicks, no delayed obligations, no magic tricks or smoke and mirrors. What you see is what you get.

And this bill, as it stands right now, in the end would be acceptable to the administration. I commend it to my colleagues.

Mr. HOYER. Mr. Chairman, I rise in support of H.R. 5677, the Labor, Health, and Human Services, and Education appropriations bill for fiscal year 1993. I do so even thought the investments we make in our country's future in this bill are inadequate for the challenge that confronts us.

This bill was the most difficult this committee has had to face during my tenure. And the committee has done the best that it could in the face of the shortage of resources it had available.

As always, Chairman NATCHER has been a strong advocate on behalf of the education and health of the American people. He continues to be one of the Members of whom this body is most proud.

Bringing this bill to the floor is difficult for the chairman, because I know he is not happy with it. He knows it is underfunded.

The National Institutes of Health is lower than the budget request, as is maternal and child health, as is health care for the homeless, as is refugee assistance, chapter 1, and dozens of other important and effective programs.

But this subcommittee, under the chairman's able leadership, bit the bullet.

Look at this bill, and every person in this Chamber can see what it really means to make choices.

There is some good news. Too little of it, but there is good news.

The bill provides about a 30-percent increase over fiscal year 1992 for ovarian, breast, cervical, and prostate cancer.

The bill provides $346 million, an increase of $49 million over last year for childhood immunization.

The bill provides $2.73 billion for Head Start—approximately the level of funding required to provide services to most eligible 4-year-olds, and $519 million more than last year.

The bill provides $105 million for tuberculosis control, $59 million more than last year and $39 million over the President's request.

The bill includes $327 million for the Ryan White AIDS Care Program. Ryan White helps fill the void for the over 200,000 Americans who are infected with the disease, and is an example of why we need universal health care insurance. This bill includes $50 million more than fiscal year 1992.

The Job Corps includes $30 million for additional Job Corps centers.

And finally, there is approximately $25 million over and above the $273 million included in this bill last year and requested by the President, for foster care services.

These last two items deserve special mention.

The Job Corps is one of those antipoverty programs, 27 years old, that was born decades ago when this Nation made a single-minded commitment to providing a hand up, not a hand out to those so low on the economic ladder that they could never hope to reach the bottom rung and begin pulling themselves out of poverty.

The Job Corps takes poor, jobless, high school dropouts and places them in a residential setting away from the environment that compounds their many disadvantages, provides academic, vocational, and life skills training, and ultimately and for once in these young people's lives, gives them a vision of the possible.

The young people this program serves are critically important to our future success.

Mr. Chairman, on a bill that annually confronts us with tough decisions, and in a year of extraordinarily difficult choices, expanding Job Corps is the right thing to do.

The other program I want to highlight, Mr. Chairman, is title IV–B, the Federal program that funds foster care services.

This money helps State public welfare agencies improve services with the goal of keeping families together, and this bill contains the only significant increase in funding for these services in 3 years.

Mr. Chairman, family values is a popular hot button for politicians this year.

Chairman NATCHER writes to his grandchildren every day. Judy is the most beautiful word in the language because it is by that name that I call my wife and my grandchild.

Each of us believes in family, Mr. Chairman. But this bill contains the evidence that we also, and as importantly, value families.

Title IV–B is flexible, allowing agencies to bundle appropriate services, including preventive intervention and alternate placement like foster care and adoption, to protect children first and to preserve families as well.

Mr. Chairman, 500,000 women of child bearing age use cocaine on a regular basis in this country; 550,000 to 740,000 drug-exposed infants are born each year; 2.7 million children are reported abused and neglected—a 125 percent increase since 1980; 1,400 children died from abuse or neglect in 1990, a 54-percent increase in the last 6 years.

These are our children, Mr. Chairman.

These are the 2- and 3-year-olds who may never survive to enroll in Head Start.

Mr. Chairman, in a year when few of the choices in this bill provide happy alternatives, providing an increase for title IV–B was also, the right thing to do.

Mr. Chairman, let me once again congratulate Chairman NATCHER, and my colleagues on the subcommittee for the months of hard work on this bill.

There are no games, gimmicks, or boondoggles in this bill, only tough choices, and every Member can be proud to vote to support it.

Mr. ROSTENKOWSKI. Mr. Chairman, the Low-Income Home Energy Assistance Program provides critical assistance to the poor, elderly, and disabled residents throughout our Nation. It is an alarming fact that due to severe budgetary constraints, the funding level for this vital program has been drastically cut by more than 40 percent—down to $891 million for fiscal year 1993.

The impact of this proposed cut has a devastating impact on low-income families in Chicago and throughout the United States. In fiscal year 1992, the city of Chicago received $24 million in low-income home energy assistance; for fiscal year 1993, the city is projected to receive a meager $19.6 million. Last year, because of inadequate funding, the city was forced to turn away approximately half of its eligible households. Continued reductions in this program will hit those who can afford it least, and force many low-income, elderly, and disabled residents in Chicago to choose between essential energy services and other necessities.

While I understand the constraints the committee faced in setting priorities among a large number of worthy programs, I urge the conferees on this bill to seek increased funding for this important program. Low-income home energy assistance is an invaluable program and I hope that the conferees will do everything possible to see that adequate funding for this program is restored.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 5677, the Labor, Health and Human Services, Education, and related agencies appropriations bill for fiscal year 1993.

Each year, we applaud Chairman NATCHER and the members and staff of the subcommittee for their work in drafting this legislation and bringing it to the floor. However, the chairman and his team deserve special acclaim for their work during this appropriations cycle.

The task before the subcommittee this year was perhaps the most challenging it has ever faced. To begin with, the subcommittee—as always—has a very small pot of money to work with. This is because 74 percent of the funds in their budget are for entitlement programs, like unemployment compensation, Social Security, and Medicare—for money that is automatically spent, and over which the subcommittee has no control. The remaining 26 percent is discretionary funding—the money that must be divided up among the programs that are so critical to us, especially now.

Second, the spending caps that were set in place by the 1990 Budget Enforcement Act greatly restricted the use of what little discretionary funds the subcommittee had to work with—it had 2 percent less this year than it had last year. In other words, last year's expenses had to be reduced by 2 percent in order to fall within the limitations of the budget.

In spite of the above, the subcommittee managed to set priorities and make hard choices. The result is a bill that continues to fund a lot of good programs, as well as to meet new needs. H.R. 5677 does not drive us deeper into debt, but helps us meet our goal of living within our means.

The funds in H.R. 5677 are used to minimize the effect that our economy has on workers, like those Californians who are dislocated by our declining defense industry. H.R. 5677 provides temporarily unemployed workers with both income and job search assistance, and supports job training and summer youth employment, as well as part-time community-based jobs for low-income senior citizens, and employment and training programs for veterans.

H.R. 5677 funds health research, this year placing a very high priority on women's health, in particular breast, cervical, and ovarian cancers. It supports community health centers and educational programs for health care professionals. The Centers for Disease Control, which insures that serious problems—like those related to the spread of AIDS, sexually transmitted diseases and tuberculosis—can be addressed, is funded by this bill.

Child care programs, child support enforcement programs, Head Start, foster care and adoption assistance support services, nutrition services for our elderly citizens—all these key support systems are dependent upon the funding in H.R. 5677.

The bill manages to delicately balance the different, overwhelming needs it must meet. Programs that have not yet been authorized for the upcoming year—like those in the Older Americans Act—are funded at last year's levels. Funding for the farmworker safety program—which supports the Center for Agricultural Disease and Injury Research and Education at the University of California, Davis and which the President had completely eliminated—is restored.

Most noteworthy is the grant for which the cancer center at the University of California, Davis and Lawrence Berkeley Laboratory were just selected. The grant will fund startup construction for a state-of-the-art cancer treatment center. The funding for this grant—which was only awarded to one other location in the country—is in H.R. 5677.

It is obvious that, without H.R. 5677, we would not be able to fund the essential programs that support our basic needs. A vote for the health, education, nutrition, and employment programs in H.R. 5677 is a vote for us all. America's families, workers, children, elderly, and veterans are dependent upon the programs and services that H.R. 5677 sustains and provides. I urge my colleagues on both sides of the aisle to support funding of basic benefits and services for all Americans.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 5677, Labor-HHS-Education appropriations for fiscal year 1993. I applaud Chairman NATCHER for making the best of a bad situation. This bill is not everything I would have hoped for but it does put people first in dividing up scarce resources. The committee bill makes the hard choices and avoids using budget gimmicks and accounting tricks proposed by the administration.

I want to take this opportunity to express my appreciation to Chairman NATCHER and his committee for several specific items which the committee, in its wisdom, has included in the bill.

The Labor-HHS appropriation includes a $30 million increase over 1992 for tech-prep education, a program which I authored to better train our young people. Tech-prep links the last 2 years of high school vocational education with 2 years of additional vocational education after high school in community colleges.

The Labor-HHS appropriation includes an increase of $28 million over the President's budget request for dislocated worker assistance under title III of the Job Training Partnership Act. Our ability to provide services and quality training to dislocated workers in a timely manner is critical for the thousands of American workers who find themselves out of work each month.

The Labor-HHS appropriation includes an $80 million increase over the President's request for Job Corps, a level which will permit us to continue the 50–50 program by funding five new centers in fiscal year 1993.

I also want to thank Chairman NATCHER for his foresight in continuing funding for the mass layoff statistics program within the Bureau of Labor Statistics. The $5.9 million included in this bill will enable us to respond to the needs of workers affected by plant closings in the Nation's most critical industries.

I find it frustrating to have to consider today a bill which forces us to shortchange some of our most effective programs. I find it frustrating to let artificial budget walls deny us the use of the peace dividend to renew our commitment to the American people. But, I find it most frustrating that, when the administration found it in their interests, the walls magically came down.

Chairman NATCHER, you have my pledge for continued support as we begin a new agenda which answers our children's call for learning, our workers' call for training, and our Nation's call for leadership.

Mrs. LLOYD. Mr. Chairman, I rise today in support for the passage of H.R. 5677, the Labor-HHS appropriations for 1993, and urge my colleagues to pass this important bill.

Although strict financial constraints resulted in overall reduced spending, I am pleased to see that urgently needed research for women's health maintained a high priority. This bill will allow proper funding for the women's health initiative, a long overdue, comprehensive research program to examine major causes of disease and disability in midlife and elderly women.

I am also pleased to see that priority was given to breast cancer, prostate cancer, cervical and ovarian cancer, all of which received at least one-third increases over 1992 levels. Sadly, this weekend, I attended the funeral of a former staff member of mine in Chattanooga, Becky Wells, who died from ovarian cancer last Friday. Becky was a good friend and trusted staff member who will be missed by all who knew and loved her. We desperately need the research priority reflected in this bill to prevent this loss of life and human potential taken by cancers we do not understand and cannot cure.

Vote yes on the Labor-HHS bill today.

Mr. STUDDS. Mr. Chairman, we've just passed through the stifling summer heat coming from the air-conditioned comfort of our offices to the carefully controlled climate of this Chamber. And it is, undoubtedly, difficult for many of us to fully appreciate the implications of the drastic cuts to the Low Income Home Energy Assistance Program proposed in this bill.

But the men and women who administer the fuel assistance programs in Plymouth, Quincy, and Brockton, MA, know just how painful these cuts will be. Before you cast your vote, let me share with you stories I've heard about the people in my district impacted by the LIHEAP Program. Rick Hinckley of the South Shore Community Action Council told me of the senior citizens on Cape Code whose utility bills in the winter months exceed their monthly incomes. Pat MacNeil of the Quincy Community Action Program told me of the widowed mother and her grown daughter disabled by multiple sclerosis struggling to make ends meet on their limited income. Judy Fitzsimmons of the Brockton Fuel Assistance Program told me about the proud parents who have lost their jobs, exhausted their savings, and are unable to heat their homes.

Last winter—a mild winter by New England standards—more than 25,000 homes in southeastern Massachusetts received LIHEAP funds. As we ride out this painful recession in the Northeast, the numbers of needy continue to rise and the funds continue to be cut. This cannot and should not continue. We should not force families to choose between paying the grocery bill or paying the gas bill. We should not force senior citizens to choose between refilling a prescription or filling their oil tank.

This is what will happen under this budget and that is wrong.

This is about the right to be warm. I ask my colleagues to ignore the heat outside and understand that without an increase in the appropriation for LIHEAP under this bill, a great many families in Massachusetts and across the country will not be warm this winter.

Mr. PICKLE. Mr. Chairman, I rise in support of H.R. 5677. It has been a difficult year for many of the programs under discussion here and I want you to know that there are two programs that I am especially happy to see included in this bill.

The first is funding for the Nation's Job Corps programs. There is a major Job Corps center in my district in Texas and I have personally seen the good that has come from it. The funding level in this bill is expected to support over 42,000 Job Corps slots—that is over 42,000 young people who will be given a chance to better themselves and learn a marketable skill. As a long-time supporter of the Job Corps, I appreciate the committee's recognition of this important program.

Second, I commend the committee for including adequate funding for the Impact Aid Program even though the President proposed cutting it. Impact aid is designed to help pay for the basic essentials needed to run a school system that is being adversely affected by Federal action. This program will be particularly important next year because of the military base closings that will be affecting many communities. I am particularly concerned about the school district that serves the Bergstrom Air Force Base near Austin, TX. Bergstrom is scheduled to be closed in 1993 and the city of Austin has plans to build a commercial airport at the site. Without the help of impact aid, the school district serving that area could be left in the lurch between the time the base closes and the time that the city takes over the facility. I again, commend the committee for its foresight in including funding for this valuable program.

I urge my colleagues to support this well-crafted bill.

Mr. WEBER. Mr. Chairman, I rise in strong support of H.R. 5677, the Labor-Health and Human Services-Education appropriations bill for fiscal year 1993. In a year when spending caps have forced cuts in some important programs, the chairman of our subcommittee has again produced an outstanding bill that responds to our country's most pressing needs.

This is my last year on the subcommittee, and I want to begin by expressing my appreciation to our chairman. I first joined this subcommittee in 1987, and it has been a great privilege to serve with Chairman NATCHER these past 6 years. This year's bill is another example of his leadership. He has brought us an honest bill—there is not one delayed obligation. He has worked with all the members of the subcommittee in an atmosphere of cooperation and bipartisanship. And, in a year of strongly competing demands, he has reported out a bill that funds our most critical needs and invests in our country's future.

It has also been a pleasure to work with the ranking member of our subcommittee, my friend from Michigan CARL PURSELL. Congressman PURSELL has had a major impact through his work on this subcommittee, and I know he will be missed in the next Congress.

The Committee faced difficult choices this year, with spending caps that allowed a 1.5-percent increase in budget authority—half the rate of inflation. In addition, those caps required a net reduction of 2 percent in new budget outlays for 1993. Rather than meeting these targets through across-the-board reductions, the committee set priorities and offset funding increases with approximately $2 billion in real program reductions.

This bill once again funds Secretary Sullivan's healthy start initiative, which attacks the serious problem of infant mortality in our inner city and rural areas. It increases funding for Head Start by almost $600 million, a dramatic achievement. It includes a strong funding increase for the National Institutes of Health, where some of the most important medical research in the world is taking place.

This bill restores funding that the President's budget eliminated in a number of critical areas. One of the major concerns of rural Americans is continued access to quality health care. This bill funds the health professions education programs to combat the shortage in rural areas of professionals like physicians, nurses, physician assistants, and allied health professionals. It also restores funding for the Rural Health Care Transition Grant Program, which awards grants to enable rural hospitals to remain viable in a changing environment.

Once again, this bill provides almost $28 million for the Coleman fellowships, which furnish assistance to graduate students in the sciences and math. This aid will help train qualified students who are planning careers in research and education.

I'm especially pleased that this bill also contains $5 million for family resource centers, which were authorized in the Family Resource and Support Act of 1990. These centers will integrate existing programs and services to serve at-risk families. It is a prevention program that will focus on self-sufficiency and be built on local planning, parental involvement, and public-private funding partnerships. States like Minnesota are leaders in this area, and it's my hope that this year's minimal funding will begin an experiment to prove the promise of this proposal.

Not all programs received complete or even adequate funding. I have been a consistent supporter of the Low Income Home Energy Assistance Program, and I regret the cut of almost 40 percent that this program sustained. In addition, refugee assistance was cut by close to $90 million, at a time when the added influx of refugees has put an increased burden on State and local governments. Other important programs have also been cut or held to level funding at a time when they are shouldering increased demands.

Despite these difficulties, this bill makes wise investments in our country's future, and I strongly support its passage.

Mr. ROEMER. Mr. Chairman, today, as we consider H.R. 5677, the Labor-Health and Human Services, and Education and related agencies appropriation bill for fiscal year 1993, I recognize and appreciate the difficult choices that the committee faced in allocating funds among the various worthwhile, effective programs encompassed in this bill.

While I applaud many of the committee's recommendations in the bill, and commend Chairman NATCHER for his leadership, I am disappointed by the committee's recommendation for the Pell Grant Program.

The Pell grant is the largest Federal needs based student aid program and is viewed as the true foundation for student financial assistance. The purpose of the program is to help undergraduate students from low-income families finance their postsecondary education.

Mr. Chairman, my colleagues and I on the Education and Labor Committee just concluded 18 months of work on a bill to reauthorize the Higher Education Act of 1965. One of our primary goals was to increase financial aid, both in terms of grants and loans, for low and middle income working families. This legislation raised the Pell grant maximum from the current level of $2,400 to $3,700 for the 1993–94 school year and to $4,500 in 1997 to help families defray the soaring costs of education which have risen much faster than family incomes.

It is unfortunate that because of budgetary concerns, the committee was unable to ensure funding of the authorized Pell Grant Program. In additon, it is particularly distressing that because the administration incorrectly estimated the total number of students receiving Pell grants, we are facing a shortfall of more than $1.4 billion in the program. In these difficult economic times, families need and rely on the assistance provided by the Pell grant in order to realize their dreams of sending their children to college.

Later this week, the House will consider funding for the space station. It seems to me that a more intelligent and worthy use of this money would be funding the increase in the Pell grant program which is encompassed in the Higher Education Act of 1992. In the current climate of budget constraints, the benefits derived from increasing the Pell grant awards far outweigh the benefits and merits of funding the space station.

Mr. SWETT. Mr. Chairman, today the House will consider the Labor, HHS, and Education appropriations bill for fiscal year 1993. I rise to express my deep dismay at the bill's drastic cut in funding for a vital program, the Low Income Home Energy Assistance Program—better known as LIHEAP.

This year's appropriation provides for LIHEAP to be funded at only $891 million—a cut of 41 percent. This cut will have a catastrophic effect on people in New Hampshire and around the country who depend upon LIHEAP to keep their homes heated during harsh winter months.

This drastic cut will mean meals will be skipped, phones will be disconnected to save money, some homes will go without heat entirely. Anyone who has lived in the Northeast knows that a horrific prospect it is to face winter without heat.

Mr. Chairman, in the middle of winter, people should not have to choose between enduring freezing temperatures or going hungry. Many LIHEAP recipients simply could not survive winter without fuel assistance. A majority of LIHEAP households have annual incomes under $6,000. Many LIHEAP recipients are elderly. In New Hampshire, elderly people make up nearly a third of LIHEAP recipients. These people live almost exclusively from Social Security checks. The amount of money they receive is simply not enough to afford food, shelter, and heating fuel.

Mr. Chairman, New Hampshire, like many places around the country, is in the throes of a serious recession, with tens of thousands of people unemployed. In my district, the number of people living at or below the poverty level has recently increased by 20 percent. Last winter, despite the fact that eligibility requirements were stiffened, the demand for LIHEAP assistance increased by 25 percent. This winter, as the impact of the recession cuts deeper and deeper, more and more households will be in desperate need of LIHEAP assistance.

Mr. Chairman, I strongly urge the conferees to increase funding for LIHEAP when the bill goes to conference. At the current levels, too many people will suffer too much. LIHEAP is not a frill or a luxury; LIHEAP is about helping people to meet basic human needs.

Mrs. MINK. Mr. Chairman, I rise today in strong support of H.R. 5677, the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1993.

At a time when our country faces the most challenging domestic problems in the last 50 years the enactment of H.R. 5677 is essential. H.R. 5677 and the problems funded by this bill represent hope for many families and individuals across this Nation—hope that they will be able to find jobs, educate their children, and received adequate health care.

With limited resources the Appropriations Committee has allocated our precious Federal dollars into programs that have successfully derailed the poverty cycle, including $2.7 billion for Head Start, $6.7 billion for chapter 1, and almost $1 billion for the Job Corps Program.

This bill also represents hope to millions of women who have been afflicted by ovarian and breast cancer, and other diseases that affect only women. Neglected by the Federal Government and medical establishment for over a century, women's health research is finally on its way to being adequately funded. H.R. 5677 gives women's health the highest priority and provides $43 million for the women's health initiative and $10 million for the operations of the Office of Women's Health Research at the National Institutes of Health.

H.R. 5677 also directs the National Cancer Institute to increase spending on ovarian and breast cancer research by no less than one-third above fiscal year 1992 levels. This means that in fiscal year 1993 the National Cancer Institute will be required to spend at least $26.4 million in ovarian cancer research, based on current 1992 spending estimates by the NCI.

This is tremendous progress in the area of ovarian cancer research, where just 3 years ago the NCI was spending a mere $9 million. This dramatic increase in funding is desperately needed in our search to find an early detection test to raise the dismal mortality rates for women diagnosed with this disease.

Mr. Chairman, I want to express my appreciation for Chairman NATCHER and the Appropriations Committee and their work over the last 2 years to make women's health a national priority. It is only through their assistance and vigilance on this issue that we have been able to make significant gains in women's health funding, which will help keep the women alive and healthy.

I recognize the difficult task that the Appropriations Committee faced in trying to adequately fund numerous worthwhile programs with such limited funds this year. However, I do want to express my concern about the Pell grant award level set by the Committee, which is $100 less than the level of fiscal year 1992. In addition to the lower award level this bill gives the Secretary of Education the authority to drop the award level even further to $1,900, $500 less than the current Pell grant award. In a time of increasing college costs, we must make every effort to assist needy students in attending post-secondary education.

Earlier this month we passed a comprehensive Higher Education Act which holds the promise of post-secondary education for million of students, young and old, across the Nation. And it is imperative that we uphold the promise of the Higher Education Act amendments by providing the necessary funds to expand the Pell grant program to more needy and middle-class families.

I sincerely hope that as we continue through the appropriations process we can work together to assure that Pell grant awards for fiscal year 1993 will be significantly increased to allow the students of our country to fulfill their highest educational goals.

Mr. BORSKI. Mr. Chairman, I believe there is much to support in H.R. 5677, the Labor-HHS-Education appropriations for fiscal year 1993.

In these tight budget times, we have to recognize our priorities. I think that the Appropriations Committee does a good job of that.

I am pleased that this subcommittee, ably led by Chairman NATCHER and ranking member Mr. PURSELL, have increased the funding for employment and training in the Labor Department. These funds will lead to more jobs in a recession.

I am also happy that the Department of Health and Human Services will receive increased funding, for such vital programs as the Centers for Disease Control, Medicaid grants to States and supplemental security income.

And I'm delighted that there are increases in Department of Education programs like special education and guaranteed student loans. That is all very good.

However, I am disappointed that the subcommittee has decided not to provide full funding for the Low-Income Home Energy Assistance Program [LIHEAP]. True, LIHEAP has been funded to the tune of $1.5 billion for fiscal year 1993. That is about $300 million less than the total that is available in this fiscal year.

And the 1993 funding is structured so that much of it will not, cannot be used.

H.R. 5677 appropriates $891 million in nonemergency funding. The bill also provides an additional $600 million in emergency funds. That is an increase of $300 million over this year's emergency funding. But that emergency money was never used.

The President has to designate an energy emergency before the emergency LIHEAP money can be used. The President did not declare an energy emergency for 1992 and the $300 million was not used. It's unlikely that President Bush will declare an emergency in 1993, so the $600 million won't be available either.

I believe we need to fully fund LIHEAP at no less than $1.6 billion, with no emergency restrictions. This program is too important to be playing budget games.

In the past year, my hometown of Philadelphia received over $23 million in LIHEAP funding for some 116 recipients. With the funding proposed in this bill, 46,000 Philadelphia residents will lose over $9 million in energy assistance.

We are talking about one of the basics of survival. For many, LIHEAP funding means the difference between heat and no heat. And heat in the winter can mean the difference between life and death.

The current recession puts even more people at risk. Without jobs, without income, money can only go so far. People count on the safety net that programs like LIHEAP can provide. We should not cut LIHEAP when people need it most.

Mr. Chairman, I wish there was more money in this bill for LIHEAP. But wishing will not make it so. I hope that the Senate will add additional money for LIHEAP and I will support any effort to increase LIHEAP funding for 1993. I urge my colleagues to do likewise.

Mr. BEREUTER. Mr. Chairman, this Member is pleased to have the opportunity to express his support for the Labor, Health and Human Services, and Education appropriations legislation. This Member would like to thank the chairman of the subcommittee, the distinguished gentleman from Kentucky [Mr. NATCHER] and the ranking member, the distinguished gentleman from Michigan [Mr. PURSELL] for their careful consideration of several requests.

The HHS appropriations bill is the second largest appropriations bill considered by Congress and includes a majority of the human resource programs in the Federal Government. Indeed, it has been said that every man, woman and child in the United States is helped by the programs funded by this appropriations bill.

As a founding member of the Rural Health Care Coalition, a bipartisan group of 175 Members of Congress, this Member is concerned about several rural health programs that are of critical importance to Nebraska.

One of the most successful programs in rural Nebraska is the Rural Health Care Transition Grant Program. Since 1989, 28 rural Nebraska hospitals have received 3 year rural transition grants. These grants have been used to recruit health professionals, enhance outpatient and emergency services, add mammography service and satellite clinics. This program is having a positive impact in Nebraska by helping hospitals and communities to plan and implement projects in order to strengthen the capabilities to provide high quality care to Medicare beneficiaries. This beneficial program was funded at $14 million.

The Nebraska Office of Rural Health is very excited about the possibilities of the Rural Health Outreach Grant Program. These grants can be used in a variety of ways that enable communities and hospitals to work together to expand and enhance the availability of essential health services in rural areas. This Member is pleased that the committee funded this worthwhile program at $20,963,000. Another grant that has been very helpful to Nebraska is the State offices of Rural Health Grant Program. This program supports the operation of State offices of rural health. The Nebraska Offices of Rural Health plays a crucial role in working to assist communities, hospitals, clinics, physicians and other health professionals to provide access to health care for Nebraskans in rural areas. The committee provided $3,920,000 for the office of rural health policy. This office provides funds to the State offices of rural health.

In addition, another priority of the Rural Health Care Coalition is funding for area health education centers. This program also received funding under this bill.

The greatest rural health care concern in Nebraska is the shortage of physicians and other health professionals. The National Health Service Corps and other programs that provide incentives for health professionals and physicians to serve in rural areas are greatly needed. This Member is pleased to see the funds provided for the National Health Service Corps, $43,065,000 for field placement activities and $58 million for loans and scholarships. In addition there are several other incentive programs to increase the number of medical students choosing family medicine as a specialty. There are also several programs funded to increase the number of allied health professionals in rural areas.

Mr. Chairman, this Member understands the budgetary constraints that the committee had to consider. These are difficult times and there are limited funds; therefore, many programs did not receive full funding. However, in light of budget considerations, this Member is pleased to see these various mentioned programs continue to receive even limited funding. These rural health programs have been very beneficial to not only Nebraskans, but to people throughout rural areas. I urge support of H.R. 5677.

Mr. GEJDENSON. Mr. Chairman, I rise today to express my grave concerns about the funding levels proposed in this bill, H.R. 5677, for the Low Income Home Energy Assistance Program [LIHEAP].

Over the years, President Bush, and before him, President Reagan proposed to slash funding for the Low Income Home Energy Assistance Program. However Congress has restored an adequate level of funding for this crucial safety net program.

As my colleagues know, LIHEAP provides basic and vital assistance to those in desperate need and are in danger of freezing during the harsh New England winters.

Last year the caseload for the Aid to Families With Dependent Children [AFDC] Program increased nationwide by 24 percent and over three million households receive food stamps who did not quality before. All these people have become eligible for the LIHEAP Program, yet under this bill, more than 21 million people will not be able to receive assistance.

Mr. Chairman, the people of Connecticut currently face a deep recession due to cutbacks in defense spending. With an increase in unemployment and an increase in demand for LIHEAP funds, we cannot afford another LIHEAP cut. Several years ago, Connecticut was able to absorb some of these cuts by using resources from the oil overcharge fund. Unfortunately, that money is gone. This bill means that poor people in Connecticut and other frigid areas will literally be out in the cold. This level of funding will force needy people to make a basic decision as to whether they should eat or whether they should have heat.

Last year, Connecticut's funding through this program was reduced to $30.9 million, a deep cut in light of the state of our economy, but we were lucky. A mild winter meant that we were not completely devastated by the cuts and social service agencies were able to scrape by. Still they were forced to reduce the number of clients that could be served and had to reduce the level of benefits to others. But this bill's cut could be devastating even if we are lucky enough to have another mild winter. This bill would mean a $12 million reduction for Connecticut's needy. This 41 percent cut will cripple this program in eastern Connecticut.

Mr. Chairman, perhaps there is some misunderstanding about this program, about who benefits and where the funds go. Let me try to clear this up for some. First, 60 percent of LIHEAP recipients have annual incomes of less than $6,000. We are not talking about a subsidy or providing benefits for the rich or even the middle class. We are talking here about cutting funding for the most basic of human needs for poor, working poor and for low income people.

Second, for LIHEAP recipients, home energy costs average more than 14 percent of their income, while for the average American it is only 3 percent. LIHEAP only covers a small part of the home energy bills of eligible recipients. In 1990, LIHEAP accounted for only 20 percent of recipients' residential energy bills.

Finally, Mr. Chairman, nearly all of the funds that we provide to the social service agencies through the LIHEAP Program go directly to needy people, since administrative costs are statutorily capped at 10 percent.

Mr. Chairman, LIHEAP is a vital program addressing one of the most basic requirements of the neediest Americans. In eastern Connecticut we have been fortunate over the past several years. Despite the cuts in funding, a combination of mild winters and the collaboration among municipal governments, foundations and the network of nonprofit organizations including the United Way, the local FEMA board, and the regional cap agencies like the Thames Valley Council for Community Action, which serves southeastern Connecticut have been able to pool their resources and work together to ensure that families in need were provided with some level of service. But under this bill, they could not continue to do that.

In conclusion, Mr. Chairman, while I understand the budget constraints that we are facing in this country, we must make tough economic choices. But we cannot force the neediest people in this country to make a choice between feeding their children and providing heat for their families.

Mr. HAYES of Illinois. Mr. Chairman, I rise today on behalf of the forgotten America. I speak for parents who are unemployed, and for the senior citizens who can't make ends meet, I speak for those Americans who have no voice. I rise to protest the appalling cuts in the Low Income Home Energy Assistance Program the Labor, Health and Human services appropriations bill would impose. In Chicago last year of the 650,000 households eligible for LIHEAP funding, only 248,000 households received assistance. At the proposed level of funding for fiscal year 1993, hundreds of thousands more will be forced to choose between essential energy services and other necessities like food. The proposed cuts in LIHEAP funding translate into approximately a 40 percent reduction in funds.

Moreover, because of the elimination of the State of Illinois' energy assistance program, need in the great state of Illinois will be even more tremendous this winter. While I know that we are living in fiscally critical times, the Low Income Home Energy Assistance Program is the only source of heating for many families during the often harsh winter.

I am a cosponsor of House Concurrent Resolution 282 which expresses the sense of Congress that the Low Income Home Energy Assistance Program should be funded for fiscal year 1993 at a level greater than or equal to it's funding for fiscal year 1992. I know the agony of having to choose between paying your energy bill and eating. In a country as rich as ours no one should be forced to make that choice.

Mr. LIGHTFOOT. Mr. Chairman, I rise in support of H.R. 5677, the Labor, Health and Human Services, and Education appropriations for fiscal year 1993.

I would like to commend the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL], for crafting a tough but fair piece of legislation. I know this will be Mr. PURSELL's last Labor, HHS bill and I know how much the committee will miss his leadership on this bill.

This year's Labor, HHS bill is important more for what it does not do. I know there is not enough money for all the worthy programs under its jurisdiction. I am concerned the State block grant program's for pregnant women and infants are below last year's level and that we could not meet the President's request to fully fund Head Start.

But I am pleased the committee did not use accounting gimmicks to make funding levels look artificially larger than they are. This House has set spending levels, and this bill reflects tough choices.

If we are ever going to control spending and reduce the debt that is slowly strangling this Nation we have to make the tough choices reflected in this bill.

Even under tough budgetary circumstances, I am pleased we are able to provide funding for two new Job Corps centers and that research for breast, cervical, and ovarian cancer will increase by no less than one-third over last year's funding level.

Again, I commend Mr. NATCHER, Mr. PURSELL and all the members of the subcommittee for making those tough choices. I urge my colleagues to support this bill.

Mr. REED. Mr. Chairman, the legislation we are considering today would reduce funding for the Low Income Home Energy Assistance Program by 41 percent—a devastating cut even if it wasn't coming on top of last year's funding cuts.

But it is.

And when we consider today's legislation, we should bear in mind the cuts that have taken place in previous years and the fact that through the use of delayed spending, we have left States holding the bill for this critical program.

The legislation we are considering today will provide only $891 million for the LIHEAP program for fiscal year 1992.

An additional $600 million could be spent if the President were to declare an emergency but last year's emergency money remains unspent and OMB has declared that these funds will go unused as well.

In these difficult budget times we have to make tough choices but it seems to me that choosing to cut LIHEAP while it may be a tough choice, is not a good choice.

Unfortunately, due to the recession, more people than ever need the LIHEAP program. And at the same time, we are drastically reducing the programs's resources.

Make no mistake. In my home State of Rhode Island this program is not a help, it's a necessity.

The repercussions of the decisions we make today, in the heat of the Washington summer, will be felt throughout the freezing cold of the winter of 1993.

I urge all of my colleagues to think today about that cold winter chill that you feel as you go from car to home and imagine what it would be like if, when you entered your home, you weren't able to leave that cold winter air outside.

Ms. SNOWE. Mr. Chairman, I cannot understand how this body goes about the business of prioritizing what it spends its scarce dollars on. One would expect that programs which provide basic subsistence to the poor and elderly in this country would be last on the list of cuts. But a quick review of funding for the Low Income Home Energy Assistance Program shows that we have badly skewed our priorities.

In fiscal year 1985, funding for LIHEAP was $2.1 billion. Since then it has declined dramatically to $1.5 billion in fiscal year 1992. In the bill before us for 1993, LIHEAP receives yet another major cut down to $891 million. This cut is simply inexplicable. Nearly 60 percent of LIHEAP recipient households have annual incomes under $6,000 per year—well below the poverty line. Home energy expenditures for the poor average 14 percent of their entire income, while the rest of us pay roughly 3 percent, meaning that increases in the energy bill for the poor come at the expense of other necessities.

LIHEAP is one of the most inadequately funded programs in the Federal budget. According to the Department of Health and Human Services, average LIHEAP benefits covered only 23 percent of the average recipient's residential energy bill in fiscal year 1986, and only 20 percent in fiscal year 1990. Millions of people who are eligible for LIHEAP assistance receive no benefits because the program lacks the funds for them. At the level proposed in H.R. 5677, more than 21 million low-income families eligible for LIHEAP will not get assistance.

Mr. Chairman, I understand well the implications of soaring Federal deficits on all worthy programs in the Federal budget. And I understand the need to cut many of these programs to bring our fiscal house in order. But LIHEAP has already endured its share of cuts over the past 7 years. It is time to restore some balance to this program.

Members from New England, Pennsylvania, and other cold-weather States have also been working to stop cuts in LIHEAP, and we will continue our efforts this year in conference and in next year's bill. I sincerely hope that in future actions on appropriations for LIHEAP, my colleagues from other regions of the country will join me and these other Members in support of reasonable appropriations for this essential program.

Mr. MARTINEZ. Mr. Chairman, I come before you today as the chairman of the House Education and Labor Committee Subcommittee on Human Resources, to ask that the House restore the funding to the appropriations of the Low Income Home Energy Program [LIHEAP] for fiscal year 1993.

Last year when I testified regarding the appropriations for Health and Human Services programs such as LIHEAP, I mentioned that even though our country and our Government was resting on the laurels of winning the Persian Gulf war, that we couldn't turn our backs on our domestic programming. This year, we have no laurels to rest on. This year, we go through the appropriation process in the wake of riots in Los Angeles and throughout the country. Riots resulting not only from the Rodney King verdict, but also from the poor conditions and economic environment in our cities. This year, more than any other year in our recent past, we cannot turn our back on social programs like LIHEAP. We cannot ignore the unrest and poor conditions for our low-income constituents. We cannot cut funding for vital programs, when they are so desperately needed by so many people. These programs can mean the difference for the poor, the young and the old. They can keep those people who are at risk of becoming dependent on welfare programs from falling to that level. They prevent the Federal Government paying for more later on.

This year, the Committee on Appropriations reported out a fiscal year 1993 appropriations bill that provided expanded funding for a lot of those vital social programs providing the services that I mentioned. I commend them for that action. However, in so doing, the committee has significantly cut the funding for an equally vital program, the Low Income Home Energy Assistance Program [LIHEAP]. This year, the Commmittee on Appropriations has recommended a 40-percent cut in the funding for LIHEAP for fiscal year 1993. I am speaking before you today to voice my oppositions to this $600 million cut. I am deeply disturbed that in this time of economic crisis for so many low-income families, the Committee on Appropriations has chosen to severely cut the funding level for LIHEAP, which is an indispensable program for these same families. I instead request that LIHEAP be funded at a level at least equal to the funding level in fiscal year 1992—$1.5 billion.

The LIHEAP Program serves a very important population in this country—the old, the disabled, and the working poor. For many people, the benefits they receive through LIHEAP prevent them from falling between the cracks. LIHEAP provides these people with the most basic of all human needs, heat and electricity, without which many of our country's most vulnerable citizens could not survive. In the bitter cold winter months of our northern regions, home heating is as important as food to ensure the health and survival of our Nation's citizens. But with the cuts proposed by the committee, we would be denying America's families the basic ability to survive on their own. Without the LIHEAP benefits, many families would no longer be able afford keep their homes, and would join the ranks of their country's homeless. And although the increases in the other programs by the committee is certainly outstanding, families who no longer have heating, who are desperately trying to keep warm and make through the winter—these families are not going to be able to take advantage of excellent programs like Head Start.

With the $1.5 million that LIHEAP received for fiscal year 1992, the program was only able to serve about one-quarter of the over 25 million of the households eligible for energy assistance provided through LIHEAP. The $600 million cut proposed by the Appropriations Committee would severely handicap the LIHEAP program and leave an even smaller percentage of the eligible needy households with this necessary energy assistance as the winter months approach.

We are in an economic crisis in this country. The number of people who have fallen beneath the poverty line has increased dramatically in the last couple of years. We can not turn our backs on this population by cutting a program that provides something as essential as heating and home energy.

Although I realize that the Appropriations Committee faces difficult choices this year in the effort to balance the budget, I implore you to reconsider the appropriations to LIHEAP, and fund it at least at last year's level of $1.5 billion. As of today, 207 Members of Congress have cosponsored House Congressional Resolution 282 which supports the same funding level. LIHEAP is a vital program; we can not balance the budget at the expense of the most needy in our Nation. I urge those 207 Members of Congress, as well as the rest of my colleagues, to restore the funding for LIHEAP to the fiscal year 1992 level.

Mrs. VUCANOVICH. Mr. Chairman, I am pleased to rise today in support of H.R. 5677, which I believe is a sound investment for the future of the women in our Nation.

Unfortunately, this bill is much less than the President's request in many areas. However, in this time of fiscal crisis I am pleased that we are able to include $69.3 million for the breast and cervical cancer screening program, an increase of $19.3 million above 1992. This program will save many lives, the lives of American women. Without screening programs we cannot detect the cancer which destroy women's lives.

In addition, the bill provides $2 billion for the National Cancer Institute and directs the NCI to increase research on breast, cervical, ovarian, and prostate cancer by not less than one-third above the 1992 level. This language is expected to result in $70 million for research in these areas. As a breast cancer survivor, I know the importance of finding a cure for breast cancer and other life threatening diseases. When I support this measure, I think of my friends and family which are affected by these diseases, including our former colleague Sil Conte.

Mr. Chairman, I am also proud that this Congress once again addresses the need for additional research in the area of women's health. This bill provides over $43 million for the women's health initiative, which is in its second year. The participation of women in medical research can only further our commitment in finding a cure for such diseases.

Besides health programs, the bill also provides appropriate funding for labor programs. Of specific interest to me is the JTPA Program for which $4.2 billion is included. Within that amount, $989 million is included for the Job Corps Program. These programs are so important to the people in the State of Nevada.

H.R. 5677 is an important bill which will benefit all our citizens by providing good health, proper education and opportunities in the area of business. I hope my colleagues will offer their support.

Mr. CONYERS. Mr. Chairman, I rise in strong support of the bill. This is one of the most important bills the House will consider this year. It is the backbone of our Government's domestic policy and a stark portrait of our spending priorities, and once again Chairman NATCHER, ranking member CARL PURSELL and the subcommittee have given us an outstanding bill.

Mr. Chairman, the subcommittee was faced with obsolete spending caps from the Budget Enforcement Act, entitlements driven by out-of-control health care costs, and a budget request from the President that called for social cannibalism among critical domestic programs—which resulted in some of the most agonizing choices between domestic programs in recent memory. The spending caps result in a 2-percent net reduction in new budget outlays in fiscal year 1993 compared to last year.

The subcommittee could have gone the easy route and employed a 2-percent across-the-board, meat-ax approach to this bill. Instead, the subcommittee deliberated the tough choices for over 12 weeks and heard from over 700 witnesses on this legislation—making it one of the most carefully crafted bills to reach the floor this year.

Mr. Chairman, this bill provides almost $3 billion for Head Start and $346 million for childhood immunization, almost $2 billion for AIDS research, almost $1 billion for Job Corps, and $1.2 billion for vocational education. It is worth noting that the subcommittee came in over $50 million below the President's discretionary spending request.

As chairman of the Committee on Government Operations, I want to commend the subcommittee for rejecting the President's request to delay the obligation of almost $3 billion of fiscal year 1993 spending until the last day of the fiscal year in order to artificially shift outlays from fiscal year 1993 to fiscal year 1994. This is a shameful accounting gimmick intended to deceive the American public with the appearance that funds are available in 1 year when in fact they would not be available until the following budget cycle—and the subcommittee is the wiser for rejecting it.

Finally, Mr. Chairman, I want to pay tribute to CARL PURSELL, a friend and fellow member of the Michigan congressional delegation who will be leaving us at the end of this session. CARL is one of Michigan's most favored policymakers, and is widely regarded as a reasoned, substantive representative. His contribution to this legislation before us today is a portrait of his career with us: he isn't afraid of tough choices; he offers common sense, nonpartisan arguments; and has worked consistently with intensity and sense of purpose. He will be sorely missed and I wish him all the best.

Mr. Chairman, I urge my colleagues to support this legislation.

Mr. GOSS. Mr. Chairman, this year, I have adopted a strict approach to the entire budget process, weighing everything in terms of affordability. Things are different this year because they have to be. Our national debt is very heavy, very real and getting worse. This could be the most important appropriation bill we consider, since it touches the daily lives of almost every citizen of the United States. It also must balance the ever-growing mandatory spending—which now comprises 74.4 percent of this spending bill—with the need to address problems in the areas of child and maternal health, educational dysfunction and joblessness before they become major spending burdens for our children. This bill, H.R. 5677, funds the premier medical research facility in the world, the National Institutes of Health; provides vital aid to individuals seeking higher education; and funds successful job training programs. These initiatives are desperately needed to assist the growth of our country. I do not envy the difficult decisions which were made to keep this bill under the aggregate budget ceilings. The cuts to community health care centers, the Job Training Partnership Act, Pell grants, refugee resettlement programs, and domestic violence will have to be shouldered by many Americans in need. In explaining this shortfall to the individuals who bear the brunt of these cuts, we must acknowledge the 13-percent increase in mandatory spending.

Entitlements comprise practically two-thirds of this bill, leaving little room for discretionary spending. This mandatory spending, a $178 billion gorilla, dwarfs the discretionary portion of the bill which weighs in at $61.6 billion. Yes, these entitlements are the lifeblood for millions of individuals who depend on Social Security disability payments, unemployment compensation, Medicaid and Medicare part A benefits. But we can't just sit back, year after year, watching the cost and scope of these programs balloon without addressing the reasons behind their growth. The fact is, our current health care system is failing and forcing American citizens, in increasing numbers, to depend on the Government to provide the care they need. So where this year's Labor "HHS" Education appropriation is 74 percent entitlements, next year's could be even more skewed toward mandatory spending.

Although the words "entitlement" and "empowerment" have the same number of letters, they certainly do not have the same budgetary impact. I am frustrated by our inability to provide more money to proactive Government initiatives, such as Healthy Start, community prevention grants and the Adolescent Family Life Program that will empower people to take control over their own lives. Instead, we perpetuate the redtape. For instance, today, four staff members in my district offices will work almost exclusively to resolve conflicts between beneficiaries and the bureaucratic nightmares of these entitlement programs. Mr. Chairman, we've got to do better than perpetuating the status quo through annual appropriations bills. We must attack the problem of our current health care delivery system, eliminate the duplication, abuse and bureaucratic waste of the governmental system and provide options for those who have fallen victim to the skyrocketing costs of medical care in this country.

I will support this appropriation today because it's a matter of life and death for countless people and because the Government has entered into a contract that must be upheld. But I do so while urging my colleagues not to stop here. Let's finally reform our health care delivery system.

Mr. LEWIS of Florida. Mr. Chairman, there are many, many fine programs in this bill that I strongly support, including medical research on women's health, Alzheimer's disease, AIDS, cancer, and others, as well as Head Start and other effective education programs. Therefore, it is with regret that I must vote against this bill because of the need for fiscal restraint in the Federal budget.

This bill appropriates $244.1 billion. This figure is $25.3 billion more than was appropriated in the previous fiscal year. I cannot in good conscience support such a large increase in spending when we have a $4 trillion national debt.

I understand that most of the programs in the bill have a worthy purpose, but we simply cannot afford to continue borrowing our way into future fiscal oblivion. We cannot continue to live beyond our means at the expense of future generations.

It is my hope that the next Congress will see fit to adopt a balanced budget amendment to the Constitution so that, if three-fifths of the States approve the amendment, the Appropriations Committee and this House will be compelled to prioritize spending and put ourselves on the road to a balanced budget.

In the meantime, it would be unconscionable to give my approval to the uncontrolled spending represented in this bill.

Mr. COLEMAN of Texas. Mr. Chairman, I rise in support of H.R. 5677, the Departments of Labor, Health and Human Services, and Education, and related agencies appropriation bill for fiscal year 1993. In doing so, I wish to commend the leadership of Chairman NATCHER and the ranking member, CARL PURSELL, as well as the hard work of the entire subcommittee in bringing forward this legislation.

There are a number of proposals contained in the bill which are important to my congressional district in west Texas. For example, the legislation contains important funding increases for the Job Corps Program nationwide. My colleagues will remember my pride in the outstanding work of the El Paso Job Corps Center which has been recognized as the No. 1 center for the last several years.

I am also encouraged about the fact that the bill recognizes the unique situation involving health issues emanating from the United States-Mexico border area. The subcommittee included language which directs the Health Resources and Services Administration to give priority consideration to community health center funding initiatives from southwestern border communities. The bill also addresses border health education centers by funding schools of medicine and osteopathy in border areas.

I also applaud the subcommittee's initiative in supporting increased funding over the President's budget request for the Head Start Program. The bill contains important funding requests for programs involving chapter 1 compensatory education programs, bilingual education programs, and immigrant education initiatives. All these educational initiatives are aimed at integrating students of all backgrounds and income levels into our public school system. This also recognizes the cultural diversity present in our society, especially in urban centers like El Paso.

Finally, I want to support this legislation because of the important women's health initiatives and programs in support of families, youth and children contained therein.

I urge my colleagues to join me in supporting this legislation.

Mr. MOAKLEY. Mr. Chairman, I would like to express my strong support for the Low-Income Home Energy Assistance Program [LIHEAP].

LIHEAP provides invaluable supplemental fuel assistance to many residents of my district, particularly now. Massachusetts has been in the midst of one of the worst recessions in postwar history and the unemployment rate hovers at around 9 percent. Thousands of senior citizens, unemployed, and working families in my district are barely able to make ends meet. They are literally forced to choose between putting food on the table and heating their home. This is unacceptable.

Additional funding is needed just to maintain services. I understand the budgetary constraints we are facing, but I cannot emphasize enough the importance of adequate levels of funding for LIHEAP. The Low-Income Home Energy Assistance Program deserves our full support.

Mr. ROGERS. Mr. Chairman, I want to congratulate Mr. NATCHER, our hardworking chairman of the House Labor-HHS-Education Committee for all of his excellent work.

This was a difficult bill to produce, but as usual Chairman NATCHER has done a superb job to ensure that programs that touch every aspect of our lives are protected.

Of the thousands of programs in this bill, I want to call attention to one relatively small program that does a lot of good. I'm talking about the Low-Income Home Energy Assistance Program or the LIHEAP Program.

Mr. Chairman, the LIHEAP Program works.

Last year in Kentucky, the LIHEAP provided emergency heating to 67,000 households, many of the people live in the mountains of eastern Kentucky, where the weather is severe and unpredictable.

Last year in Kentucky, more than 55 percent of the people who benefited from the LIHEAP in eastern Kentucky were senior citizens living on fixed incomes.

I urge my colleagues to support this bill and the LIHEAP Program as we move toward conference with the Senate. And, I want to commend my chairman from Kentucky for producing the best possible bill for the Nation.

Mr. GUNDERSON. Mr. Chairman, I am pleased to have this opportunity to speak in favor of the fiscal year 1993 appropriations bill for the Departments of Labor, Health and Human Services, and Education. I have always commended the efforts of the chairman, Mr. NATCHER, the ranking Republican member, Mr. PURSELL, and the other members of the committee in producing a bill that addresses many of the health and educational needs of this Nation. I believe, that this year in particular, they are deserving of high praise.

As one reviews the fiscal year 1993 bill, one finds that many of the education, health, and social service programs that come under the purview of this committee, have not been increased to many of our expectations or to those of our constituencies. However, this is not the fault of the chairman nor of the committee. All of us have contributed to this outcome. Over the last several years, we have all continued to play smoke and mirrors with the Federal budget. You can only play this game so long, before it catches up with you.

Despite the constraints placed on the committee, the 1993 bill represents a commitment to health and education programs. I would like to take a moment to highlight some of those initiatives.

Community service employment for older Americans: This program provides part-time employment in community service activities for seniors who are unemployed and low-income. Despite the lack of an authorization for this program, the committee saw the program's importance and maintained funding for this important program. This program provides employment to over 10,000 individuals in Wisconsin.

National Health Service Corps: The 1993 bill has given this program a slight increase over fiscal year 1992. Over the last several years, funding for this program has increased significantly. The National Health Service Crops recruits primary health care practitioners for service in underserved rural and urban areas. This program is quite important to western Wisconsin where we currently have nine communities seeking physicians and other health care professionals.

Rural Health Outreach Grants Demonstration Program: I am very pleased to see that the House Appropriations Committee has funded this initiative despite the lack of an authorization. I have introduced legislation to permanently authorize Outreach grants. One successful demonstration project is located in Balsam Lake, WI. The project called Kidscare, provides medical and dental services to children in rural communities who do not have health insurance and are covered by Medicaid.

Centers for Disease Control, funding for HIV: As we all know, no bill will ever contain sufficient funding to combat this most tragic disease. However, I do want to acknowledge that this bill includes a $24-million increase in the CDC's budget for HIV programs supporting research, surveillance, epidemiologic, and preventative efforts.

Breast and cervical cancer screening: This bill also recognizes an important commitment to cancer prevention, especially for women by increasing this initiative $20 million over fiscal year 1992.

Higher education: Last week, the President signed the 1992 Higher Education Act. The committee report indicates that "if the bill becomes law prior to the conference on the 1993 appropriations bill, the committee will consider modifications that might be possible within existing resources." I am confident that the present higher education allocations will be modified to reflect the 1993 higher education bill, especially funding for Pell grants for less than half time students.

Vocational and adult education: The bill contains an $80 million over the fiscal year 1992 allocation. This significant increase will benefit the thousands of individuals who attend vocational education institutions upon graduation from high school and the thousands who attend these entities later in life in order to seek additional training or pursue educational training for a new career opportunity.

Once again, I thank the chairman and the committee for their hard work and effort under very difficult circumstances. I urge my colleagues to support the bill.

Mr. LENT. Mr. Chairman, I rise to express strong support for restoring shortsighed cuts and providing an adequate level of funding for the Low-Income Home Energy Assistance Program [LIHEAP].

LIHEAP provides targeted assistance to less fortunate Americans who require help in heating their homes during the cold winter months. The program has proven to be a highly cost-effective way of aiding the most vulnerable men, women, and children in our society when they are at their most vulnerable. In fact, as many in this chamber already know, approximately 50 percent of all LIHEAP households include an elderly or handicapped individual.

We simply cannot allow further cuts to be made in LIHEAP funding. In my home State of New York, where approximately 2.5 million households are eligible for LIHEAP, only 900,000 were actually served. Nationwide, only 7.1 million homes were served out of the estimated 17 to 24 million eligible. It is simply unacceptable Mr. Chairman, for us to permit nearly 1½ million New Yorkers and more than 10 million Americans to be left out in the cold next winter.

Earlier this month, the House acted on the Presidents urban aid proposals to prevent a long, hot summer in our cities. Now we must act with similar determination to ensure that Americans beneath the proverty line are not forced to endure a long, cold, and exceptionally cruel winter. I urge my colleagues to join me in supporting funding sufficient for the LIHEAP Program to do the important job for which it was created.

HEAP/LIHEAP FACT SHEET

Nationally—unemployment is 7.3%.[1]

New York—unemployment is 9.3%.

City of Buffalo—unemployment is 12.2%.[2]

Nationally—450,000 workers *each week* filed *new* claims for jobless benefits from November 1991 to March 1992.

New York—(not available).

Nationally—Between 17 to 24 million households are eligible for HEAP.

Nationally—Only 7.1 million were served.

New York—Approximately 2.5 million households are eligible for HEAP.

New York—Approximately 900,000 households were served.

Households with income below 125% of poverty spend approximately 14% to 23% of their entire income for home energy.

The average household spends 3.5% to 4.0%.

NORTHEAST

The average low-income household's annual gas bill is $1,334. The average HEAP grant (basic) is $200. In Erie County, the average (basic) grant is $120.

NEW YORK

Ninety percent (90%) of HEAP recipients have incomes less than $8,000 per year. In addition, approximately 50% of all HEAP households include an elderly or handicapped individual.

NATIONALLY

The proposed Administration LIHEAP plan would slash funding from the current $1.5 billion dollars to $1.065 billion dollars in 1992–1993—a 29% cut.

To make matters worse, the Administration plan would provide only 25% ($266,500,000) of the total funding at the outset of the fiscal year in time for the heating season.

The remaining 75% ($798,750,000) would not be available until the last day of the fiscal year, September 30, 1993.

Since 1989, more than 2 million households have slipped below the poverty level.

Mr. WEISS. Mr. Chairman, I wish to commend my respected colleague, the chairman of the Appropriations Subcommittee, Mr. WILLIAM NATCHER, for his continuing support for AIDS funding. In the early years of this deadly epidemic, when the President's budget requests for AIDS programs were woefully inadequate, Mr. NATCHER was able to increase and, in many instances, more than double the funding amounts above the levels requested. His work allowed the Federal Government to mount a more vigorous response to the AIDS epidemic.

However, in the past few years, due to the expanding budget deficit and ill-conceived efforts by the Congress to restrain it, the Appropriations Committee has not been able to maintain the increases so sorely needed in funding for AIDS research, prevention and care. Annual appropriations have not continued to grow at a rate that can keep up with, let alone get ahead of the epidemic. In fact, in this fiscal year 1993 appropriation, the committee's AIDS budget has sunk below the President's request.

As last week's International AIDS Conference in Amsterdam demonstrates, the cost of AIDS care in the United States has risen sharply during the past year and will continue to rise by 48 percent from 1992 to 1995. This projection is the result of anticipated increases in the number of HIV infections and AIDS cases as well as increased need for services.

The Ryan White Care Act, authorized in 1990 at nearly $900 million, would provide this essential health care and other services to persons with HIV disease. But Ryan White has never come close to full funding. This bill contains $327 million for Ryan White, $13.5 million more than was appropriated in fiscal year 1992, but $18 million less than the President's request. This shortfall will exacerbate the burden on health care systems in cities and towns across the nation as the HIV caseload continues to rise.

Another important source of health care for persons with HIV disease are community health centers. And yet, this venerable program that has been the provider of health care to poor persons in urban and rural areas since the Great Society programs of the sixties, was cut by $88 million in this bill. I deeply regret this cut and hope that it can be restored.

In response to charges that they have not made sufficient progress against the AIDS epidemic during the past decade, a decade in which they allowed the disease to flourish, the administration responds that they have spent many billions of dollars—more than has been spent for some other major diseases. It is true that the administration has spent a considerable amount of money on this epidemic, but it still has not been enough:

With all their research dollars, they have developed neither a cure nor a vaccine for AIDS. Nor are there any treatments that can substantially prolong life or rebuild a devastated immune system;

With their prevention dollars, the Centers for Disease Control has not learned how to systematically provide effective prevention messages to those most at risk, and they have allowed the epidemic to continue to grow with 40,000 to 80,000 new infections each year. Moreover, according to testimony at a recent hearing held by the Government Operations Subcommittee that I chair, some CDC prevention programs have been subjected to political constraints in the promotion of condom use and other strategies for the prevention of HIV transmission;

And, finally, with their treatment and care dollars, the administration is not taking care of many of the HIV-infected persons who are in need of drugs, early intervention, social services and health care.

Another epidemic—tuberculosis—which we thought was under control, has returned accompanied by a dangerous and often lethal new form. Drug resistant TB is wreaking havoc in many of our larger cities and terrorizing the very communities that are hardest hit by the AIDS epidemic. I applaud the Appropriations Committee's funding level for TB prevention and control, which is an increase of $59 million over the 1992 level and $39 million more than the amount requested by the President.

In sum, the Appropriations Committee has done well by tuberculosis, with a funding level that will provide greater assistance to severely affected cities. But for AIDS, the funding levels are insufficient to adequately cope with the burgeoning number of AIDS cases, capitalize on recent advances made in AIDS research, and mount prevention programs that reach the large numbers of persons at risk.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 5677, the appropriations bill for Health and Human Services and Labor Departments. The subcommittee was given the very difficult job of ordering the priorities for this country in this time of very limited resources.

I support this bill with some reservations, for as with any orderings of priorities I agree with some of the proposals that have been made while strongly disagreeing with others.

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[1] U.S. Department of labor.

[2] NYS Department of Labor Regional Offices (as of April 28, 1992).

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

Of the cuts that were made in this bill, one of the most disastrous in my view, is the severe cut that is sustained by LIHEAP. The committee's recommended appropriation of $891 million is $174 million less than the administration's request. This is particularly difficult since under the administration request the program was already cut by $609 million from the fiscal year 1992 level of funding.

The Low-Income Home Energy Assistance Program provides funds for the most needy citizens to heat their homes in the winter. These are people receiving public aid, the elderly and those who are living below the poverty line. In my city of Chicago, where winters are extremely difficult, we are already unable to assist all of the households which are eligible and in need of assistance.

In fiscal year 1991 families participating in LIHEAP in the city of Chicago received an average benefit of $385 dollars per household. That benefit decreased to $218 in 1992. If the number of households served remains the same as in 1992, the average benefit per household under this appropriation would be a mere $178 per household. Believe me in a Chicago winter $178 does not buy a lot of heat for a poor family.

Over these 3 years the bite of the cold has not lessened nor has the number of poor families decreased—in fact the poor have increased. This means our most vulnerable citizens—children, senior citizens, and the ill and disabled—are at risk. For many the help they receive from LIHEAP means the difference between heating their homes and risking illness or death from exposure to the cold. I fear that in cutting this program we are sending the most cruel of messages to already hurt and neglicated families.

This cut could not come at a worse time. The budget crunch that is affecting State houses across the country has sent State legislatures and Governors looking for places to decrease spending. All too often they cut programs that serve the poor. In my State of Illinois the Governor has eliminated the State's energy assistance program—the Residential Energy Assistance Partnership Program. It has been replaced with an energy assistance program solely funded with Federal LIHEAP dollars, this act has eliminated between $33 and $38 million in State funding for energy assistance to low-income residents. The elimination of REAPP makes full funding of LIHEAP a critical issue for residents in my State.

WOMEN'S HEALTH

In spite of this glaring error there are some recommendations in the bill that I support enthusiastically. I am glad to see that the issue of women's health has again been given the highest priority by the committee in its appropriation for the National Institutes of Health. By designating over $43 million for the second year of the women's health initiative, which will provide a comprehensive study of heart disease, osteoporosis, and cancer in midlife and older women we can show our commitment to insuring that the health care of women is not overlooked. NIH will be able to look more closely at these conditions which affect women in alarming numbers.

The committee has encouraged NIH to give priority to including women and people of color in clinical trials of AID's patients. Since growth in this deadly virus is especially heavy in the these demographic groups, it only makes sense that more resources should be devoted to them.

Mr. Chairman, as I lament some of the priorities in this bill I applaud others. Hopefully when all is completed we can be proud of the decisions that we make in carrying out the business of the American people.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of this legislation today and to say that given our subcommittee allocation it was the most difficult bill our subcommittee has ever had to consider and bring before the House. As Chairman NATCHER has noted, our 1993 budget allocation actually allows for 2-percent less in outlays than our 1992 bill.

This forced our committee to take a hard look at evaluating our priorities for 1993. In most cases, I believe, we made the right choices, especially in emphasizing the need to provide for the health and education of our children.

Included in the bill is $29 billion for programs at the Department of Education. This represents a 6-percent increase over the amount provided in 1992. With these funds, the Department provides our local school districts with support for educationally disadvantaged children, for vocational and technical education programs, for special education for the handicapped, for adult education programs, and for financial assistance to students attending college.

For the Department of Health and Human Services, our committee has provided $9.2 billion for biomedical research at the National Institutes of Health. This includes special research initiatives into breast, cervical, and testicular cancer; diabetes and juvenile diabetes; sudden infant death syndrome; Alzheimer's disease, osteoporosis, heart attack, and stroke.

The committee also recommends $1.98 billion for research, education, and other activities directed at the prevention and treatment of AIDS, the greatest health epidemic facing our Nation and the world. Included in this request is $327 million to fund the Ryan White AIDS care programs to assist highly impacted communities, including the St. Petersburg/Tampa area of Florida which I represent, in providing treatment and counseling for AIDS patients and at risk populations. This is a $50 million, or almost 20 percent, increase over the amount available for 1992. It is interesting to note that 12 years ago, the committee provided the first $200,000 for AIDS research.

Continuing on ongoing commitment, our committee provided $346 million for childhood vaccine programs, an increase of $49 million or 16 percent over the amount available in the current year. These funds are to help State and local public health programs to vaccinate more schoolage children against measles, mumps, and whooping cough which are totally preventable diseases if only we can deliver the vaccines to children in a timely manner.

To better prepare our children to begin school ready to learn, our committee recommends funding of $2.7 billion for Head Start, a 24-percent or $519 million increase over the 1992 level. This will enable an additional 90,000 children to be served by the program. If the funding is enacted at our recommended level, our committee will have increased funding for Head Start by $1.5 billion, or 120 percent, over the past 4 years.

Finally, the bill provides the funding required to administer the Social Security and Medicare Programs. This includes a $101 million increase in payments to the Medicare contractors to meet the anticipated growth in claims filed by beneficiaries and providers.

Throughout the process of drafting this bill with such difficult budgetary constraints, the members of our committee had to compromise in a number of areas which made none of us happy. This is a bill, Mr. Chairman, which could use twice the budget allocation we had to fund all the worthwhile programs within our jurisdiction.

One of the programs on which there was uniform agreement among the members of our committee was funding for the National Marrow Donor Program. Included in this bill for the National Heart, Lung, and Blood Institute, which along with the U.S. Navy does an excellent job administering this program, is $26.7 million for the operation of the program, for marrow donor recruitment especially in minority communities, and for a number of important research initiatives to improve the rate of success for marrow transplantation and to continue to expand the number of diseases for which it is a life-saving cure.

Mr. Chairman, last year I shared with my colleagues two charts showing the dramatic growth of this program which should make every Member of this House proud for the role they have played in its support. Today, I want to update those charts to show you that the rapid growth and enthusiasm for this program continues unabated. As you will note, at the end of June, 642,370 Americans had taken the quick and simple blood test required to be listed in the national registry. This is a 77-percent increase in the number of volunteers since I showed you these charts last year. In fact, during the last quarter, the registry grew by an average of 33,000 potential donors per month. Great progress continues to be made in providing ethnic diversity to the national registry. The number of minority donors has increased four fold in the past year.

The funds provided by this committee and the Defense Appropriations Committee on which I serve, have enabled 46,800 minority volunteers to be tissue typed and added to the national registry. In fact, almost one-fifth of the donors added to the registry during the past 18 months are from minority populations.

The purpose of this program, and the result of the hard work of so many heros who have dedicated their lives to this program, is told in the growing number of patients who are finding matched, unrelated donors through our registry. They are given hope in their battle against leukemia and more than 60 otherwise fatal blood disorders. As the charts indicate, through June 30, 1,259 transplants have been completed utilizing donors through our registry. Currently, 40 to 50 matched donors and patients are being brought together each month.

As I have said so often, the secret to the success of this program is people, and as the charts show you today, the increasing number of donors translate to increased opportunities to save lives. The 77-percent increase in donors over the past year has resulted in a 70-percent increase in transplants during that same time period.

Not only are we matching more patients and donors, but we are finding higher quality matches in less time leading to an increasing success rate for the procedures. It has been found that the success rate for some forms of leukemia is upwards of 70 percent. These are patients whose chance of survival without a transplant is virtually zero.

Although the primary mission of the National Marrow Donor Program has been to save lives by matching unrelated patients and donors, the scientific community is quickly understanding the unprecedented research potential provided by the national registry. Nowhere in the world is there a larger collection of computer coded tissue samples.

This registry of data will become even more valuable and precise through an initiative begun last year, the National Marrow Donor Program will retain DNA samples for volunteers being added to the registry. Over time, this process will enable researchers to have access to the genetic codes of thousands of individuals worldwide.

The research potential for this collection of tissue samples is unlimited and its possibilities are just beginning to be understood by researchers. In anticipation of the many ethical and scientific questions that must first be answered before this information can be utilized for research, the National Marrow Donor Program has appointed an ethics and scientific review committee to make recommendations in these areas.

The potential is clear, however, that the national registry can be a key tool to unlocking the genetic secret to many of the diseases that remain a mystery to the medical community.

The National Marrow Donor Registry is also a national and international resource that is ready to be placed into service in time of crisis or disaster. As we learned during Operation Desert Storm, when plans were prepared to utilize the national registry to provide matched platelets for allied casualties, there are many ways in which this program can save lives besides providing a source for marrow donors.

Matched platelets are oftentimes required for patients who are severely burned or exposed to chemical weapons or other toxins to the body. They increase the chance for survival in the cases of these casualties and are available in large numbers through the national registry.

Finally, bone marrow transplantation offers hope as a treatment for a number of malignancies, immune disorders, and other conditions not even considered for treatment by bone marrow transplanters just a few years ago. Already a number of otherwise lethal conditions in children, including congenital abnormalities of the immune system and enzyme deficiencies that left untreated lead to vital organ failure, have successfully been treated with unrelated marrow transplants through the national registry.

The research funded in this bill opens the door to allow us to explore these possibilities and applications to further expand the use of the national registry. In addition, it will enable transplanters to better understand ways in which we can improve the rate of success of marrow transplants by reducing the incidence of graft versus host disease, the single most serious obstacle to a successful transplant, as well as other complications which can cause heart, liver, and kidney failure in recipients.

Research utilizing DNA-based technology also enables researchers to even more precisely match patients and donors further improving the chance at success.

By this time next year, the National Heart, Lung, and Blood Institute will open its own bone marrow transplant unit to begin onsite clinical work to answer many of the mysteries still surrounding marrow transplantation.

Finally, funding included in this bill will enable the National Marrow Donor Program and the National Heart, Lung, and Blood Institute to go back and carefully evaluate the biostatistics required to determine the rate of success for the almost 1,300 unrelated marrow transplants completed with donors identified through our registry and to undertake an important program of prospective clinical trials on bone marrow transplantation to determine the rate of effectiveness for treating various complications that arise during the procedure.

Mr. Chairman, the news is good about the National Marrow Donor Program. It continues to be a modern medical miracle—one which we have just begun to tap to save lives in so many new and different ways. It is also a program which is uniting the world as already marrow has crossed international borders some 40 times and more than a dozen countries have formal and informal working agreements with the program.

Every member of this House can take great pride in the role they have played in establishing and funding this program to give so many people and so many families the hope for a second chance at life that did not exist just a few short years ago.

Mr. PACKARD. Mr. Chairman, I rise in opposition to H.R. 5677.

In 1986, Congress adopted the Immigration Reform and Control Act [RCA] to legalize millions of individuals residing permanently or temporarily in the United States without documentation. IRCA mandated States provide public assistance programs to the amnesty population. Congress agreed to share the costs of these programs with the States.

To assist the States with the health, education, and social services costs incurred with compliance of IRCA, Congress appropriated $1 billion for each of the 4 fiscal years beginning in 1988. These funds were appropriated to guarantee that States affected by IRCA would not be left holding the bag for these Federal mandates.

Once again Congress is shirking its responsibility. H.R. 5677 includes language which cuts half of the total $1.2 billion in SLIAG funding that otherwise would become available in fiscal 1993.

California's State and local governments have complied with the requirements of IRCA. However, this compliance has shifted a disproportionate amount of the cost of this Federal mandate to overburdened states and localities.

California is home to 1.6 million former undocumented aliens who applied for temporary residency status. As my colleagues can see, California has honored more than its fair share of the bargain. Now it is time for Congress to take responsibility and live up to its commitment.

Mr. HOUGHTON. Mr. Chairman, I rise in support of the Low-Income Energy Assistance Program [LIHEAP]. I do so because this program is vital to the Northeast and the 34th District of New York.

In fiscal year 1992, Northeastern States received in $199.8 million in LIHEAP funds, allowing them to help 1.9 million families, many of whom were poor, elderly or disabled, meet their heating needs; 29,200 of these families were in my district, the southern tier.

What does this program mean to the people it helps? Take Allegancy County, NY, as an example. This past winter the county department of social services used LIHEAP funds to assist 4,087 families; 1,178 of these were emergency cases and many were senior citizens. If the money had not been available, these families would have lost the most basic of necessities—their heat.

How does this bill, the Labor-HHS-Education appropriations bill, treat such an important program? Not well. It cuts LIHEAP by 41 percent from the fiscal year 1992 level of $1.5 billion.

Last year, the House cut a big chunk from LIHEAP funding, but it was restored in conference. Hopefully, the same thing will happen this year.

Mr. WELDON. Mr. Chairman, I rise today in strong support of increased funding for the Healthy Start Program. Healthy Start, which was initiated in 1991, is designed to reduce the incidence of low birth weight, alleviate the tragedy of infant mortality, and help reduce the Nation's spiraling health care costs. Yet, while the administration requested $143.1 million for fiscal year 1993, the Healthy Start Program has only been funded at $60,832,000, which is $614,000 below the 1992 level and $79,310,000 below the administration's request.

Currently, there are 15 areas, both rural and urban, that have been targeted to initiate pilot Healthy Start projects. These areas have been chosen because they have particularly high infant mortality rates. Through the moneys available in the bill, grants will then be made available to these test sites in order to support outreach, public information, case management, and coordination of a wide variety of health and social services as well as expand health care delivery.

Philadelphia was selected as one of these 15 test areas to receive grants specifically designed to fight infant mortality. This city was selected not only because of its need to develop innovative new maternal and infant care programs but also because of its impressive community program to improve maternal and infant health care.

Yet, Mr. Chairman, 1993 is a critical year for the Healthy Start Program. At the time of the initial grant awards in October 1991, the grantees were advised that the Healthy Start Program is a 5-year demonstration program. For the past 9 months, the 15 Healthy Start projects have focused on developing implementation plans for their communities. These plans were based on the fiscal year 1992 appropriation levels and an expectation that the fiscal year 1993 funding would be in line with the President's request.

However, any deviation from the amount requested by the administration would, without a doubt, raise questions about the Federal commitment to Healthy Start communities and would make it extremely difficult for communities to plan for the future years. This, Mr. Chairman, would seriously threaten the future of this important initiative.

As Members of Congress, we have a dual role of providing projects with a predictable source of funds and doing all we can to assure that any administrative barriers that hinder women and children from receiving necessary services within our control are removed. Yet, Mr. Chairman, I am very concerned that without adequate funding for this program, this barrier will continue to exist at the expense of those that are most in need of this program.

It is time for Congress to show this Nation that we are committed to helping America's cities and our youth. I urge the Appropriations Committee to support increased funding for Healthy Start when this bill goes to conference.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 5677, the Labor, Health and Human Services, and Education, and related agencies appropriations bill for fiscal year 1993.

Each year, we applaud Chairman NATCHER and the members and staff of the subcommittee for their work in drafting this legislation and bringing it to the floor. However, the chairman and his team deserve special acclaim for their work during this appropriations cycle.

The task before the subcommittee this year was perhaps the most challenging it has ever faced. To begin with, the subcommittee—as always—has a very small pot of money to work with. This is because 74 percent of the funds in their budget are for entitlement programs, like unemployment compensation, Social Security and Medicare—for money that is automatically spent, and over which the subcommittee has no control. The remaining 26 percent is discretionary funding—the money that must be divided up among the programs that are so critical to us, especially now.

Second, the spending caps that were set in place by the 1990 Budget Enforcement Act greatly restricted the use of what little discretionary funds the subcommittee had to work with—it had 2 percent less this year than it had last year. In other words, last year's expenses had to be reduced by 2 percent in order to fall within the limitations of the budget.

In spite of the above, the subcommittee managed to set priorities and make hard choices. The result is a bill that continues to fund a lot of good programs, as well as to meet new needs. H.R. 5677 does not drive us deeper into debt, but helps us meet our goal of living within our means.

The funds in H.R. 5677 are used to minimize the effect that our economy has on workers, like those Californians who are dislocated by our declining defense industry. H.R. 5677 provides temporarily unemployed workers with both income and job search assistance, and supports job training and summer youth employment, as well as part-time community-based jobs for low-income senior citizens, and employment and training programs for veterans.

H.R. 5677 funds health research, this year placing a very high priority on women's health, in particular breast, cervical, and ovarian cancers. It supports community health centers and educational programs for health care professionals. The Centers for Disease Control, which insures that serious problems—like those related to the spread of AIDS, sexually transmitted diseases, and tuberculosis—can be addressed, is funded by this bill.

Child care programs, child support enforcement programs, Head Start, foster care and adoption assistance support services, nutrition services for our elderly citizens—all these key support systems are dependent upon the funding in H.R. 5677.

The bill manages to delicately balance the different, overwhelming needs it must meet. Programs that have not yet been authorized for the upcoming year—like those in the Older Americans Act—are funded at last year's levels. Funding for the Farmworker Safety Program—which supports the Center for Agricultural Disease and Injury Research and Education at the University of California, Davis and which the President had completely eliminated—is restored.

Most noteworthy is the grant for which the cancer center at the University of California, Davis and Lawrence Berkeley Laboratory were just selected. The grant will fund startup construction for a state-of the-art cancer treatment center. The funding for this grant—which was only awarded to one other location in the country—is in H.R. 5677.

During this time of severe financial constraint, Chairman NATCHER has also been able to honor our Federal commitment to fund SLIAG, State legalization impact assistance grants. This is the program that is so critical to the delivery of health, education and public assistance services required for newly legalized persons, not only in California, but in the other 41 States and territories that have applied for and received SLIAG funding.

I want to thank the chairman for his hospitality, in allowing me and other members of the California delegation to testify before the subcommittee on behalf of SLIAG, as well as for his support, his sensitivity, his diligence, and his commitment in working with us to honor this Federal mandate. The $561 million that the subcommittee has appropriated for fiscal year 1993 will enable us to get through the upcoming year; and the remaining $562 million—to be funded in fiscal year 1994—will enable us to fulfill the remainder of our obligation to support these crucial health and education services.

It is obvious that, without H.R. 5677, we would not be able to fund the essential programs that support our basic needs. A vote for the health, education, nutrition and employment programs in H.R. 5677 is a vote for us all. America's families, workers, children, elderly, and veterans are dependent upon the programs and services that H.R. 5677 sustains and provides. I urge my colleagues on both sides of the aisle to support funding of basic benefits and services for all Americans.

Mr. Chairman, I want to express my support for H.R. 5677, the Labor, Health and Human Services, and Education appropriations for fiscal year 1993. The bill appropriates $764 million for the Impact Aid Program, including $135 million for section (b) students whose parents live or work on Federal property. This represents an increase of $232 million over the administration's 1992 budget request. Most importantly, the bill restores funding for federally connected "B" students which the administration proposed to eliminate.

I testified and 104 Members joined me in a letter to the Labor, Health and Human Services, and Education Appropriations Subcommittee expressing our concern about the administration's impact aid cuts. We are very grateful to the Appropriations Committee, and to especially Chairman NATCHER and ranking minority member CARL PURSELL, for recognizing that these cuts would cause serious harm to our Nation's school districts and the families of those schools.

Public Law 81–874, the Impact Aid Program, recognizes the Federal Government's duty to reimburse school districts for the local revenues lost from federally connected parents because of Federal ownership. Impact aid is a critical source of funding for congressional districts such as mine which is the home of Offutt Air Force Base and the headquarters of the Strategic Command. This large military installation creates an influx of residents in surrounding communities and students in the public schools and reduces local tax revenues, a major source of funding for public education in Nebraska. Under President Bush's fiscal year 1993 budget proposal to eliminate "B" funding, six school districts in the Omaha area would be responsible for educating nearly 7,500 students without the promised Federal funds.

We must support impact aid to ensure that all children receive an education that enables them to be productive citizens. Public concern about the economy continues to soar. Unemployment is at 7.8 percent, and American families are struggling to make ends meet. At the same time, we must recognize that the current recession is not just a cyclical downturn, but it is also a harbinger of serious long-term economic ills that must be addressed. Investing in human capital is one of the best investments we can make. One of the long-term solutions is to give our children a quality education and to spur long-term job creation.

I am pleased to vote "yes" today to restore the Impact Aid Program. This is a clear Federal obligation which means a great deal to the students and families in my congressional district and schools across the country.

Mr. SHARP. Mr. Chairman, as the current recession has persisted in so many parts of the country, the need to give hope to the average American family has deepened. The Labor—HHS—Education appropriations bill occupies a place of special importance because it addresses so many of our basic human aspirations.

If your children need hope, this bill holds the promise of a better education; if your parents need hope, it offers medical research for their old age; and if you need a job, there are employment and training opportunities.

Yet, in one important area this bill fails to provide hope for those who need it. This is in funding for the Low Income Home Energy Assistance Program, known as LIHEAP.

LIHEAP serves over 6 million households in all 50 States, providing critical assistance to the poor and elderly by helping them pay for their energy bills. In order to improve the operation of this program, 2 years ago Congress passed an authorization for LIHEAP that included many innovations and set an authorization level for fiscal year 1992 at $2.23 billion.

However, funding for this program has steadily declined from $2.1 billion in 1985 to $1.5 billion in fiscal year 1992. The reason for this decline has been a combination of the temporary availability of oil overcharge money to the States and a lack of support by the administration. The oil overcharge money was a excuse that has now largely run out. Unfortunately, opposition by the administration has become a permanent fixture.

Earlier this year, over half of the House cosponsored House Concurrent Resolutions 282 expressing a sense of Congress that LIHEAP should receive funding in fiscal year 1993 that is at least equal to last year's level. Unfortunately, competing priorities in this bill forced a 41 percent reduction in this program.

This appropriations bill includes funding for education, welfare, and health. As a result, Members voting on this bill have been put in an impossible situation requiring them to choose whether they would rather have their constituents be wise, warm, or well. We should not have to choose between these necessities.

It is extremely disappointing that the Appropriations Committee did not have sufficient funding available for this bill so that they could protect this program. I would like to make it very clear that I oppose this drastic cut in the LIHEAP Program and will work to restore funding in conference and in subsequent. years.

Furthermore, I would like to call on the President and the Appropriations Committee to reconsider their position on funding for this program and to pledge to work with the authorizing committees and other Members to raise the funding for this program. I hope such cooperation will lead to a winning solution to this problem.

Mr. HOAGLAND. Mr. Chairman, I am pleased to give support to H.R. 5677, the Labor, HHS, Education and related agencies appropriations bill for fiscal year 1993. The bill contains vital funding for the Job Training and Partnership Act.

In May, I testified before Chairman NATCHER's subcommittee on the important role JTPA plays in Nebraska and the need to restore the funding cuts proposed for this program by the President in his budget submitted to Congress. I am pleased to see that the Appropriations Committee agreed with my view that the President's request was shortsighted.

The bill before us today provides $4.2 billion for the 1993 program year, an increase of $77 million over the President's request. These funds will help JTPA fulfill its mandate of helping the untrained and the undertrained find meaningful long-term employment.

I want to highlight the Gateway Program in Omaha, NE, a JTPA-funded program. This innovative concept was created by the Omaha Housing Authority, in conjunction with Job Training of Greater Omaha, Metropolitan Community College, and the Omaha business community, to help residents of Omaha's public housing gain design, carpentry, and management skills that they can use to seek permanent employment. They have created a shop to construct doors, windows, and screen products for use by the Omaha Housing Authority and for sale to other housing authorities across the country. Job Training of Greater Omaha is providing on-the-job training services to program participants in the shop and providing up to 50 percent of the salaries of the workers during the training period.

Omaha's Gateway Program is a good example of how a consortium of organizations and a melding of funding can come together and provide training and hope to people who need just a little support to get started. This program may not have a future unless Congress provides adequate funding for JTPA. I urge Members to support the bill and commend Chairman NATCHER and the committee for recognizing the county's job training needs in this time of tight budgetary limits.

Mr. PURSELL. Mr. Chairman, I yield back the balance of my time.

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Mr. NATCHER. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The text of the bill is as follows:

H.R. 5677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, $76,952,000, together with not to exceed $55,078,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $4,060,578,000, plus reimbursements, to be available for obligation for the period July 1, 1993, through June 30, 1994, of which $62,370,000 shall be for carrying out section 401, $76,868,000 shall be for carrying out section 402, $9,029,000 shall be for carrying out section 441, $1,485,000 shall be for the National Commission for Employment Policy, and $3,861,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 252(b) of the Act; and, in addition, $60,288,000 is appropriated for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, as authorized by the Job Training Partnership Act, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1993 through June 30, 1996; and, in addition, $50,000,000 is appropriated for Clean Air Employment Transition Assistance under part B of title III of the Job Training Partnership Act, to be available for obligation for the period July 1, 1993 through June 30, 1994; and, in addition, $12,870,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For expenses necessary for the acquisition, construction, rehabilitation and equipping of facilities at two new Job Corps centers, including all necessary expenses incident thereto, $30,000,000, as authorized by the Job Training Partnership Act, to be available for obligation for the period July 1, 1993 through June 30, 1998.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $305,159,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $86,071,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $211,250,000 together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95–250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–491–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235 and 243–244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212(a) (5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, $23,638,000 together with not to exceed $3,191,418,000 (including not to exceed $2,080,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed $500,000 which may be obligated in contracts with non-State entities for occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1993, except that funds used for automation acquisitions shall be available for obligation and expenditure by States through September 30, 1994; and of which $21,620,000 together with not to exceed $791,772,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1993, through June 30, 1994, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $338,908,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1993 is projected by the Department of Labor to exceed 3.54 million, an additional $30,000,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code and section 104(d) of Public Law 102–164, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1994, $665,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1993, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

LABOR-MANAGEMENT STANDARDS

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Standards, $26,220,000.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, $63,756,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1993, for such Corporation: *Provided*, That not to exceed $34,857,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $232,332,000, together with $999,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $290,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements from Federal Government agencies unobligated on September 30, 1992, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1993: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under Subchapter 5, U.S.C., Chapter 81, or under Subchapter 33, U.S.C., 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $944,027,000, of which $888,251,000, shall be available until September 30, 1994, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $29,726,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,698,000 for transfer to Departmental Management, Salaries and Expenses, and $352,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $287,100,000, including not to exceed $68,927,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $191,930,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $276,210,000, together with not to exceed $49,301,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of five sedans, and including up to $4,238,000 for the President's Committee on Employment of People With Disabilities, $143,291,000, together with not to exceed $329,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $187,308,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $46,827,000, together with not to exceed $4,313,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers' health or safety.

SEC. 103. Notwithstanding any other provision of this Act no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

SEC. 105. The Secretary of Labor is authorized to accept, in the name of the Department of Labor, and employ or dispose of in furtherance of authorized activities of the Department of Labor, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

This title may be cited as the "Department of Labor Appropriations Act, 1993."

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VII, VIII, X, XII, XIX, XXVI, and XXVII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101–527, Public Law 100–579, and the Native Hawaiian Health Care Act of 1988, $2,416,508,000, of which $414,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302: *Provided further*, That of the funds made available under this heading, $990,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $10,900,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $290,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,970,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $2,500,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $80,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, VII, XI, XV, XVII, XIX, and XXVII of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,619,167,000, of which $6,930,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further*, That in addition to amounts provided herein, up to $29,106,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,998,616,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,228,455,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $163,269,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $688,633,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $605,100,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $990,055,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $842,229,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $534,094,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $279,102,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $255,115,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $402,218,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $214,619,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $153,466,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $314,351,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $47,363,000.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $107,217,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $20,133,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $105,024,000.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $191,917,000: *Provided*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to emergency activities the Director may so designate: *Provided further*, That no such appropriation shall be increased or decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $70,090,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, and section 612 of Public Law 100–77, as amended, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $3,099,902,000, of which $3,940,000 for renovation of government owned or leased intramural research facilities shall remain available until expended: *Provided*, That none of the funds appropriated under this heading may be used to implement the provisions of section 706(e) of the ADAMHA Reorganization Act, Public Law 102–321.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $63,171,000, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

CAPITAL IMPROVEMENT FUND

(TRANSFER OF FUNDS)

For construction of, acquisition of equipment for, and repairs and improvements of, facilities of or used by the Public Health Service, such sums as may be derived by transferring one percentum of the amount appropriated in this Act from each account in the Public Health Service for which payments are not mandated by law: *Provided*, That these funds shall remain available until expended.

AGENCY FOR HEALTH CARE POLICY RESEARCH

HEALTH CARE POLICY RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $99,668,000 together with not to exceed $4,831,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,002,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $13,310,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act and section 4360 of Public Law 101-508, $67,311,234,000, to remain available until expended.

For making, after May 31, 1993, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1993 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1994, $24,600,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $43,963,192,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101-508, and section 4005(e) of Public Law 100-203, not to exceed $1,985,497,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further*, That funds in the Federal Supplementary Medical Insurance catastrophic coverage reserve fund are transferred to the Federal Hospital Insurance Trust Fund: *Provided further*, That none of the funds available under this heading shall be used to issue, mail, or otherwise transmit payments under title XVIII of the Social Security Act, other than Periodic Interim Payments, in less than fourteen days after the receipt of an electronic claim, or in less than twenty-seven days after receipt of a paper claim: *Provided further*, That interest on unpaid claims shall begin to accrue on the thirtieth day after receipt of a claim.

SURVEY AND CERTIFICATION FUND

There is hereby established in the Treasury of the United States a Health Care Financing Administration Survey and Certification Fund. Amounts in the Fund shall be available to the Secretary, without fiscal year limitation, to finance the costs of carrying out Federal and State survey and certification activities under titles XVIII and XIX of the Social Security Act and activities under section 353 of the Public Health Service Act (42 U.S.C. 263a). Fees authorized by this paragraph and section 353(m) of the Public Health Service Act shall be deposited in and credited to the Fund. Notwithstanding any other provision of law, the Secretary shall annually establish and collect fees from all providers and suppliers of services or items subject to a requirement for certification under titles XVIII or XIX of the Social Security Act (except clinical laboratories otherwise inspected and certified under section 353 of the Public Health Service Act) and payment thereof shall be made a condition of participation under said titles. Such fees shall be determined annually in amounts sufficient to cover the estimated full cost of survey and certification activities not otherwise covered by fees collected pursuant to section 353(m) of the Public Health Service Act. These fees shall be collected annually from each provider or supplier, regardless of whether the provider or supplier will be surveyed in the year for which the fees are being charged. Fees may be collected through deductions from payments to be made under titles XVIII and XIX of the Social Security Act. Fees established under this paragraph and section 353(m) of the Public Health Service Act shall be set and collected to maintain a minimum balance in the Fund equal to one month's estimated expenses.

These fees shall be assessed and collected solely to cover the costs of Federal and State survey and certification activities under titles XVIII and XIX of the Social Security Act and activities under section 353 of the Public Health Service Act (42 U.S.C. 263a). Fees may be assessed and collected under this account only in such manner as may reasonably be expected to result in an aggregate amount of fees collected during any fiscal year which does not exceed the aggregate amount of survey and certification costs for such fiscal year. Entities subject to such fees shall include only those providers and suppliers of services or items subject to a requirement for certification under titles XVIII or XIX of the Social Security Act (except clinical laboratories otherwise inspected and certified under section 353 of the Public Health Service Act). The fees assessed on providers may vary by group or classification of provider or supplier, or by the relative complexity, type, or estimated cost of planned surveys, based on such considerations as the Secretary deems appropriate, and shall be structured in such a manner so that the liability of any group of providers for such fees is reasonably based on the proportion of the survey and certification activities which relate to such providers and must be nondiscriminatory between foreign and domestic entities.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, $13,800,000 together with any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1993, no commitments for direct loans or loan guarantees shall be made.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $35,242,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including for fiscal year 1993 and thereafter the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $601,313,000, to remain available until expended: *Provided*, That monthly benefit payments for fiscal year 1993 and thereafter shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1994, $196,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $15,994,773,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1994, $7,150,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $4,652,150,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That for fiscal year 1993 and thereafter, travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That for fiscal year 1993 the Secretary shall assess and collect a fee from States having agreements pursuant to section 1616(a) of the Social Security Act with the Secretary for the Federal administration of State payments in supplementation of Supplemental Security Income payments in the amount of 1.67 percent of the dollar amount of such State supplementary payments, notwithstanding said agreements. Said fee amount shall be determined by the Secretary for any month in the fiscal year for which the Secretary will provide Federal administration of the State supplementary payments by multiplying by 1.67 percent the monthly estimate of State supplementary payments required from a

State for payment by the Secretary in that month. The fee amount resulting from such multiplication shall be included in, and be part of, the monthly estimate of State supplementary payments provided by the Secretary to a State. A State shall thereafter pay the fee amount to the Secretary in the amount determined by the Secretary together with, and as part of, the amount paid to the Secretary each month in the fiscal year which represents the federally administered State supplementary payments. Fee amounts collected from the States shall be credited to this account and shall be available in fiscal year 1993 or if collected thereafter, in the fiscal year so collected.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $11,441,950,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1994, $4,000,000,000 to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $891,000,000.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $600,000,000: *Provided*, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $321,750,000.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by inserting after "1993": "and 1994 combined", and by adding before the period: ": *Provided*, That $561,245,619 of these funds shall be available in fiscal year 1993".

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $394,710,000, of which $25,415,000 shall be for carrying out section 681(a) of the Community Services Block Grant Act, $2,005,000 shall be for carrying out section 408 of Public Law 99–425, and of which $3,465,000 shall be for carrying out section 681A of said Act with respect to the community food and nutrition program.

PAYMENTS TO STATES FOR CHILD CARE ASSISTANCE

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981, $841,500,000, which shall be available for obligation under the same statutory terms and conditions applicable in the prior fiscal year.

SOCIAL SERVICES BLOCK GRANT

For monthly payments to States for carrying out the Social Services Block Grant Act, $2,800,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Act, the Abandoned Infants Assistance Act of 1988, sections 933 and 934(d) of Public Law 101–501, subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act, section 10404 of Public Law 101–239 (volunteer senior aides demonstration) and part B of title IV and section 1110 of the Social Security Act, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100–77, and section 126 and titles IV and V of Public Law 100–485, $3,602,262,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $2,988,668,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, $838,228,000.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $91,159,000, together with $30,252,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $61,901,000, together with not to exceed $37,027,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,635,000, together with not to exceed $3,917,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $8,415,000: *Provided*, That not less than $3,350,000 shall be obligated to continue research on poverty.

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 202. Appropriations in this or any other Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,800 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 206. Hereafter amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 207. None of the funds made available by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 208. Funds provided in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, and the computer centers to which such employees are assigned.

SEC. 211. None of the funds appropriated by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 212. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

SEC. 213. No funds appropriated under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 214. For any program funded in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, the Secretary of Health and Human Services is authorized, when providing services or conducting activities for a State with respect to such program for which the Secretary is entitled to reimbursement by the State, to obtain such reimbursement as an offset against Federal payments to which the State would otherwise be entitled under such program from funds appropriated for the same or any subsequent fiscal year. Such offsets shall be credited to the appropriation account which bore the expense of providing the service or conducting the activity, and shall remain available until expended.

SEC. 215. Hereafter, States, as defined for purposes of title XIX of the Social Security Act, and political subdivisions, as defined in section 218(b)(2) of the Act, which accept funds or data from the Department of Health and Human Services shall transmit, without charge and in such form and with such frequency as required by the Secretary—

(1) in order to carry out section 205(r) of the Social Security Act, data on the deaths occurring within the State, and

(2) data on each individual within the State awarded workers' compensation, including name, social security number and award amount.

Such information may be made available to Federal benefit-paying agencies, or to such agencies of States or political subdivisions, subject to such privacy safeguards as are determined necessary or appropriate to protect the information from inappropriate use or disclosure and subject to such provisions for payment as deemed necessary to reimburse the Secretary for reasonable costs incurred in providing such information.

SEC. 216. Not to exceed $489,000,000 may be obligated in fiscal year 1993 for contracts with Utilization and Quality Control Peer Review Organizations pursuant to part B of Title XI of the Social Security Act.

SEC. 217. None of the funds appropriated under this Act may be used to implement the provisions of section 571(h) of the Public Health Service Act.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1993".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $6,759,924,000, of which $6,729,655,000 shall become available on July 1, 1993 and shall remain available through September 30, 1994: *Provided*, That $5,469,750,000 shall be available for basic grants under section 1005 excluding subsection (a)(3), $702,900,000 shall be available for concentration grants under section 1006, $39,653,000 shall be available for capital expenses under section 1017, $89,100,000 shall be available for the Even Start program under part B, $305,215,000 shall be available for migrant education activities under subpart 1 of part D, $35,693,000 shall be available for delinquent and neglected education activities under subpart 3 of part D, $61,202,000 shall be for State administration under section 1404, $26,142,000 shall be for program improvement activities under section 1405, $14,850,000 shall be for evaluation and technical assistance under sections 1437 and 1463, and $4,950,000 shall be for rural technical assistance under section 1459: *Provided further*, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further*, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404: *Provided further*, That the number of children counted for section 1006(a) shall be the same as counted for 1993 section 1005 basic grants.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81–815 and 81–874, as amended, $763,981,000, of which $500,000,000 is designated for defense purposes related to the impact of significant troop relocations to the United States: *Provided*, That $566,767,000 shall be for payments under section 3(a), $123,380,000 shall be for payments under section 3(b), $29,700,000, to remain available until expended, shall be for payments under section 3(d)(2)(B), $16,424,000 shall be for payments under section 2, and $27,710,000, to remain available until expended, shall be for construction and renovation of school facilities, including $11,870,000 for awards under section 10, $9,900,000 for awards under sections 14(a) and 14(b), and $5,940,000 for awards under sections 5 and 14(c): *Provided further*, That of the amount appropriated to carry out section 3(a) of Public Law 81–874, $10,000,000 shall be available for payments to any local educational agency: (1) that, by October 30, 1992, submits to the Secretary written information, certified by the State educational agency, demonstrating that, for the school year 1990–1991, it had a local tax effort for current expenditures and an average current expenditure per pupil, both of which exceeded the State average; and (2) for which at least 30 percent of the number of children to whom the local educational agency provided a free public education in the school year 1991–1992 were children counted under section 3(a)(2) of such Act, each of whom had a parent who was on active duty in the uniformed services, provided that the payment to each local educational agency that qualifies for such a payment shall bear the same relation to $10,000,000 as the difference between such agency's entitlement under section 3(a) of Public Law 81–874 for fiscal year 1991 and its payment under such section bears to the total of such differences for all such agencies: *Provided further*, That all payments under section 3 shall be based on the number of children who, during the prior fiscal year, were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education, except that (1) any local educational agency that did not exist in the prior fiscal year and that would be eligible under this proviso for payments under section 3 for the current fiscal year had it been an operating local educational agency in the prior fiscal year, shall be paid on the basis of the number of children who, during the current fiscal year, are in average daily attendance at the schools of such agency and for whom such agency provides free public education; and (2) any local educational agency with an increase of 5 percent or more from the prior fiscal year to the current fiscal year in the number of children described in section 3(a) of the Act, as a direct result of activities of the United States, and that submits a written request to the Secretary, shall be paid on the basis of the number of children who, during the current fiscal year, are in average daily attendance at the schools of such agency and for whom such agency provides free public education: *Provided further*, That notwithstanding the provisions of section 3(d)(3)(A), aggregate current expenditure and average daily attendance data for the third preceding fiscal year shall be used to compute local contribution rates: *Provided further*, That notwithstanding the provisions of section 3(d)(2)(B), 3(d)(3)(B)(ii), and 3(h)(2), eligibility and entitlement determinations for those sections shall be computed on the basis of data from the fiscal year preceding each fiscal year described in those respective sections for fiscal year 1991.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, without regard to sections 5112(a) and 5112(c)(2)(A), and VI of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act; title IV of Public Law 100–297; and the Follow Through Act; $1,557,855,000, of which $1,237,463,000 shall become available on July 1, 1993, and remain available through September 30, 1994: *Provided*, That of the amount appropriated, $20,691,000 shall be for national programs under part B of chapter 2 of title I, $24,750,000 shall be for emergency grants under section 5136, $245,520,000 shall be for State grants for mathematics and science education under part A of title II of the Elementary and Secondary Education Act of 1965, and $500,000 shall be for an evaluation study of the magnet schools assistance program.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $231,308,000 of which $35,996,000 shall be for training activities under part C of title VII.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act and title I, chapter 1, part D, subpart 2 of the Elementary and Secondary Education Act of 1965, $2,920,103,000, of which $2,052,567,000 for section 611, $316,800,000 for section 619, $178,794,000 for section 685 and $127,413,000 for title I, chapter 1, part D, subpart 2 shall become available for obligation on July 1, 1993, and shall remain available through September 30, 1994.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100–407, and the Helen Keller National Center Act, as amended, $2,125,385,000, of which $20,103,000 shall be for special demonstration programs under section 311 (a), (b), and (c).

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,286,000, of which $200,000 is available for a national comprehensive listing system only to the extent that the Printing House matches these funds with an equal amount from non-Federal sources.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $39,045,000, of which $339,000 shall be for the endowment program as authorized under section 408 and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $75,774,000, of which $990,000 shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,475,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Stewart B. McKinney Homeless Assistance Act, $1,509,016,000 of which $2,970,000 for the national assessment of vocational education and $2,970,000 for tribally controlled postsecondary vocational institutions shall become available on October 1, 1992 and the remainder shall become available on July 1, 1993 and shall remain available through September 30, 1994: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $430,000 of the amount available for Tech-Prep shall be for evaluation of the program and $37,125,000 shall be for national programs under title IV, including $11,385,000 for research, of which $5,940,000 shall be for the National Center for Research on Vocational Education; $15,840,000 for demonstrations, notwithstanding section 411(b); and $9,900,000 for data systems: *Provided further*, That of the amounts made available under the Adult Education Act, $990,000 shall be available only for demonstration programs under section 372(d), $3,960,000 shall be for national programs under section 383, $4,950,000 shall be for the National Institute for Literacy under section 384, $7,920,000 shall be for State Literacy Resource Centers under the National Literacy Act of 1991, and $4,950,000 shall be for prison literacy activities as authorized under section 601 of the National Literacy Act of 1991, as amended by Public Law 102–103.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A, and parts C and E of title IV of the Higher Education Act, as amended, $8,101,170,000: *Provided*, That the maximum Pell grant for which a student shall be eligible during award year 1993–1994 shall not exceed $2,300: *Provided further*, That notwithstanding section 479A of the Higher Education Act of 1965, as amended, student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further*, That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further*, That notwithstanding section 411(b)(6) of the Higher Education Act of 1965, no Pell grant for award year 1993–1994 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis: *Provided further*, That notwithstanding section 484(f) of the Higher Education Act of 1965, the Secretary may, without limitation, require an institution of higher education to verify the accuracy of data used to determine student eligibility for assistance under title IV of that Act for award year 1993–1994: *Provided further*, That the Secretary may implement as expeditiously as possible those provisions of the Higher Education Amendments of 1992 which are intended to reduce cost or enhance integrity so that any resulting savings may be applied to the accumulated shortfall in Pell grant funding for fiscal year 1992.

GUARANTEED STUDENT LOANS PROGRAM ACCOUNT

For the cost of guaranteed loans, including administrative costs other than Federal administrative costs, as authorized by title IV, part B, of the Higher Education Act, as amended, such sums as may be necessary to carry out the purposes of the program: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended. In addition, for Federal administrative expenses to carry out the guaranteed student loans program, authorized by title IV, part B, of the Higher Education Act, as amended, $64,350,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, IV, V, VI, VII, VIII, IX, X, XI–B, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, the Excellence in Mathematics, Science and Engineering Education Act of 1990, including activities under title VI part C, and title XIII, part H, subpart 1 of the Education Amendments of 1980, $831,408,000 of which $7,425,000 for endowment activities under section 332 of part C of title III and $18,652,000 for interest subsidies under title VII of the Higher Education Act, as amended, shall remain available until expended and $9,504,000 shall be available for the Ronald E. McNair Post-Baccalaureate Achievement program: *Provided*, That $9,546,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education

Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further*, That $1,435,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $195,278,000, of which $3,378,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480), and $6,435,000, to remain available until expended, shall be for emergency construction needs and shall only become available if such funds are fully matched by the University.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1993, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For the costs of direct loans, as authorized by title VII, part F, of the Higher Education Act, as amended, $2,997,000: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974 and that these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $29,700,000: *Provided further*, That obligated balances of these appropriations will remain available until expended, notwithstanding the provisions of 31 U.S.C. 1552(a), as amended by Public Law 101-510. In addition, for administrative expenses to carry out the direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part F, of the Higher Education Act, as amended, $733,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out the activities authorized by section 405 and section 406 of the General Education Provisions Act, as amended; section 1562, section 1566, section 2012, section 2016, and parts B, E, and F of title IV of the Elementary and Secondary Education Act of 1965, as amended; part B of title III of Public Law 100-297; title IX of the Education for Economic Security Act; section 6041 of Public Law 100-418; and title II of Public Law 102-62, $275,013,000, of which $25,047,000 shall be for research centers; $34,699,000 shall be for regional laboratories including $9,900,000 for rural initiatives; $7,103,000 shall be for the Educational Resources Information Center; $966,000 shall be for field-initiated studies; $62,964,000 shall be for education statistics; $29,601,000 shall be for national assessment activities; $23,562,000 shall be for activities under the Fund for Innovation in Education, including $3,762,000 for civic education activities under section 4609; $5,440,000 shall be for Grants for Schools and Teachers under subpart 1 and $3,717,000 shall be for Family School Partnerships under subpart 2 of part B of title III of Public Law 100-297; $14,553,000 shall be for national diffusion activities under section 1562; $886,000 shall be for Blue Ribbon Schools under section 1566; $15,840,000 shall be for national programs under section 2012, including $3,465,000 for the National Clearinghouse for Science and Mathematics under section 2012(d); $11,880,000 shall be for regional consortia under section 2016; $9,635,000 shall be for Javits gifted and talented students education; $18,228,000 shall be for star schools; $4,191,000 shall be for educational partnerships; $1,751,000 shall be for territorial teacher training; and $2,475,000 shall be for the National Writing Project.

In addition to these amounts, $4,831,000 shall be available for teaching standards activities as authorized by the Higher Education Amendments of 1992.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act, $145,774,000, of which $16,551,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended, and $4,950,000 shall be for section 222 and $322,000 shall be for section 223 of the Higher Education Act.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $305,799,000: *Provided*, That the Secretary may use funds appropriated to carry out any Department of Education program under which awards are made on a competitive basis to reimburse this account for the expenses of non-Federal experts to review applications and proposals for such awards.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $56,857,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $28,652,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1993".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $201,502,000: *Provided*, That $34,947,000 shall be available for title I, section 102, and $990,000 shall be available for title I, part C.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1995, $272,250,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $30,195,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $5,772,000.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100–607, $1,732,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), $590,000.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For liquidating obligations incurred by the White House Conference on Library and Information Services, $400,000.

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

For necessary expenses of the National Commission on Responsibilities for Financing Postsecondary Education, as authorized by section 1321 of the Higher Education Amendments of 1986 (Public Law 99–498), $208,000, to remain available until April 30, 1993.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,553,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $171,176,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $7,870,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $7,169,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $4,451,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $4,418,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $294,030,000, which shall include amounts becoming available in fiscal year 1993 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $294,030,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $100,000, to remain available through September 30, 1993, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $75,240,000, to be derived from the railroad retirement accounts: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 231–231u).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $17,325,000 shall be apportioned for fiscal year 1993 from moneys credited to the railroad unemployment insurance administration fund.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $3,720,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,544,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Armed Forces Retirement Home Trust Fund, $40,938,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Armed Forces Retirement Home Trust Fund, $4,178,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $10,890,000.

UNITED STATES NAVAL HOME

OPERATION AND MAINTENANCE

For operation and maintenance of the United States Naval Home, to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $9,954,000.

CAPITAL PROGRAM

For construction and renovation of the physical plant to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $472,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 504. Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 505. Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the President of the United States certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993".

The CHAIRMAN. The Chair will entertain points of order at this point against any provision in the bill.

Are there any points of order?

POINT OF ORDER

Mr. HALL of Texas. Mr. Chairman, I rise to make a point of order against the bill under House rule XXI(2)(b).

The CHAIRMAN. The gentleman will state his point of order.

Mr. HALL of Texas. The provisions of title II under the heading "Survey and Certification Fund"—found at page 31, line 22, through page 34 line 3—change existing law and as such violate the prohibition on reporting provisions changing existing law in an appropriations bill contained in House rule XXI(2)(b).

These provisions require that the Secretary of HHS establish and require certain Medicare and Medicaid providers to pay user fees in order to gain certification and as a condition of participation in those programs.

The provision is in direct contravention of current law. Section 1864(e) of title XVIII of the Social Security Act expressly prohibits the Secretary from establishing such fees.

Moreover, the provision creates a specific new requirement for participation in Medicare and Medicaid and describes in some detail the requirements that the Secretary of HHS shall meet in establishing this requirement.

Mr. Chairman, it is not easy to make this point of order, and I do so joining in the accolades for our friend, the gentleman from Michigan [Mr. PURSELL] and in respect for the gentleman from Kentucky [Mr. NATCHER] who stands alone in the line of punctuality in this body, and will forever and ever, but, Mr. Chairman, this provision constitutes legislation on an appropriations bill and should be stricken from the bill.

Mr. NATCHER. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. SHARP). The point of order is conceded and sustained.

Are there further points of order?

POINT OF ORDER

Mr. STARK. Mr. Chairman, I, too, rise reluctantly to make a point of order that the provision on page 31, line 19 through line 21, constitutes legislation on an appropriations bill and therefore violates rule XXI, clause 2(b) of the House rules.

This provision would require the Department of Health and Human Services to delay payments to hospitals, physicians, and other health care providers.

This provision would supersede explicit statutory requirements regarding timeliness of payments by Medicare provided by sections 1816(c) and 1842(c) of the Social Security Act.

I understand the problems faced by our colleagues on the Committee on Appropriations and share their concerns. The delay of payments to providers by Medicare is not, unfortunately, an appropriate response to this situation.

Mr. NATCHER. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. SHARP). The point of order is conceded and sustained.

Are there further points of order?

POINT OF ORDER

Mrs. KENNELLY. Mr. Chairman, I make a point of order against the provision of the bill beginning on page 36, line 18, relating to the supplementation of SSI payments which changes existing law and constitutes legislation on an appropriation bill, in violation of rule XXI, clause 2(b).

Mr. Chairman, this provision requires the Secretary of Health and Human Services to assess a fee on each State for which HHS administers the State SSI supplement. The fee would equal 1.67 percent of the State's total SSI supplements and would be imposed for fiscal year 1993. The Social Security Act permits, and in some cases requires, States to supplement the Federal SSI benefit. States may administer these supplements or pass the funds on to HHS, which then pays them out with the regular SSI benefit. The act does not permit HHS to charge a fee for this service. Any modification of existing policy clearly falls within the jurisdiction of the Committee on Ways and Means and is a legislative matter.

Mr. NATCHER. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. SHARP). The point of order is conceded and sustained.

Are there further points of order?

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, I raise a point of order against the language beginning with "Provided further" on page 59, line 5, down through "basis:" on line 9 of page 59 under the heading "Student Financial Assistance," with respect to section 411(b)(6) of the Higher Education Act on the ground that the provision proposes to include legislation in an appropriation bill and, thus, violates clause 2(b) of rule XXI.

Mr. Chairman, I have no recollection of ever making a point of order against one of the gentleman's bills on the floor. We have never had to. But last Thursday the President signed into law the Higher Education Act of 1992, and in the President's formal statement, as he signed the bill, he picked out some items that had been requested by the administration that ended up in the bill. One of them was extending Pell grants to less-than-half-time students. It has been a controversial issue around here, but the President wanted that. My colleagues will remember that earlier in the year he said that he himself is going to learn to operate a computer and that people should continue working and learning all their life. He singled that out, and it sort of looks like we are spitting in his eye if just less than a week later we repeal that part of the bill that he has just signed.

Therefore, Mr. Chairman, I have to make the point of order.

Mr. NATCHER. Mr. Chairman, as the gentleman from Michigan [Mr. FORD], the chairman of the Committee on Education and Labor, has pointed out, the change that took place several days ago places us in a position where we concede the point of order, and in doing so, Mr. Chairman, it gives me further the opportunity to thank my friend, the gentleman from Michigan [Mr. FORD], for his assistance all down through the years with our bill. There has not been a Member that serves in this House that has worked harder for education and for all the matters in his committee than the gentleman from Michigan, and we have always appreciated his help.

The CHAIRMAN (Mr. SHARP). The point of order is conceded and sustained.

The Chair would ask if there are further points of order.

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, I raise a point of order against the language beginning with "Provided further" on page 58, line 13 down through "Act:" on line 24 of page 58 under the heading "Student Financial Assistance," with respect to section 479A of the Higher Education Act on the ground that the provision proposes to include legislation in an appropriation bill and, thus, violates clause 2(b) of rule XXI.

Mr. NATCHER. Mr. Chairman, this is language that has been carried down through the years in this bill. The gentleman from Michigan [Mr. FORD] is correct. We concede the point of order.

The CHAIRMAN (Mr. SHARP). The point of order is conceded and sustained.

Are there further points of order?

If not, the Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I ask unanimous consent that all debate on the bill and amendments thereto conclude no later than 12 o'clock on the clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Accordingly, time limits are set for all debate on all amendments to conclude by 12 noon.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will take a very short moment merely to again thank the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] and other members of the committee. I have said many times that I always think it is the most important appropriation bill that comes before us.

□ 1050

It means so much to so many in our country, and I thank both of them for their continued support, effort, and leadership. I also want to say that we are going to miss the gentleman from Michigan [Mr. PURSELL]. I think it is a mistake that he is leaving us, but, on the other hand, I envy him also, I guess.

Again I particularly want to thank them for their additional help with Even Start. For a long time we did not deal with illiteracy on an intergenerational basis. We finally realized that if we are ever going to break the cycle of illiteracy, it has to be done in an intergenerational way. Even Start does that, and we have had wonderful reports back thus far. I do have a fear about it because they, the Appropriations Committee, have been so good to us that it now goes back to the States to operate. I have made it clear to all Governors and to all State leaders in education that if they do not continue the program in the manner in which it has been put very effectively into force, we will work to take the program away from them.

So again I want to thank the gentleman from Kentucky [Mr. NATCHER], the gentleman from Michigan [Mr. PURSELL], and the committee for their careful consideration of Even Start and all the other programs I deal with, including child nutrition and school lunch, and all the programs that help children and help parents to become better citizens in the United States.

Mr. Chairman, I rise in support of H.R. 5677, a bill providing appropriations for the Departments of Labor, Health and Human Services, and Education for fiscal year 1993.

I would like to begin my statement by again commending and thanking Chairman NATCHER, the ranking member Mr. PURSELL, and the members of the Labor—HHS—Education Subcommittee, for their steadfast support of, and leadership in, the policies and programs addressed by this bill. And I also want to again express my regret that my friend Mr. PURSELL will be leaving the House; we will miss his expertise and his always-present willingness to extend his assistance when we have requested it.

In particular, given the severe constraints the subcommittee faced in making its funding recommendations for the coming fiscal year, I want to express my deep appreciation for its decision to recommend a very generous 27-percent increase—from $70 to $89 million—in the level of funding of my favorite ESEA Chapter 1 Program, Even Start.

As I indicated to the subcommittee at the time I testified before it, since I helped to get Even Start off the ground in 1988, I must confess that I have felt a good measure of pride in the national recognition it has received, in the rapid success it has achieved, and in seeing it grow each year as a result of funding support based on merit.

From Even Start's ongoing evaluation, we have already learned that the program has proven itself to be a very effective tool in fighting family illiteracy, in reaching the most disadvantaged families, and in truly meeting the needs of both parents and children.

We have further learned that Even Start programs have served as a glue to bind together other resources already in the community. Thus, Head Start funds are being used to support Even Start family services; and Even Start programs are utilizing other Federal, State, and local education, health, nutrition, and transportation services to create a unique family program.

As I examined the bill's recommendations for postsecondary education programs, I was distressed to learn how much the $704 million Pell grant shortfall for the fiscal year 1991 and 1992 program years had severely limited the subcommittee's usual desire to provide at least modest increases in the funding of these programs. Again, I must commend the subcommittee for doing as good a job as could be done under the difficult circumstances it faced.

Finally, I was pleased to find that the subcommittee recommends setting aside $250,999 from the fiscal year 1993 fund for innovation in education appropriation to provide support for a distance learning project linking rural school districts through fiber optic cables that will permit elementary, secondary, and postsecondary education institutions to cooperate in offering a broader range of curriculum and teacher training opportunities.

In closing, Mr. Chairman, I want to extend my thanks to the entire Appropriations Committee, which has again demonstrated its responsiveness to some of the most pressing needs of our society.

Mr. GAYDOS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 5677, the appropriations bill for Labor, Health and Human Services, and Education.

As the chairman of the Subcommittee on Health and Safety which has legislative jurisdiction over the Occupational Safety and Health Administration [OSHA], the Mine Safety and Health Administration [MSHA], and the National Institute for Occupational Safety and Health [NIOSH], I commend Chairman NATCHER, ranking member PURSELL, and the other members of the subcommittee and the Committee on Appropriations for the manner in which they have dealt with several crucial and controversial issues.

The response to criticisms of OSHA's bloodborne pathogen standard can be likened to a decision by King Solomon. The Subcommittee on Health and Safety had six hearings on the standard while OSHA was still formulating it. OSHA itself had numerous public hearings and received thousands of comments that were considered before the final standard was published. And now, as we all know, the issue is before the courts.

By asking OSHA to reexamine the application of the standard and then to report to the proper committees of jurisdiction, the Committee on Appropriations has taken the correct approach. In this form, if changes in the standard need to be made, they can be made by the committees of legislative jurisdiction rather than through the error of legislating in appropriations bill.

And, while I would have preferred that OSHA's funding be closer to the $303 million proposed by the administration, I am satisfied that Chairman NATCHER and his colleagues sought to achieve the best they could within the existing budget framework.

That effort is reflected in the committee's decisions on MSHA's funding. By increasing funding for the Mine Safety Agency to almost $192 million, the committee provided new dollars for two important enforcement programs: An improved coal dust control effort, aimed at preventing future attempts to engage in fraudulent dust sampling—a problem for more than 20 years; and enhanced inspection efforts at small mines, especially those with fewer than 50 employees.

At the same time, the committee recognized the importance of employee training as a means of reducing and eliminating unnecessary and preventable deaths and injuries by funding the State Training Grants Program at the 1992 level—$5.6 million—rather than accept the administration's recommendation for eliminating the program. As mining deaths have dropped to just over 100 a year in recent years from the 250 to 300 deaths a year just 20 years ago, it is clear that training and education provided by the 46 State grantees has been a primary factor. Eliminating this program now could have tragic consequences.

Research in occupational safety and health is critical if we are to get a better understanding of how we can prevent and eliminate unnecessary deaths and injuries among American workers. Much of that research is done by and through NIOSH. With that in mind, I am somewhat disappointed that the bell before us proposes funding for NIOSH that falls slightly below last year's funding for the Agency.

I am pleased to note, however, that the committee has not followed the recommendation by the administration for an almost 25-percent reduction in funding for NIOSH. That kind of meat ax approach would have left the Agency in dire straits for the foreseeable future.

Under the committee approach, NIOSH will be able to continue many of its ongoing research projects, especially those related to construction deaths and injuries and to farmworker safety, two of the three most dangerous occupations.

Overall, Mr. Chairman, this is a good bill, at least insofar as worker safety and health is concerned. The committee members, so ably led by Mr. NATCHER and Mr. PURSELL, have done admirable work in difficult times. Again, I commend them and their colleagues and urge my colleagues in the House to support this appropriations bill, H.R. 5677.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to my colleague, the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I want to commend the gentleman from Pennsylvania [Mr. GAYDOS] and I also want to give credit to the chairman and our ranking minority member for this fine bill. I want to thank them for including the National Academy of Science, Space, and Technology. I have worked very hard on that. This is a $5,000 scholarship that will be given to the top student after a competitive examination.

This is the type of thing we should be doing. We have worked very hard on it. I thank Chairman STOKES, chairman of our Ohio delegation, for supporting me on these issues. I also thank Chairman ROYBAL, Chairman GAYDOS, Chairman MURTHA, and others who have assisted in this program.

Our students are lacking in mathematics and science, and this program will take our brightest young students and give then a full scholarship, and after that scholarship is over, they will have to put 4 years in for Uncle Sam with pay.

Mr. Chairman, I thank the gentleman for the time.

Mr. GAYDOS. Mr. Chairman, overall this is a good bill, and again I commend my colleagues and the chairman on the majority side and the ranking minority member. I urge my colleagues in the House to support this appropriation bill, H.R. 5677

Mrs. MORRELLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to clarify the Appropriations Committee's intentions regarding funding for technical assistance and training for local displaced homemaker programs. There is a long history of committee support for the technical assistance and training services provided to the more than 1,300 programs across the country. These services have a proven track record of resulting in improved programs for displaced homemakers at the local level. In the past, the committee has provided funding to the Women's Bureau for these important services. This year, the committee has stated that funding for displaced homemakers should be a priority for the Department under title IV of JTPA. I want to clarify with you that the committee did not intend to reduce or in any way diminish the Department of Labor's support for customized technical assistance and training services for displaced homemaker programs in fiscal year 1993.

Mr. NATCHER. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I would like to advise the gentlewoman from Maryland that she is correct. The committee intends that the Department maintain support for technical assistance and training for displaced homemaker programs in fiscal year 1993. We believe that it is appropriate that these services be administered with other technical assistance for special populations under JTPA title IV, and, therefore, we intend that title IV discretionary funds be used for this purpose.

Before finishing my remarks, Mr. Chairman, I want to thank the gentlewoman from Maryland [Mrs. MORELLA] for her assistance with our bill at all times. Since she has been a Member of Congress, she has worked with us and has helped us, and I want her to know that I appreciate it.

Mrs. MORELLA. Mr. Chairman, the gentleman is very kind to say that, and I appreciate it because I also know of the leadership the gentleman has offered not only in this Chamber but to all the American people.

I also want to bid adieu to the gentleman from Michigan [Mr. PURSELL], who will be leaving that committee and leaving us on the House side. I hope that he will in some way stay in touch with us. We will miss him very much.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this funding bill.

I want to commend my friend and colleague from Kentucky [Mr. NATCHER], chairman of the Appropriations Subcommittee on Labor-Health and Human Services-Education, for making certain that this bill treats our veterans fairly. I also want to thank the gentleman from Michigan [Mr. PURSELL], the subcommittee's ranking minority member, for his commitment to veterans and their families.

Several very important employment and training programs for veterans are funded under this bill, and to BILL NATCHER's credit, each one is funded at levels higher than the administration had proposed.

Employment assistance for veterans is especially important in light of the military drawdown, which will require hundreds of thousands of military personnel to make the transition to the civilian job market over the next few years. Because of the high priority BILL NATCHER has always given our Nation's veterans, they will receive the help they deserve.

Thanks to the funding provided under this bill, we can have a program of transition assistance on all major military installations sometime next year. These are 3-day workshops in which military personnel within 180 days of separation are counseled and instructed on how to search for jobs.

This bill also funds the Disabled Veterans Outreach Program [DVOP] and the Local Veterans Employment Representative [LVER] Program, which provide a broad range of employment and training services, as well as placement assistance, for our veterans.

The personnel who deliver these services are trained at the National Veterans Training Institute in Denver to keep them current and help them become even more effective. The bill will fund this important training center at a level of more than $2.8 million, even though the administration proposed to eliminate it altogether.

Mr. Chairman, the veterans of this Nation should be very grateful to have a man like BILL NATCHER in their corner, watching out for their well-being. Year after year, the distinguished gentleman from Kentucky has rejected administration budget proposals which would have prevented many veterans from finding jobs and remaining productive.

With this measure, BILL NATCHER and the Labor Appropriations Subcommittee have corrected each deficiency in the administration's budget for veterans' employment. This bill increases the administration's request for veterans' employment programs by a total of $16.5 million.

On behalf of the Veterans' Affairs Committee and all veterans who are trying to find jobs, I want to thank Chairman NATCHER and his subcommittee for again coming to the rescue.

Mr. Chairman, I want to thank the chairman of the committee, the gentleman from Kentucky [Mr. NATCHER], for his attention. I want to commend him for what he has done for veterans in this legislation. The bill has been very fair to our veterans. I commend also the gentleman from Michigan [Mr. PURSELL], the ranking minority member of the subcommittee.

Several very important employment and training programs for veterans are funded under this bill, and to the credit of the gentleman from Kentucky [Mr. NATCHER], each one is funded at the top level. That has helped veterans get jobs, especially those veterans who came back from the Persian Gulf.

Mr. Chairman, I just wanted to note this for the record and thank the gentleman for having been very fair to veterans who need jobs.

Mr. NATCHER. Mr. Chairman, if the gentleman will yield to me, I would like to say to the members of the committee that the gentleman in the well, the gentleman from Mississippi [Mr. MONTGOMERY] who is the chairman of the Committee on Veterans' Affairs, talked to us on our subcommittee on several occasions with regard to that portion of our bill pertaining to veterans, especially veterans' training.

At the request of the gentleman in the well, we have increased that amount by $15 million, and the gentleman in the well can take full credit for it.

Mr. Chairman, I have been a Member of the House for a number of years now, and let me say that the veterans in this country have no better friend and have had no better friend than the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, I thank the chairman of the committee, and I thank the gentleman from Michigan [Mr. PURSELL] again for his help, as well as all the other members of the subcommittee.

□ 1100

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Texas: Page 80, after line 13, insert the following new section:

SEC. 512. The funds made available under any heading in this Act under object classification 21 for travel expenses shall not exceed 96 percent of the amount requested for such purpose in the budget of the United States Government submitted by the President for fiscal year 1993.

Mr. SMITH of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Chairman, first of all I would like to thank the gentleman from Kentucky [Mr. NATCHER] for his leadership on this bill and also for the good communications between our staffs over this amendment.

Mr. Chairman, on average, those agencies funded by this bill will spend a total of $11.7 million a month on travel in fiscal year 1993. Then, on top of this, in the last 22 business days of the fiscal year, they will spend another $5.8 million. Citizens should ask: If for 11 months these agencies could meet all of their program responsibilities with $11.5 million a month in travel moneys, why do they need an extra $5.8 million in the last 22 days of the business year? Where are they going?

This $5.8 million year-end spending spree represents a 20-year spending pattern based on a review and analysis of Treasury Department spending records. That 20-year pattern firmly fixes the average size of this year-end spending spree on travel at 4 percent of the Federal Government's annual travel budget.

The yearend spending patterns of agencies funded by this bill—including the Departments of Health and Human Services, Labor, Education, and related agencies—conform to this pattern. By supporting this amendment, Members will cut each individual agency's travel funding by 4 percent and will send the message that excessive yearend travel at taxpayer expense is a thing of the past. Funding for programs, projects, personnel, and salaries is not reduced by a single dollar.

Approximately 70 agencies covered by this bill will have their travel budget funding reduced by 4 percent as defined in object classification 21.0. The average reduction is $83,000. But like a dripping faucet, the dollars keep adding up. This year the Federal Government will spend more than $7 billion on Government employee travel. Seven billion dollars.

Mr. Chairman, to put that spending in some perspective, consider that in 1992 we spent just $2 billion on Head Start. We spent $3.6 billion on the school lunch program. Pell grants cost $6 billion. Spending on each of these and countless other programs is overshadowed by Government spending on travel.

And on average for each year over the last 20 years, the pattern of waste at the end of the Government's fiscal year is firmly established by the records of the Treasury Department on actual Government spending. It is 4 percent of the Government's annual travel budget. With a $7 billion travel budget, the waste in yearend travel spending this year will approach $300 million. Since 1971, this drip-drip-drip in yearend travel spending has cost the American taxpayer over $2 billion.

If we don't fix the Government's travel budget plumbing, the cost to American taxpayers in just 4 more years will exceed $1.6 billion. With bigger and bigger travel budgets, the amount of waste keeps growing and growing. An investigation of the Government's yearend travel turns up not only billions in wasteful spending over the years but a seemingly unending string of horror stories.

Examples abound: Rush bookings of meetings in Las Vegas and Palm Springs. Government supervisors assigning travel dollar amounts to employees to spend before year's end. Calls to travel agents: "We've got $49,000 left in our travel budget. Set up some meetings. We'll figure out what they're about later."

Government officials and travel agents talking off the record repeatedly make the same points: Federal travel funds are near and dear to managers. They are treated as if personal. Considered a perk of Federal employment, managers use travel to reward some employees.

These attitudes and others are confirmed by the decisions of countless Federal managers to authorize excessive end-of-the-year travel at enormous expense to the taxpayer. Simply on the basis of total dollars spent, it is a form of governmental lunacy not to commit more attention to how these travel dollars are spent. Yet in Washington today those expenditures remain largely a mystery, a small part of what is the Federal budget equivalent of a giant black hole—Government overhead spending.

If we were to reduce total Federal Government spending on travel by 4 percent this year and hold future budgets to no more than the rate of inflation, we would free up $1.6 billion over the next 5 years. We should start with the appropriations bill before the House.

To put the savings to be achieved by this amendment in perspective, the $5.8 million in excessive yearend travel spending is equal to or more than that for each of the following programs funded by this bill:

Program:	*Millions* *Millions*
Longshore and harbor workers benefits	$4.0
Promoting employment to disabled	4.2
Alzheimers' demonstration grants	3.9
Pediatric emergency care	2.8
Border health education centers	2.8
National AIDS program office	3.9
AIDS minority health	2.1
Rural housing	2.0
Community food and nutrition	3.5
Frail elderly-in-home services	6.8
Women education equity	1.9
Helen Keller National Center	5.8
Minority sciences improvement	5.9

In the bill before the House, on average, funding for Government travel will exceed $11.7 million a month. This amendment cuts only the 4 percent of wasteful travel spending done in the last month of the fiscal year. No programs, projects, personnel, or salaries are reduced by this amendment.

This is an amendment all members can and should support.

Mr. Chairman, I urge adoption of the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of the Smith amendment as modified and as a cosponsor of the amendment. The amendment reduces excess travel spending in the Labor-HHS-Education bill by $5.7 million. The reason is that agencies spend excessive amounts in the last quarter of each year—particularly in the last months. This amendment cuts out the amount of extra travel spending which typically occurs in the last month of the year.

This is a reduction in overhead expenses consistent with recommendations of the task force report on Government waste, "The Challenge of Sound Management." It also tracks several amendments which Mr. SMITH of Texas, Mr. PENNY, Mr. GLICKMAN, Mrs. BOXER, and I have offered to other appropriations bills.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee has already cut the funding requested for Federal administrative expenses by about $253 million below the request. This is $127 million below the level required to fund mandatory fixed costs such as automatic pay raises and promotions, health and retirement benefits, and GSA rent increases. These cuts which are already included in the bill will force the agencies to cut other discretionary items—especially travel—to cover their mandatory costs. We expect some agencies may even be required to furlough employees or cut staffing levels through attrition or reductions in force due to severely constrained budgets contained in this bill.

I urge the Members to vote against the amendment.

Mr. Chairman, if the gentleman from Texas [Mr. SMITH] would make clear that his amendment applies to just travel, that it would not affect staffing, where it would not force the Department to turn people out, I would accept the amendment offered by the gentleman from Texas on this side.

Mr. SMITH of Texas. Mr. Chairman, if the gentleman would yield, I would like to thank the gentleman from Kentucky [Mr. NATCHER] for making the distinction he just make. I do consent and agree with those distinctions.

The CHAIRMAN. The Chair would indicate there needs to be a unanimous-consent request propounded if a modification of the amendment is sought.

Mr. NATCHER. Mr. Chairman, as I understand the gentleman from Texas [Mr. SMITH] on this amendment, the amendment would apply only to travel and no further to any point in the bill, is that correct?

Mr. SMITH of Texas. Mr. Chairman, that is correct.

Mr. NATCHER. Mr. Chairman, we accept the amendment on this side.

The CHAIRMAN. The Chair would advise that the notification does need to be submitted in writing.

Mr. SMITH of Texas. Mr. Chairman, I ask unanimous consent that the amendment be limited to travel only as agreed to by the chairman of the Committee on Appropriations subcommittee.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] must submit that modification in writing.

Mr. NATCHER. Mr. Chairman, I believe now, upon examining the amendment offered by the gentleman from Texas [Mr. SMITH], that no change is necessary. It is in his amendment.

The CHAIRMAN. It is the Chair's understanding the question will be on the original amendment.

Mr. NATCHER. Mr. Chairman, that is correct.

On this side we would accept the amendment offered by the gentleman from Texas [Mr. SMITH], providing that it only restricts funds for travel and that it does not reduce amounts in the bill generally for salaries and expenses.

Mr. PURSELL. Mr. Chairman, we also accept the amendment as amended.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was agreed to.

Mr. WHITTEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to congratulate the gentleman from Kentucky, [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] for the fine job they did along with my other colleagues on the subcommittee in putting this bill together.

Mr. Chairman, this bill includes funds for all phases of education, both higher and secondary, including universities, colleges and community colleges, vocational education, disadvantaged education, adult education, and historically black colleges, including Mississippi Valley State University at Itta Bena, MS.

It is directed to meeting the health and other needs of our people and our country. We must look after the people's health and education.

It is encouraging to see our subcommittee under the chairman of the gentleman from Kentucky [Mr. NATCHER] give attention to Americans and America. We have got to give our country that attention, because our country is what all of our money is based on. An educated, healthy population, with adequate housing, food, and nutrition from a strong agricultural base, provides the foundation for our national strength and future.

Mr. Chairman, ours is a great country. We need to take care of all of it in order to maintain a strong, healthy nation. I assure you no chairman and no subcommittee does a better job than BILL NATCHER and the members of this subcommittee.

Mr. Chairman, I urge this bill be adopted.

□ 1110

Ms. OAKAR. Mr. Chairman, I move to strike the last word.

I want to compliment the gentleman and the distinguished subcommittee for the work they have done in the past couple years, in particular relative to women's health issues and, this year as well, prostate cancer which affects 1 out of 11 men.

We know that in the past women's diseases have been neglected in terms of research and at times by NIH. Women have not been included in clinical trials, for example. They did not include women in the clinical trial of 21,000 people for aspirin relative to heart disease, so women may never know whether aspirin helps them or not in terms of arresting heart disease.

They did not include women in the past when it came to aging diseases. They at one time did a 20-year study on aging diseases and somehow could not find one woman to analyze in that study. I see my distinguished chairman of the Select Committee on Aging, the gentleman from California [Mr. ROYBAL]. He knows and has had wonderful hearings on these issues. Two out of three older people happen to be female, so we know there has been a tremendous neglect in the past.

I am heartened by the fact, even though it is not the whole loaf, in my judgment, that the chairman and the distinguished subcommittee have asked for a one-third increase over last year's funding for breast cancer, cervical cancer and prostate cancer. For breast cancer, which is an epidemic in this country, 1 out of 9 women get breast cancer; 48,000 will die of breast cancer; 330,000 died during the Vietnam war era when we lost 57,000 soldiers. If that is not an epidemic, I do not know what is. I am heartened that this will mean a $42 million increase in research.

In ovarian cancer, for example, my friend, the gentlewoman from Hawaii [Ms. MINK] has been very instrumental in pushing for, and other members of the women's caucus, we do not even have early detection for ovarian cancer. When a women finds out that she has these symptoms, she is at tremendously high risk. So we have got to do better, and we can do better.

Mr. Chairman, we had asked for $300 million for the full authorization for breast cancer, but we know the bind we are in. We were able to increase it by $14 million because we really want to find a cure for this terrible epidemic disease. But we know the bind the committee is in. You can't transfer funding from the area of military research which is four times higher.

I want to say to my colleagues, I think it is about time we break down the firewalls relative to the Defense budget. I think if we asked the American people "Would you rather find a cure for diseases like breast cancer and prostate cancer and ovarian and cervical cancer, would you rather find a cure and invest your research dollars to finding cures for these diseases, or would you rather invest your tax dollars to find more creative ways for cluster bombs and more creative missiles, et cetera," I think the American people would say, "You know, I think it is about time we worry about the quality of life of our own people."

We know that for research in the Defense Department, for military research, taxpayers pay $35 billion for research to find more creative ways for military weapons—for destruction. We only pay and have a $9 billion budget for the National Institutes of Health. Ninety percent of all health research is Government-sponsored. So it is four times less than we are investing in research to find cures for diseases.

I do not know why. I do not see why we cannot transfer $2 billion from the $36 billion and put it into the research for these terrible diseases. Why should the chairman and the committee have to scrimp?

The CHAIRMAN. The time of the gentlewoman from Ohio [Ms. OAKAR] has expired.

Ms. OAKAR. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

Mr. CRANE. Mr. Chairman, reserving the right to object, the concern I have is, I know there are at least three amendments on our side. And depending upon the Chair's recognition of my colleague, the gentleman from Indiana, immediately upon my presentation of my amendment, I will not ask for a record vote on it because of these time constraints.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, does the gentleman mean to tell me he will not let me speak 2 minutes more when it comes to epidemic diseases?

Mr. CRANE. Mr. Chairman, it has nothing to do with the merits of the gentlewoman's issues.

Ms. OAKAR. Mr. Chairman, if the gentleman will continue to yield, how much of a hurry are we in?

Mr. CRANE. Mr. Chairman, there are possible time constraints in this Chamber. The fact of the matter is, I am going to ask unanimous consent for a limitation of only 10 minutes on my amendment, 5 and 5. If opponents do not want to use that 5, fine. But what I am suggesting is, we are down to only 43 minutes left for the consideration of any amendments, and there are bigger ones coming.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. OAKAR. Mr. Chairman, the simple point is that we can do better. Four out of five recommended grants are rejected for health research because there simply are not the funds. I think we ought to transfer $2 billion or so, which is minuscule compared to all the money we spend for military research, to the National Institutes of Health so the members on this sub-committee do not have the bind of trying to figure out where they can cut and so forth.

In any event, I hope in the future we have another chance to vote on breaking down these firewalls. The American people ought to know what we are doing here. We are restricting health research, but we are pouring their tax dollars into research for missiles and cluster bombs and contributions to Western Europe when they do not need it anymore.

There is no war going on there. There is no threat by the former Soviet Union. Let's recapture some of those funds and use it to find cures for diseases.

□ 1120

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 68, strike lines 11 through 24.

Mr. CRANE. Mr. Chairman, I ask unanimous consent that the time for debate on my amendment be limited to 10 minutes, 5 minutes for the majority and 5 minutes for the minority.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] is recognized for 5 minutes.

Mr. CRANE. Mr. Chairman, my amendment is to a provision in the bill that grants $272.3 million to the Corporation for Public Broadcasting, or CPB. My amendment will strike those funds. I urge the Members to support my amendment.

With our country's debt over $4 trillion, it is foolish to continue funding costly and nonessential programs, like CPB, that are inherently better suited for the private sector.

In fact, CPB can flourish quite well in the private sector without Government help. Already the vast majority of public radio and television stations are operated by private sources such as universities and nonprofit community organizations. Federal funding of public broadcasting accounts for only slightly more than one-seventh, or 16 percent of the total industry funding sources. Eliminating Federal funding of the CPB would do little to threaten public broadcasting's future as private support is robust and growing.

Although created to serve the public, CPB is nonetheless not held accountable to public scrutiny and, in fact, often follows a unique agenda outside the mainstream of taxpayer thought. For example, a recent documentary titled "Tongues Untied", funded by the National Endowment for the Arts, CPB, and its affiliate, the Public Broadcasting Service [PBS], spurred hundreds of indecency complaints to the Federal Communications Commission as a result of the show's graphic sexual depictions and language. In fact, "Tongues Untied" was so offensive that 206 of the 341 PBS stations refused to broadcast it.

In addition, recent programming of CPB, PBS, and another affiliate, National Public Radio [NPR], has become politically motivated in blatant violation of the fairness provisions in CPB's statute guaranteeing "strict adherence to objectivity and balance in all programs." Last year, for instance, PBS refused to show "The Greenhouse Conspiracy," a documentary that seriously undermines the global warming theory, even though many stations requested the program. Also, NPR allowed Nina Totenberg to cover the Clarence Thomas/Anita Hill hearings even though Ms. Totenberg was responsible for leaking confidential material and maintained an extremely partisan slant against Judge Thomas throughout her reporting. Furthermore, PBS has announced two multimillion-dollar television series by left-wing commentators Bill Moyers and William Grieder on the 1992 elections with no balance of programs by conservative journalists.

And recently, after assurances by CPB that it would provide more balance and objectivity in its programming due to concerns raised by Senate minority leader BOB DOLE, CPB nonetheless made rather partisan selections as hosts of two new election programs designed for minority voters. One host is a former Democratic Congresswoman and keynote speaker at the Democratic National Convention and the other is a former Democratic mayor who has rumored to be considered by Bill Clinton as a possible running mate. This decision by CPB clearly demonstrates total disregard for objectivity and balance in programming required of them by law.

Finally, government fostering of public broadcasting is no longer necessary. CPB was established in 1967 at a time when there were only three networks. Today, with cable, hundreds of program services are now available to the public and the time for taxpayer-funded public broadcasting has come and gone.

I would like to direct you to an excellent editorial by columnist George Will advocating the elimination of Federal funding of CPB. Again, I urge you to vote for the Crane amendment to H.R. 5677.

The final point I would make, Mr. Chairman, is that while I got here too late to raise the point of order, this provision was not authorized in this legislation.

Mr. Chairman, I include at this point two newspaper articles which elaborate on my remarks.

[From the Washington Post, Apr. 23, 1992]

WHO WOULD KILL BIG BIRD? PULL THE PLUG ON PUBLIC TELEVISION—IT'S AN UPPER-MIDDLE-CLASS ENTITLEMENT

(By George F. Will)

Is nothing sacred? Evidently not. Even public television is being questioned by some conservatives who evidently do not understand the importance of being earnest.

Some troglodyte Neanderthal Puritan Yahoo philistine reactionary inquisitorial Victorian barbarian blue-nosed Cromwellian know-nothing Savonarolas—that is, conservatives, as the public television lobby sees them—are wondering why taxpayers should give another $1.1 billion to public television.

A good question.

The Corporation for Public Broadcasting was born 25 years ago as a final filigree on the Great Society. It already has a quarter of a billion of federal funds for 1992 and another quarter of a billion in 1993. At issue today is a 50 percent increase to $1.1 billion for 1994–96. The caliber of the defense of the CPB can be seen in Sen. Gore's cri de coeur: "How many senators here have children who have watched 'Sesame Street' and 'Mister Rogers' Neighborhood'? . . . This is one thing that works in this country."

How apt: A wealthy legislator in a chamber well-stocked with people like him, calling for subsidies for his children's programming because it "works," whatever that means.

Does Big Bird need a subsidy? He is a product of Children's Television Workshop, a multi-media giant grossing more than $100 million from programming, publications and licensing fees.

The original argument for public television was that over-the-air broadcasting allows only a few competitors who are driven to seek a broad—and low—common denominator. That argument has been obviated by technology—by cable and the onset of "narrowcasting" to many small segments of the American audience.

Public television's advocates argue that almost all households can receive it, whereas only 60 percent of households are wired for cable. But leaving aside the continuing spread of cable, a crucial question is: How many people who do not have cable because they cannot afford it are watching the public television? Not many. Public television's audience always has been economically and intellectually up-scale.

The original rationale for public television was wonderfully sealed against questioning. It was that government had to subsidize such programming precisely because so few people wanted it. The argument goes like this: If the public were more discerning, there would be no need for government subsidies—but, then, a discerning public would not object to government subsidies. After all, by definition, a discerning public discerns the merits of government as a provider of services.

The CPB provides 16 percent of the funding for public television stations. But those stations claim 5.2 million voluntary donors. If each would give another $70 a year (less than the average cable subscriber pays for three months of service), they would raise the $1.1 billion without requiring taxpayers to subsidize their enterainment.

Dr. Laurence Jarvik of the Heritage Foundation has another idea about what to do with the CPB: Sell it. Jarvik believes, reasonably, that there are ample cable, broadcast and home video markets for magnificent work like Ken Burns's "Civil War" series. Therefore private investors could make and syndicate such quality programming. Today, Jarvik says, public television is "a solution in search of a problem."

Walter Goodman of The New York Times asks: "Is Dr. Jarvik so satisfied with commerical TV that he can see no room for further innovation?" The answer is: No, but does Goodman believe that any possibility of "innovation" in any sector of society justifies a federal subsidy? If not, what makes television special?

Politically, what is special is public television's audience. For example. WETA, Washington's public station, says its contributors have an average household income of $94,583. They should have $94,513 after sending WETA an extra $70 to keep the senators' children wholesomely entertained.

WETA' audience would be an advertiser's dream. Indeed it is a dream for those who advertise in WETA's magazine. Thus government is entangled in subsidizing competition against private print as well as broadcasting enterprises.

The public television lobby is, in part, another example of government-as-an-interest group. It is government lobbying itself. It is an effective lobby because it is in most congressional districts—wherever there are public stations and audiences. Public television audiences are, like the members of the American Medical Association, the National Association of Manufacturers and many other muscular lobbies, largely affluent, educated and articulate.

Public television is a paradigm of America's welfare state gone awry. It is another middle-class—actually, upper-middle-class—entitlement. If you doubt the entitlement mentality of the public television lobby, hear its indignant rhetoric equating any questioning of their subsidy with censorship. The public television lobby consists disproportionately of people with the financial and educational means to provide their own educational, but who have the political competence to bend public power to their private advantage.

Think of it this way: The relationship of CPB spending to affluent America is approximately that of agriculture subsidies to agribusiness.

[From the Washington Post, Apr. 27, 1992]

SPECIAL PLEADING FOR PUBLIC TV

(By Robert J. Samuelson)

You learn in college that if you're asked an exam question you can't answer, then answer the question you can answer and pretend it is the exam question. Sharon Percy Rockefeller—president of WETA, Washington's public TV station—must have done well in college. When columnist George Will proposed ending federal subsidies for public TV, Rockefeller fired off two blistering replies that managed to evade the central issue posed by Will.

It is this: How can we end federal budget deficits unless we eliminate nonessential programs like broadcast subsidies? (The answer: We can't.)

Every special pleader, like Rockefeller, wants to ignore the larger picture. In her replies, she never mentions the deficits. A+ for debating skills; F for honesty. There are principled reasons to support federal subsidies for public TV. There are also principled reasons (to which I subscribe) to oppose them. But we should be beyond this sort of delicate debate. The truth is, as Will argued, that TV subsidies are a governmental frill we can no longer afford.

It's hard to argue that America doesn't have enough TV or that it's a basic function of government to satisfy every programming taste underserved by commercial stations. It's also hard to envision that public broadcasting's best-known programs ("Sesame Street," "MacNeil/Lehrer," "Wall Street Week" or "All Things Considered") would vanish without subsidies. They could—if need be—find commercial support. (Indeed, some of these programs now feature announcements of corporate sponsorship that are first cousins to commercials.) Nor would ending subsidies doom public broadcasting. Only 17 percent of its income comes from the federal government, down from 27 percent in 1980.

Naturally, Rockefeller invokes children in defense of public TV, citing (aside from "Sesame Street") programs such as "Mister Rogers' Neighborhood" and "Where in the World is Carmen Sandiego?" I've got three small children, ages 2 to 7. These are good programs. But let's not delude ourselves: They haven't fundamentally improved the lot of poor children. And if these programs have educational value, they can be funded through the Department of Education. What we don't need are broad-based subsidies that underwrite more conversations with Bill Moyers.

Now, the point here is not to expose Rockefeller's considerable skills to deceive. It is to highlight the central issue: the budget deficits. Recall that the deficit in fiscal 1992 exceeds $350 billion and that the Congressional Budget Office projects deficits of at least 3 percent of the economy's output into the 21st century. That's about $180 billion in today's dollars. And these projections assume an economic recovery and a continued decline of defense spending (as a share of output), while excluding the one-time costs of the savings and loan bailout.

Almost every politician in America wants to be passionately against the deficits without being for any spending cuts or tax increases. This explains the appeal of a constitutional amendment requiring a balanced budget. Supporting it allows politicians to oppose the deficit while postponing any specific actions. It also explains the appeal of Ross Perot: a man who promises dramatic changes without elaborating how he will achieve them.

The trouble is that the budget deficits can't be closed without raising specific taxes or cutting specific programs. If every existing program is sacrosanct, then the cause is hopeless. Suggestions to prune such program as TV subsidies typically evoke this reply: Don't bother, because they're too small to matter. Superficially, this is true. Axing the $251 million operating budget of the Corporation for Public Broadcasting wouldn't visibly dent the deficit.

But the argument fails on two counts. First, many other programs resemble TV subsidies: Whatever their original justification, they no longer serve an important national need. They have constituencies and supporters, who advertise public benefits that are at best modest and at worst fictional. Amtrak. Farm subsidies. Art subsidies. Water subsidies. There's a long list. In an ideal world, we might be able to afford them. But not in today's world. There are also hordes of programs where spending could be tightened. Together, the potential savings probably amount to $15 billion to $25 billion: not enough to end the deficits, but not trivial.

And second, it will be impossible to enact meaningful tax increases (an essential part of any deficit solution) until the public perceives spending is being disciplined. Here's the crux of the deficit deadlock. Republicans propose spending cuts that Democrats reject, causing Republicans to reject tax increases. But both parties are pleased, because neither truly wants to raise taxes or cut spending. The paralysis is sustained by special pleaders like Rockefeller who have a vested interest in the status quo: that is, massive deficits without political pressures to cut the least-justified programs.

The very size of the deficit has now become an excuse for irresponsibility, because no single step is sufficient to make a major difference in the deficit. The effect is to prevent government from responding to new needs. A case in point: Sen. Jay Rockefeller (D-W.Va.)—husband of Sharon—last year chaired a national commission on children. The commission made some expensive proposals (for example: a tax cut for families with children) that were simultaneously praised and dismissed as unrealistic. The reason: no money. If Sen. Rockefeller wonders why, he should look across the breakfast table.

Everyone is happy to deplore "special interests" in the abstract without the discomfort of naming names or identifying programs. The attitude is live and let live: I'll keep my favorite program, you keep yours. We can no longer tolerate this casual cynicism. People like Sharon Rockefeller enjoy unwarranted public sympathy because they defend programs deemed "worthy." In fact, she and her ilk are prime defenders of the deficits. Irresponsibility has become respectable, even disc. Until it isn't, there's no chance of making any headway.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. CRANE].

The CHAIRMAN. The gentleman is recognized for 5 minutes in opposition to the amendment.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the gentleman's amendment. The public broadcasting program that we carry in this bill, Mr. Chairman, started in the year 1969. This program in the main has been a successful program. In marking this bill up, Mr. Chairman, we placed in the bill the sum of $272,250,000. This was the same amount that we carried in the bill last year less 1 percent. This is a forward funding arrangement, as Members know, and the amount carried in the bill is for fiscal year 1995.

Mr. Chairman, in marking this bill up, as I said in the beginning, we started the bill about $1,400,000,000 short as far as programs underway that require the money. We had to mark the bill up by taking 1 percent across the top to stay within our section 602(b) funding allocation. This budget was sent to us, Mr. Chairman, with library services out, a $112 million cut. It was sent to us from OMB with community service block grants for the States at $5 million, only that part that applies to the National Youth Sports Program. We had to then place back into the bill $390 million. The budget comes up with only $5 million.

Impact aid is important throughout this country, with some 86 or 87 Members appearing before our committee on behalf of category B, which was completely omitted by OMB, completely omitted. We then had to place back into the bill about $135 million. When anyone says that we increased education or we increased any part of the bill, that took place, Mr. Chairman, in some instances, but the money was removed from other programs throughout the bill.

As far as public broadcasting is concerned, Mr. Chairman, we are against this amendment. If the gentleman from Illinois [Mr. CRANE] offered an amendment to reduce it somewhat, a little below the figure, I do not know how the committee would feel about it. However, Mr. Chairman, certainly we do not accept this amendment. We rise in opposition to the amendment and ask that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The amendment was rejected.

Ms. SLAUGHTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 5677. I know many of my colleagues share my disappointment that the bill does not go farther in funding vital domestic programs in health and education, but we must recognize that this year especially, if we are serious about reducing the budget deficit, difficult spending decisions have to be made.

On the Budget Committee, we faced similarly difficult choices, but we laid out a blueprint for reinvesting in America and in the health and education of the American people. I am gratified to note that, in many significant areas, the appropriations bill we consider today follows the direction given in the budget resolution.

In particular, H.R. 5677 makes important advancements in the areas of women's health and the education of homeless children. After working in the 101st Congress to enact legislation which would ensure the education of our Nation's homeless children, I am particularly pleased that H.R. 5677 continues this effort by providing $29.7 million for the program for homeless youth established in the McKinney Homeless Assistance Act. Although this figure is well below the authorized amount of $50 million, the increase of $4.7 million over the fiscal year 1992 level during this budget squeeze represents a strong commitment to providing homeless children the education they deserve.

I am also gratified that H.R. 5677 gives special funding priority to NIH research targeted to breast, ovarian, cervical, and prostate cancers. While the $44.2 million increase for breast cancer research leaves us well below the $300 million we provided for in the budget resolution, it is at least, an indication of Congress' commitment to ending breast cancer; and, I pledge to continue my work to expend breast cancer screening and research until a cure is found and women are no longer vulnerable to this killer.

Mr. Chairman, I thank Chairman NATCHER for the work he did on the bill during a very difficult and challenging time. I urge the House to pass H.R. 5677 and join with me in an earnest pledge to do all we can in the coming

Congress to continue the work which is only just begun in this legislation.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

If the gentleman from Indiana [Mr. BURTON] will indulge me for a minute, I would like to announce that at the conclusion of debate I intend to offer a funding limitation amendment to the bill before us today. My amendment will simply prevent OSHA from using funds provided by this bill to implement regulations affecting mandatory use of seat belts or motorcycle helmets and mandatory driver safety awareness programs.

OSHA first proposed the occupant protection in motor vehicle regulations in July 1990, and final regulations could be issued at any time. These regulations are expected to include two mandates: employer accountability for employee seat belt use and employer-sponsored driver training programs. It is true that seat belt and helmet laws save lives, but employers should not be held responsible for the employees' seat belt use or their failure to use their seat belts. How will the employer monitor seat belt use when their employees are out on the road?

Employers should concern themselves with running their businesses, not enforcing driver safety laws. Driver training and licensing should remain the purview of the State government. Thirty-six States have already enacted safety belt use laws, and all States have driver training and licensing procedures. Merely duplicating State laws with rules that punish employers for their employees' actions will not save lives.

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This rule would spawn more litigation as injured third parties discover that the driver that hit them was not trained in strict accordance with the loosely written OSHA regulations.

Mr. Chairman, these proposed regulations are a bad idea. We should not allow OSHA the opportunity to make these rules final. Therefore, I urge my colleagues to support my amendment when I offer it to limit funding for the implementation of these regulations.

The fact is that under the rules of the House affecting funding limitations, I will only offer my amendment after the entire bill has been read for amendment. In that event, it is possible that the chairman could, if he chooses, offer a motion to rise and prevent me from offering my amendment, but in the event that he would choose not to, I would certainly hope that my amendent would be read, and that we would have an opportunity to vote on the amendment at the conclusion of this debate.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan: On page 58, line 13, strike out "shall not exceed $2,300" and insert "shall be $2,300".

Mrs. KENNELLY. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I am happy to yield to the gentlewoman from Connecticut.

Mrs. KENNELLY. Mr. Chairman, I rise in order to show my concern over the Low-Income Housing Energy Assistance Program.

Mr. Chairman, I am here today to express my disappointment that the committee appropriated only $891 million in nonemergency funding for the Low-Income Home Energy Assistance Program [LIHEAP]. This is $174 million below the administration's request. Worse, it is $609 million below the fiscal year 1992 funding level.

Coming from a State caught in the throes of a recession, what this means for Connecticut is that funding will be cut by nearly 40 percent. That's 40 percent. In fiscal year 1992, Connecticut got almost $31 million. Under this bill, Connecticut would receive only $18.2 million. While the State would make every attempt to assist the 75,000 families served in fiscal year 1992, it would have to slash benefits drastically. This could also threaten the State's ability to maintain the policy that no one will have to choose between eating and heating—our so-called no-freeze-to-death policy.

While the committee provision to permit the President to provide emergency funding of $600 million may appear to soften the blow, his record makes it abundantly clear that he would not do so. That renders the $600 million useless.

While I recognize that a number of the programs that would receive increased funding under this bill are worthy, I do not believe LIHEAP should bear the burden of funding them. Nearly 60 percent of households receiving LIHEAP assistance have annual incomes under $6,000 per year. For these families, paying for heat takes an average of 14 percent of their income—compared to only 3 percent for the average U.S. household.

As the recession shows little sign of lifting, it is obvious that the need will continue, if not increase. Since last year, the AFDC caseload has increased by 24 percent. Over 3 million new households now receive food stamps. All of these are eligible for LIHEAP, as are many of the working poor and many of the new recipients of unemployment compensation. With so many newly eligible, it makes no sense to cut LIHEAP by 40 percent.

I want to make it clear that I do not support this inequitable reduction in funding for LIHEAP. I had written the committee asking that the funding level be at least equal to, if not greater than, the level for fiscal year 1992. Need alone warrants the fiscal year 1992 level of $1.6 billion; equity demands that this reduction be reversed.

Mr. FORD of Michigan. Mr. Chairman, members of the committee, I discussed this with both sides.

Really what I am trying to do is restore the language that has traditionally been carried in this bill with respect to the maximum Pell grant. We are all disappointed that we can only get the Pell grant up to $2,300, but the new language of the bill that deviates from the past practice changed from setting the limits as an absolute to setting it as a cap, saying, "It shall not exceed," which automatically confers unprecedented authority on the Secretary in his sole discretion to reduce the Pell grant to any amount below the $2,300 maximum.

We did not make a point of order against this language which would stand, I believe, because it confers this additional authority to the Secretary. I do not think the Secretary, who is in fact responsible for consistently, not just this Secretary but predecessors, underestimating Pell and putting the committee in the spot it gets in almost every year should be given more authority to do the same thing. So I am asking to go back to the language of the legislation as it has been in the past.

We eschewed the offering of the point of order, because that would have stricken a cap altogether and leave us with the very unusual situation of an authorizing level of $3,700 and only enough money to pay for $2,300.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, when the Secretary of Education and his staff appeared before our committee, we were advised during the hearings that the shortfall in the Pell grant program was $332 million.

Then suddenly we were advised by the Department downtown, that there was a slight error. The error was to the extent that, instead of $332 million, the shortfall in Pell grant was $1,461 million. Now, Mr. Chairman, we can understand a $50 million mistake or a $20 million mistake and call it a slight error, but when you reach the point where you talk changing from $332 million, to $1.4 billion, that is a little more than a slight error.

The gentleman from Michigan is correct, Mr. Chairman, the wording that we previously carried in our bill has been changed this time to "not to exceed $2,300,". This was done as a result of the testimony before our subcommittee regarding the Pell problem.

We had to place into the bill $704 million to bring up fundings for the shortfall to that point. We will need another $700 million in 1994. That is the reason why we changed the language in the bill this time. But the gentleman from Michigan, the chairman of the authorizing committee, objects to the change and we accept the amendment.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I am happy to yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, we have reviewed the amendment here. I somewhat reluctantly accept this amendment from my good colleague, the chairman, the gentleman from Michigan [Mr. FORD], on the authorizing committee.

However, the Secretary, I understand, does not really want discretionary power, but what it will do, it will limit the number of students on the Pell grants to that $2,300 amount, where if you did have some flexibility there, you could offer less, say, $2,000 per student, and include more people, more Pell grants.

The fact of the matter is that there are more students than in our history who are signing up for Pell grants, and that is the reason not only that OMB miscalculated the shortfall, also CBO miscalculated the shortfall.

With that in mind, we on this side will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. FORD].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MRS. JOHNSON OF CONNECTICUT

Mrs. JOHNSON of Connecticut. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. JOHNSON of Connecticut: page 50, after line 11, insert the following new section:

SEC. . In addition to amounts otherwise available therefor, the Secretary may, in order to adequately fund the Healthy Start program, transfer up to one quarter of one percent from the amounts appropriated in this Act for each account in the Public Health Service for which payments are not mandated by law.

Mr. NATCHER. Mr. Chairman, I reserve a point of order against this amendment.

Mrs. JOHNSON of Connecticut. Mr. Chairman, in bringing this amendment, I understood that a point of order could be raised against it, but wanted to bring it forward in any case to talk about the need for additional funding for the Healthy Start Program and hope that in conference we can do something to increase funding in this area.

Healthy Start, as my colleagues will remember, is a series of 15 demonstration programs, in urban and rural areas, whose purpose it is to reduce infant mortality. Healthy Start challenges those communities to plan a coordinated system of attack on this problem, and requires Healthy Start communities to ensure access without barriers to a comprehensive package of family planning counseling, pregnancy testing, prenatal care, delivery, interpartum and postpartum care, pediatric care for infants, and social services as appropriate, and tailored to the community's specific needs, including outreach, home visits, child care, transportation, risk assessment, dental care, nutritional counseling, social support, mental health services, substance abuse services, and prevention counseling.

For those of us who have worked on this issue of infant mortality, in the neighborhoods where it is prevalent—and it is not throughout America but in very specific areas—it is clear, and we have demonstrated beyond a shadow of a doubt, that you have to take this kind of comprehensive integrated approach to reduce infant mortality. Only if a community will commit itself to this level of planning will Federal dollars make any difference and at this time, 15 communities have invested in the planning process and are expecting the funds to implement new programs and reduce our near third world statistics and all the personal pain they mask. 1993 is a critical year because it is the last year we will have the chance to fully implement community's plans. A shortfall in funding of the severity that this program currently faces will require us to reduce the number of cities that can participate, and certainly companies the knowledge that will be gained from this work. Because this is such an important program and because infant mortality in our Nation is a national shame, because this approach fosters collaborative and innovative approaches, I hope that in the conference committee it will be possible to provide somewhat better levels of funding so that the communities which have done this extensive preparatory work will be able to go forward.

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Mr. PURSELL. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, I want to congratulate the gentlewoman from Connecticut [Mrs. JOHNSON] for bringing this subject to our attention. It has been a tough budget. I know Healthy Start has been underfunded in this bill. I have had several discussions with Secretary Sullivan about his concerns.

I will make a commitment that we will make appropriate recommendations in the conference committee to see what can be done.

I led and cochaired an Infant Mortality New Beginning Program in Jackson County which has had an outstanding 1-year history, and I can tell the gentlewoman with her great leadership nationally that this is one of the finest models in the country.

So I fully support the infant mortality issue that the gentlewoman has addressed in the Congress, and I thank the gentlewoman for bringing this to our attention.

Mr. SANTORUM. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, I thank the gentlewoman for yielding to me.

I, too, want to join in congratulating her for proposing this amendment, and I want to thank the chairman for allowing the discussion on this important program.

We have been contacted by Dr. Dixon, the head of the Allegheny County Health Department. Pittsburgh is 1 of the 15 sites that was chosen because the infant mortality rate in the black community in Pittsburgh is the highest in the Nation. It is an area of grave concern, and obviously not a proud point for the city of Pittsburgh. It is something that we have been working on very hard.

They are concerned with the decrease in funding that has been shown in this bill and some of the rumblings in the Department that there may be in fact a reduction in the number of centers that are going to be funded if this allocation is only at this level.

I would hope and encourage the gentleman from Michigan and the gentleman from Kentucky in conference to do a little bit more to get some more money for this program so that we do not lose any of these centers and we can continue to fight this very important battle.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to thank the chairman for really his genuine interest in this and his concern in this area.

There just was not a way to write the amendment in a way that would provide both the flexibility we need at this point in the process and be technically correct.

So I do appreciate the interest of the chairman in this.

I would just add that the more you study the health care problems, the more it is clear that 10 percent of the population is absorbing 90 percent of the money. This approach will get at one of the real cost drivers and help us deal with both access and cost.

Mr. NATCHER. Mr. Chairman, does the gentlewoman from Connecticut withdraw her amendment?

Mrs. JOHNSON of Connecticut. Yes, Mr. Chairman, I withdraw my amendment.

Mr. NATCHER. Mr. Chairman, I would like to say to the gentlewoman from Connecticut that she has been nice about this amendment. She has discussed it with both sides and I concur with the statement made by my friend, the gentleman from Michigan [Mr. PURSELL] that in conference we will see if we cannot work something out on this matter to provide additional funding.

The CHAIRMAN. Without objection, the amendment offered by the gentlewoman from Connecticut [Mrs. JOHNSON] is withdrawn.

There was no objection.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just wanted to take a minute of time, I know the time is short and there are other Members who may have amendments they want to offer, but I want to say this is a good bill considering the allocation we had to work with. As always, Chairman NATCHER and his excellent staff have done a good and fair job with this bill.

But, I want to use my time to pay tribute to a member of our subcommittee who is retiring this year—CARL PURSELL. Carl has been on this subcommittee since 1979, and I have had the privilege of sitting next to him for over a decade. He has done an outstanding job as our ranking member this year.

Throughout his tenure on the subcommittee, CARL has been a voice of reason and conviction. He has taken tough stands on issues. For instance, this year he joined with Chairman NATCHER to oppose delayed obligations which artificially inflate spending totals and create serious outlay problems in succeeding years. Most important, CARL has struck the proper balance between principle and government. He knows when to refuse to yield on principle, and when compromise—the hallmark of good government—is required.

Mr. Chairman, we are going to miss CARL on the subcommittee and in Congress. He has big shoes to fill.

Mr. Chairman, although the committee has had to make some very difficult choices, and in some cases substantially cut back in very popular programs, we recognize the need to help school districts which have been severely impacted by military bases. I offered an amendment, which is included in this bill, to set aside $10 million within the impact aid appropriation for school districts that have been most hurt by inadequate Federal payments to educate the children of military personnel.

In my congressional district, I have two school districts which serve the children of military personnel who live on base, and do not, therefore, pay taxes on their homes to support the school district. In North Chicago, the North Chicago Community Unit District No. 187 is 68-percent impacted by students whose parents work at the Great Lakes Naval Training Center. Down the road about 10 miles, Highwood/Highland Park Elementary District No. 111, which is 33-percent impacted, serves students whose parents are stationed at Fort Sheridan, which is scheduled to close next July.

The per pupil expenditures at these schools are far in excess of the reimbursement they receive for each military student under the impact aid program. They have, therefore, been forced to raise local taxes and accumulate large debts as the communities subsidize the Federal payments shortfall.

My amendment would provide additional payments to school districts like No. 187 and No. 111 which meet certain criteria regarding level of impact and tax effort. A district may qualify for additional funding if it is at least 30-percent militarily impacted, and has higher than State average tax levy and per pupil expenditure. As a result, only districts which have very high impact and whose communities have made the tax commitment to strongly support education will be eligible.

Mr. Chairman, this is a one-time fix that will help school districts, like those in my congressional district, avoid massive layoffs of staff and school closings. But the underlying problem will still remain until the impact aid authorizing statute is reformed. I want to work with the Department of Education and the Education and Labor Committee, and its Elementary and Secondary Education Subcommittee, to produce an impact aid reauthorization that will remedy the Federal payment shortfalls now faced by many heavily impacted schools.

In addition, Mr. Chairman, this legislation addresses many important needs in our country. The bill report contains a provision that asks the Occupational Safety and Health Administration [OSHA] to review its regulations designed to prevent the spread of disease to health care workers. While these regulations are much needed, certain aspects of the overall rule would place unnecessarily burdensome, and in some instances, ridiculous requirements on dentists. I hope that OSHA will quickly work with the American Dental Association [ADA] and other interested parties to remedy this problem.

The bill includes important funding for biomedical research on several debilitating diseases. H.R. 5677 includes $3 million at the Centers for Disease Control [CDC] to continue tracking and investigating chronic fatigue syndrome [CFS] which affects primarily women, often in the prime of life. This bill also provides funding to continue important work at the National Institute on Diabetes and Digestive and Kidney Diseases on the search for the diabetes gene.

The report which accompanies H.R. 5677 addresses other important research concerns including funding for research on dystonia, possible creation of a sleep disorders center within an existing Institute, and an important funding increase for the National Center on Medical Rehabilitation Research within the National Institute on Child Health and Human Development. The report also provides a substantial increase in funding for research on prostate cancer which affects nearly one in nine men.

Perhaps most important among all of the biomedical research efforts now underway, the report includes $1 million for a public education program on eating disorders, which are often fatal and affect primarily adolescent and young adult women. While the National Institute on Mental Health conducts research on eating disorders, it has not in the past conducted a large-scale public education program, which is desperately needed so that patients, family members, and physicians recognize the symptoms and direct patients to treatment. When caught early, eating disorders can be successfully treated. But at this time, most patients suffer at least one relapse, and 16 percent of all women diagnosed with anorexia will eventually die from the disease.

Mr. Chairman, we have addressed many other important needs. This bill preserves funding for the general dentistry and general internal and pediatric medicine programs at the Bureau of Health Professions. These two programs held ensure that we continue to train generalists in the medical profession—physicians who help improve access to primary care, one of our most important goals in health care reform.

We have also provided funding to continue important programs at the related agencies including the Peace Institute and the Corporation for Public Broadcasting. Lastly, the bill includes the requested amount for the President's special management improvement fund at the Railroad Retirement Board to reduce fraud and improve management of the Board.

While no one will be satisfied entirely with this bill, I believe it is a good one given the constraints under which we were working. I would have preferred to see deeper cuts in many lower priority programs, but my view was not generally shared by the committee. I would also have preferred to see some increases in certain programs that did not receive them. But overall, this is a good bill and I commend it to the Members.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first I want to congratulate the distinguished gentleman from Kentucky [Mr. NATCHER] for his leadership on this extremely complex and important appropriations bill, but I must rise today to once again fight for money that I should not even have to defend, funding for the Low Income Home Energy Assistance Program, commonly known as LIHEAP.

The fiscal year 1993 Labor, HHS, and Education appropriations bill proposes a 41-percent cut in LIHEAP that effectively cripples the program. A drop from $1.5 billion to $891 million in funding really means:

Massachusetts will lose over $25 million and over 38,000 fewer families will be served in the cold of winter.

Community action programs will be left with only two choices: Eliminate households by reducing the eligibility for the program to an even lower level of poverty, or cut in half the maximum amount a household could receive for the entire winter. In Massachusetts, this could be less than $300—or about one tank of heating oil for the winter.

Nearly three out of five LIHEAP recipients earn below $6,000 a year. A 41-percent cut would prevent over 21 million low-income families nationwide from receiving fuel assistance this winter.

These numbers represent people who are choosing between eating and staying warm. No member in this Chamber is asked to make that choice. How can we ask the very people who sent us here to represent and protect them to make that terrible choice?

It defeats our purpose when we fund programs to help children learn in school, or immunize them against illness, but let them shiver in their beds at night.

Mr. Chairman, we can find billions of dollars to bail out the S&L's. Why can we not find the money to help keep a mother and her children warm in the winter?

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 80, insert after line 13 the following new section:

SEC. 512. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available under this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1.05159 percent.

Mr. BURTON of Indiana. Mr. Chairman, first of all, I would like to congratulate Chairman NATCHER and the ranking Republican, the gentleman from Michigan [Mr. PURSELL] for not having any forward funding in this bill this year. I told the gentleman from Kentucky [Mr. NATCHER] that I was going to give him a compliment for that. He has done a good job in that regard and we really appreciate it, and I am sure the taxpayers of this country appreciate it as well.

After having said that, however, let me just say to my colleagues that this bill increases spending by $25.31 billion, that is $25,000 million more than last year.

In the entitlement area, and this is the real part that we need to address, in the entitlement area we are increasing spending by almost $24 billion. That is $24,000 million in this one bill, and time after time I have come to this floor and talked about where we are heading as a Nation as far as our economy is concerned.

This chart shows where we are today. We are $4 trillion in debt, $4.1 trillion in debt approximately, and by the year 2000, 7½ years from now, we are going to be over $13 trillion in debt, probably more like $15 trillion in debt.

What that simply means is that we are not even going to pay the interest on the debt. The interest, if you look at this bottom chart, is going to be a minimum of $1.2 trillion and all the tax revenues we are bringing in right now bring in about $1.3 trillion. So we are not going to have enough money to take care of Medicare, Medicaid, Social Security, and all the other problems facing this Nation, because we are going to be spending all our money on the interest on the national debt.

So what will the Federal Reserve Board do? The Federal Reserve Board by law has the right to monetize the debt, to pay off the debt by printing money.

Now, the Federal Reserve Board at that point, as all governments in history in my view, will print $6, $8, $10 trillion and put it out in circulation.

What does that mean? That means that we will have so many dollars chasing fewer and fewer goods and services and it means that everything will go up in cost dramatically. A loaf of bread may cost $30. A quart of milk may cost $25.

The people on fixed incomes that we are concerned about in these entitlements are going to be the ones hit the hardest, the people we are trying to take care of today in the entitlements, listen to me, in the entitlements, are the ones who are going to get hit the hardest because they will be on fixed incomes and they will not have enough money to pay for bread and milk, because we are not being fiscally responsible today.

□ 1150

Listen, $24 billion in this one bill above last year, and last year we had approximately a $400 billion deficit. Some people say it is going to be less than that. The fact of the matter is it is close to $400 billion and going up. These are the projections; they are not my projections, they are those of the Federal Reserve Board.

So we have real problems. Today I cannot get at the entitlements. I believe this Congress must address the problem of entitlements. If we limited entitlements in this bill to no more than a 2 percent growth, we would save—get this—$20 billion in this one bill. If we limited the entitlements to a 2 percent growth, it would pinch some toes, but we would save $20 billion in this one bill and still allow a $3.3 billion increase in spending.

We could still increase spending by 3,000 million dollars in this bill and save $20 billion if we limited it to 2-percent growth. That is what we ought to do. The growth in this bill is almost 15 percent. Inflation is 3 percent. Fifteen percent, five times the rate of inflation.

This country cannot stand that kind of spending. It is going to bankrupt us; it will bankrupt us.

Now, what my amendment does—and I can only get at the discretionary spending—my amendment limits the growth in spending to 2 percent in discretionary funding, which means we will save $587 million. We could save $20 billion, but we cannot get at the entitlements.

So I can say to my colleagues, if you want to save $587 million, you will still be increasing spending by about $25 billion, which is way out of line, but if you want to save $587 million, then vote for my amendment. You will be taking a small step toward being fiscally responsible.

Now, you all know what I am telling you is a fact, and you all know what I am telling you is the truth, and we do not do anything about it.

I submit to you today we ought to take a first step, save $587 million and vote for the Burton amendment.

Mr. NATCHER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by the gentleman from Indiana [Mr. BURTON].

Mr. Chairman, the gentleman points out the terrific increases in some of the programs in this bill. As the gentleman well knows, Mr. Chairman, with the exception of only a very few programs, the increase in this bill is in the entitlement programs. This bill increases over last year only 1.5 percent in discretionary programs.

You know, it is right easy when you come in and say, "We want a 1-percent cut across the top of this bill, it is just a small amount of money."

But let us look and see what it is. What do you cut? What do you have in mind with such an amendment?

Here is the Job Training Partnership Act, the gentleman from Indiana wants to cut it $42 million. The Job Corps, he wants to cut $10 million. The Older Workers Employment Program, he wants to cut it $4 million.

The gentleman, under his amendment, with regard to the State unemployment service, he wants to cut it $33 million more. As far as AIDS is concerned, and, Mr. Chairman, this is one of the most terrible diseases confronting the world today, we have in this bill about $1,980,000,000 for AIDS. If we had the money for the bill, if the dollars were there, that would have been $2.5 billion, I say to the gentleman from Indiana.

He wants to cut the AIDS program, $20 million.

As far as health professions is concerned, $2 million; childhood immunization, $3 million; tuberculosis—the gentleman from New York [Mr. SCHUMER] is here now—he appeared before our subcommittee on this particular matter pertaining to a new strain of tuberculosis. We increased that amount by $59 million. The gentleman from New York [Mr. SCHUMER], who is in the well now, brought it to our attention. We increased it $59 million to a total of $80 million.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from New York briefly.

Mr. SCHUMER. Mr. Chairman, I thank the subcommittee chairman for yielding to me.

Just briefly, Mr. Chairman, I want to say that the money for tuberculosis, for fighting this new strain, is in the bill. It is a very, very significant increase. I want to thank the chairman, the gentleman from Kentucky [Mr. NATCHER] for it.

Mr. Chairman, we are doing now, on this new strain of tuberculosis,what we should have done with AIDS 10 years ago; in other words, getting a stitch in time to save nine before this disaster spreads. And I want to thank the chairman.

Mr. Chairman, I rise today in support of this bill and I commend the members of the Appropriations Committee for the fine work they have done. In particular, I would like to recognize the distinguished chairman, Mr. NATCHER, for his leadership in assuring that this bill provides increased funding to reinvigorate tuberculosis prevention and control programs at the Centers for Disease Control. The bill appropriates over $105 million for these programs, almost $40 million over the President's request. Of this total, $40 million is earmarked for those areas of the country hardest hit by the recent TB resurgence, such as New York City and other major metro areas.

I also wish to recognize my distinguished colleague from California, Mr. WAXMAN, for the efforts he has made in highlighting the need for stepped-up TB prevention and control programs. Together, we introduced H.R. 5052, the tuberculosis prevention and control amendments, which called for such increases in CDC funding, in addition to other remedial measures that still require legislative action.

Mr. Chairman, the funding in this bill is crucial to address a burgeoning epidemic of a disease that most of us thought was just a savage relic of the past. In 1991, over 26,000 new cases of TB were reported, up more than 10 percent since 1989. New cases have been reported in every State of the Union, in rural and suburban communities and in large cities. Almost 60 percent of all TB cases occur in communities with populations of less than 250,000 people.

Ominously, this rise in TB has been accompanied by the emergence of drug-resistant strains of the disease, which are very expensive to treat and are fatal in 75 percent of the cases. Drug-resistant TB has been reported in more than a dozen States.

Thankfully, TB is a preventable and, in virtually all cases, treatable disease. The increased funding in this bill will allow us to quickly expand our TB prevention and control programs and halt the spread of this dreaded disease. This will save both lives and money. Delays, as we learned from the inadequate responses to the AIDS crisis, exact terrible costs.

With this bill we take the first critical step towards eradicating the scourge of TB once and for all. Again, I commend Chairman NATCHER for his insightful leadership on this issue and I urge my colleagues to support this bill.

Mr. NATCHER. I thank the gentleman from New York for his comments.

Mr. Chairman, for breast and cervical cancers, the gentleman wants to cut that $1 million. As far as the National Institutes of Health, the gentleman wants to cut it $92 million.

As far as the National Cancer Institute, the gentleman wants to cut it $20 million.

Mr. Chairman, the gentleman, for the National Heart, Lung, and Blood Institute, wants to cut it $12 million. For Medicare Program management, he wants to cut it $20 million.

The Low-Income Home Energy Assistance Program, the gentleman from Massachusetts, on this side of the aisle, spoke about this, and the gentleman from Indiana wants to cut that $9 million.

Coming on down: The refugee program, $3 million; community services, $4 million. Head Start, Mr. Chairman, the gentleman from Indiana wants to cut it $27 million. You know, when the gentleman from Indiana goes back—and the gentleman from Indiana is my friend, he is a good Member of the House—when the gentleman from Indiana goes back to his district, he could say to his people without any question: "Take a look at me. I am the one who offered the amendment to reduce Head Start by $27 million. Take a look at me. That was in my amendment."

Mr. Chairman, as far as the Administration for the Aging, he wants to cut it $8 million. Now, here on education, on chapter 1, the gentleman wants to cut it $68 million.

When the gentleman goes back to his district he can say to the people in his district, Mr. Chairman, "Take a look at me. I am the one who offered the amendment. I want to cut elementary and secondary education $68 million more than the committee had to cut it by virtue of the dollars not being there."

In addition to that, Mr. Chairman, there is a cut here in special education, he wants that cut $29 million. And so on down the line, student aid, Mr. Chairman, $81 million. These boys and girls who graduate from high school, who have had it tough all the way through, then they try to go to college, but the gentleman from Indiana wants to cut it.

Mr. Chairman, I say to you I hope every Member votes against this amendment. This amendment should be defeated.

The CHAIRMAN. The time of the gentleman has expired.

There remain 3 minutes of total debate time on everything. The Chair asks the gentleman from Michigan [Mr. PURSELL], for what purpose does he rise?

Mr. PURSELL. Mr. Chairman, I yield myself 1 minute.

The CHAIRMAN. The gentleman from Vermont [Mr. SANDERS] has been standing. The Chair would like to divide the remaining 3 minutes between the gentleman from Michigan [Mr. PURSELL] and the gentleman from Vermont [Mr. SANDERS]. But the debate is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

Mr. PURSELL. I would be happy to do that, Mr. Chairman.

PARLIAMENTARY INQUIRY

Mr. LIVINGSTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LIVINGSTON. Mr. Chairman, will I be allowed time to offer my amendment that I referred to earlier?

The CHAIRMAN. Amendments may be offered after 12 o'clock, but there is no possibility of debate pro or con on the amendment.

Mr. LIVINGSTON. I thank the Chair.

The CHAIRMAN. The gentleman from Vermont [Mr. SANDERS] is recognized for 1½ minutes.

Mr. SANDERS. I thank the chairman for yielding.

Mr. Chairman, several months ago this institution had a very profound debate, and the debate was whether we continue to spend $280 billion on the military, $135 billion to defend Western Europe over $4 billion for missile defense, $4 billion for B-2 bombers, and $1 billion for Trident submarines.

Some of us said let us cut military spending so that we can reinvest in America, make sure that we deal with homelessness, make sure that we do not have senior citizens in this country who go cold in the wintertime, let us make sure that all the kids in America have the opportunity to have a Pell grant and go to college.

Mr. Chairman, we lost that debate, and the chickens are coming home to roost today.

□ 1200

Mr. PURSELL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana [Mr. BURTON].

Mr. Chairman, this committee put together an excellent bill which is only 1½ percent over last year in discretionary spending. the gentleman from Indiana is correct when he says the problem is entitlements, and I suggest that he does have an opportunity as a Member of Congress to introduce legislation to change the statutes and eligibility requirements regarding entitlements. So, I think he can address that issue.

I would like to say in my time in the U.S. Congress that I too, have opposed many military appropriations bills, particularly the MX—200 to 50—the B-1, and many of the weapons systems that we have.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 95, noes 290, not voting 49, as follows:

[Roll No. 320]

AYES—95

Allard
Allen
Archer
Armey
Baker
Ballenger
Barton
Bennett
Bliley
Boehner
Bunning
Burton
Callahan
Camp
Chandler
Coble
Combest
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Fields
Gallegly
Gekas
Hancock
Hansen
Hefley
Herger
Holloway
Hopkins
Hunter
Hutto
Inhofe
Jacobs
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Livingston
Marlenee
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Nichols
Nussle
Orton
Oxley
Packard
Penny
Petri
Quillen
Ravenel
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rohrabacher
Roth
Sarpalius
Schaefer
Schulze
Sensenbrenner
Shuster
Smith (TX)
Solomon
Spence
Stenholm
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Walker
Walsh
Weldon
Zeliff
Zimmer

NOES—290

Abercrombie
Ackerman
Alexander
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bacchus
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Dooley
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Lancaster
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Montgomery
Moody
Moran
Morella
Morrison
Murtha
Myers
Natcher
Neal (NC)
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—49

Anderson
Andrews (ME)
Atkins
Barnard
Boxer
Campbell (CA)
Campbell (CO)
Conyers
Coughlin
Dicks
Donnelly
Dymally
Edwards (OK)
Engel
Foglietta
Ford (TN)
Gingrich
Hatcher
Hyde
Ireland
Jefferson
Kaptur
LaFalce
Lantos
Lehman (FL)
Levine (CA)
Lowery (CA)
Matsui
Mollohan
Mrazek
Murphy
Nagle
Neal (MA)
Nowak
Olin
Owens (NY)
Payne (NJ)
Pelosi
Perkins
Ray
Russo
Solarz
Tallon
Thomas (GA)
Torricelli
Towns
Vander Jagt
Williams
Wise

□ 1224

Messrs. HAMMERSCHMIDT, RAMSTAD, LEWIS of Florida, and ENGLISH changed their vote from "aye" to "no."

Mr. RIDGE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair would advise that all time for debate has expired, and on any further votes that are to be taken, the Chair will hold strictly to the 15-minute time.

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

PARLIAMENTARY INQUIRY

Mr. LIVINGSTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LIVINGSTON. Mr. Chairman, my inquiry is that if this motion to rise is to pass, will I or will I not be allowed to introduce my amendment which says in effect that OSHA will have no funds to implement their regulations to force employers to be responsible if their employees do not wear seat belts on motorcycles?

The CHAIRMAN. The Chair would advise that if the motion is not agreed to a proper limitation on appropriations amendment would be in order.

The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER] to rise and report.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LIVINGSTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 215, not voting 38, as follows:

[Roll No. 321]

AYES—181

Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Cox (IL)
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Jacobs
Jenkins
Johnston
Jones (NC)
Kanjorski
Kennelly
Kildee
Kleczka
Kolter
Kopetski
LaFalce
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moran
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Payne (VA)
Pease
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sisisky
Skaggs
Slaughter
Smith (FL)
Smith (IA)
Stark
Stokes

Studds
Swift
Synar
Taylor (MS)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOES—215

Abercrombie
Allard
Allen
Andrews (TX)
Anthony
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Brewster
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Inhofe
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (GA)
Jontz
Kasich
Kennedy
Klug
Kolbe
Kostmayer
Kyl
Lagomarsino
Lancaster
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Luken
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Parker
Pastor
Patterson
Paxon
Penny
Petri
Porter
Poshard
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wilson
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOT VOTING—38

Anderson
Atkins
Barnard
Boxer
Campbell (CA)
Campbell (CO)
Conyers
Coughlin
Dicks
Donnelly
Dymally
Edwards (OK)
Engel
Foglietta
Ford (TN)
Gingrich
Hatcher
Hyde
Ireland
Jefferson
Kaptur
Lantos
Levine (CA)
Matsui
Mollohan
Mrazek
Nagle
Payne (NJ)
Pelosi
Perkins
Ray
Roe
Russo
Serrano
Solarz
Thomas (GA)
Towns
Wise

☐ 1244

Messrs. LUKEN, WELDON, GUARINI, SLATTERY, GLICKMAN, ANDREWS of Texas, McMILLEN of Maryland, PASTOR, VOLKMER, GORDON, SPRATT, HEFNER, KENNEDY, and WILSON changed their vote from "aye" to "no."

Messrs. DOWNEY, McDERMOTT, GONZALEZ, and Mr. LEWIS of Georgia changed their vote from "no" to "aye."

So the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WILLIAMS. Mr. Speaker, during the voting process on rollcall vote No. 321 which just occurred on the motion by the floor manager to rise and report the Labor-HHS appropriations bill back to the full House, I attempted to change my vote from "yea" to "nay." Apparently, the voting had closed on this rollcall and my vote change was not recorded. My intention was to vote "nay" on the motion to rise and report the bill back to the full House. I intended to so vote because I would have then voted "yea", in favor of the proposal by Congressman LIVINGSTON.

AMENDMENT OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment, and the Chair would advise Members there is no time for debate on this or any other amendment.

The Clerk read as follows:

Amendment offered by Mr. LIVINGSTON Page 80, after line 13, insert before the short title provision the following new section:

SEC .—.None of the funds appropriated under this Act may be expended by the Occupational Safety and Health Administration to implement or administer the regulations affecting mandatory seat belt use, mandatory motorcycle helmet use, and mandatory employer driver safety awareness programs, to be codified or proposed to be codified at parts 1910, 1915, 1917, 1918, 1926, and 1928 of title 29 of the Code of Federal Regulations.

The CHAIRMAN. For what purpose does the gentleman from Kentucky [Mr. NATCHER], the chairman of the committee, rise?

Mr. NATCHER. Mr. Chairman, will the gentleman from Louisiana [Mr. LIVINGSTON] yield to me?

The CHAIRMAN. The Chair must indicate there is no time.

Mr. LIVINGSTON. Mr. Chairman, I ask unanimous consent that I have 1 minute to debate the issue.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, as Members know, immediately following this bill we will take up the supplemental appropriations bill. It is our intention on this side and on the other side, Mr. Chairman, to put that one through as soon as possible. I have talked to the gentleman from Louisiana [Mr. LIVINGSTON] about his amendment.

Mr. Chairman, on this side we accept the gentleman's amendment. Then we will move that the Committee do rise. We will have the vote on the passage of the bill and go right into the supplemental.

I would ask the gentleman, does that meet with his approval?

Mr. LIVINGSTON. It certainly does, Mr. Chairman. I thank the gentleman from Kentucky, and would say that I enjoy working with him on the full committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The amendment was agreed to.

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BONIOR] having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MILLER of Ohio. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MILLER of Ohio moves to recommit the bill, H.R. 5677, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. NATCHER. Mr. Chairman, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 345, nays 54, not voting 35, as follows:

[Roll No. 322]

YEAS—345

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
AuCoin
Bacchus
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—54

Allard
Allen
Archer
Armey
Baker
Ballenger
Barton
Bennett
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Fields
Hancock
Hansen
Hefley
Herger
Holloway
Hunter
Inhofe
Johnson (TX)
Kyl
Lewis (FL)
McCollum
McEwen
Miller (OH)
Moorhead
Nichols
Nussle
Packard
Roberts
Rohrabacher
Roth
Schaefer
Sensenbrenner
Shuster
Solomon
Stump
Sundquist
Thomas (WY)
Walker
Zeliff

NOT VOTING—35

Anderson
Aspin
Atkins
Barnard
Boxer
Campbell (CO)
Collins (IL)
Conyers
Coughlin
Dicks
Donnelly
Dymally
Edwards (OK)
Engel
Ford (TN)
Gingrich
Hatcher
Ireland
Kaptur
Lantos
Levine (CA)
Matsui
McDade
Mollohan
Nagle
Payne (NJ)
Pelosi
Perkins
Pickle
Ray
Russo
Solarz
Thomas (GA)
Towns
Wise

□ 1308

Mr. RAMSTAD changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point a detailed table showing the amounts provided for in H.R. 5677, the bill just passed, and that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, along with tables and charts.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The table referred to follows:

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
SUMMARY					
Title I - Department of Labor:					
Federal Funds	7,518,049,000	7,999,614,000	8,084,255,000	+566,206,000	+84,641,000
Current year	(7,330,349,000)	(7,811,914,000)	(8,084,255,000)	(+753,906,000)	(+272,341,000)
1994 advance	(187,700,000)	(187,700,000)	....	(-187,700,000)	(-187,700,000)
Trust Funds	(3,697,527,000)	(3,568,467,000)	(3,589,103,000)	(-108,424,000)	(+20,636,000)
Title II - Department of Health and Human Services:					
Federal Funds	182,914,610,000	206,120,270,000	206,023,598,000	+23,108,988,000	-96,672,000
Current year	(156,376,610,000)	(169,250,925,000)	(169,515,598,000)	(+13,138,988,000)	(+264,673,000)
1994 advance	(26,538,000,000)	(36,869,345,000)	(36,508,000,000)	(+9,970,000,000)	(-361,345,000)
Trust Funds	(6,895,123,000)	(6,879,153,000)	(6,714,676,000)	(-180,447,000)	(-164,477,000)
Title III - Department of Education:					
Federal Funds	27,275,434,000	29,241,217,000	28,931,697,000	+1,656,263,000	-309,520,000
Current year	(27,265,939,000)	(29,241,217,000)	(28,931,697,000)	(+1,665,758,000)	(-309,520,000)
FY 1993 - 1995	(9,495,000)	....	....	(-9,495,000)	....
Total including Guaranteed Student Loans	(29,411,264,000)	(32,292,147,000)	(31,982,627,000)	(+2,571,363,000)	(-309,520,000)
Title IV - Related Agencies:					
Federal Funds	1,057,259,000	1,058,190,000	1,038,979,000	-18,280,000	-19,211,000
Current year	(782,259,000)	(783,190,000)	(766,729,000)	(-15,530,000)	(-16,461,000)
1995 advance	(275,000,000)	(275,000,000)	(272,250,000)	(-2,750,000)	(-2,750,000)
Trust Funds	(107,637,000)	(114,217,000)	(110,698,000)	(+3,061,000)	(-3,519,000)
Total, all titles:					
Federal Funds	218,765,352,000	244,419,291,000	244,078,529,000	+25,313,177,000	-340,762,000
Current year	(191,755,157,000)	(207,087,246,000)	(207,298,279,000)	(+15,543,122,000)	(+211,033,000)
1993 - 1995 advance	(9,495,000)	....	....	(-9,495,000)	....
1994 advance	(26,725,700,000)	(37,057,045,000)	(36,508,000,000)	(+9,782,300,000)	(-549,045,000)
1995 advance	(275,000,000)	(275,000,000)	(272,250,000)	(-2,750,000)	(-2,750,000)
Trust Funds	(10,700,287,000)	(10,561,837,000)	(10,414,477,000)	(-285,810,000)	(-147,360,000)
TITLE I - DEPARTMENT OF LABOR					
EMPLOYMENT AND TRAINING ADMINISTRATION					
PROGRAM ADMINISTRATION					
Job training programs	21,193,000	23,087,000	23,087,000	+1,894,000	....
Trust funds	(2,123,000)	(2,210,000)	(2,210,000)	(+87,000)	....
Employment security	442,000	461,000	461,000	+19,000	....
Trust funds	(13,152,000)	(13,734,000)	(13,734,000)	(+582,000)	....
Financial and administrative management	13,790,000	15,470,000	15,470,000	+1,680,000	....
Trust funds	(10,421,000)	(10,871,000)	(10,871,000)	(+450,000)	....
Executive direction and administration	4,376,000	4,864,000	4,864,000	+488,000	....
Trust funds	(3,870,000)	(4,274,000)	(4,274,000)	(+404,000)	....
Regional operations	16,132,000	16,523,000	16,523,000	+391,000	....
Trust funds	(26,068,000)	(27,477,000)	(27,477,000)	(+1,409,000)	....
Apprenticeship services	16,732,000	17,324,000	17,324,000	+592,000	....
Undistributed	....	....	-777,000	-777,000	-777,000
Undistributed, trust funds	....	....	(-3,488,000)	(-3,488,000)	(-3,488,000)
Total, Program Administration	128,299,000	136,295,000	132,030,000	+3,731,000	-4,265,000
Federal funds	72,665,000	77,729,000	76,952,000	+4,287,000	-777,000
Trust funds	(55,634,000)	(58,566,000)	(55,078,000)	(-556,000)	(-3,488,000)
TRAINING AND EMPLOYMENT SERVICES					
Grants to States:					
Block grant	1,773,484,000	1,771,550,000	1,755,749,000	-17,735,000	-15,801,000
Summer youth employment and training program	495,212,000	495,212,000	676,083,000	+180,871,000	+180,871,000
Advance appropriation, 10/1	187,700,000	187,700,000	....	-187,700,000	-187,700,000
Dislocated worker assistance	576,986,000	542,986,000	571,216,000	-5,770,000	+28,230,000
Reappropriation	....	34,000,000	....	....	-34,000,000
Federally administered programs:					
Native Americans	63,000,000	58,461,000	62,370,000	-630,000	+3,909,000
Migrants and seasonal farmworkers	77,644,000	56,690,000	76,868,000	-776,000	+20,178,000
Job Corps:					
Operations	846,533,000	900,803,000	898,722,000	+52,189,000	-2,081,000
Construction and renovation	73,000,000	....	90,288,000	+17,288,000	+90,288,000
Reappropriation	35,568,000	8,700,000	....	-35,568,000	-8,700,000
Subtotal, Job Corps	955,101,000	909,503,000	989,010,000	+33,909,000	+79,507,000
Veterans' employment	9,120,000	8,863,000	9,029,000	-91,000	+166,000

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
National activities:					
Pilots and demonstrations	35,753,000	35,753,000	35,395,000	-358,000	-358,000
Research, demonstration and evaluation	10,000,000	10,000,000	9,900,000	-100,000	-100,000
Other	23,606,000	7,500,000	15,246,000	-8,360,000	+7,746,000
Subtotal, National activities	69,359,000	53,253,000	60,541,000	-8,818,000	+7,288,000
Subtotal, Federal activities	1,174,224,000	1,086,770,000	1,197,818,000	+23,594,000	+111,048,000
Total, Job Training Partnership Act	4,207,606,000	4,118,218,000	4,200,866,000	-6,740,000	+82,648,000
Job training for the homeless	9,312,000	17,000,000	12,870,000	+3,558,000	-4,130,000
National literacy act		1,247,000			-1,247,000
Total, Training and Employment Services	4,216,918,000	4,136,465,000	4,213,736,000	-3,182,000	+77,271,000
Current year	(4,029,218,000)	(3,948,765,000)	(4,213,736,000)	(+184,518,000)	(+264,971,000)
FY 1994	(187,700,000)	(187,700,000)		(-187,700,000)	(-187,700,000)
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS					
National contracts	308,241,000	267,395,000	305,159,000	-3,082,000	+37,764,000
State grants	86,940,000	75,419,000	86,071,000	-869,000	+10,652,000
Total	395,181,000	342,814,000	391,230,000	-3,951,000	+48,416,000
FEDERAL UNEMPLOYMENT AND ALLOWANCES 1/					
Trade adjustment	226,000,000	211,000,000	211,000,000	-15,000,000	
Other activities	250,000	250,000	250,000		
Total	226,250,000	211,250,000	211,250,000	-15,000,000	
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS					
Unemployment Compensation (Trust Funds):					
State Operations	(1,510,973,000)	(1,657,926,000)	(1,654,639,000)	(+143,666,000)	(-3,287,000)
State integrity activities	(290,723,000)	(346,756,000)	(329,996,000)	(+39,273,000)	(-16,760,000)
National Activities	(6,486,000)	(8,900,000)	(8,811,000)	(+2,325,000)	(-89,000)
Contingency	(440,703,000)	(302,331,000)	(338,908,000)	(-101,795,000)	(+36,577,000)
Contingency bill language (OMB estimate)	(227,400,000)	(65,500,000)	(65,500,000)	(-161,900,000)	
Subtotal	(2,476,285,000)	(2,381,413,000)	(2,397,854,000)	(-78,431,000)	(+16,441,000)
Employment Service:					
Allotments to States:					
Federal funds	21,838,000	24,648,000	21,620,000	-218,000	-3,028,000
Trust funds	(799,770,000)	(796,960,000)	(791,772,000)	(-7,998,000)	(-5,188,000)
Subtotal	821,608,000	821,608,000	813,392,000	-8,216,000	-8,216,000
National Activities:					
Federal funds	2,200,000	2,038,000	2,018,000	-182,000	-20,000
Trust funds 2/	(79,938,000)	(67,972,000)	(67,292,000)	(-12,646,000)	(-680,000)
Targeted jobs tax credit	(20,000,000)			(-20,000,000)	
Subtotal, Employment Service	923,746,000	891,618,000	882,702,000	-41,044,000	-8,916,000
Federal funds	24,038,000	26,686,000	23,638,000	-400,000	-3,048,000
Trust funds	(899,708,000)	(864,932,000)	(859,064,000)	(-40,644,000)	(-5,868,000)
Total, State Unemployment 3/	3,400,031,000	3,273,031,000	3,280,556,000	-119,475,000	+7,525,000
Federal Funds	24,038,000	26,686,000	23,638,000	-400,000	-3,048,000
Trust Funds	(3,375,993,000)	(3,246,345,000)	(3,256,918,000)	(-119,075,000)	(+10,573,000)
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS	236,990,000	665,000,000	665,000,000	+428,010,000	
Total, Employment and Training Administration	8,603,669,000	8,764,855,000	8,893,802,000	+290,133,000	+128,947,000
Federal funds	5,172,042,000	5,459,944,000	5,581,806,000	+409,764,000	+121,862,000
Current year	(4,984,342,000)	(5,272,244,000)	(5,581,806,000)	(+597,464,000)	(+309,562,000)
FY 1994	(187,700,000)	(187,700,000)		(-187,700,000)	(-187,700,000)
Trust funds	(3,431,627,000)	(3,304,911,000)	(3,311,996,000)	(-119,631,000)	(+7,085,000)
LABOR - MANAGEMENT STANDARDS					
SALARIES AND EXPENSES					
Labor-management relations service	5,415,000			-5,415,000	
Labor-management standards enforcement	25,997,000	26,485,000	26,220,000	+223,000	-265,000
Total, LMS	31,412,000	26,485,000	26,220,000	-5,192,000	-265,000

1/ FY93 request includes $168,700,000 in legislative savings proposed for later transmittal.

2/ FY92 includes $12,500,000 for computer operations, not available for obligation until 9/30/92. No delay included in recommendation. Reflects rescission enacted 6/92.

3/ Includes Federal, Trust and advance Trust funds.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
PENSION AND WELFARE BENEFITS ADMINISTRATION					
SALARIES AND EXPENSES					
Enforcement and compliance	47,561,000	51,117,000	51,117,000	+3,556,000	
Policy, regulation and public service	10,976,000	11,779,000	11,779,000	+803,000	
Executive direction	3,473,000	3,792,000	3,792,000	+319,000	
Undistributed			-2,932,000	-2,932,000	-2,932,000
Total, PWBA	62,010,000	66,688,000	63,756,000	+1,746,000	-2,932,000
PENSION BENEFIT GUARANTY CORPORATION					
Program Administration subject to limitation (Trust Funds)	(38,487,000)	(35,209,000)	(34,857,000)	(-3,630,000)	(-352,000)
Services related to terminations not subject to limitations (non-add)	(64,929,000)	(70,508,000)	(70,508,000)	(+5,579,000)	
Total, PBGC	(103,416,000)	(105,717,000)	(105,365,000)	(+1,949,000)	(-352,000)
EMPLOYMENT STANDARDS ADMINISTRATION					
SALARIES AND EXPENSES					
Enforcement of wage and hour standards	94,650,000	99,053,000	99,053,000	+4,403,000	
Federal contractor EEO standards enforcement	54,789,000	58,114,000	58,114,000	+3,325,000	
Federal programs for workers' compensation	66,624,000	73,367,000	73,367,000	+6,743,000	
Trust funds	(1,009,000)	(1,056,000)	(999,000)	(-10,000)	(-57,000)
Executive direction and support services	10,616,000	11,961,000	11,961,000	+1,345,000	
Undistributed			-10,163,000	-10,163,000	-10,163,000
Total, salaries and expenses	227,688,000	243,551,000	233,331,000	+5,643,000	-10,220,000
Federal funds	226,679,000	242,495,000	232,332,000	+5,653,000	-10,163,000
Trust funds	(1,009,000)	(1,056,000)	(999,000)	(-10,000)	(-57,000)
SPECIAL BENEFITS					
Federal employees compensation benefits	188,000,000	286,000,000	286,000,000	+98,000,000	
Longshore and harbor workers' benefits	4,000,000	4,000,000	4,000,000		
Total, Special Benefits	192,000,000	290,000,000	290,000,000	+98,000,000	
BLACK LUNG DISABILITY TRUST FUND					
Benefit payments and interest on advances	861,135,000	888,251,000	888,251,000	+27,116,000	
Employment Standards Admin., salaries and expenses	30,145,000	28,726,000	29,726,000	-419,000	+1,000,000
Departmental Management, salaries and expenses	25,579,000	25,698,000	25,698,000	+119,000	
Departmental Management, inspector general	333,000	352,000	352,000	+19,000	
Subtotal	917,192,000	943,027,000	944,027,000	+26,835,000	+1,000,000
Treasury administrative costs (indefinite)	756,000	756,000	756,000		
Total, Black Lung Disability Trust Fund	917,948,000	943,783,000	944,783,000	+26,835,000	+1,000,000
Total, Employment Standards Administration	1,337,636,000	1,477,334,000	1,468,114,000	+130,478,000	-9,220,000
Federal funds	1,336,627,000	1,476,278,000	1,467,115,000	+130,488,000	-9,163,000
Trust funds	(1,009,000)	(1,056,000)	(999,000)	(-10,000)	(-57,000)
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES					
Safety and health standards	7,836,000	8,214,000	8,214,000	+378,000	
Enforcement:					
Federal Enforcement	130,975,000	137,628,000	137,628,000	+6,653,000	
State programs	65,010,000	68,927,000	68,927,000	+3,917,000	
Technical Support	17,426,000	18,105,000	18,105,000	+679,000	
Compliance Assistance	38,870,000	40,819,000	40,819,000	+1,949,000	
Safety and health statistics	12,760,000	12,998,000	12,998,000	+238,000	
Executive direction and administration	6,909,000	7,234,000	7,234,000	+325,000	
Undistributed			-6,825,000	-6,825,000	-6,825,000
Total, OSHA	279,786,000	293,925,000	287,100,000	+7,314,000	-6,825,000
MINE SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES					
Enforcement:					
Coal	93,542,000	103,711,000	103,711,000	+10,169,000	
Metal/nonmetal	37,129,000	39,761,000	39,761,000	+2,632,000	
Standards development	1,384,000	1,475,000	1,475,000	+91,000	
Assessments	2,455,000	2,517,000	2,517,000	+62,000	
Educational policy and development	13,467,000	8,652,000	13,467,000		+4,815,000
Technical support	21,251,000	21,858,000	21,858,000	+607,000	
Program administration	12,808,000	13,075,000	13,075,000	+267,000	
Undistributed			-3,934,000	-3,934,000	-3,934,000
Total, Mine Safety and Health Administration	182,036,000	191,049,000	191,930,000	+9,894,000	+881,000

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
BUREAU OF LABOR STATISTICS					
SALARIES AND EXPENSES					
Employment and Unemployment Statistics	82,419,000	87,377,000	87,377,000	+4,958,000	
Labor Market Information (Trust Funds)	(49,799,000)	(51,539,000)	(49,301,000)	(-498,000)	(-2,238,000)
Prices and cost of living	84,029,000	90,591,000	90,591,000	+6,562,000	
Compensation and working conditions	60,650,000	66,324,000	66,324,000	+5,674,000	
Productivity and technology	6,316,000	6,809,000	6,809,000	+493,000	
Economic growth and employment projections	3,844,000	4,115,000	4,115,000	+271,000	
Executive direction and staff services	30,839,000	27,099,000	27,099,000	-3,740,000	
Undistributed			-6,105,000	-6,105,000	-6,105,000
Total, Bureau of Labor Statistics	317,896,000	333,854,000	325,511,000	+7,615,000	-8,343,000
Federal Funds	268,097,000	282,315,000	276,210,000	+8,113,000	-6,105,000
Trust Funds	(49,799,000)	(51,539,000)	(49,301,000)	(-498,000)	(-2,238,000)
DEPARTMENTAL MANAGEMENT					
SALARIES AND EXPENSES					
Executive direction	21,419,000	29,797,000	21,419,000		-8,378,000
Legal services	57,786,000	60,172,000	60,172,000	+2,386,000	
Trust funds	(332,000)	(336,000)	(329,000)	(-3,000)	(-7,000)
International labor affairs	7,211,000	7,855,000	7,855,000	+644,000	
Administration and management	15,575,000	15,503,000	15,503,000	-72,000	
Adjudication	16,147,000	17,118,000	17,118,000	+971,000	
Promoting employment of the disabled	4,321,000	4,238,000	4,238,000	-83,000	
Women's Bureau	7,940,000	7,565,000	7,565,000	-375,000	
Civil Rights Activities	4,534,000	5,064,000	5,064,000	+530,000	
Chief Financial Officer	5,805,000	6,884,000	6,884,000	+1,079,000	
Undistributed			-2,527,000	-2,527,000	-2,527,000
Total, Salaries and expenses	141,070,000	154,532,000	143,620,000	+2,550,000	-10,912,000
Federal funds	140,738,000	154,196,000	143,291,000	+2,553,000	-10,905,000
Trust funds	(332,000)	(336,000)	(329,000)	(-3,000)	(-7,000)
VETERANS EMPLOYMENT AND TRAINING					
State Administration:					
Disabled Veterans Outreach Program	(77,901,000)	(77,901,000)	(82,665,000)	(+4,764,000)	(+4,764,000)
Local Veterans Employment Program	(71,924,000)	(71,924,000)	(76,725,000)	(+4,801,000)	(+4,801,000)
Subtotal, State Administration	(149,825,000)	(149,825,000)	(159,390,000)	(+9,565,000)	(+9,565,000)
Federal Administration	(19,651,000)	(21,027,000)	(25,047,000)	(+5,396,000)	(+4,020,000)
National Veterans Training Institute	(2,440,000)		(2,871,000)	(+431,000)	(+2,871,000)
Total, Trust Funds	(171,916,000)	(170,852,000)	(187,308,000)	(+15,392,000)	(+16,456,000)
OFFICE OF THE INSPECTOR GENERAL					
Audit:					
Federal funds	20,149,000	21,349,000	21,349,000	+1,200,000	
Trust funds	(4,023,000)	(4,210,000)	(4,210,000)	(+187,000)	
Investigation:					
Federal funds	8,015,000	8,690,000	8,690,000	+675,000	
Trust funds	(334,000)	(354,000)	(354,000)	(+20,000)	
Office of Labor Racketeering	11,057,000	11,995,000	11,995,000	+938,000	
Executive Direction and Management	6,080,000	6,700,000	6,700,000	+620,000	
Undistributed			-1,907,000	-1,907,000	-1,907,000
Undistributed, trust funds			(-251,000)	(-251,000)	(-251,000)
Total, Office of the Inspector General	49,658,000	53,298,000	51,140,000	+1,482,000	-2,158,000
Federal funds	45,301,000	48,734,000	46,827,000	+1,526,000	-1,907,000
Trust funds	(4,357,000)	(4,564,000)	(4,313,000)	(-44,000)	(-251,000)
Total, Departmental Management	362,644,000	378,682,000	382,068,000	+19,424,000	+3,386,000
Federal funds	186,039,000	202,930,000	190,118,000	+4,079,000	-12,812,000
Trust funds	(176,605,000)	(175,752,000)	(191,950,000)	(+15,345,000)	(+16,198,000)
Total, Labor Department 1/	11,215,576,000	11,568,081,000	11,673,358,000	+457,782,000	+105,277,000
Federal funds	7,518,049,000	7,999,614,000	8,084,255,000	+566,206,000	+84,641,000
Current year	(7,330,349,000)	(7,811,914,000)	(8,084,255,000)	(+753,906,000)	(+272,341,000)
FY 1994	(187,700,000)	(187,700,000)		(-187,700,000)	(-187,700,000)
Trust funds	(3,697,527,000)	(3,568,467,000)	(3,589,103,000)	(-108,424,000)	(+20,636,000)

1/ Includes Federal and Trust funds.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
TITLE II - DEPARTMENT OF HEALTH AND HUMAN SERVICES					
HEALTH RESOURCES AND SERVICES ADMINISTRATION					
HEALTH RESOURCES AND SERVICES 1/					
Health Care Delivery and Assistance:					
Community health centers 2/	473,835,000	615,754,000	527,507,000	+53,672,000	-88,247,000
Transfer from "Educational excellence"	49,000,000			-49,000,000	
Infant mortality initiative	10,000,000			-10,000,000	
Subtotal, Community Health Centers	532,835,000	615,754,000	527,507,000	-5,328,000	-88,247,000
Migrant health centers 3/	51,362,000	62,647,000	56,788,000	+5,426,000	-5,859,000
Transfer from "Educational excellence"	6,000,000			-6,000,000	
Subtotal, Migrant Health Centers	57,362,000	62,647,000	56,788,000	-574,000	-5,859,000
Black lung clinics	4,000,000	4,000,000	3,960,000	-40,000	-40,000
Health care for the homeless	55,792,000	67,683,000	55,234,000	-558,000	-12,449,000
National Health Service Corps:					
Field placements	41,456,000	54,588,000	43,065,000	+1,609,000	-11,523,000
Loans and scholarships	58,733,000	65,053,000	58,146,000	-587,000	-6,907,000
Subtotal, National Health Service Corps	100,189,000	119,641,000	101,211,000	+1,022,000	-18,430,000
Grants to communities for scholarships	487,000	487,000	482,000	-5,000	-5,000
Public housing health service grants	6,089,000	9,089,000	8,998,000	+2,909,000	-91,000
Ready to learn program		6,000,000			-6,000,000
Hansen's disease services	19,489,000	18,963,000	18,773,000	-716,000	-190,000
Payment to Hawaii, treatment of Hansen's Disease	3,000,000	3,000,000	2,970,000	-30,000	-30,000
Native Hawaiian health care	3,596,000		3,560,000	-36,000	+3,560,000
Pacific Basin initiative	2,547,000		2,522,000	-25,000	+2,522,000
Home health demonstration grants	2,872,000		2,843,000	-29,000	+2,843,000
Alzheimers demonstration grants	3,996,000		3,956,000	-40,000	+3,956,000
Trauma care	4,449,000		4,405,000	-44,000	+4,405,000
Total, Health Care Delivery and Assistance	796,703,000	907,264,000	793,209,000	-3,494,000	-114,055,000
Maternal and child health:					
Maternal and child health block grant	645,953,000	669,802,000	639,493,000	-6,460,000	-30,309,000
Healthy start	36,446,000	115,142,000	60,832,000	+24,386,000	-54,310,000
Additional appropriation 9/30	25,000,000	25,000,000		-25,000,000	-25,000,000
Subtotal, Healthy start	61,446,000	140,142,000	60,832,000	-614,000	-79,310,000
Pediatric emergency care	4,874,000		4,825,000	-49,000	+4,825,000
Total, Maternal and child health	712,273,000	809,944,000	705,150,000	-7,123,000	-104,794,000
Health Professions:					
Exceptional need scholarships	9,748,000	11,429,000	11,315,000	+1,567,000	-114,000
Centers of excellence	23,945,000	23,943,000	23,706,000	-239,000	-237,000
Disadvantaged assistance	30,629,000	37,379,000	37,005,000	+6,376,000	-374,000
HPSL recapitalization	14,907,000		11,068,000	-3,839,000	+11,068,000
Minority scholarships	17,438,000	17,415,000	17,264,000	-174,000	-151,000
Faculty loan repayment	976,000	1,073,000	1,062,000	+86,000	-11,000
Public health special projects	4,271,000		3,171,000	-1,100,000	+3,171,000
Health administration grants	1,549,000		1,150,000	-399,000	+1,150,000
Public health traineeships	3,412,000		2,533,000	-879,000	+2,533,000
Health administration traineeships	482,000		358,000	-124,000	+358,000
Preventive medicine residencies	1,631,000		1,211,000	-420,000	+1,211,000
Family medicine residencies	35,805,000		26,585,000	-9,220,000	+26,585,000
General dentistry residencies	3,803,000		3,765,000	-38,000	+3,765,000
General internal medicine and pediatrics	17,179,000		17,007,000	-172,000	+17,007,000
Family medicine departments	6,793,000		5,044,000	-1,749,000	+5,044,000
Physician assistants	4,964,000		3,686,000	-1,278,000	+3,686,000
Allied health	2,754,000		2,045,000	-709,000	+2,045,000
Area health education centers	19,041,000		14,138,000	-4,903,000	+14,138,000
Border health education centers	3,856,000		2,863,000	-993,000	+2,863,000
Geriatric training and research	13,614,000		10,108,000	-3,506,000	+10,108,000
Interdisciplinary traineeships	4,654,000		3,455,000	-1,199,000	+3,455,000
Health professions data analysis	1,746,000		1,297,000	-449,000	+1,297,000
Health professions spec ed initiatives	2,362,000		1,754,000	-608,000	+1,754,000
Nurse training:					
Advanced nurse education	12,370,000		9,185,000	-3,185,000	+9,185,000
Nurse practitioners / nurse midwives	14,556,000		10,808,000	-3,748,000	+10,808,000
Special projects	10,902,000		8,094,000	-2,808,000	+8,094,000
Professional nurse traineeships	14,106,000		10,474,000	-3,632,000	+10,474,000
Nurse disadvantaged assistance	3,375,000	4,122,000	4,081,000	+706,000	-41,000
Nurse anesthetists	1,917,000		1,424,000	-493,000	+1,424,000
Undergraduate scholarships	2,377,000		1,765,000	-612,000	+1,765,000
Loan repayment for shortage area service	1,453,000		1,079,000	-374,000	+1,079,000
Subtotal, Nurse training	61,056,000	4,122,000	46,910,000	-14,146,000	+42,788,000
Total, Health professions	286,615,000	95,361,000	248,500,000	-38,115,000	+153,139,000

1/ Includes a total of $125,000,000 of delayed obligations until 9/30 for both FY92 and FY93 request. No delays included in recommendation.

2/ $49 million of total is available on 7/1 in FY93 request. No delays included in recommendation.

3/ $6 million of total is available on 7/1 in FY93 request. No delays included in recommendation.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
Resources development:					
Organ transplantation	2,877,000	2,818,000	2,790,000	-87,000	-28,000
Health teaching facilities interest subsidies	450,000	418,000	414,000	-36,000	-4,000
Total, Resources Development	3,327,000	3,236,000	3,204,000	-123,000	-32,000
Acquired Immune Deficiency Syndrome (AIDS):					
Education and training centers	16,886,000	16,760,000	16,592,000	-294,000	-168,000
Pediatric demonstrations	19,350,000	19,350,000	19,156,000	-194,000	-194,000
Ryan White AIDS Programs:					
Emergency assistance	120,518,000	147,265,000	161,865,000	+41,347,000	+14,600,000
Comprehensive care programs	106,690,000	106,690,000	116,325,000	+9,635,000	+9,635,000
Early intervention program	48,859,000	48,859,000	48,370,000	-489,000	-489,000
Subtotal, Ryan White AIDS programs	276,067,000	302,814,000	326,560,000	+50,493,000	+23,746,000
Subtotal, AIDS	312,303,000	338,924,000	362,308,000	+50,005,000	+23,384,000
Minority male grant	1,350,000	5,000,000	4,950,000	+3,600,000	-50,000
Family planning	149,575,000	154,575,000	148,079,000	-1,496,000	-6,496,000
Rural health research	4,115,000	3,960,000	3,920,000	-195,000	-40,000
Rural outreach grants	21,175,000		20,963,000	-212,000	+20,963,000
Buildings and facilities		1,000,000	990,000	+990,000	-10,000
National practitioner data bank	5,379,000	8,000,000	6,000,000	+621,000	-2,000,000
User fees	-5,000,000	-8,000,000	-6,000,000	-1,000,000	+2,000,000
Program management	121,672,000	121,270,000	125,235,000	+3,563,000	+3,965,000
Rescission of delayed obligations	-625,000			+625,000	
Total, Health resources and services	2,408,862,000	2,440,534,000	2,416,508,000	+7,646,000	-24,026,000
MEDICAL FACILITIES GUARANTEE AND LOAN FUND: Interest subsidy program	18,600,000	16,000,000	10,900,000	-7,700,000	-5,100,000
HEALTH EDUCATION ASSISTANCE LOANS PROGRAM (HEAL):					
New loan subsidies	30,000,000	20,884,000	26,332,000	-3,668,000	+5,448,000
Liquidating account (non-add)	(48,000,000)	(54,432,000)	(54,432,000)	(+6,432,000)	
HEAL loan limitation (non-add)	(290,000,000)	(230,000,000)	(290,000,000)		(+60,000,000)
Program management	1,500,000	3,000,000	2,970,000	+1,470,000	-30,000
Total, HEAL	31,500,000	23,884,000	29,302,000	-2,198,000	+5,418,000
VACCINE INJURY COMPENSATION PROGRAM TRUST FUND:					
Post - FY88 claims (trust fund)	84,920,000	84,920,000	84,920,000		
HRSA administration (trust fund)	2,500,000	2,500,000	2,500,000		
Subtotal, Vaccine injury compensation trust fund	87,420,000	87,420,000	87,420,000		
VACCINE INJURY COMPENSATION:					
Pre - FY89 claims (appropriation)	80,000,000	80,000,000	80,000,000		
Total, Vaccine injury	167,420,000	167,420,000	167,420,000		
Total, Health Resources and Services Administration	2,626,382,000	2,647,838,000	2,624,130,000	-2,252,000	-23,708,000
CENTERS FOR DISEASE CONTROL					
DISEASE CONTROL, RESEARCH AND TRAINING 1/					
Preventive Health Services Block Grant	134,512,000	134,521,000	133,167,000	-1,345,000	-1,354,000
Prevention centers	5,184,000	5,184,000	5,132,000	-52,000	-52,000
Sexually transmitted diseases:					
Grants	77,525,000	77,638,000	76,750,000	-775,000	-888,000
Direct operations	11,296,000	11,872,000	11,753,000	+457,000	-119,000
Subtotal, Sexually transmitted diseases	88,821,000	89,510,000	88,503,000	-318,000	-1,007,000
Immunization:					
Grants	248,822,000	289,272,000	286,379,000	+37,557,000	-2,893,000
Additional appropriations 9/30	10,000,000			-10,000,000	
Direct operations	35,352,000	52,372,000	51,848,000	+16,496,000	-524,000
Vaccine stockpile		5,000,000	4,950,000	+4,950,000	-50,000
Adverse events reporting	2,470,000	2,470,000	2,445,000	-25,000	-25,000
Subtotal, Immunization programs	296,644,000	349,114,000	345,622,000	+48,978,000	-3,492,000
Infectious disease	40,625,000	41,518,000	41,103,000	+478,000	-415,000
Tuberculosis:					
Grants	15,321,000	35,000,000	34,650,000	+19,329,000	-350,000
Emergency grants			39,600,000	+39,600,000	+39,600,000
Program operations	5,372,000	5,372,000	5,318,000	-54,000	-54,000
Subtotal, Tuberculosis	20,693,000	40,372,000	79,568,000	+58,875,000	+39,196,000
Acquired Immune Deficiency Syndrome (AIDS)	480,132,000	504,678,000	504,581,000	+24,449,000	-97,000
Chronic and environmental disease prevention	67,744,000	66,943,000	66,510,000	-1,234,000	-433,000
Lead poisoning prevention	21,302,000	40,000,000	21,089,000	-213,000	-18,911,000
Breast and cervical cancer screening	49,961,000	69,961,000	69,300,000	+19,339,000	-661,000
Injury control	27,377,000	27,498,000	32,175,000	+4,798,000	+4,677,000

1/ Includes a total of $134,000,000 of delayed obligations until 9/30 for both FY92 and FY93 request. No delays included in recommendation.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
Occupational Safety and Health (NIOSH):					
Research	92,478,000	73,594,000	91,949,000	-529,000	+18,355,000
Training	10,972,000	10,972,000	10,862,000	-110,000	-110,000
Subtotal, NIOSH	103,450,000	84,566,000	102,811,000	-639,000	+18,245,000
Epidemic services	73,022,000	77,711,000	74,250,000	+1,228,000	-3,461,000
National Center for Health Statistics:					
Program operations	48,310,000	47,591,000	51,873,000	+3,563,000	+4,282,000
Program support	2,988,000	3,021,000	2,991,000	+3,000	-30,000
1% evaluation funds (non-add)	(29,400,000)	(34,206,000)	(29,106,000)	(-294,000)	(-5,100,000)
Subtotal, health statistics	51,298,000	50,612,000	54,864,000	+3,566,000	+4,252,000
Buildings and facilities	25,600,000	15,000,000	6,930,000	-18,670,000	-8,070,000
Program management	2,843,000	3,497,000	3,462,000	+619,000	-35,000
Rescission of delayed obligations	-670,000			+670,000	
Salaries and expenses reduction			-9,900,000	-9,900,000	-9,900,000
Total, Disease Control	1,488,538,000	1,600,685,000	1,619,167,000	+130,629,000	+18,482,000
NATIONAL INSTITUTES OF HEALTH (INCLUDES AIDS) 1/					
National Cancer Institute	1,951,541,000	2,010,439,000	1,998,616,000	+47,075,000	-11,823,000
National Heart, Lung, and Blood Institute	1,191,500,000	1,245,396,000	1,228,455,000	+36,955,000	-16,941,000
National Institute of Dental Research 2/	159,057,000	166,742,000	163,269,000	+4,212,000	-3,473,000
National Institute of Diabetes, Digestive, and Kidney Diseases	662,678,000	699,809,000	688,633,000	+25,955,000	-11,176,000
National Institute of Neurological Disorders and Stroke	581,847,000	615,190,000	605,100,000	+23,253,000	-10,090,000
National Institute of Allergy and Infectious Diseases	960,914,000	1,010,845,000	990,055,000	+29,141,000	-20,790,000
National Institute of General Medical Sciences	815,134,000	862,069,000	842,229,000	+27,095,000	-19,840,000
National Institute of Child Health and Human Development	519,724,000	545,238,000	534,094,000	+14,370,000	-11,144,000
National Eye Institute	270,300,000	285,133,000	279,102,000	+8,802,000	-6,031,000
National Institute of Environmental Health Sciences	252,031,000	261,513,000	255,115,000	+3,084,000	-6,398,000
National Institute on Aging	383,611,000	407,284,000	402,218,000	+18,607,000	-5,066,000
National Institute of Arthritis and Musculoskeletal and Skin Diseases	203,913,000	214,929,000	214,619,000	+10,706,000	-310,000
National Institute on Deafness and Other Communication Disorders	149,102,000	157,301,000	153,466,000	+4,364,000	-3,835,000
National Center for Research Resources	314,551,000	318,231,000	314,351,000	-200,000	-3,880,000
HBCU facilities		12,000,000			-12,000,000
Subtotal	314,551,000	330,231,000	314,351,000	-200,000	-15,880,000
National Center for Nursing Research	44,970,000	48,568,000	47,363,000	+2,393,000	-1,205,000
National Center for Human Genome Research	104,878,000	110,429,000	107,217,000	+2,339,000	-3,212,000
John E. Fogarty International Center	19,609,000	20,727,000	20,133,000	+524,000	-594,000
National Library of Medicine	103,323,000	108,662,000	105,024,000	+1,701,000	-3,638,000
Office of the Director	142,112,000	203,430,000	191,917,000	+49,805,000	-11,513,000
Buildings and facilities	103,840,000	72,518,000	70,090,000	-33,750,000	-2,428,000
Rescission of delayed obligations	-2,875,000			+2,875,000	
Total N.I.H	8,931,760,000	9,376,453,000	9,211,066,000	+279,306,000	-165,387,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH (INCLUDES AIDS) 3/					
National Institute of Mental Health:					
Research	530,990,000	563,716,000	542,736,000	+11,746,000	-20,980,000
Children's mental health			4,950,000	+4,950,000	+4,950,000
Clinical training	10,835,000			-10,835,000	
Community support demonstrations	24,885,000	24,885,000	24,636,000	-249,000	-249,000
Prevention demonstrations	5,478,000			-5,478,000	
Grants to States for the homeless (PATH)	30,000,000	30,000,000	29,700,000	-300,000	-300,000
Homeless services demonstrations	5,861,000	10,861,000	5,802,000	-59,000	-5,059,000
Protection and advocacy	19,500,000		19,305,000	-195,000	+19,305,000
Direct operations	43,715,000	46,413,000	44,550,000	+835,000	-1,863,000
Subtotal, mental health	671,264,000	675,875,000	671,679,000	+415,000	-4,196,000
National Institute on Drug Abuse:					
Research	275,777,000	291,418,000	280,414,000	+4,637,000	-11,004,000
Treatment demonstrations	46,852,000	48,692,000	46,383,000	-469,000	-2,309,000
AIDS demonstrations	61,152,000	63,317,000	60,540,000	-612,000	-2,777,000
Direct operations	34,868,000	36,773,000	35,541,000	+673,000	-1,232,000
Subtotal, drug abuse	418,649,000	440,200,000	422,878,000	+4,229,000	-17,322,000
National Institute on Alcoholism and Alcohol Abuse:					
Research	155,755,000	163,746,000	157,645,000	+1,890,000	-6,101,000
Substance abuse homeless demonstrations	15,983,000	15,983,000	15,823,000	-160,000	-160,000
Direct operations	12,566,000	13,305,000	12,870,000	+304,000	-435,000
Subtotal, alcoholism	184,304,000	193,034,000	186,338,000	+2,034,000	-6,696,000

1/ Includes delayed obligation of $575,000,000 until 9/30 for FY92 and $619,000,000 for FY93 request. No delays included in recommendation.

2/ Reflects rescission enacted 6/92.

3/ Includes delayed obligations of $164,100,000 until 9/30 for both FY92 and FY93 request; no delayed obligations are assumed for recommendation.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
Office for Treatment Improvement:					
Alcohol, Drug Abuse and Mental Health block grant	1,360,000,000	1,360,000,000	1,346,400,000	-13,600,000	-13,600,000
Treatment grants to crisis areas	35,986,000	40,000,000	39,600,000	+3,614,000	-400,000
Treatment improvement grants	93,313,000	134,329,000	117,146,000	+23,833,000	-17,183,000
Capacity expansion program		66,000,000	13,365,000	+13,365,000	-52,635,000
Transfer from forfeiture fund (non-add)	(9,000,000)	(20,000,000)	(20,000,000)	(+11,000,000)	
Direct operations	7,656,000	14,090,000	9,900,000	+2,244,000	-4,190,000
Subtotal, Treatment Improvement	1,496,955,000	1,614,419,000	1,526,411,000	+29,456,000	-88,008,000
Office for Substance Abuse Prevention:					
Prevention programs	129,579,000	154,205,000	131,670,000	+2,091,000	-22,535,000
Transfer from forfeiture fund (non-add)	(10,000,000)			(-10,000,000)	
Community youth activity program	9,907,000			-9,907,000	
Community prevention grants	98,921,000	99,151,000	98,159,000	-762,000	-992,000
Transfer from forfeiture fund (non-add)		(14,701,000)	(14,701,000)	(+14,701,000)	
Training	20,649,000	20,649,000	20,443,000	-206,000	-206,000
Direct operations	16,026,000	16,843,000	16,335,000	+309,000	-508,000
Subtotal, Substance Abuse Prevention	275,082,000	290,848,000	266,607,000	-8,475,000	-24,241,000
Treatment outcome evaluations	8,598,000	8,894,000	8,805,000	+207,000	-89,000
Buildings and facilities	5,000,000	3,980,000	3,940,000	-1,060,000	-40,000
Office of the Administrator	12,878,000	13,909,000	13,244,000	+366,000	-665,000
Rescission of delayed obligations	-821,000			+821,000	
Total, Alcohol, Drug Abuse and Mental Health	3,071,909,000	3,241,159,000	3,099,902,000	+27,993,000	-141,257,000
ASSISTANT SECRETARY FOR HEALTH					
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH					
Population affairs: Adolescent family life	7,761,000	11,985,000	7,683,000	-78,000	-4,302,000
Health Initiatives:					
Office of Disease Prevention and Health Promotion	4,450,000	4,701,000	4,654,000	+204,000	-47,000
Physical fitness and sports	1,411,000	2,022,000	1,485,000	+74,000	-537,000
Minority health	13,805,000	13,831,000	13,693,000	-112,000	-138,000
National vaccine program	7,930,000	2,828,000	7,851,000	-79,000	+5,023,000
Emergency preparedness		1,000,000			-1,000,000
Health Service Management	21,433,000	22,038,000	21,818,000	+385,000	-220,000
National AIDS program office	2,452,000	3,958,000	3,918,000	+1,466,000	-40,000
Minority health (AIDS)	2,075,000	2,090,000	2,069,000	-6,000	-21,000
Total, OASH	61,317,000	64,453,000	63,171,000	+1,854,000	-1,282,000
RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS 1/					
Retirement payments	104,303,000	109,462,000	109,462,000	+5,159,000	
Survivors benefits	6,650,000	6,835,000	6,835,000	+185,000	
Dependent's medical care	20,499,000	21,565,000	21,565,000	+1,066,000	
Military Services Credits	3,095,000	2,900,000	2,900,000	-195,000	
Total, Retirement pay and medical benefits	134,547,000	140,762,000	140,762,000	+6,215,000	
AGENCY FOR HEALTH CARE POLICY RESEARCH					
Health services research:					
Research	25,922,000	86,000	25,663,000	-259,000	+25,577,000
Trust funds	(1,012,000)	(1,050,000)	(1,002,000)	(-10,000)	(-48,000)
AIDS	10,135,000	9,875,000	9,776,000	-359,000	-99,000
Program support	2,246,000	2,615,000	2,481,000	+235,000	-134,000
1% evaluation funding (non-add)	(13,444,000)	(39,544,000)	(13,310,000)	(-134,000)	(-26,234,000)
Subtotal including trust funds and 1% funds	(52,759,000)	(53,170,000)	(52,232,000)	(-527,000)	(-938,000)
Medical treatment effectiveness:					
Federal funds	62,372,000	23,507,000	61,748,000	-624,000	+38,241,000
Trust funds	(4,880,000)	(36,723,000)	(4,831,000)	(-49,000)	(-31,892,000)
1% evaluation funding (non-add)		(11,695,000)			(-11,695,000)
Subtotal, Medical treatment effectiveness	(67,252,000)	(71,925,000)	(66,579,000)	(-673,000)	(-5,346,000)
Total, Health Care Policy Research:					
Federal Funds	100,675,000	36,083,000	99,668,000	-1,007,000	+63,585,000
Trust funds	(5,892,000)	(37,773,000)	(5,833,000)	(-59,000)	(-31,940,000)
Total, 1% evaluation funding (non-add)	(13,444,000)	(51,239,000)	(13,310,000)	(-134,000)	(-37,929,000)
Total, Health Care Policy Research (non-add)	(120,011,000)	(125,095,000)	(118,811,000)	(-1,200,000)	(-6,284,000)
CAPITAL IMPROVEMENT FUND (FY94)		100,000,000			-100,000,000
(1% Setaside fund for PHS capital improvements)			(165,125,000)		
SALARIES AND EXPENSES RESCISSION	-7,000,000			+7,000,000	
PHS EVALUATION FUNDING RESCISSION	-7,500,000			+7,500,000	
Total, Public Health Service:					
Federal Funds	16,400,628,000	17,207,433,000	16,857,866,000	+457,238,000	-349,567,000
Current year FY 1993	(16,400,628,000)	(17,107,433,000)	(16,857,866,000)	(+457,238,000)	(-249,567,000)
FY 1994		(100,000,000)			(-100,000,000)
Trust funds	(5,892,000)	(37,773,000)	(5,833,000)	(-59,000)	(-31,940,000)

1/ FY93 request includes $116,297,000 in legislative savings proposed for later transmittal.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
HEALTH CARE FINANCING ADMINISTRATION					
GRANTS TO STATES FOR MEDICAID 1/					
Medicaid current law benefits	69,854,249,000	81,478,400,000	81,478,400,000	+11,624,151,000	
State and local administration	2,648,489,000	3,021,706,000	2,932,834,000	+284,345,000	-88,872,000
Proposed legislation		-98,872,000			+98,872,000
Subtotal, Medicaid program level, FY 1993	72,502,738,000	84,401,234,000	84,411,234,000	+11,908,496,000	+10,000,000
Less funds advanced in prior year	-13,500,000,000	-17,100,000,000	-17,100,000,000	-3,600,000,000	
Total, current request, FY 1993	59,002,738,000	67,301,234,000	67,311,234,000	+8,308,496,000	+10,000,000
New advance, 1st quarter, FY 1994	17,100,000,000	24,600,000,000	24,600,000,000	+7,500,000,000	
PAYMENTS TO HEALTH CARE TRUST FUNDS 2/ 3/					
Supplemental medical insurance	38,684,000,000	43,490,000,000	43,490,000,000	+4,806,000,000	
Hospital insurance for the uninsured	584,000,000	328,000,000	328,000,000	-256,000,000	
Federal uninsured payment	37,000,000	39,000,000	39,000,000	+2,000,000	
Program management	116,485,000	125,713,000	106,192,000	-10,293,000	-19,521,000
Proposed legislation		-19,521,000			+19,521,000
Total, Payment to Trust Funds	39,421,485,000	43,963,192,000	43,963,192,000	+4,541,707,000	
PROGRAM MANAGEMENT					
Research, demonstration, and evaluation:					
Regular program, trust funds	(45,621,000)	(36,000,000)	(35,640,000)	(-9,981,000)	(-360,000)
Rural hospital transition demonstrations, trust funds	(23,000,000)		(14,850,000)	(-8,150,000)	(+14,850,000)
Essential access community hospitals, trust funds	(9,759,000)			(-9,759,000)	
Subtotal, research, demonstration, and evaluation	(78,380,000)	(36,000,000)	(50,490,000)	(-27,890,000)	(+14,490,000)
Medicare Contractors (Trust Funds):					
Operating funds, current	(1,525,800,000)	(1,644,200,000)	(1,627,758,000)	(+101,958,000)	(-16,442,000)
Contingency reserve fund 4/	(184,200,000)			(-184,200,000)	
Subtotal, Contractors	(1,710,000,000)	(1,644,200,000)	(1,627,758,000)	(-82,242,000)	(-16,442,000)
State Survey and Certification:					
Medicare certification, trust funds	(150,000,000)	(155,000,000)		(-150,000,000)	(-155,000,000)
Proposed legislation, fees, trust funds		(-155,000,000)			(+155,000,000)
Subtotal, State certification	(150,000,000)			(-150,000,000)	
Federal Administration:					
Trust funds	(328,420,000)	(347,445,000)	(307,372,000)	(-21,048,000)	(-40,073,000)
Headquarters relocation		(15,837,000)			(-15,837,000)
Less current law user fees	(-77,000)	(-124,000)	(-123,000)	(-46,000)	(+1,000)
Proposed legislation		(-36,969,000)			(+36,969,000)
Subtotal, Federal Administration	(328,343,000)	(326,189,000)	(307,249,000)	(-21,094,000)	(-18,940,000)
Total, Program management	(2,266,723,000)	(2,006,389,000)	(1,985,497,000)	(-281,226,000)	(-20,892,000)
SURVEY AND CERTIFICATION FUND (non-add)		(449,441,000)			(-449,441,000)
HMO LOAN AND LOAN GUARANTEE FUND		13,800,000	13,800,000	+13,800,000	
Total, Health Care Financing Administration:					
Federal funds	115,524,223,000	135,878,226,000	135,888,226,000	+20,364,003,000	+10,000,000
Current year, FY 1993	(98,424,223,000)	(111,278,226,000)	(111,288,226,000)	(+12,864,003,000)	(+10,000,000)
New advance, 1st quarter, FY 1994	(17,100,000,000)	(24,600,000,000)	(24,600,000,000)	(+7,500,000,000)	
Trust funds	(2,266,723,000)	(2,006,389,000)	(1,985,497,000)	(-281,226,000)	(-20,892,000)
SOCIAL SECURITY ADMINISTRATION					
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	40,968,000	35,242,000	35,242,000	-5,726,000	
SPECIAL BENEFITS FOR DISABLED COAL MINERS					
Benefit payments	822,302,000	794,362,000	794,362,000	-27,940,000	
Administration	7,336,000	4,951,000	4,951,000	-2,385,000	
Subtotal, Black Lung, FY 1993 program level	829,638,000	799,313,000	799,313,000	-30,325,000	
Less funds advanced in prior year	-203,000,000	-198,000,000	-198,000,000	+5,000,000	
Total, Black Lung, current request, FY 1993	626,638,000	601,313,000	601,313,000	-25,325,000	
New advance, 1st quarter, FY 1994	198,000,000	196,000,000	196,000,000	-2,000,000	

1/ FY93 request includes $5,000,000 in legislative savings proposed for later transmittal.

2/ FY93 request includes $612,300,000 in legislative savings proposed for later transmittal.

3/ FY92 and FY93 totals reflected incorrectly in FY93 Budget Appendix.

4/ Conference agreement originally provided $257 million, of which $68.8 million has been released by the Administration. Reflects rescission enacted 6/92.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
SUPPLEMENTAL SECURITY INCOME 1/					
Federal benefit payments	17,502,025,000	19,701,000,000	19,701,000,000	+2,198,975,000	
Beneficiary services	39,100,000	47,600,000	47,600,000	+8,500,000	
Research demonstration	14,000,000	6,700,000	12,700,000	-1,300,000	+6,000,000
Administration	1,321,391,000	1,548,357,000	1,473,473,000	+152,082,000	-74,884,000
Proposed legislation		-60,000,000			+60,000,000
Subtotal, SSI FY 1993 program level	18,876,516,000	21,243,657,000	21,234,773,000	+2,358,257,000	-8,884,000
Less funds advanced in prior year	-3,550,000,000	-5,240,000,000	-5,240,000,000	-1,690,000,000	
Total, SSI, current request, FY 1993	15,326,516,000	16,003,657,000	15,994,773,000	+668,257,000	-8,884,000
New advance, 1st quarter, FY 1994	5,240,000,000	7,150,000,000	7,150,000,000	+1,910,000,000	
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds) 2/	(3,914,239,000)	(4,129,985,000)	(4,029,285,000)	(+115,046,000)	(-100,700,000)
Portion treated as budget authority	(636,217,000)	(629,157,000)	(622,865,000)	(-13,352,000)	(-6,292,000)
Subtotal, LAE operating level	(4,550,456,000)	(4,759,142,000)	(4,652,150,000)	(+101,694,000)	(-106,992,000)
(Contingency reserve) 3/		(40,205,000)			(-40,205,000)
Contingency reserve - budget authority 3/		(9,795,000)			(-9,795,000)
Proposed legislation		(-60,000,000)			(+60,000,000)
Subtotal, LAE	(4,550,456,000)	(4,749,142,000)	(4,652,150,000)	(+101,694,000)	(-96,992,000)
Total, Social Security Administration:					
Federal funds	21,432,122,000	23,986,212,000	23,977,328,000	+2,545,206,000	-8,884,000
Current year FY 1993	(15,994,122,000)	(16,640,212,000)	(16,631,328,000)	(+637,206,000)	(-8,884,000)
New advances, 1st quarter FY 1994	(5,438,000,000)	(7,346,000,000)	(7,346,000,000)	(+1,908,000,000)	
Trust funds	(4,550,456,000)	(4,749,142,000)	(4,652,150,000)	(+101,694,000)	(-96,992,000)
ADMINISTRATION FOR CHILDREN AND FAMILIES					
FAMILY SUPPORT PAYMENTS TO STATES 4/					
Aid to Families with Dependent Children (AFDC)	12,242,122,000	12,283,878,000	12,283,878,000	+41,756,000	
Quality control liabilities		-6,500,000	-6,500,000	-6,500,000	
Payments to territories	19,572,000	19,572,000	19,572,000		
Emergency assistance	140,600,000	190,000,000	190,000,000	+49,400,000	
Repatriation	1,000,000	1,000,000	1,000,000		
State and local welfare administration	1,369,000,000	1,483,000,000	1,483,000,000	+114,000,000	
Work activities / child care	340,000,000	381,000,000	381,000,000	+41,000,000	
At risk child care	383,752,000	300,000,000	300,000,000	-83,752,000	
Subtotal, Welfare payments	14,496,046,000	14,651,950,000	14,651,950,000	+155,904,000	
Child Support Enforcement:					
State and local administration	1,386,000,000	1,546,000,000	1,546,000,000	+160,000,000	
Federal incentive payments	329,000,000	367,000,000	367,000,000	+38,000,000	
Less federal share collections	-1,010,000,000	-1,123,000,000	-1,123,000,000	-113,000,000	
Subtotal, Child support	705,000,000	790,000,000	790,000,000	+85,000,000	
Total, Payments, FY 1993 program level	15,201,046,000	15,441,950,000	15,441,950,000	+240,904,000	
Less funds advanced in previous years	-3,300,000,000	-4,000,000,000	-4,000,000,000	-700,000,000	
Total, Payments, current request, FY 1993	11,901,046,000	11,441,950,000	11,441,950,000	-459,096,000	
New advance, 1st quarter, FY 1994	4,000,000,000	4,000,000,000	4,000,000,000		
PAYMENTS TO STATES FOR AFDC WORK PROGRAMS	1,000,000,000	1,000,000,000	1,000,000,000		
LOW INCOME HOME ENERGY ASSISTANCE					
Regular program	1,014,393,000	266,250,000	891,000,000	-123,393,000	+624,750,000
Congressional emergency	80,000,000			-80,000,000	
Additional appropriation 9/30	405,607,000	798,750,000		-405,607,000	-798,750,000
Emergency allocation 5/	(300,000,000)		(600,000,000)	(+300,000,000)	(+600,000,000)
Total, Energy assistance programs	1,500,000,000	1,065,000,000	891,000,000	-609,000,000	-174,000,000
Total including emergency	(1,800,000,000)	(1,065,000,000)	(1,491,000,000)	(-309,000,000)	(+426,000,000)

1/ FY93 request includes $34,000,000 in legislative savings proposed for later transmittal.

2/ Includes delayed obligation of $80,000,000 until 9/19 for both FY92 and FY93 request. No delays included in recommendation.

3/ Conference agreement originally provided $100 million, which has been released by the Administration.

4/ FY93 request includes $169,100,000 in legislative savings proposed for later transmittal.

5/ Available only upon submission of a formal budget request designating the need for funds as an emergency as defined by the BEA.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
REFUGEE AND ENTRANT ASSISTANCE 1/					
Cash and medical assistance	204,216,000			-204,216,000	
Unaccompanied minors	30,000,000	30,000,000	24,750,000	-5,250,000	-5,250,000
Social services	82,952,000	63,000,000	84,150,000	+1,198,000	+21,150,000
Voluntary agency program	39,036,000	74,000,000	118,800,000	+79,764,000	+44,800,000
Preventive health	5,631,000			-5,631,000	
Special medical assistance		20,000,000	49,500,000	+49,500,000	+29,500,000
Targeted assistance	48,795,000	40,000,000	44,550,000	-4,245,000	+4,550,000
Total, Refugee Resettlement	410,630,000	227,000,000	321,750,000	-88,880,000	+94,750,000
STATE LEGALIZATION IMPACT ASSISTANCE GRANTS 2/					
Current year		-823,345,000	-562,000,000	-562,000,000	+261,345,000
Advance funding		823,345,000	562,000,000	+562,000,000	-261,345,000
COMMUNITY SERVICES BLOCK GRANT					
Grants to States for Community Services	360,000,000		351,450,000	-8,550,000	+351,450,000
Homeless services grants	25,000,000		12,375,000	-12,625,000	+12,375,000
Discretionary funds:					
Community economic development 3/	22,000,000		15,840,000	-6,160,000	+15,840,000
Rural housing 3/	4,099,000		2,029,000	-2,070,000	+2,029,000
Farmworker assistance 3/	3,025,000		1,485,000	-1,540,000	+1,485,000
National youth sports	12,000,000	5,000,000	5,940,000	-6,060,000	+940,000
Technical assistance	244,000		121,000	-123,000	+121,000
Subtotal, discretionary funds	41,368,000	5,000,000	25,415,000	-15,953,000	+20,415,000
Community Partnerships	4,050,000		2,005,000	-2,045,000	+2,005,000
Community Food and Nutrition	7,000,000		3,465,000	-3,535,000	+3,465,000
Total, Community services	437,418,000	5,000,000	394,710,000	-42,708,000	+389,710,000
GRANTS TO STATES FOR CHILD CARE					
Block grants to States 4/	825,000,000	850,000,000	841,500,000	+16,500,000	-8,500,000
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	2,800,000,000	2,800,000,000	2,800,000,000		
CHILDREN AND FAMILIES SERVICES PROGRAMS					
Programs for Children, Youth, and Families:					
Head start:					
Regular grants 5/	1,951,800,000	2,801,800,000	2,720,322,000	+768,522,000	-81,478,000
Transfer from "Educational Excellence"	250,000,000			-250,000,000	
Subtotal	2,201,800,000	2,801,800,000	2,720,322,000	+518,522,000	-81,478,000
Comprehensive child development centers 6/	24,398,000	44,398,000	47,419,000	+23,021,000	+3,021,000
Transfer from "Educational Excellence"	20,000,000			-20,000,000	
Subtotal, Comprehensive Child Development	44,398,000	44,398,000	47,419,000	+3,021,000	+3,021,000
Child development associate scholarships	1,397,000	1,397,000	1,383,000	-14,000	-14,000
Runaway and homeless youth	35,751,000		35,393,000	-358,000	+35,393,000
Runaway youth - transitional living	12,000,000		11,880,000	-120,000	+11,880,000
Runaway youth activities - drugs	15,286,000		15,133,000	-153,000	+15,133,000
Consolidated runaway program		63,037,000			-63,037,000
Youth gang substance abuse	10,943,000	10,943,000	10,834,000	-109,000	-109,000
Child abuse state grants	20,518,000	20,518,000	20,313,000	-205,000	-205,000
Child abuse discretionary activities	14,639,000	16,639,000	16,473,000	+1,834,000	-166,000
Child abuse challenge grants	5,367,000	5,367,000	5,313,000	-54,000	-54,000
Temporary childcare/crisis nurseries	11,055,000	12,160,000	12,038,000	+983,000	-122,000
Abandoned infants assistance	12,557,000	13,810,000	13,672,000	+1,115,000	-138,000
Dependent care planning and development	13,175,000		13,043,000	-132,000	+13,043,000
Emergency protection grants - substance abuse	19,518,000	19,518,000	19,323,000	-195,000	-195,000
Child welfare services	273,911,000	273,911,000	297,000,000	+23,089,000	+23,089,000
Child welfare training	3,559,000	5,559,000	5,503,000	+1,944,000	-56,000
Child welfare research	6,652,000	8,652,000	8,565,000	+1,913,000	-87,000
Adoption opportunities	12,687,000	12,687,000	12,560,000	-127,000	-127,000
Subtotal, Programs for Children, Youth, and Families	2,715,213,000	3,310,396,000	3,266,167,000	+550,954,000	-44,229,000
Family violence	20,000,000	20,000,000	19,800,000	-200,000	-200,000
Social services research	16,379,000	14,879,000	9,780,000	-6,599,000	-5,099,000
Family support centers	5,500,000		6,930,000	+1,430,000	+6,930,000
Family resource centers			4,950,000	+4,950,000	+4,950,000

1/ $116,616,000 of total available only on 9/30 in both FY92 and FY93 request. Recommendation does not include delayed obligations.

2/ FY92 bill delayed availability of $1,123,245,000 from FY92 to FY93.

3/ Includes delayed obligation until 9/30/92. No delays included in recommendation.

4/ Request and recommendation available on 9/30.

5/ $250,000,000 of total available 7/1 in FY93 request; recommendation assumes no delayed obligations.

6/ $20,000,000 of total available 7/1 in FY93 request; recommendation assumes no delayed obligations.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
Developmental disabilities program:					
State grants	67,706,000	67,706,000	67,029,000	-677,000	-677,000
Protection and advocacy	22,500,000	22,500,000	22,275,000	-225,000	-225,000
Developmental disabilities special projects	3,248,000	3,248,000	3,216,000	-32,000	-32,000
Developmental disabilities university affiliated programs	16,030,000	16,030,000	15,870,000	-160,000	-160,000
Subtotal, Developmental disabilities	109,484,000	109,484,000	108,390,000	-1,094,000	-1,094,000
Native American Programs	34,126,000	34,126,000	33,785,000	-341,000	-341,000
Program direction	150,931,000	155,735,000	152,460,000	+1,529,000	-3,275,000
Total, Children and Families Services Programs	3,051,633,000	3,644,620,000	3,602,262,000	+550,629,000	-42,358,000
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE					
Foster care	2,223,668,000	2,677,343,000	2,677,343,000	+453,675,000	...
Adoption assistance	201,861,000	241,325,000	241,325,000	+39,464,000	...
Independent living	70,000,000	70,000,000	70,000,000	...	...
Prior year claims	118,476,000	...	...	-118,476,000	...
Total, Payments to States	2,614,005,000	2,988,668,000	2,988,668,000	+374,663,000	...
Total, Administration for Children and Families	28,539,732,000	28,022,238,000	28,281,840,000	-257,892,000	+259,602,000
Current year	(24,539,732,000)	(23,198,893,000)	(23,719,840,000)	(-819,892,000)	(+520,947,000)
FY 1994	(4,000,000,000)	(4,823,345,000)	(4,562,000,000)	(+562,000,000)	(-261,345,000)
ADMINISTRATION ON AGING 1/					
AGING SERVICES PROGRAMS					
Grants to States:					
Supportive services and centers	316,238,000	317,000,000	313,830,000	-2,408,000	-3,170,000
Ombudsman services	3,930,000	3,940,000	3,901,000	-29,000	-39,000
Prevention of elder abuse	4,416,000	4,427,000	4,383,000	-33,000	-44,000
Nutrition:					
Congregate meals	366,067,000	367,000,000	363,330,000	-2,737,000	-3,670,000
Home-delivered meals	89,603,000	89,831,000	88,933,000	-670,000	-898,000
Frail elderly in-home services	6,898,000	6,916,000	6,847,000	-51,000	-69,000
Grants to Indians	15,086,000	15,124,000	14,973,000	-113,000	-151,000
Aging research, training and special projects	25,941,000	25,941,000	25,682,000	-259,000	-259,000
Federal Council on Aging	181,000	181,000	179,000	-2,000	-2,000
White House Conference on Aging	2,000,000	4,000,000	...	-2,000,000	-4,000,000
Program administration	16,237,000	16,333,000	16,170,000	-67,000	-163,000
Rescission of delayed obligations	-125,000	...	...	+125,000	...
Total, Administration on Aging	846,472,000	850,693,000	838,228,000	-8,244,000	-12,465,000
OFFICE OF THE SECRETARY 2/					
GENERAL DEPARTMENTAL MANAGEMENT:					
Federal funds	66,718,000	67,226,000	66,554,000	-164,000	-672,000
Office of General Counsel	23,854,000	26,133,000	24,605,000	+751,000	-1,528,000
Trust funds	(3,832,000)	(3,696,000)	(3,659,000)	(-173,000)	(-37,000)
Office of General Counsel	(18,954,000)	(18,987,000)	(18,764,000)	(-190,000)	(-223,000)
Portion treated as budget authority	(1,074,000)	(1,333,000)	(1,063,000)	(-11,000)	(-270,000)
Office of General Counsel	(6,834,000)	(6,845,000)	(6,766,000)	(-68,000)	(-79,000)
Total, General Departmental Management:					
Federal funds	90,572,000	93,359,000	91,159,000	+587,000	-2,200,000
Trust funds	(30,694,000)	(30,861,000)	(30,252,000)	(-442,000)	(-609,000)
Total	(121,266,000)	(124,220,000)	(121,411,000)	(+145,000)	(-2,809,000)
OFFICE OF THE INSPECTOR GENERAL:					
Federal funds	57,526,000	57,496,000	61,901,000	+4,375,000	+4,405,000
Trust funds	(16,363,000)	(21,874,000)	(16,199,000)	(-164,000)	(-5,675,000)
Portion treated as budget authority	(21,038,000)	(29,114,000)	(20,828,000)	(-210,000)	(-8,286,000)
Total, Office of the Inspector General:					
Federal funds	57,526,000	57,496,000	61,901,000	+4,375,000	+4,405,000
Trust funds	(37,401,000)	(50,988,000)	(37,027,000)	(-374,000)	(-13,961,000)
Total	(94,927,000)	(108,484,000)	(98,928,000)	(+4,001,000)	(-9,556,000)
OFFICE FOR CIVIL RIGHTS:					
Federal funds	18,323,000	19,389,000	18,635,000	+312,000	-754,000
Trust funds	(99,000)	(99,000)	(98,000)	(-1,000)	(-1,000)
Portion treated as budget authority	(3,858,000)	(3,901,000)	(3,819,000)	(-39,000)	(-82,000)
Total, Office for Civil Rights:					
Federal funds	18,323,000	19,389,000	18,635,000	+312,000	-754,000
Trust funds	(3,957,000)	(4,000,000)	(3,917,000)	(-40,000)	(-83,000)
Total	(22,280,000)	(23,389,000)	(22,552,000)	(+272,000)	(-837,000)

1/ Includes delayed obligation of $25,000,000 until 9/30 in FY92 and FY93 request; recommendation assumes no delayed obligations.

2/ FY93 request includes $5,000,000 in legislative additions proposed for later transmittal.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
POLICY RESEARCH	5,012,000	5,224,000	8,415,000	+3,403,000	+3,191,000
Total, Office of the Secretary:					
Federal funds	171,433,000	175,468,000	180,110,000	+8,677,000	+4,642,000
Trust funds	(72,052,000)	(85,849,000)	(71,196,000)	(-856,000)	(-14,653,000)
Total	(243,485,000)	(261,317,000)	(251,306,000)	(+7,821,000)	(-10,011,000)
Total, Department of Health and Human Services:					
Federal Funds	182,914,610,000	206,120,270,000	206,023,598,000	+23,108,988,000	-96,672,000
Current year FY 1993	(156,376,610,000)	(169,250,925,000)	(169,515,598,000)	(+13,138,988,000)	(+264,673,000)
FY 1994	(26,538,000,000)	(36,869,345,000)	(36,508,000,000)	(+9,970,000,000)	(-361,345,000)
Trust funds	(6,895,123,000)	(6,879,153,000)	(6,714,676,000)	(-180,447,000)	(-164,477,000)
TITLE III - DEPARTMENT OF EDUCATION					
COMPENSATORY EDUCATION FOR THE DISADVANTAGED					
Grants for the Disadvantaged (Chapter 1):					
Grants to local educational agencies:					
Basic grants	5,387,000,000	5,387,000,000	5,469,750,000	+82,750,000	+82,750,000
Additional appropriation 9/30 1/	137,310,000	138,000,000		-137,310,000	-138,000,000
Concentration grants	596,000,000	696,000,000	702,900,000	+106,900,000	+6,900,000
Additional appropriation 9/30 1/	13,930,000	14,000,000		-13,930,000	-14,000,000
Subtotal, grants to LEA's	6,134,240,000	6,235,000,000	6,172,650,000	+38,410,000	-62,350,000
Capital expenses for private school children	40,054,000	40,054,000	39,653,000	-401,000	-401,000
Even start	70,000,000	90,000,000	89,100,000	+19,100,000	-900,000
State agency programs:					
Migrant	308,298,000	308,298,000	305,215,000	-3,083,000	-3,083,000
Neglected and delinquent	36,054,000	36,054,000	35,693,000	-361,000	-361,000
State administration	61,820,000	61,820,000	61,202,000	-618,000	-618,000
State program improvement grants	25,125,000	31,406,000	26,142,000	+1,017,000	-5,264,000
Evaluation and technical assistance 2/	15,088,000	15,000,000	14,850,000	-238,000	-150,000
Rural technical assistance centers 2/	5,000,000		4,950,000	-50,000	+4,950,000
Total, Chapter 1	6,695,679,000	6,817,632,000	6,749,455,000	+53,776,000	-68,177,000
Migrant education:					
High school equivalency program 2/	8,310,000	8,310,000	8,227,000	-83,000	-83,000
College assistance migrant program 2/	2,265,000	2,265,000	2,242,000	-23,000	-23,000
Subtotal, migrant education	10,575,000	10,575,000	10,469,000	-106,000	-106,000
Total, Compensatory Education programs	6,706,254,000	6,828,207,000	6,759,924,000	+53,670,000	-68,283,000
Subtotal, forward funded	(6,675,591,000)	(6,802,632,000)	(6,729,655,000)	(+54,064,000)	(-72,977,000)
IMPACT AID					
Maintenance and operations:					
Payments for "a" children:					
Regular payments	570,540,000	489,540,000	566,767,000	-3,773,000	+77,227,000
3(d)(2)(B) districts	18,000,000	16,000,000	17,820,000	-180,000	+1,820,000
Subtotal	588,540,000	505,540,000	584,587,000	-3,953,000	+79,047,000
Payments for "b" children:					
Regular payments	124,626,000		123,380,000	-1,246,000	+123,380,000
3(d)(2)(B) districts	12,000,000		11,880,000	-120,000	+11,880,000
Subtotal	136,626,000		135,260,000	-1,366,000	+135,260,000
Payments for Federal property (Section 2)	16,590,000	16,590,000	16,424,000	-166,000	-166,000
Payments related to decreased activity (Section 3e)	1,952,000			-1,952,000	
Subtotal	743,708,000	522,130,000	736,271,000	-7,437,000	+214,141,000
Construction	26,000,000	8,000,000	27,710,000	+1,710,000	+19,710,000
Additional appropriation 9/30 1/	1,990,000	2,000,000		-1,990,000	-2,000,000
Total, Impact aid	771,698,000	532,130,000	763,981,000	-7,717,000	+231,851,000
SCHOOL IMPROVEMENT PROGRAMS					
Educational improvement (Chapter 2):					
State and Local Programs:					
State block grants 3/	450,000,000	450,000,000	445,500,000	-4,500,000	-4,500,000
National programs:					
Inexpensive book distribution (RIF)	10,000,000	10,320,000	9,900,000	-100,000	-420,000
Arts in education	8,600,000	4,900,000	4,851,000	-3,749,000	-49,000
Law - related education	6,000,000		5,940,000	-60,000	+5,940,000
Subtotal, National programs	24,600,000	15,220,000	20,691,000	-3,909,000	+5,471,000
Total, Chapter 2	474,600,000	465,220,000	466,191,000	-8,409,000	+971,000

1/ Reflects rescission enacted 6/92.

2/ Current funded.

3/ Forward funded.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
Drug-free schools and communities:					
State grants 1/	507,663,000	507,663,000	502,586,000	-5,077,000	-5,077,000
School personnel training	23,863,000	13,863,000	13,724,000	-10,139,000	-139,000
National programs	62,133,000	72,133,000	71,412,000	+9,279,000	-721,000
Emergency grants	30,304,000	25,000,000	24,750,000	-5,554,000	-250,000
Emergency grants, unauthorized		35,304,000			-35,304,000
Subtotal, drug-free schools	623,963,000	653,963,000	612,472,000	-11,491,000	-41,491,000
Weed and Seed		56,000,000			-56,000,000
Strengthening teaching and administration:					
Eisenhower mathematics and science education State grants 1/	240,000,000	248,000,000	245,520,000	+5,520,000	-2,480,000
Christa McAuliffe fellowships	2,000,000	2,064,000	1,980,000	-20,000	-84,000
Other school improvement programs:					
Magnet schools, desegregation program	110,000,000	110,000,000	108,900,000	-1,100,000	-1,100,000
Education for homeless children and youth 1/	25,000,000	25,000,000	29,700,000	+4,700,000	+4,700,000
Women's educational equity	500,000		1,980,000	+1,480,000	+1,980,000
Training and advisory services (Civil Rights IV-A)	22,000,000	22,000,000	21,780,000	-220,000	-220,000
Dropout prevention demonstrations	40,000,000	38,200,000	37,818,000	-2,182,000	-382,000
General assistance to the Virgin Islands	4,500,000		2,475,000	-2,025,000	+2,475,000
Ellender fellowships/Close up 1/	4,300,000		4,257,000	-43,000	+4,257,000
Follow through	8,632,000		8,546,000	-86,000	+8,546,000
Native Hawaiian Education	6,400,000		6,336,000	-64,000	+6,336,000
Foreign Languages Assistance 1/	10,000,000		9,900,000	-100,000	+9,900,000
Subtotal, other school improvement programs	231,332,000	195,200,000	231,692,000	+360,000	+36,492,000
Total, School improvement programs	1,571,895,000	1,620,447,000	1,557,855,000	-14,040,000	-62,592,000
Subtotal, forward funded	(1,236,963,000)	(1,230,663,000)	(1,237,463,000)	(+500,000)	(+6,800,000)
EDUCATIONAL EXCELLENCE/AMERICA 2000 2/					
America 2000 legislation 3/	99,115,000	267,500,000		-99,115,000	-267,500,000
School Choice Grants, new legislation		500,000,000			-500,000,000
Total, Educational excellence	99,115,000	767,500,000		-99,115,000	-767,500,000
BILINGUAL AND IMMIGRANT EDUCATION					
Bilingual education:					
Bilingual programs	147,407,000	156,085,000	154,524,000	+7,117,000	-1,561,000
Support services	12,000,000	11,200,000	11,088,000	-912,000	-112,000
Training grants	36,000,000	36,360,000	35,996,000	-4,000	-364,000
Immigrant education	30,000,000	30,000,000	29,700,000	-300,000	-300,000
Total	225,407,000	233,645,000	231,308,000	+5,901,000	-2,337,000
SPECIAL EDUCATION					
State grants:					
EHA grants to States part "b"	1,976,095,000	2,073,300,000	2,052,567,000	+76,472,000	-20,733,000
Chapter 1 handicapped grants	143,000,000	128,700,000	127,413,000	-15,587,000	-1,287,000
Preschool grants	320,000,000	320,000,000	316,800,000	-3,200,000	-3,200,000
Grants for infants and families	175,000,000	180,600,000	178,794,000	+3,794,000	-1,806,000
Subtotal, State grants	2,614,095,000	2,702,600,000	2,675,574,000	+61,479,000	-27,026,000
Special purpose funds:					
Deaf-blindness	13,000,000	13,000,000	12,870,000	-130,000	-130,000
Severe disabilities	8,000,000	8,000,000	9,405,000	+1,405,000	+1,405,000
Serious emotional disturbance	4,000,000	4,000,000	3,960,000	-40,000	-40,000
Secondary and transitional services	19,000,000	19,000,000	21,285,000	+2,285,000	+2,285,000
Early childhood education	25,000,000	25,000,000	25,740,000	+740,000	+740,000
Postsecondary education	9,000,000	9,000,000	8,910,000	-90,000	-90,000
Innovation and development	21,000,000	21,000,000	20,790,000	-210,000	-210,000
Media and captioning services	17,000,000	17,000,000	17,572,000	+572,000	+572,000
Technology applications	10,000,000	10,000,000	9,900,000	-100,000	-100,000
Special studies	4,000,000	4,000,000	3,960,000	-40,000	-40,000
Personnel development	89,800,000	89,800,000	88,902,000	-898,000	-898,000
Parent training	12,000,000	12,000,000	11,880,000	-120,000	-120,000
Clearinghouses	2,000,000	2,000,000	2,079,000	+79,000	+79,000
Regional resource centers	7,000,000	7,000,000	7,276,000	+276,000	+276,000
Subtotal, Special purpose funds	240,800,000	240,800,000	244,529,000	+3,729,000	+3,729,000
Total, Special education	2,854,895,000	2,943,400,000	2,920,103,000	+65,208,000	-23,297,000
REHABILITATION SERVICES AND DISABILITY RESEARCH					
Vocational rehabilitation State grants:					
Grants to States	1,788,000,000	1,839,852,000	1,839,852,000	+51,852,000	
Supported employment State grants	31,065,000	32,059,000	31,065,000		-994,000
Client assistance	9,141,000	9,434,000	9,141,000		-293,000
Subtotal, State grants	1,828,206,000	1,881,345,000	1,880,058,000	+51,852,000	-1,287,000

1/ Forward funded.

2/ To be made available on July 1, 1992.

3/ FY92 appropriation reflects reprogramming of 2/92.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
Special purpose funds:					
Special demonstration programs	31,103,000	20,103,000	20,103,000	-11,000,000	....
Supported employment projects	10,423,000	10,980,000	10,423,000	....	-557,000
Recreational programs	2,617,000	2,617,000	2,617,000	....	....
Migratory workers	1,060,000	1,300,000	1,060,000	....	-240,000
Projects with industry	20,390,000	23,100,000	20,390,000	....	-2,710,000
Helen Keller National Center	5,867,000	6,057,000	5,867,000	....	-190,000
Independent living:					
Comprehensive services	14,200,000	14,654,000	14,200,000	....	-454,000
Centers	29,000,000	29,000,000	29,000,000	....	....
Services for older blind	6,505,000	6,505,000	6,505,000	....	....
Protection and advocacy for severely disabled	1,074,000	1,074,000	1,074,000	....	....
Subtotal, Independent living	50,779,000	51,233,000	50,779,000	....	-454,000
Training	36,688,000	36,688,000	36,688,000	....	....
National Institute on Disability and Rehabilitation Research	61,000,000	68,440,000	61,000,000	....	-7,440,000
Technology assistance	28,000,000	34,400,000	34,400,000	+6,400,000	....
Evaluation	1,025,000	2,000,000	2,000,000	+975,000	....
Subtotal, Special purpose funds	248,952,000	256,918,000	245,327,000	-3,625,000	-11,591,000
Total, Rehabilitation services	2,077,158,000	2,138,263,000	2,125,385,000	+48,227,000	-12,878,000
SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES					
AMERICAN PRINTING HOUSE FOR THE BLIND	5,900,000	6,349,000	6,286,000	+386,000	-63,000
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF:					
Operations	39,097,000	40,348,000	38,706,000	-391,000	-1,642,000
Endowment grant	342,000	342,000	339,000	-3,000	-3,000
Construction	....	314,000	....	....	-314,000
Subtotal, NTID	39,439,000	41,004,000	39,045,000	-394,000	-1,959,000
GALLAUDET UNIVERSITY:					
University programs	50,480,000	51,468,000	49,975,000	-505,000	-1,493,000
Kendall Elementary/Model Secondary Schools	22,560,000	23,282,000	22,334,000	-226,000	-948,000
Endowment grant	1,000,000	1,000,000	990,000	-10,000	-10,000
Construction	2,500,000	2,500,000	2,475,000	-25,000	-25,000
Subtotal, Gallaudet University	76,540,000	78,250,000	75,774,000	-766,000	-2,476,000
Total, Special Institutions for Disabled	121,879,000	125,603,000	121,105,000	-774,000	-4,498,000
VOCATIONAL AND ADULT EDUCATION					
Vocational and Applied education:					
Basic grants	900,000,000	930,500,000	980,595,000	+80,595,000	+50,095,000
Additional appropriation 9/30 1/	49,750,000	60,000,000	....	-49,750,000	-60,000,000
Subtotal, basic grants	949,750,000	990,500,000	980,595,000	+30,845,000	-9,905,000
Community - based organizations	12,000,000	12,000,000	11,880,000	-120,000	-120,000
Consumer and homemaking education	35,000,000	....	34,650,000	-350,000	+34,650,000
Tech Prep	90,000,000	100,000,000	120,285,000	+30,285,000	+20,285,000
Supplementary grants, equipment	....	....	....	....	....
Additional appropriation 9/30 1/	9,950,000	....	....	-9,950,000	....
Tribally controlled post-secondary vocational institutions 2/	2,500,000	2,500,000	2,970,000	+470,000	+470,000
State councils	9,000,000	9,000,000	8,910,000	-90,000	-90,000
National programs:					
Research	10,000,000	11,500,000	11,385,000	+1,385,000	-115,000
Technical assistance, sec. 404 (d)	2,000,000	....	....	-2,000,000	....
Demonstrations 1/	13,000,000	13,000,000	15,840,000	+2,840,000	+2,840,000
Data systems (NOICC/SOICC)	5,000,000	5,000,000	9,900,000	+4,900,000	+4,900,000
Subtotal, national programs	30,000,000	29,500,000	37,125,000	+7,125,000	+7,625,000
Bilingual vocational training	3,000,000	....	2,970,000	-30,000	+2,970,000
Subtotal, Vocational and Applied tech. education	1,141,200,000	1,143,500,000	1,199,385,000	+58,185,000	+55,885,000
Adult education:					
State Programs	235,750,000	260,750,000	258,142,000	+22,392,000	-2,608,000
National programs	9,000,000	9,000,000	8,910,000	-90,000	-90,000
Literacy training for homeless adults	9,759,000	9,759,000	9,661,000	-98,000	-98,000
Workplace literacy partnerships	19,251,000	19,251,000	19,058,000	-193,000	-193,000
English literacy grants	1,000,000	....	990,000	-10,000	+990,000
Commercial driver literacy	2,500,000	....	....	-2,500,000	....
State literacy resource centers	5,000,000	5,000,000	7,920,000	+2,920,000	+2,920,000
Literacy programs for prisoners	5,000,000	....	4,950,000	-50,000	+4,950,000
Subtotal, adult education	287,260,000	303,760,000	309,631,000	+22,371,000	+5,871,000
Total, Vocational and adult education	1,428,460,000	1,447,260,000	1,509,016,000	+80,556,000	+61,756,000

1/ Reflects rescission enacted 6/92.

2/ Current funded

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
STUDENT FINANCIAL ASSISTANCE					
Pell Grants: Academic year 91-92 shortfall		332,173,000	703,890,000	+703,890,000	+371,717,000
Pell Grants: Academic year 1993 - 1994	5,398,000,000	6,243,464,000	6,067,710,000	+669,710,000	-175,754,000
Additional appropriation 9/30 1/	61,690,000	62,000,000		-61,690,000	-62,000,000
DOD transfer for Desert Storm	3,165,000			-3,165,000	
Advance appropriation (FY93 - FY95)	9,495,000			-9,495,000	
Legislative savings			-185,130,000	-185,130,000	-185,130,000
Subtotal, current year	5,472,350,000	6,305,464,000	5,882,580,000	+410,230,000	-422,884,000
Presidential Achievement Scholarships		170,000,000			-170,000,000
Supplemental educational opportunity grants	577,000,000	358,000,000	571,230,000	-5,770,000	+213,230,000
Work-study	615,000,000	454,000,000	608,850,000	-6,150,000	+154,850,000
Income contingent loans	4,880,000	5,000,000		-4,880,000	-5,000,000
Perkins loans:					
Federal capital contributions	156,000,000		248,490,000	+92,490,000	+248,490,000
Loan cancellations		15,000,000	14,850,000	+14,850,000	-150,000
Subtotal, Perkins loans	156,000,000	15,000,000	263,340,000	+107,340,000	+248,340,000
State student incentive grants	72,000,000		71,280,000	-720,000	+71,280,000
Grants to states to improve licensure		50,000,000			-50,000,000
Total, Student Financial Assistance	6,897,230,000	7,689,637,000	8,101,170,000	+1,203,940,000	+411,533,000
Current year FY 1993	(6,887,735,000)	(7,689,637,000)	(8,101,170,000)	(+1,213,435,000)	(+411,533,000)
FY 1993 - 1995	(9,495,000)			(-9,495,000)	
GUARANTEED STUDENT LOANS (LIQUIDATING)					
Contract authority to liquidate pre-1992 loan subsidies 2/	(2,135,830,000)	(3,050,930,000)	(3,050,930,000)	(+915,100,000)	
Appropriation, including shortfalls (non-add) 3/	(4,220,459,000)			(-4,220,459,000)	
GUARANTEED STUDENT LOANS PROGRAM					
Guaranteed Student Loans:					
New loan subsidies (contract authority)	2,436,467,000	2,862,761,000	2,862,761,000	+426,294,000	
Mandatory admin expenses (contract authority)	203,345,000	67,397,000	67,397,000	-135,948,000	
Total	2,639,812,000	2,930,158,000	2,930,158,000	+290,346,000	
GSL LOAN ADMINISTRATION	43,870,000	65,000,000	64,350,000	+20,480,000	-650,000
HIGHER EDUCATION					
Aid for institutional development:					
Strengthening institutions	87,831,000	87,831,000	86,953,000	-878,000	-878,000
Strengthening historically black colleges and univ	100,000,000	100,000,000	99,000,000	-1,000,000	-1,000,000
Strengthening historically black grad institutions	11,711,000	11,711,000	11,594,000	-117,000	-117,000
Endowment grants, regular	7,500,000	7,500,000	7,425,000	-75,000	-75,000
Endowment grants, new proposal		10,000,000			-10,000,000
Subtotal, Institutional development	207,042,000	217,042,000	204,972,000	-2,070,000	-12,070,000
Program development:					
Fund for the Improvement of Postsec. Education	15,000,000	16,000,000	14,850,000	-150,000	-1,150,000
Minority science improvement	6,000,000	6,000,000	5,940,000	-60,000	-60,000
Innovative projects for community services	1,463,000	6,830,000	1,448,000	-15,000	-5,382,000
Student Literacy Corps	5,367,000		5,313,000	-54,000	+5,313,000
International educ and foreign language studies: 4/					
Domestic programs	30,000,000	30,000,000	33,640,000	+3,640,000	+3,640,000
Additional appropriations 9/30 1/	3,980,000	4,000,000		-3,980,000	-4,000,000
Overseas programs	6,000,000	6,000,000	10,890,000	+4,890,000	+4,890,000
Subtotal, International education	39,980,000	40,000,000	44,530,000	+4,550,000	+4,530,000
Cooperative education	14,000,000	14,000,000	13,860,000	-140,000	-140,000
Law school clinical experience	8,000,000		7,920,000	-80,000	+7,920,000
Urban Community Service	8,000,000		7,920,000	-80,000	+7,920,000
Foreign language periodicals	500,000		990,000	+490,000	+990,000
Subtotal, Program development	98,310,000	82,830,000	102,771,000	+4,461,000	+19,941,000
Construction:					
Interest subsidy grants, prior year construction	19,412,000	18,840,000	18,652,000	-760,000	-188,000
Special grants:					
Assistance to Guam	500,000			-500,000	
Robert A. Taft Institute	550,000	325,000	322,000	-228,000	-3,000
Magnuson Endowment	2,000,000			-2,000,000	
Bethune-Cookman	300,000			-300,000	
Subtotal, Special grants	3,350,000	325,000	322,000	-3,028,000	-3,000
Special Program for the Disadvantaged (TRIO):					
Student Support Services	110,000,000	110,000,000	128,601,000	+18,601,000	+18,601,000
Additional appropriations 9/30 1/	19,900,000	20,000,000		-19,900,000	-20,000,000
Subtotal, Student support services	129,900,000	130,000,000	128,601,000	-1,299,000	-1,399,000

1/ Reflects rescission enacted 6/92.

2/ Includes $266,365,000 of FY92 legislative savings proposed for later transmittal.

3/ Excludes Dept. of Defense transfer of $5,933,000 in FY92 and $2,262,000 in FY93.

4/ Fellowships shown under graduate programs.

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	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
Undergraduate outreach 1/	242,199,000	265,404,000	239,777,000	-2,422,000	-25,627,000
School, college and university partnerships	4,000,000	4,000,000	3,960,000	-40,000	-40,000
Staff training	2,000,000		1,980,000	-20,000	+1,980,000
Evaluation	1,450,000	2,000,000	1,435,000	-15,000	-565,000
Total, Special prog for the disadvantages (TRIO)	379,549,000	401,404,000	375,753,000	-3,796,000	-25,651,000
Graduate outreach:					
Minority participation in graduate education	5,953,000		5,893,000	-60,000	+5,893,000
McNair post-baccalaureate program	9,600,000		9,504,000	-96,000	+9,504,000
McNair graduate outreach (proposed legislation)		15,553,000			-15,553,000
Subtotal, Graduate outreach	19,003,000	17,553,000	18,812,000	-191,000	+1,259,000
Undergraduate scholarships:					
Byrd honors scholarships	9,642,000	9,642,000	9,546,000	-96,000	-96,000
National science scholars	4,500,000	15,000,000	12,177,000	+7,677,000	-2,823,000
National math/science scholars, new			2,178,000	+2,178,000	+2,178,000
Douglas teacher scholarships	15,000,000	15,000,000	14,850,000	-150,000	-150,000
Subtotal, Undergraduate scholarships	29,142,000	39,642,000	38,751,000	+9,609,000	-891,000
Graduate fellowships:					
Harris graduate fellowships	17,600,000		17,424,000	-176,000	+17,424,000
Harris public service fellowships	3,200,000		3,168,000	-32,000	+3,168,000
Javits fellowships	8,000,000		7,920,000	-80,000	+7,920,000
Graduate assistance in areas of national need	28,000,000		27,720,000	-280,000	+27,720,000
Foreign language and area studies fellowships VI	13,000,000		12,870,000	-130,000	+12,870,000
Proposed national graduate fellowships		74,800,000			-74,800,000
Subtotal, Graduate fellowships	69,800,000	74,800,000	69,102,000	-698,000	-5,698,000
Veterans' education outreach	2,700,000		2,673,000	-27,000	+2,673,000
Legal training for the disadvantaged (CLEO)	3,045,000	3,045,000	3,015,000	-30,000	-30,000
Total, Higher education	827,903,000	853,481,000	831,408,000	+3,505,000	-22,073,000
HOWARD UNIVERSITY					
Academic program	153,515,000	158,427,000	151,980,000	-1,535,000	-6,447,000
Endowment grant	2,928,000	5,000,000	3,378,000	+450,000	-1,622,000
Research	4,616,000	4,616,000	4,570,000	-46,000	-46,000
Howard University Hospital	28,301,000	29,207,000	28,915,000	+614,000	-292,000
Emergency construction	23,000,000		6,435,000	-16,565,000	+6,435,000
Total, Howard University	212,360,000	197,250,000	195,278,000	-17,082,000	-1,972,000
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS (LIQUIDATING): Interest subsidy payments	(3,598,000)	(3,523,000)	(3,523,000)	(-75,000)	
COLLEGE HOUSING AND ACADEMIC FACILITIES PROGRAM:					
New loan subsidies	7,539,000		2,997,000	-4,542,000	+2,997,000
Federal administration	556,000	740,000	733,000	+177,000	-7,000
Loan limitation	(30,000,000)		(29,700,000)	(-300,000)	(+29,700,000)
Total, College Housing Program	8,095,000	740,000	3,730,000	-4,365,000	+2,990,000
EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT					
Research and statistics:					
Research	71,000,000	115,000,000	70,290,000	-710,000	-44,710,000
Statistics	47,313,000	63,600,000	62,964,000	+15,651,000	-636,000
Assessment (NAEP)	29,900,000	64,800,000	29,601,000	-299,000	-35,199,000
Subtotal, Research and statistics	148,213,000	243,400,000	162,855,000	+14,642,000	-80,545,000
Fund for Innovation in Education	24,000,000	25,000,000	19,800,000	-4,200,000	-5,200,000
Civic education	3,800,000		3,762,000	-38,000	+3,762,000
Fund for the Improvement and Reform of Schools and Teaching:					
Grants for schools and teachers	5,495,000	5,495,000	5,440,000	-55,000	-55,000
Family-school partnerships	3,755,000	3,755,000	3,717,000	-38,000	-38,000
Eisenhower mathematics and science educ national program	16,000,000	56,000,000	15,840,000	-160,000	-40,160,000
(Clearinghouse non-add)	(3,500,000)	(5,700,000)	(3,465,000)	(-35,000)	(-2,235,000)
Eisenhower math-science regional consortia	12,000,000	12,000,000	11,880,000	-120,000	-120,000
National Diffusion Network	14,700,000	14,700,000	14,553,000	-147,000	-147,000
Blue ribbon schools	885,000	895,000	886,000	+1,000	-9,000
Javits gifted and talented students education	9,732,000	9,732,000	9,635,000	-97,000	-97,000
Star schools	17,417,000	17,417,000	18,228,000	+811,000	+811,000
Additional appropriations 9/30 2/	995,000	1,000,000		-995,000	-1,000,000
Educational partnerships	4,233,000	4,233,000	4,191,000	-42,000	-42,000
Territorial teacher training	1,769,000	1,769,000	1,751,000	-18,000	-18,000
Leadership in educational administration (LEAD)	370,000			-370,000	
National writing project	2,500,000		2,475,000	-25,000	+2,475,000
Partnerships for innovative teacher education		20,000,000			-20,000,000
Subtotal, ASRI	265,864,000	415,396,000	275,013,000	+9,149,000	-140,383,000
National board for professional teacher standards	4,880,000		4,831,000	-49,000	+4,831,000
Total, ERSI	270,744,000	415,396,000	279,844,000	+9,100,000	-135,552,000

1/ Includes Upward Bound, Talent Search, Ed. Opp. Centers.

2/ Reflects rescission enacted 6/92.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
LIBRARIES					
Public libraries:					
Services	83,898,000	35,000,000	83,059,000	-839,000	+48,059,000
Construction	16,718,000		16,551,000	-167,000	+16,551,000
Interlibrary cooperation	19,908,000		19,709,000	-199,000	+19,709,000
Research and demonstrations	325,000		322,000	-3,000	+322,000
Library career training 1/	5,000,000		4,950,000	-50,000	+4,950,000
Research libraries	5,855,000		5,796,000	-59,000	+5,796,000
Library literacy programs	8,163,000		8,081,000	-82,000	+8,081,000
College library technology	6,404,000		6,340,000	-64,000	+6,340,000
Foreign language materials (Title V-LSCA)	976,000		966,000	-10,000	+966,000
Total, Libraries	147,247,000	35,000,000	145,774,000	-1,473,000	+110,774,000
DEPARTMENTAL MANAGEMENT					
PROGRAM ADMINISTRATION	291,527,000	325,000,000	305,799,000	+14,272,000	-19,201,000
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	53,625,000	61,400,000	56,857,000	+3,232,000	-4,543,000
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	26,260,000	31,700,000	28,652,000	+2,392,000	-3,048,000
Total, Departmental management	371,412,000	418,100,000	391,308,000	+19,896,000	-26,792,000
Total, Department of Education	27,275,434,000	29,241,217,000	28,931,697,000	+1,656,263,000	-309,520,000
Current year FY 1993	(27,265,939,000)	(29,241,217,000)	(28,931,697,000)	(+1,665,758,000)	(-309,520,000)
FY 1993 - 1995	(9,495,000)			(-9,495,000)	
Total including Guaranteed Student Loans	(29,411,264,000)	(32,292,147,000)	(31,982,627,000)	(+2,571,363,000)	(-309,520,000)
TITLE IV - RELATED AGENCIES					
Action (Domestic Programs):					
Volunteers in Service to America:					
VISTA operations	32,688,000	35,822,000	34,947,000	+2,259,000	-875,000
VISTA Literacy Corps	4,776,000	5,204,000	5,049,000	+273,000	-155,000
Student Community Service	976,000	976,000	966,000	-10,000	-10,000
Subtotal	38,440,000	42,002,000	40,962,000	+2,522,000	-1,040,000
Special Volunteer Programs: Drug programs	1,225,000	1,225,000	990,000	-235,000	-235,000
Older Americans Volunteer Programs:					
Foster Grandparents Program	65,590,000	65,590,000	65,063,000	-527,000	-527,000
Senior Companion Program	28,727,000	28,727,000	28,571,000	-156,000	-156,000
Retired Senior Volunteer Program	34,128,000	34,128,000	33,787,000	-341,000	-341,000
Subtotal, Older Volunteers	128,445,000	128,445,000	127,421,000	-1,024,000	-1,024,000
Inspector General	954,000	1,020,000	944,000	-10,000	-76,000
Program Support	29,528,000	32,445,000	31,185,000	+1,657,000	-1,260,000
Total, Action	198,592,000	205,137,000	201,502,000	+2,910,000	-3,635,000
Corporation for Public Broadcasting: FY95 (current request) 2/	275,000,000	275,000,000	272,250,000	-2,750,000	-2,750,000
Federal Mediation and Conciliation Service	28,118,000	29,594,000	30,195,000	+2,077,000	+601,000
Federal Mine Safety and Health Review Commission	5,143,000	5,830,000	5,772,000	+629,000	-58,000
National Commission on Acquired Immune Deficiency Syndrome	1,750,000	3,000,000	1,732,000	-18,000	-1,268,000
National Commission on Children	950,000			-950,000	
National Commission on Libraries and Information Science	831,000	1,000,000	590,000	-241,000	-410,000
White House Conference on Library and Information Services			400,000	+400,000	+400,000
National Commission on Responsibilities for Financing Postsecondary Education		236,000	208,000	+208,000	-28,000
National Commission to Prevent Infant Mortality	440,000	440,000		-440,000	-440,000
National Council on Disability	1,569,000	1,800,000	1,553,000	-16,000	-247,000
National Labor Relations Board	162,000,000	172,905,000	171,176,000	+9,176,000	-1,729,000
National Mediation Board	6,775,000	7,950,000	7,870,000	+1,095,000	-80,000
Occupational Safety and Health Review Commission	6,711,000	7,241,000	7,169,000	+458,000	-72,000
Physician Payment Review Commission (trust funds)	(4,398,000)	(4,496,000)	(4,451,000)	(+53,000)	(-45,000)
Prospective Payment Assessment Commission (trust funds)	(4,030,000)	(4,463,000)	(4,418,000)	(+388,000)	(-45,000)
Railroad Retirement Board:					
Dual benefits payments account	319,100,000	297,000,000	294,030,000	-25,070,000	-2,970,000
Contingency reserve (non-add)		(5,940,000)	(5,881,000)	(+5,881,000)	(-59,000)
Less income tax receipts on dual benefits	-18,000,000	-22,000,000	-22,000,000	-4,000,000	
Subtotal, dual benefits	301,100,000	275,000,000	272,030,000	-29,070,000	-2,970,000
Federal payment to the Railroad Retirement Account	400,000	100,000	100,000	-300,000	
Limitation on administration:					
(Retirement)	(72,287,000)	(76,911,000)	(75,240,000)	(+2,953,000)	(-1,671,000)
(Unemployment)	(17,263,000)	(17,689,000)	(17,325,000)	(+62,000)	(-364,000)
Subtotal, administration	(89,550,000)	(94,600,000)	(92,565,000)	(+3,015,000)	(-2,035,000)
(Special Management Improvement Fund)	(3,264,000)	(3,758,000)	(3,720,000)	(+456,000)	(-38,000)
Total, limitation on administration	(92,814,000)	(98,358,000)	(96,285,000)	(+3,471,000)	(-2,073,000)
(Inspector General)	(6,395,000)	(6,900,000)	(5,544,000)	(-851,000)	(-1,356,000)

1/ Training funds requested under Higher Education.

2/ FY 1992 appropriation advance in FY90 is $327,280,000. FY 1993 appropriation advance in FY91 is $318,636,000. FY 1994 appropriation advance in FY92 is $275,000,000.

H.R. 5677 - Fiscal Year 1993 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1992 Comparable	FY 1993 Request	FY 1993 Bill	Bill vs FY 1992 Comparable	Bill vs FY 1992 Request
Soldiers' and Airmen's Home (trust fund limitation):					
Operation and maintenance	41,352,000	43,236,000	40,938,000	-414,000	-2,298,000
Capital outlay	4,220,000	7,174,000	4,178,000	-42,000	-2,996,000
United States Institute of Peace	11,000,000	11,000,000	10,890,000	-110,000	-110,000
United States Naval Home (trust fund limitation):					
Operation and maintenance	10,055,000	11,070,000	9,954,000	-101,000	-1,116,000
Capital program	1,253,000	477,000	472,000	-781,000	-5,000
Total, Title IV, Related Agencies:					
Federal Funds	1,057,259,000	1,058,190,000	1,038,979,000	-18,280,000	-19,211,000
Current year, FY 1993	(782,259,000)	(783,190,000)	(766,729,000)	(-15,530,000)	(-16,461,000)
FY 1995	(275,000,000)	(275,000,000)	(272,250,000)	(-2,750,000)	(-2,750,000)
Trust funds	(107,637,000)	(114,217,000)	(110,698,000)	(+3,061,000)	(-3,519,000)
SUMMARY					
Title I - Department of Labor:					
Federal Funds	7,518,049,000	7,999,614,000	8,084,255,000	+566,206,000	+84,641,000
Current year	(7,330,349,000)	(7,811,914,000)	(8,084,255,000)	(+753,906,000)	(+272,341,000)
1994 advance	(187,700,000)	(187,700,000)		(-187,700,000)	(-187,700,000)
Trust Funds	(3,697,527,000)	(3,568,467,000)	(3,589,103,000)	(-108,424,000)	(+20,636,000)
Title II - Department of Health and Human Services:					
Federal Funds	182,914,610,000	206,120,270,000	206,023,598,000	+23,108,988,000	-96,672,000
Current year	(156,376,610,000)	(169,250,925,000)	(169,515,598,000)	(+13,138,988,000)	(+264,673,000)
1994 advance	(26,538,000,000)	(36,869,345,000)	(36,508,000,000)	(+9,970,000,000)	(-361,345,000)
Trust Funds	(6,895,123,000)	(6,879,153,000)	(6,714,676,000)	(-180,447,000)	(-164,477,000)
Title III - Department of Education:					
Federal Funds	27,275,434,000	29,241,217,000	28,931,697,000	+1,656,263,000	-309,520,000
Current year	(27,265,939,000)	(29,241,217,000)	(28,931,697,000)	(+1,665,758,000)	(-309,520,000)
FY 1993 - 1995	(9,495,000)			(-9,495,000)	
Total including Guaranteed Student Loans	(29,411,264,000)	(32,292,147,000)	(31,982,627,000)	(+2,571,363,000)	(-309,520,000)
Title IV - Related Agencies:					
Federal Funds	1,057,259,000	1,058,190,000	1,038,979,000	-18,280,000	-19,211,000
Current year	(782,259,000)	(783,190,000)	(766,729,000)	(-15,530,000)	(-16,461,000)
1995 advance	(275,000,000)	(275,000,000)	(272,250,000)	(-2,750,000)	(-2,750,000)
Trust Funds	(107,637,000)	(114,217,000)	(110,698,000)	(+3,061,000)	(-3,519,000)
Total, all titles:					
Federal Funds	218,765,352,000	244,419,291,000	244,078,529,000	+25,313,177,000	-340,762,000
Current year	(191,755,157,000)	(207,087,246,000)	(207,298,279,000)	(+15,543,122,000)	(+211,033,000)
1993 - 1995 advance	(9,495,000)			(-9,495,000)	
1994 advance	(26,725,700,000)	(37,057,045,000)	(36,508,000,000)	(+9,782,300,000)	(-549,045,000)
1995 advance	(275,000,000)	(275,000,000)	(272,250,000)	(-2,750,000)	(-2,750,000)
Trust Funds	(10,700,287,000)	(10,561,837,000)	(10,414,477,000)	(-285,810,000)	(-147,360,000)

□ 1310

PROVIDING FOR CONSIDERATION OF H.R. 5620, SUPPLEMENTAL APPROPRIATIONS, TRANSFERS, AND RESCISSIONS ACT, 1992

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 527, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 527

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against the bill and against its consideration are waived. After general debate, which shall be confined to the bill and which shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be considered as read through page 21, line 11, and shall be considered for amendment under the five-minute rule for a period not to exceed two hours. Within such two-hour period, debate on title III of the bill and any amendments thereto may not exceed thirty minutes. If such two-hour period is exhausted, the disposition of any questions then pending and the reading of the last two lines of the bill shall constitute the conclusion of consideration of the bill for amendment. Unless the Committee has sooner risen on a motion offered as preferential under clause 2(d) of rule XXI, at the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. HOYER). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Mr. Speaker, during consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, this bill may seem to Members obscure and technical. We are taking money set aside last year for the gulf war and we are returning it to the Treasury, essentially giving $12 billion back to the American people.

It seems like a simple accounting maneuver, but today's vote is important for America, not just for what we do but for what we can learn by the experience we have gone through in terms of not only the war but the funding of the war itself.

In the Persian Gulf, all Americans supported our troops and we gave them, most importantly, we gave them the resources that they needed to win. But this time, we did something different: Congress demanded our allies pay for their fair share of this war. And it worked.

Mr. Speaker, this bill is a result of that success.

What does the success teach us? Several things. No. 1, there is a lesson for America: It teaches us that this concept that some of us on both sides of the aisle have been talking for for a number of years, this idea of burden sharing—burden sharing means what it says—and when applied with force, it works. It teaches us that when we are tough with the rest of the world, when we say that if our country defends their interests, they should at least pay or help pay for the benefits that they are gaining, in fact they will go along and do that.

We saw that in terms of what has happened with Japan, Germany, and other European countries, and of course Saudi Arabia and Kuwait, in terms of paying for their share of the war.

In Japan's case, for instance, the vast majority of the natural resources, when it comes to energy, when it comes to oil, is derived from the Persian Gulf, and through discussions, talks, cajoling and other mechanisms, we were able to get them to ante into the kitty to help pay for the effort that was made.

When America gets tough, we get respect; and when we get respect, we get results.

Now, second, the lesson, there is another lesson in there for this body, and it is this: that when we get tough, we get results. It was our efforts to promote burden sharing that resulted in other countries backing up their rhetoric with cash.

As I have just mentioned, we told Japan and Europe that they have grown up, that 1945 is gone, that they are viable, stable, wealthy nations, and that when their interests are defended, they have an obligation to help pay for that defense.

The world has changed, our allies can pay for their fair share.

America can and has led the world and we will continue to lead the world. But the American taxpayer does not have to go it alone, to foot the bill.

There is a third, I think, a final lesson to be drawn, and it is a lesson drawn from the way we stood behind our troops, ready to give them every tool that was necessary to fight Saddam Hussein.

Now our troops, most of them, are back home. Do we help them when they are outside of our borders? Should not we work just as hard to help them when they are in the States as we helped them when they were in Saudi Arabia?

The message that each of us hears across this country as we meet with our constituents is that it is time to take care of our own right here at home.

We have, as everyone knows in this Chamber, we are in a prolonged and deep recession that has lasted 2 years now. We have 17 million Americans who cannot find full-time work, close to 11 million who are out of work permanently, and an additional 6 million or 7 million who can only find part-time work.

We have millions of hard working Americans, including many veterans of the gulf war, out of work through no fault of their own.

Mr. Speaker, today we are turning back $12 billion to the U.S. Treasury. We won the war and saved the American taxpayers' dollars. We can lead the world and take care of our people at home. We have to show the same commitment to those seeking a job as we did to those seeking the enemy.

I would say with all due respect to my friends on the other side of the aisle, and to the administration if they are listening, that we have moved together in recent days, recent weeks, recent months, to extend unemployment compensation and put some permanency into the law so that we do not have to go through that battle each and every time the compensation week numbers run out, so that we give some stability to people who are part of that number that I just recited, 17 million, that there will be extended benefits. We worked together on that. We are working together on an urban aid package that we hope—we are not sure, but we hope—will have programs in it that will meet the needs of the people, not only for urban areas but our rural areas as well.

And I would ask one other thing: that we work together in the remaining weeks of this summer session and certainly in the fall, in the remaining weeks in the fall session before we adjourn sine die, to pass a public works component that will put upward of 125,000 of our people to work on our roads, bridges, our highways and all the important infrastructure that is needed to help propel the engine to get this economy moving again.

As you know, we passed an amendment offered by the distinguished gentleman from Wisconsin [Mr. OBEY] to the transportation appropriations bill that would do just that. I am hopeful that the administration will see fit to use it, if it deems necessary, not only the money that was saved on the foreign appropriations bill or the money that was saved, $3.5 billion, on the defense appropriations bill, but if it deems it necessary, the $12 billion that today we are moving back to the Treasury, to put our people at home back to work.

Let me finally conclude by saying that we have got to move ahead on these particular issues, health care, as well as jobs programs that I have mentioned.

So, as we vote today, let us focus on the strength and commitment that we showed our troops. Let us look at, too, let us show the same commitments when it comes to building a future and building a future for our children.

The administration should take note, burden sharing works.

I remember when several of us, in fact most of us, were called during the summer 2 years ago to come to the White House to meet with the President. We met with him down in an amphitheater, we had a large number of Members there. One of the first questions that was raised about the imminent gulf war was how we were going to pay for it, Mr. President. And a number of us suggested the concept of burden sharing should be foremost in the minds of the administration and the Congress. I am glad to see that it was, and I am glad to see that we are here today bearing the results of that effort that was made in a bipartisan fashion by both Democrats and Republicans.

Mr. Speaker, I have some other comments relating to the technical points of the bill. I will be very brief, and then I will yield to my friend from California.

The bill that we are considering, House Resolution 527, provides for the consideration of the larger bill, H.R. 5620, a bill making supplemental appropriations, transfers, and rescissions for the fiscal year 1992.

□ 1320

The rule, as the Clerk has indicated, waives all points of order against the bill and against its consideration. It provides for 1 hour of general debate, equally divided between the chairman and the ranking minority member of the Committee on Appropriations. After general debate, the rule provides that the bill will be considered as read, up to the last two lines, and it will be considered for amendment for up to 2 hours, of which 30 minutes will be available for debate on title III.

Finally, Mr. Speaker, the rule provides one motion to recommit the bill, and I urge my colleagues to support the rule and to support the bill.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me at the outset say how extraordinarily happy I am to see my very good friend, the gentleman from Michigan [Mr. BONIOR], returned and in very good health. I have to say that I held out hopes that upon his return we would have wonderful rules emanating from the Committee on Rules, but unfortunately that is not the case. This rule and the bill that it makes in order, Mr. Speaker, are exhibit A as to why the President very much needs line-item veto authority.

The line-item veto, incidentally, Mr. Speaker, is something that is not only supported by our good friend, the senior ranking Republican on the Committee on Rules, the gentleman from New York [Mr. SOLOMON], but also by the Democrat Presidential nominee, Mr. Clinton, and President George Bush. A great number of my colleagues on the other side also profess support of the line-item veto. I have had Member after Member on the Democrat side come to me and say: "We strongly support the concept of the line-item veto."

Somehow we just can't seem to get them to vote for it.

Well, today once again we have another great opportunity for Republicans and Democrats to join together and support something that an overwhelming majority of the American people want us to support, the line-item veto. I urge my colleagues to defeat the previous question so that we can make in order the amendment that has been before, and I suspect will be again, offered by the gentleman from New York [Mr. SOLOMON] which will allow the line-item veto and enhanced rescission amendment to be made in order. For those of my colleagues who argue that it would be ineffective in lowering the deficit, consider this:

The President asked Congress for $429 million to cover higher than expected personnel costs related to Operation Desert Storm, and I should say parenthetically, Mr. Speaker, that I greatly appreciate the fact that my friend, the distinguished Democrat whip, the gentleman from Michigan [Mr. BONIOR], was such a strong proponent of Operation Desert Storm. H.R. 5620 provides $5.2 billion. That is a difference of almost $4.8 billion. The bill also contains $50 million for Department of Defense education assistance even though there is no national security requirement for these funds.

Now, Mr. Speaker, this is a terrible rule for a number of other reasons. First, it protects from a point of order the provision of prohibiting the Labor Department from enforcing the so-called helper regulations. For 10 years the Department of Labor has been trying to implement these rules which would save the American taxpayers more than $500 million a year. The helper rule simply recognizes a separate class of workers for determining Davis-Bacon prevailing wages for Federal construction projects. Without the regulations, Mr. Speaker, thousands of disadvantaged and unemployed persons are being denied jobs because Congress mandates that contractors pay skilled labor wages.

Now my friend from Michigan said that we need to be concerned about the devastating economic climate here in the United States. This provision dealing with helper rules clearly addresses that, and tragically we are not going to be allowed under this rule to address it adequately. This bill permanently prohibits the Labor Department from enforcing those rules, a provision that violates clause 2 of rules XXI prohibiting legislative provisions in an appropriations bill.

Also the rule is essentially a closed rule because it limits amendments by limiting debate on all amendments to 2 hours. I have never seen such a procedure on an appropriations bill, and I am concerned that we are about to set a very dangerous precedent.

Mr. Speaker, this is one of the more egregious rules reported out by the Committee on Rules. We can make it less egregious by voting to defeat the previous question, by making in order the line-item veto enhanced rescission amendment to be offered by the gentleman from New York [Mr. SOLOMON]. I know that we have a number of Members who are going to be addressing this, the Davis-Bacon provisions, and other items, and so it is for that reason that I will urge a vote against the previous question so that we can finally try to rectify this.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I rise in support of the rule and in support of this supplemental appropriation.

Mr. Speaker, in the best of times water is a precious commodity in the arid West. But during times of drought, scarce water supplies can spark open warfare in my region of the country.

As my State of Oregon enters its sixth straight year of drought, farmers and ranchers in my part of the country are beginning to fight for their economic survival. Having been hit by one environmental conflict after another, with threatened and endangered fish species competing for scarce water resources, those farmers, those ranchers, are now fighting against one of nature's most devastating assaults, a drought severe enough to turn farms into dust bowls and forests into tinderboxes.

In central Oregon, Mr. Speaker, water storage in Bureau of Reclamation projects is at only 39 percent of capacity. In eastern Oregon, storage is at a mere 8 percent of capacity, and at the current rate of use, Mr. Speaker, water storage will be depleted this month. That means zero, no water at all.

Congress and the administration, Mr. Speaker, have the authority to deal with this crisis, just as we do with the crisis in our east-side forests in the Northwest. But we cannot do anything about it without funds which the administration has been so reluctant to provide. In fact, the President has already been dropping hints about vetoing this urgently needed bill.

Frankly, Mr. Speaker, I am sick and tired of the administration's veto threats and its could-care-less attitude toward our problems in Oregon and in the Pacific Northwest.

Mr. Speaker, once again it has fallen to the Committee on Appropriations to throw a lifeline to rural communities in the Northwest to keep their agricultural community alive until this drought ends. This bill's $30 million in drought relief funds will permit water transfers, the drilling of additional wells to supplement water supply and the installation of fish screens to reduce fish kill at hydroelectric dams in our region, and it ensures that irrigation needs in our region that are so much at risk will be met.

Mr. Speaker, I want to thank the committee, and the chairman and the acting chairman, particularly the gentleman from California [Mr. FAZIO], my colleague, for working with me to provide this much-needed assistance to rural communities throughout Oregon and the West. I hope my colleagues give this legislation their overwhelming support, and I hope that the man in the White House, George Bush, will sign this urgently needed piece of legislation.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the very distinguished gentleman from New York [Mr. SOLOMON], the ranking Republican on the Committee on Rules, Mr. Line-Item Veto himself.

□ 1330

Mr. BONIOR. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. SOLOMON].

The SPEAKER pro tempore (Mr. HOYER). The gentleman from New York [Mr. SOLOMON] is recognized for 7½ minutes.

Mr. SOLOMON. Mr. Speaker, I thank the gentlemen for the time.

Mr. Speaker, I would just say to my colleagues on the floor and back in their offices that I have a list of seven organizations, including their letters, in which these organizations say that this rule is going to be the definitive vote on the line item veto during this 102d Congress. These organizations are the National Association of Manufacturers, the National Taxpayers Union, Americans for a Balanced Budget, Citizens for a Sound Economy, Americans for Tax Reform, United States Business and Industrial Council, Citizens Against Government Waste, and there are even more.

Mr. Speaker, let me just briefly read the letter from the Business and Industrial Council. It says:

> On behalf of the 1,500 members and CEOs of the United States Business and Industrial Council, I would like to strongly endorse your effort to defeat the previous question today on the rule on the FY 1992 supplemental appropriation, which will permit consideration of a line item veto. We have long supported the line item veto and we consider the upcoming vote to be the definitive vote on the line item veto in the House of Representatives for the 102d Congress. We urge your colleagues to support your effort to secure a vote on the line item veto and praise your effort to bring this about.

Mr. Speaker, let me first of all say to my good friend who has brought this appropriation bill to the floor: I certainly am not picking on him. The gentleman is one of the outstanding Members of this House and does a great job, as does his committee. But the truth is, this line item veto that I am proposing would affect all appropriation bills for fiscal year 1993.

Mr. Speaker, let me just say that I oppose this rule for a variety of reasons, not the least of which is the fact that it restricts the time for the amendment process to just two hours. My good friend, the gentleman from California [Mr. DREIER] has alluded to that.

Mr. Speaker, I think this is a very dangerous precedent for us to establish on this floor. For what is the most important responsibility given to us, the Members of the House of Representatives? It is to control the purse strings of the Government. That is what we are here for. That is what sets us apart from the other body.

Second, I oppose this rule because we are again protecting legislative language against points of order. The administration has made it clear that some of the legislative language makes this bill veto bait, and yet the Committee on Rules has protected it against points of order. So that means we are just wasting our time here today.

Mr. Speaker, I would suggest that the time has come for us to put our foot down on allowing all this legislating to take place in appropriation bills. Or, in the alternative, we should consider abolishing all of our authorizing committees as being obsolete.

We have rules of this House that we operate under. But this year the Committee on Appropriations and the Committee on Rules have collaborated in protecting everything of a legislative or unauthorized nature in all of the appropriation bills, with only one or two exceptions that I recall.

The more we do this, the more we encourage this practice to grow and become more abusive. We demean the Committee on Appropriations with this practice, we demean the authorizing committee, and we certainly disgrace this House. Let us just stop it.

Finally, Mr. Speaker, to my colleagues on both sides of the aisle who are not sure about what they were doing on Wednesday when I urged defeat of the previous question on the Interior appropriation rule so that we could make in order a line item veto rescission amendment for all fiscal 1993 appropriations bills, I want to give them another chance, another chance to put their vote where their mouth is. Back home in their districts many members are telling their constituents they are for the line-item veto.

Mr. Speaker, this is the definitive vote today. Members can put their vote where their mouth is.

Mr. Speaker, as I pointed out on Wednesday, President Reagan and now President Bush has been requesting line item veto authority over appropriation bills for the last 12 years. For the last 12 years this body right here, this House of Representatives, has denied it.

Earlier this week the Clinton-Gore ticket indicated their support for the line-item veto. After all, Democratic Members are supposed to be supportive of the Clinton-Gore ticket.

Well, under my amendment to this rule we do not have to change the Constitution to give the President this authority. All we need to do is reverse the Presidential rescission process in the Budget Act which now requires that Congress approve any Presidential rescissions of wasteful spending.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield, I would like to ask one quick question. Was I correct in understanding, and I said this myself, that Bill Clinton is actually a strong proponent of this, and yet his soldiers here in the House are refusing to support his attempt to implement the line-item veto?

Mr. SOLOMON. Mr. Speaker, that is absolutely right. That illustrates why we sometimes become hypocritical around here, and that is why I said we have to finally put our vote where our mouth is.

Now, my amendment is very simple. My amendment would permit the President to rescind funds in any fiscal year 1993 spending bill within 20 days of its enactment. Congress would then have 20 days in which to enact a resolution of disapproval by a simple majority vote.

What could be more fair than that? If the President then vetoes the disapproval resolution, it would take two-thirds of both houses to override his veto in order to force him to spend the money.

Mr. Speaker, I am not changing any law nor the rules of the House. That is what is required now, a two-thirds majority to override a veto.

Let me repeat to my colleagues on the other side of the aisle that the line-item veto is now supported by your candidate for President and your candidate for Vice President, by our Republican candidate for President and our candidate for Vice President, and by 175 Members on both sides of the aisle.

To quote from Hillary Clinton's favorite singer, Tammy Wynette, "Stand by your man," you Democrats. Show them back home that you have some backbone. Show them back home you have some guts, some old-fashioned guts.

Mr. Speaker, I challenge Members to come over to this floor and vote for this line-item veto.

Mr. BONIOR. Who is your candidate for Vice President?

Mr. SOLOMON. A great American named DAN QUAYLE.

Mr. BONIOR. We need to get that settled.

Mr. SOLOMON. A great American named DAN QUAYLE.

Incidentally, I called a great American on the phone on his 80th birthday. His name is Ronald Reagan. He reminded me of something about DAN QUAYLE. He said, "Do you remember back in the early eighties when we were fighting to build up a 'peace through strength' concept in this country that brought down the Berlin Wall and tore down the Iron Curtain?" He said, "DAN QUAYLE was the chairman of the Subcommittee on Procurement for all the weapons systems that were used in Desert Storm. It was his ingenuity."

Mr. Speaker, you know what? I am so damned proud of him; he is going to be the next Vice President, too, come January 20.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Vice President is a friend of mine as well, but I must say that the question of allowing the Vice President of the United States, who may in fact someday become the President, to have line-item veto, I think is terribly disturbing to a number of us on this side of the aisle.

The gentleman from New York [Mr. SOLOMON] suggested that he was not picking on the distinguished acting chairman, the gentleman from Kentucky [Mr. NATCHER]. I cannot think of anything more that would pick on the gentleman from Kentucky than to providing a line-item veto for the President of the United States and basically changing the rules of the game from 50 percent necessary to get things done around here to two-thirds, and basically emasculating the legislative branch of Government.

For those who are listening on the floor and elsewhere, let me just say that this vote to defeat the previous question is significant because of basically two things: No. 1, if it was successful and the gentleman from New York [Mr. SOLOMON] or the gentleman from California [Mr. DREIER] wanted to offer a new rule or amend the rule that we are on right now to provide the opportunity for a line-item veto, it would not be germane. It would not be in order.

□ 1340

So we are going through this exercise. It is an exercise in polemics, an exercise in debate. The fact of the matter is that the end product would never be reached because of germaneness.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, the only question that I would ask of my very good friend is, first of all, I know that while he is a member of the Committee on Rules, he is not a parliamentarian. We have amendment after amendment which is rammed down our throats, amendments which are nongermane to legislation constantly.

All we are trying to do is implement the will of the American people and the will of our party nominees.

Mr. BONIOR. Mr. Speaker, there is a process ongoing now, discussions between the ranking member on the Committee on Rules and the subcommittee chair that deals with the line-item veto. And discussions are ongoing to bring the issue before the American people in terms of hearings and other legislative processes.

I think that issue, in fact, is being discussed, but it would not be, as I indicated, germane to this bill today, no matter what happens on the vote on the previous question.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, the gentleman is a good friend. I am glad he is back here and in good health and on his feet.

Let me just say this: First of all, the gentleman raises a germane question, and he is absolutely right. But again, this rule is just an attempt to block a vote on the line-item veto. The Rules Committee can—and does—waive any rule the majority decides to. It could have made this amendment in order. Even if the Rules Committee did not protect this amendment against a point of order, I would have asserted the right of the minority to appeal the ruling of the Chair. I will try any permissible tactic to get a vote on the line-item veto.

So I just hope that Members will come over and defeat the previous question. And I can guarantee my colleagues one thing, if we get the 80 votes from the majority side of the aisle from Members who have sponsored the line-item veto, we will pass it. And the American people will be happy.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in opposition to this bill and to this rule. It is an unfair rule for a bill lacking in merit, if Members are concerned about our Nation's debt and deficits.

Later today the House will be debating the issue of Davis-Bacon. We should not be having this debate at this time, just like I concur with the statement of the gentleman from Michigan concerning germaneness and where we are going to be on this motion on the previous question, which should not be debated at this time. It should be debated on this floor under the regular authorizing process. But unfortunately, it will not.

The rider that was slipped in this supplemental appropriations bill concerning Davis-Bacon is what is forcing the debate on this issue today by this gentleman. The rider would prohibit the Department of Labor from implementing regulations allowing the use of helpers on Federal and federally assisted construction. These regulations are the product of 10 years of revisions and review by the Department of Labor and the courts.

This rule makes it possible for the opponents of these regulations to overturn more than 10 years of work in a few minutes. We will have only 30 minutes to debate this amendment—not nearly enough time to debate an issue of this significance and complexity. We should not overturn 10 years of regulatory work in a rider on an appropriations bill that was added without any hearings and very little debate in the Appropriations Committee or on the floor.

The argument of the gentleman from Michigan is totally correct against the gentleman from New York, but it ought to be also enforced to the same degree on the amendment that I object to today.

This rider is legislation on an appropriations bill and should be subject to clause 2 of rule 21 which states that—

> No provision changing existing law shall be reported in any general appropriation bill except germane provisions which retrench expenditures by the reduction of amounts of money covered by the bill.

Now, this rule was established in order to ensure that authorizing legislation be written by the authorizing committees.

The rules of the House say that we should not be here debating Davis-Bacon today, that this rider should not be in an appropriations bill. So what is the provision doing in the bill? The answer is quite simple. Once again, all points of order are waived against the bill.

This is an example of the irresponsible legislating that has damaged the reputation of this body. We have waived the Budget Act 664 times on our way to a $4 trillion debt. Mr. Speaker, what is the purpose of our rules if we waive them whenever they may apply? That is why I continue to believe that we need to enact a restraint on our ability to borrow money that cannot be routinely waived—a balanced budget amendment to the Constitution.

To my colleagues who think that this bill cuts spending, I would suggest that you look at the bill closely. The spending cuts in this bill are nothing more than bookkeeping gimmicks. Neither CBO nor OMB score the rescissions in this bill as reducing spending, because this money never was appropriated in the first place. Of course, the $5.2 billion that we are spending is real money that we will add to the deficit.

There is another interesting twist to this rule. Although the defenders of the archaic work rules imposed by the Davis-Bacon Act of 1931 were allowed to use this appropriations bill as a vehicle for legislative language, those of us who wish to make reforms of the 60-year-old act were not afforded the same opportunity. If I tried to do here on the floor what the Appropriations Committee has already done, I would have been ruled out of order. I believe that we should either have a full debate on the issue of Davis-Bacon, or no debate at all—not the one-sided debate provided for in this rule.

I urge my colleagues to vote against this rule and this bill so that we may preserve the purpose of the rules of the House by leaving this issue to the authorizing committee.

The argument made against waiving rules is a good one. We should stop it. Those of us who stood in this well and time and time again argued against a constitutional amendment for a balanced budget should not be here today saying it is OK, it is OK to waive these rules as they apply to Davis-Bacon; $600 million we are talking about, annually. That is the amount of money that we are talking about. I do not believe we should wink and go home, as someone has said, and say we have done something about the deficit.

Mr. DREIER of California. Mr. Speaker, the gentleman from Texas [Mr. STENHOLM] has just made a very compelling case for our attempt to offer the line-item veto, too.

Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from Texas [Mr. DELAY], our very hardworking chairman of the Republican Research Committee from Sugarland, TX.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me.

I want to associate myself with the remarks of my good colleague from Texas. He is right on. And I think Members ought to really look at what is happening in this bill.

Many of us on our side of the aisle complain about the unfairness of the Committee on Rules, how it is stacked and how unfair they are and how they waive rules all the time. But this rule is even more despicable. I was under the impression, even though they have the votes over there in the majority, that at least the Committee on Rules would be the traffic cop. It may be a Democrat traffic cop, but at least a traffic cop. When things are unseemly, things that happen in subcommittee or in full committee, one would hope that they could act to correct that unseemliness.

Something unseemly has happened here. I am on the Committee on Appropriations, and I am really concerned about having to criticize my own committee. But in regard to the helper-apprenticeship provisions that are in the bill, the Davis-Bacon provisions that the gentleman from Texas was talking about, this provision was originally an amendment put on the bill, called in full committee for markup on a travel day when Members were traveling. In fact, 20 out of the 59 members of the Committee on Appropriations were not even present when this bill was marked up. The amendment was mumbled through, a very, very important amendment was mumbled through the committee, stuck on the bill and sent to the Committee on Rules.

When the Committee on Rules was informed of this, the Committee on Rules, what did they do? They gave a waiver against points of order on legislating on an appropriations bill. We are talking about a very substantive amendment that will affect people's ability to get jobs.

The majority whip talked about this bill bringing part-time jobs and providing jobs for apprentices. That is hypocrisy. That is hypocrisy. Because on the one hand they may be trying to provide jobs by investing in America and on the other hand they take them away by not allowing helpers or part-time help or apprenticeship programs on projects that fall under Davis-Bacon.

This rule is a hypocrisy. And to add insult to injury, we only get 15 minutes to present our case on this most substantive piece of legislation, 15 minutes.

□ 1350

Mr. Speaker, I would ask Members that are listening back in their offices to listen up. No attention has been paid to this helper apprenticeship issue, no attention by the Members. It has not made it in the press. There have been no hearings. We had no hearings in the Committee on Appropriations whatsoever. It was mumbled through in a very quick fashion on the Committee on Appropriations. Members are not paying attention to this, and we are going to debate it for 15 minutes for and 15 minutes against, and then we are going to vote on it. Members are not going to know what they are voting on. They are going to be walking through that door and they are going to have their leadership saying, "Vote no." They had better pay attention, because this affects people's jobs.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me, if I may, talk about his helper program so Members understand basically what they will be asked to do again, and I repeat the word "again," because the Congress has already twice acted to prohibit implementation of these regulations.; We have acted twice. I want to explain just exactly what is at stake here.

The Department of Labor has issued regulations which would establish a special category of Davis-Bacon workers called helpers, a category which would pay subprevailing wages for Davis-Bacon work. These helpers would be paid less than regular Davis-Bacon workers, and they would not get the training or the benefits of apprenticeships.

Basically what we are talking about here are women and minorities being stuck in helper programs where the wages are less. Congress, as I have indicated, has acted twice in recent years in prohibiting the administration from going forward with these regulations. In both cases Congress intended this prohibition to be permanent, permanent, but the courts, however, have determined that the exact wording of the prohibition does not make it permanent. According to the courts, the prohibition has not technically expired and the Labor Department is already beginning to implement these regulations.

This supplemental merely states that the prohibition is permanent, using the word that was suggested by the courts. We have done this twice already. We think it is important that people have an opportunity to move up the ladder, to have the American dream at their disposal, and not be stuck at some bottom helper category which does not give them a decent wage to take care of their families, that does not allow minorities and women in this country a chance to rise through the system. That is what these prohibitions have been against over the last couple of years.

What we are asking the membership to do is to support the advancement of people in their own self-responsibility to take care of their families, to have a future for themselves and their families, not to be stuck in helper situations for the rest of their work lives.

This is a good amendment. It is one which was put on, as the Members indicated, in the Committee on Appropriations, was protected in the Committee on Rules, and which will be available to be struck, I assume, by the gentleman from Texas [Mr. DELAY] when the bill is brought to the full House.

Mr. Speaker, we have done nothing here that is irregular. We have provided the opportunity to strike it if the membership wants. All we are doing is suggesting that if the members want to protect people who are starting out in the work force so they have a chance for advancement, to pull themselves up by their bootstraps, to make a living wage for their families, to have some future, then the Members will prohibit these regulations that will keep people stagnant, from reaching levels in which they will be able to participate fully in the American dream.

Mr. DELAY. Mr. Speaker, will the gentleman yield for clarification?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I am sure the gentleman does not want to mislead the House. The two times that the gentleman talks about the House acting, were not those two times for 1-year provisions, 1 year on the helper provisions? What we are doing here is permanent in law.

Mr. BONIOR. They were according to the courts, but the impression that was given to the House and to the Senate and to the Congress as a whole was that these provisions will be permanent, and the courts interpreted the language that it was not permanent. We are coming back and trying to make it permanent.

Mr. DELAY. If the gentleman will continue to yield, that was our vote.

Mr. BONIOR. If the debate is whether we want to make it permanent or not, that is a legitimate debate. I accept that debate with the gentleman from Texas [Mr. DELAY]. But to suggest that we have not done it or do not mean to do it in a permanent fashion I think is erroneous.

Mr. DREIER of California. Mr. Speaker, let me first thank my friend from the Republican Study Committee, who chairs it, as opposed to the Research Committee, the gentleman from Texas [Mr. DELAY], for his helpful contribution.

I would say that I find it fascinating that my friend, the gentleman from Michigan [Mr. BONIOR] said this is not out of the ordinary. It seems to me that if we talk to virtually any member of the Committee on Appropriations we would know this is legislating on an appropriations bill. It is clearly counter to what many members of the Committee on Appropriations would like.

Mr. Speaker, I yield 2 minutes to the very distinguished former mayor of Tulsa, the gentleman from OK, Mr. INHOFE.

Mr. INHOFE. Mr. Speaker, I rise today in support of the Stenholm amendment to strike the language regarding the Davis-Bacon Act in this supplemental appropriation bill. I do so for a number of reasons. Most importantly, I believe we should have a full debate on the issue of Davis-Bacon Act reform that is not limited to the context of an appropriations bill.

I have been a long-time supporter of reform in the Davis-Bacon Act. There have been dramatic changes to our economic environment over the last 60 years since Davis-Bacon was enacted without equivalent reforms in the law itself. The original intent of the act during the depression years of the 1930's was to stop contractors that were hiring cheap labor and undercutting local firms on Federal public work projects. Today, instead of preserving jobs for local contractors, the act makes it more likely that nonlocal firms will work on public projects.

For example, employers on Davis-Bacon contracts must submit certified payroll records to the Department of Labor on a weekly basis. Small firms must hire additional clerical personnel to handle this flood of paperwork. This discourages them from bidding on Federal contracts.

Because small businesses are discouraged from even bidding on Federal work, the result has been a loss of competition in the construction industry. This only serves to increase the cost of construction to the Federal Government. This is important, because small firms with nine or fewer people make up about 80 percent of all construction industry employers.

Over the last half century, a more flexible workplace has evolved in our country. Davis-Bacon has been left behind in this movement. Under the act, labor is distributed inefficiently. An unskilled worker must be classified as a journeyman carpenter one day and a journeyman plumber the next. As a result, semiskilled workers are denied entry-level jobs—jobs which workers in transition sorely need. These helpers could save the Government $600 million a year.

The Congressional Budget Office estimates that Davis-Bacon increases total Federal construction costs by 3.3 percent.

I have a personal stake in this at the local level. In 1978, I was elected mayor of the city of Tulsa, a position I held for three terms. Tulsa is a city of about half a million people. At the time I was elected we had not funded our capital improvements program for about a decade. When I took office, I had to correct this problem. We started out with a 1-cent sales tax increase for capital improvements.

As a conservative, it was difficult to sell this idea to the people for a positive vote. Our first effort failed and we came right back with a second effort. It was successful. The 1-cent sales tax increase produced $123 million for capital improvements over 5 years. Even though it was successful, our capital needs had been neglected so long we had to pursue a second effort. This time we did a bond issue. The bonds had to be retired by property taxes. At that time, Oklahoma was beginning to sink into a recession.

We were installing our capital improvements program in compliance with a little Davis-Bacon Act supervised by the State of Oklahoma. We calculated the cost to the public of the little Davis-Bacon Act. Our studies showed that we could have produced 17 percent more in capital improvements which would have amounted to—6 miles of streets or 34 miles of water/sewer lines. In terms of jobs, and we had an unemployed labor force more than willing to work for non-Davis-Bacon rates, we could have employed 500 more people during that period of time.

What I am saying, Mr. Speaker, is everybody was a loser as a result of our little Davis-Bacon Act. The public got fewer streets, water lines and sewer lines and the unemployment lines grew.

On a national level, the construction industry has lost nearly 600,000 employees. With the national unemployment rate at 7.8 percent and the unemployment rate at 5.7 percent in my State of Oklahoma, I believe there is a definite need to reform Davis-Bacon so that more local contractors can be employed.

As you may recall, during the Dire Emergency Supplemental of 1991, we discussed the need for Davis-Bacon reform and we have yet to see action taken.

Mr. Speaker, I urge that we work to bring about real, meaningful reform in the Davis-Bacon Act.

The SPEAKER pro tempore. The time of the gentleman has expired. The question rises on the adoption of the resolution.

Mr. DREIER of California. Does the gentleman from Michigan [Mr. BONIOR] have further requests for time?

Mr. BONIOR. Mr. Speaker, I do not, except for a clarification I wish to speak on just briefly. Other than that, we have no other speakers.

Mr. DREIER of California. We have several requests for time. I would appreciate recognizing them, Mr. Speaker, before we have the vote, so several of our colleagues might have a chance to be recognized.

The SPEAKER pro tempore. The Chair has the impression that nobody is seeking recognition. The main question before the House is, indeed, the adoption of the resolution.

Mr. DREIER of California. The previous question should be adopted.

The SPEAKER pro tempore. If some Member offers that motion.

Mr. DREIER of California. Mr. Speaker, as I recall, I have 30 minutes of debate on this side. Then when I am completed, I will yield back the balance of my time.

The SPEAKER pro tempore. That is correct.

Mr. DREIER of California. I reserve the balance of my time. At this point I would like to yield 2 minutes——

The SPEAKER pro tempore. The Chair does not want to make anybody nervous. The Chair would say, simply, that if nobody is seeking recognition and there is a quiet time, the Chair will again state that "the question before the House is."

The gentleman from California is recognized.

Mr. DREIER of California. I just wanted the Speaker to know that I have several additional requests for time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN], the original author, who on January 3, 1991 introduced H.R. 78, the line-item veto.

Mr. DUNCAN. Mr. Speaker, yesterday the Wall Street Journal had a lengthy front page story about what was described as our "national mood of pessimism." Most of this fear and concern has been brought about because of problems with our economy. Americans are afraid today. They know that we have a national debt of $4 trillion. They know also that, even worse, we are losing $1 billion a day on top of this horrendous debt right now; every day, Saturdays, Sundays, holidays included. They know that this staggering debt, and unbelievable losses, are like chains around the neck of our economy, and they know that we are going to crash economically if we do not soon, and I mean very soon, bring Federal spending under control and in line with Federal revenues.

□ 1400

This is why I rise today in support of the efforts by the gentleman from New York [Mr. SOLOMON] to give the President line-item veto authority on this bill. All of the polls show that the American people overwhelmingly support a line-item veto law. The Governors of 43 of our States have this power, and even with all their financial problems you cannot find a single State in this country in as bad a financial shape or as bad a fiscal shape as is the Federal Government.

The financial problems the States do have are primarily because of Federal mandates, things we have required them to do but have not given them the money to do it with. The President needs the line-item veto power if we are ever going to have any hope to bring our budget into balance.

I urge strong support for the gentleman from New York [Mr. SOLOMON] in his heroic efforts to save the taxpayers dollars in this way. As the gentleman from California [Mr. DREIER] mentioned, on the first day of this Congress I introduced the Line-Item Veto Act, and I am proud to say that we have almost half of the membership of this body cosponsoring this legislation now, including a large number of Members from the other side of the aisle.

Mr. DREIER of California. Mr. Speaker, I thank my friend for his valuable contribution, and would once again like to underscore the overwhelming support that has come from private organizations in support of this key vote, that being the previous question to allow an amendment on the line-item veto.

The National Association of Manufacturers, the National Taxpayers' Union, Americans for a Balanced Budget, Citizens for a Sound Economy, Americans for Tax Reform, the United States Business and Industrial Council, and Citizens Against Government Waste, have all sent us a letter urging a vote against the previous question so that we can bring up the line-item veto.

Mr. Speaker, I include these letters in the RECORD at this point.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, July 27, 1992.

Hon. GERALD B. SOLOMON,
House of Representatives,
Washington, DC.
Attn: Don Wolfensberger.

DEAR MR. SOLOMON: The National Association of Manufacturers believes that reduction of the federal deficit should be one of the nation's top priorities. To that end, the NAM has consistently supported the line item veto as an effective tool for eliminating nonessential spending and restoring fiscal accountability to the current budget process.

We support your current efforts to allow consideration of line item veto rescission authority as part of the rule accompanying the supplemental appropriations bill (H.R. 5620). While the short notice of this vote does not allow us to send a letter to the full house, please feel free to use this endorsement in any way which is helpful.

If I can answer any questions or provide further information, please don't hesitate to contact me.

Sincerely,

PATRICIA D. LONG.

NATIONAL TAXPAYERS UNION,
Washington, DC, July 28, 1992.

Hon. GERALD B.H. SOLOMON,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SOLOMON: The 200,000 member National Taxpayers Union supports your effort to make in order and offer a line item veto amendment to the supplemental appropriations bill.

Perhaps no one put it better than Democratic Presidential Bill Clinton during the primary season, when he said, "I strongly support the line item veto because I think it's one of the most powerful weapons we could use in our fight against out of control deficit spending."

The all too common Congressional tactic is to attach parochial, pork barrel appropriations to must-pass legislation that the President has little choice but to sign. Since most of these provisions are neither the subject of debate nor vote, many Members of Congress do not realize they exist. Your amendment would allow the President, Republican or Democrat, to draw attention to pork barrel provisions and force their proponents to justify them. Meritorious provisions would stand under Congressional scrutiny, and the rest would be eliminated.

Additionally, the line item veto would make the President more accountable on the issue of wasteful spending. Many Presidents repeatedly criticize Congress on spending. By giving line item veto authority to the President, Congress would be inviting him to work actively rather than rhetorically to trim wasteful spending.

Although the discretionary account of the federal budget is by no means the largest, it is an area of tremendous waste, causing cynicism among taxpayers who see the dollars they send to Washington squandered on blueberry research or bike paths. Our national debt is now over $3.8 trillion, and recent projections for the FY92 deficit are $333.5 billion. Clearly Congress needs to re-evaluate its spending practices and take strong steps to restore fiscal discipline. The line item veto is one of those steps, and would be an important sign to taxpayers and voters nation-wide that Congress is finally taking our fiscal crisis seriously.

Again, thank you for your efforts. We strongly urge all Members to help you defeat the previous question, and make your amendment in order.

Sincerely,

JAMES D. DAVIDSON,
Chairman.

AMERICANS FOR A BALANCED BUDGET,
Falls Church, VA, July 27, 1992.

DEAR REPRESENTATIVE: On Tuesday, July 28th, the House will take up the rule on the supplemental appropriations bill (H.R. 5620). We are asking you to vote to defeat the previous question on the rule so that it can be amended to permit consideration of the Solomon line-item veto rescission authority amendment.

This vote will be scored by ABB as a key vote. Support for the previous question will be considered a vote in opposition to the line-item veto rescission authority. The argument that this is merely a procedural vote simply does not hold water.

While there is no question that the line item veto will not balance the federal budget by itself, there is also no question that a Congress which lacks the will to support a line item veto lacks the will to do those things which are needed in order to give taxpayers a balanced budget.

If we can be of assistance to you, please feel free to contact us at (703) 241-0401.

Sincerely,

COLIN L. CHAPMAN,
Executive Director.

JULY 27, 1992.

DEAR REPRESENTATIVE: On behalf of the 250,000 members of Citizens for a Sound Economy (CSE), I urge you to vote against the previous question on the rule for H.R. 5620, the Supplemental Appropriations bill. Defeat of the previous question will allow the line-item veto to be added to the rule.

CSE will count the previous question vote as a key line-item veto vote to be reported to our members in your district. This key vote will be used to determine your eligibility for our Jefferson Award, to be presented at the conclusion of this Congress.

Sincerely yours,

PAUL BECKNER,
President.

AMERICANS FOR TAX REFORM,
Washington, DC, July 27, 1992.

Hon. GERALD B. SOLOMON,
House of Representatives, Washington, DC.

DEAR MR. SOLOMON: I write in support of the effort undertaken by you and your colleagues to allow for a vote on the Presidential line-item veto authority on Tuesday, July 28, 1992.

For far too long, the tax and spend interests have stopped all efforts to clarify the President's authority to exercise the line-item veto. A President with line-item veto power would be very dangerous to their tax and spend, spend and tax habits.

I strongly urge your colleagues to join with you and vote "no" on the previous question to allow for amendments to the rule on H.R. 5620, the Supplemental Appropriations bill.

Sincerely,

GROVER NORQUIST,
President.

BUSINESS AND INDUSTRIAL COUNCIL,
Washington, DC, July 27, 1992.
Hon. GERALD B. SOLOMON,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN SOLOMON: On behalf of the 1500 member CEOs of the United States Business and Industrial Council, I would like to strongly endorse your effort to defeat the previous question on the rule on the FY 1992 Supplemental Appropriation, which will permit consideration of a Line Item Veto.

We have long supported the Line Item Veto and we consider this upcoming vote to be the definitive vote on Line Item Veto in the House of Representatives in the 102nd Congress.

We urge your colleagues to support your effort to secure a vote on Line Item Veto, and praise your effort to bring this about.

Sincerely yours,
JOHN P. CREGAN,
President.

CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, July 28, 1992.

DEAR MEMBER OF CONGRESS, today, the House of Representatives will begin consideration of H.R. 5620, the supplemental appropriation bill. During debate on the rule for the bill, Congressman Gerry Solomon (R-NY) intends to amend the rule to make in order a line-item veto rescission authority amendment for fiscal year (FY) 1993 appropriation bills.

In order to accomplish this, the previous question must be defeated. We urge you to vote down the previous question so that this important waste-cutting amendment can be offered.

The Solomon amendment proposes that the President submit a rescission message for any FY 1993 appropriation bill within 20 days of its enactment. Congress would then have a 20-day review period in which to disapprove the rescission message by enacting a joint resolution. Following Congress' 20 days, the President would then have 10 days in which to sign or veto the disapproval resolution. If Congress vetoes the resolution, they would then have an additional five days in which to override the veto.

According to a January, 1992 General Accounting Office report, if the President had had line item veto authority from FY 1984 through FY 1989, the cumulative six year savings would have been $70 billion.

It is important to give the President the line item veto this year when taxpayers are frustrated and angry about government waste. The 500,000 members of the Council for Citizens Against Government Waste (CCAGW) urge you to vote NO on the previous question of the rule for the supplemental appropriation bill. This is not just a procedural vote. It is a vote for the line-item veto.

CCAGW will consider this vote in calculating our 1992 Congressional Ratings to be released this fall.

Sincerely,
THOMAS A. SCHATZ,
Acting President.

Mr. Speaker, I yield 3 minutes to the gentleman from Naperville, the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise in opposition to this rule to the supplemental appropriations bill.

I oppose this rule because its sponsors are claiming their bill saves $10.4 billion when it will actually add $7.2 billion to our Nation's deficits and do no saving!

Here is how the bill's sponsors claim this bill saves $10.4 billion. First, they rescind $12.7 billion that was never actually appropriated for Desert Storm. Then they spend $5.2 billion for Desert Storm related items, even though the administration requested only a half billion dollars. But they don't count any of this $5.2 billion as spending because it is off-budget as far as the budget agreement is concerned. They spend another $2.3 billion for all sorts of defense and nondefense items which they do count as spending but they offset these expenditures with a purported $12.7 billion rescission. This leaves $10.4 billion in savings.

But the savings in this bill area is a hoax. The savings come from $12.7 billion rescinded from an account that was set up for Operation Desert Storm in 1991. The account, the Persian Gulf regional defense fund, was intended to be a contingency fund to provide resources for Desert Storm in the event that foreign contributions were not sufficient to cover the cost of the war.

The fund was not scored as outlays by OMB or CBO because the money was not actually appropriated or scored by OMB or CBO. It was not appropriated because foreign contributions covered almost all of the costs of the war. Thus, all of the CBO, OMB, House Budget committee deficit projections have assumed that these expenditures will never be made.

Only Congress could say they are saving money by not spending money that was never going to be spent in the first place. We cannot rescind money that was never actually appropriated and scored. But that is precisely what we are asked to believe here.

When I hear that this bill saves $10.4 billion, I am reminded of the husband who said:

> Honey, I saved $10,000 today; you know that $50,000 Mercedes we decided we don't need? I bought a $40,000 BMW instead.

These savings don't count with the family budget and shouldn't count with the Federal budget either.

SUPPLEMENTAL WILL INCREASE DEFICITS $7.2 BILLION

While the bill's sponsors say this bill spends $2.3 billion, the truth is it spends over $7 billion. And, every dime of these expenditures will increase deficits by a like amount. According to OMB, this bill will increase the Federal deficit by $3.8 billion in fiscal year 1992, $2 billion in fiscal year 1993, and $1.4 billion in 1994. There are no offsets in this bill to keep the deficit from increasing by $7.2 billion.

The bill's sponsors will argue that this spending does not violate the budget amendment caps. That is correct. But my purpose is to point out that the claimed savings of over $10 billion is totally false, and, caps or no caps, we are adding $7.2 billion to deficits. These are the simple facts that the Members of this body should understand before voting on this rule or on the bill.

The people of this country at least deserve an honest presentation in regard to what the deficit shall be.

Mr. DREIER of California. Mr. Speaker, I thank one of our lead porkbusters for that very eloquent argument.

Mr. Speaker, I am happy to yield 3 minutes to the gentleman from East Petersburg, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, just listening to this debate it becomes perhaps clear why Bill Clinton is trying so hard to distance himself from the Democrats in the Congress. Bill Clinton told Orange County Republicans in California, or Orange County conservatives just this past weekend that he is for the line-item veto. It is very clear that the Democrats in the Congress do not in any way want the line-item veto to come to the floor for anything that comes anywhere close to being a vote because they are afraid that it might actually win, and the President might actually get authority to begin saving money.

Second, Bill Clinton comes from Arkansas, a right-to-work State, and it is very clear that the Democrats in the Congress are doing everything they can, including running all over the rules, in order to see to it that right-to-work does not even have a chance of surviving in the U.S. Congress. No wonder Bill Clinton does not want anything to do with these guys. I mean, they are absolutely on a different track than where Bill Clinton is politically and governmentally.

But the point I think we need to raise here is why Members should vote to defeat the previous question and put line-item veto onto this floor for a vote. I was amused, I must say, when the gentleman from Michigan argued that even if we defeated the previous question and the line-item veto were offered, that they would rule that out on a point of order, this coming from the same people who then put a Davis-Bacon provision in the bill despite the fact that it is also subject to a point of order. Now of course we are not going to have that point of order because the rule waives that.

Now the gentleman from Michigan tells us there is nothing irregular about this. Of course there is not. There is nothing ever irregular when the Democrats are trying to do something they want to do. What they want to do here is they want to put a piece of legislation on the floor to permanently change the Davis-Bacon Act and use the supplemental appropriation bill to do it. That is what they want to do.

What they do not want to do is have anything that resembles a vote on line-item veto, and so they are going to argue that you can vote any way you want on the previous question and it does not make any difference. Well it does make a difference to several groups who are focusing on line-item veto and who are going to raise the issue this fall. The National Association of Manufacturers, the National Taxpayers' Union, Americans for a Balanced Budget, Citizens for a Sound Economy, Citizens Against Government Waste, all of these major groups have decided that this vote coming up is the vote on line-item veto, and so do not be telling your constituents that you are for line-item veto if you cannot stand with us on the vote that all of those groups consider as the fundamental vote on line-item veto. This bill be the test right here coming up.

We have had a couple of votes before and Members have said that they were not warned about it, they did not know about it, they did not know the details. Now you know. This is the second time we have voted on the Solomon language. It is now familiar to everybody. It is now familiar to groups across the country who are focusing on this issue.

The vote we will have in just a moment on the previous question will be a vote on whether you are for line-item veto or against it. If you believe that line-item veto should be debated in the Congress and should be passed by the Congress, vote no on the previous question. It is the only vote to signal that line-item veto is important to you.

Mr. DREIER of California. Mr. Speaker, my friend is absolutely right when he says that Bill Clinton does not want to have anything to do with these guys on the other side of the aisle. But we remember very well that George McGovern is the one who said that this ticket is a Trojan horse, and in fact they are much more liberal than they are inclined.

If by some strange happenstance Bill Clinton were to be elected President, I suspect that he would be marching in lockstep with the majority leadership here.

Mr. Speaker, I am happy to yield 2 minutes to my friend, the gentleman from Indianapolis, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, earlier today we had the Labor-HHS bill up here, and my good friend from Kentucky, formerly of Tennessee, my good friend from Kentucky, Mr. NATCHER, stood up and read off a litany of things that were going to be cut by my amendment, and he said in effect that these were heartless cuts that we were cutting in these programs. The fact of the matter is I was only trying to reduce the increase, reduce the increase of $1.6 billion by one-third so we still had a $1.2 billion increase in there.

□ 1410

So I was not quite as heartless as I was being made out. I just wanted to reduce the increase by one-third.

The fact of the matter is we increased spending in the Labor-HHS bill including entitlements by $24 billion, that is $24,000 million. Now we are going to, on this continuing resolution or supplemental, increase spending by $7.2 billion, and that is $7,200 million more.

Where does it end? You know, Bill Clinton, or I guess maybe GORE said, AL GORE said, "You just do not get it," when he was talking to the President. Well, I am saying to my Democrat big-spending friends, "You just do not get it." We are heading toward a $13.5 trillion national debt where interest on the debt is going to be more than the taxes coming into this country, and yet you continue to come up with these big-spending bills, $24 billion more on Labor-HHS, $7.2 billion more on this.

Where is it going to end? When are we going to get control of spending? When we have hyperinflation, when they start printing all this money?

You laugh over there. The fact of the matter is it is going to happen if we do not control our appetite for spending.

So I would just like to say to my colleagues we did not deal with the problem earlier today, and we are not going to deal with it now. The American people ought to know where the responsibility lies.

We have got to control of spending. Otherwise, we are going to have a terrible, terrible problem in just a few short years.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the distinguished chairman, the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, the gentleman who just addressed the House is my friend. The gentleman from Indiana [Mr. BURTON], Mr. Speaker, is one of the good Members of the House.

He spoke about the Labor-HHS-Education appropriation bill just now. That is one of the best bills that has passed the House this year.

Mr. Speaker, as you well know, as one of the able members of our subcommittee, you have heard me say a thousand times when you take care of the health of your people and educate your children you can tell you are living in the strongest country in the world.

The gentleman who just left the well, one of the good Members of the House, down deep in his heart, Mr. Speaker, wanted to vote against his own amendment, and I say that to you frankly, Mr. Speaker.

This rule should be adopted, and on the previous question we should vote "aye."

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me echo the comments by the gentleman from Kentucky.

This debate has gotten off the beaten track on a number of occasions. The debate on Davis-Bacon is really no debate at all. What we are doing is codifying permanently into law what we have done on two other occasions.

The question with respect to the issue of the line-item veto really does not belong in this debate. Even if the previous question were voted down, as I have indicated, or amended, the rule was amended, it would not be germane.

Let us get back to debate the point of this bill. The bill is about burden sharing. The bill is about the need to meet our obligations with respect to unemployment benefits, veterans' benefits, and environmental cleanup. That is basically the heart of this bill, and I hope this diversion in terms of the line-item veto or Davis-Bacon is not successful.

I hope my colleagues will stay with the distinguished gentleman from Kentucky [Mr. NATCHER], will stay with me, will stay with the gentleman from Massachusetts [Mr. MOAKLEY], will stay with the chairman, the gentleman from Michigan [Mr. FORD], and the chairman, the gentleman from Missouri [Mr. CLAY], and others who are vitally interested in this important piece of legislation so we can bring to the people of this country the needed benefits in environmental cleanup, we can make sure our unemployment program is administered properly as well as our veterans' program is administered properly.

This is a well-balanced, fiscally balanced bill. It deals specifically with the burden-sharing provisions that we all are familiar with, the fact that we have been able to get our allies overseas to pay for the war.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I consume.

I rise to say to my very good friend, the gentleman from Michigan, that I am very concerned about referring to a provision which will help us to create jobs and opportunity for Americans as a diversion. I am also very concerned to hear him indicate that the line-item veto, which is something that is very strongly supported throughout this country and by many Members on both sides of the aisle in this House, is a diversion.

We are going to have a chance right now to actually put into place the opportunity for the gentleman from New York [Mr. SOLOMON] to offer the line-item-veto amendment. The way we do that, Mr. Speaker, is to vote "no" on the previous question. I urge my colleagues to vote "no" so that we can finally have this chance. You do not have to be a proponent of the line-item veto to oppose the previous question. All you have to be a proponent of is the right of the gentleman from New York to offer that amendment.

So I urge a "no" vote on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, we are once again discussing the issue of line-item vetoes.

I just think it is important for those of us who think that we may have a pretty good solution to the problem to say again what that solution could be, should be. A number of us, the gentleman from South Dakota [Mr. JOHNSON], the gentleman from Texas [Mr. ARMEY], the gentleman from Kansas [Mr. GLICKMAN], the gentlewoman from South Carolina [Mrs. PATTERSON], the gentleman from Texas [Mr. STENHOLM] have worked for a couple of years to try to perfect some changes to the 1974 Budget Act.

As you may recall, when the President signs an appropriations bill under the 1974 Budget Act, the President has a period of time in which to send a rescission message to the Congress. A clock begins to run once he sends that message to us. It is a 45-day clock. At the end of the 45 days if we have not voted affirmatively to accept the rescission, they go away.

What a number of us believe is a better alternative to that is to change the Budget Act, to say that when the President signs an appropriations bill, he may, indeed, send a rescission to us, that we have 10 days during which or after which we must vote, within which we must vote, on rescission. We can vote it down with a simple majority, but we would have to vote on it. If we pass it in the House, it goes to the Senate, and they have got 10 days to vote it up or down. They can vote it down with a simple majority, but they have to vote on it.

Our legislation provides, and it is H.R. 2164, our legislation would change the Budget Act statutorily, and we would try it on for size for 2 years, and I call it a 2-year test drive, but it really is a statutory line-item-veto power. It is a good idea. It is one that I would hope those of you who are looking for something to support would consider supporting if you cannot support what is being offered here today.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just like to say that I commend the gentleman, because I know he has led a strong fight in this direction. Certainly I think the people from the State of Delaware ought to appreciate that.

But let me just say this: If we were to defeat the previous question today, even if we did come back with a vote on the line-item veto as I want to do, at least we would send a strong message to the leadership on both sides of the aisle. I would be more than happy to support the position of the gentleman from Texas [Mr. STENHOLM] and the gentleman from Delaware [Mr. CARPER].

Perhaps we can even do that. If we do not defeat this previous question, however, we will never have our day in court. I think the gentleman understands.

Mr. BONIOR. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think the gentleman from Delaware clearly defines the problem here with respect to enhanced rescission or to the question of line-item veto. It needs to be looked at carefully.

This is not the vehicle to do it on. There will be hearings coming up to deal with the questions on the issue that was raised by the gentleman from Delaware.

It seems to me this is not the reason why we ought to move beyond this issue and deal with the questions of providing veterans' benefits for those who served our country, served in the gulf war, environmental cleanup to make our country more inhabitable and livable, as well as dealing with the important question of unemployment compensation for those who are out of work.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

Mrs. LOWEY of New York. Mr. Chairman, I rise to express my support for this bill and to commend the chairman, Mr. NATCHER, for the excellent legislation that he has crafted under very trying circumstances.

Mr. Chairman, the cold war is history, but many relics of that era remain. One of those relics is the 1990 budget agreement, which forbids us from shifting available defense savings into urgent domestic needs.

It is that constraint which we face today. We know full well that defense spending can be cut by large amounts without compromising our Nation's security. And we know full well that the families of America desperately need assistance in order to make ends meet during the current recession. Yet we are stymied by an anachronistic budget agreement that has actually forced cuts in essential education and health care programs.

The chairman, Mr. NATCHER, has done an admirable job of setting priorities in light of the very difficult constraints that he faced this year. I support the bill that he has developed. But I also look forward eagerly to the time when the budget agreement, like the cold war, is history, and I can join with Chairman NATCHER and many others on this floor in bringing fundamental change to our budget priorities by fully serving the urgent needs of our families across the Nation.

I would like to comment in particular on one very important aspect of this legislation—that of student aid for our Nation's young people. Last week, the President signed into law the Higher Education Act Amendments of 1992, major legislation to expand student aid for the families of America.

We all recognize that there is a direct link between a highly trained work force and restored economic growth and competitiveness in this Nation. The new higher education law represents one of the most important steps this Congress has taken this year toward revitalizing our economy.

Unfortunately, the amendments were not yet enacted when this bill was marked up in committee. Therefore, some of the new provisions contained in the higher education law have not been funded in the pending appropriations measure. It is my fervent hope that the final conference report will provide funding for many of these provisions in fiscal year 1993.

In particular, I would like to mention one program of urgent importance to our Nation's postsecondary students and to our taxpayers. As Chairman NATCHER has pointed out in the past, student loan default costs have risen to unacceptable levels. In fact, they now account for more than 50 percent of all guaranteed student loan program costs.

Therefore, as a member of the Education and Labor Committee, I worked hard during the reauthorization of the Higher Education Act to enact key program integrity provisions designed to reduce student loan defaults. Fortunately, together with Mr. GOODLING of Pennsylvania, we succeeded in obtaining final approval of provisions which will significantly expand State oversight of institutions of higher education. This oversight will help us keep substandard schools out of the program and control default costs.

The Bush administration, recognizing the importance of these provisions, has requested that $50 million be devoted to these program integrity activities this year. And Chairman NATCHER, also recognizing the importance of these provisions, indicated in the report to accompany H.R. 5677 that he is inclined to ensure funding for this purpose as soon as the new activities were authorized.

I am extremely pleased that Chairman NATCHER provided me with an additional assurance today that he will, in fact, be inclined to provide funding for this purpose in the conference report on Labor-HHS-Education funding. I would like to express my sincere appreciation to the chairman for his insight into the importance of strong measures to expand State oversight of postsecondary institutions, which will not only save the taxpayers large sums of money, but will also prevent many of our students from being defrauded by substandard schools that are interested only in profits, not in a quality education for our students.

Mr. Chairman, I once again want to commend Chairman NATCHER for the extraordinary job he has done over the years in improving health care, protecting worker health and safety, and training our young people to be productive members of society. We all owe him a debt of gratitude, and we know that he shares our distaste for the continued imposition of budget rules that do nothing but harm American families around this Nation. I am committed to working with him this year and in the future to make our tax dollars work harder for the people of our Nation, not to defend our Nation against a vanished threat.

Mr. MFUME. Mr. Chairman, I rise in support of H.R. 5677, the Labor, Health and Human Services, Education appropriations bill for fiscal year 1993.

However Mr. Chairman, my support comes with great reservation about the bill—specifically the provision reducing the amount of funding for the Healthy Start infant mortality initiative.

The final committee approved funding amount is $61 million for Healthy Start. This represents a reduction of $614,000 from last years funding level. While a 1-percent reduction may appear small, the Healthy Start initiative can ill afford significant reductions in the future. In fact I would argue that an increase is needed above anything else.

The Healthy Start Program is most utilized in urban and rural areas where child mortality rates rival the rates of some developing nations. Poor women in both urban and rural communities experience similar problems regarding prenatal care and health care delivery services. As a result, low birth weight, nutritional problems and infant mortality are concerns that many poor families must tragically confront, as does our Nation.

In my district of Baltimore—which participates in the Healthy Start grant program—advances that we have made in reducing infant mortality are in jeopardy. Baltimore will have to stretch an already expanded budget to accommodate for the loss in funding.

Mr. Chairman, I do realize that the Labor/HHS appropriations bill has many other provisions which help America and my State. Nonetheless, I could not add my support for this legislation during final passage without establishing my concerns regarding Healthy Start.

In closing, it is my hope that in the future we can locate funding sources or strategies to fully fund this grant program in order to protect poor women and families.

Ms. PELOSI. Mr. Chairman, I rise to commend Chairman NATCHER and the members of the Labor-HHS Subcommittee for their hard work on this important appropriations bill. The committee has many of the highest priority programs for our Nation under its jurisdiction—particularly health and education, which are so critical to our Nation's future.

Unfortunately, the committee has been forced to operate under merciless spending caps imposed by the Budget Enforcement Act. I share the committee's regret that they were not able to fund many vital programs at much higher levels. This is particularly true for the basic biomedical and behavioral research efforts at the National Institutes of Health [NIH], which hold so much promise for a healthy American future.

I am particularly concerned about inadequate funding of the AIDS Program at NIH. This bill would for the second year in a row increase AIDS spending less than the rate of scientific inflation, thus in effect reducing our current commitment to effective treatments, a vaccine, and ultimately, a cure for AIDS. Literally, over one hundred new opportunities and expansions of existing programs recommended by our top scientists will not be funded this year. We must find a way to do more.

Again, I commend Chairman NATCHER and the subcommittee on their work. I look forward to working with them to find ways of being even more responsive to the many challenges posed by this bill.

The SPEAKER pro tempore (Mr. HOYER). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker——

The SPEAKER pro tempore. The Chair apologizes.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Speaker, my inquiry is: Is it proper for the Speaker to make a determination on the yeas and nays until he has heard the nays?

The SPEAKER pro tempore. The Chair made a mistake. The Chair apologizes. The Chair thought he had asked for the nays. He did not. The Parliamentarian informed me of that, as did the gentleman from New York [Mr. SOLOMON].

Mr. BURTON of Indiana. Kind of jumped the gun.

Mr. SOLOMON. We accept the apology.

Mr. DREIER of California. We urge a "no" vote on the previous question.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 207, nays 199, not voting 28, as follows:

[Roll No. 323]

YEAS—207

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Beilenson
Berman
Bevill
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Bruce
Bryant
Bustamante
Byron
Cardin
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Cox (IL)
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Dooley
Downey
Durbin
Dwyer
Early
Edwards (CA)
Edwards (TX)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Pastor
Patterson
Payne (VA)
Pease
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Staggers
Stark
Stokes
Studds
Swift
Synar
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wolpe
Wyden
Yates
Yatron

NAYS—199

Allard
Allen
Andrews (TX)
Archer
Armey
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Browder
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dorgan (ND)

Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Luken
Machtley
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Parker
Paxon
Penny
Petri
Porter
Poshard
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—28

Anderson
Boxer
Brown
Campbell (CO)
Conyers
Coughlin
Dicks
Donnelly
Dymally
Eckart
Engel
Ford (TN)
Gaydos
Gingrich
Hatcher
Hyde
Kaptur
Lantos
Levine (CA)
Martin
Matsui
Payne (NJ)
Pelosi
Perkins
Russo
Solarz
Thomas (GA)
Wise

□ 1440

Mrs. ROUKEMA and Messrs. ANDREWS of Texas, HOUGHTON, and ENGLISH changed their vote from "yea" to "nay."

Mr. SPRATT, Mrs. COLLINS of Illinois, Mrs. COLLINS of Michigan, and Mrs. BYRON changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HOYER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DREIER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 174, not voting 30, as follows:

[Roll No. 324]

AYES—230

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Browder
Bruce
Bryant
Bustamante
Byron
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (VA)
Pease
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schumer
Serrano
Sharp
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wolpe
Wyden
Yates
Yatron

NOES—174

Allard
Allen
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Luken
Machtley
Marlenee
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Nichols
Nussle
Orton
Oxley
Packard
Paxon
Penny
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—30

Anderson
Boxer
Brooks
Brown
Campbell (CO)
Carr
Conyers
Coughlin
Dicks
Dymally
Engel
Ford (TN)
Gingrich
Hatcher
Hyde
Kaptur
Lantos
Levine (CA)
Lowery (CA)
Martin
Matsui
Payne (NJ)
Pelosi
Perkins
Russo
Savage
Scheuer
Solarz
Thomas (GA)
Wise

□ 1459

So the resolution was agreed it.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from today's earlier votes. I was delayed due to travel en route from my district. Had I been here to vote, I would have voted the following way: On rollcall 320, the Burton amendment to cut 1 percent from H.R. 5677, the Labor-HHS appropriations bill, "no"; on rollcall 321, the Natcher motion to rise and report H.R. 5677, the Labor-HHS appropriations bill, "aye"; on rollcall 322, on passage of H.R. 5677, the Labor-HHS appropriations bill, "aye"; on rollcall 323, ordering the previous question on the rule for the supplemental appropriations bill, "aye"; and on rollcall 324, on passage of the rule for consideration of the supplemental appropriations bill, "aye."

□ 1500

PERSONAL EXPLANATION

Mr. NAGLE. Mr. Speaker, because I was detained earlier today I missed a series of rollcall votes. Had I been present, I would have voted "nay" on rollcall vote 320; "nay" on rollcall vote 321; and "yea" on rollcall vote 322, on passage of H.R. 5677, the Labor-HHS-Education appropriations bill.

GENERAL LEAVE

PERSONAL EXPLANATION

Mr. McDADE. Mr. Speaker, during the vote on final passage of H.R. 5677, I was here on the floor working on the outstanding issues of the supplemental which was the order of business immediately following Labor, HHS, Education. In the hurly-burly, crazy confusion that was part of those discussions, I missed the opportunity to cast my vote on final passage of H.R. 5677. Had I voted, I would have voted "aye" on rollcall vote No. 322.

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, and that I may be permitted to include tabular and extraneous material.

The SPEAKER pro tempore (Mr. RICHARDSON). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

SUPPLEMENTAL APPROPRIATIONS, TRANSFER, AND RESCISSIONS ACT, 1992

The SPEAKER pro tempore. Pursuant to House Resolution 527 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5620.

□ 1501

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5260) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, with Mr. McDERMOTT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. McDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, as my colleagues well know, the bill that passed just a few minutes ago, The Labor, Health and Human Services, Education appropriations bill, was the 11th appropriations bill to pass in the House so far. We take the Committee on Appropriations allocation for fiscal year 1993 and divide this allocation into 13 parts; not equal moneywise, but 13 parts, and develop our appropriations bills.

Tomorrow we will take up Veterans Affairs, HUD, and independent agencies; the next day we will take up Commerce, Justice, State, and Judiciary.

Then, Mr. Chairman, all 13 appropriations bills will have passed in the House. On the other side they have them all.

I am serving, as my colleagues well know, as acting chairman, assisting my chairman, the gentleman from Mississippi [Mr. WHITTEN], one of the ablest Members that ever served in this House, and working with my friend, the gentleman from Pennsylvania [Mr. McDADE], we have worked together with all of the Members of both sides.

I want my colleagues to know that as the acting chairman for the gentleman from Mississippi [Mr. WHITTEN], I appreciate the cooperation I have received. They all have been good to me, and I appreciate it.

Mr. Chairman, the bill that we have before us is within our section 602 allocations. Every dollar in the bill is within the allocations.

The defense, international affairs, and domestic discretionary amounts are all under existing caps. We do not go one dollar over, all are under.

The Persian Gulf regional defense fund and the defense cooperation account provide $5,182 million. This amount in the bill pays off the balance of the cost for the Persian Gulf war. This war, as has been pointed out today, cost $61,100 million. In this bill, we are rescinding $12,485 million. This money was set aside in case it was needed. It was not necessary, and we are sending it back to the Treasury.

As far as the war generally is concerned, $53,007 million of the amount spent on the way was money and in kind support from our allies, and every dollar pledged was paid.

The Persian Gulf war cost our country, the United States, $7,400 million.

Mr. Chairman, as I have pointed out, we are under all of the spending caps. Defense is in this bill for $1,182 million. International peacekeeping is in for $80 million. Domestic discretionary money in the amount of $46 million is in this bill. There are mandatory accounts in the bill that do not count against the spending limits. They are $237 million under the Unemployment Insurance Fund, and $500 million for Veterans Administration compensation and pensions.

Mr. Chairman, we recommend this bill to the members of the committee.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this legislation.

At the outset, I want to commend my friend from Kentucky for the job he is doing on behalf of the distinguished chairman of the full Committee on Appropriations and all the members of the committee, on both sides of the aisle, all of whom can take pride in this legislation.

A lot of Members, I think, are looking at this supplemental as just a routine matter filling a gap here and a gap there, taking care of a problem here or a problem there. But in my view, Mr. Chairman, this legislation is of far greater significance.

It is in this supplemental that we see the fruits of our resounding success in Operation Desert Shield-Desert Storm. I point with particular pride, may I say to my colleagues, to the provision in this bill that returns $12.5 billion to the U.S. taxpayers. And I want to pay a special tribute to my distinguished friend from Pennsylvania, the chairman of the Defense Subcommittee, Mr. MURTHA. We worked together long and hard. And to see that $12 billion goes back into the Treasury underlines the success of that operation by this country. That $12.5 billion is, of course, virtually the entire amount of what I refer to as a bridge loan of $15 billion, which we appropriated to assure the availability of funding for the operation while pledges from our allies were coming in. And come in they did.

When we appropriated these funds last March, within days of the end of the ground war, we all hoped, we all expected that most of the cost would be covered by the pledges of our allies, amounting to $54 billion.

At that early date, when many Members of this body put their necks on the line and appropriated that $15 billion, only about 20 percent of those pledges were received in pocket. The number that was actually in the Treasury was around $12 billion. We did not have all of the allies' money yet.

What we did have was the word of our President that these pledges were bedrock-solid, as solid as the coalition that he put together against Iraq.

There were a lot of doubters. We heard a lot of people around the country and in this Chamber say the only way that we could collect was through threats. And we saw a lot of efforts in that line and opposed all of them.

The fact remains, we were taking a calculated risk. And we all knew it when we voted for that money. We were putting $15 billion of U.S. taxpayers' money on the line in anticipation, in a bridge-loan mode, of funding from overseas.

My friends, as we stand here today, each and every dollar committed by our overseas allies, from the Saudis to the Kuwaitis to the Germans to the Japanese are paid in full; $48.1 billion in cash and $5.68 billion in kind, totaling, Mr. Chairman, $53.8 billion.

As a result, we are able to close out the costs of Desert Storm by tapping into only, and I use that phrase with some trepidation, $2.2 billion of the U.S. funds we put on the line last year.

The chairman mentioned a figure of some $7 billion. That is a good figure, too, which includes transfers from defense funds early in the Desert Shield operation. But no matter what we do, those figures do not include, do not include, the huge amounts that our Nation spent pursuing a policy of strength and deterrence through strength, money spent on plant and equipment, money spent on RDT&E, money spent on training to achieve that high degree of readiness and sustainability that were achieved by United States forces in the war against Iraq.

□ 1510

We were able to do this for several reasons. We were able to do it because the President and his team were able, as the undisputed leaders of the free world, to assemble an international coalition to oppose Saddam Hussein that was unprecedented in the history of the world. There has never been burden-sharing like this until the President forged the trust and will of the world community in order to defeat aggression in the Middle East.

It is because of this unparalleled leadership, and of course, in the Middle East and also with respect to our former enemy, the Soviet Union, that the President was able to say, and, may I say, the Democratic nominee for President was able to repeat verbatim, that "We have changed the world, now let's change America."

It is this leadership that allowed the President, the Secretary of Defense, and of course, my colleagues in the Congress to agree on defense rescissions that will total in this fiscal year $20 billion in on orderly and strategic build-down. Nobody has done a better job in running the Pentagon than our distinguished former colleague, the Secretary of Defense, Dick Cheney. It is this leadership that will help guide this country and the United Nations to respond to the latest crisis that exists with respect to Iraq.

I think we ought to stand back every now and then and contemplate where we would be today without that quality of leadership, keeping America as the beacon of freedom in the world. Let us contemplate for a minute how long we could sustain new initiatives in order to improve our domestic order, in the absence of demonstrated and experienced global leadership.

Mr. Chairman, the legislation before us represents a special moment where we can see the risks we took were justified, where the qualities of leadership in the free world shone brightly, and where the fruits of success result in a return of $12.5 billion to the people of this Nation, on whose behalf we act in a trustee capacity.

All of us can take a degree of credit for this result. All of us can say, "This, at least, is one task well done and well ended."

Mr. Chairman, I reserve the balance of my time.

Mr. NATCHER. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to call attention to a few matters in this bill that are handled by the subcommittee that I happen to be privileged to chair. One is the International Trade Administration. There is $1.8 million in additional money for them. They have an increased case load—especially some steel cases—that need to be handled. That money is needed so they can handle the increased load.

There is $80 million for additional international peacekeeping contributions. We have had a rash of requests for new allocations for international peacekeeping contributions. I have some doubts that some of these peacekeeping operations by the U.N. stationing troops in trouble zones are doing as much good as it is hoped they will do, but nevertheless, at this juncture in history there are numerous outbreaks of violence, and we do have the allocation and we recommend the additional $80 million.

There is $31.6 million for defender services. The defender services is under the courts, under the Constitution, the courts are required to provide lawyers to help indigents secure a competent defense when they are charged with a crime. If they do not assign legal counsel that is competent, then the defendant is entitled to be turned loose.

Also the Speedy Trial Act requires that these trials be held promptly, so it is necessary if we are going to enforce the criminal laws of this country that we have adequate resources for the defenders service. There has been an increase in the number of arrests for crimes, specially those related to drugs, and the number of crime cases that have been prosecuted, so this is absolutely necessary. They have already run out of money. The courts have been receiving bills that are not paid and depending on the attorneys that were appointed to wait for their money up to this time, so this supplemental is very necessary.

Also there is a matter of $1 million for the Equal Employment Opportunities Commission. I believe, the day before yesterday, the new law went into effect with regard to the disabilities act. There will be a number of responsibilities under that law that are assigned to the Equal Employment Opportunities Commission. That is the reason for that $1 million in this bill.

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to ask the gentleman from Pennsylvania [Mr. MURTHA], the chairman of the Subcommittee on Defense of the Committee on Appropriations, a question.

As the gentleman knows, as the chairman of the subcommittee knows, there is quite a bit of money in this bill and in prior DOD appropriations bills for clean-up in environmental compliance in the Department of Defense. In fact, all told, it is getting pretty darn close to $1 billion to clean up environmental situations that the Department of Defense has under its stewardship.

I am also aware that the gentleman, in regular appropriations and in fiscal year 1991 and 1992, has included approximately $4.5 million to the Michigan Biotechnology Institute, which happens to be in my district, because they are working on bioremediation technologies and scaling up the industrial processes for these bioremediation technologies. The Department of Defense apparently has some interest in these technologies as a way of cleaning up its environmental responsibility.

I also understand, Mr. Chairman, that the Department of Defense has not released the $4.5 million appropriated in the fiscal year 1991 and 1992 appropriation bills, and I understand, although I do not know directly, but I understand that it is because those directions were contained in a committee report, as opposed to the bill language.

I know from my own appropriations subcommittee that the departments usually, in the spirit of comity and compromise, accede to the instructions in the report. I wonder if the gentleman would comment.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, let me say on the gentleman's behalf that we appropriated the money, and speaking on behalf of the gentleman from Pennsylvania [Mr. MCDADE] and myself, we have taken the environmental situation very seriously. For years the Department of Defense did not live up to their obligation of following Federal or State laws in environmental clean-up and in environmental control. We feel very strongly about that issue. When we put it in a report we expect the department to follow our recommendations. They almost always do. If they do not, we put it in bill language later on.

The gentleman can be assured we will pursue why they have not complied with the report language, and I would think we will find that they will follow our recommendation, unless there is some real reason that they should not. But they normally, 99 percent of the time, follow our report language.

Mr. CARR. Mr. Chairman, I thank the gentleman for his response.

Mr. McDADE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise in support. I would like to cover a couple of reasons why. I would like to thank the gentlemen from Pennsylvania, my friends, Mr. McDADE and Mr. MURTHA, for bringing this bill forth.

Mr. Chairman, first of all, I have spent a lot of time in the military, and I know the need for waste and environmental cleanup. At the NAS Miramar facility it is up for an award. Miramar has taken fuel and oil contamination that runs off the runways into the land and rechanneled it to keep the land toxic free. They have replanted fire roads with grass, so wild game will have food. They have protected endangered species and hired an environmental specialist to further protect our environment.

It shows that if we take out the extremists on both sides—either the extremists in the environmental movement or the extremists in the business movement—and work together that we can work with the fiscal plan and the environment together.

Second, with all the defense cuts in the unemployment section of it, I cannot tell the Members how many people I know in San Diego are being laid off, and for that matter, as a matter of fact, all over the country. We need to support them during times of defense cuts and joblessness.

□ 1520

The unemployment benefits are welcome.

Third, something that is very sensitive—the Tailhook fiasco that took place in Las Vegas. I know that at NAS Miramar, my old base, morale is at an all time low. Junior officers, the flag officers, across the board are incensed to the point where they are mad. Was Paula Kaufman violated? The answer was yes, but we need to get through that investigation and put behind DOD all of those things, and take a look toward the 21st century and how men and women must work in harmony, together, instead of sexual harassment that took place at Tailhook. But at the same time we cannot continue to broad-brush innocent men and women that had nothing to do with the event, all the way from the Secretary of the Navy being relieved, to the Deputy Chief of Naval Operations for Air Warfare, and many other flags and junior officers, and close friends of mine that are being painted with a brush that they do not deserve. We need that misconduct identified. We need the level of misconduct assessed and punishment assigned, and then we need to put it behind us and enforce policy or even change it.

So I rise in full support, and again I thank my friends, the gentlemen from Pennsylvania, Mr. McDADE and Mr. MURTHA, for bringing this legislation forward.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to the Stenholm amendment to strike language which would prevent the use of funds by the Secretary of Labor to implement the so-called helper regulations.

Congress has voted twice to permanently bar the use of funds to implement this regulation, but the administration and the courts have blatantly ignored the expressed intent of Congress. Therefore, I fully support the language adopted by the Appropriations Committee in this bill in order to dispel any conceivable doubt about the will of Congress.

Under the administration's regulation, the expanded use of the so-called helper classifications will seriously erode the Nation's pool of skilled journeymen mechanics available to work on both private and Federal projects now and in the future. Under prior practice, under the National Apprenticeship Act, a mechanic or laborer classified as an apprentice or trainee can only be paid less than the prevailing wage rate on a project covered by the Davis-Bacon Act if he or she is registered with the Bureau of Apprenticeship and Training [BAT] or a State agency recognized by the BAT. Expanded use of helper classifications will permit contractors to employ unskilled and semiskilled workers on projects covered by the Davis-Bacon Act without registering them in apprenticeship and training programs approved by the Bureau of Apprenticeship and Training or an appropriate State agency.

This will eliminate the primary incentive for many contractors to participate in the formal training programs necessary to ensure that unskilled and semiskilled workers eventually become qualified, skilled journeymen. If fewer contractors bother to participate in formal apprenticeship training programs, it will cause their eventual erosion. In the long run, the construction industry and the Nation will suffer because apprenticeship and training programs are the best and often only source of fully qualified construction workers capable of performing the skilled work necessary in the modern technology of today's construction industry.

In the long run, the erosion of this pool of skilled workers will cost the American taxpayer because the use of unskilled workers leads to low productivity, substandard construction, and unsafe working conditions.

I urge my colleagues to support H.R. 5620 and to reject the Stenholm amendment.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise in support of the bill and specifically for title VI, which relates to migrant and seasonal farm workers.

I want to take this opportunity to thank Chairman WHITTEN and his staff for their assistance in providing support for this provision. I also want to thank my California colleague VIC FAZIO and his staff for their work on this provision.

Title VI appropriates no new money. It merely clarifies the intent of Congress last November when we passed, and President Bush signed, an emergency supplemental appropriation bill that provided relief as authorized in the 1990 farm bill for victims of agricultural disasters.

The farm bill provided for programs for both farmers and farm workers affected by natural disasters.

The November supplemental was set up to provide relief in two installments: Approximately $1 billion, which was made available immediately, and an additional $775 million, to be available at the discretion of the President and the Secretary of Agriculture. This second installment has not yet been made available.

While it was the intent of Congress that the Farm Worker Program be funded with some of the first installment of emergency funding, the USDA refused to provide any funding for the program.

The provision in today's supplemental says that if the second installment of disaster assistance is released, it would fund all or part of a disaster grant program authorized in the 1990 farm bill designed to assist private, nonprofit agencies that help farm workers and their families.

I urge my colleagues to support this supplemental.

Mr. McDADE. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from Pennsylvania [Mr. WELDON] a member of the Committee on Armed Services.

Mr. NATCHER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. GEREN].

Mr. WELDON. Mr. Chairman, this is going to be a colloquy, and I thank my distinguished colleague from Pennsylvania and my leader for relinquishing the time and offering the time so that we can discuss the V-22 Osprey Program in relation to the supplemental legislation before us.

I want to start off by congratulating both the ranking member and our chairman who has been a leader of the program for the last 10 years in this Congress for their efforts in allowing us to move to this point in time where we can in fact look over the horizon and be able to provide the Marine Corps and our Special Operations Forces with this vital piece of equipment that is absolutely necessary as they move into the 21st century. As a matter of fact, on July 2, Secretary Cheney assured myself and 12 of my colleagues from the House and the other body that he was dropping his longstanding opposition to the V-22, and I quote him: "DOD intends to build the V-22 aircraft."

While making no commitment to build a specific number of these aircraft, and making passing reference to some other reexamination of a medium-lift need, the Secretary gave us his word that he would stand aside, release the impounded funds, and allow the next phase of this program to move forward. This would not have been possible were it not for the gentleman from Pennsylvania, Mr. MURTHA and Mr. MCDADE, and all of those Members of Congress who have been absolutely unequivocal in their support for the V-22. As a matter of fact, we have a letter signed by 210 of our colleagues urging the President to continue to move forward on this program.

Unfortunately, what has occurred over the past several days have been reports coming out, including reports in the press that contrary to the Secretary's word given to a dozen Members that he would allow this program to move forward, that the Secretary is in fact forcing the Joint Requirements Oversight Council or the JROC to rewrite the requirement for the medium-lift replacement. We also understand that Secretary Cheney is forcing the Marine Corps to do the same.

I would ask the chairman to give us his assessment of the V-22 Program in light of these reports that perhaps he is trying to now change the parameters for the V-22.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. WELDON. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, I appreciate the gentleman yielding.

I have had long conversations with Secretary Cheney about this issue, and there is no stronger supporter than myself and the subcommittee which I have the privilege to chair. JOE MCDADE and I have fought the battles year after year trying to make sure that the Marine Corps moves into the future and uses this type of aircraft in order to meet its needs. I think it would be a severe blow to the Marine Corps if they did not have the V-22 in their arsenal to move them farther and faster.

I am convinced that Secretary Cheney will keep his word. There is no question in my mind that he has delegated the responsibility for a compromise to the Secretary of the Navy, or Acting Secretary of the Navy, and in talking to the Acting Secretary, he wants to reduce the weight, and he wants to reduce the cost per airplane, and I agree that that can be accomplished, as long as it meets the mission of the Marine Corps. Obviously you can reduce the requirements to the point where you just have a helicopter. I do not see a helicopter on the horizon that would meet those qualifications.

If you want to delay the program, obviously you could put a requirement out which would lengthen the program. We would never have a program.

Defense money is going to be reduced substantially. This has been the No. 1 priority for the Marine Corps for the last 5 or 6 years. The last three commandants have all felt this was the No. 1 issue that they are involved in.

I have to compliment the gentleman from Texas [Mr. GEREN] and the gentleman from Pennsylvania [Mr. WELDON] for the work that they have done in keeping this in the forefront. Those two gentlemen have taken a strong position, the right position, and I am convinced that we will work out a compromise.

Our subcommittee was very nervous in making a compromise with the Secretary of the Navy because of the fact the GAO said they had to start spending the money. But when they said they wanted to make some changes, and in order to make those changes all they needed was some change in our language, we were willing to go along, as long as we saw some movement on their part.

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We have made that movement on our side. We are prepared, if we do not see a compromise, of course, to change that language. They know that that is the ultimate result, and I am convinced that they believe that the Congress feels very strongly about this program, and they will ultimately agree to a compromise which will meet the requirements of the Marine Corps.

Mr. WELDON. Mr. Chairman, I thank the chairman for that colloquy.

In other words, our action on this supplemental today is in no way an indication that we are giving the Navy the ability to move away from the V-22 Program that has been the single requirement of the Marine Corps for the last 5 years? Is that correct?

Mr. MURTHA. If the gentleman will yield further, the gentleman is absolutely correct. We feel very strongly about it.

Our subcommittee unanimously supports this program, as does the Committee on Armed Services, and usually we do not even put language in. We adhere so closely to the Committee on Armed Services language; we are very careful not to interfere in their legislative responsibility, and usually only put money in, but in this case, we felt so strongly about it that we wanted to reinforce what you have already done, so we put language in the bill.

Ultimately we believe that the language in conference will be the key issue, and this will not jeopardize this program in any way. As a matter of fact, we think it will facilitate a compromise, and the next thing I expect to happen is money to be released by the Defense Department to the Navy, and as this compromise is worked out, then the contractors will be able to go forward.

Mr. WELDON. Mr. Chairman, I thank the chairman.

Mr. GEREN of Texas. Mr. Chairman, just to follow up on some of the colloquy with the gentleman from Pennsylvania [Mr. WELDON], the concern that many of us have, and I know as someone such as you who has just worked this program from its very beginning and share our very strong commitment to it, the concern is that the mission requirements could be reduced to the point where the Secretary of the Navy or the Department of Defense could end up in a back door, or going through a back door, work the V-22 out of the equation, by compromising the speed requirement, by compromising the lift requirements, the range.

It is our concern that we make sure that that not happen, and we want to make sure that we have some kind of steps on the part of the Secretary of the Navy or the Department of Defense to assure us that is not going to happen before we take this language out which really is the hammer we hold over the head of them in these delicate negotiations.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I am happy to yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, let me just say that the gentleman's concern is legitimate, and I think it is the thing that the subcommittee expressed when I offered the recommendation to them about the compromise. Every member of the subcommittee mentioned the same thing, the concern that they had, that they would be trying to delay this program.

We in our conversation came to the conclusion that there is no medium-lift helicopter that we know of that could meet the requirement that the Marine Corps needs, and the Marine Corps will eventually determine what the requirements are, and we have said to the Marine Corps, "You make the requirements," and we even put the language in the bill; we will meet the requirements of the Marine Corps. If we think in any way that the Marine Corps has been intimidated or that the Secretary of the Navy has tried to dictate the requirements to the Navy from the pencil-pushers over there in the Pentagon, at least I would make the recommendation, and I think the gentleman from Pennsylvania [Mr. McDADE] would go along with the recommendation and the rest of the subcommittee, we would not fund an alternative program, so we are convinced it is absolutely essential to have this program. We will not allow the requirements to go below what the Marine Corps wants, and we are insisting that the pencil-pushers not dictate to the Marine Corps what is needed just to get the costs down.

Our long experience has been you can reduce the cost too much. When you do that, you reduce the effectiveness, and ultimately you destroy the program. We certainly are not going to allow that to happen.

Mr. FROST. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I am happy to yield to the gentleman from Texas.

Mr. FROST. Mr. Chairman, just briefly, the chairman has been a staunch supporter, and we appreciate it, those of us who are supporters of the program, everything that he has done.

There is some concern that this whole process may be just a smokescreen by the administration to get past this election, and those of us who are concerned about this project want to make sure that we keep our eye on the ball and that this, in fact, is a commitment that extends, because we do not want it to just be in the next couple of months.

Mr. MURTHA. If the gentleman will yield further, I want to say to the gentleman from Texas that he has been a strong supporter of this program and talked to me many times about it and talked to every member of the subcommittee and the Committee on Armed Services about this program, and the gentleman can be assured the Marine Corps is going to dictate the requirements, and we are not going to fund an alternative that is inadequate for the Marine Corps purposes.

Mr. FROST. I thank the gentleman.

Mr. INHOFE. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I am happy to yield to the gentleman from Oklahoma.

Mr. INHOFE. Mr. Chairman, I do not think any discussion on the V-22 should take place without recognizing the ramifications that go far beyond military application.

Right now, in our transportation reauthorization bill, we have language that is looking at this for civilian use. Right now we know of the noise requirements in airports and all the problems that are taking place around the country. This technology is the answer.

In my committee, the Committee on Merchant Marine and Fisheries, we have language in there now determining where the best use for experimentation is going to be for the V-22 technology, search and rescue, oil spill, drug interdiction.

Everywhere I have gone and talked to these people, Admiral Yost, Admiral Kime, they all feel this is the answer to their prayer.

Third, this technology actually started some 20 years ago with the XV-15 in the prototype. If we do not do it, we know that the Japanese and other countries will be doing it.

This, if nothing else, is that type of defensive mechanism that should be considered, and I applaud the gentleman's efforts to keep it on the front burner.

Mr. GEREN of Texas. Mr. Chairman, what sort of actions are you expecting on the part of DOD to show their good faith, and if that does not happen, we understand that you intend to withdraw this language in the conference report?

Mr. MURTHA. If the gentleman will yield further, that is exactly right. We are expecting them to release the money and to come up with a proposal very quickly that will convince you and the Committee on Armed Services and us on the Defense Subcommittee that they are serious about a compromise.

We have done our part over a lot of criticism, and we did it before the crash.

I mean, this was not something that was dictated by the unfortunate incident. We did this before, because we wanted to move this program forward.

So I expect them to release the money momentarily, and then to get this program moving forward and come up with qualification requirements that the Marine Corps has set forth and that we can live with.

Mr. GEREN of Texas. If they are not able to do that or do not do that, do you intend to withdraw your language from the conference report?

Mr. MURTHA. We will reinstate that language or stronger language, or we will just eliminate our language and, of course, the current language will prevail.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I am happy to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, next week the Committee on Armed Services is going to have some hearings on the whole issue of the V-22.

I want to say that the Secretary of the Navy designee or Acting Secretary has really left the box with full steam, and I think he realizes that credibility is an important issue both off the Hill and on the Hill.

I think Mr. O'Keefe realizes that when he comes here next week he has got to be prepared to just lay out the facts as the Secretary of Defense sees them and as he sees them.

I am optimistic we are going to get a very fair shake from Sean O'Keefe, but we will have an opportunity to look at this a little more in depth come next week.

Mr. GEREN of Texas. Reclaiming my time, I want to thank the chairman, the gentleman from Pennsylvania [Mr. MURTHA], for his leadership on this issue, and I thank my friend, the gentleman from Pennsylvania, and the chairman, the gentleman from Kentucky [Mr. NATCHER].

Mr. McDADE. Mr. Chairman, I yield back the balance of my time.

Mr. NATCHER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, all 13 of our bills have been reported within our 602(b) allocation.

This was planned and designed by my chairman, the gentleman from Mississippi [Mr. WHITTEN].

As I pointed out a few minutes ago, with the leadership of my chairman, JAMIE WHITTEN, the gentleman from Pennsylvania [Mr. McDADE], and every member of this committee on both sides of the aisle, we have reached the point where we are now with 11 of our bills passed in the House, tomorrow it will be 12, the next day 13.

Mr. RAY. Mr. Chairman, I rise in support of the additional funding for Department of Defense environmental programs contained in H.R. 5620, supplemental appropriations for fiscal year 1992.

The need for this additional environmental funding has been validated in several hearings held by the environmental restoration panel of the Armed Services Committee, which I chair.

The increase of $431.7 million for environmental compliance will allow the Department of Defense to transition from a reactive to a more proactive environmental management approach. The Department will be able to agressively pursue pollution prevention, and to address emerging environmental and conservation compliance requirements.

Additional funding for the Defense environmental restoration account will allow DOD to expedite cleanups at national priority listed sites and accelerate the testing, removal, and replacement of leaking underground storage tanks.

I am also pleased to note that the supplemental provides an additional $23.2 million for Robins Air Force Base. That base is operating under a compact I helped orchestrate between the Air Force, EPA region IV and the Georgia Department of Natural Resources. This agreement accelerated cleanup efforts by at least 1 year. The supplemental appropriations money will allow the Air Force to expedite the cleanup of an NPL site there in accordance with the compact.

This measure also increases cleanup funding at Fort Gillem by $325,000. Although Fort Gillem is not an NPL site, it has some serious environmental contamination that needs to be addressed as quickly as possible.

For some time, the panel has also been very much concerned about the lack of funding necessary to carry out environmental work at 1991 base closure and realignment installations. This supplemental will provide the funding to get these efforts back on track, and meet all statutory and regulatory requirements.

I regret that there were a number of procedural and policy issues that had to be resolved before consideration of this supplemental, and I would urge that every effort be made to see it is enacted as soon as possible. Likewise, I hope that restrictions on the obligation and expenditure of funding for DOD environmental programs can be structured so that the Department can execute these programs in a timely and cost-effective manner.

I appreciate the hard work by Mr. WHITTEN, and Mr. NATCHER, and Mr. MCDADE of the Appropriations Committee in putting together this important supplemental appropriations bill and getting it to the floor. Its enactment is critical to DOD's ability to carry out its commitment to environmental leadership and to fulfill the expectations of the American people.

Mr. PORTER. Mr. Chairman, as a member of the Foreign Operations Subcommittee and as cochairman of the congressional human rights caucus I want to raise an issue that is terribly disturbing to me. The reports of mass starvation coming out of Somalia are absolutely abominable. If there is a dire emergency in need of addressing, Somalia is it.

The Red Cross estimates that between 2 and 2.5 million Somalis are displaced from their traditional lands and are seeking food and shelter elsewhere. Somalia, a country of between 4½ and 6 million people could lose one-third of its population to starvation in the next 6 months. That's between 1.5 and 2 million dead by the time the 103d Congress is sworn in January 1993.

The problem is partly a lack of food and partly ongoing fighting and thievery that makes unloading food at Somali ports dangerous and transportation of food within the country unreliable. Red Cross workers have set up 400 kitchens across Somalia and are risking their own lives to feed as many people as possible. But armed gangs have raided kitchens and attacked and pillaged food caravans. As a result, the kitchens are understocked and thousands are dying a slow, agonizing death by starvation every day, many of them tiny children.

Let me read a passage from the July 19 New York Times, that I think encapsulates what is going on in Somalia:

> "I have children like this every day," said [a Red Cross worker], pointing to 10-year-old Abdul Kadir Isak, a skeleton of a boy, too weak to walk, hunched on the ground. Someone pushed a platter of rice in front of Abdul, but he was too feeble to swallow it. He just stated at the whiteness. "He won't live until tomorrow," said the Red Cross worker.

In addition, Somalis have begun fleeing their homeland by trying to cross the Gulf of Aden to Yemen in rickety boats. Unfortunately, relief services are not well developed in Yemen and even those who make a successful voyage are not out of danger. Many, however, do not successfully complete the voyage. Pushed from their homes by famine and force of arms, they drown when their boats capsize. Today's Washington Post is reporting that 45 Somalis drowned over the weekend when their boat sank in rough seas off Djibouti.

The world cannot stand by and let this happen. The Somalian people must be helped.

Somalia's interim Prime Minister Omar Arteh Ghalib has asked for 10,000 U.N. troops to ensure peace in Somalia and allow for the efficient distribution of food to the starving, who are largely encamped around cities and villages. The United Nations has currently agreed to supply 50 unarmed observers, but it is evident that these observers cannot ensure the unimpeded functioning of the food distribution system and save the Somali people.

The emergency in Somalia isn't directly addressed in this bill, but Mr. SMITH offered an important amendment at full committee that added $80 million for international peacekeeping. I urge the United Nations and the President to address the urgent needs in Somalia, beginning with the need for security so that food can be distributed to the millions of innocent people starving to death there.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 5620, a bill providing supplemental appropriations for fiscal year 1992.

Mr. Chairman, this measure is important for a number of reasons.

The bill approves the transfer of $69 million in existing funds from the environmental restoration defense account and earmarks $162.7 million in new funding. The Department of Defense needs these additional funds to maintain an accelerated environmental cleanup schedule. The current shortage of funds has caused a slowdown in environmental restoration projects.

Without this funding, cleanup of military bases would fall behind an already drawn out schedule. We have an obligation to the communities to ensure that these properties are cleaned up so that new businesses can move in and jobs can be created. It is vital to the environment and for the overall public health and safety of those who live and work in these areas. The bill will allow the continuation of ongoing cleanup projects at McClellan Air Force Base as well as efforts to treat ground water contamination at the Sacramento Army Depot.

I would also like to highlight the additional funding provided in the bill for veterans compensation payments. Due to program cost increases the VA was faced with the prospect of not being able to fund the 3.7-percent cost-of-living adjustment that veterans received earlier this year. We provide an additional $500 million to fulfill our obligation to provide a full COLA to all of our veterans. The bill also increases direct loans for the vocational rehabilitation program and provides startup funds for a new program that provides loans to nonprofit organizations leasing transitional housing units exclusively to veterans who are in, or have completed substance abuse treatment programs.

Mr. Chairman, the bill also includes $30 million in emergency drought relief aid for drought stricken States in the West.

The funding is made available as authorized under Public Law 102-250, the Reclamation States Emergency Drought Relief Act of 1991 and other applicable statutes, and it is made available only if the President exercises his emergency authority under the budget act and releases these funds.

Mr. Chairman, make no mistake about it, the drought in many of our Western States is an emergency. My own State of California is experiencing a sixth year of drought. Farm income is down, rural unemployment is up, and our fisheries and wildlife resources are continuing to decline.

Eight States have already been declared eligible by the Secretary of the Interior for drought assistance under the Emergency Drought Relief Act—California, Oregon, Nevada, Idaho, Utah, Montana, Washington, and Nebraska. Within the next 2 to 3 weeks we expect four, and possibly even five, additional States to be declared eligible for assistance: North and South Dakota, Wyoming, and possibly Colorado.

These funds are essential to help provide supplemental water supplies for our drought stricken farm communities, our wildlife refuges, and our endangered fisheries. Without these resources, the drought impacted areas of the West will suffer significant job losses from reduced farm activity and our already stressed fish and wildlife resources will continue to suffer.

California's farm income dropped $1 billion last year due to continuing drought conditions.

The drought is decimating the salmon fishery throughout the West. Last year, there were only 191 winter run salmon in the entire Sacramento River system, down from a high of 118,000. The striped bass population in the San Francisco Bay was also down from 117.2 million to 5.5 million last year. And, this year, commercial salmon fishing off the coast was suspended and tens of millions of dollars in income was lost due to the drought induced sharp declines in our fishery.

This funding can make a difference. It will provide essential, emergency drought relief to this region of the country.

For example, it could be used by the Bureau to expand its fish screen activities along the Sacramento River. It could be used to help diverters gain access to lower river water levels. And, it could support efforts to increase water supplies through the reuse of subsurface agricultural drainage water.

The funding can also be tapped to relocate pumping plants in our depleted reservoirs so that water deliveries can continue to be made to municipal and industrial consumers. For example, funding in the bill would be available to help relocate the pumping plant at Folsom Reservoir so that water deliveries can continue to be made to the city of Roseville, San Juan Suburban Water District, the city of Folsom, and Folsom Prison.

Clearly, Mr. Chairman, the drought has crated an emergency in California and in parts of 12 other Western States. I hope the President signs the bill and moves immediately to release these funds.

Finally, Mr. Chairman, I want to extend my appreciation to Chairman WHITTEN who was very helpful and supportive in my efforts to include a provision in H.R. 5620 which seeks to provide assistance to low-income migrant and seasonal farmworkers who have been displaced by natural disasters. I also want to commend my colleague from California, Mr. DOOLEY, for his persistence and dedication in bringing this issue to my attention and to that of the Appropriations Committee. As a Member who represents many of those who will benefit from this provision, Mr. DOOLEY deserves the bulk of the credit for making it happen.

As you know, Mr. Chairman, the 1990 freeze and the continuing drought in California have caused significant hardship for California growers and the migrant and seasonal farmworkers they depend on to harvest their crops. We have already been able to provide some disaster assistance to farmers and ranchers, but the needs of farmworkers continue to go unmet. Some estimates suggest that over 65,000 farmworkers in California lost their jobs because of disasters in 1990 and 1991. Most counties in my district lost up to 10 percent of farm jobs because of disasters. Nearly 1,000 migrant and seasonal farmworkers were displaced.

The provision in H.R. 5620 clarifies our original intent that farmworkers be eligible for disaster assistance grants under the dire emergency supplemental appropriations bill, Public Law 102–229, which we enacted last year. During consideration of Public Law 102–229, the Appropriations Committee recognized farmworkers in the drought and freeze assistance bill. However, the Agriculture Department has since stated that it needs more explicit direction to implement the farmworker assistance program. Title VI of H.R. 5620 makes it clear that the disaster assistance money provided under Public Law 102–229 can be used to provide emergency services to low-income migrant and seasonal farmworkers. I fully expect and anticipate, and indeed it is now the clear congressional intent under this provision, that if the administration releases the second installment of disaster assistance money, then a portion of that money will be used to provide emergency services to low-income migrant and seasonal farmworkers.

Again, Mr. Chairman, this is a good bill, and I urge my colleagues to support it.

Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 5620 and, in particular, its provision of $163 million for environmental restoration at closing military bases and its transfer of $69 million from the Department of Defense environmental restoration account [DERA] to the base closure account. I also applaud the allocation of $447.5 million in H.R. 5620 for other pollution cleanup programs of the Department of Defense and $432 million for other environmental compliance activities at DOD installations. I am particularly pleased that the bill requires the expenditure of these funds by the end of fiscal year 1992, as they are sorely needed.

As many of you know, I have worked very hard to ensure that the Congress authorizes the appropriation of sufficient funds for environmental restoration at closing military installations since I learned that a large Army base closing in my district contains so much toxic waste that its restoration will last as long as 19 years.

The Army and Environmental Protection Agency have made it very clear: without the vital funding contained in this urgent bill, that cleanup effort at Fort Ord would be delayed—a delay that would not only postpone the restoration of our environment but also our community's economic recovery from the base closure. H.R. 5620's relief could not be more timely. Beginning this month, the Army's cleanup team at Fort Ord has had to reduce its operations in order to stay within its limited budget. The provision of funds from this supplemental appropriations legislation will enable the project to resume its operations at the required rate. As chairman of the Budget Committee, I am equally pleased that the funds for military base closure cleanups are being taken from funds previously appropriated by the Congress.

I want to take this opportunity to commend the chairmen and the vice chairman of the Appropriations Committee and the chairmen of the Military Construction Appropriations and Defense Appropriations Subcommittees for their conscientious and responsive shepherding of these emergency appropriations through the rescission process to the floor of the House. They have recognized our communities' dire needs in this regard, and they have responded with all deliberate speed.

Mr. PICKLE. Mr. Chairman, I rise in support of H.R. 5620, supplemental appropriations for fiscal year 1992.

Bergstrom Air Force Base in my home city of Austin, TX, was slated for closure by the 1991 Base Closure and Realignment Commission. DOD environmental cleanup activities at Bergstrom and other bases around this country scheduled for this year have been on hold because of technical difficulties in transferring funds from one DOD account into another. This measure includes language which would allow the transfer of $69 million from the Defense Department's environmental restoration account into the Defense base closure account so that cleanup activities at closing bases can be completed. It also includes $163 million in supplemental appropriations for environmental cleanup at bases that will be closed in the next round of base closures and realignment.

Environmental restoration of military bases must be completed before properties can be conveyed to local governments or to the private sector. The language in this bill will allow environmental cleanup of military bases to be completed in a reasonable amount of time so that there will be minimal delay between the time a base is closed and the time the property can be used for another purpose.

Mr. Chairman, closing bases is difficult for the communities involved. Needless delay in the process is unfair to affected communities which are, after all, certainly doing their part to help reduce the deficit. The supplemental appropriation today prevents this needless delay, treats people affected by base closings fairly, and enables much-needed environmental cleanup to move forward. I urge passage of the bill.

Mr. RAHALL. Mr. Chairman, we are here today with our chests puffed out, to proudly proclaim that we are reducing budget outlays in fiscal year 1992 by $10.4 billion because we don't have to spend already appropriated funds to pay for Operations Desert Storm and Desert Shield, as a result of the gulf war.

Today, by this action, we are returning over $10 billion to the Treasury. For deficit reduction purposes.

We are still in recession, we are still seeing unemployment figures rise, we are seeing an overwhelming increase in the use of food assistance programs—from food stamps to school lunches—and the WIC Program remains tragically underfunded.

In my humble opinion, Mr. Chairman, a lot of the debt we have hanging over us was directly caused by the biggest peacetime buildup in defense spending in the history of the United States.

I support an adequate defense. I also supported the President in his bid for authority to use force, if necessary, to get Iraq out of Kuwait. I voted for the $15 billion appropriated for the Persian Gulf regional defense fund. Today, we are returning $10 billion of that to the Treasury for deficit reduction purposes.

I am still committed to a peace dividend—now.

I have voted to tear down the firewalls in the 1990 budget agreement—this year—so that we can fund domestic discretionary programs here at home.

I guess I will vote for this supplemental because it is the right thing to do. It just doesn't go far enough to suit me.

How can I vote against a bill that contains the funds necessary to help pay for the just-passed extension of the unemployment benefits our people need? I can't.

How can I vote against a bill that contains funds to cover the 3.7-percent cost-of-living adjustment [COLA] for veterans next year? I can't. How can I vote against funding for low-income housing? I can't.

But it troubles me, Mr. Chairman, to hear from folks in West Virginia who are in dire need of many things, and one of them is the Women, Infants, and Children's Program [WIC] which provides vouchers for the purchase of nutritious foods and infant formula for pregnant and/or lactating women, and their children through age five.

We have never fully funded the program, in spite of the fact that we have promised ourselves that we would—thus about one-half of the women and children eligible nationwide ever get served by WIC.

Yet WIC has the strongest, bipartisan support among members of both sides of the aisle for full funding—because we know without a shadow of a doubt that WIC works!

Mr. Chairman, in April of this year GAO put out a 110-page report entitled: "Early Intervention: Federal Investments Like WIC Can Produce Savings."

The report went on to say that if we were to fund the WIC program so as to reach every eligible women and child, over an 18 year period WIC benefits could help avoid more than $1 billion in Federal, State, local and private payer expenditures.

In analyzing the costs and benefits of this early intervention, GAO used a framework which it developed to show that providing pregnant women, infants and children with benefits under WIC more than pays for itself within a year.

Mr. Chairman, we had hoped to fund the WIC Program at at least $3 billion in fiscal year 1993; what we got was $2.8 billion.

We all are deeply aware of the budgetary restraints we are laboring under this fiscal year. We try to understand why a majority of Members were not willing to knock out the firewalls in the 1990 budget so that we can spend defense or foreign aid money on at-home programs.

We also know that unemployment is still on the rise; the recession is far from over. More people are losing their jobs—and now layoffs are affecting both mothers and fathers from families of the working poor.

These people—especially pregnant women and their children—are at serious nutritional and other health-related risks because of inadequate income that does not permit the purchase of balanced diets suited for infants and children and expectant mothers. WIC provides that service—and it pays for itself within a year. I believe the return on our investment in $3 for every $1 spent on WIC benefits.

What is our problem?

We can't knock the firewalls out so that we can fund this kind of program?

We can't take funds that are being rescinded under the fiscal year 92 supplemental appropriations bill that are no longer needed to pay our gulf war debts—and spend a few million on the WIC program?

I'll settle for putting $10 billion back in for deficit reduction, but couldn't we just free up the $400 million for WIC? When compared against the backdrop of a $400 billion deficit—doesn't $10 billion look almost as good as $10.4 billion when push comes to shove? Especially when it would feed and care for hungry pregnant women and children. It does to me.

Mr. Chairman, in June 1989, West Virginia was serving 29,864 women, infants, and children. The following year, West Virginia was serving 34,322; by June 1991, the number had risen to 38,505. In June of this year, the number is up to 45,000. What does this mean in terms of serving all those who are eligible and in need. It means West Virginia can fund only about 51 percent of women, infants and children who are certified as eligible and at risk in my State.

GAO's study went on to establish that the formula used to distribute WIC funds to the States does not adequately consider the number of eligible persons in the States.

This means that in some States they cannot enroll all pregnant women because they don't get enough money, while in others they enroll infants and children considered less in need of services in order to spend what they get.

West Virginia is not now able to serve any of its level 4 and 5 at-risk children. It has level 3-risk children on a 60-day waiting list, and often after the first 60 days of painful waiting have elapsed, they are again placed on a waiting list for an additional 60 days.

Mr. Chairman, just as unemployment has risen, so has the dependence upon our food assistance programs. The increase in individuals and families qualifying for food stamps is well-documented; the increase in individuals and families receiving other kinds of food services, such as school lunches and breakfasts, is well-known.

It is tragedy, Mr. Chairman to be on this floor to discuss how we are reducing the budget outlays by upwards of $10 billion by rescinding appropriated funds for the gulf war which are now not needed to meet that debt, and feeling proud of ourselves while pregnant women and children go hungry and are more and more put at risk for every day they spend on a waiting list.

I am not proud of this day. I think we should be funding WIC so that it reaches all who are eligible for its life-giving benefits.

I will vote for the supplemental appropriations bill, for it has much good in it—it just doesn't go far enough.

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of title VII of H.R. 5620, which would provide $30 million to the Bureau of Reclamation to meet the emergency needs for States stricken by the drought. As you know, we are now facing our sixth year of drought in the West. Eight States—California, Oregon, Idaho, Utah, Montana, Washington, Nebraska, and my State of Nevada—have already been declared eligible for assistance under the provisions of the Emergency Drought Relief Act.

The funds provided in title VII will allow the Bureau to take a number of steps to mitigate the effects of the drought. The Bureau can use the funds to add wells, line canals, and improve water measurement and control devices.

The funds can also be used to fund precipitation management technology transfers. These activities were authorized in section 206 of Public Law 102-250, the Drought Relief Act. The Bureau is encouraged to fund the technology transfers that are available and that can enhance water production.

In some parts of Nevada, increased water production is the only solution possible for the water shortage. There is simply not enough water available in existing reservoirs to manage better. The farming community, as well as fish and wildlife habitats, are in peril. The Bureau should use its new precipitation management technology transfer authorities and the money appropriated in this bill to fund appropriate projects.

Ms. SNOWE. Mr. Chairman, I am pleased that the committee has been able to complete work and bring this supplemental appropriations bill to the floor so expeditiously. H.R. 5620 contains funding for programs important to many of our constituents, but particularly to those who must deal with the aftermath of a military base closing.

A large portion of the money appropriated in this bill will be used to fund environmental programs in the Department of Defense. Most urgent are two items under military construction: a $162 million appropriation for environmental cleanup at round II closing bases, and a $69 million transfer from the Defense environmental restoration account to the closure account for cleanup.

Loring Air Force Base in Maine is a round II facility; it is also on the Superfund national priorities list. Those of us who care about Loring always knew that hazardous waste contamination at the base could pose difficulties for redevelopment in an isolated, rural area racked by the recession. What we did not know was that funding for the cleanup project would be delayed until the eighth month of 1992, greatly exacerbating an already severe situation.

There are a couple of reasons for this extreme and inexcusable delay, but the most conspicuous is outright intransigence by the Air Force. Time after time, in letters and in personal meetings, the Maine delegation met with the most senior Air Force officials to ask for funds to keep the cleanup on schedule. They refused; they stonewalled. As a result, Loring faces up to a year long delay in the cleanup, a delay which will inhibit economic development in the Loring area. Real people will suffer for this delay: real people at Loring and at the other contaminated bases around the country shut down in round II.

Now, with the bill before us, this body has a chance to try to repair some of this damage, and to meet our serious obligations to the families facing base closure. I regret that it has come down to an eleventh hour supplemental appropriations bill, but this is the last chance we have to abide by our commitments to clean up contaminated bases. It is our last chance to show the people facing base closure that government by the people actually does work for the people.

Mr. NATCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

□ 1540

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as read through page 21, line 11, and shall be considered for amendment under the 5-minute rule for 2 hours.

The text of the bill through page 21, line 11, is as follows:

H.R. 5620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and administration", $1,795,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

FOREIGN FISHING OBSERVER FUND

(RESCISSION)

Of the unobligated balances in the Foreign Fishing Observer Fund, $1,309,000 are rescinded.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Amounts appropriated under this title by Public Law 101-515 and available through September 30, 1992, for debt collection training, locating debtors and their property, and selling debtor property also may be used for processing and tracking debts owed to the United States Government.

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", $80,000,000.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

DEFENDER SERVICES

For an additional amount for "Defender Services", $31,250,000, to remain available until expended.

National Commission on Judicial Discipline and Removal

The language under the heading "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" in Public Law 102-27 is amended by deleting "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

Notwithstanding the requirement of section 415 of Public Law 101-650 to submit the report mandated by said section not later than one year after the date of the Commission's first meeting, the National Commission on Judicial Discipline and Removal shall submit to each House of Congress, the Chief Justice of the United States, and the President, the report mandated in said section no later than August 1, 1993.

RELATED AGENCY

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000, to remain available until September 30, 1993.

TITLE II

DEPARTMENT OF DEFENSE—MILITARY SUPPLEMENTAL APPROPRIATIONS

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For an additional amount for "Operation and maintenance, Army", $116,000,000, to remain available for obligation until September 30, 1992.

Operation and Maintenance, Navy

For an additional amount for "Operation and maintenance, Navy", $33,000,000, to remain available for obligation until September 30, 1992.

Operation and Maintenance, Air Force

For an additional amount for "Operation and maintenance, Air Force", $263,000,000, to remain available for obligation until September 30, 1992.

Operation and Maintenance, Defense Agencies

For an additional amount for "Operation and maintenance, Defense Agencies", $69,700,000, to remain available for obligation until September 30, 1992: *Provided*, That $50,000,000 of this appropriation shall be used to provide educational assistance related to the education of dependents of members of the Armed Forces in areas which have a significant increase in the number of such dependents as the result of relocation or realignment of Armed Forces personnel: *Provided further*, That the $50,000,000 specified in the preceding proviso shall be made available only to supplement, not supplant, the amount of any other Federal, State, or local government funds otherwise authorized or expended for education of dependents of members of the Armed Forces: *Provided further*, That a portion of that $50,000,000 may be made available for construction.

Environmental Restoration, Defense

For an additional amount for "Environmental Restoration, Defense", $447,500,000, to remain available for obligation until September 30, 1992.

Administrative Provision

Of the funds appropriated in the above accounts for environmental restoration and compliance, $730,500,000 shall be obligated and expended not later than September 30, 1992.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Test and Evaluation, Defense Agencies

For an additional amount for "Research, Development, Test and Evaluation, Defense Agencies", $7,000,000, to remain available for obligation until September 30, 1993.

REVOLVING AND MANAGEMENT FUNDS

Pentagon Reservation Maintenance Revolving Fund

For an additional amount for "Pentagon Reservation Maintenance Revolving Fund", $80,100,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Office of the Inspector General

For an additional amount for "Office of the Inspector General", $3,400,000.

TRANSFER OF FUNDS

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental costs of the Department of Defense associated with operations in and around the Persian Gulf resulting from Operation Desert Shield/Desert Storm, and under the terms and conditions of the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102-28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense pursuant to that Act and the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229), not to exceed $5,182,878,000 may be transferred during fiscal years 1992 and 1993 to then currently applicable appropriations, from either the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund, to the following accounts in not to exceed the following amounts:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

Military Personnel, Army

For an additional amount for "Military Personnel, Army", $1,037,261,000.

Military Personnel, Navy

For an additional amount for "Military Personnel, Navy", $205,700,000.

Military Personnel, Marine Corps

For an additional amount for "Military Personnel, Marine Corps", $20,227,000.

Military Personnel, Air Force

For an additional amount for "Military Personnel, Air Force", $333,500,000.

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

Operation and Maintenance, Army

For an additional amount for "Operation and maintenance, Army", $2,383,890,000, of which $616,500,000 shall remain available for transfer and obligation until September 30, 1994.

Operation and Maintenance, Navy

For an additional amount for "Operation and maintenance, Navy", $101,000,000.

Operation and Maintenance, Marine Corps

For an additional amount for "Operation and maintenance, Marine Corps", $433,000,000, of which $167,000,000 shall remain available for transfer and obligation until September 30, 1994.

Operation and Maintenance, Air Force

For an additional amount for "Operation and maintenance, Air Force", $657,600,000, of which $136,800,000 shall remain available for transfer and obligation until September 30, 1994.

Operation and Maintenance, Defense Agencies

For an additional amount for "Operation and maintenance, Defense Agencies", $10,700,000.

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred to military personnel and operation and maintenance appropriations pursuant to the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102-28) and the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229) and under the terms and conditions of those Acts, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Acts in amounts not to exceed $611,010,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal years 1992 and 1993: *Provided*, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

National Guard Personnel, Army

To be derived by transfer, $12,500,000 for "National Guard Personnel, Army".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

Operation and Maintenance, Army

To be derived by transfer, $341,310,000 for "Operation and maintenance, Army".

Operation and Maintenance, Navy

To be derived by transfer, $257,200,000 for "Operation and maintenance, Navy".

RESCISSION OF FUNDS

PERSIAN GULF REGIONAL DEFENSE FUND

(RESCISSION)

Of the funds made available under this heading in the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102-28; 105 Stat. 161), $12,485,446,313 is hereby rescinded: *Provided*, That the Persian Gulf Regional Defense Fund is hereby terminated.

GENERAL PROVISIONS—TITLE II

(TRANSFER OF FUNDS)

SEC. 201. Section 103 of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229; 105 Stat. 1707) is amended by striking out "fiscal years 1991 and 1992" and inserting "fiscal years 1992 and 1993" in lieu thereof and by striking out "through February 1992".

SEC. 202. The Secretary of Defense shall transfer, without reimbursement, five Black Hawk helicopters, together with associated spares, from the United States Army to the Drug Enforcement Administration.

SEC. 203. Section 8090 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1193) is amended—

(1) in subsection (b) by striking out "subject to the provisions of subparagraph (c)" and inserting in lieu thereof "and shall be available only for the V–22 aircraft program";

(2) by striking out subsections (c) and (d); and

(3) in subsection (e) by striking out "(e)" and inserting in lieu thereof "(c)".

TITLE III

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the unemployment trust fund and other funds", $237,652,000 to remain available until September 30, 1993.

GENERAL PROVISION—TITLE III

SEC. 301. Notwithstanding any other provision of law, no funds shall be expended hereafter by the Secretary of Labor to implement or administer either the final or proposed regulations referred to in section 303 of Public Law 102–27, 105 Stat. 151.

TITLE IV

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Base Realignment and Closure Account, Part II", $162,700,000, to be available solely for environmental restoration and to remain available until expended.

For an additional amount for "Base Realignment and Closure Account, Part II", $69,000,000, to be derived by transfer from the "Environmental Restoration, Defense" account of Public Law 102–172, to be available solely for environmental restoration and to remain available until expended.

TITLE V

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $500,000,000, to remain available until expended.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

The limitation on direct loans in the current fiscal year for the "Vocational rehabilitation loans program account" is increased, within existing funds, by $350,000 to not to exceed $2,038,000.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

Nothwithstanding any other provision of law, not less than $8,700,000,000 of the sums appropriated under this heading in fiscal year 1992 shall be available only for expenses in the personnel compensation and benefits object classifications.

TRANSITIONAL HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $3,000, as authorized by Public Law 102–54, section 8: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $30,000. In addition, for administrative expenses to carry out the direct loan program, $25,000, which may be transferred to and merged with the appropriation for "Medical care": *Provided further*, That the sums herein appropriated are to be derived by transfer from the "Medical care" appropriation provided in Public Law 102–139.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", $14,100,000, to remain available until September 30, 1992.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The unreserved balances of funding provided under this heading in Public Law 102–139 and prior years for contracts for capital advances, including amendments to contracts for capital advances, and for project rental assistance, and amendments to contracts for project rental assistance, for housing for the elderly as authorized by section 202 of the Housing Act of 1959, as amended, and for housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), shall be merged.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8

SUBSIDY CONTRACTS

(TRANSFER OF FUNDS)

For an additional amount of up to $407,000,000, to remain available until expended, and to be derived by transfer from the unreserved amounts in "Annual contributions for assisted housing": *Provided*, That the amount earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, shall be reduced accordingly.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 102–139, $250,000,000 is rescinded: *Provided*, That the $294,156,000 under this heading in the aforementioned Act which is not available until September 20, 1992, shall be reduced by $250,000,000 to $44,156,000.

For an additional amount for "Payments for operation of low-income housing projects", $250,000,000, to remain available until September 30, 1993: *Provided*, That these funds shall be available for obligation without regard to section 9(d) of the United States Housing Act of 1937, as amended: *Provided further*, That these funds shall not become available for obligation until September 20, 1992.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 101–507, the $500,000 earmarked for the National Commission on Manufactured Housing in Public Law 102–27, is rescinded.

For an additional amount for "Research and technology", $500,000, to remain available until September 30, 1993: *Provided*, That these funds shall be made available for the National Commission on Manufactured Housing.

INDEPENDENT AGENCIES

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

Notwithstanding any other provision of law, not more than $405,000 of the funds provided under this heading in Public Law 102–139 shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 102–139, the $950,000 earmarked for financial assistance for legal representation costs in Public Law 102–229, is rescinded.

For an additional amount for "Salaries and expenses", $950,000, to remain available until September 30, 1994: *Provided*, That these funds shall be available under the same terms and conditions as authorized for the funds under this heading in Public Law 102–229.

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

Notwithstanding any other provision of law, the Administrator is authorized to award a grant under section 8001 of the Solid Waste Disposal Act, as amended, for the purchase of a building and associated costs to support a program for the environmental restoration of the Lackawanna Valley as described in House Report 102–226, the conference report accompanying H.R. 2519 (Public Law 102–139).

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $250,000, to remain available until expended, and to be derived by transfer from amounts provided to the Department of Housing and Urban Development under the heading "Research and technology" in Public Law 102–139.

TITLE VI

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

The item relating to the "COMMODITY CREDIT CORPORATION" under the heading "DEPARTMENT OF AGRICULTURE" in chapter III of title I of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229; 105 Stat. 1712) is amended by inserting after "provided to the producer" in the third proviso the following: ", and may be available for grants to assist low-income migrant and seasonal farmworkers as provided in section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a)".

TITLE VII

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

For an additional amount for "Construction program" to meet the emergency needs for areas striken by drought, $30,000,000, to remain available until expended: *Provided*, That this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress: *Provided further*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

UNIVERSITY RESEARCH INSTITUTES

Section 11(c)(6) of the Federal Transit Act (49 U.S.C. App. 1607c(c)(6)) is amended by adding at the end the following new sentence: "For fiscal year 1992, the Secretary shall expend from administrative and research funds deducted for such fiscal year under section 104(a) of title 23, United States Code, $1,000,000 for making grants under paragraph (3) to North Carolina A. and T. State University through the Institute for Transportation Research and Education and shall use all amounts appropriated for such fiscal year pursuant to this paragraph to carry out paragraph (3) for making grants to the University of South Florida and a consortium of Florida A and M, Florida State University, and Florida International University.".

The CHAIRMAN. Within the 2-hour period, debate on title III and any amendments thereto may not exceed 30 minutes. If the 2-hour period is exhausted, the disposition of any questions then pending and the reading of the last two lines of the bill shall constitute the conclusion of consideration of the bill for amendment.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS: On page 19 of the bill, after line 19, add the following:

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and flood prevention operations" to meet the needs of the emergency watershed protection program, $7,500,000, to remain available until expended.

Mr. NATCHER. Mr. Chairman, I reserve a point of order on this amendment in order to ask the gentleman from Kentucky a question or two pertaining to the $7,500,000.

Mr. Chairman, will the gentleman yield for that purpose?

Mr. ROGERS. Mr. Chairman, I am delighted to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I would like for the gentleman from Kentucky to answer a question pertaining to the $7.5 million.

Is this money, $7.5 million, only to apply to flood control and soil conservation in the Department of Agriculture?

Mr. ROGERS. That is exactly the case, Mr. Chairman.

Mr. NATCHER. The $7.5 million would then, if the amendment is accepted and the amendment passes, go into the national program and be subject to expenditure and subject to other requests that are now pending; is that correct?

Mr. ROGERS. That is correct, Mr. Chairman.

Mr. NATCHER. And it would not be directed just to the State of Kentucky?

Mr. ROGERS. Not at all, that is correct, Mr. Chairman.

Mr. NATCHER. Mr. Chairman, I say to the gentleman from Kentucky, I think in fairness to all the Members we should have this understanding. This is necessary.

Mr. Chairman, with that understanding and that explanation, we have no objection to this amendment on this side.

Mr. Chairman, I withdraw my reservation of a point of order.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to applaud my colleague, the gentleman from Kentucky [Mr. ROGERS] for addressing in a very expeditious manner a critical situation affecting people of the Nation who are suffering from unforeseen disaster effects.

I think that the House owes the gentleman a debt of gratitude for addressing the issue.

We are, of course, pleased to accept the amendment on this side of the aisle and we congratulate the gentleman for it.

Mr. ROGERS. Mr. Chairman, I thank both gentlemen for their comments.

Let me just briefly explain what the amendment does.

Mr. Chairman, this amendment adds $7,500,000 to the Emergency Watershed Program within the Department of Agriculture's Soil Conservation Service. I believe it has been cleared by the chairman of the Appropriations Committee; the gentleman from Kentucky; the gentleman from Pennsylvania, the ranking minority member of the full Appropriations Committee; and the gentleman from New Mexico, the ranking minority member of the Agriculture Subcommittee.

Mr. Chairman, the Emergency Watershed Program is a nationwide program which protects communities from the imminent damages which nature can inflict on unstable watersheds. The program has run out of funds for this year, and a backlog of very serious emergencies currently exists.

Mr. Chairman, the Emergency Watershed Program is used throughout the country to address serious national needs related to repairing damages to watersheds caused by floods. In the 1992 appropriations bill we provided $20 million which has all been obligated. Severe flood damage in some years have required additional supplemental appropriations. In 1986, serious flooding caused the Congress to provide over $79 million and in 1990, over $94 million was needed for this activity. The increase of $7.5 million in this supplemental is needed for the most critical repairs related to health and safety.

A number of States have projects which are eligible for this funding, and some of these States face extremely serious exingencies, such as Vermont, Virginia, Puerto Rico, Kentucky, and Mississippi.

My amendment adds funding to the amount already provided in the regular 1992 Agriculture Appropriations Act, so that this backlog can be addressed.

It is also offered in response to the unthinkable tragedy which occurred this past Friday evening in Clay County, KY, in my congressional district.

During a torrential flash flood, the people of the Barcreek community were completely uprooted by a devastating rainstorm. Nine homes were completely destroyed and 13 others were damaged.

Most sadly, the waters ripped a new home completely off its foundation, drowning a young mother and three children.

Nothing we do today can bring relief to the relatives of those who were lost; and we are only in the early stages of taking full stock of the damages, so we can coordinate help to the survivors.

It is clear, however, that these rains have done permanent damage to the watershed, and that immediate attention is needed to stabilize the area. The rains continued into yesterday, and the remaining homeowners are in serious jeopardy.

The Emergency Watershed Program was created to address this kind of situation. Unfortunately, however, the funding provided for this year has been completely expended. And it is imperative that we provide additional funding to deal with exigencies of the highest nature.

I appreciate the help and understanding of the chairman of the Committee and the Agriculture Subcommittee, the gentleman from Mississippi, without whom, we would be without an effective Emergency Watershed Program. I want to especially thank him, and the gentleman from New Mexico, for working with me on this amendment.

I urge adoption of the amendment.

Mr. NATCHER. Mr. Chairman, on this side, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. ROGERS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM: On page 12, Strike lines 12–17.

The CHAIRMAN. Under the rule, debate on this amendment may not exceed 30 minutes. The Chair will divide the time between the gentleman from Texas [Mr. STENHOLM], 15 minutes, and the gentleman from Michigan [Mr. FORD] 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I did not want to be here taking the time of the House today. I wish I did not need to be here. We ought not to be discussing Davis-Bacon on an appropriations bill at all. Unfortunately, the Appropriations Committee has decided to include a legislative rider regarding the Davis-Bacon Act in the supplemental appropriations bill.

When I testified before the Rules Committee, I was asked what this rider was doing in this appropriations bill. I could not answer that question, because this provision has no business being in this bill. But it is so, let us talk about it.

First, let us talk about money. Last week, we voted to accept a rider to the interior bill that dramatically increased grazing fees because the sponsors of the amendment claimed that it would save the taxpayers $150 million this year. Even if you agree with that estimate, which I do not, my amendment would save four times as much. So if you voted for increasing grazing fees on Wednesday night, you already have four times as much reason to vote for my amendment. If you truly care about saving money and making the Government more efficient, vote for my amendment. According to CBO the helper regulations will reduce the cost of Federal construction by approximately $819 million in budget authority and $137 million in outlays in fiscal year 1993. Once the regulations are fully implemented, they will result in savings of approximately $600 million a year. Over the next 5 years, they will result in savings of nearly $2.3 billion.

Last month, this body narrowly defeated the balanced budget amendment. Those who opposed the balanced budget amendment claimed that we do not need a balanced budget amendment to reduce the deficit. Now, many of these same people want to tell the Department of Labor that they can't save money by updating obsolete, inefficient work rules.

This rider would overturn regulations issued by the Department of Labor allowing the use of semiskilled helpers on contracts subject to the Davis-Bacon Act. These regulations have been developed over the last 10 years through a painstaking and thorough process. They have passed every conceivable court test. The courts have repeatedly held that the regulations are consistent with the intent of the Davis-Bacon Act. On April 12 of this year, the U.S. district court of appeals ruled that there was no argument left as to why they shouldn't be effective.

The regulations reflect changes in the construction industry since the passage of the act in 1931. The utilization of helpers was virtually nonexistent in 1931, but has become a widespread practice in private construction. Today, about 75 percent of the construction industry uses helpers for semiskilled and unskilled tasks to assist a variety of skilled craftsmen on private contracts. The regulations are consistent with the intent of the Davis-Bacon Act—that Federal contracts should reflect the local market and that the Federal Government should not use its power to impose a wage structure on local markets.

Without the regulations, contractors who want to compete for Federal contracts have outdated work rules imposed on them. For example, the same unskilled worker must be classified as a journeyman carpenter to carry lumber one day and reclassified—with all the attendant paperwork—as a journeyman plumber to carry or hold pipe the next day. Thus, labor is allocated inefficiently, costs rule, and semiskilled workers are denied entry-level jobs. These regulations will make it possible for small and minority contractors to compete on Federal contracts.

Allowing the use of helpers would open up job opportunities to those most in need of help up the first rungs of the economic ladder: Minority, women, disadvantaged, displaced, and entry-and-training-level workers. These regulations will result in significant job creation in the construction industry.

Mr. Chairman, we should not make a legislative change of this magnitude in a rider slipped into an appropriations bill without any hearing or significant debate. The House should deal with the issue of Davis-Bacon in the proper way—in authorizing legislation. The Education and Labor Subcommittee on Labor Standards has held a hearing on the issue of Davis-Bacon reform and has scheduled a markup of a Davis-Bacon bill on August 4. Any changes in the Davis-Bacon Act should be made in the context of authorizing legislation. Last year, when the House considered a similar rider, I urged the Education and Labor Committee to bring Davis-Bacon legislation to the floor. Chairman BILL FORD said on the floor of the House at that time that "We will do our best to accommodate the gentleman from Texas by giving him a forum to argue Davis-Bacon in the proper forum on an authorizing bill." It has been over a year since then, and we are still waiting for an authorization bill to come out of subcommittee. We should return this issue to the place it belongs—the authorizing committee.

Mr. Chairman, a vote for my amendment is a vote to create jobs, increase competition in Federal contracting and save the taxpayers $600 million. I urge my colleagues to strike this legislative rider from the bill, and to vote against this bill if the rider stays in it.

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from St. Louis, the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment and in support of the supplemental appropriations bill. I strongly commend the authors of that legislation for including language to prohibit the Department of Labor from implementing Davis-Bacon regulations that undermine our Nation's apprenticeship programs.

The regulations the Bush administration are seeking to implement are an affront to our work force. Their effect is to undermine the wages and standard of living of workers. These regulations effectively abolish State apprenticeship councils and preempt the ability of States to establish apprenticeship standards or effectively regulate apprenticeship programs. In effect, the Bush administration is prepared to ignore principles of federalism and jettison a 44-year-old shared relationship between the States and the Federal Government governing the regulation of apprenticeship programs.

The proposed regulations have consequences beyond their immediate impact on apprenticeship programs. These regulations encourage the use of unskilled and semiskilled workers at the expense of skilled journeymen workers. The regulations eliminate the primary incentive for contractors to participate in the formal training programs necessary to ensure that unskilled and semiskilled workers become qualified skilled craftsmen. Far from enhancing opportunities for women and minorities, these regulations ensure they will remain mired in the lowest paid, least skilled positions without hope of progressing to the skilled jobs they have traditionally been denied.

On two previous occasions, the Congress has acted to prevent the Department of Labor from implementing this misguided policy. Acting now to permanently prohibit the implementation of these regulations preserves and enhances the skills of our citizens, and reiterates congressional concern for the rights and welfare of American workers. I urge that the language prohibiting the implementation of the Davis-Bacon helper regulations and proposed new apprenticeship regulations be retained.

Mr. Chairman, I urge that the amendment be defeated.

□ 1550

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I, along with my colleague from Texas, am very saddened we are having to debate this in the manner that we are. Fifteen minutes on our side to talk about something that means jobs to the most disadvantaged, jobs for minorities, is not enough.

My goodness, how many times have we talked in this Chamber about creating jobs and that we were going to invest in America? Yet here we have a provision that is going to stop people from getting into entry-level jobs as helpers. It just boggles my mind.

And we are doing it without any knowledge of the membership. I doubt there are very few Members out there who understand what is about to happen when we take this vote.

Mr. Chairman, helpers are semiskilled workers, working under the direct supervision of higher skilled journeyman workers. The helper classification creates jobs for lower skilled workers, providing immediate employment and potential steps up the ladder.

We have been at this for 10 years through the courts and have exhausted the courts, and the courts have said, "You can have helpers." The Department of Labor is not going to make a ruling until they get an agreement with the unions.

Yet here we have a back door attempt by the unions to shut down jobs to the most disadvantaged.

Let me remind Members of the history of Davis-Bacon. Davis-Bacon was passed to stop blacks from coming up north and taking jobs from construction workers in the north.

In a quote during the floor debate on the Bacon bill by Representative Allgood, a strong supporter of the bill, he stated:

> Reference has been made to a contractor from Alabama who went to New York with bootlegg labor. That is a fact. That contractor has cheap colored labor that he transports, and he puts them in cabins (rail cars), and it is labor of that sort that is in competition with white labor throughout the country.

Is this the situation we see ourselves in today? I don't believe it is.

Once again we are seeing an attempt to keep disadvantaged laborers, many of them minorities, from getting into entry-level jobs.

It has been estimated by the Department of Labor that 250,000 jobs could be created through the revised regulations. The gentleman from Texas already talked about the money that we can save, but this is just incredible to me that you would want to stop the people from getting into these construction jobs because of some labor attempt to stop the people from competing for those jobs. It is just amazing to me.

Under the Davis-Bacon Act, helpers are used only when it is the locally prevailing practice.

In comparison, in the private sector, more than 75 percent of all construction workers are preferred by contractors who use semiskilled laborers.

Vote for jobs, vote for the Stenholm motion to strike.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to start by saying to the gentleman from Texas [Mr. STENHOLM] that I indeed, as new chairman of the Committee on Education and Labor, promised him last year, that I would do everything I could to give him a forum to legislate on Davis-Bacon the way it should be legislated on.

If there is anybody in the House who thinks that we have not brought enough labor legislation out since I have been chairman of the committee, I do not think you will find any of the Republican members of my committee who would agreed with that.

I have been probably the most active mover of labor legislation that has chaired that committee for a long time.

The gentleman has not been happy with very much of what I brought out of the committee. I am sure he is not going to be real happy with what we are going to bring out on Davis-Bacon. But I am informed by my subcommittee—and I defer to my subcommittee chairman on their pace of what is reasonable, their working with the Republicans on the committee—as a way to move the legislation.

Now, I am informed that on next Tuesday the subcommittee will mark up a bill.

Now, I will make a promise that goes beyond that: If my subcommittee does not mark up the bill next Tuesday, at the next regular meeting, I will entertain a motion by any member who wants to make it or find one to make it if there is not any there, that we discharge the subcommittee from further consideration of the Davis-Bacon Reform Act and take it out and report it out here.

The gentleman from Texas [Mr. STENHOLM] is going to have a shot at Davis-Bacon before the next election.

Frankly, for the Members on my side of the aisle on the committee, they would like another shot at the Stenholm amendments before the next election.

So there is no reluctance on our part to give the gentleman his day in court.

Let me remind you why this is happening. Let us not stand things on their head.

The language that is in the appropriations bill is something that we approve of, even though it is legislation, because we do not have any other way to avoid what could be a disastrous confusion across this country.

The Labor Department has been heck-bent—it is even hard for me to say—on changing the helper provisions and the apprentice provisions of the law with an interesting sort of theory.

Now, the argument came from one of you gentlemen from Texas that we ought to let them do this because it will provide more jobs. What it will provide is more subwage jobs for untrained people. What the apprenticeship program has been doing throughout its history in this country is providing a methodology for the training of people to be journeyman construction workers. And we have gone through a good deal of the history, the modern history of this country, with the best construction workers in the world. And that is evidenced by the number of times that American construction companies have taken that trained work force that is the result of the apprenticeship program to other parts of the world to be world beaters in new building technology.

Now to suggest that you ought to put somebody on the top of a 50-story iron framework to build a building, with no training and no apprenticeship experience, just because it is cheaper to put them up there, is in my mind penny-wise and pound-foolish.

Really, what is being raised in this discussion by the gentleman from Texas is a different consideration that sooner or later we are going to have to face in this country. Do you want to say to the American people that we should continue to create dead-end, low-paying jobs? Or do you want to say to the American people that we should augment our past efforts to create well-paying jobs for as many people as possible and maintain the well-paid jobs for as many people as possible?

In other words, do you want a work force for the future in this country that gives us a viable middle class? Or do you want this country to be competing with other countries for the unskilled, low-skilled, bottom-of-the-heap, substandard-wage jobs that would be provided by Labor Department's approach?

☐ 1600

Now are we here legislating Davis-Bacon? No. What we are here doing is saying that we do not want the Labor Department to relegislate by regulation.

I have heard Members from the Republican side of the aisle, since I first arrived here, railing against pointy-headed bureaucrats, as George Wallace used to call them, legislating by regulation, and the pointy-headed bureaucrats are at it at the Labor Department. Now they have been trying to legislate Davis-Bacon by regulation. We want to legislate Davis-Bacon properly.

This House did, in fact, with the help of the gentleman from Texas, pass amendments to Davis-Bacon, but they were unfortunately attached to the armed services reauthorization bill, where we do not dominate the conference, and they were dropped in the conference with the House and Senate. In 1991, March 7, this House had a similar amendment before it and voted by 244 to 173 to tell the Labor Department, "Don't legislate by executive fiat. Wait until we have a chance to legislate."

Now I want to tell my colleagues that a bill that has been on the books since Herbert Hoover signed it in 1931 has been amended very few times, and I do not think it is quite fair for him to look to me and my committee and say that a 1-year delay in being able to fulfill our promise to the gentleman from Texas that he will have a shot at the whole bill on the floor is an inordinate time to wait, and I will accept such criticism as the gentleman deems to be fair about my failure, as an advocate of labor legislation, to bring enough labor legislation to this floor, and I will guarantee that everything that can be done within the rules of my committee and at the pleasure of a majority of that committee will be done to present the gentleman from Texas and all others who wish to be heard to have an opportunity for a full and open debate on what the future of Davis-Bacon ought to be.

Let me close by just pointing out one mistake that I hear as I walk around the floor. My friends from the National Federation of Independent Business might be disappointed if I vote against the gentleman's amendment. Now I am told about how many small businessmen in this country are constructing buildings with federally appropriated funds. Davis-Bacon does not tell private industry how to spend its money. Davis-Bacon says, "You must spend U.S. Government money, and, if you don't get any Government money, you don't have to comply with Davis-Bacon."

I say to my colleagues, "If you think Davis-Bacon is overburdened, then don't take the Government handout. Build it with private capital. That's the easy and complete way you escape all the provisions."

Finally, Mr. Chairman, let me observe this: That if we do not withhold the authority of the Labor Department to put into place regulations that really undercut the apprenticeship program, we will find that many States that have apprenticeship programs already in place will be preempted by a Labor Department regulation.

Now the gentleman lamented the fact that there have not been hearings and so on. There have been no hearings that I am aware of where it has been recommended that the Labor Department should preempt statewide programs that are already in existence, and that would be one of the effects.

If this language in the appropriation bill is not adopted and does not become law, and they go ahead at the Labor Department, we will come along later with the permanent legislation, which I predict will pass both the House and Senate, and it will be signed into law because that has been the pattern with both Democrat and Republican commissions over the whole life of Davis-Bacon. If we do that, however, and there is a time lapse in between, I can only ask my colleagues to guess at the kind of confusion we will cause across this country with States that are trying to do the right thing, not knowing whether they are doing the right thing or not and not knowing whether they should continue to put their efforts into an apprenticeship program to develop more skilled workers. I frankly do not think that what this country needs is more minimum wage, low-skilled workers. What this country needs is better skills for its workers so that they can properly command a better middle-class standard of living.

Mr. Chairman, that is really what is at stake in this whole thing. The whole principle of Davis-Bacon was not, as the gentleman suggested when he held himself out as a defender of minorities, to prevent black workers from coming from the South to the North. The whole purpose was not to use the people's money to go into any community anyplace in the country and depress wages by dumping Government money in there to do it.

Now the wage that Davis-Bacon requires in my district is not the wage that would be required in the district of the gentleman from Texas [Mr. DELAY] or in the district of the gentleman from Texas [Mr. STENHOLM]. I presume, without having checked them, they would have to pay higher wages for Government work in my district than they would in theirs, but it is the prevailing wage of what the local economy is paying that determines the level, and it keeps the Federal Government from going in there and, with its heavyhandedness of a big building project, upsetting all of the local established relationships between contractors, construction people and their workers.

That is exactly what brought Davis-Bacon in the first place. It was a major, the biggest, single contract, Federal contract, for construction in New York between World War I and World War II. It was that humongous veterans hospital, and I think it is on what they call Welfare Island or Roosevelt Island. I am not that familiar with New York City. But the contractors in New York who found themselves undercut by strangers coming in and bidding against them went to Davis-Bacon, to Republicans, and they, in 1929, passed their act, and it did not get through both Houses in the conference. They came back in 1931 and passed it again, and President Hoover, looking forward to the next election, I am sure, and the support of the construction industry, signed it into law.

Mr. Chairman, in my capacity as chairman of the Committee on Education and Labor, the committee with exclusive jurisdiction over the Davis-Bacon Act and apprenticeship training, I strongly oppose the amendment by the gentleman from Texas [Mr. STENHOLM]. The gentleman proposes to strike from the bill the Murtha amendment, which prohibits the Secretary of Labor from implementing regulations changing the application of the Davis-Bacon Act and the operation of the Federal apprenticeship training system. The regulations are contrary to the basic premises of their respective enabling statutes and would undercut standards that protect the livelihoods of construction workers and foster employment opportunities in the construction industry.

Mr. Chairman, this debate should not even be taking place. On two previous occasions in the 102d Congress, we have rejected attempts to protect ill-advised, backdoor legislating by the Department of Labor. On March 7, 1991, the Congress voted by 244 to 173 a permanent denial of funding to the Secretary of Labor to implement the new Davis-Bacon helper regulations and proposed apprenticeship regulations. However, despite explicit congressional intent, on April 21, 1992, the U.S. Court of Appeals for the District of Columbia ruled that the regulations could take effect. Thus, the gentleman from Pennsylvania [Mr. MURTHA] has amended the bill before us to reiterate congressional intent to permanently ban on funding to implement these two sets of regulations.

The last time this matter was before the House, I emphasized that the regulations were inappropriate because they would effect fundamental programmatic changes that "should be addressed only in the context of Davis-Bacon authorization legislation." Nothing has occurred in the last year to alter this conclusion.

In the 100th Congress the Committee on Education and Labor reported a comprehensive bill to reform the Davis-Bacon Act. Included in the bill was a specific provision that governed the helpers classification. That legislation was adopted by the House as part of the Department of Defense authorization. Unfortunately, the Davis-Bacon amendments were deleted in the House-Senate conference.

The Davis-Bacon helper regulations at issue here will depress wages in the construction industry, cause job losses as contractors substitute lower paid helpers for laborers, and jeopardize construction quality by enabling the employment of semiskilled or unskilled helpers to perform work previously done by skilled workers.

The proposed apprenticeship regulations have raised concerns in several critical areas. Chief among them are the setting of a 2-year minimum term for an apprenticeship program which is not compatible with or in concert with the needs of apprenticeship programs in the construction industry; elimination of a minimum hourly training requirement, which would be counterproductive, particularly where rapid technology changes require expanded training; and interstate portability of apprenticeship program registration which will encourage employers with substandard programs to seek out the State with the least stringent approval policy. These are only the most controversial provisions in the regulations. As a whole, the regulations will totally disrupt the current apprenticeship system and cause a reduction in the quality of training in the construction industry.

What's fundamentally at stake is the standard of living of construction workers in our country. The administration is pursuing a wage-busting strategy, driven by the simple-minded notion that construction work would be cheaper if the workers were paid less. Their way of paying less is to substitute low-paid helpers for higher-paid laborers and journeymen.

To some in the Labor Department there's no difference between a journeyman and a helper, except that the helper gets a lower wage. President Bush just doesn't respect the time, experience and learning—the skill—that a journeyman card represents. He and his Labor Department don't understand or respect the value of a skilled tradesman's work and the difference in quality that training and experience make. They don't understand the connection between high wages and high skills; they just don't get it.

If the Labor Department succeeds in doing away with journeyman to helper ratios, the quality of federally funded construction will inevitably fall. The projects will inevitably be more dangerous as less trained helpers substitute for skilled journeymen.

And ultimately, the respect for skills and quality work that has always characterized the American construction industry will be undermined, as journeymen find it harder to find employment at compensation commensurate with their skills.

The Department of Labor went ahead with the Davis-Bacon helper regulations despite the clear and emphatic expression of congressional opposition through the defeat of two separate amendments which sought to clear the way for their implementation. Similarly, the Department of Labor is flying in the face of expressed congressional opposition by seeking to finalize the proposed apprenticeship regulations.

I urge my colleagues to vote down the Stenholm amendment in order to reiterate the administration that it must recognize that authorizing legislation is the only appropriate means of effecting fundamental changes in the operations of the Davis-Bacon Act. As before, I support the Murtha amendment because it protects the legislative prerogative in this important area.

I have joined with my colleague, the gentleman from Pennsylvania [Mr. MURPHY], in sponsoring a comprehensive Davis-Bacon reform bill, H.R. 1987. The bill is almost identical to the bill approved by the House in the 100th Congress. Mr. MURPHY has scheduled the bill for markup by the Subcommittee on Labor Standards, which he chairs, on August 4. The gentleman from Kentucky [Mr. PERKINS] chairs the Subcommittee on Employment Opportunities, which has jurisdiction over apprenticeship programs. I am sure he will have some comments on that issue.

I have stated my position on these matters before, in the context of opposing amendments that would have allowed the Department of Labor to proceed with these ill-conceived regulations. I would like to reiterate my position for the record. Those who advocate changes in the fundamental framework of important labor laws should demonstrate the need and justification for major operational changes in the proper legislative forum.

I urge my colleagues to support the Murtha amendment contained in the supplemental appropriations bill and vote "no" on the Stenholm amendment.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I ask the gentleman, "Wasn't that for an emergency situation 60 years ago?

Mr. FORD of Michigan. Absolutely, not because Davis-Bacon——

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has expired. The gentleman from Texas [Mr. STENHOLM] is the only member who has time remaining.

Mr. STENHOLM. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I rise in favor of the Stenholm motion to strike. The rule waived a point of order against language in H.R. 5620, the supplemental appropriation for fiscal year 1992, that would legislate a permanent ban on helper reform regulations.

Another supplemental appropriation, another chance for those who wish to increase the scope of Davis-Bacon to circumvent the legislative and judicial process and restrict the administration's ability to cut costs in Federal construction projects.

If we are going to quote, reform, close quote, the Davis-Bacon requirements, we should support Mr. STENHOLM's reform proposal which would save over $500 million a year.

This is another example of legislating on a spending bill. I do not believe we should be discussing this contentious legislative issue during a debate on an appropriations bill. The most insidious part of the language currently in the bill is that its effects will be felt long after the moneys that are appropriated in this bill are spent.

As I said in March 1991, every other significant Davis-Bacon provision to come to the floor in the last decade—whether already in a committee bill or in a floor amendment—and whether proposed by Davis-Bacon reformers or apologists—has come with an opportunity for full debate and an opportunity for the other side to offer an alternative. I believe an appropriations bill is the wrong forum for this battle.

Given a choice, I would raise a point-of-order against the Davis-Bacon legislation on this bill. Since the rule denied that choice, I believe it is imperative that both sides of the issue have a chance to have their views debated.

To those 284 Members who voted in favor of the balanced budget amendment, a vote against the rule, and if that fails, a vote for the Stenholm motion is a vote to attack the debilitating deficit we face daily.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise today in strong support of the Stenholm amendment, and I commend my friend from Texas for offering it on the floor today. As a member of the Appropriations Committee, I am very disturbed by the breach of process that allowed this Davis-Bacon helper provision to make it into this bill. That's reason enough to support Mr. STENHOLM's amendment. Members of the Appropriations Committee were not made aware this controversial provision would be added to the supplemental appropriations bill. In fact, we were all preparing to debate its merits when the Labor-HHS bill was considered a couple of days later.

But let's look at the substance of this provision. The prohibition against implementing helper regulations contained in this bill will increase Federal construction costs by $600 million. It will reduce Federal contracting opportunities for small and minority contractors, and stifle job creation in the construction industry across the Nation.

To illustrate how this will happen, it is worth revising the words of the noted economist, Henry Hazlitt. Written decades ago, the numbers are different, but the truth is universal and eternal:

> The first thing that happens, for example, when a law is passed that no one shall be paid less than $106 for a 40-hour week is that no one who is not worth $106 a week to an employer will be employed at all. You cannot make a worker worth a given amount by making it illegal for anyone to offer him anything less. You merely deprive him of the right to earn the amount that his abilities and situation would permit him to earn, while you deprive the community even of the moderate services he is capable of rendering.

By setting the wage on Government contracts, and not allowing anyone to bid to do the work for less, we are consciously passing up the opportunity to save taxpayer dollars, while suppressing local employment opportunities. Most important, we deprive new entrants an opportunity to enter the market, to learn a trade and gain experience. Ironically, we do this at a time when we are desperate to reduce spending and create jobs.

There are some in this House who believe the Davis-Bacon Act is the best way to ensure high wages on Government awarded contracts. It does that alright, but only at the cost of reducing jobs and training opportunities and by reducing the number of much needed infrastructure projects that can be undertaken. Raising wages by Government fiat is the wrong way, the worst way, to prime the pump.

The helper classification which would be prohibited by this bill creates jobs for lower skilled workers—providing immediate employment and a way to get on the first rung of the job ladder. It is estimated that 250,000 jobs will be created annually by the Department of Labor's revised regulations. In the private sector, more than 75 percent of all construction work is performed by contractors who use semiskilled helpers.

Mr. Chairman, it is beyond me to understand why this body, that has extended unemployment benefits three consecutive times over the last 18 months, refuses to pass legislation that would actually create jobs and save taxpayer dollars. As a member of both the Appropriations and Budget Committees, I am mystified again and again by the lack of foresight and leadership shown on economic policy in this House.

I urge passage of the Stenholm amendment.

□ 1610

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I also support the Stenholm amendment to strike. If it is wrong to legislate on an appropriations bill, it is doubly wrong to legislate on a supplemental appropriations bill. If it is wrong, or even right, to have a 1-year ban on the promulgation of rules, you have got to admit that it is wrong to have a permanent ban on the promulgation of rules.

I do not care whether one is dealing with apprenticeship or helpers. On the helper issue I would like to say these are all union jobs that could be protected. The reality is if you do not allow this to exist, what is going to happen is you are going to have more nonunion contractors out there, not less.

Twice in Federal court and now in the appellate court the second time there have been efforts to prevent these rules from moving forth. Both times in the courts they have ruled against that.

Second, let us take a look at the apprenticeship laws. We in the committee are going to bring a bill out here to amend the ERISA as it affects apprenticeship in the very near future. By that we admit the apprenticeship laws in this country need modification. We are going to have schoolwork apprenticeship programs. The apprenticeship programs in this country are no manpower program at all. We have got to change them. We ought to move to strike.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Stenholm amendment. How ironic that in this legislation, where we are including over $230 million to advance funds to the unemployment trust funds, we are at the same time including provisions which frustrate the establishment of 250,000 new jobs in the construction industry.

Mr. Chairman, let us listen to our county commissioners and the National Association of Counties who urge support and passage of this amendment; let us listen to our leaders in our cities, to the National League of Cities, which supports passage of this amendment; let us listen to our school boards and our school superintendents which through the National School Boards Association has urged passage of this amendment; above all, let us listen to the people. Let us listen to the National Taxpayers Union, let us listen to the Citizens Against Government Waste that wants cleaner, more efficient government. Will this hurt minorities? Let us listen to the National Association of Minority Contractors that also supports passage of this amendment.

Mr. STENHOLM. Mr. Chairman, I yield my remaining time to myself.

Mr. Chairman, the gentleman from Michigan [Mr. FORD], the chairman, made some very relevant points a minute ago. I want to reiterate them from a different perspective.

The regulations we are talking about suspending today have been judged in a court of law and after a court of law to in fact be an accurate interpretation of Davis-Bacon as it was written and has not been significantly amended since 1931. That is why we should not do it today.

Also the reference to the NFID and small businesses is that this does not affect them. The gentleman has not been talking to small businesses lately. That is precisely the reason why we need to have these regulations. No small business in this country can bid on Federal projects because of the way in which these regulations are being interpreted and the Davis-Bacon Act being interpreted.

I find it reassuring, and I certainly do not question what the gentleman has said with regard to what his committee is going to do regarding legislation to be brought to this floor. I accept that.

I have waited for 13½ years to have Davis-Bacon debated in the authorizing committee on this floor. That is what we should be doing. We have been promised time and time and time again that we would have a freestanding bill. We have not gotten one. But I accept the fact we will have one now. It will be coming now.

Mr. Chairman, I ask Members to please vote for this motion to strike today, and let us settle this issue in the proper place on an authorizing bill on this floor where we can debate the merits of this particular resolution.

Mr. Chairman, if Members have ever wanted a clear vote budgetwise, the process of this House and all of the debate that goes on on the rules and the manner in which we interpret the budget rules of this House, there has never been a clearer opportunity to express themselves than they will have at this moment.

Mr. FAWELL. Mr. Chairman, I rise in strong support of Congressman STENHOLM'S motion to strike a provision in this supplemental appropriations bill to stop the Secretary of Labor from implementing court-approved regulations allowing the use of semiskilled helpers on Federal construction projects covered by the Davis-Bacon Act.

Such helpers would only be used if their use is a prevailing use in the area of the construction job. Such helpers could assist journeymen, which means less journeymen would be needed. Hence, the construction project, as in private construction, could be done for less money.

The construction unions lost the case in court. They could not get their injunction there so, of course they come to the court they control—Congress—to get their injunction.

All of this is despite the fact that the vast majority of all private construction projects use this helpers classification as part of the prevailing worker classification. Another significant change in labor law in this supplemental appropriations bill is that the language also permanently prohibits the Secretary of Labor from implementing any new regulations for apprenticeship programs.

This is outrageous—for at least three reasons.

Outrage No. 1 is that this is legislating new labor law in a supplemental appropriations bill—permanent new labor law. Obviously, an appropriations bill is no place for introducing major new labor law, especially when there is a bill—H.R. 1987—still pending in the House Labor Committee. The Subcommittee on Labor Standards has scheduled a markup on the measure for August 4.

Despite the fact that the authorizing committee is moving the legislation along, big labor wants this action taken and taken now, so committees are bypassed and it is placed in an appropriations bill.

Outrage No. 2 is this bill turns the intent of Davis-Bacon on its head. Davis-Bacon is intended to ensure that the wages to be paid are those prevailing in the area of the job and that job classifications are also supposed to be prevailing job classifications for the area. This is obviously not necessarily what big labor wants.

Outrage No. 3 is that no one argues that the job classification of helpers usually is considered a prevailing job classification in the vast majority of private construction jobs. The Department of Labor has been laboring in and out of court since 1982 to suggest that when a Federal construction job is in an area where helpers are a prevailing job classification—as defined by the Department of Labor regulations—now approved by the courts as fully consistent with the language and purpose of Davis-Bacon—then the prevailing definition of "helpers" in that area should be used. But organized labor says "no," and the majority party rubber stamps that now with an amendment to an appropriations bill each time the construction trade union loses its plea for an injunction from the Federal courts.

Outrage No. 4 is the real issue and, of course, is over money, the taxpayers' money—which means, "who cares?—in Federal—Davis-Bacon—construction jobs. Under union rules, helpers aren't used—although they are an accepted prevailing job classification—because helpers will assist journeymen. This is because there will be less journeymen—say, at $30 per hour—and more unskilled helpers—entry-level people, often minorities—say, at $12 per hour assisting journeymen and learning a trade.

We should remember that the helper position is the entry-level job for many individuals. Often they will acquire enough skills in that position, often supplemented by more formal training, to move into more skilled, better paying work. At a time when the construction industry is facing a shortage of skilled workers, this bill would prohibit just such a progression, as though the only way for one to enter into the construction trades was only through a union-sponsored apprenticeship plan. Such views have closed many doors to minorities seeking entry to the construction trades.

But, the use of helpers to contain construction costs and provide necessary training for advancement in the industry is not what the unions want, and they control the majority party. And so that's the way it's going to be, like it or not, and the taxpayer be damned. The taxpayers will just have to swallow an extra half billion or so of added expenses if it's a Federal construction job, or even a federally aided construction job.

If anyone thinks the Clintons or the Gores and the alleged new Democrat Party will be changing this kind of mischief well, think again. The special interests of this body just ain't going to allow it.

Mr. GRADISON. Mr. Chairman, I rise today in support of the Stenholm amendment for both budgetary and policy reasons. According to both Office of Management and Budget and the Congressional Budget Office, preventing the implementation of these regulations will increase Federal construction costs by $500 million per year.

For years, the Department of Labor [DOL] has tried to implement regulations that would relax Davis-Bacon requirements concerning the use of helpers. Helpers are low-skilled workers who assist journeymen on construction projects. Under current practices, anyone not in a registered apprenticeship program is classified as a journeyman and paid a journeyman's wage. This practice needlessly increases labor construction costs and limits entry-level job opportunities on Federal construction projects.

Almost daily the Appropriations Committee tells us how difficult it is to live within their 602(a) allocation. Prohibiting implementation of these regulations would needlessly cause the Appropriations Committee's scarce discretionary funds to be absorbed by higher Federal construction costs. Funds that could be used for other construction projects or appropriated to other programs.

By prohibiting these regulations, the Appropriations Committee is weakening its ability to fund other programs while still operating within the constraints of the budget agreement.

Striking this language will create both jobs for low-skilled workers and increase competition for Federal construction contracts.

Mr. GREEN of New York. Mr. Chairman, I rise in support of the Stenholm amendment to strike the provisions of the bill that permanently prohibit the Labor Department from spending funds to implement regulations that would promote the use of helpers on Davis-Bacon construction projects.

Last year, I voted in support of language that put a 1-year stay on the Labor Department's proposed helper regulations. However, I shall support the Stenholm amendment because the language in the supplemental appropriations bill seeks to permanently prohibit the Labor Department from ever implementing its helper regulations. While I do not endorse the Department's helper regulations, I do believe that this is a matter that should be addressed by the Education and Labor Committee and not resolved through the appropriations process.

Mr. HOUGHTON. Mr. Chairman, I rise to oppose this amendment. I have great respect for Mr. STENHOLM—what he is trying to do. We have discussed this.

I just think this is the wrong way to do it.

Yes. I want more jobs;

Yes. I want to give less-skilled people a chance in the marketplace;

Yes. I want to help the smaller companies compete on Government contracts.

But, creating a subclass of employees or producing a lower wage with no thought of subsequent apprenticeship training doesn't make much sense to me.

The salary of the so-called helper would be between 57 percent and 60 percent of the journeyman's wages. That's like saying that all junior vice president's salaries should be 57 percent to 60 percent, by law, of the president's salary.

Three points: If you can't afford the cost—cut people, do not belittle wages. Let the marketplace decide. And if you want to make a real change in Davis-Bacon to help business, increase the $3,000 base point where any contract kicks in.

Mr. WILLIAMS. Mr. Chairman, in order to effectuate the will of Congress as expressed twice during the 102d Congress to permanently halt implementation of the new Davis-Bacon helper regulation and proposed new apprenticeship regulations, the following language is included in the supplemental appropriations bill:

> Notwithstanding any other provision of law, no funds shall be expended hereafter by the Secretary of Labor to implement or administer either the final or proposed regulations referred to in section 303 of Public Law No. 109–27.

Congress has voted twice, in the Dire Emergency Supplemental Appropriations Act and in the 1992 Labor-HHS Appropriations Act)—during the first session of the 102d Congress to permanently deny the Secretary of Labor funding to implement the new Davis-Bacon helper regulation and proposed apprenticeship regulations.

Under the Davis-Bacon Act, the Department of Labor has in the past only issued wage determinations for laborers and mechanics—journeymen—as specifically required by the language of the statute. In a stark departure from its prior practice, in 1981, the Labor Department proposed that another category of workers—a helper—recognized under the Davis-Bacon Act—purportedly to give untrained minorities and women an entry level, lower wage position into the construction industry. In fact, helpers will receive no formal training and they will become a permanent class of semiskilled workers who earn very low wages.

The Department of Labor's rule allows contractors to assign the semiskilled work historically performed by laborers' classifications on a prevailing basis in hundreds of localities to lower-paid helper classifications. It is almost universal for laborers' collective bargaining agreements to include classifications of helpers or tenders to skilled journeymen who directly assist and work under the supervision of the journeyman, or to otherwise include semiskilled classifications of laborers whose duties fall within those duties which would be assigned to the new helper. The new helpers, however, will be paid lower rates and no fringe benefits such as health and pension contributions.

Because the proposed helper regulation promulgated by the Department of Labor will assign many of the traditional tasks of construction laborers to lower paid helpers, severely reduce the level of employment of construction laborers, who are in large part minority workers. The result will be that training programs of laborers will be severely reduced.

Mr. VENTO. Mr. Chairman, I rise in support of language contained in the bill H.R. 5620, the supplemental appropriations bill for fiscal year 1992, which renews a congressional ban on the Department of Labor's implementation of regulations on construction work helpers and apprentice programs.

Last year, the House defeated the amendment offered by the gentleman from Texas [Mr. STENHOLM], which would have permitted the Department of Labor to go forward with the issuance of new regulations governing helpers and apprentices. Now, 1 year later, the administration is once again attempting to ram through these new regulations which will have adverse consequences for apprentices and apprenticeship programs nationwide.

The proposed Department of Labor regulations establish a new category of helpers which would create a class of workers who, unlike laborers, would have no formal required training and no real hope of advancing within the construction industry. Instead, they will be exploited by contractors whose primary concern is to reduce their labor costs by paying low wages. The existing Davis-Bacon law requires that prevailing wages be paid to laborers and mechanics, also known as journeymen, on Federal and federally funded construction projects.

In 1990, I, along with 104 of my colleagues in the House, wrote to then-Secretary of Labor Dole to protest proposed regulations regarding apprenticeship programs. The same concerns which we expressed 2 years ago are still valid today. The new proposed regulations would disrupt the longstanding operation of apprenticeship programs nationwide.

Specifically, the new rules would effectively abolish State apprenticeship councils of employers and employees which currently exist in 26 States and the District of Columbia, including my home State of Minnesota. The regulations would also abolish ratio requirements of apprentices to journeymen, thereby negating any guarantee to apprentices that they will receive the type of vocational experience which they expect to receive and to which they are entitled.

In March 1991, I hosted a congressional briefing for Members and staff interested in the proposed new rules. Representatives from the Department of Labor's Office of Work-Based Learning and the Bureau of Apprenticeship and Training attended this briefing and assured those of us who were present that they understood the numerous concerns which were expressed regarding the proposed new rules. They indicated that they were working with all interested parties to develop rules which could be broadly supported. Unfortunately, it is clear today that the Bush administration is more interested in railroading these regulations into effect than in carefully weighing the many legitimate concerns of apprentices, employers, and employees.

Mr. Chairman, I strongly urge my colleagues to join in defeating the Stenholm amendment again this year. Let us send an unmistakable message to the Department of Labor that we will not permit the Federal Government to become an accomplice in the irresponsible efforts of those who would take meaningful apprenticeship programs and turn them into nothing more than a pool for low-wage labor.

Mr. COSTELLO. Mr. Chairman, I rise today in strong opposition to the amendment being offered by my colleague from Texas [Mr. STENHOLM].

The Davis-Bacon Act requires prevailing wages for laborers and mechanics on Federal and federally funded construction projects. The Department of Labor put into effect its new helper regulations in January of this year. Under the regulations, helpers receive no formal training and become a permanent underclass of workers toiling at very low wages. The regulations would result in severely reducing the level of employment for laborers, who are in large part minority workers already suffering from the recession.

The current language in H.R. 5620 asserts that the Department of Labor should not implement the helper and the proposed apprenticeship regulations. In harsh economic times such as these, we need to foster the job efforts of those hardest hit by the recession, not shut them out of the workplace. The Stenholm amendment, which would strike that language in H.R. 5620, fosters the creation of a new class of workers who, unlike laborers, would have no formal training and no hope of advancement within the construction industry.

I ask my colleagues to join me in opposing this disturbing amendment. It is intolerable to me that we, as lawmakers of this country, would turn our backs on those who need us most, those who are hardest hit by the recession.

Mrs. MINK. Mr. Chairman, I rise in opposition to the Stenholm amendment to H.R. 5620, which strikes the language in the bill which restricts spending to implement new regulations promulgated by the Secretary of Labor which went into effect on February 4, 1991, affecting the use of helpers in federally funded projects under Davis-Bacon.

Congress has spoken twice already to express its will on this subject, but this has been totally ignored by the Secretary of Labor.

This appropriations bill merely restates that language which had previously been agreed to by the Congress.

The Court, I believe, has erroneously ruled that permanent law cannot be enacted in appropriations bills.

This language which the Stenholm amendment seeks to strike is needed to prevent implementing the regulations which contradict the intent of Congress on this matter.

The open unrestricted use of helpers on federally funded projects at lower wages than required by Davis-Bacon will create havoc in the labor market and destabilize the workplace.

Further, the use of helpers who are not required to be included in specific training programs and apprenticeships to allow these workers to be adequately trained will create an underclass of workers who will be kept at a lower wage scale.

I believe that minority workers and women will be especially hard hit by allowing unlimited numbers of non-Davis-Bacon wage hires called helpers.

This issue is particularly critical when we are in a high unemployment slide in the construction industry with thousands of highly skilled workers in all trades unemployed.

The chairman of the Education and Labor Committee intends to offer legislation to appropriately define a helper category on the job site that affords entry level workers the protections and benefits of Davis-Bacon along with the prospects of future advancement to laborer or journey workers status.

I believe this matter deserves the full and considered attention of the committee to ensure that the intent and guarantees of just wages on Government construction projects in accordance with the Davis-Bacon Act are observed.

I look forward to this discussion in committee and urge that the Stenholm amendment be defeated.

Mr. HAYES of Illinois. Mr. Chairman, I rise in strong opposition to Representative STENHOLM's amendment to the supplemental appropriations for fiscal year 1992, H.R. 5620. This amendment would strike a legislative rider that permanently prohibits the Department of Labor from implementing regulations on construction work helpers and apprenticeship programs.

The Stenholm amendment would not only alter training requirements for apprenticeship programs in various skills and trades, but it would also promote the widespread use of helpers on Davis-Bacon construction projects, resulting in the displacement of skilled building craftspeople.

This amendment demonstrates an obvious disregard for the welfare of skilled building craftspeople, and apprentices, especially when many are already suffering from such harsh recessionary times. The Department of Labor regulations establish a new category of helpers which would create a class of workers who, unlike laborers, would have no formal training, no hope of advancement within the construction industry, and would receive extremely low wages.

Mr. Chairman, out of the concern for America's working-class laborers, I urge my colleagues to vote against the Stenholm amendment.

The CHAIRMAN. All time has expired on the amendment.

The question is on the amendment offered by the gentleman from Texas [Mr. STENHOLM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STENHOLM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 242, not voting 20, as follows:

[Roll No. 325]

AYES—172

Allard
Allen
Andrews (TX)
Anthony
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Hopkins
Huckaby
Hunter
Hutto
Inhofe
James
Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Myers
Neal (NC)
Nichols

McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Myers
Neal (NC)
Nichols
Nussle
Owens (NY)
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ramstad
Ravenel
Ray
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauzin
Taylor (NC)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOES—242

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Costello
Cox (IL)
Coyne
Cramer
Davis
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Pallone
Panetta
Pastor
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Poshard
Rahall
Rangel
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solomon
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—20

Anderson
Boxer
Campbell (CO)
Conyers
Dymally
Engel
Ford (TN)
Gingrich
Hatcher
Hyde
Ireland
Lent
Payne (NJ)
Perkins
Russo
Savage
Schulze
Solarz
Thomas (CA)
Thomas (GA)

□ 1637

The Clerk announced the following pair:

On this vote:

Mr. Thomas of California for, with Mr. Engel against.

Mr. GIBBONS and Mrs. SCHROEDER changed their vote from "aye" to "no."

Mr. HUNTER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. OWENS of New York. Mr. Speaker, I wish to have the RECORD, immediately following the vote on the Stenholm amendment to H.R. 5620, show that I mistakenly cast a vote "yes" when I meant to vote "no."

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA: On page 21, after line 11, insert the following new section:

SEC. . From funds appropriated to the Department of Transportation or made available in Public Law 102–143 or any other act for highway or highway-safety purposes from discretionary accounts, the Secretary of Transportation shall, not withstanding any other provision of this Act or any other act, make available not to exceed $500,000 for emergency corrective actions to be undertaken at Route 515, near Breakneck Road, in Vernon Township, New Jersey.

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mr. LEHMAN of Florida. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Florida [Mr. LEHMAN] reserves a point of order on the amendment.

The gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 5 minutes.

□ 1640

Mrs. ROUKEMA. Mr. Chairman, my amendment would direct the Secretary of Transportation to provide emergency funds for correcting a treacherous, steep, and winding stretch of highway, which local residents know as one of the worst stretches of road in New Jersey.

I am sad to say that my efforts this morning come in response to a series of tragedies, which culminated this weekend in the deaths of six New York tourists, and the injury of dozens more travelers and residents.

Before we have any further carnage on our hands, this stretch of road has got to be fixed. School buses use the road every day. Sunday's accident was as gruesome as anything you saw in the war in the desert. We must seize the moment and fix that road.

Anyone watching the news on Sunday night was witness to a scene of disaster, as emergency crews from around New Jersey, New York, and Pennsylvania raced to Vernon Township, NJ. Earlier that day, a tour bus of Brooklyn residents, en route to a Vernon amusement park, lost control of its brakes on a treacherous stretch of roadway.

The bus careened down Route 515, past a stretch called Breakneck Road. It collided with a car in the oncoming lane, spun and crashed into a second car. It then flipped off the road, barrel-rolling several times before bursting into flames. Some passengers were thrown out of the bus through glass windows. Others were trapped within, and showered by sheets of shattering glass.

Six people were killed. More than 40 remain injured today, many critically. Honestly, it is miraculous that any passengers survived.

I inspected the accident site yesterday afternoon, with representatives of the township of Vernon, the New Jersey Department of Transportation, and the Federal Highway Administration. I saw the remains of the bus. The bus was a charred shell, looking for all the world as though hit by several Scud missiles. I saw the deep scars in the road where control was lost. Looking up Route 515, I saw why Breakneck Road got its name.

Were this a single event, we could write it off as a freak accident, or unavoidable tragedy. But it is not a single event. It is not a freak accident. It is clearly the result of obvious unsafe conditions. This road is an accident waiting to happen.

Route 515 and Breakneck Road took another life less than 2 weeks ago, when a gasoline truck traveling to make a delivery lost control on the incline, spun out of control, and plunged off the side of the road. The driver of the truck was killed, and more than 9,000 gallons of gasoline spewed over the road and streams into the town. Firefighters from all across New Jersey rushed to the scene, smothering the vapors in foam before they could explode and ignite the nearby residences.

That day, thanks to the speedy actions of emergency crews, only one life was lost. But more than 2 days later, Vernon was still facing flash fires from the gasoline remains. The Mayor of Vernon put it best: "It was a miracle we didn't have more of a disaster."

A few months earlier, it was a trailer truck carrying a load of railroad ties which sped out of control, flinging its heavy cargo across the highway.

All told, this weekend's fatalities were the fourth major accident along a 10-mile stretch of pavement.

At an emergency meeting I called yesterday, I solicited recommendations from the county engineer and State transportation representatives for a solution. One cost-effective and clear solution came forward: the construction of sand-filled turn-off lanes along the sides of the hazard. These trenches provide a buffer for a vehicle which has lost control to turn into and stop safely.

Such sand-filled trenches could have saved the passengers on the bus Sunday. Or the gasoline truck driver a week before that. Or any of the other passengers killed or injured on Route 515 this year.

My amendment would direct the Secretary of Transportation to provide $500,000 of existing money for emergency corrective action on this treacherous stretch of roadway. These are funds which have already been appropriated for the Department of Transportation, and are intended to come from the discretionary accounts we provide our agencies and departments for dealing with emergencies such as this one.

I repeat, this provision provides for no new spending. It is merely directs existing moneys to the purposes for which they are intended. For urgent, emergency corrective measures.

My colleagues, we have before us a bill making urgent supplemental appropriations. I can not overstate to you the case for providing urgent relief along Route 515. We have already witnessed too many deaths, too many injuries, too much carnage. I ask for your support in making emergency efforts to end needless deaths, and let Breakneck Road claim no more victims. Again, schoolbuses use this road every day. Let's not delay or procrastinate, and invite another catastrophe, more suffering, more death.

I would ask the chairman to accept my amendment.

Mr. ROE. Mr. Chairman, I move to strike the last word in support of the amendment. I do not want to belabor the committee time. I think the gentlewoman from New Jersey has done a good job in explaining what we are faced with here.

We highly respect the chairman of the full Committee on Appropriations, and the chairman of the subcommittee, the gentleman from Florida [Mr. LEHMAN], our friend and counterpart, and the members of the Appropriation Committee. We have a special problem which we are trying to share with the Members. We need help.

The problem we have is this basic disastrous accident that took place, one of the worst in the country here this past Sunday, and in which, as the gentlewoman from New Jersey pointed out, 6 people were killed and 40 were in a bus that exploded in flames. We have a problem existing on Route 515. This program is going to cost us about $9 million to do.

□ 1650

We are not asking for that at all. We need help right now to get over this position we are faced with on an emergency basis.

Where we are coming from, we have to get going and correct this problem and to get it started. We need in the substance of the gentlewoman's amendment which is $500,000 to get this going.

We in the State of New Jersey will pay this entire bill. We are well aware and highly respect, as I said before, that there is a legitimate point of concern that is raised against this in a point of order, but we are asking the chairman not to invoke a point of order so we can get this particular situation achieved.

Now, I think it is important to point to Members that we are not asking to take anything away from anybody else. We are not asking for a new start. That is not what is involved here. We are not asking for 1993 money or allocations. That is not what is involved here. We are really asking to give us the authority to reprogram 1991 money to be used for this purpose, and we really need your help.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, this, of course, is only for $500,000 to address an extraordinary problem, and I strongly support the gentleman and the position of the gentlewoman.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I would simply say on the gentleman's reservation that I would like to make the point to the chairman that I want to stress again we are talking about a road that is used to transport schoolchildren every day.

I will tell you that I just would not be able to sleep at night if I thought we were going to go through another winter with those schoolbuses going down that road, icy in the wintertime, without the necessary emergency runoffs.

Mr. GALLO. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New Jersey.

Mr. GALLO. Mr. Chairman, as a member of the Committee on Appropriations, on numerous occasions we have had emergencies that have taken place, and we have modified the agenda to meet those emergencies. I would ask the chairman, the gentleman from Florida [Mr. LEHMAN], to give strong consideration to the suffering that has already gone through with 6 deaths and 40 injuries and also the potential for another disaster.

I know it is not the proper procedure, but the circumstances that brought us and brought my colleague, both colleagues from New Jersey, to the floor are not something that could have been planned. I would hope the chairman, the gentleman from Florida [Mr. LEHMAN], would give this consideration.

POINT OF ORDER

The CHAIRMAN. The gentleman from Florida [Mr. LEHMAN] is recognized on the point of order.

Mr. LEHMAN of Florida. Mr. Chairman, I insist on the point of order, because this amendment changes existing law and constitutes legislation in an appropriation bill and, therefore, violates clause 2 of rule XXI.

This amendment gives affirmative direction, in effect, because it requires the Secretary of Transportation to make funds available for a specific project. It does not apply to the appropriation under consideration, because it is earmarked funds not in this bill.

I understand the substantive value of this amendment, but there must be 100 or more such situations throughout the country where highways are not safe. What we need is a lot more money for highways to make them more safe throughout the whole country. We have dangerous highways in south Florida, as you do in New Jersey.

So I maintain and insist on my point of order.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. MCDADE] wish to speak on the point of order?

Mr. MCDADE. Mr. Chairman, I do. I thank the distinguished gentleman.

Mr. Chairman, like all Members, I think, in the Chamber, I have great sympathy with the gentlewoman from New Jersey.

Mr. Chairman, may I suggest that included in title XXIII of the United States Code, subsection 125, there is authorized an emergency relief program.

Now, I recognize that in generalization the program is intended for repair or reconstruction of highways or roads which have suffered serious problems as a result of natural disasters, but I want to point out, Mr. Chairman, that it also permits the repair of highways that need repair as a result, and I am quoting from the statute, "of catastrophic failures of any external cause." That is the language, and it is as wide and broad as it can be, Mr. Chairman.

We can argue, I suppose, that that pot of money ought not to be available for Route 515. But I think it does cover it, and may I say in conclusion, Mr. Chairman, that we intend to work with the distinguished gentlewoman from New Jersey through conference if this point of order is sustained to try to uphold her position.

The CHAIRMAN. Does the gentlewoman from New Jersey wish to speak on the point of order?

Mrs. ROUKEMA. Mr. Chairman, I think in considering this, first, I would like to ask a question of the chairman and perhaps the ranking member here.

The CHAIRMAN. The gentlewoman must address herself to the point of order.

Mrs. ROUKEMA. Yes, Mr. Chairman, I would.

I would consider that we have been stymied by a technicality here. I think that is unfortunate.

I do not agree with the point of order, but I cannot argue the point.

I would like to ask that if I withdraw the amendment, could I have the assurances, and the point of my question, Mr. Chairman, could I ask for your assistance along with the assistance of our colleague, the gentleman from Pennsylvania, in working with the Senate to get an appropriation and authorization from existing funds through legislation that is currently passing through both the House and the Senate, both this bill as well as the other authorization bill that is currently being worked on in the Senate?

Mr. LEHMAN of Florida. Mr. Chairman, the gentlewoman may be assured I am sympathetic to the situation for this highway and other highways throughout the country.

Certainly everything in the conference is open to negotiations including this particular legislation, and I am sure it will be offered in conference, and it would certainly have my consideration.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

For the reason stated by the gentleman from Florida [Mr. LEHMAN], the Chair sustains the point of order. The amendment is legislation and does not merely appropriate authorized funds.

The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Supplemental Appropriations, Transfers, and Rescissions Act, 1992".

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McNULTY) having assumed the chair, Mr. McDERMOTT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 297, nays 124, not voting 13, as follows:

[Roll No. 326]

YEAS—297

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Green
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Huckaby
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NAYS—124

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bereuter
Bliley
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Carper
Clinger
Coble
Combest
Condit
Cox (CA)
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Ewing
Fawell
Fields
Gallegly
Gekas
Geren
Glickman
Goss
Gradison
Grandy
Guarini
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hubbard
Hughes
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
Luken
Marlenee
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Orton
Packard
Paxon
Payne (VA)
Pease
Penny
Petri
Pursell
Quillen
Ramstad
Rhodes
Ridge
Riggs
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Schaefer
Schulze
Sensenbrenner
Shuster
Sikorski
Slattery
Smith (OR)
Smith (TX)
Solomon
Stenholm
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Walker

Weber
Weldon
Wolf
Wylie
Zeliff
Zimmer

NOT VOTING—13

Boxer
Conyers
Dymally
Engel
Ford (TN)
Gingrich
Hatcher
Hyde
Payne (NJ)
Perkins
Russo
Solarz
Thomas (GA)

☐ 1719

Messrs. HAMMERSCHMIDT, BLILEY, TAYLOR of North Carolina, and CLINGER changed their vote from "yea" to "nay."

Mrs. VUCANOVICH, and Messrs. FRANKS of Connecticut, EMERSON, HALL of Texas, and HOBSON changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, July 27, 1992, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 5645, by the yeas and nays; H.R. 5653, by the yeas and nays; and H.R. 450, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

EXCLUDING CERTAIN SPONSORSHIP PAYMENTS FROM UNRELATED BUSINESS INCOME OF TAX-EXEMPT ORGANIZATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5645.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ANDREWS] that the House suspend the rules and pass the bill, H.R. 5645, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 296, nays 123, not voting 15, as follows:

[Roll No. 327]

YEAS—296

Ackerman
Alexander
Allard
Allen
Anderson
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bliley
Boehlert
Boehner
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Cooper
Cox (CA)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Early
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Ford (MI)
Franks (CT)
Frost
Gallegly
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodling
Gordon
Goss
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hobson
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kleczka
Kolbe
Kolter
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Luken
Machtley
Manton
Marlenee
Martin
Martinez
Matsui
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McMillan (NC)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Montgomery
Moorhead
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Oxley
Packard
Panetta
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickle
Porter
Price
Quillen
Ramstad
Rangel
Ravenel
Ray
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sangmeister
Santorum
Sarpalius
Schaefer
Schiff
Schulze
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Stump
Sundquist
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wylie
Yatron
Young (FL)

NAYS—123

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Atkins
AuCoin
Beilenson
Bennett
Bilirakis
Blackwell
Bonior
Campbell (CA)
Carper
Clay
Collins (IL)
Collins (MI)
Condit
Costello
Cox (IL)
Crane
DeFazio
DeLauro
Dellums
Dooley
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (CA)
Espy
Evans
Foglietta
Frank (MA)
Gallo
Gejdenson
Gilman
Glickman
Gradison
Hayes (IL)
Henry
Hoagland
Hochbrueckner
Hughes
Johnson (SD)
Jontz
Kildee
Klug
Kostmayer
LaRocco
Leach
Levine (CA)
Long
Lowey (NY)
Markey
Mavroules
Mazzoli
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moody
Moran
Morella
Nagle
Nussle
Obey
Owens (UT)
Pallone
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Petri
Pickett
Poshard
Pursell
Rahall
Reed
Richardson
Ridge
Roth
Sabo
Sanders
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (OR)
Stallings
Stark
Stokes
Studds
Swett
Synar
Torres
Towns
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wolpe
Wyden
Yates
Young (AK)
Zeliff
Zimmer

NOT VOTING—15

Berman
Boxer
Conyers
Coughlin
Dymally
Ford (TN)
Gingrich
Hatcher
Hyde
Lehman (FL)
Perkins
Russo
Savage
Solarz
Thomas (GA)

☐ 1740

Messrs. WOLPE, MAZZOLI, RICHARDSON, and NAGLE, Ms. WATERS, Mr. CLAY, Mrs. COLLINS of Michigan, and Messrs. STOKES, STARK, ESPY, OWENS of Utah, and SHARP changed their vote from "yea" to "nay."

Mr. JOHNSTON of Florida and Mr. HERTEL changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

RELATING TO TAX-EXEMPT BONDS FOR GOVERNMENT-OWNED INTER-CITY RAIL FACILITIES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5653.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5653, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 48, nays 369, not voting 17, as follows:

[Roll No. 328]

YEAS—48

Abercrombie
Alexander
Andrews (ME)
Anthony
Applegate
Barnard
Beilenson
Berman
Bonior
Cardin
Collins (MI)
Cox (IL)
Coyne
DeFazio
Derrick
Eckart
Fazio
Gephardt
Geren
Hall (TX)
Hoagland
Jenkins
LaRocco
Levine (CA)
Matsui
Mazzoli
McDermott
McGrath
McMillen (MD)
Miller (WA)
Mink
Morella
Murphy
Oakar
Pease
Pickle
Rangel
Roe
Rostenkowski
Santorum
Sarpalius
Scheuer
Stark
Swift
Torricelli
Waxman
Weiss
Wilson

NAYS—369

Ackerman
Allard
Allen
Anderson
Andrews (TX)
Annunzio
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Cooper
Costello
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Mavroules
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Weber
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—17

Andrews (NJ)
Boxer
Conyers
Coughlin
Dymally
Ford (TN)
Gingrich
Hatcher
Hyde
Kolter
Lehman (FL)
Perkins
Russo
Savage
Solarz
Thomas (GA)
Traxler

□ 1751

Messrs. HOYER, STAGGERS, HERTEL, MANTON, and EDWARDS of California, Ms. SLAUGHTER, Mr. SCHUMER, Mrs. SCHROEDER, and Messrs. SMITH of Florida, LEHMAN of California, WYDEN, PANETTA, MINETA, FASCELL, GIBBONS, and LEVIN of Michigan changed their vote from "yea" to "nay."

Mr. HOAGLAND changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

STOCK RAISING HOMESTEAD ACT AMENDMENTS OF 1992

The SPEAKER pro tempore (Mr. McNULTY). The unfinished business is the question of suspending the rules and passing the bill, H.R. 450, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 450, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 248, nays 168, not voting 18, as follows:

[Roll No. 329]

YEAS—248

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Cox (IL)
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Glickman
Gonzalez
Gordon
Goss
Green
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harris
Hayes (IL)
Hayes (LA)
Hefley
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Natcher
Neal (MA)
Neal (NC)
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal
Sabo
Sanders
Sarpalius
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski

Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)
Zimmer

NAYS—168

Allard
Allen
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Blackwell
Bliley
Boehner
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carr
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Derrick
Dickinson
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Espy
Ewing
Fish
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gillmor
Gilman
Goodling
Gradison
Grandy
Guarini
Gunderson
Hammerschmidt
Hansen
Hastert
Hefner
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Jones (GA)
Jones (NC)
Kasich
Kyl
LaFalce
Lagomarsino
Lewis (CA)
Lipinski
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
Mavroules
McCandless
McCollum
McCrery
McDade
McEwen
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison
Murphy
Murtha
Myers
Nagle
Nichols
Nowak
Nussle
Ortiz
Orton
Oxley
Packard
Paxon
Petri
Pickett
Porter
Poshard
Pursell
Quillen
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Roth
Rowland
Sangmeister
Santorum
Schaefer
Schulze
Sensenbrenner
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Tallon
Taylor (NC)
Thomas (CA)
Thomas (WY)
Traficant
Traxler
Upton
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wheat
Whitten
Williams
Wylie
Young (AK)
Zeliff

NOT VOTING—18

Boxer
Conyers
Coughlin
Dymally
Erdreich
Ford (TN)
Gingrich
Hatcher
Hyde
Kolter
Lehman (FL)
Perkins
Pickle
Russo
Savage
Saxton
Solarz
Thomas (GA)

☐ 1800

Mrs. LLOYD and Mr. FIELDS changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERMISSION FOR SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY AND SUBCOMMITTEE ON GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. WISE. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislation and National Security and the Subcommittee on Government Information, Justice, and Agriculture of the Committee on Government Operations be permitted to sit during proceedings under the 5-minute rule on Wednesday, July 29, 1992.

Mr. Speaker, the subcommittee requests have been cleared by the minority.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERSONAL EXPLANATION

Mr. WISE. Mr. Speaker, because of a meeting in West Virginia dealing with a hazardous waste site in Winfield that I had to convene today, I missed five votes.

Had I been present I would have voted "no" on rollcall No. 320, "yes" on rollcall 321, yes on rollcall 322, "yes" on rollcall 323, and "yes" on rollcall 324.

RESIGNATION AS MEMBER OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Standards of Official Conduct:

JULY 24, 1992.

Hon. THOMAS FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Effective herewith, I hereby resign from the Committee on Standards of Official Conduct.

Sincerely,

GARY L. ACKERMAN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

COMMUNICATION FROM HON. LEON E. PANETTA, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. LEON E. PANETTA, Member of Congress:

WASHINGTON, DC,
July 28, 1992.

Hon. THOMAS S. FOLEY.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena issued by the United States District Court of Northern District of California for materials related to a constituent casework matter.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

LEON E. PANETTA,
Member of Congress.

PERSONAL EXPLANATION

Mr. PAYNE of New Jersey. Mr. Speaker, I was delayed today, speaking at the National Urban League in San Diego, and I missed a number of votes.

Had I been present I would have voted as follows:

Rollcall, 320, "no"; rollcall 321, "aye"; rollcall 322, "aye"; rollcall 323, "aye" rollcall 324, "aye" rollcall 325, "no" and rollcall 326, "aye".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, July 29, 1992.

THOMAS JEFFERSON COMMEMORATION COMMISSION ACT

Mr. MORAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5056) to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson, as amended.

The Clerk read as follows:

H.R. 5056

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Jefferson Commemoration Commission Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson;

(2) as author of the Declaration of Independence, Thomas Jefferson conceived and executed an affirmation of democratic government unequaled in both its eloquence and clarity;

(3) in an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people, to hold rulers continually responsible to the ruled, and to secure fundamental rights and liberties of free citizens;

(4) Thomas Jefferson was elected 3d President of the United States in 1801 and helped to establish the process by which ongoing political change is carried forward through public debate and free elections;

(5) with the Louisiana Purchase, Thomas Jefferson virtually doubled the size of the United States;

(6) the genius of Thomas Jefferson extended beyond the realm of politics and government to the adaptation of classic architecture, as exemplified by his home at Monticello and the grounds of the University of Virginia, which set an American standard of dignity, simplicity, and elegance;

(7) Thomas Jefferson encouraged American science in its infancy, and with his friend James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state;

(8) Thomas Jefferson also championed universal public education, believing such education essential to democratic government as well as to advancement of knowledge and the pursuit of happiness;

(9) it is appropriate to remember and renew the legacy of Thomas Jefferson for the American people and, indeed for all mankind, during a time when the light of democracy is again bursting upon the world; and

(10) as the Nation approaches the 250th anniversary of the birth of Thomas Jefferson, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned and coordinated by a national commission.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the Thomas Jefferson Commemoration Commission (in this Act referred to as the "Commission").

SEC. 4. DUTIES.

The Commission shall—

(1) plan and develop programs and activities appropriate to commemorate the 250th anniversary of the birth of Thomas Jefferson, including a limited number of projects to be undertaken by the Federal Government that harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) generally coordinate activities throughout the several States;

(3) honor historical locations associated with the life of Thomas Jefferson;

(4) recognize individuals and organizations that have significantly contributed to the preservation of Jefferson's ideals, writings, architectural designs, and other professional accomplishments, by the award and presentation of medals and certificates;

(5) encourage civic, patriotic, and historical organizations, and State and local governments, to organize and participate in anniversary activities commemorating the birth of Thomas Jefferson; and

(6) develop and coordinate any other activities relating to the anniversary of the birth of Thomas Jefferson as may be appropriate.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 21 members, including—

(A) the Chief Justice of the United States or such individual's delegate;

(B) the Librarian of Congress or such individual's delegate;

(C) the Archivist of the United States or such individual's delegate;

(D) the President pro tempore of the Senate or such individual's delegate;

(E) the Speaker of the House of Representatives or such individual's delegate;

(F) the Secretary of the Interior or such individual's delegate;

(G) the Secretary of the Smithsonian Institution or such individual's delegate;

(H) the Secretary of Education or such individual's delegate;

(I) the Chairman of the National Endowment for the Humanities or such individual's delegate;

(J) the Executive Director of the Thomas Jefferson Memorial Foundation or such individual's delegate; and

(K) 11 citizens of the United States who are not officers or employees of any government, except to the extent they are considered such officers or employees by virtue of their membership on the Commission.

(2) APPOINTMENTS BY PRESIDENT.—

(A) IN GENERAL.—The individuals referred to in paragraph (1)(K) shall be appointed by the President. The individuals shall be chosen based on their distinctive qualifications or experience in the fields of history, government, architecture, the applied sciences, or other professions that would enhance the work of the Commission and reflect the professional accomplishments of Thomas Jefferson.

(B) POLITICAL AFFILIATION.—Not more than 6 of the individuals appointed under subparagraph (A) may be affiliated with the same political party.

(C) RECOMMENDATIONS.—Of the individuals appointed under subparagraph (A)—

(i) 3 shall be appointed from among individuals who are recommended by the majority leader of the Senate in consultation with the minority leader of the Senate; and

(ii) 3 shall be appointed from among individuals who are recommended by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(b) TERMS.—Each member of the Commission shall be appointed not later than 90 days after the date of the enactment of this Act for the life of the Commission.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) CHAIRPERSON.—The President shall designate the chairperson of the Commission from among the individuals appointed under subsection (a)(2).

(e) COMPENSATION.—

(1) RATES OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Commission may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) MEETINGS.—The Commission shall meet at the call of the chairperson or a majority of its members.

(g) APPROVAL OF ACTIONS.—All official actions of the Commission under this Act shall be approved by the affirmative vote of not less than a majority of the members.

SEC. 6. POWERS.

(a) ADVISORY COMMITTEES.—The Commission may appoint such advisory committees as it determines to be necessary to carry out this Act.

(b) DELEGATION OF AUTHORITY.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this Act.

(c) CONTRACT AUTHORITY.—

(1) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, in order to carry out this Act.

(2) RESTRICTION.—The contracts, leases, or other legal agreements made or entered into by the Commission shall not extend beyond the date of termination of the Commission.

(3) TERMINATION.—All supplies and property acquired by the Commission under this Act that remain in the possession of the Commission on the date of termination of the Commission shall become the property of the General Services Administration upon the date of the termination.

(d) INFORMATION.—

(1) IN GENERAL.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the chairperson of the Commission, the head of the Federal agency shall furnish the information to the Commission.

(2) EXCEPTION.—Paragraph (1) shall not apply to any information that the Commission is prohibited to secure or request by another law.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 7. STAFF AND SUPPORT SERVICES.

(a) EXECUTIVE DIRECTOR.—The Commission shall have an executive director appointed by the chairperson of the Commission with the advice of the Commission. The executive director may be paid at a rate not to exceed the maximum rate of basic pay payable for GS–15 of the General Schedule.

(b) STAFF.—The Commission may appoint and fix the pay of additional personnel as it considers appropriate, except that an individual so appointed may not receive pay in excess of the maximum rate of basic pay payable for GS–13 of the General Schedule.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except as provided in subsections (a) and (b).

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Commission, the head of any Federal agency may detail, on a nonreimbursable basis, any of the personnel of the agency to the Commission to assist it in carrying out its duties under this Act.

(e) EXPERTS AND CONSULTANTS.—The chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at a rate which does not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8. CONTRIBUTIONS.

(a) DONATIONS.—The Commission may accept donations of money, personal services, and property, both real and personal, including books, manuscripts, miscellaneous printed matter, memorabilia, relics and other materials related to Thomas Jefferson.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Any funds donated to the Commission may be used by the Commission to carry out this Act. The source and amount of such funds shall be listed in the interim and final reports required under section 9.

(2) PROCUREMENT REQUIREMENTS.—In addition to any procurement requirement other-

wise applicable to the Commission, the Commission shall conduct procurements of property or services involving donated funds pursuant to the small purchase procedures required by section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)). Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall not apply to such procurements.

(3) DEFINITION.—For purposes of paragraph (2), the term "donated funds" means any funds of which 50 percent or more derive from funds donated to the Commission.

(c) VOLUNTEER SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(d) REMAINING FUNDS.—Funds remaining upon the date of termination of the Commission shall be used to ensure the proper disposition of property donated to the Commission as specified in the final report required by section 9.

SEC. 9. REPORTS.

(a) INTERIM REPORT.—Not later than December 31, 1992, the Commission shall prepare and submit to the President and the Congress a report detailing the activities of the Commission, including an accounting of funds received and expended by the Commission, during the period beginning on the date of the enactment of this Act and ending not earlier than 30 days prior to the submission of the interim report.

(b) FINAL REPORT.—Not later than December 31, 1993, the Commission shall submit to the President and to the Congress a final report. The final report shall contain—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) the findings, conclusions, and recommendations of the Commission;

(4) specific recommendations concerning the final disposition of historically significant items donated to the Commission under section 8(a); and

(5) any additional views of any member of the Commission concerning the Commission's recommendations that such member requests to be included in the final report.

SEC. 10. AUDIT OF FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—The Inspector General of the General Services Administration shall audit financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards. In conducting an audit pursuant to this section, the Inspector General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as necessary to facilitate the audit, and shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(b) REPORTS.—Not later than December 31, 1992, the Inspector General of the General Services Administration shall submit to the President and to the Congress a report detailing the results of any audit of the financial transactions of the Commission conducted before such date. Not later than March 4, 1994, such Inspector General shall submit to the President and to the Congress a report detailing the results of any audit of the financial transactions of the Commission conducted during the period beginning on December 31, 1992, and ending on December 31, 1993.

SEC. 11. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the final report required by section 9.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $250,000 for fiscal year 1993 and $62,500 for fiscal year 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. MORAN] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RIDGE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. MORAN].

GENERAL LEAVE

Mr. MORAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

There may be no man that this Congress and our Nation owe a greater debt to than Thomas Jefferson. Thomas Jefferson was the embodiment of the American Renaissance man. He conceptualized the principles for which the American Revolution was fought, and articulated those reasons in a clear and moving document that stands as one of the greatest testaments to man's freedom and destiny in the history of mankind. He created a university in Virginia that has established a national standard for excellence in education. He established our principles of religious freedom and separation of church and state. And, closer to home, Thomas Jefferson not only established the Democratic Party, but he also compiled the Manual of Parliamentary Practice that guides our legislative debates today. On April 13, 1993, we will have an opportunity to demonstrate our appreciation for the contributions Thomas Jefferson has made to Virginia and the United States by celebrating the 250th anniversary of his birth.

To commemorate the birth of Thomas Jefferson and to coordinate all the associated activities, the Committee on Post Office and Civil Service has recently reported legislation, introduced by our colleague GEORGE ALLEN, in whose district Jefferson's home, Monticello, is located, that would establish a Federal commission to plan, develop, and coordinate activities and programs celebrating the 250th anniversary of Thomas Jefferson's birth. The Commission would be composed of 21 members, including representatives of certain Federal departments and agencies, and 11 private citizens. Six of the eleven nonagency head commissioners would be appointed from the House and Senate. These Commissioners would serve without pay, except for reimbursements for travel expenses related to their official business.

This bill is a modest proposal that limits the involvement and financial commitment of the Federal Government. It ensures that the President and Congress play a major role in selecting members of the Thomas Jefferson Commemoration Commission. The Commission will also be forced to look primarily to individual and corporate donations for funding because of stringent limits on Federal funding. Total appropriations authorized by this bill are limited to $250,000 for fiscal year 1993 and only $62,500 for fiscal year 1994. The Census and Population Subcommittee of the Post Office and Civil Service Committee has worked closely with Representative ALLEN to improve this legislation and to ensure that this Commission does not repeat the mistakes of the past. I strongly believe that this effort will be a model for future commissions.

To ensure that the Thomas Jefferson Commemoration Commission is able to conduct its activities in 1993, the Congress must act now to both authorize and appropriate funds. I urge my colleagues to join me in support of this important legislation.

We will now hear from the gentleman from Virginia [Mr. ALLEN] in whose district Monticello is located, which is the home of Thomas Jefferson and which he in fact designed. And I think we have support on both sides of the aisle for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RIDGE. Mr. Speaker, I yield such time as he might consume to the gentleman from Virginia [Mr. ALLEN], the principal mover and prime sponsor of this legislation, who has probably shown more patience and more persistence during this Congress in order to bring this matter to the floor today than any other Member.

Mr. ALLEN. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE] for yielding the time, and I thank the gentleman from Virginia [Mr. MORAN] for his remarks.

Mr. Speaker, I rise in strong support of H.R. 5056, which would establish a commission to help commemorate the 250th anniversary of the birth of Thomas Jefferson. On May 5, 1992, I reintroduced this legislation with bipartisan support, including sponsorship by the entire Virginia delegation. I deeply appreciate the assistance and support of the distinguished chairman of the Subcommittee on Census and Population, Congressman SAWYER; the ranking Republican member, Congressman RIDGE; as well as the subcommittee staff, which has been tremendously helpful in crafting this legislation. We have worked hard to create a bill which I hope will have bipartisan support in the House.

April 13, 1993 will mark the 250th anniversary of the birth of Thomas Jefferson at Shadwell in Albemarle County, VA. Lectures, films, symposiums, and other educational events are being planned to honor Thomas Jefferson upon this milestone in our history.

□ 1810

The Commission established by H.R. 5056 is vitally necessary if we are to properly commemorate on a national and international level the enormous achievement and contribution of Thomas Jefferson to the formation and spirit of liberty in the United States. The ideals for which Mr. Jefferson fought are also embodied in the democratic revolutions which are unbounding people from tyranny all over the world. Great strides have been made, but the world is still not free from the evils of totalitarian government. We have a tremendous opportunity with this legislation to perpetuate the legacy of Thomas Jefferson, not only for the benefit of future generations of Americans, but for people all over the world who are hopeful for a chance to live in a free society. Americans, nevertheless, can continue to benefit from education and remember the founding principles of our Nation.

Americans and this Congress should frequently revisit the legacy of Mr. Jefferson in the formation of our country. This measure partially lists the impact Mr. Jefferson has had on this country.

Obviously everyone knows he was an author of the Declaration of Independence, which was conceived and executed as an affirmation of democratic government, which is an unequaled document in both its eloquence and its clarity. In an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people. That was a novel idea in those days, and it is a principle that rulers ought to be continually responsible to the rules and to secure fundamental rights and liberties for free citizens.

Thomas Jefferson, as we know, was elected third President of the United States and helped establish the process by which ongoing political change is carried forward through public debate and free elections. He was also the President who nearly doubled the size of the United States through the Louisiana Purchase.

The genius of Thomas Jefferson extended, though, beyond the realm of politics and government to the adaptation of classical architecture, exemplified by his home, Monticello, and the grounds of the University of Virginia, which has set a standard of dignity and simplicity and elegance.

Thomas Jefferson encouraged American science in its infancy, and with his friend, James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state.

Mr. Jefferson was also a champion of universal public education, believing such education essential to democratic government as well as the advancement of knowledge and the pursuit of happiness.

It is appropriate, therefore, that this Congress remember and renew the legacy of Mr. Jefferson for the people of America and, indeed, for all mankind, during a time when the light of democracy is again bursting upon the world.

Mr. Speaker, I share the concerns of many Members of the House regarding problems which have occurred with recent federally funded commissions. Without adequate safeguards and accounting, we have seen Federal commissions misuse the Federal funds appropriated to them. However, I am pleased we have been able to engage in a truly bipartisan effort to redraft this proposal with reduced funding levels and, Mr. Speaker, Mr. Jefferson would like that that we about halved the original funding of it, since he thought frugality was important, as well as I do, and we have reduced the funding levels, and we have some sound auditing and procurement procedures to ensure adequate accountability of the Federal funds involved. Section 10 of the bill requires the inspector general of the General Services Administration to audit the financial transactions of the commission in accordance with generally accepted auditing standards. This provision of the bill will help ensure the proper use of Federal funds. In addition, I have enormous confidence in the executive director of the Thomas Jefferson Memorial Foundation and the other scholars and statesmen who will serve on this Commission. Indeed, the community of Jefferson enthusiasts all across this country and scholars at Monticello and around the country is well established and highly respected. The safeguards in the bill as well as the caliber of individuals who are likely to be involved with the Commission reduce any chances of the misuse of funds.

As you may know, Senator JOHN WARNER and my predecessor, Congressman D. French Slaughter, Jr., first introduced legislation to establish the Commission last year. Senator WARNER'S bill, S. 959, has passed the Senate unanimously. Since April 13, 1993, is so near, there is a real urgency to get this Commission up and running as soon as possible.

Mr. Speaker, I urge my colleagues to support this important legislation.

Mr. MORAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. SAWYER], the distinguished and very able chairman of the Subcommittee on Census and Population of the Committee on Post Office and Civil Service.

Mr. SAWYER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 5056, the Thomas Jefferson Commemoration Commission Act.

This legislation would establish a national commission to commemorate the 250th anniversary of the birth of the author of the Declaration of Independence through various national educational programs, scholarships, and celebrations. The bill authorizes a modest appropriation of $250,000 in fiscal year 1993 and $62,500 in fiscal year 1994, and authorizes the Commission to accept donations of money, personal services, and property to carry out its duties.

The Subcommittee on Census and Population, which I chair, took great care in its review of H.R. 5056. The caution stemmed from concerns about the structure of the Commission vehicle for the commemoration.

Last year, the subcommittee pursued an intensive investigation of another Federal Commission that was charged with coordinating activities in celebration of a historical event. That investigation, carried out with the assistance of the General Accounting Office [GAO], revealed chronic and debilitating weaknesses in the structure of Federal holiday commissions that made them vulnerable to mismanagement and poor administration.

I am pleased to say that with the continued help of GAO, and with the full cooperation of Congressman ALLEN, we have been able to develop a sound organizational and working structure for the proposed Jefferson Commission.

As reported by the Committee on Post Office and Civil Service, H.R. 5056 includes the necessary safeguards and oversight mechanisms to ensure that taxpayer dollars are spent wisely in planning and preparing for activities and events in honor of Thomas Jefferson.

Examples of these safeguards include the appointment of the Chairman by the President, instead of the Commission electing a chairman from among themselves, a group of people they may not know very well, if at all.

The inspector general of GSA would be required to conduct two audits of the Commission. The Commission would be required to submit interim and final reports to Congress, including an accounting of funds received and expended.

Finally, the bill does not authorize the licensing of any logo or symbol certified by the Commission for the purpose of raising revenues for Commission programs or for any other commercial venture. Such efforts have proven to be unmanageable in the past and have not added to revenues for similar commissions.

Clearly, Thomas Jefferson is deserving of the recognition this legislation proposes to bestow upon him. His legacy of democratic ideals and principles not only has served Americans well for over 200 years, it continues to fuel democratic movements around the world.

Finally, I want to thank Congressman ALLEN, the bill's sponsor, for his sensitivity to the committee's concerns and for his willingness to work with us in developing a proposal that we could support.

Mr. Speaker, I urge my colleagues to support this important legislation.

Mr. RIDGE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 5056 and I want to take this opportunity to thank my good friend the gentleman from Ohio, [Mr. SAWYER], chairman of the Subcommittee on Census and Population and the gentleman from Pennsylvania [Mr. RIDGE], the ranking member of the subcommittee, and the gentleman from Missouri [Mr. CLAY], the distinguished chairman of the full committee, and the gentleman from Virginia [Mr. MORAN] for expeditiously considering this measure.

Mr. Speaker, I commend the gentleman from Virginia, Mr. ALLEN, for introducing this measure and for his continuing perseverance of the effort started by our good friend and former colleague from Virginia, Mr. Slaughter.

Mr. Speaker, I strongly support H.R. 5056 which establishes a Federal commission to appropriately celebrate the 250th anniversary of the birth of Thomas Jefferson. The Commission would provide us with the opportunity to recognize and commemorate the contributions and accomplishments of this great statesman as well as enabling us to rediscover the democratic principles espoused by Thomas Jefferson. Establishment of the Thomas Jefferson Commission would permit Congress and the United States to perpetuate Jeffersonian ideals and principles in our Nation and throughout the world. The Commission would allow us to share in his legacy.

Accordingly, I urge my colleagues to support H.R. 5056.

□ 1820

Mr. MORAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I want to thank my colleague, the gentleman from Virginia.

I rise in strong support of H.R. 5056, which is a bill to create a Federal commission to assist in the planning of the commemoration of the 250th birthday of Thomas Jefferson.

I commend my colleague, the gentleman from Virginia [Mr. ALLEN] for the fine job that he has done in bringing forth this legislation to the floor this evening.

I would also like to thank Chairman CLAY and ranking member GILMAN for the work that they have done and thank the gentleman from Ohio [Mr. SAWYER], the chairman of the subcommittee, and the ranking member, the gentleman from Pennsylvania [Mr. RIDGE] who have done a very thoughtful and thorough job on this legislation, and I believe it will become a model for other legislation as well.

The timing of this commemoration could not be more appropriate. We are not just recognizing the birth and the contributions of a great American patriot—we are celebrating our democracy, our ideals, and our freedoms.

In this country, Americans are preparing once again to exercise one of our greatest freedoms and responsibilities—the right to choose those who will govern and lead us into the 21st century.

Around the globe, nations are emerging from the darkness of tyranny into the light of freedom and self-determination, guided and encouraged by the promise and hope of the democratic principles and ideals that Jefferson defined and nurtured two centuries ago.

H.R. 5056 proposes to establish a commission to assist in the commemoration planned for next year to celebrate the 250th anniversary of the birth of Thomas Jefferson, the chief architect of America's enduring and successful experiment with democracy.

Thomas Jefferson's legacy was profound. He believed that the only legitimate government was one which was based on the active consent of the people. He believed that those in government must be held responsible and accountable to the governed. He believed that if the United States was to achieve its ambition and promise, it had to secure, protect, and promote individual rights and liberties against the power—and potential abuse—of the State.

Thomas Jefferson, as we have heard earlier in this debate, in addition to his many other interests was an architect. He designed the grounds at the University of Virginia, designed his well-known home, Monticello, near Charlottesville, which is visited each year by thousands of people from around the world.

Thomas Jefferson's other home, his retreat at Poplar Forest near Lynchburg, VA, is now in the early stages of restoration and rehabilitation.

Jefferson designed Poplar Forest as his personal retreat as he stepped down from public life.

Poplar Forest is a very personal work of architecture, a design that both shelters and inspires.

It is my hope that as we celebrate the anniversary of Thomas Jefferson's birth, we can also advance the preservation of Popler Forest, the home which nourished him at the end of his life.

As Thomas Jefferson prepared for his death, he wrote this epitaph:

> Here was buried Thomas Jefferson, author of the Declaration of American Independence, of the statute of Virginia for religious freedom, and father of the University of Virginia.

In the simple and humble dignity of those 27 words, Jefferson wanted to be remembered as an American citizen, not a statesman.

This Commission will help us commemorate his 250th birthday and the memory of a great man.

The work of the Commission will help remind those in Government that we serve at the will of the people. And it will help to remind all Americans of their responsibilities as citizens in this great democracy.

Mr. RIDGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no further requests for time. We would be remiss, however, if we did not underscore once again the initiative undertaken by our friend and former colleague, French Slaughter, to bring this matter to the Congress of the United States several years ago, and fortunately for this Commission and for French, the ever-ubiquitous and hard-working, persistent, and very accommodating gentleman from Virginia [Mr. ALLEN] who succeeded him in that venture.

I also wanted to hold out for special comment the good work of our ranking majority member, our friend and colleague, the gentleman from Ohio [Mr. SAWYER].

Mr. Speaker, I rise in full support of H.R. 5056. I would like to thank Chairman CLAY and Chairman SAWYER for moving this bill through the legislative process so promptly. I commend our colleagues, GEORGE ALLEN and his predecessor, D. French Slaughter, for all their hard and arduous work on this bill. I know personally that both these Members have been dedicated to seeing that this bill is passed by Congress.

I would also like to thank them for their patience with this subcommittee and working with us in strengthening some of the provisions in the bill. Thomas Jefferson once wrote that delay is preferable to error, and I believe that by delaying action on this bill did prevent error.

We have had problems in the past with the operations of Federal commissions. I never thought that the Subcommittee on Census and Population would ever consider legislation to establish a Federal commission while my good friend TOM SAWYER was the chairman and I was the ranking member. However, I would like to stress that this legislation has been drafted with strong and careful language to ensure that problems that have occurred with other Federal commissions will not occur with the Thomas Jefferson Commemoration Commission.

The democratic principles espoused by Thomas Jefferson have not been put to rest in the National Archives as part of this country's history, but continue to be as alive today as they were at the birth of this great Nation. As I have been watching the Olympics these past few days, I am again astounded by the changes that have taken place in this world over the past 4 years and I have to wonder if these changes would have happened without Thomas Jefferson's words to haunt and to challenge the emerging democracies of the Eastern bloc countries.

As H.R. 5056 states in its findings as the Nation approaches the 250th anniversary of the birth of this great American, it is appropriate to create a Federal commission to plan and coordinate activities to celebrate and commemorate this anniversary. I would like to urge all Members to join me in supporting this bill.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

I want to recognize the leadership of the chairman of the full committee, the gentleman from Missouri [Mr. CLAY] on this bill, and to recognize Terri Ann Lowenthal, the staff person for the subcommittee that brought this bill forward, and my own staff person, Michael Brown.

Mr. RIDGE. Mr. Speaker, I yield back the balance of my time.

Mr. MORAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia [Mr. MORAN] that the House suspend the rules and pass the bill, H.R. 5056, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MORAN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate bill (S. 959) to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Jefferson Commemoration Act".

SEC. 2. FINDINGS.

The Congress finds and recognizes that—

(1) April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson;

(2) as author of the Declaration of Independence, Thomas Jefferson conceived and executed an affirmation of democratic government unequaled in both its eloquence and clarity;

(3) in an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people, to hold rulers continually responsible to the ruled, and to secure fundamental rights and liberties of free citizens;

(4) Thomas Jefferson was elected third President of the United States in 1801 and helped to establish the process by which ongoing political change is carried forward through public debate and free elections;

(5) with the Louisiana Purchase, Thomas Jefferson virtually doubled the size of the United States;

(6) the genius of Thomas Jefferson also extended beyond the realm of politics and government, adapted classic architecture as exemplified by his home at Monticello and the grounds of the University of Virginia, set an American standard of dignity, simplicity, and elegance;

(7) Thomas Jefferson encouraged American science in its infancy, and with his friend James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state;

(8) Thomas Jefferson also championed universal public education, believing such education essential to democratic government as well as to advancement of knowledge and the pursuit of happiness;

(9) it is appropriate to remember and renew the legacy of Thomas Jefferson for the American people and, indeed for all mankind, during a time when the light of democracy is again bursting upon the world; and

(10) as the Nation approaches the 250th anniversary of the birth of Thomas Jefferson, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned and coordinated by a national commission representative of appropriate individual, public, and private officials and organizations.

SEC. 3. ESTABLISHMENT.

There is established the Thomas Jefferson Commemoration Commission (hereafter referred to as the "Commission"), to promote and coordinate activities in commemoration of the 250th anniversary of the birth of Thomas Jefferson.

SEC. 4. FUNCTIONS OF THE COMMISSION.

The Commission shall—

(1) plan and develop programs and activities appropriate to commemorate the 250th anniversary of the birth of Thomas Jefferson, including a limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) generally coordinate activities throughout the States;

(3) honor historical locations associated with the life of Thomas Jefferson;

(4) sponsor at least one international symposium pertaining to Jefferson's legacy, to be composed of scholars, public officials, and private citizens;

(5) recognize individuals and organizations that have significantly contributed to the preservation of Jefferson's ideals, writings, architectural designs, and other professional accomplishments, by the award and presentation of medals and certificates;

(6) encourage civic, patriotic, and historical organizations, and State and local governments to organize and participate in anniversary activities commemorating Jefferson's birth; and

(7) develop and coordinate any other activities as may be appropriate.

SEC. 5. MEMBERSHIP AND COMPOSITION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 18 members, including—

(1) the Librarian of Congress or his delegate;

(2) the Archivist of the United States or his delegate;

(3) the President pro tempore of the Senate or his delegate;

(4) the Speaker of the House of Representatives or his delegate;

(5) the Secretary of the Interior or his delegate;

(6) the Secretary of the Smithsonian Institution or his delegate;

(7) the Executive Director of the Thomas Jefferson Memorial Foundation or his delegate;

(8) 5 private citizens of the United States, appointed by the President, no more than 3 of whom shall be affiliated with the same political party;

(9) 3 private citizens of the United States, selected by the Majority Leader of the Senate, in consultation with the Minority Leader, no more than 2 of whom shall be affiliated with the same political party; and

(10) 3 private citizens of the United States, selected by the Speaker of the House of Representatives, in consultation with the Minority Leader, no more than 2 of whom shall be affiliated with the same political party.

(b) APPOINTMENTS AND TERMS.—(1) IN GENERAL.—Each member shall be appointed within 90 days after the date of enactment of this Act, for the life of the Commission.

(2) CHAIRMAN.—At the time the President nominates individuals for appointment to the Commission pursuant to subsection (a)(8), the President shall designate one such individual who shall serve as Chairman of the Commission.

(3) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) REPRESENTATION.—Individuals appointed under paragraphs (8), (9), and (10) of subsection (a), shall be representative, to the maximum extent possible, of the full range of United States citizens. The Commission members shall be chosen based on their distinctive qualifications or experience in the fields of history, government, architecture, the applied sciences, or other professions that would enhance the work of the Commission and reflect the professional accomplishments of Thomas Jefferson.

(c) COMPENSATION AND TRAVEL.—(1) COMPENSATION.—(A) Except as otherwise provided under paragraphs (2) and (3), each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate or basic pay for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or em-

ployees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL.—While away from their homes or regular places of business in the performance of services for the Commission, members and employees of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 6. POWERS OF THE COMMISSION.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(b) APPROVAL OF ACTIONS.—All official actions of the Commission under this Act shall be approved by the affirmative vote of no less than a majority of the Commissioners.

(c) ADVISORY COMMITTEES.—The Commission may appoint such ex officio advisory committees as it determines necessary to carry out the provisions of this Act.

(d) POWERS OF MEMBERS AND EMPLOYEES.—Any member or employee of the Commission may, to the extent authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at the rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) PROCUREMENT OF SUPPLIES, SERVICES, AND PROPERTY.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements in order to carry out the provisions of this Act. No contracts, leases, or other legal agreements made or entered into by the Commission shall extend beyond the date of termination of the Commission. All supplies and property acquired by the Commission under this Act which remain in the possession of the Commission on the date of termination of the Commission shall become the property of the General Services Administration upon the date of termination.

(g) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(h) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 7. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—The Chairman, with the advice of the Commission, shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an executive director who may be compensated at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule established under section 5315 of such title.

(b) ADDITIONAL PERSONNEL.—The Commission may appoint and fix the compensation of additional personnel, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under 5316 of such title.

(c) PERSONNEL DETAIL AUTHORIZED.—Upon request of the chairman, the head of any Federal agency is authorized to detail, on a reimbursable or nonreimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out its duties under this Act.

SEC. 8. CONTRIBUTIONS TO THE COMMISSION.

(a) DONATIONS.—The Commission is authorized to accept donations of money, personal services, and property including books, manuscripts, miscellaneous printed matter, memorabilia, relics and other materials related to Thomas Jefferson.

(b) USE OF FUNDS.—Funds donated to the Commission may be used by the Commission in order to carry out the purposes of this Act. The source and amount of such funds shall be listed in the interim and final reports under section 9.

(c) VOLUNTEER SERVICES.—The Commission may accept the volunteer services of private individuals or companies as the Commission determines necessary.

(d) REMAINING FUNDS.—Funds remaining upon the date of termination of the Commission shall be used to ensure the proper disposition of property donated to the Commission as specified in the Commission's final report under section 9.

SEC. 9. REPORT.

(a) INTERIM REPORT.—No later than December 31, 1992, the Commission shall prepare and submit to the Congress and the President of the United States a report on the activities of the Commission. The report shall include an accounting of funds received and expended by the Commission, including a description of the products or services received by the Commission in connection with the expenditures, the identity of the provider of the products or services, and the amount paid to the provider by the Commission.

(b) FINAL REPORT.—No later than December 31, 1993, the Commission shall submit to the President and to the Congress a final report. The final report shall contain the findings, conclusions, and recommendations of the Commission. The final report shall include a final accounting of funds received and expended by the Commission, including a description of the products or services received by the Commission in connection with the expenditures, the identity of the provider of the products or services, and the amount paid to the provider by the Commission. Specific recommendations concerning the final disposition of historically significant items donated to the Commission under section 8 shall also be contained in the final report.

(c) ADDITIONAL VIEWS.—The final report shall include additional views of members concerning the Commission's recommendations under subsection (b), at the request of such members.

SEC. 10. TERMINATION.

The Commission shall terminate no later than 60 days following submission of the final report required by section 8.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this Act $250,000 for the 1992 fiscal year, $250,000 for the 1993 fiscal year, and $125,000 for the period beginning on October 1, 1993, and ending on December 31, 1993. Amounts appropriated under this section for any fiscal year shall remain available until 60 days after December 31, 1993. The total appropriations authorized under this Act for the purpose of this Act shall not exceed $625,000.

MOTION OFFERED BY MR. MORAN

Mr. MORAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MORAN moves to strike out all after the enacting clause of S. 959 and to insert in lieu thereof the provisions of H.R. 5056, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5056) was laid on the table.

IN MEMORY OF JEANNE HYDE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the people of Illinois and our Nation have lost a very great lady. After a long and courageous battle, Jeanne Hyde, wife of our colleague HENRY HYDE, passed away today. Her loss is felt by all of us in this House, and everyone who was fortunate enough to know her.

I first met Jeanne when I served with HENRY in the Illinois General Assembly—in fact, the very first vote I ever cast in any legislative body was to vote for HENRY HYDE for speaker of the Illinois House. Jeanne was an inspiration then, and she continued to shine her special light wherever she went throughout her life.

She served as an aide to Presidents Reagan and Bush, and always touched those around her with her grace, compassion, and humor. Today, family, friends, and those who have worked with Jeanne Hyde in the White House and in Illinois are remembering her delightful spirit and how it inspired all of us.

In particular, her bravery in fighting her illness showed us all what strength of character and courage really mean. Throughout the ordeal that she, HENRY and the Hyde family faced, she maintained her magnificent, positive outlook and thought not of herself, but of those around her. That wonderful spirit and her outstanding service to her community and her Nation will be Jeanne Hyde's enduring legacy.

Mr. Speaker, I know I speak for every Member of this House in expressing our deepest sympathy and in wishing that God's grace and comfort may be with HENRY and his family during this difficult time.

□ 1830

I want to notify Members that visitation will be on Wednesday, tomorrow, from 1 p.m. to 5 p.m., at the Murphy Funeral Home, 4510 Wilson Boulevard in Arlington, VA, and a Mass of Christian burial will be held at 7 p.m., Wednesday, at the Cathedral of St. Thomas More, 3901 Cathedral Lane, also in Arlington.

TRANSITION TO HUNGER-FREE STATUS

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 302) expressing the sense of the Congress regarding communities making the transition to hunger-free status, as amended.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 302

Whereas a growing number of State and national reports on the prevalence of hunger in United States communities has heightened the public's awareness of hunger-related issues;

Whereas the increase in severe poverty in such communities is evidence that more adults and children are vulnerable to hunger-related problems;

Whereas there is a need for community partnership and involvement in order to assist in Federal and State support for hunger and poverty programs;

Whereas there is a need for guidelines that will affirm the community's vital role in improving access to food resources for residents who are vulnerable individuals and families; and

Whereas such guidelines should be in the form of actions that a community could take in order to move toward solving hunger and malnutrition problems of its residents: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that a community should work toward—

(1) having a community-based emergency food delivery network that coordinates the services of programs such as food pantries, food banks, and congregate meals facilities;

(2) assessing food insecurity problems and evaluating existing services in the community to determine necessary strategies for responding to unmet needs;

(3) establishing a group of individuals, including low-income participants, to develop and to implement policies and programs to combat food insecurity, to monitor responsiveness of existing services, and to address underlying causes and factors related to hunger;

(4) participating in federally assisted nutrition programs that should be easily accessible to targeted populations, such as the Federal programs that provide school breakfast, school lunch, summer food, child care food, and food for homeless and older individuals;

(5) effective integrating public and private resources, including local businesses, to alleviate food insecurity;

(6) having an education program about food needs of the community and the need for increased local citizen participation in activities to alleviate food insecurity;

(7) having available information and referral services for accessing both public and private programs and services;

(8) having initiatives for alleviating food shopping constraints through the development of creative food resources such as community gardens, buying clubs, food cooperatives, community-owned and operated grocery stores, and farmers' markets;

(9) carrying out activities to identify and target food services to high-risk populations;

(10) having adequate transport and distribution of food from all resources;

(11) coordinating food services with park and recreation programs and other community-based outlets to which residents of the area would have easy access;

(12) improving public transportation, human service agencies, and food resources;

(13) having nutrition education programs for low-income citizens to enhance good food-purchasing and food-preparation skills and to heighten awareness of the connection between diet and health; and

(14) having a program for collecting and distributing nutritious food, either agricultural commodities in farmers' fields or foods that have already been prepared, that would otherwise be wasted.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on House Concurrent Resolution 302, the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 302 expresses the sense of Congress that communities should strive to become hunger-free, and proposes 14 steps that local governments and community-based organizations can take to alleviate local hunger problems.

The resolution was introduced by Mr. TONY HALL and was jointly referred to the Committees on Education and Labor and Agriculture, and was approved and ordered reported by both committees.

In order to achieve hunger-free status the resolution states that communities should: Develop community-based emergency food delivery networks; assess and evaluate existing services; participate in federally-assisted nutrition programs such as school breakfast, lunch, summer food, child care food, and food for homeless and older individuals; and engage in several other activities designed to alleviate hunger.

These are activities that will benefit all communities, and I urge adoption of this most sensitive and important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Missouri [Mr. EMERSON], a member of the Select Committee on Hunger.

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 302, which expresses the sense of Congress regarding communities making the transition to hunger-free status.

I have a particular interest in this resolution because of the efforts in my home town of Cape Girardeau, a community of 35,000 people. Missouri State Representative Mary Kasten worked diligently with churches, community and business leaders, government officials, and others involved in programs providing help to needy families to establish the community caring council. The Cape Girardeau Community Caring Council has established a system so that people expressing a need for a certain type of assistance can be evaluated to see if the need extends to other programs, including assistance that may be available in the private sector. Therefore, needy families are evaluated and referred to all appropriate entities that may be of assistance.

I am proud of the efforts displayed by the community leaders of Cape Girardeau and believe that other communities have made similar efforts.

For example, former President Carter is initiating a similar project in Atlanta. President Carter says more money is not necessarily the answer to solving some social welfare problems, but better coordination of existing programs is.

House Concurrent Resolution 302 sets forth guidelines and suggestions for communities to use to foster efforts to help their needy citizens. In fact, many of these guidelines are based on efforts of specific local communities.

I believe that there is a need for community partnership and involvement to assist in the Federal and State support for programs designed to help needy families. As the Members are aware, food assistance programs are essential in providing help to people in need of food. The programs include the Food Stamp Program, the major food assistance program operating today, and the Emergency Food Assistance Program, better known as TEFAP.

As the need for assistance has grown, the benefits provided by the Food Stamp Program have grown. It is estimated that this year the Food Stamp Program will serve an average of 25 million people each month and will cost over $22 billion. The cost for all USDA food assistance programs will total over $33 billion in 1992. In addition, communities across the United States and many, many private sector organizations provide help to their neediest citizens.

I urge my colleagues to support House Concurrent Resolution 302.

Mr. KILDEE. Mr. Speaker, I yield 4 minutes to the CHAIRMAN of the Select Committee on Hunger, the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I want to thank the distinguished chairman of the subcommittee, the gentleman from Michigan [Mr. KILDEE], and I want to thank the distinguished chairmen and members of the Committees on Education and Labor, and Agriculture for their support in bringing House Concurrent Resolution 302 to the floor so quickly. It was only on April 1, that Representatives BILL EMERSON and ROBIN TALLON joined me in introducing this proposal, originally incorporated in the Freedom From Want Act, as a freestanding bill.

We have a pretty grave hunger situation in America. One in ten people relies of food stamps and every month thousands more file applications for benefits. The U.S. Conference of Mayors reported a 26-percent increase in the demand for emergency food last year and the situation promises to be even more dire this year. Only 55-percent of the low-income women, infants, and children eligible for WIC actually get benefits. One in five children live in poverty-stricken households. And 28 percent of all poor people get no Federal help at all.

These facts clearly show that despite the many aid programs out there, we have still got some serious gaps.

I really wish that Federal anti-hunger policy worked better. But even if it did; even if it was the model of perfection; and even if we had all the money in the world; that policy, alone, would not be enough to solve the problem.

We need to forge a partnership with community leaders. We need the help of private citizens. And, we need the support of individual communities because the war on hunger can only be won on their turf.

The hunger-free communities bill before us today is designed to stimulate local involvement. It proposes a comprehensive, coordinated plan of action for combatting community hunger problems and provides a yardstick to measure achievement.

I am not saying that Federal and State governments should abdicate their responsibility to help needy citizens. And I am not advocating that communities go the fight alone. But, I do believe that we need a partnership between the Government and the community.

The hunger-free communities plan seeks to put the different resources of communities to better use. I applaud the work currently in progress at the grassroots level. But, in my travels as chairman of the Select Committee on Hunger, I have seen where we can improve these efforts. Each individual group is performing well in providing its own services. But, in many cases, they have never considered their potential as a unified front. United together, they can do more than change their communities, they can become the constituency that makes existing antihunger services more effective and more responsive.

I also know that communities want greater involvement in the fight against hunger, but they need some guidance. I can say this with some authority because to date, more than 1,500 community leaders, activists, elected officials, and nonprofit organizations have contacted the Hunger Committee requesting the hunger-free community guidelines proposed in this bill.

By passing House Concurrent Resolution 302 today, we will confirm our interest in their efforts and let them know that we support what they are trying to do.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 302, which expresses the sense of the Congress on guidelines which local governments and community-based organizations may utilize to develop and implement plans to relieve local hunger problems and thus make a transition to hunger-free status.

Two of the suggested guidelines in particular echo messages I have often expressed before many audiences. First, communities must become knowledgeable about and strengthen their participation in federally assisted nutrition programs—and here I would stress participation in our child nutrition programs. Second, communities should make every effort to organize nutrition education classes to inform their residents about the relationships between diet and health and to teach them nutritious food-purchasing and preparation habits.

Mr. Speaker, I urge my colleagues to give House Concurrent Resolution 302 their support.

Mr. Speaker, I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 302, legislation which will play an important role in the fight against hunger.

The emphasis of this bill is on stimulating local concern, and on shifting that concern into action. It involves everyone—local government, churches, community groups, charitable groups—everyone who has a stake in their community and wants to make their community a better place for all to live.

Mr. Speaker, hunger is a serious problem in this Nation. One in ten Americans now receives food stamps. Eighty precent of all food stamp benefits go to families with children. About 14 percent of Americans live below the poverty line—but that rate is much higher in my home State of Mississippi, the poorest State in the Nation, where 26 percent of our residents live in poverty.

I believe that the grassroots-level approach contained in this legislation can be successful. When surveyed in January of 1992, 6 out of 10 Americans stated that hunger in America is a very serious problem. Even more importantly, 7 out of 10 Americans reported volunteering time or contributing money or food to programs that feed the hungry.

So the motivation is out there. The concern is out there. The commitment is out there. The hunger-free communities legislation will act as the vehicle to bring all of these elements together into an effective coalition to attack hunger at the local level.

Mr. Speaker, we know that this legislation will not end hunger in America. The Federal Government still has a major obligation to the disadvantaged in this country. But despite the fact that there exists a vast array of Federal- and State-sponsored programs to respond to this problem, hunger still exists in America. This legislation will act as a blueprint for community action. Through 14 specific steps, such as setting up gleaning programs and providing nutrition education programs, communities can comprehensively address local hunger problems and take action on them. I believe that this approach deserves a place in the fight against hunger. I strongly support House Concurrent Resolution 302.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, Mr. Speaker, in real life I was a school teacher. I taught school for 10 years, and I used to see children come to school hungry. Very often the only good meal they got during the day was a school lunch.

I can recall in my homeroom every day someone's lunch was being stolen, and I was raised in a family where stealing was considered a most serious thing, as it certainly is, and I was determined to entrap the person who was stealing someone's lunch, the person who would stoop to such a low act, and I finally apprehended the person and found out the person never got a breakfast before he came to school; never, never ate well at home period. I will not go into the reasons why. It was very complex.

However, Mr. Speaker, I had intended to turn the student into the principal of the school, but he said to me, "Mr. Kildee, I never steal the same lunch from the same person in the same week."

Now that kid had some ethics. He stole, which I do not condone, but he tried to spread it around a bit, and I can recall that I took him down to the cafeteria where we had no breakfast program at the time at the high school, and I said, "Mrs. Pelkie, this young gentleman will be coming down here every morning, and I would like to have you get breakfast for him and send the bill to me."

Mr. Speaker, he got the breakfast for the rest of his high school career, and I never got the bill, but I was determined then that whenever I could I would do anything I could to alleviate hunger. This is really a commitment, a moral commitment, to help communities do that.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of House Congressional Resolution 302, a resolution which seeks to promote the development of hunger-free communities.

House Congressional Resolution 302 sets forth 14 specific steps that a community may implement in order to address local hunger problems comprehensively. These steps provide for the involvement of local governments, civic and community organizations, churches, and charitable groups. The legislation prescribes a plan of action for communities seeking to make the transition to hunger-free status.

These 14 steps include such actions as assuring availability of Federal food assistance, awareness of referral services, targeting vulnerable populations, and providing direct access to services.

If communities across our country would implement these guidelines, our country could make great strides in feeding millions of children who are hungry in America.

The Food Research and Action Center in its community childhood hunger identification project found:

First, an estimated 5.5 million children under age 12 in this country are hungry.

Second, an estimated 11.5 million children under age 12 are hungry or at risk of hunger.

Third, hungry children are two to three times more likely than children from nonhungry low-income families to have suffered from individual health problems such as unwanted weight loss, fatigue, irritability, headaches, and inability to concentrate in the 6-month period prior to the survey.

Hunger in our Nation is a very serious problem and one that I firmly believe the Congress has to address. I urge my colleagues to support this resolution.

Mr. HASTERT. Mr. Speaker, I am pleased to rise in strong support of this resolution. The strength of this resolution lies in its focus on what local communities can do to combat hunger, rather than rely on intervention from the Federal Government.

Americans have always taken pride in working within their communities to solve local problems. There is an incredible volunteer spirit in America today, and there are millions of Americans looking for ways to help end the continuing disgrace of hunger, which has no place in such a wealthy nation. This resolution outlines specific ways communities can improve nutrition and food assistance delivery and work toward hunger-free environments.

The value of concerned individuals working together toward this goal is unmeasurable. Yet, there are those in our communities who see hunger as a problem too large to solve. There are too many groups at risk of hunger: children, the homeless, single-parent households, and the elderly.

Private citizens who have reached out to one or more of these groups deserve the encouragement and guidance this resolution provides. The coordination and expertise of others is a valuable tool. As a result, the efficiency of food security and delivery can be vastly improved. Innovation can be shared and appreciated. And most of all, people can see how many are willing to work for a solution to the problem.

Thomas Jefferson wrote more than two centuries ago that the vigor of a free society is based on the moral responsibility accepted by its citizens. This resolution recognizes and celebrates that spirit. With the determination and commitment of local communities around the United States, we can make great progress toward eradicating hunger in our country.

I urge full support of this call to action to reach those in need.

Mr. DE LA GARZA. Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 302, which expresses the sense of Congress regarding communities making the transition to hunger-free, status by outlining steps communities can take to address the problem of hunger among its high-risk populations. This resolution was reported by the Committee on Agriculture on June 29, 1992.

Hunger is a continuing problem for many U.S. citizens. The principal feeding program of this country, the Food Stamp Program, in April of this year had 25.8 million participants, and the program's cost this year is $23 billion. In spite of the increasing participation in the Food Stamp Program and other Federal and State-sponsored food and income security programs, many people continue to experience chronic or episodic food shortages.

House Concurrent Resolution 302 focuses on community awareness and involvement in fighting hunger at the local level and provides a number of steps a community can take in order to move toward solving hunger and malnutrition among its residents.

I wish to commend Subcommittee Chairman ROBIN TALLON of the Agriculture Committee's Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, and our colleague who is also a member of the subcommittee, Congressman BILL EMERSON, for their cosponsorship of this resolution and the fine work they have done in calling attention to the need for full coordination among all sectors of society in combating the needs of hunger in this country.

Mr. TALLON. Mr. Speaker, I want to lend my strong support for House Concurrent Resolution 302 expressing the sense of the Congress that the elimination of hunger should be the goal of every community using all available government and private resources to fight hunger.

House Concurrent Resolution 302 outlines steps a community can take to attack the problem of hunger on a community basis in order for the community to reach a hunger-free status.

The legislation is designed to promote community awareness of hunger and to foster local efforts to fight hunger. The bill cites 14 specific steps a community can implement in order to comprehensively address local hunger problems. The provisions of the bill can be used also as a yardstick for measuring a community's response to its hunger problems. It sets a standard for organizations, such as the South Carolina Interagency on Hunger, to use in mobilizing community efforts.

The provisions of this bill were originally incorporated in H.R. 2258, the Freedom From Want Act, an omnibus antihunger bill introduced by Select Committee on Hunger Chairman TONY HALL and ranking Republican BILL EMERSON.

Hunger is a continuing problem for many U.S. citizens, growing all the more severe in the current economic climate. In April 1992, the Food and Nutrition Service reported a record 25.843 million Americans on Food Stamps. More and more Americans are having to turn to a food bank or a soup kitchen to supplement their diet.

Despite the existence of an extensive array of Federal and State sponsored food and income security programs, many people continue to experience chronic or episodic food shortage problems. House Concurrent Resolution 302 recognizes the great importance that local communities can mobilize to combat hunger related issues.

House Concurrent Resolution 302 encourages the community to use all government and private resources available to systematically eradicate hunger and the bill offers a list of steps a community can take to work toward this goal.

It is my opinion that the Federal responsibility to local efforts is even more critical during these difficult times when many families are not able to establish economic security. To truly fulfill the intent of the hunger free communities resolution, we in Congress ought to ensure the passage of H.R. 5600 which includes provisions from H.R. 1202, the Mickey Leland Childhood Hunger Elimination Act.

There are far too many Americans today who know the struggle for food. When a family struggles for food, then it is obvious that the family is struggling for everything else. Low wages, no health care, sporadic employment, no transportation, no food, and an uncertain future—this is reality for far too many Americans.

Only a Federal leadership initiative will reverse this trend. My colleagues, TONY HALL, BILL EMERSON, LEON PANETTA, and others have been telling us for years. I urge my colleagues to support immediate consideration of H.R. 5600 so that the Federal Government can assume its role in helping families and communities eradicate hunger.

Mr. KILDEE. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and concur in the Senate concurrent resolution [S. Con. Res. 302], as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution, as amended, was concurred in.

A motion to reconsider was laid on the table.

CHILD NUTRITION AMENDMENTS OF 1992

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2759) to amend the National School Lunch Act to improve the nutritional well-being of children under the age of 6 living in homeless shelters, and for other purposes, as amended.

The Clerk read as follows:

S. 2759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Nutrition Amendments of 1992".

TITLE I—NUTRITION IMPROVEMENT FOR HOMELESS CHILDREN

SEC. 101. HOMELESS CHILDREN'S FEEDING PROJECTS.

(a) IN GENERAL.—Section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) is amended—

(1) by inserting before "private nonprofit" each place it appears in paragraphs (2)(A), (2)(B), and (5)(A) the following: "State, city, local, or county governments, other public entities, or";

(2) in paragraph (3)(A), by adding at the end the following new sentences: "The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.";

(3) in paragraph (5)(A), by striking "and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994," and inserting "not less than $350,000 in each of fiscal years 1991 and 1992, not less than $650,000 in fiscal year 1993, and not less than $800,000 in fiscal year 1994,"; and

(4) by adding at the end the following new paragraph:

"(7) The Secretary shall advise each State of the availability of the projects established under this subsection for States, cities, counties, local governments and other public entities, and shall advise each State of the procedures for applying to participate in the project.".

(b) OTHER MEANS.—(1) The Secretary of Agriculture may conduct demonstration projects other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other effective means of providing food assistance to homeless children residing in temporary shelters.

(2) None of the funds provided under section 18(c)(5)(A) of the National School Lunch Act may be used by the Secretary of Agriculture to conduct a demonstration project under paragraph (1) of this subsection.

TITLE II—BREAST FEEDING PROMOTION AND IMPROVEMENT OF OTHER CHILD NUTRITION PROGRAMS

SEC. 201. BREAST FEEDING PROMOTION PROGRAM.

The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) is amended by adding at the end the following new section:

"SEC. 21. BREAST FEEDING PROMOTION PROGRAM.

"(a) IN GENERAL.—The Secretary, from amounts received under subsection (d), shall establish a breast feeding promotion program to promote breast feeding as the best method of infant nutrition, foster wider public acceptance of breast feeding in the United States, and assist in the distribution of breast feeding equipment to breast feeding women.

"(b) CONDUCT OF PROGRAM.—In carrying out the program described in subsection (a), the Secretary may—

"(1) develop or assist others to develop appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting breast feeding;

"(2) distribute or assist others to distribute such materials to appropriate public and private individuals and entities; and

"(3) provide funds to public and private individuals and entities, including physicians, health professional organizations, hospitals, community based health organizations, and employers, for the purpose of assisting such entities in the distribution of breastpumps and similar equipment to breast feeding women.

"(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with Federal agencies, State and local governments, and other entities to carry out the program described in subsection (a).

"(d) GIFTS, BEQUESTS, AND DEVISES.—

"(1) IN GENERAL.—The Secretary is authorized to solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sale of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Secretary.

"(2) CRITERIA FOR ACCEPTANCE.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that ensure that the acceptance of any gifts, bequests, or devises would not—

"(A) reflect unfavorably on the ability of the Secretary to carry out the Secretary's responsibilities in a fair and objective manner; or

"(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.".

SEC. 202. CHILD CARE CLARIFICATION.

The second sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking "of the children" and all that follows through "services" and inserting the following: "of its enrolled children or 25 percent of its licensed capacity, whichever is less".

SEC. 203. EXTENSION OF DEMONSTRATION PROJECTS.

Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1994, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts.".

SEC. 204. INCLUSION OF HOMELESSNESS AND MIGRANCY AS NUTRITIONAL RISK CONDITIONS.

Section 17(b)(8)(D) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)(D)) is amended by inserting before the period the following: ", homelessness, and migrancy".

TITLE III—REAUTHORIZATION OF PILOT PROGRAM

SEC. 301. REAUTHORIZATION OF PILOT PROGRAM.

Paragraph (1) of section 18(b) of the National School Lunch Act (42 U.S.C. 1769(b)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

TITLE IV—REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES

SEC. 401. REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES.

Section 3(a)(3)(E) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking "1992" and inserting "1996".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2759, as amended, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2759, as amended, includes the language of three bills: S. 2759, The Homeless Children Nutrition Improvement Act of 1992; S. 2760, The Child Nutrition Improvements Act of 1992; and H.R. 2933, a bill I introduced with Mr. FORD and Mr. GOODLING to reauthorize a demonstration program operating under the School Lunch Act. It also includes language to reauthorize the Commodity Distribution Advisory Council.

The title of this package is the Child Nutrition Amendments of 1992, and it was approved and ordered reported by the Committee on Education and Labor on June 10, 1992.

Title I of the bill amends the homeless children feeding demonstration under the National School Lunch Act to improve program flexibility and allow the participation of more grantees.

Title II of the bill authorizes the secretary to accept and solicit private gifts for the establishment of a Breast Feeding Promotion Program designed to educate the public concerning the many benefits of breast feeding.

Our colleague, Ms. MOLINARI, introduced this language in H.R. 4322, and we are pleased to include her provisions.

This title also amends the definition of "Nutritional Risk" under WIC to include homelessness and migrancy, and amends the Child and Adult Care Food Program to reauthorize a demonstration program regarding the participation of child care centers in the program.

Title III reauthorizes a pilot program under the National School Lunch Act which enables 60 school districts to receive cash payments or Commodity Letters of Credit (CLOC) in lieu of Entitlement Commodities for their School Lunch Programs.

And title IV reauthorizes the commodity distribution council through 1996. I am pleased to have been able to work with Chairman DE LA GARZA of the Agriculture Committee on this provision.

All of these provisions strengthen programs designed to improve the nutritional well-being of our Nation's children and I urge their adoption.

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Mr. GOODLING. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from New York [Ms. MOLINARI], the author of the provisions in part of this bill.

Ms. MOLINARI. Mr. Speaker, I want to thank Chairman FORD, Congressman KILDEE, and the distinguished ranking minority member, Congressman GOODLING, for the swift consideration of the Breast Feeding Promotion Act of 1992, included in title II of S. 2759, which we are considering today on the House floor.

While I support all the child nutrition provisions incorporated into S. 2759, I would like to take this opportunity to express my strong support for the Breast Feeding Promotion Act of 1992, which I introduced earlier this year.

This legislation, already passed by the Senate, and strongly endorsed by the Department of Agriculture, will authorize the Secretary of Agriculture to utilize private funding to conduct a national campaign and educational program on breast feeding. The conduct of the national campaign will depend upon an infusion of funds and in-kind contributions from the private sector.

The benefits of breast feeding have been documented by extensive research and yet Americans have continued to allow a decline in breast feeding. In 1982, 62 percent of new mothers breastfed their infants compared to 54 percent in 1988. Equally disturbing, is the large disparity that exists between low-income and middle-income families. In the United States, while 70 percent of women whose family income is over $25,000 breastfed, only 35 percent of those with family income of less than $7,000 breastfed. It is clear from these statistics that we need to revitalize our educational efforts to expectant and new mothers on the benefits to both her and her child from breast feeding.

Breast feeding is the most convenient, economical, and beneficial way of feeding infants. Breast feeding provides benefits for both the physical and emotional health of infants as well as their mothers. The benefits for infants include protection from ear infections, diarrhea, and respiratory illnesses through the immunologic properties of breastmilk. Breastmilk is also the most complete and most easily digestible source of nutrition for infants.

The benefits for mothers include enhanced self-esteem, more rapid postpartum recovery, and the creation of a special bond between mother and infant. Breast feeding is also convenient because it requires no heating, mixing, or sterilization, and is less expensive than bottle-feeding.

The reasons why women do not breast feed are varied, but experience from past or ongoing breast feeding promotion activities in several States has demonstrated that breast feeding initiation and duration can be increased significantly. One of the key issues about breast feeding is that it is often misunderstood and perceived as being socially unacceptable. A national media campaign would help to counter some of those negative perceptions.

As designed by the Breast Feeding Promotion Act, this campaign will be appropriately coordinated by the Secretary of Agriculture as he administers the special Supplemental Food Program for Women, Infants, and Children [WIC]. The purpose of the campaign will be to increase awareness of, and knowledge about breast feeding to the general public.

Mr. Speaker, I thank the committee chairman again for the swift consideration of this bill, and I hope all my colleagues will enthusiastically support this important legislation today.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in support of S. 2759, the Homeless Children Nutrition Improvement Act. I particularly applaud title II of the bill, which establishes a program to increase public acceptance of breast feeding, develops and distributes educational materials, and distributes breast feeding equipment. Title II is identical to H.R. 4322, the Breast Feeding Promotion Act which my colleagues, Ms. MOLINARI, Mr. HALL, and I introduced on March 25, 1992.

Breast feeding confers special benefits to infants, but social and economic barriers prevent many low-income mothers from breast feeding. Both history and research have shown us breast milk is the superior infant food due to its immunological agents that protect infants against disease. In addition to the obvious economic benefits these components of breast feeding make it the optimal way to nurture infants.

Unfortunately, despite these incredible advantages, we have witnessed a dramatic decline in breast feeding since 1982. Too many women are unaware of the benefits or believe the negative myths surrounding breast feeding. The main barriers tend to be economic, as well as a lack of support from family members and society. While it can be debatable which obstacles present the most resistance to the practice of breast feeding, it is apparent the promotion of breast feeding is unequivocally crucial.

Every effort we make to encourage and support breast feeding will mean better health for children. Mr. Chairman, by adopting S. 2759 we will help ensure a healthier future for these children.

S. 2759 authorizes the Secretary of Agriculture to ask for and to accept gifts and requests and property to establish a Breast Feeding Promotion Program. Such program should be designed to educate the public concerning the fact that breast feeding is the best method of infant nutrition.

The administration proposed the Breast Feeding Promotion Program and I am pleased to sponsor and urge its passage.

I urge my colleagues to support this promotion program.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 2759, the Child Nutrition Amendments of 1992. In this single piece of legislation we have been able to combine perfecting amendments to an ongoing program as well as to a demonstration project, provisions expanding the scope of a demonstration project, the authorization of an administration initiative, and the reauthorization of two very successful demonstration/pilot projects or programs.

I am particularly pleased that through title I of the bill we are perfecting the food service for homeless children demonstration projects by providing for the reimbursement of meals or meal supplements served to these children on weekends and holidays. It seems that on account of what was described to us as an administrative policy, such reimbursements were being made available only for the meals or meal supplements these children were served during the 5 days of the working week. The inexplicable assumption behind this administrative policy apparently was that these children were going to be picked up from their emergency shelters on Friday afternoons by their parents and taken home for their weekend or holiday meals.

I should add that title I also expands the scope of the food service for homeless children demonstration projects. Where only private nonprofit organizations were originally eligible for participation in these projects, now public entities such as States, cities, local or county governments, and other public bodies will also be able to enter into agreements to carry out such projects.

Title II of this bill includes an authorization for an initiative proposed by the administration: the Breast Feeding Promotion Program. The Secretary of Agriculture will be able to solicit and accept gifts, bequests, or devices of services or property to establish a program promoting breast feeding as the best method of infant nutrition. As we have all learned, Mr. Speaker, breast feeding benefits both the physical and emotional health of infants as well as their mothers, and breast milk is the most complete and most easily digestible source of nutrition for infants.

From my perspective, the most commendable feature of this bill is that, through its title III, it reauthorizes what we term the Cash/CLOC Pilot Program for another 2 fiscal years. This pilot program's genesis a decade ago may be traced to the sustained interest a substantial number of school food authorities had expressed in exploring changes to the traditional donated commodity program which supplied the food for their school lunch programs. In particular, schools were interested in improving the quality and the delivery modes and schedules of the commodities they were receiving.

Congress responded to this desire to improve the traditional donated commodity system by mandating a 3-year study that would compare how the then existing system and two potential alternatives to it would respectively affect school lunch programs and stabilize and support farm markets and prices. One of the alternative methods selected for the study, which was conducted during school years 1982–83 through 1984–85, was a straight cash approach. Roughly one-third of the school districts participating in the study were allocated a sum of cash equal to the amount the Department of Agriculture [USDA] would have used in buying commodities for donation to them, and were given the freedom to use their sum of cash as they please in support of their School Lunch Programs.

The other alternative method selected for the comparative study was a commodity letter of credit [CLOC] approach. In this instance another third of the participant school districts were extended letters of credit holding values equal to those of the donated commodities they would have received from USDA. While this approach gave schools the option to purchase fresh foods from local commercial sources such as farmers' markets, some restrictions were to apply, however, to the use of these letters of credit. They could only be used to purchase foods containing those commodities USDA itself was buying for donation, and the timing of their use was to coincide with that of USDA commodity purchases.

The remaining third of the school districts participating in the study were to continue to be served by the traditional donated commodity system.

While the USDA recommended a universal return to the Donated Commodity Program following the study, the school food authorities that had participated in it successfully appealed to Congress to continue the examination of the cash and CLOC alternatives through a pilot program. Congress initially acceded to this request through Public Law 99–198, the Farm Security Act of 1985, and has been fit to reauthorize the pilot two additional times, most recently through Public Law 101–147, the Child Nutrition and WIC Reauthorization Act of 1989. I should add that the latter bill's conference report authorized USDA to design and test modifications to the cash and CLOC alternatives that would strengthen their capacity to stabilize and support markets.

What has motivated Congress to reauthorize this pilot program repeatedly—and should persuade it to do so again—has been the enthusiastic advocacy of the alternatives by the school districts that have had an opportunity to implement them. Here are some of the reasons they have given to justify their desire to continue and refine the alternative commodity systems: cash and CLOC allow them to buy food in forms they can most effectively use, thereby reducing waste, the need for storage, and the cost of preparation; cash and CLOC allow them to locally purchase and serve more fresh fruits and vegetables, which enhances the appeal and nutritiousness of their meals; and cash and CLOC give the schools greater control over food delivery schedules, allowing them to avoid large and often unexpected deliveries that must be stored until the food can be used.

In closing, Mr. Speaker, I should note that just 4 months ago the USDA released an evaluative study on the performance of the CLOC alternative—as modified in accordance with Public Law 101–147's conference report—during school year 1990–91. With the changes which were made, the findings were that the 25 CLOC school districts now in the pilot program—when compared to 25 districts in the donated program—removed the same quantity of surplus commodity from the market and provided comparable market support in terms of the timing of their commodity purchases and deliveries.

I urge my colleagues to give S. 2759 their support. The administration has no objection to House passage on this bill.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of S. 2759, the Child Nutrition Amendments of 1992.

S. 2759, the Child Nutrition Amendments of 1992, contains three titles: First, a Nutrition Improvement Program for Homeless Children; second, a Breast Feeding Promotion Program and improvement of other child nutrition programs; and third an extension of a Cash/CLOC Pilot Program.

The Nutrition Improvement for Homeless Children title broadens the current homeless nutrition program by permitting food service to homeless children in emergency shelters to include public agencies as eligible sponsors. The program is also expanded by extending the service to these shelters during weekends and by increasing the authorization level.

Title II, the Breast Feeding Promotion Program establishes a program which educates the public on the use of breast feeding as a method of infant nutrition. This title also makes provisions for the continuation of a demonstration project which permits child care centers to participate in the Child and Adult Care Food Program if at least 25 percent of the children qualify for free and reduced-price lunches. This provision should make nutritious food available to many additional low-income and poor children.

Title III extends a pilot project under the National School Lunch Act which permits several school districts to receive cash payments or commodity letters of credit in lieu of entitlement commodities for their school lunch program. The participating school districts are test sites authorized in a congressionally mandated pilot project to study the impact of alternative commodity distribution systems on school lunch programs.

This legislation will enable additional homeless children to have nutritious food and will also continue to provide the committee with information regarding how we may improve upon our commodity distribution program for child nutrition programs.

I urge my colleagues to support this legislation.

Mr. BEREUTER. Mr. Speaker, I am happy to rise in support of S. 2759 which is designed to provide nutritional assistance to pre-school-age children living in temporary shelters. In particular, I want to draw attention to title II of this bill which authorizes the Secretary of Agriculture to solicit and accept private gifts to establish a Breast Feeding Promotion Program. At the offset, I want to acknowledge that the language of title II of S. 2759 is identical to the language of H.R. 4322 which was introduced by Congresswoman MOLINARI, along with Congressmen EMERSON, GOODLING, and HALL.

The benefits of breast feeding have been documented by extensive research. For example, research has shown that the response to childhood immunization is significantly greater in exclusively breast-fed infants than in those who were bottle-fed; a study in England suggests low-birth weight babies fed on their mothers milk have an eight-point higher IQ compared with similar infants fed on formula; and the risk of infections during the entire first year of life is decreased by 75 percent for breast fed children. It has also been established that for the first 6 months of life that an infant needs nothing other than breastmilk.

Unfortunately, our knowledge is not matched by our practice. Only 54 percent of U.S. mothers in the general population were breast feeding at discharge from the hospital and only 28 percent at 6 months. The rates are even lower for mothers participating in the WIC program. The reasons why women do not breast feed are varied. However, experience from the past indicates that breast feeding practice can be increased significantly by promotion activities.

Mr. Speaker, the campaign envisioned by title II of this bill will help to create a positive public climate with respect to the acceptability and adoption of breast feeding. For these and many other reasons S. 2759 is a good bill and I urge my colleagues to vote for this legislation.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of S. 2759, the Child Nutrition Amendments of 1992.

This legislation contains two provisions of importance to the Committee on Agriculture: First, a provision to extend the pilot projects authorizing 60 school districts to receive cash payments or commodity letters of credit [CLOC] in lieu of entitlement commodities for school lunch programs; and second, a provision to extend the U.S. Department of Agriculture Advisory Council on the Distribution of Donated Commodities.

Authority for implementing demonstration programs for alternative systems for commodity distribution in schools was mandated in the fiscal year 1981 appropriations bill for agriculture, rural development, and related agencies (Public Law 96–528). Extensions of the pilot projects were authorized in the Food Security Act of 1985 (Public Law 99–198); the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237); and the Child Nutrition and WIC Reauthorization Act of 1989 (Public Law 101–147).

Although it shares jurisdiction over the cash/CLOC extension provision with the Education and Labor Committee, the Committee on Agriculture did not seek sequential referral in the interest of expeditious floor action on S. 2759.

While the Committee on Agriculture respects the interest of the Committee on Education and Labor in the cash/CLOC projects, the Committee on Agriculture believes that the commodity distribution program is in the best interests of agricultural producers, administrators of commodity distribution systems, and provides the best mechanism for balancing the needs of producers and recipients. Accordingly, prior to the end of the extension period provided by this legislation—September 30, 1994, the Committee on Agriculture intends to review thoroughly the operation and effectiveness of the cash/CLOC projects vis-a-vis the commodity distribution program. The cash/CLOC projects were established at a time when local school districts wanted more discretion over the form of the commodity, packaging, location of purchase, and timing of delivery of commodities. Substantial improvements have been made as a result of the Commodity Distribution Reform Act of 1987 by the U.S. Department of Agriculture, and a majority of school districts and State agencies favor the commodity distribution program over the cash/CLOC approach.

I appreciate the Committee on Education and Labor agreeing to include in this legislation an amendment which extends through fiscal year 1996 the U.S. Department of Agriculture Advisory Council on the Distribution of Donated Commodities. Current council members represent: the Emergency Food Assistance Program, the Commodity Supplemental Food Program, the Nutrition Program for the Elderly, the Food Distribution Program on Indian Reservations, school food service directors, State advisory councils, State distribution agencies, commercial processors, the Child Care Food Program, commercial distributors, and agricultural organizations. These members are providing valuable information to the Secretary of Agriculture in his administration of our various commodity distribution programs, and it is important that the Secretary continue to have this input.

The Committee on Agriculture and the Committee on Education and Labor have exchanged letters pertaining to our legislative jurisdiction and interests, and I am attaching a copy of that correspondence for the RECORD.

I wish to thank Chairman FORD for his cooperation in working with the Committee on Agriculture in this regard.

COMMITTEE ON EDUCATION AND LABOR,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 9, 1992.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: Thank you very much for your letter of June 29 agreeing to consideration under suspension of the rules of S. 2759, the Child Nutrition Amendments of 1992, and of H. Con. Res. 302. I hope that we will be able to have these bills scheduled during the week of July 27.

Concerning your request that S. 2759 be amended to include an extension of the advisory council on the distribution of donated commodities, I will recommend acceptance of that amendment. However, I believe that the council should be extended through 1994 instead of 1995 as you had suggested. I hope that you will agree to this term for the council.

Thank you again for your cooperation in these matters, and as always I appreciate working with you.

With kind regards,
Sincerely,

WILLIAM D. FORD,
Chairman.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 29, 1992.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter regarding scheduling under suspension of the rules of S. 2759, the Child Nutrition Amendments of 1992. This bill contains an amendment adopted in the Committee on Education and Labor of mutual jurisdictional concern, the extension of the cash/CLOC demonstration project through 1994.

I am happy to expedite movement of this legislation and not seek a sequential referral of this bill subject to the incorporation of an amendment to extend through fiscal year 1995 the advisory council on the distribution of donated commodities (see attached amendment). This council was authorized through fiscal year 1992 in the Commodity Distribution Reform Act and WIC Amendments of 1987, P.L. 100–237, section 3(a)(3).

In addition, thank you for accepting the amendment of the Committee on Agriculture to H. Con. Res. 302.

As always, we appreciate your working with this Committee, as we address areas of mutual concern.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

AMENDMENT TO S. 2759

At the end of the bill add the following new section:

SEC. 4. REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES.

Section 3(a)(3)(E) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking "1992" and inserting "1995".

COMMITTEE ON EDUCATION AND LABOR,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 25, 1992.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to inform you that I will be asking to schedule, under suspension of the rules, S. 2759, the Child Nutrition Amendments of 1992. I know that you are interested in this bill due to an amendment we adopted in the Education and Labor Committee extending the CASH/CLOC experiment through 1994.

I will also be asking to schedule, under suspension, H. Con. Res. 302, the Communities Making the Transition to "Hunger Free" Status Resolution. Both our Committees have acted favorably on that legislation, and the Committee on Agriculture adopted an amendment to that bill which the Committee on Education and Labor is willing to accept.

If you have any problem with my requests to schedule S. 2759 and H. Con. Res. 302, please let me know. As always, I look forward to working with you and your Committee.

With kind regards,
Sincerely,

WILLIAM D. FORD,
Chairman.

Mr. TALLON. Mr. Speaker, as the chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the House Agriculture Committee which has jurisdiction over commodity distribution to domestic nutrition programs, I support S. 2759 the Homeless Children Nutrition Improvement Act; however, I am opposed to the extension and expansion of the Commodity Letter of Credit [CLOC] demonstration projects for the National School Lunch Program as authorized by S. 2759.

After 10 years, the usefulness of these projects no longer have a national application and should not be continued. It costs the taxpayers too much money to run these demonstration programs indefinitely.

The House Agriculture Committee is opposed to it. The U.S. Department of Agriculture is opposed to it. Commodity groups are opposed to it. The American Commodity Distribution Association is opposed to it. The American School Food Service Association supports continuation of the current USDA nationwide commodity program. I would like to submit for the record several position papers relaying this opposition.

The House Education and Labor Committee added the CLOC provision to the bill despite this opposition. That Committee, the House Agriculture Committee, and USDA should appreciate the contribution that the 25 CLOC school districts have made over the past 10 years. We have all learned a lot from these projects.

It is my opinion that the decade CLOC experiment has taught us that it is not feasible to expand CLOC nationwide and it is not financially practical to maintain the current CLOC programs as a separate commodity distribution program for a handful of school districts.

In this time of economic uncertainty, taxpayers should not have to pay for two systems of distributing commodities to the School Lunch Program. Rather it is time to consider more important investments in efforts such as the breast-feeding provisions of S. 2759 and establishing a universal School Lunch Program.

RESOLUTION—THE AMERICAN SCHOOL FOOD SERVICE ASSOCIATION SUPPORT OF THE U.S.D.A. PROGRAM

Whereas: Public Law (P.L.) 100-237, the Commodity Distribution Reform Act of 1987 was signed into law on January 8, 1988, and

Whereas: The intent of the law was to improve the Administration of the United States Department of Agriculture Commodity Distribution Program, and

Whereas: The provisions in the law are far-reaching toward attaining positive results in improved service for recipient agencies, and

Whereas: Local schools have voiced their approval of the improvements made in the Commodity Distribution Program, and

Whereas: The ASFSA Public Policy and Legislative Committee and the Commodity Improvement, Implementation, Monitoring Committee has and will continue to assess the progress on the commodity initiatives since the inception of the law, and

Whereas: These committees have found significant improvements in the Commodity Distribution program through the implementation of regulation described in Public Law 100-237, and

Whereas: On May 12, 1989, the National Advisory Council on Commodities has included in their report to Congress a recommendation to "oppose the continuation of the cash and CLOC pilot projects and supports efforts to improve and streamline the commodity program to meet the needs of the Food and Nutrition Programs and in support of agriculture,"

Therefore be it Resolved: That ASFSA supports continuation of the USDA Commodity Program.

USDA CLOC POSITION

Position: USDA does not support continuation or expansion of the Commodity Letter of Credit (CLOC) system. The pilot sites testing CLOC and a cash alternative should return to the commodity system. It is in the best interests of agricultural producers, administrators of commodity distribution systems and recipients of USDA's domestic commodity programs to retain the traditional commodity program.

Agricultural Producers: The statutory goal of the Section 32 commodity programs is to support U.S. agriculture when markets are weak. Only 13 percent of Section 32 funds go to directly support agricultural markets through the commodity program. The rest is cash to Child Nutrition Programs. Commodity foods represent about 20 percent of the food acquired in the National School Lunch Program (NSLP). Considerable flexibility is currently afforded school districts which can use the vast majority of funds for unrestricted uses including labor, food, and other costs. About $4.7 billion Fiscal Year 1991 was provided as cash funding for the child programs; about $600 million was provided in direct commodity support.

The positive market effect of commodity programs needs to be retained. CLOC purchases are made at the consumer end of the food pipeline and USDA purchases are made at or near the producer end. When a single large entity such as the Federal Government announces an upcoming large purchase, the market impact can be considerably different than if 20,000 school districts take delivery of small purchases from their commercial distributors.

The market impact of agricultural support programs is more pronounced when the amount of product removed from the market represents a relatively large portion of the total market for that commodity (e.g., the frozen whole egg market that has few marketing alternatives in times of surplus production).

It is not clear that the CLOC system can respond quickly to unexpected market changes. This is particularly true for bonus commodity purchases targeted for specific regional relief. For example, if extremely favorable weather conditions affect a fruit or vegetable group in one particular part of the country, USDA can enter the market quickly to make a spot purchase, providing immediate market relief.

USDA can assure the purchase of domestic products, a statutory requirement guiding the commodity program. Current labeling requirements are not specific enough to provide local purchasers with this information. CLOC sites can only rely on manufacturer certification which is a time-consuming and error-prone method.

Administration: Implementation of a CLOC system would introduce inefficiencies and costs into the administration of the commodity system. At the Federal level, USDA would run two distributing systems. The NSLP represents only about one-half of the commodities distributed nationwide—the Department would still be in the business of purchasing commodities with its current administrative infrastructure. A CLOC system would impose a separate administrative structure while simultaneously jeopardizing the economies of scale currently available to the Department. Under one CLOC option of local choice between CLOC and commodities, the Department would enter into a perpetual guessing game each year regarding how much food to buy under each of the two systems, adding additional uncertainty and complexity to administration.

At the second level, considerable monitoring of CLOC purchases would be required by States to ensure that local school districts purchased products according to CLOC specifications. Because commodity purchases are time and amount specific, errors in CLOC purchases could lead to a reduction in agricultural support that could not be corrected. Further, States would be without financial resources to put such systems in place. Most States finance their administrative costs for commodity distribution from fees assessed on local recipient agencies. Without direct distribution, States lose income and a Federal CLOC system would have to provide some administrative resources. State administrative funds equivalent to those for the rest of the NSLP would cost $9-$10 million per year.

Recipients: The CLOC system evolved in the 1970's because local school districts were dissatisfied with the commodity system. They wanted more discretion over the form of the food, packaging, location of purchase and timing of delivery. But over the last 10-12 years, USDA has not only tested alternatives, it has made major improvements in the traditional commodity programs including smaller, easier-to-handle package sizes, more food variety, improved products (including reduced levels of fat and sodium) and improved delivery methods. In a national survey of school districts in the NSLP, almost three-fourths of the districts rated the overall performance of the commodity distribution system as excellent or very good.

In addition, the commodity system appears to benefit school districts compared to CLOC. Under a previous study, the food value of the commodities offered by the Department was worth two to three cents more than the food purchased locally with CLOCs, in part because schools purchased more highly processed items with the CLOC vouchers. Although large urban school districts may be able to replicate USDA's buying power, smaller districts and those that are geographically isolated may not.

Conclusion: Although the CLOC system may have superficial appeal because it increases local flexibility, the traditional commodity program continues to be the best mechanism for balancing producer and recipient needs. USDA's evaluation of the CLOC and commodity programs continue to suggest that there are no compelling reasons to incur the expense of continuing or expanding the CLOC system.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of S. 2759, the Homeless Children Nutrition Improvement Act. Title II of the Act establishes a breast feeding promotion program designed to foster greater public acceptance of breast feeding as the best form of infant nutrition and assist breast feeding women by the distribution of breast feeding equipment. This bill is identical to H.R. 4322, the Breast Feeding Promotion Act, which my distinguished colleagues Representatives MOLINARI, EMERSON, and I introduced on March 25, 1992.

Title II of this act is important for several reasons. The first and foremost reason is that breast feeding is indeed the best form of infant nutrition. Breastmilk cannot be duplicated in its ability to uniquely provide the precise nutritional requirements for each infant. Furthermore, studies have documented its immunological properties that decrease the incidence of allergies, upper respiratory infections, and diarrhea. Most recently, research has shown a correlation between breastmilk and higher IQ's in children who have been breast fed. Finally, breast feeding is one of the few practices that is totally free.

In spite of the enormous benefits attributed to breast feeding, its incidence is declining in all sectors of society, but most notably among low-income women. In 1982, 62 percent of new mothers breast fed their infants. In 1988, 6 years later, only 54 percent breast fed. For low-income women, the figures are more disturbing. Only 35 percent of women with incomes less than $7,000 breast fed, as opposed to 70 percent of women with incomes over $25,000.

Title II of S. 2759 seeks to address this decline. It will enable the Department of Agriculture to continue and expand its existing efforts to promote breast feeding in the United States, by educating the public and women in particular, about the merits of breast feeding, encourage further coordination among organizations currently involved in breast feeding promotion, and assist women in their breast feeding efforts by providing needed equipment such as breastpumps.

Mr. Speaker, by adopting S. 2759 we will be helping to provide infants with the very best start they can have, mother's milk. And if they have a good start, the odds are significantly increased that they will have a better tomorrow.

□ 1900

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ABERCROMBIE). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the Senate bill, S. 2759, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.".

A motion to reconsider was laid on the table.

FOOD SERVICE INSTITUTE IN MISSISSIPPI

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2917) to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

The Clerk read as follows:

S. 2917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FOOD SERVICE MANAGEMENT INSTITUTE.

Section 21(a)(2) of the National School Lunch Act (42 U.S.C. 1769b-1(a)(2)) is amended by inserting after "is authorized" the following: "to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi,"

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2917, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume. S. 2917, is a no-cost technical amendment to the National School Lunch Act which clarifies that the Food Service Management Institute [FSMI] is a non-Federal entity affiliated with the University of Mississippi.

This clarification ensures that as an affiliate of the University of Mississippi, the Institute will be able to operate under its administrative procedures, and as a non-Federal entity the Institute will be able to accept gifts, enter into private sector contracts, and be eligible for funding from other Federal agencies.

This technical amendment reflects the original intent of Congress when it established the Institute in 1989 and I urge its adoption.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2917. This bill is essentially an administration initiative which responds to concerns held by USDA's legal staff regarding the Food and Nutrition Service's [FNS] current administration of the FSMI authorized by section 21(a)(2) of the National School Lunch Act. Their concerns are that FNS does not have any legal authority to make grants or enter into cooperative agreements for the implementation of the statutory purposes established for the FSMI.

S. 2917's basic objectives are to designate the FSMI as a non-Federal entity affiliated with the University of Mississippi and to thus provide the FSMI with access to a range of additional activity-funding options.

Mr. Speaker. I urge my colleagues to give S. 2917 their support.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of S. 2917, the maintenance of the National Food Service Management Institute Act.

The National Food Service Management Institute [NFSMI] was established and authorized by the Child Nutrition and WIC Reauthorization Act of 1989. The institute is the only federally funded institute dedicated to child nutrition and related programs.

The purpose of the institute is to design and conduct activities to improve the operation and quality of child nutrition programs authorized by the National School Lunch Act and the Child Nutrition Act.

In order for the institute to fulfill the purposes of this act in an efficient and effective manner, this legislation is necessary. S. 2917 will correct some problems which the institute has experienced since the enactment of the law and make it possible for the Secretary of Agriculture to provide direct assistance to the University of Mississippi instead of treating the National Food Management Institute as another Federal agency.

The National Food Service Management Institute conducts research, provides education and training, and operates a clearinghouse. One specific example of the problems with the current law is that the executive office, the division of education and training, and the division of technology transfer are located at the University of Mississippi in Oxford. The division of applied research is located at the University of Southern Mississippi at Hattiesburg. When it is necessary for employees to travel from Oxford to Hattiesburg, current law requires that permission has to be obtained directly from the U.S. Department of Agriculture [USDA]. S. 2917 will correct this awkward and time-consuming procedure.

Another problem with the current law is the requirement that the institute obtain permission from USDA to conduct research on specific issues. Consequently, if USDA disagrees with the specific area of research, the institute is prevented from conducting the research. We want the institute to produce independent, valid, reliable, and fair research in order that we may have broad and scholarly information relative to Federal child nutrition programs. This information will be beneficial to Members of Congress as they deliberate in developing and setting forth the best public policy possible for the beneficiaries of the program; namely, our children.

This legislation is necessary to improve current law. It will provide for more efficient and effective management of the institute. I urge my colleagues to support this measure.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VALENTINE). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the Senate bill, S. 2917.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

ROBERT A. ROE FEDERAL BUILDING

Mr. SAVAGE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5431) to designate the Federal building located at 200 Federal Plaza in Paterson, NJ, as the "Robert A. Roe Federal Building."

The Clerk read as follows:

H.R. 5421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 200 Federal Plaza in Paterson, New Jersey, shall be known and designated as the "Robert A. Roe Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Robert A. Roe Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. SAVAGE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5431 is a bill to designate the Federal Building located at 200 Federal Plaza in Paterson, NJ, as the "Robert A. Roe Federal Building," a bill I enthusiastically and wholeheartedly support because the gentleman from New Jersey, Chairman ROE has served the Congress with dedication and diligence for more than 20 years.

His career in public service spans activity at the local and State levels. He served in the Governor's cabinet, as mayor of Wayne, NJ, and as Passaic County executive. Indeed, his vigorous advocacy of the interests of the people of northern New Jersey has made possible immeasurable improvements to their quality of life.

In Congress, the gentleman from New Jersey, BOB ROE distinguished himself on the House Committee on Science, Space, and Technology. His leadership on that committee was evident when, in 1988, the space shuttle *Discovery* was successfully launched and the United States returned to space exploration.

The gentleman from New Jersey, Congressman ROE, also has been an effective, imaginative, and determined leader in improving the research capabilities of our Nation in general.

As current chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey, BOB ROE, led enactment of the precedent-setting Intermodal Surface Transportation Efficiency Act. As a result of this transportation legislation, millions of jobs will be created and the Nation's crumbling infrastructure will be rebuilt.

Patience, good humor, dedicated and hard-working are just a few words to describe this outstanding colleague and loyal friend. I urge support of this legislation, which would be a fitting tribute to our distinguished colleague, ROBERT ROE.

Mr. Speaker, I urge adoption of H.R. 5431.

Mr. Speaker, I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5431 which will designate the Federal building located in Paterson, NJ, as the "Robert A. Roe Federal Building," is a fitting tribute for Chairman BOB ROE given his long and dedicated service to the people of New Jersey.

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As a veteran of World War II, Chairman ROE served with the Army infantry and reconnaissance force in the European theater. He received the Bronze Star for exemplary service in ground combat action.

Although by profession, Chairman ROE is an engineer, after reviewing his long list of accomplishments, I would say that his first love is politics. Chairman ROE began his public service as a committeeman for Wayne township and later served as the mayor of Wayne township. He was first elected to Congress in 1969 and has served with distinction ever since.

His leadership this past year on the Intermodal Surface Transportation Efficiency Act resulted in a major infrastructure rebuilding initiative which refocused transportation priorities for years to come.

His leadership and friendship will be sorely missed by all of us. I urge my colleagues to join me in support of H.R. 5431.

Mr. SAVAGE. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from California [Mr. ANDERSON], the former chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, this evening we consider bills to name Federal buildings in New Jersey and Arkansas after two of the most esteemed gentlemen in Congress. This body could not take a more fitting action. I have had the pleasure to work with both of these men for many a year, far longer than my years like to admit. There is not a more dignified gentleman in this body than JOHN PAUL HAMMERSCHMIDT. No chairman of any committee could have claimed to have a better ranking minority member than I could when I was chairman. BOB ROE has the pleasure of that relationship now. Though BOB'S chairmanship will be all too short, during his tenure the Public Works Committee crafted what I think will prove to be the most important piece of legislation of this session, the Intermodal Surface Transportation and Efficiency Act. This House will lose much of its richness when these two men leave its halls. Their constituents and their States lose even more. The tribute we give them today is but a shadow of the reward we owe these men, public servants in the truest sense of the phrase.

I would also like to mention that I've looked down the list of the bills before us and found my own name there. I want to express my deep gratitude to ED ROYBAL for introducing this bill. Few men are lucky enough to have a friend like him. I also want to thank my friends on the Public Works and Transportation Committee for moving this bill forward, especially the chairman of the Public Buildings and Grounds Subcommittee, Mr. SAVAGE and the fine ranking minority member of the subcommittee, Mr. INHOFE. I think everyone on that committee knows how much I love the community of Long Beach and its surrounding cities. This is a proud moment for me.

Mr. INHOFE. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in enthusiastic support for this bill to name the new Federal building in Paterson, NJ, for my dear friend and committee colleague, Congressman BOB ROE.

No one has worked harder and more successfully for the citizens of Paterson and Passaic County, the State of New Jersey, and the Nation than Chairman BOB ROE. I speak with a great deal of firsthand knowledge, because it has been my great pleasure to have served with BOB in this body for nearly 24 years.

He has worked with the same dedication and determination as a Member of this House as he did during his long and outstanding career in local and State government more than two decades ago.

During our service as fellow subcommittee members and later as chairman and ranking Republican member respectively, BOB and I have worked closely in developing legislation that has kept and will continue to keep our Nation's infrastructure strong and our national economy healthy.

One of those accomplishments, the Intermodal Surface Transportation Efficiency Act of 1991, will give America a new national intermodal transportation policy that will enable us to compete effectively in the global economy of the next century.

The imprint of BOB ROE has also been felt in the Nation's space and research programs, which he helped guide so effectively as chairman of the Science, Space, and Technology Committee from 1987 to 1990.

The people in BOB ROE's district know how tirelessly he has worked for them, and 12 consecutive terms in this body attest to that fact.

In Paterson, NJ, they know what BOB ROE has done to make the new Federal building a reality. In 1983, he was successful in getting committee approval of the resolution authorizing a feasibility study on the need to consolidate Federal agencies in the Paterson area.

Two years later, the resolution was approved to allow construction of a Federal building in Paterson, and in 1989, the necessary funding was provided to begin construction.

Just last month, the $8.8 million facility was dedicated, and it now houses the U.S. Probation Office, Navy recruiters, Social Security, and the IRS.

This new Federal building is another outstanding example of the vision of Bob Roe in meeting the needs of an area and then working diligently with all of the necessary agencies, officials, and congressional committees to make the project a reality. It is altogether fitting that the building bear the name of the man who worked so hard for its completion.

Bob Roe has been a passionate and effective spokesman for a sound system of public works and transportation, with all of the benefits they bring to the national economy. Even more important, he has matched his words with deeds.

I urge my colleagues to support this legislation and the highly deserved honor it beings to Chairman Bob Roe.

Mr. SAVAGE. Mr. Speaker, I yield 5 minutes to our distinguished colleague, the gentleman from California [Mr. Mineta], chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 5431, to designate the Federal building located at 200 Federal Plaza in Paterson, NJ, a the "Robert A. Roe Federal Building."

Mr. Speaker, H.R. 5431 is a fitting tribute to a Member who has devoted his entire life to public service.

I think it's safe to say that no one in this House works harder than Bob Roe. He is totally dedicated to improving the quality of life for all Americans.

Bob Roe's tireless efforts ensured that the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA], the most important legislation of this Congress, became a reality.

He put in more hours last year than anyone—sometimes even working around the clock to complete what truly is landmark legislation and anyone who has worked with Bob knows that he takes the saying, "blood, sweat, and tears," quite literally.

The ISTEA legislation is just one example of his achievements. He was a principal architect of the Superfund Program, and he's responsible for putting the water resources program on a 2-year cycle.

In whatever he does, he is truly visionary. While most people think of infrastructure as potholes, Bob Roe thinks in terms of global economy, productivity, energy efficiency, and resource investment.

The distinguished chairman of the Committee on Public Works and Transportation, and dean of the New Jersey delegation, Mr. Roe was first elected to the U.S. House of Representatives to fill an unexpired term of office in a special election in 1969, and has been reelected to each succeeding Congress.

Before assuming the chairmanship at Public Works in 1991, Congressman Roe was chairman of the Science, Space, and Technology Committee for 4 years. He played a major leadership role in returning the United States to space in 1988 with the successful launch of the space shuttle *Discovery*.

Under his guidance, the Science Committee passed legislation dealing with such important issues as the superconducting super collider, U.S. technological competitiveness, fusion development, and the modernization of U.S. research facilities.

Prior to being elected to Congress, Chairman Roe already had a long and distinguished career in public service. He served in the Governor's cabinet as State of New Jersey Commissioner of Conservation and Economic Development. In local government, he was director of the Board of Chosen Freeholders of Passaic County, NJ, and the mayor of Wayne, NJ.

Mr. Speaker, there is a saying that "one man can make a difference." When that one man is Bob Roe, truer words were never spoken. When he leaves this House, not only will he be missed by this distinguished body, but by the Nation as well.

Bob Roe has been an outstanding leader, a dedicated policymaker, and a good friend.

Mr. Speaker, I urge adoption of this bill.

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Mr. INHOFE. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. Packard].

Mr. PACKARD. Mr. Speaker, I rise in support of H.R. 5431, a bill to designate the Federal building located at 200 Federal Plaza in Paterson, NJ, as the "Robert A. Roe Federal Building."

I have had the distinct honor of serving under the careful, deliberative guidance of Chairman Roe on the Public Works and Transportation Committee. I have also been fortunate to know Bob Roe outside the confines of his role as chairman, and I am convinced that Congress will be a lesser place after his departure at the end of this congressional term. His friendship has always been valuable to me.

Through the chairmanship of two House committees he has been a major force in national policy and his contributions will be appreciated for many years to come. Most significantly, during the 102d Congress, I had the opportunity to work with the chairman on the landmark Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA]. While working on ISTEA, I was impressed by the chairman's breadth and depth of knowledge on transportation issues. Congressman Roe deserves the distinction of reorienting the direction of national transportation policy in order to provide the economic foundation for the United States to compete in the global marketplace today, and into the 21st century. I also would like to commend the bipartisan spirit he infused into the entire process of writing ISTEA and shepherding its passage into law.

I also had the pleasure of working with him as he chaired the Science, Space, and Technology Committee from 1987 to 1990. We worked side by side as America returned to space following the *Challenger* disaster. Throughout the entire painful process, Chairman Roe sought to revitalize hope in the space program and showed unfailing compassion as this Nation sought to heal its wounds.

Having served with a man of such integrity and vision, I urge my colleagues to unanimously support this measure, which is a fitting tribute to a man which has served his country in such a distinguished and dignified manner.

And personally, I want to convey my love and appreciation to the gentleman from New Jersey [Mr. Roe] for the man that he is and for the friend that he has become.

Mr. INHOFE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Rohrabacher].

Mr. ROHRABACHER. Mr. Speaker, I rise in support of H.R. 5431, and appreciate the gentleman yielding me the time.

I have worked with the gentleman from New Jersey, Congressman Roe, and I am a sophomore this year, but from the very first day I entered in Congress I was working with Mr. Roe when he was chairman of the Science, Space, and Technology Committee. And I just would like to rise in support and express my admiration for Congressman Roe and the wonderful things he has done during his entire life as a Congressman. He has dedicated his entire life to public service, and I believe that naming a Federal building after a man who has committed so much of his life to helping America, and making America a better place, and for the work that he has done here in Congress is fitting and proper.

It seems to me that I have developed a relationship with this distinguished gentleman over the years. I just would like to say from what I know of him he is a man who thinks about the future. And when he was on the Science, Space, and Technology Committee as chairman he was basically laying a foundation for the future and for a better future for America. He served with distinction on the Science, Space, and Technology Committee, and he has served on the Public Works and Transportation Committee of which he is now chairman, of course, and let us note that he is laying a foundation there as well. They call it infrastructure here, but it is the foundation of a prosperous and growing America.

Let me note that not only do we honor him today for what he has accomplished, and he has accomplished a great deal during his tenure in office, but also we salute him today for the way he has treated other Members of Congress. There are people who may have power in their hands, and they are not quite as nice as Congressman Roe. And even when we had disagreements on the committee, and I was a rather abrupt freshman and did not know all of the rules, he treated me extremely well and with respect, and actually went out of his way on several occasions to make sure I knew exactly what the rules were and how to do it right.

So it is my pleasure to be here to honor him today and to note one other thing that I also saw in Bob Roe, which is that he was really more concerned about America than he was about partisanship or political party, and that says a lot about him.

So today I am very pleased to be here in support of this measure. Naming a Federal building after a person like this is really a tribute to him, because he has dedicated his life to public service, and this building will house people who also are continuing to serve the American people, and they can do so very proudly with the name of Robert Roe on their Federal building. So I appreciate this opportunity to participate in the debate.

Mr. SHUSTER. Mr. Speaker, I rise in strong support for this bill. No one has worked harder and more effectively for the betterment of our Nation and its people than my good friend, Chairman Bob Roe.

He had a distinguished career in his home State of New Jersey, even before his election to Congress, including service as director of the board of chosen freeholders of Passaic County, NJ, and as mayor of Wayne.

Since his election to the house in 1969, Bob Roe has made his mark on the Public Works and Transportation Committee and the Science, Space, and Technology Committee, and has been chairman of both.

It has been a distinct pleasure and an honor to serve with Bob Roe. I cherish his friendship and the hours we have spent working together. He is a master of detail, a tireless worker, and absolutely relentless in the pursuit of what he believes is the right course of action.

I particularly recall his tremendous leadership role in guiding the massive 1986 Water Resources Development Act, Clean Water Act Reauthorizations, and the Superfund hazardous waste cleanup bills to their eventual enactment.

One thing that characterizes Bob Roe's impressive record of service is commitment. He deeply believes in the importance of a strong infrastructure to this Nation's well-being. He is also visionary enough to see that only through an efficient intermodal transportation system will our Nation be able to compete effectively in the global marketplace as we enter the 21st century.

The people of New Jersey obviously appreciate the tremendous service they have received from Congressman Bob Roe during his long and distinguished career. Those of us who work closely with him here in Congress will miss his leadership as well when he ends his congressional service at the close of this Congress.

Mr. Speaker, this is a most fitting tribute to Bob Roe, and I urge its approval.

Mrs. LLOYD. Mr. Speaker, I rise in support of the resolution to name the Federal building in Patterson, NJ, after our esteemed colleague, Robert A. Roe. For many years I have worked closely with Chairman Roe on the Science Committee. There he worked tirelessly to advance the cause of science in this country. As chairman of the Science Committee he sought to build a consensus, bipartisan science policy that would further the prestige and leadership of the United States in the world science community.

Before it was fashionable, Bob Roe fought to maintain our Nation's investment in science and technology. Before most, he recognized that our Nation's future well-being was integrally tied to our technological prowess and that science education for America's youth was essential if our Nation was to effectively compete in a high-tech world. He fought tirelessly to bring the Congress and the public to understand that indeed, investment in science and technology would create the wealth of the future.

In recognition of his efforts to awaken America to the challenge of the age of technology, it is fitting that we name this Federal building in his honor.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 5431, legislation to designate a Federal building in Paterson, NJ, the "Robert A. Roe Federal Building." I must say, however, that I have mixed emotions about this legislation.

On the one hand, there is probably no one in the Congress who deserves to have a Federal building named after him more than Bob Roe.

As a member and chairman of the House Committee on Public Works and Transportation, Bob Roe has devoted his career to his tireless efforts to rebuild and modernize our Nation's infrastructure.

Bob Roe understood long before most people that in order for America to compete in what has increasingly become a global economy, we must provide the roads, sewer lines, ports, airports, rail lines, court houses and other public facilities needed to strengthen our economic foundation here at home.

It was Bob Roe who led the fight year after year to make the investments in America which create jobs, generate tax revenues, improve efficiency and productivity, and still leave us something to show for the money after it has been spent.

Indeed, it is difficult, if not impossible, to go into any State in America where Bob Roe has not had an important role to play in bringing about a transportation or infrastructure improvement project which has helped to strengthen the local economy.

But while I am pleased to join in honoring Bob Roe's many accomplishment by naming a Federal building in his hometown of Paterson after him, I am saddened that this legislation was prompted by his decision to retire from the Congress.

I have had the pleasure of knowing Bob Roe and working with him throughout my career in Congress. I have always regarded him a man of great integrity, energy, idealism, and compassion. Everyone who has come to know Bob Roe over the years knows that he is a one of a kind, and that the Congress just won't be the same without him.

I'm going to miss him, our State of New Jersey is going to miss him, and our Nation is going to miss him. He is an outstanding public servant and a great friend, and I am pleased to join in this modest tribute to one of the giants in the Congress.

Mr. VISCLOSKY. Mr. Speaker, today, the Members of the House of Representatives will vote on legislation honoring our distinguished colleague and chairman of the Public Works and Transportation Committee, Robert A. Roe. As a former member of the Public Works and Transportation Committee, I would like to take this opportunity to pay a brief personal tribute to Chairman Roe.

As chairman of the Science, Space, and Technology Committee, Robert Roe is credited with the revival of NASA's space shuttle program and promoting a new era in the small rocket industry.

After 4 years as pilot of the Science, Space, and Technology Committee, Congressman Roe achieved his goal of becoming the chairman of the Public Works and Transportation Committee.

Chairman Roe's experience, attitude, aggressiveness, and dedication helped to bring about one of the most important bills of the 102d Congress—the Intermodal Surface Transportation Infrastructure Act of 1991. This measure created highway and mass transit programs for the next 6 years. It will support 600,000 new and existing jobs in this year alone.

The highway bill is only one of Chairman Roe's many accomplishments. His efforts to clean up our Nation's water systems are found in the Clean Water Act reauthorization bills of 1982 and 1987. Chairman Roe played an important role in shaping the celebrated 1986 Superfund cleanup bill.

It is fitting, when one looks at Chairman Roe's legacy of promoting projects for the public good, that a Federal building in his home State, New Jersey, bear his name. Be it highways or star ships, there isn't a town in the United States that hasn't benefited from Bob Roe's hard work and leadership. I ask my colleagues to join me in recognizing Robert Roe today and support H.R. 5431.

Mr. INHOFE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAVAGE. Mr. Speaker, again I urge adoption of H.R. 5431.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Valentine). The question is on the motion offered by the gentleman from Illinois [Mr. Savage] that the House suspend the rules and pass the bill, H.R. 5431.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAVAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5431, the bill just passed.

The SPEAKER pro tempore (Mr. VALENTINE). Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5679, DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND SUNDRY INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–749) on the resolution (H. Res. 529) providing for consideration of the bill (H.R. 5679) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5678, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–748) on the resolution (H. Res. 530) waiving certain points of order during consideration of the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

JOHN PAUL HAMMERSCHMIDT FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. SAVAGE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5432) to designate the Federal building and U.S. courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, AR, as the "John Paul Hammerschmidt Federal Building and United States Courthouse."

The Clerk read as follows:

H.R. 5432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, is designated as the "John Paul Hammerschmidt Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the Federal building and courthouse referred to in section 1 is deemed to be a reference to the "John Paul Hammerschmidt Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. SAVAGE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5432 is a bill to designate the Federal building and U.S. Courthouse, located at the corner of College Avenue and Mountain Street in Fayetteville, AR, as the "John Paul Hammerschmidt Federal Building and United States Courthouse." I urge its passage as an appropriate, fitting accolade for JOHN PAUL HAMMERSCHMIDT, ranking member of the Public Works and Transportation Committee, since 1987.

Congressman HAMMERSCHMIDT's public career covers 25 years.

In addition to his elected duties, Congressman HAMMERSCHMIDT served on the board of review for the Metropolitan Washington Airports Authority, and on the Presidential Commission on Aviation, Security, and Terrorism. Environmental issues, as well as transportation issues, have held particular interest for this dean of the Arkansas delegation.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, JOHN PAUL HAMMERSCHMIDT will certainly be missed, and it would be an understatement just to make that statement. During his 26-year tenure in the House, JOHN PAUL has distinguished himself as both a gentleman and a statesman.

As a combat pilot in World War II, he flew 217 missions in a C–47 with the 3d Combat Cargo Group over "The Hump" in the China-Burma-India theatre. Following his active military service, he served as a major with the Air Force Reserve.

Prior to coming to Congress in 1967, JOHN PAUL was a successful businessman in Harrison, AR, as well as active in various civic, professional, and veteran organizations.

Throughout his service in Congress, JOHN PAUL has been on the Public Works and Transportation Committee, serving as ranking on the Aviation, Water Resources and Economic Development Subcommittees prior to being elected ranking member of the full committee in 1987.

I feel a special kinship to JOHN PAUL in particular since our very close proximity. Our districts almost touch each other, not quite.

Three of my children graduated from the University of Arkansas in his district in Fayetteville, AR. In fact, when I was mayor of the city of Tulsa, they used to always play the first game of the year with the University of Arkansas playing the University of Tulsa, and they would always put my two daughters, who were cheerleaders, to lead the "Hog" cheers in front of the Tulsa group, and I was mayor of Tulsa at that time, so I, of course, had some mixed emotions.

My daughter right now is on the staff, with her Ph.D., of the University of Arkansas, and she tells me—I say to the gentleman from Arkansas [Mr. HAMMERSCHMIDT]—that she can now see the John Paul Hammerschmidt Building from her office.

Although JOHN PAUL will no longer be with us on a daily basis, I am confident that he will still be an active participant in the political process and I hope available to advise and counsel.

H.R. 5432 which will designate the Federal building and courthouse in Fayetteville the "John Paul Hammerschmidt Federal Building and United States Courthouse" is a fitting tribute and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. SAVAGE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works and Transportation.

Mr. ROE. Mr. Speaker, I thank the gentleman, the distinguished chairman of our Subcommittee on Buildings and Grounds, for yielding me this time.

Mr. Speaker, I am highly honored and pleased to join in support, strong support, of the bill which is a fitting, well-earned and well-deserved tribute to my good friend, dear friend, and colleague, JOHN PAUL HAMMERSCHMIDT. I am proud to say that the committee's success over the last 20 years, 26 years I believe it is, to be exact, have been due in large part to the cooperation and the congeniality and hard work of the distinguished gentleman from Arkansas. I liken JOHN to being one of the great master builders of America. His grasp of the issues and his willingness to resolve problems have contributed to his outstanding leadership on the committee. He is not a problem maker; he is a problem solver. And, of course, JOHN PAUL has enjoyed a truly outstanding public career.

He is, as was mentioned by some of our other colleagues, the dean of the

Arkansas delegation and has represented the 3d District of Arkansas since January 3, 1967. He has been the ranking member of the Committee on Public Works and Transportation since 1987.

Because of his outstanding work on the Committee on Veterans' Affairs, he has been awarded many national legislative honors by various, many various national veterans' organizations.

As was mentioned by our colleague, the gentleman from Oklahoma, there are not too many people who know around here of JOHN PAUL's outstanding military service. He also was a combat pilot in World War II, and flew, again, 217 missions with the 3d Combat Cargo Group in the China-Burma-India theater.

He has received many distinguished honors and medals and recognition from many governments, both ours and other overseas governments, and, of course, he is retired as an Air Force Reserve major, and then continued to serve in the National Guard, as I understand it, as a pilot for many years thereafter.

The General Services Administration submitted a prospectus to the Committee on Public Works and Transportation in February 1968, for the construction of a Federal office building and U.S. courthouse in Fayetteville, AR. The prospectus was approved by the Congress in May 1968.

In 1974 the building was constructed at College Avenue and East Mountain Street. The building houses numerous Federal entities such as the Department of Agriculture, the U.S. district courts, the Department of Health and Human Services, and the Department of the Treasury.

Congressman HAMMERSCHMIDT realized Fayetteville's need for a new courthouse and Federal office building and the benefits that would accrue to the city as a result. As a member of the committee, he provided important support for construction of the building and setting aside this important building in Arkansas.

Before running for Congress, JOHN PAUL had been a lumberman, builder, and building supplies businessman. He was active in many civic, professional, and veterans organizations. Whatever he did, he did with dignity and grace.

JOHN PAUL is a gentleman in the true sense of the word. He is a man of great compassion, understanding, and wisdom, and I urge passage of this most deserving legislation.

Mr. INHOFE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I rise in support of H.R. 5432 to designate the Federal building and U.S. courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, AR, as the "John Paul Hammerschmidt Federal Building and United States Courthouse." As a friend and a colleague, I will sincerely miss Congressman JOHN PAUL HAMMERSCHMIDT.

Congressman HAMMERSCHMIDT was elected to the 90th Congress and served 13 consecutive terms in the House of Representatives. I have had the pleasure of serving with him on the Public Works and Transportation Committee. As the ranking minority member of the committee, JOHN PAUL provided uncompromising leadership and outstanding advocacy of sound public policy.

We worked closely together on many important pieces of legislation such as the Intermodal Surface Transportation Efficiency Act [ISTEA], the Clean Air Act, and superfund legislation. His contributions to the quality of life in America will long be remembered because of these and other laws. I have always appreciated and been impressed by his diligent concern for the public interest.

JOHN PAUL HAMMERSCHMIDT has also provided his counsel and wisdom that springs from years of experience in Congress to me. I value his friendship, and would like to thank him for the courtesy he has always afforded me, both as colleague and comrade. As he is retiring at the end of this Congress, ending an unblemished record of distinguished service, I salute his efforts and will miss working with him on public works legislation, and the business of governing.

Among the fine men I have had the honor of serving with in Congress he is without peer as a leader, a gentleman, and a legislator. The esteem I hold for Mr. HAMMERSCHMIDT and for that matter the esteem the entire Congress holds for him is only exceeded by the esteem for which he is held by the people of northwest Arkansas. I urge my colleagues to support this legislation unanimously as a small monument to Congressman HAMMERSCHMIDT's two decades of distinguished public service.

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Mr. SAVAGE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 5432, to designate the Federal building and U.S. courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, AR, as the "John Paul Hammerschmidt Federal Building and United States Courthouse."

Mr. Speaker, there is no individual in the House who is more loved and respected than JOHN PAUL HAMMERSCHMIDT. His honesty, gentleness, decency, and integrity are second to none. Don't be swayed by his quiet manner, because underneath is a man with strong convictions, a sense of purpose, and a keen desire to get things done.

One of the pleasures of being a member of the Public Works Committee is that we try to work out our differences, Democrats and Republicans, to do what is best for America. Few will dispute that it was JOHN PAUL, because of his personality and effectiveness, who many times made the difference in ensuring bipartisan support on key infrastructure legislation.

Congressman HAMMERSCHMIDT, distinguished dean of the Arkansas delegation, has represented the 3d District of Arkansas since January 3, 1967, and has been the ranking member of the Public Works and Transportation Committee since 1987.

JOHN PAUL has also served on the Veterans Affairs Committee since 1967, as ranking member from the 93d Congress, and ranking member of its Hospitals and Health Care Subcommittee. He has been awarded legislative honors by eight national veterans service organizations.

Few know that he was a combat pilot in World War II, flying 217 missions with the 3d Combat Cargo Group over "The Hump" in the China-Burma-India theatre. He was awarded the Distinguished Flying Cross with three oak leaf clusters, the Air Medal with four oak leaf clusters, three battle stars, the China War Memorial Medal by the Republic of China, and the Meritorious Service Award. He retired from the Air Force Reserve as a major.

Before coming to Washington, JOHN PAUL was a lumberman, builder, and building supplies businessman by profession in his hometown of Harrison, AR. He was active in many civic, professional, and veteran organizations before running for Congress, the only elective office he has sought or held.

As you know, JOHN PAUL is retiring at the end of this session. This body is worse for his leaving, but better for his being here. We all wish him well in his retirement, and this bill is a fitting tribute to his outstanding contributions to the Nation.

Mr. Speaker, I urge my colleagues to support its passage.

Mr. SHUSTER. Mr. Speaker, I rise in enthusiastic support for this bill to name the Federal building and U.S. courthouse in Fayetteville, AR, for my dear friend and colleague, Congressman JOHN PAUL HAMMERSCHMIDT. It has been a special privilege to have worked closely with him for the past two decades.

For almost 26 years in this body and as a member of the Public Works and Transportation Committee, JOHN PAUL HAMMERSCHMIDT has worked diligently and effectively for the people of Arkansas and the Nation. The citizens of Fayetteville and throughout northern and western Arkansas know and appreciate the important role he has played in the growth of that region.

Those of us honored to serve with him on the committee also know very well what JOHN PAUL has meant to his district, and certainly his 13 consecutive terms in the House are a tribute to his accomplishments.

Few Members are so well versed in the work of the Public Works Committee. Congressman HAMMERSCHMIDT served as the ranking Republican member on three of our six subcommittees before becoming ranking on the full committee.

During that time, he has been an outspoken advocate for a strong infrastructure, and he has been especially vocal in demanding that the revenues in our transportation trust funds be used to support the transportation programs for which they are collected.

He is also one of this body's strongest supporters of sound programs for our Nation's veterans. In that regard, he served as the ranking Republican member of the Veterans' Affairs Committee from 1975 through 1986.

This is an honor well earned by one of the true gentlemen in this House. I feel most fortunate to have shared so many good years with him and to have benefited so greatly from his wise counsel. He will be greatly missed when he retires at the end of this Congress.

I urge my colleagues to support this bill.

Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of this legislation to name the Federal building in Fayetteville, AR, in honor of our colleague, Representative JOHN PAUL HAMMERSCHMIDT.

JOHN PAUL and I came to Congress together in 1967. We became friends then and we have continued that close friendship to this day. He was appointed to the Veterans' Affairs Committee in 1967 and between 1975 and 1986, JOHN PAUL was the ranking minority member on the VA Committee. I worked closely with him on veterans issues over those years and he was always so supportive of efforts to improve programs and benefits for our Nation's veterans.

In 1987, JOHN PAUL gave up his ranking minority member position on the VA Committee to take the same position on the Public Works and Transportation Committee, where he has done an outstanding job.

I regret that my good friend won't be back in the 103d Congress. He has served the people of Arkansas and this country with great distinction. They will miss his experience and leadership, just as we will here in this Chamber. But I know all my colleagues join me in wishing only the best for JOHN PAUL and Virginia as they return to Arkansas. This action today will serve as a lasting tribute to the contributions JOHN PAUL has made over the past 25 years in the House of Representatives. I strongly support its passage as a salute to my good friend and colleague.

Mr. INHOFE. Mr. Speaker, I yield back the balance of my time.

Mr. SAVAGE. Mr. Speaker, I urge the adoption of H.R. 5432, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VALENTINE). The question is on the motion offered by the gentleman from Illinois [Mr. SAVAGE] that the House suspend the rules and pass the bill, H.R. 5432.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAVAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5432, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois.

There was no objection.

GLENN M. ANDERSON FEDERAL BUILDING

Mr. SAVAGE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4438) to designate the Federal building located at 501 West Ocean Boulevard in Long Beach, CA, as the "Glenn M. Anderson Federal Building."

The Clerk read as follows:

H.R. 4438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 501 West Ocean Boulevard in Long Beach, California, shall be known and designated as the "Glenn M. Anderson Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Glenn M. Anderson Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. SAVAGE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4438 is a bill to designate the Federal building, at 501 West Ocean Boulevard, in Long Beach, CA, as the "Glenn M. Anderson Federal Building."

I strongly urge its passage as a fitting tribute to the long, distinguished, and productive public career of our dedicated colleague, GLENN ANDERSON. He has been a staunch champion of intermodal transportation issues, environmental causes, and economic development programs, as a hardworking member and dutiful chairman of the House Committee on Public Works and Transportation.

His public service contributions not only span five decades, they are unusually distinguished: Just consider service as the mayor of Hawthorne, CA, California State assemblyman, Lieutenant Governor of California, and Congressman from the 32d District in California.

As his colleagues in the House, we have benefited from his experience and sincerity of this tireless public servant who so well deserves this honor.

I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I my consume.

As the chairman has already indicated, H.R. 4438 will designate the Federal building located at 501 West Ocean Boulevard in Long Beach, CA, as the "Glenn M. Anderson Federal Building." This is a fitting tribute to a man who has dedicated over 50 years to public service.

Since becoming mayor of Hawthorne, CA, in 1940, GLENN ANDERSON has served the people of California with distinction and honor. Throughout his 23 years in the House, GLENN has served on the Public Works and Transportation Committee as well as the Merchant Marine and Fisheries Committee. Both of which have significance for his district. As a member on the Merchant Marine and Fisheries Committee, GLENN'S personal experience as a civic leader of a major port city along the California coast has added an important dimension to maritime discussions.

GLENN'S leadership on the House Public Works and Transportation Committee is highlighted by major policy initiatives in the areas of mass transit, highway safety, and interstate commerce.

Given his long and distinguished career, I fully support H.R. 4438 and believe it to be an appropriate tribute to GLENN ANDERSON. I urge my colleagues to support it.

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Mr. SAVAGE. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. ROE], Chairman of the Committee on Public Works and Transportation.

Mr. ROE. I thank the distinguished chairman of our Subcommittee on Buildings and Grounds.

Mr. Speaker, I want to join in strong support of this legislation. Our distinguished colleague and chairman emeritus of the Committee on Public Works and Transportation, the Honorable GLENN M. ANDERSON of California, has served our country and the House with greatest honor, loyalty, and distinction. As was indicated, with over 50 years of public service, GLENN has been a tireless worker for transportation, environment, and maritime issues. His accomplishments have been of great benefit to all Americans.

I liken him also to one of the great master builders of America. I am not sure that if he stayed here much longer we would be able to get any more programs into the State of California—it is about ready to sink into the Pacific Ocean.

But he has done so many great things, and like everything else in life you never hear in your own home town. It is good to have the opportunity to speak out on his behalf.

I think in my own mind the airports, major airports of California for transcontinental flight, major water resources, would not have been possible—and I am not just talking about a well here or a well there, I am talking about major dams, flood control programs, really the whole infrastructure of the State of California, particularly the port of Long Beach and Los Angeles, which now is one of the—he tells me—the most rapidly growing or largest port facility in the United States. He even does not hesitate to advise me that it is larger than our port of New Jersey and New York. We never quite agreed on that. But, by God, it is one of the major ports in the history of this country and doing a tremendous job in the economics of our country.

Of course, there is no more complicated transportation system in the entire Nation, or the world, for that matter, than there is in the State of California in moving peoples and goods throughout that State. I believe the economy of the State of California is about the 8th largest in the world, if I am not mistaken.

GLENN was elected to the 91st Congress in 1968. He is my senior here in the Congress by a few months. Prior to that he served as Lieutenant Governor of the State of California from 1959 to 1967; also, as a member of the California State Assembly from 1943 to 1951 and as mayor and city councilman from Hawthorne, CA, from 1940 to 1943.

As chairman of the Committee on Public Works and Transportation, GLENN did much to raise the visibility of the infrastructure as an important public policy issue here in our Nation. I might say, had it not been for really years of work in that field, carrying that message out throughout the Nation is what helped to build the understanding in the country of how critical infrastructure is, meaning the sinews that make a country run and the infrastructure that we speak to.

His committee legislative accomplishments over the years include the Surface Transportation and Uniform Relocation Assistance Act of 1987, the Water Resources Development Act of 1990, the Oil Pollution Liability and Compensation Act of 1990, the Clean Air Act Amendments of 1990, and the Airline Deregulation Act of 1978.

And I suppose, if you are speaking about GLENN or JOHN PAUL, the list could go on and on and on and on, really speaking to the history of the building of America.

He has been a great national leader in America and is recognized for his national leadership. He is a true friend, thoughtful, loyal, and will always enjoy the reputation as both a gentle man and a gentleman. We all wish him well on the occasion of his retirement, and I urge our colleagues here in the House to support this legislation unanimously as a fitting tribute to GLENN M. ANDERSON.

Mr. INHOFE. Mr. Chairman, I yield such time as he may consume to the distinguished ranking member of the Committee on Public Works and Transportation, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I am extremely pleased to rise in support of H.R. 4438, which honors my good friend and the distinguished Chairman Emeritus of the Public Works and Transportation Committee, Congressman GLENN ANDERSON.

This bill would designate the Federal building in Long Beach, CA, as the "Glenn M. Anderson Federal Building." It is a most fitting tribute to a man who has compiled a remarkable record of service spanning half a century. I feel very fortunate to have served with GLENN during almost half of that period.

GLENN began his long career of public service in 1940, when he was elected mayor of Hawthorne, CA. Since that time, he has served in the California State Assembly, as Lieutenant Governor of California and in various other State and local leadership positions.

Since he came to Congress in 1969, GLENN and I have enjoyed a warm friendship and a close working relationship. He has always provided valuable insight and judgment, and he has made a tremendous contribution to the work of the Public Works and Transportation Committee during his service both as member and chairman.

No one has worked harder and with more dedication on public works related issues nor has anyone accomplished more for his State and his district than GLENN ANDERSON. He has served with great distinction and with tireless dedication to the needs of his constituents.

His devoted service to Long Beach is legendary, and it is, therefore, highly appropriate that Chairman GLENN ANDERSON be honored in this manner.

Mr. SAVAGE. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4438, legislation to designate the Federal building at 501 West Ocean Boulevard in Long Beach, CA, as the "Glenn M. Anderson Federal Building."

Mr. Speaker, this is an outstanding tribute to a man who has dedicated his entire life to public service.

GLENN ANDERSON is an American success story. He climbed the business ladder, rung by rung, beginning as a messenger. By the age of 27, he was already achieving amazing accomplishments. He started his political career as the mayor of Hawthorne, CA. His service as mayor was followed by a decade in the California State Assembly and a distinguished career as Lieutenant Governor of the State of California.

GLENN ANDERSON has served in the House of Representatives for a quarter of a century. During that time, he has promoted our national infrastructure needs. He combined those efforts with a devotion to the unique needs of his home State of California.

Mr. Speaker, this is a fitting tribute and I urge my colleagues to support this legislation.

Mr. INHOFE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strong support of H.R. 4438 to designate the Federal building at 501 West Ocean Boulevard in Long Beach, the Glenn M. Anderson Federal Building.

Let me note that that address happens to be within the bounds of my congressional district. But it is 1 block, just 1 block from GLENN ANDERSON's congressional district.

Shortly after I was elected to Congress, GLENN ANDERSON was the first congressman that I paid a visit to. We agreed we would be working—GLENN was a lifelong Democrat, and I am a strong Republican—we agreed we would be working together and there would be no boundaries between our districts and that we would work together as a team to try to do our best for America.

I have never been disappointed, and I am very grateful for the guidance that GLENN has given me over the years.

I will dearly miss him as he leaves Congress now—but he will not be leaving our hearts as he leaves this hall.

GLENN is a legend in southern California. Indeed he has a lifetime of service. Some of you probably do not know—there was mention made that he was a messenger—but you may not know he was a banjo player in an all-girls vocal group—good luck for GLENN.

But where he really made his name as GLENN ANDERSON was when he was a motorcycle racer in southern California. He was a very famous motorcycle racer at age 19, I think. He raced all over southern California, skinning his knees as he turned those motorcycles around, preparing himself for the excitement here on the floor of Congress, I am sure.

In his early 20's he was a successful businessman. I am in my mid-40's, and I am yet to be a successful businessman. So I can certainly admire GLENN, who started out successful in his 20's. But he immediately saw public service as being his goal in life.

He was selected the youngest mayor in the country when he was elected mayor of Hawthorne. He went on to be elected to the California State Legislature, on to be the Lieutenant Governor in California, and in those positions he dedicated himself to education, water projects, and to transportation issues.

□ 2000

He was elected to Congress in 1968 and has had a distinguished record as a

Member of Congress. And he has helped; yes, he has helped his local communities and we are very proud of GLENN, very grateful to GLENN, for what he has done for California.

And he has done a great deal for California, but we have not forgotten that the gentleman from California [Mr. ANDERSON] also has done a great deal for America and for other States as well.

GLENN is a much beloved person; he is a much beloved man in his local area. And we have not missed the fact that, although GLENN has been a banjo player, a motorcycle racer, a mayor, a member of the legislature, a lieutenant governor and a Member of Congress, GLENN has always been a patriotic American who cared a great deal for his country, as well as for his constituents, and we are very proud of GLENN in Long Beach.

Mr. Speaker, it is fitting, very fitting, that this building in my congressional district will be entitled the Glenn Anderson Federal Building because southern California will never forget GLENN ANDERSON and the wonderful things he has done throughout his career. I say to the gentleman from California, "Thank you very much, GLENN, and I salute you, and I support this legislation."

Mr. INHOFE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I have no prepared statement, so permit me to speak from my heart.

I certainly support the honor that is given to the gentleman from California [Mr. ANDERSON] by naming the Federal building in Long Beach after him.

GLENN and I have followed a little bit similar paths. We have served on bank boards, we have served as mayors, and I did not realize it was 40 years before I served as mayor, but we have experienced a lot of the same kinds of things, and it is only in the last 4, maybe 5, 6, years that I have really developed a deep love and friendship with GLENN ANDERSON. I think we have grown closer together in the last few years because, not only do we have a lot in common, but I certainly have admiration and love for him. Both of us, I think, have learned, and many here tonight on the floor, I think, have learned, about our former mayors: the gentleman from New Jersey [Mr. ROE], the gentleman from California [Mr. MINETA], the gentleman from Oklahoma [Mr. INHOFE], myself, and GLENN ANDERSON of course, and, Mr. Speaker, we all have learned that the purest form of government we have in this country is at the local level, and I believe we can all look back to when we served as mayors, that that was a time when we really felt we were close to the people and able to respond to their needs.

Mr. Speaker, that was the beginning of GLENN'S career, and it was kind of my beginning, and perhaps that of many here.

I have learned to admire GLENN ANDERSON. This is not the first thing that has been named after GLENN ANDERSON. There are many things in the Long Beach area and in Los Angeles County. GLENN has made his mark in many ways and in many places. He has been honored and revered many times.

I first became acquainted with him because I did not get that much involved in State government until he became Lieutenant Governor, and that is when I saw GLENN ANDERSON emerge as one of the dynamic leaders of the State of California, and he has become, of course, a national leader in many areas. I revere and respect and love him for the work he has done. Anyone that serves his country as GLENN has, deserves the love and respect of his colleagues. That he has.

Mr. Speaker, I say to the gentleman from California [Mr. ANDERSON], "I pay tribute to you, GLENN, and I certainly support this legislation."

Mr. INHOFE. Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I would like to take this time to rise in full support for H.R. 4438, legislation to designate the Federal building at 501 West Ocean Boulevard in Long Beach, CA, as the Glenn M. Anderson Federal Building. This is a very fitting tribute to a man who has dedicated his life to improving the Long Beach-Los Angeles area.

GLENN ANDERSON was first elected to office, mayor of Hawthorne, California at the age of 27. Since that time he has been moving mountains for the good of southern California, the State and the country.

GLENN served in the California General Assembly, was elected lieutenant governor and in 1968, GLENN was elected to congress where he joined the Committee on Public Works and the Merchant Marine and Fisheries Committee. Even when moving to Washington GLENN never lost site of the district that elected him.

GLENN served as chairman of the Subcommittee on Surface Transportation from 1981 to 1988 before he became chairman of the full committee. During these years on the committee, he has always been a very active member and he has much to show for his efforts.

The ports of Los Angeles and Long Beach are the busiest in the Nation with much thanks to be given to GLENN ANDERSON. He added the Harbor Freeway to the interstate system, obtained funding for the Los Angeles Metro Rail, he added funding for the dredging of the ports of Los Angeles and Long Beach and he added the very important surface infrastructure to allow swift movement of commodities from the ports. GLENN has also played a leading role in the revitalization of downtown Long Beach by providing the necessary infrastructure improvements and also by obtaining the funding for the Federal building being named for him today.

GLENN is also very proud of Interstate 105, now known as the Glenn Anderson Freeway. This eight lane super highway includes HOV lanes and light rail lines, a truly intermodal project.

We in Congress have a lot to be thankful for, having the pleasure of working with GLENN ANDERSON. The people of southern California have a lot to be thankful for the hard work of their Congressman.

Mr. Speaker, I support this bill wholeheartedly, I can think of no Member more deserving of this tribute than GLENN ANDERSON.

Mr. SAVAGE. Mr. Speaker, I urge adoption of H.R. 4438, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VALENTINE). The question is on the motion offered by the gentleman from Illinois [Mr. Savage] that the House suspend the rules and pass the bill, H.R. 4438.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAVAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ROBERT A. GRANT FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. SAVAGE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5222) to designate the Federal building and U.S. courthouse located at 204 South Main Street in South Bend, IN, as the "Robert A. Grant Federal Building and United States Courthouse".

The Clerk read as follows:

H.R. 5222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION

The Federal building and United States courthouse located at 204 South Main Street in South Bend, Indiana, is designated as the "Robert A. Grant Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the Federal building and courthouse referred to in section 1 is deemed to be a reference to the "Robert A. Grant Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. SAVAGE] will be recognized for 20 minutes, and the gentleman from Oklahoma [Mr. INHOFE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5222 is a bill to designate the Federal building and U.S. courthouse located at 204 South Main Street in South Bend, IN, as the "Robert A. Grant Federal Building and United States Courthouse."

Judge Robert Allen Grant enjoys a long and distinguished career as an attorney and public servant. He is a former Congressman, who represented the third district of Indiana from January 1939 to January 1949.

In 1957, President Eisenhower appointed Robert A. Grant to the U.S. District Court in the northern division of Indiana.

As judge, he was instrumental in developing the Aikens versus Lash decision which established minimal due process requirements for prisoner transfers.

Judge Grant has been involved in many civil and educational endeavors, serving as a trustee of the University of Indianapolis, as a member of the National Council of Boy Scouts, and as a member of the St. Joseph County and American Bar Associations.

H.R. 5222 is a fitting tribute to this dedicated public servant.

I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. INHOFE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Robert Allan Grant was born in Marshall County, IN, July 31, 1905. He grew up in Hamlet and South Bend, IN, and attended college and law school at the University of Notre Dame.

He was admitted to the Indiana bar in 1930 and began his general practice with Pyle & Voor in South Bend. From 1935 to 1936 he served as deputy prosecuting attorney for St. Joseph County. He was elected to the 76th Congress and served in Congress for 10 years.

In 1957, President Dwight D. Eisenhower appointed him to the U.S. District Court for the Northern District of Indiana. From 1961 to 1972 he served as chief judge. Since taking senior status in 1972, he continues to maintain an active docket and has served 12 terms on the U.S. District Court of Puerto Rico. In addition, in 1976 then Chief Justice Warren E. Burger appointed him to the temporary Emergency Court of the Appeals of the United States. Judge Grant has also been actively involved in civic organizations such as Rotary Club and Boy Scouts.

I fully support H.R. 5222 and urge my colleagues to do the same.

Mr. SAVAGE. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. ROEMER] who has so quickly distinguished himself in this body.

Mr. ROEMER. Mr. Speaker, I would, first of all, like to start off by thanking the distinguished chairman and the distinguished ranking minority member and their fine staffs for expediting this consideration. I testified in May, and this is now before the full House on the floor, and again my thanks to the gentleman from Illinois [Mr. SAVAGE] and the gentleman from Oklahoma [Mr. INHOFE] as well.

Mr. Speaker, it is my distinct privilege today to speak in support of the legislation I introduced to designate the Federal offices in South Bend, IN, as the Judge Robert A. Grant Federal Building and United States Courthouse.

□ 2010

These Federal offices are in the heart of South Bend and are in many ways symbolic of the heart of South Bend. This building is nestled between our public library, an historic courthouse, and a legendary family baker. I interned in this office for former Congressman John Brademus.

As these buildings are often foundations of justice, Judge Grant is a fighter for justice. In addition to his stellar career on the Federal bench, as has been mentioned by both distinguished Members beforehand, Judge Grant has a long and distinguished career as an attorney and public servant.

Born in Marshall County, IN, in 1905, he earned a bachelor's degree and law degree from the University of Notre Dame.

After beginning his practice of law in South Bend in 1930, he served as deputy prosecuting attorney of St. Joseph County in 1935 and 1936. In 1938 he made a successful bid for Congress and served the people of the Third Congressional District of Indiana during the 76th and four subsequent Congresses. I now have the honor of representing this district.

On August 26, 1957, Judge Grant was appointed to the U.S. District Court in the Northern Division of Indiana by President Eisenhower. He was chief judge of this court from 1961 until 1972, and has served as senior judge since 1972. He is one of only a small number of judges who have served under article III of the Constitution for such a long tenure. Today, almost 35 years after he took the oath of office, Judge Grant retains senior status, maintaining an active docket on the court.

Judge Grant is a longtime friend of our community. When we went around the third District of Indiana asking his colleagues about what qualifications he had for this courthouse to be named after him, a long-term friend said, "It is a tribute to a man who certainly deserves the tribute." He has a colleague such as Judge Alan Sharp, the current chief judge for the Northern Indiana District, who has suggested that his diligence and hard work have been the hallmark of his career, as is illustrated by the fact that Judge Grant continues to work every day.

Beyond his professional legal and judicial pursuits, Judge Grant has lived a life of community and civic involvement. Over the years, many local organizations, including the State and local bar associations, Rotary Club, and Boy Scouts of America have benefited from his energy and commitment.

As a demonstration of the high regard in which Judge Grant is held, every Member of Indiana's Congressional delegation joined me in introducing H.R. 5222. The legislation recognizes the commitment and service of Judge Robert A. Grant to the State of Indiana, the Nation, and our legal system. I can think of no finer tribute than naming South Bend's Federal courthouse after this most distinguished jurist, lawyer, and civic leader.

Mr. INHOFE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member on the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 5222 designates the Federal building and U.S. courthouse located in South Bend, IN, as the "Robert A. Grant Federal Building and U.S. Courthouse."

Robert A. Grant, a distinguished jurist and a former Member of this body, began his public service as deputy prosecuting attorney of St. Joseph County in 1935. In 1938 he was elected to the U.S. House of Representatives and served the people of the Third Congressional District of Indiana for 10 years.

In 1957, President Eisenhower appointed Robert A. Grant to the U.S. district in the northern division of Indiana. Judge Grant's nearly 35-year tenure on the Federal bench has resulted in many notable decisions, including Aikens versus Lash, in which minimal due process requirements for the transfer of State inmates between prisons was established.

His service to the South Bend community has been extensive and has included involvement with many local organizations, including the State and local bar associations, Rotary Club, and Boy Scouts of America.

Given Judge Grant's long history of service to the people of South Bend, it is appropriate that we honor him in this way, and thus I urge my colleagues to support H.R. 5222.

Mr. INHOFE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAVAGE. Mr. Speaker, I urge adoption of H.R. 5222, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VALENTINE). The question is on the motion offered by the gentleman from Illinois [Mr. SAVAGE] that the House suspend the rules and pass the bill, H.R. 5222.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAVAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5222, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PARTIAL RESTORATION OF HIGHWAY FUNDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2641) to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1992.

The Clerk read as follows:

S. 2641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. RESTORATION OF OBLIGATIONAL AUTHORITY.

(a) IN GENERAL.—$369,000,000 of the reduction in obligation authority for fiscal year 1992 required by section 1004 of the Intermodal Surface Transportation Efficiency Act of 1991 is restored for programs subject to the obligation ceiling.

(b) CLARIFICATION.—Section 1095 of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the first sentence by inserting ", subject to appropriations," after "is authorized".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on December 18, 1991, the Intermodal Surface Transportation Efficiency Act of 1991, commonly known as ISTEA, was signed into law. That landmark legislation was developed and passed by a strong, bipartisan majority of this Congress to invest in our Nation's future and to help meet the transportation needs of the next century. In doing so, ISTEA authorized necessary improvements to our crumbling infrastructure and vital public facilities in order to provide the foundation for our industry to compete in the global economy of the 21st century and to create jobs for Americans needed to stimulate our Nation's economy and to do so immediately.

Included in the ISTEA legislation was a provision, added in conference, relating to the construction of a Federal courthouse in Brooklyn, NY. Under the provisions, the General Services Administration is authorized to enter into a lease with the U.S. Postal Service for space to house the Federal courts and related Federal agencies in Brooklyn. In addition, GSA is authorized to expedite the start of construction of the building and to transfer the present Emanuel Celler Federal Building and Courthouse in Brooklyn to the Postal Services.

It was the intent of the conferees that any funding to carry out this provision be in the form of an authorization subject to appropriations. As such, it would not constitute, contract authority or direct spending. However, when OMB scored the bill, it determined that the provision provided direct spending and thus scored the cost of the entire courthouse project against the surface transportation bill.

As a result, millions of dollars could and should have been available to implement the ISTEA legislation to develop a national intermodal surface transportation system, construct highways, support highway safety and mass transit programs and create much-needed jobs.

Last month's unemployment figures as we know, were absolutely devastating: A national unemployment rate of 7.8 percent, California 9.5 percent, New Jersey 9.2 percent, New York 9.2 percent, Massachusetts 8.8 percent, Michigan 8.8 percent, Illinois 8.6 percent and Texas 8.2 percent, just to name a few of the States suffering this unemployment situation. We know that each dollar invested in the infrastructure pays back multiple returns to the economy.

Subsequent to enactment of ISTEA, the Congressional Budget Office and the Office of Management and Budget have determined a restoration of funds would be covered by the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990, and that $369 million is the maximum amount of highway obligation authority that can be restored by repealing the direct spending for the Brooklyn courthouse without causing a pay-as-you-go sequester.

The House should act now to correct this technical error and to reflect what was the original intent of the ISTEA conferees. On April 30, 1992, the Senate passed S. 2641 by unanimous consent. This bill which we are proposing to pass today without change would restore $369 million and would not cause budget problems.

When the ISTEA passed last year by a majority of 372 to 47, this body showed its overwhelming bipartisan commitment to expanding our Nation's economy through infrastructure investment and the creation of American jobs. To follow through on this commitment and give meaning to the goals of the legislation, it is critical, Mr. Speaker, that we pass S. 2641. I strongly support the bill. Again, it simply corrects a technical drafting error and reflects the original intent of Congress. I urge support for its passage.

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Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 2641. This bill, very simply, does two things. First, it makes the authority to lease space for the Brooklyn courthouse, which was enacted in the Intermodal Surface Transportation Efficiency Act of 1991, subject to the appropriations process. And, in doing so, it frees up $369 million in obligation authority for the highway program for fiscal year 1992.

Ever since the enactment of ISTEA last year, we have been all too aware of the Brooklyn courthouse. This was a last-minute provision inserted in the bill that was claimed to be merely an authorization, but was in fact read to be mandatory spending of $457 million in fiscal year 1992. In accordance with the budget compliance provisions that we put into ISTEA, this mandatory spending resulted in reductions in obligations for the highway program.

But the problem became much bigger than the $457 million cost of the courthouse. Because of the different rates of outlays for Federal building projects and highway projects, the courthouse provision required a reduction of $998 million in the highway program in order to keep us within the strict requirements of the Budget Act.

The effect of this provision was not to reduce the amount of budget authority we provided in ISTEA, but rather to limit the amount of each State's apportionment that could be obligated.

OMB and CBO have agreed that—at this point in time—$369 million is the most that can be restored to the program without causing a deficit on the pay-go scorecard. I want to emphasize that this restoration of funds will not result in any sequestration. It is my understanding that the administration is strongly supportive of this bill.

What S. 2641 will provide to Arkansas is authority to obligate an additional $3.6 million of funds already apportioned to Arkansas for fiscal year 1992. Every State in the Nation will similarly receive a proportional increase in spending authority for highways. This will result in an increase in jobs and infrastructure improvements across the country.

It is crucial that we pass this bill now and send it on to the President for his signature in order to give the States sufficient time to obligate these funds before the end of the fiscal year.

I urge all members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. Mineta], chairman of our Subcommittee on Surface Transportation.

Mr. MINETA. Mr. Speaker, I thank our very distinguished chairman of the full Committee on Public Works and Transportation for yielding time to me.

Mr. Speaker, last year, the Congress passed the Intermodal Surface Transportation Efficiency Act of 1991—or as we now call it, ISTEA. This legislation promises to lay the groundwork for an innovative and effective transportation network as the United States enters the 21st century.

The ISTEA legislation is a genuine new transportation policy for America, and a tremendous investment in our future. It will build our roads and bridges and transit systems into a comprehensive network that will in turn build our economy, enhance safety, and improve our quality of life. The ISTEA legislation is expected to create up to 4 million jobs.

The ISTEA legislation included a provision, added during the House-Senate conference, relating to the construction of a Federal courthouse in Brooklyn, NY. This provision authorized the General Services Administration [GSA] to enter into a lease agreement with the U.S. Postal Service for space to house the Federal courts and related agencies in Brooklyn.

Senator Moynihan, the author of this provision, has stated that his intention was to authorize the project in ISTEA and then seek an appropriation in the coming year, thus making this provision a no-cost authorization.

However, the Office of Management and Budget [OMB] unexpectedly scored the entire cost of the courthouse against the surface transportation bill. Complicating the problem, OMB scored the courthouse project at $998 million; over $500 million more than the projected costs of the project.

The House must now act on S. 2641, legislation passed by the other body to restore these critical transportation funds.

In my home State of California alone, this amendment will restore $34,453,340 in Federal highway/transit funds this year.

We must reject this smoke-and-mirror bookkeeping by the Bush administration. For too long, transportation funding has been neglected or, what is worse, used as a Swiss bank account to be raided at will for other purposes.

This is certainly not the way Americans do business, and certainly not the way to rebuild our transportation systems and put Americans to work throughout the country.

It is now absolutely essential that America do more than reverse the collapse of our annual transportation investment from 2.3 percent of our gross national product in the 1960's and 1970's to four-tenths of 1 percent from the 1980's to this very day.

The only way our transportation network will truly improve in the years ahead is if we put our increasingly scarce Federal dollars where the needs are today, and where they must be in the future.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Valentine). The question is on the motion offered by the gentleman from New Jersey [Mr. Roe] that the House suspend the rules and pass the Senate bill, S. 2641.

The question was taken and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING ESTABLISHMENT OF JAPANESE-AMERICAN PATRIOTISM MEMORIAL

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 271) authorizing the Go For Broke National Veterans Association to establish a memorial to Japanese-American veterans in the District of Columbia or its environs, as amended.

The Clerk read as follows:

H.J. Res. 271

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) In General. The Go For Broke National Veterans Association Foundation is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor Japanese American patriotism in World War II.

(b) Compliance With Standards for Commemorative Works.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001, et seq.).

SEC. 2. PAYMENT OF EXPENSES.

The Go For Broke National Veterans Association Foundation shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

SEC. 3. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance of funds received for the establishment of the memorial, the Go For Broke National Veterans Association Foundation shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. Clay] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. Barrett] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. Clay].

□ 2030

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 271, which authorizes the Go For Broke National Veterans Association Foundation to establish a memorial to Japanese-American patriotism during World War II, in the District of Columbia or its environs. The Go For Broke National Veterans Association Foundation shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

From 1942 to 1945, the U.S. Government imprisoned over 120,000 Japanese-American civilians in so-called relocation camps. They were accused of no crime, other than their Japanese heritage. These Americans bore indignities that no one with forebears from any other Axis nation endured. Forcing them to abandon their lives and possessions, our Government exiled children and the aged to the farthest reaches of America, where they would spend the war in concentration camps as prisoners of war.

Yet, despite these injustices, 33,000 Japanese-Americans chose to fight in World War II. These men and women served under circumstances that would try any human being, in a manner that would distinguish any soldier. In fighting units that won more decorations for their size than any other unit, and in quiet intelligence offices cracking the secrets of Japan, they fought from Italy to the Pacific to preserve the freedoms that were denied their families, and those families kept their faith in America. Even from behind prison walls, they cheered their sons and daughters on to victory.

In the Civil Liberties Act of 1988, Congress apologized to Japanese-Americans for what it termed the "racial prejudice, wartime hysteria, and a failure of political leadership" that produced the violations of their civil rights during World War II. In doing so, it closed a chapter of hypocrisy in American history, and—we hope—opened one of greater reflection. It is time to tell this tale of moral defeat in martial victory, and of the spiritual victory which sprang from that defeat.

Mr. Speaker, I commend my colleague from California, Mr. MINETA, for introducing this bill. The Subcommittee on Libraries and Memorials and the full House Administration Committee have evaluated this legislation, and we have voted unanimously to favorably report this legislation before this body today. I urge my colleagues to support and adopt House Joint Resolution 271.

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to thank the distinguished Libraries and Memorials Chairman, Mr. CLAY, for his work on this legislation. I feel that he has more than adequately explained the purpose of this legislation today. I support the measure and ask my colleagues to support it as well.

Mr. Speaker, I have no other requests for time, and inasmuch as this is apparently the last suspension of the day, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I would first like to express my sincere thanks to the gentleman from Missouri [Mr. CLAY] and the gentleman from Nebraska [Mr. BARRETT] for bringing this bill to the floor this evening.

Their leadership, and the fine work of their staffs, have made it possible to bring this resolution to the floor, and brings us a step closer to making this memorial a reality.

I would also like to thank Cora Foley of my staff for her outstanding work and dedication to this legislation.

Mr. Speaker, House Joint Resolution 271 will authorize the Go For Broke National Veterans Foundation to establish a memorial here in the District of Columbia. That memorial will commemorate for the Nation the patriotism of Americans of Japanese ancestry during World War II.

This memorial proposal has been reviewed by the National Capital Memorial Commission and, as amended by the Committee on House Administration, has received their unanimous endorsement.

As required by the Commemorative Works Act, no Federal funds will be expended to establish the memorial, which will be paid for by private donations to the Go For Broke National Veterans Association Foundation.

Mr. Speaker, this memorial was a long-time dream of a great and loyal American, Mike Masaoka.

Mike was a central figure in the struggle for justice for Americans of Japanese ancestry, and for all Americans. Sadly, he passed away last year.

As a friend and mentor, Mike had no equal. Mike was the husband of my sister, Etsu, and I was proud to call him a member of my family.

Mike was a leader of the Japanese-American community throughout his adult life, but his leadership was never so crucial as it was during one of the darkest times in our history.

When the Empire of Japan attacked Pearl Harbor on December 7, 1941, the U.S. Government responded with a tragic and historic injustice.

On February 17, 1942, President Franklin Roosevelt signed Executive Order 9066, which authorized the evacuation of more than 120,000 Americans of Japanese ancestry from the west coast.

We lost our homes and our businesses, and were forced into internment camps scattered throughout the interior of the country.

We were not a threat to the United States. We had committed no crimes. We fell under suspicion simply because, by accident of birth, we happened to be of Japanese ancestry.

Despite this denial of our most basic rights under the Constitution, Mike pushed hard to be allowed to join in the defense of this country. Tens of thousands of other Japanese Americans joined him.

The all-Nisei 100th Infantry Battalion and 442 Regimental Combat Team fought in the European Theater, becoming the most decorated unit of its size in U.S. military history.

Their motto was "Go For Broke", a designation they earned at the cost of many lives. By the war's end, they had earned 7 Presidential Unit Citations, 36 Army commendations and 87 division commendations.

The men of the 100th and 442d were awarded 18,143 individual decorations: 9,486 Purple Hearts, 52 Distinguished Service Crosses, 4,000 Bronze Stars, 560 Silver Stars, and 1 Medal of Honor.

Less well-known because most of their contributions were classified during World War II, thousands of Japanese-Americans served in the Military Intelligence Service as translators and intelligence operatives.

General Willoughby, General MacArthur's chief of intelligence, estimated that their contributions had shortened the war in the Pacific by 2 years.

Here at home, Japanese-Americans worked to teach Japanese to United States military and intelligence personnel.

I am proud to say that one of those teachers was my father, Kunisaku Mineta. He taught Japanese to United States Army personnel under the Army specialized training program at the University of Chicago.

Like every American family, Japanese-Americans suffered the loss of those they sent to war who did not return.

There was no more bitter irony of the war than the sight of Japanese-American families, imprisoned behind barbed wire, accepting posthumous medals for men who had given their lives fighting for liberty and justice.

But we had an abiding belief in the principles of this country, and we were sustained by a faith that one day our Nation would recognize the injustice of the internment.

That day finally came 47 years after the internment began, when the 100th Congress approved the Civil Liberties Act of 1988. That legislation, signed into law by President Ronald Reagan, officially apologized for the internment and extended the promise of redress to the surviving internees.

That historic Act contains these words:

> (T)he Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, a grave injustice was done to both citizens and permanent resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II * * *
>
> The excluded individuals of Japanese ancestry suffered enormous damages both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made.
>
> For these fundamental violations of the basic civil liberties and constitutional rights of those individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation.

Mr. Speaker, those words became a part of Federal law with President Reagan's signature. But one of the proudest moments of my life was on the day I sat in the chair as this House voted to approve them. That day was September 17, 1987, the 200th anniversary of our Constitution.

Mr. Speaker, this memorial will commemorate the story of Japanese-American patriotism during the Second World War. But that story is not ours alone.

It will be a symbol to every American, and to the world, that our Constitution is a living, breathing document.

It will remind all of us that Americans are not defined by the color of our skin, or the national origins of our ancestors, but by a dedication to our shared ideals and principles of justice and equality.

It will be a shining example that, with faith in those principles, it is never too late for wrongs to be righted or justice to be done.

And it will be a living testament to our commitment as a nation that we will never allow such a gross violation of constitutional rights to occur again.

A half century ago, the Japanese-American Creed was written by Mike Masaoka. He wrote it in the spring of 1941 and it was entered into the CONGRESSIONAL RECORD at that time.

It states, in part:

> Although some individuals may discriminate against me, I shall never become bitter or lose faith, for I know that such persons are not representative of the majority of the American people. True, I shall do all in my power to discourage such practices, but I shall do it in the American way: Aboveboard, in the open, through courts of law, by education, by proving myself to be worthy of equal treatment and consideration.
>
> I am firm in my belief that American sportsmanship and attitude of fair play will judge citizenship and patriotism on the basis of action and achievement, and not on the basis of physical characteristics.
>
> Because I believe in America, and I trust she believes in me, and because I have received innumerable benefits from her, I pledge myself to do honor to her at all times and in all places; to support her Constitution; to obey her laws; to respect her flag; to defend her against all enemies, foreign and domestic; to actively assume my duties and obligations as a citizen, cheerfully and without any reservations whatsoever, in the hope that I may become a better American in a greater America.

It is that spirit, Mr. Speaker—tempered in the fires of discrimination here at home, and in the fires of battle abroad—which this memorial will commemorate.

I urge my colleagues to join me in approving the resolution.

Mr. Speaker, I thank very much the members of the committee for the leadership that they have shown in bringing this resolution to the floor.

Mr. ABERCROMBIE. Mr. Speaker, as an original cosponsor of House Joint Resolution 271, I am extremely pleased that House had the opportunity to adopt this resolution. Mr. MINETA, the principal sponsor, worked long and hard on moving this measure forward and deserves our thanks for his efforts, as do other Members of this House who have also made their contributions.

As you know, House Joint Resolution 271 authorizes the Go For Broke National Veterans Association to establish a memorial to Japanese-American veterans in the District of Columbia or its environs. A notable feature of this measure is that it does not, repeat not, involve the expenditure of Federal funds.

Such a memorial is long overdue. We raise memorials of the type we see throughout the Nation's Capital in order to remind ourselves and future generations of important events, individuals and ideas which have shaped American history. These monuments are, in effect, three dimensional textbooks recounting the history of our Nation from its earliest days through the present century. These textbooks are read by millions of visitors to Washington, DC, every year. They are every bit as vital to the education and inspiration of the American people as the information they receive from classroom instruction, the news media, and avocational reading.

The Japanese-American veterans memorial will fill in a missing chapter in American history, a chapter all too often ignored in standard accounts of our Nation's past. It is a chapter marked by tragedy and heroism, patriotism and sacrifice, history, and misunderstanding—the full range of elements that comprise history as it is actually lived by real human beings.

This memorial will open new perspectives to those who stand in its presence. It will evoke the shameful story of the unjustified incarceration of Japanese-Americans in World War II. It will present the image of soldiers like those of the 100th Infantry Battalion and the 442d Regimental Combat Team who fought with such remarkable distinction in the European theater. It will stand for the less highly publicized but just as valuable contributions of the soldiers of the Military Intelligence Service who performed vital intelligence and translation services in the Pacific theater.

It is my hope that those who pause before this memorial will commemorate the sacrifices of the hundreds of Japanese-Americans who gave their lives for our Nation. It is my hope, too, that it will convey the double burden under which they served their country—the dangers of the battlefield and the unjust suspicions of their fellow Americans. And hopefully, Mr. Speaker, this memorial will contribute to an appreciation that Americanism is not a matter of ethnicity but of commitment to the principles of democracy, equality, and justice—a commitment demonstrated in full measure by the men and women honored by this monument.

Mrs. MINK. Mr. Speaker, I urge my colleagues to support House Joint Resolution 271, a bill which authorizes the establishment of a memorial in or near the District of Columbia to honor Japanese-American patriotism in World War II.

The establishment of a memorial to honor Japanese-American patriotism in World War II will serve as a reminder that a dark and aberrant chapter in this Nation's history cannot be forgotten.

In addition to honoring the men, women, and children of Japanese ancestry who remained steadfastly devoted to their country in the face of racial prejudice, wartime hysteria, and a hostile government, the memorial is also intended to celebrate the basic strength and decency of our system of government which can recognize, and atone for, past injustices.

Americans of Japanese ancestry became the underserving targets of racial prejudice and scapegoating in the weeks and months following the Japanese attack on Pearl Harbor on December 7, 1941. The U.S. Government sanctioned this antagonism toward persons of Japanese ancestry via two measures: Executive Order 9066, issued by President Franklin D. Roosevelt on February 19, 1942, and Public Law 77–503 passed by the U.S. Congress on March 21, 1942.

Executive Order 9066 and Public Law 77–503 authorized the forcible relocation of 120,000 persons of Japanese ancestry from their homes along the west coast to internment camps located in desolate areas of the country. Relocation forced many persons to sacrifice fine careers or sell possessions, including real estate, at fire sale prices.

In spite of additional restrictions upon the rights of Japanese-Americans, such as the War Department's June 1942 decision to halt the induction of Japanese-Americans into the U.S. Armed Forces, thousands of Japanese-Americans volunteered for military service. In the face of this eloquent demonstration of patriotism, the War Department dismantled its racially exclusionary policy by first recruiting Japanese-Americans to teach the Japanese language to intelligence officers in the fall of 1942, and then by having the Army establish an all-volunteer, all-Japanese American regimental combat team in 1943. This all-Nisei combat team, known as the 442d Regimental Combat Team, distinguished itself during the course of World War II and has earned an honored place in the history of the U.S. Armed Forces.

While the heroism and patriotism of the American men and women of Japanese ancestry who served during World War II have been amply documented, the persistent support of and devotion to the United States of the Japanese-American civilians who remained in the internment camps must not be overlooked.

Four decades after the issuance of Executive Order 9066 and passage of Public Law 77–503, the U.S. Government formally apologized for its role in forcibly displacing Japanese Americans during World War II. In enacting Public Law 100–383, the Civil Liberties Act of 1988, the United States Government also apologized for questioning the patriotism of its citizens of Japanese ancestry during the Second World War and recognized that its actions had been motivated by a combination of racial prejudice, wartime hysteria, and a failure of political leadership.

Let us honor those Americans of Japanese ancestry who remained devoted to the United States at a time when the Government proved less-than-devoted to ensuring their rights. Let us also honor a Nation great enough to recognize its mistakes and resolve not to repeat them.

Please support House Joint Resolution 271.

Mr. MATSUI. Mr. Speaker, I rise in support of House Joint Resolution 271 which authorizes the Go for Broke National Veterans Association Foundation to establish a memorial in the Washington, DC area to Japanese-American patriotism in World War II.

We are all familiar with the indignities suffered by over 115,000 Japanese-Americans who were forced from their homes and businesses to internment camps throughout the country during World War II. Even prior to the issuance of Executive Order 9066, ordering the relocation of Japanese-Americans, racial prejudices pervaded the daily lives of Japanese-Americans merely because of their ancestry. It is ironic that the U.S. incarcerated citizens in internment camps in much the same way that Adolf Hitler marched across the European continent feeding on racial hatred to fuel his war machine.

This memorial is in part a symbol for this sad chapter in American history, however it plays a much more important role recognizing the patriotism of Japanese-Americans during World War II. It is not widely known that over 33,000 men and women of Japanese ancestry, despite their personal sufferings at the hands of the U.S. Government, served in the U.S. Armed Forces and were steadfast in their patriotic support of the United States and Allied war effort in World War II. This included the all-Nisei 100th/442d regimental combat team which came out of the war as the most decorated unit for size and length of service. Also, it included the invaluable contributions of 6,000 Nisei men and women who served in the Pacific theater, mostly in military intelligence. In fact, without their aid in this sensitive and dangerous field, our victory in the Pacific might not have been so swift or complete.

The memorial is an appropriate reminder of the human suffering experienced by Japanese-Americans forced to relocate to internment camps during World War II and the selfless loyalty these same individuals gave to the Allied War effort in both the European and Pacific theaters during World War II. I urge my colleagues to support passage of House Joint Resolution 271.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VALENTINE). The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the joint resolution, House Joint Resolution 271, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The title of the joint resolution was amended so as to read: "Joint resolution authorizing the Go For Broke National Veterans Association Foundation to establish a memorial in the District of Columbia or its environs to honor Japanese American patriotism in World War II."

A motion to reconsider was laid on the table.

□ 2040

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 271, the joint resolution just passed.

The SPEAKER pro tempore (Mr. VALENTINE). Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE HEALTH FREEDOM ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. GALLEGLY] is recognized for 5 minutes.

Mr. GALLEGLY. Mr. Speaker, I am pleased to introduce today the Health Freedom Act of 1992, a bill designed to protect the consumers of dietary supplements from unnecessary Federal regulation. An identical bill, S. 2835, has already been introduced in the other Chamber by Senator ORRIN HATCH of Utah, ranking member of the Senate Labor and Human Resources Committee.

There is growing evidence backed up by extensive research that dietary supplements can promote health and prevent certain diseases, especially among certain users. Judging by the amount of mail I have been receiving from constituents, primarily health-conscious consumers, there is widespread concern that the Government seeks to regulate dietary supplements so that they will no longer be readily available to those who wish to purchase them. Many people are upset with both Congress and the Food and Drug Administration because they perceive a Government threat to remove from the market beneficial vitamins, minerals, herbs and other food substances that they wish to use to supplement their regular diet.

Most of us are familiar with the endorsement by scientist Linus Pauling of the salutary effects of ingesting vitamin C tablets and claims by nutritionists and other experts for the health-producing properties of various multivitamins and capsules containing herbs or fish oil or other natural substances. Regardless of what we personally feel about such products, in a free society consumers should be able to purchase any food they want, so long as that product is safe and the labeling and advertising claims about it are truthful and not misleading and there is reasonable scientific evidence to support such claims.

I have no doubt that there are some Members of this body and bureaucrats at the FDA who believe they know best what foods are good for us and would like to make it as difficult as possible for people to consume dietary supplements that they disapprove of. As a consequence, while the FDA allows people to eat conventional food products that may be high in calories, cholesterol, saturated fat, caffeine, or sodium, or that lack important vitamins or minerals, the agency has raised objections over and has tried to impose unreasonably regulatory burdens on safe dietary supplements of food substances that many consumers want and many health professionals recommend. This legislation would remove any threat of such unnecessary and unwise regulations.

First, this bill provides a definition of dietary supplements that includes and is intended to supplement the diet with a vitamin, a mineral, an herb, or another similar nutritional substance, including a concentrate or an extract of such a substance.

Second, the bill make clear that a dietary supplement shall not be considered a drug solely because of the potency of a substance in that supplement. This provision extends to all dietary supplements the principle embodied in the so-called Proxmire amendments—section 411 of the FDC Act—as applied to vitamins and minerals, namely, that the FDA may not classify a food substance as a drug merely because it exceeds the level of potency that the FDA believes is nutritionally rational or useful (see 21 U.S.C. 305(a)(1)(b)). The bill also provides that a dietary supplement shall not be deemed a drug solely because the labeling or advertising for the supplement provides information about the potency of a substance in that supplement. In addition, a dietary supplement is not to be considered a drug solely because the labeling or advertising for the supplement contains a health claim of the type permitted under the law.

The bill states that a food substance provided by a dietary supplement is not subject to FDA regulation as a food additive, provided that the substance is identified in the labeling as being provided by the product to supplement the diet. I do not think that the FDA should impose food additive requirements to prevent consumers from obtaining safe vitamins, minerals, herbs, oils or other similar substances that they knowingly wish to add to their diets through the consumption of dietary supplements. Just look at how the FDA has treated chromium as an unapproved food additive and thus illegal when added to dietary supplements even though chromium is an essential mineral frequently found in dietary supplement products such as One-A-Day, Centrum, and Geritol that is safe and is not optimally present in the diets of many Americans.

The Health Freedom Act of 1992 provides that labeling or advertising about dietary supplements many include claims or other information about the relationship of the supplement, or of one or more of the substances provided by the supplement, or of the absence of one or more of these substances, to a disease or health-related condition, provided that such claims or information are truthful and not misleading and there is scientific evidence, whether published or unpublished, that provides a reasonable basis for such claims or other information. Dietary supplements must be marketed in such a way that consumers can be readily informed of their health and disease-prevention benefits. There must be flexibility so that the health-conscious public can keep abreast with scientific advances that show that long-term disease prevention is linked to improved dietary supplementation.

Provided that the information is truthful and not misleading and there is a reasonable scientific basis for such information, manufacturers of dietary supplements should be permitted to provide health-related information, without restraints being imposed by the FDA. The Health Freedom Act of 1992 makes it clear that the FDA cannot establish any requirement that disease-or health-related claims or other information concerning a dietary supplement must be approved by or conform to a regulation issued by the FDA before they can be used in labeling or advertising of that supplement.

Mr. Speaker, I want to emphasize that if a labeling or advertising claim is false or misleading, or it there is not reasonable scientific basis for such a claim, the FDA has the authority to take action against the product involved as a misbranded food. Nothing contained in this legislation would change that power of the FDA to protect consumers.

Finally, the Health Freedom Act of 1992 provides that if the FDA issues a warning letter concerning a dietary supplement, asserting that a disease- or health-related claim is false or misleading or that there is insufficient scientific evidence to back up the claim, the manufacturer or other responsible party may promptly seek judicial review of the merits of the FDA's assertion. Currently the FDA maintains that when it issues warning letters to makers of dietary supplements, the companies should not be able to test the validity of the agency's allegations by immediate review in a court of law.

Mr. Speaker, I believe that commercial speech should enjoy considerable freedom and latitude, provided the information is not false and there is no deliberate attempt to deceive or mislead. This is certainly as true for dietary supplements as for any other food products. To subject dietary supplements to unnecessary regulation, merely to provide some convenience of enforcement to the FDA, would result in prior restraints on truthful labeling and advertising of these products.

In my opinion, the Health Freedom Act of 1992 is a reasonable approach to the problem of balancing the interest of Government in protecting consumers against fraudulent and misleading claims with the right of consumers to purchase dietary supplement products and companies to sell such products to the public without undue government interference with the free flow of health- and disease-related information.

I ask my colleagues to support this legislation, and I urge the Congress to pass it this session. Mr. Speaker, I include the complete text of the bill in the RECORD at this point.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Freedom Act of 1992."

SEC. 2. DEFINITIONS.

(a) DIETARY SUPPLEMENT.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following new paragraph:

"(ff) The term 'dietary supplement' means an article that—

"(1) includes, and is intended to supplement the diet with—

"(A) a vitamin;

"(B) a mineral;

"(C) an herb; or

"(D) another similar nutritional substance, including a concentrate or extract of an item described in clause (A), (B), or (C); and

"(2)(A) is intended for ingestion in a form described in paragraph (1)(B)(i) or (2) of section 411(c), or another similar form; or

"(B) complies with section 411(c)(1)(B)(ii).".

(b) DRUG.—Section 201(g)(1) of such Act is amended by adding at the end at the following: "A dietary supplement shall not be considered to be a drug solely because of the potency of a substance in the dietary supplement. A dietary supplement shall not be considered to be a drug under clause (B) solely because the labeling or advertising for the supplement contains a claim, or provides information, that is described in section 413(b) and meets the requirements specified in paragraphs (1) and (2) of such section, or that concerns the potency of a substance in the supplement.".

(c) FOOD ADDITIVE.—Section 201(s) of such Act is amended—

(1) by redesignating subparagraphs (1) through (5) as clauses (A) through (E), respectively;

(2) by inserting "(1)" after "(s)"; and

(3) by adding at the end the following:

"(2) A substance in a dietary supplement is not a food additive if the substance is identified in the llabeling of the dietary supplement as a substance provided by the product to supplement the diet.".

SEC. 3. DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following new section:

"SEC. 413. LABELING AND ADVERTISING OF DIETARY SUPPLEMENTS.

"(a) DESCRIPTION.—Notwithstanding any other provision of this Act, an article that is a dietary supplement may be described as a dietary supplement in labeling or advertising.

"(b) RELATIONSHIP TO DISEASE OR HEALTH-RELATED CONDITION.—Notwithstanding any other provision of this Act, labeling or advertising for a dietary supplement may include a claim or other information that characterizes the relationship of the dietary supplement, or of one or more of the substances provided by the dietary supplement, or of the absence of one or more of the substances, to a disease or health-related condition, if—

"(1) such claim or other information is truthful and not misleading; and

"(2) there is scientific evidence, whether published or unpublished, that provides a reasonable basis for such claim or other information.

"(c) PROHIBITION ON PRIOR APPROVAL OR REGULATION.—Notwithstanding any other provision of this Act, the Secretary shall not establish any requirement that such a claim or other information that meets the requirements specified in paragraph (1) or (2) of subsection (b) shall be approved by or conform to a regulation issued by the Secretary before the claim or information may be used.

"(d) ACTIONS.—

"(1) RIGHT OF ACTION.—If the Secretary asserts that labeling or advertising for a dietary supplement includes such a claim or other information that fails to comply with paragraph (1) or (2) of subsection (b), whether the Secretary makes the assertion in a warming letter issued by an officer or employee of the Department, or in connection with another action to enforce a provision of this Act, the manufacturer, processor, packer, distributor, or retailer, of the dietary supplement, or other person to whom the assertion is addressed, may—

"(A) bring an action in a United States district court in any appropriate judicial district under section 1391 of title 28, United States Code, to secure a declaratory judgment regarding the validity of the assertion; and

"(B) obtain any other means of judicial review authorized by law.

"(2) INFERENCE.—The absence of any action described in subparagraph (A) or (B) in paragraph (1) with respect to an assertion shall not establish any inference that the assertion is valid.".

(b) CONFORMING AMENDMENT.—Section 403(r)(5) of such Act (21 U.S.C. 343(r)(5)) is amended by striking clause (D).

IN RECOGNITION OF THE SALEM YWCA TEEN PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. KOPETSKI], is recognized for 5 minutes.

Mr. KOPETSKI. Mr. Speaker, I rise today to recognize the efforts of the Salem, OR, YWCA Teen Parent Program, located in my district.

Mr. Speaker, continued high rates of teen pregnancy should alarm all of us. When our youth get pregnant before they get an education, there are serious consequences for both the mother and child involved and for our society. Each year, over 1 million young women under age 20 become pregnant, and almost half give birth. Between 1986 and 1989 the birth rate increased by 19 percent among teens aged 15–17, and by 7 percent among teens aged 18–19.

Teen mothers are less likely to finish high school, and are more likely to be dependent on public funds. Nearly 50 percent of all Oregon expenditures for assistance to families with dependent children are to support households in which the women have been teenage mothers. In addition, the health problems of infants of teen mothers are legion. Adolescent mothers are 2½ times more likely than women between the ages of 20 and 34 to receive inadequate prenatal care. A 1988 study in Oregon found that babies of mothers under age 18 were twice as likely to be of low birth weight and twice as likely to die during the first year of life compared to infants of women in their late twenties and early thirties. However, I must point out that it is the mother's disadvantaged economic and social background which leads to both the pregnancy and the health and schooling difficulties that result from the pregnancy as much as the pregnancy and subsequent birth which creates these disadvantages.

Mr. Speaker, these people need our help. They need our help for their own sake. And they need help for the sake of their families and their children. Fortunately, programs across the country are having remarkable success in helping teenage mothers continue their education and care for their children. One of the most successful of these is the Salem, OR YWCA's Teen Parent Program.

The YWCA Teen Parent Program gives teenage mothers help in all areas: health care for both the mother and her child, academic assistance for attaining a high school diploma or a GED, job training, daycare, and counseling. Teen mothers continue enrolled in the program receive 1-on-1 attention, and are given flexibility in designing their schedule. A recent study of the YWCA Teen Parent Program found that 4 years after leaving the program, 78 percent of its participants had graduated from high school or received a GED, 87 percent were employed, and only 9 percent were on public assistance. Parenting magazine recently stated that the Salem YWCA Teen Parent Program "* * *could be a model for the nation." I know it should be.

Mr. Speaker, I am extremely proud of the work that program director Ms. Nancy Hart-Fishwick and her colleagues have done. Much has been said recently about the importance of family in our society. Programs such as this are making real accomplishments towards cementing a good future for teen mothers and for their children, and I commend Nancy and the Salem YWCA for their efforts.

THE LATEST SHOWDOWN WITH IRAQ: A VICTORY FOR SADDAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ASPIN] is recognized for 5 minutes.

Mr. ASPIN. Mr. Speaker, today I would like to begin a series of speeches on what has been happening in Iraq since the end of the gulf war. This latest showdown with Saddam Hussein has ended unsatisfactorily. Now the Bush administration says it wants the United Nations to accelerate its inspections to test Saddam Hussein's resolve to comply with the U.N. resolutions. George Bush should realize that it is his resolve that is being tested.

The crisis developed this way. On July 4, a team of chemical weapons inspectors in Iraq, acting on an intelligence tip, demanded entry into the Ministry of Agriculture to look for documents relating to Iraq's chemical weapons program. The Iraqis refused. For 18 days the inspectors held a 24-hour vigil outside of the Ministry, but despite repeated complaints from the Security Council and 3 days of negotiations with U.N. Special Commission [UNSCOM] head Rolf Ekeus, the Iraqis did not budge. Increasingly violent demonstrations against the inspectors eventually forced them to retreat from the Ministry, and then to leave Iraq altogether. By July 24 and 25 the United States, the United Kingdom, and France were once again threatening military action if Iraq did not begin to comply fully with U.N. resolutions.

On July 26, 22 days after the crisis began, U.N. officials reached an 11th hour agreement with the Iraqis. Under the arrangement negotiated by UNSCOM chief Rolf Ekeus, a modified inspection team—excluding United States and British inspectors—may now enter the Ministry of Agriculture, with Ekeus himself conducting the sensitive inspection of the Agricultural Minister's office.

In a press conference on Sunday, President Bush announced that "this stand-off is resolved by his—Saddam's—caving in, by his backing off." Meanwhile on July 27, Iraqi Prime Minister Mohammad Hamza al-Zubeidi described the United Nations' acceptance of a neutral inspection team as a brilliant victory. Who is right? Unfortunately, it looks like Saddam Hussein has more to cheer about than George Bush does. While U.N. inspectors have gained access to Iraq's Agricultural Ministry, an overall erosion of the United Nation's authority is the price we all had to pay. For example:

Saddam successfully prevented the inspection for over 2 weeks before anyone, including the United States, started to work the issue seriously. By this time, the security situation had so degenerated that the inspectors had to give up their vigil for fear of their own safety. This gave the Iraqis the opportunity to remove any incriminating evidence that may have been there. Even Rolf Ekeus has admitted that he is "quite pessimistic about making any major catch at the facility."

Saddam Hussein successfully made the nonnegotiable, negotiable. The U.N. resolutions are absolutely clear—the United Nations has the right to investigate anytime and anywhere, with inspectors of its own, not Iraq's, choosing. This crisis has opened the door for Iraq to renegotiate many of the more onerous elements of the U.N. resolutions.

Saddam Hussein successfully reduced the involvement of American and British inspectors in this inspection and set a damaging precedent for the future. Trained and competent experts in these types of unconventional weapons do not grow on trees, and the United States and the United Kingdom have many of the best. If Saddam succeeds in preventing United States and United Kingdom participation in future inspections, future inspection efforts may be seriously hampered.

If this was just an isolated incident of Iraqi intransigence and noncompliance, perhaps this outcome would be less disappointing. Unfortunately, in the last 3 months, Saddam Hussein has become increasingly bold—challenging the United Nations' authority in Iraq on multiple fronts simultaneously. And yet, Saddam Hussein succeeded in ending the crisis and lifting the threat of a military strike without offering any progress on these outstanding issues, or restating his obligation to comply with the U.N. resolutions. Iraq continues to defy its United Nations' obligations by:

REJECTING THE U.N. BORDER COMMISSION'S DECISION

On June 1, Iraq officially rejected the border demarcation recommended by the U.N. Commission. Since that time, Iraq has refused to attend any meetings of the Commission. Resolution 687 specifically demands that Iraq agree to return to the 1963 Iraq-Kuwait border as defined by the Commission before Iraq can be found in compliance with the resolution and the sanctions lifted.

BLOCKING HUMANITARIAN ASSISTANCE

Iraq has refused to sign an extension of the memorandum of understanding [MOU], which expired on June 30, that allowed for 1,100 U.N. personnel—500 lightly armed guards and 600 aid workers—to operate in Iraq. In addition to demanding the immediate departure of all U.N. personnel, the Iraqis are complicating the humanitarian effort by rejecting visa applications and renewals, withholding gasoline and diesel allotments from United Nations and relief personnel to limit their mobility, and imposing new restrictions on the movement of U.N. personnel by requiring that movement of all U.N. trucks be approved 48 hours in advance. Most seriously, Iraqi agents are threatening the security of U.N. guards in the north. In the last 3 weeks, one guard has died and four have been injured in three different attacks.

REJECTING THE OIL FOR FOOD RESOLUTION

On July 13, after lengthy negotiations, Iraq again rejected the U.N. terms for the sale of $1.6 billion worth of oil in exchange for food and medicines. Iraq's continued rejection of this resolution not only harms the Iraqi people who so desperately need these goods, but also impedes the U.N. operations, such as dismantling Iraq's weapons of mass destruction, for which Iraq bears the financial burden.

USING FIXED-WING AIRCRAFT

A few months ago Iraq used its fixed-wing aircraft for the first time since the cease-fire to respond to an Iranian attack. The United States has ignored the increasing use of these aircraft since then—even against the Shi'a in the south. United States and United Nations silence in the face of increasingly bold military actions in Iraq have persuaded the Iraqi leader that the United States and the United Nations are distracted with other issues. For over a year Saddam Hussein had refrained from using his aircraft for fear of the coalition's response. By ignoring this bold move, the United States has unfortunately encouraged Saddam to take other defiant steps.

Unfortunately, Saddam Hussein's cheat and retreat tactics have become all too familiar. At least four times in the last year it has required the specter of renewed military aggression to back down Saddam Hussein's belligerent stance. With his threat and forget responses, however, George Bush continues to treat these challenges as isolated episodes. Meanwhile Saddam Hussein gets away with a pattern of abuse that is slowly but steadily eroding the Iraq's ceasefire obligations to the United Nations.

This statement is one in a series I intend to make about the issues presented by the continuing crisis in Iraq and what it tells us about the new era. While George Bush has been preoccupied with other issues, Saddam Hussein continues to erode U.N. authority and rebuild his war machine. These statements are intended to help provide the sustained attention this problem requires.

AUTOMOBILE INDUSTRY BETTER THAN YOU THINK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, dire predictions about the demise of the American automobile business received another boost recently from the International Trade Commission's [ITC] shocking decision on Japanese minivans.

The Commission ruled that the American auto industry had not suffered significant harm from imported Japanese minivans—in complete contradiction to a finding by the Commerce Department. That ITC decision prevented the Commerce Department—which would have set the additional tariffs—from levying the appropriate 25 percent tariff on light trucks/minivans, plus substantial dumping charges.

This ITC decision is aimed directly at the most profitable segment of the automobile industry, and it is described as a landmark decision. The minivan market accounts for over 17 percent of the vehicle market for the automobile industry.

Ironically, the minivans and sport utility vehicles were developed about 10 years ago in the United States, by American carmakers, not those in Japan.

Naturally, carmakers in Japan were jubilant with the ITC decision, but the American manufacturers were displeased. The Washington Times reported that Thomas Hanna, president and chief executive officer of the Motor Vehicle Manufacturers Association of the United States stated:

> They've been told by this agency that you can dump in this market and get away with it. Essentially we've been told by the U.S. Government to drop dead.

This minivan decision was made about the same time the Washington Times reported on the findings of a joint United States-Canada automobile panel, which was set up under the Canadian Free-Trade Agreement. The panel concluded that:

> The North American auto industry faces possible extinction in the coming decades unless government and manufacturers take measures to improve its competitiveness with Japan.

The panel suggested the United States Government take immediate steps to cut the $42 billion trade deficit with Japan of which 75 percent is auto related. The report pointed out that the United States risks losing another 100,000 industry jobs within 5 years if we do not move quickly to help the industry.

Vice chairman of the panel, Mr. Joseph Gorman, chairman and chief executive officer of TRW said:

> The Japanese have a fundamentally different system of trade and competition, which is historically based on protectionism.

He also issued a warning:

> The decline of the industry parallels the decline and erosion of the North American industrial base.

Mr. Gorman is right. The automobile industry is an industrial giant for the United States. A friend of mine at Ford Motor Co. describes the industry this way. He explained:

> The automobile industry is the second most complex industry in the world after the aerospace industry. It is amazing to me that we can make a car with 2,000 car components with the right quality and low price which is appealing to a customer.
>
> Each car requires steel, glass, iron, wool, plastics, semiconductors, lamps, batteries and other products which come together in a product that must start each morning. It must keep performing and be able to withstand rain and snow and go up hills and mountains. It is a sophisticated industry.

Through suppliers, this giant of an industry accounts for 40 percent of all the machine tools, 25 percent of all the glass, and 20 percent of all the semiconductors sold in America.

The auto industry buys 77 percent of the natural rubber, 67 percent of the lead, 64 percent malleable iron, 53 percent of screw machines and auto stampings, 50 percent of the synthetic rubber, 18 percent of the aluminum, and 12 percent of the steel in the United States.

As we stress the competitiveness of the United States we must remember that the auto industry accounts for over 12 percent of all corporate R&D in the United States, and employs 6.5 percent of all the scientists and engineers employed in R&D activities. Remember—R&D is the secret of industrial might and has been the source of making the United States a world leader in technology. That position is slipping now.

Mr. Gorman is right about the importance of the auto industry to the United States and to North America. It represents 4.5 percent of our gross national product [GNP] and in 1990 the industry directly employed 800,000 workers and another 1 million indirectly. In fact, 1 in every 7 jobs is tied to the motor vehicle industry and more than 1.4 million Americans work in 4,400 plants and facilities in 49 States.

More importantly, the American automobile industry is the highest value added generator to our economy of $100,000 per each job versus $48,000 for the entire U.S. economy. Each American car generates $6,000 in taxes while foreign built cars generate only $400. The people who work in the industry pay 1 of every 8 Federal, State, and local tax dollars.

Not if Mr. Gorman's warning is correct, and the United States-Canada panel is right, and the auto industry could be extinct, then what happens to the people employed in the industry—and what happens to other industries supplying the auto industry?

The answer is obvious, we cannot afford to lose the automobile industry or the jobs and industries directly and indirectly related to it. We must quit knocking the industry—and take a clear look at it—and do what we can to help. There are too many myths about American auto making.

For one thing, the U.S. automobile industry can compete in the world. In comparing the world's three major auto industries of United States, Japan, and Europe, the results are surprising. On a rating of 1 to 10 with 10 being the best, the U.S. industry ranks first in fuel economy, innovation, technology level, safety, price, and current operating costs. It ranks second in styling and quality and third in development time and productivity.

But the Big Three are changing those figures, even now. Production and development time are being cut and the Big Three are grabbing back the market share from the Japanese.

Business Week reports that in:

> The first five months of 1992, U.S. carmakers have grabbed 72.4 percent of the domestic car and light-truck market, up 1.6 points from a year ago.

So, the industry grabs a point—how important is that to the U.S. economy. Each point of market share is worth about $2 billion in revenue. In the tight money squeeze for the U.S. Government, every bit of revenue is welcome; and certainly with the high unemployment rate, every bit of generated revenue helps to create more jobs.

Taking back the market share also can help the deficit. Right now the $42 billion trade deficit with Japan is 75 percent auto-related.

In taking back the market we must be sure not to thrust excessive regulatory burdens on the industry. With the passage of the Clean Air Act of 1991, an additional $2,000 will be placed on the cost of each car to cover this additional regulatory expense.

In our efforts to have clean air we have created another problem. We thought that CAFE standards would conserve gasoline, that people would drive less. Just the opposite happened. With the development of higher miles per gallon, the American people started driving further and the United States still is striving toward smaller cars, which is Japan's specialty. Americans traditionally have specialized in the medium and luxury cars. Clearly, we are not meeting the goal of conserving energy.

In addition, we need to consider the role of foreign transplants in the auto industry. According to the Economic Strategy Institute, the Japanese transplants went from producing 50,000 cars to 1.6 million annually. Granted, they employ Americans, but a good share of the design and engineering is done in Japan and the transplants only source 38 percent American parts on an average per car.

The Economic Strategy Institute calculated the effects of the transplants on employment and GNP and arrived at a net loss of U.S. tax revenue of $1.375 billion. There was a net loss of 74,800 jobs and GNP income of $5.5 billion.

Clearly, our automobile industry is working very hard to streamline and be competitive. We can help the industry by insisting on reciprocity in trade negotiations. Government can help the industry by not ruling against our own manufacturers. Most Americans understand the difference between a light truck and minivan and car, but apparently the ITC does not understand the difference.

What is needed is to realize that the U.S. Government forced the industry to change through trade agreements and by the laws we passed. In 1965 the United States-Canada automobile pact relocated a substantial portion of the industry to Canada. In return the imports from the United States were tied to the level of exports from Canada. At present, Canada has the best of the bargain.

To the south, Mexico has for over 20 years enforced a decree that for every $1.50 imported into Mexico $2 had to be exported. Both the Canadian and Mexican agreement are running deficits.

Our Government must begin immediately to represent the American automobile industry—which now is a North American industry as a result of government policies. The U.S. industry still is the world's leader in parts and components pricing cost with American producers being $735 lower than their Japanese counterparts. Let's keep it that way.

The Big Three are on a roll. Let's get out of the way and lend a helping hand, by creating the best climate possible for the automobile industry. That means being tough in trade negotiations, and not passing punitive laws which affects the American industry and allows foreign producers to play by different rules.

Check out the American cars—they are leading the way to a resurgence for American industry. Let's cheer them on and give them a chance. The American automobile industry is better than you think.

□ 2100

ORDER OF BUSINESS

Mr. DELAY. Mr. Speaker, I ask unanimous consent to move the special order of the gentleman from Florida [Mr. BILIRAKIS] ahead of the special order of the gentleman from Florida [Mr. BACCHUS] and that my special order may follow the gentleman from Florida [Mr. BACCHUS].

The SPEAKER pro tempore (Mr. VALENTINE). Is there objection to the request of the gentleman from Texas?

There was no objection.

THE 18TH ANNIVERSARY OF THE INVASION OF CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Mr. Speaker, I appreciate the motion on the part of the gentleman from Texas, and the gentleman from Florida having allowed me to proceed for good reason, because their special orders can then be consolidated.

FREEDOM AND UNITY FOR CYPRUS

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my distinguished colleagues from New York and California in paying tribute to the valiant people of the Republic of Cyprus on this, the 18th year of the occupation and division of that island nation.

Two days ago, we marked that 18th year—almost two decades of what has amounted to the systematic destruction of the history and culture of the Cypriot people by the Turkish occupiers of the northern portion of Cyprus.

I stand with my colleagues in calling for peace, and a resolution of this crisis. Indeed, talks are ongoing under the auspices of the United Nations; talks that hold the current hopes of Cyprus and peace-loving people everywhere for this very resolution.

A light may well be glimmering in the darkness that shrouds Cyprus, but to ensure a successful and peaceful resolution, we need continued pressure from the United States and our friends abroad. It is important that we all understand what is at issue here.

Mr. Speaker, at this time I will break off and yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I commend the gentleman from Florida [Mr. BILIRAKIS] for arranging this special order in order to enable us to take this time to review the Cyprus issue.

Mr. Speaker, on July 20, 1974, Turkish troops invaded and occupied the island of Cyprus. Since that time, Ankara has maintained an occupation force, 30,000 strong, in northern Cyprus. The United Nations, with United States support, has been promoting an intercommunal negotiating process aimed at creating a new federal republic on that island. Such a federal republic would be a bicommunal, bizonal, nonaligned and independent state.

Beginning in late 1988, the United Nations has sponsored peace talks between Greek Cypriot President George Vassiliou and Turkish Cypriot leader Rauf Denktash. They are currently engaged in such peace talks in New York with Secretary General Boutros Boutros Ghali on a set of ideas for a settlement, including territorial adjustments. For the first time in years, we have cause to be optimistic.

Our Nation has been monitoring developments in Cyprus most closely. Our Foreign Affairs Committee annually authorizes $15 million to Cyprus with the intent of promoting bicommunal projects, and to provide scholarship money to Cypriot students. Our executive branch has also played an important role in the quest for a peaceful resolution to the Cyprus problem. To that end, I would like to commend our special coordinator for Cyprus, Nelson Ledsky, for his significant negotiating efforts. But frustration remains. In order to make progress toward peace during the current round of talks in New York, Turkish Cypriot leader Denktash must abandon his intransigent attitude and be willing to negotiate issues of importance.

Mr. Speaker, July 20, 1992 unhappily, marked the 18th anniversary of Turkey's illegal occupying presence on the island of Cyprus. Turkey's invasion of Cyprus killed thousands of Cypriots and displaced an additional 150,000 from their homes. Over the last 18 years, the division of Cyprus has resulted in violent confrontations along the so-called green line.

Accordingly, Mr. Speaker, I join my colleagues in urging President Bush and Secretary Baker to place Cyprus at the top of our Nation's foreign policy agenda. The executive and legislative branches of our Government must join together in sending the strongest message possible to Ankara: "Get those troops and military equipment out of Cyprus and do it now."

Mr. BILIRAKIS. Mr. Speaker, before I yield to the gentlewoman from Maryland, I would thank the gentleman from New York [Mr. GILMAN] a wonderful humanitarian who is interested in peace and the resolution of all these types of problems all over the world, and particularly on this issue. I thank the gentleman very much for his wonderful support in this regard.

Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman for yielding to me.

I also want to commend the gentleman for taking this time again to bring to our attention the Cyprus problem as he has done for several years, and I have been happy to join him on each of those occasions.

Mr. Speaker, the Turkish occupation of 37 percent of Cyprus' territory continues. As my colleagues and I have done so many times before, we are once again addressing the Cyprus problem, which now has entered its 18th year.

In fact, it was 18 years and 8 days ago, July 20, 1974, that Turkish troops invaded Cyprus.

At the moment, the United Nations also is addressing this problem in closed talks in New York. Although there seems to have been some antipathy to these efforts recently by Turkish-Cypriot leader Rauf Denktash, let us hope that the talks actively are bringing a resolution to this serious problem.

With the collapse of communism in Eastern Europe and the Soviet Union, the Cyprus problem stands out as one that must be brought to a resolution as quick as possible.

Countries such as the former Soviet Union and former Yugoslavia are reverting back to the tribalism that characterized this area previous to the First World War.

The role of Turkey, once that of the frontline of the Western powers against communism during the cold war, rapidly is evolving into one of a sphere of influence in this part of the world.

That Turkey overstepped its bounds in this role is of very great concern to me and many of my colleagues. The precedent of Turkish occupation of Cyprus points to the threat of similar actions by that country in areas of both the former Soviet Union and in the eastern Mediterranean. Actions that would be very detrimental to the stability of this region.

Not that this is the only concern. Within Cyprus itself, questions of resettlement of refugees, missing persons, and a long-term solution to this problem must be addressed.

Notwithstanding Turkish occupation of Cyprus, the changing role of Turkey indicates a serious need for a rethinking of United States policy on Turkey.

However, the positive participation and cooperation of Turkey in coming to a resolution of the Cyprus problem should be the minimum that the United States ask if Turkey expects to receive continued support from this country.

In addition, the United States should focus on the plight of the Kurdish minority in Turkey, and demand that their human rights situation be rectified as an additional precursor for continued United States support.

Anything less would be unacceptable.

I would like to thank Mr. BILIRAKIS for organizing this effort today, and my fellow members for participating. The continued Turkish occupation of Cyprus is a very serious problem. Let us hope that the current United Nations' effort finally will resolve this problem that has been going on 18 years too long.

□ 2110

Mr. BILIRAKIS. Mr. Speaker, I, too, thank the gentlewoman from Maryland [Mrs. BENTLEY] for joining us in this special order and the wonderful support that she has offered in this cause through the years.

Certainly she understands the problem here very well because her mother country, part of the former Yugoslavia, Serbia, is going through an awful lot of problems these days.

Thank you again, HELEN.

Mr. Speaker, at this point I yield to my fellow conspirator on this special order, the gentleman from New York [Mr. GREEN].

Mr. GREEN. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to join my colleague, the gentleman from Florida [Mr. BILIRAKIS] in holding this special order today to mark with pain the 18th anniversary of the Turkish invasion of Cyprus.

As is well known, on July 20, 1974, tens of thousands of Turkish troops invaded the independent Republic of Cyprus, resulting in the displacement of nearly 200,000 Greek Cypriots. Today, some 35,000 Turkish troops remain illegally on Cyprus, prohibiting that nation from finding a political solution to its problems. As a result of the invasion, nearly 40 percent of the total territory of the Republic of Cyprus came under Turkish military occupation, territory which accounts for 70 percent of the economic potential of the island.

For years, Congress has been united in deploring the continued division of Cyprus. Despite our best efforts, however, the crisis for that island nation remains unresolved. With the cold war over, the United States must truly step up the pressure to reach a solution to outstanding regional problems such as this. Cypriots, both Greek and Turkish, deserve to be free of the hostilities that have plagued their land for nearly two decades.

Turkish troop presence on Cyprus is unjust and in violation of international law. The situation has dragged on for 18 years without resolution, leaving a nation divided and a population embattled. The international community has repeatedly condemned the Turkish occupation of Cyprus, and several U.N. resolutions have called for the immediate withdrawal of those troops. Currently, the U.N. Secretary General is conducting peace talks to attempt to bridge the differences between Greek and Turkish Cypriots in hopes of finally resolving the conflict. I commend the U.N. Secretary General for his good faith efforts and his commitment to achieving progress on the Cyprus problem, and I urge the United States to continue its strong support of the U.N. effort.

Unfortunately, Turkey has consistently refused to say whether it is willing to withdraw from territories it has occupied since its 1974 military invasion and to allow the Greek Cypriot refugees to return to their homes. Turkey is a major beneficiary of United States aid, receiving over $800 million in fiscal year 1991 alone. We must use that aid as leverage to achieve a Turkish withdrawal from Cyprus. Since the 1974 invasion of Cyprus by Turkish troops, the United States has provided over $6 billion in military aid to Turkey, and yet virtually no progress has been made in convincing the Turks to cease their occupation of Cyprus. Because I find this situation so disturbing, earlier this year I introduced legislation, H.R. 4399, to withhold all United States military and economic aid to Turkey so long as that nation continues to occupy Cyprus illegally. I take this opportunity to encourage my colleagues who have not already done so to join as cosponsors of H.R. 4399.

A deeply troubling humanitarian issue remains unresolved as well. 1,619 individuals, including 5 Americans, remain missing and unaccounted for since the 1974 invasion, and Turkey has so far, failed to provide any evidence on their fate. Those individuals were known to be alive and in the custody of the Turks after the cessation of hostilities, but remain unaccounted for to this day. The painful problem of Cypriots disappearing must be solved.

In short, our message is simple—Turkey must remove its troops immediately, so that all parties may work toward a peaceful resolution of the Cyprus problem. We must let the Turkish Government know loud and clear that finding a solution to the division of Cyprus is paramount in defining the future of United States relations with Turkey.

Let me close by expressing the hope that next year Congress can convene a special order at this time not to decry the ongoing problem of a divided Cyprus, but rather to celebrate Cyprus' unity, independence, sovereignty, and territorial integrity.

Mr. Speaker, I again thank the gentleman from Florida [Mr. BILIRAKIS] for his leadership on this issue.

Mr. BILIRAKIS. I thank the gentleman from New York [Mr. GREEN], and with God's will next year we will celebrate what it is we are all praying for at this time.

Mr. Speaker, to continue, 200,000 men, women and children were forcibly expelled from occupied Cyprus. They are now refugees—a people without a home. These refugees have been living through an 18-year exile.

Turkey continues its illegal occupation of northern Cyprus—one recognized by no other government on Earth. Turkey continues to station more than 30,000 troops there and to maintain some 65,000 settlers on Cyprus. Frequent incidents and disputes scar the populace.

It is surely in Turkey's best interest to resolve this problem expeditiously. In fact, Turkey's intransigence is one more stumbling block keeping her from becoming an accepted part of the European Community. While Turkey has other problems to solve in this regard, the EC has made it clear that membership is contingent upon resolution of the Cyprus problem.

Cyprus is the only, let me repeat the only, country in Europe with 37 percent of its land under the occupation of an invading force. Furthermore, Turkey continues to change the demography of Cyprus by transplanting Turkish settlers there. In the near future, the settlers and the occupying troops will outnumber the indigenous Turkish Cypriot population—and with each passing day the tension on the island grows.

As a result of the 1974 military invasion, 1,619 individuals, some of whom—as I have mentioned before—happened only to be in the wrong place at the wrong time, have never been seen again.

Mr. Speaker, among those 1,619 individuals are 5 U.S. citizens—missing for nearly two decades without a trace.

In May of this year, I chaired a congressional human rights caucus hearing that dealt with the missing in Cyprus. What I heard was heart wrenching.

In a briefing for that hearing, Mr. Costas Kassapis, an American citizen who resides in Michigan, testified that he and his family had been vacationing in Cyprus at the time of the invasion and occupation. His son, Andrew, who was only 17 at the time, was taken before Mr. Kassapis' eyes.

While the rest of his family was held captive for 11 days, Andrew was dragged off by Turkish Cypriot soldiers, as Mr. Kassapis Testified, "U.S. passport in hand."

Mr. Speaker, why is it that five American citizens are still missing as a result of the military invasion of Cyprus in 1974? Turkey is considered by the United States and this administration as an ally, however, Turkey has not offered any proof of what has happened to these people.

For this reason, I have requested that the State Department conduct a formal investigation into the whereabouts of these 1,619 missing persons—and the President's foreign policy and national security advisors currently are reviewing my request for action. I urge them, in the strongest of terms, to approve my request and to begin this investigation, just as soon as is practical.

Nearly two decades of grief and suffering by family members is enough, nearly two decades of uncertainty, of helplessness is enough. Is this too much to ask?

Is a resolution of the Cyprus problem too much to ask to bring an end to long, bitter and sometimes hostile conflict, and to secure peace and stability in the region? I say no, Mr. Speaker. Greece and Turkey both can be valued and valuable United States allies and trading partners in a region of growing significance, but this great wound must be healed first, this must be put behind us first.

Northern Cyprus has seen its culture mutilated, its antiquities pillaged. Churches have been plundered and ransacked; beautiful frescos stripped from the walls of these religious institutions. Other churches have been converted into mosques and still more have been turned into cinemas and recreational centers.

As I said earlier, what Cypriots have witnessed is the wanton and systematic destruction of their history and cultural heritage.

Many archeological sites, too, have been plundered and irreplaceable artifacts have been either destroyed or sold off. Historical sites, some dating to 500 B.C., were terribly damaged during the invasion and hostilities that followed. Important historical buildings often are the unintended casualties of war, and those on Cyprus were no exception. Sites of no military value were bombed and others were vandalized by Turkish forces.

Mr. Speaker, we must end the occupation of this island-nation before all traces of Cypriot culture and history are trampled underfoot.

We in the Congress have a responsibility to use our influence to see Cyprus made whole again, to rescue the thousands of Greek-Cypriots who have become refugees in the land of their birth. Like those faithful Cypriots, both in my district and elsewhere, we must do our utmost in this cause.

Mr. Speaker, I include for the RECORD the following correspondence:

THE WHITE HOUSE,
Washington, June 23, 1992.

Hon. MICHAEL BILIRAKIS,
House of Representatives,
Washington, DC.

DEAR MIKE: Thank you for your recent letter to the President recommending the State Department conduct an investigation into the status of 1,619 Greek Cypriots listed as missing.

We appreciate being advised of your support for such action. I have provided copies of your letter to the President's national security and foreign policy advisors for their review.

Thank you again for writing.

With best regards,

Sincerely,

NICHOLAS E. CALIO,
Assistant to the President for Legislative Affairs,

Mr. BONIOR. Mr. Speaker, I'd like to thank my distinguished colleagues Congressmen BILL GREEN, ROBERT MRAZEK, MICHAEL BILIRAKIS, and Congresswoman NANCY PELOSI for holding today's special order to mark the 18th anniversary of the Turkish invasion of Cyprus.

On July 20, 1974, Turkish troops invaded and occupied northern Cyprus. Today, over 35,000 Turkish troops remain there. The troops occupy nearly 40 percent of the island even though only 18 percent of the population is Turkish Cypriot.

Thousands of Greek Cypriots became refugees as a result of the invasion. Today, a barbed wire fence, known as the Green Line, cuts across the island separating thousands of Greek Cypriots from the towns and communities that their families lived in for generations.

Yet despite its continued illegal occupation of Cyprus, Turkey receives over $600 million a year in United States aid. We must ask ourselves is this what we want the new world order to include. I am proud to be a cosponsor of H.R. 4399 to withhold United States aid until the Turkish Government acts to end its occupation of Cyprus and complies with international law.

The past few years have produced dizzying change around the world. Barriers between the East and West crumbled. Progress is being made toward peace in the Middle East. Yet, Cyprus remains divided. We can and must resolve this long-standing crisis. The new world order must include a united Cyprus.

I'd also like to take this opportunity to express my concern about the Skopje regime's attempt to use the Greek name Macedonia. Greeks painfully remember Tito's attempt to annex parts of Greece and Bulgaria. The territory touched off several wars early this century in a region that clearly does not need further provocation.

I am encouraged by the recent pronouncement of the European Council stating "its readiness to recognize that republic (Skopje) within its existing borders according to their Declaration on December 16, 1991 under a name which does not include the term Macedonia." It is my deep hope that the United States will follow the lead of the European Council and adopt a similar policy.

Mr. FAZIO. Mr. Speaker, July 22 marked the 18th anniversary of the Turkish invasion of the Republic of Cyprus. I join my colleagues today in this special order commemorating this solemn anniversary, as well as in condemning the illegal Turkish occupation and calling for the withdrawal of all Turkish troops from Cypriot soil. Such a withdrawal is a necessary precursor to any possible peaceful resolution to this ongoing crisis.

Thirty-two years ago, the Republic of Cyprus gained its independence from Great Britain. For the past 18 years, however, the northern 40 percent of this island nation has been under the oppressive grip of the estimated 35,000 Turkish troops illegally garrisoned there. The Turkish invasion of Cyprus resulted in the displacement of 170,000 Greek Cypriots and the disappearance of 1,614 Greek Cypriots and 5 Americans. All those who disappeared are presumed dead.

The international community has repeatedly condemned the Turkish occupation, and several United Nations resolutions have called for the immediate withdrawal of the Turkish troops. Unfortunately, these actions have been to no avail. The Turkish troops remain, and the Turkish Government continues to refuse to provide any information relative to the fates of the missing Americans and Greek Cypriots.

I continue to hope that the people of Cyprus—both the Greek and the Turkish Cypriots—will find a way to live in peace together. But, such a peaceful resolution to this ongoing crisis will only occur after the withdrawal of all Turkish troops from the island. United States policy must provide a catalyst for such a resolution.

Mr. Speaker, I would like to close my remarks by commending my distinguished colleague from California, Mrs. PELOSI; my distinguished colleague from Florida, Mr. BILIRAKIS; and my distinguished colleagues from New York, Mr. GREEN and Mr. MRAZEK, for calling this special order. I also thank my other colleagues for their participation today.

Mr. REED. Mr. Speaker, this summer, we mark the 18th year of Cyprus' existence as a state divided.

In 1974, the Turkish Army Invaded Cyprus, causing a mass exodus. All Cypriots of Turkish decent were required to move to the northern part of the island, while all Cypriots of Greek decent moved to the island's southern region. Families were uprooted, property was lost and destroyed, and a barrier was erected which remains in place today. In an attempt to justify its ethnic claim to the island, the Turkish Government persuaded thousands of its citizens to colonize northern Cyprus.

The "Green Line", a fortification resembling the DMZ in Korea, now divides Cyprus into Greek and Turkish zones. The demarcation is so severe that the halves of the island seem divided by an ocean rather than a manmade wall. Even Nicosia, Cyprus' capital, has been divided. Now that the Berlin Wall has fallen, the time has come for the termination of the "Green Line", so that Cypriots will once again be allowed to move freely throughout their country.

The Turkish invasion and subsequent occupation of Cyprus violates a number of United Nations' resolutions which call for immediate and meaningful negotiations. The continued occupation of Cyprus by 30,000 Turkish troops is intolerable and the existence of the Green Line serves as a reminder of the continuing need for the United States to play an active role in negotiating a peaceful resolution.

I know many of this chamber share my hope that U.N. Secretary General Boutros-Ghali will continue his recent activities to encourage and facilitate negotiations to resolve the division of Cyprus. I urge all of my colleagues to work actively to end this terrible situation and I commend those who have done so.

We must make every effort to restore Cyprus' sovereignty and unity. Thank you, Mr. Speaker.

Mr. PORTER. Mr. Speaker, I come to the floor today with both sadness and hope to commemorate the 18th anniversary of Turkey's invasion of the Nation of Cyprus. I feel sadness because for the last 18 years, the island and people of Cyprus have been separated by an occupying foreign military force, the Turkish Army. Tens of thousands of refugees fled both south and north in 1974 and have not see their homes since that time and 1,614 Greek-Cypriots and 5 American citizens disappeared and have not been heard from since.

I also feel hope, however, Last month, Cypriot President George Vassiliou and the leader of the island's Turkish Cypriots, Rauf Denktash, each met separately with U.N. Secretary Boutros Boutros Ghali in New York to discuss a resolution to the Cyprus situation. Although the Secretary General has asked that neither leader speak with the press about the progress of the talks there are indications that the Secretary General has presented each with a working draft proposal for reunification of the island.

On July 15, the two leaders again traveled to New York and have given indications that they will remain there indefinitely working on a solution. Evidently, the U.N. Security Council is taking a direct interest in the meetings and is being briefed daily on progress and may intervene if the talks stall.

I believe that this is the most promising prospect for reunification in many years and I think that Congress should encourage the parties to negotiate to a final resolution acceptable to everyone. The Appropriations Committee adopted report language that I offered on the Foreign Operations bill that expressed support for a fair, lasting and democratic solution to the separation of Cyprus and indicated that it would carefully monitor the negotiations to ensure that all parties are forthcoming and negotiate in goodwill. If it becomes evident during the course of these talks that there is obstruction of the negotiations or acts imperiling a successful outcome, security assistance in that part of the world must be brought into question in the next fiscal year.

Mr. Speaker, the division of Cyprus simply has gone on too long. My wife, Kathryn, and I first traveled to Cyprus in 1981 and have returned several times. It is an incredibly beautiful island with wonderful, warm people and a rich history that is evidenced by a wealth of important archaeological sites and a beautiful legacy of art and architecture. Unfortunately, as you walk down the winding streets of Nicosia or drive through the Cypriot countryside, you are constantly reminded of the 35,000 Turkish troops that loom just beyond the horizon, beyond the U.N. peacekeeping troops, beyond the Green Line that slices Cyprus in two.

I urge the representatives of the two communities on Cyprus to come together for the sake of their people and the future of their country and reach a compromise. A generation has grown up on Cyprus not knowing peace and unity. I am concerned that the bond of shared experience between the two communities forged as a consequence of their living together for centuries will dissolve if they are not reunified soon.

I thank my good friend, Mr. BILIRAKIS, for calling this special order to draw attention to the ongoing situation on Cyprus and the promising developments that are unfolding in New York. His commitment to Cyprus has been unwavering and his leadership has been instrumental in raising awareness of the Cyprus issue here in Congress.

Mr. HUGHES. Mr. Speaker, I rise here today to express my strong support for H.R. 4399. This measure prohibits all United States military and economic assistance to Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem and complies with its obligation under international law.

For the last 18 years, Cyprus has been an island divided. As we enter a new era of democracy, I believe it is time to end the pain and suffering of Greek Cypriots who remain refugees in their own land.

In 1960, Cyprus achieved independence from Great Britain. Then in 1964, the unrecognized Turkish Cypriots withdrew from most national institutions, and began to administer their own affairs. The Turkish military invasion of Cyprus in 1974 created unparalleled social unrest, including the taking of American and Greek hostages, confiscation of private property and the forced displacement of 200,000 Greek Cypriots.

Assuming that the new world order is to be based upon the principles of self-determination and national sovereignty, the international community must unite in support of Cyprus. Accordingly, as Members of Congress, we must take responsibility for providing Turkey with millions of dollars in military aid, essentially defraying the costs of occupation. The high military aid levels of the past can not be justified as long as Turkish forces remain in Cyprus. If Turkey can afford to maintain 30,000 troops in Cyprus, certainly it can provide for its own defense needs.

The Republic of Cyprus continues to be divided after almost two decades of bitter dispute. It is essential that the stability on this island be established immediately. I believe it is time to end the partition of Cyprus and unite this country under one government that respects and protects the rights of all of its citizens.

I urge my colleagues to join me in supporting H.R. 4399. It is imperative that the United States cease all military and economic aid to Turkey until the Turkish Government withdraws its illegal occupation of northern Cyprus. We must send a clear message to the Turkish Government—it is time to end this atrocity.

Mr. ABERCROMBIE. Mr. Speaker, I come before you again to express my hope that after 18 years of occupation, oppression, and division, the U.N.-sponsored Cyprus negotiation will finally allow the people of Cyprus to be free of the hostilities that have plagued their land for so long.

Mr. Speaker, in 1990, a congressional working group for the just settlement of the Cyprus problem criticized Turkish policy and United States aid to Turkey for perpetuating the division in Cyprus. Turkey received over $800 million of United States aid last year, and since 1974 has received $6 billion in military aid. For this reason, Mr. Speaker, I urge the administration to use this leverage that the United States has with the Government of Turkey to encourage the withdrawal of foreign troops in Cyprus as a first step to ending the division which has remained since 1974.

President Bush pledged in a speech to the Greek Parliament last year that the United States would take a more active role in the Cyprus problem, and said that "no one should accept the status quo in Cyprus." Mr. Speaker, I urge the President to keep this commitment and further spur the U.N.-sponsored negotiations to a successful conclusion.

Mr. LEHMAN of California. Mr. Speaker, July 20 marked the 18th anniversary of Turkey's invasion of the Republic of Cyprus. It is significant that we take this time to reflect upon the crisis currently facing the people of Cyprus. At the outset I would like to thank my colleagues, MIKE BILIRAKIS and BILL GREEN, for organizing this special order and commend them for their dedication to bringing peace to Cyprus.

On July 20, 1974, Turkish troops marched into the Republic of Cyprus and expelled 200,000 Greek Cypriots. This unprovoked aggression on the tiny island nation of Cyprus by the Turks resulted in the current occupation by Turkish soldiers, which has spread to over one-third of the nation. The forced division of the Cypriot people has severely impeded Cyprus's role in the new world order. The people of Cyprus struggled for many years to gain independence in 1960, only to have it shattered in 1974.

Cyprus is partially the victim of a United States foreign policy which has assisted Turkey, both militarily and financially, over the years. Turkey has shown disregard for human life, yet, the United States continues to aid Turkey in its quest to control small neighboring countries. We must send a message to Turkey that the United States will not tolerate aggressive military activity which serves to destabilize the region.

Did the Persian Gulf war not teach us any lessons on the danger of building a regional power. I find it very difficult to comprehend why the flow of foreign assistance from Washington to Ankara, Turkey's capital, continues with Turkey's record of inflicting pain and suffering, which dates back to the 1915 Armenian Genocide.

It appears that the Turkish Government is determined in establishing themselves as the new regional power. The occupation of Cyprus and the threats placed upon the Republic Armenia are definitive signs that Turkey is not committed to bringing peace and stability to the region. The United States' relationship with Turkey severely undermines the principle and ideals so many of us have fought for over the years.

Until Turkey has shown it is willing to play a positive role in securing peace in the region, the United States must withhold all military and economic assistance. Cyprus has been strong-armed by the Turkish Government for 18 years and the United States must let it be known Turkey's provocative actions will not be condoned.

Mr. DOWNEY. Mr. Speaker, I rise to join my colleagues on this special order and commend them for taking the time to bring attention to this important issue.

Americans have always believed that people should live in peace and freedom. Unfortunately, this is not the case in Cyprus. Today, 18 years after the Turkish invasion, Cypriots are forced to live in a divided nation.

I applaud the efforts being made by the international community and the United Nations to bring peace to this area. Settling the disputes that continue in Cyprus will benefit all the parties involved.

However, the U.S. Congress cannot stand by while the division of Cyprus continues. I join with my colleagues today to send a strong signal that Turkey's disregard for the United Nations resolutions is unacceptable, and that the continued occupation of Cyprus has not gone unnoticed. This body has made clear throughout the years that the division of Cyprus must end. I will continue to work with my colleagues to pursue policies that will ensure that Cyprus is once again free and peaceful.

Mr. SCHUMER. Mr. Speaker, I would like to commend and thank my colleagues for conducting this special order to recognize the 18 years of Turkish occupation of Cyprus.

Once again, we are drawn to the floor of the House of Representatives to mark this sad anniversary, and to condemn the atrocities that have plagued the Cypriots for so long.

The years of Turkish occupation of almost 40 percent of the island of Cyprus have been filled with countless crimes and violations of human rights that cannot be tolerated. Hundreds of thousands of Greek Cypriots have been evicted from their homes by the Turkish Army, thousands more have been forcibly detained.

I applaud the actions the U.N. Secretary General has already undertaken to resolve this conflict and to bring peace to this troubled region. Congress too must play an active role in achieving this goal, persevering until these deplorable crimes come to an end.

Mr. KENNEDY. Mr. Speaker, I rise today to join my colleagues in remembering the 1974 Turkish invasion of Cyprus. I would like to thank my colleagues, Mr. GREEN, Ms. PELOSI, Mr. BILIRAKIS, and Mr. MRAZEK for organizing this special order to mark yet another year of occupation of the Republic of Cyprus by Turkish troops.

Eighteen years ago on July 20, 1974, Turkish forces invaded Cyprus and occupied nearly 40 percent of the island. Tens of thousands of Greek Cypriots were driven from their ancestral homes in the northern territories and live today as refugees in their own country. They have lost billions of dollars in property and personal assed personal assets, and the fate of 1,614 mission Greek Cypriots and 5 Greek-Americans is still unknown. The cultural, archaeological, and religious heritage in the occupied areas has and desecrated in the Turkish attempt to make this region ethnically sterilized of its long Greek heritage.

There is no question that Turkey's continuing occupation is a blatant violation of international law. The United Nations has ruled time and time again that Turkey is wrong on this matter. Not another nation in the world, with the exception of Turkey, has recognized the creation of the so-called Turkish Republic of Northern Cyprus.

In addition, it is obvious that Turkey is a major part of the problem with respect to solving the challenge of allowing the Cypriot people to live together in peace. Without question it is clear that this issue must be settled by Greek Cypriots and Turkish Cypriots themselves, but unfortunately Turkey will not let them. I believe Turkey should withdraw its troops and cease its divisive financial and diplomatic support so that the two communities can successfully negotiate a settlement that is satisfactory to both communities.

Mr. Speaker, the Turkish troops must be sent home. It is unconscionable that the United States can continue to provide hundreds of millions of dollars of military aid to Turkey, in effect, subsidizing the occupation of part of Cyprus and impede the resolution of differences. Turkey has failed to negotiate in good faith a substantive settlement and has failed to submit, as it had promised, negotiating proposals regarding territory, constitutional arrangements, and refugees since 1977. As recently as last September in Paris, the Turkish Prime Minister reneged on understandings that had been reached with the U.N. Secretary General and the State Department, and scuttled plans for an international conference favored by the United States. We are, therefore, in effect using taxpayer money to pay for Turkey's illegal occupation and colonization of Cyprus. I have cosponsored Congressman GREEN's bill that would prohibit both military and economic assistance to Turkey if certain actions by that government are not taken. I believe that the threat of withholding Turkey's aid can prod that government into seriously trying to find a solution to the Cyprus problem.

The unpersuasive justifications for continuing military aid to Turkey are no longer relevant or even believable. The fact is, Turkey will pursue its interests regarding the southern Republics of the former U.S.S.R., for example, with or without United States aid. We do not need Turkey as an intermediary with these new nations. Has Turkey been of any benefit to the United States in trying to find a peaceful solution to the Armenian-Azeri conflict? We know that they have not. Mr. Speaker, I am convinced that if we continue to wastefully pour millions of dollars of military aid into Turkey, that there is more than a distinct possibility that we could be creating another Saddam Hussein in the region. We must not forget the lessons taught to us by Iraq. To do so would be a monumental mistake.

The United States needs to break out of its cold war pattern of looking for a threat and for a partner against that threat—and then finding that the partner has a regional agenda that is not ours. This is not intelligent policymaking, especially in a volatile area such as Central Asia. The administration's notion that Turkey could serve as a model for the former Soviet Republics in Central Asia is not shared by many respected area specialists. Turkey has immense human rights problems. Its continuing violations against its Kurdish and Greek minorities, and its aggression in and occupation of nearly 40 percent of Cyprus certainly does not qualify it to be avidly promoted as a model for any new nation in Central Asia. The administration should not pursue a policy devised for the expediency of the moment. The administration must give due consideration to the long-term consequences that these policies could have.

Mr. Speaker, the world has witnessed historic changes over the last 3 years, with the strong call for democracy and freedom ringing out in the former Soviet bloc, Asia, and Central America. However, Cyprus remains one of the few countries in the world which is occupied by a hostile military force. It is high time, especially in light of all the changes which have taken place globally, that the rights and privileges to which the people of Cyprus are entitled to be restored. They deserve no less. Turkish troops should withdraw from Cyprus, and the United States should cease its assistance to the Turkish regime which continues to perpetuate this illegal and unjust occupation.

Mr. WEISS. Mr. Speaker, as I rise to mark the 18th anniversary of the Turkish invasion of Cyprus, I would like to call attention to the 35,000 Turkish troops that continue to occupy northern Cyprus.

Despite years of condemnation and international appeals for a complete withdrawal, Turkey is still the only nation that recognizes the legitimacy of this act. Attempts by the United Nations have been made to reach a comprehensive settlement based on their removal, but the Ankara Government refuses to yield in the name of peace.

Consequently, Cyprus remains a divided country. Its inhabitants have raised a generation of Turkish and Greek Cypriots who know only a life of constant fear and frustration. Their doubts and angst about the present and future only increases as the peace talks continue with no reports of measurable progress.

Strong U.S. participation, however, can be the critical link to ensuring that their hopes are realized. The work of U.S. Special Representative Nelson Ledsky is commendable, but particular emphasis should now be made to leverage a workable compromise from our Turkish ally.

Turkey is a top beneficiary of United States assistance, and military and economic aid is at the heart of our bilateral relations. If reasonable efforts fail to keep the Turkish Cypriot delegation at the negotiating table, then the United States must begin to add teeth to the peace process by reducing bilateral assistance.

In the end, however, U.S. influence depends on the will of the President to challenge our allies in order to do what is right. His committed leadership can make a difference in the lives of millions, but his neglect can mean that many more Cypriots will grow up under an umbrella of conflict for many more years to come.

I hope that as the next anniversary of this terrible event comes around, Americans can put aside this chapter of Cypriot history and help celebrate the beginning of a new period in Cyprus, where Greeks and Turks can live together as two communities under a single republic.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to join with my colleagues in marking the 18th anniversary of Turkey's invasion of Cyprus. On this day in 1974, thousands of Turkish troops invaded the independent island nation with inhabitants of both Greek and Turkish descent. Today, over 35,000 Turkish troops still illegally remain and occupy a third of the country.

For years, Congress has publicly objected to Turkish occupation in Cyprus. Several U.N. resolutions have called for immediate withdrawal of the troops. Currently, the Secretary General of the United Nations is conducting peace talks to resolve the Cyprus conflict. Just last June, we in Congress stated our support for the United Nation's Cyprus peace initiative in the foreign aid authorization bill.

Mr. Speaker, for 18 years the inhabitants of Cyprus—both Turkish and Greek—have been forced to endure this illegal occupation of their small country. I join with my colleagues today in the message that all parties involved in this conflict must now work toward a peaceful resolution. Turkey should withdraw its troops and return the occupied land to Cyprus.

Mr. BROOMFIELD. Mr. Speaker, I want to commend Congressmen Bill Green and Mike Bilirakis for their leadership in bringing this timely special order on Cyprus to the floor. I also want to thank the many Members of this body who have worked with me over the years on the challenging Cyprus issue. Your enthusiasm and commitment to peace is deeply appreciated.

This special order marks the 18th anniversary of Turkey's invasion of Cyprus. After all of these years, the problems of a divided Cyprus remain: 30,000 Turkish troops are still in the north; a United Nation-manned green line still separates the two communities on the island; the 200,000 refugees who were driven from their homes are still displaced; and peace negotiations designed to find a solution have, up to this point, produced little progress.

It has always been said that the key to solving the Cyprus dilemma is in Ankara. It is time for our friends in Turkey, who have benefited for so many years from our generosity, to help us find a way to resolve the Cyprus problem. As a gesture of good faith and a sincere commitment to peace, Turkey must withdraw its troops.

It is also time for Turkish authorities to put pressure on Rauf Denktash, the leader of the Turkish-Cypriot community, who has dragged his feet along the road to peace. He must be told that the window to finding a resolution of that longstanding problem is open, but not for long. As we work to shape the new international landscape, now is the time to work together to heal Cyprus.

Although the ongoing proximity talks are encouraging, in the past I have seen other talks fail. I continue to believe that removing those illegal troops would strengthen the negotiations and underline Turkey's commitment to peace on Cyprus.

I urge my colleagues in the Congress to work with us in crafting a solution to the problems on Cyprus.

Mr. CARDIN. Mr. Speaker, I rise today to join my colleagues, Representative Michael Bilirakis, Representative Bill Green, Representative Bob Mrazek, and Representative Nancy Pelosi, in remembering the 18th anniversary of the Turkish invasion of Cyprus. I wanted to join my colleagues in this special order in the hope that United States and world attention will be focused on the urgent need to find a peaceful solution to this difficult situation.

The eastern Mediterranean island of Cyprus has been divided since the Turks invaded Cyprus in 1974. A United Nations force currently patrols a line separating about 170,000 Turkish Cypriots in the north and 650,000 Greek Cypriots in the south.

The people of Cyprus, both Turkish and Greek, deserve to be free from the hostilities that have plagued their island for the last 18 years. The status quo—a divided nation—remains untenable. The presence of Turkish troops in Cyprus represents one of the last remaining occupation armies in Europe.

The collapse of the Soviet Union and changes in Eastern Europe have focused the world's attention of the need to address regional and ethnic conflicts. The world community, particularly the United States, must press for a peaceful resolution of the Cyprus problem before more lives are lost. The Government of Turkey must recognize that progress on Cyprus will impact United States foreign assistance in the future.

The time has long passed for the occupation forces to be withdrawn. Greek and Turkish Cypriots should be permitted to return to their homes and to determine for themselves the future direction of Cyprus.

Ms. PELOSI. Mr. Speaker, I rise today to commemorate the 18th anniversary of a continuing tragedy; the 1974 Turkish invasion of Cyprus and the 1,619 persons—including 5 American citizens—who remain missing to this day. Another year has passed and we are still no closer today than we were a year ago to seeing a peaceful and equitable resolution of this issue.

The discord between Greece and Turkey over Cyprus has ancient roots but its consequences are still very tangible today; 1,619 persons remain unaccounted for from the invasion. They are the victims of a repressive Turkish regime and a passive United States foreign policy.

The leader of the Turkish Cypriots, Mr. Rauf Denktash, is anxious to keep this matter closed, claiming dubiously that all those listed missing are dead. What is certain is that the Turkish Government has dragged its feet at every turn in assisting Ambassador Nelson Ledsky's and the Greek Cypriot people's efforts to verify Mr. Denktash's claim.

Mr. Denktash's callous dismissal of the agony that has held hostage the families of the missing for 18 years is further proof of the gulf of misunderstanding and distrust between Greeks and Turks, a divide which remains as Cyprus' greatest obstacle to peace.

Describing recently a United Nations plan to return Turkish-occupied territory to Greek Cypriots as ridiculous, Mr. Denktash has once again torpedoed the peace process. This incident is yet another indicator that the Turkish Cypriot Government is more interested in clinging to power than in returning justice to Greek Cypriots as well as peace to the entire nation.

If there is to be any chance of reaching an accord between Greek and Turkish Cypriots, an accounting of the missing must be made. Until this basic but crucial step is taken, the Greek Cypriot people can only mark the years and wait in futile silence for the missing to return home.

As traditional conflicts like the cold war recede one by one from the world stage, Cyprus remains a tragic reminder that in this modern era ethnic conflict remains as a major obstacle to true world peace. The division of Cyprus continues. I join my colleagues today in calling on Mr. Denktash and the Turkish Cypriot Government to account for the missing and help lay to rest the passionate differences which have divided these two peoples for generations.

Mr. TRAFICANT. Mr. Speaker, the grave situation in Cyprus weighs heavily on my mind. This year marks the 18th year of Turkish presence in Cyprus. This little nation, that knew independence for only 14 years, from 1960 to 1974, continues to suffer occupation by Turkish aggressors. This truth poisons a region recently injected with progress, independence, and ambitions for democracy.

Mr. Speaker, in 1960, Turkey slipped into Greek-occupied Cyprus and overthrew the Cyprus Government. Not only did this aggression violate the U.N. Charter Article 2(4), but it also obliviated stipulations in the NATO Treaty.

Accompanying the unfortunate continuation of this occupation are the human rights violations institutionalized by the Turkish-controlled Cypriot Government. Thus far, 1,614 Cypriot citizens have suffered detention while 35,000 lost their homes to unjust confiscation, not to mention the 200,000 refugees created from the situation.

Turkey's intentions to gain membership in the European Community [EC] are another significant factor that complicate the reputation of the country. You see, Mr. Speaker, Turkey does not intend to vacate Cyprus and negotiations to find a peaceful settlement have been minimal. Thus, the Nation expects, somehow, that the nations of the world, now exhuberant for progress, support Turkey in its illegal endeavors. Two documents, the U.N. Charter and NATO Treaty deem them illegal on three counts: human rights violations, aggression, and occupation of a sovereign nation.

I appeal to my colleagues to take note of the situation in Cyprus and use the resources at our disposal to further Cypriot ambitions to regain sovereignty. This 13th year of Turkish occupation of Cyprus should be a year to take the stick away from the Turkish bully. The current, international atmosphere demands it due to the chilling winds of international change and progress.

Mr. WAXMAN. Mr. Speaker, I rise in strong support of today's special order marking the 18th anniversary of Turkey's invasion of Cyprus. This is an opportunity for Members of Congress to reaffirm their commitment to fostering peace in this troubled region.

Eighteen years after the Turkish invasion of Cyprus, this island remains divided and under occupation, 35,000 Turkish troops continue to occupy a large portion of the island and thousands of Cypriots have been separated from their homes and property. Despite the changes that have dramatically transformed the European map during the past few years, Cyprus remains divided and in a state of potentially dangerous conflict.

As peace talks in the Middle East appear on the brink of major breakthroughs, the time is ripe for some type of resolution of the Cyprus problem as well. I urge President Bush to utilize his influence with Turkey to convince Ankara that it is time to find a solution to the division of Cyprus. A peaceful resolution of this crisis would improve relations between Greece and Turkey, and between Turkey and the entire European Community.

A just settlement must acknowledge the entitlement of the Greek Cypriots, who compose 80 percent of the population, to the fruits of majority rule. At the same time, a resolution must guarantee the protection of the rights of the Turkish Cypriot minority.

Mr. Speaker, the United States must make a concerted effort to bring the Cyprus issue to the forefront of foreign policy concerns, encourage and participate in a conference between all legitimate parties, and most importantly, bring peace and democracy to the people of Cyprus.

Mr. MANTON. Mr. Speaker, I rise today to join my colleagues in this important special order marking the 18th anniversary of Turkey's invasion of Cyprus. At the outset, I want to thank my colleague Mr. BILIRAKIS for his hard work in organizing time each year to commemorate this event. I am proud to represent New York's Ninth Congressional District which has one of the largest Greek constituencies in the Nation. I have always been a strong supporter of Greece, and I know there are two issues of particular concern to Greek Americans today: the continuing division of Cyprus and the Skopjian people's claim of the name Macedonia.

The division of Cyprus now has the dubious distinction of being one of the few disputes which has not moved closer to resolution in the aftermath of the cold war. Since Turkey invaded Cyprus in 1974, 1,619 people including 8 Americans last seen alive in the Turkish occupied areas of Cyprus have never been accounted for. It's time for the suffering of the families of the missing to end. It's time for the Turkish leadership to provide some answers.

The so called green line has divided the Nation of Cyprus for far too long. Like the Berlin Wall, the time for the green line has passed. Its time to reunite the families of Cyprus and mend the wounds which have divided a people.

I am proud that 2 weeks ago the delegates to the Democratic Convention adopted a plank in our platform calling for a renewed commitment to achieve a Cyprus settlement and restoring to the forefront of our diplomatic agenda the goal of a solution to the Cyprus problem. And just a few blocks from Madison Square Garden, another important effort to end the Cyprus problem began when the United Nations sponsored Cyprus peace talks resumed under the auspices of Secretary General Boutros Boutros-Ghali.

I want to commend the Secretary-General for his stalwart dedication to extending the talks for as long as it takes to bring about a solution. I want to take this opportunity to wish Cyprus President George Vassiliou Godspeed in these talks. Today is a time of great hope for those of us who have waited for an end to the intractable Cyprus problem. Those of here today know President Vassiliou has worked tirelessly to bring about this chance for a resolution to this problem. As has often been the case, Turkish Cypriot Leader Rauf Denktash now looms as the lone roadblock in the road to peace.

For years those of us in the Congress who have favored taking a firm stance against Turkey to resolve this issue have been told Turkey's strategic position as a NATO ally required us to be patient in the interest of preserving the strength of the alliance. If the current round of talks fail, I believe there are steps we in the United States should take, including the withholding of financial assistance to force action from Turkey.

Another issue of imminent concern is the former Yugoslavian Republic of Skopje's claim to the name Macedonia. I am proud to have introduced House Concurrent Resolution 313, a resolution expressing the sense of the Congress that the United States should not recognize the Government of the former Yugoslavian Republican of Skopje until that Government adopts constitutional and political guarantees ensuring that it has no territorial claims toward Greece and refrains from the use of name Republic of Macedonia which implies a territorial claim against our ally Greece. We cannot forget that it was Marshal Tito who first applied that Macedonian name to the region of Skopje as part of his imperialist plan to expand his empire into Greek territory. We cannot forget that the claim of the Macedonian name by the Yugoslav people has painful memories for the people of Greece. Furthermore, there is strong evidence that the expansionist interests of the region of Skopje continue to be a threat to Greece. It is important that the United States oppose the recognition of a Yugoslavian entity bearing the name Macedonia which represents a threat to Greece.

I am heartened that the European Community has refused to recognize Skopje under the name Macedonia. I know this breakthrough is the result of the combined hard work by Greek Prime Minister Mitsotakis, the strong leadership of the Greek American community, Archbishop Iakovos, Congress and the President. We must remain united in our opposition to a Yugoslavian Macedonia.

Mr. DELLUMS. Mr. Speaker, today I rise to mark the 18th year of Turkey's occupation of Cyprus. Since 1974, almost two decades now, the people of Cyprus have been forced to live with foreign troops on their soil. Peace must now come to Cyprus.

Yet, to even begin the healing process, Turkey must end the occupation by withdrawing its forces immediately and then turn its attention to the problem of missing persons.

Humanity dictates that Turkey pursue all possible means in accounting for those people who are missing as a result of the invasion and occupation. It is completely unacceptable that no information has been made available on the over 1,600 Cypriots missing since 1974.

No longer should Turkey keep the people of Cyprus from exercising their right to live in a united and peaceful homeland.

Mr. MRAZEK. Mr. Speaker, I want to thank my colleague from New York, Mr. GREEN, for organizing this important special order. It is important to let the people of Cyprus know that we have not forgotten their plight; it is important to let the Bush administration know that this is a top priority foreign policy issue for the Congress; it is especially important that we let the Government of Turkey know that its illegal occupation of a sovereign nation is just as reprehensible and unacceptable today as it was 18 years ago.

I had hoped that this special order would not be necessary this year. I had hoped that the exhaustive efforts of the U.N. Secretary General—first Mr. Perez de Cuellar and now Mr. Boutros-Ghali—would bear fruit and bring about at least the beginning of a permanent resolution to the division of Cyprus. But that has not happened.

It has been more than 1 year since President Bush stood before the members of the Greek Parliament and pledged to them that the United States would do all it could to help settle the Cyprus problem "this year," meaning in 1991. Unfortunately, the administration has not lived up to that pledge.

While we should all applaud the efforts of our Special Coordinator for Cyprus, Mr. Nelson Ledsky, the fact is that the best—and perhaps the only—hope for meaningful progress on ending the forced division of Cyprus, is sustained, active involvement at the highest levels, including the President and Secretary of State.

The fatal flaw in the administration's approach to Cyprus is that it continues to shy away from putting real pressure on Turkey to withdraw its troops from Cyprus and to cooperate fully with the U.N. effort.

Turkey continues to hold the key to progress on Cyprus. Ultimately, of course, this matter must be settled by the Greek and Turkish Cypriots themselves. But the Turkish Government, which props up Turkish-Cypriot leader Rauf Denktash, and tens of thousands of Turkish troops stand squarely in the way of progress. If Turkey withdrew its occupation troops, and stopped its financial and diplomatic support for Rauf Denktash, the Greek and Turkish-Cypriot communities would, in my opinion, rapidly reach a settlement based on the outlines established by the U.N. Secretary-General.

The administration has leverage to bring to bear on Turkey. The United States has given Turkey more than $6 billion in military aid since the 1974 invasion, and that aid has facilitated, if not encouraged, the continued occupation by Turkish troops. For fiscal year 1993, the administration has proposed $621 million in security assistance for Turkey, which would make it the third largest recipient of United States aid in the world, surpassed only by Israel and Egypt. And, the administration once again has proposed to break the traditional 7 to 10 ratio of military aid for Greece and Turkey.

Instead of freely feeding the Turkish military appetite, we should be choking it, or at the very least, making Turkey pay for its supper, with cooperation on Cyprus.

I have joined the gentleman from New York [Mr. GREEN] and the gentlelady from California [Ms. PELOSI] in introducing a bill, H.R. 4399, that would suspend aid to Turkey until it complies with the United Nations resolutions on Cyprus and withdraws it troops. The bill also lays out a series of other steps Turkey should take to facilitate resolution of the division of Cyprus.

I encourage all of my colleagues to send a message to the Government of Turkey by cosponsoring this legislation. The so-called strategic rationale for overlooking Turkey's intransigence on Cyprus and its abominable human rights record has ended along with the cold war. Let's let the Government of Turkey know that its actions on Cyprus will determine the future state of relations with the United States.

Mr. MAVROULES. Mr. Speaker, 18 years ago today, the Government of Turkey, in a blatant disregard for international law and standards, launched an invasion of the independent, sovereign State of Cyprus. Taking advantage of political turmoil in Greece, the Turks landed tens of thousands of troops in the eastern part of the island. These forces swept through Cypriot residences, kidnapping over 1,600 Cypriots and Americans and displacing thousands more.

On the anniversary of this infamous event, it is of the utmost importance to send a signal to the Turkish Government that the current situation in Cyprus is unacceptable. Thousands of missing civilians, including a number of Americans, must be accounted for. Hundreds of Cypriot families must be allowed to return to their homes. A free and democratic government must replace the military dictatorship that rules the eastern portion of Cyprus. The human, political and religious rights of all Cypriots must be guaranteed.

Unfortunately, Turkish Cypriot leader Rauf Denktash has constantly refused to work to resolve the conflict, and if Turkey's continued maltreatment of its own minorities is any indication, relief for Cypriots cannot be expected in the near future.

It is upon this inauspicious note that we rise today to condemn the 1974 invasion of Cyprus and to demand the immediate withdrawal of Turkish troops from Cypriot soil. The leadership of Turkey must be held accountable for the irresponsible and immoral occupation of Cyprus. At the very least, Mr. Speaker, the 7 to 10 aid ratio must be maintained. We cannot allow the Bush administration to bend or break the ratio with increased aid to Turkey.

In addition to 7 to 10, if Mr. Denktash once again scuttles international efforts to find a settlement, it is vital that Congress pass H.R. 4399. This act prohibits aid to Turkey until it complies with United Nations resolutions and resolves the crisis in Cyprus. The time has come to back up years of rhetoric with concrete action. The Turkish Government apparently doubts the resolve of Congress to find a resolution to the controversy, and it is our duty to settle these doubts.

On a more uplifting note, current U.N. negotiations, involving one-on-one meetings between Secretary-General Boutros-Ghali and Cypriot President Vassiliou, and between the Secretary-General and Turkish Cypriot leader Rauf Denktash, are reported to be constructive. While the negotiations remain embargoed, news reports indicate that a breakthrough could be imminent. It is the hope of all those who rise today that at this time next year we will be celebrating the freedom of all Cypriots.

Mr. LANCASTER. Mr. Speaker, the island republic of Cyprus was split 18 years ago when Turkish troops invaded, ostensibly to quell unrest and protect ethnic Turks. The troops are still there and Turkey has created a nation on the northern third of Cyprus which is recognized by no other sovereign nation. Yet, no people on earth have shown a greater respect for the rule of law and the peaceful pursuit of justice than the Cypriots.

Although the greater part of Cyprus' natural resources are located in the northern portion of the island, the nation has managed to prosper and to increase its status as a center for trade, communications, commerce, tourism, and industry.

Cyprus has been a good and loyal friend to the United States. When our marines were killed in the Beirut bombing, it was Cyprus which opened its arms and allowed their battered remains to be brought into their country for processing and identification. None of our other friends in the Middle East would allow this. And there is a good reason why news reports from the Middle East almost invariably have the Nicosia dateline. Nicosia is the only safe and stable operating place for permanent news enterprises in the region.

Many prospering Cypriot business leaders were destitute when they were driven from their homes and communities in the north and became refugees in their own land. They restored themselves and helped to uplift their nation the old fashioned way—through honest, hard work. Today it seems that they are being ignored and allowed to suffer injustice simply because they are hard working and self-sufficient.

The demands of the people of Cyprus for reunification of their nation have not slackened during 18 years of Turkish occupation of the north, and, if there is any change, it is that the determination to be one nation again is greater than it was after the 1974 occupation.

Mr. Speaker, many Members of Congress and our President have called for resolution of the Cyprus-Turkey impasse on the occupation again and again. Our President's concern has been a long time in coming, and a short time staying.

The people of this beautiful island republic in the Aegean have used all the available tools of decent, democratic, lawful negotiation to get our help and the help of the United Nations. They deserve, for their human decency and respect for law, far better than we have yet managed to give.

Mr. Speaker, we have the means, in the $800 million foreign aid package to Turkey, to right a great wrong, and we can do it peacefully, if we will only summon the will.

Mr. OWENS of Utah. Mr. Speaker, 18 years ago, Turkish troops flooded the shores of Cyprus, claiming the lives of more than 4,000 Greek-Cypriots, and casting out 200,000 more from their homes. More than 1,600 are still missing. Today, barbed wire divides the country. Concrete barricades and reinforced checkpoints dot the green line. Nicosia remains divided. I wish I could join my colleagues today in remembering this invasion as a tragic event of 1974 alone. However, the events of 18 years ago linger on Cyprus, as do 30,000 Turkish troops and 60,000 Anatolian settlers.

The world has transformed since then. The monumental changes sweeping the Soviet Union and eastern Europe continue to reshape or world view and redefine the very meaning of our national security. Just as the Berlin Wall entered our lexicon as a symbol of the cold war, so has its fall signalled a new age.

From the former Soviet Union to Latin America, the Middle East to South Africa, the machinery of political reconciliation is in motion, and many conflicts which have raged for decades are finally drawing to an end.

If the astounding changes in the world over the last few years mean anything, they mean that this administration can afford to recognize Turkey for what it really is and put Cyprus where it belongs, at the top of our foreign policy agenda. It's time for us to stop sacrificing justice in pursuit of a cold war conception of Turkey's strategic value.

Some say it's more difficult to bring pressure to bear in a conflict where two friends are involved. I believe that because Greece and Turkey are both NATO allies, the United States has a unique opportunity to serve as an interlocutor.

I have watched and waited since the first Makarios-Denktash meeting in 1977 through three rounds of talks these last 2 years. Like so many, I have been disappointed by past failures and angered by Turkey's intransigence.

In order for the green line to disappear, the United States must be an active participant. We must embrace our responsibility and put some pressure to bear on Ankara, where the root of the problem really lies. The commendable efforts of President Vassiliou are essential, but he cannot carry the process by himself. The continued work of the U.N. Secretary-General is crucial, but he cannot alone compel Mr. Denktash to discuss these issues in good faith.

The increased involvement of the Security Council is cause for optimism. Indeed Boutros Boutros-Ghali, Secretary-General of the United Nations, is personally conducting the negotiations. Perhaps, this time around, the talks will bear fruit.

Process of reconciliation. In order for this to happen, however, we must redouble our efforts to raise public consciousness of the Cyprus conflict, and prevent it from slipping further into obscurity.

Mr. Speaker, the President's visit to Greece and turkey, as well as his meeting in with President Vassiliou, signify what many of us in Congress have been urging for a very long time: that the administration is heightening the priority of the Cyprus dispute on its foreign policy agenda. This a welcome and positive development, and one which—with continued congressional scrutiny—will complement the U.N. Secretary-General's good offices mission.

Many of us have argued over the years that the solution to this problem lies in Ankara. Though Turkey has yet to be forthcoming on several substantive issues, including refugees and exchange of territory, it is encouraging that Prime Minister Dimeral has properly stepped forward in dealings with the United Nations. With vigorous encouragement from the United States, along with the flexibility and goodwill to offer a meaningful proposal, Turkey could take the steps necessary for an international meeting to convene at an early date.

Mr. Speaker, today, there is reason for hope. Negotiations, while not direct between the parties, continue. I am sure we all agree that this is a promising first step. Reflecting on past failures without casting a shadow on the current peace process, I am compelled to say that the result of the negotiations is what is important.

Will Turkey remove its troops? Will Turkey allow a free and independent Cyprus to determine its own course, through free and democratic elections? Will Turkey cooperate with efforts to find the 1,600 missing Greek-Cypriots.

Like many of my colleagues, I hope that the negotiations will produce fair and just answers to these questions. Either way, whether there is a negotiated settlement or a process devoid of substance, the United States must remain committed to implementing security council resolutions, and that means, whether Turkey is negotiated out or forced out, Cyprus will again be free and independent.

Mr. VISCLOSKY. Mr. Speaker, I join my colleagues in this special order today to call attention to the 18th anniversary of the illegal Turkish invasion and occupation of the Republic of Cyprus. I would also like to acknowledge the efforts of Rev. Evagoras C. Constantinides, Rev. Peter Georgacakes, and Rev. Constantine Aliferakis. These three men have worked tirelessly to promote public awareness of the Cyprus problem in northwest Indiana and keep me advised of developments in the situation.

In July 1974, the Turkish invasion of Cyprus resulted in the deaths of over 5,000 Greek Cypriots, created over 150,000 refugees, and left 1,619 others—including 5 Americans—missing and unaccounted for. Today, after numerous United Nations Security Council resolutions calling for their removal, thousands of Turkish troops remain in Cyprus and the island nation is still divided. Indeed, the area of Cyprus under Turkish occupation is recognized only by the Turkish Government as an independent state.

Cyprus' President George Vassiliou has consistently indicated his desire to resolve the dispute, either by agreeing to U.N. resolutions or by initiating proposals for unification. I am hopeful that the ongoing U.N.-sponsored Cyprus peace talks will be successful. However, to date, I am concerned that the major obstacle to a peaceful settlement of the Cyprus problem has been the Government of Turkey, which has balked at overtures from the United Nations, the European Community, and the United States seeking to resolve the issues of territorial concessions, the status of displaced persons, and the structure of the Federal Government.

As a member of the Foreign Operations Subcommittee of the Appropriations Committee, I have worked to aid Cyprus and bolster the U.N. efforts to help bring about a final settlement. In May, I wrote to Congressman OBEY, chairman of the Foreign Operations Subcommittee, to request a $15 million Economic Support Fund [ESF] grant for Cyprus in the fiscal year 1993 foreign operations appropriations bill, H.R. 5368. These funds are designed to bring together the Greek and Turkish-Cypriot communities through cooperative bicommunal projects and provide scholarship money to Cypriot students. In addition, I asked the chairman to include report language in the bill urging the President to support U.N. efforts to promote a lasting Cyprus settlement.

I am pleased to report that, on June 25, I supported, and the House of Representatives approved, H.R. 5368, including the $15 million ESF grant for Cyprus and language similar to that which I suggested regarding the U.N. efforts to resolve the Cyprus situation. In a related matter, in October 1991, I joined 170 of my colleagues in the House in sending a letter to the President, urging him to continue to give priority to a just and viable solution to the Cyprus problem.

In closing, I would like to commend my colleagues, MICHAEL BILIRAKIS, BILL GREEN, NANCY PELOSI, and BOB MRAZEK for their leadership and for convening this special order today. It is my sincere hope that the U.N.-sponsored negotiations will be successful so that very soon we can rejoice in the peaceful resolution of the Cyprus problem rather than lament another year of illegal occupation.

Mr. TOWNS. Mr. Speaker, I join with many of my colleagues in supporting the special order marking the 18th anniversary of the Turkish invasion of Cyprus. It is regretful that such action is necessary after nearly two decades of Turkish troop occupation. However, the protracted nature of this conflict is all the more reason for Congress to continue the near unanimous support it has demonstrated for Cypriot reunification.

Thankfully on this anniversary, there is reason to be hopeful that a peaceful resolution is forthcoming. In U.N. negotiations, both sides agree Cyprus should be divided into two semi-autonomous zones, having a central Federal Government and legislature which would be responsible for international affairs. Other sensitive territorial issues have yet to be agreed upon and will likely set the tone for independent relations between Turkish and Greek Cypriots. The ongoing ethnic violence in the former republic of Yugoslavia should be a lesson to us all as to what could happen if ethnic issues are not adequately addressed.

All of us have hoped that this matter would have been resolved by now. But of course, matters such as Cyprus have heretofore been largely overshadowed by cold war relations. While it is decidedly encouraging to see U.N. negotiations happening, we must remain firm in our denunciation of the Turkish occupation. We can voice our disapproval through legislative initiatives such as H.R. 4399, which would withhold United States military and economic assistance from Turkey until it withdraws its troops. As a cosponsor of this legislation, I would urge my colleagues to demonstrate their commitment to full Cypriot sovereignty by becoming cosponsors as well.

Mr. COYNE. Mr. Speaker, I want to join today in a reaffirmation of congressional support for a peaceful end to the presence of Turkish military forces in Cyprus.

Last year I noted several factors which gave rise to renewed optimism that a peaceful resolution can be found to this problem. The end of the cold war, the rise of European cooperation, and the successful cooperation of Greece and Turkey in the international effort to turn back Iraqi aggression all opened doors to the possibility of reaching a long sought resolution to Turkish military domination over much of Cyprus.

Unfortunately, 18 years after Turkish military forces invaded the island of Cyprus, little has changed. The world has seen few results from the commitments made by the Turkish Government and Turkish Cypriots to negotiate in good faith issues such as territory, constitutional arrangements and the status of refugees since 1977. Efforts by the United Nations to convene an international conference on Cyprus have been sidetracked. Diplomatic attempts to resolve disputes over the future of Cyprus have borne little fruit.

It is regrettable that Cyprus continues to be the issue which has separated our partners in NATO, Greece, and Turkey. The post-cold war era offers so much promise for finding a solution to the issue of Cyprus. There is little excuse for the failure to take advantage of this opportunity for resolving a longstanding dispute between two of our friends.

It seems clear that the United States must take a more active role in promoting a resolution to Cyprus. The United States should work to ensure that this issue is not once again relegated to the diplomatic back burner. Since President Bush stressed his strong relationship with Turkey's President Ozal during the Persian Gulf war, the administration should endeavor to communicate the fact that progress on Cyprus is vital to continuing a warm relationship.

The United States Government must also consider whether the current level of foreign assistance to Turkey is warranted given the lack of progress on a resolution to Cyprus. I believe that the House acted properly recently in passing a fiscal year 1993 Foreign Assistance Act which eliminate military assistance funding for Turkey, as well as Greece and Portugal.

Mr. Speaker, I am pleased that the House is taking the time to focus attention on the need for a resolution to the dispute over Cyprus. The time has come for the removal of all foreign troops from Cyprus. An independent and sovereign Cyprus is in the best interest of all of its neighbors in the Mediterranean.

Mr. CARDIN. Mr. Speaker, I rise today to join my colleagues, Representative MICHAEL BILIRAKIS, Representative BILL GREEN, Representative BOB MRAZEK, and Representative NANCY PELOSI, in remembering the 18th anniversary of the Turkish invasion of Cyprus. I wanted to join my colleagues in this special order in the hope that United States and world attention will be focused on the urgent need to find a peaceful solution to this difficult situation.

The eastern Mediterranean island of Cyprus has been divided since the Turks invaded Cyprus in 1974. A United Nations force currently patrols a line separating about 170,000 Turkish Cypriots in the north and 650,000 Greek Cypriots in the south.

The people of Cyprus, both Turkish and Greek, deserve to be free from the hostilities that have plagued their island for the last 18 years. The status quo—a divided nation—remains untenable. The presence of Turkish troops in Cyprus represents one of the last remaining occupation armies in Europe.

The collapse of the Soviet Union and changes in Eastern Europe have focused the world's attention of the need to address regional and ethnic conflicts. The world community, particularly the United States, must press for a peaceful resolution of the Cyprus problem before more lives are lost. The Government of Turkey must recognize that progress on Cyprus will impact United States foreign assistance in the future.

The time has long passed for the occupation forces to be withdrawn. Greek and Turkish Cypriots should be permitted to return to their homes and to determine for themselves the future direction of the Cyprus.

Mr. MARTINEZ. Mr. Speaker, I would first like to commend my distinguished colleague, MICHAEL BILIRAKIS, for organizing this special order on Cyprus. Mr. BILIRAKIS has been a tireless champion in drawing national and international attention to the tragic situation in Cyprus.

Mr. Speaker, last week marked the 18th anniversary of Turkey's brutal invasion and continued occupation of northern Cyprus. For 18 years the people of Cyprus have suffered the indignities and pain of division. For 18 years peace and unity has eluded this island nation. For 18 years Turkey has flouted and violated international law with impunity.

Turkey still has some 29,000 troops occupying 40 percent of the country. There are over 60,000 Turkish colonists in northern Cyprus, encouraged to settle there by the Government of Turkey. And there are still 200,000 Greek Cypriot refugees, victims of Turkey's aggression.

Last August, flush with the victory over Iraq, President Bush declared the new international challenge for the United States to be Cyprus. The President pledged to break the paralysis in U.N. sponsored negotiations and help settle the Cyprus problem by the end of 1991. Unfortunately, the President's best intentions faltered under the weight of Turkey's intransigence.

Mr. Speaker, it is going to take more than ceremonial rhetoric to break the political impasse that has torn this eastern Mediterranean island apart. It is time for the United States to set aside any inhibitions about tackling the Cyprus problem head on. It is time for the President to exert the full influence of the United States of America to persuade Turkey to heed international law and withdraw its occupation force from northern Cyprus. And it is time for the people of Cyprus, Greek and Turkish Cypriots alike, to be given the opportunity to live in peace.

I hope that this time next year we will be celebrating the just and peaceful resolution of the Cyprus problem instead of observing the 19th anniversary of Turkey's invasion of the country. This can only come to fruition, however, with the resolute determination of the President of the United States to apply the necessary pressure on the Government of Turkey. If we have the interest and willpower to move on this conflict, we can act as a positive catalyst in helping to bring about a constructive and permanent resolution to the Cyprus problem.

Mr. AUCOIN. I'm glad to participate in this special order on Cyprus, because it's time to let Turkey know, in the strongest possible terms, that the United States demands justice for Cyprus.

Last week marked the 18th anniversary of the illegal Turkish invasion of Cyprus.

My friend, 18 years is too long to wait for an end to the Turkish military occupation and colonization of two-fifths of Cyprus.

Eighteen years is too long to wait for information about 5 Americans and 1,614 Greek Cypriots who were abducted by invading Turkish forces.

Eighteen years is too long to wait for an end to this egregious violation of international law and the U.N. Charter.

In the years since the invasion, many of us in Congress have urged the executive branch to adopt a Cyprus policy that puts the United States on the side of human rights and international law.

Now that we have won the cold war, even the architects and defenders of past U.S. policy toward Cyprus must admit that there is no longer any excuse for looking the other way at Turkey's flagrant violation of international law. They must admit that Eugene Rossides is absolutely right when he calls Cyprus "the acid test of the new world order."

We need a new Cyprus policy. That's why I've cosponsored H.R. 4399. This bill would prohibit aid to Turkey until the President certifies to Congress that:

First, Turkey has released or accounted for 5 Americans abducted by the Turkish invasion forces in 1974 and 1,614 Greek Cypriots who have been missing since the invasion;

Second, the churches in occupied Cyprus that were converted to mosques in violation of the Geneva Conventions have been restored to their original condition for worship;

Third, all Turkish military forces in excess of those permitted by the 1960 Treaty of Alliance and all illegal Turkish colonists have been withdrawn from Cyprus;

Fourth, Turkey has returned the Famagusta/Varosha area to the Government of Cyprus;

Fifth, negotiations have resulted in progress towards establishing a democracy in Cyprus; and

Sixth, Turkey is in compliance with U.N. Charter, specified U.N. resolutions, and the North Atlantic Treaty and is not engaged in human rights violations.

We all hope for positive results from the current negotiations led by U.N. Secretary General Boutros Boutros-Ghali. Unfortunately, Turkey's past record of stonewalling and intransigence gives us little reason for optimism.

I believe that Congress can aid the Secretary General's negotiating efforts by passing H.R. 4399. Let us send this strong signal that we demand justice for Cyprus. Let us prove that we are ready to meet this challenge of the post-cold war era.

Mr. TORRICELLI. Mr. Speaker, last week marked the 18th anniversary of the Turkish invasion of the independent Republic of Cyprus. For nearly two decades, this island nation has remained divided geographically, culturally and socially while the world community works unsuccessfully to promote a resolution of the conflict. It is time for the stalemate to end.

For the second time this year, the United Nations has initiated a round of talks between Turkish and Greek Cypriots. Secretary General Boutros Boutros-Ghali has worked diligently to draw up a plan for a negotiated settlement to this ongoing problem. His efforts have been met by cooperation from Greek Cypriots on this issue. Unfortunately, it has become apparent that Turkish Cypriots continue to be intransigent.

Today, 35,000 illegal Turkish troops occupy the island and a "Green Line" divides Turkish and Greek Cyprus. For 18 years, 200,000 Greek Cypriots have remained as refugees in their homeland, dislocated by the "Green Line" and unable to return to their homes. What is equally tragic is that over 1,600 Greek Cypriots are missing and unaccounted for in Turkish Cyprus; the whereabouts of 5 Americans are also unknown.

How much longer must this human tragedy last? At a time when the world community is uniting to resolve international disputes, we are unable to achieve peace in Cyprus. It is important that the current negotiations in New York succeed. As a member of the Friends of Cyprus Working Group, I call upon my congressional colleagues to join us in addressing this issue and using our good offices to pressure the Turkish and Turkish Cypriot leadership for the compromise necessary to achieve a just and lasting solution to the Cyprus problem. With regional turmoil breaking out throughout the former Eastern bloc, we cannot let this opportunity for peace on Cyprus fail.

Mrs. BOXER. Mr. Speaker, it has been 18 years since the Turkish invasion of the island of Cyprus. Since that time, the Berlin Wall, dividing East and West Germany has fallen, but the awful "Green Line" dividing Greek Cypriots in the south from Turkish Cypriots in the north has remained. The "Green Line" has for too many years separated family members and forced many Cypriots to become refugees in their own homeland.

It is time to take down this 18-year-old wall. The Cypriot people have suffered long enough.

High level meetings on the Cyprus issue are being held under the guidance of the U.N. Secretary General. The negotiations are at a serious and crucial stage. Should Turkey and the Turkish Cypriot regime not come forward with positive substantive proposals at these meetings, the United States must apply increased pressure on the Turkish Government in order to accomplish mutual peace and prosperity in this troubled region.

One way to accomplish this would be to eliminate economic and military assistance for Turkey unless the Turkish Government withdraws its military forces, returns the area of Turkish Cyprus to the Government of Cyprus, and takes positive steps toward revoking the illegal declaration of an independent state in northern Cyprus. This strategy is outlined in H.R. 4399, which I am a cosponsor of.

At a time when the world is moving forward a new spirit of cooperation, the United States has the opportunity to help the people of Turkey and Cyprus join in this new spirit. The United States alone cannot end the problems in Cyprus, but progress toward the unification of this country can be made if our government does what is necessary to encourage Turkey to change its present policy.

Mr. BLILEY. Mr. Speaker, 18 years ago, thousands of Turkish troops invaded the Republic of Cyprus. Today, approximately 35,000 Turkish troops still remain in Cyprus.

This illegal seizure and occupation has been discouraged by this body and the United Nations since the beginning. The United States must help the United Nations and NATO resolve regional disputes, such as this one, that have long been overshadowed by the Soviet threat. Although Turkey has been an important friend in the Middle East region, we should not allow our ties to influence our actions. We have a responsibility to the world community to work for peace, and to end aggression. Above all, we must continue to help enforce a standard of international law as we have for decades.

Most recently in Kuwait, the United States led an international coalition against the invaders from Iraq in an effort to show the world that aggression and violations of international law would not be tolerated. We must carry on our campaign against violations of international law in every area of the world.

We must not condone violations by any country, even our allies. The Turkish occupation of Cyprus has been responsible for countless human rights abuses and years of oppression. The Greek Cypriots have suffered long enough, the time has come to end this conflict. I understand that Turkey has been an important ally of the United States for many years, but we can not allow this fact to stand in the way of action.

The occupation of Cyprus must be terminated as expeditiously and as easily as possible. We must be prepared to take action against Turkey so that this matter is resolved. In the past we have continued to give them aid while attempting to negotiate a fair settlement. This has had little success to date. The time may have come for the United States to consider stronger actions to induce a settlement.

Mr. Speaker, I realize that this is an extremely important matter, and I hope that any action taken by this Congress should be in the name of democracy. We must strive toward the ultimate goal of sovereignty for the Republic of Cyprus, and I urge my colleagues to join me in support of the restoration of a true democratic government in Cyprus.

Mr. GALLO. Mr. Speaker, I rise today with my distinguished colleagues to recognize and express my strong opposition to 18 years of international injustice on Cyprus. The illegal Turkish occupation of Cyprus violates not only the U.N. Charter and numerous international laws, but also the rights and freedom of thousands of Greek Cypriots.

It is long-past time to recognize the oppression of these innocent people and their violated nation, and take the appropriate action to exress our determination that a peaceful resolution to this conflict be speedily reached. That is why I have cosponsored H.R. 4399, legislation that prohibits all military and economic aid to the Turks until this conflict is resolved.

After nearly two decades, the United States must make the Turkish Government understand that its actions will be tolerated no longer. In short, if their military occupation of Cyprus does not cease immediately, our economic assistance will.

Since World War I, Greece has consistently been a supportive ally to the United States. We, in turn, must not turn our backs on the Greek Cypriots in their time of need. I urge my colleagues to support H.R. 4399. As Americans, we enjoy the benefits of freedom and a working democracy every day. Don't we owe it to the people of Cyprus to support the restoration of their civil liberties and end the conflict that has, for so long, divided their nation?

Mr. ERDREICH. Mr. Speaker, July 20 marked a dark anniversary for the people of a tiny island nation in the eastern Mediterranean. Eighteen years ago, the Republic of Turkey invaded Cyprus.

It is impossible to calculate the toll in human suffering since that fateful day. Countless lives were lost, women assaulted, citizens denied fundamental liberties and imprisoned without cause. Over 180,000 Greek Cypriots were expatriated from their homes and land. What little that remained was stolen. Turkey now stands alone in recognizing the puppet government of the Turkish Republic of Northern Cyprus.

This puppet government now occupies over 37 percent of the land mass while having only 19 percent of the island's total population. Today Cyprus remains a land divided by a border enforced by the United Nations with 35,000 troops on the Turkish side and 13,000 troops on the Greek side. All are at war's doorstep, just as they have been since 1974.

The United Nations has preserved a ray of hope for this region torn asunder. One plan, proffered by the United Nations with U.S. support, is to promote a new Federal republic on the island that would be bicommunal, bizonal, nonaligned and an independent state. Under the plan, both regions would pledge not to move toward union with any other nation. The U.N. Charter—article 2(4)—states that, "All members shall refrain in their international relations from the threat or use of force against territorial integrity or political independence of any state."

Currently, under U.N. auspices, indirect talks are being held between the Turkish Cypriot leader, Mr. Rauf Denktash, and Mr. George Vassiliou, the Greek-Cypriot President of Cyprus. This is, Mr. Speaker, the last best chance for peace in Cyprus. U.N. Secretary-General Boutros Boutros-Ghali has already stated that if the current round of talks fails, the United Nations may withdraw peacekeeping forces from the region.

Such an action, Mr. Speaker, could result in the outbreak of hostilities between two NATO allies and further plummet relations between these two powerful nations to the depths of those currently experienced in Bosnia.

I urge Mr. Denktash to rescue this region from the precipice of war. This is an opportunity to overcome the misunderstandings of the past. It is time for the wound which scars Cyprus to heal and allow families and friends on both sides of that island to be reunited in peace.

Nothing less than the stability of Europe and to the continuance of world peace is at stake.

Mr. Speaker, I submit that if no progress is made toward uniting Cyprus, the decision must be made to withhold future Turkish aid. Anything less would be perceived as tacit acceptance of Turkey's authority in Northern Cyprus.

Ms. HORN. Mr. Speaker, I rise today in strong support of the initiatives taken by this body to withhold military grants to Turkey. This action reflects my view that Turkey should not receive United States military assistance while Turkish troops remain in Cyprus. In fact, I am a cosponsor of legislation that withholds military and economic aid to Turkey until its illegal occupation of Cyprus ends.

I believe negotiations are unlikely to begin while Turkey maintains a troop presence on Cyprus. Through letters to the President and legislation I have supported, I have stated my view that Turkish troops should be removed from Cyprus. Turkey's disregard for United Nations resolutions calling on the withdrawal of their armed forces and its continued violations of basic human rights should not be rewarded with continued United States financial assistance.

The President has within his power the ability to bring Greece and Turkey to the bargaining table. Last year, President Bush met with President Ozal and there was hope he would impress upon the Turkish leader the necessity of resolving Cyprus. Unfortunately, this did not happen.

It has now been 18 years since Turkish troops invaded Cyprus. Through almost two decades of Turkish occupation of Cyprus, there has been little movement toward a peaceful resolution of this conflict between Greece and Turkey. Today, that situation has changed. With the cold war over, I believe we now have a unique opportunity to settle this dispute.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 2120

REACHING FOR THE STARS

The SPEAKER pro tempore (Mr. VALENTINE). Under a previous order of the House, the gentleman from Florida [Mr. BACCHUS] is recognized for 60 minutes.

Mr. BACCHUS. Mr. Speaker, tomorrow, for the first time in 14 months, this House will debate whether to build space station *Freedom*. We will hear once again the same old, weary rhetoric of those who would throw away the best of our past and the best of our future by refusing to build the space station. We will hear once again the tired arguments that the space station does not do enough science or does not do quite the same kind of science as some scientists say they want. We will hear that robots are better than human beings for exploring space and that we really do not need a manned space program. We will hear from some that we simply cannot afford to be space pioneers anymore, given all the problems we have and all the huge budget deficits that we face here of Earth.

Mr. Speaker, some say we simply cannot afford to build a space station. I say we cannot afford not to build space station *Freedom*. And I rise tonight to say that the space station is our future and that we must somehow find the means, the way and, above all, the will to seize the future.

Mr. Speaker, in the past few weeks, I have talked to dozens upon dozens of my colleagues in the House, Republicans and Democrats alike, about space station *Freedom*. I have talked with them one on one, Member to Member, friend to friend, colleague to colleague. I have heard every reason in the world why some believe we should not proceed with the space station.

Mr. Speaker, I speak to each of them tonight. I speak to them in the hope that they will listen, that they will understand why the space station does represent the best of both our past and our future as well.

Mr. Speaker, I have, as I have spoken with my colleagues in these recent days, recalled again and again something that happened in my district in central Florida, Cape Canaveral, 25 years ago. I was in high school then, and I followed closely the progress of the space program; first, the Mercury Program, and then the Gemini Program, and then the beginnings of the Apollo mission to the moon, and I remember a day in January of 1967, when I was a senior in high school, January 27, when three brave astronauts conducted a test before the planned flight for *Apollo One*, a countdown simulation at launchpad 34 at the cape. Their names were Gus Grissom, Roger Chaffee, and Ed White. In that countdown simulation something went wrong. There was a fire, and Gus Grissom, and Roger Chaffee and Ed White lost their lives.

Mr. Speaker, they lost their lives because they believed in something bigger than themselves, they believed in the future of this country, and they believed that our future was big. They died because they believed we needed to reach for the stars.

Mr. Speaker, my colleagues know that on most Saturdays in my district on the space coast of Florida I go out with other volunteers and do different kinds of community service projects. We call them citizen Saturdays. I have done 92 of my citizen Saturdays now, and one of my favorites was a few months ago when I took about 400 volunteers with me out to launchpad 34 where those three brave astronauts gave their lives for this country and for its future 25 years ago. We took many different kinds of people with us that day. Admiral Truly was with us, General Stafford, two brave astronauts themselves. Aerospace executives were there and space workers were there, space workers of all kinds. Union members were there, and some who were not, and many people from our community from all walks of life: bankers, attorneys, small business people, Chamber executives, and many students, college students as well as high school students, children. There were 400 people who wanted to remember those three astronauts.

We went there, Mr. Speaker, because launchpad 34 was overgrown with weeds. Launchpad 34 had been abandoned and neglected, and what should have been a memorial to those three astronauts have been forgotten by all too many. We cleaned up that launchpad that day, we cleaned the beach alongside, we planted three trees as a memorial to those three brave men, and we resolved that they would not be forgotten, that they would never be forgotten by those of us who believe that we must reach for the stars.

Mr. Speaker, sometimes when I speak with my colleagues about the space program and its importance to our country, and about space station *Freedom* and its importance to the space program and to our future, they suggest that somehow I am disqualified to speak on this subject because I happen to represent the Kennedy Space Center. They suggest that somehow I am tainted because the people I represent depend for their livelihood on the space program.

Mr. Speaker, that puzzles me because it seems to me that I may be more qualified than most to speak about the program because I represent so many people who have taught me and shown me how much they care about the program and what it means to our country, and I tell my colleagues that in the eyes of the people I represent the space program, and especially space station *Freedom*, is one of the few things we are doing right in Washington. Yet again and again they see the Congress of the United States trying to kill the space station.

My constituents understand that the space program is something vital to this country. Certainly it is vital to the place where I live, but is vital to America, and it is vital to our future. It is vital, too, to our national character. If we want to continue to reach for the stars as Americans, then we must build space station *Freedom*.

□ 2130

The people I represent still reach for the stars. They are not alone in believing that we must reach for the stars as Americans.

This is an election year. Our two major parties have offered Presidential nominees who disagree on much, but they agree on the space program and on space station *Freedom*.

Let me quote President Bush on the space program. He said,

> It is time to open up the final frontier. There can be no turning back. America's space program is what civilization needs to begin this journey and to perfect the commitment to go beyond. Each time we go to the frontier and beyond we bring back more than we hoped for. This time we have the chance to bring back more than we can imagine.

The President in January spoke of space station *Freedom* specifically.

> "Space station *Freedom* is not only a very valuable scientific program, but it is essential to our destiny as a pioneering nation, a pioneering nation in space.

Governor Bill Clinton agrees. On the "Today Show" on June 30, he said,

> I have been a consistent supporter of the space program, including manned space exploration. One of the big challenges we have got now is reducing the defense budget, which has to be done, without eroding the scientific and technological base of this country. So we have to find new ways to maintain our scientific and technological need. The space program is one way to do that. I have been a longtime supporter of it and I will continue to support it as President.

Governor Clinton in an interview with Tom Brokaw on July 15 said, referring to both the space station and the superconducting super collider,

> I do not consider these projects to be boondoggles. I consider them to be an important part of our development of a high-technology, high-wage, high-growth economy.

Mr. Speaker, I had a conversation this morning with one of my colleagues who has cosponsored the bill that I have introduced along with Senator GRAHAM of Florida in the Senate that would initiate a program of high-technology public works to keep our people at work even as we proceed with defense cutbacks and to make certain that we make the investments that we need to make in our technology and our competitiveness as a nation.

It seems to me that one of the few examples we have now of the kind of high-technology public works we need is the space station *Freedom*. Yet somehow this colleague of mine, while cosponsoring and endorsing my legislation, nevertheless feels that he cannot support the space station *Freedom*.

I do not understand this. It seems to me that we have to establish some priorities as a nation.

I am a cosponsor of the balanced budget amendment. I voted for it. I am one of a handful of Democrats who voted for the version of the constitutional amendment that included the line-item veto. I am for that, too.

I voted again and again in recent months to cut back wasteful overhead and administrative costs and needless spending. I think we have to stop spending money that we do not have. I agree with those who say we are spending $1 billion every day that we do not have and we cannot keep doing that.

But what we have to do is spend the limited resources we have in ways that will make a difference. For every dollar that we ever spent on the space program we have generated an estimated $9 in additional gross national product. We must spend our limited dollars on ways that will improve our economic growth by increasing our GNP.

To my mind children, education, and especially technology are the best investments that we can make. Yet for some reason we again and again seize upon the space program and the space station as the sacrificial lamb for those who want to pretend that they want to cut spending and for those too who genuinely do want to cut spending but do not have the opportunity to do so in the ways that they might prefer.

The fact of the matter is that space station *Freedom* constitutes one-sixth of 1 percent of the Federal budget. The fact of the matter is that NASA has been alone—alone—among Federal agencies in taking a cut this year in the budget. The fact is that the appropriations bill we will be voting on tomorrow already includes a cut in funding for Space station *Freedom*.

We understand that we do not have all the money that we would like to have. But we understand too that we must fund the space station, because the space station *Freedom* will help us seize the future in many, many ways.

Space station *Freedom* offers us hope of maintaining our competitive edge in one of the few technological sectors in which we still lead the world. American aerospace enjoyed a positive balance of trade at $30.8 billion in 1991, while overall the United States suffered a trade deficit of $66.2 billion.

Time and again we have seen our lead in manufacturing erode in many, many sectors. Why in the world would we want to give away the lead we continue to hold in aerospace and in space itself? Yet if we refuse to build the space station *Freedom*, we will see the opponents of the space station come back next year and tell us that we can no longer afford the space shuttle. If they succeed in that, then we will not really have a space program and we will not continue to lead the world in space or aerospace.

Here we are with 10 million Americans out of work, with a rising unemployment rate, with Americans demanding that we invest in those things that will create jobs that have a future. Space station *Freedom* offers hope to the 75,000 Americans now working to design and build it with contracts in 39 States valued at more than $7 billion, and that is just the beginning.

Thousands of additional jobs for hundreds of additional firms will be created by continuing work on space station *Freedom*. Who will have these jobs? We are seeing returning veterans now, servicemen and women alike, coming back, being mustered out. Where will they work?

We are seeing thousands of defense workers who have worked hard to invent and build the weapons that have defended this country being told that their skills are no longer needed. We are cutting back on defense.

In my State alone we anticipate losing 12,000 jobs in the defense industry in each of the next 5 years. That is 60,000 jobs lost. Do we really want to just tell those people goodbye and good luck? Do we want to consign them to the unemployment lines? Or do we want to keep them at work?

If we are not going to need as many missiles, then let us build some more rockets. Let us go back to the Moon and on to Mars. Let us build a space station *Freedom* to help us get there.

Space station *Freedom* means hope for the future to those who suffer from such diseases as AIDS, cancer, and arthritis. I am not one of those who says that the space station will provide all the cures for all that ails the world medically. But there are some things that can be done in the space station that simply cannot be done here on Earth.

We recently saw the conclusion of the longest shuttle mission ever. The Columbia returned after nearly two weeks in orbit. I spoke with Dr. Bonnie Dunbar, a specialist on that mission. She told me how in just the 2 weeks of that mission they had achieved things scientifically that could not have been accomplished in 2 years here on Earth.

What more could be accomplished if they were not limited to 2 weeks? What more could be accomplished with the long duration flight that would be possible on the space station *Freedom*?

Some of the opponents of the space station say that they oppose it because they want to emphasize education, and they are certainly right about the need to emphasize education and I believe we should do that. I have voted again and again to spend more of our limited resources on education at the Federal level. But schoolchildren need something more than their parents' prodding ways to encourage them to study and learn, to look to the future. They need the example that the space program has provided for the past generation.

□ 2140

They need to be inspired. They need to be inspired to imagine, and the space station can be the inspiration that our children need to imagine a better future.

Space station *Freedom* offers hope, too, of a new international order in which nations work together to better our home planet Earth and to explore our universe together. Fourteen nations, including most recently the Russian Republic, have joined us in this international project and have already contributed $2.6 billion toward space station *Freedom*.

Some of the opponents of the space station say that if we do not build it now, we can build it later. Well, if we do not build it now, that does not mean we will build it later. If we do not built it, someone else will: the Japanese, the Germans, the Canadians, the Russians, maybe all of them together will build a space station without us. And perhaps they will let us borrow a piece of it from time to time. As for me, I would prefer to continue to lead the world in the exploration of space.

Technology, jobs, medical research, education, international scientific cooperation, these are all reasons enough to build space station *Freedom*.

But, Mr. Speaker, the space station also represents something more intangible, something more difficult to measure than a dollar return on investments, more difficult to grasp than some electronic gadget. It is something that is really infinitely more valuable to our Nation and to our future. Space station *Freedom* speaks to our national character. We Americans have always been a nation of pioneers. We have always resolved to expand the boundaries of geography and knowledge.

The space station offers us a clear choice. Do we continue to reach for the stars? Do we continue pioneering and push on to the next frontier, or do we turn away from the future and say we have neither the will nor the wallet to be explorers anymore?

Mr. Speaker, recalling history, in the 15th century, the Chinese chose to turn away from the future. There is a famous Chinese admiral who pushed from china all the way to Africa and came back to the Emperor and asked for permission to go on further west. The Emperor refused permission. He saw no reason to explore. The Chinese burned the finest shipping fleet of the time and turned inward, where they remain today.

In that same century, Spain chose to push on to the next frontier, and financed Columbus' quest for a new route to the Orient. Columbus discovered much more than the spices and gold he was seeking. He discovered a new world. Who knows what we will discover if we build space station *Freedom*?

There is really no way of knowing. Surely we will find our spices and gold in the form of new technologies and perhaps new medicines as well. But who knows what new worlds we will discover? What will we discover when we return to the Moon or lead an international expedition to Mars?

It was five centuries ago that Columbus landed on these shores. Today the result is the freest, most prosperous, and most diverse nation on this planet. Just imagine the possibilities, five centuries from now, if we take the next step in space and build a space station.

Mr. Speaker, the space station will not do all that some envisioned for it a decade ago. It will not do it all at once. It has the potential for doing everything that anyone ever said it would, but this is a start. We can look at what it will not do or we can look at what it surely will do. We can see the glass as one-third empty or we can see it as two-thirds full. We can talk about the science that will not be done on the space station, or we can talk about the science that surely will be done. And we can talk about the vast engineering progress that will be made as well. We can choose to turn away from the future, or we can choose once again to do what my constituents continue to do as they send shuttles skyward week after week after week. We can choose to reach for the stars.

In conclusion, Mr. Speaker, I received a letter the other day from one of my constituents. His name is A.P. Tully. He is a retired captain in the U.S. Navy. He served for 33 years in the Navy, served his country well.

Since that time, he tells me he has been working in industry and working at the Kennedy Space Center in my district.

He told me in his letter of some of his hopes for the space program, some of which he believes the space program is about. He has said something that I think is appropriate for us to keep in mind tonight, as we contemplate the vote tomorrow. Captain Tully wrote:

> The country I served has always reached for the stars. Do not fail us now by not looking upward and reaching for the benefits to be derived from space.

Mr. Speaker, I believe we must look upward. I believe we must reach for the benefits that can and will be derived for exploring space and from building space station *Freedom*. I believe that America must always reach for the stars.

Mr. Speaker, I include for the RECORD a copy of the letter to which I referred:

JULY 27, 1992.

Representative JIM BACCHUS,
Cannon House Office Building, Washington, DC

DEAR CONGRESSMAN BACCHUS: I retired from the Navy in 1991 after 33 years of service. Since that time I have been working in industry and, using many of the skills I learned in the service. I believe I have continued to make a worthwhile contribution to the nation's defense, to the local economy, to the Social Security budget, and to the nation's present future as the world's leader in space. I am presently employed at the John F. Kennedy Space Center.

What does Space Station Freedom mean to me—other than providing me an income? It means what I think it should mean to everyone regardless of race, creed, walk of life, or even nationality. It means a continuation of an effort to make our lives better and healthier. For years, scientists have been looking for those "miracles" on earth—the miracle cure for cancer, the miracle cure for AIDS, and the miracle cures for so many other things. The miracles have been few and far between. We have engineered, and even proven some of the theoretical ways to perform medical research in space, research that could very well indeed produce one or more of the sought after miracles. Yet we stand on the verge of not only letting the opportunity slip through our fingers, but of deliberately throwing it away.

I am fortunate in not having had to avail myself of many of the long-term Veteran's benefits, such as health care, that I've earned but, even if I were indigent and depended on the VA for care, I believe I would question the sanity of pitting the VA budget against that of NASA's. For one thing, I would feel that I've been denied the chance of a miracle remedy to whatever ailed me. For another, I believe such an artificial tradeoff is obviously penny wise and pound foolish. The country I served has always reached for the stars. Do not fail us now by not looking upward and reaching for the benefits to be derived from space. In the final analysis, money for the space program is spent on earth where it does the most good for the most people.

I urgently solicit your support for Space Station Freedom.

A.P. TULLY,
Captain, USN (Ret).

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BACCHUS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I first of all want to congratulate him on a very fine statement with regard to space station *Freedom*. I think he has given us a very good reason for Members to support our efforts tomorrow to retain space station *Freedom* in this year's budgeting.

I would like to build a little bit on what the gentleman said by dealing with some of the specifics and some of the budget realities that I think we have to face up to, because the fact is that the arguments tomorrow are going to be made in very specific terms about very specific budget items.

I am afraid that some of the realities of that budgeting have been obfuscated by a number of presentations about the budget that bear little relationship to reality.

We are going to be told tomorrow in the debate that somehow this is a nice thing to do but we simply cannot afford it, that the subcommittee simply did not have enough money to do everything that it wanted to do. The fact is that this is a subcommittee that got $85.9 billion in budget authority, which was a $4.4 billion increase over the 1992 fiscal year appropriations levels. That means that this committee, with a $2.35 billion increase in outlays given to it during the allocation, really had more than any other subcommittee other than Labor, HHS. So this is not a committee that was within the allocation process starved for money. And I point that out not because I do not believe they had to face tough decisions, they did, it was a very tough series of choices, but only to point this out.

One of the other things we are going to be told in the debate tomorrow is that this subcommittee is sensitive to the needs of space, sensitive to the needs of science and, if it can simply find money by taking it away from the space station, the allocations will go to other science programs, other science projects and other space projects that the committee regards of higher merit.

The fact is that the subcommittee did not do that. Despite higher allocations, the money did not go to science and did not go to space. The money went elsewhere. And I think we need to look at the realities of what is in the budget presentation that we will have before us tomorrow.

If we take a look at where the money went, $2 billion goes to prior year outlays. So immediately they took this $4 billion of money that they got extra and put it into prior year outlays.

Then they also approved the President's request for $1.119 billion in increases in VA medical care. I do not think there is any Member in the Congress who disagrees with that. I think that everybody agrees that the veterans need to have the additional money, and so I do not think that anybody is going to argue that that was a priority worth doing.

□ 2150

However, they also put $1.4 billion into special earmarked projects, many of which are unauthorized and many of which were unrequested by the President. Nearly all of the money that is going to be spent for the space station is almost matched by the money that they have put in a whole series of earmarked projects, and some of those are very valuable. I do not doubt some of them have great merit.

The problem is that when we are being told that in relative priorities we cannot do everything we want to do, the question becomes how is it we are able to do almost one-quarter of all the money the committee had to spend in earmarked projects, that is, of the additional money they had to spend. That raises real questions.

The Members would think that if this is a subcommittee that was concerned about science, at least as they were allocating the money we would have seen additional moneys go into space and science. The fact is the HUD–VA bill before us tomorrow funds NASA at a level $300 million below the fiscal 1992 appropriated level; not the inflated level, actually below what was spent last year. It is $1 billion below the President's request for a 2-percent real decrease in spending in the NASA Program, so the money that is coming out of some of these programs does not get reallocated to other space programs, it simply gets cut out and spent elsewhere.

The space transportation account was cut by $150 million. When the gentleman from Florida [Mr. BACCHUS] said a couple of minutes ago, "If we kill space station now, they will be back to kill space shuttle next year," we have the sign of it right here in this bill, because the fact is they are already reducing the space transportation account in this particular bill.

Mr. BACCHUS. Mr. Speaker, reclaiming my time on that point, the gentleman is absolutely right. It is important for our colleagues to understand exactly what is happening within NASA right now.

We have a new Administrator who is working hard to make NASA cheaper, faster, better, much more effective. He made a very strong speech last week to the contractors urging them to be tight, to be fiscal conservatives.

At the Kennedy Space Center we are in the second year now of a 5-year program in which we are cutting back 3 percent a year in terms of the cost of shuttle processing. Over and above that, the Committee on Appropriations has decided, out of what oversight I do not know, that they should impose an additional cut of $155 million in shuttle processing. That would put the entire shuttle program in jeopardy.

Here we have the single agency that I know of in the Federal Government that has already been engaged in cutting internally, and we are asking them to cut some more without any real rhyme or reason for proposing why they should do it. The last time I looked, as a member of the Committee on Banking, Finance and Urban Affairs, the Housing and Urban Development Department was using 77 different accounting methods. No one has asked them to cut back on their administrative costs. No one has asked the VA to cut back on its Byzantine bureaucracy and its wayward ways.

Here they are asking NASA, one of the few agencies that has ever tried to change and cut and conform and be conservative, to do something that really we should not do.

Mr. WALKER. Will the gentleman yield further?

Mr. BACCHUS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, there are a couple of points we need to point out. There are many people in the space science community who believe if we simply cut out the space transportation accounts and cut out the space station money and reduce all of this, they are going to get all the money over to their space science accounts. They ought to take a look at what the subcommittee did.

The fact is, the space science accounts were also cut $150 million, so it is down, the space station is down, space transportation is down, virtually everything in the NASA Program is dropped in order to fund things elsewhere.

We would think that at least maybe if they are going to cut out the NASA account and all of the science, maybe what they would do is do a little to help commercial space where we are trying to encourage some private enterprise. No, that is cut by $22 million in the bill, so that is down.

The national aerospace plane, one of the really leading technologies of the future, to improve technology for all of our aeronautics for the future, that is completely zeroed out. They came up with absolutely zip for the national aerospace plane.

Meantime, in the same accounts, they are funding a program called the Consortium for International Earth Science Information Network that was totally unrequested and totally unauthorized. That is at $83 million. That is more than what we needed for the whole National Aerospace plane thing.

We are funding $8 million for the Delta College Learning Center, and again, it is an unauthorized program. The earmarks in NASA alone are $573.3 million. The reason why that becomes important is because the space station request overall was for $2.25 billion, the 1992 level of spending was for $2 billion, and the Committee on Appropriations mark is at $1.725 billion, which is 15 percent below 1992 and 23 percent below the 1993 request.

That reduction in space station funding actually adds outyear costs. What we are going to do is, we are going to find $1.5 billion in additional cost over the life of the station as a result of taking money out of the space station and putting it into these accounts which are not authorized and not requested by the President. It will result in an 18-month delay in reaching permanently manned capability and a 6- to 9-month delay in the first launch of elements of the space station. All of those are disastrous for the program.

Let me just make one other point. That is something that somebody will say, "If they did not put it into the space program, it probably went to some other science programs." No, the National Science Foundation did not get the money. In fact, the National Science Foundation got $303 million below their request.

The research account is funded at last year's level, the academic research and facilities and instrumentation is held at level funding, the U.S. Antarctica research activity gets the President's request, but the human resources account, education and human resources, is funded at last year's level, so these scientists did not get anything. The EPA got a little bit more, but not very much.

What we are finding here is that this committee has taken out of science, out of space, put it elsewhere, and I think to the detriment of the long-term future of the country. As the gentleman points out, that is something which is very bad.

I now include for the record a complete rundown of all the earmarks that are in the bill that add up to the total of $1.4 billion in additional spending, some of which is unrequested and unauthorized.

EARMARKS IN THE VA, HUD AND INDEPENDENT AGENCIES BILL

VA BILL

+$42,000,000 for construction of the El Paso ambulatory care facility.

+$148,900,000 for construction of the Ann Arbor clinical addition project.

−$10,000,000 for design of a new medical center and regional office in Honolulu.

$800,000 approved in FY91 for completion of the facility development plan for the repair and modernization of the Wilkes-Barre VA Medical Center.

$8,600,000 for the parking facility at Ann Arbor VA Medical Center.

$500,000 for costs of additional parking at the St. Louis (John Cochran Division) VA Medical Center.

HUD BILL

$500,000 is earmarked for a grant to continue development of an integrated data base system and computer mapping tool as authorized by section 901(a)(4) of the National Affordable Housing Act and is targeted for the Population and Marketing Analysis Center in Towanda, Pennsylvania, for mapping projects in Lackawanna County, Dunmore, Carbondale, Tioga County, Wilkes-Barre, and Hazelton.

$226,000 to the Milton Residences for the Elderly for certain costs incurred in a section 202 project in Milton, MA.

$1,065,000—bill extends the availability date of HoDAG funds for the Symphony Housing Project in Springfield, MA.

INDEPENDENT AGENCIES

EPA

$10,000,000 grant to Columbia University for an environmental health science research facility.

+$2,000,000 for the Adirondack Destruction Assessment program.

+$3,500,000 for the Center for Environmental Management.

+$1,000,000 for global warming and mitigation research.

+$1,000,000 for the American Water Works Association Research Foundation.

+$2,000,000 for the Southwest Environmental Research Center.

+$250,000 for continued research on the zebra mussel (Great Lakes).

+$2,000,000 for the Center for Excellence in Polymer Research and Environmental Study.

+$250,000 for an airshed model along the Illinois-Missouri border.

+$1,000,000 for the Great Lakes National program office to be primarily dedicated to the large lakes laboratories in Duluth, Minnesota and Grosse Ile, Michigan.

+$150,000 for research on sulfonated plastics and tires.

+$700,000 for a nutrient loading research project in Boston harbor and Massachusetts Bay. Funds to be allocated to the Naragansett laboratory.

+$175,000 for interagency coordination of Great Lakes research with the International Joint Commission.

+$900,000 for an alternative fuels demonstration project in the South Coast Air Quality Management District.

+$2,000,000 for a PM-10 air study in Central Valley, California.

+$200,000 for the Florida Keys National Marine Sanctuary.

+$500,000 for the National High Altitude Center.

+$210,000 for a documentary of the Hudson River Highlands.

+$500,000 for the Tar-Pamlico River Basin non-point source demonstration and watershed pilot program.

$1,200,000 for controlling erosion and sedimentation in the Great Lakes Basin.

+$900,000 for cleanup of contaminated sediments in the Buffalo River.

+1,300,000 for continued work on the Maumee River and Bay basinwide assessment of hazardous waste sites.

+$1,000,000 for the Saginaw River Watershed.

+$1,000,000 for continued work on the Spokane aquifer.

+$260,000 for Great Lakes modeling activities.

+$300,000 for a Long Island Sound management plan.

+$520,000 for the Lake Roosevelt water quality recovery plan.

+$175,000 for a wetlands mitigation bank prototype in Warrenton, Oregon.

+$200,000 for the National Estuary Program, of which $500,000 is for the Puget

Sound Estuary and $500,000 is for Buzzards Bay Estuary programs.

+$250,000 for a PCB exposure study in Monroe County, Indiana.

+$500,000 for a Southern Appalachian Mountain Air Quality study.

+$950,000 for wetlands demonstration project on the Susquehanna River in Northeastern Pennsylvania.

+$700,000 for a wetlands study of the McKenzie River Basin.

+$250,000 to conduct a groundwater study of the Calumet Lake region (NE Illinois, NW Indiana, on Lake Michigan).

+$1,000,000 for the Hayward Marsh wetlands restoration.

+$1,000,000 for an innovative and alternative wastewater treatment demonstration project in the Florida Keys.

+$1,956,000 for continued operations at the Center for Ecology and Research Training.

+$1,000,000 for the Methane Energy and Agriculture Development program.

+$350,000 for Canaan Valley, West Virginia wetlands complex.

+$500,000 for the EPA National Training Center in West Virginia University.

+$1,000,000 for the Small Flows Clearinghouse at West Virginia University.

+$750,000 for dairy pollution research.

+$450,000 for a Rio Grande coastal impact monitoring station.

$10,000,000 in bill language for the establishment of the Audubon Biomedical Science and Technology Center.

$85,000,000 of increase provided is for EPA's Center for Ecology Research and Training.

$5,500,000 committee provided additionally for continue work on the design of a facility at Research Triangle Park (RTP), North Carolina.

−$6,300,000 reduction in EPA request for A.W. Breidenbach Environmental Research Center.

$100,000,000 for the construction of secondary sewage treatment facilities, Boston, MA.

$70,000,000 for the construction of secondary sewage treatment facilities, New York, New York.

$55,000,000 for the construction of secondary sewage treatment facilities, Los Angeles, CA.

$40,000,000 for the construction of secondary sewage treatment facilities, San Diego, CA.

$35,000,000 for the construction of secondary sewage treatment facilities, Seattle, WA.

$40,000,000 for the construction of secondary sewage treatment facilities, Baltimore, MD.

$5,500,000 additional provided by Committee for San Diego facility.

$82,000,000 for the Rouge River wet weather demonstration project in Wayne County, Michigan.

$19,000,000 for modifications and replacements to the Carver-Greenfield sewage treatment plant.

$7,000,000 for sewer and wastewater treatment problems in Atlanta, GA.

FEMA

+$250,000 for an emergency operating center in Jones County, Mississippi.

$420,000, estimated cost of the seismometers, recording computers, and other equipment which the Committee directed FEMA to provide from funds available for equipment replacement, upgrades to the Weston Observatory in Massachusetts.

$71,000, estimated costs for warning sirens which FEMA is directed to provide funding for from available funds for Lucas County, Ohio.

NASA

+$20,000,000 to continue work on the gravity prove "B" program.

+$33,500,000 to continue the consortium for international earth science information network (CIESIN) program.

+$1,250,000 to supplement the 1993 request of $5,000,000 for civilian tilt rotor technology activities.

+$1,800,000 for continued support for the classroom of the future program at Wheeling Jesuit College.

+$315,000,000 for the advanced solid rocket motor program.

+$165,000,000 for the advanced solid rocket motor facility and associated plant and equipment requirements.

+$50,000,000 for construction of a CIESIN headquarters building at Saginaw, Michigan.

+$8,000,000 for the Delta College Learning Center (Michigan).

Mr. BACCHUS. Mr. Speaker, reclaiming my time, I thank the gentleman from Pennsylvania for his elucidation and his enlightening remarks.

I yield to the gentleman from Alabama [Mr. CRAMER], a strong supporter of the space program and space station *Freedom*.

Mr. CRAMER. Mr. Speaker, I thank my colleague, the gentleman from Florida [Mr. BACCHUS], and I, too, would like to direct my remarks to the events of tomorrow.

Mr. Speaker, I was sworn in with the gentleman a little more than 18 months ago, and I came to Congress in the shadow of the space program representing the home of the Marshall Space Flight Center, came here hoping to find a place on the Committee on Science, Space, and Technology, which I did find a place on, hoping that I could work for the future, hoping that I could work for the young people of this country.

This will be the third time, tomorrow, Mr. Speaker, that we will actually have put this issue to vote. I am extremely frustrated that we would have to go through and put NASA's employees through this constant battle. It must be terribly demoralizing to them. I hope that tomorrow we will deliver a strong message that space station *Freedom* will be built.

I would like to emphasize during a portion of this time here some issues that the gentleman touched upon very well, but I want to go a little further. I want to talk about education, and I want to talk about our young people.

It is true that the space station is the centerpiece of America's space effort. It is a vital part of a robust, balanced program that will ensure our continued leadership in space. We will look to unprecedented results. We will prepare mankind for the future. We have already been to the Moon. We will go back to the Moon, but we need to prepare ourselves and go on to Mars. *Freedom* will be a valuable national asset, and is one of the most important investments in the future that this Congress can make.

We are talking about jobs, Mr. Speaker. Space station provides jobs for more than 75,000 American workers. We have contracts in 39 States, with a value of over $7 billion. It enhances a favorable balance of trade that is enjoyed by our aerospace industry, and it is truly an international project. We have international partners: Japan, Canada. The European Community participates. They, too, are frustrated when they have to look at how we fight this battle, several times during 1 year, when in fact, they have given this investment a multiyear commitment.

Again, I would like to focus on the young people. Our Nation is facing a crisis with regard to the scientific literacy of our children. Science, mathematics, and engineering, those studies have emerged as a central goal of education initiatives.

My colleague has talked about President Bush. He has consistently supported a strong education program.

□ 2200

Bill Clinton, our Democratic nominee, has made education one of the central themes of his campaign.

A viable, energetic and robust space program extends the challenge to young people by its very existence. Since the beginning of the U.S. Space Program, NASA and the aerospace industry have provided expertise and funding for all kinds of education initiatives across this country, and this support for education should continue.

Space programs have always been an important stimulus for young people, linking their imagination and sense of adventure to the practical study of mathematics and basic sciences. During the 1960's we had the Mercury and the Apollo Programs. Those fostered this type of interest. We were reaching to a new and an unexplored frontier, and that is a turn-on for young people.

In the 1970's and 1980's we expanded this knowledge with missions to the Moon, with Skylab, with flights of the space shuttle, and now in the 1990's and the 21st century we will show these young people what man can do in space and what man can continue to accomplish.

We are spending longer periods of time on the shuttle. This cannot be manufactured in an artificial setting here on Earth. And we are moving into the future with space station *Freedom*.

There is no better stimulus to a young scientist than to be able to have the goal of performing experiments in a permanently manned outpost in outer space. This is a powerful stimulus for schoolchildren who are considering their future.

Space station *Freedom* and the rest of the civil space program provide the motivation for students to study math, science, and engineering. These fields are crucial if the United States is to remain competitive in the increasingly sophisticated global marketplace.

Now there are many examples of how the space program, the space station stimulate young people. One of the most visible examples is that at the U.S. space camp in my district. And I know the gentleman from Florida has a U.S. space camp in his district as well. And pretty soon the European Community will have space camp programs all over that are patterned after our space camps, and we do not want to be left out of that.

But I, along with the gentleman and other Members of Congress have visited the space camps, and we look into the eyes of those young people from all over the country and see the work that they do, the hands-on work that they do right there.

But I want to talk about numbers here. There in Huntsville, AL we have had 128,000 students and teachers in our space camp. This space camp was the vision of Dr. von Braun who saw in the early 1970's the need for a space-oriented camp for young people. During these visits you can see young people talk to young people who will say that they come back to the camp, they bring their parents back to the camp, and there are advanced camps that they can continue with, and you can kind of feel the excitement that that program produces for them and for their families. But we have done a recent survey of those young graduates who come there, and it is remarkable what those surveys show.

After attending space camp, 87 percent took more science and math courses. Almost 80 percent reported that space camp inspired them to take more math. And over 75 percent of the trainees, the young people there indicated that they learned about career options at space camp. Over half of them made a career decision based on their participation there.

Listen to what some of these students have had to say. This is a West Point cadet today, Dan Robinson, who said:

> Space camp had a tremendous impact on my life. It proved to me that dreams can come true. A career in the space program is a goal that I or anyone else can achieve.

And John Davis from Virginia said:

> As far as my career, space camp had a very definite impact. In 1991 I received my B.S. in physics from Virginia Polytechnic Institute.

Ursula Leubner from New York said, "Space camp initiated my interest in technology." And Patricia Gossett from my State of Alabama said, "I began to take math much more seriously as a result of space camp."

The excitement of these young people is an example of stimulation that is provided by space station *Freedom*. It is the centerpiece of what they work on in these camps.

That is not the only initiative provided as a consequence of the space program. We have the *Challenger* centers that exist in the many schools throughout this country. The *Challenger* centers were established by the *Challenger* families as a result of their tragedy in 1986. The intent of the *Challenger* Program is to capture participants, in this case fifth graders who come in with hands-on activities, to capture their interest in science and technology, and to encourage them at that young period in their life to get interested in the space program, to get interested in science, and mathematics. And it is important that those careers be open not just to young men, but to more women, and to more minorities in this country who are increasingly squeezed out of those kind of educational opportunities.

So this is an ideal target audience. But that is just a small sample of the kind of education programs that these space initiatives carry back to our citizens. And I do not think we want to give up on it at this particular point.

There is a *Challenger* center here at the Goddard Space Center, and I would encourage any Member of Congress who doubts the importance of the space program and of space station *Freedom* and of NASA's budget to go out and visit that *Challenger* Center Program and see the difference in the eyes of those young people that the space program is making. Seeing that enthusiasm will make you committed to see that we do not give up the space station program, and that we do not give up on NASA. For if we give up on space station *Freedom*, we will see the beginning of the dismantling of NASA.

Tomorrow during this important debate we will hear a lot of arguments, as my colleague from Pennsylvania has pointed out. Many Members will say we cannot afford, we need the space station, but we cannot afford it. Many of them will not even say we need it. Many of them will just say we cannot afford it. But they are putting today and their gratification today in place of our future. They are robbing our future.

We will hear all kinds of figures tomorrow about this is a $118 billion program, that this started off as a $8 billion program, but all of a sudden it has become a $30 billion program today. Those people are making apples, oranges, pears and all kinds of fruits when they make these kinds of specious arguments.

In 1984 Congress asked NASA to come up with cost estimates for deploying the space station program, and NASA, in response to that did, and they came up with, in contract dollars, the $8 billion figure. In inflated dollars even in 1984 that would have been a $12 billion figure.

Then again Congress came back and during critical years in the late 1980s Congress cut funding for the space station program and put NASA in an impossible corner so that it could not comply with the kind of framework that it was under. But again, Congress asked in the 1990s for NASA to restructure the space station program, and NASA has done that.

So we have constantly asked NASA to come back and to restructure, and they have complied. It would be insane in this day and time for us to rob NASA of the opportunity within their budget to say whether or not they want to continue with the space station program.

We now have a new NASA administrator, Don Golden, new to the job. He has been circulating in this community here in Washington, and he has reassured Members of Congress that he understands the current reality of where NASA is. NASA no longer is an agency that can expect budget increases. In fact, in this VA, HUD and independent agencies appropriation bill, NASA is the real bill payer here. It faces a $3 million decrease or a 2 percent decrease in funding. Dan Golden accepts that, and he takes that as a challenge.

But what Dan Golden does not accept is Congress attempting to micromanage NASA, and by us insisting that we cut out the space station program in a vote tomorrow we would be doing just that.

So I am happy to join with my colleague, and I am very committed to seeing that my community be allowed to continue the innovative edge that it has been able to exercise through its participation in the space station, in NASA, and in the future of this country. So I applaud the efforts of my colleague from Florida, Mr. BACCHUS.

Mr. BACCHUS. Reclaiming my time, I thank the gentleman from Alabama. I agree with every word he said, and I congratulate him on the way in which he said what he did say. I wish that every one of our colleagues could visit the gentleman's district and mine. I wish they could see the enthusiasm that we see every day in our districts, especially I wish they could see the enthusiasm of the young people who are at the space camps and who do the summer work at NASA. I wish they could share in the excitement that we are already seeing about space station *Freedom*.

□ 2210

I wish each one of my colleagues could attend the launch of a shuttle in my district. I have my own private belief that no one can see the launch of a shuttle and then vote against an appropriation for the space program.

I wish they knew, as we do, that the space station *Freedom* is on time, on budget, and on the way to reality.

One of the things that frustrates me in all of the rhetoric that we hear in this debate is that no one is talking about what is actually happening in the preparation for building the space station. NASA is moving ahead. They are doing exactly what they said they would do, and they are doing it right, and they are doing it for the right price. A lot of people think that we are talking about ever increasing sums for the space station at a time when there is desperate need for other programs in our society.

Well, it is true that if it were up to me, alone, I would triple the NASA budget, because I think we need to abolish a lot of other spending programs and spend more on space technology, education of children, to get that dividend, to get that economic growth. But it is not up to me alone, and that is not what is happening.

As Mr. Golden himself pointed out this morning in an article in the Washington Post today, the United States invests a little more than $14 billion a year in NASA, or 1 percent of the Federal budget. Approximately $2 billion per year of that is for the space station. That sounds like a lot, and it is. Yet Americans spend $4.3 billion per year on potato chips and $1.4 billion on popcorn.

In concrete terms, the space station costs each of us about 2 cents a day. The evidence is clear that we will all get much more than our 2 cents worth out of it.

I would like to underscore something that the gentleman from Pennsylvania [Mr. WALKER] reminded us about a few minutes ago, and that is what has been happening in recent years to NASA's budget. The NASA budget for the current fiscal year is about $14.3 billion. The NASA budget for the previous fiscal year was about $14.3 billion. NASA's budget has essentially been frozen for the past 2 years.

The appropriations bill that is coming to the floor tomorrow will include a $300 million cut in NASA and a $250 million cut in the space station *Freedom*, and that is a bill that the gentleman and I are supporting.

We hope to get more in the Senate. We hope to restore the kind of funding that NASA ought to have and that the balanced space program requires, but we are supporting that bill.

What we are opposing tomorrow is an amendment that would go even farther and delete the remaining $1.7 billion that is in the budget for the space station *Freedom*. Such a decision by this Congress would be not only shortsighted but suicidal economically.

It is important for colleagues to understand that NASA has been cut, NASA is being cut, the space program and the space station *Freedom* have both been cut. What we are trying to do is preserve a piece of the future.

Mr. CRAMER. If my colleague would yield further, Dan Goldin also emphasizes that if NASA cannot keep the space station *Freedom* program, it will lose its centerpiece. It will lose part of its reason for being, and that is very important to NASA, and we should not do this tomorrow.

Mr. BACCHUS. Reclaiming my time, I would like to underscore another point that was made earlier. If we do not build space station *Freedom*, then we will have eliminated the principal purpose that is contemplated for the space shuttle program throughout the next decade. The missions that are now being flown on the space shuttle are largely missions that are precursors to the space station. They are efforts to begin doing the life sciences work that will be done on the space station. They are preparations for the construction efforts that will be used in building the space station.

If we do not build the space station, then some will say that we do not need the space shuttle either, and if we lose both the station and the shuttle, then we will not have a space program, and I do not think that is America, that that is what Americans want. I do not think that is the future that we want, and it is certainly the future that I am going to fight against.

I believe that Americans want a balanced space program. I believe they want both manned and unmanned aspects of that program, and I believe the space station *Freedom* is, as my colleague from Alabama has said, the centerpiece of the space program that we ought to have.

With that, Mr. Speaker, I thank the gentleman from Alabama and the other colleagues who have joined me tonight.

Mr. MOLLOHAN. Mr. Speaker, tomorrow, the Congress will find itself, once again, gathered to debate whether or not NASA will proceed with development of the space station *Freedom* program. What a familiar occurrence. This will be the third time the 102d Congress has addressed the issue on the floor of the House in the past 13 months.

Once again, we will debate the justification of this program—repeating the arguments that have proven its justification for the past 8 years.

It strikes me that many of our colleagues voice their opposition to space station *Freedom* as if NASA operates in a vaccum. I would like to take a few moments to remind these colleagues of the global perspective, of the global commitment, to the space station *Freedom* program.

In 1984 NASA was challenged to proceed with the next logical step or manned exploration. NASA was directed to build a space station and seek international partners in its development.

By October 1988, the Governments of the United States, Canada, Japan, and the member nations of the European Space Agency signed intergovernmental agreements regarding space station *Freedom*. These countries agreed to cooperate with the United States in the design, development, operation, and utilization of a space station. Further, they committed to contributing one third of the development costs for the program, which is approximately $8 billion. As a result, space station *Freedom* became the largest and most complex international science and technology venture ever undertaken on a cooperative basis.

Just as NASA integrated space station *Freedom* as the centerpiece of our manned space program—so, too, did our international partners.

The Japan experiment module is the centerpiece of Japan's Space Program and one third of their annual space budget;

The attached pressurized module is an integral part of the European Space Agency's program. During difficult fiscal times for ESA, the Europeans have made every effort to ensure that they maintain their commitment to the international space station *Freedom*;

The mobile servicing system represents 50 percent of Canada's space program;

And the Italian contribution of the mini pressurized logistics modules is integral to Italy's space agenda.

So, during the past 8 years, while NASA has invested over $7 billion into the development of space station *Freedom*, our international partners have been working diligently toward the same goal. By the end of 1992, ESA, NASDA, and the Canadian Space Agency will have expended $2.6 billion on this program.

It is no wonder, then, that the proposed termination of space station *Freedom* last year was met with such ire from high officials from these governments, governments with whom the United States signed agreements.

And the United States gets more than a fair deal from its international cooperation on space station *Freedom*. The United States is paying for two-thirds of the development costs for the program, and in return, we will utilize 72 percent of its resources. In addition, the United States receives almost half of the space in the European and Japanese science laboratories.

And what if we decide to cancel space station *Freedom*? What would happen to our role vis a vis our foreign partners?

There is no question that global trends suggest an increasing dependence upon international cooperation for large science and technology challenges. Space station *Freedom* is a model for international cooperative efforts.

Canceling space station *Freedom* would send a strong message—the wrong signal—to the international community about the reliability of the United States as a partner in multinational projects. This action could very well jeopardize our international relationships on other critical large scale science projects such as AIDS research, the human genome project, and fusion energy research. Further, the United States might foreclose the potential for future international collaboration on priority projects—at a time when we can least afford to proceed alone—or be left behind.

The question that we will answer with tomorrow's vote is a question of leadership—does the United States want to continue its leadership in space?

Our economic leadership continues to decline. We excel at basic research but lose the economic game by lagging in commercializing our new discoveries.

Space station is a key program for our time. This R&D program offers a perfect vehicle to keep our highly trained scientists and engineers challenged in pushing the boundaries of aerospace and space technology.

In aerospace and space technology the United States still retains a competitive advantage. In fact, the trade surplus in aerospace leads all other industrial sectors. But certainly we can not take this competitive edge for granted.

Japan and the European nations realize that the key to economic competitiveness for the future is in the development of new technologies. And they have observed the success of our civilian space program. Accordingly, these countries are investing in their future by investing in their own space programs. And they are looking to the United States for leadership.

Rest assured, the show will go on if we opt out—Russia has the technological capability. The Japanese have the capital. And the Europeans have proven successes in their development of new space industries.

The show will go on—but the question is whether or not we will continue to lead. And if we choose not to then we must be prepared to watch our preeminence in yet another critical industry be swept away by those who have a vision.

Mr. MINETA. Mr. Speaker, on April 28 of this year, writer James A. Michner testified before the House Budget Committee Task Force on Defense, Foreign Policy and Space. In his testimony, Michner described the need for space exploration in terms of what he called defining moments in the histories of great nations.

He said, and I quote:

> History is a grand mix of concepts, actions, organizings, and commitments which determines the extent to which any nation can achieve a good life for its citizens, and I believe without question that if a nation misses the great movements of its time it misses the foundations on which it can build for the future.

Mr. Speaker, earlier this year Members of the 102d Congress voted overwhelmingly—for the second time in as many years—to defeat an amendment that would have killed the space station *Freedom* program.

Our colleagues recognized that space station *Freedom* is indeed a national priority, that it is a foundation for the future of American technology, and that it is an investment in American jobs and the growth of our society.

Our space program epitomizes American ingenuity, daring, and innovation—and at no time in our history has it been more important to put these assets to a practical use. And make no mistake: space station *Freedom* is practical and pragmatic.

Our world is at a crossroads, Mr. Speaker. We've made many sacrifices here in the United States during the last several decades, as we fought and won the cold war.

But now, America faces the challenge of being accountable to our legitimate expectations in this new age of peace.

Historically, developments in the defense and space industries led to spinoffs that ensured our technological and commercial superiority.

Commercial technology policy and the economic benefits associated with it—namely, jobs—came by default, not by design.

That day has come and gone.

In today's world, economic success requires direct investment in research and development, direct investment in education and infrastructure, and direct investment in the technologies that are the keys to the future.

During the last 30 years, space exploration has served as a vehicle for investment in technology. And it is no coincidence that the growth and expansion of our Nation's high-technology industries have paralleled the years of NASA's greatest activity and accomplishment.

Mr. Chairman, as a senior member of the Science, Space, and Technology Committee, it has been my privilege for many years to work with NASA and help shape our Nation's space program.

As a member of that committee, and as a representative of California's Silicon Valley, I have had the opportunity to evaluate the role of space station *Freedom* to our Nation's future.

From this perspective,and from the perspective of history, I am convinced that space station *Freedom* must continue to be a national priority.

The risks of our withdrawal from this program are ominous not only for our economy today, but for our ability to compete with Europe, Japan, and others in the years ahead.

Some would try to cast the debate about the space station in terms of hardware. But this is not debate about hardware. This is a debate about making hard choices—choices about long-term, national investments—and sticking with them.

This debate is about where this Nation will go and what it will do with the resource of outer space.

America cannot abandon the centerpiece of our space program only to stand by and watch as other nations look to overtake us.

Space station *Freedom* will become an international laboratory for biotechnology and life-sciences research, improved medicines, and manufacturing.

Each of these functions has an application to the lives of all Americans here on earth. But, none of these functions may be done on the Earth as they can in space.

Those, Mr. Speaker, are perhaps the best reasons of all for the space station. But there is one more:

At a time when the United States is making the transition from defense to civil and commercial markets, the space station program alone accounts for more than 70,000 jobs in 39 States.

A recent article in Nature outlines the economic benefits of the space program. In fact, authors Roger H. Bezdek and Robert M. Wendling argued convincingly that those benefits are much greater than earlier recognized.

Those benefits run throughout the United States—including States that traditionally have not been known for their boost from NASA.

Illinois is such a State. Illinois produces goods and services required indirectly by NASA contractors such as capital goods, electronic components, and chemical products, among others.

And at this point, Mr. Speaker, I ask to submit for the RECORD that article from Nature magazine for the benefit of my colleagues.

Unfortunately, Mr. Speaker, unless we defeat this misguided attempt to kill space station *Freedom*, no one will benefit.

For myself, I see space exploration in terms of a glorious future, rather than a glorious past.

But that future remains only a vision today. It is not yet reality.

Making that vision a reality depends on common sense and commitment.

It depends on those of us here in Congress to do the right thing, to make long-term investments on behalf of the American people.

America deserves nothing less from us.

SHARING OUT NASA'S SPOILS

(Roger H. Bezdek and Robert M. Wendling)

The US space programme is mired in controversy concerning the future of the manned space station, the role of the space shuttle versus expendable launch vehicles, the priority of basic science programmes within the National Aeronautics and Space Administration (NASA), and problems of quality control and cost overruns. The wisdom of spending huge sums on projects such as the space station is questioned by many scientists, who are concerned that there may not be enough money for basic research, and by elected representatives, who would like to use the money for earthly priorities. Inevitably, advocates of the space programme revert to economic arguments. NASA, for example, emphasizes that the space station programme alone will provide orders for 2,000 businesses and create thousands of jobs in 40 states.[1]

Such rationalizations are disingenuous and incomplete. Any large capital-intensive project involving billions of dollars per year will create profits for many businesses and jobs for many workers. More interesting, though, is the fact that advocates of the space programme ignore many of its economic benefits: the indirect, pervasive effects of NASA expenditure throughout the economy.

These benefits are distinct from the intangible rewards that analysts identify (spin-offs, research and development support, public goods, and creation of new space industries) for the following reasons. (1) Spin-offs are products developed for the space programme that have applications in other areas, including photovoltaics, aerodynamic design, telecommunications systems, microelectronics, chemical processes and various consumer-orientated applications.[2] (2) The space programme contributes to research and development in general and is important for the technological competitiveness of US industry; investments in NASA research and development have a high rate of return.[3] (3) Public goods are those that only the government can provide, as their benefits cannot be captured by private investors, for example knowledge about the universe, information on the characteristics of the Earth and Solar System, and related basic scientific knowledge.[4] (4) New space-based industries include private launch services, materials processing in space and related applications of microgravitys, remote imaging, infrastructure development and so on: without a strong space programme, development of these may be delayed and opportunities lost.[5] There are more immediate, quantifiable economic benefits of the space programme: sales, profits, jobs and tax revenues.

STATE BENEFITS

In 1987, NASA procurement spending was $8,600 million; 70 per cent of prime contract awards were concentrated in California (the centre of the US aerospace industry), Texas (location of the Johnson Space Center), Florida (home of the Kennedy Space Center), Maryland and Alabama[6]. This corresponds to the conventional wisdom that the economic benefits of the space programme are concentrated within a few industries in a few states[7].

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[1] Footnotes appear at end of article.

But we find that the economic benefits of the space programme are much more widespread than has previously been realized. Specially, in 1987, the NASA procurement budget generated $17,800 million in total industry sales, had a 'multiplier effect' on the economy of 2.1, created 209,000 private-sector jobs and $2,900 million in business profits, and generated $5,600 million in federal, state and local government tax revenues. Furthermore, these benefits are widely distributed throughout the country; among the biggest state 'winners' are many that are not perceived as being closely tied to such expenditures.

Why is the conventional wisdom so wrong? Before examining the answer to this question in detail, we illustrate the concept of indirect economic benefits by a simple example. California is a significant benefactor of NASA expenditures because of the concentration of the aerospace industry around Los Angeles. But contracts awarded in Los Angeles for space hardware require systems, components, materials and so on from industries in other states. These companies in turn require components, products and subsystems from industries located elsewhere. Many of the businesses involved are not even aware that they are part of the US space 'industry'. For example, businesses producing the wiring, paint or valves necessary to satisfy the third or fourth round of indirect output requirements usually have no idea that their sales, profits and jobs are being generated by the space programme.

NASA can trace its main contractors and their subcontractors, but it is impossible to use accounting methods to trace the further impact of spending. In effect, NASA has never been able rigorously to identify even half of the economic effects' of its programmes. If NASA is unable to determine the complete impact of its programmes, how could we? We used the MISI database and modelling system, which is based on economic input-output analysis, a quantitative method of measuring and analysing the interdependence of all industries in an economy.

Input-output analysis was developed by Leontief[8], and we have used it to investigate the impact of the US space programme on the economy. First, we translated expenditure for NASA programmes into per unit output requirements for every industry in the economy. This is determined by four main factors: the state of technology, the distribution of expenditures, the specific programme configuration and the direct industry requirements structure. Although the MISI system contains 500 industries; we used an 80-order industry scheme.

We next estimated the direct output requirements of every affected industry. These direct requirements show, proportionately, how much an industry must purchase from every other industry to produce one unit of output. Direct requirements give rise to subsequent rounds of indirect requirements. The sum of the direct plus the indirect requirements represents the total output requirements from an industry necessary to produce one unit of output. Input-output techniques allow direct as well as indirect production requirements to be computed, and these total requirements are represented by the 'inverse' equations in the model. These equations show not only the direct requirements, but also the second, third, fourth, nth round indirect industry and service-sector requirements resulting from expenditure on the space programme. The ratio of the total requirements to the direct requirements is called the input-output multiplier.

Thus, in the third step, we convert the direct industry output requirements into total output requirements for every industry by means of the input-output inverse equations, and we use the total output requirements from each industry to compute sales volumes, profits and value added for each industry. Then, using data on person hours, labour needs and productivity, we estimate employment requirements in each industry.

TOTAL SALES, TOTAL EMPLOYMENT AND INDIRECT MULTIPLIERS RESULTING FROM 1987 NASA PROCUREMENT

Industry	Sales (million)	Jobs (number)	Multiplier[1]
Electronic components	$503.3	7,906	5.9
Electric lighting and wiring equipment	43.3	552	4.8
Electric, gas and sanitary services	612.3	2,108	4.5
Chemicals and selected chemical products	279.8	1,521	3.3
Wholesale and retail trade	668.6	20,705	3.2
Paints and allied products	26.2	177	2.9
Glass and glass products	24.6	312	2.8
Communications, ex. radio and TV	206.6	2,181	2.7
Business services	923.6	19,013	2.4
Transport and warehousing	785.4	10,832	2.3
Electrical transmission equipment	151.8	2,324	2.2
Average, all industries	....	....	2.1
Petroleum refining and related industries	781.0	815	2.0
Motor vehicles and equipment	250.1	1,233	1.8
Metal containers	15.0	84	1.7
Engines and turbines	120.4	1,065	1.4
Aircraft and parts	2,827.1	27,217	1.3
Miscellaneous transport equipment	375.3	5,002	1.1

[1] Ratio of total to direct output requirements.

Note: This table refers only to selected industries. Additional data available on request from the authors.

Finally, the total number of jobs in each industry is translated into occupational employment requirements using databases showing the occupational distribution of employment in each industry. We used data on the occupational composition of the labour force and estimated job requirements for 475 occupations encompassing the entire US labour force. This allows an estimate of the impact of the programme on jobs for specific occupations and on skills, education and training requirements.

This modelling approach allowed us to estimate the effects on employment, personal income, corporate sales and profits, and government tax revenues in the United States and in each state. Estimates were then developed for detailed industries and occupations. We simulated the effects of only the procurement portion of the NASA budget and, as we wished to analyse the impact on the private sector, we did not include NASA federal civil service employees.

Our results show that five states—California, Texas, Florida, Maryland and Alabama—receive 70 per cent of NASA procurement spending. But although this seems to illustrate that the economic benefits of the space programme flow primarily to a few regions, major (indirect) benefactors of the space programme include New York, Illinois, Michigan, Pennsylvania, Indiana, Missouri, New Jersey and Wisconsin. These states represent the manufacturing heartland of the country. Georgia, Massachusetts, Washington, North Carolina and Tennessee also benefit substantially.

Each of these states has a multiplier well above the national average of 2.1, and the multipliers for several states exceed 10 to 1. For example, for every dollar Indiana receives directly in space programme funds, it also receives $12 indirectly in business arising from the programme. Similarly, Illinois receives $8 indirectly per direct dollar spent, Kansas $7 and North Carolina $6.

This may seem counterintuitive, but Illinois, for example, a state not considered to benefit greatly from the space programme, produces goods and services required directly by the recipients of NASA procurement awards: capital goods, electronic components, scientific instruments, chemical products, primary and fabricated metal products, specialized business services and so on. Further, because of the widely based, indirect nature of these economic benefits, Illinois will benefit greatly from NASA procurement spending in other states on a wide variety of programmes, and its benefits are not tied to a specific contract. In this sense, a state such as Illinois is a more certain beneficiary of NASA spending than are some states receiving sizeable prime contract awards.

The data in the table show that, per dollar of direct procurement expenditure, NASA programmes will have widely varying multipliers by industry—these multipliers are interpreted similarly to those for individual states, only here they are computed as the ratio of the total (direct plus indirect) economic benefits to the direct benefits. These range from near six for electronic components, five for electric lighting and wiring equipment and three for chemical products to near two for motor vehicles and equipment and near one for engines and turbines and aircraft and parts. In other words, the 1987 NASA procurement budget created, indirectly, nearly $5 in sales in electronic components for every dollar directly spent in that industry, while it created, indirectly, only about 30 percent of sales in the aircraft and parts industry for every direct dollar of expenditure in that industry. The result is not surprising. Aircraft and motor vehicles are final products whose components do not enter into the production of other commodities, whereas electrical and electronic equipment, paints and chemicals are products required in the production of most other goods.

The table also shows the total employment created in various industries. The data here illustrate that the distribution of jobs created by industry differs in important respects from the distribution of sales. Thus, although many jobs are created in industries such as aircraft, ordnance, business services and communications equipment where the generated output requirements are large, employment of equal magnitude is also created in service industries such as wholesale and retail trade, transport, warehousing, restaurants and hotels.

Our findings are significant because we have for the first time estimated the benefits flowing from the second-, third- and fourth rounds of industry purchases generated by NASA procurement expenditures. For some regions these are very important, with ratios of indirect to direct benefits of 8 to 1 and higher. Many workers, industries and regions benefit substantially, and these benefits are much more widespread throughout the United States than has heretofore been realized. We believe our results imply that the economic benefits and costs of space exploration need to be reassessed.

[1] Morrison, D.C. *Natn. J.* 23, 1674 (1991).

[2] National Aeronautics and Space Administration *Spinoffs* (Washington, DC, 1990).

[3] *Economic Impact and Technological Progress of NASA Research and Development Expenditures Report* (National Academy of Public Administration, 1988).

[4] US Office of Technology Assessment *Civilian Space Policy and Applications* (Washington, DC. 1982).

[5] US Congressional Budget Office *Using Federal R&D to Promote Commercial Innovation* (Washington, DC. 1988).

[6] NASA *Annual Procurement Report Fiscal Year 1987* (Washington, DC. 1988).

[7] Management Information Services *The Economic and Employment Benefits to the Nation and to Each State of the U.S. Space Program* (Washington, DC. 1989).

[8] Leontief, W. *Input—Output Economics* (Oxford University Press, New York. 1966).

THE UNITED STATES IN SPACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes.

Mr. DELAY. Mr. Speaker, for the Speaker's benefit, I will not prolong my special order, and will just take a few minutes, probably more time than the Speaker wants me to take, but not the 60 minutes that I am allotted to make a few points and a few remarks in continuation of the special order on space station *Freedom*.

First, let me commend the gentleman from Florida [Mr. BACCHUS] for taking his special order and his eloquence in presenting the case to continue funding for the space station *Freedom*. Also I commend the gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Alabama [Mr. CRAMER] and the gentleman from Pennsylvania [Mr. WALKER] for their endurance in staying up at this late hour after a very long day, because they think it is so important for the future of this country to fund space station *Freedom*.

Let me say from the outset, Mr. Speaker, that even though I am a proud Texan, proud to be from Texas and proud to represent Houston, TX, let me put a little disclaimer before I start my remarks in saying that this is not a Texas project. A lot of talk on the floor of this House is trying to suggest that once again Texas is getting everything, Texas gets all the money. I might point out parenthetically that Texas, out of all Federal funds, is 47th in the Nation on receiving Federal funds. But this is not a Texas project.

We are proud to have the Johnson Space Center in Houston, TX. It is very important to Houston. It is important to Houston for many reasons as outlined so eloquently by the gentleman from Alabama and the gentleman from Florida, and there are space facilities all over this country. We have it in Florida, we have it in Alabama, and the major part of space and the funding for space is in California, other States, Pennsylvania, many other States participate in exploration of space, not just Texas. This is an American project.

Americans have always been very proud of the fact that we have been a leader in space. The ultimate legacy of American civilization will be our epic journey into space.

What I find remarkable is that it is only 31 years since the first American went into space. Sometimes it is hard to realize how far we have gone in such a short time.

But in 1957, the Soviet Union orbited the first satellite in the world. Less than a year later, the United States followed suit, and since that day in 1958, the United States has expanded its space program at a yeoman's pace.

Now, to me, one of the most amazing achievements of the space program has been the mastery of human space flight. I recall on May 5, 1991, Alan Shepherd became the first American in space, and less than a decade later, we all remember that awe-inspiring day when Neil Armstrong and Buzz Aldrin became the first humans to set on the lunar surface. I can remember it graphically, because my wife and I had to go to the wedding of our best friends, Mike and Patty Mattula that very day, and I sat out in the parking lot listening to the car radio as Neil Armstrong and Buzz Aldrin set foot on the surface.

In 1973, the United States orbited *Skylab*, our first space station, and from this facility, a variety of experiments were conducted in solar observation, Earth resources observation, biomedical research, and material processing.

The next major development in American space technology was the space shuttle, a truly remarkable achievement. With the shuttle not only could we go to space and return, but we could use the same vehicle over and over again. The first space shuttle flight was successfully accomplished in 1981.

□ 2220

Within 2 years, shuttle missions included the first U.S. woman in space, Sally Ride, and the first black American, Guion Bluford, whom I had the pleasure of visiting just a month ago in the shuttle simulator in the Johnson Space Center.

In 1984, astronauts successfully retrieved several satellites and redeployed them in orbit. Additional missions found humans and animals traveling together in space for the first time. Exciting for those of us in Congress were two flights that included our colleagues Senator JAKE GARN and Congressman Bill Nelson among the crew.

The shuttle program enjoyed no less than 24 successful missions until the *Challenger* tragedy in January 1986. Seven Americans were killed in the explosion that shocked the Nation. Although this mission went horribly wrong, NASA took the failure as a valuable learning experience. Many improvements and adjustments were made to the program to further assure the safety of our astronauts and in 1988, the space shuttle returned to flight.

Currently, as the shuttle program continues, research, and development has begun on NASP, the National Aero-Space Program. Ultimately, NASP could lead to a replacement for the space shuttle and other launch vehicles for taking people and some cargo into orbit. It could also lead to the thrilling development of a commercial aircraft capable of taking people around the world in a few hours.

Let us not, however, let some of these more dashing space ventures cause us to overlook the achievements of our first space technology, the satellite.

Satellites are common today. It is like the toaster in the kitchen. Everybody just assumes that the satellites are an everyday occurrence and an everyday event and have everyday usefulness to the United States, as well as the world.

Satellites have a plethora of important applications. For example, communication satellites are used today to send television signals, telephone calls, and data around the world. Remote sensing satellites provide data on mineral deposits, pollution sources, crop forecasting, land management, and the oceans. Other systems still are used to locate ships and aircraft in distress. Also worth mentioning is the military satellite system that was heavily utilized during the Persian Gulf war. This system allowed the United States to monitor troop movements as well as detect Scud missile launches.

The continuation of the successful programs and development of additional ventures renders NASA's future a bright one. The space station *Freedom* is particularly exciting. First, there is an abundance of planned research, which in the tradition of NASA, will undoubtedly produce new medicines and technologies.

The gentleman from Alabama and the gentleman from Florida and the gentleman from West Virginia eloquently pointed out some of the potential from the space lab.

Second, the space station is largely an international program. As the nations of the world unite economically and politically, so should they unite technologically. We all stand to learn a great deal from our international partners. I commend NASA on its contribution to our society and I look forward to further achievements and discoveries, only limited by the imagination of man.

We cannot tell you what to expect from space station *Freedom*. We can only suppose in our limited human minds the kinds of things that we can expect. We could not tell you what to expect from the first shot that John Glenn rode up and down from *Apollo* to the Moon, but I can tell you from the article that was mentioned earlier, written by Dan Goldin, the new Administrator of NASA, who, by the way, I commend because Mr. Goldin understands that we cannot just be limited to NASA. There are so many things that need to be done, that he also wants to encourage private industry into space. But particularly of note in his article published in the Washington

Post and hopefully other papers around the United States, there is a particular paragraph here that I want to quote from because it makes the point of the kinds of things that we have seen and it might make you start thinking of the kinds of things that we will see as a result of flying the space station *Freedom*. Mr. Goldin says:

> Today there is hardly a sector of the economy that has not been touched by spinoffs from the space programs of the past 30 years. Every time someone operates a computer, makes a long distance call, watches television or uses an automatic teller machine, the benefits of space technology are being felt. Every time someone undergoes a CAT scan, has arthroscopic or laser surgery or enters intensive care at a hospital, he or she benefits from NASA work.

Let me point out something that has not been mentioned tonight about what we might expect from space station *Freedom*. It has been mentioned here tonight that tomorrow we will fight again as to whether or not we should fund space station *Freedom*. This is the fourth time in 13 months that we have had this vote.

Well, let me try to answer that question of why do we need space station *Freedom*. One area that has not been mentioned tonight, the Moon may very well be the Persian Gulf of the 21st century.

Why? Because the energy supply of our Nation is at risk. We had an energy bill go through this House that shut down drilling for oil and gas off the coasts of most of the United States.

We have constant roadblocks put up to our ability to develop nuclear energy.

What do these people want? Do they want us to go back to burning wood? Well, you cannot do that, because burning wood pollutes the air.

So where are we going to get the energy that we need to build a future for our children?

We must have the capability to replenish the depleting resources on Earth by finding new sources of minerals, metals, and energies in space. We must not be standing here 30, 40 years from now, debating how and where we can get the next supply of energy. Then it will be too late. The space station *Freedom* is the first important step toward sustaining life in space, and as a launch platform from which we can deliver extraterrestrial exploration missions that we can ultimately find these types of resources.

We in the 20th century have used more of the world's natural resources than all previous generations. Where will we go to find more resources after the Earth has been depleted? Do we just stand by now and cross our fingers? I think not. We must plan for the future and act now.

Down through the centuries nations have sometimes had to go to war to protect the vital needs of their populations. As an example, energy has been one major resource that we need to survive in the modern industrial world, to drive the engine of commerce that provides the American standard of living. We have to provide for warmth, for food on our tables, for transportation needs for our families, for our children, and for our elderly.

The best estimates of Persian Gulf area oil reserves show that we only have until about the middle of the next century to find alternative, safe energy sources that will continue to sustain our lifestyle as we increase our population. In the mid-1980's, we found a good energy source that would provide safe energy production with no long-term waste and a high-energy conversion efficiency. Helium-3, commonly called Astrofuel, has all of those important qualities, but the supply of it on Earth is very scarce. There is enough Astrofuel on the lunar surface, however, to supply the world's needs for over 1,000 years. We need the capabilities of the space station mission to help extract it from the Moon.

Experiments by the Fusion Technology Institute of the University of Wisconsin have proven that the helium-3 fusion process can provide energy that is both economical and safe. These helium-3 fusion reactors produce a wide range of valuable byproducts as it is recovered from the Moon, including water and oxygen.

□ 2230

Unfortunately, helium-3 is extremely rare on Earth; while we have found enough of it on Earth to provide ample research, we must develop a mechanism to retrieve it from the Moon. Without the valuable research mission planned for space station *Freedom*, we will not have the knowledge to sustain life in space or have an economical platform to launch missions to the Moon.

Research from the Fusion Technology Institute has shown that clean, safe energy from astrofuel can be used here on Earth, but only if we start developing the technology to sustain life in space and an orbital launching capability now. Because 99 percent of the energy released from astrofuel is in the form of nonradioactive, charged particles, the astrofuel cycle is much safer than current fission reactors. Other benefits include high efficiency—about 70 percent net conversion to electricity—easier licensing and siting requirements, potentially lower costs of electricity, a shorter time to commercialization than for the fusion cycle currently pursued around the world, and less waste heat is dumped to the environment than with fossil fuel or fission plants. Furthermore, materials for the reactors can be chosen for easier maintenance, decommissioning and ultimate disposal of the reactor components. This means the astrofuel approach is likely to be commercialized much faster and with less government research investment than other proposed fusion cycles.

The lack of any radioactivity in the fuels or exhaust products—such as hydrogen and helium—means that fuel can be delivered over city streets with no more precautions than required to deliver refrigerated food today. The extremely small amount of radioactive isotopes inside the plant means that in the event of a catastrophic accident, such as an earthquake, tornado or plane crash, there will be no off-site fatalities even if all the radioactivity were to be released at once. These safety advantages should allow power plants to be located close to load centers, thus eliminating the need for high voltage power corridors.

The cumulative effects of high efficiency, very low radioactivity, inherent safety—meltdowns are impossible—and urban settings should also result in lower electricity costs in the future. Even at $1 billion a ton for the astrofuel—a procurement cost easily with reach from a modest lunar base—the cost of energy from astrofuel is equivalent to oil at $7 dollars a barrel.

The following illustrates the commercial attractiveness of this fuel which can only be achieved by having the capability to reach into and live in space. Using 1987 as an example, the United States alone spent $40 billion to buy coal, oil, natural gas and uranium to produce electricity. That same electricity could be produced from 25 tons of astrofuel. That much condensed astrofuel could fit into the cargo bay of the space shuttle. One shuttle-load of fuel could supply the entire U.S. demand for electricity in a year and be worth $25 billion. Not only that, but there is 10 times more energy in the helium-3 on the Moon than in all of the economically recoverable coal, oil, and natural gas currently on Earth.

Astrofuel is only one example of the many ways we can replenish resources that are currently being depleted here on Earth. We need to develop the technologies to safely live and travel far into space now. We do not have the luxury of time to be shortsighted and not develop the capabilities that the space station can offer us. It takes decades to develop all of the technologies such as astrofuel that provide the answers to tomorrow's problems. We must act now, today, if we are to preempt the fears of life tomorrow. Time and time again I hear my friends in the House say that we must provide for the future, that we must protect the fates of our children and the fates of our children's children. The future begins today. A vote to defeat the Roemer amendment is a vote that protects our Nation's pre-eminence in space and the future generations of Americans.

Some of the what detractors, what they have been saying to me, is just outrageous.

Mr. Speaker, there have been a lot of arguments, in my opinion very few with substance, and some of them were gone over here tonight. But there was one that was just outrageous.

A press conference was held last week suggesting that the Congressional Budget Office had issued a report which purportedly laid out a whole list of research programs that would be cut from the domestic discretionary budget if we built the space station.

First, I would like to put in the RECORD, and I will read it into the RECORD, a "Dear Colleague" from the chairman of the Committee on Science, Space, and Technology, the gentleman from California [Mr. BROWN], that really succinctly refutes this outrageous attempt to inflame the fears of people that certain programs, certain research projects will be cut as a result of building Space Station Freedom.

Mr. Speaker, I quote from the letter of the gentleman from California [Mr. BROWN]. It is headlined, first, "Outrageous. Space Station Debate Reaches New Low."

The letter continues:

DEAR COLLEAGUE: Over the past several months, opponents of the Space Station have tried to demonstrate in various ways that the Space Station funding requirements cannot be accommodated in the domestic discretionary budget in future years. Last week, these opponents, including prominent Members of the Budget Committee, held a press conference to release what was described as a "CBO Report" which purportedly laid out the basis for this conclusion. Immediately following this announcement, the Director of the Congressional Budget Office was asked for additional details regarding this report. The response is illuminating and contained on the reverse of this letter.

First, no such study exists. There are no such findings, no report and this is not the position of the Congressional Budget Office. What does exist is an amazingly complicated manipulation of the normal "CBO Baseline" with which we are all familiar.

The basis for the conclusion announced at the press conference is so astonishing in its distortion that it bears some explanation. First, the analysis assumes that the separate caps on domestic discretionary, defense, and international spending remain separate out to 1997. This, of course, does not reflect the budget agreement nor has it ever been seriously proposed. The caps will aggregate next year as we all know.

Next, the analysis assumes that the Appropriations allocation process will cease to exist. That is, the VA-HUD/Independent Agencies Subcommittee will continue to get exactly what they got this year every year in the future. Congress will have no ability to portion out future allocations as program and overall budgetary needs dictate.

Next, the analysis inflates several "hot button" accounts known to have strong Congressional support, and calculates the amount that would need to be reduced in order to meet these hypothetical budget caps. Finally, the analysis calculates an additional, but much smaller, hypothetical reduction if the Space Station were the only program that is allowed to increase.

The results are in some way obvious. In order to meet these hypothetical budget caps, all of the programs considered in the analysis must be reduced below this projected inflated level. This, of course has nothing to do with the Space Station. If the Space Station is the only account in this $60 billion allocation that is allowed to grow and no other program declines, this calculated impact is very slightly greater. The point is that even if the outlandish assumptions underlying this analysis were true, less than 10% of the necessary reductions could be reasonably attributed to the Space Station. The rest is due to obvious existence of budgetary caps which constrain overall growth in the Federal discretionary budget.

There is no question that balancing the needs of veterans, homeless, and others will be a major challenge as we strive for austerity in the Federal budget. We all know that NASA will have to live within its means, perhaps even at a freeze level. Indeed, in the bill reported out by the Appropriations Committee, major reductions were inflicted on NASA and on the Space Station. NASA was the only agency within the bill to receive a significant reduction below F.Y. 92 levels and the Station was cut more than any other program.

Those of us who support the Space Station recognize this problem. Yet we know that with any equitable treatment of priorities within the VA-HUD/Independent Agencies Subcommittee, the Station can be funded. It serves no useful purpose to distort these difficulties further with the type of analysis used by the Station opponents last week.

Space Station opponents use their statistics like the proverbial intoxicated man uses a lamp post—for support rather than illumination. Don't be fooled.

Sincerely,

GEORGE E. BROWN, JR.
Chairman.

☐ 2240

The point I am trying to make, Mr. Speaker, is that there is no validity to the arguments that the opponents of space station are making. They say that there is no science, biomedical science. We have proven them wrong. They say there is no international cooperation. We have proven them wrong. They say there is no future that will put a hunk of iron up into space and there will be no results from that space station. We have proven them wrong.

The bottom line is many of these Members, and I do not want to question their intentions or why they are doing what they are doing, but I can tell my colleagues what is happening in the scientific community in this country.

We have turned a lot of scientists in this country into funding junkies. They are more interested in going out and getting funding for programs, or future programs, or future research, than they are interested in the science that they are researching.

It is amazing to me that anyone in science would be jealous of someone else's project or someone else's research to the extent that they would openly oppose the ongoing process providing more science and looking into areas unknown to man. That is not science. That is not a scientist.

And those that claim that there is no science to get out of the space station *Freedom* have been absolutely living in a hole, covered up with dirt, for the last 30 years because we have seen science, and technology and wonderful things that we are using in our everyday lives that have been the direct result of the space program.

And I find it ironic that scientists who may not be directly connected to space station *Freedom*; even scientists within NASA are claiming that, in order to protect their funding or their drooling over the possibility of getting more funding if they kill space station, they would dare to attack the science that is projected to come from space station *Freedom*.

Mr. Speaker, we are going to enter this debate tomorrow for the fourth time in just a few months, and I have every confidence that the American people will speak tomorrow through their Representatives. I have every confidence that we are going to combat this fourth effort to kill the space station *Freedom*. I would just hope that Members would look at this vote tomorrow and realize that it is a mandate of the American people, that the American people want space and the American people want the space station *Freedom*, and I would hope that they would stop these attempts to undermine our ability to explore space with another step towards our future because what is happening is we are destroying the morale and we are destroying the potential of young people looking forward to getting into space when they become adults.

So, Mr. Speaker, I welcome the battle tomorrow because we are on the side of right. We will win this fight tomorrow. I have every confidence of that. People connected to space directly or indirectly have been working very hard to beat back this attempt to kill space station *Freedom*, and I feel confident that we are going to win that battle and that we will lead this country into the future, not only in education, but in technology and products produced as a result of being in space.

Mr. Speaker, there is a wonderful future for our children, and our children's children and generations to come.

Mr. SAXTON. Mr. Speaker, we speak a lot on the floor about lessons learned in the past so we don't repeat mistakes in the future. Yet, I'm afraid when we take up the debate on the space station we will ignore an important lesson we learned less than a month ago when the space shuttle *Columbia* set a record for staying in orbit.

Through their record setting sojourn in space the crew of the *Columbia* was able to conduct experiments that will enable scientists down here on Earth to better understand our world and our environment.

In light of what the crew of the *Columbia* was able to accomplish in 2 weeks, I believe it is appropriate to ask what we might be able to accomplish through longer stays in space that only a space station would provide.

If we can conduct important experiments in space in a few days, imagine what we can do in terms of scientific discoveries and experiments in several months of research.

In fact, the commander of the *Columbia* said just before it landed that a space station is needed to conduct important experiments.

Let us remember, it was this type of pioneering research in the past, for our space program, that enabled us to make significant technological breakthroughs like pacemakers and CAT scans to name two.

The mission of the space shuttle *Columbia* is further evidence that we need a space station to enable us to conduct experiments that will provide valuable information about our world and our environment.

When we talk about lessons learned let's mean what we say. Let's not forget what we've been able to accomplish in the past to provide us a better future.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2460

[Omitted from the Congressional Record of July 24, 1992]

Mr. INHOFE. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of the bill, H.R. 2460.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HYDE (at the request of Mr. MICHEL), from 1:30 p.m. today and for the balance of the week, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BARRETT) to revise and extend their remarks and include extraneous material:)

Mr. ROGERS, for 5 minutes, today.

Mr. GALLEGLY, for 5 minutes, today.

Mr. PORTER, for 5 minutes, today.

(The following Members (at the request of Mr. BACCHUS) to revise and extend their remarks and include extraneous material:)

Mr. JONTZ, for 5 minutes, today.

Mr. WOLPE, for 5 minutes, today.

Mr. MCCLOSKEY, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. KOPETSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ASPIN, for 5 minutes, today.

Ms. NORTON, for 60 minutes, today.

Mr. WOLPE, for 5 minutes each day, on July 20 and 30.

Mr. JONTZ, for 5 minutes each day, on July 29 and 30, August 4, 5, 6, 11, and 12.

Ms. NORTON, for 60 minutes, on July 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BARRETT) and to include extraneous matter:)

Mr. MARLENEE.

Mr. LENT.

Mr. HUNTER.

Mr. LIGHTFOOT.

Mr. MCEWEN in two instances.

Mr. GUNDERSON.

Mr. MCCOLLUM.

Mr. BOEHLERT.

(The following Members (at the request of Mr. BACCHUS) and to include extraneous matter:)

Mr. FALEOMAVAEGA in five instances.

Mr. BROWN.

Mr. TRAFICANT.

Mr. JOHNSON of South Dakota.

Mr. ASPIN.

Mr. TORRES.

Mr. HOYER.

Mr. SKELTON.

Mr. MCMILLEN of Maryland.

Mr. ACKERMAN.

Mr. LIPINSKI.

Mr. REED.

Mr. BREWSTER.

Mr. BACCHUS.

Mr. MAZZOLI in two instances.

Mr. MOODY.

ADJOURNMENT

Mr. DELAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 29, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4009. A letter from the Office of General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to enhance the ability of the Department of Defense to provide counterdrug-related support in response to certain specific types of requests from law enforcement agencies; to the Committee on Armed Services.

4010. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-263, "District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4011. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-264, "Foster Care Goals of 1983 Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4012. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-265, "Holy Land Spiritual Temple Equitable Real Property Tax Relief Extension Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4013. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-266, "Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4014. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-267, "Harvest Assembly of God Equitable Real Property Tax Relief Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4015. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-268, "Medicare Supplement Insurance Minimum Standards Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4016. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-269, "Public Transit Escalator and Elevator Safety Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4017. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Council: Copies of acts passed requiring congressional review, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4018. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-270, "Islamic Way Designation Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4019. A letter from the Chairman, council of the District of Columbia, transmitting a copy of D.C. Act 9-271, "Traffic Adjudication and Motor Carrier Safety Amendment Act of 1992," pursuant to D.C. Code, Section 1-233(c)(1); to the Committee on the District of Columbia.

4020. A letter from the Secretary of Education, transmitting notice of final priority for fiscal years 1992 and 1993—Dwight D. Eisenhower National Program for Mathematics and Science Education—State Curriculum Frameworks for Mathematics and Science, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4021. A letter from the Chairman, John F. Kennedy Center for the Performing Arts, transmitting the 1991 annual report of operations for the John F. Kennedy Center for the Performing Arts, pursuant to 20 U.S.C. 761(c); to the Committee on Education and Labor.

4022. A letter from the Advisory Panel on Alzheimer's Disease, Department of Health and Human Services, transmitting the fifth report on administrative and legislative actions to improve services for individuals with Alzheimer's Disease and related dementias, pursuant to 42 U.S.C. 679; to the Committee on Energy and Commerce.

4023. A letter from the Vice President, Farm Credit Bank of Springfield, transmitting the annual report on the retirement system for the Farm Credit Banks of Springfield Retirement Plan for the plan year ending December 31, 1991, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4024. A letter from the Secretary, Department of the Interior, transmitting notice of a final application for the Fort McDowell Indian Community, AZ, pursuant to 43 U.S.C. 422d; to the Committee on Interior and Insular Affairs.

4025. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize the creation of a Persian Gulf registry program; to the Committee on Veterans' Affairs.

4026. A letter from the Chairman, National Commission on Acquired Immune Deficiency Syndrome, transmitting the Commission's report entitled "Housing and the HIV/AIDS Epidemic"; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

4027. A letter from the Chairman, Railroad Retirement Board, transmitting the Board's management improvement report; jointly, to the Committees on Energy and Commerce and Ways and Means.

4028. A letter from the Secretary of Energy, transmitting a draft of proposed legislation entitled "Alaska Power Administration Sale Authorization Act"; jointly, to the Committees on Interior and Insular Affairs, Public Works and Transportation, Energy and Commerce, Government Operations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5323. A bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people; with an amendment (Rept. 102–615, Pt. 2). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3724. A bill to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes; with an amendment (Rept. 102–643, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5352. A bill to coordinate and promote Great Lakes activities, and for other purposes; with an amendment (Rept. 102–742, Pt. 1). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5649. A bill to amend the Internal Revenue Code of 1986 to phase out the occupational taxes relating to distilled spirits, wine, and beer and to impose the tax on diesel fuel in the same manner as the tax on gasoline (Rept. 102–745). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5655. A bill to amend the Internal Revenue Code of 1986 to restore the prior law treatment of corporate reorganizations through the exchange of debt instruments, and for other purposes (Rept. 102–744). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5657. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of deposits under certain perpetual insurance policies (Rept. 102–745). Referred to the Committee of the Whole House on the State of the Union.

Ms. SLAUGHTER: Committee on Rules. House Resolution 529. Resolution providing for consideration of the bill (H.R. 5679) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes (Rept. 102–747). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 530. Resolution waiving certain points of order during consideration of the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. 102–748). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5419. A bill to amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes; with an amendment; referred to the Committee on Ways and Means for a period ending not later than August 3, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X (Rept. 102–746, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PICKLE:

H.R. 5697. A bill to amend titles II and XVI of the Social Security Act to provide for presumptive disability, in connection with an application for benefits thereunder based on disability, upon failure to make a timely disability determination on the basis of such application or to take timely action to implement such a determination; to the Committee on Ways and Means.

By Mr. BILBRAY:

H.R. 5698. A bill to extend the existing suspension of duty on three-dimensional cameras; to the Committee on Ways and Means.

By Mr. BOEHLERT (for himself, Mr. WALSH, Mr. MCGRATH, Mr. MCHUGH, Mr. SOLOMON, and Mr. HOUGHTON):

H.R. 5699. A bill to amend the Tariff Act of 1930 to prevent the circumvention or diversion of antidumping and countervailing duty orders; jointly, to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 5700. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority; jointly, to the Committees on Rules and Government Operations.

By Mr. COBLE:

H.R. 5701. A bill to provide for the liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Mrs. COLLINS of Illinois, Mr. WAXMAN, Mr. NEAL of North Carolina, Mr. LANTOS, Mr. TOWNS, Mr. KLECZKA, Mr. BUSTAMANTE, Mr. MARTINEZ, Mr. PAYNE of New Jersey, Mrs. MINK, Mr. PETERSON of Minnesota, Mr. COX of Illinois, Mr. MILLER of California, and Mr. SANDERS):

H.R. 5702. A bill to amend section 552b of title 5, United States Code, popularly known as the Government in the Sunshine Act, to ensure that all oral and written communications concerning a regulatory action are publicly disclosed and to authorize appropriations for the Office of Information and Regulatory Affairs of the Office of Management and Budget; to the Committee on Government Operations.

By Mr. GALLEGLY:

H.R. 5703. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish provisions regarding the composition and labeling of dietary supplements; to the Committee on Energy and Commerce.

By Mr. HOLLOWAY:

H.R. 5704. A bill to extend until January 1, 1996, the existing reduction of duty on caffeine; to the Committee on Ways and Means.

By Mr. MCCOLLUM:

H.R. 5705. A bill to provide greater availability of credit from savings associations by authorizing the Director of the Office of Thrift Supervision to grant temporary, limited exceptions to the separate capitalization requirement; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MCDERMOTT (for himself and Mrs. UNSOELD):

H.R. 5706. A bill to amend the Internal Revenue Code of 1986 is restore fair limits on pension benefits for working Americans covered by collectively bargained, labor-management retirement plans; to the Committee on Ways and Means.

By Mr. MOODY:

H.R. 5707. A bill to amend title XVIII of the Social Security Act to require a condition of participation in the Medicare Program that hospitals disclose the costs incurred by the hospital in providing services to patients; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SOLARZ:

H.R. 5708. A bill to establish an Office of Cambodian Genocide Investigation, to support efforts to bring to justice national Khmer Rouge leaders who committed crimes against humanity in Cambodia; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to the public bills and resolutions as follows:

H.R. 53: Mr. SISISKY.

H.R. 66: Mr. TRAXLER, Mr. PICKLE, Mr. MFUME, Ms. KAPTUR, and Mr. RAHALL.

H.R. 576: Mr. SWETT.

H.R. 759: Mr. ALLEN.

H.R. 1108: Mr. BLAZ.

H.R. 1251: Mr. DOWNEY.

H.R. 1310: Mr. ANNUNZIO, Mr. BEREUTER, Mr. COUGHLIN, Mr. COLORADO, Mr. DANNEMEYER, Mr. GUNDERSON, Mr. KASICH, Mr. McCANDLESS, Mr. MARKEY, Mr. PANETTA, Mr. SMITH of New Jersey, Mr. WELDON, Mr. SCHIFF, and Mr. SCHEUER.

H.R. 1312: Mr. GUNDERSON and Mr. SCHEUER.

H.R. 1423: Mr. AuCOIN.

H.R. 1536: Mr. SWETT.

H.R. 1546: Mr. SCHAEFER.

H.R. 1771: Mr. MARLENEE.

H.R. 2070: Mr. COBLE.

H.R. 2083: Mr. KOLTER.

H.R. 2766: Mr. COLEMAN of Missouri.

H.R. 2966: Mr. ASPIN.

H.R. 3026: Mr. GEJDENSON.

H.R. 3071: Mr. HOLLOWAY and Mr. GUARINI.

H.R. 3236: Mr. HAMMERSCHMIDT, Mr. JENKINS, Mr. HEFNER, Mr. RICHARDSON, Mr. STENHOLM, Mr. PAYNE of Virginia, Mr. PARKER, and Mr. HARRIS.

H.R. 3475: Mrs. LOWEY of New York, Mrs. JOHNSON of Connecticut, Mr. ANDREWS of New Jersey, Mr. MILLER of California, Mr. GUARINI, Mr. CONYERS, Mr. CARDIN, and Mr. ACKERMAN.

H.R. 3476: Mrs. LOWEY of New York, Mrs. JOHNSON of Connecticut, Mr. ANDREWS of New Jersey, Mr. MILLER of California, Mr. GUARINI, Mr. CONYERS, Mr. CARDIN, and Mr. ACKERMAN.

H.R. 3710: Mr. YATES.

H.R. 3939: Mr. LANTOS, Mr. KILDEE, Mr. PANETTA, and Mr. MACHTLEY.

H.R. 3971: Mr. BROWDER.

H.R. 3975: Mr. TORRICELLI, Mr. SABO, and Mr. ANDREWS of New Jersey.

H.R. 4045: Mr. NEAL of Massachusetts and Mr. STOKES.

H.R. 4046: Mr. OWENS of New York, Mr. WEISS, Mr. JONTZ, Mr. TAYLOR of North Carolina, Mr. DARDEN, Mrs. LOWEY of New York, Mr. BEREUTER, Mr. PASTOR, Mr. CHAPMAN, Mr. COLEMAN of Texas, Mr. PETERSON of Florida, Mr. BARNARD, Mr. ERDREICH, and Mr. JOHNSON of South Dakota.

H.R. 4124: Mr. SWETT.

H.R. 4175: Mr. ANDREWS of New Jersey.

H.R. 4178: Mr. BEILENSON.

H.R. 4319: Mr. McCRERY.

H.R. 4414: Mr. DEFAZIO.

H.R. 4429: Mr. PALLONE, Ms. NORTON, and Mr. MURTHA.

H.R. 4754: Mr. MOORHEAD and Mr. BERMAN.

H.R. 4775: Mr. DIXON.

H.R. 4784: Mrs. LOWEY of New York.

H.R. 4929: Mr. SOLOMON.

H.R. 4930: Mr. SPENCE.

H.R. 4961: Mr. ARCHER.

H.R. 5008: Mr. HOYER.

H.R. 5011: Mr. OWENS of New York and Mr. MORAN.

H.R. 5141: Mr. EVANS.

H.R. 5156: Mr. MARKEY, Mr. SMITH of Florida, Mr. SOLOMON, and Mr. CARDIN.

H.R. 5176: Mr. ANDREWS of New Jersey and Mr. SANDERS.

H.R. 5208: Mr. WOLPE.

H.R. 5237: Mr. THOMAS of Wyoming.

H.R. 5290: Mr. ANDREWS of New Jersey.

H.R. 5360: Mr. PALLONE.

H.R. 5367: Mr. HALL of Ohio, Mr. DICKS, Mrs. LLOYD, Mr. ACKERMAN, Mr. LEWIS of Florida, Mr. EVANS, Mr. TOWNS, Mr. KOLTER, Mr. ERDREICH, Mr. RAHALL, Mr. HOCHBRUECKNER, Mr. McMILLEN of Maryland, Mr. THOMAS of Georgia, and Mr. JOHNSON of South Dakota.

H.R. 5370: Mr. BAKER.

H.R. 5416: Mr. ENGEL.

H.R. 5419: Mr. SWETT, Ms. KAPTUR, Mr. HAYES of Louisiana, Mr. WYLIE, Mr. FAWELL, and Mr. COLORADO.

H.R. 5436: Mr. BARNARD, Mr. PETERSON of Minnesota, Mr. HATCHER, Mr. KOPETSKI, Mr. HERTEL, Mr. CLINGER, Mr. HAYES of Illinois, and Mr. OLVER.

H.R. 5445: Mr. BARNARD, Mr. PETERSON of Minnesota, Mr. HATCHER, Mr. KOPETSKI, Mr. HERTEL, Mr. CLINGER, Mr. HAYES of Illinois, Mr. BEREUTER, and Mr. EWING.

H.R. 5542: Mr. PACKARD, Mr. RAMSTAD, and Mr. DORNAN of California.

H.R. 5591: Mr. RIGGS, Mr. BARNARD, Mr. LEWIS of Florida, and Mr. DICKINSON.

H.R. 5596: Mr. HEFLEY, Mr. COX of California, and Mr. BURTON of Indiana.

H.R. 5681: Mr. ANDERSON, Mr. OWENS of New York, Mr. WISE, Mr. BOUCHER, Mr. KOSTMAYER, and Mr. GEJDENSON.

H.J. Res. 353: Mr. ANDERSON, Mr. CARDIN, Mr. COSTELLO, Ms. HORN, Mr. JACOBS, Mr. LEHMAN of California, Mr. MARKEY, Mr. MILLER of Washington, Mrs. MINK, Mr. SISISKY, Mr. WASHINGTON, and Mr. WHEAT.

H.J. Res. 391: Mr. BUSTAMANTE.

H.J. Res. 422: Mr. GUNDERSON, Mr. HEFNER, and Mr. HYDE.

H.J. Res. 453: Mr. SABO, Mr. RAHALL, Mr. OBERSTAR, Mr. BREWSTER, Mr. DARDEN, Mr. GAYDOS, Mr. GEREN of Texas, Mr. GLICKMAN, Mr. HOBSON, Mr. HOPKINS, Mr. KANJORSKI, Mr. RHODES, Mrs. KENNELLY, Mr. LaROCCO, Mrs. LOWEY OF NEW YORK, Mr. MORAN, Mr. MURPHY, Mr. OLVER, Mr. PAXON, Ms. PELOSI, Mr. RICHARDSON, Mr. ROEMER, Mr. STARK, Mr. SWIFT, Mr. STUMP, Mrs. UNSOELD, Mr. YATRON, Mr. ACKERMAN, Mr. BERMAN, Mr. BROWN, Mr. HALL of Texas, Mr. JONTZ, Mr. KENNEDY, Mrs. LLOYD, Mr. MANTON, Mr. McDERMOTT, Mr. MOLLOHAN, Mr. MRAZEK, Mr. LANTOS, Mr. TORRICELLI, and Mr. STENHOLM.

H.J. Res. 455: Mr. MOORHEAD and Mr. MOODY.

H.J. Res. 467: Mr. LEVINE of California, Mr. RAVENEL, Mr. RHODES, Mr. ROYBAL, Mr. RIGGS, Mrs. VUCANOVICH, Mr. TALLON, Mr. ESPY, Mr. BILBRAY, Mr. JOHNSON of South Dakota, Mr. GUNDERSON, Mr. MAVROULES, Mr. RAMSTAD, Ms. NORTON, Mr. LENT, Mr. HARRIS, Mr. VANDER JAGT, Mr. HEFNER, Mr. CRAMER, Mr. SKEEN, Mr. WOLF, Mr. BACCHUS, Mr. STARK, Mr. GORDON, Mr. HORTON, Mr. SERRANO, Mr. HUGHES, Mr. LEHMAN of California, Mr. McNULTY, Mr. ROSE, Mr. POSHARD, Mr. REGULA, Mr. ECKART, Mr. MONTGOMERY, Mr. VALENTINE, Mr. ROEMER, Mr. PAYNE of Virginia, Mr. BREWSTER, Mr. SABO, Mr. HAYES of Louisiana, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. BROWDER, Mr. DWYER of New Jersey, Mr. DANNEMEYER, Mr. KASICH, Mr. McCLOSKEY, Mr. BUSTAMANTE, Mr. SANDERS, Mr. HAYES of Illinois, Mr. FRANKS of Connecticut, Mr. BORSKI, Mr. HUNTER, Mr. MURPHY, Mr. DORNAN of Califorinia, Mr. COSTELLO, Mr. TAUZIN, Mr. DEFAZIO, Mr. TRAFICANT, Mr. PAXON, Mr. DICKS, Mr. CHAPMAN, Mr. DE LUGO, Mr. YATRON, Mr. YOUNG of Alaska, Mr. CAMP, Mr. TRAXLER, Mr. PURSELL, Mr. HYDE, Mr. HAMILTON, Ms. LONG, Mr. EVANS, Mr. QUILLEN, Mr. NAGLE, Mr. GILMAN, Mr. LEACH, Mr. ANDERSON, Mrs. MINK, and Mr. SCHUMER.

H.J. Res. 478: Mr. MAZZOLI.

H.J. Res. 479: Mr. GEREN of Texas and Mr. WHITTEN.

H.J. Res. 483: Mr. ROE.

H.J. Res. 503: Mr. DARDEN, Mr. DELLUMS, Mr. MATSUI, Mr. PALLONE, Mr. PAYNE of New Jersey, Mr. SABO, Mr. SARPALIUS, Mrs. KENNELLY, Mr. FLAKE, Mr. MRAZEK, and Mr. MINETA.

H.J. Res. 520: Mr. HATCHER, Mr. SPRATT, Mr. STALLINGS, and Mr. TOWNS.

H. Con. Res. 296: Mr. RAY, Mr. RICHARDSON, Mr. SCHIFF, Mr. SHAYS, Mr. SANTORUM, Ms. MOLINARI, Mr. SABO, Mr. BROWDER, Mr. SANDERS, Mr. BARNARD, Mr. LaFALCE, Mr. OBERSTAR, Mrs. BOXER, Mr. PARKER, Mr. ABERCROMBIE, Mr. MANTON, Mrs. PATTERSON, Mr. REED, Mr. SCHEUER, Mrs. SCHROEDER, Mrs. JOHNSON of Connecticut, Mr. RAMSTAD, Mr. BORSKI, Mr. ROE, Mr. JOHNSON of South Dakota, Mr. THOMAS of Georgia, Mr. MAZZOLI, Mr. BONIOR, and Mr. RINALDO.

H. Con. Res. 344: Mr. ENGEL, Mr. SOLARZ, Mr. BRYANT, Mr. ACKERMAN, and Ms. HORN.

H. Res. 515: Mr. DORGAN of North Dakota, Mr. McCLOSKEY, Mr. BUSTAMANTE, and Mrs. BOXER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5678

By Mr. CUNNINGHAM:

—Page 59, after line 11, insert the following:

MILITARILY USEFUL VESSEL OBLIGATION GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936. $50,000,000: *Provided*, That the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of serving as a naval and military auxiliary in time of war or national emergency.

In addition, for administrative expenses to carry out the guaranteed loan program, $2,800,000, which may be transferred to and merged with the Operations and Training appropriations for the Maritime Administration.

SENATE—*Tuesday, July 28, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. LIEBERMAN].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary, and they shall walk, and not faint.*—Isaiah 40:31.

Gracious Father in heaven, in a day like this, public persons are under a constant barrage of criticism from the media, the press, and the public. They are tough, they know it is the price of leadership, but they have got to be hurting. Despite their sincere commitment to change and their desire to make it happen, they are often misunderstood, even by their peers.

I pray for these public servants for whom hurting is virtually a daily experience, that You will sustain them, encourage them, and empower them to fulfill their responsibility, however great the resistance to their efforts. Bless their families who hurt with them, and their staffs, and remind them of Your love, understanding, and care when they have nowhere else to turn. Keep them, Lord, in Your love. Amen.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The first 30 minutes shall be under the control of the majority leader or his designee.

Under the previous order, the Senator from Washington [Mr. GORTON] will be recognized to speak for up to 10 minutes and the Senator from Indiana [Mr. COATS] will be recognized to speak for up to 5 minutes.

Mr. PRYOR addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the senior Senator from Arkansas [Mr. PRYOR].

MANDATORY LIVE QUORUM WAIVED ON CLOTURE VOTE ON THE MOTION TO PROCEED TO H.R. 776

Mr. PRYOR. Mr. President, on behalf of the majority leader, I ask unanimous consent that the mandatory live quorum, as required under rule XXII, be waived in relation to the cloture vote on the motion to proceed to H.R. 776.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFENSE TRANSITION PROPOSALS IN COMMERCE, JUSTICE, STATE APPROPRIATIONS BILL

Mr. PRYOR. Mr. President, this morning, I wish to commend the chairman and the ranking member of the Commerce, Justice, State, and Judiciary Appropriations Subcommittee, Senator HOLLINGS of South Carolina and Senator RUDMAN of New Hampshire, for the very, very fine bill that they brought to the floor yesterday and which we will continue to debate and discuss on this legislative day.

I particularly want to compliment these two fine Senators for the portion of that bill which allocates $229 million for defense economic transition programs.

We are all aware that over the next few years the United States is going to face a significant economic disruption as a result of lower defense spending. Currently, 34 military bases around the country are closing; another 48 are being realigned; up to 350,000 defense workers will lose their jobs each year through 1997. That is 1,000 jobs lost each day through 1997. Over the period of 1992 to the year 2001, the Department of Defense outlays for goods and services could decline, it is anticipated and projected by some, as much as 48 percent.

In response to this challenge, the majority leader, Senator MITCHELL, last March appointed a task force composed of 21 Democratic Senators. I had the privilege of chairing this task force. It was charged with developing recommendations to help ease the country's transition to a post cold war budget environment. This task force issued its recommendations on May 21 of this year.

I would like to say that the distinguished occupant of the chair, the Senator from Connecticut [Mr. LIEBERMAN] contributed mightily and constructively to the recommendations in this task force, and his expertise and continued diligence will always be appreciated and noticed.

A week after the Senate Democratic Task Force on Defense Transition released its report, President Bush responded with his own set of defense conversion recommendations. Subsequently, a Senate Republican task force, led by Senator WARREN RUDMAN, of New Hampshire, issued a very fine defense conversion report of its own.

Since releasing our report, the Senate Democrats have worked to implement our defense transition recommendations and today we see some of the first fruits of that labor. The Commerce, Justice, State, and Judiciary Appropriations Subcommittee under Senator HOLLINGS and ranking member, Senator RUDMAN, has this year put additional funds into three programs identified by our task force specifically for the purpose of defense conversion.

Let me also say, Mr. President, that this is not a partisan matter. This is not just something Democrats are doing; not just something Republicans are doing. But, hopefully, we are putting partisanship aside to join together with Senator RUDMAN and his findings and our task force on the Democratic side, to do something that is very necessary in the field of economic transition.

This legislation that we take up again today is going to provide for an additional $109 million to the Department of Commerce's National Institute of Standards and Technology, or NIST. This money will fund NIST manufacturing technology centers.

Mr. President, around here we know these technology centers as Hollings centers, after the very distinguished Senator from South Carolina who had the original concept for these centers. I think from now on, especially now, we are going to give them increased emphasis. I think Hollings centers are going to be very much a part of our economic transition and conversion process.

These centers are going to reach out to small and medium-sized defense firms, provide them with advanced technology and processes to help them make the transition to commercial industry. The money will also fund grants for critical technology partnerships with industry through the NIST Advanced Technology Program.

These grants will in the short run provide new commercial opportunities for defense firms, and in the long run

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

will spur productivity and economic growth, which will replace and eventually surpass the economic activity currently generated by the defense sector of the economy. NIST's State Technology Extension Program is also eligible to receive some of the defense transition funds appropriated in this bill.

These provisions from the commerce appropriations bill implement recommendations from part III, sections A and B of our task force report.

Second, this bill appropriates $80 million to the Department of Commerce's Economic Development Agency, or EDA, for the purpose of providing economic adjustment grants to defense-impacted communities across our country. This office, I am sorry to say, has been targeted for elimination by the White House every year since the early 1980's. Fortunately, the Bush administration has recently done an about-face and now supports funding for the Economic Development Administration.

The grants given out by the EDA will help adversely impacted communities foster new business activity and replace the disappearing defense activity. This provision of the Commerce appropriations bill implements a recommendation from part II, section B of our task force report.

Finally, the bill appropriates $40 million for small business loan guarantees through the Small Business Administration, for businesses adversely affected by the lower defense spending and for the establishment of businesses by individuals separated from the armed services and from defense industries due to reduced defense budgets. This $40 million in loan guarantees will leverage over $735 million in private loans to help communities adjust, to encourage voluntary separation from the military, and to reward those soldiers, sailors, airmen, and defense workers who served their country during the cold war. This provision from the Commerce appropriations bill implements a recommendation from part II, section C of the task force report.

I want to call on President Bush and his administration to support these recommendations and help implement them once this bill comes back from conference and is approved by the full Congress. These provisions are about creating economic growth, creating jobs, and putting American industry back into high gear. The thousands of communities and hundreds of thousands of individuals who secured the defense of our country through the long dark years of the cold war who made those sacrifices, are going to have their lives disrupted over the next few years. These are people and places who will truly be hurting. They will with thanks, long remember any assistance that we provide them today, and they will with anger, not soon forget if we fail to provide this assistance.

Mr. President, should anyone think the recommendations in the Commerce, Justice, State appropriations bill represent the extent of the Senate's defense transition effort, let me mention that the Senate Armed Services Committee just last week reported its 1993 Defense authorization bill which contains numerous defense transition provisions. In addition to provisions that will assist communities and industries, as the Commerce appropriations bill does, the Armed Services Committee bill also contains numerous initiatives to assist individuals who will lose their jobs in the armed services and in defense industries because of reduced defense budgets.

I will be back here to discuss this subject further when Senator NUNN brings his bill to the floor. For now I particularly want to thank Senator HOLLINGS, the chairman of the subcommittee, and praise him for his work, not only for his bill but also for the contributions he made as a member of the task force.

I would also like to thank and commend two members of his staff, Pat Windham and Scott Gudes, who made invaluable contributions to the work of the task force.

I also want to thank the chairman of the full Appropriations Committee, the President pro tempore of the Senate, Senator ROBERT C. BYRD, for his very valuable support of the task force report and our efforts.

My thanks also go out to two members of Senator BYRD's staff, Jim English and Dick D'Amato, who have been very, very supportive as well in guiding and developing this legislation and bringing it to the floor.

Also, Mr. President, the staff of Senator RUDMAN has been very, very helpful as we have developed this legislation, bringing it to the floor and bringing it to this point.

On my staff, Mr. President, I would like to thank Desten Broach, who has worked tirelessly in this effort, and Kirk Robertson, who has basically chaired the staff work for this particular report.

In closing, I would like to make all of my colleagues aware of a column on the subject of defense conversion which appeared on the front page of yesterday's Wall Street Journal. This column points out some of the extreme difficulties inherent in trying to convert our defense industrial complex to civilian commercial purposes, difficulties of an economic, technical, and policy nature. The column points out that if we do not take united action to chart a new economic course, "the end of the cold war would turn out to be one of the greatest moments in history that nobody could seize."

I urge my colleagues to support these transition proposals so that we can seize this historic moment.

Mr. President, I ask unanimous consent that a copy of the article in the Wall Street Journal of yesterday just referred to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 27, 1992]

DEFENSE CONVERSION VS. DEFICIT REDUCTION

WASHINGTON.—America won the Cold War, but nobody seems to be able to figure out what to do with the spoils of victory.

For more than 40 years, the U.S. pumped vast resources into combating the Soviet threat. Now everybody agrees the time has come to shift those resources to pressing domestic needs. And it's not just funding that has been freed up. The defense establishment also represents an extraordinary investment in brain power.

Some 15% of U.S. scientists and engineers are involved in defense-related work, many of them engaged in cutting-edge research. Just last week, while heralding the end of the Cold War as "the most important event of our generation," Treasury Secretary Nicholas Brady invoked the words of Dwight Eisenhower: "A world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children."

But coming up with a sound plan to tap this high-tech talent won't be easy. With a $350 billion budget deficit, the government cannot simply shift to domestic programs the money that would have been spent by the Pentagon. Some economists think the country will wake up to find that the Red Ink is a lot more menacing than the Red Scare. "In a sense, we financed the military budget on borrowed money," says economist Murray Weidenbaum, formerly an adviser to President Reagan.

Every dollar spent on well-intentioned programs for easing the transition to a peacetime economy is a dollar that can't be devoted to paying down the debt. "If the peace dividend is consumed, the economy will sacrifice the longer-term gains—including lower real interest rates, higher capital formation and, ultimately, higher living standards—that follow deficit reduction," the Congressional Budget Office warns.

On top of that, it is difficult to redeploy troops effectively when the government's first concern is administering triage. Several economic models estimate that 200,000 to 500,000 defense industry workers and Pentagon personnel will lose their jobs every year for the next five years. Certain communities, from California to Connecticut, are being hit disproportionately hard. Already, the downsizing "has been retarding near-term economic growth," says Federal Reserve Chairman Alan Greenspan.

To dull the pain, the White House says it has set aside more than $7 billion over the next two years for "defense transition" projects. But the bulk of this is for long-established programs such as Pell Grants for education and veterans' home-loan guarantees. The President has introduced a few innovative measures—one plan, for instance, would offer incentives for soldiers and bomb builders to become teachers—but most of these are relatively small.

For its part, the House has approved a $1 billion "defense reinvestment package" for next year that seeks, among many other things, to spur defense companies to develop commercial products. And the Senate Armed Services Committee on Friday authorized $1.2 billion for "defense conversion assistance."

Yet while some companies may succeed at commercial work, many more are likely to fail. General Dynamics is convinced that even with the shrinking pie, the best course is to stick to making military hardware. Investor Warren Buffett evidently thinks it is the right strategy; last week, he snapped up a 15% stake in the company.

After all, the track record of defense firms trying to serve commercial markets is poor. Companies used to dealing with one customer—the Pentagon—often can't cope with the mass-production and marketing requirements of the civilian sector. The same holds for the government's vast network of laboratories. "You can't just say to a lab that's been working on nuclear weapons. 'OK. now you go to work on computers or automobiles.' " says Harold Brown, who was Jimmy Carter's defense secretary.

Mr. Brown recently headed a National Academy of Sciences panel that called for the creation of a $5 billion Civilian Technology Corp. in which government and industry would work together to promote the commercialization of high-tech products.

Pledging similar solutions is the Democratic presidential candidate, Bill Clinton. He has vowed to devote erstwhile defense dollars to new communication, transportation and environmental systems. But it is far from clear that Mr. Clinton can pay for all that he promises without giving up on deficit reduction altogether.

And even if the books balance, there still is a more fundamental question: How will the White House and Congress ever agree on which industries should reap the most benefit from these new programs? Fighting the Russians was one priority that politicians in both parties could safely rally around. Forging a consensus for the new domestic agenda will be much tougher. "Ill-conceived programs can waste a lot of money in a big hurry," acknowledges House Armed Services Committee Chairman Les Aspin.

One answer is to let the marketplace run its course. Eventually, the law of supply and demand should shift resources to those areas that make the most sense. But that may take decades. And in the meantime, "a lot of the brain power will just be lost." laments Richard Belous, senior economist at the National Planning Association.

If that happens, the end of the Cold War would turn out to be one of the greatest moments in history that nobody could seize.—RICK WARTZMAN.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I rise to join the distinguished occupant of the chair, my friend and colleague from Arkansas, in congratulating the chairman of the Subcommittee on Commerce, Justice, and State appropriations, and the ranking minority member, for the extraordinary work that they have done in the matter that they bring before the Senate at this time.

But before doing so, I want to compliment my friend and colleague, the distinguished occupant of the chair, for his extraordinary leadership of the Senate Defense Conversion Task Force, because it is that task force that has provided the foundation for much of what is in this proposal from this subcommittee, and much that will follow that is critical to so many States and cities and towns and communities and, most of all, companies and thousands of workers who have, as the Senator from Arkansas said, really been in some sense the unsung veterans of the cold war, which we won.

I can tell you, coming from Connecticut, which is a State that has enjoyed a lot of defense work—and we are proud of the fact that since Revolutionary times, we have thought of ourselves as the arsenal of democracy—nonetheless, as the cold war ends and defense budgets become smaller, we are feeling the pangs of that transition.

The work that the Defense Conversion Task Force has done, under the leadership of the Senator from Arkansas, really provides us with the brightest rays of hope that we have been given. I particularly compliment the chairman of the task force not only for dealing with the specifics of defense transition, of trying to assist the communities and companies and workers to make this transition—retraining the workers, for instance—but for going one beyond that and recognizing that unless the Government helps business create new jobs for the people who used to work in the defense industry, all the retraining in the world that we give them is not going to mean very much, because they are still going to be unemployed.

The truth is, in the defense industry and in too many other industries that have been hit by the recession that we are in today in this country, jobs are being not just temporarily vacated; I am afraid jobs are being canceled. Old jobs are being canceled. This economy of ours is generally going through a transition and, therefore, the answer, the only answer that we can give, which is an answer of hope to people who are unemployed, or fearful of being unemployed, is to create new jobs.

The Defense Conversion Task Force has recognized that in its work. I must say, this Subcommittee on Commerce, Justice, and State appropriations has done the same. The chairman, the Senator from South Carolina [Mr. HOLLINGS] has been a leader in this critical work.

The fact is that in 1988, in the Trade Act, the Senator from South Carolina, in his wisdom, transformed the National Institute of Standards into the National Institute of Standards and Technology, creating a center that American high technology firms could turn to for funding research and development of cutting-edge technologies.

That is just what we are talking about. Making sure—as our colleague, Senator MIKULSKI from Maryland, often says—that we in America not only win the Nobel Prizes for great research, but that we commercialize that research so we sell the products that are the result of it. Too often, we have done the breakthrough science, and it is our friends in Japan or Europe who have commercialized it, for instance, with the fax machine or the VCR.

Senator HOLLINGS not only created NIST, but he went the additional step, which is to make sure that those programs of NIST, which are so important to creating new jobs, are adequately funded. He, of course, has been supported in this by the ranking Republican and by the subcommittee in this subcommittee bill.

The subcommittee has taken one-fourth of the function 050 national defense allocation for economic transition by defense-dependent firms and communities, and that includes $80 million in Economic Development Administration grants to assist defense-dependent communities, and $40 million to subsidize small business loans which, as the Senator from Arkansas pointed out, will leverage out to a very impressive total of $735 million in loans for the many small businesses across the Nation that have been hard hit by defense cuts.

Mr. President, when we think of defense cuts, we think in our State of Electric Boat, of Sikorsky, and in other States, of McDonnell Douglas, and the rest. But there is a whole network of smaller businesses dependent on those larger, well-known companies that are hurting, and we need to help.

This bill also provides $109 million for grants in research through the NIST grants technology program and the manufacturing technology centers, both of which are critical to making sure that American Government helps American business create new jobs, just as Japanese Government helps Japanese business do it, and the European Governments helps European business do it.

The subcommittee also funds an additional $200 million for the construction of research facilities which will serve to rebuild the infrastructure of NIST itself, as well as enhance its ability to undertake and support cutting-edge research.

Mr. President, all of these programs are part of the national economic leadership strategy that was unveiled under the aegis of the distinguished Senate majority leader on July 1, supported in the long run—in the short run, I am sure, also—not just by Democrats but by Republicans, as well as part of an overall blueprint to get our Nation's economy moving again.

The fact is that we are in danger of becoming a high technology dumping ground for products not made in the USA. Just take a look at the consumer electronics products that most of us use during the course of a normal day. How many are made today in the United States of America? The sad answer is that very few are. And the situation will only get worse as new technologies develop, which will all depend on—10 or 20 or 30 years from now—if we do not fund programs like the ones contained in this subcommittee bill.

It is time for us to take charge of our economic destiny and get the Government squarely on the side of those businesses that are going to lead our economy into the next century. NIST and its programs are an integral part of that process, and the chairman of the subcommittee, the Senator from South Carolina, and his distinguished ranking minority member, the Senator from New Hampshire, and all the members of the subcommittee, in my opinion, should be applauded for their efforts in this bill.

Mr. President, some of the allocation decisions made in this bill are the kinds that are rarely known, hardly seen, by the public, and yet it is these investments that are made in a bill like this which will really do as much as anything we will do in this Chamber this year to determine the quality of life that we and our children will live in in America in the decades ahead because it will determine whether the products that the world will buy will be made in America and, therefore, whether Americans will have the jobs that will make those products.

Mr. President, I want to say a final word of praise and gratitude to our colleagues on the subcommittee for the increased funding in this bill of the International Trade Administration, especially the U.S. Foreign Commercial Service, the people who we put out there in embassies across the world to help American business sell our products.

The chairman of the subcommittee, the Senator from South Carolina, if I am not mistaken, is the one who has said we have gone now, in this period of our history, from the cold war to the trade wars. If that is true—and I think it is true—we have to begin to make sure we have as many commercial officers in our embassies abroad as we have had intelligence and military officers in them during the cold war. The fact is that every American embassy in every country abroad should not be just a diplomatic outpost. It should be a center of assistance and advocacy for American businesses which are trying to sell products in those countries because the sale of those products creates jobs at home.

The chairman of the subcommittee has had the foresight to realize that the U.S. Foreign Commercial Service will continue to play this increasingly important role in representing American interests abroad as we begin to define those interests in the post-cold war world more in economic terms.

I must say I also appreciate the reference in the bill's report language to increased funding for the Foreign Commercial Service in the newly independent states of the former Soviet Union. The fact is, if we are to help transform those nations' economies, we are going to need a strong Foreign Commercial Service present in each of those nations, and it is that presence which will enable us not only to do good in helping the nations of the former Soviet Union but to do well by creating business opportunities for American companies in those countries.

Mr. President, overall, hats off to the subcommittee and its leadership for one of the best things this Senate will do, not only to get America out of the recession it is in but to get it firmly on the path of longer term economic growth.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

Mr. COATS. Mr. President, I ask to proceed for 5 minutes in morning business.

The PRESIDING OFFICER. The Senator may proceed.

QUOTING THE SCRIPTURES

Mr. COATS. Mr. President, the Senate opens each session in prayer, and in those prayers our Chaplain often quotes Scripture. I know that Chaplain Halverson always quotes Scripture very carefully rather than to bend it to fit his own purposes. To many of us, the words quoted from Scripture each morning are serious things, in fact, are sacred words, and using them entails serious obligations. They are more than text to be used; they are text to be respected.

Like many Americans, I was impressed when the Democratic candidates for President and Vice President made use of Scripture in their convention speeches. It is a practice in the best tradition of American rhetoric. Those words captured such emotion, they felt so genuine, but afterward, in reflecting on the Scriptural passages quoted by Mr. Clinton and Senator GORE, they did not ring quite true. In fact, when you try to look them up, they are nowhere to be found. In two instances, the passages do not seem to exist as quoted. In one case, the words were changed to convey an entirely different meaning.

In Governor Clinton's speech he said, "As the Scripture says, 'Our eyes have not seen, nor our ears heard, nor our minds imagined what we can build.'" But the passage Mr. Clinton appears to be quoting in Corinthians says nothing of the sort in any version I can find. The Scriptures actually say, "But as it is written, eye hath not seen, nor ear heard, neither have entered into the heart of man, the things which God has prepared for them that love him."

The meaning between Mr. Clinton's version of Scripture and Scripture itself could not be more different. Mr. Clinton's version focuses on human effort. The actual Scripture focuses on God's personal blessing to those that give him their heart. In one version, Bill Clinton takes credit. In the other, the Biblical author gives thanks. There is a world of difference between the two.

At another point, Senator GORE quotes, in the words of the Bible, "Do not lose heart, this Nation will be renewed."

For the life of me, I cannot find these words anywhere in my Bible, at least in this form. Perhaps Mr. GORE was using these words as a paraphrase.

Mr. President, I have seen and read the Revised Standard version of the Bible, the King James version, the New International version, the New American Standard version, but the words of Mr. Clinton and Senator GORE used in their acceptance speeches at the Democratic National Convention, the Scriptural quotes that they used, appear not to have come from any authorized version that I know of, perhaps only from the Democratic National Committee version.

All of this, Mr. President, I think points to a double standard. If the Vice President of the United States had made such glaring errors of fact on such important matters as quoting Scripture, there is no doubt in my mind the reception he would have received. There is no doubt in my mind the daily national exposure and lampooning of the Vice President's misuse of Scripture. Yet I have seen barely a ripple or barely a comment over Mr. Clinton's complete misuse of Scripture and Senator GORE'S paraphrase which comes nowhere close to anything in Scripture I have ever read or found or researched. If we are going to have standards this exacting for public figures, if we are going to scrutinize every word, let us apply them to everyone, and let us apply them where they really matter like the quoting of Scripture.

Mr. President, I yield the floor.

(Mr. LIEBERMAN assumed the chair.)

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me. I was leaving the floor just a moment ago, and I caught the word, something about Governor Clinton, and I inferred from the tone of voice of my good friend and colleague from Indiana that it was not going to be very friendly, so I hung around just a moment.

Mr. President, we are at an interesting juncture in the Senate. I think we are going to have to ask ourselves pretty soon, is this going to be the forum to run a Presidential campaign, this body, this Chamber, 100 of us, with 13 appropriations bills still before us and many other pieces of legislation that we must complete? Are we going to use the Senate as another convention hall?

Are we going to use the U.S. Senate one morning for the Republicans to talk about the Democrats, the next for the Democrats to talk about the Republicans? I hope that is not going to happen. On three occasions last week that did happen. I must say it started from the other side of the aisle.

I say this respectfully to my colleague from Indiana. I think that when it is done over there it is going to be responded to over here. This morning the Senator from Indiana has talked about the Scriptures, and the interpretations that Governor Clinton has put on the Scriptures.

Mr. President, I cannot speak to that. I have not looked at that. But I want to say something about Governor Clinton. I am very proud, Mr. President, that my friend from Indiana is still here. I do not want to get too many religious overtones here in this body nor in the campaign.

Bill Clinton is a devout believer. He is a devout person. His family is devout. Bill Clinton not only goes to church each Sunday morning but if you look up in the choir at the Emanuel Baptist Church, you will see Governor Clinton in his choir robes. He loves to sing. He loves to be a part of that church. He is a part of that community in Little Rock and throughout our State.

Any indication, any implication, or anything, that the Senator from Indiana or anyone else would challenge about his religion or his religious beliefs, I think, goes beyond what his campaign for the Presidency should be about.

I am very hopeful, Mr. President, when we look at the role of the U.S. Senate, that each day is not going to be some confrontation between that side of the aisle and this side of the aisle. We have too much work to do. There are too many States out there in which this can be done and in which it may be a legitimate part of the debate. But I am hopeful that we will keep it at a minimum.

Mr. COATS. Mr. President, will my friend yield?

Mr. PRYOR. I am happy to yield.

Mr. COATS. My friend from Arkansas made a valid point, and that is I do not believe either that this Chamber should be used as a forum to conduct the Presidential campaign. My friend from Arkansas represents a State which has nominated for his party an individual, the Governor of the State. I, of course, represent a State in which the Vice President is on the ticket for the national election.

The point that I was trying to make here this morning was not in any way to draw reference to Mr. Clinton's religion. I do not know what his religion is. I do not know what his beliefs are. I can only judge from media reports of Mr. Clinton's personal life and, frankly, the very point I was trying to make is that I think distortions in less than a factual standard have been used to judge him in public service.

What this Senator is pointing out is that a very serious double standard exists here because the Vice President, in misspelling one word has been lampooned across this country by the media and in this Chamber by Senators from the other side of the aisle—for making a misspelling in a spelling bee on a card that was handed to him that was spelled wrong. And yet I am simply saying that had the Vice President used Scriptures in such a way in a speech, and tailored that Scripture to a completely opposite conclusion of what the Scriptures intend, we would hear no end of the abuse and ridicule and misuse of Scripture for political purposes. We would hear no end of that.

So I certainly think that it is time that both of us, all of us on each side of the aisle, stand up and say to the American public, and say to the press, and say to each other, let us call a truce on using the Senate and using the media for political purposes and political gain. Let us show a little bit of understanding and tolerance to what is said when mistakes are made.

I doubt if there is a Senator on the floor here who has not either misquoted something or misspelled something. In fact, I found it interesting that the Washington Post poll, even after everybody figured out how to spell potato, found that 30 percent of the people, registered voters of this country, still could not spell it. This is after 2 weeks of being told how to spell it.

So why do we not get down to some more substantive issues and get away from this double standard? That is the point I was trying to make.

I was not attempting to reflect on either the conduct or religious belief of Senator GORE or Mr. Clinton. I do not believe anything I said reflected that.

Mr. PRYOR. Mr. President, I will just conclude by saying that if the Senate floor is going to continue to be used to conduct a political debate every day or every other day, I think it might be appropriate if we would just decide right now that, for example, every morning at 8 o'clock, when the Senate convenes and after the majority and minority leaders have each had leader time, that we set aside an hour and everyone would know that this is going to be political time. We just set aside an hour. We will duke it out. The Republicans come, and they bring their accusations; we respond, what have you.

I hope we do not reach that point. I do not think the Senator from Indiana wants to reach that point, Mr. President. I do not think the Senate should be used for that purpose.

I yield the floor.

Mr. COATS. Mr. President, I ask unanimous consent for 1 additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COATS. I appreciate the sentiments of my friend from Arkansas. I have not been here very long in the Senate. But I do not believe it is realistic to think that this body, whether we agreed to an hour of time in the morning to debate the politics, it seems incredulous to me to say that whatever else we have done or do during the remainder of the day is not political. The bills that are brought up, the debate that is entered into, I wish it were all in the nonpartisan best interests of this country. But to suggest that either side is not engaged in some type of political effort at least between now and November, I think is stretching it.

I would tell my friend from Arkansas that perhaps he and I can at least start the effort here by saying that we will do our best to tend to the Nation's business, politics aside. I do not have a great deal of confidence that that is what will happen here in the next few months, but I think the country would be better off if we were able to do that. Perhaps he and I can make every effort to convince our colleagues that is the way the debate ought to be conducted. I do not have a great deal of confidence that will happen.

Mr. President, I thank the Chair for the time, and I yield the floor.

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Washington [Mr. GORTON] is to be recognized to speak for up to 10 minutes. The Chair advises the Senator from Washington that under the previous order, morning business was not to extend beyond the hour of 10 a.m.

Mr. GORTON. Mr. President, we hope we will complete between now and then.

SERBIA

Mr. GORTON. Mr. President, during the past 4 months, Serbia has created the greatest flood of refugees in Europe since the end of World War II. It has achieved nearly complete success in cleansing Bosnia of Muslims and Croats. Thousands of Bosnians have been killed and nearly 1¼ million more fled their country. Some U.N. officials estimate that another 1 million may flee before Serbia is satisfied. Of these, perhaps half a million may face starvation this fall and winter.

This calamity began back in June 1991 when the then Yugoslav Army began attacking Slovenia. Fortunately, many members of that army were reluctant to attack a newly independent country without a significant Serbian population. Weeks later the Serbs began their attack on Croatia where they took control of one-third of that country before signing a cease-fire before the end of last year.

The United Nations, the United States, and the European Community have reacted to this 14 months of aggression with a string of measures aimed at isolating Serbia and pressuring it into a truce. We began by denouncing the injustice and negotiating a cease-fire.

Later, as Croats fled Serb-occupied portions of Croatia, Europe began accepting a steady flow of refugees. In September 1991, the United Nations imposed an embargo on arms entering the ex-Yugoslavia States and, in late May of this year, voted to place sanctions on the rump State of Yugoslavia.

Now Europe is absorbing its greatest flow of refugees in more than 45 years, and continues to place its hopes on efforts to broker a peace agreement.

From the beginning, neither the European Community, the United Nations nor, of course, the United States, has seriously considered intervening in that unhappy country and its ethnic feuds. In this respect, Mr. President, I wish to state that our decisions have been correct.

For the United States, and I suspect the European Community, direct military intervention is not an option worth consideration.

I can envisage no scenario in which we could emerge from such an involvement with an unqualified or even publicly acceptable success. We have not sent troops, I doubt that we will, and I do not advocate that we do.

Nonetheless, we should examine what we can reasonably expect of the measures the United Nations has adopted. However serious and earnest the debate of early 1991 with respect to the effect of sanctions for Iraq's invasion of Kuwait, we have since learned that sanctions could not possibly have been successful there, that they still are not successful in Iraq, and almost certainly will not be successful in Serbia. Serbia, in fact, is in an even stronger position than Iraq was, holding a stockpile of oil, self-sufficiency in food, and a porous border with Romania, which permits many of Serbia's poor neighbors to profit from breaking the embargo. This embargo will not succeed in its announced goals.

In addition, our innumerable efforts for a cease-fire have consistently been undermined by an unrealistic assessment of the region's balance of power. When Yugoslavia disintegrated over 1 year ago, Serbia ended up with almost all of the old army; others of its republics, particularly Bosnia, ended up nearly defenseless. Essentially, Serbia has little cause to halt its aggression, because it has little reason to expect that it will meet effective resistance. In spite of the innumerable cease-fires, Serbia has accomplished everything it has wished in Croatia and Bosnia. I believe we should realistically examine the likelihood of the United Nation's measures ending Serbia's aggression before it has attained everything it desires. That success is unlikely. For this reason, I believe that we should work within the United Nations to consider whether the arms embargo placed on the States of ex-Yugoslavia last year may actually be counterproductive to efforts to create an impasse in Bosnia.

Mr. President, we are confronted with a massive crisis in the Balkans and a set of solutions which are not particularly palatable. The measures we have adopted have not worked and offer little hope for the future. We have also correctly determined that the one measure which would clearly end this conflict—direct military involvement—is unrealistic and unjustified. The stakes here, however, are simply too high to allow all efforts to be immobilized by this predicament. Nearly one-and-a-quarter million people have been driven from their homes and appear to have little hope of returning. I ask those who are serious about ending this calamity whether or not we should work within the United Nations to review the arms embargo and consider sending small arms to those in Bosnia, who wish to fight for their own freedom and their own liberty. They may or may not be successful, but, Mr. President, it seems to me they ought to be given the opportunity.

I violate no confidence when I say that there is evidence suggesting that Germany and Hungary have already broken the United Nations embargo on arms to former Yugoslavia States by sending rifles and other equipment into Bosnia. Serbia has now engaged in almost unchecked aggression and driven so many Bosnians out that it is time for us to work through the auspices of the United Nations to consider lifting the embargo formally and allowing the over-the-table transfer of small arms to hundreds of thousands of Bosnian Muslims and Croats who are willing to fight for their lives, homes, and country.

TODAY'S "BOX SCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Box Score."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,989,786,343,838.60, as of the close of business on Friday, July 24, 1992.

On a per capita basis, every man, woman, and child owes $15,532.98—thanks to the big spenders in Congress for the past half century. Paying the interst on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

SMALL BUSINESS AND THE ADA: DOLLARS AND SENSE

Mr. DOLE. Mr. President, having a stable and rewarding job is a basic component of the American dream—a dream shared by millions of Americans with disabilities. To help fulfill this dream, President Bush signed the Americans With Disabilities Act [ADA] into law on July 26, 1990. The law prohibits discrimination against persons with disabilities in all areas of American life, including employment, places of public accommodations, transportation, and telecommunications.

Perhaps the most important aim of the ADA is to open doors of employment previously closed to qualified individuals with disabilities. Every vocational rehabilitation study and years of experience show that persons with disabilities are highly reliable and productive employees, yet the unemployment rate for people with disabilities is estimated at 67 percent—the highest in the Nation. All too often, misconceptions about the abilities of persons with disabilities deny many the opportunity to work. These misconceptions are costly not only to business, but to each of us by keeping otherwise capable workers dependent on Federal financial assistance.

America has chosen to break this cycle of dependency with enlightened policies which promote self-sufficiency. Work enables people to participate in the economy as producers of goods and services as well as bill paying customers and taxpayers. Hence, by maximizing the productivity of every American the entire Nation benefits. That's one of the reasons I championed the ADA and why it makes good business sense.

The ADA presents this country with a challenge and an opportunity. In the short term, businesses will have to spend money to accommodate employees or customers with disabilities. Such accommodations can be anything from a simple adjustment or modification or either a shelf or a ramp, costing virtually nothing, to high technology assistive devices such as an opticon which coverts printed symbols to vibrating images. Employers' experience, including that of Federal and State governments, indicates that the overall cost of these accommodations is not exorbitant.

American business cannot and will not be left to meet the challenge alone. Business leaders committed to doing their best to fulfill the promise of the ADA in making their facilities accessible to disabled customers and workers often lack the information needed to make the most cost-effective accommodation. If the nondiscrimination and increase employment goals of the ADA are to be met, the Federal Government and the disability community must continue to provide critical technical assistance to the business community.

The Department of Justice's Office on Americans with Disabilities has worked diligently to respond to questions concerning ADA. Currently, the Office fields approximately 4,000 requests per week for printed information and direct responses to ADA questions. The Justice Department predicts the demand for information will greatly increase following the July 26, 1992, deadline for the employment mandates of the law. The Department of Justice saw a similar increase in requests for assistance after the public accommodations requirements of the law went into effect in January of this year.

To meet the additional demands on the Office on Americans with Disabilities from the recent implementation of ADA mandates, the Department of Justice and the disability and business communities have requested that $4.8 million of the Department's general legal activities budget be earmarked for the Civil Rights Division to carry out technical assistance authorized under the ADA. The $4.8 million, which is approximately double last year's amount and this year's official budget request, would be used to expand the Technical Assistance Grant Program that provides educational outreach to communities through seminars, pamphlets, and other local activities. The Office would like to expand its 800-number phone service, promote a nationwide speakers' bureau on the ADA, and update a computerized informational network.

Because of funding constraints this year, the committee was unable to earmark the $2.6 million in additional funding. The committee did, however, include report language urging the Attorney General to consider diverting funds from base resources to expand technical assistance efforts. I would like to add my strong support to this language. Investing in technical assistance activities will increase compliance and decrease costly litigation, saving money in the long run.

To be sure, enactment of the ADA, is a giant step forward. However, it also is a reminder of how much more remains to be done. Fulfilling the mandates of the ADA will require each employer, manager, and supervisor to adopt a new attitude and seek opportunity to use the productive capacity of people with disabilities. The generous spirit and technical ingenuity of American business tells me that the promise of ADA will be realized.

TRIBUTE TO RICHARD MARKS, NATIONAL PARK SERVICE

Mr. McCAIN. Mr. President, I rise today to call the Senate's attention to a very special individual. I am speaking about Mr. Richard Marks, who on August 7 will celebrate his retirement from the National Park Service.

Thirty-five years ago, Dick Marks dedicated himself to a high and noble purpose—stewardship of our Nation's natural treasures and service to his fellow man. Throughout his distinguished career, Dick has exemplified all that is good and honorable in public service—excellence, dedication, and integrity. I am proud to call him a friend.

Dick was born in Yonkers, NY, in 1935, and raised in Harrington Park, NJ. In 1957, he received his degree in forestry from the University of Michigan, and went to work for the National Forest Service. Two years later, Dick and his lovely wife, Haz, were married and in 1961 he began his accomplished Park Service career as a ranger at Blue Ridge Parkway—a career which would span the next 31 years.

After 5 years at the Blue Ridge, Dick was transferred to Yosemite National Park. He served as chief ranger until 1971 when he moved to Washington, DC. After a 4-year tour in the Nation's Capital, Dick was awarded his first superintendency, receiving the top job at Fire Island National Seashore.

The Park Service recognized Dick's expertise, leadership qualities and professionalism. In 1980, he was called on to serve in one of the most important and prestigious posts in Federal service—superintendent of Grand Canyon National Park.

During his 8 years as superintendent, I had the pleasure and privilege of working with Dick on many issues affecting the Grand Canyon. I quickly came to know him as a dedicated, talented and hardworking professional—a man of high integrity and purpose. Dick left the Grand Canyon in 1988 to assume his present position as assistant regional director stationed in Santa Fe, NM.

Dick, I join you and your family, Haz, Tim, Cindy, Glen, and Missy in celebration of your exemplary career and a new period in your life.

Enjoy this new beginning with the knowledge that your life's work lives on in the timeless gifts of God and nature which you have so ably cared for, and in the smiles of all those whose lives you have touched. That is quite a legacy.

On behalf of a grateful Nation, I say thank you—a job well done. We wish you and Haz the great happiness and joy you so richly deserve.

RECOGNIZING THE DISTINGUISHED SERVICE OF COL. WYATT L. McGHEE

Mr. DIXON. Mr. President, I would like to take this opportunity to recognize the hard work and superb contribution of Col. Wyatt L. McGhee, in our armed services. After 30 years of distinguished service, Colonel McGhee is retiring from the U.S. Air Force effective October 1, 1992. Colonel McGhee served his country honorably and loyally in his capacity as a bioenvironmental engineer.

Colonel McGhee was born in Franklinton, NC, and now resides in my hometown of Belleville, in the great State of Illinois. The good colonel has been awarded numerous military decorations, including: The Air Force Commendation Medal, Joint Service Commendation Medal, and the Air Force Meritorious Service Medal with three oak leaf clusters.

Colonel McGhee has served his country, and his fellowman, with great distinction over the years, and should be very proud of his fine accomplishments. I would like to join my voice with those of his family and many friends in thanking Colonel McGhee for a job well done and wishing him the very best in the coming years.

TRIBUTE—12TH ARMORED DIVISION "HELLCATS"

Mr. SPECTER. Mr. President, this September 13 through 17, the 12th Armored Division, also known as the "Hellcats," will be celebrating its 50th anniversary. This division was activated for the Second World War and spent a ferocious 3 years in active duty. Within its short period of duty, the 12th Armored amassed an impressive array of honors and distinctions, battling across Europe from the port of Le Harve to Austria, the heart of the Third Reich. Fighting in a heroic struggle against the very forces of evil themselves, the 12th Armored has a history of valor and distinction.

The 12th Armored was activated on September 15, 1942, at Camp Campbell, KY. After training the division was sent to England and landed there on October 2, 1944. One month later, on November 11, 1944, the 12th Armored arrived at Le Harve, France and began its advance across the continent of Europe. Its first action was on December 5, 1944, near Weisslington, France. From there, the division advanced to Herrlisheim and the Colmar Pocket before entering the Rhineland on March 17, 1945. The Hellcats crossed the Rhine on March 28 of that year and proceeded over the Danube on April 22. On May 3, 1945, the 12th crossed the Austrian border before finishing combat on May 5.

The 12th saw 151 days of continuous action against the Fascist legions. In this time, the 12th captured 70,166 enemy troops, captured over 3,000 cities and towns, and liberated 8,500 Allied prisoners of war.

Also known as the "Mystery Division," the 12th Armored served in the 3d U.S. Army, with the legendary

George Patton. The 12th also served with the 7th United States and the 7th and 1st French Armies. The many corps that the 12th served with include the United States VI, XV, XX, XXI and French II Corps. The Hellcats served in the Rhineland, Ardennes-Alsace, and Central European campaigns.

Under Maj. Gen. Carlos Brewer, Maj. Gen. Douglas Green, Maj. Gen. Roderick Allen, and Brig. Gen. Willard Holbrook, the 12th Armored Division received a number of unit citations. Three of the 12th's units received Presidential Units Citations, one received the Meritorious Service Unit Plaque, and one received the Meritorious Service Unit Plaque with Star. Last, the 12th Division holds a record for movement through enemy territory. Hellcats units advanced an amazing 59 miles in only 8 hours and 45 minutes.

The history of the 12th Armored Division is a record of bravery and dedication to the ideals of liberty that our great Nation stands for. The Hellcats served America in its time of greatest need, doing battle with the forces of tyranny and oppression in the name of freedom for all of mankind. On the occasion of their 50th anniversary, I would like to take this opportunity to recognize the Hellcats before the U.S. Senate.

NORTH-CENTRAL KANSAS

Mr. DOLE. Mr. President, at 3 a.m. on July 8, hurricane force straight winds hit a small town in north-central Kansas leaving behind widespread destruction throughout the area. Major damage was incurred in central Kansas and the surrounding area. In particular, the NCK Electric Cooperative lost 500 electric transmission poles and other equipment worth $500,000. The southern one-third of the system was destroyed in the storm. In fact, insurance is unavailable for this type of equipment, thus making the burden on ratepayers, who recently experienced a rate increase in April, exposed to heavy additional increases in order to pay for the storm damage.

The NCK Electric Cooperative is in a poor position to take advantage of the REA loan program. The severe economic hardship this community faces to replace and pay for the estimated $3 million in damages throughout the community is going to be extremely difficult as it is. Although Kansas is notorious for its severe weather, rarely do we have storms that are classified as an inland hurricane, as this was.

Mr. President, the people of north-central Kansas and NCK Electric Cooperative need some relief so they may tackle the enormous burden they have before them. My amendment will provide assistance to the cooperative to replace the equipment destroyed by the storm and allow the victims of the storm to move on to other projects.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed, the hour of 10 a.m. having arrived.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3026, which the clerk will report.

The bill clerk read as follows:

A bill (S. 3026) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

COMMERCE, JUSTICE, STATE APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined S. 3026, the Commerce, Justice, State appropriations bill as reported, and has found that the bill is under its 602(b) allocations in budget authority by $149 million and is under its 602(b) allocations in outlays by $2 million.

I compliment the distinguished manager of the bill, Senator HOLLINGS, and the distinguished ranking member of the subcommittee, Senator RUDMAN, for all of their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Commerce, Justice, State appropriations bill and I ask unanimous consent that it be printed in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF S. 3026

COMMERCE, JUSTICE, STATE SUBCOMMITTEE SPENDING TOTALS—SENATE REPORTED

[In millions of dollars]

Bill summary	Budget authority	Outlays
Domestic discretionary	16,237	15,899
Senate 602(b) allocation	16,375	15,899
Difference	−138	−0
International	5,687	5,511
Senate 602(b) allocation	5,695	5,511
Difference	−8	−0
Defense	934	625
Senate 602(b) allocation	937	626
Difference	−3	−1
Mandatory total	662	654
Senate 602(b) allocation	661	654
Difference	1	0
Bill total	23,519	22,688
Senate 602(b) allocation	23,668	22,690
Difference	−149	−2
Domestic discretionary above (+) or below (−):		
President's request	−556	−939
Senate-reported bill		
House-passed bill		
International above (+) or below (−):		
President's request	24	32
Senate-reported bill		
House-passed bill		
Defense above (+) or below (−):		
President's request	447	159
Senate-reported bill		
House-passed bill		

SENATOR WARREN RUDMAN

Mr. DOLE. Mr. President, due to his implending retirement from the Senate, the Senator from New Hampshire is managing his last Commerce, State, Justice appropriations bill on the floor today. When I was the majority leader, I could always count on Senator RUDMAN's skill in guiding the Commerce bill through the Senate with a minimum number of difficulties. No doubt that is one of the reasons why the majority leader asked the Hollings-Rudman team to bring the first appropriations bill to the floor this year.

In the history books, Senator RUDMAN will be well remembered as one of the authors of the Gramm-Rudman-Hollings deficit reduction bill. But no one should forget his distinguished 12-year career on the Appropriations Committee, where he actively contributed to both the Defense Subcommittee and the Commerce, State, Justice Subcommittee. You can be assured that because of Senator RUDMAN's day-to-day efforts, less taxpayer money was wasted and more taxpayer money was wisely spent.

To me the true measure of a fiscal conservative is the number of difficult votes cast. Senator RUDMAN has not shied away from the difficult choices. He has opposed questionable new spending and supported taking a hard look at popular entitlement programs. I think I speak for everyone in this body when I say his courage, fairness, and eloquence will be missed by all who serve with him in the Senate.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise in support of the Commerce-Justice-State appropriations bill reported by the Senate Appropriations Committee.

This bill provides $23.2 billion in new budget authority and $16.9 billion in new outlays for fiscal year 1993 programs of the Departments of Commerce, Justice, and State, the Judiciary and related agencies.

When outlays from prior year budget authority and other completed actions are taken into account, the bill, as adjusted, totals $23.5 billion in budget authority and $22.7 billion in outlays for fiscal year 1993.

This bill provides an 8.7-percent increase in funding for the Department of Justice, a 7-percent increase in the FBI budget, and an 11-percent increase in the National Weather Service over the fiscal year 1992 funding levels. These increases are a top administration priority.

I appreciate the difficult task faced by the distinguished chairman and ranking member in attaining a well-balanced spending bill, and commend them for reporting a responsible bill, within the subcommittee's 602(b) allocation.

I want to thank the committee for its approval of $173.5 million for the Department of Justice to fully fund the Radiation Exposure Compensation Act of 1990. This is the funding level requested by the President from the allocation for defense, and it is $141 million above the 1992 level.

This act authorizes the payment of claims filed by persons against the Government for health effects associated with radiation fallout from open-air nuclear testing and radiation mining in the Southwest during the cold war.

Many of my colleagues know how long this recognition was forthcoming from the Federal Government. It is extremely important to many people in the Southwest.

I am also pleased that the committee was able to find $2.5 million for the Rio Grande canalization project between El Paso, TX and the Caballo Dam in New Mexico. While the International Boundary and Water Commission which oversees this project is being asked to operate, like many other agencies, will less money than it received last year, the committee did provide vital support for the commission's priority construction projects.

I am disappointed that there is no provision to continue funding for the Boskin initiative to improve Federal economic statistics. This initiative, funded in the budgets of the Census Bureau and the Bureau of Economic Analysis, would allow the upgrading of Federal statistical agencies and the statistics they produce.

Mr. President, poor quality statistics are an impediment to national growth. Wrong signals given to consumers, businesses and policymakers can result in erroneous decisions and a waste of valuable national resources.

Finally, Mr. President, I want to note that the committee provided $200 million for construction of research facilities at the National Institute of Standards and Technology. We call it NIST for short. This is a ninefold increase above the President's request, and will take several years to complete.

This appropriation bill also adds a major new NIST mission in the area of defense conversion, and provides $109 million for that purpose. If the $200 million for construction and the $109 million for defense conversion survive the remaining steps in the appropriations process and become law, they will present an extraordinary management challenge to NIST.

The NIST is a valuable national asset in working with American industry to develop new standards and manufacturing techniques. It is one of many national laboratories using its expertise to help improve American industrial competitiveness.

The committee has agreed to my suggestion that our Congressional Office of Technology Assessment assess the activities or capabilities of NIST and our other Federal laboratories in promoting America's competitiveness. OTA is also requested to report on any duplication of effort that it may find.

The committee approves $229 million to fund a defense economic conversion initiative through the Department of Commerce and the Small Business Administration. While the approval of these funds within the subcommittee's defense allocation is consistent with the 602(b) allocation approved by the full Senate Appropriations Committee, I would note that the administration will take issue with this classification as defense spending as opposed to domestic spending.

Mr. President, I urge adoption of the bill.

Mr. President, this outlines the bill in terms of its budget impact and indicates some very significant assistance in this bill for those who were victims of radiation in the mines of New Mexico, Colorado, and Utah.

Mr. WOFFORD. Mr. President, I commend the Appropriations Committee for recognizing the challenges of a declining defense budget and being willing to help the workers, businesses and communities that will be hurt.

Although Pennsylvania has never been a major beneficiary of U.S. defense spending, many communities will be significantly affected. The assistance provided in this bill will help. Funds allocated toward strengthening our civilian manufacturing base and promoting the development of new technologies and products will bring new jobs to Pennsylvania and other States that have been ravaged by recession, lack of investment, and the loss of manufacturing jobs to other countries.

In the longer-term, public policies that address the broader question of economic growth and industrial competitiveness will do far more to assist Pennsylvania and the Nation. The defense transition assistance being provided today is consistent with those longer term objectives.

I also commend the committee for the inclusion of $5.1 million for the Office of Import Administration for the administration of the cases filed by domestic steel producers under our trade laws. It is unfortunate that these cases had to be filed, at considerable expense to the steel industry, but the fact is that our steelmakers and steelworkers are not playing on an even field. Unfair trade practices by foreign producers cost domestic manufacturers $2.2 billion in 1991 and $108 million in the first quarter of this year.

Years of modernization, streamlining of capacity and the investment of $23 billion over the past 10 years have made our steel industry competitive with that of any other country in the world, including Germany and Japan. We cannot let other nations, that subsidize their industries, dump steel into our market and force our producers out of business. The steel industry is an integral component of our industrial base, and its health is critical to our Nation's economic health. The prosecution of these trade cases will show our trading partners that we are serious about bringing down barriers to global trade in steel. I applaud the Appropriations Committee for working to ensure that adequate resources are available to enable these cases to go forward.

FCC'S PROPOSAL TO REALLOCATE THE 2 GHZ COMMUNICATIONS BAND

Mr. INOUYE. Mr. President, I would like to state for the record my support for the compromise amendment offered by Senator HOLLINGS concerning the FCC's proposal to reallocate the 2 GHz communications band. Senator HOLLINGS has worked hard to protect the use of this band by the electric power companies, railroads, and oil, gas, and water pipeline companies. These utilities provide essential, basic public services, and the reliability of their communications systems simply cannot be diminished. While I also appreciate the desire of Senator DANFORTH to ensure that new technologies have an opportunity to participate in the marketplace, I believe that the current users of this spectrum should not be displaced without ensuring reliability and full cost recovery. I am pleased that Senator HOLLINGS has been able to work out an agreement with Senator DANFORTH that protects the interests of the existing users of the 2 GHz communications band while allowing the new technologies to enter the market on a shared basis.

MISSING CHILDREN

Mr. MCCONNELL. Mr. President, I rise today in support of the committee's recommendation for full funding of programs relating to juvenile justice and missing children.

As many of my colleagues are aware, experts estimate that some 1.8 million children are missing for varying periods each year. About 90 percent run away for a few days and return home. But at least 150,000 are abducted by parents in custody fights, and 20,000 to 50,000 are snatched by strangers—most never to be seen again.

According to the Department of Justice, in 1990 authorities found more stolen cars than missing children. Many of these children meet a tragic fate.

Roughly 10 percent are sexually abused, says the National Center for Missing and Exploited Children.

Dennis Whalen, an Omaha private investigator who has worked on thousands of child-disappearance cases states: "Children have become a product. Some people are willing to pay $20,000 for a child. Mostly, this is for illegal purposes—much of it for reasons of sex. Children as young as 5 or 6 are being used in pornography."

Culprits in these crimes even include child-care workers, teachers, and day care operators—people in whom children place their trust. Needless to say, these positions are well suited for preying on children. That was the primary reason why I introduced the National Child Abuser Registration Act last year. The measure was unanimously accepted by the Senate as an amendment to the omnibus crime bill.

Many stolen children never see their parents again. Even in cases in which a parent takes a child from a former spouse, the child is returned only 10 percent of the time.

More tragic is the fate of those kidnaped by strangers. Citing research by a center named for the son of my personal friend, John Walsh, estimates that 80 percent of such children are murdered within 2 days of their disappearance. His 6-year-old son, Adam, was murdered in July 1981, soon after being snatched from a department store.

Youngsters are abducted from areas thought to be safe—walking to or from school, neighborhood playgrounds, backyards or, as in one California case, a hospital delivery room. The impact on the family of a missing child is devastating.

Police and social service workers say some locales are especially dangerous: carnivals, fairs, shopping malls. Children disappear from shopping carts at grocery stores or when separated from parents in the aisles.

Many communities have started programs urging parents to fingerprint children as an aid to police, should a child ever be missing. In fact, I instituted such a program in Jefferson County, KY, when I was county judge-executive. Police also are beginning to address the problem of parental abductions at a faster rate than they did in the past. In addition, States are cooperating more in honoring other States' child-custody orders.

In the Missing Children's Assistance Act of 1985, we provided money to the States to develop and fully implement missing children clearinghouses, where information about a missing child could be stored and therefore retrieved. Building on this legislation, I introduced a bill that would consolidate information maintained by clearinghouses throughout the Nation. That piece of legislation, the National Child Search Assistance Act of 1990, was approved by the Congress and signed into law by President Bush.

Whereas much is being done in the Congress to address the problem of missing children in the United States, more innovative programs must be developed to curb this continuing trend.

One such program is the Missing and Exploited Children Comprehensive Action Program [M/CAP]. M/CAP is a community-based, multidisciplinary, interagency, case and services management program for missing and exploited children and their families. M/CAP assists communities in determining their need in relation to missing and exploited children. The Office of Juvenile Justice and Delinquency Prevention [OJJDP], functioning with the Coordinating Council on Juvenile Justice, administers this program in various cities throughout the country.

OJJDP, which was established by the Juvenile Justice and Delinquency Prevention Act of 1974, has the mission of improving the juvenile justice community, providing national direction and leadership, and serving as the focal point for coordinating programs related to juvenile delinquency and missing and exploited children. M/CAP is a perfect example of how they are currently discharging their duties that were mandated to them by the Congress.

On June 24, I introduced new legislation which is another innovative method of finding missing children. The legislation, entitled "Kids in Need," would authorize the U.S. Department of Justice to access the Federal Parent Locator Service which is operated by the U.S. Department of Health and Human Services. The Federal Parent Locator Service is currently used by Health and Human Services to locate parents who are delinquent in child support payments by utilizing information provided by the Internal Revenue Services and the U.S. Department of Labor. By allowing the Department of Justice to access this information, OJJDP will be able to locate a parent who has taken a child from a custodial parent. This is done by entering information about the noncustodial parent into an established computer network.

Currently, over 70 percent of all child abduction incidents in the United States involve parental kidnaping.

Kids in Need, and similar pieces of legislation, are steps the Congress needs to take in dealing with missing and exploited children. During the remaining days of the 102d Congress, my colleagues and I will consider many more pieces of legislation to address this problem, most prominent of which is the Juvenile Justice and Delinquency Prevention Reauthorization Package. It is my hope, as a father and a legislator, that positive steps will be taken to aid and educate Americans about the problem of missing and exploited children.

Mr. President, I urge my colleagues to support these programs relating to America's children.

Mr. RIEGLE. Mr. President, I rise in support of S. 3026, the Commerce, Justice, State, and Judiciary appropriations bill. I am especially pleased that this bill contains $229 million in funding for defense conversion programs. Specifically, the bill contains $109 million for technology-related programs to help defense firms convert to nondefense products, $80 million for the Economic Development Administration [EDA] to help communities adjust to defense cutbacks and base closings, and $40 million in loan subsidies to underwrite over $735 million in loan guarantees to help small businesses hurt by defense cutbacks and base closings.

These provisions follow the recommendations of the recent Senate Democratic Task Force on Defense/Economic Transition which was so ably chaired by Senator PRYOR and the 1990 Task Force on Defense Conversion, which I had the privilege of chairing.

The funding provided in this bill is especially important for my home State of Michigan, where we are going through the closure of the Wurtsmith Air Force Base near Oscoda. The EDA funds will help the community of Oscoda plan for and develop a new economic base in their community and the SBA funds will help the small businesses hurt by the closing of Wurtsmith make the transition.

I thank the committee for including these funds for defense conversion in this time of extremely tight budgets. This is an important step in helping to revitalize the economy in the post-cold war era. I will continue to work with my colleagues to do more in this area.

Mr. KERRY. Mr. President, I want to indicate my support for the Commerce, Justice, State, and Judiciary appropriations bill before us today and I want to commend Chairman HOLLINGS' efforts in bringing this bill to the floor and applaud the broad-based support this package has received from a majority for subcommittee and full committee members. I believe the committee reached an acceptable compromise given the nearly overwhelming obstacles in its path.

The committee faced the daunting task of crafting a bill that would distribute fairly funding to a broad array of important and crucial programs within a budget framework of extremely limited resources, compounded by the Congress' failure earlier this year to remove the firewalls, thus retaining the separate spending caps on defense, domestic, and international categories.

While I have some reservations about individuals measures and particular programs, and some real disappointments about some programs and projects I believe to be of very significant benefit—as I suspect we all may have—I want to highlight what I view as the vital areas that received the committee's attention.

I am privileged to serve as the vice chair of the Commerce Committee's National Oceans Policy Study and through that role I know and value Chairman HOLLINGS' deep commitment to programs that fund the National Oceanic and Atmospheric Administration [NOAA] and the other important marine mammal and fisheries programs. Despite the difficult fiscal times, the subcommittee commendably acted to provide funding increases to some key marine and coastal programs and to assure the continuation of others. However, there were several vital programs that received cuts or no funding at all. I remain hopeful that we can increase funding in some key Commerce programs as we move to conference with the House.

I applaud the committee for providing $7.1 million for the Saltonstall-Kennedy fisheries grants program for which the administration budget included no funds at all. This program is vital not only to New England but to all coastal regions because it provides funding for research to enhance fish stocks, to develop new markets for underutilized fish species, and to assess new fishing gear technologies.

The committee directs $6.5 million to be spent for a comprehensive seafood safety program, over double the $3 million provided last year. I am particularly pleased that the committee is designating $1.325 million of the funds to support the Gloucester laboratory for product quality and safety research.

Also, the bill includes $2.108 million for management of George's Bank fisheries and New England and Gulf of Maine groundfish stock depletion surveys. This is a $1.474 million increase—or roughly a 230-percent increase—over the President's request.

Two additional ocean programs important to my State of Massachusetts that received funding increases are the Marine Mammal Protection Act [MMPA] and the Marine Sanctuaries Program. The MMPA received $7.936 million for implementation, a $474,000 increase over last year's funding level. This includes $500,000 for harbor porpoise research in the Gulf of Maine. And the Marine Sanctuaries Program received a $800,000 increase over last year's levels to $5.8 million.

I also would like to commend the committee for its support of the Sea Grant Program which is funded this year at $42.8 million, $17.775 million above the President's request. The Sea Grant Program has proven itself to be a wise investment. Sea Grant merges the expertise of government, academia, and the private sector to analyze marine issues of vital environmental and economic importance, and I am appreciative for the committee's continued support.

Unfortunately, some other key coastal and oceans program didn't fare so well. Those reduced from last year's funding levels include programs for the Atlantic bluefin tuna, for swordfish east coast observers, and for dolphin safe technologies.

In particular, I was disappointed in the reduction in funding for the Coastal Zone Management Act [CZMA]. Through CZMA, the coastal States and NOAA have worked cooperatively and productively to preserve, protect, develop and, where possible, restore or enhance our Nation's coastal resources. The national CZM Program is a vital defense against the constant and growing pressures on the fragile and finite coastal zone.

Twenty-four Senators joined me in sending a letter in support of increased funding for this small but extremely effective program to protect our national shoreline. While the CZM Program didn't receive the increased funding we felt was necessary, I am hopeful that we can better these numbers in conference.

Finally, I look forward to working with Chairman HOLLINGS, Chairman BYRD, and ranking members RUDMAN and HATFIELD in the hope it will be possible to find a way to continue support for the Marine Biomedical Institute for Advanced Studies at the Marine Biological Laboratory [MBL] in Woods Hole, MA, for which funding was included in the House bill. The MBL is one of the most important ocean-related research institutions in the world, and plays a vital role in conducting the research that is critical to maintaining the ocean environment and resources.

Last year, funds were appropriated to MBL to continue construction of phase 1 of the MBL expansion, the Marine Resources Center, which now is nearly completed. This new facility will replace the deteriorated center originally built in 1924, through which the MBL collects and distributes over 100,000 organisms each year to the National Institutes of Health and researchers at universities across the United States.

As contemplated in the 1988 authorization for the Marine Biomedical Institute for Advanced Studies project, additional Federal funds are needed to complete phase 2, the Advanced Studies Laboratory [ASL]. This facility will provide new laboratory space needed to accommodate specialized equipment essential to modern molecular research. The Advanced Studies Laboratory will make a very valuable addition to the world-renowned Marine Biological Laboratory, and I have high hopes the wherewithal can be found to permit it to be completed. I look forward to working with the committee to this end.

As chairman of the Subcommittee on Terrorism, Narcotics and International Operations, I want to thank the subcommittee and the full Appropriations Committee for the way in which this bill reflects authorization levels established in the Foreign Relations Authorization Act last year and the supplemental for peacekeeping passed earlier this year. The committee has appropriated $25 million for new posts for the Department of State and USIA in the former Soviet Republics. I applaud the funding of these urgently needed diplomatic missions.

The committee has also provided an additional $700,000 for the Vietnamese Scholarship Program, which was created last year in the Foreign Relations Authorization Act for fiscal years 1992–93. This increase, which brings the total for the program to $1 million, will enable the number of students to be at least doubled from 15 to 30. As chairman of the Senate Select Committee on POW/MIA Affairs, I believe that this program enhances our overall relationship with the Vietnamese and our ability to encourage greater Vietnamese cooperation on POW/MIA accounting.

The committee has provided $30 million to the State Department's Bureau of Oceans and International Environmental and Scientific Affairs [OES] bureau for environmental research. The need for this research was highlighted at the recent U.N. Conference on Environment and Development [UNCED] meeting in Rio. I strongly support the committee's decision to fund this vital research effort.

Finally, I would like to congratulate the subcommittee chairman, the Senator from South Carolina, for limiting the State Department's use of the emergency account—the so-called K-Fund—for representational purposes. Last year's Foreign Relations Authorization Act opened up the spending records of this account to urgently needed public review. That review has shown that the taxpayers' hard-earned dollar too frequently has been used frivolously. The limitation placed on spending in this bill is an important and much-needed step to eliminate this waste.

One of the most important areas of government activity covered by this appropriation bill is law enforcement. This year we will be spending over $9.4 billion for that purpose, a 9-percent increase over last year. I wish I could say we did not need this money, but unfortunately, we have made all too little progress in increasing the personal security of Americans across the Nation, and this budget reflects that.

I do note one important initiative which is being funded by the committee. This year, the committee is recommending an increase of over $18 million for the investigation and prosecution of financial institution fraud, to a total of $278 million.

As Woody Guthrie once wrote, "Some will rob you with a six-gun and some with a fountain pen." All too many fountain pen robbers have flourished in the 1980's, especially criminals who managed to rip off the taxpayers for tens of billions at banks and savings and loans. The Justice Department has not been as quick to prosecute these cases—or as tough in so doing—as many of us believe it should have been, but we in the Congress are at least doing our part to provide Justice with the resources it needs to go after these corporate criminal kingpins—and to try to get as much as possible of the money they stole from us back for the taxpayers.

I also note that the committee has continued some other, smaller programs, aimed at finding missing children, responding to the problems of child abuse and violence against children, and combating delinquency. Too many American children are being denied the most basic personal right because of threats to their safety and security from sexual and physical abuse and from drugs and crime. Our entire society will live with the consequences of what they have been through for so long as they are among us. This is an area where we are making some difference—but this is one priority that needs to be made a very high priority, which means in the future we must shift funds from other Government programs to do more to help these children.

In closing, Mr. President, I once again commend the able Senator from South Carolina, the chairman of the subcommittee. He is a real leader, a strong and courageous figure in this institution, and a good friend. I commend the other members of the subcommittee, and its staff, particularly Scott Gudes who has been generous with his time and attention. The bill they have brought to the Senate is a very good bill, and one over which they have labored conscientiously. Indeed, in light of the oppressive fiscal realities which they were forced to confront, the bill is a very impressive accomplishment.

I believe I convey sentiments shared by virtually all of my colleagues when I express sincere thanks to them for their efforts. I look forward to working with all of them as the process continues toward enactment.

Mr. BENTSEN. Mr. President, last night and this morning, the Senate has considered an amendment to the pending legislation, the departments of Commerce, Justice, State, the Judiciary, and related agencies appropriations, fiscal year 1993, that would, in effect, repeal the Assault Weapon Manufacturing Strict Liability Act of 1990 previously adopted by the District of Columbia.

Last night, I voted in favor of a point of order supported by the distinguished managers of the pending legislation that the assault weapon amendment was not in order because it called for legislation in connection with an appropriations bill. However, my vote in support of the point of order does not reflect my disagreement with the substance of the assault weapon amendment; rather, as my vote today in favor of the amendment indicates, I do support a repeal of the D.C. law, which I believe is unwise as a matter of public policy and constitutionally infirm.

Mr. DANFORTH. Mr. President, I join Senator DURENBERGER who yesterday urged the Justice Department to provide the funds necessary for the enforcement of two of the most significant civil rights laws passed by Congress. As one of the principal sponsors of the Civil Rights Act last year, I am disappointed that the committee has not provided the Equal Employment Opportunity Commission [EEOC] funds adequate for vigorous enforcement of the Civil Rights Act of 1991 and the Americans with Disabilities Act [ADA].

As a result of the passage of these laws, the Commission has seen a dramatic increase in its workload, with an expected increase of up to 20 percent by the end of the year. Without additional revenues, EEOC cannot effectively manage this increase, and thus will fail to enforce these important civil rights laws effectively.

By underfunding EEOC, we are doing Americans a grave injustice. Without the additional funds, Americans who turn to the Commission for help will have to wait an average of 39 months to have their cases investigated. Mr. President, this is not just.

Congress cannot pass laws and then fail to give the responsible agency the resources necessary to vigorously enforce them. Administrative agencies exist in order to decrease the amount of litigation resulting from federal antidiscrimination laws. I believe the dollars spent at EEOC will save our economy litigation expenses that would be spent in the Agency's absence. For the past 10 years, the EEOC has been an effective enforcement agency, and, without enforcement, the work we did last year to enact critical civil rights laws will have been in vain.

ANNOUNCEMENT OF POSITION ON A VOTE

Mr. BRYAN. Mr. President, due to a delay on my flight here from Nevada, I regretfully missed a vote taken yesterday, vote No. 152. Absent the airplane's mechanical problems which lead to the delay, I would have been available to vote when the vote began.

On vote No. 152, I would have voted "nay."

Mr. ROCKEFELLER. Mr. President, I want to commend the Senator from South Carolina [Mr. HOLLINGS] and the Senator from New Hampshire [Mr. RUDMAN] for their successful effort to develop a bill that addresses many of the country's critical technology priorities.

This is a matter of particular interest to me, Mr. President, because of my involvement in developing the national economic leadership strategy, which the majority leader announced on July 1.

That announcement represented a turning of the corner in the national competitiveness debate. The argument over whether we have a problem is finished.

The national economic leadership strategy begins the debate over solutions.

Whether you believe that U.S. productivity, growth, manufacturing, and technological innovation are deteriorating, or that other nations are simply moving faster than we are and catching up, we have a serious competitiveness problem by virtually any measurement one uses. Unless we act quickly to rebuild our manufacturing base and the high-quality jobs that go with it, our children will be the first generation in our history to have a lower standard of living than their parents.

That matters because we are stewards for their future. It also matters because the end of the cold war means that economic power will define global leadership in the future. Our ability to continue to play the lead on the world's stage will depend on our economic strength. I believe in American leadership. The world is a freer and better place because of it. But if we want it to continue, we must get our economic house in order.

This national economic leadership strategy starts us down the right road. Its 30 proposals focus on 5 key categories: high-technology research, product development and commercialization, manufacturing process and extension, worker education and training, and export and trade policy. This comprehensive approach brings together a wide range of proposals, some new and some already making their way through the legislative process. The strategy serves as a blueprint for bringing our technology and manufacturing base up to world class standards, and for creating a well-educated and skilled work force.

In the next century, infrastructure will be telecommunications and information, fiber optics and computers, in addition to roads and bridges, concrete and steel. These are the things that will drive our economy and create good jobs in the future.

The national economic leadership strategy expands our research and development efforts in these critical technologies, and it proposes important new initiatives for turning laboratory ideas into marketable products. We are all familiar with examples like the VCR and the facsimile machine—products invented here and produced elsewhere.

This matters because product sales and the profits they make generate the investment that will create the next generation of technology. Companies do not undertake research and development out of whole cloth. If we do not make anything, ultimately we won't be inventing anything either. That is why our strategy is directed at manufacturing technology and commercialization and not just at generic, precompetitive research and development.

It is precisely in these areas that the pending bill makes important progress, largely through the additional $229 million appropriated for defense economic conversion programs. These programs, included in the report of the taskforce headed by the Senator from Arkansas [Mr. PRYOR] are the same as a number of the proposals in the national economic leadership strategy. As embodied in the Committee bill, they include an additional $109 million for the Advanced Technology Program, the manufacturing technology centers—the so-called Hollings centers—and the State Technology Extension Program. The ATP is the basic National Institute of Standards and Technology, NIST, grant program for research in advanced critical technologies. The other two programs disseminate advanced manufacturing process technology to the private sector, so that the latest innovations get broad circulation in our manufacturing community. Additional funding for these programs was a key recommendation of the economic leadership strategy, and I am delighted the committee has found room for it in their allocations.

I would also note, Mr. President, that these funds are in addition to the normal appropriations for these programs, which themselves are, for the most part, increased over fiscal year 1992 levels, another sign that the Appropriations Committee and the Senators from South Carolina and New Hampshire take our competitiveness crisis seriously.

There are, in addition to these three programs, many other parts of the national economic leadership strategy now making their way through the Congress. One of them, for example, the Technology Transfer Improvements Act, will be the subject of a hearing in the Judiciary Committee on July 28. That bill was previously reported by the Commerce Committee, just as the committee also reported and the Senate passed, S. 1330, which contains many of the other economic leadership strategy proposals in the critical technology and manufacturing process areas. Since that bill, of course, has not become law yet, the Appropriations Committee can hardly be expected to fund it, but we will be back next year on behalf of that one. In the meantime, I think it is commendable that the committee has been so responsive with respect to programs that are already in law.

While I am here, Mr. President, let me also commend the Senator from South Carolina and the Senator from New Hampshire for their close attention to our country's trade problems in their decision to provide additional funds for the Commerce Department's enforcement of our antidumping and countervailing duty laws. The decision to put an additional $5 million into the effort is particularly important for West Virginia because of the 84 trade complaints just filed by the American steel industry to counteract the massive dumping and subsidizing occurring in that sector. These additional funds will enable the Department to investigate those cases in a timely and effective manner, which will make a tremendous difference in our seemingly never-ending fight to create market-based trade in steel.

Taken together, the components of the national economic leadership strategy will lead to more high quality jobs for Americans, jobs that will keep us growing and prosperous into the 21st century. That is our most fundamental obligation because we are stewards of this country for our children. We owe it to them and to ourselves to plan for the future to insure that the next generation will inherit a strong and prosperous America. The national economic leadership strategy is a road map to achieve that goal, and the pending bill takes several important steps toward its implementation.

Mr. MACK. Mr. President, the Commerce, State, Justice appropriation bill for fiscal year 1993 provides funding for the Economics and Statistics Administration of the Department of Commerce. The recommendation made by the Appropriations Committee is slightly lower than last year, which is similar to the committee's recommendation for many of the areas covered by this bill and is a policy with which I am in general agreement.

I want to bring to the Senate's attention, however, some of the implications of this recommendation. The Economics and Statistics Administration is the source of a large share of our Nation's economic statistics. It funds both the Bureau of Economic Analysis and the Bureau of the Census.

The level of funding received by the Commerce Department will, I am told, cause many efforts to improve data collection by these Bureaus to cease. These will include efforts to improve the quality of our Nation's statistics which were a result of bipartisan support.

I am also informed that it will cause the elimination of certain reports, including the monthly composite index of leading indicators, the Bureau's regional statistics, and many of the reports on foreign trade. For other reports, it will mean less thoroughly analyzed data and delays in their release.

There are many reasons why we should be concerned about the loss of these statistics, perhaps most notably that bad data is the foundation for bad policy. Despite this, Congress continues to demand data from the Commerce Department—and other agencies as well—but does not provide the resources to develop the data.

One of the effects of this practice is that grant programs which are allocated on the basis of ESA data may end up distributed in a fashion different from which Congress intended. ESA does not have the resources to keep up with dramatic changes that occur in the demographic makeup of States.

As an example, fast-growing States like mine send tax dollars to the Federal Government and have them returned via formula-based grants. Many of these formulas incorporate ESA statistics which, if flawed, distort allocations that States such as Florida receive.

I fully support efforts of all parts of Government to share in the burden of reducing the deficit. But if Congress is unwilling to fund the development of reliable statistics, we should use caution in basing Government programs or policies on those statistics.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Florida is to be recognized to offer up to three amendments, if he so chooses.

Mr. GRAHAM. Mr. President, I am bringing to the attention of the Senate, through a series of amendments that I will be offering, the issue of congressional reestablishment of our credibility relative to the reduction of the Federal budget deficit.

We received, last week, some information that the good news is that, in fact, fiscal year 1992 may not be the biggest deficit year in the history of the Nation. The bad news was the reason why that would be the case. The reason is because we are deferring from fiscal year 1992 to fiscal year 1993 somewhere between $40 and $60 billion of the cost of the savings and loan bail out. That virtually guarantees that 1993 will be the record year in terms of Federal budget deficit. It guarantees that over the period of the administration of George Bush, we will have added in excess of trillion dollars to the Federal budget deficit.

Mr. President, we recently had a very contentious debate, both in the House and in this Chamber relative to the issue of a balanced budget amendment. Some of the flavor of that debate was captured in a column which appeared in the Washington Post by Hobart Rowen.

He stated:

> The so-called balanced budget amendment that Congress appears ready to push through is the ultimate cop out by frustrated legislators who lack the political guts to restore fiscal sanity the hard way by their votes to raise taxes or cut spending. The proposal is a fraud, which, if enacted, could trigger the exact opposite of the intended result—economic uncertainly, loss of jobs, and a financial market crisis.

Mr. Rowen goes on to quote Robert Reischauer, the Director of the Congressional Budget Office. Mr. Reischauer is quoted as observing:

> In this election year, it would be a cruel hoax to suggest to the American public that one more procedural promise in the form of a constitutional amendment is going to get the job done. The deficit cannot be brought down without making painful decisions to cut specific programs and raise particular taxes.

Mr. President, I believe that the Senate's vote on the balanced budget amendment, which was a vote not to invoke cloture and allow that item to be voted on, places a particular responsibility on us now.

And "now" is to do the hard things that Mr. Rowen and Mr. Reischauer talked about to be prepared to take the painful cuts in order to show our credibility to the American people that we are prepared to deal with what most have identified as the No. 1 domestic challenge and the primary barrier to the achievement of many of the very objectives of this legislation, and that is a stronger, more prosperous America.

Mr. President, Congress is an institution which by its nature is inductive and incremental. We deal with crunches of matter, policy issues, and budgets as they come to us one by one. One of the criticisms of the proposal that I am about to make is that it is not comprehensive, that is does not deal with the full array of items which should be on our agenda. I agree that it is deficient, but I would suggest that if we were to take that position that the only time that we would deal with the issue of the budget deficit when we can do it comprehensive, I feel we will have to do what we have done for most of the last 30 years and that is that we will never deal with the budget deficit, that the only way in which the Congress is going to take effective action is going to be in the manner that I am suggesting today, bit by bit, piece by piece.

I also suggest that unless we are prepared to take the kinds of steps that I am suggesting today, we will never have the credibility or the political capital to do the more difficult things. We know exactly what is going to happen when someone proposes a constraint on entitlements, what exactly is going to happen when somebody proposes newspaper taxes and that is have you taken all the steps that could have been taken to reduce spending. And unless we can give a credible answer to that question, we are never going to get to the next step that we will be required to constrain an almost $400 billion Federal budget deficit.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield?

Mr. GRAHAM. I yield.

Mr. HOLLINGS. As I understand the agreement, the Senator was to propose the amendment. Do we have the amendment proposed?

Mr. GRAHAM. I will propose the amendment at the conclusion of my remarks.

Mr. HOLLINGS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. KERREY). The Senator will state it.

Mr. HOLLINGS. Then does the time run from the time the Senator talks or from the time he proposes the amendment?

The PRESIDING OFFICER. The time under unanimous-consent agreement begins when the Senator proposes the amendment.

Mr. HOLLINGS. I see. He can talk as long as an hour or so, propose an amendment, and get another half hour and we are limited to a half hour; is that it?

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLINGS. That is clever.

Mr. GRAHAM. Mr. President, it is not my intention to engage in any parliamentary subterfuge. I was waiting to propose my amendment at the conclusion of my general remarks. I ask unanimous consent that my half-hour time commence at the time that I began my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, the scale of this problem is so great that we have already recognized it by the adoption of a deficit reduction call for debate which was in part authored by the ranking member of this subcommittee and in that resolution we, the Senate, adopted this statement. That the frequency and level of public comment on this issue by public officers and candidates, including those who hold and seek the office of President, is so insignificant as to constitute irresponsibility that, by and large, the candidates, Congress, and the media have ignored and trivialized the issue, the trivializing suggestions that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse, entitlement and interest spending are the fastest growing component of the Federal budget an existing reckless policy cannot be addressed in meaningful way without including consideration of restraining entitlements, increasing taxes as well as reducing defense and domestic spending. That is the resolution we have adopted.

The extent of the challenge that we face is mirrored in the kind of action which State governments have already had to take. State governments, of course, do not have the benefit that we do of being able to finance their deficits by running the Federal printing press. They do not have the constitutional authority to print money. So they have had to deal with the issues of budget constraints.

And what have they done? I will take two examples.

California has enacted a series of across-the-board reductions on agency funding in each of the past several years. In 1989, a 2-percent across-the-board reduction; in 1990, a 3-percent across the board; in 1991, a 4-percent across the board.

We are all familiar with the fiscal crisis of California today resulting in the State issuing IOU's, a gridlock in terms of developing the State budget. It is estimated that in order to close the gap, it would necessitate spending cuts of as much as 15 percent across the board.

Mr. President, California is not the only State. Virtually every State has been facing these types of economic constraints.

In my own State of Florida, in the area of education funding, our State has suffered a $161 million reduction in education funds in 1989, $429 million in 1990, and $658 million in 1991, as our State has suffered to deal with the issues of the budget realities.

Mr. President, I believe what we are facing here is essentially an ethical question. I was asked during a recent breakfast in Orlando what was the most significant ethical issue that I had faced as a Member of the U.S. Senate. Mr. President, I did not give a very adequate answer to the question, and I have pondered it since it was asked.

In reflection, it is clear what the principle ethical issue that we have faced, and that is the ethical issue of our generation's responsibility to the next generation. Essentially, what we have been doing is saying that the benefits of spending today are worth asking our grandchildren to pay for $1 out of every $4 of those expenditures.

I wonder what is the ethical right of one generation to make that kind of demand on another. The history of this country has been just the opposite, that the current generation sacrifices, defers benefits, invests for the future. We have adopted a policy of mortgaging the future of our grandchildren without asking their permission to do so.

So it is within that context, Mr. President, that I propose the beginning of what I consider to be the minimal steps that we should take in order to suture this enormous Federal budget deficit, and, that is, beginning the process by stabilizing the overhead of the three agencies which are the subject of the appropriations before us today and commencing that process by applying that policy consistently to the other agencies of the executive branch and to the Congress itself.

Why is the stabilization of overhead and general administration costs and a proper place to begin the long and difficult process of bringing control to Federal spending?

Overhead has been identified by virtually every economic investigator as the appropriate commencing point for this long effort. It was identified in the Grace Commission report and in its book called "Burning Money." It has been identified in "The Challenge of Sound Management," the report of the Task Force of Government Waste by the Democratic caucus in the House of Representatives. And it has been identified by Gov. Bill Clinton in his economic positions as a candidate for President of the United States.

This is what Governor Clinton says, we must cut the bureaucracy, limit special interests, stop the revolving door and cut off the unrestricted flow of campaign funds, the privilege of Government service ought to be enough of a perk for people in Government. I will take the following steps: staff reductions, I will reduce the White House staff by 25 percent and challenge Congress to do the same; eliminate 100,000 unnecessary positions in the bureaucracy, I will cut 100,000 Federal Government positions through attrition; cut administrative waste, I will require Federal managers and workers to achieve a 3 percent across-the-board administrative savings in every Federal agency.

That is what candidate for President of the United States, Gov. Bill Clinton last stated as a key part of his plan to bring economic sanity and the future for economic prosperity to our country.

How do you deal with the issue of cutting out waste and overhead?

As Governor for 8 years of the State of Florida, I found there were essentially two ways: One is the scalpel approach in which you take a complex budget, disaggregate it, and look area for area for areas of increased efficiency, productivity, and the elimination of waste. Many of those suggestions are contained in the Grace Commission and in the task force report from the House of Representatives. Frankly, I would declare the inability to do that relative to these three budgets.

It was only the end of last week that we received the copy of the committee report and could begin to process. But even had I had adequate time, I do not purport to have the resources or ability to do that kind of scalpel approach. And I found, as Governor of Florida, with the time and resources and ability, that was a difficult process to follow.

Rather, I suggest the second approach, and that is the freeze approach, where you tell an agency you will have no more money than you had last year and therefore any increases, any new initiatives, any salary increases, any new personnel that you wish to employ, any new kind of expenses that you will undertake, have to be achieved by eliminating a current area of expenditure. That concept of freeze and force agencies to redeploy is the essence of the amendment which I am offering.

I might say, Mr. President, that his is a process that is receiving significant support from the other Chamber. The House of Representatives has been adopting policies that are moving not as far as I will suggest but in the direction of a freeze on overhead and general administrative budgets.

AMENDMENTS NOS. 2765, 2766, AND 2767

Mr. GRAHAM. And so, Mr. President, with those opening remarks, I send to the desk three amendments. The first amendment relates to the Department of Commerce. On behalf of Senator PRYOR and myself, we propose to freeze the general administrative budget of the Department of Commerce at its fiscal year 1992 level. Senator PRYOR and I will also send a second amendment which would accomplish the same for the Department of Justice; and a third amendment for the Department of State.

Mr. President, I send the amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. PRYOR, proposes amendments numbered 2765, 2766, and 2767, en bloc.

The amendments follow:

AMENDMENT No. 2765

(Purpose: To reduce an appropriation for Department of State)

On page 78, line 22, strike out "$2,101,000,000" and insert in lieu thereof "$2,016,035,000".

AMENDMENT No. 2766

(Purpose: To reduce an appropriation for Department of Justice)

On page 6, line 10, strike out "$118,234,000" and insert in lieu thereof "110,100,000".

AMENDMENT No. 2767

(Purpose: To reduce an appropriation for Department of Commerce)

On page 50, line 26, strike out "$32,654,000" and insert in lieu thereof "31,280,000".

Mr. HOLLINGS. Mr. President, I have heard about this incremental, and I am looking at these letters of increment from the Senator from Florida. I keep going down these different requests here that the distinguished Senator from Florida has asked.

I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 23, 1992.

Hon. ERNEST HOLLINGS,
Chairman, Justice, State Subcommittee, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: As follow-up to our discussion last week regarding the University of Miami's North-South Center, I appreciate your continuing support for the Center and your efforts to sustain appropriate funding.

The United States Information Agency has embraced this project and is actively involved with its programs. USIA has included $10 million for the North/South Center in its FY 1993 spending plan. I hope that you will find it possible to provide for USIA's $10 million request in your bill.

Thank you again for your continuing support.

Sincerely,

BOB GRAHAM,
U.S. Senator.

U.S. SENATE,
Washington, DC, April 1, 1992.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on Commerce, Justice, State and Judiciary, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed is a letter from the Speaker and the President of the Florida Legislature outlining their concerns about limits placed on legal service organizations. As Chairman of the Appropriations Subcommittee with jurisdiction over funding legal services, this should be of interest to you.

The Legislature is opposed to any limits on lobbying at the state level by legal service organizations, and I am sympathetic to their position. These groups provide important information to policy-makers and should not be precluded from appearing before legislative panels.

As your subcommittee considers funding for legal services organizations, I hope you will oppose any overburdensome restrictions on their ability to communicate information to the legislative branch.

With kind regards,

Sincerely,

BOB GRAHAM,
U.S. Senator.

THE FLORIDA LEGISLATURE,
Tallahassee, FL, March 17, 1992.

Hon. BOB GRAHAM,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: We have been informed that Congress will soon be considering legislation which would provide funding for legal services for those who are unable to afford the assistance of counsel. We understand that as an amendment to this legislation, Congress may seek to limit the ability of legal service organizations to lobby at the state level.

On behalf of the membership of The Florida Senate and the Florida House of Representatives, we would like to express our concern with any overbroad limitation on the ability of the Members of The Florida Legislature to obtain information essential to arriving at informed answers and solutions to the problems faced by the less fortunate citizens of Florida. At a minimum, we would ask that those employed by legal service organizations be available to respond to state legislative inquiries on issues in which they have developed particular expertise. In our experience, these issues have generally involved landlord/tenant disputes, migrant labor, legal process and procedures, and family law. These are issues which are of great concern to our citizens and upon which all sides of the issue must be fully understood.

Thank you for any consideration you can give to this issue. If there is any way we can assist you, please let us know.

Sincerely,

T.K. WETHERELL,
Speaker, Florida House of Representatives.
GWEN MARGOLIS,
President, the Florida Senate.

U.S. SENATE,
Washington, DC, May 1, 1992.
Hon. ERNEST F. HOLLINGS,
Chairman, Senate Appropriations Subcommittee on Commerce, Justice, State and Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: As you begin hearings for the fiscal year 1993 Commerce, Justice, State, and Judiciary appropriations bill, we would like to bring to your attention issues of importance to both of us.

When considering the budget for the Immigration and Naturalization Service and related agencies under the Department of Justice, we would appreciate your attention to the overwhelming pressure on the Florida district as a result of the tremendous legal and illegal immigration increases and the rapid growth in dependence on Florida's airports as entry points for international visitors. We hope the Subcommittee will help to ensure that the Justice Department completes its movement toward apportioning its staff among the nation's districts through a process which directly correlates to the demands placed on each district. We also recognize the overall staff limitations facing the Immigration Service and believe that a funding increase would serve the national interest. The growing delay at major points of entry is a strong disincentive for foreign visitors to come to the United States on either pleasure or business. We believe the best solution is to ensure that adequate inspections staff is in place at each such overburdened entry point.

We appreciate the Committee's actions last year to include $5 million for the North/South Center, based at the University of Miami's Graduate School of International Studies. This program has been embraced by USIA as is evidenced by the $10 million request made in the President's FY 1993 budget. This funding combined with prior year appropriations, will allow the Center to expand its education, training, cooperative study, and public outreach programs.

One of our highest environmental priorities continues to be the protection of the Florida Keys coral reef tract. The Florida Keys National Marine Sanctuary, designated by Congress in 1990, has support in Monroe County, Florida from a broad range of commercial, conservation, and recreational interest groups. An advisory counsel representing each of these interests has been assembled to assist the Department of Commerce with development of a management plan for the sanctuary.

We are pleased that the President's budget included an increase in the level of funding for the National Sanctuary Program to $7.5 million. An independent panel assembled by the Department of Commerce suggested the program be funded at $30 million. We are aware of the budget restraints placed on the Subcommittee, and therefore are requesting a more moderate appropriation of $11 million for the nationwide program.

Florida is also the home of one of the leading marine and atmospheric science research, education, and training centers in the nation. The Rosenstiel School of Marine and Atmospheric Sciences at the University of Miami has been working closely with a number of federal agencies on a variety of programs. One such program is the School's successful fisheries program with NOAA, known as SEFCAR/FOCI, created to enhance critical fish populations in the Southeastern U.S. and Caribbean/Latin American regions. We respectfully request continued funding for this project with the NOAA budget at a level of $2.5 million.

As in previous fiscal years, we again want to add our support for NOAA's Sea Grant and National Undersea Research Programs. Florida has an active role in each of these programs, and their funding and support by the Committee has enabled Florida to fully participate in both.

We request $225,000 for the Center for Shark Research at Mote Marine Laboratory in Sarasota, Florida. This funding will assist in expanding research programs, and acquiring major new equipment to support continuing and upcoming research projects. As you may know, a national center for research on sharks has been established at Mote Marine Laboratory in cooperation with the National Marine Fisheries Service, NOAA, and U.S. Department of Commerce. The federal share of this project is less than half of the projected FY 93 budget of $675,000 for this important research.

A planning grant of $500,000 is requested for Florida Atlantic University to support the furtherance of the existing ocean technology center in the Department of Ocean Engineering at Florida Atlantic University. To be located in the Florida Atlantic University Research Park, the envisioned ocean technology center will create an infrastructure to support ocean engineering research and technology transfer to the marine science, environmental and industrial communities with a particular emphasis on contributing to global competitiveness.

As we requested in FY 1992, Florida State University is attempting to establish a relationship between the federal government and their Meteorology Department. To do so, we would like to have language directing that NOAA work with Florida State University in developing either a new NEXRAD system or the movement of an excess system to Florida State University.

The Coastal Zone Management Program is exceptionally important to Florida. The entire state is part of the coastal zone, and the program is a valuable tool for the management of activities that affect Florida's interests. We recommend an increase in overall funding for the federal portion of this program.

Thank you in advance for your consideration. If you have any questions or need further information, please contact either Jeremy Bronson (Graham) at 4-1546 or Patrick Kearney (Mack) at 4-3102.

Sincerely,
BOB GRAHAM,
U.S. Senator.
CONNIE MACK,
U.S. Senator.

Mr. HOLLINGS. That is the incremental that we suffer under our most distinguished colleague.

When Senator RUDMAN and I sat down, after all the work we had done, we added up some 635 requests to the tune of $8.5 billion in add-ons. So the lecture relative to incrementalists in Government is well experienced and well resisted by this Senator.

If you really want to get to the deficit—now is not the time to play the games when we have done a good job of cutting back on the spending. If you really want to get to the deficit, we tried it in the Budget Committee in a bipartisan fashion.

Incidentally, I had the support not only of the Senators from Nebraska and Alabama and several on the Democratic side, but the Senators from New York, Missouri, and others on the Republican side, going right at the target.

There is an old saying that we used to hear as kids listening to the radio, Big John and Sparky. "All the way through life make this your goal: Keep your eye on the donut and not the hole."

At this particular moment the donut is to stimulate this stagnant economy. This Senator has been here shouting about these deficits for a good 12 years, opposing Reaganomics, putting in freezes, putting in Gramm-Rudman-Hollings, and more.

But the donut, the task at hand, is to stimulate the economy. And if you had a $10 billion, $15 billion, $20 billion deficit, you would add $20 billion to the deficit. And the savings on the Commerce Department under this first amendment is less than $2 million. If you want to talk about incremental, we would be around here for the next 200 years with deficit reduction of that minuscule increment.

What we did in that bipartisan plan, so we will get in step with my distinguished friend, is we said, yes, cut across the bureaucracy some 10 percent; cut defense, but no deeper than President Bush's figure; yes, cut intelligence some $2 billion; yes, freeze domestic spending, freeze foreign aid. We saved some $20 billion and allocated it to investment-oriented tax incentives including reduced capital gains taxes, investment tax credits, accelerated depreciation, individual retirement accounts, restoration of passive losses on real estate, tax credits for first-time homebuyers—all of it, and hope you can get us out of the ditch here. Because that is where we are.

Half of our problem is this deficit, of course, and the other half is a lack of a competitive trade policy. So we are in deep trouble in this country. The ox is in the ditch. And we are in step in trying to cut spending, not in flagellating and demonstrating and grandstanding out here about a pathetically small $1.7 million in spending.

When Ms. Barbara Franklin came in, I said, now we have moved from the cold war to the trade or economic war. You are Gen. Colin Powell, the Chief of Staff now, and we have to gear you up. I want to build up the Commerce Department. We did cut, because we cut 2 percent across all of them. And looking at that one, we cut $3.375 million, almost twice as much as what he is asking for, from the President's request.

Why were we gearing up? Because the very same Senator from Arkansas—and I want to thank him for his praise about technology—but we are beefing up the National Institute of Standards and Technology, the advanced technology program, the manufacturing technology centers. We are moving forward with the antidumping findings now. And they finally made a finding on the minivan. They are finally getting in business, so the steel companies are all calling for scrutiny. So we gave another $5 million in that area. And we are trying to turn the Commerce Department into an aggressive agency in this economic struggle that we are in.

So this amendment is not well taken at all. This amendment is strongly resisted. I know where I can save that amount on some of the requests made by certain Senators here. But we are trying our best to bring in a bill after all this hard work.

The inference here is that we have not looked or that we are not conscious about the dilemma that the country finds itself in. You are worried about $1.7 million in the Department of Commerce. I am worried about the $400 billion deficit which we are financing with 8 percent T bills. That 8 percent Treasury bill is $32 billion in interest costs that we are increasing spending for nothing, absolutely nothing—the Grace Commission, waste, fraud and abuse. Where is Peter Grace? I have not heard him on that.

Oh, we had it working. We had Gramm-Rudman-Hollings. We cut that deficit down to $150 billion in the first full year. But the summitteers undid Gramm-Rudman-Hollings. Do not talk about the gridlock. It is when Republicans and Democrats get together, Mr. President, that we are in trouble. They got together and did away with Gramm-Rudman-Hollings and as a result we have gone from a $150 billion deficit to over $400 billion in deficit spending this year.

The President of the United States last year said that this country is headed in the right direction, that we are reducing the deficit $500 billion over 5 years. Absolutely false. Absolutely false. I said so at the time on the floor.

We are headed in the wrong direction, increasing the deficit $500 billion in 1 year. Because if you leave out these trust fund surpluses, $500 billion is the true deficit. We are borrowing $1 billion a week from Social Security, and more from the other trust funds.

So Senator RUDMAN and I, we are going to get our Social Security. But that young lady there, she is not going to get hers. We can quit this afternoon and get ours.

It is a disgrace. We will owe Social Security, in 7 years, by 1999, $1 trillion. And when they go in the drawer to get the money, having all these IOU's there, they will turn the trust funds into a welfare fund, and say all who make over $15,000 do not need it, and that kind of thing.

In fact, that is what they are talking about—entitlement. Social Security—there is no deficit in Social Security. Social Security is not causing the deficit. Senator MOYNIHAN and I tried to point that out, and they opposed that. The leadership and the White House got together and said: Do not mess with Social Security. We tried to stop an increase in Social Security taxes and put it totally off as a trust fund.

So now is not the time to get the good Government award because I stood on the floor of the Senate and I said we have to finally do something. It is all incremental, and I am going to start with my increment. I know where we can start: With the distinguished Senator's increment.

We will see.

Let me reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I just want to correct one thing the Senator from South Carolina said.

Mr. HOLLINGS. You are ready for it.

Mr. RUDMAN. Just a small, factual error. I am not yet ready for Social Security.

I want to thank my friend.

Mr. HOLLINGS. But you can get it.

Mr. RUDMAN. Mr. President, I cannot add too much to what my friend from South Carolina has said. But I just want to, in 3 or 4 minutes here, go through some of the actual numbers, to put them in the RECORD to indicate that this amendment really is not necessary.

We are discussing three amendments. We are going to vote on one.

In the case of the Commerce Department, the general administration account funds the offices of the Secretary of Commerce and the administrative functions of the Department. For fiscal year 1992 this account received $31.3 million; the request for 1993 is $36 million, but the committee has reduced that request by $3.4 million down to $32.6 million. As it is, this will lead to a reduction in personnel for the offices of the Secretary and the administrative offices of the Commerce Department.

Unquestionably, there will be a reduction in people and services they render under our number. The request would have funded it at current services or slightly higher.

Similarly, the committee is reducing the request for the general administration account of the Department of Justice by $14.7 million; the 1993 level would be $118.2 million, $8.1 million over 1992 but well below the request of over $130 million. At the same time, we are asking the Justice Department to implement the Americans With Disabilities Act, and have included discretionary authority to transfer up to $32.3 million from this account to the Equal Employment Opportunity Commission.

Even under the committee recommendation, it will be impossible—I just want to state that unequivocally. We all talk about all of the things we do here with great fanfare. I want to make it clear there is no argument anyone will make that will disagree with this. We will not be able to fully implement the responsibilities of the Justice Department under the Americans With Disabilities Act this year. Senator DURENBERGER, I think, made that point adequately in the RECORD last evening. I need not expand on it.

Finally, the committee has reduced funding for the salaries and expenses of the State Department by $30.1 million below the request of the President. While this represents an increase of about $85 million above the 1992 level, the increase for administrative expense is somewhat misleading since within that number the committee is providing an increase of $25 million for global and climate change research, which is universally supported on the floor.

At the same time we are asking agencies in the various departments of the Government to be more efficient in managing these programs, the amendments before us would propose even further reductions in the administrative accounts of the Departments of Commerce, Justice, and State.

I will just make one flatout statement here, having watched this Government operate for awhile. If you want these bureaucracies to truly run out of control without any central direction or oversight, then vote for these amendments. We have billions in these programs, and very small amounts of management. It would be like saying to a major manufacturer: "Keep all your factories running. We are going to start shutting down your administrative offices." That sounds good, but you would hate to see what the factories would produce after a few months of that kind of chaos.

Frankly, we are always complaining the bureaucracy does not run very well. We are taking the money out of the very part of the Government that oversees those bureaucracies. Do any people think the committee can oversee these bureaucracies? They have not been here very long. We cannot do it. We have to have faith in the Cabinet officers and their staffs to oversee these bureaucracies.

Although I am sure the intentions of my friend from Florida are pure—because I know he is dedicated to deficit reduction; I agree with that—I do not think these amendments really accomplish that. If you want to accomplish that, as my friend from South Carolina said, let us eliminate programs. There are a lot of programs in this Government that really ought to be addressed.

Unfortuantely, we have yet to find support for that. Senator HOLLINGS and I have both attempted that on occasion, with very little success.

If we really want to talk about deficit reduction,we should be cutting programs, not proposing vague administrative reductions which are easy to propose but will result in a less responsive, efficient government.

In fact, the committee is cutting programs in this bill. The reduction below the President's request for the bill as a whole is $412 million; most NOAA programs are cut 4 percent below last year's level; even the Economic Development Administration is cut $77 million below 1992. While the committee has made these tough choices, the amendment pending on Commerce would only save $1.4 million in the general administration costs of the Commerce Department.

Mr. President, it is for those reasons I have to urge my colleagues to oppose this and the other two amendments offered by the Senator from Florida.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. How much time remains on either side?

The PRESIDING OFFICER. Fifteen minutes ten seconds to the Senator from South Carolina, and 13 minutes and 5 seconds to the Senator from Florida.

Mr. HOLLINGS. Mr. President, I will just add one comment, and then listen, of course, to the response of my distinguished colleague from Florida. But the actual figure of the cuts in this bill, as we reported it, for domestic programs is $939 million in outlays—that is actual spending—below President Bush's request; $360 million in outlays below current policy as estimated by CBO. So what we have had, in essence, is a freeze on new domestic programs, on new outlays for domestic programs. When you consider spending for all categories—domestic, international, and defense—we are $413 million below the President in budget authority and $847 million below in outlays.

I commend the staff, in our opening statement, on the wonderful job they have done, because they have been working all spring and summer long to bring a credible bill, a tough bill, to the Senate. You cannot run around here and be an author of a freeze, and Gramm-Rudman-Hollings, and then come and spend us blind.

I said we are going to hold the line in our particular subcommittee. The truth of the matter is the 602(b) allocation held us in line. We got less than what we really needed.

So I think the Senate ought to really know, too, the distinguished Secretary of Commerce, Ms. Franklin, as far as I can see, is doing an outstanding job.

I thought, like I heard from a lot of the colleagues, here we go and we have another fundraiser. The fine lady has done just that, raised funds in her time. I have been through a good dozen—16 Secretarys of Commerce or more in my particular time. All of them have been just about fundraisers.

They do not pay attention to trade. They do not pay attention to commerce. They wonder where in the world they got NOAA from, the Ocean and Atmospheric Administration, and where they get all of these people in the Weather Bureau. And you get these gold satellites and the administration of them. We find out we lost millions and millions of dollars because they were not administering properly. We finally have that in hand now.

We have a team working with the team over in NASA, the National Aeronautics and Space Administration office, to take these expensive satellites and get on top of that.

In the meantime, the NOAA fleet is in disrepair; the facilities and laboratories of old Bureau of Standards, now the National Institute of Standards and Technology, needs refurbishing. We have to modernize its equipment to conduct technological research. And we have an outstanding Secretary of Commerce who is working on these problems, and she is the general in this economic war we are into now.

I would not want to cut her another red cent, because I want to give her the tools to do the job.

We have done the best we possibly can to come now and just try to identify, in a minimal way, with wonderful talk about how we are going to solve the deficit. I outlined the plan. The plan we outlined is done; a stimulation of the economy without increasing taxes and without increasing the deficit.

If you can put a tourniquet on this $400 billion deficit, over a billion a day more than we have taken in, you have done a pretty good job all the way around to hold the line, stimulate the economy, get the body politic strong enough to take the surgery that is going to be necessary to get rid of this fiscal cancer.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Florida has 13 minutes, 5 seconds.

Mr. GRAHAM. I yield 10 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the distinguished Senator from Florida who has proposed this amendment. I think this is a good amendment. I have this morning previously cited on two or three occasions the very splendid contributions of the Senator from South Carolina and the Senator from New Hampshire in coming forward in this bill with some very, very innovative ideas related to defense transition.

However, I think what the Senator from Florida is proposing is one of those absolutely rare amendments that is going to start getting at the heart of some of the explosion in our Federal Government. I think that his amendment, which I am supporting, goes to the heart of the matter of the addition of staff, the general administration, the salaries and expenses, and, also, I think it goes to the heart of the matter, Mr. President, of dealing with what we call other services.

Other services, as all of us probably realize, are those services that relate to private contractors and consultants. We have seen, since 1989, an enormous explosion in the use of private contractors and consultants. For example, just last Friday, we had a hearing on the SDI Program. We found that contractors and private consultants who are brought in to advise and give thoughts and to develop the SDI Program, some of these consultants are getting $800 a day. That is $100 an hour. Many of these consultants are getting a lot more than this.

It is my understanding that the Department of Justice would be getting, if we passed this bill without the amendment offered by the distinguished Senator from Florida [Mr. GRAHAM] an 8.7-percent increase, the State Department a 15.2-percent increase, the Commerce Department, an 11.3-percent increase. And what the amendment of the distinguished Senator from Florida does is basically say, "Let us hold the line."

I think this should be applied to all of the 13 appropriations bills. I hope that he goes forward on all of the 13 appropriations bills. I hope it will also apply, Mr. President, to the legislative branch of Government. I think it is time that we do this. I also think it is time that we really see if we cannot begin to curtail the cost of government and certainly the cost of administering the Government.

This is what the amendment of the Senator from Florida does. Definitely, I think it would have a real impact and certainly would send a signal on the use of private consultants and private contractors, and that usage is exploding at an enormous rate.

Mr. President, the President of the United States, President Bush, in January, got up in his State of the Union Address and talked a great deal about how we are going to freeze the number of Federal employees, and everybody got up and cheered and clapped at that idea. But what he did not tell us is that we are going to continue hiring private contractors and private consultants at sometimes 25 to 40 percent more to do the same jobs, and it is going to cost us 25 to 40 percent more. We have just seen an enormous growth in this. I think Senator GRAHAM's amendment is an attempt to deal with this problem and to deal with the general growth in government at the very top.

The President's 1993 budget, for example, overall, Mr. President, asked for $90 billion for service contracts. That is throughout the entirety of our Federal Government. It ranges from research and development to painting contractors. And one-third of this money, $35 billion, is spent on support contracts that we have found to be riddled with waste and abuse.

I think the Senator's amendment is a good one. I am going to support it. I have asked him to add me as a cosponsor.

Mr. President, I yield what time I have back to the distinguished Senator from Florida.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. HOLLINGS. Mr. President, how much time do we have.

The PRESIDING OFFICER. Eleven minutes, seventeen seconds.

Mr. HOLLINGS. Mr. President, I would like to respond to my distinguished friend from Arkansas. Earlier, I expressed my gratitude for his complementary remarks relative to the inclusions that we have on a very important study that the Senator from Arkansas made relative to defense conversion. We are going toward technology. He and I are in lockstep trying to develop an economic competitiveness, and that is to be done in main within our own Commerce Department. So at the very time we are trying to build up the Department, they come, at the same time, to talk about cutting it back.

I once again say we cut back 10 percent from Commerce general administration. We cut back 10 percent from the President's budget request. In fact, the overall bill for all functions, as reported, $413 million in budget authority and $847 million in outlays below the President's request. We do not mean to stand idly by. And it can be taken care of in the conference committee. We are not worried about that. But what we are worried about is the lack of an understanding on the one hand and trying to identify with savings on the other hand and the sort of Pavlovian fashion that colleagues come to the floor with, "Oh, this is for cutting spending. I want to identify with cutting spending so I can put it in my little 20-second sound bite that we had an amendment to cut spending, and so I voted for it."

Talk about consultants. The distinguished Senator knows that I have been a cosponsor of his move to get rid of consultants, in fact, to get rid of the Washington lawyers down here. I have a hard time defending the trial lawyers, I can tell you that, who work for their living. This crowd comes in demanding $300, $400 an hour. Look at the RTC lawyers. Get into that where you can save.

I met with a gentleman just the night before last. He had been trying to call and call and call and get a message through. Instead, the RTC crowd flies from New York all the way down to Georgetown, SC, with a staff, lands in Charleston, hires a limousine, comes out, spends 2 days, 2 nights, goes back up and charges all that to the Government at $400-some-odd an hour. And here we have a Department we are trying to build.

Let us be selective and look where we are trying to save. We have a Department of Defense operation of $39 billion in research and development over on the other side of the Potomac, and they do not know what to do with the money, so they have gotten all kinds of new programs for it, and everything else of that kind.

And Agriculture; we have 80 percent of the trade in international trade. In the Commerce Department, we get $200 million to promote it. They get $900 million over in Agriculture, plus a $5.6 billion Export-Import Bank to bolster it, and everything else like that.

This Department has been cut, cut, cut, and they can cut more and give themselves the Good Government Award.

Let us see what our colleagues want to do because we can find it and take care of it in conference, Mr. President. But they ought to understand that this staff in the Senate has worked hard, the Appropriations Committee has worked hard. We did not go willy-nilly. We did cut programs across the board, and for domestic programs we reported a bill of $939 million in outlays, in spending, below President Bush's request and $360 million below current policy. That ought to send a message of real savings. And to come around and just get an identification with 1.3 million here, more just to identify with the problem and not really do anything substantive about it, I do not think is worthy of the Senate.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, how much time do I control?

The PRESIDING OFFICER. The Senator from Florida has 7 minutes.

Mr. GRAHAM. Mr. President, I yield myself such time as is necessary.

Mr. President, I recognize the long leadership which both Senator HOLLINGS and Senator RUDMAN have provided to the issue of deficit reduction. There are no two Senators whose names, as well as careers, are more associated with that objective than these two Senators. I was regretful that by happenstance the first appropriations bill which came before the Senate happened to be the one they had shaped, because what I am talking about is not an issue that is targeted at these three agencies.

As I indicated, it is my intention to offer this same amendment to freeze general administration overhead on all of the budgets including the legislative budget. And while the amount of dollars available in the particular Department of Commerce overhead, which is a relatively small agency, may appear in the scale of things to be miniscule, the potential savings in all three of these agencies is not insignificant—approximately $90 million. And the savings that will be available in applying this consistently to all executive agencies and to the congressional branch will be very significant.

I want to comment on something the Senator from South Carolina said. I know he did not mean to infer that there was something inappropriate in raising these kinds of questions. We are all Members of the Senate with our responsibilities. Many of us have had the privilege in the past, as has the Senator from South Carolina and the distinguished Presiding Officer, to be Governors of our States where we had major budget responsibilities, and therefore we bring some particular background and perspective to that task.

Yes, I am going to be an aggressive, I hope effective, advocate of issues which relate to my State. That is one of our responsibilities as an elected representative to the Senate. It happens that many of the most important national issues which are under the jurisdiction of the agencies in this budget happen to have a special focus in the State of Florida. For instance, many of the law enforcement functions are in this budget. For too long my State was at the forefront of the Nation's fight against the scourge of drugs. Our geography placed us there. And, yes, I am going to be a strong advocate for those things which will strengthen the Nation's effort in those areas and others and do not consider that to be inconsistent with a program which says let us go where we can reduce Federal spending with the least impact on those front-line programs. That is the area which has been identified by the Grace Commission, by the House Task Force on Management, and by Presidential candidate Bill Clinton, which is a target on the overhead accounts.

I also believe it is the responsibility of all of us, collectively, to be identifying every area in which we think there are opportunities to reduce the deficit. Yes, there are areas in RTC, and I believe our distinguished chairman has brought again to our attention an area which deserves our major attention. I hope we would through this process be identifying and then prepared to act in many areas that can contribute toward our goal.

Mr. President, I do not consider what we are suggesting in terms of reductions is excessive or Draconian. The first budget we are going to vote on is the Department of Commerce. The difference between the budget for overhead and general administration as recommended by the committee, and in the amendment that I have suggested, is approximately $1.2 million. That is $1.2 million, with an "m." The budget for the Department of Commerce this year is $3.3 billion. It represents an increase over fiscal year 1992 of $340.1 million, or 11.3 percent over fiscal year 1992. I am talking about a $1.2 million reduction in an agency whose budget increase is $340.1 million or 11.3 percent.

I do not consider it to be asking too much of this department to contribute toward a general policy that we will take as a first step toward reducing the Federal budget deficit, a freeze on the overhead and general administration of the executive agencies and the Congress.

Mr. President, I conclude with an admittedly stolen quote, and that is if we are not prepared to take this step today to say, for this budget and as a policy for future budgets, that we will at least freeze at current year levels the overhead and general administration of these agencies, if we are not prepared to make that step toward deficit reduction, then where are we prepared to make the step? If we are not prepared to do it today, when will we be willing to start?

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the resistance that we have is to the fact it is not taking one real step. It is a game. Everyone within the hearing of our voice understands that. If they really want to cut spending, we can get some bigger cuts. The reason we resist it is we have done these things. We cut back—like I say, $939 million in outlays less than the President for domestic programs, including Commerce and Justice, $360 million less than inflation in current accounts. We cut 10 percent out of the administration accounts.

The assumption is that we did not look hard and we went willy-nilly and just gave them the same thing over again.

We are just not going to let that pass.

They can vote and act like they have done something for $1.3 million in this particular Commerce budget; that they have started a trend now; they have really a feel for budget reductions now; we have a conscience about this thing; and we are really going to finally do something about deficits in these appropriations bills.

It is a not taking a step forward. It is just playing games.

I just say, Mr. President, we would be willing to yield back our time and try to vote close to 11 o'clock, but we feel very strongly that when you have done a very credible job and have come in way under the President in this particular department and others—we have had to struggle with the administration over the years, trying to build up the Commerce Department and trying to get them to enforce these antidumping trade cases, trying to get them into the export-import business, trying to expand the United States and Foreign Commercial Service into the former Soviet Union, computerize these things, build up the technology and community assistance now that everybody wants in defense conversion, just at the time we get a willing Secretary and she has the same desire and is working hard—and we want to nitpick here. This is not a step toward deficit reduction. It is nitpicking.

If they really want to save some money, then we have given them a plan and we will give them some more plans that will really put us in step and really get something done. This just helps in getting press. That is all it does.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I yield the remainder of my time to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the distinguished Senator from Florida for yielding to me. I think we have about 1½ minutes remaining on this side.

Mr. President, my good friend from South Carolina has characterized this—maybe I am putting in his words now—as sort of a feel-good amendment. I do not feel good about this amendment. I do not have any feeling of righteousness in supporting the Graham amendment. I would feel very badly, though, Mr. President, if I did not point out to my good friend that under this proposal, if we do not adopt the Graham amendment, we are going to see other services increase, it looks to me, by about 62 percent, about 62 percent under this proposal.

Mr. HOLLINGS. If the Senator will yield, that is the President's request you are reading. That is not the committee-recommended bill.

Mr. PRYOR. It is a 1993 estimate. That is the figure I have.

Mr. HOLLINGS. That is not our bill. That is the President's request. Senator, we already cut that by $3.3 million.

Mr. PRYOR. If I might respond, and I am running out of time, Mr. President, something I would not feel good about, I would feel very badly about, is to not bring to the attention of our colleagues the fact that in 4 years the cost of private contractors and consultants in this country has grown by 65 percent.

We appropriate that money and this is one of the few amendments that I have seen in recent years that begins—just on the Commerce Department, I understand this, but next is the State Department, next is the Justice Department, next is the Agriculture Department, right on down the line—to get some control over the cost of government. We have to start getting a handle on this. It is that kind of amendment that I support. I hope our colleagues will support it.

Thank you, Mr. President.

Mr. HOLLINGS. Mr. President, do I have a minute?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute and 30 seconds.

Mr. HOLLINGS. Get a handle on it. You can take all of those departments. But get it on the RTC. That is a consultant. That is the consultant crowd. I can tell you where it is. That is where the big waste is.

If you take the department, the Commerce Department, and want to single it out, and act like I say, in all candor, my friend from Arkansas, it is just not that. We went along when President Reagan came into office, and we had a 10 percent cut by way of attrition, something similar as the Senator was quoting Governor Clinton. It did not hurt us. Cut our own staff. I recommended that. But if you really want to do something, let us take them all, our staffs, all of the staffs, everywhere around, and let us see if we cannot do with less. But as we do it, do not come to the Commerce Department here where we have these added responsibilities that you praise us for like Defense economic conversion, and say do not administer them.

I yield the remainder of my time.

Mr. KOHL. Mr. President, I rise in support of the Graham amendments. I am not going to spend time talking about the deficit. We all know its size, its ill economic effects, and the failure of our political leaders to bring it under control. What is news today is that we have an opportunity to vote on three amendments that go beyond talk and actually cut spending.

This amendment freezes spending in the general administrative accounts of the Department of State, Department of Commerce, and Department of Justice. Those accounts fund the administrative operations of each agency—that is, official travel, rental of office space, office decoration, general policy development, management strategy, et cetera. In short, the accounts cover the centralized operations of the three agencies.

The reason for focusing the freeze on the general administrative costs is not that these represent wasted money. They do not. Instead, these accounts contain what most people would call overhead spending. That is the spending that can be controlled and that should be cut in tough financial times.

Many private economic analysts—including the Grace Commission—have identified overhead costs as the first front on which we should fight runaway spending. Of course, office supplies are necessary, but when your operation is billions of dollars in the hole, you can do with a few less envelopes. Of course, official travel is important, but when your operation has debt of trillions of dollars, you can send fewer people to overseas conferences.

I certainly agree that these amendments are not targeted to overhead expenses as accurately as I would like. However, that is not the fault of the Senator from Florida. Neither the appropriations bills we consider, the budget resolution we have already passed, nor the agency budgets submitted to Congress contain exact figures for overhead expenses. Try to track the Department of State's travel expenses—you cannot. Try to find out how much is appropriated for office space—you cannot. Our accounting system is so arcane and so convoluted, there is no way for the members of this body to trace and control Government spending.

And clearly—clearly—that is what we must do. The deficit represents a financial crisis and a crisis of confidence. The American people believe we are not managing their money well. They believe that, in budgeting billions of dollars, we have lost sight of the worth of $1. These amendments are a chance to regain some of that confidence—a chance to say we are willing to look for ways to hold the line on spending. I urge my colleagues to support all three amendments.

Mr. ROBB. Mr. President, like the senior Senator from Florida, [Mr. GRAHAM] I served as Governor before coming to this body. When a Governor comes to work each day, the "In" box is full of difficult choices. Most of those choices pit attractive opportunities and programs against the constraints of a balanced budget. The time has come for us to get more accustomed to these choices in Washington.

Senator GRAHAM's amendment begins that familiarization process. It freezes funding for overhead and administrative expenses at the current level for the Departments of Commerce, State, and Justice.

This amendment does not cut down on enforcement of laws and regulations, nor does it take critical resources away from the people at the cutting edge; the diplomats, trade negotiators, or FBI and DEA field agents. But it begins the process of serious deficit reduction which it has always been easier to postpone.

I recognize that a disproportionate number of the constituents who will face the brunt of this level funding live and vote in my own State. Yet I know that many of them would be among the first to agree that a sound government must be a leaner government. If we are serious about getting this country's finances back under control, we have no choice but to start reducing spending somewhere—and this is a logical place to start.

I thank Senator GRAHAM for this amendment, and commend him for his courage in offering it. I plan, Mr. President, to join in backing similar administrative freezes in every appropriation, including the legislative operations bill.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the first Graham amendment No. 2765.

Mr. GRAHAM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 2765 of the Senator from Florida [Mr. GRAHAM]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum. I think we have the wrong amendment here.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the vote occur on amendment 2767.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the yeas and nays are vitiated on amendment 2765, and the yeas and nays are ordered on amendment 2767.

The question is on agreeing to the amendment of the Senator from Florida [Mr. GRAHAM]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk call the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Florida [Mr. MACK] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. WOFFORD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 42, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—50

Bingaman
Bond
Boren
Brown
Bryan
Burns
Coats
Conrad
Craig
Danforth
Daschle
Durenberger
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Kassebaum
Kasten
Kerrey
Kohl
Levin
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Murkowski
Nickles
Nunn
Pressler
Pryor
Reid
Robb
Roth
Sanford
Sasser
Seymour
Shelby
Simon
Smith
Specter
Symms
Wallop
Wellstone
Wirth
Wofford

NAYS—42

Adams
Akaka
Baucus
Bentsen
Biden
Breaux
Bumpers
Byrd
Chafee
Cochran
Cohen
Cranston
DeConcini
Dodd
Dole
Domenici
Exon
Garn
Gorton
Gramm
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Lautenberg
Leahy
Lieberman
Mitchell
Moynihan
Packwood
Pell
Riegle
Rockefeller
Rudman
Sarbanes
Simpson
Stevens
Thurmond
Warner

NOT VOTING—8

Bradley
Burdick
D'Amato
Dixon
Gore
Helms
Kerry
Mack

So the amendment (No. 2767), was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, in light of the outcome on this vote, I suggest to the sponsor of the amendment and the managers if agreeable that the next two votes be vitiated and accepted by voice vote. I wonder if that will be agreeable to the participants.

Mr. HOLLINGS. That is agreeable.

Mr. RUDMAN. That is agreeable on this side.

AMENDMENT NO. 2765

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2765) was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2766.

The amendment (No. 2766) was agreed to.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I move to reconsider the votes on the last two amendments.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the bill will be engrossed for a third reading and read the third time.

The bill was read a third time.

The PRESIDING OFFICER. Pursuant to the previous order, S. 3026 is returned to the calendar of general orders.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT

The PRESIDING OFFICER. The clerk will report the bill, H.R. 5487.

The bill clerk read as follows:

A bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $2,282,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further,* That the Secretary may transfer salaries and expenses funds in this Act sufficient to finance a total of not to exceed 35 staff years between agencies of the Department of Agriculture to meet workload requirements.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $543,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,756,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $596,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $50,503,000, of which $5,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $25,700,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of advisory committees of the Department of Agriculture which are included in this Act, $952,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of advisory committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $16,000,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $25,014,000, for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, $1,307,000.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $8,925,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $468,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $62,786,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978, as amended, and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $24,554,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $580,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $58,720,000; of which $500,000 shall be available for investigation, determination, and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further*, That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, **[$80,941,000]** *$81,066,000*: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $2,367,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $560,000.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

For necessary expenses to carry out the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901–5908), **[$4,500,000]** *$10,000,000 is appropriated to the Alternative Agricultural Research and Commercialization Revolving Fund.*

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $658,379,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the foregoing limitations shall not apply to the purchase of land or the construction of facilities as may be necessary for the relocation of the United States Horticultural Crops Research Laboratory at Fresno to Parlier, California, and the relocation of the laboratories at Behoust, France and Rome, Italy to Montpelier, France, including the sale or exchange at fair market value of existing land and facilities at Fresno, California and Behoust, France; and the Agricultural Research Service may lease such existing land and facilities from the purchasers until completion of the replacement facilities: *Provided further*, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,500,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, **[$34,514,000]** *$23,210,000*, to remain available until expended (7 U.S.C. 2209b): *Provided*, That facilities to house bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94–129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities: *Provided further*, That funds may be received from any State, other political subdivision, organization, or individuals for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $168,785,000 to carry into effect the provisions of the Hatch Act approved March 2, 1987, as amended, including administration by the United States Department of Agriculture, penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1987, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $18,533,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a–582–a7), as amended, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $27,400,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; **[$57,688,000]** *$61,612,000* for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $97,500,000 for competitive research grants under section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)), including administrative expenses; $5,551,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95–113, including administrative expenses; **[$1,168,000]** *$500,000* for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $400,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $3,500,000 for higher education graduate fellowships grants under section 1417(b)(6) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(6)), including administrative expenses; $1,500,000 for higher education challenge grants under section 1417(b)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(1)), including administrative expenses; $4,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $6,725,000 for sustainable agriculture research and education, as authorized by section 1621 of Public Law 101–624 (7 U.S.C. 5811), including administrative expenses; *$400,000 for State agricultural weather information systems pursuant to section 1640 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3318);* and **[$19,170,000]** *$20,045,000* for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which $10,250,000 shall be for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, [$412,395,000] *$416,926,000*.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension, and teaching programs of the Department of Agriculture, where not otherwise provided, [$33,611,000] *$52,101,000*, to remain available until expended (7 U.S.C. 2209b).

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $262,712,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $60,525,000; [payments for the urban gardening program under section 3(d) of the Act, $3,557,000;] payments for the pest management program under section 3(d) of the Act, $8,200,000; payments for the farm safety and rural health programs under section 3(d) of the Act, [$2,470,000] *$2,970,000*; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,405,000; payments to upgrade 1890 land-grant college research and extension facilities as authorized by section 1447 of Public Law 99–198, $8,000,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93–471, $1,010,000; payments for a groundwater quality program under section 3(d) of the Act, $11,375,000; special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100–219, $2,550,000; payments for the Agricultural Telecommunications Program, as authorized by Public Law [100–624] *101–624* (7 U.S.C. 5926), $1,221,000; payments for youth-at-risk programs under section 3(d) of the Act, $10,000,000; payments for a Nutrition Education Initiative under section 3(d) of the Act, $3,530,000; payments for a food safety program under section 3(d) of the Act, $1,500,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 [under section 3(d) of the Act], $2,765,000; payments for Indian reservation agents under section 3(d) of the Act, [$1,500,000] *$2,000,000; payments to establish and operate centers of rural technology developed as authorized by section 2347 of Public Law 101–624 (7 U.S.C. 1932), $2,000,000; payments for outreach and assistance for socially disadvantaged farmers and ranchers as authorized by section 2501 of Public Law 101–624 (7 U.S.C. 2279), $2,000,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,000,000;* and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $24,730,000; in all, [$410,000,000] *$413,443,000*, of which not less than $79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, [$7,928,000] *$9,501,000*, of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, [$17,253,000] *$17,715,000*: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $900,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further, That $462,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3818), in addition to other funds available in this appropriation for grants under this section.*

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service, and Packers and Stockyards Administration, $550,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, [$430,939,000] *$432,900,000*, of which $83,362,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account, and of which $5,000,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That $500,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That none of these funds shall be used to develop, establish, or operate any user fee program for agricultural quarantine and inspection to prevent the movement of exotic pests and diseases from Hawaii and Puerto Rico as authorized by 31 U.S.C. 9701: *Provided further, That none of these funds shall be used to pay the salary of any Department veterinarian or Veterinary Medical Officer who, when conducting inspections at horse shows, exhibitions, sales, or auctions under the Horse Protection Act, as amended (15 U.S.C. §§ 1821–1831), relies solely on the use of digital palpation as the only diagnostic test to determine whether or not a horse is sore under such Act.*

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $10,400,000, to remain available until expended (7 U.S.C. 2209b).

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $489,867,000: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds in this Act may be used to carry out the Streamlined Inspection System (for cattle) after April 1, 1993.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $11,397,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94–582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $42,784,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 per centum with notification to the Appropriations Committees.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451–457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $5,640,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109: *Provided further, That $99,000 of these funds shall be available for a field office in Hawaii.*

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, [$56,520,000] *$45,401,000*; of which not less than $2,313,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed [$52,861,000] *$55,953,000* (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 per centum with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,309,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

In fiscal years 1993 and 1994, section 32 funds shall be used to promote sunflower and cottonseed oil exports to the full extent authorized by section 1541 of Public Law 101–624 (7 U.S.C. 1464 note), and such funds shall be used to facilitate additional sales of such oils in world markets.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,250,000.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $11,996,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $551,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970, as amended (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241–273); title XII of the Food Security Act of 1985, as amended (16 U.S.C. 3811 et seq.); and laws pertaining to the Commodity Credit Corporation, [$715,296,000] *$714,551,000*; of which [$714,134,000] *$712,926,000* is hereby appropriated, and [$573,000] *$1,036,000* is transferred from the Public Law 480 Program Account in this Act and $589,000 is transferred from the Commodity Credit Corporation Program Account in this Act: *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations: *Provided further, That funds contained herein shall be available for establishing and maintaining a National Appeals Division provided for under section 426 of the Agricultural Act of 1949.*

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), **[$303,896,000]** *$326,048,000*: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $285,794,000, to remain available until expended (7 U.S.C. 2209b); of which $58,768,000 is to reimburse the Federal Crop Insurance Corporation Fund for agents' commissions and loss adjustment obligations incurred during prior years, but not previously reimbursed, as authorized by section 516(a) of the Act, as amended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1993, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $9,200,000,000 in the President's fiscal year 1993 Budget Request (H. Doc. 102–178)), but not to exceed $9,200,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a–11).

Such funds are appropriated to reimburse the Corporation to restore losses incurred during prior fiscal years. Such losses for fiscal years 1991 and 1992 include $667,020,000 in connection with carrying out the Export Enhancement Program (EEP), $114,196,000 in connection with carrying out the Market Promotion Program (MPP), $150,000,000 in connection with carrying out the Federal Crop Insurance Program, $314,763,000 in connection with domestic donations, $165,316,000 in connection with export donations, and $7,788,705,000 in connection with carrying out the commodity programs.

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1993, CCC shall not expend more than $3,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided*, That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation.

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the General Sales Manager, **[$8,641,000]** *$8,866,000*, of which $4,668,000 may be transferred from Commodity Credit Corporation funds, $2,731,000 may be transferred from the Commodity Credit Corporation Program Account in this Act, and **[$1,242,000]** *$1,467,000* may be transferred from the Public Law 480 Program Account in this Act. Of these funds, up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95–501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—CONSERVATION PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $563,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $576,539,000, to remain available until expended (7 U.S.C. 2209b); of which not less than $5,713,000 is for snow survey and water forecasting and not less than $8,064,000 is for operation and establishment of the plant materials centers: *Provided*, That except for $2,399,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further*, That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $13,251,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $9,545,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, **[$205,266,000]** *$238,266,000* (of which **[$36,091,000]** *$42,091,000* shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed **[$20,028,000]** *$24,028,000* shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16

U.S.C. 3451–3461), $32,516,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That $600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $25,271,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q), and sections 1001–1004, 1006–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1504, 1506–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, [$194,435,000] *$188,785,000*, to remain available until expended (16 U.S.C. 590o), for agreements, excluding administration but including technical assistance and related expenses (16 U.S.C. 590o), except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels: *Provided further*, That not to exceed [$6,750,000] *$15,000,000* of the amount appropriated shall be used for water quality payments and practices in the same manner as permitted under the program for water quality authorized in chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.).

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $18,620,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205), $3,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, [$14,783,000] *$12,783,000*, to remain available until expended (7 U.S.C. 2209b), to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county ASC committees, approved by the State ASC committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831–3845), $1,578,517,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, for annual rental payments provided in such contracts, and for technical assistance: *Provided*, That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land.

TITLE III—FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS

Office of the Under Secretary for Small Community and Rural Development

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Development Administration, Rural Electrification Administration, and Federal Crop Insurance Corporation, $572,000.

Rural Development Administration

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Rural Development Administration, not otherwise provided for, in administering the rural development programs of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–2000), as amended, section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), and title VI of the Rural Development Act of 1972, $37,066,000; of which $14,787,000 is hereby appropriated, $21,755,000 shall be derived by transfer from the Rural Development Insurance Fund Program Account in this Act and merged with this account, and $524,000 shall be derived by transfer from the Rural Development Loan Fund Program Account in this Act and merged with this account: *Provided*, That not to exceed $500,000 shall be for employment under 5 U.S.C. 3109.

Farmers Home Administration

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of

1949, as amended, to be available from funds in the Rural Housing Insurance Fund, as follows: [$1,624,500,000] *$1,495,000,000* for loans to section 502 borrowers, as determined by the Secretary, of which [$329,500,000] *$200,000,000* shall be for unsubsidized guaranteed loans; $11,330,000 for section 504 housing repair loans; $16,300,000 for section 514 farm labor housing; [$500,000,000] *$573,900,000* for section 515 rental housing; $600,000 for site loans; and [$200,000,000] *$187,000,000* for credit sales of acquired property*: Provided, That up to $35,000,000 of these funds shall be made available for section 502(g), Deferral Mortgage Demonstration.*

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: low-income housing section 502 loans, [$309,254,000] *$310,643,000*, of which [$6,096,000] *$3,700,000* shall be for unsubsidized guaranteed loans; section 504 housing repair loans, [$4,578,000] *$4,548,000*; section 514 farm labor housing, $8,029,000; section 515 rental housing, [$356,550,000] *$305,602,000*; and credit sales of acquired property, [$26,780,000] *$25,039,000*.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, [$427,111,000] *$423,467,000*.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, [$319,900,000] *$355,498,000*; and in addition such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1993 to carry out the Rental Assistance Program under section 521(a)(2) of the Act: *Provided*, That of this amount not more than $11,800,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That of this amount not less than [$128,158,000] *$115,198,000* is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,214,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That [$174,728,000] *$235,997,000* is available for expiring agreements and for servicing of existing units without agreements: *Provided further*, That agreements entered into or renewed during fiscal year 1993 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further*, That agreements entered into or renewed during fiscal years 1989, 1990, 1991, and 1992 may also be extended beyond five years to fully utilize amounts obligated.

SELF-HELP HOUSING LAND DEVELOPMENT FUND PROGRAM ACCOUNT

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000.

For an amount, for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans, $22,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $21,000.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $555,500,000, of which $488,750,000 shall be for guaranteed loans; operating loans, [$2,588,354,000] *$2,538,354,000*, of which $1,500,000,000 shall be for unsubsidized guaranteed loans and $238,354,000 shall be for subsidized guaranteed loans; [$3,752,000] *$3,715,000* for water development, use, and conservation loans, of which $1,415,000 shall be for guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured loans, $115,000,000 to meet the needs resulting from natural disasters; and for credit sales of acquired property, [$125,000,000] *$50,000,000: Provided, That loan funds made available herein shall be completely allocated to the States and made available for obligation in the first two quarters of fiscal year 1993.*

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $33,599,000, of which $20,576,000 shall be for guaranteed loans; operating loans, [$161,765,000] *$154,256,000*, of which [$15,350,000] *$18,150,000* shall be for unsubsidized guaranteed loans and [$18,150,000] *$15,350,000* shall be for subsidized guaranteed loans; $499,000 for water development, use, and conservation loans, of which $43,000 shall be for guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $226,000; for emergency insured loans, $30,762,000 to meet the needs resulting from natural disasters; and for credit sales of acquired property, [$31,825,000] *$12,730,000*.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $230,179,000.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), [$2,750,000] *$3,475,000*.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661–664, as amended, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $635,000,000, of which $35,000,000 shall be for guaranteed loans; community facility loans, $200,000,000, of which $100,000,000 shall be for guaranteed loans; and guaranteed industrial development loans, $100,000,000: *Provided*, That none of the funds made available in this Act may be used to make transfers between the above limitations.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: water and sewer facility loans, $87,360,000; community facility loans, $8,410,000; and guaranteed industrial development loans, $5,440,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $58,208,000.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

For the cost of direct loans [$16,260,000] *$18,616,000*, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812 (a)): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed [$28,387,000] *$32,500,000*.

In addition, for administrative expenses necessary to carry out the direct loan programs, $529,000.

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

For the cost of guaranteed lines of credit available pursuant to an emergency declaration as provided at section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $13,500,000, to remain available until expended, but not beyond fiscal year 2009: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to establish a guaranteed line of credit program level of $45,000,000, to remain available until expended, but not beyond fiscal year 2009, which the Department shall make available for the purpose of purchasing grains for the production of alcohol fuels at established cooperative facilities as necessary to meet deliveries under contract: Provided further, That a guarantee fee of one percent shall be paid at the time a guarantee is issued.

In addition, for administrative expenses necessary to carry out the credit guarantee program, $150,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), [$400,000,000] *$381,000,000*, to remain available until expended, pursuant to section 306(d) of the above Act: *Provided*, [That of this amount, $25,000,000 shall be available for water systems to benefit the Colonias along the U.S./Mexico border, including grants pursuant to section 306C(c)(1): *Provided further*,] That these funds shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $11,000,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), [$8,750,000] *$12,750,000*, to remain available until expended (7 U.S.C. 2209b).

[SUPERVISORY AND TECHNICAL ASSISTANCE GRANTS]

[For grants pursuant to sections 509(g)(6) and 525 of the Housing Act of 1949, $2,500,000, to remain available until expended.]

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98–181), $23,000,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310B(c) *and 310B(j)* (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act to any qualified public or private nonprofit organization, $20,750,000: *Provided*, That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance and training for rural communities needing improved passenger transportation systems or facilities in order to promote economic development: *Provided further, That $2,000,000 shall be available for grants to statewide private, nonprofit public television systems in predominantly rural States to provide information and services on rural economics and agriculture: Provided further, That grants made to or to be made to these television systems during fiscal years 1990 through 1992 under the Consolidated Farm and Rural Development Act shall for all purposes be deemed to have been made pursuant to Section 310B(j) of such Act.*

SOLID WASTE MANAGEMENT GRANTS

For grants for pollution abatement and control projects authorized under section 310B(b) (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act, $3,000,000: *Provided*, That such assistance shall include regional technical assistance for improvement of solid waste management.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

For emergency community water assistance grants as authorized under section 306B (7 U.S.C. 1926b) of the Consolidated Farm and Rural Development Act, $10,000,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471–1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440–444), for administering the loan program authorized by title III–A of the Economic Opportunity Act of 1964 (Public Law 88–452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, [$679,920,000] *$676,426,000*; of which $23,802,000 is hereby appropriated, [$404,846,000] *$401,202,000* shall be derived by transfer from the Rural Housing Insurance Fund Program Account in this Act and merged with this account, $215,712,000 shall be derived by transfer from the Agriculture Credit Insurance Fund Program Account in this Act and merged with this account, $35,539,000 shall be derived by transfer from the Rural Development Insurance Fund Program Account in this Act and merged with this account, *$150,000 shall be derived by transfer from the Alcohol Fuels Credit Guarantee Program Account in this Act and merged with this account*, and $21,000 shall be derived by transfer from the Self-Help Housing Land Development Fund Program Account in this Act and merged with this account: *Provided*, That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed [$3,985,000] *$4,500,000* of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower: *Provided further, That none of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii: Provided further, That funds appropriated to the Farmers Home Administration shall be used to establish and maintain a Farmers Home Administration State office in Nevada.* The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*, That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $625,035,000 nor more than $933,075,000; and rural telephone loans, not less than [$219,325,000] *$239,250,000* nor more than $311,025,000; to remain available until expended: *Provided*, That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1993 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: [Provided further, That loans may be modified in an amount not to exceed $266,000,000:] *Provided further*, That as a condition of approval of insured electric loans during fiscal year 1993, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: [Provided further, That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds:] *Provided further*, That no funds appropriated in this Act may be used to implement any other criteria, ratio, or test to deny or reduce loans or loan advances: *Provided further, That, hereafter, no funds in this Act or any other Act shall, in the case of a borrower that, prior to June 1, 1992, made an investment in a subsidiary involving coal gasification, be available to count the retained earnings of its coal and gas subsidiaries against the limitation of Section 312 of the Rural Electrification Act of 1936 (7 U.S.C. 940b), or to require the borrower to raise its electric rates to offset any loss of such subsidiaries if the retained earnings of such subsidiaries exceed the amount of any loss and the Administrator has not determined that without such rate increase, the borrower will be unable to repay loans made or guaranteed under this Act.*

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), as follows: cost of direct loans, [$157,609,000] *$161,269,000*; and cost of loans guaranteed pursuant to section 306, [$35,475,000 and for loan modifications, $47,880,000] *$35,388,000*.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, [$29,163,000] *$30,330,000*.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1993 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $35,000.

In addition, for administrative expenses necessary to carry out the loan programs, [$8,632,000] *$8,977,000*.

DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

For necessary expenses to carry into effect the programs authorized in sections 2331–2335 of Public Law 101–624, $5,000,000, to remain available until expended.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

For loans authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, [$9,215,000] *$15,563,000*.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans, [$2,546,000] *$4,300,000*.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $243,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1995), and for which commitments were made prior to fiscal year 1993, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, **[**$37,795,000**]** *$39,307,000*; of which **[**$29,163,000**]** *$30,330,000* shall be derived by transfer from the Rural Electrification and Telephone Loans Program Account in this Act and **[**$8,632,000**]** *$8,977,000* shall be derived by transfer from the Rural Telephone Bank Program Account in this Act: *Provided*, That none of the funds in this Act may be used to authorize the transfer of additional funds to this account from the Rural Telephone Bank: *Provided further*, That none of the salaries and expenses provided to the Rural Electrification Administration, and none of the responsibilities assigned by law to the Administrator of the Rural Electrification Administration may be reassigned or transferred to any other agency or office.

TITLE IV—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $542,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789), **[**$6,674,521,000**]** *$6,767,484,000*, to remain available through September 30, 1994; of which **[**$2,384,066,000**]** *$2,477,029,000* is hereby appropriated and $4,290,455,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further*, That up to **[**$4,083,000**]** *$3,780,000* shall be available for independent verification of school food service claims: *Provided further*, That **[**$1,322,000 shall be available**]** *$2,000,000 shall be available to provide financial and other assistance* to operate the Food Service Management Institute.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $14,898,000, to remain available through September 30, 1994. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $2,860,000,000, to remain available through September 30, 1994, *of which up to $3,000,000 may be used to carry out the farmer's market coupon demonstration project: Provided, That of these funds, up to $5,200,000 may be available to carry out the special supplemental food program, consistent with section 112 of the Department of Justice Appropriations Act, 1993, to promote neighborhood revitalization*.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $94,500,000, to remain available through September 30, 1994: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2029), **[**$26,719,691,000**]** *$29,051,000,000*; of which $2,500,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided*, That funds provided herein shall remain available through September 30, 1993, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further*, That $345,000,000 of the funds provided herein shall be available after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further*, That $1,051,000,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028, of which $10,825,000 shall be transferred to the Animal and Plant Health Inspection Service for the Cattle Tick Eradication Project.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013(b)), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $224,513,000 *to remain available through September 30, 1994*.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $32,000,000.

THE EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Emergency Food Assistance Act of 1983, as amended, $45,000,000: *Provided*, That, in accordance with section 202 of Public Law 98–92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Emergency Food Assistance Act of 1983, as amended, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $103,535,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, and nutrition monitoring, $10,788,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $125,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $110,023,000: *Provided*, That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

Public Law 480 Program Account

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) [$511,619,000] *$538,295,000* for Public Law 480 title I credit, including Food for Progress credit; (2) [$52,185,000] *$43,064,000* is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) [$763,842,000] *$810,000,000* is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) [$333,594,000] *$344,269,000* is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided*, That not to exceed 10 per centum of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further*, That such sums shall remain available until expended (7 U.S.C. 2209b).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, [$317,800,000] *$360,981,000.*

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, [$1,815,000] *$2,503,000.*

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct credit agreements as authorized by title VI of the Agricultural Trade Development and Assistance Act of 1954, as amended, [$69,531,000] *$13,183,000.*

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING DEMOCRACIES EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its export guarantee program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging democracies, as authorized by section 1542 of Public Law 101-624 (7 U.S.C. 5622 note).

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out CCC's Export Guarantee Program, GSM 102 and GSM 103, $3,320,000; of which not to exceed $2,731,000 may be transferred to and merged with the appropriation for the salaries and expenses of the General Sales Manager, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Agricultural Stabilization and Conservation Service, to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

Office of International Cooperation and Development

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $7,247,000: *Provided*, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further*, That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581–3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further*, That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

LIMITATION ON EXPENSES

For payments in foreign currencies owed to or owned by the United States for research activities authorized by section 104(c)(7) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(c)(7)), not to exceed $1,062,000: *Provided*, That not to exceed $25,000 of these funds shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $744,135,000: *Provided*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $8,350,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That the Food and Drug Administration may accept donated land in Montgomery and/or Prince Georges Counties, Maryland.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

Financial Management Service

Payments to the Farm Credit System Financial Assistance Corporation

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by Section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1993, as authorized, $84,614,000: *Provided*, That not to exceed $809,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further*, That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

INDEPENDENT AGENCIES

Commodity Futures Trading Commission

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $47,300,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed [$38,686,000] *$39,908,000* (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249, including not to exceed the following amounts: official reception and representation expenses, $1,500; Office of Secondary Market Oversight, $300,000; Office of the General Counsel, [$1,853,000] *$2,000,000*, and Office of Congressional and Public Affairs, $500,000.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1993 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 659 passenger motor vehicles, of which 654 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 705. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 706. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, Integrated Systems Acquisition Project, and the reserve fund for the Grasshopper and Mormon Cricket Control Programs; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; Office of International Cooperation and Development, Middle-Income Country Training Program; higher education graduate fellowships grants under section 1417(b)(6) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(6)); and capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee University.

New obligational authority for the Boll Weevil Program and up to 10 per centum of the Screwworm Program of the Animal and Plant Health Inspection Service shall remain available until expended.

SEC. 707. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 708. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 709. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 710. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 711. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 712. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 713. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 714. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 715. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 716. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1992 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 717. In fiscal year 1993, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 718. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 8,924; Farmers Home Administration, 12,225; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 719. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 720. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 721. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 722. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 723. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1993 shall be first offered to the borrowers for prepayment.

SEC. 724. None of the funds in this Act may be used to establish any new office, organization, or center for which funds have not been provided in advance in Appropriations Acts, except the Department may carry out planning activities.

SEC. 725. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 726. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 14 per centum of total Federal funds provided under each award.

SEC. 727. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a Market Promotion Program pursuant to section 203 (7 U.S.C. 5623) of the Agricultural Trade Act of 1978 with respect to tobacco subsidies or if the aggregate amount of funds and/or commodities under such program exceeds [$75,000,000] *$174,500,000.*

SEC. 728. None of the funds appropriated or otherwise made available by this Act shall be used to enroll additional acres in the Wetlands Reserve Program, as authorized by 16 U.S.C. 3837, beyond those acres enrolled as a result of the sign-ups conducted in 1992.

SEC. 729. None of the funds appropriated or otherwise made available by this Act shall be used to enroll additional acres in the Conservation Reserve Program, as authorized by 16 U.S.C. 3831–3845, beyond those acres enrolled as a result of the sign-ups conducted in 1992.

[SEC. 730. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out the Agricultural Resource Conservation Demonstration Program pursuant to section 1465 of Public Law 101–624, as amended by section 203 of Public Law 102–237.]

SEC. [731] *730.* Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

[SEC. 732. The amounts otherwise provided in this Act for the following accounts and activities are hereby reduced by the following amounts:

[AGRICULTURAL PROGRAMS

[PRODUCTION, PROCESSING, AND MARKETING

[OFFICE OF THE SECRETARY

[Expenses, $52,060.

[OFFICE OF THE DEPUTY SECRETARY

[Expenses, $11,570.

[OFFICE OF BUDGET AND PROGRAM ANALYSIS

[Expenses, $67,352.

[OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

[Expenses, $8,470.

[ADVISORY COMMITTEES (USDA)

[Expenses, $19,040.

[HAZARDOUS WASTE MANAGEMENT

[Expenses, $320,000.

[DEPARTMENTAL ADMINISTRATION

[Expenses, $342,030.

[OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

[Expenses, $22,420.

[OFFICE OF PUBLIC AFFAIRS

[Expenses, $208,050.

[OFFICE OF THE INSPECTOR GENERAL

[Expenses, $1,101,800.

[OFFICE OF THE GENERAL COUNSEL

[Expenses, $194,302.

[OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

[Expenses, $14,770.

[ECONOMIC RESEARCH SERVICE

[Expenses, $1,174,400.

[NATIONAL AGRICULTURAL STATISTICS SERVICE

[Expenses, $1,618,820.

[WORLD AGRICULTURAL OUTLOOK BOARD

[Expenses, $40,265.

[OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

[Salaries and expenses, $11,670.

[ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

[Expenses, $7,644.

[AGRICULTURAL RESEARCH SERVICE

[Expenses, $3,167,580.

[COOPERATIVE STATE RESEARCH SERVICE

[Payments, $826,710.

[EXTENSION SERVICE

[Payments, $419,190.

[NATIONAL AGRICULTURAL LIBRARY

[Expenses, $345,060.

[OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

[Salaries and expenses, $10,950.

[ANIMAL AND PLANT HEALTH INSPECTION SERVICE

[Salaries and expenses, $8,618,780.

[FEDERAL GRAIN INSPECTION SERVICE

[Salaries and expenses, $339,750.

[AGRICULTURAL COOPERATIVE SERVICE

[Expenses, $160,420.

[AGRICULTURAL MARKETING SERVICE

[MARKETING SERVICES

[Expenses, $1,130,400.

[PACKERS AND STOCKYARDS ADMINISTRATION

[Expenses, $237,500.

[CONSERVATION PROGRAMS

[OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

[Salaries and expenses, $15,080.

[SOIL CONSERVATION SERVICE

[CONSERVATION OPERATIONS

[Expenses, $9,438,765.

[RIVER BASIN SURVEYS AND INVESTIGATIONS

[Expenses, $286,023.

[WATERSHED PLANNING

[Expenses, $143,011.

[WATERSHED AND FLOOD PREVENTION OPERATIONS

[Expenses, $3,432,218.

[RESOURCE CONSERVATION AND DEVELOPMENT

[Expenses, $572,046.

[GREAT PLAINS CONSERVATION PROGRAM

[Expenses, $429,034.

[AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

[AGRICULTURAL CONSERVATION PROGRAM

[Expenses, $3,888,700.

[FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS

[OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

[Salaries and expenses, $7,130.

[FARMERS HOME ADMINISTRATION

[RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

[Administrative expenses, $6,410,632.

[RURAL ELECTRIFICATION ADMINISTRATION

[Salaries and expenses, $755,900.

[DOMESTIC FOOD PROGRAMS

[OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

[Salaries and expenses, $12,290.

[FOREIGN ASSISTANCE AND RELATED PROGRAMS

[FOREIGN AGRICULTURAL SERVICE

[Expenses, $2,200,460.

[OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

[Expenses, $295,435.

[RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

[DEPARTMENT OF HEALTH AND HUMAN SERVICES

[INDEPENDENT AGENCIES

[COMMODITY FUTURES TRADING COMMISSION

[Expenses, $946,000.

[FARM CREDIT ADMINISTRATION

[Administrative expenses, $773,720.

SEC. 731. From funds appropriated under this Act, not to exceed $4,000,000 may be used to implement international science, education, and development programs pursuant to section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977: Provided, That the use of these funds shall be subject to prior approval of the House and Senate Committees on Appropriations.

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1993".

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I want to say to my colleagues that I have been acting chairman of this Agriculture Appropriations Subcommittee, filling in for Senator BURDICK, for about a week today. This bill is essentially the craftsmanship and the work of Senator BURDICK.

I am very pleased to report to my colleagues that our revered colleague, Senator BURDICK, left the hospital last Friday, is feeling much better, and hopefully will be back soon. I would like to have postponed this bill until he could be back to manage, but he has specifically requested that we proceed with it.

Overall, the agriculture bill appropriates $61.4 billion for all agencies of USDA with the exception of the Forest Service, the Food and Drug Administration, the Commodity Futures Trading Commission, and several farm credit system agencies. There are two main points that need to be stressed with regard to funding contained in the bill.

First, of the total spending in this bill—$61.43 billion—$47.7 billion, or 77.5 percent is for mandatory programs. The Appropriations Committee has no control of this funding. Rather, the law determines the benefits that are provided, and we are forced to provide funds to accommodate the law.

Second, almost two-thirds of the bill—64 percent—or $39.3 billion is for domestic food programs that go predominantly to urban areas. Included in that total is $29.1 billion for food stamps, 1.9 billion for the WIC Program, and $6.8 billion for child nutrition programs. This is really more of an urban bill than a rural bill.

If I may digress from my formal remarks, this would be a very good place to say that there is an increase of $5.7 billion in this bill for food stamps, which tells you the devastating impact the recession is not only having on the country, but the devastating impact it is having on the U.S. Treasury.

Mr. President, I want Senators to know that the subcommittee's top priority was funding for the WIC Program. It has received by far the largest increase in the bill. For WIC, we are providing $2.86 billion, a $260 million increase over last year, or 10 percent. The subcommittee has consistently provided large increases for WIC. For the last 4 years WIC funding has increased by 10 percent or more each year. Given the budget constraints we face, I believe the committee can be proud that we were able to provide this big of an increase for WIC.

Again digressing from my prepared remarks, Mr. President, I would simply like to say there are two health care programs that the Federal Government funds that return more to the treasury than we spend.

The immunization program, immunizing our children against preventable childhood diseases, returns somewhere between $10 and $15 over the long run for every dollar we spend on it. We could eradicate every childhood disease.

Mr. President, they are not benign. When you say childhood disease, people think of something that is going to put a child in bed for a couple of days, and maybe the mother will have to stay home from work a day or two. They are deadly. It is absolutely inconceivable and unacceptable that a nation such as ours, with the means to prevent every single childhood disease—preventable childhood diseases—that we do not do so.

The second pay-back program is this WIC Program. We are only covering a little over 50 percent of the poor, pregnant women, infants, and children in this country with the WIC Program. The WIC Program provides a nutritious diet to pregnant women and promptly refers them to good prenatal care and neonatal care.

And every time you have a low-weight baby because the mother did not get care while she was pregnant, and especially because she did not get a nutritious diet, the taxpayers get to pick up the tab from somewhere between $400,000 and $1 million.

GAO has recently done a study that shows that the WIC Program returns $3 for every dollar we put into it.

Therefore, I again say the committee is very pleased that we could increase the budget by 10 percent. It is a tragedy that, because of budget constraints, we cannot provide funding for every single poor pregnant mother and the infants and children in the country. And for everyone we do not provide care for, we are shooting ourselves in the foot.

Other important increases include $16 million for the Food Safety and Inspection Service in order to avoid possible layoffs at meat and poultry plants around the country; a $12 million increase for the Soil Conservation Service so that it can better meet the conservation requirements of the 1985 and 1990 farm bills; a $36 million increase for rural housing rental assistance payments in order to meet the estimated renewals and servicing of contracts; a $31 million increase for water and sewer grants throughout the country; and an $18 million increase for the Food and Drug Administration.

In order to provide some of these increases, the subcommittee did have to make cuts in other programs; however, we feel that has been done responsibly and will not negatively—or marginally affect these programs. Several loan accounts in the Farmers Home Administration have been reduced, however the levels that we provide should be sufficient to meet estimated needs in 1993. We have also reduced special research grants throughout the country, and funds for construction of buildings and facilities significantly from the 1992 levels.

The subcommittee recommends going along with the House in regard to the Conservation Reserve Program and the Wetlands Reserve Program. For the Conservation Reserve Program, no new signups will be allowed in 1993. As much as I would like to have funded the Wetlands Reserve Program, a program I feel very strongly about as does the environmental community of this Nation, the budgetary constraints just do not allow it. By prohibiting the Wetlands Reserve Program from moving forward in 1993, the subcommittee saved $178 million and without these savings, significant other cuts would have had to be made to ongoing programs. I hope we will be able to move the Wetlands Reserve Program into a truly national program the next year.

Considerable interest has been expressed in the Market Promotion Program to the subcommittee. The House cut this program from $200 million in 1992 to $75 million. That is a $125 million cut in the Market Promotion Program. This subcommittee has cut from $200 million to $174.5 million for 1993.

Mr. President, I want to point out for the record that there is an omission in the Committee report accompanying H.R. 5487, the Agriculture appropriations bill.

Under the rural development grant account of the Farmers Home Administration, there should have been report language providing for the continuation of a grant, in the amount of $250,000, for the North Dakota Agricultural Products Utilization Commission. This is the same amount that was provided under this account in fiscal year 1992.

Mr. President, I recommend this bill to my colleagues, and I earnestly solicit their support.

With that, I defer to my distinguished ranking member, Senator COCHRAN, of Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, first of all, let me thank the distinguished Senator from Arkansas for his comments and for his cooperation in putting together this important appropriations bill. It provides funds beginning October 1 of this year for the Department of Agriculture and related agencies.

It has been a difficult task because of the constraints of the budget process and the 602(b) allocation of funds to this subcommittee. As are all subcommittees of the Appropriations Committee, we are restricted in the total amount of funds that we can allocate to the various programs and activities that come within the jurisdiction of our subcommittee. This year's levels of funding are right at the ceiling of allowable funding by this subcommittee, so any amendment that might be offered on the floor of the Senate that would increase funding for any particular function in the bill will have to be offset by a corresponding decrease in funding in some other account in the bill. Therefore, we are hoping that Senators will look very carefully at the provisions of the bill, and we hope that the bill can be supported by the Senate and passed today without amendment. We understand there may be some amendments that will be offered. We will be prepared to discuss and debate those if they are.

I have some prepared remarks that describe in detail the provisions of the bill. Many of the things that I have included in my statement have already been covered by the distinguished acting chairman of the subcommittee, Mr. BUMPERS, so I will not go over all of those.

I will make a few comments, though, about what I consider to be some of the highlights of the bill that might be of interest to Senators.

One item in particular that I think is very important is the account for programs that involve agriculture research. One of the important elements in the success of U.S. agriculture over the years has been the support from the private and public sector for agriculture research initiatives. We have become preeminent in the world in agriculture production and efficiency and it is because, I think, we have allocated so much time and effort and energy into developing more efficient ways of producing food and fiber, more effective ways of protecting our water and soil resources, and, also, doing a great amount of scientific research to help ensure a safe, nutritious, and wholesome supply of food for American consumers. So, all of these areas are targeted for funds in this bill to keep U.S. agriculture No. 1 in the world.

Our country's economic well-being today depends upon the continued successful exporting of U.S. agriculture commodities and products. For that reason, there is a very strong degree of support in this bill for market promotion programs of the Department of Agriculture to help deal with unfair trade practices from foreign competitors and to help make sure that U.S. exporters and U.S. farmers are treated fairly in the international marketplace.

I think we have proven over the years that we can compete anywhere with anybody because of our efficiencies and the hard work that is turned in by the agriculture sector. But when individuals who are trying to sell what they produce in overseas markets are confronted with foreign governments that are hostile to our interests, it sometimes takes a cooperative effort with our Government, acting through the Department of Agriculture and other Federal agencies, to offset the impact of those efforts that are made, sometimes unfairly, by foreign competitors to frustrate the sale of U.S. agriculture commodities and products.

So we have a Market Promotion Program, which contains important funds to deal with that problem; we have an Export Enhancement Program that is funded in this bill; and there is the Public Law 480, or Food for Peace Program that also has a market development component in it—all of which are very, very important to the continued well-being of the U.S. agriculture sector and to our overall economy as well.

We also have important provisions in the bill, for rural development activities.

There is, I might add, a growing awareness that most of the funds contained in this bill provide nutrition assistance to those in our society who cannot adequately provide for their own needs from their own resources. Over the years, the Food Stamp Program has been funded in this bill, along with the Women, Infants, and Children Program. We also have school lunch programs and school breakfast programs that are very important in helping to meet nutrition needs of children and those who attend our schools throughout the United States.

As a matter of fact, what used to be an agriculture appropriations bill has now become a nutrition bill; 64 percent of the funds contained in this bill that we are presenting to the Senate today are for food assistance and nutrition programs for American citizens. This is a $61 billion bill. So you get an idea about the enormous commitment that is being made in the committee's recommendation for meeting these important nutrition needs of our citizens.

It has been a pleasure to work with the distinguished Senator from Arkansas [Mr. BUMPERS] in developing this proposal for the Senate's consideration. We had good support from the other members of the subcommittee as well. We had a number of requests from Senators to look at specific requests for funding of projects and programs throughout the country, and we tried to consider all of those in a fair and very careful way.

I am convinced this is a good bill. It deserves the support of the Senate.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill, as thus amended, be regarded for the purposes of amendment as original text, provided that no point of order should be waived by reason of the agreement to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT ON ENERGY AND WATER APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5487, the agriculture and rural development appropriations bill, and has found that the bill is at its 602(b) budget authority allocation and under its 602(b) outlay allocation by $7 million. The bill is also within its discretionary and international spending allocations.

I compliment the distinguished manager of the bill, Senator BUMPERS, and the distinguished ranking minority member of the Agriculture Subcommittee, Senator COCHRAN on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Agriculture appropriations bill and I ask unanimous consent that it be printed in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5487

AGRICULTURE SUBCOMMITTEE SPENDING TOTALS—SENATE REPORTED

[In millions of dollars]

Bill summary	Budget authority	Outlays
Domestic discretionary	12,300	11,840
Senate 602(b) allocation	12,300	11,841
Difference	0	−1
International	1,574	1,573
Senate 602(b) allocation	1,574	1,579
Difference	0	−6
Mandatory total	41,123	32,370
Senate 602(b) allocation	41,123	32,370
Difference	0	−0
Bill total	54,997	45,783
Senate 602(b) allocation	54,997	45,790
Difference	0	−7
Domestic discretionary above (+) or below (−):		
President's request	806	392
House—passed bill	86	38
Senate—reported bill		
International above (+) or below (−):		
President's request	125	69
House—passed bill	35	13
Senate—reported bill		

Mr. BUMPERS. Mr. President, Senator COCHRAN and I seem to have the Senate floor all to ourselves, and normally that would be fine if I had a barn-burning speech to make, which I do not. So I am going to, by addressing myself to the amendments on this bill, say to my colleagues that we are going to move to third reading on this bill very shortly. Anybody who wishes to vent his or her spleen on the bill or offer an amendment had better well get over here and do it because this is one of the busiest days of my life.

Interior appropriations is meeting at 3 o'clock this afternoon. I have a lot of things on that bill that I need to attend to. I would like to finish by then. We are not going to sit here all morning twiddling our thumbs waiting for somebody to decide whether or not they are going to offer an amendment.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CASE FOR EXTENDING SUPER 301

Mr. BAUCUS. Mr. President, I rise today to urge the passing of a market opening trade bill this year.

I congratulate the House on passing a trade bill just before the recent congressional recess. Although I have concerns about some provisions in the bill, on the whole I think it is a good effort.

I was particularly pleased to see that the House bill—H.R. 5100—included a 5-year extension of Super 301, the Trade Agreements Compliance Act, and a strengthening of Special 301. These are critical market-opening changes to U.S. trade laws. I introduced similar provisions in the Senate some months ago.

Mr. President, the world is changing. National security is now more determined by economic strength than military strength. Increasingly, our national security will be determined more by our ability to deliver semiconductors and autos to foreign capitals than bombs and missiles.

For this reason, I very much hope that the Senate can pass this legislation in the next few weeks.

MARKET OPENING PROVISIONS OF THE 1988 TRADE ACT

To understand why this market opening legislation is critical to American business, American workers, and American trade policy, we have to go back to 1988.

The 1988 Trade Act created an array of new market opening trade laws, including Super 301 and Special 301.

Super 301 was aimed at countries that systematically resort to protectionism to exclude U.S. exports. The provision required the USTR to identify those countries that maintained the most egregious trade barriers and initiate negotiations aimed at eliminating the barriers under threat of retaliation.

In just 2 years of operation, Super 301 was successful in ending Brazil's system of import licenses and opening the Japanese market to United States exports of processed forest products, satellites, and supercomputers.

Just the threat of being identified under Super 301 was enough to convince several nations to conclude major market opening agreements with the United States. All in all, Super 301 has compiled a spectacular record of success—even in the face of very unenthusiastic implementation by the Bush administration.

THE ADMINISTRATION'S RECORD

But Super 301 expired in 1990, and the Bush administration has opposed its extension. Administration officials argue that they have the authority to initiate Section 301 cases without Super 301.

That statement is undeniably true. But the fact is that the administration does not initiate cases unless it is forced to do so.

Take a look at the record. Of the 17 Section 301 cases initiated during the first 3 years of the Bush administration, 9 were forced by either Super 301 or Special 301.

The Bush administration initiated only four Section 301 cases on their own volition—most of which were initiated under strong congressional pressure. The remaining cases were initiated after the administration was petitioned by U.S. industry.

But the only Section 301 cases initiated against Japan were forced by Super 301.

In fact, even though it was forced to initiate cases under both Super 301 and Special 301, the Bush administration initiated Section 301 actions no more frequently than the Reagan administration.

SUPER 301 AND THE GATT

The administration also argues that a Super 301 extension might endanger the Uruguay round.

Frankly, I am tired of walking on egg shells in order to keep the ghost of the Uruguay round alive. I certainly support our objectives in the round. I was, in fact, the only Senator to travel both to Brussels in 1990 and to Geneva in 1991 to witness the planned conclusion of the Uruguay round.

Needless to say, neither meeting concluded the round. We must now, therefore, be realistic. The prospects for the round appear grim. The Europeans seem utterly unwilling to budge on agricultural export subsidies. Without such a move by the EC, there will almost certainly be no Uruguay round.

Further, many key trade issues, such as Japanese business collusion, would not be addressed even if the round was successfully concluded.

At least up to this point, Super 301 has been far more successful in opening markets than the Uruguay round. I see no reason to hold up our decision to extend Super 301 awaiting an outcome for the 6-year-old Uruguay round negotiations.

Furthermore, the best way to push the Uruguay round toward a conclusion is to demonstrate to our trading partners that there will be a day of reckoning. We must be willing to address their trade barriers under Super 301 if they cannot be resolved in the round. Perhaps the Uruguay round will look more appealing to the French, the Japanese, and the Koreans if the alternative is addressing the same issues under Super 301.

As things stand, other nations realize that once Super 301 expired, the United States lost its big stick. Early last year, a group of prominent United States businessmen working in Korea visited my office. They asked if I could at least begin talking about extending Super 301. When I asked them why they said that Super 301 was the only tool in the American trade arsenal that the Korean Government took seriously. It was the best tool for keeping Korean protectionism in check.

EXTENDING SUPER 301

In my opinion, it is long past time for the United States to bring back the big stick of Super 301. The statute worked well and should be extended whether or not we have a successful GATT round.

I recognize that at this late date it will be difficult to make many changes in Super 301. But the House trade bill and S. 1850—that is the Super 301 extension I introduced along with Senators DANFORTH and RIEGLE—both essentially call for a straight 5-year extension of Super 301. I hope the Congress can pass such an extension this year.

But Super 301 is not the only market-opening provision of the 1988 Trade Act. There is also the Special 301 provision which is aimed at ending piracy of American intellectual property, such as films, books, and computer software items.

Special 301 has compiled almost as impressive a record as Super 301. It is responsible for winning improved protection for United States intellectual property in China, Indonesia, Taiwan, Mexico, and many other countries.

But the credibility of Special 301 is in jeopardy because the administration has declined to retaliate against India and Thailand—even though these countries blatantly pirate United States intellectual property. India actually re-exports many pharmaceuticals that it pirates from the United States.

The House bill contains a provision aimed at strengthening the retaliation requirements under Special 301. I hope a similar provision can be developed in the Senate bill.

Mr. President, I am far more interested in passing a trade bill that will open foreign markets and make a real difference for American exporters and workers than I am in playing politics.

The Congress has a real chance to defy the conventional wisdom and pass a responsible, market-opening trade bill in an election year.

I believe that Congress should send such a market-opening trade bill to the President, and see if he, too, will put politics aside.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I rise to offer an amendment to reduce wasteful spending on computers at USDA and use those funds to continue a nationwide Wetlands Reserve Program—a program supported by Congress, the President, farmers, and environmentalists.

The Senator from Minnesota, Senator DURENBERGER, is the principal cosponsor of this amendment.

USDA's current size is staggering. We have all heard the figures. If USDA were a bank, its $140 billion in assets would make it the second largest bank in the country. If USDA were a U.S. corporation, it would rank fourth in assets—larger than Mobil or IBM.

Faced with the facts of the declining population of American farmers and a $400 billion deficit, the committee undertook a program of oversight of USDA's operations this year.

We challenged USDA to explain why it still needed over 8,000 offices, representing four different farm service agencies, in virtually every county in the United States.

We found that offices that were established when farmers drove Model T's, were not needed in the days of interstate highways.

We also looked at USDA's computer programs.

We found that there are 600 people in just the Agriculture Stabilization and Conservation Service doing software development work—and ASCS is only one of the 35 agencies at USDA.

In 1991 alone, USDA spend $650 million to acquire, operate and maintain computer equipment. That is more than USDA spends annually for many of its agencies—the Food Safety Inspection Service, the Extension Service, the Economic Research Service, or the Foreign Agricultural Service for example.

In 1993, USDA will spend another $400 million on computers for the farm service agencies.

The committee's oversight work, in which the ranking member, RICHARD LUGAR has been such a leader, has been successful.

It culminated in a decision by Secretary Madigan last month to form a SWAT team to study, among other things, the benefits of merging the four farm service agencies.

In light of this commitment by the Secretary to reorganize the Department, Senator LUGAR and I pressed USDA again and again to stop the computer spending until reorganization decisions were made. It makes no sense to modernize four computer systems, if the four farm service agencies were to be consolidated.

At this time USDA continued to refuse to make the commitment to stop the computer spending.

Therefore, last month I introduced legislation to stop USDA's long-term computer purchases for fiscal year 1993.

Progress last week when the Secretary finally told me that he will not purchase any new farm agency computer systems until the SWAT team submits its recommendations for reorganizing and consolidating the Department sometime after the election.

But I was amazed to learn that the Secretary did not plan to reduce computer funding for fiscal year 1993 at all.

In brief, the Secretary believes the four farm agencies still need $191 million for planning long-range computer objectives in fiscal year 1993. That is in addition to $206 million needed for operations and maintenance of existing systems.

So, we decided to take a closer look at the projects planned under this category. What we found were projects in ASCS and FCIC totaling $55 million—including intra-agency, nonmaintenance projects—that could well be rendered obsolete after restructuring. For example:

A strategic plan for ASCS management information systems, $14 million;

An automated ASCS administrative procedures system for travel, legislative tracking, et cetera, $.9 million;

A local area network for ASCS headquarters and State offices, $10.6 million;

An ASCS long-term program improvements/operations streamlining program, $11.6 million;

A program to develop a common methodology for ASCS software development, $1.7 million; and

An FCIC office automation modernization project, $16.1 million.

I understand the need for replacing broken computers in county offices, developing new software to fix financial management systems, or renewing maintenance contracts so that existing hardware will remain in working order. This amendment leaves $342 million in USDA's budget for these needs.

But I do not understand the need for individual agency strategic planning projects or a local area network project for headquarters when USDA is likely to be restructured within months.

Last time I spoke on this issue I asked: "If you were building a house, would you buy a furnace before you decided whether there would be one or four bedrooms?"

Today I ask: why put up new wallpaper in the individual bedrooms if the walls may be torn down next year when a modern, streamlined house is built with less bedrooms?

It is our job to make sure that the Department of Agriculture is doing everything it can to cut waste. To do this, we must take this $55 million out of fiscal year 1993 appropriations now.

We must save the American taxpayer this $55 million—before it is arbitrarily wasted.

Fortunately, saving this money will also provide funding for the essential Wetlands Reserve Program, which was zeroed out by the bill before us.

The Wetlands Reserve Program is a voluntary program which protects and restores farmed wetlands.

It was at the heart of a historic compromise developed between the farm community and the environmental community in the 1990 farm bill.

I do not need to tell anyone in this institution that wetlands are contentious issue.

To address farmers' concerns about wetlands, we made a number of changes in the 1990 farm bill that make the swampbuster provisions, established in the 1985 farm bill, more workable for farmers and easier for the Department of Agriculture to implement. We reduced penalties, permitted farmers to drain so-called nuisance wetlands and permitted farmers to drain wetlands that interfered with their operations if they mitigated the damage.

The farming community also wanted to be more involved in a positive way in addressing wetlands issues.

That is why the 1990 farm bill created the Wetland Reserve Program. This program lets farmers play a positive role in protecting wetlands in a way that makes sense to them economically.

This program also provides relief to farmers who believe that the use of their land is economically restricted by wetland rules. These farmers can receive payments from the Federal Government to preserve wetlands and make up for lost farm income.

In time this program will protect a million acres of wetlands in a way that benefits the environment, farmers, sportsmen and recharges our ground water supplies.

I must emphasize that the benefits of the Wetland Reserve Program are given directly to farmers who restore farmed or drained wetlands. This is not a regulatory program.

I must also mention that the cost of the Wetlands Reserve Program was scored against the agricultural programs funded by Agriculture Committee in the 1990 farm bill for a 5-year period.

If we had known that the Appropriations Committee did not intend to fund the program established by Congress, and that it would refuse to fund the President's request to build the wetlands reserve, we could have used these funds to protect the income of dairy, wheat, rice, cotton or corn farmers in other ways.

Instead we created a wetlands reserve because it made sense for both for the farmer's pocketbook and our environment. As it turns out, this program is enormously popular with farmers. Ten times the expected number of farmers signed up for the wetland reserve.

So Mr. President, we reached a compromise between the agricultural and environmental communities in the farm bill. It is supported by the President of the United States and is very popular with farmers.

Instead of the farm community being blamed for draining wetlands and being portrayed as enemies of the environment, this program created the opportunity for the farmers to be part of the solution to our wetlands crisis.

I urge my colleagues to use the savings from stopping spending on computers—money that should not and must not go forward until the Department is reorganized—and instead fund this program that was mandated by Congress, supported by the President, is popular with farmers and is a contribution to the environment.

The choice is simple—bureaucratic waste, or support for American farmers and our environment.

I urge my colleagues to support this amendment.

AMENDMENT NO. 2768

(Purpose: To reduce appropriations for long-range information resources management objectives by the Agricultural Stabilization and Conservation Service and the Federal Crop Insurance Corporation and to increase appropriations for the Wetlands Reserve Program)

Mr. LEAHY. I send to the desk my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2768.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30—

(1) On line 5, strike "$714,551,000" and insert in lieu thereof "$702,451,000"; and

(2) On line 6, strike "$712,926,000" and insert in lieu thereof "$700,826,000".

On page 33, line 5, strike "$326,048,000" and insert in lieu thereof "$309,948,000".

On page 47, between lines 3 and 4, insert the following:

"WETLANDS RESERVE PROGRAM

"For necessary expenses to carry out the Wetlands Reserve Program on a national basis pursuant to subchapter C of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.), $42,780,000 to remain available until expended: *Provided*, That none of the funds made available by this Act shall be used to enter in excess of 47,980 acres in fiscal year 1993 into the Wetlands Reserve Program provided for herein: *Provided further*, That the Secretary is authorized to use the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of carrying out the Wetlands Reserve Program.".

On page 88, strike line 1 and all that follows through line 5; and insert in lieu thereof the following:

"SEC. 728. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a program for the purchase of computer hardware and software and other costs in support of long-range Information Resource Management objectives in Automated Data Processing if the aggregate amount of funds for such purchases exceeds $35,700,000.".

ADDITIONAL COSPONSOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Senator DURENBERGER be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. BUMPERS. Mr. President, obviously, the Senator from Vermont is due some differential treatment on any amendment he offers on the Agriculture Appropriations Committee, because he is chairman of the full Agriculture Committee. And he touches a nerve with me, because he is trying to fund the Wetlands Reserve Program, which is a very popular program with me, as well as environmentalists across the country.

There are two things that trouble me about the amendment. One is the Wetlands Reserve Program is operating on a pilot basis and, for the benefit of those who may not be familiar with the program, it is designed to encourage farmers to convert cropland to wetlands; a highly desirable goal.

We put in $40 plus million last year to fund this year's program, and they were to report back to us on how the program was working: What they are paying for these easements and so on—what kind of land they are getting.

I do not mind telling you I was upset because Arkansas was not one of the nine States, and I think we should be. And our wetlands are much greater than some of the States that were chosen. To be brutally frank with you, the decision was made on a purely political basis and that is tragic always.

But that does not diminish from the thrust of the program. Mr. President, let me give you an illustration. The other day, in visiting with the people in the Department of Agriculture, I found that what they are doing is that they go to these farmers and they say "We want an easement on this land. We want to convert it back to wetlands. Presumably it was wetlands at one time, some of it. We want an easement on this land for 30 years to be controlled by us. We do not want you farming it anymore. We want this to be wetlands."

Let me strike what I just said, to change it this way: The Congress has said that the Department of Agriculture can go to a farmer on this Wetlands Reserve Program and say, "You have 50 acres out here that we think they qualify. We would like to talk to you." The farmer usually comes to them, frankly, and says "I have some land that I would like to put in the wetlands reserve." They look at it and they say, "What would you like, what would you take for this 50-acre tract, and in perpetuity; forever?" He sets a price, they negotiate, they get appraisals, and so on.

Now, the Congress has given the Department of Agriculture the right to take a 30-year easement, not an easement forever; but the Department has chosen not to do that. They have chosen not to take 30-year easements. When they take an easement they take an easement forever. It is almost like selling the property in fee simple.

So far, they are authorized 50,000 acres. Mr. President, so far, the average cost of this program is $927 an acre. I must tell you that sounds like a pretty handsome sum to me. I have a farm I would sure like to sell them for $927 an acre.

I am sure this is all on the up and up and they do evaluations and appraisals on this land. But they are to report back to us, and one of the things they are going to report back to us is that they have been spending $927 an acre on the Wetlands Reserve Program. Maybe they can justify it. It sounds high to me. I am half farmer. It sounds high to me based on land values around my State.

Second, Mr. President, the Secretary of Agriculture says that if we do what the Senator from Vermont is requesting us in this amendment we are going to wind up revamping the Department of Agriculture, which is underway in a rather harum-scarum way, because they say they need this technological boost and software and technology, and so on, in order to decide how many offices they are going to close, how well these offices communicate with each other, and the decisions are going to be made in a nonbusinesslike manner. There is some confusion about just how much money is involved. The Secretary of Agriculture just told the committee that the President's request contains $397 million for computers, software, and technological advances.

The Senator from Vermont chooses to take $55 million of that and put it in the wetlands reserve. I can tell you, if I thought the Department of Agriculture were not going to be seriously crippled, I would not even be standing up here talking. I would say I will accept your amendment.

So it is very difficult. There is one thing I do know that makes the Senator's amendment a little more palatable and that is we are probably going to have 2 or 3 years before all of this equipment is going to really be needed, and so perhaps a case can be made for the Senator's amendment.

Let me just close by saying this to my good friend from Vermont: The House chose not to put one penny into the Wetlands Reserve Program. If I were king, I would disagree with that, because I think the wetlands reserve program is a very good program. As I told you, I am concerned at what they are spending. But the House put nothing in it; they feel very strongly that we should not fund it again in 1993. They have a lot of carryover money. They are still signing up farmers, and they will continue to sign them in 1993 from the money we gave them last year.

So the only thing I can say to the Senator is we might accept this amendment on two conditions. No. 1, he has another amendment which I think he will not offer and, second, with the understanding we will take this amendment to conference. But I cannot guarantee to him that the House is going to recede to the Senate position. Of course, the Senator knows that I strongly favor the wetlands reserve program and I am rather glad that he did not choose to fund it out of the market promotion program which is also very popular across the country.

Mr. LEAHY. Mr. President, will the Senator yield.

Mr. BUMPERS. I am happy to yield.

Mr. LEAHY. Mr. President, there is one thing I should note so there is no confusion. I know the Senator is not confused on this point. I want to make sure nobody else is. This is not longer a payout program that is to be available to everybody.

I, too, am concerned about what prices might be paid by the Department for something of this nature. We have written it in the law, and this has been the view of the Senate Agriculture Committee. And it is certainly in the farm bill. It will also be the view expressed in the oversight hearings that we have in the Agriculture Committee. The Department does not have to accept unreasonable bids.

I have some land in my tree farm in Vermont that I would be happy to sell for $800. I am not sure how somebody would get to it evenly up the side over a mountain. I suppose it gets wet at some point. I would be happy to sell it for $800, but I am sure if I ever did that, the people who have to check those bids in Vermont would enjoy a laugh over it, and that would be the end of it. So they do not have to accept high bids.

Second, I know the Senator's interests in the wetlands provision. He has been one of the leading voices for environmental conscious legislation in this body.

But what I am concerned is we will take it to conference. I always wanted to get beyond the Ohio clock on the way to conference. I, too, have brought things to conference which tend to disappear like the early morning vapors on the way. I would hope that this amendment would get a very strong vote, a very clear vote in the Senate, and would thus strengthen the hands of the conferees.

I have been in those conferences. I do not envy either the chairman or the ranking member in having to go to such a conference. It could be one of the most contentious, difficult times. Like the chairman and like the ranking member, I have had to vote for things in conference that I did not like simply to be able to get a bill through, because it had far more things that I liked than I did not like. I say that because with the two managers in this conference you could not have two more qualified Members of the U.S. Senate. I say that to my good friend from Arkansas and my good friend from Mississippi. You could not have two Senators more qualified to take the bill to conference than they.

With that, I see the Senator from Mississippi on the floor, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I respect very much the distinguished Senator from Vermont in his role as chairman of the Agriculture Committee and in the effort that he is making now to try to find some source for funding of the Wetlands Reserve Program over and above the amount contained in the bill. I would like to see more money in that program as well. It is very popular among landowners in my State of Mississippi who are making plans to sign up for and take advantage of the opportunities in that program.

So I sympathize with that goal which the Senator has described. I must say, though, that I regret that the effort is being targeted to take funding away from the Secretary's program of modernization and improvement of program delivery and service delivery at the Department of Agriculture.

Secretary Ed Madigan is doing an excellent job, in my judgment, trying to identify ways to make the department more efficient, to streamline its delivery of program services, and to modernize operations.

The Senate should not take any action to impose changes or revisions of the plan the Secretary has laid out to achieve these important changes.

As members of the Senate Agriculture Committee will remember, Secretary Madigan came to our committee on April 8 to discuss his plans and to answer questions that were put to him by members of the committee about what he had in mind for the Department of Agriculture in this regard. We need to give him a chance to carry out the plans that he is developing, and refrain from imposing constraints on his actions and cutting his budget for computer-related services.

It is obvious to me that a lot of the suggestions and ideas that he presented to the committee make a great deal of sense and are long overdue.

In a recent letter that the Secretary sent to the chairman of the Agriculture Committee, the distinguished Senator from Vermont, he stated his commitment to halt the purchase of new types of computer systems in field offices of the farm service agencies until the departmentwide review of those offices had been completed.

The Secretary further announced a new program of consolidated procurement of future computer systems for those offices. The desirable effects that will ensue from that new policy will be, first of all, the computers of the agencies would be made compatible as between the Farmers Home Administration, the ASCS, Soil Conservation Service, and the crop insurance offices, so that those agencies could exchange and share information so they would have access to the same data.

The second result of that new program implementation would be that paperwork would be reduced for farmers, and it would make more efficient the operation of the department's field offices.

The third result would be that future costs of buying computers for USDA field offices would be reduced, starting in fiscal year 1995, after a new contract is awarded.

Computer related activities to be funded in the 1993 budget for farm agencies are critical to the effective management of these programs, and they are vital to serving farmers, ranchers, and others who obtain services from the Department of Agriculture.

Many of the computer systems in the field offices are old; they are out of date. Many are overloaded because of new program demands, disaster assistance programs and others, in the last couple of years.

The Secretary has given his assurance that he will not make irrevocable investments in field office computers that will be wasted by future decisions on office closings and consolidations.

Mr. President, I hope that any consideration of restrictions or language that would impede or restrict the Secretary in implementing these management changes would be looked at very carefully by the Senate. I hope the Senate will resist adopting any changes that would undermine the efforts being made.

I ask unanimous consent that a copy of a letter from the Secretary of Agriculture to Senator LEAHY as chairman of the Agriculture Committee, dated July 22, 1992, together with a USDA long-range IRM objectives plan, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 22, 1992.

Hon. PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR PAT: Thank you for your letter of July 22, 1992, concerning our plans for the farmer agency computer systems. I appreciate your support for our efforts to consolidate our computer procurement activities.

I am sorry there has been some confusion over the budget numbers associated with this action, as well as generally with our 1993 budget for information resources management activities. We believe our efforts to consolidate computer purchases will yield significant savings in the long term. However, initial contracts for new systems will not even be entered for about 2 years. In the meantime, we cannot leave the involved agencies without reasonable budget resources to maintain their current systems and pursue some urgent short-term objectives in areas such as financial management, information systems, etc. The President's Budget does in fact include $397 million for this purpose.

Of the total of $397 million included in the President's Budget, $191 million is classified as contributing to "long-term objectives." It is my understanding that in the briefing on July 20th, your staff asked for a further breakdown of this funding. The enclosed book provides that information. You will note that only about 25 percent of these funds would be used for equipment. The vast majority of the funding would support software, personnel, contracting and other costs necessary to maintain present systems.

Your letter now indicates that you would like similar information for the entire $397 million. We have no objection to providing that information. I have asked our staff to develop it as soon as possible and provide it to your staff as an addition to the material in the enclosed book. We anticipate that this additional data will indicate the same pattern of spending as is the case for the first $191 million.

We believe that the General Accounting Office recommendation is based on a misunderstanding of the budget information and hope that the enclosed material will help to clarify the situation. Our Information Resources Management staff is available to provide any further assistance you may need.

Sincerely,
EDWARD MADIGAN,
Secretary.

USDA LONG-RANGE IRM OBJECTIVES—FISCAL YEAR 1993

The President's 1993 Budget for the Department of Agriculture includes $190.6 million in the budgets of the four farm service agencies (the Agricultural Stabilization and Conservation Service (ASCS), the Farmers Home Administration (FmHA), the Soil Conservation Service (SCS), and the Federal Crop Insurance Corporation (FCIC) for hardware, software, as well as personnel and related costs in support of "long-range IRM objectives" in ADP. These budgets may be summarized as follows:

	Millions
Agricultural Stabilization and Conservation Service	$76.2
Farmers Home Administration	67.5
Federal Crop Insurance Corporation	23.2
Soil Conservation Service	23.7
Total	190.6

Attached is further information concerning each of these agencies. In reviewing this information it should be noted that:

The term "long-range IRM objectives" has a broad definition. While agency efforts support long-term objectives, in many cases they also support urgent short-term needs related both to field delivery of programs and to management information systems. Further, as the attached information indicates, this "long-range IRM objectives" category can be divided into two areas. The first relates to field office initiatives and activities. The second includes initiatives that are not directly related to field activities. This latter area includes accounting system improvements, financial management system improvements, and management information system activities.

The budget figures predate the Secretary's recent announcement on ADP. Specifically, Secretary Madigan recently announced a precedent-setting change in the way that the Department will plan and procure computer systems for the farm service agencies. In the past, each agency managed its own ADP activities independent of the other farm service agencies. Under the new procedures, USDA will proceed with a single, consolidated systems development plan for field office systems for ASCS, FmHA and SCS. This plan will be coordinated fully with the acquisition of computers for the FCIC which is currently underway. Further, the FCIC contract for computer acquisition will not be awarded until the USDA-OMB review teams complete their analysis and report to the Secretary. There are no funds included in the FY 1993 Budget for the procurement of new systems for ASCS, FmHA and SCS. The Budget includes funding only to maintain the capability or provide required upgrades to existing computer systems.

The Secretary's initiative is built on a recognition of the fact that current field office systems are nearing the end of their useful lives and must be replaced with a new system. However, while planning for the new system will begin in FY 1993, the award of a contract and placement of orders for a new system is at least 2 years into the future. Savings due to economies of scale and other efficiencies resulting from the new system will be substantial but will not occur for several years. In the meantime, the funds requested in FY 1993 are critical to maintain current systems and provide for the cost of planning and conducting a procurement for the new system.

In addition to the field office activities area, FY 1993 budgets include funds categorized as "long-range IRM objectives" for initiatives that are not directly related to field activities. As noted above, these include accounting systems, financial management systems, decision support systems, and management information systems. These systems provide support for ongoing program activities such as loan repayment and agency claims, and provide information on program decisions to policy-level officials.

Attachments include:

Overview:

Totals for USDA Long-Range IRM Objectives.

Totals for USDA Long-Range IRM Objectives—Field Office System Initiatives.

Totals for USDA Long-Range IRM Objectives—Other Than Field Office System Initiatives.

Agencies:

Totals for Each USDA Agency—Field Office System Initiative.

Totals for Each USDA Agency—Other Than Field Office System Initiatives.

Narrative Description of Agency Initiatives.

Mr. DURENBERGER. Mr. President, as the primary cosponsor of this amendment, I rise to support my colleague from Vermont. The Wetlands Reserve Program is sound public policy that will help every American. The Wetlands Reserve Program will protect a vital natural resource that serves several important ecological functions.

The Leahy-Durenberger amendment is very simple. It takes $54.9 million from the long-range computer purchase budget of the Department of Agriculture and moves it to the Wetlands Reserve Program. In a letter to the Senate Agriculture Committee on June 18, 1992, Secretary Madigan stated that such computer purchases are unnecessary while he attempts to restructure the Department.

This amendment is supported by environmental groups such as the Center for Resource Economics, National Wildlife Federation, World Wildlife Fund, Wildlife Management Institute, Natural Resources Defense Council, National Audubon Society, Environmental Defense Fund, Chesapeake Bay Foundation, and Sierra Club.

President Bush also requested $161 million for the Wetlands Reserve Program.

Wetlands are a national resource because they serve several important ecological functions. Wetlands act as biological filters. They slow the rate of water runoff. And, they support and replenish stream flows and ground water sources. Wetlands also provide a significant habitat for wildlife, especially migratory waterfowl, and fisheries.

As we understand more about the environmental value of wetlands, we realize that the Federal Government placed an entirely different set of values on wetlands in the past. Within our lifetime, Federal policy provided incentives to landowners to drain wetlands in order to increase the production of food and encourage development.

These past policies reflected a grave misunderstanding of one of the Earth's most vital resources. Fortunately, Senators and the general public are understanding the error in the past wetlands policies and are creating policies to protect wetlands. One of these policies is the Wetlands Reserve Program.

The Wetlands Reserve Program gives farmers a financial incentive to set aside wetlands for conservation. This program works on the same principle as the highly successful Conservation Reserve Program which has helped preserve hundreds of thousands acres of soil. The Wetlands Reserve Program was supposed to enroll 466,000 acres in fiscal year 1993. The Leahy-Durenberger amendment will provide funding for 62,000 acres of wetlands. A number I feel is inadequate but which is better than nothing.

Because wetlands have a value that spans generations, public policy must work to protect these resources. Every time I fly over my home State of Minnesota, I am reminded of the wetlands that brought delight to my life as a young boy growing up in rural Stearns County. Those wetlands were unique science laboratories.

Public policy in the 1990's must protect wetlands for future generations. The Leahy-Durenberger amendment would restore funding to the Wetlands Reserve Program which will help us accomplish this goal. I urge my colleagues to support this program.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I know we have gone beyond the time we have set to recess for caucuses.

I ask unanimous consent that we be able to continue on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT 2768, AS MODIFIED

Mr. LEAHY. Mr. President, I send a modification of my amendment to the desk on behalf of myself and Senator DURENBERGER.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The modification is as follows:

On page 30—

(1) On line 5, strike "$714,551,000" and insert in lieu thereof "$702,451,000"; and

(2) On line 6, strike "$712,926,000" and insert in lieu thereof "$700,826,000".

On page 33, line 5, strike "$326,048,000" and insert in lieu thereof "$309,948,000".

On page 47, between lines 3 and 4, insert the following:

"WETLANDS RESERVE PROGRAM

"For necessary expenses to carry out the Wetlands Reserve Program on a national basis pursuant to subchapter C of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.), $54,900,000 to remain available until expended: *Provided*, That none of the funds made available by this Act shall be used to enter in excess of 61,500 acres in fiscal year 1993 into the Wetlands Reserve Program provided for herein: *Provided further*, That the Secretary is authorized to use the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of carrying out the Wetlands Reserve Program.".

On page 88, strike line 1 and all that follows through line 5; and insert in lieu thereof the following:

"SEC. 728. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a program for the purchase of computer hardware and software and other costs in support of long-range Information Resources Management objectives in Automated Data Processing if the aggregate amount of funds for such purchases exceeds $35,700,000.".

Mr. LEAHY. So my distinguished colleagues from Arkansas and Mississippi will understand, Mr. President, this simply shows a difference in budget authority, and it reflects new CBO numbers that we received when we came here.

Mr. President, as I noted before, the distinguished Senator from Arkansas and the distinguished Senator from Mississippi are two of the most knowledgeable and qualified Members of this body. And I know that, if this is included, they will do their level best in conference with the other body.

While I had originally planned to have a rollcall vote, I also know that the distinguished leaders of this body are trying to get through a lot of legislation today. And so rather than do that, I am perfectly willing to accept a voice vote on this amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I think that is a suitable solution on this amendment.

Mr. SANFORD. Mr. President, I rise in favor of the amendment offered by Senators LEAHY and DURENBERGER to restore at least some funding for the valuable Wetland Reserve Program [WRP].

As my colleagues know, this program has received uniform approval from members of the conservation community and the farm community, the Republican administration and Democrats in Congress.

The program has been well defined by others here today, but I think it is important to note once again that we are not taking land from farmers or forcing them to restore their land to its prior wetland condition. The Government is giving landowners a choice. We are exercising common sense through this program.

Farmers in my home State and the other eight fiscal year 1992 pilot States have become part of the conservation community through this program. Because of the heated debate over how to protect our Nation's wetlands, our farmers have unfairly and wrongly become a scapegoat for many environmentalists on this issue. The success of the Wetlands Reserve Program in North Carolina and other States proves to me that farmers want to help restore wildlife habitat if given an opportunity to do so without sacrificing their ever-dwindling farm profit margins.

We had great hopes for the Wetlands Program when most of us voted to authorize the initiative in the 1990 farm bill, but last year Congress provided less than half of the funding needed to make this a national effort. Only 9 States were chosen to participate in the pilot program last year; North Carolina farmers signed up to enroll 25,000 acres in the program. The USDA received requests to enroll almost a half-million acres from the nine States eligible to participate.

This year, just as last year, I joined a number of my colleagues in requesting proper funding for WRP from the Agriculture Subcommittee of the Appropriations Committee. I do understand the constraints expressed by my friends on that subcommittee and have heard a number of them speak in favor of the Wetlands Reserve Program in principle, and of their hope to give more attention to this initiative next year. I fear, however, that we might lose valuable momentum, both in Congress and among members of the farm community, if we do not keep this project alive.

It is not often that Congress can point to such consensus among various interests on a given program; I hope we can take advantage of this unity to affect real change for the better for our environment.

Mr. President, I urge my colleagues to support the distinguished chairman of the Agriculture Committee in his efforts to allocate $50 million from present USDA designation for computers to be applied directly to the Wetlands Reserve Program.

Mr. PRYOR. Mr. President, I want to commend my colleague, Senator PATRICK LEAHY, chairman of the Senate Agriculture Committee, for his amendment to strike a double blow for efficiency and wisdom.

This amendment would reduce expenditures in a wasteful USDA exercise in computer purchases, and instead, channel those funds into the critically important Wetland Reserve Program [WRP]. As a sponsor of creating the WRP during the 1990 farm bill, I am acutely aware of the dire need in funding such a program. For much too long, outside interests have attempted to dictate to our farmers what they can do with farmland, with little regard to the farmer's private property rights. As a myriad of Federal agencies have wrestled over a definition of wetlands, farmers have dealt with many uncertainties as they await a clear directive. There is much unease because of the amount of acreage which might eventually be defined as wetlands, and practically rendered useless. In essence, our producers who pay the taxes and the mortgage, and just want to farm the same land as they have always farmed could be told they are to be penalized for past mistakes made by others.

The WRP is a program that is vital to wildlife, environmental and the right of private property concerns. Its function, once fully funded and expanded to a nationwide program, could serve as a universal model which enables us to achieve conservation goals simultaneously with economic fairness. There are millions of acres in this country which have produced a bountiful food and fiber supply for America and the world, and which could, under a practical WRP, serve as a haven for waterfowl and wildlife. Securing this partnership is a testament to the school of thought that we do not have to choose one or the other; we can have both.

The leadership and vision in addressing the WRP and the many issues it includes has been exemplary from the author of the amendment as well as the bill's floor managers, Senator BUMPERS and Senator COCHRAN.

I applaud the action of the Senate in accepting this language and now have reason for hope as we look forward to an era of what can be accomplished for this planet when we remain sensitive to the rights of private property.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2768), as modified, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Arkansas and the distinguished Senator from Mississippi for their courtesy.

I yield the floor.

Mr. BUMPERS. Mr. President I understand that there is an order regarding a recess until 2:15; is that correct?

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ADAMS).

IMPROVED ENERGY EFFICIENCY MOTION TO PROCEED CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency:

J. Bennett Johnston, David L. Boren, Alan Cranston, Fritz Hollings, Bob Kerrey, Robert Byrd, Howell Heflin, John Breaux, George Mitchell, Howard M. Metzenbaum, J. Lieberman, Joe Biden, Frank R. Lautenberg, Jim Sasser, Slade Gorton, Warren B. Rudman, Phil Gramm, Connie Mack, Jake Garn, Frank H. Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 776, the Comprehensive National Energy Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Florida [Mr. MACK], is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS], is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS], would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 93, nays 3, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—93

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—3

Durenberger
Jeffords
Smith

NOT VOTING—4

Burdick
Gore
Helms
Mack

The PRESIDING OFFICER. On this question the yeas are 93 the nays are 3. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, notwithstanding the outcome of the previous vote, the Senate remains on H.R. 5487, the agriculture appropriations bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. JOHNSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BUMPERS. I am happy to yield.

ORDER OF PROCEDURE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be permitted to propound a question to the majority leader about the energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, with the concurrence of the majority leader, I would like to suggest that he or I make a unanimous-consent request.

Since he now has concurred, I ask unanimous consent that the 30 hours available to the Senate to debate the motion to take up—now that cloture has been invoked—be dispensed with so that, when we finish this bill, we go directly to the energy bill rather than have 30 hours of debate.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not object. I want my chairman to know that there is a certain minor unravel that is taking place in the agreement we thought we had. It will, as I promised with the others, be resolved, but should it not be—rather than use 30 hours now, we will start the process over, should that take place. I just want the Senator from Louisiana to understand that. I do intend to see what I perceive to be the agreement accommodated before ultimately we have the opportunity to complete action on this bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana that 30 hours be dispensed with?

Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. JOHNSTON. Mr. President, I have a further unanimous-consent request which, if the Senator will listen, I think might be suitable to him.

I ask unanimous consent that the only amendments that would be in order on this bill, when taken up, would be a Bradley amendment on alternative minimum tax, with a time agreement of 1 hour, with any second-degree amendments to be limited to 30 minutes and to be germane; a Rockefeller amendment, with only germane second-degree amendments, but with no time limit; and that upon disposal of those two amendments, we proceed immediately to third reading and final passage, without intervening motions or delays.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Mr. President, reserving the right to object, I would like to add to that list a Symms-Graham from Florida amendment, 2 hours equally divided, regarding the cap on tax-free revenue bonds for the high speed rail.

Mr. JOHNSTON. Mr. President, I would accept that. I think that we have the outlines here of an agreement, but I will not propound it at this time. Perhaps in a few minutes we can write it up. We would also need provisions so that the chairman of the committee can propose his amendment, as modified by the committee with provisions for the Rockefeller amendment. But we will put it in writing and propound it in the next few minutes.

Mr. WALLOP. Mr. President, I urge the Senator to move slowly. There is nothing that the Senator from Wyoming would rather do than complete action on this bill, like 3 days ago. But I cannot, in all good conscience, commit that we will be able to clear such a thing in a few minutes. There will be Republicans who will not have heard of this, and I hope they do not, but they may have a desire to offer amendments. So we will require a little time to determine what they may be going to do.

The PRESIDING OFFICER. Does the Senator from Louisiana withdraw his unanimous-consent request?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The unanimous-consent request is withdrawn.

The Senator from Arkansas is recognized.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. BUMPERS. Mr. President, I want to say, for the benefit of my colleagues on the floor and those who are listening and watching, I had originally thought we were going to be able to finish this bill in the next hour and a half. Staff has handed me a list of amendments, many of which I have not heard of before. I really do not know how controversial they are going to be, but I will read them off quickly:

A Simon amendment to reduce the market promotion program by $3.8 million to provide $1.9 million for a clinical pharmacology program in Illinois; a Levin amendment to provide a million and a half dollars for taxol research; a Brown amendment to eliminate the honey program; a Brown amendment regarding tobacco, and I do not know what that is; a Brown amendment regarding research grants, and I do not know what that is; a McCain amendment regarding unauthorized programs. I think that is an amendment that would strike everything in the bill that has not been authorized in the 1990 farm bill, or other authorizations. A McCain amendment regarding Social Security earnings test which, as you know, he has offered before, and on which a point of order will be raised, and 60 votes will be required to override that. A Smith amendment regarding freeze levels. I do not know what he is freezing. A Domenici amendment regarding the food stamp thrifty food program; a Dole amendment, content unknown; a Graham of Florida amendment regarding reduction of administrative expenses. Finally, I now understand that Senator LEAHY has another amendment.

So unless everybody is here as these amendments are disposed of, and others who want to offer amendments, unless they are here, you can probably expect a rather late evening; because I can tell you that three or four of these amendments will require extensive debate.

I yield the floor.

AMENDMENT NO. 2769

(Purpose: To reduce an appropriation)

Mr. GRAHAM. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. PRYOR, proposes an amendment numbered 2769.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, line 14, strike out "$39,307,000" and insert in lieu thereof "$37,795,000", and on line 15, strike out "$30,330,000", and insert in lieu thereof "$29,163,000", and on line 17, strike out "$8,977,000", and insert in lieu thereof "$8,632,000".

Mr. GRAHAM. Mr. President, the amendment which I sent to the desk, and one other that will follow, are consistent with policy adopted earlier today when the Senate voted to hold at current levels the general administration and overhead costs for the Departments of Commerce, Justice, and State.

I want to commend the subcommittee for the outstanding frugality that it has demonstrated in most of the sections of the Department of Agriculture budget. As an example, in the area of the Office of the Assistant Secretary for Administration, this budget purports to hold at the current year's level of funding, $596,000.

It also does the same—that is, hold to the current year level of funding in the U.S. Department of Agriculture building operation and maintenance, Department of Administration, and the Agricultural Stabilization and Conservation Service. In those areas, the recommendation for fiscal year 1993 is at, or in some instances below, the current year's level of funding.

The two areas in which I am proposing amendments in order to achieve the same objectives are, first, in the area of rural electrification. I draw to the attention of my colleagues, page 64 of the bill. I will note, beginning on line 14, that the number which had been recommended by the House, which for this particular account was $39.795 million, has been struck and the Senate has inserted $39.307 million. The figure which is in the original House print, Mr. President, is fiscal year 1992 funding level—that is, the House has already adopted the principle for REA, of holding for purposes of its administrative overhead at the current level of funding. The Senate has recommended a slight increase.

The amendment which is before the Senate now would provide for a substitution of the current level of funding for the overhead and general administration of the REA, consistent with the policy we have adopted for three other agencies, and consistent with the policy which was followed in most of the agencies of the Department of Agriculture.

I offer this amendment on behalf of myself and Senator PRYOR. I would be pleased to respond to any questions.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have not seen this amendment before this very moment. So I would like to engage the Senator in a colloquy if I could and ask, first of all, on page 64, line 14, he strikes out $39 million-plus, and inserts $37 million-plus for a savings of roughly $1.5 million. Is that the administrative expense the Senator is trying to save?

Mr. GRAHAM. Yes.

Mr. BUMPERS. In what category, what program?

Mr. GRAHAM. This is in the category of the salaries and expenses under the general administration of the Rural Electrification Authority. Apparently the funding for this agency comes from various areas, one of which is under an area of general appropriations. It is that area which is the subject of the amendment on line 14. Another component which begins on line 15 is derived by transfer of the rural electrification and telephone loans program account and another amount beginning on——

Mr. BUMPERS. How much do we save on line 15?

Mr. GRAHAM. On line 15, we save the difference between $30,333,000, and $29,163,000, or approximately $1.15 million.

Mr. BUMPERS. Is that the difference between $30,333,000 and $29,163,000?

Mr. GRAHAM. It is done standing on my feet, Mr. President. It is approximately a difference of slightly less than $1.2 million.

Mr. BUMPERS. The Senator has another small savings of roughly $340,000 on line 17. What is that?

Mr. GRAHAM. Yes. That is the amount which is derived from transfer of the rural telephone bank program account. Apparently the way this agency is financed is it receives funds for its general overhead from at least those three accounts.

I point out again that all of the numbers which I am proposing are exactly the numbers that were made available for the current fiscal year and are the same numbers which were recommended by the House of Representatives.

Mr. BUMPERS. Are all of these figures in the House bill?

Mr. GRAHAM. All of these figures are in the House bill. This amendment will be making the Senate bill conform to the House bill.

Mr. BUMPERS. As the Senator knows, I have been the prestigious chairman of this subcommittee exactly 1 week, so I am not in a position to argue strongly with the Senator about this. But I will read the Senator—if he will give me his attention a moment—the committee report which was drafted when Senator BURDICK was here and the subcommittee was marking up this bill.

The committee notes that the REA is not acting on applications for the telephone and

> electric programs in a timely manner. Part of that problem alleged is shortage of staff resources. Therefore, an increase to the 1992 level for salaries and expenses is provided. The committee directs the Department to process applications quickly in order to meet the minimum loan levels established and to exceed those minimums up to the established maximum so that the resources are made available to rural America in a timely manner.

I do not know who is right. As I say, I just came on the scene, and the Senator may be justified in going to the House numbers. As the Senator knows the House number has a cut in their figures. They cut to the 1992 level, this year, and is that what the Senator is doing?

Mr. GRAHAM. Precisely.

Mr. BUMPERS. He is saying there should be no increase in these three programs for 1993?

Mr. GRAHAM. In the same way the committee has already made the same judgment for programs such as the Department of Administration, the Agricultural Stabilization and Conservation Service, the buildings operation and maintenance, and the Assistant Secretary for Administration, all of which were held at or below current levels of funding.

Mr. BUMPERS. First, even the President requested more for this budget than the Senator is providing. I am not saying that is sacred. But I am making the point the Senator is cutting below the Presidential request and going to the House level that had already cut what the President requested?

Mr. GRAHAM. I will point that in the action that we took earlier today we cut substantially below. We had already with the actions taken by Senator HOLLINGS and Senator RUDMAN cut the Department of Commerce, the Department of Justice, and the Department of State in those cases below what the President recommended. The policy, however, that was adopted was one that insofar as the general administration overhead is concerned they should be held to the 1992 levels of funding, and the rationale for that is that every study that has looked at how to bring greater efficiency and productivity into the Federal Government, every study that has suggested a road map for the reduction of the Federal budget deficit, has had as one of its first steps the reduction of overhead.

Governor Clinton has recommended an across-the-board 3-percent cut in every Federal agency. He has recommended 100,000 personnel terminations in the bureaucracy. If we are going to focus our direction I think this is a good time to start.

Mr. BUMPERS. The Senator does not want to preempt this dynamite issue from Governor Clinton, does he?

Mr. GRAHAM. No. I want to show Governor Clinton that we seriously support his economic leadership, which happens in this case to be consistent with the direction which President Bush has also stated that he feels that we should take and that is dealing with the Federal budget deficit primarily by spending reductions. If this is not the place to start, where is the place to start?

Mr. BUMPERS. The Senator has warmed the cockles of every heart, including this Senator, when he is cutting administrative expenses, particularly when I am not in a position to know precisely whether this subcommittee's increases were justified or not. I will say this: REA is very big in my State, and they have not contacted me about this. Does the Senator have a big presence in REA?

Mr. GRAHAM. REA is a major provider of services in my State. I am a great admirer of what they have done. I believe, however, that the central office can operate in 1993 on the same funds it operated on in 1992. This will be a challenge to it to seek out areas of greater efficiency and productivity.

Mr. BUMPERS. I say to the Senator, I am willing to accept the amendment. I will defer to my distinguished ranking member, Senator COCHRAN, for any comments he may have. This is not a big cut and perhaps it is very legitimate. If it is, I would love not only to accept it but stick with it in the conference. Of course, this puts the House and the Senate together but, as the Senator knows in conference any thing can happen. So, with that, I am willing to accept that.

I was not at the hearing when REA testified. And I have not had any mail from people who said REA is behind, they are not dealing with these things in a timely manner, as the committee report says, but I assume the committee report is reflecting the current situation. So between now and the time we go to conference with the House, it will give us a little chance to look into it and see whether or not this is justified. I divinely hope the Senator is right and I hope I can support him in the conference.

Mr. GRAHAM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I sympathize with the effort to reduce unnecessary spending and try to make our programs more efficient, to eliminate waste and unnecessary funds from the Federal budget. There is no time that I can remember since I have been in the Senate, and in the other body, that we needed to look with greater scrutiny at the provisions of all bills, appropriations bills, and legislative bills that authorize spending.

But in this particular account, the committee attempted to deal with a real live problem that affects the ability of an agency to perform its duties as required by law, laws passed by Congress, laws that reflect the legitimate interests and needs of people who live in small towns and rural communities throughout this country.

The REA is not just some bureaucracy over there that is churning out money and throwing it on the ground or wasting funds. The REA loans money so that people who do not have electricity in their houses can have electricity, and they can have utility bills that they can afford to pay. Reasonably priced electricity in rural communities is a matter of national policy in our country. There has been a difficult problem, because the REA has not been given the money it needs to hire staff to process loans, to make these funds available to rural cooperatives so that they could extend lines and generate more electric power to provide for the needs in those communities that are eligible for these programs.

The administration recognized the problem. And when they send the budget up here this year, they wanted to do something about the shortfall in funding and the problem not having adequate staff to deal with the mandates imposed on this agency.

The administration requested $32,822,000 for the salaries and expense account for electric and telephone loans. That is in the category by transfer. The amendment of the distinguished Senator from Florida would not only do away with the modest increase that was provided by this committee over and above the amount approved by the House committee, but it would reduce the funding by almost $4 million below the amount requested by the administration.

And as the distinguished Senator from Arkansas is having to do, I am calculating here without the benefit of any rehearsal. I am looking at the numbers and trying to describe the practical impact of the Senator's amendment. It is a substantial reduction in funding below the sum requested by the administration.

I am convinced, if we do not provide the funds that we have in the Senate bill, that you are building in a necessity for a supplementary appropriations later in the year to try to make up for the deficiencies that are created by the adoption of this amendment.

Let me point out to the Senate one practical problem. If we adopt this amendment offered by the Senator from Florida, it will not be subject to modification in conference. What he is doing is trying to make the Senate numbers exactly as they are in the House bill so they will not be subject to conference.

If we wanted to just turn over all the appropriations decisions to the House of Representatives, that is the way we would appropriate in every account in the bill and every other bill before the Senate. As a matter of fact, that may be what the Senator wants to do, just put the Senate out of business in the appropriations process and turn it over to the House.

I am seriously worried that if we permit the House funding levels to stand, we are going to make a bad problem worse.

The distinguished Senator from Arkansas read the provisions of the committee report that has been developed to try to explain what the problem is. The problem is a backlog of loan applications for telephone consumer loans, for REA electric distribution loans. That is the problem.

Now the Senator from Florida says, "We don't have a problem." Or, "If that is a problem, I don't care. We are not going to respond to the problem. We are going to ignore it." Or, "We are going to come in and set an example in this one agency and reduce funding way below what the administration says is necessary to deal with the problem and make it the same, unresponsive amount that the House provides in its bill."

I hope we will not agree to this amendment.

The REA Program is one that has meant a great deal to the people who live in my State of Mississippi. I can remember when we did not have electricity or telephone services in a large part of our State. And when we did see the REA come into being and provide electric utility service, it changed life in rural Mississippi and rural America as nothing in my memory ever has.

Those days are days of history. But many of the problems of providing rural electric service are the same today as they were 40 years ago. It is more expensive to string wire when you have a density of population of only one family every half mile or so. And, in North Dakota, South Dakota, the Great Plains area, the expense is even greater than that, and the density is even more dramatic in its differences between those areas and urban areas of a State like Florida.

The fact is, that is why the Federal Government is providing assistance in the construction of electric power lines and generating plants that are necessary to provide this service where it otherwise would not be available. Your investor-owned utilities are not going to provide that service. They are not going to do it because it does not generate a profit. It is a money loser, because the people cannot afford to pay the actual costs of stringing wire, setting poles, doing the things you have to do, servicing and maintaining the lines in these rural and less densely populated areas of our country.

I am not going to be a party to turning our back on the people that live out there in those small towns and rural communities that get service from the REA. If we are going to emasculate the bill and pick out this place to do it, I am going to resist it, and I hope the Senate will reject it.

I hope Senators who are aware of the fact that this amendment has been offered by the Senator from Florida and his and my friend from Arkansas, Mr. PRYOR, will take another look at what they are asking the Senate to do. It may sound like a little bit of money, but it is just another step in the erosion of the ability of the REA to do what Congress has asked it to do.

I think enough is enough. The House cut these numbers. I do not think the Senate should cut them, too.

The Senator cannot have it both ways. He is complaining about the administration's economic policies and saying that he would like to help candidate Clinton get an early start in keeping a campaign promise.

Well, if this is the kind of promise they are making, I do not think people in rural America are going to appreciate it. If they file an application and try to get assistance for an REA loan and find out there is nobody up here to process the loan, they are going to want to know why. Well, I will be among those telling them why if this amendment is agreed to.

I intend to move to table the amendment after people have gotten through talking about it. I hope the Senate will sustain the motion to table this amendment. This is something that just should not be approved on this bill.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, to respond to some of the comments of my good friend from Mississippi, there is no intention here to abrogate the important role which the Senate plays in setting national spending policy.

The position which I am taking, and will attempt to take on a consistent basis, is that in these general administration overhead accounts, we should freeze at the 1992 level. It happens that that is a policy which quite coincidentally has already been adopted by the House of Representatives.

It is not that that is driving this decision. It is the fact that we are facing a $400 billion deficit. Remember that every one of these dollars that we appropriate, we are going to finance three of them through current year revenue, and we are going to add the fourth dollar to the national deficit.

I think that is intolerable. I think it is a breach of faith of our generation to the next generation. And, therefore, in this small way, I want to demonstrate that this Senate, this Congress, is prepared to start the very difficult process.

If we are not willing to cut this minuscule amount out of these programs, not to devastate them but to hold them to the level of funding that they are currently operating upon, where in the world are we going to get the credibility to make the much more difficult decisions that are going to be down the road if we are serious about bringing this Federal budget deficit under control?

The fact is, Mr. President—and I would ask the Senator from Mississippi if he has different information that I do—according to the report which I have received, the 1993 budget explanatory notes for the Committee on Appropriations by the U.S. Department of Agriculture, on page 12-4, it states, that the President had recommended for the administration of this agency, I say to the Senator, the President's recommendation was $32,822,000. That same number appears on page 110 of the committee report.

Now, the President apparently had also recommended that fees be collected on new RTB—which I assume is the rural telephone account—loans, which will be used to offset administrative expenses.

So what apparently the administration has done is recommend that a new level of fees be added, but that the direct appropriations from the general Treasury be at the level of $32,822,000. That figure, of course, is substantially below the figure which is contained in this amendment, which is $37,795,000.

So, Mr. President, we are attempting here to apply a consistent policy. We are not proposing to adversely affect the REA's. Most of the REA's operation is not in Washington, thank goodness; most of it is out in the Glade counties and the Jackson counties and the Walton counties of America, serving the people.

What we are talking about here are those persons here in Washington who provide the overhead and general support to the Washington bureaucracy of the REA. We are appropriating, to the overall REA accounts, a substantial increase—according to the information that I have—over what we have done in the past in terms of funding for 1992, as opposed to 1993, for the basic loan subsidies and loan authorizations which are the essence of the REA activity.

But what we are focusing on here today is the general administration and overhead.

Again, I say if we are not willing to take this minor step toward fiscal prudence, where are we going to take that step?

Mr. COCHRAN. Mr. President, has the Senator concluded his remarks? Has he yielded the floor?

Mr. GRAHAM. I yield the floor.

Mr. COCHRAN. Mr. President, I do not want to cut debate off prematurely, but I see no other Senators on the floor wishing to debate.

It is my intention, as previously stated, to move to table the amendment of the Senator. But I do not want to do that if he has anything further to say on the amendment.

Hearing no request for debate, I move to table the amendment of the Senator from Florida.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Florida.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. PRYOR (when his name was called). Present.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—54

Adams
Akaka
Baucus
Bingaman
Boren
Breaux
Bumpers
Burns
Byrd
Cochran
Conrad
Craig
Daschle
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gorton
Gramm
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Leahy
Lott
McConnell
Mikulski
Mitchell
Murkowski
Nunn
Packwood
Pressler
Reid
Riegle
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stevens
Symms
Thurmond
Wallop
Wellstone

NAYS—41

Bentsen
Biden
Bond
Bradley
Brown
Bryan
Chafee
Coats
Cohen
Cranston
D'Amato
Danforth
Dixon
Dodd
Fowler
Glenn
Graham
Grassley
Harkin
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lugar
McCain
Metzenbaum
Moynihan
Nickles
Pell
Robb
Rockefeller
Roth
Seymour
Simon
Simpson
Smith
Warner
Wirth
Wofford

ANSWERED "PRESENT"—1

Pryor

NOT VOTING—4

Burdick
Gore
Helms
Mack

So the motion to lay on the table the amendment (No. 2769) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

ORDER OF PROCEDURE

Mr. BUMPERS. Mr. President, on behalf of my distinguished colleague and ranking member, Senator COCHRAN, and myself, I will propound a unanimous-consent request, not a time agreement but a unanimous-consent agreement, to limit further amendments. So, therefore, I ask unanimous consent that the following amendments and only the following amendments be in order to this bill:

One, an amendment by Senator SIMON to reduce the Market Promotion Program $3.8 million in order to provide $1.9 million for the FDA Clinical Pharmacology Program; an amendment by Senator LEVIN to provide $1.5 million for research; an amendment by Senator BROWN to eliminate the Honey Program; an amendment by Senator BROWN regarding tobacco—I do not know the text of the amendment; an amendment by Senator BROWN regarding research grants; an amendment by Senator MCCAIN regarding unauthorized programs; an amendment by Senator MCCAIN regarding Social Security earnings test; and a second-degree amendment to the McCain amendment by Senator BENTSEN; an amendment by Senator SMITH regarding freeze levels; an amendment by Senator DOMENICI regarding the Food Stamp Thrifty Food Program; an amendment by Senator DOLE to add $400,000 to the Rural Development Grant Program; an amendment by Senator LEAHY to add $400,000 to the Rural Development Grant Program; and finally, an amendment by Senator GRAHAM, of Florida, regarding the reduction of the administrative expenses, unless this is the amendment he just offered; and an amendment by Senator HARKIN regarding travel expenses of the Department of Agriculture.

Mr. MCCAIN. Reserving the right to object—I will not object—I would like to correct the information concerning my earnings test amendment, that it would be in the form of a resolution, not an amendment.

Mr. BUMPERS. It is a sense-of-the-Senate resolution?

Mr. MCCAIN. Yes. I ask that that be made in order.

Mr. COCHRAN. Mr. President, reserving the right to object, I understand that there are two other amendments that may be offered by Senators on this side of the aisle, one amendment by the distinguished Senator from Utah [Mr. HATCH] relating to the Food and Drug Administration, and an amendment to be offered by Senator SIMPSON relating to an REA study. I am further advised that there may be other amendments that the Senators are planning to offer that have not been described to us for inclusion in this agreement.

Let me just suggest that the Senator withhold asking unanimous consent that these be the only amendments in order, but rather suggest to Senators that, if any other Senators do have amendments, please let us know forthwith because we would like to enter into an agreement here to limit the number of amendments that would be in order to the bill so we can complete action in a timely fashion.

I make that as a suggestion.

Mr. BUMPERS. Mr. President, I withdraw my unanimous-consent request. I request that staff on this side run a hot line suggesting that amendments that are not on the list I just mentioned—if anybody has not informed us of an amendment, that they let us know within 30 minutes. I suggest that they do likewise on the Republican side of the aisle. If that is not sufficient—I want to cooperate. I know how these bills go. These amendments will just keep coming in here if we do not get some finality with this. I hope within the next 30 minutes on both sides of the aisle we can run a hot line and propound this request again.

With that, I wonder if the Senator from Arizona would be willing to enter into a time agreement on his amendment.

Mr. MCCAIN. I will be more than happy to.

Mr. BUMPERS. Will the Senator make the suggestion?

Mr. MCCAIN. I will make a suggestion. I ask my colleague how much time he would need on this amendment. Seven minutes, equally divided, would be sufficient?

Mr. BUMPERS. An hour equally divided?

Mr. MCCAIN. Yes.

Mr. BUMPERS. I defer to my colleague from Texas, who will be on the other side of this amendment.

Mr. BENTSEN. I say to the distinguished manager of the bill, my friend from Arizona, that would be agreeable. I want an hour for the second-degree amendment, also.

Mr. BUMPERS. Mr. President, I ask unanimous consent that on the McCain amendment, the sense-of-the-Senate resolution regarding earnings limitations on Social Security recipients, there be 1 hour equally divided between the Senator from Arizona and the Senator from Texas and, at the conclusion of that time or at such time when both Senators yield the remainder of their time, the Senator from Texas be recognized to offer his second-degree amendment to that, on which there be one hour equally divided between Senator MCCAIN and his designees, and the Senator from Texas and his designees.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized, Mr. McCAIN.

Mr. McCAIN. Mr. President, before I propose my amendment, I want to make a statement concerning the bill before us, and then I will be proposing my amendment. It is my understanding that, under the unanimous-consent agreement, at that time the clock will start running on both sides. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. McCAIN. Mr. President, at this time I believe we should turn our attention to the rules of the Senate, and I especially point out rule XVI.

As I am sure my colleagues all know well, rule XVI governs the appropriations bills and amendments to general appropriations bills. Many of my colleagues have claimed that the rules of the Senate are sufficient to control the budget appropriations process. I believe the appropriations system is broken. The public also shares this belief, and I believe something must be done to correct it.

The solution I have advocated is to give the President the line-item veto. The line-item veto would allow the President to eliminate wasteful, unneeded expenses from the budget. Unfortunately, the Senate has not seen fit to pass this much-needed legislation.

Let me point out, as a passing note of interest, that yesterday's Los Angeles Times reports that Democratic Party nominee for President Bill Clinton stated, "I am a Democrat who believes in the line-item veto." I hope that Members of the Senate here on both sides of the aisle will be swayed by his very persuasive argument, particularly given his experience as a Governor of a State.

Nevertheless, during debate on this subject, some of my colleagues voted against the line item veto on the grounds that the rules of the Senate were sufficient to curb wasteful spending.

On February 22, 1992, my esteemed colleague and good friend, Senator HATFIELD, stated in reference to the line-item vote:

> I suggest that the advocates of this proposal take better advantage of the existing rules and procedures of the Senate to advance their cause. Senators can exercise their rights under the rules to take all the time they want to examine bills and reports, raise objections, offer amendments and round up votes.

More specifically, the distinguished chairman of the Appropriations Committee, an acknowledged master of the Senate rules, stated on May 5, 1992:

> Also, Madam President, paragraph 7 of Senate Rule XVI requires that committees' reports on general appropriations bills identify each committee amendment to the House bill which proposes an item, or appropriation which is not made to carry out the provisions of an existing law, and stipulates an act or resolution previously passed by the Senate during that session of the Appropriations Committee. Reports are required to comply with paragraph 7, Rule XVI. In so doing, committee reports on all 13 regular appropriations bills identify unauthorized appropriations. And the Members of the Senate are then able to determine for themselves whether to offer amendments to modify or subtract such unauthorized items for each appropriation bill.

The Senator went on to state:

> Now I can call these things to the attention of Senators because, apparently, Senators are not aware of them. Senators need only to be on this floor when the appropriations bills come before the Senate, and if those Senators will look at the committee reports and study the bill, those Senators will be able to offer amendments, if they wish to do so, to strike any item that is not previously authorized. That is a Senator's right. But a Senator should not sleep on his rights and then claim that these things are slipped by and that Senators did not have an opportunity to know what is in the bill, and that these items that are not authorized are passed.

I have, as always, listened closely to the Senator's remarks and have decided to take them to heart. Mr. President, I want my colleagues to be aware that I intend to see to it that rule XVI is vigorously enforced. In particular, I intend to see to it that paragraph 7 of rule XVI is enforced in an effort to eliminate wasteful spending. For my colleagues' information, rule XVI, paragraph 7 states:

> Every report on general appropriations bills filed by the Committee on Appropriations shall identify with particularity each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

In the Commerce, State, Justice appropriations bill, which the Senate just passed, there is over $10 billion of unauthorized spending. Some of the unauthorized spending is noted in title VI of Senate Report 101-331. I must challenge the claim that all unauthorized appropriations were both identified, and identified with particularity. According to the report, "Portions of the Office of Justice programs are unauthorized."

Well, what portion of the $669,729,000 recommended by the committee is unauthorized? Is the Justice Assistance Program unauthorized? Are funds for the Public Safety Officers' Benefits Programs unauthorized? What portions, Mr. President, of the Office of Justice Programs are indeed unauthorized?

Surely, the Appropriations Committee and its able staff could identify those portions with particularity. It seems evident to me that a rule XVI point of order would have brought this legislation down.

In February of this year, Mr. President, the chairman of the Budget Committee told this body that our budgetary process is not broken to the point that it needs a reform like the line-item veto. He stated:

> There was an old saying that was popular around here a few years ago that went something like this, and in the vernacular it was: "If it ain't broke, don't fix it."

And this budget process of ours is not broken to the point that needs this sort of Rube Goldberg jury-rig fix which, in my view, would make matters worse and give the people of this country less control over their own affairs than they have presently. The bill previously before us contained over $10 billion of unauthorized spending out of a total of $23.6 billion. As I stated earlier, some of the unauthorized spending is identified. Some of it is identified, but not with particularity and, finally, some of it is simply not identified.

The budgetary process, in my view, is broken to the point where a line-item veto is necessary. Mr. President, I did not come to the floor today to bring down any legislation; although I reserve my right to bring a point of order against future appropriations bills. I did come here to show that the process is broken, and that roughly 40 percent of the appropriations in the Commerce, State, Justice appropriations bill, was not authorized.

I hope, as the Senate considers other appropriations bills, that the Appropriations Committee will be more vigilant in complying with rule XVI. I also want to let the majority leader know, and the chairman of the appropriations, that I will seek to object to any waiving of rule 17.5. If I, as an individual Senator, am to be able to analyze the general appropriations bills, they must be available for 2 days, as required by the rules.

I am confident that the able leaders will understand my concerns on this subject and not seek to waive rule 17.5 in the future.

Mr. President, I want to say that I do not see in this present appropriations bill before us egregious violations of rule XVI. What I do see—and I want to point it out—is a $430,000 appropriation to research turkey osteomyelitis. The report states:

> This disease cripples turkeys, causing the birds great suffering and ultimately rendering their meat unfit for consumption. Losses to the disease cost the turkey industry more than $10 million annually. Yet, the causes and potential cures for this disease remain a mystery.

Mr. President, it is a mystery to me that an industry suffering $10 million in losses cannot afford to spend their own $430,000 to research turkey osteomyelitis.

All of us have great sympathy for not only the consumers of the turkeys, but the turkeys themselves. But, frankly, it is a turkey when we are spending $430,000 of the taxpayers' dollars to do something that industry should be doing.

Mr. President, there is also an additional $200,000 for locoweed research. I think locoweed is a serious problem for those in the Southwest. Clearly, industry, it seems to me, should be more ready to foot the bill as far as curing the locoweed problem, as opposed to the American taxpayer.

Finally, I note that there is $140,000 appropriated by the other body for swine research. Clearly, we are talking about pork. But in that case, I do not believe swine research is necessary.

AMENDMENT NO. 2770

(Purpose: To reaffirm the commitment of the Senate to repeal or substantially increase the Social Security earnings test, without raising taxes)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself and Mr. SEYMOUR, proposes an amendment numbered 2770.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

The Senate finds that on November 12, 1991, the Senate unanimously adopted an amendment to H.R. 2967, a bill to reauthorize the Older Americans Act of 1965, to repeal the social security earnings test;

The Senate finds that the social security earnings test is the last bastion of age discrimination;

The Senate finds that the seniors who need to work, or choose to work, must forfeit $1 in social security benefits for every $3 earned over $10,200;

The Senate finds that the social security earnings test translates into an effective tax burden of 33 percent, making those individuals who are confronted with the social security earnings test the highest taxed individuals in America;

The Senate finds that the social security earnings test is a major deterrent to those seniors who would like to stay in or return to the work force, and an unfair penalty to those seniors who must go back to work;

The Senate finds that many of our Nation's seniors are going back to work in order to pay for basic expenses such as health care, food, clothing, and shelter because they have no private pension or liquid investments;

The Senate finds that other seniors would choose to stay in the work force, or return to the work force, if they would not face the punitive social security earnings test;

The Senate finds that the social security earnings test costs the United States $15 billion a year in reduced production;

The Senate finds that eliminating the social security earnings test would save over $200 million a year in compliance costs for the Social Security Administration; and

The Senate finds that dynamic economic estimates indicate that eliminating the social security earnings test would net as much as $140 million in extra Federal tax revenue, therefore, taxes do not need to be increased to pay for elimination of the social security earnings test.

The Senate reaffirms its commitment to repeal the social security earnings test or substantially increase the Social Security earnings test, without raising taxes.

Mr. McCAIN. Mr. President, I am offering this amendment in the form of a sense-of-the-Senate resolution, to reaffirm the Senate's support for repeal or substantial increase of the Social Security earnings test, without raising taxes.

Not only am I seeking a reaffirmation of the Senate's commitment to correcting one of the grossest inequities in American society today, but I also am including in this resolution the fact that we do not need to raise taxes in order to accomplish this goal.

Mr. President, I have been through this issue many times, for many years. Last year, on November 12, I thought we had made significant progress, because on November 12 last year—during consideration of the Older Americans Act reauthorization bill—this body adopted, by unanimous vote, my amendment to repeal the Social Security earnings test.

Some in the other body suggested this action was a display of cowardice, but in point of fact it was a vote to eliminate discrimination against our Nation's seniors who must work in order to meet basic expenses.

Mr. President, it might be somewhat curious to the American citizens to know that this onerous tax of approximately one-third of their wages is only leveled on wage earners. If the objective of this tax, Mr. President, was to get at the rich in our society, I could make an argument to you that pensions, trust funds, and all the ways that the very wealthy in our society are able to make money, earnings from stocks, should be subject to this earnings test. But, no. The only people who are subject to this earnings test are the seniors between age 65 and 69 who either voluntarily, or all too often out of necessity, go out and take care of themselves and their families.

Mr. President, we all know the condition of many seniors in America today. Time after time, dramatic stories of senior citizens living on the edge of poverty are told to us in most graphic and disturbing terms. If that man or woman wants to go out and work and earn a wage because of skyrocketing health care costs, generally speaking, at least in my State, then unfortunately they see the most onerous 33 percent tax laid on every single dollar they earn past $10,200 a year. It is unconscionable. The American people agree, once explained to them—whether young or old. Seniors are outraged over an ancient clause that was put in when Social Security was conceived in order to free up jobs for younger workers which, frankly, I am not prepared to argue was either right or wrong at the time.

The reality of the conditions of seniors in our society today is that many of them want to work, and they are being deprived of that by this onerous and unconscionable tax which must be and I am convinced over time will be repealed. What's worse is those who have to work.

Mr. President, I think it is also important to point out that I have offered time after time after time to sit down with the chairman of the Finance Committee and with the chairman of the Ways and Means Committee. I have corresponded with the chairman of the Ways and Means Committee and suggested that maybe we could lift this earnings test to something reasonable, like $40,000 or $50,000 a year, which would then take in 90 to 95 percent of America's seniors who are suffering under this burden. So far, in all candor, we have received no response. We have heard of no willingness to negotiate. No staff member has asked what our position would be or what we would agree to. So I think it is important to know that before this body and before the other body there will at some time probably be legislation which lifts the earnings test significantly, but also raises taxes on working men and women in America to pay for it. And, Mr. President, this is not necessary.

Mr. President, you can use your judgment as to whether it is necessary to raise taxes on wage earners in order to compensate for the repeal of the Social Security earnings test on the Office of Management and Budget reports or the independent studies and common sense. The Office of Management and Budget, that same illustrious organization that gave us the 1990 budget summit agreement which gave us $166 billion in taxes and, of course, a burgeoning and overwhelming deficit, tells us that there will be a net loss to the Treasury.

The fact is that everyone knows that these seniors will go out and work and pay taxes. They will be paying taxes, Mr. President. They will be paying taxes on their earnings, and studies we have indicate clearly that this will mean a net increase in revenues into the Federal Government rather than a decrease.

Mr. President, as I say, the Older Americans Act upon which this repeal was placed last November has been stalled. It has not only been stalled, but the House did refuse to appoint conferees. And then in April, the House adopted a proposal to modify the Social Security earnings test, written by the chairman of the Ways and Means Committee, and we still have no final action on the earnings test and on the Older Americans Act reauthorization bill.

Some are arguing that issue is holding the Older Americans Act hostage. The opposite is true. This repeal is being held hostage by the failure of this body and the other body to address an issue which is of great importance to every senior citizen in America.

Mr. President, let me just tell you a small example. I was visited not too long ago by a representative from Disney World in Orlando. This representative and I talked about a number of issues. During the course of our conversation, however, he said, "By the way we find that our best employees are senior citizens and we would love to have more senior citizens work at our facility but, unfortunately, because of the earnings test tax on their Social Security they cannot."

I was visited another time by representatives of several of the fast food chains in America. They also told me that some of their best employees are senior citizens but that senior citizens are dramatically demotivated to work, because of the fact that they face this onerous test.

It is clear that this is an issue of fairness. We need the skill and experience of older Americans. The earnings test is outdated, unjust and clearly discriminatory. And the Senate spoke clearly on November 12 when it adopted my amendment to fully repeal the Social Security earnings test.

As I said, I would be glad to discuss a compromise with anyone who is interested in lifting this onerous penalty, but I clearly believe that we have done enough tax raising on the American people; 56 times in the last 30 years and we have the greatest deficit in history. We do not need to have a tax increase as part of the dramatic modification of the earnings test.

Mr. President, as is known, the Older Americans Act—stripped of the earnings test measure approved of on November 12, was reintroduced in this body and there was a letter from a very impressive list of senior citizen groups that accompanied the reintroduction of this bill. It is interesting that the letter that accompanied the introduction of this bill did not comment on the lifting of the earnings test. In fact, it was silent on that. What it did say was they wanted the Older Americans Act enacted as quickly as possible.

Mr. President, so do I. So do I. I want the Older Americans Act enacted as quickly as possible, too.

Mr. President, at this time, I ask unanimous consent to have printed in the RECORD a letter from the Coalition for Repeal of the Social Security Earnings Test.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COALITION FOR REPEAL OF THE SOCIAL SECURITY EARNINGS TEST,
February 10, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: Congress should move quickly to convene the Conference on the Older Americans Act, including the provisions regarding the elimination of the Social Security Earnings Test which affects millions of older workers.

Although there may be differences between the House and the Senate on the precise action to take regarding the Earnings Test, there is widespread consensus on the need for reform. The best and most appropriate way to resolve these differences is to move to Conference as soon as possible.

The undersigned members of the Coalition for Repeal of the Social Security Earnings Test urge the House leadership to take whatever steps necessary to appoint its conferees and move forward. We understand that this may include a motion to instruct the Conferees to clarify the House position on this issue and that such motion may or may not endorse the Senate's position, which we support, of full repeal.

The Reauthorization of the Older Americans Act and the reform of the Social Security Earnings Test are both important to the welfare of our country's seniors. There is no reason to delay the resolution of either of these important issues.

Sincerely,

MARTHA A. MCSTERN,
National Committee to Preserve Social Security and Medicare.

SUPPORTERS OF THE SOCIAL SECURITY EARNINGS TEST, FEBRUARY 10, 1992

The following coalition of senior organizations, businesses and business groups, representing tens of millions of seniors and employees across this country, support efforts to reform the Social Security Earnings Test as part of the Older Americans Act.

Air Force Association.
Air Force Sergeants Association.
American Health Care Association.
Association of United States Army.
Enlisted Association of the National Guard of the United States.
Fleet Reserve Association.
Jewish War Veterans of the U.S.A.
Marine Corps League.
Marine Corps Reserve Officers Association.
National Association for Uniformed Services.
National Association of Temporary Services.
National Committee to Preserve Social Security and Medicare.
National Council of Chain Restaurants.
National Military Family Association.
National Restaurant Association.
National Society of Public Accountants.
National Tooling & Machining Association.
Naval Enlisted Reserve Association.
Naval Reserve Association.
Navy League of the U.S.
Sears Roebuck and Company.
Seniors Coalition.
The Military Chaplains Association.
The Retired Enlisted Association.
The Retired Officers Association.
The Seniors Cooperative Action Network.
U.S. Chamber of Commerce.
U.S. Coast Guard CPO Association.
U.S. Coast Guard Enlisted Association.
Walgreens.

Mr. MCCAIN. Mr. President, I would briefly quote from it:

Although there may be differences between the House and the Senate on the precise action to take regarding the Earnings Test, there is widespread consensus on the need for reform. The best and most appropriate way to resolve these differences is to move to conference as soon as possible.

The undersigned members of the Coalition for Repeal of the Social Security Earnings Test urge the House leadership to take whatever steps necessary to appoint its conferees and move forward.

Mr. President, I have to say again that those who would believe the Office of Management and Budget that this will somehow increase the deficit are not familiar with the workplace in America. When people work, they pay taxes. And when they pay taxes, the deficit goes down. When there is an overwhelming disincentive for them to work, they do not pay taxes; in fact, the deficit goes up.

Mr. President, I believe that we can lift this earnings test limitation. We can do something which is in fairness, and something which would eliminate discrimination.

Mr. President, I intend, I tell my colleagues, to see this fight through until it is won. And I think that the overwhelming majority of seniors in America support this effort.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield myself 10 minutes.

Mr. President, as Senators know, I strongly support—strongly support—the liberalization of the earnings test. My friend from Arizona has stated there has been no response to the entreaties of those requesting such. Oh, yes, we have responded. Last year I introduced S. 2038, and this year the Finance Committee reported out a bill with the same number. Both bills significantly ease the earnings test. But the big point is that we paid for every penny of the cost to Social Security. And that is the critical point. It is all too easy to take away the earnings test and to have no concern about the trust fund and the security of it. But that is not what the older citizens of this country deserve.

Under the committee bill that we have reported, the earnings test exempt amount would be increased from the current level of $10,200 to $21,000 in 1997 and to $51,000 by the year 2001. The committee pays for all of that cost to Social Security and, in fact, improves on the long-range balance of the trust funds by .06 percent of taxable payroll.

I would like to pass the Finance Committee bill this year to moderate and improve the earnings test. But let there be no doubt about it, I am totally opposed to any earnings test proposal that threatens the security of the Social Security trust fund. I have stated that over and over again on the floor of this body.

The sense-of-the-Senate resolution that is being proposed, if you actually translate it into law, I think would seriously threaten the financial integrity of the Social Security trust fund. Make no mistake about it, a proposal of this kind threatens the safety of that fund.

Mr. President, on April 7, 1992, the Senate adopted my Social Security trust fund protection amendment to the budget resolution by a vote of 94 to

3—by 94 to 3, in this body this year. And by that vote, we established a 60-vote point of order against any amendment to the budget resolution that would reduce the reserves of the Social Security trust fund, demanding responsibility on that.

I take the Senate's action as an overwhelming endorsement of a fundamental principle. If Senators wish to make changes that increase Social Security benefits, then we ought to have the political courage to pay for them.

Mr. President, the CBO estimates that elimination of the earnings test, as suggested by the resolution by the junior Senator from Arizona, would cost the trust funds $27.4 billion over the next 5 years. That is about what it cost to pay Social Security disability benefits for all of 1991, an entire year's benefits for some of our neediest citizens.

I heard the Senator from Arizona say that unless we eliminated the limits on the earnings test, we ought to take into consideration what people are earning off stocks, bonds, and other investments, not just take it from wages.

Well, if my friend from Arizona feels that so strongly, then I urge him to introduce legislation that will accomplish that. Frankly, I have not seen that done by any Senator.

Last year, the Social Security Administration estimated that the net cost of eliminating the earnings test—that is, the cost after deducting the additional payroll taxes and the revenues from the income tax on benefits that the proposal would produce—that that cost would be $45.9 billion over the period 1992 through the year 2000. This year, the SSA says that the net costs from 1993 to 2001 are $46.5 billion. That is the reduction in the trust funds to pay these Social Security benefits.

I know there are a lot of young people who say today, "Well, you know, I really never expect to get those Social Security funds when I reach retirement." If we pass a resolution such as this and enact it finally into law, then their fears will be justified, because you will see those trust funds run down.

Think what has happened in the last two decades. Recall what has happened. The Social Security trust fund was run right up to the brink of insolvency. In 1983, Social Security trust deficits, brought on by an unfavorable economic condition, had almost drawn down the trust funds, completely drawn down their reserves. And, almost at the last minute, the Congress acted to avert the catastrophe and save the Social Security system.

It is imperative that we do nothing to put Social Security again at risk or further weaken public confidence in it. But that is what we would be doing if we were to adopt the program changes advocated by this resolution, changes that would drain the trust funds of many billions of dollars and make no provisions for replacing them.

Our past experience with the Social Security trust funds should have taught us the importance of erring on the side of safety. There are terrible dangers if we do not. Most experts believe that a trust fund reserve of 150 percent—one that is sufficient to cover 18 months of benefit payments—is the minimum, safe margin that is needed, because you just cannot fully anticipate what is going to happen to the economy, how many people are going to be out of work, how much less is going to be paid into those Social Security trust funds.

The trust funds had only reached a level equal to 96 percent of 1 year's benefits at the beginning of 1992. They are currently not expected to reach the 18-month level before 1996 at the very earliest. Now that is if the economy and other factors affecting the funds perform reasonably well. And we know how often the economists have been wrong in projecting what is going to happen.

As Senators know, our history is replete with examples—some very recent ones—of the economy going into double dip recessions and seeing unemployment, instead of cutting down, as projected by the administration, seeing it climb to new heights, seeing it today at the highest level it has been in the last 9 years.

The 1992 trustees' report released on April 2 is a case in point. In it, we find that last year's conservative or pessimistic estimate of the status of the Social Security disability insurance trust fund has become this year's intermediate estimate of what is most likely to happen to the fund. The trustees now project that the disability fund will be exhausted not in 2015, as was projected last year under the intermediate assumptions, but in 1997, and could be exhausted as early as 3 years from now under the new, so-called pessimistic assumptions.

If this were not trouble enough, the trustees now estimate the combined Social Security trust funds will never—never—reach a safe 18-month reserve level under the conservative assumptions.

What is more, the Social Security trustees tell us the disability insurance trust fund will require more than $75 billion of additional revenues during the next 10 years just to achieve a reserve level equal to 100 percent of annual benefits. This is what the trustees say is the minimum required for the disability fund to pass their short-range test of financial adequacy.

So, Mr. President, is now the time to endanger the trust funds, to begin adding larger costs to the Social Security program, to be proposing to add very expensive earnings test legislation, without paying for a dime of those costs? I think not.

Mr. President, I know that this amendment asserts that if we simply eliminate the Social Security earnings test, large numbers of elderly retirees will be induced to go into the labor market and will succeed in finding jobs.

Then, so the story goes, the payroll tax and the income tax revenues that they generate will more than offset the cost of the additional Social Security benefit payments made as a result of eliminating that test.

The truth of the matter is that no one knows for sure what the economic effects of eliminating the earnings test will be. However, let us take the views of two objective organizations on that. Both the CBO and the Social Security Administration tell us that most research suggests that the effect on the labor supply and the increase in revenues caused by eliminating the earnings test would be minimal.

Economic analysis suggests that some retirees would begin or increase work effort, but there are others who would decrease their work because their additional Social Security payments benefits would be a substitute for earnings. And a retiree who, by taking a job, precludes someone else from working—and entirely possible outcome in this high unemployment economy—may be making no net additional contribution to Federal revenues.

So, as a result, CBO does not estimate any increase in revenues as a result of the elimination of the test. None. No increase. SSA estimates that the maximum offset caused by administrative savings and additional revenues, including all revenues resulting from a net increase in work effort, will not exceed 10 to 15 percent of the cost of the additional Social Security benefit payments caused by the elimination of the test.

Mr. President, I firmly believe that we have to rely on our principal economic and budgetary advisers on Social Security matters, the CBO and the SSA—rely on what they have to say about Social Security proposals and their effects on costs and revenues. Would that it were otherwise and that we could take off the earnings test without any consideration for the problems of the trust fund itself. But that is not the reality. That is not the case.

Relying on other types of economic advice about Social Security proposals can be misleading and even dangerous. For example, a study several years ago by two economists, entitled "Paying People Not to Work," claimed that eliminating the earnings test would cause at least 700,000 elderly workers to enter the labor force. The study held that this increase in elderly workers with earnings would cause the revenues from taxation of their earnings to more than pay for any increase in Social Security benefits.

The Office of Research and Statistics of the Social Security Administration carefully examined these contentions. They found that the study had erroneously interpreted the data on which its findings were based. SSA published a paper "ORS Working Paper Series No. 41, January 1990" pointing out this error and demonstrating that the employment and revenue estimates in the study were without foundation.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 17 minutes, approximately, remaining.

Mr. BENTSEN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. May I inquire how much time I have?

The PRESIDING OFFICER. The Senator from Arizona has 19 minutes, 30 seconds.

Mr. McCAIN. I yield 7 minutes to the Senator from California and I ask unanimous consent to add Senator KASTEN and Senator D'AMATO as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California.

Mr. SEYMOUR. Mr. President, I applaud the Senator from Arizona for being so forthright in his presentation of this resolution. I join him proudly as a cosponsor of this sense-of-the-Senate resolution.

What this is about—it is about a lot of things—but what I think is at the heart of this issue is discrimination. Of all things, this is age discrimination.

Why is it fair? Why is there any equity in the fact that working seniors and working seniors alone should pay a 33.3-percent tax surcharge? That is discriminatory. There should not be discrimination just because you reach the age of 65 and no other considerations. You could be going hungry and be charged with a surtax of 33.3 percent merely because you are 65 years old.

Mr. President, reading in the April 1992 News Magazine For Senior Americans, I would just like to read two paragraphs out of it.

> Currently, working seniors, 65 to 69, lose $1 of Social Security benefits for every $3 earned over the limit.

That is a 33.3-percent tax surcharge. The article goes on:

> Although the limit has been increased over the years—to now $10,200 in 1992—proponents of repeal contend it is antiquated and keeps seniors, a valuable resource for employers in the economy, from remaining in the work force. When regular taxes are added to the earnings penalty—

That I call a tax surcharge—

> working seniors face a marginal tax rate of nearly 70 percent. That is more than twice the rate that millionaires pay.

If that is not discrimination, I have never seen it. This is discriminatory and it must be changed. I have only been here about 19 months. The one thing I have learned very clearly is Government is great, they are fantastic, at creating disincentives. And this clearly is a disincentive to work. We are great at it. We have a welfare program that says do not work; do not work or you will lose your welfare.

In California, my State, Mr. President, a woman with two children is told by our failed welfare program do not work because it will take you over $14,000 if you work for us not to take your welfare benefits away. Why should she not be able to work, maybe make $7,000 a year? Why, before she breaks even, does she have to make $14,000? We need an incentive program.

We have heard a lot of talk in these hallowed Chambers over the last 18 months about economic growth. Once again, Government is great at disincentives. Government says do not invest. If you invest we are going to tax you at this very high capital gains tax rate. So do not invest. The incentive is—it is a disincentive to invest.

We say to Americans: Do not save; do not put that money in an IRA account. If you put that money in an IRA account, if you dare take it for your child's education, for helping a first-time home buyer into the American dream, purchasing a home, or to pay for catastrophic health care costs—if you do that we are going to tax you. So do not do it.

I commend the Senator from Texas for taking the lead on this particular disincentive, in his super IRA legislation. In fact I was with him here on the floor when he introduced it and I was very pleased to hear him say he would make the argument on the super IRA legislation that would permit, without penalty, a withdrawal from IRA accounts to pay for catastrophic health care costs, to pay for college education, to pay for or help a first-time home buyer realize the American dream. He said he would argue before the Senate Finance Committee that this would not cost the taxpayers money, and I applaud him. He is right on that point.

Again, we are great at disincentives. When we go to a research and development tax credit, we say to America do not come up with new, novel ideas by investing into research and development; do not come up with the highest technology you might. The way we say that in the disincentive form is we say, year by year, we will extend it for 1 year. We will give you a research and development tax credit but we are not sure about the next year. Disincentives—we are great at them.

I think we have to put ourselves in the shoes of a senior citizen. My mom and dad are both senior citizens; both of them very, very productive people in their years. I can recall shortly after my dad retired I wanted him to come into my business and help me. I was a businessman for 17 years. Maybe I look at this thing a little bit differently as a result of that experience.

Dad said to me, "Well, if I do and I make above x dollars, I am going to lose my Social Security."

I said, "But, dad, you have so much to offer. You have all those years of experience in marketing. And my people—and I had about 150 employees—"need to be trained. They need to hear what you have in your mind. You are the best."

Well, he wanted to do that, but mom suggested to him that if things got tight—she was afraid that in losing their Social Security they might not be able to make it. So dad did not do that. Rather, dad—being almost a workaholic, a type A personality, dad did not do well in retirement and shortly afterwards dad had a severe heart attack.

The doctor said it was a matter of the clogging of the arteries. I suspect medically that is correct. But I tell you, psychologically, Mr. President, what was at work was he was not making the contribution he was totally capable of making. It was just taken away from him. Why? Because he reached the magic age of 65.

How much is there to offer those seniors out there in America, whether it is in the classroom, whether it is working for Disneyland, as the Senator from Arizona pointed out? At the twilight of their careers, and many of them have many productive years thereafter—65—I recall the story of Kentucky Fried Chicken. As I recall, the entrepreneur who created Kentucky Fried Chicken started that when he was over the age of 60. Thank goodness for him. God bless him.

But so many seniors have so much to offer, and just at their peak, they say: Oops; you passed the magic number at 65. No longer; we are going to penalize you. You will pay a marginal tax rate of 70 percent. Forget whether or not you use the money to pay some health care costs. Forget the point that you might need these funds to make up for what Social Security is not paying you. You are going to pay the same tax rate as millionaires pay.

So the incentive is to not work.

Let me say, Mr. President, that the argument has been made by the senior Senator from Texas that Social Security will go broke if we do this one. I understand the argument, and he certainly presented some very convincing evidence. But there is also as much evidence on the other side of this question.

I am of a mind—and I guess, again, it is my 17 years of experience in business; owning my own business and running it—I am of a mind when people work and people produce, they pay taxes; they spend money. When they have a little more money in their pockets instead of living from month to month and Social Security check to Social Security check, if they have a few more bucks in their pocket, they will go out and spend it. In fact, if my mom and dad had that opportunity, they would go out and spend it on their grandkids. I would be happy to see that, since Judy and I have six.

So I am not convinced the numbers we have heard, the doom and gloom we heard preached, is altogether accurate. I saw the CBO report which says it would cost $5 billion over the next 5 years. But what is not said, Mr. President, is that is based on a static model. That is saying things will continue as they are today. I hope they do not continue as they are today, Mr. President.

The PRESIDING OFFICER. The Senator has used the time allotted to him.

Mr. McCAIN. Mr. President, I yield 3 more minutes to the Senator from California.

The PRESIDING OFFICER. The Senator may continue.

Mr. SEYMOUR. I thank Senator McCAIN for the additional time.

I hope, Mr. President, the people go back again. Because when they go to work, they pay taxes, and when they pay taxes, then they do not need the Government programs to help them along. This clearly is an inequity that cries out for correction.

In fact, the CBO, which projects on a static model that would cost $5 billion, even the CBO says that on a dynamic model, this would pay for itself in 15 years.

Let me go back to the article I quoted from before, and let me tell you about another study. I lift these two paragraphs:

> Opponents of repeal contend correcting the problem jeopardizes the solvency of the Social Security trust funds. However, a recent study shows just the opposite. Eliminating the retirement test would certainly generate more in Federal revenues than it would cost in increased benefits, the National Center for Policy Analysis concluded.
>
> And repeal would save the $50 million to $100 million per year it costs the Social Security Administration to administer the penalty * * *.

That now exists.

Finally, let me say, relative to cost, Senator McCAIN has taken care of that. All we need do is read the final paragraph of his sense-of-the-Senate resolution. He says:

> The Senate reaffirms its commitment to repeal the Social Security earnings test, or substantially increase the Social Security earnings test, without raising taxes.

And, therefore, if we are going to have to raise taxes—we are not going to have to do this, Mr. President.

I say we can do it without raising taxes.

The PRESIDING OFFICER. The Senator has used the additional 3 minutes allocated to him.

Mr. SEYMOUR. Mr. President, I urge an "aye" vote.

Mr. MOYNIHAN addressed the Chair.

Mr. BENTSEN. Mr. President, I yield 10 minutes to the distinguished Senator from New York.

I do not think there is anyone in this body who has a greater knowledge of the Social Security system, who has been more involved in it in the last 20 years in trying to protect that system to see that those funds are there for the retirees, who has done more than try to bring equity into the administration of it, and who has done more to try to see that those retirees understand what their benefits are and are given information with clarity and promise so they can understand what the future holds for them.

I yield 10 minutes to that distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I first thank the chairman of the Finance Committee. I have the honor to be chairman of the Subcommittee on Social Security. I have had his complete support, and he has had mine in these matters. And I rise to say to the Senate: This is a bad proposal which will bring discredit on this body.

Let me be clear about the specifics. Mr. President, there are 1.8 million persons age 65 to 69 who are receiving Social Security retirement benefits and are working. Of these, only 800,000 earn enough to be affected by the $1 in $3 reduction. Of those 800,000, only 200,000 earn enough to lose the whole or the maximum benefit.

Mr. President, this is a proposal to give the better part of $27.4 billion to a little more than 200,000 persons. I have seen some giveaways come to this floor in 16 years, but none as blatant and as irresponsible as this. I would say, Mr. President, that anyone who wants to give $27.4 billion to 800,000-maximum people—it will roll over a little bit—and has within the last 2 months voted for a constitutional amendment to balance the budget, that person had better beware the editorials at home.

I observe there are four good friends and respected Members of this body who are sponsoring this $27 billion for 200,000 or more persons. You can reach out and remember the debate in which the issue was: Would you move to cloture and reduce Federal outlays, so that all Social Security benefits would be reduced? They want to reduce them for everybody and raise them for a very few, a very wealthy few. This invites derision, a word that should be used carefully in this body.

The Senator from Arizona spoke of the original purpose of the Social Security Act. Perhaps we can go back to that. In 1935, as Frances Perkins brought it to the Congress, as Senator Robert F. Wagner introduced it in the Senate, it was to be an insured system to provide for the replacement of lost revenue.

There were two principal features. One was unemployment insurance, which is unemployment insurance. If you look at your paycheck, it says FICA, Federal Insurance Contribution Act. The benefit under retirees was meant to be provided when other income from employment ceased. It was a contributory system, and it was provided from the beginning that if you continued to work a few years later, you would get less of a replacement.

But, Mr. President, every penny lost during that 5-year interval is returned in larger benefits after age 70, whether you work or not. It is a fair system. It impacts a very limited number; on the most part, professional persons who continue to practice law, medicine, or whatever in their later years.

I have to say, I heard a citation from my good friend from California about the impact of this. I say to you, Mr. President, there is not a shred of evidence that there is any work disincentive. This system has been in place for 55 years. There is a regular research journal published from the Social Security Administration that has examined this question upward and down and backward.

They have had 56 years—well, in terms of reaching this; yes, 56 years—to look at this. They have found no evidence.

One of the problems, in the last 15 years—well, the last 12 years—in our finances, the one thing we can point to is the Social Security trust funds.

The one thing we can point to is the Social Security trust funds. They are, as the Senator from Texas said—we went very close to scraping bottom in 1983 with the combination of a sharp recession and a period of inflation. When, for the first time in our history, prices had run ahead of wages, the trust funds went down.

BOB DOLE came on this floor and said, on the day the Congress came back into session in 1983, "We can do this. We can work this out. Let us do it." He and I met a day later in his offices, and in 3 weeks' time, the legislation was on this floor.

It is in place. Trust funds rise at $1.5 billion a week. Combined—taking the alternative 2B as we say, the moderately conservative estimate—by the year 2001, the OASI and DI, disability benefits will be at 200 percent of annual outlays, a surplus.

But if we cannot maintain a surplus, well, then, maybe we do need a constitutional amendment, if we cannot say, yes, we are in balance and we are in surplus and that is a good thing, and we will keep it that way; we will not find a very small number of persons, professional persons, donors, letter writers, important and respected persons, we will not find $27 billion to give to them because we happen to have it at hand. That is a trust fund and we respect it as such.

Mr. President, this is a test of character for this body. Anybody who comes to this floor having voted for a constitutional amendment to balance the budget and simultaneously votes to give $27 billion to 800,000 people has something to explain. I do not know that it is easily understood. I can imagine the questions being asked. This is not something we need to do. These are not persons in need. By definition, they are persons with adequate or more than adequate incomes. Characteristically, they will have very high levels of income.

Why do we pay Social Security benefits to such persons? We pay it because it is a contributory retirement benefit program. You get it because you paid for it, not because you need it or deserve it or want it. And we are seeing that principle erode. This Presidential year has been a disaster for Franklin D. Roosevelt's idea of a system in which you paid in contributions, had an account, numbered account, named account, and back came, according to an agreed-upon statutory formula, a return in a balanced system.

I read in this week's Time magazine an essay by a very able commentator, Michael Kramer, who says:

> Cowardice continues to dominate discussions about cutting Social Security and Medicare. Everyone knows the deficit will remain unmanageable until these programs are tripped.

What is at issue in this vote is the principle of an earned benefit following a lifetime of contributions. Also, what is at stake is our capacity as a body not to give away money just because we have it. And, three, the genuine commitment of persons who voted for a balanced budget amendment and who might come to the floor 4 weeks later and propose to give $27 billion to 800,000 persons.

I thank my very distinguished chairman and friend allowing me this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Arizona has 7 minutes, 45 seconds.

Mr. McCAIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I was, if I heard the Senator from New York correctly, astounded. He said this is not for persons in need. Not for persons in need. I received a letter not long ago—I receive many of them—that stated:

> Senator, I'm under a heavy financial load trying to maintain a house I got through divorce. I get no help. I am alone. All of my major appliances, over 20 years old, have been going out on me one by one. For the first time in my life I made $6,000 a year, and I am barely over the minimum wage. I will be 69 this year. My Social Security check is so small I can't retire, plus they are holding back my money.

Mr. President, I invite the Senator from New York to come with me to Sun City, AZ, where there is a couple and one spouse is suffering from Alzheimer's. They are having to spend down their assets, and the remaining spouse is having to go to work. That story is repeated all over America, I say to the Senator from New York.

Yes, this vote is a test of character. This is a test of character as to whether or not we want to discriminate against seniors in this country. That is the test of character on which this vote is all about.

I remind my colleagues that we are reaffirming—I repeat, reaffirming—a vote already taken by the Senate. It was a unanimous vote on my amendment on November 12 that would repeal the Social Security earnings test. This is not a new amendment.

I find it of interest that the Ways and Means Committee proposal also lift the Social Security earnings test without an accompanying increase in taxes.

Mr. President, without trying to get personal, I have to quote from another letter I received. This person wrote me and she says:

> House Democratic leaders argue that an earnings limit repeal is too costly and would primarily benefit the wealthy. Come on now, who are they kidding? The wealthy already benefit from the present Social Security plan in gross discrimination against those of us who must continue working. The wealthy can receive all the money they want up to hundreds of thousands of dollars from stock, bond, and coupon clipping, but because they are not "working" they do not receive a cut in their Social Security receipts.

No, I say to my colleague from Texas, I am not interested in adding taxes on those people, and I am sorry if he understood that I did. I want a level playing field. I want none of them to be subject to this onerous tax. But I suggest to the chairman of the Finance Committee there are Members in this body who have trust funds of millions of dollars from which they receive and will continue to receive lots of money, and they are not subject to any earnings test.

The fact is that the American people are different, the people who find themselves in a situation where they have to go out and work in their declining years, or even choose to, are subject to an onerous test.

Mr. President, I guess this gets down to the basic philosophy of whether you believe that raising taxes increases revenues or whether you believe that lowering taxes increases revenues.

Mr. President, I think history is on my side. Fifty-seven times in the last 30 years we have raised taxes on the American people and the deficit is $4 trillion. So let us keep this tax in and cause more and more people not to work.

Now, there are several studies, one of which I will quote from a study by the Institute for Policy Innovation and the National Center for Policy Analysis. It states unequivocally that we would, indeed, see an increase of some $140 million in Federal revenues. The deficit would go down, not up.

I think it is of the utmost importance to point out, Mr. President, that the Social Security Administration today reports that they spend more than $200 million a year and use 8 percent of its employees to police the income levels of beneficiaries.

In other words, the Social Security Administration estimates that 60 percent of all overpayments and 45 percent of underpayments are attributable to the earnings limit. So we could eliminate $200 million in cost if we eliminated the earnings test requirement. That would be income into the Federal budget.

Mr. President, I say again. This is a matter of philosophy. If you agree with raising taxes, are you for increased revenues or keeping existing taxes, and in this case an incredibly discriminatory one in place, or do you believe lowering taxes will stimulate people to enter the work force and thereby reduce the deficit?

Mr. President, I ask unanimous consent to add Senator REID as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, in propounding a request to the manager of the appropriations bill, I ask unanimous consent that the time not be charged to either side on the allocation of the time on the amendment of the Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BENTSEN. Mr. President, I ask unanimous consent that the only amendments remaining in order to H.R. 5487, the Agriculture appropriations, be the following list of amendments which I shall shortly read into the record; that they be subject to relevant second-degree amendments; where a time limit is provided on the first-degree amendment, then the second-degree be accorded the same time limitation; with all time controlled in the usual form; that no motion to recommit be in order; further, that on disposition of the listed amendments, the Senate, without any intervening action or debate, proceed to a third reading and final passage of the bill.

The amendments are as follows: Harkin amendment, travel expenses for the USDA; Simon amendment to reduce Marketing Promotion Program $3.8 million to provide $1.9 million FDA, the Clinical Pharmacology Program; the Brown amendment which is research programs; Brown amendment eliminating the Honey Program; Brown amendment regarding tobacco; Brown amendment on an information exchange to CBO and the OMB; the McCain amendment on unauthorized programs; the Bumpers second-degree to the McCain amendment on unauthorized programs; the Smith amendment to freeze levels; the Domenici amendment for food stamp Thrifty Food Program; the Dole amendment of $400,000 for rural development grants; the Leahy amendment for $400,000 for rural development grants; the Gramm amendment reducing administrative expenses; the Boren amendment, rural development grants; the Simpson amendment, REA study; and the Brown amendment, Marketing Promotion Program.

I yield to the manager of the piece of legislation from the other side of the aisle.

Mr. COCHRAN. Mr. President, reserving the right to object, I reserve the right to object to advise that I have been given information now that Senator BROWN does not intend to offer an amendment regarding tobacco; that can be stricken from the unanimous-consent request; and that the Senator from New Mexico [Mr. DOMENICI] would like to have included in the request a reservation of time for him to make a statement regarding Colonias. He will not offer an amendment on that subject, but would like to be recognized to make a statement on that subject.

With those two amendments, and if the distinguished Senator could include those amendments in the request, we would urge the Chair to approve the request.

Mr. BENTSEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask further that Senator BUMPERS, the manager for the majority of the piece of legislation, reserves a second-degree amendment to the McCain amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I reserve the right to object, just for the purpose of inquiring which McCain amendment we are discussing. Is that the McCain amendment that is pending or the McCain amendment on unauthorized programs?

Mr. BENTSEN. On unauthorized programs.

Mr. COCHRAN. It had been my understanding that the Senator would not offer an amendment on unauthorized programs, and that had been stricken. It had been stricken on the list that had been given to this side.

Mr. BENTSEN. Apparently that has been taken care of.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 5 minutes. The Senator from Arizona has 2 minutes, 40 seconds.

Mr. BENTSEN. Mr. President, if there is anything that an elderly person wants, it is security; it is safety; it is something that you can count on. And I think one of the very top priorities is that Social Security benefit from the Social Security trust fund.

Mr. President, if we were to adopt the very costly proposal that is advocated by this resolution without offsetting the cost to the trust fund, we would be issuing an open invitation to conduct further raids on the Social Security trust funds.

The last time I counted there were 190 Social Security legislative proposals submitted in this Congress; there are probably 200 by now. It appears that nearly everyone has a favorite Social Security proposal that they want adopted. If we adopt this provision, we would be saying that we can just tap the trust fund and not pay for it, never worry about the solvency of the fund, not worry about what the economy is going to be, everybody is going back to work, we will have full employment, wages are going up.

If that is the attitude, then why not adopt all of these Social Security proposals this year? After all, the argument is we will not have to raise taxes and cut spending to pay for them. That is the Pandora's box that we are opening if we start down this road by passing this kind of a resolution or any other proposal to increase Social Security costs without paying for them.

Mr. President, I think the responsible course is to see that, whatever we do in moderating the earnings test, we do it by paying for it. That is the proposal that has been passed through the Finance Committee, and I hope to be able to bring it to the floor of this Senate and get it passed.

Mr. President, I reserve the remainder of my time.

Mr. MCCAIN. Mr. President, I ask unanimous consent to add Senator PRESSLER as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes, thirty-five seconds.

Mr. MCCAIN. Mr. President, I will not bother to respond to the statement that says that this would open the door to raids on the Social Security trust fund. I think all of us who have been in public life recognize how sacred the Social Security trust fund is. So I will not bother to respond to that.

Let me just point out again. In 1992, elderly workers will be allowed to earn as much as $10,200 without loss of Social Security benefits. If this earning limit were doubled, tripled, or even quadrupled, the Federal Government would receive considerably more in new work-related tax revenues than it would lose in increased Social Security benefit payments. If the earnings limit were increased to $39,000, the Federal deficit would be reduced by $3.2 billion.

Mr. President, more importantly, there is an issue of fairness.

It is an issue as to whether we in this body will remove a most discriminatory aspect of an ancient law that no longer applies in this day and age when our seniors are facing devastation in a wide variety of ways.

America's seniors, in this Senator's view, should be able to go out in the workplace, which they are most qualified to, in the view of many, and earn a salary and not be subjected to one of the most onerous taxes.

I yield the remainder of my time.

AMENDMENT NO. 2771 TO AMENDMENT NO. 2770

Mr. BENTSEN. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 2771 to amendment No. 2770.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "insert" and insert the following:

(a) FINDINGS.—The Senate finds that:

(1) Many older Americans remain in the work force after they reach age 65, or would like to do so;

(2) Under current law, the benefits of Social Security recipients are reduced by $1 for every $3 earned in excess of $10,200;

(3) This provision of current law penalizes these recipients and reduces their incentive to work;

(4) This penalty and disincentive should be eased as quickly as possible;

(5) The Senate approved, by a vote of 94-3 on April 7th of this year, an amendment to the Budget Resolution, whose purpose was to limit the levels of Social Security outlays and revenues assumed in the Resolution to current services levels; and

(6) Such limitation would ensure that, any new legislation will not reduce the levels of Social Security reserves, thereby endangering the payment of Social Security benefits to elderly and disabled beneficiaries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Social Security earnings test be eased in a manner which does not reduce the levels of Social Security Trust Fund Reserves.

(Ms. MIKULSKI assumed the chair.)

Mr. BENTSEN. Madam President, the amendment is simple. What we are talking about is the sanctity of the Social Security trust fund reserves. I know the Senator shares that concern. But I want it emphasized. I want it absolutely certain that when we do anything in this Senate on Social Security, we preserve the sanctity of those trust funds; that those retired folks are not going to see those savings turned to dust; that we are trying to anticipate all of the economic cycles and don't assume that we will always have the most optimistic of results, with full employment and good wages; that we make certainty No. 1, and provide for just the kinds of cases that we have been hearing about today. Certainty.

We have tried in the Finance Committee to bring those objectives together, show moderation. We improve the earnings test, doubling the exempt amount from current level of $10,200 to $21,000 in 1997, and increasing it to $51,000 by the year 2001. But we pay for every dollar of it. Besides that, we modestly improve the trust fund balance by six-hundredths of 1 percent of the tax.

I want to pass that this year. I know the Senator from Arizona would like to see it passed.

Let nobody doubt that I am totally opposed to any earnings test proposal that threatens the financial integrity of that Social Security trust fund. That is my concern for the Senator's proposal. Do it in a responsible way. Honor the budget agreement by paying for any Social Security entitlement that we agree to.

Without this second-degree amendment, I am deeply concerned about the proposal. I believe that it completely fails those kinds of tests. And if we pass that resolution without this amendment, I think we are putting the Social Security program at greater risk, and that would be a tragedy—at risk not only because of this proposals as it affects the trust funds, but also because our action would be an invitation to see who can top you, who can do more, without paying for any of the cost.

So voting for the amendment, the underlying resolution, without having this second-degree amendment, would be sending a message that the Senate is ready and willing, for the sake of political expediency, for the sake of doing something that is popular, to reckelessly endanger the Social Security trust funds and the future benefits of millions of Americans.

We have had the excesses of the 1980's, and we are paying for them. We are in a financial straitjacket in this country today, with our options severely limited. Let us not put the Social Security trust fund into that kind of straitjacket. If we do, and we get a modest downturn in the economy, then we are in real trouble.

My good friend, the Senator from New York, and I were discussing that fact back in 1983—that is where we were then—and Congress had to come to the rescue.

I reserve the remainder of my time.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator is advised that he has about 29 minutes and-some-odd-seconds.

Mr. McCAIN. Madam President, I understand the intent of this second-degree amendment. Since I have just had a chance to look at it, it is a little hard for me at the moment to digest it, but I did pay close attention, as always, to the comments of the chairman of the Finance Committee.

I would like to say that the chairman states that if we pass the underlying amendment without the modifications he is proposing, it would signal that the Senate is ready and willing to endanger the trust fund. I remind the chairman of the Finance Committee that last November 12, this body already did, by unanimous vote, vote to lift the earnings test. I don't believe that action would threaten the trust funds. What we did do, though, was send a signal to the American people, the seniors in America, that we are willing to remove one of the most discriminatory aspects that affects them in their old age.

Second of all, I understand and agree with the intent of the amendment to the amendment, because no one wants to—and frankly no one can—jeopardize the Social Security trust fund. The Senator from Texas knows, as well as I do, that in politics, Social Security is called the third rail—touch it, and you die. Everyone knows that. The result of the 1986 election was that that issue was used in the extreme by certain candidates for public office, and we all know that. We are very clear on that.

Madam President, the American people have sent another message as well, which is that they are sick and tired of having their taxes increased.

And, in this case, they do not have to have their taxes increased. As I mentioned earlier, 57 times in the last 30 years the American people have had their taxes raised each time with a promise for a better life, each time with a promise of a deficit reduction, the latest of which, of course, was called by many the obscene 1990 budget summit agreement which was purported to lower the deficit, and in exchange for that, we were going to see a dramatic increase in taxes.

We saw the taxes go up, but we saw the deficit go up, too. And it is clear to anyone who has been amongst the seniors in this country that if this onerous tax were removed, tens of thousands, if not hundreds of thousands—some estimate as many as 700,000—seniors would go out—and there are jobs for them. Pick up any major newspaper in America and look at the want ads if you do not think that is the case. They would go out and they would earn money and they would pay additional taxes.

So I agree with the premise of this amendment that we would not do anything to jeopardize the sanctity of the Social Security trust funds, but I do not agree with the implication of this amendment that somehow, therefore, we have to raise taxes if we repeal the Social Security earnings test. And, by the way, I might add neither does the Ways and Means Committee in the other body.

So I would like to say to the distinguished chairman of the Finance Committee, if he brings to the floor a measure with any relaxation of the earnings test, and that relaxation entails an increase in taxes on the working men and women in America, unnecessarily, totally unnecessarily, then, of course, I would do everything in my power to see that we do not lay any additional burden on the working men and women of America.

I might add that I was also a Member of the House of Representatives in 1983, and I also took part in the effort to restore the solvency of Social Security. I remember it with great clarity, and I also remember that it was a bipartisan effort. I would like to see for a change perhaps a bipartisan effort exerted to remove the onerous tax on seniors of America.

Madam President, I would just like to repeat again: I do not believe that an increase in taxes will do anything to help. In fact, it will hurt the sanctity of the Social Security system because when we raise taxes on the American people, they become less economically viable, and the economy suffers more and more.

I am convinced that there are two reasons that the economy in this country is staggering today: One is the burden of taxation; and two is the amount of regulation that businessmen and women in this country have to suffer under in order to try to make a living.

I am not going to sit by and watch another increase in taxes on the men and women of this country because I know it is not necessary, and I think it will be devastating to an already overburdened and overtaxed working population.

I hope that we can work through this issue as the chairman of the Finance Committee stated. I hope we can get it done before the session is over, particularly in light of the fact that the Older Americans Act—and I note the presence of the Senator from Washington on the floor who has labored so hard and so heroically on behalf of the Older Americans Act—deserves to be passed. But, we cannot abandon this issue.

I suggest to you that if we go back, as we did on November 12 of last year, and take the bill, as amended, by unanimous vote of the Senate, which was lifting of the earnings test, then we could get this issue done and resolved rather quickly.

Madam President, I will accept the amendment to the amendment of the Senator from Texas.

Mr. BENTSEN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Madam President, I suggest to my friend, the Senator from Arizona, that I am quite willing to vitiate the yeas and nays on the second-degree amendment if he is on the first.

Mr. MCCAIN. Madam President, I ask unanimous consent to vitiate the yeas and nays on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the second-degree amendment.

The amendment (No. 2771) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

The amendment (No. 2770), as amended, was agreed to.

Mr. BENTSEN. Madam President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Madam President, we have been sitting here for approximately 25 minutes with no amendments offered. I just would like to say to my colleagues who are sitting in their offices watching this on television that the unanimous-consent agreement does not preclude going to third reading. All it says is that these are the only amendments that can be considered. Sitting here 25 minutes waiting for somebody to give very generously of their time to come over here and offer an amendment is not conducive to an effective and efficient running of the Senate.

So, Madam President, I want to serve notice on all of the people who have amendments and who are in this unanimous-consent agreement that I will shortly move to third reading unless we have some action very shortly.

Madam President, I suggest the absence of a quorum.

The PRESIDENT OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Madam President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2772

(Purpose: To conform appropriations language to the report language)

Mr. BUMPERS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for Mr. LEAHY, proposes an amendment numbered 2772.

Mr. BUMPERS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, line 6, before the "." insert the following: ": *Provided further*, That $400,000 of the amount made available under this heading in fiscal year 1992 shall be made available to the Vermont State Colleges in fiscal year 1992: *Provided further*, That $400,000 of the amount made available by this paragraph shall be made available to the Vermont State Colleges to construct, maintain and operate additional educational and learning centers and to provide educational programming in fiscal year 1993"

Mr. BUMPERS. Madam President, this is an amendment I am offering on behalf of Senator LEAHY. It has been cleared on both sides of the aisle. I ask for its approval.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. The amendment has been reviewed and we have no objection to it. We urge it be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2772) was agreed to.

Mr. BUMPERS. I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2773

(Purpose: Disaster assistance)

Mr. COCHRAN. Madam President, I send an amendment to the desk on behalf of the Senator from Kansas [Mr. DOLE], and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. DOLE, proposes an amendment numbered 2773.

Mr. COCHRAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, line 6, insert before the ".": ": *Provided further*, That $400,000 shall be available to the North Central Kansas Electric Cooperative, Inc., Belleville, Kansas, to repair wind and storm damage from an inland hurricane".

Mr. COCHRAN. Madam President, I think this amendment has been cleared on both sides and I ask it be adopted.

Mr. BUMPERS. Madam President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2773) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2774

(Purpose: To require the Secretary of Agriculture to submit a report to Congress that proposes program participant criteria for electric and telephone borrowers)

Mr. COCHRAN. Madam President, on behalf of the Senator from Wyoming [Mr. SIMPSON] I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SIMPSON, proposes an amendment numbered 2774.

Mr. COCHRAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, line 9, after "1982:"; insert the following: "*Provided further*, That, not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that proposes program participants criteria for electric and telephone borrowers under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.):".

Mr. SIMPSON. Mr. President, I rise today to offer an amendment which would require the Secretary of Agriculture to submit a proposal to Congress for program participation criteria in the Rural Electrification Administration's electric and telephone loan programs.

The current lending system the REA employs is complex, almost byzantine. The Rural Electrification Act of 1937 was created as part of President Franklin Roosevelt's New Deal in order to supply electricity to rural communities throughout our country. Later the program expanded to extend loans to rural cooperatives wishing to provide phone service to rural America. Without question, the program has been an unqualified success and its original goals have been met.

But for the past 20 years, Congress has cooperated with the special interest groups that represent telephone and electric cooperatives by amending the 1937 law to include provisions that protect every cooperative—no matter how large its service population has become and regardless of its parent corporation. For instance, existing law encourages dependence on Government lending with the provision that allows every borrower equal and permanent status in the program.

This small, but important, provision, has kept REA borrowers from graduating from the program and has allowed them to expand their portfolios while enjoying cheap Government loans. Consumers have yet to reap the benefit of low service charges that those loans seemingly would bring. Their bills have not significantly decreased and the profit margin of cooperatives have risen.

This is not to say that every rural cooperative is bilking the Government. That is definitely not the case. However, current law has allowed the number of cooperatives to stagnate—and in some cases—grow—as maintenance and expansion costs have grown. Therefore, we have many cooperatives who are requesting large amounts of money in Government loans. Those loans are approved regardless of the financial status of the cooperative and their ability to compete for loans in the private sector which will not offer them the same low interest rate that the Government does. Obviously, in these difficult budgetary times, 1 year's appropriation for loans cannot hope to equal the loan requests from every cooperative that will be made each fiscal year.

What has Congress done about this? Has it changed the law to reflect the tight budgetary times? No. Rather than change the law by supplying some type of regulation which would condition program participation on need or the size of the cooperative's service area. We have allowed the REA to operate with an outdated set of rules resulting in a backlog of loan requests. Who gets blamed? Congress. Who bears the brunt of the problem? The taxpayer and the consumer. The taxpayer loses in this scenario because he pays for loans which might be granted by a private institution.

My amendment would require the Secretary of Agriculture to report on how we could best serve the taxpayer and the cooperatives by establishing logical and reasonable program participation criteria. This amendment would not affect any loan request. Cooperatives would not be forced, at this juncture, to submit their requests based on any criteria other than what is now legally required.

I believe that if new program participation criteria was eventually implemented we would not have the problems with loan backlogs that we have now, and we would encourage the rural communities that have healthy, wealthy, or growing populations to seek their funding elsewhere. No one loses. But many would have to change their ways.

I urge my colleagues to support adoption of this amendment.

Mr. COCHRAN. Madam President, I think this amendment has been cleared on both sides and I urge adoption of the amendment.

Mr. BUMPERS. Madam President, the amendment has been cleared on this side. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2774) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC LAW 480 DEBT RESTRUCTURING

Mr. COCHRAN. Mr. President, it is my understanding that this bill is at the limit of our function 150 allocation and we were therefore unable of fund Public Law 480 debt restructuring to the amount of the budget request and are now at a level of more than $56 million below the House level. A higher level would provide greater efforts toward meeting the goals of the Enterprise for the Americas Initiative.

Mr. BUMPERS. That is correct. We are at the limit of our allocation.

Mr. COCHRAN. The Enterprise for the Americas Initiative would provide support for economic reform in as many as five Latin American and Caribbean countries, most notably El Salvador and Costa Rica. In addition, the program could generate as much as $20 million in local currency for grassroots environmental projects in the region.

Mr. BUMPERS. That is my understanding. In addition, it is noteworthy that Latin America is one of the fastest growing regional markets for our exports and that is extremely important during these times when negotiations for a strong U.S. position in the GATT and NAFTA are priorities for our agricultural community.

Mr. COCHRAN. I agree. I believe the House discussion and vote on this issue accurately reflect the priority that should be placed on this program, and I hope that in conference with the House we can resolve funding for Public Law 480 debt restructuring in a manner that will enhance our potential for greater U.S. exports, jobs, and growth.

Mr. BUMPERS. I concur with the Senator from Mississippi and I thank him for his comments on this program.

Madam President, we have now been waiting for 45 minutes for an amendment and we have just disposed of all the agreed to amendments. Therefore, I move that we proceed to third reading of the bill.

Mr. COCHRAN. Madam President, I would be constrained to urge the Senator to withhold his request to go to third reading. We do have a unanimous-consent agreement which sets out some amendments that Senators had intended to offer, and this agreement purports to protect their right to offer the amendments. I do agree with the Senator from Arkansas there is no guarantee that we cannot go to third reading if Senators do not come to the floor and offer these amendments.

So I hope that Senators will recognize that we have some amendments listed in the unanimous-consent agreement, and we are ready to discuss and consider those amendments. But in consideration of all Senators' interests, we ought to proceed expeditiously to consider those amendments or else go to third reading.

So I hope Senators will recognize that we do intend to go to third reading on the bill at some appropriate time. I sympathize with the statement made by the Senator from Arkansas that a motion to go to third reading is certainly in order at any time if no Senator is here to offer the amendment provided for in the order.

I hope the Senator, temporarily at least, will withhold his request.

Mr. BUMPERS. Madam President, I certainly have no desire to cut off any legitimate rights of Senators. We have now been on this bill all day long. It should have been disposed of in 3 or 4 hours. We have been on it now since 11:20 this morning with about an hour off for the caucuses, and I promise you that a good third of the time has been taken up in quorum calls. This can only be considered ridiculous. It happens around here all the time. I may be a little more impatient than most, but I wonder if the Senator from Mississippi would be willing to agree that just informally, if we do not have an amendment on the floor within the next 15 or 20 minutes, we move to third reading.

Mr. COCHRAN. I see nothing inappropriate with that suggestion, Madam President, and I would concur with the Senator, if we do not have an amendment offered by some of the Senators who are described in the order, we should proceed to third reading. I agree with the Senator.

Mr. BUMPERS. I thank the Senator. I withdraw my motion, Madam President, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

AMENDMENT NO. 2775

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. DIXON, Mr. SASSER, Mr. D'AMATO, and Mr. WELLSTONE, proposes an amendment numbered 2775.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 87, line 24, strike "$174,500,000" and insert in lieu thereof "$170,700,000".

On page 77, line 21, strike "$744,135,000" and insert in lieu thereof "$746,035,000".

On page 77, line 23, before the period insert ": *Provided further*, That $1,900,000 of the funds made available to the Food and Drug Administration shall be available to fund a clinical pharmacology pilot program.

Mr. SIMON. Mr. President, this is an amendment that is cosponsored by my colleagues, Senator DIXON, Senator SASSER, Senator D'AMATO, and Senator WELLSTONE, the Presiding Officer. I believe it is acceptable.

It takes basically 2 percent of the marketing fund. We are about $100 million over the House in those funds—take about 2 percent of those funds and allocate them to something that has been authorized that is of great need, that is to train pharmacologists so that we can speed up the process of approving drugs. I could go into greater explanation, but that is basically it.

I believe it is acceptable to both sides. I would appreciate a favorable vote in this body.

Mr. BUMPERS. Mr. President, I have had a discussion with both my ranking member, Senator COCHRAN, and the author of the amendment, Senator SIMON. I do not mind saying I am troubled by the amendment. I have such great respect for the Senator from Illinois that I have told him we would accept the amendment, and spend some time between now and the time we go to conference with the House to talk with the Food and Drug Administration about the amendment and determining whether or not we can really forcefully defend it in conference.

With that understanding, I am willing to accept the amendment.

Mr. COCHRAN. Mr. President, the Senator from Arkansas correctly states our discussion about the amendment. I hope the amendment can be resolved in conference but I am not at all certain that we can. But we do in good faith accept the offering of the amendment at this point and urge its adoption.

Mr. SIMON. Mr. President, I thank my colleagues. I understand that we can take a good solid look at it before conference and see what happens there.

I would appreciate a favorable vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2775) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I might just make an observation, if I could be recognized for that purpose.

We are now down to a point where we just have a few more amendments left. For the information of Senators, with the disposal of the Simon, Dole, and Leahy amendments, I am authorized to announce to the Chair that Senator SMITH will not offer the amendment that is listed in the order on freeze levels.

The McCain amendment on authorized programs will not be offered. There is a Brown amendment that has been submitted to the managers that we are looking at right now relating to research grants. The Harkin amendment is still on the list related to travel expenditures; the Bryan amendment; there is a Boren amendment on the list on rural development grants. There is a Domenici amendment on the food stamp Thrifty Food Program; and a statement on Colonias. We understand that we can expect that to be brought up on the floor momentarily.

So we are down to the point where we can look for completion of the bill it seems to me in a very reasonable period of time.

If Senators who are listed on the order can come to the floor and present their amendments, we can expeditiously complete the handling of this bill.

I hope we can have the cooperation of Senators so we can get to final passage.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Is the Senator offering an amendment?

Mr. DOMENICI. I will offer an amendment on food stamps, and then I will withdraw it.

AMENDMENT NO. 2776

Mr. DOMENICI. Mr. President, on behalf of myself, Senator DOLE, Senator MURKOWSKI, Senator MCCONNELL, Senator DECONCINI, and Senator LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. DOLE, Mr. MURKOWSKI, Mr. MCCONNELL, Mr. DECONCINI, and Mr. LEAHY, proposes an amendment numbered 2776.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . ADJUSTED COST OF THRIFTY FOOD PLAN.

Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting before the period at the end the following: ", except that on October 1, 1992, the Secretary may not reduce the cost of such diet".

Mr. DOMENICI. Mr. President, this amendment may appear to be rather innocuous. Its title speaks for itself. It is a temporary prohibition on reduction of food stamp benefits.

Essentially, believe it or not, Mr. President, because we have had a reduction in inflation, we are scheduled, on October 1, to have a $4 reduction in the basic monthly food stamp allotment for poor families. I don't believe we should allow that in this year, considering the difficult times people are having. The food stamp program has some significant shortfalls, and I do not think we ought to add to the burden out there or to the feeling that our people have with reference to the situation in our country by letting this reduction occur.

So what this amendment does is provide that the thrifty food plan, the current measure upon which the benefit allotments are based, not be reduced for 1 year.

Obviously, we do not know what the inflation rate will be for the following year, but clearly, all things added together, this thrifty food plan comes under some kind of attack by certain people as to its propriety, and as to its appropriateness, in terms of the methods of figuring it. It seems to this Senator that in the midst of all of this, since we already have in the budget an estimate that assumes that the thrifty plan will not be reduced, this amendment, if adopted, will not require any payment by taxes or cuts. In other words, the pay-as-you-go provisions of our budget agreement do not come into play, because this amendment is already paid for in the policy baseline in the budget.

Mr. President, I offered this amendment on behalf of myself and the other Senators that joined me to make a point. I do not really want to burden an Agriculture appropriations bill with this amendment, but now I have been led to believe that the Agriculture Committee, its chairman, Senator LEAHY, and ranking member, Senator LUGAR, will actually cause to be reported out this identical amendment in bill form this evening or tomorrow, and it will be adopted by the Senate as part of the unanimous-consent concluding events of the Senate.

I am told that I can say that because it is going to happen, and, thus, I do not have to burden an appropriations bill with this authorizing change.

Make no mistake, if I was not assured that that was going to happen—and that is the right way to do it—I would clearly do it this way, and I believe the Senate would, without any question, adopt this.

Mr. President, the amendment I offer today is the text of a bill I introduced last week with Senators DOLE, MURKOWSKI, MCCONNELL, and DECONCINI. This is a matter which requires quick action by the Congress in order to prevent a reduction in food stamp benefits this fall.

Mr. President, because we have had a reduction in inflation, we are scheduled on October 1 to have a $4 reduction in the basic monthly food stamp allotment to poor families. I do not believe we should allow that in a year that is as difficult as this.

This amendment provides that the thrifty food plan, the current measure upon which benefit allotments are based, not be reduced for 1 year.

This amendment would impose a temporary restraint on the reduction of food stamp benefit levels, for fiscal year 1993 only, after which benefit levels would resume as under current law.

Mr. President, there are currently over 25 million Americans who are counting on food stamps to supplement their food budget. The economy is growing, but as we all acknowledge, that growth is slow to impact some of our neediest people.

Those who would be most adversely affected by a reduction in benefits are larger households, typically families with children.

Mr. President, the thrifty food plan is a market basket list of amounts and kinds of foods needed to provide a nutritionally sound basic diet. Without this adjustment, food stamp benefits for households would have to be cut on October 1, due to the drop in the cost of the market basket.

OMB has offered assurance that this amendment will not present a pay-go problem or violate any provisions of the Budget Act.

When formulating the current baseline, there was an increase assumed for the thrifty food plan, therefore, current benefit levels can be maintained for fiscal year 1993, without pay-go problems.

Mr. President, I urge my colleagues to adopt this amendment, in order to assure millions of needy American families that their food stamp benefits will not be cut.

With that, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2776) was withdrawn.

RURAL WASTE AND WATER DISPOSAL PROGRAM

Mr. DOMENICI. Mr. President, I would like to talk about a matter that is of real significance to the Senator from New Mexico, and again, I do not choose to, in any way, by amendment challenge the good work of the Committee on Appropriations and the Subcommittee on Agriculture, but I want to talk about a situation that cries out for some help, and I am very hopeful before the year is over with, and before the process is completed, that we will find a way to help with this situation.

We have in this bill that is before us a program called Rural Waste and Water Disposal Program. This is a grant program and clearly the title speaks for what it does. It is a mechanism for helping with sewer and water in rural America where there are serious problems and inability to pay for the kinds of facilities that might be needed for public health and sanitation. So it is the Rural Waste and Water Disposal Program.

For that program the President of the United States asked that $25 million be set aside and targeted for some communities that are commonly known by the name of colonias. "Colonias" is a Spanish word meaning colonies, for lack of a better word. They are small communities of Mexican-Americans that spring up here and there along the border in New Mexico, in Texas, and parts of Arizona. Generally they start because somebody illegally subdivides a piece of property and, before the authorities can get to them, immigrants squat on the property and then, before they are removed, these squatters end up with small structures that are houses. Before much time there are literally scores of people living on these small lots and they eke out a living one way or another. Day by day the little community grows and becomes a colonia. What is really happening—and I do not believe it is anyone's fault at this point—is there are literally hundreds and hundreds of people living in these small colonias communities without water and without sanitation facilities.

It is truly devastating to behold, and clearly something that cries out for help. There is not any easy way. Some might say, well, Senator, just remove the people? In the United States you cannot just come down in helicopters or send military people in and take squatters off of these small communities lacking in sanitation. You have to work with the people and, in due course, try to help and, with new trade that is going on between our countries, hope that Mexico's standards will go up and we will have less pressure of this type. But for now they are almost semipermanent communities that grew up. They are not chartered. They are not legal. But they are there and the situation is devastating in terms of sanitation and health from the lack of sewer and water.

The President asked that, out of the increases in this program, the $25 million be set aside for that border problem.

Our Committee on Appropriations was unable to increase the basic program sufficiently to justify a set aside—at least these did not increase it enough—or were unable to where I would not feel comfortable asking the Senate to set aside $25 million.

I still want to say we still have to go to Congress, and the U.S. House of Representatives did increase this program by $50 million. We only increased it by $31 million. The House set aside $25 million for this program, that is colonias on the border to see if we could not help some of those people, the most egregious situations, with some kind of water and sanitary facilities, be it temporary or otherwise.

Our bill only has $381 million, which is a $31 million increase. And obviously, if we set aside $25 million, there would hardly be an increase for the rest of the country.

I speak to this today because it bothers me very much and certainly it makes it even worse if we are not going to do anything to alleviate this situation right in the middle of optimistic efforts on our part regarding a new free trade agreement.

Clearly, we ought to be making some headway in some of these kinds of things as we talk about a bright future and as we talk about trade which will add jobs rather than aid; trade instead of aid. In this case we truly need to put money in sooner or later. I do not think there is any disagreement.

We do not want this to continue. We wish it never started. But the truth of the matter is it is a living reality. There are a few thousands of people living in a number of these and I wanted to make the case today knowing full well that the chairman and ranking member of the subcommittee will be conferees and that hopefully before we finally produce a bill that goes to the President we might find a way to do something to alleviate this very, very devastating type of human suffering that goes right to the heart of living day by day, that is some kind of safe water and sanitation.

With that, I yield the floor and thank the managers for their consideration and the time that they have given me today.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I rise to commend the distinguished Senator from New Mexico for his eloquent statement and his sincere expression of concern for the colonias and the fact that funds are needed to deal with the water systems and the problems along the United States-Mexico border in his area of the country.

I recall the Senator from New Mexico arguing for funds to be allocated for this purpose in the Committee on Appropriations. He made a very forceful argument at that time, and I think he has impressed the Senate with the fact that this is a legitimate need, it is a concern that needs to be addressed.

I am glad that we were able to include in the bill an increase of $81 million in excess of the budget request for this account in this bill. I hope that within those funds that are being appropriated, even if no increase is earmarked for this specific problem, that the administration can find a way to deal with that situation.

The House bill does provide an additional $25 million earmarked for that area of the country and for that particular problem.

While we do not provide the earmark, it will be a subject of discussion inevitably as we go to conference with the House, and I am sure the comments the Senator has made will be remembered by those of us who will be on the conference committee, and I particularly want to express my appreciation for his helpful discussion of the issue on the floor tonight.

Mr. DOMENICI. Mr. President, I thank the distinguished Senator from Mississippi.

Mr. BINGAMAN. Mr. President, I am dismayed that the fiscal year 1993 agriculture appropriations bill does not include funding for water projects along the United States-Mexico border. The proposed fiscal year 1993 budget earmarked $25 million in rural development grants for the New Mexico and Texas colonias. These border communities are generally small, rural, and residential, unfortunately characterized by substandard housing and inadequate plumbing. The colonias house almost 17,000 New Mexicans who lack both drinking water and waste water treatment facilities.

Such fundamental comforts still elude the colonias residents, Mr. President. I encourage the conferees to earmark funds for this worthwhile effort. I will look for other opportunities in the appropriations process to continue to address the problems facing the colonias.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 2777

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 2777.

Mr. BOREN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, line 6, before the period, insert "*Provided further*, That $500,000 shall be available to the city of Seminole, Oklahoma, Industrial Foundation to make improvements in the water and sewer system of the city of Seminole and its industrial sites sufficient to accommodate a major industrial expansion".

Mr. BOREN. Mr. President, this is an amendment that I have discussed with the managers of the bill as they are well aware we face a very severe economic situation in parts of my home State; in fact, most severe in the county in which I have lived all my life and still maintain my home and residence and I am there virtually every weekend. I see firsthand every time I come home the economic struggling.

Of 77 counties, this county has in the last 3 or 4 years consistently ranked in the top 3 or 4 or 5 of the 77 counties in the rates of unemployment in the double digit range throughout this period.

We have a major opportunity to bring in a new industry in the textile industry, the denim industry, into our community that would bring 700 to 800 new jobs but would put a great strain on the municipal facilities, particularly environmental facilities, sewer and water facilities, to accommodate it.

The community is willing to make every effort to vote additional taxes on itself, to increase bonded indebtedness to make this industry a possibility to greatly increase the employment in the region. Eight hundred new jobs in a county that only has 24,000 people is a major economic step forward. And we are simply not able to do it through the normal course of programs, with all of the local effort possible under the laws of our State.

Therefore, I have asked that this additional assistance be provided and this amendment be made available to the city to be used as a match with local efforts in order to make it possible to bring in that industrial expansion.

Mr. BUMPERS. Mr. President, I have discussed the amendment with the Senator from Oklahoma. We have no objection to it on this side of the aisle.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the amendment has been cleared, and we urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2777) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I wish to thank both managers of the bill for their consideration and understanding.

I also ask unanimous consent that my colleague from Oklahoma, Senator NICKLES, be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 2778

(Purpose: To prohibit the use of funds made available by this Act to carry out the market promotion program)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN] proposes an amendment numbered 2778.

On page 87, line 24, strike "$174,500,000" and insert in lieu thereof "$75,000,000".

Mr. BRYAN. Mr. President, by now it is a familiar litany that we have heard many times during the course of this session of Congress, and I speak of the discouraging—even the depressing—news of the growth of the Federal budget deficit.

It took us nearly 200 years of our constitutional experience to amass the first $1 trillion of debt. We assumed a Revolutionary War debt at the time the Constitution was enacted. We financed an extraordinarily costly and tragic Civil War. We financed two World Wars, a Great Depression, a recovery program, Korea, Vietnam, all amassing a cumulative deficit in 1981 of approximately $900 billion. In the intervening period of time, that deficit has nearly grown by four times.

We are approaching now $4 trillion in terms of our deficit. Although we are told this year, with the revised numbers, that our deficit this year will be approximately $333 billion, one of the most distressing aspects of that debt is the interest alone, in fiscal year 1992, will approximate $201 billion—$201 billion.

We have heard the oratory ring in this Chamber, and I daresay that no

Member in either body has failed to make speeches declaiming the fact of that deficit. The amendment which I have just submitted will give us an opportunity to address that in a significant and substantial way.

Some of us, Mr. President, have become so alarmed by the magnitude of this debt that we believe that a constitutional amendment requiring the Federal budget to be balanced and to require the President of the United States to submit a balanced budget is required. As you know, Mr. President, that was not the judgment of this body. It was offered, but we were unsuccessful.

All of us who support that constitutional amendment—and everybody in this Chamber—recognize that that constitutional amendment was not self-executing. It was going to require us to do some very difficult and painful things, and no one would be spared from the impact of a meaningful deficit reduction program.

As for the program that I am going to talk about this evening, it is one of those sacred budget cows. I have seen a circular, pointed out by our distinguished and able colleague, the acting chairman of the Appropriations Subcommittee, the senior Senator from Arkansas, that indicates the number of States that benefit from this agriculture export promotion program. My own State is mentioned. And like many of my colleagues, I have received a call today indicating: Please, do not do anything about it. It will affect us. We need this program. We like this program.

I daresay, Mr. President, that that would be instructive with respect to every program in the Federal budget. Each of those programs has advocates, sponsors, constituencies that support it. But if we are going to unmake any kind of progress at all, we have to begin. And this time, when we are amassing the kind of deficit that we have seen occur in the last decade, we cannot afford corporate welfare. And that is what this program is all about.

I am speaking, Mr. President, of the Market Promotion Program. Some of my colleagues who do not serve on the Agriculture Committee may not be familiar with all of the subtle nuances in the agriculture programs. But this is a program that has a laudable purpose. It was created to encourage the development, maintenance, and expansion of exports of U.S. agricultural products. And I do not quarrel with that objective.

MPP is the successor of an earlier program, the Targeted Export Assistance Program, a program which was established in 1986. Since 1986, Mr. President, more than $1 billion—$1 billion—has been spent for MPP or its predecessor program, the Targeted Export Assistance Program.

Mr. President, we are talking about real money and real dollars, over $1 billion.

MPP is operated through about 61 different trade organizations in which federal taxpayer moneys are allocated to those trade groups or organizations that run either market promotion programs themselves, or they pass that money directly along to individual companies who advertise and promote their own specific branded promotions.

About 60 percent of the program activity goes into the generic promotion; that is, moneys that are given directly to these trade organizations that promote generically: "Buy America," for example. The other 40 percent is provided as pass money through these various trade organizations to specific companies that promote and advertise their specific branded product.

The General Accounting Office has pointed out that the entire Federal Government spends about $2.7 billion annually on export promotions. And while agricultural products account for only 10 percent of total U.S. exports, the Department of Agriculture spends about $2 billion, or 75 percent, of the total. The Department of Commerce spends about $195 million annually on trade promotion.

As I have indicated, I do not object in principle to a public-private partnership in which the Federal Government, working with the private sector, assists in the export of American agricultural products. But this is a program, Mr. President, that simply is out of control and it has no accountability, and a program that we can ill afford at this time.

My preference, Mr. President, until such time as this program can be restructured and reformed, would have been to eliminate funding altogether. And that would be approximately $175 million in this appropriations bill that we are considering.

What I have done, however, is—recognizing that if you are going to reform the program, maybe you had better give folks a wake-up call and an opportunity to do so—I have reduced the level of funding by approximately $100 million, to the level that was appropriated in the other body's appropriations bill. So if this Chamber accepts this amendment, it will be in harmony with the action previously taken in the other body.

Mr. President, what is the problem with this program? First of all, I think it needs to be pointed out that there is no strategic plan; there is not a game plan. There is not a carefully considered, overall strategy in which the allocation of money is carefully considered and it has a targeted purpose.

Let me cite, if I may, a couple of examples.

The General Accounting Office offered its testimony recently before the Committee on Agriculture, Nutrition, and Forestry. Mr. President, in that testimony, and I will quote it:

> In fiscal year 1991, the program's participants received more than $200 million in program funds and conducted activities in 139 countries. Since 1986, over $1.1 billion has been authorized for the Targeted Export Assistance and Market Promotion Programs.

One is the predecessor program as I described and the other is the current program, the MPP.

> Despite the substantial funding for this program, the large number of variables that determine exports makes it extremely difficult to demonstrate a one-to-one relationship between program-funded promotion activities and increased exports.
>
> The Market Promotion Program's broad goals can be used to justify program support for promotions under any market situation. Funds are not allocated based on product or market priorities. Only commodities that have been subject to documented unfair trade practices are to be given extra preference. The small start-up company trying to establish itself in an overseas market and the large multinational corporation that spends millions of its own dollars to maintain its decades-long position in a country receive the same consideration for funding. Over a third of the money spent under the program is used directly to support the overseas marketing programs of private U.S. companies. In some cases these companies are large, multinational firms with broad experience in exporting.

I will address the issue of multinational companies at a later juncture.

> Although the Food, Agriculture, Conservation, and Trade Act of 1990 required Agriculture to develop a long-term agricultural trade strategy by October 1991, the strategy is still under development and has yet to play a role in the allocation of Market Promotion Program funds or in other trade-related programs and activities.

Let me cite a couple of examples which would indicate the total absence of a strategy, a game plan, a sensible approach to what I indicate is clearly a desirable goal, and that is the increase of American agricultural exports.

Since 1986, the California Raisin Advisory Board has spent $47.4 million nationwide for market development. Of that, $9.4 million was specifically spent for development of raisin exports in Japan. Mr. President, currently the United States has 80 percent of the raisin imports in Japan. That is good news.

I respectfully submit that a question arises, and that is, with that type of market penetration—which, as Americans, we all rejoice in and are delighted to see—is this a program that ought to continue to receive taxpayer assistance? With 80 percent of the market penetration, is it not reasonable to ask that the companies themselves that are directly involved in that export underwrite the cost of the advertising rather than the American taxpayer?

Another example, if I may. Ursula Hotchner, an official from Newman's Own—that is Paul Newman's food company—was recently asked why the company was selected to receive TEA funding. This is her answer:

"I don't know," she said. "Someone from the export council called me up one day from out of the blue and asked why don't we take the money? They said all we had to do was send in our advertising bills and they'd reimburse us. I figured, why not?" She said.

Mr. President, that is hardly part of a carefully constructed, responsible strategy in terms of how we spend taxpayer dollars to assist the export of agricultural products coming from the United States.

Another policy issue arises. Who should get these funds? No guidelines exist about the size or type of company that will receive MPP funds. For that reason, large corporations such as McDonald's, Sun-Maid, Welch's, and Pillsbury can receive large sums of money. Since 1989, but not including the current fiscal year of 1992, Welch's has received $2,974,109; Blue Diamond, $22,688,900; McDonald's $1.185 million; Pillsbury $5,224,850.

I think the question arises, during a period of extreme budget duress, should the American taxpayer be subsidizing these corporations in terms of their own advertising and export promotion activity?

Mr. President, I invite my colleagues' attention to a chart, the source of which is GAO, Forbes, Standard Directory of Advertisers, and Advertising Age. I think it makes the point. From 1986 to 1992, McDonald's, the large hamburger food chain, has received over $1 million from MPP and its predecessor TEA. McDonald's is a substantial corporation. Its net profits are $802 million and its advertising budget is $764 million.

Now, with Federal dollars as tight as they are, with each year adding—assuming these most recent estimates are correct—$333 billion to the deficit this year, more than $200 billion of which is interest alone, I do not believe you can defend that kind of allocation from the American taxpayer.

Tyson's Foods has received, in the past 6 years, nearly $10 million. Its advertising budget is $25 million, its net profits $126 million.

Borden's has received $344,846, another highly successful corporation, with net profits of $364 million; $110 million is its advertising budget. It has received $344,000 of taxpayer dollars.

ConAgra, $560,000 received from this marketing export promotion program. Another large company with $285 million in net profits, its own advertising budget a rather substantial $246 million.

Finally, by way of illustration, Brown-Forman has received $1.26 million over the last 6 years. It, too, has had a substantial profit, $143 million, and a substantial advertising budget of $74.7 million.

My point is that I do not object and am pleased and delighted that these companies are making money. That is what the free enterprise system is all about, and I support that. But I must say it raises a substantial question in terms of public policy of how we defend reaching into the pockets of the American taxpayer and, in effect, assisting these companies which have the financial wherewithal on their own to pay for their advertising budget for specific branded products marketed by these companies.

Mr. President, another policy issue arises, not only who should receive in terms of how much, how big or small the company may be, but should this be confined for the benefit of American companies? After all, we are talking about American taxpayer dollars. These are our constituents, each of whom pays proportionately for this program.

I have listed here a list of foreign brands—these are not American companies—that receive support by MPP. I note for the record that the source of this information is submitted to us by the Department of Agriculture. It does not purport to be an entire list, but I will certainly make it available for our colleagues to take a look at.

The amount of money that has been paid since 1989 on foreign brands and their subsidiaries is $43 million. Mr. President, how do we defend that? How do we say to the American taxpayer we are asking them to, in effect, pay the cost of advertising and promotion for companies that are not even American companies? I must say I cannot give my own constituents a satisfactory answer. And I must say I think our constituents would be very surprised if they knew the program operates in just this kind of fashion.

For example, with respect to the MPP's branded products, you will recall this program operates in two ways. Money is provided to these trade groups either for generic—that is, buy American—about 60 percent of the money goes for that purpose. Another 40 percent goes to these trade associations and is directly passed through to a specific company which advertises a specific branded product.

There is currently no minimum U.S.-content requirement for MPP's branded products. Although they must use a U.S. product, it does not need to be 30 percent, 50 percent, or 80 percent. It could be 10 percent. So the amount of the American agricultural product involved in the product that is ultimately packaged and marketed may contain a very small, minute part of American agricultural products.

Again, Mr. President, I suggest that that raises a substantial question of how do you justify supporting this kind of program with American taxpayer dollars?

Moreover, is this program to last forever? Once a particular program, a branded product may receive consideration by the Department of Agriculture, what is the criteria for ultimately weaning that particular company from continued funding?

Mr. President, I suggest that there is again an absence of criteria in terms of how this program is to be administered and under what circumstances funding is secured in the first instance, who is eligible, domestic or foreign, how much American product has to be in the particular product that we are subsidizing the advertising for. As I have indicated with respect to branded products, there is no requirement for a specific amount and once it is established and a program is entitled to funding, under what circumstances is that to be discontinued?

Mr. President, the point that I make is that this is and should not be corporate welfare. I invite my colleagues' attention to an article that appeared recently in the National Journal, dated June 27, 1992, entitled "Subsidized Ads." I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Journal, June 27, 1992]

SUBSIDIZED ADS

(By Jonathan Rauch)

"Betty Crocker, Welfare Queen." Beneath the all-capitals headline was this announcement: "I've introduced a bill to end [the] Market Promotion Program—a $200 million program that hands out checks to some of the largest and most successful corporations in America."

The signature on the Feb. 11 "Dear Colleague" letter belonged to Rep. Richard K. Armey, R-Texas. Attached to the Armeygram was a copy of the Feb. 2 Associated Press story, by Jennifer Dixon, that lifted the Market Promotion Program (MPP) from obscurity to notoriety practically overnight.

"WASHINGTON.—McDonald's got $465,000 from the Agriculture Department last year for ads, paper tray liners and counter displays promoting Chicken McNuggets to customers around the world.

"Campbell Soup Co. spent part of the $450,000 it got from the government to remind the people of Japan, Korea, Argentina and Taiwan to have a V-8 juice. Joseph E. Seagram & Sons Inc. touted its Four Roses whiskey in Europe and the Far East with $146,000 for the department."

Armey is a Ph.D. economist, a breed that is to farm subsidies as the mongoose is to the cobra. Of the House Agriculture Committee's members he says, "They have become so successful in esoterrorizing [sic] their subjects that they have effectively fenced out everyone else." Ever since he came to Congress in 1985, he has made a hobby of taking legislative potshots at vulnerable farm programs—currently, the Market Promotion Program.

"It is a completely outrageous case of corporate welfare," Armey said in a recent interview. "A big plum that the Agriculture Committee handed out to their friends.

Armey isn't alone. In March and April, House and Senate committees held hearings on the program. Rep. Charles E. Schumer, D-N.Y., denounced the program as a "bloated corporate welfare program." Sen. Wyche Fowler Jr., D-Ga., said that the program's initials stands for "More Perks, Please." Rep. Peter H. Kostmayer, D-Pa., has introduced a bill to cap benefits and disqualify big companies.

"This program is almost a metaphor for what's wrong when it comes to federal budgeting," Kostmayer said in a recent interview. "These are out-and-out subsidies to some of the largest corporations in this country. There seems to be almost an inability to say no to anybody anymore."

Any program that dispenses $200 million a year in public funds for private advertising is bound to have its advocates, too, and they're more apoplectic than apologetic. "We're not looking for subsidies, we're talking about partnerships," said John De Luca, the president of the Wine Institute. The institute, which represents the California wine industry, is slated to get $14.3 million under the program this year, making it one of the program's largest beneficiaries.

What about Kostmayer's proposal to cap benefits? "How small-minded, for God's sake," De Luca said. "Simplistic thinking is driving this country into the ground when it comes to global competition."

There's a bit more here than meets the eye. Believe it or not, the debate over this oddball program is a microcosmic version of a much larger and more important argument: namely, the argument over strategic trade policy, and whether it's a necessity or a chimera.

The key idea behind strategic trade policy is that by helping certain industries or sectors compete in important and fiercely competitive global markets, the government can add to the country's wealth. That's also basically the argument for the MPP.

The program's detractors speak the 1970s language of anticorporate populism ("Betty Crocker, Welfare Queen"). Its supporters speaks the 1980s language of industrial policy (government-business partnerships to leverage private investment into expanding foreign markets).

And so the MPP is worth a closer look. Is it softheaded welfare for the well-connected? Or hardheaded strategizing for competitiveness?

SUBSIDIZED SALES PITCHES

The program—originally called the Targeted Export Assistance program—was created in the 1985 farm bill, partly as a reply to foreign trade subsidies, and partly as a gimme for California fruit, nut and vegetable growers who otherwise get little from the farm bills. (Last year, all five of the top corporate beneficiaries were based in California.) It passed with little debate and no major opposition.

This was no model program, especially in the early years. The General Accounting Office (GAO), among others, strongly criticized it for giving away money haphazardly. James A. Moody, a Washington lawyer, recalls applying for money on behalf of one of his clients, Sequoia Orange Co. of Exeter, Calif.: The application was nothing more than a one-page letter. "It was the easiest $200,000 I've ever applied for."

Congress answered by tinkering with the program in the 1990 farm bill, and the Bush Administration has done some tinkering of its own. At the Agriculture Department's Foreign Agricultural Service, associate administrator Stephen L. Censky said: "We think that with the improvements we have made in the last two years, it is a significantly better program and a significantly different program." The GAO agrees—sort of. "There have been some improvements in management," said Phillip J. Thomas, the GAO's assistant director for international trade. "They have tightened up the program, but they have not eliminated all the problems."

Here's how it works. Every year, the program must give out $200 million for projects to promote American farm goods overseas. The recipients are trade groups of all kinds, from the Alaska Seafood Marketing Institute ($8.52 million to sell U.S. salmon) to the Wild Blueberry Association of North America ($26,000). The list of products promoted includes practically everything. Just some examples: nectarines, canned fruit cocktail, wood products, eggs, soybeans, prunes, walnuts, raisins, candy, avocados, pistachios, hops, bourbon, ginseng, mink furs and—everyone's favorite—bull semen.

If the Agriculture Department approves their plans, the trade groups can spend their federal dollars for generic "buy American" promotional campaigns. Or they can give the money to specific companies for brand-name advertisements. Either way, there's a matching requirement: at least 5 percent private money for generic campaigns, at least 50 per cent for brand-name ones. As of now, the program's budget is split 60-40 between generic and branded promotions.

And so, for instance, the American Soybean Association gets $10.4 million this year to push soybeans abroad, mostly in Europe. Sunkist Growers Inc., which received almost $10 million last year to sell citrus, used its MPP money for promotions such as the Japanese poster that's reproduced on page 1509.

Overseas, U.S. companies can use such promotions as bait. For example, the promise of MPP-backed advertising lured a giant Hong Kong beverage company to switch from Brazilian oranges to Californian. The beverage company put "Sunkist" on its label, and Sunkist helped promote the juice. That sale, says William K. Quarles of Sunkist, would have been "completely impossible" without federal help. "We were not competitive based on price alone," he said, "but when you add this particular factor, we became competitive."

And that is how McDonald's winds up with $465,000 of government money to sell Chicken McNuggets in Asia.

The program's advocates, including the Bush Administration, see little need to apologize. "I have to say to you," said Roger D. Runningen, the Agriculture Departments's chief spokesman, "that the Market Promotion Program has been over all very much a benefit to U.S. agriculture, not only in promoting more exports but in promoting more value-added exports, and in turn up to 38,000 new jobs."

The populists charge that the program subsidizes big companies—which is undeniably true. Kostmayer's bill, accordingly, would limit benefits to $500,000 per company per year, and it would disqualify companies with annual sales of $500 million or more, on the theory that such companies can fend for themselves.

Just one problem: If the goal is to promote U.S. exports, why disqualify a company merely because it's big? Big companies, after all, can often mount the most effective export drives, and they're often up against gigantic entrenched competitors. That's why Japan's postwar industrial policy never hesitated to support huge industrial combines.

Sure, E.&J. Gallo Winery got $5.1 million last year to sell wine abroad. But, said the Wine Institute's De Luca, "it's a drop in the bucket compared to what we're up against."

From the supporters' point of view, the attacks on "corporate welfare" are just the sort of knee-jerk business bashing that hinders America's competitive standing. It's "very tired thinking, as though this is another domestic program" rather than a response to international pressures, De Luca said.

That still leaves open the question, though, of whether the case for the Market Promotion Program makes sense on its own terms.

FREE-MARKET FLAWS?

America suffers from no shortage of advertising. When it pays, companies do it.

Yet, under special circumstances, it might make sense to finance private advertising with taxpayers' money. Two criteria would need to be met. First, there must be strong evidence that a flaw in markets leads companies to do less advertising than actually makes economic sense. Second, there must also be a compelling national purpose for using public funds to help fix such a flaw.

Agriculture is a fragmented industry, and promotion is expensive. A single U.S. cotton grower would have to spend a small fortune to advertise American cotton in, say, Japan; yet he'd capture only a tiny share of the benefits. So a market with many sellers might result in a "suboptimal" amount of promotion. That's the case for intervention.

There is, however, a nongovernment solution: Farmers can form trade groups and cooperatives. And they do. Sunkist, a cooperative of 6,500 citrus growers, is one such association; the Wine Institute is another. "I can't think of a single commodity that doesn't have a trade organization," said Moody, the lawyer. Such associations don't solve the problem of free riders—companies or farmers who won't join but benefit nonetheless. They clearly help, though.

In any case, there is no market-failure argument for brand-name advertising, which accounts for two-fifths of the MPP's budget. After all, the benefits of brand-name advertising are captured by the advertiser. When McDonald's advertises for McDonald's, it isn't doing anyone else a favor.

It's generally agreed, in fact, that brand-name advertising—touting Big Macs, for instance—is more effective than generically touting the tastiness of American beef. So the most effective form of promotion is the form that corporations are likeliest to do anyway.

That raises another question. The MPP must be doing one of two things: including companies and trade groups to do additional advertising or helping to pay for advertising that they would have done anyway. In the former case, the advertising can be at best marginally productive, because an ad campaign you wouldn't undertake without a subsidy can't be a very high business priority. In the latter case, the government payment is just a windfall.

To what extent, then, are the feds merely picking up the tab for ads that would have been placed anyway? "That's the $64,000 question," said John B. Campbell, who oversaw the Market Promotion Program at the Agriculture Department and now is an executive of Ag Processing Inc. in Omaha. "Would a company have done this absent federal assistance? I don't know if there's any way to answer that."

The subsidy undoubtedly adds some amount of promotion overseas. On the other hand, it probably also diverts some private money wastefully into unproductive advertising. Take the case of Sequoia Orange Co.

Sequoia, like Sunkist, sells oranges in Japan and Hong Kong. In those markets, Sunkist and others use MPP money to lure foreign customers—in competition with Sequoia. And so Sequoia, to protect its own customer base, followed suit, using the government's money to advertise Sequoia's oranges in stores. "As a matter of survival, we at Sequoia have elected to use the program," said Carl A. Pescosolido Jr., Sequoia's coowner. "We did it purely as a defensive measure."

Remember, though, that the program has a matching requirement. To qualify for $200,000 of federal money, Sequoia had to put up $100,000 of its own. Pescosolido says that for a company as small as his, brand-name advertising abroad makes no economic sense. And so his $100,000 was "like pouring water into a sewer—just a total waste."

Well, maybe some of this spending is justified if the end result of the program is to add to U.S. farm exports. That's the other big argument for the program.

U.S. wine exports were $30 million in 1986 and $150 million in 1991. "We attribute that heavily to the Market Promotion Program," said the Wine Institute's De Luca. The Cotton Council International says that over the same period, U.S. cotton exports increased from 5.3 million bales to 7 million. Sunkist says that revenues in Japan have risen from $119 million in 1985 to more than $200 million in 1990. And so on.

The problem is that farm exports are influenced by countless factors, from changing consumer tastes to exchange rate shifts to typhoons in India. From 1985-90, for instance, Japan opened its citrus market—surely a major reason for Sunkist's sales increase. Asking how one government program affects the over-all export picture is like tracking an individual drop of water in the sea: impossible even in principle.

Typically, program advocates compare exports in 1985 to exports today. But in 1985, the dollar was in the stratosphere, rendering U.S. goods very expensive in foreign markets. Since then, the dollar has fallen sharply, leading to an across-the-board export boom. From 1985-90, exports of nonfarm merchandise rose by 67 percent. Yet farm exports, despite the help of the MPP and other programs, rose by only 36 percent. Not so impressive.

MPP undoubtedly increases farm exports somewhat. But at what price? Proponents point to a cost-benefit study that the Agriculture Department performed last June which found that each dollar of promotional assistance may increase U.S. exports by $2-$7, depending on the assumptions used. That, however, was only the good news. The bad news was the study also found that the program's benefits were just about offset by its costs to American consumers and taxpayers.

If that's right, then the program is just shifting money from nonfarmers to farmers—which is what most farm programs are all about. In that case, the program is welfare after all. Instead of correcting a flaw in the market, it's just robbing Peter to pay Paul.

A MATTER OF PRIORITY

Are the payments worth making? Maybe. But it's easy to think of uses for $200 million that might be more pressing. "At a time when you're running the huge deficits that we're running now, it's much more difficult to justify this kind of expenditure," Leon E. Panetta, D-Calif., the chairman of the House Budget Committee, said in a recent interview. "You almost have to consider eliminating programs like this one."

Even supposing that the program works as strategic policy rather than just as welfare, the questions don't stop. Obviously, the government can't subsidize everything; resources are limited. If the United States is going to subsidize the promotion of exports, why favor farm exports? Why not biotechnology? Machine tools? Telecommunications? Pharmaceuticals?

According to the GAO, in 1991 the MPP's $200 million was more money than the Commerce Department spent on all its export promotion programs combined. In Japan last year, the MPP spent $64 million promoting U.S. farm goods, while Commerce spent a fifteenth of that amount promoting everything else.

In fact, (Agriculture Department programs account for 74 percent of all U.S. spending for export promotion, even though farm products account for only about 10 percent of U.S. exports.) Agriculture is one of America's most competitive industries; the automobile industry is in trouble. Why promote raisins in Asia rather than cars? Why potato chips rather than computer chips? No justification has yet been offered.

Lacking "any government-wide strategy or set of priorities," the GAO said in recent congressional testimony, "taxpayers do not have reasonable assurances that the public's money is being effectively used to emphasize sectors and programs with the highest potential returns."

Opponents of strategic trade policy have long argued that the choice of beneficiaries would be based on sound politics rather than sound economics. The MPP is consistent with their contention.

That leaves one remaining justification. It's that other countries are doing it too, only more so.

Take oranges again. According to Sunkist's Quarles, the European Community (EC) has slapped discriminatory tariffs on non-EC oranges. The scheme was ruled illegal under the General Agreement on Tariffs and Trade (GATT), but the Europeans were undaunted. "So we got pushed out of the EC and had to take that volume of fruit and move it from the EC to the Orient," Quarles said. "We were very successful in doing that with the help of the Market Promotion Program."

Or take soybeans, which the EC began heavily subsidizing in the 1970s. Those subsidies, too, have been ruled illegal under the GATT—and again the EC has paid little heed. The American Soybean Association says it uses most of its $10.4 million in MPP money on promotions intended to help them hang on against the onslaught in Europe. "If we're going to be competitive in this market," said Dennis Blankenship of the American Soybean Association in St. Louis, "we need federal assistance to do it."

The case is similar with wine and many other crops. Agriculture is the most heavily protected and subsidized sector in the world; subsidies in America, Europe and Japan cost taxpayers and consumers an estimated $300 billion a year. By way of a response, $200 million in annual advertising subsidies is far cheaper than direct subsidies of farm exports (though the United States has some of those, too), and it is clearly legal under the GATT.

"To me," said Campbell, "it's a small amount of money to spend for such a large portion of our industry."

Here, as ever, economists have a snappy answer, and Armey is ready with it. "I have no doubt that other countries engage in irrational and unnecessary public policy," he said. "That doesn't mean we should do the same."

In the end, the Market Promotion Program is a case study in the way agricultural subsidies around the world justify one another in a global game of beggar-thy-neighbor that never ends. Foreign barriers and subsidies "will never completely go away," Sunkist's Quarles said. "Every country has an interest in trying to protect its agriculture, and if it's not these barriers that we're facing today, they'll be dreaming up new ones tomorrow. So I really think the program should continue indefinitely."

It might. Of his own effort to abolish the Market Promotion Program, Armey said, "It's going to take a long time." So far, the global score is economists zero, taxpayers and consumers minus 300 billion.

AND THE WINNERS ARE * * *

Here are the 11 companies that received more than $1 million for brand-name promotions under the Market Promotion Program in 1991, along with the dollar amounts (in millions) and the product promoted. The top five companies are California-based; two other companies are foreign-owned.

Company	Millions	Product
Sunkist Growers Inc	$9.9	Citrus.
Blue Diamond	6.2	Almonds.
E.&J. Gallo Winery	5.1	California wine.
Sunsweet Growers Inc	3.7	Prunes.
Sun-Maid Growers of California	3.6	Raisins.
Pillsbury. Co	2.9	Processed corn.
John West Foods (U.K.)	1.8	Alaska salmon.
American Legend	1.1	Mink.
Tyson Foods Inc	1.1	Poultry.
Wrangler (Japan)	1.1	Cotton.
M&M/Mars	1.1	Candy.

Source: Agriculture Department.

Mr. BRYAN. Mr. President, my point, as I had said at the outset, is not that I object in principle to agricultural export assistance. I think a case can be made for it in the global marketplace. But I must say no case, in my judgment, can be made for a program that is as ill defined in terms of what its strategic objectives are and how those determinations are to be made, what companies are to be considered, whether it is domestic or foreign, how large, how small, what markets are to be penetrated and, indeed, under what circumstances ultimately the company that receives the benefit of this program is to be weaned from that program and say, look, we have helped you but now it is time for you to go it alone.

I think it is very hard, indeed, to say to the American taxpayers that our good friends at McDonald's, the great company that they are, successful as they are, international as they are, that with an advertising budget in excess of three-quarters of a billion dollars that they need the American taxpayers' support.

Moreover, there is no way under the present structure of the program to ascertain whether moneys that are provided by the American taxpayer are not just substituted for an advertising budget that would already be expended by the company, the so-called additionality issue. There is no indication that, indeed, we are getting an extra bang for our buck.

Maybe all we are doing is simply reducing the advertising expenditure of some of the major corporations in

America, some of the largest foreign companies who do business in our country who also receive benefit.

Mr. President, if we are serious about the deficit, talk is cheap, action is dear. If we are serious about the deficit, this is an opportunity for us to begin and a savings of $100 million is an important step in the first direction. I thank the Chair, and I yield the floor.

Mr. BROWN. Will the distinguished Senator yield?

Mr. BRYAN. I will be happy to yield to the Senator from Colorado.

Will my colleague yield for a moment? I am told we need to correct a parliamentary point here for just a moment.

AMENDMENT NO. 2778, AS MODIFIED

Mr. BRYAN. Mr. President, I ask unanimous consent that my amendment be in order, notwithstanding the adoption of the Simon amendment, and that the amendment be modified to reflect the new figure in this appropriations bill with the change I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has a right to modify his amendment.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 87, line 24, strike "$170,700,000" and insert in lieu thereof "$75,000,000".

Mr. BRYAN. Mr. President, I will be happy to respond to the questions of my friend from Colorado, the junior Senator.

Mr. BROWN. Mr. President, I simply want to indicate my support for the distinguished Senator's amendment. In the interest of full disclosure, I ought to indicate to the Chamber that I have been a member of the board of directors, U.S. Meat Export Council which has been active in using these funds, promoting the use of these funds. I headed the international marketing division of a major meat processing company that uses these funds currently in promotion of their meat. I have been active in a variety of associations and the American Meat Federation, actively engaged in this program, is located in Denver, CO, my home—at least where I was born and grew up—and located in the State that I represent.

I mention all of that, Mr. President, because I think the point the distinguished Senator made is a very important one. There is value to this program. It has significance in aiding us to export products. But the crisis we face with regard to the budget deficit is so enormous and so severe that it is time in this Chamber that we be willing to look at expenditures, even though we may like them, even though they may serve a good purpose, even though they may help in some areas. I am convinced that this is a courageous move on the part of the Senator; that it identifies funds that, while they serve a useful purpose, are not a high enough priority to plunge this country into a greater deficit.

So I will support his amendment. I will do it with great appreciation for the courage that he shows because I know there are many in his State that receive benefit from these funds. I can only hope that the rest of the body will not only follow his good example but be willing to apply this same standard of placing the good of the country above personal or private needs. I yield the floor.

Mr. BRYAN. I thank the distinguished Senator from Colorado for his kind remarks and comments and welcome his support.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, the Senator from Nevada has rapidly become one of the most respected Members of this body. He always presents his positions and cases eloquently and with force. In this particular instance, I must reluctantly resist his amendment and resist it strongly. It is an argument that the Senator from Nevada makes that without any counter sounds very persuasive. But, Mr. President, I want you and my colleagues to just listen briefly to what we are talking about.

In 1985 in the farm bill, we put a program in there called targeted export assistance. The whole idea of targeted export assistance was to compete with the European Economic Community who was and continues to subsidize exports to the tune of $1.5 billion a year. This year, 1992, we are subsidizing under the market promotion program which the Senator seeks to dramatically cut to the House level. We have $200 million in our Market Promotion Program and the European Community is by far and away our chief competitor. It is very difficult for us to compete with the French when it comes to wheat. I could go through a whole litany of products grown in Western Europe that the EEC subsidizes heavily.

In 1990, we changed the name of the targeted export assistance program to the market promotion program and that is what it has been known as since 1990.

Mr. President, you would get the impression by listening to the Senator from Nevada that somehow or another this is a brand now concept. The truth of the matter is the Export-Import Bank heavily subsidizes exports.

There are all kinds of programs where we do in fact subsidize American industry and American agriculture because we have to compete.

Now, we found under the targeted export assistance program that you do not get very much bang for your buck when you are just promoting rice, or you are promoting cotton, or you are promoting poultry products.

When I first looked into this, I would have joined the Senator from Nevada because it looked to me like a pretty bad program. For example, Blue Diamond Almonds has done a magnificent job of exporting almonds. If you give the same amount of money to promote generic almonds—everybody grows almonds—you do not get anything out of it.

What is the difference in trying to help the farmers of America and Boeing Aircraft in Washington? Boeing Aircraft would be cut out of all kinds of markets all over the world if it were not for the Export-Import Bank.

But the thing you must bear in mind is most of this money is going for branded, further processed products, what we call high-value agriculture products. You cannot very well ship—well, you can. You can ship whole chickens and export them, and as you know I have a deep and abiding interest in the poultry business. You can export chickens. But if you cut that chicken up, cook it, put it in a freezer bag and ship it, you have kept a lot of jobs in the United States. This program alone contributes over 38,000 jobs a year.

Now, Mr. President, in addition to that, if a company manufacturing or processing a branded product wants to get in on this deal, they not only have to compete for it; they have to put up 50 percent of the money. Since 1985, when we started the targeted Export Assistance Program, I say to the Senator, we now export in high-value products, what we call further-processed products, $19.5 billion a year. That is a 75-percent increase since the program was started in 1985.

Now, you add it up, I say to the Senator. The country is in a recession. Governor Clinton talks incessantly about jobs. People on this floor on both sides of the aisle talk incessantly about jobs.

I just got through telling you that for every $1 billion we export in these high-value products, we create 38,000 jobs. What does it cost? Listen to this. We are putting $200 million in this program this year and the Department of Agriculture says—they cannot say with certainty—that generates $400 million. Let me put it another way. That generates $2 to $7 for every dollar we put into it. Let us just assume that for every dollar we put into it, it generates $5. For $200 million, we will have generated $1 billion in exports and created $38,000 jobs. You tell me, I say to the Senator, where else in the U.S. Government you can create 38,000 jobs for $200 million.

Now, Mr. President, we have cut the program some. The House, as my father used to say, cut the whey out of it. They cut it to $75 million for 1993.

Now, I rise to say, so far as those foreign companies getting the benefit of this, of all the billions we have put into this, they got $43 million, but that is not just a bunch of foreigners ripping off the U.S. Government. This is foreign companies which participate by buying our commodities—our commodities, not theirs.

And so, Mr. President, this program maybe has not been managed quite as well as it ought to be. I have seen a couple of negative stories about it. But I can tell you I just gave you the proof of the pudding—$19 billion in high-value products being exported in 1991 and a lot more in 1992 because of this program.

And Secretary Madigan, let me say to my colleagues on this side of the aisle, your Secretary of Agriculture, has sent me a letter strongly urging us to fund the full $200 million and sending out many of the statistics I just gave you, and more.

So, Mr. President, the Senator from Nevada knows that I cherish his friendship. I consider him a very valued friend. But I consider him dead wrong on this amendment.

I know where you can get the emotion aroused on things like this, but the truth of the matter is when you can get this kind of bang for the buck and you want to help Boeing Aircraft, McDonnell Douglas, you want to help everybody in the world, but when it comes to helping exportation of farm products in this country, trying to get the product at a level farmers can stay on the farm, somebody raises the specter of $43 million going to some foreign company, and they are buying our products. God bless them.

I yield the floor.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from California.

Mr. SEYMOUR. Mr. President, Senator BRYAN had about convinced me in his presentation that this, indeed, was corporate welfare. But I know better than that. And Senator BUMPERS, with his distinguished presentation, I think underscored some very important points to consider before we pull the rug from under one Government program that makes money.

How can the Market Promotion Program be called a corporate welfare program, or a program that any political leader with any guts would take on and eliminate, if in fact it is a Government program that makes money.

I guess I have to start, Mr. President, by going back to the time when I was mayor of the city of Anaheim, home of Disneyland. Our business was conventions, tourism. When I was elected mayor, I promised the constituents I was going to run a lean, mean machine. We were going to have a tight budget. We were going to place a limit on taxes; in fact, we were going to cut taxes.

Along came a program to promote tourism in the city. I said, no, that is another bureaucratic waste. They said: You might know the real estate business, John, but let us show you a little bit about tourism. What they showed me was that for every dollar we put in as a city, $8 would come back into town through more tourists, more conventions, more hotel revenues, and more retail sales.

So when I became a legislator in the California State Legislature, I supported a tourism program on the State level. And, Mr. President, I support it on the Federal level as well. This is a return on the taxpayer's buck. The MPP is no different.

Senator BUMPERS has indicated some criteria as to how he sees the return. Let me share it from my viewpoint, California's viewpoint. By the way, Mr. President, although I tout tourism in California, and it is indeed very important to my State, that is not its No. 1 industry. The No. 1 industry in California is agriculture. It is larger than in any other State in the Nation. California agriculture is the breadbasket of the United States. Let me tell you what the Marketing Promotion Program has done for California products—for jobs and for California's economy.

California table grape growers have participated in the MPP since 1985. Since that time, their export value has increased 232 percent. Their export volume has increased 208 percent. That did not just happen. That takes a lot of promotion.

We hear a lot of talk in this Chamber about protectionism, isolationism. We have to protect our jobs. We have to protect our industries. We are getting ripped off by our foreign competitors.

Mr. President, the MPP increases agricultural exports, creating jobs and benefits the entire U.S. economy. Why would we cut it by $100 million dollars as the Senator from Nevada proposes.

Let's consider several other California commodities. California almond growers have achieved remarkable success in Japan by matching MPP funds to promote and advertise California almonds in Japan. MPP funding has opened up an additional 94 foreign countries for California almonds. Prior to 1984, California raisin exports were at levels of approximately 50,000 tons per year. Since the industry began participating in the MPP, it has grown significantly over the past 7 years. The raisin industry's annual export shipments have increased from 66,360 tons to 111,946 tons in 1991. That did not just happen. Sure, we have a good product, but it did not just happen. You have to sell it. And you have to overcome a hostile market environment.

My point is, Mr. President, this is a program that returns revenues to the Treasury. It does not take revenues from the Treasury. The MPP creates jobs, not just on the farm, but in numerous other sectors as well, throughout California.

The Senator from Arkansas said the MPP is directly tied to at least 38,000 jobs. He is right. That is 38,000 jobs. But I see even more jobs than that in the MPP. USDA estimates that U.S. agricultural exports, in total, provided more than 1 million jobs in the United States in 1990—jobs in processing, packaging, transportation, and other services—and more than half of those jobs, Mr. President, 52 percent to be exact, came from high-value exports. That is what we are talking about—high-value exports. That is California's niche in the international marketplaces—high-value exports. Avocados, walnuts, pistachios, strawberries, wine, oranges, cotton, kiwifruit, I could go on and on.

So when Senator BUMPERS talks about our competition in Europe, he is right. They have subsidies. They have subsidies that are extraordinarily high. As much as $1.5 billion annually. Our way of competing in that marketplace is not to provide a direct subsidy but to provide some market assistance to sell the product. And it works. The MPP works.

It has also been stated, Mr. President, that there are some MPP funds sometimes used for promotion of U.S. commodities marketed under foreign brand names. That is true. But what is not told is that by marketing under those brand names, those companies must use U.S. commodities. Ultimately we are promoting U.S. agricultural products.

This is a value program. I think it would be a very serious mistake to reduce this program to the level reduced, to $75 million, in the House.

So I argue that when the motion is appropriate, I look to leadership to offer a motion to table the Bryan amendment. I urge my colleague to support the export of high-value agricultural commodities, the creation of thousands of jobs by supporting the MPP.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

ORDER OF PROCEDURE

Mr. BUMPERS. Mr. President, I was just wondering if we might enter into a time agreement here on these amendments, and give everybody a pretty good idea as to when they can expect to get home tonight.

Would the Senator from Nevada be willing to enter into a short time agreement?

Mr. BRYAN. The Senator from Nevada would be willing to do so.

Mr. BUMPERS. Before asking the Senator to do that, how much time will the Senator from South Dakota need?

Mr. DASCHLE. The Senator from South Dakota needs 10 minutes.

Mr. BUMPERS. The Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Let me say to my colleagues that Senator BUMPERS has done an eloquent job in speaking against the amendment offered by our friend from Nevada.

I think I will take no more than 1 minute.

Mr. BUMPERS. Mr. President, I wonder if we could agree to a 30-minute time agreement equally divided, and on this side we will allocate the 15 minutes under my control and Senator COCHRAN's control if it is agreeable.

Does he have people on his side who wishes to speak?

Mr. COCHRAN. If the Senator will yield, we do have a couple of requests for time over here; maybe up to 15 minutes.

Mr. BUMPERS. That is going to require an hour, equally divided then, because we have the distinguished Senator from Iowa who would like 4 minutes, Senator PRYOR wants 1 minute, Senator DASCHLE would like 10 minutes, the Senator from Nebraska, 3 minutes. Maybe we could agree, at least tentatively, that we could yield some time back.

I ask unanimous consent, Mr. President, that we have 1 hour and 10 minutes, equally divided, between the distinguished floor managers and the Senator from Nevada, and that no second-degree amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object, I do not intend to object. Inasmuch as we are approaching the possibility of a time agreement on this amendment, the amendment offered by the Senator from Nevada, is it possible we could consider time agreements on future amendments?

Mr. BUMPERS. I hope we can get agreement on this, and then go the remaining two or three other amendments.

Mr. PRYOR. We might get an idea on when we might get out of here.

Mr. BUMPERS. Could we get a ruling from the Chair on this unanimous-consent agreement?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be allowed to propound a unanimous-consent request without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, the distinguished Presiding Officer, the Senator from Iowa, has an amendment. I would suggest a 20-minute time agreement with the time equally divided.

I ask unanimous consent that that be the order.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. And that no second-degree amendments be in order.

Mr. BROWN. Reserving the right to object, would the distinguished Senator repeat this unanimous consent?

Mr. BUMPERS. The unanimous-consent request is that the amendment of the Senator from Iowa, who has an amendment dealing with travel expenses of the Department of Agriculture, be given 20 minutes with no second-degree amendments in order, 10 minutes equally divided.

Mr. BROWN. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objective, it is so ordered.

Mr. BUMPERS. I thank the Chair.

The Senator from Colorado, according to my notes, has three amendments.

Am I correctly informed?

Mr. BROWN. The Senator is correct. One of them I will withdraw.

Mr. BUMPERS. Which one is that?

Mr. BROWN. The one regarding the elimination of unauthorized research projects I will not offer at this time.

Mr. BUMPERS. How much time does the Senator wish to make a presentation on that?

Mr. BROWN. I will not require any time to make a presentation on that. The two other amendments—one involves fulfilling a study, and was included in our budget resolution.

Mr. BUMPERS. Does that deal with CBO and OMB?

Mr. BROWN. It does.

Mr. BUMPERS. How much time?

Mr. BROWN. I would be happy to agree to 2 minutes.

Mr. BUMPERS. On the Senator's amendment regarding information exchanged between CBO and OMB, I ask unanimous consent for 2 minutes, equally divided, with no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Finally, the Senator has an amendment to eliminate the honey program?

Mr. BROWN. Yes. I do not anticipate that it would require a long debate. This body has considered it before. I would prefer not to go with a time limitation at this point, not knowing what might be raised. It may be that it is agreed to unanimously.

Mr. BUMPERS. Does the Senator not like little honey bees?

Mr. BROWN. I mention to the distinguished Senator I am merely trying to implement the proposal of the distinguished Governor from Arkansas.

Mr. BUMPERS. You should get unanimous support on this side. Why do you not want to enter into a time agreement?

Mr. DASCHLE. If the Senator will yield, there is at least one Senator who does not share the Senator's view, unless he is willing to increase it. Short of that—

Mr. BUMPERS. Honey bees have their proponents and opponents.

Mr. DASCHLE. If he intends to eliminate the program, I share the Senator's view that a time agreement would not be in order.

Mr. BUMPERS. Mr. President, according to my notes—and I believe they are correct—we now have a time agreement on all of the remaining amendments, which will take us to about—I am sorry. We have another amendment by Senator GRAHAM of Florida, and he is not on the floor. Perhaps Senator GRAHAM is watching and he will come to the floor.

Mr. BRYAN. Mr. President, if the Senator will yield, the Senator from Nevada has one additional amendment, on which I am happy to enter into a time agreement of 5 minutes for each side. This will simply be an amendment that would limit this MPP program to American companies, thereby excluding the trade organizations or entities that are in part or in whole owned by a foreign national.

Mr. BUMPERS. I hate to do this, but I feel constrained to advise the Senator that that amendment is not on the agreed list.

Mr. BRYAN. We were adivsed that it was at the time we submitted this to the cloakroom earlier this afternoon. If that did not occur, may I say, with respect to my distinguished friend, this is not something that was not discussed with them.

Mr. BUMPERS. The Senator is free to propound a unanimous-consent request to offer the amendment. I personally would not object. The Senator knows I will be happy to accommodate him. It is not in the order.

Mr. BRYAN. I will do so. Mr. President, I ask unanimous consent that the amendments which are eligible to be considered be expanded to include the amendment which I have just described, and that it be subject to a time limitation of 5 minutes on both sides.

Mr. COCHRAN. Reserving the right to object. Mr. President, nobody wants to prevent the Senator from offering any amendment he would like to offer. Obviously, that is germane to this bill and relevant to the issues we are discussing here.

This amendment is not protected under the unanimous-consent agreement that was worked out earlier in the day. Senators were given notice, if they had amendments, to submit them and be listed; and if it is not on the list, I hope that the Senator will not insist on offering that amendment. There is an MPP amendment described as being offered by the Senator from Nevada. It was the impression that this Senator had—and I am sure others, too—that the amendment pending before the Senate was the amendment contemplated in that order, and no other.

Mr. BRYAN. If I may respond, it is certainly not the intent of this Senator to delay further consideration. This is not offered by way of delay. Perhaps there was a miscommunication or misunderstanding. This Senator was under the impression that that amendment had been discussed, it was on the list and, if it was not, I am certainly not suggesting that there is anything other than inadvertence, or a failure of communication, perhaps on our part, or by those with whom we communicated.

Mr. COCHRAN. Mr. President, let me suggest another reason for my raising the reservation, if I may further reserve the right to object. The amendment described by the Senator from Nevada is not an amendment to either add or delete funding to the bill. It is legislation that describes the eligibility for benefits under a program funded under this bill. The order that was entered into, as I read it, waives second-degree amendments, or prohibits second-degree amendments, and in other ways limits the rights that other Senators might have to confront the effort that the Senator is attempting to make in the amendment he describes.

So I hate to object to the amendment, but I will be constrained to do so if the Senator insists on trying to offer an amendment that amounts to legislation on this appropriations bill relating to eligibility funding under that program.

Mr. BRYAN. The Senator certainly made himself clear, and I understand his position. The Senator from Nevada was under the impression that this had been considered and was a part of the unanimous-consent agreement. I accept responsibility, as each of us do, if that were not the case. I apologize to the floor manager. It is not my purpose to delay the proceeding. It ought to be clear to my colleagues that this is an issue I feel very strongly about, recognizing their right to disagree. This was certainly part of the amendments we had proposed. And, again, I understand the Senator's position.

I renew my unanimous-consent request, and I understand the position my colleague and friend has taken.

Mr. BUMPERS. Has the Senator renewed his request?

Mr. BRYAN. The Senator has.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. BUMPERS. Mr. President, I yield 10 minutes to the distinguished Senator from South Dakota.

Mr. DASCHLE. Mr. President, I thank the Senator for yielding, and I appreciate his statement.

Mr. BUMPERS. If the Senator will yield, I will announce to my colleagues that Senator GRAHAM of Florida had an amendment, and that has been withdrawn. I also hope we might be able to yield a little time back and get out earlier than anybody expects.

Mr. DASCHLE. Mr. President, I may not need the full 10 minutes, because so much of what has been said are points that I felt were important that we raise, as we consider the amendment of the distinguished Senator from Nevada. As the distinguished Senator from Arkansas has indicated, he is a very respected colleague and one for whom I have a tremendous admiration and respect. I happen to differ on this particular issue with him for a number of particular reasons. I must say that I have been one of those who has criticized this program in the Agriculture Committee, and in letters and in comment directly to those officials administering the MPP.

There is no question but that this program can be improved upon. There is no question that in the last couple of years the administration of this program has raised questions. But there is also no question, in my view, that this program is extremely important to agriculture when it comes to our opportunities for trade.

There can be no mistake about it, that as we look to options, as we look to the tools available to us, there are very few that we have today in agricultural trade and in the international markets that have the potential that this program has.

The United States is getting beaten, Mr. President, when it comes to international trade. It is beaten year after year. And for good reason—because our competitors, the Europeans, the Asians, the Australians, and the Canadians, all understand the importance of the export market far better than we do. We really have two choices. Our first choice, of course, is the bulk market, the raw commodity market.

Our other choice is the value-added market. The United States has always been one of the leaders when it comes to the bulk market, the raw commodity market. We have been the real Kmart of the world when it comes to providing cheap priced raw commodity products to anybody that will buy them at bargain basement prices.

But you ask our experts what plan, what strategy we have to ensure that we get into the market where the real profit is, the value-added market, and I have to tell you, one after one, before the Agriculture Committee and here on the floor and everywhere else, they tell you: We do not have a strategy. We hope in some way that the meager amount of money that we put into the MPP will provide us with that strategy, will provide us with an opportunity to get into those markets where we belong in the future.

Since 1983 the global trade in the value-added market has exploded. We have seen a 57-percent increase in that particular market, while the trade in raw commodities grew by only 4 percent.

We have seen a tenfold increase over the raw commodities market when it comes to value-added products; more than a tenfold increase over the raw products. And yet, all we have to promote value-added markets today, all we have to get into that niche where we really see some return on investment, is this meager amount of money that we are spending through MPP.

In 1989, high-value products accounted for almost 75 percent of world agricultural trade. Today, the value-added sector is a $140 billion market.

High-value products, such as wheat flour, vegetable oil and red meat, provide greater benefits to the exporting nation than raw commodities because value-added processing stimulates economic development, creates jobs and raises government revenues. Every dollar received from agriculture exports stimulates another 1.51 dollars' worth of business activity for the rest of the economy. But all agriculture exports are not equal. Selling a ton of corn overseas does not create the same benefit for the American economy as selling a ton of red meat; selling a ton of wheat does not generate as much economic activity as selling a ton of wheat flour.

During the 1980's, as the value-added market grew, the United States' share of the market stayed relatively constant, at about 8 to 9 percent. The EC, on the other hand, recognized early the opportunities in value-added markets. Today, the EC countries control a 50-percent market share, commanding $70 billion in value-added agricultural trade last year.

The value-added market is expected to grow through the nineties at 8 to 10 percent annually. If current trends continue, by the year 2000, if nothing changes, the EC will control 50 percent of a $250 billion market, while the U.S. share will be about 10 percent at $25 billion, hardly enough to cover the potential declines in trade revenues from raw commodities and to provide growth for the American agricultural markets.

So as I say, Mr. President, the real future for agriculture, if we are going to find a niche, if we are going to see the growth and development of new trade markets in the international sector, the only option for us is the value-added market.

Our trading partners subsidize their agricultural exports. We recognize that. The MPP is an important tool for ensuring that American producers have a share of the same market.

With all the array of tools that they have, if they use them to the degree that they have already indicated an intention to do so, we have no other option but to use the MPP and the few resources that we do have available to us to ensure that we do not give up the market entirely.

The market for value-added agricultural products is a future battleground in the global economy. Our trading partners subsidize their agricultural exports. The Market Promotion Program is an important tool for ensuring American producers a share of that highly competitive market. To enter the international market without such a program in my view, would be analogous to unilateral disarmament for America's agricultural producers.

In 1990 the European Community subsidized high valued agricultural exports with at least $1.5 billion. Our commitment pales by comparison. And as the Senator from Arkansas indicated, the elimination of MPP may cost us as much as 38,000 jobs and over $2.23 billion worth of domestic economic activity.

So if we reduce our commitment to MPP—I hope everybody understands the consequences; I hope everybody realizes what it is we are talking about here—that we really do risk falling further behind in the fight to establish our overseas markets; that we give up that one opportunity to become aggressive, to become competitive, to understand the importance of return on investment.

The House has already voted to cut the program from $200 million to $75 million. The Senate bill reported by the Appropriations Committee would cut the program to roughly $175 million. Even if we vote to support the funding level in the Senate bill there is no question that MPP is still vulnerable to even greater cuts when we go into conference with the House.

The critics of MPP take great pains to highlight abuses of the program. Large corporations and foreign companies have received assistance from MPP. We recognize tighter oversight and reform of the program is clearly needed, but we are doing it.

We recognize that we have to ensure greater oversight, but we are doing that. We also have to realize, Mr. President, that to cut back on the resources, to go beyond those reforms that we are now demanding, to go beyond the oversight that we are now requiring, would do an extraordinary injustice to American agriculture.

What we hear very little about are the benefits that have accrued to smaller businesses and producers who desperately need help in penetrating the world market. MPP funds are used to partially reimburse program participants to help them execute marketing plans that have been submitted to USDA. For every dollar spent under MPP, the U.S. Department of Agriculture has documented that sales of agricultural products promoted with MPP funds have increased $2 to $7 on average. That translates to $400 million minimally and perhaps up to $1.4 billion worth of additional exports every year. So for $175 million, Mr. President, we may be generating $1.4 billion in return on that investment. These are sales that, for the most part, would not have been realized without assistance from MPP.

The answer to problems with MPP is not to destroy the program through the appropriations process, but to address the failings of MPP through tighter guidelines.

Over the past year, USDA has instituted a number of management changes to make the program more efficient. If problems persist, the Agriculture Committees will consider changes in the program to address issues raised by critics, rightfully so in many cases. These changes could include: increasing the regulatory requirement for U.S. content in promoted products; improving auditing procedures; means-testing for participants; capping the annual funding for participants; and graduating participants, if it may be necessary.

Under the 1990 farm bill, USDA is directed to develop a long-term trade strategy. This strategy will guide USDA trade programs for the future. I am afraid to see what this strategy will look like without a viable MPP.

So, Mr. President, tonight I urge my colleagues to reject the amendment offered by the distinguished Senator from Nevada; to recognize the importance of this small program; to recognize the importance of agricultural trade; to recognize the importance of the contribution of agricultural trade to our deficit and our balance of payments; to recognize that ultimately, our future lies in marketing—not in farm programs that ultimately may be eliminated entirely. This may be one of our few real hopes of securing the kind of agricultural competitiveness that we want so badly.

As we face the challenges in GATT, as we face the challenges in the North American Free-Trade Agreement, as we face continued pressure on the part of the EC, and a lot of other efforts posed by competitors today, it is all the more important that we realize the importance of this program and the importance of its retention.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. COCHRAN. Mr. President, on behalf of the managers, I yield to the distinguished Senator from Alaska 5 minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, one might wonder why the Senator from Alaska would involve himself in agricultural matters. But I think it is important, as we look upon our seafood industry as agriculture from the sea—renewable resources in the same sense that production from farms throughout the Nation is renewable.

Mr. President, in a perfect world, we would not be debating the merits of cutting of the MPP program. But in order to make our products competitive, clearly we have to enter foreign markets on the same basis as foreign products in those markets. This amendment suggest a substantial reduction from $170 million to approximately $75 million; a cut of $100 million, or thereabouts.

The consequences of this for fish products, I think bears some examination. Since 1989, in our State of Alaska, salmon exports to the United Kingdom have increased some 210 percent through the MPP-funded program.

Last year alone, the market share for canned red salmon increased from 44 to 52 percent. One might wonder, Mr. President, what the competition is. The competition comes in from Chile and Norway, which have increased their participation in the world market as a consequence of government assistance.

In France, to give another example, the MPP-funded program, in mid-1991, allowed one distributor of Alaska fish to triple his sales despite heavy competition from subsidized Norwegian fish.

You will note, Mr. President, that I use the word "subsidized." That is what we are faced with—the reality that other nations are prepared to subsidize their agricultural and fisheries products to get them into the world market. If we are going to be competitive, we are going to have to meet their efforts with clear vision.

I think it is also important to note that, if we look at where we would be without this assistance, we realize that a number of jobs would be lost if the amendment passes.

I have seen estimates that the return on our investment in this program is at least three to one.

Well, if you recognize the number of jobs that are created and the offset to the balance of payments shortfall which our exports provide, and you realize the significance of this amendment. In addition, most of these activities involve small businesses. As a matter of fact, a majority do; 84 percent of the firms getting MPP funds last year were small businesses.

Now, the reality is that without this assistance, we simply cannot be competitive. If we could—through our trade negotiators—abandon all types of government assistance and promotional programs or subsidies throughout the world, then, indeed, we would be on an equal playing ground. But that is not reality.

If we abandon this type of promotional program, we are not going to be competitive in the world market. The return on our investment in the MPP program, this Senator from Alaska thinks, is justifiable. Because, Mr. President, we have to recognize that there are other nations, particularly the emerging nations, that are developing their ability to compete. Their costs are lower. And when they put the full faith and credit of their Governments behind subsidies, we are clearly at a disadvantage.

Mr. President, we also must recognize that this has been a very successful program in the past. It has been used by over 61 organizations and 400 companies. It has made a great contribution to the U.S. agricultural exports which are one of the few bright spots in our trade picture. And I am interested because seafood from Alaska, salmon in particular, is a leader in that regard. We produce 31 percent of the world's supply of salmon.

The reality is that we are able to produce more by our technology, by our agriculture, and in our pristine waters. As a consequence, given the opportunity, we can be competitive in this international marketplace against the countries whose producers are enjoying the subsidies.

Mr. President, I thank you for the allotted time, and I urge my colleagues to reject the standing amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Mr. President, how much time does the Senator from Nebraska wish?

Mr. KERREY. Three minutes.

Mr. BUMPERS. I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 minutes.

Mr. KERREY. Mr. President, I rise in opposition to this amendment. I would like to make a couple of points.

First of all, this is an effort to create the promotion of jobs in this country. This is a jobs issue. The idea of value added is translated in American communities, in communities like the State of Nebraska, into real job opportunities. About 8 percent of the people in the State of Nebraska actually work on farms and ranches today. It is down substantially from 1980. And, increasingly, our people on the farms turn to value-added operations, such as the one the MPP program promotes, to find employment.

And the idea of needing to stay competitive with other countries, that point has already been made, I believe, rather eloquently by the acting chairman of the subcommittee as well as by the distinguished Senator from South Dakota.

To those who are wavering, perhaps, as to whether or not to vote for this as an item of Government efficiency, I should point out the distinguished Senator from Nevada has made some valid points. Indeed, the General Accounting Office report that describes this program says that:

> Based on our review of the marketing activities in 12 foreign countries, representing 65 percent of worldwide high value exports, we found that foreign competitors conduct market development through centralized marketing organizations, independent marketing boards, and various combinations of public and private sector institutions.

It goes on to say:

> Although we found that most foreign competitors we reviewed spend less on high value market development than the United States, some spend their funds in a highly targeted manner, using an integrated marketing approach, which starts with identifying customer needs and moves to the producer who strives to satisfy that need. The Department of Agriculture has invested large sums in foreign market development in recent years but the primary responsibility for conducting foreign market development activities remains with selected private sector associations.

The danger with the MPP program, as well as other efforts we have had with USDA, is that our administration has said essentially we are going to let our own customers make up their own minds; we are not going to interfere with it. We are not going to try to promote pork. We are not going to try to promote soy oil. We are not going to try to promote anything. We will just let them make up their own minds while the competitors are targeted.

For those who are wondering why we on the committee had made an effort to accommodate these kinds of concerns, I assure you we are concerned. Many of the points raised by the distinguished Senator from Nevada are addressed in the report language of this bill: Requiring the U.S. Department of Agriculture to make sure that we are not only targeting this investment but putting the money into smaller companies and making sure that we do not sustain these investments over a long period of time; that corporations are not, once they are provided with a subsidy, kept on subsidy for a long period of time and making sure that large multinational corporations do not merely abuse the intent of this effort.

I urge my colleagues to examine the report language. It is an attempt on the part of the committee to accommodate the concerns raised by the distinguished Senator from Nevada.

I see the Chair is saying my time is up. I urge opposition and defeat of this amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BROWN. I ask for 3 minutes from the distinguished Senator from Nevada.

Mr. BRYAN. I yield the amount of time the Senator from Colorado requested.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. BROWN. Mr. President, I will not belabor our deliberations here. We have heard a number of speakers extol the virtues of the program and imply that the reason we are able to export products from this country is because we have the Government subsidy.

Mr. President, if any Member of this body believes that, indeed, they ought to vote against the distinguished Senator's amendment. If the reason we can sell products abroad depends mainly or primarily on the Government subsidizing them, then, indeed, they will find this program attractive.

I must say, I personally have great affection for the people involved in this. I have some association with them and, I suspect, more experience in the industry, in this particular end of it, than any Member of this Chamber. So, if there is an area you wish to subsidize, you could not find nicer people to subsidize and hand money out to.

But let me simply add another word from one who knows something about promoting and selling products overseas or someone who has done that particular function, for someone who understands what is involved here. This is not a particularly efficient way to promote products.

Our products are sold overseas because they make sense, because they are cost-effective, and because they provide the quality that others do not. They do not sell overseas because of subsidy. They sell because of their attributes and because they are competitive. For those who do not believe that I would recommend very highly an opportunity to work in the industry and find out what the real world is all about.

Second, the suggestion that the way to promote products overseas is to subsidize the promotion cost misses the point. What that does is lower the cost of promotion. It does not necessarily—not necessarily—make the product far more salable. And if the purpose of this, this basic program, is to stimulate interest in exports, that can be done much more efficiently through tax credits that provide a much less costly way of doing it and a much stronger incentive.

What we have done with this amendment is simply reduce the cost of providing promotion. That may well be an inefficient use of resources. It may well not provide the incentives we need.

The bottom line is this. This country has a problem with the deficit. If you want to throw money away, this is a good program that goes to good people and I suggest we keep it, but if you are interested in bringing the deficit down and you are willing to fight the deficit in every area, this is an area in which we ought to save money.

Mr. DASCHLE. Mr. President, the Senator from Arkansas has delegated me the responsibility of offering the Senator from North Dakota 3 minutes.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 3 minutes.

Mr. CONRAD. I thank the Senator from South Dakota and the chair of the committee.

Mr. President, the simple question before us is why do we subsidize the marketing and promotion of our products? Mr. President, there is a very simple answer. We do that because our competition does. We are in a trade war with Europe and we seem to be blissfully sleeping through the competition and the assault of that competition and the results that they are achieving.

Our European competitors are subsidizing agriculture at 10 times the rate the United States is—10 times the rate, over $140 billion a year. The result is very clear. Our European friends have gone from being major importers to being exporters in 10 short years.

Europe has a plan and a strategy. The plan and the strategy is to dominate world agriculture, and they are doing it the old-fashioned way. They are doing it through a merchantilist economic policy. They are subsidizing agriculture by insisting on increased prices from their consumers. They then get additional production from producers. They take that additional production and they put it on the international marketplace at fire sale prices and they increase their world market share. That is precisely what is happening.

The result is, if we allow this to continue the Europeans' plan will succeed. Their plan is very simple and very direct. It is to gain world market share because they believe at some point in this trade war, there will be a ceasefire. They believe it will be a cease-fire in place and they want to occupy the high ground.

The choice for this body, the choice for the other body, and the choice for this country, is whether or not we want to engage in this trade war with an attempt to win by the United States, or whether we want to roll over and play dead and let them take over.

It will be the mistake of our economic lives if we give away world agricultural markets which the United States has dominated for 100 years.

This is a small part of the overall battle plan but we would be foolish to engage in unilateral disarmament when our friends are waging an all-out assault on America's position.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. BUMPERS. Mr. President, I think the people who wanted to speak on our side have either spoken or are not on the floor.

Is the Senator from Nevada prepared to use additional time at this point?

Mr. BRYAN. Mr. President, responding to my distinguished colleague, if he is not ready, or those who are opposed to the amendment are not, I suggest the absence of a quorum at this time and that we charge the time equally to both sides.

The PRESIDING OFFICER. Is there objection? If not, the clerk will call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, may I inquire of the Chair how much time remains on each side?

The PRESIDING OFFICER. The managers have 10 minutes and 30 seconds.

Mr. COCHRAN. Mr. President, how much time does the——

The PRESIDING OFFICER. The Senator from Nevada has 31 minutes.

Mr. COCHRAN. Has 31?

The PRESIDING OFFICER. Thirty-one minutes.

Mr. BRYAN. Will the distinguished Senator yield for a moment?

Mr. COCHRAN. I am happy to yield.

Mr. BRYAN. I assure the Senator it is not the intention of the Senator from Nevada to use all of that 31 minutes. The Senator is trying to get some sense of how much time it will take. I think the Senator from Nevada will probably need no more than 10 minutes at the outside.

Mr. COCHRAN. But as I understand it, the Senator does not intend to use his time at this time? Is the Senator trying to reserve all his time until the opponents of his amendment have used all their time? Is that the purpose?

Mr. BRYAN. That would be the purpose of the Senator, yes.

Mr. COCHRAN. Not going back and forth from one side to the other?

Mr. President, if there is no objection from my distinguished colleague from Arkansas, I would like to make a few comments about the amendment and why it is necessary to oppose the distinguished Senator's amendment. I yield myself what time I may consume.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Back in June I inquired of the Secretary of Agriculture, about the request for $200 million for this market promotion program which had been submitted with the President's budget. As Senators can tell by now, the House provided only $75 million in its bill for the program. The Senate on the other hand, is being asked to appropriate—or they were when the bill was first developed by the subcommittee—about $180 million for the program for the next fiscal year.

So our committee had reduced the President's request about $20 million in a program that has proven to be very helpful and workable in terms of building market demand overseas for U.S. farm-grown commodities and products. That is the purpose of the program. It originally was in the 1985 farm bill as the Targeted Export Assistance Program, designed to deal specifically with unfair trade practices of foreign competitors.

It worked. It worked so well that the administration came in with its request, after that period of time and the experience we have had, and asked for the $200 million level of funding.

One reason it has worked, I think, is proof of the competition that we are seeing with respect to the European Community. The distinguished Senator from North Dakota pointed out how the Europeans have gone aggressively out to capture the world market in high-value agriculture products; 80 percent of the money that would be appropriated in this account goes to help create market demand in overseas markets for high-value U.S. agriculture commodities. That is where the growth is in the agriculture markets overseas.

So it is targeted for that purpose. And you are looking at what we are confronted with when you realize that the European Community in 1990 spent $1.5 billion trying to capture the world market in these products; $1.5 billion compared to the $175 million, roughly, that is still left in this bill. And now we are being asked by this amendment to take another $100 million out of that account. Not to spend it on anything else, just cut that account.

I hope the Senate will not approve this amendment. We have fought as hard as we can to stand up for U.S. farmers in the international marketplace. This is one of the tools we are using. We are now negotiating in the Uruguay round of GATT to try to make sure that the playing field is going level, that we are going to be treated favorably, that our exporters and farmers are not singled out for punitive treatment by foreign competitors in the international agriculture marketplace. And at this time, as we are trying to move toward an agreement in the Uruguay round, we are now being asked in this amendment to take away one of the most valuable and effective tools that we have to work with our exporters and farmers to protect their interests in the international market.

I hope Senators will look very carefully at what they are being asked to do in this amendment.

When the time has either been used or yielded back, it will be the intention of the managers to move to table the amendment. I hope the Senate will agree to table this amendment.

Mr. President, I ask unanimous consent that a copy of the letter I referred to from the Secretary of Agriculture be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, June 23, 1992.

Hon. THAD COCHRAN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR THAD: I would like to take this opportunity to urge strongly that Congress continue funding for the Market Promotion

Program (MPP) at the $200-million level provided in the President's FY 1993 budget. All the statistics we have about U.S. agricultural exports and all the current trends in global agricultural trade suggest that a cut in funding for the Department (USDA) Market Promotion Program at this time would be short-sighted.

High-value products constitute the fastest-growing component of the world's agricultural trade and by the end of this century are expected to represent at least three-quarters of world trade. In other words, the high-value market is where future growth will be for U.S. farmers and exporters. More than 80 percent of MPP funding is targeted toward building exports of high-value products.

If Congress were to reduce funding for the MPP now, it would seriously jeopardize the ability of U.S. agriculture to compete in this vibrant sector of world trade. The European Community (EC), our main competitor in the high-value market, paid out direct subsidies of nearly $1.5 billion to producers and exporters of high-value products in 1990. In addition, the EC and member governments also offered their exporters many other indirect subsidies. USDA's $200-million annual program level for MPP pales by comparison, but it has been sufficient up until now to help U.S. farmers and exporters boost their exports of high-value products. Such exports have risen 75 percent since 1985, reaching a record-high $19.9 billion in 1991, with another record forecast this year.

The MPP also helps support the creative market expansion work conducted by bulk commodity producer organizations to convince potential customers of the quality attributes, new uses, and superior advantages of U.S. farm products.

U.S. agricultural exports generated as a result of the MPP are directly responsible for as many as 38,000 jobs on and off America's farms and represent as much as $2.23 billion in additional activity for the U.S. economy.

The MPP has had its critics however, and I would like to address some of the main points of controversy surrounding the program.

Some have claimed the MPP has not really worked to help small exporters. This is not true, however. Small businesses accounted for 84 percent of the 287 firms participating in the MPP last year. The goal of the MPP is to increase agricultural exports as much and as effectively as possible. Thus, neither the law or USDA discriminates by size of company or type of ownership.

Some critics believe the U.S. Government has no business promoting branded products. The MPP however, promotes American food and farm products, not American companies. It is a fact of life that, if we are going to promote high-value-product sales, we are going to have to promote branded products. Two-thirds of the world's high-value-products trade consists of processed items; virtually all of these are produced by branded companies.

An exclusive focus on unbranded activities runs the risk that generic demand can be met by a non-U.S. supplier with a less expensive, lower quality product. For high-value commodities, U.S. taxpayers may get a better return on their investment with branded promotions which build consumer loyalty to a product containing American rather than foreign commodities.

Others have asserted that tighter management controls by USDA would allow the MPP to be operated with less money. In reality, both USDA and participants have a vested interest in running the MPP as effectively as possible because both have substantial sums of money invested.

The Department takes its role as guardian of the taxpayers' money very seriously. In the last year, we have put in place new allocation criteria that targets MPP funds so as to receive the "biggest bang for the buck." We are not renewing programs that have proven not to be cost effective or that have reached a plateau. We require all participants to submit comprehensive strategic marketing plans and to evaluate the effectiveness of every promotional activity. All participants are subject to full, top-to-bottom audits. Finally, we have published detailed regulations to which all participants must adhere and made other substantial changes to tighten management controls.

MPP participants also have a stake in efficient program management since they are required to invest their own money in MPP projects. In the case of branded promotions, participants are required to put up at least half of the cost of the MPP activity.

I appreciate this opportunity to set the record straight on what the MPP really means to U.S. agriculture and U.S. business. Once again, I urge that Congress maintain its commitment to expanding U.S. agricultural exports by supporting the currently authorized $200 million program level for MPP.

Sincerely,

EDWARD MADIGAN,
Secretary.

Mr. COCHRAN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, can I inquire how much time remains on this side?

The PRESIDING OFFICER. The Senator from Nevada has 31 minutes. The managers have 6 minutes.

Who yields time?

Mr. BRYAN. Mr. President, I suggest the absence of a quorum, charged equally.

The PRESIDING OFFICER. Is there objection? If not, the clerk will call the roll.

Mr. COCHRAN. I was not listening to the request. What is the request?

The PRESIDING OFFICER. Is there objection to the request?

Mr. COCHRAN. I object to it being charged to this side of the aisle. The Senator has asked our time be used before he uses any of his. Now he is putting in a quorum call and asks that it be equally charged to the managers as well as himself. I object to that.

The PRESIDING OFFICER. Objection is heard. Who yields time?

The PRESIDING OFFICER. If no Senator yields time, then time will run against both sides.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thought it would be the amendment of my colleague from Colorado that I understand we may debate next, the Honey Program, that might stir up the hornet's nest. I think we might have already done so with this amendment I have proposed. I know my colleagues who oppose this amendment feel very strongly about this program and I think that our debate this evening is instructive of how difficult it is going to be to address the budget deficit.

When I look at the programs that are affected by this $200 million program, we have beef, cotton, forest products, peanuts, poultry, soybeans, wheat, avocados, cherries, citrus fruits, cotton, dried beans, feedgrains, kiwi fruit, peaches, honey, pears, pistachios, plums, prunes, poultry, raisins, rice, strawberries, table grapes, walnuts, wine, and the list goes on and on.

I recognize that this cuts across a broad spectrum of the interest groups in America. But, Mr. President, may I simply indicate that I find an irony in the response of some of my colleagues. I have heard them with great eloquence on the floor of this Chamber to decry the role of Government. Government ought to get off our backs, I have heard them say. Government is too big, it is too intrusive, it is too expensive. Mr. President, this amendment provides an opportunity for our colleagues to provide for less Government, for less intrusive Government and Government that is less expensive.

I renew the position which I outlined during the course of my opening argument and that is, I do not oppose in principle a public-private partnership to assist in promoting the export of American agricultural products. What I do object to, Mr. President, is a program that is as unfocused and that is as poorly directed as this program is. It says to the American taxpayers, at a time in which all of us are going to be asked to make sacrifices, this has to come out of your pocket, you are going to pay for this program, and then we take a look at how some of these dollars are expended.

I joined with my able colleague and the distinguished senior Senator from Arkansas on a number of causes. He and I together have shared common cause in opposing the superconducting super collider, and I hope will be again this year on the floor of this body doing so. We opposed the expenditures for the Space Station Program, and I hope we will be there again this year. We have supported him on previous occasions when he has sought to reduce America's military commitment abroad in terms of the manpower and personnel that we have committed in Europe and the Far East.

So I respect him and admire the positions which he has taken, and I find myself pained to be in disagreement with him on this.

But I must say that of all of the arguments that have been advanced and in support of this program are distilled into two sentences. They are essentially that this program is necessary if we are to compete and, finally, this program has been efficacious in expanding American exports. I want to take just a minute or two to examine these two premises.

Is this program necessary to compete? Let me just suggest that the way some of this money is expended, it is not directed, as my friends have argued, at some of the unfair competition we face in Europe. I am not unmindful of that. I am very much aware, as everyone in this Chamber, of the impediment to the Uruguay round of the GATT discussions which have primarily failed because of the insistence of European farmers that the high level of subsidies which have been talked about during the course of this debate continue, and I am supportive of efforts to reduce those subsidies so that American farmers can compete on more equal grounds.

But this program, Mr. President, is not confined to Europe. It has global implications. So I think the response to the argument that they must have this to compete is essentially flawed because the scope and reach of this program goes far beyond our competitive situation in Europe.

Second, it is argued that this is a program that has been helpful, it is efficacious to expand exports. Let me suggest that I think there is very little verifiable information to substantiate and authenticate that point. The General Accounting Office in their analysis provides some examples which reach a contrary conclusion, and I hate to pick on the California raisin program, but let me just cite for the benefit of my colleagues the California Raisin Advisory Board had targeted a goal to increase their exports by 2,000 short tons during the first year of the program. During that first year of the program, notwithstanding the allocation of money that they received, about $3 million, that exports dropped by 2,078 tons. So, clearly, here is an example in which money was spent on a program to expand exports in the Japanese market and it did not occur. In fact, just the opposite occurs.

May I suggest that the argument could be advanced that indeed this program was so countereffective that the expenditure of this additional money caused the exports to drop. That would be akin to the reasoning which they have advanced that all of those expenditures that are outlined, some $200 million annually, is the basis upon which exports have expanded. It seems to me that one of the fatal flaws of this program is that we really do not have a hard-headed analysis in terms of what programs work, how effective they are and what programs we ought to support, if any.

Mr. President, this comes down to an issue of priorities. How do we spend our money? What do we ask the American taxpayer to pay for, to come out of his and her hard-earned check and to turn over to the Federal Government which, in turn, is turned over to a series of programs that are operated at the Federal level.

I think my colleagues would be very hard pressed that with all of the needs in this country, and they are legion, and they are the subject of extensive floor debate during the course of our sessions, that in terms of prioritizing those expenditures, I ask my colleagues to think and reflect, is providing an additional $1 million for McDonald's a priority? Can we go back home and defend to our constituents that kind of transfer of money? Or the $9.96 million to Tyson's Foods, or $344,000 to Borden, $560,000 to ConAgra, or to Brown-Forman $1.26 million?

This program each year provides about 40 percent—that is nearly $80 million—for specific companies to advertise and promote their branded product. This is not just to a Buy American Program. This is, in the context of this chart to which I invite my colleagues' attention, to buy more McDonald's hamburgers. Is that how we want to spend our money? I must say this Senator cannot support that kind of allocation and resists those kinds of expenditures.

Finally, I would ask my colleagues, with scarce dollars, everybody competing, less money, more demands, should we not prioritize? If we support this program at all, and if you can justify it, should we not be supporting American companies, not foreign companies?

This list that I have on this chart would indicate a number of foreign companies which directly benefit and receive money from the American taxpayer. I suggest to my colleagues who remain in doubt as to how they are going to vote on this program, take that one home to your constituents and say, yes, I supported the equivalent of $80 million a year to support these companies, some of which have names that are almost unpronounceable, to assist foreign companies. I have used your hard earned dollars to do so.

Since 1989, we have spent about $43 million to directly go to foreign brands, foreign ownership.

Mr. President, I respectfully submit that in the full sweep of all of the issues we debate on this floor, how we spend money, this is a program at this time in our history which in my view ought to be zeroed out. Recognizing that that is not attainable in this kind of climate, I believe that the responsible course of action is let us reduce it by approximately $100 million and support the actions previously taken by our colleagues in the other body in reducing this level of appropriations to approximately $75 million.

I yield the floor and reserve the remainder of my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am going to make a suggestion and propound a unanimous-consent request. Momentarily, I will offer a motion to table the amendment of the Senator from Nevada. But before I do that, I would like to propound this request: that Senator BROWN be recognized next to offer an amendment, which is agreeable to us, dealing with OMB and CBO, and that he then be recognized to offer an amendment dealing with the honey program. Let me just suggest a 30-minute time agreement to be equally divided on that—after which the Senator from Iowa be recognized to offer his amendment dealing with travel expenses at the Department of Agriculture for 20 minutes, and that mine and Senator COCHRAN's motion to table this amendment and such votes as may be required from any of the other two amendments and final passage be stacked to commence immediately after the disposition of the Harkin amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BRYAN. Mr. President, reserving my right to object, would there be objection, because of the colloquy that we previously had, that the Senator from Nevada be permitted to offer the amendment which was previously objected to, namely, the amendment that would restrict money from this program to go to foreign companies? I believe that would be within the parameter of the unanimous-consent request originally that my friend and colleague, the distinguished senior Senator from Mississippi, raised initially and was objected to.

Mr. BUMPERS. I know the Senator knows I would love to accommodate the Senator. I can tell the Senator that is not going to be possible, as much as I would like to do it. I would like to be able to put it in this unanimous-consent request, but it torpedoes the request. I appreciate the efforts of the Senator and I appreciate the Senator's tenacity and perseverance. Certainly something will be coming in here that will allow the Senator to offer his amendment, and I will do everything I can to help the Senator.

Mr. BRYAN. Will the Senator permit me to enter a quorum call so that we might discuss this for a moment. Because my option is to object to the unanimous-consent request, and I do not want to be difficult; the hour is late.

Mr. BUMPERS. We have a little momentum. I think we can pass this bill tonight. I wish the Senator would accept my assurance that I want to do everything I can to accommodate him. He is my friend. I regret very much that his amendment was not included in the unanimous-consent request earlier. But I promise the Senator he will have an opportunity to offer that amendment. There will be other things coming through here.

Mr. BRYAN. I accept the representation of my friend, and based on this I withdraw any objection.

Mr. BUMPERS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. Who yields time on the Bryan amendment?

Mr. BOND. Mr. President, the Market Promotion Program [MPP] has been authorized at $200 million annually to help U.S. producers and other organizations finance promotional activities for U.S. agricultural products.

The MPP is intended to encourage the development, maintenance, and expansion of commercial export markets for agricultural commodities. MPP helps develop new markets and increase U.S. agricultural exports.

For every $1 spent under the MPP, we get an average return of $2 to $7, and in some case like forestry products the return is much higher. Thus, the $200 million spent annually under the MPP generates $400 million to $1.4 billion in additional agricultural exports.

Exports not only provide income for U.S. farmers and their suppliers, but also generate income and employment throughout the U.S. economy. USDA estimates that U.S. agricultural exports, in total, provided more than 1 million jobs for U.S. workers in 1990—jobs in processing, packaging, transportation, and other services.

High-value products constitute the fastest growing component of the world's agricultural trade—and by 1998 are expected to represent 75 percent of world trade. The high-value market is the future for U.S. agricultural exporters, and more than 80 percent of the MPP funding is targeted at building exports for high-value products.

Thanks to the MPP, we have been able to keep the European Community, our main competitor in the high-value market, from running away with all the growth in global trade.

Without MPP funding, 38,000 jobs that depend on the exports generated from the funding would be lost. Businesses would lose $2.23 billion in economic activity generated by the exports resulting from MPP. And finally, America would lose $1.4 billion in exports if funding was discontinued.

The MPP, with its focus on promoting high-value agricultural products, is one of the most forward-looking of all USDA's export assistance programs. If we back away from the MPP now, we will be giving our competitors the world's high-value product market on a silver platter.

Mr. WOFFORD. Mr. President, back in May I introduced a bill to reform the Market Promotion Program. At that time, I said I support the program in spite of the public criticism because I believe it's a good program that has been mismanaged. It has had notable and laudable successes helping many companies gain a foothold in foreign markets. I still believe this. The way to address the problems of the Market Promotion Program is not with the budget ax but through action to bring about the necessary reform.

We have heard a lot about the importance of the Market Promotion Program and the impact on jobs and competitiveness. I believe it is critical that we provide Government assistance to improve competitiveness in the segment of our economy which is most needy and also represents the best opportunity for growth—small- to medium-sized enterprises. That is where reform should be focused.

I encourage my colleagues, both those who have spoken in favor of the Market Promotion Program and those who have spoken against it, to join in reforming it in a way that restores public confidence and at the same time assists our farmers and agribusinesses to develop and strengthen market share in foreign markets.

Mr. KASTEN. Mr. President, I rise in strong support of the Market Promotion Program and oppose any amendments that would slash this valuable program.

The MPP expands exports and create jobs. Some 38,000 new jobs are dependent on the exports generated as a result of the MPP. Eighty-four percent of MPP participants are small businesses. Some of the small businesses in Wisconsin participating in the program include: First, American Ag-Tec International, Delavan; second, Beatreme, Beloit; third, Froedtert Malt, Milwaukee; fourth, Hsu's Ginseng Enterprises, Wausau; fifth, Jones Dairy Farm, Fort Atkinson; sixth, Pan-A Live Pizza, Rosholt; seventh, Chief Industries, Hayward; eighth, Cumberland Packing, Ravine and ninth, Huber Brewing, Monroe.

These small businesses along with the many other small businesses across this country deserve creative market expansion through the MPP. The program is targeted to expand exports of U.S. agricultural products and educate companies in export marketing.

The MPP has further benefited American farmers, ranchers, and food processors by supporting the exports of wheat, feed grains, livestock, meats, fruits, vegetables, and many other farm products.

The Market Promotion Program is a model of Government-industry cooperation to improve competition in world markets. The MPP encourages the development, maintenance, and expansion of commercial export markets for agricultural commodities and is highly deserving of continued funding.

Mr. McCONNELL. Mr. President, while I will vote for this agriculture appropriations bill, I want to express my extreme disappointment over one provision which was included by the Appropriations Committee. Without the benefit of a hearing in the authorizing committee, the Senate Agriculture Committee, one particular commodity has been singled out to be excluded from funds in the Market Promotion Program.

In 1985, as a member of the Senate Agriculture Committee, I supported programs designed to expand and further develop export markets for agriculture. One of the programs, the Targeted Export Assistance, authorized by the 1985 farm bill was created specifically to promote U.S. agricultural products in overseas markets. The TEA program was viewed as a success and met with such acclaim that it was reauthorized and renamed in the 1990 farm bill as the Market Promotion Program. Some small changes were made, but the basic program remained intact.

During all of the discussion of the Targeted Export Assistance from 1985 through 1990 and the Market Promotion Program in the 1990 farm bill, I don't remember anyone trying pick and choose which commodities would be eligible and which would not.

While I want to commend my colleagues on the Appropriations Committee for the excellent job they have done putting together the annual agriculture appropriations bill, I must point out and express my deep concerns with the qualifications enumerated under the Market Promotion Program. The committee singled out one commodity, tobacco, and declared it ineligible for MPP funds. This action troubles me for two reasons. First, this is a classic example of how to get around the barrier of not being able to legislate on an appropriations bill. The regular process of holding hearings and discussions by the authorizing committee was bypassed, and the appropriations committee decided to exclude one commodity from receipt of MPP funds. My second main concern with this provision arises because of the significant and consequential impact that tobacco has on the lives not only of Kentuckians, but of all Americans.

No one can doubt that tobacco is the most deeply rooted commodity in our history. Its role in America's settlement, early development and eventual independence is incalculable. Tobacco soon became the economic foundation of the colonies. It was the only commodity that the settlers could produce to exchange for essential manufactured goods. Tobacco was the salvation of the struggling Jamestown colony. In 1730, the leaf itself became currency. Its uses ranged from buying rum to paying the salaries of the clergy.

Today, tobacco ranks sixth among field crops produced in the United

States. Nationally, the tobacco industry creates 2.3 million jobs and consumers spend $40 billion on tobacco products. Almost one-half of that spending goes directly to Federal, State, and local governments in the form of tax revenues. Exporting tobacco products helps our national trade balance. During the decade of the 1980's tobacco products added $30 billion to the positive side of the trade ledger.

Tobacco farms in Kentucky are not typical of most farming operations. The average Kentucky tobacco farm is less than three acres, not a big money maker, but heavily depended upon. Raising 1 acre of tobacco requires 280–320 man hours a year.

Over 60,000 Kentucky farm families actively participate in growing tobacco. Nearly 160,000 families derive income from tobacco production, and tens of thousands more people earn their living from an area in the marketing and manufacturing process. Tobacco has been an integral part of Kentucky's history and economy for over 200 years.

The $800 million which Kentucky's farmers earn annually from the sale of tobacco is multiplied into over $5 billion in economic benefits from labor hired plus goods and services bought. The tobacco industry directly accounts for an additional 60,000 jobs through core and supplier businesses. And, State and local governments collect over $50 million in tobacco excise taxes. Leading tobacco States like North Carolina, Kentucky, and Virginia are not the only States whose economies benefit from tobacco.

We achieve all of this economic activity with a program which is not subsidized by government dollars. Here you have an industry which provides jobs to 2.5 million American workers, generates nearly $20 billion in tax revenue, contributes over $40 billion to the gross national product, and provides a trade surplus of about $6 billion. If this were any other product than tobacco it would be the success story of the century.

Cigarettes are, indeed, a controversial product, but they are legal in the United States and in every other country in the world. Too often, under the veil of protecting public health, antitobacco activists push their own personal views. Tobacco smoke has an odd way of obscuring the issues.

The antismoking forces portray smoking as a threat to everyone. They feel an obligation to protect smokers from themselves and make sure the smoker bears all of the cost of their behavior, actual and perceived. Such reasoning, as if you smoke you will die and if you are in a room with a person who smokes you too will die, is a disservice to the public. People have rights, smokers and nonsmokers alike, but using the government to control your neighbor's habits is a risky business.

Now these self-righteous, activists want to impose their standards of good health on the rest of the world. For all of the gains we have made in tobacco exports, these people are working hard to pull the rug out from under us. They are working with foreign governments in an effort to reestablish trade barriers which we fought so hard to break down over the past decade.

While tobacco helped the Nation pass through its early growing pains, it has remained a vital element to our country. It has maintained its place as a dynamic force in our national economy. It has touched in one way or another for over 400 years on almost every aspect of human life—religion, education, agricultural advancement, politics, and the arts. It is my sincere hope that it will continue to do so for another 400 years.

Kentucky's largest cash crop, tobacco, has been eligible for MPP funds in the past and the money was used with clear success. The use of MPP funds to date has directly generated an additional $250 million in unmanufactured tobacco exports. This represents more than a 50-to-1 return on tax dollars invested.

I have seen the stories and heard the criticism of taxpayer dollars being used to export death, but remember tobacco remains a legal crop meeting all of the criteria for allocation of CCC resources in the Market Promotion Program.

The United States grows less than 10 percent of the world's tobacco and reducing U.S. tobacco exports will not end tobacco sales in any foreign country. In fact all it will achieve is stealing hundreds of millions of dollars out of U.S. farmer's pockets and put it in the pockets of foreign governments who in most cases control the growing, processing, and marketing of tobacco and its products.

U.S. tobacco farmers made an annual cash contribution of 40 percent of the amount of the old Targeted Export Assistance Program funds and are now contributing 33 percent of the level of MPP funds provided each year. Tobacco easily meets and exceeds all of the criteria of the rules and regulations of the Market Promotion Program. I would also note that none of these dollars used on tobacco were spent for advertising or any kind of consumer demand stimulation programs.

The fact is the commodity we are talking about is tobacco and because supporting this commodity is not politically correct it becomes an easy and popular target for attack.

If you forget everything else said about tobacco, remember these facts: the United States grows less then 10 percent of the world's tobacco; reducing tobacco exports will not end tobacco sales in any foreign country; in most foreign countries, government monopolies control the growing, processing, and marketing of tobacco and its products; and, reducing tobacco exports will take hundreds of million of dollars out of U.S. farmer's pockets and put it in the pockets of foreign governments, not necessarily foreign farmers.

I am disappointed that the Appropriations Committee singled out tobacco as the only commodity prohibited by law from participating in the Market Promotion Program. Further I am disappointed the authorizing committee did not hold hearings specifically on which commodities will and will not be eligible for MPP funds, before this provision is passed by the Senate. I remain a supporter of the Market Promotion Program because of the success of promoting other products grown or processed in Kentucky, but I am disturbed that thousands of tobacco farmers will be adversely impacted by the action taken by the Senate.

Mr. BUMPERS. I move on behalf of Senator COCHRAN and myself to table the Bryan amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is all the time yielded back?

Mr. BUMPERS. I yield back all time remaining.

Does the Senator from Nevada yield back his time?

Mr. BRYAN. The Senator from Nevada is prepared to yield back all remaining time.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Has the Chair asked for a second?

The PRESIDING OFFICER. The yeas and nays are ordered.

Under the previous order, the Chair recognizes the Senator from Colorado.

AMENDMENT NO. 2779

(Purpose: To provide a mechanism for the Congressional Budget Office and the Office of Management and Budget to determine the expenditure of appropriated funds for different income categories)

Mr. BROWN. I rise to offer an amendment and ask that it receive immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2779.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, after line 24, insert the following new section:

SEC. . (a) In the case of any applicant for assistance provided with funds appropriated under this Act, the applicant shall include the information described in section 6109 of the Internal Revenue Code of 1986.

(b) Any agency processing any application described in subsection (a) shall submit the information provided by the applicant (including the dollar value of the United States Government assistance to the applicant) to the Internal Revenue Service.

(c) On a written request for the Director of the Office of Management and Budget or the Director of the Congressional Budget Office, the Secretary of the Treasury shall furnish each such Office, with—

(1) the dollar value of the United States Government assistance to the applicant; and

(2) any return or return information specified in the request, except any return or return information that can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

Mr. BROWN. Mr. President, this is the amendment that we have chatted with the majority and minority about. The amendment is simply a followup on the sense-of-Congress study that was included in the budget resolution which was passed earlier this year. All the amendment simply does is help develop the identification of people who receive Federal funds for completion of the study that was included in the budget resolution.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. BUMPERS. Mr. President, that amendment has been cleared on this side of the aisle.

Mr. COCHRAN. Mr. President, the amendment has been cleared on our side. We urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2779) was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized.

AMENDMENT NO. 2780

(Purpose: To prohibit the use of funds made available by this Act to support the price of honey)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2780.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . None of the funds made available by this Act may be used to support the price of honey through loans, purchases, payments, or other operations under section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446b) or any other provision of law.

The PRESIDING OFFICER. Under the previous order, there is 30 minutes equally divided on the Brown amendment.

The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, this Nation finds itself in a crisis with regard to the budget deficit of which every Member of this Chamber is well familiar. It is one with which we have been unable, as a body, to deal, not only unable to find the cuts in spending but unable to come to any agreement involving either revenue or spending to narrow this enormous deficit.

This deficit, at least in this Member's opinion, is not going to be cured easily. It is not going to be cured with good wishes. It is going to be cured by cutting wasteful programs. I wish there were an easy way to do it. I wish we did not have to eliminate waste. I wish we did not have to move to eliminate programs.

This particular one, the honey program, which I feel is wasteful, is considered by some to be a good program. There is no doubt in my mind that people who receive money think it has real value. But the simple fact is this nation of ours is not going to cure its deficit problems unless we are willing to eliminate some programs. It comes down to being willing to vote to end wasteful programs. That is what this amendment is all about.

Some will say it is a small program. Indeed, the honey program is a small program. This particular amendment will save $23 million this year and, hopefully, lead to the end of a program that has stung the American taxpayers.

This program is a small step, but it is a step toward eliminating the scandalous deficit that threatens the very future of our country, the livelihood of our children and our grandchildren, and our ability as a nation to compete.

Mr. President, if we cannot eliminate this program, we cannot eliminate anything. We are talking about $23 million that goes to 5,000 honey producers. That is only one-eighth of all the honey producers in the country. You are talking about an elite few that get the subsidy. If we cannot eliminate a program that wastes taxpayers' money that only goes to 5,000 people, what can we eliminate?

The simple fact is that the wastefulness of this program has long been recognized. Governor Clinton has specifically outlined this program as one that he would eliminate as President, and so I find myself in the strange position of offering a portion of Governor Clinton's program before this Senate.

But, Mr. President, I think he deserves praise. I think he has been willing to step forward and identify a program that is wasteful and go on line in proposing its elimination. As a Republican, I have to say I praise him for that. I think it is a fine move. His campaign staff is quoted as saying this: "We wanted to show we were serious about going after spending." That is why Governor Clinton wants to do away with the program.

Let me suggest it is why this body ought to go after this program and eliminate it. If we want the American people to believe that we are serious at all about eliminating the deficit or even stopping it from increasing, we ought to eliminate this silly program. It is a savings of $23 million this year.

Some will say it is a sweet deal. It is a sweet deal for 5,000 honey producers. Depending on how you figure it, the number of honeybee keepers in this country runs from 40,000 to 140,000. That means that only one-eighth to as low as 4 percent of honey producers receive the subsidy. It is a subsidy for the elite in the honey category. But it is symbolic of the sickness that pervades this budget, of the irresponsibility and the waste that this Congress has to face up to.

Let us take a look at what the advocates of this program claim.

One, they claim that if we keep this program, we will reduce imports and somehow improve our balance of payments.

Let us take a look at the facts because the facts do not bear out that claim.

In 1988, we imported 55.9 million pounds of honey. Within 3 or 4 years of the program, imports have gone up, not down. We have gone up to 92.3 million in 1991. The program that would reduce imports has turned out to be a program that increased imports.

Some say that if we eliminate this subsidy program the bees will simply lose interest in flowers. But somehow nature's most wonderful bees, that transfer and pollinate our flowers and our fields, will somehow cease to operate. It is hard to imagine that this country got by without the program for centuries. It is hard to imagine that most countries in the world get by without programs of this subsidy. But the truth is they do, the truth is they can, and the truth is that bees will thankfully not lose interest in flowers or crops if we do not have a subsidy program.

Some have said that this is essential, essential if we are going to have beekeepers in this country. What they do not tell you is that from 87 percent to 96 percent of the beekeepers in this country do not get any benefits anyway. The truth is many Members are afraid the lobbyists are going to swarm on this Chamber and advocate one more special interest program. But I believe this country, I believe this Nation, is more important than simply one more special interest group. I believe it is more important for our children to have a future.

If we can set an example on beginning to eliminate wasteful programs, it will spread. That, Mr. President, is why I believe many people are concerned about this, not because of the honey.

They know that bees are going to be interested in flowers whether we eliminate the program or not. What they are afraid of is that this body will set an example of facing up to special interests. What they are afraid of is, if we examine this program and eliminate waste, that we are liable to do it in other areas.

Indeed, that is probably the significance of this amendment. It tests our resolution.

So, Mr. President, I offer to this Chamber a portion of Governor Clinton's campaign platform, a commitment to begin to end waste in this country, a commitment to end the honey program, and I urge its adoption and reserve the remainder of my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I yield 5 minutes to the distinguished Senator from South Dakota and, following his 5 minutes, I yield 5 minutes to the distinguished Senator from North Dakota, Senator CONRAD.

Mr. DASCHLE. Mr. President, it seems that virtually every year Congress returns to the issue of whether or not to continue the honey program.

Each year we hear the same arguments against the program. We hear that honey producers form a powerful special interest group that has Government in its back pocket. We are told that funds spent on the honey program are wasted money. And there is my particular favorite, that bees will continue to make honey without the encouragement of a Government program.

These arguments may have an appealing ring to them. However, under objective examination, they simply do not hold water. Rather, they reflect a lack of understanding of why the honey program is needed and what it contributes to the American economy.

VALUE OF THE PROGRAM

The beekeeping industry's significance to the rest of agriculture is often overlooked or even maligned. But the fact of the matter is that beekeeping is vital to American agriculture.

The U.S. Government has supported the price of honey since 1950 by providing market price stability to honey producers to encourage them to maintain sufficient honeybee populations to pollinate important agricultural crops.

I mentioned again and again, as I have in the past. This is a loan program, a loan program that is paid back to the Federal Government each and every year.

More than 140 cultivated crops either require or benefit from beep pollination, including millions of acres of fruits, vegetables, oilseeds, and legume seed crops. Pollination provided by honeybees has increased in importance to farmers in recent years as urbanization and other pressures on the environment have reduced the availability of other natural pollinators.

It is often pointed out that the United States is a net importer of honey. Yet, while we can import honey, we cannot import pollination. A vast majority of pollination is provided free to the public through the random movement of bees.

A study several years ago by Cornell University placed the value added to pollinated crops by the U.S. honeybee at $9.7 billion. This should be compared to the cost of the program that CBO estimates to be $11 million in fiscal year 1992, and is projected at $6 million in fiscal year 1993, not $23 million as was indicated earlier, but $6 million in the next fiscal year.

That is $9.7 billion for a $6 million investment by taxpayers, an investment paid in the form of loans, paid back by pollinators and by beekeepers alike. Let me repeat that figure—$9.7 billion.

The ratio of value added to Government cost is $9.7 billion to $10 million, roughly 1,000 to 1. The tax revenues generated by nearly $10 billion in value-added benefits would total roughly $2.5 billion alone. That is a benefit ratio of 250 to 1 for the Federal Treasury.

The value of the honeybees as pollinators far exceeds the value of the honey and beeswax they produce. However, for most beekeepers, the receipts from honey and beeswax sales far exceed the fees received for pollination services.

No one should be misled. If the loan program for honey is withdrawn or reduced, the supply of honeybee colonies will be jeopardized, and much of U.S. agriculture that depends on pollination will be hurt. Any decline in the number of honeybee colonies that may result from changes in the honey program will directly affect the number of honeybees available for pollination.

Of most concern will be pollination of those agricultural crops that require large concentrations of bees for a commercial crop. It is unlikely that the areas where these crops are grown contain a sufficient number of wild bees, other pollinating insects, or honeybees managed by local beekeepers to provide adequate pollination without the assistance of commercial beekeepers.

Some critics of the program rely on a General Accounting Office report which concluded that the program is not needed to ensure crop pollination. However, there were serious flaws in the rationale for discontinuing the loan program. For example, GAO looked only at the benefits of honeybees from pollinating crops for producers that provide cash rent and overlooked entirely indirect benefits to wildlife, home gardeners, environment, and other agricultural producers who do not pay rent for pollination.

The critics of the honey program conveniently ignore the fact that the program has undergone extensive revisions in the last two farm bills. In the 1985 farm bill, the loan rate for honey reduced at a rate of 5 percent a year. The 1990 farm bill froze the loan rate at 53.8 cents per pound, but lessened the benefits producers received by increasing the price at which they are able to redeem honey that is under the loan.

The result is that the cost of the program has dropped from $100 million in 1988 to a projected cost of $6 million in fiscal year 1993. That is a decline of 94 percent over the space of 5 years. Since 1985 the volume of stocks being held by the Commodity Credit Corporation has dropped from 103 million pounds to virtually zero at the present time.

DECLINE OF THE INDUSTRY

What we have left is a honey program that has been pared to its bare bones. The effect can be seen in the honey industry today. Despite the importance of bee colonies, the number has been declining. Since the peak in 1947 of 5.9 million, the number has dropped to a recent estimate of 3.2 million colonies, based on beekeepers with five or more colonies.

The decline in colonies is connected to the decline in the price of honey. Since 1981, the average price of honey has declined from a record 63.2 cents per pound to less than 50 cents per pound, largely due to the declining support price.

Meanwhile, the costs of honey production have been rising. Honey producers also are facing increasing competition from imports of honey from countries such as China. Even though the program has been cut to very low levels, it is still necessary to help cope with these and other threats.

In addition to dealing with massive cuts in the support program, honey producers are struggling with two mites that are devastating the industry, and no viable control measures are available at this time. To add to these problems, the Africanized, or so-called killer bees have arrived in southern Texas. As the industry deals with the economic impact of these threats, now is a poor time to make other changes that will threaten the industry's survival.

No one should underestimate the danger posed by the Africanized bee. The Africanized bee is generally not aggressive when foraging, but is extremely aggressive and unpredictable in the defense of the hive. Studies show that the Africanized bee reacts 10 times more severely than the European bee when its hive is threatened.

The costs to beekeepers to maintain nonaggressive colonies through breeding programs will be substantial. If there is not a viable honey industry, there will not be enough beekeepers available to provide a first line of defense to control the invasion of Africanized bees. As a result, the costs of managing the invasion by Federal, State, and local authorities without beekeepers will far exceed the cost of the loan program.

COUNTERARGUMENTS TO LIKELY CRITICISMS

Mr. President, it is claimed that the honey program benefits only a few beekeepers. That is probably true simply because of the fact that there are very few beekeepers left in the country. Everyone with an apple tree in their backyard is not operating a fruit orchard. Likewise, everyone with a bee colony is not a commercial beekeeper. The roughly 5,300 commercial beekeepers who participate in the honey board programs account for 99 percent of the honey produced in the United States.

It is also claimed that honey producers are receiving large payments. In fact, however, over half of the producers who participate in the program receive loans of less than $5,000.

It is also worth bearing in mind that the 1990 farm bill will reduce the maximum contract a producer can receive to $100,000 by 1995. Thus, the handful of larger producers in the country will realize limited loan availability from the program.

The bottom line is that the honey program will only cost the Federal Government $11 million in fiscal year 1992. In fiscal year 1993, the Congressional Budget Office estimates it will cost only $6 million. We are spending about $10 million on 5,000 honey producers that contribute over $9 billion in pollination benefits to the country.

Mr. President, the honey industry is not a special interest; it is simply an easy target. If my colleagues are serious about deficit reduction, they should find a program that wastes money rather than one that costs $6 million and generates $9 billion for the Nation's economy.

Mr. President, I know our time is limited. Let me just summarize by saying that this program is now down to $6 million. We generate a substantial benefit across the country in areas that go beyond agriculture with this meager investment. The ratio is 1,000 to 1, and people ought to recognize that prior to the time they vote against this very valuable program.

I yield the floor.

Mr. CONRAD. Mr. President, sometimes when we review actions, we say that it is all style and no substance. Mr. President, that is this amendment. It is all style and no substance.

We hear that this amendment to completely eliminate the honey program in this country is designed to do something about the Federal budget deficit. Let us get serious. Who is kidding who? I mean, this may be a good headline back home, but it in no way is serious at all about doing anything about the budget deficit.

Mr. President, we are talking about a program which, in total, is going to cost $6 million next year, and we have a $400 billion deficit. We have a $400 billion deficit, and we are talking about doing something serious about the Federal budget deficit by eliminating a program that, next year, is going to cost $6 million; a program, by the way, that as recently as 1986 cost $79 million?

Mr. President, show me any other Federal program that has been reduced by 90 percent in the last 6 years. Show me any other program that has made that contribution to deficit reduction. Show me one. This program has gone from $79 million to $6 million. And do you know where it is going to be in 2 years, according to the Congressional Budget Office? $2 million.

This is a brave assault on the Federal budget deficit here tonight. This is a courageous assault on adding $1.8 trillion to the national debt in the next 5 years. Let us get serious. This is not even worth talking about.

Mr. President, if we were serious, we would do something like the plan I offered the Budget Committee, which the occupant of the chair voted for, to reduce the deficit $500 billion over the next 5 years. Then we would be talking. There was the opportunity for the Senator from Colorado to do something serious about the Federal budget deficit. But when that tough vote was offered, the Senator ducked, as did most of the other members of the Budget Committee.

Instead, what we see offered is a program to reduce and eliminate a program of $6 million, that has come down from $79 million 6 years ago, and is going to $2 million 3 years from now. What is the cost?

Mr. President, the problem with this proposal is that it will cost more than it will save. The reason for that is very simple.

Mr. President, according to the studies that have been done, $10 billion in crops are benefited by the honey program. Some crops require honey bees for pollination. GAO says a conservative estimate is that 10 percent of the value of these crops, $1 billion, is due to honey bee pollination.

Mr. President, if ever there was a program with a payoff, this is it. To suggest this is doing something about the Federal budget deficit, frankly, is a mighty big stretch.

I yield the floor.

Mr. BROWN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes 56 seconds remaining.

Mr. BROWN. I yield 5 minutes to the distinguished Senator from Rhode Island.

Mr. CHAFEE. First, Mr. President, I am going to miss the Senator from North Dakota. I had an opportunity to watch him in action last week. I must say, sometimes the Senator from North Dakota equates volume with effectiveness. I am not sure that is always true. Certainly, I had a little trouble with his figures today.

Let us go back and review the bidding, if we might, on this program. This program, over the last 5 years, has averaged $56 million a year of the Federal budget. That is what it has cost.

You might say—as the Senator from North Dakota said—that is peanuts. But is was not peanuts to the Democratic Presidential candidate. He thought it was worthwhile. As a matter of fact, he listed it on his breakdown of savings: Defense cuts, intelligence cuts, line-item veto, power projects, streamline USDA subsidies for honey producers. It was not peanuts for the Presidential candidate, and I agree that it is not peanuts.

Indeed, Mr. President, the only way we are going to solve this budget deficit is that each step counts. There is no silver bullet. There is no way we are going to—bing—eliminate the deficit. We all know that. It is through a series of measures that we have to take.

Let us again look at what GAO says. I think we can rely on them as much as anybody. There are about, in the United States, 212,000 beekeepers. Do you know how many are in this honey program? Not 212,000, or 210,000, but 2,100—1 percent of all of the beekeepers.

I can understand the position of the Senators from South Dakota and North Dakota. Indeed, the American Honey Producers, and its president, Mr. Matt McVie, are located in Bruce, SD. I would be up here battling, too, for a hometown boy.

The galleries were full when we debated this in the past years. You are going to hear, Mr. President, all through the argument, that it is necessary to have bees to pollinate crops. That was the original justification for this program. It was to support crop pollinization.

But, Mr. President, beekeepers who provide pollination services, moving bees from farm to farm, are not involved in the honey support program.

As I mentioned, there are only 2,100 beekeepers involved in this. I admit, they are a vocal group. I suppose a lot come from South Dakota and North Dakota. They certainly make their views known.

But to suggest that all bees are going to disappear in the United States if we do not have this subsidy program is nonsense. And I am sure the 2 proponents of this legislation must recognize that, with 210,000 beekeepers, and this effects 2,100.

Mr. President, I just want to say that a little step counts. This is not going to solve the budget deficit. If we have something, as the distinguished Senator from North Dakota has, that is going to eliminate $500 billion, or some mammoth amount—I am not sure what he said; maybe $500 million—three cheers. Let us take a look at it.

Meanwhile, let us take this little step forward. It is something we can do. It is an unnecessary program. If there was ever a program that was restricted to a tiny group, this is it: 1 percent of all of the beekeepers in the United States of America.

Mr. President, I want to say that the Vice Presidential candidate on the Democratic ticket has supported this. I will say that it is a little bit back and forth. He was against the price supports in 1985. He was for them in 1990; he was against them later on in 1990, 3 days later. And on the last vote we had, he was for it. So it is a little hard to tell exactly where the Vice Presidential candidate stands.

Really, we are doing this, and sort of striking a little blow for Governor Clinton's program.

I hope our colleagues will support this amendment. I commend the distinguished Senator from Colorado for offering it.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. On behalf of the managers of the bill, I yield 5 minutes to the Senator from South Dakota [Mr. PRESSLER].

Mr. PRESSLER. Mr. President, does my good friend from Colorado not know about the birds and the bees? Does he not know the facts of life that we are dealing with about pollination?

The overall value of the domestic honey production exceeds $9 billion annually as a result of increased yields and higher quality crops achieved through pollination.

Mr. President, I am sure the distinguished Senator from Colorado has a backyard whose flowers prosper and bloom, and those flowers would not be blooming were it not for this program.

I am sure my friend from Colorado will perhaps rise to change his position shortly after my speech. But in any event, there are many other points I would like to make.

Last year an attempt to eliminate the honey price support was made and failed by a 57–38 vote. At that time opponents claimed the costs of the program to be $49 million. Mr. President, the most recent USDA estimate shows the program costing only $6 million. It appears there are going to be annual attempts to eliminate the honey price-support program. It also appears those wishing to eliminate the honey program have singled out this Nation's beekeepers to lead the charge in reducing the $365 billion budget deficit. From a cost-benefit analysis, eliminating the honey support program does not make economic sense.

Honey production is not only important to my State of South Dakota but to the Nation as well. South Dakota is the third largest honey-producing State in the Nation. Honey production is a $12.3 million industry in South Dakota. Nationwide, honey production is valued $105 million.

As I said earlier, eliminating the program is bad economic policy, and the entire Nation has an interest because of the pollination effect. More than 140 cultivated crops either require or are benefited by bee pollination, including millions of areas of fruits, vegetables, oil seeds, seed crops, and I am sure the garden of the Senator from Colorado.

Eliminating the honey program would result in a dramatic reduction in the number of U.S. beekeeping operations, and many of the benefits of pollination would be lost. Eliminating the honey price support program also would result in a significant increase in foreign imports.

The honey program is an integral and very inexpensive component of American agriculture. In an effort to save mere millions of dollars, the amendment would cost the economy billions of dollars in lost economic benefits, greatly increased foreign imports and wreak havoc on many rural communities in this country.

In addition, the Congressional Budget Office estimates the honey program will save $3 million in fiscal year 1996 and $2 million in fiscal 1997. Eliminating the program will wipe out those savings at a great cost to this Nation's beekeeping taxpayers. The beekeeper is good for America.

The arguments we hear today are the same arguments used in 1985 when needed reforms to the loan price support program were made. In 1985, the costs of the programs were excessive and rose to over $100 million in 1988. In the early 1980's excessive Government acquisition of honey occurred. In 1983, the Government acquired approximately one-half of the domestic honey produced. These problems have been fixed. We now have loan programs that maintain market stability, encourages the maintenance of bee population so vital for reasons I have already mentioned. The needed reforms in the 1985 farm bill restored order to the honey program, and that is reflected in the diminishing costs of the program.

Mr. President, in conclusion, the honey price support program is sound and is working as it was intended. The program has significantly reduced Government honey stocks, Government costs in storing honey, and maintained the competitiveness of the domestic honey in United States and foreign markets. I urge my colleagues, once again, to defeat the attempt to eliminate a proven cost-effective program.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, my good friend from South Dakota has referenced the birds and bees. His comment stings me to the quick. The last 10 years the figures indicate this program has cost the U.S. taxpayers $614 million to operate. Some dismiss it as not very significant, but to me $614 million in the last decade is pretty significant. It may be one of the most expensive sex education programs this Nation ever had.

Colorado is one of the leading States in honey production. It is something with which we are not unfamiliar. But let me assure the Members of this Chamber that no doubt bees will not lose interest in flowers, pollination will not end. This country survived through most of its history without the subsidy program, and it will do just fine in the future.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, how much time remains on this amendment in the order?

The PRESIDING OFFICER. The Senator from Colorado has 2 minutes remaining and the managers have 1½ minutes remaining.

Who yields time?

Mr. DASCHLE. If the managers will yield, I do not have any more requirement for time on our side.

Mr. COCHRAN. Could we just yield back all time on the amendment and proceed to the Harkin amendment?

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHAFEE. Mr. President, I make one comment.

Mr. BROWN. Mr. President, I yield 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the point has been made here that the cost of this program has come down. I think that is right. But I will say I can remember debates we had on this in 1985, and indeed the Vice President, the present Vice President, was one that used to present the amendments on this, and the very people who are opposed to our taking this step tonight are the ones who were opposed to our doing it in 1985. In other words, they have never recognized that the program was a wasteful one. So I get little confidence from their thought that what took place in the past was bad but what is going on now is good, because in those days they did not recognize that the program needed vast overhauling and should indeed be eliminated.

Mr. President, I hope that this body will support the amendment by the Senator from Colorado.

Mr. BROWN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, I yield to the Senator from South Dakota for a motion.

The PRESIDING OFFICER. The Chair will determine if the Senator from Colorado has requested the yeas and nays. Is there a sufficient second? There is not a sufficient second.

Who yields time?

Mr. BUMPERS. Mr. President, I yield to the Senator from South Dakota.

Mr. DASCHLE. On behalf of the Senator from North Dakota, I make a motion to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The sponsors still have time remaining on the amendment. The motion to table is premature.

Mr. BUMPERS. Does the Senator from Colorado yield back the time?

Mr. BROWN. I do.

The PRESIDING OFFICER. You have time remaining, 1 minute and 3 seconds.

Mr. BUMPERS. We yield back the remainder of our time.

Mr. CONRAD. Mr. President, I ask, before we go to the vote, to clarify the point last made on that side.

Mr. BUMPERS. Clarify what?

Mr. CONRAD. The point made on that side. Before people vote they ought to be reminded of the cost. They heard these large numbers. I would like just 30 seconds.

Mr. BUMPERS. Mr. President, I ask my time be granted back to me so I can yield 30 seconds to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we are not talking about $600 million. That is the past. We are talking about $6 million in fiscal year 1993, $67 million in 1994, $2 million in 1995.

I thank the Chair.

Mr. DASCHLE. Has all time been yielded back?

The PRESIDING OFFICER. All time has been yielded back.

Mr. BROWN addressed the Chair.

Mr. DASCHLE. On behalf of the Senator from North Dakota, I move to table and ask for the yeas and nays.

Mr. BROWN. Mr. President, I ask unanimous consent I may have 30 seconds to respond.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, only on a point of expenditure, the savings by this amendment for this year is $24 million. It takes out savings in the appropriations bill. The savings stated by Governor Clinton in his proposal is $20 million. I do believe it is significantly different than has been discussed.

Mr. BUMPERS. Now, Mr. President, all time has been used up, and I yield to my distinguished friend to again renew his motion to table.

Mr. DASCHLE. Mr. President, if that is the case, on behalf of the Senator from North Dakota, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized.

Mr. BUMPERS. Mr. President, if the Senator from Iowa will yield, there has been no request on this side for the yeas and nays. I have had none on this side. I hope after we vote on the three amendments, we can voice vote the bill. That is just a wish.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2781

(Purpose: To provide that no funds may be expended in excess of a certain limit on travel expenses for schedule C employees, noncareer appointees, and Executive Schedule officers, during a 2-month period)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2781.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 88, insert between lines 20 and 21, the following new section:

SEC. 731. No funds appropriated or made available under this Act, or any other Act, may be expended (with regard to the travel expenses of any employee in a position of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations, a noncareer appointee in the Senior Executive Service, or an officer serving in a position on the Executive Schedule, who receives pay from funds appropriated under this Act) during the period beginning on October 1, 1992 through November 4, 1992 in excess of the higher of—

(1) the amount of travel expenses incurred by the officer or employee serving in such position during the period beginning in October 1, 1991 through November 4, 1991;

(2) 10 percent of the amount of the travel expenses incurred by the officer or employee serving in such position during fiscal year 1992; or

(3) in the case of an officer or employee in a position which was established during fiscal year 1992, the median travel expenses of—

(A) in the case of a schedule C employee, all such schedule C employees in the executive branch of the Government during the period beginning on October 1, 1991 through November 4, 1991;

(B) in the case of a noncareer appointee in the Senior Executive Service (not otherwise covered under subparagraph (C)), all such non-career appointees in the executive branch of the Government during the period beginning on October 1, 1991 through November 4, 1991; and

(C) in the case of an officer in a position on the Executive Schedule, all officers in the same level of the Executive Schedule during the period beginning on October 1, 1991 through November 4, 1991.

Mr. HARKIN. Mr. President, how much time do I have on this amendment?

The PRESIDING OFFICER. Twenty minutes equally divided.

Mr. HARKIN. Mr. President, this is a very simple and very straightforward amendment. Basically, what it attempts to do is to reduce the use of very scarce Federal funds for political purposes.

Every election year, it is just like a swarm of locusts about to land. These political appointees, the executive branch schedule C appointees, executive officers, go around the country, usually in October, the month before the election, having all kinds of 30-second, 2-minute meetings, and then they go to political fundraisers.

I know you cannot stop it all, but what this amendment does is basically tries to limit that. I have no problem with political appointees going out and campaigning as allowed by law. That is fine. That is what they ought to do. There is nothing wrong with that. I just have a problem with them doing it at taxpayers' expense.

What this amendment basically does is two things: It limits for the month of October of this year, from October 1 through November 4—the day after the election—it limits the travel for schedule C and executive schedule political appointees paid under this bill. It limits their travel to what they did last year during that same period of time. No more. They can still travel, but let us look at what they did last year during that same period of time and no more travel than that.

Or, as an alternative, 10 percent of the amount of travel for that position for the last year. In other words, take 10 percent of all the travel they did during fiscal year 1992 and that is what they would be allowed to do during the month of October.

So, again, it is a very modest approach to this. I am not trying to ban all their travel. Not in any way. I am just saying, let us look at what they did last year and let us not have this mushroom effect that we have every October before an election, where, as I said, like a swarm of locusts they go about the land. If they want to swarm about the land, fine, just do not do it at taxpayers' expense.

So I would just say keep the travel at the same amount that they had last year. I think it is a very modest approach to try to nip in the bud future practices and to end some of the more egregious practices we have had in the past.

There was an article recently in the Washington Post about this recently. Again, I do not mean to take on the department and that person. Quite frankly, I happen to have a great deal of respect for Manny Lujan in the Interior Department. He is a long-time friend and former colleague of mine. I do not think he knew at all what was going on underneath him with regard to that travel. But you read that article, then you will see what I am trying to get at and that abusing taxpayer funds to go to these political events. As I said, we cannot stop it all, but at least we can try to put a lid on it. And that is what we try to do with this amendment. I ask unanimous consent that the article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

LUJAN AIDES' TRIP SET UP WITH POLITICS IN MIND

(By Dana Priest)

When Idaho Republican Party leaders were planning their spring fund-raisers several months ago, they decided that Interior Secretary Manuel Lujan Jr. would be a great draw in a state where the federal government owns 65 percent of the land.

Lujan agreed to attend events in Coeur D'Alene, but two weeks before the mid-May trip, as his staff was still trying to find some official business for him in the region, pressing matters in Washington forced Lujan to cancel. Two political appointees were told to stand in; they had only a week to line up some official work.

The administration and Cabinet members are fond of saying that government business always is the driving force behind "mixed" trips, not the other way around. "Mixed" trips—part political and part official—allow the Republican Party to split travel-related expenses with the taxpayers, who pay for the official portion.

The Republican National Committee (RNC) decides what percentage of a trip is political, prorates the total bill and reimburses the Treasury for its share. Vouchers for the Idaho excursion have not been processed by the RNC.

Besides the financial advantage to the party, the Idaho trip is an example of the powers of incumbency and the way it can be used in election season.

"The way this trip came about was an aberration," said Interior spokesman Steven Goldstein. "Trips are clearly set up with official business, and then, if there is additional time," an official will tend to political matters.

That is not what happened May 14-16 in Idaho.

"We picked the dates," said Idaho Republican Chairman Phil Batt. Goldstein said Lujan had decided to visit Idaho in May before the GOP invitation but had not set a specific date and did not have any particular business to conduct there.

A lot is at stake this year in Idaho politics. Republican Sen. Steve Symms is retiring, so that seat and one of two House seats are up for grabs. Rep. Larry LaRocco (D) is being challenged by Rachel Gilbert, who was a state senator for 10 years. With redistricting, Republicans "will have to work hard," said Batt, to keep their majority in the state House and to stay even with Democrats in the state Senate.

Bureau of Land Management Director Delos Cy Jamison and Bureau of Mines Director T S Ary had other things to do when they were diverted to Idaho. Ary was on vacation babysitting his grandson. Jamison was returning from business in Denver to follow a meeting of the Endangered Species Committee, which voted to allow limited timber cutting in the Pacific Northwest forests, home to the northern spotted owl.

The committee—or "God Squad"—meeting is what kept Lujan in Washington.

Jamison said he asked his executive assistant, Wendy Evans, to fly to Idaho and "monitor the situation" in Washington for him by telephone. Although the Hatch Act prohibits Evans from taking part in partisan political functions, she accompanied Jamison to the fund-raisers, he said Friday. "What was she supposed to do, stand outside the door?"

As Senate-confirmed presidential appointees, Lujan, Jamison and Ary are exempt from Hatch Act restrictions.

Jamison and Ary arrived in Coeur D'Alene on Thursday afternoon, May 14. Jamison ran into five members of a mining lobbying group at his hotel and held an impromptu meeting with them, which he said was official business.

In the evening, Jamison and Ary spent about four hours at two fundraisers—one a $10-a-place hot dog bash that drew 120 people; the other a $50-a-ticket cocktail party attended by about 50 supporters.

At the hot-dog bash Jamison berated LaRocco. "We're here to help Republicans any way we can, any time we can," he said, according to an article in the Coeur D'Alene Press. ". . . I'd sure like to work with someone other than LaRocco."

The next day, Jamison, Ary and Sen. Larry E. Craig (R), who had helped persuade Lujan to visit Idaho, were guests at a small breakfast of mostly timber and mining executives. The event raised about $7,000.

Ary said he met briefly with two people before the breakfast to discuss official matters.

The three men than attended the Hecla Mining Co.'s board of directors' meeting. Hecla's political action committee traditionally has donated to both political parties, according to Federal Election Commission records.

The meeting, which Interior spokesman Goldstein labeled as an official part of their trip, was arranged only several days before it occurred. "We didn't know [Friday] was the day for the annual meeting," said Sandra Patano, Craig's regional director, who helped arrange the meeting. "I called them and said, 'If you have people who can meet with' Ary and Jamison, they will be in town Friday." A Hecla spokeswoman confirmed that arrangement.

Batt said the GOP "helped facilitate" the Hecla visit, too. "We want to convince Hecla" that the company should support the Republican Party.

The board members, described by Jamison as "the elite of the mining industry," talked with the three men for about 30 minutes. One topic was "how could we try to do closer work with the [Environmental Protection Agency] and the other people who were really slapping the regulations on," said Ary.

Ary then met with management of a local newspaper, which was concerned about environmental regulations affecting it. He subsequently returned to Washington.

Jamison went to a fire center near Boise, where he rode in a new fire observation plane. Afterwards, he attended another fundraiser. On Saturday, Jamison spent several hours at the annual Boise Interagency Fire Center open house before returning to Washington.

Jamison's travel expenses were $1,868, and Evan's were $1,580. Ary has not yet calculated his bill.

Last week, Sen. David Pryor (D-Ark.), chairman of a Governmental Affairs subcommittee, asked the General Accounting Office to investigate the propriety of the trip. "None of the meetings involved pressing or even routinely schedule, official business," Pryor wrote in a letter to Comptroller General Charles A. Bowsher. "* * * Subterfuge was used as the basis for classifying the trip as a 'mixed' official and political trip."

"If the Hill was held to the same standard, there would be a lot of red faces up there," Jamison said. "I held out for a position [in government] that would not be under the Hatch Act. I wanted to be politically active—and probably will be sent home for it."

Mr. COCHRAN. Mr. President, on behalf of the managers, I yield myself such time as I may consume.

Mr. President, I was not aware of the content of this amendment until the Senator sent it to the desk. I have read the amendment and I am still not sure exactly what the practical impact of it would be if it were to be adopted.

It seems to me, there is an implied suggestion in the amendment that unauthorized travel is occurring on the part of the administration's schedule C employees or those in the senior executive service, and this amendment attempts to prohibit that or limit it and provide that there cannot be any travel at Government expense that is for political purposes. I guess that is what the practical suggestion is.

But by offering the amendment, if the Senate agreed to it, it would be tantamount to a finding that there was inappropriate travel occurring. I do not know that there is.

I understand that there is a Washington Post article, but I do not know that that is "the whole truth and nothing but the truth, so help you God," or rises to the level of sworn testimony before a hearing on which we could base a finding on a vote on this amendment.

But I have asked the staff to tell me what the legal consequences of agreeing to the amendment are and I am awaiting a response to that. We just had the amendment given to us, so I am not sure what we are going to suggest that the Senate do in response to it.

So while we are awaiting that, I am happy to yield the floor to others who might want to speak on the amendment.

Mr. BUMPERS. Mr. President, I do not care to speak on this amendment and I doubt that anybody else does.

I was going to make a suggestion and, if my distinguished colleague, Senator COCHRAN, agrees with it, I will convert it into a unanimous-consent request.

I would suggest that, while we are waiting for an answer on whether or not this is acceptable to the other side of the aisle, we proceed with the voting, and at such time as we dispose of the Bryan amendment and the Brown amendment, at that point the Chair could recognize the Senator from Mississippi to move to table or ask for the yeas and nays if he so chooses. Or we could accept the amendment. I am willing to accept it.

But that way, we could start voting. And I just ask the Senator from Mississippi if he has any objection to that method. Everybody understands the amendment. I do not think there is any reason to debate it.

Mr. COCHRAN. Mr. President, if the Senator would yield, I recall that we have told Senators that we expect the voting to begin, under the order that was previously entered, at about 9 o'clock. So I do not know that we are going to upset anybody's schedule if we do delay up to 5 minutes in order for us to determine what the response should be to the amendment of the Senator from Iowa.

So if it is OK, I would prefer we put in a quorum call until 9 o'clock.

Mr. BUMPERS. Mr. President, I further suggest to my colleague that we start the vote, but that we not terminate the vote prior to 9:15. At this point I ask unanimous consent that the vote on the Bryan amendment be a 15-minute rollcall vote, and that all votes thereafter be for 10 minutes.

Mr. COCHRAN. Mr. President, reserving the right to object, and I hope I am not required to object, it sounds like a very good idea to me. We are going to check to see if there is any objection on this side.

The PRESIDING OFFICER. There is a unanimous-consent request pending.

Mr. BUMPERS. Let me restate the unanimous-consent request once again. I ask unanimous consent that, once we begin voting on the motion to table the Bryan amendment, that there be a regular rollcall vote, as far as time is concerned, and that such votes as occur subsequent to that time be 10-minute rollcall votes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

The Chair hears none and it is so ordered.

Mr. COCHRAN. Mr. President, with respect to the other question the distinguished Senator from Arkansas raised a moment ago, we have no objection to proceeding to the first 15-minute rollcall vote at this time and then sequentially to have the other vote he just limited to 10 minutes. In the meantime, we will get a reaction to the Harkin amendment.

Mr. BUMPERS. Mr. President, certainly once we vote on the motion to table the Bryan amendment and the honey amendment and we get to Harkin, I am not even suggesting we yield back the remainder of our time. If it needs further debate, that is agreeable with me also. But at this time, there is a unanimous-consent agreement that we start immediately on the 15-minute rollcall vote.

Mr. HARKIN. If the chairman will withhold, might I inquire how much time do we have remaining.

The PRESIDING OFFICER. The Senator from Iowa has remaining 7 minutes and the Senator from Arkansas has remaining 4½ minutes.

VOTE ON AMENDMENT NO. 2778, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas [Mr. BUMPERS] to table the amendment of the Senator from Nevada [Mr. BRYAN]. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 74, nays 23, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—74

Adams
Baucus
Bentsen
Biden
Bond
Boren
Breaux
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Levin
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Riegle
Robb
Roth
Sanford
Sasser
Seymour
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—23

Akaka
Bingaman
Bradley
Brown
Bryan
Cohen
Dodd
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Reid
Rockefeller
Rudman
Sarbanes
Simon
Smith
Wirth

NOT VOTING—3

Burdick
Gore
Helms

So the motion to lay on the table the amendment (No. 2778) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2780

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Colorado. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—54

Adams
Akaka
Baucus
Bentsen
Bond
Boren
Breaux
Bumpers
Burns
Byrd
Cochran
Conrad
Craig
Cranston
Daschle
DeConcini
Dixon
Dole
Durenberger
Exon
Ford
Fowler
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kerrey
Kohl
Lott
Mack
Mikulski
Mitchell
Pressler
Pryor
Riegle
Rockefeller
Sanford
Sasser
Seymour
Shelby
Simon
Simpson
Stevens
Symms
Thurmond
Wallop
Wellstone
Wofford

NAYS—43

Biden
Bingaman
Bradley
Brown
Bryan
Chafee
Coats
Cohen
D'Amato
Danforth
Dodd
Domenici
Garn
Glenn
Gorton
Hatfield
Hollings
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lugar
McCain
McConnell
Metzenbaum
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Reid
Robb
Roth
Rudman
Sarbanes
Smith
Specter
Warner
Wirth

NOT VOTING—3

Burdick
Gore
Helms

So the motion to lay on the table the amendment (No. 2780) was agreed to.

AMENDMENT NO. 2781

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Iowa, on which time remains.

Mr. DOLE. How much time is remaining on this side?

The PRESIDING OFFICER. The Republican leader has 4 minutes, 32 seconds. There are 7 minutes remaining for the proponent.

Mr BUMPERS. Mr. President, I yield 4 minutes to Senator DOLE.

Mr. DOLE. Mr. President, I am told that the amendment offered by the Senator from Iowa [Mr. HARKIN] supposedly addressed itself to so-called abuses of travel by officials in the executive branch.

I am told that the amendment prohibits traveling to political events by these officials. Mr. President, there must be some mistake. I must have a copy of the wrong amendment. The amendment does not try to reduce spending by eliminating unnecessary travel or even political travel. It says that for a 35-day period no one covered individual may travel more than an amount determined by computing past or similar travel using three formulas. That 35-day period starts October 1, this year, which ends a day after election, this year, 1992—not 1994, not 1996, but 1992.

My colleagues in the West might be interested to know that at the height of the fire season, you might be restricting supervisors of fire fighters from traveling, unless the supervisor was already a high flyer. My colleagues from farming areas might want to know that if disaster strikes in the growing season, officials who would be assisting with the disaster assessments and ensuring prompt payments, may be prohibited from doing so. Officials from the USDA might not get to travel to trade negotiations to stick up for our farmers.

Senators from the cities might want to know that food safety and inspection officials might not be dispatched to immediately address outbreaks of disease.

Mr. President, there is no provision prohibiting types of travel as suggested by the author. There is no effort made to save money, to reduce the deficit, or bring a reasonable reform to Government travel. This amendment is no bull-in-the-China-shop approach either—it is more like a nuclear aircraft carrier than a China shop. It is wrongheaded, and it does not address the concern expressed by the Senator from Iowa, and it will likely cause substantially more damage than cure.

Mr. President, further, if we are going to start playing these petty political games, there will be no more time agreements. And I have a feeling, if this amendment passes, it is going to be offered to every bill. We will offer one on the legislative appropriations bill that says no congressional staff can travel for 35 days and no Senator can travel, at any expense, who is up for reelection for 35 days.

This is nothing but pure petty politics. It ought to be defeated by a vote of 99 to 1. Let the Senator from Iowa vote for his own amendment. If we are going to play these games, no more time agreements. This is pure politics. It is an insult to a lot of good people in the Federal Government, who, I think, work hard. They do not participate in politics, and they are there to serve the public, so take a shot at them because they might be Republicans. That is fine. We are ready to play the game.

I am going to move to table the amendment. If it is not tabled, there will be no more time agreements on anything until we straighten this out.

Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The sponsor still has 7 minutes.

Who yields time?

Mr. HARKIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The managers have 1 minute, 20 seconds. The Senator from Iowa has 7 minutes.

ADDITIONAL COSPONSOR

Mr. HARKIN. I ask unanimous consent to add Senator DECONCINI as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, first of all, to respond to the distinguished Republican leader, this only covers 1992, because that is all the appropriations bills cover. It would be October, the first month of the fiscal year. That is why it does not cover any other years.

Second, I also say this does not cover career employees who would be working on disaster assistance programs or things like this. They are fully allowed to go out and cover any kind of disaster they need to cover.

The minority leader notes exactly what this covers—the kind of abuse we just saw reported from the Department of the Interior, where every election year they are like swarms of locusts, and they go out about the land and do it on taxpayers' money. I have no problem with political appointees going out and campaigning as allowed by law. That is fine, but not on the taxpayer's nickel. For the month of October, any employee that is so covered, schedule C or executive schedule, political appointees, they can travel; but they just cannot do it any more than they did a year ago during the same period of time. That is all. We are just saying do not have this big mushroom effect where, all of a sudden, 1 month before the election, all they do is go out and campaign for officials.

This is a good-government amendment. It is modest. We are not saying stop all travel. We are saying do not do any more than what is normal and sort of accepted in practice. That means they can still go out and visit all of the things that the minority leader addressed himself to, but none of this stuff where we see this huge mushrooming of traveling around the country 1 month before the election at taxpayers' expense.

I direct your attention to this article that was in the Washington Post: "Travel Expenses Over $3,000 for Two Employees To Go Out and Campaign." That is what they did—a pure political practice. I think we ought to call an end to it. The taxpayers deserve a little better with their tax dollars.

Mr. DOLE. Why does this amendment not cover the committee staff in the Senate who have been going out for the last 30 days having little hearings and doing things out there for those who might be running in that particular area? Why did it not cover congressional staff? Why just executive?

You have a double standard here. That is the way it works. It seems to me that this amendment should not even be considered. If somebody is violating the law, why do you not file a complaint with the Justice Department and have them indicted or something, or get a special prosecutor. You are good at that on that side of the aisle. Maybe you can run down this guy that spent $3,000 and lock him up.

This is crazy stuff. If it is going to happen, we are going to include the committee staff and congressional staff, your office staff, and even Senators who are up for reelection.

The Senator is saying the schedule C people and people who are supposed to know the most cannot go out anywhere for 35 days. I say again that is an insult to a lot of good people who work for the Government. They happen to be schedule C. Maybe in this case they are Republicans. He could make this permanent law. It does not have to be restricted to 35 days. This happened to single out 1992.

It seems to me that if we want to start playing that game, if hardball season is here, then we are prepared to play hardball.

I will move to table the amendment. The Senator has not yielded back.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes and 45 seconds remaining.

Mr. HARKIN. I said congressional staff should not be traveling.

Mr. DOLE. Put it in here.

Mr. HARKIN. They should not be traveling any more than what travel they traveled last year. If they have to go out and travel, fine, but not any more than last year. There should not be a more mushrooming effect here than the second amendment.

Mr. DOLE. Why do you not offer an amendment—

The PRESIDING OFFICER. The Senator from Kansas is out of order.

The PRESIDING OFFICER. The Senator from Iowa retains the floor. The Senator from Iowa has 4 minutes remaining.

Mr. HARKIN. Mr. President, if someone wants to offer an amendment saying congressional staff should not travel more in October than they did last year, I would be the first to support that. That is not covered in this bill. This covers part of the executive branch. If they want to do that, fine. They should not be traveling. We should eliminate that kind of political campaign done at taxpayers' expense.

This is what this amendment seems to do. I did not think that onerous. It evidently must be to some people, but not to me. It is onerous to see people going out there and campaigning in October. They are doing it on taxpayers' dollars. That is what is onerous. I hope it passes. It is modest. It does not say they cannot do it anymore this year than last year.

Mr. DECONCINI. Mr. President, will the Senator yield for a question?

Mr. HARKIN. I yield for a question.

Mr. DECONCINI. Is the Senator aware that some of these political appointees of this administration traveled to the Democratic convention in New York to do a hit on Governor Clinton and it was paid for by the taxpayers? One of those was our esteemed drug czar, Governor Martinez. And there he is with 42 percent of his office political appointees, up there as a politician, not tending to the drug business but up there doing a political hit at the cost of the taxpayer. Would the Senator think that is a little bit out of line?

Mr. HARKIN. I was not aware of that. I think it out of line doing that in July. What is going to happen in October was what we are trying to amend to limit this practice. I know it has been going on a long time. It is time we end this long-time practice. If they want to use the Republican Party money or Democratic Party money, go out and do that, but not the taxpayers' money.

If no one else on my side of the aisle seeks time, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

Mr. DOLE. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the motion to table.

The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Iowa be permitted to address the Senate for 3 minutes, following which I be permitted to address the Senate for 3 minutes.

The PRESIDING OFFICER. Without objection, it is ordered.

The Senator from Iowa is recognized for 3 minutes.

Mr. HARKIN. Mr. President, after consultation with the majority leader and the majority whip, it would be my intention to ask unanimous consent to withdraw this amendment. I wanted to make it very clear, however, to the distinguished minority leader in his comments and to those who were here, that this is an appropriations bill only for the Department of Agriculture and related agencies and it does not cover anybody employed anywhere else. So the amendment only covered those employees of the Department of Agriculture and related agencies. It could not reach out to anyone else. It had to be germane to this bill and cover only this appropriations measure. That is why it covered those employees. I wanted to make that very clear.

Mr. President, I must admit being somewhat disturbed by the comments that were made by the distinguished minority leader. I have a great deal of respect for the Senator from Kansas and he knows that. But, quite frankly, what we heard tonight was a direct threat, a direct threat to this institution to shut it down.

We hear a lot of talk about gridlock. That is what Mr. Perot was campaigning about. That is what the American people are upset about: gridlock. We just heard the most blatant threat of gridlock, to close this place down, shut it down so we cannot operate if we move ahead with this amendment.

This amendment shuts down some of these blatant political abuses. It was a threat to really engage in gridlock here on the Senate floor. That is politics. That is politics. This amendment is not politics. This amendment is to stop political abuses or at least to try to temper them somewhat, to try to cut down on the political abuses. But the threat that we just heard to close this place down, to provide gridlock here on the Senate floor so that we cannot move ahead with anything, that is politics. That is what the American people are sick and tired of.

We are going to have this amendment again. We are going to have it again because it is in the right vein. It is what the American people want. They do not want their taxpayers' dollars used by political appointees going around campaigning around this country. And what they do not want is any more gridlock on the Senate floor either. I do not think we need any more threats of gridlock when people offer amendments. We ought to have a vote on it and vote it up or down; and if I lose, I lose; if I win, I win. But we ought to have that vote. But because of that threat, Mr. President, I am going to have to ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Iowa?

The Chair hearing none, without objection, the request is agreed to.

The amendment (No. 2781) was withdrawn.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I ask unanimous consent following my remarks the distinguished Republican leader be recognized to address the Senate for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President and Members of the Senate, it is obvious that there is significant disagreement on this amendment here this evening. But there is one thing on which there ought to be no disagreement and that is that taxpayers' money ought not to be used by public officials in whatever capacity to engage in political campaigning. The amendment seeks to address an abuse.

The suggestion was made by the Republican leader that the amendment ought to include employees of the legislative branch. I have asked the chairman of the Rules Committee, Senator FORD, to review the matter with his colleagues on both sides of the aisle and to draft legislation that would accomplish what I think we all share as a common objective. And that if there are abuses of the public trust, by persons in whatever capacity—executive, legislative or other—they ought to be stopped and we ought to have a way to do it that would be the subject of agreement among Senators and not disagreement. And I hope very much that that would be accomplished and we will be able to vote on that in the near future.

In the meantime, I thank the Senator from Iowa for his courtesy in withdrawing the amendment and permitting us to proceed.

There is one comment by the distinguished Republican leader with which I must express my disagreement, respectfully. We are friends and will continue to be.

The suggestion was made that this amendment was purely political and that it was the beginning of hardball. With all due respect, I will say that I have been majority leader 3½ years and I and many of our colleagues have voted on literally dozens of amendments that we regarded as purely political and serving no useful purpose. So I guess it is a matter of subjective judgment.

If it is a political amendment, it is surely not the first to be offered in the Senate and not the first this year, perhaps not even the first this month. So I do not think anything began here this evening. I think if we all made up a list of some of the amendments that have been offered and voted on in the Senate over the past 3½ years, we would find more than enough amendments that every single Senator could reach a conclusion were political in nature and were intended for no purpose other than to embarrass other Senators or to force them to vote.

One of the things I have tried to do as majority leader is to reduce the number of votes cast because it has been my conclusion that a large number of the votes we cast are extraneous to the legislative purpose and have, frankly, purely political purposes. And it is nothing new around here.

So I respectfully disagree, both in the characterization of this amendment and the suggestion that somehow if it is a politically inspired amendment, it is the first time it has happened or it is the beginning of something around here. Perhaps it will be the end of something around here which we could all applaud.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. I thank the majority leader and the Senator from Iowa for withdrawing this amendment. We spend a lot of time here trying to accommodate everybody. I think I have been accommodating over the years, spent a lot of time trying to put time agreements together, and maybe I was not alert earlier on to this amendment. I am not certain it applies just to agriculture. It says, "No funds appropriated under this or any other act may be expended." I do not know what "any other act" may mean, but it seemed to be a fairly broad amendment.

In any event, we have the Hatch Act. If there was a violation of the Hatch Act, it ought to be pursued and I think the majority leader—I would agree, let us direct somebody to take a look at it. If somebody is out there using taxpayers' money for political purposes, whether it is political staff or personal staff, or whether it is executive staff, then it should not happen.

But it seems to me that when this amendment was offered—it covers a 35-day period this year, between October 1 and November 5. It would not take a rocket scientist to figure out what the aim of the amendment is. And I am not a rocket scientist, but I figured it out after somebody explained it to me.

So it seemed to me to be fairly partisan.

We have had political votes here, yes. And I kept saying—I do not think we ever had one like this, but I will go back and search the record.

I did not threaten to close down the place. I did say there would be no more time agreements. That would not be closing it down, just slow it down a little, not close it down. So I make that clear.

I do not have any quarrel with the Senator from Iowa. We have both been "Presidents" of Iowa and got along fairly well over the years.

So, it is as far as we got, but it was worth it.

In any event, I will be happy to work with the majority leader, in any way he wishes, to try to expedite the business of the Senate. And I think this is a good result.

If the distinguished Senator from Kentucky comes up with a broad amendment that will cover everybody, then I think it will probably be accepted.

I yield back the floor.

USDA REIMBURSEMENT FOR SENIOR CITIZEN MEALS UNDER THE OLDER AMERICANS ACT

Mr. ADAMS. Mr. President, I would like to commend the Appropriations Committee for bringing a thoughtful fiscal year 1993 funding bill to the floor under very difficult financial circumstances. I would like to address, however, a matter of grave concern to me, USDA reimbursement for senior citizen meals.

Under the Older Americans Act [OAA], which we hope to complete reauthorization of shortly, the USDA provides reimbursement for each meal served by OAA programs. This per meal rate is essential to senior meals providers across the country. Unfortunately, the current rate of 56.76 cents per meal has been fixed since 1987, and must be increased to help offset increased costs for food, personnel, and so forth. Congregate and home-delivered meals providers are struggling to maintain services despite impressive efforts to raise funds from every source imaginable. In the absence of an increase in the USDA rate, however, meals providers will be forced to reduce the number of meals served and, in some cases, will close meal sites.

That is why the pending OAA reauthorization bill includes a much needed increase in reimbursement to 61 cents per meal for fiscal year 1992 and indexes the rate in future years. I was delighted that the committee provided for fiscal year 1992 $151.492 million to ensure reimbursement at the 61 cents per meal rate. Unfortunately, the USDA has refused to provide the increased rate in the current year because we have not yet reauthorized the OAA.

As chairman of the Subcommittee on Aging, I am very concerned about the impact of the level of appropriation provided for fiscal year 1993. I understand that the committee has provided a level of funding based on the USDA's prediction that 248 million meals will be served in fiscal year 1993, the same number of meals that the USDA claims will be served in fiscal year 1992. Furthermore, the USDA indicates that there will be a surplus in the fund that will allow for a higher per meal reimbursement as provided for in the pending OAA reauthorization bill.

Mr. President, I hope the USDA is correct, that there will be a surplus and that it will allow the reimbursement level that both the Senate and House have agreed to in the OAA reauthorization bill. But I don't think nutrition program managers will bank on that. And I don't think we can either. This is something that we must monitor closely in the coming months, not wait and see what happens at year's end.

I commend the distinguished Senators from Arkansas, Senator BUMPERS and Senator PRYOR, for expressing their serious concerns about this matter. I intend to work closely with both Senators BUMPERS and PRYOR to monitor this situation and, if it appears that adequate funds are not there to provide the authorized USDA per meal rate, to do all we can to seek additional funds specifically for this purpose. Older Americans especially low-income and minority seniors, who depend upon the meals served by this safety net program, deserve no less of a commitment from us.

Mr. DODD. Mr. President, on many occasions in this Chamber we have talked about the decline in the defense budget, and the impact of those defense cuts on working men and women across the country. Today, with the consideration of this appropriations bill, we now have a chance to do something about this very important problem.

I want to commend the chairman of the Subcommittee, Senator HOLLINGS, and the ranking minority member, Senator RUDMAN, for their foresight and initiative in putting together the economic conversion package contained in this bill. And I also want to commend Senator PRYOR for his work as chairman of the Conversion Task Force, which was behind many of the recommendations in this bill today.

Mr. President, the end of the cold war brings promise and hope to every generation of Americans. But for the loyal workers in our defense industries—the true veterans of the cold war—the short-term future is very dark indeed. It is a sad but unavoidable irony: that the very people who brought about the collapse of communism will suffer the most for their efforts.

Over the next 10 years, some 2.5 million people will be thrown out of work, their crime nothing more than a job well done. In Connecticut alone, 37,000 people will be out of a job by the year 1997. These people have done nothing wrong. They have not failed in their jobs. Rather, they have served their country loyally—and with great pride and honor.

And now we must take stock of our obligation to them.

Just last Friday, Mr. President, the Senate Armed Services Committee approved a defense authorization bill that earmarks $1.2 billion of conversion assistance. That bill lays the groundwork for the bill we are considering today, and I'd like to take this opportunity to highlight some of its provisions.

For workers and military veterans, the bill contains $50 million for assistance to displaced defense workers under title III of the Job Training Partnership Act, early retirement incentives for members of the armed services, and separation pay for reservists who are involuntarily separated.

For communities, the bill contains $20 million for planning grants for impacted communities through the Office of Economic Adjustment, $150 million for public works projects in impacted communities through the Economic Development Administration, and $58 million for school districts in impacted areas.

For companies, the bill contains $100 million for industry partnerships in critical dual-use technologies, $50 million for industry partnerships designed to enhance commercial-military integration, $100 million for industry partnerships designed to strengthen regional technology alliances, and $25 million to enhance defense advanced manufacturing technologies.

The bill also includes $100 million for State and local manufacturing extension programs, $30 million for manufacturing engineering education programs, and $200 million to support Federal, State, and local programs designed to enhance dual-use technology and strengthen small businesses.

That was a good start, Mr. President, in finding a solution to the problems created defense cuts. The bill before us today represents another important step forward.

To help defense industries and workers find new lines of commercial work, the bill sets aside $109 million of technology extension services through the National Institute of Standards and Technology, $80 million of public works projects through the Economic Development Administration, and $40 million of small business assistance through the Small Business Administration.

Each of these provisions, Mr. President, would be worthy of note on its own merits. The $109 million for technology assistance, for example, will allow defense-dependent regions like New London, CT, to compete for a Federal technology extension center. Such a center could provide small- and medium-sized businesses with access to the latest in off-the-shelf technology, allowing them to modernize and convert their product lines.

The $40 million in loan guarantee assistance will help small businesses obtain the capital they need to diversify their production. And it will provide additional assistance to help former defense workers start up their own businesses.

Taken together, this is a very strong package. The Senator from South Carolina and the Senator from New Hampshire should be proud of their work.

Many times before in this Chamber, I have joined with Senator PRYOR and other members of the Task Force on Conversion to talk about the issue of economic conversion. Today we are doing something—for America's defense industries, for America's local communities, and most important, for America's workers.

IN SUPPORT OF THE FIVE-STATE SWINE CONSORTIUM

Mr. DIXON. Mr. President, as we consider the fiscal year 1993 Agriculture and Rural Development Appropriations bill on the Senate floor today, I rise in support of the Five-State Swine Consortium.

The University of Illinois, Iowa State University, the University of Minnesota, the University of Nebraska, and South Dakota State University are all members of this consortium, which is managed through the Bioenvironmental Engineering Laboratory at the University of Illinois.

The purpose of this program is to help make the United States a more competitive force internationally in swine production, and assure a profitable future for our country.

Mr. President, the swine industry is a $10 billion business in the United States. More than 60 percent of this production is in the five States which make up the consortium—Illinois, Iowa, Minnesota, Nebraska, and South Dakota.

For our country to successfully compete in the world market we need to develop and improve our swine production and management systems. As it is now, the European markets are way ahead of the United States in funding research programs in this field and are rapidly improving their efficiency and profitability.

The Five-State Swine Consortium will allow the pork producers to develop production and management systems that will improve animal health, reduce the needs for antibiotics, protect air and water quality, safeguard operator health, and enhance economic efficiency.

This industry is crucial to America's rural economy and the Consortium will allow us to be viable in the international market. When our farmers suffer, we all suffer. When our farmers prosper, so does our country.

Specialists in agricultural engineering, animal sciences, agricultural engineering, and veterinary medicine will work together to determine how to improve swine production.

There are many factors involved in the pork industry and it is important to study how they relate to the overall picture. The Consortium will allow these experts to develop technologies and strategies that will provide a cleaner and healthier environment for pigs and the swine facility operators.

My home State of Illinois is a large pork producing State and I know firsthand how important the pig farmers are to our economy.

I urge the U.S. Department of Agriculture to support the Five State Swine Consortium in its mission to improve the United States swine production industry. It is important that the United States industry develop and adapt better technologies, allowing our own farmers to compete with their European counterparts.

Mr. BUMPERS. Mr. President, I recognize the importance of the pork industry in our country and support the Five-State Swine Consortium in its quest to strengthen the U.S. International Competitiveness.

Mr. DIXON. on behalf of my State of Illinois and the other pork producing States, I thank the distinguished Senator from Arkansas.

FREEMAN CENTER FOR INTERNATIONAL ECONOMIC STUDIES

Mr. DURENBERGER. Mr. President, I supported funding an agriculture program on North American economic integration in the fiscal year 1993 Agriculture, Rural Development, and related agencies appropriations bill. This program would be located at the Freeman Center for International Economic Studies at the University of Minnesota.

The subcommittee was unable to fund this important program. However, this program must still go forward. As the United States moves toward a North American free market with Mexico and Canada, our agricultural producers need to be able to fully take advantage of these markets. This project at the University of Minnesota would enable U.S. producers to target key agricultural sectors for maximum growth, production, and investment.

It is my hope that the distinguished Senator from Arkansas who is managing this bill would support this concept. By supporting this important project, the Appropriations Committee would be sending a strong signal to farmers that we are going to help them take advantage of the new North American markets.

Mr. BUMPERS. Mr. President, I support the Senator from Minnesota's concept for an Agriculture program on North American economic integration. This program would provide significant help to farmers who will need to understand how they can most effectively take advantage of these markets. This program is meritorious. Unfortunately it came to the committee late and the committee could not consider it this year. However, I assure the Senator that this project will be given the committee's full consideration next year.

The committee urges the Department of Agriculture to work with the Freeman Center for International Economic Studies at the University of Minnesota to help facilitate this project.

VISION 2000—FOOD ANIMAL PRODUCTION MEDICINE CONSORTIUM

Mr. DIXON. Mr. President, as we consider the fiscal year 1993 Senate Agriculture and Rural Development Appropriations bill, I rise to support a program of which the University of Illinois is a participant: the Vision 2000 Program, or the economically sound preharvest food safety proposal of the Food Animal Production Medicine Consortium.

The food supply in the United States is among the safest in the world. However, serious illness and death occur each year from food contamination. Consumer alarm is escalating over the dangerous contamination of meat and dairy products from microbes such as salmonella and campylorbacter, and from chemical contaminators including hormones, sulfa residues, and pesticides. Trade barriers are placed upon American meat products by foreign trading partners because of alleged food safety concerns.

If these problems are to be corrected, a comprehensive sequence of food safety research and education programs are essential. Although Federal inspection programs exist at the processing level, little attention is directed to livestock surveillance prior to leaving the farm, where nearly all bacterial hazards enter into the food chain and are spread. This program, Vision 2000, was developed to deal with food contamination before it begins.

The Food Animal Production Medicine Consortium was established by six land-grant universities: the University of Illinois, Kansas State University, Michigan State University, the University of California, the University of Florida, and the University of Nebraska. Comprised of interdisciplinary teams of scientists, the Consortium will investigate animal health problems and practices on the farm that lead to contamination. The program will focus on improved detection and correction systems, information extension to farmers, and veterinary training in the food safety field.

In the fiscal year 1993 budget proposal from the President, the Department of Agriculture is requesting $115 million under the Food Safety Initiative Program. The food safety inspection service and the Agriculture Research Service will use this funding to conduct research that parallels the studies to be explored by the consortium. I would like to urge consideration to provide funding of this consortium from within the Food Safety Initiative Program.

In closing, Senator BUMPERS, if we are to be thorough in reaching the highest food safety standards for our citizens, we must start on the farm. The Food Animal Production Medicine Consortium and the Vision 2000 Program provide the key component towards a comprehensive effort to maintain the safety of our food supply.

Mr. BUMPERS. Thank you for calling our attention to this important research project. I too agree that food safety is a concern among increasingly health-conscious Americans. I support the establishment of a program such as the Food Animal Production Medicine Consortium which will take steps to examine and address food hazards at the source.

PEANUT RESEARCH UNIT—STILLWATER, OK, AGRICULTURE RESEARCH SERVICE

Mr. NICKLES. Mr. President, I thank the managers of the bill, Senator BUMPERS and Senator COCHRAN, for allowing me to clarify for the record the funding status of the Agriculture Research Service's peanut research unit in Stillwater, OK.

As the Senator knows, in 1990 the ARS proposed terminating research activities at the Stillwater unit and transferring its budget to ARS facilities in Georgia. Senator BOREN and I worked to prevent this from happening, and I authored bill language on this measure last year to prohibit ARS from shutting down the Stillwater unit.

The fiscal year 1993 ARS budget for the Stillwater unit is $273,300. Because this funding level is insufficient to conduct the vital research needed by the entire Southwestern U.S. peanut industry, I requested that the committee provide a $257,700 increase in the Stillwater unit's budget. Unfortunately, the committee was unable to fund my request or any other member's request for additional ARS research program funding. Thus, the Stillwater unit will be forced to operate for another year with a less-than-sufficient budget. Although I am disappointed about this situation, I wanted to clarify for the Record that the committee's decision with regard to my request does not prejudice future consideration of funding increases for the Peanut Research Unit in Stillwater.

Mr. BUMPERS. I thank the Senator from Oklahoma for his comments with regard to the peanut research unit in Stillwater, OK. I would like to respond on behalf of the subcommittee chairman, Senator BURDICK. Although we regrettably were unable to provide his requested funding increase for this facility, we were likewise unable to provide funding increases for any other ARS research program in the country. The Stillwater unit is funded at the 1992 level, and the committee intends for ARS to utilize this funding to operate the Stillwater unit during fiscal year 1993.

Mr. COCHRAN. I, too, would like to thank the Senator from Oklahoma for his interest in this matter. The committee provided language in the report accompanying this bill which urges the ARS to expand research activities at Stillwater. As the Senator knows, our funding allocation did not allow us to fund new research initiatives this year. However, we are well aware of the benefits provided by the peanut research unit at Stillwater as we anticipate that they will continue to produce such benefits in fiscal year 1993.

CLINICAL PHARMACOLOGY TRAINING PROGRAM

Mr. DIXON. Mr. President, as we consider the fiscal year 1993 Senate Agriculture and Rural Development appropriations bill, I rise to support an amendment which will provide $1.9 million for the Clinical Pharmacology Training Program for the Food and Drug Administration.

More and more we are experiencing dangerous delays in new drug development and approval for treating diseases such as AIDS, breast and prostate cancer, hemophilia, and cystic fibrosis.

These delays are fueled by the shortage of medical personnel trained to conduct clinical drug trials.

Illinois is responding to this urgency with the creation of a unique technology transfer program, the Peoria medical research project. In conjunction with the University of Illinois College of Medicine, the consortium will accelerate drug development from the testing phase to the marketplace. The Clinical Pharmacology Training Program is the key component of the consortium which will provide this important training.

The Clinical Pharmacology Training Program is hailed by the National Technology Transfer Center in Wheeling, WV, as an important first—involving a Federal regulatory agency in a research and development consortium. The Food and Drug Administration has worked at great length to establish this project and fully supports the program.

Mr. President, thousands of lives are lost each day to AIDS and other diseases—lives that might have been prolonged if promising drugs were readily available rather than bogged down in bureaucracy. Safe and thorough testing and the swift introduction of these drugs into the marketplace are imperative if we are to make any acceptable inroads into fighting these diseases. The Clinical Pharmacology Training Program will solve this problem, and I urge my colleague's support of this amendment.

Mr. DODD. Mr. President, earlier today, the Senate considered a series of amendments offered by the distinguished Senator from Florida [Mr. GRAHAM], to freeze spending for various Commerce-State-Justice programs at fiscal year 1992 levels.

There is no doubt that we live in a world that has changed radically and fundamentally in the course of the past year. We should reexamine our spending priorities in light of those changes. We should bring resources home, and work on our problems here in America.

So, with that in mind, I supported freezing the budget for the Department of State. With the cold war now over, it simply does not make sense to keep increasing the budget for diplomats and foreign policy analysts. With the need diminished, the State Department should learn to make do with less.

But I could not support an across-the-board freeze on the Justice Department, because that Department must spearhead the war on crime. It must continue to channel needed resources to police departments across the country.

I also could not support an across-the-board freeze on the Commerce Department. We need a plan to pull our Nation out of the recession. We need to bolster the economic competitiveness of American businesses. And we need to help defense workers and defense companies adjust to reduced defense spending. The Commerce Department is the best agency to coordinate all of these missions, and it would be penny-wise and pound-foolish not to give it the resources it needs to carry out these responsibilities. For this reason, I opposed the Graham amendment to freeze Commerce Department funding.

SWEET POTATO WHITEFLY

Mr. SEYMOUR. Mr. President, I would like to engage Senator BUMPERS, acting chairman of the Agriculture Appropriations Subcommittee and Senator COCHRAN, the ranking minority member in a colloquy regarding funding for biological controls for the sweet potato whitefly. I would first like to thank Senator BUMPERS and Senator COCHRAN for their efforts to assist California producers who suffered crop losses last year due to this notorious pest.

In the fall of 1991 a resilient strain of the sweet potato whitefly infested California's Imperial and Riverside Counties. Due to lack of known effective pesticides or natural predators, the whitefly outbreak decimated fall crops. Crop losses alone reached $125 million, while related economic losses to local communities reached almost $170 million. More than 4,000 jobs were lost in California. On November 9, 1991, California Governor Pete Wilson declared a state of emergency for Imperial and Riverside Counties.

The whitefly is a serious threat not only to California, but to Mississippi, Arkansas, Texas, and Arizona. Unfortunately, the Senate Agriculture Appropriations Subcommittee has appropriated only $850,000 for biological control measures nationwide for this harmful pest. The House appropriated $3.5 million, which leaves this issue open to negotiations during conference.

The importance of controlling this pest is directly related to California's economy, not only in Riverside and Imperial Counties, but throughout the State. I ask Senator BUMPERS and Senator COCHRAN if they feel there will be an opportunity to increase APHIS funding for whitefly control efforts during the conference with the House?

Mr. BUMPERS. As Senator SEYMOUR has indicated, the sweet potato whitefly is a serious threat to numerous crops throughout the United States. The House did appropriate $3.5 million for control efforts, while the Senate appropriated $850,000. I note the subcommittee did allocate $1.4 million for whitefly research funding for the Agricultural Research Service. But, the Senator makes a good point, and we should look into increasing the Senate figure.

Mr. COCHRAN. I appreciate Senator SEYMOUR'S bringing this issue to our attention. Senator SEYMOUR has fought valiantly for the last year for funding for research and to control this pest. The Senator is correct, the whitefly is a serious threat to producers not only in California, but in Mississippi and Arkansas as well. I think that we should recognize the serious threat this pest poses, and consider doing whatever we can to increase APHIS whitefly appropriations during conference.

PEANUTS

Mr. FOWLER. It is my understanding that the former Soviet Republics are in need of a minimum of $50 million of peanuts and peanut products. It is their hope to put this nutritious product, not only on the shelves of their stores, but also in their feeding programs within the schools. It is also my understanding that the Senate Agriculture appropriations report contains language that supports this inclusion of peanuts and peanut products in the GSM credit program for the former Soviet Republics. Is that the understanding of the Senator from Arkansas?

Mr. BUMPERS. The Senator from Georgia is correct.

ELDERLY FEEDING PROGRAM

Mr. BUMPERS. Mr. President, I have long been an ardent supporter of the elderly feeding programs. The senior citizen centers serve congregate meals and meals-on-wheels to senior citizens across the country. I frequently visit the centers in my State, and I can tell you the benefits of the senior meals programs are tremendous. The benefits go beyond the nutritious meals seniors receive. For seniors who are homebound and receive meals-on-wheels, the regular contact with the person who delivers the meal can be an important part of the day, and the fellowship seniors enjoy while eating meals at the centers is an additional benefit of the program.

The senior citizen centers receive funding from the Department of Health and Human Services, appropriations for which are made by the Labor-HHS-Education Appropriations Subcommittee. In addition, the Agriculture Appropriations Subcommittee provides commodities, or cash in lieu of commodities, for the senior feeding programs. Some States elect to take all of their subsidy in cash and some States choose to receive a combination of cash and commodities. The reimbursement rate per meal is set by law, and the current rate is 56.76 cents per meal. The committee provided funding for the senior meals programs that is adequate to reimburse for 252 million meals in 1993. According to the USDA, this is an increase in the meals served from the 1992 level of 248 million.

Meals program administrators have justifiably complained that the per meal reimbursement rate has been frozen for the last 4 years, resulting in a decline in their purchasing power. This is a matter to be considered by the authorizing committee, not the appropriations committee. The authorizing committee has responded to this situation and has approved, as part of the reauthorization of the Older Americans Act, an increase in the reimbursement rate to 61 cents per meal. The Older Americans Act reauthorization is pending action by the full Senate.

If the reauthorization measure is approved, the current appropriation level will not allow for an increase in the number of meals served to senior citizens. According to the United States Department of Agriculture, the funding included in the bill will cover the same number of meals as served in 1992, 248 million.

The meals administrators dispute the USDA estimates. They admit that the number of meals is staying static or decreasing, but they say that is because the Older Americans funding, both commodities support and general operating support, is simply not keeping pace with inflation. They say the increased rate of reimbursement will allow them to make up years of lost ground and begin to meet the unmet needs of seniors.

I strongly support the increase in the reimbursement rate, and I would like to see an increase in the number of meals served to senior citizens. I am very troubled by reports that some feeding sites are being closed and some programs are reducing the number of meals they serve. If the reimbursement rate is increased and the demand for meal reimbursement increases, I will do everything I can as a member of the Appropriations Committee to secure supplemental appropriations for the program. I would be willing to press for greater appropriations now if I could make a clear case that the demand for senior meals, reimbursed at 61 cents per meal, will exceed the 248 million meals projected by the Department.

I want to alert the Senate to this potential problem and put them on notice that it may be necessary to look for additional funds for the senior meals program in fiscal year 1993.

Mr. PRYOR. Mr. President, included in the subcommittee's report is a $10 million decrease in the nutrition program for the elderly. This vital program authorized by titles III and VI of the Older Americans Act [OAA] provides commodities or cash in lieu of commodities used in preparing congregate and home-delivered meals for some of the most vulnerable of our elderly population. Currently, commodities or cash in lieu of commodities are distributed through State agencies to local meal sites at a specific per meal rate of 56.76 cents.

The current USDA commodity reimbursement level of 56.76 cents per meal was frozen in 1987, resulting in a decline in real purchasing power for title III nutrition providers in each of the last 4 years. This reduced funding comes at a time when the elderly population, particularly the 85 plus population, is growing rapidly and when there are disturbing reports that many senior nutrition programs are closing sites or reducing the number of meals that they serve. The $10 million decrease in this vital program will have a devastating impact on these programs, causing additional closing of sites and reduction in meals served.

The Department of Agriculture asserts that there is a surplus of funds available to make up for the decrease in funds. In the coming months, I will be evaluating this position to ensure that there will be sufficient funding to prevent further erosion of the nutrition programs for the elderly. If this surplus is not available, I will work closely with my good friends, Senator BUMPERS and Senator ADAMS, to find ways to maintain at least current service levels of this important program. Moreover, I will continue my efforts to work towards assuring the increased authorization levels incorporated in the pending OAA reauthorization legislation, which Senator ADAMS has authored.

FDA ENFORCEMENT

Mr. D'AMATO. Mr. President, I want to commend the managers of this bill for addressing, through report language, several matters of serious concern regarding the Food and Drug Administration. The first involves reports of certain inefficient and excessive enforcement actions by the agency, and the second deals with the continuing backlog at the agency of pending new and abbreviated new drug applications. I ask that the Senate language, echoing similar concerns expressed by the House Appropriations Committee, be inserted in the RECORD at this point.

> The Committee shares the concern of the House about reports of certain inefficient and excessive enforcement actions by the FDA, coupled with a continuing backlog of pending new and abbreviated new drug applications. In considering future requests for enforcement funding, the Committee intends to review FDA's efforts to eliminate the backlog and to achieve compliance with this statutory requirement for generic and brand-name drugs. The FDA is expected to apply its regulatory standards uniformly and consistently.

Mr. President, having called to the attention of my colleagues more than 9 months ago my concerns about apparently retaliatory treatment of a New York company at the hands of the FDA, I am pleased that managers of this bill have also expressed concerns about possibly inefficient and excessive use of the agency's enforcement powers. My concerns at that time centered around the agency's threatened shutdown of Barr Laboratories, a New York-based company and major producer of generic drugs that had testified before the House Energy and Commerce Committee in 1989 regarding unlawful actions by FDA staff and certain companies. As I stated at that time, I have no objections to FDA taking enforcement actions that are justified; in fact, I fully expect the agency to aggressively pursue those companies who violate the law. Nevertheless, I was, and continue to be, troubled by the appearance of retaliation in FDA's unusual effort to shut this company down entirely, rather than simply discontinuing those products about which the agency had raised concerns.

Mr. President, I understand that the case of Barr may be just one of several instances of apparently excessive enforcement activity on the part of FDA. I do not pretend to know the full extent of this problem, and I make no comment on the merits of any pending litigation involving Barr or any other company. However, I do know that any degree of inconsistency and inefficiency in FDA's use of enforcement resources—especially at a time when the agency has a significant backlog of pending new and abbreviated new drug applications—serves only to undermine the FDA's primary mission of ensuring that the American public has access to safe, effective, and affordable pharmaceutical products.

The public has a right to expect that FDA will be thorough and evenhanded in its inspection and enforcement of all drug manufacturers, whether generic or brand name; but when either the industry or the public perceive bureaucratic indulgence without demonstrable benefits, the entire enterprise of the FDA will crumble.

Again, I am pleased that the managers of the bill have noted concern about this situation. I fully share their expectation that the FDA apply its regulatory standards uniformly and consistently, and I intend to monitor the agency's actions closely to ensure that it does so.

Mr. LAUTENBERG. Mr. President, I want to highlight several items of importance to my State that are included in the Senate Agriculture appropriations bill for fiscal year 1993. I also want to extend my thanks to my distinguished colleagues, Senator BURDICK and Senator BUMPERS, for their efforts during a difficult time to prepare this bill.

RUTGERS PLANT BIOSCIENCE CENTER

At my request, the fiscal year 1993 Agriculture appropriations bill includes $3,044,000 for the construction of a Plant Bioscience Center at the Rutgers University Cook College of Agriculture. The Bioscience Center will provide a home for distinguished researchers in agricultural biotechnology and plant genetics. The 280,000 square foot Plant Bioscience Center proposal includes state-of-the-art laboratories, a research library, teaching classrooms and laboratories, and attached greenhouses.

Rutger's goal in developing this research complex is to integrate basic and applied research with extension activities to help ensure that agriculture in the Northeast remains profitable and environmentally sound. This center will be of great value to the agriculture and biotechnology communities in New Jersey and the Nation.

BLUEBERRY AND CRANBERRY RESEARCH

This bill also includes $260,000 for the Blueberry and Cranberry Research Center at the New Jersey Agricultural Experiment Station in Chatsworth, NJ. This center generates and disseminates research information directly applicable to the production of high-quality blueberries and cranberries and developes new disease resistant strains of fruit. In addition to the development of cultural techniques and procedures, breeding and genetics, the research of the center aims to minimize the use of pesticides in the culture of these two crops.

In my State, blueberries and cranberries are grown in the Pinelands Region, an area designated as a National Reserve in 1978 by Congress. The only agriculture permitted under law is the cultivation of indigenous species of blueberries and cranberries. The Pinelands Region sits atop the Mullica River watershed, which is considered the cleanest watershed on the East Coast. As a consequence, agricultural practices in this region must preserve the pristine nature of the watershed, yet provide an economic return to the farmers who depend on blueberries and cranberries for their livelihood.

In the past, funding secured by the Agriculture Appropriations Subcommittee has supported research on the development of disease resistant varieties of berries. Funds have also been used to develop new and safer pest control methods including integrated pest management. Research on the fate of pesticides in the bog environment is currently being undertaken to determine the movement of pesticides used in cranberry and blueberry culture. This research typifies the contribution made by the center to the production of blueberries and cranberries in the ecologically sensitive wetland areas where they are grown.

The State/Federal Research Program at the Research Center benefits not only the cranberry and blueberry industry in New Jersey, but also consumers of these berries across the country who enjoy improved varieties of cranberries and blueberries.

IR-4 RESEARCH PROJECT

Mr. President, finally, the fiscal year 1993 appropriations bill also includes

$3.5 million for the interregional research project No. 4 ["IR-4"] headquartered at Rutgers Cook College in New Jersey.

The producers of the numerous small acreage minor crops do not always have the benefit of the modern pest management strategies available to producers of major large acreage crops. The IR-4 program was established to assist farmers and nurserymen obtain data on the safety and effectiveness of pesticides needed for Federal registration.

These pesticides are used for the protection of so-called minor crops, which include most vegetables and fruits, as well as nursery and floral crops. Minor crops are the foods we eat everyday—vegetables, fruits and nuts. Nationally, minor crops comprise more than 40 percent of the value of all crops grown in the United States and approximately 70 percent of the value the crops grown in New Jersey. The IR-4 research activities promote new and safer pest control technologies for minor crops which ultimately mean safer foods produced with fewer pesticides.

IR-4 is a cooperative effort of the state agricultural experiment stations and the U.S. Department of Agriculture working in concert with the agricultural chemical companies and the Environmental Protection Agency to pursue registration of minor use pesticides through EPA. Without the data provided by this essential research, many currently labelled pesticide uses will be lost to farmers and nurserymen because the small volume of pesticides involved is not sufficient to justify the investment by pesticide manufacturers to obtain Federal registration.

The IR-4 research establishes the effectiveness of pesticides and their safety for crop use and determines the extent of residue levels, if any. The program ensures that information necessary for the registration of safe and effective pesticides is available.

Mr. DOMENICI. Mr. President, I rise in support of the Agriculture, rural development, and related agencies appropriations bill as reported by the Senate Appropriations Committee.

This bill provides $61 billion in new budget authority and $40.2 billion in new outlays for fiscal year 1993 for the programs of the Department of Agriculture, rural development, Food and Drug Administration, and related agencies.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill, as adjusted, totals $55 billion in budget authority and $45.8 billion in outlays.

I commend the distinguished subcommittee chairman and the ranking member for their support of $2.86 billion for the WIC Program, an increase of $260 million over 1992 levels.

I appreciate the subcommittee's support for a number of ongoing projects and programs important to my home State of New Mexico as it has worked to keep the bill within its allocation.

I urge the adoption of the bill.

Mr. BUMPERS. Mr. President, third reading.

The PRESIDING OFFICER. Under the previous order, the clerk will read the bill for the third time.

The amendments were ordered to be engrossed and the bill (H.R. 5487) was read the third time.

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 9, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—88

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—9

Brown
Bryan
Garn
Roth
Rudman
Smith
Symms
Wallop
Wirth

NOT VOTING—3

Burdick
Gore
Helms

So the bill (H.R. 5487), as amended, was passed.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I move that the Senate insist upon its amendments to H.R. 5487 and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. BRYAN] appointed Mr. BURDICK, Mr. BUMPERS, Mr. HARKIN, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. COCHRAN, Mr. KASTEN, Mr. SPECTER, Mr. NICKLES, Mr. BOND, and Mr. HATFIELD conferees on the part of the Senate.

Mr. BYRD. Mr. President, I commend Senator BUMPERS, a very able member of the Appropriations Committee, who, in the absence of Senator BURDICK, the chairman of the Agriculture Subcommittee, steered the fiscal year 1993 agriculture appropriations bill through subcommittee and full committee markup and has done a remarkable job in managing H.R. 5487 during Senate debate on the bill. The distinguished Senator from Arkansas has demonstrated that he is very knowledgeable as to the subject matter contained in the bill and he and the distinguished ranking member, Senator COCHRAN, deserve great credit for a job well done in managing this bill to successful Senate passage in 1 day.

Mr. BUMPERS. Mr. President, I would like to pay a special tribute and express my profound gratitude to my good friend, the distinguished ranking member, Senator COCHRAN, for his cooperation in getting this bill out of here today. He has done a splendid job.

I also want to thank the majority staff: Rocky Kuhn, Dan Dager, and Carole Geagley; and I also want to thank the minority staff: Irma Pearson, Mary Tenenbaum, and Christie Gibson; and two members of my personal staff: Galen Fountain and Elizabeth Goss, all of whom worked diligently to bring about the successful conclusion of this bill this evening.

Mr. COCHRAN. Mr. President, I have a special announcement to make in connection with the staff who helped so diligently in bringing this bill to the Senate and helping get it passed tonight.

Irma Pearson is celebrating a birthday today. This is quite a way to spend your birthday evening, on the floor of the Senate helping to deal with the issues as they arise. I commend her especially for her good work. I want to thank Rocky Kuhn, as well; and Mark Keenum, of my personal staff, who spent considerable time and effort in helping to deal with the issues and passage of this bill.

I also have to say that the distinguished Senator from Arkansas did an exceptionally fine job managing this bill. He is standing in, as you know, for the distinguished Senator from North

Dakota [Mr. BURDICK]. We appreciate very much the efforts Mr. BURDICK has made in the early stage of the hearings and bringing this bill to the point where Senator BUMPERS was able to manage its passage.

We thank him for all the courtesies and consideration he has given in connection with the handling of the bill.

Mr. BUMPERS. I thank my distinguished colleague for his warm praise and generous words, Mr. President.

MORNING BUSINESS

Mr. BUMPERS. Mr. President, I ask unanimous consent we be allowed to proceed with morning business, with Senators allowed to speak therein for such time as they desire.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISCAL YEAR 1993 COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL

Mr. BYRD. Mr. President, this bill, S. 3026, making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for fiscal year 1993, is the first of the regular fiscal year 1993 appropriation bills to be considered this year. In addition to the funds provided for these 3 departments and the judiciary, this bill provides necessary funding for 30 related agencies, including the U.S. Information Agency, the Arms Control and Disarmament Agency, the Board for International Broadcasting, and the Small Business Administration.

I commend Senator HOLLINGS, chairman of the subcommittee and Senator RUDMAN, the ranking minority member, for their painstaking and diligent efforts in managing this bill through committee and on the floor in such an expeditious manner.

Mr. President, this is the last appropriation bill the distinguished Senator from New Hampshire will help to manage on the Senate floor, and I want to take this opportunity to thank him for his outstanding service on the committee. I have always found him to be courageous, hardworking, courteous, open-minded, and evenhanded—a real joy to work with. This Senator, for one, will miss him.

With respect to the subcommittee 601(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings. Within the constraints of a very tight budget the committee recommends increases in funding for law enforcement and Federal correctional activities, as well as providing for such longstanding congressional priorities as economic development assistance, weather service modernization, small business, and juvenile justice and delinquency prevention programs.

Mr. President, I urge passage of this bill.

A TRIBUTE TO BOB ZIEL

Mr. SYMMS. Mr. President, recently, an Idaho journalist was honored with the Idaho Bar Association's Liberty Bell award as a man who has grown to epitomize true American spirit. He is a man who stuck to his ideals throughout his career and focused on fact and fairness in an industry which often lends itself to widespread dishonesty.

Bob Ziel has blessed the State of Idaho since his appearance in radio and television in 1975 with unbiased journalism. He has remained optimistic in democracy and in the fundamental basis of what the United States stands for.

Mr. Ziel was born in New York to European immigrants, both from German descent. He did his undergraduate work at Pace College and expanded his education at the U.S. Naval School of Photography and at the Brown Institute for Broadcasting.

He served 4 years in the U.S. Navy as a photographer for an amphibious assault carrier unit at the height of the Vietnam war. For his service, he received numerous awards including: The Naval Unit Citation, the Vietnam Service Medal, the Vietnam Campaign Medal, and the National Defense and Good Conduct Award.

In 1975, Mr. Ziel moved to Idaho after attending broadcast school in Florida. There, he worked at KIGO radio and KADQ radio before picking up as a reporter and assignment editor at KIDK-TV for 13 years. Currently, he is 1½ years into his news director job at KID-AM radio.

He has amassed several awards for his loyal service to the public and to broadcasting including the Associated Press Best Treatment of Subject award and recognition by the 4H Club, in addition to the Liberty Bell award.

Mr. Ziel resides currently in Rigby, ID, with his wife, Virginia Jean, and their three boys Paul, Aaron, and Brian. He maintains a strong commitment to his family and religion through an active role in the Church of Jesus Christ of Latter-Day Saints, specifically as a teacher of the Elder's Quorum.

Mr. President, I ask unanimous consent that this statement be entered in the RECORD as a tribute to a great journalist and a fair man. I wish him continued success and a prosperous future.

GAYS IN MILITARY

Mr. HARKIN. Mr. President, I rise today to speak about two groups of military officers.

The members of one group are accused of gross sexual impropriety.

One member of the other group was ranked consistently as one of the best Navy bombardier/navigators.

One group forced unsuspecting women—some of them fellow Navy officers—to run a gauntlet of lurid comments and fondling.

One of the other group had his picture hung under a sign that read "Top Gun," and has never been accused of behavior unbecoming an officer or of any impropriety.

One group is characterized by silence. No members of the first group—not one—has acknowledged who he is. This unwillingness to face the disciplinary action that is so clearly warranted is an unfortunate indication that these officers are not the kind we need in the U.S. Armed Forces. We do not need officers who degrade and abuse women. We do not need officers who do not behave themselves as gentlemen. And we sure do not need cowards who will not face the music.

One member of the other group is Lt. J.G. Tracy Thorne, who bravely came forward and acknowledged that he was not in compliance with Defense Department regulations—not because of anything he did, but because of who he is. Lieutenant Thorne is gay. And Lieutenant Thorne's exemplary record and ability make him exactly the kind of officer we need in the U.S. Armed Forces.

So guess which group is being thrown out of the Navy?

Mr. President, I proudly served as a Navy pilot. The day I won my wings is one of the proudest of my life. And I am proud to have served my country for 8 years, 8 months, and 8 days as a Navy pilot. But I am ashamed that the U.S. Navy has officers in the first group—those officers who participated in the activities in Las Vegas—and that it discharges officers like Lieutenant Thorne because of an outdated policy based on stereotype and prejudice.

Let me emphasize that I am not tarring all officers with the same brush. Most military officers have never engaged in the type of drunken assault on women that happened in the Las Vegas Hilton last September. However, I am concerned with the attitude that boys will be boys, and that the Tailhook incident may be a symptom of a much deeper problem within our Armed Forces.

Because I disagree with the administration's policy on gay men and lesbians in the armed services, I cosponsored Senator ADAMS' legislation calling on the President to overturn the ban. When I saw Lieutenant Thorne's appearance on "Nightline," discussing his sexual orientation and the military ban, I sent a letter to Secretary Cheney, asking him to place a moratorium on further discharges of gay service men and women. And today, I have joined as an original cosponsor of Senator METZENBAUM'S legislation to overturn the ban by law. This law would penalize people who commit sexual abuse, rather than punishing people because of their sexual orientation. Under this law, we would crack down on the men in the first group, and stop expelling the people in the second.

All of these efforts would be unnecessary if another former Navy pilot would recognize the unfairness of this outdated policy. That person is President George Bush. The President could overturn the ban with a stroke of his pen. Unfortunately, he is not willing to lead on this issue, as is the case on so many issues. His emphasis on family values, so called, has blinded him to the values of fairness, of decency, and of justice to Tracy Thorne, and to some 1,500 officers and enlisted personnel discharged each year for being gay. As it was when he opposed passage of the civil rights act last year, George Bush is not willing to step forward as a leader in favor of a change toward inclusion and fair treatment.

I know full well that neither of the bills I have cosponsored or the letter I sent to the Secretary of Defense will make any difference unless the President is willing to stand up for what is right—to come forward and forthrightly declare his support for fair treatment and inclusion for gay men and lesbians in our Armed Forces.

So I would ask the President of the United States: Is it not time to take a stand for a change?

REMOVAL OF INJUNCTION OF SECRECY

Mr. BUMPERS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty with the Russian Federation Concerning the Encouragement and Reciprocal Protection of Investment, Treaty Document No. 102-33, transmitted to the Senate today by the President; that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of The United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the Russian Federation Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and related exchanges of letters, signed at Washington on June 17, 1992. I transmit also, for the information of the Senate, the report of the Department of State with respect to this treaty.

This treaty creates a favorable legal framework for U.S. investment in Russia. By adopting the treaty's high standards for protection of U.S. investment, Russia seeks to encourage the U.S. private sector to invest in Russia. For the United States Government, the treaty serves the goals of aiding Russia's transition to a market economy and of strengthening our bilateral economic ties.

In addition, the treaty is fully consistent with U.S. policy toward international investment. A special tenet, reflected in this treaty, is that U.S. investment abroad and foreign investment in the United States should receive fair, equitable, and nondiscriminatory treatment. Under this treaty, the Parties also agree to international law standards for expropriation and expropriation compensation; free transfers of funds associated with investments; and the option of the investor to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this treaty as soon as possible, and give its advice and consent to ratification of the treaty, with protocol and related exchanges of letters, at an early date.

GEORGE BUSH.

THE WHITE HOUSE, *July 28, 1992.*

FAMILY AND MEDICAL LEAVE ACT OF 1991

Mr. BUMPERS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 5.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 5) entitled "An Act to grant employees family and temporary medical leave under certain circumstances, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Sec. 101. Definitions.
Sec. 102. Leave requirement.
Sec. 103. Certification.
Sec. 104. Employment and benefits protection.
Sec. 105. Prohibited acts.
Sec. 106. Investigative authority.
Sec. 107. Enforcement.
Sec. 108. Special rules concerning employees of local educational agencies.
Sec. 109. Notice.
Sec. 110. Regulations.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

Sec. 201. Leave requirement.

TITLE III—COMMISSION ON LEAVE

Sec. 301. Establishment.
Sec. 302. Duties.
Sec. 303. Membership.
Sec. 304. Compensation.
Sec. 305. Powers.
Sec. 306. Termination.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on other laws.
Sec. 402. Effect on existing employment benefits.
Sec. 403. Encouragement of more generous leave policies.
Sec. 404. Regulations.
Sec. 405. Effective dates.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

Sec. 501. Coverage of the Senate.
Sec. 502. Leave for certain congressional employees.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing and the care of family members who have serious health conditions;

(3) the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (3) and (1) respectively, of section 120 of the Labor

Management Relations Act, 1947 (29 U.S.C. 142 (3) and (1)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means any "employee", as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is sought under section 102; and

(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

(B) EXCLUSIONS.—The term "eligible employee" does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees or if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(C) DETERMINATION.—For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.

(3) EMPLOY, STATE.—The terms "employ" and "State" have the same meanings given such terms in subsections (g) and (c), respectively, of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (g) and (c)).

(4) EMPLOYEE.—The term "employee" means any individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer; and

(iii) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(B) PUBLIC AGENCY.—For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(6) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(7) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) a doctor of medicine or osteopathy that is legally authorized to practice medicine or surgery by the State in which the doctor performs such function or action; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(8) PARENT.—The term "parent" means the biological parent of the child or an individual who stood in loco parentis to a child when the child was a son or daughter.

(9) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(10) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(11) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(12) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment by a health care provider.

(13) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Subject to section 103, an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period—

(A) because of the birth of a son or daughter of the employee and in order to care for such son or daughter;

(B) because of the placement of a son or daughter with the employee for adoption or foster care;

(C) in order to care for a son, daughter, spouse, or parent of the employee who has a serious health condition; or

(D) because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under subparagraphs (A) and (B) of paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—

(A) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 103(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

(B) ALTERNATIVE POSITION.—If an employee seeks intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which such employee is entitled under subsection (a).

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

(2) SUBSTITUTION OF PAID LEAVE.—

(A) IN GENERAL.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), or (C) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection.

(B) SERIOUS HEALTH CONDITION.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C) or (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or adoption, the eligible employee shall provide the employer with not less than 30 days notice of the intention to take leave under such subparagraph, subject to the actual date of the birth or adoption for which the leave is to be taken.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee; and

(B) shall provide the employer with not less than 30 days notice of the intention to take leave under such subparagraph, subject to the actual date of the treatment for which the leave is to be taken.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 103. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a claim for leave under subparagraph (C) or (D) of section 102(a)(1) be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Certification provided under subsection (a) shall be sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4)(A) for purposes of leave under section 102(a)(1)(C), a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 102(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 102(a)(1), the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) for such leave.

(2) LIMITATION.—A health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the opinion in the original certification provided under subsection (a), the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any eligible employee who takes leave under section 102 for the intended purpose of the leave shall be entitled, on return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under section 102 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS.—Nothing in this section shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) CERTIFICATION.—As a condition of restoration under paragraph (1), the employer may have a uniformly applied practice or policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of employees taking leave under section 102(a)(1)(D).

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 102 to periodically report to the employer on the status and intention of the employee to return to work.

(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(1) DENIAL OF RESTORATION.—An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(B) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) AFFECTED EMPLOYEES.—An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) MAINTENANCE OF HEALTH BENEFITS.—

(1) COVERAGE.—Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

(2) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 102 if—

(A) the employee fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired; and

(B) the employee fails to return to work for a reason other than—

(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 102(a)(1); or

(ii) other circumstances beyond the control of the employee.

(3) CERTIFICATION.—

(A) ISSUANCE.—An employer may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in paragraph (2)(B)(i) be supported by—

(i) a certification issued by the health care provider of the eligible employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(D); or

(ii) a certification issued by the health care provider of the son, daughter, spouse, or parent of the employee in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(C).

(B) COPY.—The employee shall provide, in a timely manner, a copy of such certification to the employer.

(C) SUFFICIENCY OF CERTIFICATION.—

(i) LEAVE DUE TO SERIOUS HEALTH CONDITION OF EMPLOYEE.—The certification described in subparagraph (A)(i) shall be sufficient if the certification states that a serious health condition prevented the employee from being able to perform the functions of the position of the employee on the date that the leave of the employee expired.

(ii) LEAVE DUE TO SERIOUS HEALTH CONDITION OF FAMILY MEMBER.—The certification described in subparagraph (A)(ii) shall be sufficient if the certification states that the employee is needed to care for the son, daughter, spouse, or parent who has a serious health condition on the date that the leave of the employee expired.

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 107(b).

(d) SUBPOENA POWERS.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 107. ENFORCEMENT.

(a) CIVIL ACTION BY EMPLOYEES.—

(1) LIABILITY.—Any employer who violates section 105 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 105 proves to the satisfaction of the court that the act or omission which violated section

105 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 105, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including, without limitation, employment, reinstatement, and promotion.

(2) STANDING.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) LIMITATIONS.—The right provided by paragraph (1) to bring an action by or on behalf of any employee shall terminate, unless such action is dismissed without prejudice on motion of the Secretary, on—

(A) the filing of a complaint by the Secretary of Labor in an action under subsection (d) in which—

(i) restraint is sought of any further delay in the payment of the damages described in paragraph (1)(A) to such employee by an employer liable under paragraph (1) for the damages; or

(ii) equitable relief is sought as a result of alleged violations of section 105; or

(B) the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1).

(b) ACTION BY THE SECRETARY.—

(1) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover on behalf of an eligible employee the damages described in subsection (a)(1)(A).

(3) SUMS RECOVERED.—Any sums recovered by the Secretary on behalf of an employee pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to any employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an action may be brought under subsection (a) or (b) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of section 105, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(3) COMMENCEMENT.—In determining when an action is commenced by the Secretary under subsection (b) for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(d) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, over an action brought by the Secretary to restrain violations of section 105, including actions to restrain the withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees.

SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this Act shall apply to—

(A) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and

(B) any private elementary and secondary school and an eligible employee of the school.

(2) DEFINITIONS.—For purposes of the application described in paragraph (1):

(A) ELIGIBLE EMPLOYEE.—The term "eligible employee" means an eligible employee of an agency or school described in paragraph (1); and

(B) EMPLOYER.—The term "employer" means an agency or school described in paragraph (1).

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary and secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this Act.

(c) INTERMITTENT LEAVE FOR INSTRUCTIONAL EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school seeks to take leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(2) APPLICATION.—The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 102(e)(2).

(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:

(1) LEAVE MORE THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under paragraph (A), (B), or (C) of section 102(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 104(a)(1)(B) (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary and secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary and secondary school that has violated title I proves to the satisfaction of the administrative law judge or the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of such title, such judge or court may, in the discretion of the judge or court, reduce the amount of the liability provided for under section 107(a)(1)(A) to the amount and interest determined under clauses (i) and (ii), respecitvely, of such section.

SEC. 109. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filling of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed $100 for each separate offense.

SEC. 110. REGULATIONS.

Not later than 60 days after the date of enactment of this title, the Secretary shall prescribe such regulations as are necessary to carry out this title.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

(1) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"§6381. Definitions.

"For the purpose of this subchapter—

"(1) the term 'employee' means—

"(A) an employee as defined by section 6301(2) (excluding an individual employed by the Government of the District of Columbia); and

"(B) an individual described in clause (v) or (ix) of such section;

who has been employed for at least 12 months on other than a temporary or intermittent basis;

"(2) the term 'health care provider' means—

"(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; and

"(B) any other person determined by the Director of the Office of Personnel Management to be capable of providing health care services;

"(3) the term 'parent' means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability;

"(4) the term 'reduced leave schedule' means leave that reduces the usual number of hours per workweek, or hours per workday, of an employee;

"(5) the term 'serious health condition' means a disabling illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment by a health care provider; and

"(6) the term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§6382. Leave requirement

"(a)(1) An employee shall be entitled, subject to section 6383, to a total of 12 administrative workweeks of leave during any 12-month period—

"(A) because of the birth of a son or daughter of the employee and in order to care for such son or daughter;

"(B) because of the placement of a son or daughter with the employee for adoption or foster care;

"(C) in order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition; or

"(D) because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

"(2) The entitlement to leave under subparagraph (A) or (B) of paragraph (1) based on the birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3)(A) Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employing agency of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 6383(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

"(B) If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employing agency may require such employee to transfer temporarily to an available alternative position offered by the employing agency for which the employee is qualified and that—

"(i) has equivalent pay and benefits; and

"(ii) better accommodates recurring periods of leave than the regular position of the employee.

"(b) On agreement between the employing agency and the employee, leave under subsection (a) may be taken on a reduced leave schedule. In the case of an employee on a reduced leave schedule, any hours of leave taken by such employee under such schedule shall be subtracted from the total amount of leave remaining available to such employee under subsection (a), for purposes of the 12-month period involved, on an hour-for-hour basis.

"(c) Except as provided in subsection (d), leave granted under subsection (a) shall be leave without pay.

"(d) An employee may elect to substitute for leave under subparagraph (A), (B), (C), or (D) of subsection (a)(1) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subparagraph, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave.

"(e)(1) In any case in which the necessity for leave under subparagraph (A) and (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or adoption requires a change in the date the leave is to begin and makes the notice less than 30 days, the employee shall provide such notice as is practicable.

"(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on any planned medical treatment, the employee—

"(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee; and

"(B) shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires a change in the date the leave is to begin and makes the notice less than 30 days, the employee shall provide such notice as is practicable.

"§6383. Certification

"(a) An employing agency may require that a request for leave under subparagraph (C) or (D) of section 6382(a)(1) be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employing agency.

"(b) A certification provided under subsection (a) shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

"(4)(A) for purposes of leave under section 6382(a)(1)(C), a statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and

"(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the employee's position; and

"(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave.

"(2) Any health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require, at the expense of the agency, that the employee obtain subsequent recertifications on a reasonable basis.

"§6384. Employment and benefits protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

"(1) to be restored by the employing agency to the position held by the employee when the leave commenced; or

"(2) to be restored to a position with equivalent benefits, pay, status, and other terms and conditions of employment.

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Except as otherwise provided by or under law, nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any seniority or employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(d) As a condition to restoration under subsection (a), the employing agency may have a uniformly applied practice or policy that requires each employee to receive certification from the health care provider, of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

"§6385. Prohibition of coercion

"(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who I placed in a leave-without-pay status under section 6382 may elect to continue the health benefits enrollment of the

employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

"§6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Family and Medical Leave Act of 1991.".

(2) TABLE OF CONTENTS.—The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Certification.
"6384. Employment and benefits protection.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C); and

(2) by adding to the end thereof the following new subparagraph:

"(E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (hereinafter referred to in this title as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave;

(B) the potential costs, benefits, and impact on productivity of such policies on employers; and

(C) alternative and equivalent State enforcement of this Act with respect to employees described in section 108(a); and

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report concerning the subjects listed in paragraph (1).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:

(A) SENATORS.—One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority leader of the Senate.

(B) MEMBERS OF HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two Members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the Majority Leader of the Senate;

(III) the Minority Leader of the House of Representatives; and

(IV) the Minority Leader of the Senate.

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission. Any appointment shall not interrupt or otherwise affect the civil service status or privileges of the employee appointed.

(e) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(g) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTI-DISCRIMINATION LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) STATE AND LOCAL LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State and local law that provides greater employee leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family and medical leave rights to employees than the rights provided under this Act or any amendment made by this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act or any amendment made by this Act shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. REGULATIONS.

The Secretary of Labor shall prescribe such regulations as are necessary to carry out sections 401 through 403 not later than 60 days after the date of the enactment of this Act.

SEC. 405. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, V and this title shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date that occurs 12 months after the date of the enactment of this Act.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

SEC. 501. COVERAGE OF THE SENATE.

(a) COVERAGE.—

(1) APPLICATION.—The rights and protections established under sections 101 through 105 shall apply with respect to a Senate employee and an employing authority of the Senate.

(2) DEFINITIONS.—For purposes of the application described in paragraph (1)—

(A) the term "eligible employee" means a Senate employee; and

(B) the term "employer" means an employing authority of the Senate.

(b) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to sections 101 through 105, shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(c) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Sen-

ate employees are informed of their rights under sections 101 through 105.

(d) Applicable Remedies.—When assigning remedies to individuals found to have a valid claim under sections 101 through 105, the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by such sections. Such remedies shall apply exclusively.

(e) Exercise of Rulemaking Power.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in subsection (a) shall be within the exclusive jurisdiction of the United States Senate. The provisions of subsections (b), (c), and (d) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

SEC. 502. LEAVE FOR CERTAIN CONGRESSIONAL EMPLOYEES.

(a) In General.—The rights and protections under sections 102 through 105 (other than section 104(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.

(b) Administration.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(c) Definition.—As used in this section, the term "Fair Employment Practices Resolution" means the resolution in rule LI of the Rules of the House of Representatives.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer [Mr. BRYAN] appointed Mr. KENNEDY, Mr. METZENBAUM, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. HATCH, Mrs. KASSEBAUM, and Mr. COATS conferees on the part of the Senate.

WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

Mr. BUMPERS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1671.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1671) entitled "An Act to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, New Mexico, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Waste Isolation Pilot Plant Land Withdrawal Act".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Land withdrawal and reservation for WIPP.
Sec. 4. Establishment of management responsibilities.
Sec. 5. Plan for test phase activities; retrieval.
Sec. 6. Test phase activities.
Sec. 7. Disposal operations.
Sec. 8. Issuance of Environmental Protection Agency disposal standards.
Sec. 9. Compliance with environmental standards.
Sec. 10. Ban on high-level radioactive waste and spent nuclear fuel.
Sec. 11. Decommissioning of WIPP.
Sec. 12. Solid Waste Disposal Act; Clean Air Act.
Sec. 13. Economic assistance and miscellaneous payments.
Sec. 14. Transportation.
Sec. 15. Environmental evaluation group.
Sec. 16. Authorizations of appropriations.
Sec. 17. Buy American requirements.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Agreement.—The term "Agreement" means the July 1, 1981, Agreement for Consultation and Cooperation, as amended by the November 30, 1984 "First Modification" the August 4, 1987 "Second modification", and the March 18, 1988 "Third modification", or as it may be amended after the date of enactment of this Act, between the State of New Mexico and the United States Department of Energy as authorized by section 213(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96–164; 93 Stat. 1259, 1265).

(3) Contact-handled transuranic radioactive waste.—The term "contact-handled transuranic radioactive waste" means transuranic radioactive waste with a surface dose rate not greater than 200 millirem per hour.

(4) Decommissioning phase.—The term "decommissioning phase" means the period of time beginning with the end of the operations phase and ending when all shafts at the WIPP repository have been back-filled and sealed.

(5) Disposal.—The term "disposal" means permanent isolation of transuranic radioactive waste from the accessible environment with no intent of recovery, whether or not such isolation permits the recovery of such waste.

(6) Disposal standards.—The term "disposal standards" means the environmental standards for the disposal of spent nuclear fuel, high-level radioactive waste, and transuranic radioactive waste to be issued by the Administrator pursuant to section 8.

(7) EEG.—The term "EEG" means the Environmental Evaluation Group for the Waste Isolation Pilot Plant referred to in section 1433 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1918, 2073).

(8) Engineered barriers.—The term "engineered barriers" means backfill, room seals, panel seals, and any other manmade barrier components of the disposal system.

(9) High-level radioactive waste.—The term "high-level radioactive waste" has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

(10) Operations phase.—The term "operations phase" means the period of time, during which transuranic radioactive waste is disposed of at WIPP, beginning with the initial emplacement of transuranic radioactive waste underground for disposal and ending when the last container of transuranic radioactive waste, as determined by the Secretary, is emplaced underground for disposal.

(11) Remote-handled transuranic radioactive waste.—The term "remote-handled transuranic radioactive waste" means transuranic radioactive waste with a surface dose rate of 200 millirem per hour or greater.

(12) Retrieval.—The term "retrieval" means the removal of transuranic radioactive waste and the container in which it has been retained and any material contaminated by such waste from the underground repository at WIPP.

(13) Secretary.—The term "Secretary", unless otherwise specified, means the Secretary of Energy.

(14) Spent nuclear fuel.—The term "spent nuclear fuel" has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

(15) Test phase.—The term "test phase" means the period of time, during which test phase activities are conducted, beginning with the initial receipt of transuranic radioactive waste at WIPP and ending when the earliest of the following events occurs:

(A) The conditions described in section 7(b) are met.

(B) The Administrator certifies under section 9(c)(1)(B) that the WIPP facility will not comply with the disposal standards.

(C) The time period described in section 6(c)(5) expires.

(16) Test phase activities.—The term "test phase activities" means the testing and experimentation activities that the Secretary determines to be necessary to determine the suitability of WIPP as a repository for the permanent isolation of transuranic radioactive waste.

(17) Test phase plan.—The term "test phase plan" means the Department of Energy WIPP Test Phase Plan: Performance Assessment, dated April 1, 1990, and any revisions to such plan, approved by the Administrator under section 5.

(18) Transuranic radioactive waste.—The term "transuranic radioactive waste" means waste containing more than 100 nanocuries of alpha-emitting transuranic isotopes per gram of waste, with half-lives greater than 20 years, except for—

(A) high-level radioactive waste;

(B) waste that the Secretary has determined, with the concurrence of the Administrator, does not need the degree of isolation required by the disposal standards; or

(C) waste that the Nuclear Regulatory Commission has approved for disposal on a case-by-case basis in accordance with part 61 of title 10, Code of Federal Regulations.

(19) WIPP.—The term "WIPP" means the Waste Isolation Pilot Plant project authorized under section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96–164; 93 Stat. 1259, 1265) to demonstrate the safe disposal of radioactive waste materials generated by defense programs.

(20) Withdrawal.—The term "Withdrawal" means the geographical area consisting of the lands described in section 3(c).

SEC. 3. LAND WITHDRAWAL AND RESERVATION FOR WIPP.

(a) Land Withdrawal, Jurisdiction, and Reservation.—

(1) Land withdrawal.—Subject to valid existing rights, and except as otherwise provided in this Act, the lands described in subsection (c) are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including without limitation the mineral leasing laws, the geothermal leasing laws, the material sale laws (except as provided in section 4(b)(4) of this Act), and the mining laws.

(2) Reservation.—Such lands are reserved for the use of the Secretary of Energy for the construction, experimentation, operation, repair and maintenance, disposal, shutdown, monitoring, decommissioning, and other authorized ac-

tivities associated with the purposes of WIPP as set forth in section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96–164; 93 Stat. 1259, 1265), and this Act.

(b) REVOCATION OF PUBLIC LAND ORDERS.—Public Land Order 6403 of June 29, 1983, as modified by Public Land Order 6826 of January 28, 1991, and the memorandum of understanding accompanying Public Land Order 6826, are revoked.

(c) LAND DESCRIPTION.—

(1) BOUNDARIES.—The boundaries depicted on the map issued by the Bureau of Land Management of the Department of the Interior, entitled "WIPP Withdrawal Site Map," dated October 9, 1990, and on file with the Bureau of Land Management, New Mexico State Office, are established as the boundaries of the Withdrawal.

(2) LEGAL DESCRIPTION AND MAP.—Within 30 days after the date of the enactment of this Act, the Secretary of the Interior shall—

(A) publish in the Federal Register a notice containing a legal description of the Withdrawal; and

(B) file copies of the map described in paragraph (1) and the legal description of the Withdrawal with the Committees on Energy and Natural Resources and Armed Services of the Senate, the Committees on Interior and Insular Affairs, Energy and Commerce, and Armed Services of the House of Representatives, the Secretary of Energy, the Governor of the State of New Mexico, and the Archivist of the United States.

(d) TECHNICAL CORRECTIONS.—The map and legal description referred to in subsection (c) shall have the same force and effect as if they were included in this Act. The Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(e) WATER RIGHTS.—This Act does not establish a reservation to the United States with respect to any water or water rights on the Withdrawal. No provision of this Act may be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of New Mexico on or before the date of the enactment of this Act.

SEC. 4. ESTABLISHMENT OF MANAGEMENT RESPONSIBILITIES.

(a) GENERAL AUTHORITY.—The Secretary of the Interior shall be responsible for the management of the Withdrawal pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this Act, and other applicable law, and shall consult with the Secretary of Energy and the State of New Mexico in discharging such responsibility and any other responsibility required by this Act.

(b) MANAGEMENT PLAN.—

(1) DEVELOPMENT.—Within 1 year after the date of the enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Energy and the State of New Mexico, shall develop a management plan for the use of the Withdrawal until the end of the decommissioning phase.

(2) PRIORITY OF WIPP-RELATED USES.—Any use of the Withdrawal for activities not associated with WIPP shall be subject to such conditions and restrictions as may be necessary to permit the conduct of WIPP-related activities.

(3) NON-WIPP RELATED USES.—The management plan developed under paragraph (1) shall provide for the maintenance of wildlife habitat and shall provide that the Secretary of the Interior may permit such non-WIPP related uses of the Withdrawal as the Secretary of the Interior determines to be appropriate, including domestic livestock grazing and hunting and trapping in accordance with the following requirements:

(A) GRAZING.—The Secretary of the Interior may permit grazing to continue where established before the date of the enactment of this Act, subject to such regulations, policies, and practices as the Secretary of the Interior, in consultation with the Secretary of Energy, determines to be necessary or appropriate. The management of grazing shall be conducted in accord with applicable grazing laws and policies, including—

(i) the Act entitled "An Act to stop injury to public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," approved June 28, 1934 (43 U.S.C. 315 et seq., commonly referred to as the "Taylor Grazing Act");

(ii) title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.); and

(iii) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1902 et seq.).

(B) HUNTING AND TRAPPING.—The Secretary of the Interior may permit hunting and trapping within the Withdrawal in accordance with applicable laws and regulations of the United States and the State of New Mexico, except that the Secretary of the Interior, after consultation with the Secretary of Energy and the State of New Mexico, may issue regulations designating zones where, and establishing periods when, no hunting or trapping is permitted for reasons of public safety, administration, or public use and enjoyment.

(4) DISPOSAL OF SALT TAILINGS.—The Secretary of the Interior shall dispose of salt tailings extracted from the Withdrawal that the Secretary of Energy determines are not needed for backfill at WIPP. Disposition of such tailings shall be made under sections 2 and 3 of the Act of July 31, 1947, (30 U.S.C. 602, 603; commonly referred to as the "Materials Act of 1947").

(5) PROHIBITION ON MINING.—No surface or subsurface mining, including slant drilling from outside the boundaries of the Withdrawal, shall be permitted at any time (including after decommissioning) on lands on or under the Withdrawal.

(c) CLOSURE TO PUBLIC.—If during the withdrawal made by section 3(a) the Secretary of Energy determines in consultation with the Secretary of the Interior that the health and safety of the public or the common defense and security require the closure to the public use of any road, trail, or other portion of the Withdrawal, the Secretary of Energy may take whatever action the Secretary of Energy determines to be necessary to effect and maintain the closure and shall provide notice to the public of such closure.

(d) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior and the Secretary of Energy shall enter into a memorandum of understanding to implement the management plan developed under subsection (b). Such memorandum shall remain in effect until the end of the decommissioning phase.

(e) SUBMISSION OF PLAN.—Within 1 year after the date of the enactment of this Act, the Secretary of the Interior shall submit the management plan developed under subsection (b) to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the State of New Mexico. Any amendments to the plan shall be submitted promptly to such Committees and the State of New Mexico.

SEC. 5. PLAN FOR TEST PHASE ACTIVITIES; RETRIEVAL.

(a) REVIEWS OF TEST PHASE PLAN BY SECRETARY.—

(1) ANNUAL REVIEW.—The Secretary shall annually review the test phase plan and propose any revisions required to ensure that all of the proposed activities described in the plan are necessary to demonstrate that the WIPP facility will comply with the final disposal standards.

(2) REQUIRED CONSULTATION.—The Secretary shall conduct any review, and make any required revisions, of the test phase plan in consultation with the National Academy of Sciences, the Administrator, and the EEG.

(b) TEST PHASE ACTIVITIES TO BE CONDUCTED AT WIPP.—

(1) JUSTIFICATION AND TEST PHASE ACTIVITIES.—The test phase plan (and any revisions to such plan) shall—

(A) include justification for all test phase activities to be conducted at WIPP;

(B) specify the quantities and types of transuranic radioactive waste required for such activities; and

(C) be submitted for review and approval to the Administrator.

(2) APPROVAL BY ADMINISTRATOR.—

(A) IN GENERAL.—The Administrator shall determine by rule, pursuant to chapter 5 of title 5, United States Code, whether to approve or disapprove the test phase plan (and any revisions to such plan). The Administrator shall issue a proposed rule under this paragraph not later than than 90 days after receipt of such plan (and revisions).

(B) STANDARD FOR APPROVAL.— The Administrator may approve the test phase plan (and any revisions to such plan) only if the Administrator determines that all of the proposed activities described in such plan (and revisions) are necessary to demonstrate that the WIPP facility will comply with the final disposal standards under section 8.

(c) RETRIEVAL PLAN.—The Secretary shall issue and submit to the Administrator for review a detailed retrieval plan to be implemented by the Secretary under section 6(c)(5) or 9(b)(3). Such plan shall include specific plans for the interim management and storage of any such removed waste and specify the location of such storage. The Administrator shall determine by rule, pursuant to chapter 5 of title 5, United States Code, whether to approve or disapprove such plan. The Administrator shall issue a proposed rule under this subsection not later than than 90 days after receiving such plan.

(d) REVIEW BY STATE.—

(1) IN GENERAL.—In addition to the review by the Administrator of the test phase plan (or any revisions to such plan) under subsection (b)(2) and the retrieval plan under subsection (c), the Secretary shall submit each plan or revision, as appropriate, subject to review under such subsections to the State of New Mexico for review. The State of New Mexico shall complete its review and specify any disagreement with the plan (or any revisions to such plan) within 90 days of receipt of such plan or revisions.

(2) CONFLICT RESOLUTION.—In the event that the State of New Mexico disagrees with any aspect of any plan or revision to such plan subject to review under paragraph (1), the conflict resolution procedures described in Article IX of the Agreement shall be employed to resolve such disagreement.

(e) WASTE CHARACTERIZATION.—The Secretary shall, after providing notice and an opportunity for public comment, fully characterize all transuranic radioactive waste types at all sites from which wastes are to be shipped to WIPP. The results of such characterization shall be reflected in the test phase plan (and any revisions to such plan) before the Administrator may provide certification under section 9(c)(1)(B).

SEC. 6. TEST PHASE ACTIVITIES.

(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to subsections (b) and (c), to conduct test phase activities in accordance with the test phase plan.

(b) REQUIREMENTS FOR COMMENCEMENT OF TEST PHASE ACTIVITIES.—The Secretary may not transport any transuranic radioactive waste to WIPP to conduct test phase activities under subsection (a) unless the following requirements are met:

(1) FINAL DISPOSAL STANDARDS ISSUED.—The final disposal standards are issued and published in the Federal Register under section 8.

(2) TERMS OF NO-MIGRATION DETERMINATION COMPLIED WITH.—The Administrator has determined that the Secretary has complied with the terms and conditions set forth in paragraphs (5), (6), and (7) of the no migration determination described at page 47,720 of Volume 55, No. 220 of the Federal Register, on November 14, 1990.

(3) RETRIEVAL PLAN APPROVED.—The Secretary has issued and the Administrator has approved the retrieval plan required under section 5(c).

(4) TEST PHASE PLAN APPROVED.—The Administrator has approved the test phase plan (and any revisions to such plan) in accordance with section 5(b)(2).

(5) CONSIDERATION BY STATE.—

(A) REVIEW COMPLETED.—The Secretary has complied with the requirements of section 5(d) and the State of New Mexico has completed its review under such section.

(B) CONFLICT RESOLUTION.—In the event that the conflict resolution procedures described in section 5(d)(2) are employed for any review required under section 5(d)(1), such review shall not be considered complete until the disagreement necessitating the use of such procedures has been resolved in accordance with such procedures.

(6) EMERGENCY RESPONSE TRAINING.—

(A) REVIEW.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, has reviewed the emergency response training programs of the Department of Energy that apply to WIPP.

(B) CERTIFICATION.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, has certified that emergency response training programs of the Department of Energy that apply to WIPP are in compliance with part 1910.120 of title 29, Code of Federal Regulations.

(7) CERTIFICATION OF SAFETY.—The Secretary has certified that the safety of all test phase activities to be completed at WIPP can be ensured through procedures that would not compromise the type, quantity, or quality of data collected from such test phase activities.

(c) LIMITATIONS.—Test phase activities conducted under subsection (a) shall be subject to the following limitations:

(1) QUANTITY OF WASTE THAT MAY BE TRANSPORTED.—During the test phase, the Secretary may transport to WIPP—

(A) only such quantities of transuranic radioactive waste as the Administrator has determined under section 5(b) are necessary to conduct test phase activities to demonstrate that the WIPP facility will comply with the disposal standards; and

(B) in no event more than 4,250 55-gallon drums of transuranic radioactive waste or ½ of 1 percent of the total capacity of WIPP as described in section 7(a), whichever is less.

(2) REMOTE-HANDLED WASTE.—

(A) TRANSPORTATION AND EMPLACEMENT.—The Secretary may not transport to or emplace remote-handled transuranic radioactive waste at WIPP during the test phase.

(B) STUDY.—

(i) IN GENERAL.—Within 2 years after the date of the enactment of this Act, the Secretary shall complete a study on remote-handled transuranic radioactive waste in consultation with affected States, the Administrator, and after the solicitation of views of other interested parties.

(ii) REQUIREMENTS OF STUDY.—Such study shall include an analysis of the impact of remote-handled transuranic radioactive waste on the performance assessment of WIPP and a comparison of remote-handled transuranic radioactive waste with contact-handled transuranic radioactive waste on such issues as gas generation, flammability, explosivity, solubility, and brine and geochemical interactions.

(iii) PUBLICATION.—The Secretary shall publish the findings of such study in the Federal Register.

(iv) REVISION.—Unless such study finds that remote-handled transuranic radioactive waste requires no additional precautions for disposal in WIPP, the Secretary shall revise the test phase plan to require testing of remote-handled transuranic radioactive waste subject to subparagraph (A).

(3) ANNUAL CERTIFICATIONS OF RETRIEVABILITY.—Beginning 1 year after the initial emplacement of transuranic radioactive waste underground at WIPP under subsection (a), and continuing annually throughout the test phase, the Secretary shall certify and the Administrator shall concur that all waste emplaced underground at WIPP remains and will remain fully retrievable during the test phase.

(4) STABILITY OF ROOMS USED FOR TESTING.—Transuranic radioactive waste may be emplaced in mined rooms in the underground repository at WIPP to conduct test phase activities only after the Secretary of Labor, acting through the Mine Safety and Health Administration, has certified to the Secretary of Energy that such rooms will remain sufficiently stable and safe to permit uninterrupted testing for the duration of such activities.

(5) COMPLIANCE WITH DISPOSAL STANDARDS.—If, upon the expiration of the 10-year period beginning on the date of the enactment of this Act, the Administrator has not certified under section 9(c)(1)(B) that the WIPP facility will comply with the disposal standards—

(A) the Secretary or the Secretary of the Interior, as appropriate, shall implement the retrieval plan under section 5(c) and the decommissioning and post-decommissioning plans under section 11; and

(B) following implementation of such plans, the land withdrawal made by section 3(a) shall terminate.

SEC. 7. DISPOSAL OPERATIONS.

(a) CAPACITY OF WIPP FACILITY.—The Secretary may dispose of not more than 5.6 million cubic feet of contact-handled transuranic radioactive waste and 95,000 cubic feet of remote-handled transuranic radioactive waste in WIPP.

(b) COMMENCEMENT OF DISPOSAL OPERATIONS.—The Secretary may commence emplacement of transuranic radioactive waste underground for disposal at WIPP only upon completion of—

(1) the Administrator's certification under section 9(c)(1)(B) that the WIPP facility will comply with the disposal standards;

(2) the submission to the Congress by the Secretary and the Secretary of the Interior, respectively, of plans for decommissioning WIPP and post-decommissioning management of the Withdrawal under section 11;

(3) the expiration of the 180-day period beginning on the date on which the Secretary notifies the Congress that all permits and certifications required for disposal operations to begin have been received;

(4) Nuclear Regulatory Commission certification as described in section 14(a) of a container for transporting remote-handled transuranic radioactive waste to WIPP;

(5) the acquisition by the Secretary (whether by purchase, condemnation, or otherwise) of Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C, unless the Administrator determines pursuant to the authority under section 9(a), 9(b), or 9(c) of this Act and section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) that such acquisition is not required; and

(6) the submittal to the Congress by the Secretary of comprehensive recommendations for the disposal of all transuranic radioactive waste under the control of the Secretary, including a timetable for the disposal of such waste.

SEC. 8. ISSUANCE OF ENVIRONMENTAL PROTECTION AGENCY DISPOSAL STANDARDS.

The Administrator shall issue, not later than 6 months after the date of the enactment of this Act, final environmental standards for the disposal of spent nuclear fuel, high-level radioactive waste, and transuranic radioactive waste.

SEC. 9. COMPLIANCE WITH ENVIRONMENTAL STANDARDS.

(a) MANAGEMENT AND STORAGE; CLEAN AIR; HAZARDOUS WASTE.—

(1) APPLICABILITY.—The Secretary shall, during the test phase, the operations phase, and the decommissioning phase, comply with respect to WIPP, with—

(A) the Environmental Protection Agency standards for the management and storage of spent nuclear fuel, high-level radioactive waste, and transuranic radioactive waste described in subpart A of part 191 of title 40, Code of Federal Regulations;

(B) the Clean Air Act (40 U.S.C. 7401 et seq.);

(C) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(D) title XIV of the Public Health Service Act (the Safe Drinking Water Act) (42 U.S.C. 300f et seq.);

(E) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(F) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(G) all regulations promulgated under the laws described in subparagraphs (B) through (F); and

(H) all other applicable Federal laws (and regulations promulgated thereunder) pertaining to public health and safety or the environment and all applicable State and local laws (and regulations promulgated thereunder) pertaining to public health and safety or the environment.

(2) PERIODIC OVERSIGHT BY ADMINISTRATOR AND STATE OF NEW MEXICO.—The Secretary shall, not later than 2 years after the date of the enactment of this Act, and biennially thereafter, submit documentation of continued compliance with the laws, regulations, and standards described in subparagraphs (A), (B), (D), (E), (F), (G), and (H) of paragraph (1), to the Administrator, and with the law described in paragraph (1)(C) and any regulations promulgated thereunder, to the State of New Mexico.

(3) CONCURRENCE OF ADMINISTRATOR.—The Administrator by rule pursuant to chapter 5 of title 5, United States Code, or the State of New Mexico, as appropriate, shall determine not later than 6 months after receiving a submission under paragraph (2) whether the Secretary is in compliance with the laws, regulations, and standards described in paragraph (1) with respect to WIPP.

(b) DETERMINATION OF NONCOMPLIANCE DURING TEST PHASE.—

(1) DETERMINATION BY ADMINISTRATOR.—If the Administrator determines at any time during the test phase that—

(A) the WIPP facility will not comply with the disposal standards under subsection (c)(1)(B);

(B) the Secretary is not conducting test phase activities involving underground emplacement of transuranic radioactive waste in a manner that allows the waste to be readily retrieved as required by condition (4) of the no-migration de-

termination described at page 47,720 of volume 55, No. 220 of the Federal Register, on November 14, 1990;

(C) conditions at the WIPP facility do not allow the waste to be readily retrieved as required by such condition; or

(D) the WIPP facility does not comply with any law, regulation, or standard described in subsection (a)(1);

the Administrator shall request a remedial plan from the Secretary describing actions the Secretary will take to comply with such regulatory requirements.

(2) DETERMINATION BY STATE.—If the State of New Mexico determines at any time during the test phase that the Secretary has not complied with the standards applicable to owners and operators of hazardous waste, treatment, storage, and disposal facilities under section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) with respect to activities at WIPP, the State of New Mexico shall request a remedial plan from the Secretary describing actions the Secretary will take to comply with such regulatory requirements.

(3) IMPLEMENTATION OF RETRIEVAL PLAN.—If a remedial plan is not received from the Secretary within 6 months of a determination of noncompliance with a regulatory requirement described in paragraph (1) or (2), or if the Administrator or the State of New Mexico, as appropriate, finds any such remedial plan to be inadequate to demonstrate compliance with such regulatory requirement—

(A) the Secretary or the Secretary of the Interior, as appropriate, shall implement the retrieval plan under section 5(c) and the decommissioning and post-decommissioning plans under section 11; and

(B) following implementation of such plans, the land withdrawal made by section 3(a) shall terminate.

(c) DISPOSAL STANDARDS.—

(1) REQUIREMENTS FOR COMMENCEMENT OF DISPOSAL.—Before any transuranic radioactive waste may be emplaced underground at WIPP for disposal under section 7(b)—

(A) the Secretary shall have submitted sufficient documentation to the Administrator to demonstrate that the WIPP facility will comply with the disposal standards; and

(B) the Administrator shall have certified by rule pursuant to chapter 5 of title 5, United States Code, that the WIPP facility will comply with the disposal standards.

(2) PERIODIC RECERTIFICATION.—

(A) BY SECRETARY.—During the period beginning 2 years after the initial receipt of transuranic radioactive waste for disposal at WIPP and ending at the end of the decommissioning phase, the Secretary shall biennially demonstrate that the WIPP facility will comply with the disposal standards and submit documentation of such demonstration to the Administrator.

(B) CONCURRENCE OF ADMINISTRATOR.—The Administrator shall, not later than 6 months after receiving a submission under subparagraph (A), determine whether or not the WIPP facility will comply with the disposal standards.

(3) LIMITATION.—Any determination of the Administrator under paragraph (1)(B) or (2)(B) may only be made after the documentation is submitted to the Administrator under paragraph (1)(A) or (2)(A), respectively.

(4) ENGINEERED AND NATURAL BARRIERS.—The Secretary shall use both engineered and natural barriers at WIPP to isolate transuranic radioactive waste after disposal to the extent necessary to comply with the disposal standards.

(d) DETERMINATION OF NONCOMPLIANCE DURING OPERATIONS PHASE AND DECOMMISSIONING PHASE.—

(1) REMEDIAL PLANS.—

(A) MANAGEMENT AND STORAGE; CLEAN AIR; HAZARDOUS WASTE.—If, during the operations phase or decommissioning phase, the Administrator, or the State of New Mexico, as appropriate, determines after any submission under subsection (a)(2), that the Secretary has not demonstrated compliance with any regulatory requirement described in such subsection, the Administrator, or the State of New Mexico, as appropriate, shall request a remedial plan from the Secretary describing actions the Secretary will take to demonstrate compliance with such regulatory requirement.

(B) DISPOSAL STANDARDS.—If, during the operations phase or decommissioning phase, the Administrator determines under subsection (c)(2)(B), that the WIPP facility will not comply with the disposal standards, the Administrator shall request a remedial plan from the Secretary describing actions the Secretary will take to demonstrate that the facility will comply with such standards.

(2) CONSEQUENCES OF NONCOMPLIANCE DURING OPERATIONS PHASE OR DECOMMISSIONING PHASE.—If a plan is not received from the Secretary within 6 months of a determination of noncompliance with a regulatory requirement described in paragraph (1)(A) or (1)(B), or the Administrator or the State of New Mexico, as appropriate, finds any such plan inadequate to demonstrate compliance with such regulatory requirement—

(A) the Secretary shall retrieve, to the extent practicable, any transuranic radioactive waste and any material contaminated by such waste from underground at WIPP;

(B) the Secretary or the Secretary of the Interior, as appropriate, shall implement the decommissioning and post-decommissioning plans under section 11; and

(C) following completion of such retrieval and implementation of such plans, the land withdrawal made by section 3(a) shall terminate.

(e) ISSUANCE OF REGULATIONS.—The Administrator shall issue regulations not later than 6 months after the date of the enactment of this Act governing the approval of a test phase plan under section 5(b), periodic oversight under subsection (a)(2), the certification and recertification processes under subsections (c)(1)(B) and (c)(2)(B), respectively, and the retrieval process required under subsection (d)(2). Such regulations shall provide opportunities for public participation in such processes.

(f) SAVINGS PROVISION.—The authorities provided to the Administrator and the State pursuant to this section are in addition to the enforcement authorities available to the State pursuant to State law and to the Administrator, the State, and any other person, pursuant to the Solid Waste Disposal Act and the Clean Air Act.

SEC. 10. BAN ON HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL.

The Secretary may not transport high-level radioactive waste or spent nuclear fuel to WIPP or emplace or dispose of such waste or fuel at WIPP.

SEC. 11. DECOMMISSIONING OF WIPP.

(a) PLAN FOR WIPP DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services and Energy and Natural Resources of the Senate; the Committees on Armed Services, Energy and Commerce, and Interior and Insular Affairs of the House of Representatives; the State of New Mexico; the Secretary of the Interior; and the Administrator a plan to be implemented by the Secretary for decommissioning WIPP. In addition to activities required under the Agreement, the plan shall conform to the disposal standards that apply to WIPP at the time the plan is prepared. The Secretary shall consult with the Secretary of the Interior and the State of New Mexico in the preparation of such plan.

(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the Secretary of the Interior shall develop a plan to be implemented by the Secretary of the Interior for the management and use of the Withdrawal following the decommissioning of WIPP and the termination of the land withdrawal made by section 3(a). The Secretary of the Interior shall consult with the Secretary and the State of New Mexico in the preparation of such plan and shall submit such plan to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives.

SEC. 12. SOLID WASTE DISPOSAL ACT; CLEAN AIR ACT.

No provision of this Act may be construed to supersede or modify the provisions of the Clean Air Act (42 U.S.C. 7401 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 13. ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

(a) IMPACT ASSISTANCE PAYMENTS.—

(1) IN GENERAL.—The Secretary may, to such extent and for such amounts as are provided in advance in appropriation Acts, provide payments to the State of New Mexico to assist the State and its affected units of local government in mitigating the potential environmental, social, transportation, economic and other impacts resulting from WIPP. Payments under this paragraph—

(A) may not, in the aggregate, exceed $40,000,000; and

(B) shall be made from the $40,000,000 appropriated under Public Law 102-27 (105 Stat. 130, 141) and the Energy and Water Development Appropriations Act, 1992 (Public Law 102-104; 105 Stat. 510, 529).

(2) PAYMENTS TO LOCAL GOVERNMENTS.—A portion of all payments received by the State of New Mexico under paragraph (1) shall be provided directly to the affected units of local government in the vicinity of, and along the transportation routes to, WIPP. The portion of payments provided to local governments, the identification of local governments to receive payments, and the amount of payment to each local government shall be based on a State assessment of needs, conducted in consultation with affected units of local government and based upon the demonstration of local impacts by the affected local governments.

(3) MEDICAL EMERGENCY PREPAREDNESS PAYMENTS TO LOCAL GOVERNMENTS.—A portion of all payments received by the State of New Mexico under paragraph (1) shall be used for the equipment and training needs of the health care community for purposes of responding to emergencies arising from the operation of WIPP or the transportation of transuranic radioactive waste to WIPP.

(4) ECONOMIC IMPACT MONITORING FUNCTION.—A portion of all payments received by the State of New Mexico under paragraph (1) shall be used to establish a Socioeconomic Impact Monitoring Group within the Waste Management Education and Research Consortium to undertake an annual review of activities at WIPP.

(b) WIPP-RELATED BUSINESS AND EMPLOYMENT OPPORTUNITIES.—To the maximum extent practicable, the Secretary shall continue to encourage business and employment opportunities related to WIPP that may be conducive to the economy of the State of New Mexico, especially Lea and Eddy counties, and report annually to the State of New Mexico on these activities.

SEC. 14. TRANSPORTATION.

(a) SHIPPING CONTAINERS.—No transuranic radioactive waste may be transported by or for the Secretary to or from WIPP, except in packages that have been certified for the transportation of transuranic radioactive waste by the Nuclear

Regulatory Commission and have satisfied the Nuclear Regulatory Commission's quality assurance provisions.

(b) ACCIDENT PREVENTION AND EMERGENCY PREPAREDNESS.—

(1) TRAINING.—

(A) IN GENERAL.—In addition to activities required pursuant to the December 27, 1982, Supplemental Stipulated Agreement, the Secretary shall provide technical assistance for the purpose of training public safety officials, and other emergency responders as described in part 1910.120 of title 29, Code of Federal Regulations, in any State or Indian tribe through whose jurisdiction the Secretary plans to transport transuranic radioactive waste to or from WIPP. Within 30 days of the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and to the States and Indian tribes through whose jurisdiction the Secretary plans to transport transuranic radioactive waste on the training provided through fiscal year 1992.

(B) ONGOING TRAINING.—If determined by the Secretary, in consultation with affected States and Indian tribes, to be necessary and appropriate, training described in subparagraph (A) shall continue after the date of the enactment of this Act until the transuranic radioactive waste shipments to or from WIPP have been terminated.

(C) REVIEW OF TRAINING.—The Secretary shall periodically review the training provided pursuant to subparagraph (A) in consultation with affected States and Indian tribes.

(D) COMPONENTS OF TRAINING.—The training provided pursuant to subparagraph (A) shall cover procedures required for the safe routine transportation of transuranic radioactive waste, as well as procedures for dealing with emergency response situations, including—

(i) instruction of government officials and public safety officers in procedures for the command and control of the response to any incident involving the waste;

(ii) instruction of emergency response personnel in procedures for the initial response to an incident involving transuranic radioactive waste being transported to or from WIPP;

(iii) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving transuranic radioactive waste being transported to or from WIPP; and

(iv) a program to provide information to the public about the transportation of transuranic radioactive waste to or from WIPP.

(2) EQUIPMENT.—The Secretary may enter into agreements to assist States through contributions in-kind, in acquiring equipment for response to an incident involving transuranic radioactive waste transported to or from WIPP.

(c) SANTA FE BYPASS.—No transuranic radioactive waste may be transported from the Los Alamos National Laboratory to WIPP until—

(1) all of the funds necessary for the cost of construction of the Santa Fe bypass have been appropriated by the Congress or the State of New Mexico; or

(2) the Santa Fe bypass has been completed.

(d) STUDY OF TRANSPORTATION ALTERNATIVES.—

(1) IN GENERAL.—The Secretary shall conduct a study comparing the shipment of transuranic radioactive waste to the WIPP facility by truck and by rail, including the use of dedicated trains, and shall submit a report on the study in accordance with paragraph (2). Such report shall include—

(A) a consideration of occupational and public risks and exposures, and other environmental impacts;

(B) a consideration of emergency response capabilities;

(C) an estimation of comparative costs; and

(D) findings and recommendations with respect to—

(i) the most appropriate routes for transporting transuranic radioactive waste to WIPP based on the foregoing considerations; and

(ii) necessary or appropriate measures to minimize the potential risks to public health and safety and the environment of transporting transuranic radioactive waste along such routes, taking into consideration weather, other natural conditions or hazards, and other relevant criteria.

(2) IMPLEMENTATION OF STUDY RECOMMENDATIONS.—The Secretary, in consultation with affected States and Indian tribes, shall implement the recommendations made under paragraph (1)(D) to the extent practicable. The Secretary shall certify such implementation to the Congress prior to the transportation of transuranic radioactive waste to WIPP for disposal.

(3) REPORT.—The report required in paragraph (1) and the certification required in paragraph (2) shall be submitted to the Speaker of the House of Representatives and the President pro tempore of the Senate not later than July 1, 1993.

(4) FUNDING.—Of appropriated amounts described in section 13(a)(1)(B), the Secretary shall use an amount not to exceed $300,000 to carry out the study required under this subsection.

SEC. 15. ENVIRONMENTAL EVALUATION GROUP.

(a) ACCESS TO DATA, REPORTS AND MEETINGS.—The Secretary shall—

(1) provide the EEG with free and timely access to data relating to WIPP produced or obtained by the Secretary or contractors of the Secretary;

(2) provide the EEG with preliminary reports relating to WIPP; and

(3) permit the EEG to attend meetings relating to WIPP with expert panels, peer review groups, and appropriate Federal agencies.

(b) EVALUATION AND PUBLICATION.—The EEG may evaluate and publish analyses of the Secretary's plans for test phase activities, monitoring, transportation, operations, decontamination, retrieval, performance assessment, compliance with Environmental Protection Agency standards, decommissioning, safety analyses, and other activities relating to WIPP.

(c) CONSULTATION AND COOPERATION.—The Secretary shall consult and cooperate with the EEG in carrying out the requirements of this section.

SEC. 16. AUTHORIZATIONS OF APPROPRIATIONS.

(a) FOR ADMINISTRATOR.—

(1) IN GENERAL.—There are authorized to be appropriated to the Administrator for the purpose of fulfilling the responsibilities of the Administrator under this Act, $10,000,000 for fiscal year 1992, $12,000,000 for fiscal year 1993, $14,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995 through 2001.

(2) REPORT.—The Administrator shall, not later than September 30, 1993, and annually thereafter, issue a report to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the status of and resources required for the fulfillment of the Administrator's responsibilities under this Act.

(b) TRANSFERS FROM SECRETARY TO ADMINISTRATOR AND MSHA.—The Secretary is authorized to transfer from amounts appropriated for environmental restoration and waste management for fiscal years 1992 and 1993, and (to the extent approved in appropriation Acts) for fiscal years 1994 through 2001, such sums as may be useful for the purpose of assisting in the fulfillment of the responsibilities of the Administrator under this Act and the Mine Safety and Health Administration under section 6(c)(4).

(c) ACQUISITION OF LEASEHOLD.—There are authorized to be appropriated to the Secretary such sums as may be necessary to acquire the 1,600 acre potash leasehold within the Withdrawal, comprising a portion of Federal Potash Lease No. NM 0384584, and the Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C.

SEC. 17. BUY AMERICAN REQUIREMENTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated or transferred pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

(b) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—

(1) IN GENERAL.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

Amend the title so as to read: "An Act to withdraw land for the Waste Isolation Pilot Plant, and for other purposes.".

Mr. BUMPERS. I move that the Senate disagree to the amendments of the House, request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. JOHNSTON, Mr. FORD, Mr. BINGAMAN, Mr. CONRAD, Mr. WALLOP, Mr. DOMENICI, and Mr. COATS conferees on the part of the Senate.

INCREASES IN AUTHORIZATIONS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 542, S. 2321, a bill to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I rise in support of S. 2321 and urge its passage.

At the outset, let me commend my colleagues on the Senate Energy and Natural Resources Committee for helping advance this bill to the Senate floor. Without the leadership of Chairman JOHNSTON as well as Senator WALLOP, Senator BUMPERS, and Senator MURKOWSKI, this bill would never have advanced this far in the process.

I also want to express my special thanks to Senator HEFLIN. More than anyone, he understands the importance of this legislation. Our colleague from Alabama served in the battle to liberate Guam, was wounded there, and personally witnessed the sacrifices of American service personnel during that conflict.

The summer of 1994 will mark the 50th anniversary of the capture of the Marianas Islands and the liberation of Guam, sites of two of the largest land battles of the World War II Pacific campaign on what is now U.S. territory.

Nearly 6,000 U.S. soldiers and civilians gave their lives in these battles.

These dearly bought victories are representative of the island-hopping campaign which characterized the unique, ferocious war in the Pacific theater, a campaign which led to the eviction of enemy forces from strategic islands in the Central and Southwest Pacific, and eventually, to the surrender of Japan.

For the marines and soldiers who survived these battles, as well as the families and descendants of those who perished, the words Saipan, Tinian, and Guam are synonymous with courage, duty, and sacrifice. Thoughts of these battles stir the deepest emotions in all who served in the Pacific campaign.

No doubt these battles also had a profound effect on a 20-year-old naval aviator—named George Bush—who participated in aerial attacks on Japanese fortifications in Guam and Saipan in order to soften Japanese defenses for the marine assault that was to follow.

Unfortunately, despite the significance of the Marianas campaign and the river of blood spilled there by American servicemen, the condition of these historic battlefields is an affront to all Americans. Facilities at these sites are limited or nonexistent. Little identifies or interprets the history of these battles or recognizes the sacrifices of those who died there. Rust corrodes the tanks and cannon on public display, weeds and grasses cover roads and walkways, and facilities are marred by graffiti.

The 50th anniversary of these battles will soon be upon us. Yet little has been done to construct the facilities necessary for a proper interpretation of these watershed battles of the Pacific war. I fear that unless S. 2321 reaches the President's desk in the very near future, the 50th anniversary of these battles will come as a grave disappointment to veterans returning to these sites just 2 years from now.

The issue we face is rather simple. Congress and the Bush administration must ask itself whether what we fought for in 1944 is worth honoring today. I certainly believe it is.

How we treat those who fought and died on our behalf is a reflection of our national character. We must fulfill the commitment made years ago to establish these battlefield parks as a lasting remembrance of these events for years to come.

In closing, I would also like to thank our fine staff on the Senate Energy Committee. No Senate committee has a more talented and dedicated group of professionals. Without their commitment, a bill such as this could easily be overlooked.

So, the bill (S. 2321) was passed, as follows:

S. 2321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which United States forces captured the Japanese islands of Saipan and Tinian and liberated the United States Territory of Guam from Japan;

(2) an attack during this campaign by the Japanese combined fleet, aimed at annihilating the United States forces that had landed on Saipan, led to the battle of the Philippine Sea, which resulted in a crushing defeat for the Japanese by United States naval forces and the destruction of the effectiveness of the Japanese carrier-based airpower;

(3) the recapture of Guam liberated one of the few pieces of United States territory that was occupied by the enemy during World War II and restored United States Government to more than 20,000 native Guamanians;

(4) units of the United States Army, Navy, Marine Corps, and Coast Guard fought with great bravery and sacrifice, suffering casualties of approximately 5,700 killed and missing and 21,900 wounded in action;

(5) United States forces succeeded in destroying all Japanese garrisons in Saipan, Tinian, and Guam, which resulted in Japanese military casualties of 54,000 dead and 21,900 taken prisoner;

(6) Guamanians, notably members of the Navy Insular Force Guard and volunteer militia, bravely resisted the invasion and occupation of their island, and ultimately assisted in the expulsion of Japanese forces from Guam;

(7) at the hands of the Japanese, the people of Guam—

(A) were forcibly removed from their homes;

(B) were relocated to remote sections of the island;

(C) were required to perform forced labor and faced other harsh treatment, injustices, and death; and

(D) were eventually placed in concentration camps and subjected to retribution when the liberation of their island became apparent to the Japanese;

(8) the seizure of the Mariana Islands severed Japanese lines of communication between Japan proper and those remaining Japanese bases and forces in the Central Pacific south of the Mariana Islands and in the South Pacific as well;

(9) the Mariana Islands provided large island areas on which advance bases could be constructed to support further operations against Japanese possessions and conquered territories such as Iwo Jima and Okinawa, the Philippines, Taiwan, and the south China coast, and ultimately against the Japanese home islands;

(10) the Mariana Islands provided, for the first time during the war, island air bases from which United States land-based airpower could reach Japan itself; and

(11) the air offensive staged from the Mariana Islands against Japanese cities and economic infrastructure helped shorten the war and vitiate the need for the invasion and capture of the Japanese home islands.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) an appropriate commemoration of the 50th anniversary of the Mariana campaign should be planned; and

(2) the Secretary of the Interior should take all necessary steps to ensure that two visitors centers to provide appropriate facilities for the interpretation of the events described in section 1 are completed, one at the War in the Pacific National Historical Park and one at the American Memorial Park, before June 15, 1994, the beginning of the 50th anniversary of the campaign.

SEC. 3. WAR IN THE PACIFIC NATIONAL HISTORICAL PARK.

Section 6(k) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 493; 16 U.S.C. 410dd(k)), is amended by striking "$500,000" and listening "$8,000,000".

SEC. 4. AMERICAN MEMORIAL PARK.

Section 5(g) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), is amended by striking "$3,000,000" and inserting "$8,000,000".

COMPENSATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 546, S. 2322, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2322) to increase the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which was reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1992".

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1992, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Rate Amendments of 1991 (Public Law 102–152; 105 Stat. 985). The increase shall be made in such rates and limitations as in effect on November 30, 1992, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1992, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (2 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 214(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1992, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise in strong support of this legislation to provide a cost-of-living adjustment in compensation paid to veterans with service-connected disabilities and to survivors of veterans who died from service-connected causes. We must attach the highest priority to meeting the Nation's responsibilities to these 2.2 million veterans and 350,000 survivors. This is—and always has been—my number-one priority in veterans' affairs.

Mr. President, through an annual COLA, we ensure that the value of these essential benefits is not eroded by inflation. The bill we are considering today would increase, effective December 1, 1992, the rates of compensation paid to veterans with service-connected disabilities and of dependency and indemnity compensation [DIC] paid to the survivors of certain service-disabled veterans. The rates would increase by the same percentage as the increase in Social Security and VA pension benefits. The compensation COLA would become effective on the same date that the increase for those benefits takes effect.

The Congressional Budget Office's most recent estimate of the December 1, 1992, Social Security and VA-pension COLA is 3.2 percent. The President's fiscal year 1993 budget contained an estimate that the increase would be 3 percent. CBO estimates that a 3.2-percent COLA would cost $339 million in budget authority and $305 million in outlays over current law, but these costs already are included in the CBO and administration baselines for fiscal year 1993.

Mr. President, last year, the committee learned from VA's testimony at our June 12, 1991, hearing on S. 775, our fiscal year 1992 compensation COLA bill, that OMB's fiscal year 1992 baseline assumed all veterans' compensation rate increases would be rounded down to the next-lower whole dollar. This would have had the effect of attributing direct-spending costs, which could have triggered a sequestration, to VA compensation-COLA legislation that provided for normal rounding to the nearest whole dollar. However, the Social Security and VA-pension COLA's, on which the increases in the rates of compensation are based, actually were just 3.7 percent—lower than the 5.2-percent estimate in the OMB baseline. This totally fortuitous circumstance enabled the Congress to enact a full, normally rounded COLA that avoided a sequester.

OMB's fiscal year 1992 baseline could have forced the Congress to make significant cuts in other programs to provide a full, normally rounded compensation COLA to service-disabled veterans and their survivors. If the OMB baseline accurately had predicted the 3.7-percent COLA for fiscal year 1992, enactment of a normally rounded 3.7-percent COLA would have been scored by OMB as exceeding the pay-as-you-go rule by $21 million in fiscal year 1992 and almost $25 million for each year thereafter, under OMB's rule. Each year's difference would be additive, so the OMB rule could have forced cuts of over $230 million during fiscal years 1992 through 1995.

For reasons explained in the committee's report accompanying S. 775 last year, Senate Report No. 102–139, I believe the unilateral OMB policy violated the 1990 budget summit agreement. In order to overrule OMB's policy, a provision of S. 775 that I authored would have required OMB's baseline to assume normal rounding of the COLA for each compensation rate. The House has not yet acted on S. 775 due to provisions unrelated to the COLA-rounding issue. However, the House passed a substantively identical provision in an amendment to H.R. 2280 on November 25, 1991, but the Senate did not act on that bill, again due to provisions unrelated to the COLA-rounding issue.

Mr. President, I am pleased to note that Secretary Derwinski has confirmed that the President's fiscal year 1993 budget includes a proposed compensation COLA that assumes normal rounding. I believe that the attention that our Committee and the Senate focused on this issue last year was at least partially responsible for OMB's reversal on the COLA-rounding rule.

I also am pleased that the administration has not proposed legislation that it and the preceding administration previously advocated that would have diminished congressional control and oversight of the veterans' compensation COLA by indexing these benefits. On November 20, 1991, the Senate voted 71 to 24 against indexing the COLA.

Mr. President, I thank the ranking minority member of the committee, Senator SPECTER, and the other members of the committee for their support for S. 2322 and prompt Senate action on it.

Mr. President, I urge my colleagues to give their unanimous support to this measure.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, and as an original cosponsor, I am pleased to support passage of S. 2322, a bill to provide a cost-of-living allowance for veterans receving service-connected disability compensation and for surviving spouses receiving dependency and indemnity compensation [DIC]. The increase provided would be equal to that which will be paid to recipients of Social Security benefits, and would be effective December 1, 1992.

I believe that it is of the utmost importance that we provide a cost of living allowance for these beneficiaries to ensure that their benefits do not decrease. There can be no more important class of citizens than those who have suffered disabilities or who have lost spouse due to service to their country. Ensuring that compensation and DIC keep pace with the cost of living are among the most important missions of the Congress. Speaking as one who has had the honor to serve on the Veterans' Committee for nearly 12 years, I am pleased to note that we have consistently fought for annual increases in these vital benefits.

I am pleased, Mr. President, that we are able to keep our faith with these veterans and survivors. I look forward to rapid House and White House action so that these beneficiaries will see the increased rates in their January checks.

I urge my colleagues to support this important bill.

Mr. DOMENICI. Mr. President, I rise in support of S. 2322, the veterans' compensation cost-of-living adjustment. This legislation will provide our veterans, their spouses, children and dependent parents who are receiving compensation for service-connected disability or dependency and indemnity compensation with 3.7-percent increase in their monthly compensation checks.

Through this bill approximately 21,000 veterans and survivors in New Mexico and 2.2 million veterans nationally will receive increases in their compensation on a monthly basis.

This COLA is designed to increase the payment we give to veterans who have suffered a loss in their earning capacity due to service-related injuries. This compensation also provides added income to survivors by making up for the loss of family income caused by the death or disability of a servicemember.

This COLA provided to veterans and their survivors is based on the Consumer Price Index [CPI] and will match increases given to Social Security recipients. Veterans and their families will receive an increase in their monthly checks beginning on December 1, 1992.

I am very pleased to understand this legislation does not have any extraneous provisions that might violate the budget agreement of 1990. I congratulate the chairman of the Veterans' Affairs Committee for producing a bill that does not contribute to our already burdensome deficit. Additionally, I am very pleased the Senate has been able to address this important issue in a timely manner, so we can assure our veterans their income will increase in December 1992.

Mr. President, it is crucial that we support our veterans—support those who have made such a tremendous sacrific to keep our Nation safe and I certainly believe we are doing this through the passage of this veterans' COLA bill.

The PRESIDING OFFICER. The bill is open is further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2322), as amended, was passed as follows:

S. 2322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1992".

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1992, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Rate Amendments of 1991 (Public Law 102–152; 105 Stat. 985). The increase shall be made in such rates and limitations as in effect on November 30, 1992, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1992, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (2 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 214(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1992, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS HEALTH CARE AMENDMENTS OF 1992

Mr. BUMPERS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2344.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 2344) entitled "An Act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BUMPERS. Mr. President, I move that the Senate disagree to the amendment of the House, agree to its request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. CRANSTON, Mr. ROCKEFELLER, and Mr. SPECTER conferees on the part of the Senate.

(Subsequently, the following occurred.)

ACTION ON MESSAGE FROM HOUSE VITIATED—S. 2344

Mr. BUMPERS. Mr. President, I ask unanimous consent that we vitiate the action previously taken on the message from the House of Representatives on S. 2344, a bill relating to Veterans Health Care.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREVENTING REDUCTION IN ADJUSTED COST OF THRIFTY FOOD PLAN

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 3001, a bill to prevent the reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and that the Senate then proceed to its immediate consideration; that the bill be deemed read a third time, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3001) was deemed read a third time, and passed, as follows:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADJUSTED COST OF THRIFTY FOOD PLAN.

Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting before the period at the end of the following: ", except that on October 1, 1992, the Secretary may not reduce the cost of such diet".

Mr. DOLE. Mr. President, I commend the distinguished ranking member of the Budget Committee for moving quickly to hold fiscal year 1993 food stamp benefit levels harmless from the decrease in the cost of the thrifty food plan. Let me just underscore the need for this legislation.

Without this fix, millions of food stamp recipients will soon have their benefits cut due to the statutory requirement that benefits be adjusted each October based on the cost of the thrifty food plan in the previous June—which this year went down.

Those who would be hardest hit by this mandatory cut are large households—typically families with children—and households with zero income.

Mr. President, these households are among those most in need of this aid, and we owe it to them to move expeditiously to ensure that they do not face a drop in benefits.

MEASURE PLACED ON CALENDAR—H.R. 5400

Mr. BUMPERS. Mr. President, I ask unanimous consent that H.R. 5400, the Homeless Veterans Program bill, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPANDING MEMBERSHIP OF COMMISSION ON IMMIGRATION REFORM

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3090, a bill to expand the membership of the Commission on Immigration Reform, introduced earlier today by Senator KENNEDY; that the bill be deemed read the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3090) was deemed read a third time, and passed, as follows:

S. 3090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEMBERSHIP OF THE COMMISSION ON IMMIGRATION REFORM.

Section 141(a)(1) of the Immigration Act of 1990 (8 U.S.C. 1153 note) is amended—

(1) in the text above subparagraph (A), by striking "Effective" and all that follows through "9 members" and inserting "The Commission on Immigration Reform (hereafter in this section referred to as the 'Commission') shall be composed of 13 members";

(2) in paragraph (1)(B), by striking "Two" and inserting "Three";

(3) in paragraph (1)(C), by striking "Two" and inserting "Three";

(4) in paragraph (1)(D), by striking "Two" and inserting "Three";

(5) in paragraph (1)(E), by striking "Two" and inserting "Three".

SEC. 2. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED ABROAD.

Private Law 98-53 (8 U.S.C. 1101 note) is amended—

(1) in the title, by inserting "or by Beirut University College" after "Beirut"; and

(2) in the text, by inserting before the period at the end thereof the following: "or by Beirut University College".

SUBSTITUTION OF CONFEREE ON S. 1671

Mr. BUMPERS. Mr. President, I ask unanimous consent that the name of Senator CRAIG be substituted for that of Senator COATS as a conferee on S. 1671.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BUMPERS. Mr. President, I ask unanimous consent that Senator GORTON be recognized to address the Senate for up to 10 minutes, and that at the conclusion of his remarks, the Senate stand in recess as ordered.

Mr. SIMPSON. I shall not object. I commend the Senator from Arkansas for his floor managership of the bill. It was very effectively done. He is a very efficient pinch hitter—and better as a principal hitter—and does a beautiful job with his work in the U.S. Senate. I have learned much from him in my time here. He was very helpful to me when I came here in 1979, and it is good to see him doing his legislative activity.

Mr. BUMPERS. Mr. President, the Senator from Wyoming is more than gracious, and I thank him sincerely for those kind comments.

Mr. President, I ask unanimous consent that the Senator from Washington be recognized for 10 minutes at the conclusion of which the Senate will stand in recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington [Mr. GORTON], is recognized for 10 minutes.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 3091 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees, and a treaty.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 10:28 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution:

H.R. 4312: An act to amend the Voting Rights Act of 1965 with respect to bilingual election requirements;

H.R. 5503. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes; and

S.J. Res. 92. A joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day".

At 4:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution:

H.R. 711. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company;

H.R. 1168. An act to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances;

H.R. 1182. An act to authorize and direct the exchange of lands of Colorado.

H.R. 3537. An act to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes;

H.R. 3898. An act to provide for the addition of the Truman Farm House to the Harry S Truman National Historic Site in the State of Missouri;

H.R. 4004. An act to assist in the development of tribal judicial systems, and for other purposes;

H.R. 4026. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes;

H.R. 4085. An act to amend the Act of August 7, 1961, establishing the Cape Cod National Seashore, and for other purposes;

H.R. 4370. An act to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes;

H.R. 4382. An act to modify the boundaries of the New River Gorge National River, Gauley River National Recreational Area, and the Bluestone National Scenic River in West Virginia;

H.R. 4437. An act to provide that a certain project on the Pine River in Michigan, is not subject to part 1 of the Federal Power Act;

H.R. 5291. An act to provide for the temporary use of certain lands in the city of South Gate, California, for elementary school purposes;

H.R. 5400. An act to establish in the Department of Veterans Affairs a program of comprehensive services for homeless veterans;

H.R. 5465. An act to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance;

H.R. 5566. An act to provide additional time to negotiate settlement of a land dispute in South Carolina;

H.R. 5636. An act to amend the Internal Revenue Code of 1986 to ensure that charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts;

H.R. 5637. An act to amend the Internal Revenue Code of 1986 to clarify the treatment of certain buildings under the rehabilitation credit, and for other purposes;

H.R. 5638. An act to amend the Internal Revenue Code of 1986 to permit losses on sales of certain prior principal residences to offset gain on a subsequent sale of a principal residence;

H.R. 5639. An act to permit tax-exempt bonds to be issued to finance office buildings for the United Nations;

H.R. 5640. An act to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions;

H.R. 5651. An act to provide for the payment of retirement and survivor annuities to certain ex-spouses of employees of the Central Intelligence Agency and to provide for the tax treatment of certain disability benefits; and

S.J. Res. 310. A joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day";

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2079. An act to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times, and referred as indicated:

H.R. 711. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company; to the Committee on Energy and Natural Resources;

H.R. 1168. An act to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances; to the Committee on Finance;

H.R. 1182. An act to authorize and direct the exchange of lands of Colorado; to the Committee on Energy and Natural Resources;

H.R. 3537. An act to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science and Transportation;

H.R. 3898. An act to provide for the addition of the Truman Farm House to the Harry S Truman National Historic Site in the State of Missouri; to the Committee on Energy and Natural Resources;

H.R. 4085. An act to amend the Act of August 7, 1961, establishing the Cape Cod National Seashore, and for other purposes; to the Committee on Energy and Natural Resources;

H.R. 4370. An act to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes; to the Committee on Energy and Natural Resources;

H.R. 4382. An act to modify the boundaries of the New River Gorge National River, Gauley River National Recreation Area, and the Bluestone National Scenic River in West Virginia; to the Committee on Energy and Natural Resources;

H.R. 5291. An act to provide for the temporary use of certain lands in the city of South Gate, California, for elementary school purposes; to the Committee on Energy and Natural Resources;

H.R. 5503. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations;

H.R. 5636. An act to amend the Internal Revenue Code of 1986 to ensure that charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts; to the Committee on Finance;

H.R. 5637. An act to amend the Internal Revenue Code of 1986 to clarify the treatment of certain buildings under the rehabilitation credit, and for other purposes; to the Committee on Finance;

H.R. 5638. An act to amend the Internal Revenue Code of 1986 to permit losses on sales of certain prior principal residences to offset gain on a subsequent sale of a principal residence; to the Committee on Finance;

H.R. 5639. An act to permit tax-exempt bonds to be issued to finance office buildings for the United Nations; to the Committee on Finance;

H.R. 5640. An act to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions; to the Committee on Finance; and

H.R. 5651. An act to provide for the payment of retirement and survivor annuities to certain ex-spouses of employees of the Central Intelligence Agency and to provide for the tax treatment of certain disability benefits; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3699. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-3700. A communication from the President of the United States, transmitting a draft of proposed legislation to designate certain lands in the State of Wyoming as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

EC-3701. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report of building project survey for Atlanta, GA; to the Committee on Environment and Public Works.

EC-3702. A communication from Chief Judge of the United States Court of Veterans Appeals, transmitting, pursuant to law, the actuarial report for the year ending December 31, 1991, for the United States Court of Appeals; to the Committee on Governmental Affairs.

EC-3703. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-263 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3704. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-264 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3705. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-265 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3706. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-266 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3707. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-267 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3708. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-268 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3709. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-269 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3710. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-270 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3711. A communication from the Chairman of the Council of the District of Columbia, transmitting, copies of D.C. Act 9-271 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3712. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "Notice of Final Priority for Fiscal Years 1992 and 1993—Dwight D. Eisenhower National Program for Mathematics and Science Education—State Curriculum Frameworks for Mathematics and Science"; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-454. A joint resolution adopted by the Legislature of the State of Alaska favoring increased funding for the Women, Infants, and Children Program so that it is available to all eligible persons; to the Committee on Appropriations.

"JOINT RESOLUTION

"Whereas the Federal Women, Infants, and Children Program (WIC) provides medical care and nutritious supplemental food to women and children, including prenatal care to pregnant women; and

"Whereas WIC's supplemental food and medical care give children the healthy start they need to learn well in school and achieve their full potential as human beings; and

"Whereas WIC's early prenatal care for pregnant women significantly improves pregnancy outcomes, decreasing the number of fetal deaths that might otherwise occur and averting low-birth-weight babies who would otherwise get off to a slow start in life; and

"Whereas WIC is highly cost effective in the long run because healthy, educated children can become the productive citizens our country needs to remain competitive in an increasingly international economy; and

"Whereas WIC is also highly cost effective in the short run because low-birth-weight babies and malnourished children would require more expensive health care under other public assistance programs; and

"Whereas WIC currently serves only 9,174 of the estimated 25,821 potentially eligible women, infants, and children in Alaska; and

"Whereas Alaska has one of the highest infant mortality rates in the country; and

"Whereas food costs in Alaska are high, especially in rural areas, so that WIC dollars based on current allocations from insufficient funds can serve fewer participants compared to other states; and

"Whereas the Congress, through the work of the Budget and Appropriations Committees, has been regularly increasing WIC funding levels, but this year's funding level will still serve only 54 percent of those who are eligible nationwide, leaving 4,000,000 women, infants, and children without the benefits of the program; and

"Whereas the Bush Administration has recommended further increases in WIC funding for fiscal year 1992 but the program would still be grossly underfunded; and

"Whereas full funding of WIC is an important cornerstone in building toward the national goal of ensuring that, by the year 2000, all children should start school ready to learn; be it

"*Resolved* that the Alaska State Legislature commends the Administration and the Congress for their prior actions that have increased funding for WIC; and be it

"*Further resolved* that the legislature strongly urges the Administration and the Congress to continue to invest in our future by increasing WIC funding so that all eligible women, infants, and children will be served no later than fiscal year 1995.

"Copies of this resolution shall be sent to the Honorable Dan Quayle, Vice-President of the United States and President of the U.S. Senate; the Honorable Robert C. Byrd, President Pro Tempore of the U.S. Senate and Chair of the U.S. Senate Committee on Appropriations; the Honorable George Mitchell, Majority Leader of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives; the Honorable Patrick J. Leahy, Chair of the U.S. Senate Committee on Agriculture, Nutrition, and Forestry; the Honorable Edward M. Kennedy, Chair of the U.S. Senate Committee on Labor and Human Resources; the Honorable E (Kika) de la Garza, Chair of the U.S. House Committee on Agriculture; the Honorable Jamie L. Whitten, Chair of the U.S. House Committee on Appropriations; the Honorable William D. Ford, Chair of the U.S. House Committee on Education and Labor; the Honorable George Miller, Chair of the U.S. House Committee on Children, Youth, and Families; the Honorable Tony P. Hall, Chair of the U.S. House Committee on Hunger; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-455. A committee substitute adopted by the Legislature of the State of Alaska for House Joint Resolution No. 62 supporting Guam in its quest for commonwealth status; to the Committee on Energy and Natural Resources.

"HOUSE JOINT RESOLUTION

"Whereas the United States is recognized as the world leader in stimulating the pursuit of global democracy; and

"Whereas the United States supports the extension of self-determination to all peoples, especially to those in territories under its jurisdiction; and

"Whereas the Alaska State Legislature supports the search by each territory governed by the United States for the political standing best suited to its people; and

"Whereas the citizens of the Territory of Alaska fought long and hard for their own self-determination within the United States and eventually achieved it in 1959 with statehood; and

"Whereas Alaskans recognize and identify with the desire of the people of Guam to determine their own political, social, and economic future; and

"Whereas the Territory of Guam is attempting to establish a just political relationship between the people of Guam and the United States and is trying to allow its people to participate in this attempt; and

"Whereas the Guam Territorial Legislature has obtained introduction of the Commonwealth Act of Guam in the United States Congress that would accord the Territory commonwealth status; and

"Whereas there is growing support for providing commonwealth status for Guam, as evidenced by the policy statements and resolutions of various national groups, including members of Congress and the current administration, the National Governors Association, the National Conference of State Legislatures, the Western Legislative Conference, and the United States Conference of Mayors; and

"Whereas the people of Guam are citizens of the United States and should be given all the rights afforded citizens in the United States Constitution;

"Be it resolved that the Alaska State Legislature supports the people of Guam's efforts to achieve commonwealth status and a just and permanent relationship with the United States; and

"Further resolved that the Alaska State Legislature urges the United States government to allow the people of Guam to determine their own political, social and economic future while retaining the protection of the U.S. Constitution.

"Copies of this resolution shall be sent to the Honorable George Bush, President of the United States; the Honorable Dan Quayle, Vice-President of the United States and President of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives; the Honorable George J. Mitchell, Majority Leader of the U.S. Senate; the Honorable J. Bennett Johnston, Chair of the Senate Committee on Energy and Natural Resources; the Honorable George Miller, Chair of the House Committee on Interior and Insular Affairs; the Honorable James A. Baker, III, Secretary of State; the Honorable Manuel Lujan, Jr., Secretary of the Interior; the Honorable Joe T. San Augustin, Speaker of the Twenty-First Guam Unicameral Legislature; the Honorable Joseph F. Ada, Governor of Guam and Chair of the Guam Commission of Self-Determination; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-456. A joint resolution adopted by the Legislature of the State of Maine favoring legal availability of RU-486 for appropriate research and, if indicated, clinical practice; to the Committee on Labor and Human Resources.

"JOINT RESOLUTION

"Whereas, the antiprogesterone steroid, mifepristone, known as RU-486, has been approved and available in France since November 1988; and

"Whereas, RU-486 may be used to promote normal delivery in childbirth, reducing the need to perform Caesarean sections; and

"Whereas, the medical community has identified RU-486 as an important treatment for illnesses, including breast and brain cancer, gynecological malignancies, osteoporosis, Cushing's disease and other serious conditions; and

"Whereas, the American Medical Association, the American Public Health Association, the American College of Obstetricians and Gynecologists and the American Association for the Advancement of Science have formally recognized the importance of RU-486 and support the testing of RU-486 in the United States; and

"Whereas, RU-486 has been developed and tested in Europe and has been shown to be an efficacious and safe means of terminating early pregnancy when administered orally early in pregnancy by an appropriately trained physician; and

"Whereas, the use of such a medication for terminating early pregnancy constitutes a potentially significant medical and public health gain in terms of cost, efficacy, safety, ease of use and privacy of the physician-patient relationship; and

"Whereas, it is in keeping with basic medical standards to avoid surgical procedures whenever an equally effective noninvasive alternative is available; and

"Whereas, medical research that involves this technology has been stalled because of political biases that overshadow the drug's benefits in treating diseases that are killing American women and men; and

"Whereas, the Food and Drug Administration's import alert against RU-486 has thwarted the availability of RU-486 in the few scientific research studies conducted in the United States; and

"Whereas, all American citizens are entitled to the best medical research and this drug may be the solution to many serious conditions affecting the nation's health; and

"Whereas, the introduction of RU-486 into the United States should now be encouraged for its significant medical value; now, therefore, be it

"Resolved: That We, your Memorialists, respectfully recommend and urge the President and Congress of the United States to support the legal availability of RU-486 for appropriate research and, if indicated, clinical practice; and be it further

"Resolved: That suitable copies of this joint resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George H.W. Bush, President of the United States; the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; each Member of the Maine Congressional Delegation; the manufacturers of RU-486, Roussel UCLAF, 35 Boulevard des Invalides 75007, Paris, France; and the Food and Drug Administration."

POM-457. A committee substitute adopted by the Legislature of the State of Alaska for committee substitute for house Joint Resolution No. 41 relating to missing American service personnel; to the Select Committee on POW/MIA.

"HOUSE JOINT RESOLUTION

"Whereas there are more than 88,000 American service personnel missing in action from World War II, the Korean War, and the Vietnam conflict; and

"Whereas recent information has been released regarding American service personnel held against their will after World War II, the Korean War, and the Vietnam conflict; and

"Whereas on April 12, 1973, the United States Department of Defense publicly stated that there was no evidence of live American prisoners of war in Southeast Asia; and

"Whereas the public statement was given nine days after Pathet Lao leaders had declared that Laotian communist forces did in fact have live American prisoners of war in their control; and

"Whereas the prisoners of war held by the Laotian government and its military forces were never released; and

"Whereas there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of unresolved and discrepancy cases; and

"Whereas there is conjecture that congressional inquiries into the POW/MIA issue have been hampered by information that was concealed from committee members or that was misinterpreted or manipulated in government files; and

"Whereas the POW/MIA Truth Bill has been introduced into the United States Congress, and the bill would direct the heads of the Federal government agencies and departments to disclose information concerning the United States service personnel classified as prisoners of war or missing in action from World War II, the Korean War, and the Vietnam conflict; and

"Whereas the bill protects national security by censoring the sources and methods used to collect the live sighting reports; and

"Whereas the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones; and

"Whereas the Senate Select Committee on POW/MIA Affairs has been established in the United States Congress to resolve the POW/MIA issue;

"Be it resolved that the Alaska State Legislature urges the United States Congress to oppose lifting trade embargoes, lifting economic sanctions, and normalizing affairs with Vietnam and Laos until the Congress resolves the POW/MIA issue in Southeast Asia based on the recommendations of the Senate Select Committee on POW/MIA Affairs; and be it

"Further resolved that the Alaska State Legislature urges the United States Congress to begin committee hearings immediately to consider enacting the POW/MIA Truth Bill; and be it

"Further resolved that the Alaska State Legislature requests the United States Congress to continue funding its investigation into the status of missing American service personnel, which is vital to resolving the POW/MIA issue.

"Copies of this resolution shall be sent to the Honorable George Bush, President of the United States, the Honorable Dan Quayle, Vice-President of the United States and President of the U.S. Senate; the Honorable Robert C. Byrd, President Pro Tempore of the U.S. Senate; the Honorable George J. Mitchell, Majority Leader of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the House of Representatives; the Honorable Richard A. Gephardt, Majority Leader of the U.S. House of Representatives; the Honorable Robert Dole, Minority Leader of the U.S. Senate; the Honorable William S. Broomfield, Minority Leader of the House of Representatives; the Honorable Claiborne Pell, Chair of the Senate Committee on Foreign Relations; the Honorable Dante B. Fascell, Chair of the House Committee on Foreign Affairs; the Honorable John F. Kerry, Chair of the Senate Select Committee on POW/MIA Affairs; the Honorable Robert C. Smith, Vice-Chair of the Select Committee on POW/MIA Affairs; the Honorable John Miller, U.S. Representative; the Honorable James A. Baker, III, Secretary of the U.S. Department of State; the Honorable Dick Cheney, Secretary of the U.S. Department of Defense; the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and to the Honorable Jerry W. Hefner, Chair of the Oklahoma House Veterans Affairs Committee."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. ADAMS, Mr. AKAKA, Mr. WELLSTONE, Mr. WIRTH, Mr. CRANSTON, Mr. KENNEDY, Mr. HARKIN, and Mr. KERRY):

S. 3084. A bill to prohibit discrimination by the Armed Forces on the basis of sexual orientation; to the Committee on Armed Services.

By Mr. ROTH:

S. 3085. A bill to amend the Internal Revenue Code of 1986 to provide that amounts in individual retirement plans not be counted in determining eligibility for aid to families with dependent children, to allow withdrawals from such plans to pay for higher education expenses, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 3086. A bill to encourage the development of mentoring programs that link children in high crime areas with law enforcement officers and other responsible adults; to the Committee on the Judiciary.

By Mr. PRYOR (for himself, Mr. COHEN, Mr. REID, Mr. RIEGLE, Mr. GRASSLEY, Mr. GLENN, and Mr. SHELBY):

S. 3087. A bill to amend the Social Security Act to improve and clarify provisions prohibiting misuse of symbols, emblems, or names in reference to Social Security, Supplemental Security Income, Medicare, Medicaid, or the Department of Health and Human Services; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. SIMON, Mr. ADAMS, Mr. INOUYE, Mr. BRADLEY, Mr. AKAKA, Mr. GLENN, Mr. PELL, Mr. WELLSTONE, Mr. KERRY, Mr. METZENBAUM, and Mr. KOHL):

S. 3088. A bill to amend the Public Health Service Act to establish a program to provide grants to improve the quality and availability of comprehensive education, health and social services for at-risk youth and their families, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM:

S. 3089. A bill to provide relief for public agencies from liability under the Fair Labor Standards Act of 1938 for failure to pay exempt employees on a salary basis, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY:

S. 3090. A bill to expand the membership of the Commission on Immigration Reform, and for other purposes; considered and passed.

By Mr. GORTON (for himself, Mr. CRAIG, Mr. NUNN, Mr. BROWN, Mr. MCCAIN, Mr. DECONCINI, Mr. NICKLES, Mr. REID, Mr. MCCONNELL, Mr. WARNER, Mr. BOND, Mr. GRASSLEY, and Mr. SHELBY):

S. 3091. A bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for the collection and disclosure of adoption information, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 3085. A bill to amend the Internal Revenue Code of 1986 to provide that amounts in individual retirement plans not be counted in determining eligibility for aid to families with dependent children, to allow withdrawals from such plans to pay for higher education expenses, and for other purposes; to the Committee on Finance.

INDIVIDUAL RETIREMENT PLANS ACT

Mr. ROTH. Mr. President, I am introducing a bill today to offer a different approach to solving the welfare trap that people like Sandra Rosado have found themselves in. People may remember the stories in the papers from last May about Sandra. She is the oldest daughter of Cecilia Mercado, a mother of eight children, ages 5 to 20, all of whom live with her in subsidized housing and receive Aid to Families With Dependent Children [AFDC].

Sandra dreamed of going to college to become a teacher, and by working after school at a local community center she was beginning to make the dream come true. She managed to save $4,964.11 that she would use toward her college expenses. But, a stiff penalty from the Connecticut commissioner of income maintenance not only caused her to lose her savings, but also cost her mother over $9,000 in benefits because the family had violated the federal AFDC eligibility rules that limit their assets to $1,000.

The testimony before the Finance Committee, Secretary Kemp has indicated the administration's support for an increase in the $1,000 savings limit to a much higher amount of $10,000. Cases like the Rosado case certainly cause us to realize how the current system acts to limit economic growth and individual ambition. But frankly, many Americans might have problems with allowing people who are receiving public assistance payments to save up to $10,000, when the taxpayers are unable to save that much, if anything, on their own. In fact, some taxpayers may feel that a family with $10,000 in the bank on AFDC is rich, indeed.

But no one will argue with the desire to get people out of the welfare trap. I wholeheartedly agree with the need to increase incentives so that people will pull themselves out of the trap, with some well placed help, if necessary. That is why I am introducing this new bill today. I believe it better addresses the concerns that we all have, without allowing the taxpayer to lose confidence in the system.

This new bill will allow people like Sandra Rosado to save for their college education, but, by the same token, it will not allow savings for other frivolous things that a family might choose to spend their money on. The savings would have to be placed in an IRA account, and withdrawals could be made penalty free for college expenses. Thus the effect is the same, but the government still is able to control how the savings is spent if a family save more than $1,000. I believe there are other possibilities that should be explored, but I also think that the IRA is the only universal savings vehicle with the necessary limits to address the problems for both AFDC recipients and the taxpayer.

I also think it would be worthwhile to consider legislation to allow the states to elect to create a savings fund for these monies with limited withdrawals on a case by case basis, as determined by the state. I also think we should consider stronger penalties than the 10-percent penalty on early withdrawals, if the money is withdrawn early for purposes other than education. I hope that the Finance Committee will address these issues and more when it moves to markup H.R. 11 this week, and later as we move on to conference on the bill. I am encouraged that the chairman will keep these views in mind as we proceed, and I look forward to working with him on these ideas. I ask unanimous consent that a copy of a New York Times article regarding this issue be included in the RECORD, together with a copy of the bill.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

WELFARE'S LIMIT ON SAVINGS FOILS ONE BID TO BREAK CYCLE

(By Constance L. Hays)

NEW HAVEN, May 13.—Working part time at a community center, Sandra Rosado saved $4,900 to go to college and to escape the web of welfare that is all her family has known since they moved here 12 years ago.

But her thrift and industry have led to a bureaucratic nightmare for Miss Rosado and her family. First state officials, who discovered her savings account, told her mother to spend the money so the family could remain eligible for the Aid to Families with Dependent Children program. Then Federal authorities ordered the mother, Cecilia Mercado, to repay $9,342 in benefits she received while her daughter's money was in the bank.

The case, which has been in and out of state courts as Mrs. Mercado challenged the order, highlights what critics across the political spectrum say is a major flaw in American social policy toward the poor—a rule that limits a welfare family's assets.

Under Federal law, people who receive assistance under the Aid to Families with Dependent Children program become ineligible if their assets exceed $1,000. Such assets include property, like cars, and children's bank accounts.

"The rationale is that the public shouldn't be supporting families that have their own resources," said Michael Sherraden, an associate professor of social work at Washington University in St. Louis, whose 1991 book, "Assets and the Poor," has been cited by Housing Secretary Jack Kemp and others seeking new ways to alleviate poverty. "But it's a very short-sighted policy. Savings are the way that families get out of poverty. So this policy doesn't make much sense."

In budget recommendations announced since the Los Angeles riots, President Bush has proposed raising the asset limits to $10,000 for families already receiving family aid. The current limit was established in 1981. The President also proposed setting up escrow accounts, which families would receive once they got off family assistance. Such a plan represents "the beginnings of a new and different approach to help families achieve self sufficiency," the budget states.

Other critics of the welfare system say asset limits are minor compared with the amount of cheating that the system encourages. "The bottom line has a lot more to do with the fundamental nature of the system, which pays people a maximum benefit for having zero income, and every step they take away from zero reduces their benefits," said Robert Rector, a welfare-policy analyst for the Heritage Foundation in Washington.

Perfume Instead of College

Most welfare programs set asset limits. But those limits often do not recognize fiscal realities, and, as in the case of Miss Rosado and her brother, Angel, who had saved another $900, discourage people from breaking away from their dependency on public assistance.

"Here you have a situation where other children would have been commended for what these kids did," said Joanne G. Gibau, the New Haven Legal Assistance lawyer who represented Miss Rosado's mother in court. "They went to school full-time. They worked part time. And they saved their money. The sad part of this is, Sandra wasn't able to use this money for the purpose she had intended."

Instead of spending her savings on college, Miss Rosado bought clothes, jewelry, shoes and perfume, her mother said. "The state told us to spend it," she said. Then, when the order for repayment arrived, "I was very shocked," she said. "I wasn't intentionally cheating, because I didn't know about those bank accounts." Mrs. Mercado has eight children, all of whom live with her in subsidized housing. Sandra, at 20, is the oldest; the youngest is 5.

Miss Rosado was upset by what happened. "I worked a lot of hours for that money," she said. Her job was at a neighborhood community center here, supervising after-school basketball games and running a small candy store. "I have friends who used to get money and spend it on other things. It was tempting. But I knew I had a dream I wanted to fulfill."

Mrs. Mercado won the case she brought against the state's Commissioner of Income Maintenance at the trial court level, and the state appealed. This week the State Supreme Court, Connecticut's highest court, ruled against Mrs. Mercado, meaning she must somehow come up with the money the Government says she owes.

Ms. Gibau is seeking a waiver from the Federal Government on the repayment, but others say that may be difficult. "It is much more problematic to apply retroactively for some kind of waiver," said the state Attorney General, Richard Blumenthal, whose office argued the case for the state. He added: "Whatever the injustice or lack of merit that may be perceived in the law, it is a task for Congress, not the courts, to correct it."

Will Marshall, president of the Progressive Policy Institute, a Washington research organization, said: "We've got to get rid of these perverse policies that penalize poor people when they exercise personal initiative and responsibility. One of the themes that's emerging is that we have to look at the poor as just like everybody else. It's ironic that we're willing to lavish incentives like tax deductions for home buying on middle-class people, on the assumption that they'll take advantage of them. It's ture, but it's also true for the poor."

Miss Rosado did enroll in South Central Community College here last fall after getting a scholarship and a grant, Ms. Gibau said, awarded for good grades. She is the first person in her family to go to college.

In an interview this week, as children shrieked and basketballs bounced around her, Miss Rosado said she hoped to become a teacher.

And she added that she thought the law was unfair. "They should let students that are graduating save up money, if they have dreams to go to college," she said.

S. 3085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISREGARD OF IRAS FOR AFDC ELIGIBILITY

(a) DISREGARD AS RESOURCE.—Subparagraph (B) of section 402(a)(7) of the Social Security Act (42 U.S.C. 602(a)(7)) is amended—

(1) by striking "or" before "(iv)", and

(2) by inserting ", or (v) any amount in an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) of an individual of such family" before "; and".

(b) DISREGARD AS INCOME.—Subparagraph (A) of section 402(a)(8) of the Social Security Act (42 U.S.C. 602(a)(8)) is amended—

(1) by striking "and" at the end of clause (vii), and

(2) by inserting after clause (viii) the following new clause:

"(ix) shall disregard any distributions from any individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) made to a family receiving aid to families with dependent children; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992.

SEC. 2. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY HIGHER EDUCATION.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii), to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (6)) of the taxpayer for the taxable year."

(b) DEFINITIONS.—Section 72(t) of such Code is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(c) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) of such Code is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which distributions for qualified higher education expenses (as defined in section 72(t)(6)) are made, and".

(2) Section 403(b)(11) of such Code is amended by striking "or" at the end of subparagraph (A), by striking the period at the end

of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of qualified higher education expenses (as defined in section 72(t)(6))."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after the date of the enactment of this Act.

By Mr. LAUTENBERG:

S. 3086. A bill to encourage the development of mentoring programs that link children in high-crime areas with law enforcement officers and other responsible adults; to the Committee on the Judiciary.

JUVENILE MENTORING PROGRAM [JUMP] ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Juvenile Mentoring Program Act, or JUMP, to encourage the development of mentoring programs that link children in high-crime areas with law enforcement officers and other responsible adults.

Under the proposal, the Administrator of the Office of Juvenile Justice and Delinquency Prevention would consider applications from local educational agencies and nonprofit groups. Applicants would compete for grants based on the quality of their proposed mentoring plans and their ability to implement them. Recipients could use funds to hire mentoring coordinators and support staff, to recruit, screen, and train adult mentors, and to reimburse mentors for reasonable incidental expenditures directly associated with mentoring. The program would be authorized at $50 million per year.

Mr. President, too many young people today are growing up in environments bereft of hope. They live surrounded by violence and drug dealers. They attend second-rate schools that don't prepare them to function in our economy. And they have few responsible adults to take care of them, to lead them in the right direction.

Clearly, Mr. President, there is no magic answer to the problems of these youth. We need systemic improvements in our schools, more jobs, and better job training. But, Mr. President, we also have to work on a smaller scale—one by one, child by child. That's where mentoring can make an enormous difference.

Mr. President, I'm personally involved in a program known as I Have a Dream. The program puts responsible adults together with economically disadvantaged children, to give them the guidance and assistance they need, but so often lack. In addition, the program promises children that, if they do well, their college education will be paid for. Similarly, under this legislation, preference will be given to applicants who would provide participating youth with opportunities for job training or postsecondary education.

I also have personally been involved with the Drug Abuse Resistance Education Program, or DARE, which brings police officers into schools to talk with children about drug abuse. The program has helped children see the police in a new and more positive light, while bringing the police themselves in closer touch with the community's young people.

Unfortunately, Mr. President, too many children see the police as the enemy, and the resulting tensions can have horrible consequences, as we have seen recently. By involving mentors from the law enforcement community, JUMP would begin to bridge the gap between many children in high-crime areas and the police. The resulting improvement in police-community relations would be an important benefit of the program.

Mr. President, the experience of many existing programs clearly demonstrates the promise of mentoring. When children and adults establish solid, caring relationships, young people often are set on a different and better path. Yet, for all the good work that's already being done, too few children benefit from mentoring. We can and ought to do more. That's what JUMP is all about.

The program will provide children with trained mentors who know and care about them as individuals, who accept them, and who are there to help them when needed, mentors who can point them away from crime, away from drugs, and toward a future worth working for.

Mr. President, I want to express my appreciation to the many children advocates and others who have helped in the development of this legislation. In particular, I would like to thank the Children's Defense Fund, Big Brothers/Big Sisters of America, the National Collaboration for Youth, and the One-to-One Partnership for their advice and their endorsement of the bill. The Boys and Girls Clubs of America and the Amelior Foundation also provided valuable comments.

Mr. President, I urge my colleagues to support the bill, and ask unanimous consent that a copy of the legislation, along with other related materials, be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Newark Star-Ledger, July 17, 1992]

JUMP TO SUCCESS

One means of dealing with the growing problem of juvenile delinquency is by providing alternatives to the temptation of crimes such as drug abuse and car theft. That is the premise behind the Juvenile Mentoring Program (JUMP) Act proposed by Sen. Frank Lautenberg (D-NJ).

In an effort to help local communities create and expand juvenile mentoring programs, Mr. Lautenberg proposes a $50 million plan to provide adult role models for children in high-crime areas. It would foster development of projects intended to link school-age children on a regular and sustained basis with adult mentors from their local police departments and other agencies.

The forward-looking program would be run by local educators and non-profit groups and would "match responsible, caring adults from the community with local youngsters at risk," the senator said. Grant awards would be based, in part, on the extent to which parents, teachers, students, local police departments and the community participate in developing and implementing the programs.

The approach fostered by JUMP takes into account the stagnant economy and the realities of urban environments lacking in recreational and employment opportunities. It seeks to take advantage of the most available and often overlooked resource of the community, its people.

Too many youngsters are confronted with an environment of violence and hopelessness in a crippling recession. While there are no quick fixes to the problems of the inner city, caring members of the community can have a profound impact on these youngsters.

While efforts are being made to improve the cities, the ability of their people to influence youngsters cannot be overlooked, and programs that seek to provide one-on-one role models might well be fostered and expanded.

There should be no relaxing of pressure on the federal government to provide the money needed to salvage the cities, but mentoring programs can go far to redirect youngsters consigned to despair and hopelessness.

The realization that someone is ready to teach, guide and share can make a notable difference in a young person's life and light the way toward more constructive, positive and successful endeavors.

S. 3086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Juvenile Mentoring Program Act of 1992" or the "JUMP Act".

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds that—

(1) millions of children in America live in areas where property and violent crime is pervasive;

(2) such crime too frequently robs these children of their youth, their future, and their lives;

(3) in many communities, children fear and mistrust local law enforcement officers;

(4) while Federal funding is available to assist local law enforcement agencies in the prevention and management of crime and juvenile delinquency, little is available specifically for fostering relationships between individual youth at risk and adult mentors from the law enforcement and local community; and

(5) privately funded mentoring programs demonstrate promise that sustained mentoring relationships can help children become successful and productive members of society.

SEC. 3. JUVENILE MENTORING.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:

"TITLE V—JUVENILE MENTORING PROGRAM (JUMP) ACT OF 1992

"SEC. 501. SHORT TITLE.

"This title may be cited as the 'Juvenile Mentoring Program Act of 1992' or the 'JUMP Act'.

"SEC. 502. AUTHORITY TO MAKE GRANTS.

"(a) In General.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants to local educational agencies and nonprofit organizations to implement mentoring programs under this title.

"(b) Eligible Mentoring Program.—A mentoring program funded under this title shall be a program, or a new component or enhancement of an existing program, providing assistance to eligible children—

"(1) designed to link children in high crime areas with adult law enforcement officers and other responsible adults; and

"(2) intended to achieve one or more of the following goals:

"(A) Provide general guidance to eligible children.

"(B) Promote personal and social responsibility among such children.

"(C) Discourage their use of illegal drugs, violence and dangerous weapons, and other criminal activity.

"(D) Enhance eligible children's ability to function effectively in, and benefit from, elementary and secondary education.

"(E) Discourage involvement in gangs.

"(F) Encourage eligible children's participation in community service.

"(c) Regulations.—

"(1) In general.—The Administrator, after consultation with the Secretary of Health and Human Services and the Secretary of Education, shall promulgate regulations to implement this title.

"(2) Screening mentors.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

"SEC. 503. APPLICATIONS.

"(a) In General.—To be eligible to receive a grant under this title, a local educational agency or nonprofit organization shall submit an application containing the information specified in subsection (b) to the Administrator at such time, in such form, and accompanied by such additional information as the Administrator may reasonably require.

"(b) Contents of Application.—

"(1) Content of plan.—All applications for grants shall include a specific plan for implementing a mentoring program, including—

"(A) the method by which mentors and mentees will be recruited;

"(B) the method by which prospective mentors will be screened;

"(C) the training that will be provided to mentors; and

"(D) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education.

"(2) Community involvement.—All applications shall describe the extent to which parents, teachers, community-based organizations, and the local community have participated in the design and implementation of the mentoring plan.

"(c) Selection Criteria.—The Administrator shall select grant recipients based on the following:

"(1) Quality of plan.—The quality of the mentoring plan, including—

"(A) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and

"(B) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan.

"(2) Effective Implementation.—The capability of the applicant to effectively implement the mentoring plan.

"SEC. 504. USE OF FUNDS.

"(a) Eligible Uses.—Grants awarded pursuant to this title shall be used to implement mentoring programs, including—

"(1) hiring of mentoring coordinators and support staff;

"(2) recruitment, screening, and training of adult mentors;

"(3) reimbursement of mentors for reasonable incidental expenditures directly associated with mentoring; and

"(4) such other purposes as the Administrator may reasonably prescribe by regulation.

"(b) Prohibited Uses.—Grants awarded pursuant to this title shall not be used—

"(1) to directly compensate mentors, except as provided pursuant to subsection (a)(3);

"(2) to obtain educational or other materials or equipment which would otherwise be used in the ordinary course of the grantee's operations; or

"(3) for any other purpose reasonably prohibited by the Administrator pursuant to regulation.

"SEC. 505. REPORTS.

"(a) In General.—The Administrator shall require grantees to provide periodic reports that include information on the obligation and expenditure of grant funds, and the progress made by the grantee in implementing the mentoring plan described in section 503.

"(b) Reports.—Not later than 4 years after the date of enactment of this title, and periodically thereafter, the Administrator shall submit a report to Congress evaluating the program established under this title.

"SEC. 506. MONITORING.

"The Administrator shall audit and monitor the programs funded under this title to assure that assistance provided under this title is administered in accordance with its provisions.

"SEC. 507. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Administrator' means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

"(2) the term 'eligible children' means individuals who live in high crime areas, as shall be reasonably defined by the Administrator pursuant to regulations, and who are less than 18 years of age and older than a minimum age established by the Administrator by regulation;

"(3) the term 'law enforcement officer' means any employee of a Federal, State, or local law enforcement agency who is engaged in law enforcement or crime prevention;

"(4) the term 'local educational agency' means any local agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381); and

"(5) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

"SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $50,000,000 for each fiscal year to carry out the purposes of this title.".●

By Mr. PRYOR (for himself, Mr. Cohen, Mr. Reid, Mr. Riegle, Mr. Grassley, Mr. Glenn, and Mr. Shelby):

S. 3087. A bill to amend the Social Security Act to improve and clarify provisions prohibiting misuse of symbols, emblems, or names in reference to Social Security, Supplemental Security Income, Medicare, Medicaid, or the Department of Health and Human Services; to the Committee on Finance.

MISLEADING MAILINGS PREVENTION ACT

● Mr. PRYOR. Mr. President, today I am introducing legislation to strengthen prohibitions against fraudulent and misleading mailings targeted at older persons.

In 1988, Congress enacted a law to prevent the misuse of words, letters, symbols, and emblems of the Social Security Administration [SSA] and the Health Care Financing Administration [HCFA]. Unfortunately, despite this law, unscrupulous groups continue to prey on the elderly by use of deception and scare tactics. These groups grow rich by feeding off the fears and vulnerabilities of the elderly. The bill I am introducing today is designed to combat this wave of misleading mailings.

As my colleagues are aware, we have been receiving a growing number of complaints from senior citizens who have received letters designed to convey the impression that Social Security is bankrupt. One envelope states: "All the Social Security Money Is Gone." Seniors worry themselves sick over such charges. Yet nothing could be further from the truth, as the Social Security trust funds are developing record surpluses. Such an example, while it may or may not be found to be in violation of the law, shows the need for strengthening penalties against misleading mailings.

The purpose of the 1988 provision was to prohibit organizations from conveying the false impression that their products or mailings were endorsed, approved, or authorized by SSA or HCFA. My bill operates within that same framework, but strengthens penalties and the enforcement capabilities of the Department of Health and Human Services. First, my bill lifts the current $100,000 annual limit on the total amount of penalties that can be levied against individuals for violations of the law. To further strengthen the deterrent against mass mailings, the bill makes each piece of mail a violation, rather than counting a bulk mailing as one violation as if the policy under current regulations.

In addition, the bill adds the names, letters, symbols and emblems of the Department of Health and Human Services, Supplemental Security Income [SSI], and Medicaid as protected items. The bill adds a new standard to define deceptive mailings to prohibit any solicitation which reasonably could be interpreted as conveying the false impression that such an item is approved by HHS. To facilitate HHR's ability to battle these abuses, the Department of Justice would no longer have to issue a formal declination of action before HHS could pursue a civil monetary penalty. In order for us to evaluate HHS's progress, the Secretary of HHS would be required to report to Congress annually about deceptive practices involving SSA and actions taken against violations of the law.

The Misleading Mailings Prevention Act of 1992 will close loopholes in the law and put a halt to some of the most despicable scams against the elderly. Greedy individuals employ a number of very creative methods of shaking down the elderly. They aim at emptying the pockets of those who can least afford it. They shamelessly pose as legitimate by using official sounding names and symbols. Ironically, in the name of protecting Social Security, these scam artists will take a portion of older person's Social Security checks, often from those on fixed incomes who may have to forgo food or medicine in order to make a small donation. We can and must put a stop to this.

I am pleased that the distinguished chairman of the Committee on Finance has agreed to include this bill as part of the urban aid package the committee is scheduled to markup on July 29. This demonstrates again his longstanding commitment to combating fraud against the elderly, and his concern about the effects such deception has on the pocketbook of seniors who may be living on fixed incomes.

I urge all of my colleagues to join us in this effort.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD and that the bill be printed following the summary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE MISLEADING MAILINGS PREVENTION ACT OF 1992

Problem: During the past decade, soliciting senior citizens by deceptive means has become big business. In their solicitations, various organizations have attempted to imply connections with Federal government agencies to lend credence to their scams. Existing provisions in the Social Security Act to prevent such fraud have proven inadequate to deter all deceptive mailings.

Present law: In 1988, Congress enacted a provision prohibiting the misuse of words, letters, symbols and emblems of the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA). The purpose was to prevent organizations from conveying the false impression that their mailings or solicitations were approved or authorized by SSA or HCFA. The law permits the Department of Health and Human Services (HHS) to impose civil monetary penalties not to exceed $5,000 per violation or, in the case of a broadcast or telecast, $25,000 per violation. The total amount of penalties which may be imposed is limited to $100,000 per year.

Bill summary: The bill would eliminate the $100,000 annual cap on penalties in order to create an adequate deterrent for groups that take in millions of dollars per year by engaging in deceptive practices.

The bill would define a "violation" as each individual piece of mail in a mass mailing, overriding current regulations that define an entire mass mailing as only one violation. This further strengthens the deterrent against deceptive mailings.

The bill would add a new definition of a deceptive mailing. In addition to the current law standard which prevents an organization or a person from using names and symbols in a manner that such a person "knows or should know would convey a false impression" of a relationship with SSA, HCFA, or HHS, the bill would add a prohibition against the use of the names or symbols in a manner which "reasonably could be interpreted or construed as conveying" a relationship to those Federal agencies.

The bill would eliminate the existing requirement that the Department of Justice (DOJ) review and formally decline to handle cases on deceptive mailings under the Social Security Act. The current requirement needlessly delays action by HHS, and the DOJ has shown no interest in pursuing this area.

Finally, the bill would require HHS to report annually to Congress on enforcement actions taken on deceptive mailings.

Status: The Senate Finance Committee is expected to include the bill in the urban aid package it is scheduled to mark up on July 29, 1992. The House of Representatives recently approved similar legislation as part of its urban aid package.

S. 3087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Misleading Mailings Prevention Act of 1992".

SEC. 2. IMPROVEMENT AND CLARIFICATION OF PROVISIONS PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, MEDICARE, MEDICAID, OR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b–10(a)) is amended—

(1) in paragraph (1), by striking "Administration', the letters 'SSA' or 'HCFA'," and inserting "Administration', 'Supplemental Security Income', 'Medicaid', 'Department of Health and Human Services', the letters 'SSA', 'HCFA', 'SSI', 'DHHS', or "HHS',"; and

(2) in paragraph (2); by striking "Social Security Administration" each place it appears and inserting "Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services", and by striking "or if the Health Care Financing Administration".

(b) INCLUSION OF REASONABLENESS STANDARD.—Section 1140(a) of such Act, as amended by subsection (a) of this section, is further amended, in the matter following paragraph (2), by striking "convey" and inserting "convey, or in a manner which reasonably could be interpreted or construed as conveying,".

(c) VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C. 1320b–10(b)(1)) is amended by adding at the end the following new sentence: "In the case of any items referred to in subsection (a) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation.".

(d) ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.—

(1) REPEAL.—Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b–(b)(2)) is repealed.

(2) CONFORMING AMENDMENTS.—Section 1140(b) of such Act is further amended—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking "subparagraph (B)" and inserting "paragraph (2)".

(e) REMOVAL OF FORMAL DECLINATION REQUIREMENT.—Section 1140(c)(1) of such Act (42 U.S.C. 1320b–10(c)(1)) is amended by inserting "and the first sentence of subsection (c)" after "and (i)".

(f) ANNUAL REPORTS.—Section 1140 of such Act (42 U.S.C. 1320b–10) is amended by adding at the end the following new subsection:

"(d) The Secretary shall include in the annual report submitted pursuant to section 704 a report on the operation of this section during the year covered by such annual report. Such report shall specify—

"(1) the number of complaints of violations of this section received by the Social Security Administration during the year,

"(2) the number of cases in which a notice of violation of this section was sent by the Social Security Administration during the year requesting that an individual cease activities in violation of this section,

"(3) the number complaints of violations of this section referred by the Social Security Administration to the Inspector General in the Department of Health and Human Services during the year,

"(4) the number of investigations of violations of this section undertaken by the Inspector General during the year,

"(5) the number of cases in which a demand letter was sent during the year assessing a civil money penalty under this section,

"(6) the total amount of civil money penalties assessed under this section during the year,

"(7) the number of requests for hearings filed during the year pursuant to section 1140(c)(1) and 1128A(c)(2),

"(8) the disposition during such year of hearings filed pursuant to section 1140(c)(1) and 1128A(c)(2, and

"(9) the total amount of civil money penalties under this section deposited as miscellaneous receipts of the treasury of the United States during the year.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.

By Mr. KENNEDY (for himself, Mr. SIMON, Mr. ADAMS, Mr. INOUYE, Mr. BRADLEY, Mr. AKAKA, Mr. GLENN, Mr. PELL, Mr. WELLSTONE, Mr. KERRY, Mr. METZENBAUM, and Mr. KOHL):

S. 3088. A bill to amend the Public Health Service Act to establish a program to provide grants to improve the quality and availability of comprehensive education, health and social services for at-risk youth and their families, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE SERVICES FOR YOUTH ACT

Mr. KENNEDY. Mr. President, America's children and youth are symbols of both the successes and failures of our society. They are our future and our legacy, and yet we continue to fall far short of our obligation to meet their needs. In these difficult times, the plight of the Nation's children represents the burden of more than a decade of decay and neglect. The Nation has become increasingly divided, and our youth are paying the price.

Today, more than 1 out of 5 American children live in poverty—and more than 200,000 have no place to call home. We are reducing our military forces, but we are doing nothing to stop the arms race here at home. More than 5 million students now carry weapons to school. Faced with a lack of role models and opportunity and an excess of crimes and victims, too many of our young people find survival training in the streets. We can do better, and we must do better.

Among the most important tasks facing our country is reforming the Nation's schools. It is not enough to improve the quality of education. Children cannot learn if they have other urgent unmet needs. Many youth are carrying heavy burdens to school each day that make learning diffcult or impossible.

Overworked teachers find themselves also serving as social workers, counselors, and caregivers while still trying to perform their jobs as educators. They are discouraged and exhausted, and their teaching suffers.

Public health and social service agencies are struggling to help children and families, but their efforts are fragmented and obstructed by jurisdictional boundaries and confusing criteria. Families most in need of services are often headed by single parents in low-wage jobs that don't allow time off to see a doctor in one neighborhood, a social worker in another, and a specialist in yet another. Endless paperwork, waiting lists, time constraints, and transportation barriers combine to prevent children from obtaining the kind of services that most of us take for granted, and that would give them an opportunity to learn in school and prosper.

Preventive health services, the essence of good health care, are practically nonexistent. Teenagers, often alienated and struggling for their independence, frequently will not use traditional service delivery systems, believing that no one understands their needs. To enable students to learn, we must find more effective ways to see that their basic needs are met. The obvious place to start is with the schools.

Today I am introducing the Comprehensive Services for Youth Act of 1992 to begin to bring schools, health and other professionals, and parents together in a coordinated effort to provide basic health care and other services to students in their schools.

This legislation will offer grants to local community partnerships in urban and rural areas to coordinate and deliver comprehensive health and social services to youth in school-based or school-linked centers. The partnerships will be targeted on communities with high risk environments and high rates of children in poverty. Parents, teachers, service providers, and community leaders will all be encouraged to work together and actively participate.

The bill will also offer grants to states and local consortia to support comprehensive health and social services for all youth on a citywide or statewide basis. These grants will support the efforts of states and localities to coordinate services and make more effective use of scarce State, local, and Federal funds.

Other provisions will give teachers and school administrators the training and technical assistance they need, so that pupils can take greater advantage of the social services available in the school and in the community.

Our schools are already heavily overburdened, and will not be easy for them to take on this additional one-stop-shopping role as well. But the modest cost involved in making at least a minimum level of health care and other basic services available in the schools is an investment in the future that can pay rich dividends for education too. This concept of one-stop-shopping in the schools may make all the difference in achieving all our other goals in elementary and secondary school reform.

In a hearing this morning, the Labor and Human Resources Committee heard from parents, policymakers, program providers, and youth themselves, from urban and rural communities across this country. Each of witnesses, from their own perspective, had recognized the merit of this new approach to education. Many were skeptical at first, but they are now convinced that it is the way of the future.

I urge my colleagues to support this legislation and I look forward to its consideration by the full Senate.

I ask unanimous consent that the testimony from the testimony from the hearing be included in the RECORD. Furthermore, I ask consent that the letters of support for the Comprehensive Services for Youth Act of 1992 and the complete text of the legislation be printed in the Record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Services for Youth Act of 1992".

TITLE I—SCHOOL-BASED OR SCHOOL-LINKED HEALTH AND SOCIAL SERVICES CENTER GRANTS

SEC. 101. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may award grants to eligible local community partnerships to coordinate and deliver comprehensive education, health, and social services to children or youth in school-based, school-linked or community-based locations.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity shall—

(A) be a new or existing local community partnership which, at a minimum, shall include—

(i) a local health care provider with experience in delivering services to adolescents;

(ii) one or more local public schools; and

(iii) at least one community-based organization located in the community to be served that has a history of providing services to at-risk youth in that community.

(B) prepare and submit to the Secretary an application in accordance with subsection (e), that has been developed and agreed to by all members of the partnership;

(C) ensure the provision of core services in accordance with subsection (c); and

(D) meet any other requirements determined appropriate by the Secretary.

(2) PARTICIPATION.—A partnership described in paragraph (1)(A) shall, to the maximum extent feasible, involve broad based community participation from parents and youth to be served, health and social service providers, teachers and other public school and school board personnel, community-based organizations (particularly those serving minority youth), youth development and service organizations and interested business leaders. Such participation may be through an expanded partnership, or an advisory board to such a partnership.

(3) TARGETING.—A partnership described in paragraph (1)(A) shall be located in and created to serve a community in which youth are exposed to a high risk environment as documented by factors including high rates of children in poverty or who lack access to health care, school drop outs and those retained in grade, alcohol or other drug use, sexually transmitted diseases including HIV, teen pregnancy, suicide, community or gang violence, youth unemployment, and juvenile justice involvement.

(c) USE OF AMOUNTS.—

(1) CORE SERVICES.—

(A) IN GENERAL.—A local partnership awarded a grant under subsection (a) shall use amounts received under such grant to coordinate and deliver core services described in subparagraphs (B) and (C) at a school-based, school-linked, or community-based location or locations accessible to, and utilized by, at-risk children, youth, and their families.

(B) COMPREHENSIVE HEALTH, MENTAL HEALTH, AND SOCIAL SERVICES.—With respect to the delivery of comprehensive health, mental health, and social services, a partnership shall ensure that—

(i) at a minimum, health screening and health care services, counseling and crisis intervention and referrals are provided in a single site; and

(ii) health, mental health and social services which cannot be provided directly on-site will be secured through contracted arrangements with community-based providers and a case management system that ensures that populations to be served receive needed services and appropriate follow-up services.

(C) YOUTH DEVELOPMENT AND LIFE PLANNING.—With respect to youth development and life planning services, a partnership shall—

(i) provide age appropriate programs and services that promote the development of life skills and social competencies which assist youth in completing school or employment training, establishing life and career goals, and avoiding high risk behaviors; and

(ii) provide programs and services that are designed to prevent HIV and other sexually transmitted diseases, unintended pregnancies, alcohol and other drug use, suicide, community or gang violence, and other risk taking behaviors that reflect the needs of the populations identified by the community in the comprehensive plan of the partnership.

(2) COORDINATION OF CORE SERVICES.—A partnership awarded a grant under subsection (a) shall, in meeting the requirements of paragraph (1), use amounts received under such grant to coordinate the delivery of existing services of the types described in such paragraph to more effectively utilize available resources prior to adding new resources or developing new services.

(3) COORDINATION OF CORE SERVICES WITH ADDITIONAL SERVICES.—A partnership awarded a grant under subsection (a) may use amounts received under such grant to coordinate or co-locate core services with additional services identified in the comprehensive plan to enhance the support available through the partnership service delivery network.

(d) PRIORITY AND TERM OF GRANTS.—

(1) PRIORITY.—In awarding grants under this subsection the Secretary shall give priority to those applicants that, through their comprehensive services plan, demonstrate that—

(A) continuity of access to required core services for youth will be made available on a year round basis or beyond traditional school or service hours, either on site or through a backup referral system of community-based providers; and

(B) services to be offered by the partnership will extend beyond the in-school population and will include the provision of core services to out-of-school youth, to the extent practicable.

(2) TERM OF GRANTS.—Grants awarded under subsection (a) shall be for a term of not less than 3, or more than 5, years based on the ability of the grantee partnership to achieve the goals and objectives identified in the entity's application. The Secretary may provide 2 year extension awards to those grantee partnerships that, following the initial 3 year grant period, demonstrate substantial progress in the integration of comprehensive services, including broad based institutional support for collaboration from all members of the partnership, and improvement in the health and education outcomes of the populations served relative to baseline community indices.

(e) APPLICATION.—

(1) IN GENERAL.—An entity that desires to receive a grant under subsection (a) shall prepare and submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Such application shall include a comprehensive services plan that meets the requirements of paragraph (3) and the assurances required under paragraph (4). A copy of such application shall be provided to the State agencies primarily responsible for health and education for the particular State involved.

(2) FORMULATION.—In formulating a comprehensive services plan under this subsection, an entity shall document the efforts undertaken by the entity to obtain broad based community input from teachers and school personnel, health providers including organized medicine, social service providers including community-based organizations, and parents and at-risk youth to be served in order to—

(A) maximize participation in the needs assessment conducted by the entity;

(B) formulate a service plan that is comprehensive and reflective of the needs delineated by youth and families to be served;

(C) build institutional support for the services to be provided under the plan from the staff and administration of all members of the partnership and the larger community;

(D) encourage increased collaboration among a broader range of public and private providers to improve the quality, availability and variety of services offered within the partnership; and

(E) heighten awareness of the linkage between access to comprehensive health and social services and school performance.

(3) CONTENTS OF THE PLAN.—Each plan submitted under paragraph (1) shall include—

(A) a description of the children or youth populations to which services will be provided under the grant and an assessment of their health, social services, and education needs;

(B) an inventory of existing core services described in subsection (c) that are being provided to such populations within the community, including subpopulations of youth with special needs;

(C) an identification of the unmet needs of such populations, gaps in the system of core services available, barriers to the utilization of services, and barriers to the integration of services including conflicting regulatory requirements and eligibility standards;

(D) a description of the program goals and objectives and intended outcomes, which may include increased integration and utilization of services by the intended populations, and improved health and education indicators for service recipients relative to the baseline community assessments described in subparagraph (A);

(E) a plan for the manner in which data systems used by members of the partnership will be coordinated in order to guide local planning and evaluate the progress made toward achieving program goals and objectives described in subparagraph (D);

(F) a description of the means by which the entity will coordinate or co-locate services currently provided by members of the partnership in order to maximize the effectiveness of existing resources;

(G) a description of the services that will be directly provided to children or youth populations with funds provided under this Act as needed to address identified unmet core service needs;

(H) a description of how the services will be coordinated with the on-going educational activities of the school or schools participating in the partnership and the role the school nurse and other student support personnel will play in the expanded health care services;

(I) a description of the process by which program decisions will be made within the partnership;

(J) an identification of the partnership's fiscal agent and the manner in which program funds received under this section will be disbursed and monitored; and

(K) a description of the strategy for securing the long term financing necessary to ensure a continuity of services made available through the partnership after the termination of the grant period.

(4) ASSURANCES.—An application submitted under this section shall contain assurances that—

(A) core services will be provided in a coordinated manner at a single site providing ready access to the populations to be served, and if such single site is to be school-based, that an affirmative school board vote for the project will be provided;

(B) core services will be targeted to populations and subpopulations identified in the comprehensive plan and will be delivered in a culturally sensitive and linguistically appropriate manner;

(C) amounts provided to the applicant under this section will be used to coordinate existing services provided by the individual members of the partnership before such amounts are used to provide new services; and

(D) amounts provided to the applicant under this section and used to deliver services will be utilized in conformity with the unmet core service needs as identified in the comprehensive plan of the entity.

(f) GEOGRAPHIC DISTRIBUTION.—In awarding grants to qualified applicants under this title, the Secretary shall ensure—

(1) an equitable geographic distribution; and

(2) a distribution to both urban and rural communities in which youth are exposed to a high risk environment in accordance with section 101(b)(3).

(g) AMOUNT OF GRANT.—The annual amount of a grant awarded under this title shall not be less than $100,000 nor more than $300,000, except as provided in section 102.

(h) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (3), a grant for services awarded under this section may not exceed—

(A) 90 percent of the total cost of the activities to be funded under the program for the first 2 fiscal years for which the program receives assistance under this section; and

(B) 75 percent of the total cost of such activities for subsequent years for which the program receives assistance under this section.

The remainder of such costs shall be made available as provided in paragraph (2).

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share required by paragraph (1) may be in cash or in-kind, fairly evaluated, including facilities, equipment, personnel, or services, but may not include amounts provided by the Federal Government. In-kind contributions may include space within a school facility, school personnel, program use of school transportation systems, outposted health and social services personnel, and extension of health provider medical liability insurance.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (1) for any year in accordance with criteria established by regulation. Such criteria shall include a documented need for the services provided under this section and an inability of the grantee to meet the requirements of paragraph (1) despite a good faith effort.

(i) TRAINING AND TECHNICAL ASSISTANCE.—Entities that receive assistance under this section shall use 10 percent of the amount of such assistance to provide staff training and to secure necessary technical assistance. To the maximum extent feasible, technical assistance should be sought through local community-based entities. Staff training should include the training of teachers and other school personnel necessary to ensure appropriate referral and utilization of services and school reinforced linkages between classroom activities and services offered.

SEC. 102. PLANNING GRANTS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may award 1 year nonrenewable planning grants to entities described in section 101(b)(1)(A) that agree to establish a local community partnership for the purpose of delivering comprehensive services as described in section 101.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), a local community partnership shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may reasonably require. A copy of such application shall be provided to the State agencies primarily responsible for health and education in the particular State involved.

(c) USE OF AMOUNTS.—Amounts provided under a grant awarded under subsection (a) shall be used to—

(1) assess the education, health, mental health, and social service needs of children or youth in the community proposed to be served by the local community partnership, and the current service delivery system, to identify unmet needs and barriers to services;

(2) develop a plan for the delivery and coordinating of comprehensive education, health and social services for youth populations to be served in a school-based, school-linked, or community-based location; and

(3) develop program goals and objectives and intended outcomes and the means by which progress will be measured.

(d) LIMITATIONS.—

(1) AMOUNT AVAILABLE FOR GRANTS.—Not more than 10 percent of the amounts appropriated under section 308(1) shall be used to award planning grants under subsection (a).

(2) AMOUNT AVAILABLE FOR INDIVIDUAL GRANTS.—The Secretary shall not award a grant of more than $50,000 under subsection (a).

TITLE II—STATE AND LOCAL COORDINATED YOUTH SERVICES GRANTS

SEC. 201. PURPOSE.

It is the purpose of this title to award grants to citywide or countywide consortia, or to a State entity, with a demonstrated commitment to the coordination and delivery of comprehensive education, health and social services to in-school and out-of-school youth on a citywide, countywide or statewide basis through a system of school-based, school-linked, and community-based comprehensive youth services centers.

Subtitle A—Local Consortia Grants

SEC. 211. COORDINATION AND SERVICE DELIVERY GRANTS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may award grants to eligible consortia to enable such consortia to provide comprehensive core services as described in section 231(a).

(b) ELIGIBLE CONSORTIA.—

(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a consortia—

(A) shall be a new or existing collaborating group of entities whose membership includes representatives from the local health department, the local educational agency, health and social services providers and community-based organizations located in the service delivery area that have a history of providing service to at-risk youth (including minority youth, school drop outs, adolescent parents, and runaway or homeless youth), youth development organizations, juvenile justice personnel, and parents and the at-risk youth to be served;

(B) shall consist of members who have demonstrated a financial or organizational commitment to providing comprehensive education, health, and social services to at-risk youth through an integrated service delivery network directed by the consortia; and

(C) shall prepare and submit to the Secretary an application in accordance with section 231(b).

(2) DEFINITION.—For purposes of paragraph (1):

(A) The term "financial commitment" means an identification of locally controlled financial resources, including those obtained through individual or joint application with other public and private funding sources, to be dedicated to the planning, coordination and delivery of comprehensive services to at-risk youth by the consortia.

(B) The term "organizational commitment" means—

(i) an identification of existing institutional and in-kind resources that each member of the consortia will dedicate to the goals and objectives of the consortia;

(ii) an assurance that the training and technical assistance necessary for teachers and other frontline service providers to increase their knowledge, expertise, and willingness to work collaboratively will be provided;

(iii) a commitment to participate in providing the data necessary to guide the joint planning, implementation, and ongoing monitoring consortia activities; and

(iv) with respect to the local educational agency, an affirmative vote by the local school board on participation in the consortia.

Subtitle B—Statewide Youth Services Center Grants

SEC. 221. STATEWIDE COORDINATION AND SERVICE DELIVERY GRANTS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may award grants to eligible States to enable such State to provide the core services described in subsection 231(a) through the awarding of grants to local community partnerships or consortia.

(b) ELIGIBLE STATES.—

(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a State shall—

(A) provide assurances that a memorandum of understanding or written cooperative agreement has been entered into by the State agencies responsible for education, health and social services concerning the planned delivery of comprehensive youth services;

(B) have a demonstrated financial and organizational commitment to providing comprehensive and co-located health, education, and social services to at-risk youth through the awarding of grants to local communities;

(C) currently support the coordinated delivery of such services through a system of school-based, school-linked, or community-based comprehensive youth services centers;

(D) provide documentation that services are prioritized among communities that have health and social indices that indicate a high risk environment for youth, including high rates of children in poverty or who lack access to health care, teen pregnancy, sexually transmitted diseases including HIV, school dropouts, community or gang violence, alcohol or other drug use, youth unemployment and juvenile justice involvement; and

(E) prepare and submit to the Secretary an application in accordance with section 231(b).

(2) DEFINITIONS.—For the purposes of paragraph (1):

(A) The term "demonstrated financial commitment" means the investment of State-controlled financial and other resources available to States for the purposes of planning, coordinating, and delivering comprehensive services to youth in the most recent fiscal year.

(B) The term "demonstrated organizational commitment" means—

(i) an administrative mechanism in place under which a statewide system of local partnerships is implemented among education and public and private health and social service providers for collaboration in the joint planning, coordination, and delivery of comprehensive services to youth populations; and

(ii) a defined strategic plan for the manner in which the State provides technical assistance and training to localities for the development of the collaborative partnerships in described in clause (i).

Subtitle C—Provisions Relating to Both Local and Statewide Grant Programs

SEC. 231. USE OF AMOUNTS AND APPLICATION.

(a) USE OF AMOUNTS.—

(1) CORE SERVICES.—

(A) IN GENERAL.—A consortia or State entity awarded a grant under section 211 or 221 shall use amounts received under such grant to coordinate and deliver core services described in subparagraphs (B) and (C) through a system of school-based, school-linked, or community-based youth centers, to serve in-school and out-of-school youth and their families;

(B) COMPREHENSIVE HEALTH, MENTAL HEALTH, AND SOCIAL SERVICES.—With respect to the delivery of comprehensive health, mental health, and social services, a consortia or entity shall ensure that—

(i) at a minimum, health screening and health care services, counseling and crisis intervention and referrals are provided on-site; and

(ii) health, mental health and social services which cannot be provided directly on-site will be secured through referrals to community-based providers under contractual arrangements and a case management system that ensures that youth receive needed services and appropriate follow-up services.

(C) YOUTH DEVELOPMENT AND LIFE PLANNING.—With respect to youth development and life planning services, a consortia or entity shall—

(i) provide programs and services that promote the development of life skills and social competencies which assist youth in completing school or employment training by helping them to establish life and career goals and avoid high risk behaviors; and

(ii) provide programs and services that are designed to prevent HIV and other sexually transmitted diseases, unintended pregnancy, alcohol and other drug use, suicide, community or gang violence, and other adolescent risk taking behaviors that reflect the needs of the youth populations identified by the community in the comprehensive plan of the partnership.

(2) COORDINATION AND DELIVERY OF CORE SERVICES.—An entity awarded a grant under this title shall, in meeting the requirements of paragraph (1), use amounts received under such grant to coordinate and co-locate the delivery of existing core services of the types described in such paragraph into a broader system of health and social services centers

accessible to in-school or out-of-school youth to more effectively utilize available resources prior to adding new resources or developing new services.

(3) COORDINATION OF CORE SERVICES WITH EDUCATION AND TRAINING SERVICES FOR OUT-OF-SCHOOL YOUTH.—An entity awarded a grant under this title shall use amounts received under such grant to provide outreach services to out-of-school youth (including adolescent parents and runaway and homeless youth) and to coordinate core services with alternative education and job training and placement opportunities for such youth.

(4) COORDINATION OF CORE SERVICES WITH ADDITIONAL SERVICES.—An entity awarded a grant under this title may use amounts received under such grant to coordinate and co-locate core services with additional services in order to enhance the support available to at-risk youth and their families through the service delivery network.

(5) EXPANSION OF CORE SERVICES TO FEEDER SCHOOLS.—An entity awarded a grant under this title may use amounts received under such grant to expand the coordination and delivery of core services to those elementary schools whose students will attend secondary schools currently providing core services.

(b) APPLICATION.—

(1) IN GENERAL.—A consortia or State entity that desires to receive a grant under this title shall prepare and submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Such application shall include a comprehensive services plan that meets the requirements of paragraph (3) and the assurances required under paragraph (4).

(2) FORMULATION.—In formulating a comprehensive services plan under this subsection, a consortia or State entity shall document the efforts undertaken to obtain broad based community input from teachers and other school personnel, health providers including organized medicine, social services providers including community-based organizations, and parents and at-risk youth in order to—

(A) maximize participation in the needs assessment conducted by the entity;

(B) formulate a service plan that is comprehensive and reflective of the needs delineated by the youth, families, and neighborhoods to be served under the plan;

(C) build institutional support for the services to be provided under the plan from the staff and administration of all members of the consortia and the support of parents and the larger community; and

(D) encourage increased collaboration among members of the consortia as well as a broader range of providers to enhance the quality, availability and a variety of services available within the consortia.

(3) CONTENTS OF THE PLAN.—Each plan submitted under paragraph (1) shall include, with respect to local consortia or those localities to be served under a Statewide network—

(A) a description of the in-school and out-of-school youth populations to which services will be provided under the grant and an assessment of their health and social services needs;

(B) an inventory of existing core services described in subsection (a) that are being provided to such youth populations, including subpopulations of youth with special needs;

(C) an identification of the unmet needs of such youth populations, gaps in the system of core services available, barriers to the utilization of services by such youth, and barriers to the integration of services including conflicting regulatory requirements and eligibility standards;

(D) a description of the program goals and objectives and intended outcomes, which may include increased integration and utilization of services by the intended youth populations, and improved health and education, indicators for service recipients relative to baseline community assessment;

(E) a description of the manner in which such data systems will be utilized to guide planning and to evaluate progress toward achieving the program goals and objectives described in subparagraph (D);

(F) a description of the means by which an entity awarded a grant under this title will—

(i) utilize existing Federal, State, local and other funding sources and reimbursement mechanisms (including Medicaid and other third party payors), received by the entity or its members for the coordinated delivery of core services; and

(ii) co-locate currently operating services provided by the entity or its members into a system of comprehensive health and social services centers in order to maximize the effectiveness of existing resources in serving in-school and out-of-school youth;

(G) a description of the services that will be directly provided to such youth populations with funds provided under this Act as needed to address unmet core service needs identified in the comprehensive plan;

(H) a plan for the phased-in development of comprehensive school-based and community-based health and social services centers with amounts received under this Act to achieve a citywide, countywide, or Statewide service delivery network of both in-school and out-of-school youth;

(I) a plan for the phased-in expansion of services available through the entity by identifying additional opportunities for collaboration with providers offering services in addition to the core services required under subsection (a) which have been identified as needs of such youth populations;

(J) a description of the process by which program development, implementation, and evaluation (including the criteria and decision-making process that will be used in allocating funds within the youth services center system) will be carried out within the entity;

(K) an identification of the fiscal agent or State agency administering the program and the manner in which program funds received under this section will be disbursed and monitored; and

(L) a description of the strategy for securing the long term financing necessary to continue to provide the services made available through the entity after the termination of the grant period.

(4) ASSURANCES.—An application submitted under this subsection shall contain assurances that—

(A) core services will be provided in a coordinated manner to in-school and out-of-school youth through a system of comprehensive services centers providing ready access to the youth and their families to be served;

(B) core services will be targeted to youth populations and subpopulations identified in the comprehensive plan and will be delivered in a culturally sensitive and linguistically appropriate manner;

(C) amounts provided to the applicant under this section will be used to coordinate existing services before such amounts are used to provide directly the services;

(D) amounts provided to the applicant under this section and used to deliver services will be utilized in conformity with the unmet needs as identified in the comprehensive plan of the entity; and

(E) entities awarded grants under this title will provide comprehensive services that extend beyond traditional school or service hours, including access to year round programs and programs that provide services in the evenings or on weekends.

(c) TERM OF GRANTS AND ADMINISTRATIVE COSTS.—

(1) TERM OF GRANTS.—Grants awarded under this title shall be for a term of not less than 3, or more than 5, years based on the ability of the grantee to achieve the goals and objectives identified in the entities application. The Secretary may provide 2 year extension awards to those grantees that, following the initial 3 year grant period, demonstrate substantial progress in the integration of comprehensive services for at-risk youth, including broad based institutional support for collaboration from all members of the consortia, and an improvement in the health and education outcomes of the youth served relative to the baseline community indices.

(2) CAP ON ADMINISTRATIVE COSTS.—A grantee may not use in excess of 5 percent of any amounts received under a grant awarded under this title for planning, data collection, administration, accounting, reporting, and program oversight activities.

(3) INTEGRATION INCENTIVE.—The Secretary, in making a grant under this title, may make available to an approved consortia or State, an amount equal to—

(A) $1 under such a grant for every $5 of Federal funds otherwise available to the individual members of the consortia or State through other Federal discretionary grant programs that will be integrated into the comprehensive service delivery network established by the consortia or State; and

(B) $1 under such a grant for every $1 of local, State or other non-Federal funds made available to carry out the purposes of this Act (such non-Federal contributions may be cash, from public or private entities, or in-kind, fairly evaluated, including facilities, equipment, and personnel).

Amounts provided by the Federal government and applied under subparagraph (A), may not be included in determining the local share for purposes of this paragraph.

SEC. 232. CONSORTIA OR STATE PLANNING GRANTS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may award 1 year nonrenewable planning grants to consortia described in section 211(b)(1)(A) or to States for the purpose of planning for the delivery of comprehensive services as described in section 231.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), consortia or State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) USE OF AMOUNTS.—Amounts provided under a grant awarded under subsection (a) shall be used to—

(1) establish an administrative mechanism for the development and implementation of a citywide, countywide, or statewide system of school-based, school-linked, or community-based comprehensive youth services centers;

(2) assess the education, health, mental health, and social service needs of youth proposed to be served, and the current service

delivery system, to identify unmet needs and barriers to services for youth;

(3) develop program goals and objectives and intended outcomes and the means by which progress will be measured; and

(4) develop a strategic plan for the coordinating and delivery of comprehensive education, health and social services for youth populations to be served in a school-based, school-linked, or community-based location.

(d) LIMITATIONS.—

(1) AMOUNT AVAILABLE FOR GRANTS.—Not more than 10 percent of the amounts appropriated under section 308(2) shall be used to award planning grants under subsection (a).

(2) AMOUNT AVAILABLE FOR INDIVIDUAL GRANTS.—The Secretary shall not award a matching grant of more than $150,000 under subsection (a).

TITLE III—IMPLEMENTATION PROVISIONS

SEC. 301. INTERRELATIONSHIP BETWEEN TITLES.

(a) LIMITATION.—

(1) IN GENERAL.—A community that is currently receiving State funds for the delivery of co-located education, health and social services, or a community that will receive funding from the State if such State is funded under subtitle B of title II, shall not be eligible to receive funds under title I.

(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prevent a community partnership that currently receives State funding for the delivery of co-located education, health, and social services from forming a consortia in order to seek funding for an expanded citywide or countywide youth services network under subtitle A of title II.

(b) PARTICIPATION.—A local consortia operating in a locality that is receiving State funding for the delivery of co-located education, health, and social services, shall include participation from the entities receiving such State funding.

(c) CONTINUED FUNDING.—At the completion of the 5-year grant period under title I, a partnership receiving funds under such title shall be eligible for continued funding if such partnership has expanded into a citywide or countywide consortia as described under subtitle A of title II, or has become part of a Statewide network as described under subtitle B of title II.

SEC. 302. CONSULTATION WITH OTHER DEPARTMENTS.

The Secretary shall consult with the Secretary of Education in the development of program regulations to implement this Act.

SEC. 303. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall—

(1) widely disseminate information regarding the programs authorized under this Act to appropriate State and local health, education, and human service agencies and community-based organizations;

(2) provide technical assistance to support entities in complying with the requirements of this Act; and

(3) widely disseminate information with respect to successful and model programs supported with funds provided under this Act to current grantees and to entities described in paragraph (1).

(b) ADMINISTRATION.—The assistance and information under subsection (a) shall be provided directly through the Health Resources and Services Administration as the administering agency, other agencies within the Department of Health and Human Services with appropriate expertise, or through grants, or contracts with, nonprofit organizations with appropriate expertise. In carrying out this section, the Secretary shall collaborate with the Department of Education, Department of Labor, and the Commission on National and Community Service.

SEC. 304. REPORT TO SECRETARY.

(a) IN GENERAL.—Entities receiving funds under this Act shall prepare and submit to the Secretary an annual report that shall contain information concerning—

(1) service utilization, including the number of client visits funded through this Act, the types of services provided, demographic data on the age, sex and race of participants, and the third party reimbursement source for such services provided;

(2) the most recent data for youth residing in the service delivery area including—

(A) school dropout rates, absenteeism, and school reentry rates;

(B) teen pregnancy and sexually transmitted disease rates; and

(C) available data on substance abuse rates, juvenile crime indices, and youth unemployment; and

(3) the number and types of entities participating in the delivery of services through the comprehensive services plan, and the actions taken to coordinate and collaborate with other entities in service delivery.

(b) THIRD YEAR SUBMISSIONS.—At the end of the third fiscal year for which a grant is awarded to an entity under this Act, the entity shall submit, as part of the report required under subsection (a), an analysis of the progress that has been made in—

(1) achieving the program goals, objectives and intended outcomes as outlined in the comprehensive services plan; and

(2) improving the health and education outcomes of the youth served relative to baseline community indices.

SEC. 305. MAINTENANCE OF EFFORT.

The Secretary may not make a grant to an applicant under this Act unless such applicant agrees to maintain the expenditures of the applicant for the purposes for which the grant is awarded at a level equal to not less than the level of such expenditures maintained by the applicant for the year preceding the fiscal year for which the applicant is applying to receive the grant.

SEC. 306. DEFINITIONS.

As used in this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(2) CHILD.—The term "child" means an individual between the ages 5 and 10.

(3) YOUTH.—The term "youth" means individuals between the ages 10 and 21.

(4) AT-RISK YOUTH.—The term "at-risk youth" shall have the meaning given such term in guidelines utilized by the Centers for Disease Control.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act, $250,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1997. Of the amounts appropriated for each fiscal year—

(1) 45 percent of such amount shall be made available to carry out title I;

(2) 45 percent of such amount shall be made available to carry out title II; and

(3) 10 percent of such amount shall be made available to carry out section 401.

TITLE IV—FEDERAL COORDINATED YOUTH SERVICES INITIATIVES

SEC. 401. SPECIAL PROJECTS OF A NATIONAL SIGNIFICANCE.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall establish and administer a special projects of national significance program to award direct grants to public and nonprofit private entities to enable such entities to fund model programs designed to integrate health and social services, including HIV prevention, provided to special populations at risk as defined in subsection (c).

(b) GRANTS.—The Secretary shall award grants under subsection (a) based on the—

(1) need to provide health and social services, including HIV prevention services, to meet the special needs of subpopulations of youth living in high risk environments who may otherwise not be provided with assistance under this Act;

(2) need to assess the effectiveness of a particular prevention or service model or collaboration strategy; and

(3) potential replicability of the proposed activity in other localities.

(c) SPECIAL PROJECTS.—Special projects of a national significance to be funded under subsection (a) may include those projects that are designed to target—

(1) runaway, homeless, or street youth;

(2) immigrant or migrant youth;

(3) youth involved in the juvenile justice system;

(4) youth involved in the foster care system;

(5) youth involved in gangs;

(6) youth with a history of substance abuse;

(7) youth with HIV disease;

(8) adolescent parents; and

(9) Native American youth.

SEC. 402. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

Section 918(k) of the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (42 U.S.C. 12314(k)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(6) identify program regulations, practices, and eligibility requirements that impede coordination and collaboration and make recommendations for their modifications or elimination;

"(7) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures, and confidentiality protections that facilitate appropriate information-sharing; and

"(8) make recommendations to Congress concerning legislative action needed to facilitate the coordination of education, health and social services for in school and out of school youth.".

SEC. 403 EVALUATION AND REPORT TO CONGRESS.

(a) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the appropriate committees of Congress a biannual report concerning the implementation of this Act. Such report shall include a summary of the data provided in the annual reports submitted to the Secretary under section 304, and an assessment of the progress achieved by grantees under this Act in stabilizing and improving participant outcomes and reducing adverse consequences of adolescent risk taking behaviors and the absence of necessary services in the communities served under this Act.

(b) EVALUATION.—

(1) IN GENERAL.—Not later than 54 months after the date of enactment of this Act, the

Secretary shall, through the awarding of grants and contracts to independent entities with expertise in adolescent health and youth development, provide an evaluation of the programs funded under this Act to the appropriate committees of Congress. A representative subset of grantees under each title shall be selected with an equitable geographic distribution, and urban and rural representation. The evaluation process shall commence not later than 12 months after the date of enactment of this Act, with data to be collected under subparagraphs (B), (C), (D), and (E), at yearly intervals. The evaluation report shall be conducted by individuals who are not directly involved in the administration of the programs funded under this Act. The final evaluation report shall include—

(A) the program goals and objectives identified in the comprehensive services plans of grantees, and the degree to which they reflect the unmet needs and service gaps of the applicant area as delineated in the grant application;

(B) what services were provided by grantees under this Act, who the recipients of the services were, and an assessment of whether high risk youth actually received services provided by grantees, including youth who are out of school, runaway or homeless, and adolescent parents;

(C) the impact of a comprehensive and coordinated service delivery system on the baseline health and education indices identified in the comprehensive services plan of the grantee, and an identification of other relevant factors affecting the health and education outcomes among target youth in the service delivery area during the grant period;

(D) the expansion of services achieved in the service delivery area, both through enhanced planning and coordination of services and the provision of new service capacity;

(E) the degree to which increased utilization of services has paralleled service expansion;

(F) the process by which broad based input was achieved in the formulation of comprehensive services plans on an ongoing basis;

(G) the methods by which coordination of services was undertaken administratively among agencies and providers, the degree to which service coordination was achieved, and the barriers that impeded the coordination of services; and

(H) the sustainability of local partnerships, consortia, and State comprehensive service delivery networks at the completion of the Federal grant period.

(2) APPROPRIATIONS.—The Secretary shall use amounts made available under section 2711 of the Public Health Service Act to conduct the evaluation under this section.

COMPREHENSIVE SERVICES FOR YOUTH ACT OF 1992 SUPPORTING ORGANIZATIONS

HEALTH GROUPS

AIDS Action Council
American Academy of Child and Adolescent Psychiatry
American Academy of Pediatrics
American Association for Marriage and Family Therapy
American College of Physicians
American College of Preventive Medicine
American Counseling Association
American Dietetic Association
American Medical Association
American Nurses Association
American Orthopsychiatric Association
American Psychiatric Association
American Psychological Association
American Psychological Society
Center for Population Options
National Association of Community Health Centers
National Commission on AIDS
National Minority AIDS Council
National Prevention Coalition
National Mental Health Association
National Association of Prevention Professionals and Advocates
Society for Adolescent Medicine

EDUCATION GROUPS

American Association of School Administrators
American Federation of Teachers—AFL/CIO
American School Health Association
Council of Chief State School Officers
National Congress of Parents and Teachers
National Association of School Psychologists
National Education Association
National Parent Teachers Association

GOVERNMENT

National Association of State Mental Health Program Directors
United States Conference of Mayors
United States Conference of Local Health Officers

CHILDRENS AND YOUTH GROUPS

Children's Defense Fund
Child Welfare League of America
National Collaboration for Youth
Member Organizations include:
American Red Cross
Association of Junior Leagues International
Big Brothers/Big Sisters of America
Boy Scouts of America
Boys and Girls Clubs of America
Camp Fire
4-H
Girl Scouts of the U.S.A.
Girls Incorporated
Junior Achievement, Inc.
The National Network of Runaway and Youth Services
The Salvation Army
70001 Training & Employment Institute
YMCA of the USA
YWCA of the USA, National Board

SUPPORTERS OF SCHOOL-BASED AND SCHOOL LINKED CLINICS

Academy for Educational Development
American Association of Child and Adolescent Psychiatry
American Association of University Women
American Jewish Congress
American Optometric Association
American Public Health Association
Association for the Advancement of Health Education
Catholics for a Free Choice
National Alliance of Black School Educators
National Association of Counties
National Council of Jewish Women
National Health Education Consortium
New Jersey School Based Youth Services Program

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES HEARING HELPING AMERICA'S YOUTH IN CRISIS, JULY 28, 1992

PANEL I

Arthur Ashe, President, Safe Passage Foundation, New York, New York, accompanied by Chanada Pinckney (program participant, age 17) and Kevin C. Dowdell (Cofounder and Treasurer, Safe Passage Foundation)

Harold Howe II, Professor Emeritus, Graduate School of Education, Harvard University, (former US Commissioner of Education), Cambridge, Massachusetts.

PANEL II

Joseph Fernandez, Ed.D, Chancellor, New York City Public Schools.

Judith Kurland, M.D., Commissioner, Dept. of Health and Hospitals, Boston, Massachusetts, accompanied by Phillip Veysey (teacher, Dearborn Middle School), Roxbury, Massachusetts.

The Honorable Jay Bradford, State Senator, Pine Bluff, Arkansas, accompanied by Ms. Jennifer McCollough, and her father John McCollough, Forrest City, Arkansas.

PANEL III

Maria Arana, Representing the National Parent Teacher Association, Los Angeles, California.

Donna Zimmerman, Director, St. Paul Health Start, St. Paul, Minnesota.

Laura Secord, FNP, Clinic Manager, Ensley High School Health Center, Birmingham, Alabama.

TESTIMONY OF ARTHUR ASHE BEFORE THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES HEARING ON HELPING AMERICA'S YOUTH IN CRISIS, JULY 28, 1992

Senator Kennedy and Members of the Senate Committee on Labor and Human Resources, I am pleased to offer some observations and comments on the proposed Comprehensive Services for Youth Act of 1992. It is understood that the objective of this proposal is to provide health and social services to at-risk youth in either school-based and/or community-based youth centers. The institutional and organizational support of a variety of experts and groups is already on record in support for this proposed Act. I would like to add my unqualified support for the stated objectives so listed.

Few groups of public figures are called upon as often as athletes to serve as role models and symbols of inspiration for at-risk youth. Since a substantial percentage of these young Americans are minorities who feel intense alienation from mainstream America, I am especially interested in the services offered. In addition, as a board member of the Aetna life and Casualty Company for the past ten years, I have become all too familiar with real life beyond the numbers and statistics. The Aetna shares my concern that America needs to more directly address our collective health needs, especially for our children. The innocent among us—our children and the working poor—suffer far more than necessary or should be acceptable.

There is a quintet of troubles that is already called The Fateful Five by some in minority neighborhoods as it relates to health: Cancer, Heart Disease, AIDS, Drugs and Violent Crime. Who would have thought as little as fifteen years ago that homicide would be listed as a health concern.

I have been involved with several youth sports and mentoring groups: the U.S. Tennis Association's National Junior Tennis League; Virginia Heroes, Based in Richmond; and the Safe Passage Foundation which operates education through sports in Newark, New Jersey and Albany, New York. The Safe Passage Foundation is so named precisely because we realized that safe passage from childhood to adulthood was in many cases just a dream for at-risk youth. We know of pre-teens with ulcers from fear for their personal safety.

And now AIDS. At the recently concluded international AIDS Conference in Amsterdam, which should have been held in Boston, experts noted that half of the expected future AIDS victims—between 22 and 55 million worldwide by the year 2000—will be women, which means more children born HIV-positive. Though AIDS is among the most serious of concerns, the lack of overall health, education and support services is apparent. I am aware, as are most of us, that budgetary considerations influence the voting on this proposal, but I'm not sure no one who has to vote Yes or No, live without the basic services for their own children. Our children need comprehensive assistance NOW!

AIDS experts tell me that the most effective way to contain the spread of AIDS is through education in supervised settings. No dependable vaccine is expected for at least another five years. Human trials should begin with the most promising among them in 18–24 months. But in the meantime education, more than anything else, is the key ingredient in the mix of services to be offered to help. We can pay a few hundred or a few thousand dollars per child now through this proposed Act or a projected $125,000 per AIDS victim by 1997. I strongly urge its passage.

REMARKS OF CHANDA PINKNEY BEFORE THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES HEARING ON HELPING AMERICA'S YOUTH IN CRISIS, JULY 28, 1992

Hello ladies and gentleman. Living in America as a teenager in this day and age has its ups and downs. Average teenagers have the same problems: deciding on what classes to take, what college to attend, and what outfit to wear, but inner city kids are not average teenagers. Inner city teenagers are at high risk of using and selling drugs; abusing alcohol and having irresponsible sex. This often leads to dropping out of school, getting pregnant, getting shot, or getting arrested. I am here to give you a first hand look at the inner city through my eyes.

My name is Chanda Pinkney. I am a 17 year old student of the Ashe-Bolletteri Cities Program in Newark, New Jersey. I live in an industrious, money-making city. Even though I see some parts of town making progress, poor neighborhoods seem to constantly be in a recession. I have lived in a lot of these communities. My mom and I moved around a lot so she could find work. Growing up was hard. I never had a chance to get comfortable in any one place or make close friends. I don't remember ever going to the same school for the entire school year until I was in sixth grade. I never had a role model that I could believe in. I was constantly disappointed by the people I looked up to and felt like they were all hypocrites. I decided a long time ago that the only person I could really believe in was myself. If I believed strong enough in myself, and if I set out to make the most of my life, then I could succeed and could become a role model for others.

To succeed, I have had to overcome all of the problems that teenagers must face—the many malignancies that are killing the people in my community and robbing them of their dreams—drugs, alcohol, teenage pregnancies, school dropouts, unemployment and violence. This describes my neighborhood perfectly. In fact, it describes every neighborhood I have ever lived in. From the moment I wake up to the second I go to sleep I am faced with these realities. It is hard to keep a positive attitude because we are surrounded by so much negativity. For example, in my building, there is a guy around my age who sells drugs to support his family and his mother's drug habit. They often fight and sometimes he beats her. Recently, she had to call the police and have him arrested. Their story is not unique, it happens in my neighborhood all the time. He is very mixed up, he needs help, and so does his mother. He needs a real job. We all need a place to go to get away from drugs and alcohol; get information about sex—especially safe sex; learn about how to get back in school, how to escape the violence, and how to succeed in life.

Most of the people in my neighborhood will eventually become a statistic. I myself could have done the easy thing and become a statistic. It would not have been very hard, but through the ABC Program, I have become a different kind of statistic. I am now part of the winning team that has beat the odds. I have found something that is positive and stayed with it. The ABC Program uses tennis to attracts kids to learn more and to experience positive aspects of life. As a free, year-round program for all inner city youth, ABC uses tennis as the appetizer and the off-court session, a half-hour discussion time, as the real meal. The off-court session is a time where we literally sit down and learn something that will help for the rest of our lives; from self-respect to life and career planning. The ABC program goes right to where the problems are—the "heart" of the inner-city. We have learned that we don't have to do the same thing as people around us or before us; we can start our own trend and, hopefully, future generations will follow in our footsteps.

Poor communities need more programs like ABC and school-based centers to help kids better themselves and their communities. If more health services were offered in our schools, we would not have to wait until things get so bad that we end up in the hospital emergency room. Instead we would receive preventive services and might keep healthy. We also need social services to help with family problems, personal problems, and peer pressure. If these services could be provided in our schools, many of my friends might not drop out—others might just drop in! I have the ABC program to help me. I am lucky. My friends are not so lucky. They need a place to go that will give them a chance to better themselves and help them be an asset. They need something that will prepare them mentally, emotionally and physically for adulthood in America. In school kids, out of school kids, ALL KIDS—We are not bad people. We have had bad experiences. We can make something of ourselves and we want to. All we need is some support, some services and some sense of hope that our needs will be taken seriously. I think that is what you are trying to do here with your bill. I think it will make a big difference. Thank you.

TESTIMONY OF HAROLD HOWE II, SENIOR LECTURER, HARVARD GRADUATE SCHOOL OF EDUCATION, SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, JULY 28, 1992

(Hearing on the critical importance of comprehensive health and support services for youth and the need for school-based or school-linked programs)

Mr. Chairman, I am pleased and honored to meet again with you and your colleagues. The main reason I came here today is that I believe you have incorporated into legislation some ideas that are absolutely essential to the successful development of children and youth in the United States. These ideas have been around for a long time, but not until now have they been so effectively captured in a public document for public action. I begin by congratulating you and your staff on the incisive and comprehensive nature of the Comprehensive Services for Youth Act of 1992.

First of all I want to explain why this legislation, which launches a relatively modest program in terms of Federal dollars, is so significant. For the last 10 years or more, Americans have become increasingly concerned about the success in school of their children and youth. They have interpreted declining test scores and lack of preparation for jobs requiring high literacy levels as signals that the educational capacities of schools have eroded. And they have mounted extensive efforts to improve schools. These efforts have been justified by the argument that the United States will compete more successfully in a global economy with a better educated work force. Although there may be some validity in this widely supported viewpoint, there is also a major omission. It fails to recognize all the other influences in the lives of children and youth, and also to recognize that those influences constitute a significant part of a young person's education. Think of how children and youth spend their time; from birth to age eighteen less than ten percent of their time is spent in schools, and the remaining ninety percent or more is spent within families and communities and the association that they provide. Unless the stimulation, caring and services needed by the young to mature successfully are available in addition to schooling, the idea that academic improvement of schools will solve all their problems is both mistaken and naive. Here are some points to consider under this general rubric:

Poverty among children has grown apace from one child in seven in 1970 to one in six in 1980 to one in five today. Poverty leaves children with diminished necessities of life—shelter, nutrition, health care, and affection. Poor parents love their kids just as much as the rich, but their struggle for survival can limit their capacity for effective caring.

Rapid changes in American families ranging from both parents working to a rapid growth of single parent families leave children and youth with less attention from adults outside of school. Half of our single parent families are living in poverty.

These changes have powerfully influenced American children and youth by eroding to some degree the effectiveness of what might be called their nonschool education, that provides a foundation for success in school.

As these pressures have accumulated in the lives of our young people, they have been magnified by the erosion of the publicly supported safety nets we provide to deal with them. The real value of AFDC and other payments to sustain a decent life for the poor has declined, and the flight overseas of millions of manufacturing jobs has landed a growing number of young families in low paying full-time employment that keeps them in poverty—often without health insurance.

The countries with which we compete in the international economic scene have vastly better safety nets for their at-risk families than we do in the U.S.A.

Finding ourselves in this situation as we head for the twenty-first century, we require several major initiatives, and this proposed legislation starts us toward one of them. We must make our existing programs serve the needs of at-risk families and children as efficiently as they possibly can. The way to do that is to break down the barriers that keep separate our programs for health, education, job preparation, mental health, drug counseling, recreation, and the like. We must rethink the delivery of these services to serve their clients better. This bill will help to do just that.

The schools have one great advantage in helping to bring this transformation about. All children over age five and most youth are in school. So your preference for locating health and other services in school makes sense. It does not mean that schools must assume the costs of such services. Schools also have a major role to play in referring youngsters and parents to services that are not located in schools.

The concept found in the legislation that new partnerships must be formed in communities to create a capacity for joint planning that exists in only a few places today is right on target. It recognizes that there are numerous ways to organize such endeavors and asks only that the schools and other agencies be involved. A recent study of school boards in the U.S.A. sponsored by the 20th Century Fund in New York came up with the same conclusion. It argues that every school district needs a parallel agency to its school board. A Youth and Children's Services Board to oversee nonschool services for young people, and to encourage cooperation and identify gaps in services. A few cities already have such agencies.

The school reform movement in the U.S.A. too frequently operates in the assumption that we can fix the schools so that the schools can fix the kids no matter what we do to or for children outside the schools. That is both an erroneous and destructive assumption and your new legislation is a step forward in doing something about it.

School critics who are eager to raise test scores often fail to recognize that the learning which tests measure has its origins in families and communities as well as in schools. The Educational Testing Service [ETS] has just published a study of these family-based effects on test results. It is entitled "America's Smallest School: The Family." Its concluding section (p, 42) carries the following message:

"As long as the focus of attention remains solely on how we can make the schools do a better job, it is quite unlikely that the nation can reach such ambitious goals as being first in the world in science and mathematics achievement by the year 2000. The efforts of schools are launched from the platform of readiness and support for learning which are products of the home. A clear-eyed assessment of the family as school dictates a sobering conclusion that a large proportion of homes are not providing very high platforms for the schools to build on."

The relationships implied in this statement between families and schools powerfully support the significance of your new legislation. By enhancing the effects of health services and other supports for both individual youngsters and their families, it will buttress the role of the family as educator.

The system you have proposed to elicit improved local and/or statewide planning and coordination for health and other services that young Americans need is both flexible and workable. I particularly like the feature of the proposed legislation that allows Federal grants to encourage new efforts of this kind and also supports already existing projects, if they will use the funds to extend their reach to new services and new clients.

The detailed requirements for developing a plan as well as for evaluating it are clear and well organized. They recognize that carrying out the cooperative and collaborative purposes of the program is not an easy task. For many years, local, State, and national agencies have become accustomed to working independently even though many of them served the same clients.

Getting together to serve those clients better rather than protecting their own turf doesn't come easily. For the last 6 years, I have been chairing the William T. Grant Foundation Commission on work, family, and citizenship. The main focus of its work has been the needs of teenage youth in American society. In its final report published in 1988, The Forgotten Half, the Commission developed a chapter entitled "Toward More Responsive Communities." Among other initiatives it recommends (on page 64-5) the "Coordinating of Service Delivery" as suggested in much greater detail in your legislation. I enclose with this testimony a copy of that chapter.

In addition, the William T. Grant Foundation supports continued follow-up activities under the leadership of Samuel Halperin, who was study director for "The Forgotten Half." His work has resulted in the formation of the education and human services consortium, a group of about 30 agencies working on collaboration at the community level for improved service delivery to children and youth. This group has now published three additional pamphlets that may be of interest to your committee and its staff. I have arranged to have copies of these materials delivered to this hearing. If additional copies are needed, they may be ordered from the William T. Grant Foundation, 1001 Connecticut Avenue NW, Washington DC 20036-5541. Telephone 202-775-9731. The titles of the three recent publications are:

1. "What It Takes: Structuring Interagency Partnerships to Connect Children and Families with Comprehensive Service" by Atelia I. Melaville and Martin J. Blanks.
2. "Thinking Collaboratively: Questions and Answers to Help Policy Makers Improve Children's Services" by Charles Bruner, former State Senator in Iowa.
3. "Serving Children and Families Effectively: How the Past Can Help Chart the Future" by Peter B. Edelman and Beryl A. Radin.

I would like to make a final point about the proposals that will be funded under this legislation. I hope that they will embrace two major purposes: (1) Dealing more effectively with serious problems that often handicap the lives of young people such as dropping out of school, involvement with drugs, and irresponsible sexual relationships; (2) Developing improved community-based supports for children and youth that will prevent their involvement with such problems. I am listing here a quotation "The Forgotten Half," because I think it gives powerful emphasis to the concept of the prevention of negative behaviors:

There was an ancient Cornish custom used to test whether a person was insane. The individual was confronted with three elements: a spigot, a bucket, and a ladle. As water flowed from the spigot into the bucket, he was instructed to keep the water from overflowing. No matter how tenaciously and effectively he ladled water from the bucket—keeping it from overflowing—he was judged insane if he failed to turn off the spigot!

By that ancient standard we behave in a crazy way, picking up the pieces of damaged children—at greater and greater cost to society, with more and more dire consequences—rather than curb the supply. What is it in our character—in the way we organize and represent interests in this democratic society—that causes us to treat the consequences of damage far more vigorously than undertakings to prevent it?—From address by Emory Bundy (Director of Children's Trust Foundation in Seattle) March 9, 1988.

I am grateful for the opportunity to appear here, and I am glad to respond to questions you may have.

TESTIMONY BY NEW YORK CITY PUBLIC SCHOOLS CHANCELLOR JOSEPH A. FERNANDEZ AT A HEARING BEFORE THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, JULY 28, 1992

Thank you, Senator Kennedy and members of the Committee for the invitation to address your committee today on such an important issue as the health of our children.

As Chancellor of the largest public school system in the country, with nearly one million students (twice the size of the next largest system—Los Angeles) and a budget of nearly $7 billion, I struggle on a large scale to respond to the needs of the children and the challenges they face as they prepare to inherit this nation. Allow me to review some critical facts and figures:

39% of our students are on public assistance;

65% are eligible for free or reduced lunch;

More than 3,200 students live in temporary housing, many others in grossly overcrowded conditions;

The Centers for Disease Control Youth Risk Behavior Survey found last year that:

18.4% of our students had seriously contemplated suicide;

31% of our high school students had carried a weapon on one or more occasion during the month prior to the survey;

13.4 of our students reported having had their first sexual intercourse prior to the age of 13; and

6.2% of our students reported having been told by a doctor or nurse that they had a sexually transmitted disease, including HIV infection.

These shocking numbers are our future and require our immediate attention. I applaud Senator Kennedy for his innovative legislation and fully support the "Comprehensive Services for Youth Act of 1992". By demanding coordination and collaboration across agencies and institutions dedicated to youth issues, this legislation forces us to abandon our institutional armor, compels us to focus on the needs of the child, not the needs of the agency. We must stop asking "Whose kid is this?" and start asking "How do we develop and coordinate services to meet the needs of our children? They are all of our children and we must work together to provide services that meet their needs, to enable our youth to learn and thrive.

The high cost to society of the unhealthy child has many implications. Take the case of tuberculosis: In New York City where we are experiencing a tuberculosis epidemic, a TR screening and prevention treatment costs approximately $100 per child while hospitalization for a young person with tuberculosis costs an average of $6,000 per child. The point is that an effective prevention strategy can save dollars as well as lives.

In New York City we are focusing aggressively on prevention. Some examples of our efforts to head off these high costs by providing a coordinated prevention program include:

Community schools are a collaborative project of the New York City Public Schools and a multi-service non-profit organization.

They provide a supplementary service plan at a school site that includes medical, dental, mental health and counseling services, recreational and athletic programs, and drug abuse and teenage pregnancy prevention programs. Funded with a combination of public and private money, these schools are "beacons" in their communities—providing comprehensive resources to children and their families in a familiar and safe school setting.

Comprehensive Health High School Cabinets are coordinating councils organized in each borough of the City and staffed by a public school educator. The role of the cabinet is to identify service needs and coordinate health-related services and technical assistance to high schools. Membership includes representatives from the New York City Department of Health, the New York State Department of Health, local community based organizations serving young people and their families, parents, hospitals, medical schools, and primary care physicians.

Evaluation of HIV/AIDS Education Program: In order to ensure that our education program is of the highest quality and effective in meeting its objectives, we opened our doors to external evaluators from across the country to examine our strategies. To facilitate this effort, we enlisted the assistance of Dr. Karen Hein, Director of the Adolescent AIDS Clinic at Montefiore Hospital, Albert Einstein College of Medicine, who is a nationally recognized expert on HIV and adolescents. As a pro-bono consultant, Dr. Hein entered into a memorandum of understanding with us to coordinate the evaluation of our program and assist with program design and implementation.

Community Assistance Program in the Schools: After years of struggling to manage a multitude of contracts with a range of community based organizations to provide drop-out prevention services to students, the school system entered into a partnership with United Way of New York City. The United Way, with far greater knowledge of community-based organizations and their services, provides fiscal and program management for these contracts. The United Way manages approximately twelve million dollars of public funds, and donates an additional one million dollars of private money to support dropout prevention programs. They have been able to expand the number of agencies working with our schools and sustain high quality standards, as well as support programs that are truly community-based and accessible to the young people who need them.

Organizationally, we have also moved the New York City Public Schools in a direction of coordinated and comprehensive services. With guidance from the Division of Adolescent School Health of the National Centers for Disease Control, we created a new Division of Student Support Services. This Division combines, under one administrative rubric, substance abuse prevention, comprehensive health education, counseling, crisis intervention and drop-out prevention programs as well as services to young people living in temporary housing. This new administrative structure goes a long way to reduce duplication of services and ensure a high quality, coordinated approach to support the needs of children.

We have, however, encountered a major obstacle to this comprehensive effort. Federal funding, like state and local funding, comes in categorical packages, not designed to meet the needs of the child, but rather to meet the needs of the funding agent. Funds allocated for substance abuse prevention can not easily be used for comprehensive health education or other risk reduction efforts. We have one bucket for substance abuse, another for dropout prevention and a third for health education. But children don't come in buckets, they come as whole people, and they require whole services—more cost-effective and a smarter way of doing business.

The "Comprehensive Services for Youth Act of 1992" emphasizes the importance of collaboration. I hope it will serve as a model for federal agencies to examine and redesign funding streams that support children instead of institutions.

For a school system as large as ours with a budget of 6.65 billion dollars—$300,000 is not a great deal of money. But this is an important step for this Congress to take in addressing the needs of youth across America.

COMMISSIONER JUDITH KURLAND, DEPARTMENT OF HEALTH AND HOSPITALS, CITY OF BOSTON, TESTIMONY ON COMPREHENSIVE SERVICES FOR YOUTH, U.S. SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, JULY 28, 1992

I want to congratulate Senator Edward Kennedy and the Senate Committee on Labor and Human Resources for introducing this important legislation, The Comprehensive Services for Youth Act of 1992. The Department of Health and Hospitals is taking the lead in Boston to implement the kinds of innovative collaborations that this legislation promotes.

In Boston and in cities across America, children and adolescents are facing a public health emergency of a new kind. Despite spending more for health care than any other country in the world, America's children are not receiving adequate and appropriate health care.

Dr. Robert Knouss, Deputy director of the Pan American Health Organization, estimates that barely half of all two year-olds in America's inner cities have been fully vaccinated—a substantially lower rate than all other countries in North America, Central America, and South America. As a result, the incidence of measles has skyrocketed, increasing 1,670 percent from 1983 to 1990. About 80 percent of measles cases in children from 16 months to five years of age could have been prevented by timely vaccination. Since measles is the first indictor of the effectiveness of the vaccine delivery system, the increase in measles is likely to be followed by outbreaks of other vaccine-preventable diseases. Every dollar invested in early immunization of children saves ten dollars in later medical costs.

The U.S. ranks number one in health care spending, but only 22nd in infant mortality and 21st in the number of children who live past the age of five—behind all other industralized countries and even some developing countries. As a Nation, we spare no expense in providing the costliest high technology neonatal intensive care available anywhere in the world, but we shamefully fail to provide the appropriate prenatal care which would substantially reduce the need for infant intensive care.

In 1990, an estimated 12.2 million children and youth under 21 had no health care coverage. Nearly one third of Hispanic children and almost half of all African-American children are without public or private insurance.

The alarming spread of aids and other sexually transmitted diseases among adolescents—particularly in communities of color—substance abuse, teenage pregnancies at high risk of poor birth outcomes, and teenage violence represent a new kind of health crisis which is the result of social and behavioral rather than biological causes. The health care system in the United States is ill-suited to address these problems.

We have a difficult challenge ahead. We can meet this challenge, but only if we respond to these new problems with new solutions and build strong collaborations between the schools, the health care system, and the communities they serve. The legislation which has been proposed to improve school-based health services by supporting innovative collaborations between public education and public health goes far to give educators and health professionals the tools they need to address the impending health emergency in a more effective way.

The public health crisis that children and young people face in our cities cannot be solved by medicine alone. New solutions are needed that go beyond the traditional boundaries of medicine to create a comprehensive network of health, education, employment, housing and social services for children and their families in a holistic way. What is needed is an integrated web of health services and education that strengthens families and communities and helps young people develop the awareness, values, hope and inner strength to make positive life choices and avoid the high risk behaviors which are the underlying cause of the health emergency they face.

Young people in America's cities can no longer afford the continuation of a status quo that provides separate services in a fragmented way and creates artificial barriers between the school, the health care system and the community. To successfully address this new health crisis, schools, public health agencies and community-based agencies have to work together to provide a coordinated continuum of care for children and adolescents in the school and in the community. To do this, we have to redefine the role of the school in the community, and the role of the community in the school.

Public education and public health are the two most important institutions for improving the lives of America's children. They are the places where children spend most of their structured time and receive the vast majority of their public services. Each, working separately, can do much to better conditions for children and adolescents. But the problems that young people face in our cities today have become so complex and so interrelated that we must now bring public education and public health together as interdependent parts of a comprehensive system—a whole which is greater than the sum of its parts.

As our Nation finally struggles toward providing some sort of comprehensive services for children and adolescents we must begin to reach them where they are. Adolescents utilize health services less than any other age group, but services that are convenient and caring, that meet young people where they spend most of their structured time, can change that. School-based health centers have proven their ability to increase the utilization rate among adolescents, particularly among African-American males who are the least likely to use existing health care services. Through children and adolescents, we must begin to reach their families with an integrated web of preventive health and education services that can address the root causes of the problems that children and families face in the cities of our Nation. In this way, we can provide services that are at the same time more effective, more appropriate and less costly.

THE HEALTH EMERGENCY IN AMERICA'S CITIES

While the United States ranks number one in health care spending, the health status of the American people is below that of all other industrialized countries and even many developing countries. Nowhere is this disparity more glaring than in the cities of our Nation.

The spread of sexually transmitted diseases, particularly among adolescents of color, is a harbinger of the alarming transmission of AIDS among teenagers. The epidemic growth of sexually transmitted diseases indicates a disturbing increase in the same high risk sexual activities that spread HIV/AIDS, and sexually transmitted diseases make it far more likely that teenagers who engage in these high risk behaviors will contract AIDS.

In 1992, 30 percent of teenage students surveyed in New Haven, Connecticut reported that they had personally witnessed at least one violent crime in the previous year.

Abuse or neglect of an American child was reported every 13 seconds in 1990.

An estimated 7.5 million to 9.5 million children and adolescents are in need of mental health services. Fewer than one third of the severely emotionally disturbed children get the mental health care they need.

Nearly one out of every four children in America lives in poverty, and children under the age of six are more likely to be poor than any other age group.

Adolescents are less likely to use primary care physicians than any other group.

COMPREHENSIVE STRATEGIES AND SOLUTIONS

In Boston, under the leadership of Mayor Raymond L. Flynn, we are working to address this public health emergency in a comprehensive way that provides a full continuum of health care from prevention and health education to primary care and counseling in the school and in the community.

The schools cannot solve the health crisis of children and adolescents by themselves. That is why we are building new partnerships through the Healthy Boston initiative—so that schools, the health department, neighborhood health centers, hospitals and community-based agencies can all work together to provide a continuity of care in school and community settings, and so that children and their families can receive a full range of coordinated services in the most appropriate way.

Our vision is to create a seamless network of care by integrating a number of elements into a coherent system:

Comprehensive school health services provided by health professionals, including a school-based health center in each public high school, to offer a full continuum of prevention, health promotion, primary care and counseling. To make this happen, we are working with the school department to create new partnerships between the schools and the department of health and hospitals, neighborhood health centers, hospitals, and community-based providers. Our goal is to address the public health emergency facing adolescents in the context of the overall health care system.

A new, more comprehensive and more effective kind of health education from prekindergarten through 12th grade that involves a skills-building approach that empowers young people to overcome peer and media pressures, helps them develop positive values and productive life goals, and helps them make informed decisions based on understanding the alternatives before them. To be successful, health education of a new kind needs to be combined with fundamental educational reform which gives students strong self-esteem, hope for a bright future, and a quality education that opens the door to strong economic opportunity.

A comprehensive initiative to strengthen the internal capacity of families and communities to identify their needs and determine how best to meet these needs through community coalitions that bring the education, economic development, health, social service and housing sectors together to address community and family needs in a holistic way.

What we are finding in Boston is that the schools cannot do it alone and the health care system cannot do it alone, but that by working together in a new collaboration of schools and health care, we can begin to effectively address the health crisis of children and adolescents in America's cities. The legislation which has been proposed represents an important step forward in helping us meet the difficult challenge ahead, both in Boston and in all of America's cities.

On behalf of the people of Boston and the U.S. Conference of Local Health Officers, I strongly support this legislation submitted by Senator Edward Kennedy and hope for its speedy passage.

TESTIMONY OF PHILLIP VEYSEY BEFORE THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, JULY 28, 1992

Mr. Chairman and Members of the committee, my name is Phil Veysey. I have just completed my twenty-third year teaching at the Dearborn Middle School, located in the Roxbury section of Boston. I teach seventh grade Physical Science and eighth grade Life Science. For between 40%–50% of my current students, I have taught one or both of their parents. Over the years, I have seen the changes that have affected families and the community. It is from this perspective as a classroom teacher that I wish to share with you today many of my reasons for wanting to see health care clinics in public schools. I presume we can all agree, as a starting point, that children learn and develop best when they are physically and emotionally healthy. But the current system of delivering health care services is not working, especially for pre-adolescents and teenagers. There are many reasons for this.

First of all, many parents have trouble negotiating the health care system because of a lack of knowledge about how it works and what services are available. This is compounded for immigrants new in the country and language minorities who have difficulties with English. Often students, even elementary students, must miss school in order to accompany parents to the hospital to translate. This past year, one of my students was late at least three times a week because she was the only person in her family available to translate for her bed-ridden, diabetic grandfather and the visiting nurse. Her school work suffered as a result.

Secondly, many families rely on hospital emergency rooms as their primary source of medical services. This used to be an urban phenomena, but with the huge loss of jobs in recent years and the resulting termination of medical insurance, it is affecting more and more suburban families as well. Since parents often wait too long to bring their children to the hospital, the medical problems tend to be more and more, and harder to treat. Not only does this tax the limited capacity of emergency room facilities and staff, it is also a more expensive mode of dispensing medical care.

Emergency rooms can also be a frightening experience for children whether they are seven or fifteen. ER's often resemble battlefields, with the coming and going of ambulances, the scurrying around of staff, the sight of the wounded and dying being rushed in and out of surgery, the stress and emotion that permeates the atmosphere. Children come to equate medical care with these types of emergency room stress. They will try to avoid the situation as much as possible.

We see the results in the classroom. Parents send children to school sick with fever or contagious diseases and tell them to "see the school nurse". In the meantime they are infecting other children and school personnel. Children also come to school with bad cuts, burns, with broken bones, and bad sprains. I have seen students with colds that linger for two or three weeks because no one is taking care of them. The number of examples that could be cited is overwhelming. However, let me share a few with you.

Last year, several teachers noticed a seventh grade girl squinting and holding her papers close to her face. When asked if she needed glasses, she said "yes." Her previous pair broke over a year and a half before, and she was waiting for her father to buy her a new pair. It took four teachers and the school nurse almost a month before they convinced her mother and father to take her to a clinic for an updated vision test. It took over four months to convince the father to buy the glasses—four months of telephone calls, home visits, and threats. When she finally bought the glasses, her whole classroom demeanor changed. She became actively involved in the class. She did her homework regularly. She took pride in herself and in her work. I checked the glasses one day. Judging from the strength of the lenses I don't understand how she could have seen anything without them.

Schools regularly have to exclude students because they do not have the proper inoculations. This is state law. This usually involves students transferring into the schools including recent immigrants. Several years ago the state strongly reiterated the policy because of the rise in measles among high school and college students. One middle school found almost half of their student population—almost 400 students—without the proper immunizations. Notices were sent home informing the parents of the situation and of the state-imposed deadline for compliance. Yet about 330 of those students could not be readmitted to school after winter vacation because they had not yet received their inoculations. Some students were out of school for over six weeks.

One day I met a former student on the street and stopped to talk. She was sixteen at the time, had a three month old child, and was still enrolled in high school. She had just returned from bringing her child to the hospital. They told her that the baby was severely dehydrated. Why? Because no one had ever told her infant babies need water, not just formula.

A teacher I know regularly keeps sanitary napkins in her desk for girls who are unprepared. One time a girl asked for several napkins over a span of ten days. When the teacher started to question the girl, she found out that she usually had a long period with a heavy menstrual flow. Knowing that this was unusual for an eighth grader she pressed the issue. It turns out that the girl had recently been returned to her mother's custody from fostercare after her mother had completed a drug rehab program. The mother's new boyfriend drank heavily and was making sexual comments to the girl. The mother could see what was happening. Instead of confronting the situation, the mother was slipping back onto drugs. The girl feared for her own safety and for her mother's well-being. She was afraid she would have to go back into foster care. The tensions were affecting her health and were being manifested in her menstrual period.

Another student diagnosed with the sickle cell trait missed almost four months of clinic appointments because the parents couldn't get time off from work. A teacher finally took him over school vacation.

I know it sounds strange to hear that parents couldn't take their own child to the doctor, even knowing the seriousness of the medical condition, but this is the reality. Many of our parents work in low paying service industry jobs. They often don't have health benefits or sick pay. They are threatened with being fired if they miss work. Although the story of the boy with sickle cell trait occurred over ten years ago, the employment situation is much worse today. Parents are desperate to hold onto the jobs they have.

Another student at my school lost a permanent tooth. The computer teacher queried the child, wrapped the tooth in wet towels and then took the mother and child to the hospital to have the tooth reimplanted. She made sure that the child followed the doctor's directions to the point of having the child rinse his mouth three times a day in her classroom, and calling the home on weekends.

Physical examinations are a major means of detecting medical problems early. They are also necessary for things like summer camp and participation in school sports. Yet it can sometimes take weeks for a child to get such an exam. Some students on our track team this year missed half of the track meets because they couldn't get their physicals any sooner. If the exams could have been done in school this would not have happened. Incidentally, two teachers and the school nurse spent at least six hours trying to arrange physicals for these students—time that could have been spent differently. As teachers, we know that these children cannot begin to learn until their physical and emotional needs are dealt with. Yet we cannot deal with them ourselves. We have gone beyond the point where the school nurse can simply put on band-aids, and send the child back to class. Schools are simply not equipped with the resources, expertise or personnel to provide the necessary services. Nor should we be expected to. Schools do, however, provide a site where medical sources can be delivered effectively to those most in need of them, by those most qualified to deliver them.

I believe that school-based clinics should provide, at a minimum, five basic services:

1. Regular screening and physicals
2. Inoculations
3. A mental health component, including on site both walk-in and long-term, counseling
4. Referrals to other agencies and health care providers.
5. Health education programs presented in conjunction with regular school personnel.

Regular screening, physicals and inoculations are pretty straight forward and don't need further explanation. I would, however like to expand on the last three.

Having on-site counseling services is, to me, one of the most important features of school based clinics, especially for middle and high school students. In addition to the normal problems of adolescence and growing up, our students physical environment is often filled with violence, death, alcohol, drugs, and/or parental neglect and abuse. Children are being overwhelmed by pressures you and I never had to face when we were their ages. These emotional issues have to be dealt with the same as physical problems. But it is these same emotional programs that teachers are least prepared to deal with.

Children (and adults) need to be able to talk through the conflicts and insecurities, the turmoil they are going through. They need to sort out the pieces to see and seek alternatives before they can make the decisions and take the actions necessary to regain a positive grip on reality. They bring these problems to the people they trust most, the people they see everyday—their teachers. Yet most classroom teachers have not been trained to counsel these types of problems. Nor do we have the time or the energy to embark on the long-term nature of such counseling.

Referring students to the appropriate outside agencies for service should also be done in a more effective manner. I have had many students come to me over the years to talk about their problems. But when I have to teach about 125 students every day, there is not much time to sit and talk. Somehow, I usually find the time within the next couple of days. When I learn what is confronting the student, I soon realize that the problem is beyond my capabilities to resolve. I must suggest others for the student to see. It often takes hours of my time to find the appropriate services and then more likely than not the student never goes because they are too scared, or they don't have transportation, or they don't want to involve their parents.

Clinics that function as part of the school community provide a sense of control of ownership for the student. The physical setting is familiar. The staff members become familiar faces. Relationships develop. Teenagers are very selective about whom they trust. They make judgments based on their own observations and their friends experiences. They will not open up to just anyone. This is one of the reasons the current system of health care delivery is not working for this age group. As the reputation of the clinic's staff grows, more and more students will partake of the services.

The relationship between the instructional staff of the school and the health care staff will also grow. Teachers will be able to refer students to people they know and work with. Classroom teachers see kids at close hand for at least five and a half hours a day. We live in the same relatively small rooms and hallways with them. We talk with them and listen to them. We often see problems develop and can try to intervene before they get out of hand. But we must have a place to send kids. We cannot do it all ourselves. Our primary function is still to teach the 25 to 30 students in each of our classes.

Another component that is generally missing in students lives is explicit instruction about how their bodies function, the connections between diet and health, how to protect themselves from diseases and abuse, the dangers of alcohol and drugs and how they lead to direct damage of the body, how to deal with violence and death, how to make good decisions and choices about their futures. Unfortunately, too many school systems have cut out "health" as a separate subject in these times of budgetary restraint. These topics are just not addressed in a coherent, comprehensive manner.

Programs that are collaborations between health care providers and classroom instructors will help fill this void. Students will often listen more intently to health professionals than to regular teachers—especially if they can go back to these professionals with personal questions and inquiries.

African-Americans, Hispanics, and Native Americans are at increased risk for high blood pressure, heart attack, strokes, elevated cholesterol, diabetes, and asthma. Yet the risk factors can be decreased by lifestyle changes. Young people cannot make these changes if they do not know about them or understand the importance of such changes. Joint programs, such as those described above will go a long way toward providing such knowledge.

There is another advantage to having health clinics in the schools—follow up medical care. If a child goes to a doctor, whether in an emergency room setting or a clinic, he or she very often doesn't understand the treatment. Children just don't seem to be able to "hear" what is being said. They need to be able to have instructions translated into everyday terms, to hear the directions more than once. School-based clinical staff can follow up to make sure students are following treatment guidelines. Students can drop in for clarifications. Outside clinics might want to follow up patients in the same way, but they generally lack the personnel and/or resources to do so. Since school based clinics are right there with the students, follow up is much easier.

In summary, school-based health clinics would have the following effects:

1. Students would enjoy a high level of general health.
2. Problems could be dealt with before they became more serious and expensive to treat.
3. Expensive facilities, such as hospital beds find emergency room staffs, will be freed up to do the job they were designed for.
4. Students will learn life long health habits. They will learn how to negotiate the health care system for both themselves and their families.
5. As a society, we will be moving toward the goal of preventive medicine.
6. Classroom teachers and school personnel will be freed up to do the all important job of teaching.

As a classroom teacher, I ask that you give me and my millions of colleagues across the country, the opportunity to do what we do best—to educate the young people who are our future. We cannot be all things to all people. Let us teach!!!

Testimony of the Honorable Jay Bradford, State Senator, Arkansas District No. 8 Before the U.S. Senate Committee on Labor and Human Resources, July 28, 1992

Mr. Chairman, and Members of the Committee, I am Jay Bradford, a State Senator from Pine Bluff, Arkansas. I am here to offer a few comments concerning school-based clinics from the perspective of a state legislator who has worked closely with my state health department, the governor's office and fellow state legislators to provide primary health care to what we consider our most valuable resource, our children.

As you may have heard recently Arkansas is a small, poor, rural state. Children under the age of 18 comprise twenty-six percent of our total population of 2.3 million. Twenty-seven percent of our children live in poverty. Only three other states have a higher percentage of children living in poverty. Twenty-seven percent of our children come from single-parent families. We have an exceeding high teenage pregnancy rate. Currently, only five other states have a higher teenage pregnancy rate than Arkansas. Because so many of our children are eligible for Medicaid, the percentage of children who lack insurance may seem artificially low at 28.7 percent. However, our state only serves approximately one-fourth of those children eligible to receive care through the Medicaid program. Recent state revenue shortfalls are seriously threatening even that level of service.

These facts, coupled with the appointment of Dr. Joycelyn Elders, a pediatrician, as the director of the state health department resulted in our state looking at the potential of establishing school-based clinics to provide basic health care for adolescents. Dr. Elders strongly believed that the children of the state were lacking adequate access to basic health services. She felt that through school-based health clinics, one-fifth of the state's population could be served since approximately one-fifth of our citizens are in school each school day.

Other than the fact that a large portion of the state's population can be served through school-based clinics, what are other reasons we feel they make good sense? You need only look at the barriers to access to health services for adolescents:

Lack of insurance coverage or money to cover charges;

Office hours that conflict with school schedules;

Lack of transportation;

Discomfort with traditional health care settings;

Perceived or actual lack of confidentiality between adolescents and their health care providers;

Inability or failure to comply with a provider's instructions or follow-up on referral recommendations.

On-site school-based services offer "drop-in" appointments, something which matches more closely the lifestyle and needs of impulsive, active young people. Most clinics do not charge for services so lack of insurance coverage or ability to pay is eliminated as a barrier. Lack of adequate transportation has become a chief concern in addressing the health care needs of our rural citizens. Through school-based clinics, you have already got the patient transported to the services. We have found in Arkansas, that because the clinics are staffed by persons employed by the State Health Department rather than the school itself, student attitudes toward clinic personnel are different. If the clinic were staffed by the school district, the students would look upon the staff as part of the school and someone that perhaps would not maintain the necessary confidentiality between the student and the provider. But, since the clinic staff is part of the state health department, students feel more at ease in discussing sensitive issues with clinic personnel.

Another reason such clinics seem to make good sense, is that you do not have to build a school-based clinic. The school district provides the housing for the clinic. As the number of children entering school reduces due to the reduction in the number of children in our population as a whole, many schools will have open classrooms which can be easily converted for clinic use.

Arkansas now has 21 school-based clinics. Not a single one of them was established by the state health department. Instead, they were established by the local community—the local elected school board, the faculty of the school, parents and children. The state health department plays only a supportive role in assisting a school district who determines they want a school-based clinic in their school. We feel this approach not only establishes local ownership of the program, but also diffuses most of the controversy which arises about these clinics.

Once a community indicates through the passage of the resolution of the local school board that they want a school-based clinic, the health department works with both the school board and parents to determine what services will be offered through that clinic. Communities are given a laundry list which includes: vision, hearing and scoliosis screening, monitoring of chronic conditions, EPSDT (Early Periodic Screening, Diagnosis and Treatment under the Medicaid program), treatment of minor illnesses and injuries, referrals for serious illnesses and injuries, sports physicals, general physicals, immunizations, tuberculosis skin tests, laboratory testing, wellness promotion, reproductive health counseling, contraceptive distribution, dental screening, safety and environmental consultation, and health education.

Even though the services are determined and approved by the local school board, no services are offered a student without written parental consent. Each fall, the parents of each student enrolled in a school with a school-based clinic must provide a consent form for their child to receive services through the clinic. On that form, the parent may indicate any services offered through the clinic which they specifically do not want their child to receive.

As you can tell from the vast array of services offered, these clinics vary from school to school. Howver, once established, there seems to be little resistance to increasing the services provided through the clinic. For example, in one school in our state over fifty senior high school students became pregnant during the school year. In addition to providing prenatal classes which covered nutrition, fetal development, infant care, prenatal care and child birth classes, these students were provided parenting classes. Since most qualified for the WIC program, arrangements were made with the local health unit (which is the WIC provider) to provide certification and vouchers on site, at the school-based clinic. Now, the school is seriously considering developing a child care center on site at the school to provide care for these babies and to use such as a training center for day care workers. So, you can see how once a clinic opens at a school, more opportunities arise resulting in expansion of services for our kids. And, although we may not be very happy about our high teenage pregnancy rate, through services provided by school-based clinics, these teenagers are now delivering healthier, full-term babies (a real savings to the state in neonatal intensive care costs) and are returning to school to complete their education so they can someday provide for their child.

I would do you a disservice appearing here today if I failed to elaborate some on the fact that the establishment of school-based clinics is not without some controversy. Despite the safeguards which we have actually made law in Arkansas—the requirement of the resolution by the school board indicating community support, the approval by the school board of services to be provided, and the written parental consent requirement—there is a group of citizens who strongly oppose school based clinics. Mostly, we have found these groups to be misinformed about the clinics. Once they see for themselves that we do not perform abortions or provide sex videos as "how to" instruction, they become supportive of the clinics.

However, there will always be a small group, and we feel this group is getting smaller each year, who do not want the schools personally involved with their children. In fact, in our state, most of these children are home-schooled. They do not even attend the schools with the clinics. It is these citizens who object to the use of their tax dollars to provide basic health care services to the poorest of our citizens, our children, that continue to fight the concept of school based clinics. In my state, I and our state health director, Dr. Elders, have decided that kids are worth fighting for so we will continue to battle these citizens in the halls of the legislature and in our courtrooms.

I applaud you, Mr. Chairman, and members of the committee for your diligent work in addressing the needs of our adolescents through your proposal. Clearly, our children are our future. For the past few years, that future has been looking mighty bleak. Thank you for your courage to shine a little light on this problem.

TESTIMONY OF M. JOYCELYN ELDERS, M.D., DIRECTOR, ARKANSAS DEPARTMENT OF HEALTH FOR THE U.S. SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, JULY 28, 1992

Mr. Chairman and Members of this Honorable Committee, I am Dr. Joycelyn Elders, Director of the Arkansas Department of Health and president-elect of the Association of State and Territorial Health Officers. I apologize for my absence from your committee hearing on this important legislative proposal. However, as the director of a health department for a small, poor, rural state who sees the lives of many adolescents falling into the river of ignorance, I want to thank you for the opportunity to comment on this bill.

Over a quarter of a century ago, I was a pediatric resident working in the children's ward at the University of Arkansas Medical Center. My patient that day was a young girl with a thyroid ailment. I was pleased to tell her that she could go home the following day. She looked up at me and I saw fear in here eyes. She said, "Dr. Elders, I don't want to go home." "Why not?" I asked her. She replied, "Dr. Elders, every Saturday night my brothers and my uncles and my daddy get drunk, and they use me. They use me. Me and my sister." At first, I did not believe her. I told her she had to tell her mother. And she told me, "I tell my mother. She don't do nothing about it." This was before state laws requiring doctors to report suspected abuse cases. Imagine the degree of fear and shame this young girl had to overcome to confide in a black, female doctor because she was white and this was during the 1960s in the South. Like her mother, I did nothing. I just sent her home.

The fear in that young girl's eyes has never escaped my memory. In 1987, when Governor Bill Clinton asked me to consider serving as his state health director, I jumped at the chance because I have been unable to forget that little girl. As Director of the Arkansas Department of Heath, I have been working very hard to provide all children a place to go. The school-linked services proposed in this legislation will be that safe harbor for those children who otherwise would have no safe harbor.

For most of our history, American parents have delighted in seeing their children achieve more than they did themselves. Each generation has been better educated, better housed, more skilled, and more economically secure than the previous one. But for many Americans, those days are over. For perhaps the first time since the Great Depression, American children will no longer routinely surpass their parents' standard of living. Over the past 30 years, adolescents have been the only population group in the United States who have not experienced improvement in their health status.

Today, one of five children is poor. Too many of these children belong to what I call the "5-H Club"—the hungry, the homeless, the healthless, the hugless and the hopeless.

Consider with me these generational comparisons for the Code Blue Report of the National Commission of the Role of the School and the Community in Improving Adolescent Health:

In 1965, there were roughly 4 cases of gonorrhea and syphilis for every 1,000 American adolescents. In 1985, there were 12. CDC estimates that 2.5 million adolescents each year contract a sexually transmitted disease.

In 1965, 16.7 out of every 1,000 unmarried teens age 15–19 give birth during that year. In 1985, 31.6 out of every 1,000 did.

In 1950, the rate of youths age 14–17 who were arrested during that year was 4 per 1,000. In 1985, the rate was 118 per thousand.

In the 1950s, less than 5% of youth experimented with an illicit drug before entering 10th grade. In 1987, over 30% of youth had done so.

In 1965, 9.8% of all children under 18 years lived in single-parent homes. In 1985, 21% did.

In 1960, 39% of mothers with school-aged children were working outside the home. In 1987, 70% did.

Violence and injury account for 3 of 4 adolescent deaths.

Homicides among 15–24 year olds has increased 300% since 1950; suicides have tripled among young teens and doubled among older teens over the past 20 years.

Annually, one in 10 adolescent females becomes pregnant, more than 1.1 million per year.

One in 7 high school seniors report drinking to inebriation on at least a weekly basis.

Approximately 6% of adolescents are affected by chronic medical and/or psychiatric disorders.

Contemporary threats to adolescent health, the so-called "social morbidities", are primarily the result of social environment and/or behavior.

Families, too, have changed in ways that affect their ability to meet the health-care needs of children. A majority of children lives either in single-parent households or in families where both the parents work. In many of these families, social and economic stresses are heavy, adults have less time available for supervising health care, and no one is at home during the school day. Since children usually receive health care at the initiative of their parents, these circumstances hamper regular access to care. Moreover, more and more American families find themselves with no health insurance or inadequate health insurance. Almost 15% of Americans under age 64 have no form of health insurance—the highest concentration of those uninsured is among young adults and their children. This national crisis in health insurance coverage also serves as a barrier to health care.

These barriers disappear with school-based health clinics. In the Code Blue Report, the National Commission noted that the federal government should call public attention to our adolescent health crisis, the effect of the crisis on student achievement, and the importance of uniting to address adolescent health. More simply stated, you can't educate kids if they aren't healthy, and you can't keep kids healthy if they aren't educated. The Commission recommended that you, as the federal government, do the following:

Recognize the inter-relationships between education and health and the need for school-based or school-linked health centers and health promotion programs; and

Provide funding for the development of adolescent health centers, training health and social service professionals to work effectively with adolescents and to work collaboratively across disciplines, to expand public health services for adolescents, to employ Neighborhood Health Workers, and to provide federal technical and other support to state and local officials in establishing measurable health objectives, indicators, and tracking systems to assess state and local progress in improving adolescent health.

I worked with the National Commission on the Role of the School and the Community in Improving Adolescent Health which produced the Code Blue Report. Let me say, after reviewing a draft of Senator Kennedy's bill, I feel our prayers have been answered. I feel this program will provide much needed assistance to states and local communities to fill the gaps which exist in our current health care/social service delivery system for adolescents. The required formation of local community partnerships to coordinate and deliver comprehensive education, health and social services to adolescents was also a recommendation of the National Commission. The report stated that "local coordinating councils should serve as catalysts to meaningful collaborative services, among public and private agencies, as advocates for the health needs of adolescents, and as monitors of the accessibility and quality of services." One of the important lessons we have learned in Arkansas about school-based clinics is that you must have local support and ownership of the program for it to be successful.

After reviewing the draft legislation, I am delighted to offer my full support for the proposal. Either someone in Washington is actually reading and responding to recommendations of the Code Blue Report or great minds are running together. Although I would prefer to see some state input on reviewing local grant applications and would ask that you consider adding public health departments as a necessary party in the local partnership under Title I, these are just minor details coming from a state health department director. These are items which can be worked out as the bill progresses through Congress.

I understand that President Bush's FY 1993 budget includes a proposal for the Ready-to-Learn School Health Program. If funded, it would provide comprehensive primary health care and prevention services to children age 3–12 and their families. Senator Kennedy's proposal provides the important link between children's health care and care for adults. By targeting funding for adolescent programs, you will be serving the most underserved portion of the American population today.

We currently have 21 school districts on a waiting list for school-based services. They have already received the support of their local communities and fought all the fights concerning services to be provided in the clinics. They just need money to get started. I look forward to working with you and my Congressional delegation to help steer this legislation through because I really believe time is of the essence. During the past hour, our nation has spent 33.7 million dollars on our national defense. We spent 23 million dollars on the S&L bail out. Yet, we only spent 1.3 million dollars on our children's health. The authorization required to fund this bill is a mere drop in the bucket compared to defense and S&L bail out spending. Surely the health of our children is as important as either of these.

Senator I would like to thank you and your committee for having the vision and the courage to address the issues of adolescent health, not as a religious, moral, or economic issue, but as a social morbidity issue which is destroying the most valuable resource we will ever have.

You know that our children have needs. You know that it is the social morbidities impacting health that are keeping increasing numbers of our young people from reaching their potential. You know that it will take all of us to make sure that all of our children grow up healthy, educated, motivated, and have hope. This piece of legislation will make health and educational services available, accessible, affordable, and age appropriate. It will help build bridges over rivers of ignorance so that more of our bright young people will be able to cross.

Thank you!

TESTIMONY OF MARIA ARANA

Mr. Chairman and Members of the Committee, I am pleased to be here today representing the National PTA in their endorsement of the Comprehensive Services for Youth Act of 1992. As a parent, I would like to share my reasons for supporting health clinics with strong parental involvement and my experience with a similar program in my community.

My name is Maria Arana. I am a single parent who emigrated to the United States twelve years ago from El Salvador. Escaping the strife of my native war-torn country, I searched for a better future for myself and my children. What I initially faced in this country was living in the inner city, filled with constant signs of crime, drugs, neglected children and poverty-stricken families. This frightened me and the possible effect of that environment on my 15 and 17 year old daughters. For example, when the 17 year old first attempted to take the public bus to school at age 14, her gold chain was ripped from her neck, as she later explained in tears after running home from the incident. At that point I became very protective of my daughters, and I was determined to succeed in ultimately getting them out of that area in hopes of providing a safer environment that is more conducive to their proper welfare.

My daughters attend Los Angeles High School, where I also work as an Office Assistant. When I first learned about a School-Based Clinic opening at Los Angeles High five years ago, I was skeptical about its effect on the students and parents. However, as the program unfolded, the energy, enthusiasm and professionalism displayed by the School-Based Clinic Program staff prompted myself and other school district staff to join them. Their efforts in providing medical services along with counseling and education made the services perfectly suited to a student's needs. The School-Based Clinic provides the safety net that students and their under-insured parents need in these harsh economic times. Because I now work at the school, I see many cases of students who need help, and I and other parents believe in the clinic and do whatever we can to help students use the services there.

When my daughters began attending high school, I permitted them to use the clinic's services without limiting their access to the comprehensive services. Subsequently, my daughters have obtained free immunizations, free physical examinations, free education and counseling about sensitive matters that I find very difficult to explain to my daughters. In addition, I have not had to miss work to drive them to see a doctor—this is an important reason why I so strongly support the school-based clinic—students like my daughters are able to obtain care where they spend most of their day.

Living in a community that has no sense of unity is quite depressing and frustrating. My daughters must stay home during the holidays because there are no accessible recreational programs where we live. No pools, no baseball fields, no safe places in which to walk. Consequently, this dire situation has led me to support the school-based clinic many times, being the only organization doing community outreach. A few months ago, the riots in Los Angeles were only the beginning of my community's demonstration of their frustration with the economic reality and decaying sense of community. I am still very frustrated. I want my daughters to live in a real community, where resources exist to help one another. The School-Based Clinic at Los Angeles High demonstrated its readiness to deal with the real issues that the school district is too busy to handle or simply cannot deal with. During the riots, Korean students were beaten up, a student was shot in the leg in front of school and teachers were nowhere to be seen during the height of the crisis. However, School-Based Clinic Staff was available to treat the injured students and counsel them. Students were able to come back to school in spite of the tension and the presence of the National Guard on campus. The School-Based Clinic educators and counselors provided critical counseling services for those traumatized teens and provided referrals in the community for emergency care for parents as well as teachers. The School-Based Clinic became a life line to obtain information, numbers and advice to help students and their families.

I could not believe when I was told that 70% of clinic patients do not have medical insurance. Although I can provide coverage for my children, many students have not seen a doctor for more than five years. I must work to care for my children and missing work is not part of the plan. Accessible, free, competent and effective services at the school where my daughters attend makes me at ease that they are effectively cared for at the place where they spend most of their time. Similar services must be expanded to other children in other school districts with parents' involvement. I am committed to the programs that the Comprehensive Services for Youth Act of 1992 seeks to implement and strengthen in all communities of the country. Thank you for your time.

HEALTH START: ADOLESCENT HEALTH PROGRAM, ST. PAUL, MN, DONNA ZIMMERMAN, MPH, EXECUTIVE DIRECTOR

Mr. Chairman and members of the Committee, I am pleased to come before you today representing the Health Start program in St. Paul, Minnesota. Health Start is a non-profit community-based organization providing health and social services to women, children and adolescents in St. Paul. We are proud to have opened the first comprehensive school-based health clinic in the country in 1973, and now serve 5 high school and 2 alternative school programs, in the St. Paul area. I want to take this opportunity to provide you some background on the development of these school clinics, and the significant role they have played in helping St. Paul youth stay healthy and on track towards a hopeful future.

Over 20 years ago, staff from an inner city high school in St. Paul approached a predecessor of Health Start, the Maternal Infant Care Program, about ways to reduce the high school drop out rate among pregnant teens. A working group of 4 grew to 20 members with the inclusion of parents, school personnel, elected officials, and business leaders. In two years, a school-based clinic emerged at the school to provide prenatal infant care, family planning, nutrition and mental health services. Since that time, school-based clinics have expanded the range of services offered to provide a one-step shopping menu of comprehensive health and social services as requested by each school's neighborhood community.

Each year, nearly 3,000 students visit our school-based clinics. Coming from diverse socioeconomic backgrounds, two thirds of the students are from low-income families who are either uninsured or underinsured. Most adolescents coming to the clinic report no medical care within the past year, and no regular source of care. The clinic utilization by the school population is high, with over 50 percent of all students using the clinic during their high school years.

The school-based clinics fill a vital function in establishing an ongoing trusting relationship with students so they can bring their concerns and receive needed services, or an appropriate referral. We offer a wide range of services including general medical care, preventive health counseling and education, prenatal care, nutrition counseling, social work services, and peer counseling and mentorship programs; on an average, students make four visits a year to the clinics. The clinics are built on a multi-disciplinary staff model, with a physician, nurse practitioner, health director, social worker and nutritionist available as needed. Students usually see two or more of the disciplines during a typical visit. For example, it is a routine practice for students who receive sports physicals in the clinic to also see the nutritionist, since weight gain issues and dietary practices are important health considerations in this age group.

The comprehensive service approach has been adapted through the years to respond to the alarming adolescent health statistics. A Minnesota statewide survey of adolescents in 1989 revealed that physical abuse in the home endangers one Minnesota teenager in eight. Furthermore, one out of nine students reported they had attempted suicide. Thus, we provide extensive counseling for adolescent victims of abuse and have increased activities to promote positive self esteem for students as an extension of the clinic services.

The most critical element in the success of the Health Start program has been the support of the community, parents and school personnel. Parents provide written consent to use the clinic, serve on advisory committees and also the Health Start Board to give input into program design and services; currently a group of parents have been working for a year and a half to bring a new school-based clinic to a 6th high school in our city. School staff are also integral to the success of the program. A unique partnership exists between school and clinic staff at Harding High School, where Health Start runs a peer mentorship program building leadership skills among high-risk youth. The program has been so successful that there is a waiting list for enrollment, and the school has qualified it as an option for academic credit. Health Start staff also provide classroom education to assist teachers and provide a means of outreach for the clinic.

Health Start's school-based clinics work collaboratively with the medical community to refer students for specialized services and follow up beyond the scope of the school clinic and to make sure that each student has access to a primary care network during the periods school is not in session. Health Start contracts with physicians from local clinics and St. Paul-Ramsey Medical Center, which provides for continuity in care and helps build linkages with the medical community. There is also a close relationship with community and county mental health providers to refer students and their families as needed, or in some cases to co-locate other community mental health agency staff in the school clinic itself.

Local community partnerships are critical to the financial stability of Health Start's school-based clinics. The City of St. Paul, Ramsey County together with state, federal and private contributors have funded various aspects of the clinic programs. The St. Paul Schools donate space for the clinics and as schools have been remodeled, incorporated clinic space in the building plans.

The school-based clinics in St. Paul have served nearly 50,000 students since their beginnings. The services are proven to be cost effective and effective at reaching those students who are the most vulnerable for health and emotional problems.

The Comprehensive Services for Youth Act is an exciting opportunity to expand community-school partnerships, promote increased access for health and social services and make a real impact on the lives of our adolescents and the health of our communities.

TESTIMONY OF MS. LAURA SECORD, SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, JULY 28, 1992

Mr. Chairman and Members of the Committee, I am pleased to be here today to tell the story of Ensley High School Adolescent Health Center, where I am the Nurse Practitioner/Clinic Manager. The Center is sponsored by the Jefferson County Department of Health in Birmingham, Alabama. Approximately 1,200 students are currently enrolled.

The Ensley High School Adolescent Health Center is a comprehensive school-based program originally funded with a grant from the Robert Wood Johnson Foundation. The project was developed after eighteen months of collaboration by a strong community based advisory board made up of teachers, school officials, health care providers, clergy, parents, students, and area law makers. When the clinic opened in January of 1988, the school's population was 85% African-American and 15% white. Only one third of Ensley's students had health insurance, and one third of our students had not received any medical attention in over 2 years.

I came to the Ensley project in the fall of 1986 from a rural county health department where I saw a number of adolescent patients and was struck by their fear and discomfort when seeking care at our clinic. Though we tried to put them at ease, they were often so uncomfortable that they could not make eye contact. They often missed appointments and did not follow through with treatments. I arrived at Ensley High School with a deep feeling that something was wrong with the way our system provides care to teens—both where and how we were going about it made our services both physically and emotionally inaccessible. I began my work with the program by establishing a presence in the school and laying the groundwork for the clinic opening. We held night meetings with parents to hear their concerns and insights into their children's needs. When the doors of the clinic opened, our staff included a pediatrician, registered nurse, social worker, nutritionist, and mental health counselor.

I saw my first patient before the final renovations were even completed. She was a seventeen year old with a severe kidney infection. She was also six months pregnant and had been starving herself in order to keep her pregnancy a secret. She was severely depressed. Her pregnancy was a result of sexual abuse by an older family friend. By the end of the first month, I had treated kids with a wide range of problems including strep throat, fractured femur, diabetes, high blood pressure, severe depression, dental disease, anemia, epilepsy, and gonorrhea.

By the end of the first school year, over 50% of Ensley's parents had given consent for their children to use the clinic. And the word was out among the kids that the clinic cares. They listen. They treat you with respect and keep your confidentiality. Word got out among the teachers too. The clinic staff cares about education, and pays attention to teachers' concern.

The staff has trust—and with trust came the revelation that the surface problems kids were facing—such as abusing drugs and alcohol, dropping out of school and getting pregnant, were not the real problems. The real problems were pain, isolation, loneliness, fear, and more than anything else a lack of caring.

We began to listen, in the classroom and in the clinic, to the stories behind young people's action, stories of physical and sexual abuse, stories of families functioning under the strain of addiction, stories of young people witnessing daily violence as friends and family members were being killed. Deep secrets and untold stories manifest as headaches, stomachaches, and chest pains, and find other expression in violence and irresponsible sex.

The Clinic staff listened and learned that we would have to provide more than just health care. We were here to provide healthy caring, a process that grown over time and comes from being part of a young person's everyday life. That is the difference that school-based health care makes—it gives us a chance to develop a daily relationship with the young people that we serve. And that relationship builds a bridge to help young people finish school and become contributing members of society.

Over the last five years we have put together a remarkable program of services at Ensley. We like to think of these as the building blocks toward a successful future. Services include general health, mental health, health education, and day care services. There are approximately 3,000 patient visits per year for general health care alone. Nutritional counseling is also an important component to help teens establish health habits to avoid hypertension, obesity, and chronic illnesses later in life.

Our mental health program is unique, with a social worker and mental health counselor available to kids and their families. One feature is a peer support program called CHOICES, which involves over 400 kids a year in groups focusing on goal setting, violence prevention, and communication skills.

We also offer health education, which has reached nearly 2000 students in five years with messages of self-esteem and responsible decision making. Our daycare provides a means for 27 young parents to stay in school each year.

We have learned that no single approach will work in isolation. A broad collaboration among teachers, students, parents and community leaders has been critical to the success of our program. Five years ago we heard echoes of community opposition; now we hear the chorus of community support and demand. The school-based clinic program has provided better access to services for young people, better strategies for teachers, and facilitated better communication between parents and teens.

In March of 1992, with the support of the Jefferson County Health Department, we opened our second school based program. The need we face is great, but funds are limited. I know the work we do makes a difference. Each year at graduation I am amazed at the number of students accepting their diplomas whose lives we have touched. I am struck by the integrity of their struggle and the jeopardy in which they live. The problems and challenges our youth face are large, but our presence has enabled many to go on and achieve a hopeful and healthy future

I would like to close with the words of a young lady who graduated in June of 1991. Her words come from a play she wrote for the clinics Teen Theater. She came from a family that had been injured by crack abuse and yet she found a means of self expression through a clinic program. Her writing led to recognition by the Ford Foundation and a full college scholarship. Her poem echoes the feelings of young people across our land from Birmingham to East L.A., from New York City to St. Paul:

SILENT CRIES

No one listens.
No one cares.
No one's there with which to share.
The pain and hurt.
Our hearts cry out.
Love and affection we are without.
And so alone we live in our lives.
We live the life of silent cries.

Mr. Chairman, I strongly support your legislation to provide the comprehensive services our kids need to build healthy and hopeful futures. It is an answer to the many cries of our youth. It is the healthy listening and healthy caring that we have tried so hard to provide. Thank you.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, July 23, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN KENNEDY: The American Medical Association is pleased to express its support for the "Comprehensive Services for Youth Act of 1992." This bill addresses the quality and availability of comprehensive education, health and social services to youth in school-based or community-based locations. Such issues relating to the health and well-being of our youth are unquestionably among the most critical problems facing our nation today.

The provision of services through school-based and community-based health centers provides an appropriate mechanism for reaching underserved youth. To be most effective, programs should entail local and state partnership which include physicians and other health professionals, educators, parents, and other community leaders. Health promotion and disease prevention should be the cornerstone of a comprehensive health strategy. Meaningful evaluation is necessary to ensure that funds are utilized as effectively as possible.

The AMA appreciates the opportunity afforded us to work with your staff in the development of the proposed legislation. We strongly believe that the bill represents the beginning of a new era of both public and private initiatives directed at improving the health of America's youth.

Sincerely,

JAMES S. TODD, M.D.,
Executive Vice President.

AMERICAN FEDERATION OF TEACHERS,
Washington, DC, July 24, 1992.

Senator EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN KENNEDY: Earlier this year, the American Federation of Teachers announced its Proposals for Children in Crisis. The Proposals encompass education, health care, nutrition, and other services or investments which the A.F.T. deems essential if the nation is to address a growing crisis among children and youth.

Many children and youth are not making satisfactory progress in education, and this will continue to be the case if necessary educational resources and facilities, nutrition, health care, and social services are denied. Youngsters who come to school hungry, sick, or homeless, and whose poorly supplied classes meet in halls, closets, or stairwells, cannot be expected to learn. One of the ten Proposals for Children in Crisis is the establishment of health clinics at or near schools. Another is the expansion of child care, prenatal care, and preventative health care for children and youth.

Inadequate health care and poor educational performance are undeniably related. For this reason, the A.F.T. enthusiastically welcomes your introduction of the Comprehensive Youth Services Act of 1992. It addresses critical problems that affect the well being of many children and their ability to prosper in school. It should be speedily enacted and funded. To that end, the A.F.T. offers its support.

Sincerely,

GREGORY A. HUMPHREY,
Acting Secretary-Treasurer.

CHILDREN'S DEFENSE FUND,
Washington, DC, July 24, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN KENNEDY: I am writing to thank you for introducing the Comprehensive Services for Youth Act of 1992, a bill designed to improve the quality and availability of urgently needed education, health and social services for America's at-risk youth and their families.

Being a teenager today is far riskier than it ever has been. Many teens are poor and unhealthy, unsafe in their homes, their neighborhoods and their schools. Many are at risk of drug and alcohol dependency, premature sexual activity or pregnancy long before they are ready to become parents. Many are written off as unsalvageable by schools that are too overwhelmed to respond to their needs. The consequences of youths' actions now include dangers ranging from single parenthood and prolonged poverty to AIDS and devastating violence.

Young people and their families living in impoverished and often dangerous neighborhoods often cannot find their way to the fragmented, confusing and chronically underfunded services in their communities. Those communities, which contain the highest proportions of at-risk youths, typically do not have the resources to forge partnerships between schools and local service providers to meet the needs of such youths. Cities, counties and states can provide strong and effective leadership in promoting the development of such partnerships on a larger scale if the resources are available. These initiatives can and must play a vital role in preventing the serious health, education and other problems that now threaten millions of young Americans and promoting the full development of our next generation of citizens, workers, and parents.

The Comprehensive Services for Youth Act of 1992 would address these challenges through a series of targeted grants to local partnerships between schools and local service providers. In addition, it would provide funding to community- or county-wide consortia and states seeking to promote the delivery of comprehensive education, health, and social services to at-risk youths and their families. As you know, initiatives that build linkages between schools and essential health and social services enjoy broad, bipartisan support, as reflected most recently in the recommendations of the Steelman Commission (Advisory Council on Social Security).

We are pleased that the proposed legislation would give local communities, school boards and states great flexibility in designing systems of integrated services that they believe will meet the most urgent education, health and other needs of their own young people who are at unusually high risk. In this manner, the legislation would provide a strong and essential impetus to emerging state and local efforts to meet the long-neglected needs of America's adolescents and young adults.

CDF looks forward to working closely with the Committee in the months ahead to secure enactment of this important legislation.

Sincerely,

MARIAN WRIGHT EDELMAN,
President.

COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,
Washington, DC, July 22, 1992.

Senator TED KENNEDY,
Chairman, Committee on Labor and Human Resources, Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN KENNEDY: Many thanks for consulting us on the development of the Comprehensive Services for Youth Act of 1992. We commend your strong advocacy of federal support for coordination of comprehensive education, health and social services to at-risk youth in their local communities, through school-based or school-linked centers.

We concur that one of the most effective means to extend essential health and human services to youth and families with greatest needs is by co-locating such services in or near schools on a year-round, extended-day basis. This year, our Council's top priority issue is collaboration among the education, health, and social service systems. We are committed to build on existing local and state service networks to achieve more effective and efficient results.

We look forward to continuing work with you and your staff to develop and advance federal legislation which will strengthen collaborative delivery systems.

Sincerely,

GORDON M. AMBACK,
Executive Director.

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, July 22, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the 43,000 pediatricians who comprise the American Academy of Pediatrics, I am pleased to offer our endorsement for the "Comprehensive Services for Youth Act of 1992."

The importance of investing in the health of the next generation has become not just an act of compassion, but an economic necessity. Ideally, every child in America should have a physician or physicians who serve as the primary source of health care, a concept we call a "medical home." The home provides a broad range of comprehensive preventive and treatment services on a continuing basis. The Academy realizes that such idealistic medical care for children is not available in many communities across the country. Where these sources of care are not available options, school-linked services can serve as an alternate source of care for children ages 6–18. Under no circumstances should school-linked services be considered a substitute for continuous comprehensive care. The Academy is particularly pleased that the Federal Council on Children, Youth, and Families has a pediatrician representative who can share our unique knowledge of child health care.

Ensuring proper health care for our children is crucial to our nation's future. The Carnegie Institute reported that 70 percent of teachers had students whose education was adversely impacted by poor health or nutrition. The Academy believes that the Comprehensive Services for Youth Act of 1992 takes an important step toward meeting the needs of our nation's school children.

The Academy looks forward to working with you and your staff as this legislation moves forward.

Sincerely,

DANIEL W. SHEA, M.D.,
President.

THE NATIONAL PTA,
Chicago, IL, July 20, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The National PTA, an organization comprising over 7 million parents, teachers and other child advocates, heartily supports the concept of the Comprehensive Youth Services Act of 1992. A major priority of the National PTA's Legislative Program is to support "legislation that assists states and localities to develop and fund comprehensive health care programs, including school-linked health clinics, and provide equitable access to quality, affordable health care for all children, youth and pregnant women, and that all federally funded school-linked health care clinics have parental representation on all advisory committees." In addition, the National PTA "supports efforts that encourage collaboration among child-serving agencies and coordination of services designed to meet the needs of children and youth."

These priorities are matched to various sections of the bill which is highly compatible with National PTA stands including such provisions as:

I. Section 101(b)(2): The focus on broad based community partnership including youth and parents in the development of child-serving collaboratives. Throughout the bill, parents and students are included in the planning and we highly support that inclusion;

II. Section 101(C)(d): A priority that includes not only the student, but also outreach to the families. We would encourage the involvement of families as much as is possible, in both the planning and in service delivery;

III. Section 101(3): When determining the Contents of the Plan, families should be included to the extent possible and practicable, but not to the exclusion of services for the student;

IV. Section 101(4)(f): We support the effort toward equitable geographic distribution, especially with focus on both urban and rural with high risk youth:

V. Section 101(4)(2): Related to in-kind non-Federal share, specify parent and community non-paid volunteer involvement;

VI. Section 101(a): The US Department of Education and state departments of education need to play a more substantive role in planning for, reviewing and granting rewards. If we are aiming for partnerships at the local level, let's require that partnership at the state and federal levels as well. In addition, it's the departments of education that have direct access to the public schools;

VII. Section 102, Subtitle C, paragraph C (ii): We support all of the youth development and life planning areas. They are all consistent with National PTA Health and Welfare priorities and programs;

VIII. Section 102, Subtitle C, (4)(2): We support the Administrative cap of 5%;

IX. Section 302: We encourage a stronger formal relationship between HHS and ED in an effort to more efficiently coordinate activities, but also to require that ED take more ownership for developmental services. This would be a great time to discuss the reorganization of ED along child service and school improvement lines, rather than along program category lines;

X. Title IV, Section 401: This area seems to be focused more on older youth, ages 10–21 as defined by the Bill. Programs for "youth" should be balanced with those programs for "children", ages 5–10 as defined by the Bill. Focus on the preventative and early risk behaviors should be identified and served. We would hope that elementary and middle schools would be encouraged by this Bill to plan for comprehensive school-linked health services as well as the high schools.

Once again, the National PTA commends Senator Kennedy and other members of the Senate Labor and Human Resources Committee for their commitment to this legislation.

Sincerely,

ARLENE ZIELKE,
Vice President for Legislative Activity.

NATIONAL COMMISSION ON ACQUIRED
IMMUNE DEFICIENCY SYNDROME,
Washington, DC, July 27, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor & Human Resources, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: On behalf of all the members of the National Commission on Acquired Immune Deficiency Syndrome (AIDS), we want to express support for the principles and objectives of the Comprehensive Services for Youth Act of 1992.

As you know, the National Commission on AIDS has closely examined issues relating to the HIV epidemic among adolescents. Clearly, HIV disease is a serious threat to our nation's young people. The number of teenagers with AIDS almost doubles each year and an estimated 75,000 teenagers are now infected with HIV. Over 20 percent of all reported AIDS cases are among individuals in their teens and twenties, most of whom were infected during adolescence. The majority of these cases are among In orities. What makes these numbers particularly tragic is that there is so much we can do to stem the tide of HIV infection through aggressive prevention efforts and so much more we must do to provide health and support services necessary to cope with this terrible illness.

To intervene effectively in the spread of HIV, it is essential to consider the broader social context of the HIV epidemic, for it involves not only individuals at risk, but also families, cultural and social groups, neighborhoods, and communities at risk of multiple problems, such as poverty, alcohol and drug use, violence, unemployment, and lack of access to health care. Often unable to meet even their basic needs, many youth deny or discount the risk of getting caught in the path of the AIDS virus. A new and committed partnership between these young people and their communities can lead to greater hope, greater dreams, and greater success.

During a recent site visit by the Commission to the G.W. Carver School Based Health Clinic in New Orleans, Louisiana, we were able to witness first-hand the unique effectiveness of a school-based comprehensive health and social services center designed to serve adolescents. An excellent corps of doctors, nurses, and counselors provide health and support services to over one thousand youths, helping them to deal with an array of challenges, including AIDS, drug use, teen pregnancy, suicide, and violence.

The Comprehensive Services for Youth Act of 1992 will provide the essential resources necessary for neighborhoods, cities, and states to offer and sustain the services needed to ensure that every young person in America has the ability, the self-esteem, and the opportunity to contribute fully to our society. The Act will foster coordination and collaboration among educators, health care providers, and community based organizations through the development and operation of city-wide and state-wide youth service center systems. We are extremely pleased that a bipartisan commitment has been made to enact this bill and look forward to the passage and funding of comprehensive youth services legislation by the Congress.

Sincerely,

David E. Rogers, M.D.,
5Vice Chairman.
JUNE E. OSBORN, M.D.,
Chairman.

AMERICAN NURSES ASSOCIATION,
Washington, DC, July 23, 1992.
Senator EDWARD M. KENNEDY,
Chairman, Senate Labor and Human Resources Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The American Nurses Association (ANA) is pleased to endorse your proposed legislation, "The Comprehensive Services for Youth Act of 1992". We look forward to its introduction next week. Please feel free to quote us or list us as an endorser in any way you choose.

The context for our analysis of the proposed legislation is Nursing's Agenda for Health Care Reform. We are pleased that the bill, throughout, utilizes the term "health care provider" rather than "physician". As you know, we firmly believe that consumers need to have unrestricted access to alternative health care providers, such as advanced practice nurses. We believe that the services provided by nurses are necessary in order to address the very complex and diverse needs of children and adolescents, as well as the needs of their families.

ANA shares the bill's commitment to coordinate and make more comprehensive the current patchwork quilt of social services, education and health services for youth. We fully agree with the bill's emphasis on basing health (and social) services within the community, where most of the public's health needs are. We believe that community-based services will more suitably address health promotion and disease prevention, as well as provide better access for disease diagnosis and treatment.

ANA agrees with the bill's express intent of targeting those communities most at risk of poor social and health outcomes—communities with high rates of poverty, teen pregnancy, drug use, violence, school drop outs and juvenile justice involvement. We fully agree with the bill's focus on the school as the location for much integration of services to take place. The idea of school-based health services has been fully fleshed out in a 1992 publication of the American Nurses Association, Expanding School Health Services to Serve Families in the 21st Century. Within this new publication, we have proposed a provider role shift that empowers consumers by increasing ownership of their own health care and the exchange of information with professionals. Also within the publication is a plan to prepare consumers to become their own case managers.

ANA is pleased that the bill proposes significant funding for special projects of national significance. We believe that these resources will be used to provide start up funds for innovative projects designed by nurses who want to establish new models for school and community-based health care.

The ANA is deeply committed to improving the health, social service and educational systems of care available to youth, and we look forward to working with you and your staff to get the bill enacted.

Sincerely,

VIRGINIA TROTTER BETTS, J.D., R.N.,
President.

AMERICAN SCHOOL HEALTH ASSOCIATION,
Kent, OH, July 16, 1992.
Senator EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I am writing on behalf of the 3,700 teachers, health educators, nurses, and physicians who are members of the American School Health Association (ASHA) to offer support and endorsement of the Comprehensive Youth Services Act of 1992. The mission of the American School Health Association is to protect and improve the health of school-age children and youth by supporting the implementation of compressive health programs in our nation's schools.

The U.S. Congress must support ASHA's members as they work on a day to day basis with our children and youth. We must make it a goal that all children do indeed enter school on a daily basis healthy and ready to learn. Schools must provide quality health education programs, physical education programs, food service programs, health service programs, and healthy, positive environments. The Comprehensive Youth Services Act of 1992 takes us one step closer to this goal.

Please feel free to call upon us should you need additional information or technical assistance. Our members stand ready to assist you and your colleagues in your efforts to address the health and educational needs of our school age population.

Sincerely,

DANA A. DAVIS,
Executive Director.

THE SOCIETY FOR
ADOLESCENT MEDICINE,
Bronx, NY, July 22, 1992.
Senator EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The Society for Adolescent Medicine expresses its support for the Comprehensive Services for Youth Act of 1992 that you will introduce into Congress. This legislation is an important first step in providing comprehensive, confidential health care for a vulnerable and often overlooked segment of our population. We believe that this bill will encourage the development of local, city, county, and state service coalitions for adolescent health.

In the most recent report on adolescent health presented to the United States Congress by the Office on Technology Assessment, it was estimated that one in five adolescents suffers at least one serious chronic disease or disability, such as asthma, heart disease, hearing loss, or vision impairment. As already observed in the adult population life style issues impact on the health of adolescents resulting in major public health problems such as unintentional injury, homicide, pregnancy, sexually transmitted diseases, and substance abuse. AIDS has become the sixth leading cause of death for U.S. adolescents and young adults between the ages of 15 and 24; and there is evidence, through serologic studies of HIV, that it will remain in this position in the future.

The Society for Adolescent Medicine supports a more comprehensive national health insurance reform to fully extend access to all adolescents. The goals of adolescent health care are to provide complete and thorough physical and psychosocial evaluation and treatment in an atmosphere of trust and confidentiality. Adolescents see office-based physicians less often than any other age group and are more likely to seek care in a range of alternative settings operated by a wide array of health professionals. Inadequate payment for services limits the private practitioners' availability of professional time and is an important barrier to comprehensive care for adolescents. Alternative care options for adolescents in the public sector and through university teaching centers, school-based clinics, and nonprofit programs have provided innovative approaches for this hard-to-reach population. The proposed legislation has the potential to enhance community-based public programs and the networking of public and private programs for adolescents.

There are seven criteria that the Society for Adolescent Medicine recommends to assure access to health care for adolescents:

1. Availability: Age-appropriate services and trained health-care providers must be present in all communities.

2. Visibility: Health services for adolescents must be recognizable, convenient, and

should not require extensive or complex planning by adolescents or their parents.

3. Quality: A basic level of service must be provided to all youth, and adolescents should be satisfied with the care they receive.

4. Confidentiality: Adolescents should be encouraged to involve their families in health decisions, but confidentiality must be assured.

5. Affordability: Public and private insurance programs must provide adolescents with both preventive and other services designed to promote health behaviors and decrease morbidity and mortality.

6. Flexibility: Services, providers, and delivery sites must consider the cultural, ethnic, and social diversity among adolescents.

7. Coordination: Service providers must ensure that comprehensive services are available to adolescents.

In addition, we believe communities have a responsibility to ensure that the following health and other services are available to their youth, either on-site in comprehensive programs, or through closely coordinated referral networks:

Preventive health services;

AIDS education and general health education and nutrition education;

X-Rays, laboratory, and pharmacy services;

Mental health counseling, drug and alcohol abuse prevention and treatment services, and social work services;

STD treatment, pregnancy testing, family planning, contraceptive supplies, and HIV testing; and

Transportation services.

It has been our distinct pleasure to work with you and in drafting this legislation. We certainly hope that our input was beneficial to the concepts put forth as a first effort in securing appropriate health care services for a critical segment of our population: future families, leaders, and workers of our nation. We look forward to working more closely with you as the legislation progresses.

Sincerely,

KAREN K. HEIN, M.D.,
President.

AMERICAN ASSOCIATION
OF SCHOOL ADMINISTRATORS,
Arlington, VA, July 22, 1992.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: The American Association of School Administrators, AASA, would like to express our strong support for your proposed legislation, the "Comprehensive Services for Youth Act of 1992". Collaborating on services for young people at school sites or linked to schools holds the promise of dramatically improving services for disadvantaged children by improving access to services and cutting red tape between agencies. Comprehensive services for young people are the highest priorities in the 1992 AASA legislative agenda.

The current recession has forced disastrous competition between social services, health, and education to the detriment of children. Your proposal for comprehensive services will not only be more effective but will be more cost effective, thereby reducing competition between equally important services while actually extending services to more young people.

The Comprehensive Services for Youth Act of 1992 is a terrific beginning to an important dialogue between the fragmented, jumble of agencies serving young people. The tangle of federal, state and local laws, regulations and professional practices must be streamlined and made sensible from the student's perspective. AASA will be proud to help in every way possible as you strive to accomplish that end.

Sincerely,

BRUCE HUNTER,
Senior Associate Executive Director.

THE CENTER FOR POPULATION OPTIONS,
Washington, DC, July 23, 1992.

Senator EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: The Center for Population Options is a non-profit educational organization dedicated to improving the quality of life for adolescents by preventing unintended teenage pregnancy and too early childbearing. We enthusiastically endorse the Comprehensive Services for Youth Act of 1992 and its intent to improve adolescents' access to quality health care and social services.

Many adolescents cannot perceive the risks and future consequences of their own actions, and their behavior often involves multiple risks to their health and educational success. Seventy-seven percent of female and 86 percent of male adolescents have engaged in sexual intercourse by age 20, and only about one third of them use condoms more often than other contraceptives. The risk taking behavior of adolescents has resulted in over 1,000,000 pregnancies per year, 140 cases of AIDS in adolescent women, and accidents as the number one cause of death among this age group. Many behaviors, such as smoking and other drug abuse, initiated during the adolescent period can also enhance the effects of chronic diseases later in the life course.

An effective response to the problems of adolescent risk-taking behavior requires comprehensive health services, including education, as well as collaboration among public and private agencies, non-profit organizations, educators, parents and children themselves. The adolescent population has unique health care needs, and school related health centers have demonstrated that both the physical and emotional health of adolescents can be enhanced when addressed in the school setting.

With so many youth lacking health insurance and access to primary care, many of them receive care only in emergency rooms and public clinics, usually too late for preventive action. The public school represents an ideal location for the delivery of services which are otherwise inaccessible or unavailable to school-aged youth. Barriers to access for children include cost, transportation, embarrassment, scheduling and staff attitudes.

Clinical services and personnel located on or near school campuses and targeting youth can more effectively encourage young people to seek primary care and prevent unnecessary morbidity.

Locating services on or near the school site represents an extremely promising strategy for delivering primary and preventive health care to an underserved and at risk adolescent population. The model is already working in over three hundred school-based clinics (SBCs) currently serving school-aged youth across the nation. Attached is a partial listing of organizations that support SBCs.

Most SBCs provide a wide range of medical and non-medical services, including general primary care, physical examinations, routine laboratory tests, immunizations, education and counselling, and referrals. Nearly 40 percent of all clinic users are completely uninsured, and therefore have limited access to other sources of primary health care. Three quarters of SBCs are sponsored by community health clinics, public health departments, hospitals or medical schools.

The Support Center for School-Based Clinics, a project of the Center for Population Options, is a national resource for current and emerging school-based and school-linked clinic programs. In addition to resource, program and policy development, the Support Center routinely collects a variety of information from school related health centers nationwide and disseminates it to professionals developing local programs. Our experience demonstrates clearly that comprehensive school-based programs make a difference in the lives of adolescents.

The Center for Population Options fully endorses public support for school based health services as a mechanism for improving the quality of life for America's youth. We congratulate you on the introduction of legislation that will make it possible for many more adolescents to have access to comprehensive health and other services.

Sincerely,

MARGARET P. CLARK,
Ph.D.,
Executive Director.
PAMELA HAUGHTON-
DENNISTON,
Director, Public Affairs.

NATIONAL COLLABORATION FOR YOUTH,
Washington, DC, July 24, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Washington, DC.

DEAR MR. CHAIRMAN: The National Collaboration for Youth (NCY) enthusiastically endorses the concepts embodied in the Comprehensive Services for Youth Act of 1992.

NCY is composed of fifteen of our nation's largest youth-serving agencies and is an affinity group of the National Assembly of National Voluntary Health and Social Welfare Organizations. NCY groups serve more than 30 million young people each year in a wide range of successful youth development programs.

We are all too well aware of the many young people in this country who are vulnerable, who are victims, who need special attention. The Comprehensive Services for youth Act provides attention in an accessible, coordinated manner which can effectively assure that local attention is paid to the nationwide needs of at-risk children. We especially commend your emphasis on youth development services and the required inclusion of community-based youth serving organizations in local community partnerships.

The National Collaboration for Youth supports the Comprehensive Services for Youth Act of 1992 and looks forward to working with you to achieve its passage.

Sincerely,

GORDON A. RALEY,
Executive Director.

NATIONAL MINORITY AIDS COUNCIL,
Washington, DC, July 27, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the staff, board of directors, and member organizations of the National Minority AIDS Council, I write in support of the objectives expressed in the Comprehensive Youth Services Act of 1992.

The role of the National Minority AIDS Council (NMAC) is to develop leadership within communities of color to address issues of HIV infection. The comprehensive nature of this bill upholds the goal as it provides supportive measures to assist communities in helping teens combat those health and social ills that plague them at an alarming rate; HIV infection being among them.

HIV disease does not, however, exist in a vacuum. Many at risk for infection are also participating in behavior that places them at risk for traditionally identified sexually transmitted diseases, unintended pregnancy, substance abuse, drug related violence, and suicide; many of which are at epidemic proportions within communities of color. All of these issues play an enormous role in the high drop out rates of high school students, making implementation of programs that support community efforts to reverse these trends critical. We at the National Minority AIDS Council support passage of the Comprehensive Youth Services Act and look forward to working with you to secure implementation of this bill.

Respectfully,

PAUL AKIO KAWATA,
Executive Director.

NATIONAL MENTAL
HEALTH ASSOCIATION,
Alexandria, VA, July 22, 1992.

Hon. EDWARD KENNEDY,
Chairman, Senate Labor and Human Resources Committee, Washington, DC.

DEAR MR. CHAIRMAN: We, the undersigned national membership organizations of the National Prevention Coalition, strongly support the Comprehensive Services for Youth bill. We commend you on your leadership in the area of prevention.

By providing focused assistance and attention to vulnerable groups, the services outlined in this bill seek to provide the "edge" needed to maintain mental health and avoid mental health problems. For youth, this means preventing entry into special education, juvenile justice, or foster care.

This bill comes at a time when children need it the most. We ask for timely consideration of this initiative in committee, and look forward to full Senate action this session.

Sincerely,

National Mental Health Association, American Academy of Child and Adolescent Psychiatry, American Counseling Association, American Association for Marriage and Family Therapy, American Orthopsychiatric Association, American Psychiatric Association, American Psychological Association, American Psychological Society, Child Welfare League of America, National Association of Prevention Professionals and Advocates, National Association of School Psychologists, National Association of State Mental Health Program Directors, National Parent Teachers Association.

AMERICAN COLLEGE OF
PREVENTIVE MEDICINE,
Washington, DC, July 23, 1992.

Senator EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The American College of Preventive Medicine (ACPM) is pleased to endorse the Comprehensive Youth Services Act of 1992. This proposal provides for the direction of resources to address many health problems of adolescents that currently take a heavy toll. It recognizes that a multidisciplinary approach to these problems is essential, and that local health and public health professionals have much to contribute to the planning and design of programs for at-risk adolescents.

The Comprehensive Youth Services Act provides for services to address the two major categories of preventable health problems of adolescents: injuries and violence that kill or disable many before they reach adulthood; and emerging lifestyles, such as use of alcohol and drugs, that affect their health as adults. ACPM recommends that comprehensive adolescent health services also explicitly address tobacco use, which is not now mentioned in the bill. The bill also provides for programs and services to prevent problems associated with sexual activity, HIV and other sexually transmitted diseases and unintended pregnancy. The Act is consistent with the *Health People 2000* objectives, and recognizes that comprehensive programs are needed to provide positive alternatives to youth, particularly those in high-risk environments.

ACPM is the national medical specialty society of physicians whose primary interest and expertise are in disease prevention and health promotion. Specialists in preventive medicine are uniquely trained in both clinical medicine and public health. ACPM members work in public health and community agencies, in primary care settings, in industry and in academia. The ACPM membership is a major national resource, providing expertise and leadership essential to protecting and improving the nation's health.

ACPM appreciates your continuing leadership in prevention and public health, and is pleased to support this important legislation.

Sincerely,

SUZANNE DANDOY, MD., MPH,
President.

AMERICAN COLLEGE OF PHYSICIANS,
Philadelphia, PA, July 27, 1992.

Senator EDWARD KENNEDY,
Chairman, Senate Labor and Human Resources Committee, Senate Dirksen, Washington, DC.

DEAR SENATOR KENNEDY: The American College of Physicians (ACP), the largest medical specialty society, representing over 77,000 physicians practicing internal medicine and its subspecialties, is pleased to endorse the Comprehensive Services for Youth Act of 1992.

The ACP is a strong advocate for adolescent health care. The College has provided continuing medical education programs on adolescent health at its Annual Sessions and has published a position paper, titled "Health Care Needs of the Adolescent," in the 1989, Annals of Internal Medicine. The paper highlights the underserved medical needs of adolescents. All adolescents, including those who may not find their way into the physician's office because of poverty, lack of health insurance or other reasons, need comprehensive, quality health care. Schools and community based health services can play an important role in ensuring, with primary care physicians, that adolescents receive appropriate health care services.

Our position paper also states that adolescent medicine should become a greater component of medical education and primary care residency training programs. This should include such topics as general comprehensive medical care, counseling, health promotion, substance abuse, eating disorders, sexuality, contraception, sexually transmitted diseases, pregnancy, learning disorders and medical-legal issues related to the health care of minors.

The ACP agrees with the goal of this Act that health promotion and disease prevention should be a major focus of adolescent health care, since life-style choices and health habits present in adolescence can shape behaviors and health status in adulthood. The internist can play a particularly important role in the health care-related decisions made by adolescents by providing counseling and other interventions regarding the wide range of health issues faced by adolescents.

Preventive health care requires education and counseling focused on several major areas of substantial risk. The College supports provisions in this bill which would have local needs assessments determine programs and services to prevent HIV, alcohol and drug use, unintended pregnancy, suicide and school termination. Screening for high risk factors is not difficult and the benefits from early detection and prevention measures may be significant in later file.

School-related clinics, initially established in or near schools to deal with teen pregnancy and related problems, have gradually evolved and now provide a wide range of other health services. These school-based clinics and programs, with the participation of physicians, local community partnerships, community based organizations, and other health care professionals, can help meet some of the health care needs of adolescents by providing health services and education.

The ACP believes that integration of preventive health measures and counseling into medical care can uncover immediate health risk, as well as help the adolescent begin to develop positive long lasting health habits.

The ACP commends you on your effort to address adolescent health care and we are committed to working with your staff and interested organizations to identify issues and to provide leadership in practice, education and research in adolescent health care.

Sincerely,

H. DENMAN SCOTT, MD, MPH, FACP,
Health and Public Policy.

THE AMERICAN DIETETIC ASSOCIATION,
July 23, 1992.

Senator EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: As a member of the American Medical Association (AMA) National Adolescent Health Coalition, The American Dietetic Association (ADA) supports the Comprehensive Youth Services Act of 1992, provided nutrition services were included, as described in this letter. ADA appreciates the work the Committee has done to bring forth the bill.

The ADA, the nation's largest group of nutrition professionals, believes nutrition services should be included in the bill. Good nutritional status ensures that a child has a greater chance of remaining healthy and, therefore, reaching his or her physical and intellectual potential. The cost of health care for the nation is now 12% of the gross national product. Provision of appropriate nutrition services, including screening and assessment, nutrition counseling and nutrition support by registered dietitians and other qualified health care providers can change these statistics.

On page 4 of the discussion draft, under (B) Health Promotion and Life Planning, we recommend the addition of a fourth section: (iv) provide preventive health services which include nutrition services. On page 5 of the draft bill, under (C) Comprehensive Health, Mental Health and Social Services, under (i) health screening, we recommend to include nutrition screening as a component of health screening.

ADA thanks you and the Committee for the opportunity to provide comment on this bill.

Sincerely,

JUDITH L. DODD, MS, RD.,
President.

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS, INC.,
Washington, DC, July 27, 1992.

Senator EDWARD KENNEDY,
Chairman, Senate Labor and Human Resources Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: Our Association is pleased to support the Comprehensive Services for Youth Act of 1992 which would target funds to communities whose youth are endangered by unemployment, poverty, HIV/AIDS, malnutrition, violence, unwanted pregnancies, mental health problems, and substance abuse.

We are particularly supportive of Title I of the Act which would establish school-based and school-linked health and social services needed to improve youth school performance and overall health and well-being. In fact, we would recommend that an even greater percentage of the funding in the bill be allocated to Title I than proposed because of its emphasis on direct services.

We are proud of those community and migrant health centers currently involved in providing school-based and school-linked services in elementary and secondary schools with resources which they have been able to locate from a variety of sources. We note that some centers also provide special services to pregnant adolescents, including home visiting services. In fact, in a recent survey of centers, teen pregnancy ranked as the most pressing health issue faced by communities centers serve.

But we regret that while some centers have been able to launch preventive and primary health service programs specifically targeted to high risk children and adolescents, most centers simply have not been able to locate the additional resources needed to initiate such special efforts.

Youth utilization of school-based health services administered by centers in general has been very good and the majority of the programs have been well accepted by youth and community as well. We regret that Dr. Aaron Shirley, Executive Director of the Jackson Hinds Health Center in Jackson, Mississippi will be unable to testify before the committee on the very positive experience his community health center has had providing school-based health care for over ten years in Jackson high schools.

We do have several concerns about some of the language in the Act as currently drafted. We encourage the broadest possible applicant eligibility for Titles I and II of the Act. In general, we do not believe that it is the best idea to funnel funds for the types of activities included in this Act exclusively through state or local government or elaborate consortia because of the length of time these vehicles often require to launch actual services and the tendency to "system build" rather than provide care.

We certainly wholeheartedly endorse the concept of applicants working closely with other local and state partners, but we believe that applicant eligibility should be open to any nonprofit public or private provider with prior successful experience serving school-age populations that can demonstrate adequate coordinative arrangements and community support.

We believe that the attention provided in this Act to distressed youth in our low income communities is long overdue. Our Association looks forward to working with health centers in our local communities to provide linked health and education services for high risk youth.

Sincerely,

TOM VAN COVERDEN,
Executive Director.

AIDS ACTION,
Washington, DC, July 24, 1992.

Hon. EDWARD KENNEDY,
Committee on Labor and Human Resources, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: AIDS Action Council would like to commend you on your leadership in introducing the "Comprehensive Services for Youth Act of 1992." AAC represents over 800 community-based organizations who understand the need for this legislation.

As you well know, adolescents are finding it more and more difficult to achieve the traditional goals set for them such as high school graduation and good health. Poverty, high crime rates, drug and alcohol use, and sexually transmitted disease are only some of the influences that are all too dominant in their lives. Prevention messages about HIV infection and the hazards of drug use clearly do not reach them. And they are not receiving appropriate social and health services. Too often at-risk teens fall into the health care and social services gap where they cannot access federally sponsored care.

Some communities, however, have attempted to fill this gap. In model, schoolbased clinics teens can access a comprehensive array of services from job conseling/training to health screening. Effective education and prevention messages are delivered with the adolescents' culture and generation in mind. Considerable evidence shows that these clinics improve the overall health of the students they serve.

This legislation will facilitate the implementation of this model across the country in both rural and urban areas. Most importantly, this bill will allow state and local entities to address the multidimensional needs of students in and out of school.

Sincerely,

DANIEL T. BROSS,
Executive Director.

Mr. KOHL. Mr. President, I want to commend our colleague from Massachusetts for his outstanding leadership in developing the Comprehensive Services for Youth Act of 1992. And I am pleased to be a cosponsor of this legislation.

Our programs all too often treat the problems of the young in a piecemeal and fragmented manner. But the problems of our children do not exist in isolation. To design separate, categorical programs for poverty, drug use, gang membership, school failure, STD prevention, teen pregnancy, and suicide is to ignore the fact that these challenges to our young people are essentially interconnected. Today's pregnant teen may be tomorrow's dropout, and today's drug user may be tomorrow's gang member. One of the greatest strengths of the Comprehensive Services for Youth Act of 1992 is its emphasis on fostering community-based coordination. By breaking down the walls between schools, community outreach programs, and health care providers, and by allowing those groups to develop an integrated treatment strategy, the bill provides a coherent approach to children's problems. It treats troubled children not as amalgams of their troubles, but as whole human beings.

In addition, it emphasizes the need to prevent crises among our young before they happen. If a parent saw his or her child walking into a busy intersection, that parent wouldn't wait for the accident to happen, and then come running with a Band-aid. And yet, government tends to wait and to react after the injury is acute—and expensive to heal. By targeting communities where children are most likely to face problems, the Comprehensive Services for Youth Act helps teach at-risk children the skills they will need to avoid the dangers of the street.

I appreciate the willingness of the chairman to continue working toward a family-oriented model for serving the young children. By encouraging community partnerships to reach out to families, I think we can offer the strongest support to the child—a safe and secure environment in which to grow.

This is being well demonstrated by the Families and Schools Together [FAST] Program, developed in Wisconsin and now operating in several States. FAST builds those partnerships between schools, nonprofit mental health services, education and assessment agencies for substance abuse, and families. Under Wisconsin statute, at-risk children are identified by the schools, and in some areas, referred to FAST programs. The FAST Program serves as more than a safety net, it serves as a holistic healer—of the child, the family and the community around that family. It recognizes the best of what our social research has to offer: First, that stress and isolation combined are deadly invitations to abuse and neglect. Second, it recognizes that especially the younger children cannot be treated and healed successfully in isolation of their family. FAST links the community to the family and the family to the child. The child becomes the center of the service universe, but is not pulled out of that center into the outer fringes of the child advocacy and social service delivery systems. The parent is constant. The school is constant. Extended family and community are constant—working partners in reducing risk by strengthening the parent-child relationship through comprehensive and integrated service delivery.

I believe this legislation holds great promise for breaking down the barriers to intervening in the lives of at-risk youth and children. It does so by fostering change in the communities, and using our Federal dollars creatively to reward comprehensive, integrated service delivery. It offers significant change and significant hope. I look forward to working with my colleagues to enact those changes and make that hope reality.

By Mrs. KASSEBAUM:

S. 3089. A bill to provide relief for public agencies from liability under the Fair Labor Standards Act of 1938 for failure to pay exempt employees on a salary basis, and for other purposes; to the Committee on Labor and Human Resources.

EXEMPTION FROM REQUIREMENTS OF FAIR LABOR STANDARDS ACT

Mrs. KASSEBAUM. Mr. President, I rise today to call attention to a matter of grave concern to State and local governments. Presently, hundreds of State and local governments are at risk of paying huge monetary damages for overtime wages—all to high-level employees that no one ever dreamed were covered by our Federal wage-and-hour laws.

Critical problems now loom for State and local governments as a result of the Ninth Circuit Appeals Court ruling in Abshire versus County of Kern. That decision opened up the floodgate for potential windfall recoveries against State and local governments by large numbers of their otherwise exempt white collar employees.

Department of Labor regulations provide generally that employees who are paid on a salary basis, with earnings over a specified amount, are exempt from the overtime requirements of the Fair Labor Standards Act. To be exempt under the salary basis test, an employee's weekly salary cannot be reduced for time away from work of less than 1 day.

However, few public employers compensate their salaried employees in a way that meets the requirements to qualify for the exemption. As public bodies, they must account for all taxpayers' dollars spent. Hence, most government payroll systems commonly prohibit paying employees for time not spent on-the-job. Instead, professional employees in the public sector may have their pay docked for all absences of less than a day which are not covered by paid leave.

Under Abshire, such accounting procedures are enough to eliminate the exemption for salaried government employees. This means that all upper-management personnel, the top-level brass, are now entitled to recover up to one and one-half times their regular rate of pay for all overtime hours worked in the past 2 years. This is true even though these employees never actually suffered any deductions from their pay.

This single court case has placed State and local governments in a very difficult position. If they provide the accountability to which the public is entitled, they expose themselves to risk of liability for millions of dollars at a time when they can least afford to do so.

Certainly, State and local tax dollars would be more wisely spent on employing more teachers or policemen, for example, rather than increasing the income of high-level public officials who never expected this windfall. Indeed, we are not talking about taking away overtime pay from rank-and-file hourly employees, but restricting overtime pay for administrative, executive, and professional public employees.

Like a number of other States, Kansas is currently involved in litigation seeking to assert Abshire claims. The payment of such unforeseen liabilities, not including the years of expensive litigation contesting these claims, seriously threatens the fiscal integrity of State and local treasuries. In this time of extreme budgetary pressure, State and local governments simply cannot afford this waste of their precious public resources.

My distinguished colleague from California, Senator SEYMOUR, introduced a bill last August (S. 1670) designed to reduce the exposure of cities and States to costly lawsuits in the wake of the Abshire ruling. I support this legislation and commend the Senator from California for his leadership in calling attention to this serious problem.

In response to these growing cries for help, the Department of Labor issued regulations in September to modify its overtime rules in order to allow States and local jurisdictions to continue public accountability pay systems without incurring overtime liability to upper-level managers. The rules also provide a mechanism to deal with the issue of past liability for inadvertent reductions in employees' pay.

I was initially encouraged by this response and urged the Department to finalize the regulations as quickly as possible. However, the Department has yet to issue a final ruling, and it appears that any ruling now issued will not provide for retroactive relief. It is somewhat ironic that the Washington Post reported yesterday on the Department's so-called lobbying strategy to resolve the retroactive overtime problem, notwithstanding the fact that the Department has yet to finalize the regulations.

Since September, other pay reduction practices have been found to remove employees from the scope of the overtime exemption, including the keeping of daily time sheets, the imposition of disciplinary action for unexcused absences, and the requirement that employees notify their supervisors when leaving the office. In the wake of these new rulings, it is clear that simply finalizing the Abshire regulations at this time will not solve the problem.

Therefore, I am introducing legislation today which provides that public employers will not be held liable for failing to pay otherwise exempt executive, administrative, or professional employees on a salary basis. The bill also prohibits any Federal or State court from enforcing liability on any existing claims for failure to pay overtime wages to otherwise exempt employees.

This legislation is modeled closely after the 1947 Portal-to-Portal Act. The Portal-to-Portal Act mandated the dismissal of numerous claims for failure to pay employees minimum or overtime wages pending in Federal court at the time of its enactment. The power of Congress to extinguish those claims on a retroactive basis has been uniformly upheld by the Courts.

Legislation introduced recently in the House would address the concerns of both public and private sector employers in this area. I recognize that similar problems have arisen in the private sector which may need to be addressed legislatively. However, I would urge my colleagues to act immediately on this bill because of the significant difficulties such liabilities now present for State and local governments.

Mr. President, I ask unanimous consent to have a copy of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) since the enactment of the Fair Labor Standards Act of 1938, Congress and the Supreme Court have each periodically acknowledged the special circumstances of, and the different treatment to be accorded to, governmental employers and employees under such Act, as distinguished from employers and employees in the private sector;

(2) the Federal regulations governing exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938 for employees who are considered to be executive, administrative or professional generally require that such employees meet regulatory standards with respect to both their duties and their compensation;

(3) such regulations were adopted prior to the extension of coverage under the Fair Labor Standards Act of 1938 to public employees and, therefore, make no distinction between public and private employment;

(4) few public employers compensate employees in a manner that meets the salary

basis test for minimum wage and maximum hour exemptions under existing regulations;

(5) the application of such salary basis test to governmental employees has resulted in the denial of the minimum wage and maximum hour exemption to thousands of such employees who have traditionally been considered exempt by their employers;

(6) the denial of minimum wage and maximum hour exemptions has exposed several State and local employers to wholly unexpected liabilities, immense in amount and retroactive in operation;

(7) such exposure of governmental employers to potentially enormous and generally unexpected back wage liabilities could continue to seriously threaten the fiscal integrity of these State and local governments and could disrupt widespread pay practices which were designed and intended to serve the public interest; and

(8) the real and potential retroactive liability that may be imposed upon public agencies has given and will continue to give rise to great difficulties in the sound and orderly conduct of government by public entities.

(b) DECLARATION OF POLICY.—With respect to the application of the Fair Labor Standards Act of 1938 to public emloyers and employees, it is declared to be the policy of the Congress, in order to meet the existing emergency and to correct existing evils, to—

(1) relieve and protect the viability of public agencies from practices which burden and obstruct the employment relationship;

(2) preserve the integrity of governmental civil service or other personnel systems as defined by regulations, policies, practices, statutes, administrative or constitutional provisions applicable to public employees; and

(3) define and limit the jurisdiction of the courts.

SEC. 2. RELIEF FOR PUBLIC AGENCIES FROM LIABILITY UNDER THE FAIR LABOR STANDARDS ACT OF 1938 FOR FAILURE TO PAY EXEMPT EMPLOYEE ON A SALARY BASIS.

Notwithstanding any other provision of law, a public agency (as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x))) shall not be subject to any liability or punishment under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) because of the failure of the public agency to pay otherwise exempt executive, administrative or professional employees on a salary basis before, on, or after the date of enactment of this Act.

SEC. 3. RELIEF FOR PUBLIC AGENCIES FROM CERTAIN EXISTING CLAIMS UNDER THE FAIR LABOR STANDARD ACT.

(a) IN GENERAL.—A public agency (as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x))) may not be subject to any liability or punishment under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) because of the failure of the public agency to pay any otherwise exempt employee on a salary basis prior to the date of enactment of this Act.

(b) JURISDICTION OF COURTS.—No court of the United States, of any State, Territory or possession of the United States, or of the District of Columbia, shall have jurisdiction over any action or proceeding, whether instituted prior to, on, or after the date of enactment of this Act, to enforce liability or impose punishment for or on account of the failure of a public agency to pay otherwise exempt employees on a salary basis to the extent that such action or proceeding seeks to enforce any liability or impose any punishment with respect to an activity which was not compensable under subsection (a).

By Mr. GORTON (for himself, Mr. CRAIG, Mr. NUNN, Mr. BROWN, Mr. MCCAIN, Mr. DECONCINI, Mr. NICKLES, Mr. REID, Mr. MCCONNELL, Mr. WARNER, Mr. BOND, Mr. GRASSLEY, and Mr. SHELBY):

S. 3091. A bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for their collection and disclosure of adoption information, and for other purposes.

OMNIBUS ADOPTION ASSISTANCE AND MATERNAL HEALTH CERTIFICATES ACT

Mr. GORTON. Mr. President, today, with the bipartisan support of my distinguished colleagues, Senators CRAIG and NUNN, I am introducing the Omnibus Adoption Assistance and Maternal Health Certificates Act. This legislation is a melding of two earlier bills; the Adoption Assistance and Maternal Health Certificates Act, S. 1215; and the Omnibus Adoption Act, S. 1301. It also reflects bringing together of major adoption and family groups, such as the Family Research Council, the National Council for Adoption, and the Adoptive Families of America.

This bill will create a support network for those involved in the adoption process, decreasing the obstacles and increasing the attractiveness and viability of that alternative.

American society has taken a positive step forward in lessening the lifelong stigma that the now anachronistic term, illegitimacy, attached to the lives of mother and baby. Societal ostracism of the mother and child, even as the father escaped any significant rebuff, was unfair, unjust, and destructive.

But in lessening the unfair burden of the old stigma, sometimes a woman's option for adoption has been ignored—and that is regrettable and can be changed.

In the past, a woman or teenage girl facing an unwanted pregnancy has three difficult choices: an illegal, and too often dangerous and expensive abortion; the decision to keep and rear the child herself; or the placement of the baby for adoption.

But today that third option, adoption, has been diminished in stature as a viable, responsible choice for a single mother. The number of unrelated adoptions has decreased from 89,200 in 1970 to 51,000 in 1986, even as the number of births by unmarried teenage girls has exploded. Now, 25 percent of America's children are born into single parent homes.

Mr. President, for many women the effective number of choices available to an unmarried mother has been reduced from 3 to 2: to keep the baby or to terminate the pregnancy. Only 6 percent of all pregnant teens now choose adoption. Forty percent of pregnancy counselors do not even mention adoption as an option. But then neither of the two choices remaining for women with unwanted pregnancies—abortion and retention of the baby by the mother—may always be the best choices.

Sometimes adoption is the best alternative, with many benefits to compensate for the pain of making the choice to relinquish one's child. The mother who chooses adoption is statistically more likely to complete high school, less likely to live in poverty, and less likely to receive public assistance than if she were a single parent. Finally, the mother who makes an adoption plan for her child is more likely to delay marriage, more likely to be employed within a year after the birth, and more likely to have a significantly higher income than her counterpart who has chosen to keep her child.

Mr. President, the choice to relinquish one's baby for adoption is most frequently wrenchingly painful. But for many women that unselfish choice is the right decision. Women willing to pay that price ought not to be met with artificial barriers that prevent them from doing so. The legislation offered by Senator CRAIG, Senator NUNN and this Senator would lower those barriers for the birth mother.

The benefits of adoption do not stop with the mother. Those waiting for an opportunity to become adoptive parents also benefit. Today, between 1 and 2 million Americans want to adopt a child. Not only is there a decreasing number of children available for adoption, but the process is unnecessarily expensive, time-consuming, and cumbersome. I have listened to friends, hoping to adopt a child, describe how their lives are put on hold, often for years, how their hopes are repeatedly raised only to be repeatedly dashed, how their financial security suffers as they begin or add to their family through adoption. This bill will help clear the path for these Americans who want to experience a profound aspect of humanity, sharing their lives and love with a child.

Society benefits from adoption. Ninety percent of adopted children live with two parents—statistically the most financially and emotionally secure of family configurations. Fifty-four percent live in homes in which the family income is three times higher than the poverty level. In fact, the 1982 National Survey of Family Growth found that only 2 percent of adopted children, but 62 percent of children retained by their birth mothers, lived in poverty. So while adopted children have a reduced chance of living in poverty they also have an increased likelihood of attaining a higher level of education.

The advantages to these children will directly and positively affect every social problem of our culture, from racism to global competitiveness to our overburdened and inefficient social service agencies. Productive, economically secure citizens contribute to their country's well-being.

Adoption, while not problem-free, can often be the best choice for all those involved. Our legislation will help give a woman's third choice back to her.

Specifically, the bill creates a new grant program that provides maternal health certificates to low-income pregnant women who enter maternity homes or use the outpatient services of those homes. The birth mother will be provided a respite from the pressures of the outside world while she decides what is best for herself and for the child.

Maternity homes provide other crucial services often unavailable to low-income women, including: medical care for the women and their babies, health education, nutrition, and nutrition counseling, family counseling, education services, job-training, and other counseling services. Regardless of the decision a young woman finally makes, these services will improve her lot in life—and that of her child, if she decides to keep and raise that child.

The Omnibus Adoption Assistance and Maternal Health Certificates Act will also promote adoption by addressing other shortcomings of the process that currently impede its implementation.

To better understand the process, to monitor the provisions of this act, and to recommend additional changes in the law, this bill establishes the National Advisory Council on Adoption, with membership representing a wide range of private and public organizations. The 13-member council will be selected by the Secretary of HHS and the majority and minority leaders of the House and Senate.

As I have spoken this evening, I have cited statistics from many studies, none of them as current nor as comprehensive as I would choose. Unbelievably, in 1975 the Federal Government discontinued data collection about adoption. It would be far easier for me to inform my colleagues how many potato chips are eaten yearly by each child in America—4.4 pounds—than to tell them how many of those children are adopted! This bill calls for the reinstatement of data collection on adoption in the United States. When we better understand the problems and advantages presented by adoption, we will be better able to improve the process.

Further, knowledge of the adoption process will be enhanced by the establishment of two new education programs. The first is a program for graduate study fellowships for innovative programs concerning the effects of adoption of the individuals involved. The second is an Adoption Education Grant Program, which provides moneys to States for the development of curriculum on adoption to be included in school family life programs. Both of these programs would add to our understanding of adoption, and would help to eliminate the negative myths surrounding it.

This legislation also addresses in several ways obstacles facing adoptive parents. It provides for their equal treatment in insurance policies and parental leave benefits. The National Federation of Independent Businesses and the National Association of Wholesalers have indicated that they do not oppose these provisions.

This bill also calls upon agencies to provide all available information on a child to a prospective foster or adoptive parent. And the speed of the process is enhanced by raising the reimbursement rate for agencies which place a child with special needs within 3 months of his or her becoming legally free for adoption—a benefit not just for the waiting parents, but for the child and the agency providing the service.

Finally, the Omnibus Adoption Assistance and Maternal Health Certificates Act states a sense of the Congress that every State should implement and enforce certain laws relating to adoption which help remove the bureaucratic barriers now facing birth mothers and prospective adoptive parents.

Relinquishing a child for adoption is a courageous decision, and often the best decision for all involved. As a society, I believe we will come to that conclusion again. We in this body can ease the way for the young women who will make that difficult choice and the parents who wish to adopt. They deserve our support, and the Omnibus Adoption Assistance and Maternal Health Certificates Act will provide it.

Mr. President, I ask unanimous consent that a summary of the bill and the text of the bill itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE OMNIBUS ADOPTION ASSISTANCE AND MATERNAL HEALTH CERTIFICATES ACT

SECTION 2. FINDINGS

25% of children are born into single-parent homes.

In 1970 there were 89,000 adoptions per year; in 1990 there were only 51,000.

Currently, only 6% of teenage mothers choose adoption.

Young, unmarried women who made an adoption plan for their babies are more likely to complete high school, less likely to live in poverty, and less likely to receive public assistance than single parents.

60% of welfare recipients are, or were at one time, teenage mothers.

Adopted children have been found to have the same levels of confidence, or greater levels of confidence than, children who are not adopted.

Maternity homes provide young mothers a safe haven away from peer pressure and time to consider thoughtfully the best plan for themselves and their babies.

Young mothers in maternity homes receive counseling, schooling, and job counseling, and prenatal care.

SECTION 3. NATIONAL ADVISORY COUNCIL ON ADOPTION

Establishes the National Advisory Council on Adoption. Requires the Secretary of HHS and the Majority and Minority leaders of the House and Senate to appoint a 13 member advisory council drawn from private child welfare organizations, national and international adoption associations, state and local government agencies supervising adoption, and state and local courts with jurisdiction over family. The purpose of the Council is to monitor the implementation of the provisions of this Act and to recommend additional changes in law to promote the objectives of this Act.

SECTION 4. ADOPTION DATA COLLECTION SYSTEM

Existing HHS regulations on adoption data collection apply only to those supervised by public agencies. This act would require HHS to collect data from all adoption entities (public or private) that receive any federal assistance. HHS would also collect any data that private agencies (not already required to participate) were willing to provide.

HHS is required to develop regulations to protect the confidentiality of individuals included in the adoption data gathered by the agency.

SECTION 5. MATERNAL HEALTH CERTIFICATES

The Secretary of HHS is directed to establish through the states programs to provide maternal health certificates to eligible pregnant women. To qualify for assistance, the women's income must be at or below 175% of the state poverty level. The income of the parents, guardians, or the father of the child shall not be taken into account in the determination of eligibility.

Eligible facilities must be able to house at least four women. The facilities must provide a range of pregnancy services, including: prenatal, delivery, and post-delivery care; education on caring for the baby; nutrition counseling; adoption counseling; and, vocational counseling.

Facilities providing in-patient services would be reimbursed at $80 per day. Out-patient services would be reimbursed $50 per day. Services may be provided for the full duration of the pregnancy plus one month of the post-partum services. The bill provides an authorization level of $30 million a year for three years.

SECTION 6. SOCIAL WORK GRADUATE STUDY FELLOWSHIPS ON ADOPTION

Directs the Secretary of Education to establish up to 50 fellowships for the study of innovative adoption programs. Topics for study would include: basic research on the short-term and long-term affects of adoption on children, biological parents and adoptive families; development of model curriculum to assist adoptive children and their families and counseling for pregnant women on the availability and benefits of making adoption plans.

Authorizes such funds as may be necessary to carry out this section.

SECTION 7. GRANTS TO STATE FOR ADOPTION EDUCATION PROGRAMS

Provides up to $10 million in grants for FY 93–95 to the states for the development of public school curriculum on adoption to be included in school family life programs.

SECTION 8. EQUAL INSURANCE COVERAGE FOR ADOPTED CHILDREN

Adoptive parents have claimed that insurance companies have refused to write or honor insurance coverage for their adopted children. This section would amend ERISA laws to prohibit discrimination by insurance companies in the writing or executing of insurance policies solely on the basis of whether a child is adopted. The National Federation of Independent Businesses and the National Association of Wholesalers indicated last year that they did not oppose this provision.

Defines son or daughter as a biological child, adopted child, step child, legal ward, or a child placed for adoption.

SECTION 9. EQUAL EMPLOYEE BENEFITS FOR ADOPTIVE PARENTS

Requires businesses to offer the same level insurance, and pension benefits to adoptive parents as they do for other employees. The National Federation of Independent Businesses and the National Association of Wholesalers have indicated that they did not oppose this provision.

SECTION 10. EXPEDITED PLACEMENT OF CHILDREN WITH SPECIAL NEEDS

Provides enhanced reimbursement to states for expenses incurred in placing a child with "special needs" in adoptive homes if the child is placed within three months of becoming available for adoption.

Considering that 25% of all children in foster care have been there for over 3 years, and 40% have been there for over 2 years, this expedited placement will save money.

SECTION 11. SENSE OF CONGRESS REGARDING CHANGES IN STATE ADOPTION LAWS

Last year, the Gorton-Nunn bill included an "Adoptive Parents Right-to-Know" section mandating the release to potential adoptive parents of information pertaining to the child's physical, mental and emotional background.

Because of concerns that last year's provision would have pre-empted state laws governing health insurance, this year's bill has dropped the Gorton-Nunn provision and added a "sense-of-the-Congress" resolution calling on the states to make certain that all necessary information is made available to adoptive parents. In addition, the resolution recommends that states require adequate legal counsel be provided to biological mothers.

Finally, the resolution calls on states to require health insurers to drop pre-existing condition restrictions on adoptive children. In some cases, health insurance benefits of adoptive parents will only cover health problems that occur after the child has been officially placed. This "gap" in coverage is potentially serious in the event of post-natal complications.

S. 3091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Adoption Assistance and Maternal Health Certificates Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) in the United States today, 25 percent of children are born into single parent homes;

(2) the number of children in single female-headed homes has increased 85 percent, rising from 7,500,000 in 1970 to 13,900,000 in 1988;

(3) the rise in single-parenthood is one of the root causes of family disintegration in the Nation today;

(4) adoption addresses the problem of family disintegration at the beginning by getting children into solid, two-parent homes and giving birthmothers the opportunity to mature before taking on the adult responsibilities of child-rearing;

(5)(A) in 1970 there were 89,000 adoptions;

(B) in 1990 there were 51,000 adoptions; and

(C) currently, only 6 percent of all teenage mothers choose adoption;

(6) young, unmarried women who made an adoption plan for babies are more likely to complete high school, less likely to live in poverty, and less likely to receive public assistance than single parents;

(7) 60 percent of welfare recipients are, or were at one time, teenage mothers;

(8) several studies show that, when compared to teenage mothers, teenagers who choose adoption are less likely to have repeat unwed pregnancies;

(9) 90 percent of adopted children live with two married parents and 54 percent of the children live in homes with family income three times higher than poverty level;

(10) adopted children have been found to have the same levels of confidence as, or greater levels of confidence than, children who are not adopted;

(11) maternity homes provide young mothers a safe haven away from peer pressure and time to consider thoughtfully the best plan for themselves and their babies;

(12) young mothers in maternity homes receive counseling, a structured environment, and a variety of other services such as schooling, job counseling, and prenatal care;

(13) when comprehensive services, including adoption services, are offered, the percentage of mothers who choose adoption for their children is significantly higher than the general adoption placement rate;

(14) St. Anne's Maternity Home in California reports that 22 percent of its residents choose adoption, compared to a general rate of 5 percent of California mothers who choose adoption;

(15) there are approximately 450,000 children in foster care in the United States, of whom less than 10 percent are available for adoption;

(16) 40 percent of the children in foster care have been in the system 2 or more years, while 25 percent have been in foster care at least 3 years; and

(17) 60 percent of children in foster care are classified as "children with special needs", which means the children have physical or emotional difficulties, belong to sibling or minority groups, or are older children.

SEC. 3. NATIONAL ADVISORY COUNCIL ON ADOPTION.

(a) ESTABLISHMENT.—There is hereby established the National Advisory Council on Adoption (in this section referred to as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of 13 members appointed by the Secretary of Health and Human Services.

(2) REPRESENTATIVES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall appoint the members of the Council, and shall include in such appointment as Council members representatives of—

(A) private, nonprofit organizations involved in child welfare and maternity services, including national organizations representing organizations that provide adoption services or maternity housing and services facilities;

(B) private, nonprofit organizations representing adopted children, adoptive families or biological parents;

(C) organizations or agencies involved with privately arranged or international adoptions;

(D) organizations representing State and local government agencies with responsibility for coordinating or regulating adoption services or maternity and housing services facilities; and

(E) organizations representing State and local courts or judicial entities with jurisdiction over issues of family law.

(3) RECOMMENDATIONS.—Of the 13 members of the Council, the Secretary shall appoint—

(A) 3 members from among persons nominated by the Speaker of the House of Representatives;

(B) 2 members from among persons nominated by the Minority Leader of the House of Representatives;

(C) 3 members from among persons nominated by the Majority Leader of the Senate; and

(D) 2 members from among persons nominated by the Minority Leader of the Senate.

(c) DUTIES.—The Council shall—

(1) monitor on behalf of Congress the implementation of the programs established and activities required under this Act and make such recommendations as it determines appropriate to help carry out the intent of Congress in establishing such programs and requiring such activities;

(2) consult with the heads of departments and agencies charged with the responsibility of carrying out such programs and activities; and

(3) make such recommendations as it determines appropriate, including recommendations regarding additional legislation, to carry out the purposes of this Act.

(d) CHAIRPERSON.—The Secretary of Health and Human Services shall select a Chairperson from among the members of the Council.

(e) TERM OF OFFICE.—Members shall be appointed for 3-year terms.

(f) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(g) MEETINGS.—The Council shall hold such meetings as may be appropriate, but shall meet at least once every 90 days.

(h) QUORUM.—A majority of the Council shall constitute a quorum for the transaction of business.

(i) COMPENSATION AND EXPENSES.—Members of the Council shall not be compensated for the performance of duties for the Council. Each member of the Council may, at the option of the member, receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(j) POWERS.—The Council is authorized to hold such hearings and sit and act at such times, and take such testimony, as the Council may determine to be necessary to carry out the duties of the Council.

(k) OATHS.—Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

(l) INFORMATION.—

(1) SECURING INFORMATION.—The Council may secure directly from any Federal agency, and from any State agency, or private organization, that receives Federal assistance under this Act, such information as the Council may require to carry out its duties.

(2) DISCLOSURE.—The Council shall comply with the procedures described in section

4(c)(3) regarding the disclosure of the information described in paragraph (1).

(m) GIFTS AND DONATIONS.—The Council may accept, use, and dispose of gifts or donations of property in order to carry out the duties of the Council.

(n) USE OF MAIL.—The Council may use the United States mails in the same manner and under the same conditions as Federal agencies.

(o) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Chairperson of the Council, the Secretary of Health and Human Services shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(p) TECHNICAL ASSISTANCE.—On the request of the Chairperson of the Council, the Secretary of Health and Human Services shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

(q) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 1993 through 1995.

(r) TERMINATION.—The Council shall terminate at the expiration of the 3-year period that begins on the date of the enactment of this Act.

SEC. 4. IMPLEMENTATION OF ADOPTION DATA COLLECTION SYSTEM.

(a) REPORT ON STATUS OF FINAL REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report containing information on the status of the implementation of the data collection system required pursuant to section 479(b)(2) of the Social Security Act (42 U.S.C. 679(b)(2)).

(2) SPECIFIC ASSURANCES REQUIRED.—The report described in paragraph (1) shall include specific assurances that the data collection system will comply with the regulations described in subsection (c).

(b) MONTHLY PROGRESS REPORTS.—Every 30 days after the report described in subsection (a) is required to be submitted, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report containing information on the progress made in implementing the data collection system.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall issue such regulations as the Secretary determines to be necessary to carry out this section, including appropriate requirements and incentives to ensure that the data collection system functions reliably throughout the United States.

(2) SUBJECTS.—The regulations issued under paragraph (1) shall require that the data collection system—

(A) shall avoid unnecessary diversions of resources from agencies responsible for adoption and foster care;

(B) shall use uniform definitions and methodologies to ensure that any data collected is reliable and consistent over time and among jurisdictions;

(C) shall include in the data collection system—

(i) data concerning adoptions arranged through State and private agencies that receive Federal assistance; and

(ii) to the extent such data are voluntarily released by State and private agencies that receive no Federal assistance, data concerning adoptions arranged through the agencies; and

(D) shall, using data described in subparagraph (C), and in accordance with paragraph (3), provide comprehensive national information with respect to—

(i) the demographic characteristics of all adopted and foster children and their biological and adoptive or foster parents;

(ii) the status of the foster care population, including the number of children in foster care, the length and type of placement, availability for adoption, and goals for ending or continuing foster care;

(iii) the number and demographic characteristics of all children placed in or removed from foster care, children adopted, and children with respect to whom adoptions have been terminated; and

(iv) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided.

(3) DISCLOSURE AND CONFIDENTIALITY.—The regulations issued under paragraph (1) shall provide for the establishment of procedures—

(A) for the disclosure by the Secretary of aggregate information collected under this section relating to adoption and foster care in the United States; and

(B) for the maintenance of confidentiality by the Secretary, the agencies described in paragraph (2)(C)(i), and the agencies described in paragraph (2)(C)(ii) to the extent such agencies collect information under this section, of information collected under this section with respect to the identity of an individual.

(4) CONSULTATION.—In developing the regulations issued under paragraph (1), the Secretary shall consult with the National Advisory Council on Adoption established under section 3(a).

SEC. 5. MATERNAL HEALTH CERTIFICATES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART M—MATERNAL HEALTH AND ADOPTION

"SEC. 399F. MATERNAL HEALTH CERTIFICATES PROGRAM.

"(a) GRANTS.—The Secretary shall award grants to States to enable the States to establish programs to provide maternal health certificates to eligible women within such States.

"(b) STATE ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary shall require, including—

"(1) an assurance that the State shall establish a maternal health certificates program in accordance with this section;

"(2) an assurance that the State shall establish procedures to comply with the requirements of subsection (f)(3); and

"(3) the name of an agency designated by the State to administer the maternal health certificates program.

"(c) ELIGIBLE WOMEN.—To be eligible to receive a maternal health certificate under a program established under this section, a woman shall—

"(1) be a pregnant female;

"(2) have an annual income (within the meaning of section 1612(a) of the Social Security Act (42 U.S.C. 1382a(a)) but not including the income of, or support received by the woman from, parents, guardians, or the father of the child) that does not exceed 175 percent of the State poverty level;

"(3) be a current resident of a maternity home, on a waiting list for such a home, or receiving outpatient services from such a home;

"(4) prepare and submit, to the State agency designated under subsection (b)(3), an application at such time, in such form, and containing such information as such agency shall require, including—

"(A) the name and address of the maternity home in which the woman resides or intends to reside, or from which the woman intends to receive services; and

"(B) the rates charged by the maternity home and the estimated length of time the woman expects to stay or receive services from the home; and

"(5) comply with any other requirements determined appropriate by the Secretary.

"(d) MATERNITY HOME ELIGIBILITY.—To be eligible to receive a maternal health certificate as payment for services provided to an eligible woman under a program established under this section, a maternity home shall—

"(1) be a residence for pregnant women or provide outpatient services for pregnant women;

"(2) have the capacity to serve at least four pregnant women concurrently;

"(3) be licensed or approved by the State; and

"(4) provide, either directly or by referral, to eligible women and, where appropriate, to their babies a range of services that are in accordance with the standards promulgated by the Secretary under subsection (g), including standards regarding—

"(A) room and board;

"(B) medical care for the women and their babies, including prenatal, delivery, and post-delivery care;

"(C) instruction and education concerning future health care for both the women and babies;

"(D) nutrition and nutrition counseling;

"(E) counseling and education concerning all aspects of pregnancy, childbirth, and motherhood;

"(F) general family counseling;

"(G) child and family development education;

"(H) adoption counseling, which shall include referral to a licensed nonprofit adoption agency, if the home is not such an agency;

"(I) counseling and services concerning education, vocation, or employment; and

"(J) reasonable transportation services.

"(e) USE OF CERTIFICATES.—A woman who receives a certificate awarded under a program established under this section shall use such certificate to pay the costs associated with the residence of or services provided to the woman in a maternity home. Such costs shall be reasonably related to the range of services described in subsection (d)(4).

"(f) LIMITATIONS ON CERTIFICATES.—

"(1) TIME.—Certificates awarded under a program established under this section shall cover expenses incurred during a period that shall end not later than 1 month after the birth of the baby to the eligible woman.

"(2) AMOUNT.—The amount of a certificate awarded under a program established under this section shall not exceed, during the period in which the certificate is valid—

"(A) in the case of a resident, $80 per day; and

"(B) in the case of a woman receiving outpatient services, $50 per day.

"(3) MATCHING REQUIREMENT.—Procedures established under subsection (b)(2) shall require that—

"(A) the State agency designated under subsection (b)(3);

“(B) the maternity home receiving a certificate under a program established under this section; or

“(C) both the State agency and the maternity home receiving the certificate;

provide an amount that is at least equal to the amount of the certificate awarded to an eligible woman for the payment of the costs associated with providing residence or services to the woman in a maternity home.

“(g) REGULATIONS.—Not later than 90 days after the date of the enactment of this part, the Secretary shall promulgate regulations to establish the standards described in subsection (c)(4). In promulgating the regulations, the Secretary shall consider such standards as the Council on Accreditation for Services to Children and Families may determine to be appropriate.

“(h) PARTICIPATION IN AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM.—Notwithstanding any other provision of this section, no woman shall be required to participate in the program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to be eligible for a maternal health certificate under this section.

“(i) PROHIBITION ON SUPPLANTING OF SERVICES.—No maternal health certificate issued under this section shall be used to supplant existing State, county, or local government funds that are used to provide services similar to those described in subsection (d)(4) for low-income pregnant females.

“(j) EVALUATION.—

“(1) IN GENERAL.—The Secretary shall provide, through grants or contracts, for the continuing evaluation of programs established under this section, to determine—

“(A) the effectiveness of such programs in achieving the goals stated in paragraph (3) in general, and in relation to cost;

“(B) the impact of such programs on related programs, including programs under titles IV, V, and XIX of the Social Security Act (42 U.S.C. 601 et seq., 701 et seq., and 1396 et seq.) and titles X and XX of this Act; and

“(C) the structure and mechanisms for the delivery of services for such programs.

“(2) COMPARISONS.—The Secretary shall include in evaluations under paragraph (1), where appropriate, comparisons of participants in such programs with individuals who have not participated in such programs.

“(3) GOALS.—For purposes of paragraph (1)(A), the goals of this section shall be to—

“(A) increase the availability of services to low-income pregnant eligible women;

“(B) improve the physical and psychological health of such a woman;

“(C) ensure a safe and healthy pregnancy, delivery, and postpartum period for the woman;

“(D) promote the delivery of a healthy baby to the woman;

“(E) increase the knowledge of the woman regarding proper health and nutrition for the woman and her baby;

“(F) increase the ability of the woman to support herself financially;

“(G) help the woman make an informed decision whether to parent her baby or to make an adoption plan for her baby;

“(H) increase the ability of the woman to support her baby financially and emotionally, if the woman so chooses; and

“(I) assist the woman in placing her baby for adoption, if the woman so chooses.

“(k) CONSULTATION WITH ADVISORY COUNCIL.—The Secretary of Health and Human Services shall issue such regulations as the Secretary determines to be necessary to carry out the program established under subsection (a). In developing the regulations, the Secretary shall consult with the National Advisory Council on Adoption established under section 3(a) of the Omnibus Adoption Assistance and Maternal Health Certificates Act.

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $30,000,000 for each of the fiscal years 1993 through 1995.”.

SEC. 6. SOCIAL WORK GRADUATE STUDY FELLOWSHIPS.

(a) PROGRAM ESTABLISHMENT.—Title IX of the Higher Education Act of 1965 (20 U.S.C. 1134 et seq.) is amended—

(1) by redesignating part G as part H;

(2) by redesignating section 971 as section 981; and

(3) by inserting after part F the following new part:

“PART G—GRADUATE SOCIAL WORK FELLOWSHIPS

“SEC. 971. AWARD OF FELLOWSHIPS.

“(a) IN GENERAL.—

“(1) FELLOWSHIPS AUTHORIZED.—From the amount appropriated pursuant to the authority of section 981(g), the Secretary shall award not more than 50 fellowships in accordance with the provisions of this part for study in graduate schools of social work that offer innovative programs described in subsection (b) to students selected on the basis of demonstrated achievement and exceptional promise.

“(2) DURATION.—The fellowships described in paragraph (1) shall be awarded for only one academic year of study and shall be renewable for two additional years.

“(b) INNOVATIVE PROGRAMS DEFINED.—The innovative programs described in subsection (a) are innovative programs concerning the effects of adoption on the children who are adopted, the families who adopt children and the biological parents who make an adoption plan, including—

“(1) a basic research program on the short-term and long-term effects of adoption on adopted children, biological parents and adoptive families;

“(2) development of a model curriculum and instructional program to assist adopted children, biological parents and adoptive families;

“(3) development of an innovative program to counsel pregnant women on the availability and benefits of choosing to make an adoption plan; or

“(4) any other program determined to be consistent with the provisions of this part.

“(c) FELLOWSHIP RECIPIENT SELECTION PROCEDURES.—The Secretary, by regulation, shall establish such selection procedures for fellowship recipients as are appropriate to carry out this part.

“SEC. 972. STIPENDS.

“(a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary. The stipend levels established by the Secretary shall reflect the purpose of the fellowship program assisted under this part to encourage highly talented students to undertake graduate study and shall provide a level of support comparable to that provided by federally funded graduate fellowships in the science and engineering fields.

“(b) INSTITUTIONAL PAYMENTS.—

“(1) IN GENERAL.—The Secretary (in addition to the stipends paid to individuals under subsection (a)) shall pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course of study at such institution, $6,000, except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment of the institution under this subsection.

“(2) REDUCTION LIMITATION.—Subject to the availability of appropriations, amounts payable to an institution of higher education by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purpose specified under paragraph (1).

“SEC. 973. FELLOWSHIP CONDITIONS.

“(a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under this part shall continue to receive payments described in section 972(a) only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

“(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and at such times as the Secretary determines necessary from any individual awarded a fellowship under this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, stating that such individual is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.”.

(b) CONSULTATION WITH ADVISORY COUNCIL.—In developing regulations needed to carry out part G of title IX of the Higher Education Act of 1965 (as added by subsection (a)), the Secretary of Education shall consult with the National Advisory Council on Adoption established under section 3(a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 981 of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is further amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

“(g) PART G.—There are authorized to be appropriated to carry out part G of this title such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.”.

SEC. 7. GRANTS FOR ADOPTION EDUCATION PROGRAMS.

(a) PROGRAM AUTHORIZED.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Education (hereafter in this section referred to as the “Secretary”) shall make grants to States to enable such States to carry out adoption education programs.

(b) GRANT AMOUNTS.—The Secretary shall determine the amount of the grant any State is eligible to receive under this section based on the estimated size and cost of the program to be assisted under the grant and the number of children to be served by the program.

(c) APPLICATION.—Any State that desires to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonably require.

(d) GUIDELINES.—The Secretary shall by regulation publish guidelines for model adoption education programs to be assisted under this section.

(e) CONSULTATION WITH ADVISORY COUNCIL.—In developing regulations needed to carry out this section, the Secretary shall consult with the National Advisory Council on Adoption established under section 3(a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1993, 1994, and 1995 to carry out this section.

SEC. 8. EQUAL INSURANCE COVERAGE FOR ADOPTED CHILDREN.

Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140) is amended—

(1) by inserting "(a)" after "510.";

(2) by striking the last sentence; and

(3) by adding at the end the following new subsections:

"(b)(1) As used in this subsection, the term 'son or daughter' means a biological or adopted child, a stepchild, a legal ward, or a child placed for adoption.

"(2) Notwithstanding any other provision of law, it shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for the purpose of interfering with the attainment of any right, including a right with respect to coverage, benefits, or cost sharing, to which such participant may become entitled under an employee benefit plan, this title, or the Welfare and Pension Plans Disclosure Act, on the basis of the fact that—

"(A) a son or daughter of the participant is not a biological child of the participant; or

"(B) a son or daughter that is not a biological child of the participant has a health-related condition that existed prior to the date on which the child became a son or daughter of the participant.

"(3) Nothing in this subsection shall be construed to require any person to extend a benefit under an employee benefit plan to any participant if the person would not otherwise be required to extend the benefit to a participant with a biological child.

"(c) The provisions of section 502 shall be applicable in the enforcement of this section.".

SEC. 9. EQUAL LEAVE BENEFITS FOR ADOPTIVE PARENTS.

(a) DEFINITIONS.—As used in this section:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (3) and (1), respectively, of section 120 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (3) and (1)).

(2) EMPLOY.—The term "employ" has the meaning given the term in section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)).

(3) EMPLOYEE.—The term "employee" means any individual employed by an employer.

(4) EMPLOYER.—The term "employer" means any person engaged in commerce or in any industry or activity affecting commerce.

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including health insurance, sick leave, and annual leave, regardless of whether such benefits are provided by a policy or practice of an employer or through an "employee welfare benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) LEAVE BENEFIT.—The term "leave benefit" means—

(A) any leave provided by the employer to enable a parent to prepare for the arrival of a son or daughter or to care for a son or daughter;

(B) any right to reemployment with the employer after the leave described in subparagraph (A); and

(C) any right to the receipt of pay or employment benefits, or the accrual of seniority, during the leave described in subparagraph (A).

(7) PARENT.—The term "parent" means the biological parent, adoptive parent, prospective adoptive parent, legal guardian, or stepparent, of the child.

(8) SON OR DAUGHTER.—The term "son or daughter" means a biological or adopted child, a stepchild, a legal ward, or a child placed for adoption.

(b) NONDISCRIMINATION.—It shall be an unlawful employment practice for an employer to discriminate against an employee with respect to a term or condition of any leave benefit on the basis of the fact that a son or daughter of an employee is not a biological child of the employee.

(c) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations contained in this section, any person may bring a civil action against an employer to enforce the provisions of this section in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) TIMING OF COMMENCEMENT OF CIVIL ACTION.—No civil action may be commenced under paragraph (1) later than 1 year after the date of the last event that constitutes the alleged violation.

(3) VENUE.—An action brought under paragraph (1) in a district court of the United States may be brought in any appropriate judicial district under section 1391 of title 28, United States Code.

(4) RELIEF.—In any civil action brought under paragraph (1), the court may—

(A) grant as relief against any respondent that violates any provision of this title—

(i) any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate; and

(ii) damages in an amount equal to any wages, salary, employment benefits, or other compensation denied or lost to such eligible employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) award to a prevailing party (other than the United States) in the action a reasonable attorney's fee.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require an employer to provide any leave benefit that the employer would not otherwise have provided to an employee with a biological child.

SEC. 10. PAYMENTS TO STATES FOR EXPEDITED PLACEMENT UNDER THE ADOPTION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 474(a)(3) of the Social Security Act (42 U.S.C. 674(a)(3)), as amended by section 5071 of the Omnibus Budget Reconciliation Act of 1990, is amended—

(1) by redesignating subparagraph (C) as subparagraph (D);

(2) by striking "and" at the end of subparagraph (B); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) 80 percent of so much expenditures as are for the recruitment of adoptive parents in any case where the placement for adoption of a child with special needs occurs not later than 3 months after the child is determined under State law to be legally free for adoption, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for each quarter beginning on or after 60 days after the date of enactment of this Act.

SEC. 11. SENSE OF CONGRESS REGARDING CHANGES IN STATE ADOPTION LAWS.

(a) IN GENERAL.—It is the sense of Congress that each State should adopt, and assume responsibility for enforcing laws, rules, or regulations that would provide that—

(1) the State shall make available to a prospective adoptive parent all relevant information with respect to the placement of the child for adoption, including information with respect to the medical, social, and adoption and foster care placement history and ethnic background of the child and the biological parents of the child (except to the extent that such information would identify the child or biological parents) and shall impose criminal penalties on any person who makes an unauthorized disclosure of such information;

(2) a State-approved professional working in a licensed agency setting shall investigate the prospective adoptive parent of a child before the child is placed with such parent for adoption;

(3) the courts of the State shall not finalize any adoption before each party to the adoption proceeding has submitted to the court all information relating to the costs incurred by or on behalf of the party in connection with the adoption, including a list of all payments, benefits, gifts, or other things of value;

(4) the State shall require adequate legal representation with respect to the adoption proceeding for the biological mother of a child who is the subject of such proceeding, if the biological mother wants separate legal representation;

(5) if a child is placed with an individual pursuant to a written plan of adoption before the adoption occurs and such individual does not file a petition for the adoption of the child with the appropriate court during the 6-month period beginning on the date the child is placed with such individual, and the individual cannot demonstrate just cause for failure to file the petition during such period, such individual shall be barred from adopting the child; and

(6) with respect to each health benefit plan providing coverage to individuals in the State—

(A) each such plan shall provide coverage of health expenses relating to pregnancy and childbirth (not including any expenses relating to carrying out a surrogate parenting arrangement)—

(i) upon the adoption of a child by an individual enrolled in the plan, for the child and for the biological mother of such child, with respect to expenses incurred after the individual enrolled in the plan furnishes written notice to the sponsor of the plan of the intent of the individual to adopt the child of the biological mother, and

(ii) for any dependent child of an individual enrolled in the plan; and

(B) the sponsor of such a plan may not exclude, terminate, or otherwise limit coverage under the plan with respect to the adopted child of an individual enrolled in the plan on the basis that such child has a preexisting condition.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "health benefit plan" means any plan, fund, or program that provides medical care to participants or beneficiaries directly or through insurance, reimbursement, or otherwise;

(2) the term "preexisting condition" means any disease, disability, disorder, impairment, or other health condition; and

(3) the term "sponsor" means any entity in a State providing a health benefit plan in a State.

Mr. CRAIG. Mr. President, I am pleased to join with my colleagues today in introducing the Omnibus Adoption Assistance and Material Health Certificates Act.

This bill consolidates some of the best ideas contained in my bill, S. 1301, and that of Senators GORTON and NUNN. We've always focused on a common goal: to make adoption a more available and more affordable alternative for families. Now we have a common legislative vehicle as well.

Why do we need this legislation?

I've talked before on this floor about my own experience adopting the children of my wife, Suzanne. That experience made me appreciate the hardships associated with this method of becoming a parent—yet I faced only a fraction of the cost, the wait, the red tape and the postadoption difficulties of most adoptive parents.

In America today, the deck is stacked against adoption. For example, the costs of a normal birth are two-thirds the cost of adoption. Health insurance often covers babies from birth when they're born to insured families—but usually covers adopted babies only after the adoption becomes final, which is typically 18 months or longer after the adoptive parents assume financial responsibility for the child. Parental leave policies rarely cover the situation of a family trying to stabilize the home life of a newly adopted child. Nearly half of all pregnancy counselors do not include adoption as an alternative in their counseling—and just as many have inaccurate information or are at least uncertain about adoption.

Perhaps most important, too few people know enough about adoption to consider it as an alternative when making choices about their lives and the futures of their families.

Yet, Mr. President, adoption is a "win-win" alternative. Statistics show that an adopted child has a 90 percent chance of living with married parents—and a 54 percent chance of living in a home with a family income three times higher than the poverty level. Adoptive parents have the chance to build the families they long for. Young, unmarried women who make adoption plans for their babies are more likely to complete high school, less likely to live in poverty, and less likely to receive public assistance than single parents. And promoting permanent, adoptive homes also helps to reduce the burdens on publicly funded foster care programs.

I think the Omnibus Adoption Assistance and Material Health Certificates Act will help insure that adoption is a workable alternative for American families. It would require the Department of Health and Human Services to move ahead with the adoption data collection system already mandated by this Congress. It would secure equal treatment for adoptive parents and children in insurance policies and parental leave policies. It would encourage the States to pass and enforce important adoption laws. It would make graduate fellowships and grants available to promote innovative education programs. And it would establish a National Advisory Council on adoption to monitor the implementation of the act and recommend additional changes in the law.

I hope all of our colleagues will work with us to pass this bill and support the countless Americans who have already chosen to adopt a child or who would like to become adoptive families.

ADDITIONAL COSPONSORS

S. 1100

At the request of Mr. KERRY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1372

At the request of Mr. GORE, the names of the Senator from Indiana [Mr. COATS], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1675

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 1675, a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and household goods freight forwarders, and other purposes.

S. 1883

At the request of Mr. HOLLINGS, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Connecticut [Mr. DODD], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 1883, a bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act.

S. 1988

At the request of Mr. COHEN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1988, a bill to amend title XVIII of the Social Security Act to provide for improved standards to prevent fraud and abuse in the purchasing and rental of durable medical equipment and supplies, and prosthetics and orthotics, and prosthetic devices under the Medicare Program, and for other purposes.

S. 2083

At the request of Mr. CRAIG, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2083, a bill to provide for an extension of regional referral center classifications, and for other purposes.

S. 2141

At the request of Mr. KENNEDY, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2141, a bill to amend the Public Health Service Act to improve the quality of long-term care insurance through the establishment of Federal standards, and for other purposes.

S. 2400

At the request of Mr. PRYOR, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2400, a bill to amend title XVIII of the Social Security Act to extend special payments under part A of Medicare for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are Medicare beneficiaries.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from Colorado [Mr. BROWN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2680

At the request of Mr. PRYOR, the names of the Senator from Florida [Mr. MACK], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 2680, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to consult with State medical societies in revising the geographic adjustment factors used to determine the amount of payment for physicians' services under part B of the Medicare Program, to require the Secretary to base geographic-cost-of-practice indices under the program upon the most recent available data, and for other purposes.

S. 2865

At the request of Mr. REID, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2865, a bill to provide assistance for workers adversely affected by a nuclear testing moratorium.

S. 2887

At the request of Mr. MCCONNELL, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2887, a bill to amend title IV of the Social Security Act to provide that the Secretary of Health and Human Services shall enter into an agreement with the Attorney General of the United States to assist in the location of missing children.

S. 2889

At the request of Mr. BOREN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2899

At the request of Mr. KENNEDY, the names of the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KERRY], the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2899, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

S. 2909

At the request of Mr. BENTSEN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2909, a bill to amend the Tariff Act of 1930 to establish an Office of Trade and Technology Competitiveness in the International Trade Commission.

S. 2949

At the request of Mr. KENNEDY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 2980

At the request of Mr. INOUYE, the names of the Senator from Indiana [Mr. COATS], the Senator from Utah [Mr. HATCH], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 2980, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use of pesticides.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3020

At the request of Mr. MCCONNELL, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 3020, a bill to repeal the prohibition in the District of Columbia on individuals carrying self defense items such as MACE.

SENATE JOINT RESOLUTION 292

At the request of Mr. SMITH, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 292, a joint resolution to provide for the issuance of a commemorative postage stamp in honor of American prisoners of war and Americans missing in action.

SENATE JOINT RESOLUTION 306

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Utah [Mr. HATCH] and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

AMENDMENT NO. 1867

At the request of Mr. MCCAIN the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Amendment No. 1867 intended to be proposed to S. 2312, a bill to amend the Federal Aviation Act of 1958 to enhance competition at, and the provision of essential air service with respect to high-density airports, and for other purposes.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS FOR FY 1993

GRAHAM (AND OTHERS) AMENDMENT NO. 2765

Mr. GRAHAM (for himself, Mr. PRYOR, and Mr. KOHL) proposed an amendment to the bill (S. 3026) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes; as follows:

On page 78, line 22, strike out "$2,101,000,000" and insert in lieu thereof "$2,016,035,000".

GRAHAM (AND OTHERS) AMENDMENT NO. 2766

Mr. GRAHAM (for himself, Mr. PRYOR, and Mr. KOHL) proposed an amendment to the bill, S. 3026, supra, as follows:

On page 6, line 10, strike out "$118,234,000" and insert in lieu thereof "$110,100,000".

GRAHAM (AND OTHERS) AMENDMENT NO. 2767

Mr. GRAHAM (for himself, Mr. PRYOR, and Mr. KOHL) proposed an amendment to the bill S. 3026, supra, as follows:

On page 50, line 26, strike out "$32,654,000" and insert in lieu thereof "$31,280,000".

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

LEAHY (AND OTHERS) AMENDMENT NO. 2768

Mr. LEAHY (for himself, Mr. DURENBERGER, and Mr. KASTEN) proposed an amendment to the bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes, as follows:

On page 30:

(1) On line 5, strike "$714,551,000" and insert in lieu thereof "$702,451,000"; and

(2) On line 6, strike "$712,926,000" and insert in lieu thereof "$700,826,000".

On page 33, line 5, strike "$326,048,000" and insert in lieu thereof "$309,948,000".

On page 47, between lines 3 and 4, insert the following:

"WETLANDS RESERVE PROGRAM

"For necessary expenses to carry out the Wetlands Reserve Program on a national basis pursuant to subchapter C of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.), $54,900,000 to remain available until expended: Provided, That none of the funds made available by this Act shall be used to enter in excess of 61,500 acres in fiscal year 1993 into the Wetlands Reserve Program provided for herein: Provided further, That the Secretary is authorized to use the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of carrying out the Wetlands Reserve Program.".

On page 88, strike line 1 and all that follows through line 5; and insert in lieu thereof the following:

"SEC. 728. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a program for the purchase of computer hardware and software and other costs in support of long-range Information Resources Management objectives in Automated Data Processing if the aggregate amount of funds for such purchases exceeds $35,700,000.".

GRAHAM AMENDMENT NO. 2769

Mr. GRAHAM proposed an amendment to the bill H.R. 5487, supra, as follows:

On page 64, line 14, strike out "$39,307,000" and insert in lieu thereof "$37,795,000," and on line 15, strike out "$30,330,000", and insert in lieu thereof "$29,163,000", and on line 17, strike out "$8,977,000", and insert in lieu thereof "$8,632,000."

McCAIN (AND OTHERS) AMENDMENT NO. 2770

Mr. McCAIN (for himself, Mr. KASTEN, Mr. D'AMATO, Mr. REID, and Mr. PRESSLER) proposed an amendment to the bill H.R. 5487, supra, as follows:

The Senate finds that on November 12, 1991, the Senate unanimously adopted an amendment to H.R. 2967, a bill to reauthorize the Older Americans Act of 1965, to repeal the social security earnings test;

The Senate finds that the social security earnings test is the last bastion of age discrimination;

The Senate finds that the seniors who need to work, or choose to work, must forfeit $1 in social security benefits for every $3 earned over $10,200;

The Senate finds that the social security earnings test translates into an effective tax burden of 33 percent, making those individuals who are confronted with the social security earnings test the highest taxed individuals in America;

The Senate finds that the social security earnings test is a major deterrent to those seniors who would like to stay in, or return to, the work force, and an unfair penalty to those seniors who must go back to work;

The Senate finds that many of our Nation's seniors are going back to work in order to pay for basic expenses such as health care, food, clothing, and shelter because they have no private pension or liquid investments;

The Senate finds that other seniors would choose to stay in the work force, or return to the work force, if they would not face the punitive social security earnings test;

The Senate finds that the social security earnings test costs the United States $15 billion a year in reduction production;

The Senate finds that eliminating the social security earnings test would save over $200 million a year in compliance costs for the Social Security Administration; and

The Senate finds that dynamic economic estimates indicate that eliminating the social security earnings test would net as much as $140 million in extra Federal tax revenue, therefore, taxes do not need to be increased to pay for elimination of the social security earnings test.

The Senate reaffirms its commitment to repeal the social security earnings test, or substantially increase the Social Security earnings test, without raising taxes.

BENTSEN AMENDMENT NO. 2771

Mr. BENTSEN proposed an amendment to the bill H.R. 5487, supra, as follows:

Strike all after the word "insert" and insert the following:

(a) FINDINGS.—The Senate finds that:

(1) Many older Americans remain in the work force after they reach age 65, or would like to do so;

(2) Under current law, the benefits of Social Security recipients are reduced by $1 for every $3 earned in excess of $10,200;

(3) This provision of current law penalizes these recipients and reduces their incentive to work;

(4) This penalty and disincentive should be eased as quickly as possible;

(5) The Senate approved, by a vote of 94-3 on April 7th of this year, an amendment to the Budget Resolution, whose purpose was to limit the levels of Social Security outlays and revenues assumed in the Resolution to current services levels; and

(6) Such limitation would ensure that, any new legislation will not reduce the levels of Social Security reserves, thereby endangering the payment of Social Security benefits to elderly and disabled beneficiaries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Social Security earnings test be eased in a manner which does not reduce the levels of Social Security Trust Fund Reserves.

LEAHY AMENDMENT NO. 2772

Mr. BUMPERS (for Mr. LEAHY) proposed an amendment to the bill H.R. 5487, supra, as follows:

On page 57, line 6, before the "." insert the following: ": *Provided further*, That $400,000 of the amount made available under this heading in fiscal year 1992 shall be made available to the Vermont State Colleges in fiscal year 1992: Provided further, that $400,000 of the amount made available by this paragraph shall be made available to the Vermont State Colleges to construct maintain and operate additional educational and learning centers and to provide educational programming in fiscal year 1993"

DOLE AMENDMENT NO. 2773

Mr. COCHRAN (for Mr. DOLE) proposed an amendment to the bill H.R. 5487, supra; as follows:

On page 57, line 6, insert before the ".", ": *Provided further*, That $400,000 shall be available to the North Central Kansas Electric Cooperative, Inc, Belleville, Kansas to repair wind and storm damage from an inland hurricane".

SIMPSON AMENDMENT NO. 2774

Mr. COCHRAN (for Mr. SIMPSON) proposed an amendment to the bill H.R. 5487, supra, as follows:

On page 61, line 9, after "1982:", insert the following: "*Provided further*, That, not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that proposes program participant criteria for electric and telephone borrowers under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.):".

SIMON AMENDMENT NO. 2775

Mr. SIMON proposed an amendment to the bill H.R. 5487, supra, as follows:

On page 87, line 24, strike "$174,500,000" and insert in lieu thereof "$170,700,000".

On page 77, line 21, strike "$744,135,000" and insert in lieu thereof "$746,035,000".

On page 77, line 23, before the period insert *Provided further*, That $1,900,000 of the funds made available to the Food and Drug Administration shall be available to fund a clinical pharmacology pilot program."

DOMENICI (AND OTHERS) AMENDMENT NO. 2776

Mr. DOMENICI (for himself, Mr. DOLE, Mr. MURKOWSKI, Mr. McCONNELL, Mr. DECONCINI, and Mr. LEAHY) proposed an amendment to the bill H.R. 3026, supra, as follows:

At the appropriate place, insert the following:

SECTION . ADJUSTED COST OF THRIFTY FOOD PLAN.

Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting before the period at the end the following: ", except that on October 1, 1992, the Secretary may not reduce the cost of such diet".

BOREN (AND NICKLES) AMENDMENT NO. 2777

Mr. BOREN (for himself and Mr. NICKLES) proposed an amendment to the bill H.R. 5487, supra, as follows:

On page 57, line 6, before the period, insert ": *Provided further*, That $500,000 shall be available to the city of Seminole, Oklahoma industrial foundation to make improvements in the water and sewer system of the City of Seminole and its industrial sites sufficient to accommodate a major industrial expansion".

BRYAN AMENDMENT NO. 2778

Mr. BRYAN proposed an amendment to the bill H.R. 5487, supra, as follows:

On page 87, line 24, strike "$170,700,000" and insert in lieu thereof "$75,000,000."

BROWN AMENDMENT NO. 2779

Mr. BROWN proposed an amendment to the bill H.R. 5487, supra, as follows:

On page 93, after line 24, insert the following new section:

SEC. . (a) In the case of any applicant for assistance provided with funds appropriated under this Act, the applicant shall include the information described in section 6109 of the Internal Revenue Code of 1986.

(b) Any agency processing any application described in subsection (a) shall submit the information provided by the applicant (including the dollar value of the United States Government assistance to the applicant) to the Internal Revenue Service.

(c) On a written request from the Director of the Office of Management and Budget or the Director of the Congressional Budget Office, the Secretary of the Treasury shall furnish each such Office with—

(1) the dollar value of the United States Government assistance to the applicant; and

(2) any return or return information specified in the request, except any return or return information that can be associated with, or otherwise identify, directly, or indirectly, a particular taxpayer.

BROWN AMENDMENT NO. 2780

Mr. BROWN proposed an amendment to the bill H.R. 5487, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . None of the funds made available by this Act may be used to support the price of honey through loans, purchases, payments, or other operations under section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446b) or any other provision of law.

HARKIN (AND DECONCINI) AMENDMENT NO. 2781

Mr. HARKIN (for himself and Mr. DECONCINI) proposed an amendment to the bill H.R. 5487, supra, as follows:

On page 88, insert between lines 20 and 21, the following new section:

SEC. 731. No funds appropriated or made available under this Act, or any other Act, may be expended (with regard to the travel expenses of any employee in a position of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations, a noncareer appointee in the Senior Executive Service, or an officer serving in a position on the Executive Schedule, who receives pay from funds appropriated under this Act) during the period beginning on October 1, 1992 through November 4, 1992 in excess of the higher of—

(1) the amount of travel expenses incurred by the officer or employee serving in such position during the period beginning on October 1, 1991 through November 4, 1991;

(2) 10 percent of the amount of the travel expenses incurred by the officer or employee serving in such position during fiscal year 1992; or

(3) in the case of an officer or employee in a position which was established during fiscal year 1992, the median travel expenses of—

(A) in the case of a schedule C employee, all such schedule C employees in the executive branch of the Government during the period beginning on October 1, 1991 through November 4, 1991;

(B) in the case of a noncareer appointee in the Senior Executive Service (not otherwise covered under subparagraph (C)), all such noncareer appointees in the executive branch of the Government during the period beginning on October 1, 1991 through November 4,1991; and

(C) in the case of an officer in a position on the Executive Schedule, all officers in the same level of the Executive Schedule during the period beginning on October 1, 1991 through November 4, 1991.

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on Asian organized crime: Part 4.

This hearing will take place on Tuesday, August 4, 1992, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel F. Rinzel of the subcommittee's minority staff at 224-9157.

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 9:30 a.m. to hold a hearing entitled "Grandparents as Parents: Raising a Second Generation."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, July 28, 1992, at 2 p.m. to hold a hearing on health care fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., July 28, 1992, to receive testimony on the health of the eastside forests in Oregon and Washington and amendment No. 1442 to S. 1156, the Federal Land and Families Protection Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 28, at 10 a.m. to hold a hearing on United States and Chinese policies toward occupied Tibet.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, July 28, 1992, at 10 a.m., for a hearing on comprehensive services for America's youth.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., July 28, 1992, to receive testimony from Hugo Pomrehn, nominee to be Under Secretary of Energy and John Easton, Jr., to be an Assistant Secretary of Energy for Domestic and International Energy Policy, Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, July 28, 1992, at 9:30 a.m., in open session, to receive testimony on the military implications of the START Treaty and the June 17, 1992, United States/Russian joint understanding on further reductions in strategic offensive arms.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMERS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 28, 1992, at 9:30 a.m. on the Federal Trade Commission Reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON PATENTS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Copyrights, and Trademarks of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, July 28, 1992, at 10 a.m. on S. 1581, a bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HATE CRIMES

• Mr. SIMON. Mr. President, I would again like to bring to the Senate's attention the nationwide increase in acts of violence based on prejudice. These tragic incidents divide our country. They breed animosity and mistrust, and worst of all, they provoke further acts of violence. Only through an awareness of the magnitude of the problem, can we work to break this self-perpetuating cycle of bigotry and violence.

Today, I wish to direct your attention to the recent racially charged brawl at Olivet College, in Olivet, MI. Unfortunately, this is not an isolated incident in our Nation's schools. It is only a chilling example of the bigotry, xenophobia, anti-Semitism, and homophobia that appears at too many of our colleges and universities.

Congregational Church missionaries founded Olivet College in 1844. Since that time, the interracial student body has enjoyed a spirit of peace and cooperation. The events in early April shattered this spirit and threatened to replace it with an atmosphere of fear and mistrust.

On April 1, a female white student stated to the police that four black students assaulted her in a park near the Olivet campus. Police viewed her story with skepticism. The incident, however, was not forgotten. Fires were set in trash cans on a dormitory floor where many black students live, and rumors began to circulate that white students were planning an attack on black students in retaliation for the alleged assault.

The next day, another female white student claimed to receive a threatening phone call alluding to the prior alleged assault. She called her sorority house, where some fraternity members were visiting and named three black students as the ones who had made the threatening call. A group of the fraternity members, all of whom were white, volunteered to check on her. In her dorm lobby, the fraternity group met with two of the students who allegedly made the threatening phone call. The students began shouting racial epithets and insulting names at each other. The shouting escalated into a brawl involving nearly 70 students. Two students were injured in this racial melee; and, as an injured black student was being led away, people in the crowd shouted, "run, niggers, run."

As you can imagine, this violence seriously damaged race relations within the college. Students, who used to be friends, were now suspicious of one another. One student who made conciliatory statements, reports that he received "hate mail from whites all over this State." Fearing for their safety, a majority of the black students left the campus before the end of their spring term and completed their courses by mail.

Olivet College now must concentrate on overcoming this tension. The most promising measure, to hear the strained race relations on campus, is a new $100,000 multiculturalism program authorized by the trustees. Healing, however, promises to be slow. Idris Fountain, who leads an eight member black group that decided to remain on campus, believes that it is important to stay on campus to make a stand. According to Fountain, "Right now we're in the midst of a civil war on this campus, and you can't turn your back on it. You have to face it."

Mr. President, we must not only face overt acts of violence and bigotry, but we must also work to prevent such violence. Unfortunately, the absence of overt bigotry does not make any community immune to the problems of hatred. The violence at Olivet proves this danger. Olivet student, Robert Hunwick, teaches us the importance of being aware of tension and hatred. "I personally didn't see it—the hatred that exists. I didn't see it on this campus, but it's there."•

SALUTE TO FRANK R. LEWIS, JR., MD

• Mr. DASCHLE. Mr. President, I rise today to pay tribute to a distinguished surgeon, Dr. Frank Russell Lewis, Jr. For the past 4 years, Dr. Lewis, a professor and vice chairman of the department of surgery at the University of California, San Francisco, has served as the surgeon-in-chief of the world-renowned San Francisco General Hospital. He has sustained and enhanced the proud traditions of that institution, and has been responsible for surgical care of the injured of San Francisco City and County, and, indeed, for many others in northern California.

As an investigator, Dr. Lewis has been a leader in developing a better understanding of the physiologic response to injury and shock, and has served as president of the Shock Society. He has chaired the Trauma Outcomes Task Force of the Joint Commission on the Accreditation of Hospitals, and is the chairman of the Executive Committee of the Board of Governors of the American College of Surgeons. He also serves as a member of the residency review committee for surgery.

Dr. Lewis has been a leader in delineating and promoting the best possible approach to the care of the trauma patient: the prevention of the injury itself. He has been a key adviser to the Centers for Disease Control and to the Health Resources Services Administration and the U.S. Public Health Service.

As Dr. Lewis leaves the San Francisco General Hospital, his leadership, scholarship, and surgical skill will serve as an enduring inspiration not only for his colleagues in San Francisco, but for all who care for the injured. I am proud to salute Dr. Frank R. Lewis.•

DEMOCRATIC HISPANIC TASK FORCE FIELD HEARING

• Mr. SIMON. Mr. President, I ask unanimous consent that the final group of testimony from the field hearing of the Senate Democratic Hispanic Task Force on Issues Facing the Hispanic Family be included in the RECORD at this point.

The material follows:

UNIVERSIDAD POPULAR,
Chicago, IL, May 4, 1992.

To: U.S. Senate Democratic Hispanic Task Force.
From: Universidad Popular Community Based Organization.
Re: To express our views and demands to shed some light on Latino issues from a personal level.

DEAR SENATOR SIMON: Universidad Popular takes the opportunity to be present in those meetings that can help us to continue our mission. Today we want to express and share with you some of the concerns and demands that we feel are just ones in a society that boasts to provide equality for all, but does not do so in practice. We would also like to thank Illinois Senator Paul Simon for the help he provided us in passing the book, "Making It Against All the Odds or an Immigrant's Odyssey To the U.S.A." into the United States of America Congressional Record Proceedings and Debates of the 102d Congress, First Session, Vol. 137, No. 73 on Wednesday, May 15, 1991.

We are participants in a small Latino community agency, that is nevertheless large with respect to the number of people receiving services. The agency had its humble beginnings in the early seventies. Throughout these years the agency has had to continually struggle for each and every day of its existence. We have managed to stay afloat through many sacrifices by the countless and now nameless people that have helped Universidad Popular stay alive. Our agency knows for a fact that unless we eradicate the problem of illiteracy once and for all, the critical problems that the U.S. faces now will never go away. Only through educating our people will our nation remove these malignancies from our communities and our country. It is by no mistake that our mission and our purpose states that our method is Education by, for and with the people.

Now, there is a myriad of specific problems that we as participants, staff and administrators are facing because of budget cuts and continual economic doom. As far as continuing services for our community, we have been forced to service the same if not larger number of people with less money, and consequently with less personnel. This hinders the quality and development of our program itself. To expedite the federal monies to community education agencies, we propose that middlemen like Public Libraries and others such institutions be taken out of the bureaucratic process of money allocations to agencies like ours. We feel this is the best way to channel these funds.

We would like to have, as always, your imput and opinion, please write us to:

Universidad Popular, 2750 W. North Ave., Suite 204, Chicago IL 60647.

PILSEN NEIGHBORS COMMUNITY COUNCIL,
Chicago, IL, May 4, 1992.

Senator PAUL SIMON,
State of Illinois.

DEAR SENATOR: We as a community feel strongly that the children in Pilsen are currently inadequately served by the Chicago Public Schools. Without exception, our children attend overcrowded schools. The average class size in Pilsen is 34: some of our children sit in class rooms with as many as 38 other children. Worse, other children are taught in hallways, closets, converted gymnasiums, or share space with the lunchroom. Too many of our children are forced to have classes in dilapidated mobile units. These are not only physically ugly and smelly places, they are a safety and security hazard as well. Too many of our children are being warehoused in facilities operated by the Chicago Public Schools: education is secondary.

Overcrowded schools are not a new problem in Pilsen: they have become a way of life here. In spite of that fact, Pilsen has had only two new elementary schools built since the turn of the century. Less than a year after these two schools were opened, they too were overcrowded. As of September 1991, close to 1500 of our children were being bused out of our community because the schools simply did not have any more space for them. The anticipated closing of Providence of God Catholic School this spring will add 167 more children who need more classroom space in Pilsen schools.

Although compensatory programs, such as Federal and State Chapter 1, are offered in all of our schools, their effectiveness is hampered by the lack of inadequate space. The same holds true for bilingual and ESL services, and special education services. Psychologists, nurses, social workers, vision and hearing testers, and counselors are equally handicapped in their delivery of services by the lack of space. Consequently, our children are simply not being well served.

Many of our children are considered "at risk" when they enter school. As such, they should be provided with the best possible services in the most optimum environment in order that they get the most benefit from their schooling. Unfortunately, in Pilsen, less than 20% of those eligible are provided with a pre-school education. In too many schools where pre-school education is available, the students already attending the school were further squeezed together in order to find space for the pre-school program. We rob Pedro to provide for Pablo. Academic achievement is only a dream for the majority of our children. On average, only one in four achieves at or above grade level. Is it any wonder that approximately 70 percent of those who enter Benito Juarez High School (presently at 147 percent capacity!) drop out before they graduate?

We, parents and community members, are familiar with the educational research that finds that smaller schools (with populations of approximately 600) are the most effective. That is, smaller schools provide students with a better opportunity to learn. In fact, that Board of Education for the city of Chicago has recognized that smaller schools are more effective.

In order to provide a better education to the students of Pilsen, we are asking the State of Illinois to:

1. Allocate additional funds to construct at least four additional new elementary schools, and at least one new high school in Pilsen. (Student enrollment is expected to increase by 30 percent in the next ten years, i.e. by approximately 3200 students.)
2. Allocate funds to rehabilitate existing buildings to bring them up to a level where you would want your own children to attend.
3. Immediately replace existing mobiles with demountable units.
4. Build demountable units at all overcrowded schools to provide space for preschool programs.

The State of Illinois should be exploring ways of increasing services to Pilsen, of providing our children with additional opportunities to get a basic education instead of balancing its budget at the expense of our children's future. We are asking that you, Paul Simon, Senator of Illinois deliver on these concerns.

ANGELA TORRES,
CHAIRPERSON,
PNCC Education Task Force.

ALIVIO MEDICAL CENTER,
Chicago, IL, May 1, 1992.

To: United States Senate Democratic Hispanic Task Force.

From: Carmen Velasquez.

My name is Carmen Velasquez and I am the Executive Director of Alivio Medical Center. Alivio is located in the middle of the Mexican Communities of Pilsen, Heart of Chicago, Little Village and Back of the Yards. Alivio is a not for profit comprehensive primary community health center that is three years and three months old. To date, we do not have federal, state or city funding.

Alivio Medical Center is a community owned health center—owned by the community through its Board. We own clear title to our facility which is valued at 2.1 million dollars. This facility was paid for by the support of private undations and corporations.

Alivio realizes that we cannot serve the noninsured and working poor without the help of significant others and this includes our government. Our community is part of those 37,000,000 people in this country without insurance or limited insurance, that hardly covers themselves, much less their families.

I came here today, because our community needs your help. The message to Washington is fund our health needs! If we do not have you as a significant partner, Alivio will not survive as a viable entity!

I view the United States Senate Democratic Hispanic Task Force for the 102d Congress as one of the most important groups of people who will touch every Hispanic neighborhood in the country.

Our issues are many; education, employment and health care are critical to the survival of our families. We need your help.

Thank you for allowing me to speak to you on this critical issue.

ALIVIO MEDICAL CENTER, INC., STATEMENTS OF REVENUES AND EXPENSES FOR THE YEARS ENDED JUNE 30, 1991 AND 1990

	1991	1990
Revenues:		
Net patient service revenue	$411,268	$104,873
Grants and contributions	358,624	318,480
Other operating revenue	34,987	8,756
Total revenues	804,879	432,109
Expenses:		
Salaries, wages and benefits	650,898	477,065
Depreciation	104,856	89,117
Provision for bad debts	66,379	24,892
Insurance	54,093	29,287
Supplies	53,272	40,245
Other	280,790	202,998
Total expenses	1,210,288	863,604
Excess of expenses over revenues	(405,409)	(431,495)

Note.—The audited financial statements are available upon request.

HISTORY AND SERVICES

In 1986, Hispanic community leaders formed a committee to address the problem of inadequate health services in the Hispanic community. Out of these meetings grew "Project Alivio," a concept for a comprehensive, bilingual health care center serving the near south side communities of Pilsen, Little Village, Heart of Chicago and Back of the Yards.

Alivio's founders were risk-takers, not dreamers. They saw an acute need and developed a plan to address it. With the backing of Mercy Hospital and Medical Center, they embarked upon a $2.1 million capital campaign for the land, the construction of the building and its equipment.

With "Project Alivio" underway, the founders commissioned a survey to document the health care needs in the community. Tocar el Corozon, or To Touch the Heart, as the study was called, was conducted by the Latino Institute in 1987. It brought to light a variety of characteristics of the target population that were to shape the services Alivio provides today. For example, youthfulness and high fertility rates indicated the need for the center's current emphasis on pediatric, obstetric and gynecological services.

The study also confirmed the importance of culturally sensitive medical services, which take into account the beliefs and values of the community. Today, our culturally sensitive health services and educational programs are gradually overcoming one of the most critical barriers to good health: the failure to understand the effects of a person's lifestyle on his or her own well-being.

When Alivio opened its doors in 1989, Mercy Hospital and Medical Center acted as its fiscal agent. While maintaining a good relationship with Mercy, Alivio became financially independent on March 1, 1992—thereby taking another step in its growth as a community health care institution. On March 20, 1992, Alivio was designated by the federal government as a Federally Qualified Health Center. As a result, the State of Illinois will increase Alivio's reimbursement for public aid patients from $18 to $70 per patient encounter.

DIRECT MEDICAL SERVICES

Program Goal: To alleviate cultural and economic barriers to health care through the delivery of affordable and quality bilingual and bicultural primary care to the predominantly Hispanic communities of Pilsen, Heart of Chicago, Little Village and Back of the Yards.

Total Number Served: 15,000 patient encounters in 1991–92.

Health care at Alivio addresses all five stages of life: prenatal, pediatric, adolescent, adult and geriatric. Philosophically, Alivio is committed to providing community-based health care in the context of the family, cultural respect, understanding and the dignity of the individual. Alivio emphasizes health promotion and disease prevention through primary preventive strategies, such as immunization and family planning, and secondary prevention methods, such as tests and screenings based on age, gender and medical history.

HEALTH CARE FOR MOTHERS AND INFANTS

Program Goal: To reduce the infant mortality rate, the incidence of pre-term and C-section deliveries, and the incidence of spontaneous abortions in the service areas. To provide continuous post-partum care for infants and their mothers. To provide preventive health care for children emphasizing parenting skills, nutrition, and health and safety education.

Number Served: 11,250 in 1991–92.

For mothers and infants, who make the majority of our patients, Alivio provides extensive prenatal and post-partum care.

As the result of aggressive community outreach, Alivio has been able to reach 80% of its pregnant patients in the first trimester of pregnancy—an important first step in the delivery of a healthy child. When high-risk pregnancies are indicated, Alivio refers patients to Mercy Hospital and Medical Center where they are provided a discounted prenatal package as Alivio patients. Alivio's approach to prenatal care emphasizes the values of nutrition, exercise, and breastfeeding. Patients attend classes in the Kraft Nutrition Room.

The key to proper post-partum care is education and maintenance. Building on its successful volunteer efforts to encourage breastfeeding, Alivio is developing a volunteer-based community outreach program for in-home follow-up of all healthy newborns and mothers. Alivio uses the Periodic Health Survey protocol for screening schedule of newborns through adolescents; two weeks, two months, four months, six months, one year, 15 months, 18 months and yearly thereafter. Aggressive yet sensitive community outreach efforts are made to eliminate possible obstacles to post-partum care by providing appropriate assistance, such as babysitting, in-home follow-up, financial assistance, etc.

A computer retrieval system allows Alivio's staff to follow-up with patients who miss scheduled visits.

HEALTH EDUCATION AND PROMOTION

Progam Goal: to increase the Hispanic community's knowledge and practice of healthy behaviors; to increase the community's knowledge of behaviors leading to ill health; and to reduce illness and foster good health through educational programs, health fairs, immunization campaigns and support groups for the Hispanic family.

Number served: 1,400 individuals in 1991–92.

The Hispanic population in Alivio's service area is faced with a number of chronic health problems: heart disease, obesity, stroke, diabetes, cirrhosis of the liver, high infant mortality and substance abuse. Significantly, the incidence of each of these health problems can be greatly reduced by health education and promotion.

Alivio offers a wide range of prenatal, parenting and nutrition classes as well as drug and alcohol abuse counseling for adolescents and adults and support groups promoting wellness. Each is offered in both English and Spanish.

One of our most exciting education initiatives is the new parenting program, "Los Ninos Bien Educados." Developed under the English language name "Well Educated Children," and later adapted by Hispanics to be culturally sensitive to the Hispanic family, this 12-week, comprehensive, parenting skills program was previously a great success in California. "Los Ninos Bien Educados" is rooted in the Mexican-American culture and addresses issues as disparate as speaking Spanish in the home, behavior modification, discipline and gangs. Since Alivio began offering the program in 1990, 115 parents have graduated from the course.

In the spirit of broader, community-wide health promotion, Alivio sponsors an annual "Alivio y Salud" ("Alivio and Health") Run in April. The event is multi-faceted, including 10K and 5K runs and a 2K walk. Students at local schools, their parents and teachers, and even senior citizens are encouraged to participate. In conjunction with the event, physical fitness workshops are given in local schools to increase children's awareness of health issues. The second annual "Alivio y Salud" will take place on April 5, 1992.

HEALTH CAREER AWARENESS AND ADVANCEMENT

Program Goal: To increase the representation of Hispanics in the health care professions through placement and advancement programs for current health professionals and awareness programs for children.

Number of participants: 320 students; 30 health professionals in 1991–92.

There is a critical shortage of health care professionals in Alivio's service area.

Part of the solution is to train more Hispanic health care professionals. Hispanics are more likely to practice in impoverished Hispanic communities. And, if they are bilingual and bicultural, they can offer more culturally sensitive medical care to the community.

Alivio is helping to fill the gap by sponsoring programs such as the Physicians Review Course. This program prepares Hispanic physicians trained in other countries to take the appropriate U.S. licensing exams. For many, this is not an easy task—they are taking extremely rigorous and technical examinations in a foreign language. Often, Spanish-speaking doctors from other countries work in the United States as laborers or medical technicians while attempting to obtain a license to practice in this country. Many never become doctors here.

Our Physician Review Course is moderately priced and comfortably housed in Alivio's library and research center. The Physician Review Course has recently been made available to Spanish-speaking students trained in American universities. Since Alivio began the Physicians Review Course in July, 1990, five physicians in the program have obtained their license to practice in the United States.

Alivio also stimulates interest in health care careers among the Hispanic high school students. With help from the Mayor's Employment Training Program, the Illinois Institute of Technology and the Chicago Public Schools, Alivio encourages students to consider the wide variety of health careers available to them, and provides guidance to those pursuing health care training.

RESEARCH AND EVALUATION

Program Goal: To implement an evaluation plan, cooperatively designed by Alivio Medical Center and the University of Illinois that will provide new knowledge of Hispanic health care needs.

Hispanics are America's fastest growing ethnic population. Yet there are few initiatives addressing the Hispanic community's health care needs. Research conducted by Hispanics would be particularly useful—as it is far less likely to incorporate inaccurate cultural assumptions.

Alivio Medical Center is therefore documenting and evaluating all of its patient care services. Beyond verifying the fulfillment of Alivio's mission, this documentation promises to provide new knowledge in the area of health care for Hispanics. To make the best use of this research material, Alivio has linked up with the University of Illinois in the implementation of an ongoing research and evaluation program.

Alivio utilizes the U.S. Department of Health quality assurance protocols to evaluate the quality of its work. Continuity of health care over a period of years is needed to reach appropriate conclusions. At the end of an initial five-year period, Alivio Medical Center and the University of Illinois will document conclusions based upon the material gathered and evaluated.

Illinois Hispanic Human Services Association

This is the testimony of Joseph M. Martens, Coordinator of the Illinois Hispanic Human Services Association, a fourteen-year-old organization that represents community-based human service agencies and providers in promoting the advancement of human services for Hispanics through advocacy, networking, policy analysis, information, research, and resource development. We are pleased to provide testimony for the United States Senate Democratic Hispanic Task Force here at this hearing on May 4, 1992, in Chicago chaired by you, Senator Simon. We want to first thank you again for your efforts and support last August in obtaining federal funds to provide funding for a citywide Chicago Hispanic Health Coalition, a project coordinating the efforts of 38 Hispanic and other agencies in health promotion.

The Illinois Hispanic Human Services Association calls upon the U.S. Immigration and Naturalization Service, under the provisions of the Immigration and Reform Control Act of 1986, to renew for next fiscal year its funding of the SLIAG health program to Chicago at the present level of $1.5 million. During the first year of funding, the Chicago Department of Health established a new clinic in the Pilsen-Little Village area, the largest Mexican community in the midwest and a port of entry for those coming to Chicago. The Chicago Department of Health also began providing funding to thirteen Hispanic community-based agencies (and to Chinese and Polish community agencies also) to teach eligible legalized aliens about the local health system; assisting mothers and their families in the basics of preventive health practices, such as immunizations and screening for lead poisoning for the children, mammograms and pap smears for screening for breast cancer for the mothers; and education about HIV/AIDS, sexually transmitted diseases, and tuberculosis, all diseases greatly affecting the Hispanic community. This community-based program already is successful in its efforts. By September, fifteen bilingual/bicultural community workers will have gone door to door in the targeted communities and identified 1,500 families for a total of over 7,500 high-risk individuals, teaching them the basics of health care and accompanying them to neighborhood clinics for needed treatment and preventive services. These dedicated workers are providing vital health education and other human services to these immigrants who came to this country for a better life for themselves and their children. This program has already demonstrated its effectiveness in reaching out and helping our citizens-to-be. We call for federal funding of $1.5 million to provide a second year for the SLIAG health program for Chicago, and ask that Senator Simon join in this effort by supporting this request for continued federal funding of the Chicago project at this $1.5 million level.

INTRODUCTION

The Association Pro-derechos Obreros (APO) was founded in 1962 by Latino workers and other residents with the aid of Rev. Michael Cody from the Cardinal's committee and Rev. Pedro Rodriguez from St. Francis of Assisi Parish.

Our first priority is to defend and advance the rights of Latino workers in Chicago. We have organized campaigns against job discrimination and unemployment as the main obstacles to economic advancement for Latinos. Therefore, we struggle for unity between the community and the organized labor to bring about fair employment practices by employers.

Throughout it's 22 year existence, APO has made many contributions to the advancement of the Latino community in Chicago.

APO was born out of the struggles of workers at the National Video plant. In the next seventeen years, many of APO's greatest successes have come from struggles against the discriminatory policies of employers, both private and public. In recognition of this work APO was asked—and agreed—to host the Founding Conference of the National Congress of Unemployed Organizations in July 1983.

HISTORY

In 1961 the Latino workers at National Video factory grew tired of their low pay, poor working conditions, and the indifference shown by the officials of their union toward their complaints and grievances. They decided to launch an independent struggle for their rights.

Since that first battle, APO has continued the struggle to better the living conditions of Latinos and has participated in efforts to defend the rights of all workers whenever those rights have been violated.

In addition to winning many struggles for hiring Latino workers by employers in the Latino community, APO led and participated in other campaigns that opened the door of opportunity for Latinos in many other fields of employment.

CTA: In 1972 our research showed that of a total workforce of 12,616 workers, the Chicago Transit Authority (CTA) employed only 246 Latino workers. (Fewer than 2 percent of the workforce while the Latino population of Chicago was then at over 13%). Together with other community organizations, APO organized a campaign against these discriminatory practices. Eventually, entered into negotiations that resulted in the fact that today 15 percent of the CTA workforce is of Latino origin.

St. Lukes Hospital: In February 1976, St. Luke's Hospital terminated a laboratory technician who was a member of APO. She asked for help, charging the hospital with discrimination—speaking. In the process of verifying her claim, APO found that, although the hospital was located in a community where 14 percent of the population was Spanish-speaking, there was only a token number of Latinos on the payroll. We, together with other community groups and some predominantly Latino parishes, began a campaign demanding that the hospital hire more Latinos. Many demonstrations were organized. Eventually some labor lawyers helped initiate a class action suit against St. Luke's Hospital. At this moment, employment of Latinos in the hospital has increased significantly.

A&P: In 1977 after receiving numerous complaints from Latinos, APO discovered that less than 4 percent of the A&P workforce was Latino. APO and other Pilsen community organizations campaigned to demand more jobs for Latinos in the Chicago area A&P stores. After a protracted struggle A&P reached an agreement with a coalition of Pilsen community organizations, increasing the number of Latinos at A&P to more than 15 percent. A&P further agreed to include Latinos in their Managerial Training Program.

Greyhound: In 1980, APO began campaign against the Greyhound Busline Corporation's long history of employment discrimination against Latinos, especially against Latinos wanting to become bus drivers. (Our research showed there was only one Latino among the 300 Greyhound drivers in Chicago.)

When APO first approached Greyhound with our demand that they hire Latino bus drivers, Greyhound denied any discrimination, claiming, instead, that few Latinos were interested in working for Greyhound. APO replied to this claim by presenting Greyhound with a large number of driver applicants from Latinos as well as applicants for other job categories.

In its struggle against Greyhound, APO gained the support of civil rights agencies such as the EEOC and national organizations such as the League of United Latin American Citizens (LULAC) and the Mexican American Legal Defense * * *. In November 1980, Greyhound agreed to come to the Latino community to review applicants for bus operators and assured APO that 50% of its bus driver trainees for 1981 would be Latinos and promised a similar percentage in subsequent classes, agreeing further, that this arrangement would be in effect until Latinos represented 20 percent of Greyhound drivers.

Streets and Sanitation: As a result of the activities of a city-wide Latino Coalition (of which APO was a member), a number of jobs on the Streets and Sanitation Department of Chicago were allocated for Latinos.

Thus, when the Department of Streets and Sanitation contacted community organizations in 1980 to announce that they had temporary openings for Latin workers, APO and other organizations, established counseling services to assist workers in making the transition to these new job opportunities.

Jewel: When Jewel began constructing a store in the Pilsen area in 1980, APO decided the time had come to challenge Jewel's discriminatory hiring policies against Latinos. APO was able to organize a coalition with three other local organizations that was able to negotiate an agreement with Jewel on the hiring of Latinos at the new store.

At first, Jewel would only promise the coalition that ⅓ of the new jobs would be given to Latinos. But later, following several public meetings and after APO mobilized more than 300 young Latino applicants, Jewel agreed that 145 of the 189 new employees would be Latino, bringing the store's total Hispanic workforce to approximately 50 percent of the total.

Thus after 6 months of negotiations and struggle, APO had again succeeded in securing jobs for a significant number of Latinos. By its own example and through the building of coalitions, APO has been able to provide effective and much needed leadership in uniting different forces in the community to more effectively fight for affirmative action.

People's Gas: In May of 1981 the campaign against People's Gas began, and by the end of the year 25 Latinos were hired in what the company called a sign of good faith.

These are only some of the campaigns that APO has organized in its struggle for more jobs for Latino workers. Others, to list a few, are in the construction trades and Post Office.

APO achieved all of these, relying solely on volunteer work by its members until 1980 when an organizer was hired with funds provided by the Chicago Campaign for Human Development.

ORGANIZATIONAL STRUCTURE

In organizational structure, APO's base is its membership, whose activities are directed and coordinated by a staff working in conjunction with a Board of Directors. APO is a volunteer community organization, hence, its members all subscribe to the ideals and goals of the organization.

The other component of the Organizational structure, is the Board of Directors. The Board members are elected every two years for their positions by vote of the membership at the annual meetings of the APO General Assembly. The Board meets every week to discuss the issues, problems and activities of the organization.

The third component of the structure is the Staff. Individually and collectively, the Staff is responsible for maintaining the office in operating order, attending meetings on different issues, participating in community forms and other functions, doing the necessary research for campaigns, raising funds for the organization, informing the members of developments pertaining to APO, doing follow-ups on past campaigns, and implementing the decisions made by the members at the General Assembly.

Since 1982 the Association has responded to many requests for solidarity with workers fighting to save their jobs and to protect their union contracts. And because of our experience and reputation in the community, APO has been asked to help unemployed workers throughout the city to organize in order to find solutions to their basic needs and problems.

PROJECT OBJECTIVE

Association Pro-Derechos Obreros/Association for Workers' Rights (APO) tries to contribute to the economic development and urban revitalization of the Pilsen community through the rehabilitation of the Smyrna Temple.

It is envisioned to make the building into a viable social and cultural center, that will increase the touristic attractions that the community already has.

At the present, APO is in the process of spinning-off a development corporation which would undertake the rehabilitation, management and operation of the building. It is expected that the procedures will be completed by December of 1984.

Statement: Association Pro-Derechos Obreros will spin-off a development corporation to undertake the rehabilitation and management of the Smyrna Temple. It is planned that all the incorporation procedures will be completed by the end of the present fiscal year.

The rehabilitation of the building will have a multiple impact on several of the most severe problems this community is facing right now: a) unemployment and b) the low educational attainment, besides of having other effects as described below:

JOBS

(a) During the Rehab process, 150 construction jobs (skilled and semi-skilled) will be created.

(b) Once the rehab process is completed, there will be a need for 15 full time employees, to form the new corporation's regular staff. It is estimated that other 15 people would be hired on a part-time basis.

REVITALIZATION OF THE PILSEN COMMERCIAL STRIP

Preliminary studies on the rental possibilities of Smyrna Temple show that there would be a significant demand for renting space at this location. Private schools, social services agencies, artists, and professionals were interviewed in the survey. The concensus is that they foresee business conveniences by moving into the building. Practically, a 90% occupancy is assured if the building is renovated. This situation would enhance the commercial opportunities located around the area.

Pilsen is already a touristic attraction because of its murals, architectural values, and its good restaurants. The building, with its cultural events and constant art exhibits, would increase the number of tourists. This also would capture more money poured into the area.

EDUCATION

As shown in the 1980 census data, this community has one of the lowest levels of educational attainment in the city. Part of the two multi-purpose halls of the building can be used to host training programs which would further the education and marketable skill of the residents.

CULTURE

At the present time, there is no place or center in the city of Chicago, where Latino artists can exhibit their work periodically and a systematic way. The Latino population has no place where they can appreciate multiple representation and expressions of their rich cultural heritage. The building would have enough space to hold several exhibits simultaneously, in addition to housing other social and cultural activities.●

WASTED HEALTH CARE DOLLARS

● Mr. WELLSTONE. Mr. President, the current issue of Consumer Reports contains a very informative and timely article entitled "Wasted Health Care Dollars." In view of our continuing consideration of legislative proposals for health care reform, and as a part of our continuing education on this subject, I ask that this article be included in the RECORD.

The article follows:

[From Consumer Reports, July 1992]

WASTED HEALTH CARE DOLLARS

This report examines the forces behind the current crisis in health-care costs. The next two reports in this special series will look at the possible solutions.

One approach to cost control, pioneered by health maintenance organizations, is to "manage" medical care in detail. The management can include such practices as restricting patients to a single primary-care doctor who must approve all specialist referrals; penalizing doctors who order too many tests or procedures; and preapproving elective hospitalizations. In our next report, we'll rate HMOs and examine how well managed care actually contains costs.

Another approach is to set overall spending limits and stick to them, while otherwise leaving doctors and hospitals to practice as they see fit. That's what other industrialized countries, including Canada, do in various ways. Part three of our health-care series, scheduled for the September issue, will take a close look at the Canadian system, among others, and will analyze the criticisms that have been leveled against it by U.S. health-care providers and insurers.

Finally, we'll outline the health-care reform proposal that Consumers Union favors as providing the best combination of universal access, quality care, and cost containment.

Of the $817-billion that we will spend this year on health care, we will throw away at least $200-billion on overpriced, useless, even harmful treatments, and on a bloated bureaucracy. We are no healthier than the citizens of comparable developed countries that spend half what we do and provide health care for everybody. In fact, by important measures such as life expectancy and infant mortality, we are far down the list.

If the wasted money could be redirected, the U.S. could include those now shut out of the system—without increasing the total outlay for health care and without restricting the availability of $100,000 bone-marrow transplants or $40,000 heart operations to those relatively few who need them.

I can't imagine a system that's more dysfunctional than the one we have now—more expensive, not doing the job, with more waste," says Dr. Philip Caper, an internist and medical policy analyst at Dartmouth Medical School. Although the total amount of waste in our health-care system is difficult to estimate, researchers have now examined many of the system's components, with consistent results. For a wide range of clinical procedures, on average, roughly 20 percent of the money we now spend could be saved with no loss in the quality of care. By restructuring the system, we could also save almost half of the huge amount we now spend on administrative costs (see "The $200-Billion Bottom Line," page 436.) A more efficient system would also make it much easier to detect health-care fraud—a problem that the U.S. General Accounting Office has estimated to cost tens of billions of dollars a year.

While these facts are well known to students of the health-care system, they've been remarkably absent from the debate that's developing over health care in this election year. Politicians and lobbyists for health-care providers have presented the public with a daunting choice: If we want to provide every American with access to health care, they say, we'll either have to pay much more into the system or accept lower-quality medical services.

However, such scenarios assume that the current price structure for medical care, and the current patterns of treatment and hospitalization, will remain fixed. They needn't, and they shouldn't. Our health-care system is so inherently wasteful and inefficient that a complete overhaul is an option worth contemplating. It may, in fact, be the only option that makes sense.

The waste in the system comes from many sources. We receive a great deal of care that we don't need at all. The care we do need is delivered inefficiently. And the futile effort to control a runaway system has created a huge bureaucracy that by itself sucks up more than a hundred billion dollars a year.

30 YEARS OF INCREASES

By now, it's hardly news that health costs have spiraled out of control. Health care now consumes about 16 percent of state and local tax revenues. In the years since 1986, private businesses have spent about as much on health care as they earned in after-tax profits. For small businesses, insurance has become unaffordable; three of four concerns employing 10 or fewer people simply don't provide health benefits. At any given time, roughly 35 million Americans—most of them employees of small businesses or their dependents—have no health coverage at all.

Over the last 10 years, Government and private business, appalled to health care absorbing an ever-growing portion of their revenues, have tried to get a grip on its costs in various ways. But costs have risen as fast as ever. "As quickly as payers patch the system up, the providers find the spaces between the patches," says Maryann O'Sullivan, director of Health Access, a California consumer coalition.

Our health-care system doesn't just allow prices to rise—it practically demands that they do. Although some recent reforms have had a modest effect, the system has traditionally allowed doctors to order whatever procedures they want, and has paid both doctors and hospitals whatever they think they should get.

In both respects, the American system stands alone in the developed world. Though the particulars of their systems differ, Canada, Japan, and the Western European countries all have adopted universal, standard payment schedules set by direct negotiation with doctors and hospitals. In addition, most have set an overall ceiling on national medical expenditures. As a result, not a single developed country other than the U.S. devotes more than 10 percent of its gross national product to health care. The U.S. broke that barrier in 1985; this year, the nation will spend 14 percent of the GNP on health.

It wasn't always so. Back in 1960, the U.S. spent a modest 5.3 percent of its GNP on health care, about the same as other industrialized nations like Canada or Germany did at the time. What changed everything was the advent in 1965 of Medicare, which ultimately had implications far beyond the over-65 population it served.

Before Medicare, private insurance companies covered the population less extensively than they do today. All the insurers left treatment completely to the doctor's discretion and provided reimbursement for any test or treatment a physician ordered. But because a large percentage of people had only hospital coverage, and no insurance to cover doctors' bills, physicians tended to keep fees at affordable levels.

In 1965, Congress enacted Medicare, the vast, Government-financed program of social health insurance for the elderly, along with the less extensive Medicaid program, in which the Federal Government shares costs with the states. In order to overcome the powerful, sustained opposition of doctors and hospitals to what they called "socialized medicine," Congress made a fateful—and, in retrospect, very expensive—decision. Under Medicare, all doctors were paid on the basis of their "usual and customary" fees for a given service (the system that Blue Shield was already using).

This approach, which allowed each individual physician to name his or her own price, soon became universal throughout the insurance industry. So as more and more employers began offering major-medical plans that covered doctors' bills, they bought into a system with no effective constraints on costs. Predictably, doctors' fees began a rapid upward climb.

Hospitals profited as well. Under Blue Cross, which had dominated hospital insurance, hospitals were paid only a daily room charge, plus additional fees for various services, tests, and supplies. Under Medicare, however, the hospitals were not only able to collect their actual charges; for the first time, they were allowed to build the cost of capital improvements into their rates. Hospitals, which had been receiving Federal subsidies for growth since the late 1940s now got another incentive to expand.

After Medicare, U.S. health-care expenditures turned more sharply upward. For a time—perhaps a decade or more—no one seemed to notice or care. But over the past 10 years or so, as costs have become truly staggering, the system has begun to change. Medicare has set limits on physicians' fees for several years, and private insurance companies have begun reviewing many procedures doctors perform before they will pay for them. Medicaid budgets have been steadily cut back, to the point where many states now pay doctors and hospitals less than the cost of delivering care.

Experience has shown, however, that attempts to manage the health-care system a piece at a time are likely to fail. Physicians and hospitals can charge their privately insured patients more to make up for Medicare's fee restrictions. And doctors and patients alike have resisted efforts by insurance companies to determine what is appropriate and necessary treatment, having grown used to a system that has provided as much medical care—to the insured population, that is—as anybody wants.

NO SENSE OF LIMITS

Having operated for years under a system that sets virtually no limit on what can be done or what can be charged, both doctors and patients have been seduced by the idea that, when it comes to treating sickness, it's necessary to do "everything."

"We want more. We want more time with the doctor. We want more procedures. We want more pills," says Randall Bovbjerg, a health-policy analyst at the Urban Institute in Washington, D.C. "We can't sit and watch the course of a cold; we go and buy tons of things we aren't even certain will make it better."

"Imagine if we sold auto-purchase insurance and said, go and buy whatever car you want and we'll pay 80 percent of it," says James C. Robinson, a health-care economist at the University of California, Berkeley. Under those conditions, a lot of people would go buy a Mercedes.

Much of the time, physicians will order more tests and procedures out of a genuine desire to do whatever they can for their patients. "Doctors look at one patient at a time and think, 'If I've done one thing, what else can I try?'" says Ann Lennarson Greer, a medical sociologist at the University of Wisconsin. "They're not inclined to think about overall costs." Several studies, in fact, have asked doctors if they knew the costs of hospital tests and services they routinely ordered—and found many had only a vague idea at best.

But while extra tests and treatments drive up the cost of medical care, they may do so with no real benefit to the patient. New diagnostic technologies, in particular, are especially likely to be overused; unlike surgery or invasive procedures, they "don't require the clinician to take any real risk," Greer says. Thus, the use of computerized tomography (CT) and magnetic resonance imaging (MRI) scans, two expensive, relatively new imaging technologies, has grown explosively in recent years. Yet no one has clearly defined when they are useful and when they are a waste of time and money.

"The original CT scanner provide to be an absolute revolution in the treatment of patients with head injury," says Dr. Mark Chassin, a physician who is senior vice president of Value Health Science, a private firm that analyzes the use of health-care services. "We produced hundreds of these things and they got out in the community. They were used for people with head trauma—terrific—but they also were used for people with headaches, dizziness, and all sorts of other vague symptoms." Diagnostic imaging, says Dr. Chassin, is a prime example of how "we continue to invest in technology in an absolutely irrational way."

THE LAW OF INDUCED DEMAND

Medical care is totally unlike services delivered by other professionals. When clients hire an architect or a lawyer, they generally know what they need and roughly how much it's going to cost. But in medicine, physicians make virtually all the decisions that determine the cost of care. The patient, ill and uninformed, is in no position to do comparsion shopping—nor motivated to, if insurance is paying the bill.

And the more doctors do, the more they get paid—a situation that's tailor-made for cost escalation. "It's the easiest thing in the world to increase the volume [of things a doctor does]," says Dr. Philip Caper, the Dartmouth internist. "Just do a few more tests. There's always a rationale. Schedule three doctor visits instead of two, and reduce the time you spend on each visit."

The creation of medical "need" by those who then profit from it is called induced demand, and it's rampant. Most obvious is the problem of "self-referral," in which physicians will refer patients for treatment at facilities in which they have a financial interest. In Florida, where at least 40 percent of physicians have such investments, a study by professors at Florida State University found that physician-owned laboratories performed twice as many tests per patient as independent labs. Similarly, in a study of private health insurance claims records for more than 65,000 patients. University of Arizona researchers found that doctors who had diagnostic imaging equipment in their offices ordered four times more imaging exams than doctors who referred patients elsewhere for the tests.

Occasionally, self-referral can turn into actual fraud. A recent report by the General Accounting Office—which estimated that fraud may account for as much as 10 percent of all health-care costs—cited several examples in which self-referral had been abused. In one California case, the owners of mobile medical laboratories allegedly gave kickbacks for referrals to physicians who sometimes use phony diagnoses. The case, which is still being investigated, involves an estimated $1 billion in fraudulent billings.

In other cases, however, physicians may increase the demand for their services without even being aware of it. When it comes to American medical care, supply seems to create demand almost automatically. Actuarial studies have shown that in areas with the greatest supply of physicians, people simply go to the doctor more often.

If more physicians create more demand for medical care, we can look forward to a flood of it in the near future. The per capita supply of practicing physicians is expected to increase 22 percent between now and the year 2000.

The phenomenon of induced demand applies to hospitals, too. Dr. John Wennberg, a physician who is professor of family and community medicine at Dartmouth Medical School, was curious as to why people in Boston went to the hospital more frequently than people in New Haven. When he studied the problem, he found a simple answer. Boston has more hospital beds to be filled—one-third more than New Haven on a per capita basis.

Surprisingly, Dr. Wennberg found that physicians in Boston and New Haven were completely unaware of the discrepancy. When he asked doctors in New Haven whether they felt their area was short of hospital beds, they said they didn't. In fact, at any given time, about 85 percent of hospital beds in New Haven were filled—precisely the same percentage as in Boston.

The likely explanation, according to Dr. Wennberg, is that physicians almost unconsciously will refer their patients to the hospital if space is available, stopping only when the local hospitals' capacity is nearly used up. If many beds are empty, doctors will be more likely to refer patients with borderline conditions, such as gastroenteritis or acute low back pain, for which hospitalization is optional but not imperative. By doing so, of course, they drive up the cost of care.

AS UNNECESSARY BURDEN

With so many incentives to overtreat patients, it seems inevitable that a sizable fraction of American medical care must be simply unnecessary, if not downright harmful. But how large a fraction? In the late 1970s and early 1980s, researchers at the Rand Corp., a think tank in Santa Monica, Calif., began to find out.

Using an elaborate process for developing a consensus among nationally recognized medical experts, the Rand team came up with an agreed-upon list of "indications" for various procedures. They then checked the actual medical records of thousands of patients who had received the procedures, to see whether they had been treated appropriately. The definition of "appropriate" care was starkly simple: Based on the patient's condition and expert opinion, the likely benefit of the procedure must have been greater than the risk involved in doing it.

Even with their elaborate analysis, the Rand researchers were not able to tell in every case whether a given procedure had been appropriate or not. They divided their cases into three groups: Those where the procedure had been "appropriate," those where it was "inappropriate," and those where its use was "equivocal," the largest group. Despite this degree of uncertainty, however, Rand found clear evidence of inappropriate overtreatment. Among the results:

Of 1,300 elderly patients who had an operation to remove atherosclerotic plaque from the carotid artery, nearly one-third—32 percent—didn't need it.

Of 386 heart bypass operations, 14 percent were done unnecessarily.

Of 1,677 patients who had coronary angiography—an X-ray examination of blood flow in the arteries nourishing the heart—17 percent didn't need it.

So striking were the results that Rand's methods for determining appropriateness have since been put to commercial use. Value Health Sciences, which now employs some of the original Rand researchers, has extended the methodology to several dozen high-volume medical procedures. A number of major insurance companies and health maintenance organizations now use this program to flag unnecessary procedures.

Value Health's results confirm the original Rand findings. Its review system has found very high rates of unnecessary usage for certain procedures: hysterectomy, 27 percent unnecessary; surgery for an uncomfortable wrist ailment called carpal tunnel syndrome, 17 percent; tonsillectomy, 16 percent; laminectomy, a type of back surgery, 14 percent. Similar results have come out of studies done by other investigators, who have examined procedures from preoperative laboratory screening (60 percent unnecessary) to caesarean section (50 percent unnecessary) to upper gastrointestinal X-ray studies (30 percent unnecessary).

THE UNCERTAINTY PRINCIPLE

Physicians can inadvertently contribute to the cost of unnecessary medicine even when they have only their patients' best interest in mind. Lay people tend to think of medical care as a straightforward proposition: For Disease A, prescribe Treatment B. That's not the way it is in real life. To practice medicine is to be afloat in a "sea of uncertainty," says Dartmouth's John Wennberg.

Every symptom can be investigated by a huge array of tests; for many diseases, physicians have a wide range of treatment choices. And doctors often base their choices as much on folklore and intuition as on science.

"Doctors really hate risks," says Ann Lennarson Greer, the Wisconsin sociologist. "They have certain procedures that seem to work for them, and they'd prefer to keep doing them, especially in areas where there's a lot of uncertainty."

This innate conservatism is reinforced by the isolation in which most doctors practice, says Greer, who has spent more than a decade studying why doctors and hospitals behave as they do. A physician can spend his or her entire career within a single referral network, based at a single hospital. These local colleagues, Greer has found, are the principal influence on a physician's decisions about how to diagnose and treat diseases or whether or not to adopt new technology. But they may not be the most reliable source.

A phenomenon called "small area variations," which was discovered by Dr. Wennberg early in his career, is a striking demonstration of just how unscientific medical practice really is. In the late 1960s, he had moved to Vermont to work as a health administrator and educator. Once there, he soon stumbled across a curious geographic pattern to a common operation, tonsillectomy.

"In Stowe, the probability of having a tonsillectomy by age 15 was about 70 percent," Dr. Wennberg recalls. "If you lived in Waterbury, over the hill from Stowe, it was about 10 percent." Indeed, there turned out to be a 13-fold difference in the local rates of tonsillectomy between the most and least surgery-happy Vermont communities he studied.

Medical uncertainty and the isolation of doctors largely explain those bizarre disparities. Dr. Wennberg discovered that doctors in Stowe, who talked mostly to each other, believed that if you didn't take tonsils out early, they'd become chronically infected and cause no end of trouble. Doctors in Waterbury, who didn't talk to the doctors in Stowe, held the opposite (and, as it turned out, correct) viewpoint: If left alone, most kids with frequent sore throats would eventually outgrow them.

This phenomenon turned out to be true of a lot more things than tonsillectomies. In Portland, Me., Dr. Wennberg found, 50 percent of men had prostate surgery by the age of 85; in Bangor, just 10 percent did. The rate of heart surgery was twice as high in Des Moines as it was in nearby Iowa City.

Subsequent studies by a number of researchers, working throughout the country, have shown that the use of all kinds of medical procedures varies dramatically from region to region. In fact, Dr. Wennberg has found the only procedures that don't show such variations are those few for which there is basically only one accepted treatment, such as hospitalization for heart attack or stroke.

INEFFICIENCY EXPERTS

The waste in the system goes far beyond the provision of unnecessary care. Even when medical treatments are necessary, they're frequently done with no regard for efficiency.

Milliman and Robertson, a Seattle-based consulting firm, advises hospitals and other health-care organizations on ways to cut costs without compromising the quality of care. The firm's actuaries and physicians have examined thousands of individual medical records to develop guidelines on how long patients should stay in the hospital for such common conditions as childbirth or appendectomy—provided they're in generally good health and have no complications. Applying those guidelines to actual current records from a dozen urban areas across the country, the firm's actuaries concluded that 53 percent of all hospital days weren't necessary, including all the days spent in the hospital by the 24 percent of patients who didn't need to be there in the first place.

As a private, commercial firm, Milliman and Robertson is in business to identify overuse for its clients, and might have a bias in favor of finding what it's paid to find. However, other studies by academic researchers have also found high rates of inappropriate hospitalization. A recent Rand Corp. review of published studies, most of which used data from the early and mid-1980s, estimated that 15 to 30 percent of hospital use was unnecessary.

The current rates of unnecessary hospitalization are difficult to estimate, since the system is in flux. The overall number of hospital days per thousand Americans—a standard measure of hospital utilization—has dropped over the last decade, in response to efforts by Medicare, health maintenance organizations, and private insurers to contain costs. But there are still large regional variations in hospital use, suggesting that waste still exists in the system.

Past experience shows it's possible to lower the number of days people spend in the hospital with no ill effects. In 1984, Medicare created financial incentives for hospitals to discharge patients as soon as possible, and not to admit them at all unless strictly necessary. The incentives worked; in two years, the average number of in-patient days per Medicare recipient fell 22 percent.

That sharp decline apparently had no real impact on the health of the patients involved, according to several statistics. The rate at which discharged patients need to be readmitted to the hospital shortly after leaving—an important index of low-quality care—has actually gone down for Medicare patients since 1984. Some care that used to be provided in the hospital can now be done at home, at much lower cost.

A MEDICAL ARMS RACE

Despite the efforts over the past decade to keep the costs of hospitalization down—by limiting hospital admissions, length of stay, and in-patient costs—our national hospital bill continues to rise. In 1990, hospitals soaked up 38 percent of national health expenditures (twice as much as doctors) and collectively earned a profit of $7 billion. Hospital administrators have proven how nimble health-care providers can be in getting around virtually any effort to rein them in.

For many years, hospitals expanded at a rate well beyond the national need, with the Government's help. During the 1950s and into the 1960s, the Federal Government provided subsidies to build new hospitals, and a decade later, Medicare allowed hospitals to pay for their capital improvements by charging higher fees. The result was a spate of hospital-building that had little relationship to clear community needs. New facilities and new wings were built, beds needed to be filled, and the law of induced demand kept them occupied—imposing a high cost on the health-care system and providing a high profit for the hospitals themselves.

When Medicare started to crack down on costs in 1984—paying hospitals a fixed fee to take care of each patient, based on his or her diagnosis—the hospitals reacted swiftly. Fewer Medicare patients were admitted, and those that were admitted stayed in the hospital for a shorter time. But the hospitals compensated by boosting their out-patient, psychiatric, and rehabilitation services, for which Medicare had set no cost limits. Although charges for hospitalization dropped, the costs for those other services ate up those savings, and more.

Hospitals also stepped up their efforts to attract privately insured patients to make up for the money they were losing on Medicare and Medicaid. Having built the capacity for many more beds than the nation needs, hospitals now tried to fill them—and to fill them with patients who had generous insurance policies and needed lots of medical services. "Hospitals make money by delivering services," explains William Erwin, who is a spokesman for the American Hospital Association. "If you don't need much done to you, the hospital isn't going to make money on you."

Attracting patients to a hospital isn't the same as attracting customers to a new restaurant or hardware store. Consumers decide on their own when and where they want to eat out or buy some drill bits. When they're sick, their doctors decide when and where to hospitalize them. So hospitals must market on two fronts: They must appeal directly to privately insured patients, and they must keep their admitting doctors happy.

To induce physicians to admit patients, hospitals resort to everything from first-year guaranteed incomes to subsidies for initial practice expenses. The effort pays off. In 1990, according to an annual survey by Jackson and Coker, an Atlanta physician-recruiting firm, the average doctor generated $513,000 in in-patient hospital revenue.

Another way to keep doctors happy is to provide them with state-of-the-art medical equipment. As a bonus, hospitals can then tout their up-to-date technology directly to consumers. Uwe Reinhardt, a Princeton University health economist, likes to paint the following scenario in his lectures:

"Imagine that you're a young couple in Chicago, stuck in a traffic jam in the Loop, and you see a billboard that says: 'Mount Sinai: The Cheapest Place in Chicago, Have Your Baby Here.' then you go on and you see another billboard that says, 'Holy Mercy: The Only Place with a Glandular Schlumpulator, Have Your Baby Here.' Where are you going to go?"

Some regulatory efforts were made in the 1960s and 1970s to restrain hospitals from acquiring excessive amounts of expensive technology, with mixed success. In any case, Federal support for the effort was discontinued during the Reagan years. The rationale was that "unleashing competition" among hospitals would allow the free market to operate and help keep the cost of medicine down.

The irony, though, is that competition actually drives costs *up* where hospitals are concerned. The hospitals gain no competitive advantage by controlling costs, since their customers—doctors and patients—don't pay for their services anyway. Instead, hospitals compete only on the basis of perceived quality, and end up vying to see which one can secure and promote the newest well reimbursed technology, whether the technology is needed or not. Several hospitals in an area may have their own neonatal intensive care units, MRI machines, or cardiac care centers, when only one would serve the population equally well (see "The Cardiac Money Machine," page 446). This year, despite the recession, hospitals plan to increase spending on new equipment by 15 percent, according to a survey by Shearson Lehman Brothers.

To attract the well-insured population, hospitals also provide amenities that have nothing to do with actual health care but add to the bill, including cable TV, private rooms and baths, gourmet menus, and the like. Baylor University Medical Center in Houston spent $18 million on the Tom Landry Sports Medicine and Research Center, complete with 7,000-square-foot dressing rooms lined with oak lockers, and a 10-lane pool with underwater computerized video cameras used to analyze its patrons' swimming strokes.

Hospitals have also become more and more consciously concerned with projecting an upscale image that they hope will bring in an affluent clientele. Entries in a recent contest held by the Academy of Health Services Marketing, an organization of hospital marketing executives, reveal the new focus. For instance, the Southern Regional Medical Center in suburban Atlanta got Rosalynn Carter to endorse its maternity service after her grandchild was born there—as part of a successful campaign "to increase gross revenue . . . by marketing to a target market of insured, higher-income women, ages 25–49," according to the contest submission.

The trend is troubling, because there's clear evidence that the total cost of health care rises in areas where many hospitals begin to compete for the same pool of well-insured patients. Health economists James C. Robinson and Harold S. Luft of the University of California, Berkeley, examined data from 5,732 hospitals nationwide, and found that costs per admission were 26 percent higher in hospitals that had more than nine competitors within a 15-mile radius. In a smaller-scale study by 747 hospitals, they found that those in competitive areas allowed patients to stay in the hospital longer after surgery—something that tends to please both patients and doctors, but with high cost and no clear medical benefit.

MORE SPECIALISTS, HIGH COSTS

Just as American hospitals lead the world in high-priced technology, American physicians are heavy purveyors of expensive treatments and diagnostic tests—and reap great personal rewards for using them. Doctors in the U.S. earn much higher incomes relative to their fellow citizens than do doctors in other countries. According to figures from the Organization for Economic Cooperation and Development, in 1987 U.S. doctors earned 5.4 times more than the average worker. In Germany, the multiplier was 4.2; in Canada, 3.7; and in France, Japan, and the United Kingdom, 2.4.

Historically, the highest fees have gone to doctors who perform concrete procedures, such as surgery, endoscopy, or diagnostic imaging. So-called evaluation and management services—in which doctors may examine and question the patient and prescribe a treatment, but don't actually do a specific procedure—haven't paid nearly as well.

In 1990, for instance, internists charged a median of $110 for a comprehensive office visit for a patient they hadn't seen before, according to a survey by Medical Economics magazine. Such a visit involves taking a medical history, doing a physical examination, and talking with the patient about his or her current condition. It can take up 45 minutes of the doctor's time. By contrast, the same survey found internists charged a median fee of $126 for spending 10 minutes to examine the bowel with a flexible fiberoptic device called a sigmoidoscope.

While individual physicians have great leeway in deciding what they will charge for a given procedure, insurance companies have established computerized databanks that help them determine whether or not the fee is "usual and customary" for that procedure. By this standard, a doctor whose fees are at the very top of the local scale may not receive full reimbursement. But there's no track record of cost for new procedures. With the help of medical specialty societies and the AMA, physicians have secured very high rates of reimbursement for new treatments.

"When something is in development, it's new, it's experimental, only a few physicians use it, there's some risk involved, and the price gets set accordingly," explains Joel Cantor, a program officer at the Robert Wood Johnson Foundation. "Then the technology diffuses and gets easier to use. More physicians get good at it. But the price never goes down."

The classic example is the extraction of cataracts and implantation of artificial lenses in the eye. This undeniably useful technology was introduced in the early 1980s and became a standard procedure by the end of the decade. During that time, however, many ophthalmologists became wealthy by charging $2000 or more for a cataract extraction that could be done in about an hour.

Primary-care physicians, such as general internists, family practitioners, and pediatricians, don't do procedures like that. Instead, they spend their days in office visits, which have long-established, and thus lower, "usual and customary" fee profiles.

As a result, their incomes are much lower than those of specialists. In 1990, the median income for general family practitioners was $93,000, and for pediatricians, $100,000, according to the American Medical Association's annual survey. Median income for surgeons and radiologists, on the other hand, was $200,000. Senior specialist can earn much, much more. Cardiovascular surgeons in group practice averaged about $500,000 in 1990, according to a study by the Medical Group Management Association.

Medical-school students, who must pick a residency program in their senior year, are painfully aware of these economic distinctions. In addition, they're trained in an academic environment that has long rewarded specialists with prestige and research grants. Young physicians, who leave medical school with a huge debt load, are increasingly turning to specialization. Overall, about one-third of the U.S. physicians are in primary care. But among 1987 medical school graduates who have now completed their internships and residencies, only one-fourth have gone into primary care, according to data from the Association of American Medical Colleges.

A fed-up Ohio family doctor, responding to a survey by his professional society, the American Academy of Family Physicians, summarized his feelings this way: "Why both with 60- to 70-hour work weeks, constant phone calls, all night emergency room visits, poor reimbursements, demanding patients, the need for instant exact decisions . . . concerning a million possible diseases, when you can 'specialize' in one organ, get paid $500 for a 15-minute procedure, only need to know a dozen drugs and side effects, and work part time?"

Do we really need our luxurious quantities of cardiologists, dermatologists, neurosurgeons, and urologists? Other countries get along fine with about a 50–50 ratio between primary-care doctors and specialists. The evidence is that we could, too.

A team from the New England Medical Center recently looked at patients who got their usual care from primary-care physicians (internists or family doctors) or from specialists (cardiologists and endocrinologists). The groups were not identical; the specialists tended to have older patients with more medical problems. But even after that difference was factored in, the specialists ran up higher bills, on average, than the primary-care doctors. They put more patients in the hospital, prescribed more drugs, and performed more tests. Yet an analysis still in progress appears to show that the two groups of patients had similar health outcomes.

The medial profession itself acknowledges the imbalance. The principal professional journal for internists, the Annals of Internal Medicine, said in a 1991 editorial: "Given the number of subspecialists already in practice, there are not enough highly specialized cases to go around. . . . We cannot continue to practice this way when cost containment is the dominant health policy issue of our times."

This year, Medicare began an effort to even out the economic imbalance between primary care and specialty physicians. The new program, known as the Resource-Based Relative Value Scale (RBRVS), is essentially a standard, national fee schedule, adjusted for geographic variations in the cost of practice. It increases the reimbursement for evaluation and management services, and greatly reduces the reimbursement for procedures. Physicians, however, may find a way around this constraint, as they have around others. For one thing, doctors can always simply raise their fees for privately insured, non-Medicare patients—although some private insurance companies may eventually adopt a version of the RBRVS fee schedule.

Since the mid-1980s, doctors have also manipulated the reimbursement system by "unbundling" services—that is, charging for two or more separate procedures instead of one. For instance, instead of billing $1,200 for a hysterectomy, a doctor can collect $7,000 by billing separately for various components of the operation. Commercial services conduct seminars to teach doctors how to maximize reimbursement in this way. But unbundling can cross the line into outright, prosecutable fraud, according to the General Accounting Office's health-care fraud report.

SUPPLIER-SIDE ECONOMICS

Just as the providers of care have profited hugely over the years, so have those who supply the providers—the pharmaceutical companies and the makers of medical equipment and devices. They can charge top prices for their products, secure in the knowledge that the system will reimburse them. The pharmaceutical industry has been one of the nation's most profitable industrial sectors; it operates with an average profit margin of 15 percent and has given an average annual return to investors of 25 percent over the last decade.

Companies that latch on to new medical technologies can also earn huge profits. In spite of the current hand-wringing over health-care reform, health-care stocks as a group increased in value by fully 50 percent in 1991.

"A lot of people in health care are making a lot of money," says Stephen Zuckerman, a senior research associate at the Urban Institute in Washington, D.C. "They're not unhappy with the current system."

Curiously, the debate over health-care costs in the U.S. tends to assume that the cost of drugs and medical technology is immutably fixed. But international comparisons demonstrate that this needn't be so. In Japan, for example, the national fee schedule pays $177 for a magnetic resonance imaging (MRI) exam, compared with an average charge of about $1,000 in the U.S. Pharmaceutical prices, which vary widely from country to country, are also significantly higher in the U.S. than anywhere else.

NOTHING FOR SOMETHING

As costly as it is, our health-care system might be worth its price if it somehow ended up making us healthier than people in other countries. But it doesn't.

Of the 24 industrialized nations making up the Organization for Economic Cooperation and Development (OECD), the U.S. spends more than twice as much on health per capita as the average. And it devotes a far greater percentage of its gross national product to health care than any other country. Yet the other OECD countries—with the exception of Turkey and Greece, by far the poorest of the group—all have roughly as many doctors and hospitals per capita as we do.

As for health status, of the 24 OECD countries, the U.S. ranks: 21st in infant mortality, 17th in male life expectancy, 16th in female expectancy.

Dr. Barbara Starfield of the Johns Hopkins School of Public Health compared the U.S. with nine industrialized European nations in three areas: the availability of high-quality primary care, public-health indicators such as infant mortality and life expectancy, and overall public satisfaction with the value of health care. In all three areas, the U.S. ranked at or near the bottom.

The problem, simply put, is that the system is geared to providing the services that can earn physicians and hospitals the most money—not the ones that will do the public the most good. The U.S. has four times as many $1.5-million magnetic resonance imaging devices per capita as Germany does. But at the same time, the U.S. system shortchanges the basic, low-tech care that has, over the years, proven effective at preventing disease.

The poor and uninsured are most likely to suffer from the imbalance. During the 1980s, while American hospitals were failing all over themselves to add costly, high-tech neonatal intensive-care units, the number of mothers unable to get basic prenatal care climbed, as did the incidence of premature births.

In most states, Medicaid now pays nowhere near the actual cost of delivering care; hospitals lose money on their Medicaid admissions. As a result, many doctors and some for-profit hospitals refuse even to accept Medicaid patients.

People with no insurance at all fare even worse. A group from the University of California, San Francisco, for example, looked at the hospital care given to sick newborn babies in the state's hospitals in 1987. Even though the uninsured babies were, on the average, the sickest group, they left the hospital sooner than insured babies and received fewer services while they were there. The Rand group has also shown that when California cut back on Medicaid coverage a decade ago, the health of people who lost their coverage declined dramatically.

"We've been sucked into believing that if we have a national health program, we're going to have rationing," says Dr. Philip Caper of Dartmouth. "The answer is, we have rationing already. Ask somebody who lost their health insurance, or can't get a bone-marrow transplant because they're on Medicaid. If that isn't rationing, what is?"

Hospitals that serve the poor and uninsured are suffering as well. The success of private hospitals in attracting well-insured patients has put an increasing burden on the public and not-for-profit hospitals still willing (or required) to accept all comers. A 1990 survey of 277 public and teaching hospitals found that 38 percent sometimes held patients overnight in the emergency room because no regular beds were available; 40 percent had turned away ambulances because of overcrowding.

Hospitals in California have even shut down their trauma centers as a way of barring the door against uninsured patients. "Hospitals find themselves jockeying for geography," says Bettina Kurowski, a vice president of St. Joseph Medical Center in Burbank, which closed its trauma center when its annual losses hit $1.5-million and threatened the financial survival of the hospital as a whole. "If you can be promised service areas that include freeways, and therefore get trauma cases covered by auto insurance, you can break even. If you don't include freeways, mostly you get penetrating [gunshot and stab wound] trauma, and those patients by and large don't have insurance."

RED TAPE AND RED INK

Ultimately, our cumbersome, inequitable system of reimbursement raises the costs for all of us—insured and uninsured alike—and causes problems for physicians as well. "In order to preserve the mirage of a private system, we've created the most bureaucratic, regulated system of any in the world," says David Mechanic, director of the Institute on Health Care Policy at Rutgers University.

A key characteristic of the U.S. system is its obsession with making sure that patients get only what their insurance entitles them to, and nothing more. That means, for instance, that hospitals must keep meticulous track of everything used by a particular patient, down to individual gauze sponges or aspirin tablets—all adding to administrative costs. More important, the burden of dealing with multiple forms from a huge number of insurance companies requires a lot of clerical manpower.

Increasingly, too, doctors and hospitals have to answer to Government and private review panels that evaluate many aspects of the care they offer. Government reviewers work to ensure that Medicare and Medicaid patients are not being undertreated, while private insurers want to make sure that their patients are not being overtreated.

Hospitals in the U.S. spend fully 20 percent of their budgets, on average, on billing administration—compared to only 9 percent for Canadian hospitals. To run a health plan covering 25 million people, Canada employs fewer administrators than Massachusetts Blue Cross, which covers 2.7 million.

Our nation's more than 1200 private health-insurance companies add to the red tape by the necessary maintenance of their underwriting, marketing, and administrative staffs. This overhead consumed an average 14 cents out of every premium dollar in 1990, according to the Health Care Financing Administration.

Private physicians, too, have been forced to hire extra office help to cope with the ever-enlarging demands of third-party review, regulations, and paperwork. Drs. David Himmelstein and Steffie Woolhandler, internists at Harvard Medical School who are prominent critics of the U.S. health-care system, have calculated that the average office-based U.S. physician employs twice as many clerical and managerial workers as the average Canadian doctor. Dealing with the bureaucracy has become so intrusive that doctors have developed a name for it: the "hassle factor."

Dishonest physicians have also taken advantage of the system to bilk insurance companies. According to the General Accounting Office report: "This complex system itself becomes an impediment to detecting fraud and abuse * * * a physician who bills for more office visits than can reasonably be performed in a day, for example, may not be detected if the billing is split among several payers."

Drs. Woolhandler and Himmelstein, who favor a Canadian-style system, have calculated that about 20 percent of U.S. health-care spending goes for administrative costs: insurance overhead, hospital and nursing administration, and physicians' overhead and billing expenses. Not surprisingly, the private health-insurance industry says this estimate is too high. However, industry representatives decline to offer their own figure.

Universal coverage and uniform fee schedules enable other countries to avoid most of the administrative expense of the U.S. system. The single-payer Canadian system, where all health-care costs are ultimately paid by the Government, devotes about 10 percent of expenditures to administration. The General Accounting Office calculates that if the U.S. were to adopt a single-payer Canadian-style system, we would save about $70-billion a year in insurance overhead and the administrative costs to doctors and hospitals.

ENOUGH FOR ALL

No matter what corner of the health-care system is examined—hospital costs, clinical procedures, administrative expenses—at least 20 percent seems to represent waste or inefficiency. If the system could be redesigned to get rid of this excess, it could, in effect, provide 20 percent more necessary service without costing any more than it does now.

Granted, devising a totally efficient system would be difficult, if not impossible, to accomplish. However, there is easily more than enough excess spending in our current system to take care of the roughly 14 percent of the population who are not currently under any public or private insurance plan.

In future issues of CONSUMER REPORTS, we'll examine the different options for health/care reform. But it's already clear that the ideal health care system for American consumers, whatever it turns out to be, will have to be radically different from the wasteful, patchwork system that governs our health care today.

To date, no one has come up with a comprehensive price tag for the cost of unnecessary medical care, overpriced procedures, and inefficient administration in the U.S. health-care system. After extensive review of the literature, however, we believe that $200-billion is a conservative estimate of the amount the health-care system will waste this year. Here's why.

Of the $817-billion projected to be spent on health care this year, about one fifth—$163-billion—will go for administrative costs. Except for a fraction of a percent spent on research, the rest—roughly $650-billion—will go to actual patient care. Physician and hospital services together make up most of that total, with the rest going to dentists, nursing homes, drugs, and various other expenses.

By our estimates, at least 20 percent of that $650-billion, or $130-billion, will be spent on procedures and services that are clearly unnecessary.

Many researchers have now attempted to quantify the rate at which specific procedures are used unnecessarily. Twenty percent represents a rough average of the rates found in major studies, and is a figure that several leading researchers in this field told us was a good approximation for the rate of unnecessary care.

Twenty percent also seems to be a conservative estimate of the rate of unnecessary hospital days, even though changes in Medicare and private-insurance policies make it difficult to estimate that number precisely.

Finally, as Dr. John Wennberg of Dartmouth and his colleagues have demonstrated repeatedly, the rate at which physicians use a given procedure can vary four- or five-fold between one location and another. The supply of hospitals and physicians also varies greatly. Except in extreme cases where people lack access to basic medical care, people living in low-use or low-supply areas seem to be just as healthy as those in high-use or high-supply areas.

Dr. Wennberg and his colleagues argue that areas with abundant doctors and hospitals could provide significantly fewer health-care services without harmful consequences. Similarly, the high rates of procedures done in many areas could be cut back without overall harm. This sort of adjustment happens automatically, they note, in industrialized countries that control costs by capping the amount of money available for health care.

If overuse of medical services wastes $130-billion a year, administrative inefficiency adds about $70-billion. Projecting from 1991 estimates by the General Accounting Office, the U.S. could save roughly $70-billion this year by switching from our fragmented and inefficient insurance system to a single-payer system—one in which all citizens receive health care from private doctors and hospitals that are paid by a single insurance entity. The savings would come roughly equally from insurance-company overhead and hospital and administrative costs.

Adding those two figures together—$130-billion plus $70-billion—gives an estimate of $200-billion for the annual waste in the U.S. health-care system. This estimate, however, leaves out several important elements: Physicians' fees and the cost of technology, drugs, and procedures. If those costs were brought into line with reimbursement standards in other countries, the savings would be greater.

Moreover, we have not added in the cost of outright fraud—a factor that the General Accounting Office estimates could eat up a full 10 percent of the total health-care budget.

Some physicians cheat the system by ordering unnecessary tests and procedures—a type of fraud that is included in our estimates of unnecessary care. Other types of fraud, however, would not have been caught in the studies of unnecessary care that have been done. These include billing for services never rendered, falsifying reimbursement codes to collect more than the usual payment for a service and submitting inflated bills for supplies and medical devices.

Since we have not counted the cost of these fraudulent practices—or of the high price scale for health-care providers in the U.S.—our $200-billion figure is truly a minimum estimate.

MEDICAL RED FLAGS—IS THIS TREATMENT NECESSARY?

Over the past decade or so, an entire industry has sprung up to identify overused and unnecessary medical treatments. The players range from academic researchers to policy analysts to private entrepreneurs that have insurance companies as their clients.

Some treatments, by virtue of their cost or their ubiquity, have attracted particular attention from the watchdogs. These treatments, listed below, are hardly the only sources of unnecessary care in the system. Nor, of course, does a procedure's presence on the list mean that it is always used unnecessarily—or even that that is usually the case.

Nevertheless, if your physician does suggest that you have one of these procedures, you'd be well advised to think twice. You might want to seek a second opinion, if possible, or question your doctor closely on the possible alternatives to the suggested treatment.

Cesarean section. About one in four U.S. births is completed surgically, a rate that may be twice the ideal. In this country, obstetricians routinely perform cesareans when the baby is breech, or for the vaguely defined diagnosis of "prolonged labor" or "fetal distress." Hospitals that have systematically set out to eliminate unnecessary cesareans have cut their rate at least in half without any apparent risk to mothers or babies. (See Consumer Reports, February 1991.)

In recent years, the electronic fetal monitor, a device for tracking the fetal heart rate during labor, has come to be used routinely in American hospitals—and has contributed to the high cesarean-section rate. Since abnormal fetal heart rates are associated with oxygen deprivation, it was assumed that prompt, automatic detection would enable doctors to intervene early enough to prevent fetal brain damage—for example, by performing a cesarean section on the mother.

But since the fetal monitor's introduction, no fewer than nine comparative studies, involving tens of thousands of women, have failed to demonstrate the hoped-for benefit. Monitored women do have a higher rate of cesarean sections and other costly interventions. But their babies fare no better than those of women monitored by the traditional means, in which a nurse simply checks the fetal heartbeat periodically with a stethoscope.

Hysterectomy. After cesarean section, this is the second most common major surgery in the U.S. Value Health Sciences, a firm that applies the Rand Corp.'s methodology for insurance-industry clients, calls 27 percent of hysterectomies unnecessary, the highest percentage of all procedures it evaluates. Rates of hysterectomy also vary greatly throughout the country, an indication that physician practice and preference play as much of a role as objective need in the decision to perform the operation. Many gynecologists still routinely recommend hysterectomy for fibroids, uterine prolapse, and heavy bleeding; alternative treatments are available for all three conditions. (See Consumer Reports, September 1990.)

Back surgery, Value Health Sciences has reported that 14 percent of proposed laminectomies, the most common type of back surgery, are unnecessary. Occasionally, some material from ruptured disc will press on spinal nerves and cause disabling or painful symptoms that require surgical correction, says Dr. Charles Fager, a neurosurgeon at the Lahey Clinic in Burlington, Mass. But usually, back pain yields to bed rest, the passage of time, physical therapy, or a combination thereof. "I only operate on one out of every 25 or 30 people I see," say Dr. Fager. Some surgeons aren't so finicky. Dr. John Wennberg of Dartmouth Medical School has traced sudden "epidemics" of back surgery to the arrival of a new neurosurgeon in a locality.

Magnetic resonance imaging. This powerful new imaging technique, which produces detailed pictures of internal organs without exposing the patient to radiation, is still so new that doctors are working out its best uses. In the process, they'll inevitably use it when they don't need to. Some groups of physicians have invested in MRI machines, creating the added temptation to profit by referring their patients for the test. Also, because MRI is virtually risk-free, it's especially likely to be overused as a defensive measure.

Experts stress that MRI procedures which cost about $1000 apiece, should be ordered only when a patient's symptoms suggest he or she may have a condition that cannot be diagnosed definitively in any other way.

Prostate surgery. Dr. Wennberg and his colleagues at Dartmouth have shown that surgery for noncancerous enlargement of the prostate is among the most variable of procedures. They have also look closely at what happens to men who get the surgery and those who don't. For many men, medical therapy can relieve symptoms. For others, putting off surgery isn't particularly dangerous, though the urinary obstruction caused by the condition can be uncomfortable.

When patients in a health maintenance organization were fully informed in advance of the risks and benefits of surgery, in a study that Dr. Wennberg designed, 80 percent of men with severe urinary symptoms chose to postpone the operation.

Clot-busting drugs. These drugs, when administered within four to six hours of the onset of a heart attack, can break up the blood clot blocking the coronary artery and thus greatly reduce the damage to the heart muscle. The largest comparative study done to date, of 41,000 patients worldwide, has found that all currently available clot-busting drugs are about equally effective in preventing fatal heart attacks—but one, streptokinase, has the lowest incidence of the most dangerous side effect, cerebral hemorrhage.

Of the two drugs used in the U.S., streptokinase also happens to be by far the cheaper—about $200 per dose compared to $2000 per dose for its genetically engineered competitor, tissue plasminogen activator (TPA). Nevertheless, TPA commands a majority of the U.S. market, apparently thanks to aggressive marketing by its manufacturer, Genentech.

For a person having a first heart attack, there's no reason to be treated with the more costly drug. Second treatments with streptokinase, however, are unsafe, since the first treatment can set up the mechanism for an allergic response to any future injection.

THE "CRISIS" THAT ISN'T—MALPRACTICE: A STRAW MAN

Ask physicians to explain why the cost of health care goes up continually, and you're likely to hear complaints that the U.S. malpractice system encourages unnecessary "defensive" medical care. The public seems to have bought this argument. In a recent survey, CONSUMER REPORTS subscribers guessed that malpractice tied with hospital costs as the biggest factor driving the cost of health care.

Is malpractice such a villain?

It's true that malpractice costs are higher in the U.S. than in other countries. And in the mid 1980s, malpractice claims—and, accordingly, insurance premiums—did take a sharp upward swing. There was much talk then of a malpractice "crisis." But that crisis now seems to have abated, as have previous ones. Malpractice is a cyclical phenomenon: Periodically, the incidence of claims rises, then falls back.

At the moment, malpractice claims have been in one such downswing. The rate of claims has declined steadily since the peak of the last "crisis" in 1985. So have malpractice insurance premiums. In 1990, according to Medical Economics magazine's annual survey of physicians, doctors' malpractice premiums on average consumed only 3.7 percent of their practice receipts—although the percentage may be double that for high-risk (and high-paid) specialties, such as obstetrics, surgery, and anesthesiology. The U.S. Department of Health and Human Services puts the total cost of malpractice at less than 1 percent of total health outlays.

But then, no one argues that the direct cost of malpractice insurance is the main factor driving up the cost of care. Instead it's assumed that physicians, fearing malpractice suits, are forced to practice "defensive medicine" just to protect themselves in the event of a lawsuit.

Defensive medicine undoubtedly exists, and doctors themselves feel that the threat of malpractice forces them to do more tests than are truly necessary. But quantifying the cost of defensive medicine is a slippery matter. The American Medical Association made a stab at it in the 1980s, and decided that the total cost of medical malpractice, including premiums and defensive medicine, was about 17 percent of physicians' earnings.

However, the AMA estimate was based on physicians' own reports of what they considered defensive practices, such as doing more diagnostic tests, sticking with the safest possible treatments, telling patients more about treatment risks, and keeping more complete records.

As that list suggests, one problem with defining defensive medicine—let alone measuring it—is that it's difficult to distinguish from care delivered for other reasons. Is a doctor doing an unnecessary test out of fear of a lawsuit, or because the medical culture values doing "everything," or simply to reassure an anxious patient? Did an obstetrician perform an unnecessary caesarean for legal protection, for scheduling convenience, or to earn a higher fee?

"You mostly get anecdotes when you're talking about defensive medicine," says Randall Bovbjerg, an analyst at the Urban Institute in Washington, D.C., who has worked on several malpractice studies.

That's not to say there isn't a malpractice crisis, however. "The greatest single problem about malpractice is that there's a lot more of it out there than anyone is dealing with," says Bovbjerg. "Patients are getting avoidable injuries and no one is stopping it."

Documentation for Bovbjerg's claim comes from a study conducted by Harvard University researchers for the state of New York. The researchers reviewed a random sample of New York hospital records in 1984 and found that 3.7 percent of patients suffered "adverse events," slightly more than one-quarter of which could be attributed to actual negligence.

Of those who suffered negligent injuries, only about one-eighth ever filed malpractice claims, and only about one-sixteenth ever recovered any damages. Conversely, the study found many cases in which patients filed malpractice suits with no clear evidence of negligence.

Costs aside, the current malpractice system is at best only an imprecise means of controlling the quality of medical care.

HIGH-TECH COMPETITION—THE CARDIAC MONEY MACHINE

People with heart and circulatory diseases, the leading causes of death in the U.S., have benefited enormously from medical and surgical advances over the past two decades. Until the late 1960s, doctors couldn't do much more than give them a little nitroglycerin or digitalis in the hope of extending their lives moderately. Then came coronary bypass surgery, the first great treatment advance, in which blood vessels from elsewhere in the body are used to bypass diseased coronary vessels and restore more blood to the heart muscle. Next, in the 1980s, came balloon angioplasty, in which a balloon attached to a catheter is passed into the narrowed coronary vessel and inflated to crush the blockage against the wall of the coronary artery.

The last decade has also brought new drugs to dissolve blood clots, to right irregular heartbeats, and to treat heart failure and high blood pressure; new imaging techniques; implantable electronic devices; and as a last resort, new methods of heart transplantation.

All this, together with changes in diet and exercise habits, has had a dramatic effect. The death rate from heart disease in the U.S. has dropped roughly by half since 1950.

But the improvement has come at a very high cost. New technologies are expensive technologies, and the cardiac field is no exception. Coronary bypass surgery, for example, can easily run $30,000 or more for a single operation.

"It is just well-paid by everybody; even Medicare pays handsomely for it," says Ann Lennarson Greer, a medical sociologist at the University of Wisconsin. "The hospitals are crazy about bypass. Even if they're six blocks from a major heart center, they think they can't afford not to be in on it. People who get coronary problems, namely middle-aged men, tend to be among the best-insured people in our society."

(Uninsured patients may simply not get these costly procedures. One national survey found they were 39 percent less likely than the insured to get coronary angiograms—X-rays to evaluate the heart's blood supply—and 29 percent less likely to have bypass surgery.)

A GROWING PROFIT CENTER

Just how lucrative the cardiovascular field is was revealed in a 1990 report prepared by the Advisory Board Company, a Washington-based consulting firm, for its hospital clients. The report concludes that nearly one-quarter of all hospital revenues come from cardiology-related business, and of that, more than 80 percent comes from just four procedures—cardiac catheterization, angioplasty, bypass surgery, and heart-valve surgery. Not surprisingly, cardiovascular surgeons bring in the most revenue per in-patient hospital admission of any specialty—$10,942 in 1989, more than twice the average doctor's rate—according to an annual survey by Jackson and Coker, an Atlanta-based physician-recruiting firm.

The profit margins are as impressive as the revenues, according to the Advisory Board report: 70 percent for catheterization, 37 percent for angioplasty, and 40 percent for bypass, compared with overall profit margins for hospitals of less than 4 percent. And, to top it all off, the number of cardiac diagnostic and treatment procedures performed in the U.S. has been growing at an average annual rate of 12.7 percent.

The Advisory Board report uses a real, though unidentified, hospital to illustrate the profit potential. Wanting to increase its cardiology market share, the hospital invested $3-million in state-of-art equipment for catheterization and open-heart surgery. The improved equipment (and additional support staff) attracted 25 new cardiologists to the hospital, who brought in hundreds of new patients for catheterization, angioplasty, and bypass. Within two years, the extra business has repaid the entire upfront investment and was adding $1.8-million a year in profits to the hospital's bottom line.

This sort of return on investment has caused hospitals to look increasingly to cardiovascular care to fill their empty beds. In 1980, according to the Advisory Board report, there were 382,000 cardiac catheterizations performed in the U.S. and 340,000 treatment procedures, including bypass, angioplasty, valve surgery, and pacemaker implantations. By 1988, the volume of catheterizations had grown to 965,000 and the volume of procedures to 930,000.

Were all those procedures really necessary?

DOCTORS' DILEMMAS

The treatment of heart disease is a classic example of the way in which medical uncertainty produces variable, unnecessary care. Treatments for heart disease are advancing so rapidly that there's often little consensus on what to do or when to do it. What symptoms require a coronary angiography exam? Should a person with mildly uncomfortable angina and blockages in one or two vessels stick with drug treatment, or undergo angioplasty? If angioplasty has failed once, should it be repeated or should the patient get a bypass operation?

Medical journals are filled with debates on those questions. In the meantime, physicians must make daily treatment decisions with little guidance on which course is preferable—but knowing that they will be financially rewarded for ordering the maximum intervention.

Writing in the Journal of the American Medical Association, Dr. Thomas N. James of the University of Texas, Galveston, put it this way: "The same physician who decides whether a diagnostic or therapeutic procedure is to be done is too often also the one who does the procedure, interprets the findings (and decides whether additional procedures are indicated), and is paid for each step of the way. This is not to say that such physicians are unskillful or that their decisions are necessarily made on the basis of personal gain, but the temptation is inescapably there."

Under those circumstances, it would be surprising if unnecessary procedures were not being done. The evidence is that they are:

A study of pacemaker implantations in Philadelphia hospitals found that 20 percent were unnecessary and another 36 percent were problematic.

A San Diego team found that, among patients who'd been hospitalized with mild heart attacks, 40 percent of those who got angiograms didn't need them. In addition to running up a bill ranging from $2,000 to $3,500, these patients were put at a slight risk of complications from the procedure itself.

A team from Brigham and Women's Hospital in Boston examined the need for bypass surgery among 88 patients for whom it had been recommended. They advised against surgery for 74 of the 88. Among those 74, 60 accepted the second opinion and didn't have the operation. Over a follow-up period of more than two years, there were only two subsequent heart attacks, neither of them fatal, among this group—an outcome comparable to that of people who receive angioplasty or coronary bypass surgery.

RISKY MEDICINE

Despite findings like these, competitive and financial pressures conspire to encourage hospitals to build even more cardiac-care units. Consider the case of Manchester, N.H. Until 1985, Manchester residents who needed open-heart surgery had to travel to Boston or to Hanover, N.H., to get it. That year, a Manchester hospital, Catholic Hospital Medical Center, opened the first local open-heart surgery service. Within one year, the rate of heart surgery among residents of Manchester more than doubled.

What could explain the immediate jump in volume? An analysis by the Codman Research Group, a private health-care consulting firm, found that before the local program started, 90 percent of bypasses done on Manchester residents involved the transplantation of three or more arteries—a sign of serious and extensive disease. By 1988, however, over half the operations were single or double bypasses.

"They were clearly operating on less severely ill patients," says Dr. Philip Caper, Codman's chairman and a professor at Dartmouth Medical School. "The hooker is, nobody really knows whether they were better off. Some doctors think most single bypasses should almost never be done, because the risk is more than the benefit."

While coronary bypass can be lifesaving, it is an extremely traumatic procedure involving stopping and cooling the heart, hooking the patient up to a heart-lung machine, then restarting the heart. Handling an operation of this complexity requires a skilled and coordinated surgical team. That's why studies have repeatedly demonstrated that hospitals performing fewer than 150 open-heart procedures a year have higher death rates than those that perform more. In addition to driving up health-care costs, hospitals joining the cardiac gold rush may actually be putting their patients at serious risk.

That was the case in Phoenix in 1985, when the state of Arizona, in the spirit of deregulation, decided to abdicate its authority to control the introduction of new open-heart surgery programs. At that time, four Phoenix hospitals provided open-heart surgery. Almost immediately, seven more began programs. A computer-aided study of Medicare records performed by the Phoenix Gazette and the University of Arizona found that in the first year of deregulation, the local death rate from heart surgery increased by 35 percent. The average cost of the procedure, meanwhile, rose 50 percent.•

ORDERS FOR TOMORROW

Mr. BUMPERS. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m., Wednesday, July 29; that following the morning prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein for up to 5 minutes each; and that at 10 a.m. the Senate proceed to the consideration of H.R. 776, the energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 9:45 a.m., Wednesday, July 29, 1992.

Therefore, the Senate, at 10:53 p.m., recessed until Wednesday, July 29, 1992, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1992:

DEPARTMENT OF STATE

WALTER SCOTT LIGHT, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ECUADOR.

THE JUDICIARY

KATHRYN H. VRATIL, OF KANSAS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF KANSAS, VICE EARL E. O'CONNOR, RETIRED.

CAROLYN P. CHIECHI, OF MARYLAND, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER SHE TAKES OFFICE, VICE ARTHUR L. NIMS, III, RETIRED.

DAVID LARO, OF MICHIGAN, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE, VICE JULES G. KORNER, III.

EXTENSIONS OF REMARKS

PROF. LEWIS BRANSCOMB AND HARVARD BUSINESS REVIEW READERS CRITIQUE TECHNOLOGY POLICY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. BROWN of California. Mr. Speaker, the importance of the Government as a partner in improving the competitiveness of our Nation's industries is an increasingly central concern of American businesses. U.S. firms must operate in an environment in which international challenges permeate our economy, accelerating the speed of technological change, and expanding the scale and scope of the resources and expertise required to remain competitive. This is an environment in which our firms must have access to state-of-the-art practices and technologies to remain competitive. Working to meet these challenges, U.S. firms are often handicapped by the fragmentation of many of our industries and by difficulties in gaining and incorporating knowledge about the latest processes and products. One area in which there has emerged a strong argument for an active Government role is in improving and advancing the technological infrastructure that serves our Nation's industries.

The importance of this challenge was highlighted in recent issues of the Harvard Business Review [HBR]. Lewis Branscomb, former chief scientist at IBM, former Director of the National Bureau of Standards—now the National Institute of Standards and Technology—and current director of the Science, Technology and Public Policy Program at Harvard University's Kennedy School of government, has argued for a fundamental rethinking of our approach to policies affecting technology. In his article, "Does America Need a Technology Policy," in the March–April 1992 issue of HBR, Professor Branscomb notes that—

> The issue isn't whether the United States should have a technology policy—it already does—but what kind of Government policies and programs make sense in the new competitive environment.

He notes that—

> Instead of concentrating on the "supply" of new technologies, government should stimulate "demand" for innovative ideas by helping companies across the industrial spectrum speed up the commercialization of good ideas to meet specific business needs. This can be done by encouraging collaborative research among companies and between industry, universities, and government labs; by investing in the technological infrastructure on which all innovation is based; and by helping develop the tools and techniques that all companies need to be more productive.

In the subsequent May–June 1992 issue of HBR, responses to Professor Branscomb's article from 18 industrial representatives, analysts, and academics were published in "Technology Policy: Is America on the Right Track?" These responses reflected a remarkable consensus that reinforced Professor Branscomb's thesis, also arguing for thoughtful, strategic technology policy, developed in close collaboration with industry, that would bridge structural weaknesses that handicap our firms.

Many of these very concerns are being addressed in the National Competitiveness Act of 1992 (H.R. 5231) and the American Technology Competitiveness Act of 1992 (H.R. 5230). The former is legislation that was introduced by Mr. VALENTINE, chairman of the Subcommittee on Technology and Competitiveness, and was recently reported out of the Committee on Science, Space, and Technology. The latter is a broader legislative package that I introduced.

In these bills, we are moving toward the development of a more effective technology infrastructure through programs that strategically complement the activities of the industry, addressing needs that industry has identified. The formation of manufacturing outreach programs, of a computer network that will link the Nation's manufacturing extension offices, the greater coordination of technology policy with substantial industrial advice, and the enhanced support of advanced, technology-based programs, such as the Advanced Technology Program of the Department of Commerce, are among the provisions of these bills which have been well received by the industrial community.

A review of the National Competitiveness Act of 1992 has been provided by the central actor in the technology policy debate in the Harvard Business Review, Lewis Branscomb. In a recent hearing before the Subcommittee on Technology and Competitiveness, Professor Branscomb submitted a detailed assessment of the bill and endorsed each of its principal provisions. He reaffirms that two key weaknesses in national competitiveness that would be effectively addressed by the bill, (1) the national underinvestment in infrastructural technology, and (2) the need for the more effective diffusion of technical knowledge and skills.

The legislation proposed in H.R. 5231 and H.R. 5230 would make real and timely contributions to the long-term growth of our Nation's economy. Because of his insightful discussion of the need for this legislation, I would like to submit excerpts from Professor Branscomb's testimony to the CONGRESSIONAL RECORD.

EXCERPTS FROM THE TESTIMONY OF PROF. LEWIS BRANSCOMB

In 1971 the Secretary of Commerce told the Congress the government had to react to the competitive threat from abroad to our high technology industry:

"The magnitude of the problem is such we cannot rely upon normal forces to maintain our advantage in technology. We have recognized this fact in space, defense, and atomic energy areas. Other trading nations have recognized it in the area of civilian R&D and have taken steps to assist technological development. If we are to maintain our advantages in this area we must first of all accept the idea that it has become a proper sphere of governmental action."

This testimony did not come form a left-leaning advocate of "industrial policy;" it came from a conservative advocate of private enterprise and limited government, Mr. Maurice Stans, President Nixon's Secretary of Commerce. In the fifteen years since I served as Director of the National Bureau of Standards under Mr. Stans, forward looking Americans from both political parties have been looking for ways to convert U.S. leadership in science and engineering into better jobs and more competitive firms. This legislation represents a major step down that path.

Titles 1-6 of H.R. 5231 deal directly with science and technology; that is, they are concerned with microeconomic issues. I will focus on these titles this morning. But I want to acknowledge that macroeconomic policy, particularly tax and investment incentives such as those in Title VIII and some of those in the minority's bill H.R. 5229 are important to competitiveness too. The problem with macro policies is that they tend to be much more expensive than more tightly targeted and managed S&T activities, particularly since most of the technology policy innovations I favor can be done within the current total government R&D budget by managing defense conversion as called for in section 941.

The other alternative to S&T programs is trade policy. Too many Americans look to trade policy as a surrogate for technology policy. The President's trip to Japan is a very unfortunate demonstration of the failure of this approach. Our competitive challenge is with imported products on the store shelves here at home. Only measures to make American industry more productive and innovative will, in the long run, protect American workers from imported products of lower cost and higher value.

Some people debate whether the government should even have a "technology policy," even though America has had such a policy ever since World War II. For the first 20 years after the war that policy was based on government initiated investments in technology for defense, space and atomic energy, together with government funding of strong basic research in universities and national labs. Private industry had little difficulty fending for itself in a world of little competition. This policy served American interests very well. The trouble is, the old de facto policy is now obsolete.

Dr. Bromley recognizes that fact, for he is the author of the Administration's "U.S. Technology Policy", published by the White House and sent to the Congress on Sept. 26, 1990. It is not a bad policy as far as it goes, as it emphasizes technology diffusion and utilization as well as R&D. The Administration's fiscal year 1993 budget request has a number of initiatives that are quite commendable, proposing to double the budgets of

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

both NSF and NIST. But the Administration is still nervous about declaring its clear intention to use the $70 billion the government spends on R&D a lot more effectively in pursuit of a strong economy, which is the source of the nation's security and a rising standard of living.

The policy we have been pursuing for the last 40 years needs bold revision. Here's why:

(1) Americans are losing confidence in the value of basic scientific research and of the universities in which it is conducted. Why? Because the public found out that the best science in the world is no guarantor of economic success if government and the private sector do not do enough to help Americans create, find, adapt, and use technology to good advantage. Trickle down doesn't work with science any better than it works with wealth. But a strong technology strategy will create equally strong demand for a leading position in science as well.

(2) To improve the competitive advantage of our manufacturing companies the government should invest in the kinds of technology that matter in commercial competition, and stop relying so heavily on defense and space spinoff and trickle down. Agencies have been investing billions in "megaprojects" in the mistaken expectation that if we spend enough money on technology for government missions, the "spin off" of technology to commercial firms will substantially enhance their competitiveness. As Linda Cohen and Roger Noll point out, the biggest government engineering projects almost inevitably create a captive constituency which then blocks the changes needed to keep such projects economically justified. Sylvia Ostrey calls this process "winners picking governments." Well managed big-science projects can, of course, be valuable for science, for defense, and for national pride. But improving competitiveness calls for more decentralized actions, such as those proposed in this bill. These actions should focus on access to technology and more effective use of technology in tens of thousands of small to middle sized firms.

(3) If U.S. commercial firms can't match Japanese costs, quality, and speed to commercialization, we should not ask Defense agencies or Defense companies to tell them how. The Defense department will have its hands full keeping its technology strong despite decreasing budgets. The military services' problems will be to get access to the world's best commercial technology. They should be sharing with commercial firms the cost of developing dual use technology both can use. If they do, both the economy and our security will be strengthened. Recommendations by the Carnegie Commission to broaden DARPA's mission to include dual use technology explicitly have been into legislation by Senator Bingaman. But as the legislation points out, effective capabilities to address commercial technology needs must be developed in the civil agencies.

(4) Competitiveness depends primarily on manufacturing cost and quality and the speed with which a firm can react to customer needs and exploit a new scientific advance. In short, a competitiveness strategy must address technologies for design, production processes, manufacturing and quality assurance—not just research and product development. The Committee's legislation correctly focuses on these "downstream" areas of technical performance, but the traditional U.S. non-military policy does not. Few of the government's mission-oriented programs involve manufacturing in high volumes, place a high premium on the lowest possible costs, or are intended to respond very quickly to changes in both product and process.

The responsibility for generating and using technology to support economic competitiveness is primarily the responsibility of private industry. Seventy percent of U.S. R&D is performed by private firms, although government pays for half the R&D in America. Depending on whether a firm's technology is for commercial, military, or environmental use, the firm sees government pursuing laissez-faire policies, running a command economy, or forcing technology through regulations. It is increasingly anomalous that government insists on invoking three different and incompatible economic paradigms for technology generation, depending on whether the purpose of the technology is to meet military, commercial, or environmental markets.

The rationalization of these increasingly contradictory paradigms leads to two conclusions:

(a) The U.S. must have a well integrated industrial technology base that supports all of the nation's priority needs, encouraged by a public policy that serves those needs in a consistent manner. Progress in modern, science-based engineering depends increasingly on a publicly supported infrastructure of technical knowledge, skilled people, tools, materials, and facilities. Between the realms of basic science and proprietary technology there lies a large domain of public-good technology. Firms under-invest in this "infrastructural technology" because of low appropriability of the benefits.

(b) Economic performance rests primarily on how well the society uses existing technology, acquires skills, and scientific understanding. It follows, then, that the government's technology policy must give much greater emphasis to the diffusion of technical knowledge and skills. The primary elements of a diffusion strategy are: aggregating, evaluating, communicating, and absorbing non-proprietary information. The primary mechanisms are through education, mobility of technical personnel, and networks (both facilities and institutions) for promoting cooperation and sharing. Collaboration between the states and federal resources, especially for industrial extension services, is particularly important.

H.R. 5231 is consistent with this approach.

A TRUCK IS A TRUCK: SUPPORT THE MISCELLANEOUS TARIFF BILL

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. HUNTER. Mr. Speaker, later this week, when it considers H.R. 4318, the miscellaneous tariff bill, the House will have an opportunity to correct a 1989 Treasury Department ruling which overturned a Customs classification decision on multipurpose vehicles [MPV's].

As my colleagues are aware, the Customs Service studied the MPV issue for a year, and determined that all sport utility vehicles and minivans were properly classified as trucks rather than passenger cars.

The Treasury Department overturned this decision, replacing it with one which makes no sense—based on the number of doors a vehicle has and the presence or absence of rear side windows. It was a decision which resulted from intense foreign lobbying, and it should not stand.

Earlier this week, a number of my colleagues joined me in circulating a "Dear Colleague" letter urging that the Congress uphold the original Customs Service decision by supporting enactment of H.R. 4318. We also wrote to the President urging that he support the legislation.

Today, I would like to insert into the RECORD, a February 1989 memorandum from the Deputy Commissioner of Customs to the Deputy Secretary of the Treasury urging that the Customs ruling be confirmed in full.

The Deputy Commissioner, following a tour of a Toyota plant, made a very compelling argument on behalf of the Customs Department position: "It is clear that the Forerunner is a truck, built in a truck factory, built on a truck chassis, built on a truck assembly line."

Mr. Speaker, a truck is a truck. And we have an opportunity to make that crystal clear when we consider H.R. 4318 later this week.

At this point, I would like to insert in the RECORD, a copy of the 1989 Customs Service memorandum. I urge my colleagues to read it:

U.S. CUSTOMS SERVICE,
Washington, DC, February 15, 1989.

To: Deputy Secretary McPherson.

Thru: Assistant Secretary for Enforcement and Operations Commissioner of Customs.

From: Deputy Commissioner of Customs.

Subject: Classification of Vehicles.

On February 15, 1989, I had the opportunity to visit a Toyota manufacturing plant in Japan. Information obtained in that visit is pertinent to the decision on the classification of vehicles under the Harmonized Tariff System. Based on this visit, the accuracy of Customs classification is confirmed. Customs' classification of each of Toyota's vehicles is exactly the same as Toyota's—absolutely no difference. The factory we visited was manufacturing pickup trucks and Forerunners.

While we were cordially welcomed by Toyota, it was very clear that they did not want us to visit the Forerunner/pickup truck plant. Every effort was made to discourage us. They claimed the assembly line was in disarray, in changeover, not fully operating, in conversion to the 4-door model, etc. The real reason for not wanting us to see became clear soon after arrival; i.e., we saw a totally integrated truck-manufacturing facility, totally segregated from automobile and station wagon manufacture.

While it is accurate to say that Forerunners and pickups are produced in the same factory, it is more precise to say they are produced on the same assembly lines—the 4-door Forerunner included. Line after line included 2-door and 4-door Forerunners intermingled with pickup trucks. The integration of the Forerunner with the pickup truck was virtually complete.

The factory engineer pointed out these differences between the 2 vehicles and the processing:

The finish on the Forerunner is superior because it is "designed for the transport of people"!

The back seat folds flat so it will be "more comfortable for persons to sleep."

The rear-wheel suspension is heavier to "carry heavy luggage."

It is clear that the Forerunner is a truck, built in a truck factory, built on a truck chassis, built on a truck assembly line. It is hoped that this argument is not too simple in contrast to the complex and novel argument contrived by foreign manufacturers' representatives based on meeting notes, purposely deceptive information, and their own vivid imaginations. A brief visit provides striking and shocking confirmation of Customs' ruling.

A visit to the Toyota Headquarters was equally enlightening. You asked at our last meeting if we could develop a continuum from vehicles clearly designed "principally for the transport of persons" and those clearly designed for the "transport of cargo." Toyota itself has developed this continuum and classification system, in its internal literature, documentation, and working documents throughout its organization. On a huge 2-story wall, each Toyota vehicle is displayed on 2 large charts. On the left side of Chart 1 is each sedan and station wagon. On the left side of Chart 2 is each minivan, sport utility vehicle, and truck. The classification by Toyota is identical to that of Customs. The attached chart provides some small idea of the wall display. An even more dramatic representation will be delivered to you next week. Time did not permit additional visits. However, on the basis of evidence gained at Japan's largest manufacturer of motor vehicles, the accuracy, indeed perfection, of the Customs' ruling is confirmed.

Mr. Rohde accompanied me on this visit, and will be available to confirm and elaborate on our findings next week. If you are not completely convinced at this point to confirm the Customs' ruling in full, it is respectfully requested that you delay the decision until you have had the opportunity to be briefed by Mr. Rohde in more detail. This visit to Toyota's manufacturing plant was to Baltimore Harbor what lighting is to the lightning bug. In the meantime, I remain your man in Japan.

FATHER JEROME HOLTZMAN'S PRAISE OF AMERICA

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. JOHNSON of Texas. Mr. Speaker, I have known Father Jerome Holtzman of Watertown, SD, for many years, and I was so impressed by a guest editorial that he wrote for the Watertown Public Opinion on our great democracy that I want to see it reach a wider audience. It's his view, and mine that, even despite all of our problems, America still serves as a beacon of freedom to the rest of the world. In all the depressing news about the economy, we sometimes forget what a wonderful country that we have, and what America means to the people of the world. I believe it contains much wisdom, Mr. Speaker, and I commend it to you:

DEMOCRACY AT WORK AND AT PLAY—A VIEW FROM THE OUTSIDE

(By the Rev. Jerome Holtzman)

(Editor's Note: Today's Guest Editorial was written by the Rev. Jerome Holtzman, the new pastor of the Holy Name Catholic Church. Rev. Holtzman recently returned to the United States after serving six years as a missionary in Thailand where he learned first hand about what the lack of democracy and freedom were all about. The thoughts below first appeared last Sunday in the Holy Name News. These thoughts deliver quite a message!)

Our form of democratic government may not be the best possible in the world, and it may not have to be applicable to every other country in the world, but I like it and it is fun. And I don't notice too many Americans stomping at the border to get out. Can you imagine an American Refugee Camp in Mexico or Canada?

My perspective may be prejudiced by living for six years in a country still struggling to establish a democratic form of government; in a country where just recently 1,000 people protesting against a military leader were killed. That same country has a king, a marvelous, beloved man. But to say one word in criticism of him could land you in jail or thrown out of the country. Imagine how crowded our jails would be if we had a law preventing us to say a bad word about our president.

Next to Thailand is Burma. It has an elected president, a lovely lady. She is imprisoned and many of her supporters have been killed. The oppressive military has forced thousands of refugees to seek sanctuary in Thailand and even Bangladesh. To the north of Thailand is Laos. Its Communist regime is still not welcoming back those who oppose the government or left for economic reasons. And then there is Cambodia: Pol Pot, who was responsible for killing 1 million of his own people, still claims a role in the present coalition government. The United States, for all its social, economic, racial, political and cultural problems is still the idol of freedom of millions throughout the world.

You may get tired of listening to all the political prophets and pundits. I love 'em! I certainly don't agree with all of them. And that is the point. You don't have to. That is our freedom: To agree or disagree. Nobody is going to shoot you, put you in prison, or kick you out of the country if you don't agree. Their language may be rhetorical, poetical, demagogical or just plain baloney. But much of it is classic and I delight in hearing English with all its regional accents and flavors. It sounds sweet to ears that have been bombarded with foreign tongues. This is American English. This is the U.S.A.

Are the party conventions worth $22 million? I say yes. That is cheap advertisement for American patriotism. And it is much better publicity for our form of government than bombs or bullets.

What has this all got to do with the Gospel? I think everything. Part of our American mythology is to be a "light to the nations." We can be faithful to that divine call only if we continue our struggle for "equality, liberty and justice for all."

There is one thing my foreign friends don't understand about our system: How come only 40 percent of our eligible population would turn out to vote? I can't answer that one. Can you?

I don't believe the United States is the promised land. Nor do I believe it has to be number one. I just want to let you all know that I am happy, excited and grateful to be here.

A TRIBUTE TO JOHN J. MACCARONE, GLEN COVE RECREATION OFFICIAL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to honor the memory of John J. Maccarone of Glen Cove, NY.

A sports enthusiast who for more than 20 years was commissioner of parks and recreation for the city of Glen Cove, died July 15 at the age of 68 while attending a Glen Cove Golf Commission meeting at city hall. Mr. Maccarone participated in and coordinated numerous sports activities, including last year's All Saints Golf Classic to benefit All Saints Regional Catholic School in Glen Cove and Glen Head.

Mr. Maccarone had been honored by the Amateur Softball Association of America and had his name enshrined in the National Softball Hall of Fame in Oklahoma City. A 1942 graduate of Glen Cove High School, he went on to become a founder and past president of the Glen Cove Hall of Fame, which honors local athletes for their contributions to the city's youth and sports programs and provides scholarships to Glen Cove High School athletes.

Mr. Maccarone was also a World War II veteran, having served our country in the Army Air Force in England and Germany.

Mr. Speaker, I call on all my colleagues in the House of Representatives to join me in mourning the loss of John J. Maccarone. He was a great contributor to the community of Glen Cove, and will be missed dearly.

JOHN J. MACCARONE, GLEN COVE RECREATION OFFICIAL

(By Stuart Vincent)

John J. Maccarone, 68, a sports enthusiast who for more than 20 years was commissioner of parks and recreation for the City of Glen Cove, died Wednesday night of a heart attack while attending a Glen Cove Golf Commission meeting at City Hall.

"He's one of those people who is a real Glen Cover," Mayor Donald DeRiggi said of his commissioner. "He touched so many people through the Parks and Recreation Department and the golf course that he's very, very well known. He always accommodated someone who wanted to get their child into the day camp or wanted to get a team into a league or start a basketball tournament. He was somebody who not only did his job, but a lot more."

DeRiggi said it was not uncommon for Mr. Maccarone to patrol golf course greens at 6:30 a.m. and softball fields at 10 p.m. and on weekends.

Mr. Maccarone, who was a participant as well as a coordinator of numerous sports activities, had been honored by the Amateur Softball Association of America and had his name enshrined in the National Softball Hall of Fame in Oklahoma City. He helped to organize last year's All Saints Golf Classic to benefit All Saints Regional Catholic School in Glen Cove and Glen Head.

Mr. Maccarone was a founder and past president of the Glen Cove Hall of Fame, which honors local athletes for their contributions to the city's youth and sports programs and provides scholarships to Glen Cove High School athletes.

"He really, really loved sports," said his son, Glen Cove Councilman John L. Maccarone, who was with his father at the Golf Commission meeting Wednesday. "And you know what's great? He's going to be buried right next to Rocky Graziano. The champ is going to be right next to my pop."

A 1942 graduate of Glen Cove High School, Mr. Maccarone was a Locust Valley native and longtime Glen Cove resident. He was a World War II veteran, serving in the Army Air Forces in England and Germany. He later graduated from the University of Miami and was named city commissioner of parks and recreation by former Glen Cove Mayor Andrew J. DiPaola.

In addition to his son John, survivors include his wife, Elizabeth; two other sons, Robert and Richard, both of Glen Cove; a daughter, Leslie of Glen Cove; a brother, Ralph of Glen Head; two sisters, Mary Capobianco of Locust Valley and Laura Mastroianni of Glen Cove, and two grandsons. He was the brother of the late Patrick and Joseph Maccarone.

CONGRESS NEEDS TO PASS AN NIH REAUTHORIZATION BILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. MAZZOLI. Mr. Speaker, the following article from the July 20th issue of Business Week underscores the need for Congress to pass, and for the President to sign into law, the National Institutes of Health [NIH] reauthorization bill.

Research on diseases which affect disproportionately more women than men must receive both increased attention at the NIH and increased Federal research dollars. A General Accounting Office [GAO] study, conducted in 1989, pointed out an unacceptable disparity in the share of Federal dollars that go toward women's health research; and, quite properly, the National Institutes of Health is now making women's health research a top priority.

Under the leadership of Dr. Bernadine Healy, in 1990 the Institute established the Office of Research on Women's Health [ORWH]. The intent of this move is to include more women in clinical research and to direct increased resources toward finding cures for diseases which affect women exclusively.

More recently, the NIH, at the urging of the Congressional Caucus for Women's Issues, launched a path-breaking $500 million, 10-year study—called the Women's Health Initiative—to determine how cardiovascular disease, cancer, and osteoporosis might be better prevented in postmenopausal women.

Programs like the ORWH and the Women's Health Initiative need to be adequately funded. However, last month the NIH reauthorization bill became caught up in the wrangling over fetal tissue research and, for that reason, did not become law.

That NIH bill would have authorized $325 million for breast cancer research—a cancer which will kill 46,000 women this year—$75 million for gynecological cancer research and $40 million for osteoporosis research. Furthermore, the NIH bill would have established, by statute, the Office of Research on Women's Health. Today, it only exists under executive branch authority. This change will make the office a permanent part of the NIH family of research arms.

Mr. Speaker, I have already cosponsored a number of bills in the 102d Congress which authorize increased funding levels for research on breast cancer and other women's diseases. And I would like very much to support an NIH reauthorization bill because it needs the funding as well as a new, secure mandate.

So, I urge Congress and the President to work together and, as soon as possible, bring an NIH bill to the floor which does not become a pawn in the battle over fetal tissue research, but which can be signed into law so the NIH can proceed in its vital and necessary work: to save the lives and protect the futures of millions of women.

FINALLY, A HEALTHY INTEREST IN WOMEN

(By Sunita Wadekar Bhargava)

Each year in the U.S., some 500,000 people suffer swelling in the joints and glands and other telltale signs of the sometimes-fatal immunological disease called systemic lupus erythematosus. About 90 percent of these victims are women, more than half of childbearing age. Yet many don't know they have the illness. And doctors don't know what causes it, nor do they understand why it attacks women mainly and strikes black women three times as often as white.

Until two years ago, in fact, no one was even trying to answer these questions. Then, researchers at the National Institute of Arthritis & Musculoskeletal & Skin Diseases in Bethesda, Md., took action. In 1991, they started distributing information about the disease to black women and launched studies to determine what causes the disease.

As the efforts to unravel this mystery show, women's health issues are becoming a priority after decades on the back burner. Until recently, most new drugs were tested mainly on men, and a disproportionate number were aimed at men. Then in 1990, a General Accounting Office study put the blame on the National Institutes of Health, the nation's premier medical research and development body. That year, the NIH launched the Office of Research on Women's Health (ORWH). And it gained an important patron when Dr. Bernadine P. Healy became NIH director in April 1991.

Through the ORWH, the NIH is pushing health centers, particularly its various institutes, to include women in clinical trials for medicines, to start work on diseases that afflict women only, and to study whether maladies such as heart disease, AIDS, and cancer affect women differently than they do men. "Medical research is starting to shift toward women's health issues," says Joan Kuriansky, who chairs the Campaign for Women's Health, a Washington, D.C., advocacy group.

In fact, the NIH's focus is fueling "an explosion of interest from drug companies," says Dr. Florence P. Haseltine, founding president of the Society for Advancement of Women's Health Research. In the past year, Wyeth-Ayerst, Sandoz Pharmaceuticals, and Pfizer, among others, have set up female health care research departments. As of last December, says the Pharmaceutical Manufacturers Assn. (PMA), there were 263 medicines in development for women at 79 drug companies. The lure for drugmakers: Lucrative markets that should develop as millions of female baby boomers encounter fertility problems, then reach middle age and menopause.

MICE AND MEN

It will nonetheless take years to compensate for decades of neglect. Women are 52% of the U.S. population and face similar risk for many of the killers that hit men. But until now, research on such key problems as heart disease, lung cancer, and the effects of smoking—and on drugs to treat them—has been done mostly on mice and men, middle-aged white males at that. Researchers excluded women by arguing that pregnancy and women's fluctuating hormone levels could skew their results.

That's a risky oversight. Recent studies suggest that chemical differences between men and women create distinctions in their ability to absorb and metabolize up to 30% of all drugs. Women have more body fat than men, so some drugs may linger in their systems longer. The changes in hormone levels during the menstrual cycle also affect the behavior of drugs. These differences, says Dr. Lionel Edwards, chairman of the special populations committee of the PMA, can affect a drug's appropriateness and dosage. Without the right data, doctors can't tailor treatments for women.

FAIR SHARE

Such is the case with coronary heart disease. Women typically develop it 10 years later than men, and scientists have long interpreted this delay to mean that women are less affected by it. So, most prevention strategies and treatments for heart attacks are derived from research on men, including a landmark aspirin study financed by the NIH. Conducted by the National Heart, Lung & Blood Institute in 1981 on 22,000 male physicians, it found that men who take an aspirin every other day lowered their heart attack risk. But since women weren't included, researchers didn't know whether aspirin helps, harms, or has no effect on them.

That exclusion outraged women when it was cited in the GAO report. In 1989, the Congressional Caucus for Women's Issues urged the GAO to investigate whether the NIH discriminated against women in medical research. The GAO found that women weren't included in research and prodded the NIH to set up the ORWH. Since then, AIDS and cancer activists have joined in advocating that research on women's maladies should get more dollars.

Companies have reacted quickly. High on their lists are drugs to treat hot flashes caused by menopause, hypertension, congestive heart failure, osteoporosis, and breast, cervical, lung, and ovarian cancer. Since 1991, Sandoz Pharmaceuticals Corp. has stepped up its research on postmenopausal osteoporosis, the bone loss that affects 25 million U.S. women. "We are not only looking at drugs or treatment, but at a new delivery system," says Dr. Donnica L. Moore, associate director of the Sandoz Medical Education Center. Osteoporosis sufferers now take Sandoz' Miacalcin by injection, but Sandoz is testing a more convenient aerosol nasal spray. At Warner-Lambert Co., which has 21 compounds for women in development, reproductive biology is a top priority.

The NIH, meanwhile, has set an even more ambitious—and controversial—agenda. Its Women's Health Initiative, launched last year, is a $500 million, 10-year plan to study 150,000 post-menopausal women to determine how diet, exercise, and hormone therapy might prevent cardiovascular disease, cancer, and osteoporosis. One trial will examine whether a low-fat diet helps prevent breast cancer and heart disease. The NIH also will screen applicants for funding to make sure they include more women in their studies or provide a rationale for not doing so. It also is asking researchers to evaluate how drugs behave differently in men and women.

Last year, the NIH made cardiovascular diseases, osteoporosis, and cancer its top priorities, and the agency boosted research on women in all three areas. Already, one new program promises insights in preventing lung cancer, the No. 1 cancer killer of women. One finding—that more girls than boys start smoking in their teens—suggests that prevention efforts need to focus more on girls.

The NIH is also putting more muscle behind research on AIDS in women. The disease is spreading faster among women than men, according to the Centers for Disease Control, but until last year most AIDS research was done on young, white males. To redress the oversight the NIH will spend $120 million for research on AIDS in women in fiscal year 1993, up 56% since 1990.

GUARDIANS

These funds will help finance studies at the National Institute of Allergy & Infectious Diseases, an NIH affiliate. One will examine the effect of AIDS on 500 pregnant women and their offspring. Another, a five-year effort will examine how the AIDS infection manifests itself in 2,500 HIV-positive women. Of great concern is the relationship of the infection to women's disorders. Early findings show that HIV-infected women have higher rates of abnormal pap smears and cancer of the cervix, and they react differently to sexually transmitted diseases.

The new priorities are tentative, so far. "In an ideal world, our office should not exist," says Dr. Vivian W. Pinn, director of the NIH's ORWH. "But we have to be there to make sure that the other NIH institutes and affiliates are spending money on women's research. And Congress has yet to give statutory authority to ORWH, as the Women's Congressional Caucus has demanded. Unless this happens, advocates fear that women's concerns won't remain front and center at the NIH.

That would be too bad. It seems all too obvious that when it comes to doing medical research and developing drugs, women shouldn't be thought of as the same as men.

HONORING DR. JOE A. LOPEZ, PRINCIPAL, VALLE LINDO HIGH SCHOOL

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual and dedicated public servant, Dr. Joe A. Lopez, principal of Valle Lindo High School in El Monte, CA.

In 1969, Joe earned his bachelor of vocational arts degree from California State University, Los Angeles, and 1970 he earned another bachelor of arts degree of the field in sociology. He received his master of arts degree in 1974 from California State University, Long Beach. In 1986, he completed his doctor of education degree with an emphasis in institutional management at Pepperdine University.

He and his lovely wife, Madeline, have been married for over 40 years. They have 6 children, 12 grandchildren, and 1 great grandchild.

For the past 26 years, Joe has dedicated his career to the field of education. In 1966, he began his career in education with the Alhambra High School District as a classroom teacher at Mark Keppel High School. From 1972 to 1976, he served as counselor and director of title 1 programs, at Ontario High School. He was promoted to assistant principal of Excelsior High School, where he served from 1976 to 1980. His expertise in the areas of staff supervision, curriculum and instruction development, pupil personnel services, budgeting, administration of special programs, and the development of parent advisory committees have served him well since 1980 as principal of Valle Lindo High School.

In addition to his distinguished professional accomplishments, Joe has been involved with a variety of educational associations, including the Association for California School Administrators, California Teachers Association, National Educators Association, and California Continuation Association.

He also serves as a board member of Project U-Turn, member and past president of the El Monte/South El Monte Coordinating Council, advisory board member of the El Monte Comprehensive Health Clinic, and South El Monte Commission for the Youth-Anti-Gang Commission. In addition, he is active with the St. Vincent De Paul Society and Industrial Lions Club of South El Monte.

Since 1984, Joe has served as a member of my U.S. Academy Service Review Board. The board meets annually to interview and screen applicants who are seeking admission to a U.S. service academy. The dedicated work performed by Joe and the other members of the board is an indispensable contribution to me in selecting my nominees. Their work ensures that high standards are maintained for our Nation's future officer corps.

Mr. Speaker, it is with pride that I rise to recognize my friend and adviser, Dr. Joe A. Lopez, and I ask my colleagues to join me in saluting him for his outstanding commitment to the defense of our Nation and for his record of unselfish service to the residents of the 34th Congressional District.

THE 25TH YEAR OF SERVICE BY GREATER SAN BERNARDINO KIWANIS CLUB

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. BROWN of California. Mr. Speaker, I rise today to recognize the Kiwanis Club of Greater San Bernardino as it begins the 25th year of outstanding community service.

The club through its past and present distinguished leadership has been involved in every major community health, and/or educational project within the city of San Bernardino and continually strives to identify needs and provide services to the Westside community. For example, during the past 25 years, the club has raised over $110,000 and awarded 1,360 scholarships to local high school students.

Over the past 25 years, the Kiwanis Club of Greater San Bernardino has won many local, State, national, and international awards for its 16 projects. Some of the most recent award winning projects include:

Mexicali dental project: A 3-year project that provided complete dental services to children from two orphanages in Mexico. These children had never visited a dentist. The project received the Kiwanis California-Nevada-Hawaii Districts' Single Service Award;

Mexicali Blood Bank: A 2-year joint project with the San Bernardino Sister City Committee to raise funds to establish the first blood bank in Mexicali, Mexico. This project won the Kiwanis' International Single Service Award;

Inland Empire Future Leaders Program: Provides leadership training to local area eighth and ninth grade students. The program offers basic information on college requirements, courses, scholarships, and community resources available. The students are encouraged to network and are followed throughout their high school and college careers returning as group counselors, facilitators, mentors or sponsors of current participants. This project won the Kiwanis' California-Nevada-Hawaii Districts' Single Service Award;

Community Health Fair at Casa Ramona Community Center: Now in its third year, this program offers health services to 1,500 to 2,400 individuals in the heart of the Hispanic community, where health services are almost nonexistent to many recent immigrants. These immigrants are often struggling to meet basic needs—food, shelter, and clothing—and are unable to obtain conventional health services except for emergencies. I join the Kiwanis Club and other community organizations such as the U.S. Navy, the Hispanic News, El Chicano News, KCAI—Spanish language radio—and many public and private agencies in sponsoring the community health fair each year. This project received the Kiwanis International Single Service Awards.

I commend the Kiwanis Club of Greater San Bernardino for its outstanding record of charitable, educational, and public welfare programs.

TRIBUTE TO WILMA SWIFT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to one of my exceptional constituents, Wilma Swift, who on June 21, 1992, was installed as president of the ladies auxiliary to the Veterans of Foreign Wars Department, State of Ohio.

Wilma began her lifetime membership with auxiliary 7614 in Johnston, OH, 36 years ago. She was president of auxiliary 7614, 1959–60, president of Trumbull County Council Auxiliary, 1976–78, president of district 8, 1965–66. She has held offices and chairmanships on all levels of the auxiliary. In June 1987, she was elected to the office of department guard and has gone through the chairs to her present position of president.

Besides being a dedicated member of the auxiliary 7614, Wilma has also been a highly devoted family member. Wilma and her husband have been married for 44 years and have two daughters and three grandchildren.

I wish to extend my congratulations to Wilma Swift upon her position. Her dedication and hard work have earned her this honor. I wish her well in all she undertakes.

TRIBUTE TO REV. KAZIMIERZ WRONKA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. LIPINSKI. Mr. Speaker, I rise today to honor Rev. Kazimierz Wronka for his outstanding contributions to the Polish-American community in Chicago and his work for the independence of Poland. Reverend Wronka, associate pastor of St. Richard's Parish in Chicago, will be celebrating his 25th anniversary in the priesthood on August 6, 1992. A man of great integrity and faith, he is a shining example of standing for the ideals of freedom even when the future appears bleak.

Reverend Wronka was born during the brutal Nazi occupation of Poland and grew up during Communist rule. His family was poor and his father passed away when he was only 2. Despite such adversity, Reverend Wronka pursued his education and the calling of his Catholic faith. After his ordination on August 6, 1967, he fulfilled pastoral duties for the Archdiocese of Lubin despite the severe constraints on religious liberty imposed by the Communists.

An invitation by an old friend brought him to the United States in 1974. Since his arrival, he helped alleviate the great need for priests in Polish-American parishes. He has devoted himself to the spiritual and social well-being of the community. Additionally, he continued to actively strive for a free Poland. When Poland finally regained its freedom, President Lech Walesa presented the Gold Cross of Honor to Reverend Wronka for his outstanding work in the priesthood and in the Polish freedom movement.

I am pleased to recognize the achievements of Reverend Wronka both in his 25 years as a priest and his contributions to the cause of freedom in his native land. I urge my colleagues to join me in saluting Rev. Kazimierz Wronka. I wish him and his parishioners good fortune in years to come.

SILVER SPRING, MD, CELEBRATES SESQUICENTENNIAL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mrs. MORELLA. Mr. Speaker, I would like to bring to the Congress' attention the 150th anniversary of the founding of Silver Spring, MD.

The story of Silver Spring's origin, dating back to 1842, has become local legend. One day while Francis Preston Blair, a leading Maryland statesman and newspaper editor, was riding in the countryside with his daughter Lizzie, he was thrown from his horse, Selim. Exasperated, he proceeded to chase his horse into a valley studded with pines and rich undergrowth. To his surprise, Blair found his horse in the high brush that enclosed a spring sparkling in the sunshine. Parched, F.P. Blair drank from the spring. Enthralled by the lovely pines and gurgling brook, Blair immediately decided to purchase the land, nearly 400 acres, surrounding the spring. Soon after, Blair and his family moved from Washington and made Silver Spring their new home. Their home became a favorite summer retreat for influential Washingtonians, including at least four Presidents, among them Abraham Lincoln.

In the following decades, Silver Spring's local prominence blossomed into a national reputation. Confederate Gen. Jubal Early selected Silver Spring as a staging area for a raid on Washington. Confederate miscalculations, and, as local legend has it, the alcohol of the excellent Blair wine cellar transformed the potentially critical raid into a minor skirmish at Fort Stevens. The failure of the Early raid proved to be a turning point in the Civil War.

Its colorful history and ethnic diversity has given Silver Spring a special personality among Washington's suburbs. One of Montgomery County's oldest suburbs, Silver Spring is the home of the region's first suburban hotel, the Holiday Inn on Georgia Avenue, and its first shopping center. In recent years, as the historic B&O Railroad line has been supplemented by suburban Metro transit, Silver Spring has grown into Maryland's second largest city.

On the occasion of the anniversary, the Silver Spring Urban District and the Silver Spring Sesquicentennial Committee have organized a very fitting tribute to Silver Spring—a series of Friday evening concerts through July and August at City Place Park, just a short distance from the original silver spring discovered by Francis Blair.

BRAVO DOME PLANT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. RICHARDSON. Mr. Speaker, northeastern New Mexico has one of the largest known concentrations of carbon dioxide in the world. The Amoco Production Co. has successfully drilled and marketed this carbon dioxide for the past 12 years while striving to preserve the natural landscape and enriching the economy of the surrounding communities.

I recently had the pleasure of touring the plant at Bravo Dome plant facilities of the Amoco Production Co. in Clayton, NM.

I urge my colleagues to update themselves on the production, history, operation and results of the Amoco Production Co. by reading the following information provided to me by Amoco.

Five years ago, Amoco Production Company began producing carbon dioxide gas from a half mile below the grasslands of northeastern New Mexico.

The demand for carbon dioxide came from oil companies seeking to use the gas to recover more crude oil from maturing oil fields 200 miles away in the Permian Basin of West Texas and southeastern New Mexico.

In the first 60 months of production, some 533 billion cubic feet of the carbon dioxide gas were sold from the unit. Put another way, the volume sold from the Bravo Dome Carbon Dioxide Gas Unit and shipped to the Permian Basin would fill 9,190 Houston Astrodomes.

Along the way, more than $28 million in royalties have been paid to some 2,000 royalty owners, many of whom live in New Mexico.

Amoco Production Company is the unit operator and has day-to-day operation responsibilities for Bravo Dome. Amoco owns a 74.5 percent working interest in the unit, which means it is responsible for paying that percentage of the total unit costs. Thirty other working interest owners—companies and individuals—share the remaining working interest in the unit.

Sales from the unit have increased every year since 1984 and averaged 365 million cubic feet per day during 1988. Carbon dioxide sales for 1989, however are expected to be lower. That's because only a few enhanced oil recovery (EOR) projects have been initiated in West Texas during the past three years, and because existing projects are—as expected—using less purchased CO_2 as the projects mature.

Amoco officials believe that eventually crude oil prices will stabilize at a point where additional EOR projects would be initiated. At that time, drilling in Bravo Dome will likely resume.

The long-term demand outlook for carbon dioxide is encouraging, and Amoco expects production to continue for another 30 years.

BACKGROUND

The Bravo Dome Carbon Dioxide Gas Unit covers more than a million acres in portions of Union, Harding, and Quay counties. It runs 49 miles east-to-west and 50 miles north-to-south. Underneath is a domal structure known by geologists as "the Bravo Dome."

The colorless, odorless carbon dioxide at Bravo Dome is found in sandstone, overlain by a sealing cap of anhydrite.

CO_2 in northeastern New Mexico was first commercially developed about the time of World War II for dry ice manufacturing. Some of these operations are still in existence.

In the 1950s, Amoco began researching the relationship between carbon dioxide—the simple compound of carbon and oxygen—and crude oil at its research lab in Tulsa, Okla.

In 1971, many companies—including Amoco—began acquiring acreage in northeastern New Mexico. At the same time, Amoco began applying its research efforts to CO_2 pilot projects in West Texas.

The Bravo Dome Carbon Dioxide Gas Unit became effective on Nov. 1, 1980: following approval by royalty owners, working interest owners, the New Mexico Commissioner of Public Lands, the New Mexico Oil Conservation Division, and the United States Geological Survey.

The unit was formed to achieve the most efficient and equitable development of carbon dioxide and to minimize surface impact on the unit area. Some 42 wells were drilled before the unit became effective. Development activity then increased rapidly. Today the well total—productive wells, dry holes, and disposal wells—is 391.

A few years ago, the Bravo Dome Carbon Dioxide Gas Unit was thought to hold about 10 trillion cubic feet of gas. The development activity at Bravo Dome has increased the gas-in-place estimates to 12 trillion cubic feet, one of the largest known concentrations of CO_2 in the world.

In addition to the largest amount of carbon dioxide available in northeastern New Mexico, there are three other advantages: the CO_2 is at a relatively shallow depth (average well depth is 2,318 feet); it's essentially pure (99.8 percent) and it's relatively close to the Permian Basin, where the largest market exists.

TODAY'S OPERATIONS

Some 260 wells currently produce the carbon dioxide gas at Bravo Dome. In addition, there are 111 other wells that are shut in, pending increases in demand.

As an example of the technology used at Bravo Dome, each producing well can be opened and closed by remote control. The solar-powered remote terminal units (RTUs) also allow continuous monitoring of data from each well. The RTUs transmit temperatures and pressures by radio and microwave to the Amoco plant operation center and the main office in Clayton. Amoco personnel there are able to check for well problems by comparing the data.

The carbon dioxide gas travels from the wells via underground gathering lines to the conditioning plant on Highway 420 (formerly Highway 65) in the southern part of Union County, about 50 miles south of Clayton.

The plant removes water and compresses the gas for shipment into sales pipelines that lead to the Permian Basin oil fields. There, CO_2, is injected a mile below the surface into oil-bearing reservoirs that have been producing since the 1930s.

The CO_2 enhances oil production by mixing with and displacing crude oil from the pore spaces of the reservoir rock. No enhanced oil recovery technology now known will do a significantly better job.

RESULTS

Through the end of 1988, Amoco and the 30 other working interest owners had spent more than $300 million at Bravo Dome. That includes money for drilling, plant and gas gathering facilities, operations, and maintenance.

In the category of state and county taxes paid, Bravo Dome provided $18.4 million through 1988. Some $8.7 million of that was for severance taxes, while $7.3 million was for school taxes. Another $2 million was for ad valorem taxes and about $400,000 was for conservation taxes.

Royalty payments to individuals, the state, and the federal government from Bravo Dome operations averaged about $5.8 million a year during 1985–88.

Company tabulations indicate that less than 1/25th of one percent of the carbon dioxide brought up from below the ground as Bravo Dome has been lost in operations—from repairs in the field, testing, or plant shutdowns—during the entire life of the project.

Amoco Production Company has built about 500 miles of road throughout the unit, and installed hundreds of cattle guards. Amoco has also conducted many plant tours for local residents and other visitors. People are encouraged to come by any time during the day.

Given the mutual benefits of carbon dioxide production to royalty owners, working interest owners, and area residents, Amoco Production Company intends to continue its record of production in the safest, most efficient manner possible.

TRIBUTE TO BILL BICE OF WAVERLY, OH

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. McEWEN. Mr. Speaker, I rise today to pay tribute to Mr. Bill Bice of Waverly, OH. He is a true example of courage that we all can admire.

While driving home from Columbus one night in late June, the 23-year-old Mr. Bice heard a loud boom. Looking in his rearview mirror, he saw a car sliding off the road in flames

Trapped inside was Ms. Nancy Showers. Bice parked his vehicle and ran back to the burning car.

"The only thing I was concerned with was getting her out," Bice said. "I wasn't worried about getting hurt."

Ignoring his own safety, he pulled her from the flaming vehicle and carried her 100 feet to safety. There he tended to Ms. Showers until medical personnel arrived.

"Anyone would have done the same thing," Bice said.

Mr. Speaker, contrary to what this modest young man said, not just anyone would have done the same thing. Bill Bice placed himself in harm's way to save a total stranger. He is a hero in the truest sense of the word, and Ohio and all America can be proud of him.

TRIBUTE TO COACH BILL HAMANN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. SKELTON. Mr. Speaker, it is with personal pleasure that I rise today to congratulate Bill Hamann, of Lexington, MO, for his induction in the Missouri Football Coaches first class of Hall of Fame members on July 25, 1992.

Mr. Hamann was a football coach in Odessa, MO, from 1940 to 1942, having winning seasons—7–1 and 6–2—both years before serving in the Navy for 4 years. After returning from the Navy, Mr. Hamann went to the University of Missouri in Columbia, MO, to work on his master's degree. There he ran into the coach from Lexington, MO, Chuck Moser, who said that he was vacating the position. Having seen the Lexington Minutemen football team lose a game to Marshall, MO, 50–0, and knowing that the team had not won a game in two years, Mr. Hamann nevertheless accepted the coaching position. The Lexington Minutemen won every game that Mr. Hamann coached during his first football season in 1946.

Mr. Hamann was the football coach at Lexington, MO, for 22 years. The Minutemen won four conference titles and had consistently successful seasons under his coaching, utilizing new offense strategies that the other coaches in the conference soon copied. Mr. Hamann retired from coaching football in 1968. He then served as the color commentator for the local radio station from 1968 to 1988 for Lexington football games. His dedication to the Lexington Minutemen over the years has greatly contributed to the team's ongoing success.

Bill Hamann is one of three coaches from Missouri's Fourth Congressional District named to the Missouri High School Football Coaches Hall of Fame. Also receiving this honor are Pete Adkins of Jefferson City, MO, and Cliff Cromer of Higginsville, MO. I ask my colleagues to join me in congratulating these men for their much-deserved recognition and their contributions to Missouri high school football.

REAL REMEDIES AGAINST UNFAIR TRADE PRACTICES

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. BOEHLERT. Mr. Speaker, I am introducing legislation today, along with my colleagues from New York, Congressmen McGRATH, WALSH, HOUGHTON, SOLOMON, and McHUGH, to strengthen current law with respect to circumvention of antidumping and countervailing duty orders.

This language is nearly identical to section 425 of H.R. 5100, the Trade Expansion Act, which passed the House—280 for, 145 against—with my support on July 8, 1992. This bill is currently pending in the Senate Finance Committee. Frankly, if the administration had not promised a veto for H.R. 5100, this action today would not be necessary. The House had already responded. I regret the administration's decision to veto. I think it is a mistake.

I found it necessary to rework part of this legislation to permit parties that requested anticircumvention relief under the 1988 law the opportunity to refile. In such cases, the Department of Commerce would consider the record of circumvention already compiled under investigation, but under the legal standards articulated in section 425 of H.R. 5100. This would provide relief to the domestic industry on a more timely basis, and would prevent the foreign producers attempting to evade an antidumping duty order from using a moving target strategy to evade the law.

Congress in 1988, with my support, passed the Omnibus Trade and Competitiveness Act to give the Department of Commerce the tools and authority necessary to protect American industries from foreign predatory pricing and dumping techniques designed to drive U.S. manufacturers out of business.

Sadly, foreign concerns have found methods to circumvent these laws. It is also unfortunate that the U.S. Department of Commerce has been relatively powerless to stop certain flagrant sidestepping of the law. By shifting the manufacture and assembly of parts to phantom factories or screwdriver operations, foreign manufacturers continue to put a product on the American market at a price lower than production cost or lower than market price. This drives higher quality American manufacturing jobs into extinction, and favors low-level assembly line jobs in the U.S.

For 13 years, the Smith Corona Corp. of Cortland, NY, has been the target of various types of predatory circumvention. The company is the only remaining American portable electric typewriter manufacturer, and has won six separate decisions against its Japanese competitors who have been found guilty of dumping under United States antidumping laws. I have worked with the company during these years to urge the Department of Commerce to vigorously enforce these laws, and stave off millions of dollars in unnecessary and arbitrary legal fees.

But the time is running out. A legislative remedy is warranted, and too many industries across the Nation are at stake. This correction, clarification, or empowerment bill is necessary to direct the Department of Commerce to review patterns of trade and manufacturing, close loopholes in the trade law, and require fair competition.

We should never cede manufacturing industries to other nations. We cannot allow anti-fair-market trade practices by foreign companies to devastate and dislocate American jobs and manufacturing interests. We must put forth real remedies against unfair trade if we are to promote U.S. workers and manufacturing.

TRIBUTE TO MAJ. GEN. RICHARD F. GILLIS

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. RAY. Mr. Speaker, I rise today to congratulate Maj. Gen. Richard F. Gillis on a job well done during his 37 years in the U.S. Air Force, the last 4 of which have been at Robins Air Force Base, GA.

General Gillis has had a long and distinguished career in the Air Force. He entered the Air Force in 1954, and is a command pilot with more than 5,000 flying hours. His military awards and decorations include the Distinguished Service Medal, Legion of Merit, Meritorious Service Medal with oak leaf cluster, Air Force Commendation Medal with two oak leaf clusters, Combat Readiness Medal, National Defense Service Medal, and the Vietnam Service Medal with five service stars.

I have had the opportunity to work closely with General Gillis for the last 4 years during his tenure as Commander of the Warner Robins Air Logistics Center [WRALC]. General Gillis' service as Commander of the WRALC has been marked by many changes in the Air Force. The Air Force Logistics Command [AFLC] has been merged with the Air Force Systems Command [AFSC] to form the Air Force Materiel Command [AFMC]. WRALC will be an integral part of this merger and General Gillis has prepared WRALC for this change.

I am particularly proud of the positive relationship General Gillis has helped foster between the WRALC and the local Warner Robins community. As the defense budget continues to decline, and personnel reductions continue, community support is critical. I look forward to this legacy continuing.

General Gillis will retire on July 31, 1992, and I join his many lifelong friends in wishing for him and his lovely wife, Vera, much happiness in their future endeavors.

COMMEMORATIVE HONORING SENATOR FREDERICK MALKUS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to honor a man who has devoted the whole of his adult life to serving the public. Senator Frederick C. Malkus, Jr. turned 79 on July 1, and when the Maryland General Assembly reconvenes in January 1993, he will become the most senior State legislator in the United States, with 47 years of experience. This type of devotion by a public servant definitely deserves our praise.

Senator Fred Malkus began working for the public good during World War II when he served in the U.S. Army in Germany. It was during this time in his life that he decided a life of public service was what he wanted to pursue. He looked to Franklin Roosevelt as a role model to emulate, and decided he was going to be the kind of public servant that put people first, and fought for the values and needs of the people that he was representing.

Senator Malkus has preached a philosophy of fiscal pragmatism, fighting hard for programs that he felt were beneficial to his constituents, and vigorously opposing funding projects that he felt were wasteful, or not properly thought out. The most notable example of this dedication to financial responsibility came in 1976 when he and 21 other senators staged an 8-day filibuster in an attempt to halt the funding of the Baltimore subway system. This measure eventually passed, but it is the alternatives to the subway that he and his associates put forward in 1976, that are now being looked to as solutions to the commuting problems in the city of Baltimore.

I want to extend both my thanks, and the thanks of the people of Maryland, to Senator Malkus. His dedication to the public has been a shining example to all of us in public office as the way a representative of the people should conduct himself. His commitment to work for the State of Maryland for the past 47 years has made Maryland a better place, and it is a pleasure for me to rise today and say thank you.

SALUTE TO PHIL BOWMAN; RECIPIENT OF THE OHIO COAL MAN OF THE YEAR AWARD

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. McEWEN. Mr. Speaker, it is a pleasure for me to rise today to recognize the outstanding achievement of Mr. Phil Bowman, vice president of Waterloo Coal Co. located in Jackson, OH. Mr. Bowman was recently awarded the Ohio Coal Man of the Year by the Ohio Mining and Reclamation Association for his outstanding business and community leadership.

Honoring coal industry leaders, the Ohio Coal Man of the Year award is given annually, by the Mining and Reclamation Association, to an individual who, through their hard work and dedication to Ohio coal, demonstrates outstanding business as well as community leadership. This award applauds the worthy efforts of it's recipients.

Mr. Bowman was the youngest board member of the OMRA when first appointed to the board in 1974. While serving as president of the R.A. Eberts Co., as vice president of the Waterloo Coal Co., and as a member of the board on trustees of the Holzer Medical Foundation and the Oak Hill Community Medical Center, Mr. Bowman illustrated an earnest dedication to Ohio coal and community affairs. Attributing his success to his grandfather, C.A. Bowman, founder of the Waterloo Coal Co. in 1934, his father, Harold Bowman and his partners, Mr. Bowman pledged to continue to represent the Ohio coal industry to the best of his abilities.

Mr. Speaker, I would like to echo the Ohio Mining and Reclamation Association's recognition of Mr. Bowman's hard work and dedication to Ohio coal and his community. Finally, I look forward to working with Mr. Bowman, to promote the use of our Nation's most abundant natural fuel resource: Coal. For the benefit of all my colleagues, I commend to your attention the following article from the July 20, 1992, edition of the Jackson Journal-Herald.

[From the Jackson Journal-Herald, July 20, 1992]

HE'S OHIO COAL MAN OF THE YEAR

Phil Bowman has been responsible for many positive community projects over the years, but now he has also been recognized for his outstanding efforts in his professional field.

Bowman, president of R.A. Eberts Co., Inc. and vice-president of Waterloo Coal Company, was named "Ohio Coal Man Of The Year" by the Ohio Mining and Reclamation Association (OMRA) at its annual meeting last month in Columbus.

Neal S. Tostenson, president of the OMRA, presented the award to Bowman, who was recognized for his outstanding leadership, not only with R.A. Eberts and Waterloo Coal Company, but in his community.

"I am very honored to be selected as Ohio Coal Man Of The Year," said Bowman, who was the youngest board member of the OMRA when first appointed to the board in 1974.

"I hope that I can live up to the standards set by others who have been selected Ohio's Coal Man Of The Year and I pledge to represent the Ohio coal industry to the best of my ability," promised Bowman.

"It is my belief that many of Ohio's widespread economic problems can be reduced by the production and clean burning of Ohio coal," he continued. "It is also imperative that Ohio utilities make Ohio coal part of their compliance plan for the 1990 Clean Air Act amendment."

Bowman also credited his family ties to the coal industry for helping to such an honor.

"I must give credit to my grandfather, C. A. Bowman, founder of Waterloo Coal Company in 1934, and father, Harold Bowman, as well as my partners, Bill Parks and Larry Darlington," he added. "The long relationship with devoted and faithful employees must also receive credit for this honor and it is with humble appreciation that I accept this award."

Bowman is on the Board of Trustees of the Holzer Medical Foundation as well as the Oak Hill Community Medical Center. He is currently serving a four-year term as the Jackson County Republican Party Executive Committee chairman.

Waterloo Coal Company also received recognition at the annual statewide meeting when it was presented with the Greening of the Lands award for those dealing with less than 25 acres.

But there were still more awards for Jackson County at the meeting.

Brenda Arthur-Weber, a vice-president of Sands Hill Coal Company, Inc. was named "Ohio Reclaimer Of The Year" by the OMRA. She was recognized for her outstanding leadership and contribution to reclamation of mined lands in 1991.

A special President's Award was presented to Sands Hill Coal Company for Overall Achievement in Reclamation and Mine Management in 1991.

R.A. Eberts Co. Inc., Waterloo Coal Company and Sands Hill Coal Company are all located in Jackson County and all mine in Jackson and Vinton counties.

TRIBUTE TO PAUL G. CANO

HON. BILL BREWSTER

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. BREWSTER. Mr. Speaker, I rise today to pay tribute to a young man who was well known to Members of this body and whose apparent murder underscores the appalling crime that is rampant within our Capital City.

Paul G. Cano was director of government affairs for the American Society of Consultant Pharmacists. He was the epitome of everything a lobbyist should be. He was honest in his actions, sincere in his belief, warm in his personality, qualified for his work and eager to assist.

He started his career in Washington the summer of 1984 as assistant staff director of the U.S. House of Representatives Education and Labor Subcommittee on Employment Opportunities. In that committee staff work, he had primary responsibility for reviewing and overseeing employment and training legislation.

Two years later he joined the American College of Cardiology as assistant director of government relations until March, 1989, when he become Director of government affairs for the American Society of Consultant Pharmacists.

He was a member of the American League of Lobbyists and served on the government relations section council of the American Society of Association Executives. He received his BA in political science with a public service emphasis from the University of California at Santa Barbara.

Paul Cano was no stranger to this city. Although Paul Cano was a native of Los Angeles, he had lived and worked in Washington for more than 8 years. He knew the ways of the city.

On the morning of July 12, 1992, Paul disappeared. The condition of his apartment indicated he planned to return. A week later his car was found abandoned and partially burned. Finally more than 2 weeks after his disappearance, Paul Cano's body was found in a little used area of a Washington park. Apparently he was killed shortly after his disappearance.

Mr. Speaker, my deepest sympathy goes to the family of Paul G. Cano. Few can know the heartache they have suffered during the past 15 days. Life for this family was a roller coaster ranging from the joys of reported live sightings to despair and depression when those sightings proved false. Finally, the worst fears of the family have been confirmed.

We all know that death is in our future. We expect to face the loss of grandparents and older relatives. We are even somewhat prepared for the loss of parents and to the possibility of losing our spouse. But, no one can prepare to lose a child. It is a completely unnatural act.

It seems so useless when the loss is of a young person who is in the prime of life. The loss is compounded when death comes from criminal violence such as the conditions that claimed the life of Paul G. Cano.

Mr. Speaker, I hope the Congress will help this family in their sorrow. I hope we will make his death more meaningful. Paul G. Cano is not the first to die a violent death in this city—and unless something is done—he will not be the last.

Paul Cano's death should be the "straw" that makes us cry "Enough!"

THE HOSPITAL COST DISCLOSURE ACT OF 1992

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. MOODY. Mr. Speaker, I rise today to introduce the Hospital Cost Disclosure Act of 1992. This legislation will allow consumers to obtain currently hidden information about the costs of their treatment at our Nation's hospitals.

Earlier this year, "Prime Time Live" ran a story on the markup of prices at Humana, Inc.'s Louisville, KY area hospitals. The program showed that in 1990 the markup at those hospitals was 124 percent compared to an average of 54 percent at non-Humana hospitals. Just last week, Humana announced that they are lowering their charges by as much as 35 percent. The headline in the Louisville Courier-Journal reads: "Humana, stung by criticism, cuts prices at area hospitals."

The bill I am introducing today would require the same type of information to be made public for all hospitals. It would allow patients to learn the true cost of their treatment at a hospital. At a patient's request—or at the request of the entity making payment for the care—the hospital would be required to produce an itemized list of services provided, hospital charges, and the cost to the hospital of providing each service.

It is time for us to look behind hospital bills. How much does an aspirin, for which we are charged $8, really cost a hospital? Of course the overhead is higher in a hospital than in a doctor's office or a drugstore and therefore costs will be higher, but how much higher is reasonable.

Let consumers obtain the facts and then the hospitals can justify their huge markups. American consumers deserve to know where our health care dollars are going. If one news story can force a profitmaking chain of hospitals to cut prices 35 percent, then requiring all hospitals to make this information available could have dramatic effect on health expenditures.

This bill is certainly not the ultimate answer to the U.S. health care crisis and I would never argue that it is. However, not everyone in Congress—and certainly not the President—is willing to take a position on health care reform.

As most people know, I strongly support passage of a single payer health care system as the best answer for America. But, until we develop the political will to actually sign such a proposal into law, the Hospital Cost Disclosure Act of 1992 will help expose the inherent waste of today's health care system and, if the Humana example is repeated, it has the potential to provide significant savings to American consumers. It is a step in the right direction and I urge my colleagues to join me in this effort.

CREDIT AVAILABILITY ACT OF 1992

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. McCOLLUM. Mr. Speaker, the access to credit through healthy lenders is fundamental to the expansion of our economy. Although, recent thrift legislation was intended to restore the safety and soundness of those critical credit providing institutions, it contains some provisions which, without refinement, run the risk of unnecessarily limited credit availability. For this reason, today I introduced the Credit Availability Act of 1992.

Because of unanticipated changes in the health of the economy and the real estate sector, provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1992 [FIRREA] affecting nonconforming real estate subsidiaries will reduce thrifts' ability to lend. My legislation, consistent with the intent of FIRREA, will help to foster a safe and well capitalized thrift industry by ensuring that unnecessary regulatory restrictions and current economic conditions don't restrict thrifts' ability to make good quality loans.

As currently in effect, FIRREA requires thrifts to deduct 100 percent of their real estate subsidiary loans and investments from capital by July 1, 1994. Already they must deduct 25 percent of the investments. That amount was to have increased to 40 percent this past July 1, but the increase was recently postponed to November 1, 1992, by Congress. However, this delay does not resolve the problem posed by FIRREA but only provides us additional time to resolve it.

My bill authorizes the Office of Thrift Supervision [OTS]—in extraordinary circumstances and after consultation with the Federal Deposit Insurance Corporation [FDIC]—to grant thrifts, temporary and limited relief from increased capital set-aside requirements for real estate subsidiaries. Only thrifts that are well managed, are complying with all other rules and regulations, and would pose no risk to the insurance fund will be eligible. Any exceptions could not extend beyond July 1, 1997, and must require that at least 25 percent of thrifts' investments in these subsidiaries continue to be deducted from capital.

OTS has identified 324 thrifts which, as of December 31, 1991, had capital yet to be deducted due to nonconforming subsidiaries. Freezing the deduction at 25 percent would allow these thrifts to provide up to an additional $30 billion in loans to the economy. This is because thrifts need about $8 to $10 in capital for every $100 of loans they want to make. In addition, freezing the deduction would probably prevent some thrifts that are already short of capital from requiring regulatory intervention or even becoming insolvent. Thus, instead of having to restrict their lending activity or failing and leaving the market, they could continue serving borrowers.

The real estate subsidiary problem affects thrifts which hold nearly half the industry's assets—$407 billion. One such thrift, Community Savings, F.A. of North Palm Beach, FL, recently testified before the Subcommittee on Financial Institutions about the effect of divesting its nonconforming real estate subsidiary on performance. Community Savings has deducted $3 million from its capital to achieve the 25 percent divestment requirement of FIRREA. It faces another $9 million writeoff before it will have fully divested its subsidiary. The CEO pointed out in his testimony that not only will this prevent Community Savings' achieving its reasonable expectation of becoming profitable, but also will ultimately lead to its falling out of capital compliance.

The amount of thrift industry assets held by those thrifts with nonconforming subsidiaries makes it very important that the industry's restoration to safe and sound condition be accomplished without tying the regulators' hands in every detail. Credit must remain available to encourage economic growth at the same time as taxpayer costs in closing failed thrifts are reduced. This bill upholds the intent of the Congress to ensure that the thrift industry is well capitalized and well managed while encouraging the availability of credit.

The following is the text of my bill and a section-by-section analysis explaining its provisions:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit Availability Act of 1992".

SEC. 2. TEMPORARY, LIMITED EXCEPTION TO CAPITALIZATION RULE TO ENHANCE CREDIT AVAILABILITY.

Section 5(t)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)) is amended by adding at the end the following new subparagraph:

"(F) EXCEPTIONS GRANTED BY DIRECTOR.—

"(i) IN GENERAL.—After consultation with the Corporation, the Director may grant such temporary, limited exceptions to the applicability of subparagraphs (A) and (D) to the eligible amount of a savings association's investments in, and extension of credit to, any subsidiary that is engaged in real estate activities, as the Director determines to be necessary and appropriate if—

"(I) the Director determines that extraordinary circumstances exist, or that adverse economic conditions exist at the national, regional, or local level;

"(II) the Director determines that the savings association meets the standards established for the approval of an exemption under paragraph (7)(C)(i); and

"(III) the savings association is not subject to an order issued by the Corporation under subparagraph (D)(iii) which is inconsistent with the grant of an exception under this subparagraph.

"(ii) ELIGIBLE AMOUNT.—The amount eligible for the exception under this subparagraph is limited to the amount of the savings association's investments in, or extensions of credit to, the subsidiary as of April 12, 1989, and any subsequent amounts invested or credit extended to complete projects or investments that were initiated by the subsidiary before April 12, 1989.

"(iii) MINIMUM DEDUCTION.—In granting any exception under this paragraph, the Director shall require the savings association to deduct from capital at least 25 percent of the eligible amount.

"(iv) ALTERNATIVE SCHEDULE FOR DEDUCTIONS FROM CAPITAL.—The Director shall establish, as a condition for granting any exception under this subparagraph for any savings association, a requirement that the savings association shall comply with such alternative schedule as the Director may prescribe for deducting the association's investments in and extensions of credit to subsidiaries covered by the exception.

"(v) TERMINATION OF AUTHORITY.—No exception under this subparagraph shall be effective after July 1, 1977.".

SECTION-BY-SECTION ANALYSIS—THE CREDIT AVAILABILITY ACT OF 1992

SECTION 1. SHORT TITLE

The Credit Availability Act of 1992.

SECTION 2. TEMPORARY, LIMITED EXCEPTION TO CAPITALIZATION RULE TO ENHANCE CREDIT AVAILABILITY

The Director of the Office of Thrift Supervision (OTS), after consulting with the Federal Deposit Insurance Corporation (FDIC), is given authority to grant a limited and temporary exception to a provision of the capital requirement of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) for savings associations with investments in or loans to real estate subsidiaries not permissible for national banks.

In order to be able to grant the exception, the Director must determine that either extraordinary circumstances, or adverse national, regional, or local economic conditions exist. The Director must also determine that the exception would pose no significant risk to the deposit insurance fund, that the association's management is competent, that the association complies with all applicable laws, regulations, orders, and supervisory agreements and directives, and that the association's management has not engaged in any activity endangering the association's capital or health. Concurrently, the association must not be subject to an FDIC order increasing the amount of subsidiary investments and loans the association must deduct from its capital.

Eligible amount—The amount eligible for the exception is limited to the sum of the association's investment in and loans to the subsidiary as of April 12, 1989, and any subsequent amount invested in or lent to the subsidiary for the purpose of completing projects initiated before April 12, 1989.

Minimum deduction—The association is required to deduct at least 25 percent of the eligible amount.

Alternative schedule for deductions from capital—The Director is required to establish an alternative schedule for the deduction of an excepted association's investments and loans to its subsidiaries.

Termination of authority—All exceptions granted by the Director end July 1, 1997, after which date all investments and loans in nonconforming real estate subsidiaries by associations shall be fully deducted from capital.

H.R. 918

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Mr. MARLENEE. Mr. Speaker, the Rahall substitute could easily be labeled the "Investment Curtailment and Job Export Act of 1992." If a single bill could kill an industry, could destroy thousands of jobs, this is it.

Many myths have been perpetrated, many misconceptions have been hatched about the 1872 mining law. One myth is that the act is unchanged from when it was passed 120 years ago. In fact, it has been amended 36 times.

This draconian law would damage our national economy three ways: It would force the big companies offshore; rise the price of vital and strategic minerals; and start the ultimate elimination of small and independent mining companies.

It's the small, independent companies which don't have the resources to fight the citizen lawsuit provisions of the Rahall bill. They will be unable to overcome the new hurdles put in front of them.

It's people like Jack Hughes, a 72-year-old man from Billings, MT. He's a veteran of two wars—the first man to enlist in Lewistown after Pearl Harbor. He was nominated for the Legion of Merit and other military honors. In his words, he's now "a cantankerous old man who wants to prospect for minerals without it costing him an arm and a leg."

It's Neil Peterson of Sheridan, MT, who says he and his neighbors depend on mining as an important tax base, an economic underpinning, a reliable employer and a vital force to the folks in the Ruby Valley who can't afford to come to Washington, DC, to lobby against this onerous legislation.

It's Pat Frankl and others like him in Granite County, who see the Rahall bill as an end to their way of life, ripping apart the very social and economic fabric which binds their western Montana community.

It's Barbara and Bill Seybert of Manhattan, MT. They're decent, hardworking, tax paying, children-raising folks who love Montana and want to protect the beauty we were privileged to grow up with.

These little folks and more asked for a hearing. Instead, Mr. Chairman, what we got was your appearance at a Greater Yellowstone coalition meeting, and lip service to a few big companies. It's evident from your substitute you weren't listening to them. With this bill, the environmental activists will get the gold, while the workers of Montana will get the shaft.

Furthermore, Mr. Chairman, I have been advised that Mr. DEFAZIO intends to offer an additional amendment, of an 8-percent gross production royalty on mining on public lands. Any such amendment would cost Montana dearly. Companies as large as Stillwater Mining Corp., which is operating our Nation's sole palladium mine, have stated if the royalty is adopted, they will close their doors. When our economy is already staggering, now is not the time to kill a vital industry and throw thousands out off work.

YOUTHSING 1992

HON. JIM BACCHUS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. BACCHUS. Mr. Speaker, I rise today to applaud the young people of Central Florida whose voices will rise on the first of August to brighten the lives of many other young children. At a time when our youth face so many difficult challenges from drugs to violent crime, it is a pleasure to recognize members of our community who make positive contributions and serve as excellent role models.

Mr. Speaker, the event which I recognize today is YouthSing 1992. On Saturday, August 1, 1992, 200 young people from the Cathedral Church of St. Luke will gather for a 1-day recording session. The proceeds of this compassionate recording will benefit "Give Kids the World," an organization that works with over 150 wish-granting foundations and hospitals around the country.

The marvelous organization, Give Kids the World, was founded in 1986 to help grant last wishes to children who have life-threatening illnesses by bringing the children and their families to the Walt Disney World area to experience a delightful experiences along with their families. In May 1989, Give Kids the World opened a Holiday Inn Kids Village which provides free accommodations for 2,500 families each year. In addition to free accommodations, they provide transportation, admission to the area's theme parks, and complimentary meals to create special memories for the children and their families.

The YouthSing 1992 benefit for Give Kids the World is an excellent example of what our youth can do to assist their communities. We must continue to encourage public service by recognizing young people such as those involved in YouthSing 1992. Positive grassroot efforts, such as YouthSing 1992, will truly make the world a better place.

JOHN P. GILL ASSUMES PRESIDENCY OF ARKANSAS BAR ASSOCIATION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1992

Mr. ALEXANDER. Mr. Speaker, John Gill of Little Rock is a friend and classmate of mine at Vanderbilt Law School.

Last month, he assumed the presidency of the Arkansas Bar Association—a well deserved honor.

I can safely predict that John will leave the ABA a better organization than he found it—because that's the way he works.

In an article in this month's edition of The Arkansas Lawyer, entitled "Please Don't Call Me 'Mister,'" John writes:

> When you call me mister you erect a barrier to professionalism. I lost my young lawyer status two decades ago, but don't call me mister because I still hold dear that young lawyer ideal that you and I are officers of the court, specially educated and licensed by the state to serve others. We can't serve others until we know one another well enough to be on a first name basis.

That, Mr. Speaker, is John Gill. He is dedicated to the law, not because of the material rewards it may bring, but because it embodies the agreed rules by which we live together in this Nation.

And because the law stands as a shield, protecting the freedoms we all enjoy—regardless of our station in life.

John says those in the profession should be proud of their calling. He says that too many lawyers misunderstand Shakespeare's words, quoted from King Henry IV, about first killing all the lawyers.

He correctly points out that it is important to remember that, in context, what was being said is that in order to take over a government, you must first get rid of the lawyers because they are the protectors of freedom.

My friends also wrote that—

> As professionals, lawyers are "called to serve others. As professionals we are called first to sacrifice, not to drive a Mercedes. Sacrificing ourselves to solve a problem means joining with our adversary in the search for truth."

I wish I could say that John's philosophy was universally shared by those in the profession. It should be.

John Gill's words are not hollow rhetoric. He practices what he preaches.

He has gone to bat for causes he believes in on a pro bono basis—because he loves the law and believes that it should serve to advance causes beneficial to society.

John says that one of the reasons he wanted to be ABA president was to highlight professionalism among lawyers in our State.

He calls that, at Vanderbilt, "They made [professionalism] an integral part of the curriculum. You knew you were there to learn how to help people."

I wish that all young lawyers were required to spend time in the offices of men like my friend, John Gill.

They would be better for it, the profession would be better for it—and the Nation would be better for it.

I congratulate John Gill and his partner in life, Marjem Gill, on his assuming the presidency of the Arkansas Bar Association.

I will honor John Gill's request not to call him mister—but I will call him a professional. I believe he would like that.

[From Arkansas Lawyer, July 1992]

PLEASE, DON'T CALL ME "MISTER"

(By John P. Gill)

When you call me mister you erect a barrier to professionalism. I lost my young lawyer status two decades ago, but don't call me "mister" because I still hold dear that young lawyer ideal that you and I are officers of the court, specially educated, and licensed by the state to serve others. We can't serve others until we know one another well enough to be on a first name basis. In a disagreement with one of my partners, he said (as we talked it out), "I'm glad we became friends before we became partners."

Only when we have a comradery and a friendship will we have professionalism, because friends don't let friends down. Friends don't mistreat friends. Friendship is not built on lies, me-first, and rudeness. It is unprofessional to lie; it is unprofessional to be selfish; it is unprofessional to be rude. It is unprofessional not to return phone calls the day they are received. It is unprofessional to be egocentric. Although I was born during the centennial of Arkansas statehood, I'm still young enough to remember that this is an honorable profession to which all of us are "called" to serve others. As professionals, we are called first to sacrifice, not to drive a Mercedes. Sacrificing ourselves to solve a problem means joining with our adversary in the search for truth. Calling me "mister" can't help find truth; it only erects barriers.

One of Arkansas' great trial judges, Tom Digby, astounded me some years ago with a notice on his door requiring adversaries in any trial to contact each other and introduce themselves to each other before trial. He told me the notice grew out of lawyers not speaking before trial. How unprofessional can we be not to talk to each other before trial? How do you participate in dispute resolution if you don't talk to your adversary about the dispute and explore its resolution. I'm against mandatory Alternate Dispute Resolution. I'm for voluntary ADR and the professionalism which makes mandatory ADR unnecessary. A hired gun interferes with dialogue and with professionalism. If you're in this profession for money, or for winning, you're in it for the wrong reasons—your own ego. If you concentrate on professionalism, it is my experience that winning and money take care of themselves. Professionals communicate as well with each other as they do with jurors.

Members of the Methodist Church years ago were called "brother" or "sister". While I'm not ready for that, please don't call me minister either. Just call me John and we'll start off without one barrier to communication. We will have a better Bar, and if I'm in a lawsuit with you, we'll start off without barriers, and begin the brother-sisterhood of professionalism. That doesn't mean I'll settle with you, but it does mean we'll concentrate on the issues, not egos.

JOHN P. GILL: THE MAN WITH A PLAN, REALLY

(By Paige Beavers Markman)

John Purifoy Gill of Little Rock took office as President of the Arkansas Bar Association on June 13, 1992. People surrounding him say he is organized, efficient—that's an understatement. His whole life—lawyering, collecting Arkansasiania (memorabilia from or regarding Arkansas), gardening, writing and community work, is all organized to a tee. Gill Wallace Clayton Fleming Elrod & Green, the law firm he leads, is ready for Gill to be President of the Arkansas Bar Association. If you've worked with Gill at all, you know Desi Gipson, his secretary/right arm. Desi assures us that he has been at work for over a year now preparing for his year at the helm.

BACKGROUND

John Purifoy Gill was born in Fort Smith, Arkansas but moved at six weeks of age because his father, the branch manager for Armour & Company, was transferred to Little Rock. His mother was a school teacher who Gill says taught most of the kids in Little Rock. His father eventually was in the insurance and real estate management business. Gill attended Little Rock Schools beginning at Fair Park Elementary, the school from which he now lives up the street. (He says he lives "only four blocks from the house I lived in when I started school, proof positive I haven't gotten very far in life.") He was in the first graduating class from Little Rock Central High.

Gill went on to Hendrix College in Conway, but was awarded a NROTC Scholarship to Vanderbilt in Nashville, Tennessee, after his second year. During his sophomore year at Hendrix he says "Some of us decided we missed Little Rock, so we drove down here and were hanging around the halls at Central High watching the girls go by, and a pretty girl walked by me. I asked a friend who she was and she said 'That's Marjem Jackson,' and I said I'd like to have a date with her." Marjem Jackson became Marjem Jackson Gill ten days after Gill graduated from law school. Gill, who was reportedly the first person in the United States to enter Law School on a NROTC Scholarship, says he went because "My dad thought it was a good idea."

After finishing law school, Gill entered the Marine Corps as an officer. Gill served in Quantico, Virginia, for three years and then returned to Little Rock to practice law. He remained in the Marine Corps Reserves for 24 more years. He began his law career as Assistant Attorney General, a job he held for two years before going into private practice.

PROFESSIONAL AND PERSONAL LIFE

Gill says he's a General Practitioner though he admits that there isn't really such a thing these days. Most of his work is in corporate litigation. He does great deal of complex litigation from the defendant and plaintiff sides and also plays a role in advising corporate boards on legal issues. He recently won an award for trying the "Crater of Diamonds" case about the diamond mines in Arkansas, demonstrating his acumen in environmental law, a growing field in Arkansas and in the nation as well. He says growing up in Arkansas made it easy for him to try the case *pro bono*. The issue to Gill was Arkansas' self image. He felt that digging a lake out of one of our claims to fame—the Diamond Mines—would not be a positive thing for Arkansans to look back on. "In a lot of ways I think Arkansas has been treated as a third-world type state in that our resources are taken out and value added in other places, which would have been the case with the diamonds. The wealth is being taken out of this state, and I want to help stop that any way I can." Gill feels that Arkansas' self image has always been an unnecessary liability for us, he doesn't think there is any reason for us to have the self image we do. "We have wonderful things in Arkansas, we shouldn't ever have to apologize to anyone."

Gill has also enjoyed handling bond issues. He says that part of his due diligence involves researching the community or area which has afforded him one of his favorite pastimes—learning about Arkansas. Gill's collection of Arkansasiania is truly amazing. At his home in the Little Rock Heights area, you can see his collection of Arkansas woodcarvings. All the pieces are created by Arkansas artists, most subjects being Arkansas-related in one way or another. He also owns the largest collection of Arkansas maps with the exception of that of the Library of Congress. His Arkansas Trout Stamps, Duck Prints, currency, Audubon prints, Courier & Ives Prints and collections of Arkansas explorers' journals and writings is unrivaled. He also has examples of pottery of each of the Arkansas Indian cultures.

Why does he collect all of this? He says he started collecting Arkansasiania when he was in the service, "because I missed home." The interest grew into a hobby that he has virogously pursued and thoroughly enjoys. "I don't go out and search for things like I used to. Now if I hear of something, I'll go take a look at it." Gill is still searching for three 'bird's eye views' of Arkansas, one of Little Rock, one of Fort Smith and one of Texarkana.

Unlike many lawyers, Gill does not golf. "It takes too much time," he says. "I prefer to play tennis, and I do quite a bit of gardening." Gardening he does. His home boasts beautiful landscaping and a rose garden surrounding the hot tub they added a few years ago.

Watching John and Marjem Gill together is truly a joy. They are a couple who have been and still are partners in their goals and everyday lives. Totally devoted to one another, they ask each other's advice on everything. Gill helps Marjem with her garden club; she helps him with his collecting. They laugh at each other; they jostle with each other; as a matter of fact, they act like a couple of kids. The couple has three children: Elizabeth, 26, who is married and living in Washington, D.C. working for Fannie Mae, the Mortgage Banker; Ward, 25, who is a First Lieutenant in the Marine Corps stationed at Camp Pendleton, California; and David, 22, a recent graduate of Hendrix who is now working for Snider Telecommunications in Little Rock; Family means a great deal to John and Marjem, obvious through their excitement at the coming weekend when all the children would be home for a wedding. They were scurring around, making arrangements to make sure everyone would be happy and taken care of.

BILL AND THE ARKANSAS BAR ASSOCIATION

John Gill says that one of the reasons he wanted to be President is to try to highlight professionalism among lawyers in our state. He says his feelings about professionalism come from his time at Vanderbilt. "They made it an integral part of the curriculum. You knew you were there to learn how to help people," says Gill.

He wants lawyers to feel proud of their profession. "Too many lawyers have always heard Shakespeare quoted saying 'First, we kill all the lawyers,' [King Henry IV] and they think it means something bad. Actually, in context what he was saying was that to be able to take over the government, you must first get rid of the lawyers because they are the protectors of freedom. A lot of the young lawyers think it's only important to win—that's baloney—it's only important to protect anothers' freedom," says Gill.

His plan for the Bar year is complete, concise and well thought out. "This plan is not defensive, it's offensive. I didn't spend 27 years in the Marine Corps learning to retreat," says Gill.

The 'plan' came to the Bar Center in the form of approximately 30 typed pages. The goals and missions are laid out by priority; commentary comes before and after. This would be a good example of what you need if you ever hire someone to analyze your firm and make management suggestions. After reading the plan, I highly recommend John Gill should you ever need this service.

Highlights of his priorities include:

I. Facilitating the Practice of Law. This will include developing an advisory ethics opinion program, beginning a mentoring program for young lawyers, fee dispute arbitration and revamping the referral fee ethics to encourage referrals. Also, the Young Lawyers Section would be responsible for writing a Consumer Law Handbook. There would be an expansion of AMI for all routine tort cases and the development of value billing. The Association would publish annual updates of its handbooks and systems.

II. The Legal Profession. Priorities under this category include mandatory periodic professionalism courses for all attorneys, requiring 1 hour CLE on ethics each year, monitoring Professional Conduct Committee efficiency and having an audited verification of Lawyer Trust Accounts. There would also be a public service program on the necessity for obeying the law as a citizen's first duty, a revision of the code of professionalism and the establishment of legal advertising guidelines.

III. Unfinished Business—Modernization of the Arkansas Judicial System. Gill says we need state funding of the judicial system, non-partisan election of judges and criminal procedure reform. He wants to look at judicial campaign financing, judicial redistricting and compensation.

IV. Bar Organization. Establishing a permanent hot line for disaster/emergency relief is a priority along with an In House Counsel Section. Gill would like to see a Harold Flowers Section and a Women Lawyers Section. He wants to expand Bar Association office space, develop a Trial Notebook and a yearly calendar. The Association staff will use recycled paper and serve health food at luncheon meetings, do extensive promotions on form books, insurance and other Bar services.

A principal thrust of his emphasis is developing young lawyers in the profession, a matter on which he has already begun work.

Some of these things will take legislation, others will take legislation, others will take Supreme Court Rule. A lot of these things will take the hard work and cooperation of all Arkansas attorneys. I had to ask John Gill, "Don't you think you've set some lofty goals? Are you trying to set the world on

fire?" His answer, typical John Gill, was "if you aren't going to set high goals, why try? We may not get everything done, but at least we have a plan and we can say we did our best—isn't that all that matters?" Yes, I guess it is.

So, lawyers of Arkansas, get ready. The man with a plan has taken office, he's ready to work and looking for action. And I don't think anything or anyone is going to stop him from making improvements that are long overdue.

SENATE—*Wednesday, July 29, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Have not I commanded thee? Be strong and of a good courage; be not afraid, neither be thou dismayed: for the Lord thy God is with thee whithersoever thou goest.—Joshua 1:9.

God of Abraham, Isaac, and Israel, Moses and the Prophets, Jesus and the Apostles, God of our fathers, thank You for Your command to Joshua under very difficult circumstances. The great leader, Moses, was gone. It remained to Your servant, Joshua, to lead the people of God into their land to establish a nation.

Grant, mighty Lord, that Your servants here in the Senate, who bear great responsibility under difficult circumstances, may learn to trust the Lord God who is with them whithersoever they go. Teach them Your sovereignty, Your transcendence, Your imminence, Your constant, never failing love and guidance. Help them to discover the unfailing goodness of a never failing Lord, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 29, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later in the day.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Kentucky is recognized.

OFFICE OF THRIFT SUPERVISION BEGINS IMPLEMENTATION OF STEALTH REGULATION

Mr. FORD. Mr. President, I rise to express my outrage over one of the most cynical regulatory actions I have seen around here in some time—the recent approval by the Office of Thrift Supervision [OTS] of an interstate branching request for S&L's under its controversial new regulations. OTS has again demonstrated its lack of concern for procedures and its lack of respect for this body. And even worse, OTS has taken another step in the wrong direction in its campaign to overrun States rights. They apparently feel they can play by their own rules and implement their own agenda. OTS feels they can ignore the Senate. They can ignore State regulators. They can ignore State legislatures. They can ignore everything but their own agenda and the interests they are trying to please.

Despite the difficult debates the Congress has had on interstate branching, despite the recent overwhelming vote by the Senate that OTS delay implementation of its rule, and despite the cloud over this regulation because of the way it has been implemented, OTS has done it again. Earlier this month, on July 10, OTS approved the first interstate branching request under its controversial new rule preempting State laws. This rush to action makes me wonder. Just what special interests are they seeking to please? Just who are they trying so hard to satisfy? Apparently, it has become more important to OTS to pursue their agenda than to maintain any credibility.

I do not need to remind my colleagues of all of the complex aspects of this issue which we have debated in recent months. However, let me just say that it is clear in this body that a great many Senators share my concern that States rights be respected and protected in this area.

This is not the view, however, of OTS. Mr. President, every single action taken by the OTS on this issue has raised credibility questions. Every single action taken by OTS on this regulation indicates they knew it would be controversial, they knew it would be considered out of line, but they did not care. They have tried to sneak by—and I repeat that—they have tried to sneak by every step of the way. Mr. President, this controversial new regulation might be better called the stealth regulation. OTS proposed the new rule the day before New Year's Eve 1991, when Congress was out of town. They made the rule final on April 9, the day before a 2-week recess. And they approved the first branching request on July 10, in the middle of another recess. This is how you implement a stealth regulation. Mr. President, this is how you put special interests above the public interest.

Let me briefly review the OTS record. Last year, after months of debate in our banking committees, and after hours of debate on this floor and in the other Chamber, we were unable to reach a final decision on interstate branching for banks. It is a very complex and very controversial subject. Yet on December 30 of last year, the day before New Year's Eve, OTS published its proposed new rule for S&L's. But that is not all. They proposed this major policy change with only a 30-day comment period, and no public hearings. An issue as complex as this would receive no hearings. OTS hoped no one would be watching. Despite the fact that 25—let me repeat—25 Members of this body objected in writing, OTS refused to extend the comment period. Despite the fact that more than 80 percent of the comments received opposed the new rule—many from State regulators—OTS was determined to rush forward.

But they had to wait a few weeks, Mr. President. They had to wait until the RTC funding bill moved through the Congress, so that the stealth regulation would not be attacked. It could only succeed if few noticed. So they waited through February and March for the RTC bill.

Then, on April 9, the day before Congress was to adjourn for 2 weeks, OTS published its final rule. What a surprise. The regulation was barely changed, except to make the language preempting all State laws more explicit. OTS apparently hoped the stealth regulation would not be noticed while Congress recessed for 2 weeks. The regulation became effective May 11.

But Congress did notice. On the House side, Banking Committee Chair-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

man GONZALEZ expressed his concerns with the regulation. And on June 24, this Senate voted 82 to 15 to impose a 15-month moratorium on the enforcement of this regulation. This moratorium is an amendment to the pending GSE bill.

But this did not deter OTS. On July 10, while the Senate was in the middle of another recess, OTS approved the first interstate branching request under the controversial issue, the very first request. It makes it somewhat suspect, in my opinion. This was only 2 weeks after the overwhelming Senate vote for a moratorium, and less than 2 months after the controversial regulation became effective.

So you can see the pattern, Mr. President. Propose the regulation the day before New Year's Eve, make it final the day before a 2-week recess of the Congress, and approve the first application in the middle of another recess. Mr. President, this is truly the stealth regulation. And this is a very cynical regulator.

All of these actions, Mr. President, indicate that OTS is either rushing forward to serve a distinct few special interests, or they do not care if their actions have much credibility, or they simply view the formal regulatory procedures required by law as a mere rubber stamp for their predetermined decisions. Or maybe it is all of the above. Mr. President, I do not think we have heard the last on this controversial new issue.

TRIBUTE TO OZZIE MAGLINGER

Mr. FORD. Mr. President, I am honored to pay tribute today to Ozzie Maglinger, chief of the Owensboro Fire Department. After more than 36 years of service, 18 of which were as a chief officer, Chief Maglinger will retire on July 31 of this year. The department is sure to miss this model of dedication and community service.

During his tenure at the Owensboro Fire Department, Chief Maglinger has seen every man, fire station, and every piece of equipment replaced, with the exception of the 1926 fire truck located in the fire museum.

Chief Maglinger is also responsible for establishing the hazardous material team in the city of Owensboro.

I have known Chief Maglinger and his family for many years. One of ten children of Fred and Bertha Maglinger, Ozzie is the last child to retire. All of his siblings have a multitude of talents including three professional artists, a master photographer, a two-term representative in the Kentucky House of Representatives, and a photo-finishing entrepreneur. Rarely has one family displayed such raw talent.

Although Chief Maglinger will retire at the end of this month, I feel certain that he will continue in the spirit of community service, and he certainly will always be remembered for his exemplary service as a firefighter and administrator. I wish him all the best in his retirement.

I noted that the Honorable CURT WELDON introduced a House joint resolution to designate October 8, 1992, as National Firefighters' Day. I support this resolution to honor these unsung heroes and remind all Americans about the daily contributions of the fire service.

Mr. President, I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

A STRONG INTERNATIONAL EFFORT

Mr. LIEBERMAN. Mr. President, the reports from Baghdad this morning are disappointing, but not surprising. The U.N. inspection team has left the Agricultural Ministry in Baghdad emptyhanded, not having found any of the incriminating evidence that they suspected was there. And this is the final evidence that, in the wake of the recent threats of military attack from U.N. forces, U.S. forces, Saddam did not blink, he merely winked. He got what he wanted: time to empty the Agricultural Ministry of any incriminating documents. And along with it, he got an outrageous bonus: the right to exclude Americans from the inspection team. That gives him bragging rights he does not deserve. And that gives us every reason to step up the diplomatic, economic and military pressure on his regime. It is time for a new deadline for Saddam, with a use of military force by the coalition if he fails to fully comply with all U.N. resolutions.

But, Mr. President, Iraq is not the only nation where brutal aggression causes us concern. There is another tragedy of historic proportions in the making in our world today. That is the tragedy of Bosnia and Hercegovina. Every day, we hear new tales of horror from Sarajevo and other communities in Bosnia and Hercegovina, where Moslems have been under siege from Serbian forces, bent on a perverse ethnic cleansing of the region. There are stories of starvation, as Serbian blockades keep the essentials of life from reaching innocent civilians. There are stories of terror trains, where people—most of them Moslems—have been locked up like cattle in freight cars, forced to live in intolerable conditions as they are moved away from their homes. There are stories of people being terrorized and herded into stadiums or small areas of cities—some might call them ghettos. One does not have to reach far for the historic parallels to such flagrant disregard for basic human rights.

Can the community of civilized nations react to this crisis in a concerted and effective manner? We are trying. But we are not succeeding. Through the United Nations, we are trying to provide humanitarian relief to the embattled Bosnians. But our relief efforts have stumbled in the face of a continuing war. Our instinct to help has been caught, quite literally, in the crossfire of this tragedy.

More than 1 million Bosnians have become refugees; 1 million more may flee, or be forced to flee, their homes in the coming months. If the crisis continues into the winter, U.N. officials say, hundreds of thousands of Bosnians may die of starvation and cold.

While the need for international relief is clear, the path toward that relief is a difficult one. But its difficulty should not dissuade us from finding a solution. Nor can we allow Presidential politics to confuse the signals of strength that we should be sending to the Serbian aggressors.

On Monday, the President's press secretary, Marlin Fitzwater, criticized Gov. Bill Clinton's very sensible, humane, and measured proposals for dealing with the crisis in Bosnia, calling them reckless. Governor Clinton simply, and correctly, in my view, called on the President to seek U.N. authorization of selective air strikes against those who are attacking the international relief effort. He did not call for all-out war. He did not call for the introduction of ground combat forces. He called for U.S. naval and air forces to participate in an international effort to protect relief supplies.

This is a proposal that has been echoed by Members of both parties in this Chamber, and indeed, may I say, as recently as yesterday by the Secretary of Defense himself. It is not a reckless proposal. In fact, to call Governor Clinton's proposal reckless is itself reckless, because it breaks a bipartisan consensus on how to deal with the tragedy in this region of the world that has formed in this Chamber, and it sends a very uncertain signal to the Serbian dictator Milosevic. Do we want him to believe that the United States considers the possibility of the use of force against Serbian aggressors as reckless? Do we want him to believe that the United States is not prepared to use force as part of a multinational coalition to stop Serbian aggression? By criticizing Governor Clinton's strong and reasonable proposals, I fear that we are sending the wrong signals to Belgrade.

The crisis in Bosnia is no less a test of the power of the United Nations, and of the United States' role in affecting world events, than is Iraq. We shirk our international responsibility here at our own peril.

Earlier this week, the President, in a campaign address, spoke of the telephone that links him to the White House crisis center, and he said, "The American people need to know that the man who answers that phone has the experience, the seasoning, the guts to do the right thing." But I must say, sadly, that when it comes to the crisis in Bosnia, the President's phone has been ringing off the hook, with pleas for help from the people of Bosnia, and no one has answered that phone.

Mr. President, I support Governor Clinton's proposal, as I believe many Members of both parties in this Chamber do. It's time for us to draw a line in the Balkans and say to Slobodan Milosevic that this aggression will not stand. I believe we should:

Organize a multinational military force to accompany convoys of humanitarian relief for Bosnia from the air, and to provide and protect airdrops of such supplies where necessary, such as in the city of Gorazde, where people are beginning to starve from lack of food, and where a U.N. effort was sidetracked by landmines and gunfire. Such an airdrop has been called for by local U.N. officials;

The United States and our European allies should declare our intent to send arms to the Government of Bosnia, to help the Bosnians defend themselves and protect their people, who currently face slaughter at the hands of the better-equipped Serbian forces;

Sanctions against Serbia should be strengthened, because too many supplies are coming to Serbia through Romania, Bulgaria, and down the Danube River. We need U.N. monitors along all these routes so we can stop this flow of material;

Coalition airstrikes against Serbian airfields and military bases should be considered as a last resort if Serbian attacks on Bosnia do not end. It is clear we cannot get directly involved in a guerrilla war on the ground in Bosnia and Hercegovina. But by attacking clear-cut military targets in Serbia from the air, we can effectively checkmate Serbian aggression, making it far too costly for Milosevic to maintain his aggression abroad, while his army is under attack at home.

Like Saddam Hussein, Slobodan Milosevic has thumbed his nose at the rule of international law. He treats negotiations as a tactical vehicle for achievement of his aggressive goals. Such men understand only one thing—force—and only an incremental and sustained leveraging of international military force, accompanied by economic sanctions, can break the will of the Belgrade regime.

To those who question why it is important for the United States to be involved in this war so far away, I say that our history is replete with deadly examples of what happens when we ignore such conflicts, when we fail to recognize the rippling effect of historical events, and allow those ripples to form a tide. If Milosevic succeeds in Bosnia, a wider war in the region is possible, and that could involve Croatia, Macedonia, Kosovo, Albania, Bulgaria, and Greece. And, as I said in June, while there is not a linear connection between events in Bosnia and the future of the nations of the former Soviet Union, common sense tells us that the manner in which the Western nations react to Serbian aggression will affect the plans of those who are considering violence in other places once dominated by communism.

The way in which we react to Serbian aggression will affect the plans of those who are considering violence to achieve their parochial goals in other parts of the world. The stability of the world is in America's interests. Therefore, I am pleased that the Senate Foreign Relations Committee is expected to favorably recommend to this Chamber this week a resolution supporting a strong international effort to counter Serbian aggression.

I met last week with the foreign minister of Bosnia and Herzegovina, Dr. Haris Silajdzic and I conveyed to him my own support for his people, and my belief that this Senate and our country would do all we could to bring relief, and save lives. He, in turn, impressed upon me, with greater force than can be conveyed in news reports alone, the human scale of this disaster, and the need for a swift and strong response.

At this moment in history, when the lives of millions of people are hanging in the balance, let us speak out and demonstrate our outrage, and our commitment to finding a solution to this terrible tragedy. For we must remember this: History will record the villainy of Slobodan Milosevic. But history will also record what we did, or did not do, to stop him.

CONGRATULATION TO NICOLE HAISLETT UPON HER WINNING OF AN OLYMPIC GOLD MEDAL

Mr. MACK. Mr. President, I would like to take a few moments to acknowledge the fantastic accomplishments of Nicole Haislett, who yesterday became the first U.S. woman gold medalist by winning the 200 meter freestyle swimming competition at the summer Olympics in Barcelona, Spain. Like all Americans I was filled with enormous pride as I watched Nicole overtake her opponent in the last fifty meters to capture the gold medal. Her incredible determination to reach her goal, should not only serve as an inspiration to athletes, but should remind each of us of the American spirit which has defined us as a Nation and permitted us to rise to any challenge.

So today on behalf of myself and all Floridians, especially those from Nicole's hometown of St. Petersburg, I congratulate her on a very special victory.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,992,389,485,928.84, as of the close of business on Monday, July 27, 1992.

On a per capita basis, every man, women, and child owes $15,543.12—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

EXPLANATION OF VOTE IN SUPPORT OF THE SMITH AMENDMENT TO THE COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS BILL

Mr. DODD. Mr. President, yesterday, the Senate completed action on the Commerce, Justice, State, and Judiciary appropriations bill. During consideration of that measure, I supported an amendment, offered by my colleague Senator SMITH, to repeal the District of Columbia's Assault Weapon Manufacturing Strict Liability Act.

Let me say at the outset that I am firmly committed to the principle of gun control and support a direct ban on assault weapons. As I stated on the floor of the Senate last month, we must act now to reverse the escalating gun violence in this country.

The main problem with the District of Columbia's assault weapon law is that it attempts to use the law of torts, more specifically product liability law, as a method of gun control. Generally, the D.C. law allows people injured by certain assault weapons to collect damages from the manufacturer or dealer without proving that the company or seller was negligent. Accordingly, the D.C. law imposes strict liability on gun manufacturers for any injuries caused by assault weapons in the District of Columbia. The problem with that approach is that it unfairly places liability on a manufacturer who produced a lawful product and broke no criminal law.

If a jurisdiction, or this Nation, is serious about controlling the violence caused by assault weapons, then it ought to do that directly. Let's just ban them. The problem with the D.C. law is that it will lead to absurd results.

For example, assume that a gun manufacturer in Maryland sells an automatic weapon to the police department in the District of Columbia. Assume further that a criminal steals the gun from the police department and then shoots and injures a drug dealer. Under the D.C. law, the injured drug dealer could sue the gun manufacturer. But what did the gun manufacturer do wrong? Was the gun manufacturer supposed to know that the gun would be stolen?

In response to these types of concerns, and there are many other scenarios, several gun manufacturers have suggested that they may no longer sell guns to the D.C. Police, FBI, DEA, or the military because that is the only way they can avoid liability. Thus, the D.C. law, which is intended to make the streets safer, may actually make them more dangerous.

In conclusion, Mr. President, the District of Columbia's Assault Weapon Manufacturing Liability law is poorly conceived public policy and that is why I voted in support of the Smith amendment. Furthermore, I support approaching the problem of gun violence directly by banning assault weapons, instituting a waiting period before a gun may be purchased, and providing more funds for our besieged law enforcement officials.

TRIBUTE TO DR. BESSIE BOEHM MOORE

Mr. BUMPERS. Mr. President, on August 2, 1992, Dr. Bessie Boehm Moore, of Little Rock, AR, will celebrate her 90th birthday. It is an honor for me to share in this occasion in advance because this is certainly a significant milestone for her and our beloved Arkansas.

She is fortunate to be surrounded by her many friends and colleagues who have shared wonderful memories with her in the past and will continue to do so in the future. Dr. Moore has made remarkable accomplishments and dedicated many years to libraries and education in Arkansas and nationwide.

Considering Bessie's many achievements, it is not surprising that she is an inspiration to all who know her. In 1926 she organized the first county library in Arkansas and has served on the White House Conference on Libraries. In addition, one of Bessie's several honorary degrees is a doctor of library science. For 38 years she served under nine Governors as a member of the Arkansas State Library Commission and was appointed by Lyndon B. Johnson to the U.S. National Commission on Libraries and Information Services.

Bessie's contributions to education have been extensive as well. She is a member of the American Association of University Women, Arkansas Congress of Parents and Teachers, American Academy of Political and Social Science, Center for Economic Education, National Association of Economic Educators and the Joint Council on Economic Education.

In addition to her experience as an educator, Bessie is also a successful businesswoman. She has owned and operated a successful main street business in Little Rock and has served on the board of directors for First National Bank in Little Rock. She is a world traveler and has played an active role in lecturing at leading universities, as well as consulting on economic and career education.

Bessie earned a B.M.E. from the University of Central Arkansas at Conway in 1942 and a M.A. from the University of Connecticut in 1962. Her honorary degrees include a doctor of laws from the University of Arkansas in 1958, a doctor of laws from the University of Arizona in 1977, and as I mentioned before, a doctor of library science from the University of Arkansas at Little Rock in 1986. Bessie is a member of Who's Who in American Women, World Who's Who of Women, Advisory Commission on Women in the Armed Services, and was a State Department Emissary to West Germany for the Marshall Plan in 1954.

Often referred to as the poor man's Pearl Mesta, Bessie Moore is a charming lady and wonderful hostess. Indeed, it is not just Bessie and her family and friends who should be celebrating this wonderful occasion, but all Arkansans and people nationwide who have benefitted from her great achievements.

MORSE HIGH SCHOOL CLASS OF 1942 50TH REUNION

Mr. MITCHELL. Mr. President, in 1942, the graduating class of Morse High School was chosen by McCall's magazine as representative of small town high school graduates across America. In June, a remarkable 82 percent of the alumni of this class held a reunion in Bath, ME.

The class of 1942 is as representative of America in 1992 as it was in 1942. Alumni have moved to all regions of the United States and pursued careers in education, the law, engineering, government service, and the clergy. Like many in their generation, a majority of the class served their country during World War II. Two members of the class gave their lives in that conflict.

This class has lived through some of the most remarkable technological and social changes of the 20th century. This class reunion demonstrated that the class of 1942 successfully met these incredible challenges. Undoubtedly their coming of age in a time of world crisis was what gave them the ability to adapt to change and face adversity.

The Morse High School class of 1942 has represented Maine and the United States well. McCall's magazine made a wise decision in choosing the class as representative of our Nation. I am pleased that the class had a successful 50th class reunion and I look forward to hearing about the future successes of this class.

CONCLUSION OF MORNING BUSINESS

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Texas.

Mr. BENTSEN. Have we finished the morning hour?

The PRESIDING OFFICER. If there is no further morning business, then morning business will be closed.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATIONAL ENERGY POLICY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 776, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 776) to provide for improved energy efficiency.

The Senate proceeded to consider the bill (H.R. 776) to provide for improved energy efficiency, which had been reported from the Committee on Finance, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive National Energy Policy Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—ENERGY EFFICIENCY

Sec. 101. Findings, purpose, and definition.

Subtitle A—Buildings

Sec. 111. Residential and commercial building energy efficiency codes and standards.

Sec. 112. Voluntary home energy efficiency ratings.

Subtitle B—Federal Agency Energy Management

Sec. 121. Federal energy management amendments.

Sec. 122. Energy savings performance contracts.

Sec. 123. Intergovernmental energy management planning and coordination.

Sec. 124. Federal agency energy management training.
Sec. 125. Identification and attainment of agency energy reduction and management goals.
Sec. 126. Energy audit teams.
Sec. 127. Procurement and identification of energy efficient products.
Sec. 128. Federal energy efficiency funding study.

Subtitle C—Electricity and Utilities

PART 1—ELECTRIC UTILITIES

Sec. 131. Encouragement of investments in conservation and energy efficiency.
Sec. 132. Tennessee Valley Authority least-cost planning program.
Sec. 133. Amendment of Hoover Power Plant Act.

PART 2—GAS UTILITIES

Sec. 141. Encouragement of investments in conservation and energy efficiency.

PART 3—GENERAL PROVISIONS

Sec. 151. Conservation grants to State regulatory authorities.

Subtitle D—Requirements and Information

Sec. 161. Energy efficiency labeling for windows and window systems.
Sec. 162. Voluntary standards for industrial insulation and improvement of industrial audits.
Sec. 163. Energy conservation requirements for certain commercial and industrial equipment.
Sec. 164. Energy conservation requirements for certain lamps and plumbing products.
Sec. 165. Energy conservation requirements for certain other equipment and energy efficiency labeling for luminaires.
Sec. 166. Cooperative advanced appliance and equipment development.
Sec. 167. Evaluation of utility early replacement programs for appliances.

Subtitle E—Miscellaneous

Sec. 171. Commercial application of energy efficient lighting technology.
Sec. 172. Energy efficiency in industrial facilities.
Sec. 173. Process-oriented industrial energy efficiency.
Sec. 174. Miscellaneous.

TITLE II—NATURAL GAS PIPELINES

Sec. 201. Fewer restrictions on certain natural gas imports.
Sec. 202. Optional certificates for certain projects.
Sec. 203. Transportation under section 311 of the Natural Gas Policy Act of 1978.
Sec. 204. Rules in local distribution company bypass cases.
Sec. 205. Third party contracting by the Federal Energy Regulatory Commission for Natural Gas Act facilities.
Sec. 206. New rates and joint through rates.
Sec. 207. Utilization of informal rulemaking procedures.
Sec. 208. Faster issuance and review of Commission orders.
Sec. 209. Streamlined certificate procedures.
Sec. 210. Expedited Federal Energy Regulatory Commission rules.
Sec. 211. Gas delivery interconnections in production areas.
Sec. 212. Gas delivery interconnections in market areas for local utilities.
Sec. 213. Technical amendments.
Sec. 214. State regulation on the production of natural gas.

TITLE III—ALTERNATIVE FUELS—GENERAL

Sec. 301. Definitions.
Sec. 302. Amendments to the Energy Policy and Conservation Act.
Sec. 303. Assurance of acquisition of a variety of fueling facilities.
Sec. 304. Increased Federal fleet requirement.
Sec. 305. Use of alcohol-enhanced gasoline in Federal motor vehicles.
Sec. 306. Disadvantaged business enterprises.

TITLE IV—ALTERNATIVE FUELS—NONFEDERAL PROGRAMS

Sec. 401. Truck commercial application program.
Sec. 402. Conforming amendments.
Sec. 403. Alternative motor fuels amendments.
Sec. 404. Vehicular natural gas jurisdiction.
Sec. 405. Public information program.
Sec. 406. Labeling requirements.
Sec. 407. Availability of fueling facilities.
Sec. 408. Data acquisition program.
Sec. 409. Federal Energy Regulatory Commission authority to approve recovery of certain expenses in advance.
Sec. 410. State and local incentives programs.
Sec. 411. Alternative fuel bus program.
Sec. 412. Certification of training programs.
Sec. 413. Alternative fuel use in nonroad vehicles and engines.
Sec. 414. Reports to Congress.
Sec. 415. Low interest loan program.
Sec. 416. Commercial application funding for alternative fueled vehicles.
Sec. 417. Prohibited acts.
Sec. 418. Enforcement.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

Sec. 501. Mandate for alternative fuel providers.
Sec. 502. Replacement fuel supply and demand program.
Sec. 503. Replacement fuel demand estimates and supply information.
Sec. 504. Modification of goals; additional rulemaking authority.
Sec. 505. Voluntary supply commitments.
Sec. 506. Technical and policy analysis.
Sec. 507. Fleet requirement program.
Sec. 508. Secretary's recommendations to Congress.
Sec. 509. Effect on other laws.
Sec. 510. Prohibited acts.
Sec. 511. Enforcement.
Sec. 512. Powers of the Secretary.
Sec. 513. Authorization of appropriations.

TITLE VI—ELECTRIC MOTOR VEHICLES

Sec. 601. Definitions.

Subtitle A—Electric Motor Vehicle Commercial Demonstration Program

Sec. 611. Applications.
Sec. 612. Selection of proposers.
Sec. 613. Discounts to users.
Sec. 614. Reports to Congress.
Sec. 615. Authorization of appropriations.
Sec. 616. Technology transfer program.

Subtitle B—Electric Motor Vehicle Infrastructure and Support Systems Development Program

Sec. 621. Definitions.
Sec. 622. General authority.
Sec. 623. Solicitation of joint ventures.
Sec. 624. Electric utility participation study.
Sec. 625. Authorization of appropriations.

TITLE VII—ELECTRICITY

Sec. 701. Findings and purposes.

Subtitle A—Public Utility Holding Company Act Amendments

Sec. 711. Treatment of independent power producers under PUHCA.
Sec. 712. Ownership of independent power producers and qualifying facilities.
Sec. 713. Affiliate transactions; State authorities.

Subtitle B—Federal Power Act; Interstate Commerce in Electricity

Sec. 721. Interconnection.
Sec. 722. Amendments to section 211 of Federal Power Act.
Sec. 723. Transmission services.
Sec. 724. Information requirements.
Sec. 725. Sales by independent power producers.
Sec. 726. Penalties.
Sec. 727. Definitions.

Subtitle C—State and Local Authorities

Sec. 731. State authorities.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

Sec. 801. Environmental Protection Agency standards for disposal.
Sec. 802. Inflation adjustment for fees.
Sec. 803. Plan for timely payment of costs for disposal of defense waste in repository.
Sec. 804. Site characterization.
Sec. 805. Extension of Office of the Nuclear Waste Negotiator.

TITLE IX—URANIUM ENRICHMENT CORPORATION

Sec. 901. Establishment of the Uranium Enrichment Corporation.
Sec. 902. Conforming amendments and repealers.
Sec. 903. Restrictions on nuclear exports.
Sec. 904. Severability.
Sec. 905. Citizen suits.

TITLE X—REMEDIAL ACTION AT ACTIVE PROCESSING SITES

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Sec. 1002. Regulations.
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TITLE XI—URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES

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Sec. 1202. Purposes.
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Sec. 1205. Renewable energy export technology training.
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Sec. 1207. Renewable Energy Advancement Awards.
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Sec. 1209. Study of tax and rate treatment of renewable energy projects.
Sec. 1210. Study of rice milling energy byproduct marketing.
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Sec. 1308. Nonfuel use of coal.
Sec. 1309. Coal refinery program.
Sec. 1310. Study of utilization of coal combustion byproducts.
Sec. 1311. Calculation of avoided cost.
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Sec. 1402. Additional authority for drawdown.
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TITLE XV—OCTANE DISPLAY AND DISCLOSURE

Sec. 1501. Certification and posting of automotive fuel ratings.
Sec. 1502. Increased authority for enforcement.
Sec. 1503. Studies.

TITLE XVI—GREENHOUSE WARMING—ENERGY IMPLICATIONS

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Sec. 1602. Report on National Academy of Sciences recommendations.
Sec. 1603. Energy inventory and forecasts.
Sec. 1604. Assessment of alternative policy mechanisms for addressing greenhouse gas emissions.
Sec. 1605. Voluntary reductions of greenhouse gases.
Sec. 1606. International energy technology transfer.
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TITLE XVII—ADDITIONAL FEDERAL POWER ACT AMENDMENTS

Sec. 1701. Additional Federal Power Act amendments.

TITLE XVIII—OIL PIPELINE REGULATORY REFORM

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Sec. 1802. Streamlining of Commission procedures.
Sec. 1803. Protection of certain existing rates.
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[TITLE XIX—REVENUE PROVISIONS

[Sec. 1901. Amendment of 1986 Code.

[Subtitle A—Energy Conservation and Production Incentives

[Sec. 1911. Treatment of employer-provided transportation benefits.
[Sec. 1912. Exclusion of energy conservation subsidies provided by regulated public utilities.
[Sec. 1913. Deductions relating to clean-fuel vehicles.
[Sec. 1914. Credit for electricity produced from certain renewable sources.
[Sec. 1915. Repeal of minimum tax preferences for depletion and intangible drilling costs of independent oil and gas producers and royalty owners.
[Sec. 1916. Increased base tax rate on ozone-depleting chemicals.
[Sec. 1917. Treatment of certain ozone depleting chemicals.
[Sec. 1918. Permanent extension of energy investment credit for solar and geothermal property.
[Sec. 1919. Nuclear decommissioning funds.
[Sec. 1920. Facilities for production of certain fuels.
[Sec. 1921. Treatment under local furnishing rules of certain electricity transmitted outside local area.

[Subtitle B—Other Revenue Provisions

[Sec. 1931. Repeal of exemption from communications tax for news services.
[Sec. 1932. Exception from pro rata allocation of interest expense of financial institutions to tax-exempt interest for small issuers increased to $20,000,000.
[Sec. 1933. Certain minerals not eligible for percentage depletion.
[Sec. 1934. Disclosures of information for veterans benefits.
[Sec. 1935. Disallowance of interest on certain overpayments of tax.
[Sec. 1936. Information reporting with respect to certain seller-provided financing.

[Subtitle C—Federal Tax Exemption for Uranium Enrichment Corporation; Limitation on Borrowing Authority

[Sec. 1941. Federal tax exemption; limitation on borrowing authority.]

TITLE XIX—REVENUE PROVISIONS

Sec. 1901. Amendment of 1986 Code.

SUBTITLE A—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

Sec. 1911. Treatment of employer-provided transportation benefits.
Sec. 1912. Exclusion of energy conservation subsidies provided by regulated public utilities.
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Sec. 2113. Nuclear energy.
Sec. 2114. Civilian nuclear waste.
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Sec. 2302. Policy on capital projects and construction.
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Sec. 2305. Cost sharing.
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[Sec. 2307. Costs related to decommissioning and the storage and disposal of nuclear waste.
[Sec. 2308. Use of domestic products.
[Sec. 2309. Limitation on appropriations.
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[Sec. 2311. Uncosted obligations.]
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Sec. 2603. Treatment of Indian tribes as States.
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TITLE I—ENERGY EFFICIENCY

SEC. 101. FINDINGS, PURPOSE, AND DEFINITION.

(a) FINDINGS.—The Congress finds that the more efficient use of energy and the greater use of renewable energy can—

(1) improve energy security and the balance of trade by reducing energy imports;

(2) improve air quality by reducing combustion of fossil fuels;

(3) reduce emissions of carbon dioxide, a major "greenhouse" gas;

(4) save consumers money through reduced energy expenditures; and

(5) improve the international competitiveness of the United States economy.

(b) PURPOSE.—The purpose of this title is to encourage the more efficient use of energy and water.

(c) DEFINITION.—For the purposes of this title, the term "Secretary" means the Secretary of Energy.

Subtitle A—Buildings

SEC. 111. RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.

(a) IN GENERAL.—Title II of the National Energy Conservation Policy Act (42 U.S.C. 8211–8235i) is amended by adding at the end the following new part:

"PART 6—RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS

"SEC. 271. UPDATING OF ENERGY EFFICIENCY CODES AND STANDARDS.

"(a) TECHNICAL ASSISTANCE.—(1) Not later than 12 months after the date of the enactment of this part, the Secretary shall establish a program to provide technical assistance in the updating, implementing, and enforcing the energy efficiency provisions in residential and commercial building codes. In establishing and carrying out such program, the Secretary shall provide such assistance to State and local code officials, building professionals, and building owners and operators involved in reviewing and analyzing current model codes and standards for residential and commercial building energy efficiency, in designing appropriate code amendments, in developing code administration, compliance, and enforcement methods, or in implementing and enforcing the codes.

"(2) Such technical assistance shall include direct analytical and training support and may include grants to States, local governments, and other organizations from funds available for such purpose. States which have certified that they have met the requirements of subsections (b) and (c) shall be given a priority for grants made to implement and enforce energy efficiency provisions of building codes.

"(3)(A) The Secretary shall establish a task force to advise in the development of the program described in paragraph (1) and to review the results of such program.

"(B) The task force shall include representatives from building scientists, nonprofit groups concerned with energy efficiency in buildings, utilities, manufacturers and installers of energy efficient materials and systems, the building construction industry, the financial community, code officials, State governments, and commercial building owners, operators, and managers.

"(b) CERTIFICATION OF RESIDENTIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than two years after the date of the enactment of this part, each State shall certify that it has reviewed and updated its residential building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's residential building energy efficiency code provisions meet or exceed the requirements of the Council of American Building Officials' Model Energy Code of 1989.

"(2)(A) Whenever the model energy code referred to in paragraph (1) (or any successor of such code) is revised in a manner that the Secretary determines will improve energy efficiency in residential dwellings, the Secretary shall publish a notice of such determination in the Federal Register.

"(B) During any year beginning after December 31, 1995, the Secretary may, for the purpose of improving energy efficiency in residential buildings, prescribe regulations containing energy efficiency requirements that exceed the requirements of—

"(i) if no determination has been made under subparagraph (A), the model energy code referred to in paragraph (1); or

"(ii) if a determination has been made under subparagraph (A), the most recent code for which such a determination has been made.

"(C) Whenever the Secretary makes a determination under subparagraph (A) or prescribes regulations under subparagraph (B), each State shall, not later than two years after the date of the publication of such determination or regulations, certify that it has reviewed and updated its residential building code provisions affecting energy efficiency in accordance with the model energy code for which a determination has been made under subparagraph (A) or the regulations prescribed under subparagraph (B), as the case may be. Such certification shall include a demonstration that the State's building energy efficiency code provisions meet or exceed such code or regulations.

"(c) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than two years after the date of the enactment of this part, each State shall certify to the Secretary that it has reviewed and updated its commercial building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's code provisions meet or exceed the requirements of the American Society of Heating, Refrigerating, and Air Conditioning Engineers Standard 90.1–1989.

"(2)(A) Whenever the standard referred to in paragraph (1) (or any successor of such standard) is revised in a manner that the Secretary determines will improve energy efficiency in commercial buildings, the Secretary shall publish a notice of such determination in the Federal Register.

"(B) During any year beginning after December 31, 1995, the Secretary may, for the purpose of improving energy efficiency in commercial buildings, prescribe regulations containing energy efficiency requirements that exceed the requirements of—

"(i) if no determination has been made under subparagraph (A), the standard referred to in paragraph (1); or

"(ii) if a determination has been made under subparagraph (A), the most recent standard for which such a determination has been made.

"(C) Whenever the Secretary makes a determination under subparagraph (A) or prescribes regulations under subparagraph (B), each State shall, not later than two years after the date of the publication of such determination or regulations, certify that it has reviewed and updated its commercial building code provisions affecting energy efficiency in accordance with the standard for which a determination has been made under subparagraph (A) or the regulations prescribed under subparagraph (B), as the case may be. Such certification shall include a demonstration that the State's building energy efficiency code provisions meet or exceed such standard or regulations.

"(d) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements of subsections (b) and (c) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

"(e) PERIODIC REVIEW.—The Secretary shall, in consultation with the appropriate Federal agencies, periodically review the technical and economic basis of the provisions in widely used building energy standards and model energy codes developed through consensus processes with broad industry and public participation, such as those developed by the American Society of Heating, Refrigerating, and Air-conditioning Engineers and the Council of American Building Officials. Based upon the Secretary's review of these codes and standards and upon ongoing research on the energy efficiency of buildings and their components, the Secretary shall—

"(1) participate in any industry process carried out to review and modify energy provisions in building standards or codes;

"(2) recommend amendments to such energy provisions; and

"(3) seek adoption of all energy efficiency measures that are technically feasible and economically justified on a life-cycle cost basis.".

(b) CLERICAL AMENDMENTS.—(1) The National Energy Conservation Policy Act is amended by adding at the end of the table of contents for title II the following items:

"PART 6—RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.

"Sec. 271. Updating of energy efficiency codes and standards.".

(2) The title for title II of such Act, and the heading for such title in the table of contents of such Act, are amended to read as follows:

"TITLE II—ENERGY CONSERVATION IN GENERAL".

SEC. 112. VOLUNTARY HOME ENERGY EFFICIENCY RATINGS.

(a) IN GENERAL.—Title II of the National Energy Conservation Policy Act (42 U.S.C. 8211–82351) is amended by adding at the end the following new part after the part added by section 111 of this Act:

"PART 7—VOLUNTARY ENERGY EFFICIENCY RATINGS FOR RESIDENTIAL BUILDINGS

"SEC. 281. RATINGS.

"(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this part, the Secretary shall, by rule, prescribe regulations containing procedures that may be used by State and local governments, utilities, builders, and others to assign energy efficiency ratings to residential buildings.

"(b) CONTENTS OF RULE.—The regulations prescribed under subsection (a) shall—

"(1) establish a uniform rating scale—

"(A) that measures the efficiency of energy use in residential buildings while taking into account local differences in climate and construction practices; and

"(B) that does not discriminate against different fuel types;

"(2) using the uniform rating scale established under paragraph (1), establish methods, including format and content, of labeling that indicate the estimated annual heating and cooling cost of residential buildings that would be rated pursuant to such scale;

"(3) establish procedures for implementing the rating scale and labeling referred to in paragraphs (1) and (2), including methods that take into account variance in local needs;

"(4) establish requirements and procedures for certifying the accuracy of building energy analysis tools used to determine the energy ratings made pursuant to such regulation;

"(5) establish data collection and reporting requirements for organizations operating energy rating systems pursuant to such regulation; and

"(6) establish a Federal model home energy rating system—

"(A) that shall not supersede any local energy rating system but shall be used in technical assistance efforts; and

"(B) that shall be made available for optional use, at no charge, to States, local governments, and other organizations seeking to establish home energy ratings programs.

"(c) SPECIAL RULE.—In promulgating the procedures under this section, the Secretary shall provide that the supply of energy to any residential building from solar energy shall be credited toward the energy efficiency rating of such building.

"(d) UTILIZATION.—The procedures prescribed under this section shall be designed to facilitate use of the uniform rating scale and the labeling referred to in paragraphs (1) and (2) of subsection (b) by real estate agents, builders, lenders, and agencies in the secondary mortgage markets.

"SEC. 282. TECHNICAL ASSISTANCE.

"Not later than 18 months after the date of the enactment of this part, the Secretary shall establish and begin carrying out a program, with funds available for this purpose, to provide technical assistance to State and local governments, utilities, real estate agents, builders, lenders, agencies in the secondary mortgage markets, and others utilizing energy efficiency rating systems based on the procedures promulgated under this part. Technical assistance shall include direct assistance in the form of analytical support, training, and educational materials and may include grants to State and local governments and nonprofit organizations to assist in the development of home energy ratings systems.

"SEC. 283. REPORT.

"(a) INTERIM REPORT.—Not later than 24 months after the date of the enactment of this part, the Secretary shall transmit to the President and the Congress a report detailing—

"(1) the procedures prescribed under section 281;

"(2) any problems encountered in prescribing such procedures; and

"(3) actions taken to provide technical assistance under section 282.

"(b) FINAL REPORT.—Not later than 36 months after the date of the enactment of this part, the Secretary shall transmit to the President and the Congress a final report containing—

"(1) a description of the action taken by States, local governments, and other organizations to implement the energy efficiency ratings procedures described in section 281 and any problems encountered in implementing such procedures; and

"(2) recommendations on the feasibility of requiring, as a prerequisite to receiving federally assisted mortgages, the achievement of a certain threshold rating on the uniform rating scale established under section 281.".

(b) CLERICAL AMENDMENT.—The National Energy Conservation Policy Act is amended by adding at the end of the table of contents for title II the following items after the items added by section 111(b) of this Act:

"PART 7—VOLUNTARY HOME ENERGY EFFICIENCY RATINGS

"Sec. 281. Ratings.
"Sec. 282. Technical assistance.
"Sec. 283. Report.".

Subtitle B—Federal Agency Energy Management

SEC. 121. FEDERAL ENERGY MANAGEMENT AMENDMENTS.

(a) PURPOSE.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting after "use of energy" the following: "and water, and the use of renewable energy sources,".

(b) REQUIREMENTS FOR FEDERAL AGENCIES.—Section 543 of such Act (42 U.S.C. 8253(a)) is amended—

(1) in the section heading by striking "**goals**" and inserting "**requirements**";

(2) in subsection (a) by striking "GOAL" and inserting "REQUIREMENT";

(3) in subsection (a)(1) by inserting before the period at the end the following: "and so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 2000 is at least 20 percent less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985"; and

(4) by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:

"(b) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL AGENCIES.—(1)(A) Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544.

"(B) By January 1, 1994, each agency shall submit to the Secretary a list of projects meeting such 10-year payback criterion, the energy or water that each project will save, and the total energy, water, and cost savings involved.

"(C) The Secretary may waive the requirements of this subsection for any agency for such periods as the Secretary may determine if the Secretary finds that the agency is taking all practicable steps to meet the requirements and that the requirements of this subsection will pose an unacceptable burden upon the agency. If the Secretary waives the requirements of this subsection, the Secretary shall notify the Congress promptly in writing with an explanation and a justification of the reasons for such waiver.

"(D) Any agency which has jurisdiction of more than 300 buildings and facilities may determine its list of projects for the purpose of meeting the 10-year payback criterion by undertaking a technical and economic assessment of a statistically valid random sample of buildings and facilities.

"(2)(A) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impractical. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, and, in the cases of the Departments of Defense and Energy, the unique character of certain facilities operated by such Departments.

"(B) Each agency shall identify and list, in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary of Energy shall review such findings for consistency with the impracticability standards set forth in subparagraph (A), and may within 90 days after receipt of the findings, reverse a finding of impracticability. In the case of any such reversal, the agency shall comply with the requirements of paragraph (1) for the building concerned.

"(3) This subsection shall not apply to an agency's facilities that generate or transmit electric energy or to the uranium enrichment facilities operated by the Department of Energy.".

(c) IMPLEMENTATION.—Section 543(c) of such Act (as redesignated by subsection (b)(4) of this section) is amended—

(1) in the material preceding paragraph (1), by striking out "achieve the goal established in subsection (a)" and inserting in lieu thereof "meet the requirements of this section";

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) prepare and submit to the Secretary of Energy, within nine months after the date of the enactment of the Comprehensive National Energy Policy Act, a plan describing how the agency intends to meet such requirements, including how it will—

"(A) designate personnel primarily responsible for achieving such requirements;

"(B) identify high priority projects;

"(C) take maximum advantage of contracts authorized under title VIII of this Act, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs to the Government; and

"(D) otherwise implement this part;";

(3) by inserting the following before the semicolon at the end of paragraph (2): "and update such surveys as needed";

(4) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) using such surveys, determine the cost and payback period of energy and water conservation measures likely to achieve the requirements of this section;

"(4) install energy and water conservation measures that will attain the requirements of this section through the methods and procedures established pursuant to section 544; and"; and

(5) by redesignating paragraph (4) as paragraph (5).

(d) LIFE CYCLE COST METHODS AND PROCEDURES.—Section 544(a) of such Act (42 U.S.C. 8254(a)) is amended by striking out "National Bureau of Standards," in the material preceding paragraph (1) and inserting in lieu thereof "National Institute of Standards and Technology,".

(e) IDENTIFICATION OF FUNDS.—Section 545 of such Act (42 U.S.C. 8255) is amended to read as follows:

"SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"The President shall transmit to the Congress, along with each budget that is submitted to the Congress under section 1105 of title 31, United States Code, a statement of the amount of appropriations requested in such budget, if any, on an individual agency basis, for—

"(1) electric and other energy costs to be incurred in operating and maintaining agency facilities; and

"(2) compliance with the provisions of this part, the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), and all applicable Executive orders, including Executive Order 12003 (42 U.S.C. 6201 note) and Executive Order 12759 (56 Fed. Reg. 16257).".

(f) INCENTIVE PROGRAM.—Section 546 of such Act (42 U.S.C. 8256) is amended—

(1) by striking "(a) IN GENERAL.—" and inserting in lieu thereof "(a) CONTRACTS.—(1)";

(2) by redesignating subsection (b) as paragraph (2) and amending it to read as follows:

"(2) The Secretary shall, not later than 12 months after the date of the enactment of the Comprehensive National Energy Policy Act and after consultation with the Director of the Office of Management and Budget, the Secretary of Defense, and the Administrator of General Services, develop appropriate procedures and methods for use by agencies to implement the incentives referred to in paragraph (1).";

(3) by striking out subsection (c); and

(4) by adding at the end the following new subsections:

"(b) FEDERAL ENERGY EFFICIENCY FUND.—(1) The Secretary shall establish a Federal Energy Efficiency Fund to provide grants to agencies to enable them to meet the requirements of section 543.

"(2) Not later than June 30, 1993, the Secretary shall issue guidelines to be followed by agencies submitting proposals for such grants. All agencies shall be eligible to submit proposals for grants under the Fund.

"(3) The Secretary shall, on a quarterly basis, award grants from the Fund after a competitive assessment of the technical and economic effectiveness of each agency proposal. The Secretary shall give preference to those proposals that leverage utility rebates or private financing, or both, or provide for a direct commitment of agency funding.

"(4) The Secretary shall transmit to the Congress, on an annual basis, a report detailing the amount of funds awarded to each agency, the energy and water conservation measures installed with such funds, and the projected energy and water savings to be realized from installed measures. For each installed measure for which the projected energy and water savings reported in the previous year were not realized, such report shall also set forth the percentage of such projected savings that was not realized, the reasons such savings were not realized, and proposals for, and projected costs of, achieving such projected savings in the future.

"(5) There are authorized to be appropriated to carry out this subsection not more than $10,000,000 for fiscal year 1993, $50,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years thereafter.

"(c) UTILITY INCENTIVE PROGRAMS.—(1) Agencies are authorized and encouraged to participate in programs for energy or water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

"(2) Each agency may accept any financial incentive, generally available from any such utility, to conserve energy or water or manage electricity demand.

"(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

"(4) A public utility rate commission may not prohibit an agency from participating in a program which offers financial incentives for conservation of energy or water or for management of electricity, if participation in the program is generally permitted for customers of the utility.

"(d) FINANCIAL INCENTIVE PROGRAM FOR FACILITY ENERGY MANAGERS.—(1) The Secretary shall establish a financial bonus program to reward, with funds available for such purpose, outstanding facility energy managers in agencies.

"(2) Not later than June 1, 1993, the Secretary shall issue procedures for the bonus program, including the criteria to be used in selecting outstanding energy managers. Such criteria shall include, but not be limited to, evident success in generating utility incentives and shared energy saving contracts and in the amount of energy saved by conservation projects.

"(3) Each year the Secretary shall publish and disseminate to agencies a report highlighting the achievements of bonus award winners.

"(4) There is authorized to be appropriated to carry out this subsection not more than $250,000 for each of the fiscal years 1993, 1994, and 1995.

"(e) USE OF SAVINGS.—The head of each agency (other than the Department of Defense) shall provide that an amount equal to the energy and water cost savings realized by such agency with respect to funds appropriated for any fiscal year beginning after fiscal year 1992 (including financial benefits resulting from shared energy savings contracts under title VIII and financial incentives described in subsection (c)(2)) shall be available as follows:

"(1) ⅓ of such amount shall remain available for obligation through the end of the fiscal year following the fiscal year for which the funds were appropriated. Such funds shall be available, without additional authorization or appropriation, for the implementation of additional energy and water conservation measures by the agency, as determined by the head of such agency in agreement with the Administrator of General Services.

"(2) ⅓ of such amount shall remain available for obligation through the last day of the fiscal year following the fiscal year for which the funds were appropriated, without additional authorization or appropriation, for use by the agency in the buildings or facilities at which the savings were realized, consistent with applicable law and regulations.

"(3) ⅓ of such amount shall be deposited into the general fund of the Treasury for the purposes of deficit reduction.".

(g) REPORTS.—Section 548 of such Act (42 U.S.C. 8258) is amended by adding at the end the following new subsection:

"(c) OTHER REPORTS.—(1)(A) The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Administrator of General Services, shall conduct a study on the monetary value of the environmental benefits resulting from energy and water efficiency improvements in Federal buildings. In conducting this study, the Secretary shall review—

"(i) other studies that attempt to assign monetary values to environmental benefits or damages; and

"(ii) methods used by State regulatory authorities to incorporate environmental benefits into their State's regulation of utility activities.

"(B) The Secretary, not later than 24 months after the date of the enactment of this subsection, shall transmit to the Congress a report of the findings and conclusions of such study, including a recommendation as to whether the monetary values should be included in the methods and procedures established pursuant to section 544 and used to calculate the 10-year payback required by section 543.

"(2) The Secretary, in consultation with the Administrator of General Services and the Administrator of the Environmental Protection Agency, shall conduct a study of—

"(A) the life-cycle costs and benefits to the Federal Government of replacing all existing toilets, urinals, shower heads, and faucets in buildings owned by the Federal Government with models that have lower flow rates and are commercially available;

"(B) the environmental benefits of replacing the plumbing items referred to in subparagraph (A), taking into consideration the reduced energy and water use and sewage flow resulting from such replacement; and

"(C) the impact on the plumbing industry and such industry's low-flow products of a large-scale Federal purchase of the plumbing items referred to in subparagraph (A).

"(3) The Secretary, in consultation with the Administrator of General Services, the Secretary of Housing and Urban Development, and the International District Heating and Cooling Association, shall conduct a study and evaluate legal, institutional, and other constraints to connecting buildings owned or leased by the Federal Government to district heating and district cooling systems.

"(4) The Secretary, not later than 18 months after the date of the enactment of this subsection, shall transmit to the Congress a report containing the findings and conclusions of the studies carried out under paragraphs (2) and (3), including—

"(A) recommendations about what actions the Federal Government should take to conserve water in buildings and facilities which it owns or leases; and

"(B) recommendations for the development of streamlined processes for the consideration of connecting buildings owned or leased by the Federal Government to district heating and cooling systems.".

(h) FEDERAL PROGRAMS.—Such Act is amended—

(1) by redesignating section 549 as section 551; and

(2) by inserting the following new section after section 548:

"SEC. 549. INNOVATIVE ENERGY TECHNOLOGY PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in cooperation with the Administrator of General Services, shall establish a program to promote the use of advanced commercially available energy efficiency technologies and renewable energy technologies that have not been generally used in federally owned buildings and facilities.

"(b) SELECTION CRITERIA.—The Secretary shall select proposals to be funded under this section on the basis of—

"(1) cost-effectiveness;

"(2) system reliability in a working environment;

"(3) lack of market penetration in the Federal sector;

"(4) the potential needs of the proposing Federal agency for the technology, projected over 5 to 10 years;

"(5) the potential Federal sector market, projected over 5 to 10 years;

"(6) energy conservation; and

"(7) other environmental benefits, including the projected reduction of greenhouse gas emissions and indoor air pollution.

"(c) PROPOSALS.—Federal agencies may submit to the Secretary for each fiscal year proposals for projects to be funded by the Secretary under this section. Each such proposal shall include—

"(1) a description of the proposed project emphasizing the innovative use of technology in the Federal sector;

"(2) a description of the technical reliability and cost-effectiveness data expected to be acquired;

"(3) an identification of the potential needs of the Federal agency for the technology;

"(4) a commitment to adopt the technology, if the project establishes its technical reliability and life cycle cost-effectiveness, to supply at least 10 percent of the Federal agency's potential needs identified under paragraph (3);

"(5) schedules and milestones for installing additional units; and

"(6) a technology transfer plan to publicize the results of the project.

"(d) PARTICIPATION BY GSA.—The Secretary may only select a project for funding under this section which is proposed to be carried out in a building under the jurisdiction of the General Services Administration if the project will be carried out by the Administrator of General Services. If such project involves a total expenditure in excess of $1,600,000, no appropriation shall be made for such project unless such project has been approved by a resolution adopted by the Committee on Public Works and Transportation of the House of Representatives.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for each of the fiscal years 1993, 1994, and 1995.".

(i) TECHNICAL AMENDMENTS.—(1) Section 548(a)(2) of such Act is amended—

(A) by striking "546(b)" and inserting in lieu thereof "546(a)(2)"; and

(B) by striking "546(c)" and inserting in lieu thereof "546(e)".

(2) The table of contents of such Act is amended by striking the item for section 549 and inserting in lieu thereof the following new items:

"Sec. 549. Innovative energy technology program.

"Sec. 550. Intergovernmental energy management planning and coordination.

"Sec. 551. Definitions.".

SEC. 122. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) IN GENERAL.—Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended—

(1) by striking "The head" and inserting the following:

"(a) IN GENERAL.—(1) The head"; and

(2) by inserting at the end the following:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Any such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate payments by an agency to both utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency would have paid for utilities without an energy savings performance contract (as estimated through the procedures developed pursuant to this section), during contract years.

"(C) Federal agencies may incur obligations to finance energy conservation measures provided guaranteed savings exceed the debt service requirements.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, with the concurrence of the Administrator of General Services and in consultation with the Secretary of Defense and the Administrator of the National Aeronautics Space Administration, not later than 180 days after the date of the enactment of the Comprehensive National Energy Policy Act, shall develop appropriate procedures and methods for use by Federal agencies to select energy savings service contractors in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner.

"(B) The procedures and methods established pursuant to subparagraph (A) shall be the procedures and contracting methods for selection, by an agency, of a contractor to provide energy savings performance services. Such procedures and methods shall provide for the calculation of energy savings based on sound engineering and financial practices.

"(2) The procedures and methods established pursuant to paragraph (1)(A) shall allow for the head of each agency to perform the following:

"(A) Request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information, from firms engaged in providing energy savings services.

"(B) Designate from the statements received, with an update at least annually, those firms that are qualified to provide energy savings services.

"(C) Select firms designated under subparagraph (B) to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project.

"(D) Select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information.

"(E) Permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that such agency has determined is qualified to provide such services under the procedures established pursuant to paragraph (1)(A), and require agency facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals. The head of an agency may enter into an energy savings performance contract with such a qualified firm consistent with the procedures and methods established pursuant to paragraph (1)(A).

"(c) REPORTING REQUIREMENTS.—Not later than three years after the date of the enactment of the Comprehensive National Energy Policy Act, the Comptroller General of the United States shall transmit to the Congress a report on the implementation of this section, including recommendations for legislative or regulatory changes. This report shall include, but not be limited to, an assessment of the following issues:

"(1) The quality of the energy audits conducted for the agencies.

"(2) The government's ability to maximize energy savings.

"(3) The total energy cost savings accrued by the agencies that have entered into such contracts.

"(4) The total costs associated with entering into and performing such contracts.

"(5) A comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector.

"(6) The number of firms selected as qualified firms under this section and their respective shares of awarded contracts.

"(7) The number of firms engaged in similar activity in the private sector and their respective market shares.

"(8) The number of applicant firms not selected as qualified firms under this section and the reason for their nonselection.

"(9) The frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(10) Whether the contracting procedures developed pursuant to this section and utilized by agencies have been effective and whether continued use of those procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.".

(b) DEFINITION.—Section 804 of such Act (42 U.S.C. 8287c) is amended—

(1) in the material preceding paragraph (1), by striking "title—" and inserting "title, the following definitions apply:";

(2) in paragraph (1), by striking "the" and inserting "The" and by striking ", and" and inserting a period;

(3) in paragraph (2), by striking "the term" and inserting "The term"; and

(4) by adding at the end the following:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy savings measure or series of measures at one or more locations. Such contracts—

"(A) may provide for appropriate software licensing agreements; and

"(B) shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.), be in compliance with the prospectus requirements and procedures of the Public Buildings Act of 1959.".

SEC. 123. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

The National Energy Conservation Policy Act (42 U.S.C. 6201–8287c) is amended by inserting after section 549 the following new section:

"SEC. 550. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

"(a) CONFERENCE WORKSHOPS.—The Secretary, in consultation with the General Services Administration and the Task Force established under section 547, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy in the case of Federal buildings. The Secretary shall work and consult with other Federal agencies to plan for particular regional conferences. The Secretary shall invite State and local public officials, as appropriate, who have responsibilities for energy management of State and local facilities and shall seek the input of, and be responsive to, the views of such State and local officials in the planning and organization of such workshops.

"(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following (but may include other topics relating to strategy):

"(1) Developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region regarding the use of governmental facilities and buildings.

"(2) The design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques.

"(3) Procurement and use of energy efficient products.

"(4) Dissemination of energy information on innovative programs, technologies, and methods which have proven successful in government.

"(5) Technical assistance to design and incorporate effective energy management strategies.

"(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—In the annual report required under section 548(b), the Secretary shall set forth the schedule for the regional energy management workshops for that year. Not less than 5 workshops shall be held not later than 1 year after the date of the enactment of this Act, and at least 1 such workshop shall be held in each of the 10 Federal regions every 2 years beginning after September 30, 1993.".

SEC. 124. FEDERAL AGENCY ENERGY MANAGEMENT TRAINING.

(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under subsection (e)(2). Such programs shall be managed—

(A) by the department or agency representative on the Task Force; or

(B) if a department or agency is not represented on the Task Force, by the designee of the head of such department or agency.

(2) Departments and agencies described in paragraph (1) shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study in the areas described in subsection (e)(2) including, but not limited to, courses offered by—

(A) private or public educational institutions;

(B) Federal agencies; or

(C) professional associations.

(b) REPORT TO TASK FORCE.—(1) Each department and agency described in subsection (a)(1) shall, not later than 60 days following the date of the enactment of this Act, report to the Task Force the following information:

(A) Those individuals employed by such department or agency on the date of the enactment of this Act who qualify as trained energy managers as defined in subsection (e)(2).

(B) The General Schedule (GS) or grade level at which each of the individuals described in subparagraph (A) is employed.

(C) The facility or facilities for which such individuals are responsible or otherwise stationed.

(2) The Task Force shall provide a summary of the reports described in paragraph (1) to the Congress.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1) Not later than one year after the date of the enactment of this Act, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by—

(A) designating facility energy supervisors as defined in subsection (e)(1);

(B) encouraging facility energy supervisors to become trained energy managers, as defined in subsection (e)(2); and

(C) increasing the overall number of trained energy managers within such department or agency to a sufficient level to ensure effective implementation of this Act.

(2) Departments and agencies described in subsection (a)(1) may hire trained energy managers to be facility energy supervisors. Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities—

(A) department or agency facilities identified as most costly to operate or most energy inefficient; or

(B) other facilities identified by the department or agency head as having significant energy savings potential.

(d) Annual Report to Secretary and Congress.—Each department and agency listed in subsection (a)(1) shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each such report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

(e) Definitions.—For the purposes of this section—

(1) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation, and maintenance of energy systems in Federal facilities which may include more than one building;

(2) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of fundamentals of building energy systems; building energy codes and applicable professional standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(3) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 125. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.

Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note) is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and inserting in lieu thereof "in consultation with the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act,";

(B) in paragraph (1), by striking out "and" after the semicolon;

(C) in paragraph (2), by striking out the period and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)(1), by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "the Committee on Energy and Commerce and the Committee on Public Works and Transportation of the House of Representatives, within 180 days after the date of the enactment of the Comprehensive National Energy Policy Act,"; and

(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Committee on Energy and Commerce and the Committee on Public Works and Transportation of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000, established under Executive Order No. 12759.".

SEC. 126. ENERGY AUDIT TEAMS.

(a) Establishment.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities.

(b) Monitoring Programs.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 127. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) Procurement.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, each shall undertake a program to include energy efficient products in carrying out their procurement and supply functions.

(b) Identification Program.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, in consultation with the Secretary of Energy, each shall implement, in conjunction with carrying out their procurement and supply functions, a program to identify and designate those energy efficient products that offer significant potential savings, using, to the extent practicable, the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254). The Secretary of Energy shall, to the extent necessary to carry out this section and after consultation with the aforementioned agency heads, provide estimates of the degree of relative energy efficiency of products.

(c) Guidelines.—The Administrator for Federal Procurement Policy, in consultation with the Administrator of General Services, the Secretary of Energy, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Secretary of Defense and the Director of the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) Report to Congress.—Not later than December 31 of 1993 and of each year thereafter, the Secretary of Energy, in consultation with the Administrator for Federal Procurement Policy, the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall report on the progress, status, activities, and results of the programs under subsections (a), (b), and (c). The report shall include—

(1) the types and functions of each product identified under subsection (b), and efforts undertaken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to encourage the acquisition and use of such products;

(2) the actions taken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(3) progress on the development and issuance of guidelines under subsection (c);

(4) an indication of whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been used in the identification of products under subsection (b);

(5) an estimate of the potential cost savings to the Federal Government from acquiring products identified under subsection (b) with respect to which energy is a significant component of life cycle cost, based on the quantities of such products that could be utilized throughout the Government; and

(6) the actual quantities acquired of products described in paragraph (5).

SEC. 128. FEDERAL ENERGY EFFICIENCY FUNDING STUDY.

(a) Study.—The Secretary shall, in consultation with the Secretary of the Treasury, the Director of the Office of Management and Budget, the Administrator of General Services, and such other individuals and organizations as the Secretary deems appropriate, conduct a detailed study of options for the financing of energy and water conservation measures required under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) and all applicable Executive orders. Such study shall, taking into account the unique characteristics of Federal agencies, consider and analyze—

(1) the Federal financial investment necessary to comply with such requirements;

(2) the use of revolving funds and other funding mechanisms which offer stable, long-term financing of energy and water conservation measures; and

(3) the means for capitalizing such funds.

(b) Report to Congress.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing the results of the study required under subsection (a).

Subtitle C—Electricity and Utilities

PART 1—ELECTRIC UTILITIES

SEC. 131. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY.

(a) In General.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by inserting at the end the following new paragraphs:

"(7) Least-Cost Planning.—Each electric utility shall employ least-cost planning in order to provide adequate and reliable service to its electric customers at the lowest system cost. All plans or filings of a State regulated electric utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority.

"(8) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates charged by any electric utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other energy demand management measures which are consistent with the findings and purposes of title I of the Comprehensive National Energy Policy Act are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, generation, transmission, and distribution facilities.

"(9) ENERGY EFFICIENCY IMPROVEMENTS IN POWER GENERATION AND SUPPLY.—The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation and supply. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall reduce or eliminate disincentives to better maintenance by electric utilities and investment by electric utilities in more efficient power generation, transmission, and distribution technologies.

"(10) INCLUSION OF EXTERNAL COSTS.—The utility's least cost plans shall include, to the greatest extent practicable, the external costs and benefits of providing electric service, including but not limited to environmental impacts, maintaining access to foreign and domestic sources of supply, employment opportunities, economic development, and health.".

(b) IMPACT ON SMALL BUSINESS.—Section 111 of such Act is amended by inserting the following new subsection at the end thereof:

"(e) SMALL BUSINESS IMPACTS.—If a State regulatory authority implements a standard established by subsection (d)(7) or (8), such authority shall (1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand side management measures, and (2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) EFFECTIVE DATE.—Section 112(b) of such Act is amended by inserting "(or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (7), (8), (9), and (10) of section 111(d))" after "Act" in both places such word appears in paragraphs (1) and (2).

(d) DEFINITION OF LEAST COST PLANNING.—Section 3 of such Act is amended by adding the following new paragraph at the end:

"(19) The term 'least-cost planning' means planning by use of any standard, regulation, practice, or policy by which a State regulatory agency undertakes, or requires an electric or gas utility to undertake, a systematic comparison of energy efficiency, transmission, distribution, generation and supply investment opportunities to minimize life-cycle costs of adequate and reliable utility services to customers. Least-cost planning shall take into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk and shall treat demand and supply resources on a consistent and integrated basis.".

(e) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Energy shall transmit a report to the President and to the Congress containing a survey of all State laws, regulations, practices, and policies under which State regulatory authorities—

(1) require least-cost planning (as defined in the Public Utility Regulatory Policies Act of 1978); and

(2) implement the provisions of paragraphs (7), (8), (9), and (10) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (as added by subsection (a) of this section).

The report shall include an analysis prepared in consultation with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

SEC. 132. TENNESSEE VALLEY AUTHORITY LEAST-COST PLANNING PROGRAM.

(a) IN GENERAL.—The Tennessee Valley Authority shall conduct a least-cost planning program in accordance with this section.

(b) CONDUCT OF PROGRAM.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall employ and implement a planning and selection process for new energy resources which evaluates the full range of existing and incremental resources (including new power supplies, energy conservation and efficiency, and renewable energy resources) in order to provide adequate and reliable service to electric customers of the Tennessee Valley Authority at the lowest system cost.

(2) PLANNING AND SELECTION PROCESS.—The planning and selection process referred to in paragraph (1) shall—

(A) take into account necessary features for system operation, including diversity, reliability, dispatchability, and other factors of risk;

(B) take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and

(C) treat demand and supply resources on a consistent and integrated basis.

(3) SYSTEM COST DEFINED.—As used in paragraph (1), the term "system cost" means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) PARTICIPATION BY DISTRIBUTORS.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall—

(A) provide an opportunity for distributors of the Tennessee Valley Authority to recommend cost-effective energy efficiency opportunities, rate structure incentives, and renewable energy proposals for inclusion in such program; and

(B) encourage and assist such distributors in the planning and implementation of cost-effective energy efficiency options.

(2) ASSISTANCE.—The Tennessee Valley Authority shall provide appropriate assistance to distributors under paragraph (1)(B). Such assistance shall, where cost effective, be provided by the Tennessee Valley Authority acting through, or in cooperation with, an association of distributors. Such assistance may include publications, workshops, conferences, one-on-one assistance, financial assistance, equipment loans, technology assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers.

(d) PUBLIC REVIEW AND COMMENT.—Before the selection and addition of a major new energy resource on the Tennessee Valley Authority system, the Tennessee Valley Authority shall provide an opportunity for public review and comment and shall include a description of any such action in an annual report to the President and Congress.

(e) EXEMPTION FROM CERTAIN REQUIREMENTS.—The Tennessee Valley Authority shall not be subject to the least-cost planning requirements contained in section 111(d) of the Public Utility Regulatory Policies Act of 1978 or any similar requirement which might arise out of the Tennessee Valley Authority's electric power transactions with the Southeastern Power Administration.

SEC. 133. AMENDMENT OF HOOVER POWER PLANT ACT.

Title II of the Hoover Power Plant Act of 1984 (42 U.S.C. 7275-7276, Public Law 98-381) is amended to read as follows:

"TITLE II—INTEGRATED RESOURCE PLANNING

"Sec. 201. Definitions.
"Sec. 202. Regulations to require integrated resource planning.
"Sec. 203. Technical assistance.
"Sec. 204. Integrated resource plans.
"Sec. 205. Central Valley Project energy efficiency pilot program.
"Sec. 206. Miscellaneous provisions.

"SEC. 201. DEFINITIONS.

"As used in this title:

"(1) The term 'Administrator' means the Administrator of the Western Area Power Administration.

"(2) The term 'integrated resource planning' means planning by which a customer undertakes a systematic comparison of all practicable energy efficiency and energy supply resource options (including load-management programs and renewable energy resources) to identify least-cost options for providing reliable electric service. Integrated resource planning shall take into account necessary features for system operations, such as diversity, reliability, dispatchability, and other factors of risk.

"(3) The term 'least cost option' means an option for providing reliable electric services to electric customers which will, to the extent practicable, minimize life-cycle system costs, including adverse environmental effects, of providing such service. To the extent practicable, energy efficiency and renewable resources may be given priority in any least-cost option.

"(4) The term 'long-term firm power service contract' means any contract for the sale by Western Area Power Administration of firm capacity, with or without energy, which is to be delivered over a period of more than one year.

"(5) The terms 'customer' or 'customers' means any entity or entities purchasing firm capacity with or without energy, from the Western Area Power Administration under a long-term firm power service contract. Such terms include parent-type entities and their distribution or user members.

"(6) For any customer, the term 'applicable integrated resource plan' means the integrated resource plan approved by the Administrator under this title for that customer.

"SEC. 202. REGULATIONS TO REQUIRE INTEGRATED RESOURCE PLANNING.

"(a) REGULATIONS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer purchasing electric energy under a long-term firm power service contract with the Western Area Power Administration to implement, within 3 years after the enactment of this section, integrated resource planning in accordance with the requirements of this title.

"(b) CERTAIN SMALL CUSTOMERS.—Notwithstanding subsection (a), for customers with total annual energy sales or usage of 25 Gigawatthours or less which are not members of a joint action agency or a generation and transmission cooperative with power supply responsibility, the Administrator may establish different regulations and apply such regulations to customers that the Administrator finds have limited economic, managerial, and resource capability to conduct integrated resource planning. The regulations under this subsection shall require such customers to consider all reasonable opportunities to meet their future energy service requirements using demand-side techniques, new renewable resources and other programs that will provide retail customers with electricity at the lowest possible cost, and minimize, to the extent practicable, adverse environmental effects.

"SEC. 203. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Administrator shall provide technical assistance to customers to, among other things, conduct integrated resource planning, implement applicable integrated resource plans, and otherwise comply with the requirements of this title. Technical assistance may include publications, workshops, conferences, one-to-one assistance, equipment loans, technology and resource assessment studies, marketing studies, and other mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers. The Administrator shall give priority to providing technical assistance to customers that have limited capability to conduct integrated resource planning.

"(b) PILOT PROGRAMS.—Within 12 months after the enactment of this section, the Administrator shall develop pilot programs to assist its customers in understanding the benefits, costs and potential of demand-side management. The Administrator shall design programs to—

"(1) develop information regarding the benefits, costs and potential of demand-side management for each major customer class;

"(2) develop information regarding the benefits, costs and potential of demand-side management that focuses on these factors on a regional or subregional basis; and

"(3) develop information that is not already otherwise available to the Administrator and its customers.

"(c) FULL SCALE PILOT PROGRAMS.—On the basis of the information developed pursuant to subsection (b) of this section and any other information available to the Administrator, the Administrator shall design full-scale, cost-effective demand-side management programs that the Western Area Power Administration and its customers may utilize.

"(d) ENVIRONMENTAL COSTS.—The Administrator shall document and make available information regarding various methodologies to quantify environmental costs, values of demand-side management, and energy supply-side resource options.

"SEC. 204. INTEGRATED RESOURCE PLANS.

"(a) REVIEW BY WESTERN AREA POWER ADMINISTRATION.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to submit an integrated resource plan to the Administrator within 12 months after such regulations are amended. The regulation shall require a revision of such plan to be submitted every 5 years after the initial submission. The Administrator shall review the initial plan in accordance with a schedule established by the Administrator (which schedule will provide for the review of all initial plans within 24 months after such regulations are amended), and each revision thereof within 120 days after his receipt of the plan or revision and determine whether the customer has in the development of the plan or revision, complied with this title. Plan amendments may be submitted to the Administrator at any time and the Administrator shall review each such amendment within 120 days after receipt thereof to determine whether the customer in amending its plan has complied with this title. If the Administrator determines that the customer, in developing its plan, revision, or amendment, has not complied with the requirements of this title, the customer shall resubmit the plan at any time thereafter. Whenever a plan or revision or amendment is resubmitted the Administrator shall review the plan or revision or amendment within 120 days after his receipt thereof to determine whether the customer has complied with this title.

"(b) CRITERIA FOR APPROVAL OF INTEGRATED RESOURCE PLANS.—The Administrator shall approve an integrated resource plan submitted as required under subsection (a) if, in developing the plan, the customer has:

"(1) Identified and accurately compared all practicable energy efficiency and energy supply resource options available to the customer.

"(2) Included a 2-year action plan and a 5-year action plan which describe specific actions the customer will take to implement its integrated resource plan.

"(3) Designated 'least-cost options' to be utilized by the customer for the purpose of providing reliable electric service to its retail consumers and explained the reasons why such options were selected.

"(4) To the extent practicable, minimized adverse environmental effects of new resource acquisitions.

"(5) In preparation and development of the plan (and each revision or amendment of the plan) has provided for full public participation, including participation by governing boards.

"(6) Included load forecasting.

"(7) Provided methods of validating predicted performance in order to determine whether objectives in the plan are being met.

"(8) Met such other criteria as the Administrator shall require.

"(c) USE OF OTHER INTEGRATED RESOURCE PLANS.—Where a customer or group of customers are implementing integrated resource planning under a program responding to Federal, State, or other initiatives, in evaluating that customer's integrated resource plan under this title, the Administrator shall accept such plan as fulfillment of the requirements of this title to the extent such plan substantially complies with the requirements of this title.

"(d) COMPLIANCE WITH INTEGRATED RESOURCE PLANS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to fully comply with the applicable integrated resource plan and submit an annual report to the Administrator (in such form and containing such information as the Administrator may require) describing the customer's progress to the goals established in such plan. After the initial review under subsection (a) the Administrator shall periodically conduct reviews of a representative sample of applicable integrated resource plans and the customer's implementation of the applicable integrated resource plan to determine if the customers are in compliance with their plans. If the Administrator finds a customer out-of-compliance, the Administrator shall impose a surcharge under this section on all electric energy purchased by the customer from the Western Area Power Administration or reduce such customer's power allocation by 10 percent, unless the Administrator finds that a good faith effort has been made to comply with the approved plan.

"(e) ENFORCEMENT.—

"(1) NO APPROVED PLAN.—If an integrated resource plan for any customer is not submitted before the date 12 months after the guidelines are amended as required under this section or if the plan is disapproved by the Administrator and a revised plan is not resubmitted by the date 9 months after the date of such disapproval, the Administrator shall impose a surcharge of 10 percent of the purchase price on all power obtained by that customer from the Western Area Power Administration after such date. The surcharge shall remain in effect until an integrated resource plan is approved for that customer. If the plan is not submitted for more than one year after the required date, the surcharge shall increase to 20 percent for the second year (or any portion thereof prior to approval of the plan) and to 30 percent thereafter until the plan is submitted or the contract for the purchase of power by such customer from the Western Area Power Administration terminates.

"(2) FAILURE TO COMPLY WITH APPROVED PLAN.—After approval by the Administrator of an applicable integrated resource plan for any customer, the Administrator shall impose a 10 percent surcharge on all power purchased by such customer from the Western Area Power Administration whenever the Administrator determines that such customer's activities are not consistent with the applicable integrated resource plan. The surcharge shall remain in effect until the Administrator determines that the customer's activities are consistent with the applicable integrated resource plan. The surcharge shall be increased to 20 percent if the customer's activities are out of compliance for more than one year and to 30 percent after more than 2 years, except that no surcharge shall be imposed if the customer demonstrates, to the satisfaction of the Administrator, that a good faith effort has been made to comply with the approved plan.

"(3) REDUCTION IN POWER ALLOCATION.—In the case of any customer subject to a surcharge under paragraph (1) or (2), in lieu of imposing such surcharge the Administrator may reduce such customer's power allocation from the Western Area Power Administration by 10 percent. The Administrator shall provide by regulation the terms and conditions under which a power allocation terminated under this subsection may be reinstated.

"(4) SUITS TO REQUIRE ENFORCEMENT.—A retail customer of any customer may bring an action against the Administrator to require the Administrator to—

"(A) immediately approve or disapprove a plan or plan revision or amendment whenever the Administrator has failed to approve or disapprove such plan or plan revision or amendment within the applicable time period specified in subsection (a); or

"(B) impose a surcharge or power allocation reduction on any customer whenever such surcharge or reduction is mandated in accordance with paragraphs (1), (2), and (3) of this subsection.

The United States District Courts shall have jurisdiction in any action under this paragraph, without regard to the amount in controversy or the citizenship of the parties, to require the Administrator to immediately approve or disapprove a plan or plan revision or amendment or to impose a surcharge or power allocation reduction on any customer, as the case may be. No action may be brought under this paragraph until 60 days after the plaintiff has given notice to the Administrator of the proposed action.

"(f) INTEGRATED RESOURCE PLANNING COOPERATIVES.—With the approval of the Administrator, customers within any State or region may form integrated resource planning cooperatives for the purposes of complying with this title, and such customers shall be allowed an additional 6 months to submit an initial integrated resource plan to the Administrator.

"(g) CUSTOMERS WITH MORE THAN 1 CONTRACT.—If more than one long-term firm power service contract exists between the Administrator and a customer, only one integrated resource plan shall be required for that customer under this title.

"(h) PROGRAM REVIEW.—Within 1 year after January 1, 1999, and at appropriate intervals thereafter, the Administrator shall initiate a public process to review the program established by this section. The Administrator is authorized at that time to revise the criteria set forth in section 204(b) to reflect changes, if any, in technology, needs, or other developments.

"(i) RENEWABLE ENERGY.—(1) Within 12 months after the date of enactment of this title, the Administrator shall establish a Renewable Energy Joint Venture Fund to provide assistance under paragraph (2). There is authorized to be appropriated to the Administrator not more than $25,000,000 to be deposited in the Renewable Energy Joint Venture Fund. Expenditures from the Renewable Energy Joint Venture Fund shall be nonreimbursable. Not more than $5,000,000 may be expended from the fund for providing assistance to a single project.

"(2) Upon the request of a Western Area Power Administration customer, the Administrator is authorized to use amounts available in the Renewable Energy Joint Venture Fund to provide such technical and related assistance to such customer in accordance with paragraph (3) as is necessary to facilitate the development and design of cost-effective renewable energy demonstration projects by such customer.

"(3) Assistance provided under paragraph (2) may consist of grants to cover the capital costs of renewable energy demonstration projects. Such assistance shall not exceed an amount equal to 50 percent of the total capital costs of any project (including the total capital costs of any necessary transmission interconnections for such renewable energy project). Any need for power determination made in connection with the construction of a project assisted under this section shall be made by the Secretary of Energy.

"(4) As used in this subsection, the term 'renewable energy' has the same meaning as provided by section 808 of Public Law 101-549.

"(5) The provisions of this subsection shall terminate 3 years after the enactment of the Energy Development and Environmental Protection Act.

"SEC. 205. CENTRAL VALLEY PROJECT ENERGY EFFICIENCY PILOT PROGRAM.

"(a) ENERGY EFFICIENCY AND CONSERVATION IMPROVEMENTS.—Within 1 year after the enactment of this section, the Secretary of Energy, in cooperation with the Secretary of Interior, is directed to promulgate regulations and implement a public process whereby any entity with a long-term firm power service Central Valley Project (hereinafter referred to as 'CVP') contract may propose to the Administrator energy efficiency and conservation improvements in the CVP water delivery, power generation, transmission systems, and associated irrigation and water systems, provide all financing for such efficiency improvements, and receive 80 percent of the energy and capacity savings produced from such improvements. Any energy efficiency improvements which are approved by the Administrator under subsection (c) shall be implemented by the Administrator or by the Secretary of the Interior.

"(b) DURATION OF RECEIPT OF EFFICIENCY SAVINGS.—An entity providing financing for an efficiency improvement referred to in subsection (a) shall receive, through a contract with the Administrator, 80 percent of all savings that result from such efficiency improvement, for a period of not more than 20 years. After such contract expires, the savings shall be made available for other project purposes as authorized by law.

"(c) ENERGY EFFICIENCY SAVINGS.—Any entity receiving energy efficiency savings under subsection (b) shall only receive 80 percent of those energy efficiency savings directly produced from efficiency improvements that they have provided financing for and that have been independently verified.

"(d) CRITERIA FOR APPROVAL.—The Administrator shall approve any energy efficiency or conservation improvement referred to in subsection (a) based on the following criteria:

"(1) The technical feasibility of the improvement.

"(2) The amount of energy saved in relation to amount of money invested.

"(3) The lack of negative effect of the improvement on others.

"(4) The capability of the entity to finance the proposed improvements.

"(5) The degree to which participating entities have secured or can secure the necessary financing, permits, clearances, and other arrangements necessary to implement the improvements.

"(6) The lack of negative impact on the environment.

"(7) Such other criteria as may be established by the Secretary of Energy.

"(e) 20-PERCENT SET-ASIDE.—The Western Area Power Administration shall receive 20 percent of any power saved from an improvement to the CVP system. These savings shall be made available to the Secretary of the Interior to restore the fish and wildlife resources of the CVP, including using such savings to provide power to operate refuges, hatcheries, pumps or other facilities. Any power surplus to these needs shall be made available for other project purposes as authorized by law. Power supply from nonfederally financed improvements shall not be classified as project power except for the power made available to the Secretary of the Interior for fish and wildlife purposes. Any changes in CVP operation for this program shall not impact the CVP's ability to meet its other authorized purposes.

"(f) SUNSET PROVISION.—The authority of this section shall expire 5 years following promulgation of final regulations under this section. Any contracts in place at the end of the 5-year period shall continue in effect through the term of the contract.

"SEC. 206. MISCELLANEOUS PROVISIONS.

"(a) ENVIRONMENTAL IMPACT STATEMENT.—The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Administrator implementing this title in the same manner and to the same extent as such provisions apply to other major Federal actions significantly affecting the quality of the human environment.

"(b) ANNUAL REPORTS.—The Administrator shall include in the annual report submitted by the Western Area Power Administration (1) a description of the activities undertaken by the Administrator and by customers under this title and (2) an estimate of the energy savings and renewable resource benefits achieved as a result of such activities.

"(c) STATE REGULATED INVESTOR-OWNED UTILITIES.—Investor-owned electric utilities whose rates and charges for the sale of electric energy are regulated by a State regulatory authority shall be exempt from the requirements of this title.".

PART 2—GAS UTILITIES

SEC. 141. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY.

(a) IN GENERAL.—Section 303(b) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting at the end the following new paragraphs:

"(3) LEAST-COST PLANNING.—Each gas utility shall employ least-cost planning, as defined in section 131(c) of this title, in order to provide adequate and reliable service to its gas customers at the lowest system cost. All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority. Section 303(c) shall not apply to this paragraph to the extent that it could be construed to require the State regulatory authority to extend the record of a State proceeding in submitting reports to the Federal Government.

"(4) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates charged by any gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other energy demand management measures which are consistent with the findings and purposes of the Comprehensive National Energy Policy Act are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities. This objective requires that (A) regulators link the utility's net revenues at least in part to the utility's performance in implementing cost-effective programs promoted by this section; and (B) regulators ensure that, for purposes of recovering fixed costs, including its authorized return, the utility's performance is not affected by reductions in its retail sales volumes.

"(5) INCLUSION OF EXTERNAL COSTS.—The utility's least-cost plans shall include, to the greatest extent practicable, the external impacts of providing gas service, including environmental degradation, and in the case of imported resources, maintaining access to foreign sources of supply. Such impacts will be used in determining the cost-effectiveness of demand and supply options. Regulators shall seek to avoid incentives for use of environmentally inferior unregulated fuels, and shall ensure that their treatment of external impacts is symmetrical for each fuel subject to their regulation, to avoid creation of inappropriate fuel substitution incentives.".

(b) IMPACT ON SMALL BUSINESS.—Section 303 of such Act is amended by inserting the following new subsection at the end thereof:

"(d) SMALL BUSINESS IMPACTS.—If a State regulatory authority implements a standard established by subsection (b) (3) or (4), such authority shall (1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand side management measures, and (2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) EFFECTIVE DATE.—Section 303(a) of such Act is amended by inserting "(or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (3), (4), and (5) of subsection (b))" after "Act" and by striking out "standard established by subsection (b)(2)" in paragraph (2) and inserting "standards established by paragraphs (2), (3), (4) and (5) of subsection (b)".

(d) REPORT.—The report under section 131(d) of this Act transmitted by the Secretary of Energy to the President and to the Congress shall contain a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (3), (4), and (5) of section 303(b) of the Public Utility Regulatory Policies Act of 1978 (as added by subsection (a) of this section). The report shall include an analysis prepared in consultation with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

PART 3—GENERAL PROVISIONS

SEC. 151. CONSERVATION GRANTS TO STATE REGULATORY AUTHORITIES.

(a) CONSERVATION GRANTS.—The Secretary of Energy is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $100,000 per authority, for purposes of encouraging the consideration of conservation, energy efficiency resources, and other demand side management measures consistent with the purposes of this title as a means of meeting electric supply needs and to meet the requirements of paragraphs (7), (8), (9), and (10) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (as added by section 131(a) of this Act) and as a means of meeting gas supply needs and to meet the requirements of paragraphs (3), (4), and (5) of section 303(b) of the Public Utility Regulatory Policies Act of 1978 (as added by section 141(a) of this Act). Such grants may be utilized by a State regulatory authority to provide financial assistance to nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine demand-side management.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c)(1) SECRETARIAL ACTION.—In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority to achieve the purposes of this section and to consider implementation of the ratemaking standards established in—

(A) paragraphs (7), (8), (9), and (10) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (as added by section 131(a) of this Act); or

(B) paragraphs (3), (4), and (5) of section 303(b) of the Public Utility Regulatory Policies Act of 1978 (as added by section 141(a) of this Act).

(2) Such actions—

(A) shall include procedures to facilitate the participation of grantees and nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authority to examine demand-side management; and

(B) shall provide for coverage of the cost of such subgrantees' participation in such participation.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) RULES.—The Secretary may prescribe such rules as may be necessary or appropriate for carrying out the provisions of this section.

(f) DEFINITION.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as provided by section 3 of the Public Utility Regulatory Policies Act of 1978 in the case of electric utilities, and such term shall have the same meaning as provided by section 302 of the Public Utility Regulatory Policies Act of 1978 in the case of gas utilities, except that in the case of any State without a statewide ratemaking authority, such term shall mean the State energy office.

(g) AUTHORIZATION.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Subtitle D—Requirements and Information

SEC. 161. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.

(a) IN GENERAL.—(1) The Secretary shall, with funds available to carry out this section, provide financial assistance to support a voluntary national window rating program that will develop energy ratings and labels for windows and window systems by December 31, 1992.

(2) The rating program shall include—

(A) specifications and guidelines that will enable all window buyers to make more informed purchasing decisions about the energy efficiency of windows and window systems; and

(B) information that will allow window buyers to assess the energy consumption and potential cost savings of alternative window products.

(3) The rating program shall be established and administered by the National Fenestration Rating Council which shall periodically report to the Congress and the Secretary on the progress being made toward establishing the program.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts of the National Fenestration Rating Council and make determinations about whether the program established within the Council is consistent with subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary has not, by December 31, 1992, certified that a voluntary national window rating program consistent with the objectives of subsection (a) has been established, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, by December 31, 1993, testing procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for windows and window systems.

(2) If the Secretary develops such procedures, the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for windows and window systems except that, with respect to any type of window or window system (or class thereof), the Commission may determine that such labeling is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, windows and window systems shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 162. VOLUNTARY STANDARDS FOR INDUSTRIAL INSULATION AND IMPROVEMENT OF INDUSTRIAL AUDITS.

(a) IN GENERAL.—(1) The Secretary of Energy shall, with funds available to carry out this section, develop, directly or by contract, a voluntary national program to devise standards for the proper levels of industrial insulation.

(2) The standards shall be developed in consultation with manufacturers, suppliers, and installers of insulation and with utilities and major industrial energy users.

(3) The Secretary shall issue such standards not later than December 31, 1992.

(b) RECOMMENDATIONS.—Not later than December 31, 1992, the Secretary shall, in conjunction with the development of standards under subsection (a), review the status of industrial energy auditing procedures and make recommendations for improvement as appropriate.

(c) OTHER ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance concerning the standards and auditing procedures.

(d) REPORT.—The Secretary shall transmit, by December 31, 1994, a report to the Congress detailing—

(1) the standards developed and recommended changes in audit procedures; and

(2) the educational and technical assistance provided under this section, an evaluation of its effectiveness, and the responsiveness of the industrial sector to the standards.

SEC. 163. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (G); and

(B) by inserting after subparagraph (A) the following:

"(B) Small commercial package air conditioning and heating equipment.

"(C) Large commercial package air conditioning and heating equipment.

"(D) Packaged terminal air-conditioners and packaged terminal heat pumps.

"(E) Warm air furnaces and packaged boilers.

"(F) Storage water heaters, instantaneous water heaters, and unfired hot water storage tanks."; and

(2) in paragraph (2)(B)—

(A) by striking out "pumps)" and inserting in lieu thereof "pumps, small and large commercial package air conditioning and heating equipment, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks)"; and

(B) by striking out clauses (v) and (xi) and redesignating clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) as clauses (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively; and

(3) by adding at the end the following:

"(8) The term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity).

"(9) The term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(10)(A) The term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability energy.

"(B) The term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heating availability by builder's choice of energy.

"(11)(A) The term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces.

"(B) The term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.

"(12)(A) The term 'storage water heater' means a water heater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. Such term does not include units with an input rating of 4000 Btu per hour or more per gallon of stored water.

"(B) The term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water.

"(C) The term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(13)(A) The term 'electric motor' means any motor which is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.

"(B) The term 'definite purpose motor' means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(C) The term 'special purpose motor' means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

"(D) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

"(E) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed airtight.

"(F) The term 'small electric motor' means a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

"(G) The term 'efficiency' when used with respect to an electric motor means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(H) The term 'nominal full load efficiency' means the average efficiency of a population of motors of duplicate design as determined in accordance with NEMA Standards Publication MG1-1987.

"(14) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

"(15) The term 'IES' means the Illuminating Engineering Society of North America.

"(16) The term 'NEMA' means the National Electrical Manufacturers Association.

"(17) The term 'IEEE' means the Institute of Electrical and Electronics Engineers.

"(18) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—(1) Section 343(a) of such Act (42 U.S.C. 6314) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section."; and

(B) by adding at the end the following new paragraphs:

"(4)(A) With respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks to which standards are applicable under section 342, the Secretary shall, not later than 18 months after the date of the enactment of this paragraph, prescribe test procedures that are consistent with those generally accepted industry testing procedures or rating procedures, if any, developed by the Air-Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers, or for storage water heaters and instantaneous water heaters, contained in American National Standard Z21.10.3, as in effect on the date of enactment of this paragraph.

"(B) If such an industry test procedure or rating procedure for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks is amended, the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

"(C) If the Secretary prescribes a rule containing such a determination, the rule may establish an amended test procedure for such product that meets the requirements of paragraphs (2) and (3) of this subsection.

"(5) With respect to electric motors to which standards are applicable under section 342, the Secretary shall, not later than 18 months after the date of the enactment of this paragraph, prescribe test procedures that are consistent with NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency.".

(2) The second subsection designated as subsection (d) of section 343 of such Act (42

U.S.C. 6314(d)(1)) is amended in paragraph (1) in the material preceding subparagraph (A), by inserting after "180 days" the following: "(or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days)".

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended—

(1) in subsection (a), by striking out "may" and inserting in lieu thereof "shall";

(2) in subsection (c), by striking out "may" in the material preceding paragraph (1) and inserting in lieu thereof "shall";

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), (j), and (k), respectively; and

(4) by inserting after subsection (c), the following new subsections:

"(d) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for electric motors under section 343, the Secretary shall prescribe labeling rules under this section applicable to electric motors taking into consideration NEMA Standards Publication MG1-1987. Such rules shall provide that the labeling of any electric motor manufactured after the 12-month period beginning on the date the Secretary prescribes such labeling rules, shall—

"(1) indicate the energy efficiency of the motor on the permanent nameplate attached to such motor;

"(2) prominently display the energy efficiency of the motor in equipment catalogs and other material used to market the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for electric motors under section 342.

"(e) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks under section 343, the Secretary shall prescribe labeling rules under this section for such equipment. Such rules shall provide that the labeling of any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, and unfired hot water storage tank manufactured after the 12-month period beginning on the date the Secretary prescribes such rules shall—

"(1) indicate the energy efficiency of the equipment on the permanent nameplate attached to such equipment or other nearby permanent marking;

"(2) prominently display the energy efficiency of the equipment in new equipment catalogs used by the manufacturer to advertise the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for such equipment under section 342.".

(d) STANDARDS.—Section 342 of such Act is amended to read as follows:

"STANDARDS

"SEC. 342. (a) SMALL AND LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT, PACKAGED TERMINAL AIR CONDITIONERS AND HEAT PUMPS, WARM-AIR FURNACES, PACKAGED BOILERS, STORAGE WATER HEATERS, INSTANTANEOUS WATER HEATERS, AND UNFIRED HOT WATER STORAGE TANKS.—(1) Each small commercial package air conditioning and heating equipment manufactured on or after January 1, 1994, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph, or, with respect to the equipment specified in subparagraphs (A), (B), (D), and (E), the standard levels set forth for such products in addendum a to ASHRAE/IES Standard 90.1. Such standards are as follows:

"(A) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0.

"(B) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7.

"(C) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees F db).

"(D) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8.

"(E) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6.

"(F) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db).

"(G) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

"(H) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively-cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

"(I) The minimum coefficient of performance of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water).

"(2) Each large commercial package air conditioning and heating equipment manufactured on or after January 1, 1995, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph. Such standards are as follows:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db).

"(B) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9.

"(C) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86).

"(3) Each packaged terminal air conditioner and packaged terminal heat pump manufactured on or after January 1, 1994, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph. Such standards are as follows:

"(A) The minimum energy efficiency ratio of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0 — (0.16 x Capacity [in thousands of Btu per hour] EER) (at a standard rating of 95 degrees F db, outdoor temperature). If a unit has a capacity of less than 7000 Btu per hour, then 7000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(B) The minimum coefficient of performance of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 x the minimum cooling EER as specified in subparagraph (A)) (at a standard rating of 47 degrees F db).

"(4) Each warm air furnace and packaged boiler manufactured on or after January 1, 1994, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph. Such standards are as follows:

"(A) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent.

"(B) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent.

"(C) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent.

"(D) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent.

"(5) Each storage water heater, instantaneous water heater, and unfired water storage tank manufactured on or after January 1, 1994, shall meet the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of the enactment of this paragraph. Such standards are as follows:

"(A) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]).

"(B) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(C) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(D) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent.

"(E) Except as provided in subparagraph (G), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

"(F) Except as provided in subparagraph (G), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area.

"(G) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (A) through (C) and subparagraphs (E) and (F) if the tank surface area is thermally insulated to R-12.5 and if a standing pilot light is not used.

"(6)(A) If ASHRAE/IES Standard 90.1, as in effect on the date of enactment of the Comprehensive National Energy Policy Act, is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, the Secretary shall establish an amended uniform national standard for that product at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1, unless the Secretary determines, by rule published in the Federal Register and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than such amended ASHRAE/IES Standard 90.1 for such product would result in significant additional conservation of energy and is technologically feasible and economically justified.

"(B)(i) If the Secretary issues a rule containing such a determination, the rule shall establish such amended standard. In determining whether a standard is economically justified for the purposes of subparagraph (A), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products which are likely to result from the imposition of the standard;

"(III) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(VI) the need for national energy conservation; and

"(VII) other factors the Secretary considers relevant.

"(ii) The Secretary may not prescribe any amended standard under this paragraph which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types or classes.

"(C) A standard amended by the Secretary under this paragraph shall become effective for products manufactured—

"(i) with respect to small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, on or after a date which is two years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A); and

"(ii) with respect to large commercial package air conditioning and heating equipment, on or after a date which is three years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A);

except that an energy conservation standard amended by the Secretary pursuant to a rule under subparagraph (B) shall become effective for products manufactured on or after a date which is four years after the date such rule is published in the Federal Register.

"(b) ELECTRIC MOTORS.—(1) Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (2), each electric motor manufactured (alone or as a component of another piece of equipment) after the 60-month period beginning on the date of the enactment of this subsection, or in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after the 84-month period beginning on such date, shall have a nominal full load efficiency of not less than the following:

	"Nominal Full-Load Efficiency					
	Open Motors			Closed Motors		
"Number of poles	6	4	2	6	4	2
Motor Horsepower						
1	80.0	82.5	....	80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	84.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary may, by rule, provide that the standards specified in paragraph (1) shall not apply to certain types or classes of electric motors if—

"(i) compliance with such standards would not result in significant energy savings because such motors cannot be used in most general purpose applications or are very unlikely to be used in most general purpose applications; and

"(ii) standards for such motors would not be technically feasible or economically justified.

"(B) Not later than one year after the date of the enactment of this subsection, a manufacturer seeking an exemption under this paragraph with respect to a type or class of electric motor developed on or before the date of the enactment of such subsection shall submit a petition to the Secretary requesting such exemption. Such petition shall include evidence that the type or class of motor meets the criteria for exemption specified in subparagraph (A).

"(C) Not later than two years after the date of the enactment of this subsection, the Secretary shall rule on each petition for exemption submitted pursuant to subparagraph (B). In making such ruling, the Secretary shall afford an opportunity for public comment.

"(D) Manufacturers of types or classes of motors developed after the date of the enactment of this subsection to which standards under paragraph (1) would be applicable may petition the Secretary for exemptions from compliance with such standards based on the criteria specified in subparagraph (A).

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is five years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—(1) Section 345(a) of such Act (42 U.S.C. 6316(a)) is amended—

(A) in the material preceding paragraph (1)—

(i) by inserting after "to this part" the following: "(other than the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1))"; and

(ii) by striking out "and sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (s) of section 325, and section 327";

(B) in paragraph (1)—

(i) by striking out "and 324" and inserting in lieu thereof ", 324, and 325"; and

(ii) by striking out "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(C) in paragraph (3), by striking out "and" at the end thereof;

(D) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(E) by adding after paragraph (4) the following new paragraphs:

"(5) section 327(a) shall be applied, in the case of electric motors, as if the National Appliance Energy Conservation Act of 1987 was the Comprehensive National Energy Policy Act;

"(6) section 327(b)(1) shall be applied as if electric motors were fluorescent lamp ballasts and as if the National Appliance Energy Conservation Amendments of 1988 were the Comprehensive National Energy Policy Act;

"(7) section 327(b)(4) shall be applied as if electric motors were fluorescent lamp ballasts and as if paragraph (5) of section 325(g) were section 342; and

"(8) notwithstanding any other provision of law, a regulation or other requirement adopted by a State or subdivision of a State contained in a State or local building code for new construction concerning the energy efficiency or energy use of an electric motor covered under this part is not superseded by the standards for such electric motor established or prescribed under section 342(b) if such regulation or requirement is identical to the standards established or prescribed under such section.".

(2) Section 345 of such Act (42 U.S.C. 6316) is amended by adding at the end the following new subsection:

"(b)(1) The provisions of section 326 (a), (b), and (d), section 327(a), and sections 328 through 336 shall apply with respect to the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1) to the same extent and in the same manner as they apply in part B. In applying such provisions for the purposes of such equipment, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

"(2)(A) A standard prescribed or established under section 342(a) shall, beginning on the effective date of such standard, supersede any State or local regulation concerning the energy efficiency or energy use of a product for which a standard is prescribed or established pursuant to such section.

"(B) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a standard for such a product contained in a State or local building code for new construction if—

"(i) the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1; and

"(ii) the standard in the building code does not take effect prior to the effective date of the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede the standards established by the State of California set forth in table C–6, California Code of Regulations, Title 24, Part 2, chapter 2–53, for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993.

"(D) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures, and other requirements specified in section 327(d) of this Act.".

(3) Section 345 of such Act (42 U.S.C. 6316) is amended by striking out the section heading and inserting in lieu thereof "ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION".

(f) TECHNICAL AMENDMENTS.—(1) Section 340(3) of such Act is amended by striking out "(3) the" and inserting in lieu thereof the following: "(3) The".

(2) Section 343 of such Act (42 U.S.C. 6314) is amended by redesignating the first subsection designated as subsection (d) as subsection (c).

(3) The table of contents of such Act is amended—

(A) by striking out the item relating to section 342 and inserting in lieu thereof the following new item:

"Sec. 342. Standards.";

and

(B) by striking the item for section 345 and inserting in lieu thereof the following new item:

"Sec. 345. Administration, penalties, enforcement, and preemption.".

SEC. 164. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN LAMPS AND PLUMBING PRODUCTS.

(a) STATEMENT OF PURPOSE.—Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in paragraph (6), by striking out "and" at the end;

(2) in paragraph (7), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to conserve water by improving the water efficiency of certain plumbing products and appliances.".

(b) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1) by striking out the subsection designation;

(2) in paragraph (1)—

(A) in subparagraph (A), by inserting before the semicolon the following: "or, with respect to showerheads, faucets, water closets, and urinals, water"; and

(B) in subparagraph (B), by striking out "ballasts" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals";

(3) in paragraph (6)—

(A) in subparagraph (A), by inserting ", or, in the case of showerheads, faucets, water closets, and urinals, water use," after "energy use"; and

(B) in subparagraph (B)—

(i) by striking out "and (14)" and inserting in lieu thereof "(15), (16), (17), and (19)"; and

(ii) by striking out "325(o)" and inserting in lieu thereof "325(r)";

(4) in paragraph (7), by inserting after "to be consumed annually" the following: ", and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost of water and wastewater treatment services likely to be incurred annually,"; and

(5) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 (R1984) and related supplement ANSI C78.3a–1985.

"(B) The term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but does not include any lamp designed and marketed for the following nongeneral lighting applications:

"(i) Fluorescent lamps designed to promote plant growth.

"(ii) Fluorescent lamps specifically designed for cold temperature installations.

"(iii) Colored fluorescent lamps.

"(iv) Impact-resistant fluorescent lamps.

"(v) Reflectorized or aperture lamps.

"(vi) Fluorescent lamps designed for use in reprographic equipment.

"(vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.

"(viii) Lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding ER or BR) with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts.

"(iii) Any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) The term 'general service incandescent lamp' means incandescent lamps (other than miniature or photographic lamps) which can be used to satisfy the majority of lighting applications, but does not include any lamp specifically designed for—

"(i) traffic signal, or street lighting service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The terms 'fluorescent lamp' and 'incandescent lamp' do not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'incandescent reflector lamp' means a lamp described in subparagraph (C)(ii).

"(G) The term 'average lamp efficacy' means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

"(H) The term 'base' means the portion of the lamp which connects with the socket as described in ANSI C81.61–1990.

"(I) The term 'bulb shape' means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980 (R1984).

"(J) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(K) The term 'correlated color temperature' means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

"(L) The term 'IES' means the Illuminating Engineering Society of North America.

"(M) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(N) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(O) The term 'lamp wattage' means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(P) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures described in the IES Lighting Handbook-Reference Volume.

"(Q) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(R) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(S) The term 'medium base compact fluorescent lamp' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp.

"(31)(A) The term 'water use' means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 323.

"(B) The term 'ASME' means the American Society of Mechanical Engineers.

"(C) The term 'ANSI' means the American National Standards Institute.

"(D) The term 'showerhead' means any showerhead (including a handheld showerhead), except a safety shower showerhead.

"(E) The term 'faucet' means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

"(F) The term 'water closet' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(G) The term 'urinal' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(H) The terms 'blowout', 'flushometer tank', 'low consumption', and 'flushometer valve' have the meaning given such terms in ASME A112.19.2M–1990.".

(c) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (19); and

(2) by inserting after paragraph (13) the following new paragraphs:

"(14) General service fluorescent lamps and incandescent reflector lamps.

"(15) Showerheads, except safety shower showerheads.

"(16) Faucets.

"(17) Water closets.

"(18) Urinals.".

(d) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by inserting after "energy use," the following "water use (in the case of showerheads, faucets, water closets and urinals),";

(B) in paragraph (4)—

(i) by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use" after "energy use";

(ii) by inserting after "such cycle" the following: ", or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle"; and

(iii) by inserting ", water, and wastewater treatment" before the period at the end of the second sentence; and

(C) by adding at the end the following new paragraphs:

"(6) With respect to fluorescent lamps and incandescent reflector lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be carried out by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

"(7)(A) With respect to showerheads and faucets to which standards are applicable under subsection (j) of section 325, the Secretary shall, not later than six months after the date of the enactment of this paragraph, prescribe test procedures that are consistent with ASME A112.18.1M–1989.

"(B) If the test procedure requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

"(8)(A) With respect to water closets and urinals to which standards are applicable under subsection (k) of section 325, the Secretary shall, not later than six months after the date of the enactment of this paragraph, prescribe test procedures that are consistent with ASME A112.19.6–1990.

"(B) If the test procedure requirements of ASME A112.19.6–1990 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).";

(2) in paragraphs (1) and (2) of subsection (c), by inserting "or water use" after "efficiency"; and

(3) in subsection (e)—

(A) in paragraph (1), by striking out "or measured energy use" and inserting in lieu thereof ", measured energy use, or measured water use";

(B) in paragraph (2), by striking out "energy efficiency or energy use" each place it appears and inserting in lieu thereof "energy efficiency, energy use, or water use"; and

(C) in paragraph (3), by striking out "energy efficiency or energy use" and inserting in lieu thereof "energy efficiency, energy use, or water use".

(e) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraphs:

"(C) Not later than one year after the date of the enactment of the Comprehensive National Energy Policy Act, the Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Such rules shall provide that the labeling of any general service fluorescent lamp, medium base compact fluorescent lamp, and general service incandescent lamp manufactured after the 12-month period beginning on the date of the publication of such rule shall indicate conspicuously on the packaging of the lamp, in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements. Labeling information for incandescent lamps shall be based on performance when operated at 120 volts input, regardless of the rated lamp voltage.

"(D)(i) Not later than one year after the date of the enactment of the Comprehensive National Energy Policy Act, the Commission shall prescribe labeling rules under this section for showerheads and faucets to which standards are applicable under subsection (j) of section 325. Such rules shall provide that the labeling of any showerhead or faucet manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.18.1M-1989, except that each fitting shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.18.1M-1989 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each fitting to bear a permanent legible marking indicating the flow rate of such fitting.

"(E)(i) Not later than one year after the date of the enactment of the Comprehensive National Energy Policy Act, the Commission shall prescribe labeling rules under this section for water closets and urinals to which standards are applicable under subsection (k) of section 325. Such rules shall provide that the labeling of any water closet or urinal manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.19.2M-1990, except that each fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the water use, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.19.2M-1990 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each fixture and flushometer valve to bear a permanent legible marking indicating the water use of such fixture or flushometer valve.";

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(19)";

(3) in subsection (b)(1)(B), by striking out "(14)" and inserting in lieu thereof "(13), and paragraphs (15) through (19)";

(4) in paragraphs (3) and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(5) in subsection (c)—

(A) in paragraph (7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13), (14), (16), and (18) of section 322(a)"; and

(B) by adding at the end the following:

"(8) If a manufacturer of a covered product specified in paragraph (15) or (17) of section 322(a) elects to provide a label for such covered product conveying the estimated annual operating cost of such product or the range of estimated annual operating costs for the type or class of such product—

"(A) such estimated cost or range of costs shall be determined in accordance with test procedures prescribed under section 323;

"(B) the format of such label shall be in accordance with a format prescribed by the Commission; and

"(C) such label shall be displayed in a manner, prescribed by the Commission, to be likely to assist consumers in making purchasing decisions and appropriate to carry out the purposes of this Act.".

(f) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating subsections (i) through (q) as subsections (l) through (t);

(2) by inserting after subsection (h) the following:

"(i) GENERAL SERVICE FLUORESCENT LAMPS AND INCANDESCENT REFLECTOR LAMPS.—(1)(A) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

"FLUORESCENT LAMPS

"Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	≤35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output ...	>100 W	69	80.0	18
	≤100 W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(B) For the purposes of the tables set forth in subparagraph (A), the term 'effective date' means the last day of the month set forth in the table which follows the date of the enactment of the Comprehensive National Energy Policy Act.

"(2) Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp which is in compliance with the law at the time such lamp was manufactured.

"(3) Not less than 36 months after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on the date of the enactment of this subsection to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Not less than eight years after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than nine years and six months after the date of the enactment of this subsection to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(5) Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall initiate a rulemaking procedure to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended so that they would be applicable to additional general service fluorescent and general service incandescent lamps and shall publish, not later than 18 months after initiating such rulemaking, a final rule including such amended standards, if any. Such rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date such rule is published.

"(6)(A) With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of such lamp of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"(B) Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if such action is warranted as a result of other Federal action (including restrictions on materials or processes) which would have the effect of either increasing the energy use or decreasing the energy efficiency of such product.

"(7) Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to such section, each manufacturer of a product to which such standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type. Such report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period. With respect to lamp types which are not manufactured during the 12-month period preceding the date such standards become effective, such report shall be filed with the Secretary not later than the date which is 12 months after the date manufacturing is commenced and shall include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during such 12-month period.

"(j) STANDARDS FOR SHOWERHEADS AND FAUCETS.—(1)(A) The maximum water use allowed for any showerhead manufactured after January 1, 1994, is 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch.

"(B) When used as a component part of a showerhead, any flow restricting insert shall be mechanically retained at the point of manufacture. The requirement of the previous sentence shall not apply to showerheads which cause water to leak significantly from areas other than the spray face when the flow restricting insert is removed. For purposes of this subparagraph, the term 'mechanically retained' means that a pushing or pulling force of 8 pounds or more is required to remove the flow restricting insert.

"(2) The maximum water use allowed for any of the following faucets manufactured after January 1, 1994, when measured at a flowing water pressure of 80 pounds per square inch, is as follows:

"Lavatory faucets	2.5 gallons per minute
"Lavatory replacement aerators.	2.5 gallons per minute
"Kitchen faucets	2.5 gallons per minute
"Kitchen replacement aerators.	2.5 gallons per minute
"Metering faucets	0.25 gallons per cycle

"(3)(A) If the maximum flow rate requirements or the design requirements of ASME Standard A112.18.1M–1989, as in effect on the date of the enactment of the Comprehensive National Energy Policy Act, are amended to improve the efficiency of water use of any type or class of showerhead or faucet and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in the amended ASME/ANSI Standard A112.18.1M and providing that such standard shall apply to products manufactured after a date which is 12 months after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.18.1M—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a standard for any type or class of showerhead or faucet more stringent than such amended ASME/ANSI Standard A112.18.1M would result in additional conservation of energy or water. If the Secretary so determines, such rule shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(i) is more stringent than the standard in effect for such type or class of showerhead or faucet; and

"(ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(C) If, after any period of five consecutive years, the maximum flow rate requirements of the ASME/ANSI standard for showerheads are not amended to improve the efficiency of water use of such products, or after such period such requirements for faucets are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(i) is more stringent than the standards in effect for such product; and

"(ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(k) STANDARDS FOR WATER CLOSETS AND URINALS.—(1)(A) Except as provided in subparagraph (B), the maximum water use allowed in gallons per flush for any of the following water closets manufactured after January 1, 1994, is the following:

"Gravity tank-type toilets	1.6 gpf.
"Flushometer tank toilets	1.6 gpf.
"Electromechanical hydraulic toilets	1.6 gpf.
"Blowout toilets	3.5 gpf.

"(B) The maximum water use allowed for any gravity tank-type toilet which bears a permanent mark conspicuous upon installation consisting of the words 'Commercial Use Only' manufactured after January 1, 1994, and before January 1, 1997, is 3.5 gallons per flush.

"(C) The maximum water use allowed for flushometer valve toilets, other than blowout toilets, manufactured after January 1, 1997, is 1.6 gallons per flush.

"(2) The maximum water use allowed for any urinal manufactured after January 1, 1994, is 1.0 gallons per flush.

"(3)(A) If the maximum flush volume requirements of ASME Standard A112.19.6–1990, as in effect on the date of the enactment of the Comprehensive National Energy Policy Act, are amended to improve the efficiency of water use of any low consumption water closet or low consumption urinal and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in amended ASME/ANSI Standard A112.19.6 and providing that such standard shall apply to products manufactured after a date which is one year after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.19.6—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of low consumption water closet or low consumption urinal more stringent than such amended ASME/ANSI Standard A112.19.6 for such product would result in additional conservation of energy or water. If the Secretary so determines, such rule shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of low consumption water closet or low consumption urinal if such State regulation—

"(i) is more stringent than the standard in effect for such type or class of low consumption water closet or low consumption urinal; and

"(ii) is applicable to any sale or installation of all products in such type or class of low consumption water closet or low consumption urinal.

"(C) If, after any period of five consecutive years, the maximum flush volume requirements of the ASME/ANSI standard for low consumption water closets are not amended to improve the efficiency of water use of such products, or after such period such requirements for low consumption urinals are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of water closet or urinal if such State regulation—

"(i) is more stringent than the standards in effect for such type or class of water closet or urinal; and

"(ii) is applicable to any sale or installation of all products in such type or class of water closet or urinal.";

(3) in subsection (l) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraphs (1) and (2), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(B) in paragraphs (1) and (3), by striking out "(l) and (m)" and inserting in lieu thereof "(o) and (p)";

(4) in subsection (m) (as redesignated by paragraph (1) of this subsection), by striking out "(h)" and inserting in lieu thereof "(i)";

(5) in subsection (n) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1)—

(i) by striking out "and in paragraph (13)" and inserting in lieu thereof ", and in paragraphs (13) and (14)"; and

(ii) by striking out "(h)" and inserting in lieu thereof "(i)";

(B) in paragraph (2)(C), by striking out "(l)(2)(B)(i)(II)" and inserting in lieu thereof "(o)(2)(B)(i)(II)"; and

(C) in paragraph (3)(B), by inserting "general service fluorescent lamps, incandescent reflector lamps," after "fluorescent lamp ballasts,";

(6) in subsection (o) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1), by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use," after "energy use,";

(B) in paragraph (2)(A), by inserting ", or, in the case of showerheads, faucets, water closets, or urinals, water efficiency," after "energy efficiency";±±

(C) in paragraph (2)(B)(i)(III), by inserting ", or as applicable, water," after "energy";

(D) in paragraph (2)(B)(i)(VI), by inserting "and water" after "energy";

(E) in paragraph (2)(B)(iii), by striking out "energy savings" and inserting "energy, and as applicable water, savings"; and

(F) in paragraph (3)(B), by inserting ", in the case of showerheads, faucets, water closets, or urinals, water, or" after "energy or"; and

(7) in subsection (p)(3)(A) (as redesignated by paragraph (1) of this subsection)—

(A) by striking out "(l)(2)" and inserting in lieu thereof "(o)(2)"; and

(B) by striking out "(l)(4)" and inserting in lieu thereof "(o)(4)".

(g) REQUIREMENTS OF MANUFACTURERS.—Section 326 of such Act (42 U.S.C. 6296) is amended—

(1) in subsection (b)(4), by inserting "or water use" after "consumption"; and

(2) in subsection (d)(1), by striking out "or energy use" and inserting in lieu thereof ", energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use".

(h) EFFECT ON OTHER LAW.—Section 327 of such Act (42 U.S.C. 6297) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the material preceding subparagraph (A), by inserting "or water use" after "energy consumption";

(B) in paragraph (1)(A), by inserting ", water use," after "energy consumption";

(C) in paragraph (1)(B), by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use"; and

(D) by amending paragraph (2) to read as follows:

"(2) For purposes of this section, the following definitions apply:

"(A) The term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions. With respect to showerheads, faucets, water closets, and urinals, such term shall also mean a law, regulation, or other requirement of a river basin commission that has jurisdiction within a State.

"(B) The term 'river basin commission' means—

"(i) a commission established by interstate compact to apportion, store, regulate, or otherwise manage or coordinate the management of the waters of a river basin; and

"(ii) a commission established under section 201(a) of the Water Resources Planning Act (42 U.S.C. 1962b(a)).";

(2) in subsection (b)—

(A) in the material preceding paragraph (1), by striking out "or energy use of the covered product" and inserting in lieu thereof ", energy use, or water use of the covered product";

(B) by inserting before the semicolon at the end of paragraph (1) the following: ", or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before the date of the enactment of the Comprehensive National Energy Policy Act";

(C) in paragraph (4), by inserting before the semicolon at the end the following: ", or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 325(i) is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 325(j) is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 325(k) is applicable";

(D) in paragraph (5), by striking out "or";

(E) in paragraph (6), by striking out the period at the end and inserting "; or"; and

(F) by adding at the end the following new paragraph:

"(7) is a regulation (or portion thereof) concerning the water efficiency or water use of low consumption flushometer valve water closets.";

(3) in subsection (c)—

(A) in the material preceding paragraph (1)—

(i) by inserting ", subparagraphs (B) and (C) of section 325(j)(3), and subparagraphs (B) and (C) of section 325(k)(3)" after "section 325(b)(3)(A)(ii)"; and

(ii) by striking out "or energy use" and inserting in lieu thereof the following: ", energy use, or water use";

(B) in paragraph (1), by inserting before the semicolon at the end the following: ", except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 325(i) is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary and is applicable to such lamps";

(C) in paragraph (2), by striking out "or";

(D) in paragraph (3), by striking out the period at the end and inserting a semicolon; and

(E) by adding at the end the following new paragraphs:

"(4) is a regulation concerning the water use of lavatory faucets adopted by the State of New York or the State of Georgia before the date of the enactment of the Comprehensive National Energy Policy Act;

"(5) is a regulation concerning the water use of lavatory or kitchen faucets adopted by the State of Rhode Island prior to the date of the enactment of the Comprehensive National Energy Policy Act; or

"(6) is a regulation (or portion thereof) concerning the water efficiency or water use of gravity tank-type low consumption water closets for installation in public places, except that such a regulation shall be effective only until January 1, 1997.";

(4) in subsection (d)(1)—

(A) in subparagraph (A)—

(i) by inserting "or river basin commission" after "Any State"; and

(ii) by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use";

(B) in subparagraph (B)—

(i) by striking out "State has" and inserting "State or river basin commission has"; and

(ii) by inserting "or water" after "energy";

(C) in subparagraph (C)—

(i) in the material preceding clause (i) and in clause (ii), by inserting "or water" after "energy" each place it appears; and

(ii) by inserting before the period at the end the following: ", and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development"; and

(5) in subsection (d)(5)(B)(i)—

(A) in the material preceding subclause (I), by inserting "or water" after "energy";

(B) in subclause (I), by striking "or electric energy" and inserting ", electric energy, water, or wastewater treatment"; and

(C) in subclause (II), by inserting "or water" after "energy".

(i) INCENTIVE PROGRAMS.—Section 337 of such Act (42 U.S.C. 6307) is amended—

(1) by striking out "337." and inserting "337. (a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) STATE AND LOCAL INCENTIVE PROGRAMS.—(1) The Secretary shall, not later than one year after the date of the enactment of this subsection, issue recommendations to the States for establishing State and local incentive programs designed to encourage the acceleration of voluntary replacement, by consumers, of existing showerheads, faucets, water closets, and urinals with those products that meet the standards established for such products pursuant to subsections (j) and (k) of section 325.

"(2) In developing such recommendations, the Secretary shall consult with the heads of other federal agencies, including the Administrator of the Environmental Protection Agency; State officials; manufacturers, suppliers, and installers of plumbing products; and other interested parties.".

SEC. 165. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN OTHER EQUIPMENT AND ENERGY EFFICIENCY LABELING FOR LUMINAIRES.

(a) STANDARDS FOR CERTAIN OTHER EQUIPMENT.—Section 346 of the Energy Policy and Conservation Act (42 U.S.C. 6317) is amended to read as follows:

"ENERGY CONSERVATION STANDARDS FOR CERTAIN OTHER EQUIPMENT

"SEC. 346. (a)(1) The Secretary shall, within 18 months after the date of the enactment of the Comprehensive National Energy Policy Act, prescribe testing requirements for those high-intensity discharge lamps, distribution transformers, and certain office equipment for which the Secretary makes a determination that energy conservation standards, or, in the case of certain office equipment, labeling, would result in significant energy savings.

"(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those high-intensity discharge lamps and distribution transformers for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) with respect to high-intensity discharge lamps shall apply to such lamps manufactured 36 months after the date such rule is published.

"(b)(1) The Secretary shall, within 24 months after the date of the enactment of the Comprehensive National Energy Policy Act, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technically feasible and economically justified, and would result in significant energy savings.

"(2) The Secretary shall, within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) shall apply to small electric motors manufactured 60 months after the date such rule is published or, in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory, 84 months after such date. Such standards shall not apply to any small electric motor which is a component of a covered product under section 322(a) or a covered equipment under section 340.

"(c) In establishing any standard under this section, the Secretary shall take into consideration the criteria contained in section 325(n).

"(d)(1) The Secretary shall, within six months after the date on which testing requirements are prescribed by the Secretary pursuant to subsection (a) for certain office equipment, prescribe labeling requirements for such equipment.

"(2) The Secretary, within six months after the date on which energy conservation standards are prescribed by the Secretary for distribution transformers pursuant to subsection (a)(2) and, within six months after the date on which energy conservation standards are prescribed by the Secretary for small electric motors pursuant to subsection (b)(2), shall prescribe labeling requirements for such transformers and small electric motors, respectively.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards are prescribed by the Secretary for high-intensity discharge lamps pursuant to subsection (a)(2), prescribe labeling requirements for such lamps.

"(e) Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (d), each manufacturer of a product to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(f)(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a), a new covered product to which a rule under section 324 applies; and

"(B) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product—

"(i) in the case of high-intensity discharge lamps, distribution transformers, and small electric motors for which an energy conservation standard is prescribed under subsection (a)(2) or (b)(2), any such lamp, transformer, or small electric motor which is not in conformity with the applicable energy conservation standard; and

"(ii) in the case of certain office equipment to which a labeling rule is applicable under subsection (d)(1), any such office equipment which is not in conformity with the applicable labeling requirement prescribed for it under subsection (d)(1).

"(2) For purposes of section 333(a), paragraph (1) of this subsection shall be considered to be a part of section 332.".

(b) ENERGY EFFICIENCY LABELING FOR LUMINAIRES.—Part C of title III of such Act (42 U.S.C. 6311 et seq.) is amended by adding at the end the following new section:

"ENERGY EFFICIENCY LABELING FOR LUMINAIRES

"SEC. 347. (a)(1) Not later than one year after the date of the enactment of this Act, and in consultation with the National Electric Manufacturers Association, representatives of the lighting and electric utility industries, the National Institute of Standards and Technology, and other appropriate organizations, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program for luminaires.

"(2) Such program shall set forth information that will enable purchasers of luminaires to make informed decisions about the energy efficiency and costs of alternative luminaires. Such information may include labels affixed to equipment in product showrooms, information printed in product catalogs and other promotional material, and other reasonable and appropriate mechanisms.

"(b) Not later than three years after the date of the enactment of this Act, the Secretary shall, by rule, establish a rating and testing program for luminaires under section 343 and 344 to meet the objectives of subsection (a). In developing such rule, if a national energy efficiency rating and labeling program was successfully developed under subsection (a), the Secretary shall adopt such program, unless the Secretary determines, by rule, that to do so would not meet the requirements of subsection (a).

"(c)(1) Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for luminaires under subsection (b), each manufacturer of a luminaire to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(2) After the date on which a manufacturer must provide a label for a luminaire pursuant to paragraph (1), each such luminaire shall be considered, for purposes of paragraphs (1) and (2) of section 332(a), a new covered product to which a rule under section 324 applies.

"(d) For purposes of sections 343 and 344, luminaires shall be considered covered equipment under section 340 to the extent necessary to carry out this section.

"(e) There are authorized to be appropriated $750,000 for each of the fiscal years 1993 and 1994 to carry out the purposes of this section.".

(c) TECHNICAL AMENDMENT.—The table of contents of such Act is amended by striking out the item for section 346 and inserting in lieu thereof the following new items:

"Sec. 346. Energy conservation standards for certain other equipment.

"Sec. 347. Energy efficiency labeling for luminaires.".

SEC. 166. COOPERATIVE ADVANCED APPLIANCE AND EQUIPMENT DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Energy shall establish and carry out a program, with funds available for such purpose, to assist utilities and appliance manufacturers in the early introduction of high-efficiency appliances and equipment. The purpose of this program shall be to promote the production and use of appliances and equipment which are substantially more efficient than required by Federal or State law.

(b) PLAN.—(1) Within 12 months after the date of enactment of this Act, the Secretary of Energy shall prepare, and submit to Congress, a plan for the program to be established under this section.

(2) Such plan shall identify candidate technologies, appliances, and equipment which meet the following criteria:

(A) The potential exists for substantial improvement in the technology's energy efficiency beyond the minimum established in Federal and State law.

(B) The potential for total energy savings at the national or regional level from widespread use of the technology is substantial.

(C) With an adequate volume of production, the technology is likely to be cost-effective for consumers.

(D) Electric, water, or gas utilities are prepared to support and promote the introduction of such appliances or equipment.

(E) Manufacturers are unlikely to undertake development and production of such appliances or equipment on their own, or development and production would be substantially accelerated by support to manufacturers.

(3) The program plan also shall—

(A) be developed in close consultation with utilities, appliance and equipment manufacturers, and other interested parties;

(B) describe the steps the Secretary of Energy will take to provide continuing coordination and assistance of utility efforts to speed the introduction of highly efficient appliances and equipment;

(C) describe proposals for the development and production of highly efficient appliances and equipment which would be jointly funded by the Secretary of Energy, utilities, and appliance manufacturers;

(D) identify methods by which Federal purchase of highly efficient appliances and equipment could assist the early introduction of such appliances and equipment and also assist utility and manufacturer efforts; and

(E) identify such additional budget authorizations as may be needed to carry out the plan.

SEC. 167. EVALUATION OF UTILITY EARLY REPLACEMENT PROGRAMS FOR APPLIANCES.

Within 1 year after the date of the enactment of this Act, the Secretary, in consultation with utilities and appliance manufacturers, shall evaluate and report to the Congress on the energy savings and environmental benefits of programs which are directed to the early replacement of older, less efficient appliances presently in use by consumers with existing products which are more efficient than required by Federal law.

Subtitle E—Miscellaneous

SEC. 171. COMMERCIAL APPLICATION OF ENERGY EFFICIENT LIGHTING TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to promote commercial application of energy efficient lighting technology.

(b) DEFINITION.—For purposes of this section, the term "energy efficient lighting" means lighting technologies, including but not limited to, advanced lighting technologies such as high intensity discharge, compact fluorescent, high efficiency fluorescent, and incandescent lamps; electronic ballasts; luminaires; day lighting strategies; shading strategies; and lighting controls, such as light sensors and continuous dimming systems.

(c) REGIONAL ENERGY EFFICIENT LIGHTING AND DEMONSTRATION CENTERS.—

(1) GRANTS FOR ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall make grants to nonprofit institutions (or consortiums that may include nonprofit institutions, State and local governments, and utilities) to establish or enhance one regional energy efficient lighting demonstration center (hereafter in this section referred to as a "regional center") in each of the ten regions served by a Department of Energy regional support office.

(2) RESPONSIBILITIES.—Each regional center established under this subsection shall—

(A) hold special workshops for architects, lighting designers, and other professionals;

(B) prepare outreach materials and publications;

(C) provide information on energy efficient lighting technologies, design, installation, operation, and maintenance;

(D) display the latest energy efficient lighting technologies;

(E) serve as a clearing house to ensure that information about new energy efficient lighting technologies, including case studies of successful applications, is disseminated to end-users in the region; and

(F) study lighting needs of the region and make available region-specific lighting information to facilitate the adoption of cost-effective energy efficient lighting.

(3) APPLICATION.—Any nonprofit institution or consortium interested in receiving a grant under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require. A lighting center in existence on the date of the enactment of this section which is owned and operated by a nonprofit institution or a consortium as described in paragraph (1) shall be eligible for a grant under this subsection.

(4) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this

subsection on the basis of the following criteria:

(A) The capability of the grant recipient to establish a board of directors for the regional center composed of representatives from State and local governments, industry trade and professional associations, lighting manufacturers, electric utilities, electrical contractors, lighting designers, and nonprofit energy and environmental organizations.

(B) The demonstrated resources available to the grant recipient for carrying out this subsection.

(C) The demonstrated ability of the grant recipient to disseminate results of energy efficient lighting technology developments.

(D) The projects which the grant recipient proposes to carry out under the grant.

(E) The demonstrated ability of the grant recipient to carry out the responsibilities specified in paragraph (2).

(5) REQUIREMENT OF MATCHING FUNDS.—

(A) FEDERAL SHARE.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the regional center.

(B) NON-FEDERAL CONTRIBUTIONS.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will provide non-Federal contributions in an amount not less than an amount equal to the Federal share. Such non-Federal contributions may be provided through donations by State governments, nonprofit institutions, foundations, corporations, electric utilities, and other non-Federal entities.

(6) ALLOCATION OF FUNDS.—Of the amounts available to carry out this subsection for any fiscal year, not more than $500,000 shall be awarded to any regional center.

(7) TASK FORCE.—The Secretary shall establish a task force to—

(A) advise the Secretary on activities to be carried out by grant recipients;

(B) review and evaluate programs carried out by grant recipients; and

(C) make recommendations regarding possible future program modifications.

(8) MEMBERSHIP TERMS AND ADMINISTRATION OF TASK FORCE.—

(A) IN GENERAL.—The task force shall be composed of 25 members with expertise in the area of energy efficient lighting.

(B) APPOINTMENT.—Members of the task force shall be appointed by the Secretary as follows:

(i) Not less than 2 members shall be representatives from State or local energy offices.

(ii) Not less than 2 members shall be representatives from building industry trade or professional associations.

(iii) Not less than 2 members shall be representatives from engineering industry trade or professional associations.

(iv) Not less than 2 members shall be representatives from lighting manufacturers, design firms, or industry trade or professional associations.

(v) Not less than 2 members shall be representatives from electric utilities or related associations.

(vi) Not less than 2 members shall be representatives from electrical contractors or management companies.

(vii) Not less than 2 members shall be representatives from national laboratories.

(viii) Not less than 2 members shall be representatives from nonprofit energy or environmental organizations.

(C) GEOGRAPHIC REPRESENTATION.—Of the members appointed under this paragraph, the Secretary shall ensure that there is at least one member from each of the 10 regions in which a regional center is authorized to be established pursuant to paragraph (1).

(D) TERMS.—Members shall be appointed for a term of 3 years. A vacancy in the task force shall be filled in the manner in which the original appointment was made.

(E) PAY.—Members shall serve without pay. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) CHAIRPERSON.—The Chairperson and Vice Chairperson of the task force shall be elected by the members.

(G) MEETINGS.—The task force shall meet biannually and at the call of the Chairperson.

(H) TERMINATION DATE INAPPLICABLE.—Section 14 of the Federal Advisory Committee Act shall not apply to the task force.

(9) REPORT.—The Secretary shall transmit annually to the Congress a report containing a detailed statement of the activities of regional centers established under this subsection, including the degree to which matching funds are being leveraged from private sources to operate such centers.

(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this subsection not more than $5,000,000 for each of fiscal years 1993, 1994, and 1995.

(d) STATE ENERGY OFFICES.—

(1) WORKSHOPS.—State energy offices are encouraged to supplement the activities of the regional centers established under subsection (c) in providing workshops for local building owners, developers, and facility energy and financial managers regarding energy efficient lighting. Such workshops shall be conducted in cooperation with the regional center for the region in which the State is located.

(2) GRANTS TO STATES.—

(A) IN GENERAL.—The Secretary may provide matching grants to States for the purposes of carrying out paragraph (1).

(B) PREFERENCE.—In awarding grants under this paragraph, the Secretary shall give preference to States in which a regional center has not been established.

(C) APPLICATION.—The Secretary shall prescribe the form and procedures for States to follow in applying for grants under this paragraph.

(D) ALLOCATION OF FUNDS.—Of the amounts available to carry out this subsection for any fiscal year, not more than $100,000 shall be awarded to any State energy office.

(3) REPORT.—The Secretary shall transmit to the Congress an annual report containing a detailed description of the workshops supported by State energy offices on a State-by-State basis.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this subsection not more than $2,000,000 for each of fiscal years 1993, 1994, and 1995.

SEC. 172. ENERGY EFFICIENCY IN INDUSTRIAL FACILITIES.

(a) INDUSTRIAL ENERGY SAVINGS TARGETS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall establish voluntary energy efficiency improvement targets for each major energy consuming industry specified in paragraph (5). The targets shall represent a percentage reduction in energy consumption per unit of production that the Secretary determines is cost effective and achievable by 1997.

(2) TARGETS FOR SPECIFIC INDUSTRIES.—Within each major energy consuming industry specified in paragraph (5), the Secretary may also set voluntary energy efficiency improvement targets for industries specified in 3-digit or 4-digit Standard Industrial Classification code levels.

(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall seek input from industries affected by this section and provide an opportunity for public comment in establishing voluntary energy efficiency improvement targets.

(4) MODIFICATION OF TARGETS.—The Secretary, in consultation with the Administrator of the Energy Information Administration, shall assess the degree to which industries have achieved the targets established by this subsection and shall modify the targets every 5 years, beginning in 1997 for targets that shall become applicable in 2002.

(5) DEFINITION.—For the purposes of this subsection, the term "major energy consuming industry" means the following industries:

(A) Food and kindred products.

(B) Textiles.

(C) Lumber and wood products.

(D) Paper.

(E) Chemicals.

(F) Petroleum.

(G) Stone, clay, and glass.

(H) Primary metals.

(I) Fabricated metal products.

(J) Transportation equipment.

(K) Such industries as the Secretary determines to be appropriate.

(b) MANUFACTURING ENERGY CONSUMPTION SURVEY.—Section 205(i)(1) of the Department of Energy Organization Act (42 U.S.C. 7135(i)(1)) is amended by striking out "on at least a triennial basis" and inserting in lieu thereof the following: "at least once every two years".

(c) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize industry associations and individual industrial companies that have significantly improved their energy efficiency.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to industry associations (or otherwise as the Secretary determines is appropriate) to support achievement of the voluntary energy efficiency improvement targets established under subsection (a) through educational and promotional projects.

(2) AWARDING OF GRANTS.—The Secretary shall request project proposals and provide grants on a competitive basis each year. In evaluating grant proposals under this paragraph, the Secretary shall consider—

(A) potential energy savings;

(B) potential environmental benefits;

(C) the degree of cost sharing;

(D) the degree to which new and innovative technologies will be encouraged;

(E) the level of industry involvement; and

(F) estimated project cost effectiveness.

(3) ELIGIBLE PROJECTS.—Projects eligible for grants may include the following:

(A) Workshops.

(B) Training seminars.

(C) Handbooks.

(D) Newsletters.

(E) Data bases.

(F) Other activities approved by the Secretary.

(4) LIMITATION; COST SHARING.—A grant provided under this subsection shall not exceed $250,000 and shall not exceed 75 percent of the total cost of the project for which the grant is made.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 173. PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "process-oriented industrial assessment" means—

(A) the identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental waste; and

(iii) technological improvements designed to increase competitiveness and achieve cost-effective product quality enhancement;

(B) the identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and building envelope systems operating outside of the production process; and

(C) the identification of opportunities for using renewable energy technology both in the production process and in the systems described in subparagraph (B);

(3) the term "Secretary" means the Secretary of Energy; and

(4) the term "utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy to retail customers.

(b) GRANT PROGRAM—

(1) USE OF FUNDS.—The Secretary shall make grants to States to be used for the following purposes:

(A) To promote, through appropriate institutions such as universities, nonprofit organizations, State and local government entities, technical centers, utilities, and trade organizations, the use of energy-efficient technologies in covered industries.

(B) To establish programs to train individuals (on an industry-by-industry basis) in conducting process-oriented industrial assessments and to encourage the use of such trained assessors.

(C) To assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers in covered industries.

(2) CONSULTATION.—States receiving grants under this subsection shall consult with utilities and industry representatives, as appropriate, in determining the most effective use of such funds consistent with the requirements of paragraph (1).

(3) ELIGIBILITY CRITERIA.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants made pursuant to this subsection. Such criteria shall require a State applying for a grant to demonstrate that such State, by legislation or regulation—

(A) allows utilities to recover the prudently incurred costs of providing process-oriented industrial assessments;

(B) requires least-cost planning as provided in section 111(d)(7) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as added by section 131(a) of this Act);

(C) provides for investments in conservation and demand management as provided in section 111(d)(8) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as added by section 131(a) of this Act); and

(D) encourages utilities to provide to covered industries served—

(i) process-oriented industrial assessments; and

(ii) financial incentives for implementing energy efficiency improvements.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this subsection shall be allocated each fiscal year among States meeting the criteria of paragraph (3) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each State's share of value added in industry (as determined by the Census of Manufactures) as a percentage of the value added by all such States.

(5) RENEWAL OF GRANTS.—A grant under this subsection may be renewed for 1 additional year after 2 consecutive fiscal years during which a State receives a grant under this subsection, subject to the availability of funds, if—

(A) the Secretary determines that the funds made available to the State during the previous 2 years were used in a manner required under paragraph (1); and

(B) such State demonstrates, in a manner prescribed by the Secretary, utility participation in programs established pursuant to this subsection.

(6) COORDINATION WITH OTHER FEDERAL PROGRAMS.—In carrying out the functions described in paragraph (1), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

(c) OTHER FEDERAL ASSISTANCE.—

(1) MODEL ASSESSMENT GUIDELINES.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall, by contract with one or more nonprofit organizations expert in process-oriented industrial energy efficiency technology, establish and update as appropriate, on an industry-by-industry basis, model guidelines for conducting process-oriented industrial assessments. Such guidelines shall be made available to State governments, public utility commissions, utilities, and other interested parties.

(2) DIRECTORY.—The Secretary shall establish a nationwide directory, on an industry-by-industry basis, of organizations offering industrial energy efficiency technologies and services consistent with the purposes of this section. Such directory shall be made available to State governments, public utility commissions, utilities, industry representatives, and other interested parties.

(3) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize utilities operating outstanding or innovative industrial energy efficiency technology assistance programs.

(4) MEETINGS.—The Secretary shall convene annual meetings of State energy officials, public utility commission officials, industry and utility representatives, and other interested parties for the purpose of developing strategies to—

(A) transfer information among States and utilities;

(B) encourage States to establish programs for encouraging utilities to provide energy efficiency financial and technical assistance to industry;

(C) encourage effective implementation of such programs; and

(D) provide coordination between such programs which are conducted by States and utilities and Federal programs such as those conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(1) identifies barriers encountered in implementing this section;

(2) makes recommendations for overcoming such barriers;

(3) documents the results achieved as a result of the programs established and grants awarded pursuant to this section;

(4) reviews any difficulties encountered by industry in securing and implementing energy-efficient technologies recommended in process-oriented industrial assessments or otherwise identified as a result of programs established pursuant to this section; and

(5) recommends methods for further promoting the distribution and implementation of energy-efficient technologies consistent with the purposes of this section.

(e) AUTHORIZATION.—There are authorized to be appropriated $8,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and $12,000,000 for fiscal year 1995 for the purposes of carrying out subsection (b).

SEC. 174. MISCELLANEOUS.

(a) ENERGY INFORMATION ADMINISTRATION.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding after subsection (i) the following new subsections:

"(j) With regard to renewable energy, the Administrator shall, annually and on a State-by-State basis, including where applicable Indian reservations, as defined in section 2602(2)—

"(1) collect and analyze data on the number of new wind machines installed, the power production of such machines, total installed capacity, kilowatt hours produced, and measures of wind turbine efficiency as the Administrator deems appropriate;

"(2) collect and analyze data on the new installed capacity of geothermal power projects, the total installed capacity, kilowatt hours produced, and measures of geothermal powerplant efficiency the Administrator deems appropriate;

"(3) collect and analyze data on the new installed capacity of biomass fueled powerplants by type of biomass fuel (including wood, municipal solid waste, agricultural residues, methane, and any others the Administrator deems appropriate), heating systems, total installed capacity, kilowatt hours produced, British thermal units produced from industrial process heating systems and other information that the Administrator deems appropriate;

"(4) collect and analyze data on shipments of solar thermal collectors (determining how much of such shipments are installed domestically by State, and estimating the amount of energy produced annually from such collectors), the amount of solar thermal electric power capacity installed each year, and the total capacity and number of kilowatt hours generated each year; and

"(5) determine the percentage of photovoltaic production exported versus the percentage installed in the United States for remote and utility connected applications.

"(k) With regard to energy use, the Administrator shall conduct surveys of residential, commercial, and industrial energy use at least once every three years and make such information available to the public on a State-by-State basis.

"(1) With regard to utility demand side management, the Administrator shall, when surveying electric utilities, collect information on demand side management programs conducted by such utilities, including information regarding the types of demand side management programs being operated, the quantity of measures installed, expenditures on demand side management programs, and estimates of energy savings resulting from such programs.".

(b) REPEAL.—The National Energy Extension Service Act, title V of Public Law 95-39, is repealed.

(c) DISTRICT HEATING AND COOLING PROGRAMS.—(1) The Secretary of Energy, in consultation with appropriate industry organizations, shall conduct a study to—

(A) assess existing district heating and cooling technologies to determine cost-effectiveness, technical performance, energy efficiency, and environmental impacts compared to alternative methods for heating and cooling buildings;

(B) estimate the economic value of benefits that may result from implementation of district heating and cooling systems but that are not currently recognized, such as reduced emissions of air pollutants, local economic development, and energy security;

(C) evaluate the cost-effectiveness, including the economic value referred to in subparagraph (B), of cogenerated district heating and cooling technologies compared to other alternatives for generating or conserving electricity; and

(D) assess, and make recommendations for reducing, institutional and other constraints on the implementation of district heating and cooling systems.

(2) Within 24 months after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report containing the findings and conclusions made by the Secretary as a result of the study conducted under paragraph (1).

(3) Based on such findings and conclusions, the Secretary shall, within 24 months after the date of the enactment of this Act, establish and carry out a program, with funds available for such purpose, to—

(A) provide information to city governments, electric utilities, and others about the technical performance, efficiency, costs, environmental aspects, and other characteristics of district heating and cooling systems; and

(B) assess the prospects for implementing new or expanded district heating and cooling systems, taking into consideration the needs of local governments and electric utilities and other factors.

(4) The Secretary may provide, with funds available for such purpose, technical and financial assistance to local governments, on a cost-share basis, for the assessment and design of district heating and cooling systems.

(d) STUDY AND REPORT.—(1) The Secretary of Energy shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(2) In carrying out such study, the Secretary shall—

(A) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand-side management; and

(B) evaluate the cost effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(3) The Secretary shall transmit to the Congress, within 18 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this subsection.

(4) The Secretary may, based on the findings and conclusions of such study, carry out at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithims in products or equipment with a significant potential for increased energy efficiency.

TITLE II—NATURAL GAS PIPELINES

SEC. 201. FEWER RESTRICTIONS ON CERTAIN NATURAL GAS IMPORTS.

(a) Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting "(a)" before "After six months"; and by adding at the end a new subsection as follows:

"(b) With respect to natural gas which is imported into the United States from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and with respect to liquefied natural gas—

"(1) the importation of such natural gas shall be treated as a 'first sale' within the meaning of section 2(21) of the Natural Gas Policy Act of 1978;

"(2) neither the Commission nor a State may prohibit or condition the importation of such natural gas, nor treat such natural gas while it is within the United States differently than domestic natural gas, nor permit any pipeline transporting such natural gas to maintain rates, terms, or conditions of service for such natural gas different from those it maintains for domestic natural gas; and

"(3) for purposes of subsection (a), the importation of such natural gas shall be deemed to be consistent with the public interest, and applications for such importation shall be granted without modification or delay.".

(b) Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding at the end the following new subsection:

"(h) In exercising its authority under this section and sections 5 and 7 of this Act with respect to the transportation rates and charges of an interstate pipeline (as such term is defined in section 2(15) of the Natural Gas Policy Act of 1978), the Commission shall base any determination of whether rates and charges are just and reasonable on costs and other relevant factors relating directly to an interstate pipeline's transportation function, and not on any factors relating to the natural gas being transported by the interstate pipeline or on rates and charges with respect to pipelines not subject to the Commission's jurisdiction.".

SEC. 202. OPTIONAL CERTIFICATES FOR CERTAIN PROJECTS.

(a) OPTIONAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) OPTIONAL CERTIFICATE.—

"(i) ISSUANCE.—

"(I) CONSTRUCTION OF NEW FACILITIES.—Upon application by any natural-gas company, or person which will become a natural-gas company upon completion of any proposed construction or extension, the Commission shall issue an optional certificate of public convenience and necessity for the construction, extension, and operation of, and transportation of natural gas through, open access facilities constructed after the date of enactment of this subparagraph, without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities, if the requirements of this subparagraph are met.

"(II) CONVERSION OF EXISTING FACILITIES.—Upon application by any natural-gas company, or person which will become a natural-gas company upon completion of any proposed conversion or operation, the Commission shall issue an optional certificate of public convenience and necessity for the conversion and operation of existing facilities which are not subject to rate or abandonment regulation, and the transportation of natural gas through such facilities, provided that such facilities were not constructed under section 311 of the Natural Gas Policy Act of 1978 or this section, without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities, if the requirements of this subparagraph are met.

"(III) NONEXCLUSIVITY.—An optional certificate issued under subclause (I) or (II) shall be nonexclusive and nonprejudicial to any other authorization under this Act or the Natural Gas Policy Act of 1978.

"(ii) CONDITIONS.—

"(I) IMPAIRMENT OF ADEQUATE SERVICE.—The Commission shall issue an optional certificate under this subparagraph unless it finds that the construction, extension, conversion, and operation of facilities will impair any certificate holder's ability to render adequate service to its customers.

"(II) ENVIRONMENTAL AND OTHER REQUIREMENTS.—The Commission shall attach to an optional certificate issued under this subparagraph conditions respecting the environment, including mitigation measures and alternate routes, and other conditions to ensure compliance with requirements under environmental and other applicable laws.

"(III) STAND ALONE PRICING.—No costs or expenses incurred in relation to the construction, extension, conversion, and operation of facilities, or the sale of facilities, covered by an optional certificate issued under this subparagraph may be included in the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(IV) NO CREDITING.—The Commission shall not require the holder of an optional certificate issued under this subparagraph to credit any revenues received in relation to providing transportation under such certificate, or the sale of facilities authorized under such certificate, to any other rate filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(V) PREVENTION OF DELAY.—Notwithstanding section 15(a) of this Act, the holder of an optional certificate issued under this subparagraph shall not participate in any proceedings (other than those it may initiate) for the construction, extension, conversion, or operation of facilities that would serve the same market served by the facilities authorized by the holder's optional certificate. The Commission may waive this subclause if the participation of the holder of an optional certificate will help expedite a proceeding.

"(VI) SEPARATE BOOKS.—The holder of an optional certificate issued under this subparagraph shall maintain a separate system of books, accounts, and records for the facilities and transportation authorized under such certificate.

"(iii) NEGOTIATION RULE.—The Commission shall ensure that all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation utilizing facilities authorized in an optional certificate issued under this subparagraph are negotiated at arms length (or in the case of affiliates, the substantial equivalent thereof).

"(iv) Public notice.—The Commission shall provide reasonable public notice of the application for the issuance of an optional certificate under this subparagraph, including notification at the time of application to the State commission for the State in which the pipeline facility will be located.

"(v) Rates required to be public.—Not later than 60 days before the commencement of transportation pursuant to an optional certificate issued under this subparagraph, or at such time as the Commission may find necessary and reasonable, the certificate holder shall file with the Commission copies of all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation utilizing facilities authorized in the optional certificate. After the commencement of such transportation, the certificate holder shall file with the Commission, not later than 10 days before the initiation of any new transportation utilizing such facilities, a copy of any new or amended agreement entered into by the certificate holder and any person, including any affiliate of the certificate holder, contracting for transportation utilizing such facilities. The Commission shall keep and make available for public inspection all agreements required to be filed with the Commission pursuant to this clause.

"(vi) Negotiated rates deemed lawful; exception.—The rates, charges, classifications, or practices for the transportation of natural gas contained in the agreements filed with the Commission pursuant to clause (v) shall be deemed to be lawful within the meaning of sections 4 and 5 of this Act. If, however, the Commission, after a hearing held upon the petition of a person who has made a bona-fide offer to enter into a contract for the transportation of natural gas utilizing facilities authorized in an optional certificate issued under this subparagraph, finds that the failure to provide a requested rate, charge, classification, or practice in connection with such requested transportation is an unjustifiable, effective denial of access to such facilities, the Commission shall determine the rates, charges, classifications, or practices which allow access, and shall fix the same by order. The Commission may not order the requested transportation to the extent that it finds that transportation capacity is not available. Unless the Commission issues a final order on a petition filed pursuant to this clause within 120 days after it is filed, such petition shall be deemed denied.".

(b) Nonapplicability of Abandonment Rule.—Section 7(b) of the Natural Gas Act (15 U.S.C. 717c(b)) is amended by adding at the end the following: "This subsection shall not apply to any facility or transportation certificated pursuant to subsection (c)(1)(D) of this section.".

(c) Nonapplicability of Natural Gas Act Section 4 Procedures.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (e):

"(f) Subsections (c), (d) and (e) of this section shall not apply to the transportation of natural gas through facilities authorized by a certificate of public convenience and necessity issued under section 7(c)(1)(D) of this Act.".

(d) Nonapplicability of Natural Gas Act Section 5 Procedures.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end the following: "This subsection shall not apply to any rate, charge, classification, or practice by a natural-gas company in connection with the transportation of natural gas through facilities authorized by a certificate issued under section 7(c)(1)(D) of this Act.".

SEC. 203. TRANSPORTATION UNDER SECTION 311 OF THE NATURAL GAS POLICY ACT OF 1978.

(a) Amendment.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended—

(1) in the section head, by inserting "; construction" after "sales and transportation";

(2) in the subsection head for subsection (a), by inserting "; Construction" after "Approval of Transportation";

(3) by striking subsection (a)(1), and inserting in lieu thereof the following:

"(1) Interstate pipelines.—

"(A) In general.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

"(i) any intrastate pipeline;

"(ii) any local distribution company; or

"(iii) any other person, including such interstate pipeline.

"(B) Just and reasonable rates.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

"(C) Nondiscriminatory transportation.—Any transportation authorized under subparagraph (A) shall not be unjust, unreasonable, unduly discriminatory, or preferential (within the meaning of the Natural Gas Act).

"(D) Construction.—60 days after notification to the State commission (as such term is defined in the Natural Gas Act) for the State in which the pipeline facility will be located, an interstate pipeline may construct facilities of any size or capacity to be used solely for transportation provided under this subsection.";

(4) by striking subsection (a)(2)(A), and inserting in lieu thereof the following:

"(A) In general.—The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

"(i) any interstate pipeline;

"(ii) any local distribution company served by an interstate pipeline; or

"(iii) any other person, including such intrastate pipeline."; and

(5) by adding at the end the following new subsection:

"(d) Programmatic Environmental Impact Statement.—The Commission shall prepare a programmatic environmental impact statement under the National Environmental Policy Act of 1969 to accompany the regulations to implement the amendments to this section made by the Comprehensive National Energy Policy Act. The programmatic environmental impact statement shall be prepared in accordance with the regulations of the Council on Environmental Quality implementing the National Environmental Policy Act of 1969.".

(b) Table of Contents Amendment.—The item relating to section 311 in the table of contents of the Natural Gas Policy Act of 1978 is amended to read as follows:

"Sec. 311. Authorization of certain sales and transportation; construction.".

SEC. 204. RULES IN LOCAL DISTRIBUTION COMPANY BYPASS CASES.

(a) Notice.—In any case where service by a natural gas company under section 7(c)(1)(D) of the Natural Gas Act or section 311 of the Natural Gas Policy Act of 1978 would displace existing service by a local distribution company, no contract for such service shall be binding on the buyer, and no such service shall commence, before 60 days after notice to the local distribution company whose service would be displaced.

(b) Recovery of Take or Pay Costs.—In any case where service by a natural gas company under section 7(c)(1)(D) of the Natural Gas Act or section 311 of the Natural Gas Policy Act of 1978 displaces existing service by a local distribution company, such natural gas company shall not recover from such local distribution company any take or pay costs allocated by the Federal Energy Regulatory Commission on a volumetric basis to the recipient of the new service. Such natural gas company may not reallocate costs not recoverable from the local distribution company by reason of this subsection to any other service provided by such natural gas company, except that those costs may be included in the rates charged to the recipient of the new service.

(c) Applicability.—This section shall apply to service under section 311 of the Natural Gas Policy Act of 1978 only if such service commences or will commence after the date of enactment of this Act.

(d) Definitions.—For purposes of this section—

(1) the term "local distribution company" means—

(A) a local distribution company, as such term is defined in section 2(17) of the Natural Gas Policy Act of 1978; and

(B) a holder of a service area determination described in section 7(f)(2) of the Natural Gas Act; and

(2) the term "natural gas company" has the meaning given the term "natural-gas company" in section 2(6) of the Natural Gas Act.

SEC. 205. THIRD PARTY CONTRACTING BY THE FEDERAL ENERGY REGULATORY COMMISSION FOR NATURAL GAS ACT FACILITIES.

(a) Third Party Contracting.—Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding the following after paragraph (2):

"(3) Third party contracting.—

"(A) General rule.—Where the Commission is required to prepare a draft or final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in connection with applications for authority to construct, extend, or operate facilities under this Act, the Commission shall permit, at the election of the applicant, a contractor, consultant, or other person funded by the applicant to prepare such environmental impact statement for the Commission. Such contractor, consultant, or other person shall be selected by the applicant from among a list of individuals or companies determined by the Commission to be qualified to do such work. The Commission shall establish the scope of work for the environmental impact statement, and procedures to oversee the preparation of the statement and to ensure that the contractor, consultant, or other person has no financial or other potential conflict of interest in the outcome of the proceeding. To determine the scope of work, the Commission shall institute a scoping process in accordance with regulations issued by the Council on Environmental Quality.

"(B) ENVIRONMENTAL ASSESSMENTS.—Where an environmental assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in connection with an application for authority to construct, extend, or operate facilities under this Act, the Commission shall permit an applicant, or a contractor, consultant, or other person selected by the applicant, to prepare such environmental assessment. The Commission shall institute procedures, including preapplication consultations, to advise potential applicants of studies or other information related to such environmental assessment foreseeably required by the Commission. The Commission shall allow the filing of such environmental assessment as part of the application.

"(C) RELATIONSHIP TO OTHER LAW.—Nothing in this paragraph shall be construed to—

"(i) relieve the Commission of its responsibilities to review and approve or disapprove environmental documents or to otherwise carry out its responsibilities under the National Environmental Policy Act of 1969; or

"(ii) supersede the responsibility of any Federal agency under any Federal statute, including the National Environmental Policy Act of 1969.

"(D) FUNDS NOT CONSIDERED APPROPRIATIONS.—Funds paid to a contractor, consultant, or other person pursuant to this paragraph shall not be considered an appropriation to the Commission, except as otherwise specified in appropriations Acts.".

(b) COMMUNICATIONS WITH THE COMMISSION.—The Federal Energy Regulatory Commission, within 1 year after the date of enactment of this Act, shall amend its rules governing ex parte communications to clarify that the prohibitions contained in such rules do not apply to communications between the Commission's environmental advisory staff and other Federal and State agencies that are cooperating agencies for purposes of compliance with title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331–35). In the event of a communication between such parties, an accurate public record of all such communications shall be kept, and any party to the proceeding with respect to which such communication was made may respond in writing to such communication.

(c) NEPA COMPLIANCE.—Except as provided in sections 203(d) and 205, nothing in this title or the amendments made by this title shall be construed to modify, impair, or supersede the applicability and operation of the National Environmental Policy Act of 1969.

SEC. 206. NEW RATES AND JOINT THROUGH RATES.

(a) NOTICE OF CHANGES.—The first and third sentences of section 4(d) of the Natural Gas Act (17 U.S.C. 717c(d)) are amended by striking "thirty days' notice" and inserting in lieu thereof "sixty days' notice".

(b) JOINT RATES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding after subsection (f) the following new subsection:

"(g) Under such rules and regulations as the Commission may prescribe to preclude anticompetitive conduct, natural-gas companies may jointly file with the Commission rates for the sequential transportation of natural gas through their facilities.".

SEC. 207. UTILIZATION OF INFORMAL RULEMAKING PROCEDURES.

The first sentence of section 403(c) of the Department of Energy Organization Act (42 U.S.C. 7173(c)) is amended to read as follows: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or to the establishment of rates and charges, the issuance of a certificate of public convenience and necessity, or the abandonment of facilities and services under the Natural Gas Act may be conducted by rulemaking procedures.".

SEC. 208. FASTER ISSUANCE AND REVIEW OF COMMISSION ORDERS.

(a) NATURAL GAS ACT AMENDMENTS.—

(1) REHEARING.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within 60 days after it is filed, such application shall be deemed denied, except that the Commission may, for good cause, extend the period for rehearing an additional 90 days or, in the case of a rulemaking proceeding, an additional 120 days.".

(2) COURT REVIEW.—Section 19(b) of the Natural Gas Act (15 U.S.C. 717r(b)) is amended by striking the first and second sentences and inserting in lieu thereof the following: "Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural-gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 30 days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(b) NATURAL GAS POLICY ACT OF 1978 AMENDMENTS.—

(1) REHEARING.—Section 506(a)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(a)(2)) is amended by striking "Unless the Commission acts upon such application for rehearing within 30 days after it is filed, such application shall be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within 60 days after it is filed, such application shall be deemed denied, except that the Commission may, for good cause, extend the period for rehearing an additional 90 days or, in the case of a rulemaking proceeding, an additional 120 days.".

(2) COURT REVIEW.—Section 506(a)(4) of the Natural Gas Policy Act (15 U.S.C. 3416(a)(4)) is amended by striking the second and third sentences and inserting the following in lieu thereof: "Review shall be obtained by filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 30 days after the final action of the Commission on the application for rehearing required under paragraph (2). The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

SEC. 209. STREAMLINED CERTIFICATE PROCEDURES.

(a) UNOPPOSED APPLICATIONS.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by striking subparagraph (B) and inserting in lieu thereof the following:

"(B) UNOPPOSED APPLICATIONS.—In any case not described in the proviso of subparagraph (A), the Commission shall file notice in the Federal Register of the proposed certificate of public convenience and necessity as soon as the required information in connection therewith has been received by the Commission. If no party has filed a protest or objection in response to such notice within 60 days after publication of such notice, or if all protests and objections are withdrawn, the certificate of public convenience and necessity shall, after completion by the Commission of any responsibilities under the National Environmental Policy Act of 1969, be issued.

"(C) HEARINGS; EMERGENCY CERTIFICATES.—

"(i) HEARING REQUIREMENT.—If a party has filed a protest or objection that has not been withdrawn, the Commission shall set the matter for hearing and shall give such reasonable notice of the hearing thereon to all interested persons as in its judgment may be necessary under rules and regulations to be prescribed by the Commission; and the application shall be decided in accordance with the procedure provided in subsection (e) of this section and such certificate shall be issued or denied accordingly. Within 90 days after the date of enactment of the Comprehensive National Energy Policy Act, the Commission shall institute a rulemaking to establish a procedure for dealing expeditiously with protests which do not raise material issues of fact necessitating an evidentiary hearing.

"(ii) CONCLUSIVE EVIDENCE OF NEED.—In a hearing under this subparagraph, proof of binding contractual commitments by bona fide shippers for firm natural gas service to be rendered utilizing substantially all the capacity of the facilities proposed to be constructed or extended shall be conclusive evidence of the need for such proposed service and facilities, and shall be sufficient to dismiss any claim of mutual exclusivity by another applicant.

"(iii) PHASED CERTIFICATE PROCEDURES.—In a hearing under this subparagraph, the Commission, where appropriate, may phase its consideration of issues raised in connection with the application and may issue an initial order containing preliminary findings with respect to such issues. Notwithstanding the preliminary findings in such initial order, the issuance of a certificate of public convenience and necessity shall be subject to a final order based upon the complete record of the hearing under this subparagraph.

"(iv) EMERGENCY CERTIFICATE.—The Commission may issue a temporary certificate in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a certificate, and may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of the certificate will not be required in the public interest.".

(b) CERTIFICATE NOT REQUIRED FOR REPLACEMENT FACILITIES.—Section 7(c)(1) of the

Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN REPLACEMENT FACILITIES.—The replacement or repair of physically deteriorated or obsolete facilities shall not be subject to any certification requirements of this subsection if—

"(i) such replacement or repair does not result in a reduction or abandonment of service by means of such facilities;

"(ii) such replacement or repair has substantially equivalent designed delivery capacity as the particular facilities being replaced or repaired; and

"(iii) the cost of such replacement or repair does not exceed $20,000,000 per project, as adjusted pursuant to the implicit price deflator for gross national product.".

(c) PRIORITY PROJECTS.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(F) PRIORITY PROJECTS.—(i) If the Chairman of the Commission finds that the national interest requires expeditious construction or extension of facilities for the transportation of natural gas—

"(I) over a specific route;

"(II) from a specific gas-producing area; or

"(III) into a specific gas-consuming market,

the Chairman may designate facilities needed to serve such route, area, or market as a priority project for purposes of this subparagraph.

"(ii) If the Chairman designates facilities as a priority project under clause (i), the Commission shall issue, within such period as the Chairman may prescribe in such designation order, a certificate of public convenience and necessity under this section to authorize one or more proposals for the construction or extension of the facilities so designated. The Commission may impose such conditions under subsection (e) as it determines the public convenience and necessity require.

"(iii)(I) The Commission shall provide public notice and reasonable opportunity, consistent with time limits under the designation order, for the presentation of alternative proposals to construct or extend facilities designated as a priority project under this subparagraph, and for presentation of written data, views, and arguments on such proposals.

"(II) Sections 556 and 557 of title 5, United States Code, shall not apply to Commission proceedings under this subparagraph.

"(III) Nothing in this subparagraph shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

"(iv) Actions taken under this subparagraph, and the validity of this subparagraph, shall be subject to judicial review in the same manner as are actions and provisions under section 10 (a), (b), and (c) (1) and (2) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h (a), (b), and (c) (1) and (2)).".

SEC. 210. EXPEDITED FEDERAL ENERGY REGULATORY COMMISSION RULES.

The Federal Energy Regulatory Commission shall, within 1 year after the date of enactment of this Act, issue regulations to expedite the process by which the Commission considers applications under section 7 of the Natural Gas Act for the grant of certificates of public convenience and necessity for natural gas transportation facilities.

SEC. 211. GAS DELIVERY INTERCONNECTIONS IN PRODUCTION AREAS.

Section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a)) is amended by—

(1) by striking "(a)" and inserting in lieu thereof "(a) EXTENSION OF FACILITIES.—

"(1) GENERAL RULE.—"; and

(2) inserting at the end the following new paragraph—

"(2) REQUIRED CONNECTIONS.—Upon the petition of any person, the Commission by order may direct a natural-gas company, for the sole purpose of receiving natural gas from the petitioner, to establish, at petitioner's expense, and upon such reasonable terms as the Commission may prescribe, physical connection of the natural-gas company's gas transportation facilities, including facilities constructed under section 311 of the Natural Gas Policy Act of 1978, with—

"(A) the petitioner's production or gathering facilities;

"(B) the petitioner's intrastate pipeline (as such term is defined in section 2(16) of the Natural Gas Policy Act of 1978) within a production area (as such term is defined by the Commission); or

"(C) the petitioner's pipeline certificated pursuant to subsection (c) of this section, within a production area (as such term is defined by the Commission).

The proviso in paragraph (1) shall apply to interconnections required under this paragraph.".

SEC. 212. GAS DELIVERY INTERCONNECTIONS IN MARKET AREAS FOR LOCAL UTILITIES.

Section 7(a)(1) of the Natural Gas Act, as so redesignated by section 211 of this Act, is amended—

(1) by inserting "or transport" after "facilities of, and sell"; and

(2) by inserting "or transport" after "physical connection or sell".

SEC. 213. TECHNICAL AMENDMENTS.

Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended—

(1) in subsection (b), by inserting "ABANDONMENT.—" before "No natural-gas company";

(2) in subsection (c)—

(A) by striking "(c)(1)(A)" and inserting in lieu thereof the following:

"(c) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—

"(1) TRADITIONAL AND OPTIONAL CERTIFICATES.—

"(A) GENERAL RULE.—"; and

(B) by inserting "HIGH-PRIORITY CERTIFICATES.—" before "The Commission may issue" in paragraph (2);

(3) in subsection (d), by inserting "APPLICATIONS.—" before "Application for certificates";

(4) in subsection (e), by inserting "ISSUANCE OF CERTIFICATES; CONDITIONS.—" before "Except in the cases";

(5) in subsection (f)—

(A) by striking "(f)(1)" and inserting in lieu thereof the following:

"(f) SERVICE AREAS.—

"(1) COMMISSION DETERMINATION.—"; and

(B) by inserting "TRANSPORTATION EXCEPTION.—" before "If the Commission" in paragraph (2);

(6) in subsection (g), by inserting "NONEXCLUSIVITY.—" before "Nothing contained in ";

(7) in subsection (h), by inserting "EMINENT DOMAIN.—" before "When any holder"; and

(8) by conforming the indentation of each subsection, paragraph, and subparagraph to those established in section 212 of this title.

SEC. 214. STATE REGULATION OF THE PRODUCTION OF NATURAL GAS.

Section 602 of the Natural Gas Policy Act of 1978 is amended by adding a new subsection (c), as follows:

"(c) STATE REGULATION OF THE PRODUCTION OF NATURAL GAS.—

"(1) CERTAIN STATE RESOURCE AND PROPERTY REGULATION AUTHORIZED.—State regulation of natural gas production, which has the substantial purpose or effect of furthering legitimate State interests in resource conservation, the prevention of physical waste, and the protection of correlative rights of producers in a common reservoir, including—

"(A) oil and natural gas well spacing;

"(B) prevention of flaring and physical waste;

"(C) prevention of undue drainage and protection of correlative rights of producers within, or probably within, a common reservoir;

"(D) flow restrictions against past overproducers within, or probably within, a common reservoir;

"(E) unitization of a reservoir;

"(F) restrictions on production of natural gas caps in oil/gas reservoirs;

"(G) gas/oil ratios; and

"(H) maximization of ultimate hydrocarbon production according to sound engineering practices,

is authorized, notwithstanding any incidental effect from such regulation of restricting production and increasing prices.

"(2) CERTAIN STATE PRICING REGULATION PROHIBITED.—A State may not engage in regulation of the production of natural gas which has the substantial purpose or effect of generally restricting natural gas production and raising the general price level of natural gas, including—

"(A) market demand prorationing;

"(B) statewide prorationing;

"(C) prorationing between reservoirs not reasonably shown to be in geologic communication; and

"(D) other prorationing which unreasonably prevents buyers from purchasing lower-priced natural gas in preference to higher-priced natural gas.

"(3) COURT ENFORCEMENT.—Any natural gas pipeline, private or municipal local distribution company, natural gas marketer, consumer of natural gas, or State public utility regulatory commission may bring a civil action in the Federal district court for the District of Columbia to enjoin any State regulation, including any State or State agency rule, order, or law, on grounds it is prohibited under paragraph (2). Such court shall, after considering the purpose and effect of such regulation and all relevant information, set aside and enjoin such regulation to the extent it is prohibited under paragraph (2).

"(4) STATE-OWNED PRODUCTION.—This subsection shall not apply to the regulation of a natural gas well wholly owned by a State or the portion of a natural gas well's production owned by a State.".

TITLE III—ALTERNATIVE FUELS—GENERAL

SEC. 301. DEFINITIONS.

For purposes of this title, title IV, title V, and title VI—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 80 percent, as determined by the Secretary, by

rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; electricity; and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(3) the term "alternative fueled vehicle" means a dedicated vehicle or a dual fueled vehicle;

(4) the term "dedicated vehicle" means—

(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile,

that operates solely on alternative fuel;

(5) the term "domestic" means derived from resources within the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States, including the outer Continental Shelf, as such term is defined in the Outer Continental Shelf Lands Act, or from resources within a Nation with which there is in effect a free trade agreement requiring national treatment for trade;

(6) the term "dual fueled vehicle" means—

(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile,

that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel;

(7) the term "fleet" means a group of light duty motor vehicles, located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1990 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a governmental entity or other person, by any person who controls such person, by any person controlled by such person, and by any person under common control with such person, except that such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration motor vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement motor vehicles;

(E) emergency motor vehicles;

(F) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) nonroad vehicles, including farm and construction motor vehicles; or

(H) motor vehicles which under normal operations are garaged at personal residences at night;

(8) the term "fuel provider" means—

(A) any person engaged in the importing, refining, or processing of crude oil to produce motor fuel;

(B) any person engaged in the importation, production, storage, transportation, distribution, or sale of motor fuel; and

(C) any person engaged in generating, transmitting, importing, or selling at wholesale or retail electricity;

(9) the term "light duty motor vehicle" means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. 7550(7)), of less than or equal to 8,500 pounds gross vehicle weight rating;

(10) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle;

(11) the term "motor vehicle" has the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(12) the term "replacement fuel" means the portion of any motor fuel that is methanol, ethanol, or other alcohols, natural gas, liquefied petroleum gas, hydrogen, electricity, ethers, or any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits; and

(13) the term "Secretary" means the Secretary of Energy.

SEC. 302. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENTS.—Section 400AA of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amended—

(1) in subsection (a)(1)—

(A) by striking "passenger automobiles and light duty trucks" and inserting in lieu thereof "vehicles"; and

(B) by striking "alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles." and inserting in lieu thereof "alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under subsection (h).";

(2) by amending subsection (a)(3) to read as follows:

"(3)(A) To the extent practicable, the Secretary shall acquire both dedicated and dual fueled vehicles, and shall ensure that each type of alternative fueled vehicle is used by the Federal Government.

"(B) Vehicles acquired under this section shall be acquired from original equipment manufacturers. If such vehicles are not available from original equipment manufacturers, vehicles converted to use alternative fuels may be acquired if, after conversion, the original equipment manufacturer's warranty continues to apply to such vehicles, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion. This subparagraph shall not apply to vehicles acquired by the United States Postal Service pursuant to a contract entered into by the United States Postal Service before the date of enactment of this subparagraph and which terminates on or before December 31, 1997.

"(C) Alternative fueled vehicles, other than those described in subparagraph (B), may be acquired solely for the purposes of studies under subsection (b), whether or not original equipment manufacturer warranties still apply.

"(D) In deciding which types of alternative fueled vehicles to acquire in implementing this part, the Secretary shall consider as a factor—

"(i) which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent; and

"(ii) the source of the fuel to supply the vehicles, giving preference to vehicles that operate on alternative fuels derived from domestic sources.

"(E) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that operation on such alternative fuels is not feasible.

"(F) At least 50 percent of the alternative fuels used in vehicles acquired pursuant to this section shall be derived from domestic feedstocks. The Secretary shall issue regulations to implement this requirement. For purposes of this subparagraph, the term 'domestic' has the meaning given such term in section 301(5) of the Comprehensive National Energy Policy Act.

"(G) Vehicles acquired under this section shall be acquired from domestic manufacturers.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(4) Acquisitions of vehicles under this section shall, to the extent practicable, be coordinated with acquisitions of alternative fueled vehicles by State and local governments.";

(4) in subsection (b), by inserting after paragraph (2) the following new paragraphs:

"(3)(A) The Secretary, in cooperation with the Environmental Protection Agency and the Department of Transportation, shall collect data and conduct a study of heavy duty vehicles acquired under subsection (a), which shall at a minimum address—

"(i) the performance of such vehicles, including reliability, durability, and performance in cold weather and at high altitude;

"(ii) the fuel economy, safety, and emissions of such vehicles; and

"(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of conventionally fueled heavy duty vehicles.

"(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committees on Energy and Commerce and Government Operations of the House of Representatives, within one year after the first such vehicles are acquired, and annually thereafter.

"(4)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of heavy duty vehicles acquired under subsection (a) and any problems with such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge.

"(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce and the Committee on Government Operations of the House of Representatives, within one year after funds are appropriated for carrying out this paragraph.

"(5) Studies undertaken under this subsection shall be coordinated with relevant testing activities of the Environmental Protection Agency and the Department of Transportation.";

(5) in subsection (c)—

(A) by striking "alcohol or natural gas, alcohol or natural gas" and inserting in lieu thereof "alternative fuels, such fuels"; and

(B) by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel" in paragraph (1);

(6) in subsection (d)(2)(B), by striking "The Secretary" and inserting in lieu thereof "To

the extent that appropriations are available for such purposes, the Secretary";

(7) in subsection (g), by striking paragraphs (2) through (6) and inserting in lieu thereof the following:

"(2) the term 'alternative fuel' means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 80 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; and electricity; and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(3) the term 'alternative fueled vehicle' means a dedicated vehicle or a dual fueled vehicle;

"(4) the term 'dedicated vehicle' means—

"(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile,

that operates solely on alternative fuel;

"(5) the term 'dual fueled vehicle' means—

"(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile,

that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel; and

"(6) the term 'heavy duty vehicle' means a vehicle of greater than 8,500 pounds gross vehicle weight rating.";

(8) by inserting after subsection (g) the following new subsection:

"(h) MINIMUM FEDERAL FLEET REQUIREMENT.—(1)(A) The Federal Government shall acquire at least—

"(i) 5,000 light duty alternative fueled vehicles in fiscal year 1993;

"(ii) 7,500 light duty alternative fueled vehicles in fiscal year 1994; and

"(iii) 10,000 light duty alternative fueled vehicles in fiscal year 1995.

"(B) The Secretary shall allocate the acquisitions necessary to meet the requirements under subparagraph (A).

"(2)(A) Of the total number of vehicles acquired by a Federal fleet, at least—

"(i) 25 percent in fiscal year 1996;

"(ii) 33 percent in fiscal year 1997; and

"(iii) 50 percent in fiscal year 1998 and thereafter,

shall be alternative fueled vehicles.

"(B) The Secretary, in consultation with the Administrator of General Services where appropriate, may permit a Federal fleet to acquire a smaller percentage than is required in subparagraph (A), so long as the aggregate percentage acquired by all Federal fleets is at least equal to the required percentage.

"(C) For purposes of this paragraph, the term 'Federal fleet' means 50 or more light duty motor vehicles, located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1990 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by or assigned to any Federal executive department, military department, Government corporation, independent establishment, or executive agency, the United States Postal Service, the Congress, the courts of the United States, or the Executive Office of the President. Such term does not include—

"(i) motor vehicles held for lease or rental to the general public;

"(ii) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

"(iii) law enforcement vehicles;

"(iv) emergency vehicles;

"(v) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons; or

"(vi) nonroad vehicles, including farm and construction vehicles.

"(3) The General Services Administration, and any other Federal agency that procures motor vehicles for distribution to other Federal agencies may allocate the incremental cost of alternative fueled vehicles over the cost of comparable gasoline vehicles across the entire fleet of motor vehicles distributed by such agency."; and

(9) in subsection (i)(1), by striking "$3,000,000" and all that follows and inserting in lieu thereof "$60,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 through 1998, with amounts appropriated for fiscal years 1992 through 1998 to remain available until expended.".

(b) REPEAL OF TERMINATION DATE.—Section 4(b) of the Alternative Motor Fuels Act of 1988 is repealed.

SEC. 303. ASSURANCE OF ACQUISITION OF A VARIETY OF FUELING FACILITIES.

(a) ACQUISITION OF ALTERNATIVE FUELING FACILITIES.—The Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with applicable provisions of Federal law, that the maximum practicable number of a variety of alternative fueling facilities be acquired by purchase, lease, or contract, or through construction, or by other methods by the Federal Government or a joint venture in which the Federal Government is a participant. Such facilities may include facilities at commercial refueling stations and other locations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $31,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 through 1998, to remain available until expended.

SEC. 304. INCREASED FEDERAL FLEET REQUIREMENT.

If, after January 1, 1998, the Secretary determines that the goals of replacement fuel use described in section 502(b)(2), as modified under section 504, are not likely to be achieved—

(1) the requirement for the Federal Government to acquire 50 percent alternative fueled vehicles, as established under section 400AA(h) of the Energy Policy and Conservation Act, shall be increased to a requirement of 60 percent for fiscal year 2000, 70 percent for fiscal year 2001, and 75 percent for fiscal year 2002 and thereafter; and

(2) the minimum size of Federal fleets subject to the requirements of section 400AA(h) of the Energy Policy and Conservation Act shall be 10 light duty motor vehicles.

SEC. 305. USE OF ALCOHOL-ENHANCED GASOLINE IN FEDERAL MOTOR VEHICLES.

(a) PROCUREMENT BY CONTRACT.—Whenever any Federal agency enters into a contract for the procurement of fuel for Federal motor vehicles, the Federal agency shall procure alcohol-enhanced gasoline if such gasoline is reasonably available, costs not more than any other comparable available gasoline, and complies with applicable requirements under the Clean Air Act. For the purposes of this subsection, the cost of gasoline shall be the net cost to the Federal Government of such gasoline.

(b) PURCHASES BY FEDERAL AGENCIES.—Any Federal agency that purchases fuel for Federal motor vehicles shall issue guidelines to ensure the purchase of alcohol-enhanced gasoline if such gasoline is reasonably available, costs not more than any other comparable available gasoline, and complies with applicable requirements under the Clean Air Act. For the purposes of this subsection, the cost of gasoline shall be the net cost to the Federal Government of such gasoline.

(c) EXCEPTION.—The acquisition of alternative fuel shall not be subject to the requirements of subsections (a) and (b).

(d) DEFINITIONS.—For purposes of this section—

(1) the term "alcohol-enhanced gasoline" means gasoline that is blended with alcohol or ether; and

(2) the term "Federal motor vehicle" means a motor vehicle that is owned or leased by a Federal agency and is capable of operating on alcohol-enhanced gasoline.

(e) EFFECTIVE DATE.—This section shall apply to contracts entered into, and fuel purchases made, after the expiration of 6 months after the date of enactment of this Act.

SEC. 306. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the head of each agency or department determines otherwise, not less than 10 percent of the total combined amounts obligated for contracts and subcontracts by each agency under subsection (b) shall be expended with small business concerns or other organizations controlled by socially and economically disadvantaged individuals and women, including historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

(b) COVERED OBLIGATIONS.—The requirements of subsection (a) shall apply to the combined total for each agency or department of—

(1) the amounts obligated under titles I and III of this Act and the amendments made by titles I and III of this Act; and

(2) the amounts obligated for research under this Act and the amendments made by this Act.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632). However, for purposes of contracts and subcontracts requiring engineering services the applicable size standard shall be that established for military and aerospace equipment and military weapons.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

TITLE IV—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

SEC. 401. TRUCK COMMERCIAL APPLICATION PROGRAM.

(a) Alternative Fueled Trucks.—Section 400BB(a) of the Energy Policy and Conservation Act (42 U.S.C. 6374a(a)) is amended by striking "alcohol and natural gas" and inserting in lieu thereof "alternative fuels".

(b) Funding.—Section 400BB(b)(1) of such Act (42 U.S.C. 6374a(b)(1)) is amended to read as follows: "(1) There are authorized to be appropriated to the Secretary for carrying out this section $4,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 through 1995, to remain available until expended.".

SEC. 402. CONFORMING AMENDMENTS.

Part J of title III of the Energy Policy and Conservation Act is amended—

(1) in section 400CC(a)—

(A) by striking "alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "alternative fuels"; and

(B) by striking "both buses capable of operating on alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "each of the various types of alternative fuel buses";

(2) in section 400DD(d), by striking "alcohols, natural gas, and other potential alternative motor" and inserting in lieu thereof "alternative"; and

(3) in section 400DD (d) and (e), by striking "motor" each place it appears.

SEC. 403. ALTERNATIVE MOTOR FUELS AMENDMENTS.

Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended—

(1) in section 501(1), by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel";

(2) in section 502(e)—

(A) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(B) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(3) in section 506(a)(4)—

(A) in subparagraph (A)—

(i) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels"; and

(B) in subparagraph (B)—

(i) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled"; and

(ii) by striking "energy automobile or natural gas dual energy automobile, as the case may be" and inserting in lieu thereof "fueled automobile"; and

(4) in section 506(b)(3)—

(A) in subparagraph (A)—

(i) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (i); and

(iii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (ii); and

(B) in subparagraph (B)—

(i) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(ii) by striking "alcohol" and inserting in lieu thereof "alternative fuels" in clauses (i) and (ii); and

(5) in section 513—

(A) in subsection (a)—

(i) by striking "Alcohol Powered" and inserting in lieu thereof "Dedicated";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (c) or in section 503(a)(3), if";

(iii) by striking "alcohol powered" and inserting in lieu thereof "dedicated";

(iv) by striking "content of the alcohol" and inserting in lieu thereof "content of the alternative fuel"; and

(v) by striking "gallon of alcohol" and inserting in lieu thereof "gallon of a liquid alternative fuel";

(B) in subsection (b)—

(i) by striking "Energy" and inserting in lieu thereof "Fueled";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (d) or in section 503(a)(3), if";

(iii) by striking "energy" and inserting in lieu thereof "fueled"; and

(iv) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in paragraph (2);

(C) in subsection (c)—

(i) by striking "Natural Gas Powered" and inserting in lieu thereof "Gaseous Fuel Dedicated";

(ii) by striking "powered" and inserting in lieu thereof "dedicated";

(iii) by striking "natural gas" each place it appears in the first sentence and inserting in lieu thereof "gaseous fuel"; and

(iv) by adding at the end the following new sentence: "For purposes of this section, the Secretary shall determine the appropriate gallons equivalent measurement for gaseous fuels other than natural gas, and a gallon equivalent of such gaseous fuel shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.";

(D) in subsection (d)—

(i) by striking "Natural Gas Dual Energy" and inserting in lieu thereof "Gaseous Fuel Dual Fueled";

(ii) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(iii) by striking "natural gas" each place it appears and inserting in lieu thereof "gaseous fuel";

(E) in subsection (e), by striking "alcohol powered automobile, dual energy automobile, natural gas powered automobile, or natural gas dual energy" and inserting in lieu thereof "dedicated automobile or dual fueled";

(F) in subsection (f)(2)(A)(i), by striking "alcohol powered automobiles, natural gas powered automobiles," and inserting in lieu thereof "alternative fueled automobiles";

(G) in subsection (g)—

(i) in paragraph (1)—

(I) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (A);

(II) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(III) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (B);

(IV) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(V) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (C); and

(VI) by striking "energy automobile or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (C); and

(ii) in paragraph (2)—

(I) by striking "energy passenger automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(II) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated" in subparagraph (B); and

(III) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(H) in subsection (h)(1)—

(i) by striking subparagraphs (D) and (E) and redesignating subparagraph (C) as subparagraph (D);

(ii) by striking subparagraphs (A) and (B) and inserting in lieu thereof the following new subparagraphs:

"(A) the term 'alternative fuel' means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 80 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; electricity; and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(B) the term 'alternative fueled automobile' means an automobile that—

"(i) is a dedicated automobile; or

"(ii) is a dual fueled automobile;

"(C) the term 'dedicated automobile' means an automobile that operates solely on alternative fuels; and"; and

(iii) in subparagraph (D), as so redesignated by clause (i) of this subparagraph—

(I) by striking "dual energy" and inserting in lieu thereof "dual fueled";

(II) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in clauses (i), (ii), and (iii);

(III) by inserting "in the case of an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel," before "which, for model years" in clause (iii); and

(IV) by striking the semicolon at the end of clause (iv) and inserting in lieu thereof a period; and

(I) in subsection (h)(2)—

(i) by striking "paragraphs (1)(C) and (D)" and inserting in lieu thereof "paragraph (1)(D)" in subparagraph (A);

(ii) by striking "energy automobiles when operating on alcohol, and by natural gas dual energy automobiles when operating on natural gas" and inserting in lieu thereof "fueled automobiles when operating on alternative fuels" in subparagraph (A);

(iii) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (A);

(iv) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(v) by striking "energy" and inserting in lieu thereof "fueled" each place it appears in subparagraphs (B) and (C); and

(vi) by inserting "other than electric automobiles" after "automobiles" each place it appears in subparagraphs (B) and (C).

SEC. 404. VEHICULAR NATURAL GAS JURISDICTION.

(a) Natural Gas Act Amendments.—(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended by inserting after subsection (c) the following new subsection:

"(d) The provisions of this Act shall not apply to any person solely by reason of, or with respect to, any sale or transportation of vehicular natural gas if such person is—

"(1) not otherwise a natural-gas company; or

"(2) subject to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of vehicular natural gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by inserting after paragraph (9) the following new paragraph:

"(10) 'Vehicular natural gas' means natural gas that is ultimately used as a fuel in a self-propelled vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation or sale of natural gas by any person who is not otherwise a public utility, within the meaning of State law—

(1) in closed containers; or

(2) otherwise to any person for use by such person as a fuel in a motor vehicle,

shall not be considered to be a transportation or sale of natural gas within the meaning of any State law, regulation, or order in effect before January 1, 1989. This subsection shall not apply to any State law, regulation, or order to the extent that such law, regulation, or order has as its primary purpose the protection of public safety.

(c) NONAPPLICABILITY OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79A(a)(4)) solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79J(b)(1)), a holding company registered under such Act solely by reason of the application of section 2(a)(7)(A) or (B) of such Act with respect to control of a gas utility company or subsidiary thereof, may acquire or retain, in any geographic area, any interest in a company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, transport, installation, servicing, or financing of equipment related to the sale for consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79B) such company is exempt from registration.

(4) For purposes of this subsection, terms that are defined under the Public Utility Holding Company Act of 1935 shall have the meaning given such terms in such Act.

(5) For purposes of this subsection, the term "vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a self-propelled vehicle.

SEC. 405. PUBLIC INFORMATION PROGRAM.

The Secretary, in consultation with appropriate Federal agencies and individuals and organizations with practical experience in the production and use of alternative fuels and alternative fueled vehicles, shall, for the purposes of promoting the use of alternative fuels and alternative fueled vehicles, establish a public information program on the benefits and costs of the use of alternative fuels in motor vehicles. Within 18 months after the date of enactment of this Act, the Secretary shall produce and make available an information package for consumers to assist them in choosing among alternative fuels and alternative fueled vehicles. Such information package shall provide relevant and objective information on motor vehicle characteristics and fuel characteristics as compared to gasoline, on a life cycle basis, including environmental performance, energy efficiency, domestic content, cost, maintenance requirements, reliability, and safety. Such information package shall also include information with respect to the conversion of conventional motor vehicles to alternative fueled vehicles. The Secretary shall include such other information as the Secretary determines is reasonable and necessary to help promote the use of alternative fuels in motor vehicles. Such information package shall be updated annually to reflect the most recent available information.

SEC. 406. LABELING REQUIREMENTS.

The Federal Trade Commission, in consultation with the Secretary, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, shall, within 18 months after the date of enactment of this Act, issue a notice of proposed rulemaking for a rule to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and alternative fueled vehicles, including requirements for appropriate information with respect to costs and benefits, so as to reasonably enable the consumer to make choices and comparisons. Required labeling under the rule shall be simple and, where appropriate, consolidated with other labels providing information to the consumer. In formulating the rule, the Federal Trade Commission shall give consideration to the problems associated with developing and publishing useful and timely cost and benefit information, taking into account lead time, costs, the frequency of changes in costs and benefits that may occur, and other relevant factors. The Commission shall obtain the views of affected industries, consumer organizations, Federal and State agencies, and others in formulating the rule. A final rule shall be issued within 1 year after the notice of proposed rulemaking is issued. Such rule shall be updated periodically to reflect the most recent available information.

SEC. 407. AVAILABILITY OF FUELING FACILITIES.

(a) IDENTIFICATION.—The Secretary, within one year after the date of enactment of this Act, shall, to the greatest extent practicable, identify a list of all private and government alternative fueling facilities that are or could be made available to the public, and shall publish such list in the Federal Register. Within one year after the publication of such list, the Secretary shall submit a report to the Congress containing recommendations on how and to what extent to make listed facilities available to the public.

(b) AVAILABILITY TO PUBLIC.—The Secretary shall, within 1 year after the date of enactment of this Act, issue regulations requiring any person regulated under State law as a natural gas utility, and any interstate pipeline under the meaning of the Natural Gas Act, to make their alternative fueling facilities available, under reasonable terms, to the public.

SEC. 408. DATA ACQUISITION PROGRAM.

(a) Not later than one year after the date of enactment of this Act, the Secretary, through the Energy Information Administration, and in cooperation with appropriate State, regional, and local authorities, shall establish a data collection program to be conducted in at least 5 geographically and climatically diverse regions of the United States for the purpose of collecting data which would be useful to persons seeking to manufacture, convert, sell, own, or operate alternative fueled vehicles or alternative fueling facilities. Such data shall include—

(1) identification of the number and types of motor vehicle trips made daily and miles driven per trip, including commuting, business, and recreational trips;

(2) the projections of the Secretary as to the most likely combination of alternative fueled vehicle use and other forms of transit, including rail and other forms of mass transit;

(3) cost, performance, environmental energy, and safety data on alternative fuels and alternative fueled vehicles; and

(4) other appropriate demographic information and consumer preferences.

(b) The Secretary shall consult with interested parties, including other appropriate Federal agencies, manufacturers, public utilities, owners and operators of fleets of light duty motor vehicles, and State or local governmental entities, to determine the types of data to be collected and analyzed under subsection (a).

SEC. 409. FEDERAL ENERGY REGULATORY COMMISSION AUTHORITY TO APPROVE RECOVERY OF CERTAIN EXPENSES IN ADVANCE.

(a) NATURAL GAS MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 4 of the Natural Gas Act, allow recovery of expenses, in advance, by natural-gas companies for research, development, and demonstration activities by the Gas Research Institute for projects on the use of natural gas, including fuels derived from natural gas, for transportation, and projects on the use of natural gas to control pollutants and to control emissions from the combustion of other fuels, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to each project, the Commission shall ensure that, the costs of such activities shall be provided, in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(b) ELECTRIC MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 205 of the Federal Power Act, allow recovery of expenses, in advance, by electric utilities for research, development, and demonstration activities by the Electric Power Research Institute for projects on electric motor vehicles, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to each project, the costs of such activities shall be provided, in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(c) REPEAL.—The second paragraph of the matter under the heading "FEDERAL ENERGY REGULATORY COMMISSION, SALARIES AND EXPENSES" in title III of the Energy and Water Development Appropriations Act, 1992, is repealed.

SEC. 410. STATE AND LOCAL INCENTIVES PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary shall, within one year after the date of enactment of this Act, issue regulations establishing guidelines for comprehensive State alternative fuels and alternative fueled vehicle incentives and program plans designed to accelerate the introduction and use of such fuels and vehicles. Such guideline shall address the development, modification, and implementation of such State plans and shall describe those program elements, as described in paragraph (3), to be addressed in such plans.

(2) The Secretary, after consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall invite the Governor of each State to submit to the Secretary a State plan within one year after the effective date of the regulations issued under paragraph (1). Such plan shall include—

(A) provisions designed to result in scheduled progress toward, and achievement of, the goal of introducing substantial numbers of alternative fueled vehicles in such State by the year 2000; and

(B) a detailed description of the requirements, including the estimated cost of implementation, of such plan.

(3) Each proposed State plan, in order to be eligible for Federal assistance under this section, shall describe the manner in which coordination shall be achieved with Federal and local governmental entities in implementing such plan, and shall include an examination of—

(A) exemption from State sales tax or other State or local taxes or surcharges (other than such taxes or surcharges which are dedicated for transportation purposes) with respect to alternative fueled vehicles, alternative fuels, or alternative fueling facilities;

(B) the introduction of alternative fueled vehicles into State-owned or operated motor vehicle fleets;

(C) special parking at public buildings and airport and transportation facilities;

(D) programs of public education to promote the use of alternative fueled vehicles;

(E) the treatment of sales of alternative fuels for use in alternative fueled vehicles;

(F) methods by which State and local governments might facilitate—

(i) the availability of alternative fuels; and

(ii) the ability to recharge electric motor vehicles at public locations;

(G) allowing public utilities to include in rates the incremental cost of—

(i) new alternative fueled vehicles;

(ii) converting conventional vehicles to operate on alternative fuels; and

(iii) installing alternative fuel fueling facilities,

but only to the extent that the inclusion of such costs in rates would not create competitive disadvantages for other market participants, and taking into consideration the effect inclusion of such costs would have on rates, service, and reliability to other utility customers;

(H) such other programs and incentives as the State may describe;

(I) whether accomplishing any of the goals in this subsection would require amendment to State law or regulation, including traffic safety prohibitions;

(J) services provided by municipal, county, and regional transit authorities; and

(K) effects of such plan on programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 and amendments made by that Act.

(b) FEDERAL ASSISTANCE TO STATES.—(1) Upon request of the Governor of any State with a plan approved under this section, the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to alternative fueled vehicles;

(B) grants of Federal financial assistance for the purpose of assisting such State in the implementation of such plan or any part thereof; and

(C) grants of Federal financial assistance for the acquisition of alternative fueled vehicles.

(2) In determining whether to approve a State plan submitted under subsection (a), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this subsection, the Secretary shall take into account—

(A) the energy-related and environmental-related impacts, on a life cycle basis, of the introduction and use of alternative fueled vehicles included in the plan compared to conventional motor vehicles;

(B) the number of alternative fueled vehicles likely to be introduced by the year 2000 as a result of successful implementation of the plan; and

(C) such other factors as the Secretary considers appropriate.

(3) The Secretary, in consultation with the Administrator of General Services, shall provide assistance to States in procuring alternative fueled vehicles, including coordination with Federal procurements of such vehicles.

(4) The Secretary may not approve a State plan submitted under subsection (a) unless the State agrees to provide at least 20 percent of the cost of activities for which assistance is provided under paragraph (1).

(c) GENERAL PROVISIONS.—(1) In carrying out this section, the Secretary shall consult with the Secretary of Transportation on matters relating to transportation and with other appropriate Federal and State departments and agencies.

(2) The Secretary shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this section. Such report shall include—

(A) an estimate of the number of alternative fueled vehicles in use in each State;

(B) the degree of each State's participation in the program;

(C) a description of Federal, State, and local programs undertaken in the various States, whether pursuant to a State plan under this section or not, to provide incentives for introduction of alternative fueled vehicles;

(D) an estimate of the energy and environmental benefits of the program; and

(E) the recommendations of the Secretary, if any, for additional action by the Federal Government.

(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) GOVERNOR.—The term "Governor" means the chief executive of a State.

(2) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, $10,000,000 for each of the 5 fiscal years beginning after the date of enactment of this Act.

SEC. 411. ALTERNATIVE FUEL BUS PROGRAM.

(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary of Transportation, in consultation with the Secretary, may enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility of commercial application, including safety of specific vehicle design, of using alternative fuels for urban buses.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(3) Federal assistance provided under cooperative agreements and joint ventures entered into under paragraph (1) to demonstrate the feasibility of commercial application of using alternative fuels for urban buses shall be in addition to Federal assistance provided under any other law for such purpose.

(b) LIMITATIONS.—(1) The Secretary of Transportation may not enter into cooperative agreement or joint venture under subsection (a) with any municipal, county, or regional transit authority, unless such government body agrees to provide 20 percent of the costs of such demonstration.

(2) The Secretary of Transportation may grant such priority under this section to any entity that demonstrates that the use of alternative fuels for transportation would have a significant beneficial effect on the environment.

(c) SCHOOL BUSES.—The Secretary of Transportation may also provide, in accordance with such rules as he may prescribe, financial assistance to any agency, municipality, or political subdivision in an urban area referred to in subsection (a), of any State or the District of Columbia for the purpose of meeting the incremental costs of school buses that are dedicated vehicles and used regularly for such transportation during the school term. Such costs may include the purchase and installation of alternative fuel refueling facilities to be used for school bus refueling, and the conversion of school buses to dedicated vehicles. The Secretary of Transportation may provide such assistance directly to a person who is a contractor of such agency, municipality, or political subdivision, upon the request of the agency, municipality, or political subdivision, and who, under such contract, provides for such transportation.

(d) FUNDING AUTHORIZATION.—There are authorized to be appropriated not more than $30,000,000 for each of the fiscal years 1993, 1994, and 1995 for purposes of this section.

SEC. 412. CERTIFICATION OF TRAINING PROGRAMS.

The Secretary shall ensure that the Federal Government establishes and carries out a program for the certification of training programs for technicians who are responsible for motor vehicle installation of equipment that converts gasoline or diesel-fueled motor vehicles into dedicated vehicles or dual fueled vehicles, and for the maintenance of such converted motor vehicles. A training program shall not be certified under the program established under this section unless it provides technicians with instruction on the proper and safe installation procedures and techniques, adherence to specifications (including original equipment manufacturer specifications), motor vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these motor vehicle conversions. The Secretary shall ensure that, in the development of the program required under this section, original equipment manufacturers, fuel suppliers, companies that convert conventional vehicles to use alternative fuels, and other affected persons are consulted.

SEC. 413. ALTERNATIVE FUEL USE IN NONROAD VEHICLES AND ENGINES.

(a) NONROAD VEHICLES AND ENGINES.—(1) The Secretary shall conduct a study to determine whether the use of alternative fuels in nonroad vehicles and engines would contribute substantially to reduced reliance on imported energy sources. Such study shall be completed, and the results thereof reported to Congress, within 2 years after the date of enactment of this Act.

(2) The study shall assess the potential of nonroad vehicles and engines to run on alternative fuels. Taking into account the nonroad vehicles and engines for which running on alternative fuels is feasible, the study shall assess the potential reduction in reliance on foreign energy sources that could be achieved if such vehicles were to run on alternative fuels.

(3) The report required under paragraph (1) may include the Secretary's recommendations for encouraging or requiring nonroad vehicles and engines which can feasibly be run on alternative fuels, to utilize such alternative fuels.

(b) DEFINITION OF NONROAD VEHICLES AND ENGINES.—Nonroad vehicles and engines, for purposes of this section, shall include nonroad vehicles and engines used for surface transportation or principally for industrial or commercial purposes, vehicles used for rail transportation, motor vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines at the discretion of the Secretary.

(c) DESIGNATION.—Upon completion of the study required pursuant to subsection (a) of this section, the Secretary may designate such vehicles and engines as qualifying for loans pursuant to section 415 of this title.

SEC. 414. REPORTS TO CONGRESS.

Within 6 months after the date of enactment of this Act, the Secretary shall—

(1) identify and report to Congress on purchasing policies of the Federal Government which inhibit or prevent the purchase by the Federal Government of alternative fueled vehicles; and

(2) report to Congress on Federal, State, and local traffic control measures and policies and how the use of alternative fueled vehicles could be promoted by granting such vehicles exemptions or preferential treatment under such measures.

SEC. 415. LOW INTEREST LOAN PROGRAM.

(a) ESTABLISHMENT.—Within 1 year after the date of enactment of this Act, the Secretary shall establish a program for making low interest loans, giving preference to small businesses that own or operate fleets, for—

(1) the conversion of motor vehicles to operation on alternative fuels;

(2) covering the incremental costs of the purchase of motor vehicles which operate on alternative fuels, when compared with purchase costs of comparable conventionally fueled motor vehicles; or

(3) covering the incremental costs of purchase of non-road vehicles and engines designated by the Secretary pursuant to section 413(c) of this title.

(b) LOAN TERMS.—The Secretary, to the extent practicable, shall establish reasonable terms for loans made under this subsection, with preference given to repayment schedules that enable such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the motor vehicle operates.

(c) CRITERIA.—In deciding who loans shall be made to under this subsection, the Secretary shall consider—

(1) the financial need of the applicant;

(2) the goal of assisting the greatest number of applicants; and

(3) the ability of an applicant to repay the loan, taking into account the fuel cost savings likely to accrue to the applicant.

(d) PRIORITIES.—Priority shall be given under this section to fleets where the use of alternative fuels would have a significant beneficial effect on energy security and the environment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, $25,000,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 416. COMMERCIAL APPLICATION FUNDING FOR ALTERNATIVE FUELED VEHICLES.

(a) MOTOR VEHICLE COMMERCIAL APPLICATION PROGRAM.—The Secretary shall carry out a program of commercial application of techniques related to improving alternative fueled vehicle technology, including the following areas:

(1) Fuel injection.

(2) Carburetion.

(3) Manifolding.

(4) Advanced combustion.

(5) Power optimization.

(6) Efficiency.

(7) Lubricants, detergents, and other additives.

(8) Engine and fuel system durability.

(9) Ignition, including fuel additives to assist ignition.

(10) Multifuel engines.

(11) Emissions control, including catalysts.

(12) Advanced storage systems.

(13) Advanced fueling technology.

(14) Fuel cells.

(15) Advanced cold starting systems.

(16) The incorporation of advanced materials in these areas.

(b) COOPERATIVE AGREEMENTS AND FINANCIAL ASSISTANCE.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, public entities or interested or affected private firms willing to provide 50 percent of the costs of programs under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $20,000,000 for each of the fiscal years 1992, 1993, and 1994 for carrying out this section.

SEC. 417. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of section 407(b), or any regulation issued under such subsection.

SEC. 418. ENFORCEMENT.

(a) Whoever violates section 417 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 417 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 417 after having been subjected to a civil penalty for a prior violation of section 417 shall be fined not more than $50,000 or imprisoned not more than six months, or both.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

SEC. 501. MANDATE FOR ALTERNATIVE FUEL PROVIDERS.

(a) IN GENERAL.—(1) The Secretary shall, before January 1, 1993, issue regulations requiring that, beginning January 1, 1994, any new light duty motor vehicle, or any other new motor vehicle weighing less than 26,000 pounds gross vehicle weight, initially owned, operated, leased, or otherwise controlled after December 31, 1993, by—

(A) a person whose principal business is producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity;

(B) a person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity; and

(C) a person—

(i) who produces, imports, or produces and imports in combination, an average of 50,000 barrels per day or more of petroleum; and

(ii) a substantial portion of whose business is producing alternative fuels,

shall be acquired or operated as provided in subsections (b) and (c).

(2)(A) Regulations issued under paragraph (1) may provide for the exemption from the requirements of paragraph (1) of any person described in paragraph (1)(A) or (B) with demonstrated gross annual revenues of less than $100,000 from such principal business for the 3 immediately preceding calendar years.

(B) Regulations issued under paragraph (1) shall provide for the exemption from the requirements of paragraph (1) of any person, in whole or in part, if such person demonstrates to the satisfaction of the Secretary that alternative fueled vehicles that meet the normal requirements of that person's principal business are not available for acquisition.

(C) Regulations issued under paragraph (1) shall provide for the exemption from the requirements of paragraph (1) of the acquisition of diesel fueled vehicles of greater than 8,500 pounds gross vehicle weight rating.

(b) MOTOR VEHICLES CAPABLE OF BEING CENTRALLY FUELED.—The regulations issued under subsection (a) shall provide that any motor vehicle described in subsection (a) that is centrally fueled or is capable of being centrally fueled shall be a dedicated vehicle.

(c) OTHER MOTOR VEHICLES.—(1) Except as provided in paragraph (2), the regulations issued under subsection (a) shall provide that any light duty motor vehicle described in subsection (a) that is not capable of being centrally fueled shall be operated on alternative fuel at least 50 percent of the time.

(2) In the case of electric motor vehicles owned by a person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity, the Secretary may establish different standards with respect to central fueling and the percentage of alternative fuel use required.

(d) OPTION FOR ELECTRIC UTILITIES.—The Secretary shall, within 1 year after the date of enactment of this Act, issue regulations requiring that, in the case of a person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity, the requirements of subsection (a)(1) shall not apply until after December 31, 1997, with respect to electric motor vehicles. Any person described in this subsection which plans to acquire electric motor vehicles to comply with the requirements of this section shall so notify the Secretary before January 1, 1994.

(e) Enforcement.—(1) A person who violates regulations issued under subsection (a) or (d) shall be subject to a civil penalty of not more than $10,000 per violation. Each month in which compliance has not been achieved shall be a separate violation.

(2) In determining the amount of a penalty to be assessed under this section, the Secretary or the court, as appropriate, shall take into consideration, in addition to other factors justice may require, the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

(f) Report to Congress.—The Secretary shall, before January 1, 1997, submit a report to the Congress providing detailed information on actions taken to carry out this section, and the progress made and problems encountered thereunder.

SEC. 502. REPLACEMENT FUEL SUPPLY AND DEMAND PROGRAM.

(a) Establishment of Program.—The Secretary shall establish a program to promote the development and use in light duty motor vehicles of domestic replacement fuels. Such program shall promote the replacement of petroleum motor fuels with replacement fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels that will have the greatest impact in reducing oil imports, improving the health of our Nation's economy and reducing greenhouse gas emissions.

(b) Development Plan and Production Goals.—Under the program established under subsection (a), the Secretary, before October 1, 1993, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—

(1) estimate the domestic and nondomestic production capacity for replacement fuels and alternative fueled vehicles needed to implement this section;

(2) determine the technical and economic feasibility of achieving the goals of producing sufficient replacement fuels to replace, on an energy equivalent basis—

(A) at least 10 percent by the year 2000; and

(B) at least 30 percent by the year 2010,

of the projected consumption of motor fuel in the United States for each such year, with at least one half of such replacement fuels being domestic fuels;

(3) determine the most suitable means and methods of developing and encouraging the production, distribution, and use of replacement fuels and alternative fueled vehicles in a manner that would meet the program goals described in subsection (a);

(4) identify ways to encourage the development of reliable replacement fuels and alternative fueled vehicle industries in the United States, and the technical, economic, and institutional barriers to such development; and

(5) determine the greenhouse gas emission implications of increasing the use of replacement fuels, including an estimate of the maximum feasible reduction in such emissions from the use of replacement fuels.

The Secretary shall publish in the Federal Register the results of actions taken under this subsection, and provide for an opportunity for public comment.

SEC. 503. REPLACEMENT FUEL DEMAND ESTIMATES AND SUPPLY INFORMATION.

(a) Estimates.—Not later than October 1, 1993, and annually thereafter, the Secretary, in consultation with the Administrator, the Secretary of Transportation, and other appropriate State and Federal officials, shall estimate for the following calendar year—

(1) the number of each type of alternative fueled vehicle likely to be in use in the United States;

(2) the probable geographic distribution of such vehicles;

(3) the amount and distribution of each type of replacement fuel; and

(4) the greenhouse gas emissions likely to result from replacement fuel use.

(b) Information.—Beginning on October 1, 1994, the Secretary shall annually require—

(1) fuel providers to report to the Secretary on the amount of each type of replacement fuel that such provider—

(A) has provided in the previous calendar year; and

(B) plans to provide for the following calendar year;

(2) suppliers of alternative fueled vehicles to report to the Secretary on the number of each type of alternative fueled vehicle that such supplier—

(A) has made available in the previous calendar year; and

(B) plans to make available for the following calendar year; and

(3) such fuel providers and suppliers to provide the Secretary information necessary to determine the greenhouse gas emissions of the replacement fuels used, taking into account the entire fuel cycle.

(c) Protection of Information.—Information provided to the Secretary under subsection (b) shall be subject to applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 504. MODIFICATION OF GOALS; ADDITIONAL RULEMAKING AUTHORITY.

(a) Examination of Goals.—Within 3 years after the date of enactment of this Act, and periodically thereafter, the Secretary shall examine the goals established under section 502(b)(2), in the context of the program goals stated in section 502(a), to determine if the goals under section 502(b)(2), including the applicable percentage requirements and dates, should be modified under this section. The Secretary shall publish in the Federal Register the results of each examination under this subsection and provide an opportunity for public comment.

(b) Modification of Goals.—If, after analysis of information obtained in connection with carrying out subsection (a) or section 502, or other information, and taking into account the determination of technical and economic feasibility made under section 502(b)(2), the Secretary determines that goals described in section 502(b)(2), including the percentage requirements or dates, are not achievable, the Secretary, in consultation with appropriate Federal agencies, shall, by rule, establish goals that are achievable, for purposes of this title. The modification of goals under this section may include changing the target dates specified in section 502(b)(2).

(c) Additional Rulemaking Authority.—If the Secretary determines that the achievement of goals described in section 502(b)(2) would result in a significant and correctable failure to meet the program goals described in section 502(a), the Secretary shall issue such additional regulations as are necessary to remedy such failure.

SEC. 505. VOLUNTARY SUPPLY COMMITMENTS.

The Secretary shall, by January 1, 1996, and thereafter, undertake to obtain voluntary commitments in geographically diverse regions of the United States—

(1) from fuel providers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) from owners of fleets of 10 or more motor vehicles to acquire and use alternative fueled vehicles and alternative fuels; and

(3) from suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services,

in sufficient volume to achieve the goals described in section 502(b)(2) or established under section 504. The Secretary shall periodically report to the Congress on the results of efforts under this section. All voluntary commitments obtained pursuant to this section shall be available to the public, except to the extent provided in applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 506. TECHNICAL AND POLICY ANALYSIS.

(a) Requirement.—Not later than March 1, 1995, and March 1, 1997, the Secretary shall prepare and transmit to the President and the Congress a technical and policy analysis under this section. The Secretary shall utilize the analytical capability and authorities of the Energy Information Administration and such other offices of the Department of Energy as the Secretary considers appropriate.

(b) Purposes.—The technical and policy analysis prepared under this section shall be based on the best available data and information obtainable by the Secretary under section 503, or otherwise, and on experience under this title and other provisions of law in the development and use of replacement fuels and alternative fueled vehicles, and shall evaluate—

(1) progress made in achieving the goals described in section 502(b)(2), as modified under section 504;

(2) the actual and potential role of replacement fuels and alternative fueled vehicles in significantly reducing United States reliance on imported oil to the extent of the goals referred to in paragraph (1); and

(3) the actual and potential availability of various domestic replacement fuels and dedicated vehicles and dual fueled vehicles.

(c) Publication.—The Secretary shall publish a proposed version of each analysis under this section in the Federal Register for public comment before transmittal to the President and the Congress. Public comment received in response to such publication shall be preserved for use in rulemaking proceedings under section 507.

SEC. 507. FLEET REQUIREMENT PROGRAM.

(a) Advance Notice of Proposed Rulemaking.—Not later than April 1, 1998, the Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(1) evaluating the progress toward achieving the goals of replacement fuel use described in section 502(b)(2), as modified under section 504;

(2) identifying the problems associated with achieving those goals;

(3) assessing the adequacy and practicability of those goals; and

(4) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

(b) Proposed Rule.—Before May 1, 1999, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (e), and shall provide for a public comment period, with hearings, of not less than 90 days.

(c) Determination.—(1) Not later than January 1, 2000, the Secretary shall, through the rule required under subsection (e), determine whether a fleet requirement program is necessary under this section. Such a program shall be considered necessary if the Secretary finds that—

(A) the goal of replacement fuel use described in section 502(b)(2)(B), as modified under section 504, is not expected to be actually achieved by 2010, or such other date as is established under section 504, by voluntary means or pursuant to this title or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 502(b)(2)(A), as modified under section 504; and

(B) such goal is practicable and actually achievable within periods specified in section 502(b)(2), as modified under section 504, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals.

(2) The rule under subsection (e) shall also modify the goal described in section 502(b)(2)(B) and establish a revised goal pursuant to section 504 if the Secretary determines, based on the proceeding required under subsection (a), that the goal in effect at the time of that proceeding is inadequate or impracticable, and not expected to be achievable. Such goal as modified and established shall be applicable in making the findings described in paragraph (1). If the Secretary modifies the goal under this paragraph, he may also modify the percentages stated in subsection (e)(1) and the minimum percentage stated in subsection (e)(2) shall be not less than 10 percent.

(d) Explanation of Determination That Fleet Requirement Program is Not Necessary.—If the Secretary determines, based on findings under subsection (c), that a fleet requirement program under this section is not necessary, the Secretary shall, by January 1, 2000, publish such determination in the Federal Register as a final agency action, including an explanation of the findings on which such determination is made and the basis for the determination.

(e) Fleet Requirement Program.—(1) If the Secretary determines under subsection (c) that a fleet requirement program is necessary, the Secretary shall, by January 1, 2000, by rule require that, except as provided in paragraph (2), of the total number of new light duty motor vehicles acquired for a non-Federal fleet—

(A) 20 percent of the motor vehicles acquired in model year 2002;

(B) 40 percent of the motor vehicles acquired in model year 2003;

(C) 60 percent of the motor vehicles acquired in model year 2004; and

(D) 70 percent of the motor vehicles acquired in model year 2005 and thereafter,

shall be alternative fueled vehicles.

(2) With respect to model years 2003 and thereafter, and so long as the goal described in section 502(b)(2)(B), as modified under section 504, will be achieved, the Secretary may—

(A) revise the percentage requirements under paragraph (1) downward, except that under no circumstances shall the percentage requirement for a model year be less than 20 percent; and

(B) extend the time under paragraph (1) for up to 2 model years.

(3) Nothing in this section shall be construed as requiring any fleet to acquire alternative fueled vehicles or alternative fuels that do not meet the normal business requirements and practices and needs of that fleet.

(4) A vehicle operating only on gasoline that complies with applicable requirements of the Clean Air Act shall not be considered an alternative fueled vehicle under this subsection, except that the Secretary, as part of the rule under this subsection, may determine that such vehicle should be treated as an alternative fueled vehicle for purposes of this section, for fleets subject to part C of title II of the Clean Air Act, taking into consideration the impact on energy security and the goals stated in section 502(a).

(f) Extension of Deadlines.—The Secretary may, by notice published in the Federal Register, extend the deadlines established under subsections (c), (d), and (e) for an additional 90 days if the Secretary is unable to meet such deadlines. Such extension shall not be reviewable.

(g) Exemptions.—The rule issued under subsection (e) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, of any fleet from the requirements of subsection (e), in whole or in part, if it is demonstrated to the satisfaction of the Secretary that—

(1) alternative fueled vehicles that meet the normal requirements and practices of the principal business of the fleet owner are not reasonably available for acquisition;

(2) alternative fuels that meet the normal requirements and practices of the principal business of the fleet owner are not available in the area in which the vehicles are to be operated; or

(3) in the case of local government entities, the application of such requirements would pose an unreasonable financial hardship.

(h) Substitution.—The rule issued under subsection (e) shall permit a fleet owner to substitute, or enter into an agreement with another party to substitute, an equal number of alternative fueled vehicles not subject to the requirements of subsection (a), including vehicles purchased before the effective date of such rule, for vehicles otherwise subject to subsection (a). Such substitute vehicles shall be counted toward meeting the requirement established under subsection (e). Such substitute vehicles may include vehicles converted to alternative fueled vehicles in accordance with applicable law, except that such substitute vehicles may not be conversions of or replacements for diesel fueled vehicles. Nothing in this title or the amendments made by this title shall require a fleet owner to acquire conversion vehicles.

(i) Minimum Fleet Size.—(1) Except as provided in paragraph (2), fleet requirements established under this section shall apply to fleets of 10 or more motor vehicles.

(2) So long as the goal described in section 502(b)(2)(B), as modified under section 504, will be achieved, the Secretary may increase the minimum fleet size to which the fleet requirement program under this section applies, except that under no circumstances shall such minimum fleet size be greater than 100.

(j) Inclusion of Law Enforcement Vehicles and Urban Buses.—(1) If the Secretary determines, by rule, that the inclusion of fleets of law enforcement motor vehicles in the fleet requirement program established under this section would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, and the Secretary finds that such inclusion would not hinder the use of the motor vehicles for law enforcement purposes, the Secretary may include such fleets in such program. The Secretary may only initiate one rulemaking under this paragraph.

(2) If the Secretary determines, by rule, that the inclusion of new urban buses, as defined by the Administrator under title II of the Clean Air Act, in the fleet requirement program established under this section would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, the Secretary may include such buses in such program, if the Secretary finds that such application will be consistent with energy security goals and the needs and objectives of encouraging and facilitating the greater use of such buses by the public, taking into consideration the impact of such application on public transit entities. The Secretary may only initiate one rulemaking under this paragraph.

(3) Rulemakings under paragraph (1) or (2) shall be separate from a rulemaking under subsection (e), but may not occur unless a rulemaking is carried out under subsection (e).

(k) Consideration of Factors.—In carrying out this section, the Secretary shall take into consideration energy security, costs, safety, lead time requirements, vehicle miles traveled annually, effect on greenhouse gases, technological feasibility, energy requirements, economic impacts, including impacts on workers and the impact on consumers and fleets, the availability of alternative fuels and alternative fueled vehicles, and other relevant factors.

(l) Consultation and Participation of Other Federal Agencies.—In carrying out this section and section 506, the Secretary shall consult with the Secretary of Transportation, the Administrator, and other appropriate Federal agencies. The Secretary shall provide for the participation of the Secretary of Transportation and the Administrator in the development and issuance of the rule under this section, including the public process concerning such rule.

SEC. 508. SECRETARY'S RECOMMENDATIONS TO CONGRESS.

(a) Recommendations To Require Availability or Acquisition.—If the Secretary determines, under section 507(d), that a fleet requirement program under section 507 is not necessary, the Secretary shall so notify the Congress. If the Secretary so notifies the Congress, the Secretary shall, within 2 years after such notification and by rule, prepare and submit to the Congress recommendations for requirements or incentives for—

(1) fuel providers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services; and

(3) motor vehicle drivers to use replacement fuels,

to the extent necessary to achieve such goals of replacement fuel use and to ensure that the availability of alternative fuels and of alternative fueled vehicles are consistent with each other.

(b) FAIR AND EQUITABLE APPLICATION.—In carrying out this section, the Secretary shall recommend the imposition of requirements proportionately on all appropriate fuel providers and purchasers of motor fuels and suppliers and purchasers of motor vehicles in a fair and equitable manner.

SEC. 509. EFFECT ON OTHER LAWS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to alter, affect, or modify the provisions of the Clean Air Act, or regulations issued thereunder.

(b) COMPLIANCE BY ALTERNATIVE FUELED VEHICLES.—Alternative fueled vehicles, whether dedicated vehicles or dual fueled vehicles, and the alternative fuels for operating such vehicles, shall comply with requirements of the Clean Air Act applicable to such vehicles and fuels.

SEC. 510. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of section 503(b) or 507, or any regulation issued under such sections.

SEC. 511. ENFORCEMENT.

(a) Whoever violates section 510 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 510 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 510 after having been subjected to a civil penalty for a prior violation of section 510 shall be fined not more than $50,000 or imprisoned not more than six months, or both.

SEC. 512. POWERS OF THE SECRETARY.

For the purpose of carrying out title III, title IV, this title, and title VI, the Secretary, or the duly designated agent of the Secretary, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary of Transportation is authorized to do under section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(b)(1)).

SEC. 513. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this title $10,000,000 for each of the fiscal years 1992 through 1996, and such sums as may be necessary for fiscal years 1997 through 2000.

TITLE VI—ELECTRIC MOTOR VEHICLES

SEC. 601. DEFINITIONS.

For the purposes of this title—

(1) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electrical energy used to power an electric motor vehicle;

(2) the term "comparable conventionally fueled motor vehicle" means a motor vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity the same or similar to an electric motor vehicle, as determined by the Secretary;

(3) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power;

(4) the term "price differential" means—

(A) in the case of a purchased motor vehicle, the difference between the manufacturer's suggested retail price of such motor vehicle and the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle; and

(B) in the case of a leased motor vehicle, the difference between the monthly lease payment of such motor vehicle and the monthly lease payment of a comparable conventionally fueled motor vehicle;

(5) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States; and

(6) the term "user" means a person or entity that purchases or leases an electric motor vehicle.

Subtitle A—Electric Motor Vehicle Commercial Demonstration Program

SEC. 611. APPLICATIONS.

(a) The Secretary shall request proposals to demonstrate electric motor vehicles or electric motor vehicles and associated equipment in one or more metropolitan areas. The initial request for proposals shall be issued within 18 months after the date of enactment of this Act.

(b) Requests for proposals under this section shall require the proposals to include a description of the proposer, the manufacturer, the proposed users, the metropolitan area or areas, the number of motor vehicles to be demonstrated and their type, characteristics, and life-cycle costs, the price differential, the proposed discount payment, the contributions of State or local governments and other parties to the demonstration project, the domestic content of the motor vehicles, and any other information the Secretary requires to make selections under section 612.

SEC. 612. SELECTION OF PROPOSERS.

(a) After consulting with the Secretary of Transportation, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, and within 240 days after a request for proposals has been made under section 611, the Secretary may select one or more proposals to receive financial support pursuant to section 613.

(b)(1) No one project selected under this section shall receive more than 25 percent of the funds made available under section 615.

(2) A demonstration project may include electric vehicles in more than one metropolitan area and in more than one State.

(c) In determining whether to select a proposal the Secretary shall consider—

(1) the ability of the manufacturer, directly, indirectly, or in combination with the proposer, to develop, assist in the demonstration of, manufacture, distribute, sell, service, and ensure the continued availability of parts for, electric motor vehicles that are proposed to be included in the demonstration project;

(2) the geographic and climatic diversity of the metropolitan area or areas in which the demonstration project is to be undertaken, when considered in combination with other proposals or other selected demonstration projects;

(3) the suitability of the motor vehicles for their intended use;

(4) the environmental effects of the use of the proposed motor vehicles;

(5) the long-term technical and competitive viability of the electric motor vehicles;

(6) the price differential and the proposed discount payment;

(7) the extent of involvement of State or local government and other parties in the demonstration project, and whether such involvement will permit a reduction of the Federal cost share per vehicle or will otherwise be used to leverage the Federal contribution to be provided among a greater number of electric vehicles;

(8) the proportion of domestic content of the electric motor vehicles;

(9) the safety of the electric motor vehicles; and

(10) other criteria as the Secretary considers appropriate.

(d) The Secretary shall require that—

(1) the electric motor vehicles will be used primarily in the metropolitan area or areas identified in the proposal;

(2) as a part of the demonstration project the user or users of the electric motor vehicles will provide to the proposer and the manufacturer information regarding the operation, maintenance, and usability of the electric motor vehicles for 5 years after purchase or lease;

(3) the proposer shall provide such information regarding the operation, maintenance, and use of the electric motor vehicles as the Secretary may request during the period of the demonstration project; and

(4) in the case of automobiles or light duty trucks, the number of electric vehicles to be included in the demonstration project shall be no less than 100 vehicles, except that the Secretary may select a demonstration project with fewer than 100 vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity of the proposals selected and that an adequate demonstration to accelerate the development and use of electric vehicles can be undertaken with fewer than 100 electric vehicles.

SEC. 613. DISCOUNTS TO USERS.

(a) The Secretary shall provide a discount payment to a proposer reimbursing the proposer for a discount provided to users if the proposer certifies to the Secretary, in such form and at such time as may be required by the Secretary, that—

(1) electric motor vehicles have been purchased or leased by a user in accordance with the requirements of this subtitle; and

(2) the proposer has provided to the user a discount in accordance with this subtitle.

(b) Not later than 30 days after receipt from the proposer of certification which the Secretary determines satisfies the requirements of subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment.

(c) The discount payment shall be—

(1) no greater than the price differential;

(2) no greater than the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle; and

(3) used by the proposer solely to reimburse the user for the purchase or lease of an electric motor vehicle.

(d) No discount payment shall be provided under this section if the actual purchase price of an electric motor vehicle, adjusted to reflect the discount payment and any additional reduction that may result from contributions provided by other parties, is more than 10 percent less than the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle.

SEC. 614. REPORTS TO CONGRESS.

(a) PROGRESS REPORTS.—The Secretary shall annually report to Congress on the progress being made, through demonstration projects supported under this subtitle, to accelerate the development and use of electric motor vehicles.

(b) REPORT ON ENCOURAGING THE PURCHASE AND USE OF ELECTRIC VEHICLES.—Within 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress and the President a report on methods for encouraging the purchase and use of electric vehicles. Such report shall focus on the potential cost of purchasing and maintaining electric vehicles, including the initial cost of the batteries and the cost of replacement batteries, and shall identify methods for reducing, subsidizing, or sharing such costs. Such report shall also include recommendations for legislative and administrative measures to support and encourage the purchase and use of electric vehicles.

SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle $50,000,000 for the 10 fiscal year period beginning with the first full fiscal year after the date of enactment of this Act.

SEC. 616. TECHNOLOGY TRANSFER PROGRAM.

(a) The Secretary shall conduct a program designed to accelerate wider application of advanced electric vehicle technology, including advanced battery technologies.

(b) The Secretary, in carrying out the program authorized by subsection (a), shall—

(1) undertake an inventory and assessment of advanced electric vehicle technologies and their commercial capability; and

(2) develop a Federal-industry information exchange program to improve technology transfer, which may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

Subtitle B—Electric Motor Vehicle Infrastructure and Support Systems Development Program

SEC. 621. DEFINITIONS.

For purposes of this subtitle—

(1) the term "infrastructure and support systems" includes support and maintenance services and facilities, electricity delivery mechanisms and methods, regulatory treatment of investment in electric motor vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling, and disposal, that may be required to enable electric utilities, automobile manufacturers, and others to support the operation and maintenance of an electric motor vehicle and associated equipment; and

(2) the term "non-Federal person" means an entity not part of the Federal Government that is organized under the laws of the United States, including—

(A) a for-profit business;

(B) a private foundation;

(C) a nonprofit organization such as a university;

(D) a trade or professional society; or

(E) a unit of State or local government.

SEC. 622. GENERAL AUTHORITY.

(a) The Secretary shall undertake a program to enter into joint ventures with one or more eligible non-Federal persons for cost-shared research, development, or demonstration of an infrastructure and support systems program or system designed to support the use of electric motor vehicles.

(b) A non-Federal person shall be eligible to participate in a joint venture under this subtitle only if it demonstrates to the satisfaction of the Secretary that it will conduct a substantial portion of its activities under the joint venture in the United States using United States labor and materials.

(c) Activities under this subtitle shall be coordinated with activities under subtitle A.

SEC. 623. SOLICITATION OF JOINT VENTURES.

(a) Not later than 1 year after funds are appropriated for such purpose under this subtitle, the Secretary shall solicit proposals for joint ventures representing geographically and climatically diverse regions of the United States. Within 240 days after proposals have been solicited, the Secretary shall select proposals and thereafter enter into negotiations in order to obtain a final agreement where possible between the Secretary and the non-Federal person or persons submitting the proposal selected by the Secretary.

(b) The infrastructure and support systems programs for which joint ventures are selected under this section may be designed to address—

(1) the ability to service electric motor vehicles and to provide or service associated equipment;

(2) the installation of charging facilities;

(3) rates and cost recovery for electric utilities who invest in infrastructure capital-related expenditures;

(4) the conduct of information dissemination programs;

(5) the development of safety and health procedures and guidelines related to battery charging, watering, and emissions; and

(6) such other requirements as the Secretary considers necessary in order to address the infrastructure and support systems needed to support electric motor vehicles.

(c) The Secretary shall require at least 50 percent of the costs directly and specifically related to any selected proposal to be provided from non-Federal sources.

(d) In the case of joint ventures activities under this title and, in the case of any existing or future joint ventures related primarily to battery technology for electric motor vehicles under other provisions of law, where the knowledge resulting from research and development activities conducted pursuant to such joint ventures is for the benefit of the participating companies (particularly domestic companies) that provide financial resources to the program, the Secretary, for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under such joint ventures; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a participating company,

may, notwithstanding any other provision of law, provide appropriate protections against the dissemination of such information to the public, and the provisions of section 1905 of title 18, United States Code, shall apply to such information. Nothing in this subsection provides protections against the dissemination of such information to Congress. For purposes of this subsection, a "domestic company" means an entity which is substantially involved in the United States in the domestic production of motor vehicles for sale in the United States and has a substantial percentage of its production facilities in the United States.

SEC. 624. ELECTRIC UTILITY PARTICIPATION STUDY.

The Secretary, in consultation with appropriate Federal departments and agencies, representatives of State regulatory commissions and electric utilities, and such other persons as the Secretary considers appropriate, shall undertake or cause to have undertaken a study to determine the means by which electric utilities may invest in, own, sell, lease, service, or recharge batteries used to power electric motor vehicles.

SEC. 625. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle not to exceed $10,000,000 for each of the 5 fiscal years beginning after the date of enactment of this Act.

TITLE VII—ELECTRICITY

SEC. 701. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) in 1970, 24 percent of the fuel consumed in the United States was used to produce electricity; this figure rose to 36 percent in 1990 and is projected to rise to more than 41 percent by 2010;

(2) the energy efficiency and economic efficiency of the electric utility sector and the energy security of the Nation are best served by a regulatory structure providing for freer wholesale market entry by independent power producers;

(3) the Nation's environment is best served by the encouragement and further development of independent power producers, who account for 28 percent of new electric generation capacity made available in the last 5 years in conformity with the Clean Air Act new source performance standards;

(4) the protection of the public health, safety and welfare, preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require a program to—

(A) enhance the Nation's energy security by increasing the potential supplies and suppliers of electric power,

(B) allow for the broadest range of options for electric utilities that need new increments of electric power,

(C) build upon the established success of the cogeneration and small power production provisions of title II of the Public Utility Regulatory Policies Act of 1978,

(D) increase the reliability of electric supplies in order to bolster the Nation's reserves of electric power, which have dwindled substantially during the last decade,

(E) deliver electricity to consumers at the lowest reasonable price, and

(F) clarify existing Federal authority to ensure that essential transmission services will be available to facilitate independent power and other wholesale sales, while maintaining reliability of service and protecting other consumer interests.

(b) PURPOSES.—The purposes of this title are to—

(1) ensure an adequate and economical supply of electricity in the United States;

(2) encourage greater use of abundant domestic resources for generating electricity;

(3) facilitate power plant ownership by those best able to build power plants at the lowest reasonable cost;

(4) encourage conservation of the fuel and capital resources used to generate electricity; and

(5) clarify Federal authority to ensure that transmission service is provided on a nondiscriminatory basis.

Subtitle A—Public Utility Holding Company Act Amendments

SEC. 711. TREATMENT OF INDEPENDENT POWER PRODUCERS UNDER PUHCA.

Title I of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) is amended by adding the following new section after section 31 and by redesignating sections 32 and 33 as sections 33 and 34 respectively:

"SEC. 32. INDEPENDENT POWER PRODUCERS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) INDEPENDENT POWER PRODUCER.—The term 'independent power producer' means any person determined by the Federal Energy Regulatory Commission, under rules promulgated by such Commission, to be engaged directly and exclusively in the business of owning or operating (or both owning and operating) all or part of one or more eligible facilities. No person shall be deemed to be an independent power producer under this section unless such person has applied to the Federal Energy Regulatory Commission for a determination under this paragraph. The Federal Energy Regulatory Commission shall notify the Securities and Exchange Commission whenever a determination is made under this paragraph that any person is an independent power producer.

"(2) ELIGIBLE FACILITY.—

"(A) WHOLESALE GENERATION FACILITIES.—Except as provided in subparagraph (B), the term 'eligible facility' means a facility, wherever located, that is used for the generation of electric energy exclusively for sale at wholesale. Such term includes interconnecting transmission facilities necessary to effect such sale at wholesale.

"(B) EXISTING RATE-BASED FACILITIES NOT ELIGIBLE.—No facility which is included (in whole or in part), as of the date of enactment of this section, in the rate base of a State regulated electric utility, shall be deemed to be an eligible facility notwithstanding any subsequent sale or lease of such facility by such State regulated electric utility.

"(b) EXEMPTIONS FOR INDEPENDENT POWER PRODUCERS.—An independent power producer (1) shall not be deemed to be an electric utility company under section 2(a)(3) of this Act, and (2) shall be exempt from all provisions of this Act other than the provisions of this section. The preceding sentence shall apply whether or not the independent power producer is a subsidiary company, an affiliate, or an associate company of a holding company.

"(c) COMPANIES EXEMPT UNDER SECTION 3.—Notwithstanding any other provision of this Act, a holding company that is exempt under section 3 shall be permitted, without condition or limitation under this Act, to acquire and maintain an interest in the business of one or more independent power producers.

"(d) REGISTERED HOLDING COMPANIES.—Notwithstanding any other provision of this Act, a registered holding company shall be permitted (without the need to apply for, or receive approval from, the Commission, and otherwise without condition under any other provision of this Act) to acquire and hold the securities, or interest in the business, of one or more independent power producers. Any interest in the business of one or more independent power producers by a registered holding company (regardless of where facilities owned or operated by such independent power producers are located) shall be considered to be—

"(1) consistent with the operation of an integrated public utility system; and

"(2) reasonably incidental, or economically necessary or appropriate, to the operation of an integrated public utility system: *Provided*, That—

"(A) the creation or maintenance of any relationship (including any service, sales, or construction contract) with, and

"(B) the issuance of securities to finance an acquisition of securities of, or the guarantee of securities of,

an independent power producer, by a registered holding company (or a subsidiary or affiliate company of a registered company) shall remain subject to section 6 of this Act. In determining whether to approve any action under subparagraphs (A) and (B), the Commission shall not find that the security is not reasonably adapted to the earning power or the security structure of the registered company, or that the transaction is an improper risk, unless the Commission first finds that the issuance of the security or the transaction would have a substantial adverse impact on the financial integrity of the registered company system; *And provided further*, That in determining whether to approve the issuance or sale of a security, or any other transactions by a registered company or its subsidiaries other than those with an independent power producer, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an independent power producer upon the registered holding company system unless the transaction, if approved, would have a substantial adverse impact on the financial integrity of the registered holding company system. The Commission may not make any determination or finding under subparagraph (A) or (B) until the Commission has promulgated regulations with respect to the actions which would be considered, for purposes of this subsection, to have a substantial adverse impact on the financial integrity of the registered holding company system. Such regulations shall ensure that the action has no adverse impact on any utility subsidiary or its customers, or on the ability of State commissions to protect such subsidiary or customers, and shall take into account the amount and type of capital invested in independent power producers, the ratio of such capital to the total capital invested in utility operations, the availability of books and records, and the financial and operating experience of the registered holding company and the independent power producer. The Commission shall promulgate regulations under this subsection within 6 months after the enactment of the Comprehensive National Energy Policy Act.

"(e) APPLICATION OF ACT TO OTHER ELIGIBLE FACILITIES.—After the date of the enactment of this section, in the case of any person engaged directly and exclusively in the business of owning or operating (or both owning and operating) all or part of one or more eligible facilities, an advisory letter from the Commission staff under this Act or an order issued by the Commission under this Act shall not be required for the purpose, or have the effect, of exempting such person from treatment as an electric utility company under section 2(a)(3) or exempting such person from any provision of this Act.

"(f) STATE AUTHORITIES.—Nothing in this section shall be construed to affect or limit in any way any authority of any State commission to review the financial structure of any independent power producer selling electric power to a State regulated electric utility, the rates and charges of which are subject to the jurisdiction of such State commission. Nothing in this section shall be construed to eliminate or reduce any existing State jurisdiction to define or regulate electric utilities.".

SEC. 712. OWNERSHIP OF INDEPENDENT POWER PRODUCERS AND QUALIFYING FACILITIES.

Section 3 of the Federal Power Act (16 U.S.C. 791a and following) is amended by adding the following after the semicolon at the end of paragraph (17)(C)(ii) and after the semicolon at the end of paragraph (18)(B)(ii): "the ownership by a person of one or more independent power producers shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of this clause;".

SEC. 713. AFFILIATE TRANSACTIONS; STATE AUTHORITIES.

(a) AFFILIATE TRANSACTIONS.—(1) Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g)(1) It shall be a violation of this Act for an independent power producer to sell electric energy to a public utility if the independent power producer is an affiliate, associate company, or subsidiary company of the public utility.

"(2) As used in this subsection the terms 'affiliate', 'associate company', and 'subsidiary company' shall have the same meaning as when used in the Public Utility Holding Company Act of 1935.

"(3) This subsection shall take effect with respect to the sale of electric energy the rates and charges for which are approved or fixed by the Commission, or which the Commission permits to take effect, under section 205 or 206 after the date of the enactment of this subsection.".

(b) BOOKS AND RECORDS.—Section 201 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) BOOKS AND RECORDS.—(1) Upon written order of a State Commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

"(A) an electric utility company subject to its regulatory authority under State law,

"(B) any independent power producer selling power at wholesale to such electric utility,

"(C) any subsidiary company, associate company, or affiliate of the electric utility company, and

"(D) any subsidiary company, associate company, or affiliate of the independent power producer which independent power producer sells power at wholesale to an electric utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric service.

"(2) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to issue an injunction compelling compliance with an order issued by the State commission under this subsection.

"(3) As used in this subsection the terms 'affiliate', 'associate company', 'electric utility company', and 'subsidiary company' shall have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

Subtitle B—Federal Power Act; Interstate Commerce in Electricity

SEC. 721. INTERCONNECTION.

Section 210 of the Federal Power Act is amended in subsection (a) by striking "geothermal power producer" and all that follows down through "qualifying small power producer," and inserting ", or any other person generating electric energy for sale for resale" in paragraph (1).

SEC. 722. AMENDMENTS TO SECTION 211 OF FEDERAL POWER ACT.

Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended as follows:

(1) The first sentence of subsection (a) is amended to read as follows: "Any electric utility, Federal power marketing agency, or any other person generating electric energy for sale or resale, may apply to the Commission for an order under this subsection requiring a transmitting utility to provide

transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant.".

(2) In the second sentence of subsection (a), strike "the Commission may" and all that follows and insert "the Commission shall issue such order if it finds that such order meets the requirements of section 212, would maintain the reliability of any electric utility system to which the order applies, would otherwise be in the public interest, and would—

"(1) conserve a significant amount of energy,

"(2) significantly promote the efficient use of facilities and resources,

"(3) promote competition in the wholesale power market,

"(4) enhance protection of the environment, or

"(5) prevent, arrest, or abate discriminatory practices that are subject to the jurisdiction of the Commission.".

(3) In subsection (b)—

(A) Strike out "other electric utility" and insert "transmitting utility" in both places such term appears.

(B) After "affected electric utility," insert "each affected transmitting utility,".

(C) Strike out "an evidentiary hearing" in the second sentence and insert "a hearing".

(4) In subsection (c)—

(A) Strike out paragraph (1).

(B) In paragraph (2) strike "which requires the electric" and insert "which requires the transmitting".

(C) In paragraph (3) strike "electric" and insert "electric utilities or transmitting".

(5) In subsection (d)—

(A) In the first sentence of paragraph (1), strike "electric" and insert "transmitting" in each place it appears.

(B) In the second sentence of paragraph (1) before "and each affected electric utility," insert "each affected transmitting utility,".

(C) In paragraph (3), strike "electric" and insert "transmitting".

(D) Strike the period in subparagraph (B) of paragraph (1) and insert ", or" and after subparagraph (B) insert the following new subparagraph:

"(C) the order to provide such transmission services requires enlargement of transmission capacity and the transmitting utility subject to the order has failed, after making a good faith effort, to obtain the necessary approvals under applicable Federal, State, and local environmental and siting laws.".

SEC. 723. TRANSMISSION SERVICES.

(a) AMENDMENTS TO SECTION 212.—Section 212 of the Federal Power Act is amended as follows:

(1) Strike subsections (a) and (b) and insert the following:

"(a) LIMITATIONS.—No order under section 211 or 213 shall require any transmitting utility to provide transmission services which will (1) unduly impair the reliability of any transmitting utility, public utility, or electric utility, affected by the order; (2) unduly impair the ability of any such utility to render adequate services to its customers; or (3) unduly economically disadvantage the customers of the transmitting utility subject to the order. Whenever the Commission finds that any proposed order under section 211 or 213 would have any effect referred to in the preceding sentence, the Commission shall issue an order requiring the transmitting utility to provide so much of the proposed wholesale transmission services as would not have any such effect.

"(b) CHARGES FOR WHOLESALE TRANSMISSION SERVICES.—(1) An order under section 211 or 213 shall require the transmitting utility subject to the order to provide wholesale transmission services at rates and charges which permit the recovery by such utility of all prudent costs incurred in connection with the transmission services and necessary associated services, including an appropriate share of the costs of any enlargement of transmission facilities (plus a reasonable rate of return on investment, as appropriate) as determined by the Commission. Orders under section 211 or 213 which provide for tariffs of general applicability shall include in such tariffs, rates, terms, and conditions for firm and nonfirm, and long and short-term transmission services. Such rates, terms, and conditions shall not be unjust, unreasonable, unduly discriminatory or preferential.

"(2) Rates, charges, terms, and conditions applicable to transmission service ordered under sections 211 or 213, to the extent practicable, based on the facts and circumstances present at the time, shall be designed to—

"(A) compensate native load customers for legitimate and verifiable economic costs of providing the transmission service,

"(B) provide the lowest reasonable transmission rates for the transmission service, and

"(C) prevent the collection of monopoly rents by the transmitting utility and promote the efficient transmission and generation of electricity.

Such rates, charges, terms, and conditions shall account for any benefits to the transmission system of providing the transmission service, and a reasonable balance among subparagraphs (A), (B), and (C).".

(2) Subsection (e) is amended to read as follows:

"(e) SAVINGS PROVISIONS.—(1) No provision of section 210, 211, 213, or 215 shall be treated as requiring any person to utilize the authority of section 210, 211, 213, or 215 in lieu of any other authority of law, or as limiting, impairing, or otherwise affecting any authority of the Commission under any other provision of law.

"(2) Sections 210, 211, 213, 214, and 215, and this section, shall not be construed to modify, impair, or supersede the operation of the antitrust laws. For purposes of this section, the term 'antitrust laws' has the meaning given in subsection (a) of the first sentence of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section relates to unfair methods of competition.".

(3) Add the following new subsections at the end thereof:

"(g) PROHIBITION ON MANDATORY RETAIL WHEELING.—No order issued under this Act shall require the mandatory transmission of electric energy directly to an ultimate consumer.

"(h) LAWS APPLICABLE TO FEDERAL COLUMBIA RIVER TRANSMISSION SYSTEM.—(1) The Commission shall have authority pursuant to section 210, section 211, this section, section 213, and section 214 to (A) order the Administrator of the Bonneville Power Administration to provide transmission service and (B) establish the terms and conditions of such service. In applying such sections to the Federal Columbia River Power System, the Commission shall assure that—

"(i) the provisions of otherwise applicable Federal laws shall continue in full force and effect and shall continue to be applicable to the system; and

"(ii) the rates for the transmission of electric power on the system shall be governed only by such otherwise applicable provisions of law and not by any provision of section 210, section 211, this section, section 213, or section 214, except that no rate for the transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential, as determined by the Commission.

"(2) Notwithstanding any other provision of this Act with respect to the procedures for the determination of terms and conditions for transmission service—

"(A) when the Administrator of the Bonneville Power Administration either (i) in response to a written request for specific transmission service terms and conditions does not offer the requested terms and conditions, or (ii) proposes to establish terms and conditions of general applicability for transmission service on the Federal Columbia River Transmission System, then the Administrator may provide opportunity for a hearing and, in so doing, shall—

"(I) give notice in the Federal Register and state in such notice the written explanation of the reasons why the specific terms and conditions for transmission services are not being offered or are being proposed;

"(II) adhere to the procedural requirements of paragraphs (1) through (3) of section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839(i) (1) through (3)), except that the hearing officer shall, unless the hearing officer becomes unavailable to the agency, make a recommended decision to the Administrator that states the hearing officer's findings and conclusions, and the reasons or basis thereof, on all material issues of fact, law, or discretion presented on the record; and

"(III) make a determination, setting forth the reasons for reaching any findings and conclusions which may differ from those of the hearing officer, based on the hearing record, consideration of the hearing officer's recommended decision, section 211 and this section, as amended by the Comprehensive National Energy Policy Act, and the provisions of law as preserved in this section; and

"(B) if application is made to the Commission under section 211 for transmission service under terms and conditions different than those offered by the Administrator, or following the denial of a request for transmission service by the Administrator, and such application is filed within 60 days of the Administrator's final determination and in accordance with Commission procedures, the Commission shall—

"(i) in the event the Administrator has conducted a hearing as herein provided for (I) accord parties to the Administrator's hearing the opportunity to offer for the Commission record materials excluded by the Administrator from the hearing record, (II) accord such parties the opportunity to submit for the Commission record comments on appropriate terms and conditions, (III) afford those parties the opportunity for a hearing if and to the extent that the Commission finds the Administrator's hearing record to be inadequate to support a decision by the Commission, and (IV) establish terms and conditions for or deny transmission service based on the Administrator's hearing record, the Commission record, section 211 and this section, as amended by the Comprehensive National Energy Policy Act, and the provisions of law as preserved in this section, or

"(ii) in the event the Administrator has not conducted a hearing as herein provided for, determine whether to issue an order for transmission service in accordance with section 211 and this section, including providing the opportunity for a hearing.

"(3) Notwithstanding those provisions of section 313(b) of this Act (16 U.S.C. 825l) which designate the court in which review may be obtained, any party to a proceeding concerning transmission service sought to be furnished by the Administrator of the Bonneville Power Administration seeking review of an order issued by the Commission in such proceeding shall obtain a review of such order in the United States Court of Appeals for the Pacific Northwest, as that region is defined by section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)).

"(4) To the extent the Administrator of the Bonneville Power Administration cannot be required under section 211 or 213, as a result of the Administrator's other statutory mandates, either to (A) provide transmission service to an applicant which the Commission would otherwise order, or (B) provide such service under rates, terms, and conditions which the Commission would otherwise require, the applicant shall not be required to provide similar transmission services to the Administrator or to provide such services under similar rates, terms, and conditions.

"(5) The Commission shall not issue any order under section 210, section 211, this section, section 213, or section 214 requiring the Administrator of the Bonneville Power Administration to provide transmission service if such an order would impair the Administrator's ability to provide such transmission service to the Administrator's power and transmission customers in the Pacific Northwest, as that region is defined in section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)), as is needed to assure adequate and reliable service to loads in that region.

"(i) EQUITABILITY WITHIN TERRITORY RESTRICTED ELECTRIC SYSTEMS.—With respect to an electric utility which is prohibited by Federal law from being a source of power supply, either directly or through a distributor of its electric energy, outside an area set forth in such law, no order issued under section 211 may require such electric utility (or a distributor of such electric utility) to provide transmission services to another entity if the electric energy to be transmitted will be consumed within the area set forth in such Federal law, unless the order is in furtherance of a sale of electric energy to that electric utility: *Provided, however*, That the foregoing provision shall not apply to any area served at retail by an electric transmission system which was such a distributor on the date of enactment of this subsection and which before October 1, 1991, gave its notice of termination under its power supply contract with such electric utility.

"(j) SHAM TRANSACTIONS.—No order may be issued under section 211 or 213 to transmit electric energy if the applicant does not have a contractual right to purchase or sell such electric energy, or does not have a contractual right to, or an ownership interest in, a generation facility, or would not utilize transmission or distribution facilities owned or controlled by it to deliver such electric energy to retail consumers, or is not a State, political subdivision thereof, or any agency or instrumentality thereof, authorized by State law to generate, transmit, or distribute electric energy.".

(b) VOLUNTARY PROVISION OF TRANSMISSION SERVICES.—Title II of the Federal Power Act is amended by adding the following new section after section 212:

"SEC. 213. VOLUNTARY PROVISION OF TRANSMISSION SERVICES.

"(a) COVERED SALES.—For purposes of this section, a sale of electric energy shall be considered a 'covered sale of electric energy' if the sale is—

"(1) subject to the jurisdiction of the Commission; and

"(2) pursuant to rates and charges which are not based on the costs of providing such energy, including a reasonable rate of return,

except that no economy sale or sale which results from economic dispatch performed by a regional power pool arrangement, each as defined by the Commission, shall be treated as a covered sale of electric energy and no sale of electric energy by a qualifying small power production facility or qualifying cogenerator shall be treated as a covered sale of electric energy.

"(b) UTILITIES TO PROVIDE WHOLESALE TRANSMISSION SERVICES.—Whenever—

"(1) any order is issued permitting any transmitting utility or any affiliate thereof to make any covered sale of electric energy, or

"(2) any order is issued under section 203 permitting a transmitting utility or any affiliate thereof to merge or consolidate with any other public utility,

the Commission shall issue an order requiring each such transmitting utility (and each affiliate thereof which provides wholesale transmission service in a service area directly affected by the covered sale, merger, or consolidation, as determined by the Commission), to provide wholesale transmission services in accordance with this section and section 212. An order under this section shall include tariffs of general applicability for the transmission services to be provided and shall include such other terms and conditions as necessary pursuant to section 212.

"(c) SAVINGS CLAUSE.—Nothing in this section shall restrict or prevent any person from seeking interconnection pursuant to section 210 or transmission service pursuant to section 211.".

SEC. 724. INFORMATION REQUIREMENTS.

Part II of the Federal Power Act is amended by adding the following new section after section 213:

"SEC. 214. INFORMATION REQUIREMENTS.

"(a) REQUESTS FOR WHOLESALE TRANSMISSION SERVICES.—Whenever any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale requests a transmitting utility to provide wholesale transmission services and requests specific rates and charges, and other terms and conditions, unless the transmitting utility agrees to provide such services in accordance with such rates and charges and other conditions, the transmitting utility shall, within 30 days of its receipt of the request, provide such person with a written explanation of the reasons why such wholesale transmission services are not being offered in accordance with such rates and charges and other conditions.

"(b) TRANSMISSION CAPACITY AND CONSTRAINTS.—Not later than 1 year after the enactment of this section, the Commission shall promulgate a rule requiring that the information be submitted annually to the Commission by transmitting utilities regarding:

"(1) existing and planned transmission facilities;

"(2) forecasts of load growth (firm and nonfirm);

"(3) existing and planned transmission arrangements;

"(4) actual line losses;

"(5) reliability assessments; and

"(6) such other matters related to electric power transmission as the Commission finds necessary.

Such information shall be adequate to enable the Commission to carry out the purposes of this section and sections 210, and 211, and to inform potential transmission customers, State regulatory authorities, and the public of available transmission capacity and potential constraints.".

SEC. 725. SALES BY INDEPENDENT POWER PRODUCERS.

Part II of the Federal Power Act is amended by adding the following new section after section 214:

"SEC. 215. SALES BY INDEPENDENT POWER PRODUCERS.

"(a) UNLAWFUL AGREEMENTS.—The Commission shall determine, after notice and opportunity for hearing, whether any agreement for the sale of electric energy by an independent power producer would result in the granting of any undue preference or advantage or would result in any undue prejudice or disadvantage. Any such agreement that would have such an effect shall be unlawful.

"(b) DENIAL OF TRANSMISSION ACCESS.—It shall be treated as an undue prejudice or disadvantage for any transmitting utility which purchases electric energy from an independent power producer to unreasonably deny or restrict access by potential competing sellers to nondiscriminatory transmission services.

"(c) COMPETITIVE SALES.—No agreement for the sale of electric energy by an independent power producer which—

"(1) results from a competitive process established by a State regulatory authority, and

"(2) satisfies such requirements as the Commission may, by rule, establish to ensure that genuine competition exists,

shall be treated as unlawful under subsection (a) unless an aggrieved person establishes that such agreement would result in the granting of any undue preference or advantage or would result in any undue prejudice or disadvantage.

"(d) STATE AUTHORITIES.—Nothing in this section shall be construed to eliminate or reduce any existing State jurisdiction to define or regulate electric utilities.".

SEC. 726. PENALTIES.

(a) EXISTING PENALTIES NOT APPLICABLE TO TRANSMISSION PROVISIONS.—Sections 315 and 316 of the Federal Power Act are each amended by adding the following at the end thereof:

"(c) This subsection shall not apply in the case of any provision of section 211, 212, 213, 214, or 215 or any rule or order issued under any such provision.".

(b) PENALTIES APPLICABLE TO TRANSMISSION PROVISIONS.—Title III of the Federal Power Act is amended by inserting the following new section after section 316:

"SEC. 316A. ENFORCEMENT OF CERTAIN PROVISIONS.

"(a) GENERAL RULE.—It shall be unlawful for any person to violate any provision of section 211, 212, 213, 214, or 215 or any rule or order issued under any such provision.

"(b) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any person who knowingly violates any provision of section 211, 212, 213, 214, or 215 or any provision of any rule or order thereunder shall be subject to a civil penalty, which the Commission may assess, of not more than $25,000 for any one violation.

"(2) 'KNOWINGLY' DEFINED.—For purposes of paragraph (1), the term 'knowingly' means the having of—

"(A) actual knowledge; or

"(B) the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

"(3) EACH DAY SEPARATE VIOLATION.—For purposes of this paragraph, in the case of a continuing violation, each day of violation shall constitute a separate violation.

"(4) STATUTE OF LIMITATIONS.—No person shall be subject to any civil penalty under this paragraph with respect to any violation occurring more than 3 years before the date on which such person is provided notice of the proposed penalty under subparagraph (5). The preceding sentence shall not apply in any case in which an untrue statement of material fact was made to the Commission or a State or Federal agency by, or acquiesced to by, the violator with respect to the acts or omissions constituting such violation, or if there was omitted a material fact necessary in order to make any statement made by, or acquiesced to by, the violator with respect to such acts or omissions not misleading in light of the circumstances under which such statement was made.

"(5) ASSESSED BY COMMISSION.—Before assessing any civil penalty under this paragraph, the Commission shall provide to such person notice of the proposed penalty. Following receipt of notice of the proposed penalty by such person, the Commission shall, by order, assess such penalty.

"(6) JUDICIAL REVIEW.—If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under paragraph (5), the Commission shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.".

SEC. 727. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act is amended by adding the following at the end thereof:

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any electric utility or Federal power marketing agency which owns or operates electric power transmission facilities which are used for the sale of electric energy at wholesale.

"(24) WHOLESALE TRANSMISSION SERVICES.—The term 'wholesale transmission services' means the transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.

"(25) INDEPENDENT POWER PRODUCER.—The term 'independent power producer' shall have the meaning provided by section 32 of the Public Utility Holding Company Act of 1935.".

(b) CLARIFICATION OF TERMS.—Section 3(22) of the Federal Power Act is amended by inserting "(including any municipality)" after "State agency".

Subtitle C—State and Local Authorities

SEC. 731. STATE AUTHORITIES.

Nothing in this title or in any amendment made by this title shall be construed as affecting or intending to affect, or in any way to interfere with, the authority of any State or local government relating to environmental protection or the siting of facilities.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

SEC. 801. ENVIRONMENTAL PROTECTION AGENCY STANDARDS FOR DISPOSAL.

Section 121 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141) is amended by adding at the end the following new subsection:

"(d) REINSTATEMENT AND REISSUANCE OF EPA STANDARDS.—

"(1) REINSTATEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the generally applicable environmental standards for the disposal of high-level radioactive waste, spent nuclear fuel, and transuranic waste that were contained in subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on July 1, 1987, are reinstated.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to sections 191.15 and 191.16 of such subpart B.

"(2) REISSUANCE.—

"(A) PROPOSED.—The Administrator shall issue and publish in the Federal Register, not later than 3 months after the date of the enactment of this subsection, proposed revisions to the standards described in subsection (a). Such proposed revisions shall include—

"(i) proposed standards governing the matters contained in sections 191.15 and 191.16 of subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on July 1, 1987; and

"(ii) any other revisions that the Administrator considers to be appropriate.

"(B) FINAL.—The Administrator shall issue, not later than 9 months after the date of the issuance of the proposed revisions described in subparagraph (A), final revisions to the standards described in subsection (a).".

SEC. 802. INFLATION ADJUSTMENT FOR FEES.

Section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) is amended by adding at the end the following new paragraph:

"(7)(A) In the case of any fiscal year beginning after September 30, 1992, the fee amount specified in paragraphs (2) and (3) shall be increased by an amount equal to—

"(i) such fee amount; multiplied by

"(ii) the inflation adjustment determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the inflation adjustment for any fiscal year is the percentage (if any) by which—

"(i) the inflation index for the preceding fiscal year; exceeds

"(ii) the inflation index for fiscal year 1991.

"(C) For purposes of subparagraph (B), the inflation index for any fiscal year is the average of the Consumer Price Index (as published by the Department of Labor) for the 12 months in such fiscal year.".

SEC. 803. PLAN FOR TIMELY PAYMENT OF COSTS FOR DISPOSAL OF DEFENSE WASTE IN REPOSITORY.

Section 8(b)(2) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10107(b)(2)) is amended by adding at the end the following new sentence: "Not later than 12 months after the date of the enactment of the Energy Development and Environmental Protection Act, the Secretary shall submit to the Congress a plan for the payment in full by January 1, 2010, of all amounts obligated to be paid under such arrangements with respect to such waste.".

SEC. 804. SITE CHARACTERIZATION.

(a) FINDINGS.—The Congress makes the following findings:

(1) In 1987, Congress directed the Department of Energy to characterize the Yucca Mountain site to determine its suitability for the disposal of high-level radioactive waste and spent nuclear fuel.

(2) The State of Nevada has delayed, and could continue to delay for an unacceptable length of time, the processing of environmental permits required for the commencement of site characterization activities at Yucca Mountain.

(3) The Department of Energy will need at least 18 permits from the State of Nevada during the site characterization process.

(4) If the Department of Energy is to determine, in a timely fashion, whether the Yucca Mountain site is suitable for the disposal of high-level radioactive waste and spent nuclear fuel, the State permitting process must be expedited.

(b) PERMITS AND ENFORCEMENT.—Section 113 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133) is amended by adding at the end the following new subsection:

"(e) PERMITS AND ENFORCEMENT.—

"(1) PERMITS.—No State or local permit (including any permit based on Federal authority that has been delegated to a State or local government) shall be required in order for the Secretary to conduct site characterization activities at the Yucca Mountain site.

"(2) ENFORCEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State of Nevada may bring an action to enforce any Federal or State standard requirement, criteria, or limitation applicable to the conduct of site characterization activities at the Yucca Mountain site. Such an action may be brought only in the United States District Court for the District of Nevada.

"(B) REQUIREMENTS THAT RESULT IN PROHIBITION OF SITE CHARACTERIZATION.—A State standard, requirement, criteria, or limitation (including any State siting standard or requirement) that could effectively result in the prohibition of site characterization activities shall not apply unless each of the following conditions is met:

"(i) The State standard, requirement, criteria, or limitation is of general applicability and was adopted by formal means.

"(ii) The State standard, requirement, criteria, or limitation was adopted on the basis of hydrologic, geologic, or other relevant scientific considerations and was not adopted for the purpose of precluding site characterization activities for reasons unrelated to protection of human health and the environment.

"(C) NO NEW AUTHORITY.—The provisions of this subsection shall not be construed to grant to the State of Nevada any authority to enforce a Federal or State standard, requirement, criteria, or limitation that the State of Nevada did not have on the date of the enactment of the Comprehensive National Energy Policy Act.".

(c) CAPACITY OF REPOSITORY AT YUCCA MOUNTAIN.—

(1) IN GENERAL.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended by striking the second sentence and all that follows through the end of the subsection and inserting the following: "The Secretary shall determine, by rule, the volume of high-level radioactive waste and spent nuclear fuel that may be emplaced in any repository to be constructed at Yucca Mountain.".

(2) CONFORMING AMENDMENT.—The caption of section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended to read as follows:

"(d) COMMISSION AND DEPARTMENT ACTION.—".

SEC. 805. EXTENSION OF OFFICE OF THE NUCLEAR WASTE NEGOTIATOR.

Section 410 of the Nuclear Waste Policy Act of 1982 is amended by striking "5 years" and inserting "8 years".

TITLE IX—URANIUM ENRICHMENT CORPORATION

SEC. 901. ESTABLISHMENT OF THE URANIUM ENRICHMENT CORPORATION.

(a) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended—

(1) by inserting at its beginning after

"ATOMIC ENERGY ACT OF 1954"

the following:

"TABLE OF CONTENTS

"TITLE I—ATOMIC ENERGY";

and

(2) by adding at the end of the table of contents the following:

"TITLE II—URANIUM ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"Sec. 1201. Definitions.
"Sec. 1202. Purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"Sec. 1301. Establishment of the Corporation.
"Sec. 1302. Corporate offices.
"Sec. 1303. Powers of the Corporation.
"Sec. 1304. Board of Directors.
"Sec. 1305. Employees of the Corporation.
"Sec. 1306. Audits.
"Sec. 1307. Annual reports.
"Sec. 1308. Accounts.
"Sec. 1309. Obligations.
"Sec. 1310. Exemption from taxation and payments in lieu of taxes.
"Sec. 1311. Cooperation with other agencies.
"Sec. 1312. Applicability of certain Federal laws.
"Sec. 1313. Security.
"Sec. 1314. Control of information.
"Sec. 1315. Transition.
"Sec. 1316. Working Capital Account.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"Sec. 1401. Marketing and contracting authority.
"Sec. 1402. Pricing.
"Sec. 1403. Option to lease gaseous diffusion facilities of the Department.
"Sec. 1404. AVLIS.
"Sec. 1405. Assets, initial debt, and dividend policy.
"Sec. 1406. Patents and inventions.
"Sec. 1407. Liabilities.
"Sec. 1408. Uranium inventories.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"Sec. 1501. Strategic plan for privatization.
"Sec. 1502. Predeployment activities.
"Sec. 1503. Privatization.
"Sec. 1504. Restructuring of Corporation and Board.".

(b) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is further amended by adding at the end of title I the following new title:

"TITLE II—URANIUM ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"SEC. 1201. DEFINITIONS.

"As used in this title:

"(1) The term 'alternative technologies for uranium enrichment' means technologies to enrich uranium by methods other than the gaseous diffusion process.

"(2) The term 'AVLIS' means atomic vapor laser isotope separation technology.

"(3) The term 'Board' means the Board of Directors of the Corporation established under section 1305.

"(4) The term 'Corporation' means the Uranium Enrichment Corporation.

"(5) The term 'corrective actions' shall have the meaning given such term by the Administrator of the Environmental Protection Agency under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u)).

"(6) The term 'decontamination and decommissioning' means those activities, other than response actions or corrective actions, undertaken to decontaminate and decommission inactive uranium enrichment facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination, including depleted tailings.

"(7) The term 'Department' means the Department of Energy.

"(8) The term 'response actions' shall have the meaning given the term 'response' in section 101(25) of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

"(9) the term 'releases' shall have the meaning given the term 'release' in section 101(22) of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

"(10) The term 'Secretary' means the Secretary of Energy.

"(11) The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"SEC. 1202. PURPOSES.

"The Corporation is created for the following purposes:

"(1) To operate as a business enterprise on a profitable and efficient basis.

"(2) To maximize the long-term value of the Corporation to the Treasury of the United States and private investors.

"(3) To lease Department uranium enrichment facilities, as needed.

"(4) To acquire uranium for uranium enrichment, as needed.

"(5) To market and sell its enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) domestic and foreign persons, as provided in section 1303(6).

"(6) To conduct research and development as required to meet business objectives for the purposes of identifying, evaluating, improving, and testing alternative technologies for uranium enrichment.

"(7) To conduct the business as a self-financing corporation and eliminate the need for Federal Government appropriations or sources of Federal financing other than those provided in this title.

"(8) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(9) To comply with laws, and regulations promulgated thereunder, to protect the public health, safety, and the environment.

"(10) To continue at all times to meet the objectives of ensuring the Nation's common defense and security, including abiding by United States laws and policies concerning special nuclear materials and nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy.

"(11) To contribute to the recovery of the cost of decontamination and decommissioning of uranium enrichment facilities and costs under section 161 v.

"(12) To take all other lawful actions in furtherance of these purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"SEC. 1301. ESTABLISHMENT OF THE CORPORATION.

"(a) There is established a body corporate to be known as the Uranium Enrichment Corporation.

"(b) The Corporation shall be established as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this title.

"SEC. 1302. CORPORATE OFFICES.

"(a) Notwithstanding subsection (b), the Corporation shall incorporate under the jurisdiction of a State of its choosing, and shall be subject to service of process and papers and venue in civil actions, only in that jurisdiction.

"(b) The Corporation shall maintain an office in the District of Columbia and may establish offices in any other place it determines necessary or appropriate in the conduct of its business.

"SEC. 1303. POWERS OF THE CORPORATION.

"In order to accomplish its purposes, the Corporation—

"(1) shall, subject to its articles of incorporation and applicable Federal and State law, have all the powers of a private corporation unless otherwise stated in this title;

"(2) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"(3) may obtain from the Administrator of General Services the services the Administrator is authorized to provide agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

"(4) shall enrich uranium, acquire enriched uranium, or provide for uranium to be enriched by others;

"(5) may conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the Corporation considers necessary or advisable to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis;

"(6) may enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(A) persons licensed under section 53, 63, 103, or 104 of title I in accordance with the licenses held by those persons;

"(B) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123 of title I; or

"(C) persons otherwise authorized by law to enter into such transactions;

"(7) may enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I, for as long as the Corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(8) may enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 of title I or as otherwise authorized by law; and

"(9) shall sell to the Department as provided in this title, without regard to section 57 e. of title I, the amounts of uranium enrichment and related services that the Department determines from time to time are required for it to—

"(A) carry out Presidential directions and authorizations under section 91 of title I; and

"(B) conduct other Department programs.

"SEC. 1304. BOARD OF DIRECTORS.

"(a) The powers of the Corporation are vested in the Board of Directors.

"(b) The Board of Directors shall consist of eleven individuals, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among members of the Board.

"(c) Members of the Board shall be citizens of the United States. No member of the Board shall be an employee of the Corporation or have any direct financial relationship with the Corporation other than that of being a member of the Board.

"(d)(1) Except as provided in paragraph (2), members of the Board shall serve five-year terms or until the election of a new Board of Directors under section 1604, whichever comes first.

"(2) Of the members first appointed to the Board—

"(A) two shall be appointed for one-year terms;

"(B) two shall be appointed for two-year terms;

"(C) two shall be appointed for three-year terms; and

"(D) two shall be appointed for four-year terms.

"(e) Upon the occurrence of a vacancy on the Board, the President by and with the advice and consent of the Senate shall appoint an individual to fill such vacancy for the remainder of the applicable term. No member of the Board shall serve in more than two terms.

"(f) The Board shall meet at least ten times a year. Seven members of the Board shall constitute a quorum. A majority of the Board shall adopt and from time to time may amend bylaws for the operation of the Board.

"(g) The Board shall be responsible for general management of the Corporation and shall, subject to its articles of incorporation and bylaws, have the same authority, privileges, and responsibilities as the board of directors of a private corporation.

"(h) Members of the Board shall serve on a part-time basis and shall receive per diem, when engaged in the actual performance of Corporation duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"(i) Members of the Board, officers, and other management level employees of the Corporation shall, as a condition of continued service or employment, comply with the conflict of interest provisions described in part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 et seq.) in the same manner as persons who are supervisory employees of the Department are required to comply with such provisions.

"SEC. 1305. EMPLOYEES OF THE CORPORATION.

"(a) Officers and employees of the Corporation shall not be officers and employees of the United States.

"(b)(1) It is the purpose of this subsection to ensure that the establishment of the Corporation pursuant to this chapter shall not result in any adverse effects on the employment rights, wages, or benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(2) Any employer (including the Corporation) at a facility described in paragraph (1) shall abide by the terms of a collective bargaining agreement in effect on April 30, 1991, at such facility until—

"(A) the earlier of the date on which a new bargaining agreement is signed; or

"(B) the end of the 2-year period beginning on the date of the enactment of this title.

"(3) Except as specifically provided in this subsection, the Corporation is subject to the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

"SEC. 1306. AUDITS.

"(a)(1) The financial statements of the Corporation shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with auditing standards issued by the Comptroller General.

"(2) The Comptroller General may review any audit of the Corporation's financial statements conducted under paragraph (1). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

"(b)(1) The Comptroller General may audit the financial statements of the Corporation for any year in the manner provided in subsection (a)(1).

"(2) The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General.

"(c) All books, accounts, financial records, reports, files, papers, and other property belonging to or in use by the Corporation and its auditor that the Comptroller General considers necessary to the performance of any audit or review under this section shall be made available to the Comptroller General.

"(d) Activities the Comptroller General conducts under this section shall be in lieu of any other audit of the financial transactions of the Corporation the Comptroller General is required to make under chapter 91 of title 31, United States Code, or other law.

"SEC. 1307. ANNUAL REPORTS.

"(a) The Corporation shall prepare and submit an annual report of its activities to the President and the Congress. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends;

"(3) copies of audit reports prepared under section 1305 of this title;

"(4) the information required under regulations issued under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

"(5) an identification and assessment of any impairment of capital or ability of the Corporation to comply with this title.

"(b) The report shall be completed not later than 150 days following the close of each of the Corporation's fiscal years and shall accurately reflect the financial position of the Corporation at fiscal year end.

"SEC. 1308. ACCOUNTS.

"There is established in the Treasury of the United States a revolving fund, to be known as the 'Uranium Enrichment Corporation Fund', which shall be available to the Corporation without fiscal year limitation for carrying out its purposes, functions, and powers, and which shall not be subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

"SEC. 1309. OBLIGATIONS.

"(a)(1) The Corporation may issue and sell bonds, notes, and other evidences of indebtedness (collectively referred to in this title as 'bonds') except that the Corporation may not issue or sell bonds for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities.

"(2) The Corporation may pledge and use its revenues for payment of the principal of and interest on its bonds, for their purchase or redemption, and for other purposes incidental to these functions, including creation of reserve funds and other funds which may be similarly pledged and used.

"(3) The Corporation may enter into binding covenants with the holders and trustees of its bonds with respect to—

"(A) the establishment of reserve and other funds;

"(B) stipulations concerning the subsequent issuance of bonds; and

"(C) other matters not inconsistent with this title,

that the Corporation determines necessary or desirable to enhance the marketability of the bonds.

"(b) Bonds issued by the Corporation under this section shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"(c)(1) Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified in the bond and shall mature not more than 30 years after their date of issuance.

"(2) The Corporation may set the terms and conditions of bonds issued under this section, subject to disapproval of such terms and conditions by the Secretary of the Treasury within 15 days after the Secretary of the Treasury is notified of the following terms and conditions of the bonds:

"(A) Their forms and denominations.

"(B) The times, amounts, and prices at which they are sold.

"(C) Their rates of interest.

"(D) The terms at which they may be redeemed by the Corporation before maturity.

"(E) The priority of their claims on the Corporation's net revenues with respect to principal and interest payments.

"(F) Any other terms and conditions.

"(d) Section 9108(a) of title 31, United States Code, shall not apply to the Corporation.

"(e) The Corporation shall be considered an executive department of the United States for purposes of section 3(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(c)).

"(f) The Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1310. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.

"(a) In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation shall, beginning in fiscal year 1998, make payments to State and local governments as provided in this section. These payments shall be in lieu of any and all State and local taxes on the real and personal property of the Corporation. All property of the Corporation is expressly exempted from taxation in any manner or form by any State, county, or other local government entity including State, county, or other local government sales tax.

"(b) Beginning in fiscal year 1998, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making these determinations, the Corporation shall be guided by the following criteria:

"(1) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(2) The payment made to any taxing authority for any period shall not be less than the payments which would have been made to the taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1404 of this title and which would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the date of enactment of this title.

"(c) Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable.

"(d) The determination by the Corporation of the amounts due under this section shall be final and conclusive.

"SEC. 1311. COOPERATION WITH OTHER AGENCIES.

"The Corporation may request to use on a reimbursable basis the available services, equipment, personnel, and facilities of agencies of the United States, and on a similar basis may cooperate with such agencies in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

"SEC. 1312. APPLICABILITY OF CERTAIN FEDERAL LAWS.

"(a) The Corporation shall conduct its activities in a manner consistent with the policies expressed in the following antitrust laws:

"(1) The Sherman Act (15 U.S.C. 1–7).

"(2) The Clayton Act (15 U.S.C. 12–27).

"(3) Sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9).

"(b) Except as specifically provided in this title, the Corporation is subject to Federal, State, and local laws to the same extent as a privately owned corporation.

"(c) The Corporation shall be subject to, and comply with, all Federal and State, interstate, and local environmental laws and requirements, both substantive and procedural, in the same manner, and to the same extent, as any person is subject to such laws and requirements. For purposes of enforcing any such law or substantive or procedural requirements (including any injunctive relief, administrative order, or civil or administrative penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation. For the purposes of this subsection, the term 'person' means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, or political subdivision of a State.

"(d) Notwithstanding sections 3(5), 4(b)(1), and 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5), 653(b)(1), and 668)), the Corporation shall be subject to, and comply with, such Act and all regulations and standards promulgated thereunder in the same manner, and to the same extent, as an employer is subject to such Act. For the purposes of enforcing such Act (including any injunctive relief, administrative order, or civil, administrative, or criminal penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation.

"(e) The Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.) and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall apply to the Corporation. All laborers and mechanics employed on the construction, alteration, or repair of projects funded, in whole or in part, by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with such Act of March 3, 1931. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Corporation is subject to the provisions of section 210 of the Energy Reorganization Act of 1974 to the same extent as an employer subject to such section.

"SEC. 1313. SECURITY.

"Any references to the term 'Commission' or to the Department in sections 161 k., 221 a., and 230 of title I shall be considered to include the Corporation.

"SEC. 1314. CONTROL OF INFORMATION.

"Section 552(d) of title 5, United States Code, shall apply to the Corporation, and the employees of the Corporation shall be considered employees of the Federal Government for the purposes of section 1905 of title 18, United States Code.

"SEC. 1315. TRANSITION.

"For the purpose of continuity of operations, maintenance, and authority, the Department shall detail, for up to 18 months after the date of enactment of this title, appropriate Department personnel as may be required in an acting capacity, until such time as a Board is confirmed and top officers of the Corporation are hired. The Corporation shall reimburse the Department and its contractors for the detail of such personnel.

"SEC. 1316. WORKING CAPITAL ACCOUNT.

"There shall be established within the Corporation a Working Capital Account in which the Corporation may retain all revenue necessary for legitimate business expenses related to carrying out its purposes.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"SEC. 1401. MARKETING AND CONTRACTING AUTHORITY.

"(a) The Corporation shall act as the exclusive marketing agent on behalf of the United States Government for entering into contracts for providing uranium enrichment and related services. The Department may not market uranium enrichment and related services after the date of the enactment of this title.

"(b) All contracts, agreements, and leases with the Department, including all uranium enrichment contracts and power purchase contracts, that have been executed by the Department before the date of enactment of this title and that relate to uranium enrichment and related services shall transfer to the Corporation, except that the rights and responsibilities of the Department under the settlement agreement with the Tennessee Valley Authority, filed on December 18, 1987, with the United States Claims Court, shall not transfer to the Corporation.

"SEC. 1402. PRICING.

"The Corporation shall charge prices to the Department for uranium enrichment services provided under section 1303(9) on a basis that will—

"(1) allow it to recover its costs, on a yearly basis, for providing products, materials, and services, including a proportionate share of depreciation and interest and the costs of decontamination and decommissioning of the Corporation's uranium enrichment facilities; and

"(2) provide for a reasonable profit.

"SEC. 1403. OPTION TO LEASE GASEOUS DIFFUSION FACILITIES OF THE DEPARTMENT.

"(a) The Corporation shall have the exclusive rights to an option to lease the gaseous diffusion uranium enrichment facilities and related property of the Department.

"(b) The Corporation and the Department shall set mutually agreeable terms for a lease under subsection (a), including specifying annual payments to the Department by the Corporation to be made. In setting the level of annual leasing payments, the Department and the Corporation shall take into account—

"(1) the need to maintain a viable Corporation;

"(2) the importance of maximizing revenue to the Treasury; and

"(3) the equitable treatment of utility ratepayers.

"(c) The option to lease under subsection (a) shall not include Department facilities necessary for the production of highly enriched uranium. The Secretary may grant to the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

"(d) The payment of any costs of response actions or corrective actions with respect to conditions existing before the date of enactment of this title, in connection with property of the Department leased under subsection (a), shall remain the sole responsibility of the Department.

"SEC. 1404. AVLIS.

"(a) The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Department. In setting the level of payments under a royalty agreement, the Department and the Corporation shall take into account—

"(1) the need to maintain a viable Corporation;

"(2) the importance of maximizing revenue to the Treasury; and

"(3) the equitable treatment of utility ratepayers.

"(b)(1) As requested by the Corporation, the President shall transfer without charge to the Corporation all of the Department's right, title, or interest in and to property owned by the Department, or by the United States but under control or custody of the Department, which is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS, including—

"(A) facilities, equipment, and materials for research, development and demonstration activities; and

"(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

"(2) Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Department shall not transfer under paragraph (1)(B).

"(3) The President's authority to transfer property under this subsection shall expire upon privatization under section 1603.

"(c) If requested by the Corporation, the Secretary shall provide, on a reimbursable basis, research and development of AVLIS.

"(d) The Corporation may not construct a commercial scale AVLIS production facility or engage in directly related preconstruction activities until after privatization under section 1603.

"(e) This section shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity through AVLIS. Selection of a site for the AVLIS facility shall be made on a competitive basis, taking into consideration economic performance, environmental compatibility, and use of any existing facilities.

"(f) The transfer of property, functions, and responsibilities to the Corporation under this title shall not include the transfer of liability in connection with—

"(1) the Gas Centrifuge Enrichment Project;

"(2) operations of the Department before the date of enactment of this title, including excess capacity operations; or

"(3) associated imputed interest related to paragraph (1) or (2).

"SEC. 1405. ASSETS, INITIAL DEBT, AND DIVIDEND POLICY.

"(a) The Secretary of the Treasury shall promptly transfer to the Corporation, without further appropriation, $364,000,000 in the form of a loan from balances in the Uranium Enrichment Special Fund receipt account. This amount shall be hereinafter in this title referred to as the 'Initial Debt'.

"(b) The Corporation shall pay to the Treasury within a 20-year period the amount of the Initial Debt, with interest on the unpaid balance from the date of transfer under subsection (a) at a rate equal to the average yield on 20-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title.

"(c) Proceeds from the leasing of the gaseous diffusion uranium enrichment facilities and related property under section 1403, royalty payments under section 1404(a), retirement of Initial Debt under subsection (b) of this section, collection of accounts receivable by the Department for its Uranium Enrichment Program as of the date of enactment of this title, dividends received under subsection (e) of this section, and any balance remaining in the Uranium Enrichment Special Fund after the transfer described in subsection (a), shall be paid into the general fund of the Treasury. These payments and the special assessment described under section 1702 shall contribute to recovery of costs under section 161 v. of title I.

"(d) Except as otherwise specifically provided in this title, the Corporation shall receive no appropriations, loans, or other financial assistance from the Federal Government.

"(e) Until privatization occurs under section 1603, the Corporation shall pay as dividends to the Treasury of the United States all net revenues remaining at the end of each fiscal year not required for operating expenses or for deposit into the Working Capital Account established pursuant to section 1316.

"SEC. 1406. PATENTS AND INVENTIONS.

"The Corporation may at any time apply to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when the patent has not been declared to be affected with the public interest under section 153 a. of title I and when use of the patent is within the Corporation's authority. An application shall constitute an application under section 153 c. of title I subject to section 153 c., d., e., f., g., and h. of title I.

"SEC. 1407. LIABILITIES.

"Any judgment entered against the Corporation imposing liability arising out of the operation of the uranium enrichment enterprise before the date of enactment of this title shall be considered a judgment against and shall be payable solely by the Department. With regard to any claim seeking to impose such liability, the United States shall be represented by the Department of Justice.

"SEC. 1408. URANIUM INVENTORIES.

"(a) The Secretary shall transfer to the Corporation without charge all raw and commercial grade enriched uranium inventories of the Department necessary for the fulfillment of contracts transfer under section 1401(b).

"(b) The Secretary, after making the transfer required under subsection (a), shall sell all remaining inventories of raw or commercial grade enriched uranium of the Department, that is not necessary to national security needs, to the Corporation or the private sector at a fair market price. Proceeds from sales under this subsection shall be deposited into the Uranium Enrichment Special Fund described in section 1405(c).

"(c) Within one year after the date of enactment of this title, the Secretary shall submit to Congress a report containing a plan for the conversion of inventories of highly enriched uranium to commercial grade enriched uranium for commercial use. Such plan shall include—

"(1) an estimation of the potential need of the United States for inventories of highly enriched uranium;

"(2) an analysis and summary of technological requirements and costs associated with converting highly enriched uranium to commercial grade enriched uranium, including the construction of facilities if necessary;

"(3) an estimation of potential net proceeds from the conversion and sale of highly enriched uranium; and

"(4) recommendations for implementing a plan to convert highly enriched uranium to commercial grade enriched uranium.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"SEC. 1501. STRATEGIC PLAN FOR PRIVATIZATION.

"(a) Within 120 days after the appointment of the Board under section 1304(b), the Corporation shall prepare a strategic plan for privatization through a competitive offering to the private sector of capital stock representing full ownership in the Corporation. The plan may include—

"(1) an evaluation of market conditions together with a marketing strategy;

"(2) an analysis of enrichment technologies and the potential need for a leasing agreement;

"(3) an identification of predeployment and capital requirements for the commercialization of alternative technologies for uranium enrichment;

"(4) an estimate of potential earnings from the offering of capital stock; and

"(5) a contingency plan for providing enriched uranium and related services in the event that AVLIS deployment is determined not to be economically viable.

"(b) The Corporation shall transmit copies of the strategic plan for privatization to the President and Congress upon completion.

"SEC. 1502. PREDEPLOYMENT ACTIVITIES.

"The Corporation may begin activities necessary to prepare AVLIS for commercialization including—

"(1) completion of preapplication activities with the Nuclear Regulatory Commission;

"(2) preparation of a transition plan to move AVLIS from the laboratory to the marketplace;

"(3) confirmation of technical performance;

"(4) validation of economic projections;

"(5) completion of feasibility and risk studies; and

"(6) initiation of preliminary plant design and engineering.

"SEC. 1503. PRIVATIZATION.

"(a) Pursuant to the strategic plan prepared under section 1501, the Corporation shall prepare and execute a competitive offering to the private sector of capital stock representing full ownership in the Corporation.

"(b) The offering described in subsection (a) shall be made through an open competitive bidding process established by regulation within one year after the date of enactment of this title, and shall, if successful, transfer to the private sector all rights, privileges, and assets of the Corporation.

"(c) The Director of the Office of Management and Budget shall review the strategic plan prepared under section 1501 and shall establish a secret minimum bid acceptable for the privatization of the Corporation under this section, based on the net present value of the Corporation. Privatization shall not occur unless a qualified bidder submits a bid equal to or higher than such minimum bid.

"(d) For purposes of subsection (c), the term 'qualified bidder' means a bidder that is not a foreign government and that meets the requirements of section 1604.

"(e) Privatization shall not occur under this section until after the expiration of 3 months after the submission to Congress by the Comptroller General of a report containing an audit certifying—

"(1) that the sale of the Corporation under a bid considered acceptable will not result in any ongoing obligation or undue cost to the Federal Government; and

"(2) that the purchase price of such bid represents at least the net present value of the Corporation.

The Comptroller General shall submit to Congress a report under this subsection within 3 months after a bid under this section has been accepted.

"(f) Proceeds from the sale of capital stock of the Corporation under this section shall be deposited in the Uranium Enrichment Special Fund described in section 1405(c).

"SEC. 1504. RESTRUCTURING OF CORPORATION AND BOARD.

"(a) Within 120 days after privatization under section 1503, the Corporation shall elect a new Board of Directors, select a new Chief Executive Officer, and propose revisions to its corporate charter.

"(b) At the end of 120 days following privatization under section 1503, chapter 23 of this title shall cease to apply to the Corporation.".

SEC. 902. CONFORMING AMENDMENTS AND REPEALERS.

(a) Section 9101(3) of title 31, United States Code is amended by adding at the end the following:

"(N) the Uranium Enrichment Corporation.".

(b) The Atomic Energy Act of 1954 (41 U.S.C. 2011–2296) is amended as follows:

(1) In section 41 a. (42 U.S.C. 2061(a)) by—

(A) striking "or",

(B) striking "pursuant to under this Act" and inserting "under this title" in its place, and

(C) striking the period at the end and inserting the following in its place: "; or (3) are owned by the Uranium Enrichment Corporation.";

(2) In section 53 c.(1) (42 U.S.C. 2073(c)(1)) by—

(A) striking "grant," and inserting "or grant" in its place; and

(B) striking "or through the provision of production or enrichment services" both places it appears;

(3) In section 161 v. (42 U.S.C. 2201(v)), by striking "(i) prices" and all that follows through "and (iii)" in the first proviso.

(4) In section 161 w. (42 U.S.C. 2201(w)) by striking the comma after "104 b." and inserting the following in its place: ", or for a facility licensed to enrich uranium under section 1602 of title II,".

(5) In section 274 c.(1) (42 U.S.C. 2021(c)(1)) by inserting "or any uranium enrichment facility" before the semicolon at the end.

(c) Section 306 of the Energy and Water Development Appropriation Act, 1988 (Public Law 100-202, 101 Stat. 1329-126) is repealed.

SEC. 903. RESTRICTIONS ON NUCLEAR EXPORTS.

(a) FURTHER RESTRICTIONS.—

(1) IN GENERAL.—Chapter 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 134. FURTHER RESTRICTIONS ON EXPORTS.—

"a. The Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

"(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

"(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

"(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

"b. As used in this section—

"(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

"(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U-235; and

"(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

"(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

"(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.".

(2) CLERICAL AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 11 the following new item:

"Sec. 134. Further restrictions on exports.".

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

(A) their location;

(B) whether they are irradiated;

(C) whether they have been used for the purpose stated in their export license; and

(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

(A) exports of highly enriched uranium to EURATOM; and

(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.

SEC. 904. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

SEC. 905. CITIZEN SUITS.

Any person affected by this title, or the amendments made by this title, shall have standing to sue to enforce its provisions. For purposes of this section, representatives of an established organization representing the interests of taxpayers shall be deemed to be a person affected.

TITLE X—REMEDIAL ACTION AT ACTIVE PROCESSING SITES

SEC. 1001. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the costs described in such subsection as are—

(A) determined by the Secretary to be attributable to byproduct material generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 1002 and, for uranium mill tailings only, shall not exceed an amount equal to $5.50 multiplied by the dry short tons of byproduct material located on the date of the enactment of this title at the site of the activities of such licensee described in subsection (a), and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $40,000,000, and may only be made for off-site disposal subject to the approval of the Governor of the State in which such active thorium site is located.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B), and (C) of this paragraph shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—

(i) DETERMINATION OF EXCESS.—The Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated pursuant to section 1003, when considered with the $5.50 per dry short ton limit on reimbursement, exceeds the amount reimbursable to the licensees under subsection (b)(2).

(ii) IN THE EVENT OF EXCESS.—If the Secretary determines under clause (i) that there is an excess, the Secretary may allow reimbursement in excess of $5.50 per dry short ton on a prorated basis at such sites where the costs reimbursable under subsection (b)(1) exceed the $5.50 per dry short ton limitation described in paragraph (2) of such subsection.

(3) BYPRODUCT LOCATION.—Notwithstanding the requirement of paragraph (2)(A) that byproduct material be located at the site on the date of enactment of this title, byproduct material moved from the site of the Edgemont Mill to a disposal site as the result of the decontamination, decommissioning, reclamation, and other remedial action of such mill shall be eligible for reimbursement to the extent eligible under paragraph (1).

SEC. 1002. REGULATIONS.

Within 180 days of the date of the enactment of this title, the Secretary shall issue regulations governing reimbursement under section 1001. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a request for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such request for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 1001.

SEC. 1003. AUTHORIZATION.

(a) IN GENERAL.—There are authorized to be appropriated for purposes of this title not more than $310,000,000, to be increased annually as provided in section 1001, based upon an inflation index to be determined by the Secretary.

(b) SOURCE.—Funds described in subsection (a) shall be provided from the Fund established under section 1701 of the Atomic Energy Act of 1954.

SEC. 1004. DEFINITIONS.

As used in this title—

(1) the term "active uranium or thorium processing site" means—

(A) any uranium or thorium processing site, including the mill, containing byproduct material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Nuclear Regulatory Commission or by a State as permitted under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) the term "byproduct material" has the meaning given such term in section 11e.(2) of the Atomic Energy Act of 1954, (42 U.S.C. 2014(e)(2)); and

(3) the term "decontamination, decommissioning, reclamation, and other remedial action" means work performed prior to or subsequent to the date of the enactment of this title which is necessary to comply with all applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.), or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

SEC. 1005. URANIUM PURCHASE REPORTS.

(a) REQUIREMENT.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary of Energy, acting through the Administrator of the Energy Information Administration, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) COUNTRY OF ORIGIN.—For the purposes of this section, the term "country of origin" means—

(1) with respect to uranium, that country where the uranium was mined;

(2) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(3) with respect to enrichment services, that country where the enrichment services were performed.

TITLE XI—URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES

SEC. 1101. URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as amended by title IX, is further amended by adding at the end of title II the following:

"CHAPTER 26—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"SEC. 1601. GASEOUS DIFFUSION FACILITIES.

"(a) The Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall, within one year after the date of enactment of this title, establish by regulation such standards as are necessary to govern the gaseous diffusion uranium enrichment facilities of the Department in order to protect the public health and safety, minimize danger to life and property, and prevent releases or substantial threats of releases to the environment. Such regulations shall take effect 6 months after issuance.

"(b)(1) The Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall report at least annually to Congress on the status of health, safety, and environmental conditions at the gaseous diffusion uranium enrichment facilities of the Department.

"(2) Such report shall include a determination regarding whether the gaseous diffusion uranium enrichment facilities of the Department are in compliance with the standards established under subsection (a) and all applicable laws.

"(c)(1) If the Corporation exercises the option to lease the gaseous diffusion uranium enrichment facilities of the Department under section 1403, the Nuclear Regulatory Commission shall establish a certification process to ensure that the Corporation complies with standards established under subsection (a).

"(2) The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1). The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

"(3) The requirement for a certificate of compliance under paragraph (1) shall be in lieu of any requirement for a license for any gaseous diffusion facility of the Department leased by the Corporation.

"(4)(A) The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review the operations of the Corporation with respect to any gaseous diffusion uranium enrichment facilities of the Department leased by the Corporation to ensure that public health and safety are adequately protected.

"(B) The Corporation and the Department shall cooperate fully with the Nuclear Regulatory Commission and the Environmental Protection Agency and shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with the ready access to the facilities, personnel, and information the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection. A contractor operating a Corporation facility for the Corporation shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with ready access to the facilities, personnel, and information of the contractor as the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection.

"(d) The gaseous diffusion uranium enrichment facilities of the Department may not be operated by the Corporation unless the Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, makes a determination of compliance under subsection (b) or approves a plan prepared by the Department for achieving compliance required under subsection (b).

"SEC. 1602. LICENSING OF AVLIS.

"Notwithstanding the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (Public Law 101-575; 104 Stat. 2835), Corporation facilities for the enrichment of uranium using AVLIS shall be subject to licensing in the same manner as production and utilization facilities under sections 103 and 104 b. of title I.

"SEC. 1603. LICENSING OF OTHER TECHNOLOGIES.

"(a) Corporation facilities using alternative technologies for uranium enrichment, other than AVLIS, shall be licensed under sections 53 and 63 of title I.

"(b) The Corporation shall provide for the costs of decontamination and decommissioning of any Corporation facilities described in subsection (a) in accordance with the requirements of the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990.

"SEC. 1604. REGULATION OF RESTRICTED DATA.

"The Corporation shall be subject to this Act with respect to the use of, or access to, Restricted Data to the same extent as any private corporation.

"CHAPTER 27—DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT AND ADMINISTRATION OF FUND.

"(a) There is established in the Treasury of the United States an account to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (referred to in this chapter as the 'Fund'). This account, and any amounts deposited in it, including any interest earned thereon, shall be available to the Secretary subject to appropriations for the exclusive purpose of carrying out this chapter.

"(b)(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) The Secretary of the Treasury shall invest amounts contained within the Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate for what the Department determines to be the needs of the Fund; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to these obligations.

"SEC. 1702. DEPOSITS.

"(a) The Fund shall consist of deposits in the amount of $500,000,000 per fiscal year (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

"(b) Deposits described in subsection (a) shall be from the following sources:

"(1) Sums collected pursuant to subsection (c).

"(2) Appropriations made pursuant to subsection (d).

"(c) The Secretary shall collect a special assessment from domestic utilities. The amount collected from each utility pursuant to this subsection for a fiscal year shall be in the same ratio to the amount required under subsection (a) to be deposited for such fiscal year as the total amount of separative work units such utility has purchased for the purpose of commercial electricity generation, before the date of enactment of this title, bears to the total amount of separative work units purchased from the Department of Energy, for all purposes before the date of enactment of this title. For purposes of this subsection, a utility shall be considered to have purchased a separative work unit from the Department if such separative work unit was produced by the Department, but purchased by the utility from another source.

"(d) There are authorized to be appropriated to the Fund, for the period encompassing 15 years after the date of enactment of this title, such sums as are necessary to ensure that the amount required under subsection (a) is deposited for each fiscal year.

"(e) The collection of amounts under subsection (c) shall cease after the earlier of—

"(1) 15 years after the date of enactment of this title; or

"(2) the collection of $2,500,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) under such subsection.

"(f) Except as provided in subsection (e), deposits shall continue to be made into the Fund under subsection (d) for the period specified in such subsection.

"SEC. 1703. DEPARTMENT FACILITIES.

"(a) The National Academy of Sciences shall conduct a study and provide recommendations for reducing costs associated with decontamination and decommissioning, and shall report its findings to the Congress within 3 years after the date of enactment of this title. Such report shall include a determination of the decontamination and decommissioning required for each facility, shall identify alternative methods, using different technologies, shall include site-specific surveys of the actual contamination, and shall provide estimated costs of those activities.

"(b) The costs of all decontamination and decommissioning activities of the Department shall be paid from the Fund until such time as the Secretary certifies and the Congress concurs, by law, that such activities are complete.

"SEC. 1704. EMPLOYEE PROVISIONS.

"All laborers and mechanics employed by contractors or subcontractors in the performance of decontamination or decommissioning of uranium enrichment facilities of the Department shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

"SEC. 1705. REPORTS TO CONGRESS.

"Within 3 years after the date of enactment of this title, and once every 3 years thereafter, the Secretary shall report to the Congress on progress under this chapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this title.".

SEC. 1102. TABLE OF CONTENTS.

The table of contents for title II of the Atomic Energy Act of 1954, as added by section 901(a) of this Act, is amended by adding at the end the following:

"CHAPTER 26—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"Sec. 1601. Gaseous diffusion facilities.
"Sec. 1602. Licensing of AVLIS.
"Sec. 1603. Licensing of other technologies.
"Sec. 1604. Regulation of restricted data.

"CHAPTER 27—DECONTAMINATION AND DECOMMISSIONING

"Sec. 1701. Establishment and administration of Fund.
"Sec. 1702. Deposits.
"Sec. 1703. Cost containment.
"Sec. 1704. Employee provisions.
"Sec. 1705. Reports to Congress.

"TITLE I—ATOMIC ENERGY"

TITLE XII—RENEWABLE ENERGY

SEC. 1201. FINDINGS.

The Congress finds that the increased use of renewable energy—

(1) has the potential to meet 50 percent of the energy needs of the United States by the year 2030;

(2) would reduce impacts on human health, air quality, and ecosystems, and reduce the potential for global warming;

(3) would rely on secure domestic resources and improve the balance of trade by reducing energy imports; and

(4) would improve the international competitiveness of the domestic renewable energy industries and of the United States economy in general.

SEC. 1202. PURPOSES.

The purposes of this title are to promote—

(1) the near-term increase in electricity production from renewable energy resources;

(2) the greater use of renewable energy for nonelectricity uses, including liquid fuels;

(3) the further advances of renewable energy technologies; and

(4) exports of United States renewable technologies and services.

SEC. 1203. RENEWABLE ENERGY JOINT VENTURES.

(a) NATIONAL GOALS AND MULTIYEAR FUNDING FOR ALCOHOL FROM BIOMASS.—Section 4(a) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12003(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) ALCOHOL FROM BIOMASS.—(A) In general, the goal of the Alcohol From Biomass Program shall be to advance research and development to a point where alcohol from biomass technology is cost-competitive with conventional hydrocarbon transportation fuels, and to promote the integration of this technology into the transportation fuel sector of the economy.

"(B)(i) Specific goals for producing ethanol from biomass shall be to—

"(I) reduce the cost of alcohol to 70 cents per gallon by 1997;

"(II) improve the overall biomass carbohydrate conversion efficiency to 91 percent by 1997;

"(III) reduce the capital cost component of the cost of alcohol to 23 cents per gallon by 1997; and

"(IV) reduce the operating and maintenance component of the cost of alcohol to 47 cents per gallon by 1997.

"(ii) Specific goals for producing methanol from biomass shall be to—

"(I) reduce the cost of alcohol to 47 cents per gallon by 2000; and

"(II) reduce the capital component of the cost of alcohol to 28 cents per gallon by 1995, and to 16 cents per gallon by 2000.".

(b) JOINT VENTURES.—(1) Section 6(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005(c)) is amended by adding at the end the following new paragraphs:

"(6) DIRECT COMBUSTION OR GASIFICATION OF BIOMASS.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of technologies for the direct combustion or gasification of biomass to generate electricity in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for direct combustion or gasification of biomass, including waste wood, for electric power generation in commercial applications.

"(C) There are authorized to be appropriated to the Secretary $15,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(7) UTILITY-SCALE PHOTOVOLTAIC JOINT VENTURES.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for a utility-scale photovoltaic project of at least 10 megawatts in the aggregate.

"(B) In general, the goals of joint ventures under this paragraph shall include—

"(i) the integration of photovoltaics in transmission and delivery systems;

"(ii) the development of cost-saving adjuncts to utility delivery such as sub-station upgrades, peak power, and large-scale voltage line augmentation; and

"(iii) the incorporation of new photovoltaic innovations into standard utility rate-making practices.

"(C) Joint ventures supported under this paragraph may include participants that are considered to be end-users of the technology such as rural electric cooperatives, public utilities, investor-owned utilities, and independent power producers.

"(D) In selecting joint ventures for support under this paragraph, the Secretary shall consider giving preference to proposals for projects that would be located in States where State law would allow inclusion of the project in the rate base or would otherwise allow for favorable financial regulatory treatment or return on investment.

"(E) There are authorized to be appropriated to the Secretary not to exceed $27,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(8) ALCOHOL FROM CELLULOSIC BIOMASS TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to several joint ventures in order to develop commercial scale alcohol from biomass technology using available biomass feedstocks such as waste paper, agricultural residues, materials contained in industrial waste streams, wood, wood waste, and herbaceous crops. In carrying out this paragraph, the Secretary shall attempt to select projects in different regions of the United States.

"(B) The purpose of joint ventures supported under this paragraph shall be to develop and demonstrate critical enabling technologies and to provide new technologies to industry to improve the efficiency of operations as well as create new industries that have substantial prospects for encouraging energy independence.

"(C) There are authorized to be appropriated to the Secretary $80,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(9) OIL DISPLACEMENT BY SOLAR WATER HEATING.—(A) The Secretary shall solicit proposals for and provide financial assistance for joint venture for the commercialization of solar water heating technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for solar water heating for commercial application in water heating and process heat uses that have substantial prospects for displacing the consumption of oil.

"(C) There are authorized to be appropriated to the Secretary $9,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(10) Oil displacement by photovoltaic and wind energy systems.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture each for the commercialization of photovoltaic and wind energy systems, respectively, in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for photovoltaic and wind energy systems for commercial application in electric power generation uses that have substantial prospects for displacing the consumption of oil.

"(C) There are authorized to be appropriated to the Secretary $15,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(11) High temperature superconducting electricity technology.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture to commercialize high temperature superconducting electricity technologies in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to commercialize one or more products, such as motors, generators, transmission lines, transformers, and magnetic energy storage systems, based on high temperature superconducting technologies. Such products shall be of sufficient operational capability to demonstrate the increased energy efficiency of high temperature superconducting technologies in commercial products.

"(C) Such products shall be based on the critical enabling technologies of high temperature superconducting materials and gas-phase cooling systems operating at temperatures above 20 Kelvin (−423F).

"(D) There are authorized to be appropriated to the Secretary not to exceed $15,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(12) Oil displacement by fuel cell technology.—(A) The Secretary shall solicit proposals for and provide financial assistance to joint ventures for the commercialization of fuel cell technology for electric power generation and transportation applications in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells that have substantial prospects for displacing the consumption of oil.

"(C) There are authorized to be appropriated to the Secretary—

"(i) $9,000,000 for the period encompassing fiscal years 1993 through 1995 for electric power generation application; and

"(ii) $9,000,000 for the period encompassing fiscal years 1993 through 1995 for transportation application,

to carry out this paragraph.

"(13) Source reduction technology.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of source reduction technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the development of source reduction technologies.

"(C) There are authorized to be appropriated to the Secretary $6,000,000 for the period encompassing fiscal years 1993 through 1995, to carry out this paragraph.

"(14) Authorizations derived from other funds.—All amounts authorized to be appropriated by paragraphs (6) through (13) shall be derived from sums authorized under section 2111(e) of the Comprehensive National Energy Policy Act.".

(2) Section 6(d)(1) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005(d)(1)) is amended by striking "or (5)" and inserting in lieu thereof "(5), (6), (7), (8), (9), (10), (11), (12), or (13)".

SEC. 1204. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) Incentive Payments.—For electric energy generated and sold by a qualified renewable energy facility during the incentive period, the Secretary of Energy (hereinafter in this title referred to as the "Secretary") shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e). Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) Qualified Renewable Energy Facility.—For purposes of this section, a qualified renewable energy facility is a facility which generates electric energy for sale in, or affecting, interstate commerce using solar, wind, biomass, or geothermal energy, except that—

(1) the burning of municipal solid waste shall not be treated as using biomass energy; and

(2) geothermal energy shall not include energy produced from a dry steam geothermal reservoir which has—

(A) no mobile liquid in its natural state;

(B) steam quality of 95 percent water; and

(C) an enthalpy for the total produced fluid greater than or equal to 1200 Btu/lb (British thermal units per pound).

(c) Eligibility Window.—Payments may be made under this section only for electricity generated from a qualified renewable energy facility first used during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section.

(d) Payment Period.—A qualified renewable energy facility may receive payments under this section for a 10-fiscal year period. Such period shall begin with the fiscal year in which electricity generated from the facility is first eligible for such payments.

(e) Amount of Payment.—

(1) In general.—Incentive payments made by the Secretary under this section to the owner or operator of any qualified renewable energy facility shall be based on the number of kilowatt hours of electricity generated by the facility through the use of solar, wind, biomass, or geothermal energy during the payment period referred to in subsection (d). For any facility, the amount of such payment shall be determined in accordance with the following table, adjusted as provided in paragraph (2):

AMOUNT OF INCENTIVE PAYMENT

Fiscal year in which facility is first used	Amount of payment (in dollars/kilowatt hour)
First through fifth years after enactment	$0.025
Sixth year after enactment	$0.022
Seventh year after enactment	$0.019
Eighth year after enactment	$0.016
Ninth year after enactment	$0.013
Tenth year after enactment	$0.01

(2)Adjustments.—The amount of the payment made to any person under this subsection as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 1993 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 1993 shall be substituted for calendar year 1979.

(f) Sunset.—No payment may be made under this section to any facility after the expiration of the 20-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period.

(g) Facilities Receiving Other Assistance.—No person shall be eligible to receive a payment under this section for energy generated at a facility for which an energy tax credit was received under the Internal Revenue Code of 1986.

(h) Allocation of Funds.—If funds made available for payments under this section are inadequate in any fiscal year to make the full payments authorized by this section for that year for energy generated by qualified renewable energy facilities, payments shall be made first for energy generated by those facilities which received payments under this section in prior fiscal years before any payments are made to facilities which were not eligible to receive payments in such prior fiscal years.

SEC. 1205. RENEWABLE ENERGY EXPORT TECHNOLOGY TRAINING.

(a) Establishment of Program.—The Secretary, through the Agency for International Development, shall establish a program for the training of individuals from developing countries, at a location or locations in the United States, in the operation and maintenance of renewable energy and energy efficient equipment in accordance with this subsection. The Secretary and the Administrator of the Agency for International Development shall, within one year after the date of enactment of this Act, enter into a written agreement to carry out this program.

(b) Purpose.—The purpose of the program established under this section shall be to train individuals, including engineers and other professionals, in the system design, operation, and maintenance of renewable energy and energy efficient equipment manufactured in the United States, including equipment for water pumping, heating and purification, and the production of electric power in remote areas.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $6,000,000 for each of the fiscal years 1994, 1995, and 1996, to carry out this section.

SEC. 1206. AUTHORITY FOR STATES TO UNDERTAKE FEASIBILITY STUDIES.

Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively, and by inserting after paragraph (11) the following new paragraph:

"(12) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;".

SEC. 1207. RENEWABLE ENERGY ADVANCEMENT AWARDS.

(a) AUTHORITY.—The Secretary shall make Renewable Energy Advancement Awards in recognition of developments that advance the practical application of biomass, geothermal, hydroelectric, photovoltaic, solar thermal, ocean thermal, and wind technologies to consumer, utility, or industrial uses, in accordance with this section. Except as provided in subsection (g), Renewal Energy Advancement Awards shall include a cash award.

(b) ADVISORY PANEL.—

(1) APPOINTMENT.—Within 6 months after the date of enactment of this Act, the Secretary shall appoint an advisory panel.

(2) FUNCTIONS.—The advisory panel appointed under paragraph (1) shall—

(A) develop selection criteria under subsection (c); and

(B) make recommendations annually to the Secretary on who should receive an award under this section.

(3) MEMBERSHIP.—The advisory panel shall consist of the Secretary of Commerce and a balanced representation from the scientific, utilities, industrial, financial, environmental, and State energy official communities.

(4) TRAVEL EXPENSES.—Each member of the advisory panel shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) ADMINISTRATIVE ASSISTANCE.—The Secretary shall provide the advisory panel with such staff, office space, and other administrative assistance as it may require.

(c) SELECTION CRITERIA.—The advisory panel appointed under subsection (b) shall develop criteria to be applied in the selection of award recipients under this section. Such criteria shall include the following:

(1) The degree to which the development increases the usefulness of a renewable energy technology.

(2) The degree to which the development will have a significant impact, by benefitting a large number of people, by reducing the costs of an important industrial process or commercial product or service, or otherwise.

(3) The uniqueness and ingenuity of the development.

(4) Whether the application has significant export potential.

(5) The environmental soundness of the development.

(d) SELECTION.—Beginning in fiscal year 1994, and annually thereafter for a period of 10 years, the Secretary shall select 3 to 6 developments described in subsection (a) that are worthy of receiving an award under this section, and shall make such awards. The Secretary shall adopt the recommendations of the advisory panel under subsection (b)(2)(B) unless a recommendation does not conform to the selection criteria developed under subsection (c).

(e) ELIGIBILITY.—Awards may be made under this section only to individuals who are United States nationals or permanent resident aliens, or to non-Federal organizations that are organized under the laws of the United States or the laws of a State of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $50,000 for each of the fiscal years 1994 through 2003 for carrying out this section.

(g) AWARDS MADE IN ABSENCE OF APPROPRIATIONS.—The Secretary shall make honorary awards under this section if sufficient funds are not appropriated for financial awards in any fiscal year.

SEC. 1208. STUDY OF EXPORT PROMOTION PRACTICES.

Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) is amended by adding at the end the following new paragraph:

"(3) The interagency working group, through a subworking group that is chaired by a representative of an agency or department with expertise in foreign trade barriers and that has a member who is a representative of the Department of Energy, shall conduct a study of subsidies, incentives, and policies that other countries use to promote exports of their own renewable energy technologies and products. Such study shall also identify other countries' trade barriers to the import of renewable energy technologies and products produced in the United States. The interagency working group shall report to the appropriate committees of the House of Representatives and the Senate the results of such study within 18 months after the date of enactment of the Comprehensive National Energy Policy Act.".

SEC. 1209. STUDY OF TAX AND RATE TREATMENT OF RENEWABLE ENERGY PROJECTS.

(a) The Secretary, in conjunction with State utility regulators, shall undertake a study to determine if conventional taxation and ratemaking procedures result in an economic bias for or against renewable energy power plants compared to conventional power plants.

(b) Within 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study undertaken under subsection (a).

SEC. 1210. STUDY OF RICE MILLING ENERGY BY-PRODUCT MARKETING.

The Department of Energy shall conduct a study to facilitate the marketing of energy by-products from rice milling.

SEC. 1211. INTERAGENCY WORKING GROUP.

(a) PURPOSES.—Section 256(d)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)(2)) is amended to read as follows:

"(2) The purposes of the interagency working group are—

"(A) to promote the export of renewable energy and energy efficient products and technologies produced in the United States;

"(B) to inform other countries of the benefits of the policies that promote the use of renewable energy and energy efficient technology; and

"(C) to foster rural and urban economic development and energy self-sufficiency through the use of reliable and economical renewable energy and energy efficiency resource technologies.".

(b) DEFINITIONS.—Section 256(g) of such Act (42 U.S.C. 6276(g)) is amended to read as follows:

"(g) For purposes of this section—

"(1) the term 'renewable energy' also includes energy efficiency to the extent it is part of a renewable energy system or technology;

"(2) the term 'developing countries' includes, but is not limited to, Eastern Europe, the successor states of the former Soviet Union, and the Baltic states; and

"(3) the term 'energy efficiency resource' means a resource by which energy is saved through improvements in the efficiency of energy production, transportation, or utilization.".

SEC. 1212. RENEWABLE ENERGY COMMERCIALIZATION.

(a) IN GENERAL.—(1) The Secretary shall, with funds available for such purpose, enter into not less than 10 agreements with private lenders to pay the Federal share of the interest on loans made to qualified borrowers for the purpose of financing the manufacture, construction, or acquisition of equipment that principally utilizes a renewable energy technology.

(2) The Secretary shall enter into such agreements—

(A) indirectly through appropriate State energy offices; or

(B) directly in the case of loans made with respect to equipment for Federal facilities.

(b) FEDERAL SHARE.—The amount of the Federal share of interest on a loan referred to in subsection (a)(1) shall be determined by the Secretary on the basis of—

(1) the need of the borrower for the assistance;

(2) the degree to which financing of the project will assist in the regional diversification and commercialization of renewable energy resources in the United States; and

(3) the achievement of the purposes and goals of this Act.

(c) LOAN TERMS.—The Secretary may enter into an agreement under subsection (a)(1) to pay the Federal share of interest on a loan that—

(1)(A) has a principal amount of at least $250,000 and less than $1,000,000 and a maturity of not less than 15 years; or

(B) has a principal amount of at least $1,000,000, and a maturity of not less than 20 years;

(2) has an interest rate—

(A) of no greater than four percent above the prime rate of lending by certain financial institutions, as determined by the Secretary; or

(B) that the Secretary determines to be reasonable; and

(3) contains such other terms and conditions that the Secretary determines is appropriate.

(d) REPORT.—Not later than two years after the date of enactment of this Act and annually thereafter, the Secretary shall report to the Congress on the projects funded under this section and the progress being made toward accomplishing the purpose of this section.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "qualified borrower" means—

(A) an organization involved in the production or sale, or both, of electricity, thermal energy, or other forms of energy using a renewable energy technology; or

(B) a manufacturer of renewable energy equipment planning to finance improvements in, or expansion of, facilities for the manufacture of renewable energy technologies;

(2) the term "renewable energy technology" means any technology that produces, or uses as its principal energy source, biomass, geothermal, photovoltaic, wind, or solar thermal (including solar water heating and solar industrial process preheat) energy; and

(3) the term "Federal share" means that portion of the interest on a loan financed by a private lender which is paid by the Federal Government under this section.

SEC. 1213. DATA SYSTEM AND ENERGY TECHNOLOGY EVALUATION.

(a) FUNCTIONS OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce, in his or her role as a member of the interagency working group established under section 256 of the Energy Policy and Conservation Act (42 U.S.C. 6276) shall—

(1) develop a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, that will provide information on the specific energy technology needs of developing countries, and the technical and economic competitiveness of various renewable energy and energy efficient technologies;

(2) make such information available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary of Commerce considers necessary; and

(3) prepare and transmit to the Congress by not later than June 1, 1993, and biennially thereafter, a comprehensive report evaluating the full range of energy and environmental technologies necessary to meet the energy needs of developing countries while reducing the generation of carbon dioxide and other greenhouse gases, including—

(A) information on the specific energy needs of developing countries,

(B) an inventory of United States technologies and services to meet those needs,

(C) an update on the status of ongoing bilateral and multilateral programs which promote United States exports of renewable energy and energy efficient technology, and

(D) an evaluation of current programs (and recommendations for future programs) that develop and promote energy efficiency and sustainable use of indigenous renewable energy resources in developing countries to reduce the generation of greenhouse gases that may contribute to global climate change.

SEC. 1214. OUTREACH.

(a) UNITED STATES AND FOREIGN COMMERCIAL SERVICE ACTIVITIES.—The Secretary of Commerce may assign an officer or employee assigned to the United States and Foreign Commercial Service, who is experienced in renewable energy and energy efficient technology, to the offices of the United States and Foreign Commercial Service in the Pacific Rim and in the Caribbean Basin solely for the purpose of providing information concerning renewable energy and energy efficient technologies and industries of the United States to governments, industries, and others outside of the United States.

(b) TRADE MISSIONS.—The Secretary of Commerce may sponsor trade missions to help market renewable energy and energy efficient products in other countries.

(c) ACTIVITIES OF INTERAGENCY GROUP NOT AFFECTED.—Nothing in this section shall affect the activities of the interagency working group established under section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)).

TITLE XIII—COAL

SEC. 1301. COAL RESEARCH AND DEVELOPMENT RELATING TO COMMERCIAL APPLICATION PROGRAM.

(a) ESTABLISHMENT.—(1) The Secretary of Energy (hereinafter in this title (except as provided in section 1314) referred to as the "Secretary"), in consultation with the National Coal Council and other representatives of the public as the Secretary considers appropriate, shall conduct a program of research and development relating to commercial application within the Department of Energy for advanced coal-based technologies with the goals and objectives of—

(A) achieving the control of sulfur oxides, oxides of nitrogen, air toxics, solid and liquid wastes, greenhouse gases, or other emissions resulting from coal use or conversion at levels of proficiency greater than or equal to the most effective applicable currently available commercial technology;

(B) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(C) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels;

(D) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost-sharing participation; and

(E) ensuring the timely commercial application of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from the utilization of coal, and ensuring the availability for commercial use of such technologies by the year 2010.

(2) In selecting projects under this title, other than projects under section 1304, the Secretary shall seek to ensure that, relative to otherwise comparable generating units or products, a selected project will meet one or more of the following requirements:

(A) It will significantly reduce environmental emissions.

(B) It will significantly increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a significantly more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, more effectively meet the requirements in subparagraphs (A), (B), and (C).

(3) In administering the program authorized by this title, the Secretary shall establish accounting and project management controls that will be adequate to—

(A) control the costs of the project;

(B) ensure a high probability of success; and

(C) ensure compliance with this title.

(4)(A) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures and criteria for the recoupment of the Federal share of cost-shared projects authorized pursuant to this title. Such recoupment shall occur within a reasonable period of time following the date of completion of such project, but not longer than 20 years following such date.

(B) For each such project, the Secretary shall negotiate a schedule for recoupment taking into account the effect of recoupment on—

(i) the commercial competitiveness of the entity carrying out the project;

(ii) the profitability of the project; and

(iii) the commercial viability of the clean coal technology utilized.

(b) REPORT.—Within 240 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report which shall include each of the following:

(1) A detailed description of ongoing research and development activities relating to commercial application regarding advanced coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries.

(2) A listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the programs established under this section.

(3) Recommendations regarding the manner in which any ongoing clean coal commercial application program might be modified and extended in order to ensure the timely demonstrations of those advanced coal-based technologies described in subsection (a) of this section so as to ensure that the goals established under this section are achieved and that such demonstrated technologies are available for commercial use by the year 2010.

(4) A detailed plan for conducting the program of research and development relating to commercial application program to achieve the goals and objectives of subsection (a), which plan shall include a description of—

(A) the program elements and management structure to be utilized;

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and

(C) the dates at which further deadlines for additional cost-sharing demonstrations shall be established.

(c) ANNUAL REPORT.—Within 1 year after transmittal of the report described in subsection (b), and annually thereafter for a period of 5 years, the Secretary shall transmit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research and development activities relating to commercial application undertaken to carry out the programs conducted under this section.

(d) DEFINITION.—(1) As used in this title, the terms "advanced coal-based technologies" and "clean coal technologies" mean technologies that the Secretary expects to be commercially viable, within a reasonable period of time, under economic assumptions established by the Energy Information Administration, and—

(A) in the case of replacement, repowering, or new applications, the technologies are—

(i) capable of meeting applicable environmental performance standards for new power plants, or in the case of a repowering or replacement project, such environmental performance standards as would otherwise be applicable; and

(ii) except as provided in paragraph (2)(J), capable of achieving thermal conversion efficiencies equal to or greater than 40 percent, or such higher percentage as the Secretary may require;

(B) in the case of emission control technologies, the technologies are state-of-the-art technologies at achieving the objective stated in subsection (a)(1)(A); and

(C) in the case of coal refining technologies, the technologies are capable of producing energy, fuels, and products which, on a complete energy system basis, will result in environmental emissions no greater than those produced by existing comparable energy systems utilized for the same purpose.

(2) Technologies that the terms defined in this subsection refer to include the following:

(A) Coal refining technologies capable of efficiently producing or utilizing the energy contained in coal and also utilizing the byproducts thereof.

(B) Advanced pressurized fluidized bed combustion technology.

(C) Direct and indirect coal-fired turbines.

(D) Advanced integrated gasification combined cycle.

(E) Magnetohydrodynamics.

(F) Molten carbonate and solid oxide fuel cells.

(G) Emission control technologies.

(H) Cofiring coal with noncoal fuels, including natural gas.

(I) Coalbed methane production and use technologies.

(J) Other coal-based technologies or processes or systems that are capable of achieving thermal conversion efficiencies equal to or greater than 50 percent.

SEC. 1302. COAL EXPORTS.

(a) PLAN.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall submit to the House of Representatives and the Senate, and to the appropriate committees of each House, a plan for expanding exports of coal mined in the United States.

(b) PLAN CONTENTS.—The plan submitted under subsection (a) shall include—

(1) a description of the location, size, and projected growth in potential export markets for coal mined in the United States;

(2) the identification by country of the foreign trade barriers to the export of coal mined in the United States, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and a plan for addressing any such trade barriers;

(4) an evaluation of existing infrastructure in the United States and any new infrastructure requirements in the United States to support an expansion of exports of coal mined in the United States, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) an assessment of environmental implications of coal exports and the identification of export opportunities for blending coal mined in the United States with coal indigenous to other countries to enhance energy efficiency and environmental performance.

SEC. 1303. CLEAN COAL TECHNOLOGY EXPORT PROMOTION AND INTERAGENCY COORDINATION.

(a) INTERAGENCY COORDINATION.—The Secretary of Commerce, in consultation with the Secretary and other appropriate Federal agencies, shall seek to facilitate and expand the export of clean coal technologies. As part of that consultation, the Secretaries shall place a high priority on the export of clean coal technologies to developing countries and countries making the transition from nonmarket to market economies.

(b) CONSULTATION.—In carrying out this section, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall consult with representatives from the United States coal industry, representatives of railroads and other transportation industries, organizations representing workers, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies that are developed, manufactured, or controlled by United States firms, and other appropriate interested members of the public.

(c) DUTIES.—The Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall—

(1) facilitate the establishment of technical training for the consideration, planning, construction, and operation of clean coal technologies by local users and international development personnel;

(2) facilitate the establishment of and, where practicable, cause to be established, consistent with the goals and objectives stated in section 1301(a), within existing departments and agencies financial assistance programs, including grants, loan guarantees, and no interest and low interest loans, to support prefeasibility and feasibility studies for projects that will utilize clean coal technologies and loan guarantee programs, grants, and no interest and low interest loans, designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and execute programs, including the establishment of financial incentives, to encourage and support private sector efforts in exports of clean coal technologies that are developed, manufactured, or controlled by United States firms;

(4) encourage the training and understanding of clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops, and other educational programs sponsored by United States firms;

(5) educate loan officers and other officers of international lending institutions, commercial and energy attaches of the United States, and such other personnel as the Secretary of Commerce, in cooperation with the Secretary and with other appropriate Federal agencies, deems appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technologies;

(6) develop policies and practices to be conducted by commercial and energy attaches of the United States, and such other personnel as the Secretary of Commerce, in cooperation with the Secretary and with other appropriate Federal agencies, deems appropriate, in order to promote the exports of clean coal technologies in those countries interested in or intending to utilize coal resources;

(7) augment budgets for trade and development programs supported by Federal agencies for the purpose of financially supporting prefeasibility or feasibility studies for projects that will utilize clean coal technologies;

(8) review ongoing clean coal technology projects and review and advise Federal agencies on the approval of planned clean coal technology projects, including those project proposals submitted in accordance with the programs authorized by section 1301 of this title, which are sponsored abroad by any Federal Government agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(9) coordinate the activities of the appropriate Federal agencies in order to ensure that Federal clean coal technology export promotion policies are implemented in a timely fashion;

(10) provide for the development of—

(A) an objective comparison of the environmental, energy, and economic performance of each clean coal technology relative to conventional technologies;

(B) a list of United States vendors of clean coal technologies; and

(C) answers to commonly asked questions about clean coal technologies,

and disseminate such information to potential customers abroad; and

(11) undertake such other actions or activities, consistent with existing law and regulations, as, in the judgment of the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, may be necessary to achieve the purposes of this section.

(d) DATA AND INFORMATION.—(1) The Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall be responsible for the development of a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, relating to the availability of clean coal technologies and the potential need for such technologies, particularly in developing countries and countries making the transition from nonmarket to market economies.

(2) The Secretary of Commerce, through a subworking group of an interagency export promotion coordinating committee focusing on clean coal technology exports and chaired by a representative of the Department of Energy, shall provide an assessment of 10 priority foreign markets for the export of clean coal technologies that are developed, manufactured, or controlled by United States firms. Such assessment shall include—

(A) an analysis of the financing requirements for clean coal technology projects and whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions,

(B) the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology projects,

(C) the priority of environmental considerations in the selection of such projects, and

(D) the technical competence of those entities likely to be involved in the planning and operation of such projects.

The Secretary of Commerce, in cooperation with the Secretary, shall make such information available to the House of Representatives and the Senate, and to the appropriate committees of each House of Congress, industry, Federal and international financing organizations, nongovernmental organizations, governments of countries where such clean coal technologies might be used, and such others as the Secretary of Commerce, in cooperation with the Secretary, considers appropriate.

(e) REPORT.—Within 180 days after the Secretary submits the report to the Congress as required by section 409 of Public Law 101-549, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall provide to the House of Representatives and the Senate, and to the appropriate committees of each House of Congress, a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101-549. As a part of the plan required by this subsection, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of prefeasibility and feasibility studies and projects that would use a clean coal technology in developing countries and countries making the transition from nonmarket to market economies.

SEC. 1304. INNOVATIVE CLEAN COAL AND RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, shall establish a clean coal and renewable energy technology transfer program to carry out the purposes described in subsection (b). The Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this program.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) encourage the export of United States technologies to those countries that have determined a need to construct developmentally sound facilities to provide energy derived from coal or renewable energy resources;

(2) develop markets for United States technologies and, where appropriate, United States coal resources to be utilized in meeting the energy and environmental requirements of other countries;

(3) better ensure that United States participation in energy-related projects in other countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(4) provide for the accelerated utilization of United States technologies that will serve to introduce into other countries United States technologies intended to use coal or renewable energy resources in a cost-effective and environmentally acceptable manner; and

(5) establish a new financial mechanism to increase the involvement by the United States private sector in the financing of energy projects in developing countries and countries making the transition from nonmarket to market economies in cooperation with financing and assistance provided by the United States Government.

(c) PROGRAM REQUIREMENTS.—In order to carry out this section, the Administrator of the Agency for International Development, pursuant to the agreement required by subsection (a), and after consultation with the Trade and Development Program, and, where appropriate, in consultation with the Export-Import Bank of the United States, shall—

(1) support projects, in developing countries and in countries making the transition from nonmarket to market economies, which provide energy, in a cost-effective and environmentally-acceptable manner, using clean coal and renewable energy technology;

(2) select projects for purposes of this section only if such projects use United States technology and, where appropriate, coal resources of the United States;

(3) periodically review energy needs in countries assisted by the Agency for International Development, and explore export opportunities for the development of new energy-related projects in these countries, and keep the Congress informed of the results of these reviews;

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(5) coordinate the activities of all offices within the Agency for International Development, and work with the Agency for International Development country missions, in developing projects for purposes of this section that provide opportunities for United States firms, consistent with the Agency for International Development's primary mission to help these countries with traditional development projects;

(6) select clean coal technology projects for purposes of this section only if such projects use technologies and equipment selected by the Secretary under subsection (d);

(7) select projects for purposes of this section only after consultations with appropriate government officials of a host country, and, as appropriate, with representatives of foreign electric utilities or other foreign entities, to determine the interest in and support for a potential energy project;

(8) receive proposals from United States firms describing clean coal and renewable energy projects which, in the view of such firms, would be projects suitable for support under this section;

(9) pursuant to the agreement required by subsection (a), and after consultation with the Secretary, publish in the Commerce Business Daily a description of each clean coal or renewable energy project identified for support under this section;

(10) within one year after the date of enactment of this Act, and at least annually thereafter, pursuant to the agreement required by subsection (a), and after consultation with the Secretary, issue a request for proposals or an invitation for bids from United States firms for the development, construction, testing, and operation of a project or projects identified in the Commerce Business Daily or establish a procedure under which the host country will issue a request for proposals or invitation for bids from United States firms for the development, construction, testing, and operation of a project or projects identified in the Commerce Business Daily;

(11) ensure that the request for proposals and invitation for bids described in paragraph (10) provides an opportunity for United States firms to propose that such firm, either directly or indirectly, will provide a portion of the cost of the project;

(12) within 120 days after receipt of proposals or bids in response to a solicitation under paragraph (10), select one or more proposals or bids;

(13) in addition to any other considerations the Administrator of the Agency for International Development, in consultation with the Secretary, deems appropriate, make the following considerations in selecting a proposal or bid—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the furnished equipment to be included in the project is manufactured in the United States;

(C) the degree to which the United States firm has proposed to provide a portion of the cost of the project;

(D) the long-term technical and competitive viability of the United States technology, and the ability of the United States firm to compete in the development of additional projects using such technology in the host country and in other countries; and

(E) the extent to which the proposed project meets the objectives stated in section 1301(a); and

(14) ensure that any specific application of a clean coal technology project conforms with the requirements of subsection (d)(2).

(d) SELECTION OF CLEAN COAL TECHNOLOGIES.—(1) Within six months of the date of enactment of this Act and annually thereafter, the Secretary, in consultation with the Administrator of the Agency for International Development , shall prepare a list of United States clean coal technologies eligible to be used in clean coal projects supported by this section.

(2) In developing the list under paragraph (1), the Secretary, in consultation with the Administrator of the Agency for International Development, shall select technologies which will meet one or more of the following requirements:

(A) It will significantly reduce environmental emissions.

(B) It will significantly increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a significantly more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those technologies which, in the judgment of the Secretary, more effectively meet the requirements in subparagraphs (A), (B), and (C).

(e) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary, acting through the Agency for International Development, to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998. Grants or other assistance provided with such funds may be combined with financing offered by private financial entities or other entities.

(f) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(g) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development and consistent with the Agency for International Development procurement guidelines, shall ensure—

(1) the maximum percentage of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment, and

(2) the maximum participation of United States firms.

SEC. 1305. CONVENTIONAL COAL TECHNOLOGY TRANSFER.

If the Secretary, pursuant to the agreement under section 1304(a), determines that the utilization of a clean coal technology is not practicable for a proposed project and that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the technology being used in a developing country or country making the transition from nonmarket to market economies, with significant indigenous coal resources, such technology shall, for purposes of sections 1303 and 1304, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section. In carrying out this section, the Secretary, pursuant to the agreement under section 1304(a), shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

SEC. 1306. COAL FIRED DIESEL ENGINES.

(a) PROGRAM.—The Secretary shall conduct a program of research and development relating to commercial application for utilizing coal-derived liquid or gaseous fuels, including ultra-clean coal-water slurries, in diesel engines. The program shall address—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) fuel delivery and storage systems requirements; and

(5) other infrastructure required to support commercial deployment.

(b) FUNDING.—The Secretary may provide financial assistance for a project under the program conducted under subsection (a), to the extent the Secretary finds that such project—

(1) offers promise for commercial application; and

(2) will receive at least 50 percent of project funds from non-Federal sources.

(c) JOINT VENTURES.—In carrying out the program conducted under subsection (a), the Secretary may enter into joint ventures to accelerate the development and commercialization of technologies described in subsection (a).

(d) CONSULTATION.—In carrying out research and development activities relating to commercial application under this section, the Secretary shall consult with the private sector.

SEC. 1307. CLEAN COAL, WASTE-TO-ENERGY.

(a) PROGRAM.—The Secretary shall establish a program of research and development relating to commercial application with respect to the use of solid waste combined with coal as a fuel source for clean coal combustion technologies. The program shall address—

(1) the feasibility of cofiring coal and used vehicle tires in fluidized bed combustion units;

(2) the combined gasification of coal and municipal sludge using integrated gasification combined cycle technology;

(3) the creation of fuel pellets combining coal and material reclaimed from solid waste;

(4) the feasibility of cofiring, in fluidized bed combustion units, waste methane from coal mines, including ventilation air, together with coal or coal wastes; and

(5) other sources of waste and coal mixtures in other applications that the Secretary considers appropriate.

(b) FUNDING.—The Secretary may provide financial assistance for a project under the program conducted under subsection (a), to the extent the Secretary finds that such project—

(1) offers promise for commercial application; and

(2) will receive at least 25 percent of project funds from non-Federal sources.

(c) JOINT VENTURES.—In carrying out the program conducted under subsection (a), the Secretary may enter into joint ventures to accelerate the development and commercialization of technologies described in subsection (a).

(d) CONSULTATION.—In carrying out research and development activities relating to commercial application under this section, the Secretary shall consult with the private sector.

SEC. 1308. NONFUEL USE OF COAL.

(a) PLAN.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to the Congress a plan for research and development relating to commercial application with respect to technologies for the nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) JOINT VENTURES.—As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for nonfuel uses of coal.

(c) PLAN CONTENTS.—The plan described in subsection (a) shall address and evaluate—

(1) the known and potential processes for using coal in the creation of products in the chemical, utility, fuel, and carbon-based materials industries;

(2) the costs, benefits, and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of coproduction of products from coal in conjunction with the production of electric power, thermal energy, and fuel;

(4) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(5) the steps that can be taken by the public and private sectors to bring about commercialization of technologies developed under the program recommended; and

(6) the past development, current status, and future potential of coal products and processes associated with nonfuel uses of coal.

(d) CONDUCT OF PROGRAM.—The Secretary shall conduct a program of research and development relating to commercial application under the plan described in subsection (a).

(e) FUNDING.—The Secretary may provide financial assistance for a project under the plan to the extent the Secretary finds that such project—

(1) offers promise for commercial application; and

(2) will receive at least 50 percent of project funds from non-Federal sources.

(f) CONSULTATION.—In preparing the plan and carrying out research and development activities relating to commercial application under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

SEC. 1309. COAL REFINERY PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the National Coal Council and such other representatives of the public and private sectors as the Secretary considers necessary, shall conduct a program of research and development relating to commercial application within the Department of Energy for clean coal technologies that are coal refining technologies which minimize the overall environmental impacts of coal utilization and meet the objectives of section 1301(a)(1). The program shall include technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals, and lignites to produce clean-burning transportation fuels, compliance boiler fuels, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, in conjunction with the generation of electricity or process heat, or the manufacture of a variety of products from coal. The goals of such program shall be the achievement of—

(1) the timely commercial application of technologies, including mild gasification, hydrocracking and other hydropyrolysis processes, and other energy production processes or systems to produce coal-derived fuels and coproducts, which achieve greater efficiency and economy in the conversion of coal to electrical energy and coproducts than currently available technology;

(2) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(3) reduction in the cost of producing such coal-derived fuels and coproducts;

(4) the control of emissions from the combustion of coal-derived fuels; and

(5) the availability for commercial use of such technologies by the year 2000.

(b) REPORT AND PLAN.—Within 120 days after the date of enactment of this Act, the Secretary shall transmit to the Congress a report which shall include—

(1) a detailed description of ongoing research and development activities relating to commercial application regarding coal refining technologies undertaken by the Department of Energy, other Federal or State government departments or agencies, and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals stated in subsection (a); and

(3) a detailed plan for conducting the research and development program relating to commercial application to achieve the goals stated in subsection (a), which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the coal refining technologies included in the plan.

(c) JOINT VENTURES.—Within 1 year after the transmittal of the report described in subsection (b), the Secretary shall solicit proposals from appropriate parties and may thereafter enter into agreements to conduct joint ventures with such parties to undertake commercial scale demonstration projects of coal refining processes capable of producing boiler fuels, transportation fuels, including oxygenated hydrocarbons, or other useful coal-derived by-products, from high or low sulfur coals or lignites. In designing the solicitation under this subsection, and taking into consideration the goals stated in subsection (a), the Secretary—

(1) shall establish technology classes for the various coal refining processes;

(2) may enter into joint ventures for the construction of not more than one project per technology class, but in no event less than two projects in total;

(3) shall provide that any such joint venture obtain at least 50 percent of its direct costs from non-Federal sources; and

(4) shall require that any project have a reasonable prospect of commencing commercial operation by January 1, 2000.

(d) ANNUAL REPORT.—Within 1 year after the date of enactment of this Act, and annually thereafter for a period of 5 years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of coal refining technologies and the research and development activities relating to commercial application undertaken to carry out the program under this section.

SEC. 1310. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.

(a) DEFINITION.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials.

(b) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal, and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, that may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for action to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in—

(A) bridge and highway construction;

(B) stabilizing wastes;

(C) procurement by departments and agencies of the Federal Government and State and local governments; and

(D) federally funded or federally subsidized procurement by the private sector.

SEC. 1311. CALCULATION OF AVOIDED COST.

Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) requires a State regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98-473 as an incremental cost of alternative electric energy.

SEC. 1312. COALBED METHANE RECOVERY.

(a) STUDY OF BARRIERS.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study of technical, economic, financial, legal, regulatory, institutional, or other barriers to coalbed methane recovery, and of policy options for eliminating such barriers. Within two years after the date of enactment of this Act, the Secretary shall submit a report to the Congress detailing the results of such study.

(b) STUDY OF ENVIRONMENTAL AND SAFETY ASPECTS.—The Secretary, in consultation with the Director of the Bureau of Mines and the Administrator of the Environmental Protection Agency, shall conduct a study of the environmental and safety aspects of flaring coalbed methane liberated from coal mines. Within two years after the date of enactment of this Act, the Secretary shall submit a report to the Congress detailing the results of such study.

(c) INFORMATION DISSEMINATION.—Beginning one year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall disseminate to the public information on state-of-the-art coalbed methane recovery techniques, including information on costs and benefits.

(d) COMMERCIALIZATION PROGRAM.—The Secretary shall establish a coalbed methane recovery commercial application program, which shall include a joint venture program, emphasizing gas enrichment technology, with at least 50 percent of the costs thereof being provided by the private sector. Such program shall address—

(1) gas enrichment technologies for enriching medium-quality methane recovered from coal mines to pipeline quality;

(2) technologies to use mine ventilation air in nearby power generation facilities, including gas turbines, internal combustion engines, or other coal fired powerplants;

(3) technologies for cofiring methane recovered from mines, including methane from ventilation systems and degasification systems, together with coal in conventional or clean coal technology boilers; and

(4) other technologies for producing and using methane from coal mines that the Secretary considers appropriate.

SEC. 1313. COALBED METHANE EMISSION CREDITS.

(a) FINDINGS.—The Congress finds that the recovery of coalbed methane gas in conjunction with coal mining operations will have a beneficial effect in promoting energy efficiency, promoting wise use of energy resources, and reducing greenhouse gas emissions and should, therefore, be encouraged by developing a coalbed methane emissions baseline, and assuring credit for such recovery in the future.

(b) COALBED METHANE REPORTING.—Following promulgation of regulations under subsection (c), any owner or operator of an underground coal mine producing more than 100,000 tons of coal in any calendar year after 1987 may, for such calendar year and any calendar year thereafter in which coal is produced from such mine, report to the Secretary the aggregate annual volume of coalbed methane gas recovered, flared, vented, or otherwise emitted into the environment during that year. Such annual report shall specify the volume of such gas which was flared, used as fuel on site, or sold into a natural gas pipeline.

(c) REGULATIONS.—Within 9 months after the date of enactment of this section, the Secretary, in consultation with the Director of the Bureau of Mines and the Administrator of the Environmental Protection Agency, shall establish by regulation the methods and procedures to be used by persons reporting under subsection (b) to measure the annual volume of coalbed methane gas recovered, flared, vented or otherwise emitted into the environment. To the maximum extent practicable, the Secretary should seek to rely on existing monitoring and estimation methods and procedures (including but not limited to techniques developed for compliance with the Coal Mine Health and Safety Act of 1969) and place priority on selecting techniques which maximize accuracy and minimize the cost to the operator.

(d) CREDITS.—For purposes of any greenhouse gas reduction program under any future law which provides credits for reductions in coalbed methane gas emissions, each person submitting annual reports to the Secretary under subsection (b) regarding the aggregate annual volume of coalbed methane gas recovered, flared, or vented, or otherwise emitted into the environment may receive credits for reductions in coalbed methane gas emissions achieved by such person after calendar year 1987 and reported under subsection (b). No credit for recovery of coalbed methane gas from any coalbed shall be valid until mining commences in such coalbed.

(e) DOE REPORTS.—Using data submitted under this section and data obtained from the Bureau of Mines, the Secretary shall publish annual reports containing the Secretary's estimate for each coal mine of the aggregate annual volume of coalbed methane gas recovered, flared, vented, or otherwise emitted into the environment.

SEC. 1314. OWNERSHIP OF COALBED METHANE.

(a) FEDERAL LANDS AND MINERAL RIGHTS.—In the case of any deposit of coalbed methane where the United States is the owner of the surface estate or where the United States has transferred the surface estate but reserved the subsurface mineral estate, the Secretary of the Interior (hereinafter referred to in this section as the "Secretary") shall act in lieu of the State Board under this section and shall have all powers and authorities necessary to take such action.

(b) AFFECTED STATES.—Not later than 180 days after the date of enactment of this Act, the Secretary, with the participation of the Secretary of Energy, shall publish in the Federal Register a list of States—

(1) in which the Secretary, with the participation of the Secretary of Energy, determines that disputes, uncertainty, or litigation exist, regarding the ownership of coalbed methane gas;

(2) in which the Secretary, with the participation of the Secretary of Energy, determines that development of significant deposits of coalbed methane gas is being impeded by such existing disputes, uncertainty, or litigation regarding ownership of such coalbed methane;

(3) which do not have in effect a statutory or regulatory procedure or existing case law permitting and encouraging the development of coalbed methane gas within that State; and

(4) which do not have extensive development of coalbed methane gas.

The Secretary, with the participation of the Secretary of Energy, shall revise such list of Affected States from time to time. Based on new case law or legislation enacted in the State after the enactment of this Act, any Affected State may petition the Secretary, with the participation of the Secretary of

Energy, for a revision to remove the State from the list. Until the Secretary, with the participation of the Secretary of Energy, publishes a different list, the States of West Virginia, Pennsylvania, Kentucky, Ohio, Tennessee, Indiana, and Illinois shall be the Affected States, effective on the date of the enactment of this Act. States which have current development of coalbed methane gas and shall not be included on the Secretary's list of Affected States are Colorado, Montana, New Mexico, Wyoming, Utah, Virginia, Washington, Mississippi, and Alabama.

(c) STATE AGENCIES FOR AFFECTED STATES.—(1) In order to provide for the expeditious and economical development of deposits of coalbed methane gas in Affected States, within 360 days after a State becomes an Affected State, each such Affected State shall establish or designate one or more State agencies or instrumentalities to administer the provisions of this section. Such agencies or instrumentalities shall hereinafter in this section be referred to as the "State Board" for the Affected State. The State shall authorize the State Board to have such powers and duties and to promulgate such regulations as may be necessary to carry out this section in that State. A person concerned with preserving the integrity of workable coal seams who is knowledgeable in underground coal mining methods and a person knowledgeable in oil and gas development activities shall be appointed to the State Board.

(2) If an Affected State has not established or designated a State Board as provided in this subsection within the 360-day period specified in paragraph (1), the Secretary, with the participation of the Secretary of Energy, shall be treated as the State Board for such State for purposes of this section. In any such case, the Secretary, with the participation of the Secretary of Energy, shall have such powers and duties and shall promulgate such regulations as may be necessary to carry out this section in that State.

(3) In implementing this section, the State Board or the Secretary, with the participation of the Secretary of Energy, as the case may be, shall—

(A) consider existing and future coal mining plans,

(B) preserve the mineability of coal seams, and

(C) provide for the prevention of waste and maximization of recovery of coal and coalbed methane gas in a manner which will protect the rights of all entities owning an interest in such coalbed methane resource.

(d) SPACING.—Except where State law in an Affected State contains existing spacing requirements regarding the minimum distance between coalbed methane wells and the minimum distance of a coalbed methane well from a property line, the State Board for each Affected State shall establish such requirements within 90 days after the date on which the State Board is established or designated.

(e) SPACING UNITS.—Applications to establish spacing units for the drilling and operation of coalbed methane gas wells may be filed by any entity claiming a coalbed methane ownership interest within a proposed spacing unit. Upon receipt and approval of an application, the State Board shall issue an order establishing the boundaries of the coalbed methane spacing unit. Spacing units shall generally be uniform in size.

(f) DEVELOPMENT UNDER POOLING ARRANGEMENT.—Following issuance of an order establishing a spacing unit under subsection (e), and pursuant to an application for pooling filed by the entity claiming a coalbed methane ownership interest and proposing to drill a coalbed methane gas well, the State Board shall hold a hearing to consider the application for pooling and shall, if the criteria of this section are met, issue an order allowing the proposed pooling of acreage within the designated spacing unit for purposes of drilling and production of coalbed methane from the spacing unit. The pooling order shall not be issued before notice or a reasonable and diligent effort to provide notice has been made to each entity which may claim an ownership interest in the coalbed methane gas within such spacing unit and each such entity has been offered an opportunity to appear before the State Board at the hearing. Upon issuance of a pooling order, each owner or claimant of an ownership interest shall be allowed to make one of the following elections:

(1) An election to sell or lease its coalbed methane ownership interest to the unit operator at a rate determined by the State Board as set forth in the pooling order.

(2) An election to become a participating working interest owner by bearing a share of the risks and costs of drilling, completing, equipping, gathering, operating (including all disposal costs), plugging and abandoning the well, and receiving a share of production from the well.

(3) An election to share in the operation of the well as a nonparticipating working interest owner by relinquishing its working interest to participating working interest owners until the proceeds allocable to its share equal 300 percent of the share of such costs allocable to its interest. Thereafter, the nonparticipating working interest owner shall become a participating working interest owner.

The pooling order shall designate a unit operator who shall be authorized to drill and operate the spacing unit. The pooling order shall provide that any entity claiming an ownership interest in the coalbed methane within such spacing unit which does not make an election under the pooling order shall be deemed to have leased its coalbed methane interest to the unit operator under such terms and conditions as the pooling order may provide. No pooling order may be issued under this paragraph for any spacing unit if all entities claiming an ownership interest in the coalbed methane in the spacing unit have entered into a voluntary agreement providing for the drilling and operation of the coalbed methane gas well for the spacing unit.

(g) ESCROW ACCOUNT.—(1) Each pooling order issued under subsection (f) shall provide for the establishment of an escrow account into which the payment of costs and proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants as follows:

(A) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account its proportionate share of the costs allocable to the ownership interest claimed by each such participating working interest owner as set forth in the pooling order issued by the State Board.

(B) The unit operator shall deposit in the escrow account all proceeds attributable to the conflicting interests of lessees, plus all proceeds in excess of ongoing operational expenses (including reasonable overhead costs) attributable to conflicting working interests.

(2) The State Board shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within 30 days of receipt by the State Board of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane gas. Upon such final determination—

(A) each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(B) each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner (as determined by the election of the entity under the applicable pooling order);

(C) each entity leasing (or deemed to have leased) its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds (as set out in the applicable pooling order) attributable to the conflicting interests of lessees; and

(D) the unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner.

The State Board shall enact rules and regulations for the administration and protection of funds delivered to the escrow accounts.

(h) APPROVAL OF STATE BOARD.—No entity may drill any well for the production of coalbed methane gas from a coalbed in an Affected State unless the drilling of such well has been approved by the State Board for that State.

(i) CONSENT OF AFFECTED COAL OPERATOR.—No operator of a coalbed methane well may stimulate a coal seam or known coal bearing geologic strata without the written consent of each entity which is operating, or who at the time of application for a drilling permit, has by virtue of ownership or a coal lease, the right to operate, a coal mine in a coal seam situated—

(1) within a minimum horizontal distance—

(A) of 1,500 feet from the well; or

(B) as determined by the State Board, based on evaluation of the maximum length of fracture producible in the local strata; or

(2) within a minimum vertical distance—

(A) of 200 feet of the known coal bearing geologic strata to be stimulated; or

(B) as determined by the State Board, based on evaluation of the maximum height and depth of fracture producible in the local strata.

The consent required under this subsection shall in no way be deemed to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease in existence as of the effective date of this section between the coalbed methane operator and the coal operator, and the existence of such lease or contractual agreement and any extensions or renewals of such lease shall be deemed to fully meet the requirements of this section.

(j) NOTICE AND OBJECTION.—(1) The State Board shall not approve the drilling of any coalbed methane well unless the unit operator has notified each entity which is operating, or has the right to operate, a coal mine in any portion of the coalbed that would be affected by such well within the distances referred to in subsection (i). Any notified entity may object to the drilling of such well within 30 days after receipt of a notice. Upon receipt of a timely objection to the drilling of any coalbed methane gas well submitted by a notified entity, the State Board may refuse to approve the drilling of the well based on any of the following:

(A) The proposed activity, due to its proximity to any coal mine opening, shaft, underground workings, or to any proposed extension of the coal mine, would adversely affect any operating, inactive or abandoned coal mine, including any coal mine already surveyed and platted but not yet being operated.

(B) The proposed activity would not conform with a coal operator's development plan for an existing or proposed operation.

(C) There would be an unreasonable interference from the proposed activity with present or future coal mining operations, including the ability to comply with other applicable laws and regulations.

(D) The presence of evidence indicating that the proposed drilling activities would be unsafe, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal.

(E) The proposed activity would unreasonably interfere with the safe recovery of coal, oil and gas.

(2) In the event the State Board does not approve the drilling of a coalbed methane well pursuant to paragraph (1), the State Board shall consider whether such drilling could be approved if the unit operator modifies the proposed activities to take into account any of the following:

(A) The proposed activity could instead be reasonably done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration surface topography.

(B) The proposed activity could instead be moved to a mined-out area, below the coal outcrop or to some other feasible area.

(C) The unit operator agrees to a drilling moratorium of not more than two years in order to permit completion of coal mining operations.

(D) The practicality of locating the proposed spacing unit or well on a uniform pattern with other spacing units or wells.

(k) PLUGGING.—All coalbed methane wells drilled after enactment of this Act that penetrate coal seams with remaining reserves shall provide for subsequent safe mining through the well in accordance with standards prescribed by the State Board for the State in which the well is located, in consultation with any Federal and State agencies having authority over coal mine safety.

(l) NOTICE AND OBJECTION BY OTHER PARTIES.—The State Board shall not approve the drilling of any coalbed methane well unless such well complies with the spacing and other requirements established by the State Board and each of the following:

(1) The unit operator of such well has notified, or has made a reasonable and diligent effort to notify, all entities claiming ownership of coalbed methane to be drained by such well and provided an opportunity to object in accordance with requirements established by the State Board.

(2) Where conflicting interests exist, an order under subsection (f) establishing pooling requirements has been issued.

The notification requirements of this subsection shall be additional to the notification referred to in subsection (j). The State Board shall establish the conditions under which entities claiming ownership of coalbed methane may object to the drilling of a coalbed methane well.

(m) VENTING FOR SAFETY.—Nothing in this section shall be construed to prevent or inhibit the entity which has the right to develop and mine coal in any mine from venting coalbed methane gas to ensure safe mine operations.

(n) DEFINITIONS.—As used in this section—

(1) The term "Affected State" means a State listed by the Secretary, with the participation of the Secretary of Energy, under subsection (b).

(2) The term "coalbed methane gas" means occluded natural gas produced (or which may be produced) from coalbeds and rock strata associated therewith.

(3) The term "unit operator" means the entity designated in a pooling order to develop a spacing unit by the drilling of one or more wells on the unit.

(4) The term "nonparticipating working interest owner" means a gas or oil owner of a tract included in a spacing unit which elects to share in the operation of the well on a carried basis by agreeing to have its proportionate share of the costs allocable to its interest charged against its share of production of the well in accordance with subsection (f)(3).

(5) The term "participating working interest owner" means a gas or oil owner which elects to bear a share of the risks and costs of drilling, completing, equipping, gathering, operating (including any and all disposal costs) plugging, and abandoning a well on a spacing unit and to receive a share of production from the well equal to the proportion which the acreage in the spacing unit it owns or holds under lease bears to the total acreage of the spacing unit.

SEC. 1315. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 1992 through 1998, to conduct no less than 2 additional solicitations similar in scope and amount of Federal costsharing as that provided by Public Law 101–121 for clean coal technology demonstrations to be conducted pursuant to this title.

SEC. 1316. ESTABLISHMENT OF DATA BASE AND STUDY OF TRANSPORTATION RATES.

(a) DATA BASE.—The Secretary shall review the information currently collected by the Federal Government and shall determine whether information on transportation rates for rail and pipeline transport of domestic coal, oil, and gas during the period of January 1, 1988, through December 31, 1997, is reasonably available. If he determines that such information is not reasonably available, the Secretary shall establish a data base containing, to the maximum extent practicable, information on all such rates. The confidentiality of contract rates shall be preserved. To obtain data pertaining to rail contract rates, the Secretary shall acquire such data in aggregate form from the Interstate Commerce Commission, under terms and conditions that maintain the confidentiality of such rates.

(b) STUDY.—The Secretary shall determine the extent to which any agency of the Federal Government is studying the rates and distribution patterns of domestic coal, oil, and gas to determine the impact of the Clean Air Act as amended by the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.", enacted November 15, 1990 (Public Law 101–549), and other Federal policies on such rates and distribution patterns. If the Secretary finds that no such study is underway, or that reports of the results of such study will not be available to the Congress providing the information specified in this subsection and subsection (a) by the dates established in subsection (c), the Secretary shall initiate such a study.

(c) REPORTS TO CONGRESS.—Within one year after the date of enactment of this Act, the Secretary shall report to the Congress on the determination he is required to make under subsection (b). Within three years after the date of enactment of this Act, the Secretary shall submit reports on any data base or study developed under this section. Any such reports shall be updated and resubmitted to the Congress within eight years after such date of enactment. If the Secretary has determined pursuant to subsection (b) that another study or studies will provide all or part of the information called for in this section, the Secretary shall transmit the results of that study by the dates established in this subsection, together with his comments.

(d) CONSULTATION WITH OTHER AGENCIES.—The Secretary shall consult with the Administrator of the Energy Information Administration and the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission in implementing this section.

SEC. 1317. EARLY BANKING OF EMISSIONS CREDITS FOR EFFICIENCY IMPROVEMENTS FROM THE APPLICATION OF CLEAN COAL TECHNOLOGIES.

(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations within 18 months after the date of enactment of this section to establish baseline emissions of carbon dioxide from existing utility sources that apply clean coal technologies. For purposes of the preceding sentence, baseline emissions for sources subject to title IV of the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.", enacted November 15, 1990 (Public Law 101–549), shall be based on data collected pursuant to section 821 of such Act.

(b) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations within 18 months after the date of enactment of this section to establish methodologies to measure efficiency improvements from the application of clean coal technologies to existing utility sources for the purpose of establishing credit for such improvements. Such regulations shall establish criteria to determine the heat rate of the unit, expressed in mmBtus per kilowatt hour, in the baseline year to be determined by the Administrator. Credits for any given year shall be determined as follows:

(1) If the kilowatt hours generated by the unit applying clean coal technology are greater than or equal to the kilowatt hours generated by the unit before such technologies are applied, credits shall be determined by calculating the tons of carbon dioxide emitted in the baseline year and subtracting from that amount the number determined by multiplying the tons of carbon dioxide emitted in the baseline year and the ratio of the heat rate of the unit after application of clean coal technologies to the heat rate of the unit prior to application of such technologies in the baseline year.

(2) If the kilowatt hours generated by the unit applying clean coal technologies in that year are less than the kilowatt hours generated in the baseline year, credits shall be determined by multiplying the tons of carbon dioxide emitted by the unit after application of such technologies and the ratio of the heat rate of the unit prior to application

of such technologies to the heat rate of the unit after application of such technologies and subtracting from that product the tons of carbon dioxide emitted by the unit in that year.

(c) Following the promulgation of regulations under subsections (a) and (b) any utility source may report to the Secretary baseline emissions and credits, including technology transfer incentive credits, for purposes of establishing credit for such efficiency improvements in any greenhouse gas reduction program enacted after the date of enactment of this Act.

SEC. 1318. METALLURGICAL COAL DEVELOPMENT.

(a) The Secretary shall establish a metallurgical coal utilization program (hereinafter in this section referred to as the "program") as provided under this section for the purpose of developing techniques that will lead to the greater and more efficient utilization of the Nation's metallurgical coal resources.

(b) The program referred to in subsection (a) shall include techniques and demonstration projects to facilitate the use of metallurgical coal—

(1) as a boiler fuel for the purpose of generating steam to produce electricity, including blending metallurgical coal with other coals in order to enhance its efficient application as a boiler fuel;

(2) as an ingredient in the manufacturing of steel; and

(3) as a source of pipeline quality coalbed methane.

(c) The Secretary shall take such actions as necessary to facilitate the transfer of technologies developed under this title to the private sector for commercial application.

(d) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

SEC. 1319. UTILIZATION OF COAL WASTES.

(a) COAL WASTE UTILIZATION PROGRAM.—The Secretary shall establish a coal waste utilization experimental program (hereinafter in this section referred to as the "program") as provided under this section for the purpose of developing techniques that will lead to the greater and more efficient utilization of coal from mining and processing wastes. Nothing in this section relates to coal ash.

(b) USE AS BOILER FUEL.—The program referred to in subsection (a) shall include techniques and demonstration projects to facilitate the use of coal from mining and processing wastes as a boiler fuel for the purpose of generating steam to produce electricity.

(c) GRANTS.—As part of the program authorized by this section the Secretary may award grants, or enter into contracts or cooperative agreements with public and private entities.

(d) TECHNOLOGY TRANSFER.—The Secretary shall take such actions as necessary to facilitate the transfer of technologies developed under this title to the private sector for commercial application.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE XIV—STRATEGIC PETROLEUM RESERVE

SEC. 1401. FILL OF THE REFINED PETROLEUM PRODUCT RESERVE.

Section 160(g) of the Energy Policy and Conservation Act (42 U.S.C. 6240(g)) is amended to read as follows:

"(g)(1) Beginning with fiscal year 1993 and continuing until the quantity of refined petroleum product in storage under this subsection is 50,000,000 barrels, the Secretary shall provide that 12 percent by volume of the petroleum product added to the Reserve during any fiscal year shall be refined petroleum product stored in a refined petroleum product reserve or reserves located in Petroleum Administration for Defense District 1A or 1B.

"(2) Through regulations and orders issued under this section, the Secretary shall provide that the refined petroleum product required to be stored in the Reserve under this subsection be limited to refined petroleum product determined to be appropriate by the Secretary.

"(3)(A) In carrying out the program established under this subsection, the Secretary may, using amounts in the Fund established under section 170, provide for the acquisition by lease or purchase of storage facilities.

"(B) In carrying out the program established under this subsection, the Secretary may not construct facilities for the storage of refined petroleum products.

"(4) Refined petroleum products stored under this subsection may be withdrawn from the Reserve—

"(A) as may be necessary to turn such products over because of changes in the physical characteristics of the product; or

"(B) on the basis of a finding made under section 161.".

SEC. 1402. ADDITIONAL AUTHORITY FOR DRAWDOWN.

(a) IN GENERAL.—Section 161(d) of the Energy Policy and Conservation Act (42 U.S.C. 6241(d)) is amended by inserting before the period the following: "or unless the President has found that such implementation would assist in relieving severe economic problems directly related to a significant increase in the price of petroleum product".

(b) CONFORMING AMENDMENTS.—(1) Section 159(e) of the Energy Policy and Conservation Act (42 U.S.C. 6239(e)) is amended by inserting before the period the following: "or to assist in relieving severe economic problems directly related to a significant increase in the price of petroleum product".

(2) Section 173(b)(1) of such Act (42 U.S.C. 6249b(b)(1)) is amended by inserting before the period the following: "or to assist in relieving severe economic problems directly related to a significant increase in the price of petroleum product".

SEC. 1403. INSULAR AREAS STUDY.

The Secretary shall undertake a study of the implications of the unique vulnerabilities of the insular areas associated with the United States to an oil supply disruption. The study shall outline how these insular areas shall gain access to vital oil supplies during times of national emergency. Such study shall be completed within 9 months from the date of enactment of this Act and shall be sent to the Congress.

TITLE XV—OCTANE DISPLAY AND DISCLOSURE

SEC. 1501. CERTIFICATION AND POSTING OF AUTOMOTIVE FUEL RATINGS.

(a) COVERAGE OF ALL LIQUID AUTOMOTIVE FUELS.—Section 201(6) of the Petroleum Marketing Practices Act (15 U.S.C. 2821(6)) is amended to read as follows:

"(6) The term 'automotive fuel' means liquid fuel of a type distributed for use as a fuel in any motor vehicle.".

(b) AUTOMOTIVE FUEL RATING.—Section 201 of such Act (15 U.S.C. 2821) is amended by adding at the end the following new paragraphs:

"(17) The term 'automotive fuel rating' means—

"(A) the octane rating of an automotive spark-ignition engine fuel; and

"(B) if provided for by the Federal Trade Commission by rule, the cetane rating of diesel fuel oils; or

"(C) another form of rating determined by the Federal Trade Commission, after consultation with the American Society for Testing and Materials (ASTM), to be more appropriate to carry out the purposes of this title with respect to the automotive fuel concerned.

"(18)(A) The term 'cetane rating' means a measure, as indicated by a cetane index or cetane number, of the ignition quality of diesel fuel oil and of the influence of the diesel fuel oil on combustion roughness.

"(B) The term 'cetane index' and the term 'cetane number' have the meanings determined in accordance with the test methods set forth in the American Society for Testing and Materials standard test methods—

"(i) designated D976 or D4737 in the case of cetane index; and

"(ii) designated D613 in the case of cetane number,

(as in effect on the date of the enactment of this Act) and shall apply to any grade or type of diesel fuel oils defined in the specification of the American Society for Testing and Materials entitled 'Standard Specification for Diesel Fuel Oils' designated D975 (as in effect on such date).".

(c) CONFORMING AMENDMENTS.—(1) Section 201 of such Act (15 U.S.C. 2821) is amended—

(A) in paragraph (1), by striking out "gasoline" and inserting in lieu thereof "fuel";

(B) in paragraph (2)—

(i) by striking out "Standard Specifications for Automotive Gasoline" and inserting in lieu thereof "Standard Specification for Automotive Spark-Ignition Engine Fuel"; and

(ii) by striking out "D 439" and inserting in lieu thereof "D4814";

(C) in paragraph (4)—

(i) by striking out "gasoline" the first place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'refiner' means any person engaged in the production or importation of automotive fuel.";

(E) in paragraph (11)—

(i) by striking out "octane" each place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(F) in paragraph (16), by striking out "gasoline" each place it appears and inserting in lieu thereof "automotive fuel".

(2) Section 202 of such Act (15 U.S.C. 2822) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (a) and (b), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(C) in subsection (c)—

(i) by striking out "gasoline" each place it appears (other than the second place it appears) and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) in subsection (d), by striking out "octane" and inserting in lieu thereof "automotive fuel";

(E) in subsection (e)—

(i) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(ii) by striking out "gasoline's" and inserting in lieu thereof "fuel's";

(F) in subsections (f), (g), and (h), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(G) in subsection (h), by striking out "octane requirement" each place it appears and inserting in lieu thereof "automotive fuel requirement"; and

(H) in the section heading, by striking out "OCTANE" and inserting in lieu thereof "AUTOMOTIVE FUEL RATING".

(3) Section 203 of such Act (15 U.S.C. 2823) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (b) and (c), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(C) in subsection (c)(3), by striking out "201(1)" and inserting in lieu thereof "201".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective at the end of the one-year period beginning on the date of the enactment of this Act.

(2) The Federal Trade Commission shall, within 270 days after the date of the enactment of this Act, prescribe rules for the purpose of implementing the amendments made in this section.

SEC. 1502. INCREASED AUTHORITY FOR ENFORCEMENT.

(a) STATE LAW.—Section 204 of the Petroleum Marketing Practices Act (15 U.S.C. 2824) is amended to read as follows:

"RELATIONSHIP OF THIS TITLE TO STATE LAW

"SEC. 204. (a) To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

"(b) A State or political subdivision thereof may provide for any investigative or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigative or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).".

(b) FTC ENFORCEMENT.—Section 203(e) of such Act is amended by striking out "; except that" in the second sentence and all that follows through the period and inserting in lieu thereof a period.

(c) EPA ENFORCEMENT.—Section 203(b)(1) of such Act is amended—

(1) in the matter preceding subparagraph (A), by striking out "shall";

(2) in subparagraph (A), by striking out "conduct" and inserting in lieu thereof "may conduct";

(3) in subparagraph (B), by striking out "certify" and inserting in lieu thereof "shall certify";

(4) in subparagraph (C), by striking out "notify" and inserting in lieu thereof "shall notify"; and

(5) in subparagraph (C), by striking out "discovered" and all that follows through "testing".

SEC. 1503. STUDIES.

(a) IN GENERAL.—For the purpose of making the findings, conclusions, and recommendations referred to in subsection (c)—

(1) the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall carry out a study to determine whether, and if so, how, the anti-knock characteristics of nonliquid fuels usable as a fuel for a motor vehicle (as defined in section 201(7) of the Petroleum Marketing Practices Act) can be determined; and

(2) the Federal Trade Commission, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a study—

(A) to determine the need for, and the desirability of, having a uniform national label on devices used to dispense automotive fuel to consumers that would consolidate information required by Federal law to be posted on such devices; and

(B) to determine the nature of such label if it is determined under subparagraph (A) that such a need exists.

(b) IMPLEMENTATION.—(1) In carrying out studies under this section, each agency shall—

(A) publish general notice of each of the studies in the Federal Register; and

(B) give interested parties an opportunity to participate in such studies through submission of written data, views, or arguments.

(2) In carrying out the study to determine the nature of a uniform national label under subsection (a)(2)(B), the Federal Trade Commission shall—

(A) weigh the consumer, environmental, and energy saving benefits of any element of such label against the necessity for a concise, practical, and cost-efficient label; and

(B) consider as a possible element of such label a statement suggesting consumers check the vehicle's owner's manual regarding octane requirements.

(c) REPORTS.—The Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Chairman of the Federal Trade Commission shall transmit to the Congress, within one year after the date of the enactment of this Act, the findings, conclusions, and recommendations made as a result of the studies carried out by such officers under this section, together with a description of the administrative and legislative actions needed to implement such recommendations.

TITLE XVI—GREENHOUSE WARMING—ENERGY IMPLICATIONS

SEC. 1601. INTERAGENCY COORDINATING COUNCIL.

Within 90 days after the date of enactment of this Act, the President shall establish an Interagency Coordinating Council, whose function shall be to coordinate the implementation of this title. Such Council shall be composed of the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, the Secretary of State, the Secretary of the Interior, and representatives of other appropriate Federal agencies.

SEC. 1602. REPORT ON NATIONAL ACADEMY OF SCIENCES RECOMMENDATIONS.

Within 1 year after the date of enactment of this Act, the President shall transmit a report to Congress that includes—

(1) an analysis of the 19 recommendations made in chapter 9 of the 1991 National Academy of Sciences report entitled "Policy Implications of Greenhouse Warming", including an analysis of the social costs and benefits of each such recommendation; and

(2) an assessment of the extent to which the United States is responding, compared with other nations, to such recommendations.

SEC. 1603. ENERGY INVENTORY AND FORECASTS.

(a) INVENTORY.—Within 1 year after the date of enactment of this Act, the Secretary of Energy (hereafter in this title referred to as the "Secretary") shall take inventory of opportunities to expand energy production and to improve the efficiency of energy production, distribution, and use for all fossil, renewable, nuclear, and efficiency options that the Secretary projects will be reliable and commercially available over the next 3 decades. Such inventory shall include—

(1) estimates of both annual and lifecycle costs, including reasonably foreseeable costs of environmental compliance;

(2) energy contributions at various cost thresholds; and

(3) supply and demand side options.

The Secretary shall update such inventory periodically as necessary.

(b) FORECAST ASSUMPTIONS.—In developing forecast assumptions for purposes of this section, the Secretary shall apply consistent standards with respect to—

(1) the specified maturity of the technology;

(2) consideration of market barriers; and

(3) expectations regarding costs over time.

(c) LIFECYCLE COSTS FOR EXISTING FACILITIES.—Estimates of lifecycle costs for existing facilities for purposes of this section shall not include investments already made, shall be based on remaining useful lifetimes, and shall provide for opportunities for plant upgrades and modernizations. All data shall be regularly updated and reviewed.

(d) BASECASE FORECASTS.—Within 1 year after the date of enactment of this Act, the Secretary shall develop basecase forecasts of national energy needs under low and high case assumptions of economic growth that bound the range of plausible outcomes. Such forecasts shall be made for both the short run (5 to 10 years) and the long run (20 to 30 years). Externalities shall not be included in the basecase analysis. Once the basecase forecasts have been constructed and tested, a reasonable representation of demand side efficiency improvements shall be incorporated to reflect growth and the replacement of aging facilities with more modern technologies.

(e) BASECASE COMPARISONS.—Within 1 year after the date of enactment of this Act, the Secretary shall compare alternative scenarios to the basecase developed under subsection (d), including the following:

(1) COST-MINIMIZING SCENARIO, LOW CASE.—Meets United States energy needs under the low forecast at the lowest lifecycle dollar cost.

(2) COST-MINIMIZING SCENARIO, HIGH CASE.—Meets United States energy needs under the high forecast at the lowest lifecycle dollar cost.

(3) COST-MINIMIZING LOW GREENHOUSE GAS EMISSIONS SCENARIO, LOW CASE.—Meets United States energy needs under the low forecast and also meets reduction goals for greenhouse gas emissions at the lowest lifecycle dollar cost.

(4) COST-MINIMIZING LOW GREENHOUSE GAS EMISSIONS SCENARIO, HIGH CASE.—Meets United States energy needs under the high forecast and also meets reduction goals for greenhouse gas emissions at the lowest lifecycle dollar cost.

The Secretary shall update comparisons under this subsection periodically as necessary.

(f) INVENTORY OF UNDEVELOPED OPPORTUNITIES.—Within 1 year after the date of enactment of this Act, the Secretary shall take inventory of United States undeveloped opportunities to expand energy production and to improve the efficiency of energy distribution and use. The Secretary shall update such inventory periodically as necessary.

(g) PUBLIC REVIEW AND COMMENT.—Not later than 90 days before the issuance of an initial inventory, forecast, or comparison under this section, the Secretary shall publish a proposed inventory, forecast, or comparison and provide for public review and comment for a period of at least 30 days. The Secretary shall also provide for public review and comment before the issuance of any update to an inventory, forecast, or comparison under this section.

SEC. 1604. ASSESSMENT OF ALTERNATIVE POLICY MECHANISMS FOR ADDRESSING GREENHOUSE GAS EMISSIONS.

Within 1 year after the date of enactment of this Act, the President shall transmit a report to the Congress containing a comparative assessment of alternative policy mechanisms for reducing greenhouse gas emissions. Such assessment shall, at a minimum, include an analysis, for both the short run (5 to 10 years) and the long run (20 to 30 years) of the social, economic, energy, environmental, and agricultural costs and benefits, and the practicality, of each of the following approaches:

(1) Various systems of emission caps, including caps for all greenhouse gases and all sources of greenhouse gases as well as caps for only carbon dioxide emissions from new major sources.

(2) Federal efficiency or greenhouse gas emission standards, including power plant efficiency standards, industrial process efficiency standards, automobile fuel economy standards, appliance efficiency standards, national building standards, and methane emission standards.

(3) Emissions trading, including—

(A) trading for all greenhouse gases and all greenhouse gas sources;

(B) trading only for specified source categories; and

(C) trading only for carbon dioxide emissions.

SEC. 1605. VOLUNTARY REDUCTIONS OF GREENHOUSE GASES.

(a) ESTABLISHMENT OF SYSTEM.—Within 18 months after the date of enactment of this Act, the Secretary, in consultation with the Interagency Coordinating Council established under section 1601, shall establish by rule a national accounting system for voluntary reductions of greenhouse gases. Such rule shall include—

(1) baseline greenhouse gas emission estimates, calculated, except as provided in subsection (d), as an annual average over the period of 1986 through 1990;

(2) opportunities for entities to receive official certification of net greenhouse gas emission reductions relative to the baseline for purposes of receiving credit against any future Federal requirements that may apply to greenhouse gas emissions;

(3) the establishment of equivalency measures for reductions applicable to different greenhouse gases, taking into account differential radiative activity and atmospheric lifetimes, or applicable to different time periods;

(4) accounting of any net reductions in greenhouse gas emissions achieved in other countries by United States entities;

(5) provisions to ensure that no emissions reduction be credited more than once;

(6) provisions to ensure that an entity's baseline includes all greenhouse gas emissions from all sources under the control of such entity;

(7) annual certification, only after the greenhouse gas reduction or the greenhouse gas fixation has occurred;

(8) provisions that ensure that reductions of greenhouse gas emissions which are specifically required under this title, or any other Federal law in effect as of the date of enactment of this Act, shall not be certified;

(9) provisions which permit a person to file with the Secretary for verification such documentation as the Secretary considers appropriate for the certification of greenhouse gas emission reductions generated by such person;

(10) a requirement for a report to be published by the Secretary annually describing the amount of greenhouse gas emission reductions certified in each calendar year; and

(11) authorization and guidelines for a State agency to certify greenhouse gas emission reductions if the person providing such reductions establishes to the satisfaction of such State agency that such reductions comply with the requirements of this section, with the Secretary having, for a 90-day period following the receipt of such certification, the authority to review such State certification prior to registration in the National Greenhouse Gas Reduction Registry established under subsection (f).

(b) VOLUNTARY REDUCTIONS TO RECEIVE CREDIT.—At a minimum, the rule issued under subsection (a) shall provide for the certification of voluntary greenhouse gas emission reductions, relative to the baseline, through—

(1) fuel-switching to fuels which produce less greenhouse gas emissions from major sources;

(2) carbon fixation through planting new forests, improving forest management practices, preserving old growth forests, or planting other vegetation, but not for cutting and replanting old growth forests;

(3) the manufacture of vehicles with reduced greenhouse gas emissions, based on the statistically expected lifetime and use of the vehicles sold;

(4) the manufacture of appliances with improved efficiency, based on the statistically expected lifetime and use of the appliances sold;

(5) energy conservation measures, other than those which are exclusively information or educational in nature, and other than appliance efficiency improvements certified under paragraph (4);

(6) methane recovery from municipal landfills, wastewater treatment facilities, and sewage sludge facilities;

(7) greenhouse gas emission reductions attributable solely to the construction or operation of cogeneration facilities that replace existing industrial boilers or other thermal power produced by cogeneration;

(8) the manufacture of dedicated alternative fueled vehicles which only use fuels which, on a life cycle basis, produce fewer greenhouse gas emissions than gasoline;

(9) greenhouse gas emission reductions attributable solely to powerplant heat rate improvements through the repowering or replacement of an existing powerplant;

(10) greenhouse gas emission reductions attributable solely to replacement of specific, identifiable, existing utility sources with renewable energy sources, under the meaning of title VII of this Act;

(11) the capture and destruction of chlorofluorocarbons in the United States and other nations; and

(12) such other actions and methods as the Secretary determines would result in net greenhouse gas emission reductions.

(c) FUEL-SWITCHING RULES.—For purposes of applying subsection (b)(1), the rule issued under subsection (a) shall establish procedures for calculating fuel use, in mmBtus, and the number of pounds of greenhouse gases emitted per mmBtu for the fuel or, in the case of a mix of fuels, the weighted average amount of greenhouse gases emitted per mmBtu. For purposes of determining the amount of greenhouse gases emitted per mmBtu for each fuel or mix of fuels, such rule shall take into account the application of technological controls which reduce the amount of greenhouse gases emitted from the combustion of such fuels. Greenhouse gas emission reductions may be certified under this section only for reductions measured by—

(1) calculating the difference between the number of pounds of greenhouse gases per mmBtu of the fuel or, in the case of a mix of fuels, the weighted average of the greenhouse gases amount of per mmBtu, in the baseline period and in the year in which the switch occurs; and

(2) multiplying the amount calculated under paragraph (1) by the total number of mmBtus consumed by the source in the year in which the switch occurs.

(d) BASE PERIOD.—For purposes of certifications under subsection (b)(2), the base period for calculations shall be the 30-year period immediately preceding the date of enactment of this Act.

(e) SEPARATE CERTIFICATION RULES.—The rule issued under subsection (a) shall separately provide for certification rules with respect to each of the 4 types of carbon fixation referred to in subsection (b)(2).

(f) NATIONAL GREENHOUSE GAS REDUCTION REGISTRY.—The rule issued under subsection (a) shall create a National Greenhouse Reduction Registry for the purpose of tracking greenhouse gas emission reductions. At a minimum, such rule shall require the identification of persons who have obtained certification of greenhouse gas emission reductions under this section, their addresses, amounts reduced and the source of the greenhouse gas emission reductions.

SEC. 1606. INTERNATIONAL ENERGY TECHNOLOGY TRANSFER.

(a) IN GENERAL.—The Secretary of Commerce, in cooperation with the Secretary and with other appropriate Federal agencies, shall facilitate and expand exports of domestic energy technologies which could substantially reduce greenhouse gases and other environmental pollutants, and increase energy efficiency in other countries.

(b) DUTIES.—The Secretary of Commerce, in cooperation with the Secretary and with other appropriate Federal agencies, shall—

(1) coordinate the establishment, within existing Federal departments and agencies, of technical and financial assistance programs, including grants, loan guarantees, no interest and low interest loans, and cooperative agreements, to support the reduction of greenhouse gases through exports of domestic energy technology;

(2) coordinate, using the National Trade Data Bank and Commercial Information Management System, the development of a comprehensive interagency data base and information dissemination system with respect to the availability, efficacy, and cost effectiveness of energy technologies to substantially reduce greenhouse gases; and

(3) report to the House of Representatives and the Senate and to appropriate commit-

tees of each House annually on actions taken to implement this section.

(d) FEDERAL PROGRAM.—(1) The Secretary, through the Agency for International Development, shall establish a program to support the reduction of greenhouse gases through the export of domestic energy technology. The Secretary and the Administrator of the Agency for International Development shall enter into a formal agreement to carry out this program.

(2) In order to carry out this section, the Administrator of the Agency for International Development, pursuant to the agreement under paragraph (1), and after consultation with the Trade and Development Program, and, where appropriate, in consultation with the Export-Import Bank of the United States, shall—

(A) support projects, in developing countries and in countries making the transition from nonmarket to market economies, which provide energy, in a cost-effective and environmentally acceptable manner, using technology which reduces greenhouse gases;

(B) select projects for purposes of this section only if such projects use United States technology and, where appropriate, coal resources of the United States;

(C) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(D) coordinate the activities of all offices within the Agency for International Development, and work with the Agency's country missions, in developing projects for purposes of this section that provide opportunities for United States firms consistent with the Agency's primary mission to help these countries with traditional development projects;

(E) select a project only if the energy technology to which the project applies is the most cost effective technological alternative, or equal to the most cost effective alternative, on the basis of life cycle cost per unit of energy produced, for substantially reducing greenhouse gases and other environmental pollutants, and increasing energy efficiency, in the country to which the energy technology is proposed to be transferred;

(F) select a project only if appropriate accounting and project management controls will be adequate to—

(i) control the costs of the project;

(ii) ensure a high probability of success; and

(iii) ensure compliance with this section;

(G) select a project only if the project would result in a significant reduction in greenhouse gases compared to the greenhouse gases that would otherwise have been produced;

(H) in selecting projects, consider the degree to which the United States firm has proposed to provide a portion of the cost of the project.

(2) Within six months of the date of enactment of this Act and annually thereafter, the Secretary of Energy, in consultation with the Administrator of Agency for International Development, will prepare a list of eligible technologies under this subsection. In preparing such list, the Secretary shall consider fuel cell powerplants, aeroderivative gas turbines and catalytic combustion technologies for aeroderivative gas turbines; ocean thermal energy conversion technology, or anaerobic digester and storage tanks, and other technologies.

(3) The Secretary, through the Agency for International Development, and consistent with the Agency for International Development procurement guidelines, shall ensure—

(A) that the maximum percentage of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the United States manufactured components of such equipment; and

(B) the maximum participation of United States firms.

(4) There are authorized to be appropriated to the Secretary, through the Agency for International Development, for carrying out this subsection $50,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1607. GLOBAL CLIMATE CHANGE RESPONSE FUND.

(a) ESTABLISHMENT OF THE FUND.—The Secretary of the Treasury shall establish a fund in the United States Treasury known as a "Global Climate Change Response Fund" which shall act as a mechanism for United States contributions to assist global efforts in adapting and responding to climate change.

(b) DEPOSITS TO THE FUND.—(1) Subject to paragraph (2), the Secretary of the Interior shall deposit 10 percent of all royalties received under the Outer Continental Shelf Lands Act into the Global Climate Change Response Fund. Nothing in this paragraph shall reduce any amounts required to be credited to the Land and Water Conservation Fund, pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 through 460l-11), to the Historic Preservation Fund, pursuant to the Historic Preservation Act (16 U.S.C. 470h), or distributed to coastal States under section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(2) No deposits to the Global Climate Change Response Fund shall be made until—

(A) the United States has signed the Framework Convention on Climate Change; and

(B) the United States has ratified that Convention.

(c) USE OF THE FUND.—Moneys deposited into the Fund shall be used, to the extent provided in appropriations Acts, by the President only to make contributions to any agreed-upon financial mechanism pursuant to the United Nations Framework Convention on Climate Change, including any protocol or agreement related thereto.

(d) TERMINATION.—This section shall cease to apply on September 30, 2003.

TITLE XVII—ADDITIONAL FEDERAL POWER ACT AMENDMENTS

SEC. 1701. ADDITIONAL FEDERAL POWER ACT AMENDMENTS.

(a) ANNUAL CHARGES FOR COSTS.—(1) Section 10(e)(1) of the Federal Power Act is amended by striking the semicolon after "Part" and inserting the following: ", including any reasonable costs incurred by fish and wildlife agencies and other natural and cultural resource agencies in connection with studies or other reviews carried out by such agencies for purposes of administering their responsibilities under this part;".

(2) Section 10(e)(1) is further amended by inserting after "as conditions may require:" the following proviso: "*Provided*, That, subject to annual appropriations Acts, the portion of such annual charges imposed by the Commission under this subsection to cover the reasonable costs of such agencies shall be available to such agencies (in addition to other funds appropriated for such purposes) solely for carrying out such studies and reviews and shall remain available until expended:".

(b) CLARIFICATION OF AUTHORITY REGARDING FISHWAYS.—Section 18 of the Federal Power Act is amended by adding the following after the first sentence thereof: "The term 'fishway' as defined by regulation by the Commission under this section shall not be construed to limit in any way the authority of the Secretary of Commerce or the Secretary of the Interior under this section to continue to prescribe fish passage downstream and upstream and the scope thereof for any migratory or nonmigratory fish. Within 1 year after the enactment of this sentence, the Commission shall, in administering this section, review the regulatory definition of fishway and, in consultation with such Secretaries, revise such definition to assure that no such limitation exists.".

(c) EXTENSION OF DEADLINE.—Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 4031 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

(d) EXTENSION OF DEADLINE.—Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 6221 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project until July 29, 1995.

TITLE XVIII—OIL PIPELINE REGULATORY REFORM

SEC. 1801. OIL PIPELINE RATEMAKING METHODOLOGY.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall issue a final rule which establishes a simplified and generally applicable ratemaking methodology for oil pipelines in accordance with section 1(5) of part I of the Interstate Commerce Act.

(b) EFFECTIVE DATE.—The final rule to be issued under subsection (a) may not take effect before the 365th day following the date of the issuance of the rule.

SEC. 1802. STREAMLINING OF COMMISSION PROCEDURES.

(a) RULEMAKING.—Not later than 18 months after the date of the enactment of this Act, the Commission shall issue a final rule to streamline procedures of the Commission relating to oil pipeline rates in order to avoid unnecessary regulatory costs and delays.

(b) SCOPE OF RULEMAKING.—Issues to be considered in the rulemaking preceding to be conducted under subsection (a) shall include the following:

(1) Identification of information to be filed with an oil pipeline tariff and the availability to the public of any analysis of such tariff filing performed by the Commission or its staff.

(2) Qualification for standing (including definitions of economic interest) of parties who protest oil pipeline tariff filings or file complaints thereto.

(3) The level of specificity required for a protest or complaint and guidelines for Commission action on the portion of the tariff or rate filing subject to protest or complaint.

(4) An opportunity for the oil pipeline to file a response for the record to an initial protest or complaint.

(5) Identification of specific circumstances under which Commission staff may initiate a protest.

(c) Additional Procedural Changes.—In conducting the rulemaking proceeding to carry out subsection (a), the Commission shall identify and transmit to Congress any other procedural changes relating to oil pipeline rates which the Commission determines are necessary to avoid unnecessary regulatory costs and delays and for which additional legislative authority may be necessary.

(d) Withdrawal of Tariffs and Complaints.—

(1) Withdrawal of tariffs.—If an oil pipeline tariff which is filed under part I of the Interstate Commerce Act and which is subject to investigation is withdrawn—

(A) any proceeding with respect to such tariff shall be terminated;

(B) the previous tariff rate shall be reinstated; and

(C) any amounts collected under the withdrawn tariff rate which are in excess of the previous tariff rate shall be refunded.

(2) Withdrawal of complaints.—If a complaint which is filed under section 13 of the Interstate Commerce Act with respect to an oil pipeline tariff is withdrawn, any proceeding with respect to such tariff shall be terminated.

(e) Alternative Dispute Resolution.—To the maximum extent practicable, the Commission shall establish appropriate alternative dispute resolution procedures, including required negotiations and voluntary arbitration, early in an oil pipeline rate proceeding as a preferred method to adjudication in resolving disputes relating to the rate. Any proposed rates derived from implementation of such procedures shall be considered by the Commission on an expedited basis for approval.

SEC. 1803. PROTECTION OF CERTAIN EXISTING RATES.

(a) Rates Deemed Just and Reasonable.—Except as provided in subsection (b)—

(1) any rate in effect for the 365-day period ending on the date of the enactment of this Act shall be deemed to be just and reasonable (within the meaning of section 1(5) of the Interstate Commerce Act); and

(2) any rate in effect on the 365th day preceding the date of such enactment shall be deemed to be just and reasonable (within the meaning of such section 1(5)) regardless of whether or not, with respect to such rate, a new rate has been filed with the Commission during such 365-day period;

if the rate so in effect has not been subject to protest, investigation, or complaint during such 365-day period.

(b) Changed Circumstances.—No person may file a complaint under section 13 of the Interstate Commerce Act against a rate deemed to be just and reasonable under subsection (a) unless evidence is presented to the Commission which establishes that a substantial change has occurred after the date of the enactment of this Act—

(1) in the economic circumstances of the oil pipeline which were a basis for the rate; or

(2) in the nature of the services provided which were a basis for the rate.

If the Commission determines pursuant to a proceeding instituted as a result of such complaint that the rate is not just and reasonable, the rate shall not be deemed to be just and reasonable. Any tariff reduction or refunds that may result as an outcome of such a complaint shall be prospective from the date of the filing of the complaint.

(c) Limitation Regarding Unduly Discriminatory or Preferential Tariffs.—Nothing in this section shall prohibit any aggrieved person from filing a complaint under section 13 or section 15(1) of the Interstate Commerce Act challenging any tariff provision as unduly discriminatory or unduly preferential.

SEC. 1804. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) Commission.—The term "Commission" means the Federal Energy Regulatory Commission and, unless the context requires otherwise, includes the Oil Pipeline Board and any other office or component of the Commission to which the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)) are delegated.

(2) Oil pipeline.—

(A) In general.—Except as provided in subparagraph (B), the term "oil pipeline" means any common carrier (within the meaning of the Interstate Commerce Act) which transports oil by pipeline subject to the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(B) Exception.—The term "oil pipeline" does not include the Trans-Alaska Pipeline authorized by the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) or any pipeline delivering oil directly or indirectly to the Trans-Alaska Pipeline.

(3) Oil.—The term "oil" has the same meaning as is given such term for purposes of the transfer of functions from the Interstate Commerce Commission to the Federal Energy Regulatory Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(4) Rate.—The term "rate" means all charges that an oil pipeline requires shippers to pay for transportation services.

[TITLE XIX—REVENUE PROVISIONS

[SEC. 1901. AMENDMENT OF 1986 CODE.

[Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

[Subtitle A—Energy Conservation and Production Incentives

[SEC. 1911. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

[(a) Exclusion.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

["(5) qualified transportation fringe."

[(b) Qualified Transportation Fringe.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

["(f) Qualified Transportation Fringe.—

["(1) In general.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

["(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

["(B) Any transit pass.

["(C) Qualified parking.

["(2) Limitation on exclusion.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

["(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

["(B) $160 per month in the case of qualified parking.

["(3) Benefit not in lieu of compensation.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

["(4) Definitions.—For purposes of this subsection—

["(A) Transit pass.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

["(i) on mass transit facilities (whether or not publicly owned), or

["(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

["(B) Commuter highway vehicle.—The term 'commuter highway vehicle' means any highway vehicle—

["(i) the seating capacity of which is at least 6 adults (not including the driver), and

["(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

["(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

["(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

["(C) Qualified parking.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

["(D) Transportation provided by employer.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

["(E) Employee.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

["(5) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

["(A) such dollar amount, multiplied by

["(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $1, such increase shall be rounded to the next lowest multiple of $1.

["(6) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

[(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

[SEC. 1912. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY REGULATED PUBLIC UTILITIES.

[(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

["SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY REGULATED PUBLIC UTILITIES.

["(a) EXCLUSION.—

["(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided by a regulated public utility to a customer for the purchase or installation of any energy conservation measure.

["(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(C), only 65 percent of such subsidy shall be excluded from gross income under paragraph (1).

["(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

["(c) ENERGY CONSERVATION MEASURE.—

["(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means—

["(A) any residential energy conservation measure with respect to a dwelling unit,

["(B) any commercial energy conservation measure with respect to dwelling units in a building containing 5 or more dwelling units, and

["(C) in the case of subsidies provided on or after January 1, 1994—

["(i) any commercial energy conservation measure with respect to property other than dwelling units, and

["(ii) any specially defined energy property.

["(2) OTHER DEFINITIONS.—For purposes of this subsection—

["(A) RESIDENTIAL ENERGY CONSERVATION MEASURE.—The term 'residential energy conservation measure' has the meaning given to such term by section 210(11) of the National Energy Conservation Policy Act (as in effect on the date of the enactment of this section).

["(B) COMMERCIAL ENERGY CONSERVATION MEASURE.—The term 'commercial energy conservation measure' means any installation or modification primarily designed to reduce the consumption of petroleum, natural gas, or electricity. Such term includes the items referred to in any subparagraph of section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986).

["(C) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' has the meaning given to such term by section 48(l)(5) of this title (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

["(D) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

["(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

[(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

["Sec. 136. Energy conservation subsidies provided by regulated public utilities.

["Sec. 137. Cross reference to other Acts."

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

[SEC. 1913. DEDUCTIONS RELATING TO CLEAN-FUEL VEHICLES.

[(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

["SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

["(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the cost of—

["(1) any qualified clean-fuel vehicle property, and

["(2) any qualified clean-fuel vehicle refueling property.

[The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

["(b) LIMITATIONS.—

["(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

["(A) IN GENERAL.—The cost which may be taken into account under subsection (a) with respect to any motor vehicle shall not exceed—

["(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

["(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

["(iii) $50,000 in the case of—

["(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

["(II) any bus which has a seating capacity of at least 20 adults (not including the driver).

["(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

["(i) 25 percent in the case of property placed in service in calendar year 2002,

["(ii) 50 percent in the case of property placed in service in calendar year 2003, and

["(iii) 75 percent in the case of property placed in service in calendar year 2004.

["(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

["(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

["(i) $100,000, over

["(ii) the aggregate amount taken into account under subsection (a) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

["(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

["(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a).

["(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

["(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

["(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel, but only to the extent such property is—

["(i) an engine (or modification thereof) which may use a clean-burning fuel, or

["(ii) used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

["(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel, but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which may use such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

["(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

["(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

["(B) in the case of property described in paragraph (1)(A), such property meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

["(3) ONLY INCREMENTAL COST TAKEN INTO ACCOUNT.—If a vehicle may be propelled by both a clean-burning fuel and any other fuel, only the incremental cost of permitting the use of the clean-burning fuel shall be taken into account.

["(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

[“(1) such property is of a character subject to the allowance for depreciation,

[“(2) the original use of such property begins with the taxpayer, and

[“(3) such property is for the storage or dispensing of a clean-burning fuel (not including electricity) into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle.

[“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

[“(1) CLEAN-BURNING FUEL.—The term ‘clean-burning fuel’ means—

[“(A) natural gas,

[“(B) liquefied natural gas,

[“(C) liquefied petroleum gas,

[“(D) hydrogen,

[“(E) electricity, and

[“(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

[“(2) MOTOR VEHICLE.—The term ‘motor vehicle’ means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

[“(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

[“(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

[“(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

[“(6) BASIS REDUCTION.—

[“(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

[“(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

[“(f) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004.”

[(b) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

[“(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A.”

[(c) CONFORMING AMENDMENTS.—

[(1) Section 1016(a) is amended by striking “and” at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting “, and”, and by adding at the end thereof the following new paragraph:

[“(25) to the extent provided in section 179A(e)(6)(A).”

[(2) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

[“Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property.”

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

[SEC. 1914. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

[(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

[“SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

[“(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

[“(1) 1.5 cents, multiplied by

[“(2) the kilowatt hours of electricity—

[“(A) produced by the taxpayer—

[“(i) from qualified energy resources, and

[“(ii) at a qualified facility during the 10-year period beginning on the date the facility was placed in service, and

[“(B) sold by the taxpayer to an unrelated person during the taxable year.

[“(b) LIMITATIONS AND ADJUSTMENTS.—

[“(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

[“(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

[“(B) 3 cents.

[“(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

[“(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

[“(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

[“(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

[“(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103, and

[“(iii) the aggregate amount of subsidized energy financing under a Federal, State, or local program provided in connection with the project, and

[“(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

[“(c) DEFINITIONS.—For purposes of this section—

[“(1) QUALIFIED ENERGY RESOURCES.—The term ‘qualified energy resources’ means—

[“(A) wind, and

[“(B) closed-loop biomass.

[“(2) CLOSED-LOOP BIOMASS.—The term ‘closed-loop biomass’ means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

[“(3) QUALIFIED FACILITY.—The term ‘qualified facility’ means any facility originally placed in service by the taxpayer after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

[“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

[“(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

[“(A) the United States (within the meaning of section 638(1)), or

[“(B) a possession of the United States (within the meaning of section 638(2)).

[“(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

[“(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for the preceding calendar year in accordance with this paragraph.

[“(B) INFLATION ADJUSTMENT FACTOR.—The term ‘inflation adjustment factor’ means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for the calendar year 1992. The term ‘GNP implicit price deflator’ means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

[“(C) REFERENCE PRICE.—The term ‘reference price’ means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States.

[“(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective interests in the gross sales from such facility.

[“(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

[“(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.”

[(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking “plus” at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting “, plus”, and by adding at the end thereof the following new paragraph:

[“(8) the renewable electricity production credit under section 45(a).”

[(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

[“(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993.”

[(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

[“Sec. 45. Electricity produced from certain renewable resources.”

[(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

[SEC. 1915. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

[(a) DEPLETION.—

[(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: “Effective with respect to taxable years beginning after December 31, 1992, and before January 1, 1998, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).”.

[(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

[“(F) DEPLETION.—

[“(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

[“(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, and before January 1, 1998, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c).”

[(b) INTANGIBLE DRILLING COSTS.—

[(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

[“(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—

[“(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, and before January 1, 1998, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

[“(ii) LIMITATION ON AGGREGATE BENEFIT.—The aggregate reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under subsection (a)(4).”

[(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: “In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992, and before January 1, 1998.”.

[(c) CONFORMING AMENDMENTS.—

[(1) Subsection (h) of section 56 is amended by adding at the end thereof the following new paragraph:

[“(9) SUSPENSION.—No deduction shall be allowed under this subsection for any taxable year beginning after December 31, 1992, and before January 1, 1998.”

[(2) Clause (ii) of section 59(a)(2)(A) is amended by striking “and the” and inserting “, section 57(a)(2)(E), and the”.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

[SEC. 1916. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

[(a) IN GENERAL.—Subparagraph (B) of section 4681(b)(1) (relating to amount of tax) is amended to read as follows:

[“(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

[“Calendar year:	Base tax amount:
1992	$1.85
1993	2.75
1994	3.65
1995	4.55.”

[(b) CONFORMING AMENDMENTS.—

[(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

[(A) by striking “15” and inserting “13.5”, and

[(B) by striking “10” and inserting “9.6”.

[(2) FLOOR STOCK TAXES.—

[(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking “1993, and 1994” and inserting “1993, 1994, and 1995, and July 1, 1992”.

[(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

[(i) by inserting “or July 1” after “January 1”, and

[(ii) by inserting “or December 31, respectively,” after “June 30”.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

[SEC. 1917. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

[(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) is amended to read as follows:

[“In the case of:	The applicable percentage is:	
	For sales or use during 1992	For sales or use during 1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2404	2.3	1.5”.

[(b) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS.—

[(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

[“(4) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS.—

[“(A) RATE OF TAX.—

[“(i) IN GENERAL.—In the case of—

[“(I) any use after June 30, 1992, and before January 1, 1994, of any substance to sterilize medical instruments, or

[“(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph be imposed).

[In the case of sales or use during:	The applicable percentage is:
1992	90.3
1993	60.7.

[“(ii) QUALIFIED SALE.—For purposes of clause (i), the term ‘qualified sale’ means any sale by the manufacturer, producer, or importer of any substance—

[“(I) for use by the purchaser to sterilize medical instruments, or

[“(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

[“(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used after June 30, 1992, and before January 1, 1994, by any person to sterilize medical instruments, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

[“(i) the tax paid under this subchapter on such substance, or

[“(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.”

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after July 1, 1992.

[SEC. 1918. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

[(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

[(1) by striking “Except as provided in subparagraph (B), the” and inserting “The”,

[(2) by striking subparagraph (B), and

[(3) by redesignating subparagraph (C) as subparagraph (B)

[(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on June 30, 1992.

[SEC. 1919. NUCLEAR DECOMMISSIONING FUNDS.

[(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking “described in section 501(c)(21)(B)(ii)”.

[(b) REDUCTION IN RATE OF TAX.—Paragraph (2) of section 468A(e) is amended—

[(1) by striking “at the rate equal to the highest rate of tax specified in section 11(b)” in subparagraph (A) and inserting “at the rate set forth in subparagraph (B)”, and

[(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

[“(B) RATE OF TAX.—For purposes of subparagraph (A), the rate set forth in this subparagraph is—

[“(i) 22 percent in the case of taxable years beginning in calendar year 1994 or 1995, and

[“(ii) 20 percent in the case of taxable years beginning after December 31, 1995.”

[(c) EFFECTIVE DATES.—

[(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

[(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1993. Section 15 of the Internal Revenue Code of 1986 shall not apply to any change in rate resulting from the amendment made by subsection (b).

[SEC. 1920. FACILITIES FOR PRODUCTION OF CERTAIN FUELS.

[Subsection (f) of section 29 is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (1)(B), a facility for production of qualified fuels referred to in subparagraph (B)(ii) or (C) of subsection (c)(1) shall be treated as placed in service before January 1, 1993, if such facility is placed in service before January 1, 1996, pursuant to a written binding contract in effect on December 31, 1992, and at all times thereafter before such facility is placed in service."

[SEC. 1921. TREATMENT UNDER LOCAL FURNISHING RULES OF CERTAIN ELECTRICITY TRANSMITTED OUTSIDE LOCAL AREA.

[(a) IN GENERAL.—Subsection (f) of section 142 (relating to local furnishing of electric energy or gas) is amended to read as follows:

["(f) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—For purposes of subsection (a)(8)—

["(1) IN GENERAL.—The local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

["(A) a city and 1 contiguous county, or

["(B) 2 contiguous counties.

["(2) TREATMENT OF CERTAIN ELECTRIC ENERGY TRANSMITTED OUTSIDE LOCAL AREA.—

["(A) IN GENERAL.—A facility shall not be treated as failing to meet the local furnishing requirement of subsection (a)(8) by reason of electricity transmitted pursuant to an order of the Federal Energy Regulatory Commission under section 211 or 213 of the Federal Power Act (as in effect on the date of the enactment of this paragraph) if the portion of the facility financed with tax-exempt bonds is not greater than the portion of the use of the facility which is in the local furnishing of electric energy (determined without regard to this paragraph).

["(B) SPECIAL RULE FOR EXISTING FACILITIES.—In the case of a facility financed with bonds issued before the date of an order referred to in subparagraph (A) which would (but for this subparagraph) cease to be tax-exempt by reason of subparagraph (A), such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if, to the extent necessary to comply with subparagraph (A)—

["(i) bonds are defeased not later than the 90th day after the date such order was issued, and

["(ii) bonds are redeemed not later than the earliest date on which such bonds may be redeemed."

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued before, on, or after the date of the enactment of this Act.

[Subtitle B—Other Revenue Provisions

[SEC. 1931. REPEAL OF EXEMPTION FROM COMMUNICATIONS TAX FOR NEWS SERVICES.

[(a) GENERAL RULE.—Subsection (b) of section 4253 (relating to exemption for news services) is hereby repealed.

[(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect on January 1, 1993.

[SEC. 1932. EXCEPTION FROM PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST FOR SMALL ISSUERS INCREASED TO $20,000,000.

[(a) IN GENERAL.—Subparagraphs (C) and (D) of section 265(b)(3) are each amended by striking "$10,000,000" each place it appears and inserting "$20,000,000".

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1992.

[SEC. 1933. CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

[(a) GENERAL RULE.—

[(1) Paragraph (1) of section 613(b) is amended—

[(A) by striking "and uranium" in subparagraph (A), and

[(B) in subparagraph (B)—

[(i) by striking "asbestos,",

[(ii) by striking "lead,", and

[(iii) by striking "mercury,".

[(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

[(3) Paragraph (4) of section 613(b) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

[(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

["(D) mercury, uranium, lead, and asbestos."

[(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended—

[(1) by striking "lead,", and

[(2) by striking "uranium,".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

[SEC. 1934. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

[(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to program to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1997".

[(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1997".

[(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

[SEC. 1935. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

[(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

["(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

["(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

["(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

["(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

["(B) such overpayment is refunded within 45 days after such claim is filed,

[no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

["(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

[(b) EFFECTIVE DATES.—

[(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

[(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992 regardless of the taxable period to which such refund relates.

[(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

[SEC. 1936. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

[(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

["(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

["(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

["(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

["(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

["(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.".

[(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

["(E) any requirement under section 6109(f) that—

["(i) a person include on his return the name, address, and TIN of another person, or

["(ii) a person furnish his TIN to another person."

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

[Subtitle C—Federal Tax Exemption for Uranium Enrichment Corporation; Limitation on Borrowing Authority

[SEC. 1941. FEDERAL TAX EXEMPTION; LIMITATION ON BORROWING AUTHORITY.

[(a) Federal Tax Exemption.—Subsection (1) of section 501 (relating to governmental corporations exempt from tax) is amended by adding at the end thereof the following:

["(4) The Uranium Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954.

Paragraph (4) shall cease to apply as of the first day on which any stock issued by the Uranium Enrichment Corporation is held by any person other than the Federal Government."

[(b) Limitation on Borrowing Authority.—

[(1) Chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

["SUBCHAPTER III—RESTRICTION ON BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

["§3141. Limitation on borrowing authority of Uranium Enrichment Corporation

["The Uranium Enrichment Corporation established pursuant to section 1301 of the Atom Energy Act of 1954 may borrow (directly or indirectly) from the Treasury only to the extent, and in the manner, provided in section 1405 of such Act (as in effect on the date of the enactment of this section).".

[(2) The chapter analysis for chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following:

["SUBCHAPTER III—RESTRICTION ON BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

["3141. Limitation on borrowing authority of Uranium Enrichment Corporation.".]

TITLE XIX—REVENUE PROVISIONS

SEC. 1901. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 1911. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) Exclusion.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) Qualified Transportation Fringe.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Qualified Transportation Fringe.—

"(1) In general.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) Limitation on exclusion.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $145 per month in the case of qualified parking.

"(3) Cash reimbursements.—For purposes of this subsection, the term 'qualified transportation fringe' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

"(4) Benefit not in lieu of compensation.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(5) Definitions.—For purposes of this subsection—

"(A) Transit pass.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) Commuter highway vehicle.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) Qualified parking.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) Transportation provided by employer.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) Employee.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(6) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.

"(7) Coordination with other provisions.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) Conforming Amendment.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) Effective Date.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 1912. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) General Rule.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

"(a) Exclusion.—

"(1) In general.—Gross income shall not include the value of any subsidy provided by a public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) Limitation on exclusion for nonresidential property.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(B), only 80 percent of such subsidy shall be excluded from gross income under paragraph (1).

"(b) Denial of Double Benefit.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) Energy Conservation Measure.—

"(1) In general.—For purposes of this section, the term 'energy conservation measure' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1994, with respect to property other than dwelling units.

The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).

"(2) Other definitions and special rules.—

"(A) Definitions.—For purposes of this subsection—

"(i) Specially defined energy property.—The term 'specially defined energy property' means—

"(I) a recuperator,

"(II) a heat wheel,

"(III) a regenerator,

"(IV) a heat exchanger,

"(V) a waste heat boiler,

"(VI) a heat pipe,

"(VII) an automatic energy control system,

"(VIII) a turbulator,

"(IX) a preheater,

"(X) a combustible gas recovery system,

"(XI) an economizer,

"(XII) modifications to alumina electrolytic cells,

"(XIII) modifications to chlor-alkali electrolytic cells, or

"(XIV) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(ii) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(iii) PUBLIC UTILITY.—The term 'public utility' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

"(B) SPECIAL RULES.—

"(i) THIRD-PARTY CONTRACTORS.—If, in connection with the purchase or installation of an energy conservation measure for a customer of a public utility, such public utility provides a subsidy to a person other than the customer, such subsidy shall be excludable under subsection (a) from the gross income of such other person to the extent such subsidy would be so excludable from the gross income of the customer.

"(ii) STATE-SPONSORED PROGRAMS.—A payment by a public utility to a customer for the use of a tax benefit granted to the customer by a State pursuant to a State-sponsored energy conservation program shall be excludable under subsection (a) from the gross income of the customer to the extent such payment would be so excludable if provided as a subsidy by the public utility.

"(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by public utilities.
"Sec. 137. Cross reference to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 1913. TREATMENT OF CLEAN-FUEL VEHICLES.

(a) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of—

"(1) in the case of any qualified clean-fuel vehicle property—

"(A) except as provided in subparagraph (B), the cost of the property, or

"(B) in the case of a vehicle described in subsection (c)(1)(B) which may be propelled by both a clean-burning fuel and any other fuel, an amount equal to the greater of—

"(i) $1,200, or

"(ii) the incremental cost of permitting the use of the clean-burning fuel, plus

"(2) the cost of any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

"(A) IN GENERAL.—The cost which may be taken into account under subsection (a)(1) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver),

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(2) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a)(2) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a)(2).

"(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel—

"(i) if the property is an engine (or modification thereof) which may use a clean-burning fuel, or

"(ii) to the extent the property is used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(3) EXCEPTION FOR QUALIFIED ELECTRIC VEHICLES.—The term 'qualified clean-fuel vehicle property' does not include any qualified electric vehicle (as defined in section 30(c)).

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is—

"(A) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

"(B) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(3) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(b) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the cost of any qualified electric vehicle placed in service by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2001, the credit otherwise allowable under subsection (a) shall be reduced by—

"(A) 25 percent in the case of property placed in service in calendar year 2002,

"(B) 50 percent in the case of property placed in service in calendar year 2003, and

"(C) 75 percent in the case of property placed in service in calendar year 2004.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over—

"(B) the tentative minimum tax for the taxable year.

"(c) QUALIFIED ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified electric vehicle' means any motor vehicle—

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current,

"(B) the original use of which commences with the taxpayer, and

"(C) which is acquired for use by the taxpayer and not for resale.

"(2) MOTOR VEHICLE.—For purposes of paragraph (1), the term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(d) SPECIAL RULES.—

"(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit.

"(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(e) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004".

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Credit for qualified electric vehicles."

(B) Section 1016(a), as amended by subsection (a)(3), is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 30(d)(1)."

(C) Section 53(d)(1)(B)(iii) is amended—

(i) by striking "section 29(b)(5)(B) or" and inserting "section 29(b)(6)(B),", and

(ii) by inserting ", or not allowed under section 30 solely by reason of the application of section 30(b)(2)(B)" before the period.

(D) Section 55(c)(2) is amended by striking "29(b)(5)," and inserting "29(b)(6), 30(b)(2),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 1914. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

"(iii) the aggregate amount of subsidized energy financing under a Federal, State, or local program provided in connection with the project, and

"(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility originally placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for such calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. For purposes of the preceding sentence, only contracts entered into after December 31, 1989, shall be taken into account.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

SEC. 1915. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) DEPLETION.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) DEPLETION.—

"(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) INTANGIBLE DRILLING COSTS.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—In the case of any oil or gas well—

"(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) LIMITATION ON BENEFIT.—The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.".

(c) CONFORMING AMENDMENTS.—

(1) Section 56 is amended by striking subsection (h).

(2) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

(3) Section 59(a)(2)(A)(ii) is amended by striking "and the alternative tax energy preference deduction under section 56(h)" and inserting "and section 57(a)(2)(E)".

(4) Section 59A(b)(1) is amended by striking "or the alternative tax energy preference deduction under section 56(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 1916. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ADDITIONAL BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical for any calendar year (determined without regard to this subparagraph) shall be increased by the amount determined under the following tables for such calendar year:

"(i) INITIALLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.18
1993	0.10
1994	1.00
1995 and each calendar year thereafter	1.45.

"(ii) NEWLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.48
1993	1.08
1994	0.65
1995 and each calendar year thereafter	1.45."

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "January 1 of 1991, 1992, 1993, and 1994" and inserting "January 1 of 1991 and 1992, October 1, 1992, and January 1 of 1993 and each calendar year thereafter".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or October 1" after "January 1", and

(ii) by inserting "or March 31 of the succeeding calendar year, respectively," after "such year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after October 1, 1992.

SEC. 1917. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) is amended to read as follows:

"In the case of:	The applicable percentage is:	
	For sales or use during 1992	For sales or use during 1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2404	2.3	1.5".

(b) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use after September 30, 1992, and before January 1, 1994, of any substance to sterilize medical devices, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph be imposed):

"In the case of sales or use during:	The applicable percentage is:
1992	90.3
1993	60.7.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical devices, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used after September 30, 1992, and before January 1, 1994, by any person to sterilize medical devices, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after October 1, 1992.

SEC. 1918. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" in subparagraph (A) and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Ocean Thermal Energy.—Subparagraph (A) of section 48(a)(3) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) equipment, placed in service after June 30, 1992, at either of 2 locations designated by the Secretary after consultation with the Secretary of Energy, which converts ocean thermal energy to usable energy,".

(c) Effective Date.—The amendments made by this section shall take effect on June 30, 1992.

SEC. 1919. NUCLEAR DECOMMISSIONING FUNDS.

(a) Repeal of Investment Restrictions.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 1920. ALCOHOL FUELS.

(a) Reduced Rate of Tax on Gasoline Mixed With Alcohol.—

(1) In general.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended to read as follows:

"(1) In general.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by multiplying the otherwise applicable rate by a fraction the numerator of which is 10 and the denominator of which is—

"(A) 9 in the case of 10 percent gasohol,

"(B) 9.23 in the case of 7.7 percent gasohol, and

"(C) 9.43 in the case of 5.7 percent gasohol,

in the case of the removal or entry of any gasoline for use in producing gasohol at the time of such removal or sale. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or entry.".

(2) Conforming amendments.—Section 4081(c) is amended—

(A) by striking "6.1 cents a gallon" in paragraph (2) and inserting "an otherwise applicable rate", and

(B) by striking paragraph (4) and inserting the following new paragraph:

"(4) Otherwise applicable rate.—For purposes of this subsection—

"(A) In general.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 percent gasohol.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 percent gasohol.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 percent gasohol.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.".

(3) Effective date.—The amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) or entered after September 30, 1992.

(b) Alcohol Fuels Credit May Offset Minimum Tax.—

(1) In general.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) Alcohol fuels credit may offset minimum tax.—

"(A) In general.—The amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation, or

"(ii) 50 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) Portion of the alcohol fuels credit not used against normal limitation.—For purposes of subparagraph (A), the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to such alcohol fuels credit, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph), reduced by the portion of the credit under subsection (a) which is not so attributable."

(2) Effective date.—

(A) In general.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1992.

(B) Exception.—The amendment made by paragraph (1) shall not apply to—

(i) any credit which was determined in a taxable year, or

(ii) any credit which is carried back to a taxable year,

beginning on or before September 30, 1992.

SEC. 1921. DETERMINATION OF INDEPENDENT PRODUCERS.

(a) Retailers.—

(1) In general.—Section 613A(d)(2) is amended—

(A) by inserting "and sales of natural gas by a regulated public utility" after "users", and

(B) by inserting "and sales of products derived from natural gas by a regulated public utility" after "Defense".

(2) Definition.—Section 613A(d)(2) is amended by adding at the end thereof the following new sentence "For purposes of the first sentence, the term 'regulated public utility' means a utility described in section 7701(a)(33) at least 50 percent of the gross income of which is derived from sources described in subparagraphs (A), (B), and (C) of section 7701(a)(33).".

(b) Refiners.—Section 613A(d)(4) (relating to certain refiners excluded) is amended to read as follows:

"(4) Certain refiners excluded.—If the taxpayer or 1 or more related persons engage in the refining of crude oil, subsection (c) shall not apply to such taxpayer during any taxable year if the aggregate average daily refinery runs of the taxpayer and such persons for the taxable year exceed 50,000 barrels.".

(c) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1992.

SEC. 1922. TAX-EXEMPT FINANCING FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.

(a) In General.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(12) environmental enhancements of hydroelectric generating facilities.".

(b) Definition and Special Rules for Environmental Enhancements of Hydroelectric Generating Facilities.—

(1) In general.—Section 142 is amended by adding at the end the following new subsection:

"(j) Environmental Enhancements of Hydroelectric Generating Facilities.—

"(1) In general.—For purposes of subsection (a)(12), the term 'environmental enhancements of hydroelectric generating facilities' means property—

"(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

"(B) which—

"(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

"(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

"(2) Use of proceeds.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i).".

(2) Financed property must be governmentally owned.—Subparagraph (A) of section 142(b)(1) (relating to certain facilities must be governmentally owned) is amended by striking "(2) or (3)" and inserting "(2), (3), or (12)".

(3) Exclusion from volume cap.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "or (2)" and inserting ", (2), or (12)", and

(B) by striking "and docks and wharves" and inserting ", docks and wharves, and environmental enhancements of hydroelectric generating facilities".

(c) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle B—Other Revenue Provisions

SEC. 1931. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) In General.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Club Membership Dues.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) Effective Date.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

SEC. 1932. MODIFICATIONS TO TAX ON INSURANCE POLICIES ISSUED BY FOREIGN INSURERS.

(a) Increase in Tax on Certain Reinsurance Contracts.—Paragraph (3) of section 4371 (relating to imposition of tax) is amended to read as follows:

"(3) Reinsurance.—

"(A) 4 cents on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1).

"(B) 1 cent on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (2).".

(b) Retention of Existing Tax Rate in Certain Cases; Limitation on Treaty Benefits.—

(1) Section 4371 is amended by adding at the end thereof the following new subsection:

"(b) SPECIAL RULES.—

"(1) LOWER RATE ON CERTAIN REINSURANCE PREMIUMS.—Subparagraph (A) of subsection (a)(3) shall be applied with respect to any premium by substituting '1 cent' for '4 cents' if—

"(A) such premium is paid to a foreign insurer or reinsurer which is a resident of a foreign country,

"(B) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed by chapter 1, and

"(C) the risk with respect to which such premium is paid is not reinsured (directly or through a series of transactions) by a resident of another foreign country who does not meet the requirements of subparagraph (B).

"(2) APPLICATION OF RELIEF.—In applying paragraph (1) or any treaty, no person shall be relieved of the requirement to remit any tax imposed by this chapter on any premium unless the parties to the transaction satisfy such requirements as the Secretary may prescribe to ensure collection of tax due on any reinsurance of the risk with respect to which such premium was paid.

"(3) SECRETARIAL AUTHORITY.—

"(A) ENFORCEMENT PROCEDURES.—The Secretary may prescribe regulations setting forth such procedures as the Secretary may deem appropriate to ensure compliance with the requirements of paragraph (1).

"(B) WAIVER.—The Secretary may by regulations waive the requirements of paragraph (1)(C) in such circumstances and subject to such conditions as he may deem appropriate.".

(2) Section 4371 is amended by striking "There is hereby" and inserting the following:

"(a) GENERAL RULE.—There is hereby".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date of the enactment of this Act but only to the extent allocable to reinsurance for periods after December 31, 1992.

Subtitle C—Health Care of Coal Miners

SEC. 1941. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 1942. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) coal provides a significant portion of the energy used in the United States;

(2) the production, transportation and use of coal affects interstate and foreign commerce and the national public interest;

(3) a significant portion of the national work force has been employed in the production of coal for interstate and foreign commerce and in the national interest;

(4) the Government of the United States has regulated the coal industry, employment in the industry, and the provision of retirement benefits within the industry;

(5) the continued well-being and security of employees, retirees and their dependents within the coal industry are directly affected by the provision of health benefits to retirees and their dependents;

(6) for many decades, the provision of adequate health care for retirees has been an essential element in maintaining a stable and strong coal industry as an important component in a strong United States economy;

(7) an important element in the privately maintained benefit plans now experiencing financial difficulty has been the provision of health benefits for retirees of companies no longer in business; and

(8) withdrawals of contributing employers from privately maintained benefit plans under collective bargaining agreements derived from an agreement with the United States, covering retirees within the coal industry, result in substantially increased funding burdens for employers that continue to contribute to such plans, adversely affect labor-management relations and the stability and strength of the coal industry, and impair the provision of health care to retirees.

(b) ADDITIONAL FINDINGS.—The Congress further finds that—

(1) it is necessary to modify and reform the current private benefit plan structure for retirees within the coal industry in order to stabilize the provision of health care benefits to such retirees; and

(2) it is necessary to supplement the current private benefit plan structure with a benefit protection program that will assure continued funding and contain program costs.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this subtitle—

(1) to remedy problems that discourage the provision, funding, and delivery of health care to coal industry retirees;

(2) to provide reasonable protection for the health benefits of coal industry retirees;

(3) to require use of state-of-the-art cost containment and managed care measures as part of the overall package of health care delivery and financing; and

(4) to provide a financially self-sufficient program for the provision of retiree health benefits in the coal industry.

SEC. 1943. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. Coal industry health benefits.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A. Coal Industry Retiree Health Benefits Corporation.
"SUBCHAPTER B. Eligibility for and payment of benefits.
"SUBCHAPTER C. Other provisions.

"Subchapter A—Coal Industry Retiree Health Benefit Corporation

"Sec. 9701. Establishment of the Corporation.
"Sec. 9702. Directors of Corporation.
"Sec. 9703. Powers; tax status.
"Sec. 9704. Operation of Corporation.

"SEC. 9701. ESTABLISHMENT OF THE CORPORATION.

"There is hereby created the Coal Industry Retiree Health Benefit Corporation (hereafter in this chapter referred to as the 'Corporation'), which shall be a governmental body corporate under the direction of a board of directors. Within the limitations of law and regulation, the board of directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"SEC. 9702. DIRECTORS OF CORPORATION.

"(a) APPOINTMENT.—The board of directors of the Corporation shall consist of 5 persons, who shall be appointed by the Secretary of Labor. The board shall at all times have the following as members:

"(1) 2 persons from employers in the coal-mining industry (only 1 of whom shall be from an entity that is or was a settlor of a plan described in section 404(c));

"(2) 1 person from an organization that represents coal industry employees (and that is or was a settlor of a plan described in section 404(c));

"(3) 1 person from another labor organization representing employees (whether or not in the coal industry); and

"(4) 1 other person who shall serve as the chairman.

"(b) TERMS OF OFFICE, SUCCESSORS.—Each director shall be appointed for a term of 3 years, except for the initial term. The initial terms of the directors shall be as follows:

"Coal industry employee representative .... (section 404(c) settlor)	4 years
"Coal-mining industry employer .... (section 404(c) settlor)	3 years
Other employee representative	3 years
Other coal-mining industry employer	2 years
Chairman	1 year.

A vacancy on the board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term. A director may serve after the expiration of a term until a successor has taken office.

"(c) QUORUMS.—Vacancies on the board shall not impair the powers of the board to execute the functions of the Corporation so long as there are 3 members in office. The presence of 3 members shall constitute a quorum for the transaction of the business of the board.

"(d) INDEPENDENT AUDIT.—The Corporation shall annually employ an independent certified or licensed public accountant who shall examine and audit the books and financial transactions of the Corporation. The Corporation shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this chapter.

"(e) ADOPTION OF BYLAWS; AMENDMENT; ALTERATION; PUBLICATION IN THE FEDERAL REGISTER.—As soon as practicable, but not later than 180 days after the date of the enactment of this chapter, the board shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation. Thereafter, the board may alter, supplement or repeal any existing bylaw or rule, and may adopt additional bylaws and rules from time to time as may be necessary. Any bylaw or rule relating to the conduct or business of the Corporation shall be adopted in compliance with the Administrative Procedure Act, including the notice and comment provisions thereof.

"SEC. 9703. POWERS; TAX STATUS.

"(a) POWERS OF CORPORATION.—The Corporation shall have power—

"(1) to adopt, alter, and use a corporate seal;

"(2) to have succession until dissolved by Act of Congress;

"(3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter;

"(4) to make and perform contracts, agreements, and commitments;

"(5) to prescribe and impose fees and charges for services by the Corporation;

"(6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation, to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation;

"(7) to sue and be sued, complain and defend, in any State, Federal, or other court;

"(8) to acquire, take, hold, and own, and to deal with and dispose of any property;

"(9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and to appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents;

"(10) to borrow funds from the United States Treasury for startup and operating costs;

"(11) to collect delinquent accounts; and

"(12) to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this chapter.

"(b) EXEMPTION FROM TAXATION.—The Corporation, its property, its franchise, capital, reserves, surplus, and its income (including but not limited to, any income of any fund established under section 9704(f)), shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21, relating to the Federal Insurance Contributions Act and chapter 23, relating to the Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the Corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

"(c) CORPORATION AS AGENCY.—Notwithstanding section 1349 of title 28 or any other provision of law—

"(1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

"(2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

"(3) any civil or other action, case or controversy in a court of a State, or any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation to the United States district court for the district and division embracing the place where the same is pending, or if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

"(d) REPORT TO CONGRESS.—No later than 1 year after the effective date of this chapter, the Corporation shall present a report to Congress on its activities, including an evaluation of the economic impact of this chapter on small coal companies and an evaluation of the effectiveness of the Corporation in achieving its goals, and recommending any changes to this chapter as it considers beneficial, including any recommended changes in premiums considered warranted to minimize any undue economic impact on small coal companies. At such time, Congress shall review the activities and operations of the Corporation.

"SEC. 9704. OPERATION OF CORPORATION.

"(a) INVESTIGATORY AUTHORITY.—

"(1) The Corporation may make such investigations as it deems necessary to enforce any provision of this chapter or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(2) The Corporation shall keep strictly confidential all information received relating to—

"(A) trade secrets or financial or commercial information pertaining specifically to a given person, the disclosure of which could cause competitive injury to such person, or

"(B) personnel or medical data or similar data, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

unless the portions containing such matters, information, or data have been excised, but may use such information to the extent necessary to enforce the premium obligation imposed under subsection (g).

"(b) DISCOVERY POWERS VESTED IN BOARD OR DESIGNATED OFFICERS.—For the purpose of any investigation described in subsection (a), or any other proceeding under this chapter, the board or any officer designated by the board, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records which the Corporation deems relevant or material to the inquiry.

"(c) CONTEMPT.—In case of contumacy by, or refusal to obey, a subpoena issued to any person, the Corporation may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on (or where such person resides or carries on business) in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records. The court may issue an order requiring such person to appear before the Corporation, and to produce records or to give testimony related to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or may be found.

"(d) COOPERATION WITH GOVERNMENTAL AGENCIES.—In order to avoid unnecessary expense and duplication of functions among government agencies, the Corporation may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this chapter as is practicable and consistent with law. The Corporation may utilize the facilities or services of any department, agency or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency or establishment. The head of each department, agency or establishment of the United States shall cooperate with the Corporation and, to the extent permitted by law, provide such information and facilities as it may request for its assistance in the performance of its functions under this chapter.

"(e) CIVIL ACTIONS.—

"(1) Civil actions may be brought by the Corporation for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(2) Except as otherwise provided in this chapter, if an action is brought in a district court of the United States, it may be brought in the district where the Corporation is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(3) The district courts of the United States shall have jurisdiction of actions brought by the Corporation under this chapter without regard to the amount in controversy in any such action.

"(4)(A) An action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose; or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B) The applicable date specified in this subparagraph is the earliest date on which the Corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(C) For purposes of this paragraph, in an action by the Corporation to collect premiums due under this chapter, the cause of action shall be treated as having arisen no earlier than the date on which the premium was due.

"(5) In any action brought under this chapter, whether to collect premiums, penalties (in the amount determined by the Corporation, which shall be no greater than the greater of interest on the unpaid premium or 20 percent of the amount of the unpaid premium), or interest (at the rate determined by the Corporation) or for any other purpose, in which a judgment in favor of the Corporation is awarded, the court shall award the Corporation its costs and reasonable counsel fees.

"(f) ESTABLISHMENT OF COAL INDUSTRY RETIREE BENEFIT FUND.—

"(1) The Corporation shall establish a Coal Industry Retiree Benefit Fund (hereafter in this chapter referred to as the 'Fund'). Except as provided in paragraph (2), all amounts received by the Corporation shall be deposited in the Fund, and all expenditures made by the Corporation shall be made out of the Fund.

"(2) The Corporation shall transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury of the United States any portion of the premiums received under subsection (g) which are allocable to the portion of such premiums which are imposed to offset Federal revenue losses by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(3) Except as otherwise provided in this chapter, the balance of the Fund shall at any time consist of the aggregate at such time of the following items:

"(A) Cash on hand or on deposit.

"(B) Amounts invested in United States Government or agency securities.

"(g) IMPOSITION OF PREMIUM PAYMENT OBLIGATION.—

"(1)(A) There is hereby imposed on each person that produces bituminous coal for use or for sale the obligation to pay to the Corporation an hourly premium equal to—

"(i) in the case of bituminous coal produced in an eastern State, the rate for each hour worked in coal production work by such person's employees determined in accordance with the following:

"In the case of calendar year	**The rate is:**
1992	$1.18
1993	$1.18
1994	$1.19
1995	$1.19
1996 or thereafter	$1.20

, or

"(ii) in the case of bituminous coal produced in a western State, 15 cents on each hour worked in coal production work by such person's employees.

"(B)(i) There is hereby imposed on bituminous coal imported to the United States, for use or for sale, a per-ton premium obligation to be paid to the Corporation. Such premium is intended to be equivalent to the premium imposed on domestically produced bituminous coal.

"(ii) The amount of the per-ton premium shall be equal to 39 cents per ton.

"(iii) For purposes of this subparagraph, the term 'ton' means 2,000 pounds, and the term 'United States' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

“(C)(i) In addition to the amounts specified in subparagraphs (A) and (B), each last signatory operator and each other employer referred to in this subparagraph shall pay to the Corporation an annual per beneficiary premium. The amount of the annual per beneficiary premium shall be the product of the total number of orphan miners, spouses, surviving spouses, and dependents (determined under section 9711) attributable to such last signatory operator or employer and the per beneficiary premium as calculated in clause (iii).

“(ii) For purposes of this subparagraph, an orphan miner (and his spouse, surviving spouse and dependents) shall be attributable—

“(I) to an employer if his employment with such employer resulted in his eligibility under section 9711(b)(1)(E); or

“(II) to a last signatory operator meeting the conditions described in section 9723(6) with respect to such orphan miner.

“(iii)(I) The amount of the per beneficiary premium shall be determined in accordance with the following table:

“In the case of calendar year	***The premium is:***
1992	*$1,215*
1993	*$2,532*
1994	*$2,745*
1995	*$2,973*
1996	*$3,216*
1997 and thereafter	*$3,479.*

“(II) As of the date any per beneficiary premium obligation is due under this subparagraph, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator or employer shall be treated as such last signatory operator or employer, and shall be jointly and severally liable for such obligation.

“(iv) A last signatory operator shall have no liability under this subparagraph if—

“(I) as of November 5, 1990, and for all periods thereafter, such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the mining, production, preparation, marketing, sale, distribution, transportation, leasing or licensing of coal; and

“(II) such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, were, in the aggregate, involved in the production of fewer than 50,000 tons of coal during each of the 3 years immediately preceding the cessation of such involvement.

The limitation of liability set forth in the preceding sentence shall cease to apply at any time that a last signatory operator, or any persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, ceases to meet the conditions described in subclause (I).

“(v) The annual per beneficiary premium shall be payable in equal monthly installments, due by the tenth day of each month. In no event shall a last signatory operator be obligated to pay a per beneficiary premium for an individual for any month for which the last signatory operator has paid its required assessment for such individual under section 9713(d).

“(vi) A last signatory operator shall have no liability under this subparagraph if as of January 1, 1992, such last signatory operator and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the production, sale, distribution, transportation, or use in processes for producing products of the operator and such persons, of bituminous and sub-bituminous coal (other than the sale or leasing of any interest in coal reserves).

“(2)(A) In the event that a person required to make payments under paragraph (1) fails to do so, the Corporation shall assess liability against the person, based upon the Corporation's estimate of the person's liability.

“(B) No later than 90 days after the assessment of liability by the Corporation, the person may request administrative review of the Corporation's assessment, in accordance with procedures adopted by the Corporation.

“(C) Notwithstanding the pendency of administrative review of any assessment of liability, the person shall, no later than 30 days after the assessment of such liability, pay all amounts required by the assessment in accordance with any payment schedule applied by the Corporation. In the event a person fails to make such payments, all amounts owed by the person shall become immediately due and payable.

“(D) In the event the person that has made payments in accordance with subparagraph (C) is ultimately determined, in accordance with subparagraph (B), to have paid in excess of the amounts actually due, the person shall receive a refund of such excess amounts, with interest.

“(3) The Corporation shall report to the Congress before the close of any calendar year with respect to any adjustment in the amount of the premiums imposed under subparagraphs (A)(i) and (B) of paragraph (1) for the following calendar year which the Corporation determines necessary to enable the provision of benefits under section 9712. Any recommendation with respect to any adjustment shall reflect the reduction in Federal revenues by reason of deductions being allowed under chapter 1 with respect to such premiums.

“(4) Premiums owed under subparagraphs (A) and (B) of paragraph (1) shall be due on the tenth day of each calendar month immediately following the month in which the coal is produced or imported, and shall be paid to the Corporation in accordance with forms and schedules promulgated by the Corporation.

“(5) The premium obligation imposed under this section shall take effect on July 1, 1992. Premiums paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

“(6) For purposes of this subsection—

“(A) the term ‘bituminous coal’ means coal classified as bituminous coal according to the publication of the American Society for Testing and Materials under the title ‘Standard Classification of Coals by Rank’ (ASTM D 388–91a), as in effect on the date of the enactment of this chapter; and

“(B) the term ‘Eastern States’ includes Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; and

“(C) the term ‘Western States’ includes Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

“Subchapter B—Eligibility for and Payment of Benefits

“Sec. 9711. Eligibility; orphan miners.
“Sec. 9712. Payment of benefits.
“Sec. 9713. Establishment of Coal Industry 1991 Benefit Fund.
“Sec. 9714. Obligation of last signatory operator to provide benefits to retirees.
“Sec. 9715. Transition benefits; premium nonpayment; transfers between 1991 Fund and Corporation.

“SEC. 9711. ELIGIBILITY; ORPHAN MINERS.

“(a) IN GENERAL.—Any person who is an orphan miner, as defined in subsection (b), or who meets the conditions set forth in subsection (c), shall be eligible to receive benefits provided by the Corporation pursuant to section 9712, except that no person shall be eligible to receive benefits from the Corporation because of a failure to receive benefits resulting from a temporary labor dispute.

“(b) ORPHAN MINER STATUS.—For purposes of this section—

“(1) An orphan miner is any person who—

“(A)(i) as of the date of enactment of this chapter, was eligible to receive benefits as a retiree from a plan described in section 9721(d) (or, but for the enactment of this chapter, would be eligible to receive benefits as a retiree from the plan described in section 9721(d)(2)(A)); and

“(ii) is not receiving benefits as a retiree from a plan described in section 9721(d) or from the plan established pursuant to section 9713;

“(B) is not described in subparagraph (A), but was eligible to receive benefits as a retiree from the plan established pursuant to section 9713 and is not receiving benefits from such plan;

“(C)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

“(ii) but for the enactment of this chapter, would be eligible to receive medical benefits as a retiree as of February 1, 1993, from the plan described in section 9721(d)(2)(B); and

“(iii) is not receiving medical benefits as a retiree from the plan described in section 9721(d)(2)(B) or from any other plan;

“(D)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

“(ii) as of February 1, 1993, had earned 20 years of credited service under such plan;

“(iii) is at any time after beginning to receive such pension not receiving retiree medical benefits equal to the benefits in effect at that time under the plans described in section 9712(b)(3); and

“(iv) meets the eligibility requirements for retiree medical benefits then in effect under such plans; or

“(E)(i) was eligible as a result of coal production work performed in the bituminous, sub-bituminous or lignite coal industry to receive retiree medical benefits from a health care plan that met the requirements of subparagraphs (D) and (E) of paragraph (2);

“(ii) initially ceased to receive retiree medical benefits on or after the date of enactment of this chapter, despite continued eligibility therefore;

‘(iii) had been receiving such benefits from a plan that had been in existence for at least 3 years prior to the cessation of benefits; and

“(iv) was included in a category of retirees that had been eligible to receive benefits for at least 3 years prior to the cessation of benefits.

“(2) For purposes of paragraph (1)(E), the following rules shall apply:

“(A) Eligibility is continuing where benefits ceased incident to an employer's cessation of operations, but is not continuing where benefits ceased pursuant to a lawful termination or modification of a plan (under circumstances other than a cessation of operations).

“(B) In the case of any individual who has 20 years of credited service under a defined benefit pension plan maintained pursuant to the agreement described in section 9723(7), or who was otherwise eligible to receive retiree medical benefits from a single employer health care plan pursuant to a coal wage agreement, all health care plans in which such individual was a participant during a period of such credited service or during such period of eligibility shall be taken

into account in determining whether the 3-year tests have been met.

"(C) In the case of an employer that established a new health care plan as a replacement for a prior plan, such prior plan shall be taken into account in determining whether the 3-year tests have been met.

"(D) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of the plan to the Corporation within 180 days from the later of—

"(i) the date of establishment of the plan; or

"(ii) the date of enactment of this chapter.

"(E) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of any amendment or modification to the plan to the Corporation within 180 days from the later of—

"(i) the date of such amendment or modification; or

"(ii) the date of enactment of this chapter.

"(c) ELIGIBILITY OF SPOUSES AND DEPENDENTS.—

"(1) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual was eligible to receive benefits from a plan described in section 9721(d) as of the date of enactment of this chapter, and is not receiving benefits from that plan or from the plan established pursuant to section 9713.

"(2) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual is not described in paragraph (1), but was eligible to receive benefits from the plan established pursuant to section 9713 and is not receiving benefits from such plan.

"(3) In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(A) or (b)(1)(C) of this section, eligibility shall be based upon the rules set forth in the plans described in section 9721(d) as of the date of enactment of this chapter. In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(D), eligibility shall be based upon the rules set forth in individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation. In all other cases, eligibility shall be based upon the rules of the plan that was or would have been applicable to the orphan miner or deceased coal miner for the 3-year period preceding eligibility for benefits from the Corporation. The Corporation is authorized to promulgate regulations consistent with this paragraph establishing the eligibility of other spouses, surviving spouses and dependents of orphan miners or deceased coal miners for health benefits.

"(d) REENROLLMENT OF ORPHAN MINERS AND BENEFICIARIES.—The Corporation and the joint board of trustees of the plan established pursuant to section 9713 shall cooperate to review the eligibility of individuals under this section. Pending such review, any individual receiving benefits from a plan described in section 9721(d) as of the date of enactment of this chapter shall be presumed to meet the first part of the eligibility tests of subsections (b)(1)(A) and (c)(1). However, no individual shall be considered eligible to receive benefits provided by the Corporation unless a determination is made that such individual in fact met or meets all eligibility requirements necessary to receive benefits as required under subsection (b) or (c). No individual shall be eligible under subsection (b)(1)(A) or (c)(1) if such individual was finally determined to be ineligible to receive benefits from a plan described in section 9721(d) prior to the date of enactment of this chapter.

"SEC. 9712. PAYMENT OF BENEFITS.

"(a) IN GENERAL.—The Corporation shall provide medical benefits to orphan miners, their spouses, surviving spouses and dependents, who meet the eligibility requirements of section 9711, and shall provide coverage for death benefits to orphan miners eligible for such benefits. The board shall establish schedules of benefits applicable to classes of orphan miners, their spouses, surviving spouses and dependents, in accordance with this section. All benefit obligations of the Corporation shall be contingent upon the continued imposition of an hourly premium payment obligation as specified in section 9704(g)(1)(A).

"(b) BENEFIT LEVELS.—

"(1) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(A) or 9711(b)(1)(C) shall be entitled to benefit coverage that is substantially the same as (but not exceeding) the coverage provided by the plans described in section 9721(d) as of the date of enactment of this chapter, and shall be subject to all limitations of such coverage. Such orphan miner shall also be eligible for death benefits, which shall be equal to the death benefits provided as of the date of enactment of this chapter under the plan described in section 9721(c).

"(2) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(B) or 9711(b)(1)(E) shall be entitled to a level of benefits and benefit coverage that is substantially the same as (but not exceeding) the retiree benefit coverage applicable to him immediately preceding his eligibility for benefits from the Corporation, and shall be subject to all limitations of such coverage. Notwithstanding the foregoing, the following rules shall apply:

"(A) The level of benefits and benefit coverage provided under this paragraph shall not exceed that which is provided under paragraph (1) of this subsection.

"(B) In determining the retiree benefit coverage applicable to an orphan miner for purposes of this paragraph, the Corporation shall disregard any increases or decreases in benefits or benefit coverage that were in effect for fewer than 3 years preceding the orphan miner's eligibility for benefits from the Corporation, except that—

"(i) any death benefit applicable to an orphan miner as a result of 1991 amendments to the agreement described in section 9723(7) shall not be disregarded; and

"(ii) increases or decreases in benefits or benefit coverage that were the subject of a collective bargaining agreement shall not be disregarded.

"(3) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(D) shall be entitled to a level of benefits and benefit coverage equivalent to the level of benefits and benefit coverage, if any, provided under individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation, and shall be subject to all limitations of such coverage.

"(4) An individual eligible for benefits pursuant to section 9711(c) shall be entitled to medical benefit coverage that does not exceed the medical benefit coverage that is or would have been applicable to the coal miner through whom the individual claims eligibility, and the individual shall be subject to all limitations of such coverage.

"(5) The Corporation may make increases to its schedules of benefits that are desirable for efficiency of administration, except that such adjustments to benefits may not result in an increase in cost to the Corporation or an increase in any premium under section 9704(g).

"(c) MANDATORY MANAGED CARE.—The Corporation shall develop managed care rules which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules shall include, but not be limited to—

"(1) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(2) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(3) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(4) utilizing Medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(5) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(6) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(7) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) EFFECTIVE DATE.—Benefits shall be payable under this section as of July 1, 1992. Pursuant to section 9715, the Corporation shall pay the trustees of the plans described in section 9721(d) and the plan established pursuant to section 9713 for all benefit and administrative costs expended with respect to eligible orphan miners, spouses, surviving spouses and dependents, from the effective date to the date that such individuals are transferred to the Corporation.

"(e) ELECTIVE COVERAGE.—

"(1) An employer may elect to provide retirement health coverage to its employees by meeting the following conditions:

"(A) The employer must employ workers in the coal industry.

"(B) The employer agrees to pay an annual premium, as determined by the Corporation, sufficient to provide retirement health coverage to all of its employees who perform classified work as determined under the agreement described in section 9723(7), or any successor agreement, who have worked a total of 20 years, including both service with that employer, service for any other employer described in this subsection, and service for any other employer that is credited for purposes of eligibility by a plan described in section 404(c).

"(C) The employer is not currently obligated by a collective bargaining agreement to make contributions to the plan established pursuant to section 9713.

"(D) The employer's election, once made, is irrevocable.

"(2) Upon the retirement of an employee of an employer described in paragraph (1), with 20 or more years of service, upon such terms and conditions as established by the Corporation, such employee and his or her dependents shall receive benefits, upon such terms and conditions as determined by the Corporation.

"SEC. 9713. ESTABLISHMENT OF UNITED MINE WORKERS OF AMERICA 1991 BENEFIT FUND.

"(a) MERGER OF RETIREE BENEFIT PLANS.—

"(1) As soon as practicable after the enactment of this chapter, and in no event later than 60 days, the settlors of the plans described in section 9721(d) shall cause such plans to be merged, and shall appoint a joint board of trustees to manage the operation and administration of the merged plan. The merged plan shall be known as the United Mine Workers of America 1991 Benefit Fund (hereinafter referred to as the '1991 Fund'). The 1991 Fund shall be an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(2) The settlors shall design the structure and administration of the 1991 Fund. The settlors may at any time and for any reason change the number and identity of the members comprising the board of trustees of the 1991 Fund.

"(b) ELIGIBILITY.—

"(1) The following individuals shall be eligible to receive benefits from the 1991 Fund:

"(A) Any individual who, as of the date of enactment of this chapter, was eligible to receive benefits from the plan described in section 9721(d)(2)(A) (or who, but for the enactment of this chapter, would be eligible for benefits from such plan), and with respect to whom the last signatory operator is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement.

"(B) Any individual who retired from classified employment under an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement, and any spouse, surviving spouse or dependent of such retiree, with respect to whom the last signatory operator makes an election prior to February 1, 1993, to pay premiums to the 1991 Fund for such benefits and is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement. Any election made pursuant to this subparagraph must cover, at a minimum, all of the last signatory operator's retirees who retired from classified employment as of February 1, 1993.

"(2) No individual shall be eligible under subparagraph (A) of paragraph (1) unless the joint board of trustees of the 1991 Fund determines that such individual in fact met all eligibility requirements of the plan described in section 9721(d)(2)(A) as of the date of enactment of this chapter. Any individual who was finally determined to have been ineligible for benefits from a plan described in section 9721(d)(2)(A) prior to such date of enactment shall be ineligible under subparagraph (A) of paragraph (1).

"(c) BENEFITS.—

"(1) Except as otherwise provided in this subsection, health care benefits provided under the 1991 Fund shall be identical to the benefits provided under the plans described in section 9721(d). The 1991 Fund shall provide coverage for death benefits to retirees, equal to the death benefits provided under the plan described in section 9721(c).

"(2) The joint board of trustees of the 1991 Fund shall develop managed care rules, subject to section 9714(b), which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. The board of trustees shall permit any last signatory operator subject to section 9714 to utilize the managed care and cost containment rules and programs developed pursuant to this paragraph, at the election of such last signatory operator. Major elements of such rules shall include, but not be limited to—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(C) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(D) utilizing medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(G) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) ASSESSMENTS.—

"(1) As of November 30 of each plan year, the joint board of trustees of the 1991 Fund shall set a monthly assessment for each person required to pay assessments pursuant to paragraph (2). The monthly assessment for each such person shall be equal to $1/12$ *of the product of—*

"(A) the projected cost of operating the 1991 Fund during the succeeding plan year (less any assets received from a plan described in section 9721(c) and any other surplus assets) divided by the number of participants and beneficiaries for the current plan year; and

"(B) the projected number of the 1991 Funds' eligible participants and beneficiaries attributable to such person, determined as of the nearest November 1.

In projecting the cost of operating the 1991 Fund, the board of trustees shall take into account the anticipated benefit experience and administrative expenses of the 1991 Fund as a whole, and amounts needed to eliminate any accumulated deficit. The monthly assessment determined under this paragraph shall be verified by an independent auditor, and shall continue in effect for each month of the succeeding plan year, except that the joint board of trustees shall determine a monthly assessment for any new contributor or other person for whom a monthly assessment has not been established, and a revised monthly assessment for any last signatory operator that makes the election described in subsection (b)(1)(B) and with respect to which new participants and beneficiaries become eligible for benefits. Any new monthly assessment or revised monthly assessment shall be based upon the number of projected participants and beneficiaries attributable to the contributor as of the date the new or revised assessment is made. Each person required to pay assessments pursuant to paragraph (2) shall continue to pay to the plans described in section 9721(d) the contributions required under the applicable coal wage agreement, until the first month for which the assessment described in this paragraph is set. In no event shall a person required to pay assessments pursuant to paragraph (2) be required to make any payment to the 1991 Fund for the same period for which a contribution to a plan described in section 9721(d) is required.

"(2) Each last signatory operator with respect to any person described in subsection (b)(1)(A), and each last signatory operator with respect to any person described in subsection (b)(1)(B) that has agreed to provide benefits coverage through the 1991 Fund, shall pay to the 1991 Fund for each month the assessment determined by the joint board of trustees pursuant to paragraph (1). The assessments paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(3) Either of the settlors shall have the right to audit the accounts, books and records, and operation of the 1991 Fund, at any time and for any reason, upon reasonable notice to the joint board of trustees. The joint board of trustees shall cooperate fully with the settlors in connection with any such audit and shall make available appropriate personnel and records deemed necessary by the auditors for inspection and copying at reasonable times and places.

"(4) Each last signatory operator obligated to pay assessments to the 1991 Fund pursuant to paragraph (2) shall be bound by all of the provisions of the plan and trust documents establishing and governing the 1991 Fund.

"(5) As of the date any assessment owed under this subsection is due, the persons described in section 9723(5) (B) or (C) with respect to any last signatory operator shall be treated as such last signatory operator and shall be jointly and severally liable for such assessment.

"(e) EXCLUSIVE OBLIGATION.—Except as provided in this chapter, no employer that was a signatory to the 1978 or any subsequent coal wage agreement and that had an obligation to provide health care benefits to coal mine retirees shall be obligated to provide benefits to individuals covered by the plans described in section 9721(d), or to make contributions to any plan described in section 9721(d), or to the 1991 Fund, with respect to work performed or coal mined after the date of enactment of this chapter, or to pay withdrawal liability to a plan described in section 9721(d) as a result of the change in the contribution obligation required by this chapter.

"SEC. 9714. OBLIGATION OF LAST SIGNATORY OPERATOR TO PROVIDE BENEFITS TO RETIREES.

"(a) DURATION OF OBLIGATION.—The last signatory operator of any individual receiving retiree health care benefits as of February 1, 1993 (including retiree, spouse, surviving spouse and dependent benefits) from an individual employer plan maintained pursuant to a coal wage agreement (or who has applied for such benefits as of February 1, 1993, and has met every eligibility requirement for such benefits as of such date) shall provide retiree health care benefits to such individual equal to the benefits required to be provided by such last signatory operator's individual employer plan as of January 1, 1992, as limited by any managed care or cost containment rules of the type described in sections 9712(c) and 9713(c)(2), and subject to subsection (b), for as long as the last signatory operator remains in business. The existence, level and duration of benefits provided to a last signatory operator's former employees (and their spouses, surviving spouses and dependents), other than those described in this subsection, who are or were covered by a coal wage agreement, shall only be as determined by and subject to collective bargaining or lawful unilateral action, except that this subsection shall not be construed

to impair the eligibility of any individual described in section 9711(b)(1)(D) for the benefit coverage described in section 9712(b)(3).

"(b) MANAGED CARE PROVIDER SYSTEM QUALITY CONTROL.—Any managed care provider system adopted by a last signatory operator as permitted under subsection (a), or by the joint board of trustees of the 1991 Fund, pursuant to section 9713(c)(2), shall be subject to the following requirements of this subsection:

"(1) The settlors shall establish a medical peer review panel, which shall determine standards of quality for managed care provider systems. Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending upon the nature of the medical need. Each settlor shall have the power to appoint and remove 2 individuals who shall serve on the panel. A panel member shall be either a medical practitioner knowledgeable in managed care, or an individual who is expert in managed care.

"(2) Each last signatory operator and the joint board of trustees of the 1991 Fund shall submit a description of any managed care provider system to the panel prior to implementation of the system, and shall, on the same date or prior to such submission, provide notice of the submission to the participants of the affected employee benefit plan or plans. The last signatory employer or the joint board of trustees may implement the proposed system on a provisional basis on or after the 120th day after the submission to the panel, unless the panel issues a preliminary determination that the system has not been shown to meet the requisite standards. The requirements of this paragraph shall not apply to a last signatory operator electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(3)(A) Upon receipt of a submission by a last signatory operator or by the joint board of trustees, the panel shall conduct a preliminary examination of the managed care provider system. In the event that the preliminary review reveals a failure to show compliance with established standards such that provisional implementation by a last signatory operator or by the joint board of trustees may be detrimental to participants subject to the system, the panel shall, within 120 days of the submission, issue a preliminary determination that the system has not been shown to meet the requisite standards.

"(B) Within 240 days from the date of any submission, the panel shall issue a final determination of whether the system has been shown to meet the established standards of quality. In the event of a negative determination, the panel shall list specific steps that may be taken by the last signatory operator or by the joint board of trustees to qualify the system under the established standards.

"(C) The first-named settlor in section 9723(8) shall have the authority to review submissions made under paragraph (2), and to designate the order in which such submissions shall be considered by the panel.

"(D) In the event that the members of the panel deadlock on a determination to be made under this paragraph, they shall, by majority vote, appoint a neutral person, who would be qualified to serve as a panel member, to break such deadlock.

"(4) In the event of a negative determination by the panel, the last signatory operator shall have the options described in subparagraph (A), (B), or (C), and the joint board of trustees shall have the options described in subparagraphs (A) and (B):

"(A) implementing the specific steps outlined by the panel pursuant to paragraph (3);

"(B) consistent with the requirements of this subsection, establishing a new managed care provider system that meets the requisite standards; or

"(C) electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(5) The panel shall develop rules for the periodic review of determinations made, except that reviews shall be no more frequent than once every 3 years; and for the reconsideration of any prior determination upon a showing that the managed care provider system does not or has ceased to meet the established standards. The panel may take into account written complaints received from affected participants and beneficiaries, but the authority of the panel shall be limited to determining the continued qualification of a managed care provider system under the established standards, and shall not extend to resolving claims of medical malpractice or any other issue.

"(6) The panel shall withhold from all persons not connected with the conduct of a reconsideration or review described in paragraph (5) (other than the first-named settlor in section 9723(8)) all information relating to the subject of any written complaint received by an affected participant or beneficiary; and may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such information. Notwithstanding the foregoing, the panel shall provide the last signatory operator or the joint board of trustees of the 1991 Fund with a copy of any written complaint relating to a managed care provider system maintained by such last signatory operator or joint board of trustees.

"(7)(A) The panel, any person acting as a member or staff to the panel, any person under a contract or other formal agreement with the panel, and any person who participates with or assists the panel with respect to any action taken pursuant to this subsection, shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the Civil Rights Acts (42 U.S.C. 1981 et seq.). Nothing in this subparagraph shall prevent the United States or any attorney general of a State from bringing an action, where such an action is otherwise authorized.

"(B) Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to the panel regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

"(8) The joint board of trustees of the 1991 Fund and each last signatory operator that makes a submission pursuant to subsection (b)(2) shall be liable for reasonable fees assessed by the panel in connection with the review of managed care provider systems.

"(c) SATISFACTION OF OBLIGATIONS.—Subject to the provisions of sections 9711 and 9713, the obligations of a last signatory operator under this section may be satisfied for any period with respect to any individual by payment of the required assessment under section 9713(d) or the premium under section 9704(g)(1)(C), or by the provision of the required benefits under an individual employer plan.

"(d) CONTROL GROUP LIABILITY.—As of the date that any benefit obligation owed pursuant to this section is due, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator shall be treated as such last signatory operator, and shall be jointly and severally liable for such benefit obligation.

"SEC. 9715. TRANSITION BENEFITS; PREMIUM NONPAYMENT; TRANSFERS BETWEEN 1991 FUND AND CORPORATION.

"(a) PAYMENT OF BENEFITS TO ORPHAN MINERS.—The plans described in section 9721(d) and the 1991 Fund shall continue to provide benefits to orphan miners, spouses, surviving spouses and dependents described in section 9711 (b) and (c), until the end of the second month beginning after the effective date of section 9712(d). Such orphan miners, spouses, surviving spouses and dependents shall be transferred to the Corporation as of the first day of the third month following the effective date of section 9712(d). The defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) shall, on behalf of the Corporation and the 1991 Fund, continue to provide death benefits to orphan miners described in section 9711(b) and to retirees described in section 9713(b)(1) until the end of the second month beginning after the effective date of section 9712(d). Such pension plans shall have no liability for death benefits for the orphan miners described in section 9711(b), or for the retirees described in section 9713(b)(1), as of the first day of the third month following the effective date of section 9712(d). The Corporation may elect to pay the plans described in section 9721(d), the 1991 Fund, or the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) to continue to provide transition benefits after the end of the second month beginning after the effective date of section 9712(d), and for a period not to exceed 6 months. If the Corporation so elects, it shall pay such plans all amounts necessary to enable the provision of benefits and to cover all costs of administration associated with the provision of benefits. The schedule for such payments shall be determined by the boards of trustees of the plans, and may require advance payments. Amounts paid pursuant to this subsection shall not be included in the amounts to be reimbursed pursuant to subsection (b).

"(b) REIMBURSEMENT OF COST FOR TRANSITION BENEFITS.—No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation shall reimburse the plans described in section 9721(d) and the 1991 Fund, with interest, for the amounts of benefits paid and administrative expenses incurred pursuant to subsection (a). No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation and the 1991 Fund shall reimburse the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7), with interest, for the amount of death benefits paid and administrative expenses incurred pursuant to subsection (a).

"(c) ACCESS TO RECORDS.—The joint boards of trustees of the plans described in section 9721(d) and the 1991 Fund shall share with the Corporation all records, files and documents related to the orphan miners, spouses, surviving spouses and dependents transferred to the Corporation, to the extent necessary for the Corporation to administer the payment of benefits to such individuals.

"(d) PREMIUM NONPAYMENT.—

"(1) No individual shall be eligible for benefits from the 1991 Fund during any month for which the assessments required under section 9713(d) have not been paid by such individual's last signatory operator. Such individual shall be immediately eligible to receive benefits from the Corporation and the Corporation shall have a cause of action against such individual's last signa-

tory operator for the per beneficiary premium imposed under section 9704(g)(1)(C).

"(2) The 1991 Fund shall continue to treat an individual described in paragraph (1) as if he or she were eligible for benefits until the end of the third month for which an assessment due has not been paid. If the last signatory operator with respect to such individual has not paid its assessments due by the end of such month (with such interest and liquidated damages imposed by the board of trustees in their discretion, up to the amounts provided in section 9722(d)(2) (B) and (C)), the 1991 Fund shall notify the Corporation that the individual is transferred to the Corporation pursuant to paragraph (1), and the Corporation shall reimburse the 1991 Fund, with interest, for any benefits paid to or on behalf of such individual for all months for which assessments have not been paid.

"Subchapter C—Other Provisions

"Sec. 9721. Determination and disposition of excess assets.
"Sec. 9722. Civil enforcement.
"Sec. 9723. Definitions.
"Sec. 9724. Sham transactions.

"SEC. 9721. DETERMINATION AND DISPOSITION OF EXCESS PENSION ASSETS.

"(a) DETERMINATION OF EXCESS PENSION ASSETS.—

"(1) Within 30 days after the enactment of this chapter, the joint board of trustees of the plan described in subsection (c) shall, through the independent actuaries of the plan, calculate the amount of the excess pension assets. The trustees of the plan described in subsection (c) shall recalculate the excess pension assets at any time that they are directed to do so by the settlors.

"(2) Immediately following the calculation (or recalculation) of the excess pension assets, the trustees of the plan described in subsection (c) shall segregate the excess pension assets from the remaining assets of such plan. The segregated excess pension assets (including all earnings thereon) shall be held in the plan until disbursed pursuant to subsection (b).

"(b) DISPOSITION OF EXCESS PENSION ASSETS.—Notwithstanding any other provision of law, the excess pension assets (including all earnings thereon) shall be expended in the following order:

"(1) Fifty million dollars shall be added to the general assets of the Corporation.

"(2) The deficits in the plans described in subsection (d) as of the date of enactment of this chapter shall be reduced to zero.

"(3) Fifty million dollars shall be added to the general assets of the 1991 Fund.

"(4) The remainder of the excess pension assets, if any, shall be added to the general assets of the 1991 Fund, at such times and in such amounts as may be directed by the settlors.

"(c) PLAN CONTAINING EXCESS PENSION ASSETS.—A plan is described in this subsection if it is a pension plan and—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(d) RELATED WELFARE PLANS.—A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) it provides health benefits to retirees and beneficiaries of the industry which maintained the plan described in subsection (c); and

"(A) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976; or

"(B) participation in the plan is substantially limited to individuals who retired on or after January 1, 1976.

"(e) TAX TREATMENT, VALIDITY OF TRANSFER OF EXCESS PENSION ASSETS.—

"(1) No deduction shall be allowed under this title with respect to the expenditure of excess pension assets pursuant to subsection (a), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers or amounts hereafter contributed by employers to the plans described in subsection (c) or (d), or to the 1991 Fund.

"(2) The expenditure of excess pension assets pursuant to subsection (b)—

"(A) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(B) shall not be includible in the gross income of any employer maintaining a plan described in subsection (c).

"(3) Neither the segregation of excess pension assets pursuant to subsection (a)(2), the expenditure of excess pension assets pursuant to subsection (b), nor any direction made by the settlors pursuant to subsection (a)(1) or (b)(4) shall be deemed to violate or be prohibited by any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to taxes, fines, or penalties of any kind whatsoever.

"SEC. 9722. CIVIL ENFORCEMENT.

"(a) Civil actions may be brought by the 1991 Fund for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(b) Except as otherwise provided in this chapter, where such an action is brought in a district court of the United States, it may be brought in the district where the 1991 Fund is administered, in the district where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(c) The district courts of the United States shall have jurisdiction of actions brought by the 1991 Fund under this chapter without regard to the amount in controversy in any such action.

"(d)(1) In any action brought under subsection (a) (other than an action described in paragraph (2)), the court in its discretion may award to the 1991 Fund all or a portion of the costs of litigation, including reasonable attorneys' fees, incurred by the 1991 Fund in connection with such action.

"(2) In any action by the 1991 Fund to enforce section 9713(d)(2), in which a judgment in favor of the 1991 Fund is awarded, the court shall award the 1991 Fund—

"(A) the unpaid assessments;

"(B) interest on the unpaid assessments;

"(C) an amount equal to the greater of—

"(i) interest on the unpaid assessments; or

"(ii) liquidated damages in the amount of 20 percent of the amount determined by the court under subparagraph (A);

"(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant; and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid assessments shall be determined by using the rate provided under the rules of the 1991 Fund, or, if none, the rate prescribed under section 6621.

"(e)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the 1991 Fund acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(b) shall be extended to 6 years after the applicable date.

"(f) Any person who is an employer, a last signatory operator, a person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, a bituminous coal industry retiree, or any spouse, surviving spouse or dependent of a bituminous coal industry retiree, and is adversely affected by any act or omission of any party under this chapter, or who is an employee organization of which such a coal industry retiree is a member, or an employer association of which such an employer is a member, may bring an action for appropriate equitable relief in the appropriate court.

"(1) During the pendency of any proceeding under this subsection by an employer, employer association, last signatory operator, or person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, all potentially affected retirees, spouses, surviving spouses and dependents eligible for benefits from the 1991 Fund shall be transferred to the Corporation, which shall—

"(A) provide such benefits as would have been provided from the 1991 Fund, and

"(B) have and exercise all of the rights and obligations of the 1991 Fund with respect to—

"(i) the collection of assessments relating to such retirees and spouses, surviving spouses and dependents, and

"(ii) the defense of the proceeding.

"(2) In the event that a last signatory operator or other person pays to the 1991 Fund the assessments required pursuant to section 9713(d) for any month during the pendency of a proceeding described in paragraph (1), the 1991 Fund, and not the Corporation, shall be responsible for providing any benefits required to be paid for that month to eligible individuals under section 9713(b).

"(g) In any action brought under subsection (f), the court may award all or a portion of the costs and expenses, including reasonable attorneys' fees, incurred in connection with such action to any party that prevails or substantially prevails in such action.

"(h) This subsection shall be the exclusive means for bringing actions against the Corporation or the 1991 Fund under this chapter.

"(i)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date.

"(j) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(k) In any suit, action or proceeding in which the 1991 Fund is a party, in any State court, the 1991 Fund may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action or proceeding is pending by following any procedure for removal now or hereafter in effect.

"SEC. 9723. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'coal production work' shall mean work in which an individual engages in physical operations consisting of the mining, preparation, handling, processing, cleaning and loading of coal, including removal of overburden and coal waste, the transportation of coal (except by waterway or rail not owned by an employer engaged in the production of coal), repair and maintenance work normally performed at a

mine site or central shop of an employer engaged in the production of coal, maintenance of gob piles and mine roads, construction of mine or mine-related facilities including the erection of mine tipples and sinking of mine shafts or slopes performed by employees of the employer engaged in the production of coal, and work of the type customarily related to the foregoing; except that the term shall not mean managerial, supervisory, warehouse, clerical or technical work, unless such work is performed subject to a coal wage agreement binding the employer engaged in the production of coal.

"(2) The term 'coal wage agreement' shall mean—

"(A) the National Bituminous Coal Wage Agreement;

"(B) any agreement substantially identical or substantially similar to such agreement, but only if, as of the date of enactment of this chapter, such agreement provided for contributions to be made to the plans described in section 9721(d); or

"(C) any other agreement entered into between an employer in the bituminous coal industry and the United Mine Workers of America that requires the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan.

"(3) The term 'credited service' shall have the same meaning as determined under the applicable defined benefit pension plan, but only if such service was of the type used to determine eligibility under the plan described in section 9721(d)(2)(B).

"(4) The term 'excess pension assets' shall mean the excess of the current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(26)) of the plan described in section 9721(c) over the actuarial present value of all benefits for all plan participants under such plan, determined as of the date of enactment, in accordance with the actuarial assumptions and methods which reflect the plan actuary's best estimate of anticipated experience under such plan, except that where excess pension assets are recalculated as required under section 9721(a)(1), the amount of excess pension assets shall be determined as of the July 1 next preceding the date of the recalculation.

"(5) A last signatory operator shall be considered to be in business for purposes of this chapter if any of the following conducts or derives revenue from any business, whether or not within the coal industry—

"(A) such last signatory operator;

"(B) any member of the controlled group of corporations (within the meaning of section 414(b)) of such last signatory operator; or

"(C) any trade or business which is under common control (as determined under section 414(c)) with such last signatory operator.

If a last signatory operator is no longer in business and there is no successor, the relationships described in paragraphs (2) and (3) shall be determined at the time it ceased to be in business.

"(6)(A) The term 'last signatory operator shall mean, with respect to any orphan miner or other coal industry retiree eligible for medical benefits, a person that meets or at one time met the following conditions:

"(i) A person meets the conditions of this clause if such person is—

"(I) an owner, lessee or other person who operates, controls or supervises a coal mine;

"(II) an independent contractor who operates, controls or supervises a coal mine; or

"(III) in the event a person described in (I) or (II) is no longer in business, any successor to such person, except that a purchaser shall not be considered to be a successor with respect to any orphan miner or other coal industry retiree eligible for medical benefits, if responsibility for the medical benefits of such orphan miner or other coal industry retiree was retained by the seller in the purchase and sale transaction.

"(ii) A person meets the conditions of this clause if such person or, in the case of a person described in clause (i)(III), such person's predecessor—

"(I) was a signatory to a 1978 coal wage agreement, or any subsequent coal wage agreement; and

"(II) was the last coal industry employer of such orphan miner or other retiree.

"(B) Notwithstanding subparagraph (A), if, as of the date of enactment of this chapter, a person has assumed or retained responsibility for retiree medical benefit obligations for individuals who retired from employment under a coal wage agreement, then such person shall be treated as the last signatory operator with respect to such individuals for purposes of this chapter, and any person from whom such responsibility was assumed shall not be treated as the last signatory operator.

"(C) For purposes of this chapter, the last signatory operator of any orphan miner or other coal industry retiree shall be considered to be the last signatory operator with respect to such orphan miner's or other coal industry retiree's spouse, surviving spouse and dependents, if any.

"(7) The term 'National Bituminous Coal Wage Agreement' shall mean the collective bargaining agreement negotiated by the settlors.

"(8) The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (hereinafter referred to as the 'BCOA'), except that if the BCOA ceases to exist, members of the BCOA representing more than 50 percent of the tonnage membership of BCOA on the date of enactment of this Act shall collectively be considered a settlor.

"SEC. 9724. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and liability shall be imposed) without regard to such transaction. A bona fide, arm's-length sale of an entity subject to liability under this chapter to an unrelated party (within the meaning of section 4204(d) of the Employee Retirement Income Security Act of 1974, as amended), shall not by itself be sufficient to establish a principal purpose to evade or avoid liability within the meaning of this section."

(b) CONFORMING AMENDMENT.—The table of subtitles for the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J. Coal Industry health benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of the enactment of this Act.

TITLE XX—GENERAL PROVISIONS; REDUCTION OF OIL VULNERABILITY

SEC. 2001. DEFINITIONS.

For purposes of this title and titles XXI through XXV—

(1) the term "demonstration" means the building or assembling of facilities or equipment at appropriate scale to prove the technical feasibility of a process or technology;

(2) the term "developing country" includes the nations of Eastern Europe and the Soviet Union, or any successor entity or entities thereto;

(3) the term "long-term" means the period from 10 to 20 years in the future;

(4) the term "mid-term" means the period from 5 to 10 years in the future;

(5) the term "near-term" means the period from the present to 5 years in the future;

(6) the term "Secretary" means the Secretary of Energy; and

(7) the term "source reduction" means any practice which—

(A) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

(B) reduces the hazards to the public health and the environment associated with the release of such substances, pollutants, or contaminants,

including equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, and inventory control, but not including any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

SEC. 2002. GOALS.

It is the goal of the United States in carrying out energy supply and energy conservation research and development—

(1) to strengthen national energy security by reducing dependence on imported oil;

(2) to increase the efficiency of the economy by meeting future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving comparable consideration to technologies which enhance energy supply and technologies which improve the efficiency of energy end uses;

(3) to reduce the adverse environmental consequences of energy production and use through the development of an environmentally sustainable energy system which makes possible a reduction from the 1990 level in greenhouse gas emissions from energy production and use in the United States;

(4) to maintain the technological competitiveness of the United States and stimulate economic growth through the development of critical advanced materials and technologies; and

(5) to foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development.

Subtitle A—Oil and Gas Supply Enhancement

SEC. 2011. ENHANCED OIL RECOVERY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on technologies to increase and accelerate the volume of oil recovered from domestic oil reservoirs in producing fields, including technologies to—

(1) improve reservoir characterization;

(2) improve analysis and field verification;

(3) field test and demonstrate advanced enhanced oil recovery processes in reservoirs the Secretary considers to be of high priority;

(4) improve enhanced oil recovery process technology for more economic and efficient oil production;

(5) study reservoir properties and how they affect oil recovery from porous media;

(6) improve techniques for meeting environmental requirements;

(7) improve data bases of reservoir and environmental conditions; and

(8) lower lifting costs on stripper wells by utilizing advanced renewable energy technologies such as small wind turbines and others.

(b) PROGRAM GOALS.—

(1) OVERALL GOAL.—The overall goal of the program established under subsection (a) is the development of technologies to increase recoverable oil resources cost effectively by approximately 76,000,000,000 barrels of oil by the year 2010, compared to 1991 levels of recoverable reserves.

(2) NEAR-TERM PRIORITIES.—The near-term priorities of the program include preserving access to high potential reservoirs, identifying available technologies that can extend well lifetimes, and developing environmental field operations for waste disposal and injection practices.

(3) MID-TERM PRIORITIES.—The mid-term priorities of the program include developing and testing identified but unproven technologies, and transferring those technologies for widespread use.

(4) LONG-TERM PRIORITIES.—The long-term priorities of the program include developing advanced techniques to recover oil not recoverable by other techniques.

(c) ACCELERATED PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a plan for carrying out under this section the accelerated field testing of technologies to achieve the overall goal stated in subsection (b)(1) within 10 years after the date of enactment of this Act. The plan shall include a revised schedule of field tests, and cost estimates for the accelerated program. In preparing the plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, and with the Advisory Board established under section 2303.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require that the non-Federal share of the project being assisted be at least 50 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including advanced extraction and process technology, $60,000,000 for fiscal year 1993 and $270,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2012. OIL SHALE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research and development on oil shale extraction and conversion, using laboratory-scale activities. The program shall include technology development for both Eastern and Western shales.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) include—

(1) supporting the development of economically competitive and environmentally acceptable technologies to produce domestic supplies of liquid fuels from oil shale;

(2) increasing knowledge of environmentally acceptable oil shale waste disposal technologies and practices;

(3) increasing knowledge of the chemistry and kinetics of oil shale retorting;

(4) increasing understanding of engineering issues concerning the design and scale-up of oil shale extraction and conversion technologies; and

(5) improving techniques for oil shale mining systems.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for fiscal year 1993 and $51,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2013. NATURAL GAS SUPPLY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration to improve technologies for—

(1) the extraction of natural gas from tight gas sands and devonian shales or other unconventional sources; and

(2) secondary natural gas recovery.

(b) PROGRAM GOALS.—

(1) OVERALL GOALS.—The overall goals of the program established under subsection (a) are to improve field data and modeling of natural gas production from unconventional sources and to continue data accumulation on unconventional gas sources, including speculative sources.

(2) NEAR-TERM PRIORITIES.—The near-term priorities of the program include—

(A) a focus on recovery from conventional gas reservoirs;

(B) the consolidation of Federal data bases;

(C) the preparation of a series of maps indicating the location of domestic natural gas resources;

(D) enhanced natural gas recovery studies;

(E) the development of horizontal drilling technology; and

(F) the development of techniques for upgrading low quality natural gas.

(3) MID-TERM PRIORITIES.—The mid-term priorities of the program include—

(A) a focus on recovery from unconventional sources such as tight gas sand formations; and

(B) the developing of techniques for locating naturally fractured zones and cost-effective methods for increasing the size and gas-flow capability of fracture systems.

(4) LONG-TERM PRIORITIES.—The long-term priorities of the program include—

(A) a focus on recovery from speculative sources, including deep sediments and gas hydrates; and

(B) the development of new techniques to locate and extract natural gas.

(c) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(e) COFIRING OF NATURAL GAS AND COAL.—

(1) PROGRAM.—The Secretary shall establish and carry out a program of research, development, and demonstration of cofiring natural gas with coal in utility and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(2) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements with, and provide financial assistance to, appropriate parties for application of cofiring technologies to boilers to demonstrate this technology.

(3) REPORT TO CONGRESS.—The Secretary shall, before December 31, 1995, submit to the Congress a report on the progress made in carrying out this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $40,000,000 for fiscal year 1993 and $240,000,000 for the period encompassing fiscal years 1994 through 1997.

(g) CONSULTATION.—In carrying out the provisions of this subtitle, the Secretary shall consult representatives of the oil and gas industry for innovative research and development proposals to improve oil and gas recovery and shall consider relevant technical data from industry and other research and information centers and institutes.

Subtitle B—Oil and Gas Demand Reduction and Substitution

SEC. 2021. GENERAL TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on cost effective technologies to reduce the demand for oil in the transportation sector for all vehicles, including existing vehicles, through increased energy efficiency and the use of alternative fuels. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goals stated in section 2002. Such program shall include the activities required under sections 2022 through 2027, and ongoing activities of a similar nature at the Department of Energy.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(d) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary for carrying out the program described in subsection (a), including transportation sector energy conservation research and development (other than activities under section 2025) and transportation sector biofuels energy systems under solar energy, $150,000,000 for fiscal year 1993 and $880,000,000 for the period encompassing fiscal years 1994 through 1997, including—

(A) $100,000,000 for carrying out section 2022;

(B) $50,000,000 for carrying out section 2023;

(C) $2,500,000 for carrying out section 2024;

(D) $25,000,000 for carrying out section 2026; and

(E) $50,000,000 for carrying out section 2027, including Department of Energy National Laboratory participation in proposals submitted under subsection (d) of such section.

(2) There are authorized to be appropriated to the Secretary for carrying out section 2025—

(A) $58,000,000 for fiscal year 1993;

(B) $75,000,000 for fiscal year 1994;

(C) $80,000,000 for fiscal year 1995;

(D) $80,000,000 for fiscal year 1996;

(E) $90,000,000 for fiscal year 1997; and

(F) $100,000,000 for fiscal year 1998.

SEC. 2022. ADVANCED AUTOMOTIVE FUEL ECONOMY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration, to supplement ongoing research activities of a similar nature at the Department of Energy, to accelerate the near-term and mid-term development of advanced technologies to improve the fuel economy of light-duty passenger vehicles powered by a piston engine, and hybrid vehicles powered by a combination of piston engine and electric motor.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to stimulate the development of emerging technologies with the potential to achieve significant improvements in fuel economy while reducing emissions of greenhouse gases and other air pollutants.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section, making a special effort to involve small businesses in the program.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305, unless the Secretary finds that a lower non-Federal cost share is warranted given the technical risks involved.

SEC. 2023. ALTERNATIVE FUEL VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall carry out a program of research, development, and demonstration on techniques related to improving natural gas and other alternative fuel vehicle technology, including—

(1) fuel injection;

(2) carburetion;

(3) manifolding;

(4) combustion;

(5) power optimization;

(6) efficiency;

(7) lubricants and detergents;

(8) engine durability;

(9) ignition, including fuel additives to assist ignition;

(10) multifuel engines;

(11) emissions control, including catalysts;

(12) novel gas compression concepts;

(13) advanced storage systems;

(14) advanced gaseous fueling technologies; and

(15) the incorporation of advanced materials in these areas.

(b) COOPERATIVE AGREEMENTS AND ASSISTANCE.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, public or private entities willing to provide 50 percent of the costs of a program to perform research, development, and demonstration under subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "alternative fuels" includes natural gas, liquefied petroleum gas, any fuel the content of which is at least 85 percent by volume methanol, ethanol, or other alcohol, and hydrogen;

(2) the term "alternative fuel vehicle" means a motor vehicle that operates on alternative fuels; and

(3) the term "motor vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

SEC. 2024. BIOFUELS RESEARCH AND DEVELOPMENT USER FACILITY.

(a) The Secretary shall establish a biofuels research and development user facility to expedite industry adoption of biofuels technologies. Such facility shall provide industry with onsite laboratory and office space to work on biofuels technologies, including production of alcohol fuels from biomass.

(b) The Secretary, through grants to such universities and colleges as the Secretary determines are qualified, shall establish a research and demonstration program with respect to the production and use of diesel fuels from vegetable oils. The program shall include—

(1) research on the economic feasibility of production of oilseed crops for biofuels purposes; and

(2) for demonstration purposes, the establishment of a mobile small-scale oilseed pressing and esterification unit and a stationary small-scale commercial oilseed pressing and esterification unit.

SEC. 2025. ELECTRIC VEHICLE AND BATTERY RESEARCH AND DEVELOPMENT PROGRAM.

(a) COOPERATIVE PROGRAM.—(1) The Secretary, consistent with the comprehensive plan described in paragraph (2), shall establish a cooperative program with the electric utility industry, the automobile industry, and such other persons or industries as the Secretary considers appropriate to conduct joint cooperative research and development projects with industry in areas of technology development such as—

(A) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for vehicle range improvement;

(B) light-weight body structures for vehicle weight reduction;

(C) advanced battery technology with high energy and power for electric vehicle application;

(D) batteries and fuel cells for hybrid vehicle application;

(E) fuel cells and fuel cell systems for primary vehicle power sources; and

(F) photovoltaics for application with electric vehicle use.

The Secretary may also include any such projects that were entered into under the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920) or the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2501–2514) in the program under this subsection.

(2)(A) The Secretary shall prepare a comprehensive multi-year program plan for carrying out this section. In the preparation of such plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric vehicle manufacturers and the United States automobile industry, and such other public and private organizations as the Secretary considers appropriate.

(B) The comprehensive plan shall include—

(i) a prioritization of research areas critical to the commercialization of electric vehicles, including advanced battery technology;

(ii) the program elements, management structure, and activities, including program responsibilities of Federal agencies and departments;

(iii) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year, for all major activities and projects;

(iv) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the plan for each of the participating Federal agencies or departments;

(v) a description of the methods of technology transfer;

(vi) the proposed participation by non-Federal entities in the implementation of the plan; and

(vii) such other information as the Secretary considers appropriate.

(C) Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit the comprehensive plan to the Congress. Such plan shall be revised and such revision transmitted to the Congress when significant changes are proposed.

(3) Not later than 240 days after the date of enactment of this Act, the Secretary shall request proposals or seek to negotiate joint cooperative research and development projects under this subsection.

(4) The contribution of the United States to any project under this section shall not exceed 50 percent.

(5) The Secretary shall conduct evaluations, arrange for tests and demonstrations necessary to support efforts undertaken pursuant to this subsection.

(b) FUEL CELLS FOR TRANSPORTATION.—(1) The Secretary shall develop and implement a comprehensive program of research, development, and demonstration of fuel cells and related systems for transportation applications through the establishment of one or more cooperative programs among industry, government, and research institutions to develop and demonstrate the use of fuel cells as the primary power source for private and mass transit vehicles and other mobile applications.

(2) Research, development, and demonstration activities under this subsection shall be designed to incorporate one or more of the following priorities—

(A) the potential for near-term to mid-term commercialization;

(B) the ability of the systems to use a variety of renewable and nonfossil fuels;

(C) emission reduction and energy conservation potential;

(D) the potential to utilize fuel cells and fuel cell systems developed under Department of Defense and National Aeronautics and Space Administration programs; and

(E) the potential to take maximum practical advantage of advances made in electric vehicle research, stationary source fuel cell research, and other research activities authorized by this title.

(3)(A) Research, development, and demonstration projects selected by the Secretary under this subsection shall have application to—

(i) passenger vehicles;

(ii) vans and utility vehicles;

(iii) light rail systems and locomotives;

(iv) trucks, including long-haul trucks, dump trucks, and garbage trucks;

(v) passenger buses;

(vi) non-chlorofluorocarbon mobile refrigeration systems;

(vii) marine vessels, including recreational marine engines; or

(viii) mobile engines and power generation, including recreational generators, and industrial and construction equipment.

(B) The Secretary shall establish programs to undertake research, development, and demonstration activities for use in at least two of the applications listed in subparagraph (A) in each of fiscal years 1993, 1994, 1995, and 1996, based on the priorities established in paragraph (2), so that by the end of the period, research, development, and demonstration activities are under way for each application. The initiatives authorized and implemented pursuant to this subsection shall be in addition to any other fuel cell programs authorized in existing law.

(c) HOLD HARMLESS.—Nothing in this section shall be construed to alter, affect, modify, or change any activities or agreements initiated prior to the date of enactment of this Act with domestic motor vehicle manufacturers through joint venture or consortium agreements regarding batteries for electric vehicles.

(d) CONSULTATION.—The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation in carrying out this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "advanced battery technology" means electro-chemical storage devices, including fuel cells, and associated technology necessary to charge, discharge, recharge, or regenerate such devices, for use as a source of power for an electric vehicle, and any other associated equipment;

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electrical energy used to power an electric vehicle; and

(3) the term "electric vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power.

SEC. 2026. RENEWABLE HYDROGEN ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on renewable hydrogen energy systems, to supplement ongoing activities of a similar nature at the Department of Energy, including—

(1) at least one program to develop and demonstrate a system for generating hydrogen from renewable energy sources;

(2) at least one program to assess the feasibility of existing natural gas pipelines carrying hydrogen gas, including experimentation if needed, with a goal of determining those components of the natural gas distribution system that would have to be modified to carry—

(A) more than 20 percent hydrogen mixed with natural gas; and

(B) pure hydrogen gas;

(3) at least one program to develop and demonstrate at least one hydrogen storage system suitable for electric vehicles powered by fuel cells, with emphasis on—

(A) improved metal hydride hydrogen storage;

(B) activated carbon-based hydrogen storage;

(C) high pressure compressed hydrogen; or

(D) other novel hydrogen storage techniques;

(4) at least one program to develop and demonstrate a fuel cell suitable to power an electric vehicle; and

(5) such other research and development programs as the Secretary considers necessary to carry out this section.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2027. ADVANCED DIESEL EMISSIONS RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a program of research, development, and demonstration on diesel engine combustion and engine systems, related advanced materials, and fuels and lubricants to reduce emissions oxides of nitrogen and particulates. Activities conducted under this program shall supplement activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goal stated in subsection (b).

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate the ability of United States diesel manufacturers to meet current and future oxides of nitrogen and particulate emissions requirements.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy National Laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide research, development, and demonstration activities under this section. The Secretary shall biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) SOLICITATION OF PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals from eligible parties, as such term is defined in section 2205(3), for conducting research, development, and demonstration activities consistent with the 5-year program plan. Such proposals may be submitted by one or more eligible parties, and may include any funding mechanisms otherwise authorized under Federal law.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

Subtitle C—Oil Substitution Through Coal Liquefaction

SEC. 2031. OIL SUBSTITUTION THROUGH COAL LIQUEFACTION.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research and development for the purpose of developing economically and environmentally acceptable advanced technologies for oil substitution through coal liquefaction.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) improved resource selection and product quality;

(2) the development of technologies to increase net yield of liquid fuel product per ton of coal;

(3) an increase in overall thermal efficiency; and

(4) a reduction in capital and operating costs through technology improvements.

(c) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research and development activities under this section.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require that the non-Federal share of the project being assisted be at least 50 percent.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $23,000,000 for fiscal year 1993 and $33,000,000 for the period encompassing fiscal years 1994 through 1997.

TITLE XXI—ENERGY AND ENVIRONMENT

Subtitle A—Improved Energy Efficiency

SEC. 2101. GENERAL IMPROVED ENERGY EFFICIENCY RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on cost effective technologies to improve energy efficiency and increase the use of renewable energy in the buildings, industrial, and utility sectors. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goals stated in section 2002. Such program shall include the activities required under sections 2102, 2103, 2104, 2105, 2106, and 2107 and ongoing activities of a similar nature at the Department of Energy.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) in the buildings sector—

(A) to accelerate the development of technologies that will increase energy efficiency;

(B) to increase the use of renewable energy; and

(C) to improve building construction practices and materials to reduce environmental pollution in the mid-term, through the development of low emission, low energy buildings;

(2) in the industrial sector—

(A) to accelerate the development of technologies that will increase energy efficiency and thereby improve productivity;

(B) to increase the use of renewable energy; and

(C) to reduce pollution production per unit of output; and

(3) in the utility sector, to accelerate the development of technologies that will increase energy efficiency.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for carrying out this subtitle, including building, industry, and utility sectors energy conservation research and development, and inventions and innovation under energy conservation technical and financial assistance, $190,000,000 for fiscal year 1993 and $1,490,000,000 for the period encompassing fiscal years 1994 through 1997, including—

(1) $100,000,000 for carrying out section 2102;

(2) $50,000,000 for carrying out section 2103;

(3) $100,000,000 for carrying out section 2104;

(4) $15,000,000 for carrying out section 2105;

(5) $15,000,000 for carrying out section 2106; and

(6) $18,091,000 for fiscal year 1993 for carrying out section 2107.

SEC. 2102. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.

(a) Program Direction.—(1) The Secretary shall conduct a program of research, development, and demonstration for energy efficient natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall include research, development, and demonstration on—

(A) thermally activated heat pumps, including absorption heat pumps and engine-driven heat pumps; and

(B) other advanced natural gas technologies, including fuel cells.

(3) The electric heating and cooling program shall focus on including research, development, and demonstration on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electrically driven HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) Proposals.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(c) Cost Sharing.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2103. PULP AND PAPER RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) Program Direction.—The Secretary shall conduct a program of research, development, and demonstration on advanced pulp and paper technologies. Activities under this section shall include research, development, and demonstration on energy generation technologies, boilers, combustion processes, pulping processes (excluding de-inking), chemical recovery, causticizing, source reduction processes, and other related technologies that can improve the energy efficiency of, and reduce the adverse environmental impacts of, pulp and papermaking operations. This section does not authorize research, development, and demonstration projects involving the combustion of waste paper, excluding gasification.

(b) Proposals.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(c) Cost Sharing.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2104. ADVANCED BUILDING RESEARCH, DEVELOPMENT, AND DEMONSTRATION FOR LOW EMISSION, LOW ENERGY BUILDINGS BY 2005.

(a) Program Direction.—The Secretary shall initiate a program of research, development, and demonstration on new technologies for integrated building design and products that will provide affordable and commercially viable low emission, low energy buildings by the year 2005, to supplement ongoing activities of a similar nature at the Department of Energy. Activities under this section shall include research, development, and demonstration on—

(1) integrated building designs, design tools, and construction techniques;

(2) advanced building components that can perform effectively in integrated building designs;

(3) advanced energy conversion systems (such as photovoltaics) for application to buildings;

(4) the use of recycled materials in building products and products that can be recycled; and

(5) demonstration of evaluation methods and tools to assess performance in operating environments.

(b) Proposals.—

(1) Solicitation.—Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(2) Contents of proposals.—Proposals submitted under this subsection shall include—

(A) evidence of knowledge of current building practices in the United States and in other countries;

(B) an explanation of how the proposal will expedite the commercialization of advanced building materials, technologies, and products, advanced construction techniques, and innovative design practices beyond those already in the marketplace;

(C) evidence of consideration of whether the unique capabilities of Department of Energy National Laboratories warrants collaboration with such Laboratories, and the extent of such collaboration proposed;

(D) evidence of collaboration with relevant industry or other groups or organizations; and

(E) a demonstration of the ability of the proposers to undertake and complete the project proposed.

(c) Cost Sharing.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2105. ELECTRIC DRIVES.

(a) Research, Development, and Demonstration.—The Secretary shall conduct research, development, and demonstration to expedite adoption of energy efficient industrial electric drive technologies, including adjustable speed drives, high speed motors, and high efficiency motors. Activities under this section shall include the identification and development of technical information on targets of opportunity, assessment of infrastructure needs, and development of advanced technologies and processes.

(b) Proposals.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for research, development, and demonstration projects under this section.

(c) Cost Sharing.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

SEC. 2106. MID-TERM TECHNOLOGY DEMONSTRATION PROGRAM.

(a) Establishment.—The Secretary, on consultation with the Secretary of Defense, the Administrator of the General Services Administration, and other appropriate Federal officials, shall establish a program for the demonstration, at federally owned or assisted buildings and facilities designated by such officials for long-term commitment to such demonstration, of emerging energy efficiency and renewable energy technologies described in subsection (b).

(b) Technologies.—Technologies to be demonstrated under this section shall be technologies substantially developed by the Department of Energy, or derived from research and development carried out by the Department of Energy, that are not commercially available, and shall include residential heat pumps, lighting fixtures, cogeneration, solar detoxification, and other technologies that the Secretary, after consultation with the Secretary of Defense, the Administrator of the General Services Administration, and other appropriate Federal officials, determines can improve energy efficiency and environmental conditions in Federal facilities and operations.

(c) Purpose of Demonstration.—The purpose of demonstrations funded under this section shall be to determine—

(1) the technical feasibility and reliability;

(2) the economic life cycle costs;

(3) the production feasibility; and

(4) the Federal sector market potential,

of the technology to be demonstrated.

(d) Completion of Demonstration.—(1) When a demonstration project funded under this section has successfully demonstrated the cost-effective feasibility of a technology, the Federal agency involved, with assistance from the Secretary, shall effect technology transfer by publicizing the results of the demonstration.

(2) When a successfully demonstrated technology has reached a stage of production capability, the resulting product shall be listed on appropriate General Services Administration product schedules.

SEC. 2107. STEEL AND ALUMINUM RESEARCH.

(a) Amendments.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is amended—

(1) in section 4(b)(5), by striking "Industrial Programs" and inserting in lieu thereof "Industrial Technologies";

(2) in section 8, by inserting at the end the following new sentence: "The report submitted at the close of fiscal year 1993 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this Act.";

(3) in section 9(a)(1), by striking "and $25,000,000 for fiscal year 1991" and inserting in lieu thereof "$25,000,000 for fiscal year 1991, $17, 968,000 for fiscal year 1992, and $18,091,000 for fiscal year 1993";

(4) in section 9(b), by striking "and 1991" and inserting in lieu thereof "1991, 1992, and 1993"; and

(5) in section 11(a), by striking "or fiscal year 1991" both places it appears and inserting in lieu thereof "fiscal year 1991, fiscal year 1992, or fiscal year 1993".

(b) Repeals.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 is amended—

(1) in section 4(c)(1)(C), by inserting "and" after "Program;";

(2) in section 4(c)(2)(C), by striking "Program; and" and inserting in lieu thereof "Program.";

(3) by striking section 4(c)(3);

(4) in section 5(1)(B), by inserting "and" after "program;";

(5) in section 5(2)(B), by striking "program; and" and inserting in lieu thereof "program."; and

(6) by striking section 5(3).

Subtitle B—Electricity Generation and Use

SEC. 2111. RENEWABLE ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a broad and comprehensive program of research, development, and demonstration to provide cost-effective options for the generation of electricity from renewable energy sources for grid and nongrid application, including field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility for providing cost effective generation and for meeting the goal stated in section 2002(3).

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be the accelerated development of renewable energy technologies that can cost effectively meet at least 15 percent of United States electricity generation needs by the year 2010.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including all solar energy programs (other than activities under section 2021), geothermal systems, electric energy systems, and energy storage systems, $215,000,000 for fiscal year 1993 and $1,285,000,000 for the period encompassing fiscal years 1994 through 1997, of which $26,900,000 is for carrying out section 2119 for fiscal year 1993.

SEC. 2112. HIGH EFFICIENCY HEAT ENGINES.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on high efficiency heat engines, including field demonstrations of sufficient scale and number in operating environments to prove the technical and economic feasibility of such engines, emphasizing advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and industrial power generation covering a range of small-, mid-, and large-scale applications, including—

(1) mechanically recuperated gas turbines;

(2) intercooled gas turbines with steam injection or recuperation;

(3) gas turbines utilizing reformed fuels or hydrogen; and

(4) high efficiency, simple cycle gas turbines.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to develop high efficiency heat engines that can achieve over 50 percent efficiency.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including the Administrator of the Environmental Protection Agency and national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) PROPOSALS.—Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting research, development, and demonstration activities under this section.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $125,000,000 for the period encompassing fiscal years 1993 through 1997, to be derived from sums authorized under section 2101(f).

SEC. 2113. NUCLEAR ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, taking into consideration life cycle environmental costs;

(2) facilitate the design, licensing, construction, and operation of a nuclear powerplant using a standardized design;

(3) exhibit enhanced safety features; and

(4) incorporate features that advance the objectives of the Nuclear Non-Proliferation Act of 1978.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) for the near-term—

(A) facilitate the submission, by September 30, 1995, for certification by the Nuclear Regulatory Commission, of standardized advanced light water reactor technology designs that the Secretary determines have the characteristics described in subsection (a) (1) through (4);

(B) facilitate the completion of submissions, by September 30, 1996, for preliminary design approvals by the Nuclear Regulatory Commission of standardized designs for the modular high-temperature gas-cooled reactor technology and the liquid metal reactor technology; and

(C) the evaluation, by September 30, 1996, of the actinide burn technology to determine if it can reduce the volume of long-lived fission byproducts;

(2) for the mid-term—

(A) facilitate increased efficiency of enhanced safety, advanced light water reactors to produce electric power at the lowest cost to the customer;

(B) the development of advanced reactor concepts that are passively safe and environmentally acceptable; and

(C) the completion of necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology to support the selection, by September 30, 1998, of one or both of those technologies as appropriate for prototype demonstration; and

(3) for the long-term, the completion of research and development and demonstration to support the design of advanced reactor technologies capable of providing electric power to a utility grid as soon as practicable but no later than the year 2010.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research, development, and demonstration activities under this section. The program plan shall include schedule milestones, Federal funding requirements, and non-Federal cost sharing requirements. In preparing the program plan, the Secretary shall take into consideration—

(1) the need for, and the potential for future adoption by electric utilities or other entities of, advanced nuclear reactor technologies that are available, under development, or have the potential for being developed, for the generation of energy from nuclear fission;

(2) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of such technologies when they are needed;

(3) how the Federal Government can most effectively cooperate with the private sector in the accomplishment of the goals set forth in subsection (b); and

(4) potential alternative funding sources for carrying out this section.

In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, annually update and, as part of the report required under subsection (f) of this section, resubmit the program plan to Congress. Each such update shall describe any activities that are behind schedule, any funding shortfalls, and any other circumstances that might affect the ability of the Secretary to meet the goals set forth in subsection (b).

(d) FIRST-OF-A-KIND ENGINEERING.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of Federal financial and technical assistance for the first-of-a-kind engineering design of standardized commercial nuclear powerplants which are included, as of the date of enactment of this Act, in the Department of Energy's program for certification of advanced light water reactor designs.

(2) SELECTION CRITERIA.—In order to be eligible for assistance under this subsection, an entity shall certify to the satisfaction of the Secretary that—

(A) the entity, or its members, are bona fide entities engaged in the design, engineering, manufacture, and construction of nuclear reactors;

(B) the entity, or its members, have the financial resources necessary for, and fully intend to pursue the design, engineering, manufacture, and construction in the United States of nuclear power plants through completion of construction and into operation;

(C) the design proposed is scheduled for certification by the Nuclear Regulatory Commission under the Department of Energy's program for certification of light water reactor designs; and

(D) at least 50 percent of the funding for the project shall be obtained from non-Federal sources, and a substantial portion of that non-Federal funding shall be obtained from utilities or entities whose primary purpose is the production of electrical power for public consumption.

(3) PROGRAM DOCUMENTS.—The Secretary shall prepare and submit to the Congress a program document for each design selected under this subsection, specifying goals and objectives, major milestones for achieving those goals and objectives, and the work products to be provided to the Secretary or made available for inspection.

(4) FUNDING LIMITATIONS.—(A) Before entering into an agreement with an entity under this subsection, the Secretary shall establish a cost ceiling for the contribution of the Federal Government for the project, and shall report such cost ceiling to the Congress.

(B) No entity shall receive assistance under this subsection for a period greater than 4 years.

(C) The aggregate funding provided by the Secretary for projects under this subsection shall not exceed $20,000,000 for any single fiscal year.

(5) STATUS REPORT.—The Secretary shall annually submit to the Congress, as a part of the report required under subsection (h), a status report on each project receiving assistance under this subsection. Each such report shall describe the progress of the project, measured against the program document for such project submitted under paragraph (3), including a description of the entities involved in the project, the number and type of professional and other employees involved, the work products (in the form of drawings produced or specifications written, received, or inspected by the Secretary), and the extent of cost sharing.

(e) PROTOTYPE DEMONSTRATION.—

(1) SOLICITATION OF PROPOSALS.—Within 3 years after the date of enactment of this Act, the Secretary shall solicit proposals for carrying out the preliminary engineering design of not more than 2 prototype advanced nuclear reactor technologies developed by the Department of Energy, other than advanced light water reactor technologies, necessary to support a decision on whether to recommend construction of a prototype demonstration reactor with the characteristics described in subsection (a)(1) through (4). Proposals submitted under this paragraph shall be for modular design concepts of sufficient size to address requirements related to the certification of a standardized design.

(2) RECOMMENDATION TO CONGRESS.—Not later than September 30, 1998, the Secretary shall submit to Congress recommendations on whether to build no more than 2 prototype demonstration reactors under this subsection. Such recommendations shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on milestones for construction and operation;

(C) include an estimate of the funding requirements; and

(D) specify the extent and type of non-Federal financial support anticipated.

In developing the recommendations under this paragraph, the Secretary shall provide for public notice and an opportunity for comment, and shall solicit the views of the Nuclear Regulatory Commission and other parties with technical expertise the Secretary considers useful in the development of such recommendations.

(3) COST SHARING.—The prototype demonstration program under this subsection shall be carried out to the maximum extent practicable with private sector funding. At least 50 percent of the funding for such program shall be non-Federal funding. The extent of non-Federal cost sharing proposed for any demonstration project shall be a criterion for the selection of the project. Any cost overruns beyond projections contained in a proposal submitted under this subsection shall be paid for with non-Federal funds.

(4) LIMITATION ON AUTHORIZATION.—No prototype demonstration project may be carried out pursuant to a recommendation under paragraph (2) unless funding has been appropriated pursuant to a report the Secretary has submitted with respect to such project pursuant to section 2402(b).

(f) ANNUAL NUCLEAR RESEARCH, DEVELOPMENT, AND DEMONSTRATION REPORT.—The Secretary, in consultation with the Advisory Board established under section 2303, shall annually submit to the Congress a report which—

(1) includes a comprehensive Federal nuclear research, development, and demonstration strategy;

(2) addresses energy supply and associated environmental problems in the immediate, short-term, mid-term, and long-term time intervals;

(3) evaluates the economic, environmental, and technological merits of each aspect of the Federal nuclear research, development, and demonstration program;

(4) includes a description of the progress made in implementing this section;

(5) includes an update of the program plan developed under subsection (c);

(6) includes an update of the program plan developed under section 2114(b); and

(7) includes the annual report required under section 2115(c).

Such report shall be submitted along with the President's annual budget request to Congress.

(g) NUCLEAR REGULATORY COMMISSION REPORT.—The Nuclear Regulatory Commission shall annually submit to the Congress, along with the President's annual budget request, a report on the certification process for standardized advanced light water reactor designs which—

(1) describes the progress of such certification process;

(2) describes the progress made in reviewing the Utility Requirements Document;

(3) includes a timetable for completion of the certification, including specific fiscal year milestones; and

(4) states resource requirements for meeting the timetable described in paragraph (3).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $110,000,000 for research and development activities for fiscal year 1993 and $490,000,000 for research and development activities for the period encompassing fiscal years 1994 through 1997, and $90,000,000 for facilities operations and maintenance for fiscal year 1993 and $455,000,000 for facilities operations and maintenance for the period encompassing fiscal years 1994 through 1997. Amounts authorized or otherwise made available for program direction, space reactor power systems, advanced radioisotope power systems, and the space exploration initiative under nuclear energy research and development shall be in addition to the amounts authorized in the preceding sentence.

SEC. 2114. CIVILIAN NUCLEAR WASTE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research and development on new technologies for mitigating hazards associated with high level radioactive waste and spent fuel from nuclear reactors.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the research and development activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall, with the advice of the Advisory Board established under section 2303, annually update and, as part of the report required under section 2113(f), resubmit the program plan to Congress.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $1,000,000 for fiscal year 1993 and $44,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2115. FUSION ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research and development on fusion energy technologies. The cooperative effort to develop the International Thermonuclear Experimental Reactor program (hereafter in this section referred to as "ITER") shall be the main focus of the program established under this subsection. The Secretary shall encourage the effective participation of United States industry in the ITER program, and shall seek to ensure that United States industrial technological capability will continue to be able to support ITER.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) for the near-term—

(A) fully supporting United States participation in the Engineering Design Activity of the ITER program and development of the basis for effective participation in follow-on activities of the cooperative program;

(B) planning for the construction and operation of a major new machine for fusion research and development to provide experience with long pulse fusion phenomena or other critical research and development needs;

(C) supporting the development of technological capabilities for selected technical areas critical to fusion power and providing for significant industrial participation in the development of those technologies; and

(D) continuing research and development for the Inertial Fusion Energy Program and initiating the development of the Heavy Ion Inertial Confinement Fusion Energy Experiment;

(2) for the mid-term—

(A) participation in the ITER program after completion of the Engineering Design Activity, including preconstruction and other activities for an ITER facility;

(B) continuing research and development activities in support of a broad based fusion energy program;

(C) supporting the development of technological capabilities for selected technical areas critical to fusion power and providing for significant industrial participation in the development of those technologies; and

(D) developing, constructing, and testing a Heavy Ion Inertial Confinement Fusion Energy Experiment for the Inertial Fusion Energy Program; and

(3) for the long-term—

(A) participation in the ITER program, including construction, operation, and maintenance of an appropriate United States industrial technological base; and

(B) building and testing an inertial fusion energy reactor for the purpose of power production.

(c) REPORTS.—The Secretary, in consultation with the Advisory Board established under section 2303, shall prepare a detailed plan describing the work to be performed, resources to be committed, and milestone schedules for the following subprograms:

(1) Basic fusion energy science and research to support both the Magnetic Fusion Energy program and the Heavy Ion Inertial Confinement Fusion Energy program.

(2) The ITER.

(3) The Long Pulse Fusion Reactor.

(4) An Engineering and Technology Development program with industrial participation.

(5) The development and construction of a Heavy Ion Inertial Confinement Fusion Energy Experiment.

Each year, in conjunction with the submission of the annual budget to Congress, the Secretary shall submit a detailed report describing the progress made, including science and technical advancements, the resources committed during the previous years, expenditures, contracts with industry, and performance related to scheduled milestones.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $345,000,000 for fiscal year 1993 and $1,670,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2116. COAL.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on advanced technologies that use coal to generate electricity in a more efficient and environmentally acceptable manner.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include the development of technologies that—

(1) reduce United States oil imports and ensure a reliable electricity supply;

(2) comply with applicable environmental requirements; and

(3) would achieve the greatest practicable reduction of emissions of harmful pollutants, including greenhouse gases.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section for technologies nearing the full scale demonstration stage, the Secretary may require cost sharing as provided in section 2305.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, and all fossil energy research and development operating expenses for program direction and management support, cooperative research and development, fossil energy environmental restoration and plant and capital equipment, $250,000,000 for fiscal year 1993 and $1,090,000,000 for the period encompassing fiscal years 1994 through 1997.

(e) REPORT TO CONGRESS.—The Secretary shall provide a report to the Congress within one year after the date of enactment of this Act, investigating the technical and economic feasibility of blending farm crop products with coal to maximize indigenous fossil fuel resources and reduce sulfur emissions. The report shall identify key technical or economic issues that may provide obstacles to widespread use of fuel blends.

SEC. 2117. FUEL CELLS.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, and demonstration on efficient and environmentally benign decentralized power generation using fuel cells. The program may include research, development, and demonstration activities on molten carbonate, solid oxide, including tubular, monolithic, and planar technologies, and advanced concepts.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) is the development of cost-effective, efficient, and environmentally benign fuel cell systems which will operate on fossil fuels in multiple end use sectors.

(c) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $40,000,000 for fiscal year 1993 and $150,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2118. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1993 $70,000,000 for the Fast Flux Test Facility to maintain the operational status of the reactor, such sums to be derived from amounts appropriated to the Secretary for the environmental restoration and waste management program.

(b) LONG-TERM MISSIONS.—The Secretary shall aggressively pursue the development and implementation of long-term missions for the Fast Flux Test Facility. Within 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the progress made in carrying out this subsection.

SEC. 2119. EFFICIENT ELECTRIC ENERGY SYSTEMS.

The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.) is amended by inserting after section 5 the following new section:

"SEC. 5A. EFFICIENT ELECTRIC ENERGY SYSTEMS.

"The goal for the High Temperature Superconductivity Energy Systems Program shall be to promote energy efficiency by carrying out a program of research and development of high temperature superconducting electric power equipment technologies. Research efforts shall emphasize—

"(1) activities that address near-term technical projects such as the development of superconducting materials that are in practical form and have increased electrical current capacity;

"(2) improving the efficiency of materials performance at higher temperatures and at all magnetic field orientations; and

"(3) assisting the private sector with designs for more efficient electric power generation and delivery systems for commercial marketplace which are cost competitive with conventional energy systems.".

SEC. 2120. ELECTRIC AND MAGNETIC FIELDS RESEARCH AND PUBLIC INFORMATION DISSEMINATION PROGRAMS.

(a) ELECTRIC AND MAGNETIC FIELDS INTERAGENCY COMMITTEE.—

(1) IN GENERAL.—The President shall, within 2 months after the date of the enactment of this Act, establish the Electric and Magnetic Fields Interagency Committee to coordinate the efforts of the Federal Government with respect to research on the possible human health effects of electric and magnetic fields, technologies to improve the measurement and characterization of electric and magnetic fields, and techniques to assess and manage exposure to electric and magnetic fields.

(2) DUTIES.—

(A) RESEARCH AGENDA.—Not later than 6 months after the date of the enactment of this Act, the Interagency Committee, in consultation with the Advisory Committee, shall develop and submit to the Congress a comprehensive agenda for conducting research on the possible human health effects of electric and magnetic fields, with particular emphasis on electric and magnetic fields produced by electricity of the 60 Hertz frequency. The Interagency Committee, in consultation with the Advisory Committee, shall update the agenda as often as necessary and submit the updated agenda to the Congress. The agenda shall include priorities for—

(i) research on biological mechanisms by which electric and magnetic fields interact with biological systems;

(ii) research and development of technologies to improve the measurement and characterization of electric and magnetic fields;

(iii) epidemiological research on the possible human health effects of electric and magnetic fields; and

(iv) research on techniques to assess and manage exposure to electric and magnetic fields.

(B) REVIEW OF FEDERAL PROGRAM.—The Interagency Committee shall review each electric and magnetic fields research project conducted under a Federal program or funded in whole or in part with Federal funds—

(i) to ensure that the research project advances the agenda and program established under this section; and

(ii) to ensure that the research project is not unnecessarily duplicative of any other such research project.

(C) RECOMMENDATIONS ON PUBLIC INFORMATION DISSEMINATION PROGRAM.—Not later than 5 months after the date of the enactment of this Act, the Interagency Committee shall submit to the Director recommendations concerning the scope and nature of the information to be disseminated under subsection (d). The Interagency Committee shall submit to the Director updated recommendations as often as necessary.

(3) MEMBERSHIP.—The Interagency Committee shall be composed of 8 members with 1 member appointed by each of the following:

(A) The Director of the National Institute of Environmental Health Sciences.

(B) The Secretary of Energy.

(C) The Administrator of the Environmental Protection Agency.

(D) The Secretary of Defense.

(E) The Administrator of the Occupational Safety and Health Administration.

(F) The Director of the National Institute of Standards and Technology.

(G) The Secretary of Transportation.

(H) The Administrator of the Rural Electrification Administration.

(4) CHAIRPERSON.—The member of the Interagency Committee who is appointed by the Director of the National Institute of Environmental Health Sciences under paragraph (3) shall be the chairperson of the Interagency Committee. The chairperson of the Interagency Committee shall be responsible for ensuring that the duties of the Interagency Committee are carried out.

(b) NATIONAL ELECTRIC AND MAGNETIC FIELDS ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 2 months after the date of the enactment of this Act, the President shall establish the National Electric and Magnetic Fields Advisory Committee.

(2) DUTIES.—The Advisory Committee shall—

(A) make recommendations to the Interagency Committee with respect to the formulation of the research agenda referred to in subsection (a)(2)(A); and

(B) make recommendations to the Director with respect to the research program established under subsection (c), including the preparation of solicitations for proposals to conduct research under the program.

(3) MEMBERSHIP.—The Advisory Committee shall be composed of 11 members appointed by the President from among individuals who are representative of experts in possible human health effects of electromagnetic fields, experts in the measurement and characterization of electromagnetic fields, experts in the assessment and risk management of exposure to electromagnetic fields, State regulatory agencies, State health agencies, electric utilities, electrical equipment manufacturers, labor unions, and public interest groups.

(4) TERMINATION.—The Advisory Committee shall terminate within 2 months after the Advisory Committee submits the final report required under subsection (c)(4)(C).

(c) NATIONAL ELECTRIC AND MAGNETIC FIELDS RESEARCH PROGRAM.—

(1) IN GENERAL.—Within 9 months after the date of the enactment of this Act, the Director, after considering recommendations of the Advisory Committee, shall establish a program to carry out the agenda referred to in subsection (a)(2)(A).

(2) FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The Director may provide grants and other funding and enter into contracts to conduct research projects under the program established under paragraph (1).

(B) NON-FEDERAL CONTRIBUTIONS.—

(i) IN GENERAL.—Projects selected for funding in any fiscal year under this subsection may not be conducted unless the Director receives and provides non-Federal contributions for such projects in an amount that equals at least 50 percent of the total funding for all projects to be conducted in the fiscal year.

(ii) SOLICITATION OF CONTRIBUTIONS.—The Director shall within 30 days after the date of the enactment of this Act, solicit pledges for non-Federal contributions referred to in clause (i) from non-Federal entities that are established solely to provide non-Federal contributions under clause (i) and that have no substantive involvement in the program established under this section, other than to provide the non-Federal contributions.

(3) SOLICITATION AND SELECTION OF PROPOSALS.—

(A) IN GENERAL.—Within 15 months after the date of the enactment of this Act, and as often thereafter as the Director considers to be appropriate, the Director, in coordination with the Interagency Committee, shall solicit and select proposals to conduct projects under this subsection.

(B) CONSULTATION WITH ADVISORY COMMITTEE.—In preparing solicitations for proposals to conduct projects, the Director shall consult with the Advisory Committee.

(C) PEER REVIEW PANELS.—Before a proposal to conduct a project under this subsection may be selected by the Director, such proposal must be submitted to, and evaluated by, at least one scientific and technical peer review panel constituted by the Director.

(4) REPORTS.—

(A) REPORT UPON COMPLETION OF PROJECT.—Any person who conducts a project under the program established under paragraph (1) shall, upon completion of the project, submit to the National Academy of Sciences, the Interagency Committee, and the Advisory Committee a report summarizing the research activities and findings of the project.

(B) REPORT TO INTERAGENCY COMMITTEE AND ADVISORY COMMITTEE.—The Chairman of the National Academy of Sciences shall biennially submit to the Interagency Committee and the Advisory Committee a report that evaluates the research activities that have been completed under this subsection. The report shall include recommendations to promote the effective transfer of information derived from such research projects, including the transfer to representatives of State regulatory agencies, State health agencies, electric utilities, electrical equipment manufacturers, labor unions, and public interest groups.

(C) REPORTS TO CONGRESS.—The Interagency Committee and the Advisory Committee shall each biennially submit to the Congress a report summarizing the progress of the research program established under this subsection.

(5) CONFLICTS OF INTEREST.—The Director shall include conflict of interest provisions in any grant or other funding provided, or contract entered into, under the research program established under this subsection including provisions—

(A) that require any person conducting a project under such program to disclose any other source of funding received by the person to conduct other related projects, including funding received from consulting on issues relating to electric and magnetic fields; and

(B) that prohibit a person who has been awarded a grant or contract under this program from testifying in a court of law as an expert on the specific research he is conducting under such grant or contract.

(d) ELECTRIC AND MAGNETIC FIELDS PUBLIC INFORMATION DISSEMINATION PROGRAM.—

(1) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Director shall establish a program to collect, compile, publish, and disseminate to the public information on electric and magnetic fields, with particular emphasis on electric and magnetic fields produced by electricity of the 60 Hertz frequency. The Director, in coordination with the Interagency Committee, shall ensure that the information disseminated through the program is updated as often as necessary. The program shall include information regarding—

(A) the possible human health effects of electric and magnetic fields;

(B) the types and extent of human exposure to electric and magnetic fields in various occupational and residential settings;

(C) technologies to measure and characterize electric and magnetic fields; and

(D) methods to assess and manage exposure to electric and magnetic fields.

(2) INFORMATION PAMPHLET.—The program referred to in paragraph (1) shall include the development and dissemination of a pamphlet that would be useful to the public in the assessment and risk management of exposure to electric and magnetic fields. The pamphlet shall be developed and disseminated within 2 years of the date of the enactment of this Act and shall be updated as often as necessary.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Committee" means the National Electric and Magnetic Fields Advisory Committee established under subsection (b).

(2) The term "Interagency Committee" means the Electric and Magnetic Fields Interagency Committee established under subsection (a).

(3) The term "Director" means the Director of the National Institute of Environmental Health Sciences.

(4) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Director $60,000,000 for the period encompassing fiscal years 1993 through 1997 to carry out the provisions of this section except for the provisions of subsection (d). Any amounts appropriated pursuant to this paragraph shall remain available until expended.

(2) PUBLIC INFORMATION DISSEMINATION PROGRAM.—There are authorized to be appropriated to the Director $1,000,000 for each of fiscal years 1993 through 1997 to carry out the provisions of subsection (d). Any amounts appropriated pursuant to this paragraph shall remain available until expended.

(3) RESTRICTIONS ON USE OF FUNDS.—

(A) ADMINISTRATIVE EXPENSES OF CERTAIN FUNDING RECIPIENTS.—Of the total amount of funds provided to any institution under subsection (c), the amount of such funds that may be used for the administrative indirect costs of the institution may not exceed 26 percent of the modified direct costs of the project funded by the grant.

(B) ADMINISTRATIVE EXPENSES OF THE NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES.—Of the total amount of funds made available under this section for any fiscal year, not more than 5 percent of such funds may be used for authorized administrative expenses of the National Institute of Environmental Health Sciences in carrying out this section.

(C) CONSTRUCTION AND REHABILITATION OF FACILITIES AND EQUIPMENT.—Funds made available under this section may not be used for the construction or rehabilitation of facilities or fixed equipment.

(g) SENSE OF CONGRESS.—It is the sense of the Congress that remedial action taken by the Government on electric and magnetic fields, if and as necessary, should be based on, and consistent with, scientifically valid research such as the results and findings of the research authorized by this Act.

Subtitle C—Pollution Prevention

SEC. 2121. ENERGY EFFICIENT POLLUTION PREVENTION PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Administrator of the

Environmental Protection Agency, is authorized to continue to carry out an Energy Efficient Pollution Prevention Program for the purpose of carrying out research, development, and demonstration on energy efficient pollution prevention technologies and processes, emphasizing source reduction and a systems approach to minimizing adverse environmental effects of industrial production in the most cost-effective and energy efficient manner.

(b) IDENTIFICATION OF TARGETS OF OPPORTUNITY.—Within 9 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall identify targets of opportunity for the demonstration of energy efficient pollution prevention technologies and processes, taking into consideration the total materials and energy cycle, and with the goal of minimizing adverse environmental effects.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall solicit proposals for research, development, and demonstration projects under this section. Proposals submitted under this subsection shall demonstrate that the proposed project includes—

(1) technically viable and replicable cost-effective approaches; and

(2) procedures for technology transfer and information outreach during and after completion of the project.

(d) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $75,000,000 for the period encompassing fiscal years 1993 through 1997, to be derived from sums authorized under section 2101(f).

TITLE XXII—ENERGY AND ECONOMIC GROWTH

SEC. 2201. NATIONAL CRITICAL ADVANCED MATERIALS INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a National Critical Advanced Materials Initiative in the Office of Assistant Secretary for Conservation and Renewable Energy for the purpose of carrying out a program of research, development, and demonstration on techniques not commercially available for processing, synthesizing, fabricating, and manufacturing of critical advanced materials and associated components that have energy efficiency and renewable energy applications, to supplement ongoing activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate research, development, and demonstration of critical advanced materials not commercially available to expedite the deployment of high performance energy efficient and renewable energy technologies in the industrial, transportation, and buildings sectors that can foster economic growth and competitiveness.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy National Laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide research, development, and demonstration activities under this section. The Secretary, with the advice of the Advisory Board established under section 2303, shall biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals from eligible parties for conducting research, development, and demonstration activities consistent with the 5-year program plan. Such proposals may be submitted by one or more eligible parties, and may include any funding mechanisms otherwise authorized under Federal law.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of critical advanced materials in energy efficiency or renewable energy in the near-term to mid-term;

(B) evidence of consideration of whether the unique capabilities of Department of Energy National Laboratories warrants collaboration with such Laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) a demonstration of the ability of the proposers to undertake and complete the project proposed.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(f) GENERAL SERVICES ADMINISTRATION INSERTION DEMONSTRATION PROGRAM.—The Secretary, in consultation with the Administrator of General Services, shall establish a program to expedite the use, in goods and services acquired by the General Services Administration, of critical advanced materials technologies. Such program shall include a demonstration of the use of critical advanced materials technologies in such operating environments as may be necessary to establish technical and operating reliability. The Secretary shall transfer funds to the General Services Administration for carrying out this subsection.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, to be derived from sums authorized under section 2101(f)—

(1) $150,000,000 for the period encompassing fiscal years 1993 through 1997 for carrying out subsections (a) through (d), including Department of Energy National Laboratory participation in proposals submitted under subsection (d), of which ⅔ shall be for energy efficiency applications and ⅓ shall be for renewable energy applications; and

(2) $15,000,000 for the period encompassing fiscal years 1993 through 1997 for carrying out subsection (f), including transferring funds to the General Services Administration.

SEC. 2202. NATIONAL CRITICAL ADVANCED MANUFACTURING TECHNOLOGIES INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a National Critical Advanced Manufacturing Technologies Initiative in the Office of Assistant Secretary for Conservation and Renewable Energy for the purpose of carrying out a program of research, development, and demonstration on critical advanced manufacturing technologies not commercially available to improve energy efficiency and productivity in manufacturing, to supplement ongoing activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate research, development, and demonstration of critical advanced manufacturing technologies to expedite improved productivity, quality, and control in manufacturing processes that can foster economic growth, energy efficiency, and competitiveness.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy National Laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide research, development, and demonstration activities under this section. The Secretary, with the advice of the Advisory Board established under section 2303, shall biennially update and, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914), resubmit the program plan to Congress.

(d) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals from eligible parties for conducting research, development, and demonstration activities consistent with the 5-year program plan. Such proposals may be submitted by one or more eligible parties, and may include any funding mechanisms otherwise authorized under Federal law.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of critical advanced manufacturing technologies to improve energy efficiency in the building, industry, and transportation sectors;

(B) evidence of consideration of whether the unique capabilities of Department of Energy National Laboratories warrants collaboration with such Laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) a demonstration of the ability of the proposers to undertake and complete the project proposed.

(e) COST SHARING.—In awarding grants, contracts, cooperative agreements, or other financial assistance under this section, the Secretary shall require cost sharing as provided in section 2305.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, from sums authorized under section 2101(f), $50,000,000 for the period encompassing fiscal years 1993 through 1997 for carrying out this section, including Department of Energy National Laboratory participation in proposals submitted under subsection (d).

SEC. 2203. SUPPORTING RESEARCH AND TECHNICAL ANALYSIS.

(a) BASIC ENERGY SCIENCES.—

(1) PROGRAM DIRECTION.—The Secretary shall continue to support a vigorous program of basic energy sciences to provide basic research support for the development of energy technologies. Such program shall focus on the efficient production and use of energy, and the expansion of our knowledge of materials, chemistry, geology, and other related areas of advancing technology development.

(2) USER FACILITIES.—(A) As part of the program referred to in paragraph (1), priority shall be given to the planning, construction, and operation of user facilities to provide special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of our Nation's universities, industry, private laboratories, Federal Laboratories, and others. Research institutions or individuals from other nations shall be accommodated at such user facilities in cases where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest.

(B) The construction of the Advanced Photon Source at the Argonne National Laboratory is hereby authorized.

(C) The Secretary shall not change the user fee practice in effect as of October 1, 1991, with respect to user facilities unless expressly so authorized by law enacted after the date of enactment of this Act.

(D) The Secretary shall expedite the construction of the Advanced Neutron Source at the Oak Ridge National Laboratory, in order to provide critical research capabilities in support of our Nation's research initiatives for advanced materials, biotechnology, and advanced manufacturing, as well as a broad range of research. Within 90 days after the date of enactment of this Act, the Secretary shall submit to the Congress a plan for such construction, including a schedule for construction.

(3) COST SHARING.—Except as provided in a cooperative research and development agreement, the Secretary shall not require the use of non-Federal funds for research pursuant to this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this subsection $772,000,000 for fiscal year 1993 and $3,693,000,000 for the period encompassing fiscal years 1994 through 1997.

(b) UNIVERSITY AND SCIENCE EDUCATION.—(1) The Secretary shall support programs for improvements and upgrading of university research reactors and associated instrumentation and equipment. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the condition and status of university research reactors, which includes a 5-year plan for upgrading and improving such facilities, instrumentation capabilities, and related equipment.

(2) The Secretary shall develop a method to evaluate the effectiveness of science and mathematics education programs provided by the Department of Energy and its laboratories, including specific evaluation criteria.

(3)(A)(i) The Director of the Office of Energy Research shall operate an Experimental Program to Stimulate Competitive Research (hereafter in this paragraph referred to as the "Experimental Program") as part of the Department of Energy's University and Science Education Programs.

(ii) The objectives of the Experimental Program shall be—

(I) to enhance the competitiveness within the peer-review system of investigators from academic institutions in eligible States; and

(II) to increase the probability of long-term growth of competitive funding to investigators at institutions from eligible States.

(iii) In order to carry out the objectives stated in clause (ii), the Experimental Program shall provide for activities which may include (but not be limited to) competitive research awards and graduate traineeships.

(iv) The Experimental Program shall assist those States that—

(I) historically have received relatively little Federal research and development funding; and

(II) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(B) For purposes of this paragraph, the term "eligible States" means States that received DOE-EPSCoR planning or traineeship grants in fiscal year 1991 or fiscal year 1992.

(C) No more than $5,000,000 of the funds appropriated to the Experimental Program in any fiscal year are authorized to be appropriated for graduate traineeships.

(c) TECHNOLOGY TRANSFER.—The Secretary shall support technology transfer activities conducted by the National Laboratories. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the adequacy of funding for such activities, along with a proposal for reducing the length of time required to consummate cooperative research and development agreements.

(d) FACILITIES SUPPORT FOR MULTIPROGRAM ENERGY LABORATORIES.—

(1) FACILITY POLICY.—The Secretary shall develop and implement a least cost strategy for correcting facility problems, closing unneeded facilities, making facility modifications, and building new facilities at multiprogram energy laboratories.

(2) FACILITY PLAN.—Within 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at multiprogram energy laboratories. Such plan shall provide for the organized conduct of facilities work in accordance with the following priorities, listed in descending order of priority:

(A) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(B) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration.

(C) Providing engineering design and construction services for those facilities which require modification or additions in order to meet the needs of new or expanded programs.

Such plan shall include plans for new facilities and facility modifications which will be required to meet the Department of Energy's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations. Such plan shall address the coordination of modernization and consolidation of facilities in order to meet changing mission requirements, and shall provide for annual reports to Congress on accomplishments, conformance to schedules, commitments, and expenditures.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for Supporting Research and Technical Analysis, other than for Basic Energy Sciences, but including Energy Research Analysis, University and Science Education, Technology Transfer, Advisory and Oversight Program Direction, and Facilities Support for Multiprogram Energy Laboratories, $85,000,000 for fiscal year 1993 and $700,000,000 for the period encompassing fiscal years 1994 through 1997.

SEC. 2204. INTEGRATION OF RESEARCH AND DEVELOPMENT.

(a) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy National Laboratories, and professional and technical societies, shall prepare and submit to Congress a 5-year program plan for improving the integration of basic and applied renewable energy and energy efficiency research and development within the Department of Energy. Such program plan shall include—

(1) an evaluation of current procedures and mechanisms used to integrate basic and applied renewable energy and energy efficiency research and development within the Department of Energy;

(2) an assessment of the role that the Department of Energy National Laboratories play in the integration of basic and applied renewable energy and energy efficiency research and development within the Department of Energy;

(3) an identification and evaluation of models that could enhance integration, with particular attention to combustion research and development and materials research and development at the Department of Energy National Laboratories;

(4) an identification and evaluation of new programs, mechanisms, and related policy options that could improve the integrating process, including—

(A) set aside funding for matching or leveraging basic and applied renewable energy and energy efficiency research and development programs;

(B) more formal linkages; and

(C) program coordination;

(5) recommendations for expanded research and development and new technology areas; and

(6) budget estimates for activities under this section.

(b) APPLIED RESEARCH AND DEVELOPMENT.—For purposes of this section, applied research and development includes end use engineering and technology development, but does not include commercialization.

SEC. 2205. DEFINITIONS.

For purposes of this title—

(1) the term "critical advanced manufacturing technology" means processes, equipment, techniques, practices, and capabilities that are applied for the purpose of—

(A) improving the productivity, quality, and energy efficiency of the design, development, testing, and manufacture of a product; or

(B) expanding the technical capability to design, develop, test, and manufacture a product that is fundamentally different in character from existing products and that will result in improved energy efficiency;

(2) the term "critical advanced materials" means materials that are processed, synthesized, fabricated, and manufactured to develop high performance properties that exceed the corresponding properties of conven-

tional materials for structural, electronic, magnetic, or photonic applications, or for joining, welding, bonding, or packaging components into complex assemblies, including—

(A) advanced monolithic materials such as metals, ceramics, and polymers;

(B) advanced composite materials such as metal matrix (including intermetallics), polymer matrix, ceramic matrix, continuous fiber ceramic composite, and carbon matrix composites; and

(C) advanced electronic, magnetic, and photonic materials, including semiconductor, electrooptic, magnetooptic, thin-film, and special purpose coating materials used in technologies for energy efficiency, renewable energy, or electric power applications;

(3) the term "eligible party" includes an entity only if—

(A) the Secretary finds that the entity's participation would be in the economic interest of the United States, as evidenced by—

(i) investments in the United States in research, development, and manufacturing (including, for example, the development and manufacture of major components or subassemblies in the United States);

(ii) significant contributions to employment in the United States;

(iii) agreement with respect to any technology arising from assistance provided under this title to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(iv) provision of effective protection for the intellectual property rights of the United States; and

(B) either—

(i) the entity is United States-owned; or

(ii) the Secretary finds that the entity is organized under the laws of the United States or of one of the States of the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any program similar to those authorized under this title; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies; and

(4) the term "United States" means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE XXIII—POLICY AND ADMINISTRATIVE PROVISIONS

SEC. 2301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS IN ENERGY TECHNOLOGY.

(a) REDUCED PROCESSING TIME.—The Secretary shall take such steps as are necessary to expedite procedures for reviewing cooperative research and development agreements entered into by the Department of Energy or its laboratories to make the administrative review process consistent with those at other Federal agencies and their laboratories.

(b) REPORT TO CONGRESS.—The Secretary shall, with the advice of the Advisory Board established under section 2303, by December 15 of each year, submit a report to Congress that—

(1) identifies cooperative research and development agreements and other agreements intended to expedite the transfer of technologies from Department of Energy laboratories that are then in effect or under negotiation;

(2) specifies the technology with respect to which each such agreement applies or will apply;

(3) identifies the resources committed by the partners to each such agreement, including Department of Energy laboratories; and

(4) provides, to the extent available, information on—

(A) the date each such agreement was proposed;

(B) the date of final approval; and

(C) the reasons for any significant time delay.

(c) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT FUNDING.—Program funds authorized for Conservation Research and Development and Fossil Energy Research and Development may be used for the support of customary activities related to the negotiation and execution of cooperative research and development agreements by Department of Energy laboratories.

SEC. 2302. POLICY ON CAPITAL PROJECTS AND CONSTRUCTION.

(a) REQUIREMENT OF PRIOR AUTHORIZATION.—(1) No funds are authorized to be appropriated under title XX, XXI, XXII, XXIII, or XXIV of this Act by the Secretary for any substantial construction project, substantial equipment acquisition, or major construction project unless a report on such project or acquisition has been provided to Congress in accordance with subsection (b).

(2) The Secretary may not obligate any funds for any substantial construction project, substantial equipment acquisition, or major construction project unless such project or acquisition has been specifically authorized by statute.

(3) This subsection may not be amended or modified except by specific reference to this subsection.

(b) REPORTS TO CONGRESS.—(1) Within 180 days after the date of enactment of this Act, the Secretary shall submit to the Congress a report that identifies all construction projects and acquisitions of the Department of Energy described in subsection (a) for which the preliminary design phase is completed but the construction or acquisition is not completed. Such report shall include—

(A) an estimate of the total cost of completion of the construction project or acquisition, itemized by individual activity and by fiscal year; and

(B) an identification of which construction projects or acquisitions have not been specifically authorized by statute, along with an assessment of the relation of each such construction project or acquisition to the goals stated in section 2002

The Secretary shall annually update and resubmit the report required by this paragraph, as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914).

(2) The Secretary shall, after completion of the preliminary design phase of a major construction project, submit to the Congress a report containing—

(A) an estimate of the total cost of construction of the facility;

(B) an estimate of the time required to complete construction;

(C) an estimate of the annual operating costs of the facility;

(D) the intended useful operating life of the facility; and

(E) an identification of any existing facilities to be closed as a result of the operation of the facility.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "major construction project" means a project whose construction costs are estimated to exceed $100,000,000 over the life of the project;

(2) the term "substantial construction project" means a project whose construction costs are estimated to exceed $10,000,000, but not to exceed $100,000,000, over the life of the project; and

(3) the term "substantial equipment acquisition" means the acquisition of equipment at a cost estimated to exceed $10,000,000 for the entire acquisition.

SEC. 2303. ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Research, Development, and Demonstration Advisory Board (hereafter in this section referred to as the "Advisory Board").

(b) RESPONSIBILITIES.—The Advisory Board shall provide impartial technical advice to the Secretary to assist in the development of energy research, development, and demonstration plans and reports under sections 6 and 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905 and 5914), under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), and as otherwise provided in titles XX through XXIV of this Act. The Advisory Board shall also periodically review such plans and reports and their implementation in relation to the goals stated in section 2002 of this Act, and report the results of such review to the Secretary and the Congress.

(c) MEMBERSHIP.—The Advisory Board shall be composed of 11 voting members, appointed by the Secretary from among individuals who are qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Advisory Board. The membership shall represent a range of scientific and technological expertise that reflects the range of energy research, development, and demonstration programs conducted by the Department of Energy. At least 1 member shall have expertise in the environmental sciences related to the production and consumption of energy. Additionally, the Director of the Office of Energy Research shall serve as an ex officio, nonvoting member of the Advisory Board.

(d) TERMS.—(1) Except as provided in paragraph (2), voting members of the Advisory Board shall serve 3-year terms.

(2) Of the voting members of the Advisory Board initially appointed under subsection (c)—

(A) 4 shall be appointed to 2-year terms; and

(B) 3 shall be appointed to 1-year terms.

(e) CHAIRPERSON.—At the first meeting each year of the Advisory Board, the members shall elect a chairperson from among the membership, who shall serve in such position for 1 year.

(f) MEETINGS.—The Advisory Board shall meet at least once a year.

(g) PANELS.—The Advisory Board, after consultation with the Secretary, may establish such panels as the Advisory Board considers appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board in carrying out this section.

(h) Compensation.—Each member of the Advisory Board who is not otherwise employed by the Federal Government shall be paid at a rate equal to the daily equivalent of the rate of basic pay payable for GS–18 of the General Schedule for each day (including travel time) during which such member is engaged in the actual performance of the responsibilities of the Advisory Board.

(i) Conflict of Interest.—Each member of the Advisory Board shall be subject to the requirements of sections 603 and 604 of the Department of Energy Act (42 U.S.C. 7213 and 7214).

(j) Reports to Congress.—(1) The Advisory Board shall annually submit a report to the Congress on its activities and progress toward meeting its responsibilities under this section. Such report shall be made a part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914).

(2) The Advisory Board shall prepare and submit to the Congress before February 15 of each year a report on electric generating technology appropriate for demonstration. This report shall recommend—

(A) priorities for demonstration including the size and scale of the demonstration unit;

(B) cost sharing guidelines for projects that demonstrate such technologies;

(C) recommendations for levels of funding for such demonstrations; and

(D) an assessment of completed demonstration projects that identifies the problem areas and recommends improvements.

(k) Termination.—The Advisory Board shall terminate 5 years after the establishment of such Board.

SEC. 2304. AMENDMENTS TO EXISTING LAW.

(a) Federal Nonnuclear Energy Research and Development Act of 1974 Amendments.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) by striking "the Administrator" and inserting in lieu thereof "the Department of Energy Act (42 U.S.C. 7101 et seq.), and titles XX through XXV of the Comprehensive National Energy Policy Act, the Secretary, in consultation with the Advisory Board established under section 2303 of the Comprehensive National Energy Policy Act,";

(B) by striking "(to the early 1980's)" in paragraph (1) and inserting in lieu thereof "(the period up to 5 years after submission of the plan or its annual revision)";

(C) by striking "(the early 1980's to 2000)" in paragraph (2) and inserting in lieu thereof "(the period from 5 years to 10 years after submission of the plan or its annual revision)"; and

(D) by striking "(beyond 2000)" in paragraph (3) and inserting in lieu thereof "(the period beyond 10 years after submission of the plan or its annual revision)";

(2) in subsection (b)—

(A) by striking "Administrator" in paragraphs (1) and (2) and inserting in lieu thereof "Secretary, in consultation with the Advisory Board established under section 2303 of the Comprehensive National Energy Policy Act,";

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." at the end of paragraph (1);

(C) by striking "(to the early 1980's), middle-term (the early 1980's to 2000), and long-term (beyond 2000) time intervals" in paragraph (2) and inserting in lieu thereof ", middle-term, and long-term time intervals described in subsection (a)(1) through (3)";

(D) by striking "Administrator" each place it appears in paragraph (3) and inserting in lieu thereof "Secretary";

(E) by striking "and" at the end of paragraph (3)(P);

(F) by striking the period at the end of paragraph (3)(Q) and inserting in lieu thereof a semicolon; and

(G) by adding at the end of paragraph (3) the following new subparagraphs:

"(R) to implement the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.); and

"(S) to implement titles XX through XXIV of the Comprehensive National Energy Policy Act."; and

(3) in subsection (c)—

(A) by striking "Administrator" and inserting in lieu thereof "Secretary, in consultation with the Advisory Board established under section 2303 of the Comprehensive National Energy Policy Act,"; and

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." after "and demonstration plans.".

(b) Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 Amendment.—Section 9(b)(4) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12006(b)(4)) is amended by inserting "and the plan developed under section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905)" after "(42 U.S.C. 7321)".

SEC. 2305. COST SHARING.

Proposals submitted under provisions of titles XX through XXIV of this Act requiring cost sharing shall, except as otherwise specifically provided in those provisions, include a commitment from non-Federal sources for providing, in cash or in kind, between 20 and 50 percent of the cost of the project proposed. Each such proposal shall include a justification of the non-Federal percentage proposed. The Secretary may reduce or eliminate the non-Federal percentage requirement under this section if the Secretary determines that research under the proposal is of a more basic or fundamental nature.

SEC. 2306. COMPREHENSIVE ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION PLAN AND PROGRAM.

(a) Energy Technology Inventory and Status Report.—As part of the National Energy Policy Plan required under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), the Secretary, with the advice of the Advisory Board established under section 2303 of this Act, shall develop an inventory and status report of technologies to enhance energy supply and to improve the efficiency of energy end uses. The inventory and status report shall include fossil, renewable, nuclear, and energy conservation technologies which have not yet achieved the status of fully reliable and cost-competitive commercial availability, but which the Secretary projects may become available with additional research, development, and demonstration. The inventory and status report shall provide, for each technology—

(1) an assessment of its—

(A) degree of technological maturity; and

(B) principal research, development, and demonstration issues, including—

(i) the barriers posed by capital, operating, and maintenance costs;

(ii) technical performance; and

(iii) potential environmental impacts;

(2) the projected time frame for commercial availability, specifying at a minimum whether the technology will be commercially available in the near-term, mid-term, or long-term, whether there are too many uncertainties to project availability, or whether it is unlikely that the technology will ever be commercial; and

(3) a projection of the future cost-competitiveness of the technology in comparison with alternative technologies to provide the same energy service.

The Secretary shall publish the proposed report for a written public comment period of at least 90 days. The Secretary shall consider such comments and include a summary thereof in the report.

(b) Research and Development Priorities.—As part of the National Energy Policy Plan required under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), the Secretary shall establish comprehensive energy research, development, and demonstration program priorities to give highest priority to the development of technologies assessed in the energy technology inventory and status report that will enable the United States to meet the goals stated in section 2002 of this Act.

SEC. 2307. COSTS RELATED TO DECOMMISSIONING AND THE STORAGE AND DISPOSAL OF NUCLEAR WASTE.

(a) Award of Contracts.—

(1) Prime contractors.—In awarding contracts to perform nuclear hot cell services, the Secretary, in evaluating bids for such contracts, shall exclude from consideration costs related to the decommissioning of nuclear facilities or the storage and disposal of nuclear waste, if—

(A) one or more of the parties bidding to perform such services is a United States company that is subject to such costs; and

(B) one or more of the parties bidding to perform such services is a foreign company that is not subject to comparable costs.

(2) Subcontractors.—Any person awarded a contract subject to the restrictions described in paragraph (1) who subcontracts with a person to perform the services described in such paragraph shall be subject to the same restrictions in evaluating bids among potential subcontractors, as the Secretary was subject to in evaluating bids among prime contractors.

(b) Issuance of Regulations.—The Secretary shall issue regulations not later than 90 days after the date of the enactment of this Act to carry out the requirements of subsection (a).

(c) Definitions.—As used in this section—

(1) the term "costs related to decommissioning of nuclear facilities" means any cost associated with the compliance with regulatory requirements governing the decommissioning of nuclear facilities licensed by the Nuclear Regulatory Commission;

(2) the term "costs related to storage and disposal of nuclear waste" means any costs, whether required by regulation or incurred as a matter of prudent business practice, associated with the storage or disposal of nuclear waste;

(3) the term "nuclear hot cell services" means services related to the examination of, or performance of various operations on, nuclear fuel rods, control assemblies, or other components that are emitting large quantities of ionizing radiation; and

(4) the term "nuclear waste" means any radioactive waste material subject to regulation by the Nuclear Regulatory Commission or the Department of Energy.

SEC. 2308. USE OF DOMESTIC PRODUCTS.

(a) Prohibition Against Fraudulent Use of "Made in America" Labels.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under title XX, XXI, XXII, XXIII, or XXIV of this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) Compliance With Buy American Act.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by title XX, XXI, XXII, XXIII, or XXIV of this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) Definitions.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 2309. LIMITATION ON APPROPRIATIONS.

Appropriations for activities with respect to which specific amounts are authorized under title XX, XXI, XXII, XXIII, or XXIV of this Act may not be made to the extent such appropriations provide for allocations of amounts not explicitly provided for in such titles.

SEC. 2310. RENEWABLE ENERGY AND OCEAN RESOURCES CENTER.

(a) Feasibility Study.—The Secretary of Energy shall conduct a feasibility study of establishing a national laboratory able to carry out research, development, and technology transfer activities on—

(1) solar and renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean resource concepts, including global climate change; and

(5) other matters as the Secretary of Energy may direct.

(b) Report to Congress.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit a report on the study conducted in subsection (a) to Congress.

SEC. 2311. UNCOSTED OBLIGATIONS.

(a) Report.—Along with the submission of each of the President's annual budget requests to Congress, the Secretary shall submit to Congress a report which—

(1) identifies the amount of Department of Energy funds that were, as of the end of the previous fiscal year—

(A) committed uncosted obligations; and

(B) uncommitted uncosted obligations;

(2) specifically describes the purposes for which all such funds are intended; and

(3) explains the effect that information contained in the report has had on the annual budget request for the Department of Energy being simultaneously submitted.

(b) Definitions.—Within 90 days after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing definitions of the terms "uncosted obligation", "committed uncosted obligation", and "uncommitted uncosted obligation" for purposes of reports to be submitted under subsection (a).

TITLE XXIV—MARINE AND COASTAL ENVIRONMENT PROTECTION

SEC. 2401. SHORT TITLE.

This title may be cited as the "Marine and Coastal Environment Protection Act of 1992".

Subtitle A—Ocean and Coastal Resources Block Grants

SEC. 2411. SHORT TITLE.

This subtitle may be cited as the "Ocean and Coastal Resources Block Grant Act".

SEC. 2412. DEFINITIONS.

For purposes of this subtitle—

(1) "block grant" means a National Ocean and Coastal Resources Block Grant;

(2) "coastal State" means the Commonwealth of Puerto Rico and any State of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(3) "coastal territory" means the Virgin Islands, the Northern Mariana Islands, American Samoa, or Guam;

(4) "Fund" means the Ocean and Coastal Resources Fund;

(5) "local government" means that term as defined in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincorporated communities, including Alaska Native villages and with respect to Indian tribes, the term includes any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(6) "Secretary" means the Secretary of Commerce; and

(7) "State" means any coastal State or coastal territory—

(A) for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); or

(B) which the Secretary has determined is making satisfactory progress toward the development of such program which will be approvable under such section 306.

The determination made by the Secretary under subparagraph (B) shall not be made for any State for more than one fiscal year and may be renewed with respect to such State for no more than two additional fiscal years.

SEC. 2413. OCEAN AND COASTAL RESOURCES FUND.

(a) There is established in the Treasury of the United States a fund to be known as the Ocean and Coastal Resources Fund.

(b)(1) Beginning in fiscal year 1993 and in each fiscal year thereafter, the Secretary of the Treasury shall deposit into the Fund, not later than 60 days after the end of the previous fiscal year, an amount equal to 4 percent of the average amount of all sums deposited in the Treasury of the United States pursuant to section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) during the three previous fiscal years.

(2) Beginning in fiscal year 1994, and in each fiscal year thereafter, the amount deposited in the Fund shall not exceed 105 percent of the amount deposited in the Fund in the prior fiscal year.

(c) As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Fund during each fiscal year to carry out the purposes of, and in accordance with, the provisions of section 2414 of this Act.

SEC. 2414. NATIONAL OCEAN AND COASTAL RESOURCES BLOCK GRANTS.

(a) Subject to the provisions of section 2413(c) and this section, for fiscal year 1993 and for each subsequent fiscal year, the Secretary shall provide to each State a national ocean and coastal resources block grant from amounts paid into the Fund during such fiscal year under section 2413(b).

(b)(1) No State may receive a block grant for a fiscal year unless such State has submitted to the Secretary, and the Secretary has approved after notice and comment, a report for such fiscal year that—

(A) specifies the proposed allocation by such State of the block grant among the activities specified in section 2415(a);

(B) describes each proposed activity receiving funds provided by the block grant and the amounts proposed to be expended for each activity; and

(C) demonstrates that each proposed project is consistent with the allowable uses specified in section 2415, will benefit the coastal environment of the State, and is justified in terms of its need, design, and cost of implementation.

(2) In order to be eligible to receive a block grant pursuant to this subtitle and before submitting the report required under paragraph (1), each State shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the State convenient for encouraging maximum public participation.

(c) All amounts appropriated from the Fund in any fiscal year shall be apportioned by the Secretary as block grants to eligible States as follows—

(1) 0.25 percent for each coastal territory;

(2) 5.0 percent for each of Alabama and Mississippi;

(3) 10.0 percent for each of Alaska, California, Louisiana, and Texas;

(4) 1.75 percent for each of the remaining States; and

(5) the balance of appropriated amounts among the States in the same ratio that the volume of oil and natural gas produced from the outer Continental Shelf which is first landed in such State in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from the entire outer Continental Shelf which is first landed in all of the States in such year.

(d) The authority of the Secretary to award block grants under this subtitle shall expire on September 30, 2004. Not later than September 30, 2003, the Secretary, in consultation with the Secretary of the Interior, shall review the apportionment provided in subsection (c) and the existing and projected volume of oil and natural gas from the outer Continental Shelf landed in coastal States. Based on such review, the Secretary shall submit a report to Congress not later than December 31, 2003. The report shall include recommendations for maintaining or revising such apportionment. If a revision of such apportionment is recommended, the report shall include further recommendations for an equitable and orderly transition from the apportionment provided in subsection (c) to any new apportionment provision.

SEC. 2415. REQUIREMENTS ON THE USE OF BLOCK GRANTS.

(a) Funds received pursuant to this subtitle shall be used by the coastal States for—

(1) projects to protect, conserve, or enhance air quality, water quality, fish and wildlife habitats, or wetlands in, or in close proximity, to the State's coastal zone as identified in the State's management program under section 306(d)(2)(A) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(2) projects that ameliorate adverse environmental impacts that result from the siting, construction, expansion, or operation of energy facilities in the coastal zone, above and beyond any mitigation required of permittees under current law;

(3) administrative, resource assessment, and environmental study costs the State incurs in reviewing and approving or disapproving Outer Continental Shelf lease sale, exploration, and development and production activities under any applicable law; and

(4) administrative costs of complying with this subtitle.

(b) The Secretary shall reduce any block grant, provided under this subtitle to a State, by no more than 30 percent of the amount of such State's block grant, if the Secretary makes the determination provided in section 312(c) of the Coastal Zone Management Act of 1972.

SEC. 2416. RELATIONSHIP TO OTHER LAW.

Nothing in this subtitle shall reduce any amounts required to be credited to the Land and Water Conservation Fund, pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 to 4601-11), or to the Historic Preservation Fund, pursuant to the Historic Preservation Act (16 U.S.C. 470h), from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. To the extent that the crediting of such amounts into the Land and Water Conservation Fund or the Historic Preservation Fund makes monies otherwise payable under this subtitle unavailable, payments to the States pursuant to this subtitle shall be reduced on a pro rata basis.

SEC. 2417. LOCAL GOVERNMENTS.

(a) Each State receiving a block grant in any fiscal year under section 2414(a) shall—

(1) establish an effective mechanism for consultation and coordination with its local governments with respect to the allocation of such block grant within the State; and

(2) provide to its local governments allocations from such block grant, taking into consideration the responsibilities of the local governments in carrying out activities under section 2415(a).

(b) In carrying out its responsibilities under this section, each State shall provide no less than 33⅓ percent of each block grant received under section 2414(a) to its local governments.

SEC. 2418. AUDIT.

(a) Under regulations promulgated by the Secretary, any State receiving a block grant under section 2414(a) shall, for each fiscal year that it receives such grant, submit to the Secretary a financial audit of the grant. The income derived from such grant for each fiscal year shall be included in the audit required by this section.

(b) Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all funds provided by the block grant received by such State for the fiscal year;

(2) include a statement of all financial assistance provided to such State's local governments pursuant to section 2417;

(3) be conducted by an entity which is independent of any agency or official administering or using funds provided by such block grant; and

(4) be conducted in accordance with the financial and compliance element of the standards for audit of governmental organizations, activities, and functions established by the Comptroller General of the United States.

(c) After receiving a State's financial audit under this section, the Secretary shall—

(1) make a preliminary evaluation of each audit submitted pursuant to this section. If the Secretary determines, in the preliminary evaluation of a State's audit, that all or any part of the block grant has not been used as required by this subtitle, the Secretary shall publish notice of this finding in the Federal Register. In addition, the Secretary may suspend, and place in escrow, an amount from any future block grant which is equivalent to the amount misused, pending final determination pursuant to paragraph (3);

(2) provide the State with an opportunity for a hearing; and

(3) make a final determination.

(d) If the Secretary makes a final determination under subsection (c)(3) that all or any part of such funds were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused under subsection (c), including the withholding of such amount from a State's future block grant or the amount which may have been suspended under subsection (c)(1).

(e) If no appeal of the final determination is filed within 60 days following notification to the State of the final determination, any funds withheld or recovered by the Secretary under subsection (d)(2) shall be returned to the Fund.

(f) If an appeal of the final determination is filed within the 60-day period specified in subsection (e), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

SEC. 2419. RULES AND REGULATIONS.

Within 180 days of enactment of this Act, the Secretary shall promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle B—Revisions to the Outer Continental Shelf Program

SEC. 2431. RELATIONSHIP TO OUTER CONTINENTAL SHELF LEASING PROGRAM AND EXISTING LAW.

(a) RELATIONSHIP TO OUTER CONTINENTAL SHELF LEASING PROGRAM.—Notwithstanding the Outer Continental Shelf Leasing Program maintained by the Secretary pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) or any lease sale schedule contained in a specific leasing program thereunder, the Secretary shall carry out such program consistent with the provisions of this subtitle.

(b) RELATIONSHIP TO EXISTING LAW.—Except as otherwise specifically provided in this Act, nothing in this Act shall be construed to affect the application of other Federal law to activities conducted on the Outer Continental Shelf.

SEC. 2432. SPECIFIC REGIONAL OUTER CONTINENTAL SHELF PLANNING AREAS.

The specific regional Outer Continental Shelf planning areas referred to in this subtitle shall be those so designated in the Department of the Interior Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program 1992-1997 Proposal, dated July 1991.

SEC. 2433. OUTER CONTINENTAL SHELF LEASING ENVIRONMENTAL SCIENCES REVIEW.

(a) ENVIRONMENTAL SCIENCES REVIEW PANELS.—

(1) ESTABLISHMENT.—An environmental sciences review panel shall be established for each of the Planning Areas described in section 2434, except that one such review panel shall be established for the South Atlantic Planning Area and the Straits of Florida Planning Area, collectively.

(2) PURPOSES.—The purposes of each review panel established under paragraph (1) shall be—

(A) to assess the adequacy of available physical oceanographic, ecological, and socioeconomic information in enabling the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing—

(i) leasing and exploration; and

(ii) development and production,

in the area covered by such review panel;

(B) if such available information is not adequate for such purposes, to identify the additional studies required to obtain such information;

(C) to identify the potential physical oceanographic, ecological, and socioeconomic impacts of exploration and development in the area covered by such review panel;

(D) to provide for and supervise the peer review, by qualified scientists not employed by the Federal Government, of the proposed studies identified under subparagraph (B) before their submission to the Secretary and separate reviews of each research proposal designed to implement those studies; and

(E) to report to the Secretary on its findings and recommendations under this paragraph.

(3) MEMBERSHIP.—Each review panel established under paragraph (1) shall consist of—

(A) one representative each from the Environmental Protection Agency, the Minerals Management Service, the National Oceanic and Atmospheric Administration, and the United States Fish and Wildlife Service;

(B) at least one representative from each State approved by the Governor of such State in the area covered by such review panel; and

(C) three members appointed by the Secretary of Commerce from a list of individuals nominated by the National Academy of Sciences who are professional scientists in the fields of physical oceanography, marine ecology, and social science.

There shall be 4 members as described in subparagraph (B) on each review panel, except that the total representation under such subparagraph (B) on a review panel covering more than 4 States shall equal the number of States covered.

(4) COMPENSATION.—(A) Members of each review panel appointed under paragraph (3)(C), while performing official duties under

this subtitle shall receive compensation for travel and transportation expenses under section 5703 of title 5, United States Code.

(B) Members of each review panel appointed under paragraph (3)(C) may be compensated at a rate to be fixed by the Secretary of Commerce, but not in excess of the maximum rate of pay for grade GS–18 provided in the General Schedule under section 5332 of title 5, United States Code, for each day such member spends performing the duties of the panel.

(b) Reports to Congress.—The Secretary shall, after consideration of the findings and recommendations of each review panel established under subsection (a), submit a report to the Congress—

(1) certifying that the physical oceanographic, ecological, and socioeconomic information available is sufficient to enable the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing leasing and development in the area covered by such review panel; and

(2) including a detailed explanation of any differences between such certification and the findings and recommendations of the review panel, along with a detailed justification for each such difference.

(c) Leasing Considerations.—The Secretary shall, in determining whether to lease any area described in section 2434—

(1) consider the findings and recommendations of the appropriate review panel established under subsection (a) of this section; and

(2) to the extent that the Secretary disagrees with such findings and recommendations, provide substantial evidence for such disagreement.

SEC. 2434. RESTRICTIONS AND REQUIREMENTS APPLICABLE TO SPECIFIC PLANNING AREAS.

(a) North Atlantic Planning Area.—In the North Atlantic Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(b) Mid-Atlantic Planning Area.—In the Mid-Atlantic Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(3)(A) The restrictions and requirements of subparagraphs (B), (C), and (D) of this paragraph shall apply only with respect to the area offshore North Carolina included within blocks numbered 246, 247, 290, 291, 334, 335, 378, 379, 422, 423, 466, 467, 510, 511, 553, 554, 555, 597, 598, 640, and 641 on protraction diagram NI 18–2 of the Universal Transverse Mercator Grid System.

(B) Notwithstanding the requirements of section 5(a)(2) (A) and (B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (A) and (B)), the Secretary, within 90 days after the date of enactment of this Act, shall cancel any active leases in the area.

(C) Before the cancellation required under subparagraph (B), no exploration or development plans or permits to drill shall be approved for any such lease in existence on the date of enactment of this Act.

(D) Compensation to lessees owning leases that are canceled under subparagraph (B) shall be determined under section 5(a)(2) (C) and (D) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (C) and (D)).

(c) South Atlantic Planning Area.—In the South Atlantic Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(d) Straits of Florida Planning Area.—In the Straits of Florida Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(e) Eastern Gulf of Mexico Planning Area.—(1) In the Eastern Gulf of Mexico Planning Area north of 26 degrees north latitude and east of the lateral seaward boundary between the States of Florida and Alabama, the following additional restrictions and requirements shall apply:

(A) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(B) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(2) In the Eastern Gulf of Mexico Planning Area, the additional restrictions and requirements in this paragraph shall apply only with respect to the area offshore Florida, south of 26 degrees north latitude and east of 86 degrees west longitude:

(A) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(B) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(C) Studies to acquire the information found inadequate by the National Research Council's report shall be completed prior to any lease sale held after January 1, 2002.

(D)(i) Notwithstanding the requirements of section 5(a)(2) (A) and (B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (A) and (B)), the Secretary, within 90 days after the date of enactment of this Act, shall cancel any active leases in the area.

(ii) Before the cancellation required under clause (i), no exploration or development plans or permits to drill shall be approved for any such lease in existence on the date of enactment of this Act.

(iii) Compensation to lessees owning leases that are cancelled under clause (i) shall be determined under section 5(a)(2) (C) and (D) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (C) and (D)).

(f) Southern California, Central California, and Northern California Planning Areas.—In the Southern California, Central California, and Northern California Planning Areas, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(3) Studies to acquire the information found inadequate by the National Research Council's report shall be completed, and additional research on the incremental risks of an oil spill in the area shall be conducted, prior to any lease sale held after January 1, 2002.

(g) Washington-Oregon Planning Area.—In the Washington-Oregon Planning Area, the following additional restrictions and requirements shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(3) Studies recommended by the Pacific Northwest Outer Continental Shelf Task Force, shall be completed prior to any lease sale held after January 1, 2002.

(4) No leasing or preleasing activity shall be conducted within the area designated as the Olympic Coast National Marine Sanctuary in accordance with Public Law 100–627.

(h) North Aleutian Basin Planning Area.—In the North Aleutian Basin Planning Area, the additional restrictions and requirements in this paragraph shall apply:

(1) No preleasing activity shall be conducted before the issuance of the first final 5-year leasing plan under section 18 of the Outer Continental Shelf Lands Act after January 1, 2002.

(2) No lease sale shall be held until after the expiration of 45 days of continuous session of Congress after the Secretary submits a report with respect to the area under section 2433(b).

(3)(A) Notwithstanding the requirements of section 5(a)(2) (A) and (B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (A) and (B)), the Secretary, within 90 days after the date of enactment of this Act, shall cancel any active leases in the area.

(B) Before the cancellation required under subparagraph (A), no exploration or development plans or permits to drill shall be approved for any such lease in existence on the date of enactment of this Act.

(C) Compensation to lessees owning leases that are cancelled under subparagraph (A) shall be determined under section 5(a)(2) (C) and (D) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2) (C) and (D)).

(i) CONTINUOUS SESSION OF CONGRESS.—In computing any 45-day period of continuous session of Congress under this section—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain are excluded.

SEC. 2435. ALASKA OCS SUBSISTENCE REVIEW.

The Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.), as amended by section 2434(h) of this Act, is further amended by adding at the end thereof the following:

"SEC. 32. ALASKA OCS SUBSISTENCE REVIEW.—Prior to issuing any five-year program under section 18 of this Act, conducting any lease sale, or approving any plan or permit for exploration, development, or production activities in the Alaska region authorized by this Act, the Secretary shall comply with section 810 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3120). At the lease sale stage the Secretary shall fully consider the effects of exploration, development, and production upon subsistence uses.".

SEC. 2436. DEFINITIONS.

For the purposes of this subtitle—

(1) terms defined in the Outer Continental Shelf Lands Act have the meaning given such terms in that Act;

(2) the term "adequate" means sufficiently complete to enable necessary decisions to be made under the Outer Continental Shelf Lands Act, and of sufficient scientific quality to be repeatable, reliable, and valid in measurements and analysis with appropriate methods and subject;

(3) the term "National Research Council's report" means the report entitled "The Adequacy of Environmental Information for Outer Continental Shelf Oil and Gas Decisions: Florida and California" issued in 1989 by the Council's Committee to Review the Outer Continental Shelf Environmental Studies Program and supported by the President's Outer Continental Shelf Leasing and Development Task Force through Department of the Interior Contract No. 1435000130495; and

(4) the term "preleasing activities" means activities conducted before a lease sale is held, and includes the scheduling of a lease, requests for industry interest, calls for information and nominations, area identifications, publication of draft or final environmental impact statements, notices of sale, and any form of rotary drilling; but such term does not include environmental, geologic, geophysical, economic, engineering, or other scientific analyses, studies, and evaluations.

Subtitle C—Environmental Studies Program

SEC. 2441. ENVIRONMENTAL STUDIES.

Section 20(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(a)(1)) is amended by adding at the end the following new sentence: "Such study shall include an assessment of the adequacy of available physical oceanographic, ecological, and socioeconomic information.".

SEC. 2442. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346) is amended by adding at the end the following new subsections:

"(g) ADEQUACY OF INFORMATION.—For the purposes of this section, the term 'adequacy' means sufficiently complete to enable necessary decisions to be made under this Act, and of sufficient quality to be repeatable, reliable, and valid in measurements and analysis with appropriate methods and subject.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section—

"(1) $21,000,000 for fiscal year 1993;

"(2) $25,000,000 for fiscal year 1994;

"(3) $30,000,000 for fiscal year 1995;

"(4) $35,000,000 for fiscal year 1996; and

"(5) $40,000,000 for fiscal year 1997.".

Subtitle D—Miscellaneous

SEC. 2451. CANCELLATION OF LEASES.

Section 5(a)(2)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2)(B)) is amended—

(1) by inserting "or pursuant to an Act of Congress" after "by the Secretary"; and

(2) by striking "five" and inserting in lieu thereof "two".

SEC. 2452. COMPENSATION FOR LEASE BUYBACKS.

Section 5(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C); and

(2) by adding at the end the following new subparagraph:

"(D) that compensation a lessee is entitled to receive under subparagraph (C) may be made in the form of currency, forgiveness of the lessee's obligation to pay rents or royalties which would otherwise be paid to the Federal Government on another lease issued pursuant to this Act, or a combination of currency with such forgiveness.".

SEC. 2453. EVALUATION OF DEVELOPMENT POTENTIAL.

The Act of August 30, 1935 (Public Law No. 409 of the 74th Congress), is amended by inserting "The Secretary shall undertake a demonstration project to evaluate the potential for hydropower development, utilizing tidal currents;" after "Document Numbered 15, Seventy-fourth Congress;".

Subtitle E—Alaska Resources

PART 1—TRANS-ALASKA PIPELINE

SEC. 2461. RESPONSIBILITY OF RIGHT-OF-WAY HOLDER.

Title II of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) is amended by adding at the end thereof the following:

"RESPONSIBILITY OF RIGHT-OF-WAY HOLDER

"SEC. 208. In addition to the existing duties to respond to, contain, and clean up oil spills within the State of Alaska, including Prince William Sound, under section 204(b) of this Act and other laws and requirements, the holder of the right-of-way shall submit an oil spill response plan for Prince William Sound to the Secretary of Transportation for approval under section 4202 of the Oil Pollution Act of 1990.".

SEC. 2462. EXXON VALDEZ SETTLEMENT FUND LAND ACQUISITION.

Title II of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), as amended by section 2401 of this Act, is amended by adding at the end thereof the following:

"EXXON VALDEZ SETTLEMENT FUND HABITAT ACQUISITION

"SEC. 209. (a) Notwithstanding any other provision of law, all amounts received by the United States in settlement of United States v. Exxon Corporation and Exxon Shipping Company (Case No. A90-015-1CR and 2CR) (Criminal Plea Agreement) shall be exclusively utilized to acquire from willing sellers land or interests in land, including timber rights, within the Chugach National Forest in the Prince William Sound region and in other Gulf of Alaska areas affected by the discharge of oil from the T/V EXXON VALDEZ, including Kenai Fjords National Park, Afognak Island, the Alaska Maritime National Wildlife Refuge, and Kodiak National Wildlife Refuge.

"(b) Notwithstanding any other provision of law, the Federal Trustees identified in the Memorandum of Agreement and Consent Decree entered into by the United States and the State of Alaska, as approved by the District Court for the District of Alaska on October 8, 1991, shall not approve any restoration plan which does not include acquisition, in addition to that required by subsection (a), as the primary component of such restoration plan.".

SEC. 2463. SUBSISTENCE CLAIMS AGAINST TRANS-ALASKA PIPELINE LIABILITY FUND.

Section 204(c)(13) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(13)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (B) the following:

"(C) all injuries suffered by individuals or entities due to the impact of a discharge on people engaging in subsistence.

"In order to expedite compensation, the Fund shall certify a class action claim with respect to subparagraph (C).".

SEC. 2464. TAPS REMEDY NOT EXCLUSIVE.

Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(3)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, claim determinations or payments by the Fund shall not limit the right of any person to pursue other remedies provided by State or Federal law against parties other than the Fund for the full amount of all uncompensated damages caused by a discharge of oil.".

SEC. 2465. UTILITY CORRIDOR.

The Secretary of the Interior shall not implement the Bureau of Land Management's Record of Decision related to the Utility Corridor Management Plan, dated January 11, 1991. Notwithstanding any other provision of law, lands withdrawn by Public Land Order No. 5150 of December 31, 1971, that are owned by the United States shall not be conveyed or otherwise transferred to any other entity, but shall be retained and managed by the Secretary pursuant to applicable law.

PART 2—ARCTIC RESEARCH

SEC. 2471. FUNDING FOR ARCTIC RESEARCH PROGRAMS.

(a) IN GENERAL.—There is hereby authorized to be appropriated for a period of five fiscal years, commencing in fiscal year 1994, monies not to exceed $20,000,000 annually to be used to fund high priority research projects and programs related to, among other things, understanding the long- and short-term effects of energy development and productive activities on the Arctic environment. To be eligible for funding under this section, the project or program must be identified in accordance with subsection (b).

(b) ARCTIC RESEARCH PROJECTS LIST.—(1) Not later than six months after the date of enactment of this section, the Chairman of the Interagency Arctic Research Policy Committee shall prepare, with the concurrence of the Arctic Research Commission, a list of arctic research projects and programs as described in subsection (a) which will be eligible for funding under this section.

(2) The list referred to in paragraph (1) shall be transmitted to the Congress as part of the first budget submitted by the President following enactment of this section. Thereafter, revisions of the list shall be prepared in accordance with paragraph (1) and transmitted to the Congress as part of the President's budget submission.

Subtitle F—Transshipment of Plutonium Through United States Ports

SEC. 2481. TRANSSHIPMENT OF PLUTONIUM THROUGH UNITED STATES PORTS.

(a) Denial of Port Privileges.—

(1) In General.—A vessel in transit from a foreign nation to a foreign nation that is transporting plutonium shall not be permitted entry, even under emergency circumstances, to any place in the United States and to the navigable waters of the United States, unless the container for the plutonium is certified as safe by the United States Nuclear Regulatory Commission in accordance with subsection (b).

(2) International law.—Paragraph (1) of this subsection applies except when denial of entry violates international law or practice.

(b) Responsibilities of the Nuclear Regulatory Commission.—

(1) Determination of safety.—The Nuclear Regulatory Commission shall determine whether the container referred to in subsection (a) is safe for use in the transporting of plutonium by vessels and transmit to Congress a certification for the purpose of such subsection in the case of each type of container determined to be safe.

(2) Testing.—In order to make a determination with respect to a container under paragraph (1), the Nuclear Regulatory Commission shall test such container, to the fullest extent possible, under conditions approximating a maximum credible accident involving collision, fire, and sinking, based upon actual worst case maritime accident experience.

(3) Limitation.—The Nuclear Regulatory Commission may not certify under this section that a container is safe for use in the transportation of plutonium by vessel if the container ruptured or released any of its contents during tests conducted in accordance with paragraph (2).

(4) Evaluation.—The Nuclear Regulatory Commission shall evaluate the container certification required by subsection (a) in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.) and all other applicable law.

(c) Content of Certification.—A certification referred to in subsection (a) with respect to a container shall include—

(1) the determination of the Nuclear Regulatory Commission as to the safety of such container;

(2) a statement that the requirements of subsection (b)(2) were satisified in the testing of such container; and

(3) a statement that the container did not rupture or release any of its contents into the environment during testing.

(d) Design of Testing Procedures.—In designing the tests required by subsection (b), the Nuclear Regulatory Commission shall—

(1) convene an independent scientific panel of marine safety experts, a majority of whom shall be representatives of the Coast Guard and National Transportation Safety Board, to assist in (A) the definition of a maximum credible accident involving plutonium transport based upon a survey of maritime accidents and an assessment of the most severe conditions under which such accidents have occured and (B) the design of appropriate test procedures to replicate such conditions;

(2) provide for public notice of the proposed definition and test procedures;

(3) provide a reasonable opportunity for public comment on such definition and procedures; and

(4) consider such comments, if any, before making its final determination with respect to such definition and procedures.

(e) Testing Results: Reports and Public Disclosure.—The Nuclear Regulatory Commission shall transmit to Congress a report on the results of each test conducted under this section and shall make such results available to the public.

(f) Inapplicability to Medical Devices.—Subsections (a) through (c) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

(g) Inapplicability to Military Uses.—Subsections (a) through (c) shall not apply to plutonium in the form of nuclear weapons or to other shipments of plutonium determined by the Department of Energy to be directly connected with the United States national security or defense programs.

(h) Payment of Costs.—All costs incurred by the Nuclear Regulatory Commission associated with the testing program required by this section, and administrative costs related thereto, shall be reimbursed to the Nuclear Regulatory Commission by any foreign country receiving plutonium shipped through the United States in containers specified by the Commission.

(i) Definition.—For purposes of this section the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.

TITLE XXV—COAL, OIL, AND GAS

SEC. 2501. AMENDMENT TO SURFACE MINING ACT.

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "1995" and inserting in lieu thereof "2010, after which time the fee shall be established at a rate to continue to provide for the deposit referred to in subsection (h)".

SEC. 2502. HOT DRY ROCK GEOTHERMAL ENERGY.

(a) USGS Program.—The Secretary of the Interior, acting through the United States Geological Survey, and in consultation with the Secretary of Energy, shall establish a cooperative Government-private sector program with respect to hot dry rock geothermal energy resources on public lands (as such term is defined in section 103(e) of the Federal Land Policy and Management Act of 1976) and lands managed by the Department of Agriculture, other than any such public or other lands that are withdrawn from geothermal leasing. Such program shall include, but shall not be limited to, activities to identify, select, and classify those areas throughout the United States that have a high potential for hot dry rock geothermal energy production and activities to develop and disseminate information regarding the utilization of such areas for hot dry rock energy production. Such information may include information regarding field test processes and techniques for assuring that hot dry rock geothermal energy development projects are developed in an economically feasible manner without adverse environmental consequences. Utilizing the information developed by the Secretary, together with information developed in connection with other related programs carried out by other Federal agencies, the Secretary, acting through the United States Geological Survey, may also enter into contracts and cooperative agreements with any public or private entity to provide assistance to any such entity to enable such entity to carry out additional projects with respect to the utilization of hot dry rock geothermal energy resources which will further the purposes of this section.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 2503. HOT DRY ROCK GEOTHERMAL ENERGY IN EASTERN UNITED STATES.

The United States Geological Survey, in collaboration with the Secretary of Energy, shall convene a workshop of interested governmental and private parties to discuss the regional potential for hot dry rock geothermal energy in the Eastern United States. The purpose of the workshop shall be to review the status of recoverability of hot dry rock energy in the Eastern United States and to determine what geologic, technological, and economic obstacles need to be overcome to make the utilization of hot dry rock energy feasible. The workshop shall be convened within 6 months after enactment of this Act and the United States Geological Survey shall submit a report to Congress within 6 months after the workshop containing a summary of the findings and conclusions of the workshop.

SEC. 2504. COAL REMINING.

(a) Modification of Prohibition.—Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(20)(B) shall terminate on September 30, 2010.".

(b) Period of Responsibility.—Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will be extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.".

(c) Definitions.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).".

(d) ELIGIBILITY.—Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.".

(e) ABANDONED COAL REFUSE SITES.—(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove an abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

SEC. 2505. SURFACE MINING ACT IMPLEMENTATION.

(a) SUBSIDENCE.—(1) Section 717(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1307(b)) is amended as follows:

(A) Strike "a surface coal mine" and insert in lieu thereof "surface coal mining operations".

(B) Strike "surface coal mine operation" and insert in lieu thereof "surface coal mining operations".

(2) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

"SEC. 720. (a) Surface coal mining operations shall comply with the following requirement: Promptly repair, or compensate for, damage resulting from subsidence caused to any structure or facility due to underground coal mining operations, without regard to the mining technique used. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged structure or facility. Compensation shall be provided to the owner of the damaged structure or facility and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(b) Within one year after the date of enactment of this section, the Secretary of the Interior shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a). Such regulations shall include adequate bonding to ensure that the requirements of subsection (a) are met.".

(b) VALID EXISTING RIGHTS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by adding the following new paragraph after paragraph (34)(as added by section 2801(c) of this Act):

"(35) for the purpose of section 522(e) 'valid existing rights' means—

"(A) Except for haul roads and as otherwise provided under this paragraph, those property rights of the applicant in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which authorizes the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant, to produce coal by a surface coal mining operation; and the person proposing to conduct surface coal mining operations in an area protected under section 522(e) either—

"(i) had been validly issued, or was making a good faith effort to obtain, as of August 3, 1977, all state and federal permits necessary to conduct such operations on those lands; or

"(ii) can demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977.

"(B) For haul roads the term 'valid existing rights' means—

"(i) a recorded right-of-way, a recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or

"(ii) any other road in existence as of August 3, 1977.

"(C) When an area comes under the protection of section 522(e) after August 3, 1977, the date the protection comes into existence shall be used in lieu of August 3, 1977.

"(D) Notwithstanding the reference to surface impacts incident to an underground coal mine in paragraph (28)(A), for the purpose of section 522(e) the term 'surface coal mining operations' shall not include subsidence caused by an underground coal mine.".

(c) RESEARCH.—(1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumbering the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).".

(d) COAL FORMATIONS.—(1) Notwithstanding section 205 of Public Law 89-4 and any regulation relating to such section, in furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551–558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall enter into a cooperative agreement with any State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed $500,000 annually,".

(4) Notwithstanding any other provision of law, independent of the cooperative agreements referred to in this section, any State referred to in paragraph (1) may at its discretion transfer up to 30 percent of the annual grants available to the State under section 402(g) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of undertaking the activities referred to in paragraph (1) if such activities conform with the declaration of policy set forth in section 1 of the Act of August 31, 1954 (30 U.S.C. 551). Such activities shall be deemed to meet the requirements of section 403(a) of the Surface Mining Control and Reclamation Act of 1977.

SEC. 2506. FEDERAL COAL ROYALTY STUDY.

(a) ROYALTY STUDY.—(1) The Secretary of the Interior shall conduct a study of current Federal coal royalty rates for surface mined and underground mined coal, and the valuation methodology of such coal, for the purposes of assessing, for each of the following, whether the current Federal coal royalty system:

(A) Creates competitive inequities among the Federal coal producing regions and States.

(B) Suppresses coal production in certain Federal coal producing regions and States.

(C) Results in a loss of mineral receipts to the Federal Government and to State government.

(D) Causes inefficiencies in Federal valuation, audit and collection activities.

(2) The Secretary shall compare the alternative royalty systems identified in subsection (b) with the current system and make separate findings, on each of the following, with respect to whether any such alternative royalty system would:

(A) Mitigate any competitive inequities among the Federal coal producing regions and States.

(B) Increase coal production in certain Federal coal producing regions and States.

(C) Result in an increase in mineral receipts to the Federal government and to State governments.

(D) Provide for a more efficient valuation, audit and collection program.

(b) ALTERNATIVES.—(1) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine each of the following alternative coal royalty systems based on:

(A) The value of coal measured in cents per million British thermal units.

(B) A flat cents-per-ton rate.

(C) Any other methodology the Secretary deems appropriate for the purpose of the study.

(2) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine the justification for establishing a separate royalty rate for lignite coal and a separate valuation methodology for lignite coal.

(c) NOTICE.—Within 60 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a notice detailing the scope and methodology proposed to be used in the study, and after opportunity for public comment, publish a final notice on the scope and methodology that will be used in the study.

(d) REPORT.—The Secretary shall report the findings of the study, and recommendations on alternative Federal royalty systems, to the President and the Congress within 2 years after the date of enactment of this Act.

SEC. 2507. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT.

(a) MINERAL RECEIPTS UNDER ACQUIRED LANDS ACT.—Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any payment to a State under this section shall be made by the Secretary of the Interior and shall be made not later than the last business day of the month following the month in which such moneys or associated reports are received by the Secretary of the Interior, whichever is later. The Secretary shall pay interest to a State on any amount not paid to the State within that time at the rate prescribed under section 111 of the Federal Oil and Gas Royalty Management Act of 1982 from the date payment was required to be made under this subsection until the date payment is made.".

(b) AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.—The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) is amended by adding the following new section at the end thereof:

"SEC. 11. Each department, agency and instrumentality of the United States which administers lands acquired by the United States with one or more existing mineral lease shall transfer to the Secretary of the Interior the authority to administer such lease and to collect all receipts due and payable to the United States under the lease. In the case of lands acquired on or before the date of the enactment of this section, the authority to administer the leases and collect receipts shall be transferred to the Secretary of the Interior as expeditiously as practicable after the date of enactment of this section. In the case of lands acquired after the date of enactment of this section, such authority shall be vested with the Secretary at the time of acquisition. The provisions of section 6 of this Act shall apply to all receipts derived from such leases where such receipts are due and payable to the United States under the lease in the same manner as such provisions apply to receipts derived from leases issued under the authority of this Act. For purposes of this section, the term 'existing mineral lease' means any lease in existence at the time land is acquired by the United States.".

(c) CLARIFICATION.—Section 7 of the Act of August 18, 1941, ch. 377 (33 U.S.C. 701c–3) is amended by adding the following sentence at the end thereof: "For the purposes of this section, the term 'money' includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.".

SEC. 2508. RESERVED OIL AND GAS.

(a) IN GENERAL.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended—

(1) in paragraph (1)(A), by striking out "under paragraph (2)" and inserting in lieu thereof "under paragraphs (2) and (3)"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

"(B) An election under this paragraph is effective—

"(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

"(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

"(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

"(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

"(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

"(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.

SEC. 2509. OUTSTANDING OIL AND GAS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (o):

"(p)(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (3), the Secretary of Agriculture is authorized to require, pursuant to regulations promulgated by the Secretary, that such activities be subject to such reasonable terms and conditions as may be necessary to protect the interests of the United States in accordance with applicable laws, rules and regulations governing the Secretary's acquisition of an interest in such lands, and in accordance with applicable laws, rules and regulations relating to the management of such lands.

"(2) The terms and conditions referred to in paragraph (1) shall prevent or minimize damage to the environment and other resource values.

"(3) The lands referred to in this subsection are those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.".

(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a).

SEC. 2510. FEDERAL ONSHORE OIL AND GAS LEASING.

Section 17(c)(1) of the Mineral Leasing Act is amended by adding the following after the first sentence: "If more than one qualified person applies for a noncompetitive lease under this paragraph for any unit on the first day on which applications for noncompetitive leases may be submitted under this paragraph for that unit, the Secretary shall not issue a noncompetitive lease for that unit under this paragraph but shall make such unit available for competitive leasing under subsection (b) at the next quarterly competitive oil and gas lease sale held by the Secretary.".

SEC. 2511. OIL PLACER CLAIMS.

Notwithstanding any other provision of law, in furtherance of the purposes of the Act of February 11, 1897, commonly referred to as the Oil Placer Act, and section 37 of the Mineral Leasing Act, the Secretary of the Interior is authorized and directed to, within 90 days after the enactment of this Act, (1) convey by quit-claim deed to the owner or owners, or separately and as an alternative, (2) disclaim and relinquish by a document in any form suitable for recordation in the county within which the lands are situated, all right, title and interest or claim of interest of the United States to those lands in the counties of Hot Springs, Park and Washakie in the State of Wyoming, held pursuant to the Act of February 11, 1897, and which are currently producing covered substances under a cooperative or unit plan of development.

SEC. 2512. OIL SHALE CLAIMS.

Section 37 of the Mineral Leasing Act (30 U.S.C. 193) is amended by inserting "(a)" before the first sentence and by adding the following at the end thereof:

"(b) REVIEW.—(1) Not later than 30 days after the enactment of this subsection the Secretary of the Interior shall publish proposed regulations in the Federal Register containing standards and criteria for determining the validity of all unpatented oil shale claims referred to in subsection (a). Final regulations shall be promulgated within 180 days after the date such proposed regulations are published. The Secretary shall make a determination with respect to the validity of each such claim within 2 years after the promulgation of such final regulations. In making such determinations the Secretary shall give priority to those claims referred to in subsection (c).

"(2) The proposed regulations referred to in paragraph (2) shall be in lieu of proposed regulations concerning oil shale claims published in the Federal Register on January 9, 1991, and shall provide that oil shale claims supported a discovery of a valuable oil shale deposit within the meaning of the general mining laws of the United States on February 25, 1920, not imposed arbitrary limitations on lawful contest proceedings against such claims by the United States with respect to failure to comply with the assessment work requirements of the general mining laws of the United States or sanction an absolute right of resumption with respect to such requirements, and shall be limited in scope to oil shale claims.

"(c) FULL PATENT.—(1) Except as provided under subsection (d)(2), after April 8, 1992, no patent shall be issued by the United States for any oil shale claim referred to in subsection (a) unless the Secretary determines that, for the claim concerned—

"(A) a patent application was filed with the Secretary on or before April 8, 1992;

"(B) all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were fully complied with by that date; and

"(C) the claim is valid pursuant to the regulations referred to in subsection (b).

"(2) If the Secretary makes the determinations referred to in paragraph (1) for any oil shale claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this subsection, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

"(d) ELECTION.—(1) The holder of each oil shale claim for which no patent may be issued by reason of subsection (c) shall make an election under paragraph (2) or paragraph (3). Not later than 30 days after the enactment of this subsection, the Secretary shall by certified mail notify the holder of each such claim of the requirement to make such election. The holder shall make the election within such period shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void.

"(2)(A) The holder of a claim required to make an election pursuant to paragraph (1) may apply for a patent within 1 year after making such election. The Secretary may issue a patent to such claim as provided under this paragraph if the requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) are met and the Secretary determines the claim to be valid pursuant to the regulations referred to in subsection (b).

"(B) Notwithstanding any other provision of law, the patent referred to in subparagraph (A) shall be limited to the oil shale and associated minerals and may be issued only upon the payment of fair market value for the oil shale and associated minerals by the holder of the claim to the Secretary.

"(C) Any patent issued for an oil shale claim under this paragraph shall be subject to an express reservation to the United States of the surface of the affected lands, and the provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to such claim in the same manner and to the same extent as such provisions apply to the unpatented mining claims referred to in such provisions.

"(3)(A) The holder of a claim required to make an election pursuant to paragraph (1) may continue to maintain the claim by complying with the general mining laws of the United States, except in order to maintain the claim as valid such claim holder shall also make an annual payment to the Secretary of at least $1,000 for each claim. Payments received under this paragraph shall be deposited into the General Fund of the Treasury.

"(B) The holder of a claim referred to in subparagraph (A) shall comply with the provisions of section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744) by filing the affidavit referred to in such section and including the payment referred to in subparagraph (A). The payment requirement shall take effect on the first day of the first month of September which occurs more than 90 days after an election is made to maintain a claim under this paragraph.

"(C) Failure to comply with the requirements of this paragraph shall be deemed conclusively to constitute a forfeiture of the oil shale claim and the claim shall be null and void.

"(D) The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to oil shale claims under this paragraph in the same manner and to the same extent as such provisions apply to the mining claims referred to in such provisions.

"(e) RECLAMATION.—In addition to other applicable requirements, any person who maintains a claim pursuant to subsection (d) shall be required to reclaim the land subject to such claim and to pose a surety bond or provide other types of financial guarantee satisfactory to the Secretary before disturbance of the land subject to such claim to ensure reclamation.".

SEC. 2513. HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PROGRAM.

(a) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PLAN.—(1) Every 5 years, the Secretary of the Interior, acting through the Director of the Bureau of Mines (hereinafter referred to as the "Director"), shall develop a Plan for Health, Safety, and Mining Technology Research (hereinafter in this subsection referred to as the "Plan"). After developing a proposed Plan, the Director of the Bureau of Mines shall submit it to the Committee established under subsection (b) for its review.

(2) The Plan shall identify the goals and objectives of the Health, Safety, and Mining Technology program of the Bureau of Mines, and shall guide research and technology development under such program, over each 5-year period.

(3) In preparing the proposed Plan referred to in paragraph (1), the Director shall solicit suggestions, comments and proposals for research and technology development projects from the mining industry, labor, academia and other concerned groups and individuals.

(4) The Director shall prepare a list of all health, safety, and mining technology projects received pursuant to the solicitation referred to in paragraph (3), and all such projects initiated by the Bureau of Mines, and submit the list to the Committee established under subsection (b) as part of the proposed Plan. The list shall contain the following information:

(A) the title and a brief synopsis of each project;

(B) a justification of the health, safety, and employment benefits anticipated by each project;

(C) an estimate of the timeframe to complete each project;

(D) an estimate of the funding requirements of each project; and

(E) an explanation of how each project would assist the Bureau of Mines in achieving the goals and objectives defined in the proposed Plan.

(5) The Director shall to the extent possible adopt the recommendations made by the Committee in the report referred to in subsection (b)(4) in selecting projects for the Health, Safety, and Mining Technology program, unless the Director determines, in writing, that a deviation from such report is necessary to meet a high-priority research need that was unanticipated at the time of the submission of the Committee report. The Director shall submit an explanation for any such deviation to the Secretary and to the Congress.

(b) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH ADVISORY COMMITTEE.—(1) There is hereby established the Health, Safety, and Mining Technology Research Advisory Committee (hereinafter in this subsection referred to as the "Committee"). The Committee shall be composed of 14 members appointed by the Secretary of the Interior. Members of the Committee shall serve for terms of two years. Any member of the Committee may serve after the expiration of a term until a successor is appointed. Any member of the Committee may be appointed to serve more than one term.

(2) The Secretary shall appoint members to the Committee as follows:

(A) A representative from the Mine Safety and Health Administration.

(B) A representative from the National Institute for Occupational Safety and Health.

(C) Two representatives from the coal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(D) Two representatives from the metal, non-metal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(E) Six representatives from unions representing miners, of which 2 shall have expertise in metal, non-metal mining.

(F) A representative from a school of mines with expertise in coal mining research located in the eastern portion of the United States.

(G) A representative from a school of mines with expertise in metal, non-metal mining research located in the western portion of the United States.

(3) Members of the Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this subtitle on vouchers signed by the Chairman.

(4) Notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), the Committee established under this subtitle shall serve as a standing Advisory Committee to the Bureau of Mines. The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to the Committee established under this subsection.

(5) The purpose of the Committee shall be to review the proposed Plan submitted by the Director under subsection (a), evaluate the list contained in such proposed Plan using the values set forth in paragraph (5), and submit the proposed Plan within 60 days after it is received by the Committee to the Director as part of a report with recommendations.

(6) Each proposal on the list submitted by the Director as part of the proposed Plan shall be assigned a value by the Committee for each of the following factors: safety, health, impact on employment of miners and timeliness of the proposed project's benefits. The values shall be as follows:

(A) Safety can assume a value of 0 to 5, where a 0 signifies little or no safety value, a 1 signifies an indirect safety benefit, a 3 signifies a direct safety benefit, and a 5 means a significant, direct safety benefit.

(B) Health can assume a value of 0 to 5, where a 0 signifies little or no health value, a 1 signifies an indirect health benefit, a 3 signifies a direct health benefit, and a 5 means a significant, direct health benefit.

(C) Employment can assume a value of 0 to 5, with a value of 0 if miners will be unemployed as a result of the research program, 5 if employment will be increased and 3 if there is no change in employment.

(D) Timeliness can assume a value of 0 to 2, where a 0 signifies that all health, safety, and productivity benefits will require 5 or more years, a 1 signifies that health, safety, and productivity benefits will be realized in 3 to 5 years, a 2 signifies that health, safety, and productivity benefits will be realized in less than 3.

(c) TECHNICAL AMENDMENT.—For the purposes of section 501(b) of Public Law 91-173, as amended, activities in the field of coal or other mine health under such section shall also be carried out by the Secretary of the Interior acting through the Director of the Bureau of Mines.

SEC. 2514. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall—

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources.".

TITLE XXVI—INDIAN ENERGY RESOURCES

SEC. 2601. SHORT TITLE.

This title may be cited as the "Indian Energy Amendments of 1992".

SEC. 2602. DEFINITIONS.

For purposes of this title—

(1) except as provided in section 1104(c) and section 1105(d), the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(2) the term "Indian reservation" includes Indian reservations; public domain Indian allotments; former Indian reservations in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(3) the term "Secretary" means the Secretary of the Department of Energy.

SEC. 2603. TREATMENT OF INDIAN TRIBES AS STATES.

(a) INVOLVEMENT OF TRIBES.—In implementing the provisions of this Act, the Secretary shall involve Indian tribes to the maximum extent possible and where appropriate and shall do so in a manner that is consistent with the Federal trust and the Government-to-Government relationship between Indian tribes and the Federal Government.

(b) TREATMENT AS STATE.—The Secretary may, whenever appropriate, treat an Indian tribe as a State for any purpose of section 122 pursuant to such reasonable conditions as the Secretary may establish.

SEC. 2604. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.

(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in consultation with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry on Indian reservations, in order to increase development of the substantial energy resources located on such Indian reservations. Such program shall include, but not be limited to, the following components:

(1) The Secretary shall provide development grants to Indian tribes or to joint ventures which are 51 percent or more controlled by an Indian tribe to assist Indian tribes in obtaining the managerial and technical capability needed to develop the energy resources on Indian reservations. Such grants shall include provisions for management training for tribal or village members, improving the technical capacity of the Indian tribe, and the reduction of tribal unemployment. Each grant shall be for a period of 3 years.

(2) The Secretary shall provide grants, not to exceed 50 percent of the project costs, for vertical integration projects. For purposes of this paragraph, the term "vertical integration project" means a project that promotes the vertical integration of the energy resources on an Indian reservation, so that the energy resources are used or processed on such Indian reservation. Such term includes, but is not limited to, projects involving solar and wind energy, oil refineries, the generation and transmission of electricity, hydroelectricity, cogeneration, natural gas distribution, and clean, innovative uses of coal.

(3) The Secretary shall provide technical assistance (and such other assistance as is appropriate) to Indian tribes for energy resource development and to promote the vertical integration of energy resources on Indian reservations.

(b) LOW INTEREST LOANS.—

(1) IN GENERAL.—The Secretary shall establish a program for making low interest loans to Indian tribes. Such loans shall be used to promote Indian energy resource exploitation, development, and vertical integration.

(2) TERMS.—The Secretary shall establish reasonable terms for loans made under this subsection.

(c) DEFINITION.—For the purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $10,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999 to carry out the purposes of subsection (a)(1);

(2) $10,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999 to carry out the purposes of subsection (a)(2); and

(3) such sums as are necessary to carry out the purposes of subsection (b).

SEC. 2605. INDIAN ENERGY RESOURCE REGULATION.

(a) GRANTS.—The Secretary is authorized to make annual grants to Indian tribes for the purpose of assisting Indian tribes in the development, administration, implementation, and enforcement of tribal laws and regulations governing the development of energy resources on Indian reservations.

(b) PURPOSE.—The purposes for which funds provided under a grant awarded under subsection (a) may be used include, but are not limited to—

(1) the training and education of employees responsible for enforcing or monitoring com-

pliance with Federal and tribal laws and regulations;

(2) the development of tribal inventories of energy resources;

(3) the development of tribal laws and regulations;

(4) the development of tribal legal and governmental infrastructure to regulate environmental quality pursuant to Federal and tribal laws; and

(5) the enforcement and monitoring of Federal and tribal laws and regulations.

(c) OTHER ASSISTANCE.—The Secretary shall cooperate with and provide assistance to Indian tribes for the purpose of assisting Indian tribes in the development, administration, and enforcement of tribal programs. Such cooperation and assistance shall include the following:

(1) Technical assistance and training, including the provision of necessary circulars and training materials.

(2) Assistance in the preparation and maintenance of a continuing inventory of information on tribal energy resources and tribal operations. In providing assistance under this paragraph, Federal departments and agencies shall make available to Indian tribes all relevant data concerning tribal energy resource development consistent with applicable laws regarding disclosure of proprietary and confidential information.

(d) DEFINITION.—For the purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999 to carry out the purposes of this section.

SEC. 2606. INDIAN ENERGY ROYALTY MANAGEMENT COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Indian Energy Taxation and Royalty Management Commission (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of—

(1) 8 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribes, at least 4 of whom shall be elected tribal leaders;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States that have Indian reservations with energy resources;

(3) 1 member appointed by the Secretary of the Interior from among individuals in the private sector with expertise in tribal and State taxation of energy resources;

(4) 1 member appointed by the Secretary of the Interior from individuals with expertise in oil and gas royalty management administration, including auditing and accounting;

(5) 1 member appointed by the Secretary of the Interior from recommendations submitted by national environmental organizations; and

(6) the Secretary of the Interior, or his designee.

(c) APPOINTMENTS.—Members of the Commission shall be appointed not later than 60 days following the date of the enactment of this title.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(f) QUORUM.—7 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) ORGANIZATIONAL MEETING.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after the members are first appointed to the Commission.

(h) COMPENSATION.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission, not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(i) TRAVEL.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees under sections 5702 and 5703 of title 5, United States Code.

(j) COMMISSION STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) ADDITIONAL PERSONNEL.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate of basic pay payable for level 15 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(4) PERSONNEL DETAIL AUTHORIZED.—Upon the request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

(k) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop proposals to address the dual taxation by Indian tribes and States of the extraction of mineral resources on Indian reservations;

(2) make recommendations to improve the management, administration, accounting, and auditing of royalties associated with the production of oil and gas on Indian reservations;

(3) develop alternatives for the collection and distribution of royalties associated with the production of oil and gas on Indian reservations; and

(4) develop proposals on incentives to foster the development of energy resources on Indian reservations.

(l) POWERS OF THE COMMISSION.—The powers of the Commission shall include the following:

(1) For the purpose of carrying out its duties under this section, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out its duties under this section.

(m) COMMISSION REPORT.—The Commission shall, within 12 months after funds are made available to carry out this section, prepare and transmit to the President, the Committee on Interior and Insular Affairs of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate, a report containing the recommendations and proposals specified in subsection (k).

(n) AUTHORIZATION.—There are authorized to be appropriated to the Commission $1,000,000 to carry out this section. Such sum shall remain available, without fiscal year limitation, until expended.

(o) TERMINATION.—The Commission shall terminate 30 days after submitting the final report required under subsection (m).

TITLE XXVII—INSULAR AREAS ENERGY SECURITY

SEC. 2701. SHORT TITLE.

This title shall be cited as the "Insular Areas Energy Security Act".

SEC. 2702. THE INSULAR AREAS ENERGY SECURITY AMENDMENT OF 1992.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96-597, as amended by Public Law 98-213 (48 U.S.C. 1492), is amended by adding the following subsection—

"(g)(1) There are hereby authorized to be appropriated $2,000,000 for each fiscal year through 1998 for grants to insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependence of the insular area on imported fuels and improve the quality of life in the insular area, such sums to remain available until expended.

"(2) Factors which shall be considered in determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy grant under this subsection shall include, but not be limited to, the following:

"(A) Whether the measure will reduce the relative dependence of the insular area on imported fuels.

"(B) The ease and costs of operation and maintenance of any facility contemplated as part of the project.

"(C) Whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the report by the Secretary of Energy pursuant to this section or identified by the Secretary as consistent with the purposes of this section.

"(D) Whether the measure will contribute significantly to the quality of the environment in the insular area.".

SEC. 2703. DEFINITION.

Section 401 of Public Law 97-425, the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10241) is amended by striking "States," the first place it appears, and inserting in lieu thereof "States and", inserting a period after "District of Columbia", and striking the remainder of the sentence.

SEC. 2704. ELECTRICITY REQUIREMENTS IN TRUST TERRITORY OF THE PACIFIC ISLANDS.

Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall, in consultation with the Government of Palau, submit a plan to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives to extend electric service to those areas of the Trust Territory of the Pacific Islands that are not yet served or fully served and eliminate any debt incurred in the Trust Territory of the Pacific Islands relating to its electrical generating plant and related facilities. The plan shall include—

(1) an assessment of the power needs of the Trust Territory of the Pacific Islands both currently, and for the year 2000, including how electricity in the Trust Territory of the Pacific Islands will be distributed to those areas that on the date of enactment of this Act do not have electricity;

(2) an assessment of, and recommendations regarding, how these needs can be met;

(3) an assessment of, and recommendations regarding, any additional legal authority or funding which may be necessary to meet these needs; and

(4) an assessment of, and recommendations regarding, the respective roles of the Federal Government and the Government of the Trust Territory of the Pacific Islands in meeting these needs.

SEC. 2705. PCB CLEANUP IN MARSHALL ISLANDS AND FEDERATED STATES OF MICRONESIA.

Section 105(h)(1) of Public Law 99-239 is amended by adding at the end the following new paragraph:

"The programs and services of the Environmental Protection Agency regarding PCBs shall, to the extent applicable, as appropriate, and in accordance with applicable law, be construed to be made available to such islands.".

TITLE XXVIII—NUCLEAR PLANT LICENSING

SEC. 2801. COMBINED LICENSES.

Section 185 of Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended—

(1) in the heading for such section by adding "and Operating Licenses" after "Permits";

(2) by adding a subsection designator "a." before "All applicants for licenses"; and

(3) by adding at the end the following new subsection:

"b. After holding a public hearing under section 189 a. (1)(A), the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189 a. (1)(B).".

SEC. 2802. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.

Section 189 a. (1) of Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended—

(1) by adding a subparagraph designator "(A)" before "In any proceeding under this Act,"; and

(2) by adding after subparagraph (A) the following new subparagraph:

"(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185 b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under clause (i) shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under clause (i), the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under clause (i), and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 2803. RULEMAKING.

The Nuclear Regulatory Commission shall propose regulations implementing sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, not later than 1 year after the date of enactment of this Act.

SEC. 2804. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.

Section 189 a. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(2)) is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 2805. JUDICIAL REVIEW.

Section 189 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 2806. EFFECT ON PENDING PROCEEDINGS.

Sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, shall apply to all proceedings involving a combined license for which an application was filed after May 8, 1991, under such sections.

SEC. 2807. CONFORMING AMENDMENT.

The table of contents of the Atomic Energy Act of 1954 is amended by amending the item related to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

TITLE XXIX—RADIATION PROTECTION

Subtitle A—Below Regulatory Concern

SEC. 2901. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF NRC REGULATORY CONCERN.

(a) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting after section 275 the following new section:

"SEC. 276. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF REGULATORY CONCERN OF NUCLEAR REGULATORY COMMISSION.

"(a) IN GENERAL.—No provision of this Act, or of the Low-Level Radioactive Waste Policy Act, may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the management, storage, incineration, or disposal of low-level radioactive waste, or other practices or materials involving low-level radioactivity, if the Nuclear Regulatory Commission, after January 1, 1990—

"(1) exempts such waste, practices, or materials from regulation; or

"(2) issues a regulation governing such waste, practices, or materials that substantially reduces protection of the public health and safety.

"(b) AUTHORITY TO EXCLUDE WASTE.—Any State that is a member of a compact for the disposal of low-level radioactive waste may prohibit or otherwise restrict the importation into such State, for purposes of storage or disposal in such State, of low-level radioactive waste, or other low-level radioactive materials, generated outside the borders of the compact region of such State, if the Commission, after January 1, 1990—

"(1) exempts such waste or materials from regulation; or

"(2) issues a regulation governing such waste or materials that substantially reduces protection of the public health and safety.

"(c) DEFINITIONS.—Each term used in this section that is also used in the Low-Level Radioactive Waste Policy Act shall have the meaning given such term in section 2 of such Act.".

(b) Conforming Amendment.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. 2011 prec.) is amended by inserting after the item relating to section 275 the following new item:

"Sec. 276. State authority to regulate radiation below level of regulatory concern of Nuclear Regulatory Commission.".

SEC. 2902. REVOCATION OF RELATED NRC POLICY STATEMENTS.

The policy statements of the Nuclear Regulatory Commission published in the Federal Register on July 3, 1990 (55 Fed. Reg. 27522) and August 29, 1986 (51 Fed. Reg. 30839), relating to radioactive waste below regulatory concern, shall have no effect after the date of the enactment of this Act.

Subtitle B—Disposal Standards at Mill Tailings Sites

SEC. 2911. DISPOSAL STANDARDS AT MILL TAILINGS SITES.

Section 84 of the Atomic Energy Act of 1954 (42 U.S.C. 2114) is amended by adding at the end the following new subsection:

"d. No radioactive material may be disposed of at a site subject to Federal regulation pursuant to title II of the Uranium Mill Tailings Radiation Control Act of 1978 unless—

"(1) the Governor of the State has agreed to such disposal; or

"(2) the radioactive material to be disposed of is byproduct material as defined in section 11 e.(2) and—

"(A) the site to be used for disposal is in compliance with all applicable Federal and State regulations; and

"(B) the proposed disposal will not cause the site to fail to comply with such regulations.".

TITLE XXX—MISCELLANEOUS

SEC. 3001. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978 REPEAL.

Section 403(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373(a)) is repealed.

SEC. 3002. ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976 REPEAL.

(a) Repeal.—Section 7(a)(5) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e(a)(5)) is repealed.

(b) Abolition of Office of Federal Inspector of Construction.—The Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System, created pursuant to the paragraph repealed by subsection (a) of this section, is abolished. All functions and authority vested in the Inspector are hereby transferred to the Chairman of the Federal Energy Regulatory Commission.

(c) Revocation of Certain OFI Regulations.—Regulations applicable to the Office of Federal Inspector of the Alaska Natural Gas Transportation System, as set forth in chapter 15 of title 10, Code of Federal Regulations, are hereby revoked.

SEC. 3003. GEOTHERMAL HEAT PUMPS.

The Secretary shall—

(1) encourage States, municipalities, counties, and townships to allow the installation of geothermal heat pumps, and, where applicable, to permit public and private water recipients to utilize the flow of water from, and back into, public and private water mains for the purpose of providing sufficient water supply for the operation of residential and commercial geothermal heat pumps; and

(2) not discourage any local authority which allows the use of geothermal heat pumps from—

(A) inspecting, at any reasonable time, geothermal heat pump connections to the water system to ensure the exclusive use of the public or private water supply to the geothermal heat pump system; and

(B) requiring that geothermal heat pump systems be designed and installed in a manner that minimizes the risk of contamination of the public water supply.

SEC. 3004. EMPLOYEE PROTECTION FOR NUCLEAR WHISTLEBLOWERS.

(a) Internal Whistleblowers; Employers.—Section 210(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)) is amended—

(1) by inserting "(1)" after "Sec. 210. (a)";

(2) by striking ", including" and all that follows through "licensee or applicant,";

(3) by inserting after the dash the following new subparagraphs:

"(A) notified his employer (or an agent of such employer) of an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(B) opposed any practice made unlawful by this Act or the Atomic Energy Act of 1954;

"(C) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this Act or the Atomic Energy Act of 1954;";

(4) by redesignating paragraphs (1) through (3) as subparagraphs (D) through (F), respectively; and

(5) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term 'employer' includes—

"(A) a licensee of the Commission or of an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021);

"(B) an applicant for a license from the Commission or such an agreement State;

"(C) a contractor or subcontractor of such a licensee or applicant;

"(D) a contractor or subcontractor at a nuclear or radioactive waste facility of the Department of Energy; and

"(E) any other employer engaged in any activity licensed under the Atomic Energy Act of 1954.".

(b) Time Period for Filing Complaint.—Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended by striking "thirty days" and inserting "1 year".

(c) De Novo Review.—Section 210(b)(2)(A) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(2)(A)) is amended—

(1) by inserting "(i)" after "(2)(A)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Notwithstanding subsection (c)(2), in the event that the Secretary does not issue an order under clause (i) within the 120-day period prescribed by such clause, the complainant shall be entitled to de novo review of the complaint in any district court of the United States.

"(II) Nothing in this subparagraph shall be construed to preclude the applicability of the provisions of section 554 of title 5, United States Code, to the issuance of an order under clause (i).".

(d) Avoidance of Frivolous Complaints.—Section 210(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant has demonstrated that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(B) Relief may not be ordered under paragraph (2) if the employer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.".

(e) Nonpreemption.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is amended by adding at the end the following new subsection:

"(h) Notwithstanding subsection (c)(2), the provisions of this section shall not be construed to preclude a complainant under this section from pursuing any right or remedy otherwise available to such complainant under any law—

"(1) contemporaneously with pursuit of relief under this section;

"(2) subsequent to the issuance of a final order by the Secretary under this section; or

"(3) subsequent to judicial review under subsection (c)(1).".

(f) Posting Requirement.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(i) The provisions of this section shall be prominently posted in any place of employment to which this section applies.".

(g) Exemplary Damages.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(j) In any action brought under this section, the Secretary or, on appeal under subsection (b)(2)(A)(ii), the United States district court, shall have jurisdiction to grant all appropriate relief, including injunctive relief, compensatory, and exemplary damages.".

(h) Duty of NRC To Investigate Substantive Allegations.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(k)(1) The Commission or the Department of Energy shall not delay any investigation or proceeding by it with respect to an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) on the basis of—

"(A) the filing of a complaint under subsection (b)(1); or

"(B) any investigation by the Secretary, or other action, under this section in response to such complaint.

"(2) A determination by the Secretary under this section that a violation of subsection (a) has not occurred shall not be considered by the Commission or the Department of Energy in its determination of whether any violation of this Act or the Atomic Energy Act of 1954 has occurred.".

(i) Prohibition on Passthrough of Damages and Legal Costs.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(l) In the event that a complainant prevails in any action against a contractor or subcontractor of the Department of Energy under this section, no amount awarded against such contractor or subcontractor in such action, nor any amount paid by such contractor or subcontractor in legal costs related to such action, may be paid or reimbursed, directly or indirectly, by contract or otherwise, by the Department of Energy or any other Federal entity. No such amount may be considered an allowable cost under any contract with the Department of Energy.".

(j) Technical and Conforming Amendments.—

(1) The title heading of title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended to read as follows:

"TITLE II—NUCLEAR REGULATORY COMMISSION; NUCLEAR WHISTLEBLOWER PROTECTION".

(2) Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended—

(A) by striking "(hereinafter in this subsection referred to as the 'Secretary')" and inserting "(in this section referred to as the 'Secretary')"; and

(B) by striking "and the Commission" and inserting ", the Commission, and the Department of Energy".

(3) The second of the two sections of the Energy Reorganization Act of 1974 that is numbered 210 (42 U.S.C. 5851) is redesignated as section 211.

(k) APPLICABILITY.—The amendments made by this section shall apply to claims filed under section 211(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act.

SEC. 3005. RENEWABLE ENERGY PARK DEMONSTRATION PROGRAM.

The Secretary shall designate a location for a Federal demonstration of integrating renewable, coal, oil, and other energy production with agriculture and manufacturing. Such location shall—

(1) be in a county with greater than 18 percent unemployment in December 1991;

(2) be in a county which lost greater than 6 percent of its population between 1980 and 1990; and

(3) have had an energy park development plan approved by a governmental body before March 10, 1992.

There are authorized to be appropriated to the Secretary $1,000,000, for providing grants, with or without a recoupment requirement, to attract new energy-related industries to the location designated under this section. The Federal share of the cost of any project funded under this section shall not exceed 20 percent of the total capital costs of the project.

SEC. 3006. USE OF ENERGY FUTURES FOR FUEL PURCHASES.

(a) FUEL STUDY.—The Secretary of Energy shall conduct a study—

(1) to ascertain if the use of energy futures and options contracts could provide cost-effective protection for Government entities (including Government purchases for military purposes and for the Strategic Petroleum Reserve) and consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk) from unanticipated surges in the price of fuel; and

(2) to ascertain how such Government entities or consumer cooperatives may be educated in the prudent use of energy futures and options contracts to maximize their purchasing effectiveness, protect themselves against unanticipated surges in the price of fuel, and minimize fuel costs.

(b) REPORT.—The Secretary of Energy, no later than 12 months after the date of enactment of this Act, shall transmit the study required in this section to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) PILOT PROGRAM.—The Secretary of Energy shall conduct a pilot program, commencing not later than 30 days after the transmission of the study required in subsection (b), to educate such governmental entities, consumer cooperatives, or other organizations on the prudent and cost-effective use of energy futures and options contracts to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 3007. ENERGY SUBSIDY STUDY.

(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of the enactment of this Act; or

(2) have been in effect prior to the date of the enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of the enactment of this Act; or

(ii) reasonably foreseeable on the date of the enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1993 and 1994.

SEC. 3008. TAR SANDS.

(a) POLICY.—It is the policy of the United States to encourage the development and production, by all means consistent with sound engineering, economic, and environmental practices, of deposits of tar sands.

(b) STUDY.—The Secretary of Energy shall, within one year after the date of enactment of this Act, submit to the Congress the results of a study which—

(1) identifies and evaluates the development potential of sources of tar sands in the United States, including tar sands waste tailings;

(2) identifies and evaluates processes for extracting oil from those identified tar sands sources; and

(3) evaluates the environmental benefits of, and the potential for coproduction of minerals and metals from, such processes.

SEC. 3009. EXEMPTION OF CERTAIN RESEARCH AND EDUCATIONAL LICENSEES FROM ANNUAL CHARGES.

(a) IN GENERAL.—Section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)) is amended—

(1) in paragraph (1), by striking "Any licensee" and inserting "Except as provided in paragraph (4), any licensee"; and

(2) by adding at the end the following new paragraph:

"(4) EXEMPTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

"(B) RESEARCH REACTOR.—For purposes of subparagraph (A), the term 'research reactor' means a nuclear reactor that—

"(i) is licensed by the Nuclear Regulatory Commission under section 104 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a thermal power level of 10 megawatts or less; and

"(ii) if so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

"(I) a circulating loop through the core in which the licensee conducts fuel experiments;

"(II) a liquid fuel loading; or

"(III) an experimental facility in the core in excess of 16 square inches in cross-section.".

(b) APPLICABILITY.—The amendments made by this section shall apply to annual charges assessed under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)) for fiscal year 1992 or any succeeding fiscal year.

SEC. 3010. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITIONS.—

(1) FARMOUT AGREEMENT.—Section 101 of title 11, United States Code, is amended—

(A) by redesignating paragraph (22) and all that follows through the last paragraph (57) as paragraphs (23) through (62), respectively, and

(B) by inserting after paragraph (21) the following:

"(22) 'farmout agreement' means written agreement in which—

"(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

"(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property;".

(2) CONFORMING AMENDMENTS.—(A) Section 362(b)(6) of title 11, United States Code, is amended—

(i) by striking "section 101(34)" and inserting "section 101", and

(ii) by striking "section 101(35)" and inserting "section 101".

(B) Section 546(e) of title 11, United States Code, is amended—

(i) by striking "section 101(34)" and inserting "section 101", and

(ii) by striking "section 101(35)" and inserting "section 101".

(C) Section 548(d)(2)(B) of title 11, United States Code, is amended—

(i) by striking "section 101(34)" and inserting "section 101", and

(ii) by striking "section 101(35)" and inserting "section 101".

(D) Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(i) in clause (iii) by striking "section 101(24)" and inserting "section 101",

(ii) in clause (iv)(I) by striking "section 101(41)" and inserting "section 101", and

(iii) in clause (v) by striking "section 101(50)" and inserting "section 101".

(E) Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(i) in clause (iv) by striking "section 101(24)" and inserting "section 101",

(ii) in clause (v)(I) by striking "section 101(41)" and inserting "section 101", and

(iii) in clause (viii) by striking "section 101(50)" and inserting "section 101".

(b) Property of the Estate.—Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end,

(2) in paragraph (3) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

"(A) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

"(B) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a)(3) of this title.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.".

(c) Effective Date; Application of Amendments.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

TITLE XXXI—FEDERAL AND STATE LANDS

SEC. 3101. RIGHTS-OF-WAY ON CERTAIN FEDERAL LANDS.

(a) Extent of Rights.—(1) Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended by adding at the end of subsection (b)(1) thereof the following: "Any right-of-way granted or issued under this section shall convey only the rights specifically described therein, and shall not convey or be construed to imply conveyance of any other rights to the use of the affected lands or the resources of such lands.".

(2) Section 501 of such Act is amended as follows:

(A) Insert in subsection (a), after "public lands" the following: "(as defined in section 103(e) of this Act)".

(B) In paragraph (4) of subsection (a), strike "Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791) and insert in lieu thereof "Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a–825r).".

(b) Energy-Related Rights-of-Way.—Section 501 of the Federal Land Policy and Management Act of 1976 is amended by adding at the end thereof a new subsection, as follows:

"(d)(1) Under this section, a right-of-way on public lands or lands within the National Forest System may be granted or issued for the construction or operation of a non-Federal system (including any dam, diversion, or appurtenant project works) for the generation, transmission, or distribution of electrical energy only if the Secretary or the Secretary of Agriculture, as appropriate, finds that the use of such lands for the construction or operation of the facilities involved in such system—

"(A) is consistent with applicable management plans for such lands, and will not interfere with or be inconsistent with the protection and utilization of such lands for the purposes for which such lands are managed; and

"(B) will not result in substantial degradation of natural or cultural resources, scenic or recreational values, watershed resources, or fish and wildlife populations or habitat affected by the proposed system or affected by the cumulative effects of the proposed system and other uses of such lands or adjacent lands.

"(2)(A) The Secretary concerned shall provide for early and continued public participation in connection with consideration of an application for a right-of-way under this subsection by making a copy of such application available for public inspection in the vicinity of the affected lands for at least 90 days prior to acting on the application and by conducting at least 1 public meeting thereon at a time and location likely to assure public participation.

"(B) All information, including documents and testimony, related to the concerned Secretary's decision on an application under this subsection shall be available for public inspection in regional or local offices of the Bureau of Land Management or Forest Service, and at the same time as such Secretary decides whether or not to grant or issue the requested right-of-way, such Secretary shall publish in the Federal Register an appropriate document stating and explaining the basis for such decision.

"(3)(A) If facilities of a system described in paragraph (1) would be located on lands under the administrative jurisdiction of a single agency of the United States, that agency shall have the principal role in preparing any analysis, under applicable law, of the effects of construction and operation of such facilities on the environment. If such facilities would be located on lands under the administrative jurisdiction of more than 1 such agency, each such agency involved may enter into an agreement among themselves in order to avoid duplication of responsibility or effort, to expedite the consideration of applications for rights-of-way or other rights with respect to use of such lands, to issue joint regulations in appropriate cases, and to assure that decisions about such system are based on a comprehensive review of possible effects on Federal lands and resources.

"(B) Any analysis described in subparagraph (A) of this paragraph shall be prepared by an agency of the United States with administrative jurisdiction over affected lands, or by an independent contractor selected by such an agency, and not by the applicant for a right-of-way under this subsection or by any other party selected or reimbursed by such applicant.

"(C) Nothing in this paragraph shall be construed as precluding an agency of the United States from requiring an applicant for a right-of-way under this section or any other party to provide any necessary information in connection with an analysis described in subparagraph (A) or in connection with decisions about any other aspect of a system described in paragraph (1) of this subsection.".

(c) Effective Date and Implementation.—(1) The amendments to the Federal Land Policy and Management Act of 1976 made by this section shall not apply to any project for which the land-management agency has completed a final review of an application for a right-of-way prior to the enactment of this section.

(2) No later than 1 year after the date of enactment of this Act, the Secretaries of the Interior and Agriculture shall issue joint regulations to:

(A) establish procedures for appropriate public participation in decisions relating to applications for rights-of-way of the type covered by section 501(d) of the Federal Land Policy and Management Act of 1976; and

(B) establish procedures to coordinate, so far as possible, the timing of review by such Secretaries regarding such applications with review of related projects by other Federal agencies.

SEC. 3102. DAMS IN NATIONAL PARKS.

(a) Prohibition.—(1) Except as provided in paragraph (2), no individual corporation, partnership, Federal or State agency, political subdivision, or any other legal entity may commence construction of—

(A) any new dam or other new impoundment within the external boundaries of any unit of the National Park System; or

(B) any new dam or other new impoundment which, after the date of enactment of this Act, will inundate any land within the external boundaries of any unit of the National Park System.

(2) The provisions of this subsection shall not apply to a project developed by the National Park Service that the Secretary of the Interior determines necessary to meet the purposes for which the affected unit of the National Park System was established if such project would not degrade the resources or values of such unit.

(b) Definitions.—For purposes of this section, the following terms shall have the following meanings:

(1) The term "new dam or other new impoundment" means any facility for impoundment or obstruction of the flow of water, construction of which commences after the enactment of this Act.

(2) The term "impoundment" means the formation of a body of water upstream from a dam or other structure caused by the construction or operation of the dam or other structure.

(3) The term "inundate" means to permanently or intermittently cover land with water.

(c) Concurrence.—Notwithstanding any other provision of law, no department or agency of the United States shall renew or reissue any license, or issue a new license, for any dam or other facility for impoundment or obstruction of the flow of water that is located on or that inundates any land within the National Park System, if such action would result in new or increased effects on the resources and values of such land, unless the Secretary of the Interior concurs in such action.

(d) Scope.—The prohibition of this section shall be in addition to, and not in lieu of, any other prohibition or restriction on activities within any unit of the National Park System.

(e) Other Projects.—Nothing in this section prohibits the Secretary of the Army or any other Federal department or agency from undertaking a study of any project or from submitting a recommendation to Congress for the authorization or licensing of such project.

SEC. 3103. STATE OR LOCAL GOVERNMENT LANDS.

Section 21 of the Federal Power Act is amended as follows:

(1) In the first sentence after the word "right" the first place it appears insert ", temporarily during project construction,".

(2) In the first sentence after the word "damage" insert "(and to restore and repair),".

(3) After the first sentence insert: "The term 'unimproved dam site' shall not include any site or area that was acquired by a State or local government or agency thereof solely

for the purposes of a public park, recreation, or wildlife refuge before the date such licensee is issued a license by the Commission and is owned and operated for such purposes, except that nothing in this sentence shall preclude a State or local government from consenting to the acquisition of such site or area with the licensee.''.

The amendments made by this section to section 21 of the Federal Power Act shall apply to the exercise of eminent domain by any licensee under such section after the date of enactment of this Act.

SEC. 3104. COORDINATION WITH FEDERAL AGENCIES.

Section 6(g) of the Land and Water Conservation Fund Act of 1965 is amended by inserting the following at the end thereof: "If a State has enacted statutory provisions providing for the permanent protection of the natural, ecological, cultural, scenic, or recreational resources of designated river segments within that State, if such protection is part of a comprehensive Statewide plan approved by the Secretary of the Interior under section 6, and if such provisions prohibit the development of new hydroelectric power projects on such designated segments, neither the Secretary nor any other officer or agent of the United States (other than the Secretary of the Army or the Chief of the United States Soil Conservation Service) shall assist or issue an original license or an exemption for the construction of any new hydroelectric power project if the project is located wholly within that State and if such assistance, license, or exemption would be inconsistent with such prohibition. The preceding sentence shall not apply to any project authorized for construction by the Secretary of the Army before, on, or after the date of the enactment of this sentence and not subsequently deauthorized pursuant to the provisions of title X of Public Law 99-662 or any other provision of law.''.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I have discussed this matter with the members of the Finance Committee, and after doing so, a majority of the members of that committee have authorized me to withdraw and modify the reported committee amendments. Therefore, on behalf of the committee, I withdraw the first two reported committee amendments which are amendments to the table of contents of H.R. 776, and I modify the third reported committee amendment. I send the modified committee amendment to the desk.

The PRESIDING OFFICER. The chairman as authorized by the committee has a right to make those actions. The amendment is so modified.

The third reported committee, as modified, is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be referred to as the "National Energy Security Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—FINDINGS AND PURPOSES

Subtitle A—Findings and Purposes

Sec. 1101. Findings.
Sec. 1102. Purposes.

Subtitle B—Climate Protection Goals, Least-Cost Energy Strategy, and Director of Climate Protection

Sec. 1201. Climate protection goals and policies.
Sec. 1202. Least-cost energy strategy.
Sec. 1203. Director of Climate Protection.
Sec. 1204. Repeal.

Subtitle C—Energy Goals

Sec. 1301. Energy goals.
Sec. 1302. Reports.

TITLE II—DEFINITIONS

Sec. 2101. Definitions.

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A—Alternative Fuel Fleets

Sec. 4101. Definitions.
Sec. 4102. Federal fleets.
Sec. 4103. State fleets.
Sec. 4104. Private and municipal fleets.
Sec. 4105. Rules of general applicability.
Sec. 4106. Exemptions.
Sec. 4107. Vehicle conversions.
Sec. 4108. Credits.
Sec. 4109. Reports.
Sec. 4110. Resale of alternative fuel vehicles.
Sec. 4111. Federal agency promotion, education, and coordination.
Sec. 4112. Agency incentives program.
Sec. 4113. Recognition and incentive awards program.
Sec. 4114. Measurement of alternative fuel use.
Sec. 4115. Information collection.
Sec. 4116. General Services Administration report.
Sec. 4117. United States Postal Service report.
Sec. 4118. Enforcement.
Sec. 4119. Implementation.
Sec. 4120. School bus fleet financial assistance program.

Subtitle B—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure Development, and Conforming Amendments

PART A—ELECTRIC AND ELECTRIC-HYBRID VEHICLE DEMONSTRATION

Sec. 4201. Short title.
Sec. 4202. Definitions.
Sec. 4203. Program and solicitation.
Sec. 4204. Selection of proposals.
Sec. 4205. Discount payments to users.
Sec. 4206. Cost-sharing.
Sec. 4207. Reports to Congress.
Sec. 4208. Authorization.

PART B—ELECTRIC AND ELECTRIC-HYBRID VEHICLE INFRASTRUCTURE DEVELOPMENT

Sec. 4211. Short title.
Sec. 4212. Definitions.
Sec. 4213. Data acquisition to support infrastructure development and markets for use of electric vehicles and electric-hybrid vehicles.
Sec. 4214. State infrastructure development plans.
Sec. 4215. Electric utility and other industry infrastructure development projects.
Sec. 4216. Cost-sharing.
Sec. 4217. Compliance with existing law.
Sec. 4218. Authorization.

PART C—AMENDMENT TO THE ALTERNATIVE MOTOR FUELS ACT

Sec. 4221. Amendments to the Energy Policy and Conservation Act.
Sec. 4222. Amendments to the Motor Vehicle Information and Cost Saving Act.

Subtitle C—Alternative Fuels

Sec. 4301. Short title.
Sec. 4302. Findings.
Sec. 4303. Purposes.
Sec. 4304. Definitions.
Sec. 4305. Replacement and alternative fuel program.
Sec. 4306. Alternative fuel demand estimates.
Sec. 4307. Voluntary supply commitments.
Sec. 4308. Secretarial authority.
Sec. 4309. Authorization.

Subtitle D—Mass Transit and Training

Sec. 4401. Mass transit program.
Sec. 4402. Training program.

TITLE V—RENEWABLE ENERGY

Subtitle A—CORECT and COEECT

Sec. 5101. Duties of CORECT and COEECT.
Sec. 5102. Information and technical program.
Sec. 5103. Comprehensive energy technology evaluation.
Sec. 5104. Conforming amendment.

Subtitle B—Renewable Energy Initiatives

Sec. 5201. Renewable energy development, technology export training, and commercialization.
Sec. 5202. Report on waste minimization technologies in industry.
Sec. 5203. Amendments to the Energy Policy and Conservation Act.
Sec. 5204. Spark M. Matsunaga Renewable Energy and Ocean Technology Center.
Sec. 5205. Renewable energy technical achievement award.
Sec. 5206. Renewable energy research.
Sec. 5207. Establishment of the solar assistance financing entity.

Subtitle C—Hydropower

Sec. 5301. Streamlining regulation under the Federal Power Act.
Sec. 5302. Hydroelectric projects.
Sec. 5303. Improvement at existing Federal facilities.
Sec. 5304. Water conservation and energy production.
Sec. 5305. Projects on fresh waters in the State of Hawaii.
Sec. 5306. Certain projects in the State of Alaska.
Sec. 5307. Extension of time limitation for certain projects in Arkansas.
Sec. 5308. Federal projects in the Pacific Northwest.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Industrial, Commercial and Residential

Sec. 6101. Building energy efficiency codes.
Sec. 6102. Residential energy efficiency ratings and mortgages.
Sec. 6103. Manufactured housing energy efficiency.
Sec. 6104. Improving efficiency in energy intensive industries.
Sec. 6105. Report.
Sec. 6106. Voluntary guidelines for industrial plants.
Sec. 6107. Energy efficiency labeling for windows and window systems.
Sec. 6108. Energy efficiency information.
Sec. 6109. Energy efficiency labeling for lamp and luminaires.
Sec. 6110. Commercial and industrial equipment standards.
Sec. 6111. Energy efficiency of showerheads.
Sec. 6112. Vibration technology study.
Sec. 6113. Energy conservation standards for commercial and industrial electric motors.
Sec. 6114. Energy conservation standards for small electric motors.
Sec. 6115. Energy conservation standards for certain lamps.

Sec. 6116. Energy conservation standards for high intensity discharge lamps.
Sec. 6117. Report on the potential of cooperative advanced appliance development.

Subtitle B—Federal Energy Management

Sec. 6201. Definitions.
Sec. 6202. Federal energy cost accounting and management.
Sec. 6203. Federal energy cost budgeting.
Sec. 6204. Inspector General review and agency accountability.
Sec. 6205. Intergovernmental energy management planning and coordination.
Sec. 6206. Procurement and identification of energy efficient products.
Sec. 6207. General Services Administration Federal buildings fund.
Sec. 6208. Federal energy management training.
Sec. 6209. Federal facility energy manager recognition and incentives award program.
Sec. 6210. Identification and attainment of agency energy reduction and management goals.
Sec. 6211. United States Postal Service building energy survey and report.
Sec. 6212. Federal building energy consumption targets.
Sec. 6213. Utility incentive programs.
Sec. 6214. Report by General Services Administration.
Sec. 6215. United States Postal Service energy management report.
Sec. 6216. Amendments to part 3, title V of NECPA.
Sec. 6217. Congressional office building energy improvement assessment.
Sec. 6218. Study of Federal purchasing power.
Sec. 6219. Energy management goals for the United States Postal Service.
Sec. 6220. Energy performance contracts.
Sec. 6221. Energy efficient products.
Sec. 6222. Energy analysis and diagnostic centers program.
Sec. 6223. Energy audit teams.
Sec. 6224. Government contract incentives.

Subtitle C—Utilities

Sec. 6301. Encouragement of investments in conservation and energy efficiency resources and study of certain State ratemaking policies.
Sec. 6302. Conservation grants to State regulatory authorities.
Sec. 6303. Integrated resource planning by customers of power marketing administrations.
Sec. 6304. Tennessee Valley Authority integrated resource planning and implementation.

Subtitle E—State, Local, Insular and Tribal Energy Assistance

Sec. 6501. Insular areas energy assistance program.
Sec. 6502. State buildings energy incentive fund.
Sec. 6503. Private sector investments in low income weatherization.
Sec. 6504. Training of building designers and contractors.
Sec. 6505. Energy education and teacher training.
Sec. 6506. Tribal government energy assistance program.
Sec. 6507. State energy conservation plan requirement.
Sec. 6508. Use of solar thermal water heaters for low income weatherization.
Sec. 6509. Building retrofit standards.
Sec. 6510. Use of wood-burning heating appliances for low income weatherization.
Sec. 6511. Promoting energy resource development and energy vertical integration on Indian reservations.

Subtitle F—LIHEAP Options Pilot Program

Sec. 6601. Short title.
Sec. 6602. Study.
Sec. 6603. Authority for pilot programs.
Sec. 6604. Definitions.
Sec. 6605. Sustainable energy transition pilot program.
Sec. 6606. Grants to States to promote utility industrial efficiency programs.

Subtitle G—Consultative Commission on Western Hemisphere Energy and Environment

Sec. 6701. Findings.
Sec. 6702. Consultative Commission on Western Hemisphere Energy and Environment.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

Sec. 8101. Short title.
Sec. 8102. Findings, purposes, and definitions.
Sec. 8103. Program, goals, and plan.
Sec. 8104. Commercialization of advanced light water reactor technology.
Sec. 8105. Prototype demonstration of advanced nuclear reactor technology.
Sec. 8106. Authorization.

TITLE IX—NUCLEAR REACTOR LICENSING

Sec. 9101. Short title.
Sec. 9102. Combined licenses.
Sec. 9103. Post-construction hearings on combined licenses.
Sec. 9104. Rulemaking.
Sec. 9105. Amendment of a combined license pending a hearing.
Sec. 9106. Judicial review.
Sec. 9107. Conforming amendment.
Sec. 9108. Effect on pending proceedings.

TITLE X—URANIUM

Subtitle A—Uranium Enrichment

Sec. 10101. Short title.
Sec. 10102. Deletion of section 161 v.
Sec. 10103. Redirection of the uranium enrichment enterprise of the United States.
Sec. 10104. Treatment of the Corporation as being privately owned for purposes of the applicability of environmental and occupational safety laws.
Sec. 10105. Miscellaneous provisions.
Sec. 10106. Limitation on expenditures.
Sec. 10107. Severability.
Sec. 10108. Effective date.
Sec. 10109. Payment of cost of transfer.

Subtitle B—Uranium

PART 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

Sec. 10211. Short title.
Sec. 10212. Findings and purpose.
Sec. 10213. Definitions.

PART 2—URANIUM REVITALIZATION

Sec. 10221. Voluntary overfeed program.
Sec. 10222. National Strategic Uranium Reserve.
Sec. 10223. Responsibility for the industry.
Sec. 10224. Government uranium purchases.
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TITLE I—FINDINGS AND PURPOSES

Subtitle A—Findings and Purposes

SEC. 1101. FINDINGS.—The Congress finds that—

(1) the achievement of energy security for the United States is essential to the health of the national economy and the maintenance of national security;

(2) as an energy-rich country that nonetheless depends on oil imports for an increasing share of oil use, United States energy security requires that the Nation reduce oil consumption, reduce oil imports, maximize domestic oil production, and particularly for transportation purposes, encourage use of energy sources other than oil;

(3) this can be accomplished with no significant adverse effect on the environment, and will stimulate economic growth, improve the competitiveness of United States industry in the global market, and reduce the possibility of global climate change; and

(4) the achievement of energy security for the United States will require that a long-term, comprehensive national energy policy be established and sustained.

SEC. 1102. PURPOSES.—The purposes of this Act are to—

(1) slow the Nation's increasing dependence on imported oil over the short-term, and in the long-term significantly reduce that dependence;

(2) reduce the consumption of oil in the transportation sector, and encourage development and use of alternative energy sources, particularly for transportation;

(3) encourage development and deployment of renewable energy sources in the United States and on an international basis in lesser-developed countries;

(4) streamline the hydroelectric licensing process and encourage hydroelectric development at Federal dams;

(5) encourage more efficient use of energy throughout the economy, including improvements in the industrial, commercial and residential sectors, increasing energy efficiency in Federal energy management, and encouraging more efficient energy use by electric utilities;

(7) encourage the production and use of nuclear power by providing for the commercialization of advanced nuclear reactor technologies and improving the nuclear reactor licensing process;

(8) enhance the competitive position of the Federal uranium enrichment enterprise;

(9) encourage increased utilization of natural gas and other domestic energy resources to displace imported oil and meet domestic energy demand in a manner consistent with environmental values;

(10) encourage the development of domestic energy resources on the Outer Continental Shelf;

(11) establish priorities for Federal energy research, development, demonstration, and commercialization;

(12) encourage enhanced oil and gas recovery from known and producing domestic reserves;

(13) enhance the role of coal and clean coal technology in meeting the Nation's energy needs;

(14) foster competition in the electric utility industry;

(15) provide enhanced oil security protection through the Strategic Petroleum Reserve; and

(16) encourage the Federal Government to play a lead role in the widespread commercialization of alternative fuel vehicles.

Subtitle B—Climate Protection Goals, Least-Cost Energy Strategy, and Director of Climate Protection

SEC. 1201. CLIMATE PROTECTION GOALS AND POLICIES.—(a) GOALS.—The goals of this subtitle are to—

(1) investigate the feasibility and economic, energy, social, environmental and competitive implications of the stabilization of the generation of carbon dioxide and other greenhouse gases in the United States;

(2) assess the feasibility of further limiting, or reducing, the generation of carbon dioxide and other greenhouse gases not controlled by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

(3) investigate the feasibility and economic, energy, social, and environmental implications of achieving a 20 percent reduction in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(4) investigate the feasibility and economic, energy, social, and environmental implications of stabilizing carbon dioxide emissions by the year 2005; and

(5) evaluate the potential social, economic, energy, and environmental implications of implementing the policies mentioned in paragraphs (1), (2), (3), and (4) in order to enable the United States to comply with any obligations under an international global climate change framework convention or agreement.

(b) POLICIES.—The least-cost energy strategy under section 1202 shall evaluate the economic, energy, social, environmental, technical, and competitive impacts of the implementation of policies to be considered in section 1201(a) that include, but are not limited to, policies that:

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of carbon dioxide and other greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without carbon dioxide and other greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(c) FRAMEWORK CONVENTION.—In order to promote international cooperation in addressing potential global climate change, it is the goal of the United States to establish by 1992, an international framework convention on global climate change through the activities of the Negotiating Committee for a Framework Convention of the United Nations International Environmental Program and the World Meteorological Organization and to secure the commitment of the community of nations to such convention.

SEC. 1202. LEAST-COST ENERGY STRATEGY.—(a) STRATEGY.—The first National Energy Policy Plan (the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and submitted by the President to Congress after the date of the enactment of this Act, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary.

(b) PRIORITIES.—(1) The least-cost energy strategy shall identify Federal priorities for the encouragement of the use of energy and energy efficiency resources. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, and environmental consequences of his choices. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(A) the energy production, utilization, and conservation objectives of the Plan;

(B) the stabilization and eventual reductions in the generation of carbon dioxide and other greenhouse gases mentioned in section 1201(a); and

(C) the energy efficiency, renewable energy, and oil reduction goals described in subtitle C.

(2) The least-cost energy strategy shall include—

(A) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, and utilization of such resources, including—

(i) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency in production, transportation, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(iii) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, and hydropower.

(B) a proposed two-year program for assuring adequate supplies of energy and energy efficiency resources under paragraph (1), and an identification of actions that can be undertaken within existing Federal authority; and

(C) recommendations for any new Federal authority needed to achieve the purposes of this Act.

(c) SECRETARIAL CONSIDERATION.—(1) In developing the least-cost energy strategy, the Secretary shall give full consideration to:

(A) the relative costs of energy and energy efficiency resources based upon a comparison of the estimated system costs of other similarly reliable and available resources; and

(B) the economic, energy, social and environmental consequences resulting from the establishment of any particular order of Federal priority.

(2) System costs under paragraph (1) are all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(3) When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever its estimated system cost is equal to the estimated system cost of the energy resource.

SEC. 1203. DIRECTOR OF CLIMATE PROTECTION.—(a) APPOINTMENT.—Within six months after the date of the enactment of this Act, the Secretary shall appoint within the Department, a Director of Climate Protection (the "Director"). The Director shall:

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change;

(2) monitor domestic and international policies for their effects on the generation of carbon dioxide and other greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Departmental programs.

(b) Beginning 18 months after the date of the enactment of this Act, and annually thereafter, the Director shall participate in the formulation of the least-cost energy strategy under section 1202, research and development priorities under section 13101, and the management plan under section 13102.

SEC. 1204. REPEAL.—Title III of the Energy Security Act (42 U.S.C. 7361, et seq.) is hereby repealed.

SUBTITLE C—ENERGY GOALS

SEC. 1301. ENERGY GOALS.—(a) IN GENERAL.—In order to focus and sustain a national effort toward achieving national energy security in an environmentally responsible manner, the United States should pursue the national energy goals listed in subsection (b) (referred to in this subtitle as "energy goals").

(b) GOALS.—

(1) REDUCED OIL CONSUMPTION.—The oil consumption of the United States should be reduced from the 1990 level of approximately 40 percent of the total United States energy resource consumption to 39 percent by 1995, 37 percent by 2000, 35 percent by 2005, and 33 percent by 2010.

(2) REDUCED OIL IMPORTS.—The annual net oil imports of the United States should be limited to 50 percent or less of United States oil consumption.

(3) INCREASED ENERGY EFFICIENCY.—The energy efficiency of the United States should be increased to 10 percent over the 1990 levels by 1995, 20 percent over the 1990 levels by 2000, 30 percent over the 1990 levels by 2005, and 40 percent over the 1990 levels by 2010.

(4) INCREASED UTILIZATION OF RENEWABLE ENERGY.—The portion of the energy consumption represented by renewable energy sources should increase from the 1990 level of approximately 8 percent to 9 percent in 1995, 10 percent in 2000, 12 percent in 2005, and 14 percent in 2010.

SEC. 1302. REPORTS.—(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress setting forth a plan for the achievement of the energy goals.

(2) CONTENTS.—In the report, the Secretary shall—

(A) make recommendations as to any additional statutory or budget authority that the Secretary determines is necessary to achieve the energy goals;

(B) describe the measures of energy efficiency that the Secretary has determined to be appropriate for each end use sector; and

(C) describe the plans developed by the Secretary for acquiring the necessary data to be used in determining the energy efficiency of each end use sector.

(b) PROGRESS REPORTS.—

(1) IN GENERAL.—Every 2 years after the initial report is submitted pursuant to subsection (a), the Secretary shall submit to Congress a report, separate from the National Energy Policy Plan submitted pursuant to section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), detailing the progress of the United States towards achieving the energy goals.

(2) CONTENTS.—In the report, the Secretary shall—

(A) analyze the progress towards meeting the energy goals, and, if an energy goal is not being met, identify barriers to the achievement of the goal; and

(B) make recommendations as to any change in statutory or budget authority that the Secretary determines is necessary for the timely achievement of the energy goals.

(c) ALTERNATE ENERGY GOALS.—If at any time the Secretary determines that achievement of the energy goals is impracticable, the Secretary shall, in the next report submitted pursuant to this section—

(1) state the reasons and provide an analysis for the determination; and

(2) propose alternate energy goals that the Secretary determines to be practicable.

TITLE II—DEFINITIONS

SEC. 2101. DEFINITIONS.—As used in this Act the term—

(a) "Secretary" means the Secretary of Energy, unless otherwise provided;

(b) "joint venture" means any agreement entered into under this Act by the Secretary with more than one or a consortium of non-Federal persons (including a joint venture under the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.)) for cost-shared research, development, or demonstration of technologies, but does not include procurement contracts, grant agreements, or cooperative agreements as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code, and joint ventures authorized herein shall be conducted in accordance with the procedures and requirements of paragraphs (b)(1), (b)(2) and (b)(5) of section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218);

(c) "non-Federal person" has the same meaning as set forth in subsection (3) of section 3 of the Renewable Energy and Energy Efficiency Technology Competiveness Act of 1989 (Public Law 101–218); and

(d) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union.

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A—Alternative Fuel Fleets

SEC. 4101. DEFINITIONS.—For the purposes of this subtitle—

(1) "Administrator" means the Administrator of the General Services Administration;

(2) "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; electricity including electricity from solar energy; and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;

(3) "alternative fuel vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel; or

(B) is a flexi-fueled vehicle;

(4) "comparable conventionally fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an alternative fuel vehicle as determined by the Secretary;

(5) "diesel truck" means a truck that has a gross vehicle weight over 8,500 pounds and under 26,000 pounds and is powered by diesel fuel;

(6) "Federal agency" means any executive department, military department, government corporation, independent establishment, executive agency, the United States Postal Service, the Congress, and the courts of the United States;

(7) "fleet" means a number of motor vehicles that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a Federal agency, State, or person. This term does not include—

(A) motor vehicles held for daily lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement vehicles;

(E) emergency vehicles;

(F) military vehicles that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) non-road vehicles, including farm and construction vehicles; or

(H) except for vehicles covered by section 4102 and section 4103, vehicles that under normal operations are garaged at a personal residence at night;

(8) "flexi-fueled vehicle" means a motor vehicle that can operate on alternative and non-alternative fuel;

(9) "motor vehicle" means—

(A) any four-wheel passenger automobile, as the term "passenger automobile" is defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2));

(B) any truck with a gross vehicle weight up to 26,000 pounds, including "light trucks," as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)) and "diesel trucks" as defined in this section;

(C) and any bus designed to transport more than ten persons;

(10) "person" means—

(A) any individual, corporation, partnership, or association;

(B) any municipality or political subdivision of a State;

(11) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more;

(B) at least 50 motor vehicles within the United States; and

(C) for the purposes of section 4108, 4109, and 4110, a "covered person" shall include the Postmaster General.

(12) "State" means a State, any agency of a State (but not a municipality or political subdivision of a State), or the District of Columbia.

SEC. 4102. FEDERAL FLEETS.—(a) Purchase Requirements.—

(1) The Federal Government shall purchase, lease, or otherwise acquire at least—

(A) 5,000 alternative fuel vehicles in 1993;

(B) 7,500 alternative fuel vehicles in 1994; and

(C) 10,000 alternative fuel vehicles in 1995.

(2) When any Federal agency purchases, leases, or otherwise acquires vehicles for a Federal fleet, in the years specified in this paragraph, at least the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

(A) in 1996, 25 percent;

(B) in 1997, 33 percent;

(C) in 1998, 50 percent;

(D) in 1999, 75 percent; and

(E) in 2000 and each year thereafter, 90 percent.

(b) PROGRAM CRITERIA.—The Secretary, the Administrator, in consultation with the head of each Federal agency, shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

(1) the procurement plans of State and local governments and other public and private institutions;

(2) the current and future availability of refueling and repair facilities;

(3) the reduction in emissions of the Federal motor vehicle fleet;

(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

(5) the needs of Federal, State, and local agencies; and

(6) the contribution to the reduction in the consumption of oil in the transportation sector.

(c) PROGRAM COORDINATION.—The Secretary shall work with the Administrator of General Services and the head of each Federal agency to plan effective coordination and cooperation by Federal agencies in the purchase, use, and refueling of alternative fuel vehicles acquired under this section or other provisions of law.

(d) REFUELING.—The Administrator of General Services, the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the United States House of Representatives, and the Architect of the Capitol, shall, to the maximum extent practicable, arrange for the fueling of alternative fuel vehicles acquired under this section at commercial fueling facilities that are open to the public and offer alternative fuels for sale to the public. If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fuel vehicles purchased under this title, the Administrator is authorized to enter into commercial arrangements with commercial fueling operators for the purpose of fueling Federal alternative fuel vehicles.

(e) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491), the Administrator of General Services shall not include the incremental costs of alternative fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator determines that appropriations provided pursuant to this section are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional vehicles.

(f) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this section shall be applicable only—

(1) to the portion of the cost of acquisition, maintenance, and operation of vehicles ac-

quired under this paragraph which exceeds the cost of acquisition, maintenance, and operation of comparable conventional vehicles;

(2) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional vehicles; and

(3) to the portion of the costs of acquisition of alternative fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional vehicles.

(g) Vehicle Costs.—The incremental cost of vehicles acquired under this section over the cost of comparable conventional vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

(h) Acquisition Requirement.—Federal agencies, to the extent practicable, shall obtain alternative fuel vehicles from original equipment manufacturers.

(i) Authorization.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this section shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756).

(j) Exemption.—Notwithstanding any other provision of this subtitle, the Postmaster General shall be exempt from the requirements of section 4102(b), 4102(c), and 4102(g).

Sec. 4103. State Fleets.—When any State that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires motor vehicles for use in a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1995, 10 percent;

(2) in 1996, 15 percent;

(3) in 1997, 25 percent;

(4) in 1998, 50 percent;

(5) in 1999, 75 percent; and

(6) in 2000 and each year thereafter, 90 percent.

Sec. 4104. Private and Municipal Fleets.—When any covered person that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires vehicles for a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1998, 30 percent;

(2) in 1999, 50 percent; and

(3) in 2000 and each year thereafter, 70 percent.

Sec. 4105. Rules of General Applicability.—(a) Treatment of Fractions.—If the number of vehicles purchased, leased, or otherwise acquired by a Federal agency, State, or covered person in any year when multiplied by the percentage specified in section 4102, 4103, or 4104 contains a fraction, the number of vehicles required to be alternative fuel vehicles shall be increased to the next whole number.

(b) Fuel Use Requirement.—The vehicles purchased pursuant to section 4102, 4103, or 4104 shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(c) Diesel Trucks.—Any Federal agency, State, or covered person that operates a fleet that is subject to the requirements of section 4102, 4103, or 4104, respectively, and contains one or more diesel trucks may purchase, lease, or otherwise acquire diesel trucks after 1994 in proportion (relative to the total number of motor vehicles) to the number of diesel trucks in the agency, State, or person's fleet that is subject to the requirements of section 4102, 4103, or 4104 on the date of enactment of this subtitle, notwithstanding such sections.

(d) Delayed Purchase Option.—Any covered person subject to section 4104 may postpone the acquisition of alternative fuel vehicles required to be acquired in 1998 and 1999, but after 1999, such person may only acquire alternative fuel vehicles until such person acquires a cumulative number of such vehicles which exceeds 150 percent of the cumulative number of alternative fuel vehicle purchases that would have been needed to meet the 1998 and 1999 requirements of section 4104. Such acquisitions shall be in addition to any acquisition requirements under section 4104 for years after 1999.

Sec. 4106. Exemptions.—(a) Vehicle and Fuel Availability.—The Secretary shall exempt any Federal agency, State, or covered person from the requirements of section 4102, 4103, or 4104, respectively, in whole or in part, if the Secretary determines that:

(1) alternative fuel vehicles meeting the requirements of such Federal agency, State, or person are not available for purchase, lease, or acquisition by other means; or

(2)(A) commercial alternative fuel refueling facilities are not available to the Federal agency, State, or person in the area in which the vehicles are operated; and

(B) providing an alternative fuel refueling facility for such agency, State, or person's alternative fuel vehicles would be economically impracticable.

(b) Duration of Exemptions.—An exemption granted by the Secretary under subsection (a) shall be for an initial period of no more than 12 months and shall be renewable for additional periods of no more than 12 months.

Sec. 4107. Vehicle Conversions.—The requirements of sections 4103 and 4104 may be met through the conversion of existing or new gasoline or diesel-powered vehicles to alternative fuel vehicles. For purposes of such sections, the conversion of a vehicle to an alternative fuel vehicle shall be treated as the purchase of an alternative fuel vehicle. However, if alternative fuel vehicles are not available from original equipment manufacturers, nothing in this section shall be construed to require any Federal agency, State or covered person subject to the fleet vehicle acquisition requirements under this title to convert existing or new gasoline or diesel-powered vehicles to alternative fuels vehicles or to purchase converted vehicles.

Sec. 4108. Credits.—(a) In General.—The Secretary shall allocate a credit to a State or covered person that is subject to the requirements of section 4103 or 4104, respectively, if that State or person purchases an alternative fuel vehicle in excess of the number that State or person is required to purchase under section 4103 or 4104 or purchases an alternative fuel vehicle before the date that State or person is required to purchase an alternative fuel vehicle under such section.

(b) Allocation.—In allocating credits under subsection (a), the Secretary shall allocate one credit for each alternative fuel vehicle the State or covered person purchases that exceeds the number of alternative fuel vehicles that State or person is required to purchase under section 4103 or 4104 or that is purchased before the date that State or person is required to purchase an alternative fuel vehicle under such section. In the event that a vehicle is purchased before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is purchased before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier purchased vehicle.

(c) Use of Credits.—At the request of a State or covered person allocated a credit under this section, the Secretary shall treat the credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by that State or person when determining whether that State or person has complied with this subtitle in the year designated. A credit may be counted toward compliance for only one year.

(d) Transferability.—A State or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another State or person who is required to comply with this subtitle. At the request of the State or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by the State or person to whom the credit is transferred when determining whether that State or person has complied with this subtitle in the year designated. A transferred credit may be counted toward compliance for only one year.

Sec. 4109. Reports.—The Secretary may require a Federal agency, State, or covered person to file with the Secretary the reports the Secretary determines necessary to implement this subtitle.

Sec. 4110. Resale of Alternative Fuel Vehicles.—(a) Not less than three years from the date of purchase, the Administrator may resell any alternative fuel passenger automobile purchased pursuant to this subtitle. For purposes of this subsection, a "passenger automobile" means any passenger automobile as defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2)).

(b) Not less than six years, or 60,000 miles from the date of purchase, the Administrator may resell any alternative fuel light truck purchased pursuant to this subtitle. For purposes of this subsection, a "light truck" means any light truck as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)).

(c) The Administrator may resell or dispose of an alternative fuel passenger automobile or light truck at an earlier date if such vehicle is damaged in an accident, or if the Administrator determines selling such alternative fuel passenger automobile or light truck is in the best interests of the Federal alternative fuel vehicle program.

(d) The Administrator shall take all feasible steps to ensure that all alternative fuel vehicles sold under the provisions in (a) and (b) of this section shall remain alternative vehicles at time of sale.

SEC. 4111. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.—(a) PROMOTION AND EDUCATION.—The Administrator shall institute a program to promote programs and educate officials and employees of Federal agencies on the merits of alternative fuel vehicles. The Administrator shall provide and disseminate information to Federal agencies on the—

(1) location of refueling and maintenance facilities available to alternative fuel vehicles in the Federal fleet;

(2) range and performance capabilities of alternative fuel vehicles;

(3) State and local government and commercial alternative fuel vehicle programs;

(4) Federal alternative fuel vehicle purchases and placements;

(5) operation and maintenance of alternative fuel vehicles in accordance with the manufacturer's standards and recommendations; and

(6) incentive programs established pursuant to sections 4112 and 4113 of this Act.

(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Administrator shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fuel vehicles purchased through the Administrator. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 4102 of this Act.

(c) INTERGOVERNMENTAL COORDINATION.—The Administrator shall identify other Federal, State, and local efforts to promote and use alternative fuel vehicles. To the maximum extent practicable, the Administrator shall coordinate Federal alternative fuel vehicle procurement, placement, refueling and maintenance programs with those at the State and local level.

(d) POSTAL SERVICE COORDINATION.—To the maximum extent practicable, the Postmaster General shall coordinate its alternative fuel vehicle procurement, placement, refueling, and maintenance programs with those at the Federal, State, and local level. The Postmaster General shall communicate, share, and disseminate, on a regular basis, information on such programs with the Secretary, the Administrator, and heads of appropriate Federal agencies.

(e) POSTAL SERVICE PROGRAM CRITERIA.—The Postmaster General shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

(1) the procurement plans of State and local governments and other public and private institutions;

(2) the current and future availability of refueling and repair facilities;

(3) the reduction in emissions of the Postal fleet;

(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

(5) the operational requirements of the Postal fleet;

(6) the contribution to the reduction in the consumption of oil in the transportation sector.

SEC. 4112. AGENCY INCENTIVES PROGRAM.—(a) REDUCTION IN RATES.—To encourage and promote use of alternative fuel vehicles in Federal agencies, the Administrator may offer a five percent reduction in fees charged to agencies for the lease of alternative fuel vehicles below those fees charged for the lease of comparable conventionally fueled vehicles.

(b) FEDERAL EMPLOYEE POOLING AND DRIVER PROGRAM.—Notwithstanding the provisions of section 1344(a) of title 31, United States Code, Federal agencies may authorize Federal employees to use alternative fuel vehicles from their residence to their place of employment for purposes of—

(1) Federal employee carpooling of not less than four Federal employees for each trip; and

(2) refueling and maintenance, if the Federal agency head, or the designee of the agency head, determines that such services are not convenient to the location of place of employment.

SEC. 4113. RECOGNITION AND INCENTIVE AWARDS PROGRAM.—(a) AWARDS PROGRAM.—The Administrator shall establish an annual cash awards program to recognize those employees of the General Services Administration and other Federal agencies who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal Motor vehicles.

(b) CRITERIA FOR GENERAL SERVICES ADMINISTRATION EMPLOYEES.—The Administrator shall provide annual cash awards of not more than $2,000 each to three General Services Administration employees who best demonstrate a commitment—

(1) to the success of the Federal alternative fuels vehicle program through—

(A) exemplary promotion of alternative fuel vehicle use within the General Services Administration and other Federal agencies;

(B) proper alternative fuel vehicle care and maintenance;

(C) coordination with Federal, State, and local efforts:

(D) innovative alternative fuel vehicle procurement, refueling and maintenance arrangements with commercial entities; and

(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance and other conservation and awareness measures.

(c) LIMITATIONS ON AWARDS.—The three awards under paragraph (b) shall be awarded to three different employees each year. No employee may win a cash award in more than two consecutive years.

(d) AWARD TO REGIONAL GENERAL SERVICES ADMINISTRATION EMPLOYEES.—(1) In each standard Federal region where the General Services Administration operates alternative fuel vehicles, the Administrator shall offer two annual cash awards of not more than $1,000 to the regional General Services Administration employees who meet the criteria under paragraph (b).

(2) Employees who receive an award under subsection (b) may not receive an award under this section in the same fiscal year. No more than two awards shall be awarded under this subsection in each region in any fiscal year.

(e) AWARD TO FEDERAL AGENCY EMPLOYEES.—In each region where the General Services Administration operates alternative fuel vehicles, the Administrator shall provide one annual $2,000 cash award to the Federal employee (other than an employee of the General Services Administration) who demonstrates the greatest interest and commitment to alternative fuel vehicles by—

(1) making regular requests for alternative fuel vehicles for agency use;

(2) maintaining a high number of alternative fuel vehicles used relative to comparable conventionally fueled vehicles used;

(3) promoting alternative fuel vehicle use by agency personnel; and

(4) demonstrating care and attention to alternative fuel vehicles.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000 in fiscal year 1992, $35,000 in fiscal year 1993, and $45,000 in fiscal year 1994 to carry out the purposes of this section.

SEC. 4114. MEASUREMENT OF ALTERNATIVE FUEL USE.—The Administrator shall use such means as may be necessary to measure the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator.

SEC. 4115. INFORMATION COLLECTION.—The Secretary, in consultation with the Administrator, shall determine a representative sample of alternative fuel vehicles in the Federal fleet. Such a sample shall be sufficient to address at a minimum—

(1) the performance of such vehicles, including performance in cold weather and at high altitudes;

(2) the fuel economy, safety, and emissions of such vehicles; and

(3) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger vehicles and light duty trucks.

SEC. 4116. GENERAL SERVICES ADMINISTRATION REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator shall report to the Congress on the General Services Administration's alternative fuel vehicle program under this Act. The report shall contain information on—

(1) the number and type of alternative fuel vehicles procured;

(2) the location of alternative fuel vehicles by standard Federal region;

(3) the total number of alternative fuel vehicles used by each Federal agency;

(4) arrangements with commercial entities for refueling and maintenance of alternative fuel vehicles;

(5) future alternative fuel vehicle procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;

(7) coordination among Federal, State and local governments for alternative fuel vehicle procurement and placement;

(8) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator as measured under section 4114;

(9) a description of the representative sample of alternative fuel vehicles as determined under section 4115; and

(10) award recipients under this subtitle.

SEC. 4117. UNITED STATES POSTAL SERVICE REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fuel vehicle program. The report shall contain information on—

(1) the total number and type of alternative fuel vehicles procured prior to the date of the enactment of this Act (first report only);

(2) the number and type of alternative fuel vehicles procured in the preceding year;

(3) the location of alternative fuel vehicles by region;

(4) arrangements with commercial entities for purposes of refueling and maintenance;

(5) future alternative fuel procurement and placement strategy;

(6) the difference in cost between the purchase, maintanance and operation of alter-

native fuel vehicles and the purchase, maintanance, and operation of comparable conventionally fueled vehicles;

(7) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Postmaster General;

(8) promotions and incentives to encourage the use of alternative fuels in flexi-fueled vehicles; and

(9) an assessment of the program's relative success and policy recommendations for strengthening the program.

SEC. 4118. ENFORCEMENT.—(a) CIVIL PENALTIES.—A State or covered person who violates a requirement or prohibition of section 4103 or 4104, respectively, or 4105(b) is subject to a civil penalty of not more than $2,500 per violation. Each month in which a violation occurs constitutes a separate violation, unless the violator establishes that the vehicle necessary to comply with this subtitle could not be purchased, leased, or otherwise acquired in that month. The first month of a violation of the yearly acquisition requirements of section 4103 or 4104 is the month in which a State or person purchases, leases, or otherwise acquires vehicles that result in noncompliance with the yearly alternative fuel vehicle purchase requirement under that section. Each month in which compliance has not been achieved after the first month is a separate violation.

(b) CIVIL ACTIONS.—The Secretary may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess and recover any civil penalty under subsection (a) of this section. An action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business. The court in which the action has been brought may restrain a violation, require compliance, assess a civil penalty, collect any noncompliance assessment and nonpayment penalty owed the United States, and award any other appropriate relief. In such an action, subpoenaes for witnesses who are required to attend a district court in any district may run into any other district.

(c) MITIGATION OF PENALTIES.—In the determining the amount of a penalty to be assessed under this section, the court shall take into consideration, in addition to other factors justice may require, the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

SEC. 4119. IMPLEMENTATION.—(a) REGULATIONS.—Within 180 days after the date of enactment of this subtitle the Secretary shall issue regulations to implement this subtitle. Such regulations shall include measures to ensure that Federal agencies, States, and covered persons comply with the requirements of sections 4102, 4103, and 4104, respectively, and the criteria by which the Secretary will determine whether to exempt agencies, States, and covered persons from such requirements under section 4105. The regulations governing compliance with sections 4102, 4103, and 4104 shall be developed in consultation with the Secretary of Commerce and shall require that the procurement practices of manufacturers of alternative fuel vehicles and diesel trucks that are purchased, leased, or otherwise acquired in order to meet the requirements of such sections do not discriminate against United States manufacturers of motor vehicle parts.

(b) DELEGATION TO STATES.—The Secretary may delegate the administration and enforcement of this subtitle within any State to the Governor of such State if—

(1) the Governor certifies that the State has a program to administer and enforce the subtitle; and

(2) the Secretary finds that the State program is in accordance with the requirements of the subtitle.

(c) FINANCIAL ASSISTANCE.—There is authorized to be appropriated not more than $20,000,000 to remain available until expended for purposes of providing financial assistance to States to which the Secretary delegates administration and enforcement of this subtitle.

(d) STATE INCENTIVES.—Within 18 months after the date of enactment of this title, the Governor of each State in which there is located a fleet subject to the alternative fuel vehicle purchase requirements of section 4103 or 4104, shall submit to the Secretary a report concerning the incentives for alternative fuel vehicles considered or approved by the State. Each State subject to the requirements of this section shall consider:

(1) allowing public utilities to include in rates costs associated with the development and installation of alternative fuel facilities to the extent that such inclusion would not create competitive disadvantages for other market participants;

(2) exempting alternative fuel vehicles that operate only on alternative fuel from high occupancy vehicle and other such highway vehicle restrictions;

(3) exempting alternative fuel vehicles from State highway taxes, road tolls, vehicle and fuel sales taxes, and other State taxes or charges otherwise applicable to motor vehicles; and

(4) providing alternative fuel vehicles special parking at public buildings, airports, and transportation facilities.

SEC. 4120. SCHOOL BUS FLEET FINANCIAL ASSISTANCE PROGRAM.—There is authorized to be appropriated to the Secretary not more than $10,000,000 for each of the fiscal years 1993, 1994, and 1995 to remain available until expended for purposes of providing financial assistance to any State, including any agency, municipality or political subdivision of a State or the District of Columbia, to meet incremental costs attributable to the use by school buses of alternative fuels, as that term is defined in section 4101(1) of this subtitle, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas): *Provided*, That any conversion using funds authorized by this section must comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

SUBTITLE B—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure, Development, and Conforming Amendments

PART A—ELECTRIC AND ELECTRIC-HYBRID VEHICLE DEMONSTRATION

SEC. 4201. SHORT TITLE.—This part may be cited as the "Electric and Electric-Hybrid Vehicle Demonstration Act".

SEC. 4202. DEFINITIONS.—For the purposes of this part, the term—

(1) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the non-electric source of power in such vehicles;

(2) "comparable conventionally-fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an electric vehicle or electric hybrid vehicle, as determined by the Secretary;

(3) "discount payment" means that discount from the electric vehicle suggested retail price provided to the user of an electric vehicle or electric-hybrid vehicle as determined pursuant to section 4205 of this part;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current, including, photovoltaic arrays;

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power;

(6) "electric vehicle suggested retail price" or "electric-hybrid vehicle suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicles) of an electric vehicle or electric-hybrid vehicle set forth in a cooperative agreement under section 4203(b), not adjusted to reflect any discount payment that may be available under this part;

(7) "eligible metropolitan area" means—

(A) any ozone non-attainment area classified under subpart 2 of part D of title I of the Clean Air Act, as amended, as Serious, Severe, or Extreme as of the date of enactment of this part;

(B) any carbon monoxide nonattainment area with a carbon monoxide design value at or above 16.0 parts per million based on data available as of the date of enactment of this part, but does not include carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide exceedences; or

(C) any other metropolitan statistical area with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this part;

(8) "manufacturer" means a person or entity that produces an electric vehicle or electric-hybrid vehicle and is capable, if determined to be by the Secretary, of providing service and parts for such vehicle for a period of five years or more;

(9) "proposer" means a person or entity that submits a proposal to conduct a demonstration project under the program authorized by this part and may include a unit of State or local government;

(10) "retail price differential" means the difference between the comparable conventionally-fueled vehicle suggested retail price and the electric vehicle or electric-hybrid vehicle suggested retail price;

(11) "suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicle) of a commercially available conventionally-fueled vehicle, as determined by the manufacturer's established retail price, not adjusted to reflect any reductions in such price discounts that may be available; and

(12) "user" means a person or entity that purchases or leases an electric vehicle or electric-hybrid vehicle, including fleet operators.

SEC. 4203. PROGRAM AND SOLICITATION.—(a) PROGRAM.—The Secretary shall conduct a program to demonstrate electric vehicles, electric-hybrid vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, vehicle manufacturers, the electric utility industry, and such other persons as the Secretary deems appropriate. Such program shall be structured to evaluate the performance of such vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure for electric and electric-hybrid vehicle commercialization.

(b) SOLICITATION.—(1) Not later than one year after the date of enactment of this part, the Secretary shall solicit proposals to demonstrate electric vehicles, electric-hybrid vehicles or such vehicles and associated equipment in one or more eligible metropolitan areas.

(2) The solicitation shall require the proposer to include in the proposal a description of the proposal including the manufacturer or manufacturers of the electric or electric-hybrid vehicles; the intended users of the vehicles; the eligible metropolitan area or areas involved; the number of vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the retail price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; and any other information the Secretary requires to make selections under section 4204. If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric vehicles, electric-hybrid vehicles or associated equipment.

(c) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out the purposes of this part.

SEC. 4204. SELECTION OF PROPOSALS.—(a) SELECTION.—(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce and the Administrator of the Environmental Protection Agency, may, not later than 120 days after receipt of proposals under section 4203, select at least one, but not more than ten, proposals for negotiation of cooperative agreements to receive financial assistance under section 4205.

(2) Any proposal selected for negotiation under paragraph (1) must satisfy the limitations set forth in section 4205(c).

(3) If the Secretary intends to enter into four or more cooperative agreements, at least one such cooperative agreement shall be for a demonstration project located in an eligible metropolitan area referred to in section 4202(7)(C) and which is not located in a nonattainment area referred to in sections 4202(7) (A) or (B).

(b) CONSIDERATION.—In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(1) the ability of a proposer to undertake and complete the proposed demonstration project;

(2) the openness of a manufacturer's procurement practices to United States manufacturers of vehicle parts;

(3) the ability of a manufacturer, directly or indirectly, or in combination with the proposer, to develop, assist in the demonstration of, manufacture, distribute, sell or lease and provide service for, including the ability to provide warranties and to assure the availability of all parts, those electric vehicles or electric-hybrid vehicles that are proposed to be included in the demonstration project;

(4) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project is to be undertaken when compared with other proposals or other selected demonstration projects;

(5) the long-term technical and competitive viability of the electric and electric-hybrid vehicle, and the ability of the manufacturer of such vehicles to make and incorporate subsequent advancements, cost reductions, modifications, and technology improvements;

(6) the electric vehicle or electric-hybrid vehicle suggested retail price of the vehicles to be included in the demonstration project, the comparable conventionally-fueled vehicle suggested retail price, the proposed discount payment, and in the case of a demonstration project that includes a lease arrangement, the terms of such arrangement for the vehicle or associated equipment;

(7) the extent of involvement of State or local government and other persons in the demonstration project;

(8) whether the involvement of State or local government or other persons in the demonstration project (A) will permit a reduction of the Federal cost share per vehicle or (B) will otherwise be used to leverage the Federal contribution to be provided among a greater number of vehicles; and

(9) other criteria as the Secretary deems appropriate.

(c) CONDITIONS.—The Secretary shall include in any cooperative agreement under this section provisions intended to assure that—

(1) the vehicle or vehicles will be used primarily in the eligible metropolitan area or areas identified in the proposal and set forth in the final agreement made with the Secretary;

(2) the procurement practices of the manufacturer do not discriminate against United States manufacturers of vehicle parts;

(3) the number of vehicles to be included in the demonstration project shall be no less than 50 vehicles, except that the Secretary—

(A) may select and enter into a cooperative agreement for a demonstration project with fewer than 50 vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity of the proposals selected and that an adequate demonstration to accelerate the development and use of vehicles can be undertaken with fewer than 50 vehicles; and

(B) may permit a group of such vehicles to be used in an area outside such eligible metropolitan area or areas identified in such proposal if the Secretary determines that such proposal would further the purposes of this part.

(4) as a part of the demonstration project, the proposer shall seek to obtain from the user or users of the vehicles and to provide to the manufacturer information regarding operation, maintenance, and useability of the vehicle for five years after purchase or during the lease period; and

(5) the proposer shall provide such information regarding operation, maintenance and use of vehicles as the Secretary may request during the period of the demonstration project.

(d) ADDITIONAL DEMONSTRATIONS.—The Secretary may enter into more than ten cooperative agreements under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

SEC. 4205. DISCOUNT PAYMENTS TO USERS.—(a) CERTIFICATION.—The Secretary shall provide a discount payment to a proposer for reimbursement of the discount provided to the user, if the proposer certifies to the Secretary, in such form and in such manner and time as may be required by the Secretary, that—

(1) the electric vehicle or electric-hybrid vehicle has been purchased or leased by a user in accordance with the terms and conditions of the cooperative agreement referred to in section 4204; and

(2) the proposer has provided to the user a discount payment from the electric vehicle or electric-hybrid vehicle suggested retail price in accordance with the terms and conditions for the discount payment in the cooperative agreement under section 4204.

(b) PAYMENT.—Not later than 30 days after receipt from the proposer of certification that the Secretary determines satisfies subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment.

(c)(1) RESTRICTIONS ON DISCOUNT PAYMENTS.—The discount payment shall be no greater than the retail price differential or the price of the comparable conventionally-fueled vehicle, whichever is the lesser.

(2) The actual purchase price of the vehicle, adjusted to reflect the discount payment and any additional reduction in the actual purchase price of the vehicle that may result from contributions to a purchase price reduction provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally-fueled vehicle.

(3) The maximum Federal share of the discount payment that may be provided to reimburse a proposer for a discount payment provided to a user shall be no greater than $10,000 per electric vehicle or electric-hybrid vehicle.

(4) The aggregate discount payments paid to a proposer under this part may not exceed $3,000,000.

(d) LEASE AGREEMENTS.—For purposes of the discount payment, in the case of an electric vehicle or electric-hybrid vehicle included in a demonstration project that is the subject of a lease agreement, the Secretary shall provide a rebate in accordance with the terms of the cooperative agreement.

SEC. 4206. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

Sec. 4207. REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives on the progress being made, through the cooperative agreements under this part, to accelerate the development and use of electric vehicles and electric-hybrid vehicles.

SEC. 4208. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993 and 1994 such sums as may be necessary to carry out the purposes of this part, to remain available until expended.

PART B—ELECTRIC AND ELECTRIC-HYBRID VEHICLE INFRASTRUCTURE DEVELOPMENT

SEC. 4211. SHORT TITLE.—This part may be cited as the "Electric Vehicle and Electric-Hybrid Infrastructure Development Act".

SEC. 4212. DEFINITIONS.—For purposes of this part, the term—

(1) "infrastructure" includes, but is not limited to, those support and maintenance services and facilities, electricity delivery mechanisms and methods, treatment of investment in electric vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling and disposal, that may be required to enable electric utilities, automobile manufacturers and others, to support the operation, maintenance and utilization of electric vehicles, electric-hybrid vehicles, and associated equipment;

(2) "non-Federal person" means an entity not part of the Federal Government that is organized under the laws of the United States and located in the United States, the controlling interest (as defined by the Secretary) of which is held by United States nationals or permanent resident aliens, including—

(A) a for-profit business;

(B) a private foundation;

(C) a nonprofit organization such as a university;

(D) a trade or professional society; and

(E) a unit of State or local government.

(3) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electrical energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, the non-electric source of energy;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current but also relies on a non-electrical source of power.

SEC. 4213. DATA ACQUISITION TO SUPPORT INFRASTRUCTURE DEVELOPMENT AND MARKETS FOR USE OF ELECTRIC VEHICLES AND ELECTRIC-HYBRID VEHICLES.—(a) GENERAL.—Not later than 180 days after the date of enactment of this part, the Secretary, in consultation with appropriate State, regional and local authorities, shall establish a program for the collection and dissemination of information and data which would be useful to persons seeking to manufacture, sell, lease, own or operate electric vehicles and electric-hybrid vehicles. Such information and data—

(1) shall be sufficient to evaluate—

(A) the degree to which the availability of energy and fuel supplies may constrain the introduction of electric vehicles or electric-hybrid vehicles; and

(B) the electric vehicle or electric-hybrid vehicle trips made daily, miles driven per trip, projections as to the number of trips that could be accomplished in combination with mass transit so as to conserve energy; and

(2) may include other appropriate demographic and consumer preferences information necessary to make the evaluation under paragraph (1).

(b) CONSULTATION BY THE SECRETARY.—The Secretary shall consult with interested persons including, but not limited to, vehicle manufacturers, fleet operators, public utilities and State or local governmental entities, to determine the types of information and data to be collected and analyzed pursuant to the program authorized by subsection (a).

SEC. 4214. STATE INFRASTRUCTURE DEVELOPMENT PLANS.—(a) GUIDELINES.—(1) Within 180 days after the date of enactment of this part, the Secretary shall issue guidelines for use by States and local governmental entities to develop comprehensive infrastructure plans to support the deployment of electric vehicles and electric-hybrid vehicles. Such guidelines shall include sufficient information to help States to evaluate—

(A) the availability of the necessary infrastructure to provide electricity and other forms of energy in the quantities and at the locations required to support operation of electric vehicles or electric-hybrid vehicles;

(B) the development of electric vehicle and electric-hybrid vehicle incentives and implementation programs designed to accelerate the introduction and use of such vehicles; and

(C) such studies that may be conducted or information that may be acquired with respect to how the production, development, or use of electric vehicles and electric-hybrid vehicles are likely to affect the more efficient use of energy resources and thereby enhance national energy security.

(2) Such guidelines also shall address the development, modification, and implementation of State infrastructure plans and shall describe those program elements, as described in subsection (c) to be addressed in such plans.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall offer the Governor of each State, within 120 days of the date of issuance of the guidelines under subsection (a), the opportunity to request technical and financial assistance under subsection (c) for the formulation of a comprehensive infrastructure plan for such State in conformance with the guidelines issued under subsection (a). Such request shall include a determination by the Governor that—

(A) electricity and other forms of energy are likely to be available in sufficient quantities to support the introduction of electric vehicles and electric-hybrid vehicles in such State; and

(B) the introduction of electric vehicles or electric-hybrid vehicles in such State is feasible.

(2)(A) If the Secretary is satisfied that the determination of a Governor under paragraph (1) is consistent with the purposes of this part, the Secretary shall offer the Governor of such State the opportunity to submit, within 180 days after submission of the determination under paragraph (1), a comprehensive infrastructure plan for approval under subsection (c)(2).

(B) Any plan developed under subparagraph (A) shall be developed in consultation with local governmental entities and shall include—

(i) the anticipated number and schedule for introduction of electric vehicles or electric-hybrid vehicles in such State;

(ii) provisions intended to ensure that electricity and other forms of energy will be available in sufficient quantities to support the anticipated quantities and schedule for introduction of electric vehicles or electric-hybrid vehicles;

(iii) provisions designed to assure the progress toward, and achievement of, the goal of introducing substantial numbers of electric vehicles and electric-hybrid vehicles in such State by the year 2001;

(iv) a detailed description of the requirements, including the estimated cost of implementation, of the infrastructure plan; and

(v) an assessment of whether accomplishing any of the goals in this subsection would require amendment to State law or regulation.

(c) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) Upon request of the Governor of any State who has submitted the assessment and made the determination under subsection (b), the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to electric vehicles and electric-hybrid vehicles;

(B) financial assistance for the purpose of the development of such plan; and

(C) financial assistance for the purpose of the implementation of such plan as approved by the Secretary pursuant to this section.

(2) In determining whether to approve a State infrastructure plan submitted under subsection (b)(2), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this section, the Secretary shall consider:

(A) energy and environmental-related impacts of introduction and use of electric vehicles or electric-hybrid vehicles included in the proposed infrastructure plan;

(B) the availability of electricity and other forms of energy required to support varying numbers of electric vehicles or electric-hybrid vehicles;

(C) the number of electric vehicles or electric-hybrid vehicles likely to be introduced by the year 2001 and the availability of electricity and other fuels resulting from successful implementation of the plan; and

(D) such other factors as the Secretary considers appropriate.

(d) REPORT.—The Secretary shall report annually to the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this part.

SEC. 4215. ELECTRIC UTILITY AND OTHER INDUSTRY INFRASTRUCTURE DEVELOPMENT PROJECTS.—(a) GENERAL.—The Secretary shall undertake cooperative agreements with one or more non-Federal persons, including fleet operators, to provide the infrastructure necessary to support the use of electric vehicles or electric-hybrid vehicles.

(b) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, to carry out the purposes of this section.

(2) Within 180 days after proposals have been solicited, the Secretary shall select from among those proposals submitted under this section and thereafter enter into negotiations. If, after negotiation, the Secretary determines that a proposal meets the purposes of this section, he may enter into a cooperative agreement with the non-Federal person submitting such proposal.

(3) The Secretary shall undertake no more than five cooperative agreements under this section. The proposals to be selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(4) The aggregate Federal financial assistance for each cooperative agreement under this part may not exceed $3,000,000.

(c) PROPOSALS.—The infrastructure proposals under this section may address—

(1) the addition to existing facilities of the capability to service electric or electric-hybrid vehicles, and to provide or service associated equipment, as well as the installation of charging facilities where such service might be required for the use and operation of electric vehicles or electric-hybrid vehicles;

(2) the feasibility of designing rate structures, rate levels, ratemaking procedures, billing systems and financing methods, related to investment by electric utilities in infrastructure capital-related expenditures and public information programs conducted by electric utilities regarding use of electricity, the conservation of electric energy and the use of electric vehicles or electric-hybrid vehicles;

(3) the development of associated safety and health procedures; and

(4) such other requirements as the Secretary considers necessary in order to address the infrastructure needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric vehicles or electric-hybrid vehicles.

SEC. 4216. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreements under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

SEC. 4217. COMPLIANCE WITH EXISTING LAW.—Nothing in this part shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this part, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

SEC. 4218. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this part.

PART C—AMENDMENT TO THE ALTERNATIVE MOTOR FUELS ACT

SEC. 4221. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—(a) Section 400AA(a) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6374 (a)(1)) is amended by striking out "or natural gas dual energy vehicles." and inserting in lieu thereof "natural gas dual energy vehicles, electric vehicles, or electric-hybrid vehicles.".

(b) Section 400AA(g) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6374 (g)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(7) the term 'natural gas' includes liquified petroleum gas, including propane;

"(8) the term 'electric vehicle' means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

"(9) 'electric-hybrid vehicle' means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power.".

(c) Section 400AA(i) of the Energy Policy and Conservation Act (42 U.S.C. 6374(i)) is amended by adding at the end thereof the following new paragraph:

"(3) For the purposes of this section, there is authorized to be appropriated for the fiscal years 1994, 1995, and 1996 such sums as may be necessary to carry out the provisions of this section.".

SEC. 4222. AMENDMENTS TO THE MOTOR VEHICLE INFORMATION AND COST SAVING ACT.—(a) Section 513(c) of the Motor Vehicle Information and Cost Savings Act (Pub. L. No. 92-513; 15 U.S.C. 2013(c)) is amended in the first sentence by inserting after "natural gas" each place it occurs the parenthetical "(including liquefied petroleum gas)".

(b) Section 513(d) of said Act (Pub. L. No. 92-513; 15 U.S.C. 2013(d)) is amended by inserting after "natural gas" the first time it occurs the following parenthetical, "(including liquefied petroleum gas)".

Subtitle C—Alternative Fuels

SEC. 4301. SHORT TITLE.—This subtitle may be cited as the "Replacement and Alternative Fuels Act of 1992".

SEC. 4302. FINDINGS.—The Congress finds and declares that—

(1) United States national security demands that we reduce our dependency on imported oil;

(2) domestic resources are available to substantially reduce our dependency on imported oil;

(3) the transportation sector, currently 95 percent dependent on oil, accounts for more than 60 percent of our national oil consumption;

(4) a comprehensive energy program, including the stimulation of the production and use of automobiles and off-road vehicles capable of using alternative fuels, is needed to reduce pollution as well as reduce our dependency on imported oil;

(5) such program should be designed to create a positive impact on the economy, our national trade balance, and our national budget; and

(6) such program should allow market forces, within appropriate environmental parameters, to affect the selection of replacement or alternative fuels.

SEC. 4303. PURPOSES.—The purposes of this subtitle are to—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit;

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

SEC. 4304. DEFINITIONS.—For purposes of this subtitle—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alcohol" means methanol, ethanol, or other alcohol that are suitable for use by themselves or in combination with other fuels as a motor fuel;

(3) the term "conventional petroleum" means imported or domestic petroleum derived from oil wells, including stripper wells;

(4) the term "domestic" means derived from resources within the 50 States or the territories of the United States;

(5) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle, as the term "motor vehicle" is defined in section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(6) the term "alternative fuel" means a motor fuel not designed to be mixed with gasoline, including liquefied petroleum gas, natural gas, "neat" alcohol, hydrogen, coal-derived liquid fuels, electricity; and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;

(7) the term "replacement fuel" means a motor fuel capable of mixing with gasoline or diesel, including alcohol and ethers or products derived from alcohol;

(8) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A); and

(9) the term "provider" means—

(A) any person engaged in the refining of crude oil to produce motor fuel;

(B) any importer of motor fuel;

(C) any person engaged in the transportation and sale of natural gas or liquefied petroleum gas for use as a motor fuel;

(D) any person engaged in the production of alcohol or hydrogen for sale and use as a motor fuel; and

(E) any utility engaged in the generation and sale to the public of electricity.

SEC. 4305. REPLACEMENT AND ALTERNATIVE FUEL PROGRAM.—(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use of domestically produced replacement and alternative fuels. Such program shall promote the replacement of conventional petroleum motor fuels with replacement and alternative fuels to the maximum extent practicable. Such program shall, to the extent practicable, seek to ensure the availability of those replacement and alternative fuels that will have the greatest impact in improving air quality in urban areas, along transportation corridors, and nationwide.

(b) DEVELOPMENT PLAN.—Under the program established under subsection (a), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of appropriate agencies, shall review appropriate information and—

(1) estimate the production capacity in the United States for replacement fuel and alternative fuel needed to implement the provisions of this subtitle;

(2) determine the technical and economic feasibility of producing in the United States sufficient replacement fuels and alternative fuels, by the calendar year 2010 to replace 30 per centum or more, on an energy equivalent basis, of the projected consumption of motor fuel in the United States for that year;

(3) assess the suitability and cost-effectiveness of raw materials, other than conventional petroleum, for the production in the United States of replacement and alternative fuels;

(4) assess the suitability and cost-effectiveness of the means and methods of developing

and encouraging the production, distribution, and use of replacement and alternative fuels; and

(5) identify ways to encourage the development of reliable replacement fuel and alternative fuel industries in the United States, and the technical, economic, and institutional barriers to such development.

SEC. 4306. ALTERNATIVE FUEL DEMAND ESTIMATES.—(a) ANNUAL ESTIMATES.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary, in consultation with the Administrator and appropriate State and Federal officials, shall estimate—

(1) the number of each type of alternative fuel vehicles likely to be in use in the United States during the following calendar year;

(2) the probable geographic distribution of such vehicles; and

(3) the amount of each type of alternative fuel that is needed to fuel such number of vehicles.

(b) PROVIDER CERTIFICATIONS.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary shall require providers of domestic replacement and alternative fuels to certify to the Secretary the amount of each type of replacement and alternative fuel that such provider plans to produce.

SEC. 4307. VOLUNTARY SUPPLY COMMITMENTS.—The Secretary shall undertake to obtain commitments from providers of domestic replacement and alternative fuels to produce and offer for sale to the public sufficient amounts of domestic replacement and alternative fuels to meet the needs of vehicles requiring such fuels.

SEC. 4308. SECRETARIAL AUTHORITY.—(a) NOTIFICATION OF CONGRESS.—In the event that the Secretary determines under this subtitle that the amount of replacement and alternative fuels available in any area of the United States is insufficient to meet public demand and the Secretary is unable to obtain voluntary commitments under section 4307 to supply such demand, the Secretary shall provide written notice to Congress.

(b) SUBMITTAL OF PLAN.—Not later than thirty days after submitting notice under subsection (a), the Secretary shall submit a plan setting forth the actions the Secretary may take to require providers of motor fuels to make available to the public adequate domestic supplies of the replacement or alternative fuel of which there is a shortage. In developing any such plan, the Secretary shall consult with providers of motor fuels to consider alternative means of securing adequate supplies of such fuel and shall give providers an opportunity to comment on any specific proposed requirements to make such fuel available.

(c) IMPLEMENTATION OF PLAN.—The Secretary may implement a plan under subsection (b) sixty calendar days after it has been submitted to Congress in accordance with this section.

(d) PERSONS SUBJECT TO REQUIREMENT.—In exercising the authority under this section, the Secretary shall impose the requirement of providing the required amount of replacement or alternative fuel proportionately on all appropriate providers of motor fuels in a fair and equitable manner.

SEC. 4309. AUTHORIZATION.—There is authorized to be appropriated to the Secretary to carry out this subtitle not to exceed $10,000,000 for each of the fiscal years 1992 through 1996.

Subtitle D—Mass Transit and Training

SEC. 4401. MASS TRANSIT PROGRAM.—(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with this Act and the Alternative Motor Fuels Act of 1988 (Public Law 100-494), enter into cooperative agreements and joint ventures proposed by municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b) COST-SHARE.—(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government entity agrees to provide at least 25 percent of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 4402. TRAINING PROGRAM.—(a) PROGRAM.—The Secretary of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) CONSISTENCY.—The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494).

(d) AUTHORIZATION.—There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

TITLE V—RENEWABLE ENERGY

Subtitle A—CORECT AND COEECT

SEC. 5101. DUTIES OF CORECT AND COEECT.—Section 256 of Part B of Title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking subsection (d) and inserting the following in lieu thereof:

"(d)(1) DUTIES.—There shall be established two interagency working groups (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT)). These interagency working groups shall, in consultation with the representative industry groups and relevant agency heads, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and technologies, respectively. The Secretary of Energy shall chair each group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working groups, with or without reimbursement, as may be necessary to carry out their functions and undertake other actions or activities, consistent with existing laws and regulation, as, in the judgement of the Secretary, may be necessary to achieve the purposes of this section.

"(2)(A) ADDITIONAL DUTIES OF CORECT.—CORECT, through its member agencies, shall promote the development and application in lesser-developed countries of renewable energy resource products and technologies that—

"(i) promote the use of hybrid fossil-renewable energy systems;

"(ii) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, windpower, small-scale hydropower, solar, geothermal and other renewable energy resource technologies; and

"(iii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and cost-effective renewable energy resource technologies.

"(B) In addition, CORECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of renewable energy resource technologies, to export their products and technologies;

"(ii) provide staffing to support the authority and responsibilities described in this section;

"(iii) provide technical and financial support for the establishment and sponsorship by United States' firms of training programs, workshops, and other educational programs on renewable energy technologies for representatives of lesser-developed countries and their firms; and

"(iv) augment budgets for the trade and development programs of the member agencies of the Council in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy resource technologies.

"(3)(A) ADDITIONAL DUTIES OF COEECT.—COEECT, through its member agencies, shall promote the development and application in lesser-developed countries of energy efficiency resource products and technologies that—

"(i) reduce dependence on unreliable sources of energy by encouraging the use of energy efficiency resource products and technologies; and

"(ii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical energy efficiency resource products and technologies including services.

"(B) In addition, COEECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of energy efficiency resource products and technologies, to export their products and services; and

"(ii) provide staffing to support the authority and responsibilities described in this section.

"(4) TRAINING AND ASSISTANCE.—In furthering the purposes of this section, CORECT and COEECT shall, through their member agencies—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial and technical assistance to nonprofit institutions that support the export and marketing efforts of domestic renewable energy and energy efficiency service companies, and develop environmentally responsible renewable energy and energy efficiency projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit;

"(D) provide assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States, and such other personnel as the Council deems appropriate, in order to provide information about renewable energy and energy efficiency products and technologies to foreign governments or other potential project sponsors;

"(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(5) OUTREACH.—CORECT and COEECT, through their member agencies, may establish renewable energy and energy efficiency industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning renewable energy and energy efficiency products, technologies, and industries of the United States to territories, foreign governments, industries, and other entities.".

SEC. 5102. INFORMATION AND TECHNICAL PROGRAM.—Section 256(c)(2)(D) of part B of title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding after clause (ii) the following new clause:

"and

"(iii) information on the specific renewable energy and energy efficiency technology needs of lesser-developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource products, processes and technologies, and the status of ongoing technology assistance programs shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

"(iv) expand training and information dissemination programs in cooperation and participation with industry using existing technology transfer programs for such sums that may be necessary in fiscal years 1993, 1994, 1995, and

"(v) assist existing renewable energy industry consortia and State energy offices to work cooperatively with existing technology transfer programs.".

SEC. 5103. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.—Section 256 of part B of title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking subsections (g) and (h) and inserting in lieu thereof subsections (g) and (h) as follows:

"(g)(1) Not later than June 1, 1992, and biennially thereafter, the Secretary, in consultation with member agencies, shall prepare and submit to Congress a report evaluating the range of energy efficiency and renewable energy resource technologies available to meet the energy needs of lesser-developed countries. This report also shall provide information on the specific energy and energy conservation needs of lesser-developed countries, an inventory of United States products and technologies available to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy and energy efficiency programs.

"(2) The report should also include an evaluation of current renewable energy and energy efficiency resource technology export efforts, their success in meeting program objectives, and recommendations for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy and energy efficiency resources and technologies in lesser-developed countries;

"(B) given the credit and capital restrictions for meeting energy demands in the lesser-developed countries, focus on technologies that are both appropriate and cost-effective;

"(C) assist lesser-developed countries in meeting their existing energy needs rather than creating new needs, in order to ensure immediate income-generating and timely use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local energy resource needs;

"(E) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country non-governmental organizations and project technical personnel;

"(G) provide mechanisms for assisting United States manufacturers, particularly smaller manufacturers, of energy efficiency and renewable energy resource technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives, such as shared savings contracts, loan guarantees, and tax incentives, to promote technology transfer to lesser-developed countries.

"(h) AUTHORIZATION.—(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated to the Secretary for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.".

SEC. 5104. CONFORMING AMENDMENT.—Section 203(a) of the Department of Energy Organization Act (Public Law 95-91; 42 U.S.C. 7133) is amended by adding a new paragraph (12) at the end thereof:

"(12) the export and promotion to lesser-developed countries of domestic energy resource technologies and products, including renewable energy, energy efficiency, and clean coal technologies, and the development of policies and programs designed to enhance the knowledge of foreign governments and companies, and relevant international lending institutions regarding domestic energy resource technologies and products.".

Subtitle B—Renewable Energy Initiatives

SEC. 5201. RENEWABLE ENERGY DEVELOPMENT, TECHNOLOGY EXPORT TRAINING, AND COMMERCIALIZATION.—(a) JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT AND TECHNOLOGY EXPORT TRAINING.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding new subsections (f), (g), and (h) as follows:

"(f) ADDITIONAL JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT.—

"(1) OIL DISPLACEMENT BY BIOFUELS ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of biofuels energy systems technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the development of biofuels energy systems for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(2) OIL DISPLACEMENT BY HIGH TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of high-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of high-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(3) OIL DISPLACEMENT BY LOW-TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of low-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purposes of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of low-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(4) OIL DISPLACEMENT BY SOLAR WATER HEATING.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of solar water heating technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for solar water heating for commercial application in institutional water heating and process heat uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(5) DIESEL FUEL OIL DISPLACEMENT BY PHOTOVOLTAIC AND WIND ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of photovoltaic and wind energy systems in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for photovoltaic and wind energy systems for commercial application in electric power generation uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(6) DIESEL FUEL OIL DISPLACEMENT BY DIRECT COMBUSTION OR GASIFICATION OF BIOMASS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of technologies for the direct combustion or gasification of biomass in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for direct combustion or gasification of biomass, including waste wood, for industrial process heat and electric power generation for commercial application in uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(7) OIL DISPLACEMENT BY FUEL CELLS TECHNOLOGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of fuel cells technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(g) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY EXPORT TRAINING.—

"(1) The Secretary shall solicit proposals for and provide financial assistance to at least two joint ventures for the training of individuals from lesser-developed countries at a location or locations in the United States, at least one of which shall be in the operation and maintenance of renewable energy equipment and at least one of which shall be in the operation and maintenance of energy efficiency equipment, in accordance with the provisions of this subsection.

"(2) The purpose of joint ventures supported under this subsection shall be to train individuals, including engineers and other professionals, in the operation and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping and the production of electric power in remote areas, in order to enhance the prospects that such equipment can be used to displace the use of diesel fuel oil in developing countries.

"(3) There is authorized to be appropriated to the Secretary not to exceed $6,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.

"(h) UTILITY-SCALE PHOTOVOLTAIC JOINT VENTURES.—

"(1) The Secretary shall solicit proposals and provide financial assistance for at least one joint venture for a utility-scale photovoltaic project of at least ten megawatts.

"(2) In general, the goals of joint ventures under this subsection shall include—

"(A) the integration of photovoltaics in approaches to the transmission and delivery systems;

"(B) the development of cost-saving adjuncts to utility delivery such as sub-station upgrades, peak power, and large-scale voltage line augmentation; and

"(C) the incorporation of new photovoltaic innovations into standard utility rate-making practices.

"(3) Joint ventures supported under this subsection may include participants that are considered to be end-users of the technology such as rural electric cooperatives, public utilities, investor-owned utilities, and independent power producers.

"(4) In selecting joint ventures for support under this subsection, the Secretary shall consider giving preference to proposals for projects that would be located in States where State law would allow inclusion of the project in the rate base or would otherwise allow for favorable regulatory treatment or return on investment.

"(5) There is authorized to be appropriated to the Secretary not to exceed $9,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.".

(b) Section 6(d)(1) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended as follows:

(1) after the semicolon by deleting the word "or"; and

(2) by inserting after paragraph (B) a new paragraph (C) as follows: "; or (C) there is insufficient Federal funding to adequately fund each of the joint venture technologies as required under subsection (b)(1),".

(c) CONFORMING AMENDMENTS.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended as follows:

(1) By replacing the phrase "subsection (c)" with the phrase "subsections (c), (f), (g) and (h)" in the first sentence of paragraph (b)(1).

(2) By substituting a new paragraph (4) of subsection (b) to read as follows:

"(4) DRAFT SOLICITATIONS AND PUBLIC COMMENT.—The Secretary shall issue a draft solicitation for joint ventures under subsection (c) by September 30, 1990 and a draft solicitation for joint ventures under subsections (f), (g), and (h) by September 30, 1992. After any such draft solicitation has been issued, the Secretary shall provide for a period of public comment before the issuance of a final solicitation.".

(3) By striking the phrase "subsection (c)" everywhere it appears in subsection (d) and replacing it with "subsections (c) or (f), (g), and (h)".

(4) By inserting after the word "shall" in paragraph (b)(5), the word "not".

(d) RENEWABLE ENERGY COMMERCIALIZATION.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding at the end the following new section:

"SEC. 11. COMMERCIALIZATION.—"(a) DEFINITIONS.—For the purposes of this section the term—

"(1) 'qualified borrower' means an enterprise, that engages in the production and sale of electricity, thermal energy or other forms of energy using a renewable energy technology, or a manufacturer of renewable energy equipment who wishes to finance improvements in, or expansion of, facilities for the manufacture of renewable energy technologies;

"(2) 'renewable energy technology', with respect to a participant in any provision under this section, means any technology that produces, or uses as its principal energy source, biomass, geothermal, photovoltaic, wind, or solar thermal (including solar water heating, solar industrial process preheat, and solar industrial process heat); and

"(3) 'Federal share' means that portion of the interest on a loan financed by a private lender that is paid by the Federal Government, subject to subsection (b).

"(b) BUY DOWN AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with private lenders to pay the Federal share of the interest on loans made to qualified borrowers for the purpose of financing the manufacture, construction or acquisition of equipment that principally utilizes a renewable energy technology. Buy down agreements entered into by the Secretary, may be implemented either directly through private lenders for Federal facilities or indirectly through an appropriate State energy office.

"(2) RESTRICTION.—Interest rate buy down agreements under this section shall not apply to projects where electricity is sold to electric utilities under section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

"(3) FEDERAL SHARE.—The Federal share of interest on a loan shall be determined by the Secretary on the basis of—

"(A) the need of the borrower for the assistance;

"(B) the degree to which financing of the project will assist in the regional diversification and commercialization of renewable energy resources in the United States; and

"(C) the achievement of the purposes and goals of this section.

"(4) LOAN TERMS.—The Secretary may enter into an agreement under paragraph (1) to pay the Federal share of interest on not less than ten separate loans that—

"(A)(i) have a principal amount of at least $250,000 and less than $1,000,000 and have a maturity of not less than fifteen years; or

"(ii) have a principal amount of at least $1,000,000, and have a maturity of not less than twenty years;

"(B) carry an interest rate no greater than five percent above the prime rate or at an interest rate that the Secretary determines to be reasonable; and

"(C) contain such other terms and conditions that the Secretary deems appropriate.

"(c) REPORT.—Not later than two years after the date of enactment of this section and annually thereafter, the Secretary shall report to Congress on the projects funded under this section and the progress being made toward accomplishing the goals and purposes of this section.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.".

(e) ADDITIONAL DUTIES OF JOINT VENTURE ADVISORY COMMITTEE.—Section (b)(3) of the Renewable Energy and Energy Efficiency Technology competitiveness Act of 1989 (Public Law 101-218) is amended by adding a new subparagraph as follows:

"(C) Not later than 18 months after the date of the enactment of the National Energy Security Act of 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the joint venture program under this section including specific recommendations for improvements or changes to the program and solicitation process.".

(f) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended:

(A) in paragraph (1) by inserting "three-year" before "management plan"; and

(B) by deleting paragraph (5) and inserting the following new paragraphs (5) and (6) in lieu thereof:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under sections 4, 5, and 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of this paragraph, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

SEC. 5202. REPORT ON WASTE MINIMIZATION TECHNOLOGIES IN INDUSTRY. (a) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report evaluating opportunities to minimize waste outputs from production processes in industries in the United States including activities of the United States Government.

(b) CONTENTS.—The report required by this section shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected timeframes for their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or State regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary deems necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

SEC. 5203. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 362(d) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6322(d)) is amended by redesignating paragraphs (12) and (13) as paragraphs (14) and (15), respectively, and adding new paragraphs (12) and (13) as follows:

"(12) support for pre-feasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

"(13) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Department of Agriculture programs including the Rural Electrification Administration and the Farmers Home Administration;".

SEC. 5204. SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER.—(a) FINDINGS.—The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a long-standing champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transportation fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) PURPOSE.—It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) ESTABLISHMENT.—The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (referred to as the "Center").

(d) ADMINISTRATION.—(1) Not later than 180 days after the date of enactment of this section, the Secretary shall seek to enter into a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) ACTIVITIES.—The Center may carry out research, development, and technology transfer activities on—

(1) solar and renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean resource concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) MATCHING FUNDS.—To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, and such sums as are necessary thereafter for the purposes of this section.

SEC. 5205. RENEWABLE ENERGY TECHNICAL ACHIEVEMENT AWARD.—(a) PROGRAM.—Within one year after the date of enactment of this Act, the Secretary, in consultation with the National Academy of Sciences, shall establish a program to reward outstanding achievement in each of the following technologies: solar thermal, photovoltaics, wind, biomass, geothermal, and such other renewable energy technologies as the Secretary deems appropriate.

(b) TECHNICAL ACHIEVEMENT MILESTONES.—The Secretary, in consultation with the National Academy of Sciences, shall establish a milestone for technical achievement for the year 2010 for each technology listed in subsection (a). The Secretary shall also establish criteria necessary to determine whether the technical achievement milestones have been met. Such criteria shall include:

(1) the cost of power delivered under each technology;

(2) the efficiency of each technology's energy conversion;

(3) the potential for large-scale commercial production; and

(4) such other criteria as the Secretary deems appropriate.

(c) AWARD.—The Secretary, in consultation with the National Academy of Sciences, shall award up to $5,000,000 in each renewable energy technology category to the first person who is a United States citizen and has been determined by the Secretary to have met the technical achievement milestones described under subsection (b).

(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section.

SEC. 5206. RENEWABLE ENERGY RESEARCH.—(a) IN GENERAL.—Section 4 of the Renewable Energy and Energy Efficiency and Technology Competitiveness Act of 1989 (42 U.S.C. 12003) is amended—

(1) in subsection (a), by adding at the end of the subsection the following new paragraph:

"(5) RENEWABLE ENERGY RESEARCH PROGRAM.—In general, the goal of the Renewable Energy Research Program shall be to advance research and development concerning the production of ethanol. Research, development, and demonstration programs under the Renewable Energy Research Program shall include programs related to the following topics relating to the production of ethanol:

"(A) The conversion of corn fiber to ethanol.

"(B) The production of olefins (including isobutylene) from biomass.

"(C) The minimization of contamination to improve yields.

"(D) The recovery of enzymes and yeasts.

"(E) The improvement of distillation.

"(F) The use of membrane technology.

"(G) Value added uses of carbon dioxide.

"(H) Chemical production from corn components.

"(I) The minimization of by-products that foul processes and reduce ethanol yields.

"(J) Pretreatment processes."; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by inserting "the Renewable Energy Research Program" after "the Ocean Energy Systems Program"; and

(B) in paragraph (3)—

(i) by striking "and" at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting "and"; and

(iii) by adding at the end of the paragraph the following new subparagraph:

"(D) not to exceed $50,000,000 shall be available for the Renewable Energy Research Program.".

(b) PROGRAM TRANSFER.—The Secretary is authorized to transfer such research, development, and demonstration programs from the Biofuels Energy Systems programs as are appropriate to the Renewable Energy Research Program established under subsection (a) of this section.

SEC. 5207. ESTABLISHMENT OF THE SOLAR ASSISTANCE FINANCING ENTITY.—(a) PROGRAM.—The Secretary of Housing and Urban Development shall hereby establish the "Solar Assistance Financing Entity" hereafter referred to as "SAFE". SAFE shall be based on the provisions in the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3603(a)).

(b) PURPOSE.—The purpose of SAFE shall be to assist in the financing of solar and renewable energy building technology applications through increased loan amortizations (from non-Federal sources) and joint ventures. Schools and hospitals shall be considered eligible for loans for purposes of this program.

(c) FUNDING.—Funding pursuant to this section shall be administered and distributed through one of the following agencies:

(1) State agencies, or divisions of State agencies, responsible for developing the State energy conservation plan pursuant to section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322);

(2) State government offices administered by the Department of Housing and Urban Development; or

(3) an Agency authorized to specifically carry out the purposes of this section.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Energy shall issue any regulations necessary to carry out the purposes of this section.

(e) APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated not to exceed $10,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995.

Subtitle C—Hydropower

SEC. 5301. STREAMLINING REGULATION UNDER THE FEDERAL POWER ACT.—The Federal Power Act, as amended (16 U.S.C. 791a et seq.) is further amended by inserting in section 4 ", and for the purposes of subsections (h) and (i), the Commission shall" after "empowered" and inserting the following after subsection (g):

"(h) Establish procedures that, to the extent practicable, provide for the earliest identification and performance of all studies and analyses required to be performed in conjunction with an application for a license under this part.

"(i) Within one year after enactment of this subsection, enter into memoranda of understanding with each Secretary under whose supervision a reservation falls which provides for:

"(1) timely submission by the Secretary to the Commission of any proposed terms and conditions which are relevant to the Secretary's statutory responsibilities for the reservation with respect to the proposed project;

"(2) establishment and implementation of a process for resolution of disputes, if any, between the Commission and the Secretary concerning conditions proposed by the Secretary in connection with the licensing of a project; and

"(3) identification and implementation of measures to avoid duplication of effort, delay, and costs to all parties in connection with the licensing of a project.".

SEC. 5302. HYDROELECTRIC PROJECTS.—(a) MEMORANDA OF UNDERSTANDING.—The Commission and all relevant Federal agencies are directed to enter into memoranda of understanding which will establish procedures for a consolidated review to the fullest extent possible under the National Environmental Policy Act of 1969 of Federal actions affecting the authorization of hydroelectric projects subject to the jurisdiction of the Commission.

(b) THIRD PARTY CONTRACTING.—(1) Where environmental documents are prepared in connection with an application for a license under part 1 of the Federal Power Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work, to prepare such environmental document. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(2) Where an environmental assessment is prepared in connection with an application for a license under part 1 of the Federal Power Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

SEC. 5303. IMPROVEMENT AT EXISTING FEDERAL FACILITIES.—(a) STUDIES OF OPPORTUNITIES FOR INCREASED HYDROELECTRIC GENERATION.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform reconnaissance level studies of cost effective opportunities to increase hydropower production at existing federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within two years after the date of enactment of this Act and transmitted to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and to the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural, or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs and the economic and environmental consequences of such measures.

(b) EXCEPTION FOR PREVIOUS STUDIES.—In those cases where studies of the type required by this section have been prepared by any agency of the United States and published within the ten years prior to the date of enactment of this Act, the Secretary may choose not to perform new studies but incorporate the information developed by such studies into the study reports required by this section.

(c) AUTHORIZATION.—There is authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 5304. WATER CONSERVATION AND ENERGY PRODUCTION.—(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

(1) an analysis of the technical, environmental, and economic feasibility of reducing

the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

(c) CONSTRUCTION.—Upon a finding of feasibility by the Secretary of the Interior, and agreement with the affected Power Marketing Administrator, and the expiration of ninety days during which the feasibility investigation related thereto has lain before the Congress, the Secretary of the Interior, acting pursuant to the Federal reclamation laws, is authorized to construct, operate and maintain the water conservation features described by and justified in the feasibility investigations prepared pursuant to subsection (a) of this section.

(d) FINANCING.—Revenues received by the respective Federal Power Marketing Administrators from the marketing of hydroelectric energy made available as a result of the water conservation activities undertaken pursuant to this section shall be disposed of by the respective Federal Power Marketing Administrators pursuant to applicable Federal power marketing law.

(e) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

(f) Without further appropriation and without fiscal year limitation and notwithstanding subsections (b) and (d) of this section, the Secretary of the Interior is authorized to design, construct, operate and maintain water conservation features that the Secretary and the Administrator of the Bonneville Power Administration determine necessary or appropriate at Federal Reclamation projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)) pursuant to subsection (a), with any funds that the Administrator determines to make available to the Secretary for such purposes. The Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, notwithstanding any other provision of law, no sequestration order, including a sequestration of discretionary spending, shall reduce expenditures from the Bonneville Power Administration Fund or reduce the expenditures of the Secretary from Fund transfers made pursuant to this section: *Provided further*, That any application of a sequestration order shall apply only to non-Bonneville Power Administration Fund transfers: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

SEC. 5305. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.—(a) GENERAL LICENSING AUTHORITY.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii), or upon".

(b) MANDATORY LICENSING AUTHORITY.—Section 23(b) of the Federal Power Act (16 U.S.C. 817(b)) is amended by striking "United States, or upon" and inserting "United States (except fresh waters in the State of Hawaii), or upon".

SEC. 5306. CERTAIN PROJECTS IN THE STATE OF ALASKA.—The following projects located entirely within the State of Alaska are removed from jurisdiction of the Federal Energy Regulatory Commission and all applicable laws and regulations relating to such jurisdiction:

(1) a project located at Sitka, Alaska, with application numbered UL89-08-000; and

(2) a project located at Juneau, Alaska, with preliminary permit numbered 10681-000; and

(3) a project located near Nondalton, Alaska, with application numbered EL88-25-001.

SEC. 5307. EXTENSION OF TIME LIMITATIONS FOR CERTAIN PROJECTS IN ARKANSAS.—(a) AUTHORIZATION OF EXTENSIONS.—Notwithstanding the time limitations of section 13 of the Federal Power Act, (16 U.S.C. 806) the Federal Energy Regulatory Commission upon the request of the licensee for FERC projects numbered 3033 and 3034 (and after reasonable notice) is authorized in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend—

(1) until August 10, 1994 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999 the time required for completion of construction of such project; and

(2) until August 10, 1996 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001 the time required for completion of construction of such project.

(b) TERMINATION OF AUTHORIZATION FOR EXTENSIONS.—The authorization for issuing extensions shall terminate three years after the date of enactment of this Act. The Commission to facilitate requests under this section may consolidate such requests.

SEC. 5308. FEDERAL PROJECTS IN THE PACIFIC NORTHWEST.—Without further appropriation and without fiscal year limitation, the Secretaries of the Interior and Army are authorized to design, construct, operate and maintain generation additions, improvements and replacements, at their respective Federal projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)), and to operate and maintain the respective Secretary's power facilities in the region that the respective Secretary determines necessary or appropriate and that the Bonneville Power Administrator subsequently determines necessary or appropriate, with any funds that the Administrator determines to make available to the respective Secretary for such purposes. Each Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, notwithstanding any other provision of law, no sequestration order, including a sequestration of discretionary spending, shall reduce expenditures from the Bonneville Power Administration Fund or reduce the expenditures of the Secretary from Fund transfers made pursuant to this section: *Provided further*, That any application of a sequestration order shall apply only to non-Bonneville Power Administration Fund transfers: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Industrial, Commercial and Residential

SEC. 6101. BUILDING ENERGY EFFICIENCY CODES.—(a) ESTABLISHMENT OF CODES.—Title III of the Energy Conservation and Production Act (Pub. L. No. 94-385), as amended, is amended by—

(1) amending section 303 by—

(A) striking paragraph (9),

(B) renumbering the subsequent paragraphs, and

(C) adding at the end the following new paragraphs—

"(13) the term "Federal building energy code" means an energy consumption goal to be met without specification of the methods, materials, or equipment to be employed in achieving that goal, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term "industry voluntary building energy code" means a building energy code developed and updated through an industry process, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; or other appropriate organizations."; and

(2) striking sections 304, 306, 308, 309, 310, and 311 and their captions and inserting the following in lieu thereof—

"FEDERAL BUILDING ENERGY CODE

"SEC. 304. (a) Within two years of enactment of the National Energy Security Act of 1992, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Association of Home Builders; the Illuminating Engineering Society; the American Institute of Architects; and the National Conference of States on Building Codes and Standards, shall issue by rule a Federal building energy code that assures the inclusion in Federal buildings of all energy efficiency measures that are technologically feasible and economically justified. This code shall become effective no earlier than six months and no later than two years after issued.

"(b) The Federal building energy code shall—

"(1) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of the industry voluntary building energy codes and standards,

"(2) include a method of compliance that uses the same format as that used by the industry voluntary building energy codes and standards, and methods which will enhance and facilitate the use of renewable technologies, and

"(3) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures to mitigate the levels of radon and other indoor air pollutants in cases where such pollutants may exist.

"(c) The Secretary shall identify and describe the basis for any substantive difference between the Federal building energy code and the industry voluntary building energy code.

"(d) The Secretary shall periodically, but no less than once every five years, review the Federal building energy code and shall, if significant energy savings would result, upgrade such code to include all new energy efficiency measures that are technologically feasible and economically justified.

"(e) Interim energy performance standards for new Federal residential and commercial buildings issued by the Secretary under this title as it existed before enactment of the National Energy Security Act of 1992 shall remain in effect until the head of a Federal agency required to adopt procedures under section 305(a) adopts those procedures.

"(f) the provisions of this section shall apply to the United States Congress.

"FEDERAL COMPLIANCE

"SEC. 305. (a) The head of each Federal agency and the Architect of the Capitol shall adopt procedures necessary to assure that new Federal residential or commercial buildings meet or exceed the Federal building energy code.

"(b) The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the Federal building energy code.

"(c) The head of each Federal agency that guarantees a mortgage for constructing a new building shall adopt the procedures necessary to assure that the building meets or exceeds the Federal building energy code.

"SUPPORT FOR INDUSTRY VOLUNTARY BUILDING ENERGY CODE

"SEC. 306. (a) Within one year of the enactment of the National Energy Security Act of 1992, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Conference of States on Building Codes and Standards; and any other appropriate building codes and standards organization, shall support the upgrading of an industry voluntary building energy code for new residential and commercial buildings. The support shall include—

"(1) a compilation of data and other information regarding building energy efficiency codes in the possession of the Federal government, State and local governments, and industry organizations;

"(2) assistance in improving the technical basis for the energy code;

"(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in the code;

"(4) assistance in identifying appropriate measures to mitigate the levels of radon and other indoor air pollutants; and

"(5) development of interim energy performance standards for new non-Federal residential buildings.

"(b) The Secretary, in consultation with the appropriate Federal agencies, shall periodically review the technical and economic basis of the industry voluntary building energy code. Based upon ongoing research activities and a review of appropriate industry energy standards, the Secretary shall—

"(1) recommend amendments to the industry voluntary building energy code including measures needed to mitigate the levels of radon and other indoor air pollutants in cases where such air pollutants may exist,

"(2) seek adoption of all technically feasible and economically justified energy efficiency measures, and

"(3) participate otherwise in any industry process for review and modification of the industry voluntary building energy code.

"ADOPTION INCENTIVES

"SEC. 307. (a) STATE REPORT.—Within two years of the enactment of the National Energy Security Act of 1992, each State shall submit a report to the Secretary on the type and status of, and compliance and enforcement procedures for building energy codes used within the State, including a list of the units of general purpose local government within the State that identifies which, if any, have adopted building energy codes.

"(b) AVAILABILITY OF INCENTIVE FUNDING.—If the Secretary certifies that a state or any units of general purpose local government which have jurisdiction regarding energy building codes, has adopted building energy codes at least as stringent as those of the industry voluntary energy building codes, then the Secretary shall provide incentive funding to that State or such units of general purpose local government to fund activities to further promote the adoption and implementation of the industry voluntary energy building codes. Such incentive funds shall be allocated from funds made available under subsection (c), on the basis of the average number of residential housing starts within such State or unit of general purpose local government during the previous three years. The Secretary may use up to five percent of the funds made available under subsection (c) for administration of activities conducted pursuant to this section.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to provide incentive funding to the States pursuant to this section.

"TECHNICAL ASSISTANCE

"SEC. 308. The Secretary may provide technical assistance to States, units of general purpose local government, and other appropriate organizations to promote the adoption and implementation of the voluntary energy building codes or to otherwise promote the design and construction of energy efficient buildings.

"REPORTS

"SEC. 309. The Secretary, in consultation with the appropriate Federal agencies, shall report annually to Congress on activities conducted pursuant to this title including:

"(1) the recommendations made regarding the prevailing industry voluntary building energy code under section 304(c);

"(2) a State-by-State summary of progress made in the adoption and implementation of the voluntary energy building codes or more stringent codes; and

"(3) recommendations to Congress on opportunities to further promote energy efficiency and other purposes of this part.".

(b) CONFORMING AMENDMENT.—The table of contents of the Energy Conservation and Production Act (Public Law 94-385) is amended by striking the items relating to sections 304, 306, 308, and 309, and inserting in lieu thereof the following—

"Sec. 304. Federal building energy code.
"Sec. 305. Federal compliance.
"Sec. 306. Support for industry voluntary building energy code.
"Sec. 307. Adoption incentives.
"Sec. 308. Technical Assistance.
"Sec. 309. Reports.".

SEC. 6102. RESIDENTIAL ENERGY EFFICIENCY RATINGS AND MORTGAGES.—(a) RATINGS.—Title II of the National Energy Conservation Policy Act (NECPA) (Public Law 96-619) is amended by adding a new part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) Within eighteen months of the date of enactment of the National Energy Security Act of 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development and other appropriate institutions, shall, by rule, promulgate voluntary guidelines that may be used by State and local governments, utilities, builders and others, that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The voluntary guidelines under subsection (a) shall:

"(1) provide for a uniform rating scale of the efficiency with which any residential building uses energy on an annual basis;

"(2) provide that such rating shall take into account local climate conditions and construction practices, and does not discriminate among fuel types, except that both active and passive solar energy collected on-site shall be credited toward the energy efficiency rating of such building;

"(3) that such rating shall take into account the benefits of peak load shifting construction practices;

"(4) provide that all residential buildings can receive a rating at the time of sale;

"(5) provide that the rating is prominently communicated to potential buyers and renters; and

"(6) provide that the rating system is consistent with, and supportive of, the uniform plan for energy efficient mortgages developed pursuant to Section 946 of the Cranston-Gonzales National Affordable Housing Act (Pub. L. No. 101-625).

"SEC. 272. TECHNICAL ASSISTANCE.

"Within eighteen months after the date of the enactment of the National Energy Security Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of residential energy efficiency rating systems based on the voluntary guidelines promulgated under this part.

"SEC. 273. AUTHORIZATION.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.".

(b) CONFORMING AMENDMENT.—The National Energy Conservation Policy Act (Public Law 95-619) is further amended by adding in the table of contents at the end of title II, the following items:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Rating guidelines.
"Sec. 272. Technical assistance.
"Sec. 273. Authorization.".

(c) ENERGY EFFICIENCY MORTGAGES.—The Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) is amended as follows:

(1) At the end of section 104 add the following new definition:

"(24) The term 'energy efficient mortgage' means a mortgage which provides financial incentives for the purchase of energy efficient homes, or which provides financial incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage."

(2) In section 946 make the following amendments:

(A) In subsection (a) strike the words "mortgage financing incentives for energy efficiency" and insert in lieu thereof "energy efficient mortgages";

(B) at the end of subsection (a) add the following new sentence:

"The plan shall be consistent with and mutually supportive of the Federal building energy code and the residential energy efficiency rating voluntary guidelines to be developed by the Secretary of Energy pursuant to the National Energy Security Act of 1992.".

(C) in subsection (b) after the word "include" add the words "but not be limited to";

(D) at the end of subsection (b) add the following new sentence:

"The Task Force shall determine whether a notification of the availability of energy efficient mortgages to potential home purchasers would promote energy efficiency in residential buildings, and if so, then the Task Force shall recommend appropriate notification guidelines, and member agencies are authorized to implement such guidelines.".

(d) ENERGY EFFICIENT MORTGAGE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs shall, within six months after the date of enactment of this Act, jointly establish an energy efficient mortgage pilot program in five States, to promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) the lender shall originate an otherwise normal VA or FHA home loan;

(B) the mortgagor's income and credit record is found to be satisfactory and his base loan application is approved; and

(C) the cost of cost-effective energy efficiency improvements do not exceed five percent of the property value (not to exceed $8,000) or $4,000, whichever is greater.

(3) ADDITIONAL.—When granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority to:

(A) permit the final loan amount to exceed the normal VA, FHA, loan limits by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, provided that the mortgagors request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary of Housing and Urban Development and the Secretary of Veterans' Affairs shall encourage participation in the energy efficient mortgage pilot program by:

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring all applicants for VA and FHA mortgages in those States participating under this pilot program to sign a statement stating that they have been informed of the program and understand the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than nine months after the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Veterans' Affairs and the Secretary of Energy, shall establish and implement a program for training personnel at relevent lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Housing and Urban Affairs and the Secretary of Veterans' Affairs shall prepare a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, as well as an assessment of the potential for expanding the pilot program nationwide.

(7) EXTENSION OF PROGRAM.—Not later than two years after the date of the implementation of the Energy Efficient Mortgage Pilot Program, the Secretary of Housing and Urban Development and the Secretary of Veterans' Affairs shall extend the pilot program nationwide unless the Secretary's can demonstrate to Congress that such an extension would not be practicable.

(8) DEFINITIONS.—As used in this subsection the term—

(A) "energy efficient mortgage" means a mortgage on a residential property that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan;

(B) "cost-effective" means those energy efficiency improvements to an attached or unattached single family residence that will produce an immediate and quantifiable positive cash flow and will result in monthly energy savings greater than the resulting increase in the monthly loan payment when 100 percent of the cost of improvements is added to the base loan;

(C) "base loan" means any FHA or VA loan that does not include the cost of cost-effective energy improvements; and

(D) "residential buildings" means any attached or unattached single family residence.

SEC. 6103. MANUFACTURED HOUSING ENERGY EFFICIENCY.—(a) AMENDMENTS TO CRANSTON-GONZALEZ.—Section 943 of the Cranston-Gonzalez National Affordable Housing Act, (Public Law 101-625), is amended by—

(1) striking the phrase "thermal insulation, energy efficiency" in subparagraph (d)(1)(D); and

(2) inserting a new subparagraph (E) as follows, and relettering the existing subparagraphs accordingly:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy efficiency applicable to manufactured housing;".

(b) DUTIES OF THE SECRETARY.—The Secretary shall assess the energy performance of manufactured housing and make recommendations to the Commission established under section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) regarding thermal insulation and energy efficiency improvements applicable to manufactured housing which are technically feasible and economically justified. The Secretary shall also test the performance and determine the cost-effectiveness of manufactured housing constructed to the standards established under such section.

(c) ELIMINATION OF FEDERAL PREEMPTION.—Notwithstanding the provisions of section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), if the Department of Housing and Urban Development has not issued, within one year of the date of enactment of this Act, regulations establishing thermal insulation and energy efficiency standards for manufactured housing promulgated (and effective before 1995) pursuant to section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) then States shall have the authorization to set such thermal insulation and energy efficiency standards for manufactured housing at levels at least as stringent as the thermal performance standards under ASHRAE 90-2.

SEC. 6104. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.—(a) SECRETARIAL ACTION.—The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Public Law 93-577) and other applicable laws, shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

(c) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, to carry out the purposes of this section.

SEC. 6105. REPORT.—The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of enactment of this Act, and every three years thereafter through the year 2004, a report setting forth energy efficiency policy options that would both decrease domestic oil consumption and overall domestic energy consumption by one, two, three, and four percent, per-year per-unit of GNP, through the year 2005, below the projected consumption for 2005. The Secretary shall evaluate, describe and rank these policy options according to their cost-effectiveness and their feasibility of implementation.

SEC. 6106. VOLUNTARY GUIDELINES FOR INDUSTRIAL PLANTS.—(a) VOLUNTARY GUIDELINES FOR ENERGY EFFICIENCY AUDITING AND INSULATING.—Within one year after the date of enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATION AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) ANNUAL REPORT.—The Secretary shall report annually to Congress on activities conducted pursuant to this section, including an evaluation of the effectiveness of these guidelines, and the responsiveness of the industrial sector to these guidelines.

(d) AUTHORIZATION.—There is authorized to be appropriated $750,000 annually to carry out the purposes of this section.

SEC. 6107. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, the Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a voluntary national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of the enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (hereinafter in this title referred to as EPCA) (Public Law 94-163).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules under section 324 of EPCA for the rating program established pursuant to either subsection (a) or (b) of this section, unless the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of EPCA, windows and window systems shall be considered covered products under section 322 of such Act unless excluded by the Commission pursuant to subsection (c) of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6108. ENERGY EFFICIENCY INFORMATION.—(a) DATA ON ENERGY EFFICIENCY.—Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (Public Law 93-275), and after consulting with State and Federal energy officials, representatives of energy-using classes and sectors, and representatives of energy policy public-interest or research organizations, the Administrator of the Energy Information Administration shall expand the scope and frequency of the data it collects and reports on energy use in the United States with the objective of significantly improving the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs. The Administrator shall take into account reporting burdens and the protection of proprietary information as required by law. In expanding the collection of such data to meet this objective, the Administrator shall consider—

(1) expanding data collection to include energy intensive sectors not presently covered in Energy Information Administration surveys;

(2) increasing the frequency with which the Energy Information Administration conducts end-use energy surveys among households, commercial buildings, and manufacturing;

(3) expanding the survey instruments to include questions regarding participation in government and utility conservation programs, the energy efficiency of existing stocks of equipment and structures, and recent changes in the technical efficiency and operating practices that affect energy use;

(4) expanding the time period for which fuel-use data is collected from individual survey respondents;

(5) expanding the sample sizes for fuel-use surveys in order to improve the accuracy of subgroups of energy users;

(6) expanding the scope and frequency of data collection on the energy efficiency and load-management programs, including the effects of building construction practices designed to obtain peak load shifting, operated by electric and gas utilities; and

(7) establishment of reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries.

(b) ANNUAL REPORT.—The Administrator shall report annually to Congress on the energy efficiency in classes and sectors of the economy and on any data resulting from this section.

(c) REPORT ON INDUSTRIAL REPORTING AND VOLUNTARY TARGETS.—Not later than one year after the date of enactment of this Act the Administrator shall report to Congress on the conclusions of the Administrator's consideration of establishing reporting requirements and voluntary energy efficiency improvement targets pursuant to paragraph (a)(7) of this section, including an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and including recommendations by the Administrator on proposals or activities to improve energy efficiency in energy intensive industries.

SEC. 6109. ENERGY EFFICIENCY LABELING FOR LUMINAIRES.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, and in consultation with the National Electric Manufacturers Association, industry representatives, and other appropriate organizations, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program for luminaires. Such program shall set forth information and specifications that will enable purchasers of luminaires to make informed decisions among the energy efficiency and cost of alternative luminaires.

(b) SECRETARIAL ACTION.—If a national energy efficiency rating and labeling program consistent with the objectives of subsection (a) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program for luminaires under section 323 of EPCA (Public Law 94-163).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission shall prescribe labeling rules under section 324 of EPCA for luminaires, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of luminaire (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of EPCA, luminaires shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c) of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6110.—COMMERCIAL AND INDUSTRIAL EQUIPMENT STANDARDS.—(a) Title III, part C, of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new section 344A:

"SEC. 344a—(a) DEFINITIONS.—For the purposes of this section:

"(1) the term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source), and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity); and

"(2) the term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source), and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(3) the term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.

"(4) the term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assembles specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability energy;

"(5) the term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heating availability by builder's choice of energy;

"(6) the term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it. For purposes of this section, the term warm air furnace includes combination warm air furnace/electric air conditioning units but excludes unit heaters, duct furnaces and units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(7) the term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections. For purposes of this section, the term packaged boiler excludes units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(8) the term 'storage water heater' means a waterheater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. For purposes of this section, the term storage water heater excludes (a) units with an input rating of 4000 Btu per hour or more per gallon of stored water; and (b) units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(9) the term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water. For purposes of this section, the term instantaneous water heater excludes units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)); and

"(10) the term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(b) INITIAL DETERMINATIONS.—The Secretary shall, within 12 months after the date of enactment of the National Energy Security Act of 1992, determine, with respect to utility distribution transformers; whether—

"(1) it is practicable to classify such products into types and to prescribe test procedures to measure energy use, energy efficiency, or estimated annual operating cost during a representative average use cycle or period of use which are not unduly burdensome to conduct; and

"(2) it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance, for those products which the Secretary has determined under paragraph (1) that it is practicable to classify and prescribe test procedures.

"(c) TEST PROCEDURES.—The Secretary shall, within 18 months after the date of enactment of the National Energy Security Act of 1992, prescribe test procedures for those lamps, motors, small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks for which specific efficiency standards are established by this Act. In addition, the Secretary shall, within 18 months after the date of enactment of this Act, prescribe test procedures for those utility distribution transformers for which he has determined under subsection (b) that classification into types and testing procedures are practicable and that it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance. In establishing these test procedures, the Secretary shall use existing and generally accepted industry testing procedures when practicable and consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. For small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks for which the Secretary establishes test procedures pursuant to this section, such test procedures shall be consistent with those generally accepted industry testing procedures or rating procedures, if any, developed by the Air Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers as in effect on the date of the enactment of the National Energy Security Act of 1992. If such an industry test procedure or rating procedure for such small commercial package air conditioning and heating equipment or large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks is subsequently amended the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that to do so would not meet the purposes and criteria of this section with respect to the product. If the Secretary issues a rule containing such a determination the rule may establish an amended test procedure for such product that meets the purposes and criteria of this section with respect to that product.

"(d) CLASSIFICATION AND STANDARDS.—(1) The Secretary, for those products for which test procedures have been prescribed under subsection (c), shall, within eighteen months thereafter:

"(A) determine types (or classes) for utility distribution transformers; and

"(B) develop energy conservation standards for each type (or class) of utility distribution transformers for which such standards would be technologically feasible and economically justified. Such standards shall become effective no less than eighteen months and no more than three years after development of such standards.

"(2) In establishing standards for utility distribution transformers, the Secretary shall use the criteria contained in sections 325 (l) and (m) of this Act.

"(3)(A) In establishing standards for utility distribution transformers, the Secretary shall first review existing and generally accepted industry voluntary energy efficiency standards for these products, if any, to determine whether the adoption of industry standards would be consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. In which case, the Secretary shall adopt such industry standards.

"(B) For small package air conditioning and heating equipment, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standards levels shall be as follows:

"(i) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0 for products manufactured on or after January 1, 1994.

"(ii) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7 for products manufactured on or after January 1, 1994.

"(iii) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(iv) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8 for products manufactured on or after January 1, 1994.

"(v) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6 for products manufactured on or after January 1, 1994.

"(vi) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db) for products manufactured on or after January 1, 1994.

"(vii) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment) for products manufactured on or after January 1, 1994.

"(viii) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment) for products manufactured on or after January 1, 1994.

"(ix) The minimum coefficient of performance of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water) for products manufactured on or after January 1, 1994.

"(C) For large package air conditioning and heating equipment, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1995. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db) for products manufactured on or after January 1, 1995.

"(ii) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9 for products manufactured on or after January 1, 1995.

"(iii) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86) for products manufactured on or after January 1, 1995.

"(D) For packaged terminal air conditioners and packaged terminal heat pumps the Secretary shall establish standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0—(0.16 Capacity [in thousands of Btu per hour]) EER (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature) for products manufactured on or after January 1, 1994. If a unit has a capacity of less than 7000 Btu per hour, then 7000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(ii) The minimum coefficient of performance of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 the minimum cooling EER as specified in subparagraph (i) at a standard rating of 47 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(E) For warm air furnaces and packaged boilers the Secretary shall establish standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent for products manufactured after January 1, 1994.

"(ii) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent for products manufactured after January 1, 1994.

"(iii) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent products manufactured after January 1, 1994.

"(iv) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent for products manufactured after January 1, 1994.

"(F) For storage water heaters, instantaneous water heaters, and unfired water storage tanks the Secretary shall establish standards at the Standard levels set forth for such products in ASHRAE/IES Standard 90.1–1989 addendum b. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994.

"(ii) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994. The minimum thermal efficiency of such units shall be 78 percent (at a 70 degree Fahrenheit water temperature difference).

"(iii) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994. The minimum thermal efficiency of such units shall be 78 percent (at a 70 degree Fahrenheit water temperature difference).

"(iv) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent (at a 70 degree Fahrenheit water temperature difference) for units manufactured on or after January 1, 1994.

"(v) Except as provided in subparagraph (vii), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent (at a 70 degree Fahrenheit water temperature difference) for units manufactured on or after January 1, 1994. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

"(vi) Except as provided in subparagraph (vii), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area (at an 80 degree Fahrenheit water-air temperature difference).

"(vii) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (i) through (iii) and subparagraphs (v) through (vi) if the tank surface area is thermally insulated to R–12.5 and if a standing pilot light is not used.

"(G) If ASHRAE/IES Standard 90.1 as in effect on the date of enactment of the National Energy Security Act of 1992 is subsequently amended with respect to any type or class of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, or unfired hot water storage tank, then the Secretary shall establish an amended uniform national standard for that product type or class at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1 unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that adoption of a standard more stringent than the amended ASHRAE/IES Standard 90.1 for such product type of class would result in significant additional conservation of energy and is technologically feasible and economically justified. If the Secretary issues a rule containing such a determination, the rule shall establish an amended uniform national standard for such product type or class if establishment of such standard will result in significant additional conservation of energy and if the establishment of such standard is technologically feasible and economically justified. In determining whether a standard is economically justified, the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(i) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(ii) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products which are likely to result from the imposition of the standard;

"(iii) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(iv) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(v) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(vi) the need for national energy conservation; and

"(vii) other factors the Secretary considers relevant.

The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph (d)(3)(G) if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types (or classes). A standard as amended by the Secretary under this subsection shall become effective for products manufactured on or after a date which is—

"(I) two years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1 for small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, and

"(II) three years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1 for large commercial package air conditioning and heating equipment,

except that an amended standard issued by the Secretary pursuant to a rule under this subparagraph (d)(3)(G) shall become effective for products manufactured on or after a date which is four years after the date the rule is published in the Federal Register.

"(H) The criteria specified in subparagraph (d)(3)(G) shall apply only to products listed in subparagraph (d)(3)(G).

"(4)(A) Standards prescribed or established under this subsection (d) shall, upon their effective date, preempt any State or local regulation concerning the energy efficiency or energy use of such products.

"(B) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt a standard for such a product in a building code for new construction if the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1: *Provided*, That such standard in the building code does not take effect prior to the effective date of amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt the standards of the State of California for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993, which standards are set forth in table C-6 of the California Code of Regulations, title 24, part 2, chapter 2-53.

"(D) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures and other requirements specified in section 327(d) of this Act.

"(5) Except as provided in subparagraphs (d)(3) (B) through (G), the Secretary shall periodically, but at least every five years, review and update any standards established pursuant to this section, and shall reevaluate whether standards are justified for those products for which standards were not adopted.

"(e) LABELING.—(1) The Federal Trade Commission shall, within twelve months after the date on which a test procedure is prescribed by the Secretary for a product (or class thereof) under subsection (c), prescribe a labeling rule for the product (or class thereof), except to the extent that, with respect to a product (or class thereof) the Commission determines that a labeling rule is not economically or technically feasible, would not result in significant energy savings and is not necessary for informational purposes.

"(2) If the Commission determines that labeling is not necessary under paragraph (1) and the Secretary prescribes standards under subsection (d), then the Commission, within twelve months after the date on which a standard is prescribed by the Secretary, shall prescribe a labeling rule designed solely to facilitate enforcement of the requirements of this section and other applicable provisions of law. A labeling rule for small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment shall be designed solely to facilitate enforcement of the regulations of this section and other applicable provisions of law.

"(3) In the case of products for which the Commission prescribes a labeling rule under paragraph (1) manufacturers and importers of such equipment shall establish efficiency ratings for each type of equipment in accordance with the applicable test procedures, and—

"(A) include the efficiency rating of the equipment on or near the permanent nameplate attached to each piece of equipment;

"(B) prominently display the efficiency rating of the equipment in new equipment catalogs used by the manufacturer or importer to advertise the equipment; and

"(C) such other markings as the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established under this Act.

In developing these labeling requirements for electric motors, the Commission shall take into consideration NEMA Standards Publication MG1-1987.

"(4) Effective 360 days after a test procedure rule applicable to any product is established under this subsection, no manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including any representation on a label), or

"(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

"(f) REQUIREMENT OF MANUFACTURERS.—For the purpose of requirements of this Act, manufacturers and private labelers are subject to the requirements of section 326 of this Act.

"(g) ENFORCEMENT.—After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(1) each product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of this Act a new covered product to which a rule under section 324 of this Act applies; and

"(2) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product manufactured after this date which is not in conformity with the applicable energy conservation standard prescribed for the product (or class thereof) under subsection (d). For purposes of section 333 of this Act, this paragraph shall be considered to be a part of section 332 of this Act.

"(h)(1) Effective on the effective date of this Act, this section preempts any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of energy consumption of any covered product if—

"(A) such State regulation requires testing or the use of any measure of energy consumption or energy descriptor in any manner other than that provided under this section; or

"(B) such State regulation requires disclosure of information with respect to the energy use or energy efficiency of any product subject to this section other than information required under this section.

"(2) For purposes of this section, the term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions.

"(i) ENERGY EFFICIENCY LABELING FOR COMMERCIAL OFFICE EQUIPMENT.—(1) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, and after consulting with appropriate industry representatives, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program including any necessary test procedures for commercial office equipment that is widely used and for which there is a potential for significant energy savings. The program shall set forth information and specifications that will enable purchasers of office equipment to make informed decisions about the energy efficiency and costs of alternative commercial office equipment.

"(2) SECRETARIAL ACTION.—If a national energy efficiency rating and labeling program consistent with the objectives of paragraph (1) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, prescribe, within one year, test procedures for such commercial office equipment under section 323 of this Act.

"(3) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the 'Commission') shall prescribe labeling rules under section 324 of this Act for commercial office equipment, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to commercial office equipment (or class thereof).

"(4) COVERED PRODUCTS.—For purposes of sections 323 and 324 of this Act, commercial office equipment shall be considered covered products under section 322 of this Act unless excluded by the Commission pursuant to subsection (c).

"(5) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as are necessary to carry out the purposes of this section.

"(j) STUDY OF UTILITY DISTRIBUTION TRANSFORMERS.—

"(1) Not later than eighteen months after the date of the enactment of the National Energy Security Act of 1992, the Secretary shall evaluate the practicability and cost-effectiveness and potential energy savings of replacing or upgrading existing utility distribution transformers during routine maintenance.

"(2) The Secretary shall report the findings of his evaluation to Congress with recommendations on how such energy savings, if any, could be achieved.".

(b) Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by striking "(v) air conditioning equipment;" and "(xi) furnaces;" and by redesignating items (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) therein as items (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively.

SEC. 6111. ENERGY EFFICIENCY OF SHOWERHEADS.—(a) STATEMENT OF PURPOSE.—Section 2 of EPCA (Public Law 94-163) is amended by—

(1) striking "and" at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting "; and"; and

(3) adding at the end thereof the following new paragraph:

"(8) to conserve energy and water by improving the water efficiency of showerheads.".

(b) DEFINITIONS.—Section 321(a) of EPCA (Public Law 94-163), is amended by adding at the end thereof the following new paragraph:

"(30) the term 'total water use' means the quantity of water directly used by a showerhead, determined in accordance with test procedures under section 323.".

(c) COVERAGE.—Section 322(a) of EPCA (Public Law 94-163), is amended by—

(1) redesignating paragraph (14) as paragraph (15); and

(2) inserting after paragraph (13) the following new paragraph:

"(14) Showerheads, except safety shower showerheads.".

(d) TEST PROCEDURES.—Section 323(b)(3) of EPCA is amended by striking "or estimated annual operating cost" and inserting "estimated annual operating cost, or, in the case of showerheads, total water use, in accordance with applicable American National Standards Institute (ANSI) flow rate standards".

(e) LABELING.—Section 324 of EPCA (Public Law 94-163), is amended—

(1) in subsection (a)(2) by adding at the end thereof the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (14) of section 322(a), requiring that a label state whether the product meets the standards under section 325(i), in accordance with American National Standards Institute (ANSI) marking and labeling requirements.";

(2) in subsection (a)(3) by striking "paragraph (14)" and inserting "paragraph (15)";

(3) in subsection (b)(1)(B) by striking "paragraph (14)" and inserting "paragraph (15)";

(4) in subsection (b)(3) by striking "paragraph (14)" and inserting "paragraph (15)"; and

(5) in subsection (b)(5) by striking "paragraph (14)" and inserting "paragraph (15)".

(f) STANDARDS.—Section 325 of EPCA (Public Law 94-163), is amended—

(1) by redesignating subsections (i), (j), (k), (l), (m), (n), (o), (p), and (q) as subsections (j), (k), (l), (m), (n), (o), (p), (q), and (r), respectively; and

(2) by inserting after subsection (h) the following new subsection:

"(i) STANDARDS FOR SHOWERHEADS.—(1) For a showerhead manufactured on or after July 1, 1992, the standard shall be one that ensures the maintenance of public health and safety, allowing a maximum rate of water use of—

"(A) 2.5 gallons per minute, when measured at a flowing water pressure of 80 pounds per square inch; or

"(B) if before March 1, 1992, the American National Standards Institute (ANSI) publishes an amended standard for showerheads prescribing a maximum rate of water use that is less than the rate prescribed by the ANSI standard in effect on the date of enactment of the National Energy Security Act of 1992, the rate prescribed in the amended standard becomes effective.

"(2)(A) If, after July 1, 1992, ANSI publishes an amended standard different from that in effect pursuant to paragraph (1), the Secretary, not later than 180 days after publication of the amended standard, shall publish a notice of the amended standard, and, subject to subparagraph (B), the amended standard shall be in effect for showerheads manufactured on or after the date that is 90 days after the date of the notice.

"(B) The Secretary may not prescribe an amended standard that increases the maximum rate of water use of showerheads over the rate allowed by the standard established under paragraph (1), unless the Secretary determines that it is in the interest of public health and safety.

(g) EFFECT ON OTHER LAW.—Section 327 of EPCA (Public Law 94-163), is amended—

(1) in subsection (c)—

(A) by striking "or energy use of such covered product" and inserting "energy use or total water use of the covered product";

(B) by striking "or" at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting "; or"; and

(D) by adding at the end thereof the following new paragraph:

"(4) is a State, regional, or local regulation that establishes flow rate requirements for showerheads that was prescribed or enacted before June 15, 1991."; and

(2) by adding at the end thereof the following new subsection:

"(h) LABELING OF SHOWERHEADS.—No State, regional, or local regulation concerning the labeling of showerheads shall be effective on or after the date that the Commission prescribes a label for showerheads pursuant to section 324(a)(2)(C).".

SEC. 6112. VIBRATION TECHNOLOGY STUDY.—(a) The Secretary of Energy shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand-side management; and

(2) evaluate the cost effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) The Secretary shall transmit to the Congress, within 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this subsection.

(d) The Secretary may, based on the findings and conclusions of such study, carry out at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

SEC. 6113. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL AND INDUSTRIAL ELECTRIC MOTORS.—

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (2)(A)(iii), by striking out "as defined in section 321(a)(2)" and inserting in lieu thereof "to which standards are applicable under section 325";

(2) in paragraph (3) by striking "the" and inserting "The" in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(8)(A) Except as provided in subparagraph (B), the term 'electric motor' means any motor which is a general-purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association (NEMA), Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.

"(B) The term 'electric motor' does not include any motor excluded by the Secretary, by rule, as a result of a determination that standards for such motor would not result in significant energy savings or that efficiency standards for such motor would not be technically feasible or economically justified.

"(C) The term 'definite-purpose motor' means any motor designed in standard ratings with standard operating characteristics or mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(D) The term 'special-purpose motor' means any motor with special operating characteristics or special mechanical construction, or both, designed for a particular application and not falling within the definition of a general-purpose or definite-purpose motor.

"(E) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the motor.

"(F) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed air-tight.

"(G) The term 'small electric motor' means a NEMA general-purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

"(H) The term 'efficiency' means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(I) The term 'nominal efficiency' means the average efficiency of a large population of motors of duplicate design as determined in accordance with National Electrical Manufacturers Association Standards Publication MG1-1987.

"(9) The term 'NEMA' means the National Electrical Manufacturers Association.

"(10) The term 'IEEE' means Institute of Electrical and Electronics Engineers.

"(11) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—Section 343 of such Act (42 U.S.C. 6314) is amended—

(1) by striking paragraph (a)(1) and inserting in lieu thereof the following:

"(a)(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section.";

(2) by adding at the end of subsection (a), the following new paragraph:

"(4) With respect to electric motors that are manufactured after the end of the 24-month period beginning on the date of the enactment of this paragraph and to which standards are applicable under section 342, the Secretary shall prescribe test procedures that take into consideration NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency."; and

(3) redesignate the first subsection 343(d) as 343(c).

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (e), (f), (g), (h), (i) and (j) respectively, and by inserting a new subsection (d) as follows:

"(d) In the case of electric motors, within 12 months after the Secretary establishes test procedures (as required in section 343(a)), manufacturers and importers of covered motors shall establish efficiency ratings for each type of motor in accordance with the applicable test procedures, and—

"(1) include the efficiency rating of the equipment on the permanent nameplate attached to each piece of equipment.

"(2) prominently display the efficiency rating of the equipment in equipment catalogs and other materials used to market the equipment.

"(3) such other markings that the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established in section 342(a).

In developing these labeling requirements for electric motors, the Secretary shall take into consideration NEMA Standards Publication MG1-1987.".

(d) STANDARDS.—Section 342 of such Act (42 U.S.C. 6313) is amended to read as follows:

"STANDARDS

"SEC. 342. (a) ELECTRIC MOTORS.—(1) Except for definite-purpose motors, special-purpose motors, and those motors exempted by the Secretary under the provisions of paragraph (2) of this section, any general-purpose electric motor manufactured or imported (alone or as part of another piece of equipment) after the 60-month period beginning on the date of enactment of the Energy Efficiency Standards Act of 1992, or 84-month period in the case of general-purpose motors which require listing or certification by a nationally recognized safety testing laboratory, shall have a nominal full-load efficiency of not less than the following:

"Nominal full-Load Efficiency

	Open Motors			Enclosed Motors		
"Number of poles	6	4	2	6	4	2
Motor h.p.						
1	80.0	82.5		80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	85.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary, may be rulemaking, exempt certain types or classes of motors from the standards specified in paragraph (b) of this section if the following apply—

"(i) efficiency standards for such motors would not result in significant energy savings because such motors either cannot be used in most general-purpose applications or are very unlikely to be used in most general-purpose applications; and

"(ii) efficiency standards for such motors would not be technically feasible or economically justified;

"(B) Within one year of the passage of this Act, motor manufacturers and importers shall petition the Secretary to request exemptions for motors that meet the criteria specified in paragraph (2)(A) of this section. Each request shall provide evidence that the motor meets the criteria for exemption.

"(C) Within two years of the passage of this Act, the Secretary shall rule on each request for exemption. In reaching his decision, the Secretary shall afford an opportunity for public comment.

"(D) For new motors developed after the date of enactment of this Act, manufacturers may petition the Secretary for exemptions from the standards established under this Act based on the criteria specified in paragraph (2)(A) of this section.

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is 5 years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is 5 years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT AND PREEMPTION.—Section 345 of such Act (42 U.S.C. 6316) is amended by—

(1) striking the designation "(a)";

(2) in the material preceding paragraph (1), by striking "sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (q) of section 325, and section 327";

(3) in paragraph (1) by—

(i) striking the words "and 324" and inserting in lieu thereof ", 324, and 325";

(ii) striking the words "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(4) in paragraph (3), by striking the word "and" at the end thereof;

(5) in paragraph (4), by striking the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (4) the following new paragraphs (5) through (8):

"(5) As of the date of enactment of the National Energy Security Act of 1992, no State or its subdivisions may enact, prescribe, or revise efficiency standards for any equipment for which efficiency standards are established under this Act.

"(6) As of the date of enactment of the National Energy Security Act, no State or its subdivisions may enact, prescribe, or revise labeling requirements for any equipment for which labeling requirements are established under this Act.

"(7) Notwithstanding paragraphs (5) and (6) of this section, States and their subdivisions may adopt efficiency requirements for new construction provided that such requirements are identical to standards established under this Act.

"(8) With respect to electric motors, the Secretary shall establish a technical performance audit program to ensure compliance with the prescribed testing and labeling standards."; and

(7) by striking out the title and inserting in lieu thereof "Administration, Penalties, Enforcement, and Preemption".

(f) AUTHORIZATION FOR APPROPRIATIONS.—Section 346 is amended by striking the existing text and inserting in lieu thereof the following: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this part.".

SEC. 6114. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.—Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.—

"(a) IN GENERAL.—(1)(A) The Secretary shall—

"(i) within 24 months after the date of the enactment of this Act, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technically feasible and economically justified, and would result in significant energy savings;

"(ii) within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under clause (i). Standards shall not apply to any small electric motor which is a component part of a product or equipment subject to the energy efficiency standards under this title; and

"(iii) any standard prescribed under (ii) of this Act shall apply to small electric motors manufactured, assembled or imported, 60 months after the date the final rule is published, or 84 months in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory.

"(B) For purposes of subparagraph (A):

"(i) the term 'energy conservation standard' means—

"(aa) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(bb) a design requirement for a product; and

"(ii) the term 'small electric motor' is a defined under section 340(8) of the Energy Policy and Conservation Act (42 U.S.C. 6311), as amended.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(l) of the Energy Policy and Conservation Act.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards for small electric motors are prescribed by the Secretary pursuant to paragraph (1)(A)(ii), prescribe labeling requirements for such electric motors.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer of the product shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (b)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies; and

"(B) it shall be unlawful for any manufacturer, importer or private labeler to distribute in commerce any new small electric motors for which an energy conservation standard is prescribed under subsection (a)(1)(A)(ii) which is not in conformity with the applicable labeling requirement and energy conservation standard.

"(2) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

SEC. 6115. ENERGY CONSERVATION STANDARDS FOR CERTAIN LAMPS.—(a) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1)(A) by striking the designation subsection "(a)"; and

(B) in the material following subparagraph (B), by striking out "ballasts distributed in commerce for personal or commercial use or consumption" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, and incandescent reflector lamps distributed in commerce for personal or commercial use.";

(2) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight shaped rapid start lamp (commonly referred to as four foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as two foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as eight foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as eight foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 (R1984) and related supplement ANSI C78.3a–1985.

"(B) the term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but excluding any lamp described in subsection (E) and any lamp designed and marketed for non-general lighting applications as follows—

"(i) fluorescent lamps designed to promote plant growth;

"(ii) fluorescent lamps specifically designed for cold-temperature installations;

"(iii) colored fluorescent lamps;

"(iv) impact-resistant fluorescent lamps;

"(v) reflectorized or aperture lamps;

"(vi) fluorescent lamps designed for use in reprographic equipment;

"(vii) lamps primarily designed to produce radiation in the ultra-violet region of the spectrum, and

"(viii) lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which a light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as reflector lamp), which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding 'ER' or 'BR') with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts; and

"(iii) any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) the term 'general service incandescent lamp' means incandescent lamps (other than miniature or photographic lamps) which can be used to satisfy the majority of lighting applications, but excluding any lamp described in subparagraph (E) and any lamp specifically designed for—

"(i) traffic signal or street light service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The term 'lamp' does not include any lamp manufactured or assembled in the United States for export and use outside the United States, or any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'average lamp efficacy' means the lamp efficacy readings taken over a twelve-month period of manufacture with the readings averaged over that period.

"(G) The term 'base' means the portion of the lamp which connects with the socket described in ANSI C81.61–1990.

"(H) The term 'bulb shape' means the shape of the lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980(R1984).

"(I) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(J) The term 'correlated color temperature' means the absolute temperature of a black body whose chromaticity most nearly resembles that of the light source.

"(K) The term 'IES' means the Illuminating Engineering Society of North America.

"(L) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(M) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(N) The term 'lamp wattage' means the total electrical power consumed by the lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(O) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures as described in the IES Lighting Handbook—Reference Volume.

"(P) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(Q) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(R) The term 'manufacturer' means anyone who makes, assembles or imports any covered product.

"(S) The term 'medium base compact fluorescent' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for general service incandescent lamps.

"(T) The term 'transition period' means the period of time between the enactment of the National Energy Security Act of 1992 and the date on which the standard shall take effect.".

(b) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) General service fluorescent lamps and incandescent reflector lamps.".

(c) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended by adding the following new paragraph at the end of subsection (b):

"(6) With respect to fluorescent lamps and incandescent lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be implemented by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.".

(d) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Such rules shall provide that the labeling of any general service fluorescent lamps, medium base compact fluorescent lamps and general service incandescent lamp manufactured, assembled or imported after the 18-month period beginning on the date of the publication of such labeling rule will include conspicuously on the packaging of the lamp in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary for the consumers to select the most energy efficient lamps to meet their requirements. Labeling information for incandescent lamps will be based upon performance when operated at 120 volts input, regardless of the rated lamp voltage.".

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(15)";

(3) in paragraphs (1)(B), (3), and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(15)"; and

(4) in subsection (c)(7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13) and (14) of section 322(a)".

(e) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating clauses (i) through (q) as clauses (k) through (s); and

(2) by inserting after clause (h) the following:

"(i) GENERAL SERVICE FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS.—(1) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured, assembled or imported after the transition period for each category of lamps beginning on the date of the enactment of this subsection shall meet or exceed the following lamp efficacy and CRI standards. Beginning twelve months after the expiration of the transition period for each of the listed categories of lamps, no lamp in such category may be sold which does not meet or exceed the following lamp efficacy and color rendition index standards:

"FLUORESCENT LAMPS

"Lamp Type	Nominal Lamp Wattage	Minimum Average CRI	Minimum Average Lamp Efficacy (LPW)	Transition Period (months)
4 foot	>35W	69	75.0	36
Medium bi-pin	≤35W	45	75.0	36
2 foot	>35W	69	68.0	36
"U" shaped	≤35W	45	64.0	36
8 foot	65W	69	80.0	18
Slimline	≤65W	45	80.0	18
8 foot	>100W	69	80.0	18
High Output	≤100W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Transition Period (months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(2) Not less than 36 months after the date of enactment of the National Energy Security Act of 1992, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than 54 months after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(3) Not less than eight years after the date of enactment of the National Energy Security Act of 1992, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than nine and one-half years after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Twenty-four months after any labeling required by subsection (d) shall have taken effect, the Secretary shall initiate a rulemaking to determine if additional fluorescent and incandescent lamps should be subject to standards, and to publish, within 18 months of initiating such a rulemaking, a final rule including such standards, if warranted.

"(5) Any amendment prescribed under paragraph (4) shall apply only to products manufactured, assembled or imported after a date which is 36 months after the date the final rule is published.

"(6) In establishing or modifying any standard under this subsection, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1992.

"(7) With regard to any lamp covered by this subsection or section 6113 of the National Energy Security Act of 1992, it shall be the responsibility of the Secretary to inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of any covered product of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"Any other provision of Federal law or regulation to the contrary notwithstanding, the Secretary shall not be prohibited from modifying any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any covered product if such action is warranted as the result of other Federal action, such as but not limited to restrictions on materials or processes, which would have the effect of either increasing energy use or decreasing energy efficiency.

"(8) Concurrent with the effective date of lamp standards established pursuant to this subsection or section 6113 of the National Energy Security Act of 1992, a manufacturer shall file with the Secretary the report of the laboratory certifying compliance with the standard for each lamp. Such report shall include the lumen output and wattage consumption as an average of measurements taken over the preceding 12 month period.".

SEC. 6116. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—

"(a) IN GENERAL.—(1)(A) The Secretary of Energy shall—

"(i) within 18 months after the date of the enactment of this Act, prescribe testing requirements for those high-intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would result in significant energy savings; and

"(ii) within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those high-intensity discharge lamps for which the Secretary prescribed testing requirements under clause (i); and

"(iii) any standard prescribed under clause (ii) shall apply to products manufactured, assembled or imported 36 months after the date on which the final rule is published.

"(B) For purposes of subparagraph (A), the term 'energy conservation standard' means—

"(i) a performance standard that prescribed a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(ii) a design requirement for a product.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1992.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards are prescribed by the Secretary of Energy pursuant to paragraph (1)(A)(ii) for high-intensity discharge lamps, prescribe labeling requirements for such lamps.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer or importer of the product shall begin to label newly manufactured products with a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), each such product shall be considered, for purposes of paragraphs (1) and (2) of section 322(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies.

"(2) Twelve months after the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new high intensity discharge lamps which is not in conformity with the applicable labeling requirement and energy conservation standard prescribed under subsection (a)(1)(A)(ii).

"(3) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

SEC. 6117. REPORT ON THE POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT.—(1) Within 12 months after the date of enactment of this Act, the Secretary of Energy shall, in consultation with utilities and appliance manufacturers, prepare, and submit to Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

(2) Such report shall identify candidate high-efficiency appliances which meet the following criteria:

(A) that the potential exists for substantial improvement in the appliance's energy efficiency, beyond the minimum established in Federal and State law;

(B) that there is the potential for significant energy savings at the national or regional level;

(C) that such appliances are likely to be cost-effective for consumers;

(D) that electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances; and

(E) that manufacturers are unlikely to undertake development and commercialization of such appliances on their own, or development and production would be substantially accelerated by support to manufacturers.

(3) The plan shall also—

(A) describe the general actions the Secretary of Energy could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

(B) describe specific proposals for Department of Energy assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

(C) identify methods by which Federal purchase of highly efficient appliances could assist in the development and commercialization of such appliances; and

(D) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.

SUBTITLE B—FEDERAL ENERGY MANAGEMENT

SEC. 6201. DEFINITIONS.—For purposes of this subtitle—

(1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, any agency of the judicial branch of Government;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of the fundamentals of building energy systems; building energy codes and applicable professional standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(4) the term "Task Force" means the Interagency Energy Management Task force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 6202. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.—(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Office of Management and Budget, in cooperation with the Secretary, the General Services Administration, and the Department of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reporting quarterly and annual energy consumption and energy cost figures as required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, Congress and the general public.

(b) CONTENTS OF GUIDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.—Not later than December 31, 1992, and on each December 31 thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

(d) POSTAL SERVICE.—The United States Postal Service shall adopt regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates or manages. The regulations shall include establishing a monitoring system to determine which facilities are the most costly to operate; identify unusual or abnormal changes in energy consumption; and check the accuracy of utility charges for electricity and gas consumption.

SEC. 6203. FEDERAL ENERGY COST BUDGETING.—The President shall include in each budget submitted to the Congress under section 1105 of title 31, United States Code, a separate statement of the amount of appropriations requested, on an agency basis, for—

(1) energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), the Energy Policy and Conservation Act, and applicable Executive orders, including Executive Orders No. 12003 and No. 12579.

SEC. 6204. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.—(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.) as amended, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100-504) shall—

(1) identify agency compliance activities to meet the requirements of such section and any other matters relevant to implementing the goals of the National Energy Conservation Policy Act; and

(2) assess the accuracy and reliability of energy consumption and energy cost figures required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) PRESIDENTS COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives, on the review conducted by each Inspector General of each agency carried out under this section.

(c) INSPECTOR GENERAL REVIEW.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

SEC. 6205. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.—(a) CONFERENCE WORKSHOPS.—The General Services Administration, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The General Services Administration shall work and consult with other Federal agencies to plan for particular regional conferences. The General Services Administration shall invite State, local, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such State, local and county officials in the planning and organization of such workshops.

(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following, but may include other topics:

(1) developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region;

(2) the design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques;

(3) procurement and use of energy efficient products;

(4) alternative fuel vehicle procurement, placement, and usage;

(5) coordinated development with the private sector for the servicing, refueling, and maintenance of alternative fuel vehicles;

(6) dissemination of information on innovative programs, technologies, and methods which have proven successful in government; and

(7) technical assistance to design and incorporate effective energy management strategies.

(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—As a part of the first report to be submitted pursuant to section 6214 of this Act, the Administrator shall set forth the schedule for the Regional Energy Management Workshops. Not less than five workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purpose of this section.

SEC. 6206. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.—(a) PROCUREMENT.—The General Services Administration, in consultation with the Department of Defense and the Defense Logistics Agency, shall undertake a program to include energy efficient products on the Federal Supply Schedule and the New Item Introductory Schedule.

(b) IDENTIFICATION PROGRAM.—The General Services Administration, in consultation with the Department of Energy and the Defense Logistics Agency, shall implement a program to identify and designate on its respective Supply Schedules those energy efficient products which offer significant potential savings, as calculated using the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), unless such life cycle cost information is not readily available.

(c) GUIDELINES.—The Office of Federal Procurement Policy, in consultation with the General Services Administration, the Department of Energy, and the Department of Defense, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Department of Defense and the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) UNITED STATES POSTAL SERVICE GUIDANCE.—The USPS shall undertake a program to identify and procure energy efficient products for use in its facilities. The USPS shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by GSA and DLA to carry out the purpose of this section.

(e) REPORT TO CONGRESS.—As a part of the report to be submitted pursuant to section 6214 of this Act, the Administrator of General Services, in consultation with the Defense Logistics Agency and the Department of Energy, shall report on the progress, status, activities, and results of the programs under subsections (b) and (c) of this section. The report shall include, but not be limited to—

(1) the number, types, and functions of each new product under subsection (a) added to the Federal Supply Schedule and the New Item Introductory Schedule during the previous fiscal year, and the name of the product manufacturer;

(2) the number, types, and functions of each product identified under subsection (b), and efforts undertaken by the General Services Administration and the Defense Logistics Agency to encourage the acquisition and use of such products;

(3) the actions taken by the General Services Administration and the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(4) whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been added to the Federal Supply Schedule or New Item Introductory Schedule;

(5) an estimate of the potential cost savings to agencies and the Federal Government, taking into account the quantity of energy efficient products which could be utilized throughout the Government, that would be realized through implementation or installation of products identified in this section; and

(6) the actual quantity of such products acquired and an estimate of the energy savings achieved by the use of such products.

SEC. 6207. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.—Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end thereof the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D). Amounts deposited in the Federal Buildings Fund under this subparagraph shall be used to implement energy efficiency programs.

"(B) The Administrator may accept such goods or services, consistent with approved Federal energy management objectives, provided in lieu of any rebates or other cash incentives for energy savings under subparagraph (A).

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care, fitness, or other employee benefit programs.".

SEC. 6208. FEDERAL ENERGY MANAGEMENT TRAINING.—(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under section 6201(3). Such programs shall be managed—

(A) by the agency representative on the Task Force; or

(B) if an agency is not represented on the Task Force, by the designee of the head of the agency.

(2) Agencies shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study covering the areas described under section 6201(3) including, but not limited to courses offered by:

(A) a private or public educational institution;

(B) a Federal agency; or

(C) a professional association.

(b) AGENCY REPORT.—(1) Each agency listed in section 6208(a) shall, no later than 60 days following the enactment of this Act, report to the Task Force the following information:

(A) those individuals employed by the agency on the date of the passage of this Act who qualify as trained energy managers as defined under section 6201(3);

(B) the General Schedule (GS) or grade level at which each of these individuals are employed; and

(C) the facility or facilities for which these employees are responsible or otherwise stationed.

The Task Force shall provide a summary of these agency reports to the Committee on Governmental Affairs of the United States Senate and the Committee on Energy and Natural Resources of the United States Senate.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1)(A) Not later than September 30, 1992, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies described under subsection (a)(1) shall ensure that, no later than September 30, 1992, no fewer than two trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under subsection (c)(1)(B) shall not include those employees listed in the report in section 6208(b).

(2)(A) Not later than September 30, 1993, the departments and agencies described under subsection (a)(1) shall further upgrade their energy management capabilities by ensuring that no fewer than five trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under subsection (c)(2)(A) shall not include those employees listed in the report in section 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in subsections (c)(1)(B) and (c)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(d) DEPARTMENT OF DEFENSE REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the Department of Defense shall upgrade its energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the Department.

(B) The Department shall insure that, no later than September 30, 1992, no fewer than twenty trained energy managers are employed by the Department.

(C) Federal employees designated for energy training and counted under subsection (d)(1)(B) shall not include those employees listed in the report in section 6208(b).

(2)(A) Not later than September 30, 1993, the Department shall further upgrade its energy management capabilities by ensuring that no fewer than forty trained energy managers are employed by the Department.

(B) Federal employees designated for energy training and counted under subsection (2)(A) shall not include those employees listed in the report in section 6208(b).

(3) The Department may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goal established in subsections (d)(1)(B) and (d)(2)(A). Trained energy managers shall focus their efforts on improving energy efficiency in the following facilities:

(i) Department facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the Secretary of Defense as having significant energy savings potential.

(e) SPECIFIED AGENCY REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the General Services Administration, the Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies identified in subsection (e)(1)(A) shall insure that, no later than September 30, 1992, no fewer than ten trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under subsection (e)(1)(B) shall not include those employees listed in the report section 6208(b).

(2)(A) Not later than September 30, 1993, the General Services Administration, Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall further upgrade their energy management capabilities by ensuring that no fewer than twenty trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under subsection (e)(2)(A) shall not include those employees listed in the report in section 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in subsections (e)(1)(B) and (e)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(f) REPORTS OF AGENCIES.—Each agency shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each agency's report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 6209. FEDERAL FACILITY ENERGY MANAGER RECOGNITION AND INCENTIVES AWARD PROGRAM.—(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Office of Personnel Management and the Task Force, establish a financial award program to reward outstanding facility energy managers in Federal agencies, including the United States Postal Service, and other individuals making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

(b) SELECTION CRITERIA.—Not later than June 1, 1992, the Secretary shall issue procedures for implementing the conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors. Such criteria shall include—

(1) improved energy performance through increased energy efficiency;

(2) implementation of proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(3) effective training programs for facility energy managers, operators, and maintenance personnel;

(4) employee awareness programs;

(5) success in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(6) successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253); and

(7) success in the implementation of the guidelines under section 6202 of this Act.

(c) AWARD LIMIT.—No single award shall be greater than $2,500.

(d) REPORT.—Each year the Secretary shall publish and disseminate to Federal agencies, and to Congress as a part of the report required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258) a report to highlight and recognize the achievements of bonus award winners.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $250,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purposes of this section.

SEC. 6210. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.—Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note; Public Law 100-615) is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and inserting in lieu thereof "in consultation with the Task Force,";

(B) in paragraph (1) by striking out "and" after the semicolon;

(C) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)—

(A) in paragraph (1) by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, and the House of Representatives, within 180 days after the date of the enactment of the National Energy Security Act of 1992,"; and

(B) by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, a representative sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing;

"(B) Storage;

"(C) Office;

"(D) Services;

"(E) Schools;

"(F) Research and Development;

"(G) Industrial;

"(H) Prisons; and

"(I) Hospitals.";

(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, the Committee on Energy and Commerce of the House of Representatives, the Committee on Government Operations of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000 established under Executive Order No. 12759.".

SEC. 6211. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.—(a) IN GENERAL.—The USPS shall conduct an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the USPS in different areas of the country;

(2) making recommendations to the Postmaster General for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar USPS buildings; and

(3) determining barriers which may prevent USPS compliance with energy reduction goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Post Office and Civil Service Committee, within 180 days of enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of Postal facilities of the types and in the climates that consume the major portion of the energy consumed by the Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the Postal facility or the remaining term of a lease of a building leased by the Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the project to the Senate Committee on Governmental Affairs, the

Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on Post Office and Civil Service.

SEC. 6212. FEDERAL BUILDING ENERGY CONSUMPTION TARGETS.—Not later than two years after the date of the enactment of this Act, the Secretary shall consider, in consultation with the Administrator of General Services and the Task Force, establishing energy consumption targets for January 1, 2000, for each Federal agency to reduce energy consumption per square foot in Federal buildings based upon the information provided in the report under section 6210 of this Act. The United States Postal Service shall independently consider establishing its own energy consumption targets for January 1, 2000 based upon the information provided in the report under section 6211.

SEC. 6213. UTILITY INCENTIVE PROGRAMS.—(a) IN GENERAL.—Federal agencies are authorized and encouraged to participate in programs for energy conservation or the management of electricity demand conducted by gas or electric utilities and generally available to customers of such utilities.

(b) ACCEPTANCE OF FINANCIAL INCENTIVES.—Federal agencies may accept any financial incentive, generally available from any such utility, to adopt energy efficiency technologies and practices that the Secretary determines are cost effective for the Federal Government.

(c) NEGOTIATIONS.—Each Federal agency is encouraged to enter into negotiations with electric and gas utilities to design special demand management and conservation incentive programs to address the unique needs of facilities used by such agency.

(d) USE OF CERTAIN FUNDS.—(1) Fifty percent of funds from utility energy efficiency rebates shall, subject to appropriation, remain available for expenditure by the agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(2)(A) Agencies shall maintain strict financial accounting and controls for savings realized and all expenditures made under this section.

(B) Records maintained under subparagraph (A) shall be made available for public inspection upon request.

SEC. 6214. REPORT BY GENERAL SERVICES ADMINISTRATION.—Not later than six months after the date of enactment of this Act, and on each December 31, at least six months thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle. Such reports shall include, but not be limited to, the information requested under sections 6205(c) and 6206(d).

SEC. 6215. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.—Not later than one year after the date of the enactment of this Act, and on each January 1 thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Post Office and Civil Service of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate on the Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to, the following:

(1) actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) energy costs incurred in operating and maintaining all postal facilities; and

(5) the status of the energy efficient procurement program established under section 6206(d).

SEC. 6216. AMENDMENTS TO PART 3, TITLE V OF NECPA.—Part 3 of title V of the National Energy Conservation Policy Act (NECPA) (Public Law 95-619), as amended, is further amended as follows:

(a) In section 543, (1) strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. Federal agencies may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of technical assistance in complying with the requirements of this section. Within two years after the date of enactment of the National Energy Security Act of 1991, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, or the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following: "The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Security Act of 1992, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)":

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544, and".

(b) In section 544—

(1) strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof: "agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government leased space constructed after January 1, 1994, shall meet model Federal energy conservation performance standards for new commercial buildings promulgated pursuant to section 304 of the Energy Conservation and Production Act (Public Law 94-385).".

(c) In section 545 add after the word "measures" the following: "as needed to meet the requirements of section 543.".

(d) In section 548—

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following: "In addition to the plan required to be submitted to the Secretary pursuant to section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

(e) Renumber section 549 as section 551 and insert the following two new sections:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1993, the Secretary, in cooperation with the Administrator of the General Services Administration, shall establish a demonstration program to install, in Federally owned facilities, energy efficiency technologies which the Secretary has determined are ready for commercial demonstration and which were developed by entities that have received or are receiving Federal financial assistance for energy conservation research and development.

"(b) EVALUATION.—The Secretary and the Administrator shall evaluate the commercial viability of each type of energy efficiency technology so installed, including its technical feasibility, operational feasibility, and economic effectiveness. Installations of each technology shall include a sufficient number of applications to produce statistically reliable evaluation results based on the technologies' application in various climates and building situations.

"(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section no more than $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

"SEC. 550. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.

"(a) IN GENERAL.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, the Secretary shall establish guidelines for the transfer or loan of up to $1,000,000 per project to encourage any Federal agency to undertake energy efficiency projects in Federally owned facilities.

"(b) PROJECT SELECTION.—The Secretary shall establish procedures for the receipt of proposals under this section. The Secretary shall consider the following factors in determining whether to provide funding under subsection (a):

"(1) the cost-effectiveness of the project;

"(2) the proportion of energy and cost savings anticipated to the Federal Government;

"(3) the amount of funding committed to the project by the agency requesting financial assistance;

"(4) the extent that a proposal leverages financing from other non-Federal sources; and

"(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(c) REPORTS.—The Secretary shall report annually to Congress, in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include the projects funded and the projected energy and cost savings from installed measures.

"(d) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated, and to remain available until expended, not more than $200,000,000.".

(f) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act is amended to read as follows:

"Sec. 549. Demonstration of New Technology.
"Sec. 550. Federal Energy Efficiency Projects Funding.
"Sec. 551. Definitions.".

SEC. 6217. CONGRESSIONAL OFFICE BUILDING ENERGY IMPROVEMENT ASSESSMENT.—The Architect of the Capitol shall undertake a study to determine the feasibility and costs associated with compliance with part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq), and Executive Orders No. 12003 and No. 12579 for all facilities under the Architect's jurisdiction, taking into account particular needs with respect to the security and physical operation of the legislative branch of the Government. The Architect shall report the results of such study to the appropriate committees of Congress.

SEC. 6218. STUDY OF FEDERAL PURCHASING POWER.—(a) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency.

(b) REPORT.—The Secretary shall report to Congress on the results of the study within two years of the date of the enactment of this Act.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 6219. ENERGY MANAGEMENT GOALS FOR THE UNITED STATES POSTAL SERVICE.—(a) ENERGY PERFORMANCE GOAL FOR POSTAL FACILITIES.—(1) Not later than January 1, 2000, the United States Postal Service shall, to the maximum extent practicable, install in all facilities under its control, energy conservation measures with payback periods of less than ten years as calculated using methods and procedures developed pursuant to section 544 of the National Energy Conservation Policy Act. Within two years after the date of enactment of the National Energy Security Act of 1992, the USPS shall submit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on the Post Office and Civil Service a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

(2) The USPS may exclude from the requirements of paragraph (1) any facility or collection of facilities, and the associated energy consumption and gross square footage, if the Postmaster General finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The USPS shall identify and list in the report made under section 6215 the facilities designated by it for such exclusion. This section shall not apply to the USPS facilities that generate or transmit electric energy.

(b) IMPLEMENTATION STEPS—To achieve the goal established in subsection (a), the USPS shall—

(1) prepare or update, within 1 year after the date of the enactment of this Act, a plan describing how the USPS intends to meet such goal. The plan may be submitted as part of the report under section 6215. The plan shall include how the USPS will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

(2) perform energy surveys of USPS facilities and update such surveys periodically, but not less than every three years;

(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;

(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

SEC. 6220. ENERGY PERFORMANCE CONTRACTS.—

(a) Title VIII of the National Energy Conservation Policy Act (Public Law 99-412) is amended by striking "TITLE VIII—SHARED ENERGY SAVINGS" and inserting in lieu thereof "TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(b) Section 801 of such Act (42 U.S.C. 8287) is amended by striking the word "may" the first place it appears and inserting "shall, to the extent practicable," in lieu thereof; and by redesignating such section as subsection 801(a)(1) and adding the following new text:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by the government may not exceed the guaranteed energy savings during each contract year.

"(C) Federal agencies may incur obligations to finance a project provided guaranteed savings exceed the debt service requirements.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, in consultation with the Secretary of Defense, the Administrator of the General Services Administration, and the Administrator of NASA, within 90 days after the date of the enactment of the National Energy Security Act of 1992, shall develop appropriate procedures and methods for use by Federal agencies to select energy savings service contractors that will achieve the intent of this section in a cost-effective manner. The procedures and methods used for the calculation of energy savings shall be based on sound engineering practices, consideration of relevant variables such as application utility rate schedules, and fuel and utility billing cycles.

"(B) Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection by each Federal agency of a contractor to provide energy savings services.

"(C) The process developed pursuant to this section may constitute adequate price competition, no cost justification shall be required, and waiver of the cost pricing and cost accounting standards shall be permitted.

"(2) In carrying out paragraph (1), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing energy saving services;

"(B) designate from the statements received, with an update at least annually, those firms that are qualified to provide energy savings services;

"(C) select at least three firms from the list of qualified contractors to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project; and

"(D) select from such firms the most qualified firm to provide energy savings services pursuant to such energy savings contractual arrangement that the Secretary determines is fair and reasonable, taking into account—

"(i) the qualifications, prior experience and capabilities of a contractor to perform the proposed type of energy savings services; and

"(ii) the estimated value of the energy savings services to be rendered and the scope and nature of the project.

"(3) In carrying out paragraph (1), the Secretary also may provide for direct negotiations by Federal agencies for energy savings services with contractors that have been selected competitively and approved by any gas or electric utility serving the agency involved.

"(c) DEFINITION.—For the purpose of this title, the terms 'energy savings contract' or 'energy savings performance contract' means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation and, where appropriate, maintenance and repair, of an identified energy savings measure. Such contracts may provide for appropriate software licensing agreements.

"(d) SUNSET AND REPORTING REQUIREMENTS.—

"(A) The authority to enter into new contracts under this provision shall cease to be effective three years from the date of enactment of this Act.

"(B) Beginning six months after the date of enactment of this Act, and every six months thereafter, for a period of three years from enactment of this Act, the General Accounting Office shall report on the implementation of this section. These reports shall include, but not be limited to, an assessment of the following issues:

"(i) the quality of the energy audits conducted for the Agencies;

"(ii) the government's ability to maximize energy savings;

"(iii) the total energy cost savings accrued by the agencies that have entered into such contracts;

"(iv) the total costs associated with entering into such contracts and having them performed;

"(v) a comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector;

"(vi) the number of firms selected as qualified firms under this section and their respective shares of awarded contracts;

"(vii) the number of firms engaged in similar activity in the private sector and their respective market shares;

"(viii) the number of applicant firms not selected as qualified firms under this section and the reason for their nonselection;

"(ix) the frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(C) Three years from enactment of this Act, the General Accounting Office shall provide a summary report on the efficacy of this section. In addition, the General Accounting Office shall provide recommendations for statutory or regulatory changes that may be necessary. In making such recommendations, the General Accounting Office shall consider whether the contracting procedures utilized under this section by agencies have been effective and whether continued use of those procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.".

SEC. 6221. ENERGY EFFICIENT PRODUCTS.—Whenever the Federal Government establishes a new requirement or initiates a new procurement for the acquisition of electric lamps, electric ballasts, electric motors and/or refrigeration equipment, the Federal Government shall, where cost effective, give preference to the procurement of the most energy efficient products available to meet its needs. The General Services Administration shall keep a record of the quantity, country of manufacture, and cost of items purchased under this section. The Secretary of Energy shall estimate the quantity and cost of energy saved annually due to this section.

SEC. 6222. ENERGY ANALYSIS AND DIAGNOSTIC CENTERS PROGRAM.—(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Energy an Energy Analysis and Diagnostic Centers program designed to assist qualifying commercial and industrial facilities to conserve energy and reduce operating costs by applying efficient technologies to their operations and buildings and to provide opportunities for students to gain experience in the field of energy management.

(b) QUALIFYING COMMERCIAL AND INDUSTRIAL FACILITIES.—For purposes of this section, qualifying commercial and industrial facilities are those facilities that meet at least three of the following four criteria:

(1) 500 or fewer employees;

(2) gross sales of not more than $75,000,000 per year;

(3) total energy costs of not more than $1,750,000 per year;

(4) an absence of in-house energy expertise.

(c) ADMINISTRATION.—(1) Not later than six months after the date of enactment of this section, the Secretary shall seek to enter into a management agreement with an appropriate institution to administer the program.

(2) For purposes of this section, an appropriate institution is a nonprofit institution with demonstrable expertise in engineering, physical science, communications, business, and such other disciplines as appropriate and with expertise in industrial manufacturing including new process and product research and development.

(d) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Within 9 months after the date of enactment of this section, the administering institution shall, under the direction of the Secretary and through a competitive bidding process, select not less than twenty five sites to be designated Energy Analysis and Diagnostic Centers. The sites shall be educational institutions such as universities, engineering and technical schools, and other institutions of higher learning with demonstrable capability to—

(A) perform energy audits for qualifying industrial facilities designed to assist such facilities to reduce their energy consumption and improve the efficiency of their energy usage;

(B) provide detailed reports to the qualifying industrial facility identifying energy conservation and efficiency opportunities; and

(C) provide such other service as the Secretary deems appropriate.

(e) DISSEMINATION OF INFORMATION.—Not less than every twelve months, the administering institutions shall synthesize from the reports of the Energy Analysis and Diagnostic Centers and make publicly available information concerning significant energy conservation opportunities: *Provided, however*, That all proprietary information shall be kept confidential.

SEC. 6223. ENERGY AUDIT TEAMS.—(a) ESTABLISHMENT.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities. Particular attention shall be given to exploiting expertise and resources that are not generally available in the private sector.

(b) MONITORING PROGRAMS.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 6224. GOVERNMENT CONTRACT INCENTIVES.—(a) ESTABLISHMENT OF CRITERIA.—Each agency, in consultation with the Federal Acquisition Regulations Council, shall establish criteria for the improvement of energy efficiency in Federal facilities operated by Federal Government contractors or subcontractors.

(b) UTILIZATION OF CRITERIA.—To encourage Federal contractors, and their subcontractors, which manage and operate federally-owned facilities, to adopt and utilize energy conservation measures designed to reduce energy costs in Government-owned and contractor-operated facilities and which are ultimately borne by the Federal Government. Each agency head shall utilize the criteria developed under subsection (a) in all cost-plus-award-fee contracts.

Subtitle C—Utilities

SEC. 6301. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES AND STUDY OF CERTAIN STATE RATEMAKING POLICIES.—(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(7) ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES.—

"(A) The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources and other demand side management measures are at least as profitable, taking into account income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generating equipment: *Provided*, That such energy conservation, energy efficiency resources and other demand side management measures are appropriately monitored and evaluated.

"(B)(i) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility is encouraged to make investments and expenditures for all cost-effective improvements in the energy efficiency of power generation, transmission and distribution.

"(ii) For purposes of meeting the standard provided in clause (i) of this subparagraph, each State regulatory authority shall consider the disincentives caused by existing ratemaking policies, as well as incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution technologies.

"(C)(i) Each State regulatory authority shall require each electric utility for which it has ratemaking authority to employ a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(ii) All plans or filings before a State regulatory authority to meet the requirements of clause (i) of this subparagraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

"(iii) For purposes of clause (i) of this subparagraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

"(D) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1992.".

(b) The Public Utility Regulatory Policies Act of 1978 is further amended by inserting the following new paragraph at the end of subsection 111(c):

"(3) If a State regulatory authority implements a standard established by subsection (d)(7), such authority shall (A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and (B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) REPORT.—Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities require or permit rates charged by an electric utility to reflect least-cost planning;

(2) an evaluation by the Secretary of whether, and to what extent, least-cost planning is likely to result in—

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) an evaluation by the Secretary of whether, and to what extent, ratemaking methodologies implementing least-cost planning adequately take into account the impact of such measures on electric utilities' costs, operations, and rate of return on investment.

(4) an analysis by the Federal Trade Commission of the competitive impact of implementation of energy conservation, energy efficiency and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation or servicing of similar energy conservation, energy efficiency or other demand side management measures and whether any unfair, deceptive or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

(d) DEFINITION.—For purposes of subsection (b), the term "least-cost planning" means any standard, regulation, practice, or policy by which a State regulatory authority considers, or requires a State regulated electric utility to consider or implement, a plan for action (including, but not limited to, the construction of or purchase of electric energy from new generation facilities and investment in or expenditures for conservation, energy efficiency resources, or other demand-side management measures) to be taken by a State regulated electric utility for purposes of providing adequate and reliable service to its electric customers with the incurrence of lowest costs by such utility and its customers.

SEC. 6302. CONSERVATION GRANTS TO STATE REGULATORY AUTHORITIES.—(a) CONSERVATION GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $500,000 per authority, for purposes of encouraging the consideration of conservation, energy efficiency resources and other demand side management measures as a mechanism for modifying future electricity demand. Such grants may be utilized by a State regulatory authority to provide financial assistance to subgrantees of the Department of Energy's Weatherization Assistance Program to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine least-cost planning.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section. Such actions—

(1) shall include procedures to facilitate the participation of subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authority to examine least-cost planning, and

(2) may include provision for utility coverage of the costs of such subgrantees participation in such proceedings.

(c) SECRETARIAL ACTION.—In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority—

(1) to consider implementation of the ratemaking standard established in section 111(d)(7) of the Public Utility Regulatory Policies Act of 1978; and

(2) to achieve the purposes of this section.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) RULES.—The Secretary may prescribe such rules as may be necessary or appropriate for carrying out the provisions of this section.

(f) DEFINITIONS.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as defined in section 3 of the Public Utility Regulatory Policies Act of 1978.

(g) AUTHORIZATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6303. INTEGRATED RESOURCE PLANNING BY CUSTOMERS OF POWER MARKETING ADMINISTRATIONS.—(a) IN GENERAL.—Within six months after the date of enactment of this Act, the Southwestern Power Administration and the Southeastern Power Administration (hereinafter PMAs) shall each initiate a proceeding for purposes of considering the adoption of a requirement that each long-term firm power service contract entered into or amended subsequent to one year from the date of enactment of this Act between a nonregulated electric utility and such PMA contain an article requiring such utility to develop and implement to the extent practicable an integrated resource planning program. For purposes of this section—

(1) A "long-term firm power service contract" shall mean any contract for the sale by a PMA of firm capacity, with or without energy, which is to be delivered over a period of more than one year;

(2) The term "non-regulated electric utility" shall have the same meaning as provided in section 3(9) of the Public Utility Regulatory Policies Act of 1978. In the case of a contract between a PMA and a joint action agency or similar entity, the term shall include the entity's distribution or user members; and

(3)(A) An "integrated resource planning program" shall be one under which a nonregulated utility engages in a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk, and shall treat demand and supply resources on a consistent and integrated basis.

(B) For purposes of this paragraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(b) CONSIDERATIONS.—As part of a proceeding under subsection (a), each PMA shall consider a requirement that each contract article referred to in subsection (a) shall—

(1) require the nonregulated electric utility to establish an integrated resource planning program with specific goals;

(2) contain time schedules for meeting program goals and delineate actions to be taken in the event such goals are not met. Such actions may provide (A) for suspension of capacity and energy deliveries that would otherwise be supplied to the nonregulated electric utility under such contract, (B) for liquidated damages, and (C) for termination of such contract if compliance is not achieved within the period stated in such contract; and

(3) provide for review and modification of such program by the nonregulated utility every three years.

(c) PROCEDURES.—A proceeding under subsection (a) shall be conducted in accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Nothing in this section shall require a PMA to adopt either in whole or in part the requirements for contract articles described in subsections (a) and (b). To the extent that a PMA decides to adopt in whole or in part such requirements in a proceeding under subsection (a), it shall promulgate regulations implementing such requirements as part of the same proceeding.

(d) DETERMINATIONS.—If the Secretary determines that a PMA has conducted or is in the process of conducting, as of the date of enactment of this section, a proceeding that meets the requirements of this section, such PMA shall not be required to initiate a new proceeding, and the requirements of this section shall be deemed satisfied with respect to such PMA.

(e) EXCEPTION.—Nothing in this section shall authorize a PMA to require an article as described in subsection (b) of this section in a utility's long-term firm power services contract if any Federal agency requires such utility to prepare an integrated resource planning program.

SEC. 6304. TENNESSEE VALLEY AUTHORITY INTEGRATED RESOURCE PLANNING AND IMPLEMENTATION.—(a) IN GENERAL.—In the exercise of its functions the Tennessee Valley Authority shall employ an integrated resource planning program.

(b) DEFINITIONS.—For the purposes of this section the term: (1) "integrated resource planning program" shall be a program under which the Tennessee Valley Authority engages in a planning and selection process for new energy resources that evaluates the full range of existing and incremental resources, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis; and (2) "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) ASSISTANCE TO DISTRIBUTORS.—The Tennessee Valley Authority shall implement the provisions of this section in cooperation with its distributors and shall provide appropriate assistance to them. Such assistance may include publications, workshops, conferences, one-on-one assistance, equipment loans, technology-assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy-efficiency and renewable energy options and programs to customers.

(d) PUBLIC COMMENT.—Prior to the selection and addition of major new energy resources on the TVA system, TVA shall provide the public an opportunity for review and comment in the selection process.

Subtitle E—State, Local Insular, and Tribal Energy Assistance

SEC. 6501. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—(1) The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Public Law 93-577), may grant financial assistance to Insular area governments or private sector persons working in cooperation with Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular areas on imported fuels and promote development in the Insular areas.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy institutions.

(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to development or the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) DEFINITIONS.—For the purpose of this section, the term—

(1) "Insular area government" means American Samoa government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands; and

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (Public Law 96-597, as amended).

SEC. 6502. STATE BUILDINGS ENERGY INCENTIVE FUND.—Title III, part D, of the Energy Policy and Conservation Act (Public Law 94-163) is amended as follows:

(a) Designate the existing text of subsection 365(f) as paragraph (1) and insert the following new paragraph (2):

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated such sums as may be necessary, to remain available until expended, to carry out the purposes of section 363(f)."; and

(b) at the end of section 363 add the following new subsection (f):

"(f) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within the State, then beginning in fiscal year 1993, the Secretary may allocate funds appropriated pursuant to section 365(f)(2) to provide up to $1,000,000 to such State for deposit into a state revolving fund designed to finance energy efficiency improvements in State and local government buildings in such State. In making this determination the Secretary shall consider whether—

"(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, have adopted building codes at least as stringent as the industry voluntary building energy code as defined under title III of this Act;

"(2) such State has a program to finance energy efficiency improvement projects in State and local government facilities and buildings that includes a revolving fund to finance such projects; and

"(3) such State has raised funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions, sufficient to provide at least 75 percent of the total funds provided for deposit into such revolving fund.".

SEC. 6503. PRIVATE SECTOR INVESTMENTS IN LOW INCOME WEATHERIZATION.—Title IV of the Energy Conservation and Production Act (ECPA) (Public Law 94-385) is amended by adding the following new sections 414A and 414B:

"SEC. 414A. PRIVATE SECTOR INVESTMENTS.—(a) IN GENERAL.—The Secretary shall provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title to pay for the costs of the development and the initial implementation of partnerships, agreements or other arrangements with utilities, private sector interests or other institutions, pursuant to which financial assistance would be made available to make energy conservation improvements in low income housing. Financial assistance provided by the Secretary under this section may be used for the negotiation of partnerships, agreements and other arrangements; the presentation of arguments before State or local agencies; expert advice on the development of partnerships, agreements and other arrangements; or other activities reasonably associated with the development and initial implementation of such arrangements.

"(b) CONDITIONS.—Financial assistance provided under this section to institutions other than States shall, to the extent practicable, coincide with the timing of awards such institutions are receiving under sections 413 or 414 of this title. No less than 80 percent of the funds awarded under this section shall be provided to entities other than states. Recipients of assistance under this section shall have up to three years to carry out projects undertaken with such assistance.

"(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"SEC. 414B. TECHNICAL TRANSFER GRANTS.—(a) IN GENERAL.—The Secretary may provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title for the purpose of: evaluating technical and management measures which increase program and/or private entity performance in weatherizing low income housing; producing technical information for use by persons involved in weatherizing low income housing; exchanging information; and conducting training programs for persons involved in weatherizing low income housing. No less than 50 percent of the funds granted under this section shall be provided to entities other than states. Recipients of technical transfer grants may assign all or part of work under the grants to non-profit entities.

"(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6504. TRAINING OF BUILDING DESIGNERS AND CONTRACTORS.—Section 362 of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new paragraph at the end of subsection (d):

"(15) programs to provide training and education to building designers and contractors involved in building design or in the sale, installation and maintenance of energy systems and equipment. Such programs shall (A) enlist appropriate trade and professional organizations in the development and financing of this program; and (B) shall also include training workshops, practice manuals, and testing for each area of energy efficiency technology. Designers and contractors who have successfully completed a training course operated pursuant to this section shall be presented a certificate of completion at the end of such course.".

SEC. 6505. ENERGY EDUCATION AND TEACHER TRAINING.—Section 363 of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new subsection:

"(f) ENERGY EDUCATION GRANTS.—(1) The Secretary shall provide competitive grants to supplement state program activities conducted pursuant to section 362(d)(4) to support projects designed to increase public awareness and understanding of energy issues, or to train educators to use existing energy related information for teaching purposes. The Federal contribution toward such projects may not exceed 75 percent of their total cost.

"(2) There is authorized to be appropriated such sums as may be necessary to implement the provisions of this section.".

SEC. 6506. TRIBAL GOVERNMENT ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act (Public Law 93-577), may grant financial assistance to tribal governments, or private sector persons working in cooperation with tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects to include research and research facilities on tribal lands. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial or management issues identified by the applicants for such grants.

(b) CONDITIONS.—Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

(c) CONSIDERATIONS.—In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to development or the quality of the environment of the affected tribal lands; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

(d) COST-SHARE.—With the exception of grants awarded for the purpose of feasibility studies and research programs, the Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

(e) DEFINITION.—For the purposes of this section—

(1) The term "tribal government" shall include Native Alaskan governments.

(2) The term "private sector person" shall include a consortium of Universities coordinated through Northern Arizona University.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the development and implementation phase of the program established by this section.

SEC. 6507. STATE ENERGY CONSERVATION PLAN REQUIREMENT.—Section 362 (c)(5) of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking the semicolon and the word "and" and inserting in lieu thereof the following: "and to turn such vehicle left from a one-way street onto a one-way street at a red stop light after stopping; and".

SEC. 6508. USE OF SOLAR THERMAL WATER HEATERS FOR LOW INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)(E)) is amended by inserting a new clause as follows and relettering accordingly: "solar thermal water heaters".

SEC. 6509. BUILDING RETROFIT STANDARDS.—(a) Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by renumbering paragraph (13) as paragraph (14) and inserting before the "; and" in paragraph (12) a new paragraph (13) as follows:

"(13) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of the building;".

(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding a new subsection (f) as follows:

"(f) Technical assistance pursuant to subsection (a) may include: (i) reports on experience with existing retrofit programs; and (ii) model State laws and proposed regulations relating to the development of building retrofit standards and regulations, including retrofit ordinances.".

SEC. 6510. USE OF WOOD-BURNING HEATING APPLIANCES FOR LOW INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended by inserting the following new clause and relettering accordingly:

"( ) wood-heating appliances".

SEC. 6511. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.—(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in conjunction with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes that wish to achieve self-determination in the energy area and that wish to promote the development of a vertically integrated energy industry on their reservations, in order to increase development of the substantial energy resources located on Indian reservations. Said program shall include but not be limited to the following components:

(1) The Secretary shall provide development grants to tribal governments to assist them to establish the legal and governmental infrastructure and obtain the managerial and technical capability they need to develop the energy resources on their reservations by themselves or through 51 per centum or more tribally owned and controlled joint ventures. Each grant shall be for a period of three years.

(2) The Secretary shall provide matching grants, not to exceed 50 per centum of the project costs, for projects located on Indian reservations that promote the vertical integration of the energy resources on Indian reservations, including but not limited to—oil refineries, the generation of electricity, natural gas distribution, and innovative uses of coal.

(3) The Secretary shall provide technical assistance and such other assistance as is appropriate to tribes on energy resource development and on the vertical integration of reservations energy resources.

(b) AUTHORIZATIONS.—There is hereby authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of subsection (a)(1) and $10,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a)(2).

Subtitle F—LIHEAP Options Pilot Program

SEC. 6601. SHORT TITLE.—This subtitle may be cited as the "Energy Options Study Act of 1992".

SEC. 6602. STUDY.—(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall conduct a study of the potential use of LIHEAP funds to purchase futures or options contracts for fuel through registered commodities brokers.

(1) The study shall examine any potential advantages of the use of such funds including—

(A) protection for Federal, State and local government entities which provide low-income fuel assistance from unanticipated surges in the price of fuel for residential use;

(B) more efficient use of such funds; and

(C) more fuel assistance for low-income persons without an increase in Federal expenditures.

(2) The study shall examine any potential disadvantages of the use of such funds including reduction in funds available for fuel assistance, and waste, fraud, or abuse.

(3) The study shall further examine—

(A) the extent to which new authority would be needed for the use of such funds;

(B) the extent to which the use of such funds would conflict with existing law governing the Federal budget;

(C) the extent to which the use of futures and options on futures could provide effective protection for consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk for residential use) from unanticipated surges in the price of fuel; and

(D) how government entities and consumer cooperatives or other organizations referred to in subparagraph (C) of this section could be educated in the prudent use of futures and options on futures to maximize their purchasing effectiveness and protect themselves against unanticipated surges in the price of fuel for residential use.

(b) REPORT.—The Secretary, no later than 12 months after the date of enactment of this Act, shall transmit the study required in this section to the Committee on Labor and Human Resources of the United States Senate, the Committee on Energy and Natural Resources of the United States Senate, and the United States House of Representatives.

SEC. 6603. AUTHORITY FOR PILOT PROGRAMS.—(a) PILOT PROGRAM.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program in cooperation with one or more governmental or tribal recipients of funds in which the recipient uses futures and options on futures in its fuel assistance program with the advice of the Secretary.

(b) EDUCATION.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program to educate governmental entities and consumer cooperatives or other organizations referred to in subparagraph (a)(3)(C) of section 6602 of this subtitle on the prudent and effective use of futures and options on futures to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(c) AUTHORIZATION.—There is authorized to be appropriated for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this section.

SEC. 6604. DEFINITIONS.—For purposes of this subtitle the terms—(1) "Secretary" means the Secretary of Health and Human Services.

(2) "LIHEAP funds" means funds appropriated under the Low-Income Energy Assistance Act of 1981 (Public Law 97-35; 42 U.S.C. 8621 et. seq.).

SEC. 6605. SUSTAINABLE ENERGY TRANSITION PILOT PROGRAM.—Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) is amended by adding at the end the following new section:

"SEC. 367. SUSTAINABLE ENERGY TRANSITION PILOT PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall provide financial and technical assistance to not more than four States, or regional consortia of States, to prepare State or regional sustainable energy transition strategies in accordance with subsection (b). If practicable, the Secretary shall require the submission of completed strategies not later than 2 years after the date of the award of any financial assistance under this section.

"(2) SELECTION.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations setting forth procedures and criteria for the selection of States and regional consortia that will participate in the sustainable energy transition pilot program established by this section.

"(B) CRITERIA.—In carrying out subparagraph (A), the Secretary—

"(i) may require such applications as the Secretary considers appropriate;

"(ii) shall consider the ability of each applicant to prepare a sustainable energy transition strategy; and

"(iii) shall attempt to obtain regional diversity among the selected applicants.

"(3) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall transmit a report detailing the Secretary's plan for conducting the pilot program to the Committee on Energy and Natural Resources of the Senate and the House of Representatives.

"(4) SUPPORT BY THE SECRETARY.—The Secretary may provide financial and technical support for the formation of regional consortia and consultative bodies, as necessary to carry out the purposes of this section.

"(b) CONTENT GUIDELINES.—

"(1) IN GENERAL.—Each sustainable energy transition strategy shall consist of a strategy under which the State or regional consortium shall—

"(A) propose policies to increase—

"(i) energy efficiency in the residential, commercial, industrial, and transportation sectors; and

"(ii) the proportion of energy supplied to these sectors from renewable sources; and

"(B) establish long-term (20-year) energy efficiency and renewable supply goals that seek to achieve the maximum technologically feasible energy efficiency and renewable energy production levels that are economically justified.

"(2) EVALUATION AND PROGRAM.—

"(A) EVALUATION.—Each sustainable energy transition strategy shall be based on a comprehensive evaluation that shall include—

"(i) an assessment of the baseline energy use within the State or region, categorized by energy consuming sector for the most recent year feasible;

"(ii) an assessment of the technical potential for improving energy efficiency and increasing the proportion of energy from renewable energy sources;

"(iii) an assessment of alternative plans for achieving the maximum potential for energy efficiency and renewable energy sources,

"(iv) an assessment of the existing barriers and incentives to improving energy efficiency and expanding renewable energy supply, including utility rates and other financial structures; and

"(v) an assessment of the social, economic, environmental, employment, and other impacts of the alternative plans examined.

"(B) PROGRAM.—Each sustainable energy transition strategy shall include the following:

"(i) A proposed program for achieving, or exceeding, the energy goals established, under paragraph (1)(B) and, over the 5-year period beginning 2 years after the date of the enactment of this section. In developing the program, the State or regional consortium shall specifically consider—

"(I) investments in locally available renewable energy supplies, energy efficiency and conservation, utility and transportation infrastructure, district heating and cooling, renewable energy and energy efficiency infrastructure, waste minimization, and recycling;

"(II) education and technical demonstration projects, public utility regulatory policies, transportation management and planning, education and training, and other programs that affect the development and adoption of energy technologies;

"(III) employment transition programs and policies for both individuals and communities affected by the transition to new energy sources, the depletion of fossil fuel resources, or other related economic changes; and

"(IV) other programs that the State or regional consortium considers appropriate to achieve the goals and purposes of this section.

"(ii) A proposal for evaluating the State's or regional consortium's progress towards achieving the goals of its sustainable energy transition strategy, including the quantitative measures of to be employed to evaluate the success and failure of specific programs and projects undertaken as part of the strategy.

"(3) CONSIDERATION OF COSTS.—In developing the sustainable energy transition strategy, the State or regional consortium shall evaluate, for the various technological options considered, their life cycle costs and the costs of compliance with environmental, public health, and other relevant laws and regulations considered likely to be imposed over the 20 years study period.

"(c) DEVELOPMENT AND SUBMISSION.—

"(1) IN GENERAL.—Except as otherwise provided in a regional consortium agreement, each sustainable energy transition strategy shall be developed and submitted by the State agency, or division of the agency, responsible for developing State energy conservation plans pursuant to section 364.

"(2) CITIZENS ENERGY COUNCILS.—Each State or regional consortium that prepares a sustainable energy transition strategy shall establish an advisory council to provide opportunities during the preparation of its strategy for participation by representatives of a wide range of social, economic, and community interests affected by the State's or regional consortium's sustainable energy transition strategy. Council members may receive financial assistance from the funds provided under this section only for travel and reasonable per diem expenses incurred in an official capacity.

"(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6606. GRANTS TO STATES TO PROMOTE UTILITY INDUSTRIAL EFFICIENCY PROGRAMS.—(a) DEFINITIONS.—For the purpose of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "industrial audit" means—

(A) identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental waste; and

(iii) technological improvements designed to increase competitiveness and achieve cost-effective product quality enhancement;

(B) identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and building envelope systems operating outside of the production process; and

(C) the identification of opportunities for using renewable energy technology both in the production process and in the systems described in subparagraph (B);

(3) the term "Secretary" means the Secretary of Energy; and

(4) the term "Utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy.

(b) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may make grants to States which pursuant to State law, (A) require utilities to provide financial and technical assistance to covered industries; and (B) offer incentives to utilities for providing such assistance.

(2) ELIGIBILITY CRITERIA.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants awarded under subsection (a). Such criteria shall require a State applying for a grant to demonstrate that such State, by State legislation or regulation—

(A) requires utilities to provide to covered industries served—

(i) industrial energy audits; and

(ii) financial incentives for implementing energy efficiency improvements; and

(B) allows utilities providing such assistance to—

(i) recover the costs of providing industrial audits; and

(ii) receive a reasonable rate of return on financial incentives provided.

(3) USE OF FUNDS.—Grants made pursuant to this section shall be used by a State to—

(A) make available to covered industries, through appropriate institutions such as Universities, nonprofit organizations, State and local government entities, and technical centers, information on energy efficient technologies;

(B) establish programs to train individuals in industrial energy audits; and

(C) assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this section shall be allocated each fiscal year among States meeting the

criteria of subsection (b) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each such State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

(5) COORDINATION WITH ENERGY ANALYSIS AND DIAGNOSTIC CENTERS.—In carrying out the functions described in subsection (c), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Design Centers of the Department of Energy.

(c) OTHER FEDERAL ASSISTANCE.—DIRECTORY.—The Secretary shall establish a nationwide directory of organizations experienced in emerging energy efficiency and waste reduction technologies. Such directory shall be made available to interested parties.

(d) REPORTS.—

(1) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(A) identifies barriers encountered in implementing the Act;

(B) makes recommendations for overcoming such barriers; and

(C) documents the results achieved as a result of the programs established and grants awarded pursuant to this Act.

(2) OTHER REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report which reviews any difficulties encountered by industry in implementing energy efficiency improvements recommended as a result of programs established pursuant to this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

Subtitle G—Consultative Commission on Western Hemisphere Energy and Environment

SEC. 6701. FINDINGS.—The Congress finds that—

SUBTITLE F—CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT

(1) there is growing mutual economic interdependence among the countries of North America and the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for each of these countries and for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must account for existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of Canada, Mexico, Venezuela, the United States and, as appropriate, other countries in the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) Although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would severely constrain future opportunities for sustainable economic development and growth in each of these countries;

(7) the energy sectors of the economies of Canada, Mexico, Venezuela, the United States and other energy producing countries of the Western Hemisphere are interdependent;

(8) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

SEC. 6702. CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT.—(a) DEFINITIONS.—For purposes of this subtitle—

(1) "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment; and

(2) "participating governments" refers to the governments of Canda, Mexico, Venezuela, the United States of America, and, as deemed appropriate by the President, other Western Hemisphere countries.

(b) NEGOTIATIONS.—The President is authorized and directed to initiate negotiations with the participating governments for the establishment of a multinational Consultative Commission on Western Hemisphere Energy and Environment.

(c) OBJECTIVES OF NEGOTIATIONS.—In the course of the negotiations, the President is encouraged to meet the following purposes—

(1) the objectives of the Commission shall be—

(A) to evaluate from the viewpoint of North America and the Western Hemisphere as a whole, the energy and environmental situations, trends and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world;

(2) the Commission shall include representatives of—

(A) the respective energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters;

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise; and

(D) a small secretariat chosen by the participating governments for their expertise in the areas of energy and the environment; and

(3) the Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(d) REPORT.—The President shall, within one year of the enactment of this legislation, report to the Congress on the progress toward the establishment of the Commission and achievement of the purposes of this section.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

SEC. 8101. SHORT TITLE.—This title may be cited as the "Civilian Advanced Nuclear Reactor Commercialization Act of 1992.".

SEC. 8102. FINDINGS, PURPOSES, AND DEFINITIONS.—(a) FINDINGS.—Congress finds that—

(1) energy generated from nuclear fission now supplants the burning of fossil fuels in an economical fashion and contributes substantially to safe and reliable supplies of electricity while reducing the rate and scope of environmental pollution and reducing dependence on foreign energy sources; and

(2) it is in the national interest for the Federal Government to provide leadership in encouraging advanced nuclear reactor technologies so that such technologies may be adopted as needed.

(b) PURPOSES.—The purposes of this title are to—

(1) require the Secretary to carry out the Department's civilian nuclear programs in a way that will lead toward commercialization of advanced nuclear reactor technologies; and

(2) authorize such activities to ensure the timely availability of advanced nuclear reactor technologies, including technologies that utilize standardized designs or exhibit passive safety features.

(c) DEFINITIONS.—For purposes of this title, the term—

(1) "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized, passively-safe reactors, for the generation of commercial electric power from nuclear fission;

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission.

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "Department" means the Department of Energy;

(4) "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(5) "certification" means approval by the Commission of a standardized design for a nuclear power plant.

SEC. 8103. PROGRAM, GOALS, AND PLAN.—(a) PROGRAM.—The Secretary shall carry out a comprehensive program in accordance with the provisions of this title to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost-effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, including consideration of the impact on the rate and scope of global climate change;

(2) utilize modular construction techniques;

(3) facilitate design, licensing, construction, and operation of a nuclear power plant using a standardized design;

(4) exhibit enhanced safety features; and

(5) incorporate features that advance the objectives of the Nuclear Nonproliferation

Act by discouraging diversion of fissile material for use in nuclear weapons.

(b) GOALS.—(1) The program authorized under subsection (a) shall be designed to accomplish the following goals—

(A) completion of necessary research and development and first-of-a-kind engineering on advanced light water reactor technologies that will support commercialization of these technologies by 1995;

(B) development and submission for certification by the Commission by 1995 of completed standardized designs for advanced light water reactor technologies that the Secretary determines exhibit some or all of the characteristics set forth in subsection (a);

(C) completion of necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology that will support selection in 1996 of one or both of these two technologies, as appropriate, for prototype demonstration pursuant to section 8105; and

(D) commercialization of advanced reactor technologies capable of providing commercial electric power to a utility grid as soon as practicable but no later than the year 2010.

(2) The program authorized under subsection (a) shall be carried out to the maximum extent possible through cost-shared programs with the private sector.

(c) PROGRAM PLAN.—(1) Within ninety days after the date of enactment of this title, the Secretary shall prepare and submit to Congress a detailed five-year program plan to carry out the purposes of this title. The plan shall include schedule milestones, Federal funding requirements, and requirements for private sector cost-sharing necessary for meeting the goals of subsection (b).

(2) In preparing the plan, the Secretary shall take into consideration—

(A) the need for, and the potential for adoption in the future by electric utilities or other entities, of advanced nuclear reactor technologies that are available or under development for the generation of energy from nuclear fission;

(B) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of these advanced nuclear reactor technologies when they may be needed;

(C) how the Federal Government can work most effectively in cooperation with the private sector toward accomplishment of the goals laid out in subsection (b); and

(D) potential alternative funding sources for carrying out the purposes of this title.

(3) The plan under this section shall be updated annually, if necessary, to reflect any schedule slippage, funding shortfalls, or other circumstances that might impact the ability of the Secretary to fulfill the goals outlined in subsection (b).

(4) In preparing the plan required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8104. COMMERCIALIZATION OF ADVANCED LIGHT WATER REACTOR TECHNOLOGY.—(a) CERTIFICATION OF DESIGNS.—In order to achieve the goal of certification of completed standardized designs by the Commission by 1995 as set forth in section 8103(b), the Secretary—

(1) shall conduct a program of technical and financial assistance to encourage the development and submission for certification of advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of calendar year 1995;

(2) may enter into cooperative agreements with one or more private parties who agree to seek certification by the Commission of advanced light water reactor designs that further the purposes of section 8103(a); and

(3) may support through cost-shared agreements the engineering and research and development necessary to achieve certification of advanced light water reactor designs that further the purposes of section 8103(a).

(b) SECRETARY'S REPORT TO CONGRESS.—The Secretary shall transmit to Congress with its annual budget request a report describing progress in implementing this section and plans for the current and subsequent fiscal years.

(c) REPORT TO CONGRESS FROM THE COMMISSION.—The Commission shall transmit to Congress with its annual budget request a report describing progress in the certification of standardized advanced light water reactor designs, plans for the current and subsequent fiscal years, and resource requirements necessary to comply with the schedules established by the Commission.

SEC. 8105. PROTOTYPE DEMONSTRATION OF ADVANCED NUCLEAR REACTOR TECHNOLOGY.—(a) SOLICITATION OF PROPOSALS.—(1) Within three years after the date of enactment of this title, the Secretary shall solicit proposals to carry out the preliminary engineering design of one or more prototype advanced nuclear reactor technologies (other than an advanced light water reactor) necessary to support a decision on whether to recommend construction of a full-scale prototype demonstration utilizing such a technology to achieve the purposes of this title.

(2) The engineering design proposals under paragraph (1) shall be for prototype advanced nuclear reactors that—

(A) to the maximum extent practicable, exhibit the characteristics set forth in section 8103(a); and

(B) are of sufficient size to address the requirements for certification by the Commission of a completed standardized design for an advanced nuclear reactor technology.

(b) RECOMMENDATION.—(1) No later than January 31, 1996, the Secretary shall make a recommendation to Congress on whether to build one or more full-scale prototype demonstration reactors utilizing advanced nuclear technology developed by the Department under the program authorized by this title.

(2) Any recommendation to build a prototype demonstration reactor shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on schedule milestones for licensing, construction, and operation; and

(C) estimate the funding requirements and specify the extent and nature of anticipated non-Federal support which shall be not less than 50 per centum of the costs of such demonstration.

(3) As part of the recommendation required under this section, the Secretary shall also submit to Congress any recommended changes in Federal statute or regulations that would improve the prospects of successful and timely licensing of any prototype demonstration reactor.

(c) SELECTION OF TECHNOLOGY.—Any technology selected by the Secretary for recommendation for prototype demonstration shall to the maximum extent possible exhibit the characteristics set forth in section 8103(a).

(d) OPPORTUNITY FOR PUBLIC COMMENT.—In developing the recommendation required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8106. AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this title.

TITLE IX—NUCLEAR REACTOR LICENSING

SEC. 9101. SHORT TITLE.—This title may be cited as the "Nuclear Reactor Licensing Act of 1992".

SEC. 9102. COMBINED LICENSES.—Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by—

(1) adding "and Operating Licenses" after "Permits" in the catchline;

(2) adding a subsection designator "a." before "All"; and

(3) adding the following new subsection:

"b. After holding a public hearing under section 189 a. (1)(A) of this Act, the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189 a. (1)(B).".

SEC. 9103. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.—Section 189 a. (1) of the Atomic Energy Act of 1954 is amended by:

(1) adding a subparagraph designator "(A)" before "In" and

(2) adding the following new subparagraph:

"(B)(i) Not less than one hundred and eighty days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185 b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within sixty days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under this subparagraph shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under this subparagraph, the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under this subparagraph, and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within one hundred and eighty days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 9104. RULEMAKING.—The Nuclear Regulatory Commission shall propose regulations implementing this title within one year of the date of enactment of this Act.

SEC. 9105. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.—Section 189 a. (2) of the Atomic Energy Act of 1954 is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 9106. JUDICIAL REVIEW.—Section 189 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 9107. CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by amending the item relating to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

SEC. 9108. EFFECT ON PENDING PROCEEDINGS.—The provisions of this title apply to all proceedings involving a combined license for which an application was filed after May 8, 1991.

TITLE X—URANIUM

Subtitle A—Uranium Enrichment

SEC. 10101. SHORT TITLE—This subtitle may be cited as the "Uranium Enrichment Act of 1992."

SEC. 10102. DELETION OF SECTION 161 v.—Section 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 10103. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

(a) inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

(b) adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

"a. to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"b. to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"c. to market and sell enriched uranium and uranium enrichment and related services to—

"(1) the Department for governmental purposes; and

"(2) qualified domestic and foreign persons;

"d. to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"e. to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long-term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"f. to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"g. to maintain a reliable and economical domestic source of enrichment services;

"h. to conduct its activities in a manner consistent with the health and safety of the public;

"i. to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"j. to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

“(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

“(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

“(3) as otherwise authorized by law;

“d. may—

“(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

“(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

“e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

“f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

“SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

“a. shall have perpetual succession unless dissolved by Act of Congress;

“b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

“c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

“d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

“e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

“f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and Administrative Services Act of 1949, as amended;

“(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

“g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

“h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

“i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to whollyowned Government corporations;

“j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

“k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

“l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

“m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

“n. may define appropriate information as ‘Government Commercial Information’ and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

“o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

“p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

“q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

“r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the Judgment Appropriation (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

“SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

“a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

“b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

“c. Except as provided in section 1404, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

“SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

“CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

“SEC. 1501. ADMINISTRATOR.—

“a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided*, however, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

“b. The Administrator—

“(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

“(2) shall serve a term of six years but may be reappointed;

“(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

“(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503 d., except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506 c. and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"a. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility.

"b. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"c. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"d. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504 b. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504 b. during their term of employment, regardless of any recommendation received or not received under this title.

"e. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"f. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"g. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"h. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"i. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"j. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"a. Officers and employees of the Corporation shall be officers and employees of the United States.

"b. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: *Provided*, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503 d. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"c. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (5 U.S.C. chapter 83, subchapter III) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (5 U.S.C. chapter 84). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"d. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"e. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"f. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"g. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as "AVLIS", technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided*, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection a., amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505 a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152 or 153 b.(1) of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility under section 183 of title 35, United States Code with respect to secrecy orders imposed under section 181 of such title.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b. (3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection a. that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection b., the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection a. As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed beginning in fiscal year 1997 to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. Beginning in fiscal year 1997, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1997.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest. Nothing in this Act shall be considered to convey to any person other than the Corporation immunity from civil or criminal liability, or to create a defense to an action, under the antitrust laws.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1–7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12–27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8–9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT.—

"a. Three years after enactment of this title, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection a., the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT.—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402 j., such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection b.(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 10104. TREATMENT OF THE CORPORATION AS BEING PRIVATELY OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651–678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this subtitle, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 10105. MISCELLANEOUS PROVISIONS.—(a) AMENDMENT OF GOVERNMENT CORPORATIONS CONTROL ACT.—Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) OWNERSHIP OF ENRICHMENT PLANTS.—In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) TERMINATION OF AUTHORITY OF THE DEPARTMENT OF ENERGY.—In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) Exemption From Defense Nuclear Facilities Safety Board Oversight.—The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Exemption From Gramm-Rudman-Hollings Act.—Subsection 905(g)(1) of Title 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) Repeal of Prohibition on Consideration of Privatization.—Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

(g) AVLIS Licensing.—The last sentence of section 11 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: "Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

Sec. 10106. Limitation on Expenditures.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

Sec. 10107. Severability.—If any provision of this subtitle, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this title, or the application of the same shall not be thereby affected.

Sec. 10108. Effective Date.—Except as otherwise provided, all provisions of this subtitle shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this title; *Provided, however*, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 a. of the Atomic Energy Act of 1954, as amended by this title.

Sec. 10109. Payment of Cost of Transfer.—(a) Payment Subject to Appropriation.—Notwithstanding section 1401 j. of the Atomic Energy Act of 1954 as amended by section 10103 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) Authorization.—There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

Subtitle B—Uranium

Part 1—Short Title, Findings and Purpose, Definitions

Sec. 10211. Short Title.—This subtitle may be cited as the "Uranium Security and Tailings Reclamation Act of 1992."

Sec. 10212. Findings and Purpose.—(a) Findings.—The Congress finds for purposes of this subtitle that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing Nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942)—

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) Purpose.—It is the purpose of parts 2 and 3 of this subtitle to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

Sec. 10213. Definitions.—For purposes of this subtitle—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of Title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Part 2—Uranium Revitalization

Sec. 10221. Voluntary Overfeed Program.—(a) Establishment.—The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) FINANCIAL INCENTIVE.—The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) ADDITIONAL PARTICIPATION.—In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) USE OF DOMESTIC URANIUM.—An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this title or domestic uranium actually produced by a domestic uranium producer before the enactment of this title and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) IMPLEMENTATION.—Within ninety days of the date of enactment of this title, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 10222. NATIONAL STRATEGIC URANIUM RESERVE.—There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this title, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this title shall be restricted to military purposes.

SEC. 10223. RESPONSIBILITY FOR THE INDUSTRY.—(a) CONTINUING SECRETARIAL RESPONSIBILITY.—The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: *Provided, however*, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 10224. GOVERNMENT URANIUM PURCHASES.—(a) USE OF DOMESTIC URANIUM.—After the date of enactment of this title, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this title.

(b) TVA EXEMPTION.—Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 10225. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.—The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

PART 3—REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

SEC. 10231. REMEDIAL ACTION PROGRAM.—(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 10232 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B) and (C) shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—*Provided however*, That (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 10233, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 10232. REGULATIONS.—The Secretary shall issue regulations governing reimbursement under section 10231. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 10231.

SEC. 10233. AUTHORIZATION.—There is authorized to be appropriated for purposes of this part not more than $300,000,000 increased annually as provided in section 10231 based upon an inflation index as determined by the Secretary.

PART 4—IMPORT OF URANIUM, ENRICHED URANIUM, AND URANIUM ENRICHMENT SERVICES

SEC. 10241. FINDINGS AND PURPOSES.—(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this part are to—

(1) determine whether any uranium or enriched uranium is being exported by non-market economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 10242. DEFINITIONS.—For purposes of this part, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have

the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 10243. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.—(a) REPORT.—(1) Within 120 days of his receipt from the United States International Trade Commission of its report under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) assessing the impact on the domestic uranium enrichment industry of imports into the United States of enriched and non-enriched uranium and uranium enrichment services from the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, the President, or his designee, shall transmit to the Congress a report that includes—

(A) the views of the executive branch on the Commission's report; and

(B) what action, if any, the President plans to take in response to the Commission's report concerning the impact of transactions in enriched and non-enriched uranium and the provision of uranium enrichment services by the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, on the domestic uranium enrichment industry, including but not limited to the status of any negotiations with such countries in regard to such transactions and provision of services.

(2) Should the President determine that no action by the executive branch is necessary in response to the Commission's report, his report to the Congress shall include a detailed statement of the reasons for such determination, including an explanation of why the absence of action by the executive branch will not adversely affect the economic well-being of the domestic uranium enrichment industry.

(b) COOPERATION.—The Secretary, the Administrator, and the Secretary of Commerce shall cooperate fully with the United States International Trade Commission in its investigation under section 332(g).

SEC. 10244. URANIUM PURCHASE REPORTS.—(a) ANNUAL REPORTS.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) COUNTRY OF ORIGIN.—For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined, or

(2) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 10245. REGULATORY TREATMENT OF URANIUM PURCHASES.—(a) ENCOURAGEMENT.—The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this part, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) REPORT.—Within one year of the date of enactment of this part, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this part.

(c) DEFINITION OF NON-AFFILIATE.—As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 10246. UNITED STATES PURCHASE OF ENRICHED URANIUM.—(a) AUTHORIZATION.—Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce productions costs and maintain competitive prices.

(b) USE OF URANIUM.—If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

TITLE XI—NATURAL GAS

SEC. 11101. OPTIONAL CERTIFICATE PROCEDURES.—(a) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—Section 7 of the Natural Gas Act, (15 U.S.C. 717f) is amended—

(1) by adding a new subparagraph (c)(1)(G) as follows—

"(G) Upon application the Commission shall issue a certificate of public convenience and necessity for the construction, extension and operation of facilities for the transportation or sale of natural gas without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities: *Provided*, That, subject to the provisions of subsection (k) of this section, the requirements of subsections (i) and (j) of this section are met. Such a certificate shall be non-exclusive and non-prejudicial to any other authorization under the Natural Gas Act or the Natural Gas Policy Act of 1978.";

(2) by adding the following three subsections after subsection (h)—

"(i) For the purposes of subparagraph (c)(1)(G) of this section—

"(1) The Commission shall issue a certificate of public convenience and necessity only if it finds that the construction, extension and operation of facilities shall not impair any certificate holder's ability to render adequate service to its customers, and only if, in addition to any other terms the Commission may attach, the following terms and conditions are attached to such certificate to satisfy the following requirements—

"(A) No costs or expenses incurred in relation to the construction, extension and operation of facilities, or the sale of such facilities, covered by a certificate issued pursuant to subparagraph (c)(1)(G) of this section may be included in the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(B) The holder of a certificate issued pursuant to subparagraph (c)(1)(G) of this section shall not be required to credit any revenues received in relation to providing service under such certificate, or the sale of facilities authorized under such certificate, when determining the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(C) Notwithstanding section 15(a) of this Act, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall not participate in any proceedings (other than those it may subsequently initiate) for the construction, extension or operation of facilities that would serve the same market served by the facilities authorized by the holder's certificate issued under subparagraph (c)(1)(G) of this section.

"(D) Under such rules and regulations as the Commission may prescribe, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall file with the Commission within such time and in such form as the Commission may prescribe, and shall keep open in convenient form and place for public inspection, copies of all agreements required to be filed with the Commission pursuant to subsection (j) of this section.

"(E) The holder of a certificate issued under subparagraph (c)(1)(G) of this section shall maintain a separate system of books, accounts and records for the facilities and services authorized under such certificate.

"(2) The Commission shall assure that all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section are negotiated at arms length.

"(3) The Commission shall provide reasonable public notice of the application for the issuance of a certificate of public convenience and necessity pursuant to subparagraph (c)(1)(G) of this section.

"(j) For purposes of subparagraph (c)(1)(G) of this section—

"(1) Not later than sixty days prior to the commencement of transportation or sales service pursuant to a certificate issued under subparagraph (c)(1)(G) of this section, or at such time as the Commission may find necessary and reasonable, the certificate holder shall file with the Commission copies of all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section. Subsequent to the commencement of transportation or sales service utilizing facilities operated under a certificate issued under subparagraph (c)(1)(G) of this section, the certificate holder shall file with the Commission not later than ten days prior to the initiation of any new service utilizing facilities authorized under such certificate a copy of any new or amended agreement entered into by the certificate holder and any person, including any affiliate of the certificate holder, contracting for transportation or sales service utilizing facilities authorized under such certificate. The Commission shall keep and make available for public inspection all agreements required to be filed with the Commission pursuant to this paragraph.

"(2) The rates, charges, classifications or practices for the transportation or sale of natural gas contained in the agreements filed with the Commission pursuant to paragraph (j)(1) of this section shall be presumed to be just and reasonable. If, however, the Commission, after a hearing held upon the petition of a person who has made a bona-fide offer to enter into a contract, or who has entered into a contract, for the transportation or sale of natural gas utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section, finds that the failure to provide a requested rate, charge, classification, or practice in connection with the requested transportation or sale of natural gas through facilities constructed, extended or operated under a certificate issued under subparagraph (c)(1)(G) of this section is unjust, unreasonable, unduly discriminatory or preferential, the Commission, considering all relevant factors, shall determine the rates, charges, classification or practices which are not unjust, unreasonable, unduly discriminatory or preferential to be observed and in force with respect to the transportation or sale of natural gas to be provided to the petitioner, and shall fix the same by order; *Provided*, That the Commission may not order the requested service to the extent that it finds that capacity is not available. Unless the Commission issues a final order on a petition filed pursuant to this paragraph within one hundred and twenty days after it is filed, such petition shall be deemed denied.

"(k) In any case where a certificate providing for construction or extension of facilities under subparagraph (c)(1)(G) of this section is opposed by a local distribution company on grounds that such certificate would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for a hearing on the record and shall decide by final order on rehearing issued within 90 days of the filing of such opposition whether such construction or extension of facilities pursuant to the certificate would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction or extension of facilities would result in the displacement of a sale or transportation service being provided by such local distribution company, the application for a certificate of public convenience and necessity filed pursuant to subparagraph (c)(1)(G) of this section shall, at the option of the applicant, be deemed filed for consideration pursuant to subparagraph (c)(1)(A) of this section. For purposes of this subsection, the term "local distribution company" shall have the same meaning as in section 2(17) of the Natural Gas Policy Act of 1978, and a holder of a service area determination under section 7(f) of this Act shall be considered a local distribution company."; and

(3) by adding at the end of subsection (b) the following: "This subsection does not apply to any facility or service certificated pursuant to subparagraph (c)(1)(G) of this section.".

(b) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 4 PROCEDURES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (e)—

"(f) Subsections (c), (d) and (e) of this section do not apply to the transportation or sale of natural gas through facilities authorized by a certificate of public convenience and necessity issued under section 7(c)(1)(G) of this Act.".

(c) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 5 PROCEDURES.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding the following after the period: "This subsection does not apply to any rate, charge, classification or practice by a natural-gas company in connection with the transportation or sale of natural gas through facilities authorized by a certificate issued under section 7(c)(1)(G) of this Act.".

SEC. 11102. TRANSPORTATION OF NATURAL GAS UNDER THE NGPA.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended by—

(a) striking "AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION " and inserting in lieu thereof "AUTHORIZATION OF CERTAIN SALES, TRANSPORTATION AND CONSTRUCTION";

(b) striking "Commission Approval of Transportation" and inserting in lieu thereof "Commission Approval of Transportation and Construction";

(c) striking paragraph (a)(1), and inserting in lieu thereof the following:

"(1) INTERSTATE PIPELINES.—

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

"(i) any intrastate pipeline,

"(ii) any local distribution company, or

"(iii) any other person including the interstate pipeline itself.

"(B) JUST AND REASONABLE RATES.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

"(C) NONDISCRIMINATORY TRANSPORTATION.—Any transportation authorized under subparagraph (A) shall not be unjust, unreasonable, unduly discriminatory or preferential (within the meaning of the Natural Gas Act).

"(D) CONSTRUCTION.—Upon sixty days notification to the affected State commission, an interstate pipeline may construct facilities for transportation service provided under this subsection: *Provided*, That construction under this subsection shall not occur in the event such construction would result in the displacement of a sale or transportation service being provided by a local distribution company, unless such local distribution company consents thereto. In any case where such construction is opposed by a local distribution company on grounds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for hearing on the record and shall decide by a final order on rehearing issued within ninety days of the filing of such opposition whether the construction would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the interstate pipeline may file an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act for authority to construct or extend such facilities. Activities authorized under this paragraph are not subject to State regulation. For purposes of this subparagraph, a holder of a service area determination under section 7(f) of the Natural Gas Act shall be considered a local distribution company." and by

(d) striking subparagraph (a)(2)(A), and inserting in lieu thereof the following:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

"(i) any interstate pipeline,

"(ii) any local distribution company served by an interstate pipeline, or

"(iii) any other person, including the intrastate pipeline itself, in interstate commerce (within the meaning of the Natural Gas Act).".

SEC. 11103. NEPA COMPLIANCE.—(a) MEMORANDA OF UNDERSTANDING.—The Commission and all relevant Federal agencies are directed to enter into memoranda of understanding which will establish procedures for a consolidated review to the fullest extent possible under the National Environmental Policy Act of 1969 of Federal actions affecting the authorization of natural gas facilities subject to the jurisdiction of the Commission.

(b) ENVIRONMENTAL IMPACT STATEMENTS.—Where environmental documents are prepared in connection with applications for authority to construct, extend or operate facilities under the Natural Gas Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work to prepare such environmental document. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(c) ENVIRONMENTAL ASSESSMENTS.—Where an environmental assessment is prepared in connection with applications for authority to construct, extend or operate facilities under this Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information forseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(d) ENVIRONMENTAL REVIEW.—Any environmental review undertaken by the Commission pursuant to the National Environmental Policy Act of 1969, or by a project sponsor must include those facilities subject to the Natural Gas Act and Natural Gas Policy Act of 1978, but will not include any related nonjurisdictional facilities unless the Commission's control and responsibility over those facilities is sufficient to cause the private action to become a Federal action. To determine whether sufficient control and responsibility by the Commission exists, the following factors must be considered:

(1) whether the regulated activity comprises merely a link in a corridor-type project;

(2) the extent of the nonjurisdictional facilities in the immediate vicinity of the regulated activity;

(3) the extent to which the entire project will be within the jurisdiction of the Commission; and

(4) the extent of cumulative Federal control and responsibility.

(e) As a part of a required NEPA review of proposed facilities, at the beginning, FERC shall meet with the applicant, other affected Federal, State and local agencies, affected Indian Tribes, if any, and other interested persons to identify issues to be analyzed and when serving as the lead agency, FERC may allocate assignments, and establish time frames necessary for the preparation of an Environmental Impact Statement (EIS).

(f) COMMUNICATIONS WITH THE COMMISSION.—The Federal Energy Regulatory Commission, within twelve months of the date of enactment of this Act, shall amend its rules governing ex parte communications to clarify that the prohibitions contained in such rules do not apply to communications between the Commission's environmental advisory staff and other Federal and State agencies that are cooperating agencies for purposes of compliance with title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331-35): *Provided*, That an accurate public record of all such communications shall be kept and made available, and any party to the proceeding with respect to which such communication was made may respond in writing to such communication.

SEC. 11104. RATES AND CHARGES.—(a) NOTICE OF CHANGES.—The first and third sentences of section 4(d) of the Natural Gas Act (17 U.S.C. 717c(d)) are amended by striking "thirty days' notice" and inserting in lieu thereof "sixty days' notice".

(b) JOINT RATES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following subsection after subsection (f), added by this title—

"(g) Under such rules and regulations as the Commission may prescribe to preclude anticompetitive conduct, natural-gas companies may jointly file with the Commission rates for the sequential transportation of natural gas through their facilities.".

(c) REPORTS TO CONGRESS.—

(1) REPORTS BY THE FERC.—Within six months of the date of enactment of this Act, the Federal Energy Regulatory Commission shall report to the Senate Committee on Energy and Natural Resources and the House of Representatives on the following—

(A) NATURAL GAS TRANSPORTATION.—The goals, objectives and results of the Commission's program for open access transportation of natural gas, the schedule for the program's complete implementation, and the Commission's criteria for—

(i) rate design reform;

(ii) comparability of service;

(iii) authorizing pipeline abandonment and defining pipeline service obligation; and

(iv) treatment of gas purchase contract buyout and buydown costs.

(B) PIPELINE MERCHANT FUNCTION.—The Commission's regulation under the Natural Gas Act (15 U.S.C. 717-17v) of interstate pipeline sale for resale activities (the merchant function) including—

(i) the implementation of gas inventory charges and the as-billed recovery of producer demand charges; and

(ii) the criteria for finding that market-based rates for interstate pipeline sales for resale can be deemed to be just and reasonable in circumstances where such sales are made in workably competitive markets, and given such a finding, the criteria for finding that profits and losses occasioned by such sales for resale should not be taken into account in setting the seller's rates for other services.

(C) NATURAL GAS RATEMAKING.—The Commission's criteria for establishing just and reasonable rates under section 4 of the Natural Gas Act—

(i) where the Commission finds that workable competition exists and comparable third-party transportation exist, including criteria for the establishment of market-based rates;

(ii) on a basis other than historical cost, including the criteria for incentive rates; and

(iii) to ensure that all throughput, under both long-term and short-term arrangements, is taken into account in the Commission's determination of used and useful plant for purposes of possible inclusion in rate base.

SEC. 11105. UTILIZATION OF RULEMAKING PROCEDURES.—The first sentence of section 403(c) of the Department of Energy Organization Act (42 U.S.C. 7173(c)) is amended to read as follows: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or to the establishment of rates and charges, the issuance of a certificate of public convenience and necessity, or the abandonment of facilities and services under the Natural Gas Act may be conducted by rulemaking procedures.".

SEC. 11106. REVIEW OF COMMISSION ORDERS.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) REHEARING.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 19(b) of the Natural Gas Act (15 U.S.C. 717r(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(b) NATURAL GAS POLICY ACT AMENDMENTS.—

(1) REHEARING.—Section 506(a)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(a)(2)) is amended by striking "Unless the Commission acts upon such application for rehearing within thirty days after it is filed, such application shall be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 506(a)(4) of the Natural Gas Policy Act (15 U.S.C. 3416(a)(4)) is amended by striking the first three sentences and inserting the following in lieu thereof: "Any person who is a party to a proceeding under this Act aggrieved by any final order issued by the Commission in such proceeding may obtain review of such order in the United States Court of Appeals for any circuit in which the party to which such order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. Review shall be obtained by filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 30 days after the final action of the Commission on the application for rehearing required under paragraph (2). The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(c) FEDERAL POWER ACT AMENDMENTS.—

(1) REHEARING.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 313(b) of the Federal Power Act (16 U.S.C. 825l(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the Circuit Court of Appeals of the United States for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commis-

sion upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

Sec. 11107. Limited Antitrust Relief for Independent Gas Producer Cooperatives.—(a) Definitions.—For the purposes of this section, the term—

(1) "antitrust laws" shall mean the Federal laws defined in section 2(37) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(37));

(2) "independent producer" means any person whose natural gas production does not exceed 6 million cubic feet per day: *Provided*, That any person who is an interstate pipeline, intrastate pipeline or local distribution company, as defined in sections 2 (15), (16), and (17) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 (15), (16), (17)), or who is an affiliate of such person, as defined in section 2(27) of the Natural Gas Policy Act of 1978, (15 U.S.C. 3301(27)), may not be considered an independent producer for the purposes of this section; and

(3) "independent producer cooperative" shall mean any group of independent producers formed and operated for the purpose of pooling natural gas to enable the cooperative members to bargain effectively for the sale of the natural gas to any person: *Provided*, That such group is not formed or operated for the purpose of raising prices.

(b) Limited Antitrust Relief.—In any civil action under the antitrust laws, the formation or operation of an independent producer cooperative shall be legal if the procompetitive effects outweigh the anticompetitive effects.

(c) Scope.—Nothing in this section shall be construed to make it unlawful for an operator or working interest owner of a well, lease, field, plant or producing unit to market, on behalf of other working interest and royalty owners, the natural gas produced from such well, lease, field, plant or producing unit.

Sec. 11108. Vehicular Natural Gas Jurisdiction.—(a) Natural Gas Act Amendments.—

(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended to add the following after subsection (c)—

"(d) The provisions of this Act shall not apply to any person by reason of, or with respect to, any sale or transportation of Vehicular Natural Gas if such person is (i) not otherwise a natural-gas company, or (ii) primarily subject to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of Vehicular Natural Gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended to add the following after subsection (9)—

"(10) 'Vehicular Natural Gas' means natural gas that is ultimately used as a fuel in a motor vehicle.".

(b) State Laws and Regulations.—The transportation of natural gas in closed containers, or the sale of natural gas, by any person who is not otherwise a public utility to any person for use by such person as a fuel in a vehicle shall not be deemed to be a transportation or sale of natural gas within the meaning of any State law, regulation or order in effect prior to January 1, 1989. The provisions of this section shall not apply to any State law, regulation or order that protects the public safety.

(c) Non-Applicability of the Public Utility Holding Company Act of 1935.—

(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(4)) ("Act") solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Act (15 U.S.C. 79k(b)(1)), a company registered under such Act solely by reason of direct or indirect ownership of voting securities of one or more gas utility companies, or any subsidiary of such company, may acquire or retain, in any geographic area, any interest in any company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, installation, servicing, or financing of equipment related to the sale or consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Act (15 U.S.C. 79c) such company is exempt from registration.

(4) "Vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a motor vehicle.

Sec. 11109. Streamlined Certificate Procedures.—(a) Unopposed Applications.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by—

(1) redesignating subparagraph (B) as subparagraph (C); and

(2) inserting after subparagraph (A) the following new subparagraph:

"(B) In any case not described in the proviso of subparagraph (A), the Commission shall file notice in the Federal Register of the proposed certificate of public convenience and necessity as soon as the required information in connection therewith has been received by the Commission. If no party has filed a protest or objection in response to such notice within sixty days after publication of such notice, the certificate of public convenience and necessity shall be deemed to be issued: *Provided*, That notwithstanding the filing of a protest or objection a certificate shall be deemed issued if all protests and objections are withdrawn.".

(b) Expedited Procedure for Protests.—Within ninety days of the date of enactment of this Act, the Commission shall institute a rulemaking to establish a procedure for dealing expeditiously with protests which do not raise material issues of fact necessitating an evidentiary hearing.

(c) Certificate Not Required for Replacement Facilities.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) The term 'facilities' as used in this subsection shall exclude facilities which constitute the replacement or repair of existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable, provided (1) that such replacement or repair does not result in a reduction or abandonment of service by means of such facilities, (2) that such replacement or repair has substantially equivalent designed delivery capacity as the particular facilities being replaced or repaired, and (3) that the cost of such replacement or repair shall not exceed $20,000,000 per project, as adjusted pursuant to the Implicit Price Deflator for GNP. Nothing herein shall preclude a natural-gas company from repairing or replacing facilities as may be necessary to meet the requirements of the Natural Gas Pipeline Safety Act of 1968.".

(d) Conclusive Evidence of Need.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(E) In such hearing under subparagraph (C), proof of binding contractual commitments by bona fide shippers for firm natural gas service to be rendered utilizing the facilities proposed to be constructed or extended shall be conclusive evidence of the need for such proposed service and facilities, and shall be sufficient to dismiss any claim of mutual exclusivity by another applicant.".

(e) Phased Certificate Procedures.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(F) In such hearing under subparagraph (C), the Commission, where appropriate, may phase its consideration of issues raised in connection with the application and may issue an initial order containing preliminary findings with respect to such issues. Notwithstanding the preliminary findings in such initial order, the issuance of a certificate of public convenience and necessity will be subject to a final order based upon the complete record of the hearing under subparagraph (C).".

Sec. 11110. Gas Delivery Interconnection.—Section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a)) is amended by—

(a) redesignating subsection (a) as paragraph (a)(1); and

(b) inserting at the end the following new paragraph—

"(2) Upon the petition of any person, the Commission by order may direct an interstate pipeline as defined in section (2)(15) of the Natural Gas Policy Act of 1978, for the sole purpose of receiving natural gas from the petitioner, to establish, at petitioner's expense, and upon such reasonable terms as the Commission may prescribe, physical connection of the interstate pipeline's transportation facilities with the petitioner's production or gathering facilities, the petitioner's intrastate pipeline as defined in section 2(16) of the Natural Gas Policy Act of 1978 (limited to the production area as defined by the Commission), or the petitioner's pipeline certificated pursuant to subparagraph (c)(1)(G) of this section (limited to the production area as defined by the Commission): *Provided*, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel an interstate pipeline to establish physical connection when to do so would impair its ability to render adequate service to its customers.".

Sec. 11111. Deregulation of Pipeline Sales of Natural Gas.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (g), as added by this title—

"(h) After a hearing held upon the application of a natural-gas company, if the Commission finds that the natural-gas company provides transportation for natural gas owned by any other person comparable to the transportation provided by the natural-gas company for natural gas that it sells for resale and finds that the market that the natural-gas company is authorized to serve is competitive, the Commission may issue an order finding that the natural gas cost component of rates and charges made, demanded, or received by the natural-gas company for the sale for resale of natural gas are exempt from the jurisdiction of the Commission under this Act.".

SEC. 11112. FUEL USE ACT AMENDMENT.—Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 as amended (42 U.S.C. 8373) is amended by striking subsection (c) in its entirety.

TITLE XII—OUTER CONTINENTAL SHELF

Subtitle A—Coastal Communities Impact Assistance

SEC. 12101. DEFINITIONS.—For purposes of this subtitle only, the term—

(1) "coastline" has the same meaning that it has in the Submerged Lands Act (43 U.S.C. 1301 et seq.);

(2) "county" means a unit of general government constituting the local jurisdiction immediately below the level of State government. This term includes, but is not limited to, counties, parishes, villages and tribal governments which function in lieu of and are not within a county, and in Alaska, borough governments. If State law recognizes an entity of general government that functions in lieu of and is not within a county, the Secretary may recognize such other entities of general government as counties;

(3) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea or the Gulf of Mexico;

(4) "distance" means minimum great circle distance, measured in statute miles;

(5) "leased tract" means a tract, leased under the Outer Continental Shelf Lands Act for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram;

(6) "new revenues" means monies received by the United States as royalties (including payments for royalty taken in kind and sold pursuant to section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353)), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act, but only from leased tracts from which such revenues are first received by the United States after the date of enactment of this Act;

(7) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)), and of which the subsoil and seabed are subject to the jurisdiction and control of the United States; and

(8) "Secretary" means the Secretary of the Interior or the Secretary's designee.

SEC. 12102. IMPACT ASSISTANCE FORMULA AND PAYMENTS.—(a) There is established a fund in the Treasury of the United States, which shall be known as the "Coastal Communities Impact Assistance Fund" (hereinafter referred to in this section as "the fund").

(b) The Secretary of the Treasury shall invest excess monies in the fund, at the request of the Secretary, in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(c) Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), amounts in the fund, together with interest earned from investment thereof, shall be paid at the direction of the Secretary as follows:

(1) The fund shall consist of amounts deposited in the fund from new revenues received beginning with October 1, 1992, representing the amounts determined to be allocable to eligible coastal States and eligible counties pursuant to the formula contained in this section.

(2) The Secretary shall determine the new revenues from any leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)), the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State (hereinafter referred to as an "eligible coastal State").

(3) The Secretary shall determine the allocable share of new revenues determined under paragraph (2) by multiplying such revenues by 12.5 percent.

(4) The Secretary shall determine the portion of the allocable share of new revenues attributable to each eligible coastal State (hereinafter referred to as the "eligible coastal State's attributable share") based on a fraction which is inversely proportional to the distance between the nearest point on the coastline of the eligible coastal State and the geographic center of the leased tract or portion of the leased tract (to the nearest whole mile). Further, the ratio of an eligible State's attributable share to any other eligible State's attributable share shall be equal to the inverse of the ratio of the distances between the geographic center of the leased tract or portion of the leased tract and the coastlines of the respective eligible coastal States. The sum of the eligible coastal States' attributable shares shall be equal to the allocable share of new revenues determined under paragraph (3).

(5) Subject to appropriation, the Secretary shall pay from the fund 50 percent of the eligible coastal States' attributable share, together with the portion of interest earned from investment of the fund which corresponds to that amount, to that State.

(6) Within 60 days of enactment of this Act, the Governor of each eligible coastal State shall provide the Secretary with a list of all counties, as defined herein, that are to be considered for eligibility to receive impact assistance payments. This list must include all counties with borders along the State's coastline and may also include counties which are at the closest point no more than 60 miles from the State's coastline and which are certified by the Governor to have significant impacts from Outer Continental Shelf-related activities. For any such county that does not have a border along the coastline, the Governor shall designate a point on the coastline of the nearest county that does have a border along the coastline to serve as the former county's coastline for the purposes of this section. The Governor of any eligible coastal State may modify this list whenever significant changes in Outer Continental Shelf activities require a change, but no more frequently than once each year.

(7) The Secretary shall determine, for each county within the eligible coastal State identified by the Governor according to paragraph (6) for which any part of the county's coastline lies within a distance of 200 miles of the geographic center of the leased tract or portion of the leased tract (hereinafter referred to as an "eligible county") 50 percent of the eligible coastal State's attributable share which is attributable to such county (hereinafter referred to as the "eligible county's attributable share") based on a fraction which is inversely proportional to the distance between the nearest point on the coastline of the eligible county and the geographic center of the leased tract or portion of the leased tract (to the nearest whole mile). Further, the ratio of any eligible county's attributable share to any other eligible county's attributable share shall be equal to the inverse of the ratio of the distances between the geographic center of the leased tract or portion of the leased tract and the coastlines of the respective eligible counties. The sum of the eligible counties' attributable shares for all eligible counties within each State shall be equal to 50 percent of the eligible coastal State's attributable share determined under paragraph (4).

(8) Subject to appropriation, the Secretary shall pay from the fund the eligible county's attributable share, together with the portion of interest earned from investment of the fund which corresponds to that amount, to that county.

(9) Payments to eligible coastal States and eligible counties under this section shall be made not later than December 31 of each year from new revenues received and interest earned thereon during the immediately preceding fiscal year, but not earlier than one year following the date of enactment of this Act.

(10) The remainder of new revenues and interest earned in the fund not paid to an eligible State or an eligible county under this section shall be disposed of according to the law otherwise applicable to receipts from leases on the Outer Continental Shelf.

(11) The total amount in the fund shall not exceed $300,000,000 during any fiscal year: *Provided*, That in the event that the total amount of revenues which would otherwise be deposited in the Fund exceed $300,000,000, the Secretary shall provide each eligible State and eligible county the same percentage of $300,000,000 as such State or county would have received had there not been a cap.

SEC. 12103. USES OF FUNDS.—Funds received pursuant to this subtitle shall be used by the eligible coastal States and eligible counties for—

(a) projects and activities that protect or enhance air quality, water quality, fish and wildlife, wetlands, or other coastal resources;

(b) other activities of such State or county, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(c) administrative costs of complying with the provisions of this subtitle, including the costs associated with the audit required by section 12105.

SEC. 12104. OBLIGATIONS OF ELIGIBLE COUNTIES AND STATES.—(a) PROJECT SUBMISSION.—Prior to the receipt of funds pursuant to this subtitle for any fiscal year, an eligible county must submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the eligible county proposes to expend such funds. Such plan shall state the amounts proposed to be expended for each project or activity during the upcoming fiscal year.

(b) PROJECT APPROVAL.—Prior to the payment of funds pursuant to this subtitle to any eligible county for any fiscal year, the Governor must approve the plan submitted by the eligible county pursuant to subsection (a) and notify the Secretary of such approval. State approval of any such plan shall be consistent with any State wetlands plan, habitat plan, or environmental restoration plan in effect in such State and with all applicable State and Federal law. In the event that the Governor disapproves any such plan, the funds that would otherwise be paid to the eligible county shall be placed in escrow by the Secretary pending modification and approval of such plan, notwithstanding the provisions of section 12102(c)(10), at which time such funds together with interest thereon shall be paid to the eligible county.

(c) CERTIFICATION.—No later than 60 days after the end of the fiscal year, any eligible county receiving funds under this subtitle must certify to the Governor: (1) the amount of such funds expended by the county during the previous fiscal year; (2) the amounts expended on each project or activity; and (3) the status of each project or activity.

SEC. 12105. AUDIT.—(a) REQUIREMENT FOR AUDIT.—Under regulations promulgated by the Secretary, any coastal State that receives payments under section 12102 shall, for each fiscal year that it receives payments, provide that amounts received thereunder, including amounts paid to eligible counties of such State under section 12102, be subject to audit in accordance with chapter 75 of title 31, United States Code. The audit shall be submitted to the Secretary.

(b) CONTENTS OF AUDIT.—Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all amounts paid under section 12102 to such State for the fiscal year;

(2) include a statement of all amounts paid to eligible counties of such State pursuant to section 12102.

(c) PRELIMINARY DETERMINATION BY SECRETARY.—(1) After receiving a State's report under this section, the Secretary shall make a preliminary evaluation of each audit submitted pursuant to this section, and determine whether any portion of the amounts received has not been used as required by this subtitle. The Secretary shall publish notice of such determination in the Federal Register.

(2) If the Secretary determines under paragraph (1) that any portion of the amounts received under section 12102 has been misused, the Secretary may suspend, and place in escrow, an amount from any future payment due to the coastal State or eligible county charged with misusing the amounts under section 12102 which is equivalent to the amount misused, pending a final determination pursuant to subsection (d).

(d) FINAL DETERMINATION BY SECRETARY.—If the Secretary, after providing a State or eligible county with an opportunity for a hearing, makes a final determination that any portion of the amounts paid to such State or eligible county under section 12102 was not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State or eligible county that misused the funds the reasons for the determination and the exact amount that was misused; and

(2) take appropriate action to recover an amount from the State or eligible county that misused the funds equal to that determined to have been misused, including the withholding of such amount from that State or eligible county's future payment under section 12102 or of the amount which may have been suspended under subsection (c)(2). In no event shall funds be withheld from a State due to misuse of funds by an eligible county within such State, or from an eligible county in an instance where the State in which it is located has misused funds.

(e) DISPOSITION OF AMOUNTS WITHHELD.—(1) If no appeal of a final determination under subsection (d) is filed within 60 days following the notification described in subsection (d)(1), any amounts withheld or otherwise recovered by the Secretary under subsection (d)(2) shall be returned to the Coastal Communities Impact Assistance Fund.

(2) If an appeal of the final determination is filed within the 60-day period specified in paragraph (1), any amounts withheld by the Secretary shall be held in excrow until such time as a final determination is made of the appeal.

(3) In the event that amounts withheld under this section are subsequently paid to the State or eligible county from which they were withheld, such State or county shall also receive interest on such amounts.

SEC. 12106. REGULATIONS.—The Secretary may promulgate any necessary or appropriate regulations to implement this subtitle.

Subtitle B—Coastal Resources Enhancement Fund

SEC. 12201. DEFINITIONS.—For the purposes of this subtitle only, the following definitions apply:

(1) "Block Grant" means a Coastal Resources Enhancement Block Grant described in section 12203(a);

(2) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea or the Gulf of Mexico, if such State has a coastal zone management program approved by the Secretary;

(3) "coastal zone management program approved by the Secretary"; means—

(A) a coastal zone management program that is approved by the Secretary under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); or

(B) a coastal zone management program that is being developed by a coastal State, with respect to which the Secretary determines (in no more than 2 fiscal years for which a Block Grant is awarded) that such State is making satisfactory progress toward the development of a program approvable by the Secretary under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(4) "energy facilities" has the meaning given that term under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(5) "Enhancement Fund" means the Coastal Resources Enhancement Fund established pursuant to this subtitle;

(6) "leased tract" means a tract, leased under the Outer Continental Shelf Lands Act for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram;

(7) "local government" has the meaning given that term in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincorporated communities, including Alaska Native Villages;

(8) "new revenues" means monies from any leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)), the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State and received by the United States as royalties (including payments for royalty taken in kind and sold pursuant to 43 U.S.C. 1353), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act, but only from leased tracts from which such revenues are first received by the United States after the date of enactment of this Act;

(9) "proportionately" means in the same ratio as Block Grants would be apportioned among the coastal States if only on the basis of the formula established under section 12203(d) of this subtitle; and

(10) "Secretary" means the Secretary of Commerce or the Secretary's designee.

SEC. 12202. ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a Fund to be known as the Coastal Resources Enhancement Fund composed of 4 percent of new revenues. The Enhancement Fund shall not exceed $100,000,000 during any fiscal year.

SEC. 12203. BLOCK GRANTS.—(a) BLOCK GRANTS TO STATES.—Subject to the provisions of this section, for fiscal year 1992 and for each subsequent fiscal year, the Secretary shall award to each coastal State a Coastal Resources Enhancement Block Grant from the monies paid into the Enhancement Fund. The Block Grant shall include the amounts separately paid by the Secretary to the local governments of such State under section 12205.

(b) ALLOCATION REPORT.—(1) No coastal State may receive a Block Grant for a fiscal year unless such State has submitted to the Secretary a report for such fiscal year that—

(A) specifies the proposed allocation by such State of the Block Grant among the activities specified in paragraphs (1) through (4) of section 12204;

(B) prescribes the allocation of the local government portion of the Block Grant to specified local governments, for separate payment by the Secretary as provided in section 12205; and

(C) describes each proposed activity receiving funds provided by the Block Grant and the amounts proposed to be expended for each activity.

(2) In order to be eligible for a Block Grant and before submitting the report required under paragraph (1), each coastal State shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the State convenient for encouraging maximum public participation.

(c) STATE TRUST FUND.—No amount of a Block Grant shall be paid from the Enhancement Fund to a coastal State until the State has established a trust fund for the receipt of the portion of such Grant that is paid directly to the State.

(d) FORMULA.—The amount of each Block Grant awarded under subsection (a) shall be determined by the Secretary under a formula established by the Secretary which gives the following weighted consideration to each of the following criteria:

(1) A weight of 50 percent shall be given to the number, location, and impact of the energy facilities located within the coastal zone of each State during the fiscal year immediately preceding the fiscal year for which the grant is to be awarded;

(2) A weight of 25 percent shall be given on the basis of shoreline mileage; and

(3) A weight of 25 percent shall be given on the basis of coastal population.

(e) MINIMUM GRANT LEVELS.—(1) A coastal State shall receive not less than 1.62 percent of the total amount available for Block Grants under this section during any fiscal year.

(2) If, after the calculations required under subsection (d), any coastal State is to receive a Block Grant that is less than the minimum grant level established under paragraph (1), the Secretary shall increase such State's Block Grant to the minimum level. Amounts necessary to make such increases shall be derived by reducing proportionately the Block Grant of each State which, as determined under subsection (d), exceeds the minimum level under paragraph (1).

(f) MAXIMUM GRANT LEVELS.—If, after the calculations required under subsections (d) and (e), any coastal State would receive a Block Grant which is greater than 8 percent of the funds appropriated under this section, the Secretary shall reduce such State's Block Grant to 8 percent. The amounts resulting from such reduction shall be reallocated proportionately among States receiving less than 8 percent so such funds are more than the minimum grant levels under subsection (e).

(g) USE OF FUNDS.—As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Enhancement Fund during each fiscal year to carry out the purposes of, and in accordance with, this section.

SEC. 12204. REQUIREMENTS ON THE USE OF BLOCK GRANTS.—(a) Block Grants awarded to a State under section 12203(a), including the portion separately distributed to such State's local governments under section 12205, shall be used only for one or more of the following activities:

(1) Amelioration of any adverse environmental impacts that result from the siting, construction, expansion, or operation of energy facilities;

(2) Administrative costs such State or a local government of such State incurs in the energy leasing and energy permitting process under any applicable law, including but not limited to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(3) Other activities of such State, or a local government of such State, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(4) Projects and activities that protect or enhance air quality, water quality, fish and wildlife, wetlands, or other coastal resources.

Sec. 12205. LOCAL GOVERNMENTS.—(a) ALLOCATION.—The report submitted by each coastal State under section 12203(b) shall prescribe an allocation among its local governments of not less than one-third of each Block Grant proposed to be awarded to such State.

(b) SEPARATE DISTRIBUTION.—The portion of a State's Block Grant that the State prescribes for allocation to specific local governments shall be paid by the Secretary directly to each such local government.

SEC. 12206. AUDIT.—(a) REQUIREMENT FOR AUDIT.—Under regulations promulgated by the Secretary, any State awarded a Block Grant under section 12203(a) shall, for each fiscal year that it is awarded such Grant, provide that amounts received under such Grant, including amounts separately distributed to local governments of such State under section 12205, be subject to audit in accordance with chapter 75 of title 31, United States Code. The audit shall be submitted to the Secretary. The income derived for each fiscal year from such State's trust fund, as established under section 12203(c), shall be included in the audit required by this section.

(b) CONTENTS OF AUDIT.—Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all funds provided under the Block Grant received by such State for the fiscal year; and

(2) include a statement of all funds paid to the local governments of such State pursuant to section 12205.

(c) PRELIMINARY DETERMINATION BY SECRETARY.—(1) After receiving a State's audit under this section, the Secretary shall make a preliminary evaluation of each audit submitted pursuant to this section, and determine whether all or any part of the Block Grant has not been used as required by this subtitle. The Secretary shall publish notice of such determination in the Federal Register.

(2) If the Secretary determines under paragraph (1) that any portion of the Block Grant has been misused, the Secretary may suspend, and place in escrow, an amount from any future Block Grant which is equivalent to the amount misused, pending a final determination pursuant to subsection (d).

(d) FINAL DETERMINATION BY SECRETARY.—If the Secretary, after providing a State with an opportunity for a hearing, makes a final determination that all or any part of the Block Grant funds paid to such State or its local governments were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused, including the withholding of such amount from a State's future Block Grant or the amount which may have been suspended under subsection (c)(2).

(e) DISPOSITION OF WITHHELD FUNDS.—(1) If no appeal of a final determination under subsection (d) is filed within 60 days following the notification described in subsection (d)(1), any amounts withheld or otherwise recovered by the Secretary under subsection (d)(2) shall be returned to the Enhancement Fund.

(2) If an appeal of the final determination is filed within the 60-day period specified in paragraph (1), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

(3) In the event that any amounts withheld under this section are subsequently paid to the State from whose Block Grant they were withheld, such State shall also receive interest on such amount.

SEC. 12207. RULES AND REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary shall promulgate, after notice and opportunity for comment, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle C—Relationship To Other Law

SEC. 12301. RELATIONSHIP TO OTHER LAW.—The payment of funds pursuant to subtitles A and B of this title shall be in addition to any payments made to a State under any other provision of this Act or any other provision of law.

SEC. 12302. RELATIONSHIP TO OTHER FUNDS.—Nothing in subtitles A and B of this title shall reduce any amounts required to be credited to the Land and Water Conservation Fund, pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 to 460l-11), or to the Historic Preservation Fund, pursuant to the Historic Preservation Act (16 U.S.C. 470h), from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. To the extent that the crediting of such amounts into the Land and Water Conservation Fund or the Historic Preservation Fund makes monies otherwise payable under subtitles A and B of this title unavailable, payments to the States and local governments pursuant to such subtitles shall be reduced on a pro rata basis.

Subtitle D—Prohibition of Leasing and Preleasing Activity

SEC. 12401. LEASING MORATORIA.—The Secretary of the Interior shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) until after January 1, 2000, in the following areas placed under restriction in the President's moratorium statement of June 26, 1990: The North Atlantic Planning Area and the Washington and Oregon Planning Area.

SEC. 12402. PROHIBITION OF LEASING AND PRELEASING ACTIVITY.—The Secretary shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), with respect to the area seaward from the State of California and the State of New Jersey until after January 1, 2000.

SEC. 12403. FLORIDA MORATORIUM.—The Secretary of the Interior shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) until after January 1, 2000, with respect to that area offshore Florida south of 26 degrees north latitude and east of 86 degrees west longitude placed under restriction in the President's moratorium statement of June 26, 1990.

SEC. 12404. BUYBACK OF CERTAIN LEASES.—Notwithstanding the provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary of the Interior is authorized and directed, subject to the availability of funds appropriated for that purpose, to cancel and buyback leases issued under the Outer Continental Shelf Lands Act offshore Florida south of 26 degrees north latitude and east of 86 degrees west longitude, consistent with the provisions of this subsection. Any lease canceled pursuant to this provision shall require full compensation. Such compensation shall include all expenses incurred on the lease, with interest, including expenditures made prior to lease issuance unless the lessee proves that it is entitled to greater damages, including but not limited to, lost profits, or the Secretary proves that the lessee is entitled to lesser damages. Any other leases canceled pursuant to the Outer Continental Shelf Lands Act shall require compensation in accordance with that Act. The authorization contained in this subsection shall expire on December 31, 1993.

SEC. 12405. REPORT.—With respect to all leases issued under the Outer Continental Shelf Lands Act offshore Florida east of 86 degrees west longitude and south of 26 degrees north latitude, the Secretary of the Interior shall prepare a report analyzing the alternatives for exchanging such leases for any other land or interest in land, including submerged lands, owned by the United States as a means of providing compensation for the cancellation of such leases. Such report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives within one year after the date of enactment of this provision.

TITLE XIII—RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION ACTIVITIES

SEC. 13101. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION PRIORITIES.—The Secretary shall establish priorities for research, development, demonstration, and commercialization activities. These priorities shall include consideration of the following criteria—

(1) the potential to increase the Nation's energy independence and thus reduce reliance on imported oil;

(2) the projected cost-effectiveness of the energy or energy efficiency resource to be produced or saved, including an evaluation of the likelihood of the activities contributing to the achievement of commercialization of new energy technologies;

(3) the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(4) the national security impact of the energy produced or saved, including its projected contribution to the reduction of oil imports and to the diversity of the domestic energy resource mix;

(5) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies, including, but not limited to, solar, fuel cells, fusion, superconductivity, nuclear fission, electric power, clean coal technologies, oil shale, oil and natural gas recovery and utilization, and hydrogen;

(6) the contribution of a given activity to fundamental scientific knowledge;

(7) the anticipated impact of the results of activities on targeted industries and industrial and manufacturing processes; and

(8) the contribution to United States competitiveness.

SEC. 13102. MANAGEMENT PLAN.—(a) PLAN PREPARATION.—The Secretary, in consultation with the Energy Advisory Board to the Secretary, shall prepare a management plan for the conduct of research, development, demonstration, and commercialization of energy technologies that is consistent with the purposes of this Act and guided by the priorities set forth in section 13101.

(b) PROPOSALS.—The management plan under subsection (a) shall contain proposals for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of contingency energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness;

(c) PLAN SUBMISSION.—Within one year after the date of enactment of this section, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially at the time of submittal of the President's annual budget submission to the Congress.

SEC. 13103. NATURAL GAS END-USE TECHNOLOGIES.—(a) PROGRAM.—The Secretary shall carry out a program to promote the development and commercialization of new and advanced natural gas utilization technologies including, but not limited to, the following areas—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, natural gas heating and cooling, cogeneration, and cofiring natural gas with coal and waste fuels;

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers and on-site storage at major energy consuming facilities;

(3) transportation fuel alternatives and emissions controls including natural gas vehicle commercialization and infrastructure development (including home and commercial compressors for natural gas vehicles) and advanced engines and propulsion concepts; and

(4) electrochemical energy conversion including the commercialization of molten carbonate fuel cells and phosphoric acid fuel cells and the development of advanced natural gas-fired fuel cell technologies.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13104. NATURAL GAS SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research, development and demonstration to increase the recoverable natural gas resource base including, but not limited to, the following areas—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) economic recovery of unconventional natural gas resources, including gas from tight sands, eastern shales, and gas from less permeable formations, coal-bed methane and geopressurized reservoirs;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13105. HIGH EFFICIENCY HEAT ENGINES.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, demonstration, and commercialization on high efficiency heat engines, emphasizing advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and automotive power generation, such as—

(1) advanced combined cycle turbines;

(2) steam-injected gas turbines; and

(3) intercooled steam-injected gas turbines.

(b) JOINT VENTURES.—The Secretary may enter into joint ventures with appropriate parties to construct and demonstrate high efficiency heat engines.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13106. OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—(1) The Secretary shall carry out a research and development program on oil shale that includes applied research on eastern oil shale, in cooperation with universities and the private sector, that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized in this section, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are now engaged in research on eastern oil shale retorting and associated processes.

(b) COST-SHARING.—The program carried out under this section shall be cost-shared with universities and the private sector to the maximum extent possible.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13107. WESTERN OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-

Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13108. HIGH-TEMPERATURE SUPERCONDUCTING ELECTRIC POWER SYSTEM.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, and demonstration of a high-temperature superconducting electric power system. Elements of the program shall include, but are not limited to, the following—

(1) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system, such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(2) development of prototypes based on high-temperature superconducting wire and refrigeration systems using cryocoolers or liquid cryogens such as nitrogen, with such prototype wires operating at temperatures between 20 degrees Kelvin and 77 degrees Kelvin (-423 degrees Fahrenheit and -320 degrees Fahrenheit), or higher if material developments permit; and

(3) development of prototypes that are of sufficient operational capabilities to demonstrate the technology application and facilitate dual-use application in both the civilian commercial sector and the defense sector.

(b) COOPERATIVE AGREEMENTS.—In order to carry out the programs under this section, the Secretary shall solicit proposals and may enter into cooperative agreements under this section. The Secretary is also encouraged to expedite government, industry, and university collaborative agreements under existing mechanisms at the Department of Energy, in coordination with other Federal agencies.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13109. RENEWABLE ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 4(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.

"Each of the President's annual budget requests submitted to Congress after the date of enactment of this Act shall include as separate line items each of the categories of renewable energy programs described in this subsection.".

SEC. 13110. ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 5 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.".

SEC. 13111. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.—(a) PROGRAM.—(1) The Secretary shall expand the program of research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including absorption heat pumps and engine-driven heat pumps.

(3) The electric heating and cooling program shall increase research on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electrically driven HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 13112. FUSION.—(a) PROGRAM.—The Secretary shall carry out a research, development, and demonstration program on fusion energy that is structured in a way that will lead to commercial demonstration of the technological feasibility of fusion energy for the production of electricity after the year 2010.

(b) COMPREHENSIVE MANAGEMENT PLAN.—(1) Within 180 days after the date of enactment of this section, the Secretary shall prepare a comprehensive management plan for research, development, and demonstration of fusion energy, including milestones and schedules for technology development and estimates of budget and program management resource requirements.

(2) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should make efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(3) The plan shall also evaluate to what extent university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13113. ELECTRIC VEHICLE, ELECTRIC-HYBRID VEHICLE, AND ASSOCIATED EQUIPMENT RESEARCH AND DEVELOPMENT.—(a) GENERAL.—The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920), a research and development program on electric vehicles, electric-hybrid vehicles, and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, the automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) COOPERATIVE AGREEMENTS.—The Secretary, consistent with the comprehensive plan under subsection (c), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric vehicle range improvement and light-weight body structures for electric vehicle weight reduction; and

(2) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight for electric vehicle application.

(3) Hybrid power trains incorporating an electric motor and recyclable battery technology charged by an onboard liquid fuel engine, designed to significantly improve fuel economies while maintaining comparable acceleration characteristics.

(c) COMPREHENSIVE PLAN.—(1) The Secretary shall prepare a comprehensive five-year program plan for carrying out the purposes of this section. Such program plan shall be updated annually for a period of not less than ten years after the date of enactment of this Act.

(2) The program plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric vehicle and electric-hybrid vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary deems appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric vehicles and electric-hybrid vehicles, including advanced battery technology and optimization of near-term technology;

(B) the program elements, management structure, and activities, including program responsibilities of individual agencies and departments;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the plan for each of the participating agencies or departments;

(E) a description of the methods of technology transfer;

(F) the proposed participation by non-Federal entities in the planning and implementation of the plan; and

(G) such other information as the Secretary deems appropriate.

(4) Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary shall transmit the comprehensive program plan to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such plan shall be updated annually as specified in subsection (c)(1).

(d) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (b).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (b) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric vehicles or electric-hybrid vehicles and associated equipment.

(e) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any cooperative agreement under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) DEPLOYMENT.—(1) The Secretary shall conduct a program designed to accelerate deployment of advanced energy storage systems, including advanced battery technologies, for use with electric vehicles and electric-hybrid vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced energy storage systems, including advanced battery technologies, electric vehicle technologies and electric-hybrid technologies and their commercial capability; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies. The information exchange program may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

(g) DOMESTIC PARTS MANUFACTURERS.—In carrying out this section, the Secretary, in consultation with the Secretary of Commerce, shall issue regulations to ensure that the procurement practices of participating vehicle and associated equipment manufacturers do not discriminate against United States manufacturers of vehicle parts.

(h) COMPLIANCE WITH EXISTING LAW.—Nothing in this section shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(i) DEFINITIONS.—For purposes of this section, the term—

(1) "advanced battery" means an electrochemical storage device, including fuel cells, and associated technology necessary to charge, discharge, recharge or regenerate such electro-chemical storage device, for use as a source of power for an electric vehicle, an electric-hybrid vehicles, and any other associated equipment of an electric vehicle;

(2) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the nonelectric source of power in such vehicles;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current; and

(4) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a nonelectrical source of power.

(j) AUTHORIZATION.—There is authorized to be appropriated to the Secretary (in addition to any amounts made available pursuant to other law) for each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 13114. ADVANCED OIL RECOVERY RESEARCH, DEVELOPMENT AND DEMONSTRATION.—(a) PROGRAM.—The Secretary shall carry out a national program of research, development and demonstration to increase the economic recoverability of domestic oil resources. Such program shall address both advanced secondary oil recovery and tertiary oil recovery and shall include but not be limited to the following areas—

(1) transfer of proven recovery technologies to producers and operators of wells that would otherwise be likely to be abandoned in the near term due to declining production;

(2) development, field testing, and transfer of recovery technologies to operators of wells in high priority reservoirs ranked primarily on the basis of oil recovery potential and risk of abandonment; and

(3) the identification and development of new recovery techniques.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with producers, service companies, and technical support organizations for field demonstration projects to be undertaken on a cost-shared basis under this section.

(c) COST-SHARING—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13115. TAR SANDS.—(a) POLICY.—It is the policy of the United States to promote the development and production, by all means consistent with sound engineering and environmental practices, of deposits of tar sands.

(b) DEFINITION.—The term "tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(c) STUDY.—The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within one year from the date of enactment of this Act. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sands sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the purposes of this section.

SEC. 13116. TELECOMMUTING STUDY.—(a) STUDY.—The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) This study shall be completed no more than one hundred and eighty days after the date of enactment of this Act. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than sixty days after completion of this study.

SEC. 13117. STUDY OF MINIMIZATION OF NUCLEAR WASTE.—(a) STUDY.—The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of viability of existing technologies for this purpose and an assessment of the extent of research and development required for new technologies.

(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13118.—NUCLEAR WASTE MANAGEMENT PLAN.—(a) PREPARATION AND SUBMISSION OF REPORT.—The Secretary, in consultation with the Nuclear Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (Public Law 97-425; 42 U.S.C.10101 et seq.) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of enactment of this Act. The Secretary shall prepare this report for submission to the President and the Congress within a year after the date of enactment of this Act. The report shall examine any new relevant issues related to management of spent fuel and high-level nuclear waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent fuel or high-level waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

(b) OPPORTUNITY FOR PUBLIC COMMENT.—In preparation of the report required under subsection (a), the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13119. MATH AND SCIENCE EDUCATION PROGRAM.—(a) PROGRAM.—The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 417A through 417F of Public Law 89-329, as amended (20 U.S.C. 1070d through 1070d-1d).

(b) PURPOSE.—(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 417A of Public Law 89-329, as amended (20 U.S.C. 1070d-d), in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) SUPPORT.—(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activities under this section with the Secretary of Education and the Secretary.

(d) COOPERATION WITH QUALIFIED ENTITIES.—The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) REPORT.—Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) EFFECT ON EXISTING PROGRAMS.—The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) DEFINITION.—For purposes of this section, the term "qualified entity" means a nonprofit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13120. STATE, DEFINITION OF—Section 401 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by inserting "and" after "States,", inserting a period after "District of Columbia", and striking the remainder of the sentence.

SEC. 13121. NUCLEAR WASTE NEGOTIATOR.—Section 410 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by striking "5 years" and inserting "6 years".

SEC. 13122. ENERGY SUBSIDY STUDY.—(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of enactment of this Act; or

(2) have been in effect prior to the date of enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of enactment of this Act; or

(ii) reasonably foreseeable on the date of enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1993 and 1994.

SEC. 13123. MIDCONTINENT ENERGY RESEARCH CENTER.—(a) FINDING.—Congress finds that petroleum resources in the midcontinent region of the United States are very large but are being prematurely abandoned.

(b) PURPOSES.—The purposes of this section are to—

(1) improve the efficiency of petroleum recovery;

(2) increase ultimate petroleum recovery; and

(3) delay the abandonment of resources.

(c) ESTABLISHMENT.—The Secretary shall establish the Midcontinent Energy Research Center at the University of Kansas in Lawrence, Kansas, (referred to in this section as the "Center") to—

(1) conduct research in petroleum geology and engineering focused on improving the recovery of petroleum from existing fields and established plays in the upper midcontinent region of the United States; and

(2) ensure that the results of the research described in paragraph (1) are transferred to users.

(d) RESEARCH.—

(1) IN GENERAL.—In conducting research under this section, the Center shall, to the extent practicable, cooperate with agencies of the Federal Government, the States in the midcontinent region of the United States, and the affected industry.

(2) PROGRAMS.—Research programs conducted by the Center may include—

(A) data base development and transfer of technology;

(B) reservoir management;

(C) reservoir characterization;

(D) advanced recovery methods; and

(E) development of new technology.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 13124.—DOMESTIC OIL SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out programs of research, development and demonstration to increase the recoverable crude oil resource base including, but not limited to, programs in the following areas—

(1) maintenance of the production of crude oil from stripper well property;

(2) enhanced recovery of crude oil from conventional resources; and

(3) economic recovery of unconventional domestic oil resources.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under subsections (a) (2) and (3), including cash, personal services, equipment, and other resources, to be provided from non-Federal sources.

(d) REDUCTION OF COSTS.—The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) DEFINITION.—For the purpose of this section, the term "stripper well property" means any well located in the United States which produces an average of 15 or less barrels of crude oil per production day.

TITLE XIV—COAL, COAL TECHNOLOGY AND ELECTRICITY

Subtitle A—Coal and Coal Technology

SEC. 14101. COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) ESTABLISHMENT.—(1) The secretary, in consultation with the National Coal Council and other representatives of the public as the Secretary deems necessary, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901–5920), conduct a research, development, and demonstration program within the Department of Energy for advanced coal-based technologies with the goals and objectives of—

(A) achieving the control of sulfur oxides, oxides of nitrogen, or air toxics at levels of proficiency greater than currently available commercial technology;

(B) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(C) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels; and

(D) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost-sharing participation.

(2) The coal technology development program shall also be designed to assure the timely development of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to assure the availability for commercial use of such technologies by the year 2010. As part of such program, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to the Clean Coal Program established by Public Law 98–473 and is authorized to carry out such additional solicitations.

(b) REPORT.—Within two hundred and forty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding advanced coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the program established by this section;

(3) recommendations, if any, regarding the manner in which the cost-sharing demonstrations conducted pursuant to the Clean Coal Program established by Public Law 98–473 might be modified and extended in order to assure the timely demonstrations of advanced coal-based technologies by the year 2010 and assure that the goals established by this section are achieved; and

(4) a detailed plan for conducting the research, development and demonstration program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan.

(c) ANNUAL REPORT.—Within twelve months after submittal of the report described in subsection (b) of this section, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, and demonstration activities undertaken to carry out the program required by this section.

(d) DEFINITION.—As used in this section, the term "advanced coal-based technologies" means, but is not limited to, the following—

(1) advanced integrated gasification combined cycle;

(2) pressurized fluidized bed combustion technology capable of achieving higher thermal conversion efficiency than can be achieved through ongoing demonstration projects;

(3) direct and indirect coal-fired turbines;

(4) coal refining processes, including coke production, capable of (A) efficiently producing or utilizing the energy contained in coal and coal byproducts, (B) upgrading gaseous, liquid and solid coal byproducts into products with higher economic value, and (C) utilizing the products and byproducts of such processes;

(5) magnetohydrodynamics;

(6) molten carbonate and solid oxide fuel cells;

(7) cofiring coal with non-coal fuels including natural gas;

(8) coal liquefaction processes; and

(9) other coal-based technologies or processes or systems that are capable of achieving thermal conversion efficiencies equal to or greater than fifty percent.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14102. NON-FUEL USE OF COAL.—(a) PLAN.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a plan for research, development, and demonstration with respect to technologies for nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) JOINT VENTURES.—As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for nonfuel uses of coal.

(c) PLAN CONTENTS.—The plan under subsection (a) shall address and evaluate—

(1) the known and potential products and processes for the use of coal for products in the chemical, utility, fuel, steel, and carbon-based materials industries;

(2) the costs, benefits and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of the refining of coal and coal byproducts to produce nonfuel products;

(4) the economics of co-production of products from coal in conjunction with production of electric power, thermal energy, and fuel;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of research results produced by the research program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with nonfuel use of coal.

(d) RESEARCH AND DEVELOPMENT.—The Secretary shall conduct a program of research and development under the plan under subsection (a).

(e) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance for a research project under this section to the extent the Secretary finds that such project—

(1) furthers achievement of the goals and purposes of this Act;

(2) offers promise for commercial application; and

(3) has a reasonable prospect of support in at least 50 percent of its direct costs from non-Federal funds.

(f) CONSULTATION.—In preparing the plan and carrying out research under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

(g) AUTHORIZATION.—There is authorized to be appropriated a total of $20,000,000 for fiscal years 1992 through 1994 to carry out the purposes of this section.

SEC. 14103. COAL REFINING PROGRAM.—(a) PROGRAM.—The Secretary, in consultation with the National Coal Council, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901–5920), conduct a research, development, demonstration, and commercialization program for coal refining technologies, including technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals and lignites to produce clean-burning transportation fuels, or compliance boiler fuels, or both, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, either alone or along with electricity, more economically and efficiently than can be produced utilizing currently available commercial technology. The goals of the coal refining technology development program shall be designed to assure—

(1) the timely development of technologies, including direct and indirect liquefaction processes and other energy production processes or systems to produce coal-derived fuels and coproducts;

(2) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(3) reduction in the cost of producing such coal-derived fuels and coproducts;

(4) the control of emissions from the combustion of coal-derived fuels, and;

(5) the availability for commercial use of such technologies by the year 2000.

(b) REPORT AND PLAN.—Within one hundred and twenty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding coal refining technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a detailed plan for conducting the research, development, demonstration, and commercialization program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the coal refining technologies included in the plan;

(c) DEMONSTRATION PROJECTS.—Within twelve months after the submittal of the report described in subsection (b) of this section, the Secretary shall solicit proposals from appropriate parties and may thereafter enter into agreements with such parties to undertake commercial scale demonstration projects of coal refining processes. In designing the solicitation under this subsection, and taking into consideration the goals of subsection (a) of this section, the Secretary shall—

(1) establish technology classes for the various coal refining processes;

(2) enter into agreements for the construction of not more than one project per technology class, but in no event less than two commercial scale projects for the program in total;

(3) require that each project has a reasonable prospect of commencing operation by January 1, 2000.

(d) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) ANNUAL REPORT.—Within twelve months after the date of enactment of this Act, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of coal refining technologies and the research, development, demonstration, and commercialization activities undertaken to carry out the program required by this section.

(f) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14104. UNDERGROUND COAL GASIFICATION.—(a) PROGRAM.—The Secretary shall conduct a research, development, and demonstration program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) DEMONSTRATION PROJECTS.—As part of the program authorized in subsection (a), the Secretary shall solicit proposals for at least one demonstration project of underground coal gasification technology and may provide financial assistance for any project that has a reasonable expectation to fulfill the goal and objective of subsection (a).

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14105. LOW-RANK COAL RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties of lignites and sub-bituminous coals, including, but not limited to the following areas—

(1) high value-added carbon products;

(2) fuel cell applications;

(3) emissions control and combustion efficiencies;

(4) coal water fuels and underground coal gasification;

(5) distillates; and

(6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

(b) IMPLEMENTATION.—In carrying out this program, the Secretary shall enter into contracts, cooperative agreements and jointly sponsored research programs with, and provide grants to, qualified persons and use any other means deemed appropriate by the Secretary.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14106. MAGNETOHYDRODYNAMICS.—(a) PROGRAM.—The Secretary shall carry out a proof-of-concept program in magnetohydrodynamics. The purpose of this program shall be to prove the adequacy of the engineering and design information required to successfully design, construct, and operate an MHD retrofit plant based upon conceptual designs of a "MHD Retrofit System to a Coal Fired Generating Plant," which have been completed under Department of Energy contracts.

(b) SOLICITATION OF PROPOSALS.—In order to carry out the program authorized in subsection (a), the Secretary shall solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) EXTENSION OF PROGRAM.—The Secretary may extend if necessary the completion date for the proof-of-concept program to September 30, 1995.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14107. COAL FIRED LOCOMOTIVES.—(a) The Secretary shall conduct a research, development, and demonstration program for utilizing "ultra-clean coal-water slurry" in diesel locomotive engines. The program shall address, but not be limited to, the following—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) the testing of low-Btu highly reactive fuels;

(5) fuel delivery and storage systems requirements; and

(6) other infrastructure required to support commercial deployment.

(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14108. COAL EXPORTS.—(a) PLAN.—Within one hundred and eighty days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the United States Trade Representative, shall submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for expanding the export of United States coal.

(b) PLAN CONTENTS.—Such plan shall include—

(1) identification of the location, size and projected growth in potential foreign markets for coal produced in the United States;

(2) identification by country of the existence of barriers to United States coal exports, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and an action plan for addressing any such barriers;

(4) an evaluation of existing United States infrastructure, and any new infrastructure requirements within the United States to support an expansion of United States coal exports, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) identification of opportunities for blending United States coal exports with coal indigenous to the importing country to enhance energy efficiency and environmental performance.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14109. CLEAN COAL TECHNOLOGY EXPORT COORDINATING COUNCIL.—(a) ESTABLISHMENT.—There shall be established a Clean Coal Technology Export Coordinating Council (hereinafter "Council") which shall seek to facilitate and expand the export and use of clean coal technologies. The Council shall place a priority on the export and use of clean coal technologies in lesser-developed countries.

(b) MEMBERSHIP.—The Council shall consist of the Secretary, who shall serve as its chairperson, the Secretary of Commerce, the Secretary of State (including a designee from each of the Agency for International Development and the Trade and Development Program), the Administrator of the Environmental Protection Agency, the Secretary of the Treasury, the President and Chairman of the Export-Import Bank and the President and Chief Executive Officer of the Overseas Private Investment Corporation.

(c) CONSULTATION.—In undertaking its responsibilities, the Council shall consult with representatives from the United States coal industry, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies, and other appropriate interested members of the public.

(d) DUTIES.—In furthering the purposes of this section, the Council shall, through the Department and other member agencies, exercise such authorities as may be available to it to—

(1) facilitate the establishment of technical training for the consideration, planning, construction and operation of clean coal technologies by local users and international development personnel;

(2) cause to be established within existing departments and agencies financial assistance programs, including grants, loan guarantees, and no interest and low-interest loans, to support pre-feasibility and feasibility studies for projects that will utilize clean coal technologies and loan guarantee programs, grants, and no interest and low-interest loans, designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and execute programs, including the establishment of financial incentives, to encourage and support private sector efforts to export clean coal technologies that are developed, manufactured or controlled by United States firms;

(4) encourage the training and understanding of clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops and other educational programs sponsored by United States firms;

(5) educate loan officers of the World Bank and other international lending institutions, commercial and energy attaches at embassies of the United States, and such other personnel as the Council deems appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technologies;

(6) augment budgets for trade and development programs supported by member agencies of the Council for the purpose of supporting financially pre-feasibility or feasibility studies for projects that will utilize clean coal technologies;

(7) review ongoing clean coal technology projects and review and approve planned clean coal technology projects, which are sponsored abroad by any Federal Government agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(8) coordinate the activities of the member agencies of the Council in order to assure that policies of the Council are implemented in a timely fashion; and

(9) undertake such other actions or activities, consistent with existing law and regulations, as may, in the judgment of the Secretary, be necessary to achieve the purposes of this section.

(e) DATA AND INFORMATION.—The Council shall be responsible for the development of a comprehensive data base and information dissemination system relating to the availability of clean coal technologies and an ongoing assessment of the potential need for such technologies particularly in lesser developed countries. The Council shall provide a country-by-country assessment of the potential for the use of clean coal technology. Such assessment shall include an analysis of the financing requirements to install such clean coal technology and whether such clean coal project is dependent upon foreign financial assistance, the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology, the priority of environmental considerations in the selection of the electric generating technology and the technical competence of those entities likely to be involved in the planning and operation of the electric generating facility. The Council shall make such information available to industry, Federal and international financing organizations, nongovernmental organizations, officials in countries where such clean coal technologies might be utilized and such others as the Council deems necessary. In developing this data base and ongoing assessment, the Council shall consult with the Committee on Renewable Energy Commerce and Trade.

(f) PLAN.—Within one hundred and eighty days after the Secretary submits the report to the Congress as required by section 409 of Public Law 101-549, the Council, in consultation with those persons referenced in subsection (c) of this section, shall provide to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101-549. As a part of the plan required by this subsection, the Secretary shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of pre-feasibility and feasibility studies and projects that would utilize a clean coal technology in lesser developed countries.

(g) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14110. COAL FUEL MIXTURES.—Within one year following the date of enactment of this Act, the Secretary shall submit a report to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 14111. NATIONAL CLEARING HOUSE.—(a) ESTABLISHMENT OF CLEARING HOUSE.—(1) The Secretary shall establish a national clearing house for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In establishing a clearing house pursuant this section, the Secretary shall, among other things;

(A) collect information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminate to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this provision;

(C) maintain a complete library of technology publications and treatises relating to technology information and data collected pursuant to this provision;

(D) organize and conduct seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gather information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translate into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encourage, during the testing of technologies, the use of coal from a variety of domestic sources, and collect or develop, or both, complete listings of test results using coals from all sources;

(H) establish and maintain an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conduct economic modeling for feasibility of projects.

(3) INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may select two institutions of higher education to manage and coordinate the clearing house activities. In selecting such institutions, one shall be located in a western coal producing State and one shall be located in an eastern coal producing State.

(b) GRANTS.—In carrying out the provisions of this section, the Secretary may enter into agreements with, and make grants to, the two institutions of higher education selected pursuant to paragraph (3) of subsection (a). Any such grant may be made at such time or times, in such amount, and subject to such terms and conditions as the Secretary may prescribe.

(c) COORDINATION WITH OTHER FEDERAL ENTITIES.—In carrying out the provisions of this section, the Secretary shall, from time to time, consult and coordinate his activities with other appropriate Federal departments, agencies and instrumentalities. All Federal departments, agencies, and instrumentalities shall cooperate to the fullest extent possible with the Secretary to enable him to carry out the provisions of this section.

(d) FUNDING FROM NON-FEDERAL SOURCES.—The Secretary may solicit and accept donations from non-Federal sources to assist in defraying expenses incurred in carrying out the provisions of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14112. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.—(a) DEFINITIONS.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials. When utilized as a product, as an ingredient thereof, or as a raw material, or when handled, transported or stockpiled for such utilization, these byproducts are considered product materials.

(b) FINDINGS.—With respect to utilization of coal combustion byproducts, the Congress makes the following findings:

(1) Coal combustion byproducts have commercial applications, including construction of bridges, highways, airports, dams, tunnels, buildings, reclamation projects, and numerous other technically proven commercial applications.

(2) The Environmental Protection Agency has reported to Congress that utilization of coal combustion byproducts has been done in an environmentally safe manner.

(3) The use of coal combustion byproducts in an environmentally safe manner is beneficial to society in the following respects—

(A) it conserves energy since these materials are byproducts of the combustion process, require no additional energy to produce, and thus conserve the energy necessary to extract and produce virgin materials;

(B) it conserves natural resources by substituting for virgin materials such as sand, gravel and soil;

(C) it lowers electricity costs to ratepayers by producing revenues from the sale of the byproducts and by avoiding disposal costs;

(D) it conserves land resources by avoiding the need for disposal facilities; and

(E) it provides superior quality construction materials at lower cost.

(4) The Federal and State governments are in a position to encourage the utilization of coal combustion byproducts.

(c) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, that may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than twelve months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for actions to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in (A) bridge and highway construction, (B) stabilizing wastes, and (C) procurement by departments and agencies of the Federal Government, by State and local governments, and in federally funded or federally subsidized procurement by the private sector.

SEC. 14113. ESTABLISHMENT OF DATA BASE AND STUDY OF COAL TRANSPORTATION RATES.—(a) ESTABLISHMENT OF DATA BASE.—The Secretary shall establish a data base containing, to the maximum extent practicable, all transportation rates for rail, pipeline, truck, conveyor belt, barge and other modes of transporting domestic coal during the period January 1, 1988 through December 31, 1997. The confidentiality of contract rates shall be preserved and public access to the data base shall be provided under appropriate terms and conditions that protect the confidentiality of specific contract rates.

(b) STUDY OF COAL TRANSPORTATION RATES.—The Secretary shall study the rates and distribution patterns of domestic coal to determine the impact of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (Public Law 101-549) and other Federal policies on such rates and distribution patterns. The study shall consider, among other factors—

(1) the extent to which coal transportation rate increases occur as a result of the enactment of the Clean Air Act and other Federal policies;

(2) any increases or decreases in the revenue to variable cost ratios of railroad coal transportation rates during the period of the study and the percentage of the delivered price of coal to electric generating facilities that is attributable to coal transportation rates, during this period;

(3) any changes in the distribution patterns of coal among the various regions of the Nation during the study period; and

(4) any electricity rate increases or decreases in the various regions of the Nation during the period of study that are attributable to coal transportation costs.

(c) REPORTS TO CONGRESS.—The Secretary shall submit an interim report to Congress on January 1, 1993, and a final report to Congress, together with any recommendations, on January 1, 1995. The Secretary shall submit an additional report to Congress, with recommendations, on January 1, 1998. The Administrator of the Energy Information Administration and the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission shall cooperate fully with the Secretary in the development of the data base and studies authorized by this section.

SEC. 14114. ASSISTANCE TO SMALL COAL OPERATORS.—(a) Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c)(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) REIMBURSEMENT OF COSTS.—Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

Subtitle B—Electricity

SEC. 14202. EXCESS CAPACITY STUDY.—The Secretary shall study and report to Congress by June 30, 1992, on any physical impediments to the transfer of excess electrical energy from regions of the country having surpluses to regions of the country having shortages and the reasons therefor.

SEC. 14203. CALCULATION OF AVOIDED COST.—Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) requires a State regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98-473 as an incremental cost of alternative electric energy.

SEC. 14204. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.—(a) DEFINITION.—For purposes of this section, the term "clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

(b) FEDERAL RATE INCENTIVES.—(1) Within twenty-four months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote the development of clean coal technologies and other innovative control technologies that limit power plant emissions. The regulatory incentives shall include—

(A) establishment of an incentive rate of return for clean coal or other innovative emission control technologies that recognizes their inherent risk; and

(B) allowance of a ten- to twenty-year amortization period to recover the capital costs of a clean coal or other innovative emission control technology.

(2) The Federal Energy Regulatory Commission demonstration program is subject to the following—

(A) the program initially will have a five-year life;

(B) the program will cover no more than four units in each technology class; and

(C) the technology classes eligible for the program should be reasonably likely to realize significant cost reductions when employed.

(3) At the end of the five-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether it should be extended or made permanent.

(c) FERC PREAPPROVAL OF PRUDENCE FOR CLEAN COAL TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of clean coal technology or other innovative control technology projects to agree upon cost caps for future projects and preapproval of the prudency of expenses for those projects if the expenses fall within the agreed-upon cap.

(d) PRIORITY FOR UNITS LOCATED IN STATES WITH INCENTIVE PROGRAMS.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsections (b) or (c), give priority to units located in states where—

(1) the State regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the State or States in which the wholesale customers of the utility seeking such incentive rate treatment are located; and

(2) the State regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to noninvestor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction.

(e) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—(1) Because the use of clean coal technologies is in the Nation's interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

(A) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction;

(B) elimination of retroactive 'used and useful' reviews for clean coal technologies;

(C) rapid amortization of clean coal technology expenditures; and

(D) immediate recovery of a portion of clean coal technology expenses through a fuel adjustment clause or by some other method.

(2) REPORT OF THE SECRETARY.—(A) Within one year after the date of enactment of this Act, the Secretary shall report to Congress on his progress in encouraging State regulatory authorities to provide regulatory incentives to utilities to invest in clean coal technologies. Such report shall include detailed information on programs initiated by the Department of Energy to encourage such State action and shall describe any regulatory incentives that have been adopted by States as a result of actions taken by the Secretary.

(B) The report required under subparagraph (A) shall also include recommendations, if any, on further action that could be taken by the Department of Energy, other Federal agencies, or the Congress in order to encourage State regulatory authorities to provide regulatory incentives.

Subtitle C—Innovative Technology Transfer

SEC. 14301. INNOVATIVE CLEAN COAL AND RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM.—(a) IN GENERAL.—The Secretary shall, in consultation with the Clean Coal Technology Export Coordinating Council and the Committee on Renewable Energy Commerce and Trade, undertake a clean coal and renewable energy technology transfer program designed to encourage the utilization of United States technologies in commercial demonstration energy technology projects to be proposed by United States firms in host nations.

(b) PURPOSE.—The purpose of the energy technology transfer program under this section is to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain jobs in the United States through the manufacturing of capital goods associated with new energy technology projects located in other nations;

(3) encourage the foreign commerce in, and use of, commercially available United States technologies in those nations that have determined a need to construct facilities to provide useful energy derived from coal or renewable energy resources;

(4) develop markets for United States technologies and, where appropriate, United States coal resources, to be utilized in meeting the energy and environmental requirements of other nations;

(5) better ensure that United States participation in energy-related projects in other nations includes—

(A) participation by United States firms; and

(B) utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs; and

(6) provide for the accelerated demonstration of United States technologies that will serve to introduce into other nations United States technologies that—

(A) use coal or renewable energy resources in a cost-effective and environmentally acceptable manner; and

(B) serve to ensure the introduction of United States firms and expertise in those nations.

(c) IDENTIFICATION.—(1) The Secretary shall—

(A) after consultation with the Clean Coal Technology Export Coordinating Council and the Committee on Renewable Energy Commerce and Trade regarding the data and information obtained by the Council pursuant to section 14109(e) of this title, identify energy technology projects that may be developed in host nations that would be candidates for the application of a clean coal technology or a renewable energy technology;

(B) consult with appropriate government officials of a host nation, and, as appropriate, with representatives of non-United States electric utilities or other non-United States entities, to determine the interest in and support for an energy technology project that is identified under subparagraph (A).

(2) Within 240 days after the date of enactment of this Act, and subsequently as appropriate, the Secretary shall publish in the Federal Register and the Commerce Business Daily a list specifying those clean coal technology or renewable energy technology projects identified under paragraph (A) which, in the judgment of the Secretary, there is a reasonable likelihood will be proposed under the authorities provided by this section.

(d) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Within 120 days after issuance of the list in subsection (c)(2), and subsequently as appropriate thereafter, the Secretary shall issue a request for proposals from United States firms for the design, construction, testing, and operation of the energy technology project or projects specified on such list which propose to utilize a United States technology. Such request for proposals shall enable the Secretary to accept proposals on a continuous basis after the initial publication of the request for proposals.

(2) Requests for proposals shall include the following requirements:

(A) Unless otherwise herein specified, the request for proposals shall be governed by the requirements and procedure set forth in RFP No. DE-PS01-90FE62271 Clean Coal Technology IV as administered by the Department of Energy.

(B) The host nation in which the project is to be located shall be a participant in the proposed project and shall agree to provide, in combination with any non-United States entity participant, directly or indirectly, at least 50 percent of the cost of the project or such greater amount as may be warranted by the financial circumstances of the host nation and any non-United States entity participant, as determined by the Secretary.

(C) The project shall utilize a United States energy technology and, where appropriate, United States coal resources, in meeting the applicable energy and environmental requirements of the host nation.

(D) The project shall be proposed by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(E) At least 50 percent of the cost of any equipment furnished in connection with an energy technology project authorized under this section shall be attributable to the components of such equipment manufactured in the United States. In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host nation shall not be considered a part of the cost of such United States component.

(e) SELECTION OF PROJECTS.—(1) The Secretary, in consultation with the Clean Coal Technology Export Coordinating Council or the Committee on Renewable Energy Commerce and Trade, may, not later than 120 days after receipt of proposals in response to the initial solicitation under subsection (d), select at least two proposals for negotiation of cooperative agreements under this section.

(2) In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(A) the ability of the United States firm, in cooperation with the host nation, to undertake and complete the proposed commercial demonstration project;

(B) the degree to which the furnished equipment to be included in the energy technology project is manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host nation and in other nations;

(D) the extent of technical and financial involvement of the host nation in the commercial demonstration project;

(E) the extent to which the proposed energy technology project meets the objectives stated in subsection (b) of this section; and

(F) such other criteria as the Secretary deems appropriate.

(3) The Secretary, in consultation with appropriate Federal officials, may establish eligibility criteria for host nations.

(f) COST-SHARING.—(1) The Secretary may provide financial assistance to any energy technology project for which a cooperative agreement is entered into pursuant to this section. Such financial assistance may be in the form of grants, or no interest or low interest loans.

(2)(A) Any financial assistance under this subsection may not be greater than 50 percent of the total costs directly and specifically related to any energy technology project which is the subject of a cooperative agreement under this section.

(B) Any financial assistance provided under this section shall be repayable to the United States if, in the judgment of the Secretary, such repayment will not jeopardize the competitive position of the United States firm with respect to the energy technology utilized and technological expertise associated with the selected project.

(g) REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the progress being made, through the cooperative agreements under this section, to introduce clean coal technologies and renewable energy technologies into other nations.

(h) DEFINITIONS.—For purposes of this section, the term—

(1) "host nation" means that foreign country which is—

(A) the participant in or the site of the proposed clean coal technology or renewable energy technology project and

(B) classified as either—

(i) a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a category II or category III country as classified under the guidelines of the export credit arrangement of the Organization for Economic Cooperation and Development followed by the Export-Import Bank of the United States.

(2) "United States firm" means—

(A) an individual possessing United States citizenship;

(B) a corporation incorporated under the laws of the United States; or

(C) a joint venture or partnership organized under the laws of the United States, each participant of which is an individual or corporation described in subparagraph (A) or (B).

(3) "United States energy technology" means—

(A) a clean coal technology or a renewable energy technology that is determined by the Secretary to be available for commercial use but not widely demonstrated in other than the United States;

(B) a technology which is either owned (50 percent or more) by a United States firm, licensed to a United States firm and owned by another United States firm, or in the public domain; and

(C) the intellectual property embodied in the process and in the furnished equipment being demonstrated.

SEC. 14302. CONVENTIONAL COAL TECHNOLOGY TRANSFER.—(a) If the Clean Coal Technology Export Coordinating Council determines that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the energy technology being used in a less developed country with significant indigenous coal resources, such technology shall, for purposes of sections 14109 and 14301, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section.

(b) In carrying out this subtitle, the Council shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

TITLE XV—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

SEC. 15101. EXEMPT WHOLESALE GENERATORS.—(a) DEFINITIONS.—For purposes of this title, the term—

(1) "exempt wholesale generator" means any person who: (A) is engaged directly, or indirectly through one or more affiliates of such person, as defined under section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(11)(B)), exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale, but such term excludes an affiliate of a registered holding company which was in existence as of the date of enactment of this title, unless the Commission has consented to such affiliate being an exempt wholesale generator; and (B) provides notice to the Commission, in such form as the Commission may prescribe, that such person is an exempt wholesale generator;

(2) "eligible facility" means a facility, wheresoever located, used for the generation of electric energy exclusively for sale at wholesale, including inter-connecting transmission facilities necessary to effect such sale at wholesale, but shall exclude any facility for which consent is required under subsection (c) if such consent has not been obtained. For purposes of this definition, the term "facility" shall include a portion of a facility and shall include a facility the construction of which has not been commenced or completed;

(3) "sale of electric energy at wholesale" shall have the same meaning as provided in section 201(d) of the Federal Power Act, as amended (16 U.S.C. 824(d));

(4) "retail rates and charges" means rates and charges for the sale of electric energy directly to consumers;

(5) "Commission" means the Securities and Exchange Commission; and

(6) "the Act" means the Public Utility Holding Company Act of 1935, as amended (15 U.S.C. 79 et seq.).

(b) APPLICABILITY OF DEFINITIONS IN PUHCA.—All of the terms used in this title and defined in the Act shall have the same meanings as defined therein.

(c) STATE CONSENT FOR ELIGIBLE FACILITIES.—If a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State as of the date of enactment of this title, in order for the facility to be considered an eligible facility consent must be obtained from every State commission having jurisdiction over any such rate or charge: *Provided*, That in the case of such a rate or charge which is a rate or charge of an affiliate of a registered holding company: (1) consent with respect to the facility in question shall be required from every State commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company; and (2) the approval of the Commission under the Act shall not be required for the transfer of the facility to an exempt wholesale generator.

(d) EXEMPTION OF EWGS FROM PUHCA.—An exempt wholesale generator shall not be considered an electric utility company under section 2(a)(3) of the Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, shall be exempt from all provisions of the Act.

(e) OWNERSHIP OF EWGS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of the Act, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under the Act to acquire and maintain an interest in the business of one or more exempt wholesale generators.

(f) OWNERSHIP OF EWGS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of the Act and the Commission's jurisdiction as provided under subsection (g) of this section, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under the Act), to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

(g) FINANCING AND OTHER RELATIONSHIPS BETWEEN EWGS AND REGISTERED HOLDING COMPANIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (f) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under the Act: *Provided*, That—

(1) section 11 of the Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

(2) the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate to the operations of an integrated public utility system;

(3) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or (B) the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding company system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, unless the Commission first finds that the issue or sale of such security, or the making of the guarantee, would have a substantial adverse impact on the financial integrity of the registered holding company system;

(4) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator, or (B) other transactions by such registered holding company or by its subsidiaries other than with respect to exempt wholesale generators, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator upon the registered holding company system, unless the approval of the issue or sale or other transaction, together with the effect of such capitalization and earnings, would have a substantial adverse impact on the financial integrity of the registered holding company system; and

(5) the Commission shall make its decision under paragraph (3) to approve or disapprove the issue or sale of a security or the guarantee of a security within 120 days of the filing of a declaration concerning such issue, sale or guarantee.

SEC. 15102. OWNERSHIP OF EXEMPT WHOLESALE GENERATORS AND QUALIFYING FACILITIES.—The ownership by a person of one or more exempt wholesale generators shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and 3(18)(B)(ii) of the Federal Power Act, as amended (16 U.S.C. 796 (17)(C)(ii) and 796(18)(B)(ii)).

SEC. 15103. PREVENTION OF STRANDED INVESTMENT.—The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if such sale of electric energy would result in a State commission not permitting such purchaser to recover in retail rates and charges any portion of its capital investment in an electric generation facility:

(a) which facility was under construction as of the date of enactment of this section; or

(b) upon which portion such purchaser has previously been permitted to earn a rate of return in retail rates and charges subject to such State commission's jurisdiction.

SEC. 15104. PREVENTION OF SHAM WHOLESALE TRANSACTIONS.—The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if:

(a) such electric energy would be resold by the purchaser to any electric consumer; and

(b) the purchaser: (1) is not a municipal electric system, state power authority, electric power cooperative or a public utility under State law; or (2) would not utilize transmission or distribution facilities owned by such purchaser to deliver all such electric energy to such electric consumer.

SEC. 15105. PROTECTION AGAINST ABUSIVE AFFILIATE TRANSACTIONS; STATE AUTHORITIES; FEDERAL RESTRICTION; RECIPROCAL ARRANGEMENTS PROHIBITED.—(a) IN GENERAL.—An electric utility company may not enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator if the exempt wholesale generator is an affiliate or associate company of the electric utility company.

(b) STATE AUTHORITY TO EXEMPT FROM PROHIBITION.—Notwithstanding subsection (a), an electric utility company may enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator that is an affiliate or associate company of the electric utility company if every State commission having jurisdiction over the retail rates of such electric utility company makes a specific determination in advance of the electric utility company entering into such contract that the transaction will benefit consumers, is in the public interest, and does not violate any State law (including where applicable, least cost planning).

(c) SALE JUST AND REASONABLE.—A rate or charge for the sale of electric energy at wholesale in interstate commerce by an exempt wholesale generator shall not be considered just and reasonable within the meanings of sections 205 and 206 of the Federal Power Act if the rate or charge allows the exempt wholesale generator to receive any unfair advantage resulting from the fact that the purchaser of such electric energy is an affiliate or associate company of such exempt wholesale generator.

(d) RECIPROCAL ARRANGEMENTS PROHIBITED.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.

SEC. 15106. STATE AUTHORITY.—Section 209 of the Federal Power Act (16 U.S.C. 824h) is amended by adding at the end the following new subsection:

"(d)(1) Except as set forth in paragraph (2), nothing in this Act shall limit the authority of a State commission in accordance with State law to allow or disallow the inclusion of the costs of electric energy purchased at wholesale in retail rates subject to such State commission's jurisdiction: *Provided*, That the State commission shall have no authority to determine the reasonableness of the wholesale rate or charge (and the terms and conditions thereof): *Provided further*, That at the request of a utility which has been offered a sale of electric energy at wholesale from an exempt wholesale generator, any State commission with jurisdiction over the retail rates of such utility shall commit to allow or disallow recovery of costs attributable to the utility's proposed action with regard to the offer in advance of the effective date of the action, except that the State may include terms or conditions as a condition of cost recovery as it deems appropriate. The action of the State commission in allowing cost recovery or conditionally allowing cost recovery shall be binding (subject to the terms and conditions, if any of such cost recovery) for purposes of the inclusion of costs in retail rates, except that such commission shall not be bound to the extent there is new information which the State commission believes is relevant and material to such cost recovery.

"(2) An order by the Commission accepting or establishing as just and reasonable the terms of an agreement for the sale and purchase or interchange of electric energy among affiliates of a registered holding company shall preempt the authority of any State commission to determine the prudence of any purchase of electric energy pursuant to that agreement.

"(3) Paragraph (2) shall not apply to: (A) the purchase of electric energy at wholesale by an affiliate of a registered holding company from an exempt wholesale generator; or (B) the purchase of electric energy at wholesale by an affiliate of a registered holding company from a person other than an exempt wholesale generator when the economic substance of such purchase amounts to an indirect purchase of electric energy from an exempt wholesale generator. For purposes of this subsection (d), energy purchased by an affiliate of a registered holding company as a result of the operation of an integrated holding company shall not be deemed to be an indirect purchase of electric energy from an exempt wholesale generator.

"(4) For purposes of this subsection the term—

"(A) 'exempt wholesale generator' has the same meaning as provided in title XV of the National Energy Security Act of 1992;

"(B) 'affiliate' and 'registered holding company' have the same meanings as provided in the Public Utility Holding Company Act of 1935;

"(C) 'purchase of electric energy at wholesale' means a purchase of electric energy by any person for resale; and

"(D) 'retail rates' means rates and charges for the sale of electric energy to consumers.".

SEC. 15107. STATE CONSIDERATION OF THE EFFECTS OF POWER PURCHASES ON UTILITY COST OF CAPITAL; CONSIDERATION OF THE EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND CONSIDERATION OF ADEQUATE FUEL SUPPLIES.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(8) Consideration of the Effects of Wholesale Power Purchases on Utility Cost of Capital; Effects of Leveraged Capital Structures on the Reliability of Wholesale Power Sellers; and Assurance of Adequate Fuel Supplies.—

"(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall:

"(i) perform a general evaluation of (A) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities (B) the impact on consumers arising from the fact that the exempt wholesale generator will own the eligible facility at the end of the term of a power sales contract;

"(ii) perform a general evaluation of any negative or positive effects on the reliability of electric service provided by such utilities that may result from purchases of long term wholesale power supplies from sellers that have capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities;

"(iii) hold a proceeding to consider whether the use by exempt wholesale generators (as defined in title XV of the National Energy Security Act of 1992) of capital structures employing less than 35 percent equity threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

"(iv) implement procedures for the advance approval or disapproval of the purchase of a particular long term wholesale power supply which procedures reflect the results of evaluations under clauses (i), (ii) and (iii) ; and

"(v) require as a condition for the approval of the purchase of a particular long term wholesale power supply that the seller provide reasonable assurance of its access to sources of fuel adequate to perform its obligations under the terms of the contract for the sale of such power supply.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1992.

"(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

"(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.

"(E) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.".

SEC. 15108. STATE COMMISSION ACCESS TO BOOKS AND RECORDS; PUBLIC ACCESS TO RECORDS AND INFORMATION; DEFINITION.—(a) ACCESS TO BOOKS AND RECORDS.—Each affected State commission shall have continuing and periodic access to relevant financial and other records of the exempt wholesale generator and any electric utility company that is an affiliate or associate company of such exempt wholesale generator relevant to the exercise of such affected State commission's authority. The records to be provided hereunder shall be specified by the affected State commission and may include: (1) all books and records which the exempt wholesale generator would be required to furnish under State law if such company were an electric utility company making retail sales subject to the jurisdiction of such affected State commission; (2) all contracts to which the exempt wholesale generator is a party relating to the financing, construction or operation of eligible facilities used to produce electric energy sold or to be sold by such exempt wholesale generator; and (3) any other records or information of the exempt wholesale generator or any electric utility company that is an affiliate or associate company of such exempt wholesale generator that are relevant to the exercise of such affected State commission's authority. All records and information provided hereunder shall be open to public inspection, and shall be subject to subpoena and other process of law, to the same extent and in the same manner as comparable records and information of electric utility companies under applicable law: *Provided further*, That trade secrets and other sensitive commercial information shall be exempt from public disclosure or disclosure to potential competitors of such exempt wholesale generator by an affected State commission and shall not be provided to a State commission unless such commission has in place procedures for protecting the confidentiality of such information.

(b) AFFECTED STATE COMMISSION.—For purposes of this section, with respect to a particular exempt wholesale generator an "affected State commission" means any State commission:

(1) having authority over the retail rates of an electric utility company to which such exempt wholesale generator sells electric energy;

(2) having authority over the retail rates of an electric utility company which is an affiliate of such exempt wholesale generator; or

(3) having authority over the retail rates of an electric utility company which is an associate company of such exempt wholesale generator and which is a subsidiary company of a holding company that is exempt under section 3 of the Act.

(c) NONPREEMPTION.—Nothing in this section shall—

(1) preempt applicable State law concerning the provision of records and other information; or

(2) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

SEC. 15109. PUBLIC UTILITY HOLDING COMPANIES TO OWN INTERESTS IN COGENERATION FACILITIES.—That Public Law 99–186 (99 Stat. 1180, as amended by Public Law 99–553, 100 Stat. 3087), be amended to read as follows:

"SECTION 1. Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act, or a subsidiary company of such registered company, may acquire or retain, in any geographic area, an interest in any qualifying cogeneration facilities and qualifying small power production facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act prescribed pursuant to section 210 of the Public Utility Regulatory Policies Act.

"SEC. 2. Nothing herein shall be construed to affect the applicability of section 3(17)(C) or section 3(18)(B) of the Federal Power Act or any provision of the Public Utility Holding Company Act, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.".

TITLE XVI—STRATEGIC PETROLEUM RESERVE

SEC. 16101. OIL SECURITY PROTECTION.—(a) Title I of the Energy Policy and Conservation Act (Public Law 94–163; 42 U.S.C. 6201) is amended—

(1) in section 152, by striking "and part C" and inserting in lieu thereof ", part C, and part D" in the material preceding paragraph (1);

(2) by redesignating part D as part E;

(3) by redesignating section 181 as section 191; and

(4) by adding the following new part after part C:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"SHORT TITLE

"SEC. 181. This part may be cited as the 'Strategic Petroleum Reserve Enhancement Act of 1992'.

"PURPOSES

"SEC. 182. The purposes of this part are to—

"(1) complete, at the earliest practicable date, storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve;

"(2) facilitate progress, as rapidly as practicable, toward establishment of a one billion barrel Strategic Petroleum Reserve;

"(3) authorize establishment of a Defense Petroleum Inventory of at least ten million barrels of petroleum products;

"(4) initiate, at the earliest practicable date, the acquisition of petroleum product pursuant to section 171 of the Energy Policy and Conservation Act of 1990;

"(5) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(6) provide the President with broad and flexible authority to achieve these objectives.

"COMPLETION OF 750 MILLION BARREL RESERVE

"SEC. 183. (a) The President shall initiate such actions as are necessary to complete storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve at the earliest practicable time. Such actions may include the alternatives in section 185.

"ENLARGEMENT OF RESERVE BEYOND 750 MILLION BARRELS

"SEC. 184. The President shall initiate such actions as are necessary to enlarge the Strategic Petroleum Reserve to one billion barrels as rapidly as possible. Such actions may include—

"(1) either of the alternatives described in section 185; and

"(2) the contracting for petroleum products for storage in facilities not owned by the United States.

"ACQUISITION OF PETROLEUM PRODUCTS

"SEC. 185. (a) The President, acting through the Secretary of Energy, may—

"(1) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, without the necessity for competitive procurement, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(2) contract, without regard to sections 171(b)(2)(B) and 173 of the Energy Policy and Conservation Act (42 U.S.C. 6349(b)(2)(B)), or to the restrictions which Public Law 101–512 imposes on the leasing of crude oil, for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory of petroleum products owned by one or more foreign governments.

"(b) The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out those activities, in advance of the receipt of petroleum products.

"(c) For the purpose of this part, the term 'foreign government' means a foreign government, a foreign State-owned oil company, or an agent of either.

"(d)(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary of Energy to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory. Except as provided in paragraph (d)(2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

"(2) Crude oil purchased by the Secretary pursuant to this section shall be by competitive bid. The price paid by the Secretary shall take into account the cost of production including costs of reservoir and well maintenance.

"(3) The President may also direct the Secretary of the Interior to take such actions as are within his power to provide incentives for conservation of the oil production from stripper wells located upon the public lands.

"(4) For the purpose of this section, the terms—

"(A) "domestic production" means any crude oil produced in the United States by any person; and

"(B) 'stripper well property' means any well located in the United States which produces an average of 15 or less barrels of crude oil per production day.".

(b) Part B of title I of the Energy Policy and Conservation Act (Public Law 94–163; 42 U.S.C. 6215 et seq.) is amended by adding after section 167 the following new section:

"DEFENSE PETROLEUM INVENTORY

"SEC. 168. (a) Notwithstanding any other provision of this part, the Secretary may—

"(1) acquire or construct, operate and maintain storage and facilities associated with a Defense Petroleum Inventory of at least ten million barrels of crude oil to meet petroleum product requirements of the Department of Defense; and

"(2) acquire and store crude oil therein.

"(b)(1) The acquisition and storage of crude oil in the Defense Petroleum Inventory shall be in addition to any acquisition or storage of crude oil for the Strategic Petroleum Reserve required by any other law, and crude oil acquired and stored under this section shall not be counted as part of the Strategic Petroleum Reserve.

"(2) In carrying out the functions authorized by this section, the Secretary may exercise any authority available under this part.

"(c)(1) Notwithstanding any other provision of this part, upon the request of the Secretary of Defense, crude oil acquired for or dedicated by the Defense Petroleum Inventory shall be drawn down and distributed by the Secretary to, or on behalf of, the Department of Defense for use, sale, or exchange. Crude oil in the Defense Petroleum Inventory may be drawn down and distributed, used, sold, or exchanged, without regard to—

"(A) whether the crude oil has been commingled with petroleum products of the Strategic Petroleum Reserve;

"(B) the requirements of this part concerning drawdown of the Strategic Petroleum Reserve; or

"(C) otherwise applicable Federal contracting statutes and regulations.

"(2) The Secretary of Energy shall exercise the authority provided by this subsection in a manner which does not adversely affect drawdown of the Strategic Petroleum Reserve.

"(d) Upon the request of the Secretary of Defense, and subject to the availability of funds from the Department of Defense, the Secretary shall acquire and store in the Defense Petroleum Inventory crude oil to replace crude oil drawn down under subsection (c).

"(e) An amendment to the Strategic Petroleum Reserve Plan relating to the exercise of this authority shall not be required.

"(f) The Department of Defense shall reimburse the Secretary of Energy for—

"(1) all costs of acquiring and storing crude oil in the Defense Petroleum Inventory, including the cost of associated facilities construction;

"(2) drawdown and distribution services provided under this section, in amounts that the Secretary determines to be reasonable; and

"(3) all costs of acquiring crude oil for the Strategic Petroleum Reserve to replace crude oil drawn down and distributed under subsection (c).

"(g) Crude oil acquired for the Defense Petroleum Inventory under subsection (a) shall be transferred to the Strategic Petroleum Reserve, pursuant to subsection (f)(3), in reimbursement on a barrel-for-barrel basis for the cost of replacement petroleum products acquired for the Strategic Petroleum Reserve.".

(c) The table of contents of the Energy Policy and Conservation Act (Public Law 94–163) is amended—

(1) by inserting after the item for section 167 the following item:

"Sec. 168. Defense Petroleum Inventory.";

(2) by inserting at the end of the items for part C of Title I the following items:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"Sec. 181. Short title.
"Sec. 182. Purposes.
"Sec. 183. Completion of 750 million barrel reserve.
"Sec. 184. Enlargement of reserve beyond 750 million barrels.
"Sec. 185. Acquisition of petroleum products.";

(3) by redesignating Part D in the items for title I as part E; and

(4) by redesignating the item for section 181 as the item for section 191.

TITLE XVII—STRATOSPHERIC OZONE DEPLETION

SEC. 17101. FINDINGS.—The Senate finds that:

(1) The stratospheric ozone layer, which protects all living things from harmful ultraviolet radiation from the sun, has been severely depleted in many areas of the globe.

(2) Recent scientific data show that the ozone layer over densely populated areas of the United States and other countries in the northern midlatitudes has thinned twice as fast as had previously been measured and as had been projected by theoretical models and the depletion is persisting into the warmer months of the year, and has reached significant levels even in summer.

(3) Ozone depletion in the Southern Hemisphere is proceeding even more rapidly than in the Northern Hemisphere.

(4) The incidence of skin cancer and cataracts is expected to rise significantly and the human immune system may be suppressed due to increased exposure to ultraviolet radiation.

(5) Increased exposure to ultraviolet radiation threatens food crops and some wild plants, and interferes with the ability of phytoplankton, the microscopic organisms that are at the base of the oceanic food chain, to photosynthesize and to reproduce.

(6) The scientific evidence shows that chlorofluorocarbons, hydrochlorofluorocarbons, and other halogenated chemicals undergo reactions in the stratosphere that lead to the rapid destruction of the ozone layer.

(7) The Administrator of the Environmental Protection Agency is required under the Clean Air Act Amendments of 1990 to accelerate the scheduled phaseout of ozone-destroying substances if it is determined in the light of scientific evidence that a more stringent schedule is necessary to protect human health and the environment.

(8) The recent scientific findings make necessary a reappraisal of both domestic and international policy on the control of ozone-destroying chemicals.

SEC. 17102. SENSE OF THE SENATE.—It is the sense of the Senate that:

(1) The Administrator of the Environmental protection Agency should accelerate the interim phaseout schedules and the final phaseout date of chlorofluorocarbons, carbon tetrachloride, methyl chloroform, and halons as required pursuant to section 606 of the Clean Air Act Amendments of 1990, and shall provide for complete phaseout as early as possible, taking into account section 604 of the Act.

(2) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedule and the final phaseout date of those hydrochlorofluorocarbons that have relatively long atmospheric lifetimes or high ozone depletion potentials.

(3) The Administrator of the Environmental Protection Agency should prioritize efforts to issue regulations, as required pursuant to title VI of the Clean Air Act Amendments of 1990, providing for the recapture and recycling of ozone-destroying substances as used in appliances and motor vehicle air conditioners, and for the elimination of such substances as used in non-essential consumer products.

(4) The President of the United States should urge the Contracting Parties to the Montreal Protocol to accelerate the interim phaseout schedules and the final phaseout date of ozone-destroying chemicals currently covered by the Protocol.

(5) The President should urge the Contracting Parties to include hydrochlorofluorocarbons within the terms of the Montreal Protocol, and to provide for the most rapid phaseout of those hydrochlorofluorocarbons with relatively long atmospheric lifetimes, or high ozone depletion potentials.

(6) The President should urge the Contracting Parties to amend the Protocol to include recapture and recycling provisions and to prohibit the venting or releasing of ozone-destroying chemicals from refrigeration and air conditioning units into the atmosphere by date certain.

(7) The President should urge the Contracting Parties to accelerate the compliance of developing countries with the terms of the Montreal Protocol.

TITLE XVIII—INDIAN ENERGY RESOURCE DEVELOPMENT COMMISSION

SEC. 18101. SHORT TITLE.—This title may be cited as the "Indian Energy Resource Development Commission Act of 1992".

SEC. 18102. ESTABLISHMENT.—There is established the Indian Energy Resources Development Commission (hereafter in this title referred to as the "Commission").

SEC. 18103. MEMBERSHIP OF THE COMMISSION.—(a) MEMBERSHIP COMPOSITION.—The Commission shall consist of—

(1) 6 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribal governments;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States which have Indian reservations with energy resources;

(3) 9 members appointed by the Secretary of the Interior from private sector individuals with expertise in energy development, taxation of energy resources, or oil and gas royalty management administration, auditing and accounting;

(4) the Secretary of the Interior, or his designee; and

(5) the Secretary of Energy, or his designee.

(b) APPOINTMENTS.—Members of the Commission shall be appointed not later than 60 days following the date of enactment of this title.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(d) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(e) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) ORGANIZATIONAL MEETING.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after all members are first appointed to the Commission.

(g) COMPENSATION.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(h) TRAVEL.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 18104. COMMISSION STAFF.—(a) EXECUTIVE DIRECTOR.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) ADDITIONAL PERSONNEL.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate prescribed for level GS-15 of the General Schedule under section 5108 of such title.

(c) EXPERTS AND CONSULTANTS.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

SEC. 18105. DUTIES OF THE COMMISSION.—The Commission shall—

(1) identify barriers or obstacles to the development of energy resources on Indian lands, and make recommendations designed to foster the development of energy resources on Indian lands and promote economic development;

(2) develop proposals to address the dual taxation of the extraction of mineral resources on Indian lands;

(3) develop proposals for the promotion of vertical integration of the development of energy resources on Indian lands;

(4) make recommendations to improve the management, administration, accounting and auditing of royalties associated with the production of oil and gas on Indian lands; and

(5) develop proposals on taxation incentives to foster the development of energy resources on Indian lands including, but not limited to, investment tax credits and enterprise zone credits.

SEC. 18106. POWERS OF THE COMMISSION.—(a) HEARINGS.—For the purpose of carrying out this title, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) ADMINISTRATIVE PROVISION.—Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this title. Upon request of the Chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

SEC. 18107. REPORT.—The Commission shall prepare and transmit a report to the President, the Speaker of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate within 12 months after funding for the operation of the Commission has been secured. The report shall contain the recommendations and proposals outlined in section 18105.

SEC. 18108. DEFINITION OF "INDIAN LANDS".—For the purposes of this title, the term "Indian lands" means lands that are owned by an Indian tribe or Alaska Native corporation or held in trust by the United States for the benefit of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 18109. AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 18110. TERMINATION.—The Commission shall terminate 30 days after submitting the final report required by section 18107.

TITLE XIX—GENERAL PROVISIONS

SEC. 19101. SUPPORT FOR UNITED STATES WORKERS.—(a) FINDINGS.—The Senate finds that—

(1) the United States worker is one of the most productive in the world;

(2) based on gross domestic product produced per employed person, the United States is rated number one in productivity compared to Canada, Japan, Korea, Germany, and Britain;

(3) according to a study (based on statistics from the Organization for Economic Cooperation and Development) during the mid-1980's, America produced almost twice as much as Japan for every man-hour worked;

(4) it was the hard work, dedication, and efficiency of United States workers that made the United States the number one industrial power in the world;

(5) the quality of United States products is one of the best in the world;

(6) the United States leads in many areas including computer software and hardware technology, pharmaceuticals, biotechnology, construction engineering, entertainment, agriculture, and energy and environmental control;

(7) the United States has been able to successfully export to other areas of the world;

(8) the trade deficit with Japan for 1991 is approximately $42 billion;

(9) United States and other foreign auto makers attempting to sell in Japan have less than 3 percent of the Japanese market;

(10) Japan's structural impediments, such as restrictive distribution system, exclusionary business practices, keiretsu relationships, regulatory system, land policy, and predatory pricing practices, prevent United States companies from fairly competing in Japan;

(11) Japan's tariffs and quotas on foreign agricultural goods restrict the import of United States agricultural products into Japan;

(12) Japan continues to violate United States copyright, patent, and trademark protection laws; and

(13) Japan continues to restrict foreign direct investment in certain industries, while the United States permits unrestricted foreign investment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate objects to—

(1) the comments made by Japan's Speaker of the House, Yoshio Sakurauchi, regarding American workers, and

(2) the statements made by Prime Minister Kiichi Miyazawa disparaging the American work ethic and undermining the commitment that was made with President Bush.

SEC. 19102. AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—(a) Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) any interest of a debtor in or to liquid or gaseous hydrocarbons which the debtor has transferred or has agreed to transfer through or by a written farmout agreement, or any written agreement directly related thereto.

The trustees' rights, created in sections 365 and 544(a)(3), shall not operate to cancel or otherwise limit the effect of paragraph (3). For purposes of this subsection, the term 'farmout agreement' is a written agreement (A) in which the owner, of the rights to drill, produce or operate liquid or gaseous hydrocarbons on property agrees or is obligated to transfer or assign all or a portion of those rights to another party and (B) in which the other party, its agents or assignees, as consideration, agrees to perform drilling, reworking, recompleting, testing or other similar or related operations to develop or produce liquid or gaseous hydrocarbons on the property. In determining if a farmout agreement exists, the courts shall look to the custom and practices within the oil and gas industry for guidance. This subsection shall not operate to exclude from the debtor's estate the consideration which the debtor retains, receives, or will receive in exchange for transfering its interest in liquid or gaseous hydrocarbons.".

(b) EFFECTIVE DATE.—Except as provided in subsection (c), section 19102 shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF AMENDMENT.—The amendment made by section 19102 shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 19103. LIMITS ON PARTICIPATION BY COMPANIES.—A company shall be eligible to receive financial assistance under this Act only if—

(1) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(A) the company is a United States-owned company; or

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

SEC. 19104. EMERGENCY PETROLEUM SUPPLY.—(a) SHORT TITLE.—This section may be cited as the "Emergency Petroleum Supply Act".

(b) REGIONAL PETROLEUM RESERVE.—Section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237(a)) is amended—

(1) by designating the first and second sentences as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of carrying out this section—

"(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations, as in effect on November 1, 1975;

"(B) determinations made with respect to Regions, other than States that are islands, shall be made as if the islands were not part of the Regions; and

"(C) with respect to determinations made for any State that is an island, the term 'refined petroleum product' shall have the same meaning as the term defined in section 3(3).".

(c) PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY ENTITIES IN ELIGIBLE INSULAR AREAS.—Section 161 of such Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1)(A) The provisions listed in subparagraph (B) shall apply with respect to each offering of a quantity of a petroleum product during a drawdown of the Strategic Petroleum Reserve.

"(B)(i)(I) Subject to subclause (II), a purchaser located in an eligible insular area, in addition to having the opportunity to submit a competitive bid, may submit (at the time bids are due) a binding offer to purchase a category of petroleum product specified in a notice of sale, and shall thereupon be obligated to purchase the petroleum product at a price equal to the average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering.

"(II) A binding offer made pursuant to subclause (I) shall be accompanied by a certification made by the Governor or other chief executive officer of the eligible insular area that the petroleum product is necessary to avert a critical supply shortage in the eligible insular area.

"(ii)(I) Subject to subclause (II), a vessel that arrives at a delivery line of the Strategic Petroleum Reserve to take on a petroleum product for delivery to a purchaser located in an eligible insular area shall be loaded ahead of other vessels waiting for delivery if the Governor or other chief executive officer of the eligible insular area has certified that delivery must be expedited in order to avert a critical supply shortage in the eligible insular area.

"(II) The Secretary may waive the priority loading requirement of subclause (I) with respect to a particular vessel waiting for delivery if the Secretary determines that the requirement is impracticable.

"(2)(A) In administering this subsection, and with regard to each offering, the Secretary shall—

"(i) impose the limitation listed in clause (i) or (ii) of subparagraph (B), whichever results in the purchase of the lesser quantity; and

"(ii) at the request of a purchaser, adjust upward, to the next whole-number increment of a full tanker load, the quantity to be sold to the purchaser if the quantity is less than 50 percent less than a whole-number increment of a full tanker load of a petroleum product.

"(B)(i) The Secretary shall limit the quantity that any one purchaser may purchase through a binding offer at any one offering to 1/12 of the total quantity of petroleum products that the purchaser imported during the previous year.

"(ii)(I) The Secretary shall limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(II) If the Secretary imposes the limitation listed in subclause (I), the Secretary shall prorate the quantity among the purchasers who submitted binding offers.

"(3)(i) Except as provided in clause (ii), petroleum products purchased through binding offers pursuant to this subsection shall be delivered to the eligible insular area.

"(ii) Purchasers may enter into exchange or processing agreements that require delivery to other locations.

"(4) As used in this subsection:

"(A) The term 'eligible insular area' means the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(B) The term 'offering' means a solicitation for bids—

"(i) that is to be submitted not later than any specified day for a quantity or quantities of a petroleum product from a delivery line of the Strategic Petroleum Reserve; and

"(ii) for a distribution with respect to which the President has made a finding pursuant to subsection (d).".

SEC. 19105. ALTERNATIVE MINIMUM TAX.—It is the sense of the Senate that the Senate Committee on Finance should review the impact of the alternative minimum tax on domestic oil and gas producers and domestic oil and gas production and take such action as may be appropriate to promote domestic production.

SEC. 19106. RADIATION EXPOSURE COMPENSATION.—Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by adding at the end the following new subsection:

"(l) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 19107. ALTERNATIVE TRANSPORTATION FUELS AND ELECTRIC VEHICLES.—(a)(1) The United States is the largest consumer of oil in the world, exhausting 17 million barrels of oil per day, a 14 percent increase since 1983.

(2) The United States domestic production is in decline, estimated to fall below nine million barrels of oil per day by 1995. Today, oil imports have risen to over 40 percent of consumption, exacerbating our Nation's negative balance of trade.

(3) The Persian Gulf War commands attention to the fact that over 25 percent of America's gross oil imports are shipped from the Persian Gulf, and this reliance is the achilles heel of our Nation's energy and economic security.

(4) In the United States, the transportation sector accounts for 63 percent of total oil consumption.

(5) The Office of Technology Assessment estimates that the United States could displace 555,000 barrels of oil per day in the transportation sector by utilizing alternative fuels like compressed natural gas, electric vehicles, traffic management systems, and by reducing the number of gas guzzling vehicles on the road.

(6) Natural gas is a clean burning, abundant, and inexpensive national resource that could displace oil consumption in 25 percent of the current fleet vehicle population over ten years, reducing imported oil by 240,000 barrels per day.

(7) The United States taxpayers have invested significant resources in the development of alternative transportation fuels, electric vehicles, and traffic technologies, at our Nation's laboratories, universities, and in private industry.

(8) Both American Government and industry have met great success in the utilization of existing natural gas and electric vehicle fleets.

(9) Encouraging government and industry to convert to the use of energy efficient, alternative transportation fleets complements our national goals of energy independence, clean air, reduced balance of trade, and technology transfer.

(10) The pace of improvement of clean and efficient alternative technologies is directly correlated to the level of investment in research and development.

(b) Therefore, the Senate finds that it is in the Nation's best interest to assist the market and accelerate the adoption of alternative non-oil transportation fuels, vehicles, and traffic management systems, and the Senate will readdress this position during consideration of the appropriate tax legislation.

SEC. 19108. NATIONAL SECURITY TAX SHIFT.—(a) FINDINGS.—The Senate finds that—

(1) Conservation must be at the heart of any effective long-term national energy strategy; and increasing the motor fuels tax would encourage Americans to purchase more fuel efficient vehicles, car pool, and use alternative forms of transportation.

(2) By encouraging conservation and the market for alternative fuels, increasing the motor fuels tax would reduce our reliance on imported oil, and would reduce the likelihood that American troops will need to be sent abroad to secure the free flow of oil.

(3) Increasing the motor fuels tax would reduce automobile pollution, and, in particular, would reduce the emission of carbon dioxide, a key "greenhouse" gas.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that as part of the Nation's Energy Strategy, the Senate Finance and House Ways and Means Committees should study the possibility of legislation to shift some amount of taxation from the income tax to the motor fuels tax to encourage conservation and alternative fuels: *Provided*, That: (1) the revenue generated by the increase in motor fuels tax is shifted to taxpayers in the form of income tax reductions so that the package is revenue-neutral, does not represent a net tax increase on the average American family, and is at least as progressive as the current tax code; (2) the tax shift does not become effective until the current recession is over; and (3) the tax shift is phased in gradually to allow consumers and industries to adjust.

SEC. 19109. STRATEGIC DIVERSIFICATION.—The Office of Barter within the United States Department of Commerce and the Interagency Group on Countertrade shall within six months from the date of enactment report to the President and the Congress on the feasibility of using barter, countertrade and other self-liquidating finance methods to facilitate the strategic diversification of United States oil imports through cooperation with the former Soviet Union in the development of their energy resources. The report shall consider among other relevant topics the feasibility of trading American grown food for Soviet produced oil, minerals or energy.

SEC. 19110. NRC FEES.—It is the sense of the Senate that—

(1) the provisions of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, section 6101) that require the Nuclear Regulatory Commission to recover essentially 100 percent of its budget authority through the imposition of fees may have caused an unfair burden to be imposed on certain NRC licensees; and

(2) the Nuclear Regulatory Commission should review its policy for assessment of fees and recommend to the Congress whether there is any need for changes in existing law to prevent the placement of an unfair burden on certain NRC licensees, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes.

TITLE XX—REVENUE PROVISIONS

SEC. 20101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 20111. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $145 per month in the case of qualified parking.

"(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified transportation fringe' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

"(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2) (A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.

"(7) Coordination with other provisions.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) Conforming Amendment.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) Effective Date.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 20112. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) General Rule.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

"(a) Exclusion.—

"(1) In general.—Gross income shall not include the value of any subsidy provided by a public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) Limitation on exclusion for nonresidential property.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(B), only 80 percent of such subsidy shall be excluded from gross income under paragraph (1).

"(b) Denial of Double Benefit.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) Energy Conservation Measure.—

"(1) In general.—For purposes of this section, the term 'energy conservation measure' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1994, with respect to property other than dwelling units.

The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).

"(2) Other definitions and special rules.—

"(A) Definitions.—For purposes of this subsection—

"(i) Specially defined energy property.—The term 'specially defined energy property' means—

"(I) a recuperator,

"(II) a heat wheel,

"(III) a regenerator,

"(IV) a heat exchanger,

"(V) a waste heat boiler,

"(VI) a heat pipe,

"(VII) an automatic energy control system,

"(VIII) a turbulator,

"(IX) a preheater,

"(X) a combustible gas recovery system,

"(XI) an economizer,

"(XII) modifications to alumina electrolytic cells,

"(XIII) modifications to chlor-alkali electrolytic cells, or

"(XIV) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(ii) Dwelling unit.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(iii) Public utility.—The term 'public utility' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

"(B) Special Rules.—

"(i) Third-party contractors.—If, in connection with the purchase or installation of an energy conservation measure for a customer of a public utility, such public utility provides a subsidy to a person other than the customer, such subsidy shall be excludable under subsection (a) from the gross income of such other person to the extent such subsidy would be so excludable from the gross income of the customer.

"(ii) State-sponsored programs.—A payment by a public utility to a customer for the use of a tax benefit granted to the customer by a State pursuant to a State-sponsored energy conservation program shall be excludable under subsection (a) from the gross income of the customer to the extent such payment would be so excludable if provided as a subsidy by the public utility.

"(d) Exception.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by public utilities.

"Sec. 137. Cross reference to other Acts."

(c) Effective Date.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 20113. TREATMENT OF CLEAN-FUEL VEHICLES.

(a) Deduction for Clean-Fuel Vehicles and Certain Refueling Property.—

(1) In general.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) General Rule.—There shall be allowed as a deduction an amount equal to the sum of—

"(1) in the case of any qualified clean-fuel vehicle property—

"(A) except as provided in subparagraph (B), the cost of the property, or

"(B) in the case of a vehicle described in subsection (c)(1)(B) which may be propelled by both a clean-burning fuel and any other fuel, an amount equal to the greater of—

"(i) $1,200, or

"(ii) the incremental cost of permitting the use of the clean-burning fuel, plus

"(2) the cost of any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(b) Limitations.—

"(1) Qualified clean-fuel vehicle property.—

"(A) In general.—The cost which may be taken into account under subsection (a)(1) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver),

"(B) Phaseout.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) Qualified clean-fuel vehicle refueling property.—

"(A) In general.—The aggregate cost which may be taken into account under subsection (a)(2) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a)(2) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) Related person.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) Election.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a)(2).

"(c) Qualified Clean-Fuel Vehicle Property Defined.—For purposes of this section—

"(1) In general.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) Retrofit parts and components.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel—

"(i) if the property is an engine (or modification thereof) which may use a clean-burning fuel, or "(ii) to the extent the property is used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(3) EXCEPTION FOR QUALIFIED ELECTRIC VEHICLES.—The term 'qualified clean-fuel vehicle property' does not include any qualified electric vehicle (as defined in section 30(c)).

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is—

"(A) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

"(B) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(3) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(b) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the cost of any qualified electric vehicle placed in service by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2001, the credit otherwise allowable under subsection (a) shall be reduced by—

"(A) 25 percent in the case of property placed in service in calendar year 2002,

"(B) 50 percent in the case of property placed in service in calendar year 2003, and

"(C) 75 percent in the case of property placed in service in calendar year 2004.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over—

"(B) the tentative minimum tax for the taxable year.

"(c) QUALIFIED ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified electric vehicle' means any motor vehicle—

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current,

"(B) the original use of which commences with the taxpayer, and

"(C) which is acquired for use by the taxpayer and not for resale.

"(2) MOTOR VEHICLE.—For purposes of paragraph (1), the term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(d) SPECIAL RULES.—

"(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit.

"(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(e) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004".

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Credit for qualified electric vehicles."

(B) Section 1016(a), as amended by subsection (a)(3), is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 30(d)(1)."

(C) Section 53(d)(1)(B)(iii) is amended—

(i) by striking "section 29(b)(5)(B) or" and inserting "section 29(b)(6)(B),", and

(ii) by inserting ", or not allowed under section 30 solely by reason of the application of section 30(b)(2)(B)" before the period.

(D) Section 55(c)(2) is amended by striking "29(b)(5)," and inserting "29(b)(6), 30(b)(2),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 20114. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

"(iii) the aggregate amount of subsidized energy financing under a Federal, State, or local program provided in connection with the project, and

"(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility originally placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for such calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. For purposes of the preceding sentence, only contracts entered into after December 31, 1989, shall be taken into account.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

SEC. 20115. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) DEPLETION.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) DEPLETION.—

"(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) INTANGIBLE DRILLING COSTS.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—In the case of any oil or gas well—

"(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) LIMITATION ON BENEFIT.—The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.".

(c) CONFORMING AMENDMENTS.—

(1) Section 56 is amended by striking subsection (h).

(2) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

(3) Section 59(a)(2)(A)(ii) is amended by striking "and the alternative tax energy preference deduction under section 56(h)" and inserting "and section 57(a)(2)(E)".

(4) Section 59A(b)(1) is amended by striking "or the alternative tax energy preference deduction under section 56(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 20116. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ADDITIONAL BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical for any calendar year (determined without regard to this subparagraph) shall be increased by the amount determined under the following tables for such calendar year:

"(i) INITIALLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.18
1993	0.10
1994	1.00
1995 and each calendar year thereafter	1.45.

"(ii) NEWLY LISTED CHEMICALS.—

"For calendar year:	The base tax amount is increased by:
1992	$0.48
1993	1.08
1994	0.65
1995 and each calendar year thereafter	1.45."

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "January 1 of 1991, 1992, 1993, and 1994" and inserting "January 1 of 1991 and 1992, October 1, 1992, and January 1 of 1993 and each calendar year thereafter".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or October 1" after "January 1", and

(ii) by inserting "or March 31 of the suceeding calendar year, respectively," after "such year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after October 1, 1992.

SEC. 20117. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) is amended to read as follows:

"In the case of:	The applicable percentage is:	
	For sales or use during 1992	For sales or use during 1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2404	2.3	1.5".

(b) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use after September 30, 1992, and before January 1, 1994, of any substance to sterilize medical devices, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph be imposed):

"In the case of sales or use during:	The applicable percentage is:
1992	90.3
1993	60.7.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical devices, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used after September 30, 1992, and before January 1, 1994, by any person to sterilize medical devices, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after October 1, 1992.

SEC. 20118. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" in subparagraph (A) and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) OCEAN THERMAL ENERGY.—Subparagraph (A) of section 48(a)(3) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) equipment, placed in service after June 30, 1992, at either of 2 locations designated by the Secretary after consultation with the Secretary of Energy, which converts ocean thermal energy to usable energy,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

SEC. 20119. NUCLEAR DECOMMISSIONING FUNDS.

(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 20120. ALCOHOL FUELS.

(a) REDUCED RATE OF TAX ON GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by multiplying the otherwise applicable rate by a fraction the numerator of which is 10 and the denominator of which is—

"(A) 9 in the case of 10 percent gasohol,

"(B) 9.23 in the case of 7.7 percent gasohol, and

"(C) 9.43 in the case of 5.7 percent gasohol,

in the case of the removal or entry of any gasoline for use in producing gasohol at the time of such removal or sale. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or entry."

(2) CONFORMING AMENDMENTS.—Section 4081(c) is amended—

(A) by striking "6.1 cents a gallon" in paragraph (2) and inserting "an otherwise applicable rate", and

(B) by striking paragraph (4) and inserting the following new paragraph:

"(4) OTHERWISE APPLICABLE RATE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) or entered after September 30, 1992.

(b) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation, or

"(ii) 50 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF THE ALCOHOL FUELS CREDIT NOT USED AGAINST NORMAL LIMITATION.—For purposes of subparagraph (A), the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to such alcohol fuels credit, over "(ii) the limitation of paragraph (1) (without regard to this paragraph), reduced by the portion of the credit under subsection (a) which is not so attributable."

(2) Effective date.—

(A) In general.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1992.

(B) Exception.—The amendment made by paragraph (1) shall not apply to—

(i) any credit which was determined in a taxable year, or

(ii) any credit which is carried back to a taxable year,

beginning on or before September 30, 1992.

SEC. 20121. DETERMINATION OF INDEPENDENT PRODUCERS.

(a) Retailers.—

(1) In general.—Section 613A(d)(2) is amended—

(A) by inserting "and sales of natural gas by a regulated public utility" after "users", and

(B) by inserting "and sales of products derived from natural gas by a regulated public utility" after "Defense".

(2) Definition.—Section 613A(d)(2) is amended by adding at the end thereof the following new sentence "For purposes of the first sentence, the term 'regulated public utility' means a utility described in section 7701(a)(33) at least 50 percent of the gross income of which is derived from sources described in subparagraphs (A), (B), and (C) of section 7701(a)(33)."

(b) Refiners.—Section 613A(d)(4) (relating to certain refiners excluded) is amended to read as follows:

"(4) Certain refiners excluded.—If the taxpayer or 1 or more related persons engage in the refining of crude oil, subsection (c) shall not apply to such taxpayer during any taxable year if the aggregate average daily refinery runs of the taxpayer and such persons for the taxable year exceed 50,000 barrels."

(c) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1992.

SEC. 20122. TAX-EXEMPT FINANCING FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.

(a) In General.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(12) environmental enhancements of hydroelectric generating facilities."

(b) Definition and Special Rules for Environmental Enhancements of Hydroelectric Generating Facilities.—

(1) In general.—Section 142 is amended by adding at the end the following new subsection:

"(j) Environmental Enhancements of Hydroelectric Generating Facilities.—

"(1) In general.—For purposes of subsection (a)(12), the term 'environmental enhancements of hydroelectric generating facilities' means property—

"(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

"(B) which—

"(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

"(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

"(2) Use of proceeds.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i)."

(2) Financed property must be governmentally owned.—Subparagraph (A) of section 142(b)(1) (relating to certain facilities must be governmentally owned) is amended by striking "(2) or (3)" and inserting "(2), (3), or (12)".

(3) Exclusion from volume cap.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "or (2)" and inserting ", (2), or (12)", and

(B) by striking "and docks and wharves" and inserting ", docks and wharves, and environmental enhancements of hydroelectric generating facilities".

(c) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subtitle B—Other Revenue Provisions

SEC. 20131. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) In General.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Club Membership Dues.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) Effective Date.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

SEC. 20132. MODIFICATIONS TO TAX ON INSURANCE POLICIES ISSUED BY FOREIGN INSURERS.

(a) Increase in Tax on Certain Reinsurance Contracts.—Paragraph (3) of section 4371 (relating to imposition of tax) is amended to read as follows:

"(3) Reinsurance.—

"(A) 4 cents on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1).

"(B) 1 cent on each dollar (or fractional part thereof) of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (2)."

(b) Retention of Existing Tax Rate in Certain Cases; Limitation on Treaty Benefits.—

(1) Section 4371 is amended by adding at the end thereof the following new subsection:

"(b) Special Rules.—

"(1) Lower rate on certain reinsurance premiums.—Subparagraph (A) of subsection (a)(3) shall be applied with respect to any premium by substituting '1 cent' for '4 cents' if—

"(A) such premium is paid to a foreign insurer or reinsurer which is a resident of a foreign country,

"(B) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed by chapter 1, and

"(C) the risk with respect to which such premium is paid is not reinsured (directly or through a series of transactions) by a resident of another foreign country who does not meet the requirements of subparagraph (B).

"(2) Application of relief.—In applying paragraph (1) or any treaty, no person shall be relieved of the requirement to remit any tax imposed by this chapter on any premium unless the parties to the transaction satisfy such requirements as the Secretary may prescribe to ensure collection of tax due on any reinsurance of the risk with respect to which such premium was paid.

"(3) Secretarial authority.—

"(A) Enforcement procedures.—The Secretary may prescribe regulations setting forth such procedures as the Secretary may deem appropriate to ensure compliance with the requirements of paragraph (1).

"(B) Waiver.—The Secretary may by regulations waive the requirements of paragraph (1)(C) in such circumstances and subject to such conditions as he may deem appropriate."

(2) Section 4371 is amended by striking "There is hereby" and inserting the following:

"(a) General Rule.—There is hereby".

(c) Effective Date.—The amendments made by this section shall apply to premiums paid after the date of the enactment of this Act but only to the extent allocable to reinsurance for periods after December 31, 1992.

Subtitle C—Health Care of Coal Miners

SEC. 20141. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 20142. FINDINGS AND DECLARATION OF POLICY.

(a) Findings.—The Congress finds that—

(1) coal provides a significant portion of the energy used in the United States;

(2) the production, transportation and use of coal affects interstate and foreign commerce and the national public interest;

(3) a significant portion of the national work force has been employed in the production of coal for interstate and foreign commerce and in the national interest;

(4) the Government of the United States has regulated the coal industry, employment in the industry, and the provision of retirement benefits within the industry;

(5) the continued well-being and security of employees, retirees and their dependents within the coal industry are directly affected by the provision of health benefits to retirees and their dependents;

(6) for many decades, the provision of adequate health care for retirees has been an essential element in maintaining a stable and strong coal industry as an important component in a strong United States economy;

(7) an important element in the privately maintained benefit plans now experiencing financial difficulty has been the provision of health benefits for retirees of companies no longer in business; and

(8) withdrawals of contributing employers from privately maintained benefit plans under collective bargaining agreements derived from an agreement with the United States, covering retirees within the coal industry, result in substantially increased funding burdens for employers that continue to contribute to such plans, adversely affect labor-management relations and the stability and strength of the coal industry, and impair the provision of health care to retirees.

(b) Additional Findings.—The Congress further finds that—

(1) it is necessary to modify and reform the current private benefit plan structure for re-

tirees within the coal industry in order to stabilize the provision of health care benefits to such retirees; and

(2) it is necessary to supplement the current private benefit plan structure with a benefit protection program that will assure continued funding and contain program costs.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this subtitle—

(1) to remedy problems that discourage the provision, funding, and delivery of health care to coal industry retirees;

(2) to provide reasonable protection for the health benefits of coal industry retirees;

(3) to require use of state-of-the-art cost containment and managed care measures as part of the overall package of health care delivery and financing; and

(4) to provide a financially self-sufficient program for the provision of retiree health benefits in the coal industry.

SEC. 20143. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. Coal industry health benefits.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A. Coal Industry Retiree Health Benefits Corporation.

"SUBCHAPTER B. Eligibility for and payment of benefits.

"SUBCHAPTER C. Other provisions.

"Subchapter A—Coal Industry Retiree Health Benefit Corporation

"Sec. 9701. Establishment of the Corporation.

"Sec. 9702. Directors of Corporation.

"Sec. 9703. Powers; tax status.

"Sec. 9704. Operation of Corporation.

"SEC. 9701. ESTABLISHMENT OF THE CORPORATION.

"There is hereby created the Coal Industry Retiree Health Benefit Corporation (hereafter in this chapter referred to as the 'Corporation'), which shall be a governmental body corporate under the direction of a board of directors. Within the limitations of law and regulation, the board of directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"SEC. 9702. DIRECTORS OF CORPORATION.

"(a) APPOINTMENT.—The board of directors of the Corporation shall consist of 5 persons, who shall be appointed by the Secretary of Labor. The board shall at all times have the following as members:

"(1) 2 persons from employers in the coal-mining industry (only 1 of whom shall be from an entity that is or was a settlor of a plan described in section 404(c));

"(2) 1 person from an organization that represents coal industry employees (and that is or was a settlor of a plan described in section 404(c));

"(3) 1 person from another labor organization representing employees (whether or not in the coal industry); and

"(4) 1 other person who shall serve as the chairman.

"(b) TERMS OF OFFICE, SUCCESSORS.—Each director shall be appointed for a term of 3 years, except for the initial term. The initial terms of the directors shall be as follows:

"Coal industry employee representative .... (section 404(c) settlor)	4 years
"Coal-mining industry employer .... (section 404(c) settlor)	3 years
Other employee representative	3 years
Other coal-mining industry employer	2 years
Chairman	1 year.

A vacancy on the board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term. A director may serve after the expiration of a term until a successor has taken office.

"(c) QUORUMS.—Vacancies on the board shall not impair the powers of the board to execute the functions of the Corporation so long as there are 3 members in office. The presence of 3 members shall constitute a quorum for the transaction of the business of the board.

"(d) INDEPENDENT AUDIT.—The Corporation shall annually employ an independent certified or licensed public accountant who shall examine and audit the books and financial transactions of the Corporation. The Corporation shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this chapter.

"(e) ADOPTION OF BYLAWS; AMENDMENT; ALTERATION; PUBLICATION IN THE FEDERAL REGISTER.—As soon as practicable, but not later than 180 days after the date of the enactment of this chapter, the board shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation. Thereafter, the board may alter, supplement or repeal any existing bylaw or rule, and may adopt additional bylaws and rules from time to time as may be necessary. Any bylaw or rule relating to the conduct or business of the Corporation shall be adopted in compliance with the Administrative Procedure Act, including the notice and comment provisions thereof.

"SEC. 9703. POWERS; TAX STATUS.

"(a) POWERS OF CORPORATION.—The Corporation shall have power—

"(1) to adopt, alter, and use a corporate seal;

"(2) to have succession until dissolved by Act of Congress;

"(3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter;

"(4) to make and perform contracts, agreements, and commitments;

"(5) to prescribe and impose fees and charges for services by the Corporation;

"(6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation, to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation;

"(7) to sue and be sued, complain and defend, in any State, Federal, or other court;

"(8) to acquire, take, hold, and own, and to deal with and dispose of any property;

"(9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and to appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents;

"(10) to borrow funds from the United States Treasury for startup and operating costs;

"(11) to collect delinquent accounts; and

"(12) to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this chapter.

"(b) EXEMPTION FROM TAXATION.—The Corporation, its property, its franchise, capital, reserves, surplus, and its income (including but not limited to, any income of any fund established under section 9704(f)), shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21, relating to the Federal Insurance Contributions Act and chapter 23, relating to the Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the Corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

"(c) CORPORATION AS AGENCY.—Notwithstanding section 1349 of title 28 or any other provision of law—

"(1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

"(2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

"(3) any civil or other action, case or controversy in a court of a State, or any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation to the United States district court for the district and division embracing the place where the same is pending, or if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

"(d) REPORT TO CONGRESS.—No later than 1 year after the effective date of this chapter, the Corporation shall present a report to Congress on its activities, including an evaluation of the economic impact of this chapter on small coal companies and an evaluation of the effectiveness of the Corporation in achieving its goals, and recommending any changes to this chapter as it considers beneficial, including any recommended changes in premiums considered warranted to minimize any undue economic impact on small coal companies. At such time, Congress shall review the activities and operations of the Corporation.

"SEC. 9704. OPERATION OF CORPORATION.

"(a) INVESTIGATORY AUTHORITY.—

"(1) The Corporation may make such investigations as it deems necessary to enforce any provision of this chapter or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(2) The Corporation shall keep strictly confidential all information received relating to—

"(A) trade secrets or financial or commercial information pertaining specifically to a given person, the disclosure of which could cause competitive injury to such person, or

"(B) personnel or medical data or similar data, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

unless the portions containing such matters, information, or data have been excised, but may use such information to the extent necessary to enforce the premium obligation imposed under subsection (g).

"(b) Discovery Powers Vested in Board or Designated Officers.—For the purpose of any investigation described in subsection (a), or any other proceeding under this chapter, the board or any officer designated by the board, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records which the Corporation deems relevant or material to the inquiry.

"(c) Contempt.—In case of contumacy by, or refusal to obey, a subpoena issued to any person, the Corporation may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on (or where such person resides or carries on business) in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records. The court may issue an order requiring such person to appear before the Corporation, and to produce records or to give testimony related to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or may be found.

"(d) Cooperation With Governmental Agencies.—In order to avoid unnecessary expense and duplication of functions among government agencies, the Corporation may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this chapter as is practicable and consistent with law. The Corporation may utilize the facilities or services of any department, agency or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency or establishment. The head of each department, agency or establishment of the United States shall cooperate with the Corporation and, to the extent permitted by law, provide such information and facilities as it may request for its assistance in the performance of its functions under this chapter.

"(e) Civil Actions.—

"(1) Civil actions may be brought by the Corporation for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(2) Except as otherwise provided in this chapter, if an action is brought in a district court of the United States, it may be brought in the district where the Corporation is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(3) The district courts of the United States shall have jurisdiction of actions brought by the Corporation under this chapter without regard to the amount in controversy in any such action.

"(4)(A) An action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose; or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B) The applicable date specified in this subparagraph is the earliest date on which the Corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(C) For purposes of this paragraph, in an action by the Corporation to collect premiums due under this chapter, the cause of action shall be treated as having arisen no earlier than the date on which the premium was due.

"(5) In any action brought under this chapter, whether to collect premiums, penalties (in the amount determined by the Corporation, which shall be no greater than the greater of interest on the unpaid premium or 20 percent of the amount of the unpaid premium), or interest (at the rate determined by the Corporation) or for any other purpose, in which a judgment in favor of the Corporation is awarded, the court shall award the Corporation its costs and reasonable counsel fees.

"(f) Establishment of Coal Industry Retiree Benefit Fund.—

"(1) The Corporation shall establish a Coal Industry Retiree Benefit Fund (hereafter in this chapter referred to as the 'Fund'). Except as provided in paragraph (2), all amounts received by the Corporation shall be deposited in the Fund, and all expenditures made by the Corporation shall be made out of the Fund.

"(2) The Corporation shall transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury of the United States any portion of the premiums received under subsection (g) which are allocable to the portion of such premiums which are imposed to offset Federal revenue losses by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(3) Except as otherwise provided in this chapter, the balance of the Fund shall at any time consist of the aggregate at such time of the following items:

"(A) Cash on hand or on deposit.

"(B) Amounts invested in United States Government or agency securities.

"(g) Imposition of Premium Payment Obligation.—

"(1)(A) There is hereby imposed on each person that produces bituminous coal for use or for sale the obligation to pay to the Corporation an hourly premium equal to—

"(i) in the case of bituminous coal produced in an eastern State, the rate for each hour worked in coal production work by such person's employees determined in accordance with the following:

"In the case of calendar year	**The rate is:**
1992	$1.18
1993	$1.18
1994	$1.19
1995	$1.19
1996 or thereafter	$1.20

, or

"(ii) in the case of bituminous coal produced in a western State, 15 cents on each hour worked in coal production work by such person's employees.

"(B)(i) There is hereby imposed on bituminous coal imported to the United States, for use or for sale, a per-ton premium obligation to be paid to the Corporation. Such premium is intended to be equivalent to the premium imposed on domestically produced bituminous coal.

"(ii) The amount of the per-ton premium shall be equal to 39 cents per ton.

"(iii) For purposes of this subparagraph, the term 'ton' means 2,000 pounds, and the term 'United States' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

"(C)(i) In addition to the amounts specified in subparagraphs (A) and (B), each last signatory operator and each other employer referred to in this subparagraph shall pay to the Corporation an annual per beneficiary premium. The amount of the annual per beneficiary premium shall be the product of the total number of orphan miners, spouses, surviving spouses, and dependents (determined under section 9711) attributable to such last signatory operator or employer and the per beneficiary premium as calculated in clause (iii).

"(ii) For purposes of this subparagraph, an orphan miner (and his spouse, surviving spouse and dependents) shall be attributable—

"(I) to an employer if his employment with such employer resulted in his eligibility under section 9711(b)(1)(E); or

"(II) to a last signatory operator meeting the conditions described in section 9723(6) with respect to such orphan miner.

"(iii)(I) The amount of the per beneficiary premium shall be determined in accordance with the following table:

"In the case of calendar year	**The premium is:**
1992	$1,215
1993	$2,532
1994	$2,745
1995	$2,973
1996	$3,216
1997 and thereafter	$3,479.

"(II) As of the date any per beneficiary premium obligation is due under this subparagraph, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator or employer shall be treated as such last signatory operator or employer, and shall be jointly and severally liable for such obligation.

"(iv) A last signatory operator shall have no liability under this subparagraph if—

"(I) as of November 5, 1990, and for all periods thereafter, such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the mining, production, preparation, marketing, sale, distribution, transportation, leasing or licensing of coal; and

"(II) such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, were, in the aggregate, involved in the production of fewer than 50,000 tons of coal during each of the 3 years immediately preceding the cessation of such involvement.

The limitation of liability set forth in the preceding sentence shall cease to apply at any time that a last signatory operator, or any persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, ceases to meet the conditions described in subclause (I).

"(v) The annual per beneficiary premium shall be payable in equal monthly installments, due by the tenth day of each month. In no event shall a last signatory operator be obligated to pay a per beneficiary premium for an individual for any month for which the last signatory operator has paid its required assessment for such individual under section 9713(d).

"(vi) A last signatory operator shall have no liability under this subparagraph if as of January 1, 1992, such last signatory operator and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the production, sale, distribution, transportation, or use in processes for producing products of the operator and such persons, of bituminous and sub-bituminous coal (other than the sale or leasing of any interest in coal reserves).

"(2)(A) In the event that a person required to make payments under paragraph (1) fails to do so, the Corporation shall assess liability against the person, based upon the Corporation's estimate of the person's liability.

"(B) No later than 90 days after the assessment of liability by the Corporation, the person may request administrative review of the Corporation's assessment, in accordance with procedures adopted by the Corporation.

"(C) Notwithstanding the pendency of administrative review of any assessment of liability, the person shall, no later than 30 days after the assessment of such liability, pay all amounts required by the assessment in accordance with any payment schedule applied by the Corporation. In the event a person fails to make such payments, all amounts owed by the person shall become immediately due and payable.

"(D) In the event the person that has made payments in accordance with subparagraph (C) is ultimately determined, in accordance with subparagraph (B), to have paid in excess of the amounts actually due, the person shall receive a refund of such excess amounts, with interest.

"(3) The Corporation shall report to the Congress before the close of any calendar year with respect to any adjustment in the amount of the premiums imposed under subparagraphs (A)(i) and (B) of paragraph (1) for the following calendar year which the Corporation determines necessary to enable the provision of benefits under section 9712. Any recommendation with respect to any adjustment shall reflect the reduction in Federal revenues by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(4) Premiums owed under subparagraphs (A) and (B) of paragraph (1) shall be due on the tenth day of each calendar month immediately following the month in which the coal is produced or imported, and shall be paid to the Corporation in accordance with forms and schedules promulgated by the Corporation.

"(5) The premium obligation imposed under this section shall take effect on July 1, 1992. Premiums paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(6) For purposes of this subsection—

"(A) the term 'bituminous coal' means coal classified as bituminous coal according to the publication of the American Society for Testing and Materials under the title 'Standard Classification of Coals by Rank' (ASTM D 388–91a), as in effect on the date of the enactment of this chapter, and

"(B) the term "Eastern States" includes Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; and

"(C) the term "Western States" includes Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

"Subchapter B—Eligibility for and Payment of Benefits

"Sec. 9711. Eligibility; orphan miners.
"Sec. 9712. Payment of benefits.
"Sec. 9713. Establishment of Coal Industry 1991 Benefit Fund.
"Sec. 9714. Obligation of last signatory operator to provide benefits to retirees.
"Sec. 9715. Transition benefits; premium nonpayment; transfers between 1991 Fund and Corporation.

"SEC. 9711. ELIGIBILITY; ORPHAN MINERS.

"(a) IN GENERAL.—Any person who is an orphan miner, as defined in subsection (b), or who meets the conditions set forth in subsection (c), shall be eligible to receive benefits provided by the Corporation pursuant to section 9712, except that no person shall be eligible to receive benefits from the Corporation because of a failure to receive benefits resulting from a temporary labor dispute.

"(b) ORPHAN MINER STATUS.—For purposes of this section—

"(1) An orphan miner is any person who—

"(A)(i) as of the date of enactment of this chapter, was eligible to receive benefits as a retiree from a plan described in section 9721(d) (or, but for the enactment of this chapter, would be eligible to receive benefits as a retiree from the plan described in section 9721(d)(2)(A)), and

"(ii) is not receiving benefits as a retiree from a plan described in section 9721(d) or from the plan established pursuant to section 9713;

"(B) is not described in subparagraph (A), but was eligible to receive benefits as a retiree from the plan established pursuant to section 9713 and is not receiving benefits from such plan;

"(C)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c)),

"(ii) but for the enactment of this chapter, would be eligible to receive medical benefits as a retiree as of February 1, 1993, from the plan described in section 9721(d)(2)(B), and

"(iii) is not receiving medical benefits as a retiree from the plan described in section 9721(d)(2)(B) or from any other plan;

"(D)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

"(ii) as of February 1, 1993, had earned 20 years of credited service under such plan;

"(iii) is at any time after beginning to receive such pension not receiving retiree medical benefits equal to the benefits in effect at that time under the plans described in section 9712(b)(3); and

"(iv) meets the eligibility requirements for retiree medical benefits then in effect under such plans; or

"(E)(i) was eligible as a result of coal production work performed in the bituminous, sub-bituminous or lignite coal industry to receive retiree medical benefits from a health care plan that met the requirements of subparagraphs (D) and (E) of paragraph (2);

"(ii) initially ceased to receive retiree medical benefits on or after the date of enactment of this chapter, despite continued eligibility therefore;

"(iii) had been receiving such benefits from a plan that had been in existence for at least 3 years prior to the cessation of benefits; and

"(iv) was included in a category of retirees that had been eligible to receive benefits for at least 3 years prior to the cessation of benefits.

"(2) For purposes of paragraph (1)(E), the following rules shall apply:

"(A) Eligibility is continuing where benefits ceased incident to an employer's cessation of operations, but is not continuing where benefits ceased pursuant to a lawful termination or modification of a plan (under circumstances other than a cessation of operations).

"(B) In the case of any individual who has 20 years of credited service under a defined benefit pension plan maintained pursuant to the agreement described in section 9723(7), or who was otherwise eligible to receive retiree medical benefits from a single employer health care plan pursuant to a coal wage agreement, all health care plans in which such individual was a participant during a period of such credited service or during such period of eligibility shall be taken into account in determining whether the 3-year tests have been met.

"(C) In the case of an employer that established a new health care plan as a replacement for a prior plan, such prior plan shall be taken into account in determining whether the 3-year tests have been met.

"(D) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of the plan to the Corporation within 180 days from the later of—

"(i) the date of establishment of the plan; or

"(ii) the date of enactment of this chapter.

"(E) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of any amendment or modification to the plan to the Corporation within 180 days from the later of—

"(i) the date of such amendment or modification; or

"(ii) the date of enactment of this chapter.

"(c) ELIGIBILITY OF SPOUSES AND DEPENDENTS.—

"(1) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual was eligible to receive benefits from a plan described in section 9721(d) as of the date of enactment of this chapter, and is not receiving benefits from that plan or from the plan established pursuant to section 9713.

"(2) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual is not described in paragraph (1), but was eligible to receive benefits from the plan established pursuant to section 9713 and is not receiving benefits from such plan.

"(3) In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(A) or (b)(1)(C) of this section, eligibility shall be based upon the rules set forth in the plans described in section 9721(d) as of the date of enactment of this chapter. In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(D), eligibility shall be based upon the rules set forth in individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation. In all other cases, eligibility shall be based upon the rules of the plan that was or would have been applicable to the orphan miner or deceased coal miner for the 3-year period preceding eligibility for benefits from the Corporation. The Corporation is authorized to promulgate regulations consistent with this paragraph establishing the eligibility of other spouses, surviving spouses and dependents of orphan miners or deceased coal miners for health benefits.

"(d) REENROLLMENT OF ORPHAN MINERS AND BENEFICIARIES.—The Corporation and the joint board of trustees of the plan established pursuant to section 9713 shall cooperate to review the eligibility of individuals under this section. Pending such review, any individual receiving benefits from a plan described in section 9721(d) as of the date of enactment of this chapter shall be presumed to meet the first part of the eligibility tests of subsections (b)(1)(A) and (c)(1). However, no individual shall be considered eligible to receive benefits provided by the Corporation unless a determination is made that such individual in fact met or meets all eligibility requirements necessary to receive benefits as required under subsection (b) or (c). No individual shall be eligible under subsection (b)(1)(A) or (c)(1) if such individual was finally determined to be ineligible to receive benefits from a plan described in section 9721(d) prior to the date of enactment of this chapter.

"SEC. 9712. PAYMENT OF BENEFITS.

"(a) IN GENERAL.—The Corporation shall provide medical benefits to orphan miners, their spouses, surviving spouses and dependents, who meet the eligibility requirements of section 9711, and shall provide coverage for death benefits to orphan miners eligible for such benefits. The board shall establish schedules of benefits applicable to classes of orphan miners, their spouses, surviving spouses and dependents, in accordance with this section. All benefit obligations of the Corporation shall be contingent upon the continued imposition of an hourly premium payment obligation as specified in section 9704(g)(1)(A).

"(b) BENEFIT LEVELS.—

"(1) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(A) or 9711(b)(1)(C) shall be entitled to benefit coverage that is substantially the same as (but not exceeding) the coverage provided by the plans described in section 9721(d) as of the date of enactment of this chapter, and shall be subject to all limitations of such coverage. Such orphan miner shall also be eligible for death benefits, which shall be equal to the death benefits provided as of the date of enactment of this chapter under the plan described in section 9721(c).

"(2) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(B) or 9711(b)(1)(E) shall be entitled to a level of benefits and benefit coverage that is substantially the same as (but not exceeding) the retiree benefit coverage applicable to him immediately preceding his eligibility for benefits from the Corporation, and shall be subject to all limitations of such coverage. Notwithstanding the foregoing, the following rules shall apply:

"(A) The level of benefits and benefit coverage provided under this paragraph shall not exceed that which is provided under paragraph (1) of this subsection.

"(B) In determining the retiree benefit coverage applicable to an orphan miner for purposes of this paragraph, the Corporation shall disregard any increases or decreases in benefits or benefit coverage that were in effect for fewer than 3 years preceding the orphan miner's eligibility for benefits from the Corporation, except that—

"(i) any death benefit applicable to an orphan miner as a result of 1991 amendments to the agreement described in section 9723(7) shall not be disregarded; and

"(ii) increases or decreases in benefits or benefit coverage that were the subject of a collective bargaining agreement shall not be disregarded.

"(3) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(D) shall be entitled to a level of benefits and benefit coverage equivalent to the level of benefits and benefit coverage, if any, provided under individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation, and shall be subject to all limitations of such coverage.

"(4) An individual eligible for benefits pursuant to section 9711(c) shall be entitled to medical benefit coverage that does not exceed the medical benefit coverage that is or would have been applicable to the coal miner through whom the individual claims eligibility, and the individual shall be subject to all limitations of such coverage.

"(5) The Corporation may make increases to its schedules of benefits that are desirable for efficiency of administration, except that such adjustments to benefits may not result in an increase in cost to the Corporation or an increase in any premium under section 9704(g).

"(c) MANDATORY MANAGED CARE.—The Corporation shall develop managed care rules which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules shall include, but not be limited to—

"(1) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(2) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(3) limiting benefit payments to physicians to the Medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(4) utilizing Medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(5) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(6) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(7) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) EFFECTIVE DATE.—Benefits shall be payable under this section as of July 1, 1992. Pursuant to section 9715, the Corporation shall pay the trustees of the plans described in section 9721(d) and the plan established pursuant to section 9713 for all benefit and administrative costs expended with respect to eligible orphan miners, spouses, surviving spouses and dependents, from the effective date to the date that such individuals are transferred to the Corporation.

"(e) ELECTIVE COVERAGE.—

"(1) An employer may elect to provide retirement health coverage to its employees by meeting the following conditions:

"(A) The employer must employ workers in the coal industry.

"(B) The employer agrees to pay an annual premium, as determined by the Corporation, sufficient to provide retirement health coverage to all of its employees who perform classified work as determined under the agreement described in section 9723(7), or any successor agreement, who have worked a total of 20 years, including both service with that employer, service for any other employer described in this subsection, and service for any other employer that is credited for purposes of eligibility by a plan described in section 404(c).

"(C) The employer is not currently obligated by a collective bargaining agreement to make contributions to the plan established pursuant to section 9713.

"(D) The employer's election, once made, is irrevocable.

"(2) Upon the retirement of an employee of an employer described in paragraph (1), with 20 or more years of service, upon such terms and conditions as established by the Corporation, such employee and his or her dependents shall receive benefits, upon such terms and conditions as determined by the Corporation.

"SEC. 9713. ESTABLISHMENT OF UNITED MINE WORKERS OF AMERICA 1991 BENEFIT FUND.

"(a) MERGER OF RETIREE BENEFIT PLANS.—

"(1) As soon as practicable after the enactment of this chapter, and in no event later than 60 days, the settlors of the plans described in section 9721(d) shall cause such plans to be merged, and shall appoint a joint board of trustees to manage the operation and administration of the merged plan. The merged plan shall be known as the United Mine Workers of America 1991 Benefit Fund (hereinafter referred to as the '1991 Fund'). The 1991 Fund shall be an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(2) The settlors shall design the structure and administration of the 1991 Fund. The settlors may at any time and for any reason change the number and identity of the members comprising the board of trustees of the 1991 Fund.

"(b) ELIGIBILITY.—

"(1) The following individuals shall be eligible to receive benefits from the 1991 Fund:

"(A) Any individual who, as of the date of enactment of this chapter, was eligible to receive benefits from the plan described in section 9721(d)(2)(A) (or who, but for the enactment of this chapter, would be eligible for benefits from such plan), and with respect to whom the last signatory operator is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement.

"(B) Any individual who retired from classified employment under an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement, and any spouse, surviving spouse or dependent of such retiree, with respect to whom the last signatory operator makes an election prior to February 1, 1993, to pay premiums to the 1991 Fund for such benefits and is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement. Any election made pursuant to this subparagraph must cover, at a minimum, all of the last signatory operator's retirees who retired from classified employment as of February 1, 1993.

"(2) No individual shall be eligible under subparagraph (A) of paragraph (1) unless the joint board of trustees of the 1991 Fund determines that such individual in fact met all eligibility requirements of the plan described in section 9721(d)(2)(A) as of the date of enactment of this chapter. Any individual who was finally determined to have been ineligible for benefits from a plan described in section 9721(d)(2)(A) prior to such date of enactment shall be ineligible under subparagraph (A) of paragraph (1).

"(c) BENEFITS.—

"(1) Except as otherwise provided in this subsection, health care benefits provided under the 1991 Fund shall be identical to the benefits provided under the plans described in section 9721(d). The 1991 Fund shall provide coverage for death benefits to retirees, equal to the death benefits provided under the plan described in section 9721(c).

"(2) The joint board of trustees of the 1991 Fund shall develop managed care rules, subject to section 9714(b), which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. The board of trustees shall permit any last signatory operator subject to section 9714 to utilize the managed care and cost containment rules and programs developed pursuant to this paragraph, at the election of such last signatory operator. Major elements of such rules shall include, but not be limited to—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(C) limiting benefit payments to physicians to the Medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(D) utilizing Medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(G) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) ASSESSMENTS.—

"(1) As of November 30 of each plan year, the joint board of trustees of the 1991 Fund shall set a monthly assessment for each person required to pay assessments pursuant to paragraph (2). The monthly assessment for each such person shall be equal to 1/12 of the product of—

"(A) the projected cost of operating the 1991 Fund during the succeeding plan year (less any assets received from a plan described in section 9721(c) and any other surplus assets) divided by the number of participants and beneficiaries for the current plan year; and

"(B) the projected number of the 1991 Funds' eligible participants and beneficiaries attributable to such person, determined as of the nearest November 1.

In projecting the cost of operating the 1991 Fund, the board of trustees shall take into account the anticipated benefit experience and administrative expenses of the 1991 Fund as a whole, and amounts needed to eliminate any accumulated deficit. The monthly assessment determined under this paragraph shall be verified by an independent auditor, and shall continue in effect for each month of the succeeding plan year, except that the joint board of trustees shall determine a monthly assessment for any new contributor or other person for whom a monthly assessment has not been established, and a revised monthly assessment for any last signatory operator that makes the election described in subsection (b)(1)(B) and with respect to which new participants and beneficiaries become eligible for benefits. Any new monthly assessment or revised monthly assessment shall be based upon the number of projected participants and beneficiaries attributable to the contributor as of the date the new or revised assessment is made. Each person required to pay assessments pursuant to paragraph (2) shall continue to pay to the plans described in section 9721(d) the contributions required under the applicable coal wage agreement, until the first month for which the assessment described in this paragraph is set. In no event shall a person required to pay assessments pursuant to paragraph (2) be required to make any payment to the 1991 Fund for the same period for which a contribution to a plan described in section 9721(d) is required.

"(2) Each last signatory operator with respect to any person described in subsection (b)(1)(A), and each last signatory operator with respect to any person described in subsection (b)(1)(B) that has agreed to provide benefits coverage through the 1991 Fund, shall pay to the 1991 Fund for each month the assessment determined by the joint board of trustees pursuant to paragraph (1). The assessments paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(3) Either of the settlors shall have the right to audit the accounts, books and records, and operation of the 1991 Fund, at any time and for any reason, upon reasonable notice to the joint board of trustees. The joint board of trustees shall cooperate fully with the settlors in connection with any such audit and shall make available appropriate personnel and records deemed necessary by the auditors for inspection and copying at reasonable times and places.

"(4) Each last signatory operator obligated to pay assessments to the 1991 Fund pursuant to paragraph (2) shall be bound by all of the provisions of the plan and trust documents establishing and governing the 1991 Fund.

"(5) As of the date any assessment owed under this subsection is due, the persons described in section 9723(5) (B) or (C) with respect to any last signatory operator shall be treated as such last signatory operator and shall be jointly and severally liable for such assessment.

"(e) EXCLUSIVE OBLIGATION.—Except as provided in this chapter, no employer that was a signatory to the 1978 or any subsequent coal wage agreement and that had an obligation to provide health care benefits to coal mine retirees shall be obligated to provide benefits to individuals covered by the plans described in section 9721(d), or to make contributions to any plan described in section 9721(d), or to the 1991 Fund, with respect to work performed or coal mined after the date of enactment of this chapter, or to pay withdrawal liability to a plan described in section 9721(d) as a result of the change in the contribution obligation required by this chapter.

"SEC. 9714. OBLIGATION OF LAST SIGNATORY OPERATOR TO PROVIDE BENEFITS TO RETIREES.

"(a) DURATION OF OBLIGATION.—The last signatory operator of any individual receiving retiree health care benefits as of February 1, 1993 (including retiree, spouse, surviving spouse and dependent benefits) from an individual employer plan maintained pursuant to a coal wage agreement (or who has applied for such benefits as of February 1, 1993, and has met every eligibility requirement for such benefits as of such date) shall provide retiree health care benefits to such individual equal to the benefits required to be provided by such last signatory operator's individual employer plan as of January 1, 1992, as limited by any managed care or cost containment rules of the type described in sections 9712(c) and 9713(c)(2), and subject to subsection (b), for as long as the last signatory operator remains in business. The existence, level and duration of benefits provided to a last signatory operator's former employees (and their spouses, surviving spouses and dependents), other than those described in this subsection, who are or were covered by a coal wage agreement, shall only be as determined by and subject to collective bargaining or lawful unilateral action, except that this subsection shall not be construed to impair the eligibility of any individual described in section 9711(b)(1)(D) for the benefit coverage described in section 9712(b)(3).

"(b) MANAGED CARE PROVIDER SYSTEM QUALITY CONTROL.—Any managed care provider system adopted by a last signatory operator as permitted under subsection (a), or by the joint board of trustees of the 1991 Fund, pursuant to section 9713(c)(2), shall be subject to the following requirements of this subsection:

"(1) The settlors shall establish a medical peer review panel, which shall determine standards of quality for managed care provider systems. Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending upon the nature of the medical need. Each settlor shall have the power to appoint and remove 2 individuals who shall serve on the panel. A panel member shall be either a medical practitioner knowledgeable in managed care, or an individual who is expert in managed care.

"(2) Each last signatory operator and the joint board of trustees of the 1991 Fund shall submit a description of any managed care provider system to the panel prior to implementation of the system, and shall, on the same date or prior to such submission, provide notice of the submission to the participants of the affected employee benefit plan or plans. The last signatory employer or the joint board of trustees may implement the proposed system on a provisional basis on or after the 120th day after the submission to the panel, unless the panel issues a preliminary determination that the system has not been shown to meet the requisite standards. The requirements of this paragraph shall not apply to a last signatory operator electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(3)(A) Upon receipt of a submission by a last signatory operator or by the joint board of trustees, the panel shall conduct a preliminary examination of the managed care provider system. In the event that the preliminary review reveals a failure to show compliance with established standards such that provisional implementation by a last signatory operator or by the joint board of trustees may be detrimental to participants subject to the system, the panel shall, within 120 days of the submission, issue a preliminary determination that the system has not been shown to meet the requisite standards.

"(B) Within 240 days from the date of any submission, the panel shall issue a final determination of whether the system has been shown to meet the established standards of quality. In the event of a negative determination, the panel shall list specific steps that may be taken by the last signatory operator or by the joint board of trustees to qualify the system under the established standards.

"(C) The first-named settlor in section 9723(8) shall have the authority to review submissions made under paragraph (2), and to designate the order in which such submissions shall be considered by the panel.

"(D) In the event that the members of the panel deadlock on a determination to be made under this paragraph, they shall, by majority vote, appoint a neutral person, who would be qualified to serve as a panel member, to break such deadlock.

"(4) In the event of a negative determination by the panel, the last signatory operator shall have the options described in subparagraph (A), (B), or (C), and the joint board of trustees shall have the options described in subparagraphs (A) and (B):

"(A) implementing the specific steps outlined by the panel pursuant to paragraph (3);

"(B) consistent with the requirements of this subsection, establishing a new managed care provider system that meets the requisite standards; or

"(C) electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(5) The panel shall develop rules for the periodic review of determinations made, except that reviews shall be no more frequent than once every 3 years; and for the reconsideration of any prior determination upon a showing that the managed care provider system does not or has ceased to meet the established standards. The panel may take into account written complaints received from affected participants and beneficiaries, but the authority of the panel shall be limited to determining the continued qualification of a managed care provider system under the established standards, and shall not extend to resolving claims of medical malpractice or any other issue.

"(6) The panel shall withhold from all persons not connected with the conduct of a reconsideration or review described in paragraph (5) (other than the first-named settlor in section 9723(8)) all information relating to the subject of any written complaint received by an affected participant or beneficiary; and may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such information. Notwithstanding the foregoing, the panel shall provide the last signatory operator or the joint board of trustees of the 1991 Fund with a copy of any written complaint relating to a managed care provider system maintained by such last signatory operator or joint board of trustees.

"(7)(A) The panel, any person acting as a member or staff to the panel, any person under a contract or other formal agreement with the panel, and any person who participates with or assists the panel with respect to any action taken pursuant to this subsection, shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the Civil Rights Acts (42 U.S.C. 1981 et seq.). Nothing in this subparagraph shall prevent the United States or any attorney general of a State from bringing an action, where such an action is otherwise authorized.

"(B) Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to the panel regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

"(8) The joint board of trustees of the 1991 Fund and each last signatory operator that makes a submission pursuant to subsection (b)(2) shall be liable for reasonable fees assessed by the panel in connection with the review of managed care provider systems.

"(c) SATISFACTION OF OBLIGATIONS.—Subject to the provisions of sections 9711 and 9713, the obligations of a last signatory operator under this section may be satisfied for any period with respect to any individual by payment of the required assessment under section 9713(d) or the premium under section 9704(g)(1)(C), or by the provision of the required benefits under an individual employer plan.

"(d) CONTROL GROUP LIABILITY.—As of the date that any benefit obligation owed pursuant to this section is due, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator shall be treated as such last signatory operator, and shall be jointly and severally liable for such benefit obligation.

"SEC. 9715. TRANSITION BENEFITS; PREMIUM NONPAYMENT; TRANSFERS BETWEEN 1991 FUND AND CORPORATION.

"(a) PAYMENT OF BENEFITS TO ORPHAN MINERS.—The plans described in section 9721(d) and the 1991 Fund shall continue to provide benefits to orphan miners, spouses, surviving spouses and dependents described in section 9711 (b) and (c), until the end of the second month beginning after the effective date of section 9712(d). Such orphan miners, spouses, surviving spouses and dependents shall be transferred to the Corporation as of the first day of the third month following the effective date of section 9712(d). The defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) shall, on behalf of the Corporation and the 1991 Fund, continue to provide death benefits to orphan miners described in section 9711(b) and to retirees described in section 9713(b)(1) until the end of the second month beginning after the effective date of section 9712(d). Such pension plans shall have no liability for death benefits for the orphan miners described in section 9711(b), or for the retirees described in section 9713(b)(1), as of the first day of the third month following the effective date of section 9712(d). The Corporation may elect to pay the plans described in section 9721(d), the 1991 Fund, or the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) to continue to provide transition benefits after the end of the second month beginning after the effective date of section 9712(d), and for a period not to exceed 6 months. If the Corporation so elects, it shall pay such plans all amounts necessary to enable the provision of benefits and to cover all costs of administration associated with the provision of benefits. The schedule for such payments shall be determined by the boards of trustees of the plans, and may require advance payments. Amounts paid pursuant to this subsection shall not be included in the amounts to be reimbursed pursuant to subsection (b).

"(b) REIMBURSEMENT OF COST FOR TRANSITION BENEFITS.—No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation shall reimburse the plans described in section 9721(d) and the 1991 Fund, with interest, for the amounts of benefits paid and administrative expenses incurred pursuant to subsection (a). No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation and the 1991 Fund shall reimburse the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7), with interest, for the amount of death benefits paid and administrative expenses incurred pursuant to subsection (a).

"(c) ACCESS TO RECORDS.—The joint boards of trustees of the plans described in section 9721(d) and the 1991 Fund shall share with the Corporation all records, files and documents related to the orphan miners, spouses, surviving spouses and dependents transferred to the Corporation, to the extent necessary for the Corporation to administer the payment of benefits to such individuals.

"(d) PREMIUM NONPAYMENT.—

"(1) No individual shall be eligible for benefits from the 1991 Fund during any month for which the assessments required under section 9713(d) have not been paid by such individual's last signatory operator. Such individual shall be immediately eligible to receive benefits from the Corporation and the

Corporation shall have a cause of action against such individual's last signatory operator for the per beneficiary premium imposed under section 9704(g)(1)(C).

“(2) The 1991 Fund shall continue to treat an individual described in paragraph (1) as if he or she were eligible for benefits until the end of the third month for which an assessment due has not been paid. If the last signatory operator with respect to such individual has not paid its assessments due by the end of such month (with such interest and liquidated damages imposed by the board of trustees in their discretion, up to the amounts provided in section 9722(d)(2) (B) and (C)), the 1991 Fund shall notify the Corporation that the individual is transferred to the Corporation pursuant to paragraph (1), and the Corporation shall reimburse the 1991 Fund, with interest, for any benefits paid to or on behalf of such individual for all months for which assessments have not been paid.

“Subchapter C—Other Provisions

“Sec. 9721. Determination and disposition of excess assets.
“Sec. 9722. Civil enforcement.
“Sec. 9723. Definitions.
“Sec. 9724. Sham transactions.

“SEC. 9721. DETERMINATION AND DISPOSITION OF EXCESS PENSION ASSETS.

“(a) DETERMINATION OF EXCESS PENSION ASSETS.—

“(1) Within 30 days after the enactment of this chapter, the joint board of trustees of the plan described in subsection (c) shall, through the independent actuaries of the plan, calculate the amount of the excess pension assets. The trustees of the plan described in subsection (c) shall recalculate the excess pension assets at any time that they are directed to do so by the settlors.

“(2) Immediately following the calculation (or recalculation) of the excess pension assets, the trustees of the plan described in subsection (c) shall segregate the excess pension assets from the remaining assets of such plan. The segregated excess pension assets (including all earnings thereon) shall be held in the plan until disbursed pursuant to subsection (b).

“(b) DISPOSITION OF EXCESS PENSION ASSETS.—Notwithstanding any other provision of law, the excess pension assets (including all earnings thereon) shall be expended in the following order:

“(1) Fifty million dollars shall be added to the general assets of the Corporation.

“(2) The deficits in the plans described in subsection (d) as of the date of enactment of this chapter shall be reduced to zero.

“(3) Fifty million dollars shall be added to the general assets of the 1991 Fund.

“(4) The remainder of the excess pension assets, if any, shall be added to the general assets of the 1991 Fund, at such times and in such amounts as may be directed by the settlors.

“(c) PLAN CONTAINING EXCESS PENSION ASSETS.—A plan is described in this subsection if it is a pension plan and—

“(1) it is a plan described in section 404(c) or a continuation thereof; and

“(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

“(d) RELATED WELFARE PLANS.—A plan is described in this subsection if—

“(1) it is a plan described in section 404(c) or a continuation thereof; and

“(2) it provides health benefits to retirees and beneficiaries of the industry which maintained the plan described in subsection (c); and

“(A) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976; or

“(B) participation in the plan is substantially limited to individuals who retired on or after January 1, 1976.

“(e) TAX TREATMENT, VALIDITY OF TRANSFER OF EXCESS PENSION ASSETS.—

“(1) No deduction shall be allowed under this title with respect to the expenditure of excess pension assets pursuant to subsection (a), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers or amounts hereafter contributed by employers to the plans described in subsection (c) or (d), or to the 1991 Fund.

“(2) The expenditure of excess pension assets pursuant to subsection (b)—

“(A) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

“(B) shall not be includible in the gross income of any employer maintaining a plan described in subsection (c).

“(3) Neither the segregation of excess pension assets pursuant to subsection (a)(2), the expenditure of excess pension assets pursuant to subsection (b), nor any direction made by the settlors pursuant to subsection (a)(1) or (b)(4) shall be deemed to violate or be prohibited by any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to taxes, fines, or penalties of any kind whatsoever.

“SEC. 9722. CIVIL ENFORCEMENT.

“(a) Civil actions may be brought by the 1991 Fund for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

“(b) Except as otherwise provided in this chapter, where such an action is brought in a district court of the United States, it may be brought in the district where the 1991 Fund is administered, in the district where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

“(c) The district courts of the United States shall have jurisdiction of actions brought by the 1991 Fund under this chapter without regard to the amount in controversy in any such action.

“(d)(1) In any action brought under subsection (a) (other than an action described in paragraph (2)), the court in its discretion may award to the 1991 Fund all or a portion of the costs of litigation, including reasonable attorneys' fees, incurred by the 1991 Fund in connection with such action.

“(2) In any action by the 1991 Fund to enforce section 9713(d)(2), in which a judgment in favor of the 1991 Fund is awarded, the court shall award the 1991 Fund—

“(A) the unpaid assessments;

“(B) interest on the unpaid assessments;

“(C) an amount equal to the greater of—

“(i) interest on the unpaid assessments; or

“(ii) liquidated damages in the amount of 20 percent of the amount determined by the court under subparagraph (A);

“(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant; and

“(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid assessments shall be determined by using the rate provided under the rules of the 1991 Fund, or, if none, the rate prescribed under section 6621.

“(e)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

“(A) 6 years after the date on which the cause of action arose; or

“(B) 3 years after the earliest date on which the 1991 Fund acquired or should have acquired actual knowledge of the existence of such cause of action.

“(2) In the case of fraud or concealment, the period described in paragraph (1)(b) shall be extended to 6 years after the applicable date.

“(f) Any person who is an employer, a last signatory operator, a person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, a bituminous coal industry retiree, or any spouse, surviving spouse or dependent of a bituminous coal industry retiree, and is adversely affected by any act or omission of any party under this chapter, or who is an employee organization of which such a coal industry retiree is a member, or an employer association of which such an employer is a member, may bring an action for appropriate equitable relief in the appropriate court.

“(1) During the pendency of any proceeding under this subsection by an employer, employer association, last signatory operator, or person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, all potentially affected retirees, spouses, surviving spouses and dependents eligible for benefits from the 1991 Fund shall be transferred to the Corporation, which shall—

“(A) provide such benefits as would have been provided from the 1991 Fund, and

“(B) have and exercise all of the rights and obligations of the 1991 Fund with respect to—

“(i) the collection of assessments relating to such retirees and spouses, surviving spouses and dependents, and

“(ii) the defense of the proceeding.

“(2) In the event that a last signatory operator or other person pays to the 1991 Fund the assessments required pursuant to section 9713(d) for any month during the pendency of a proceeding described in paragraph (1), the 1991 Fund, and not the Corporation, shall be responsible for providing any benefits required to be paid for that month to eligible individuals under section 9713(b).

“(g) In any action brought under subsection (f), the court may award all or a portion of the costs and expenses, including reasonable attorneys' fees, incurred in connection with such action to any party that prevails or substantially prevails in such action.

“(h) This subsection shall be the exclusive means for bringing actions against the Corporation or the 1991 Fund under this chapter.

“(i)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

“(A) 6 years after the date on which the cause of action arose; or

“(B) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

“(2) In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date.

“(j) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

“(k) In any suit, action or proceeding in which the 1991 Fund is a party, in any State court, the 1991 Fund may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action or proceeding is pending by following any procedure for removal now or hereafter in effect.

“SEC. 9723. DEFINITIONS.

“For purposes of this chapter—

“(1) The term ‘coal production work’ shall mean work in which an individual engages in physical operations consisting of the mining, preparation, handling, processing, cleaning and loading of coal, including removal of overburden and coal waste, the transportation of coal (except by waterway or rail not owned by an employer engaged in the production of coal), repair and maintenance work normally performed at a mine site or central shop of an employer engaged in the production of coal, maintenance of gob piles and mine roads, construction of mine or mine-related facilities including the erection of mine tipples and sinking of mine shafts or slopes performed by employees of the employer engaged in the production of coal, and work of the type customarily related to the foregoing; except that the term shall not mean managerial, supervisory, warehouse, clerical or technical work, unless such work is performed subject to a coal wage agreement binding the employer engaged in the production of coal.

“(2) The term ‘coal wage agreement’ shall mean—

“(A) the National Bituminous Coal Wage Agreement;

“(B) any agreement substantially identical or substantially similar to such agreement, but only if, as of the date of enactment of this chapter, such agreement provided for contributions to be made to the plans described in section 9721(d); or

“(C) any other agreement entered into between an employer in the bituminous coal industry and the United Mine Workers of America that requires the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan.

“(3) The term ‘credited service’ shall have the same meaning as determined under the applicable defined benefit pension plan, but only if such service was of the type used to determine eligibility under the plan described in section 9721(d)(2)(B).

“(4) The term ‘excess pension assets’ shall mean the excess of the current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(26)) of the plan described in section 9721(c) over the actuarial present value of all benefits for all plan participants under such plan, determined as of the date of enactment, in accordance with the actuarial assumptions and methods which reflect the plan actuary's best estimate of anticipated experience under such plan, except that where excess pension assets are recalculated as required under section 9721(a)(1), the amount of excess pension assets shall be determined as of the July 1 next preceding the date of the recalculation.

“(5) A last signatory operator shall be considered to be in business for purposes of this chapter if any of the following conducts or derives revenue from any business, whether or not within the coal industry—

“(A) such last signatory operator;

“(B) any member of the controlled group of corporations (within the meaning of section 414(b)) of such last signatory operator; or

“(C) any trade or business which is under common control (as determined under section 414(c)) with such last signatory operator.

If a last signatory operator is no longer in business and there is no successor, the relationships described in paragraphs (2) and (3) shall be determined at the time it ceased to be in business.

“(6)(A) The term ‘last signatory operator’ shall mean, with respect to any orphan miner or other coal industry retiree eligible for medical benefits, a person that meets or at one time met the following conditions:

“(i) A person meets the conditions of this clause if such person is—

“(I) an owner, lessee or other person who operates, controls or supervises a coal mine;

“(II) an independent contractor who operates, controls or supervises a coal mine; or

“(III) in the event a person described in (I) or (II) is no longer in business, any successor to such person, except that a purchaser shall not be considered to be a successor with respect to any orphan miner or other coal industry retiree eligible for medical benefits, if responsibility for the medical benefits of such orphan miner or other coal industry retiree was retained by the seller in the purchase and sale transaction.

“(ii) A person meets the conditions of this clause if such person or, in the case of a person described in clause (i)(III), such person's predecessor—

“(I) was a signatory to a 1978 coal wage agreement, or any subsequent coal wage agreement; and

“(II) was the last coal industry employer of such orphan miner or other retiree.

“(B) Notwithstanding subparagraph (A), if, as of the date of enactment of this chapter, a person has assumed or retained responsibility for retiree medical benefit obligations for individuals who retired from employment under a coal wage agreement, then such person shall be treated as the last signatory operator with respect to such individuals for purposes of this chapter, and any person from whom such responsibility was assumed shall not be treated as the last signatory operator.

“(C) For purposes of this chapter, the last signatory operator of any orphan miner or other coal industry retiree shall be considered to be the last signatory operator with respect to such orphan miner's or other coal industry retiree's spouse, surviving spouse and dependents, if any.

“(7) The term ‘National Bituminous Coal Wage Agreement’ shall mean the collective bargaining agreement negotiated by the settlors.

“(8) The term ‘settlors’ means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (hereinafter referred to as the ‘BCOA’), except that if the BCOA ceases to exist, members of the BCOA representing more than 50 percent of the tonnage membership of BCOA on the date of enactment of this Act shall collectively be considered a settlor.

“SEC. 9724. SHAM TRANSACTIONS.

“If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and liability shall be imposed) without regard to such transaction. A bona fide, arm's-length sale of an entity subject to liability under this chapter to an unrelated party (within the meaning of section 4204(d) of the Employee Retirement Income Security Act of 1974, as amended), shall not by itself be sufficient to establish a principal purpose to evade or avoid liability within the meaning of this section.”

(b) CONFORMING AMENDMENT.—The table of subtitles for the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

“Subtitle J. Coal Industry health benefits.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of the enactment of this Act.

Mr. BENTSEN. Mr. President, I have just sent that modified Finance Committee amendment to H.R. 776 to the desk. The modified amendment is a complete substitute for H.R. 776. It contains the Finance Committee energy related revenue title. That replaces title XIX of H.R. 776. In addition, the substitute strikes all remaining language in that particular piece of legislation and replaces it with the text of S. 2166, the energy bill as passed by the Senate in February.

This substitute abides by all Budget Act rules and is now the pending business before the Senate.

Mr. President, as the Senate turns to consideration of this substitute, we revisit a subject of great importance to our country, the vital task of developing an effective energy policy for this country.

The Senate has already spoken once on the subject, voted 94 to 4 in February, to pass S. 2166, an energy bill without tax provisions. Now we are taking up the energy legislation that includes the provisions of the bill as well as energy tax provisions approved by the Finance Committee which I believe furthers the energy policy objectives of S. 2166. The Senate's overwhelming approval of energy legislation in February indicates that we are aware of the need for moving responsibly in devising a meaningful national energy policy.

We learned some important lessons from the Persian Gulf. We understood the need for greater energy efficiency, development of alternative energy sources, and a solid base of domestic production. All of those are a part of the solution, trying to get them to fit together effectively.

We just cannot continue down the road of increasing reliance on foreign energy production in this country. We now import almost half the oil we are consuming, some 46 percent of it. Within 3 years, it is estimated it will go over 50 percent. Without action by the Congress, this picture is not going to get any better. We can expect a continued increase in the reliance on imports. Even in an optimistic view, you are going to see imports reach almost 70 percent by the year 2010—70 percent.

Let me see if I can give you an example of what that means. That means 36 supertankers a day—36 supertankers a day coming in, with all that does to our trade imbalance, all that does to our environmental concerns, about possible accidents with those tankers.

The Finance Committee tax title complements the energy bill we have already passed. It addresses our country's energy needs and I think in doing so benefits our environment. These provisions follow to a significant extent the so-called grain tax package developed in the House energy bill that roughly breaks down into three components: energy conservation, renewable, and alternative energy sources, and domestic oil and gas production.

First, the Finance Committee amendment includes several provisions that encourage energy conservation. For example, the bill increases the current $21 per month exclusion for employer-provided subsidies for mass transit by $56 per month. It also caps the current unlimited exclusion for employer-provided partner subsidies at $145 per month.

The combination of those two provisions tilt the tax treatment of employer-provided transportation benefits toward mass transit and less toward parking provided by the employer for their employees. Increases in the use of mass transit in this way will not only reduce the energy consumption in the transportation sector, but should also help reduce traffic congestion and environmental degradation.

In addition, the Finance Committee amendment includes a provision that promotes energy conservation in our residential, commercial, industrial sectors. That is done by providing an exclusion from customers' income for rebates that are provided by the utilities for the purchase and the installation of energy conservation compliance system measures.

The Finance Committee amendment also offers a number of provisions designed to bolster the development of environmentally sound renewable energy sources and alternative fuels. It permanently extends the 10-percent investment tax credit for solar and geothermal energy problems that expired on June 30 and expands that credit to include ocean, thermal energy properties. It also provides a production-based tax credit for electricity generated from qualifying wind or renewable biomass facilities.

In addition, the Finance Committee amendment includes provisions that will facilitate the growth of alternative fuel vehicles on our Nation's streets and highways, vehicles that run on domestically abundant clean burning fuels such as natural gas, methanol, ethanol, and electricity. It provides a deduction of up to $2,000 for the purchase of these vehicles—more for trucks and buses; provides a 15-percent tax credit for electric-powered vehicles as well as tax incentives for clean vehicle refueling facilities.

The Finance Committee amendment also includes provisions that encourage and provide for flexibility for the use of blended fuels such as ethanol-gasoline blends. It does this by providing a proportional excise tax exemption for gasoline that is mixed with ethanol and other alcohol at levels lower than the 10-percent blends as current law allows and providing some limited minimum tax relief in connection with the alcohol fuels credit.

These provisions will help our energy sector provide the country with the oxygenated fuels it needs to comply with air quality rules such as called for by the Clean Air Act.

In developing a meaningful national energy policy, we also have to address the decline in domestic production. This decline has contributed mightily to our growing dependence on foreign oils, and in the last 6 years, domestic oil production has plunged nearly 15 percent, and as a result, production is at its lowest level in over 30 years. The future does not look much better.

The count recently fell to the lowest level in 50 years. Our domestic production capacity is further deteriorated with the loss of thousands of jobs with the domestic oil and gas industry. We heard a lot about that in the automobile industry but for some reason we do not talk about it in the oil and gas industry and yet this has been dramatic and far reaching, not a question of just protecting Texas or Wyoming. It affects our entire country.

The Finance Committee amendment provides incentives for the domestic production of oil and gas by providing limited relief in the minimum tax which has a substantial dampening effect on the exploration and development of our domestic reserves.

The Finance Committee amendment like the House bill repeals the minimum tax preferences for percentage depletion and intangible growing cost for independent producers. However, it does nothing for the limitation regarding searching out tax liability for these producers to ensure that the tax is still paid.

To pay for these provisions, the Finance Committee amendment looks to several sources.

First, it increases the tax on ozone depleting chemicals to foster their productions in their use and to speed the search for environmentally safe alternates.

Second, it disallows the deduction, including those in business, for social, athletic, luncheon, and sporting goods.

Third, it increases the excise tax on certain reinsurance policies issued by foreign companies relating to U.S. risk.

Let me conclude by making some comments regarding our consideration of H.R. 776.

First, in the President's interest of moving quickly on this bill, I strongly urge Senators to limit any tax amendments on this bill to thoughts that are related to energy policy.

I will oppose all tax amendments that are not related to energy policy as well as any amendments not related to taxes. We simply do not have the time to have a broad-ranging tax debate on nonenergy matters in the context of this energy bill. Doing so will certainly not improve prospects for enactment of this important legislation, and I also might add that the energy bill is not a particularly good vehicle for moving tax amendments unrelated to energy given that the House will undoubtedly insist when getting to conference with them on cropping such unrelated amendments to conference, and I may be somewhat sympathetic to that approach on their part.

A second point concerning amendments: The Finance Committee has structured its amendment to comply with the budget rules. I will oppose any amendments that bring the bill out of compliance with the budget rules, and that means that amendments should not only be paid for over the 5-year budget horizon but must also leave the bill in compliance with fiscal year 1992 and fiscal year 1993.

I urge my colleagues to move as expeditiously as possible to pass this energy bill.

I know the distinguished Senator, the chairman of the Energy Committee, the Senator from Louisiana, the ranking member from Wyoming have worked long and hard on that bill and it deserves your immediate consideration and passage. We have a lot of work to do in conference in trying to settle the differences between the House and the Senate bill. We have a short time to do it.

Mr. President, thank you very much. I look forward to my colleagues passing this important piece of legislation.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me echo the prayer and the plea of the chairman of the Finance Committee, that we try to limit our exercise of senatorial privilege to amend on this to things that are directly related to energy.

I look down the list of proposed amendments on both sides. I see some that would like to make this vehicle a tax horse for all the daydreams of this Congress, and it simply will not be able to carry and provide us at the end with an energy policy which I believe to be a nonpartisan goal or a bipartisan goal.

I see some who would like to turn it into an agricultural bill, some who would like to turn it into an environment and public works bill, some who would like to turn it into a Finance Committee wearing its Social Security hat bill, some who would turn it into a Commerce Committee bill dealing with financing. What that has to do with energy policy, I cannot tell. And some who would turn it into a Labor-HHS bill, and some who would turn it into a transportation bill.

Mr. President, this Senate spoke and spoke well on the energy bill when we passed it. We spoke 94 to 4 and we resisted all attempts to change its purpose from energy policy to other kinds of policies with maybe admirable social goals. But trying to maintain its integrity as energy policy was not an easy chore, but it was a very successful chore, and the Senate spoke time and time and time again rejecting policies, rejecting amendments that changed the thrust of the bill.

When the Senator from Texas made his comments about the American oil industry, I really and genuinely hope that our colleagues heard what he said, and I hope that Americans heard what he said.

There are those who believe that if we strangle our oil industry, then we will somehow or other stop using oil. But in fact what we will be doing, Mr. President, is intensifying America's vulnerability to foreign source supply operations. America's oil production capability is No. 1 in the world. It is hands down the world's best, and is rapidly becoming America's No. 1 export.

This bill passed with the Finance Committee amendments, and the few production incentives contained in the Energy Policy Act will not provide the sole means of survival for America's oil industry. But what we tried to do from the very beginning, Mr. President, in all of this was to put in play America's energy resources, without choosing amongst them, and to have failed to address the very significant self-imposed problems of oil production, would have been to move away from that idea that all of America's energy resources should be in play, without prejudice from the Congress.

So we will have, should we be able to pass this bill more or less intact, an oil and gas industry, a coal industry, a uranium industry, a renewables industry, an alternative fuels industry—we will have all of those—and the Congress will have spoken to this need for America's energy future. To the extent that we can maintain the integrity of the vehicle that underlies it—the Finance Committee amendments—and the underlying S. 1220, it would be in the interest of both parties, and certainly of America, that we get to conference, and that we present at long last, out of several decades of trying, an energy policy worthy of its name to guide America into the future.

Mr. President, I yield the floor.

UNDER SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, I hereby submit revised budget authority and outlay allocations to the Senate Committee on Finance and aggregates under section 9 of the concurrent resolution on the budget for fiscal year 1992, House Concurrent Resolution 121, and section 9 of the concurrent resolution on the budget for fiscal year 1993, House Concurrent Resolution 287.

Section 9(c) of the 1992 budget resolution states:

SEC. 9. DEFICIT-NEUTRAL RESERVE FUND FOR FAMILY AND ECONOMIC SECURITY INITIATIVES IN ACCORDANCE WITH PROVISIONS OF THE SUMMIT AGREEMENT.

* * * * *

(c) CONTINUING IMPROVEMENTS IN ONGOING HEALTH CARE PROGRAMS AND PHASING IN OF HEALTH INSURANCE COVERAGE FOR ALL AMERICANS.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to make continuing improvements in ongoing health care programs or to begin phasing-in health insurance coverage for all Americans within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) to carry out this subsection.

Similarly, section 9(c) of the 1993 budget resolutions states:

SEC. 9. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE FOR FAMILY AND ECONOMIC SECURITY INITIATIVES IN ACCORDANCE WITH PROVISIONS OF THE SUMMIT AGREEMENT.

* * * * *

(c) CONTINUING IMPROVEMENTS IN ONGOING HEALTH CARE PROGRAMS AND PHASING IN OF HEALTH INSURANCE COVERAGE FOR ALL AMERICANS.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to make continuing improvements in ongoing health care programs or to begin phasing in health insurance coverage for all Americans within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

On June 18, 1992, the Finance Committee reported H.R. 776, the energy bill, together with a committee amendment. Chairman BENTSEN, on behalf of the Finance Committee, has just submitted a modification of that committee amendment.

H.R. 776 as reported and modified includes provisions that would create two new entities—the Coal Industry Retiree Health Benefits Corp. and the 1991 benefit fund—to replace two coal industry health funds that are experiencing financial difficulties. These provisions will ensure that retired coal miners, their widows, and their dependents continue to receive the health benefits for which they contracted. In the words of section 9(c) of both the 1992 and 1993 budget resolutions, these two provisions "increase funding to make continuing improvements in ongoing health care programs."

H.R. 776 as reported and modified meets the other requirement of section 9 of the 1992 budget resolution that "to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit * * * in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996."

H.R. 776 as reported and modified also meets the other requirement of section 9 of the 1993 budget resolution that "to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit * * * in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997."

Both the 1992 and 1993 budget resolutions created rules for the Senate embodied in these provisions. The later-adopted 1993 budget resolution covers the fiscal years 1993 through 1997 and supersedes the 1992 budget resolution with regard to those fiscal years. Nonetheless, the 1992 budget resolution continues to have validity with regard to fiscal year 1992, as the 1993 budget resolution did nothing to modify that resolution's provisions with regard to that fiscal year.

Note that the health provisions covered by this filing are the same as provisions included in S. 2325 earlier this year. On the day that the Senate began consideration of S. 2325, I filed revised allocations and aggregates for those provisions. Those revised allocations and aggregates appear at page S2951 of the CONGRESSIONAL RECORD for March 10, 1992. Similarly, I filed revised allocations and aggregates when the committee of conference on H.R. 4210, the House companion measure, submitted the conference report on that bill. Those revised allocations and aggregates appear at pages S4055 and S4056 of the CONGRESSIONAL RECORD for March 20, 1992. The President vetoed that bill the same day and the House sustained the President's veto on March 25, 1992.

The budget resolution provision under which I filed the revised allocations and aggregates earlier this year, section 9 of House Concurrent Resolution 121, is, except for fiscal years, identical to the sections under which I make this filing today. For legislative history of the 1993 budget resolution provision, see pages 61 and 62 of conference report 102-529. As the Senator responsible for the drafting of this section of the budget resolutions, let me make clear that I used the language from the previous budget resolution with the exception that it would continue to apply in the case before us today.

As H.R. 776 as reported and modified complies with the conditions set forth in the budget resolutions, under the authority of section 9(c)(2) of the 1992 and 1993 budget resolutions, I hereby file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974, 2 U.S.C. sections 633 and 665a—1988 and supplement II 1990—and revised functional levels and aggregates to carry out section 9 of the budget resolutions.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 1992 AND 1993

[In millions of dollars]

	1992[1]	1993	1994	1995	1996	1997
Functional levels and aggregates:						
Resolution revenue aggregates	850,501	848,672	911,920	968,430	1,017,875	1,070,475
Reserve fund change	−(56)	275	282	289	295	302
Revised Resolution revenue aggregates	850,445	848,947	912,202	968,719	1,018,170	1,070,777
Resolution budget authority totals	1,270,713	1,249,772	1,270,030	1,309,930	1,375,175	1,468,775
Reserve fund change	−(56)	275	282	289	295	302
Revised Resolution budget authority totals	1,270,657	1,250,047	1,270,302	1,310,219	1,375,470	1,469,077
Resolution function 550 budget authority totals	83,100	105,200	116,300	129,000	143,000	159,200
Reserve fund change	45	275	282	289	295	302
Revised Resolution 550 budget authority totals	83,145	105,475	116,582	129,289	143,695	159,502
Resolution outlay totals	1,201,701	1,242,072	1,255,720	1,258,230	1,304,975	1,416,175
Reserve fund change	−(56)	275	282	289	295	302
Revised resolution outlay totals	1,201,645	1,242,347	1,256,002	1,258,519	1,305,270	1,416,477
Resolution function 550 outlay totals	83,300	104,500	115,600	127,800	142,100	157,500
Reserve fund change	45	275	282	289	295	302
Revised Resolution 550 outlay totals	83,345	104,775	115,882	128,089	142,395	157,802

[1] The allocations and aggregates for the 1992 budget resolution were revised earlier in the year for a similar provision that was not enacted. This filing removes the earlier adjustment ($101,000,000 in increased spending and revenues) and replaces it with the appropriate adjustment for this provision ($45,000,000 in spending and revenues). The net amount is shown for the changes in aggregates and allocations (−$56,000,000). The gross change is shown for the function totals, which were not revised earlier.

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 1992 AND 1993

[In millions of dollars]

	1992[1]	1993	1993–97
Spending allocations and revenue totals:			
Resolution revenue totals	850,501	848,672	4,817,372
Reserve fund change	−(56)	275	1,443
Revised revenue totals	850,445	848,947	4,818,815
Finance Committee budget authority allocations	491,344	517,888	3,012,184
Reserve fund change	−(56)	275	1,443
Revised Finance Committee budget authority allocations	491,288	518,163	3,013,627
Finance Committee outlays allocations	487,437	515,512	2,998,421
Reserve fund change	−(56)	275	1,443
Revised Finance Committee outlays allocations	487,381	515,787	2,999,864

[1] The allocations and aggregates for the 1992 budget resolution were revised earlier in the year for a similar provision that was not enacted. This filing removes the earlier adjustment ($101,000,000 in increased spending and revenues) and replaces it with the appropriate adjustment for this provision ($45,000,000 in spending and revenues). The net amount is shown for the changes in aggregates and allocations (−$56,000,000). The gross change is shown for the function totals, which were not revised earlier.

Mr. JOHNSTON. Mr. President, at long last, it appears that we are going to finish this energy bill today and get to conference where we have some 1,500 pages of bill to work out in conference.

It is essential, Mr. President, that we get this bill completed early today so that we can get to conference. So we want to put all Senators on notice that if they do have amendments—in the first place, if they are not energy amendments, they are likely to be opposed. But, in any event, we urge Senators to come and quickly deal with their amendments.

Mr. President, as I understand it, the amendment from the Finance Committee is at the desk; is that correct?

The PRESIDING OFFICER. The modified amendment of the chairman is the pending question.

Mr. JOHNSTON. Does that include the text of S. 2166, as passed by the Senate?

The PRESIDING OFFICER. The chair does not have knowledge of the substance of the amendment; that inquiry would be better made of the chairman.

Mr. JOHNSTON. Well, Mr. President, I ask my colleague, the chairman of the Finance Committee, if this amendment does include the text of S. 2166, and if the amendment at the desk is adopted, would it be subject to further amendment?

Mr. BENTSEN. Yes; that is correct.

The PRESIDING OFFICER. The chair informs the Senator from Louisiana that the amendment at the desk is a complete substitute and, therefore, would not be amendable after its adoption.

Mr. JOHNSTON. Well, Mr. President, I ask unanimous consent that the amendment at the desk, if adopted as a substitute, be regarded as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Reserving the right to object, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I am advised that it would not be necessary to seek unanimous consent; that the amendment is now at the desk, and it is amendable in two degrees, and we will not call for its adoption at this time.

The PRESIDING OFFICER. The Senator is correct. The Senator asked the chair whether it is subject to amendment after adoption. It is amendable prior to adoption and, therefore, the Senator is correct. There was no requirement for unanimous consent.

Mr. JOHNSTON. But it includes the text of the Energy Bill, as adopted by the Senate, and the text of the Finance Committee reported provisions.

Mr. President, I withdraw the unanimous-consent request.

Mr. President, I think we are then ready for amendments to be offered at this time.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. Mr. President, if we are going to have an extended quorum call, I ask the chairman if I may speak out of order. But if the Chair is ready to conduct business, I will certainly yield to him.

Mr. BENTSEN. I say to the distinguished Senator, my good friend, that we are prepared to move on. I am about to ask unanimous consent for a time limitation on the amendment of the Senator from New Jersey.

Mr. FOWLER. The business of the Senator from Georgia can wait.

UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, I ask unanimous consent that we have a time agreement of not to exceed 2 hours on the amendment about to be offered by the Senator from New Jersey; that the time be equally divided between the proponents and opponents of the amendment, to be controlled by the manager of the tax portion of this legislation and the Senator from New Jersey, and that there be no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2782

(Purpose: Striking repeal of minimum tax preferences for depletion and intangible drilling costs)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 2782. Strike section 20115.

Mr. BRADLEY. Mr. President, this amendment strikes the provision in the bill which provides $1 billion in tax relief to independent oil and gas producers. The bill currently eliminates the alternative minimum tax preferences for intangible drilling costs and percentage depletion.

Mr. BENTSEN. Mr. President, will my colleague yield a minute so I might amend the unanimous consent request?

Mr. BRADLEY. I yield.

Mr. BENTSEN. Mr. President, I also ask unanimous consent that there be no amendments to the language to be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, as I was saying, the amendment that I have sent to the desk eliminates the provision of the bill which provides $1 billion in tax relief to independent oil and gas producers. The bill that we are considering provides that tax relief by eliminating the alternative minimum tax preference for intangible drilling costs and percentage depletion.

It does so even though the ordinary tax treatment of intangible drilling costs and percentage depletion gives producers a leg up on other industries and over integrated oil and gas producers. We are making more generous a provision of the Tax Code that is already very generous, and is already much more generous than that provided other similarly situated industries.

Like others, I feel we need to take a harder look at how the alternative minimum tax is affecting national investment. I think that this is a legitimate inquiry. It is also important to recognize why the alternative minimum tax was instituted. We wanted to make sure that corporations could not zero out their tax liability by taking advantage of the loopholes which were left untouched in the 1986 Tax Reform Act.

In other words, it made no sense if we eliminated some loopholes and left others in, then put in the alternative minimum tax to assure that all taxpayers would pay some tax, and then removed preferences from the alternative minimum tax calculation.

As you recall, we were in a situation prior to 1986 where there were very high tax rates. There were very high tax rates. The only problem was, nobody paid the tax rates because the tax base was riddled with loopholes. So for those who were interested in equity, they could argue: Well, we have a 70-percent or a 50-percent tax rate. Therefore, we are really hitting the rich; even though the rich did not pay anywhere close to a 50-percent tax rate. It was more like a 19- or 20-percent tax rate, because they had loopholes that allowed them to lower their tax liability. So in 1986, we eliminated the loopholes and lowered the rate, a victory for both growth and equity.

Since that time, of course, there have been attempts to put back in various tax loopholes. This is another attempt to do that.

While I continue to think that the best solution would be not to put these loopholes in the Tax Code in the first place, I do not think that we should get in the habit of practices of selectively taking them out of the alternative minimum tax whenever an industry is temporarily in trouble. There are, in effect, many industries which face tougher times in this period of sluggish growth. It is not clear to me why independent oil and gas producers should be treated better than a lot of other industries.

For example, with the independent oil and gas producers, you have the immediate expense of intangible drilling costs. Up to 70 percent is expendable. While in virtually every other industry, what you have is capitalization, what you have is depreciation of up to 20 years. The oil and gas industry already has some very strong preferences in the Tax Code.

This would simply increase those preferences for only the oil and gas industry—not for automobiles; not for airlines; not for any other industry.

Mr. President, just a few weeks ago, we were debating the balanced budget amendment on this floor. During that debate, there was a lot of tough talk about the need to curb spending and to make tougher choices. Nearly every supporter of the balanced budget amendment decried the runaway Federal spending. It is important to remember, however, that we spend money not only through the appropriations process, but we also spend money by giving tax breaks to various special-interest groups.

If you do something—invest in this equipment or drill wells—then you do not have to pay taxes for a specific amount. Your taxes are reduced. That also increases the deficit.

But unlike the appropriations process, which is subject to annual review, our tax expenditures become, in essence, quasi-entitlements which remain until, in those rare moments, we can muster the courage to take on the narrow group that benefits from the special tax break. Remember: The cost of the narrow group benefiting from the special tax break is that all of us pay higher tax rates than we otherwise would have to pay, and we increase the Federal budget deficit.

So this amendment that I am offering would attempt to retain some equity. The provision strikes $1 billion over the next 5 years, $1 billion that would be tax relief to a very narrow group of taxpayers: Independent oil and gas producers.

This $1 billion cost, over the next 5 years, would continue over the next 5 years, and even more over the next 5 years. If a $400 billion budget deficit should do anything, I think it should make us think twice about creating yet another leak in our tax base.

We can talk about tax rates, but then you have to consider loopholes. Those tax rates are just not paid. You can talk about putting an alternative minimum tax in to assure that people will pay their taxes; and then, of course, you put loopholes into the alternative minimum tax. This is a giant leak in the alternative minimum tax base. The result will be that independent oil and gas producers will pay much less tax—$1 billion less tax.

Mr. President, during that balanced budget debate, there was also a lot of talk about the need to set national priorities. That means ensuring that each dollar of new investment goes to our most pressing national problems. Just a month ago, for example, in this body, we agonized over whether we could afford to spend $1 billion to respond to the crisis in our cities. But today, we seem quite willing to spend $1 billion on oil and gas interests without thinking twice about it.

Before we do, we should pause to consider where the $1 billion that we are now prepared to give to oil and gas interests will not be spent.

It will not be spent to rebuild burnt-out buildings in Los Angeles. It will not be spent to fund Head Start and provide thousands of children with the start in life that should be their right. It will not be spent on the infrastructure our Nation needs to build economic growth in the future. It will not be spent on child care, on AIDS, on research, on education, on police. It will not be spent to reduce the deficit, which is strangling the credit markets and crippling our competitiveness.

So when we spend $1 billion for the oil and gas interests, we have to take into consideration what we are not spending the money on. All of those other interests are competing for a very limited amount of money.

We have big budget deficits. The question is, Is there any principle that we can follow to cut those budget deficits? One principle might well be equity. It is a fact that if you earn more than $100,000 in America, your average spending benefit is $9,280.

It is a fact that, if you earn $10,000 in America, your average Federal spending benefit is $5,690. If you talk about the tax benefits, people who make more than $100,000 in America get an average tax benefit, a benefit from loopholes that have been put in the code to avoid that individual paying taxes of about $9,280. While all of us are paying more, the average Federal tax benefit to people making more than $100,000 is about $9,280. The average Federal tax spending benefit for people earning under $10,000 is about $5,690.

So, clearly, if we were approaching this issue of the deficit, one principle we might apply is, well, who needs taxpayer help? People over $100,000 or people under $10,000?

Another principle might be, well, where does the money go generationally? The bulk of it, about $400 billion, goes to people who are over 62 years of age, while three programs, Head Start, child-maternal health, the Women, Infants and Children Feeding Program, get $5 billion. That might be another way to look at how we go about cutting the deficit, maybe a generational adjustment.

A third might be, well, what do we want the Federal Government to spend its money on to do things that only the public representatives, government, can do—like police or education or roads? Or do we really, at this time of $400 billion budget deficits, want the Federal Government to continue, as this provision envisions, to expand specific subsidies to specific industries?

It is my hope that people, when they look at the deficit and what it is doing to us in terms of crowding out the financing in the credit markets and what it is doing to us in terms of things we are not able to spend money on, would look very carefully at how we spend money. We need to consider both how we spend money through the appropriations process and through the Tax Code, by subsidizing specific industries.

This is a classic amendment of subsidizing specific industries, by providing $1 billion for the oil and gas industry; not for automobiles, not for airlines, not for magazines or television, not for anything but one industry. We have a $400 billion budget deficit. Is that the way we should proceed, without recognition that times have changed? I do not think so.

Mr. President, I am not arguing here that our independent drillers are not having tough times. I know the rig count is down. I do not believe that the alternative minimum tax, however, is the primary cause of the industry's problems.

Under the regular Tax Code, these companies are allowed to immediately write off costs which other taxpayers have to capitalize and depreciate over their useful lives. What does that mean? That means, if you invest $1 million in a machine, you write off that $1 million over 20 years or over 15 years. If you spend $1 million making an investment under intangible drilling costs, you write off $1 million in that first year. This amounts to a tremendous subsidy for the oil and gas industry.

In addition, under the regular Tax Code, these companies can knock off 15 percent of their income as a depletion allowance, even after they have fully recovered their capitalized cost. In other words, they just continue to write off 15 percent of their income off the top, off the top.

All the alternative minimum tax does is to ask them to give back a portion of these breaks. It says, if you have managed, through your intangible drilling costs or your depletion allowances, essentially to zero out, to pay no taxes because you have these special benefits, then the alternative minimum tax would ensure that you pay some tax. That is all the alternative minimum tax does.

This amendment would allow, when you combine the intangible drilling costs and the depletion allowance, a near zeroing out of liability. Now, if you only had percentage depletion allowances, you might end up having to pay some taxes. Because there still will be restrictions in the code, you cannot take more than a 50-percent credit. But, if you combine intangible drilling costs and depletion, you are still in that rare position of being able to zero out, or, if not zero out, let me say, get very close to zeroing out tax liability.

But we have been down this path before. In 1990, we gave the oil and gas industry $1.1 billion of alternative minimum gas relief under the guise of a special energy deduction. In 1990, we gave $1.1 billion. The deficit, as I recall, was around $340 billion in 1990. And now, when the deficit is $400 billion, we give another $1 billion in relief to one industry.

Given the very real fiscal crises our country is facing, we simply cannot go on with business as usual. We simply cannot provide tax breaks to every industry which is facing the bottom of a business cycle.

Does anyone believe drillers are in bad shape because they are not allowed to fully write off their intangible drilling costs? Does anybody in here believe that? Drillers are in bad shape because oil and gas prices are low. If natural gas was selling at $2 or $2.50 per mcf or oil was selling at $30 per barrel, we would not be debating this provision today.

But this bill does not say that these tax breaks will be taken back when the industry recovers. If you were just providing relief to an industry, you could say these are tough times, we will give it a little help, but when the industry gets flush again we will take it back. That is not what this provision says. This provision does not acknowledge that we are at the bottom of the business cycle. Let us give them some help and it will stay in the Tax Code forever.

So when oil prices go up to $30 or $25, the oil industry will still have the benefit of these tax breaks because these tax breaks are permanent. Prices are low today, so we are supposed to react by throwing $1 billion to the independent oil and gas producers.

I am a Senator from a consumer State. When prices go back up for New Jerseyites, who are struggling to pay higher prices for oil and gas, or when the residents of distinguished Presiding Officer's State of Massachusetts are paying higher prices for their heating oil, are we going to step in and give those consumers a tax break for their higher heating oil bills? No way. The tax break will be permanent for the oil and gas industry and the consumer will get nothing in exchange.

Mr. President, I opposed the balanced budget amendment because I saw it as a substitute for real leadership and making tough choices. We are all elected to make tough tradeoffs and choices. That comes with the office. The question I would like the Members to think about today is, given the $1 billion—$1 billion—we have here, should we spend it to reinstate tax breaks for the independent oil and gas industry or should we spend it on children, on deficit reduction, and on our future? This amendment is offered to make that point: That we cannot, with $400 billion budget deficits, proceed with business as usual.

Business as usual has always implied that whoever can exert the greatest power and influence on the process always takes home more than those who do not exert power in the process. It is not a mystery why the oil and gas industry has managed to recoup better than any other industry from the efforts in 1986 to remove special interest tax provisions. They are big and they are powerful.

In 1990, they got $1.1 billion. This is an amendment to give them another $1 billion. But that billion dollars will be money that will be taken away from deficit reduction, from investment in education, from the cleanup of the environment and all the other purposes which, if Government does not do them, will not get done. It is that simple choice that I pose today for the Senate in this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield myself 10 minutes.

I listened with great interest to my friend from New Jersey talking about tax expenditures, subsidies to specific industries, interest groups. New Jersey is the home of great pharmaceutical companies, major companies, powerful companies with great influence. Today they get a tax break of a minimum of $70,000 per employee they hire in Puerto Rico; up to $150,000 per employee. The Joint Tax Committee says that is $3 to $3.5 billion a year—$3.5 billion a year cost to the Treasury—cost to the taxpayers, cost to dependent children, cost to Medicaid. All of those people my friend from New Jersey discussed.

Are we to turn our backs on the fact that 75 percent of the merchandise deficit that we have today in trade is attributable to oil imports? That is how much more money we owe to the people of the world. That is how much more we are going back into debt.

Powerful interests? What we are talking about here is not the big oil companies. They are headed overseas, that is where they have gone for their exploration and their development. We are talking about the independent producer. We are talking about the fellow who has some marginal wells that may be producing 5 to 6 barrels a day with substantial costs in keeping them open. If he does not get some relief he caps them. You cannot blame him for that. We are trying to keep them working at it, keeping them open.

This is an industry that is going to be restored to great prominence? I do not know anybody who really believes that. We are talking about slowing the decline, that is what it amounts to. We are talking about some 400,000 jobs lost in the domestic oil and gas industry in just the last decade. We are talking about those independent producers being thinned by at least 50 percent in the last decade. The rest gave up, went broke, out of the business. Domestic oil and gas production has been reduced by 15 percent in the last 6 years; production is at the lowest rate it has been in 30 years. And I sure do not see much of a bump coming out of this piece of legislation. But I do think it can slow the decline and it can help.

What we have also put in this legislation is other things to urge conservation and to put in incentives for conservation and alternative fuels—that is a Senator from Texas talking—alternative fuels to try to cut down the dependence on oil and gas in this country. That is what we are talking about, concern for the future of our country. This is not something dreamed up in the last minute. This was in the February tax bill, this is in the House bill—a deep concern. And we made sure they could not zero out on it, even so, insofar as paying for those taxes.

It is a significant problem we are facing and it is important that we address it. We have been down this road before. What we are talking about is trying to help stem the decline in the production in this country; help reduce the amount of dependence on foreign interests, help encourage the use of alternative fuels. So I urge my colleagues to oppose this amendment by my distinguished friend and see if we can make some headway on this problem.

Mr. JOHNSTON. Will the Senator yield 7 minutes?

Mr. BENTSEN. I would be pleased to yield 7 minutes to the distinguished chairman of the Energy Committee.

Mr. JOHNSTON. Mr. President, I wonder if Americans understand just how bad the situation is in this country with respect to oil and gas. I wonder how much the Congress knows about it. Mr. President, the Congress could not know how bad the situation is and still offer up this kind of amendment to strike the AMT.

The house is on fire. It is time for people to wake up and to take action. In the last 10 years we have lost more oil and gas jobs in this country than we have in steel, than we have in textiles, or than we have in automobiles. We lost 50,000 jobs last year.

Mr. President, we are due to lose another 50,000 it is estimated by PWA, this year—this year. We have the lowest rig count in over 50 years, the lowest rig count in history. In the last 5 months we have had the lowest production rate in this country in 40 years. Oil and gas people are bailing out of this country, at least the majors are, just as fast as they can get out of the country.

Their attitude is, Mr. President, they are subject to environmental terrorism, to use their phrase. Maybe that is the wrong phrase. Maybe it is environmental sensitivity. They regard it as environmental terrorism. In any event they are leaving. Anybody who thinks the majors still want to drill in America, you better wake up and smell the coffee.

Mr. President, as we speak there is an Interior Appropriations markup going on downstairs, and I understand an amendment may be offered to cancel all the leases in Bristol Bay in Alaska, cancel outright, which would be a taking under the fifth amendment and would subject us to one-half billion dollars in payments. Who does this come from? From the majors. They want to sell out and get out. They want to leave.

Down in the Gulf of Mexico in the last lease sale, there were fewer acres offered, there were less dollars paid than in the last four decades. Mr. President, they are bailing out. They are leaving. And what is the trend? Mr. President, this is it—here is consumption and here is production. And everybody knows those figures.

So what do we want to do? In this country do you know what the effective tax rate on independents is? The effective tax rate? It is 72.5 percent; 72.5 percent.

We are sending the majors out of the country. We are inviting them out because every time they make a discovery here, we will not let them drill, we will not let them produce.

They have production off the State of California now that has been discovered and ready to go. But they will not let them produce that for various environmental reasons. OK, that is our decision. We have now provisions pending in this energy bill and the House provisions that would say with respect to a trillion cubic feet of gas discovered off Florida that you cannot produce it. OK, if that is the way the House wants to play. But do we want to run the independents out of this country, as well as the majors? That is what the tax policy of the United States now says because the effective tax rate is 72.5 percent. The foreign tax rate, the effective tax rate, for the same oil produced elsewhere averages 42.9 percent, or almost it is a little more than half as much the effective tax rate.

Mr. President, it strikes very close to my home State where the prediction is that we will lose 2,500 additional jobs this year. Bankruptcies are at an all-time high, and they have been for these last 3 or 4 years. There are closures of all the people in the drilling industry and the service industry, who produce muds, who make pipe, who produce drill bits, who have offshore boats. They are leaving in droves and, Mr. President, it is the biggest economic bombshell that this country has seen this decade in terms of jobs, exceeding automobiles. Oh, we hear our friends from the automobile producing areas come in and talk about automobiles and we agree with them. But, Mr. President, it is not as bad as oil and gas.

So what did the Finance Committee do, Mr. President? It said that these two items, intangible drilling costs and depletion, would no longer be preference items for the purpose of the alternative minimum tax. Why is this so important? It is so important now because the independents who are subjected to this alternative minimum tax are basically not making any money because the price of crude oil is down. In real terms, the price of crude oil is selling for less than a third of what it was at its peak. So they are not making any money now.

My friend from New Jersey says that this alternative minimum tax would remain a preference item—that if we pass this, it would remain a preference for the independents even when the price of oil goes up. Mr. President, when the price of oil goes up, then the alternative minimum tax does not have its bite because they would be making money and would be subjected to the ordinary tax rates.

So this is a problem, Mr. President, that is brought about by the relatively low price of crude oil and by the fact that independents are, therefore, going bankrupt in record numbers and are not making any money.

If we are to avoid the problem with the low rig count, the only way to do that is to have some incentive. I have here, Mr. President, a chart that shows the rotary rigs in operation. At their peak, they were at 4,000 in 1981. The latest count, which is the lowest count since 1942 when they began to keep these records, is 667 rigs.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mr. BENTSEN. I yield an additional 2 minutes to the Senator.

Mr. JOHNSTON. I thank the Senator. Mr. President, the only way to reverse this trend and to keep what few remaining rigs there are is to do away with this 72.5 percent effective tax on independents and put them in a position where they pay the same tax rates, effectively, as other Americans. That was the reason that the Senator from New Jersey was behind tax relief, a uniform tax rate.

As it happens, as it effectively works, Mr. President, the independents are subject to this effective rate of 72.5 percent making it not worthwhile to drill for oil and gas.

I cannot think of anything more opposite from sound energy policy than to adopt the Bradley motion to strike. I commend the Senator from Texas, the chairman of the Finance Committee, and what they have done in putting in this alternative minimum tax provision. It may not save the independents by itself, but it will go a long way toward reversing that trend of bankruptcies, toward reversing that trend of rotary rigs which continue to drop and toward bringing some degree of equity to the Tax Code, as far as independent drilling operators in this country are concerned. I strongly support the position of the Finance Committee and strongly oppose the Bradley amendment. I thank my colleague.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I appreciate the comments of the distinguished chairman of the Energy Committee who is well versed in this subject.

I yield 5 minutes to my friend, the Senator from Oklahoma, whose State has an imminent knowledge, concern, and problem with the state of decline in the oil industry.

Mr. BOREN. I thank the chairman of the Finance Committee, my colleague from Texas.

Mr. President, I want to associate myself with the remarks that have already been made by the chairman of the Energy Committee, my colleague from Louisiana. Both the Senator from Texas and the Senator from Louisiana have made an enormous contribution to the energy policy of this country.

For some reason, Mr. President, when you mention the word "oil" as opposed to some other industry or some other commodity, it seems to bias the debate about economic terms and economic policy. It should not. We should step back and look at the facts as they are, without putting on blinders because oil happens to be the industry involved.

If there was some other industry, the kind of rhetoric would be totally different. If we were talking about the steel industry, or the textile industry, or the auto industry, we would not have the same kind of attempt made to put an unfair tax burden on those segments of the economy until we drive them into virtual extinction. But for some reason, there is some kind of emotional baggage associated with the word "oil" that makes it very difficult for us to discuss it in an objective way. I hope we can suspend that bias for a moment and look at the facts as they are.

The U.S. oil and gas extraction industry has lost more than 400,000 jobs since its peak employment in 1982. More jobs were lost than in the automobile, textile, steel, and electronics industries. So when we talk about a significant, a critical part of our economy being devastated, we are all familiar with what has happened in the steel industry, we are all familiar with what has happened in electronics. We know what has happened with automobiles. But when you look at the domestic energy extraction industry, the domestic energy production industry in this country, it has been harder hit than any of these other industries, losing 400,000 jobs. Indeed, 45,000 more jobs have been lost in just the last 10 months.

The rig count for the first week of July stood at 689, a startlingly high level. During 1992, in this year alone, the all-time record for the lowest rig count in history has been broken five times. What has this done in terms of our national economy? It has caused the importation of foreign oil to go sky high. This affects our balance of trade deficit. Last year, crude oil and petroleum product imports accounted for more than 50 percent of the Nation's trade deficit, and in the first quarter of this year, nearly 75 percent of the trade deficit was from oil and petroleum product imports.

Mr. President, we hear people talk about the trade imbalance. We hear talk about needing to rebuild the economic strength of this country. We hear talk on this floor day after day about the effect on the economic independence of this country of continuing to build up external debt held by those in other countries. This situation really strikes at the heart of the national economic sovereignty of this country. And, yet, some Senators want to put one more nail into the coffin of a domestic industry whose collapse has led to the greatest increase in the trade deficit of any single industrial decline in this country. This is a clear example of why we need to look at the facts as they are, put out of our minds for a moment that we are talking about "oil" with all its political history, and look at economic facts and look at the national interests.

I am not speaking as a Senator from Oklahoma, which happens to have an ever-dwindling amount of oil and gas production because of the tax climate and other factors. I am talking about what is good for the United States of America. It is not good for the United States of America to continue to have this kind of decline in our domestic petroleum industry. One has only to look at what it has done to the trade deficit to know that is true.

In the second place, our tax policy is absolutely restructuring this industry. It is very hard for this Senator to understand why those who have come to the floor in the past to denounce the "big international oil companies"—

that is the term they have used—have supported tax policies which are virtually destroying the independent sector of this industry, the small domestic sector. Independent producers, on the average, employ about five full-time employees other than the drilling crews which they from time to time send out, or used to send out, before the rig count dropped so low.

Why do they want to restructure the industry by completely removing the domestic independent producers from the industry, driving them into extinction and leaving only a few, large international companies which conduct more and more of their production and other activities offshore, and have moved more and more of their jobs outside the United States?

We have had a 50-percent decline in the number of independent producers just since 1986 in this country, falling from about 15,000 down to 8,000 companies, and that number continues to drop. And yet it is the independent producers who bring some balance to this industry. It is the independent producers who are active inside the boundaries of the United States. It is the independent producers who drill 85 percent of U.S. exploratory wells.

And so we have a tax policy that is driving these people out of business. As the Senator from Louisiana just said, they pay an effective tax rate of over 72 percent, according to a recent study by the University of Arizona. Here we have a chance to finally do something positive, after all of these years of decline, to try to put some balance back into the industry, to try to bring some vitality back, to try to put some of these people back to work, to try to do something to reverse the trend in terms of our trade deficit. We have a chance to do something positive. According to recent surveys of independent producers, if the alternative minimum tax can be amended in this way, it will result in the drilling of 17 to 25 percent more domestic wells in the next year.

Let us do it. Let us take that chance. Let us turn around the situation. Let us begin to move in a positive direction.

Now, Mr. President, no one will escape tax liability.

I might ask the Senator for 2 additional minutes.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. I yield 2 additional minutes to the Senator from Oklahoma.

Mr. BOREN. I thank my colleague from Texas and I thank the Chair.

The way this provision is drawn, a taxpayer cannot, through the use of deductions for excess intangible drilling costs, reduce its income more than 40 percent. There are three other provisions currently in the tax laws that would make it impossible for any producer to avoid paying some tax liability as a result of the change affecting percentage depletion that is proposed in this bill.

So it is simply not true that there are going to be people completely avoiding a tax liability. What they will have is a little breathing room. What they will have is a little relief from a 70-percent effective rate. What they will have is a chance to keep some wells in production that are now at the break-even point and that are otherwise going to be plugged, marginal wells by the thousands in this country that are going out of business every year. These oil and gas resources are lost forever, and the resources are ones on which the environmental costs have already been paid.

What a mistake it is for us to do that. What it is going to do is cause some producers who are now actually losing money, who have no net income, still having to pay the alternative minimum tax. We had specific and concrete testimony in the Taxation Subcommittee of the Finance Committee hearings on this point. People testified who have no net income, who are losing money, but because they are doing what we told them we wanted them to do in the national interest—drill wells, try to put some reserves back in place in terms of our national energy security—they are being penalized under the alternative minimum tax.

Mr. President, when we had to make the very difficult and trying decision to put young Americans at risk in the Persian Gulf, in conflict, their very lives at risk, we said never again are we going to be without an energy policy in this country that can begin to chip away at this total dependence on foreign sources of energy.

Finally, we have a chance to take one small step, not a big step, a tiny step, toward an energy policy that will encourage that. And here we have an amendment that says "No, we do not want any progress. For goodness sakes, let us not do anything that might help the trade balance. For goodness sakes, let us not do anything to preserve the independent sector; let the big oil companies move all their jobs, all their production, all their activity offshore."

How long are we going to wait, Mr. President, before we wake up? How many more times will we have to face an international emergency of the kind we faced before? How many times will we have to look the American people in the eye and say we have no energy policy; we have nothing to stop the death of independent producers in this country; we have nothing to increase production of domestic reserves?

We have a chance to do something. Let us do it now.

Let us turn down this amendment. Let us take a small step in the right direction.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I yield 10 minutes to the distinguished Senator from Oregon.

Mr. PACKWOOD. Ten minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. I thank the Chair.

First, let me agree in part with what the distinguished Senator from Oklahoma just said about having no energy policy in this country, and, indeed, we do not have a very good energy policy. It is understandable how we initially got hooked on oil—and I will use that expression "hooked on oil," and I do not mean it malevolently in any sense of the word.

Oil was plentiful earlier in our history. It was cheap, comparatively speaking, and fungible. It was easily changeable from one form or another in terms of its uses. And so we used it not just for gasoline in cars, we used it to generate electricity, we used it for all kinds of things because we did not think we had to save it or conserve it.

Gradually, oil is running out in this country, and what oil there might be able to be found, we pass all kinds of restrictions that prohibit the drilling for it.

So it is no wonder we do not find some oil when we say this is off limits and this is off limits and this is off limits and this is off limits. Now the oil production is going down.

It is amazing how that happens. But there is no reason why this country could not be independent in energy if it wants to, although it would probably not be on an oil base; it would be probably on a natural gas, North American free trade base or on coal, of which we have a 400-year supply. We can produce all the energy we need in this country from coal and use oil for what you have to use oil for, but that is neither here nor there from the standpoint of this tax.

But we are not short of energy. Japan is short of energy. We are not. It is the issue of the minimum tax itself that bothers me and not because it is the oil industry.

I do not want my good friend from Oklahoma or the chairman of the committee to think I am picking on the oil industry when I support the amendment of the Senator from New Jersey.

I want to go back before we passed the tax reform bill in 1986 and remember what the situation was. Every one of us faces this when we go home. You go home. You go to the coffee shack, in my State it would be of the lumber mill. Maybe in South Carolina, North Carolina it is the textile mill. The people, if they were lucky then, were making $19,000, $20,000 a year in 1985 and 1986. And just as you would get to the mill out would come some story from the Treasury Department about the

Treasury Department announced today that 800 people made over $500,000 last year and paid no taxes, no taxes. And this poor devil who is working in the mill and making $20,000 a year paid $1,500 or $2,000 in Federal income taxes last year and cannot understand how somebody could make $500,000 and pay no taxes. And you would say to him, well, it is because of preferences. He bought municipal bonds, school bonds. You do not have to pay any taxes on them, and it lowers your taxes. He gave a great painting to the Metropolitan Museum of Art.

We had all kinds of devices, dodges, call them what you want, that allowed people to have immense gross income, and by the time they figured their preferences and deductions, they had zero taxable income. And it was unfair. You cannot explain to somebody making $20,000 a year how somebody can make a half a million or more and pay nothing.

So in 1986 we changed the Tax Code. We passed a very stiff minimum tax which was intended to make sure that all taxpayers would pay a minimum level of tax on their economic income, no matter what kind of deductions they had. And we did not try to really go through and say all right, this is a good deduction, this is a good deduction, this is a good one, this is a bad one, because we knew if we said that, the ones we left as good deductions, people would use and they would pay no tax.

We thought it important that everybody of wealth pay some tax in this country, no matter how justified their deductions, so that the public would conceive that the code had some fairness. Now we are being asked to carve out a segment of the oil and gas industry for paying the minimum tax.

Here is my quarrel. I am not berating the oil and gas industry. It is this particular industry we are now going to carve out, because the energy bill before us today basically guts the minimum tax rules for a segment of the oil and gas industry.

The bill permanently repeals the minimum preference for intangible drilling costs—IDC's as we say in Washington—and percentage depletion of independent producers. As a practical matter, these changes will exempt most oil and gas producers from the minimum tax.

The argument is we need to do that in order to encourage the production of oil. I am not sure that is right, but that is the argument that is made.

Although this is not the first time the oil and gas industry has received minimum tax relief, just 2 years ago in the 1990 budget bill the oil and gas industry got almost $800 million of relief from the minimum tax. Now, not even 2 years later, if this passes, they will get another $1 billion of relief.

My quarrel is not with the oil and gas industry. It is what is going to happen to all other industries when they see this, because if you are in the oil and gas industry you see the world through the oil and gas industry eyes and you think this is the be all and end all of civilization. But if you happen to be in the banking business or president of the university, or in the maritime industries, here is what they are going to want.

We will go right down the line. In taking care of it in the tax bill we are going to consider something for educational institutions. It is called what is known as donation of appreciated property.

Prior to 1986, if you had a painting you bought for $100,000, you are rich, you keep it 10 years, worth $1 million, you donate it to a university, took a $1 million tax deduction, and you found many people were escaping the minimum tax in this way, partially.

So we said henceforth you can only deduct the value of it when you got it: $100,000. There were tremendous objections from universities and art museums. It turns out they were concerned with not the painting; they are concerned with the value of stock from $100,000 to $1 million. You give them the stock, they do not keep it. They sell it to get the money. But they do not get as many donations if you can only deduct your basis, $100,000. So they want an exemption from the minimum tax.

The geothermal industry now has a tax credit for the production of geothermal energy. They, however, cannot use the credit against the minimum tax. They would like an exemption to use it against the minimum tax.

Companies with overseas operations, with foreign tax credit, can now be offset. They would like it offset.

The maritime industry has what is known as the capital construction fund. They can put aside funds in the capital construction and pay no taxes. They can invest in the construction, but they would like it to operate in conjunction with the minimum tax and be given an offset against it.

Banking: bad debts. A bank has bad debts. They try to get the debts down. They cannot offset them against the minimum tax. And then all capital intensive industries—steel and autos—that have immense capital investments want a dramatic change in the minimum tax so they are not as adversely affected as they had imagined in their mind about it.

So as we start down this road you are hard pressed to say to the auto industry, to the steam industry, to the shipbuilding industry, charities, maritime industry, well, the oil and gas industry is unique. Yes indeed. Every industry is unique. Oil and gas is different from shipbuilding. Shipbuilding is different from auto construction. They are all different from running universities.

Each of the industries that wants an exemption from the minimum tax says we are unique and the merit for us is greater than for any other industry, and if you gave it to the oil and gas industry how in good conscience can you not give it to us?

There is no way you can explain it to them. If you are a university president, or a bank president that has bad debts from your predecessor through no fault of your own, you are trying to get the bank into some kind of liquid position, the bank president comes and looks you in the eye, says it is not fair that you give this to the oil and gas industry and not give to the banking industry, which is the very heartbeat of America, that finances all the small businesses in the country. How can you deny it to us?

The university president comes in and says we have needs for buildings and educating people, and the Government is not giving us enough money for education, and you are taking it away. They are raising money for the oil and gas industry, and how can you say no in good conscience?

So that is my quarrel. It is not a quarrel with the oil and gas companies.

I can see what is going to happen. We will start to grant these exemptions from the minimum tax, and it will eat away at our tax base. And then we will raise the tax rates to make up for the money that we have lost—exemptions from the minimum tax, and because we raised the tax rate it makes it more difficult for industries to amass profits. They will want more exemptions from the higher tax rate, which will diminish the amount of money. We raise the rates maybe in 10 or 15 or 20 years when the rates are going up, 45, 50 percent on corporations, and 60 or 70 percent on individuals. We will go through the whole thing we went through in 1986, and we will say this is ridiculous.

We raise the rates and give exemptions from the rates because the rates are so high that we cannot get the people to do the economic activities we want. We will give them exemptions, and we will be right back to what we found in the millions when we will have the IRS and Treasury Department saying, how many people last year made $1 million and paid no tax?

So that is my quarrel, Mr. President. I hate to see us start down that road. But it is so easy at this time to say yes, your case is justified, Mr. College President; your case is justified, Madam Bank President; your case is justified, entrepreneurs. For geothermal energy, I will make an exemption for you. But it becomes a "for you and you and you."

That is why I very strongly support the amendment of the Senator from New Jersey.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, there is only one good reason for including the alternate minimum tax proposal in this bill—it is the single most important provision in this legislation to stimulate the exploration and production of oil and natural gas in the United States.

And I want to remind my colleagues what oil and gas means to us as a nation. I have heard speech after speech on this floor, in political campaigns and in the media that our foreign trade deficit is too high, that America is not competitive, that our trading partners are simply leaving us in their dust. But, fully two-thirds—that is two-thirds—of our foreign trade deficit is due to imported oil. The only trading partners leaving us in their dust are the foreign oil producers. No one in this body, no one in any other forum, should be allowed to utter the word "competitiveness" without suggesting a way to reduce the oil deficit.

The AMT provision addresses the trade deficit, the oil deficit. It will help draw necessary capital to the oil drilling business in our own country. It is unfortunate that my colleagues do not support the other big key to reducing the foreign trade deficit—allowing the environmentally responsible development of the Outer Continental Shelf and Arctic National Wildlife Refuge. We have handcuffed our Nation and our economy. We have said, Let us start our competitiveness at a disadvantage, let us agree to step up to the plate with two strikes already against us.

The Finance Committee recognized these facts in our markup, we had a vote on the Bradley amendment, and the committee voted we simply could not, as a country, afford to let this trend continue.

We have heard about the rig count, the key figure to our energy future. The rig count is down all right, right down to the lowest levels of all time. As a matter of fact, just this year we have set six all-time low rig count records—six all-time low level records.

This is no give away to the oil industry. The oil industry is unique in its need for huge amounts of up front capital. So unique that under current tax law has the highest effective tax rates of any industry in the country.

I ask unanimous consent that a copy of a table from Tax Notes of May 4, 1992, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 4.—U.S. AND FOREIGN AVERAGE EFFECTIVE TAX RATES

Industry name	U.S. effective tax rates 1986	U.S. effective tax rates 1987–89	U.S. effective tax rates Increase (decrease)	Foreign effective tax rates 1986	Foreign effective tax rates 1987–89	Foreign effective tax rates Increase (decrease)
Aerospace (percent)	12.5	53.2	40.7	44.1	38.5	(5.6)
Beverages	22.4	29.7	7.3	41.6	28.2	(13.4)
Broadcasting	29.8	29.0	(.8)	41.6	44.4	2.8
Chemicals	13.5	28.9	15.4	47.6	47.1	(.5)
Computers & off. equip	−.6	−22.4	[1] (21.9)	50.8	44.1	(6.7)
Construction	71.6	35.5	[1] (36.1)	86.4	16.6	(69.8)
Electronics & appl	30.0	29.3	(.7)	42.8	42.7	(.1)
Food Processors	29.9	35.0	5.1	43.1	44.4	1.3
Glass, concrete, etc	37.7	36.0	(1.7)	41.3	39.7	(1.6)
Instrument companies	32.5	34.2	1.7	35.1	33.3	(1.8)
Investment companies	29.5	26.7	(2.8)	25.9	5.4	[1] (20.5)
Metal manufacturing	.5	8.8	[1] 9.3	103.8	27.1	(76.7)
Metal products	67.8	34.4	(33.4)	70.3	38.3	(32.0)
Mining	17.4	22.0	[1] 4.6	89.0	43.1	(45.9)
Motor vehicles	−22.1	25.2	47.3	41.6	22.9	(18.7)
Paper and wood products	11.5	22.0	10.5	30.6	26.2	(4.4)
Petroleum	−30.9	72.5	103.4	41.6	42.9	1.3
Pharmaceuticals	27.2	30.6	3.4	36.5	40.3	3.8
Retailing	25.6	39.4	13.8	36.5	39.6	3.1
Rubber	13.0	21.6	8.6	71.9	51.5	(20.4)
Soaps and cosmetics	22.6	36.8	14.2	33.8	38.4	4.6
Telecommunications	26.5	32.9	6.4	60.4	58.2	(2.2)
Tobacco	35.1	33.5	(1.6)	39.3	36.8	(2.5)
Transportation:						
Airlines	0	34.0	34.0	24.1	.2	(23.9)
Railroads	−131.1	16.7	[1] 147.8	0	0	[1] 0
Trucking	24.9	22.2	(2.7)	71.1	64.2	(6.9)
Wholesalers	36.5	34.6	(1.9)	149.5	133.8	[1] (15.7)
All Companies (percent)	20.2	31.5	11.3	43.9	40.0	−3.9

[1] The rates for one or more years are distorted due to a book loss or zero foreign income accompanied by positive foreign taxes.

Mr. DOLE. Mr. President, let me tell you one thing the chart shows. The oil industry has an effective tax rate of 72.5 percent. That compares to a national average of 31.5 percent.

The chairman of the Finance Committee mentioned the pharmaceutical industry in New Jersey. That industry has a tax rate of 30.6 percent, less than half the effective tax rate on the oil industry.

How can somebody say we are proposing a big giveaway when we are just trying to level the playing field? Once again, Mr. President, the only way we can make a big dent in the foreign trade deficit is to decrease oil imports by increasing energy production in this country.

The measure before us is the most effective way to do that. I urge my colleagues to reject the Bradley amendment and to make the United States competitive again.

Let me add one other thing. We had the big gulf crisis, and it was all about oil. So we spent billions and billions of dollars, going to the gulf, and most of it we got back from our allies. We were only there for three letters—o-i-l. We have had war after war, and crisis after crisis, because of oil. We are becoming more and more dependent.

If we want additional gulf crises, or other crises about oil, we can continue to shut down the oil industry. I might also say we are talking about, primarily, the small producers—independents. There are not many left; do not bury this industry. We may need oil again in a future crisis in America.

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from Colorado.

Mr. WIRTH. Mr. President, I thank the chairman for yielding. I wanted to take a few minutes to once again remind my colleagues of what it is that we are about here on the Senate floor today, and what we are about in the Congress over the next few weeks.

We are about passing the first major energy bill that we have done, probably ever. This is an enormously important endeavor, at a time when the country is looking with some skepticism at Congress and what it does; and can we deliver, and can we do this and that.

We are on the edge of a major achievement. We should all feel very good about that set of accomplishments. We are coming down the line, and we have to go through conference. But this is a singular achievement for this Congress.

Central to this energy bill is a major change in our national thinking. For the first time, we have an energy bill saying that we are not going to continue the same course. We are going toward a course on energy that has a number of other alternatives to it—not just traditional oil; not just traditional dependence on fossil fuels. But we are going to change our way of thinking. We are going to put a much greater emphasis on conservation. We have done that, and the House has done it, and we have the strongest conservation measures we can develop and get passed.

We are also—and this is very important to this amendment—changing fundamentally our view of the fossil fuel mix. For the first time, we have said that natural gas, as an industry—that this enormously promising American industry—has the opportunity now to come fully into its own. And that by increasing our dependence on natural gas—which is a fuel right here at home; which is a fuel that is clean, environmentally benign; which is a fuel that is going to generate more American jobs; it is going to cause less export of scarce American capital; it is going to be good for our national security; natural gas is this win, win, win fuel—that by encouraging natural gas, with respect to how utilities are operating, we are moving away from this terrible dependence on imported oil. This is a major accomplishment and change in this legislation.

One of the keys to this is taking advantage of the reserves of natural gas that are available to us. In Louisiana, in the San Juan Basin, and in New Mexico, going up into Colorado, in the overthrust bill, we have immense reserves of natural gas, and they are finding them all the time.

If this amendment passes, what we are going to do is take a great deal of the work we have done on this bill and say we were not really serious about it. We are not going to say to this industry, which—as the Senator from Oklahoma pointed out and the Senator from

Louisiana pointed out—has been decimated over the years: We are going to further decimate this industry. We are not serious about the energy bill. We are not serious about taking advantage of this domestic resource. We are not serious about going out and finding new reserves. We are not serious about developing new technologies to develop the reserves we already have.

Rather, what we are going to do is go around and once again punish this industry that we have said, on the other hand, we wanted to encourage and support.

This does not make any sense at all. If we are serious about this as a comprehensive energy bill and a bill that is making a major transition—and a lot of my friends who view the world in something of a similar way, the way that I do, in terms of our need to make a change; in terms of skepticism of the old ways of doing business in energy; of moving toward conservation and natural gas; and moving toward domestic fuels—we are doing that in this bill. And one of the ways that we can continue to do that is to encourage exploration of the natural gas industry.

This amendment would have exactly the opposite effect. If we are serious about this bill, let us be consistent in this legislation. Let us be consistent in the transition to natural gas and consistent in our support and encouragement of that key domestic industry.

If you vote for the Bradley amendment, what you are doing is saying: That rhetoric was all very nice about what we were going to do in the energy bill, but we were not really serious about it.

I think we ought to be serious about the energy bill. We ought to pass the bill as rapidly as possible. I think we ought to turn down this amendment, and most of the other amendments, as well, and get to conference and get this bill in front of the President, who is going to sign it and make it part of national law. It is very important for us to do.

I thank the chairman for yielding time.

Mr. BRADLEY. Mr. President, I yield 10 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, let me just respond to a couple of statements that have been made on the floor. I consider myself to be a Senator that is very serious about energy policy: one that is respectful of the environment that makes us more independent and enhances national security.

I think we have a transition we have to make, with an emphasis on renewables and safe energy. We have yet to even reach the potential of domestically produced clean fuels, like ethanol and all of the rest.

But I reach a different conclusion about this particular proposal. It is much like the Statement of the Senator from Oregon. This $1 billion in tax breaks is a tax expenditure, and expenditure of money—money that we do not have. It is a loss of revenue.

The oil industry asks for relief. They already have some relief from the alternative minimum tax, and now they want more. I just do not think this proposal meets the standard of equity.

The auto industry is in trouble. Senator PACKWOOD said it well. The steel industry is in trouble. Bankers are in trouble. A lot of business people are in trouble who do not get relief in this bill. There does not seem to me to be equity to this. I do not see how we explain this proposal.

Moreover, a lot of people in our country, regular people, are really feeling the strain. They really feel the strain, and they do not see the relief coming.

Mr. President, I wanted to take a somewhat different cut, and explain my opposition to this proposal, since there are Senators who support it that I certainly respect.

Last week, before the Subcommittee on Families and Children, Senator DODD'S subcommittee, a woman named Bernice Price testified. Bernice Price is 13 years old. She lives here in Washington, DC, and she testified before our Subcommittee on Families and Children. She lives in a housing project. She told us:

> We did not know that being a poor child in the United States was going to be so very hard.
>
> We weren't born to do poorly in school!
>
> Or to suffer bad health!
>
> Or to take drugs!
>
> Or to catch sexually transmitted diseases!
>
> Or to kill or be killed on the streets of America!
>
> When we were born, we were beautiful, happy, smart and good! We were just like your own babies. In God's eyes, poor babies and rich babies are equal. They can be anything they want to be—including the President of the United States!
>
> But God is no politician. He doesn't make social policies that can harm poor children.
>
> So . . . those babies who are equal in the hospital are unequal when it comes time to go home.

Then she goes on:

> When you were a child, you were able to play outside, right? Today, millions of American children can't play outside anymore. We're afraid of what might happen to us out there!
>
> In this testimony, I bring a message from millions of American children. We are not asking for special privileges. We are asking for the chance to be healthy like other kids. We are asking for safety against drugs and violence. We are asking the people who are paid to help us to do their jobs. We are asking to play outside like you did when you were young. We are asking for safe schools and for teachers who urge us to "reach for the stars." We are asking for laws to be changed so our fathers can come home to us.
>
> We're only kids.
>
> We're scared.
>
> We're sad.
>
> Sometimes we feel like America has forgotten us just like it did our mothers and fathers. The drug pusher knows that. And he's waiting just around the corner for us with his drugs and his lies.
>
> Senators, and other honored guests * * * I challenge you to look deep into the eyes of a poor American child. In the eyes of that child, you will find America's greatest tragedy.
>
> If you won't help us today, you are going to lose us forever.

The day before yesterday Arthur Ashe came in and testified before our subcommittee. He made reference to some facts having to do with American youth in crisis. I will not read them all but just a few.

> Today, 5 million students will carry a weapon to school, 135,000 will have a gun.
>
> Today, 16,000 crimes will take place on or near a school campus—one every 6 seconds.
>
> Today, 22 15–24 year olds will be murdered.
>
> Today, 8 million American adolescents live in poor or near poor families.
>
> Today, half of all black, Hispanic, and Native American Indian adolescents are poor or near poor.
>
> Today 5 million adolescents who need mental health services do not receive them.
>
> Today, 2,739 adolescents will run away from home.

Mr. President, my point is simple: This tax break to the oil companies does not meet the test of equity. It is not fair to other businesses. It is a tax expenditure. It is erosion of our revenue base. We talk about the deficit all the time, the budget deficit. You can argue why are we eroding the revenue base as well as talk about reducing the deficit. There is an investment deficit, and I am talking today about where the money is not spent.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. WELLSTONE. If I could just finish the statement. I want to make myself perfectly clear. As long as we are saying to Bernice Price and other children in this country, we do not have the money to feed you, we do not have the money for health care, we do not have the money to support education, we do not have the money to fully fund Head Start, we do not have the money for any of these programs, I am certainly unwilling to support a $1 billion further erosion in the revenue base of our country.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. WELLSTONE. I certainly will.

Mr. JOHNSTON. The Senator said there is a tax break for the oil companies. He understands this is not for major oil companies; these are for independents.

Mr. WELLSTONE. I understand that full well.

Mr. JOHNSTON. The Senator also understands we had this tremendous erosion of jobs in the oil industry, upwards of 400,000 in the last 10 years, which is more than automobiles, more than textiles, more than any other industry in America, and we are due to lose another 50,000 by some estimates this year. Does the Senator have anything he might suggest to the children of those who are likely to lose their jobs, for whom I also feel, as I do for this person who testified before that committee and talked about poverty? Does he have anything to suggest for those who are likely to lose their jobs and for, indeed, the American economy, which will have to import that oil if it does not produce it?

Mr. WELLSTONE. I have a lot to suggest. First of all, I say to the Senator from Louisiana that I do not see the oil industry in trouble because it has not received exemption from this minimum tax. I see the oil industry in trouble because the prices are down for oil. I see the oil industry in trouble because our economy is in a recession. I see the oil industry in trouble and other industries in trouble, I say to the Senator from Louisiana, because we have failed to be involved in serious strategic investment in our own economy. I see the oil industry in trouble because, essentially, we have not been minding our own store here in our own country.

And my second point, if I could just go on, is, I say to the Senator from Louisiana, that when I talk about children in this country and not being able to come up with $1 billion and more to respond to the needs and circumstances of children, of course, I am talking about children in all families, in all States in the country, including Louisiana. But I simply do not believe that the oil industry is in trouble because of this minimum tax. I have heard other people argue that on the floor as well.

Mr. JOHNSTON. Does the Senator see any connection between an effective tax rate of 72.5 percent, which you have with the alternative minimum tax now with some independents, but does he see no connection between that and the fact that we are losing up to 50,000 jobs this year in the oil industry in America?

Mr. WELLSTONE. Again, a lot of industries can talk about the strain they are under. My understanding—and the Senator from New Jersey may want to add to this—is that the oil industry, the domestic producers, have already received some exemption. Now the industry wants more. Once again, I do not believe that the evidence, if you want to look at the economy of this country, is that there is a 1-to-1 correlation between what you are asking for and a dramatic improvement in this industry. I think we can talk about other, more profound problems in the economy of this country.

Moreover—let me just say one other thing to the Senator from Louisiana, which is there are a lot of people that can come before us right now from the business community and say the same kind of things in terms of tax relief that they seek. The point is we are not talking about tax relief for these other industries. We are not talking about this kind of tax relief for those other businesses. I do not think, if we look at the whole economic picture, there is any equity.

Finally, I say one more time, it is interesting to me that the Bernice Prices of this world do not really get heard so clearly on the floor of the Senate. What they would like to say is they need some relief, but we do not give them the relief.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from New Mexico who has knowledge in this matter.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, I rise not only because my State is a large producer of natural gas and crude oil, but because, for the first time in about 10 years, we are doing something about America's energy dependence. We are doing something about jobs that we do not have to lose. We are finally cutting the noose which has been around the necks of America's independent oil and gas producers ever since the 1986 AMT was enacted.

Mr. President, for an America that has announced over the last 7 years hundreds of thousands of working men and women have been laid off in the Oil and Gas Patch of America, for an America that is growing day by day in dependence upon foreign oil, sending billions of our dollars to Saudi Arabia every year, and we sit by with one of the most punitive tax systems, the AMT on the books, and we say to America's investors, to America's independent oil and gas risktakers, we say to them, "We want you to produce oil and gas, but we want you to run uphill. We want you to run up a waterfall, because we want to tax you at an average effective rate of 72 percent." Just think of it. If we came to the floor and said we have a new policy for America's competitiveness, we are going to tax America's industry at 72 percent, would that not be a marvelous policy for jobs, economic growth, and competitiveness? I make that statement to emphasize how ludicrous the AMT tax policy is.

Now, Mr. President, there is no mystery about what an AMT is. We have said to the independent oil producers, other businesses can deduct depreciation but you cannot deduct depletion, because you put it back into your minimum tax return.

Other businesses deduct trucks, hauling, supplies, and fuels. They deduct all the labor expenses of doing their work. We say to the oil and gas industry where these expenses are incurred in your industry, they get a different name. They get called intangible drilling costs and they receive a very unfavorable AMT tax treatment. I say to my friend from Louisiana, you cannot deduct them. You put them back into the AMT tax base and we tax them.

Now, Mr. President, it is absurd to throw away jobs and to sit back for no reason and say, we would rather the Saudi Arabians get our money; we do not want independent oil and gas producers to get out of bankruptcy and get back in the field; we do not want the rigs that are idle all over America back in the field producing oil and jobs. Instead, we want to tax the independent oil producers as a confiscatory rate. Confiscatory rate is the term they use when I go to oil patch and have a meeting. They stand up and say, Senator do you know my company went out of business because on the last AMT tax return I filed I had to pay an effective tax rate of 70 percent. We quit.

Is that not absurd that, in the name of some ridiculous concept, the independent oil and gas producers were making too much money, we are going to fix them, we are going to fix America, we are going to fix thousands of people that would have jobs in oil patch and good jobs.

So I say the Bradley amendment is an antijobs bill. The Bradley amendment is an amendment encouraging us to send our hard-earned American dollars and net savings to foreign countries instead of wanting to spend it in America. Very interesting. Send it overseas. It is not enough to have had a war to defend that oil in the Middle East. Now just keep on sending them our money because we want to put a 72 percent effective tax rate, a rate that is substantially higher on the independent oil producers.

My last thought. For those who do not think they ought to deduct intangible drilling costs, who do not think they ought to deduct ordinary business expenses and depletion which are no different than ordinary business expenses and depreciation for other types of businesses. Remember, oil and gas producers do not find oil every time they drill for oil. Do you want them to quit taking the risk, or do you want them to say the risk is worth taking because when we strike oil and get some money coming in we are going to get back what reasonable businessmen get and deduct what they deduct, or do you want them to say, "we quit!"

This energy bill, for the first time, has a rational energy policy. It will not solve America's oil needs but it will cause more millions of barrels, barrels of ours, to be produced rather than foreign. It will put thousands of people to work here in the United States rather than taxing them out of work. It will bring investment into oil patch, and I do not know why we should not all want that.

The tax title of the energy strategy is an important part of the overall energy strategy. It includes provisions to increase exploration, development and production of oil and gas; the conservation of energy; and tax credits for renewable energy among others. It is a balanced strategy designed to give us flexibility in the future to meet our energy needs.

I want to begin my remarks with a discussion about oil and gas production because I represent one of the big oil- and gas-producing States. While rigs sit idle in my State, and while wells are shut-in throughout the Nation, we are importing almost half of the oil we consume on a gross basis. That represents an increase by almost one-half over our import dependence in 1985.

The Office of Technology Assessment has predicted that oil imports could reach almost 70 percent by the year 2010. Leaving his scenario unaddressed would not be an energy strategy, it would be a national tragedy.

The tax title contains some of the most important energy provisions for independent producers. Right now, they are being taxed out of business by the alternative minimum tax.

Independent producers have been stuck in the alternative minimum tax [AMT] since it was enacted in 1986. Under the AMT, there are four big penalties imposed upon investments made by U.S.-based taxpayers who explore for, and produce U.S. oil and gas reserves. These penalties hit the independent oil and gas producers who drill 85 percent of all domestic wells. There are two tax penalties on drilling investments and two penalties on asset depletion. Without the independent oil and gas producer's exploration and development activities the options for an energy strategy would be greatly limited. The President recognized this, and fully supports AMT relief for independent oil and gas producers.

The simplest explanation of the AMT exploration and production penalties is this: Current law requires U.S.-based taxpayers to add back to regular taxable income a portion of both drilling costs and asset depletion when computing alternative minimum tax liability.

The practical impact on the oil and gas producers is that production incentives are on the books, but can't be used because of the AMT. In essence, it is a nonrepeal repeal of ordinary business expenses that other businesses are allowed to deduct. I call it a nonrepeal repeal because the provisions are as unusable as if they had been repealed. The tax writing committees have included $1 billion in alternative minimum tax relief.

The alternative minimum tax is one of the worst enemy's of the oil independence and an effective energy strategy. The alternative minimum tax is driving oil producers out of business because its provisions discourage domestic exploration and production. The alternative minimum tax is pushing independent producers into bankruptcy. It worsens our trade deficit. It weakens our energy security. And its punitive tax treatment has wrecked almost half our domestic oil production.

In February 1992 I had a meeting with some of the independent producers in New Mexico. I want to quote a few of the oil and gas producers who attended the meeting. I think they speak eloquently about the problem. Theirs is the voice of experience.

Ted McVay, of McVay Drilling told me the following:

> I know how a dinosaur felt when even though he was making his best effort to survive, the environment in which he was working ultimately caused his extinction. We are in an adversarial relationship with Government. * * * The alternative minimum tax (AMT) has had a devastating impact upon investment resources available to these different companies from not only within the industry but from outside investors thus drying up one of our primary sources of funding for development and exploration.

I did some research myself, and found that the AMT is the only tax imposed by any government which results in a higher effective tax rate as income declines.

Another independent oil and gas producer struggling to survive, A.J. Brune, of Wagner & Brown, headquartered in Midland, TX, with exploration and production operations in the Permian Basin, the Rocky Mountains, Oklahoma, New Mexico, and Michigan said:

> The alternative minimum tax, despite its well intended purposes, has become a noose around the neck of independents diverting money from drilling and exploration into the Federal treasury at a time when the domestic oil and gas industry needs every available dollar. The alternative minimum tax increases the effective rate, eliminates incentives and discourages investment, all at a time when oil and gas prices and production are declining, the national economy is in a recession, traditional financing sources have dried up and foreign import of oil are approaching 50 percent.

Another constituent, the general partners from Parker & Parsley Petroleum Co. told me that the biggest problem is alternative minimum tax [AMT] including the ACE adjustment.

> It serves as a deterrent to drilling, as the price of oil goes down, so does the net income from oil and gas making the preference intangibles higher, resulting in a larger tax bill. This is exactly the opposite of what should happen when trying to have a viable economy.

Unlike other small businesses, independent oil and gas producers are not allowed to deduct ordinary business expenses incurred in their line of business. These expenses are intangible drilling costs and percentage depletion. This results in effective tax rates of 70 percent for some oil and gas producers as compared to regular 34 percent for nonpetroleum businesses.

By adopting the Finance Committee's AMT provisions we can begin to reverse this trend and begin to put back to work the thousands of individuals who have been forced to leave this industry. Studies show that if these AMT penalties were removed, the industry could mobilize 1,200 rigs—compared to the recent record low of 653.

Without AMT relief the only self-help available to the independent producer is to stop drilling. When an independent stops drilling he goes out of business. Let me repeat this: The AMT is driving the independent oil and gas producers out of business. It is impossible to have an energy strategy without an oil and gas exploration, development and production industry. Yet we have a tax system that is a modern day example of the power to tax being the power to destroy an industry.

The AMT is not just a little bit bad for the oil and gas industry, it is very, very bad because oil and gas production is one of the most capital intensive industries in the United States. Capital intensive industries bear the heaviest burden of the alternative minimum tax due to the many adjustments required of capital outlays.

For my colleagues who are not from oil patch, you might ask, "Well, Pete, just how bad is it?"

The statistics are dry but stark: 192,000 jobs lost in the extraction portion of the oil and gas industry, from the 583,000 level in 1985 to 391,000 in 1991, a 33-percent decline.

That is, on the average 32,000 jobs per year; 2,667 jobs per month; 615 jobs per week; or 88 jobs per day.

This trend has continued into 1992. Nearly 17,000 jobs were lost in the oil and gas industry in just three States—New Mexico, Texas, and Louisiana between March 1991 and March 1992.

Some 380 drilling companies have gone out of business; from 778 in 1985 to 398 in 1991; a 49-percent decline.

That averages more than five companies per month going out of business for the last 6 years.

There are 1,120 active drilling rigs lost; from 1,980 in 1985 to 860 in 1991; a 57-percent decline.

That is the equivalent to 15.6 active rigs each month over the last 6 years being shut down.

We are seeing a deliberate and rapid shift away from domestic oil exploration in the United States among the major oil companies. ARCO, Chevron, Mobil, Marathon, and Phillips are all companies that have recently announced sales of domestic reserves or large cutbacks in their domestic exploration and production staffs.

Some erroneously believe that the United States is drilled out. But the University of Texas has done an extensive analysis that shows that there is in excess of 100,000 intermediate fields to be found in this country. The Colorado School of Mines has quantified the remaining gas to be found in this country, and it far exceeds that which has already been produced throughout history.

The plight of the oil and gas industry even made it into the "Talk of the Town" section of the February 10, 1992, New Yorker.

> Looking up at the silent, rusting rigs from the riverbank, we felt as if we had wandered into a graveyard for sci-fi monsters. The rigs were gargantuan. They also are fantastically expensive . . . and when there was no immediate prospect of them operating profitably, their owners often had them cut up for scrap * * * which is what a lot of them are doing right now.

The tax title of the energy strategy bill includes some important provisions to reverse this trend:

Repeals the excess IDC preference and the excess percentage depletion preference for oil and gas for taxpayers other than integrated oil companies. Repeal of the excess IDC preference may not result in more than a 30 percent reduction in AMT tax liability for tax year 1993, and 40 percent for taxable years after 1993. This should reduce independent producers' taxes by $1 billion between 1992 and 1997.

For corporations other than integrated oil companies, the bill would repeal the accumulated current earnings adjustment [ACE] for: First, IDC's paid or incurred in taxable years beginning after December 31, 1992; and second, percentage depletion for oil and gas. The bill also repeals the AMT energy deduction.

Other important energy tax provisions include:

Providing favorable tax treatment of public utility rebates. Customers would not have to report as taxable income and consequently pay taxes on the value of any rebate provided by a utility for residential energy conservation equipment. Beginning in 1993, the exclusion would be available for 80 percent of the value of any rebate provided to a commercial or industrial customer. It is an equitable provision because the conservation promoting provisions apply to both electric and gas utilities. Rural electric co-opts, State and municipality owned utilities are also eligible.

This provision accomplishes many of the same objectives as a bill I introduced earlier this session, S. 1305, the Conservation and Energy Efficient Investment Act. My approach would have conditioned the favorable tax treatment upon the customer purchasing the most energy efficient equipment available in the marketplace. I think this is a better approach, but I am nonetheless pleased that natural gas utilities' rebate programs are eligible for the tax incentive.

The bill includes a tax deduction for the purchase of alternative fuel vehicles; a lesser deduction for flexible fuel vehicles that can use both conventional fuel; and alternative fuels and a tax credit for electric cars.

My State is a tremendous natural gas producer and I am looking forward to the day I can buy my first natural gas powered car. Natural gas is an environmentally preferable fuel. These incentives are an important component of an energy strategy.

The bill also makes the 10-percent solar and geothermal credit permanent.

The two national laboratories in my State and many New Mexico companies have been at the forefront of developing solar energy technology. I am pleased that this credit is becoming permanent.

I think that the tax title of the energy strategy is an important contribution to America's energy policy and I am pleased that the Senate is including the tax title in this comprehensive package.

I thank the Senator for yielding.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I ask the Senator from Texas if he would yield me 5 minutes.

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. I thank my friend and colleague, Senator BENTSEN from Texas, and also Senator WALLOP for his leadership, in addition to Senator DOMENICI for his excellent statement, as well as the statement made by my friend and colleague, Senator BOREN from Oklahoma.

I rise in very strong opposition to the Bradley amendment which would strike out the provisions in the pending bill dealing with the alternative minimum tax.

Mr. President, I would just like to say that I think a lot of my colleagues do not really understand the provisions of alternative minimum tax as it pertains to the oil and gas industry. Because this industry, is unlike any other industry, when you are talking about intangible drilling costs—and most people do not know what intangible drilling costs are. Intangible drilling costs are the costs you incur when you drill a well. When you drill a well, sink a hole in the ground, you have nonrecoverable expenses. And in any other business in America—and I happen to know a little bit about that because I ran and operated a manufacturing company—we expense expenses. But not in the drilling industry today because of the tax change that we made in 1986.

A serious mistake was made. It placed a tax surcharge on drilling expenses. Now that makes no economic sense whatsoever. You are supposed to tax net income. You are not supposed to have a tax surcharge on an expense item. And if you have a tax surcharge on an expense item, you are going to drill a lot less. You are going to have a lot less of that expense item.

It was ridiculous tax policy, a serious mistake that was made in 1986 and it needs to be reversed.

The bill does not reverse it totally, but it is a step in the right direction. It minimizes the damage, and I wish we could go further. We should deduct 100 percent of expense items on intangible drilling costs. They should not be subjected to the alternative minimum tax in any way, shape or form. The committee bill did not go that far. So to some extent I am disappointed. We really did not go far enough toward sound economics and allow business people to deduct their expenses.

But if we pass the Bradley amendment, we will be doing great damage and continued harm to our country; not just to the oil and gas industry, but to our country as well.

Last year, we spent $44 billion importing oil; 66 percent of our negative trade imbalance was the cost of imported oil, not to mention the impact in the oil patch. Not to mention the fact, as my colleague, Senator JOHNSTON mentioned earlier, 400,000 jobs have been lost in the last 10 years, not to mention the fact that we are hardly drilling anything in this country.

Today we have an active number of drilling rigs of 688. We actually dipped below 600 earlier year this year. Let me put that in perspective.

I will tell my colleagues, we were right at 4,000 rigs about 10 years ago. Today, we are at 600-something. We are at the lowest number of active rigs that we have had since we kept records, going all the way back to the late thirties.

We are in a depression in the drilling industry. And you might say, why? One of the reasons is because we have a tax surcharge in drilling. It makes no sense. It needs to be repealed. Not to mention the jobs, not to mention the economic activity, not to mention the fact that we want to reduce our dependence on imported oil.

I just fear for the fact that a lot of our colleagues, I think, have very little understanding of the Tax Code, and particularly when it comes to business. And for crying out loud, we should make a common-sense ruling that we do not place tax surcharges on out-of-pocket, nonrecoverable, business expenses.

This amendment that we have in this bill will go a long way toward doing that. If we adopt the Bradley amendment we are going to say, no, we want higher AMT even on expense items. We are going to keep a tax surcharge on drilling expenses.

That does not make sense. If we allow that to happen, we are going to devastate this industry and continue to import more and more oil. That makes no sense whatsoever. It makes no economic sense. And I would just hope that my colleagues would show great wisdom and defeat the Bradley amendment and, I hope, defeat it overwhelmingly, because it does not make sense.

We have several provisions in this energy bill that will help. Certainly, if we pass the Bradley amendment we will be doing great harm.

Mr. President, I strongly oppose this motion to strike on several grounds; not the least being that our domestic oil and gas industry is bleeding to death increasing our Nation's continued dependence on foreign oil. Mr. President, we are debating a national energy bill that is intended to help reverse this trend of increasing dependence. The Bradley amendment, if adopted, would eliminate one of the most necessary provisions in this bill that would have direct impacts on increasing domestic exploration and help decrease the need for foreign imports.

Independents drill 85 percent of the oil and gas wells in the United States. Over two-thirds of these independents are small, often family-run, businesses with less than 20 employees. The AMT in its current form has an especially punitive impact on these small producers, denying them the deduction of their most fundamental ordinary and necessary business expenses. Because the amount of IDC allowed under the AMT is tied to the producer's net income from oil and gas, the lower the amount of production, the lower the deduction for drilling costs. In addition, the percentage depletion deduction, which allows smaller producers to replace increasingly costly reserves and prevents the premature abandonment of many properties, is disallowed under the AMT.

If the AMT provisions in this bill are passed, drilling would increase between 17 and 24 percent and would result in almost 7,000 new wells drilled each year. This would increase the rig count by at least 200. On average, each rig operating full time directly creates 150 to 200 new jobs. Therefore, between 30,000 and 45,000 additional jobs could be created in the United States in the first year alone as a direct result of eliminating the nondeductibility of drilling costs and percentage depletion under the AMT.

As you know, current provisions in the Tax Code treat intangible drilling costs and percentage depletion as preference items for purposes of calculating a taxpayer's alternative minimum tax obligation. These provisions are causing irreparable harm to an industry that is vital to our national security.

A rig count of 688 indicates that the industry has entered a period of accelerated decline. The Nation's domestic oil production is falling at annual rate of 300,000 barrels a day, and foreign imports are rapidly approaching 50 percent of our domestic needs. We have lost nearly 400,000 jobs, almost half of the oilfield worker jobs since 1981 when the rig count reached 4,000.

Independent producers have been devastated by a combination of low oil and gas prices and high taxes. Every rig that shuts down means jobs that are lost and increased dependency upon foreign oil for our energy needs. I strongly believe that tax relief is needed to save the domestic industry from collapse.

The time to act is now. The independent procedures say that unless tax relief is provided, the industry will collapse. With the energy bill on the floor of the Senate it is time to act and act decisively.

I am convinced that the alternative minimum tax relief is the single most important agenda item for the oil and gas industry. It does little good to talk about extending incentives unless we remove alternative minimum tax impediments.

When a recession coincides with sustained low oil and gas prices, the alternative minimum tax works like severe penalty that gets progressively worse the longer the taxpayer fails under it. The longer prices are low and profits thin, the harsher is the alternative minimum tax's impact.

Under current law, when percentage depletion and intangible drilling costs are added back to income in calculating alternative minimum tax tax liability, it can result in a 70- to 80-percent effective tax rate for some producers. The result is indisputedly punitive, if not confiscatory.

Including intangible drilling costs and percentage depletion as preference items in 1986 was a mistake. It has been referred to by some Americans trying to increase oil production here in the United States as a drilling penalty tax for independents. In the fall of 1990, Congress made a change to these provisions by reducing the amount of intangible drilling costs that independents must include in the alternative minimum tax by 75 percent for exploratory wells and 15 percent for nonexploratory wells. But the penalty is still 25 percent for exploratory wells, including all developmental wells, We need to eliminate IDC's entirely from the alternative minimum tax.

IDC's are the only out-of-pocket business expense in any industry or profession that are treated as a preference item in the alternative minimum tax. Inclusion of IDC's was unfair, and another example of treating the domestic industry as a cash cow to be milked every time revenue is needed.

Taking IDC's and percentage depletion out of the alternative minimum tax is appropriate not simply because they are a unique penalty on oil and gas producers, but because in practice these provisions have been both anticimpetitive and regressive and have had the effect of significantly reducing drilling activity in the United States.

It is imperative that the Bradley amendment be defeated. The independent oil and gas producers are being unfairly penalized by the 1986 tax amendments. If the AMT tax provisions contained in this bill are not adopted the results will be a continued decapitalization of a strategic sector of our industrial economic base, a continued loss of jobs and a continued risk to our Nation's ability to respond to requirements for domestic oil and gas production. The AMT tax provisions of this bill must be enacted now if this industry is to survive and the national security of this Nation be preserved from further reliance on foreign energy sources.

I thank my friend and colleague from Texas.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I ask the Senator from Texas if I could have my 2 minutes.

Mr. BENTSEN. I yield that time to the distinguished Senator from Wyoming, the ranking member of the committee.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from Texas.

I was amused by the arguments of the Senator from Oregon [Mr. PACKWOOD] and indeed those of the Senator from New Jersey [Mr. BRADLEY] for eliminating the whole of the alternative minimum tax. I was on the exalted Finance Committee at the time that concept arrived on the Tax Code in 1986. I characterized it at that time as an admission of tax-writing incompetence. It was done to satisfy the needs that everybody should pay tax, literally, whether they made any money or not during the course of the year. They did not want to have a taxpayer with zero income.

Now I warned of the consequence late at night on this floor of what it would do to the oil and gas industry, and it has. One of the things that just seems to be lost in the argument of the Senator from New Jersey, the Senator from Minnesota, and the Senator from Oregon, is that there are occasions when people in the oil and gas industry are obliged to pay taxes when they have made no income, because of the peculiar quirks of tax treatment of the oil and gas industry.

I have friends in Wyoming. I have letters, which I will happily supply to the Senator from New Jersey, of people who go through in detail how they owed taxes, having made no money. That is ridiculous and it is one of the reasons why we are driving people out of the industry.

Last, Mr. President, Senator JOHNSTON and I and others, when we started trying to craft this bill, tried to pay equal attention, equal heed to both the production of and the conservation of energy. This is one of the critical points in the production of energy and it is also a critical point in a whole lot of other things that have been described—jobs, balance of payments, and other kinds of things. But it makes environmental sense that America uses the resources that it has, that it produces well and under much more environmental stricture than anywhere else in the world. So there is no more important section of this bill for the domestic oil production side and it will help us seek the balance that we have tried to achieve from the beginning.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired. Who yields time?

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, how much time is left on the side of the proponents of the amendment?

The PRESIDING OFFICER. The Senator from New Jersey has 16½ minutes.

Mr. BRADLEY. Mr. President, let me see if I cannot deal with some of the issues that have been raised in this debate and then close off our side of the debate.

Let me begin by saying that I think the Senators who have spoken on this issue are very strong advocates of the interests of their States. There is no question about that. In the States of all the speakers—from Texas, Louisiana, Oklahoma, Colorado, Kansas, and New Mexico—there is an influential oil and gas industry. It is understandable that those Senators would be defending their States' industry. And they do a very able job of it. So let me begin by telling the full Senate that I respect their advocacy for their States' positions.

I also think other States have other concerns, and it is those that I want to try to address.

First, the point was made that we should provide this benefit to the oil and gas industry and if I seek to prevent this benefit from being provided, that somehow or other because we have not eliminated all benefits provided to all industries, that there is something questionable about this activity.

Let me say frankly, I would like to eliminate more than these benefits for the oil and gas industry. I would like to eliminate many more of the loopholes that remain in the tax base. I would like to go further than in 1986, as long as the money is used to either reduce the deficit or to reduce tax rates.

So let me be very clear about that. But we do not have the whole Tax Code before us now. We only have this provision before us.

The second point: The distinguished Senator from Louisiana made a point about environmental terrorism in the Appropriations Committee. I am not on the Appropriations Committee and this amendment does not deal with matters that relate to the Appropriations Committee. This amendment deals with whether we should provide over $1 billion in tax benefits to one industry, pure and simple.

Third, the distinguished Senator from Colorado raised the question that, would this be inconsistent because the bill is trying to promote natural gas? Somehow or other, this amendment would run counter to attempting to promote natural gas. He made the environmental argument.

I think natural gas has to be a major part of our future. I think natural gas is clean; it is efficient; it is abundant; it should be developed. But this provision is not directed only at natural gas, it is also directed at oil. So, while natural gas may be the clean lady at the dance, the partner is not so clean when it comes to environmental purity. That point should be made. If we were only dealing with natural gas maybe we would have another dynamic here.

Fourth, what about the price? What is the problem in the oil industry? Is it that they do not have special tax benefits, or is it that the price has dropped? The proponents of our amendment asserted it is that price has dropped. I believe if the opponents of this amendment were serious, they would propose this limited tax relief until the price of oil reached a certain level. At some level, why does the industry need that tax relief? Because they are making more and more money? That is not what is proposed here. This is a permanent benefit for the oil and gas industry. It is not temporary. It is not price contingent. It is permanent.

Fifth, the argument was that, if we simply had this tax benefit, we would not have had a war in the Persian Gulf. If we simply had this tax benefit, there would have been no war in the Persian Gulf.

I think that argument on its face is ludicrous and I hope it is not made seriously. Do we have a problem with foreign oil? Absolutely. Insecure sources of foreign oil? Absolutely. Is it more secure to get the oil in the United States than the Persian Gulf; from the United States than from Venezuela; from the United States than from Mexico? Yes. But this tax provision is not the difference between the United States going to war in the Persian Gulf and the United States not going to war in the Persian Gulf.

Sixth, there was a great case made for those who have lost their jobs in the oil industry. Let me tell you I have a personal feeling for people who lose their jobs in the oil industry, just as I have a personal feeling for residents of my State over the last several years who have lost their jobs. Many people thought they had lifetime employment with some of the major companies of America: IBM, AT&T. And they lose their jobs. If we simply put back in $1 billion in special tax relief, that is not going to save their jobs. The industry's fate is a function of price, not tax subsidies.

Next there was the argument made about trade; our trade partners are fully competitive; our trade partners are more competitive than we are. And we are burdened because we do not get enough oil domestically.

A lot of those trade partners of course get no oil domestically. They get no oil domestically.

Mr. President, another argument has been built, of course, around the famous 72 percent effective tax rate. Not that anybody is going to understand this, totally. Sometimes when I go through it, I do not know if you can make it clear. That is a part of the tax process, I think.

But, if you consider the effective tax rate, using the alternative minimum tax base, you discover that the rate is not 70 percent. It is 24 percent. Not 70 percent, 24 percent. So let us not parade the 70-percent effective tax rate on the regular tax base as if that is the answer. No, it is economic income that we are measuring under the alternative minimum tax, economic benefit. And the effective tax rate there is 24 percent, not 70 percent that we have heard on this floor for the last 2 hours.

But, Mr. President, all of these issues are somewhat secondary to the real question here, and that is what do you want a billion dollars to be spent for? We have a $400 billion budget deficit; this will increase it to $401 billion. We have pressing needs in this country, pressing needs that will remain unaddressed.

The billion dollars that we give to the oil and gas industry over 5 years is the billion dollars that we do not have for education, the billion dollars we do not have for cleaning up the environment, the billion dollars we do not have to reduce the deficit. These are not small questions.

The distinguished Senator from Minnesota, I thought, made several very important points about the crying needs of this country that remain unaddressed because we cannot find the money. But we can certainly find the money when it comes to a particular industry that petitions Congress very effectively.

Mr. President, let me share just a brief story with the Senate. I am a member of a commission called the Commission on the African-American Male, with Kurt Schmoke, the mayor of Baltimore.

We had one of our first meetings since we have taken over cochairmanship of that commission not so long ago at Morgan State. One of the witnesses was a young 15-year-old African-American male; he was strong and handsome. And he was asked by the commission to tell us what his hopes were and what his fears were.

He came before the commission that morning and said: Well, I hope I can become a player in the NBA, but, you know, not many people can make the NBA. So if I cannot make the NBA, what I want to do is work for the CIA.

And if not the CIA, the FBI. That is my aspiration.

What about fears?

He said: I have four fears. The first fear I have is when I walk out of my house I might be killed because three or four people have been killed in my neighborhood in the last month. My second fear is that my parents would be killed and I would have to go live with another family member who would not love me so much, or maybe a foster parent who would not create the environment where I could study and advance. My third fear is HIV. He said, I do not fool around, but look at the great Magic Johnson. It only takes once. He said, my fourth fear is if I was good enough, I know I could make the NBA. I know I could if I was good enough. He said, if I am good enough, I do not know if I could get into the CIA or the FBI. He said, I did not bring drugs into this country. I did not make money off the sale of guns. I do not close the schools on the weekends in the summertime. I do not fail to fund programs that help our neighborhood. I am just trying to do the best I can under difficult circumstances.

Point: What are we going to say to that young man about the billion dollars we have just given to the oil and gas industry as opposed to the billion dollars that might have made some difference in his life?

Choice, that is what this amendment is about. We can debate the narrow aspects of it, the effective tax rates of it, the trade balance, et cetera. The basic question is: How do you want a billion dollars of your tax money spent? Do you want that billion dollars going to one industry, a narrow element of that industry, the independent oil and gas producers, or do you want it for some other purpose, from deficit reduction to trying to change the circumstances under which this young man at Morgan State was growing up? That is the basic question.

We are going to face this. This is not a moment that is going to pass. We are going to have to respond to some basic questions in the next couple of years if we are serious about the deficit, and all the rhetoric actually means something.

How are we going to go about cutting that deficit? Are we going to cut it on the basis of equity and need? Does it really make sense to have a tax system where people who make more than $100,000 get a benefit greater than people who make under $10,000?

Generational issues are going to be another way to look at this. Does it make sense to continue to funnel money to people who are older or for people who are young?

Do we want the market to allocate resources in this country? Do we beat our chest and say, yes, we think that is the most efficient way to allocate resources in this country except when I can get a little favorable benefit through a subsidy in the Tax Code or a subsidy through the spending process? Then I will take that. I will still talk about markets, but I will want the step ahead that my subsidy gives me.

We are going to face this question because if you look at the Tax Code, there are billions of dollars in subsidies to this industry or that industry or another industry. These all distort the functioning of the market and take money away from other pressing public needs.

So, Mr. President, I look at this amendment as really the opening bell on what over the next few years I hope we are going to be able to do to focus on in getting control of this deficit. I hope that we will not decide to follow business as usual, and keep putting money in the pockets of this industry or that industry under the guise that this billion dollars will prevent the Persian Gulf war or make us immediately trade competitive or whatever. This is a moment for candor. I believe it is a moment for deciding. The time has now come to decide not to provide this billion dollars for the independent oil and gas industry.

The PRESIDING OFFICER (Mr. ROBB). Who yields time?

Mr. BENTSEN. Mr. President, I yield 5 minutes to my distinguished colleague, Senator GRAMM.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. I thank the distinguished chairman of the Finance Committee.

Mr. President, I always enjoy listening to our colleague from New Jersey. I have to say the last time I looked we were not short of NBA players and since the candidate of the party of our colleague from New Jersey wants to cut defense intelligence by a billion dollars, I submit we are not short of people who can or would work at the CIA. But the provision that we are debating today is about the fact that we are short of oil and gas in America produced at home at a price consumers, industry and farmers can afford to pay.

Second, I want to correct one point, and that is, we are not adding a billion dollars to the deficit. There is a corresponding revenue increase to pay for this tax change. The bill before us would be subject to a 60-vote point of order if it were not revenue neutral, and while we are talking about changing tax policy, we are not talking about raising the deficit.

Let me say a little bit about the alternative minimum tax because our dear colleague from New Jersey and I are 180 degrees apart on this issue.

I do not believe that we ought to have an AMT. I agree with our colleague that our Tax Code contains preferential treatment. I think we give people tax benefits for a lot of things we ought not to give it to them for. I would very much like to see us change some of these things and lower rates. But the problem with AMT is that we provide incentives with one hand and then we come back in under the table and take them back. We say the Federal Government ought not to tax cities by taxing interest paid on municipal bonds and, therefore, municipal bonds sell at a discount because their interest is tax free. But then we come in through the backdoor with AMT and try to seize some of the benefits we have given the cities. If we are going to give them the benefit, let them have it, and let it encourage people to buy municipal bonds. But we ought not to be coming in through the backdoor. I submit that while AMT may be good political policy, it is not good tax policy.

I wish the day would come when we could debate tax policy in terms of encouraging people to pull the wagon rather than lamenting the fact that if America is saved it is going to be saved at a profit.

Quite frankly, I do not think America is going to be saved unless it is at a profit, and I do not understand people who love investment but—to paraphrase a Democratic candidate for President—hate the people who engage in investing.

I do not hate poor people. I do not hate rich people. I want more people to be rich, and I want the people who have money to put it to work, and that is what the debate is about.

Let me talk about energy. If we were talking about a program—and we have thousands of them—to spend taxpayers' money to help some industry, very few people would be talking about unfairness. But somehow the concept of incentives, a concept that is accepted in all the world—is rejected only in Cuba and North Korea and here in Washington—is somehow wrong.

Here is the problem in a nutshell. If you look at this chart, you see what has happened to exploration expenditures on discovery and development of new natural gas and oil by our independent producers.

Well, what has happened is that in the last 10 years our expenditures have fallen by three-fourths.

If you look at what has happened to drilling for oil and for natural gas is that both have fallen through the floor.

What we are trying to do is very simply this: We want more energy from reliable domestic sources to turn the wheels of industry and agriculture. We can provide a very strong incentive for a very modest change in the Tax Code by exempting a portion of the expenditures for drilling from the alternative minimum tax. We do it only for independent producers with a very minor benefit for the larger companies. Quite frankly, I wish we could do it across the board. This is a change that needs to be made because America needs more oil and gas produced at home.

The PRESIDING OFFICER. The 5 minutes allocated to the junior Senator from Texas have expired. Who yields time?

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished chairman of the Finance Committee for yielding me this time.

I want to add my voice to those who are saying today that this amendment would continue to undermine the ability of a very important industry in the United States to produce oil and gas in an effort to help reduce our unnecessarily large dependence upon imported oil and other foreign energy sources.

The bill has a number of provisions in it that seek to help reduce our dependence on imported energy. Some of the provisions relate to increasing energy efficiency, encouraging the use of alternative fuels, and trying to develop electricity from nonfossil fuel sources. These are all very important provisions to be considered by the Senate. But the most important and the most helpful provision in this energy legislation is the repeal of the alternative minimum tax. This would do more, Mr. President, than any other provision in the bill, according to what I am told by people who are experts and understand the economic impact of that provision, to help stimulate the oil and gas industry so that it can produce again.

We are seeing more people go out of business in the oil and gas industry than almost any other industry I know of, except the defense industry maybe. Numerous layoffs have occurred in my State. One oil and gas producer, who is a small independent businessman, told me the other day he is having to cut back. He even had to lay off his own son. He has just a small number of employees, but the fact is they are not able to stay in business under the tax treatment, the regulations, the climate that exists for the industry in our country today. They are having to look to offshore opportunities, go to foreign countries, train workers there.

Driving American oil and gas producers out of business is not in our national interest because that will surely increase our dependency on imported energy. It is completely inconsistent with our efforts to reduce our dependence on foreign oil for the Senate to approve this amendment.

The amendment would impose a tax burden on independent oil and gas producers that will increase the likelihood that this important industry will continue to suffer. Relief from the alternative minimum tax for the small businesses who do 85 percent of the oil and gas exploration in the United States must be enacted to help resurrect this sector of our economy.

This industry has been devastated by the AMT treatment of their expenses. The practical effect of the tax treatment of intangible drilling costs and percentage depletion is that the ordinary business expenses of these producers are not deductible. This is different from the treatment of other businesses, which are allowed to deduct from their taxable income their ordinary business expenses.

When combined with the dramatic drop in gas prices since 1986; the wild fluctuation of oil prices during that time; and the increase in regulation of the oil and gas business, this tax has helped to eliminate an estimated 398,000 jobs that were once provided by this industry, including the producers themselves as well as those who contract with producers to do the actual drilling work. What that means is that half the jobs that existed 10 years ago in oil and gas and related industries do not exist today.

Another indication of the dismal health of this industry is the rig count—the number of rigs being used in oil or gas exploration in the United States. In 1982 there were 3,105 drilling rigs in operation; today there are less than 700.

The few independent producers that can afford to explore overseas are entering into what in many cases are high-risk ventures to produce oil in developing countries. This means two things: First, more oil will be coming to our country from foreign sources and less from domestic sources; and second, jobs that would exist in the United States are going overseas. In an April 20 article in the Wall Street Journal, a Pakistani employee of an American independent oil producer is quoted as saying, "We'll be hiring workers, and the contract will probably call for building a small colony of schools and public facilities." Those are benefits, Mr. President, that we used to enjoy in this country as a result of a vibrant oil and gas sector.

Relieving the burden of the alternative minimum tax on independent producers will certainly not solve all of the problems in the industry. But it will remove an artificial, counterproductive, government-imposed impediment to domestic production. The Office of Technology Assessment has recommended AMT relief as one way to help stabilize this industry.

Mr. President, the amendment before us is shortsighted and runs counter to the purpose of the underlying bill, and I urge the Senate to maintain the provision in the bill as reported by the Finance Committee.

The PRESIDING OFFICER. The time allocated to the Senator from Mississippi has expired.

Who yields time?

Mr. BENTSEN. Mr. President, I yield 2 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for up to 2 minutes.

Mr. MURKOWSKI. Mr. President, I thank my colleague, the floor manager.

I rise in support of the continuation of the alternative minimum tax. I am not going to speak at length about the merits of the tax; they have been addressed by my colleagues. But realism dictates that this body recognize oil imports are at their highest level since 1978. That is a fact. Domestic production is decreasing steadily. That is a fact. Imports again are over 50 percent. That is a fact. The number of active oil and gas drill rigs hit its lowest level ever recorded. That is a fact. Offshore drilling in this country fell by 47 percent this year alone. That is a fact.

Mr. President, the American oil industry and gas industry is moving overseas before our very eyes. American jobs are being filled in other countries, and Congress' inability to make tough decisions is allowing this to happen.

Mr. President, other countries encourage oil and gas development and exploration, and in the United States we are shutting off the most promising areas. Endless Federal regulatory hurdles prevent oil and gas exploration and development both offshore and on shore.

Mr. President, I could go on and on and on, but time is limited. I think it is time to reflect on the reality that we need to bring this industry back to America where it was initially founded. We need to reduce our dependence on imported oil. We need to recognize that half our trade deficit is the cost of imported oil. We do not have to put up with that, Mr. President.

I do not intend to pursue it now, but I will later in the day propose an amendment to study the future of gas potential and economic impact on our society.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. BENTSEN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Texas controls 6 minutes and 23 seconds.

Mr. BENTSEN. The alternative?

The PRESIDING OFFICER. The alternative is 49 seconds controlled by the Senator from New Jersey.

Mr. BENTSEN. Mr. President, I have listened to my friend from New Jersey, his eloquent statement concerning individual concerns, plights, problems in the country, and how we devote $1 billion to try to assist in that regard. They are valid points.

But I also look at the situation where the principal industry in his State under section 936 gets from $3 to $3.5 billion a year in subsidies—three times as much as we are talking about in the amendment he is attacking.

They are different industries. The pharmaceutical industry is a booming industry, doing a marvelous job—growth, helping the economy.

But we are looking at an industry that is in trouble and has lost over 400,000 jobs. We must realize that oil is a depleting resource in this country.

Look at situations like the automobile industry, which is in trouble. And what have we done? We entered into an agreement with Japan on just how many cars can come in. We are not talking about entering into an agreement with Saudi Arabia as to how much oil can come in.

Those are the kinds of concerns we are currently facing and trying to address.

We are looking at something where 75 percent of the merchandise deficit last year in this country was oil, and we have a bill where we are talking about alternative sources and conservation and trying to not depend so much on foreign oil. That is what we are talking about. It is supported by people from oil States, because we know the dependence is dangerous for us, and it is terribly important we keep that domestic production going.

I know we need to sustain the jobs. It is important that we have someone left who still understands geology and petroleum engineering and who is able to bring about some of the alternative sources, whether we are talking about coal seam gas or we are talking about natural gas, a relatively clean-burning fuel.

That is what we are talking about. We are talking about increasing the foreign debt of our country, and we are trying to do what we can to not increase that dangerous dependence on oil.

Mr. President, I hope my colleagues will do as we did in the Finance Committee and defeat this amendment by a substantial margin.

The PRESIDING OFFICER. All time controlled by the Senator from Texas has expired. Who yields time?

Mr. BRADLEY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from New Jersey controls 45 seconds.

Mr. BRADLEY. Mr. President, 45 seconds; let me make one final point to the distinguished Senator from Texas [Mr. GRAMM]. Allow me to make it by using this chart that he used. The number of oil wells drilled in this country dropped from about 65,000 in 1981, to about 26,000 in 1986.

And then it went down a little bit, by about 4,000, from 1986 to 1989. And lo and behold, it increased after 1989.

So, to those who say that the tax benefit is the thing that will stimulate this drilling back to 65,000, or anywhere close, it just does not bear resemblance to reality.

The fact is, it was the price drop; it was not the tax benefit lost. And there it is, in black and white.

Mr. SIMPSON. Mr. President, I want to express my strong personal admiration for the distinguished floor managers of this legislation. My old friend senior Senator from Wyoming, MALCOLM WALLOP, the ranking member of the Energy Committee, and the able Senator from Louisiana, Senator JOHNSTON, have worked doggedly on this legislation.

What the Senate has before it today is the culmination of years of hard work by all the members of the Energy Committee and their fine staffs.

I would like to say a few words about the revenue provisions that are contained in this bill. These provisions represent the sort of bipartisan, thoughtful, productive effort that is becoming increasingly rare in this election year.

The debate on this issue smacks of election year politics, however.

This is not a debate about tax benefits to a single industry as my fine and respected friend, the distinguished Senator from New Jersey suggests.

This is a debate about whether or not, as the distinguished Senator from Louisiana so succinctly and forcefully pointed out—whether or not we as a nation are going to keep American companies working and producing oil and gas in America and not overseas.

Who will benefit when the decline in domestic exploration and production reaches zero?

Certainly not the U.S. economy and certainly not the consumer.

This energy bill is about charting the course for national energy independence. This amendment will do exactly the opposite: It will encourage dependence on foreign production.

I especially commend my distinguished senior colleague, Senator WALLOP, who while working vigorously on all of the issues surrounding energy security, did one excellent job of focusing his eye on the most helpful and important changes in the tax law.

We are faced with real difficulties throughout the oil and gas industry. This body hears a lot of contradictory messages regarding what needs to be done—this amendment is just an example.

Senators BENNETT JOHNSTON, LLOYD BENTSEN, and MALCOLM WALLOP have kept their eye on the rabbit throughout this process and have been most careful to make sure that the tax writing has taken our real energy problems into account.

The AMT was intended to prevent people from bucking the system during good times, but it has proved to be a dangerous double whammy during these most difficult times.

I am pleased that this has been correctly noted as the single most important tax issue pertaining to our energy self-sufficiency.

I would strongly encourage my colleagues in the Senate to reject the Bradley amendment.

Mr. BINGAMAN. Mr. President, I rise today to oppose the amendment by my colleague from New Jersey to delete language in the Comprehensive National Energy Policy Act which provides tax relief to our Nation's independent oil and gas producers.

The energy bill we consider today minimizes the damage inflicted on producers by the current Tax Code and recognizes the importance of items such as intangible drilling expenses to those producers as a legitimate cost of doing business. We need to produce more oil and gas here at home and reduce our growing dependency on foreign oil. That dependency now exceeds 50 percent.

A total of 400,000 jobs in this sector have been lost in the last decade. Additionally, spending on exploration and production has decreased dramatically in the past 10 years by almost 75 percent. Active drilling rigs in the United States have decreased from 4,000 to approximately 688 rigs today, the lowest number since records have been kept. In New Mexico this number has dropped from 135 in 1981 to 34 as of July 24 of this year.

Adopting the Bradley amendment will drive even more independent oil and gas producers out of business and further reduce our ability to meet our domestic energy needs. I encourage my colleagues to join me in opposing the amendment.

The PRESIDING OFFICER. All time on the amendment has expired. The question occurs on amendment 2782.

Mr. BENTSEN. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. BENTSEN] to lay on the table the amendment of the Senator from New Jersey [Mr. BRADLEY].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—63

Akaka
Baucus
Bentsen
Bingaman
Bond
Boren
Brown
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Conrad
Craig
D'Amato
Danforth
Daschle
Dixon
Dole
Domenici
Exon
Ford
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Inouye
Johnston
Kassebaum
Kerrey
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Pryor
Riegle
Robb
Rockefeller
Sanford
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—32

Adams
Biden
Bradley
Bryan
Cohen
DeConcini
Dodd
Durenberger
Fowler
Harkin
Hollings
Jeffords
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Packwood
Pell
Reid
Roth
Rudman
Sarbanes
Sasser
Wellstone
Wofford

NOT VOTING—5

Breaux
Burdick
Cranston
Gore
Helms

So the motion to lay on the table the amendment (No. 2782) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

AMENDMENT NO. 2783

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2783.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, this amendment essentially contains the provisions of two bills introduced many months ago, last November, Senate bill 1936 and Senate bill 1995.

Senate bill 1936 is a bill which was cosponsored by 17 Senators with the principal sponsor being Senator CHAFEE. I have discussed with my distinguished colleague from Rhode Island, Senator CHAFEE, my intent to offer most of his bill for which I was an original cosponsor, and adding to it the provisions of S. 1995, a bill which I introduced, captioned the Health Care Access and Affordability Act.

Mr. President, the problems of health care are well known in this country. There is an urgent need to provide affordable health care to all Americans. There are many bills which are pending and precisely how we get there is a very, very difficult matter.

After extensively studying the matter and after working on the Labor, Health and Human Services, Education Subcommittee of Appropriations for the 11½ years that I have been in the Senate, it is my sense that we can provide affordable health care for all Americans within the range of expenditures which are currently being made.

The best estimate which I have seen for last year puts the total cost of health care in the United States at $738 billion. It is my sense, that we can extend affordable health care to the 37 million Americans now not covered and, in fact, reduce health costs as well within that range by undertaking a number of lines of activity.

One line of activity is managed health care, which has the potential for savings in the range of 20 percent or perhaps even more.

Another line of health care savings lays in preventive care on a program now incorporated in Healthy Start. I was amazed to find several years ago that Pittsburgh, PA, had the highest infant mortality rate of any major city in the United States for African-American babies. I was amazed the first time I saw a 1-pound baby, a baby about the size of a person's hand. It is a human tragedy for a child to come into this world weighing, 16, 18, 20 ounces, and that is something which can be prevented by proper nutrition, by proper diet, really informing the many teenage young women who give birth to 1-pound babies about what they have to do to take care of their bodies and to take care properly of their child to be.

I am working, as a matter of fact, on some supplemental legislation on this subject in an effort to quantify what the savings would be or will be through Healthy Start, and I think it will range into the high billions.

In conjunction with Dr. Louis Sullivan, Secretary of Health and Human Services, a program has been introduced called Healthy Start to give adequate nutrition to the mothers so that children will not be born weighing 16, 18, 20 ounces. I am pleased to note that two of those Healthy Start units are in Pennsylvania.

Mr. President, beyond managed health care and the Healthy Start Program there are enormous savings which can be achieved through cracking down on fraud which is estimated to range into the $60 billion and upward category. There is another range of savings which may be possible with so much of the cost of medical care being occasioned in the last few days, few weeks, or few months of a person's life, and that is also legislation which I am working on at the present time.

The amendment which I have proposed moves to some very, very important items which will make material benefits in our health care delivery system in the United States today.

The major provision of S. 1936, which is incorporated into this amendment, provides for full deductibility of insurance for self-employed individuals. Currently small self-employed individuals can deduct only 25 percent of their health insurance costs, while employers may deduct 100 percent of what they pay for the health insurance costs of their employees.

It is hard to find a provision in the Internal Revenue Code which is more discriminatory than this one. There have been many proposals to try to make this modification. I am pushing it today because I think it is high time action was taken on this very important and fundamental inequity.

S. 1936 had some other provisions which have not been included in the amendment which I have submitted because of the impossibility of getting a precise fix on how much the cost would be. We have a precise item on the cost providing full deductibility for individuals for self-insured individuals of $8.7 billion, and it is covered with offsets which were provided within the text of this bill, offsets on this item, as well as offsets on other items.

Other provisions, Mr. President, of S. 1936 provide for small business purchasing groups, which would authorize the Secretary of Health and Human Services to make grants to approved groups which have been certified by the State where these nonprofit groups would help enhance the purchasing power and consolidate administrative costs for small businesses to pool resources for the purchase of group health insurance. This would, through the pooling approach, involve very considerable savings for small businesses.

Another key part of S. 1936, which is incorporated into my pending amendment, is important insurance regulation reform. The bill would establish a small business insurance market to accomplish quite a number of improvements.

First of all, to preempt State-mandated benefits for small businesses. To qualify for the preemption, the insurance policy would have to meet a minimum health package which would be established by the Secretary of Health and Human Services.

Next, there would be a provision for the guaranteed availability and renewal of a basic health package for viable small businesses that wish to purchase them.

There also would be a limited insurer's coverage restriction, such as exempting individuals with known health risk from coverage under a group plan.

That is one of the exclusions, Mr. President, which has cost more in litigation and travail than it is really worth. This is part of an evolving system where the question of preexisting conditions will be ruled out as a matter of some State laws and this advances that general public policy to some extent at the Federal level.

Another provision under the insurance regulation reform would be to limit rates for new policies to between 80 and 120 percent of the average rate of the class.

Next, limit the annual rate of changes to the level of rates charged to new businesses with adjustments for changes in a group's coverage.

Another provision from S. 1936 would relate to State barriers to managed health care plans by providing for an insurance to require the Institute of Medicine of the National Academy of Sciences to develop standards for managed health care plans. Plans which then meet these standards would be exempt from State laws which impede the development and cost-effective operation of managed health care insurance plans.

Mr. President, I compliment my distinguished colleague from Rhode Island, Senator CHAFEE, and the other cosponsors of S. 1936 for all the constructive work which they have done. My amendment does not take all of the provisions of S. 1936 but takes key provisions which should materially enhance the delivery of health care services in this country.

Other provisions in the pending amendment, Mr. President, are taken from the legislation which I introduced last November captioned "Health Care Access and Affordability Act," S. 1995.

This proposal builds upon existing Federal programs to reduce the need for treatment of disease, expand the availability of federally supported primary care clinics, and reduce the cost of care.

It includes the following items: An expansion of federally supported primary care clinics by $380 million to improve access to care in medically underserved areas to reduce costly emergency room care.

Next, an expansion of federally supported health promotion and prevention services by some $720 million, with programs being focused upon reducing health risk through changing the behavior of both providers and consumers, and encouraging greater responsibility for healthy behavior.

Another provision would encourage the modification of provider practice styles by changing provider behavior through medical effectiveness research and direct modification of medical practices.

Next, the establishment of an initiative on drug development, with the focus on the diseases that have high mortality and societal costs, with an authorization of some $120 million.

In addition, this bill directs the Secretary of Health and Human Services to issue a report to the Congress regarding the feasibility of establishing national spending targets for health care and health care services as a means of controlling health care costs.

This would focus attention in a very constructive way, on cost containment.

Those are the essentials of the amendment, Mr. President.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I would like to see if we can arrive at an agreed time limitation. I have discussed this with the distinguished Senator from Pennsylvania. Would an hour and 20 minutes, equally divided, suffice?

Mr. SPECTER. That would be acceptable.

Mr. BENTSEN. All right. If there is no objection, I ask unanimous consent that we limit the debate on this amendment by the Senator from Pennsylvania, and that there be no amendments thereto to the amendment, to an hour and 20 minutes, equally divided, under the control of the manager of this particular piece of legislation on this side of the aisle, and the Senator from Pennsylvania managing the other side of it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the senior Senator from Texas?

If not, that will be the order of the Senate.

Who yields time?

Mr. BENTSEN. Mr. President, we have just received the amendment, which makes it very difficult to fully debate it, so we are perusing it now, studying it, to see the application of it. What I have seen thus far, part of it, four points of it look like they have been taken out of S. 1872, a piece of legislation sponsored by the Finance Committee's chairman of the subcommittee on health care.

As I have seen the amendment thus far, it has nothing to do with the energy bill. It is not a part of the energy bill and really should not be the subject of debate during our study and our debate on the energy bill and the tax portions of it.

The other point is, I looked for the revenue sources by which he would pay for this piece of legislation. It appears that much of that comes from revenue sources we have discussed in previous bills from the Finance Committee—one that we are considering at the present time on enterprise zones, which hopefully will be a bipartisan piece of legislation that I will be bringing before the Finance Committee this afternoon for determination as to its final form.

If we were to lose those revenue sources by an amendment to be agreed to this afternoon here, it would throw us totally out of compliance on the Finance Committee bill for enterprise zones, for the extenders, for the repeal of the luxury tax, for the application of the IRA's—expansion of the IRA's. Frankly, I do not know where we would turn in order to accomplish that objective.

So I strongly urge the Members of this body to deny this amendment. It really should not be on the energy bill, and it gives us serious problems insofar as addressing the President's request for enterprise zones and the other things we have put in that piece of legislation to encourage savings in our country so we can have more capital so we can do things about the productivity and international competitiveness of our country. Those things are in that piece of legislation.

In addition to that, we have legislation, S.4, which will help us in some of these areas insofar as substance abuse, pregnant mothers on drugs, trying to assist in that regard, trying to bring families back together and trying to do something to help children who end up with no parents at all—trying to see that we do something about the incredible increase in children being forced into foster homes because of lack of parental supervision or attention or care or love.

Those are all in this piece of legislation before the Finance Committee this afternoon and, frankly, if this amendment would be agreed to and deny us the sources of revenues to comply with the Budget Act, we would be running aground. I do not know of any way we could accomplish our objectives here. So I strongly urge my colleagues to turn down this amendment, as well-intentioned as I am sure it happens to be.

Mr. President, I suggest the absence of a quorum. I ask that time be charged equally to both sides.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, the time of the quorum call will be charged to each side equally.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, there is about this amendment, as there will be about other amendments that are offered to the energy package, a good deal of what might best be called political sex appeal.

The topic is popular. The need exists. The solution is, at best, awkward. The chairman of the Finance Committee will have more to say about that later. But these are significant actions that are proposed by the Senator from Pennsylvania, the most significant of which will be paying for it.

I will allow that argument to be developed to its greatest extent by the chairman of the Finance Committee. But where I come in is that this, Mr. President, is an energy bill. It is a tax bill only insofar as the energy portions of it require certain tax treatment, as in the alternative minimum tax that has just been adopted.

We have struggled mightily since the initial introduction of this legislation to keep it from being anything but an energy bill for a lot of reasons, Mr. President. One is that this Congress has never politically been able to restrain itself when it came to energy policy, and it used the pack mule called energy policy to take out all the other daydreams of Congress. What has happened time after time after time is that it has been energy policy that was sacrificed in conference.

This is not an environmental bill. This is not a health and human services bill. It is not a farm bill. It is not a transportation bill. It is—and must remain—an energy bill.

So I register my opposition to the amendment of the Senator from Pennsylvania. Not that it is a wrong thing to do to provide these deductions, but the forum is the wrong place to do it. These complicated issues over how payment under the Budget Act is satisfied, revenue neutrality, cannot be done on the floor of the Senate.

We can propose, as has been, a means of payment. But we, on the floor of the Senate, will not be able to weigh all the things the Finance Committee must weigh before entering into these things, balancing this need against other needs within the confines of the Budget Act and the budget agreement.

So what we have is a very politically attractive attempt to use the very politically attractive pack mule called energy policy to haul out extraneous matter from this Chamber. If experience has any validity, this amendment, and others like it allowed to proceed, will ultimately break the back of this mule we call energy policy.

And, once again, Congress, in its politically motivated self-interest, will have sacrificed energy policy, through the motivation of very sexy political bullets that are attractive, that are useful, that have a place in the dialog; but not just rained from on high, but having been seriously and carefully considered by the committees of jurisdiction.

So as much as I am in sympathy with the ultimate goal of the Senator from Pennsylvania, I must say, Mr. President, that I will do whatever it is that I possibly can to see to it that it does not become a part of this energy bill. We have come too far. We find ourselves now too close to lapse into the traditional behavior and indulge ourselves at the expense of finally getting a coherent, balanced national energy strategy for America.

Mr. President, I yield the floor, and I suggest the absence of a quorum, with the time to be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, rather than allowing the time to elapse on a quorum call, there are a few responses I think are worth making at this time.

When my distinguished colleague from Wyoming, Senator WALLOP, comments about this amendment having, as he puts it, political sex appeal, I think a more accurate characterization would be that it has great national importance. It has great national importance because there is an urgent need for Congress to act to provide affordable health care for all Americans.

There are many bills which are pending, but this issue has not been taken up by the Senate of the United States. In offering this amendment at this time, it is an effort to bring certain important aspects of health care to the floor for decision. This will not solve all the problems, but it will be a very significant step forward by encouraging self-employed individuals to become insured, because the deductibility will be 100 percent, which is the same as it is for their counterparts who are employees of corporations, for example, or employees of other employers.

It is a very important matter to be taken up. That is why I am pressing it at this time.

I hope that this amendment might bring other amendments to the floor on this issue, because while energy is a matter of enormous importance for America, it is no more important than national health coverage.

When the distinguished Senator from Wyoming [Mr. WALLOP] as well as the distinguished chairman of the Finance Committee [Senator BENTSEN] say that this amendment has nothing to do with energy, this amendment is being offered because there is a tax component to the pending legislation. Under the rules of the Senate, it is not possible to bring up this amendment unless there is a tax component. The legislative measures, the so-called vehicles which come to this floor with a tax component, are very few and far between.

This is an occasion to put on the floor of this Senate the tax issue, to make fully deductible the insurance premiums paid by self-employed individuals. It is a travesty, Mr. President, that self-employed individuals can only deduct 25 percent of their health insurance costs, where employees in other standing have a 100-percent deduction.

So the matter is being brought at this time because it is possible under the rules. It could not be done on the Agriculture appropriations bill, which was on the floor yesterday, or the appropriations bill for State, Commerce, and Justice, which was on the floor the day before. There is a very definite reason and purpose for why this amendment is being offered on this bill.

When my distinguished colleague from Wyoming, Senator WALLOP, says that it is too much to do on the Senate floor, I have to disagree with him categorically. The measures comprehended here have been pending in the Senate for months.

Senator BENTSEN had made a comment that a good bit of this was taken from S. 1872.

Well, it is not taken from S. 1872. As outlined initially, it has been taken from S. 1936, where this Senator was an original cosponsor, with Senator CHAFEE's task force, and from S. 1995, which this Senator authored.

Now, it may be that some of the provisions overlap with S. 1872. S. 1872 was passed by the Senate and was not ultimately enacted into law. So to the extent that some of these provisions have been considered before, it negates the argument Senator WALLOP has made that there is too much to do on the floor.

These issues are not too complicated. They have been with us for some time. They are well known, and we could act upon them today. We could act, for that matter, Mr. President, on a broader range of issues. I think back to the Clean Air Act of 1990, which was passed by this body, a very complicated piece of legislation brought to the floor of the Senate. There were groups which worked on the legislation off the floor and ultimately crafted a very comprehensive Clean Air Act, taking 10 million tons of sulfur dioxide out of the air every year, important provisions on tailpipe emissions, important provisions on industrial pollution. When health care comes to the floor of this Senate, Mr. President, it is going to be very complicated, but it is not going to be solved until it comes to the floor of the Senate. This is a start, I think a significant start and an important start.

One final issue which was raised by the distinguished Senator from Texas was about the offsets being used in some other bills.

Well, no one owns offsets, Mr. President. There are possible ways of saving money on other tax changes to finance a new bill. The offsets which are set forth here, Mr. President, were taken from S. 2612 where Senator DOMENICI and I had cosponsored an economic recovery program. When S. 2612 was put on the Senate floor and there was a need for some $12.6 billion in offsets, Senator DOMENICI and I took a close look at the possible offsets. Every time there is an offset, somebody will be hurt, to some extent.

My analysis, when S. 2612 was introduced, was that these were the best offsets to make. This needed more than $8 billion, and that is why I utilized that prior work of S. 2612 to put it on this bill, so that this would satisfy the provisions of the Budget Act, since we cannot increase spending without an appropriate offset.

I offer these words of rebuttal very briefly, Mr. President, since no one else is seeking the floor, but that summarizes or takes care of the contentions which have been advanced by the distinguished Senators from Wyoming and Texas. That concludes my argument for the moment, Mr. President, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. SPECTER. With time charged, Mr. President, equally to both sides.

The PRESIDING OFFICER. Time will be charged equally to each side.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield myself such time as I may use.

Mr. President, over a year ago I joined with other Senators in introducing the legislation to provide comprehensive reform of our health care system. Having served as chairman of the Senate Finance Committee's Subcommittee on Health, I have been and continue to be aware of the need for comprehensive reform of our system of health care. I strongly favor such reform.

I give that background to urge my colleagues not to support the pending amendment. I hope that if and when a motion is made to table the amendment that our colleagues will join with us in tabling this amendment.

First, as has been stated by the distinguished chairman of the Finance Committee—and I believe the distinguished Republican manager of the bill—it has nothing to do with the subject of the energy bill which is comprehensive in nature, important to our Nation's future, and is a bill that we have been struggling with over a very long period of time trying to advance.

Adoption of this amendment will greatly complicate and retard, perhaps fatally, the prospects of trying to get action on energy legislation.

Second, I think Senators should be aware that the provisions in this amendment to pay for the costs incurred by the amendment are already used to help pay for other pending legislation, including some aspects of the energy bill itself, but most notably they are intended to be used to pay for the provisions in the urban aid package which has now been expanded to an economic growth program that the Finance Committee by previous scheduling is to mark up at 5 o'clock this afternoon.

So that this amendment with the payment provisions in it in effect preempts the ability of the committee to act on the measure which includes enterprise zones, the repeal of luxury excise taxes, extension of expiring provisions of law such as the low-income housing tax credit, the research and development tax credit, and other measures such as the expansion of individual retirement accounts.

In effect, Senators would be precluding action on those measures at least to the extent that the financing mechanisms which were to be utilized for those measures will have been consumed in paying for this amendment.

In addition, I am advised by staff that one of the payment provisions in this amendment takes money in from legislation now pending in the Veterans' Committee, which has been intended there to pay for reform of the veterans' disability program; that again we would either have to not act on reform of the veterans' disability program or would have to find some other revenue source different from that which has previously been identified and intended to be allocated for that purpose.

So I hope that Senators will realize that adoption of this amendment would first seriously impair the possibility of getting action on the energy bill, which in and of itself in my view is a sufficient reason to oppose the amendment because I believe that we need a comprehensive energy bill. And it is for that reason that I am so committed to moving this energy legislation forward.

Second, it will have the same effect with respect to the tax urban aid and economic growth legislation that is being developed in the Finance Committee, and is to be marked up today in the Finance Committee.

Again, if these tax provisions are utilized with respect to this amendment, they will be unavailable for use by the committee in the other legislation, and therefore, will seriously jeopardize any prospect of enterprise zones being adopted, the luxury excise tax being repealed, the extension of expiring provisions of law such as I previously identified, the research and development tax credit, the low-income housing tax credit, and others.

So, Mr. President, while I believe that the objective of changes in health care is an appropriate one, I do not think this to be the appropriate legislation on which to attempt to do that, nor do I believe this to be the proper amendment by which to do that.

I urge and encourage all of our colleagues to join the distinguished managers of the bill, the chairman of the Finance Committee and others, who have spoken in opposition to the amendment, to defeat the amendment, and permit us to complete action on the energy bill so that that bill can go to conference and we can hopefully have a comprehensive energy bill passed during this Congress.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, would the distinguished majority leader be willing to answer a question?

Mr. MITCHELL. Yes. Certainly.

Mr. SPECTER. Mr. President, I can understand the concerns about these offsets being used, although I must say that when it comes to a matter of repealing the luxury excise tax, I would think that those offsets would better be used on programs for expanding health coverage in this country. When the distinguished majority leader talks about enterprise zones, and a variety of other legislative proposals, I do not disagree with their importance; but I do not think they supersede the importance of health care.

My question is whether the distinguished majority leader, on the scheduling, has in mind a timetable for taking up the issue of extension of health care in America.

Mr. MITCHELL. As I have stated many times publicly, from the very place that I am standing now, as well as others, comprehensive health care reform is one of my highest legislative priorities, and it is my hope and intention to bring to the Senate this year, if at all possible, such legislation.

Mr. SPECTER. Well, Mr. President, if the majority leader would be in a position to make a commitment—I am not saying he should be, because I understand the complications of his work, and I am on the floor a great deal, but I have never heard the statement made that the majority leader just made.

But if the majority leader is in a position to make a commitment to bring health care legislation to the floor this year, this Senator would be willing to withdraw this amendment.

Mr. MITCHELL. Mr. President, I am not able to make a commitment, as the Senator full well knows, because under the rules of the Senate, I do not have control over how long it takes to consider legislation. A bill comes up one day, and it may take a day, a week or a month.

Therefore, since certain actions are required by law—particularly the 13 appropriations bills—and since, as we all know, many Senators regularly use the delaying tactics permitted by the rules to delay action, I cannot foresee how long it is going to take to do various bills.

It is a high priority of mine. I have made the statement many, many times, and I repeat it. I hope very much, and I expect to, and it is my intention to bring a bill to the floor, if we can. But to make an absolute commitment is really beyond my authority or beyond my ability at this time.

I do not want to make a commitment that I am not certain I can comply with, because of so many other factors—primarily, the limited legislative time, the large amount of business that we have to do, and my inability, because of the rules of the Senate, to control the length of time which the Senate takes to consider any measure.

Mr. SPECTER. I appreciate what the distinguished majority leader has said, and I note the complexities of scheduling and the responsibilities which he has, and only he has.

I just say in passing that, as I understand it, there has been a date set for product liability legislation, a date fixed immediately after we come back in September. I know, from what I have heard the majority leader say publicly and on television, that he regards extending health coverage to be second to none among the priorities.

It would just be my hope that the distinguished majority leader would bring this issue to the floor at the earliest possible time, which is what he has said. This Senator would certainly like to see it done this year, as the majority leader said he would like to see it done. But if it is not possible to make a commitment, I repeat that I understand the distinguished majority leader's situation, and I am under no illusion that when the majority leader makes a request, Senators from a majority side of the aisle are gathering. I do believe firmly that this is an important amendment, and that the offsets are better used for this amendment than they are for items like the repeal of luxury taxes.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I yield 3 minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I will echo everything the majority leader said, and this is indeed kind of a "race to the courthouse" as to who uses up which money first.

Tonight, at 5 o'clock, the Finance Committee is meeting on what will be, I think, the only major tax package of this session, and it has to be revenue neutral. It has been structured in such a way that it raises as much money as it spends.

I will give one example of the tax that is being used. It is the excise tax on ozone depleting chemicals. Those are chemicals that go into the air and deplete the ozone, and it is bad for the health of humans and the health of the Earth. It raises about $1.4 billion.

That is part of the tax package to achieve the balance—one of the taxes that the Senator from Pennsylvania takes to pay for his health bill. I am not in any way critical of him. He uses a number of other taxes also, but it means, therefore, in that case that there will be no tax bill tonight, and probably no tax bill at all, including a great variety of provisions that 95 percent of the Senate is going to support.

So I think we have no choice in this case but to defer to the committee that has to balance this and has jurisdiction over health care; I might add, it has to balance all of the equities, revenues, and expenses. I project, if not in this Congress, by the end of the next Congress, we will have passed a health plan that will cover everyone in America, with few exceptions; and we will have taken care of the problem that the Senator from Pennsylvania now is talking about.

I have to encourage all Senators on both sides of the aisle to vote against this amendment, or else assume that anything they might have wanted in a tax package, which will come out of the committee tonight, simply will not come out.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I came to the floor somewhat ambivalent on this issue, because many of the people you see standing here on the floor speaking today are members of the Finance Committee, and we are all going in our usual bipartisan or nonpartisan fashion to markup a tax bill that some of us believe in and some of us do not believe in.

When I got here and listened to the debate, I must say I have a great deal of—not sympathy for my colleague from Pennsylvania, but I think it is important that those of us who are here in the last few weeks of this session recognize the fact that, back in Pennsylvania, in November of last year, the whole country was awakened to what many of us knew was a major problem facing the people in this country, and that is that we are depriving a lot of people in this country of access to health care, because we cannot do anything about containing its costs or reorganizing the way health care is delivered.

As I say, the public woke up to the problem, and a lot of the people in the electoral process woke up to the problem. I must say that my colleague from Pennsylvania did not have to have an election on the other part of the representation from the State to wake him up. He has been the chairman of the appropriations subcommittee, and the ranking member of the appropriations subcommittee on Labor and HHS, for much of the time that I have known him in this body.

He is not putting before us a so-called comprehensive health care reform bill. It is a relatively elemental, but very, very critical, and very important beginning to deal with the problems that we face.

In fact, the first part would be reform—small business reform—and the full deductibility for self-insured.

We have been debating that in the Finance Committee for 10 years. We can never get the money to take it 100 percent. There is a consensus in the country that we ought to give the self-employed the same financial crack at Federal subsidies that the people working in big companies get.

Then he gets to insurance regulation reform, and I introduced the first bill on that a year and a half ago—S. 700. The distinguished chairman of the Finance Committee and I are the coauthors of the bill to do it. All of those measures, including State barriers to managed care plans, have already been passed out of the Finance Committee, and on the floor of the Senate, where they got tossed out, because they were tied to a tax bill that we did not prefer earlier in the year.

So this is nothing new. This has been around. It is something that some of the States are working on. They are working on small group insurance reform.

I have a lot of sympathy for the fact the Senator would like to see this passed. The remainder of the money goes to primary care, clinics, and preventive services. These are the things the Senator from Pennsylvania has been trying to work on in the subcommittee for a long time. So the issue is, one, is this the right place to do it and, two, are you using somebody else's money.

I am in the minority. I cannot deal with the first of these. I raised this same argument in the Finance Committee markup. I said why cannot we do S. 1872, the small group insurance reform and State barriers to managed care plan; why cannot we do what the Senator from Pennsylvania asked us to do on this tax bill this afternoon? I was told by the majority this is not the time to do this sort of thing; maybe we will do it in September.

Mr. President, I do not think it is our party and I do not think it is our representatives in this body that are keeping tax reform bottled up in this country. It looks to me as though some vague plan either coming out of the House or the Senate, both of them controlled by the other party, is going to produce some form of comprehensive tax reform. But nobody will tell us when.

The majority leader talks about the busy schedule and this is not the vehicle using somebody else's money. When do we do it? When do we pass the Democratic reform plan? When do we pass the plan of the chairman of the Senate Finance Committee, S. 1872?

I think there is not a consensus on comprehensive reform. There is not a consensus on the Democratic side. There is not a consensus on our side. That is because there is not a consensus in America.

But we have something right here that most of us agree on and it is presented to us by our colleague from Pennsylvania.

I just rise to urge the majority to think about the difficult position that this statement puts us all in. If, in fact, we cannot do it on this bill, then what bill can we do it on?

I rise to send that same message to my colleague from Oregon, who is my ranking member on the Finance Committee. We cannot do it on this bill and we cannot use the money from the tax bill, because at 5 o'clock we are going to use it for something else, at least tell us what money can we use and when can we use it?

Mr. President, if I cannot get answers to those two questions I intend to support my colleague in his amendment.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. SPECTER. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator from Pennsylvania controls 14 minutes and 14 seconds; the managers control 13 minutes and 30 seconds.

Mr. SPECTER. Mr. President, I yield 5 minutes to Senator CHAFEE.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. CHAFEE. Mr. President, I commend the Senator from Pennsylvania for his concern in connection with these health care matters. It is something that he has been involved with. As he mentioned earlier, he was an original cosponsor of the measure which I introduced last November, which has more cosponsors than any other single health measure before the Senate. That is S. 1936.

Mr. President, I share the concern that the Senator from Pennsylvania has voiced, and it seems to me it comes down to this: Should we do something or should we wait for the great supermeasure that might someday come through here? I very strongly believe that we ought to take those steps that we can agree upon and take them now.

I think it is critical that we move forward. I think now is the time to act.

This measure that the Senator from Pennsylvania has brought before the Senate is helpful to low- and middle-income families, it is helpful to small businesses, and I think he has done a good job.

Now the argument is that it soaks up money that is involved with other programs. I might say some mention was made of the luxury tax—and I did look over the items that the Senator provides for his source of revenues, and it does not involve those moneys that were to pay for the elimination of the luxury tax.

I will say this, that these issues that come before us now, as has been mentioned before, are not new issues; they are issues that are common to all the various health care measures that are put before the Senate currently.

What are some of the measures we are talking about? There are the small business purchasing groups. The distinguished majority leader has legislation in and it involves the small business purchasing groups. So does the legislation that I have, S. 1936. So do a series of other measures.

There are insurance regulation reform, the preempting of State-mandated benefits, the guaranteed availability and renewal of basic health packages for small businesses.

And, so these measures, State barriers to managed care plans, we all have that. We all recognize that in certain States there are barriers to managed care plans.

So, Mr. President, this is not new territory that is being plowed here. What the Senator from Pennsylvania has done is very carefully selected to those measures that are pertinent to many others that we have before us. So I commend him for his concern and urge that the Senate adopt the amendment which the Senator from Pennsylvania has proposed.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield 4 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 4 minutes.

Mr. PRYOR. Mr. President, I thank the distinguished chairman for giving me this opportunity to talk on the Specter amendment just for a moment.

Mr. President, the Specter amendment has embodied within it many, many of the proposals that many of us on the floor this afternoon have worked very hard for and have diligently strived to have enacted into law.

One of those, and I think it is certainly one that the Senator from Pennsylvania will certainly recognize that the distinguished chairman of the Finance Committee, Senator BENTSEN, and the distinguished Senator from Minnesota, Senator DURENBERGER, have long fought for, is the 100-percent deduction for the self-employed for insurance premiums. This is, of course, embodied in the amendment of the Senator from Pennsylvania and this is one of the very, very attractive features, and it is for this reason that this amendment, that includes the 100-percent deduction and many other items, I might add, I find very difficult to oppose on the floor at this time.

Mr. President, I applaud the Senator from Pennsylvania for attempting to do this. The bottom line is this: We have only a very few minutes remaining on this amendment. This amendment consists of 120 pages. None of us have really had an opportunity to see what is in this amendment. None of us have had an opportunity to really sit in a hearing and listen to the pros and cons of what this amendment entails.

Mr. President, I think it is very, very necessary at this point to point this out, and we just asked if it would be permissible to quote him, and I am going to quote John Motley, who is with the NFIB, the National Federation of Independent Business. We called him. We said, "Mr. Motley, are you supportive of Senator SPECTER's amendment on the 100-percent deduction?" He said, "Of course I support the substance of this. This has been one of NFIB's goals; however, we did not seek for this proposal to be included in the Specter amendment. We did not encourage it. In fact, you may quote me by saying we feel that it will damage future efforts to bring 100-percent deductibility for the self-employed for health insurance premiums."

I think, too, Mr. President, it is very necessary to note that we do not know where the revenues are coming from. We do not know which of these revenues are real revenues. We do not know which of these might be classified somewhere down he line as "funny money." I do not want to imply in any way that the Senator from Pennsylvania would engage in trying to pay for a serious program like this or a series of programs with funny money.

Mr. President, there is a time for everything, there is a place for everything, but this is not the time nor is this the place to have a major health care bill where we do now know what is in the legislation, we do not know how we are going to pay for it, we do not have time to debate as we speak, and I urge my colleagues to vote against the Specter amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the pending amendment would increase and extend deductions for self-employed individuals. That provision, thus, would reduce Federal revenues. The Senator seeks to offset that revenue loss with both revenue increases and outlay reductions. The Congressional Budget Act distinguishes between revenues and outlays. In the absence of a budget resolution provision, called a reserve fund, the Budget Act does not allow legislation to pay for tax cuts with outlays reductions.

The pending amendment would reduce revenues on a net basis by in excess of $4 billion over 5 years. The adoption of the amendment would, cause the current level of revenues to fall below the revenue floor in the most recent budget resolution. It, thus, violates section 311(a) of the Congressional Budget Act. It takes the affirmative vote of 60 Senators to waive section 311(a).

At the appropriate time, Mr. President, after all time has been yielded back on the amendment, I shall raise a point of order against the amendment.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Texas controls 8 minutes and 41 seconds. The Senator from Pennsylvania, 10 minutes and 45 seconds.

Mr. BENTSEN. Mr. President, this amendment is not germane to the energy bill. We sure do not need to open up this debate to unlimited tax amendments. I understand the desire of the Senator from Pennsylvania to promote his agenda; much of it comes in a bill that I have introduced myself, and that we have passed before through the Senate. So I am sympathetic to those objectives.

But, frankly, we have been working on the enterprise zone bill; and with that, a restoration of the IRA, and with that the utilization of S. 4, which addresses some of the problems of drugs and substance abuse, and mothers and parents, and trying to help those children see that they have care and love and are not forced into foster homes. Those are parts of the legislation we are talking about.

We are addressing the problem of the 58 people who were killed in the riots in Los Angeles, and trying to respond to the President's request insofar as enterprise zones. We are seeing to it in that legislation that we put money in there to train those young people, to find jobs for them, to give a wage credit for them. We put incentives in there to encourage investments in that enterprise zone; to bring back that neighborhood; to turn it around. That is a part of the legislation that we will be considering in the Finance Committee this afternoon.

We also have to pay for it, to be in budget compliance. If this amendment is adopted, we would not be in budget compliance, and you can forget it. There is no way we can pay for it and bring it about. The problem you have is you can only spend that money once.

So a vote for this amendment is against the low-income housing credit that we have in that piece of legislation. It is against the extension of the Research and Development Act. It is against the repeal of the luxury tax on boats and aircraft. Frankly, it is against the President's own initiatives insofar as economic growth.

So I am deeply concerned about the Senator's offering it. I urge very strongly that my colleagues defeat this amendment.

I withhold the remainder of my time.

The PRESIDING OFFICER (Mr. SANFORD). Who yields time?

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time, if we have no further speakers on my side.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, how much time remains on my amendment?

The PRESIDING OFFICER. Ten minutes and forty-three seconds.

Mr. SPECTER. Mr. President, I think this has been a very illuminating debate.

Let me deal first with the issue of funny money. The budget offsets which are contained in my amendment were a part of the S. 2612, where Senator DOMENICI—the ranking member of the Budget Committee, and formerly chairman of the Budget Committee—and I had surveyed appropriate offsets on an economic recovery package which Senator DOMENICI and I introduced.

I am sure that, given the thoroughness and competency of Senator DOMENICI in his long practice in the Budget Committee, and his staff, that these are accurate.

I am a little perplexed at the reference by the Senator from Arkansas to funny money. Although he says he is not suggesting there is funny money, I do not know what he is doing when he talks about funny money, that this is funny money. I do not think it is very funny. This is a very serious matter, and this itemization is very carefully crafted.

I ask unanimous consent that, at the conclusion of my remarks, this schedule be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, if the Senator from Arkansas wants to categorize it as funny money, let him be specific. I consider that a pretty serious charge. Let him say what is incorrect about this.

The Senator from Texas plans to raise a point of order. I have no illusions about how that is going to come out, either. But I would be interested to know, from a ruling from the Chair, what is incorrect about these figures.

These figures were not drawn out of the air. These figures have been pending before the Senator for a long time in S. 2612, which has been pending for weeks and months. As I say, they were crafted by the Senator from New Mexico, who had been chairman of the Budget Committee, and is now the ranking member. They are accurate.

Now, the most revealing part of this debate, Mr. President, and the revealing part about the vote will be where Members place health care on the range of national priorities. That is what this vote is going to be about.

The Senator from Texas, on a tabling motion, or the Senator from Texas, on a point of order, does not need 60 votes to defeat this amendment. We all know that. There are 57 Members on the other side. And the balance of power is clearly on the side of the aisle controlled by the Democratic Party. So I do not really care whether the Senator is looking for 51 votes or 60 votes on this particular item.

But when Senators vote, they are going to be voting on what their priorities are, because the people of America look behind the procedural facade.

Whether it is a point of order, or a tabling motion, or whatever, they will say that if someone votes to sustain the ruling of the Chair, about which I have no doubt will be adverse to this Senator—if people vote to sustain the ruling of the Chair, they are voting against putting this issue on the bill: Significant steps for health care, as identified by two long-standing members of the Finance Committee who have taken up these issues in great detail—Senator CHAFEE and Senator DURENBERGER—pointing out how it is for small business, regardless of what representation there may be about the president of some association, and how it helps small business and how it helps middle-income Americans.

When there is an objection raised by Senators repeatedly on the floor that if we pass this amendment, we will not be able to repeal the excise tax on luxury items, I wonder where I am. Is a repeal of the luxury tax more important than extending health care in America? That is the quintessential rhetorical question. Of course, repealing the luxury tax is not more important then extending health care in America.

I would say to you, Mr. President, that even when it comes to enterprise zones, as important as enterprise zones are—and there is no reason why we should be, in 1992, with the enterprise zone legislation pending for more than a decade, there is no reason that we have not passed it long since. I think it has potential.

This Senator has been an avid supporter of it. But I do not think anyone would say that it is a higher priority than extending health care in America. We all know if an effort is made by the chairman of the Finance Committee and by the majority leader and by the expert staffers, we can find the money or offsets to pay for it.

So I think it has been a very revealing debate. I made the flat offer to withdraw the amendment if there would be a time certain fixed for legislation to come to the Senate floor, and there has been a commitment on some legislation to come to the Senate floor by the distinguished majority leader. I do not think any commitment on any legislation is more important then extending health coverage for America.

So I want to see how the Senators vote on this issue because the interpretation is clear; if you vote to sustain the ruling of the Chair on the point of order, you are voting for the luxury tax over health care.

How much time remains on my side, Mr. President?

The PRESIDING OFFICER. Four minutes.

Mr. SPECTER. I thank the Chair and reserve the remainder of my time.

EXHIBIT 1.—DOMENICI HIGH VALUE ECONOMIC GROWTH ACT

[CBO/JCT scoring, in millions of dollars]

	1992	1993	1994	1995	1996	1992–96
Growth incentives:						
Homebuyers' tax credit	−300	−2,700	−2,500	−500	−100	−6,100
Investment tax allowance		−7,700	3,600	1,000	800	−2,300
Pres. modified IRA incentives	−(*)	−185	4	4	4	−172
Passive loss	−75	−700	−700	−800	−800	−3,075
Real estate/pension funds	−(*)	(*)	(*)	(*)	(*)	(*)
Cost of growth package (revenue loss (−)/gain)	−375	−11,285	404	−296	−96	−11,647
Pay-as-you-go offset options:						
Collection of defaulted student loans	−305	−68	−68	−73	−73	−587
Increase excise tax on ozone depleting chemicals	−20	−43	−377	−583	−341	−1,364
Conform book and tax accounting for securities inventories	−122	−368	−498	−508	−518	−2,014
IRS 45-day processing rule		−50	−50	−50	−50	−200
FCC spectrum auction			−2,000	−1,600	−700	−4,300
Extension of expiring provisions:						
Eliminate CSRS lump-sum					−2,063	−2,063
Patent and Trademark surcharges					−107	−107
Customs user fees					−740	−740
VA pension verification		−47	−70	−82	−90	−289
VA housing reforms		−406	−87	−88	−87	−668
FEHB reforms		−85	−40	−75	−85	−285
Savings from potential offsets (deficit reduction)	−447	−1,067	−3,190	−3,059	−4,854	−12,617
Net deficit impact	−72	10,218	−3,594	−2,763	−4,758	−970

Note.—Prepared by SBC minority staff, June 25, 1992.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, it is very difficult in 2 minutes to discuss health care policy, but I do want to respond to the point that the Senator from Pennsylvania made. He said this is a vote about whether or not we make health care reform a priority. I say, for those of us who make health care reform a priority, we want to make sure there is a package of benefits for citizens in this country that is tilted toward preventive health care, and this proposal introduced by the Senator from Pennsylvania, as far as I can tell, fails that test. For those of us who are concerned about health care as a priority, we do not want to be just talking about an advisory committee to deal with the question of cost control. Businesses and people throughout this country want to have assurance that there will be real cost control, but that does not seem to be in this proposal.

So, from the point of view of those of us who make health care a priority, we will not be able to vote for this amendment.

Finally, for those of us who care about health care as a priority, we want to make sure there are long-term care provisions to deal with the problem of costs for older Americans and other people with disabilities. This particular proposal seems to be very ambiguous on that count. So, I think, if it is a priority for us, we would have a difficult time.

My point is that we should not be fooling people in this country. We should be talking about public policy that will make a huge difference, responding to these major concerns about making sure that health care is available for citizens, it is affordable, it is dignified care, and, yes, there is effective cost control. I do not see that in this proposal. We have not even had a chance to debate it. For that reason alone, it would be irresponsible for Senators to support this.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, how much time have I left?

The PRESIDING OFFICER. One minute—four minutes.

Mr. BENTSEN. I will take the second ruling. I yield 2 minutes to the distinguished Senator from Montana.

Mr. BAUCUS. Mr. President, essentially this is not the right time for this amendment. I think we all know that. We all know health care policy is probably, if not the most important, one of the most important issues this Congress must face. We know that. We are grappling with it.

We also know this is the first time we have seen this quite comprehensive amendment. We have not debated it. It was not debated in committee. It has not been debated in any form whatsoever. Here it is now thrust upon us.

We also know—at least I have been told—that we will be considering health care legislation this fall, in September. The House will be sending over a Medicare bill. We will be dealing in this Senate with Medicare. That will be the appropriate place to deal with health care legislation, on a Medicare bill, not out of the blue, sprung upon us suddenly on a tax provision in an energy bill.

One of the reasons I think the country is a bit disappointed with the Congress and thinks it is too gridlocked is because, under our rules, any amendment generally can be offered on any subject at any time. And it causes all kinds of problems here. I do believe, if we are going to restore the faith of the American people, we have to be a bit more orderly. We have to deal with the most important issues, but we have to deal with them in an orderly way.

We will be dealing in an orderly way with health care legislation this fall. We should not be taking up this amendment at this time. For that reason I urge Senators to vote to sustain the Chair on the point of order which will be made shortly.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in response to the Senator from Montana, if he was correct that we would be taking it up in the fall, this amendment would have been withdrawn. He is not the majority leader. The majority leader refused to give a commitment to take it up in the fall in the face of my unequivocal offer to withdraw the amendment if that commitment were to be given.

When the Senator from Minnesota argues against the pending amendment, Senator WELLSTONE—distinguished from Senator DURENBERGER who spoke in favor of it—I outlined during the course of the presentation that there are programs here for prevention and health promotion. When the Senator from Minnesota criticizes the idea of having a committee work on the targeting of health care costs, I will say to him and the rest of my colleagues, that is a more profound step than no step at all. What ought to be happening here is the Senator from Minnesota [Mr. WELLSTONE] who has legislation pending, ought to be pressing to have a commitment to have his legislation brought up. Or, I suggest to him, he ought to seek to have his legislation brought up.

Mr. BIDEN. Mr. President, there is very little debate in our country or in Congress on the need for comprehensive health care reform. But there is much debate over how to go about that reform. While we need to reform the health care system—and I believe it will be reformed and will be reformed soon—this bill is neither the time nor the place.

The various proposals—be they play-or-pay, national health insurance, a voucher system, or the solution offered in the amendment by Senator SPECTER—should be subject to due deliberation, thorough consideration, and a full debate. The Senate and the American people must understand what the reforms will achieve and how they will be achieved. That is not happening—and cannot happen—with this amendment on this bill.

The debate is taking place in other venues in Congress and has been for several months. The Finance Committee and the Labor and Human Resources Committee have been examining the range of health care proposals that have been offered. Just yesterday, I chaired a hearing before the Judiciary Committee on health care fraud—an important component of whatever health care reform is adopted. The Majority Leader has made it clear that health care reform will be debated in the Senate—on its own, not as a last minute, poorly understood amendment to this important bill to establish a national energy policy.

The Senate's leadership is strongly committed to health care reform. While President Bush has given one speech and sent Congress only parts of his proposal, the Senate majority has been working to find a solution to provide affordable health care to all Americans.

I support those efforts, and I support reform of the health care system. But, I also support undertaking that reform in a logical, deliberate, and responsible fashion. Otherwise—if it is hurried and poorly developed—it could prove to be more harmful to the health of America than our current situation. For that reason, I cannot support this amendment, and I urge my colleagues to reject it.

Mr. WELLSTONE. Will the Senator yield?

Mr. SPECTER. Yes. On your time.

Mr. WELLSTONE. That may not be possible.

Mr. SPECTER. How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes and 18 seconds.

Mr. SPECTER. I will yield for a question within 30 seconds. I do not want to yield all my time and have none left for reply.

Mr. WELLSTONE. Let me just provide the Senator from Pennsylvania—and I appreciate his courtesy—with a clarification. My argument was not that an advisory committee in and of itself was a bad thing. I just simply said we are at the point in time right now where we need to be introducing legislation that has the cost control built into it. We do not need to study it any longer. People are telling us, "Do not give us legislation unless you have the teeth to control the costs." That was the point I meant to make.

Mr. SPECTER. Mr. President, if that was the point, I say I would be delighted to see that legislation on the floor and I would be delighted to vote on it. That is what I would like to vote on.

Mr. President, in a nutshell, in the minute and a half remaining, this debate really may come down to what is more important, moving ahead on health care or standing by procedural niceties of the Senate. What is more important, allocating some budget resources and some money for health care or repealing the luxury tax?

Mr. President, I move to waive the Budget Act for consideration of amendment 2783.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second at this time.

Mr. BENTSEN. It has not been raised. I will raise it at the appropriate time.

The PRESIDING OFFICER. The motion is in order prior to the point of order.

Mr. BENTSEN. Well, Mr. President, then I raise the point of order that the pending amendment violates section 311(a) of the Congressional Budget Act of 1974.

Mr. SPECTER. Mr. President, I again move to waive the Budget Act, which I believe was in order before. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Point of order. Has the Chair ruled? Has the Chair ruled on the point of order?

The PRESIDING OFFICER. The Chair did rule because of the motion, but the waiver preempts a ruling of the Chair. All time has expired.

The question is on agreeing to the motion of the Senator from Pennsylvania to waive section 311(a) of the Budget Act for the consideration of amendment No. 2783 to the committee substitute for H.R. 776.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 35, nays 60, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—35

Bond
Brown
Chafee
Coats
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Jeffords
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Rudman
Seymour
Specter
Stevens
Symms
Thurmond
Warner

NAYS—60

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burns
Byrd
Cochran
Conrad
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Wallop
Wellstone
Wirth
Wofford

NOT VOTING—5

Breaux
Burdick
Cranston
Gore
Helms

The PRESIDING OFFICER. On this vote, the yeas are 35, the nays are 60; three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The motion to waive having failed, the Chair responds to the request for a ruling. The amendment of the Senator from Pennsylvania would result in a loss of revenues for the time period covered by the budget resolution, causing those revenues to fall below the revenue floor set out in that resolution. This violates section 311(a) of the Budget Act. The point of order is sustained. The amendment falls.

Several Senators addressed the Chair.

Mr. JOHNSTON. Mr. President, I think it is now becoming clear to Senators that this bill is not to be a grab bag for all kinds of different unrelated matters. It is certainly my intention—I think that is shared by the Senator from Wyoming, the distinguished ranking minority member, and I know the chairman of the Finance Committee has spoken out here about not bringing up all of these matters which have not been considered by committee here.

So I hope Senators will be cooperative and let us move this bill quickly. I personally have received many, many requests from Senators who do not want another late night session. So I will strongly urge Senators not to bring up matters that are going to go down to inevitable defeat, and simply delay the Senate.

I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, before the Senator from Louisiana takes his seat, it would be my hope that at some moment, perhaps soon after the Symms amendment, which I understand is going to be offered next, that we might begin to propound some sort of unanimous consent that would contain the array of amendments so that we could begin to get some idea of what it was that we had to accomplish.

So I hope that we might begin to work on such a thing as unanimous-consent requests to limit amendments, not necessarily to get time agreements now, but just to get them in terms of amendments.

So I would say to colleagues on my side, if there are amendments, bring them to me, and do not bring me ones that have nothing to do with energy.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I certainly endorse the idea of the Senator from Wyoming. I would also state that I do not know whether my distinguished colleague from Texas is anxious to hear me say this or not, but I would invite the Senator's attention to the fact that the Finance Committee is having a markup at 5 p.m. today, as I understand it. Matters such as the high-speed rail tax are to be considered in the Finance Committee. It would certainly be my intention to move to table without debate the major matters, such as the high-speed rail tax, which have not been considered there simply because I think they have no chance of passage here unless we have the advice of the Finance Committee on those matters.

I know the Senator has plenty to do, our colleague from Texas, in the 5 o'clock markup. But Senators ought to know that this is not the only opportunity Senators have to bring up major matters of a financial nature.

This is basically an energy bill in which we have a few tax provisions, which are good tax provisions. But there is another major tax bill that is going to be moving through.

I wish that they would direct their attention to the committee of jurisdiction rather than to come in with amendments of first impressions to the floor of the Senate.

Mr. BENTSEN. I say to my distinguished colleagues, the chairman of the Energy Committee, and the ranking member, that I would also be concerned that we have tax measures introduced as amendments to this that do not pertain to the energy business at all. I really do not think they are relevant to the debate. We just disposed of such a matter just a few minutes ago.

I regret to see them presented.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I appreciate and I have great respect for the Senator from Louisiana—he knows that—and the chairman of the committee, the Senator from Texas; Senator WALLOP; Senator PACKWOOD. But I would just point out that the reason that this amendment was not offered to the Finance Committee energy portion of this—this is clearly an energy-related amendment that I plan to offer here in a few moments. I want to say why.

Trains require one-third as much energy as cars and one-fourth as much energy as airplanes. That is high-speed transportation technology that we are talking about here. So it is clearly energy related. It was not offered in the Finance Committee due to the deference and the respect I have for the chairman.

For every Senator in this Chamber, this is a national issue. It just happens that the first project of this nature is prepared to be built in Texas. So it becomes more than a national issue in Texas. It becomes an issue of local politics in Texas.

I respect the chairman for that. I understand that. That is why I did not offer the amendment at the opportunity in the committee. But it will be my intention to offer this amendment at this markup later in committee because this is an amendment that must become law.

My experience in this body is that you have to catch every train that leaves the station if you are going to make it. That is why I think we should offer this today. I am willing to expedite the debate. It is an issue that the majority leader is well aware of. The minority leader is well aware of the issue. It is a very simple up or down issue that will not take a long, complicated debate. But it is related to energy policy, and I think it is appropriate.

Having said that, Mr. President, I have an amendment on behalf of myself and Senator BOB GRAHAM from Florida.

AMENDMENT NO 2784

(Purpose: To amend the Internal Revenue Code of 1986 to remove certain high-speed intercity rail facility bonds from the State volume cap for tax-exempt bond financing)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself and Mr. GRAHAM, proposes an amendment numbered 2784.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new sections:

SECTION 1. REMOVAL OF VOLUME CAP FOR CERTAIN HIGH-SPEED RAIL FACILITY BONDS.

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exception for certain bonds) is amended by inserting ", other than any such bond described in subsection (h)(1)" after "rail facilities".

(b) CONFORMING AMENDMENT.—Subsection (h) of section section 146 (relating to exception for Government-owned solid waste disposal facilities) is amended—

(1) by striking "section 142(a)(6)" in paragraph (1) and inserting "paragraph (6) or (11) of section 142(a)", and

(2) by inserting "AND HIGH-SPEED RAIL" before "FACILITIES" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

SEC. 2. DEDUCTION FOR MOVING EXPENSE.

(a) IN GENERAL.—Paragraph (1) of section 217(c) of the Internal Revenue Code of 1986 (relating to Conditions for allowance) is amended by striking every occurrence of the phrase "35 miles" and replacing it with the phrase "55 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after January 1, 1993.

Mr. SYMMS. Mr. President, I offer this amendment with Senator GRAHAM to make a minor modification to the Tax Code which will have a substantial positive impact on the Nation's future transportation environmental and energy policies.

This amendment is good economic policy. It is good transportation policy. It is good energy policy. And it is good environmental policy. It is good tax policy. I urge my colleagues to support it.

The amendment would simply remove the requirement that 25 percent of each tax-exempt bond issue to finance inner city high-speed rail facilities be counted toward the State private facilities activity bond cap for publicly-owned facilities.

As many of you are aware, this is a slight change from the way the amendment was when it was brought forward last year, and not actually offered—it was taken back down—that I spoke about here on the floor. But in talking with many of you, listening to the concerns of Members, the amendment has been changed to require public ownership, just like airports, seaports, and waste facilities. This amendment has support from both sides of the aisle. The administration has spoken out in favor of high-speed rail numerous times.

Governor Clinton, the Democratic Presidential nominee says, "* * * new high-speed rail and maglev technologies offer ways to improve competitiveness, create jobs, reduce pollution, combat gridlock, and provide access for disabled citizens and save energy * * *. Only with strong leadership in Washington can we encourage the kinds of innovative public-private partnerships necessary for success in such large infrastructure projects."

Currently, high-speed rail facilities can be financed with tax-exempt bonds. I will repeat that to my colleagues. Under current law, you may now finance high-speed rail facilities with tax-exempt bonds. However, there are two conditions that first must be met: First, the private owner must waive any claim to depreciation. Second, 25 percent of each bond issued must receive an allocation under a State's private activity cap. That is why this is necessary. These projects cost enough money that it crowds out the other public tax-free bonds that the State would like to sell under the cap. That is why it is necessary.

Most airports and seaports are paid for and financed with these kinds of bonds. In this instance, the project that has heralded so much controversy in Texas is a $7 billion project, and it is projected that $5.1 billion of the financing will be equity and taxable bonds, private financing, and $1.9 billion will be tax-free bonds. So it is not going to be a project that is entirely financed with tax-free revenue bonds.

This amendment is simply a perfecting amendment to existing policy. It is not a debate on whether high-speed rail facilities should be financed through tax-exempt bonds. The issue has been decided. High-speed rail facilities can be financed through tax-exempt bonds. Currently, airports and seaports are exempted from the State activity bond cap, simply because they are too expensive to fit under the State cap for precisely the same reason. Mr. President, high-speed rail tax-exempt bonds must be exempt from the cap.

Some will argue that this exemption from State bond caps for inner city high-speed rail is not comparable to the exemption provided under current law for airports and seaports. Let us look at the facts. The last major airport built in the United States was the $1 billion Dallas-Fort Worth Airport. That, like most airports before, was financed primarily with tax-exempt bonds. The next major airport is being built in Denver, for which nearly $3 billion is tax-exempt revenue bonds have already been sold. Neither of these projects—both vital to the Nation's modern transportation system—would have been possible had the tax-exempt revenue bonds been limited by State bond caps. Further, airports are eligible to receive direct Federal support through the Federal Aid Construction Grant Program. These grants are an important source of the construction funds.

The infrastructure for high-speed rail—the rights-of-way, the rail bed materials, the bridges, and other structures—can be built with tax-exempt revenue bonds. But unlike airports, there is no program providing direct Federal subsidies for high-speed rail construction, and the tax-exempt revenue bonds sold for high-speed rail projects must be counted against the State's bond cap.

In other words, the current law creates an uneven playing field among differing modes of high-speed transportation. The amendment I offer simply treats high-speed rail construction the same as airport construction, or Government waste facilities. This is not a tax subsidy.

Mr. President, I also want to remind my colleagues that this amendment does not change current law with respect to the applicability of tax-exempt revenue bond financing for high-speed rail. These bonds can only be issued for high-speed rail infrastructure, which does not include the rolling stock. Our amendment does not change the law with respect to that provision.

What is at issue is whether 25 percent of those bonds must remain stuck under the State cap. Sixty percent of the bonds to be issued for the Texas project are taxable. I am afraid those opposed to high-speed rail just want to keep out the competition. I understand that, Mr. President, and I cannot blame anyone for trying, if they are going to be in direct competition with the high-speed rail train.

If is true that high-speed rail offers an alternative to flying for relatively short distances. But competition leads to innovation, which is vital to our domestic and international economic health. Protection will lead only to stagnation, which will ultimately put us at a disadvantage.

I also understand that there is a concern about removing caps from privately owned facilities, because under current law, only publicly owned facilities are exempted. My amendment would require public ownership similar to airports and Government waste facilities.

Mr. President, you can see from my first chart that high-speed rail projects create tens of thousands of jobs. This chart represents an example of the potential range of employment generated by the Philadelphia-Pittsburgh line.

The small revenue loss of $178 million will actually be buying a multibillion-dollar investment which would create a tremendous amount of taxable income. With a small amount of Federal participation, billions of dollars of private capital will be unleashed to finance the much-needed high-speed rail infrastructure.

This is undoubtedly the most cost effective method of expanding our transportation system. The revenue loss caused by this amendment is because the interest generated by those bonds is not taxable. There will be no Federal money used to buy the bonds or back the bonds. All of the tax-exempt bonds will be backed by private entities. Private citizens will be able to buy the bonds and then take a deduction for the interest gain on the bonds. They actually will not take a deduction. They simply will not pay taxes on the revenue that they generate from the bonds.

Although the Joint Tax Committee scores the bonds as a revenue loss, I must once again point out that these are static revenue losses, static estimates, and I challenge the very premise of these estimates. These static revenue estimates do not include the taxable bonds which will be issued along with the tax exempt bonds and will generate revenues.

It also does not take into consideration all of the revenue created by the FICA and payroll taxes resulting from the jobs created. This is not a time, however, Mr. President, to get into a debate over static versus dynamic revenue estimates. It is important to understand where the revenue loss comes from, and that it is in no way a Government subsidy.

In any case, we are left with the current system, and we are required by the 1990 budget agreement to pay for the amendment. So Senator GRAHAM and I have this method to pay for this amendment. To offset the cost of this proposal, the amendment will increase the mileage required for the moving expense deduction from the current 35 miles to 55 miles. The 50-mile requirement was the law prior to 1978.

According to the Joint Tax Committee estimates, this change in the moving expense deduction will raise the adequate amount of revenue to offset this. So that makes it a revenue neutral amendment.

I want to make it clear to all of my colleagues that I do have a constituent interest in this. Morrison-Knudsen is an Idaho-based company, who won the contract to build the Texas high-speed rail system. I want you to note the substantial number of jobs for the project, which I have just mentioned. These jobs are not going to be in Idaho. The job potential in Texas for this project will be substantial. It is going to be a $7 billion investment, creating 12,500 jobs initially, and then 2,500 jobs once the system is operating, to operate the trains themselves. High-speed rail will play a major role in our future transportation policy. It is safe and efficient. The United States, is the only industrialized country in the world that has not developed a high-speed rail system.

Right now, the British are working to connect themselves to the continent with high-speed rail, and to connect that to an expanding European rail system.

We are always talking about the importance of the United States international competitiveness. Japan has its bullet train and the entire European Community is covered with high-speed rail lines and working on more. Is this yet another development that the United States wants to ignore—so that in 10 years we can say we should have pursued high-speed rail?

All we are doing here is giving the United States an opportunity, if private entrepreneurs want to invest in high-speed rail, that there will be a method that they can do it.

I would like to refer to the second chart, Mr. President, and that is a chart that will demonstrate why I think this is an important energy-related amendment.

Passenger energy efficiencies, Btu to move the passenger one mile. Intercity bus is the most efficient, .939. The TGV technologies that will be out with this dispersed high-speed train project in Texas, 1.147. And it comes on down way to the end, air commercial, 4.7 Btu's to move people, per person per mile. So I think that this is clearly energy related.

It is efficiency related. The trains run on time. They do not have to wait for the weather. They do not have to wait for the FAA to decide whether or not they can take off and go. They can run the trains on time and clearly improve efficiencies for people.

The other thing that is happening with population growth in this country, one study showed that a 44-lane highway from Miami to Orlando will be necessary to meet the needs of local population. I am sure my good friend from Florida will have more to say about that. We need to address how we are going to move the people between cities during the next century. Building 44-lane highways is not going to be the answer.

High-speed rail is one of the answers, and it is one of the keys to our future transportation infrastructure. High-speed rail offers a safer, energy efficient, and environmentally sound way to move people. These systems conserve space: A 600-mile high-speed rail system requires less space—I want my colleagues to get this point—than the most recently built major airport. When you talk about taking up ground to be used, the space used for a 600-mile high-speed rail system is less space than a major metropolitan airport the size of the Dallas/Fort Worth Airport. This is a significant reason why we need this amendment.

We simply cannot continue—and, as a matter of fact, Mr. President, I mentioned the project that is being built in Denver, CO, right today, the airport that is being built in Denver. It will make Stapleton obsolete. It is further out of town. And I say that, probably with respect to Denver and the West, it will be a long, long time before anyone will not want to fly by air or travel by air because of the magnitude of the distances. But it is questionable to me, when I look at what the United States is doing with our transportation infrastructure dollars, how could we be spending all these billions of dollars to further consolidate airport hubs in major cities such as Denver when, in fact, we could be spending money efficiently to make it possible for people to travel intercity on very fuel-efficient, time-efficient, on-time, comfortable schedules. I say to any of my colleagues, if they have not had the opportunity to do so, I urge them, if they are in France, to ride the TGV train in France. I have had that opportunity and have done that, and it is a very highly efficient, comfortable way to move people, very safe and certainly very comfortable for the passengers and a very attractive, I think, method of transportation for people.

Mr. President, as I said, airports are almost entirely funded by tax-exempt bonds, Federal aid, and airport construction grants. Highways are built with substantial Federal support in the form of fuel taxes and other user fees. Highways traditionally have been built almost entirely with public funding.

We are talking about allowing people to sell a percentage of the cost of a project in tax-free bonds, which will then generate huge, enormous investments of private capital into the overall running and operating of the project, for the rolling stock, for the infrastructure that goes with it, and it will make a very, very positive investment and a very positive, competitive way to move people.

I know that some of my colleagues think that this amendment will only benefit Texas. This is simply not the case. This is not, I repeat not, just a Texas amendment. It is important to remember that we have to start somewhere. It just happens that the Texas project is the one on the starting blocks.

I would like to refer you, Mr. President, to the chart showing the many proposed high-speed rail projects across the country. Right now, there are groups studying the feasibility of at least 10 high-speed rail systems in the United States. These include—

A Chicago, Minneapolis, St. Louis and Detroit hub;

A Florida hub;

A Pacific Northwest hub;

A Pittsburgh to Philadelphia hub; and

A Las Vegas to Los Angeles hub, just to mention a few.

But access to capital is the problem, and the simple fact is, if the Congress does not pass this amendment and remove high-speed rail from the State caps, there will be no high-speed rail systems in the United States for the rest of this century. I do not know how long it will take for another American corporation to take the risk that has been taken by the groups that have put together this coalition in Texas to build this system, Mr. President, if we refuse them the opportunity now.

So I think what we are saying is that there is a lot at stake in this, and I hope my colleagues will vote for it. For those of you that I know have concern—and I hate to be in here asking you to go against my own committee chairman, Senator PACKWOOD, Senator WALLOP, and Senator JOHNSTON on what it is they wish. They have their mission, I understand that. In my opinion, this amendment in no way, absolutely in no way, should in any way stop the energy bill from becoming the law. I am a strong supporter of this energy bill that is before the Senate.

But for those Senators who vote for it, it will be a very positive vote with many of our constituents, and I see my good friend from Ohio on the floor, and he will start laughing when I tell him this, Mr. President, because Friends of the Earth is for this legislation, as well as the National Audubon Society, the Sierra Club, the National Wildlife Federation, the Environmental Defense Fund, and so on and so forth.

I can see that my colleague from Ohio is saying, SYMMS is offering this amendment. This is a very positive amendment for this bill. It is good for America's energy policy. The reason that these people are supporting this is because high-speed rail will give people a choice of rides in transportation, these trains will require one-third as much energy as cars, one-fourth as much energy as airplanes, and for every person traveling by high-speed rail rather than by car, there will be an enormous reduction in carbon monoxide hydrocarbons and nitrogen oxide.

This amendment, as I said at the outset, is good economic policy, good transportation policy, it is good energy policy, it is good environmental policy, and it is good tax policy. I urge my colleagues to vote for it. I say to my colleagues, if you get in your car and start driving from the Nation's Capital, say, to Atlanta, you will be amazed at the kind of traffic on I-95 day and night around the clock. If you can think down the road 25 years, if we make this possible for the private sector to develop and operate these systems and people can ride the trains, there will be a lot more room on the roads then, and, as population grows, it may not seem like there is more room, but it will make those roads more adequate for what is needed to be done.

Second, it is very important in this country that we have a good, integrated intermodal transportation system so that trucks can run and automobiles can run and other systems. And this will make more room on those interstates for other transportation vehicles. So I urge my colleagues to support Senator GRAHAM and myself on this amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition?

The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, this is deja vu. This is a matter of now going back to industrial revenue bonds. This body spent a considerable amount of time some years ago trying to get rid of industrial revenue bonds, because they were eating up the Federal budget. Here we have a new one. Now we have one for intercity high-speed rail.

I do not have any problem about the concept. I do have a problem about digging into the Federal Treasury to ask all the people of the country to subsidize this proposition. That is not right. The American people have been burdened with sufficient amount of taxes without calling upon them to pay additional taxes in order to pay for this subsidy now.

What we are talking about is whether or not one area or several areas that are interested in high-speed intercity rail, whether or not they are going to be able to issue revenue bonds, tax-exempt bonds, in order to pay for that facility. Well, if they issue tax-exempt bonds, then they are going to have some impact upon the Federal Treasury. And so you are going to cost the American people a certain number of dollars by the permission to issue revenue bonds.

We used to have a situation in this country where you could issue revenue bonds for almost everything under the Sun. I remember debating that subject many a night here on the floor of the U.S. Senate. And I remember that finally we were able to eliminate some and keep in just a few, but we eliminated most of them. And we got rid of that concept.

Now this is the first foot in the door to open the door again to industrial revenue bonds. And so the argument is made, "Well, wait a minute, Senator. This is not going to cost all the people of this country this money."

No; it is just going to cost the working people. It is not going to be a tax on the corporations to make up the money. It is not going to be a surtax on the rich people of the country to make up the money. No, it is not going to be a special tax on the biggest States to make up the money. No, it is going to be a tax on the blue-collar worker.

And once again we see my colleagues on the other side of the aisle, an aisle that seems more disposed to levy taxes upon the average Joe and Joanna working in the job to pay for the special projects they are interested in.

Let us look at how the money is going to be made up. Right now, if you travel, if you move to a distance more than 35 miles from your home, your moving expenses are deductible. Under this amendment, they change the 35 miles to 55 miles. So if you move to a distance that is more than 55 miles from your home instead of 35 miles it is deductible. But if it is somewhere in between, what will happen is, if you make that move under the proposal of the Senator from Idaho, you are going to be stuck in 1993 with $5 million, $46 million in 1994, $50 million in 1995, $53 million in 1996, and $57 million in 1997. So this is a new way of taxing blue-collar workers in this country.

And if this body is prepared to say to the blue-collar workers in this country who are moving from one job to another, and certainly they are trying to find a place of employment, certainly it is not easy to find a job, but they are saying, your moving expenses are deducted if you only go so far, but we change the limits. We change the limits.

It is unfair. It comes in the dead of the night. Nobody is paying much attention to it. We slide an amendment like this through. The American people are not aware of what is happening, and so we say: "One of those things." Joe working-collar guy, or gal, is stuck with the bill.

This amendment should not be considered as an amendment on the floor of the Senate. We are dealing with an energy bill.

Now we have, as part of that energy bill, some portions having to do with Internal Revenue, with the Finance Committee. And what we now have is an amendment that belongs directly in the lap of the Finance Committee. Hearings should be held, consideration should be given to both sides. The question of where the money should come from should be determined by the Finance Committee and by all the Members of the U.S. Senate.

But, no, we get an amendment here on the floor in the middle of the afternoon. Nobody knows it is coming. And, as a consequence, working people in this country are going to be asked to pay for one high-speed railroad in, I think it is supposed to be, Texas; maybe there is one going from Texas to Florida. I am not sure what the story is.

But whatever the case, it is not right if there is a high-speed railroad in Ohio, it is not right if there is a high-speed railroad in Florida, it is not right if there is a high-speed railroad in Idaho, it is not right to come to this floor and propose this new tax exemption and then to shift the burden of paying for that tax exemption on the average working people. This amendment should be defeated.

Mr. WOFFORD. Mr. President, I support the amendment to remove State caps from tax-exempt bond funding for high-speed rail and magnetic levitation projects. Bringing down this tax barrier will encourage investment in magnetic levitation and other high-speed rail projects.

This amendment is especially important to my State of Pennsylvania, a leader in the development of maglev technology. MAGLEV, Inc., a unique public/private/labor partnership, has been working to develop a regional maglev system with a planned demonstration line running from downtown Pittsburgh to the new airport. Shareholders and members in MAGLEV, Inc. include the Commonwealth of Pennsylvania, Allegheny County, Carnegie Mellon University, the United Steelworkers of America, and other labor, industry and Government groups.

Maglev and high-speed rail would update our outdated transportation infrastructure, giving our citizens a convenient and affordable travel option. Technology development, planning and construction would bring thousands of much-needed jobs to Pennsylvania and other States. And the trains would do much to ease urban and suburban gridlock and pollution, improving our citizens' quality of life.

France, Germany, and Japan have been quick to capitalize on maglev and high-speed rail technology. We can't afford to sit idly by. Projects such as MAGLEV's show what can be accomplished when business, government, academia and labor work together toward a common goal. We should be encouraging this type of project and I believe this amendment would be a significant step in the right direction. I hope my colleagues will join me in supporting this amendment.

Mr. KERRY. Mr. President, the pending amendment offered by the Senators from Florida and Idaho pertains to a matter I believe is critical to meeting the Nation's transportation, environmental, and energy needs. The enactment of this amendment will facilitate the development of high-speed rail and maglev systems in the United States.

The objective of the amendment is to eliminate the requirement that an allocation from State volume limitations must be obtained for 25 percent of all tax-exempt bonds issued to finance intercity high-speed facilities. Eliminating this requirement is a necessary step if such projects are to secure the enormous amounts of private investment capital they need to cover the costs in the high density corridors where they are most needed and which they can service most efficiently.

Importantly, and responding to some of the points made by my friend the Senator from Ohio, making this Tax Code alteration would provide high-speed rail and maglev with the same access to tax-exempt bonds currently afforded to airports and other transportation systems. It levels the playing field. This amendment does not offer an unequal tax preference to high-speed ground transportation, although some of us might argue that it would be in the best interests of the Nation to do so. It would provide for equal treatment.

Further, this amendment is not about providing a cushy tax benefit to moneyed special interests; it is designed to make financially feasible publicly approved efforts with substantial if not preponderant public involvement to establish functioning high-speed ground transportation systems for the public's benefit.

Support is growing in this country, Mr. President, for developing an up-to-date national transportation system by bringing high-speed rail and maglev into a revitalized intermodal travel network. High-speed rail is a proven technology with years of very successful operating experience in Europe and Japan. Maglev is a new, cutting-edge technology nearing deployment overseas and in intensive development in the United States.

Plagued by years of disinterest, miscalculation and footdragging by Federal officials, high-speed ground transportation won a strong endorsement from Congress in the Intermodal Surface Transportation Efficiency Act last year. The environmental community has provided its support, because high-speed ground transportation offers the promise of a safe, energy-efficient, and environmentally sound way of moving passengers between cities.

Eliminating the applicability of a State's tax-exempt bond ceiling to high-speed ground transportation projects will facilitate the formation of the creative public-private partnerships required to successfully pursue these large infrastructure projects which I believe will make tremendous contributions to a strong, competitive economy.

Mr. President, this is an energy issue. That's why it is appropriate that it has been offered to this bill. It is an environmental issue. It is a tax policy fairness issue. It is a transportation issue. It is a lifestyle issue. It is a technology development issue, and it is a competitiveness issue.

On all of these grounds, the calculus suggests the wisdom of approving this amendment. I enthusiastically support the amendment, and I urge all Senators to join in supporting it.

Mr. GLENN. Mr. President, I rise today in support of the goals of the Symms-Graham amendment. But I am constrained to vote against this amendment based upon the revenue offset that has been chosen by its authors. I am committed to work with the authors so that in the future we can develop a more appropriate offset for this worthy proposal.

Recent studies show that our Nation's transportation infrastructure is not adequate to meet America's future needs. It is estimated that increased highway congestion of 300 to 400 percent by the year 2010 will result in annual costs from delays of $30 billion. High-speed rail technology will not only alleviate these costs, but will reduce costs associated with transportation-related pollution and accidents.

Given Ohio's global leadership in science and innovation, it is not surprising that the Ohio Legislature had the foresight to create the Ohio High-Speed Rail Authority [OHSRA] in 1986. The authority has adopted plans for a high-speed rail system that will link Cleveland, Columbus, and Cincinnati. A bullet train traveling between these cities at speeds of up to 186 mph will take passengers from Cleveland to Columbus in just 69 minutes. And passengers can travel from Columbus to Cincinnati in only 72 minutes.

The system will not only offer convenience and accessibility to Ohioans, it will foster a new industry for Ohio. This industry will create 16,000 construction jobs over 5 years and provide almost 4,000 permanent jobs for Ohioans. It will help to revitalize Ohio's steel industry. And high-speed rail in Ohio will reduce travel time and congestion, save fuel, improve air quality, and promote travel safety.

But none of this is possible unless the authority can attain the financing necessary to undertake its ambitious project. Competition for allocations under the State of Ohio's private activity bond cap is heated. Many worthy projects involving critical public purposes such as housing and environmental cleanup are unable to obtain adequate financing under the volume cap restrictions. This volume cap is now more strained than ever because the recently enacted Clean Air Act has resulted in more solid waste cleanup from coal scrubbing which is competing under the cap.

If the current 25 percent allocation under the cap for high-speed rail remains, it will hamper the ability of the Ohio High-Speed Rail Authority to attain the necessary $3 billion in financing for its system. And it will similarly hold back other high-speed rail systems throughout the Nation.

Mr. President, I commend the distinguished Senators from Idaho and Florida for their efforts on behalf of high-speed rail development and look forward to working with them in the future to obtain a viable offset.

Mr. LAUTENBERG. Mr. President, I am going to reluctantly support the motion to table the amendment by the distinguished Senator from Idaho.

Mr. President, I stand second to no one in my support of high-speed rail development in the United States. It should be a central element of our Nation's transportation infrastructure. In fact, in my view, the Federal Government should develop a comprehensive policy on the development of high-speed rail. That policy should address a range of related issues, including project financing, technology selection, location, and regulatory mechanisms.

While I support the goals of the Senator from Idaho, his amendment, in my view, is premature. The Congress has not thought through the proper manner by which high-speed rail should be financed, or any of these other issues. And there is no comprehensive policy in place.

Mr. President, high-speed rail is too important for us to deal with in a piecemeal manner. It may well be that federally tax-exempt financing is an appropriate element of such a policy. However, Mr. President, there is no pressing need to enact this proposal at this time. Few high-speed projects are close to realization. In fact, most of the benefits of this amendment in the immediate future are likely to flow only to the State of Texas. That project may well be worthy. But if we want to support that project, we should do so only after carefully examining its merits. To adopt a national policy on the financing of high-speed rail only so that this one project can move forward, is shortsighted and unnecessary.

Again, Mr. President, as chairman of the Transportation Appropriations Subcommittee, I want to emphasize that I believe strongly in the value of high-speed rail. In fact, as chairman of the Transportation Appropriations Subcommittee, I've fought to keep passenger rail service alive in this country. And, I'm working to expand and improve that rail service, including thorough electrification of the Northeast corridor from New Haven, CT, to Boston. This afternoon, as chairman, I presented the subcommittee with the fiscal year 1993 transportation appropriations bill, which I am pleased to say was approved by the subcommittee. The bill contained $204.1 million for the Northeast Corridor Improvement Program, which includes not only safety and efficiency upgrades, but also the electrification project. I note for my colleagues that neither the House nor the Bush administration would provide one dime for this high-speed-rail program.

But it's because I feel so strongly about this that I cannot support this amendment. High-speed rail is too important for piecemeal policymaking, Mr. President.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. JOHNSTON] is recognized.

Mr. JOHNSTON. Mr. President, in exactly 1 hour and 35 minutes the Senate Finance Committee is going to meet in markup. The distinguished Senator from Idaho is a member of that committee. I urge him—I believe he said he was going to bring up this amendment at that time. The matter to be considered by them, as I understand it, is the tax extender bill in the Senate Finance Committee. And that is exactly what this should be a part of. There he can make the arguments, and those who feel strongly on both sides can be heard in the committee of jurisdiction.

Mr. President, on a matter this far-reaching, this important, it ought to be considered by the committee of jurisdiction. And so I am therefore ready to make a motion to table.

Does the distinguished Senator from Florida wish to make some comments?

Mr. GRAHAM. Yes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be recognized to make a motion to table immediately after the presentation of the Senator from Florida.

Mr. SYMMS. Would the Senator allow me 2 minutes right now before he goes to the Senator from Florida? If I could just have the floor for 2 minutes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senator from Idaho be recognized for 2 minutes, followed by the Senator from Florida, and then I be recognized to make a motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, first off, the Senate has been well aware of this amendment. I hear the Senator from Ohio. But this bill itself has transportation energy items in the finance part of the bill. Deductions for employee-provider parking, allowable employer-provided transit passes, provides a deduction for a portion of the cost of clean burning motor vehicles. So it has transportation taxes in it.

The Senator was not on the floor, but I said earlier the reason it was not offered in the committee is the chairman asked me not to offer it in the committee. The Senate has been blanketed with "Dear Colleague" letters. This is no surprise and no secret to the Senate. This is an issue that has been well ventilated in the Senate. So Senators do not need to think this is some surprise attack.

Second, the Senator says that we are trying to subsidize some project somewhere. That is simply not the case, Mr. President. The decision is already made in the United States that tax exempt bonds may be sold for high-speed rail.

The problem is that in the dark of the night once before, 25 percent of that part was put into the State cap to generate a little revenue on our static bookkeeping here, which now has dislocated the level of the playing field of the competitiveness between building airports and building high-speed rail.

The way it is right now, you may end up—and I want the Senators to hear this—you may end up building airports that you really do not need because they can build them with tax-free revenue bonds.

We are talking about projects that will be probably 20 percent financed by tax-free revenue bonds, 80 percent financed by private equity, and then you have competition in it.

So, I really think that the Senator from Ohio, if he examined this a little more carefully, would be on the side of allowing this cap to make it even. We make the playing field level between airports and seaports and high-speed rail beds. The way it is now, they are going to be building airports that they do not need because they can sell revenue bonds outside the State cap, and they will not be building high-speed rail beds that they do need because they cannot get them outside the State revenue cap and they cannot get the bonds sold that way. So this is clearly a competitive issue. It is clearly a transportation issue.

I urge my colleagues to vote against the tabling motion.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, it was about 100 years ago that a question was asked of the American railroad industry.

The question that was asked is, what business are you in? The industry thought that was a fairly simple question to answer. We are in the railroad business.

That answer to that question consigned the railroad industry to bankruptcy, bankruptcy because they were committing themselves to a form of technology which would, over this century, be increasingly competed with and technologically overtaken for many of the railroads' historic functions.

Could there have been a different answer to that question, what business are you in? Of course. And what should the answer have been? The answer should have been, we, the American railroads, are in the transportation business. And, has they answered it in that manner, they then would have broadened their concept of their future and their potential, to the substantial change of their own well-being and probably the nature of the American transportation system as we near the end of the 20th century. We would have had a different transportation system had the railroad seen their role as a broader one than operating a railroad.

I think in many ways we face that same question today. What is the character of the American transportation system? Essentially, we are challenged by the issue, are we going to take the same approach that was taken 100 years ago, and that is define it in static—status quo terms? Or are we going to see the kind of challenges and opportunities that exist in, not revolutionary forms of transportation, but the application in America of the highest forms of technology to ground transportation which are being utilized today in most of our major economic competitor nations—in the European Community and in Japan specifically?

I think there are many reasons why we should take a broader view of what our transportation future should be and to incorporate within that view the opportunities for the United States taking a leading position in the 21st century in the development of high-speed rail. Is this an energy issue? I have had some questions, and the chairman of the Energy Committee knows this because we have discussed it, as to how we should diagnose America's energy problem. What is it that challenges us in terms of energy policy for America?

I will define what I think the challenge is. I think the challenge is to conserve the rapidly diminishing storehouse of energy resources and particularly petroleum that we have within the United States of America. Here are the statistics. The United States is currently consuming something over 6 billion barrels of petroleum per year. We are importing about half of that. Half of it is coming from domestic sources.

The United States, by the most liberal estimates, has approximately 75 billion barrels of reserves and resources within the continental United States, including Alaska. That includes all the offshore petroleum resources and resources throughout Alaska—75 billion barrels.

It does not take much of a mathematician to divide half of 6, or 3, into 75 and say that we have approximately 25 years of domestic petroleum left at our current level of total consumption and the proportion of that consumption coming from domestic resources.

One of the stated goals of the energy bill is to reduce our level of dependence on foreign energy sources including petroleum. If we do that and make no other changes, what we are doing is, instead of having 25 years of domestic petroleum remaining, we will be down to 20 or 15 years or less.

So I believe fundamental to a national energy strategy is a strategy to conserve that 75 billion barrels that stands between the United States and total dependence on non-U.S. sources for petroleum. One of the keys to do that is to develop within our economy means by which we can be less dependent on petroleum. We know petroleum's principal use in the Untied States is for transportation. Therefore, if we are going to attack the challenge of reducing our level of dependence on petroleum, we must find alternative forms of transportation that will be less petroleum-demanding. High speed rail for those persons who would find it as an option to the use of their automobile requires one-third of the energy that would be required to propel those people from their place of origin to destination than would the use of an automobile. For those who are using an airplane, it uses one-quarter of the energy that would be utilized in an airplane.

But beyond the fact it is more energy efficient, we would also have a chance to be using alternatives to petroleum as the means of providing that energy. Many of these high-speed trains will be electrified. They will be operating on energy sources such as coal, an important new market for that very available domestic source of energy. They will be operating on electricity generated by natural gas, an increasingly important area for the electric energy production of America and a resource of which we believe there is considerable domestic abundance. We will be operating these trains on electrified systems where the source of power is nuclear, an item which this bill intends to encourage by making it more feasible for utility companies to construct nuclear facilities.

I believe rather than question whether this is an energy proposal, this goes directly to the core issue that any American energy policy must address, and that is how to reduce our overall utilization of petroleum in order to conserve the 75 billion barrels remaining petroleum within the continental United States.

Is this a transportation issue? We cannot, as a nation, continue our level of reliance on the automobile and on the airplane for intercity—particularly relatively closely related intercity areas. We have reached almost gridlock on our highway system.

In 1991, the Senate passed a Surface Transportation Act. As one of the provisions of that act, we have put severe limitations on the expansion of the Interstate System to meet capacity purposes. We came close to adopting a policy that said the only expenditures on the Interstate System will be for maintenance purposes and safety purposes but not to add lanes for capacity.

As was indicated, if we continue in my State to add the population that we are doing, which is about 1,000 people a day, we are going to be up to 30 and 40 lanes of traffic to get people between south Florida and central Florida; between Orlando and Tampa. Clearly, that is contrary to national policy. Clearly, it is even more contrary to any sense of logic.

We also know that many of our close intercity air routes are reaching capacity. How many planes can you fly between Los Angeles and San Francisco? How many planes can you fly between Washington and New York? How many planes can you fly between New York and Chicago, before you reach a level of congestion that becomes a daily threat to the safety and well-being of the commercial aviation passengers and community?

I believe it is critical we begin to provide, today, for the complimentary transportation system that we must have, a system which virtually very other nation that is facing the same challenges that the United States is facing has found to be that complementary system, which has been high-speed rail.

The Senator from Ohio raises a question of subsidization. The Senator from Ohio understands who is going to be paying for those 40 lanes of interstate, if that is the way we move people between Orlando and Tampa. That is not going to come from Santa Claus. That is going to be subsidized by the taxpayers through the form of all of the taxes that will be paid directly and all of the public expenses that will come indirectly to build that kind of massive highway system.

Mr. METZENBAUM. Will the Senator from Florida yield for a question?

Mr. GRAHAM. I will be pleased to yield.

Mr. METZENBAUM. Mr. President, is there not a distinction that the Senator recognizes that when you subsidize, for example, the highways, and getting the money from the highway trust fund, and it gets its money directly from the sale of gasoline, that so much a gallon goes into the highway trust fund? In this instance, it is not like that at all. What you are doing is reaching out to the working people in the State of Ohio, the State of Washington, or the State of Pennsylvania, and saying to them, if you move, we normally would have permitted you to deduct your expenses up to 35 miles, and we now change it to 55 miles. So blue collar workers of America come along and subsidize this railroad project.

Mr. GRAHAM. I am going to discuss the financing of this in a moment. The fact is we have already the principle that this is an appropriate method of financing high-speed rail. We have fallen short of the principle by requiring a portion of the high-speed rail, unlike what we have required of airports, sea ports, and other forms of transportation.

The purpose of this amendment is to achieve parity. But I would like to reserve the opportunity to discuss that when I can put it into a fuller context. But the fact is we are going to move people, we are going to move goods. The question is, Are we going to do it by what is a much greater public cost of enormous interstate systems and enormously expanded commercial aviation capacity, or are we going to provide it in a system that virtually every other nation of the world, which is of comparable development to the United States, has found to be the appropriate complement to automobiles, other vehicles and aviation?

Third, this is an appropriate policy for America in 1992. We are facing the prospects of hundreds of thousands of very skilled Americans who have spent their lives building the strength of America militarily facing unemployment. Many of those are in the State of the Senator from Ohio, the Senator from Louisiana, the Senator from Wyoming, Idaho. All of our States are going to be affected by this.

While I am not an advocate of an industrial policy, I am an advocate of the United States having an intelligent program to try to see how we can continue as a nation to take advantage of this great resource that we have spent the last half century or more developing. How do we transition the technological capability to conceptualize, to design, to produce military technology of the highest order of sophistication, how do we, Mr. President, give those people from Connecticut who have been engaged in that activity some alternatives for the use of their skills.

I am proud of the fact that Governor Clinton has seen, as one part of that conversion process, that the United States ought to be using this time as a time of opportunity to begin to develop high technology areas for civilian application that can utilize the skills of those individuals and firms which have been so successful in the military applications of technology.

What better area for us to be doing this in than the field of modern American transportation systems.

I go back to my introductory story about the railroad industry being asked, what business are you in?

And, answering it in a way that virtually assured their bankruptcy.

I think the same question could be asked today of many of our aerospace and aviation industries. What business are you in? Because I see the proper answer to that question not being we are in the production of airplanes but, rather, we are in the production of the highest state-of-the-art transportation. The people who ought to be building these systems are the people who today are building F-15's and F-18's and other military aircraft. They are the people who today are contributing to our aerospace program.

Frankly, the people who probably ought to be running these systems are the airlines. Their skills in terms of the organization of technology for transportation, of marketing, of management, of computerization, are exactly the kinds of skills that are going to be called upon to operate these new forms of transportation.

So I believe we have a tremendous opportunity and challenge to use this as one of the core areas of new technology for a new post-cold war America. If this is not the kind of area in which we want to provide new technology and opportunities for our people, what are the areas that we want? What imaginative ideas we are going to come forward with if this is not the kind of challenge we should be seeking and accepting with enthusiasm?

Finally, Mr. President, this is a proposal which makes eminent environmental sense. We are concerned, as we have demonstrated in the Clean Air Act, with the reduction of emissions which will adversely affect our environment. We know that the greatest single source of those emissions is motor vehicles. That is why we have had such a focus on those areas of the country with high concentrations of automobiles and other motor vehicles.

This offers a partial, not only safe but environmentally sensitive, alternative to those large numbers of motor vehicles. It has proven that in Japan, where Japan's bullet train has for 40 years had a fatality-free record. I do not know if there is a transportation system in the history of the world that has ever carried so many people over such an extended period of time at such high rates of speed with such a safety record. And the same is true of the systems which have been developed in Europe.

The major environmental organizations of America are supporting this amendment. These include the National Wildlife Federation, the National Audubon Society, the Natural Resources Defense Council, Friends of the Earth, the Environmental Defense Fund, and more. They have seen this as not only good energy policy, good transportation policy, good policy in terms of conversion of military to civilian applications, but sound environmental policy.

If all of these reasons commend a strong American initiative to create the atmosphere, the environment for the development of high-speed rail, what are the barriers? We have dealt with some of those barriers, Mr. President, in the 1991 Surface Transportation Act. We took some major initiatives, particularly in the area of encouraging the most advanced form of high-speed rail, in magnetic levitation. We have appropriated $750 million to fund major research, development and experimentation on magnetic levitation which many feel will be the dominant transportation system by the midpoint of the next century, if not earlier.

We also did some things that will make current high-speed rail technology more accessible such as making interstate corridors available for high-speed rail. So this Congress, led by the Senate, particularly by the Senator from New York, has taken leadership in this area and recognized its importance.

There continues to be another significant barrier, and that is the lack of parity in terms of financing the system.

At this point I would like to return to the comments and the questions of the Senator from Ohio. The current law is as follows: In the area of transportation, virtually all of the traditional means of transportation are 100 percent available for tax-free financing. If you want to build an airport, you get 100 percent tax-free financing. If you want to build a wharf at a current seaport, 100 percent tax-free financing; highway systems, 100 percent tax-free financing. All of those are currently covered. High-speed rail is covered.

You can do tax-free financing, but it is the only category in which there is a restriction on the amount of tax-free financing which is available, and that restriction is that 25 percent of the tax-free financing has to be within the revenue cap applicable to the State or States in which the high-speed rail system is constructed.

That may not seem like much of a constraint but let me put some numbers behind that limitation. Let us assume that you are in a State of 10 million people. I think that is more or less the size of the State of Ohio. The cap is based on the population of the State, and it is $50 per person. So the State of Ohio each year would have available to it $500 million for everything from housing to water and sewer systems to all of the ways in which the State and local communities utilize tax-free financing.

Because of the scale of these high-speed rail systems, and the intensity, the focused nature in which they are constructed and financed, they tend to be heavy capital demands for short periods of time. For instance, the high-speed rail system which has been suggested in my State that would run from Miami to Orlando/Tampa has a cost of in the range of $4 to $5 billion. That is a lot of money, but that is for a system of over 300 miles. If you calculate what 300 miles of Interstate System would cost, it is not such a prohibitive expenditure.

But let us assume that it was $4 billion to be financed and it was going to be constructed over a 4-year period at $1 billion a year. If you had to take 25 percent of that $1 billion, or $250 million, and apply it against your $500-million-a-year cap, that would mean that for 4 years the State of Ohio, if that were the State in which this were occurring, would have half of the funds that would otherwise have been available for all that other range of activities financed by tax-free financing. That is why this provision has been such a barrier to States moving forward aggressively with considering high-speed rail as an alternative to highways or airports or other more conventional forms of transportation.

Now, to the Senator from Ohio again, I am not terribly enthusiastic about the specific form of financing that we have found. I might say to the Senator from Ohio that that exact provision has been suggested in the past for a variety of other items. The fact is that money is going to flow into the national Treasury not earmarked to finance high-speed rail. It is just going to add to the total aggregate of resources in the national Treasury. The estimate is that over a 5-year period it will produce approximately $190 to $200 million. That is the estimated cost over the 5-year period of making tax-free financing available to all 100 percent of high-speed rail as opposed to the 75 percent which is currently authorized.

I underscore that that difference is more than just the difference between 75 and 100 percent. It is the difference between zero and 100 percent, because unless high-speed rail has access on a parity basis with other forms of transportation to tax-free financing, these systems simply are largely not going to be built.

Therefore, we are going to go into the 21st century with largely a 19th century transportation system. We are going to have missed the opportunities for enormous energy efficiency as we approach the time we are going to be exhausting our domestic petroleum reserves. We are going to have missed this window of opportunity of using this modern, challenging technology as a means of assisting in the transition from a military to a civilian economy. And our environment will have lost the benefits of the additional benign qualities that are associated with high-speed rail.

So, Mr. President, I believe as a legislative body we do not get faced with large, dramatic statements of ultimate destination for America. We get faced with incremental opportunities. Today we have one of those incremental opportunities. I would say with a high level of certainty that if we adopt this proposal and it becomes law, we will see, before this decade is out, the commencement of a new form of transportation in America which over the 21st century will serve our children and grandchildren and great grandchildren very well.

If we turn our backs on this opportunity today, I think that we are going to be consigning those same future generations of America to greater energy dependence, to a less pure environment, and to a transportation system that will be systemically constrained in terms of its ability to serve our Nation's needs and to contribute to an economically competitive America.

Mr. METZENBAUM. Will the Senator yield?

Mr. GRAHAM. Yes.

Mr. METZENBAUM. I very much question who is going to pay for this if the amendment of the Senator from Idaho would prevail. It is going to be working people. My question to the Senator from Florida is, no matter how strongly he feels about these projects, does the Senator really believe that there should not be estate taxes, should not be a surtax on the wealthy, a special tax on those with incomes over $200,000 or $1 million a year, there should not be a tax on corporations, they should not bear a part of the burden?

Why is it that you come before us with this proposal to stick it to the average Joe, the working Joe?

Mr. GRAHAM. First, Senator, what we are doing, current law as I understand it is that if you move more than 35 miles that you can deduct the cost of that move. This amendment would say you now have to move 55 miles in order to take advantage of this. Whatever you think about that as a matter of tax policy, it is not an overwhelming issue to say that you have to have moved an additional 20 miles in order to have been able to take advantage of the ability to deduct your moving expenses from your Federal income tax return.

Mr. METZENBAUM. It is not overwhelming unless you happen to be the guy who is paying it, and the working guy who is moving a little bit further down the road.

Mr. GRAHAM. I am concerned about the working guy who is currently working for a defense facility in Connecticut who may have a job if this Nation commits itself to developing modern forms of technology including high-speed rail.

Mr. METZENBAUM. I do not have any quarrel about the high-speed rail.

Mr. GRAHAM. I am concerned about the position that working man is going to be in 25 years from now when the last of the American petroleum comes up out of the ground probably at ANWR because we had drilled that last remaining reserve of American petroleum. I am concerned about what that is going to mean to the national security of that working man and woman and every other American.

Mr. METZENBAUM. I would say to my colleague, first of all my friend from Idaho is one of those who is strongest against increasing taxes. Every time we talk about increasing taxes, they blame that all on Democrats. This is an increase in taxes, no argument about it. This is an increase in taxes.

I think that there may be a need for some increase in taxes on those who are able to pay. So I say to my friend from Florida, my friend from Idaho, if you think this amendment is so great, why do not you provide for a surtax on millionaires, or a tax upon those who have an income over a particular amount, or on estates that are beyond a certain amount? Why do not you do that? Instead of that, no, the faceless, nameless, working people in this country are being called upon to pay the bill.

Mr. SYMMS. If the Senator will yield.

First off, I would just say to my colleagues that the reason we do this is because of the 1990 Budget Act. As far as I am concerned, I think I could empirically prove to the Senator from Ohio that we should not have an offset in it because this is going to make money for the Federal Treasury. The Texas project is going to have $1.9 billion in tax-exempt bonds, $3.4 billion in taxable bonds, $1.7 billion in equity financing. They are going to hire 12,000 people, pay them $15 an hour, and they are all going to be paying taxes.

We are sitting in here arguing about some Mickey Mouse thing. I agree with the Senator. I do not like to do it, but I am trying to go by the rules and the law. I think we ought to fire all the people that work for the tax-writing committees that use static financing. We ought to go back and do this on growth-oriented models. But that is not what we are debating here today.

So my colleagues in the Senate, do not let the Senator from Ohio get this distorted from what the fact is. This is the least painful way we can find to make this thing fit in the budget.

I did not vote for the 1990 Budget Act. I do not know how the Senator from Ohio voted. That is why we are doing it.

Mr. GRAHAM. I would like to also point out to the Senator from Ohio that I believe yesterday he supported a series of amendments that the Senator from Arkansas and I introduced which held the overhead constant in just three Federal agencies: Commerce, Justice, and State. If those provisions are sustained throughout the appropriations process and then carried forward in future years, those will produce about three times more revenue savings than this proposal will entail in terms of a tax loss.

So I appreciate the Senator's concern for fairness in taxation, a concern that I share. I wish we had a different and more perfect world in which to operate. But we deal with the world as we find it. I believe that the world as we find it will be better served by making this minimal Federal commitment toward the accomplishment of a very significant national goal.

The PRESIDING OFFICER (Mr. CONRAD). Under the previous order the Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, as I had stated earlier, the Finance Committee is going to meet in a little less than 1 hour, at 5 p.m. This tax extender measure will be the measure to be considered at that time.

Mr. President, Senators are simply going to have to be cooperative with us and let us get on with this bill. If this becomes a grab bag, we are not only going to be here all night, but we are not going to be able to get an energy bill.

I wanted to be considerate to Senators in their ability to speak. I believe the Senator from Pennsylvania wanted 2 minutes.

Mr. President, I ask unanimous consent that the Senator from Pennsylvania be recognized for 2 minutes after which I be recognized to make a motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I sought the floor for a brief period to lend my support to the pending amendment because I believe high-speed ground transportation is very, very important to the development of this country.

This is a subject that I have been working on for the better part of a decade, in conjunction with State Representative Richard Geist from Altoona, PA. There are very elaborate plans in Pennsylvania for the development of a high-speed train system, with Pittsburgh as the center for the development of maglev technologies.

It is a marvelous projection to think of a train running from Philadelphia to Pittsburgh in 2 hours and 7 minutes with intermediate stops at Lancaster, Harrisburg, State College, Altoona, Johnstown, Greensburg, and Pittsburgh. Such a system would be very development for this country. It is high time we move ahead with real development of our Nation's infrastructure on capital investments which will yield great fruits to this country.

I commend my colleague from Idaho, and my colleague from Florida, for advancing this proposal. I have no illusions about this being adopted here. I think the debate has been very constructive. I do hope that it will be adopted one day soon.

I thank my colleague from Louisiana. I thank the Chair.

The PRESIDING OFFICER. Under the previous order the Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, this is a very far-reaching amendment. If my motion to table fails, frankly we are here for a long time just on this amendment.

I know the Senator from Ohio has second-degree amendments. They will be very long, and it is a weighty issue, Mr. President.

In 55 minutes the Finance Committee is going to be open for business. The Senator from Idaho, the chief sponsor of this amendment, is a member of that committee and he can bring this up. If it is a good idea, let him at least get the advice of the Finance Committee. At least give them a bite, if they want to do it, at deciding how they are going to finance it, whether they finance it with increasing the number of miles with the move from 35 to 55, as the Senator from Idaho as he suggested, or maybe some kind of alternative kind of tax that he would propose.

In any event, Mr. President, on behalf of the distinguished Senator from Wyoming [Mr. WALLOP] and myself, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana [Mr. JOHNSTON] to lay on the table the amendment of the Senator from Idaho [Mr. SYMMS]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 55, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—40

Akaka
Baucus
Bentsen
Biden
Bond
Boren
Bradley
Bumpers
Byrd
DeConcini
Dixon
Dodd
Ford
Glenn
Gramm
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Lautenberg
Leahy
Levin
Lieberman
Lugar
McCain
Metzenbaum
Packwood
Pryor
Rockefeller
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Wallop
Wellstone

NAYS—55

Adams
Bingaman
Brown
Bryan
Burns
Chafee
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
Dole
Domenici
Durenberger
Exon
Fowler
Garn
Gorton
Graham
Grassley
Harkin
Hatch
Jeffords
Kassebaum
Kasten
Kerrey
Kerry
Kohl
Lott
Mack
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Pell
Pressler
Reid
Riegle
Robb
Roth
Rudman
Simon
Specter
Stevens
Symms
Thurmond
Warner
Wirth
Wofford

NOT VOTING—5

Breaux
Burdick
Cranston
Gore
Helms

So the motion to lay on the table the amendment (No. 2784) was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the motion to table was not accepted. I think the Senate has spoken on this. I hope the Senator from Ohio will be willing to go ahead and let us voice vote the amendment.

Mr. METZENBAUM. Not at this point.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we temporarily lay aside the instant measure in order to consider a Pressler amendment on pipeline safety.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Is there any time limit?

Mr. JOHNSTON. Mr. President, we intend to accept the amendment, really, without debate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Without objection, it is so ordered.

The Senator from South Dakota is recognized.

AMENDMENT NO. 2785

(Purpose: To amend the Hazardous Liquid Pipeline Safety Act of 1979)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2785.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . AMENDMENT.

The Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 220. FIELD PERSONNEL.

"(a) IN GENERAL.—To the extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of Transportation, in fiscal year 1993, shall employ and maintain thereafter an additional 12 pipeline field personnel above the number of field personnel authorized for fiscal year 1992 for the Research and Special Programs Administration. These personnel will work primarily on public water supply protection and other environmental public health and safety aspects of pipeline regulations. The Secretary shall take such action as may be necessary to assure that the activities of such additional field personnel focus on—

"(1) inspecting intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program that meets the requirements of subsection (a) or (b) of section 205 of this title;

"(2) assisting the States identified under paragraphs (1) and (3) in developing hazardous liquid pipeline safety programs that meet the requirements of subsection (a) or (b) of section 205 of this title;

"(3) inspecting interstate hazardous liquid pipeline facilities constructed prior to 1971; and

"(4) providing technical assistance and training to State pipeline inspectors and assisting in the review and management of pipeline safety grants.

"(b) ASSIGNMENT OF FIELD PERSONNEL.—The additional field personnel provided under subsection (a) shall be assigned by the Secretary to the Research and Special Programs Administration pipeline safety regional offices on the basis of the extent to which—

"(1) hazardous liquid pipelines constructed prior to 1971 exist in a region;

"(2) there are in a region States having intrastate hazardous liquid pipeline facilities that do not have a hazardous liquid pipeline safety program meeting the requirements of subsection (a) or (b) of section 205 of this title; and

"(3) there are other factors, including those based on public water supply protection and other environmental public health and safety concerns, which the Secretary deems relevant to improving the extent and quality of Federal and State hazardous liquid pipeline safety programs.

"(c) FUNDING.—The Secretary of Transportation may use such sums as may be necessary of funds appropriated pursuant to section 17(a) of the Natural Gas Pipeline Safety Act of 1968, as amended, and section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as amended, to carry out this section.".

Mr. PRESSLER. Mr. President, I introduced this amendment as a free standing bill, S. 2375, on March 20, 1992, because I am deeply committed to helping prevent any further environmental disasters like the one that recently occurred in my home State of South Dakota.

We need pipelines throughout our Nation to move energy resources, including a variety of fuels and natural gas. These pipelines are vital—both for economic and national security reasons. However, they also represent a potential environmental hazard. When they leak, the consequences can be devastating. I am offering this amendment because this risk can be mitigated best by increasing the number of Federal inspectors for hazardous liquid pipelines.

Now, let me share with you some of the facts surrounding a recent incident in South Dakota. On January 13, 1992, the Williams Pipeline Co. reported a fuel leak near Sioux Falls, SD, to the Office of Pipeline Safety at the Department of Transportation.

I was alarmed to learn of this leak, as were many of my constituents. Any leak is of concern, but this one was most disconcerting. First, the leak went undetected for nearly 6 months. Second, it occurred only three-fourths of a mile from a major aquifer in eastern South Dakota which serves as the primary water supply for our State's largest population center. Third, the original estimated size of the leak was literally only bucketfuls. However, further examination resulted in estimates of some 400,000 gallons, making it the largest leak in the history of South Dakota. Revised estimates are now closer to 200,000 gallons. To date, over 160,000 gallons have been recovered and pumps are still recovering product. A leak of this magnitude certainly should have been detected earlier.

So, Mr. President, to paint the picture of what happened at that major pipeline leak; it was detected 6 months late; it was first reported as a very small leak. Then it was realized that it was huge—the largest leak in a pipeline in our State's history; and, fortunately, it did not reach the aquifer but it was only a half or three-quarters of a mile away. The point I am making is that we had a major leak that almost went undetected until it was too late. It was the worst, but it was not the first. I fear it will not be the last. My amendment is designed to reduce the risk.

Mr. President, I feel very strongly that everything possible must be done to prevent such leaks from occurring in the future. They are too costly to the environment and to everyone involved. Therefore, I carefully studied what happened in this case. South Dakota and other States that have this type of pipeline ought to be concerned over the possibility of future leaks. However, the number of such leaks can be reduced through a coordinated effort by Federal, State, and local government officials, and private industry leaders.

I serve on the Commerce Subcommittee on Surface Transportation. Last year, the Senate passed, by voice vote, S. 1583, the Pipeline Safety Improvement Act of 1991. This legislation will help address the safety of pipelines in a number of important ways. But it is not enough.

Since this leak was reported, I have carefully revisited this issue. First, I was briefed in detail by Mr. George Tenly, Associate Administrator for Pipeline Safety, head of the Office of Pipeline Safety. I learned many specifics regarding safety and inspection procedures on the section of pipeline in question, as well as the pipeline inspection program in general.

The enormous task of inspecting 1.8 million miles of pipeline in this country under Federal inspection jurisdiction falls on only 24 Federal inspectors. So, for our entire nation with 1.8 million miles of pipeline, we have only 24 Federal inspectors.

Mr. Steve Cropper, president of Williams Pipeline, met with me to explain the industry side of this critical issue. I was pleased to learn several new technological advances were being applied to assist the industry in deterring future leaks. As I continued to study this matter, I worked closely with officials in my home State that deal with pipeline safety, learning the problems they face.

Currently, hazardous gas and liquids are transported via pipelines throughout the United States. Of the approximately 1.8 million miles of pipeline, roughly 1.6 million miles are natural gas pipelines and 155,000 miles of pipeline transport hazardous liquids. The leak in South Dakota falls in the latter category.

Mr. President, 48 States have their own natural gas pipeline safety inspection programs. However, only 10 States have a similar program for the inspection of hazardous liquid pipelines.

The Federal Government retains primary inspection responsibilities for pipelines in those States without their own programs, but the Federal office is understaffed. States need greater assistance from the Federal Government in implementing their own inspection program.

This problem must be corrected. My amendment would do the following: First it adds 12 new Federal pipeline safety inspectors above the number authorized for fiscal year 1992—a 50-percent increase. Second, these inspectors will focus specifically on inspections in States that do not have their own hazardous liquid pipeline safety programs in place.

Third, inspectors would provide technical assistance and training to these States to help them develop their own pipeline safety programs. These personnel will focus primarily on public water supply protection and other environmental public health and safety aspects of pipeline regulations.

They will pay particular attention to pipelines constructed prior to 1971 which are more likely to develop problems. They will assist States in the review and management of pipeline safety grants. These provisions, together with others, offer a good first step in improving overall pipeline safety.

South Dakota Department of Environment and Natural Resources Secretary Robert Roberts fully supports this amendment. The fact of the matter is that States are usually in a much better position to handle these inspections than is the Federal Government. They best understand the intricacies of their own State. In addition, the local citizens are in closer contact with State officials than regional Federal offices.

The bottom line, Mr. President, is that local, State, and Federal governments, as well as the pipeline industry, must cooperate in improving pipeline safety. By providing greater assistance to those States that need it most, my amendment will provide a first step to improving overall pipeline safety.

So, Mr. President, to conclude, let me say I think that our entire Nation can look to the spill that occurred near Sioux Falls, SD, as an example of the dangers to which the public and the environment can be subjected if a pipeline leaks. We certainly need pipelines throughout our Nation to move energy, to move gas, to move natural gas. We certainly need to improve the technology of pipeline safety. But we also must have prompt pipeline inspection and notification so that any problems can be corrected.

My amendment would be a step forward. It would add 12 additional Federal pipeline inspectors. It would improve the cooperation between Federal, State, and local governments.

I think we can learn from the near disaster that took place near Sioux Falls, SD. I think we can improve pipeline safety throughout our Nation. It is a subject to which we need to pay attention because the transportation of energy is so important to our citizens. But that transportation must be safe.

Mr. President, finally I would point out that the Office of Pipeline Safety is funded through user fees and is authorized to increase those fees to cover amounts needed for this type of program. Therefore, this amendment costs the taxpayer nothing. Indeed, it is cost effective for the pipeline industry as the cost of the expanded program would be less than the cost associated with the cleanup of many individual fuel spills. I urge the adoption of my amendment. This additional State oversight is very desperately needed.

Mr. JOHNSTON. Will the Senator yield?

Mr. PRESSLER. Yes.

Mr. JOHNSTON. Mr. President, I am advised that the Senator from South Dakota has discussed this with the Commerce Committee, which does have jurisdiction over this matter.

Mr. PRESSLER. Mr. President, I cannot say the Commerce Committee has cleared it; I do not know. I have discussed it. I am a member of the Commerce Committee. We had hoped for a hearing on it, but it did not materialize. It was not denied, either.

Mr. JOHNSTON. Mr. President, I believe the Senator from Wyoming, the distinguished ranking minority member, and myself are willing to take this to conference, and we will seek the advice of the Commerce Committee in the meantime.

But we are willing to take this to conference.

Mr. PRESSLER. Mr. President, is my friend saying to me if the Commerce Committee somehow wants jurisdiction over this, which they could have exercised, that it will be taken out in conference?

I really would like to go to a vote, if I need to have a stronger hand in conference.

Mr. JOHNSTON. Mr. President, I thought this would be a matter we could accept. If the Senator wishes to wait, we may well oppose it later. But that is up to him.

Mr. PRESSLER. Well, if the Senator will accept it—I will always take an amendment if I can get it passed. But

I would not want the implication to be that it is going to be taken out in conference.

The Senator will give me a fair shot in conference?

Mr. JOHNSTON. Mr. President, what I am saying is that the Commerce Committee has jurisdiction over this matter. If they are against it, I am sure it would weigh very heavily with me as one member of conference, and I am sure with other conferees.

Indeed, if we want to extend the debate here and get the Commerce Committee over to talk about the matter at this time, I am sure it would make it difficult to pass here, as well.

Mr. PRESSLER. If the Senator will take the amendment, I will agree to that. I am a member of the Commerce Committee, and I am 99 percent sure that I can persuade them not to have any objection to it. Famous last words.

Mr. WALLOP. Mr. President, I echo the words of the distinguished committee chairman.

There is also, I say to my friend, yet another piece of relevant legislation coming through to which he could add this amendment, and that is the Department of Transportation Appropriations Act, upon which the Senate has yet to act.

Mr. PRESSLER. Mr. President, someone told me that would be legislating on an appropriations bill.

Mr. WALLOP. The Senator can do as he wishes. The Senator from Louisiana and I are willing to accept the amendment, Mr. President.

Mr. PRESSLER. I am glad to hear that. I thank the Senator very much.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2785) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, I wish to state my support for the amendment from my colleague from South Dakota, Senator PRESSLER, relating to pipeline safety. It is a good first step to improving pipeline safety, and it should be enacted.

In South Dakota, we have seen the pitfalls of shoddy pipeline management. As a result of a crack in the product pipeline between Alexandria, MN, and Sioux Falls, more than 200,000 gallons of gasoline spilled beneath and onto a field near Renner, SD. Renner is just 4 miles north of Sioux Falls, the largest city in the State, and the spill occurred less than a mile away from the edge of the aquifer that provides the drinking water for Sioux Falls. After the leak was discovered, by a farmer walking in his field who suddenly discovered he was ankle-deep in gasoline, we learned that the pipeline must have been leaking for weeks, and the 200,000 gallons of lost product was never noticed to be missing by the owner of the pipeline, the Williams Pipe Line Co.

Clearly, the current system is inadequate to protect the people from spills like the one we experienced in Renner. I still do not understand how that much product can be lost without anyone noticing.

Adding 12 more inspectors to the Office of Pipeline Safety is a good first step. But I must be frank, I do not know if it would have made a difference in Renner if we had had even 100 more inspectors. Unless you have better and more comprehensive monitoring, inspection, and reporting requirements, it will be simply impossible to have enough inspectors in the right places at the right times. Unless we can establish better mechanisms for States to assume partial regulatory control over interstate pipelines, those with the most direct contact with the pipelines will have only limited input. Finally, unless we can establish comprehensive, nationwide standards for aboveground storage tanks, we may get the product into the tank farms safely only to have it leak away there. This has also been the experience in Sioux Falls as well as Fairfax, VA, and so many other places.

On the last point, Senator ROBB and I have legislation, S.1761, pending before the Senate Environment Committee that would establish comprehensive regulations for aboveground storage tanks. It was our intention to have this bill become a part of the RCRA reauthorization this year, but it now seems that this will have to wait until the next Congress. With regard to improving pipeline safety, it is imperative that Congress pass the long-stalled Pipeline Safety Act reauthorization, and that improved environmental safeguards be adopted, as well as better mechanisms to establish State jurisdiction over interstate pipelines.

In closing, I thank my colleague from South Dakota for offering this amendment, and I hope we can use this momentum to address the larger problem of pipeline and storage tank safety.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I rise today——

The PRESIDING OFFICER. The Chair alerts the Senator from Virginia that the Symms-Gramm amendment is the pending business before the Senate.

Mr. ROBB. Thank you, Mr. President. I ask unanimous consent that the Symms-Gramm amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB. Mr. President, I rise today in support of the pending energy legislation.

This bill represents that which is, at the moment, politically possible.

The chairman of the Energy Committee, Senator JOHNSTON, has done a masterful job, of crafting a bill which has the broad support, of environmentalists; support from industry; support from the administration.

The first vote on this bill, in the Senate was 94 to 4, and in the House, the margin was more than 10 to 1 (381 to 37).

I support the measure, as far as it goes, because it does take some important steps to wean our Nation from its overreliance on imported oil.

But the truth is that this bill is missing what is the most potent tool available, to reduce our reliance on imported oil: shifting taxation from income to the motor fuels pump.

By shifting, without increasing, the existing burden of taxation, we can encourage Americans to buy more fuel efficient cars, to car pool, and to use alternative forms of transportation.

Changing the point of tax collection can save us millions of barrels of oil, unleash investment into alternative fuels, and reduce the risk of global warming.

Omission of the gas tax in this energy bill has not gone unnoticed by those outside the Halls of Congress.

When the energy bill passed the House in late May, the New York Times headline read: "Congress Appears on the Verge of Creating A National Policy That Does Not Cover Oil."

The piece quoted Wilfrid L. Kohl, director of the International Energy Program at the Johns Hopkins School of Advanced International Studies.

"I would call [the bill] a positive first step on the way to something we don't ever seem to achieve, which is a comprehensive national energy policy," KOHL said.

Such a policy, he said, would require a stiff gasoline tax.

The article also quoted Eli Bergman, director, of Americans for Energy Independence.

"Senators and Congressmen will whisper that the thing that would do the most would be a $1 hike, in the gasoline tax," Bergman said.

He continued: "They'll whisper it, but they won't do anything abut it."

In June, the Washington Post ran an op-ed by J. Robinson West, president of the Petroleum Finance Co., Ltd., declaring:

> The energy bill * * * ignores, the fundamental issue, surrounding energy, and represents a refusal, to make, difficult choices.

He continued,

> Congress, and the administration know how to reduce our reliance on oil, but they are too timid to act.

He went on:

> Almost every other government has had the courage to raise the price of gasoline, with the result being enhanced fuel effi-

ciency, and conservation. Unfortunately, a gasoline tax is considered a grudge tax that Americans don't want to pay, and their politicians, on either side of the aisle, and both ends of Pennsylvania Avenue are not about to propose it even if they know, it will work.

I did raise the gas tax issue on the first go around with this energy bill.

Realizing that this question is a very sensitive one, I offered a modest amendment, expressing the sense of the Senate that the Congressional tax committees study the question of whether we ought to shift some of the existing income tax burden to motor fuels.

The concept is straightforward: Reduce the income tax which on the margins discourages people from working and investing and place the tax instead where it will result in "less pollution" and "greater security".

If a phased-in 40-cents-per-gallon increase were chosen the tax credit would amount to $215 for individuals and $431 for married couples filing jointly according to Joint Tax Committee estimates.

This proposal should not be all that hard to swallow.

I personally would prefer a tougher approach, and have long advocated using revenues from an increase in the gas tax, to reduce the budget deficit, and/or invest in our basic infrastructure.

And I am pleased that recent proposals put forth by Paul Tsongas and Ross Perot to reduce the deficit, by increasing the gas tax by 50 cents, have been received favorably by serious observers.

But I have been persuaded that if we try to hit two birds at once—energy conservation and deficit reduction—we are likely to end up with neither.

So for now, I am pushing a tax shift rather than a tax increase. And will continue to pursue deficit reduction through other measures.

My amendment to study tax shifting, which was adopted in February and is part of the pending bill, represents a small step forward on an extremely difficult issue.

I do not plan to offer an amendment to increase the gas tax, at this time.

I realize that in an election year, the chances of passage are virtually nil, and that a negative vote now, on this issue, could actually damage its chances, in the future.

I am willing to be patient, because I am confident that once the Finance Committee looks at the gas tax more closely, the rationale for reform in this area will grow; and that building on existing information, we will, over time, forge an overwhelming argument, that a serious national energy policy requires the imposition of a conservation tax.

The case is already building.

Since the Senate adopted my amendment in February, two independent studies have further strengthened the case for imposing a conservation tax on motor fuels.

In April, the National Research Council, the research arm of the National Academies of Science and Engineering, released a 10-month study which found that increasing gasoline prices, was in many ways, a more preferable way of achieving energy conservation, than increasing CAFE standards.

The study, entitled "Automotive Fuel Economy: How Far Should We Go?" found that while CAFE standards are at odds with market signals—because increasing efficiency makes driving cheaper—increasing fuel prices would send an unmistakably, clear signal, to conserve.

In June, the World Resources Institute came out with a fascinating study, which found that the economic, environmental, health and security costs of driving, not covered by the current gasoline tax, total $300 billion a year.

To accurately reflect the true costs of driving—highway construction and maintenance, highway services, commuter parking, air pollution, global warming, national security risks, congestion, accidents, and noise—the study found that motor fuels taxes should rise more than $2 per gallon above their current levels.

Now, I realize that most politicians think that voters will not understand issues of externalities and social costs; but make no mistake: The American public knows the cost of foreign oil dependence all too well.

They know that in the late 1970's, our dependency cost us jobs, while in the early 1990's, it cost us lives.

They know that more than 100 of our Nation's cities are so polluted, in large part by automobile emissions, that they do not meet Federal clean air health guidelines.

They know the gridlock they face commuting each morning is getting worse and worse.

Mr. President, I am determined to move forward on this issue.

I am advised that pursuant to the sense of the Senate amendment, the Finance Committee has requested that the Congressional Research Service [CRS] study this issue.

I think this is a positive step, but it is my hope that once this study is complete, the Finance Committee will hold hearings on this subject.

I know that when I testified before the Finance Committee in mid-February, the chairman stated his interest in considering this proposal, and I look forward to working with him, on this issue in the future.

Mr. President, I thank the Chair. I thank the chairman of the Energy Committee for permitting me to offer these few words. I yield the floor.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Symms-Graham amendment, which recurs.

Mr. JOHNSTON. Mr. President, Senator METZENBAUM has now removed his objection, and we are ready for the adoption of that amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2784) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we are now ready for the Rockefeller amendment which is, as I look over this list of potential amendments, really the last really essential amendment to be considered. That is not to say that it will be the last amendment to be considered. So let the word go out to Senator ROCKEFELLER, wherever he is, to please come in and deal with his amendment. In the meantime, I suggest the absence of quorum.

Mr. WALLOP. Mr. President, will the Senator withhold?

Mr. JOHNSTON. Mr. President, I withhold.

Mr. WALLOP. Let me add my urgings to those of the committee chairman. This is an amendment which I think will arrive without need for considerable debate or controversy. But if that is not the case, it really belongs being in front of the Senate as soon as possible so that we can dispose of the amendment. A great deal of work has gone into the negotiations that brought us to this point, and the Senate needs time to consider it carefully.

I do not have any idea how long it may be debated, but should there be a desire to have extended debate, the Senate is entitled to have the debate begin as soon as possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we have just asked for a hot line to go out to ask Senators if they have additional amendments. We know there is a Rockefeller amendment which we are prepared to accept basically without debate, unless there is some unexpected glitch in the amendment. The rest of these amendments appear to us, Mr. President, to be the kind of amendments that may, and we hope will, go away when pressed to the issue.

So we are putting out a hot line. If we are lucky, we can finish this up in time for everyone to get away for an early dinner. If Senators are really serious about some of these amendments, we may be here several days. We hope it is an early dinner, Mr. President, because I know there are a lot of Senators who are anxious to get away because they told me that they are. The hot line will go out.

Mr. WALLOP. Mr. President, I urge my colleagues on my side of the aisle to consider carefully how valuable a contribution their amendments may be to the process of America's energy policy. If they can find it in their hearts to look to another time, look to another vehicle, we would be most grateful. At any rate, I do urge my colleagues to make known their intentions so that we can draw a circle around this bill and at least get this energy policy to conference where it really belongs.

I urge a prompt response. Once again, we urge the arrival of the Rockefeller amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2786

(Purpose: To extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978)

Mr. JOHNSTON. Mr. President, I will send an amendment to the desk. It is somewhat in the nature of a technical amendment on behalf of Senator BROWN which extends the date of the Uranium Mill Tailings Radiation Control Act of 1978 from 1994 to 1998.

I say it is in the nature of a technical amendment because we think we can probably deal with this problem on the basis of the present legislation, that is, S. 1220, the bill presently under consideration. But it is probably prudent to accept this amendment. So I send that amendment to the desk at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BROWN, proposes an amendment numbered 2786.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . URANIUM MILL TAILINGS RADIATION CONTROL ACT EXTENSION.

Section 112(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7922(a)) is amended by striking "1994" and inserting "1998".

Mr. BROWN. Mr. President, I am pleased that the Senate has agreed to include my amendment, which will reauthorize the Uranium Mill Tailings Radiation Control Act of 1978, as part of the committee substitute amendment to H.R. 776, the Energy Efficiency Act.

In October 1991, I introduced S. 1885, which would have reauthorized the Uranium Mill Tailings Control Act of 1978 and extended the Uranium Mill Tailings Remedial Act [UMTRA] Program through September 1998.

Uranium ore was processed in large part by private companies for use by the Department of Defense from the 1940's through 1960. Once the contracts between these companies and the Federal Government were completed, the uranium mills were shut down and large piles of uranium tailings, which contain radioactive elements, were left on site. Recognizing the threat to human health and the environment that the tailing posed, Congress enacted Public Law 95-604, the Uranium Mill Tailings Radiation Control Act of 1978.

Since the law's inception in 1978, the Department of Energy and affected States have worked together to make the UMTRA Program a success. DOE, in conjunction with the States is responsible for the cleanup of 24 inactive uranium mill tailings sites in 10 States. Under the act, DOE provides for 90 percent of the costs associated with the UMTRA Program, while the States contribute 10 percent. To date, the cleanup of nine of the sites has been completed.

While significant progress has been made cleaning up these sites, we have been told by DOE that remediation of all 24 sites will not be completed by the stated expiration of the act in 1994. Of the sites in Colorado—Durango, Grand Junction, Gunnison, Maybell, Naturita, Rifle, and Slick Rock—only the Durango site has been remediated.

It is critical we assure affected States and communities that the program will continue, so that cleanup of all sites can be completed and the health and environmental risks associated with these tailings can be eliminated. The extension of the act also ensures the ability of States to budget for their required cost-sharing contributions to the program.

This amendment will ensure the Federal Government's commitment to the cleanup of these sites.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2786) was agreed to.

Mr. WALLOP. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we now have the results of our hotline back. On our side of the aisle, the only amendment requested is the Rockefeller amendment.

I see Senator ROCKEFELLER on the floor, and we are prepared to do that now.

I wonder if the Senator from West Virginia [Mr. ROCKEFELLER] would tell me how much time he would like.

Mr. ROCKEFELLER. I say to the managers not more than 5 minutes for the entire amendment.

Mr. WALLOP. My suggestion is if that is the case, why do we not take 20 minutes, equally divided, with the intention of yielding back whatever time out of that that is not used.

Mr. ROCKEFELLER. That is fine by this Senator.

I say to the manager on the Democratic side, we are awaiting the arrival of Senator FORD.

Mr. JOHNSTON. Mr. President, I think we can go ahead and get these amendments identified at least.

Mr. President, I ask unanimous consent that the only amendments to be considered on the pending legislation H.R. 776 are as follows: A Rockefeller amendment with respect to coal miner health; a Dodd amendment with respect to rollup securities.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

There is now pending before the Senate a unanimous-consent request propounded by the senior Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I withdraw that request.

AMENDMENT NO. 2787

(Purpose: Substitute for the coal health provisions)

Mr. ROCKEFELLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 2787.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Subsequently, the following occurred:)

AMENDMENT NO. 2787, AS MODIFIED

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that my amendment be modified with the changes that I now send to the desk. And in case anybody is nervous, it is a simply a collating matter. We were advised by legislative counsel to do this.

The PRESIDING OFFICER. The amendment is so modified.

(The text of the amendment (No. 2787), as modified is printed in today's RECORD under "Amendments Submitted.")

Mr. JOHNSTON. Mr. President, I ask unanimous consent that there be a time agreement on the pending amendment of 20 minutes, equally divided between the Senator from West Virginia and the Senator from Wyoming, and that no second-degree amendments be in order.

The PRESIDING OFFICER. Is there objection.

Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, the Senate can be proud, the American people can be proud, that this legislation will see to it that the promise of health care is kept to tens of thousands of retired coal miners and their families.

Everyone acknowledges that these elderly people deserve their health care coverage. They earned it in some of the most dangerous and important work in America. As former Secretary of Labor Dole's Coal Commission said very simply, the commitment to health care benefits should be honored.

The history of the two financially troubled health care trust funds can be traced back to an historic 1946 agreement between the mine workers and the U.S. Government. Labor and industry leaders were called to the White House after President Truman seized the mines during a strike over the deplorable state of health care in the coalfields.

The world and the coal industry and health care in America have changed in many ways since then. Skyrocketing health care costs and a crazy quilt of court decisions on company liability have badly eroded the financial condition of the retired coalminer trust funds.

But certain things have not changed. Health care is still one of the most important things in the life of a retired coalminer. The need remains for statesmanship among industry and labor leaders in ensuring that there is good health care in the coalfields.

During the last few weeks I have been involved in intense and lengthy negotiations on this legislation. We have debated arcane points of law and obscure data about every facet of the coal industry.

But we must never forget that what is important here is the people involved.

Many of these retirees were born in the early decades of this century. Their active days in the mines were in the 1930's and 1940's and 1950's. They remember the days of the pick and shovel and dynamite, when caveins were not uncommon and methane explosions often brought sudden disaster.

These miners gave so much for our country. They fueled American industry to a position of world leadership and sustained the country as a bulwark of freedom in hot war and cold. What they won for themselves and their dependents was not a favor but what they paid for at a high price, often with their lives.

In the deal that created this health program in the 1940's, the miners agreed to mechanization of the mines, opening the way to the industry's prosperity. The miners knew that tens of thousands of jobs would be lost but that they would have good health care in their twilight years. The industry knew its labor costs would fall. This legislation is needed to see to it that the deal is honored. Mechanization is creating a very different economic future for the coal industry. But this legislation is needed to honor an historic promise from the past—to take care of the people who made industrial history.

In the coalfields, family is everything. Working together, families created riches for the coal industry and for the country. The modern industrial might of America rose on the backs of these families. To tell the story of one of many thousands of those families, I invited a widow from my own State of West Virginia to testify before my subcommittee last fall.

Dixie Woolum told us how in the late 1940's the health trust funds transformed health care in the coalfields. She said that her husband told her that if anything happened to him, she would be taken care of. Because of financial trouble in the funds and legal loopholes, however, things did not go smoothly. Her health benefits were cut off and it took lawsuits to get them back for people like Mrs. Woolum.

Mrs. Woolum spoke for herself and many thousands of others when she said:

> My husband was a devoted man to his work. He worked in bad conditions, but he never missed a day. * * * It is a blow in the face to think some day you have health coverage and the next you have nothing. * * * I am not an educated person, but I do know what is right and what is wrong. I hope through your work, this will not ever happen again to anyone else.

If this legislation is enacted into law, as I believe it will be, Mrs. Woolum's wish that others will be spared her difficulties will be fulfilled. Some say today that those who have worked hard and played by the rules have been slighted in America in recent years. Here is an opportunity to prove that isn't so. Here is an opportunity to show the world an older America and one that we can begin to rebuild here today. An America where those who work hard and do what is right for their country received in return their country's gratitude.

This has been one of the most contentious pieces of legislation I have worked on in the Senate. But I have said from the beginning that my goal was to protect the health care of retired coalminers and their families, and that I was not wedded to the details of how to do it. To get past the contentiousness, I have tried to listen to all concerned and accommodate as many suggestions as I could. That will continue to be my approach as the legislative process continues.

The legislation we consider today is significantly different from the bill I introduced last November. Instead of including a broad industrywide tax, the basic funding mechanism of this legislation generally requires premium payments from those for whom the retirees worked. These are the responsible companies. Under both bills, companies with retirees still in the existing health funds would pay for their own retirees. We must stop the past practice in which existing companies dump their responsibilities onto the companies that have faithfully kept their commitments.

The key difference between the two bills relates to the funding of health benefits for the orphan retirees. In general these are the people whose companies are out of business. Under the earlier bill, the tax would have funded those benefits. Here, in general, the responsible coal operators and related companies will fund the benefits. The two existing health trust funds will be folded into a new, combined fund, in general for current fund orphans and nonorphans. Additionally, a new 1992 fund will be required to provide for certain other retirees, including those who might be orphaned by future bankruptcies or liquidations.

The approach of the current legislation was not lightly arrived at. Lengthy and difficult negotiations were required because of the myriad of conflicting interests in our nationwide coal industry. As the Dole Commission indicated, more than one approach might be reasonable and fair.

The current approach is the one sought by the administration and in the end it appeared to be the one most likely to command a consensus in the legislative process. Under this legislation, the current health benefits will be preserved. The approach of this legislation rests on the important principle that responsible companies should bear the cost of these health benefits. It is a rational approach. It is a fair approach. It is a good and reasonable way for

Congress to see to it that the country keeps its word to the retired coalminers and their families.

That the country must keep its word to these elderly people is the ultimate meaning of this legislation. Many Senators and other people have worked hard to see to it that the promises are kept. I express my gratitude for his assistance to my senior colleague from West Virginia, Senator BYRD. I express my gratitude to Senator WALLOP for his cooperation and to Senator FORD and many others.

As the poet, Robert Forst said, "we have promises to keep and miles to go." But we will have taken a big step toward our goal when we pass this legislation. The Senate can be proud of it. The country can be round of it. The country can be proud of itself. Keeping this kind of promise is what America is all about.

Mr. BYRD. Mr. President, will the Senator yield to me briefly?

Mr. ROCKEFELLER. I am pleased to yield.

Mr. BYRD. I thank my colleague.

Mr. President, the purpose of the amendment offered by my colleague from West Virginia, Mr. ROCKEFELLER, is a simple one: it is to assure more than 100,000 retired coal miners and dependents that they will continue to have access to adequate health care beyond February 1, 1993.

It is to assure tens of thousands of retired coal miners—many of whom are in poor health, and all of whom who risked their lives to provide our Nation with the energy resources that made America the great economic and industrial power that it is today—that promises made to them during their working years are not now, in retirement, in their "golden years", going to be reneged upon.

It is to assure tens of thousands of dependents of such retirees, many of whom who saw their fathers, brothers, husbands, and sons sacrifice life and limb thousands of feet below ground in the dark and cramped recesses of an underground mine, and who must now watch their loved ones suffer the ravages of black lung and other debilitating health problems resulting from their work in the coal mines of America, that the health benefits upon which they so critically depend will not be suddenly taken away.

This amendment is about honoring commitments. It says that when promises are made, promises will be kept. It is that simple.

Yet, getting it to the floor has been anything but simple. The road has been long, filled with many twists and turns, and always seeming to be on an uphill climb.

My colleague, Senator ROCKEFELLER, however, has shown great patient and perseverance in seeing this matter through.

I know how hard he has worked to bring this amendment to fruition. He has talked with me from time to time about it. I commend him on a job very well done.

In addition, I wish to commend the Senator from Kentucky [Mr. FORD] and all of those who have worked so hard to bring this to a successful conclusion.

As a result of this amendment, Mr. President, retired coal miners and their dependents will no longer need to fear the loss of the health care benefits. Through the merger of the 1950 and 1974 United Mine Workers of America Benefit Funds, retired mine workers will continue to receive health care coverage through a new combined fund. Their benefits will be provided by those companies that are now or formerly were signatories to a National Bituminous Coal Agreement. It is these companies that made the promise of health benefits to their workers, and it is appropriate that these companies be collectively asked to provide these benefits.

And this amendment accomplishes that.

Again, I want to pay my highest compliments—and I fall short of the appropriate words to do so—to my distinguished colleague, Senator ROCKEFELLER. He has had his mind and his heart on this amendment for months and months, and he has spent many, many long hours in pursuing those efforts in support of the amendment over these many, many months.

I take my hat off to him. I admire him for his tenacity, his perseverance, his high purpose, and his faithfulness to duty, as he has toiled along the way to make this amendment a reality. It deserves the support of every Member of the body.

I close by once again commending my colleague, Senator ROCKEFELLER, and by thanking Senator WALLOP and the others who worked with Senator ROCKEFELLER on this matter for so long a time.

Mr. President, I thank my colleague for yielding, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming controls 10 minutes, and the Senator from West Virginia controls 3½ minutes.

The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I yield myself 4 minutes.

Mr. President, let me give my thanks back to Senator BYRD, Senator FORD, and Senator ROCKEFELLER. They know, and Senator JOHNSTON knows, and others know I did not want this provision on this bill. It is not energy legislation.

It was, nonetheless, part of the vehicle that arrived from the Finance Committee, and it was a circumstance with which we had to deal. It was not a question of wishing to, wanting to, not caring for, wishing to avoid, or not wanting to deal with the issue of the so-called orphans. I mean, they were never an issue. It was a question as to whose responsibility they were.

Negotiations were correctly described as difficult. But they were always conducted with at least a reasonable understanding of what was on the other side's plate, and what was causing difficulty.

To that end, I particularly wish to thank the administration's folks who came to help us: Tom Scully, Gail Wilensky, and Barbara Selfridge.

I also wish to thank Paul Joffe, Jonathan Wood, Kennie Gill, Ellen Doneski, and Jim Fransen, of the legislative counsel.

Of my own staff, Micheal Hoon; and of the Energy Committee minority staff, Marian Marshall and Gary Ellsworth.

I think it is fair to say these people put in probably longer hours on the resolution presented by this amendment than the collection of the other amendments which will come to rest on or around this bill.

I believe that the resolution which we have arrived at is as fair as we could possibly make it. I thank Senator BYRD, Senator ROCKEFELLER, and Senator FORD for their efforts to come to agreement, and for their understanding of the problems that the original amendment presented to me.

All of us have things with which we take some satisfaction. In this resolution, all of us wish there were some little piece of it that we could have left as originally drafted, or not have included even as finally drafted.

But, having said that, I think it shows the best traditions of the Senate that a resolution to a very sticky, very thorny problem was arrived at in as fair and equitable a manner. And the best part of it is that the innocents in the program, whose plight brought us to the table, have had their interests protected and assured.

Fundamentally, I think that was never a question that any of us wished to avoid. It was always my intention, certainly, that that should take place.

Mr. President, I would yield the remainder of the time that I have to Senator SPECTER.

But I would just like to make the following statement: That the amendment does not void the litigation known as the Evergreen case. I want to make clear that it is the Senator's intention that any liability ultimately assessed in that litigation shall apply only to that prior to the date of enactment, and not to future obligations.

It is also my understanding that moneys that may be paid for past liability will not be interpreted as contributions which were actually received after 1997 and before July 20, 1992, by the 1950 UMW benefit plan, or the 1974 one.

Mr. President, I yield the remainder of the time to the Senator from Pennsylvania [Mr. SPECTER].

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SPECTER. Mr. President, I thank the Chair, and I thank my esteemed colleague from Wyoming for yielding time.

Mr. President, I join in supporting this important amendment. I congratulate my colleagues for working out a very, very difficult issue. I compliment the Senator from West Virginia for tackling this complex matter, and for shepherding it through the stages which we have arrived at here today.

I know from personal experience the tremendous anguish of the retirees from the coal industry, because we have many of them in the Commonwealth of Pennsylvania. This issue was brought to my attention by repeated visits in western Pennsylvania, and especially southwestern Pennsylvania.

Last January, I went to Washington, PA—they call it "Little Washington"; maybe they should call it "Big Washington," but they call it "Little Washington"—to meet with several hundred of the coal retirees. During the course of that meeting, I heard of the kinds of problems that they were sustaining. It is especially tragic because they had expected to have benefits to have protected them from the ravages of aging, and the ravages of the need for medical care.

As this matter has worked its way through the legislative process, there have been a great many who have contributed. The Senator from Kentucky is on the floor. I really observed—participated to a slight extent, but really observed—the negotiations one evening last week with the chairman of the Appropriations Committee, attended by the majority leader and the Republican leader.

I believe this amendment takes the issue away from a contentious debate and a contentious vote and works it out, I think, on terms which are highly acceptable.

Again, I thank my colleague from Wyoming for yielding me time, and I yield the floor.

Mr. FORD. Will my distinguished friend from West Virginia yield me some time?

Mr. ROCKEFELLER. How much time remains?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent for about 2 minutes after that.

But I yield the remainder of the time to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

I am sorry, the Senator from Kentucky is recognized.

Mr. FORD. We have been giving so many accolades to the distinguished Senator from West Virginia we think we are all from West Virginia. I have been called a third Senator from West Virginia, and I do not mind that at all.

Mr. President, let me first say to my colleagues and good friends—Senator JAY ROCKEFELLER, you just could not ask anyone to work any harder and be more dedicated than he has been on this issue; and Senator BYRD, with his expertise and ability to work out the funding formula; and Senator MALCOLM WALLOP with his good, hard negotiation—that their leadership and untiring effort, in my opinion, has produced this compromise.

It was not always clear that we could accomplish our goal of protecting the health benefits of retirees and their families in the coal fields, including over 16,000 retirees in Kentucky. But after days, hours, and weeks of negotiations, we have achieved that end.

Throughout this process, I have had two goals: first, to ensure that the beneficiaries of the UMWA Benefit Funds did not lose their much needed health care benefits, nor have them interrupted; and second, that the funding mechanism for paying for these benefits not include a new tax on coal companies that were never a part of this problem.

This bipartisan compromise accomplishes both of these goals and I am pleased to support this agreement.

My main interest in this process has always been to protect the retirees who were promised lifetime benefits, without imposing a burden on Kentucky coal that would be devastating to our ability to remain competitive.

I can remember standing in the hot burning Sun on a Saturday afternoon in July at the courthouse in Harlan County, KY. The Junior Chamber of Commerce, the Jaycees at that time, had raised funds for a memorial for all those who had lost their lives, in Harlan County alone, working in the coal mines.

Close to 1,400 names were on that memorial. They were the names of hard working individuals that literally gave their lives to produce the energy that the rest of us in this Nation need to live our lives. Theirs was truly the ultimate sacrifice, in one of the most dangerous jobs I know.

And when I remember that hot July afternoon, I remember the wives, and the children, and the families that were there that day to honor their loved ones. It is for these families, and the promise given to their loved ones that if anything happened to them, their families would have lifetime health care benefits, that I remain committed to seeing this reasonable, and fair, legislation signed into law.

This bipartisan compromise ensures a permanent and stable funding base for the health benefits of existing retirees. It also puts in place a procedure whereby the United Mine Workers and the Bituminous Coal Operators will negotiate a new fund to ensure that the health benefits of a limited number of future orphans will be protected.

Many of the changes I sought to have incorporated into the original proposal have been adopted, and I am most grateful to my colleague, Senator ROCKEFELLER, and his most capable staff, for accommodating me. There is no new tax on nonsignatory coal in this agreement. We have closed the new orphan fund so to limit the problem and ensure a long-term solution. We have attempted to allocate costs according to the principle that those most responsible should bear the greatest portion of costs. And we have ensured that our retirees, and their families, will not have to bear the cost of future problems.

Of course, this is a negotiated settlement. And as with any compromise, no one Member, or party, got everything they wanted. But I believe that we can truly say that all of us, and the Nation as a whole, got something. And that is a stable coal industry that will not face the heartache and trauma of a nationwide coal strike next February. Coal can be the key to our energy independence, and this agreement we are adopting today will ensure the long-term stability, and competitiveness, of this industry.

I commend my colleague, Senator ROCKEFELLER, for his tireless efforts to resolve this problem. I also want to commend Senator BYRD and Senator WALLOP for their crucial participation in bringing together this compromise. and recognize the considerable contributions of the White House in putting this bipartisan compromise together.

The retirees owe Senator ROCKEFELLER a great debt of gratitude for ensuring that a promise made to them can be kept. This Nation owes the same gratitude for achieving a solution that is fair, and ensures that the coal industry, as a whole, can continue to prosper.

Mr. President, not many times do you have an individual that works on your staff that is as dedicated as one Kennie Gill on mine. She has worked diligently. She has never given up. She has stood her ground on occasions when it was necessary. I am very pleased that she is an individual that represented me in this negotiation. And I want to pay a compliment to her, to Paul Joffe, to Gary Ellsworth, to Ellen and Doneski, others that worked so hard as staff to be sure that this piece of legislation was put together.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. Will the Senator yield me 30 seconds?

The PRESIDING OFFICER. The Senator has no time to yield.

Mr. WALLOP. Mr. President, I yield the remainder of my time, first, to Senator JOHNSTON and the remainder to Senator ROCKEFELLER.

Mr. JOHNSTON. I thank my colleague.

I simply wanted to state my admiration for the distinguished junior Senator from West Virginia, Mr. ROCKEFELLER; to Senator FORD, from Kentucky; to Senator WALLOP; to the senior Senator from West Virginia, Senator BYRD; and the other Senators who have been involved in this matter.

Frankly, I thought they would never do it. I thought this amendment was a dagger pointed at the heart of energy legislation and that we would be dragged down into the mire of the impossible dream of getting this legislation passed. But the distinguished Senator from West Virginia, with his stick-to-itiveness, with his good humor, but with his absolute devotion to this idea, came and brought the parties together in an impossible dream.

It really is impossible the way he brought us to the brink of disaster and, at the last minute, scooped the baby off the tracks and in the process saved the coal miners of West Virginia. I hope they will always be grateful to him and to the Senator from Kentucky and the Senator from Wyoming, because they have accomplished the impossible.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

Mr. ROCKEFELLER. I yield one of those minutes to the Senator from Pennsylvania [Mr. WOFFORD].

Mr. WOFFORD. Mr. President, as a cosponsor of this amendment and as a supporter of the energy bill, at this creative, constructive and historic moment for coal miners and their families, I want to salute Senator ROCKEFELLER for his dedicated, outstanding leadership. Indeed, I salute the two Senators from West Virginia, Senator ROCKEFELLER and Senator BYRD our President pro tempore, as well as Senator FORD and my other colleagues who made this important solution possible. I see it as a promise fulfilled, a commitment honored.

America's retired coal miners have worked in dangerous, dirty and often unhealthy conditions and they were promised health care benefits. Coal remains the single largest source of energy in the United States and it is the miners who deserve the benefits promised them.

Like other Americans, coal miners went to work each day under the assumption that their health benefits would be there when they retired.

This amendment helps ensure that promise is kept.

Today, that promise is being broken for thousands of retired coal miners and their families. Not because they didn't work hard enough. Not because they didn't plan ahead. But because of economic forces over which they have no control.

Through no fault of their own, miners have become orphans in their retirement years. Their former employers have gone out of business or simply no longer make contributions to the existing health benefit trust funds. Now our miners have no place else to turn except here, to their Government. They played the game by one set of rules all their lives, and now somebody's changed the rules on them.

In large parts of Pennsylvania generations of miners have worked for over a century to bring coal out of the ground and provide the fuel that powered America's industrial might. In communities built by immigrants who came to this country looking for a better life for themselves and their children. Generation after generation, they were more than willing to work hard to fulfill the dream. Of a secure retirement if you work hard; of helping your children go to college if they study hard; of owning your own home if you save; and of having a doctor if you need one.

They did not expect anything handed to them on a silver platter. But they also did not expect to have the rug pulled out from under their feet when they retired.

For the miners and their families losing what they thought were guaranteed health benefits, the safety net is broken. Congress can fix it and this amendment on which the Senator from West Virginia has worked so hard over the last year will do it.

In 1990, a commission appointed by then Labor Secretary Dole, and chaired by former Secretary William Usery, addressed the problems facing retired miners. It reached a conclusion that ought to be a matter of common sense and basic fairness: that retired miners are entitled to the health care benefits they were promised and such commitment must be honored today. The basic recommendations of the Dole commission are contained in this amendment.

It is time for us to enact them into law. It is time to commit our will and our wallet to taking care of our own people and our own problems.

The health benefits provided to coal miners under this amendment are nothing more than what they are due. They worked hard for their retirement years. They have earned some peace of mind and a decent, healthy quality of life. This is not a handout. This is not a giveaway.

This amendment represents a promise kept, a commitment honored.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator from Pennsylvania, the Senator from Kentucky, the Senator from Louisiana, and the Senator from Wyoming.

I also want to thank Kennie Gill, with Senator FORD; John Wood, with Senator BYRD; Gary Ellsworth and Mike Hoon, with Senator WALLOP—all of them have been overwhelming; Jim Fransen, one of the Senate legislative counsel, who has not been mentioned. The degree of work the people like that put in, the public has absolutely no idea how deep that is.

I am very grateful to Tom Scully, Gail Wilensky, and Barbara Selfridge, of the White House, all of whom, once they came into the process, were dealing in very good faith and very constructive.

I want to say, however, that the individual who sits beside me as I now speak, Paul Joffe, stands out to me in heroic terms on this. For 3 years, without stopping, he has made this his cause. Last week, a colleague measured the amount of time that he spent on this particular project during the course of the week, and it was 120 hours. That was a typical week for him.

People out there do not know that people in the Senate work as hard as they do, that the staff works as hard as they do. To me, Paul Joffe, who sits at my side, my legislative counsel on these things and my counsel on many things, stands as a model of public service.

I think it is an inspiration. There are tens of thousands of coal miners out there who owe their health benefits to him and they do not know that but I so state them to him at this point.

I also want to thank Ellen Doneski who helped Paul and myself for this.

Mr. President, I conclude simply by saying that all of these things are terribly important because the work of the Senate is done by a combination of the willingness of Senators to dig in and take a position and then reach consensus. But all of the most difficult of all of that work is done by the staff of the Senate. That point constantly needs to be made.

I thank the Chair and I conclude by thanking Senator JOHNSTON for his extraordinary patience in this whole process. There were times when he was not actually in such a good mood. That simply reflected his desire to get on with the matter. I am very grateful to the Senator from Louisiana.

Mr. LIEBERMAN. Mr. President, Senators ROCKEFELLER, FORD, BYRD, and WALLOP have worked long and hard to craft a compromise provision on coal industry retiree health benefits which balances the needs of the United Mine Workers of America [UMWA] retirees and the interests of domestic and foreign coal mining companies. The task has been a difficult one because of the divergent interests among all the parties involved—union and nonunion coal companies, western and eastern coal companies, those who signed the 1988 BCOA–UMWA agreement and those who have separate agreements with the UMWA.

I am particularly concerned about those companies that previously were signatories to a BCOA–UMWA agreement and now have separate labor agreements with the UMWA. In the case of the Pittston Co., which is headquartered in my State, they are being required to pay for retirees in the new Government fund created by this provision despite the fact that they had negotiated this issue as part of a separate UMWA collective bargaining agreement. I am concerned that Congress should not be in the business of abrogating collective bargaining agreements, except in the rarest circumstances. Congressional interference in the collective bargaining process could have troubling long-term repercussions. We should not be changing contract terms retroactively by congressional action.

I am also concerned about Congress interfering in pending court cases. In this instance, the evergreen case has been brought to determine Pittston's liability under its prior UMWA agreements. It would appear that the most appropriate way to resolve this issue is to allow this case to proceed to final judgment.

The Pittston-UMWA contract resulted from a painful, 14-month-long strike and is an elaborate agreement with contingencies to cover the possible outcomes of the evergreen lawsuit and an agreement not to support legislation which would impose a reachback obligation on the company. I am concerned by the fact that the action we take today abrogates a collective bargaining agreement which I believe was negotiated in good faith.

I am also troubled because this provision poses serious economic difficulties for those companies which export a substantial portion of their coal. Companies like Pittston cannot pass these costs through on the international export market, while those coal companies who sell to domestic utility companies have contracts which allow them to pass through Government mandated costs. Last year Pittston exported approximately 70 percent of the coal it mined. These exports are important to the economic strength of the United States. Particularly given the current state of our economy, we should be strengthening not undermining companies' ability to compete abroad.

I hope those who have drafted this provision will consider in conference establishing an export credit for those payments mandated by the provision. The credit would be based on the amount of coal mined in the United States and exported and should enable exporting companies to continue to compete on the international market. We cannot expect coal exporters to compete in the international market if their product is burdened by excessive Government fees or taxes. If these companies cannot continue to export coal, it is their employees in this country who will suffer. I appreciate all the hard work my colleagues have done thus far on this provision and I look forward to working with them as the bill goes to conference.

Mr. SIMON. Mr. President, I am proud to cosponsor legislation introduced to ensure the provision of health care benefits to retirees of the coal industry. I want to thank my good friend and colleague, Senator ROCKEFELLER for his hard work in drafting the provisions of that bill and working out this amendment. I also want to express my appreciation to all the other Senators who have also worked hard on this legislation.

Coal industry workers have contributed significantly to providing energy consumed in the United States and abroad. It is vital to every worker as well as the American economy that we maintain a stable and strong coal industry. The provision of lifelong health benefits is crucial to ensuring the continued well-being and security of coal industry employees, retirees, and their dependents many of whom work and reside in Illinois.

This bill provides a vehicle for insuring all coal industry employees and retirees, particularly those retirees who have been orphaned by bankrupt companies and coal companies which no longer are in business. As our Nation grapples with proposals for providing insured health care to all individuals, let this proposed legislation stand as an example of how industry producers and consumers should view their responsibilities to American workers. Once again, I am proud to cosponsor this legislation which directly responds to the overdue health care needs of a dedicated and well-deserving group of Americans.

The PRESIDING OFFICER. All time has expired on the amendment. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2787), as modified, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I will just take 30 seconds. I wanted to as a matter of official record thank Senator ROCKEFELLER from West Virginia for his fine work, and tell him I am very pleased to see the extension of benefits to the coal miners.

Mr. President, that is all I wanted to do. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. WALLOP. Mr. President, we are right to the point where with a little understanding and cooperation from Members we could put together an agreement that would limit further amendments, describe those which remain, and there are not many remaining.

It is my hope that those who would once again seek to use this bill for other than energy policy purposes would resist. It is only postponing the time when we might get together a comprehensive energy policy. The Senate's privilege of nongermaneness ought once in a while be viewed with some discretion, and in this instance, it would be my hope Senator JOHNSTON, after working for 18 years on energy policy, and Senator WALLOP, after working 16 years on energy policy, might be indulged and that the Senate, which has already spoken 94 to 4 on its energy policy, might be permitted to work its will on matters relevant to that topic.

So I urge those Senators who are dabbling in the occult, if you will, trying to figure ways to further or impede political careers in a political season might resist that and allow us to go ahead. The remaining amendments that deal with energy can be disposed of with relative dispatch. Those that do not deal with energy will impede our progress more than through the night, probably through tomorrow, and into Friday.

Mr. President, I hope that calm and cool will prevail and we can be permitted to get on with this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2788

Mr. JOHNSTON. Mr. President, I will send shortly an amendment to the desk which broadens a study provided in the bill to provide for a survey of practices and policies under which electric cooperatives prepare least-cost plans, submit such plans to the REA, and the extent to which such least-cost planning is reflected in rates charged to customers.

In other words, it is a slight broadening of the subject matter of the study. It is submitted on behalf of Senator SIMPSON, and I now send that amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. SIMPSON, proposes an amendment numbered 2788.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 274, after line 21, redesignate paragraphs (2) through (4) as paragraphs (3) through (5), respectively and insert a new paragraph (2) as follows:

"(2) a survey of practices and policies under which electric cooperatives prepare least-cost plans, submit such plans to the Rural Electrification Administration, and the extent to which such least cost planning is reflected in rates charged to customers:"

Mr. WALLOP. Mr. President, the amendment has been cleared on both sides.

Mr. SIMPSON. Mr. President, I rise to offer an amendment which would require the Secretary of Energy to conduct a survey in order to examine the practices and policies under which electric cooperatives prepare least-cost energy plans, submit such plans to the Rural Electrification Administration, and the extent to which such least-cost planning is reflected in rates charged to customers. I strongly believe that this important analysis by the Secretary of Energy will be a first step toward ensuring that rural electric cooperative energy goals are in-line with the goals of the entire electric supply and distribution industry.

After a close investigation of demand-side management [DSM] theory, which is supported by the regulated electric industry, and the movement toward integrated resource planning in the Nation's electricity industry, I became curious as to whether or not electric cooperatives are submitting least-cost plans which are comparable to those presently required by Federal and State law to be submitted by privately owned utilities.

Demand side management is a method of improving a utility's financial performance, and philosophically guards against needless capital outlays for construction and operating expenses. It is my strongly held opinion that if the United States is to efficiently meet its energy needs into the 21st century, all providers must be a part of the equation. This amendment moves toward making the rural electric cooperatives part of that strategy and active participants in the process.

I thank the floor managers for accepting this amendment. My fine colleague from Wyoming, Senator MALCOLM WALLOP, has worked doggedly and passionately on this most important bill. His dedication and devotion to formulating legislation that will enhance our domestic energy industry should be commended. I do so deeply thank Senator BENNETT JOHNSTON for his unstinting cooperation in helping to craft this important bipartisan amendment. His assistance is most appreciated.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2788) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I wonder if my distinguished colleague from Wyoming can tell us what the plans are on his side of the aisle for additional amendments.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, that we know of after the hotline, we have a Grassley ethanol amendment, a Dole ethanol amendment, a Dole solid waste disposal act, Senator MURKOWSKI offers a pair of amendments in the form of studies, Senator D'AMATO has an antidumping amendment, Senator STEVENS has a tax credit amendment, which I understand the Finance Committee is working on now and will accept; Senator SIMPSON's we have just adopted; Senator BURNS has a tax credit for oil production tar sands; Senator JEFFORDS for alternative fuels; Senator COCHRAN for windfall profit tax, for school districts in Mississippi. The Senator from Wyoming has one that is called relevant, which is defense mechanism, in case the bill should run out from under us in one way or another.

That is all that we know of.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Texas would be willing to let us get a unanimous consent embodying these amendments along with a Dodd rollup amendment under any formulation.

Mr. GRAMM. If the distinguished chairman will yield, if that amendment were asked for and were put on the list, I would oppose that amendment, and I would request that the Social Security earnings cap repeal, the capital gains tax rate reduction, since this is a tax bill, and the crime bill, also be included on the amendment list.

So I would be willing to enter into a unanimous-consent request embodying these amendments, the rollup amendment, and those three amendments.

Mr. JOHNSTON. Mr. President, I do not know how long Senators want to expect to be protected. But if nothing is happening here, and no one wants to put in an amendment, I will say we will very soon go to third reading. I might say it is time the Senators did say yea or nay as to whether they wish to push an amendment.

Mr. WALLOP. Mr. President, will my colleague yield?

Mr. JOHNSTON. Certainly.

Mr. WALLOP. While we spoke, we disposed of an amendment. Senator COCHRAN will not offer his amendment on windfall profits tax.

Mr. JOHNSTON. Please convey our warmest thanks to Senator COCHRAN. He has risen from the heights to even higher heights in the esteem of the Senator from Louisiana.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, all the people on our side who have amendments have been notified that the bill is open for amendment, that the progress, which has been good all day, is now stalled. I think it is unfair to other Senators. We approach the hour of half past 6, the time is going by, and no amendments are offered.

I would join with my colleague from Louisiana in believing that after a short period of time Senators may not be serious in their intent to offer these amendments, and that we ought to go to third reading.

I share with my colleague from Louisiana a desire to wrap up this bill and would hope that if any Senator is serious about offering an amendment they would show up and do it; otherwise I will join the Senator in the move to third reading.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2789

(Purpose: To amend the Securities Exchange Act of 1934 with respect to limited partnership rollups)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2789.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Committee amendment, insert the following new title:

TITLE ____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. ____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. _____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC. _____03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 17 months after the date of enactment of this Act.

AMENDMENT NO. 2790 TO AMENDMENT NO. 2789

Mr. DODD. Mr. President, I send a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 2790 to amendment No. 2789.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. GRAMM. Mr. President, I object.

The PRESIDING OFFICER (Mr. WELLSTONE). Objection is heard. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

The text of the amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE _____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. _____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. _____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination,

except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC.— 03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) Effect on Existing Authority.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) Effective Date.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be temporarily suspended.

The PRESIDING OFFICER (Mr. Ford). Without objection it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Texas has just advised that some conversations with the Senator from Connecticut might prove fruitful on this matter and he advises that maybe we should set the whole amendment and second-degree amendment aside while those conversations proceed in order that we can maybe perhaps dispose of the remainder of the bill, hopefully.

If the Senator from Connecticut is agreeable to that.

Mr. DODD. To ask unanimous consent, temporarily lay it aside, and it would be the pending matter with no other legislative mater in between, I have no objection to that.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Wellstone amendment, with the second-degree amendment by Senator Dodd, be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we are now ready to do any other business, if any there is.

I suggest the absence of a quorum.

Mr. WALLOP. Will the Senator withhold?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, we are down to the point where this bill could be finished with some dispatch.

The amendment of the Senator from Minnesota, as amended by the Senator from Connecticut, is not energy policy. It is political policy, and I understand that. Everybody here does.

But it is genuinely important, Mr. President, This Senate has spoken on the energy strategy, 94 to 4. We are now down to just one or two amendments which have to do with energy policy. It is my hope that the Senator from Texas and the Senator from Connecticut can come to some resolution of it.

In the meantime, I insist again that our colleagues who have amendments do us the courtesy of coming here to the floor and offering them. It is an abuse of the privileges of the Senate to allow two people to sit here with every intent to managing a bill and disposing of amendments with as much credibility and dispatch as we can.

I would ask my colleagues—it is my understanding that we are the only ones on this side who have amendments remaining, absent that to be settled by the conversations that are temporarily set aside—so I would ask my leader, Senator Dole, or Senator Grassley, or Senator Murkowski, Senator Stevens, or Senator Jeffords, to come to the floor and offer their amendments and do us the courtesy of dealing with the bill with dispatch. We are here and ready to accept those amendments.

And I would say to my friend from Louisiana, that should it be that we arrive at some resolution that can dispose of the amendment now temporarily laid aside, I will join my colleague in calling for third reading on this bill. There is no reason why the Senate should not dispose of this bill or the amendments that are there to be offered. There is no reason for delay.

It is my hope that the two Senators now conversing can come up with a resolution of that which divides them and will permit us to get on to this bill. In the meantime, it is temporarily laid aside.

And I say again to those Senators, if they wish to appear on the Nightly News or whatever, it is a good time. Not much else is happening in America. Otherwise, we will go to third reading.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. Wellstone). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would repeat what the Senator says about senatorial courtesy. There are a number of Senators, this one included, who have highly important matters tonight involving, frankly, my wife, in my own case, and wives of others. And I do not mind at all missing my event tonight, as others do not, if there is business to do.

But, Mr. President, it is not right and it is not fair for Senators to keep us here waiting, not knowing whether Senators are going to put in an amendment or not. It is just not fair.

So I appeal to Senators, in the spirit of Senatorial courtesy, for which this body is supposed to be greatly renowned, to summon up all of their senatorial courtesy and do what they wish to do, either say yea or nay on their amendments, and come to it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I am advised by the Senator from Texas [Mr. Gramm] that we believe we are very close to having the so-called rollup amendment by Senator Dodd worked out; that their staffs will be working. So that we do not expect that amendment will be a matter to prohibit us from going to third reading.

So again I invite Senators who might have business to come before the Senate on this bill to please come because you are now on the critical path. The Dodd rollup amendment, in all probability, is not an impediment to final passage on this bill, in all probability. So we would again invite Senators to come and do their amendments.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I echo once again the plea of my colleague. We would very much like to complete work on this bill. I believe that is within our reach if we could only reach out and touch that which remains to be done. It is perfectly ridiculous that we sit here with nothing to do, our patience and the tolerance of the Senate being abused by colleagues who have amendments, and presumably they or their staffs can hear this plea.

So I urge, again, our colleagues bring these down because should it be that we arrive at the conclusion of the arrangements between the Senator from Texas and the Senator from Connecticut, it will be my intention not withstanding that my leader has one of the amendments left, and other colleagues too, to go to third reading. I have no patience for staying here all night waiting for them to indulge us.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Wofford). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2791

(Purpose: To require the Council on Economic Advisers to complete and submit a jobs survey report on significant public and/or private sector construction, developmental or manufacturing projects scheduled or to be proposed)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 2791.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) JOBS SURVEY REPORT.—Within available funds, the Secretary of Labor and the Secretary of Commerce in consultation with the Council of Economic Advisers and working with other appropriate Federal officials, shall within ninety (90) days of the date of enactment of this Act, submit a Jobs Survey Report to the Congress on significant public and/or private sector construction, development or manufacturing projects under consideration by Congress, scheduled, or proposed to be undertaken or initiated prior to June 30, 1993. For purposes of this section, the term "significant projects" means any new construction, developmental or manufacturing project which will, at its peak, provide new job and employment opportunities to 2,500 or more people within the United States.

(b) In developing the Jobs Survey Report required by subsection (a), the Secretaries shall provide the Congress with the following information on the significant public and private sector projects defined in subsection (a):

(1) the location of the project;

(2) the private or public sector sponsor of the project;

(3) The total capital cost of the project;

(4) the scheduled period for construction and the projected completion date;

(5) the number of jobs associated with the project (by category):

(A) construction;

(B) fabrication;

(C) manufacturing;

(D) indirect; and,

(E) operation and maintenance.

(6) the physical location of the jobs, by state and region, associated with the project;

(7) the impact of the project, when completed, on improving national economic wellbeing and other aspects of the national interest;

(8) the extent to which the project, if undertaken on a timely basis, would reduce unemployment on a national, regional and state basis;

(9) the potential impact of the project on promoting the export of U.S. goods and services and in reducing the balance of trade deficit;

(10) any authorization, regulatory, financing or other impediments which threaten or may threaten to delay initiation of the project in accordance with the sponsor's project schedule; and,

(11) any appropriate legislation action recommended to the Congress to expedite initiation of the project schedule and the creation of new jobs for unemployed American working men and women.

(c) In preparing the Jobs Survey Report, the Secretaries shall devote one section of the Report to a review and analysis of trends underway in the nation's domestic petroleum industry which are causing the export of U.S. capital and jobs. The Council shall analyze the causes of these trends and shall identify the contributing role, if any, of the following factors and make appropriate recommendations to the Congress:

(1) world oil prices;

(2) any decline in technological leadership;

(3) lack of leasing opportunities in prospective areas, including the public lands;

(4) shortages of capital for domestic petroleum development;

(5) tax policy, environmental and other regulatory restrictions which make development and operations more attractive in foreign countries;

(6) significant changes in domestic demand for petroleum products; and,

(7) any reduction in the degree of risk associated with reliance on foreign sources of oil for 50 percent or more of domestic demand.

Mr. FORD. Parliamentary inquiry, Mr. President. Do we need to set aside the Wellstone-Dodd amendments in order to accommodate the Senator from Alaska?

The PRESIDING OFFICER. Not at this time. That consent was previously granted.

Mr. FORD. But that is in perpetuity?

The PRESIDING OFFICER. The latter two amendments will recur upon disposition of this amendment.

Mr. FORD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, we have just conferred at some length on the amendment offered by the junior Senator from Alaska which would basically cover a jobs survey report directing the Secretary of Labor and the Secretary of Commerce, in consultation with the Council of Economic Advisers, and working with other appropriate Federal agencies, to submit within 90 days of date of enactment a jobs survey report to the Congress on significant public or private sector construction, development, or manufacturing projects under consideration by Congress scheduled or proposed or initiated prior to June 30, 1993.

Inserted therein is the notation "with available funds."

The purpose of the amendment specifically requires that the Secretaries provide the Congress with information on the significant public- and private-sector projects identified in various subsections, specifically: Construction—fabrication, manufactured, indirect; operation maintenance; location of jobs; impact of projects; the extent to which the projects are undertaken on a timely basis are made known; potential impact for projects in promoting the export of U.S. goods; any authorization, regulatory financing, and so forth.

Covered in the report is detailed information relative to outflow of jobs in the United States as a consequence of investment overseas and increased dependence on imports.

It is my understanding that the amendment has been cleared on this side by the minority, and I believe the majority has accepted the amendment as well.

Mr. FORD. Mr. President, we have no objection on this side to the amendment as it has been corrected: "with available funds."

Mr. MURKOWSKI. I thank my friend from Kentucky. I urge immediate adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2791) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. I thank my friend from Kentucky, and I thank the staff.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GORTON and Mr. AKAKA pertaining to the introduction of S. 3097 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.").

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR REACTOR LICENSING

Mr. SIMPSON. Mr. President, I wish to speak on the reform of the licensing process for nuclear energy plants which has been approved by both the Senate and the House.

The provisions in the House and the Senate bills are identical and expand upon the Nuclear Regulatory Commission's [NRC] part 52 rule for a combined construction and operating license. A Federal appeals court decided unanimously last week to uphold the NRC's part 52 rule in its entirety.

This provision clarifies that public concerns should be addressed before a spade of soil is turned—not after completion of a plant.

At the Shoreham plant we are witnessing the failure of the existing licensing process, where a completed plant—which never generated a single commercial kilowatt of electricity—is being torn down and dismantled. A true tragedy of fiscal and energy folly.

Under the new proposal once the construction of a plant is approved by the Nuclear Regulatory Commission [NRC], a utility may proceed with construction without the specter of indefinite delays.

The NRC may halt construction at any time if new information arises which the Commission decides is significant with respect to safety.

In any event, any NRC licensing decision may be appealed in Federal court.

ADVANCED REACTOR DESIGNS

The Senate bill requires the Secretary of Energy to submit a 5-year program for the commercialization of advanced reactor technologies to Congress, targeting 1995 for the design completion for advanced light water reactors.

These designs take advantage of natural forces of nature such as gravity and natural circulation of the coolant in order to prevent potential accidents. In the event of an emergency, the reactor is designed to shut itself down and cool without the need for operator intervention.

I am truly pleased with this provision which will encourage safer, more reliable nuclear plant designs and will encourage NRC certification of these standardized designs on a timely schedule designed to meet this country's growing need for new electricity generating capacity.

URANIUM ENRICHMENT RESTRUCTURING

This legislation seeks to take a step toward privatizing the Federal Program of Uranium Enrichment by creating a Government Enrichment Corporation. The Senate has passed this provision many times and we are very familiar with it and now the House has also approved it.

This legislation would provide mechanisms for partial reimbursement of the costs of reclamation and remediation at uranium mill tailings sites.

I am also very pleased to see language which allows for cleanup reimbursements at sites which produced uranium for the U.S. defense program.

NUCLEAR DECOMMISSIONING FUND

I would like to thank my former colleague on the Nuclear Regulation Subcommittee, Senator BREAUX, for all of his fine work to include a provision that he had introduced and I have cosponsored, dealing with the repeal of investment restrictions applicable to nuclear decommissioning funds.

The removal of restrictions of investments, which are currently limited to tax-exempt bonds or Government securities, will open up a wider range of investment options for utilities to consider in managing these funds and will thereby greatly benefit utility ratepayers.

DEPLETION ALLOWANCE FOR URANIUM

I would also like to thank the Finance Committee, and particularly Senators BENTSEN, PACKWOOD, and HATCH for rejecting the repeal of the depletion allowance for uranium and other minerals which the House included as an offset for tax credits for electricity generated using renewable resources.

The depletion allowance provision has been in place in the U.S. Tax Code since 1913.

Over the years, Congress has reexamined whether to reduce or repeal the depletion allowance and each and every time has decided not to tinker with it.

And for good reason—it is an incentive to encourage exploration and capital investment in the high-risk mining industry. I believe this provision is still necessary to preserve our domestic mineral industry during cyclical market downturns and to enhance our international competitiveness.

I trust that the Senate language will prevail in conference so that the tax credit for renewable sources of electricity is not offset by the repeal of the depletion allowance.

ENERGY INDEPENDENCE

Mr. JEFFORDS. Mr. President, I rise again to address the issue of energy independence and our continuing failure to reach that goal. Over the years, particularly most recently, my office has received lots of mail about how the domestic energy industry, particularly our oil industry, is heading overseas and firing American workers. Let me cite some recent figures. Amoco announced recently 8,500 job cuts, Unocal another 1,100. Mobil, the industry that fought so hard against my last effort to save the domestic energy jobs, is laying off 2,000 workers.

British Petroleum is cutting 600 to 700 jobs. Exxon cutting 1,000 domestic jobs. Arthur Anderson predicts 40,000 to 50,000 more job losses in our oil industry. We had 4,500 rigs working in the early 1980's, now we have 645 rigs. Phillips Petroleum cuts 1,350 jobs; Chevron slashes 2,500 jobs; Sun Oil projects firing 1,000 workers, and Shell may fire up to 4,650 Americans.

Even API, the American Petroleum Institute, may trim their staff 10 to 15 percent, according to a June 15, 1992, article in the Legal Times. Fewer lobbyists to oppose energy independence.

According to the Oil and Gas Journal, America will end up losing 411,000 jobs, that's almost the entire population of my State or several other States, such as Wyoming. Between 1981 and 1989, 154 refineries closed in this country, 9 of which were in Wyoming. Refineries closed in Lusk, Osage, Glenrock, Cody, La Barge, Cowley, and Casper. Amoco recently announced that it was closing a refinery in Wyoming as well to bring the number to 10. We have got to stop this loss of jobs.

Some may blame this loss on environmentalism, but that is not the reason. Oil companies are going overseas because they make more money, not because anyone is forcing them to leave this country. There is plenty of oil right here in America without ever touching ANWR or the coastal areas. Greater use of enhanced oil recovery techniques could bring billions of American gallons to market and provide American jobs.

Why are these techniques not being used? Because oil recovery using these techniques is more expensive than conventional oil recovery. It's about economics, not environmentalism. Some oil companies say they have to leave because they cannot afford to comply with our environmental regulations. Well, if this is true, what does this mean? It means they are going to places that let them pollute. They say they have a choice to stay here in America and protect the environment, or go overseas and make more money. What do they choose? They choose to make more money and pollute. That, Mr. President, is the wrong choice and we should not reward those who make that choice.

So where does this leave us? Soon, foreign governments will control the supply of oil, the shipping of oil, the refining of oil, and the marketing of oil. They are doing just what the oil executives of yesteryear in this country realized they had to do to prosper. First, oil companies just refined oil and left the production to others considering it too speculative. Then, they realized they needed to control the shipping. Soon afterward, oil companies got into production, and finally, in I believe, in the 1920's they opened up service or filling stations. They controlled oil from below the ground all the way to the customer, and they prospered.

Now, OPEC and our foreign competitors are doing the same, just as the Abdullah Tariki, the Red Sheikh realized they must do some years ago. They already control the bulk of the world's oil. They are building the refineries. In fact, how many of my colleagues realized that 85 percent of the MTBE for reformulated gasoline we required under the Clean Air Act is not going to be made in America. Did you know that the oil companies plan to import the MTBE and not use American workers? When you voted for the Clean Air Act, as I did, were you voting for foreign jobs? I was not and I am sure you were not. More and more of the finished components and product are being made somewhere other than America. We have lost over 150 refineries in this country, who do you think is making up for this lost production. It is not our workers.

So OPEC controls the supply, is taking over the production, we all know the ships are not registered in this country, and the service stations are next. OPEC country's already own a significant interest in some of our convenience store chains and service stations.

Little by little we are becoming more dependent on foreign energy sources. I believe this is wrong. I believe many of my colleagues also believe this is wrong. I doubt any member of this body will say that domestic energy production is not important. My colleagues from Wyoming, for example, are trying to help their uranium industry when cheaper nuclear fuel is available from the former Soviet Union. My colleagues also worked to change stripper well royalties so as to help domestic oil production. Are these free market activities?

My colleagues from the oil States have tried various measures to protect domestic production from floor prices to import fees to raising the oil production limit for meeting the definition of a stripper well in order to receive favorable tax treatment. These are not free market options.

Why do my colleagues undertake these actions? Because they believe in domestic jobs, and they realize that there is no fee market for energy. Opposing efforts to increase domestic protection on the basis of maintaining a free market is thus highly questionable.

Energy is the lifeblood of our economy. And I do not wish to be melodramatic, but frankly, our energy policy has AIDS. Little by little our economy is being attacked by increasing dependency on foreign sources. Instead of curing the disease we are working all around the problem.

This bill does make some significant advances in such areas as energy conservation. But, there is one area it does not attack, and that is the dependency of our transportation sector on foreign energy sources. My colleagues will point to the fleet provisions of this bill combined with the Clean Air Act as significant efforts toward diversification of fuels. True, but we have not diversified the source of these fuels. With the exception of natural gas, the overwhelming percentage of these new fuels will come from offshore. Again, 85 percent of the MTBE will not be made in America. We have merely traded one dependency for another.

So how do we cure the energy dependency disease? I realize that there is no silver bullet. There are many conflicting goals that we must balance. Do we encourage further domestic oil production now, thereby depleting our reserves for future contingencies? Suppose we had never had a mandatory oil import quota program that the oil companies wanted and got. We would have more low-cost domestic oil available today. So those interested in husbanding our resources should oppose oil import quotas. The same argument can be made about protectionist import fees.

But, on the other hand, if we do not require some domestic production, we lose thousands of jobs. OPEC can underprice us any day of the week and totally shut down our domestic industry. Little by little, that is what they are doing. Once we lose the capacity to produce our own energy, we will be defenseless as a nation. Two world wars were won because we had greater access to energy and could outproduce our enemies. I note with some irony, Mr. President, that when it comes to making weapons, we insist that the weapons be made here, even though they could be made cheaper elsewhere. But, when it comes to the fuels that actually make the weapons work, we adopt some laissez-faire attitude that it does not matter where the fuels come from. This is absurd, we cannot afford to lose our ability to produce energy. Nor can we afford to drain our oil reserves dry until we have developed alternatives to oil.

So again, what is the answer? Handouts are not the answer, international oil companies do not need tax handouts. Oil companies are going to keep going overseas because OPEC oil is cheaper than our oil. But OPEC is smart; they will not kill us off too fast, 8,000 jobs here, 4,000 jobs there. A little at a time so we, the American people, do not get just mad enough to say enough is enough. But over time, we are talking about 400,000 jobs lost.

We have to accept the fact that we need domestic energy production and we need to protect domestic jobs and capabilities. But how do we do this and still meet the goal of conserving our resources?

There is only one answer to this problem and that is to protect a certain percentage of domestic production, but the key is the domestic production of what type of energy? We do not have $2 a barrel oil, we will never be able to compete with OPEC on pricing or in a truly free market. This free market nonsense is just that—nonsense. OPEC is not a free market organization, it's an organization designed to control prices for their benefit and our detriment. Conventional oil is thus not the answer.

Instead of the status quo of lost American jobs, I believe we should be requiring a certain percentage of domestic production of two types of energy. First, let us make use of those sources of energy that we either use or lose. Like stripper well oil. For the most part, once a stripper well shuts down, it is shut down forever. The oil associated with that well is lost. The pressures and subsurface characteristics needed to continue oil production disappear. Why let this energy source go to waste, to be lost forever. That is wrong. For virtually pennies a gallon, we can keep the thousands of stripper wells going. This would decrease our trade balance and increase the income to thousands of Americans across this country. Nearly three-quarters of the wells in this country are stripper wells. Let us not lose the production from these wells.

What is the second type of energy we should be mandating domestic production of? Those resources which are plentiful, like renewable resources. Our farmers can outproduce anyone in the world. They helped make our country great and they can continue to make America great. Let us put the family farmer back to work.

The Senate has already consider this proposal and voted to table it, so I am not going to offer it again. But, I urge my colleagues on the committee to improve this bill so that it will decrease our energy dependence.

Americans overwhelmingly think we are on the wrong track. In terms of our dependence on imported motor fuels, this bill does not put us on a new track. The only way to guarantee American jobs in the motor fuels industry is to protect them. Mr. President, I believe energy policy, in particular oil policy, is one area that America has consistently failed to adopt an effective long-range strategy. The debate has volleyed back and forth between two diverse views. Some say we should not limit imports at all; that we need a totally free market. Buy the oil wherever it's cheapest and husband our reserves. The other view is that we should become more reliant on our own resources, our own people. I believe American money should go to invest in American workers. I support domestic production.

I will not accept the terms of the big oil companies. They lobby for easing the environmental regulations that have made us one of the cleanest countries in the world. They lobby for opening up sensitive ecosystems to their drilling. And for what long-term again? The oil companies keep missing one of the fundamental reason for opposition to drilling in ANWR. What does any American have to gain in the long-term from drilling in ANWR? The oil companies will drain it dry and then be right back where they are today: firing American workers and begging for more help from Congress. They want Americans to put a fragile ecosystem at risk for no long-term benefit, just a quick fix. If they would only think about a long-term strategy for America they might find a more receptive Congress. What is going to happen to the American worker when they have sucked the oil out of ANWR? They have never answered that question.

I do not intend to reoffer my amendment to this bill. I believe I would be defeated again, so I will make time for more productive uses. We certainly need to start making productive use of our time. I will continue to fight for greater energy independence and for American workers.

In the meantime, I hope the energy workers across this country will join the fray. Fight for your jobs and for greater use of American resources. Your jobs can be secure for a few pennies per gallon, a few pennies I believe Americans would be more than willing to pay to support their fellow Americans. Someday, I hope my children can fuel their car with American resources. When that day comes, we will once again be a strong America. Thank you, Mr. President.

Mr. EXON. Mr. President, I had prepared an amendment to the energy bill relating to a coal rate study required under this legislation. I will not be offering that amendment because it is not my intention to delay the energy bill further. However, I would like to engage the manager of the bill in a colloquy regarding section 14113 of S. 2166. This provision calls for the establishment of a data base containing transportation rate information for shipments of coal over a 10-year period and a study of the impact of Federal policies on such rates.

On September 4, 1991, Senator KASTEN and I wrote a letter on behalf of the Subcommittee on Surface Transportation indicating our displeasure with this provision. That letter raised both jurisdictional and substantive concerns with the provision. Certain recent studies by the Interstate Commerce Commission [ICC] appear to indicate a downward trend in railroad coal rates have fallen 19.3 percent since 1980.

This data suggest there may well be a need to rethink section 14113. I would like to inquire of the chairman if he would be willing to reexamine this section.

Mr. JOHNSTON. I thank my colleague from Nebraska. As he knows, I have had a longstanding concern regarding the relatively high costs of coal transportation by rail. However, he has raised some points that approximately should be considered as we head into conference on this legislation.

Mr. EXON. I thank the Senator from Louisiana and ask that the letter of September 4, 1991, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION,
Washington, DC, September 4, 1991.

Hon. BENNETT JOHNSTON,
Chairman, Committee on Energy and National Resources, U.S. Senate, Washington, DC.

DEAR BENNETT: As the Chairman and ranking Republican member of the Senate Surface Transportation Subcommittee, we are writing to express concern over section 14113 of S. 1220, the Senate energy bill, which was reported to the full Senate.

Specifically, Section 14113 would require the Department of Energy (DOE) to review increases in coal transportation rates resulting from last year's Clean Air Act amendments and other Federal policies. It would direct DOE to establish a data base for all rates for domestic coal shipments moving by rail, pipeline, truck, conveyor belt, barge, and other modes of transportation over a 10-year period. Interestingly, it would require DOE to examine revenue to variable cost ratios of railroad coal rates, but not similar ratios for other transportation modes. It also excludes from scrutiny modes transporting noncoal energy sources, as well as rates charged by energy producers.

We urge that Section 14113 be deleted from S. 1220. The Surface Transportation Subcommittee of the Commerce Committee has jurisdiction over coal transportation rates. As recently as the 100th Congress, the Subcommittee held a series of hearings involving railroad coal rates. It also considered legislation on the Interstate Commerce Commission's (ICC) implementation of the Staggers Rail Act, which allows shippers to file complaints on railroad rates deemed unreasonably high and allows the ICC to order a rate reduction and award reparations. The full Senate Commerce Committee specifically voted against reporting legislation on the subject at that time.

A decade of experience under the Staggers Rail Act shows it is accomplishing largely what Congress intended. In fact, a May, 1991, ICC study showed that average, inflation-adjusted transportation rates for coal fell by 14.2 percent between 1980 and 1989. The Subcommittee will continue its oversight role on the implementation of the Staggers Rail Act by the ICC.

In summary, we object to Section 14113 of S. 1330 and urge that it be deleted from the bill.

ROBERT W. KASTEN, Jr.,
Ranking Republican, Surface Transportation Subcommittee.
J. JAMES EXON,
Chairman, Surface Transportation Subcommittee.

BIODIESEL

Mr. BOND. Thank you, Mr. President. Is it the understanding of the Senator from Louisiana that biodiesel would be considered covered under the definitions of alternative fuel and replacement fuel in S. 2166?

Mr. JOHNSTON. Yes, it is my understanding that biodiesel would indeed be considered covered under the alternative fuel and replacement fuel definitions in the bill because biodiesel is derived from nonpetroleum feed stocks such as soybeans, vegetable oils, and animal byproducts.

Mr. BOND. So biodiesel made from soybeans would also be included under these definitions?

Mr. JOHNSTON. That is correct.

Mr. BOND. Is it also the Senator's intention that programs to promote the development and commercialization of alternative fuels could include biodiesel, including biodiesel made from soybeans and animal byproducts, if the Secretary deems appropriate?

Mr. JOHNSTON. Yes, that is my intention.

Mr. BOND. I thank the Senator.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the only first-degree amendments remaining in order to H.R. 776, other than the pending committee substitute, and the pending Wellstone and Dodd amendments, numbers 2789 and 2790, be the following: Senator GRASSLEY's ethanol amendment; Senator DOLE's amendment regarding ethanol; Senator DOLE's solid waste disposal/phosphorus acid process amendment; Senator MURKOWSKI's amendment regarding a study of the future of oil and gas potential in ANWR, with a possible modification by Senator MURKOWSKI and Senator WELLSTONE of that amendment; Senator STEVENS' tax credit regarding an oil pollution amendment; Senator D'AMATO's amendment regarding anti-dumping; that second-degree amendments be in order, provided they are relevant to the first-degree amendment and under the same time limitation, if one is in effect on the first degree; that no motions to recommit be in order; provided further that if a subsequent unanimous-consent agreement is reached between Senators DODD and GRAMM on the Dodd-Wellstone amendments, then it be in order for Senator DODD to modify or withdraw his amendment in order to conform to the accord; then the terms of the amendment limitations of this agreement remain in effect.

Further, that if unanimous consent is not reached relative to the Dodd-Wellstone amendments, then any agreement regarding limitation on amendments to this bill is vitiated; that upon disposition of these above-listed amendments and the committee substitute, the Senate, without any intervening action or debate, proceed to third reading and final passage of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, the minority has dealt with this and believes it to be a good reflection of the best course to follow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That at 10 a.m. on Thursday, July 30, 1992, the Senate resume consideration of H.R. 776, the Comprehensive National Energy Policy Act, and the only first degree amendments remaining in order, other than the pending committee substitute and the pending Wellstone and Dodd amendments, Nos. 2789 and 2790, be the following:

D'Amato: Anti-dumping.
Dole: Regarding Ethanol.
Dole: Solid waste disposal/phosphorus acid process.
Grassley: Ethanol.
Stevens: Tax credit re: oil pollution.

Ordered further, That second degree amendments be in order provided they are relevant to the first degree amendment, and under the same time limitation if one is in effect on the first degree amendment.

Ordered further, That no motions to recommit be in order.

Ordered further, That if a subsequent unanimous consent agreement is reached between Senators Dodd and Gramm on the Dodd-Wellstone amendments, then it be in order for Senator Dodd to modify or withdraw his amendment in order to conform to the accord; then the terms of the amendment limitations of this agreement remain in effect; and if unanimous consent is not reached relative to the Dodd-Wellstone amendment, then any agreement regarding a limitation on amendments to this bill be vitiated.

Ordered further, That upon disposition of these above listed amendments, and the committee substitute, the Senate, without any intervening action or debate, proceed to third reading and final passage of the bill.

Mr. JOHNSTON. Mr. President, I think Senators who just heard the reading of the unanimous-consent request, which was agreed to, will understand that it is all contingent upon reaching agreement on the Dodd-Wellstone amendments, and if they do not reach any agreement, then the whole matter is vitiated, and we are still in open season on our bill, which we trust will not happen.

Mr. WALLOP. Mr. President, if the Senator will yield, it is my passionate desire that they reach such an agreement; that the long awaited, long struggled over energy policy not be held hostage to this extraneous argument—not that it is not an important argument; it is that it is an extraneous argument. It has nothing to do with energy policy.

So I urge the two Senators to find some resolution to that, and I can only say that it is my hope, along with Senator JOHNSTON's, that they do, and it is my hope that along about 2 o'clock tomorrow afternoon, we are engaged in the vote on final passage of this legislation.

It is beyond time, Mr. President, for it to go to conference. I think both of us would agree that the remaining amendments are well within the reach of resolution, either through vote or through negotiation. They are not that difficult, and the subjects which they contain are not that mysterious to Senators that we should not be able to arrange some kind of agreement, and the vote on them will be clear to all Senators.

So, really, the only thing that confounds final passage is the confrontation between the Senator from Connecticut and the Senator from Texas.

Mr. JOHNSTON. Mr. President, if the Senator will yield, we protected these four Senators on their amendments for about 3 hours now, while we have sat around waiting. I hope we do not plan to have another 3 or 4 hours' protection tomorrow while we wait around. It would be easier just to come in at 1 or 2 o'clock and get started.

Mr. WALLOP. I would say to my friend, Mr. President, that the agreement does not guarantee that they be brought up, only that they be in order. So should it be that all other matters are settled I would join my friend in calling for third reading and moving to final passage.

Mr. JOHNSTON. I thank my friend.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Chair informs the distinguished Senator from Wyoming we need a request to set aside the pending amendment.

Mr. WALLOP. Mr. President, I ask unanimous consent that the pending business be set aside in order to consider an amendment that was part of the unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2792

(Purpose: To require the Secretary of Energy to conduct a study of the status and future of the domestic oil and gas industry and the potential impacts of development of the coastal plain of the Arctic National Wildlife Refuge on the oil and gas industry, the economy, and national security)

Mr. WALLOP. Mr. President, on behalf of Senator MURKOWSKI, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for Mr. MURKOWSKI, proposes an amendment numbered 2792.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new title:

TITLE—STUDY OF THE FUTURE OIL AND GAS POTENTIAL AND ECONOMIC IMPACT

SEC. . The Secretary of Energy, in consultation with the Secretaries of Labor, Commerce, State, the Interior, and Defense, shall prepare and complete within 6 months from the date of enactment of this Act and submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of the following:

(1) the current and projected status of the domestic oil and gas industry, including:

(A) the quantity and types of jobs lost in the industry during the 10 year period ending on the date of enactment of this Act; and

(B) the potential for job creation and loss during the 10 year period beginning on the date of enactment of this Act together with the basis for any alternative projection;

(2) the historic and projected future trends in oil and gas industry investment in foreign countries and the related reductions in investment in the United States;

(3) the current and projected status of the rate of imports of foreign oil in absolute terms and as a percentage of consumption;

(4) the current and projected impacts of increasing reliance on imported oil on:

(A) the economy of the United States;

(B) the balance of trade deficit of the United States; and

(C) national security interests of the United States, including related military and other costs;

(5) the current and projected status of decline in production of oil from Alaska's North Slope transported through the Trans-Alaska Pipeline System (TAPS) and effects of this decline on:

(A) regional and national employment in the United States;

(B) the national security of the United States; and

(C) energy prices in the United States;

(6)(A) the estimated date for the required removal of the TAPS in the event there is no oil production from the coastal plain of the Arctic National Wildlife Refuge (ANWR); and

(B) the effect of the shutdown and removal of the TAPS on the production of Alaska North Slope heavy oil reserves and otherwise economically marginal fields for which production technologies are in the process of development;

(7) the impact of potential ANWR coastal plain oil production on:

(A) the longevity of the TAPS and on oil production and consumption in the United States; and

(B) the potential loss of otherwise producible domestic available reserves;

(7) the potential quantity and types of jobs that would be created, both directly and indirectly, by the exploration and development of the coastal plain of ANWR and the loss of such jobs if exploration and development does not occur;

(8) the domestic industrial production capabilities which would be created by the exploration and development of the coastal plain of ANWR and the potential loss of such capability of exploration and development does not occur, including the ability to explore and develop other domestic oil and gas prospects;

(9) the potential impact of exploration and development of the coastal plain of ANWR on:

(A) the economy of the United States;

(B) the economies of the regions of the United States; and

(C) the balance of trade deficit of the United States;

(10) the projected potential revenues, both direct and indirect, to the United States Treasury and the State of Alaska that would be generated by exploration and development of oil reserves within the coastal plain of ANWR;

(11) the technologies available for reducing the environmental impact of exploration and production of oil from the coastal plain of ANWR; and

(12) the development and application of Arctic oil production technologies on Alaska's North Slope including:

(A) a comparison of the technology used at the Prudhoe Bay and Endicott oil fields; and

(B) a comparison of technologies used and the environmental impact of Alaska North Slope development to conventional oil field exploration and development in the contiguous United States.

AMENDMENT NO. 2792, AS MODIFIED

Mr. WALLOP. I now send a modification by Senator MURKOWSKI on behalf of himself and Mr. WELLSTONE to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the word "TITLE" and insert the following:

—STUDY OF THE FUTURE OIL AND GAS POTENTIAL AND ECONOMIC IMPACT

SEC. . The Secretary of Energy, in consultation with the Secretaries of Labor, Commerce, State, the Interior, and Defense, shall prepare and complete within 6 months from the date of enactment of this Act and submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of the following:

(1) the current and projected status of the domestic oil and gas industry and other energy industries, including:

(A) the quantity and types of jobs created and lost in the industry during the 10 year period ending on the date of enactment of this Act; and

(B) the potential for job creation and loss during the 10 year period beginning on the date of enactment of this Act together with the basis for any alternative projection;

(2) the historic and projected future trends in oil and gas industry and other energy industry investment in the United States and foreign countries and the related change in investment in the United States;

(3) the current and projected status of the rate of imports of foreign oil in absolute terms and as a percentage of consumption;

(4) the current and projected impacts of increasing reliance on imported oil on:

(A) the economy of the United States;

(B) the balance of trade deficit of the United States; and

(C) national security interests of the United States, including related military and other costs;

(5) the current and projected status of decline in production of oil from Alaska's North Slope transported through the Trans-Alaska Pipeline System (TAPS) and effects of this decline on:

(A) regional and national employment in the United States;

(B) the national security of the United States; and

(C) energy prices in the United States;

(6) (A) the estimated date for the required removal of the TAPS in the event there is no oil production from the coastal plain of the Arctic National Wildlife Refuge (ANWR); and

(B) the effect of the shutdown and removal of the TAPS on the production of Alaska North Slope heavy oil reserves and otherwise economically marginal fields for which production technologies are in the process of development;

(7) the impact of potential ANWR coastal plain oil production on:

(A) the longevity of the TAPS and on oil production and consumption in the United States; and

(B) the potential loss of otherwise producible domestic available reserves;

(7) the potential quantity and types of jobs that would be created, both directly and indirectly, by the exploration and development of the coastal plain of ANWR and the loss of such jobs if exploration and development does not occur;

(8) the domestic industrial production capabilities which would be created by the exploration and development of the coastal plain of ANWR and the potential loss of such capability if exploration and development does not occur, including the ability to explore and develop other domestic oil and gas prospects;

(9) the potential impact of exploration and development of the coastal plain of ANWR on:

(A) the economy of the United States;

(B) the economies of the regions of the United State; and

(C) the balance of trade deficit of the United States;

(D) production from wells producing 15 barrels of oil per day or less.

(10) the projected potential revenues and costs, both direct and indirect, to the United States Treasury and the State of Alaska that would be generated or incurred by exploration and development of oil reserves within the coastal plain of ANWR;

(11) the technologies available for reducing the environmental impact of exploration and production of oil from the coastal plain of ANWR; and

(12) the development and application of Arctic oil production technologies on Alaska's North Slope including:

(A) a comparison of the technology used at the Prudhoe Bay and Endicott oil fields; and

(B) a comparison of technologies available for Alaska North Slope development with conventional oil field exploration and development in the contiguous United States.

(13) all possible alternative energy supplies (including energy conservation) currently available in the United States, and which might be available in the foreseeable future, that would provide the same amount or greater amounts of energy than are estimated by the Department of the Interior to be available from the coastal plain.

(14) the known and estimated reserves of oil and gas on the North Slope of Alaska (including State and federal offshore lands) outside of the Arctic National Wildlife Refuge.

Mr. WALLOP. Mr. President, on behalf of the minority and my understanding of the majority, I say the differences between the Senator from Minnesota and the Senator from Alaska have been worked out, and it is acceptable to both sides. I call for the question on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment, as modified? If not, question is on agreeing to the amendment, as modified.

The amendment (No. 2792), as modified, was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE LATE LOUISE BRUNSDALE

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to a Minnesota woman who lived a life in service to her family, her community and her country. Louise Margaret Brunsdale, I regret to note, passed away suddenly on Friday, July 24, in Washington, DC.

Weeze was born and educated in Minneapolis, MN. She served as a World War II nurse tending German prisoners-of-war at Fort Snelling in the Twin Cities. She married Rieder Grunseth in 1942 and raised four children: Jon, Edward, Anne, and Karen. Weeze was a Red Cross volunteer. And, she generously shared her home and her love for family and country with several foreign exchange students. Shortly after the end of her marriage in the 1970's, Weeze came to Washington, DC, to live with her sister, Anne Brunsdale, and begin a new career in public service.

Louise Brunsdale's family heritage is public service. Her uncle was a Governor and a Senator for the State of North Dakota. Her sister, Anne, was the chairwoman of the U.S. International Trade Commission. Her son, Jon, was a candidate for Governor in Minnesota. Weeze, herself, was the director of national volunteers for the 1980 and 1984 campaigns of President Ronald Reagan, an assistant to Dr. Jeane Kirkpatrick and the protocol officer at the United State Embassy in Vienna, Austria. She worked with former Supreme Court Chief Justice Warren Burger as marketing director for the Commission on the Bicentennial of the U.S. Constitution. At the time of her death, she was a program director for the Department of Agriculture. Weeze never talked of retirement.

Mr. President, the friends and family of Louise Brunsdale will remember her with memorial serves in Washington, DC, and Minneapolis. They have my best wishes and sympathies. And, Weeze has my thanks for a service-filled life that was more than well lived.

VETERANS' HEALTH CARE AMENDMENTS ACT

Mr. JOHNSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2344.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2344) entitled "An Act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Health Programs Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code, and to Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

Sec. 101. Increase in limit on certain grants for home structural alterations for disabled veterans.
Sec. 102. Extension of annual report on furnishing health care.
Sec. 103. Submission of Reports of Geriatrics and Gerontology Advisory Committee.
Sec. 104. Research corporations.
Sec. 105. Authority for joint ownership of medical equipment with nonfederal health-care facilities.
Sec. 106. Quality assurance activities.
Sec. 107. Advisory Committee on Prosthetics and Special-Disabilities Programs.
Sec. 108. Contract hospital care for veterans with permanent and total service-connected disabilities.
Sec. 109. Post-traumatic stress disorder research programs.
Sec. 110. Post-traumatic stress disorder program planning.

TITLE II—HEALTH-CARE PERSONNEL

Sec. 201. Cap on certain rates of pay.
Sec. 202. Minimum period of service for scholarship recipients.
Sec. 203. Authority to purchase items of nominal value for recruitment purposes.
Sec. 204. Authority to appoint nonphysician directors to the office of the Under Secretary for Health.
Sec. 205. Expansion of director grade of the physician and dentist pay schedule.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Authorization requirement for construction of new medical facilities.
Sec. 302. Redesignation of certain positions within the Department of Veterans Affairs.
Sec. 303. Child care services.
Sec. 304. Grants to establish research centers at medical schools.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(b) REFERENCES TO SECRETARY.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

SEC. 101. INCREASE IN LIMIT ON CERTAIN GRANTS FOR HOME STRUCTURAL ALTERATIONS FOR DISABLED VETERANS.

Section 1717(a)(2) is amended by striking out "$2,500" and "$600" and inserting in lieu thereof "$3,300" and "$1,200", respectively.

SEC. 102. EXTENSION OF ANNUAL REPORT ON FURNISHING HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health-Care Amendments of 1986 (38 U.S.C. 1710 note) is amended by striking out "fiscal year 1991" and inserting in lieu thereof "fiscal years 1992 and 1993".

SEC. 103. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Paragraph (2) of section 7315(c) is amended to read as follows:

"(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

SEC. 104. RESEARCH CORPORATIONS.

(a) PERIOD FOR OBTAINING RECOGNITION AS TAX-EXEMPT ENTITY.—Section 7361(b) is amended by striking out "three-year period" and inserting in lieu thereof "four-year period".

(b) EXTENSION OF AUTHORITY FOR ESTABLISHMENT OF CORPORATIONS.—Section 7368 is amended by striking out "September 30, 1991" and inserting in lieu thereof "December 31, 1993".

SEC. 105. AUTHORITY FOR JOINT OWNERSHIP OF MEDICAL EQUIPMENT WITH NON-FEDERAL HEALTH-CARE FACILITIES.

(a) IN GENERAL.—(1) Chapter 81 is amended by adding at the end of subchapter IV the following new sections:

"§8157. Joint ownership of medical equipment with non-Federal health-care facilities

"(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 8153(a) of this title for the joint ownership of medical equipment with those institutions.

"(b)(1) Any equipment to be jointly owned under such an agreement shall be procured by the Secretary, and ownership of such equipment shall be held jointly by the United States and the institution that is the other party to the agreement.

"(2) In acquiring equipment under such an agreement, the Secretary may not pay (from funds of the United States) more than one-half of the purchase price of the equipment to be jointly owned under the agreement.

"(3) Before jointly owned equipment acquired under such an agreement may be used by the Secretary or the other party to the agreement, the parties to the agreement shall arrange by contract or other form of agreement under section 8153 of this title for the mutual use, or exchange of use, of the equipment.

"(4) The Secretary may not enter into a contract for the acquisition of medical equipment to be jointly owned under an agreement under subsection (a) until the institution that is the other party to the agreement provides to the Secretary its share of the purchase price of the equipment.

"(5) The Secretary may enter into agreements for the joint ownership of medical equipment under subsection (a) and for the exchange of equipment under paragraph (3) without the use of competitive procedures.

"(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the United States in equipment jointly owned under an agreement entered into under subsection (a) to the institution that holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

"(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment jointly owned by the United States under an agreement under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department. The Secretary may not pay more than one-half the depreciated purchase price of that equipment for the acquisition of such institution's interest in the equipment.

"§8158. Deposit in escrow

"(a) To facilitate the procurement of medical equipment described in section 8157 of this title, the Secretary may enter into escrow agreements with institutions described in section 8153(a) of this title. Any such agreement shall provide that—

"(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 8157(b)(4) of this title;

"(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

"(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

"(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

"(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(2) retain in the escrow account interest or other earnings on such investments;

"(3) disburse the funds pursuant to the escrow agreement; and

"(4) return undisbursed funds to the institution.

"(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

"(2) Funds held in an escrow account under this section shall not be considered to be public funds.".

(2) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8156 the following new items:

"8157. Joint ownership of medical equipment with non-Federal health-care facilities.
"8158. Deposit in escrow.".

(b) REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plans for implementation of this section. The report shall include an identification and discussion of—

(1) the instructions the Secretary proposes to issue to medical facilities to guide the development of proposals for procurement of medical equipment under this section, including instructions for ensuring equitable arrangements for use of the equipment by the Department and the copurchasers of the equipment;

(2) the criteria by which the Secretary plans to evaluate proposals to procure medical equipment under this section;

(3) the means by which the Secretary will integrate the process of procuring equipment under this section with the policies and procedures governing health care planning by the Veterans Health Administration; and

(4) the criteria by which determinations to transfer title to equipment under section 8157(c) of title 38, United States Code, as added by subsection (a), would be made.

SEC. 106. QUALITY ASSURANCE ACTIVITIES.

Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in section 201(a)(1) and 201(a)(3) of Public Law 100–322 shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities.

SEC. 107. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) STATUS AND NAME OF COMMITTEE.—The Federal advisory committee established by the Secretary and known as the Prosthetics Service Advisory Committee shall after the date of the enactment of this Act be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs and shall operate as though such committee had been established by law. Notwithstanding any other provision of law, the Committee may, upon the enactment of this Act, meet and act on any matter covered by subsection (b) of section 543 of title 38, United States Code, as added by subsection (b) of this section.

(b) STATUTORY ESTABLISHMENT.—(1) Chapter 5 is amended by adding at the end of subchapter III the following new section :

"§543. Advisory Committee on Prosthetics and Special-Disabilities Programs

''(a)(1) There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

''(b) The objectives and scope of activities of the Committee shall relate to—

''(1) prosthetics and special-disabilities programs administered by the Secretary;

''(2) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

''(3) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

''(4) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

''(c) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in subsection (b).

''(d) Not later than May 1, 1993, and January 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 60 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

''(e) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for—

''(1) spinal-cord-injured veterans;

''(2) blind veterans;

''(3) veterans who have lost or lost the use of extremities;

''(4) hearing-impaired veterans; and

''(5) other veterans with serious incapacities in terms of daily life functions.''.

(2) The table of sections at the beginning of chapter 5 is amended by adding at the end the following new item:

''543. Advisory Committee on Prosthetics and Special-Disabilities Programs.''.

SEC. 108. CONTRACT HOSPITAL CARE FOR VETERANS WITH PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITIES.

Section 1703(a)(1) is amended—

(1) by striking out ''or'' at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ''; or''; and

(3) by adding at the end the following new subparagraph:

''(C) any disability of a veteran who has a total disability permanent in nature from a service-connected disability.''.

SEC. 109. POST-TRAUMATIC STRESS DISORDER RESEARCH PROGRAMS.

In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding (1) Post-Traumatic Stress Disorder, (2) Post-Traumatic Stress Disorder in association with substance abuse, and (3) the treatment of those disorders.

SEC. 110. POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING.

(a) ASSESSMENT.—The Secretary shall assess the needs for treatment and rehabilitative services of veterans believed to be suffering from Post-Traumatic Stress Disorder.

(b) PLAN.—The Secretary shall develop a plan for providing treatment and rehabilitative services for such veterans and for expanding and refining the services available for the treatment of Post-Traumatic Stress Disorder. The plan shall be based on—

(1) the Secretary's estimate of the numbers of veterans who suffer from Post-Traumatic Stress Disorder, are likely to seek care from Veterans Administration, and are entitled by law to be furnished such care;

(2) current and projected capacity to provide services to those veterans; and

(3) the Secretary's evaluation of existing programs.

(c) CONSULTATION.—The Secretary shall carry out subsections (a) and (b) in consultation with the Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder.

(d) REPORT.—Not later than August 30, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan developed pursuant to subsection (b).

(e) DEFINITION.—For the purposes of this section, the term ''Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder'' means the committee established pursuant to section 110 of Public Law 98–528.

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. CAP ON CERTAIN RATES OF PAY.

Section 7455(c) is amended—

(1) by inserting ''(1)'' after ''(c)'';

(2) by inserting ''by two times'' after ''exceed'' the first place it appears; and

(3) by adding at the end the following:

''(2) Whenever the amount of an increase under subsection (a) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.''.

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) MINIMUM SERVICE REQUIREMENT.—Section 7612(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof '', but for not less than two years.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 7423 is amended by adding at the end the following new subsection:

''(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.''.

SEC. 204. AUTHORITY TO APPOINT NONPHYSICIAN DIRECTORS TO THE OFFICE OF THE UNDER SECRETARY FOR HEALTH.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

''(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.''.

SEC. 205. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting '', or comparable position'' before the period.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION REQUIREMENT FOR CONSTRUCTION OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 8104(a) is amended to read as follows:

''(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.''.

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting ''new'' before ''medical facility'' the second place it appears; and

(B) by striking out ''$500,000'' and inserting in lieu thereof ''$300,000''.

(3) Subsection (c) of section 8104 is amended by striking out ''resolution'' both places it appears and inserting in lieu thereof ''law''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall not apply with respect to any project for which any funds were appropriated before the date of the enactment of this Act.

SEC. 302. REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) REDESIGNATION OF POSITION OF CHIEF MEDICAL DIRECTOR.—The position of Chief Medical Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Health of the Department of Veterans Affairs.

(b) REDESIGNATION OF POSITION OF CHIEF BENEFITS DIRECTOR.—The position of Chief Benefits Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Benefits of the Department of Veterans Affairs.

(c) TITLE 38 CONFORMING AMENDMENTS.—Title 38, United States Code, is amended by striking out ''Chief Medical Director'' and ''Chief Benefits Director'' each place they appear (including in headings and tables) and inserting in lieu thereof ''Under Secretary for Health'' and ''Under Secretary for Benefits'', respectively.

(d) EXECUTIVE SCHEDULE CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking out the following:

''Chief Medical Director, Department of Veterans Affairs.

''Chief Benefits Director, Department of Veterans Affairs.'';

and inserting in lieu thereof the following:

''Under Secretary for Health, Department of Veterans Affairs.

''Under Secretary for Benefits, Department of Veterans Affairs.''.

(e) REFERENCES IN OTHER LAWS.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Department of Veterans Affairs—

(1) to the Chief Medical Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Health of the Department of Veterans Affairs; and

(2) to the Chief Benefits Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Benefits of the Department of Veterans Affairs.

SEC. 303. CHILD CARE SERVICES.

(a) REVISED CHILD CARE AUTHORITY.—Chapter 81 is amended by inserting after section 8116 the following new section:

''§8117. Child care centers

''(a) The Secretary may provide for the operation of child care centers at Department facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Secretary determines, based on the demand by employees of the Department for the care involved, that such operation is in the best interest of the Department and that it is practicable to do so. In offering child care services under this section, the Secretary shall give priority, in the following order, to employees of (1) the Department of Veterans Affairs, (2) other departments and agencies of the Federal Government, and (3) affiliated schools and corporations created under section 7361 of this title. To the extent space is available, the Secretary may provide child care services to members of the public if the Secretary determines that to do so is necessary to assure the financial success of such center.

''(b)(1) The Secretary shall establish reasonable charges for child care services provided at each child care center operated under this section.

''(2) In establishing charges at a center, the Secretary shall ensure that the sum of all charges for child care services is sufficient to meet the staffing expenses of the child care center and may consider the expenses of constructing or acquiring space for the center, the expenses of converting existing space into the center, and the expenses of equipment and services furnished to the center under subsection (c)(2).

''(3) Proceeds from charges for child care services shall be credited to the applicable Department of Veterans Affairs account and shall be allotted to the facility served by the child care center and shall remain available until expended.

''(c) In connection with the establishment and operation of a child care center under this section, the Secretary—

''(1) may construct or alter space in any Department facility, and may lease space in a non-Department facility for a term not to exceed 20 years, for use as a child care center;

''(2) may provide, out of operating funds, other items and services necessary for the operation of the center, including furniture, office machines and equipment, utility and custodial services, and other necessary services and amenities;

''(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

''(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

''(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child care centers.

''(d) The Secretary shall prescribe guidelines to carry out this section.

''(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.''.

(b) CONFORMING REPEAL.—Section 7809 is repealed.

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8116 the following new item:

''8117. Child care centers.''.

(2) The table of sections at the beginning of chapter 78 is amended by striking out the item relating to section 7809.

SEC. 304. GRANTS TO ESTABLISH RESEARCH CENTERS AT MEDICAL SCHOOLS.

(a) IN GENERAL.—Chapter 73 is amended by adding at the end the following:

''SUBCHAPTER V—RESEARCH GRANTS

''§7371. Purpose of subchapter

''The purpose of this subchapter is to authorize the Secretary of Veterans Affairs and the Secretary of Defense to carry out a joint program to assist medical schools in the establishment of new research centers to carry out medical research in particular fields or specialties.

''§7372. Grant program

''(a) The Secretary of Veterans Affairs and the Secretary of Defense may jointly make grants under this subchapter to qualifying medical schools to assist such medical schools in the establishment of new medical research centers. Any such grant may only be made if the two Secretaries and the medical school enter into an agreement under section 7373 of this title.

''(b) A qualifying medical school for purposes of this subchapter is a medical school of a university that is located in a State and that—

''(1) does not have an established research center in the particular field or specialty with respect to which an application under section 7375 is submitted;

''(2) is located in proximity to, and is affiliated with, a medical facility of the Department of Veterans Affairs which itself has an affiliation with a medical facility of the Department of Defense; and

''(3) has demonstrable potential for successful development of such a new research center with the assistance of a grant under this subchapter.

''(c) Funds provided to a medical school by a grant under this subchapter may be used for—

''(1) the acquisition, construction, alteration, and renovation of facilities for the research center;

''(2) the acquisition of equipment of the research center; and

''(3) the operation of the research center during its first three years of operation.

''(d) In awarding grants under this subchapter, the two Secretaries shall ensure that the centers for which the grants are made are located in geographically dispersed areas of the United States.

''§7373. Activities of research centers for which grants made

''(a) Whenever a grant is made under this subchapter, the Secretary of Veterans Affairs and the Secretary of Defense shall establish an advisory committee to advise the medical school concerned with respect to the activities of the research center for which the grant is made. The advisory committee shall include representatives of the Department of Veterans Affairs, the Department of Defense, and the medical school and shall remain in existence until terminated by the two Secretaries.

''(b) A medical school to which a grant is made under this subchapter shall administer the research center for which the grant is made as a separate administrative entity with its own director (or other appropriate chief official).

''(c)(1) The Secretaries may not enter into an agreement to make a grant under this subchapter unless the Secretaries find, and the agreement includes satisfactory assurances, that the school to which the grant is made will maintain such arrangements with the Department of Veterans Affairs medical facility with which it is affiliated (including such arrangements as may be made under subchapter IV of chapter 81 of this title) as will be mutually beneficial in carrying out the mission of the respective medical facilities and the school. Such arrangements shall include provisions ensuring that research personnel of the Department of Veterans Affairs medical facility, and of the Department of Defense medical facility with which it is associated, may carry out research activities at the research center on an ongoing basis.

''(2) The agreement shall require that, to the extent not inconsistent with paragraph (1), facilities of the research center shall be made available for research activities on a competitive basis.

''(d) The Secretaries shall ensure that an agreement under this section includes appropriate provisions to ensure that the Federal funding for the research center, and any Federal research activities carried out at the research center, are acknowledged in the activities and publications of the center.

''(e) An agreement under this section shall contain such additional terms and conditions (in addition to those imposed pursuant to section 8201(e) of this title and this section) as the Secretaries consider appropriate to protect the interests of the United States.

''§7374. Funding

''(a) The amount of a grant under this subchapter, when added to any other Federal funds to be used for the project for which the grant is made, may not exceed one-half of the cost of the project.

''(b)(1) One half of the amount of a grant under this subchapter shall be provided by the Secretary of Veterans Affairs and one-half shall be provided by the Secretary of Defense.

''(2) Funds for a grant under this subchapter to be provided by the Secretary of Veterans Affairs may only be provided from funds appropriated for grants under this subchapter. Funds for a grant under this subchapter to be provided by the Secretary of Defense shall be provided from funds appropriated for research, development, test, and evaluation.

''(c) The two Secretaries may not enter into an agreement for a grant under this subchapter unless the Secretaries find, and the agreement includes satisfactory assurances, that—

''(1) the amount of support for the proposed medical research center from non-Federal sources will be at least as great as the amount of such support from Federal sources;

''(2) the amount of such support from non-Federal sources, when combined with the amount of the proposed grant, is sufficient for the project to proceed upon award of the grant; and

''(3) upon approval of the grant, no further action by non-Federal entities is required to make the necessary funds available for the project.

''(d)(1) Subject to paragraph (2), the Secretaries may increase the amount of any grant awarded to any applicant for a project under this section by an amount by which the Secretaries determine that the estimated cost of the

construction, acquisition, or renovations has increased from the estimated cost on which the Secretaries based the determination to award the grant, if the Secretaries determine that the grant was awarded before the applicant entered into a contract for the construction or renovations provided for in such project.

"(2) A grant may not be increased under paragraph (1) by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant (as increased) may not exceed 50 percent of the revised cost of the project.

"§7375. Grants: applications and priority

"(a) A medical school desiring to receive a grant under this subchapter shall submit to the Secretary of Veterans Affairs an application that sets forth the following:

"(1) The amount of the grant requested with respect to the project.

"(2) A description of the proposed research center, including a description of the proposed site for the center, a description of the proposed field of research in which the center will specialize, and a statement showing the capability of the medical school to successfully develop such research center.

"(3) Reasonable assurance that, upon completion of the project, the new center will be used to conduct research referred to in section 7303 of this title.

"(4) Reasonable assurance that the title to such site will be vested solely in the applicant.

"(5) Reasonable assurance that adequate financial support will be available (A) for the construction of the project (or for facility acquisition or renovation) upon award of the grant, and (B) for maintenance and operation of the facility when complete.

"(6) In the case of a project for the renovation of an existing facility, reasonable assurance that the estimated total cost of any expansion, remodeling, and alteration of the facility will not be greater than the estimated cost of construction of an equivalent new facility.

"(7) A statement of the relationship of activities to be carried out at the research center to programs and activities of the Department of Veterans Affairs, including programs for the care and treatment of veterans and programs for the recruitment and retention of health-care professionals for employment by the Department, and programs and activities of the Department of Defense.

"(b) In considering applications for a grant under subsection (a) of this section, the Secretaries shall give priority to applications for grants for proposed research centers which will emphasize research in one or more of the following areas (over applications for grants for proposed centers which will not emphasize research in such areas):

"Diabetes and metabolic diseases.

"Prosthetics and rehabilitation medicine.

"Mental health, behavioral medicine, and neurological disease.

"Acquired Immune Deficiency Syndrome (AIDS) and immunodeficiency diseases.

"Alzheimer and dementia.

"Degenerative cardiopulmonary disease.

"Cancer.

"Technology assessment.

"Toxicology.

"(c) The Secretaries shall use a merit review process in considering applications and in awarding grants under this subchapter.

"(d) The amount of a grant under this subchapter shall be paid to the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of the project, as the Secretary may determine and certify for payment to the Secretary of the Treasury. Funds paid under this section for an approved project shall be used solely for carrying out such project as approved.

"(e) An amendment of an application (whether or not approved) shall be subject to approval in the same manner as the original application.

"§7376. Authorization of appropriations

"(a) There is authorized to be appropriated to the Secretary of Veterans Affairs the sum of $50,000,000 for each of fiscal years 1993 through 1996 for purposes of grants under this subchapter. Amounts appropriated pursuant to such authorization may not be used for any other purpose.

"(b) Amounts appropriated pursuant to subsection (a) shall remain available for obligation until the end of the sixth fiscal year following the fiscal year for which they are appropriated, if so provided in appropriation Acts.

"§7377. Recovery of amounts if grant conditions not met

"(a) If the Secretaries determine that a medical school to which a grant is made under this subchapter—

"(1) fails substantially to carry out the terms of the agreement entered into under this subchapter as a condition of the grant; or

"(2) no longer operates the medical research center for which the grant was made in accordance with the purposes of the grant,

the Secretaries shall be entitled to recover from the recipient of the grant the amount of the grant.

"(b) The Secretaries shall prescribe regulations for purposes of subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VII—RESEARCH GRANTS

"7371. Purpose of subchapter.
"7372. Grant program.
"7373. Activities of research centers for which grants made.
"7374. Funding.
"7375. Grants: applications and priority.
"7376. Authorization of appropriations.
"7377. Recovery of amounts if grant conditions not met.".

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House, agree to its request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appoints Mr. CRANSTON, Mr. ROCKEFELLER, and Mr. SPECTER conferees on the part of the Senate.

THE CALENDAR

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 561, 564, and 566, that the committee amendments, where appropriate, be agreed to; that the bills be deemed read three times, and passed, en bloc; and the motion to reconsider laid upon the table, en bloc; further that any statements relating to these calendar items appear at the appropriate place in the RECORD, and the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREDERICKSBURG AND SPOTSYLVANIA COUNTY BATTLEFIELDS MEMORIAL NATIONAL MILITARY PARK

The Senate proceeded to consider the bill (S. 225) to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, VA, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike page 2, line 8, through and including page 2, line 18, and inserting in lieu thereof the following:

SEC. 2. ADDITION TO WILDERNESS BATTLEFIELD.

(a) Section (2) of Public Law 101–214 (16 U.S.C. 425k(a)) is amended—

(1) by striking "326–40072E/89,"; and

(2) by striking "1989." and inserting in lieu thereof "1989, and the map entitled 'Fredericksburg and Spotsylvania National Military Park,' numbered 326–40072E/89/A and dated September 1990.": Provided, That this subsection shall not be effective until the lands included within the proposed new boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this section may be acquired only by donation.

SEC. 3. ADDITION TO APPOMATTOX COURT HOUSE NATIONAL HISTORICAL PARK.

(a) Section 308(a) of Public Law 94–578 (16 U.S.C. 450e–1(a)) is amended by striking "numbered 340–20,000A, and dated September 1976," and inserting in lieu thereof, "numbered 340/80,015 and dated June 1992,": Provided, That this subsection shall not be effective until the lands included within the proposed new boundaries of the Appomattox Court House National Historical Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Appomattox Court House National Historical Park pursuant to this section may be acquired only by donation.

So as to make the bill read:

S. 225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDING.

Congress finds that the land area near Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, located south and west of the intersection of the Orange Plank Road and Brock Road in Spotsylvania County was strategically significant ground associated with the battle of the Civil War known as the Battle of the Wilderness, and that the tract of land adjacent to such area known as "Longstreet's Flank Attack" was also strategically significant to that battle.

SEC. 2. ADDITION TO WILDERNESS BATTLEFIELD.

(a) Section (2) of Public Law 101–214 (16 U.S.C. 425k(a)) is amended—

(1) by striking "326–40072E/89,"; and

(2) by striking "1989." and inserting in lieu thereof "1989, and the map entitled 'Fredericksburg and Spotsylvania National Military Park,' numbered 326–40072E/89/A and dated September 1990.": *Provided*, That this subsection shall not be effective until the lands included within the proposed new

boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this section may be acquired only by donation.

SEC. 3. ADDITION TO APPOMATTOX COURT HOUSE NATIONAL HISTORICAL PARK.

(a) Section 308(a) of Public Law 94–578 (16 U.S.C. 450e–1(a)) is amended by striking "numbered 340–20,000A, and dated September 1976," and inserting in lieu thereof, "numbered 340/80,015 and dated June 1992,": *Provided*, That this subsection shall not be effective until the lands included within the proposed new boundaries of the Appomattox Court House National Historical Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Appomattox Court House National Historical Park pursuant to this section may be acquired only by donation.

The amendment was agreed to.

So the bill (S. 225), as amended, was deemed read the third time and passed.

HISTORIC STRUCTURES REHABILITATION IN GATEWAY NATIONAL RECREATION AREA

The bill (S. 2563) to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes was considered, ordered to be engrossed for a third reading, deemed read the third time, and passed; as follows:

S. 2563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARINE ACADEMY AGREEMENT.

(a) IN GENERAL.—In order to further the revitalization, rehabilitation, and utilization of Fort Hancock within the Sandy Hook Unit of Gateway National Recreation Area, the Secretary of the Interior may enter into an agreement with the Monmouth County Vocational School District or a successor (referred to in this Act as the "District"), to permit the use by the District of properties situated along Gunnison Road and Magruder Road for the purpose of developing and operating, without cost to the National Park Service, a secondary school program to be known as the Marine Academy of Science and Technology.

(b) DESIGN OF FACILITIES.—The design of new facilities and landscape improvements, and the rehabilitation of existing facilities for school and administrative use, shall be subject to the approval of the Director of the National Park Service. In determining whether to approve the design and rehabilitation, the Director shall use standards for rehabilitation and National Park Service guidelines and policies that are approved by the Secretary of the Interior.

SEC. 2. REVERSION.

If the properties, facilities, and improvements referred to in section 1 are not used by the District for a secondary school program, the agreement authorized by section 1 shall be terminated and all use of the properties, facilities, and improvements shall revert, without consideration, to the National Park Service.

SEC. 3. REIMBURSEMENT.

(a) REHABILITATION.—As a condition of entering into the agreement authorized by section 1, the Secretary of the Interior may—

(1) accept reimbursement expenses, of not more than $500,000, to cover the cost of rehabilitating other property within the Sandy Hook Unit of Gateway National Recreation Area for park uses that are displaced from facilities used by the District under the agreement authorized by section 1; or

(2) require the District to rehabilitate other property for the park uses—

(A) under the direction of the National Park Service; and

(B) at a cost of not more than $500,000.

(b) FEES FOR SERVICES.—The Director of the National Park Service may collect and retain reasonable fees for services provided to the District by the National Park Service, including alarm monitoring, permit compliance, fire and police protection, and snow removal.

INDIANA DUNES NATIONAL LAKESHORE ACCESS AND ENHANCEMENT ACT

The Senate proceeded to consider the bill (H.R. 1216) to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indiana Dunes National Lakeshore Access and Enhancement Act".

SEC. 2. DEFINITION.

For the purposes of this Act, the term "the Act" means the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966, as amended, (16 U.S.C. 560u et seq.).

SEC. 3. BOUNDARIES.

(a) IN GENERAL.—The first section of the Act (16 U.S.C. 460u) is amended by striking "October 1986, and numbered 62680033–B" and inserting "September 1991, and numbered 62680039–A".

(b) CRESCENT DUNE.—Section 12 of the Act (16 U.S.C. 460u–12) is repealed.

SEC. 4. IMPROVED PROPERTY; RETENTION OF RIGHTS

(a) ADDITIONAL AREAS.—The table in section 4 of the Act (16 U.S.C. 460u–3) is amended to read as follows:

"Property within boundaries of map	Construction began before
Dated September 1991, No. 626–80,039–A.	October 1, 1991
Dated October 1986, No. 626–80,033–B.	February 1, 1986
Dated December 1980, No. 626–91014.	January 1, 1981
Dated September 1976, No. 626–91007.	February 1, 1973
Dated September 1966, No. LNPNE–1008–ID.	January 4, 1965".

(b) RETENTION OF RIGHTS.—Section 5(a) of the Act (16 U.S.C. 460u–(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) In the case of improved property included within the boundaries of the lakeshore after October 1, 1991, that was not included within such boundaries on or before that date, an individual who is an owner of record of such property as of that date may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond October 1, 2020, or such lesser fixed term as the owner may elect at the time of acquisition.

"(ii) A term ending at the death of the owner or the owner's spouse, whichever occurs later. The owner or owners shall elect the term to be reserved.

"(B) Subparagraph (A) shall apply only to improved property owned by an individual who—

"(i) was an owner of record of the property as of October 1, 1991;

"(ii) had attained the age of majority as of that date; and

"(iii) made a bona fide written offer not later than October 1, 1997, to sell the property to the Secretary.".

(c) TECHNICAL AMENDMENT.—Section 5(a)(1) of the Act (16 U.S.C. 460u–4(a)(1)) is amended by striking the period after "626–91014" the first place it appears and inserting a comma.

SEC. 5. GREENBELT.

Section 18 of the Act (16 U.S.C. 460–18) is amended—

(1) by inserting "(a)" after "SEC. 18."; and

(2) by adding at the end the following new subsection:

"(b)(1) The Secretary shall enter into a memorandum of agreement with the Northern Indiana Public Service Company (referred to as 'NIPSCO') that shall provide for the following with respect to the area referred to as Unit II–A on the map described in the first section of this Act (referred to as the "Greenbelt"):

"(A) NIPSCO shall provide the National Park Service with access for resource management and interpretation through the Greenbelt and across the dike for purposes of a public hiking trail.

"(B) the National Park Service shall have rights of access for resource management and interpretation of the Greenbelt area.

"(C) NIPSCO shall preserve the Greenbelt in its natural state. If NIPSCO utilizes the Greenbelt temporarily for a project involving pollution mitigation or construction on its adjacent facilities, it shall restore the project area to its natural state.

"(D) If NIPSCO proposes a different use for the Greenbelt, NIPSCO shall notify the National Park Service, the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and make no change in the use of the property until three years after the date notice is given.

"(2) If a memorandum of agreement is entered into pursuant to paragraph (1), so long as the memorandum of agreement is in effect and is being performed, the Secretary may not acquire lands or interests in land in the Greenbelt belonging to NIPSCO.".

SEC. 6. COOPERATIVE AGREEMENT.

The Act is amended by adding at the end the following new section:

"SEC. 25. In furtherance of the purposes of this Act, the Secretary may enter into a cooperative agreement with the city of Gary, Indiana, pursuant to which the Secretary may provide technical assistance in interpretation, planning, and resource management for programs and developments in the city of Gary's Marquette Park and Lake Street Beach.".

SEC. 7. UNIT VII-D.

The Act, as amended by section 5, is further amended by adding at the end the following new section:

"SEC. 26. Before acquiring lands or interests in lands in Unit VII-D (as designated on the map described in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to 15th Avenue (including the extension known as Old Hobart Road) and reconstruction and relocation of the intersection of 15th Avenue and State Road 51 so that the acquisition by the Secretary of lands or interests in lands in Unit VII-D will not interfere with planned improvements to the interchange and 15th Avenue in the area.".

SEC. 8. VISITOR CENTER.

In order to commemorate the vision, dedication, and work of Dorothy Buell in saving the Indiana Dunes, the National Park Service visitor center at the Indiana Dunes National Lakeshore is designated as the "Dorothy Buell Memorial Visitor Center".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Act (16 U.S.C. 460u-9) is amended—

(1) in the first sentence by striking the words "The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than $20,000,000 for development:" and inserting in lieu thereof: "The Secretary may expend such sums as may be necessary from the Land and Water Conservation Fund for acquisition of lands and interests in lands, and not to exceed $27,500,000 for development:";

(2) by striking the second paragraph in its entirety; and

(3) by striking the first sentence of the third paragraph.

The amendment was agreed to.

So the bill (H.R. 1216), as amended, was deemed read the third time and passed.

Mr. LUGAR. Mr. President, I appreciate the expeditious action of the Senate Committee on Energy and Natural Resources on the Indiana Dunes National Lakeshore bill.

H.R. 1216 has been amended to reflect the provisions of S. 1919, except for the extension of existing leasebacks. It adds 1,088 key acres to the 14,000-acre Indiana Dunes National Lakeshore and also lifts the cap on the acquisition of the Crescent Dune.

The Indiana Dunes National Lakeshore is one of the crown jewels of the National Park System. High in botanic diversity, it is also one of the most frequently visited of our national parks.

The nine parcels which this amended version of H.R. 1216 adds to the Lakeshore are Inland Woods, the Cohen Property, Fadell Dune, the Old University of Chicago property, the NIPSCO Greenbelt, Gaylord Butterfly Prairie, Calumet Prairie, Hobart Prairie Grove, and by lifting the cap on acquisition costs, Crescent Dune.

This bill reflects a 3-year effort to identify key parcels of land to be added to the Indiana Dunes National Lakeshore. There was considerable controversy over the acquisition of these parcels. I am very satisfied with this bill. I hope that the House will act on it expeditiously so that we can focus our future attention on issues pertaining to the operation and maintenance of this outstanding natural resource.

MEASURE PLACED ON THE CALENDAR

Mr. JOHNSTON. Mr. President, I ask unanimous consent that H.R. 4004, the Indian Tribal Justice Act, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ZUNI RIVER WATERSHED ACT OF 1992

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4026, the Zuni River Watershed Act of 1992, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and that any statements on this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4026) was deemed read three times and passed.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

ENROLLED BILLS SIGNED

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini;

H.R. 3836. An act to provide for the management of Federal lands containing the Pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the Pacific yew;

H.R. 5059. An act to extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden;

S.J. Res. 92. A joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day"; and

S.J. Res. 310. A joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 1:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution:

H.R. 4438. An act to designate the Federal building located at 501 West Ocean Boulevard in Long Beach, California, as the "Glenn M. Anderson Federal Building";

H.R. 5222. An act to designate the Federal building and the United States courthouse located at 204 South Main Street in South Bend, Indiana, as the "Robert A. Grant Federal Building and United States Courthouse";

H.R. 5431. An act to designate the Federal building located at 200 Federal Plaza in Paterson, New Jersey, as the "Robert A. Roe Federal Building";

H.R. 5432. An act to designate the Federal Building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, as the "John Paul Hammerschmidt Federal Building and United States Courthouse";

H.R. 5645. An act to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes;

H.J. Res. 271. A joint resolution authorizing the Go for Broke National Veterans Association to establish a memorial to Japanese American Veterans in the District of Columbia or its environs;

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1992; and

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 302. A concurrent resolution expressing the sense of the Congress regarding communities making the transition to "Hunger-Free" status.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2759. An act to amend the National School Lunch Act to improve the nutritional well-being to children under the age of 6 living in homeless shelters, and for other purposes.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times, and referred as indicated:

H.R. 4438. An act to designate the Federal building located at 501 West Ocean Boulevard in Long Beach, California, as the "Glenn M. Anderson Federal Building"; to the Committee on Environment and Public Works;

H.R. 5222. An act to designate the Federal building and the United States courthouse located at 204 South Main Street in South Bend, Indiana, as the "Robert A. Grant Federal Building and United States Courthouse"; to the Committee on Environment and Public Works;

H.R. 5431. An act to designate the Federal building located at 200 Federal Plaza in Paterson, New Jersey, as the "Robert A. Roe Federal Building"; to the Committee on Environment and Public Works;

H.R. 5432. An act to designate the Federal Building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, as the "John Paul Hammerschmidt Federal Building and United States Courthouse"; to the Committee on Environment and Public Works; and

H.R. 5645. An act to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes; to the Committee on Finance.

H.J. Res. 271. A joint resolution authorizing the Go for Broke National Veterans Association to establish a memorial to Japanese American Veterans in the District of Columbia or its environs; to the Committee on Energy and Natural Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 29, 1992, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 92. A joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day."; and

S.J. Res. 310. A joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day."

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Philip Brunelle, of Minnesota, to be a Member of the National Council on the Arts for the remainder of the term expiring September 3, 1994.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 5503. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–345).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2702. A bill to authorize appropriations for fiscal year 1993 for the Coast Guard, and for other purposes (Rept. No. 102–346).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1607. A bill to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes (Rept. No. 102–347).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1958. A bill to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, to amend laws relating to Federal procurement, and for other purposes (Rept. No. 102–348).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN:

S. 3092. A bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia; to the Committee on Governmental Affairs.

By Mr. PELL (by request):

S. 3093. A bill to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for FY 1993; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 3094. A bill to amend the Nuclear Waste Policy Act of 1982 to place certain responsibilities on the Nuclear Waste Negotiator before any Phase II-B grant may be awarded to assess the feasibility of siting a monitored retrievable storage facility, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 3095. A bill to restore and clarify the Federal relationship with the Jena Band of Choctaws of Louisiana; to the Select Committee on Indian Affairs.

By Mr. DANFORTH:

S. 3096. A bill to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16; to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON (for himself, Mr. AKAKA, Mr. SHELBY, Mr. SEYMOUR, Mr. HATFIELD, Mr. BINGAMAN, Mr. D'AMATO, Mr. DECONCINI, Mr. MCCAIN, and Mrs. KASSEBAUM):

S. 3097. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN:

S. 3092. A bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia; to the Committee on Governmental Affairs.

GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC. CHARTER AMENDMENTS

Mr. NUNN. Mr. President, I rise to offer a bill which will amend chapter 698 of Public Law 395, as amended, which is the congressional charter for Group Hospitalization and Medical Services, Inc., the Blue Cross and Blue Shield plan located in the District of Columbia.

The Permanent Subcommittee on Investigations, of which I am chairman, of the Committee on Governmental Affairs, has been conducting an investigation of fraud, abuse, and mismanagement in the insurance industry and evaluating the ability of the individual State governments to deal with this problem. During the course of this investigation, which has been ongoing for over 2 years now, the subcommittee has heard from several insurance commissioners who have been working diligently with their State legislatures to enact tough, meaningful laws which give them the ability to ferret out and deal with the types of problems the subcommittee has been uncovering. All of the insurance commissioners who have testified at the subcommittee hearings have called for Federal law enforcement assistance in dealing with the problems, and I, along with other members of the subcommittee, have cosponsored legislation to do just that. As the subcommittee continues to analyze its investigative record, I anticipate the introduction of additional legislation which will call for even more Federal assistance to the States.

But today I introduce legislation whose scope is beyond the capability of any State, because the venue rests in the District of Columbia. Congress must act to correct its own oversight, an oversight that was not foreseen in 1939, when the Congress chartered Group Hospitalization, Inc., the predecessor of the District of Columbia's Blue Cross and Blue Shield plan, now known as Group Hospitalization and Medical Services, Inc. On August 22, 1939, Group Hospitalization was incorporated in the District of Columbia. The 76th Congress, in Group Hospitalization's enabling legislation, exempted the corporation from the vast majority of the District's insurance regulation. Since then, and especially in the mid to late 1980's, the corporation has grown, surely beyond anything that could have been envisioned in 1939.

On July 2, 1992, the subcommittee held its first hearing on its ongoing investigation of the Blue Cross and Blue Shield system, during which Mr. Robert M. Willis, the superintendent of insurance for the District of Columbia, testified. Our investigation of the Blue

Cross and Blue Shield system will focus on a number of issues that are of concern to the subcommittee as well as pertinent to the ongoing debate over health care costs: solvency problems; the effectiveness of State regulation; the use of for-profit subsidiaries by nonprofit Blue Cross plans; and allegations of mismanagement. As our investigation is still in its early stages, I cannot, at this point, draw any final conclusions as to those broad, national issues.

Mr. Willis' testimony before the subcommittee, however, focused on a narrow issue of critical importance to those seeking dependable health care insurance in the District of Columbia. Mr. Willis testified that the corporation, known today as Group Hospitalization and Medical Services, Inc., which is the Blue Cross & Blue Shield plan for the District, is beyond the scope of most of his authority:

> Mr. WILLIS. If we can imagine that a raft is floating down a river and on the shoreline stands the commissioner * * * from the State or Maryland, who has a gaff hook and has the ability to snag the raft before it goes over Niagara Falls. That is the nexus that he has through licensing the Blues relative to the Maryland situation.
>
> The District of Columbia is situated beyond the edge of the fall, in fact, at the bottom of the fall, and can only report the result of the raft having gone over the fall. That is the restriction of the charter. By law, I have the statutory duty to tell the Corporation Counsel that I believe that GHMSI—and I am not saying that is the case, but were that the case—has reached the point where the financial condition of the company is impaired. So I am simply in a role of having to report what has happened, that an insolvency has, in fact, occurred, and now we need to take some legal action to remedy what is left, to put the pieces together, perhaps.

Superintendent Willis went on to cite the clear limitations imposed on his office by the charter, particularly section 7, which reads:

> This corporation shall not be subject to the provisions of statutes regulating the business of insurance in the District of Columbia, but shall be exempt therefrom unless specifically designated therein.

As a result, Superintendent Willis is unable to apply the solvency regulations of the District of Columbia upon Group Hospitalization and Medical Services, Inc. What we have today is a corporation that receives approximately $1.5 billion per year in insurance premium that is beyond the jurisdiction of the insurance regulator.

Superintendent Willis testified that he cannot examine the books and records of Group Hospitalization and Medical Services, Inc.; he cannot require this Blue Cross & Blue Shield Plan to submit to an independent outside auditing firm; he cannot require the plan to submit to his own examiners' review, and even if he could, he would be unable to apply the District of Columbia's insurance solvency standards on the plan.

Group Hospitalization and Medical Services is licensed by the State of Maryland and the Commonwealth of Virginia, because they write business in portions of each State. The plan must submit to the examination by either jurisdiction, which are conducted on a triennial basis by either State, but not both. Accordingly, the Maryland and Virginia insurance departments may conduct reviews of the plan's operations as they pertain to the plan's business written in either State. Neither one of these regulators can take action on the entire plan. The most they could do, if they had cause, would be to revoke the corporation's license to do business in their State. This is not even patchwork regulation, and is not the proper way to oversee an operation of this size.

John Donaho, the insurance commissioner for the State of Maryland, also testified at the subcommittee's hearing. Commissioner Donaho stated that because of the limits placed on the superintendent of insurance for the District of Columbia, the current regulatory supervision of Group Hospitalization and Medical Services is woefully inadequate. Both Commissioner Donaho and Superintendent Willis support this legislation.

Because of further congressional action in 1984, Group Hospitalization and Medical Services' charter was amended. Section 2 of chapter 698 was changed to allow the corporation to "engage in any lawful business that is incidental to or supportive of the business and affairs of" the corporation. What was once a simple intermediary between policyholders and their doctors and hospitals, is now a large corporation with dozens of subsidiaries, including some overseas—all beyond the reach of the insurance regulator. This not-for-profit corporation and its for-profit subsidiaries and affiliated companies, which engage in business transactions with the public, clearly need, as any other insurer, some oversight and need to be measured against some standard. Our investigation has already shown that the name Blue Cross/Blue Shield does not in and of itself guarantee solvency. One Blue Cross and Blue Shield plan has failed already, in West Virginia, leaving over 51,000 unpaid claims. Those claims now rest on the shoulders of West Virginians, many of whom have faced medical tragedies, only to be further burdened by the collection efforts being made against them by doctors and hospitals who expect to be paid for their services.

We cannot afford to risk another such tragedy—we must give regulators the capability to examine these entities. Should something terrible happen, and the District of Columbia Blue Cross and Blue Shield plan fail, then Congress could look only to itself when attempting to determine why there was no guard at the gate.

Mr. President, this piece of legislation is very simple and straightforward. It establishes the District of Columbia as the legal domicile for Group Hospitalization and Medical Services, Inc. It requires that the corporation be licensed in, and regulated by the laws and regulations of the District of Columbia. It strikes article 7 of the charter, which exempted the corporation from regulation by the District of Columbia Insurance Commissioner, and it requires that the corporation reimburse the District of Columbia for the costs of examination and audit of the corporation, a standard requirement of the States in the regulation of this industry.

Mr. President, I might note that I am not in the habit of introducing legislation in the midst of an ongoing investigation, prior to receiving all the evidence. This bill, however, addresses such a narrow, undisputed, and critically dangerous regulatory loophole that I do not believe that we can afford to delay its consideration until the conclusion of our broader investigation of the Blue Cross/Blue Shield system. This is a bill that should be enacted at the soonest possible date to enable the Insurance Commissioner of the District of Columbia to fully protect the interests of the thousands of policyholders and the Federal Government who do business with this Blue Cross and Blue Shield organization.

By Mr. PELL (by request):

S. 3093. A bill to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for fiscal year 1993; to the Committee on Foreign Relations.

ARMS CONTROL AND DISARMAMENT ACT—FISCAL YEAR 1993

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for fiscal year 1993.

This proposed legislation has been requested by the U.S. Arms Control and Disarmament Agency, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD, together with the letter from the Director of the U.S. Arms Control and Disarmament Agency, which was received on July 23, 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3093

Be it enacted by the Senate and House of Representatives of the United States of America in

Congress assembled, That Section 49(a) (22 U.S.C. 2589(a)) is amended to read as follows:

"SEC. 49. (a) To carry out the purpose of this Act, there are authorized to be appropriated $47,585,000 for the fiscal year 1993."

U.S. ARMS CONTROL
AND DISARMAMENT AGENCY,
Washington, DC, July 20, 1992.

Hon. DAN QUAYLE,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill to increase the authority to spend appropriated funds for the U.S. Arms Control and Disarmament Agency (ACDA) in Fiscal Year 1993 to the sum of $47,585,000. This sum is approximately $1.7 million more than the amount authorized by Congress for Fiscal Year 1993.

The Administration proposes this increase after careful consideration of the opportunities to achieve important new arms control agreements in the current international environment. This increase also reflects the increased responsibilities of ACDA for implementing newly ratified treaties and verifying those that are already in place.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

RONALD F. LEHMAN II.•

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 3094. A bill to amend the Nuclear Waste Policy Act of 1982 to place certain responsibilities on the Nuclear Waste Negotiator before any phase II–B grant may be awarded to assess the feasibility of siting a monitored retrievable storage facility, and for other purposes; to the Committee on Energy and Natural Resources.

MONITORED RETRIEVABLE STORAGE FACILITY ACCOUNTABILITY ACT

• Mr. BINGAMAN. Mr. President, I rise today to introduce legislation which will hold the Nuclear Waste Negotiator accountable for demonstrating the value of all expenditures in connection with the site selection process for a monitored retrievable storage facility [MRS]. Congress established the Office of the Nuclear Waste Negotiator in 1990, authorizing the Negotiator to solicit applications for study grants to determine the feasibility of siting an MRS.

The grant process is divided into two phases. The first phase, which authorizes grants up to $100,000 to eligible units of Government, is to be used for understanding the waste management system and an MRS facility, and for determining whether the applicant has real interest in pursuing the MRS feasibility assessment process.

The second phase of the grant process has two parts. The first part, part A, authorizes up to $200,000 to a unit of Government that has completed phase I for public information activities and participation in MRS meetings. The second part, part B, allows up to $3 million to be provided for a variety of activities, including continued feasibility studies, and formal discussions and negotiations with the Office of the Nuclear Waste Negotiator.

To date, 21 units of Government have made application, with 16 applications currently in process. Of those 16 applications, several are well on their way through phase I of the grant process, and applications for phase II moneys may be made within the next few months.

Mr. President, $3 million is a lot of money when the prospect of achieving the final goal, siting of a monitored retrievable storage facility, may be quite uncertain. The purpose of my amendment is to ensure that disbursement of phase IIB moneys is a worthwhile investment, by tying that money to the demonstration of three things:

An agreement can be negotiated with the State, Indian tribe, or affected unit of local government;

Second, that the proposed MRS will be able to comply with State environmental laws.

And third, that there is a reasonable likelihood that the Federal Government can acquire whatever water rights may be necessary.

This amendment stipulates that it is the responsibility of the Nuclear Waste Negotiator, within 90 days after a unit of Government have applied for funding for phase II B activities, to document these three things. After a certain point, and I believe phase II A activities are that point, it does not make sense to spend significant sums of money unless there is a reasonable likelihood that a given site will be chosen.

Mr. President, Congress has directed DOE to take possession of high level commercial nuclear waste, to be emplaced in a temporary storage facility for about 40 years and ultimately in a permanent facility. It is Congress' responsibility to ensure that efforts to evaluate a given site for a temporary storage facility take into account the likelihood of achieving the ultimate goal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Monitored Retrievable Storage Facility Accountability Act".

SEC. 2. MONITORED RETRIEVABLE STORAGE FACILITY ACCOUNTABILITY.

Section 406(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10246(b)) is amended——

(1) by striking "The" and inserting "(1) Subject to paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2)(A) If a State, Indian tribe, or affected unit of local government has received a Phase II–A grant under this subsection, the Secretary may not award a Phase II–B grant to the State, Indian tribe, or affected unit of local government unless the Nuclear Waste Negotiator makes a determination (at the option of the Negotiator), and reports to Congress and to the Secretary in accordance with subparagraph (B), that there is a reasonable likelihood that——

"(i) an agreement can be negotiated under section 403(a) with the State, Indian tribe, or affected unit of local government; and

"(ii) the monitored retrievable storage facility that is the subject of the agreement will be able to comply with all applicable environmental laws of the State in which the facility will be located; and

"(iii) the Federal Government will be able to acquire all water rights that will be needed to construct and operate the monitored retrievable storage facility.

"(B) The report referred to in subparagraph (A)——

"(i) shall include relevant documentation; and

"(ii) shall be submitted to Congress and to the Secretary not later than 90 days after the date of submission by the State, Indian tribe, or affected unit of local government of an application for a Phase II–B grant under this subsection.

"(C) As used in this paragraph:

"(i) The term 'Phase II–A grant' means an initial allotment of funds to demonstrate successful preliminary intergovernmental coordination and siting possibilities and has the same meaning as is described in the 1991 Annual Report to Congress, prepared by the Office of the United States Nuclear Waste Negotiator, dated March 1992.

"(ii) The term 'Phase II–B grant' has the same meaning as is described in the 1991 Annual Report to Congress, prepared by the Office of the United States Nuclear Waste Negotiator, dated March 1992.".•

By Mr. JOHNSTON:

S. 3095. A bill to restore and clarify the Federal relationship with the Jena Band of Choctaws in Louisiana; to the Select Committee on Indian Affairs.

JENA BAND OF CHOCTAWS OF LOUISIANA RESTORATION ACT

• Mr. JOHNSTON. Mr. President, I rise today to introduce legislation that would restore and clarify the Federal relationship with the Jena Band of Choctaw Indians. Specifically, this bill would restore to the Jena Band the Federal recognition that was long ago extended by our Government, and has since then, unaccountably, been ignored. This bill is virtually identical to the House bill, H.R. 3607, which was the subject of an excellent hearing on July 8. At that hearing, the head of Louisiana's Office of Indian Affairs announced the support of the Governor, other State officials, and the three other federally recognized tribes in Louisiana for the Jena Band's restoration. The former head of the BIA's Branch of Acknowledgement and Recognition also testified in support of the Jena's restoration as a federally recognized tribe.

As one who believes that an Indian tribe's recognition is the rightful province of the Bureau of Indian Affairs, I had hoped that BIA would find a way to appropriately handle this unusual situation. However, the BIA has failed to respond to the Jena Band's case, which requires a restoration of previous recognition, rather than initial recognition. In fact, as the BIA's Federal acknowledgement procedures apply only to initial recognition of a tribe, it is necessary for the Congress to act in this unique case to restore the Jena Band's Federal recognition.

I have had earlier occasion to relate the sad story of the Jena Band, and of their 18-year-long effort to have their recognition restored, so I will only mention a few aspects of it now. Numerous Federal actions taken in the past have made clear the Federal recognition of the band as a separate and distinct Indian tribe, including the offer of allotment of tribal lands in Oklahoma in the early 1900's, the provision of services specifically to the tribe during the 1930's, and the Department of Interior acknowledgement of the band's eligibility under the Indian Reorganization Act for provision of tribal lands in Mississippi.

Unfortunately, Mr. President, the BIA never followed through on any of the promises or commitments it made to the Jena Band. Since no members of the Jena Band were able to read or write English—Choctaw is their native language—they were unable to push the BIA to act. Had the BIA fulfilled its written commitments to the Jena Band, the tribe would today be living on trust land and receiving a full range of services to which federally recognized Indian tribes are entitled. Instead, the BIA has ignored the Jena Band's pleas since the early 1970's. This has been true even though the BIA restored recognition to another Louisiana tribe, the Coushatta, which—like the Jena Band—had previously received services from the BIA.

Despite this disparate and unjust treatment, the Jena Tribe has persevered and continues to exist. It is composed of approximately 152 members of whom nearly 60 percent possess one-half or more Choctaw blood quantum, and who deserve the same treatment and benefits that other federally recognized tribes' members receive.

Mr. President, the most important point to keep in mind is that enactment of Jena Band restoration legislation will not create a new Indian tribe. Rather, it will restore the Jena's status as an Indian tribe that has previously been recognized by the BIA on several occasions. Not only will it restore just treatment to a group of Native Americans who have for too long been languishing in a bureaucratic catch 22, but it will not jeopardize efforts by some of my colleagues and the BIA to address separately proposed reforms to the Federal process for initial acknowledgement and recognition of Indian groups as tribes.

I urge prompt Senate action on this important legislation.●

By Mr. DANFORTH:

S. 3096. A bill to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16; to the Committee on Commerce, Science, and Transportation.

BICYCLE HELMET PROMOTION ACT

Mr. DANFORTH. Mr. President, bicycle riding is increasing steadily as a means of recreation and transportation. Ninety million Americans are cyclists, and 20 million ride a bicycle at least once a week. It is an inexpensive method of transportation which does not harm the environment. For those not old enough to drive a car, bicycling may be the only way to get around.

As ridership increases, safety concerns become even more important. A study conducted for the Centers for Disease Control [CDC], which was published last December in the Journal of the American Medical Association, provides revealing data about the magnitude and severity of head injuries suffered by cyclists. The study found that, between 1984 and 1988, nearly 3,000 people died from head injuries while cycling, and over 900,000 suffered head injuries. This represents 62 percent of all bicycling deaths and 32 percent of bicycling injuries that required treatment in hospital emergency rooms. The Consumer Product Safety Commission estimates that bicycle-related deaths and injuries cost society $7.6 billion annually.

The statistics regarding children are even more compelling. The study found that 41 percent of head injury deaths and 76 percent of total head injuries occurred among children under age 15. According to the National Head Injury Foundation, the cost of supporting a child who has suffered a severe head injury, on average, is $4.5 million over that individual's lifetime. For the family of a child killed or injured in a bicycle accident, the tragedy is immeasurable.

These losses are exacerbated by the fact that so many of them could be prevented by taking one simple step: the use of a protective bicycle helmet. A 1989 study published in the New England Journal of Medicine found that use of a bicycle helmet reduces the risk of all head injuries by 85 percent and brain injury by 90 percent. According to the CDC study, universal use of bicycle helmets would have prevented 2,600 deaths and 757,000 injuries between 1984 and 1988. Unfortunately, few riders wear helmets. In the case of children cyclists, it is a tragic fact that only 5 percent of these vulnerable riders wear helmets, according to the American Academy of Pediatrics.

Several local governments have taken steps to increase helmet use. For example, Howard and Montgomery Counties in suburban Maryland have enacted laws requiring children to wear bicycle helmets. I applaud their actions, but more needs to be done. The legislation I am introducing today provides incentives for State and local governments to address this problem. The bill establishes a grant program within the National Highway Traffic Safety Administration to promote helmet use. State or local governments could qualify for these grants in any of three ways. First, the grant could be used to assist those unable to afford a helmet, which costs about $40, to purchase one. In addition, it could be used for the creation of a helmet "bank" which would allow parents of limited means to obtain helmets for their children and to trade old helmets in for a larger size as their children grow. Second, the funds could be used to educate children about the need to wear a bicycle helmet. Finally, the grant could be used to assist in the enforcement of a mandatory bicycle helmet law for children. The bill specifically states that States or local governments are to be given broad discretion in establishing programs that effectively promote increased helmet use.

Mr. President, it is essential that bicyclists wear helmets. It is a simple matter, but the failure to wear a helmet can have tragic results. A Federal role in promoting helmet use is appropriate, and this measure takes the reasonable approach of allowing State and local officials to decide how their communities can best address this problem. This proposal will bring together State and local governments, parents, teachers, and others responsible for children, to protect against injury and to save lives. The total funding of $9 million over 3 years would be offset if we could prevent only a few serious head injuries a year, but this bill should prevent hundreds. According to the National Safe Kids Campaign, an organization consisting of health, consumer, educational, and law enforcement groups dedicated to improving child safety, this legislation will reduce the leading cause of death for children 15 and under—accidental injury. I urge my colleagues to support this bill.

By Mr. GORTON (for himself, Mr. AKAKA, Mr. SHELBY, Mr. SEYMOUR, Mr. HATFIELD, Mr. BINGAMAN, Mr. D'AMATO, Mr. DECONCINI, Mr. MCCAIN, and Mrs. KASSEBAUM):

S. 3097. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes; to the Committee on the Judiciary.

CHEMICAL CONTROL AMENDMENTS ACT OF 1992

Mr. GORTON. Mr. President, I am pleased to introduce today with Senators AKAKA, SHELBY, SEYMOUR, HATFIELD, BINGAMAN, D'AMATO, DECONCINI, MCCAIN, and KASSEBAUM, the Chemical Control Amendments Act of 1992, a bill to: First, control the diversion of certain chemicals used in the illicit production of controlled substances, and second, provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals. In short, this bill will provide law enforcement with the tools they need to combat the deadly spread of methamphetamine or ice. After years of effort, we have arrived at a noncontroversial proposal that is supported by Republicans and Democrats, chemical manufacturers, nonprescription drug manufacturers, the Drug Enforcement Administration, and local law enforcement agencies. With that kind of support, I urge my colleagues to join me and quickly enact this important measure into law.

We are familiar with the devastating effect of crack cocaine on our society. Less known is the widespread use and destructive capability of ice—which is to methamphetamine what crack is to cocaine. By many accounts, ice is far more devastating than crack and users are more violent. Users stay high for a longer period of time, usually from 16–18 hours, and sometimes for several days. Furthermore, ice can be produced almost anywhere, but most commonly in clandestine laboratories, known to many law enforcement officials as "kitchens of death."

THE CLANDESTINE LABORATORY PROBLEM

Over 80 percent of all clandestine laboratories seized involved the production of methamphetamine. The clandestine laboratory problem is one involving the production of synthetic drugs, that is, methamphetamine, amphetamine, LSD, PCP, et cetera, which are produced from precursor chemicals. A precursor chemical is one which is actually incorporated into the molecule of the final drug product. Ephedrine is a precursor for methamphetamine since it becomes part of the methamphetamine molecule and ephedrine is the most commonly used precursor used to produce methamphetamine.

From 1981 to 1988, the Drug Enforcement Administration reported a 400-percent increase in the number of seizures of clandestine labs. In late August 1989, the Chemical Diversion and Trafficking Act [CDTA] went into effect and this trend was immediately reversed. The Chemical Diversion and Trafficking Act of 1988 was the first comprehensive legislative effort by a major nation to control the diversion of chemicals as an element of its effort to deal with the illicit drug problem.

The CDTA demonstrated that this is an effective approach to drug control which can be implemented with modest administrative burdens to Government and industry. Laboratory seizures declined to 521 in 1990 and to 375 in 1991. This decline has validated the effectiveness of chemical control as a law enforcement tool.

Two major weaknesses of CDTA need to be remedied, however, if this success is to continue. The first is the legal drug exemption, set out at 21 U.S.C. 802(39)(A)(iv), which exempts a drug product which contains a listed chemical from the provisions of the act. The listed chemicals most affected by this provision are ephedrine, pseudoephedrine and phenylpropanolamine, each of which is used in various over-the-counter [OTC] and prescription drug products.

Meanwhile, cooks, the operators of clandestine labs, continue to evade law enforcement and the spread of ice continues, particularly in the Western United States. In their wake, these chemical druglords leave destroyed lives, terrorized communities, and toxic remains. In fact, the health risks posed by the hazardous wastes of abandoned clandestine laboratories present nearly as serious a problem as the production of the drugs.

Many of these chemicals are highly toxic, explosive, and even radioactive. They are recklessly dumped into our streams, sewers, and on the ground—poisoning the land and ground water. As Paul Pierce, president of the Clandestine Laboratory Investigators Association and police officer with the city of Camas in Washington State, stated in testimony last year before the Judiciary Committee, "It should be understood from the beginning that every lab is an environmental nightmare."

In 1 of over 50 seizures of meth labs in the Northwest, Officer Pierce testified that his investigative unit discovered a lab in Skamania County in Washington State that had produced more than 80 pounds of methamphetamine. Behind the residence on a hillside, detectives found hundreds of buckets of waste buried in the ground. The hillside, which contained individual wells that served as the water source in the area, was spongy to walk on due to the amount of chemical waste.

At another lab site, a suspect was using a mobile home to manufacture drugs using mercuric chloride, containing mercury, and lead acetate, containing high concentrations of lead. For over a year the operator simply poured his waste out of the trailer and into a creek that fed a nearby park swimming hole.

In yet another case, a suspect in eastern Clark County who had a lab in his five-bedroom home dumped his waste into his septic tank which overflowed and sent toxic chemicals into a nearby creek. The creek fed a local dairy farm and popular recreational lake.

If the devastation of drug abuse, the health risks of hazardous waste, and damage to the environment are not enough, I was appalled to discover recently that many local and State governments across the Nation discourage pursuit of meth lab operators because, by law, the local government is responsible for the extraordinary cleanup costs. Since, under Federal law, the seizing agency is considered the generator of the waste, it is liable for cleaning it up. This absurdity in the law penalizes the taxpayer rather than the clandestine lab operator, delays needed environmental cleanup, and exposes innocents to unknown health risks.

Even States like my State of Washington, which have enacted toxic control laws to address the damage done by meth labs, still pay an enormous price in cleanup costs. A member of the spill response unit of the Washington State Department of Ecology recently informed my office that of the approximately 200 lab cleanups he has been involved with over 4 years, the costs were recovered in only one case. At an average cost of $3,000 per cleanup, it is no wonder State and local governments have little incentive to pursue clandestine lab operators.

THE CHALLENGE

The plague of meth labs is due to the availability of legal chemicals that operators divert to produce illegal drugs. One option would be to treat these legal chemicals as controlled substances and forbid their production for any purpose. That would, however, preclude the availability of the thousands of products that we take for granted every day. The first challenge is to find a method to control the diversion of legal chemicals without affecting the commerce of valuable and legal over-the-counter products. Second, we must make producers of illicit drugs liable for the cleanup costs of the waste they leave behind.

HISTORY OF LEGISLATIVE EFFORT

As you can imagine, meeting these challenges has been difficult to say the least. Since 1989 I and other Senators have made shutting down meth labs a top priority in the war on drugs. In 1989, after meeting with law enforcement officials in Washington State, I introduced S. 2651, the precursor Chemical Regulation Act, which would: First, regulate precursor chemicals used to make methamphetamines such as ice, second, require licenses for transactions in regulated chemicals and third, impose environmental penalties for mismanagement of hazardous precursor chemicals. Senators ADAMS, BOSCHWITZ, BURNS, COATS, DANFORTH, HATCH, HATFIELD, and WILSON joined as cosponsors. These provisions were added to S. 1970, the 1990 crime bill, but were dropped in conference.

In 1991 I introduced with Senator AKAKA from Hawaii virtually the identical provisions of the earlier legislation as S. 1142, and I had intended to attach them to the 1991 crime bill. Instead, after consulting with the Drug Enforcement Administration, I introduced a more comprehensive package of precursor chemical amendments intended to build on, and strengthen the principles underlying our Federal drug laws. In addition, the bill would have implemented several of the recommendations of the multinational Chemical Action Task Force convened in connection with the 1990 Houston Economic Summit. This new package was offered by the Senator and Senators AKAKA, BRYAN, D'AMATO, DECONCINI, BURNS, PACKWOOD, and BIDEN, the chairman of the Senate Judiciary Committee, as an amendment to S. 1241, the 1991 violent crime bill. This strong bipartisan support, along with the backing of the Drug Enforcement Administration and the Chemical Manufacturers Association, led to the adoption of the measure by voice vote.

Shortly thereafter, I was contacted by the Nonprescription Drug Manufacturing Association, which had raised concerns about the legal drug exemption set forth in section 3102(c)(5). Under then-current law, the "legal drug exemption" generally exempted from Federal drug enforcement laws pharmaceutical products which may be marketed or sold lawfully under the Federal Food, Drug, and Cosmetic Act. The NDMA raised concerns that the original language of section 3102(c)(5) would unduly regulate legitimate pharmaceutical manufacturers whose products were not being diverted to the production of illicit drugs.

Finding its concerns valid and crucial to the best possible solution, I asked the NDMA to sit down with the DEA and CMA to find acceptable language. After months of often very difficult negotiations, an agreement was reached and I informed conferees to the crime bill of that success. Although I understood that the changes would be adopted in conference last November, the final report did not include the new agreement.

The bill I am introducing today, therefore, represents that extraordinary agreement and some minor technical improvements. The legitimate concerns of the Nonprescription Drug Manufacturers Association have been met. In fact, NDMA recently raised an issue which applied to both section 3—Registration—and section 4—Reporting of Listed Chemical Manufacturing—of the new bill. The issue was that the distribution and manufacture of drug products containing listed chemicals which were exempt under certain provisions were not specifically exempted from the other sections. It had not been the intention of the DEA that exempt drug products be subject to these requirements and it was agreed that a specific statement to this effect would be added to both sections. This process which has taken several years finally has produced a result that only clandestine lab operators will regret.

BILL HIGHLIGHTS

Specifically, the bill would provide for the following:

Section 2 eliminates the terms "precursor chemical" and "essential chemical" and replaces them with "list I chemical" and "list II chemical." This allows the DEA to focus degree of control on the nature of the diversion and use of the chemical rather than its status as a precursor or essential chemical. It also allows the DEA to transfer chemicals between lists if circumstances warrant greater or lesser control. In addition, this section makes U.S. chemical control law consistent with international nomenclature, expands the definitions of "regulated person" and "regulated transaction" to include brokers and traders, and modifies exemption for chemical mixtures to be consistent with the 1988 United Nations Convention.

This section also modifies the legal drug exemption. Specifically, it removes the exemption for products in which ephedrine is the only active medicinal ingredient in therapeutic amounts. The DEA may remove by regulation the exemption for other drugs containing listed chemicals if it is determined that they are being diverted. In addition, this section contains specific criteria for determining that a drug containing a listed chemical is being diverted. Finally, manufacturers may apply to retain exemption for specific drug products if they can demonstrate that the drug product is manufactured and distributed in a way which prevents diversion.

Section 3 provides for registration requirements for List I Chemicals and applies to all distributors, importers, and exporters of List I Chemicals. The requirements parallel those for registration to handle controlled substances. Those include the authority to revoke or deny based on public interest grounds as well as traditional grounds, immediate suspension in cases of imminent danger to the public health or safety, and criminal penalties for distribution, importation, or exportation without required registration. Registration is not required for distribution, importation, or exportation of drug products containing List I Chemicals covered by the legal drug exemption.

Section 4 provides for the reporting of listed chemical manufacturing. All manufacturers will be required to submit annual reports on the total quantity of listed chemicals produced during the year. This reporting requirement does not apply to the manufacture of drug products containing List I Chemicals covered by the legal drug exemption.

Section 5 requires brokers and traders to have the same recordkeeping and reporting requirements for international transactions as exporters and subjects them to the same criminal sanctions.

Section 6 provides for exemption authority and additional penalties. This will allow DEA to apply a target approach to export controls. Exports of some chemicals to certain countries—such as cocaine processing chemicals to the Andean countries—may be subject to 15-day advance notice even if the shipment is destined for a regular customer. Exports of some chemicals to certain countries—such as solvents to Canada—would not require 15-day advance notice even if the customer is not a regular customer.

This section also authorized the DEA to reduce controls on the importation of specified chemicals by modifying or eliminating the advance notice requirement. A specific criminal penalty is added for individuals who attempt to evade reporting requirements by falsely claiming that a shipment is destined for a country for which a waiver of this requirement has been established. A specific criminal penalty for smuggling of listed chemicals is added.

Section 7 provides for amendments to list I. Three chemicals which were added by the Crime Control Act of 1990 are deleted. Two of them are precursors for substances not controlled under Federal law and the third is already listed as a controlled substance. Two chemicals which are used to illicitly manufacture the immediate precursor to methamphetamine are added to list I.

Section 8 provides for the elimination of regular supplier status and the creation of regular importer status. This will place the focus of control on the U.S. firm which imports a listed chemical. The present focus is on the foreign firm which supplied the chemical.

Section 9 provides for administrative inspections and authority. DEA's inspection authority is presently limited to places where records required under the CDTA are maintained. This amendment will expand this authority so that DEA will have the same inspection authority for listed chemicals as it presently has for controlled substances.

Section 10 clarifies the Attorney General's authority to eliminate thresholds for specific chemicals.

Perhaps most importantly, section 11 creates an additional felony if an individual violates the Solid Waste Disposal Act in the handling of chemicals used to illegally manufacture a controlled substance. In addition, the individual shall be responsible for the costs of cleanup and restoration.

Section 12 subjects listed chemicals to the same forfeiture provisions which apply to controlled substances.

Last, section 13 grants the DEA full access to all information in the national practitioners data bank such as adverse State licensing actions and other reportable data. The DEA will utilize this information in determining whether to initiate administrative action against the practitioner's registration to handle controlled substances.

CONCLUSION

Obviously, this legislation when enacted into law will have a dramatic effect on the pursuit of meth lab operators and the destruction of clandestine laboratories. Indeed, perhaps it should be referred to as the "Ice Breaker Act of 1992." It is the culmination of years of effort, patience, dedication, and hard work by the Drug Enforcement Administration, the Chemical Manufacturers Association, and the Nonprescription Drug Manufacturers, and I commend them for their commitment to good public policy.

Mr. President, I ask unanimous consent to print in the RECORD the full text of the Chemical Control Act of 1992, as well as letters of endorsement from the Drug Manufacturers Association, the Nonprescription Drug Manufacturers, and the Chemical Manufacturers Association. In addition, I would like to print a letter from Officer Paul Pierce, president of the Clandestine Laboratories Investigators Association who states:

> On behalf of them [CLIA] I wish to extend our enthusiastic support and endorsement for this legislation. It will result in a major weapon against the clandestine laboratory operator and more especially against the procurer and supplier of those chemicals without which an entire sector of domestically manufactured illegal drugs might just be eradicated.

With that powerful endorsement from the men and women who seize the labs, I wish to thank my colleagues who have joined as original cosponsors. After years of work, I can say confidently that I expect this non-controversial bill to pass easily and urge my colleagues to support it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, July 22, 1992.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The purpose of this letter is to confirm the complete support of this agency for your bill entitled the Chemical Control Amendments Act of 1992. Representatives of this agency have worked diligently with your staff in the development of this legislation which will greatly enhance our ability to deal with the problems of chemical diversion. The results of our activities in this area under our current limited authority have demonstrated that chemical control is an extremely effective mechanism with which to deal with the illicit production of drugs. The provisions contained in your bill address specific weaknesses in our law which are being exploited by individuals who require precursor and essential chemicals to produce drugs which plague our society. I thank you for your sponsorship of this legislation which we feel is critical to the mission of this agency.

Very truly yours,

ROBERT C. BONNER,
Administrator of Drug Enforcement.

NONPRESCRIPTION DRUG
MANUFACTURERS ASSOCIATION,
Washington, DC, July 22, 1992.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The Drug Enforcement Administration (DEA), the Chemical Manufacturers Association (CMA) and the Nonprescription Drug Manufacturers Association (NDMA) have worked closely with Senator Slade Gorton and his staff and other members of the Senate and House of Representatives in drafting the Chemical Control Amendments Act of 1992. This legislation will provide federal enforcement agencies with needed tools to more effectively identify and deal with individuals and companies that are using precursor and other chemicals for the illicit manufacture and distribution of controlled substances such as methamphetamines. The bill recognizes that these same chemicals are essential in producing many useful commodities and are contained in literally hundreds of prescription and over-the-counter medications. The legislation therefore limits the regulatory burdens placed on legitimate chemical manufacturers and distributors and exempts from the controls of the act drug products that many be lawfully marketed in the United States.

The NDMA strongly supports prompt enactment of the Chemical Control Amendments Act of 1992.

Sincerely,

J. ROBERT BROUSE,
Vice President, Government Relations.

CHEMICAL MANUFACTURERS
ASSOCIATION,
Washington, DC, July 22, 1992.

Hon. Slade Gorton,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The Chemical Manufacturers Association (CMA) wishes to convey its strong support for legislation you intend to introduce, the Chemical Control Amendments Act of 1992. CMA has actively worked with your staff and the Drug Enforcement Administration (DEA) to prevent the diversion of certain precursor and essential chemicals critical to the manufacture of illicit drugs. Your proposal will provide the Federal Government the authority necessary to effectively control diversions of legitimate chemical shipments which we wholeheartedly support.

CMA is a non-profit trade association whose member companies represent 90 percent of the productive capacity for basic industrial chemicals in the United States. CMA and its member companies are committed to doing their part in helping eliminate illicit drugs at their source. The cooperative effort first made by the chemical industry and the Government in enacting the Chemical Diversion and Trafficking Act of 1988 has served as a model for preventing the diversion of chemical shipments to illegal drug production.

CMA and its member companies look forward to continuing their work with Congress and the Administration to stem the diversion of chemicals to the manufacture of illicit drugs. If you have any questions concerning CMA's position, please have a member of your staff contact Claude P. Boudrias, Legislative Representative, Tax and Trade, at (202) 887-1138 or Michael P. Walls, CMA Assistant General Counsel, at (202) 887-1170.

Sincerely,

ROBERT A. ROLAND,
President.

CLANDESTINE LABORATORY
INVESTIGATORS ASSOCIATION,
Washington, DC, July 22, 1992.

DEAR SENATOR GORTON: I have spent the past two days reviewing the Chemical Control Amendments Act of 1992 with the members of our organization from across the nation. These members are the Criminal Justice Enforcement men and women who are on the front lines of the war against drugs.

On behalf of them I wish to extend our enthusiastic support and endorsement for this legislation. It will result in a major weapon against the clandestine laboratory operator and more especially against the procurer and supplier of those chemicals without which an entire sector of domestically manufactured illegal drugs might just be eradicated.

It is our considered opinion, based on the vast experience of our members, that once these laws are in effect the illegally procured chemicals purchased through semi-legitimate companies will finally begin to dry up. It gives us the tools to shut down these sources which have operated with impunity on the fringes of the law for so long.

And perhaps more importantly the shackles of cleanup costs which have hampered so many local and state agencies in their efforts to battle these illegal laboratories will finally be placed on the individuals responsible for the chemical devastation. These people are responsible not only for the pollution of entire sectors of our society with their drugs, but they are equally responsible for mini love canals across our nation, in our rivers, forests, parks, and air. It will be many years before we know the true cost of this indiscriminate dumping of chemical wastes.

We not only fully endorse this legislation and its intent but wish further to commend you personally for your years of unselfish commitment to the war against these chemical terrorists and their kitchens of death.

Sincerely,

PAUL J. PEARCE,
President.

S. 3097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical Control Amendments Act of 1992".

SEC. 2. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacturer";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters" before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified";

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38) by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title II based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40) by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(43) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(44) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, buyer, and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv)(II) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) TECHNICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of the section relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B) by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

SEC. 3. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2) by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2) by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) if the person is a regulated person, to distribute, import, or export a list I chemical without the registration required by this Act.".

SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).".

SEC. 5. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) NOTIFICATION REQUIREMENT.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 5(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 5(b), is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 7. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B) by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C) by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 10. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 11. MANAGEMENT OF LISTED CHEMICALS.

(a) IN GENERAL.—Part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) ENHANCED PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1) a defendant shall be assessed the following costs to the United States, a State, or another authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a class D felony, or in the case of a willful violation, as a class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) A court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) USE OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) EXCEPTION TO DISCHARGE IN BANKRUPTCY.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 12. FORFEITURE EXPANSION.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraph (6) by inserting "or listed chemical" after "controlled substance"; and

(2) in paragraph (9) by striking "a felony provision of".

SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 14. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the date of enactment of this Act, issue regulations necessary to carry out this Act.

(b) EFFECTIVE DATE.—This Act and the amendments made by this Act shall become effective on the date that is 120 days after the date of enactment of this Act.

Mr. GORTON. I note, Mr. President, the presence on the floor of the distinguished Senator from Hawaii [Mr. AKAKA], who almost from the beginning has worked with me on this legislation, and whose encouragement and advice and support have been greatly appreciated. I am sure he wishes to make remarks on the same subject.

The PRESIDING OFFICER. The Senator from Hawaii, Mr. AKAKA, is recognized.

Mr. AKAKA. Mr. President, I am delighted to join with my colleague from Washington, Senator GORTON, as an original cosponsor of his bill which directly attacks the increased use in crystal methamphetamine by controlling the diversion of chemicals to the illegal drug trade.

In addition to reducing the diversion of chemicals to the production of illicit drugs, Senator GORTON's bill would also add additional chemicals to the list of registered precursor chemicals; provide greater flexibility to law enforcement agencies in the application of regulatory controls on the legitimate international commerce in these chemicals; and impose penalties for environmental damage associated with illegal drug production.

This measure is nearly identical to that which was adopted in the omnibus crime bill. Although there continues to be steadfast opposition to that bill from the White House, it is imperative that we move ahead with this measure so that we may stem the flow of legalized chemicals to the illegal drug trade.

This action is consistent with my own legislative efforts to control the diversion of chemicals to the illegal drug trade, particularly as they relate to the production of crystal methamphetamine. I was successful in adding tougher sentencing guidelines for offenses involving crystal meth during the debate over the Crime Control Act of 1990.

My colleagues are well aware of the problems facing Hawaii and the rest of the United States from the threat of crystal methamphetamine—or ice as it is known on the street. The 50th State remains an important port of call for shipments of the drug produced in Asia. If we are able to control the flow of chemicals used to make ice, as this bill hopes to do, we stand a good chance of stopping the ice epidemic in its tracks.

I wish to commend Senator GORTON for his leadership in this matter. A comprehensive, Federal approach to precursor chemicals is badly needed to supplement local and State laws and regulations against the illegal diversion of such chemicals to the drug trade.

I especially want to praise him for identifying the environmental consequences of illegal drug production and trade as an important issue in the drug war. By making drug pushers and producers financially as well as criminally liable for the environmental damage they may cause, this bill serves as a deterrent to such activity. At the very least, we may get drug pushers and manufacturers to pay for the cost of cleaning up the damage they do to our environment.

Mr. President, the impact of illegal drugs on the environment is an issue that we have only begun to explore. We can document the physical and psychological harm caused by drugs, but we are far less knowledgeable as to how our environment is polluted by the manufacturing of these drugs.

In closing, Mr. President, I wish to commend Senator GORTON for his continued diligence in raising the issue of precursor drugs. I urge my colleagues to join in the fight against drugs and cosponsor this legislation.

ADDITIONAL COSPONSORS

S. 434

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 434, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States, and for other purposes.

S. 781

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 2103

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2387

At the request of Mr. LEAHY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children (WIC) and of Head Start programs, to expand the Job Corps program, and for other purposes.

S. 2696

At the request of Mr. DOMENICI, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2696, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

S. 2698

At the request of Mr. PRYOR, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2698, a bill to amend title XVIII of the Social Security Act to provide for enhanced enforcement of the billing limits established under part B of such title, and for other purposes.

S. 2714

At the request of Mr. SANFORD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2714, a bill to amend the Internal Revenue Code of 1986 to assist in the recruitment and retention of mathematics and science teachers, to provide matching funds for the promotion of mathematics or science secondary schools, and for other purposes.

S. 2846

At the request of Ms. MIKULSKI, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2846, a bill to amend the Office of Federal Procurement Policy Act to provide for the participation of historically black colleges and universities in federally funded research and development activities.

S. 2889

At the request of Mr. BOREN, the name of the Senator from Arkansas [Mr. BUMPERS] was withdrawn as a cosponsor of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2949

At the request of Mr. KENNEDY, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the names of the Senator from California [Mr. SEYMOUR], the Senator from Maine [Mr. COHEN], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3020

At the request of Mr. MCCONNELL, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. CRAIG], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 3020, a bill to repeal the prohibition in the District of Columbia on individuals carrying self defense items such as MACE.

S. 3065

At the request of Mr. HARKIN, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 3065, a bill to revise and extend the Rehabilitation Act of 1973, and for other purposes.

S. 3091

At the request of Mr. GORTON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 3091, a bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for the collection and disclosure of adoption information, and for other purposes.

SENATE JOINT RESOLUTION 306

At the request of Mr. D'AMATO, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month."

AMENDMENTS SUBMITTED

NATIONAL ENERGY EFFICIENCY ACT OF 1991

BRADLEY AMENDMENT NO. 2782

Mr. BRADLEY proposed an amendment to the bill (H.R. 776) to provide for improved energy efficiency, as follows:

Strike Section 20115.

SPECTER AMENDMENT NO. 2783

Mr. SPECTER proposed an amendment to the bill H.R. 776, supra, as follows:

At the end of the Amendment, add the following:

TITLE I—TAX INCENTIVE FOR HEALTH CARE ACCESS

SEC. 101. DEDUCTIBILITY FOR SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent of".

(b) Deduction Made Permanent.—Section 162(l) of the Internal Revenue Code of 1986 is amended by striking paragraph (6).

(c) Conforming Amendment.—Subparagraph (B) of section 162(l)(3) of the Internal Revenue Code of 1986 (relating to coordination with medical deduction, etc.) is amended—

(1) by striking "health insurance credit" and inserting "health expenses credit and employer health insurance credit",

(2) by striking "section 32" and inserting "section 34A with respect to such insurance and section 38, respectively", and

(3) by striking "CREDIT" in the heading thereof and inserting "CREDITS".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE II—HEALTH CARE REFORM PROVISIONS

Subtitle A—Model Health Care Insurance Benefits Plan

SEC. 201. MODEL HEALTH CARE INSURANCE BENEFITS PLAN.

(a) In General.—The Secretary shall request that the NAIC—

(1) develop a model health care insurance benefits plan that shall contain standards that entities offering health care insurance policies should meet with respect to the benefits and coverage provided under such policies, and

(2) report to the Secretary on such standards, not later than 1 year after the date of enactment of this Act.

If the NAIC develops such a plan by such date and the Secretary finds that such plan implements the requirements of subsection (c), such plan shall be the model health care insurance benefits plan under this Act.

(b) Role of the Secretary in Absence of NAIC Plan.—If the NAIC fails to develop and report a model health care insurance benefits plan by the date specified in subsection (a) or the Secretary finds that such plan does not implement the requirements of subsection (c), the Secretary shall develop and publish such a plan, by not later than eighteen months after the date of enactment of this Act. Such plan shall then be the plan under this Act.

(c) Contents.—The standards under the model benefits plan should require—

(1) that coverage be provided under health care insurance policies for basic hospital, medical and surgical services, including preventative care services determined appropriate by the Secretary;

(2) reasonable cost sharing by the beneficiaries under such policies; and

(3) appropriate copayments and deductibles.

SEC. 202. DEFINITIONS.

As used in this title:

(1) Health care insurance.—The term "health care insurance" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, multiple employer welfare arrangement, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1974), or any other health insurance arrangement, and includes an employment-related reinsurance plan, but does not include—

(A) a self-insured health care insurance plan; or

(B) any of the following offered by an insurer—

(i) accident only, dental only, or disability income only insurance,

(ii) coverage issued as a supplement to liability insurance,

(iii) worker's compensation or similar insurance, or

(iv) automobile medical-payment insurance.

(2) Managed care plan.—The term "managed care plan" means a health care insurance plan in which the insurer offering such plan utilizes the standards recommended under section 211 concerning the benefits and coverage under such plan.

(3) Model benefits plan.—The term "model benefits plan" means the model health care insurance benefits plan developed under section 201(a).

(4) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(5) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(6) Small employer.—

(A) In general.—The term "small employer" means any employer which, on an average business day during the preceding taxable year, had more than 2 but less than 100 employees.

(B) Employee.—The term "employee" shall not include—

(i) a self-employed individual as defined in section 401(c)(1) of the Internal Revenue Code of 1986, or

(ii) an employee who works less than 20 hours per week.

Subtitle B—Managed Care

SEC. 211. DEVELOPMENT OF STANDARDS FOR MANAGED CARE PLANS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary, taking into account recommendations of the Managed Care Advisory Committee, shall develop recommended standards that insurers offering managed care plans should meet with respect to the benefits, coverage, and delivery systems provided under such plans. Such standards shall encompass the standards by which managed care entities operate.

(b) Managed Care Advisory Committee.—

(1) Establishment.—There shall be established a Managed Care Advisory Committee (hereinafter referred to as the "Committee").

(2) Membership.—The Committee shall be composed of 5 members appointed by the Secretary, each member representing 1 of the following areas:

(A) Health care professionals.

(B) Managed care industry.

(C) Academia (with specific expertise in managed care plans).

(D) Business management.

(E) Organized labor.

(3) Compensation.—

(A) In general.—Members of the Committee shall serve without compensation.

(B) Expenses, etc., reimbursed.—While away from their homes or regular places of business on the business of the Committee, the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(C) Application of act.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) Support.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

SEC. 212. PREEMPTION OF PROVISIONS RELATING TO MANAGED CARE.

In the case of a managed care plan meeting the recommended standards under section 211 that is offered by an insurer, the following provisions of State law are preempted and may not be enforced against the managed care plan with respect to an insurer offering such plan:

(1) Restrictions on reimbursement rates or selective contracting.—Any law that restricts the ability of the insurer to negotiate reimbursement rates with health care providers or to contract selectively with one provider or a limited number of providers.

(2) Restrictions on differential financial incentives.—Any law that limits the financial incentives that the managed care plan may require a beneficiary to pay when a non-plan provider is used on a non-emergency basis.

(3) Restrictions on utilization review methods.—

(A) In general.—Any law that—

(i) prohibits utilization review of any or all treatments and conditions;

(ii) requires that such review be made by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered;

(iii) requires the use of specified standards of health care practice in such review or requires the disclosure of the specific criteria used in such review;

(iv) requires payments to providers for the expenses of responding to utilization review requests; or

(v) imposes liability for delays in performing such review.

(B) Construction.—Nothing in subparagraph (A)(ii) shall be construed as prohibiting a State from requiring that utilization review be conducted by a licensed health care professional, or requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

(4) RESTRICTIONS ON BENEFITS.—Any law that mandates benefits under the managed care plan that are greater that the benefits recommended under the standards developed under section 211.

Subtitle C—Small Employer Purchasing Groups

SEC. 221. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) DEFINED.—For purposes of this title, an entity is a qualified small employer purchasing group if—

(1) the entity submits an application to the Secretary at such time, in such form and containing such information as the Secretary may require; and

(2) on the basis of information contained in the application and any other information the Secretary may require, the Secretary determines that—

(A) the entity is administered solely under the authority and control of its member employers;

(B) the membership of the entity consists solely of small employers (except that an employer member of the group may retain its membership in the group if, after the Secretary determines that the entity meets the requirements of this subsection, the number of employees of the employer member increases to more than 100);

(C) with respect to each State in which its members are located, the entity consists of not fewer than 100 employers;

(D) at the time the entity submits its application, the health care insurance plans with respect to the employer members of the entity are in compliance with applicable State laws and the model benefits plan relating to such plans;

(E) the health care insurance plans of the entity and the employer members of the entity are not self-insured plans;

(F) each enrollee in the program of the entity may enroll with any participating carrier that offers health care insurance coverage in the geographic area in which the enrollee resides; and

(G) such entity will be a nonprofit entity; and

(3) such entity has a board of directors as described in subsection (b) with authority to act as described in subsection (c).

(b) OPERATIONS.—A small employer purchasing group shall be administered by a board of directors. The members of such board shall be elected by the employers that are members of the group, and such board members shall serve at the pleasure of the majority of such employers.

(c) DUTIES OF BOARD.—

(1) IN GENERAL.—The board shall have the authority to—

(A) enter into contracts with carriers to provide health care insurance coverage to eligible employees and their dependents;

(B) enter into other contracts as are necessary or proper to carry out the provisions of this subtitle;

(C) employ necessary staff;

(D) appoint committees as necessary to provide technical assistance in the operation of the entity's program;

(E) assess participating employers a reasonable fee for necessary costs in connection with the program;

(F) undertake activities necessary to administer the program including marketing and publicizing the program and assuring carrier, employer, and enrollee compliance with program requirements;

(G) issue rules and regulations necessary to carry out the purpose of this subtitle; and

(H) accept and expend funds received through fees, grants, appropriations, or other appropriate and lawful means.

(2) PROGRAM MANAGEMENT.—

(A) GEOGRAPHIC AREAS OF COVERAGE.—The board shall establish geographic areas within which participating carriers may offer health care insurance coverage to eligible employees and dependents. The board shall contract with sufficient numbers and types of carriers in an area to assure that employees have a choice from among a reasonable number and type of competing health care insurance carriers.

(B) CONTRACT REQUIREMENTS.—

(i) IN GENERAL.—The board shall enter into contracts with qualified carriers for the purpose of providing health care insurance coverage to eligible employees and dependents, and shall pay qualified carriers on at least a monthly basis at the contracted rates.

(ii) GENERAL QUALIFICATIONS OF CARRIERS.—Participating carriers shall be qualified if such carriers have—

(I) adequate administrative management,

(II) financial solvency, and

(III) the ability to assume the risk of providing and paying for covered services.

A participating carrier may utilize reinsurance, provider risk sharing, and other appropriate mechanisms to share a portion of the risk described in subclause (III). The board may establish risk adjustment mechanisms that can be utilized to address circumstances where a participating carrier has a significantly disproportionate share of high risk or low risk enrollees based upon valid data provided by carrier. Any such risk adjustment mechanism may be developed and applied only after consultation with the participating carriers.

(C) PROGRAM STANDARDS.—The board shall require that participating carriers that contract with or employ health care providers shall have mechanisms to accomplish at least the following, satisfactory to the program:

(i) Review the quality of care covered.

(ii) Review the appropriateness of care covered.

(iii) Provide accessible health services.

(D) UNIFORMITY OF BENEFITS.—The board shall assure that participating carriers—

(i) shall offer substantially similar benefits to enrollees in the program, except that enrollees cost sharing required by participating carriers may vary according to the basic method of operation of the carrier, and

(ii) shall not vary rates to small employers or enrollees in the program on account of claim experience, health status or duration from issue.

(E) PAYMENT MECHANISM.—The board shall establish a mechanism to collect premiums from small employers, including remittance of the enrollee's share of the premium.

(3) NOTIFICATION OF PROGRAM BENEFITS.—The board shall use appropriate and efficient means to notify employers of the availability of sponsored health care insurance coverage from the program. The board shall make available marketing materials which accurately summarize the carriers' insurance plans and rates which are offered through the program. A participating carrier may contract with an agent or broker to provide marketing, advertising, or presentation proposals or otherwise disseminate information regarding coverage or services or rates offered in connection with the program.

(4) CONDITIONS OF PARTICIPATION.—

(A) IN GENERAL.—The board shall establish conditions of participation for small employers and enrollees that—

(i) assure that the entity is a valid small employer purchasing group and is not formed for the purpose of securing health care insurance coverage;

(ii) assure that individuals in the group are not added for the purpose of securing such coverage;

(iii) require that a specified percentage of employees and dependents obtain health care insurance coverage;

(iv) require minimum employer contributions; and

(v) require prepayment of premiums or other mechanisms to assure that payment will be made for coverage.

(B) MINIMUM PARTICIPATION.—The board may require participating employers to agree to participate in the program for a specified minimum period of time and may include in any participation agreements with employers a requirement for a financial deposit or provision for a financial penalty, which would be invoked in the event the employer violates the participation agreement.

(d) GRANTS.—

(1) AUTHORITY.—The Secretary may award grants to qualified small employer purchasing groups to assist such groups in paying the expenditures associated with the formation and initial operations of such groups.

(2) APPLICATION.—To be eligible to receive a grant under this subsection, a qualified small employer purchasing group shall request such a grant as part of the application submitted by such group under subsection (a)(1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to award grants under this subsection, such sums as may be necessary.

(e) FREEDOM OF CONTRACT.—Nothing in this subtitle shall be construed to prohibit a participating carrier from offering health care insurance coverage to small employers that are not participating in the program of a small employer purchasing group.

SEC. 222. PREEMPTION FROM INSURANCE MANDATES FOR SMALL EMPLOYER PURCHASING GROUPS.

(a) FINDING.—Congress finds that qualified small employer purchasing groups organized for the purpose of obtaining health insurance for the employer members of such groups affect interstate commerce.

(b) PREEMPTION OF STATE MANDATES.—In the case of a qualified small employer purchasing group, no provision of State law shall apply that requires the offering, as part of the health care insurance plan with respect to an employer member of such a group, of any services, category of care, or services of any class or type of provider that is in excess of that recommended under the model benefit plan.

Subtitle D—Insurance Market Reform

SEC. 231. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH CARE INSURANCE PROVIDED TO SMALL EMPLOYERS.

(a) IN GENERAL.—Subchapter L of chapter 1 of the Internal Revenue Code of 1986 (relating to insurance companies) is amended by adding at the end thereof the following new part:

"PART IV—HEALTH CARE INSURANCE PROVIDED TO SMALL EMPLOYERS

"Sec. 850. Failure to satisfy standards for health care insurance of small employers.

"Sec. 850A. General issuance requirements.

"Sec. 850B. Specific contractual requirements.

"Sec. 850C. State compliance agreements.

"Sec. 850D. Definitions and other rules.

"SEC. 850. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH CARE INSURANCE OF SMALL EMPLOYERS.

"(a) GENERAL RULE.—No health insurance contract issued to an eligible small employer shall be treated as a contract for purposes of section 807 or 832 if the issuer of such a contract fails to meet at any time during any taxable year—

"(1) the general issuance requirements of section 850A, or

"(2) the specific contractual requirements of section 850B.

"(b) LIMITATION.—

"(1) SECTION NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—Subsection (a) shall not apply with respect to any failure for which it is established to the satisfaction of the Secretary that the person described in such subsection did not know, or exercising reasonable diligence would not have known, that such failure existed.

"(2) SECTION NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—Subsection (a) shall not apply with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons described in such subsection knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive the application of subsection (a).

"SEC. 850A. GENERAL ISSUANCE REQUIREMENTS.

"(a) GENERAL RULE.—The requirements of this section are met if a person meets—

"(1) the mandatory policy requirements of subsection (b),

"(2) the guaranteed issue requirements of subsection (c), and

"(3) the mandatory registration and disclosure requirements of subsection (d).

"(b) MANDATORY POLICY REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if any person issuing a health care insurance contract to any eligible small employer makes available to such employer a health care insurance contract which—

"(A) provides benefits and coverage consistent with the model health care insurance benefits plan developed under section 201 of the Health Equity and Access Improvement Act of 1991, and

"(B) is for a term of not less than 12 months.

"(2) PRICING AND MARKETING REQUIREMENTS.—The requirements of paragraph (1) are not met unless—

"(A) the price at which the contract described in paragraph (1) is made available is not greater than the price for such contract determined on the same basis as prices for other health care insurance contracts within the same class of business made available by the person to eligible small employers, and

"(B) such contract is made available to eligible small employers using at least the marketing methods and other sales practices which are used in selling such other contracts.

"(c) GUARANTEED ISSUE.—

"(1) IN GENERAL.—The requirements of this subsection are met if the person offering health care insurance contracts to eligible small employers issues such a contract to any eligible small employer seeking to enter into such a contract.

"(2) FINANCIAL CAPACITY EXCEPTION.—Paragraph (1) shall not require any person to issue a health care insurance contract to the extent that the issuance of such contract would result in such person violating the financial solvency standards (if any) established by the State in which such contract is to be issued.

"(3) DELIVERY CAPACITY EXCEPTION.—Paragraph (1) shall not require any person to issue a health care insurance contract to the extent that the issuance of such contract would result, upon demonstration to the Secretary, in such person exceeding its administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups)

"(4) EXCEPTION FOR CERTAIN EMPLOYERS.—Paragraph (1) shall not apply to a failure to issue a health care insurance contract to an eligible small employer if—

"(A) such employer is unable to pay the premium for such contract, or

"(B) in the case of an eligible small employer with fewer than 15 employees, such employer fails to enroll a minimum percentage of the employer's eligible employees for coverage under such contract, so long as such percentage is enforced uniformly for all eligible small employers of comparable size.

"(5) EXCEPTION FOR ALTERNATIVE STATE PROGRAMS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply if the State in which the health care insurance contract is issued—

"(i) has a program which—

"(I) assures the availability of health care insurance contracts to eligible small employers through the equitable distribution of high risk groups among all persons offering such contracts to such employers, and

"(II) is consistent with a model program developed by the NAIC;

"(ii) has a qualified State-run reinsurance program, or

"(iii) has a program which the Secretary of Health and Human Services has determined assures all eligible small employers in the State an opportunity to purchase a health care insurance contract without regard to any risk characteristic.

"(B) REINSURANCE PROGRAM.—

"(i) PROGRAM REQUIREMENTS.—For purposes of subparagraph (A)(ii), a State-run reinsurance program is qualified if such program is one of the NAIC reinsurance program models developed under clause (ii) or is a variation of one of such models, as approved by the Secretary of Health and Human Services.

"(ii) MODELS.—Not later than the 120 days after the date of the enactment of the Health Equity and Access Improvement Act of 1991, the NAIC shall develop several models for a reinsurance program, including options for program funding.

"(d) MANDATORY REGISTRATION AND DISCLOSURE REQUIREMENTS.—The requirements of this subsection are met if the person offering health care insurance contracts to eligible small employers in any State—

"(1) registers with the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance,

"(2) fully discloses the rating practices for small employer health care insurance contracts at the time such person offers a health care insurance contract to an eligible small employer, and

"(3) fully discloses the terms for renewal of the contract at the time of the offering of such contract and at least 90 days before the expiration of such contract.

"SEC. 850B. SPECIFIC CONTRACTUAL REQUIREMENTS.

"(a) GENERAL RULE.—The requirements of this section are met if the following requirements are met:

"(1) The coverage requirements of subsection (b).

"(2) The rating requirements of subsection (c).

"(b) COVERAGE REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any health care insurance contract if, under the terms and operation of the contract, the following requirements are met:

"(A) GUARANTEED ELIGIBILITY.—No eligible employee (and the spouse or any dependent child of the employee eligible for coverage) may be excluded from coverage under the contract.

"(B) LIMITATIONS ON COVERAGE OF PREEXISTING CONDITIONS.—Any limitation under the contract on any preexisting condition—

"(i) may not extend beyond the 6-month period beginning with the date an insured is first covered by the contract, and

"(ii) may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the contract.

"(C) GUARANTEED RENEWABILITY.—

"(i) IN GENERAL.—The contract must be renewed at the election of the eligible small employer unless the contract is terminated for cause.

"(ii) CAUSE.—For purposes of this subparagraph, the term 'cause' means—

"(I) nonpayment of the required premiums;

"(II) fraud or misrepresentation of the employer or, with respect to coverage of individual insureds, the insureds or their representatives;

"(III) noncompliance with the contract's minimum participation requirements;

"(IV) noncompliance with the contract's employer contribution requirements; or

"(V) repeated misuse of a provider network provision in the contract.

"(2) WAITING PERIODS.—Paragraph (1)(A) shall not apply to any period an employee is excluded from coverage under the contract solely by reason of a requirement applicable to all employees that a minimum period of service with the employer is required before the employee is eligible for such coverage.

"(3) DETERMINATION OF PERIODS FOR RULES RELATING TO PREEXISTING CONDITIONS.—For purposes of paragraph (1)(B), the date on which an insured is first covered by a contract shall be the earlier of—

"(A) the date on which coverage under such contract begins, or

"(B) the first day of any continuous period—

"(i) during which the insured was covered under 1 or more other health insurance arrangements, and

"(ii) which does not end more than 120 days before the date employment with the employer begins.

"(4) CESSATION OF SMALL EMPLOYER HEALTH INSURANCE BUSINESS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a person shall not be treated as failing to meet the requirements of paragraph (1)(C) if such person terminates the class of business which includes the health care insurance contract.

"(B) NOTICE REQUIREMENT.—Subparagraph (A) shall apply only if the person gives notice of the decision to terminate at least 90 days before the expiration of the contract.

"(C) 5-YEAR MORATORIUM.—If, within 5 years of the year in which a person terminates a class of business under subparagraph (A), such person establishes a new class of business, the issuance of such contracts in that year shall be treated as a failure to which this section applies.

"(D) TRANSFERS.—If, upon a failure to renew a contract to which subparagraph (A) applies, a person offers to transfer such contract to another class of business, such transfer must be made without regard to risk characteristics.

"(c) RATING REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if—

"(A) the requirements of paragraphs (2) and (3) are met, and

"(B) any increase in any premium rate under the renewal contract over the corresponding rate under the health care insurance contract being renewed does not exceed the applicable annual adjusted increase.

"(2) LIMIT ON VARIATION OF PREMIUMS BETWEEN CLASSES OF BUSINESS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the index rate for a rating period for any class of business of the insurer does not exceed the index rate for any other class of business by more than 20 percent.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a class of business if—

"(i) the class is one for which the insurer does not reject, and never has rejected, eligible small employers included within the class of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon risk characteristics,

"(ii) the insurer does not transfer, and never has transferred, a health care insurance contract involuntarily into or out of the class of business, and

"(iii) the class of business is currently available for purchase.

"(3) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A CLASS OF BUSINESS.—The requirements of this paragraph are met if the premium rates charged during a rating period to eligible small employers with similar case characteristics (other than risk characteristics) for the same or similar coverage, or the rates which could be charged to such employers under the rating system for that class of business, do not vary from the index rate by more than 20 percent of the index rate.

"(4) APPLICABLE ANNUAL ADJUSTED INCREASE.—For purposes of paragraph (1)(B)—

"(A) IN GENERAL.—The applicable annual adjusted increase is an amount equal to the sum of—

"(i) the applicable percentage of the premium rate under the health care insurance contract being renewed, plus

"(ii) any increase in the rate under the renewal contract due to any change in coverage or to any change of case characteristics (other than risk characteristics), plus

"(iii) 5 percentage points.

"(B) APPLICABLE PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the applicable percentage is the percentage (if any) by which—

"(I) the premium rate for newly issued contracts for substantially similar coverage for an employer with similar case characteristics (other than risk characteristics) as the employer under the health care insurance contract (determined on the 1st day of the rating period applicable to such contracts), exceeds

"(II) such rate on the 1st day of the rating period applicable to the contract being renewed.

"(ii) CASES WHERE NO NEW BUSINESS.—If no new contracts are being issued for a class of business during any rating period, the applicable percentage shall be the percentage (if any) by which the base premium rate determined under paragraph (5)(B) with respect to the renewal contract exceeds such rate for the contract to be renewed.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) INDEX RATE.—The term 'index rate' means, with respect to a class of business, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate for that class.

"(B) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business for each rating period, the lowest premium rate which could have been charged under a rating system for that class of business by the insurer to eligible small employers with similar case characteristics (other than risk characteristics) for health care insurance contracts with the same or similar coverage.

"SEC. 850C. STATE COMPLIANCE AGREEMENTS.

"(a) AGREEMENTS.—The Secretary of Health and Human Services may enter into an agreement with any State—

"(1) to apply the standards set by the NAIC for health care insurance contracts in lieu of the requirements of this subchapter, and

"(2) to provide for the State to make the initial determination as to whether a person is in compliance with such standards for purposes of applying the sanctions under section 850.

"(b) STANDARDS.—An agreement may be entered into under subsection (a)(1) only if—

"(1) the chief executive officer of the State requests such agreement be entered into,

"(2) the Secretary of Health and Human Services determines that the NAIC standards to be applied under the agreement will carry out the purposes of this subchapter, and

"(3) the Secretary determines that the NAIC standards to be applied under the agreement will apply to substantially all health care insurance contracts issued in such State to eligible small employers.

"(c) TERMINATION.—The Secretary of Health and Human Services shall terminate any agreement if the Secretary determines that the application of NAIC standards by the State ceases to carry out the purposes of this subchapter.

"(d) NAIC STANDARDS.—Not later than the 270 days after the date of the enactment of the Health Equity and Access Improvement Act of 1991, the NAIC shall develop standards which provide for requirements substantially similar to the requirements of this subchapter.

"SEC. 850D. DEFINITIONS AND OTHER RULES.

For purposes of this part—

"(1) HEALTH CARE INSURANCE.—The term 'health care insurance' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, multiple employer welfare arrangement, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1974), or any other health insurance arrangement, and includes an employment-related reinsurance plan, but does not include—

"(A) a self-insured health care insurance plan; or

"(B) any of the following offered by an insurer—

"(i) accident only, dental only, or disability income only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) worker's compensation or similar insurance, or

"(iv) automobile medical-payment insurance.

"(2) CLASS OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'class of business' means, with respect to health care insurance provided to eligible small employers, all health care insurance provided to such employers.

"(B) ESTABLISHMENT OF GROUPINGS.—

"(i) IN GENERAL.—An issuer may establish separate classes of business with respect to health care insurance provided to eligible small employers but only if such classes are based on 1 or more of the following:

"(I) Business marketed and sold through persons not participating in the marketing and sale of such insurance to other eligible small employers.

"(II) Business acquired from other insurers as a distinct grouping.

"(III) Business provided through an association of not less than 20 eligible small employers which was established for purposes other than obtaining insurance.

"(IV) Business related to managed care plans (as defined in section 202(2) of the Health Equity and Access Improvement Act of 1991.

"(V) Any other business which the Secretary of Health and Human Services determines needs to be separately grouped to prevent a substantial threat to the solvency of the insurer.

"(ii) EXCEPTION ALLOWED.—Except as provided in subparagraph (C), an insurer may not establish more than one distinct group of eligible small employers for each category specified in clause (i).

"(C) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in characteristics (other than differences in plan benefits) of health insurance plans that are expected to produce substantial variation in health care costs.

"(2) CHARACTERISTICS.—

"(A) IN GENERAL.—The term 'characteristics' means, with respect to any insurance rating system, the factors used in determining rates.

"(B) RISK CHARACTERISTICS.—The term 'risk characteristics' means factors related to the health risks of individuals, including health status, prior claims experience, the duration since the date of issue of a health insurance plan or arrangement, industry, and occupation.

"(C) GEOGRAPHIC FACTORS.—

"(i) IN GENERAL.—In applying geographic location as a characteristic, an insurer may not use for purposes of this subchapter areas smaller than 3-digit postal zip code areas.

"(ii) STUDY AND REPORT.—Not later than 120 days after the date of the enactment of the Health Equity and Access Improvement Act of 1991, the Comptroller General of the United States shall study and report to the Congress concerning—

"(I) insurance industry practices in determining the geographic boundaries of communities used for setting rates,

"(II) the feasibility and desirability of establishing standardized geographic communities for setting rates, and

"(III) the effect such standardized geographic communities would have on rates charged small employers.

"(3) ELIGIBLE SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'eligible small employer' means any person which, on an average business day during the preceding taxable year, had more than 2 but less than 50 employees.

"(B) AGGREGATION RULES.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person.

"(C) EMPLOYEE.—The term 'employee' shall not include—

"(i) a self-employed individual as defined in section 401(c)(1), or

"(ii) an employee who works less than 20 hours per week.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners."

(b) CONFORMING AMENDMENT.—Subchapter L of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Part IV. Health care insurance provided to small employers."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued, or renewed, after the date of the enactment of this Act.

(2) GUARANTEED ISSUE.—The provisions of section 850A(c) of the Internal Revenue Code of 1986, as added by this section, shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this Act.

(3) PREMIUM RANGE.—In the case of any contract in effect on the date of the enactment of this Act, the provisions of section 850B(c)(1)(A) of such Code, as added by this section, shall not apply to the premiums under such contract or any renewal contract for benefits provided during the period beginning on such date and ending on the last day of the 2nd plan year beginning after such date.

TITLE III—ACCESS TO PRIMARY AND PREVENTIVE CARE

SEC. 301. REAUTHORIZATION OF CERTAIN PROGRAMS PROVIDING PRIMARY AND PREVENTIVE CARE.

(a) IMMUNIZATION PROGRAMS.—Section 317(j)(1)(A) of the Public Health Service Act (42 U.S.C. 247b(j)(1)(A)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "each of the fiscal years 1992 through 1995" and inserting in lieu thereof "fiscal year 1992, $380,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(b) TUBERCULOSIS PREVENTION GRANTS.—Section 317(j)(2) of the Public Health Service Act (42 U.S.C. 247b(j)(2)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "each of the fiscal years 1992 through 1995" and inserting in lieu thereof "fiscal year 1992, $30,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(c) LEAD POISONING PREVENTION.—Section 317A(j) of the Public Health Service Act (42 U.S.C. 247b–1(j)) is amended by striking out "and $24,000,000 for fiscal year 1991" and inserting in lieu thereof "$24,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

(d) SEXUALLY TRANSMITTED DISEASES.—Section 318(d)(1) of the Public Health Service Act (42 U.S.C. 247c(d)(1)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by inserting before the first period the following: "$125,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(e) MIGRANT HEALTH CENTERS.—Section 329(h)(1)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(1)(A)) is amended by striking out "and 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994" and inserting in lieu thereof "through 1992, $80,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(f) COMMUNITY HEALTH CENTERS.—Section 330(g)(1)(A) of the Public Health Service Act (42 U.S.C. 254c(g)(1)(A)) is amended by striking out "and 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994" and inserting in lieu thereof "through 1992, $700,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(g) HEALTH CARE SERVICES FOR THE HOMELESS.—Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended by striking out "and such sums" and all that follows through the period and inserting in lieu thereof "$90,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

(h) SUBSTANCE ABUSE PREVENTION PROGRAMS.—Section 508(d)(1) of the Public Health Service Act (42 U.S.C. 290aa–6(d)(1)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by inserting before the period the following: "$350,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(i) FAMILY PLANNING PROJECT GRANTS.—Section 1001(d) of the Public Health Service Act (42 U.S.C. 300(d)) is amended—

(1) by striking out "and $158,400,000" and inserting in lieu thereof "$158,400,000"; and

(2) by inserting before the period the following: ", $200,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(j) BREAST AND CERVICAL CANCER PREVENTION.—Section 1509(a) of the Public Health Service Act (42 U.S.C. 300n–5(a)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "for each of the fiscal years 1992 and 1993" and inserting in lieu thereof "for fiscal year 1992, $100,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(k) PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking out "and such sums" and all that follows through the end thereof and inserting the following: "$235,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

(l) HIV EARLY INTERVENTION.—Section 2655 of the Public Health Service Act (42 U.S.C. 300ff–55) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "each of the fiscal years 1992 through 1995" and inserting in lieu thereof "fiscal year 1992, $310,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(m) MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking out "$686,000,000 for fiscal year 1990 and each fiscal year thereafter" and inserting in lieu thereof "$800,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 through 1997".

TITLE IV—COST CONTAINMENT

SEC. 401. NEW DRUG CLINICAL TRIALS PROGRAM.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 409. NEW DRUG CLINICAL TRIALS PROGRAM.

"(a) IN GENERAL.—The Director of the National Institutes of Health is authorized to establish and implement a program for the conduct of clinical trials with respect to new drugs and disease treatments determined to be promising by the Director. In determining which drugs and disease treatments that are to be the subject of such clinical trials, the Director shall give priority to those drugs and disease treatments targeted towards the diseases determined—

"(1) to be the most costly to treat;

"(2) to have the highest mortality; or

"(3) to affect the greatest number of individuals.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $120,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 through 1997.".

SEC. 402. MEDICAL TREATMENT EFFECTIVENESS.

(a) DRUG ABUSE DEMONSTRATION PROJECTS.—Section 509G(c)(1) of the Public Health Service Act (42 U.S.C. 290aa–14(c)(1)) is amended—

(1) by striking out "and such sums" and inserting in lieu thereof "such sums"; and

(2) by striking out "each of the fiscal years 1990 through 1991" and inserting in lieu thereof "fiscal year 1991, $200,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996".

(b) AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—Section 926 of the Public Health Service Act (42 U.S.C. 299c–5) is amended—

(1) in subsection (a), by striking out "and $70,000,000 for fiscal year 1992" and inserting in lieu thereof "$70,000,000 for fiscal year 1992, $100,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996"; and

(2) by adding at the end thereof the following new subsection:

"(c) USE OF ADDITIONAL APPROPRIATIONS.—Within amounts appropriated under subsection (a) for each of the fiscal years 1993 through 1996 that are in excess of the amounts appropriated under such subsection for fiscal year 1992, the Secretary shall give priority to expanding research conducted to determine the most cost effective methods of health care and for developing and disseminating new practice guidelines related to such methods. In utilizing such amounts, the Secretary shall give priority to diseases and disorders that the Secretary determines are the most costly to the United States and evidence a wide variation in current medical practice.".

SEC. 403. HEALTH CARE COST CONTROL—EXPENDITURE TARGETS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, after considering the recommendations of the Health Care Cost Control Advisory Committee established under subsection (b), shall prepare and submit to the appropriate committees of the Congress a report concerning the establishment of national spending targets for health care and health care services. Such report shall contain the recommendations of the Secretary concerning the feasibility—

(1) for controlling the cost of health care, reducing cost shifting and maintaining the quality of care;

(2) of establishing national targets for health expenditures;

(3) of establishing national reimbursement targets for hospital services;

(4) establishing national reimbursement targets for physicians services; and

(5) of establishing national reimbursement targets for prescription drug services.

(b) Health Care Cost Control Advisory Committee.—

(1) Establishment.—There shall be established a Health Care Cost Control Advisory Committee (hereinafter referred to in this subsection as the "Committee").

(2) Membership.—The Committee shall be composed of 8 individuals appointed by the Secretary, representing—

(A) physicians;

(B) hospitals;

(C) pharmacies;

(D) private insurers;

(E) State and local governments;

(F) employers;

(G) organized labor; and

(H) academia with expertise as a health economist.

(3) Compensation.—

(A) In general.—Members of the Committee shall serve without compensation.

(B) Expenses, reimbursed.—While away from their homes or regular places of business on the business of the Committee, the members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(C) Application of the act.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) Support.—The Secretary of Health and Human Services shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

TITLE V—REVENUE OFFSETS

Subtitle A—General Provisions

SEC. 501. ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.

Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102–26) is amended by striking out "that are brought before November 15, 1992".

SEC. 502. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS AND EXPANSION OF LIST OF TAXED CHEMICALS.

(a) In General.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended to read as follows:

"(B) Base tax amount.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year:	Base tax amount:
1992	$1.85
1993	$2.75
1994	$3.65
1995	$4.55."

(b) Conforming Amendments.—

(1) Rates retained for chemical used in rigid foam insulation.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) Floor stock taxes.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "1993, and 1994" and inserting "1993, 1994, and 1995, and July 1, 1992".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or July 1" after "January 1", and

(ii) by inserting "or December 31, respectively," after "June 30".

(c) Effective Date.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

SEC. 503. MARK TO MARKET INVENTORY METHOD FOR SECURITIES DEALERS.

(a) General Rule.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) General Rule.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) Exceptions.—

"(1) In general.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position or a liability which is not a security in the hands of the taxpayer.

Subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) Identification required.—Any security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) Securities subsequently not exempt.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), this section shall apply to such security as of the time such cessation occurs.

"(4) Special rule for property held for investment.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) Definitions.—For purposes of this section—

"(1) Dealer in securities defined.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) Security defined.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) any interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) Hedge.—The term 'hedge' includes any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations.

"(d) Special Rules.—For purposes of this section—

"(1) Certain rules not to apply.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) Improper identification.—If a taxpayer—

"(A) identifies any security or position under subsection (b)(2) as being described in such subsection and such security or position is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify a security or position which is described in such subsection at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security shall be recognized only to the extent of gain previously recognized under this section with respect to such security.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to hedges which do not hedge a specific security, position, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market inventory method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

SEC. 504. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any payment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992 regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

Subtitle B—Electromagnetic Spectrum Function

SEC 511. SHORT TITLE.

This subtitle may be cited as the "Emerging Telecommunications Technologies Act of 1992".

SEC. 512. FINDINGS.

The Congress finds that—

(1) spectrum is a valuable natural resource;

(2) it is in the national interest that this resource be used more efficiently;

(3) the spectrum below 6 gigahertz (GHz) is becoming increasingly congested, and, as a result entities that develop innovative new spectrum-based services are finding it difficult to bring these services to the marketplace;

(4) scarcity of assignable frequencies can and will—

(A) impede the development and commercialization of new spectrum-based products and services;

(B) reduce the capacity and efficiency of the United States telecommunications system; and

(C) adversely affect the productive capacity and international competitiveness of the United States economy;

(5) the United States Government presently lacks explicit authority to use excess radiocommunications capacity to satisfy non-United States Government requirements;

(6) more efficient use of the spectrum can provide the resources for increased economic returns;

(7) many commercial users derive significant economic benefits from their spectrum licenses, both through the income they earn from their use of the spectrum and the returns they realize upon transfer of their licenses to third parties; but under current procedures, the United States public does not sufficiently share in their benefits;

(8) many United States Government functions and responsibilities depend heavily on the use of the radio spectrum, involve unique applications, and are performed in the broad national and public interest;

(9) competitive bidding for spectrum can yield significant benefits for the United States economy by increasing the efficiency of spectrum allocations, assignment, and use; and for United States taxpayers by producing substantial revenues for the United States Treasury; and

(10) the Secretary, the President, and the Commission should be directed to take appropriate steps to foster the more efficient use of this valuable national resource, including the reallocation of a target amount of 200 megahertz (MHz) of spectrum from United States Government use under section 305 of the Communications Act to non-United States Government use pursuant to other provisions of the Communications Act and the implementation of competitive bidding procedures by the Commission for some new assignments of the spectrum.

SEC. 513. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Secretary and the Chairman of the Commission shall, at least twice each year, conduct joint spectrum planning meetings with respect to the following issues—

(1) future spectrum needs;

(2) the spectrum allocation actions necessary to accommodate those needs, including consideration of innovation and marketplace developments that may affect the relative efficiencies of different portions of the spectrum; and

(3) actions necessary to promote the efficient use of the spectrum, including proven spectrum management techniques to promote increased shared use of the spectrum as a means of increasing non-United States Government access; and innovation in spectrum utilization including means of providing incentives for spectrum users to develop innovative services and technologies.

(b) REPORTS.—The Secretary and the Chairman of the Commission shall submit a joint annual report to the President on the joint spectrum planning meetings conducted under subsection (a) and any recommendations for action developed in such meetings.

(c) OPEN PROCESS.—The Secretary and the Commission will conduct an open process under this section to ensure the full consideration and exchange of views among any interested entities, including all private, public, commercial, and governmental interests.

SEC. 514. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall prepare and submit to the President the reports required by subsection (d) to identify bands of frequencies that—

(1) are allocated on a primary basis for United States Government use and eligible for licensing pursuant to section 305(a) of the Communications Act;

(2) are not required for the present or identifiable future needs of the United States Government;

(3) can feasibly be made available during the next 15 years after enactment of this title for use under the provisions of the Communications Act for non-United States Government users;

(4) will not result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from the potential non-United States Government uses; and

(5) are likely to have significant value for non-United States Government uses under the Communications Act.

(b) AMOUNT OF SPECTRUM RECOMMENDED.—

(1) IN GENERAL.—The Secretary shall recommend as a goal for reallocation, for use by non-United States Government stations, bands of frequencies constituting a target amount of 200 MHz, that are located below 6 GHz, and that meet the criteria specified in paragraphs (1) through (5) of subsection (a). If the Secretary identifies (as meeting such criteria) bands of frequencies totalling more than 200 MHz, the Secretary shall identify and recommend for reallocation those bands (totalling not less than 200 MHz) that are likely to have the greatest potential for non-United States Government uses under the Communications Act.

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary recommends be partially retained for use by United States Government stations, but which are also recommended to be reallocated and made available under the Communications Act for use by non-United States Government stations, may be counted to-

ward the target 200 MHz of spectrum required by paragraph (1) of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the amount targeted by paragraph (1) of this subsection;

(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to United States Government stations under section 305 of the Communications Act are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by which United States Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential United States Government use to be made; and

(C) the operational sharing permitted under this paragraph shall be subject to procedures which the Commission and the Department of Commerce shall establish and implement to ensure against harmful interference.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE UNITED STATES GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial provider;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable;

(C) seek to avoid—

(i) serious degradation of United States Government services and operations;

(ii) excessive costs to the United States Government and civilian users of such Government services; and

(iii) identification of any bands for reallocation that are likely to be subject to substitution for the reasons specified in section 405(b)(2)(A) through (C); and

(D) exempt power marketing administrations and the Tennessee Valley Authority from any reallocation procedures.

(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Communications Act over the course of fifteen years after the enactment of this title;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for non-United States Government use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the cost to reestablish United States Government services displaced by the reallocation of spectrum during the fifteen year period.

(3) COSTS TO THE UNITED STATES GOVERNMENT.—In determining whether a frequency band meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the costs to the United States Government of reaccommodating its services in order to make spectrum available for non-United States Government use, including the incremental costs directly attributable to the loss of the use of the frequency band; and

(B) the benefits that could be obtained from reallocating such spectrum to non-United States Government users, including the value of such spectrum in promoting—

(i) the delivery of improved service to the public;

(ii) the introduction of new services; and

(iii) the development of new communications technologies.

(4) NON-UNITED STATES GOVERNMENT USE.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(5), the Secretary shall consider—

(A) the extent to which equipment is commercially available that is capable of utilizing the band; and

(B) the proximity of frequencies that are already assigned for non-United States Government use.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) SUBMISSION OF REPORTS TO THE PRESIDENT TO IDENTIFY AN INITIAL 50 MHZ TO BE MADE AVAILABLE IMMEDIATELY FOR REALLOCATION, AND TO PROVIDE PRELIMINARY AND FINAL REPORTS ON ADDITIONAL FREQUENCIES TO BE REALLOCATED.—

(A) Within 3 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a report which specifically identifies an initial 50 MHz of spectrum that are located below 3 GHz, to be made available for reallocation to the Federal Communications Commission upon issuance of this report, and to be distributed by the Commission pursuant to competitive bidding procedures.

(B) The Department of Commerce shall make available to the Federal Communications Commission 50 MHz as identified in subparagraph (A) of electromagnetic spectrum for allocation of land-mobile or land-mobile-satellite services. Notwithstanding section 553 of the Administrative Procedure Act and title III of the Communications Act, the Federal Communications Commission shall allocate such spectrum and conduct competitive bidding procedures to complete the assignment of such spectrum in a manner which ensures that the proceeds from such bidding are received by the Federal Government no later than September 30, 1992. From such proceeds, Federal agencies displaced by this transfer of the electromagnetic spectrum to the Federal Communications Commission shall be reimbursed for reasonable costs directly attributable to such displacement. The Department of Commerce shall determine the amount of, and arrange for, such reimbursement. Amounts to agencies shall be available subject to appropriation Acts.

(C) Within 12 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a preliminary report to identify reallocable bands of frequencies meeting the criteria established by this section.

(D) Within 24 months after the date of enactment of this title, the Secretary shall prepare and submit to the President a final report which identifies the target 200 MHz for reallocation (which shall encompass the initial 50 MHz previously designated under subparagraph (A)).

(E) The President shall publish the reports required by this section in the Federal Register.

(2) CONVENING OF PRIVATE SECTOR ADVISORY COMMITTEE.—Not later than 12 months after the enactment of this title, the Secretary shall convene a private sector advisory committee to—

(A) review the bands of frequencies identified in the preliminary report required by paragraph (1)(C);

(B) advise the Secretary with respect to—

(i) the bands of frequencies which should be included in the final report required by paragraph (1)(D); and

(ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receives public comment on the Secretary's preliminary and final reports under this subsection; and

(D) prepare and submit the report required by paragraph (4).

The private sector advisory committee shall meet at least quarterly until each of the actions required by section 405(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The private sector adviser committee shall include—

(A) the Chairman of the Commission, and the Secretary, or their designated representatives, and two other representatives from two different United States Government agencies that are spectrum users, other than the Department of Commerce, as such agencies may be designated by the Secretary; and

(B) Persons who are representative of—

(i) manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial users;

(iii) other users of the electromagnetic spectrum; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum to be chosen by the Secretary.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The private sector advisory committee shall, not later than 12 months after its formation, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, such recommendations as the committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between United States Government users and non-United States Government users, and any dissenting views thereon.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The Secretary shall, as part of the final report required by subsection (d)(1)(D), include a timetable for the effective dates by which the President shall, within 15 years after enactment of this title, withdraw or limit assignments on frequencies specified in the report. The recommended effective dates shall—

(1) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 406(a);

(2) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(3) be based on the need to coordinate frequency use with other nations; and

(4) avoid the imposition of incremental costs on the United States Government directly attributable to the loss of the use of

frequencies or the changing to different frequencies that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequencies.

SEC. 515. WITHDRAWAL OF ASSIGNMENT TO UNITED STATES GOVERNMENT STATIONS.

(a) In General.—The President shall—

(1) within 3 months after receipt of the Secretary's report under section 404(d)(1)(A), withdraw or limit the assignment to a United States Government station of any frequency on the initial 50 MHz which that report recommends for immediate reallocation;

(2) with respect to other frequencies recommended for reallocation by the Secretary's report in section 404(d)(1)(D), by the effective dates recommended pursuant to section 404(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a United States Government station of any frequency which that report recommends be reallocated or available for mixed use on such effective dates;

(3) assign or reassign other frequencies to United States Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) publish in the Federal Register a notice and description of the actions taken under this subsection.

(b) Exceptions.—

(1) Authority to substitute.—If the President determines that a circumstance described in section 405(b)(2) exists, the President—

(A) may, within 1 month after receipt of the Secretary's report under section 404(d)(1)(A), and within 6 months after receipt of the Secretary's report under section 404(d)(1)(D), substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall publish in the Federal Register a statement of the reasons for taking the action described in subparagraph (A).

(2) Grounds for substitution.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national security interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important United States Governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in incremental costs to the United States Government that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequency.

(3) Criteria for substituted frequencies.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the final report of the Secretary under section 404(d)(1)(D) unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) Delays in implementation.—If the President determines that any action cannot be completed by the effective dates recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 406, the President may—

(A) withdraw or limit the assignment to United States Government stations on a later date that is consistent with such plan, by providing notice to that effect in the Federal Register, including the reason that withdrawal at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(c) Costs of Withdrawing Frequencies Assigned to the United States Government; Appropriations Authorized.—Any United States Government licensee, or non-United States Government entity operating on behalf of a United States Government licensee, that is displaced from a frequency pursuant to this section may be reimbursed not more than the incremental costs it incurs, in such amounts as provided in advance in appropriation Acts, that are directly attributable to the loss of the use of the frequency pursuant to this section. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(d) There are authorized to be appropriated to the affected licensee agencies such sums as may be necessary to carry out the purposes of this section.

SEC. 516. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

(a) Plans Submitted.—

(1) With respect to the initial 50 MHz to be reallocated from United States Government to non-United States Government use under section 404(d)(1)(A), not later than 6 months after enactment of this title, the Commission shall complete a public notice and comment proceeding regarding the allocation of this spectrum and shall form a plan to assign such spectrum pursuant to competitive bidding procedures, pursuant to section 408, during fiscal years 1994 through 1996.

(2) With respect to the remaining spectrum to be reallocated from United States Government to non-United States Government use under section 404(e), not later than 2 years after issuance of the report required by section 404(d)(1)(D), the Commission shall complete a public notice and comment proceeding; and the Commission shall, after consultation with the Secretary, prepare and submit to the President a plan for the distribution under the Communications Act of the frequency bands reallocated pursuant to the requirements of this title. Such plan shall—

(A) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 404(e), shall propose—

(i) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (ii), over the course of a 10-year period beginning on the date of submission of such plan; and

(ii) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(B) contain appropriate provisions to ensure—

(i) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Communications Act (47 U.S.C. 157); and

(ii) the availability of frequencies to stimulate the development of such technologies; and

(C) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

(b) Amendment to the Communications Act.—Section 303 of the Communications Act is amended by adding at the end thereof the following new subsection:

"(u) Have authority to assign the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, except that any such assignment shall expressly be made subject to the right of the President to reclaim such frequencies under the provisions of section 407 of the Emerging Telecommunications Technologies Act of 1991.".

SEC. 517. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

(a) Authority of President.—The President may reclaim reallocated frequencies for reassignment to United States Government stations in accordance with this section.

(b) Procedure for Reclaiming Frequencies.—

(1) Unassigned frequencies.—If the frequencies to be reclaimed have not been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2).

(2) Assigned frequencies.—If the frequencies to be reclaimed have been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2), except that the notification required by section 405(b)(1) shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for their utilization; and

(B) an estimate of the cost of displacing the licensees.

(c) Costs of Reclaiming Frequencies.—Any non-United States Government licensee that is displaced from a frequency pursuant to this section shall be reimbursed the incremental costs it incurs that are directly attributable to the loss of the use of the frequency pursuant to this section.

(d) Effect on Other Law.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Communications Act (47 U.S.C. 606).

SEC. 518. COMPETITIVE BIDDING.

(a) Competitive Bidding Authorized.—Section 309 of the Communications Act is amended by adding the following new subsection:

"(j)(1)(A) The Commission shall use competitive bidding for awarding all initial licenses or new construction permits, including licenses and permits for spectrum reallocated for non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, subject to the exclusions listed in paragraph (2).

"(B) The Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to submit a second-stage application. Upon determining that such application is acceptable for filing and that the applicant is qualified pursuant to subparagraph (C), the Commission shall grant a permit or license.

"(C) No construction permit or license shall be granted to an applicant selected pursuant to subparagraph (B) unless the Commission determines that such applicant is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first- and second-stage applications submitted under subparagraph (B).

"(D) Each participant in the competitive bidding process is subject to the schedule of changes contained in section 8 of this Act.

"(E) The Commission shall have the authority in awarding construction permits or licenses under competitive bidding procedures to (i) define the geographic and frequency limitations and technical requirements, if any, of such permits or licenses; (ii) establish minimum acceptable competitive bids; and (iii) establish other appropriate conditions on such permits and licenses that will serve the public interest.

"(F) The Commission, in designing the competitive bidding procedures under this subsection, shall study and include procedures—

"(i) to ensure bidding access for small and rural companies,

"(ii) if appropriate, to extend the holding period for winning bidders awarded permits or licenses, and

"(iii) to expand review and enforcement requirements to ensure that winning bidders continue to meet their obligations under this Act.

"(G) The Commission shall, within 6 months after enactment of the Emerging Telecommunications Technologies Act of 1991, following public notice and comment proceedings, adopt rules establishing competitive bidding procedures under this subsection, including the method of bidding and the basis for payment (such as flat fees, fixed or variable royalties, combinations of flat fees and royalties, or other reasonable forms of payment); and a plan for applying such competitive bidding procedures to the initial 50 MHz reallocated from United States Government to non-United States Government use under section 404(d)(1)(A) of the Emerging Telecommunications Technologies Act of 1991, to be distributed during the fiscal years 1994 through 1996.

"(2) Competitive bidding shall not apply to—

"(A) license renewals;

"(B) the United States Government and State or local government entities;

"(C) amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(D) private radio end-user licenses, such as Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(E) any license grant to a non-United States Government licensee being moved from its current frequency assignment to a different one by the Commission in order to implement the goals and objectives underlying the Emerging Telecommunications Technologies Act of 1991;

"(F) any other service, class of services, or assignments that the Commission determines, after conducting public comment and notice proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption; and

"(G) small businesses, as defined in section 3(a)(1) of the Small Business Act.

"(3) In implementing this subsection, the Commission shall ensure that current and future rural telecommunications needs are met and that existing rural licensees and their subscribers are not adversely affected.

"(4) Monies received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the United States Treasury.".

(b) Random Selection Not To Apply When Competitive Bidding Required.—Section 309(i)(1) of the Communications Act is amended by striking the period after the word "selection" and inserting ", except in instances where competitive bidding procedures are required under subsection (j).".

(c) Spectrum Allocation Decisions.—Section 303 of the Communications Act is amended by adding the following new subsection:

"(v) In making spectrum allocation decisions among services that are subject to competitive bidding, the Commission is authorized to consider as one factor among others taken into account in making its determination, the relative economic values and other public interest benefits of the proposed uses as reflected in the potential revenues that would be collected under its competitive bidding procedures.".

SEC. 519. DEFINITIONS.

As used in this subtitle:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunications services.

(2) The term "assignment" means an authorization given by the Commission or the United States Government for a radio station to use a radio frequency or radio frequency channel.

(3) The term "Commission" means the Federal Communications Commission.

(4) The term "Communications Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(5) The term "Secretary" means the Secretary of Commerce.

Subtitle C—Other Provisions

SEC. 521. EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES.

(a) Civil Service Retirement System.—Section 8343a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(b) Federal Employees Retirement System.—Section 8420a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 6, 1996".

SEC. 522. EXTENSION OF THE PATENT AND TRADEMARK OFFICE USER FEE SURCHARGE THROUGH 1996.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1996";

(2) in subsection (b)(2) by striking "1995" and inserting "1996"; and

(3) in subsection (c)—

(A) by striking "1995" the first place it appears and inserting "1996"; and

(B) by adding at the end the following new paragraph:

"(6) $107,000,000 in fiscal year 1996."

SEC. 523. ONE-YEAR EXTENSION OF CUSTOMS USER FEES.

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

SEC. 524. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

(a) In General.—Section 6103(l)(7)(D) (relating to programs to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1998".

(b) Conforming Amendment.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1998".

(c) Effective Date.—The amendments made by this section shall take effect on September 30, 1992.

SEC. 525. REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.

(a) Revision.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 526. APPLICATION OF MEDICARE PART B LIMITS TO FEHBP ENROLLEE AGE 65 OR OLDER.

(a) Federal Employees Health Benefits Program.—Subsection 8904(b) of title 5, United States Code, is amended:

(1) by amending paragraph (1) to read as follows:

"(b)(1)(A) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits under this chapter, in the case of any individual enrolled in the plan who is not an employee and who is age 65 or older, to the extent that—

"(i) a benefit claim involves a charge by a health care provider for a type of service or medical item which is covered for purposes of benefit payments under both this chapter and title XVIII of the Social Security Act (42 U.S.C. 1395–1395ccc) relating to medicare hospital and supplementary medical insurance, and

"(ii) benefits otherwise payable under such provisions of law in the case of such individual would exceed applicable limitations on hospital and physician charges established for medicare purposes under sections 1886 and 1848 of the Social Security Act (42 U.S.C. 1395ww and 1395w–4), respectively.

"(B)(i) For purposes of this subsection, hospitals, physicians, and other suppliers of medical and health services who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1842(h) and 1866 of the Social Security Act (42 U.S.C. 1395u(h) and 1395cc), whereby the participating provider accepts medicare benefits in full payment of charges for covered items and services after applicable patient copayments under sections 1813, 1833 and 1866(a)(2) of the Social Security Act (42 U.S.C. 1395e, 1395*l*, and 1395cc(a)(2)) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for any item or service described under subparagraph (A) which is furnished to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to such item or service under provisions of title XVIII of the Social Security Act.

"(ii) Physicians and other health care suppliers who are nonparticipating physicians, as defined by section 1842(i)(2) of the Social Security Act (42 U.S.C. 1395u(i)(2)) for purposes of services furnished to medicare beneficiaries, may not bill in excess of the limiting charge prescribed under section 1848(g) of the Social Security Act (42 U.S.C. 1395w–4(g)) when providing services described under subparagraph (A) to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to those services under provisions of title XVIII of the Social Security Act.

"(iii) The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital, physician, or other supplier of medical services is found to knowingly and willfully violate this subsection and the Secretary shall invoke appropriate sanctions in accordance with subsections 1128A(a)(2), 1848(g)(8), and 1866(b)(2) of the Social Security Act (42 U.S.C. 1320a-7a(a)(2), 1395w-4(g)(8), and 1395cc(b)(2)) and applicable regulations."; and

(2) by amending paragraph (3)(B) to read as follows:

"(B) For purposes of this paragraph, the term 'medicare program information' includes—

"(i) the limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and the identity of hospitals which have in force agreements with the Secretary of Health and Human Services consistent with section 1866 of the Social Security Act (42 U.S.C. 1395cc); and

"(ii) the annual fee schedule amounts for services of participating physicians and 'limiting charge' information for nonparticipating physicians established for medicare purposes under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) and the identity of physicians and suppliers who have in force participation agreements with the Secretary consistent with subsection 1842(h) of the Social Security Act (42 U.S.C. 1395u(h).".

(b) MEDICARE AGREEMENTS WITH INSTITUTIONAL PROVIDERS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (P);

(2) by striking out the period at the end of subparagraph (Q) and inserting ", and", and

(3) by inserting after subparagraph (Q) the following new paragraph:

"(R) to accept as payment in full the amounts that would be payable under this part (including the amounts of any coinsurance and deductibles required of individuals entitled to have payment made on their behalf) for an item or service which the provider normally furnishes to patients (or others furnish under arrangement with the provider) and which is furnished to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this title and chapter 89 of title 5, United States Code.".

(c) MEDICARE PARTICIPATING PHYSICIANS AND SUPPLIERS.—Section 1842(h)(1) of the Social Security Act (42 U.S.C. 1395u(h)(1)) is amended, after the second sentence, by inserting the following new sentence: "Such agreement shall provide, for any year beginning with 1993, that the physician or supplier will accept as payment in full the amounts that would be payable under this part (plus the amounts of any coinsurance or deductibles required of individuals on whose behalf payments are made under this title) for an item or service furnished during such year to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this part and chapter 89 of title 5, United States Code.".

(d) MEDICARE ACTUAL CHARGE LIMITATION FOR NONPARTICIPATING PHYSICIANS.—Section 1848(g) of the Social Security Act (42 U.S.C. 1359w-4(g)) is amended by adding at the end thereof the following paragraph:

"(8) LIMITATION OF ACTUAL CHARGES FOR ENROLLEES OF THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—(A) A nonparticipating physician shall not impose an actual charge in excess of the limiting charge defined in paragraph (2) for items and services furnished after 1992 in any case involving—

"(i) an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) or section 8903 or section 8903a of title 5, United States Code; and

"(ii) an item or service of a type that is covered for benefits under both this part and chapter 89 of title 5, United States Code.

"(B) If a person knowingly and willfully bills for physicians' services in violation of subparagraph (A), the Secretary shall apply sanctions against the person in accordance with section 1842(j)(2).".

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to health care provider charges for items and services furnished to individuals enrolled in plans under chapter 89 of title 5, United States Code, in contract years beginning after December 31, 1992.

(2) The amendment made by subsection (b) applies to agreements for periods after 1991.

SYMMS (AND GRAHAM) AMENDMENT NO. 2784

Mr. SYMMS (for himself and Mr. GRAHAM) proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place insert the following new sections:

SECTION 1. REMOVAL OF VOLUME CAP FOR CERTAIN HIGH-SPEED RAIL FACILITY BONDS

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exception for certain bonds) is amended by inserting ", other than any such bond described in subsection (h)(1)" after "rail facilities".

(b) CONFORMING AMEMDMENT.—Subsection (h) of section 146 (relating to exception for Government-owned solid waste disposal facilities) is amended—

(1) by striking "section 142(a)(6)" in paragraph (1) and inserting "paragraph (6) or (11) of section 142(a)", and

(2) by inserting "AND HIGH-SPEED RAIL" before "FACILITIES" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

SEC. 2. DEDUCTION FOR MOVING EXPENSE.

(a) IN GENERAL.—Paragraph (1) of section 217(c) of the Internal Revenue Code of 1986 (relating to Conditions for allowance) is amended by striking every occurrence of the phrase "35 miles" and replacing it with the phrase "55 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after January 1, 1993.

PRESSLER AMENDMENT NO. 2785

Mr. PRESSLER proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place, insert the following:

SEC. . AMENDMENT.

The Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 220. FIELD PERSONNEL.

"(a) IN GENERAL.—To the extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of Transportation, in fiscal year 1993, shall employ and maintain thereafter an additional 12 pipeline field personnel above the number of field personnel authorized for fiscal year 1992 for the Research and Special Programs Administration. These personnel will work primarily on public water supply protection and other environmental public water supply protection and other environmental public health and safety aspects of pipeline regulations. The Secretary shall take such action as may be necessary to assure that the activities of such additional field personnel focus on—

"(1) inspecting intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program that meets the requirements of subsection (a) or (b) of section 205 of this title;

"(2) assisting the States identified under paragraphs (1) and (3) in developing hazardous liquid pipeline safety programs that meet the requirements of subsection (a) or (b) of section 205 of this title;

"(3) inspecting interstate hazardous liquid pipeline facilities constructed prior to 1971; and

"(4) providing technical assistance and training to State pipeline inspectors and assisting in the review and management of pipeline safety grants.

"(b) ASSIGNMENT OF FIELD PERSONNEL.—The additional field personnel provided under subsection (a) shall be assigned by the Secretary to the Research and Special Programs Administration pipeline safety regional offices on the basis of the extent to which—

"(1) hazardous liquid pipelines constructed prior to 1971 exist in a region;

"(2) there are in a region States having intrastate hazardous liquid pipeline facilities that do not have a hazardous liquid pipeline safety program meeting the requirements of subsection (a) or (b) of section 205 of this title; and

"(3) there are other factors, including those based on public water supply protection and other environmental public health and safety concerns, which the Secretary deems relevant to improving the extent and quality of Federal and State hazardous liquid pipeline safety programs.

"(c) FUNDING.—The Secretary of Transportation may use such sums as may be necessary of funds appropriated pursuant to section 17(a) of the Natural Gas Pipeline Safety Act of 1986, as amended, and section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as amended, to carry out this section.".

BROWN AMENDMENT NO. 2786

Mr. JOHNSTON (for Mr. BROWN) proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . URANIUM MILL TAILINGS RADIATION CONTROL ACT EXTENSION.

Section 112(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7922(a)) is amended by striking "1994" and inserting "1998".

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 2787

Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. FORD, Mr. ADAMS, Mr.

AKAKA, Mr. DIXON, Mr. INOUYE, Mr. RIEGLE, Mr. SIMON, Mr. SPECTER, and Mr. WOFFORD) proposed an amendment to the bill H.R. 776, supra, as follows:

On page 645, strike subtitle C of title XX and insert:

Subtitle C—Health Care of Coal Miners

SEC. 1941. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 1942. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the production, transportation, and use of coal substantially affects interstate and foreign commerce and the national public interest; and

(2) in order to secure the stability of interstate commerce, it is necessary to modify the current private health care benefit plan structure for retirees in the coal industry to identify persons most responsible for plan liabilities in order to stabilize plan funding and allow for the provision of health care benefits to such retirees.

(b) STATEMENT OF POLICY.—It is the policy of this subtitle—

(1) to remedy problems with the provision and funding of health care benefits with respect to the beneficiaries of multiemployer benefit plans that provide health care benefits to retirees in the coal industry;

(2) to allow for sufficient operating assets for such plans; and

(3) to provide for the continuation of a privately financed self-sufficient program for the delivery of health care benefits to the beneficiaries of such plans.

SEC. 1943. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. COAL INDUSTRY HEALTH BENEFITS.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A—Definitions of general applicability.

"SUBCHAPTER B—Combined benefit fund.

"SUBCHAPTER C—Health benefits of certain miners.

"SUBCHAPTER D—Other provisions.

"Subchapter A—Definitions of General Applicability

"Sec. 9701. Definitions of general applicability.

"SEC. 9701. DEFINITIONS OF GENERAL APPLICABILITY.

"(a) PLANS AND FUNDS.—For purposes of this chapter—

"(1) UMWA BENEFIT PLAN.—

"(A) IN GENERAL.—The term 'UMWA Benefit Plan' means a plan—

"(i) which is described in section 404(c), or a continuation thereof; and

"(ii) which provides health benefits to retirees and beneficiaries of the industry which maintained the 1950 UMWA Pension Plan.

"(B) 1950 UMWA BENEFIT PLAN.—The term '1950 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired before 1976.

"(C) 1974 UMWA BENEFIT PLAN.—The term '1974 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired on or after January 1, 1976.

"(2) 1950 UMWA PENSION PLAN.—The term '1950 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired before 1976.

"(3) 1974 UMWA PENSION PLAN.—The term '1974 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired in 1976 and thereafter.

"(4) 1992 UMWA BENEFIT PLAN.—The term '1992 UMWA Benefit Plan' means the plan referred to in section 9713A.

"(5) COMBINED FUND.—The term 'Combined Fund' means the United Mine Workers of America Combined Benefit Fund established under section 9702.

"(b) AGREEMENTS.—For purposes of this section—

"(1) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means—

"(A) the National Bituminous Coal Wage Agreement, or

"(B) any other agreement entered into between an employer in the coal industry and the United Mine Workers of America that required or requires one or both of the following:

"(i) the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan; or

"(ii) contributions to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or any predecessor thereof.

"(2) SETTLORS.—The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (referred to in this chapter as the 'BCOA').

"(3) NATIONAL BITUMINOUS COAL WAGE AGREEMENT.—The term 'National Bituminous Coal Wage Agreement' means a collective bargaining agreement negotiated by the BCOA and the United Mine Workers of America.

"(c) TERMS RELATING TO OPERATORS.—For purposes of this section—

"(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a person which is or was a signatory to a coal wage agreement.

"(2) RELATED PERSONS.—

"(A) IN GENERAL.—A person shall be considered to be a related person to a signatory operator if that person is—

"(i) a member of the controlled group of corporations (within the meaning of section 52(a)) which includes such signatory operator;

"(ii) a trade or business which is under common control (as determined under section 52(b)) with such signatory operator; or

"(iii) any other person who is identified as having a partnership interest or joint venture with a signatory operator in a business within the coal industry, but only if such business employed eligible beneficiaries, except that this clause shall not apply to a person whose only interest is as a limited partner.

A related person shall also include a successor in interest of any person described in clause (i), (ii), or (iii).

"(B) TIME FOR DETERMINATION.—The relationships described in clauses (i), (ii), and (iii) of subparagraph (A) shall be determined as of July 20, 1992, except that if, on July 20, 1992, a signatory operator is no longer in business, the relationships shall be determined as of the time immediately before such operator ceased to be in business.

"(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

"(A) a signatory operator which was a signatory to the 1988 National Bituminous Coal Wage Agreement,

"(B) an employer in the coal industry which was a signatory to an agreement containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 National Bituminous Coal Wage Agreement, or

"(C) an employer from which contributions were actually received after 1987 and before July 20, 1992, by the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan in connection with employment in the coal industry during the period covered by the 1988 National Bituminous Coal Wage Agreement.

"(4) LAST SIGNATORY OPERATOR.—The term 'last signatory operator' means, with respect to a coal industry retiree, a signatory operator which was the most recent coal industry employer of such retiree.

"(5) ASSIGNED OPERATOR.—The term 'assigned operator' means, with respect to an eligible beneficiary defined in section 9703(f), the signatory operator to which liability under subchapter B with respect to the beneficiary is assigned under section 9706.

"(6) OPERATORS OF DEPENDENT BENEFICIARIES.—For purposes of this chapter, the signatory operator, last signatory operator, or assigned operator of any eligible beneficiary under this chapter who is a coal industry retiree shall be considered to be the signatory operator, last signatory operator, or assigned operator with respect to any other individual who is an eligible beneficiary under this chapter by reason of a relationship to the retiree.

"(7) BUSINESS.—For purposes of this chapter, a person shall be considered to be in business if such person conducts or derives revenue from any business activity, whether or not in the coal industry.

"(d) ENACTMENT DATE.—For purposes of this chapter, the term 'enactment date' means the date of the enactment of this chapter.

"Subchapter B—Combined Benefit Fund

"Part I—ESTABLISHMENT AND BENEFITS

"Part II—FINANCING

"Part III—ENFORCEMENT

"Part IV—OTHER PROVISIONS

"PART I—ESTABLISHMENT AND BENEFITS

"Sec. 9702. Establishment of the United Mine Workers of America Combined Benefit Fund.

"Sec. 9703. Plan benefits.

"SEC. 9702. ESTABLISHMENT OF THE UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—As soon as practicable (but not later than 60 days) after the enactment date, the persons described in subsection (b) shall designate the individuals to serve as trustees. Such trustees shall create a new private plan to be known as the United Mine Workers of America Combined Benefit Fund.

"(2) MERGER OF RETIREE BENEFIT PLANS.—As of February 1, 1993, the settlors of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall cause such plans to be merged into the Combined Fund, and such merger shall not be treated as an employer withdrawal for purposes of any 1988 coal wage agreement.

"(3) TREATMENT OF PLAN.—The Combined Fund shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)), "(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(4) TAX TREATMENT.—For purposes of this title, the Combined Fund and any related trust shall be treated as an organization exempt from tax under section 501(a).

"(b) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

"(A) one individual who represents employers in the coal mining industry shall be designated by the BCOA;

"(B) one individual shall be designated by the three employers, other than 1988 agreement operators, who have been assigned the greatest number of eligible beneficiaries under section 9706;

"(C) two individuals designated by the United Mine Workers of America; and

"(D) three persons selected by the persons appointed under subparagraphs (A), (B), and (C).

"(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

"(3) SPECIAL RULES.—

"(A) BCOA.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.

"(B) FORMER SIGNATORIES.—The initial trustee under paragraph (1)(B) shall be designated by the 3 employers, other than 1988 agreement operators, which the records of the 1950 UMWA Benefit Plan and 1974 UMWA Benefit Plan indicate have the greatest number of eligible beneficiaries as of the enactment date, and such trustee and any successor shall serve until November 1, 1993.

"(c) PLAN YEAR.—The first plan year of the Combined Fund shall begin February 1, 1993, and end September 30, 1993. Each succeeding plan year shall begin on October 1 of each calendar year.

"SEC. 9703. PLAN BENEFITS.

"(a) IN GENERAL.—Each eligible beneficiary of the Combined Fund shall receive—

"(1) health benefits described in subsection (b), and

"(2) in the case of an eligible beneficiary described in subsection (f)(1), death benefits coverage described in subsection (c).

"(b) HEALTH BENEFITS.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide health care benefits to each eligible beneficiary by enrolling the beneficiary in a health care services plan which undertakes to provide such benefits on a prepaid risk basis. The trustees shall utilize all available plan resources to ensure that, consistent with paragraph (2), coverage under the managed care system shall to the maximum extent feasible be substantially the same as (and subject to the same limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) PLAN PAYMENT RATES.—

"(A) IN GENERAL.—The trustees of the Combined Fund shall negotiate payment rates with the health care services plans described in paragraph (1) for each plan year which are in amounts which—

"(i) vary as necessary to ensure that beneficiaries in different geographic areas have access to a uniform level of health benefits; and

"(ii) result in aggregate payments for such plan year from the Combined Fund which do not exceed the total premium payments required to be paid to the Combined Fund under section 9704(a) for the plan year, adjusted as provided in subparagraphs (B) and (C).

"(B) REDUCTIONS.—The amount determined under subparagraph (A)(ii) for any plan year shall be reduced—

"(i) by the aggregate death benefit premiums determined under section 9704(c) for the plan year, and

"(ii) by the amount reserved for plan administration under subsection (d).

"(C) INCREASES.—The amount determined under subparagraph (A)(ii) shall be increased—

"(i) by any reduction in the total premium payments required to be paid under section 9704(a) by reason of transfers described in section 9705,

"(ii) by any carryover to the plan year from any preceding plan year which—

"(I) is derived from amounts described in section 9704(e)(3)(B)(i), and

"(II) the trustees elect to use to pay benefits for the current plan year, and

"(iii) any interest earned by the Combined Fund which the trustees elect to use to pay benefits for the current plan year.

"(3) QUALIFIED PROVIDERS.—The trustees of the Combined Fund shall not enter into an agreement under paragraph (1) with any provider of services which is of a type which is required to be certified by the Secretary of Health and Human Services when providing services under title XVIII of the Social Security Act unless the provider is so certified.

"(4) EFFECTIVE DATE.—Benefits shall be provided under paragraph (1) on and after February 1, 1993.

"(c) DEATH BENEFITS COVERAGE.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide death benefits coverage to each eligible beneficiary described in subsection (f)(1) which is identical to the benefits provided under the 1950 UMWA Pension Plan or 1974 UMWA Pension Plan, whichever is applicable, on July 20, 1992. Such coverage shall be provided on and after February 1, 1993.

"(2) TERMINATION OF COVERAGE.—The 1950 UMWA Pension Plan and the 1974 UMWA Pension Plan shall each be amended to provide that death benefits coverage shall not be provided to eligible beneficiaries on and after February 1, 1993. This paragraph shall not prohibit such plans from subsequently providing death benefits not described in paragraph (1).

"(d) RESERVES FOR ADMINISTRATION.—The trustees of the Combined Fund may reserve for each plan year, for use in payment of the administrative costs of the Combined Fund, an amount not to exceed 5 percent of the premiums to be paid to the Combined Fund under section 9704(a) during the plan year.

"(e) LIMITATION ON ENROLLMENT.—The Combined Fund shall not enroll any individual who is not receiving benefits under the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of July 20, 1992.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this subchapter, the term 'eligible beneficiary' means an individual who—

"(1) is a coal industry retiree who, on July 20, 1992, was eligible to receive, and receiving, benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or

"(2) on such date was eligible to receive, and receiving, benefits in either such plan by reason of a relationship to such retiree.

"PART II—FINANCING

"Sec. 9704. Liability of assigned operators.
"Sec. 9705. Transfers.
"Sec. 9706. Assignment of eligible beneficiaries.

"SEC. 9704. LIABILITY OF ASSIGNED OPERATORS.

"(a) ANNUAL PREMIUMS.—Each assigned operator shall pay to the Combined Fund for each plan year beginning on or after February 1, 1993, an annual premium equal to the sum of the following three premiums—

"(1) the health benefit premium determined under subsection (b) for such plan year, plus

"(2) the death benefit premium determined under subsection (c) for such plan year, plus

"(3) the unassigned beneficiaries premium determined under subsection (d) for such plan year.

Any related person with respect to an assigned operator shall be jointly and severally liable for any premium required to be paid by such operator.

"(b) HEALTH BENEFIT PREMIUM.—For purposes of this chapter—

"(1) IN GENERAL.—The health benefit premium for any plan year for any assigned operator shall be an amount equal to the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries assigned to such operator under section 9706.

"(2) PER BENEFICIARY PREMIUM.—The Secretary of Health and Human Services shall calculate a per beneficiary premium for each plan year beginning on or after February 1, 1993, which is equal to the sum of—

"(A) the amount determined by dividing—

"(i) the aggregate amount of payments from the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for health benefits (less reimbursements but including administrative costs) for the plan year beginning July 1, 1991, for all individuals covered under such plans for such plan year, by

"(ii) the number of such individuals, plus

"(B) the amount determined under subparagraph (A) multiplied by the percentage (if any) by which the medical component of the Consumer Price Index for the calendar year in which the plan year begins exceeds such component for 1992.

"(3) ADJUSTMENTS FOR MEDICARE REDUCTIONS.—If, by reason of a reduction in benefits under title XVIII of the Social Security Act, the level of health benefits under the Combined Fund would be reduced, the trustees of the Combined Fund shall increase the per beneficiary premium for the plan year in which the reduction occurs and each subsequent plan year by the amount necessary to maintain the level of health benefits which would have been provided without such reduction.

"(c) DEATH BENEFIT PREMIUM.—The death benefit premium for any plan year for any assigned operator shall be equal to the applicable percentage of the amount, actuarially determined, which the Combined Fund will be required to pay during the plan year for death benefits coverage described in section 9703(c).

"(d) UNASSIGNED BENEFICIARIES PREMIUM.—The unassigned beneficiaries premium for any plan year for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

"(e) PREMIUM ACCOUNTS; ADJUSTMENTS.—

"(1) ACCOUNTS.—The trustees of the Combined Fund shall establish and maintain 3 separate accounts for each of the premiums described in subsections (b), (c), and (d). Such accounts shall be credited with the premiums received and debited with expenditures allocable to such premiums.

"(2) ALLOCATIONS.—

"(A) ADMINISTRATIVE EXPENSES.—Administrative costs for any plan year shall be allocated to premium accounts under paragraph (1) on the basis of expenditures (other than administrative costs) from such accounts during the preceding plan year.

"(B) INTEREST.—Interest shall be allocated to the account established for health benefit premiums.

"(3) SHORTFALLS AND SURPLUSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if, for any plan year, there is a shortfall or surplus in any premium account, the premium for the following plan year for each assigned operator shall be proportionately reduced or increased, whichever is applicable, by the amount of such shortfall or surplus.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any surplus in the health benefit premium account or the unassigned beneficiaries premium account which is attributable to—

"(i) the excess of the premiums credited to such account for a plan year over the benefits (and administrative costs) debited to such account for the plan year, but such excess shall only be available for purposes of the carryover described in section 9703(b)(2)(C)(ii) (relating to carryovers of premiums not used to provide benefits), or

"(ii) interest credited under paragraph (2)(B) for the plan year or any preceding plan year.

"(C) NO AUTHORITY FOR INCREASED PAYMENTS.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits for any plan year in excess of the limit under section 9703(b)(2).

"(f) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means, with respect to any assigned operator, the percentage determined by dividing the number of eligible beneficiaries assigned under section 9706 to such operator by the total number of eligible beneficiaries assigned under section 9706 to all such operators (determined on the basis of assignments as of October 1, 1993).

"(2) ANNUAL ADJUSTMENTS.—In the case of any plan year beginning on or after October 1, 1994, the applicable percentage for any assigned operator shall be redetermined under paragraph (1) by making the following changes to the assignments as of October 1, 1993:

"(A) Such assignments shall be modified to reflect any changes during the period beginning October 1, 1993, and ending on the last day of the preceding plan year pursuant to the appeals process under section 9706(f).

"(B) The total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries of assigned operators which (and all related persons with respect to which) had ceased business (within the meaning of section 9701(c)(6)) during the period described in subparagraph (A).

"(g) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—The annual premium under subsection (a) for any plan year shall be payable in 12 equal monthly installments, due on the twenty-fifth day of each calendar month in the plan year. In the case of the plan year beginning February 1, 1993, the annual premium under subsection (a) shall be added to such premium for the plan year beginning October 1, 1993.

"(2) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(h) INFORMATION.—The trustees of the Combined Fund shall, not later than 60 days after the enactment date, furnish to the Secretary of Health and Human Services information as to the benefits and covered beneficiaries under the fund, and such other information as the Secretary may require to compute any premium under this section.

"(i) TRANSITION RULES.—

"(1) 1988 AGREEMENT OPERATORS.—

"(A) 1ST YEAR COSTS.—During the plan year of the Combined Fund beginning February 1, 1993, the 1988 agreement operators shall make contributions to the Combined Fund in amounts necessary to pay benefits and administrative costs of the Combined Fund incurred during such year, reduced by the amount transferred to the Combined Fund under section 9705(a) on February 1, 1993.

"(B) DEFICITS FROM MERGED PLANS.—During the period beginning February 1, 1993, and ending September 30, 1994, the 1988 agreement operators shall make contributions to the Combined Fund as are necessary to pay off the expenses accrued (and remaining unpaid) by the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, reduced by the assets of such plans as of such date.

"(C) FAILURE.—If any 1988 agreement operator fails to meet any obligation under this paragraph, any contributions of such operator to the Combined Fund or any other plan described in section 404(c) shall not be deductible under this title until such time as the failure is corrected.

"(D) PREMIUM REDUCTIONS.—

"(i) 1ST YEAR PAYMENTS.—In the case of a 1988 agreement operator making contributions under subparagraph (A), the premium of such operator under subsection (a) shall be reduced by the amount paid under subparagraph (A) by such operator for the plan year beginning February 1, 1993.

"(ii) DEFICIT PAYMENTS.—In the case a 1988 agreement operator making contributions under subparagraph (B), the premium of such operator under subsection (a) shall be reduced by the amounts which are paid to the Combined Fund by reason of claims arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims based on the 'evergreen clause' found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan, and which are allocated to such operator under subparagraph (E).

"(iii) LIMITATION.—Clause (ii) shall not apply to the extent the amounts paid exceed the contributions.

"(iv) PLAN YEARS.—Premiums under subsection (a) shall be reduced for the first plan year for which amounts described in clause (i) or (ii) are available and for any succeeding plan year until such amounts are exhausted.

"(E) ALLOCATIONS OF CONTRIBUTIONS AND REFUNDS.—Contributions under subparagraphs (A) and (B), and premium reductions under subparagraph (D)(ii), shall be made ratably on the basis of aggregate contributions made by such operators under the applicable 1988 coal wage agreements as of January 31, 1993.

"(2) 1ST PLAN YEAR.—In the case of the plan year of the Combined Fund beginning February 1, 1993—

"(A) the premiums under subsections (a)(1) and (a)(3) shall be 67 percent of such premiums without regard to this paragraph, and

"(B) the premiums under subsection (a) shall be paid as provided in subsection (g).

"(3) STARTUP COSTS.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall pay the costs of the Combined Fund incurred before February 1, 1993. For purposes of this section, such costs shall be treated as administrative expenses incurred for the plan year beginning February 1, 1993.

"SEC. 9705. TRANSFERS.

"(a) TRANSFER OF ASSETS FROM 1950 UMWA PENSION PLAN.—

"(1) IN GENERAL.—From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pension Plan shall transfer to the Combined Fund—

"(A) $70,000,000 on February 1, 1993,

"(B) $70,000,000 on October 1, 1993, and

"(C) $70,000,000 on October 1, 1994.

"(2) RESERVATION.—Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate $210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

"(3) USE OF FUNDS.—Amounts transferred to the Combined Fund under paragraph (1) shall—

"(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

"(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available.

Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

"(4) TAX TREATMENT; VALIDITY OF TRANSFER.—

"(A) NO DEDUCTION.—No deduction shall be allowed under this title with respect to any transfer pursuant to paragraph (1), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMWA Pension Plan, the 1950 UMWA Benefit Plan, the 1974 UMWA Pension Plan, the 1974 UMWA Benefit Plan, the 1992 UMWA Benefit Plan, or the Combined Fund.

"(B) OTHER TAX PROVISIONS.—Any transfer pursuant to paragraph (1)—

"(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMWA Pension Plan.

"(5) TREATMENT OF TRANSFER.—Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

"(b) TRANSFERS FROM ABANDONED MINE RECLAMATION FUND.—

"(1) IN GENERAL.—The Combined Fund shall include any amount transferred to the Fund under section 402(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)).

"(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.

"SEC. 9706. ASSIGNMENT OF ELIGIBLE BENEFICIARIES.

"(a) IN GENERAL.—For purposes of this chapter, the Secretary of Health and Human Services shall, before October 1, 1993, assign each coal industry retiree who is an eligible beneficiary to a signatory operator which (or any related person with respect to which) remains in business in the following order:

"(1) First, to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry for at least 2 years.

"(2) Second, if the retiree is not assigned under paragraph (1), to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry.

"(3) Third, if the retiree is not assigned under paragraph (1) or (2), to the signatory operator which employed the coal industry retiree in the coal industry for a longer period of time than any other signatory operator prior to the effective date of the 1978 coal wage agreement.

"(b) RULES RELATING TO EMPLOYMENT AND REASSIGNMENT UPON PURCHASE.—For purposes of subsection (a)—

"(1) AGGREGATION RULES.—

"(A) RELATED PERSON.—Any employment of a coal industry retiree in the coal industry by a signatory operator shall be treated as employment by any related persons to such operator.

"(B) CERTAIN EMPLOYMENT DISREGARDED.—Employment with—

"(i) a person which is (and all related persons with respect to which are) no longer in business, or

"(ii) a person during a period during which such person was not a signatory to a coal wage agreement,

shall not be taken into account.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of an assigned operator after the enactment date, the assigned operator may transfer the assignment of an eligible beneficiary under subsection (a) to such successor, and such successor shall be treated as the assigned operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the assigned operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. An assigned operator shall notify the trustees of the Combined Fund of any transfer described in this paragraph.

"(c) IDENTIFICATION OF ELIGIBLE BENEFICIARIES.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall, by the later of October 1, 1992, or the twentieth day after the enactment date, provide to the Secretary of Health and Human Services a list of the names and social security account numbers of each eligible beneficiary, including each deceased eligible beneficiary if any other individual is an eligible beneficiary by reason of a relationship to such deceased eligible beneficiary. In addition, the plans shall provide, where ascertainable from plan records, the names of all persons described in subsection (a) with respect to any eligible beneficiary or deceased eligible beneficiary.

"(d) COOPERATION BY OTHER AGENCIES AND PERSONS.—

"(1) COOPERATION.—The head of any department, agency, or instrumentality of the United States shall cooperate fully and promptly with the Secretary of Health and Human Services in providing information which will enable the Secretary to carry out his responsibilities under this section.

"(2) PROVIDING OF INFORMATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, including section 6103, the head of any other agency, department, or instrumentality shall, upon receiving a written request from the Secretary of Health and Human Services in connection with this section, cause a search to be made of the files and records maintained by such agency, department, or instrumentality with a view to determining whether the information requested is contained in such files or records. The Secretary shall be advised whether the search disclosed the information requested, and, if so, such information shall be promptly transmitted to the Secretary, except that if the disclosure of any requested information would contravene national policy or security interests of the United States, or the confidentiality of census data, the information shall not be transmitted and the Secretary shall be so advised.

"(B) LIMITATION.—Any information provided under subparagraph (A) shall be limited to information necessary for the Secretary to carry out his duties under this section.

"(3) TRUSTEES.—The trustees of the Combined Fund, the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, the 1950 UMWA Pension Plan, and the 1974 UMWA Pension Plan shall fully and promptly cooperate with the Secretary in furnishing, or assisting the Secretary to obtain, any information the Secretary needs to carry out the Secretary's responsibilities under this section.

"(e) NOTICE BY SECRETARY.—

"(1) NOTICE TO FUND.—The Secretary of Health and Human Services shall advise the trustees of the Combined Fund of the name of each person identified under this section as an assigned operator, and the names and social security account numbers of eligible beneficiaries with respect to whom he is identified.

"(2) OTHER NOTICE.—The Secretary of Health and Human Services shall notify each assigned operator of the names and social security account numbers of eligible beneficiaries who have been assigned to such person under this section and a brief summary of the facts related to the basis for such assignments.

"(f) RECONSIDERATION BY SECRETARY.—

"(1) IN GENERAL.—Any assigned operator receiving a notice under subsection (e)(2) with respect to an eligible beneficiary may, within 30 days of receipt of such notice, request from the Secretary of Health and Human Services detailed information as to the work history of the beneficiary and the basis of the assignment.

"(2) REVIEW.—An assigned operator may, within 30 days of receipt of the information under paragraph (1), request review of the assignment. The Secretary of Health and Human Services shall conduct such review if the Secretary finds the operator provided evidence with the request constituting a prima facie case of error.

"(3) RESULTS OF REVIEW.—

"(A) ERROR.—If the Secretary of Health and Human Services determines under a review under paragraph (2) that an assignment was in error—

"(i) the Secretary shall notify the assigned operator and the trustees of the Combined Fund and the trustees shall reduce the premiums of the operator under section 9704 by (or if there are no such premiums, repay) all premiums paid under section 9704 with respect to the eligible beneficiary, and

"(ii) the Secretary shall review the beneficiary's record for reassignment under subsection (a).

"(B) NO ERROR.—If the Secretary of Health and Human Services determines under a review conducted under paragraph (2) that no error occurred, the Secretary shall notify the assigned operator.

"(4) DETERMINATIONS.—Any determination by the Secretary of Health and Human Services under paragraph (2) or (3) shall be final.

"(5) PAYMENT PENDING REVIEW.—An assigned operator shall pay the premiums under section 9704 pending review by the Secretary of Health and Human Services or by a court under this subsection.

"(6) PRIVATE ACTIONS.—Nothing in this section shall preclude the right of any person to bring a separate civil action against another person for responsibility for assigned premiums, notwithstanding any prior decision by the Secretary.

"(g) CONFIDENTIALITY OF INFORMATION.—Any person to which information is provided by the Secretary of Health and Human Services under this section shall not disclose such information except in any proceedings related to this section. Any civil or criminal penalty which is applicable to an unauthorized disclosure under section 6103 shall apply to any unauthorized disclosure under this section.

"PART III—ENFORCEMENT

"Sec. 9707. Failure to pay premium.

"SEC. 9707. FAILURE TO PAY PREMIUM.

"(a) GENERAL RULE.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

"(b) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) on any failure with respect to any eligible beneficiary shall be $100 per day in the noncompliance period with respect to any such failure.

"(c) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure to pay any premium or installment thereof, the period—

"(1) beginning on the due date for such premium or installment, and

"(2) ending on the date of payment of such premium or installment.

"(d) LIMITATIONS ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew, or exercising reasonable diligence, would have known, that such failure existed.

"(2) CORRECTIONS.—No penalty shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER.—In the case of a failure that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed by subsection (a) for failures to the extent that the Secretary determines, in his sole discretion, that the payment of such penalty would be excessive relative to the failure involved.

"(e) LIABILITY FOR PENALTY.—The person failing to meet the requirements of section 9704 shall be liable for the penalty imposed by subsection (a).

"(f) TREATMENT.—For purposes of this title, the penalty imposed by this section shall be treated in the same manner as the tax imposed by section 4980B.

"PART IV—OTHER PROVISIONS

"Sec. 9708. Effect on pending claims or obligations.

"SEC. 9708. EFFECT ON PENDING CLAIMS OR OBLIGATIONS.

"All liability for contributions to the Combined Fund that arises on and after February 1, 1993, shall be determined exclusively under this chapter, including all liability for contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for coal production on and after February 1, 1993. However, nothing in this chapter is intended to have any effect on any claims or obligations arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims or obligations based on the 'evergreen' clause found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan. This chapter shall not be construed to affect any rights of subrogation of any 1988 agreement operator with respect to contributions due to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of February 1, 1993.

"Subchapter C—Health Benefits of Certain Miners

"Part I—Individual employer plans

"Part II—1992 UMWA benefit plan

"PART I—INDIVIDUAL EMPLOYER PLANS

"Sec. 9711. Continued obligations of individual employer plans.

"SEC. 9711. CONTINUED OBLIGATIONS OF INDIVIDUAL EMPLOYER PLANS.

"(a) COVERAGE OF CURRENT RECIPIENTS.—The last signatory operator of any individual who, as of February 1, 1993, is receiving retiree health benefits from an individual employer plan maintained pursuant to a 1978 or subsequent coal wage agreement shall continue to provide health benefits coverage to such individual and the individual's eligible beneficiaries which is substantially the same as (and subject to all the limitations of) the coverage provided by such plan as of January 1, 1992. Such coverage shall continue to be provided for as long as the last signatory operator (and any related person) remains in business.

"(b) COVERAGE OF ELIGIBLE RECIPIENTS.—

"(1) IN GENERAL.—The last signatory operator of any individual who, as of February 1, 1993, is not receiving retiree health benefits under the individual employer plan maintained by the last signatory operator pursuant to a 1978 or subsequent coal wage agreement, but has met the age and service requirements for eligibility to receive benefits under such plan as of such date, shall, at such time as such individual becomes eligible to receive benefits under such plan, provide health benefits coverage to such individual and the individual's eligible beneficiaries which is described in paragraph (2). This paragraph shall not apply to any individual who retired from the coal industry after September 30, 1994, or any eligible beneficiary of such individual.

"(2) COVERAGE.—Subject to the provisions of subsection (d), health benefits coverage is described in this paragraph if it is substantially the same as (and subject to all the limitations of) the coverage provided by the individual employer plan as of January 1, 1992. Such coverage shall continue for as long as the last signatory operator (and any related person) remains in business.

"(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—Each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

"(d) MANAGED CARE AND COST CONTAINMENT.—The last signatory operator shall not be treated as failing to meet the requirements of subsection (a) or (b) if benefits are provided to eligible beneficiaries under managed care and cost containment rules and procedures described in section 9712(c) or agreed to by the last signatory operator and the United Mine Workers of America.

"(e) TREATMENT OF NONCOVERED EMPLOYEES.—The existence, level, and duration of benefits provided to former employees of a last signatory operator (and their eligible beneficiaries) who are not otherwise covered by this chapter and who are (or were) covered by a coal wage agreement shall only be determined by, and shall be subject to, collective bargaining, lawful unilateral action, or other applicable law.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means any individual who is eligible for health benefits under a plan described in subsection (a) or (b) by reason of the individual's relationship with the retiree described in such subsection (or to an individual who, based on service and employment history at the time of death, would have been so described but for such death).

"(g) RULES APPLICABLE TO THIS PART AND PART II.—For purposes of this part and part II—

"(1) SUCCESSOR.—The term 'last signatory operator' shall include a successor in interest of such operator.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of a last signatory operator after the enactment date, the last signatory operator may transfer any liability of such operator under this chapter with respect to an eligible beneficiary to such successor, and such successor shall be treated as the last signatory operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the last signatory operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. A last signatory operator shall notify the trustees of the 1992 UMWA Benefit Plan of any transfer described in this paragraph.

"PART II—1992 UMWA BENEFIT PLAN

"Sec. 9712. Establishment and coverage of 1992 UMWA Benefit Plan.

"SEC. 9712. ESTABLISHMENT AND COVERAGE OF 1992 UMWA BENEFIT PLAN.

"(a) CREATION OF PLAN.—

"(1) IN GENERAL.—As soon as practicable after the enactment date, the settlors shall create a separate private plan which shall be known as the United Mine Workers of America 1992 Benefit Plan. For purposes of this title, the 1992 UMWA Benefit Plan shall be treated as an organization exempt from taxation under section 501(a). The settlors shall be responsible for designing the structure, administration and terms of the 1992 UMWA Benefit Plan, and for appointment and removal of the members of the board of trustees. The board of trustees shall initially consist of five members and shall thereafter be the number set by the settlors.

"(2) TREATMENT OF PLAN.—The 1992 UMWA Benefit Plan shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(b) COVERAGE REQUIREMENT.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall only provide health benefits coverage to any eligible beneficiary who is not eligible for benefits under the Combined Fund and shall not provide such coverage to any other individual.

"(2) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means an individual who—

"(A) but for the enactment of this chapter, would be eligible to receive benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, based upon age and service earned as of February 1, 1993; or

"(B) with respect to whom coverage is required to be provided under section 9711, but who does not receive such coverage from the applicable last signatory operator or any related person,

and any individual who is eligible for benefits by reason of a relationship to an individual described in subparagraph (A) or (B). In no event shall the 1992 UMWA Benefit Plan provide health benefits coverage to any eligible beneficiary who is a coal industry retiree who retired from the coal industry after September 30, 1994, or any beneficiary of such individual.

"(c) HEALTH BENEFITS.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall provide health care benefits coverage to each eligible beneficiary which is substantially the same as (and subject to all the limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) MANAGED CARE.—The 1992 UMWA Benefit Plan shall develop managed care and cost containment rules which shall be applicable to the payment of benefits under this subsection. Application of such rules shall not cause the plan to be treated as failing to meet the requirements of this subsection. Such rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules may include, but are not limited to, elements described in paragraph (3).

"(3) MAJOR ELEMENTS OF RULES.—Elements described in this paragraph are—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use,

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status with the amount of the potential discount varying by geographic region,

"(C) limiting benefit payments to physicians to the allowable charge under title XVIII of the Social Security Act, while protecting beneficiaries from balance billing by providers,

"(D) utilizing, in the claims payment function 'appropriateness of service' protocols under title XVIII of the Social Security Act if more stringent,

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries,

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network, and

"(G) utilizing a managed care network provider system, as practiced in the health care industry, at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this subsection.

"(4) LAST SIGNATORY OPERATORS.—The board of trustees of the 1992 UMWA Benefit Plan shall permit any last signatory operator required to maintain an individual employer plan under section 9711 to utilize the managed care and cost containment rules and programs developed under this subsection if the operator elects to do so.

"(5) STANDARDS OF QUALITY.—Any managed care system or cost containment adopted by the board of trustees of the 1992 UMWA Benefit Plan or by a last signatory operator may not be implemented unless it is approved by, and meets the standards of quality adopted by, a medical peer review panel, which has been established—

"(A) by the settlors, or

"(B) by the United Mine Workers of America and a last signatory operator or group of operators.

Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending on the nature of the medical need.

"(d) GUARANTEE OF BENEFITS.—

"(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c), in accordance with contribution requirements established in the 1992 UMWA Benefit Plan. Such contribution requirements, which shall be applied uniformly to each 1988 last signatory operator, on the basis of the number of eligible and potentially eligible beneficiaries attributable to each operator, shall include:

"(A) the payment of an annual prefunding premium for all eligible and potentially eligible beneficiaries attributable to a 1988 last signatory operator,

"(B) the payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA Benefit Plan, and

"(C) the provision of security (in the form of a bond, letter of credit or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator. If a 1988 last signatory operator is unable to provide the security required, the 1992 UMWA Benefit Plan shall require the operator to pay an annual prefunding premium that is greater than the premium otherwise applicable.

"(2) ADJUSTMENTS.—The 1992 UMWA Benefit Plan shall provide for—

"(A) annual adjustments of the per beneficiary premium to cover changes in the cost of providing benefits to eligible beneficiaries, and

"(B) adjustments as necessary to the annual prefunding premium to reflect changes in the cost of providing benefits to eligible beneficiaries for whom per beneficiary premiums are not paid.

"(3) ADDITIONAL LIABILITY.—Any last signatory operator who is not a 1988 last signatory operator shall pay the monthly per beneficiary premium under paragraph (1)(B) for each eligible beneficiary described in such paragraph attributable to that operator.

"(4) JOINT AND SEVERAL LIABILITY.—A 1988 last signatory operator or last signatory operator described in paragraph (3), and any related person to any such operator, shall be jointly and severally liable with such operator for any amount required to be paid by such operator under this section.

"(5) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(6) 1988 LAST SIGNATORY OPERATOR.—For purposes of this section, the term '1988 last signatory operator' means a last signatory operator which is a 1988 agreement operator.

"Subchapter D—Other Provisions

"Sec. 9721. Civil enforcement.

"Sec. 9722. Sham transactions.

"SEC. 9721. CIVIL ENFORCEMENT.

"The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.

"SEC. 9722. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction."

(b) AMENDMENTS TO SURFACE MINING ACT.—

(1) EXTENSION OF FEE PROGRAM.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 1995" and inserting "September 30, 2004".

(2) TRANSFER TO FUND.—Section 402 of such Act (30 U.S.C. 1232) is amended by adding at the end the following new subsection:

"(h) TRANSFER OF FUNDS TO COMBINED FUND.—(1) In the case of any fiscal year beginning on or after October 1, 1995, with respect to which fees are required to be paid under this section, the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in paragraph (2).

"(2) The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of—

"(A) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

"(B) the amount by which the amount described in subparagraph (A) is less than $70,000,000.

"(3)(A) The aggregate amount which may be transferred under paragraph (2) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

"(B) The aggregate amount which may be transferred under paragraph (2)(B) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

"(4) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

(3) CONFORMING AMENDMENTS.—(A) Section 401(c) of such Act (30 U.S.C. 1231(c)) is amended by striking "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by adding after paragraph (11) the following new paragraph:

"(12) for the purpose described in section 402(h); and".

(B) Section 402(g)(1) of such Act (30 U.S.C. 1232(g)) is amended by striking "Moneys" and inserting "Except as provided in subsection (h), moneys".

SIMPSON AMENDMENT NO. 2788

Mr. JOHNSTON (for Mr. SIMPSON) proposed an amendment to the bill H.R. 776, supra, as follows:

On page 274, after line 21, redesignate paragraphs (2) through (4) as paragraphs (3) through (5), respectively and insert a new paragraph (2) as follows:

"(2) a survey of practices and policies under which electric cooperatives prepare least-cost plans, submit such plans to the Rural Electrification Administration, and the extent to which such least cost planning is reflected in rates charged to customers:"

WELLSTONE AMENDMENT NO. 2789

Mr. WELLSTONE proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place in the Committee amendment, insert the following new title:

TITLE ____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. ____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. ____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC.——_____03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 17 months after the date of enactment of this Act.

DODD AMENDMENT NO. 2790

Mr. DODD proposed an amendment to amendment No. 2789 proposed by Mr. WELLSTONE to the bill H.R. 776, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE ____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. ____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. ____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination,

except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC.—— 03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

MURKOWSKI AMENDMENT NO. 2791

Mr. MURKOWSKI proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place, insert the following new section:

SEC. (a) JOBS SURVEY REPORT.—Within available funds, the Secretary of Labor and the Secretary of Commerce in consultation with the Council of Economic Advisors and working with other appropriate Federal officials, shall within ninety (90) days of the date of enactment of this Act, submit a Jobs Survey Report to the Congress on significant public and/or private sector construction, development or manufacturing projects under consideration by Congress, scheduled, or proposed to be undertaken or initiated prior to June 30, 1993. For purposes of this section, the term "significant projects" means any new construction, developmental or manufacturing project which will, at its peak, provide new job and employment opportunities to 2500 or more people within the United States."

"(b) In developing the Jobs Survey Report required by subsection (a), the Secretaries shall provide the Congress with the following information on the significant public and private sector projects defined in subsection (a):

(1) the location of the project;

(2) the private or public sector sponsor of the project;

(3) the total capital cost of the project;

(4) the scheduled period for construction and the projected completion date;

(5) the number of jobs associated with the project (by category):

(A) construction;

(B) fabrication;

(C) manufacturing;

(D) indirect; and

(E) operation and maintenance.

(6) the physical location of the jobs, by state and region, associated with the project;

(7) the impact of the project, when completed, on improving national economic wellbeing and other aspects of the national interest;

(8) the extent to which the project, if undertaken on a timely basis, would reduce unemployment on a national, regional and state basis;

(9) the potential impact of the project on promoting the export of U.S. goods and services and in reducing the balance of trade deficit;

(10) any authorization, regulatory, financing or other impediments which threaten or may threaten to delay initiation of the project in accordance with the sponsor's project schedule; and

(11) any appropriate legislative action recommended to the Congress to expedite initiation of the project schedule and the creation of new jobs for unemployed American working men and women."

"(c) In preparing the Jobs Survey Report, the Secretaries shall devote one section of the Report to a review and analysis of trends underway in the nation's domestic petroleum industry which are causing the export of U.S. capital and jobs. The Council shall analyze the causes of these trends and shall identify the contributing role, if any, of the following factors and make appropriate recommendations to the Congress:

(1) world oil prices;

(2) any decline in technological leadership;

(3) lack of leasing opportunities in prospective areas, including the public lands;

(4) shortages of capital for domestic petroleum development;

(5) tax policy, environmental and other regulatory restrictions which make development and operations more attractive in foreign countries;

(6) significant changes in domestic demand for petroleum products; and

(7) any reduction in the degree of risk associated with reliance on foreign sources of oil for 50 percent or more of domestic demand."

MURKOWSKI AMENDMENT NO. 2792

Mr. WALLOP for (Mr. MURKOWSKI) proposed an amendment to the bill H.R. 776, supra, as follows:

Strike all after the word "TITLE" and insert the following:

—STUDY OF THE FUTURE OIL AND GAS POTENTIAL AND ECONOMIC IMPORT

SEC. . The Secretary of Energy, in consultation with the Secretaries of Labor, Commerce, State, the Interior, and Defense, shall prepare and complete within 6 months from the date of enactment of this Act and submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of the following:

(1) the current and projected status of the domestic oil and gas industry and other energy industries, including:

(A) the quantity and types of jobs created and lost in the industry during the 10 year period ending on the date of enactment of this Act; and

(B) the potential for job creation and loss during the 10 year period beginning on the date of enactment of this Act together with the basis for any alternative projection;

(2) the historic and projected future trends in oil and gas industry and other energy industry investment in the United States and foreign countries and the related change in investments in the United States;

(3) the current and projected status of the rate of imports of foreign oil in absolute terms and as a percentage of consumption;

(4) the current and projected impacts of increasing reliance on imported oil on:

(A) the economy of the United States;

(B) the balance of trade deficit of the United States; and

(C) national security interests of the United States, including related military and other costs;

(5) the current and projected status of decline in production of oil from Alaska's North Slope transported through the Trans-Alaska Pipeline System (TAPS) and effects of this decline on:

(A) regional and national employment in the United States;

(B) the national security of the United States; and

(C) energy prices in the United States;

(6) (A) the estimated date for the required removal of the TAPS in the event there is no oil production from the coastal plain of the Arctic National Wildlife Refuge (ANWR); and

(B) the effect of the shutdown and removal of the TAPS on the production of Alaska North Slope heavy oil reserves and otherwise economically marginal fields for which production technologies are in the process of development;

(7) the impact of potential ANWR coastal plain oil production on:

(A) the longevity of the TAPS and on oil production and consumption in the United States; and

(B) the potential loss of otherwise producible domestic available reserves;

(7) the potential quantity and types of jobs that would be created, both directly and indirectly, by the exploration and development of the coastal plain of ANWR and the loss of such jobs if exploration and development does not occur;

(8) the domestic industrial production capabilities which would be created by the exploration and development of the coastal plain of ANWR and the potential loss of such capability if exploration and development does not occur, including the ability to explore and develop other domestic oil and gas prospects;

(9) the potential impact of exploration and development of the coastal plain of ANWR on:

(A) the economy of the United States;

(B) the economies of the regions of the United States; and

(C) the balance of trade deficit of the United States;

(D) production from wells producing 15 barrels of oil per day or less.

(10) the projected potential revenues and costs, both direct and indirect, to the United States Treasury and the State of Alaska that would be generated or incurred by exploration and development of oil reserves within the coastal plain of ANWR;

(11) the technologies available for reducing the environmental impact of exploration and production of oil from the coastal plain of ANWR; and

(12) the development and application of Arctic oil production technologies on Alaska's North Slope including:

(A) a comparison of the technology used at the Prudhoe Bay and Endicott oil fields; and

(B) a comparison of technologies available for Alaska North Slope develoment with conventional oil field exploration and development in the contiguous United States.

(13) all possible alternative energy supplies (including energy conservation) currently available in the United States, and which might be available in the foreseeable future, that would provide the same amount or greater amounts of energy than are estimated by the Department of the Interior to be available from the coastal plain.

(14) the known and estimated reserves of oil and gas on the North Slope of Alaska (including State and federal offshore lands) outside of the Arctic National Wildlife Refuge.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 10 a.m. to conduct a hearing on the condition of credit unions.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 10:30 a.m. The committee will hold a full committee hearing on H.R. 5191, the Small Business Equity Enhancement Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MEDICARE AND LONG TERM CARE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long Term Care of the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 2 p.m. to hold a hearing on how Medicare payment policies affect physicians' choice of medical specialties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 10 a.m. to hold a hearing on the state of U.S. trade policy and the merits of pending trade legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 5 p.m. to consider H.R. 11, the Revenue Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 29, 1992, at 9:30 a.m. on telecommunications and education.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, to hold a hearing on efforts to combat fraud and abuse in the insurance industry: part 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Subcommittee on Juvenile Justice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 10 a.m., to hold a hearing on S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 1:30 p.m., to hold a markup on S. 287, S. 1181, S. 1652, S. 1859, S. 1947, Senate Resolution 171, H.R. 238, H.R. 454, and H.R. 478.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 2 p.m. to hold a hearing on Japanese competition policies and the United States response.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 29, 1992, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMENDING WILLIAM L. IRONS

• Mr. SHELBY. Mr. President, I rise today to commend William L. Irons, prominent Birmingham attorney, for his recent publication in the National Society of the Sons of the American Revolution's SAR magazine. Entitled, "The Revolutionary War at Sea," Irons' article was featured as cover story in the National Society's spring edition.

The SAR magazine's cover pictures the dramatic battle painting of Capt. John Paul Jones' *Bonhomme Richard* broadsiding the British man-of-war, *Serapis*, in the North Sea. This painting hangs near the crypt of John Paul Jones in the chapel of the U.S. Naval Academy at Annapolis.

Mr. Irons chronicles the formation of the Continental Navy, its pre-Revolutionary victories, and the first amphibious assault in American naval history. He recounts the heroic deeds of the Continental Navy as they attacked the British in global warfare on the Atlantic, Baltic, and Caribbean Seas.

Before Thomas Jefferson had scratched a word of the Declaration of Independence on parchment, the first Continental squadron had raided Nassau, a 3,000-mile voyage, captured an island, its Governor, and needed artillery. While the British controlled Philadelphia, Boston, and most American cities, the Continental Navy scored brilliant victories in the Caribbean and North Seas. Privateers—privately commissioned ships—caused unprecedented damage to British commerce leading to petitions before Parliament demanding cessation of the war.

Attacking and destroying enemy warships, John Paul Jones, commanding the *Bonhomme Richard*, took the fight home to England, encircling the British Isles and defeating the enemy man-of-war, *Serapis*, in the North Sea's bloodiest battle in the age of sail.

The final battle, Irons recounts, closes at Yorktown, where the British fleet was defeated off Chesapeake Bay, slamming the doors shut on Cornwallis' retreat from the Carolinas. Naval transports from the Caribbean gave the Continental Army a 2-to-1 advantage, allowing General Washington to close the noose around the British Army, causing its surrender and end of the war.

In 1990, the SAR magazine featured another cover story written by attorney Irons, entitled, "Thomas Jefferson, Father of American Architecture," tracing the architectural achievements of the author of the Declaration of Independence. This story explored Jefferson's development as an architect in Colonial America, his enlightening experience in Paris, France, as America's ambassador succeeding Benjamin Franklin and Jefferson's most celebrated creations—University of Virginia's Rotunda; Monticello, Jefferson's home in the Blue Ridge Mountains near Charlottesville; and the Virginia State capitol in Richmond.

For his research, scholarship and authorship, the National Society of the Sons of the American Revolution awarded William L. Irons the Minnesota Stephen Taylor Award—its highest individual honor—for distinguished contribution to the preservation of the history of the American Revolutionary era, at its Centennial Congress in Louisville, KY. William L. Irons is the only Alabamian ever to receive this high honor. His achievements perpetuate the memory of the heroic sacrifice of the brave patriots of the American Revolution and reflect great credit on the entire State of Alabama. America salutes William L. Irons for his scholarship, writings and devotion to task—preserving America's rich heritage.

Irons, a DuPont regional scholar at the University of Virginia, received his doctor of jurisprudence from Samford University's Cumberland School of Law. He is a member of the Alabama, Federal, and American Trial Lawyers Associations. A decorated Air Force captain, Strategic Air Command, Irons was selected as the Outstanding Junior Officer of the U.S. Air Force during the Vietnam war. Irons has served as U.S. trustee, Northern District of Alabama for 25 years, and is a senior partner in a major Birmingham law firm. He is listed in "Who's Who in Alabama" and "Who's Who in American Law."

Unlike any other country, "to secure the blessings of liberty," it was first necessary to fight and win independence from the most powerful colonial empire on Earth. Only through recounting these stirring battles and scenes of the American pageant and a thorough understanding of our past, are we able to chart a true course for America's future. May our rich historic past serve as prolog to America's future.

Mr. President, the heroic exploits of courageous American patriots served to forge the character and destiny of the American Nation. Chronicling the brave deeds of the Continental Navy, Colonial privateers, and revisiting the events which led to winning the Revolutionary War at Sea, provides all Americans a genuine source of inspiration.

The National Society of the Sons of the American Revolution was established by act of the U.S. Congress in 1889, and is composed of 27,000 members who are descendants of the patriots of the American Revolution. The National Society's past members include many Members of Congress, 16 American Presidents, including Gen. Dwight Eisenhower and Gen. George Patton, and Apollo mission astronaut, Col. Charles Duke, who landed on the Moon in 1972.

I ask that these cover stories entitled, "Thomas Jefferson, Father of American Architecture," spring, 1990, and "The Revolutionary War at Sea," spring, 1992, authored by William L. Irons, be reprinted in the CONGRESSIONAL RECORD.

The articles follow:

REVOLUTIONARY WAR AT SEA

(By Compatriot William L. Irons)

John Adams, writing to an old friend from a boardinghouse near the Philadelphia waterfront in the summer of 1775, asked, "What think you of an American fleet?" Advocating the need for a navy in debate on the floor of the Continental Congress, Adams' efforts were opposed.

The first formal movement for a Continental Navy came from the Rhode Island Colony. In August, the Rhode Island assembly resolved: "That the building and equiping of an American fleet as soon as possible would greatly and essentially conduce to the preservation of the lives, liberty and property of the good people of these colonies."

Unknown to Rhode Islanders or the Congress, Washington, seeking capture of desperately needed munitions, had already ordered vessels outfitted to pursue enemy transports on the New England coast.

Finally the Continental Congress was presented Rhode Island's resolution for a national navy on October 7th. Opposition was "very loud and vehement", Adams recalled. The proposal was "represented as the most wild, visionary mad project that had ever been imagined, an infant taking the bull by the horns." Maryland's Samuel Chase thundered, "it is the maddest idea in the world to think of building an American fleet. We should mortgage the whole continent."

Virginia's George Wythe silenced him with an appeal to history. Rome built a fleet from scratch and destroyed Carthage. No maritime power near the seacoast can be safe without a navy. The Continental Congress ordered on October 13, 1775, "with all possible dispatch" two armed vessels (*Cabot* and *Andrew Doria*) of 10 and 14 guns, for intercepting such transports as may be laden with warlike stores and other supplies for our enemies.

Congress authorized the building of 13 frigates, which it expected ready for sea in three months. These were three-masted square-riggers, about 125 feet long carrying a main battery of 12 pounders and a second battery of 4, 6 and 9 pounders.

On November 10, 1775, Congress created the Marine Corps. Then it adopted the "rules for Regulation of the Navy of the United Colonies of North America." Precursor of the Manual "Rocks and Shoals", this first set of Navy Regulations was framed by John Adams.

WASHINGTON'S NAVY

Throughout the summer of 1775 Washington had watched from his Cambridge camp the unhindered passage of supply ships carrying supplies to the enemy. What a temptation for a powder starved army!

Washington had reconnoitered "the sea coast East of Boston harbour" and decided to raid British supply lines with armed vessels. Without Congressional authority or knowledge, Washington put his small navy of schooners to sea. His orders were to attack supply and transport ships only; combat with British men-of-war was to be avoided.

After several unsuccessful attempts by the armed schooners, *Hannah* (September 1775), *Hancock* and *Unity*, the *Lee*, a 74-ton vessel, put to sea. *Lee's* experienced skipper, John Manley, had his schooner's topsail bellying taut in a strong whistling wind when he spotted the long sought British brig, *Nancy*. Surprisingly, the British mistook the *Lee* as a pilot boat and welcomed them aborad.

As soon as Manley's crew boarded, they drew their pistols and captured the heavily loaded transport. *Nancy* was a floating arsenal—2,000 muskets, 31 tons of musket shot, 20,000 round shot, 100,000 musket flints, 11 mortar beds and a huge 13-inch mortar, later useful in the Boston siege. Washington had asked Congress for muskets and here in one stroke, he had a large supply—with bayonets.

Washington's fleet grew to six ships, including the newly armed 64-ton schooner, *Harrison*, and the 160-ton brig, *Washington*—the squadron's largest most powerful craft. The *Washington* was soon taken by a British frigate within hours after sailing from Plymouth. As the first American armed vessel fell into British hands, not a shot was fired in her defense.

The new year—1776—found all five of Washington's remaining ships lying deserted in their piers. Colonel Moylan, Mustermaster General of the Army, observed: "All the vessels are now in port, the officers and men have quitted them; what a pity, as British vessels are arriving every day; indeed the chances of taking them is pretty well over, as a man-of-war (*Fowey*) is stationed so as to command the entrance of the Beverly, Salem and Marblehead—we must have ships to cope with them."

Washington kept the New England fleet under his control. Instead of army or navy commissions, his officers were subject directly to Washington. More aggressive sea captains were sought. Washington warned, "any who failed to exert themselves shall be dismissed from the service and rendered incapable of serving the country in any Honorable Station hereafter."

The Commander's caveat brought results. Putting to sea in a New England winter, Manley's *Hancock* seized two supply ships near the Boston Harbor. *Franklin* and *Lee*, captained by Samuel Tucker and Daniel Waters, took several prizes in February, driving British blockaders from their stations. By March Washington's navy of five ships prepared for its first joint cruise.

On the night of March 2nd, heavy bombardment rang out in Boston harbor. For three nights Washington's navy continued shelling to divert enemy attention from American efforts to fortify Dorchester Heights. On the second night Manley's 13-inch mortar explored. The British, duped by bombardment as Washington hoped, failed to notice the Americans digging in. With the Americans in control of the Heights the British Admiral advised Commanding British General Howe, its fleet could be shot to pieces. After an 11-month siege, the British fleet withdrew from Boston Bay, and sailed to Halifax.

After evacuation of Boston, a convoy of 35 transports carrying 3,000 Highland troops sailed for America. Scattered by storm after leaving England, several vessels appeared off the northern coast without escort and plopped into the Yankee net like codfish. Washington's *Lee*, *Lynch* and *Warren* easily took the *Anne* along with over a hundred troops of the Seventy-First Highland Regiment.

On June 15th transports *George* and *Arabella* arrived thinking the British still occupied Boston. After taking a volley of British six pounders the transports were taken. Days later, *Lord Howe* was taken without a fight. Some 354 Highlanders were captured. It was the largest capture of troops at sea during the American Revolution.

Washington's fleet had twisted the Lion's tail and disrupted shipments of arms. The remainder of 1776 and 1777, Washington's armed schooners cruised Massachusetts Bay taking a total of 55 prizes loaded with critically needed supplies. The psychological effect transcended the supplies' value. Indeed it could be said Washington's fleet was as successful as any American fleet of equal size and force during the Revolution—all achieved by a band of "rascally privateersmen."

Ultimately Washington planned one of the most remarkable victories in history, acknowledging naval superiority was fundamental to any campaign, and displaying a genuine genius at naval strategy. The General understood more than any admiral the grand scale of components necessary to strike a victory by combined naval and army forces arriving from all over the globe. In the end Washington struck the British where they were thought to be invincible—at sea—and won.

TO SEA AT LAST

On a wintry morning Commander Esek Hopkins boarded a boat at Philadelphia's Walnut Street pier. Breaking through bobbing chunks of ice, his party rowed to the 300-ton warship, *Alfred*. Boatswain's pipes shrilled in best naval tradition as Hopkins gathered his command on the quarterdeck. With crowds cheering and reverberating echoes of booming cannon sounding over Delaware Bay, a young lieutenant hoisted the first colors on an American man-of-war.

Through puffs of white smoke a new yellow flag fluttered, embroidered with a coiled American serpent—the deadly rattlesnake. Raising the colors was a newly commissioned lieutenant in the Continental Navy—John Paul Jones.

Anchored in the Chesapeake Bay were three British men-of-war; Congress was eager to attack. Commanding the Continental Navy's first voyage was Commodore Hopkins, 57-year-old merchant skipper and former privateer. An officer would log in the *Andrew Doria's* journal: "At 2 PM cast off ye warf in company with ye Commodore ship, *Alfred, Columbus* and *Cabot.* Light airs from ye westward and much ice in ye river." By dawn the Delaware would be frozen from shore to shore.

Slowly breaking the icy Delaware, the fleet was joined by two ships believed to be the first launched by the Continental Navy. Named in hopes they would sting the British, the *Wasp* with eight 4-pounders and *Hornet* armed with ten 4-pounders would be the first in a long line of ships to win fame in the American navy.

Ignoring orders, Hopkins charted a course, not for the Chesapeake, but the Bahamas. Making a fast run south, Hopkins' squadron dropped anchor in 12 fathoms off Grand Abaco Island in the Bahamas.

After capturing two British sloops Hopkins learned from prisoners there were two forts on New Providence Island (now Nassau), with heavy cannon and powder reserves.

Marine Captain Samuel Nicholson's 200 marines and 50 blue jackets stored ashore under the protective guns of *Wasp* and *Providence* in the first amphibious assault in American naval history. Landing on the eastern shores they marched toward its capitol, Nassau. After slight resistance Nassau was taken as were 100 cannon, 24 powder casks and the Governor of the Bahamas himself!

Off Nassau the fleet was struck by a sailor's deadliest enemy—disease. Longboats full of sick men surrounded by stench of death were transferred to the brig, *Doria*, for return to home port. Lying in the boats, terrible to look at, sailors' faces were unrecognizable from smallpox sores and swellings.

Loaded with military booty Hopkins' squadron encountered on return the *HMS Glasgow*, 20. The British sloop fought off the *Cabot*, then *Alfred* for four hours, before breaking action and scurrying to its British fleet. Hopkins sailed into New London with precious cargo.

Before Thomas Jefferson's pen scratched a word of the Declaration of Independence on parchment, the first Continental Navy squadron had raided Nassau, a 3,000-mile voyage, captured an island, its Governor and need artillery. The New Providence raid would stand as the most successful naval operation of the American Revolution.

SAILING AGAINST ENGLAND

Benjamin Franklin now urged Congress to bring the war home to England. From Paris Franklin would write:

"Two or three of the Continental frigates sent into the German Ocean (North Sea) with some lesser swift sailing cruisers, might intercept and seize a great part of the Baltic and Northern trade."

If England perceived France was colluding in such a raid, an outraged Britain might be forced into the war. This was exactly what the crafty American diplomat sought. While Franklin lived long before the age of psychological warfare, he understood it well. Behind a benevolent smile lurked a master of intrigue maneuvering the vacillating European powers.

Lambert Wicks of Maryland received orders to "cruise against our enemies and let old England see how they like to have an active enemy at their door; they have sent fire and sword to ours."

Wickes' arrival as Reprisal's skipper marked the first continental warship in European seas. With Reprisal were two English vessels captured of her trans-Atlantic voyage from the Colonies. Beginning the year of the hangman (1777), Reprisal sailed out to cruise the English Channel.

Manning the sails were French sailors and a pilot, strengthening perception of French involvement. It was the Continental Navy's first raid in European waters. Four merchant ships were soon taken. Later, after several volleys and American casualties, Wickes' crew boarded the English packet, Swallow. With over 100 prisoners and five vessels valued at 600,000 livres, Wickes returned to a French port. The three-week cruise brought immediate British protests against France for neutrality violations.

Acting as Commodore, Wickes now sought to lead the first American squadron into European seas. With three ships, Reprisal, Dolphin and Lexington, Wickes aimed for the rich Irish linen fleet. His crews were again heavily sprinkled with French officers and sailors. After a month at sea, the Americans, flying the Union Jack, cannonaded the bow of the brig, Expedition, out a Whitehaven on the English west coast. Wickes' party boarded and announced to a surprised captain, he was now a prisoner of the Continental squadron:

Within a week Wickes squadron had captured 18 ships in the Irish sea—all in sight of English shores. Yet unfavorable winds kept the Irish linen fleet anchored in Dublin Bay, thwarting Wickes mission.

Returning to France Wickes sighted a large ship near Ushant Island, thought to be a heavily laden Indiaman. But it was a British man-of-war, Burford, 74. Seeking another prize and unaware of danger, Reprisal closed. Burford, suspecting a "rebel privateer", elected to play the game, causing no alarm. Soon the Americans saw large gunports across the waves, and quickly clapped on sail to escape the trap reversed. As the man-of-war gained, signal flags fluttered from Reprisal's yardarms warning the Dolphin and Lexington to separate.

With the schooner, Hawk, armed with 3-pounders, and army volunteers, he found his prey anchored down river with eight 12-pounders and ten swivels loaded and primed. Her sides were protected by nettings to prevent boarding.

With Yankee ingenuity, Talbot lashed a large kedge anchor to the Hawk's bowsprit to shred the nettings. A grapnel was ready to be thrown aboard the enemy craft to lock the vessels.

As the Hawk bore down on the floating fortress, the enemy hailed her, followed by musket fire. Talbot's men lay motionless on the deck safe from enemy fire. Before the British could open fire, Hawk banged into the galley's side.

The kedge anchor ripped a gaping hole in the nettings and the grapnel interlocked the vessels. "Boarders away!" shouted Talbot. Swinging cutlasses and brandishing pikes, patriots swept through ripped nettings and drove the British from the deck. The last defender on deck was the galley's commander, who was surrounded and forced to surrender in his underwear. Talbot's exploit earned him a promotion to lieutenant colonel.

In 1779, aboard Argo, a clumsy craft steered by tiller rather than wheel, Talbot put to sea. Soon he snapped up three enemy privateers. Next he seized a 14 gun brig, King George. In late summer he ran afoul of the British privateer, Dragon, armed with fourteen 6-pounders. After a bitter four hour fight with pistol shot and cannonballs flying, Talbot's coattails were taken off by a flying cannonball and his speech trumpet pierced several times.

Taking several direct hits below waterline, the Argo was in danger of sinking, when a lucky shot brought down the Dragon's mainmast. She quickly surrendered.

After making his vessel shipshape again, Talbot spotted the British brig, Hannah, 18. though badly battered and facing a brig twice here strength, Talbot attacked. Sharp fighting ensued. But luckily, the Macaroni, 6, a Yankee privateer, joined the fight. The British ship struck. Talbot's victories earned him a commission as captain in the Continental Navy.

But he was not through with his "army privateer." For several more cruise he captured some 12 prizes and cleared the lower New England coast of Tory privateers.

Unable to obtain a Continental ship, Talbot was made skipper of the privateer, *General Washington*. Carrying a crew of 120 men off Sandy Hook, the *Washington* stumbled into a British squadron and was pursued by the 74-gun *Culloden*.

In a blowing storm *Washington* was unable to outrace the enemy and Talbot, facing 74's double gunport rows, had no choice but to strike. Taken prisoner and transferred to the notorious *Jersey*, Talbot and his fellow prisoners were treated with barbarity. Crammed into a lower hold without light or fresh air for 53 days. 11 men died, during a stormy voyage to England.

Survivors were taken to Old Mill Prison where treatment was not much better. Released, Talbot secured passage home on a Rhode Island brig. In a later war against the British, Talbot would command the frigate *Constitution*. The ex-cabin boy had come a long way.

The world's richest trading area was the Carribean Islands. This was where American privateers would deliver their heaviest blow.

No stranger to the Carribean was Philadelphia's privateer, *Holker*—so successful she was known as the "millionaire maker." The speedy brig went out under Captain George Geddes as a 10-gun letter of marque in April 1779. She returned from St Eustatius with a cargo of rum and sugar as well as the *Friendship*, a British ship loaded with molasses, tobacco and rice. Her owner was so enthusiastic he increased her armaments to 16 guns and transformed her into an all-out privateer.

On her first cruise she captured six prizes including a vessel loaded with 80 cannon for the British army. Proceeds of the voyage alone amounted to a million pounds, netting over 100,000 pounds for Captain Geddes, sending him to retirement.

Matthew Lawler then took over her command on a four-month cruise to the Carribean. Three prizes were taken before returning

Putting out to sea again, she fell in with the British privateer, *Admiral Rodney*, matching her in gun power. They slugged it out, until both ships were badly damaged. *Holker* escaped disaster and returned to port for repair and a new skipper.

Escorting a smaller privateer, *Fair American*, they worked in tandem to snare a valuable brig loaded with 300 casks of fine Madeira wine. Taking a string of prizes, she cleared over a million pounds for her owner. More successful cruises followed.

English newspapers reported her triumphs, calling her the "mischievous *Holker*." British men-of-war were scanning the seas for her. Soon bad news was received. *Holker* had been taken by a British frigate in the West Indies.

Paid many times over, her owner accepted the loss as a fortune of war.

A month later *Holker* was spotted off the Delaware capes. Its reported capture had been false. *Holker* had been cruising the islands taking prizes left and right. That winter she returned to the Carribean and popped 14 more British ships in her bag. Her captain became so rich he retired from the sea. The summer of '82 also made her successor shipper a rich man. Within six weeks, she took 16 prizes.

Holker's luck finally ran out in the Carribean in March, 1783. Scudding along the St. Lucia-Martinique channel under dark and squally skies, a British frigate started pursuit. Clapping on sail, she soon began to draw away from the warship. She was heeling well over the press of wind against her canvas when another squall bore down and the *Holker* vanished into a thick curtain of rain. When darkness lifted, the horizon was empty. The squall's fury had kicked *Holker* on her beam's ends, capsizing her. Forty-seven survivors were snatched from the sea by the pursuing frigate—less than half her hundred man crew.

While commerce raiding did not protect the American coast, it forced the British to divide their fleet to escort merchantmen and protect trade. Privateers slowed the speed of trade and sometimes interfered with land campaigns. Fear of American privateers snatching straggling supply and troop ships, resulted in late reinforcements to Canada in 1776. General Burgoyne later blamed his tardy convoy for the failure to cut off the American retreat from Quebec.

Without manufacturing capability, capture of munitions was essential to sustain the American cause. Ninety percent of the gunpowder available to American forces before 1778—some 1.5 million pounds—was brought in by sea. Without it, the rebellion would have shriveled away. Prizes taken shifted commerce from the enemy, bleeding the British economy.

Considering the Americans' limited resources, John Adams accurately described privateering as "a short, easy and infallible method of humbling the British." During the course of the war, 1,700 privateers carrying 18,000 guns and more than 70,000 men operated under Congressional authority. The Colonies commissioned nearly 2,000 privateers ranging from 100 to 500 tons.

In 1781, when the Continental Navy had shrunk to two commissioned ships, Congress issued 559 letters of marque, 249 more than the year before. By comparison, the Continental Navy's entire blue water fleet never exceeded 80 ships during the entire war.

Privateers captured 3,187 British vessels while the Continental Navy captured 196 ships. Privateers captured some 600 British merchantmen worth $18 million. Some authorities calculate the value of prizes taken in excess of $66 million. Privateers garnered supplies, disrupted British resupply of its armies, drove up insurance rates and undercut popular support of the war at home.

While Washington's forces captured a thousand men at Trenton, 8,000 at Saratoga and 7,000 at Yorktown, American naval forces captured or killed 16,000 at sea, unreplaceable by mercenaries and without mass surrenders.

YORKTOWN

Fifteen hundred miles south of New York in the San Domingo harbor lay 20 ships of the line clustered about the 110-gun three-decker flag ship, *Ville de Paris*, largest warship on the seas. Commodore of this awesome armada was Admiral Francois Joseph Paul de Grasse-Tily. Six-foot-two, de Grasse had fought the British since boyhood. Well schooled in naval combat, de Grasse was promoted to flag rank and given command of the French naval forces in American waters. Sailing from France with a convoy of 150 transports, de Grasse had reached Martinque in April of 1781. The new commander in chief of French naval forces was under orders to strike the British on the North American coast.

In the cabin of the *Ville de Paris*, the French admiral opened a dispatch pouch to discover the American Revolution was in its last days. Reading from a communique from the commander of French forces at Newport, general Rochambeau described Washington's ragged underfed army, bankrupt government and desperate need for money and four or five thousand men. Rochambeau's communique urged:

"*Monsieur, these people are at the end of their resources. Washington has not half the troops he counted on: M. de La Fayette has not 1000 regulars with the militia to defend Virginia. This is the great crisis at which America finds itself.*"

Tropical fevers had decimated de Grasse's crews. Eighteen hundred sick had been left on Martinique. On board the *Intrepid*, 74, a clerk drawing taffia (robust brandy) by lantern light, ignited a cask of volatile liquor exploding the ship, damaging houses ashore and drowning 20 sailors. Another similar accident blew up the frigate, *Inconstante*, losing 120 crew members while British ships prowled the Carribean.

Nevertheless, de Grasse boldly prepared to sail north, leaving the West Indies exposed. Needing more vessels for troops, he chartered from his funds, 15 merchantships. By August, three regiments, 100 dragoons and 350 artillerymen were boarded.

The 74 pressed pursuit and by four o'clock had closed enough to fire a ranging shot. The cannonball fell astern of *Reprisal*. The *Burford* punctuated pursuit by peppering the sea with shots around her quarry. Wickes kept his stern to the enemy to present a small target.

Desperate to avoid capture, Wickes jettisoned the *Reprisal*'s battery of 18 six pounders. Straining seamen lifted heavy guns over her sides into the deep. *Burford* now closed within musket shot.

In the gathering twilight Wickes looked off in the distance and saw the French coast beckoning. He veered his ships toward land avoiding a marked turn which would expose his side for a broadside. Throwing his guns overboard gained speed for *Reprisal* but not distance. Wickes had only one more trick.

Ship carpenters were ordered to saw through beams making the ship limber, lessening resistance to pounding waves. This last resort weakened the ship's structure. After 12 hours of chase, darkness was closing and it appeared hopeless for the Americans.

Suddenly *Burfords* masts separated—she was turning. Alarmed at being too near the approaching rocky French shore, with darkness closing, *Burford* hailed in its studding sails and reefed its topsail. Wickes had won the chase. Hugging the French coastline throughout the night, he sighted the *Dolphin* at sunrise and the American trio returned to safe harbor in France.

Wickes' raid alarmed the British. English merchants demanded convoys for cargo ships and the British admiralty was assailed for failure to protect its nation's commerce.

Wickes' trio now cleared port bound for America. Off Ushant, the *Lexington* ran into a large British cutter, the *Alert*, 10. For hours *Lexington* and *Alert* dueled. The Americans fired at the cutter's riggings and sails. Then the Yankee brig broke and ran but the enemy's damaged sails were repaired, and pursuit made. With battered sail the enemy caught the *Lexington* and resumed cannon fire. Facing Atlantic voyage, sparse ammunition and a tenacious foe, the *Lexington* struck. *Lexington* lost seven sailors with 11 wounded.

Few American naval officers were as successful as Gustavus Conygham. In 18 months cruising European waters, he captured 27 British vessels and burned another 33. An Irishman from Philadelphia, he came to Europe as master of the brig, *Charming Polly*, on a "powder cruise." Blockaded by the British in France, he sailed to Holland and loaded 16 tons of powder. Again the British interfered and Conygham and crew fled to Dunkirk.

Armed with ten small guns aboard the *Surprise*, he captured several English packets and returned to France. Britain's sloops of war seized his ship and arrested him, demanding trial as a pirate. France refused and after Conygham's release, he vowed to strike the British again.

Slipping away from watching British eyes, Conygham escaped into the open sea on *Revenge*, an armed cutter, for a cruise that would strike the hearts of English merchants. Seizing the British schooner *Happy Return*, and two ships, he navigated around Britain into the Irish Sea destroying 20 sail and threatened the Town of Lyn unless ransomed. Conygham was now the terror of the English and Scottish coasts and carricatures depicting him as a ferocious pirate with pistol and sword appeared. Now the "Dunkirk pirate" swept the British seas where her supremacy had never been challenged. English ships refused to leave.

Using Spanish ports as bases, he cruised south for prizes in the Biscay Bay, Gilbraltar Straits and the distant Canary Islands in the Atlantic.

Though popular his aggressive campaign of seizing prizes—sometimes belonging to French or Spanish subjects—resulted in both countries barring him from port. So late in 1778, he sailed to the West Indies where the *Revenge* joined William Bingham's fleet of commerce raiders. Soon he was capturing British ships off Barbadoes. At the turn of the year he returned to Philadelphia with 50 chests of arms. Finally a British man-of-war capture Conygham and send him to the Old Mill Prison threatening the gallows.

Gloom descended over the Americans in Paris when word was received gallant Lambert Wickes' ship has gone down in a treacherous gale off Newfoundland. Wickes and his crew of 131 were all lost.

News would soon arrive of Burgoyne's surrender at Saratoga, drastically changing the war at sea. At last Americans would see Franklin's scheme succeed. France would declare war on England. Spain would follow. Americans sails would now find foreign harbors welcoming them to port.

JOHN PAUL JONES

Of all the mighty admirals who sailed the seas during the Revolutionary War—d'Estaing, d'Orvilliers and de Grasse of France; Howe, Keppel and Kempenfelt of Britain—the exploits of one would burn with such brilliance to eclipse even this galaxy of greats—John Paul Jones, Captain, United States Navy.

Unlike Washington, Jefferson or Adams, all well-born in the colonies, Jones was the son of a gardener born near the rocky coasts of Scotland. John Paul—Jones' original name—went to sea at 12 and was captain at

22. Although he never expressed any great love of the sea, he was a skillful sailor.

Alert and quick tempered, Jones was often in trouble. In 1773 he killed the leader of a mutiny on his ship in the West Indies, fled to Virginia and was commissioned as a lieutenant in the Continental Navy. By 1776 he was a captain who aggressively sought the enemy. He succeeded almost immediately as a combat commander by capturing eight ships and destroying eight others.

On November 2, 1777, the new 318-ton Continental sloop of war, *Ranger*, 18, docked in France from New Hampshire. On her quarterdeck was the 31-year-old Jones, bearing news of Burgoyne's surrender at Saratoga.

After France signed the treaty of Alliance, Jones set out on the first leg of his epoch cruise, bound for the Irish Sea. Encountering severe storms, *Ranger* captured and sunk a British merchantman in the English Channel, then sailed northwestward.

Trolling in the Irish Sea, near Dublin, *Ranger* captured another valuable prize merchant ship and sent her to France. Jones then boldly attempted a raid on Whitehaven on the English west coast. Foiled by weather, he crossed to Ireland's Carrick-fergus Bay. Returning to Whitehaven, heavily harbored with merchantmen, *Ranger* docked and sent two armed boat crews ashore. Two forts were quickly seized and their guns spiked. Setting ships afire, crews reboarded and sailed for the Scottish Isle of St. Mary. Seeking to kidnap the Earl of Selkirk, for possible exchange of imprisoned American seamen, he seized his home, but found the Earl missing.

Still fighting in the Lion's mouth with British squadrons now combing Irish waters, Jones resumed his hunt for *Drake*. Soon their courses crossed. In bow to bow fighting, Jones masterfully shortened sail then put up helm crossing *Drake's* bow with torturous fire. Dueling over an hour, *Drake* was dismasted and finally struck. Forty-five of her crew were killed or badly wounded. *Ranger* lost two. Sailing for France with battered prize, Jones brought both vessels into the port of Brest where he was warmly received.

Jones' exploits cannot be overestimated. By invading English waters and capturing commercial ships, Jones undermined Britain's confidence to defend its shores. Ever sensitive to invasion, the "tiny island's" citizenry woundered: if Jones could sail hostile ships into British harbors, could not others? Certainly his actions contributed to the entry of old English enemies into the war—Spain and France—and later England's war declaration against the Netherlands.

The most spectacular sea battle in naval history was the classic fight between the 900-ton east Indiaman, *Duc de Duras*, renamed *Bonhomme Richard* (literary pseudonym of Benjamin Franklin) and the *Serapis*. After many disappointments, an Irish merchant in Lorient, found, not the ideal vessel, but, as Jones wrote, "the only ship for sale in France that will answer our purpose." *Duc de Duras*, launched in 1766, was sturdily built, as were all ships designed for the dangerous China trade. Purchased by France, the King himself bore the expense of refitting her as an American warship.

When ready for sail, her armament included 18-pounders of questionable worth. Jones' task force consisted of *Bonhomme Richard*, 40, the new Continental frigate, *Alliance*, 36, French frigate, *Pallas*, the corvette, *La Vengeance*, 12, a fast cutter, *Cert*, 18, and two privateers, *Monsieur*, 39 and *Granville*, 10.

Eleven nationalities were represented in *Richard*'s crew of 380, but all the naval officers were Americans—some just released from British prison. Jones' genius whipped this motley collection of sailors and peasants into as stout a force as ever served under the Stars and Stripes.

Jones had learned a Baltic convoy escorting English merchantmen loaded with naval supplies, was approaching Flamborough Head. The American fleet first sailed around the British Isles, took many prizes and intimidated the cities of Edinburgh and New Castle. Scouting the seas it caught up with the convoy at sunset on September 23, 1779, on the Yorkshire coast in the North Sea.

Ahead Jones sighted a huge quarry of 41 ships escorted by the powerful swift sailing new British two decker, *Serapis*. Slowly, the scene darkened, sunset fading into darkness. As if nature herself did not wish to miss this epic battle a harvest moon rose, illuminating a night action that would last over three hours.

To shelter the convoy *Serapis* tacked toward *Richard*. Jones moved windward of *Serapis* flying British colors, British Admiral Person hailed, "What ship that?" Jones answered, "*Princess Royal*" (a British merchantman). At Pearson's next hailing, Jones hoisted the American flag and both ships opened fire coursing parallel.

As *Richard*'s guns glared, screams and smash of timbers rained, two of her ancient cannon exploded wounding her gun crews. Without heavy guns, Jones now faced the *Serapis* loaded with twenty 18-pounders, twenty 12-pounders and ten 6-pounders—some 50 guns total. Facing *Serapis*' double gundeck of superior firepower, Jones realized his only chance was to grapple the enemy warship.

Serapis evaded *Richard*'s first grappling attempt but on the second, her mizzen shrouds caught the *Serapis*' jib boom which Jones himself quickly lashed together in a final deadly embrace.

During this fighting, broadside to broadside, muzzle to muzzle, a *Richard* sailor, thinking his ship would sink if she did not strike, screamed, "Quarters, quarters, for God's sake!" At this the angered Jones pulled his pistol and hurled it at the chief, dropping him to the deck. When the battle seemed to be going against the Americans, enemy captain, Pearson, called to Jones, "So, do you ask for quarter?" Through clash of battle Jones shouted his immortal battle cry, "I have not yet begun to fight!" With his maindeck guns silenced, his hold filling fast and one of his own ships (*Alliance*) firing into his, Jones refused to strike. Instead he brought up a nine-pounder from across the deck and began pounding *Serapis*' mainmast.

Meanwhile, *Richard*'s crew, driven from the gunnery below, had swarmed to the forecastle deck and tops, where the swept the *Serapis* with murderous musket fire, hurling hand grenades on board. Fearing boarding, *Serapis*' port lids were closed when she swung broadside. Guns now fired through the lids, reducing the American's hull to splinters. Repeated broadside blasting at point blank range would ultimately sink the *Richard*.

Now *Serapis* caught fire and blazed. With each booming volley, victory slowly leaned towards the British warship. But one courageous act would turn the tide of battle. An American sailor climbed out on the *Richard*'s mainyard, overhanging high above *Serapis*' deck, and threw a grenade down the main hatchway of the *Serapis*' gunroom, detonating an arsenal of powder cartridges. A flashing explosion ran the length of the *Serapis*' crowded deck, scorching its crews. Fifty were killed or wounded in one strike. Five of its guns were silenced.

High in the riggings, American marines with muskets firing, poured down a rain of death preventing British boarding. At battle's climax, *Serapis*' mainmast gave falling into the sea. Amidst the carnage and wreckage of both ships, Pearson lowered *Serapis*' colors.

At battle's end, *Richard*'s quarterdeck was about to fall into its gunroom, with nearly every gun knocked out. With its hold swamped, the *Bonhomme Richard*, shattered victor in the fiercest fight in the age of sail, too damaged to repair, slowly sank in the North Sea.

Bloodied by head injury, Jones and his crew transferred to *Serapis*, and towed by the *Alliance*, the battered fleet limped eastward to Holland.

While the *Richard* would rest in the cold dark waters of the North Sea, the heroic exploits and courageous fighting spirit of Captain John Paul Jones would forever inspire Americans fighting on land or sea. From Bastogne, Iwo Jima and Coral Sea to the beaches of Normandy, wherever the American flag was challenged, fighting men would be forever moved by Jones' invincible spirit against overwhelming odds.

PRIVATEERING EXTENSIVE

From the *Rattlesnake*, which took prizes worth over a million dollars in one cruise, when loose in the Baltic Sea, to Rhode Island's *Hope*, which seized "enough rum to make all Rhode Island drunk," the daring enterprise of the privateers attacking in a "guerre de course" fashion characterized the rugged American spirit with a "lust for profit."

While Britannia ruled the waves at the outbreak of the Revolution, Americans possessed a seafaring tradition. Her ports were teeming with ships and seamen. On the eve of the Revolution, a third of all vessels in British trade were American-built; the same percentage of seamen was American. To challenge the British flag on the high seas, without an organized naval force, would have to come from private ships manned by merchant seamen.

On April 3, 1776, Congress formally authorized privateering. A privateer was a ship armed at private expense for the purpose of preying on enemy commerce for her owner's profit, bearing a commission or letter of marque, authorizing this "piracy" from a Colony or the Congress.

Smuggling cargoes ashore had become not only fashionable but patriotic in pre-Revolutionary days. And smugglers needed fast ships. Colonial shipbuilders had launched for decades vessels noted for fine line and superior sailing features. American sails could outrun all but the fleetest British cruisers.

In fighting for the "inalienable rights of man" on the open seas, some privateer captains stood out above the rest, like Jonathan Haraden, who began his naval service on the Massachusetts brigantine, *Tyrannicide*. On his first voyage, as first lieutenant, in 1776, he captured a Royal Navy cutter, a schooner and several other ships displaying expert seamanship and ability to fight at sea.

In 1780, commanding General Pickering, 16, he carried a sugar cargo to Spain. Sailing into Biscay Bay, sighting a ship in the dark, estimating superior force, he eased alongside. Proclaiming Pickering was a frigate of world class force, he threatened to blow the schooner out of the water. Since John Paul Jones was on the loose in European waters the fearful British skipper surrendered. His prize proved to be the Golden Eagle, 22, an English privateer of superior force.

Standing in Bilbao, Haraden asked the captured captain about an approaching ship.

When told it was the Achilles, 42, a powerful London privateer, Haraden would have been expected to stand clear. But having bluffed the Golden Eagle into hauling down its colors Haraden suspected his prisoner might return the bluff. Soon Achilles had retaken Haraden's prize and awaited daybreak to attack General Pickering.

At dawn the English ship commenced firing, but Haraden kept close to the shoals and leveled raking fire at Achilles' waterline. The small American boat continued firing for two hours refusing to close. Running short of ammunition, Haraden ordered all guns loaded with crowbars.

Launching a "flight of crowbars", British riggings were torn to shreds and gun crews driven from their stations. Achilles abandoned fight and fled for open sea. Also abandoned was the Golden Eagle.

Observing American privateering success, the British quickly outfitted their own privateers to prey on Colonial coastal trade. Soon American commerce in Long Island Sound and off Rhode Island was almost annihilated.

Prodded by General Washington, a 100-ton sloop, Argo, armed with twelve 6-pounders, was placed under Lieutenant Colonel Silas Talbot's command, with orders to stamp out Tory commerce raiding.

Earlier Talbot had volunteered to attack Lord Howe's fleet on the Hudson. Manning a fireship, he sailed into New York Harbor attacking the largest British warship, Asia 64. Alertly, the British spied his fireship and opened fire. Talbot ordered his gunpowder fired and his crew overboard. Within minutes his craft crashed with the man-of-war, and burst into flames, severely burning Talbot. Wounded and blinded, he groped over the side and was picked up by a friendly vessel. Eventually he regained sight and recovered. The enemy ship survived attack, but alarmed British readjusted their moorings further out.

Twice wounded while defending Delaware's Fort Mifflin, Talbot planned, while convalescing, to capture a heavily armed British galley stationed in the Sakonnet River, blocking passage to Providence, homeport of many privateers.

De Grasse then sought 300,000 piastres from the dons of San Domingo, pledging his French chateau as security. Delayed, an anxious de Grasse raised 1,200,000 livres from Havana where ladies gave him their diamonds to "aid the cause."

With billowing canvas sail the 28 ships led by the Ville de Paris, monarch of the French fleet, labored out of harbor through the Carribean surf for a rendezvous which would change the course of a new nation.

De Grasse skillfully navigated his warships along the northern coast of Cuba through the dreaded Bahama Channel laden with reefs and violent storms—hiding from the British.

Plowing northward some 26 days, de Grasse's fleet anchored near sunset, August 29, nine miles southeast of Cape Henry in the Chesapeake. Fluttering bourbon lilies from its masts, the fleet then entered Lynnhaven Bay just inside the Capes and anchored.

Vigilant, the British, suspecting de Grasse would join Washington's forces in New York, outsailed the French fleet. Arriving in the Chesapeake before de Grasse, Admiral Hood sailed inside the Bay, found it clear of enemy sail, and continued north, mistakenly in pursuit of de Grasse.

WASHINGTON'S ARMY

As spring broke across the Hudson Highlands, the Continental Army had barely survived another winter. Washington's thoughts again turned southward—into a strategy he had entertained for two years—defeat of the British at New York, where Clinton was in command.

Unable to venture inland, Clinton's army remained protected by his navy. But the British had moved Cornwallis and an army south to the Carolinas in hope that a populace more sympathetic to the crown would allow their military superiority to prevail.

Here in the Carolinas, it did. Trying to face the British head-on, the Americans were badly beaten at Charleston and Camden. Cornwallis now raged through South Carolina like an invincible lion until the Americans called upon a familiar ally—the wilderness. Washington sent into the southern campaign his most able desciples, Nathanial Greene to the Carolinas, and the 23-year-old boy general, Marquis de Lafayette, to Virginia.

Using back trails and streams for transport, hitting from behind, then retreating into the landscape, the Americans turned the war into their own terms. General Greene would write: "We fight, get beat, rise and fight again."

Lafayette now brilliantly maneuvered with Cornwallis as the British moved into Virginia. Running short of supplies, the British looked for a port near the sea for resupply by Clinton. The place Cornwallis chose was at the York River, near the mouth of the Chesapeake. Here Cornwallis built his first perimeter defense—at Yorktown.

Rochambeau persuaded Washington to move the combined armies of the American and French forces south from New York by land and river to Virginia—a journey of 450 miles. Part of this plan called on the French fleet under Admiral de Grasse to sail from the Caribbean to the mouth of the Chesapeake and block Cornwallis' escape.

On August 20, the march began—one of the most remarkable military movements in history. Ten thousand French and American troops extended in a human chain 30 miles down the eastern seaboard. Miraculously, Rochambeau and Washington reached the Delaware before Clinton received intelligence of the movement; too late for him to alert Cornwallis of impending danger.

From the head of Elk, the American armies split, some continuing overland, others transported down the Chesapeake by barge and boats supplied by Admiral de Grasse. De Grasse sent Washington miraculous news. The main fleet had arrived. The Chesapeake, and Cornwallis' escape, was blocked.

De Grasse now faced the combination of two British fleets. The first under Admiral Samuel Hood, who in stalking de Grasse from the Caribbean, passed him and mistakenly pursued him to New York. And Admiral Thomas Graves who had joined Hood and was now heading south to the Chesapeake for battle.

Deployment of the French fleet on September 5, 1781, provided the British a classic opportunity. De Grasse's ships lay anchored in Lynnhaven Bay inside Cape Henry. Near noon the approaching British fleet is sighted. De Grasse, caught off guard with many seamen ashore and tides against him, sends a message: "Raise anchor or cut your cables." Graves has the wind and is in formation. De Grasse lies floundering. Graves, inexplicably, allows de Grasse to clear the Bay and form up.

At 4:30 p.m. the Battle of the Capes commenced. With a deafening thunderous roar, ships of the lines open broadside with volcanic force. Cannons hurl over a half a ton of metal a volley. The French aim for the riggings; the British for the hulls.

As winds die and twilight fades, the two battered fleets float south, finally separating—the British to New York, de Grasse to the Chesapeake. The great wooden doors had been slammed shut behind Cornwallis. Yorktown was now in siege.

Sailing wide, Admiral de Barras slipped inside the Bay from Newport with eight warships and siege artillery. Washington now turned to Rochambeau, veteran of 14 European sieges. On October 9, General Washington entered the trenches of the first dug parallel. The Commander stood behind the most sophisticated armament of European warfare—the French siege guns.

The Yorktown siege commenced with a cannon roar never heard before on the North American continent. "So horrendous it seemed the heavens would split," a Royal Navy lieutenant wrote. Against a reddened sky whistling rocketing shells like "fiery meteors" exploded in a deathly spectacle. On the night of October 14, by bayonet the two remaining redoubts were taken—the last obstacles for closing the steel noose.

On the morning of the 17th, an American lieutenant listened for the sharp pecking sound of rattling drums and remembered: "I thought I never heard a drum equal to it—the most delightful music of all."

Stretching three miles long, along Yorktown Road, between white uniformed French soldiers on the left and Americans on the right, marched the defeated British, their eyes down, their flags furled and their band playing a tune. The patriots had "turned the world upside down." As the British marched to lay down their arms in surrender, Americans would march into the future, laying step by step the foundation of a government which would become the bulwark of freedom to men around the world. Nearby in the Bay, the man-of-war, *Ville de Paris*, weighed anchor signaling triumph of the Revolution and guarantee of liberty offered by the American Declaration of Independence.

After the Revolutionary War the Continental Navy and the exploits of John Paul Jones would soon be forgotten. Jones, a sea warrior always, was commissioned Rear Admiral in the Russian Navy by Empress Catherine in a Turkish war. Later he died nearly destitute and lay buried in an unmarked grave in Paris for over a century.

Ships of the Continental Navy were sold and crews vanished. It would be 13 years before the United States Navy would be reborn. With its difficulties, the Continental Navy, a product of its time, had served the American cause well, and given the young American nation one of its most authentic heroes.

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THOMAS JEFFERSON—FATHER OF AMERICAN ARCHITECTURE

(By Compatriot William L. Irons)

Thomas Jefferson was born in 1743 in the wilderness of the Colony of Virginia. Thirty-three years later the words he wrote would shape a republic. But had he never penned a word, it would be said he shaped the spaces, dimensions and taste of the American nation.

Just as Jefferson left the world a design for free men to govern themselves, he also left a legacy in timber and brick which reached the sublime. As he led a revolution against the most powerful colonial power, likewise he led a revolution in architecture, rebelling from the English style to establish a new order based on the ancient classical lines of beauty and grace taken from Rome. With remarkable creative genius he took the raw materials of the American wilderness and molded them into graceful lines of tranquility, symmetry and rhythm which still inspire like rare objects of beauty, yet are practical structures fully functional in a modern world. Such was the genius of America's first architect.

As a student at the College of William and Mary, the words of Patrick Henry ringing out in the House of Burgesses fell on young Jefferson's ears. As Henry torched the fires of political rebellion, Jefferson lashed out at the established English architecture, "as the most wretched style I ever saw." His life was devoted to creating a new order which today is the symbol of the American nation. From his earliest drawings of Monticello, at age 24, until his final days, Jefferson believed architecture was an "elegant and useful art . . . an enthusiasm of which I am not ashamed as its object is to improve the taste of my countrymen."

At the time Jefferson entered the only college in the British colony of Virginia in 1760, there were no schools for architects. Even the College of William and Mary where Jefferson studied, had no architecture courses. Most buildings were constructed by housewrights or cabinet makers. Occasionally a pattern book might be referred to for guidance. Rarely were formal plans used.

Jefferson visits Westover, plantation home of William Byrd II, and is exposed to a valuable source of architectural designs—books. For the first time Jefferson's eye envelops a new world of form not present in the primitive wilderness of Virginia.

From the scarce architecture books, Jefferson discovers, only one writer would make an indelible impression—Andrea Palladio, the 16th century Italian architect. Palladio's works entitled Four Books of Architecture, originally published in 1570, became the "bible" and he advised others to "stick very close to it." Jefferson would become Palladio's lifelong disciple.

Why Palladio? His works, based on inspirational Roman antiquities, set out definite rules or immutable canons which dictate a correct design. If the rules were followed, the result would be a structure of beautiful proportions. Jefferson's analytical mind could relate to this ordered set of formulas and precise measurements to erect buildings which would yield symmetry and elegance—features he found rare in the British capital.

Soon Jefferson's library would include Robert Morris's Select Architecture and James Gibbs Rules for Drawing Orders, a book owned before 1769. One of the earliest studies for Monticello, dating from 1869, notes that "the pediments should be in height two ninths of their span," a rule found only in Palladio's work. Local Virginia builders would not be familiar with this rule.

Largely from his arduous study regimen and self discipline Jefferson develops a critical eye of the buildings in the British capital. "The genius of architecture seems to have shed its maledictions over this land." His remarks reveal a precociously discerning eye. "The Capitol is a light and airy structure . . . it is crowned with a pediment which is too high for its span. "The Governor's Palace, where he would later reside as Virginia's second governor, "is not handsome without, but it is spacious and commodious within, is prettily situated, and with grounds annexed to it, it is capable of being made an elegant seat," he would write. Perhaps his most critical remarks were reserved for the spaces he saw most often, "the College and Hospital are rude, mishapen piles, which, but that they have roofs would be taken for brick kilns." And for the other structures, "there are no other public buildings but churches and courthouses, in which no attempts are made at elegance."

Later Jefferson observed, "Virginia houses are rarely constructed of stone or brick, much the greatest proportion being of scantling and boards, plaistered with lime. It is impossible to devise things more ugly, uncomfortable and happily more perishable." Nor could a workman "scarcely be found here capable of drawing an order."

GEORGIAN ARCHITECTURE POPULAR

There were extant in Tidewater, Virginia several plantation homes of grand proportions: Tuckahoe (1712), Westover (1730), Carter's Hall (1730) and Mount Airy (1760). Williamsburg's public buildings were not insignificant: the Capitol (1701), College of William and Mary (1705), Governor's Palace (1706), Bruton Parish Church (1711), President's House at the College of William and Mary (1723). By the end of the 17th century, Virginia had become the most populous and richest colony in Colonial America. Indeed, it would build more celebrated Georgian manor houses than any other English colony during the first half of the 18th century.

While these buildings were of magnificent proportions, generally they were unimaginative boxlike designs build by carpenters without drawings. While some had verandas or porticoes—like Shirley—there was little evidence of classical design. Jefferson of course was not immune to the political tide rising against the prevailing English Georgian architecture and his political "animus" is revealed in his commentary on the spaces surrounding him.

A small mountain across the Rivanna River, from Jefferson's birthplace at Shadwell, was a favorite haunt of his boyhood and became the focus of his adult dreams. Even then he hunted its steeply forested slopes and under an ancient oak on its north face made a pact with friend Dabney Carr to be buried in the sublime haunt of their youth.

When 14 he inherited the land from his father, and named it Monticello, Italian for "little mountain." By Age 24, he conceived an imaginative plan for building a house on its summit.

WORK ON MONTICELLO BEGINS

If a place can shape destinies, then Monticello was the heart of Jefferson's visionary genius. Long before the Declaration of Independence, Governor of Virginia, Minister to France, President of the United States or founding the University of Virginia, there was a place that honed his earliest dreams. Monticello was the first manifestation of his genius and in the 40 years he lavished on its design and construction, Monticello became recreation for his boundless intellect.

Most sites for great houses were on lower land accessible to water for transportation—never a mountaintop. But Jefferson boldly chose this summit above the clouds with a commanding view of the Blueridge mountains and his beloved Virginia countryside which later afforded him as wartime Governor of Virginia a vantage point to escape British dragoon Banastre Tarleton. Jefferson's description is still true:

"How sublime to look down into the workhouse of nature, to see her clouds, hail, snow, rain, thunder, all fabricated at our feet! And the glorious sun, when rising as if out of a distant water, just gilding the tops of the mountains."

Self taught, Jefferson does the Palladian calculations for what would be an art gallery, a library, a house—the first Monticello.

As a young lawyer and member of the House of Burgesses in Colonial Virginia, Jefferson begins building in 1769. Three years later on a snowy night, he brought his bride, Martha Wayles Skelton, a wealthy widow, by horseback to an unfinished house with only the dining room under roof. The newlyweds were content to occupy a one room brick outbuilding or south pavilion called the Honeymoon Cottage. It had been used earlier as the bridegroom's bachelor quarters.

The house had a two story portico flanked by slightly lower wings. Later he designed octagonal bays to the garden front and sides. The main room on the upper floor was the library, from which he could walk out beneath a free standing portico and gaze at the monumental view or retire with his books.

Progress was slow since construction was by hand and lumber cleared from the mountaintop. During the revolution, he urged its completion and on election day as Governor of Virginia, 12 years later, it was nearly complete in 1779. But for Jefferson, whose home was his "essay in architecture," it would be in a constant state of rebuilding.

After a visit to Monticello, in 1782, General Marquis de Chastellux wrote:

"The house resembles none of the others seen in this country, so that it may be said that Mr. Jefferson is the first American who has consulted the Fine Arts to know how he should shelter himself from the weather."

In 1782, after ten years of "unchequered happiness" in marriage, Jefferson wrote, "a single event wiped away all my plans." His memorandum book contained this entry for September 6, 1782: "My dear wife died this day at 11H 45′ A.M." He later told a friend:

"My history . . . would have been as happy a one as I could have asked could the objects of my affection have been immortal. But all the favors of fortune have been embittered by domestic losses, of six children I have lost four, and finally their mother."

NAMED AMBASSADOR TO FRANCE

This domestic tragedy renders Jefferson disconsolate, and his friends are concerned. But an event occurs which would change his life and the face of the American nation—Jefferson is appointed as an American diplomat to France.

In 1784 Jefferson sails the Atlantic to succeed Benjamin Franklin as the American Ambassador in Paris. Like no other visitor he is smitten by the arts and scenes of this universal city. He wrote, "behold me at length on the vaunted scene of Europe . . . were I to tell you how much I enjoy their architecture, sculpture, painting, music, I should want words."

About a mile from his Parisian residence, he pauses often to watch the construction of a building which would become one of his favorites. "I was violently smitten by the

Hotel de Salm," he wrote, "sitting on the parapet each day, twisting my head around to see the object of my admiration, I generally left with a stiff neck." This was the first dome he has seen under construction but it would become the symbol of Monticello and the American nation.

In 1776 Jefferson, as a member of Virginia's House of Delegates, had written a bill to move the Virginia capital to Richmond, ridding remaining vestiges of British rule in Williamsburg. This bill provided for separate buildings for the three branches of the new government. While the bill failed, a similar one passed in 1779. When the move was made in 1780, Governor Jefferson was selected to construct the buildings. He drew plans for enlarging the town on a grid basis, and made studies for necessary buildings. The capitol, he envisioned, in the then unimagined form of a rectangular classical temple with porticoes at both ends. War delayed completion of these plans. When Jefferson sailed for France July, 1784, no construction had begun in Richmond.

DESIGNS VIRGINIA CAPITOL

As a diplomat in Paris, he was asked to select a design for the new building. Traveling to southern France, Jefferson becomes immersed in antiquities he had read so much about. He wrote, "from morning to night I have been nourished with the remains of roman grandeur. Were I to attempt to give you the news I would tell you stories one thousand years old."

In Nimes, Jefferson encounters the Roman temple of Maison Caree—built during the reign of the caesars in the first century. He is smitten by it and gazes for hours, "as a lover at his mistress." His letters describe it as the "most perfect model of ancient architecture remaining on earth." A model is made and shipped to Richmond. Jefferson prepares drawings for a public building which would change forever the architecture of the fledgling nation 4,000 miles away in the Virginia wilderness.

Today his unique design of his State's capitol is followed in 48 of America's state capitols. Virginia profoundly influenced architecture throughout the nation. The Duc de la Rochefoucauld-Liancourt called the Richmond capitol, "beyond comparison the most beautiful, the most noble, and the greatest in all America." This was the first attempt to create a large public building in the form of a Roman temple. Undoubtedly Virginia's capitol was a landmark of the first importance.

Jefferson designed changes for every house in which he resided including his rented Parisian Hotel de Langeac on the Champs Elysees. While in Paris Jefferson was introduced to the vanguard of "modern" neoclassical architecture. These French designers stripped Roman architecture of unnecessary ornament and reduced it to pure geometric form—the cube, the sphere, the pyramid. This visionary work appealed to Jefferson.

MONTICELLO DOUBLED IN SIZE

Upon his return from France, Jefferson was appointed Secretary of State in President Washington's cabinet and there was time to replan Monticello. Jefferson probably could not wait to return and try out the new images he had seen on Monticello. Just as President Jefferson later doubled the territorial size of the American nation, he now doubled the size of his home, installed 14 new skylights, indoor water closets, two piazzas and added a dome. He reduced the heights of the rooms and arranged windows to give the illusion it was a one story house—not three.

Jefferson built a new entrance hall which would later serve as a museum for countless visitors to examine Indian artifacts and mammoth bones—treasures from Lewis and Clark's epic expedition. The two stairs were relocated to make them invisible from the public rooms. He extended the east side's outer wall, creating a recessed porch beneath the portico. On both sides of the entrance hall a second pair of balancing rooms with bays were added. And he added a mezzanine on the second floor for easy lateral passageway upstairs.

The primary axis of this plan contained the "rooms of entertainment" (parlor, entrance hall, dining room and tearoom)—all uniformly full height. Jefferson occupied the entire south wing, his "sanctum sanctorum" which comprises a bedroom, cabinet (study), greenhouse and library, containing 6,000 volumes until sold to form the Library of Congress. The south wing and northeast bedrooms are only half as high as the core rooms, conveying the sense of an apartment not a mansion. Above there are a series of bedrooms paralleling the central core.

While the exterior of the house is symmetrical, the interior spaces are not. Jefferson's rooms are unified as though virtually one space. Even his bed, recessed in an alcove, may be entered from either room. On the opposite side, the dining room and tearoom flow together but unlike the southside prohibit free passageway to the adjoining rooms, increasing privacy. The north bedrooms are also different in shape. A rectangular "north square room" and "north octagonal room" are cut off to insure privacy.

On the outside the east entrance is recessed, creating a spatial volume which penetrates the main wall of the house. This effect tends to dissolve the wall and draw one inside. On the garden side, Jefferson creates just the opposite effect. Rather than a recessed porch, the central octagonal room is projected boldly with a portico two columns deep, accenting the outward thrust of the central core.

This outward movement is countered by the dome, arising above the central core. This becomes the culminating motif of the entire design. Partially screened behind the combined horizontals of the entablature and ballustrade, the dome's ultimate effect is to enhance rather than counteract the long extended mass of the house. Simultaneously, its outward upward thrust (dome and portico) is just the reverse of the inward penetrating movement of the portico and recessed porch on the entrance side.

Jefferson has masterfully created a spatial inversion, a juxtaposition of contrasting thrusts which fascinate and express from another point of view the fundamental separation on the interior of the public from the private rooms.

In the final version of Monticello, Jefferson reveals he was no slavish imitator, but pragmatic, experimental, willing to revise and if necessary to tear apart to perfect. He was a measurer, a designer, an engineer, and a draftsman, fascinated by detail as much as by the total creation.

He made mistakes, but refused to yield to his error. Eventually he would tear the house apart at great inconvenience, rebuilding until he completed the perfection of the Monticello Americans see today, a miracle of light, elegance and symmetry.

Jefferson has been described as a classicist, but this does not mean he was a conservative. He built like no other Virginian in his day. His revolutionary taste was an expression of his total architectural experience from the ancients to the most "modern" neoclassicists. His complex, sensitive and expressive design relationships make Monticello one of the most provocative houses in American architectural history.

HELPS FORMAT WASHINGTON, DC

While Jefferson was Secretary of State, legislation was passed to place the new capital city on the Potomac in Virginia. Soon he was advising Washington on the city's design. Jefferson's plan of a rectangular grid was ultimately adopted with modification for diagonal avenues by Major Pierre Charles L'Enfant. Jefferson assisted by supplying town plans of the European cities of Frankfurt, Karlsruhle, Amsterdam, Strasbourg, Paris, Orleans, Bordeaux, Lyons, Montpellier, Marseilles, Turin and Milan. Not one British town was tendered.

In 1791 Jefferson wrote L'Enfant conveying his views on two structures which when built would be national landmarks:

Whenever it is proposed to prepare plans for the Capitol, I should prefer the adoption of some one of the models of antiquity . . . and for the President's House I should prefer the celebrated fronts of modern buildings, which have already received the approbation of all good judges.

Later it was Jefferson who determined the sites for the Capitol and the President's House (later called The White House). When erection of a President's House was proposed, he established an architectural competition and laid down its rules. And he submitted his own unsuccessful entry into the competition, anonymously, based on Palladio's Villa Rotunda.

A competition was also held for the nation's Capitol. Jefferson, though not an entrant, passed along a sketch for a domical structure with four wings projecting based on the Pantheon in Paris. The winning design was quite similar.

As President (1801–1809), he set his stamp of approval on classical architecture for the nation's capital. Professional architects were recruited to the government and Jefferson created the post of surveyor of the public buildings and appointed the well-trained Benjamin Latrobe. As occupant of the President's House, he had Latrobe add terrace pavilions, like the President himself had designed for Monticello and later the University of Virginia. He was responsible for the additions of the rectangular North Portico and rounded South Portico designed by Latrobe. Those were completed in 1829. The interior was furnished with exquisite French pieces—many purchased while in Paris. And his own inventions were installed. In the dining room he installed dumbwaiters so guests could serve themselves and not be interrupted by servants who might overhear important diplomatic exchanges. Aware of his interest in natural science, Lewis and Clark sent him a collection of bones from their exploration of the West (1804–1806). The bones were placed in a room where Jefferson spent hours examining them. They also sent him grizzly bears, which for a time were kept on the grounds.

Jefferson also played an active role in landscaping the grounds, planting elms and magnolias. He added a wall around the grounds to provide some privacy. Today with its porticoes, terraces and columns and ballustrades, The White House is a simple yet elegant house for our nation's Presidents.

PLANS UNIVERSITY OF VIRGINIA

After completing two terms as President in 1809, Jefferson returned to Monticello. While for most retirement is not reserved for one's crowning achievement, Jefferson's most monumental legacy had yet to begin. At age 75, Jefferson's dream of building an "academical village" would become his most enduring achievement dedicated to the "illimitable freedom of the human mind"—the creation of the University of Virginia. He would refer to it simply as the "hobby of my old age."

Jefferson was not only its architect, he selected its site, purchased the land, drew the deed, designed its buildings, supervised its construction and rode daily by horseback from Monticello to oversee the workmanship. Later, he planned its curriculum, recruited its faculty and prepared a list of nearly 7,000 volumes to be acquired for the first library.

Its architecture would be revolutionary, forsaking all well established American models, such as Harvard, Princeton or his own school, the College of William and Mary. Also rejected were English models of collegiate architecture at Oxford and Cambridge featuring quadrangles or cloisters. Historically, American universities were housed in single buildings which Jefferson denounced as "common dens, always ugly, inconvenient, exposed to the accident of fire, and bad in cases of infection." Jefferson captured a bold new scheme for educating America's future generations:

> A small and separate lodge for each professorship with only a hall below for his class, and two chambers above for himself. Joining these lodges by barracks for a certain portion of the students, opening into a covered way to give dry communication between all the schools. The whole of these arranged around an open square of grass or trees.

Jefferson's unique plan was for the students and professors to live together in one "academical village", with free exchange of academic ideas during and after class hours. Moreover, the gardens and elegant architecture were to enhance the educational experience and improve the taste of the students. More innovative was to design classrooms designated "pavilions", which would "teach" or serve as models of "chaste and correct architecture as specimens for the architectural lecturer." By "specimens of good architecture," Jefferson meant the columns, capitals and entablatures of ancient temples, which were from books by Palladio and Freart de Chambray's Parallele de L'Architecture Antique avec le Moderne. But the forms of the buildings would come from the ingenius imagination of Jefferson alone. Only three "pavilions" germinated from others. Pavilion VII was suggested by Benjamin Latrobe; Pavilion VIII was suggested by William Thornton, architect for the U.S. Capitol; Pavilion IX—the most advanced design—was based on the Parisian Hotel Guinard seen by Jefferson four decades before in France.

In Jefferson's plan, there were ten temple-like pavilions with rooms for professor's lodging and classes. Next to the pavilions in smaller units were lodges for students connected by colonades in parallel rows. Behind this rectangular area referred to as the "lawn"—not campus—were gardens enclosed by serpentine walls, also unique. Paralleling the lawn were two ranges, to the east and west, providing additional lodges for students and six "hotels" or dining rooms.

At the focus of the lawn would be the Rotunda, a temple based on the Roman Pantheon, which would house the source of enlightenment and knowledge—the library. While the Pantheon served as the model, Jefferson improved its design by reducing the number of columns, halving its size to avoid dwarfing the pavilions, adding windows and steps while using materials from Albemarle county—his native soil.

Inside the Rotunda is the Dome Room, a white circular chamber housing the original library, and described as the "most beautiful room in America." The Rotunda was restored in 1976, and appears today substantially as it did in Jefferson's lifetime.

Today the Lawn is reserved for 54 outstanding upperclassmen or women who have distinguished themselves by service to the University. The residents are chosen by their fellow students. Former notable residents include Edgar Allen Poe (Room 13, West Range), and Woodrow Wilson (Room 31, West Range), 28th President of the United States.

NEW TYPE CURRICULUM INTRODUCED

But Jefferson created more than an architectural gem. He introduced a radically different educational curriculum challenging prevelant practices. His courses included agriculture, sciences, modern languages, as well as the classics. Space was also provided for martial arts and a gymnasium for exercise, in the Rotunda. Discipline was by self government and the individual's honor.

By rare fortune Jefferson, unlike other statesmen, could translate the "inalienable rights of man" into mortar and brick as an architect and educator. In his complex architecture, incomprehensible to his contemporaries, the "academical village" symbolically sustains the dignity of the individual. Perhaps there has never been a more eloquent expression of the fundamental nature of the American democracy.

In 1976, the American Institute of Architects cited Jefferson's "academical village" as the most outstanding achievement in American architecture in 200 years. Even among European universities founded after centuries of educational experience, there is no equal to Mr. Jefferson's "academical village." A foremost architectural authority described his University as "one of the most enlightened and visionary conceptions in the history of man." Considering the work was done by manual labor with no modern machinery, its achievement is incredible. To recall it was the dream, creation and execution of a man between the ages of 74 and 83, is even more astounding.

DEATH COMES ON JULY 4, 1826

On his final visit to the University he created, the 83-year-old Jefferson rode his horse, Eagle, from Monticello to the Rotunda. Atop the Dome Room stairs he gazed over the Lawn from the window. Beyond Pavilions IX and X lay open country. Below workmen were lifting the first marble Corinthian capital which he had awaited from Italy. Jefferson sat for an hour watching its placement. When finished, he rose, descended its stairs, mounted his horse and rode away. A few weeks later, on July 4, 1826, he died where he wished "at Monticello." Adams and Jefferson were the last founding fathers to die.

Today the Lawn and Rotunda look just as they did when Jefferson walked the "grounds" and his boundless intellectual spirit truly survives. "Thomas Jefferson still lives," as Adams proclaimed the day of his death. To this day students refer to their founder as "Mr. Jefferson" as though present in his village of scholars.

Jefferson's vision of a national university remains a living legacy. With nearly 18,000 students from all regions of the American nation, the University is distinguished for its professional schools of law, medicine, architecture and the fine arts. The "academical village" remains, as he dreamed, a "natural aristocracy of virtue and talent." As Mr. Jefferson wrote, "the earth belongs to the living." So does his architecture and final gift to a young nation—the "academical village."

OTHER ARCHITECTURAL ACHIEVEMENTS

Jefferson's erudite passion for architecture did not confine itself to the capitols of this state or nation.

The Governor's Palace. The Palace was built by the British in 1709 as the Royal Governor's residence in Williamsburg. Jefferson prepared several design improvements between 1721 and 1781, which were never carried out. His drawings would have converted the Palace into a temple form by adding pedimented porticoes at both ends. If built it would have been the first temple form public building of the modern world. Clearly his fascination for the classic style predated his European experience. As the second Governor of the Virginia Colony he occupied the Governor's Palace prior to its move to Richmond in 1780. Jefferson contended the Palace was "capable of being made an elegant seat." Its destruction by fire in 1781 ended these hopes.

Governor's House (Richmond). Before 1780 Jefferson made studies for a new governor's house in Richmond using again the temple form. Five drawings survive. In his final plan, the rotunda house was adapted for the traditional Virginia plantation house design with wings connected by short colonnades. There is a circular room in the center of the house two stories high. This design followed Palladio with a four column portico. The original of the rotunda house was Palladio's villa rotunda near Vicenza, Italy, one of the most famous houses in the world. Even as his architectural skills advanced he never lost admiration for this villa. Jefferson's culminating design—the Rotunda on the Lawn of the University of Virginia—contained a circular room which has been described as the most beautiful room in America.

William and Mary College. In 1772 Jefferson designed a U shaped plan "for an addition to the College of William and Mary, drawn at the request of Lt. Dunmore." Dunmore was the Colonial Governor of Virginia. If constructed, it would have been the first collegiate quadrangle in America.

Chapel. As early as 1770, Jefferson designed a church—probably for Williamsburg—octagonal in shape with Tuscan peristyle. His notes read: "Design of a chapel, the model of the Temple of Vesta, Pallad (Palladio), Bk 4, Pl 38, 39." If built this would have been a neoclassical landmark for the colonies. He also drew plans for two other churches which were never erected.

Christ Church. Christ Episcopal Church in Charlottesville was the only ecclesiastical design actually built. During most of his life Charlottesville had no church. Jefferson not only designed it in 1824, but was one of the largest contributors to its building and support of its minister. Its exterior was based on Chalgin's Saint Philippe du Roule, near his residence in Paris. Christ Church influenced the design of many Virginia churches, including St. Thomas Church in Orange and the Presbyterian Church in Fredericksburg. Christ Church was torn down in 1895 to afford a larger building.

Penitentiary (Richmond). Jefferson was very interested in new social theories for rehabilitation of criminals. Virginia asked Jefferson for a draught for the prison to be built in Richmond. Jefferson wrote from Paris, January 26, 1786, explaining the latest theories of European prison reform and included his drawing which featured isolation of youthful offenders from hardened criminals. A decade later, Benjamin Latrobe executed Jefferson's plan, erecting what is now called the Penitentiary (burned in 1823). The origin of Jefferson's plan was the noted French architect, Pierre-Gariel Bugniet of Lyons. Since Jefferson's drawing did not survive, he is usually not credited with this building.

Farmington. Jefferson's enthusiasm for "putting up and pulling down" had become well known. For his neighbor, George Divers, he designed in 1802 an addition to Farmington, a 20-year-old brick house near Charlottesville. His design included an elongated octagon containing a two story room in one end and a mezzanine in the other, a two story Tuscan portico and bull's eye clerestory window like those in the base of Monticello's dome. The circular windows are of Portland stone ordered from London in 1792 for use in Monticello's Dome Room. However, the house was not ready to receive them and they were installed at Farmington. On return Jefferson noted the column capitals were too small for the portico but this mistake was never corrected.

Poplar Forest. Even before Monticello was completed Jefferson started work in 1809 on one of the best house designs—Poplar Forest, a summer retreat, some 80 miles from Monticello, near Lynchburg. Octagonal in design throughout, it is considered one of America's most imaginative houses. Inside the octagonal theme includes four octagon shaped rooms surrounding a square dining room lighted by a skylight. Even the outdoor privies were domed octagons as were the outline of the terraces around the house. The octagon was a favorite geometric shape with Jefferson. It provided eight sides for windows, allowing maximum air and light, and was easy to construct. The octagon—unlike a circle—enabled furniture to be easily placed against the interior walls.

Jefferson also prepared designs for Edgehill (1798), built for his daughter, Martha; Oak Hill (1819), home of President James Monroe; Montpelier (1793), home of James Madison; and Ampthill (1815), home of Randolph Harrison in Cumberland County. He designed three courthouses: Boutetourt Courthouse (1818), Buckingham Courthouse (1821) and Charlotte Courthouse (1821–23). Subsequently there were some 15 Jeffersonian Roman revival courthouses in central Virginia, many built by Jefferson's workmen.

VARIETY OF DESIGNS CREATED

Jefferson drew 800 architectural designs which have survived. Some included drawings for elegant pieces of furniture and exquisite silver based on Roman relics. Jefferson inherited his father's drawing instruments and the surveyor's concern for precision. His early drawings were executed with pen and ink—a medium which allowed no errors and required thorough planning before touching the pen to paper.

After arriving in France (1784) he switched to a hard-pointed pencil, an easier more creative medium. His measurements were carried out to one-thousandths (1/1000ths) of an inch, an accuracy which could not be met by his workmen. His freehand drawings were considered terrible. Jefferson seemed incapable of drawing a straight line or joining two lines together. These freehand sketches were only used to allow the play of his creative genius. But his prepared drawings, not sketches, were mechanically perfect, consistent with his standard of absolutes and ethics of architecture.

JEFFERSON'S LEGACY

Jefferson's residential designs not only stimulated substantial housebuilding, they furnished models requiring large masses, good configuration and conventional detail superbly adapted to local conditions. His designs stamped their imprint on virtually every southern house of distinction before the Civil War.

Similarly, his visionary style met a real need in American public architecture, which the naive and delicate colonial style could never have satisfied. For the monumental requirements of a powerful nation and its great capital, antiquated Colonial forms were inadequate. Jefferson's urgings led to classical design in America's most celebrated buildings establishing the style of the early republic.

Few can question why noted architect Fiske Kimball referred to our third President as the "father of American architecture." While relying on the inspirational grandeur of Roman antiquities, the Sage of Monticello surpassed even those ancient masterpieces. While creating practical useful structures—a home, a church, a capitol and a university—Jefferson attained an aesthetic eloquence not seen since the birth of the Republic over 200 years ago.

The bright red Albemarle brick with clean white trim of Jefferson's Rotunda suggests a raw primitive strength and frontier innocence like the new nation he had founded. Its traditions and reputation in the community of nations lay in the future not past. The young republic was not saddled by past cultures or codes generations old. With rare genius Jefferson captured the new spirit of his countrymen and translated it into a bold statement in timber and brick—just as he had done in Philadelphia in 1776.

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NATIONAL ENERGY EDUCATION DEVELOPMENT PROGRAM

● Mr. CHAFEE. Mr. President, I would like to take a moment to recognize the recipients of the 1992 National Energy Education Development Program Youth Award for Energy Achievement. This program, also known as NEED, was established 13 years ago, during the energy crisis, by Gerard Katz, a local science teacher. Mr. Katz developed the program to help young people learn about the importance of energy conservation and energy efficiency. Since its beginning, NEED has grown tremendously, involving students, teachers and schools across the country.

NEED challenges students to develop projects that will expand their knowledge of alternative fuel sources such as solar, wind, and hydropower, and energy efficiency. More importantly, this program allows the students to share their knowledge with their peers at other schools. Teachers oversee the program, but for the most part it is entirely student driven.

Mr. President, last month the 1992 NEED Awards luncheon was held in the Russell Caucus Room here on Capitol Hill. I am proud to say that Rhode Island was selected as the State of the Year in the NEED Project's Youth Awards Program for Energy Development. One of the award winning schools this year was Fogarty Memorial School of Glocester, RI. The student project leaders, a group of fifth grade students, established a schoolwide recycling program. The Nathan Bishop Middle School of Providence, RI, a school which I attended during my youth, also received recognition. Nathan Bishop students built an energy town, a working model of a town run by solar, wind, and hydropower.

Mr. President, Energy conservation and energy efficiency are vital to our efforts to reduce this Nation's dependence on foreign oil. The NEED Program has played an important role in improving awareness about energy issues among our Nation's young people. I am pleased to have the opportunity to recognize those who are involved in this fine project.●

SELF-DEFEATING MYTHS ABOUT AMERICA

● Mr. SIMON. Mr. President, one of the leading financial experts of this country is the senior partner of Lazard Freres investment firm in New York City.

He is Felix G. Rohatyn.

Recently, he had an op-ed piece in the Washington Post that reflects a message that he has been giving to us over and over again, that we pay little attention to.

Members do not have to agree with every detail of what he proposes, but the general concept, it seems to me, is absolutely sound.

I urge my colleagues who did not see the July 6 Washington Post, because we were in recess, to read the Felix Rohatyn item.

I ask to insert it into the RECORD at this point.

The article follows:

[From the Washington Post, July 6, 1992]

SELF-DEFEATING MYTHS ABOUT AMERICA

[By Felix G. Rohatyn]

A remarkable thing has happened over the past two or three years. The collapse of communism and the victory in the Persian Gulf, which represent a spectacular victory for the values and the power of the West, were immediately followed by a collapse of American confidence and self-reliance.

This reaction is at least partly due to the general acceptance of two myths. The first is the myth of government impotence and incompetence. The second is that we are broke.

And yet, our problems are not unsolvable; they are the direct result of our failure to adapt to the competitive requirements of a global economy:

(1) We have to invest adequately in new plants and in research and development to enable American workers to be more productive;

(2) We have not invested adequately in human capital to provide all Americans with the education and training required to fill the available jobs;

(3) We have not invested adequately in public facilities to provide the infrastructure required by a modern industrial society.

The main reason for these failures is our unwillingness to pay for what we need. The net result has been a national debt of $4 trillion, deficits running at $400 billion annually, a stagnating economy and an eroding standard of living for most Americans.

The riots of Los Angeles focused attention on our urban problems. But the answer does not lie in a new urban policy. The answer lies in national policies that will deal not only with urban problems but with many other equally urgent problems facing us, such as employment, education and energy, and that will aid in the creation of human and financial capital.

To rectify our failures in these areas, a more active role for government is an absolute necessity. It will also be necessary to raise significant new revenues. Both ends are within our capacity to accomplish.

We require, for some period of time, a national administration elected on the basis of a specific national recovery program and able to put its program into effect. This is important both from a domestic and foreign policy point of view. We cannot indefinitely fight wars with other people's money. We cannot argue that we have sound foreign policies but are somehow deficient in dealing with our domestic policies. There is no dividing line between domestic and foreign policy today. The United States has to maintain a global position in which our national security strength is directly related to our economic power and to our social cohesion at home.

The coming presidential campaign should be the forum for a rational discussion of the appropriate role for government in a modern industrial democracy. Los Angeles has shown that the government must be more active in dealing with our social problems, such as health care, public education, drugs and public safety. The government must also stimulate the economy in order to finance the needed level of social services and eliminate our deficit over the next few years.

Our first priority should be the rebuilding of America. A vast national public investment program should be started promptly, both to meet the needs of the country and to provide a long-term countercyclical effect to the weak economy. It is worth noting that the most competitive economies in the world today are backed by the highest levels of infrastructure investment. Schools and airports, roads and bridges, and many other types of public facilities must be built to support the private sector economy, protect the environment and provide a civilized life to urban and suburban Americans.

The administration and Congress recently came forth with a $150 billion, five-year transportation plan. That is inadequate. Taiwan, approximately the size of Pennsylvania, recently announced a six-year plan that will result in $600 billion of public infrastructure investment. West Germany will have invested $1 trillion in East Germany, a country of 17 million people, by the year 2000.

The federal government should commit to provide at least $500 billion over the next 10 years to supplement existing state and local government efforts to rebuild America by investing in infrastructure.

This should include public/private partnerships for new airports, new air traffic control systems, rapid rail links etc. as well as more traditional public investments in roads, bridges, new schools, mass transit and other basic requirements. Financing such a program, which would amount to less than one percent of the decade's GNP, should be feasible. For instance, a 5-cent-per-gallon gas tax, increasing over 10 years to 50 cents per gallon, would generate $50 billion per annum by 2002.

With the backing of these committed revenues, a Public Investment fund could raise the necessary capital through the sale of investment-rated bonds, which would be acquired by private and public pension funds as well as the public markets over the 10-year period. The assets of these pension funds now amount to about $3 trillion and will double to $6 trillion over the next 10 years. They could easily accommodate at least three-quarters of such a program, with the public markets absorbing the rest.

A public investment program on such a scale would generate significant employment and could absorb many of the skilled people who will be laid off as a result of defense cutbacks. Study after study has shown that every dollar of public investment generates about 50 cents of additional private investment. Thus $500 billion of public investment would generate another $250 billion of private investment.

Public works construction can deal with the physical decay of the cities. Decent schools, decent housing, safe streets and safe public transport all would contribute to a different social climate. In addition, an organized effort should be part of such a program to provide employment to inner-city youngsters aged 16 to 22. This could be done through some version of the CCC of the 1930s, whereby youngsters would be first trained and then employed in the reconstruction of their own cities. Large public works programs would create real jobs instead of public service jobs.

At the same time, market-related efforts such as Housing Secretary Jack Kemp's proposal for enterprise zones, which would give tax breaks to investment in depressed areas, and private ownership of housing instead of subsidized government projects, should also be part of the mix.

The federal government could work with state and local governments by targeting public investment programs wherever possible and by providing retraining and relocation programs to minimize the impact of defense cutbacks.

Paying for such a program would not be terribly painful. A gasoline tax increase of 5 cents annually for 10 years amounts to about $50 for the average car owner driving 20,000 miles. It would be consistent with efforts to protect the environment, and it would reduce our dependence on Mideast oil.

For once, let us try to agree on something. It is time to get started.•

FOUNDERS AWARD RECIPIENT

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to one of my constituents, Craig A. Gilborn, who is this year's recipient of the Adirondack Historical Association's Founders Award. This prestigious award is given to individuals who have contributed to the welfare of the Adirondack region. Craig Gilborn has served as director of the Adirondack Museum, the acclaimed regional history museum in upstate New York, since 1972. In his capacity as director of the museum he has increased national awareness regarding the beauty and natural wealth of the Adirondack region.

Craig Gilborn received his B.A. from Michigan State University and an M.A. in Early American Culture from the University of Delaware. He began as a school teacher but invested most of his energies thus far in administrative roles for several northeastern museums. He has written and published extensively over the years on topics running the gamut from antique furniture to American history museums to life in the Adirondack region.

Married to Alice Wolf Gilborn, a writer and editor, Craig has two children: a son, Alexis, age 20; and Amanda, age 10. Craig has announced his intention to leave his post as museum director later this summer. His many contributions to the Adirondack Park are greatly appreciated and he will be sorely missed at the museum.

Besides his close association with the museum, Gilborn has been an officer on several regional organizations, serving as a director of the Adirondack North Country Association for over 10 years and president of the New York State Association of Museums for 3. He was a member of the Governor's Commission on the Adirondacks in the 21st century and has been recognized for his services to the region by Potsdam College and St. Lawrence University.

Craig Gilborn has made many great personal contributions to the Adirondack region of New York State and for this he is being honored by the Adirondack Museum. I stand here today to thank Mr. Gilborn for giving of himself so freely and gladly to make the great State of New York a better place to live and prosper. I wish Craig Gilborn much peace and fulfillment in all of his future endeavors.•

GETTING THE MESSAGE TO CHINA

• Mr. SIMON. Mr. President, all of us who serve in Congress have come to respect Tom Korologos, who lobbies us on one thing or another, but does it in a very pleasant way.

He has also served Presidents and currently serves as Chairman of the U.S. Advisory Commission on Public Diplomacy, appointed by the President.

Recently, he had an op-ed piece about getting the message of freedom to

China and the need to use Voice of America, rather than setting up some new entity.

After Tiananmen Square, I was frequently in touch with the head of USIA pushing for greater broadcasts into China.

It seems to me, that is the direction we have to go, and that is the advice that Tom Korologos gives us.

I ask to insert his comments into the RECORD at this point.

The article follows:

GETTING THE MESSAGE TO CHINA

(By Tom C. Korologos)

Radio Free Europe/Radio Liberty, the Cold War broadcasters to the Eastern bloc, are in their sunset years now, their most important work done. But the success of the two stations in providing news and information to people hungry for both has spawned an effort to create a similar station serving China and other countries in the region—a Radio Free Asia.

It's a bad idea, I think—an effort to fight today's war with yesterday's strategy. To be sure, it makes sense for the United States to broadcast news about internal events in China and other authoritarian Asian countries. It makes even more sense for the United States to convey information and support educational exchanges that encourage peaceful change, democratic principles and free-market economics.

But these worthwhile goals are being achieved right now with existing public diplomacy institutions. Americans do not need a costly new bureaucracy that would take years to come on line.

Here are four reasons why Radio Free Asia is not a good idea.

We already have a name-brand broadcaster that can do the job. With a large worldwide audience built during 50 years of broadcasting, the Voice of America broadcasts 21 hours a day in Mandarin, Tibetan, Khmer, Lao, Vietnamese, Burmese, Indonesian and Korean. VOA combines U.S. and world news with extensive coverage of events in and relevant to its listeners' countries. VOA also is uniquely suited to do "cross reporting" on what's happening in the former Soviet Union, Eastern Europe and elsewhere to provide context for what's going on in Asia.

Increases now planned in VOA's staff, program hours and Asia news research capabilities can be implemented immediately.

Some quick questions for Radio Free Asia partisans: Where would you get the $110 million (conservatively estimated) for a new station? What Asian country would let you build a surrogate shortwave station aimed at China? Why delay the years it would take to negotiate site agreements, build transmitters, hire staff and get started—and then more years to build an audience? Isn't it wiser to invest in VOA now for an immediate payoff?

China is not the Soviet Union of the 1950s. A flood of information reaches China and all of Asia through radio, television, VCRs, fax machines, computer links and the thousands of people who travel annually for education, business and tourism.

Radio Free Asia would face overwhelming competition from VOA and a formidable array of other international broadcasters. Some 329 hours of foreign radio broadcasts in Chinese are beamed into China each day. Radio Free Asia would not expand noticeably the listening audience for these foreign broadcasts.

Shortwave radio is still important, but it's not the technology of the future. The most reliable surveys now available show that television is the primary source of news and information for most Chinese adults. Increasingly, audiences worldwide are turning from shortwave to local TV programs, satellite-delivered television, VCRs and other information options.

Moreover, as far as radio is concerned, many experts now say space-based transmitters, audio information compression techniques and CD-quality digital transmission via satellite to home and automobile receivers will be a reality in five to 10 years.

We need to "get real" about international broadcasting priorities. A presidential task force recently made an eloquent case for U.S. international broadcasting in the post-Cold War world. But it ducked the hard questions: priorities and funding. It called for expanded VOA broadcasts, continuation of Radio Free Europe/Radio Liberty to the 21st century, increased USIA television operations and creation of a Radio Free Asia. All this with no prospect of "new" money from Congress.

The task force urged that funds for Radio Free Asia not be taken from existing U.S. broadcasting operations. But this is precisely what is most likely to happen in today's budget and political climate.

It is time for all concerned to work together to set reasonable public diplomacy priorities. We need to examine the current U.S. broadcasting mix, eliminate duplication and competition among U.S. broadcasters, consolidate assets where possible, terminate projects such as TV Marti that are not cost-effective and support those media, languages and programs that are most relevant to U.S. interests.

International broadcasting will continue to be a big part of all this in Asia. But so will Fulbright scholarships, educational and professional exchanges, speakers, English teaching, book translations, international visitor programs and a variety of other public diplomacy activities.

We need to move the Radio Free Asia debate from domestic politics to rational discussion of how we use public diplomacy to advance U.S. interests.●

CONSIDERATION OF PEOPLE IN APPLICATION OF THE ENDANGERED SPECIES ACT

● Mr. CRAIG. Mr. President, I read a very interesting article the other day and would like to recommend this article to my colleagues. The article, authored by Jack Larsen, takes a very enlightening, humorous, and realistic look at the present Endangered Species Act. This article supports my views that there must be a balance between preserving a species and preserving the jobs and way of life of many families affected by these species.

Mr. President, I ask that this article be included in the RECORD.

The article follows:

TERMITES AND BIOLOGICAL BIGOTRY

(By John S. Larsen)

Festering beneath the arguments for and against the existing Endangered Species Act is the huge question of whether a human being is really more important than an animal.

People arguing for the existing ESA might say people are animals. The dominant, destructive, cancerous link in an increasingly threatened food chain. We take far more than our fair share of other animals' lives. We occupy and control more than our fair share of habitat. In the larger organism, in which all life forms are vital, we are the trouble spot.

So we have the Endangered Species Act, which keeps our recklessness in check.

But the problem with the food chain approach to valuing life is exactly what many people consider its strength: it values all life equally. Although it starts with the responsible care of ecosystems, it ends in an absurdity that may work in theory, but not in practice. Like it or not, we tend to favor certain life forms. Look at the way you live your life. Nearly all of us tolerate some amount of biological bigotry.

For example, there is the ongoing, wholesale slaughter of insects. Even if you do not kill insects with chemicals or other means, you're killing them all the time anyway. Imagine how many butterflies died on the front of your car last summer, or how many termites were exterminated so you could get the mortgage on your home.

If you think the last paragraph is cynical, think again. To value an ecosystem is to value life. Period. If you do not intend to value all life, where do you draw the line? And why? You have to throw away the whole food-chain ethic to say that insects are less important than mammals. It's the same as saying people are more important than mammals. To do either requires eliminating links in the chain.

If it is hard for you to imagine federal agents busting into your home to arrest you just after killing a spider, you may agree that much of the popular, politically correct environmentalism is hypocrisy. It isn't the loss of life that worries us; it's that we're losing bits and pieces of our ecosystem. Sure, we want to protect the environment—for us. In our heads we see a food chain. In our hearts we see a hierarchy with ourselves on top.

The question is not whether people are more important than other life forms. Literally, we've already voted with our feet—every time we step on an ant in the kitchen. The question is how we are going to treat other life forms, and other parts of our environment. In the absence of objective values, and the presence of a lot of opinion, the answer is in finding a workable balance between differing views.

The Endangered Species Act, as it exists, has no balance. It reflects single-value thinking that is like a freight train: running on a narrow track and unsympathetic to anything in its path. The value is this: all species at any cost.

What's the expense? In Forks, Washington, a small timber community in the realm of the northern spotted owl, domestic violence increased 45 percent in 1991. Welfare grants for single-parent households increased 137 percent in one month. Juvenile assault in the county increased 148 percent. These people are not greedy timber barons or people who can move to Manhattan and get jobs in the investment banking industry. These are the same people who always bite the bullet when society takes an economic hit. These are the people taking the hit for the Endangered Species Act.

For the ESA to work, it has to blend a variety of needs. In 1992 Congress has the options of amending the act so that it takes human, social and economic factors into account. The decision to list a species should remain entirely biological. That is, if the numbers show a species is endangered, list it. But as the plan is developed to save the species, human, social and economic factors need to go into the equation.

Leave them out and more American workers are going to end up among the truly endangered.•

FREE TRADE AND FAIR TRADE

• Mr. KASTEN. Mr. President, last Friday the Office of the U.S. Trade Representative announced that the United States would increase duties on beer from the Province of Ontario because of the Province's continued unwillingness to conform with rules under the General Agreement on Tariffs and Trade.

Free and fair trade is the policy that leads to increased trade and greater job creation for all involved countries. Unfortunately, in this case Ontario was clearly not playing by the rules. My sincere hope is that the Province of Ontario will repeal its 10–cent aluminum beer can tax, and the 50–percent duty on beer imported into the Province by G. Heileman brewing Co. and the Stroh Brewery Co. Both nations would benefit if we could put this dispute behind us and move back toward free and fair trade.

Mr. President, I ask that an editorial titled "Losing Heads Over Beer" from the July 27, 1992 issue of the Globe and Mail newspaper in Toronto be added to the RECORD after my remarks.

The editorial follows:

LOSING HEADS OVER BEER

Another win for Canada. The government of Ontario, standing on the letter of the same international trade law it has flouted for years, finds new and sneakier ways to protect its beer industry from competition. The United States, fed up with this behaviour, slaps a 50 percent tariff on Ontario beer. The government of Canada retaliates with a duty on two brands of American beer, escalating the dispute on the eve of crucial talks on North American free trade.

Result: the Canadian beer industry is shut out of its major export market; Canadian consumers are forced to pay higher prices for imported beer; the ability and inclination of Canada to honour international agreements is called in question; and a vastly more important trilateral trade deal is jeopardized. All in defence of a few picayune trade barriers, erected for the sole purpose of supporting an inefficient but hugely profitable cartel and its highly paid unions in the extortion of a dwindling number of domestic beer consumers.

It may be that, legally, the U.S. is in the wrong. It is certain that, morally, Canada is in the wrong. When the strongest principle that can be invoked on behalf of Ontario's actions is that they are "GATT-consistent," it's a sure sign the ground is getting slippery underfoot.

If there were really a good reason to force imported beers to pass through liquor board warehouses, aside from the excuse it creates to charge them a $2.53-a-case fee, then domestic beer would be subject to the same requirement. If the $2.40-a-case tax on aluminum cans were really motivated by environmental concerns, and not by the observation that most American beer comes in cans, while most Canadian beer comes in bottles, then it would apply to all aluminum cans, and not just to beer.

We find it difficult to fathom the motives, or the reasoning, of the players in this drama. Canadian brewers sell six times as much beer in the U.S. as Americans sell here, with much greater potential for expansion, and much more to lose from a trade war. Harder still to understand is the federal government's eagerness, by its own involvement, to make the rest of the country pay for their shortsightedness. If Ontario and the brewers choose to make a mockery of Canada's international trade obligations that is bad enough. But why should Ottawa assist them?•

NOMINATION OF PHILIP BRUNELLE, NATIONAL COUNCIL ON THE ARTS

• Mr. DURENBERGER. Mr. President, it is with great pleasure that I take the floor to speak enthusiastically for the President's outstanding nomination of Philip Brunelle to the National Council on the Arts. In so doing, the President recognizes a lifetime of achievement in music and adds a strong voice to the cause of national support for the arts.

I want to express my gratitude to Senator KENNEDY and my other colleagues on the Labor and Human Resources Committee for bringing this nomination to the floor expeditiously.

Mr. President, Minnesota ranks 21st in population among the States, but we are proud to be 3d in the Nation behind only California and New York in investment in the arts. We have proudly contributed a number of our citizens to the national effort to encourage all our citizens to do the same. Martin Friedman, former director of the Walker Art Center, was one such figure, whose commitment to the arts is matched by his ability to bring together the resources necessary to make them flourish. Ken Dayton also served on the NEA board from 1970 to 1976, as did Sandra Hale in 1980.

Philip Brunelle is affectionately known as Minnesota's Mr. Music. He is a native of Austin, MN. His talent as a performer, composer, arranger, conductor, artistic director, and producer have earned him acclaim throughout Minnesota, the Midwest, America and the world.

The span of his accomplishments—from his Plymouth Music Series, to the Minnesota Opera, to his 1989 Ovation Award for "Best Opera Recording," to over 100 appearances on Garrison Keillor's original "Prairie Home Companion"—is remarkable. But perhaps his greatest lasting contribution will be the work he does encouraging young artists and getting their works performed for the first time.

He is a person of unusual talent, which is magnified by a global vision for the importance of the arts to the welfare of humankind. I am pleased his name is now before the Senate, and that soon his energy will be behind the Federal effort for the arts.

I thank the leadership for bringing this matter up without delay and urge all of my colleagues to support this nomination.•

ORDER FOR TOMORROW

Mr. JOHNSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Thursday, July 30; that following the prayer, the Journal of Proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each; that Senators LEAHY and LOTT be recognized for up to 15 minutes each; and that at 10 a.m. the Senate resume consideration of H.R. 776, the energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. JOHNSTON. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:09 p.m., recessed until Thursday, July 30, 1992, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, July 29, 1992*

The House met at 10 a.m.

The SPEAKER. The Chair is delighted to welcome our Chaplain back and asks that we now have a prayer by our Chaplain.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We come before You, gracious God, with petitions both great and small, asking that You would pardon us when we miss the mark and give us encouragement when we are faithful in our tasks. Even as we use the abilities You have given us to do the works of justice and mercy, so too, O God, may Your spirit lift us from the ordinary and routine to do those things that honor Your creation and serve people everywhere in their need. May we find true fulfillment by being dedicated to the high calling You have given each of us, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from North Carolina [Mr. BALLENGER] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that he will receive eight requests on each side for 1-minute statements.

FAMOUS MOMENTS IN POLITICAL HISTORY

(Mr. FROST asked and was given permission to address the House for 1 minute.)

Mr. FROST. Mr. Speaker, today we commemorate one of the most famous moments in American political history—the day 4 years ago when candidate George Bush told the American people to read his lips—no new taxes.

Today Bill Clinton, the Democratic nominee for President, is returning to the scene of the crime—the New Orleans Superdome—where George Bush uttered those immortal words in 1988.

Everyone in America knows that George Bush broke that campaign promise. He did advocate a tax increase once he became President.

Of course, this was not the only campaign promise that George Bush broke. The landscape is strewn with broken Bush campaign promises.

Never fear, George Bush will be up to his same old tricks again next month when he once again addresses his party's national convention and makes some more empty campaign promises.

Mr. Speaker, let us hope the American people are not hoodwinked again.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

> H.R. 5059. An act to extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

> S. 2321. An act to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes;
>
> S. 2322. An act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans;
>
> S. 2902. An act to authorize research into the desalinization of water and water reuse and to authorize a program for States, cities, or any qualifying agency which desires to own and operate a desalinization or water reuse facility to develop such facilities;
>
> S. 3001. An act to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes;
>
> S. 3006. An act to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; and
>
> S. 3090. An act to expand the membership of the Commission on Immigration Reform, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 5) "An act to grant employees family and temporary medical leave under certain circumstances, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. METZENBAUM, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. HATCH, Mrs. KASSEBAUM, and Mr. COATS, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1671) "An act to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, NM, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. FORD, Mr. BINGAMAN, Mr. CONRAD, Mr. WALLOP, Mr. DOMENICI, and Mr. CRAIG, to be the conferees on the part of the Senate.

YUGOSLAVIA: TO DO NOTHING IS A DISGRACE

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, what is happening in Yugoslavia today is a disgrace and an abomination.

Frankly, I think there is a blackmark on this House today because this body has done nothing about the Yugoslavian aggression and has held no hearings.

I was in Yugoslavia in September of last year, in Vukovar, and since that time, the entire city has been destroyed, and countless people have been killed or displaced.

Where is this Congress? Every day women and men and children are being killed, and what is called an ethnic cleansing is destroying entire ethnic populations. Today, on National Public Radio it was reported that 5,000 Muslims are in concentration camps.

Why will the Committee on Foreign Affairs not hold hearings? Why will the Committee on Ways and Means not report out my bill that takes away most-favored-nation status from Serbia? Why has this House refused to act? It is a disgrace.

This House should at least hold hearings. We are not saying that we know the answer, but I will say for this body to remain silent when men and women are being killed and their bodies lie in the street until the cover of darkness allows their families to retrieve their bodies without fear of snipers. For this House to do nothing is a disgrace.

TIME TO PASS THE TORCH

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, and colleagues, is this administration just tired, just burned out, chronically depressed and unproductive because of all the pressure and all the criticism for too too many years?

Ladies and gentleman, burnout occurs when individuals and institutions have just had too much, and it occurs throughout our society. People who earn their livings with their arms and their backs burn out, moms with too many small children burn out, teachers burn out, people in all sorts of work burn out, and politicians can burn out, too.

The symptoms are there. The economy is sick, and there has been no effective action by this administration to cure it. The gap between the high- and the low-wage earners has increased dramatically the last 12 years. Average hourly earnings of nonsupervisory workers in 1990 were 6 percent below their 1970 levels and on and on and on.

When the old team is tired and out of ideas, it is time to retire and pass the torch to an enthusiastic team with new ideas and new energy.

FORTY-EIGHT DAYS SINCE DEFEAT OF BALANCED BUDGET AMENDMENT

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, the voters are anxious about the bloated state of Federal spending. They were hopeful at the prospect of a balanced budget amendment until the Democrat leadership dashed their hopes to the ground by voting against a journey to economic wellness. Democratic leaders said, "We do not need an amendment, and we will develop a plan to restore economic balance."

It has been 48 days since the leaders put on a full-court press to defeat and bring about a "no" vote on the balanced budget. Where is the vote on their plan? Where are the indications that we are on the road toward a balanced budget?

The concept of an economic alternative to the balanced-budget amendment was a fallacy created to justify the Democrats' vote against the balanced budget amendment. Democrats are more concerned with continuing to fund their pet projects and pork-barrel projects than they are the future of the Nation.

Mr. Speaker, 48 days is long enough. The Democrats have proven once again that they are not the party of change but, rather, the one of status quo. Democrats work solely for the continuation of every spending that threatens to drive us into economic disaster.

We need a Republican Congress which, as its first action, would vote a balanced budget amendment.

THE COUNTRY NEEDS NEW LEADERSHIP

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, you do not provide leadership simply by making grand announcements, or telling people what they want to hear. Leadership means having a vision for the future and working to carry it out.

Four years ago, President Bush stood before this country and offered his vision. It centered on one pledge: "No new taxes." It was a broad vision, but it was something the President was committed to, passionate about, and repeated often.

But it did not take long before the President abandoned that vision for something else, just as he gave up being the environmental President when that got too tough, and being the education President when he found no easy answers.

His new vision, new commitment, was the same discredited economic policy of the past 12 years: Raise taxes on the middle class and lower them on the wealthy. He even vetoed a tax break for the middle class.

The result has been a sharp drop in consumer confidence, inflation that has outpaced wages, and a continuing recession that the President and his advisers yesterday cynically blamed on the American people.

This failed policy has lasted long enough. It is crippling our economy, destroying the American dream, and calling into question our future prosperity. This country is huge and full of promise. It simply needs a change: new leadership and a new, positive vision.

CONGRESSIONAL COMMITMENT TO U.N. RESOLUTIONS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, over the weekend Americans felt that same stomach-tightening we remember so well from last year; we watched in disbelief as Saddam Hussein stood once again in angry defiance of world opinion, as he openly flouted the cease-fire resolutions he agreed to in order to end the Desert Storm war. The President and the United Nations have held strong to their commitment to enforce those resolutions—and to put the bully of Iraq on notice once again that his intransigence will not be tolerated. Mr. Speaker, the time seems right for this Congress to reinforce our support of the cease-fire agreement—and our support of United States and United Nations actions to ensure that the agreement is upheld. In April I introduced House Concurrent Resolution 301, along with my colleague, the gentleman from New York [Mr. GILMAN], and today I am urging my colleagues to join me in cosponsoring this important statement. This Congress should reaffirm its support of timely and necessary action by the United Nations to demonstrate that further Iraqi evasions of the conditions of the cease-fire will not stand.

□ 1010

FUND THE WORKER ADJUSTMENT ASSISTANCE PROGRAM

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, according to press accounts, President Bush plans to finalize the proposed North American Free-Trade Agreement [NAFTA] at the Republican Nominating Convention in August. The timing, however, is most inauspicious.

Today in the United States unemployment is at 7.8 percent. This is the highest it has been in 7 years.

For my home State of California, unemployment is running at 9.5 percent. This is the highest unemployment rate for any State in the Union.

As the NAFTA trade talks near completion, many U.S. workers have lost, and are losing, their jobs due to foreign competition.

Last Wednesday, July 22, it was reported that the Smith Corona Corp., "the last U.S. manufacturer of American consumer typewriters," will be moving to Mexico due to lower labor costs.

With Americans daily losing their jobs, it is unsettling that the Bush administration has yet to ask for the money to fund a Worker Adjustment Assistance Program.

In fact, about the only thing the Bush administration has done is to propose the phaseout of the Trade Adjustment Assistance Program. That program is the only one that provides unemployment benefits, training, job search assistance, and relocation allowances for workers displaced by foreign competition.

Mr. Speaker, with the Nation's unemployment rate at 7.8 percent, and California's at 9.5 percent, I find it unlikely that a NAFTA can win congressional approval without a true commitment to America's workers.

FORTY-EIGHT DAYS SINCE DEFEAT OF BALANCED BUDGET AMENDMENT: STILL NO DEMOCRAT PARTY SOLUTION TO DEFICIT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Democrat Presidential and Vice Presidential ticket boasts change. In the classic words of Yogi Berra, "It's deja vu all over again." It's tax and spend; spend and tax. Mr. Clinton has promised to increase taxes by $154 billion. His belief that the American people want him to increase the bloated Federal Government by $200 billion is a delusion. He calls this huge increase in Federal spending a quote unquote, "investment." Someone should tell him that new names don't change old policies.

American families do not want more taxes and increased spending. They want just the opposite. They want what the 1980's produced: nearly 20 million jobs. Those jobs were not the result of Democrats' tax and spend policies. They were the product of reduced taxes, reduced regulations, and the reduction of the bloated Federal bureaucracy.

The last time a Democrat President was in the White House, he had a Democrat-controlled Congress. It was pure disaster for this country. We had a 21.5 percent prime rate. We had a 13 percent inflation rate. In 1980, America experienced the fastest economic decline including the Great Depression.

Mr. Speaker, it has been 48 days since the Democrats defeated the balanced budget amendment. It has been 48 days without a vote on Congressman PANETTA's promised solution to the budget crisis. What we need now is a Republican-controlled Congress to help this Republican President balance the budget and create millions of new jobs for the American people.

HEALTH CARE REFORM IS ON THE WAY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in January of this year I had a health care forum in Louisville and Jefferson County, my district. We had a tremendous turnout at that forum. Many views were advanced to cure and to correct the flaws in the health care system. Those views ranged from the cradle-to-grave national insurance program to private health insurance reforms, to the so-called pay or play program, and to cost containment.

That same diversity of views was represented in the Courier Journal on Monday in a reader's forum.

While there is no agreement on the steps to take to reform health care, there is no disagreement on the fact that some repairs must be made.

I am pleased, therefore, Mr. Speaker, to report that repairs and reform are on the way. We will this session, before the end of this session, take up on the House floor health care reform. It may not be the perfect package. I think it will marry the concept of competition with that of regulation, but it will be the precursor of other action to be taken and will lay the groundwork for that action.

I cannot think, Mr. Speaker, of a more worthy effort on the part of this House than to reform health care in America.

VOTER, BEWARE OF FALSE PROMISES

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, Democrats like to complain about the last 12 years under Republican Presidents, but I am betting most Americans still remember how bad things really were the last time the Democrats controlled the White House and the Congress.

Voter, beware of false promises.

Thirteen years ago this month Jimmy Carter gave his famous malaise speech. It was not that long ago we were living with 21-percent interest rates and double-digit inflation, the Ayatollah held America hostage, gas lines, stagflation, and the Soviet invasion of Afghanistan were in full swing.

The American voter's memory is not as short as the Democrats might hope, and from time to time we will be happy to remind them of how much better off we have been over the past 12 years, especially when compared to the 4 that preceded them.

This "malaise moment in history"—the Jimmy Carter malaise speech—was brought to you by the National Democratic Party 13 years ago this month, the last time they controlled Congress and the White House.

PENSION PLANS RIPPED OFF

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the American worker is in trouble. The jobs keep going to Mexico, Europe, and all over the world. They are now losing their health insurance and other benefits. They are losing their homes. They are losing their families, and now, Mr. Speaker, the American workers are losing their pensions.

Let there be no mistake, the Government-funded insurance pension is broke, stone cold underfunded broke.

Bad enough, our workers come up with all these tax dollars that were sent all over the world in foreign aid, now they cannot even retire.

Congress is going to offer them food stamps instead of a retirement program.

I say there is something wrong when Congress has allowed greedy companies and crooked S&L thieves to rip off their pension accounts and we have done nothing about it, nothing.

The American workers should tell everybody to get the hell out of here.

SPACE STATION "FREEDOM" NOT A PRODUCT OF GOOD SCIENCE

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, Daniel Boorstin, a former Librarian of Congress, wrote a book entitled "The Discoverers." In it he chronicles what motivated crusaders, pilgrims, and explorers, and ultimately what spurred new discoveries. In a critical passage he quotes Francis Bacon writing about truth:

> It is not excelling in the glory of treasures, magnificent buildings and fame, but in the glory of inquisition of truth.

Space station *Freedom*, Mr. Speaker, is certainly the product of noble thoughts, dreams, and ideas but it is not the product of good science, fair economics, or public utility. It does not meet the test of merit or scientific value, and I urge my colleagues to vote "yes" on cutting the space station today.

FORTY-EIGHT DAYS SINCE DEFEAT OF BALANCED BUDGET AMENDMENT; STILL NO DEMOCRAT PARTY SOLUTION TO DEFICIT

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, 48 days ago the Democrats in this House defied an overwhelming majority when they defeated the balanced budget amendment. To justify their action against the amendment and against 280 Members of this House, they looked to their Budget Committee chairman who promised "I will bring to the floor an enforcement procedure" to balance the budget. It has been 48 days since the defeat of the proposed amendment, and 48 days without any vote on the promised plan to balance the budget.

Did your Budget Committee chairman make an empty promise merely to assuage your guilt over your decision to vote against the majority in this House and in America? Democrats in Congress should quit misleading the public and lying to yourselves.

Mr. Speaker, your party leaders promised the voters that you did not need a balanced budget amendment to solve the deficit. I am here to remind you of that promise. It is your turn to propose a solution to the economic problems at hand and bring it to a vote on the floor. It is your turn to take decisive action. Next year is too late. It's been 48 days of inaction since the defeat of the balanced budget amendment; 48 days too long.

THE PRESIDENT HAS NOT EARNED TRUST

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, earlier this week, President Bush told voters in Michigan and Wisconsin they should vote for him in November because "trust matters."

I agree with the President—trust does matter. But trust is not something to be given lightly. Trust must be earned. Unfortunately for working Americans, they cannot trust the President to make their lives better.

What they can trust the President to continue to do is: Oppose tax fairness for the middle class; oppose providing decent health care for every American; oppose a ban on the permanent replacement of striking workers; and oppose a woman's fundamental right to make reproductive choices.

American workers cannot afford to trust the President with another 4 years in office. He has not earned that trust. It is time to change course and put the interests of the hard-working men and women of our country first.

□ 1020

A $10 BILLION LOAN GUARANTEE PROGRAM FOR AMERICA'S CITIES

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, even though we did not have enough Republicans to stand for 1-minute, in order to show cooperation and the need for it around here, I am going to yield to my good friend, the gentlewoman from California. Even though we share diverse philosophies and she may not say what I like to hear, I am going to yield my 1-minute to her.

Ms. WATERS. I would like to thank the gentleman from New York [Mr. SOLOMON] for his generous response to my request for time.

Mr. Speaker, exactly 3 months ago today, the city of Los Angeles erupted in flames, frustration, and anger. We were told: "Be patient, help is on the way." We're still waiting, but our patience is wearing thin.

The $1.1 billion supplemental appropriations bill signed by the President replenished the FEMA and SBA disaster accounts by $300 million—and spread $500 million for summer job programs across the country. That money has come and gone in 6 weeks.

The urban aid package passed by the House is only an experiment. Generous tax breaks on businesses and a pittance for job training and social programs. Maybe—a few years from now—they will result in new jobs in our communities. The Senate, the President's signature and an application process are yet to come.

We are on the brink of funding aid to Russia and a $10 billion loan guarantee for Israel. I certainly understand the difficulties faced by Russia—their economy has collapsed—and Israel—they must absorb tens of thousands of new immigrants. However, our cities deserve the same preference.

I have developed a $10 billion loan guarantee program for America's cities. It will be used for housing, small business, and economic development. I hope to see this plan adopted before we aid any foreign government. I request my colleague's support for this endeavor. Our cities simmer with anticipation. Their hopes must not be dashed.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to the order of the House of Thursday, July 9, 1992, this is District of Columbia Day. The Chair recognizes the gentleman from California [Mr. DELLUMS], chairman of the Committee on the District of Columbia.

AMENDING TITLE 11, DISTRICT OF COLUMBIA CODE, TO REMOVE GENDER-SPECIFIC REFERENCES

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 2694) to amend title 11, District of Columbia Code, to remove gender-specific references, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2694

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES IN ACT.

Whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of title 11, District of Columbia Code.

SEC. 2. REMOVAL OF GENDER-SPECIFIC REFERENCES.

Title 11, District of Columbia Code, is amended as follows:

(1) Section 11–703(b) is amended by striking "during his service" and inserting "while serving".

(2) Section 11–705(d) is amended by striking "if he sat" and inserting "if the judge sat".

(3) Section 11–706(a) is amended by striking "his duties", each place it appears, and inserting "the chief judge's duties".

(4) Section 11–706(b) is amended by striking "his successor" and inserting "the chief judge's successor".

(5) Section 11–709(2) is amended by striking "he attended" and inserting "the judge attended".

(6) Section 11–709(3) is amended by striking "his attendance" and inserting "the judge's attendance".

(7) Section 11–721(d) is amended by striking "he shall so state" and inserting "the judge shall so state".

(8) The second sentence of section 11–906(a) is amended to read as follows: "The chief judge shall attend to the discharge of the duties pertaining to the office of chief judge and perform such additional judicial work as the chief judge is able to perform.".

(9) Section 11–906(b) is amended by striking "He" and inserting "The chief judge".

(10) Section 907(a) is amended by striking "his duties" each place it appears and inserting "the chief judge's duties".

(11) Section 11–907(b) is amended by striking "his" and inserting "a".

(12) Section 11–908(a) is amended by striking "he is".

(13) Section 11–909(b)(2) is amended by striking "he" and inserting "the judge".

(14) Section 11–909(b)(3) is amended by striking "his" and inserting "the judge's".

(15) The third sentence of section 11–1322 is amended by striking "his salary" and inserting "that person's salary".

(16) Section 11–1501(a) is amended by striking "He" and inserting "The President".

(17) Section 1501(b) is amended by striking "he" and inserting "that person".

(18) Section 11–1501(b) (2), (3), and (4), and the last sentence of subsection (b) are each amended by striking "his" each place it appears.

(19) Section 11–1502 is amended by striking "his" and inserting "the judge's".

(20) The first sentence of section 11–1503(a) is amended by striking "He" and inserting "The chief judge".

(21) The third sentence of section 11–1503(a) is amended by striking "A judge may relinquish his position as chief judge" and inserting "The chief judge may relinquish that position".

(22) Section 11–1503(b) is amended by striking "he" and inserting "that person".

(23) Section 11–1505(a) is amended by striking "his" and inserting "the judge's".

(24) Section 11–1505(b) is amended by striking "judicial manpower in the court under his supervision" and inserting "judicial personnel in the court under the chief judge's supervision".

(25) Section 11–1522(a)(1)(A) is amended by striking "his".

(26) The last sentence of section 11–1522(a) is amended by striking "Chairman of the Commission one of his appointees" and inserting "Chair of the Commission one of the members appointed pursuant to paragraph (1)".

(27) Section 11–1522(b)(1) is amended by striking "his".

(28) Section 11–1523(b) is amended by striking "his predecessor" and inserting "that member's predecessor".

(29) Section 11–1523(c) is amended by striking "his term" each place it appears and inserting "that member's term; and by striking "his successor" and inserting "that member's successor".

(30) Section 11–1525(d) is amended by striking "Chairman" and inserting "Chair".

(31) Section 11–1526(b) is amended by striking "his" and inserting "the judge's".

(32) Section 11–1526(c)(1)(A) is amended by striking "his".

(33) The last sentence of section 11–1526(c)(1) is amended by striking "recover his salary and all rights and privileges of his office." and inserting "recover salary and all rights and privileges pertaining to the judge's office."

(34) The first sentence of section 11–1526(c)(2) is amended by striking “he” and inserting “the judge”.

(35) The third sentence of section 11–1526(c)(2) is amended by striking the first “his” and inserting “the judge's”, and by striking the second “his”.

(36) Section 11–1526(d) is amended by striking “his” each place it appears.

(37) Section 11–1527(a)(1) is amended by striking “of his court” and inserting “of the court in which the judge serves”.

(38) Section 11–1527(a)(2) is amended—

(A) by striking “He” each place it appears and inserting “The judge”;

(B) by striking “his” in the second sentence and inserting “the judge's”;

(C) by striking “his” in the third sentence and inserting “his or her”; and

(D) by striking “him” in the third sentence and inserting “the judge”.

(39) The fourth sentence of section 11–1527(a)(3) is amended by striking “of his court” and inserting “of the court in which the judge serves”.

(40) Section 11–1527(c)(2) is amended by striking “his privilege” each place it appears and inserting “the witness's privilege”.

(41) Section 11–1527(c)(3) is amended by striking “him” and “he” each place either appears and inserting “that person”.

(42) Section 11–1527(e) is amended by striking “his”.

(43) Section 11–1528(b) is amended by striking “he” and inserting “the judge”, and by striking “his” and inserting “the judge's”.

(44) Section 11–1530(a) is amended by striking “his” and inserting “the judge's”.

(45) Section 11–1530(a)(1) is amended by striking “his” each place it appears and inserting “the judge's”.

(46) Section 11–1530(a)(2) is amended by striking “he” and inserting “the judge”.

(47) Section 11–1530(a)(3) is amended by striking “him or by him and his” and inserting “the judge or by the judge and the judge's”.

(48) Section 11–1530(a)(4) is amended by striking “him” and inserting “the judge”, and by striking “his” each place it appears and inserting “the judge's”.

(49) Section 11–1530(a)(5) is amended by striking “he” each place it appears and inserting “the judge”.

(50) Section 11–1530(a)(6) is amended by striking “he” and inserting “the judge”.

(51) Section 11–1530(a)(7) is amended by striking “him” and inserting “the judge”.

(52) Section 11–1561(8)(C) is amended by striking “he” each place it appears and inserting “the child”.

(53) Section 11–1561(9)(C) is amended by striking “he” and inserting “the judge”.

(54) Section 11–1561(10)(C) is amended by striking “he” and inserting “the judge”.

(55) Section 11–1562 (a) and (b) are amended by striking “he” each place it appears and inserting “the judge”.

(56) Section 11–1563 (a) and (b) are amended by striking “his” each place it appears and inserting “the judge's”, and by striking “he” and “him” each place either appears and inserting “the judge”.

(57) Section 11–1563(c) is amended by striking “he” each place it appears and inserting “the judge”.

(58) Section 11–1563(d) is amended by striking “bring himself” and inserting “be”, and by striking “him” and inserting “the judge”.

(59) The first sentence of section 11–1564(a) is amended by striking “his” and inserting “the judge”.

(60) The second sentence of section 11–1564(a) is amended by striking “his” each place it appears; and by striking “he” and inserting “the judge”.

(61) The third sentence of section 11–1564(a) is amended by striking “his” and inserting “the judge's”.

(62) Section 11–1564(b) is amended by striking “his” and inserting “the judge's”.

(63) Section 11–1564(c) is amended—

(A) by striking “he” and inserting “the judge”;

(B) by striking “his” the first two places it appears;

(C) by striking “his” in the third place it appears and inserting “the judge's”; and

(D) by striking “his” in the fourth place it appears.

(64) Section 11–1564(d)(1) is amended by striking “his” each place it appears and inserting “the judge's”.

(65) Section 11–1564(d)(2)(A) is amended by striking “he” each place it appears and inserting “the judge”.

(66) Section 11–1564(d)(2)(C) is amended by striking “his”

(67) Section 11–1564(d)(4) is amended by striking “his” and inserting “the judge”.

(68) Section 11–1564(d)(7) is amended by striking “him” and inserting “the judge”, and by striking “his” each place it appears and inserting “the judge's”.

(69) Section 11–1564(e) is amended by striking “his” and by striking “he” and inserting “the judge”.

(70) Section 11–1566(a) is amended by striking “he” each place it appears and inserting “the judge”, and by striking “bring himself” and inserting “elect to be”.

(71) Section 11–1566(b)(1) is amended by striking “his” and inserting “the judge”.

(72) Section 11–1566(b)(2) is amended by striking “him” and inserting “the judge”.

(73) Section 11–1566(c) is amended by striking “he” and inserting “the judge”.

(74) Section 11–1567(a) is amended by striking “his” and inserting “the judge's”, and by striking “he or His” and inserting “the judge or the judge's”.

(75) Section 11–1567(b) is amended by striking “he” and inserting “the judge”, and by striking “his” each place it appears and inserting “the judge's”.

(76) Section 11–1568(a) is amended by striking “his” each place it appears and inserting “the judge's”.

(77) The third sentence from the end of section 11–1568(c) is amended by striking “his death or marriage or his ceasing” and inserting “the child's death or marriage or ceasing”.

(78) Section 11–1568(d) is amended by striking “he” and inserting “the Mayor”.

(79) Section 11–1569(b) Sixth is amended by striking “his” and inserting “the judge's”.

(80) Section 11–1569(e) is amended by striking “he” and inserting “the claimant's”.

(81) Section 11–1701(a) is amended by striking “Chairman” and inserting “Chair”.

(82) Section 11–1702 (a) and (b) are amended by striking “him” and inserting “the Chief Judge”.

(83) Section 11–1703 (a) and (b) is amended by striking “He” each place it appears and inserting “The Executive Officer”.

(84) Section 11–1704 is amended by striking “his” each place it appears and inserting “that”.

(85) Section 11–1721(a)(6) is amended by striking “him” and inserting “the clerk”.

(86) Section 11–1722 is amended by striking “he” each place it appears and inserting “the Director”.

(87) Section 11–1723(b) is amended by striking “his” and inserting “that”.

(88) Section 11–1724, the second sentence is amended by striking “his” and inserting “that”; and the third sentence is amended by striking “him” and inserting “the chief judge”.

(89) Section 11–1727(b) is amended by striking “he” and inserting “the Executive Officer”; and by striking “his” and inserting “the judge's”.

(90) Section 11–1730(b) is amended by striking “he” and inserting “the Executive Officer”.

(91) Section 11–1741 (4) and (7) are amended by striking “his” and inserting “the Executive Officer's”.

(92) Section 11–1741(9) is amended by striking “him” and inserting “the Executive Officer”.

(93) Section 11–1743(b) is amended by striking “his” and inserting “the President's”.

(94) Section 11–1744(5) is amended by striking “him” and inserting “the Executive Officer”.

(95) Section 11–1745(b) is amended by striking “he” and inserting “the Executive Officer”.

(96) Section 11–1747 is amended by striking “him” and inserting “the Executive Officer”.

(97) Section 11–2101(a) is amended by striking “his” and inserting “the Register of Wills”, and by striking “him” and inserting “the Register of Wills”.

(98) Section 11–2101(b) is amended by striking “he” and inserting “that person”, and by striking “his”.

(99) Section 11–2104 (a)(2) and (b)(2) are amended by striking “him” and inserting “the Register of Wills”.

(100) Section 11–2104(b)(6) is amended by striking “his” and inserting “the Register of Wills”.

(101) Section 11–2104(c)(2) is amended by striking the first “his”, and is also amended by striking the second “his” and inserting “that”.

(102) Section 11–2104(d) is amended by striking “his” and inserting “the Register of Wills”.

(103) Section 11–2104(e) is amended by striking “him” and “he” and inserting “the Register of Wills”.

(104) Section 11–2303 (a) and (b) are amended by striking “his” and inserting “those”.

(105) Section 11–2306(a) is amended by striking “he” and inserting “the medical examiner”.

(106) Section 11–2306(c) is amended by striking “his”.

(107) The first sentence of section 11–2307(a) is amended by striking “his”.

(108) The second sentence of section 11–2307(a) is amended by striking “his” and inserting “the pathologist's”.

(109) Section 11–2308(a) is amended by striking “he” and inserting “the medical examiner”.

(110) Section 11–2309(b) is amended by striking the first “his” and inserting “the Mayor's”, and by striking the second “his” and inserting “the United States Attorney's”.

(111) Section 11–2309(c) is amended by striking “he” each place it appears and inserting “such person”.

(112) Section 11–2311 is amended by striking “his” and inserting “his or her”.

(113) Section 11–2502 is amended by striking “his” and inserting “such person's”.

(114) Section 11–2503(a) is amended by striking “he” and inserting “such person”.

(115) Section 11–2503(b) is amended by striking “him” each place it appears and inserting “that member”.

(116) Section 11–2505 is amended by striking “him” and inserting “that attorney”.

(117) Section 11–2601(1) is amended by striking "case which he" and inserting "case in which such person".

(118) The second sentence of section 11–2602 is amended by striking the first "he" and inserting "he or she", and by striking "him if he is" and inserting "the defendant or respondent if such person is".

(119) The third sentence of section 11–2602 is amended by striking "him" and inserting "that person".

(120) The sixth sentence of section 11–2602 is amended by striking "him if he is" and inserting "the defendant or respondent if such person is", and by striking "he may" and inserting "such person may".

(121) Section 11–2603 is amended by striking "his" and inserting "such person's", and by striking "he" and inserting "such person".

(122) Section 11–2604(f) is amended by striking "he" and inserting "such person".

(123) Section 11–2605(c) is amended by striking "him" and inserting "such person".

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, H.R. 2694 amends sections of title XI of the District of Columbia Code on the local judiciary and removes all references to judges and other officials as males and replaces those words with gender neutral terms that may refer to female judges and female officials as well.

Mr. Speaker, several years ago the Council of the District of Columbia passed similar amendments to other titles of the District of Columbia Code. The Home Rule Act prohibits the Council from amending title XI, dealing with the judiciary, thus only Congress can make the changes included in H.R. 2694.

Mr. Speaker, H.R. 2694 as introduced by the gentlewoman from the District of Columbia, ELEANOR HOLMES NORTON, has the full support of all the members of the D.C. Committee and was ordered reported by unanimous vote on Wednesday, July 22, 1992.

Mr. Speaker, I am pleased to notify all my colleagues in the House that I am joined in my request for passage of this bill by the ranking Republican on the District of Columbia, the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, H.R. 2694 is not controversial. The merits and intentions of this legislation are obvious and do not require lengthy discussion.

I often quote the Constitution on its definition of congressional responsibility in regards to the Nation's Capital. The District clause of that timeless document provides that Congress shall "exercise exclusive legislation in all cases whatsoever." Therefore, we are considering this legislation today in conjunction with our constitutional duties.

The Constitution calls upon Congress to act in all matters regarding the District, great and small, and the Home Rule Act provides certain specific safeguards to protect the Federal interest. One of those protections is found in section 602 of the Home Rule Act which precludes the D.C. Council from legislating in respect to title XI. Thus, only Congress can take this action to bring the judiciary into conformance.

Section 49–203 of the D.C. Code, the gender rule of construction, accommodates gender neutrality stating that "all the words * * * importing one gender [shall] include and apply to the other gender as well." The D.C. Council drafts all its legislation according to the conventions of gender neutrality.

I am not aware of any objection to this legislation by the officers of the courts and therefore intend to vote for final passage of H.R. 2694.

Ms. NORTON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I urge the passage of H.R. 2694. These gender neutrality amendments are surely noncontroversial today. The matter may seem overly detailed to come before this busy body, and it is, but only Congress can amend title XI because the District of Columbia has only limited home rule. I urge my colleagues to conform title XI to what the District already has done with the titles under its control.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the bill.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING AN ADDITIONAL FEDERAL CONTRIBUTION TO DISTRICT OF COLUMBIA FOR YOUTH AND ANTICRIME INITIATIVES

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 5622) to authorize an additional Federal contribution to the District of Columbia for fiscal year 1993 for youth and anticrime initiatives in the District of Columbia, and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL FEDERAL CONTRIBUTION FOR YOUTH AND ANTI-CRIME INITIATIVES.

Section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47–3406, D.C. Code) is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), in addition to the amounts authorized to be appropriated under subsections (a) and (c), there are authorized to be appropriated to the District of Columbia $30,798,600 for fiscal year 1993 for youth and anticrime initiatives.

"(2) None of the funds authorized to be appropriated under paragraph (1) may be obligated or expended until the Committees on Appropriations of the House of Representatives and the Senate approve a detailed plan for the use of such funds.".

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, as you know, the Committee on Appropriations originated and the House passed a special appropriation for youth and crime initiatives by the District government. H.R. 5622 provides the authorizing language which will prevent any delay in making those funds available.

Mr. Speaker, the appropriations report—House Report 102–638—on pages 17 and 18 lists the purposes for which the additional funds may be used.

Mr. Speaker, H.R. 5622 contains the exact language found on page 2 of the District of Columbia appropriations bill which passed the House by voice vote on July 8, 1992.

Mr. Speaker, H.R. 5622 was ordered reported by the District of Columbia Committee by unanimous vote on Wednesday, July 22, 1992.

Mr. Speaker, I am pleased to be joined by Mr. THOMAS J. BLILEY, Jr., ranking Republican on the District of Columbia Committee, in supporting H.R. 5622 and I urge its passage by the House.

Mr. Speaker, at this point I yield to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, I want to express my deep appreciation to Chairman RON DELLUMS and ranking minority member BLILEY for their willingness to work to authorize this vital additional amount.

The $30 million authorization before us is not only indispensable to balancing the District's fiscal year 1993 budget. It will help meet the expressed congressional concern for strong efforts to reduce crime in the District of Columbia.

The District is especially indebted to D.C. Subcommittee Appropriations Chair JULIAN DIXON, whose personal intervention at the full Appropriations Committee level was successful in securing these additional funds. By reserving the additional $30 million for Mayor Kelly's anti-crime and youth initiative, Chairman DIXON has skillfully accomplished two vital goals.

First, he has gotten money that otherwise would have been unavailable in a year when all budget allocations have been severely cut or rationed. Second, he has guaranteed that perhaps the most vital and overriding effort in the entire D.C. budget is on track. Almost all agree that the best hope for reducing crime in the District is Mayor Kelly's combination of tough criminal sanctions and crime prevention measures designed to catch young people before they get into the pipeline leading to crime. Since the Mayor's initiative implicates many District government agencies, this reservation should not hinder her spending authority.

I urge my colleagues to support H.R. 5622.

Mr. BLILEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, every Member of Congress has a duty to preserve the safety of our Nation's Capital. We are all citizens of the Nation's Capital. The residents of the District, and the million who visit every year must be assured of their right to walk down the streets without fear. The senseless violence which has consumed entire parts of this city must be stopped Now.

For more than half a decade, the streets of the District have been awash in blood at unparalleled levels. Drugs made crime an industry in the Nation's Capital during the 1980's. The District has suffered under the highest homicide rate in the Nation for 4 straight years now. In 1989, the Metropolitan Police Department told Congress that the juvenile recidivist rate had averaged 60 percent over the previous 3 years. In 1990 alone, there were more than 27,000 violent crimes and more than 92,000 crimes of all descriptions committed within the District of Columbia; 70 to 75 percent of criminal homicide offenders have been previously arrested. The situation is even more outrageous as more than one-third of all defendants charged with a violent crime and released on bail committed another crime while on release between the period January 1989 to January 1991.

Nearly every type of violent crime has been on the rise since 1986. Homicides have increased 152 percent, robbery 53 percent, assault 60 percent, and burglary 14 percent.

Crime has had a devastating impact on the District, especially the young people. Working families are being driven out of their neighborhoods. Nearly 35,000 children have left the District since 1980. That means that families are leaving the District in droves. Over all, the District lost 5 percent of its total population between 1980 and 1990. But it lost over 18 percent of its population under age 18. We must make the streets safe so families will return to the neighborhoods today's moms and dads grew up in. Ward 7 lost over 28 percent of its children between 1980 and 1990. Half of the wards in the District lost more than 20 percent of their children.

Economically, local governments with high crimes rates are like nations which are in wars—they cannot prosper. The middle class flees. Private investment drys up. A disproportionate share of resources are diverted from the infrastructure necessary for growth to public safety functions. To reverse the negative economic trends and to get its budget under control, the District must first drastically reduce its crime rate.

More significant than all the statistics is the impact on the individual. From the direct victim, to the family and friends of the victim, to all those who are too frightened to visit or live in our Nation's Capital, the crime epidemic facing the District affects us all. Something must be done to restore public safety and the confidence of the 600,000 people who reside in the District of Columbia, all those who work here, and the 250 million people who come to visit each year.

This one time, special Federal contribution of $30 million to the District of Columbia is a small step—one of many that must be taken to bring the violence to an end. The House appropriated these funds earlier this month. H.R. 5622 is wholly consistent with the requirements set forth in the District appropriations bill, H.R. 5517.

We must support the Mayor's efforts to instill in our young people the values that will carry them beyond the seemingly endless cycle of drugs and violence that engulfs them. Secondly, violent offenders cannot be allowed to remain on the streets of the Nation's Capital to terrorize people. Both of these strategies require money.

I have proposed legislation that comes down hard on the criminal while bolstering the rights of the victims of violent crime in the District of Columbia. It is my hope that the District council and the Mayor will act swiftly, and adopt legislation similar to my Omnibus Anti-Crime Act. I fully support H.R. 5622, and urge my colleagues to join me in taking this important step in the effort to curb the rise of violent crime in the District of Columbia.

□ 1030

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Add at the end the following new section:

SEC. 2. DOMESTIC PRODUCT REQUIREMENTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under section 502(d) of the District of Columbia Self-Government and Governmental Reorganization Act (as added by section 1), including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the Mayor of the District of Columbia shall ensure that all procurements described in subsection (a)(2) are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by section 502(d) of the District of Columbia Self-Government and Governmental Reorganization Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) Not later than January 1, 1994, the Mayor shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

Mr. TRAFICANT (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from Ohio for yielding to me.

Mr. Speaker, the gentleman from Ohio is offering an amendment on the floor. This side has examined the amendment and at this time is prepared to accept the amendment offered by my distinguished colleague.

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, I thank the gentleman from Ohio for yielding to me.

Mr. Speaker, we have read the amendment on this side, and we have no objection and are willing to accept the amendment.

Mr. TRAFICANT. Mr. Speaker, I appreciate the support from both sides of the aisle.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The SPEAKER pro tempore. Are there further amendments to the bill?

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WAIVING PERIOD OF CONGRESSIONAL REVIEW FOR CERTAIN DISTRICT OF COLUMBIA ACTS

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 5623) to waive the period of congressional review for certain District of Columbia acts, and ask unanimous consent that the bill be considered in the House as the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS.

(a) EFFECTIVE DATE OF ACTS.—Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, each of the District of Columbia Acts described in subsection (b) shall take effect on the date of the enactment of this Act.

(b) ACTS DESCRIBED.—The District of Columbia Acts referred to in subsection (a) are as follows:

(1) National Public Radio Revenue Bond Act of 1992 (D.C. Act 9-240).

(2) Howard University Revenue Bond Act of 1992 (D.C. Act 9-242).

(3) National Learning Center Revenue Bond Act of 1992 (D.C. Act 9-241).

(4) Children's Hospital Bond Act of 1992 (D.C. Act 9-243).

(5) Medlantic Healthcare Group, Inc., Revenue Bond Act of 1992 (D.C. Act 9-244).

(6) The Catholic University of America Revenue Bond Act of 1992 (D.C. Act 9-245).

(7) The Temporary Panel of the Office of Employee Appeals Temporary Extension Act of 1992 (D.C. Act 9-239).

Mr. DELLUMS. Mr. Speaker, I move to strike the last word. Mr. Speaker, H.R. 5623 is the type of bill we have handled frequently near the end of sessions of Congress in order to expedite important legislation of the District of Columbia Council. The six revenue bond issues covered in H.R. 5623 are for important construction projects by nonprofit organizations. The dollar amounts are stated in the letters which we have received from the District government.

Mr. Speaker, besides the six bond issues, H.R. 5623 waives the congressional layover period for council legislation on the office of employee appeals for the special reduction in force. In July, 1991, the committee reported and the House passed legislation giving the Mayor authority to reduce the size of certain agencies of the District government. This legislation extends the life of the appeals panel which was a part of the legislation passed last July.

Mr. Speaker, I am pleased to announce to my colleagues that H.R. 5623 has the full support of Mr. THOMAS J. BLILEY, Jr., the ranking Republican on the committee, the District of Columbia Committee, and was ordered reported to the House for its consideration by unanimous vote.

Mr. Speaker, I urge Members on both sides of the aisle to support H.R. 5623.

Mr. BLILEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of H.R. 5623, a bill to waive the 30-day congressional review period of certain D.C. Council acts. The six revenue bond acts and one administrative act in this bill are noncontroversial and do not intrude upon any Federal interest. By waiving the layover period for these acts, Howard University, Catholic University, the Children's Hospital, and the other organizations mentioned in H.R. 5623 can take timely and cost-saving advantage of favorable market conditions. Failure to waive would effectively delay enactment until late September or early October.

Mr. Speaker, this is the third time in the 102d Congress in which we have been asked by the Mayor to waive the mandatory congressional review period. In this Congress alone, we have waived the review period for 39, or 1 out of every 5, council acts. Thus, our willingness to waive the layover period for these types of council acts is well established.

I am pleased to assist the city once again. Home rule is a careful balance between local and Federal interests. Making home rule work most efficiently requires mutual understanding and cooperation between the District government and Congress. The seven acts before us today are perfect candidates to represent that cooperation and should not be delayed. I urge all of my colleagues to support H.R. 5623.

Ms. NORTON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I appreciate the hard work and rapid response of Chairman RON DELLUMS and ranking member TOM BLILEY on H.R. 5623 to waive the 30-day congressional layover period for vital revenue bonds for six nonprofit organizations, which provide indispensable services to District residents. They are: Catholic University; Children's Hospital; Howard University; Medlantic Healthcare Group, Inc.; National Learning Center; and National Public Radio. I strongly urge the passage of H.R. 5623 in order to avoid serious financial difficulties for these vital organizations.

May I call this body's attention also to H.R. 3581, the District of Columbia Legislative and Budget Act of 1991, my bill to eliminate the congressional layover period altogether. My bill would leave the Congress with all of its plenary power because a Member could still introduce a bill to overturn any piece of D.C. legislation. H.R. 3581 would enable the Congress to retain its present powers without taking the time and effort that has been required to bring these bills before you.

Almost 20 years of home rule in the District have shown that the layover period is unnecessary. Only three bills have been overturned during all this time. I appreciate the gracious action of the Chair and the ranking member on today's bill. I hope soon not to have to trouble them and the Congress with local matters. I urge my colleagues to pass this bill.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 9, not voting 25, as follows:

[Roll No. 330]

YEAS—400

Abercrombie
Ackerman
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante

Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock

Hansen
Harris
Hastert
Hayes (IL)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta

Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw

Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds

Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer

Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weldon
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—9

Allard
Armey
Burton

Coble
Dannemeyer
Goss

Hefley
Marlenee
Stearns

NOT VOTING—25

Alexander
Boxer
Coughlin
Davis
Dickinson
Dixon
Edwards (OK)
Ford (TN)
Gaydos

Hatcher
Hayes (LA)
Hyde
Jefferson
Jones (GA)
McCurdy
Porter
Savage
Solarz

Stallings
Tauzin
Thomas (GA)
Towns
Weiss
Whitten
Wilson

☐ 1108

Mr. COBLE and Mr. STEARNS changed their vote from "yea" to "nay."

Messrs. BARTON of Texas, CRANE, HOLLOWAY, GILCHREST, TAYLOR of Mississippi, and DUNCAN changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I inadvertently was absent from the vote on rollcall No. 330 when my beeper failed to signal either the 15-minute or 10-minute announcement of the vote. Had I been present and voting on this rollcall, I would have voted "aye."

PROVIDING FOR CONSIDERATION OF H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 529 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 529

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with clause 8 of rule XXI are waived. After general debate, which shall be confined to the bill and which shall not exceed ninety minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: Beginning on page 15, line 18, through page 17, line 11; beginning with "*Provided*" on page 25, line 11, through line 20, beginning on page 43, line 19, through page 44, line 21; beginning with "*Provided*" on page 52, line 9, through line 17; beginning with "*Provided*" on page 55, line 2, through "programs:" on line 7; beginning on page 65, line 12, through page 66, line 10; beginning on page 66, line 21, through page 67, line 22; beginning with "*Provided*" on page 68, line 21, through line 24; beginning with "*Provided*" on page 77, line 14, through page 78, line 5; beginning on page 78, line 20, through line 24; beginning with "*Provided*" on page 80, line 8, through line 18; beginning with "*Provided*" on page 82, line 18, through line 23; and beginning with "*Provided*" on page 85, line 1, through 6. Where points of order are waived against only part of a paragraph, a point of order against matter in the balance of the paragraph may be applied only within the balance of the paragraph and not against the entire paragraph. The amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution may be offered only by the named proponents or a designee, shall be considered as read when offered, shall be debatable for two hours equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. Debate under the five-minute rule on each other amendment to the bill, including amendments thereto, shall be limited to twenty minutes. Points of order under clause 2 of rule XXI against the amendment printed in part 2 of the report are waived. It shall not be in order to consider an amendment proposing to increase the amount covered by a paragraph already passed in the reading for amendment or proposing to provide an additional amount for an entity covered by a paragraph already passed in the reading for amendment. When the Committee rises and reports the bill to the House with such amendments as may have been adopted, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

☐ 1110

The SPEAKER pro tempore (Mr. McNULTY). The gentlewoman from New

York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 529 is the rule providing for the consideration of H.R. 5679, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year 1993.

The rule waives points of order against consideration of the bill under clause 8 of rule XXI, which requires a Congressional Budget Office estimate to be included in any measure providing for changes in direct spending or revenues.

The rule provides for 90 minutes of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The bill shall then be open for amendment under the 5-minute rule.

The rule waives points of order under clauses 2 and 6 of rule XXI against all provisions of the bill except for 13 provisions which are specified by page and line number in the rule. Clause 2 of rule XXI prohibits unauthorized appropriations or legislative provisions in general appropriations bills. Clause 6 of rule XXI prohibits provisions reappropriating unexpended balances of appropriations. If a point of order is made under clauses 2 or 6 of rule XXI against a partially protected paragraph, it will apply only to the portion of the paragraph which is unprotected.

The rule provides for 2 hours of debate on the amendment to cut funding for the space station printed in part 1 of the report accompanying the rule. The amendment, to be offered by Representatives TRAXLER and GREEN or a designee, is not subject to amendment.

Except for the Traxler-Green amendment, the rule limits debate to 20 minutes on each amendment. The 20-minute limit includes any amendments to the amendment.

In addition, the rule waives points of order under clause 2 of rule XXI against the Moran amendment printed in part 2 of the report to accompany the rule. Clause 2 of rule XXI prohibits unauthorized appropriations or legislative provisions in general appropriations bills and restricts the offering of limitation amendments to such bills.

At the request of the chairman and ranking member of the VA, HUD Appropriations Subcommittee, the rule prohibits consideration of reachback amendments: amendments to increase amounts in paragraphs already passed in the reading for amendment or to provide additional amounts for entities in paragraphs already so passed.

Finally the rule provides for one motion to recommit.

Mr. Speaker, H.R. 5679 appropriates $85.9 billion in fiscal year 1993 for some of the most important functions of the Government: veterans health, environmental protection, housing assistance, and scientific research. In its report, the committee stresses the very difficult choices it had to make stemming from a central problem: a lack of sufficient outlays to support the critical programs funded in the bill.

The bill reflects the Appropriations Committee's choices. Passage of this rule will allow the House to ratify those choices or to alter them.

I ask my colleagues to support the rule so that we may proceed with this difficult, but crucial task.

Mr. QUILLEN. Mr. Speaker, the gentlewoman from New York [Ms. SLAUGHTER] has accurately described the provisions of the rule, and it would be redundant for me to repeat those provisions.

Mr. Speaker, I urge the Members of this body to vote down the previous question so that the Kolbe amendment can be made to order. In the Committee on Rules I offered the Kolbe amendment and it was defeated on a partisan basis. It was allowed in last year's bill, and for what reason I do not know, it was not allowed in this year's measure. The Kolbe amendment would transfer funding to the HOPE Program from annual contributions for assisted housing from previous years. I hope Members will vote down the previous question so that the Kolbe amendment can be made in order.

Mr. Speaker, I would be remiss if I did not pay a high compliment to the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] for the fine job they have done in bringing forth this measure to the House floor.

We are going to miss the gentleman from Michigan [Mr. TRAXLER]. We are going to miss his expertise and dedication, and the gentleman's efforts on that committee to make it one of the best in the Congress. We hate to see the gentleman leave at the end of this session, but we wish him Godspeed.

H.R. 5679 appropriates $85.9 billion in fiscal year 1993 for the VA, HUD, and many independent agencies. Also included in the bill are funds for certain activities of Government-sponsored corporations such as the Federal Deposit Insurance Corporation and the Resolution Trust Corporation. The total appropriations in the bill are about 5 percent more than last year's funding level, and about 5 percent less than requested by the President.

Again, Mr. Speaker, I urge the Members of this body to vote down the previous question so that the Kolbe amendment can be made to order. It should be. The HOPE Program is good, and it was allowed last year. It should be allowed this year.

Mr. Speaker, I yield 5 minutes to the gentleman from Arizona [Mr. KOLBE], the author of the amendment.

□ 1120

Mr. KOLBE. Mr. Speaker, Members of the body, I thank the gentleman for yielding me this time.

Mr. Speaker, the gentleman from Tennessee has laid out the case on this rule. It is a disgrace. It is a fraud. This rule is a gag rule. Short and simple, this is a gag rule.

My good friend, the gentleman from Mississippi [Mr. ESPY], and I offered the same amendment to the Committee on Rules last year, and they made the amendment in order. Last year this body voted 216 to 183 to adopt an amendment to allow low-income Americans to have an opportunity to share in the American dream by owning their own home. What a revolutionary idea.

That is all we are suggesting, that low-income Americans ought to have the opportunity to own their own home. That amendment was made in order last year. This body adopted it on the floor by a large margin, and it was carried over into the conference committee, and the HOPE program is a reality today, not with much funding, but it is a reality. Today we want to keep HOPE alive. We want to expand this program so that other low-income Americans can have the opportunity to own their own home as you and I have that opportunity to do.

But, no, the Committee on Rules has decided we will not have the opportunity to debate the amendment this year. This might really be an amendment, indeed, it clearly is an amendment, that would pass again. It passed last year by a large margin. It is likely to pass again this year.

But some in this body do not want low-income Americans to have the opportunity to own their own homes. So, they are going to put a gag on the House and not let them vote on this amendment. That is the reality of this rule. It is a gag rule.

Yesterday in the Committee on the Budget, I listened to the chairman of the Committee on the Budget complain to the Director of OMB, Mr. Darman, that the President of the United States ought to take some responsibility for the problem, the domestic problems, in this country. "Why," he said, "cannot the President accent some of this responsibility?

Well, Mr. Speaker, Members, the President has a program. He is taking some responsibility by proposing creative programs, and Secretary Kemp is taking responsibility by proposing things like HOPE, ownership of homes for low-income people.

This idea is in the Democratic platform that was adopted in New York.

They agreed there should be opportunities for low-income Americans to own their home. Why cannot this body at least debate something that is in the platform of the Democratic Party?

But, no, we have a gag rule. This is the party that talks about change in America. This is the party that says they will change things if they are elected. They endorsed this idea in their platform, but now they say, no, not this year, we are not going to change this year. We are going to block these kinds of programs. We are going to say to low-income Americans that they cannot own their own homes.

Let me just tell you very briefly in the time remaining how we are going to get this money. Let me make it very clear we are not taking one dime from any existing program.

You can fund every one of the inefficient, corrupt housing authorities, and you have seen these terrible problem described in recent newspaper articles. Every one of those programs is funded. We do not take one dime from them. What we would do is say that if there are more carryover funds beyond the $244 million that the subcommittee has allocated for program use this year, if there is more than that $244 million, up to another $200 million could go into the HOPE Program. That is all it says. It does not take it out of the assisted housing program. It does not do anything to the modernization program. It does not do anything to any existing housing program.

All we do is take the carryover funds from 1992 and use them, if there are excess funds, in this program.

Mr. Speaker, this is an opportunity for us to do something concrete to build on a program that works, a program whose name probably more than any other acronym in any other Federal program is appropriately named HOPE. [Home Ownership Program]. Home ownership, for those who have never had the opportunity to own a home. This is a program that is supported by the National Conference of Black Legislators, by the Conference of Black Mayors, by minority groups all over this country. But, sadly, it is a program the majority would gag today, and not allow us to debate or vote on it.

I urge the Members to vote down the previous question so that the Kolbe-Espy amendment may be offered.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology.

Mr. BROWN. Mr. Speaker, I thank the gentlewoman for yielding me this time. I will try and use it wisely.

Mr. Speaker, I rise in support of the rule which is being presented to us here this morning. I recognize that there are certain problems with the rule, but at this stage in the legislative process, I think it behooves us to look at how we can best consider these vitally important appropriations bills in a disciplined way.

I anticipate that the problem with the rule that many will have is its limitation of time for amendments, and restrictions on the number of amendments. I think these are valid objections, but we need to consider the greater need to move expeditiously on this legislation in order to complete our legislative chores.

I point out to all of you that in our last debate involving what may be the most controversial item on the appropriations bill before us, we spent in the neighborhood of 7 or 8 hours on the one amendment dealing with the space station. I would like to spend that amount of time again, but I do not think it is reasonable to do that.

I think it is probably better if we limit the time to the 2 hours which the Committee on Rules has provided. I know that it is going to be difficult to accommodate all of the people who wish to speak either for or against the space station in this brief period of time. I have already been besieged by large numbers of people, who are under the assumption that I might have something to do with controlling the time, who want to speak in support of the space station. I have to tell them that the amount of time available will not allow 50 people to make 5-minute speeches as they would like to. We will try to handle that problem in the best way that we can.

Overall, I think that this is an extremely good rule and one that will allow us to move expeditiously and complete our work on this important bill at a reasonable time later on this afternoon.

With regard to the bill itself, I would like to say a word or two. I am going to support the bill. I recognize that the subcommittee and its distinguished chairman and ranking member have had an extremely difficult job to accommodate the needs of the vitally important programs which are encompassed in this appropriation bill, and to do so in a way which is fair and reasonable. I want to compliment them at this point, and I will compliment them again at every possible occasion. Having worked in very close cooperation with the chairman over a period of time, I recognize the difficulties that he has in trying to accommodate all of the demands that are placed upon him within this appropriation bill.

Now, in saying this, and in recognizing the great job that has been done, I do not want to indicate to you that I am happy with the way the NASA account has been funded. I am not happy.

This is probably one of the few times that I come before you and urge you to support a bill which guts a program that I very, very strongly support. I say this because the NASA account is $1 billion below the President's budget. It is not just a solid freeze, it cuts below the existing levels of activity by about $400 million. And with regard to the program which will be most in controversy, namely, the space station, there is a 25-percent cut in this program. I do not think any other major program is facing this kind of a cut in any of the bills that will be before us.

□ 1130

Now, I recognize and I will not repeat here the arguments that we do not even need a space station. The House has spoken on that more times than I care to contemplate over the last 3 or 4 years.

I still feel that this Nation deserves and needs a space station, that it is a flagship project in our efforts to maintain leadership in science, space, and technology.

Mr. Speaker, I note the presence of the distinguished chairman of the subcommittee on the floor. I wish to repeat what I said earlier. I think he has done a magnificent job in bringing this bill to the floor under very tight constraints. He has provided me the opportunity to discuss this with him on numerous occasions.

As I just indicated, I am not happy with the result, but I think the chairman has done the best job he could under the circumstances and I wish to again repeat my commendation.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I want to express my gratitude to the gentleman for his kind remarks. I want to assure him that over these several years it has been nothing but a pleasure to be associated with him and his staff and the members of his committee.

We have had many areas of cooperation. The gentleman's committee has always sought to do those things which are in the best interests of the Nation. The gentleman has conducted himself in a very fine gentlemanly manner, and for that I am very grateful.

One of the sadnesses I have as I leave this place is that I will miss this association with the legislative committee and most especially the distinguished gentleman from California.

Mr. BROWN. Mr. Speaker, I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I rise in opposition to this rule and ask Members to vote down the previous question so that we might have made in order the Kolbe amendment.

Now, there are several reasons why I oppose this rule, but let me zero in on that one, because the gentleman from

Arizona did such an excellent job explaining his own amendment. Also remember the fact that last year it was made in order to give us an opportunity to vote on a very viable, workable program.

The irony of all this is that at a time when the President and the administration is being trashed for not doing enough for the big cities or low-income housing, the President has a request for over $1 billion in this program and we cannot get a nickel for it.

Why? Because it changes the way the old programs work. All this time we are talking about the world wants change, the country wants change. There is not a community in this country that does not have a problem with its public housing units for one reason or another. Mine is in disarray of all kinds.

The minute you want to try something new—for example, homeownership for people everywhere. Is that not a good concept?

And what are we doing? A rule that absolutely eliminates any opportunity for our getting started on a viable program like that.

This rule ought to be trashed, not a trashing of the administration for what it does not do. It requests a viable program and the funding to go with it, and then is denied every nickel of it.

I think it is outrageous. It is a gag rule.

And to my friends in the Black Caucus who supported the gentleman from Arizona [Mr. KOLBE] last year and this year, interested in what we are doing for the big cities in this country, you ought to come to our aid in this thing and vote down the previous question. Give us an opportunity to vote for a program for you folks—pardon that expression—just those people that we want to try to help around the country to become homeowners in low-income status.

I tell you, Mr. Speaker, we ought to vote down the previous question and give us an opportunity to vote for a workable program that the administration has proposed.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Speaker, I rise in support of this rule. I believe it provides the full opportunity we need for a full and fair debate. Certainly it does so on the issue of the space program and the space station. That debate has already been conducted on the floor of this House several times, and it has continued behind the scenes among the Members.

I have spoken with dozens of my colleagues in recent days about the space program and the space station. I urge them to listen now, because I would like to respond to several of the questions they have raised about NASA and about the space station.

So many of them have said to me, "Well, shouldn't we cut the NASA budget? This is a difficult time fiscally. Shouldn't NASA be taking some cuts?"

So I urge them to look at the bill we have brought forth. NASA is the only agency that is taking cuts. This year, in this fiscal year we are spending $14.3 billion on NASA. In the bill that the committee has proposed, we would spend $14 billion on NASA. That is a $300 million cut for NASA.

Also, we are seeing a $250 million cut in funding for the space station *Freedom*.

So if you want to go back home and say that you have cut NASA and cut the space station, you can vote for this bill and you can also vote against the amendment that would kill space station *Freedom*.

Now, some people say, "I support the space program, but I don't really think we need the space station."

Well, let me tell those among my colleagues who feel that way, if you want to kill the space program, then kill the space station. Without the space station, there will be no space program.

If the opponents of the space station succeed in killing it this year, then they will come back next year and they will kill the space shuttle and there will not be much of a space program left.

Space station *Freedom* is the centerpiece of our space program as a nation.

Some of my colleagues tell me, "Well, JIM, we need to spend our money more wisely. We simply can't afford to spend money on the space station."

Well, I say to them that we cannot afford not to spend money on space station *Freedom*. For every dollar we have invested in NASA in the past generation, we have reaped $9 in additional gross national product.

We need to take our limited resources as a nation and put them into spending that pays a dividend.

Above all, we need to spend money on children, education and technology. Space station *Freedom* is one of the best investments we can make in terms of technology. It will create jobs. It will create the future.

Mr. Speaker, I urge a vote in favor of this rule and I urge my colleagues to continue to express their support later today for the space station *Freedom*.

□ 1140

I have homeless people, unemployed people, jobs going all over. I am very concerned about those jobs.

Today we have pitted the space station against veterans, the space station against the unemployed, the space station against homeless, and it is not this chairman. I cannot blame this chairman.

In fact, it is hard for me to stay the ground and support the space station.

Mr. Speaker, we have to take the NASA budget, the NASA program out of the veterans and housing budgets.

Mr. Speaker, John Kennedy challenged our Nation. It was not just for space travel, it was to put us on the cutting edge of new technology and create jobs, deal with grave diseases. If you had a relative who benefited from laser surgery, NASA was a part of that. If you had a relative who benefited from new techniques in surgery and medicine and treatment of disease, NASA has a hand in that.

Mr. Speaker, we have invested billions of dollars in NASA, and if we cut it out now, we set us back and it is one of the only areas where we are the leader.

No one said it is going to be easy. This is a tough vote to make, maybe the toughest vote for me to make. But I am going to stay with the space station and the new technologies that will come forward.

I think Jack Kennedy was right, we lead in only one area, ladies and gentleman, and that is our technology gain. Much of it is due to that investment in our NASA programs.

The space station will help us lead toward perhaps a cure for AIDS, continuing to aid us in our fight against cancer and the many different diseases that we face.

So it is not an easy vote for me. And if the space station is defeated, you have my vote, Chairman. Your bill deserves our vote, and the Committee on Appropriations, faced with the money problems that we had, had no choice here.

But I think Congress should change the rules next year and move that NASA program outside of veterans programs, housing programs, homeless programs, urban programs, and put it in an area where the priorities can be made on a different set of circumstances.

I again thank the gentlewoman for the time.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank my dear friend, the Republican chairman emeritus of the Committee on Rules, for yielding me this time.

Mr. Speaker, what a tragedy. This rule makes in order an amendment allowing 20 minutes of debate on whether or not we will require an environmental impact statement to be put into place for moving the Washington Redskins—and many of us are fans of the Washington Redskins—across the Potomac River into Virginia. Yet we do not have an amendment made in order which would provide the opportunity for 80,000 low-income Americans to have the chance to attain the American dream of home ownership.

What a tragedy.

I joined the Committee on Rules in January of last year. I was very buoyed up when the Kolbe-Espy amendment came before our committee. I was able, working with my colleagues on the other side of the aisle, to gain a majority in that committee, and by a 6-to-5 vote we were able to allow for consideration of the Kolbe-Espy amendment here on the floor.

The amendment came to the floor. So what happened? We got 65 Democrats who voted in favor of it, and by a 216-to-183 margin we were able to pass this measure.

What has happened since? Last night, my friend, the gentleman from Tennessee [Mr. QUILLEN], offered the amendment, and by an 8-to-4 party-line vote we were denied the chance to offer the Kolbe-Espy amendment here on the House floor.

Mr. Speaker, when we look at the disparity between the amendment last year and the one this year, this one is even better. Last year's amendment made cuts in the section 8 housing program, made cuts in housing programs, many of which concerned a number of us.

But this amendment takes $200 million in funds that would not otherwise be expended and provide the opportunity for people to attain this American dream of home ownership.

It seems to me that as we look at these numbers, the only alternative that we have is to defeat the previous question so that we can do what 65 Democrats and an overwhelming majority of Republicans voted in favor of last year, and that is to provide an opportunity for those 80,000 low-income Americans to attain that dream of home ownership.

I hope very much that we will defeat the previous question. We have got an opportunity to do it so that anyone who wants to help those low-income Americans attain that dream, you must vote "no" on the previous question.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished ranking member of the Committee on Appropriations, the gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. Mr. Speaker, I thank my distinguished colleague for yielding time to me, and I thank the distinguished gentleman from the Empire State who occupies the chair for recognizing me.

Mr. Speaker, I am constrained, heavily constrained, to rise in opposition to this rule. I find it incomprehensible that on an item of public policy in this Nation involving the question of home ownership, that the rule that is here today prevents the House from discussing the issue of whether or not we believe that key initiative toward home ownership ought to be level funded, in effect frozen, at last year's level or permitted to grow. In the bill the committee carries $361 million, not an insignificant sum. The budget request is $1 billion. The administration asked for $1 billion for a new initiative in housing for the people of this Nation. And the action of the Committee on Rules says, "We won't even talk about it. You can't talk about it." Well, last year, and here is the record, last year a vast majority of this House voted, as we do in what I thought was a democratic procedure, to increase the funding for the home ownership program because every one of us knows that the existing assisted housing programs of this Nation are disgraceful. Not all of them, but as a generalization, that would be agreed to by most people.

Think of the universe, my friends; there is $13 billion spent by us in assisted housing programs across the Nation.

What are we trying to do in this little laboratory? The Secretary of Housing of the administration said, "Give us a billion dollars for home ownership to try this new experiment." The committee saw fit to hold the money at last year's level. The Committee on Rules says you will not be permitted the opportunity for open, free, frank debate on the issue of whether or not the Nation's policies ought to be changed a little bit to an era of home ownership.

Now let me bring just two laboratories to your attention. Back in 1989 we did a demonstration program right here in the Nation's Capital. It is called Kenilworth Parkside. What the Department of Housing and Urban Development did is say, "Hey, wait a minute, that is an assisted, traditional-type housing project. It doesn't work. You've got drugs, you've got crime, you've got youngsters dropping out of school by the hour. We are not going to do that anymore. We are going to take this project, and we are going to convert it to home ownership." And they did that in 1989. We did it, in 1989, to try to say, "Can we make a difference in the Nation?"

Oh, my, what a difference. Check the crime rate in the area; it is down. Check the school dropout rate; it is down. Check drug usage; it is down.

Mr. Speaker, poverty does not exist in a vacuum, and neither do all these problems. It starts with the concept of neighborhood and home ownership and pride.

□ 1150

My God, we are destroying the opportunity for people to have pride in something they can own in this great Nation, and it is a pittance. My friend, the gentleman from Arizona [Mr. KOLBE] simply wants to take $200 million roughly from existing balances. That is all. It is not cutting anything. There is an existing and unused balance in the assisted housing program, and this is only taking $200 million of it roughly, and add it to the 300 million because of the demand that is at HUD.

Go to your phone. Call the Secretary of Housing. Call anybody in the bloody shop and ask them what the demand factor is. And my colleagues will find out the demand factor for this ownership program, as we speak, is $500 million. That is the applications that are ripened, matured. The people have been trained. They are ready to proceed to a concept of ownership in this country, and, my God, the Committee on Rules is saying, "Well, that's swell. You can't even discuss it or vote on it. You cannot work your will. We are working your will for you."

Mr. Speaker, that is the antithesis of democratic government. That is the antithesis of what we are here to do, to be trustees of the Nation's resources, to be trustees of the Nation's dollars and to try to decide what the Nation's priorities ought to be.

I cannot believe this rule comes before us fashioned as it is. My colleagues, we make decisions around here so quickly, and we make them sometimes in error. We are all human. We live in a high-pressure, pressure cooker world, and we make decisions every second, and sometimes we make them wrong.

We have made a wrong decision here to say, "You cannot debate or vote on the Kolbe amendment." It is that simple. This is a great error, and we have a chance now, as the body of the trustees of the people to correct that inequity and say, "Wait a minute, we were sent here to debate these issues. We were sent here to formulate policy. We were sent here to try to solve the problems of the Nation's inner cities, and outer cities and poor people."

Mr. Speaker, how do we do that? We do it by voting and debating on what the priorities are.

Mr. Speaker, I hope this rule will be resoundingly defeated.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I am pleased to follow my good friend and colleague, the gentleman from Pennsylvania [Mr. MCDADE], and to take up his clarion call to defeat this rule. I want to add another dimension to the concern that he expressed about the inability or the unwillingness of the Committee on Rules to at least allow us to address in a meaningful way some of the problems in the inner cities by this very restrictive rule.

I went before the Committee on Rules, my colleagues, yesterday with a very technical amendment. It had no budgetary impact, although admittedly it was and did include some authorizing language.

But make no mistake about it. This appropriations bill already has authorizing language within it.

So, Mr. Speaker, I went before the Committee on Rules, and said, gentlemen, I understand you're reluctant to put authorizing language in an appropriations measure, but you have done so in this bill. So that precedent is broken. Furthermore, my colleagues, this amendment has no budgetary impact, it is purely technical in nature.

What the amendment does is to give language and direction to the FDIC to set up a program of incentives to encourage banks to extend lifeline checking to poor people, to encourage banks to help rebuild these inner cities home by home, family by family, block by block. It has no budgetary impact. It involves the green lining of neighborhoods through the establishment of community development banks and corporations.

My request for this technical change was rejected. It was the sense of the Committee on Rules that it was not appropriate. I keep scratching my head trying to figure out why is it inappropriate. They have already broken the precedent, Mr. Speaker, authorizing language is in there. There is no budgetary impact, and, if my colleagues are serious about dealing with the problems in the inner cities, then it would seem to me that they would be interested in advancing new ideas, nontraditional ways of attacking, attacking as forcefully and as aggressively as possible, the problems in the inner cities, giving poor people the opportunity to establish credit with lifeline accounts and rebuild their communities through community development banks and corporations. So why, I must continue to ask, is this amendment appropriate.

How ironic this is, how ironic in the year, in the year that Congress empowers special counsel to examine our free checking, that the Committee on Rules cannot find a way to give poor people checking for which they are willing to pay.

So, Mr. Speaker, I would encourage my colleagues, if they believe in the home ownership program, and I hope they do, and if they think we have to look for nontraditional ways of trying to advance the interests of poor people and their families in the inner cities, in these distressed communities, to defeat this rule.

All we asked the Committee on Rules to do was give some technical direction to the FDIC to organize and prepare for this new program of incentives so that next year we can appropriate program dollars and begin rebuilding our distressed areas.

Mr. Speaker, all this amendment would do would be to prepare for a program that would give poor people access to banks and credit in these inner cities so that we could rebuild these communities, so that business within enterprise zones that everybody is talking about would have a place to go and employees would have a place to go to get credit or to establish credit. It's simply the first step in a way overdue effort to encourage the green lining of communities. But for some inexplicable reason, even though they have authorizing language in this bill and although there is no budgetary impact, the Committee on Rules saw fit to say no.

It is truly ironic that as we wait for special reports from special counsel dealing with free checking for Congress, that we reject a new approach to encourage banks to invest in the inner city and providing lifeline checking to the poor. I would encourage my colleagues to overwhelmingly reject this rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN], the distinguished chairman emeritus of the Committee on Rules, and I rise in opposition, my colleagues, to the rule and urge defeat of the previous question so that we can restore full funding for the HOPE, home ownership and opportunity for people everywhere, a program that is requested by the administration and Secretary Kemp for the Kolbe-Espy amendment.

My colleagues, I cannot believe that in this body sentiment runs so strong to protect the same old way, business as usual, the same failed approach of housing people in public housing units as opposed to giving them an opportunity to participate in management and ownership of their own housing. That is what the HOPE Program does. It creates opportunities for choice and management and choice in ownership. It gives the residents of public housing control over their surroundings, management, and it enables them to become accountable for their actions, and it is quite apparent from the limited applications, the experiments, that we have had with the HOPE Program to date, such as the Kenilworth project that was cited earlier, that this program works.

Mr. Speaker, it does exactly what the advertising says. It empowers residents to make their own choices and to become active participants in the improvement of their lives.

Now this institution in recent weeks has received reams of testimony about how the public housing system works in certain parts of this country, specifically the Philadelphia Housing Authority, the fourth largest in the country, and the public housing authority here in the District of Columbia. And my office, since we are deeply involved in this issue and since I intend to offer amendments related to HOPE, if and when the National Affordable Housing Act reauthorization reaches this floor, has been collecting newspaper headlines to document how dismal the condition of public housing in America is today:

"Philadelphia Housing Authority Runs Deep, Audit Says," "D.C. Housing Agency, Targeted Fraud Probe," "D.C. Housing Grumbles as Repairs Jobs Go Unfilled," and, believe me, Mr. Speaker, it goes on and on. It is clear from this pattern of waste, and destruction and mismanagement that we need a new approach to public housing, low-income affordable housing, in this country. The present system is failing us. It is time to stop this vicious cycle.

Mr. Speaker, we can do it today by taking a bold step to restore full funding for the HOPE Program and give again public housing residents the opportunity of choice and home ownership. This is nothing short of a housing perestroika for this country, and I hope that my colleagues will consider that when we vote here in a few moments on the rule. Consider the pitiful shape of housing in this country and the fact that there is available to us a remedy in the form of a HOPE Program to that situation.

I urge my colleagues to vote for the better housing and against waste in management. Vote "yes" on the HOPE Program, the housing perestroika for Americans, and give public housing residents an opportunity to succeed and to participate in the American dream of home ownership.

□ 1200

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I rise today in strong support of the rule, especially because it allows a vote on the Traxler-Green amendment to strike funding for space station *Freedom*. Opponents of this amendment ask us to look to the stars for the answers to our Nation's problems. But we have reached a stage where, though we must maintain a healthy space science program, we cannot allow the stars to blind us to the very real life struggles here on Earth. We have neither the time nor the resources to devote to an endeavor which the scientific community itself believes will generate only dubious, unverifiable research data. In fact, many scientists agree we can obtain this science with unmanned space probes and other related research.

To build the space station, this Nation has to take out a $120 billion, 30-year mortgage on our Nation's future. This monstrous expenditure comes at a time when we are already spending more on the interest on the national debt than the Federal Government spends on educating our children. If we build this orbiting tin can and take even more resources from the very real programs here on Earth that meet a broader range of national needs, I have to wonder whether 30 years from now, our children will look back at today's vote and wonder what we did. This is the point when Congress should meet its less glamorous and less media telegenic responsibilities of health care; of scientific research across a broad range of disciplines; of home ownership for our families; of help for our homeless; and of hospital care for our veterans, instead of sending four humans to live in the most expensive Government housing project in history, space station *Freedom*.

Even with the station eliminated, our bill still provides $13.1 billion for NASA's 1993 budget—including funds for Earth observation satellites, the astrophysics laboratory, the space shuttle, the analysis of data generated by Magellan and other unmanned space satellites. We devote over $6 billion to NASA research and development and $1.6 billion for research and program management.

Thus, a vote to strike the $1.2 billion targeted for the station is a vote for every one of the thousands of homeless veterans who crouch in doorways or the millions of veterans who are now being asked to seek health care outside the veteran's system.

A vote to strike the station is a vote for every agent orange victim who the Department of Veterans Affairs is telling to keep waiting for disability compensation because there is no money.

A vote to strike the station is a vote to finally see America's homeless who wander our streets, receive the care they desperately need.

A vote to strike the station is a vote for real help for the National Science Foundation to support the basic scientific research and educational investments necessary for America to compete across the wide range of scientific disciplines.

A vote to strike the station is a vote for adequate money to fund the Environmental Protection Administration for the Superfund cleanup of toxic sites; and to help America's families buy homes through the Federal Housing Administration; and to keep our promise to America's veterans.

Perhaps someday we will no longer be burdened by this enormous debt. I for one am hopeful that America will take back the White House and vote for a President who will lead America back to economic prosperity. But until such a time comes, until America truly has the money in the bank to pay for this mortgage, space station *Freedom* will have to wait. This is neither the time, nor the place to spend resources we just don't have for a program which will not help America deal with the real problems our citizens are facing; rising health care costs, homelessness, crime and drugs, education, a lagging economy, and producing better products here on Earth. I urge Members to support the Traxler-Green amendment for critical investments here on Earth.

Mr. QUILLEN. Mr. Speaker, I urge a "no" vote on the previous question, and at this time I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER] to close debate on this side.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me, and I, too, urge a "no" vote on the previous question.

It is no wonder that Bill Clinton does not want to have anything to do with the Congress of the United States and the Democrats in the Congress. It is no wonder he distances himself from the Congress.

Bill Clinton supports space station. He believes it is an investment in the future. The gentlewoman from Ohio who just spoke believes it is an investment that ought to be thrown away immediately, and the 75,000 high-tech jobs with it, and then she uses ideas like, for instance, that we are going to fund space science out of it. The committee bill that they bring to the floor cuts space science by $150 million. This is an absurd argument.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will yield when I have finished.

It is no wonder Bill Clinton wants to distance himself from that kind of thing. It is no wonder Bill Clinton refers to Washington policymakers as brain dead. The Democratic leadership says, "Well, that doesn't apply to us." Well, it sure does because all we have to do is take a look at this rule. We have to understand this. Let us look at this rule.

This rule makes in order an amendment to kill 75,000 high-tech jobs, the jobs that drive us toward the future. The Rules Committee decided, "Let's make that amendment in order. That is a good debate to have. Let's see if we can run out on the floor a bill to kill off those 75,000 jobs."

Now I want the members to get this: This bill makes in order an amendment to stop the Washington Redskins from building a new stadium in Virginia. They make that in order. That is something they think is important. Talk about an inside-the-beltway mentality. When it comes to the Washington Redskins' stadium, they think we ought to debate that.

But what can we not debate? We cannot debate housing ownership for poor people. The Rules Committee decided that is something we cannot have out here on the floor. Do we want to allow poor people an opportunity at some point in the future to own their won homes? "Oh, my goodness," they say, "We can't even have a debate about that. Why, Congress might actually decide that is a priority."

So we have a rule before us, a brain-dead rule, if you will, that suggests that we can debate the Washington Redskins but we cannot debate poor people owning homes. When it comes to a stadium for the Washington Redskins, that is something that is of a national concern, and, my goodness, we have got to have a debate on the floor about that. That is very, very important. But when it comes to poor people owning homes, we cannot talk about that.

Talk about brain-dead policies, that just does not get it. We were told time and time again at the Democratic Convention that Washington does not get it. This rule proves that the Democrats in Congress simply do not get it. They simply do not understand what is necessary for the future of this country.

Jobs, high-tech jobs, good jobs, those 75,000 jobs, those are important. The ownership of homes by poor people, that is important. Giving them the opportunity to own something of worth for the future, that is what is important. Those are real important items. They ought to be debated. They ought to be debated on the floor here. They ought not be put away.

The Washington Redskins stadium, that is not important. If we are for a rule that gives the Washington Redskins the debate but not poor people, that is brain dead.

Ms. SLAUGHTER. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, today's debate on this appropriations bill is not really about whether this Nation should explore outer space. In the best of all possible worlds, all of us share the desire to have a well-funded space program that would allow us to probe the unknown and further our scientific knowledge.

But, Mr. Speaker, we do not live in the best of all possible worlds. In the real world, here on the planet Earth, our inner space is in disrepair. Let us explore the planet Earth for a moment. Five million children go hungry each year in America; some 2 million Americans, half of them kids, sleep out on the streets every night; hundreds of thousands do not have the inoculations for basic diseases; and some 85 million Americans have either no health coverage or scandalously inadequate programs. We cannot bring ourselves to fully fund WIC, or Head Start, or childhood immunization programs.

Here on planet Earth, Mr. Speaker, 13.5 percent of the population—some 33.5 million Americans—live in poverty and hopelessness. Millions of working class kids cannot begin to afford the college education necessary for them to pursue the dreams that proponents of the space station want them to hold. The standard of living for working and middle class people has declined over the past 12 years while the rich have been treated like heroic astronauts. And the list, as always, goes on and on.

In short, Mr. Speaker, we live in the richest Nation in the history of the world, yet we cannot even provide for the most elementary human needs of a large portion of our people. In the face of severe economic hardship for tens of millions of our citizens, this institution cuts Medicare programs for the elderly while many of our senior citizens cannot afford their prescription drugs. And those same seniors have children who are losing their good industrial jobs for low-paying service sector jobs. We cannot nourish our dreams on jobs flipping hamburgers.

Mr. Speaker, the debate here today comes down to priorities. The rule does not allow us to shift the $1.2 billion saved by cutting the space station into crucial domestic programs that address the problems I have mentioned briefly. But we all know that what really lies at the heart of this issue is our fundamental priorities.

The GAO estimates that the space station will cost $40 billion to build and $120 billion or more to operate over its lifetime. It will rob us today and in future generations by taking money away from the needs of those who are least able to imagine a better future for themselves and their families.

Given the crises we face here at home, Mr. Speaker, let's get our national house in order by voting for the amendment to cut funding for the space station. Let's focus on the down-to-earth human needs we face in the areas of health care, housing, jobs, education, the environment, and infrastructure. Let us allow the American people to believe in their Government once again by showing them that we in Congress can stand up for ordinary Americans by beginning to develop a whole new set of national priorities.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Michigan [Mr. TRAXLER], the chairman of the subcommittee.

Mr. TRAXLER. Mr. Speaker, I wish to commend the gentlewoman from New York [Ms. SLAUGHTER] for a very fine rule and express my appreciation in general to the Committee on Rules for the kindness extended to this subcommittee, as well as the gentleman from New York [Mr. GREEN] and myself over the years. We are very appreciative of that. I think they have provided for an orderly consideration of a difficult bill. I will say more about the bill when we get to general debate.

Mr. Speaker, there are several issues that have been raised here. Others will speak on the space station issue and the NASA budget. I want to say to the membership that the issue of HOPE ought to be taken in the context of the entire housing questions that are raised and that are funded within the bill.

For instance, the counterpart, in a sense, to HOPE is HOME. A few years ago, legislation authorizing both of these programs was signed into law. HOME is viewed by many as the finest of our housing programs.

Because of a shortage of money we were not able to recommend proper funding levels for some programs. Let me give Members some numbers. HOME last year was funded at $1.5 billion; the President's request for HOME this year was $700 million. The committee authorized and approved, and we hope we will have support for, $600 million.

In the case of HOPE, last year's appropriation was $361 million; this year's appropriation was $361 million; and the request of the President was $1 billion.

I understand that many people believe HOPE, philosophically, is the direction that the Nation should go. I must confess that my own philosophical view is that HOPE is absolutely a fraud, and we are selling the seed corn of this Nation. For those people who will come after the homebuyers, they will have no opportunity to live in government-provided housing. I think that is a mistake. I do not want us to sell off all government housing.

It is fair to say that there are many within the administration, especially within HUD, who believe that the Government should get out of the housing business. That is not my view. But in spite of my view, and perhaps because of the direction that the House gave us last year, we did put in $361 million for HOPE.

Because of our limited abilities and limited financial resources, we said at the subcommittee level that as a general rule we would fund the programs, at last year's level or the President's request, whichever was lower.

I must say that we followed that in connection with HOPE. We did not follow that in connection with HOME, I am sorry to report.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I would be very pleased to yield to the distinguished gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I thank the distinguished chairman of the committee for yielding, and thank him for his hard work on this bill where priorities were so much in question. The gentleman had to make very tough choices.

Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] was not able to yield to me as I had requested during his remarks, but I would commend to Members the committee report on pages 125 and 126 prior to voting.

Even if we are to eliminate the space station through the Traxler-Green amendment, it is important to note that $13.1 billion will remain for important NASA spending. For research and development, $6,670,000,000; for space flight, control, and data communications, $5,226,000,000; for construction of facilities in these tight budget times, $525 million; for research and program management, $1,600,000,000.

So I think it is important that when we spend over $13.1 billion, additional dollars, in tight budget times, we have a true commitment to scientific and research investment at NASA, but we do not need to make investments which are going to cost this country $120 billion over 30 years because of the way we are going to have to finance this station $80 billion in operating costs, $40 billion in construction costs; and billions more in the interest our taxpayers will have to put up for the debt financing used to pay for programs we can't afford.

Mr. Speaker, it is wrong. We ought to make the right choice for the American people, the right choice for NASA, and support the Traxler-Green amendment.

Mr. Speaker, I thank the gentleman from Michigan [Mr. TRAXLER] for yielding.

Mr. TRAXLER. Mr. Speaker, I thank the gentlewoman for that statement.

Mr. Speaker, I urge the membership to support the rule and to vote "yes" on its passage. I again extend my appreciation to the committee and to the gentlewoman from New York [Ms. SLAUGHTER].

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 180, not voting 17, as follows:

[Roll No. 331]

YEAS—237

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)

Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Price
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Stark
Stokes
Studds
Swift
Synar
Tallon
Taylor (MS)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—180

Allard
Allen
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
English
Espy
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Jones (GA)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Pastor
Paxon
Payne (VA)
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stearns
Stenholm
Stump
Sundquist
Swett
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zimmer

NOT VOTING—17

Boxer
Bustamante
Coughlin
Edwards (OK)
Hatcher
Hayes (LA)
Hyde
Jefferson
McCurdy
Savage
Solarz
Stallings
Tauzin
Thomas (GA)
Towns
Washington
Zeliff

☐ 1237

Messrs. PAYNE of Virginia, HANSEN, RAY, PASTOR, and RAHALL changed their vote from "yea" to "nay."

Mr. BENNETT, Mr. McMILLEN of Maryland, and Mrs. LLOYD changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DREIER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 253, noes 163, not voting 18, as follows:

[Roll No. 332]

AYES—253

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
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Smith (FL)
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Visclosky
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NOES—163

Allen
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Armey
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Bateman
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Shuster
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Smith (NJ)
Smith (OR)
Smith (TX)
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Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zimmer

NOT VOTING—18

Allard
Boxer
Coughlin
Hatcher
Hayes (LA)
Herger
Hyde
Jefferson
McCurdy
Pelosi
Savage
Solarz
Stallings
Tauzin
Thomas (GA)
Towns
Washington
Zeliff

Mr. RINALDO changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5679, and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. TRAXLER asked and was given permission to address the House for 1 minute.)

Mr. TRAXLER. Mr. Speaker, if I may take this opportunity to advise the Members of the importance of expeditious consideration of this matter today.

I want to bring to the attention of the Members and those who are here that this evening at 7 o'clock is Mrs. Hyde's funeral. I want every Member who so desires to be able to attend that.

Second, I am advised that the President will be meeting with a number of Members at 6 o'clock in the Longworth cafeteria. It is my hope that the Members will keep their voting cards in their pocket and that we can proceed to have recorded votes on only the critical amendments confronting us.

I do this only to accommodate the Members who wish to meet with the President at 6 o'clock, and for those Members who wish to attend Mrs. Hyde's funeral. I encourage the support and understanding of the Members on those two issues, and hope we proceed as expeditiously as possible.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

The SPEAKER pro tempore. Pursuant to House Resolution 529 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5679.

□ 1256

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, with Mr. BEILENSON in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. TRAXLER] will be recognized for 45 minutes, and the gentleman from New York [Mr. GREEN] will be recognized for 45 minutes.

The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume. I will be very brief.

We have before us today the 1993 VA, HUD, independent agencies appropriation bill.

We have told you before that this was going to be the year that we were going to be bringing to you the most difficult bill with the toughest decisions and, of course, we are correct on that. I suspect that next year is going to be worse, and I wish you all well.

We are short of dollars, to say the least, and we knew that we could not expect an allocation of money for this subcommittee that did very much more than cover our prior-year expenditures. That is essentially where we are.

Let me review quickly what the situation is, apples to apples. The VA–HUD outlay allocation was increased by about $2.3 billion above the 1992 level. Now, that is a lot of money, but unfortunately, from our standpoint, $2 billion of that $2.3 billion was dedicated to outlays from prior-year appropriations. That left us with only $350 million available for outlay increases above 1992 for every agency and every activity in the bill.

What that means is that if we held all programs, all agencies, to roughly the 1992 level, we would still have only $350 million for any programmatic increases above last year. By comparison, the President's request to us increased the HUD bill by close to $4 billion in outlays, including $2 billion in new outlays. Of that nearly $2 billion, almost half, $960 million to be exact, was requested for increases in that very popular and necessary program, veterans' medical care.

So the problem is very simple. If we funded the requested $1,119,000,000 veterans' medical care increase, which is $960 million in outlays, we had to find some outlays.

To begin with, we decided to hold all agencies and programs, and this is important, to roughly the 1992 level.

Next, we afforded some programs and agencies a special priority. The Community Development Block Grant moneys, which go to every community in America, were increased from the 1992 level of $3.4 billion to $4 billion.

□ 1300

Now, why did we do that? Well, because we felt the program delivers the best and most direct support to thousands of communities, big and small, throughout the Nation. It is not perfect, of course, but on the whole it puts the money where we think it ought to go, into the most severely depressed and poverty impacted areas of our cities. It allows the local mayors and councils to determine how this money is to be spent.

We also funded the salary accounts in the bill at only 25 percent of the requested increase above 1992. Now, the EPA, was given a special priority in view of the shortfalls in personnel that they have had over the last several years. We gave them a special priority. We funded them at 75 percent of the requested increase, and I think most Americans would support that.

Now, in case anyone should ask the question, let me answer it right now. We have limited all Washington headquarters offices of the various agencies to the 1992 level. In short, that is a freeze.

Now, on the other side of the ledger, a few programs were funded at less than the lower of the fiscal year 1992 level or the President's request.

For example, HOME, an excellent housing program, as I said during the consideration of the rule, was funded at $600 million rather than the $700 million requested by the President. Superfund was allocated $1.4 billion, a $200 million reduction below 1992. There will be more on that later.

HOPE, on the other hand, was treated the same as many programs and agencies, at the 1992 level or the President's request, whichever was lower. So HOPE received $361 million, which was last year's level. In other words, we did not treat HOPE any differently than most of the other programs in the bill.

But even after we had applied this tough policy to most activities, and it is tough, we still found ourselves $600 million short in outlays necessary to fund the President's request for VA medical care.

Now, at that point, we were really down to two sources of money. The first was NASA, and we cut NASA by $359 million in outlays below their 1992 level.

Second, we sought what we call outlay enhancers. These are not gimmicks, these are not delayed obligations. They are outlays gained by including legislation that has the effect of adding revenues to the Treasury or reducing expenditures. For your information, these enhancers we made use of are noted on pages 3 and 4 of the report.

First, $83 million was gained from medical care copayment savings. It does not hurt the program.

Second, $43 million was gained from raising the FHA mortgage cap and eliminating the 57-percent closing costs limitation.

Third, $215,400,000 was gained from including resale losses in the net value calculation for VA loans guaranteed in 1993 only.

These enhancers generated more than $300 million in outlays for the subcommittee and helped us close the gap. It allowed us to fund VA medical care at the President's request.

So what all of it translates into is this. Given our allocation, if we had not employed outlay enhancers we would come down to a clear choice between some very, very difficult issues. It could have been something like the space station versus VA or some other options, pitting VA against EPA, NASA, FEMA, or HUD.

It is just that simple from our standpoint. So we ended up with a balanced application of the pain, in the committee's judgment. That is where we are today.

I want to caution everybody here that two outlay enhancers we have employed are not protected by the rule. They are clearly legislation on an appropriations bill, and we expect they will be struck when the bill is read for amendment. That means that this bill will be nearly $300 million above its budget authority ceiling, and $300 million above its outlay ceiling. But I want to assure everyone that I intend to offer an across-the-board amendment reducing every program, project, and activity in the bill by approximately 2 percent in order to conform to the totals with both our budget authority and outlay ceilings. That amendment, and I am sure this will please you, will exclude the veterans' medical care account.

So Mr. Chairman and Members, we have done the very best job we could under very difficult circumstances. The bottom line is that there is not enough money to do everything all our friends would like us to do. No one feels more pained by that than I do.

The Nation does have a financial crisis. We are going to run a $400 billion deficit in 1993, and not a single person is raising that question during the course of these campaigns.

Now, the debt has grown from $990 billion to $4 trillion over the past 12 years, and more than 90 percent of that increase has been included in the President's budget requests to the Congress.

The Congress and the White House, in my judgment, have walked hand in hand in taking the country where it is today. Frankly, I think there is going to be a price to pay for the wonderful waltz that has been going on for these 12 years. There are going to be a lot of losers when the financial Armageddon comes due, and we do not hear a lot of complaints or a lot of concern about that. I think the American people probably will take that into consideration this fall.

In closing, Mr. Chairman, I do want to express my deep, deep appreciation to the ranking majority member on the subcommittee, the gentleman from Ohio [Mr. STOKES], and to my dear, dear friend, the gentleman from New York [Mr. GREEN], the ranking minority member.

I also want to commend the other members of the subcommittee: the gentleman from West Virginia [Mr. MOLLOHAN], the gentleman from Texas [Mr. CHAPMAN], the gentleman from Massachusetts [Mr. ATKINS], the gentlewoman from Ohio [Ms. KAPTUR], the gentleman from Pennsylvania [Mr. COUGHLIN], and all our prayers go to him today for his recovery, and the gentleman from California [Mr. LOWERY].

It is a superb subcommittee, and I am going to miss each and every one of them.

I would also like to pay special tribute to the subcommittee staff: Dick Malow, who has been on the subcommittee as a staff person for 21 years and is our clerk for 16 or 17 years; Paul Thomson, a subcommittee staffer for 22 years and a very dedicated public servant; Michelle Burkett, a staffer for 3 years who brings to the committee a very definite concern on many of the subject matters that are involved here, including EPA; and our detailee, Robin Lamott, who is a regular NASA employee serving on the subcommittee as detailee for 1 year. We will miss her when she goes back in several months from now, but we appreciate her service.

I would also in closing like to extend my appreciation to Fred Mohrman, Dennis Kedzior, John Mikel, and Greg Dahlberg of the full committee. I am very grateful to all the staff people for the work they have done in making this and prior year bills possible. They have served the Nation and the committee well, and for that I am very appreciative.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished chairman of our Appropriation Subcommittee, the gentleman from Michigan [Mr. TRAXLER] has laid out the problems we faced in this bill and the solutions at which we have arrived. To save time, I shall not reiterate what he has covered. I should, however, like to address a couple of areas, particularly those that came up during the debate on the rule preceding this bill, because I think it is important to set the record straight as to the history of public housing in this country and as to what we have done with respect to the housing programs in this bill.

Much was made during the course of the debate on the rule of the condition of public housing in this country. Let me say that as a result of an appointment by the distinguished chairman of our Appropriations Subcommittee, I serve on the National Commission on Severely Distressed Public Housing. The Commission elected me a cochair with Vincent Lane, the chairman of the Chicago Housing Authority, so that I have spent the last 1½ years visiting severely distressed public housing around this country and examining the problems of public housing.

Let me say that our Commission, as best it could, tried to find out just what proportion of the public housing stock fell in the category of severely distressed. It was our estimate that roughly 6 percent of the public housing that had been built in the country fell in that category.

People should understand that even an authority like the Philadelphia Housing Authority, which has some severely distressed public housing and plainly has very serious management problems, also had, when we visited, some housing developments that were running very well and providing very nice housing for the people who occupied them. So I have reasonable confidence in that 6-percent number.

Now, I have to say that if one looked at social programs that this Congress has enacted over the years, one would see that a 94-percent batting average is a pretty good one. If 94 percent of all the people on welfare got off welfare after a couple of years, never to return, if 94 percent of all the people who went to prison got out and never went back, if 94 percent of all the people who went into drug treatment were cured and never slipped again, we should say that we had some superb programs there. Alas, none of them begins to approach that level.

□ 1310

And I am sick and tired of people knocking public housing when it has this record that is far better than that of most other social programs this Congress has enacted.

There are very serious problems in some projects, as I indicated. Mr. Chairman, our commission has issued a preliminary report which addresses those. Our hope is that the committees on banking in the two houses of the Congress, which created our Commission, will review our findings, take those of them that they believe are appropriate and enact legislation to move forward to deal with the problems that have been raised. But I think people should understand that by and large this is not a program that needs to be wiped off the books and we certainly should not be getting rid of all the public housing in this country.

I do, however, want to say that I heartily applaud Secretary Kemp, our former colleague, for the fact that he has aggressively moved to deal with the problem of severely distressed public housing.

Historically, public housing was viewed primarily as a local program. The Federal Government provided a loan guarantee and a subsidy which covered the debt service on the construction of public housing, but the Federal Government was not significantly involved in the operation of public housing.

But with the 1968 Housing Act, that changed; the operating subsidy for public housing began and gradually over the years the operating subsidy and the modernization program have become larger and larger. At this point, public housing is a program in which the Federal Government is deeply involved. At this point, I do not think it is enough for us to say, as past HUD Secretaries have said under administrations both Republican and Democratic, that we are not going to step up to the plate when the local authority fails.

I commend Secretary Kemp for stepping up to the plate, for acting aggressively to deal with severely distressed public housing, and I want him to know that he has my support in that effort.

But I also want him to know that I do not feel that the appropriation we have provided for HOPE in this bill represents some sort of slap at him or slap at the administration. That is simply not the case. The fact of the matter is that the 1990 housing bill contained two major innovations in terms of housing programs. One, the HOPE Program, clearly had its genesis with the Bush administration and with Secretary Kemp. That is a program which, through a variety of approaches, tries to stimulate low-income home ownership.

The other, the HOME Program clearly had its origin in the Congress of the United States and particularly the housing subcommittees of the Senate and House banking committees. The HOME Program is a classical block grant program funding municipalities and States around the country to deal with their housing priorities.

Now, last year we were very fortunate because a ruling by OMB on the consequences of the conversion of the section 202 nonprofit program for the elderly and the handicapped from a loan program to a grant program enabled us to recapture some $1.5 billion of budget authority on a one-time basis. And it was that $1.5 billion that enabled us to provide a very generous appropriation to the new housing programs in last year's housing bill.

As I indicated, that was a one-shot deal, and it is over with. We now have to live within the fiscal constraints of the fiscal year 1993 budget with no such one shot to help us out.

The fact of the matter is, when you look at what we did to the congressionally originated program, the HOME Program, I think we dealt very fairly with the administration. We level-funded the HOPE program so that it may continue at the level we set for it last year.

We cut the HOME Program by $900 million. So, again, I do not think anyone on the floor of this House or in the administration has the right to suggest that we are dealing unfairly with the HOPE Program or that we are destroying the American dream, by not funding it. We are treating it a lot better than we were able to treat the HOME Program.

Finally, I should like to conclude this portion of my remarks dealng with HUD by reference to the community development block grant.

At some sacrifice in terms of the other parts of our bill, we have provided a $600 million increase over the current fiscal year for the community development block grant. That is $1 billion over the President's request. That, I believe, is a significant step on the part of our subcommittee to try to deal with the urban problems which have flared up into public recognition so violently this spring.

The community development block grant program is about the most flexible money that flows from the Federal Government to our Nation's cities. Mayors and city councils have a broad range of discretion as to how to use it so that they can address their highest priorities, so that they can deal with the major causes of distress in their communities.

I am proud of the fact that we have responded to this crisis with this very significant increase in a program which will allow the local communities to address their own problems in accordance with their own priorities and their own perceptions of their needs.

Let me conclude by turning very briefly to the space program.

We shall have a fuller debate on that when we get to the space station. I think everyone should understand that within the space program and within NASA, the space station is a black hole sucking in the resources of the agency.

We have already had to cancel the solar observatory; we did that in last year's bill. We have declined funds to start the infrared observatory. At the administration's request, we have eliminated the Comet Rendezvous Asteroid Fly-By Program.

Most tragically of all, from my point of view, NASA now has no funding to participate in the NASP Program, the national aerospace plane, which I think is absolutely vital for the second- and third-generation-ahead technology for civil aviation. I deeply regret that, but the decision to include the space station inevitably led to that result.

I hope that the amendment will carry today which Mr. TRAXLER and I will offer, so that we can achieve some savings on the deficit. And I think that is very important. One-third of a trillion dollars a year deficit is simply intolerable from the point of view of our Nation's economy.

And second, passing of the Traxler-Green amendment will produce a more balanced space program that will really emphasize space science and what the space program can do to help the human race.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the distinguished dean of the House, the gentleman from Mississippi, chairman of the full committee and chairman of the Subcommittee on Agriculture of the full Committee on Appropriations, and a very dear friend of mine, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I congratulate the gentleman from Michigan [Mr. TRAXLER], the gentleman from New York [Mr. GREEN], and my fellow members of the subcommittee for the good job done in putting this difficult bill together.

This is a very important bill. It provides funds to meet the needs of our veterans, for housing, for the National Science Foundation, and the National Aeronautics and Space Administration. This is a changing world, and much of the money in this bill is for the purpose of keeping up with scientific developments. If we are to retain our leadership role in the world, it is more important than ever to continue making research investments that will provide direct and indirect benefits to the Nation.

I think we have done a good job in trying to balance the various programs in this bill—veterans, NASA, housing and the like. Included are funds for housing for the elderly and the handicapped and other housing programs, community development grants, emergency shelter grants, supplemental assistance for the homeless, hazardous substance Superfund, waste water construction grants, disaster relief, emergency food and shelter program, the National Science Foundation, and the National Aeronautics and Space Administration, including funds for the advanced solid rocket motor program which will be constructed at Yellow Creek in my district.

Mr. Chairman, the advanced solid rocket motor [ASRM] was developed after the *Challenger* shuttle tragedy in 1986 on the recommendation of the Presidential Commission on the Space Shuttle *Challenger* Accident and NASA.

The recommendation was made to improve shuttle safety, improve shuttle reliability, increase shuttle payload by 30 percent—12,000 pounds, eliminate the need to throttle shuttle engines, and replace all asbestos materials.

NASA also told us it was essential to build a Government-owned facility to ensure quality control over manufacturing processes. The baseline plan for Air Force/NASA heavy lift launch vehicle calls for use of the ASRM.

The site, Yellow Creek, in northeast Mississippi, was chosen because it was already owned by the Government, it already had roads, power, water, and other utilities in place, and it was adjacent to the waterway transportation system.

Those factors saved a year and $100 million.

The ASRM is cost effective—it will cost one-third less than the present motor—10 flights with ASRM can carry the load that now takes 13 flights.

Mr. Chairman, the reasons given for starting this program are still valid. We still need ASRM for reliability, safety, and payload.

I commend the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] and the other members of the subcommittee for their work on this bill, and I urge the bill be adopted.

Mr. GREEN of New York. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana, Mr. BURTON.

□ 1320

Mr. BURTON of Indiana. Mr. Chairman, I have been down in this well a lot talking about pork and wasteful spending, and about the huge deficit and where we are heading. I start off by saying that we are heading toward a $13½ trillion national debt in just a few short years, and the gentleman, as the chairman of the Committee on Appropriations, has had to listen to this so many times. I apologize once again, but in about 7 years the interest on the national debt is going to be as much as all of the personal income taxes coming into this country, and that means we are going to have a difficult time dealing with our problems because we will not have any money unless we print money, monetize the debt, and I think that is what we are heading toward, and that will be what is known as hyperinflation, where a loaf of bread will cost 25 or 30 bucks and a quart of milk will cost $25 or $30.

Mr. Speaker, we have to deal with our financial fiscal problems today if we are going to head that off, and that means we have got to put a cap on entitlements, we have got to do away with pork barrel projects, we have got to come to grips with these appropriations bills that we are dealing with today, and one of the amendments we are going to be dealing with today is the Space Station which is very controversial. A lot of the people who voted for it in the past are ambivalent about the issue because of the costs involved.

But let me talk about another part of this bill and why it is so important. This bill has been touted as a fiscally responsible bill. The gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] have both said they are concerned about the deficit. Let me just say to my colleagues that I know they are trying to do a good job, but unfortunately there is still pork in this bill.

There is $8 million in there for the Delta College Learning Centers and Delta Community College in University Center, MI, and it is for a Challenger Center Planetarium, and I do not believe that has been authorized. There is $50 million for the Consortium for International Earth Science Information Network's headquarters building in Saginaw, MI, and this has not been authorized. Both of those are pork barrel projects.

In addition to that, we talked about getting control of spending. This has a $6.367 billion increase in 1 year in spending. That is $6,367 million more, $6,367 million, $6.367 million, a 7.9-percent increase at a time when we are headed toward economic disaster in this country.

In the entitlement area they increased spending by $0.37 billion, almost a 20-percent increase. Yesterday in the Labor-HHS bill we increased spending by $24 billion, almost a 24-percent increase in 1 year, and today in this bill we are increasing entitlements almost 20 percent. We have to put a cap on entitlements. Otherwise there is going to be economic disaster.

And then we get to discetionary spending. That is the only part I can attack today with my amendments, and we are increasing discretionary spending, including these pork barrel projects I just talked about, by almost $3 billion, about a 5-percent increase, which is well above the inflation rate of 3.1 percent.

The bottom line is once again the committees come before this body and say, "We've done everything we can to control spending," and the fact of the matter is the discretionary spending went up by 5 percent, the entitlements went up by 20 percent, and overall it is almost an 8-percent increase in spending. We have got to put caps on spending. If not, the children in this Chamber and the children across this country are going to pay a terrible, terrible price for our excesses.

Mr. TRAXLER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. STOKES], the ranking member on the subcommittee.

Mr. STOKES. Mr. Chairman, I rise in strong support of H.R. 5679, the fiscal year 1993 VA, HUD, and independent agencies appropriations bill. I want to take a moment to commend my distinguished colleague and chairman, the gentleman from Michigan [Mr. TRAXLER] and the ranking minority member, the gentleman from New York [Mr. GREEN], with whom I have had the privilege of working to bring this important measure to the floor.

Let me say that BOB TRAXLER is one of the finest individuals I have had the pleasure of knowing during my tenure in Congress and I consider him to be a valued friend. Today's action on the fiscal year 1993 VA, HUD, and independent agencies appropriations bill culminates for BOB 18 years in Congress and of service to the subcommittee, which he has admirably chaired for 4 years. Under his leadership, our subcommittee has championed numerous programs that benefit our Nation's citizens. We all owe him a debt of thanks for his outstanding service to this body, his constituents, and our Nation. His commitment to this country is reflected in the bill we bring before you today.

Mr. Chairman, I also want to acknowledge the leadership of BILL GREEN, the ranking minority member on this subcommittee. It is a pleasure to work with him on important issues related to our cities.

Mr. Chairman, H.R. 5679 provides funding for programs that are crucial to the very existence and future of this country. As I have expressed many times in the past, the VA, HUD, and independent agencies appropriations bill contains what I call people programs—programs for individuals and families of all ages, incomes, and backgrounds.

In H.R. 5679, we support veterans and their families through benefits and compensation, we provide them housing loans, and furnish their medical care and treatment, which received a significant increase as requested in the President's budget. This bill funds housing programs, not just for the poor, elderly, and homeless, but also those that provide mortgage and loan guarantees. In fact, this bill enhances many of the very programs that are the primary opportunities for home ownership in this Nation. There are provisions that address the very pressing problems of our cities and communities, where we have witnessed decay and destruction due to insufficient resources. This bill also provides funding to support our efforts to clean up the environment, including lead-based paint abatement, hazardous waste removal and control, and pollution prevention and control. Moreover, efforts to improve projected shortages in our math and science work force and to improve our technological infrastructure are supported as well. This includes the National Science Foundation and its programs.

Mr. Chairman, last year we underwent a very difficult appropriations process. I thought that it was the more trying markup I had ever experienced. Unfortunately, each year seems to become increasingly difficult as a result of our constrained budget. Our committee had some hard choices to make in order to provide funding for these pressing domestic programs.

In doing so, we had to prioritize our support for these programs knowing that the level of funding provided for the VA-HUD appropriations was well below what we needed to meet projected targets for this year. Given this situation, the bill we have before us satisfies no one completely, but is a good faith effort to provide for the citizens of this country.

I am pleased, Mr. Chairman, to have incorporated in this bill provisions of particular interest to me that address important domestic issues. This includes provisions addressing the mixed population problems in public housing, an issue that has plagued public housing authorities nationwide. By allowing for the establishment of elderly only housing, while at the same time providing for reasonable efforts to provide alternative housing to handicapped and disabled persons, including the set-aside of housing assistance programs, H.R. 5679 strikes a balance in meeting the needs of our senior citizens as well as the nonelderly.

The bill also requires further analysis of the Public Housing Management Assessment Program [PHMAP] interim rule. This ensures that the PHMAP program is administered flexibly so that public housing agencies are not penalized as a result of previous levels of operating or modernization funding, or local market conditions.

In addition, the bill supports several activities at the Environmental Protection Agency [EPA] aimed at addressing the disproportionate risk to environmental hazards faced by racial minority and low-income communities. H.R. 5679 also includes language to expand minority participation in numerous EPA programs. These goals are also included for NASA and the Resolution Trust Corporation.

Moreover, I take great pride in knowing that this bill provides support to improve conditions in section 27 at Arlington Cemetery, which is the original site for burials or former residents of Freedman's Village and U.S. colored troops who served in the Civil War. This area was the first Government sanctuary for freed slaves of the Civil War. With the support provided by this committee, long overdue recognition of this historical site will be achieved.

Mr. Chairman, as we debate this bill, there will be several amendments made to adjust funding for various programs. Some of these I support; others I do not. In the end, I only hope that, as we proceed with our deliberations, we do not make the mistake of performing a balancing act on the back of those less fortunate in our society. I urge my colleagues to follow the leadership of our chairman and join me in support of H.R. 5679.

Mr. GREEN of New York. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member would like to thank the chairman and the ranking minority member of the House Appropriations Subcommittee on VA/HUD and independent agencies for their efforts on behalf of the many native peoples in our country who lack affordable housing.

Mr. Chairman, the distinguished gentleman from Michigan [Mr. TRAXLER] and the distinguished gentleman from New York [Mr. GREEN] have been consistently responsive and supportive to the needs of the this Nation's native peoples.

According to the U.S. Census Bureau, almost 24 percent of all Indians living in Indian communities lack adequate shelter. The national average of homelessness is estimated at 6.4 percent. Indians have nearly four times the amount of homelessness of the general population. Many houses on Indian reservations lack running water or indoor plumbing of any kind.

The inclusion in this measure of $257.3 million for Indian housing new construction will certainly move toward alleviating this housing shortage.

The funds appropriated here for Indian housing new construction will build approximately 3,000 new units for Indian families. Currently, there is almost no rehabilitation stock or vacant habitable housing available in Indian country. This Member applauds the chairman and ranking minority member of the subcommittee for recognizing the dire need for new construction and for their efforts to provide that construction.

In addition, Mr. Chairman, this Member expresses his appreciation for the committee's support of the Environmental Protection Agency's ground water protection program.

H.R. 5679 includes an increase of $500,000 for the ground water protection program which currently provides 13 States with a resident EPA ground water expert who trains and consults rural communities in protecting their ground water.

The increase would allow funding for six additional, and as yet, undetermined, States to the program.

Ground water protection is an extraordinary important issue for States like Nebraska, where 95 percent of the residents rely on wellwater for their drinking supply. Additionally, most of the communities in Nebraska have decentralized water supply systems. These small water systems in rural communities face the greatest technical challenges and enormous financial costs in complying with Federal mandates for drinking water. Costs associated with the cleanup of contaminated wells far exceed preventative costs.

Therefore, this Member believes that the EPA's ground water protection program is especially effective for nonmetropolitan portions of States like Nebraska because it deals prospectively with the potential costs and risks of contaminated ground water by assisting small water systems and rural communities in designing and implementing their own individual ground water protection plans at the local level.

Ground water experts provided through the program can assist rural communities in avoiding contaminants such as volatile organic compounds, pesticides, nitrates, lead, copper, and radioactive elements. These preventative measures could save thousands of dollars in required tests and treatment of individual wells for rural communities.

Ultimately, this important program will mean a safer and less expensive drinking water supply for rural Americans.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I would like to commend the chairman, Mr. BOB TRAXLER and ranking minority member, Mr. BILL GREEN for their diligent work on the VA, HUD, and independent agencies appropriations bill, H.R. 5679. I would like to bring to the chairman's attention of needs in my district related to section 319 of the Clean Water Act, the nonpoint source program.

Some months ago, I met with a number of my constituents and the North Carolina Western Piedmont Council of Governments regarding a project that many of the local governments in the western part of the State are supporting. It is a comprehensive water quality study, the Upper Catawba River Basin Water Quality Program, which is designed to assess the health of the Catawba River and its tributaries to ensure a safe drinking water supply and determine appropriate future uses along the river's banks.

The local governments are making a significant financial contribution, however, it is necessary to secure Federal funds to complete the study. I have been informed by the Committee on Public Works and Transportation, of which I am a member, that this study would be eligible for funding under section 319 nonpoint source program.

Is that the gentleman's understanding?

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BALLENGER. I yield to the gentleman from Michigan.

Mr. TRAXLER. Yes, sir. Let me say to the gentleman that it is my understanding that, according to the authorizing committee, this study would be eligible for section 319 funding. This proposed study is truly a forward-looking one and will provide a blueprint for other States and localities interested in ensuring a safe and adequate water supply for their communities while ensuring a proper role for development along the water's banks. I commend the gentleman for his interest in this program.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman from Michigan.

□ 1330

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. LEHMAN], a member of the full committee.

Mr. LEHMAN of Florida. Mr. Chairman, I yield to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise before my colleagues today to engage in a colloquy with Mr. TRAXLER, the distinguished chairman of the VA-HUD Appropriations Subcommittee, and Mr. BILL LEHMAN, the distinguished chairman of the Transportation Subcommittee of the Committee on Appropriations.

Chairman LEHMAN, as you know, you included language in your transportation appropriations report that will do a great deal to speed up a highway project in my district. Improving a section of Highway 41 is critical to reducing congestion, improving safety, and creating jobs in the area. For this reason, I have been working with the California Department of Transportation and Madeira County to try and speed this project up.

In order for this process to work, the Federal Highway Administration, the Environmental Protection Agency and the State and local entities must work together in a committed effort to put this project on the fast track.

Mr. Chairman, I appreciate your putting language in the transportation appropriations report that allows this project to go forward in an expeditious fashion.

Mr. LEHMAN of Florida. I would be happy to work with you further on this issue. I am aware of the tremendous safety risks and environmental danger posed by the current highway alignment.

Mr. LEHMAN of California. Chairman TRAXLER, I hope that you will urge the Environmental Protection Agency to move expeditiously on this project. This project does not violate any normal or standard environmental processes or procedures, it simply compresses the time period for these processes to occur. I would greatly appreciate your support and assistance in ensuring that EPA works with the Federal Highway Administration, Caltrans, and other State and local entities.

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield, I am aware that this is primarily a highway project, however, since the EPA will play a role in the environmental procedures, I would urge EPA to move as quickly as feasible on this issue.

Mr. GREEN of New York. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, at the appropriate time in this debate we will be asked to vote on the amendment sponsored by the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] to delete funding for the space station. I think it is appropriate at this point to discuss and to describe exactly what that space station is and what it is not.

There is currently in the subcommittee room for the Subcommittee on Space a beautiful rendering of a lovely space station. There is a model of that same space station in the committee room, and I look at it very often. It is a splendid, marvelous creation, but it is not what we are going to be voting on today. It is not the program that is currently under consideration.

Mr. Chairman, this is the space station that is in the committee room. It was conceived in 1984. It was supposed to be completed this year. It was going to have a total cost of $8 billion and a crew size of eight.

It was going to perform a remarkable array of functions. It was going to be a staging base to launch deep space missions. It was going to be a doorway into space. It was going to be a manufacturing facility; that is, a factory in space to manufacture products in a zero gravity environment. It was going to be a space-based observatory, not just for the stars, but also for the Earth. It was going to combine features of the Hubble telescope and other space observatories with features of a multibillion Earth observing system.

It was going to be a transportation node, a little loading dock where other satellites could be hauled in for servicing, and it would be a service facility to repair and modify spacecraft and satellites.

It would be an assembly facility to assemble spacecraft from parts brought from the Earth, and it would be a storage facility as well to store fuel and supplies for use in future missions and for repair activities and manufacturing.

Finally, its eighth function was to be a research laboratory for life science and for microgravity.

That is what the original conception was. That was the dream.

This is the reality. Space station *Freedom* in 1992, of course, will not be completed this year. Its completion date is perhaps 2002. The completion date keeps slipping as the funding is reduced on a year-to-year basis.

The total cost has escalated from $8 billion to $40 billion, and the crew size has been halved from eight to four. That results in an even greater proportional cut in the number of people on board who can actually do scientific experiments, because you need two astronauts actually to run the spacecraft.

It will no longer be a staging base. The manufacturing facility is gone. The space-based observatory is gone. The transportation node is gone. The servicing facility is gone. The assembly facility is gone. And the storage facility is gone.

All that is left is function No. 8, the research laboratory, doing work that is important, but which is not worth $40 billion.

To those who say that this reduction in the capabilities and some of the escalation of the costs of the space station are the fault of Congress, I say that is in large part true. It is regrettable, but it does not alter the reality of the situation or the issue at hand today.

The space station we are voting on today is this space station.

To those who say that the original capabilities can somehow be achieved at some later date for some extra money, well, there are no estimates in dollars of how many billions of dollars it is going to be. There is no estimate as to how far into the next century we are going to have to go to accomplish this, and in fact there are no plans to do so.

That is why I call space station *Freedom*, as downsized, space station lite. Five times the cost, one-eighth the capability. Instead of being a doorway to space, space station *Freedom* will lock the door to space by diverting funds from other more worthwhile programs. I will discuss some of those programs in the debate on the amendment.

Mr. TRAXLER. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from Minnesota [Mr. SABO], a member of the full committee.

Mr. SABO. Mr. Chairman, first let me say what a pleasure it has been to work with the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] over these years on their subcommittee.

Mr. Chairman, as the gentleman from Michigan [Mr. TRAXLER] leaves the Congress, we are going to miss him. The gentleman has done an outstanding job. It was my privilege for a number of years to serve with the gentleman on that committee, unfortunately, not since he has been chairing it, but the gentleman does outstanding work and we truly will miss his contribution.

Mr. Chairman, I rise in support of the bill's administrative provision which would allow public housing agencies to restrict future admission to projects they designate as elderly housing. This provision gives our Nation's seniors, handicapped, disabled individuals, and other eligible groups better access to appropriate public housing.

Too many seniors are afraid to live in high rises originally built for senior citizens. Changing situations in the eighties opened senior high rises up to other groups including mentally ill and handicapped occupants. A problem arises when neither HUD nor the cities have the ability to provide the services and staffing needed by such a mixed population. My district, Minneapolis, has been plagued with a variety of serious problems in these buildings including a few homicides. Because of these problems there has been a rapid decline in the senior populations of its high-rise buildings. Currently, only 46 percent of the public housing tenants in Minneapolis are elderly, over 62, and of the 1,216 high-rise applications currently in progress, just 7 percent are elderly. Clearly, this mixture of senior citizens and handicapped/disabled persons poses serious problems and these problems become more serious as the senior population gets older. Further, handicapped and disabled people are being housed with no thought given to their unique needs.

In spite of this crisis, HUD has refused to allow any efforts to draw distinctions among public housing residents, with one exception. HUD has permitted or encouraged an exception that isolates families with children from all other populations. HUD takes the position that Federal law forbids either elderly only projects or special needs facilities in public housing. Rather HUD takes the position that Federal law requires the mixing of elderly and nonelderly public housing populations. Yet, every civil rights law, including the Fair Housing Act, permits age-distinct housing.

The provision we're discussing in this appropriations bill would improve the lives of all people eligible to live in these homes. It solves the problems of mixed populations by letting local authorities offer increased choices for all eligible residents and applicants. Public housing authorities should be able to tailor their available housing to the needs of their local populations. HUD should provide general and technical guidance, but must allow the local authorities flexibility to provide housing to all eligible groups while protecting their rights.

In order to meet the diverse housing needs across the country, local authorities must be able to offer age-distinct housing as an option. It has been shown that age-distinct housing offers a number of benefits. It only makes sense that people with unique needs or requirements be given the option to live together.

I want to emphasize that this change would provide a range of living options to all eligible residents, and would not displace anyone or force people to move against their will. Residents meeting the terms of their lease will have the right to stay where they are. The provision would not change that. It will, however, give all residents, current and future, the opportunity to select housing more appropriate to their needs.

Mr. Chairman and members of the committee this provision is the beginning of a solution to a very distressing problem.

□ 1340

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, the gentleman is correct. I am advised by the distinguished chairman of the authorizing committee, the gentleman from Texas [Mr. GONZALEZ], that he intends to address this issue. They have already worked on it in subcommittee, either in their full bill, authorizing bill, or they will bring it out on suspension at the appropriate time.

He shares the gentleman's concern, and I commend the gentleman for his interest and his dedication on this issue. It is one that should have been attended to, as the gentleman from Texas, Chairman GONZALEZ, said, "several years ago."

Mr. SABO. Mr. Chairman, I thank the gentleman.

I would ask the gentleman from New York, does he have the same understanding of what the authorizing committee intends?

Mr. GREEN of New York. Mr. Chairman, if the gentleman will yield, I do.

Mr. SABO. Mr. Chairman, I thank the gentleman.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I appreciate the gentleman yielding me this time.

We have heard about what this debate is and what it is not. Let me note that, as we debate this space station, it is not a debate. I will say what it is not.

What it is not is a debate over 1 particular space program called space station *Freedom*. What it is is a debate about the future of the aerospace industry in America. And what it is is a debate about America's technological position in the postcold war world.

For four decades the aerospace industry has permitted us to technologically deter war with the Soviet Union. Aerospace engineers and workers deserve a great hand of thanks, of approval and appreciation, as to our vets, in what they provided America during the cold war. They provided us the technology, the equipment, the weapons systems, the radars, et cetera, that we needed to win the cold war without fighting, without having a massive death on both sides of the Soviet Union and the United States.

Now we are in a period of transition out of the cold war into a more peaceful world. The aerospace industry, a powerhouse for America, is vulnerable during this period of transition. Is the space station justified? You bet.

Because of cooperation with our former enemies, we are going to bring down the cost of space station. However, if we cancel the space station, what will happen is the American aerospace industry will be derailed in its transition from cold war into a peaceful competitive world. If America is to remain the world's leader, it must remain the technological leader in the world as well.

Aerospace is imperative and the space station will keep the aerospace industry a viable industry while we go through this transition from a defense-related industry to a commercial-related industry.

I ask my colleagues, when we look at this, when we go to this vote, to vote for the future, make America the technological leader in the future. Vote for space station.

Mr. Chairman, we have to look at the space station program within the context of what's happening in the rest of the globe. The historic changes in what was the Communist world have opened an incredible new vista for space commercialization, utilization, and exploration. We can now accomplish our space station goals at a much lower cost than imaginable only a short time ago. A cooperative or business arrangement with the newly democratic republics which once upon a time were part of the Soviet Union offers us tremendous opportunities. Let's hire their scientists and put their systems to work for a profitable project. Together, using the Energia rocket, we can put space station *Freedom* into orbit—and save billions of dollars.

In the past there were justifiable concerns about the cost of this project and whether we had the means to follow it through to completion. With a truly international space effort, a global project can emerge based on the cooperation of free peoples. What better, more wonderful way to promote peace and progress?

Dr. Edward Teller is an enthusiastic supporter of this strategy. He knows we can and should work with newly democratic Russia, furthering both of our interests, almost literally turning swords into plowshares. This kind of cooperation will, Dr. Teller asserts, help to solidify democracy, freedom, peace, and progress in the countries emerging from Communist tyranny. All this, at the same time that we establish an outpost in space for mankind at a significantly reduced cost. The savings come through fewer space shuttle missions. Perhaps as much as $15 billion can be saved by using five Russian Energia heavy launchers. The jobs involved in the construction and development of space station *Freedom* are made more secure by protecting the financial viability of the whole program. Yes, we've got to cut unjustified programs, but to cut station now when we at last can keep costs under control is ludicrous.

I would hope that those who have been talking about making hard choices will look at the NLS Program instead of station. The NLS Program appears to be totally duplicative. It recreates medium-lift capabilities we already have with the commercial Delta, Atlas, and Titan launch vehicles. And it duplicates heavy-lift capabilities now relatively inexpensively available from a democratic Russia. With space station we'll at least get something tangible, something unique and useful for our money.

Mr. Chairman, instead of funding backwaters like NLS, we should instead be funding watersheds, like space station *Freedom*, like the SSTO Program, and like the National Aerospace Plane Program. These watershed programs will keep America moving forward, energizing our industrial base, opening new potential for the private sector, for commercialization.

Mr. Chairman, I urge my colleagues to defeat the Traxler-Green amendment.

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to a distinguished member of the subcommittee, the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I would like to take this opportunity to commend our chairman, the gentleman from Michigan, on the outstanding job he has done as chairman of our subcommittee and in putting together this bill.

Since assuming his position in January 1989, he has made some hard choices in developing priorities, and this year has certainly been no exception. It has been my honor to serve on the subcommittee of the gentleman from Michigan, Chairman TRAXLER, and to benefit from his guidance and his leadership. He has always been fair and open minded in all his dealings, and his manner and conduct set an example for all public officials.

But he is also a strong chairman, and he has wrestled with a stringent domestic discretionary allocation to successfully bring to the floor a balanced, responsible menu of budget priorities.

Our outlay allocation was $447 million less than the President's request, and the outlay increase we did receive was predominantly consumed by prior year outlays, leaving only $350 million for program increases to take care of burgeoning veterans medical care costs, HUD programs, the environment and vital technological investments.

It is only our chairman's knowledge of all the programs in our jurisdiction and his sincere respect and appreciation for the mission and work of this committee that has allowed us to meet the most dire needs of this country while maintaining budget discipline.

Mr. Chairman, the House will be losing a tremendous asset in January when the gentleman from Michigan, Chairman TRAXLER retires. But I can assure the chairman that his knowledge and handling of his responsibilities will have a positive, lasting influence on this subcommittee and this House for many, many years, and I wish him well.

Mr. GREEN of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE], a member of the Committee on Appropriations.

Mr. KOLBE. Mr. Chairman, I rise today to talk about this appropriations bill. I am not a member of the subcommittee but I am a member of the full committee. During the course of the last couple of years I have become involved with people at the Department of Housing and Urban Development and others in some aspects of this bill.

Today I want to concentrate on two issues: First, which was discussed in the rule, but I think deserves more discussion, is the adequacy or inadequacy of funding for home ownership programs; second, I want to talk about the funding for programs for environmental cleanup along the border.

Taking the first issue, there was an amendment Mr. ESPY and I asked to be made in order. But, the Committee on Rules decided not to make it in order. This body agreed it should not be made in order. That amendment was to increase funding for the home ownership program.

HOPE is a program which permits low-income minority people to have an opportunity to share in the American dream, to own just a little piece of equity in the American dream, by owning their own home. That was turned down, and so today we have a freeze at last year's level.

Now, we are going to hear from members of the subcommittee and others how grateful, how grateful this administration and those who believe in this program should be that the program got frozen at last year's amount. But HOPE is authorized at nearly 3 times this amount by the Congress. Now, we are told we should be grateful that it is being funded at one-third of that amount.

This is a program of the future. I think everybody in this body knows this. We can stand here and hold our hand up against the tide of water, but we really cannot stop what is clearly the way we will go with housing programs in the future.

The Democratic Party recognized that. It is in their platform, the platform they adopted in New York. It says, home ownership opportunities for poor people, for minorities, should be increased. And that is all we are asking, a chance to enact one piece of the Democratic platform, by increasing those opportunities for home ownership. We do not take a dollar from any other funding. We do not reduce any other program by any amount, but simply by taking money from carryover funds to add to the home ownership program.

That is what this body ought to do, and that is one of the reasons why I think this bill is so poorly structured.

Mr. TRAXLER. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Ohio [Ms. KAPTUR], an outstanding member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I want to commend the chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] for their leadership in bringing a bill to the floor which is $4.2 billion under the President's request and falls within the budget caps, which is the real issue for us, certainly, on this subcommittee.

I want to say to the gentleman from Michigan, our distinguished chairman, how very much we appreciate his work, not just this year but in prior years as chair of this subcommittee. We are going to miss him very, very much. I think that the people of this country who have been benefited from his careful work will also miss him.

□ 1350

For those of us who are junior members on the subcommittee, he has always treated us with respect, with attention, and with courtesy, and taught us much about how to serve in this Congress. I think this particular bill is a last tribute to his efforts.

I commend the chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER] and gentleman from New York [Mr. GREEN] for their leadership in bringing a bill to the floor which is $4.2 billion under the President's request and falls within the budget caps. Having received only a 5 percent increase for fiscal year 1993, we are barely keeping up with inflation over last year's discretionary spending. Mr. Chairman, we are all well aware of the tough choices the Appropriations Committee has had to make; I believe that the VA, HUD, and Independent Agencies Appropriations Subcommittee, because of the diverse interests we serve, has to make some of the hardest decisions with respect to our Nation's priorities.

As the chairman mentioned, because of a lack of outlays the subcommittee was left with only $350 million for any increases for all programs. The subcommittee has given VA medical care the highest priority—a decision I wholeheartedly support. There are few that can argue against adequate funding for our Nation's veterans. By providing for the President's full request for medical care, it was necessary to hold some programs to fiscal year 1992 levels or the President's request, whichever was lower, as well as provide additional funding through outlay enhancers in the VA and HUD accounts. These actions were not ones that the subcommittee wanted to take but became necessary in our attempt to prioritize programs.

Mr. Chairman, we will later take up an amendment to delete funding for the space station and I hope to address the House later on that issue. However, I would like to briefly say that this really is a question of priorities. In my view, veterans care, our housing needs, the infrastructure of our country and investment in our Nation's future through education and science programs should be our priorities—not a space station that is estimated by GAO to cost $120 billion and, $80 billion operating costs and $40 billion in construction whose value has been challenged in the scientific community.

Having previously served on the House Veterans' Committee, I am especially concerned that we do not build the space station on the backs of our veterans—veterans who are faced with a Department of Veterans' Affairs that has been forced to reduce services, delay basic maintenance, and raise fees. Nonetheless, to the chairman's credit, we have been able to fund VA medical care and VA medical research at the administration's level. Furthermore, this bill provides for the continuation of all of the veterans programs. Included in the bill are funds for post-traumatic stress disorder [PTSD] research, housing for the homeless chronically mentally ill veterans, and support services for our veterans who are disabled because of their service for this Nation. These programs and countless others work to ensure that our Nation provides the basic care that we owe the veterans who answered the call to arms in protection of freedom and liberty.

The Nation's housing problems are by no means solved. At least 8 million renters are in crowded, dilapidated, or otherwise problematic housing, including 5 million who have worst case needs according to HUD. More than 2 million low income homeowners are strapped into paying inordinately high percentages of their income for housing. And over 600,000 people—by conservative estimates—are homeless without shelter at all.

Thus, America merits an increase in housing funding. In response, the subcommittee provided the biggest increase it could, adding roughly 6 percent above the fiscal year 1992 level to yield a total of $24.5 billion for HUD in fiscal year 1993. Though this level still languishes far short of the funding levels HUD enjoyed in the fiesta seventies when total HUD funding pushed $35 billion, it is one more sure step to recovery from the sharp drops in HUD funding in the eighties.

This year's bill is full of highlights, but I will mention just two. First, the subcommittee showcased its commitment to urban problems by appropriating a full $4 billion for the community development block grant [CDBG] program. The CDBG program is arguably the subcommittee's best tool for transforming cities and towns, since the program boasts nationwide distribution and allows the city's experts themselves to divvy up the funds among a vast array of eligible activities from housing to economic development. Second, the subcommittee has provided over $25 million to fund the family self-sufficiency program as well as $25 million to fund family investment centers. These initiatives together will break the cycle of dependence on Federal subsidy by helping public housing residents access job and educational opportunities near home. By funding these programs, the subcommittee has clearly demonstrated its commitment to saving Federal dollars and—more importantly—our citizens' personal independence.

In the area of environmental protection, the subcommittee was able to provide $2.4 billion for the State revolving funds/construction grants program for the construction of wastewater treatment facilities. As the Chairman mentioned at full committee, our wastewater treatment needs are great—and are particularly severe in the older communities in the Midwest and the Northeast. The infrastructure of America needs help and we must maintain and, in fact, increase our funding to provide for the safety and health of our citizens. My own district has been a victim of the combined sewer overflow problem and has struggled to adequately address this problem through limited funding. A 1988 EPA survey estimated that the eight Great Lakes States would need to invest another $27 billion by the year 2008 for municipal wastewater treatment improvements; these States must complete more than 700 projects to ensure that municipalities meet at least secondary treatment standards.

The subcommittee has also provided $63.5 million for nonpoint source pollution grants—a $37.5-million increase over the administration's request. The administration has never funded this grant program at an adequate level and our subcommittee has always responded with the funding needed to address this ever growing problem.

I urge the House to give consideration to this bill and to think seriously about our priorities and how they affect the citizens of our country. There are ever increasing demands on this subcommittee, and as the decade unfolds, they will be even greater. The space station will consume, if it is to be continued, larger and larger pieces of a smaller and smaller pie. We cannot jeopardize America's veterans, our housing programs, environmental and science investment at the expense of funding an increasingly costly space station.

Again, let me just thank the distinguished chairman and say, sir, this will be the last bill that he will bring to this floor as chairman of our subcommittee, and I want to thank him on behalf of the members of the committee and the Congress and the country for his valiant service to the people of our Nation. God bless him.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the distinguished leader of the Committee on Science, Space, and Technology, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, this bill forsakes President Bush's call for a critical investment in our children's future. This bill contains $85.9 billion in budget authority, $4.4 billion over fiscal year 1992 appropriated levels. The VA/HUD/independent agencies received $2.35 billion increase in outlays during the allocation process, but despite the massive new spending in this bill, the committee has proven it is willing to begin the process of killing the entire space program.

The committee has submitted a report which claims, and I quote:

> NASA had to be substantially reduced in order to provide for the President's budget request in medical care. NASA outlays, therefore, were reduced by $359 million below the 1992 level.

What the committee does not say is that nearly $600 million has been added to that cut to make the real NASA cut over $1.5 billion, including a half billion dollar gutting of the space station, reducing space science and transportation, zeroing funding of the national aerospace plane, and saying "no" to the lunar precursor missions that will ultimately return us to the Moon and take us on to Mars.

For what are we killing tens of thousands of high-technology jobs? There are dozens of earmarked projects in the bill which amount to over $1.4 billion. Do not insult our intelligence about spending priorities. The truth is simple. The committee has cheated our children and America's future generations, all for short-term political gains. The NASA earmarks alone total $573 million, enough to make up for the shortfall in the space station funding.

To those who say that other science has benefited, I point out that the National Science Foundation received a $151 million increase, still well below the President's increase, and hardly evidence of a devotion to science.

I am also disappointed that this zeroes out funding for the National Space Council, another shortsighted move. We cannot afford to lose the leadership of the Council, which has proven itself to be an effective oversight body, providing clear direction in areas such as Landsat, NASP, space commercialization, space launch, and industrial base issues.

I am encouraged, though, by the report language which indicates the chairman's willingness to restore funding for the National Space Council during negotiations with the other body. I urge my colleagues not to squander the valuable resource of the National Space Council.

Mr. TRAXLER. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from California [Mr. BROWN], chairman of the full Committee on Science, Space, and Technology, one gentleman with whom we have worked very closely over the years.

Mr. BROWN. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time. I will not repeat the praises that I lauded on him during the debate on the rule, but I know that he understands my high regard for him.

Mr. Chairman, in the brief time that I have during this general debate I really just want to point out something that I have tried to say over and over again during the course of the past 2 years. That is that we have a direct and inescapable relationship between our investments in research and investment in this country, and our ability to promote economic growth and to provide good jobs for the people of this country.

We are in a situation today where, having won the cold war, we are reducing our expenditures on the military. We should be at the same time increasing our expenditures on civilian research and development. As I have pointed out many times, our chief competitors, economic competitors such as Japan, invest about 3 percent of their gross national product in civilian research and development. In civilian research and development in this country, we invest about 2 percent of our gross national product. Measured as a percent of GNP, Japan invests about 50 percent more than we do in the United States.

This is the worst time for us to consider decreasing those investments in civilian research and development. The NASA Program, our space program, the program funded in this bill, represents almost half of our total civilian research and development expenditures—investments—in this country. Yet, as the chairman has indicated, we propose to reduce by almost $400 million below last year's outlays the expenditures for NASA.

As my distinguished friend, the gentleman from Pennsylvania [Mr. WALKER] just indicated, we are proposing a $500-plus million decrease in the space station; again, the centerpiece of our investments in space in this country. At the time when we should be increasing our investments in civilian research and development, we are cutting them to the bone.

Despite this, Mr. Chairman, after 25 years on this committee and 25 years of supporting the space program, I never expected the day would come when I would praise the chairman for only cutting NASA by $400 million below last year's expenditures, and by only cutting the centerpiece of our space program space station *Freedom*, by $500-plus million. I praise him to the skies for being able to do this, because the alternative is much worse than that.

Mr. Chairman, distinguished colleagues, we once again find ourselves debating the space station question. This will be the fifth time in as many years that the House will have an opportunity to vote on whether or not to continue this project which lies at the very heart of the civil space program.

Over the past few weeks and in the hours ahead, Members will be presented most of the same arguments that we have heard before. Indeed, some quotations from various scientists and scientific groups are now in their third reprinting in the "Dear Colleague Letter" cycle. I wish we could pay as much attention to the other important things the scientific community has to offer.

I would like briefly to review these arguments to place our debate in context. First, why should we build a space station?

After a decade of neglect during the seventies, the United States embarked on a rebuilding of our space program and a commitment toward long-range goals in space. A crucial part of this rebuilding was the decision to build the space shuttle and the space station.

Simply said, the space station is the centerpiece of our whole national effort in space. Termination of the space station would be a major step backwards and other major portions of our space program including the shuttle, our new commitments to science, and technology development would soon follow.

We have painstakingly negotiated written commitments with our international partners including 13 European nations, Canada, and Japan. The space station is also the centerpiece for their space efforts and, together, they have contributed to the program over $2.6 billion with a total commitment of $8.4 billion.

These contributions have come at great sacrifice to other programs within their respective countries—programs that could just as well been competitive with the United States. Each of these partners has expressed great concern that we would once again find it necessary to reconsider our commitments. I would like to include in the RECORD recent letters from these partners.

The space station will be our only orbiting laboratory in space which can use the unique microgravity environment for long durations. We envision that this will lead to breakthroughs in materials development and biomedical research. It will also be the first step toward a permanent infrastructure in space that will enable other manned and unmanned space activities.

The space program contributes significantly to the national economy and its benefits are extraordinarily widespread. Numerous studies show that the multiplier effect, the indirect benefits, are in fact greatest for States such as Indiana, Michigan, and Illinois which do not have space facilities. Overall, the space station itself accounts for over 75,000 jobs nationwide.

These are real jobs in 39 States with a current value of over $7 billion. During this period of decline in defense spending, programs such as the space station will help maintain the industrial base and provide for the transition to other productive civil and commercial markets.

Opponents of the space station have made several valid points which should be clearly recognized. But they have also introduced several distortions which have clouded and confused the debate.

First, cost—has the cost of the space station increased since it was first proposed in 1985? No one has been more concerned over cost increases than the Committee on Science, Space, and Technology. In fact, we commissioned a comprehensive GAO review of the cost of the space station which was released 1 year ago.

This study documents that the cost increased from a total of $12 to $18 billion from 1985 to 1988 when actual contracts were signed. During this period, two things occurred: the station program went through its actual definition and feasibility study phase to establish an actual engineering concept; and of even more significant, the budget for the station was cut by Congress in each fiscal year. The GAO could not separate out these two factors, however it is axiomatic that when the budget is cut and schedules are delayed, costs will increase.

From 1988 to the present, the cost of the station has remained constant. In fact, the cost figure today—$16.9 billion—is slightly less than the figure established in 1988, primarily because Congress directed that the station cost be reduced and redesigned last year. NASA carried out this direction and the program we see today complies in every respect with congressional guidelines.

Unfortunately, opponents have clouded this real issue with an endless variety of distortions To emphasize their point, opponents have tried to compare constant dollar cost estimates with cost estimates which include inflation. They have tried to add annual operating costs to development costs. They have also added NASA personnel costs, costs for scientific experiments, and so on, to the development costs to attempt to compare endless varieties of apples and oranges. I trust that Members will not be misled by such distortions.

The second point opponents have raised is the difficulty of accommodating the Station's costs within an overall allocation that also funds veterans, housing, environmental protection, and the National Science Foundation. Again, this is a valid concern. The bill we are considering today makes a significant reduction in NASA and in the space station in order to accommodate the increases proposed for Veterans medical care, housing programs, and NSF.

The fact is, however, that these other programs were increased at the expense of NASA and the space station. While we would have recommended a more equitable treatment for NASA, we are not here today to question the judgement of the appropriators in making these decisions. We recognize that NASA may have to get by on no better than a freeze level. However, we also believe that the station can be accommodated within that level. It makes little sense to cut NASA and also attempt to dictate the specific programs they need to carry out their mission.

Finally, there is the question of scientific merit. As I have described, the station is envisioned to be a facility, a crucial part of our infrastructure in space, but is not itself a scientific project. We hope and envision that use of the microgravity environment will facilitate some exciting discoveries. Among these, the development of new materials and the study of biomedical processes.

Like any new undertaking however, there is a wide diversity of opinion on this matter and no one can state with absolute assurance that specific new discoveries either will or will not be made. Thus, Members have been bombarded by quotations from some in the scientific community who hold contrary view points. To be sure, there are two sides to the story and it is up to us to make the prudent judgements.

The microgravity environment is a great untapped resource for scientific experimentation and the station is a bold investment to capture that resource. I am confident that new discoveries will be made. Just as pundits of the past questioned the voyage of Columbus, the practicality of computers, and the merits of Apollo Program, our debate and equivocation today may seem laughable in the future.

Again, I urge my colleagues to join me in helping to define and meet the real challenges that are before us. The need to make long-term investments such as the space station and to balance this need with those of veterans, homeless, and others will be difficult in these austere budgetary times. I hope that we can brush aside the distortions and red herrings and vote on this, the real issue. I urge you to join me in supporting the space station.

Before I conclude my statement I would like to comment on the National Space Council.

The appropriations bill zeroes the fiscal year 1993 appropriation for the National Space Council. However, the HUD, VA, and independent agencies subcommittee indicated in its report it is not its intention to eliminate the Council. Rather, this is a signal that the subcommittee wants the Executive Secretary to testify before Congress.

I certainly hope and believe that is the case. We cannot afford to lose the leadership the Council provides. Already it has played a major role in keeping our major space programs alive and viable.

I was most impressed with its hard work and leadership on the Landsat Program. This is a vital program which contributes in critical ways to both civil and national security objectives, and the Council is to be commended for its successful effort to bring management and funding stability to the program. I was also impressed with the Council's work in restructuring the EOS Program. This, too, is a vital program for ensuring we can make reliable predictions about global change and global warming. We have been successful, with the Council's help, in reducing the technical and cost risk associated with the program and ensuring we get results faster.

Its efforts in commercialization, space launch, and industrial base are also timely and needed.

The Council has recently commissioned two important studies. The first focuses on making space launch more cost effective and the second is intended to develop long-range solutions to our diminishing aerospace industrial base. The most respected names in space from the civil sector will lead these efforts. We need these initiatives and the results they promise.

Let's keep the National Space Council in operation. It provides a lot of leadership for a small investment.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I rise today in support of H.R. 5679.

Mr. Chairman, a year ago I introduced an amendment to a dire emergency supplemental which would have appropriated $500,000 for a National Academy study to examine wetlands delineation and ensure that good science, not politics, is the foundation for the wetlands manual.

While the dire emergency supplemental may not have been the best place to introduce this measure, I feel very strongly that the Congress should appropriate money for this study. The fiscal year 1993 VA, HUD, and independent agencies appropriations bill contains such funding and I commend the chairman of the VA, HUD Subcommittee, Mr. TRAXLER, and Mr. ATKINS, who worked so hard to include money for the NAS study.

Our States are currently struggling with the desperate need to protect wetlands, and the difficulty of a regulatory system in flux. Both Federal and State officials in the field are trying to make the wetlands protection system work, but they work under the constant shadow of a regulatory system that changes year to year.

In order to ensure continuity in the program, the Federal Government must establish the facts regarding what wetlands are and where they are located. It is essential that we rely on scientists and scientific data to define and delineate wetlands, how they function, and what values they provide our ecosystems. An NAS study would do this.

This bill will provide this desperately needed study and I commend my colleagues who have supported it.

A scientific—unpoliticized understanding of wetlands will reduce the regulatory quagmire—not add to it.

Regulations regarding wetlands that are based on science will enhance and improve our economy in many ways.

□ 1400

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to my good friend and colleague, the distinguished gentleman from Michigan, [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I want to say first of all that one of the real privileges for me in serving in this institution these past 14 years has been to work with my distinguished colleague from Michigan, Mr. TRAXLER. I have greatly benefited at every stage from his advice and counsel and from his friendship, and his absence from this institution will be a major loss from this institution.

I rise in support of this legislation, but I want to speak particularly about the amendment that the gentleman from Michigan [Mr. TRAXLER], and the gentleman from New York [Mr. GREEN] will be offering subsequently that I am cosponsoring to kill the space station appropriation.

Mr. Chairman, we understand that for many of our colleagues in this institution this is a very difficult question politically, particularly for those of our colleagues who come from States that have high concentrations of aerospace industry, most particularly, California, Florida, and Texas.

But let me say in all candor that I do not think that this institution has been presented with a question that is easier to decide on the merits. The only legitimate justification for building a space station is that it contributes to meeting our national objectives in space. And what are those objectives?

The advisory committee on the future of the U.S. space program—the Augustine Committee—laid out very clearly that the No. 1 priority is space science. My colleagues, the space station has nothing whatever to do with space science. That claim that it is relevant to space science is purely science fiction.

Let me quote from a statement that has been released by 74 of the Nation's preeminent space scientists, joined in as well by the Planetary Society representing some 1,000 other space scientists. They have said—and this is what we are being told by the space scientists themselves:

> Space station *Freedom*, as presently designed, has virtually no relevance for most of the space science disciplines, such as space astronomy, solar system exploration, Earth sciences, or solar and space physics.
>
> Constructing the space station, as it is now planned, cannot be justified on grounds of its scientific usefulness or its importance to a coherent national plan for space exploration, because it has neither.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEWIS], a member of the committee.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague for yielding me the time. I have risen for two purposes today.

First, I want to express my deep appreciation for our chairman, BOB TRAXLER, who I hope will be supporting the space station. BOB, it has been a pleasure and also a privilege to serve with you, not just on the Appropriations Committee but also for some years on this subcommittee as well. You are a great Member of the House and will be a friend for life. I want you to know we all appreciate you very much.

In the moment that I have left let me say that America has been at her best when she was reaching out and discovering her horizons. There is absolutely no question that our future lies beyond some new horizon that we have not yet dreamt of.

Manned space efforts are fundamental to our Nation's space program.

Space station *Freedom* represents the next logical step in our exploration of the limitless potential of space. To suggest that we should turn our back and walk away from this important program is to ignore all the lessons of our past. The space station holds the potential of our future.

The previous speaker suggested that space scientists do not see the value of the space station in light of the investment. There are statisticians and statisticians. We all know there are scientists and scientists. I can site just as many scientists who believe that the future of our space effort is very much linked to space station *Freedom*.

I urge my colleagues to support this program and oppose the amendment which would cut this funding.

Mr. TRAXLER. Mr. Chairman, I yield 1½ minutes to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I too would like to commend the gentleman from Michigan for the outstanding job that he has done chairing the subcommittee, as well as here in Congress.

I wonder if I might engage him in a colloquy with regard to a matter that has been brought to my attention.

Mr. Chairman, in Oklahoma City there are a number of underutilized HUD-insured multifamily housing units. I have been approached by local leaders to see if the Department of Housing and Urban Development could make one of these facilities available for a pilot demonstration project. The idea would be to convert one of these underutilized housing projects into a satellite of the Guthrie, OK, Job Corps Center to provide training, housing, and child care to AFDC mothers.

The Guthrie Job Corps Center is located 35 miles from Oklahoma City and provides an excellent job training program for AFDC mothers to help them get off welfare and into the work force. Unfortunately, the problems of transporting these young mothers from Oklahoma City of Guthrie—70 miles roundtrip—and finding adequate child care for their children are causing many of these young women to drop out of the job training before they complete the program. That only continues the cycle of dependency.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I commend the gentleman for bringing this matter to our attention. I think it would make an excellent demonstration project. We thank the gentleman for his interest and his creativity, and we will work with him to see that it is achieved.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I would like to talk on behalf of the space station. I do not know anything about outer space. I have never been there. I do not understand technology.

But I do understand a little bit about research. Let me tell Members about research. Research is a very, very difficult thing to prove. You cannot get a return on investment on it. You cannot calculate, the way you do a usual budget, but it is still very, very important.

Let me read a quotation from one of my heroes, a person who is the director of one of the great research laboratories in this country:

> For the maximum human good, history has amply demonstrated that the indirect method to study nature for her own sake is most fruitful in practical results.

I submit that despite the fact that you cannot prove that this thing is going to work, you cannot prove that there is going to be benefit as far as crystal technology, as far as computers are concerned, as far as computer chips, pharmaceuticals, materials, hardware, that inevitably, because of the basic work, it is going to take place.

Someone mentioned here that we ought to concentrate on inner space rather than outer space. I am saying this is inner space. This is where the ultimate truths of the practical work are going to take place.

We are here. We are a country that is struggling to regain our economic leadership. It is going to happen because of our new science, and this is one of the great horizons, one of the great opportunities we have.

Mr. TRAXLER. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. BACCHUS].

□ 1410

Mr. BACCHUS. Mr. Chairman, I rise in support of this bill and in strong, strong support of space station *Freedom*.

Some say we cannot afford to build space station *Freedom*. I say we cannot afford not to build it. We cannot afford to relinquish a generation of American leadership in exploring space. We cannot afford to allow one more vital American industry to be shipped overseas. We cannot afford, in the midst of a painful recession, to throw 75,000 more Americans out of work. We cannot afford to ignore all that the space station will do by focusing solely on what it will not do initially. We cannot afford to see the glass as one-third empty when it is really two-thirds full. We cannot afford to throw away all the scientific engineering and all the technological advances that space station *Freedom* surely will inspire.

Most of all, and in conclusion, we cannot afford to cast aside the sweat and the sacrifice and the dreams of a generation of Americans who have reached for the stars and have brought us to the threshold of the universe.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BACCHUS. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I want to commend the gentleman. He and I have frequently discussed this matter. We are on opposite sides. I want to commend him for the strength of his views and the clarity of his position.

You know, the gentleman has nearly convinced me. I want him to know how much I appreciate the manner with which he has conducted himself and the eloquence with which he has made his case.

Mr. BACCHUS. I thank the chairman and invite him to the Kennedy Space Center when we launch the first shuttle that will construct the space station *Freedom*.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I rise in strong support for continued funding for the space station *Freedom*. A great deal has been said regarding the cost and need for this program. I believe the financial contribution to the station is small compared to the enormous benefits—both economically and technologically—that will be gained from proceeding with the project.

Space station *Freedom* will be a unique laboratory in space for research in the biomedical and materials sciences, and in engineering. Recently, the Department of Health and Human Services entered into a historic agreement with NASA to conduct biomedical research on the station. We can only imagine the breakthroughs that will occur in this research as well as other technical advances that may result. The potential impact on our economy is enormous. To date, advances in laser surgery, telecommunications, and computer technology all resulted from our commitment to the space program and space exploration.

Unlike the superconducting super collider, the space station *Freedom* has received over $2.6 billion from foreign investors and over $5.4 billion more is expected. This is the largest cooperative and cost-sharing project in science and technology in the world. Even the Republic of Russia is currently negotiating contracts with the United States to incorporate some of their technologies into the space station program.

The new Administrator of NASA, Daniel Goldin, has committed himself to a "cheaper, faster, and better" NASA. The agency has already taken its share of cuts for the new fiscal year with the space station alone taking a 14-percent reduction. The $1.7 billion budgeted for the space station represents a 23-percent reduction from what the administration requested.

Again, I urge my colleagues to continue funding for the space station *Freedom* and recommit ourselves to space exploration, a goal our country set three decades ago. As the great American author James Michener so eloquently stated when testifying before a House committee in April:

> Space exploration fosters American values of pushing new boundaries and undertaking new challenges. Space exploration represents America's commitment to leadership and a national spirit of excellence.

Mr. TRAXLER. Mr. Chairman, I yield 1½ minutes to my good friend, the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I seek to engage in a colloquy with my distinguished colleague and friend, the gentleman from Michigan [Mr. TRAXLER].

This past Monday, the House passed under suspension of the rules a bill I authored, H.R. 5400, the Comprehensive Services Program for Homeless Veterans Act of 1992. This bill is the culmination of many months of work between Mr. MONTGOMERY, Mr. STAGGERS, Mr. EVANS, Ms. KAPTUR, and myself and others to create the ideal vehicle that will guide the VA and the community based organizations toward creating the most successful homeless veterans programs possible. This bill will:

Enhance existing VA programs by increasing the number of VA homeless veteran programs, and increasing the number of veterans benefits counselors in programs that serve homeless veterans.

Establish a Federal grant program that will allow community based organizations to develop and maintain programs designed to meet the specific needs of homeless veterans in their communities.

Authorize the Secretary to make properties available for homeless programs through leasing, leasing with an option to buy, and donations.

Would the chairman agree that this is an innovative approach that the VA should use in dealing with homeless veterans?

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I want to assure the gentleman that if his programs are authorized, we will work very closely with him to allocate $20 million of the 1993 medical care funds for these newly authorized programs that he has led the way on, is the champion of, and deserves our congratulations and appreciation.

Mr. KENNEDY. I thank the gentleman very much, and I look forward to working with him.

Mr. GREEN of New York. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, a little bit later today we are going to have an amendment to kill the space station *Freedom*, and I rise today in strong opposition to this amendment and urge my colleagues to vote against it.

The space station is the only way we are going to get manned space exploration in the future. There is no sense in stopping this kind of a program in midstream in the name of some other alternative for a couple of years or something.

If you kill space station *Freedom* now, you are killing manned exploration in space for decades to come, and that is being penny wise and pound foolish, it seems to me.

We need to keep this program alive. It does a lot of good. You are going to hear a lot of debate about scientific this and scientific that and a lot of other things.

But the one thing you cannot do, if you do not have the space station, is put men in space for extended periods of time to study them in an actual environment of a weightless state. We need it if we are going to explore the galaxy.

This is the first step to the galaxies.

However, beyond the galaxies, Mr. Chairman, is also the practical fact that the space station is an investment, and like all investments its benefits will not necessarily be seen in the short term. Yet it is our duty in this Congress, and it is a duty we too often neglect, to take the long view; to see what will benefit this country in the future.

The space station represents the cutting edge in aerospace technology and will ensure that the United States remains in the forefront of that industry. In 1991, there were 1,164,000 jobs, or 6.7 percent of our industrial labor force, employed in the aerospace industry. This even after accounting for cutbacks related to reductions in defense spending.

This is significant, Mr. Chairman, because the space station is an integral part of our battle to remain competitive in the international marketplace. No other nation on Earth has as extensive a Space Research and Exploration program as the United States. In this area we are way ahead of our competitors and it defies reason that we should give up such an advantage. In fact, in 1990, the Commerce Department estimates that our trade surplus in the aerospace field was $27.2 billion, exceeding all other industrial sectors of the economy. Mr. Chairman, those who would abandon the space station for reasons of a presumed fiscal responsibility should remember that figure.

Yet beyond that, I would add that the space station represents not only our continued efforts to remain competitive, it also represents America's ongoing efforts to cooperate with its allies and to stay engaged in the world around us. The United States has signed agreements with Europe, Japan, and Canada in which they will contribute as much as $8 billion to the development of the space station. For we in this Congress to, in effect, unilaterally abolish those agreements would destabilize a whole network or cooperative agreements and would call into question our trustworthiness with our allies.

Thus, for reasons both practical and poetic, we in this Congress must vote to continue funding the space station. We cannot even pretend to know what the future holds, but we in this country cannot flinch from that future. We must remain on the cutting edge of technology and in the forefront of scientific research and space exploration.

I urge my colleagues, in the strongest terms, to defeat the efforts to kill the space station.

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. ATKINS], a distinguished member of the subcommittee.

Mr. ATKINS. Mr. Chairman, I rise in support of the legislation and also to express my appreciation for our chairman, the gentleman from Michigan [Mr. TRAXLER].

Mr. Chairman, this bill is perhaps one of the most complex and difficult bills that comes before this House. There is no other appropriation bill which contains so many of the hopes and dreams for Americans and contains so many of the programs that assure a quality of life.

It has been an extremely difficult and complex process to cast a balance between the environmental protection, the veterans, the research, the space, and the housing programs in this bill, and the chairman, the gentleman from Michigan [Mr. TRAXLER], has done, I believe, a splendid job in crafting that balance in assuring that we have cost effectiveness in our programs, that we are willing to start new initiatives where they are necessary, we are willing to examine old programs and end funding where that is necessary.

I believe that his retirement from Congress will leave us with a great void in this program, but he certainly has left an enormous and an important legacy for us.

I would also hope that we are able to pass the Traxler-Green amendment which would eliminate funding for the space station. That is the one blemish, if you will, on the legislation that needs to be corrected. The space station is a program which will destroy our ability in future years to fund veterans' programs, to fund housing and environmental protection.

Mr. GREEN of New York. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to finish the thought that I was making earlier about the second problem in this bill. It is an issue that has not been discussed at all today. That is the question of border environmental programs.

I am very concerned about a program that the President and all of us in Congress have recognized as extraordinarily important. It is the problem that exists along the border. We have a very serious environmental problem. Everybody recognizes that.

The President made a modest request for funds in the Environmental Protection Agency to deal with some of these problems. That funding has not been granted in this bill.

The House will shortly be talking about a North American Free-Trade Agreement. At least, it appears likely that we will see an agreement brought to the Congress in the 103d Congress.

One of the issues that everybody is talking about is how we must deal with those environmental problems that persist along the border.

If we are going to have a free-trade agreement, we need to start now; with or without a free-trade agreement, we must deal with the environmental problems along the border, and the bill that is before us today fails to do that. The administration includes in its request $5 million to begin the next phase of the wastewater treatment plant in Nogales, AZ, to serve the needs of the Nogales community in Arizona and in Sonora. This project is desperately needed. But funding was denied by the subcommittee.

This body should do more than talk about the border environment. We must provide funds for it.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I thank the distinguished gentleman. I rise in support of H.R. 5679, the VA, HUD, and independent agencies appropriation bill for fiscal 1993.

I want to take this opportunity to commend the Committee on Appropriations for including a provision which allows the State of Texas greater flexibility to use Federal funding to improve wastewater treatment to colonias, the impoverished communities in Texas along the United States-Mexico border that lack basic water services.

Under this provision, funding from the special revolving fund can be used in Texas for the purpose of connecting colonia residences to sewer collection systems and making any necessary plumbing improvements to enable colonia residents to meet existing county or city code requirements.

The appropriations bill amends section 205 of the Federal Water Pollution Control Act to give the Governor of Texas discretionary authority to set aside up to $50 million in funds made available for State revolving funds and construction grants for the purposes of improving wastewater treatment for colonias. Any funds set aside can be used for grants or for deposit in the special revolving fund authorized by Public Law 101–144.

Mr. Chairman, there are some 200,000 people living in the colonias of Texas. These communities are home to families living at or below the poverty level in substandard housing without basic human services such as electricity, other utility services, and without drinking water, or proper wastewater drainage and treatment.

The proliferation of colonias is a threat to the environment and to the general health and well-being of the residents and the surrounding areas as well. Many colonias residents rely on water from irrigation ditches or shallow wells. This water is dangerously contaminated and is often transported and stored in used 55-gallon chemical drums.

The improper disposal of raw sewage in these communities has led to a high incidence of gastrointestinal diseases, especially among children. There have been reported cases of cholera in these communities.

Those of us who represent districts with colonias have worked hard over the years to get Federal and State attention focused on these problems. Earlier this year, I urged the administration to include a three-point action plan to assist colonia residents within the Environmental Protection Agency's proposed United States-Mexico environmental plan for the border. I urged that the border plan include money for basic water and wastewater infrastructure, water and wastewater hookups, and a much-needed clearinghouse network for the delivery of information and services available to colonia residents at the Federal, State, and nonprofit level.

I am pleased the administration gave its support to these recommendations in its border plan, and following it up with a budget request that $50 million in EPA funding go toward providing wastewater services to colonia residents.

Mr. Chairman, I understand the extraordinary pressures felt by the Appropriations Committee in prioritizing needs and requests in this appropriations bill. I want to thank the Committee on Appropriations and especially Subcommittee Chairman TRAXLER for his willingness to work with me to develop language that at least provides the State of Texas some flexibility in targeting further funds to colonia problems.

This small change will go a long way in meeting the needs of our border communities in Texas, and in improving life for the 200,000 colonia residents. I look forward to working with Governor Richards to ensure that funds are set aside and used in the most effective manner possible to facilitate the construction of wastewater facilities and hookups for colonias.

Mr. Chairman, I thank my colleagues on the Appropriations Committee for their action, and I urge adoption of this bill.

Mr. TRAXLER. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Huntsville, AL, Mr. CRAMER, a member of the authorizing committee.

Mr. CRAMER. Mr. Chairman, I thank the distinguished chairman. I want to congratulate the gentleman from Michigan and the gentleman from New York [Mr. GREEN] on working through a very difficult appropriations bill.

I want to speak on behalf of the VA, HUD, and independent agencies appropriations bill. I am particularly concerned that we consider space station *Freedom*. It is a jobs bill. It is important, but it is important to the young people of this country.

I want to focus on the education of our young people. Our Nation is facing a crisis with the scientific illiteracy of our children. Science, mathematics, and engineering studies have emerged as a central goal in our education initiatives. If we give up on the space station program, then we are depriving those bright young people of a goal and an object that they can hold on to. We need these careers in science, mathematics, and other engineering studies, and I think the space station program is the program that we need.

Mr. TRAXLER. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Indiana [Mr. VISCLOSKY], a member of the full committee.

Mr. VISCLOSKY. Mr. Chairman, I rise in strong support of H.R. 5679 and in strong opposition to the creation of the space station.

Mr. Chairman, recently, there has been a lot of talk and some confusion about the family values that we all revere. I would like to clear up the confusion as it relates to the $30 billion space station.

As we all know, Murphy Brown is a fictional character. So are Luke Skywalker, Captain Kirk, the Jetsons, and the Robinson family. As much as we would like to help them, a $30 billion space station will not help improve their lots in life. Luke and Darth will still do battle. Captain Kirk will still have problems with warp drive. George Jetson will still have to work for Mr. Spacley. And the Robinson family will still be "Lost in Space."

Meanwhile, back on Earth, $30 billion could make a galaxy of a difference to improve family values; $30 billion could put people back to work; $30 billion could help our children read and write; $30 billion could make our streets safer, $30 billion could clean up the environment; and $30 billion could dent our massive deficit.

Yes, $30 billion dollars would make a real difference to families all over the United States. Imagine "Leave It To Beaver" if Ward was unemployed, undereducated, and housed the Cleavers in a bullet-ridden neighborhood?

I urge my colleagues to vote for family values. Vote to kill the space station. Let us address our many real problems here at home so the United States can go where no country has gone before.

Mr. GREEN of New York. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Earlier, Mr. Chairman, a Member referred to a memorandum of understanding that was recently entered into between the National Institutes of Health and NASA, and used this memorandum of understanding to make the claim that somehow the space station was relevant to biomedical research and was going to make some significant contributions in that regard.

I want to draw the attention of my colleagues to a letter sent just recently, dated July 28, to Mr. Goldin, the Administrator of NASA, from the Director of the National Institutes of Health, Dr. Bernadine Healy. In this letter Dr. Healy expresses how disturbed she is by the implication that "NIH views future space experiments as critical to the overall success of the biomedical research enterprise."

She goes on to summarize the view of NIH:

> It is not as clear precisely how the unique space environment might be used as an experimental tool to advance research on conventional health problems.

She closes with this statement:

> And we continue to believe that it is too early to determine the true value of space research in contributing to the solution of conventional health problems encountered on earth. I would urge NASA to make every effort to convey a balanced assessment of the future role of space research in the national biomedical research system in order to avoid the serious disservice that will result in the creation of unrealistic expectations and over-promises.

I submit, Mr. Chairman, that once again we have science fiction being advanced in the guise of science. There is no legitimate argument that can be made in the area of space science that the space station program will advance the mission of NASA. Indeed, just the contrary is the case. If we go ahead and build the space station, we will risk gutting the most critical, highest priority, space science ventures. That is why the Augustine Committee established to take a look at the proper priorities of NASA concluded that unless NASA could be confident of a 10-percent annual real growth increase in its budget over many years into the future, it should abandon the planned mission to Mars and the Moon, with the space station as an element, because it would otherwise significantly compromise much higher priorities within NASA's own mission.

Mr. Chairman, a vote for the Traxler-Green is a vote to avoid further injury to NASA. It is, in reality, a vote to save NASA.

Mr. TRAXLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER], a member of the full committee.

Mr. VOLKMER. Mr. Chairman, I rise in strong support of the bill and of the space station.

I would like to repeat the remarks made by the gentleman from Kansas [Mr. GLICKMAN] last year on June 6, when we were debating the same issue.

> I think it was the Bible that said "Without vision, the people perish." Well to a large extent that wisdom is relevant to America, where we, without vision, would not be leading the world as we currently are economically, militarily, scientifically, socially, and spiritually.
>
> The space station may not be perfect in concept or design, but to abandon it now would be to give up on the vision of space exploration for years and years to come. That decision would be a serious mistake for the future scientific and economic strength of America and that decision would attack the dreams of millions of Americans, particularly young Americans in school today, who dream the dreams of our future because of America's space program. That decision would also be in direct contravention to the policies enunciated by this country since the days that John F. Kennedy led this country into the glories of space frontiers. Let us vote for * * * keeping the space station alive, realizing that its scope and concept and may need to be modified and modernized in the years to come. The future is at risk in this vote. Let us not abandon the future for shorter term priorities. Our children and grandchildren will never forgive us.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR], a member of our subcommittee.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman very kindly for his graciousness. I would like to engage in a colloquy with the chairman of the full committee.

Mr. Chairman, I want to bring to the attention of the full body that the National Credit Union Administration is instituting a 1-year pilot program on community development credit unions. I enthusiastically applaud this program, which will study the financial strengths and weaknesses of CDCU's, train the National Credit Union staff to better supervise these institutions, and customize the National Credit Union rules and regulations to accommodate the community development credit union's special needs.

I wish to iterate not only the appropriateness, but the importance of the National Credit Union's leadership in promoting the chartering of new low-income credit unions as part of this commendable pilot program.

The need for more community development credit unions is clear. The number of credit unions has sharply declined over the last decade, with less than five new charters of credit unions in low-income areas since 1990. With credit, residents of these neighborhoods, including some of those that we have seen explode across our country, can start small businesses, pay for elements necessary to make them happy and their neighborhoods strong. I urge the National Credit Union Administration to do all in its power to encourage the establishment of new community development credit unions.

Mr. TRAXLER. Mr. Chairman, will the distinguished gentlewoman yield?

Ms. KAPTUR. I am pleased to yield to the gentleman from Michigan.

Mr. TRAXLER. I, too, commend the National Credit Union Administration on its current pilot program and urge the Credit Union Administration to promote new charters of credit unions in underserved areas.

Finally, it is my understanding that the authorizing committee has indicated its support of the Credit Union Administration's efforts to promote credit unions in underserved areas.

I commend the gentlewoman for her keen interest in this area and the dedication and effort that she has put forth.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for his willingness to work with us, and the gentleman from New York [Mr. GREEN] for yielding me the time.

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Mr. TRAXLER. Mr. Chairman, I am pleased to yield 1 minute to the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise to again indicate to the Members that this bill, like all the others that have come from the Committee on Appropriations—and this is the 12th of 13 annual appropriations bills—and it meets the targets provided under the budget resolution. The bill provides $65.865 billion in domestic discretionary budget authority and $64.948 billion in domestic discretionary outlays, which is $66 million below the level of the 602(b) subdivision of the discretionary budget authority and $6 million below the 602(b) subdivision of outlays as set by the subdivision for this subcommittee.

Mr. Chairman, this is a tough area, and I commend both the chairman and the ranking member for dealing with what are very tough decisions on priorities that range the gamut of life within this country, from veterans to housing to the environment to space to civil defense and many other areas. They are tough decisions that have to be made, with very limited resources. I think this subcommittee has done an excellent job in trying to make those decisions, and certainly, as with other subcommittees, they have stayed within the boundaries we established under the budget resolution.

Mr. Chairman, I rise in support of H.R. 5679, Departments of Veterans and House and Urban Development, and independent agencies appropriations bill for fiscal year 1993. This is the 12th of the 13 annual appropriations bills to be considered by the House.

The bill provides $65.865 billion in domestic budget authority and $64.948 billion in domestic discretionary outlays, which is $66 million below the level of the 602(b) subdivision of discretionary budget authority and $6 million below the 602(b) subdivision of outlays as set by the subdivision for this subcommittee.

The bill also provides $372 million in defense discretionary budget authority and $349 million in domestic discretionary outlays, which is equal to the level of the 602(b) subdivision of discretionary budget authority and $4 million below the 602(b) subdivision of outlays as set by the subdivision for this subcommittee.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each bill compares to the budget resolution.

I look forward to working with the Appropriations Committee on its other bills.

[Fact Sheet]

H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1993, (H. Rept. 102–710)

The House Appropriations Committee filed the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations bill for Fiscal Year 1993 on Thursday, July 23, 1992. Floor consideration of this bill is scheduled for Wednesday, July 29, subject to a rule being granted.

The bill provides $66,237 million of total discretionary budget authority and $65,297 million in estimated discretionary outlays, which is $66 million in budget authority below the 602(b) subdivision for this subcommittee. Estimated outlays are $10 million below the subdivision total. A comparison of the bill with the funding subdivision follows:

COMPARISON TO THE 602(b) SUBDIVISION

[In millions of dollars]

	Veterans, HUD and independent agencies appropriations bill		Appropriation Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	66,237	65,297	66,303	65,307	−66	−10
Mandatory	23,128	21,094	23,128	21,094		
Total	89,365	86,391	89,431	86,401	−66	−10

The bill provides $65,865 million of domestic discretionary budget authority, $66 million less than the Appropriations subdivision for this subcommittee. The bill is $6 million under the subdivision for estimated discretionary outlays:

COMPARISON TO DOMESTIC DISCRETIONARY SPENDING ALLOCATION

[In millions of dollars]

	Veterans, HUD and independent agencies appropriations bill		Appropriation Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	65,865	64,948	65,931	64,954	−66	−6
Mandatory	23,128	21,094	23,128	21,094		
Total	88,993	86,042	89,059	86,048	−66	−6

The bill provides $372 million of defense discretionary budget authority, the same as the Appropriations subdivision for this subcommittee. The bill is $4 million under the subdivision for estimated discretionary outlays:

COMPARISON TO THE 602(b) SUBDIVISION

[In millions of dollars]

	Veterans, HUD and independent agencies appropriations bill		Appropriation Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	372	349	372	353		−4

The following are major program highlights for the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations for fiscal year 1993, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Housing and Urban Development:		
HUD salary and expenses (including IG)	487	380
HOPE Grants	361	14
HOME Investment Partnerships Program	600	12
Assisted housing (excludes $325 million rescission)	10,025	14
Renewal of expiring section 8 contracts	6,346	445
Public housing operating subsidies	2,282	1,050
Community development block grants	4,000	160
Drug elimination grants for low-income housing	165	25
Emergency shelter grants (homeless)	17	3
Transitional housing (homeless)	150	
Shelter plus care	266	
Shelter plus care section 8 moderate	104	
Federal Housing Administration Insurance Program	(57,146)	
Federal Housing Administration General and Special Risk Program	(9,039)	
Government National Mortgage Association Loan Program	(77,700)	
Environmental Protection Agency:		
EPA Research and development	339	135
EPA Sewer construction grants	2,400	107
EPA S&E (including IG)	890	757
EPA Abatement, control, and compliance	1,362	676
Hazardous Substance response trust fund (Superfund)	1,416	212
Leaking underground storage tank trust fund	75	19
NASA:		
NASA space flight	5,227	3,606
NASA R&D	6,671	3,376
NASA research and program management	1,600	1,479
Construction of facilities	525	94
Veterans Administration:		
Veterans Administration compensation and pensions and burial benefits (mandatory)	16,494	15,294
Veterans medical care	14,632	12,283
Veterans readjustment benefits (mandatory)	729	729
Veterans general operating expenses	809	704
Veterans medical and prosthetic research	242	174
Veterans construction, major projects	534	24
Veterans construction, minor projects	191	66
Veterans Loan Guaranty Program	170	107
Veterans Guaranty and Indemnity Program	606	104
National Science Foundation (NSF) and other activities	2,723	1,136
FEMA (salary and expenses) including defense	156	141
FEMA planning	256	140
FEMA disaster relief	292	73
Emergency food and shelter (FEMA)	109	108
Commission on National and Community Service	37	19

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise, of course, in support of the bill but have some problems with some parts of it. As usual, I have admiration and respect for the author, but I just do not totally agree with his product; but I agree with the services he has rendered and offered.

Mr. Chairman, the case for supporting the space station *Freedom* has been made, I think, many times over already, and I will not go over those reasons, because I do not have the time.

I guess I would just say that I am very hopeful that this Congress will cut back on the space station but not cut it out.

Let the space station live at least until we get to conference to where we can work it out and work it out with funds that are not needed by the veterans and many others of this country.

You know, I am excited about the space station. There are many benefits, they are used in almost all of our intensive-care wards, the NASA-developed alloys, which are standard materials in hip and knee replacements. You have heard all those arguments.

Mr. Chairman, that is not the only reason I am excited about the program. Many highly respected researchers, including Dr. Michael DeBakey, the noted heart surgeon and cardiovascular researcher, and Dr. Charles LeMaistre, one of the Nation's premier cancer researchers and former national president of the American Cancer Society, believe the unique microgravity environment of space station *Freedom* will make possible research that could greatly increase our understanding of terrestrial diseases and medical conditions.

Let me briefly address the situation at the space station as it relates to the veterans of this country. Let us talk about the veterans.

The President requested $14.6 billion for veterans medical care, an increase of $1.1 billion. These veterans, under the care and nurture and guidance of Chairman MONTGOMERY, and under the support of myself as a veteran, I believe that the veterans of America need this increase, and I will fight to protect this funding.

I also support the elimination of copayment requirements and unfavorable veteran loan limitations that have been imposed in the appropriations bill.

I think it is demeaning to ask a veteran for $2 every time they have a prescription filled. I personally witnessed the poor state of veterans health facilities and the long waiting lines for service. It is within our ability as a Congress, I think, to address these immediate demands. Veterans should not have to go to a waiting room at 8 o'clock and wait until 4 o'clock. I urge you to retain the space station and take what is left after we have helped our veterans.

Mr. GREEN of New York. Mr. Chairman, I yield the balance of my time to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the chairman.

Mr. Chairman, I rise in support of space station *Freedom*.

The statement has been made that the space station will not contribute to space science. That issue will be debated extensively later on. But I rise to say that that is not the only measure of the value of this program, and it is important for all of us to weight the

$1.7 billion that proponents want to invest into the space station against the benefits that space and the space station specifically will have for the aerospace industry specifically and our economic strength generally.

In 1990 we exported $39.1 billion in aerospace products. Our positive balance of trade in aerospace products in 1990 was $27 billion.

Our positive balance of trade in 1991 in aerospace products will be $30.8 billion. We used to dominate aerospace. We had 90 percent of the market. We now have 68 percent of the market, with European competition, and the Russians, the Japanese and Taiwanese are poised to enter this critically important market.

If we fail to fund space station *Freedom*, not only will we undercut our strength in aerospace and particularly the science that underlies the products of the future, but we will open the door for a joint venture between the Russians and the Europeans that will be inevitable if we fail to take advantage of not only our leadership in space but our partnership, newly forming now, with the Russians to enable us to accomplish our space goals much more cheaply, much more effectively.

So if we step back from space station *Freedom*, the Russians will be required, for their own interests, to accept French overtures for a joint venture. That will enable the Europeans to close their 15-year technological gap. They are 15 years behind us in space science and excellence. But using Russian knowledge, they will be able to close that gap and be controllers of the research in aerospace that will create the next generation of products. We have an obligation not only to ourselves but to all nations with which we are joined in our efforts to build the space station *Freedom* to direct and benefit from future discoveries that space station *Freedom* will make possible.

Mr. TRAXLER. Mr. Chairman, I am pleased to yield 1½ minutes to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding, and I want to start by commending the gentleman from Michigan [Mr. TRAXLER] for the outstanding service he has provided as chairman of this key appropriations subcommittee. As it has been said, he has been a real leader, but I think before that he worked very closely and his mark has been evident throughout his service in the House of Representatives in appropriation matters.

Mr. Chairman, I rise, of course, in support of the appropriations bill before us, although I am concerned that many of the vital programs are seriously underfunded, including the homeless program and veterans health care.

On balance, it is a positive measure, and, hopefully, when the House finishes its work today, it will be even better.

Mr. Chairman, I specifically support the FHA limitations that the gentleman put on to provide reality to the dream of homeownership. I am concerned deeply about the cuts with regard to the homeless, those who most need help in our society. But yet the funds are not in this bill; they were put in other places.

Largely, Mr. Chairman, I rise in support of the amendments to oppose the space station. As a former science teacher of some 10 years, I appreciate good science and the pursuit of it. But I think we must realize that we cannot afford a $120 billion symbol, a symbolic program that really will dominate the entire NASA organization, just as the shuttle did for so many years, to exclude and crowd out, to crowd out basically all the other types of scientific data. What we gain in terms of this, we lose repeatedly in other areas where the benefits from the space station are simply tangential. They are not the stream of where the science is going. And as we specialize, we exclude the broader based science programs that are so necessary for our future of the American people.

Mr. Chairman, I rise in support of the VA–HUD–IA appropriations bill. Although I am concerned that many vital programs are seriously underfunded, including the homeless programs and veterans health care, on balance this measure is positive. Hopefully when the full House has worked its will it will be better.

I am a supporter of the Owens amendment to cut $380 million for the advanced solid rocket motor program and the Traxler-Green amendment to delete $1.2 billion in funds for the space station. This Nation must face the budget realities head on. These amendments are prime examples of how we must put the pressing needs of our people ahead of out-of-control defense programs masquerading as space science.

I am not opposed to science, R&D, or to the concept of a space station. But, I am opposed to the Federal funding of the space station at the expense of the good EPA programs, essential housing and shelter programs, or veterans programs that provide for people who have served out great country. That, as in previous years, is the dilemma of this appropriations bill.

Mr. Chairman, in that vein, I wanted to offer an amendment to the VA-HUD-independent agencies appropriations bill to transfer $106 million from the space station to the extremely underfunded homeless assistance housing and shelter programs under the McKinney Act. Nonetheless, my amendment would be ruled out of order and I will not be able to engage this body in debate on it today.

My amendment is a simple transfer amendment that will bring the Federal focus back from outer space to the harsh realities of the living on the streets of our Nation. The fundamental problem that we face is that building a space station that will cost us $120 billion over the next 30 years will not provide housing here on Earth.

The intent of my amendment would have restored current services level of funding for existing McKinney programs—reversing the direction established by the President's budget request. That request overlooked the growing need for emergency assistance by asking for a drastic 77-percent reduction for emergency shelter grants program and a 25-percent reduction in the FEMA Emergency Food and Shelter Program. In addition to shifting resources away from emergency programs, the request greatly reduced or eliminated funding for proven McKinney programs in favor of new, untried programs or proposals, such as shelter plus care and the safe haven initiative.

Emergency requests for homeless assistance are increasing. In the 1991 U.S. Conference of Mayors' Annual Survey of Hunger and Homelessness, it was found that requests for emergency assistance continue to rise—an average increase of 13 percent in shelter requests across the country. Another survey of recipients of the FEMA Emergency Food and Shelter Program funding completed earlier this year clearly showed that emergency needs are increasing. Ninety percent of the local boards and recipient organizations surveyed found that their demand for services had increased by more than 30 percent since August 1991. Severe cuts, like the 76-percent cut for emergency shelter grant and the 19-percent cut in the FEMA program in this bill will only undercut these key programs that in addition to emergency food and shelter, provide important homeless prevention assistance.

Mr. Chairman and Members of the House, we cannot live in a dream world in a space station nor can we put our heads in the sand and hope that these emergency shelter needs will go away. We cannot put our faith in the trust-me politics proffered by the administration that have shortchanged key homeless assistance programs. I am hopeful we will see these funds restored in the final Conference agreement on this bill.

Mr. Chairman, I am pleased that this bill includes a repeal of the 57 percent limitation on closing cost that HUD imposed upon FHA mortgage insurance users. The FHA program that in 1989 afforded 450,000 first-time buyers the opportunity to purchase a home is in distinct and direct jeopardy of becoming extinct. The FHA's powerful countercyclical force is being limited. Despite the Bush/Kemp rhetoric on empowerment and homeownership, this program, which has served to make the American dream of homeownership a reality for nearly 60 years, is being hobbled by the Bush/Kemp regulators at HUD today.

Some will argue that this change will jeopardize the mutual mortgage insurance [MMI] fund. I disagree. Instead it seems to me that FHA will never meet any capital standards if it doesn't maintain and attract business. FHA market share has dropped significantly, some 12 percent as a result of draconian HUD implementation of the 1990 reforms. The FHA insurance fund must market itself and the removal of the 57-percent limitation will simplify and streamline FHA to restore it as an attractive alternative for mortgage insurance.

I am also pleased that the Appropriations Committee saw the wisdom in maintaining funding for the Congregate Housing Services Program [CHSP] that serves thousands of senior citizens and others in the daily living needs despite the zeroing out of this program in the President's budget request. Although it is only $7 million, over $10 million less than was appropriated last year, it will assure that this vital program will be maintained.

Mr. Chairman, this bill is a microcosm view of all future budget debates on our spending priorities. Congress and the administration must wake up and smell the coffee. We must fund programs that provide for the investment in the American people, the strength of our country. The space station is merely the frosting on the cake when some in our Nation cannot afford bread or a roof under which to eat it.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 5679, the Veterans Affairs [VA] and Housing and Urban Development [HUD], and independent agencies appropriations bill for fiscal year 1993.

I would like to take advantage of this opportunity not only to commend the subcommittee for its work, but to acknowledge the contribution of Chairman TRAXLER, who has announced his retirement, effective at the end of this session of Congress. During the 18 years that the chairman has served here in the House, he has given greatly—both to this institution and to his constituents in Michigan. Mr. Chairman, your presence and influence will be sorely missed.

The chairman and the members and staff of the VA–HUD Subcommittee have made the necessary hard choices. They bring us a bill that manages to balance priorities in funding for a variety of agencies and programs. In addition to supporting the services and programs of the Departments of Veterans Affairs and Housing and Urban Development, H.R. 5679 funding also sustains the Environmental Protection Agency [EPA], National Aeronautics and Space Administration [NASA], National Science Foundation [NSF], and Federal Emergency Management Agency [FEMA], as well as the Federal Deposit Insurance Corporation [FDIC] and the Resolution Trust Corporation [RTC]. This means that H.R. 5679 funds everything from community and neighborhood development, to programs for the homeless, to disaster assistance, to veterans' medical care, to pollution control.

Like other appropriations subcommittees, this year the VA–HUD Subcommittee has been challenged with meeting the needs of so many of America's families, workers, elderly, and veterans, in an atmosphere clouded by severe budgetary constraints. And, like millions of American families, the subcommittee had to work within the confines of a very confining budget. The spending caps that were set in place by the 1990 Budget Enforcement Act greatly limited the subcommittee's available funding. There just was not enough money to go around. There was not enough money to endow all of the key programs that keep this country afloat, at the level they need to be funded. Yet, these are programs that millions of Americans depend on for support.

There are 26½ million Americans who have dedicated their lives and careers to serving our country, 42 million family members of living veterans, and 1.5 million survivors of deceased veterans receive benefits from the VA. This means that over 70 million people—veterans and their eligible dependents and survivors—28 percent of our population—are potential recipients of VA benefits.

Medical care for these Americans is a big part of this assistance. Eligible beneficiaries are treated in VA hospitals, nursing homes, and clinics across the country. Medical care funding sustains direct care, training of medical personnel, homeless programs, programs for the mentally ill, equipment, staff, and the conversion and renovation of facilities.

The VA also funds service-connected compensation benefits and pensions for veterans, as well as education and training assistance, vocational rehabilitation training, and special housing and transportation for veterans and eligible dependents. All these are supported by H.R. 5679, as is the VA Home Loan Mortgage Guarantee Program—the program that supports and encourages private lenders in extending favorable mortgage credit to veterans.

Through HUD, the housing and urban development agency, H.R. 5679 maintains a host of housing programs, including a mix of assistance programs for low-income families, the elderly, and the disabled. Several constituents have contacted my office to express their fear and concern for some of the elderly residents of such housing programs. One constituent in particular wrote regarding his mother, a resident of a federally subsidized apartment building who lived in day-to-day fear of some of her neighbors. In response to concerns like these, H.R. 5679 contains provisions which permit public housing agencies, under certain conditions, to establish some projects in which only elderly residents would be permitted to live. This will bring much needed peace of mind to those senior citizens who share Federal housing accommodations with other residents who may be a threat to their physical well-being. However, the measure also requires that, when such accommodations are made for senior residents, reasonable efforts are taken to provide alternative housing and assistance to affected handicapped and disabled persons, leaving no one out in the cold and ensuring that everyone's interests are protected.

The HOPE Program and the HOME Investments Partnership Program are also funded by H.R. 5679. HOPE provides matching grants to help public housing tenants and other low-income families buy either their own units or other federally owned housing. HOME provides matching grants to States and local governments to assist in the development of local strategies for expanding the supply of affordable housing, to build, rehabilitate, and acquire affordable housing, and to provide rental assistance.

H.R. 5679 also manages to fund homeless programs, as well as to increase funding for programs like the community development block grants [CDBG], which give States and local governments flexible funds and the freedom to determine for themselves how best to address their housing and community development needs. In Woodland, CA, CDBG funds have been used to rehabilitate homes for low-income property owners, a number of whom are elderly individuals on fixed incomes. Woodland has also applied CDBG money toward food for the homeless and elderly and child care. In Rio Linda, we use CDBG funds for street improvements, like street lights, to support our community centers and to extend water lines.

Additionally, H.R. 5679 makes some changes in the Federal Housing Administration [FHA] loan program. First, it increases the limit for single family homes to 95 percent of an area's median sales price, with a national limit set at 85 percent of Fannie Mae and Freddie Mac conforming loan limits. This means that the current FHA loan limit would increase from $124,875 to $171,955 nationally, and to anywhere between $135,000 and $140,000 in Sacramento and surrounding areas. This is important to homebuyers in high-cost areas like California, where the median home sales price often exceeds the FHA maximum loan amount.

There is also a provision that eliminates the FHA's 57-percent limit on the amount of closing costs that may be financed in an FHA loan. These two changes mean that more American families will have access to the financing that they need in order to purchase their own homes. Also, the net result of these provisions—eliminating the closing cost limit and increasing the loan limit—is a savings of $43 million in FHA funds over the next fiscal year.

The bill also provides the EPA with funding to support pollution abatement, control and compliance programs; wastewater treatment facilities; and oilspill prevention and response activities. It subsidizes the costs of loans made to needy local education agencies to remove hazardous asbestos in school buildings. Its funds additionally enable FEMA to fulfill its charter—coordinating the entire Federal disaster assistance response through public assistance and assistance to individuals and families. This includes protective measures, debris clearance, the repair and restoration of damaged facilities, and temporary housing. The emergency food and shelter program which shelters and feeds needy Americans is also a part of FEMA. Our Sacramento Regional Emergency Food and Shelter uses these program funds to serve meals, provide shelter, and pay rent and mortgage payments for those in need.

The VA–HUD appropriations bill supports programs that, in turn, support the needs of all Americans. Particularly now, with so many of us trying to climb out of this recession, we need to fund the kinds of programs that will sustain basic American rights—to decent housing and neighborhoods, quality medical care and a clean environment. H.R. 5679 is a bill that will enable us to render this much-needed support. Mr. Chairman, I urge my colleagues on both sides of the aisle to support its final passage.

Mr. CONYERS. Mr. Chairman, I rise in strong support of the legislation.

Much like the bill the House considered yesterday, Chairman TRAXLER's subcommittee faced some agonizing choices in the drafting of this legislation: Only $350 million was available for any program increases over 1992. The VA–HUD Subcommittee also faced obsolete spending caps from the 1990 Budget Enforcement Act, they faced out-of-control health care costs—in this case in the VA health care programs, and they faced a Presidential budget request that left the subcommittee few options.

I remember that one of the President's suggested rescissions a few weeks ago was the complete termination of Federal support for public housing, while recommending in his budget request the expense of over $2 billion this fiscal year for the space station. These are some of the choices the subcommittee faced; once again, Chairman TRAXLER, ranking member GREEN, and the subcommittee have given us a good bill.

Mr. Chairman, 80 percent of the first-year outlays in this bill occur in VA medical care and NASA accounts. The President is right in requesting increased funding for VA medical care—the system is an embarrassment—but he won't give us national health insurance with strong cost controls and he won't allow us to tear down the obsolete budget firewalls around the Pentagon. The result is a VA medical account driven by out-of-control health care costs that feeds on others in this bill. I call that social cannibalism, and we thank our President for it.

The subcommittee was forced to find a handful of revenue enhancers and to make some difficult cuts in NASA and other accounts to meet the President's request for VA health care.

Now the President says he might veto this legislation, because it doesn't meet some of his spendnig requests. He got the spending he really wanted; he should swallow this better pill with the rest of us.

The bill increases funding for VA medical care by 8 percent; HUD homeless programs by 19 percent and community development block grants—one of the last programs of Federal assistance to our cities left—by 18 percent. Tough—but in the end, good—choices were made in this bill. I urge my colleagues to support it.

Finally, Mr. Chairman, I want to pay tribute to BOB TRAXLER, a friend and fellow member of the Michigan congressional delegation who has served on the Appropriations Committee and in Congress with great distinction. He will be retiring at the end of this session, and the State of Michigan and this institution will be poorer for it. I wish him all the best.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today in support of the Veterans' Administration [VA], Housing and Urban Development [HUD] and independent agencies appropriations bill. With a $400 billion deficit hanging ominously above us and domestic problems at a crisis level all across America, this appropriation bill required difficult decisions. Important programs like the HOME Investments Partnership Program, which provides matching grants to States and cities to develop methods for expanding the availability of affordable housing and provides rental assistance, suffered enormous cuts in this bill. In my district, the city of Chicago will receive 60 percent less funds for HOME than it received last year. This is a loss of $24 million which will have a devastating impact on my constituents.

In balance to these cuts, however, there are some equally important programs which have received notable increases in funding for fiscal year 1993. The Community Development Block Grant [CDBG] Program has been designated to receive 18 percent more than last year and $1.1 billion more than the administration requested. CDBG has allowed community organizations all across my district in Cook County, IL, to provide valuable services to individuals who are otherwise forgotten. With this significant increase in funding for fiscal year 1992, I am enthusiastic about the assistance that CDBG funded organizations will be able to provide during the upcoming year.

Despite the harsh cuts in some areas, I think that this bill provides important funding that we all can support and I hope my colleagues will join me in voting for this legislation.

Mrs. LOWEY of New York. Mr. Chairman, I rise to express my support for this bill and to commend the chairman, Mr. NATCHER, for the excellent legislation that he has crafted under very trying circumstances.

Mr. Chairman, the cold war is history, but many relics of that era remain. One of those relics is the 1990 budget agreement, which forbids us from shifting available defense savings into urgent domestic needs.

It is that constraint which we face today. We know full well that defense spending can be cut by large amounts without compromising our Nation's security. And we know full well that the families of America desperately need assistance in order to make ends meet during the current recession. Yet we are stymied by an anachronistic budget agreement that has actually forced cuts in essential education and health care programs.

The chairman, Mr. NATCHER, has done an admirable job of setting priorities in light of the very difficult constraints that he faced this year. I support the bill that he has developed. But I also look forward eagerly to the time when the budget agreement, like the cold war, is history, and I can join with Chairman NATCHER and many others on this floor in bringing fundamental change to our budget priorities by fully serving the urgent needs of our families across the Nation.

I would like to comment in particular on one very important aspect of this legislation—that of student aid for our Nation's young people. Last week, the President signed into law the Higher Education Act Amendments of 1992, major legislation to expand student aid for the families of America.

We all recognize that there is a direct link between a highly-trained work force and restored economic growth and competitiveness in this Nation. The new higher education law represents one of the most important steps this Congress has taken this year toward revitalizing our economy.

Unfortunately, the amendments were not yet enacted when this bill was marked up in committee. Therefore, some of the new provisions contained in the higher education law have not been funded in the pending appropriations measure. It is my fervent hope that the final conference report will provide funding for many of these provisions in fiscal year 1993.

In particular, I would like to mention one program of urgent importance to our Nation's postsecondary students and to our taxpayers. As Chairman NATCHER has pointed out in the past, student loan default costs have risen to unacceptable levels. In fact, they now account for more than 50 percent of all guaranteed student loan program costs.

Therefore, as a member of the Education and Labor Committee, I worked hard during the reauthorization of the Higher Education Act to enact key program integrity provisions designed to reduce student loan defaults. Fortunately, together with Mr. GOODLING of Pennsylvania, we succeeded in obtaining final approval of provisions which will significantly expand State oversight of institutions of higher education. This oversight will help us keep substandard schools out of the program and control default costs.

The Bush Administration, recognizing the importance of these provisions, has requested that $50 million be devoted to these program integrity activities this year. And Chairman NATCHER, also recognizing the importance of these provisions, indicated in the report to accompany H.R. 5677 that he is inclined to ensure funding for this purpose as soon as the new activities were authorized.

I am extremely pleased that Chairman NATCHER provided me with an additional assurance today that he will, in fact, be inclined to provide funding for this purpose in the conference report on Labor-HHS-Education funding. I would like to express my sincere appreciation to the chairman for his insight into the importance of strong measures to expand State oversight of postsecondary institutions, which will not only save the taxpayers large sums of money, but will also prevent many of our students from being defrauded by substandard schools that are interested only in profits, not in a quality education for our students.

Mr. Chairman, I once again want to commend Chairman NATCHER for the extraordinary job he has done over the years in improving health care, protecting worker health and safety, and training our young people to be productive members of society. We all owe him a debt of gratitude, and we know that he shares our distaste for the continued imposition of budget rules that do nothing but harm American families around this Nation. I am committed to working with him this year and in the future to make our tax dollars work harder for the people of our Nation, not to defend our Nation against a vanished threat.

Mrs. ROUKEMA. Mr. Chairman, I rise in opposition to the fiscal year 1993 VA, HUD, independent agencies appropriation bill.

I do this for three reasons.

First, I am disappointed that the committee would continue to place funds for the space station higher on a priority list than other science-related programs and some of the housing and community development needs of our citizens.

There is something very wrong around here when the needs of our low- and moderate-income citizens for affordable housing and for homeless assistance is placed behind the desires of a small minority who want to build a station of highly dubious value for outer space.

I want my colleagues to be clear, I appreciate the difficult job the members of the Appropriations Committee face in trying to provide a fair distribution of very limited funds.

But, the gyrations the committee has been forced to go through to find the funds for the space station are distorting our spending priorities and forcing us to take money away from other domestic programs and needs whether they be housing, veterans, or other science-related programs.

Second, I am opposed to the committee's action which prohibits the Secretary of HUD from taking actions to ensure that the FHA mutual insurance fund is returned to financial soundness. The language reversing the 57-percent closing cost issue, besides legislating on an appropriations bill, is based on nothing more than one industry's fear of losing market share. This action is premature and should not be in this bill.

Third, and perhaps most importantly, I am specifically disappointed that the committee would so severely underfund one of the most promising housing initiatives to come along in years. I am, of course, referring to the HOME Investment Partnership Program which was given a paltry $600 million.

I want to complement Mr. TRAXLER and Mr. GREEN for ensuring that our housing programs did sustain modest increases in this bill. Nevertheless, to deny a program which will help build or rehabilitate thousands of much needed housing, or assist thousands of our constituents find affordable housing is unconscionable.

Now, I don't want to hear the argument that this HOME Program is the pet program of the other body so we'll let them provide the necessary funds. People around here forget that this Member and our colleague from New York, Mr. RANGEL, introduced HOP legislation in 1987 which was to become the genesis for the HOME Program.

Nor do I want to be given the excuse that because not one house has yet been built under the HOME Program, we should withhold funds until the program matures. How much of the space station has been constructed and assembled in space at this time to deserve $1.6 billion?

And, finally, I know the committee funded the CDBG Program at a much higher level, and I commend the committee for that. But the HOME and CDBG Programs should be seen as complements to each other and not competitors.

For the record, the fiscal year 1993 housing authorization bill provides $2.1 billion for the HOME Program. The fiscal year 1992 appropriated level for HOME was $1.5 billion and those funds have just recently been awarded to our States and communities. It is ironic and indefensible that at the time of greatest need by our communities, the committee would turn its back on one program that our States, cities, and counties wholeheartedly support.

The HOME Partnership Program was a bipartisan housing initiative agreed to by the Congress in the National Affordable Housing Act. HOME is a new block grant housing development program modeled along the same lines as the very successful CDBG Program.

The HOME Investment Partnership was designed as a block grant and was intended to provide new innovations and new directions in housing policy which would result in magnified benefits. It would streamline housing assistance and maximize State and local flexibility. Its greatest merit, however, is that it gives wide latitude to the States and local communities to meet their needs by providing assistance tailored to local requirements.

HOME's second greatest merit is that in providing steady funding levels, the block grant distribution formula allows communities to look more long range when developing their strategies for meeting their housing needs. If a community develops a 5-year housing strategy, anticipating a steady appropriation of $1.5 or $2 billion annually, they will have much more control over the programs they develop and will have an easier time providing for the necessary matching funds and leveraging they need for a successful project.

If, after funding HOME at $1.5 billion in fiscal year 1992, we simply pull the rug out from under these communities, we guarantee the demise of the program.

As one of the earliest proponents of the HOME block grant concept I feel such a program will provide a bold new approach to meeting the housing needs of our citizens. But that can happen only with proper funding levels.

What is provided in this appropriation bill is totally inadequate.

Mr. BONIOR. Mr. Chairman, I rise today to express my support for the National Academy of Sciences study of the wetlands delineation manual. Wetlands protection is an extremely complex and controversial issue. The wetlands debate has divided this body on both sides of the aisle. We desperately need objective scientific data so that we can come together and form a sound policy.

Last year, the Bush administration threw both science and his campaign pledge to the wind and proposed a wetlands manual that would remove protection from half of our remaining wetlands. It's time to put politics aside and address wetlands protection from an objective scientific perspective.

The National Academy of Sciences study is a good first step in this direction. I'd like to restate my support for a National Academy of Sciences study and urge my colleagues to oppose any attempts to delete it.

Mr. LEHMAN of California. Mr. Chairman, I rise in support of the VA–HUD–independent agencies appropriations and I want to commend Chairman TRAXLER and Mr. GREEN for their hard work and dedication in bringing this measure to the floor. I also want to thank Chairman TRAXLER for his help and support for two of my proposals which were included in this legislation.

The first proposal earmarked $2 million to address one of central California's most serious air pollution problems—small particulate matter (PM–10) or fugitive dust. Caused by different sources including logging, farming operations, construction, and other industries, PM–10 emissions is one of the causes preventing the San Joaquin Valley from meeting the 1990 Federal Clean Air Act standards.

Finding a solution to the valley's air quality problems is a priority with me. Adverse air qualify affects the more than 3 million people living in the region. It not only reduces visibility, but studies show it lowers agricultural yield.

The study would pinpoint the sources of PM–10 emissions and develop adequate measures to control it. An initial study begun under a $250,000 EPA grant was recently completed. The $2 million will continue this effort and help the San Joaquin Valley to attain the Federal Clean Air Act PM–10 standards by the December 2001 deadline.

Also included is a proposal put forth by Congressman FAZIO and myself to direct EPA to conduct a broad-based study on radon. This study would be conducted prior to the implementation of a pending rule mandating the removal of radon from drinking water. Radon is a naturally occurring gas that is a byproduct of uranium and is a leading cause of lung cancer. It seeps into the indoor air through basements or ground water.

Leading radon experts have called the overly stringent EPA standard absurd because radon in water only contributes 5 percent to the overall radon risk.

Although California is a low radon State, the Association of California Water Agencies estimates it will cost the State $3.7 billion to comply with the rule. This study is intended to examine the problem of radon in a more comprehensive, efficient and cost-effective manner.

These two studies will serve to improve the environment in California's Central Valley at the same time preventing overly burdensome implementation requirements from being imposed on local communities. Again, I commend my colleagues, Mr. TRAXLER and Mr. FAZIO, for their efforts in this behalf. I look forward to the results of these studies and the beneficial effects they will have for my district.

Mr. RAMSTAD. Mr. Chairman, I rise in opposition to H.R. 5679.

I do so reluctantly, because I support the bill's efforts to provide improved medical care for America's veterans. These brave men and women risked their lives for their country, and the least we can do is ensure that they receive the best medical treatment available.

But under this measure, medical care does not come without a price for our veterans. Instead of making the necessary spending cuts in other wasteful programs, H.R. 5679 would impose on more veterans, including those with service-connected disabilities, a copayment for medication and significant deductibles for VA health care.

Let's not fool ourselves; the money is there. Today, the House voted down an amendment to cut $1.2 billion from the space station program. But as the American Legion, the VFW, and a number of other veterans groups will tell you, these funds are better used for veterans' health care programs.

It is patently unfair that Congress' failure to cut out wasteful Government spending and reduce the budget deficit is being placed on the backs of veterans. As a cosponsor of H.R. 3779 to repeal the current prescription copayment, I cannot in good conscience vote for a bill that would force America's veterans to shoulder this burden.

In addition, this bill does not offer a vision for alleviating the public housing problem in our country. Instead of supporting Housing Secretary Jack Kemp's innovative HOPE Program, H.R. 5679 reduces the administration request by a whopping 64 percent. As a result, 80,000 low-income families will not get the chance to buy a home this year.

Instead, the House Democrat leadership chose to use these funds for public housing programs that have failed to resolve the plight of low-income Americans. In spite of the more than 104,000 public housing units that currently stand vacant, H.R. 5679 increases funding for the construction of new public housing by 7.5 percent.

The Democrat leadership has forgotten that the goal of public housing is not simply to create more units, but to help low-income families find affordable housing and build better neighborhoods.

Our present public housing system is a disaster—poorly managed, ridden with crime and drugs, and in need of radical reform. Through HOPE, Secretary Kemp would empower thousands of low-income families to own their own homes and rebuild their lives.

But the Democrat leadership just doesn't get it. Instead of giving us the opportunity to help low-income Americans purchase their own homes, the Democrat-controlled Rules Committee prevented an amendment to H.R. 5679 which would have transferred funds to the HOPE Program from even being discussed on the House floor.

Most importantly, however, I object to H.R. 5679, because it demonstrates that Congress is still not serious about reducing the budget deficit.

Like many of the other appropriations bills this year, this measure includes a number of parochial pork projects geared only toward helping Members of Congress in their re-election bids—politics as usual.

For example, there is $485 million for an unrequested add-on for Yellow Creek, MS, $84 million for an unrequested gift to Saginaw, MI, $8 million for Delta College in MI, and $1.5 million for Wheeling, WV. These projects, and dozens of others like them amount to about $1.5 billion—one and-a-half billion dollars of money we don't have.

I've said before that it's time for Members of Congress to stop looking out for their local interests and start looking out for the national interest. It's time for Congress to quit playing political games and get to the business of putting our fiscal house back in order. It's time for Congress to balance the budget, because, as Senator WARREN RUDMAN said, "time is running out."

Mr. Chairman, I vote against this bill today with great reluctance. But our Nation's fiscal health demands that we begin making tough choices, and this is one of them.

We cannot continue to mortgage the future of our children and grandchildren any longer. America's veterans know that. America's families know that. Everyone seems to know that. Everyone, that is, except for the Congress. It's time for a change.

I urge my colleagues to vote for fiscal responsibility and a fairer policy for America's veterans. Vote against H.R. 5679.

Mr. PICKLE. Mr. Chairman, I support the committee's recommended appropriation for the hazardous substance Superfund. The appropriation of $1.416 billion represents a reduction of $200 million—12 percent—from last year's appropriation and a reduction of $334 million—19 percent—from the President's budget request.

I support the basic goals of the Superfund Program, and I believe that it is imperative that we move swiftly to clean up the Nation's most hazardous toxic waste sites. As it is currently functioning, however, the Superfund Program is not moving swiftly, and the only ones cleaning up are lawyers and the contractors hired by EPA, who take 2 to 3 years to complete studies of Superfund sites and another year or 2 to restudy them.

On June 11, 1992, the Subcommittee on Oversight, Committee on Ways and Means, held a hearing on the Superfund Program. What we learned at this hearing is most discouraging. The Superfund Program is just not working.

The costs of this program are staggering. The average cost to clean up a Superfund site is $25 million, and this figure could increase as more complex sites are readied for cleanup. At the hearing, the General Accounting Office testified that the revenue to be raised by the Superfund taxes authorized through 1995 is only a downpayment on an enormous cleanup bill, and will not come close to paying for the cleanup costs of the Nation's toxic waste sites. The Environmental Protection Agency has estimated that its share of the cleanup costs of the current Superfund sites could approach $40 billion. Others have estimated that this figure could reach $300 billion. Meanwhile, more sites are continually being added to the national priorities list. By the end of the decade, there could be as many as 2,000 Superfund sites.

In my view, we haven't gotten much cleanup for the $10 billion that has been spent so far on the Superfund Program. During the first 11 years of the Superfund Program, only about 80 sites have been cleaned up. The remaining 1,195 sites on the national priorities list are stuck in the Superfund pipeline, and years pass while the sites are studied and restudied, and evaluated and reevaluated. The majority of sites are in the earlier stages of the pipeline.

The Congressional Budget Office testified that, on average, over 9 years elapse between the time a remedial investigation is first performed at a Superfund site and the time the site is finally cleaned up. Despite the fact that EPA has now had 11 years of experience in dealing with Superfund sites, the CBO indicated that the average time taken to clean up a site is on the increase. Part of this delay is due to the fact that EPA takes an inordinate amount of time to review documents. In one case in Michigan, involving contaminated drinking water, it took EPA over half a year to review a work plan, another 3 months to approve revisions to the work plan and another 8 months to approve a quality assurance plan. When EPA takes so much time, the health risks posed by the sites may worsen as pollutants seep into groundwater and contaminate the surrounding environment.

Four Superfund sites visited by the subcommittee—BROS, GEMS, Clarmount Polytechnic, and Paoli Railroad Yard—illustrate how operation of the Superfund Program results in inordinate amounts of studying, litigation, and delays—with questionable benefits to the public. For example, the BROS site was one of the first sites listed on the NPL, but cleanup started only last year. The GEMS site has over 500 parties involved in litigation.

I am very concerned that the Superfund Program has been poorly managed. The Superfund Program was based on the principle that the polluter should pay for cleanup costs, and the trust fund was intended to be a sort of revolving fund that would be replenished by recoveries of trust fund expenditures from the parties responsible for the pollution. Of the $10 billion in total trust fund receipts through fiscal year 1991, less than 5 percent—about $400 million—have resulted from recoveries from responsible parties.

Moreover, EPA has done a poor job managing its accounts receivable. The inspector general testified that 90 percent of the receivables were delinquent. After sampling 300 transactions, the inspector general found that in 51 instances, totaling more than $5 million, EPA did not even know it was owed money until it received a check.

In addition, the IG testified that EPA treats the network of contractors used to carry out the Superfund Program as part of the EPA family. Contractors lucky enough to be a part of this buddy system are frequently given extensions to complete tasks, are rarely subject to penalties, and are sometimes given bonuses even though work performed may have been substandard.

In Pennsylvania, a contractor authorized an employee to begin welding operations even though explosive gases were present at the site. Despite this instance of deficient performance, this contractor was rated satisfactory, and given an award fee of $15,000. The GAO testified that EPA has also picked up the tab for such nonallowable indirect contractor costs as alcohol at company parties and travel expenses for spouses of contractor employees.

On the basis of the testimony at our hearing, I have concluded that the Superfund Program, as it is currently structured, hasn't been successful. I support the Appropriations Committee's $200 million cut in the Superfund Program. Let us hope that this action will make it clear that the Congress demands more for its money.

It's unconscionable to continue to increase Superfund appropriation levels when we can show the public so little in return. It's time to take a good hard look at exactly what we're getting for our money, and whether this program itself is even worthwhile. If EPA can't make the Superfund Program work efficiently and effectively to eliminate the health risks posed to the public, maybe we need to scrap the program and start all over.

Mr. WEISS. Mr. Chairman, I rise today in support of H.R. 5679, the fiscal year 1993 appropriations for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.

Sadly, the funding levels for many important programs in this bill are nothing to rave about. Quite frankly, a disturbing number of significant programs receive appropriations which in my estimation are insufficient to address the varied social problems afflicting our Nation—from untold numbers of homeless families to patriotic veterans who are unable to receive the proper medical services which they deserve.

However, this Congress and this Nation are restricted by tight budgets and spiraling deficits. So, we must face this reality and accept these scant funding levels. In light of these constraints, I want to extend my congratulations to Subcommittee Chairman BOB TRAXLER for the difficult choices his panel has made in reconciling a lack of sufficient outlays with needed support for many critical programs.

The measure before us appropriates a total of $85.9 billion in fiscal year 1993 for the VA, HUD, and for various independent agencies. This total includes increases over fiscal year 1992 for VA medical care, VA compensation and benefits, HUD homeless programs, and the community development block grant [CDBG] program. The totals also represent decreases for the EPA, NASA, and HUD's HOPE Program.

Title I of the bill provides funding for the Department of Veterans Affairs, which administers benefits for 26.6 million veterans, 42 million family members of living veterans, and 1.5 million survivors of decreased veterans. Therefore, approximately 70 million Americans are potential recipients of Federal benefits provide through the VA. These statistics serve as a powerful argument for the important work of the VA and its need for adequate funding.

H.R. 5679 appropriates $34.4 billion for the Veterans' Affairs Department, a $1.7 billion or 5-percent increase over fiscal year 1992. The lion's share of this increase is appropriately directed to medical care for veterans. Specifically, the bill appropriates $14.6 billion for veterans medical care, a $1.1 billion increase over the current fiscal year.

H.R. 5679 also contains $16.5 billion in appropriations for veterans' benefits and pensions, an increase of $653 million from fiscal year 1992. These funds will provide compensation benefits for 2.5 million beneficiaries and pension payments for 923,000 beneficiaries with nonservice-connected disabilities. An additional $729 million is appropriated for education, training, vocational assistance, transportation, and housing programs for eligible veterans and their dependents.

Title II of the measure addresses funding for the Department of Housing and Urban Development, the Federal agency principally responsible for programs concerned with the Nation's housing needs. The bill appropriates $19.4 billion in fiscal year 1993 for various HUD housing programs, $625 million or 3 percent more than the fiscal year 1992 level and $961 million more than the administration' request. Despite this overall increase, there are programs which are unfortunately underfunded.

However, I salute the committee for directing most of the increase to funding two vital programs—the Shelter Plus Care Program, which provides invaluable grants to States and localities for housing assistance for individuals who are mentally ill, suffer from drug dependency, or have fallen victim to AIDS, and the community development block grants program, which provides the greatest flexibility of all HUD programs in addressing the problems facing State and local governments.

The measure contains $10 billion in fiscal year 1993 for assisted housing, the principle appropriation for providing housing assistance for low-income families. Programs impacted by this appropriation include public housing, Indian housing, section 8 certificates and vouchers, housing for the elderly and disabled, lead-based paint abatement grants, and housing opportunities for people with AIDS.

Title III of H.R. 5679 appropriates $6.6 billion for the Environmental Protection Agency in fiscal year 1993. The measure cuts $192 million from current operating expenses, but increases funding for pollution abatement, control, and compliance by almost $200 million. One reason behind the shift is an effort to discourage EPA's growing reliance on independent contractors, which have proven increasingly costly.

I am pleased to note that this section of the bill contains $70 million in wastewater treatment construction grants specifically earmarked for the city of New York under a special coastal cities program. In addition, funding for the Superfund and oilspill prevention programs is increased significantly.

Title III of the bill also appropriates $14 billion for NASA in fiscal year 1993, $280 million less than current levels, and $957 million less than the administration request. Although the measure in its present form provides $1.7 billion for the space station *Freedom,* we have an opportunity on the floor today to zero out station funding altogether.

I strongly support that amendment to delete $1.2 billion in funding for the space station, reserving $525 million to cover costs related to terminating the program. Supporting the space station funding literally means throwing $1.7 billion out of this world. Any one who supports throwing these precious dollars out of this world must be out of his or her mind.

Mr. Chairman, continued funding of the space station makes absolutely no sense. The few technical merits of the program do not justify the expenditures that will be required to develop, construct, and operate the station. When first proposed in 1984, the station cost was estimated at $8 billion. Since that time, the station has been redesigned at least five times and, according to recent GAO estimates, the cost has ballooned to $40 billion. Furthermore, when one considers operating costs over the life of the program, the station's cost swells to $120 billion.

Mr. Chairman, I hope every Member in this Chamber realizes what $120 billion can do for this country. At a time of spending caps and budget firewalls, how can we in good conscience continue this madness. I urge my colleagues to support the amendment to rescind funding for the space station and to vote for final passage of H.R. 5679.

Mr. BACCHUS. Mr. Chairman, as we debate H.R. 5679, the VA-HUD-independent agencies appropriations bill for fiscal year 1993, I want to call attention to one aspect of our space program that promises to help detect and address environmental dangers threatening our home planet Earth.

We all recognize the disturbing trend toward global warming, the threat of atmospheric pollution, and the changing patterns of drought and floods in the world. These environmental dangers threaten our health, our quality of life, and many treasures of our natural world. We must develop methods to accurately measure atmospheric trends so that we can change international public policy and behavior to address the challenges we face. One way to achieve this objective is through the increased use of laser technology on orbiting satellites. Lasers offer one of the best way to measure atmospheric changes because of their wavelength and pulsating nature.

NASA has been aware of this use of lasers for some time and is proceeding to build them for installation on Earth observing satellites. Some NASA space flight projects that plan to use lasers include the Lidar atmospheric sensing experiment [LASE] and the Lidar in-space technology experiment [LITE]. Other aggressive laser systems, including the Global Laser Ranging System [GLRS] and the Mars observer laser altimeter [MOLA], could effectively measure properties of the Earth that might help us in earthquake prediction.

One obstacle to this approach is that satellite-based lasers must continue to function properly while left unattended in orbit for many years. To address this issue of reliability, NASA in September 1991, conducted a workshop on enhanced damage-resistant optics for space flight laser systems. Many top U.S. scientists and program managers offered recommendations for improving laser optics reliability. In addition, laser reliability programs already under way at several high-technology centers and universities. We must do more to implement these recommendations and expend existing laser reliability programs if we are to fulfill the promise of this technology for monitoring our environment. I raise this issue today in hope that NASA and the Congress will support greater research on laser optics.

Mr. SLATTERY. Thank you Mr. Chairman. This legislation contains funding for completion of a new domiciliary at the veterans' hospital in Leavenworth, KS, the Dwight David Eisenhower Medical Center. The veterans hospital in Leavenworth has needed a new domiciliary for many years and I'm pleased to see that this legislation contains full funding for the domiciliary.

The domiciliary currently operates in 11 buildings which were constructed in the late 1800's. These buildings have numerous space and functional deficiencies and do not afford an appropriate level of patient privacy. The patients are housed in common rooms that are not suited for long-term use. The buildings cannot be air-conditioned and there are no exercise or physical fitness facilities.

The need for replacement of the domiciliary has been apparent since the 1960's and the domiciliary replacement has been part of the hospital's 5-year plan since 1974.

Planning for the facility has started and a site has been selected. The site selected does not require removal or alteration of any historic buildings or areas. Again, I am pleased that this legislation contains funding to complete construction of this facility.

Mr. FORD of Michigan. Mr. Chairman, I rise today to express my strong support for H.R. 5679, the fiscal year 1993 VA, HUD, and independent agencies appropriations bill. I commend the subcommittee for the job that they have done in bringing this legislation before the House. I especially want to express my admiration and appreciation to Chairman BOB TRAXLER, who will be leaving Congress at the end of this year. Every Member of this House will miss his dedication, his hard work, and his humor. During his tenure in Congress, BOB TRAXLER has done more for the people of his district and the entire State of Michigan as any Member who has ever served here. I am proud to call him a colleague and a friend.

I support the legislation pending before us today. President Bush has spoken a lot over the last few months about the inability of Congress to make tough spending decisions. This bill tells a different story. Despite the finger pointing of the President, the committee has brought this bill in $4.2 billion below President Bush's own request, and substantially below the budget caps imposed.

This measure makes important contributions to assisting those Americans who need and deserve our help most. I am especially pleased that the committee was able to work with members of the Michigan delegation to include $148.9 million in the bill for the construction of a clinical addition to the Ann Arbor VA Medical Facility in southeast Michigan. From the battle of Gettysburg to the jungles of Vietnam and the sands of the Persian Gulf, thousands of men and women in Michigan have answered their country's call in time of conflict. Many have paid the ultimate price defending our Nation's freedoms. It is only right that we should take care of these heroes. The bill does this by providing $14.6 billion for medical care and treatment of eligible veterans, an increase of $1.1 billion over fiscal year 1992 funding levels.

This legislation also addresses our Nation's pressing housing and environmental needs. H.R. 5679 appropriates over $500 million for programs to assist our Nation's homeless, $4 billion for community development block grants, and over $1 billion for EPA's Superfund Program.

I, like many of my colleagues, am alarmed that these vital areas are increasingly threatened by the President's misguided commitment to space station *Freedom*, a budgetary black hole, which, if unchecked, threatens every program here. The space station makes no sense from a financial, scientific or engineering standpoint. I plan to vote against it today, as I have on previous occasions. Despite the lip service he has paid to fiscal responsibility and despite the fact that growing scientific evidence suggests that the space station is a boondoggle, George Bush has continued to request money for the project.

I am pleased that this bill includes funding for the continuation of the Rouge River national wet weather demonstration project, which is designed to clean up Michigan's Rouge River, one of the primary sources of pollution to take Lake Erie and the Great Lakes. While President Bush has made his opposition to this project known, it has been enthusiastically endorsed by the Southeast Michigan Council of Governments, the Michigan Department of Natural Resources, the EPA, the International Joint Commission, and 48 communities representing over 1.5 million citizens in Michigan. The project also promises to vastly improve the environment and quality of life of citizens who live as far away as Ohio and Pennsylvania. In this bill, George Bush requested $65,000,000 for a sewage treatment plant in Tijuana, Mexico, a project which is seriously over budget. To date, the American taxpayer has provided $96.4 million for this facility. The President has no qualms about spending American tax dollars to provide clean water for Mexico, but not for Michigan.

The balanced-budget President also wanted Congress to include an appropriation of $13.5 million in this bill for the search for extraterrestrial intelligence [SETI], a NASA program that is designed to find life in outer space. Mr. Chairman, 4,000 people at the General Motors Willow Run assembly plant in my district learned earlier this year that their jobs are being eliminated, and their plant closed. While these men and women have been worried about how they will feed their families and pay their bills, George Bush has been concerned about whether ET will phone home. NASA would do better to try to find signs of intelligent life in the White House. I am pleased that Congress did not fund the President's request.

President Bush cannot continue to play both sides of the fence. He has requested money at every turn for questionable projects, all the while pointing his finger at Congress. The misdirection and the hypocrisy has gone on long enough.

The legislation before us today is a fiscally responsible bill that helps our veterans, our Nation's homeless, and our environment. I commend the subcommittee and urge my colleagues to support the measure.

Mr. RAHALL. Mr. Chairman, I rise in support of H.R. 5679, the fiscal 1993 appropriations bill for VA, HUD, and independent agencies. Although this bill does not fully fund many important environmental programs, many of the programs which are funded in this $86 billion measure are of great significance to my home State of West Virginia. I would like to take this opportunity to highlight a few of these programs.

The bill appropriates $34.3 billion for the Veterans Affairs Department, including $14.6 billion for veterans' medical care, which is $837.1 million more than current fiscal year funding level. These funds will allow VA medical centers to treat more patients and to purchase much needed supplies and equipment.

In addition, $16.5 billion is appropriated for veterans' service-connected compensation payments and pensions. The measure also includes $534 million for major construction and $190.7 million for minor construction projects. The VA Department decides which projects will be funded with this money and certain projects at the Huntington and Beckley, WV, VAMC's will be eligible for this funding.

I realize many people are under the impression that veterans programs seem to be competing with other programs for their funding, and coming up losers. But the record does show that in spite of these tight times of budgetary constraints, Congress continues to ably recognize the veterans who fought so well for their country and our freedom, by providing modest increases in existing programs, and in funding new veterans' initiatives over this Congress. It isn't enough, not for veterans and not for many of our constituencies who have been somehow disenfranchised through no fault of their own, due to employment, or reductions in assistance of all kinds intended to be government's response to the well-being of all its citizens, but especially those in need of a helping hand. We will continue, I know, to help our veterans, as we have in the past, and certainly I intend to continue my strong support of their needs.

Other programs which are funded in this bill that are vital to West Virginia are those funded through the Department of Housing and Urban Development. The bill appropriates a total of $19.4 billion in fiscal year 1993 for various HUD housing programs, $625 million more than was provided in fiscal year 1992 and $961 million more than was requested by the administration. The bill provides funding for both the HOPE and HOME programs. HOPE is a program which assists lower income Americans to purchase their own homes. HOME provides matching grants to States and local governments to assist in the development of local strategies for expanding the supply of affordable housing, to build, rehabilitate, and acquire affordable housing, and to provide rental assistance.

In addition, the measure provides $537 million for programs for the homeless, $87 million more than was provided in fiscal year 1992. This is a substantial increase and recognizes how essential this program is to the homeless of this country. While it is difficult to estimate the total number of homeless in this country or even in West Virginia, it is clear that the number is significant. While it is doubtful that the funds in this bill will solve the homeless problem, they will go far toward alleviating the homeless problem in this country. I am confident that West Virginia and other States will use this increased funding to the fullest extent possible.

The bill also provides a total of $4 billion in fiscal year 1993 for the Community Development Block Grant Program which is $1.1 billion more than the administration requested. This program supplies much needed development assistance to towns and cities throughout West Virginia and the Nation. While I am pleased that this program has not suffered drastic cuts in this bill, it is my hope that we will provide significantly more funding for community development programs in the future. At a time when we should be promoting economic growth to increase our tax base, increase employment, increase our share of the world market and ultimately working to decrease the dual deficits, it seems to me we should be more strongly supporting programs like CDBG which help to accomplish these goals.

As I mentioned before, I am disappointed that there has been such a large cut in environmental programs. I understand the constraints which we are under but such cuts will only serve to exacerbate the level of noncompliance with Federal environmental mandates by the States and local communities.

It is becoming more and more obvious that small communities are not able to meet the requirements of the Clean Water Act or the Safe Drinking Water Act. Yet, there is little funding in this bill which is aimed at specifically aiding rural areas to meet these congressional mandates. I had hoped that the Rural Community Assistance Program would receive $2 million to expand programs which provide technical assistance to small, rural communities in order that they might come into compliance with the requirements in the Safe Drinking Water Act and the Clean Water Act. Unfortunately, the RCAP's only received $1 million, for which I am grateful. However, we must recognize the need to do more.

I am pleased that the committee has recommended that the National Rural Water Association receive $3.5 million in this bill. This organization also provides necessary technical assistance to small communities. But, even this is hardly enough considering the huge capital and operation and maintenance costs entailed in the Clean Water Act and Safe Drinking Water Act regulations.

A further example of how the needs of small communities are being ignored is in the funding for the State revolving funds/construction grants account. The SRF is the only mechanism available to fund the wastewater facilities construction projects of small towns. However, most small communities cannot afford the loans that are available through the SRF. Large metropolitan areas, which do have the economies of scale that much are better suited for loans are still receiving earmarked funding through construction grants, a program which was to have been ended in 1991. No small communities have received these grants.

We seem to be talking out of both sides of our mouth on this one. While saying that we cannot afford a grant program for waste water treatment facilities that small communities desperately need, we continue to funnel grants to large cities. While we cannot do anything about this situation in this bill, I strongly urge my colleagues to support my bill H.R. 5320, the Rural Community Environmental Assistance Act. H.R. 5320 creates a set-aside within the SRF which would be used to provide loans and grants to small communities for constructing wastewater treatment facilities and public drinking water systems.

In addition, I am in strong support of the funding the committee has provided to NASA in this bill. While some of my colleagues feel that funding for NASA in general and the space station *Freedom* in particular is depriving other important programs of funding, I disagree. In fact, NASA has taken the largest reduction of any agency in the bill. Furthermore, the importance of the space station to this country cannot be denied. The space station *Freedom* is the centerpiece of America's manned space program, it is our most significant international cooperative effort in science and technology, it represents over 75,000 jobs and it will lead to untold scientific discoveries and technological spinoffs.

Closer to home, the space station means jobs for Elkem's silicon facility in Fayette County, WV. It means more jobs and hopes for even more jobs in many sprouting, small high technology businesses across West Virginia. With advances in technology being pioneered in West Virginia, a broad horizon is opened for us to be even more competitive in today's global economy.

It may seem difficult to justify the costs of this program at a time when so many other necessary and deserving projects are not being funded or are underfunded. But the space station represents the future. It is capital investment, it is growth. It is my hope that we will be forward looking and support the space station.

Mr. Chairman, I know this bill is not perfect for it doesn't do all that we would wish to do. But under the circumstances this is a very fair bill and I encourage my colleagues to support it and hope that it do pass.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment printed in part 1 of House Report 102-747 may be offered only by the named proponents or a designee, shall be considered as read, shall not be subject to amendment, and shall be debatable for 2 hours, equally divided and controlled by the proponent and an opponent of the amendment.

Debate under the 5-minute rule on each other amendment to the bill, including amendments thereto, shall be limited to 20 minutes.

□ 1440

The Chair desires to announce that within its discretion it will allow 10 minutes to the proponent of each such amendment and 10 minutes to an opponent thereof.

It shall not be in order to consider an amendment proposing to increase the amount covered by a paragraph already passed in the reading for amendment or proposing to provide an additional amount for an entity covered by a paragraph already passed in the reading for amendment.

The Clerk will read.

The Clerk read as follows:

H.R. 5679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $16,494,239,000, to remain available until expended: *Provided*, That not less than $8,357,000 of the foregoing amount shall be transferred to "General operating expenses" for necessary expenses in implementing those savings provisions authorized in the Omnibus Budget Reconciliation Act of 1990, the funding source for which is specifically provided as the "Compensation and pensions" appropriation.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 35, 36, 39, 51, 53, 55, and 61), $729,000,000, to remain available until expended: *Provided*, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98-77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $22,730,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $40,524,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $87,869,000, to be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during 1993, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,393,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $11,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $305,000, to be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $51,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,760,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $962,000, to be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $14,631,920,000, plus reimbursements: *Provided*, That of the sum appropriated, $9,440,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further*, That of the funds made available under this heading, $476,860,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1993, and shall remain available for obligation until September 30, 1994: *Provided further*, That none of the funds appropriated to the Department of Veterans Affairs in this Act or any other Act shall be available to implement or fund Veterans Health Administration Directive 10–92–013, dated January 24, 1992 (Medical Research Service Career Development Program Funding).

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1994, $242,000,000, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,113,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $42,359,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 1732), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1994.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $4,000, as authorized by Public Law 102–54, section 8: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $35,000. In addition, for administrative expenses to carry out the direct loan program, $25,000, which may be transferred to and merged with the "General Post Fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $808,882,000, of which $20,000,000 for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration shall not become available for obligation until September 1, 1993, and shall remain available for obligation until September 30, 1994.

NATIONAL CEMETERY SYSTEM

For necessary operating expenses of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of ten passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $67,894,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,719,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $533,974,000, to remain available until expended: *Provided*, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1993, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1993, and (2) by the awarding of a construction contract by September 30, 1994: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): *Provided further*, That no funds from any other account except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110 and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $190,701,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That not more than $41,176,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 8109), $9,917,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131–8137), $40,000,000, to remain available until September 30, 1995.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $5,104,000, to remain available until September 30, 1995.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1993 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1993 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1993 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1992.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1993 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Notwithstanding the provisions of 38 U.S.C. 3732(c)(1)(C) or any other law, with respect to any housing loan closed during fiscal year 1993, the term "net value" for purposes of paragraphs (4) through (10) of 38 U.S.C. 3732 shall mean "the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost to the Government of borrowing funds."

Title 38, United States Code, is amended as follows:

(1) Section 1710(a)(1)(E) is amended to read "(E) to any veteran who has a service-connected disability rated less than 50 percent, for any nonservice connected disability, subject to the provisions of subsection (f) of this section;".

(2) Section 1710(f)(1) is amended by inserting "subsection (a)(1)(E) or" before "subsection (a)(2)".

(3) Section 1712(a)(2)(A) is amended by inserting ", subject to subsection (f) of this section" after "40 percent".

(4) Section 1710(f)(1) is amended by inserting "1710(a)(1)(E) or" after "section" the second time it appears.

(5) Section 1722A(c) is amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(6) Section 1710(f) is amended by adding a new paragraph (6) to read:

"(6) Effective on January 1 of each year the copayment amounts in effect under paragraph (2)(B) of this subsection and section 1722A of this title, shall be increased by the percentage by which the maximum rates of pension were increased under section 5312(a) of this title during the preceding calendar year.".

Section 8013(e) of Public Law 101–508 is amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

Mr. TRAXLER. Mr. Chairman (during the reading). I ask unanimous consent that the remainder of title I through page 17, line 11, be considered as read, printed in the RECORD, and open to amendment at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any points of order against any portions of title I?

POINTS OF ORDER

Mr. MONTGOMERY. Mr. Chairman, I have a point of order in title I.

The CHAIRMAN. The Gentleman will state his point of order.

Mr. MONTGOMERY. Mr. Chairman, I rise to make points of order against two provisions of title I of H.R. 5679. Both provisions are subject to a point or order for violating clause 2(b) of rule XXI. The first provision, beginning on page 15 at line 18 through line 7 on page 16, would amend chapter 37 of title 38, United States Code, which governs the administration of the VA housing program. This is clearly, Mr. Chairman, legislation in an appropriations bill, and I hope the gentleman from Michigan [Mr. TRAXLER] will agree.

The CHAIRMAN. Does the gentleman from Michigan [Mr. TRAXLER] desire to be heard on this particular point or order?

Mr. TRAXLER. Mr. Chairman, we concede the point of order. The distinguished gentleman from Mississippi [Mr. MONTGOMERY] is correct.

The CHAIRMAN (Mr. BEILENSON). The gentleman from Michigan [Mr. TRAXLER] concedes the point of order, and the point of order is sustained.

Mr. STUMP. Mr. Chairman, if I understood, the gentleman conceded. I just wanted to speak in support of the gentleman from Mississippi [Mr. MONTGOMERY] on his point of order, and I am glad the Chairman of the Committee of the Whole upheld that.

Mr. MONTGOMERY. Mr. Chairman, I have a second point of order.

The CHAIRMAN. The gentleman will state his second point of order.

Mr. MONTGOMERY. Mr. Chairman, I raise this point of order against the language beginning on page 16 at line 8 through line 11 on page 17. It also violates clause 2(b) of rule XXI. It changes existing law pertaining to eligibility for VA health care.

The CHAIRMAN. Does the gentleman from Michigan [Mr. TRAXLER] wish to be heard on the gentleman's point of order?

Mr. TRAXLER. Mr. Chairman, I concede the point of order.

The CHAIRMAN (Mr. BEILENSON). The point of order is conceded and sustained.

The CHAIRMAN. Are there further points of order against any portions of title I?

If not, are there any amendments to title I?

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 10, line 24, strike "$533,974,000" and insert "$343,074,000".

Mr. TRAXLER. Mr. Chairman, I reserve a point of order against the amendment offered by the gentleman from Indiana [Mr. BURTON].

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, in the report language in this bill we have $148.9 million for an Ann Arbor, MI, veterans clinic. There has not been a feasibility study done on this project, and it was not authorized by any authorizing committee of Congress.

In addition to that, Mr. Chairman, there is $42 million for an ambulatory care facility in El Paso, TX, and this has not been authorized by any authorizing committee.

Ordinarily I would not come down to the well and try to cut these two projects except that we are facing, as I said before, real fiscal calamity if we do not get control of spending in this place.

I did not bring my charts out. I may bring them out later. But all of my colleagues know the projections over the next 5, 6, 7 years if we do not control spending. We are going to have economic chaos, a recession, or depression that will rival or be worse than what happened in the 1930's, and so what we have to do around here is set priorities on spending.

Now the authorizing committees is the place where we should set the priorities on spending. We are in effect legislating on an appropriation bill, although I cannot say that because they just put it in report language, but the fact of the matter is we are looking at $190 million in spending that was not authorized, no feasibility study has been done, and it has been put in this appropriation bill.

Mr. Chairman, I submit this is a wrong way to do business around here. If these are very important priority items, they should go back to the Veterans' Affairs Committee, of which I am a member; bring them before the committee, and we will authorize them and then go through the appropriation process. But to do this this way is wrong, especially in view of the fact that we are facing economic calamity if we do not get control of our appetite for spending.

The CHAIRMAN. The Chair would inquire of the gentleman from Michigan [Mr. TRAXLER] whether he insists on his point of order.

Mr. TRAXLER. No, Mr. Chairman. I withdraw my point of order.

The CHAIRMAN. Does the gentleman rise in opposition to the amendment offered by the gentleman from Indiana?

Mr. TRAXLER. I rise in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan [Mr. TRAXLER] is recognized for 10 minutes.

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Ann Arbor project is several years old. We spent money on this project for the last couple of years, doing the planning, some road work, and now the actual construction money is laid out here. We worked closely with the authorizing committee on this project, and it was handled the way in which most of the construction projects have been done in the past. Therefore, I would oppose the gentleman's amendment.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, according to my information there has not been a feasibility study, and there has not been any authorization made by the authorizing committee. If I have been misinformed, I wish the gentleman would tell me.

Mr. TRAXLER. Mr. Chairman, I would explain it to the gentleman, but better yet, what I suggest is that the full committee chairman respond to the gentleman's question in regard to authorization. It is handled through his committee.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], chairman of the full Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Chairman, if I understand the amendment, it does knock out the Ann Arbor, MI, and El Paso, TX projects.

I do not personally oppose the inclusion of these funds. We do not bring a bill to the floor that authorizes VA construction projects. So, I think the gentleman is in line by putting these two projects in, and I personally support the project.

Mr. TRAXLER. Mr. Chairman, I thank the gentleman from Mississippi [Mr. MONTGOMERY] for his comments.

Does that help the gentleman from Indiana?

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. It really does not help because they have not been authorized.

I have the greatest respect for the gentleman from Mississippi [Mr. MONTGOMERY]. He is my chairman, and we have a good working relationship.

But it has not been authorized.

Mr. TRAXLER. Reclaiming my time, Mr. Chairman, I just simply say there is no requirement for authorization on these projects. They are very unique. They are different in this area. The full Committee on Veterans' Affairs has passed an authorization bill in which they have set forth for the future how these projects will be handled. In doing so, Mr. Chairman, they authorized Ann Arbor and El Paso.

So, I would say to the gentleman from Indiana, "They are authorized."

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield 1 minute to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I would just like to help clarify the issue here.

This is an area, I would say to the gentleman from Indiana, where the authorization is handled differently than in most other committees. I serve on the Veterans' Affairs Committee, and we do not pass an authorization bill for each and every construction project. We pass a construction budget, and then we, as a committee, vote, not as a vote of the Congress as a whole, but designate the projects that ought to be funded within that budget.

So, Mr. Chairman, it is not authorized in the same way that a lot of other committees would pass an actual bill on the House floor, and I am one who joins with the gentleman from Indiana [Mr. BURTON] time and time again to clean out these unauthorized items from the appropriations bills because I think that that is an egregious abuse of power on the part of the appropriation committee when an authorizing committee has not deemed necessary these projects to be made a priority. But in this case we have approved this project along with other projects through the normal committee procedure at the Committee on Veterans' Affairs. I would say for that reason it does not deserve to be criticized as an unauthorized project.

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Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to have the gentleman from Mississippi [Mr. MONTGOMERY] engage us in a colloquy, if he could. When we go through the authorization process, as I understand it, we have a list of proposed projects that we take a look at on the Committee on Veterans' Affairs. Was this on the list of projects that we looked at?

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, these projects were not on the list authorized by our committee. Actually, we do not have to authorize all VA construction projects. Current law does not require that projects be authorized by Congress before the Appropriation Committee acts. The Committee on Appropriations moved ahead and funded some of the projects that were not authorized by our committee. We do not bring a bill to the floor that Members get to vote on on authorization of veterans construction.

Mr. Chairman, I would hope that the gentleman from Indiana [Mr. BURTON] would not knock these projects out. We are not getting enough money to keep our veterans hospitals up to the standards of care they should be. The vast majority of VA hospitals are over 30 or 40 years old.

Mr. Chairman, I think these projects have merit and I support them.

Mr. BURTON of Indiana. Mr. Chairman, let me just say I have the highest respect for the gentleman from Minnesota [Mr. PENNY] and the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs. If they are aware of these projects and believe these projects are meritorious, then I share their concern about the veterans and will withdraw my amendment.

The CHAIRMAN. Without objection, the amendment of the gentleman from Indiana [Mr. BURTON] is withdrawn.

There was no objection.

The CHAIRMAN. Are there further amendments to title I?

Mr. CARPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the chairman of the Subcommittee on VA, HUD, and Independent Agencies. Before I do I just want to simply say that we have just witnessed another reason why the gentleman from Michigan [Mr. TRAXLER] is well regarded by our colleagues. The gentleman is even-handed and demonstrates a good humor that we often find lacking around here. The gentleman has been responsive to the needs of many of us, and we appreciate that.

Mr. Chairman, I would like to pose a question, if I could. Before I do, the Department of Veterans Affairs has indicated that it is prepared to begin construction of an outpatient addition at the Elsmere, DE, VA facility beginning in April 1993. This construction date is about 5 months earlier than the date considered by the subcommittee during its deliberations on the legislation before us.

The Department of Veterans Affairs has indicated to me that they have identified $20.5 million available to be reprogrammed from a large project so that construction of the Delaware facility may begin in fiscal 1993.

Unfortunately, the reprogramming process was not completed in time for inclusion in this bill.

Today I seek the support of the gentleman from Michigan [Mr. TRAXLER] in ensuring that $20.5 million of any funds made available from this reprogramming are designated for the Delaware project. I would ask the chairman for his assurance that he will continue to work with me and the VA to incorporate reprogrammed funds for the Delaware project in the final conference report on HUD-VA appropriations.

Mr. TRAXLER. Mr. Chairman, if the gentleman would yield, I wish to assure the gentleman of that fact.

Mr. Chairman, I want to commend the gentleman from Delaware [Mr. CARPER]. The gentleman is the author, the father, the genesis of this project. It is necessary and it has been authorized. It was in the President's budget. It would have been included for funding this year but we were advised in the hearings by the VA that it was not quite ready for funding until the last day of the year. So with our outlay problems, we deferred the funding for the next year's bill. I know that was painful for the gentleman from Delaware [Mr. CARPER], and he eloquently raised those questions with us.

Mr. Chairman, I want to say to the gentleman from Delaware [Mr. CARPER] there is a point here that is very distressing to me. It was brought to our attention that there may have been some skulduggery at the VA in connection with this project. Let me tell Members what the skulduggery is.

The gentleman from Delaware [Mr. CARPER] brought to our attention that there were some rumors at the VA that another project that was scheduled and appropriated with moneys for construction start in the very near future was going to be downsized, that was a facility in Chicago, and that as a consequence of downsizing the north Chicago facility, they were going to move the money over into the Wilmington VA Medical Center project, but that would occur after this bill left the House and when the bill was in the Senate. Then the deal was to give the credit—the credit, get this—to the Republican Senator from my colleague's home State.

Now, we have constantly checked with the VA to see whether indeed that was the fact. They absolutely denied it. They said, "We are looking for funds to transfer for Wilmington, but we have no moneys in mind. We have no projcet in mind where we can save money." We were assured of that by the budget officer.

Now, get this letter dated July 22, from the Secretary of VA, our old friend Mr. Derwinski—yes, Ed—who wrote to the Senator from Delaware and said, "Look, we are going to find the money. We have got a project in mind, as a matter of fact. We know where we are going to get the money. And, don't worry about it, Senator, we will let you know when it is ready and available."

They were going to put the money in over in the Senate side for this project. They were. I tell you honestly, they were, and they still may.

Mr. Chairman, this raises serious questions about the integrity—the integrity—of the Secretary and his chief lieutenants, including the budget officer. I will never believe them again, and you had better not either. In fact, the Secretary may have to get a bicycle, because we may take his car away from him as punitive damages for fibbing. He was not under oath, of course, when all this took place, so he cannot be prosecuted. But this kind of administratrion pork ought not to be allowed.

Mr. Chairman, I just want to say to the gentleman from Delaware [Mr. CARPER] again, the gentleman is the author and is the father of this project. The gentleman worked on it for years. The gentleman has been, I do not want to say a nuisance to me, but he has been persistent. The gentleman has been persistent in pursuing this.

The CHAIRMAN. The time of the gentleman from Delaware [Mr. CARPER] has expired.

(At the request of Mr. TRAXLER and by unanimous consent, Mr. CARPER was allowed to proceed for 1 additional minute.)

Mr. CARPER. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I am very insulted and I cannot express my dismay, my dissatisfaction, at what the agency is doing here. That is not fair, it is unjust, and if this occurs in the Senate, there will be a retribution, and I suggest that Eddie get a driver's license because he is not going to have a chauffeur and a limousine.

Mr. CARPER. Mr. Chairman, if I could just reclaim my time, I share the concern stated by the chairman of the subcommittee. I would say for those of us in Delaware, we have a small delegation. There are only three of us. We need to and usually do work together in order to accomplish projects of this nature.

I would again just ask of the gentleman from Michigan [Mr. TRAXLER] as we go to conference, to the extent that the moneys are reprogrammed, to the extent there is some money available from the reprogramming of that large project alluded to in the letter of July 22, we certainly appreciate the gentleman's consideration of that money being used to fund our project.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the HOPE for Public and Indian Housing Homeownership Program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitle A of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $161,000,000; for the HOPE for Homeownership of Multifamily Units Program as authorized under subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $95,000,000; for the HOPE for Homeownership of Single Family Homes Program as authorized under subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act, $95,000,000; and for the HOPE for Elderly Independence demonstration program as authorized under section 803(k) of the Cranston-Gonzalez National Affordable Housing Act, $10,000,000: *Provided*, That all amounts shall remain available until expended.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $600,000,000, to remain available until expended: *Provided*, That in order to allocate the total amount provided, the Act shall be construed as follows: in section 216(3)(A), "$750,000" both places it appears shall be "$375,000"; in section 217(b)(2)(A), "$3,000,000" both places it appears shall be "$750,000"; in section 217(b)(2)(B), "$500,000" both places it appears shall be "$250,000"; and in section 217(b)(3), "$500,000" shall be "$250,000".

Hereafter, for purposes of amounts appropriated under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Pub. L. 102–139; 105 Stat. 736, 744), the per-unit cost limits established by the Secretary of Housing and Urban Development under section 212(d) of the HOME Investment Partnerships Act (42 U.S.C. 12742(d)) shall reflect the actual development costs in each area in a manner that ensures compliance with the matching contributions waiver provided under such heading in such Appropriations Act.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriations Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.".

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING TRANSFERS AND RESCISSION OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $10,000,000,000, to remain available until expended: *Provided*, That to be added to and merged with the foregoing amounts, there shall be up to $287,234,000, consisting of up to $24,000,000 of budget authority previously made available under the "Flexible subsidy fund" which remains unreserved at the end of fiscal year 1992; $18,934,000 of budget authority previously made available for the Nehemiah Housing Opportunity Fund which remains unreserved at the end of fiscal year 1992; and up to $244,300,000 of amounts of budget authority (and contract authority) reserved or obligated in prior years for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as herein provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1993: *Provided further*, That, from the foregoing total of $10,287,234,000, $257,320,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $609,000,000 shall be for the development or acquisition cost of public housing, of which not less than 5 per centum shall be committed by the Secretary for developing or acquiring new projects designed or designated to meet the special needs of handicapped persons or persons with disabilities: *Provided further*, That, notwithstanding the 20 per centum limitation under section 5(j)(2) of the Act, $200,000,000 of the $609,000,000 for the development or acquisition of public housing shall be awarded competitively for major reconstruction of obsolete public housing projects, other than for Indian families: *Provided further*, That of the $200,000,000 specified in the immediately preceding proviso for major reconstruction of obsolete public housing projects, the Secretary shall commit for use not less than 5 per centum to assist public housing agencies in reconfiguring portions of projects which are not designated for elderly persons into dwelling units of less than two bedrooms, as necessary to provide increased housing options for non-elderly handicapped persons or persons with disabilities: *Provided further*, That of the $10,287,234,000 total under this head, $3,000,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including $4,750,000 for technical assistance and training under section 20 of the Act (42 U.S.C. 1437(r)) and $10,500,000 for the inspection of modernization units and the provision of management and technical assistance for troubled Public Housing Authorities and Indian Housing Authorities: *Provided further*, That of the $10,287,234,000 total under this head, $30,000,000 shall be competitively awarded in grants to public housing agencies for the purpose of providing service coordinators for public housing residents who are elderly, disabled or handicapped and for funding up to 15 per centum of the cost of supportive services to such residents: *Provided further*, That of the $10,287,234,000 total under this head, $25,000,000 shall be for public housing family investment centers as authorized in section 22 of the Act: *Provided further*, That of the $10,287,234,000 total under this head, $851,500,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f): *Provided further*, That of the $10,287,234,000 total provided under this head, $100,000,000 shall be for the foster child care program authorized under section 8(x) of the Act: *Provided further*, That of the $10,287,234,000 total provided under this head, $813,500,000 shall be for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); $1,616,304,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, including $70,000,000 which shall be for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235); $1,000,000,000 shall be for assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intent to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), and of the $1,000,000,000 made available for such assistance, up to $25,000,000 shall be for use by nonprofit organizations, pursuant to the Emergency Low Income Housing Preservation Act of 1987, as amended by the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), and for tenant and community-based nonprofit education, training and capacity building and the development of State and local preservation strategies; $93,032,000 shall be for section 8 assistance for property disposition; and $202,000,000 shall be for loan management: *Provided further*, That any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall be obligated for a contract term that is no less than five years: *Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further*, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured in 1993 and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or a local government or local housing agency financed project approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further*, That of the $10,287,234,000 total, $100,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) and $100,000,000 shall be for grants to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately-owned rental units, of which $2,000,000 shall be for lead-based paint abatement grants for technical assistance and evaluation studies: *Provided further*, That such grant funds shall be available only for projects conducted by contractors certified and workers trained through a federally- or State-accredited program: *Provided further*, That, to be eligible for such grants, States and units of general local government must demonstrate the capability to identify significant-hazard housing units, to oversee the safe and effective conduct of the abatement, and to assure the future availability of abated units to low- and moderate-income persons.

With the funds appropriated hereunder for tenant-based section 8 assistance and distributed to each public housing agency, together with any previously-appropriated tenant-based section 8 funds currently available to the agency, the agency may set-aside any units of less than two bedrooms for providing assistance to handicapped persons or persons with disabilities. Such setaside funds may be utilized by the agency to assist either new applicants for housing assistance, or persons presently residing in elderly public housing projects who wish to move to private housing, or any mix thereof in the agency's discretion.

Of the $10,287,234,000 total under this head, $1,315,488,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), respectively; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959, as amended, and for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, respectively; and for service coordinators pursuant to section 202(g) of the Housing Act of 1959, as amended.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $6,346,135,000, to remain available until expended: *Provided*, That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further*, That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

Further, for the foregoing purposes, $450,000,000, to become available for obligation on October 1, 1993, and to remain available for obligation until expended.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1993 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided*, That up to $283,000,000 of recaptured loan management or section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall be rescinded in fiscal year 1993: *Provided further*, That to the extent that the recaptures and rescission during fiscal year 1993 are less than $283,000,000, the total funding provided under the head "Annual contributions for assisted housing" and the budget authority provided in the tenth proviso under that head for assistance in connection with mortgage prepayments shall be reduced accordingly.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and non-profit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, as amended, $7,500,000, to remain available until September 30, 1994.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,282,436,000.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), section 106(c), and section 106(d) of the Housing and Urban Development Act of 1968, as amended, $6,025,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1992, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1993, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1993, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $57,146,000,000.

For administrative expenses necessary to carry out the guaranteed loan program, $257,021,000, to be derived from the FHA-Mutual Mortgage Insurance Guaranteed Loans Receipt account, of which not to exceed $251,011,000 shall be transferred to the appropriations for salaries and expenses; and of which not to exceed $6,010,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, $183,652,000, as authorized by the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)): *Provided*, That such costs, including the cost of modifying such loans, shall be defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $9,038,980,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan programs, $187,000,000, of which $182,955,000 shall be transferred to the appropriations for salaries and expenses; and of which $4,045,000 shall be transferred to the appropriation for the Office of Inspector General.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901–11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $165,000,000, to remain available until expended: *Provided*, That $5,225,000 of the foregoing amount shall be available for grants, contracts, or other assistance for technical assistance and training for or on behalf of public housing agencies and resident organizations (including the costs of necessary travel for participants in such training): *Provided further*, That $5,000,000 of the foregoing amount shall be made available for grants for a youth violence prevention in low-income housing program modeled on a program developed by the National Association of Neighborhoods.

Government National Mortgage Association

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1993, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g), shall not exceed $77,700,000,000. For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $6,680,000, to be derived from the GNMA—Guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $6,680,000 shall be transferred to the appropriation for salaries and expenses.

Homeless Assistance

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $17,450,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $150,000,000, to remain available until expended.

SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), $103,926,000, to remain available until expended.

SHELTER PLUS CARE

For the Shelter Plus Care program, as authorized by subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $265,902,000, to remain available until expended.

Community Planning and Development

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,000,000,000, to remain available until September 30, 1995: *Provided*, That $39,950,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), and $14,500,000 shall be available for "special purpose grants" pursuant to section 107 of such Act, and $500,000 shall be available for a grant to demonstrate the feasibility of developing an integrated database system and computer mapping tool for compliance, programming, and evaluation of community development block grants pursuant to section 901 of the Cranston-Gonzalez National Affordable Housing Act of 1990: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following proviso) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the total amount provided to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z–6 note).

During fiscal year 1993, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $300,000,000 of contingent liability for loan principal.

Policy Development and Research

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $25,000,000, to remain available until September 30, 1994: *Provided*, That of the foregoing amount (1) $1,000,000 shall be available for innovative building technologies research with the Research Center of the National Association of Home Builders, (2) $1,000,000 shall be available for the National Commission on Manufactured Housing, and (3) at least $500,000 shall be for lead-based paint abatement research and studies.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, $13,350,000, to remain available until September 30, 1994: *Provided*, That not less than $8,600,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $717,088,000, of which $393,575,000 shall be provided from the various funds of the Federal Housing Administration, and $6,680,000 shall be provided from funds of the Government National Mortgage Association: *Provided*, That of the total amount $2,000,000 shall be available for the Housing Assistance Council and $500,000 shall be available for the National American Indian Housing Council: *Provided further*, That the Secretary may transfer any funds in other accounts for headquarters offices for personal services and travel to the account under this head for field staffing and administrative expenses.

□ 1500

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota: Page 36, line 13, strike "$717,088,000" and insert "$698,027,000".

The CHAIRMAN. The gentleman from North Dakota [Mr. DORGAN] is recognized for 10 minutes on behalf of his amendment.

Mr. SWIFT. Mr. Chairman, I reserve points of order.

The CHAIRMAN. Does the gentleman reserve points of order against the gentleman's amendment?

Mr. SWIFT. Mr. Chairman, I reserved points of order on title II.

The CHAIRMAN. The gentleman may only raise points of order against provisions in the bill as they are read. Those that have been passed in the reading no longer may have points of order raised against them.

The Chair recognizes the gentleman from North Dakota [Mr. DORGAN] to speak on behalf of his amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on behalf of myself, the gentlewoman from Missouri [Ms. HORN], the gentleman from Texas [Mr. SMITH], the gentleman from Kansas [Mr. GLICKMAN], and the gentleman from Minnesota [Mr. PENNY].

The amendment, Mr. Chairman, seeks to cut nearly $19 million from the account just read by the clerk, and I would like to discuss it just briefly.

Mr. Chairman, the amount of money spent in HUD for program expenditures is an amount of money that has been decreasing. And yet the amount of money for the administration of programs in HUD over the last several years has increased by 9 percent.

I must say that the gentleman from Michigan [Mr. TRAXLER] and others I think have done a very good job this year in bringing this bill to the floor with respect to cutting overhead expenditures in part of the bill. I recognize that they held to 1992 funding levels for overhead and administration expenditures for the Washington office of HUD. But it seems to me that if that is worth doing, it is worth doing for the rest of HUD general administrative accounts.

If we have program expenditures falling, it seems to me that we ought to also try to impose a freeze on overhead expenditures or the cost of administering these programs in the entire agency.

We are not doing this on an ad hoc basis, as many of my colleagues know. We have come to the floor, a number of us, on different appropriations bills, seeking to do in the agencies of Government pretty much what we have tried to do also to ourselves here in Congress. The appropriations bill dealing with legislative appropriations sought a 6-percent cut, and we recognize that there needs to be some belt-tightening across the board.

My friend, the gentleman from Indiana [Mr. BURTON] talked about the Federal deficit. He and I have a slightly different version of that, but we have no disagreement about the danger of it. The President sent to the floor of the Congress this year his budget recommendations. He proposed adding $2.21 trillion in deficit between now and the year 1998. This Congress, if past record is any guide, will probably say:

> Well, we will play in that stadium. We will just quibble about where we spot the ball on the yard line, and so we will debate about who is at fault for all of this.

The fact is, we will end up spending far more money than we should. We will spend money we do not have often on things we do not need, and the deficit is indeed something that is dangerous to this country's future and must be dealt with.

Now, where do we start cutting back on spending? Some programs? Yes, we do. We have to cut back some programs. And we have not begun to discuss those in any detail. But certainly, the first and obvious place to cut back would be the areas where business cuts back when it has some trouble. The first place a business would cut back when it starts to suffer some financial pinching is to cut back overhead expenditures, the cost of travel and printing and the basic overhead expenditures. It is the first place that one always cuts.

That has not, sadly, been the case with respect to Government, however. Government has generally been saying, "What did you spend last year? Well, we will add a little bit to that, and that is what you get next year as a baseline."

We are simply saying here that we would like to cut back to 1992 levels the cost of the general administration costs of HUD. Once again, their program costs are decreasing even as administrative costs are rising.

If we have an agency in which program funds have decreased over the past several years, how then can we justify an increase of 9 percent in the same 3 years for running those programs? Let us tighten our belts and take the easiest cut here, at least today. It is a modest step, $19 million.

And let us pass this amendment. It is not, in my judgment, going to injure the programs we are talking about. It will require, yes, some of these offices to take a strong, hard look at overhead expenditure costs and to reduce them. But that is precisely what we ought to expect of these agencies. That is the reason I, on behalf of the gentlewoman from Missouri [Ms. HORN], the gentleman from Texas [Mr. SMITH], the gentleman from Kansas [Mr. GLICKMAN], and the gentleman from Minnesota [Mr. PENNY], and I hope others, support this kind of legislation.

I would hope that the committee would accept this amendment and that we can move on.

Today I rise to offer an amendment to the Veterans/HUD appropriations bill. This amendment focuses on a key deficit-fighting strategy: that of reducing overhead costs in Government. This amendment would cut approximately $19 million from overhead accounts in this bill—less than one-fourth of 1 percent of the overall bill total. Only departmental management and administration accounts for HUD are affected. This amendment freezes accounts at fiscal year 1992 levels. HUD program funding is not reduced. This simple amendment is specifically targeted and is responsible legislation.

The Federal Government spends about $270 to $300 billion annually for services such as printing and copying, travel, rent, communications, utilities, supplies, and other overhead. One of every $5 spent by the Federal Government goes for overhead costs—not for programs, benefits, and services. These overhead costs are a source of significant savings if even small percentage savings can be realized.

This amendment cuts spending similar to those passed during the Agriculture, military construction, Interior, and Treasury-Postal Service appropriations debates. As before, this amendment is not directed at programs or services, but only at the overhead costs involved in delivering those services. I firmly believe the Federal Government needs to do some belt-tightening as so many families and businesses have had to do during the difficult recession.

I understand this may be painful. I understand that Federal agencies have important missions and important roles in solving national problems. I don't subscribe to the belief that Government is the problem and that the solution is to tear it down. However, I also believe that $470 billion annual deficits and a continually mounting national debt will tear us down if we don't take action. We have got stop spending money we don't have.

Keep this in perspective. The proposal is only a freeze at the 1992 level. The proposed cut is less than one quarter of 1 percent of the overall bill total. This is not a doomsday scenario. It is only asking the Federal Government to do what so many American families and businesses have had to do. We have got to start taking steps in the right direction, and I think this is the right direction.

I am enlisting your support to trim overhead spending from the Veterans/HUD appropriations bill. I hope you can be counted on to help pass this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GREEN of New York. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New York [Mr. GREEN] is recognized for 10 minutes.

Mr. GREEN of New York. Mr. Chairman, I yield myself such time as I may consume.

I am, frankly, very deeply concerned about this amendment. First, because I think its premise is mistaken as to the level of activity at HUD that needs supervision and, second, because in my experience there are at least significant parts of HUD which probably could use more staff rather than less.

I think the gentleman's premise that activity at HUD is going down is just dead-wrong. If we look at the 1990 Housing Act, it created numerous new programs, each of which has to be gotten up and running and put in place. That is a very staff-intensive activity. Those programs are really just starting.

The HOME Program now, the HOPE Program, of which we heard earlier, those programs are really just starting out. That is going to require a lot of people to do it right.

In addition to that, we have a major new area of concern in terms of the expiring subsidies which were voted a couple decades ago, and we put in place a very complicated program to decide what happens to those properties that reach the end of their life under their contract with HUD where the sponsors could perhaps refinance and get out from under HUD supervision were it not for this new program that has been put in place. That is a multibillion-dollar new program that HUD has to handle.

The operating subsidy for public housing has increased substantially in recent years as has the modernization program for public housing.

Finally, I mentioned earlier today that I serve as a member of the National Commission on Severely Distressed Public Housing, and as its cochair. Certainly, one of the problems that we identified in the course of our work was that HUD simply had not had the staffing it ought to have to give the kind of direct attention to local housing authorities that it ought to be giving, given the very large investment that we have in those housing authorities.

□ 1510

While the gentleman may give generalized principles as to how a business ought to be run in tight times, when we get down to the specifics of HUD what he is saying does not apply. There are a multiplicity of new programs without terminating many of the old ones, and they are really short of staff, not long of staff.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I wish to join with the gentleman from New York in his opposition to the amendment. I have discussed this with the gentleman from Texas [Mr. GONZALEZ], chairman of the authorizing committee and the principal sponsor of the legislation for HUD. I think we are in accord in our opposition to this matter.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I am delighted to yield to the distinguished gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, certainly I am in opposition. I think the amendment is ideological rather than a matter of substance, and on that basis alone it ought to be rejected.

I must praise the subcommittee of the Committee on Appropriations. They have already cut enough. I wish they had not, because our authorization request exceeded what they proposed. I rise in opposition to this amendment, and I hope our colleagues will join with me in supporting the chairman of this very capable subcommittee in rejecting this amendment.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield further?

Mr. GREEN of New York. I am delighted to yield further to the gentleman from Michigan.

Mr. TRAXLER. Let me say that we are not cutting staff at headquarters. This amendment, as the Members know, goes to staffing levels in the field, the people that process the FHA loans. They are the people who monitor the Community Development Grants Program. They are the ones who administer fair housing. They are the people that manage and operate assisted housing programs. They are the workers. I do not think we want to do this from the standpoint that it is going to impair the effectiveness and efficiency of the agency.

Mr. Chairman, I urge a no vote.

Mr. GREEN of New York. Mr. Chairman, the gentleman from Michigan is absolutely right. We are literally talking here about the length of time it takes someone to get a mortgage refinanced to take advantage of new lower interest rates. We are talking about the ability to grab hold of some of these public housing authorities that are not running right in order to see that the tenants living in that public housing get a decent shake. We are talking about implementing all of the new programs that the Committee on Banking, Finance and Urban Affairs brought us in 1990.

I hope the gentleman from North Dakota [Mr. DORGAN] will not persist just because of some general feeling about government and business in approaching this situation, which is very different from many other agencies, and where staffing shortages have been a significant problem leading up to great distress in many instances.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I simply want to make a few quick points. First of all, we have offered a similar amendment to reduce the overhead costs in many of the other departments and agencies of this Federal Government. I believe all of those amendments have been accepted to date.

Second, I would like to indicate that this administration asked us just a month ago to pass a balanced budget amendment to the Constitution. It seems to me at the very least they can tighten their belts down at these departments and agencies and prove to us that they know how to save some money.

Third, this amendment only cuts $19 million. That is not nearly as much as we need to cut in order to balance this budget, and it is a cut that represents only one-fourth of 1 percent of all the spending in this bill. That is certainly a cut that can be absorbed without any pain or undue suffering.

In addition, this amendment simply represents a freeze on this account at fiscal 1992 levels. Certainly the department of HUD can live with that kind of a restraint on their overhead spending. It only affects management and the administrative accounts at HUD. It does not affect VA or EPA. I urge adoption of the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I rise as a cosponsor of this amendment.

Congress has to make choices. Either cut programs, raise taxes or control costs.

In recent weeks, I have offered amendments to various appropriations bills to reduce Government overhead costs. Members on both sides of the aisle have joined in supporting those efforts. Government overhead costs for travel, utilities, communications, supplies and materials today exceed the entire Defense budget at its height—more than $320 billion a year. We must better manage overhead costs.

Reduce them by 10 percent. Then hold those costs to no more than the rate of inflation for 4 more years and we can realize savings approaching $150 billion. We begin to reduce the deficit by acting to control the costs of government. In the process, we make government more efficient, more effective, more responsive.

Amendments that I have offered have targeted specific costs and played no favorites among agencies covered by a particular appropriations bill. Such an approach assures fairness and spares the process any appearance of being driven by policy or political preferences.

The amendment before the House reduces funding for management and administration expenses by $19 million for the Department of Housing and Urban Development. This holds administrative funding at its 1992 level.

Overhead costs as defined by object classes 21.0 through 26.0—travel, transporting of things, utilities, communications and rent, other services, and supplies and materials—for HUD management and administration total $261 million.

A $19 million reduction can and should be taken in these six spending categories. The reduction is only 7 percent of the 1993 budget request for spending on overhead under the management and administration line item. This reduction can be made in these object classifications without resort to reductions in progams, projects, salaries, or personnel.

Yesterday, the House adopted by voice vote my amendment to the Health and Human Services—Labor appropriations bill to cut year-end travel by agencies covered in the bill. The reduction was $5.8 million. That equaled 4 percent of total annual funding for travel as provided for in that bill.

Four percent of appropriated travel moneys is what the Federal Government on average has wasted in the last 22 business days of the fiscal year each year for the last 20 years. That waste is clearly documented in the records of the Treasury Department on actual Government spending. Eliminating such wasteful, year-end travel is just one way in which HUD Department officials can begin to absorb this amendment's reduction in funding. And in the Department's management and administration expenses, travel is 6 percent of overhead expenses, providing just a beginning to the opportunities for managers to realize additional savings.

We must make choices. The commonsense, practical approach is to act to control costs. Congress must lead the way by setting policy goals. This amendment is a constructive step down this path and I urge its adoption.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I would like to say I rise in support of this amendment. I think it is a good amendment. The sum of $19 million is not going to break HUD. How could we not support a freeze? This bill has a 7.9-percent increase, which means that it is going to cost the taxpayers $6.367 million more than last year. The entitlements are a $3.37 billion increase, or almost 20 percent over last year, and discretionary spending is about $3 billion over last year, almost a 5-percent increase.

The sum of $19 million is not a Draconian cut. We can live with that. In fact, we ought to do a lot more cutting in this bill, as well as the other appropriations bills that are coming before this body.

Mr. DORGAN of North Dakota. Mr. Chairman, I might ask the Chair, how much time remains?

The CHAIRMAN. The gentleman from North Dakota [Mr. DORGAN] has 1 minute remaining, and the gentleman from New York [Mr. GREEN] in opposition has 5 minutes remaining.

Mr. DORGAN of North Dakota. Mr. Chairman, I would simply use the final minute, unless the gentleman from New York wants to close.

The CHAIRMAN. The gentleman from New York [Mr. GREEN] is entitled to close, in any case.

Mr. DORGAN of North Dakota. Mr. Chairman, let me then say that the gentleman from New York [Mr. GREEN] mentioned the Office of Housing. This amendment does not deal with that. That is a separate item in the bill. The gentleman from New York indicated that this is a philosophical thing I am speaking of, and I am speaking in general. Let me speak in specifics for just a moment.

As I understand it, when the 1991 bill left here it was $254.9 billion. This bill will leave here and it will be $24.5 billion. The point is, we are spending less on programs but spending more on the administration of programs, a 9-percent increase during the same period on overhead.

We are not asking that they cut the number of people that process. We are asking that they tighten their belt on travel and printing. Surely there must be some waste here. When we spend close to $1 billion on administration and we keep getting what we got the last year plus a little, and somebody says we ought to tighten up a little, if there is not room enough to tighten a little bit in these areas on administrative costs and overhead costs, then we do not stand a chance of ever dealing with deficit issues.

There is a good reason to justify spending every dollar in every bill that comes here, but the fact is we have to start making some choices, and this is the time to do that.

Mr. GREEN of New York. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I think my colleagues should understand just what account is involved here. The gentleman who offers this amendment is correct that this does not cover the headquarters Office of Housing, for which there is a separate item, nor does it cover the headquarters Office of Public and Indian Housing, or the other headquarters offices. This is the general salaries and expense account, which basically is going to field staff. Those are the people out there on the firing line who day to day do the work of the department, and have to be there supervising the housing authorities, processing the FHA mortgage applications, seeing that the community development block grant money is properly spent, all of the things that a HUD field staff does. I was a HUD regional administrator. I know something about how this agency operates. I am telling the gentleman that if he thinks he is getting rid of some fat at the headquarters, he is not. He is going after the wrong people in this agency.

I think when we have given this agency major new mandates, as the distinguished chairman of the Committee on Banking, Finance and Urban Affairs did in his landmark legislation in 1990, when we are giving this department major new programs, some very complicated, like the program dealing with the expiring subsidies, and seeing that the people in the housing are not thrown out on the streets, that is something that has to be done and has to be done in a timely fashion, and has to be done right.

□ 1520

And when you have big increases over the last several years in operating subsidies, in community development block grants, in the modernization program, the big-ticket items at HUD, at a time when the FHA is busy because of refinancing, to go in and cut the field staff is just the wrong place to be cutting this bill.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, there is nothing in this amendment which says that we ought to go out and cut the field staff.

Mr. GREEN of New York. If I may reclaim my time, the gentleman is being disingenuous, because if you look at the structure of this bill there are separate appropriations for headquarters staff in each of the major offices. So this money is going to cut field staff, because you are not cutting those individual headquarters accounts. I think that is wrong. It is the wrong place to cut this agency. This is an agency which needs more field staff to deal with the enhanced programs given it in the 1990 bill, and if the House goes ahead and does this, and it survives the conference, I can tell Members that we are going to be paying for it in waste and inefficiency in this department for years to come.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DORGAN of North Dakota. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 154, not voting 19, as follows:

[Roll No. 333]

AYES—261

Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Archer
Armey
Aspin
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bennett
Bentley
Bevill
Bliley
Boehlert
Borski
Brewster
Broomfield
Browder
Bruce
Bryant
Burton
Byron
Callahan
Camp
Campbell (CA)
Cardin
Chandler
Clay
Clinger
Coble
Coleman (MO)
Collins (IL)
Combest
Condit
Cooper
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Darden
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dooley

Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (TX)
Emerson
English
Erdreich
Espy
Ewing
Fawell
Feighan
Fields
Fish
Franks (CT)
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hayes (IL)
Hefley
Henry
Herger
Hoagland
Hobson
Holloway
Hopkins
Horn
Houghton
Hubbard
Huckaby
Hughes

Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Kanjorski
Kasich
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Marlenee
Martinez
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Miller (WA)
Mink
Moody
Moorhead
Murphy

Myers
Neal (NC)
Nichols
Nussle
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Patterson
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Porter
Quillen
Ramstad
Ravenel
Ray
Reed
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers

Rohrabacher
Ros-Lehtinen
Roukema
Rowland
Russo
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt

Staggers
Stearns
Stenholm
Stump
Sundquist
Swett
Synar
Tallon
Tanner
Taylor (MS)
Thomas (CA)
Thomas (WY)
Thornton
Torricelli
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walker
Walsh
Waters
Weldon
Williams
Wolf
Wyden
Wylie
Zeliff
Zimmer

NOES—154

Abercrombie
Ackerman
Alexander
Annunzio
Applegate
Atkins
Bateman
Beilenson
Bereuter
Berman
Bilbray
Bilirakis
Blackwell
Boehner
Bonior
Boucher
Brooks
Brown
Bunning
Bustamante
Carper
Carr
Chapman
Clement
Coleman (TX)
Conyers
Costello
Coughlin
Coyne
Davis
de la Garza
Dellums
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Engel
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gallo

Gaydos
Gonzalez
Green
Hastert
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Johnson (CT)
Jones (NC)
Kaptur
Kennedy
Kennelly
Kildee
Lehman (FL)
Levine (CA)
Lightfoot
Livingston
Lowery (CA)
Manton
Markey
Martin
Matsui
Mavroules
McDade
McDermott
McHugh
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moran
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz

Parker
Pastor
Paxon
Payne (NJ)
Pease
Pelosi
Perkins
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Regula
Rhodes
Rose
Rostenkowski
Roybal
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Serrano
Skaggs
Smith (FL)
Smith (IA)
Stark
Stokes
Studds
Swift
Taylor (NC)
Torres
Traficant
Traxler
Visclosky
Washington
Waxman
Weber
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—19

Boxer
Campbell (CO)
Collins (MI)
Edwards (OK)
Hatcher
Hayes (LA)
Hyde

Jefferson
Kolter
McCollum
Morella
Petri
Roth
Savage

Solarz
Stallings
Tauzin
Thomas (GA)
Towns

The Clerk announced the following pair:

On this vote:

McCollum for, with Mrs. Morella against.

Messrs. BATEMAN, BEREUTER, COYNE, MAVROULES, ENGEL, and SANDERS changed their vote from "aye" to "no."

Mr. BLILEY, Mr. RICHARDSON, Ms. WATERS, Messrs. THORNTON, SKEEN, KANJORSKI, and ANDERSON, Mrs. VUCANOVICH, and Mr. HAYES of Illinois changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PERSONAL SERVICES AND TRAVEL, OFFICE OF HOUSING

(INCLUDING TRANSFER OF FUNDS)

For personnel compensation and benefits for the headquarters Office of Housing, $55,580,000, of which $37,637,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That not to exceed $1,276,000 of the amount herein provided shall be available for travel expenses: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF PUBLIC AND INDIAN HOUSING

For personnel compensation and benefits for the headquarters Office of Public and Indian Housing, $12,788,000: *Provided*, That not to exceed $491,000 of the amount herein provided shall be available for travel expenses: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

For personnel compensation and benefits for the headquarters Office of Community Planning and Development, $17,872,000: *Provided*, That not to exceed $439,000 of the amount herein provided shall be available for travel expenses: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF POLICY DEVELOPMENT AND RESEARCH

For personnel compensation and benefits for the headquarters Office of Policy Development and Research, $8,717,000: *Provided*, That not to exceed $141,000 of the amount herein provided shall be available for travel expenses: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

For personnel compensation and benefits for the headquarters Office of Fair Housing and Equal Opportunity, $10,516,000: *Provided*, That not to exceed $377,000 of the amount herein provided shall be available for travel expenses: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, DEPARTMENTAL MANAGEMENT

For personnel compensation and benefits for the headquarters budget activity of Departmental Management, $8,793,000: *Provided*, That not to exceed $673,000 of the amount herein provided shall be available for travel expenses: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF GENERAL COUNSEL

(INCLUDING TRANSFER OF FUNDS)

For personnel compensation and benefits for the headquarters Office of General Counsel, $14,609,000, of which $2,754,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That not to exceed $259,000 of the amount herein provided shall be available for travel expenses: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, ADMINISTRATION

For personnel compensation and benefits for the headquarters administration and staff services, the Office of Lead-Based Paint Abatement and Poisoning Prevention, and the Chief Financial Officer, $45,801,000: *Provided*, That not to exceed $3,009,000 of the amount herein provided shall be available for travel expenses: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $45,773,000, of which $10,055,000 shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

For payment to Milton Residences for the Elderly, Inc., for development costs incurred in connection with the site for HUD Project No. 023-EH273 (Milton, MA) prohibited under Public Law 100-202 (101 Stat. 1329-190), $226,000.

Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937, the City of Springfield, in the State of Massachusetts, shall not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grants awarded under section 17(d) of such Act to the city for use in connection with the Symphony Apartments housing development project (Project No. MA002HG701), if before October 1, 1993, the city (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts were made available.

The Oklahoma Department of Commerce is authorized to take all steps necessary to close out an agreement originally entered into by the Department and the City of Commerce, Oklahoma (Contract No. 4511 CDBG ED 89) for the purpose of providing a loan through the Miami Area Economic Development Services, Inc., for Sac and Fox Industries to retain and create jobs for low- and moderate-income persons. Notwithstanding any other provision of law or other Department of Housing and Urban Development regulations and requirements, $490,700 of funds appropriated for community development block grants and allocated to the State of Oklahoma or other funds available to the Secretary of Housing and Urban Development shall be used to close out said agreement. Furthermore, the Miami Area Economic Development Services, Inc., the City of Commerce, Oklahoma, and the Oklahoma Department of Commerce are relieved of all liability to the government for the outstanding balance, any amount of accrued interest, and any other fees and charges payable in connection with this transaction.

The provisions of title I, section 104(g)(2) of the Housing and Urban Development Act of 1974, as amended, are hereby waived for the following urban development action grant projects in the City of Youngstown, Ohio:

(1) H. L. Libby parking deck—project #: B-87-AA-39-0319;

(2) The Bitonte Medical Center—project #: B-86-AA-39-0321; and

(3) The Erie Terminal Development Office Complex—project #: B-87-AA-39-0329.

During fiscal year 1993, notwithstanding any other provision of law, the number of individuals employed by the Department of Housing and Urban Development in other than "career appointee" positions in the Senior Executive Service shall not exceed 15.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall cancel the indebtedness of the Sunbright Utility District in Morgan County, Tennessee, relating to loan number TENN-PFL-43, and the Administrator of the Economic Development Administration shall cancel the indebtedness of the Sunbright Utility District in Morgan County, Tennessee, relating to loans numbered 040100-342-1 and 040100-342-2. The Sunbright Utility District in Morgan County, Tennessee, is relieved of all liability to the Government for the outstanding principal balance on such loans, for the amount of accrued interest on such loans, and for any other fees and charges payable in connection with such loans.

Of the budget authority made available to comply with section 213(e) of the Housing and Community Development Act of 1974, notwithstanding that provision of law, the Secretary of Housing and Urban Development shall make such budget authority available for assistance payments under section 8(b) of the United States Housing Act of 1937 to the Housing Authority of the City of Galveston, Galveston, Texas, for 18 units, to the Housing Authority for the City of Rockwall, Rockwall, Texas, for 36 units, with respect to the balance of such budget authority to the Port Arthur Housing Authority, Port Arthur, Texas.

A public housing agency may restrict future admission to any project (or a portion thereof) which it designates, to elderly families whose head, spouse or sole member is over 62 years of age. Where there are insufficient numbers of such families to fill available units in such projects (or portions), the agency may admit families whose head, spouse or sole member is over 50 years of age. A public housing agency which has designated a project (or portion) for age-restricted admission shall not suffer any reduction of its operating subsidy, other penalty or adverse evaluation whatsoever as a result of any vacant unit in such a project (or portion), unless the vacancy rate for the project (or portion) has exceeded 10 per centum for a period of 60 consecutive days. In determining vacancy rate for these purposes, only units ready for occupancy shall be considered. Any agency so restricting admission shall make reasonable efforts to provide alternate housing opportunities to handicapped and disabled persons, and shall in any event setaside for such persons at least 50 per centum of its tenant-based section 8 assistance (both incremental and turnover) for units of less than 2 bedrooms. Any handicapped or disabled person shall be offered the option of section 8 assistance from such setaside at the time he or she is offered a public housing unit or as soon thereafter as such assistance becomes available, and may retain his or her priority for admission to public housing while awaiting the offer of section 8 assistance.

The first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as follows: "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

"(A) not to exceed the lesser of—

"(i) in the case of the 1-family residence, 95 percent of the median 1-family house price in the area (as determined by the Secretary; in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of $25,000 but not in excess of $125,000; and

"(iii) 90 percent of such value in excess of $125,000.".

The second sentence of section 2(b)(2) of the National Housing Act (12 U.S.C. 1703(b)(2)) is amended by striking "but not" and all that follows through "203(b)(2)" and inserting "but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) the dollar amount specified as increased by the same percentage by which 95 percent of the median one-family house price in the area (as determined by the Secretary) exceeds $67,500".

Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "for a 1-family residence" and inserting "for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located".

FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) ELIGIBLE CONDOMINIUM PROPERTY.—Section 40(p)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)(4)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

"(B) that has an appraised value that does not exceed the applicable dollar amount specified in the first sentence of section

203(b)(2) of the National Housing Act, as such dollar amount is increased on an area-by-area basis under such section for areas with high prevailing housing sales prices, except that for purposes of this paragraph no such increase may exceed 150 percent of the dollar amount specified in section 203(b)(2).".

(2) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Section 40(p)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)(5)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

"(B) that has an appraised value that does not exceed the applicable dollar amount specified in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures, as such dollar amount is increased under such section for geographical areas or on a project-by-project basis (except that any such increase on a project-by-project basis shall be made pursuant to a determination by the Corporation that such increase is necessary).".

(3) ELIGIBLE SINGLE FAMILY PROJECT.—Section 40(p)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)(7)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

"(B) that has an appraised value that does not exceed the applicable dollar amount specified in the first sentence of section 203(b)(2) of the National Housing Act, as such dollar amount is increased on an area-by-area basis under such section for areas with high prevailing housing sales prices, except that for purposes of this paragraph no such increase may exceed 150 percent of the dollar amount specified in section 203(b)(2).".

Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended by striking subparagraphs (C), (D), and (E) and inserting the following new subparagraphs:

"(C) 70 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), if made for the purpose of financing the purchase of a manufactured home;

"(D) 80 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

"(E) the greater of (i) 20 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), or (ii) $13,500, if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of the owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that the owner will place the manufactured home on the lost acquired with such loan within 6 months after the date of such loan;

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting after the period at the end the following new sections: "Notwithstanding the authority of the Secretary to establish the terms of insurance under this section and approve the initial service charges, appraisal, inspection, and other fees (and subject to any other limitations under this section on the amount of a principal obligation), the Secretary may not (by regulation or otherwise) limit the percentage or amount of any such approved charges and fees that may be included in the principal obligation of a mortgage."

Mr. TRAXLER (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title II, through page 50, line 7, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there points of order against any of the remainder of title II?

POINT OF ORDER

Mr. GONZALEZ. Mr. Chairman, pursuant to the rule before us, I make a point of order with respect to the provisions of page 43, line 19, through page 44, line 21.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard on the point of order?

Mr. TRAXLER. I concede the point of order, Mr. Chairman.

The CHAIRMAN. (Mr. BEILENSON). The point of order is conceded. The Chair sustains the point of order. The paragraph is stricken.

Are there any further points of order against any portion of title II?

Mr. DONNELLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not use the 5 minutes. I understand very well why the distinguished chairman of the Committee on Banking moved to make the sustainable point of order to strike out legislating on an appropriations bill, but I do take this moment to encourage the committee to move forward with some sort of legislative initiative on this issue of setting aside elderly only housing.

I know the committee has been working on a vehicle and a document to address this problem, which is a very serious problem which affects probably every senior citizen's development in every community in the United States.

Due to a quirk in the law, some policy changes have been made, a policy of setting aside elderly housing that has been in effect since 1936.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I want to explain to the gentleman that I am grateful for his interest and for the fact that the attempt was made in the Appropriations Subcommittee to address this very nettlesome problem, but in the bill we have now on the extension of the authorizations on affordable housing, including public housing, we have a proviso that has been crafted after many months of consideration and many hearings, based on an amendment that the gentleman from Wisconsin [Mr. KLECZKA] offered.

The problem we had, and we regretted that we had to go to the Rules Committee yesterday, as that the amendment in the appropriations bill is fragmentary. It addresses public housing, but we have a much larger problem in all the array of affordable housing in which this mixed population is a very serious problem.

I think we have crafted a very well-balanced and delicate approach to this, and I can assure the gentleman it is a problem that really does need addressing, and I for one express my gratitude to the gentleman for his interest with respect to the public housing dilemma.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman for his assurance, because as the gentleman knows, it is a real problem. I know they have crafted legislation in the most expeditious way we could deal with this issue and it is gratefully appreciated as we work so closely with the committee members and the staff.

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Mrs. ROUKEMA. I would like to join with the statements of the chairman. As the ranking member of the subcommittee and having worked with both Congressman KLECZKA and Congressman FRANK in developing our bill, I too share the concern about this issue.

I want to move ahead as quickly as possible, but I would endorse what the chairman said. Speaking for our side of the aisle, I would like to offer my help to work with the gentleman to see to it that this language is properly included in the authorization language.

I do not know how that can affect the operations next year. I do not believe—Mr. Chairman, I would like to have your comment—I do not believe we would need specific appropriation in order to implement the authorizing language.

Mr. GONZALEZ. If the gentleman would yield to me, no. As a matter of fact, our housing bill, when enacted—and it looks good because again the gentlewoman will back me up because this is out on a bipartisan basis and has a very good prospectus—it will be effective long before the effective date of this appropriations bill. But I think the main thing, coming back to my original statement, is that it will be comprehensive approach rather than fragmentary addressing only public housing. In answer to the gentlewoman's question, I want to say that I think our appropriation route is quicker and it does not necessarily need an appropriation in order to be implemented at all.

Mrs. ROUKEMA. I thank the gentleman, and I would like to work again with the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Chairman, again, clearly the chairman's point of order was sustainable. I am encouraged by the assurances of the gentlewoman and the chairman that they will move expeditiously.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $19,318,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses, in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger motor vehicles, and for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the rate for GS–18, $2,500,000.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

SALARIES AND EXPENSES

For necessary salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990 (Public Law 101–610), $2,000,000: *Provided*, That the Executive Director may, at the discretion of the Board, appoint 17 staff to administer the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 (5 U.S.C. sections 5101 et seq.) and subchapter III of chapter 53 (5 U.S.C. sections 5331 et seq.) of such title relating to classification and General Schedule pay rates.

PROGRAMS AND ACTIVITIES

For use in carrying out the programs, activities and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990 (Public Law 101–610), $35,000,000.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $42,100,000: *Provided*, That not more than $450,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292, $8,630,000: *Provided*, That such sum shall be available without regard to section 509 of this Act.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of three passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $13,033,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

For research and development activities, including procurement of laboratory equipment, supplies, and other operating expenses in support of research and development, $338,500,000, to remain available until September 30, 1994: *Provided*, That not more than $48,067,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development; and construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,331,055,000, to remain available until September 30, 1994: *Provided*, That not more than $304,000,000 of these funds shall be available for administrative expenses: *Provided further*, That notwithstanding any other provision of law, from funds appropriated under this heading, the Administrator is authorized to make grants to "Federally-recognized Indian tribes" on such terms and conditions as he deems appropriate for the development of multimedia environmental programs: *Provided further*, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

ABATEMENT, CONTROL, AND COMPLIANCE PROGRAM LOAN ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans under the Asbestos School Hazard Abatement Act, as amended, $30,225,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,500,000.

In addition, for administrative expenses necessary to carry out the implementation of the Asbestos School Hazard Abatement Act, $1,000,000.

PROGRAM AND RESEARCH OPERATIONS

For necessary expenses, not otherwise provided for, for personnel compensation and benefit costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; $848,214,000: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $42,240,000, of which $16,428,000 shall be derived from the Hazardous Substance Superfund trust fund and $636,000 shall be derived from the Leaking Underground Storage Tank Trust Fund: *Provided*, That, notwithstanding any other provision in this Act, not less than $27,970,000 of the sum appropriated shall be available only for expenses in the personnel compensation and benefits object classifications.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $134,300,000, to remain available until expended: *Provided*, That $10,000,000 of the foregoing amount shall be made available as a grant to Columbia University for construction of a facility to be used for environmental health science research, such facility to be constructed and owned by Columbia University.

OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $18,434,000, to be derived from the Oil Spill Liability Trust Fund, and to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,416,228,000, to remain available until expended and to be derived from the Hazardous Substance Superfund, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $201,120,000: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $51,036,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1993: *Provided further*, That no more than $264,000,000 of these funds shall be available for administrative expenses of the Environmental Protection Agency.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $75,000,000, to remain available until expended: *Provided*, That no more than $7,400,000 shall be available for administrative expenses.

STATE REVOLVING FUNDS/CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,400,000,000, to remain available until expended, of which $1,834,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended, and five per centum of this amount shall not be obligated for capitalization grants to states, but shall be held in reserve, until October 1, 1993; $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $63,500,000 shall be for making grants authorized under section 319 of the Federal Water Pollution Control Act, as amended; $32,500,000 shall be for section 510 of the Water Quality Act of 1987 and none of the funds appropriated in this or any other Act to the Environmental Protection Agency may be used for making grants authorized under such section that exceed a total of $239,400,000, and the Administrator of the Environmental Protection Agency shall take no action to obligate any funds under such section if the impact on the total program cost to the Environmental Protection Agency of such action would exceed $239,400,000; $305,500,000 shall be for making grants under title II of the Federal Water Pollution Control Act, as amended, to the appropriate instrumentality for the purpose of constructing secondary sewage treatment facilities to serve the following localities, and in the amounts indicated: Boston, Massachusetts, $100,000,000; New York, New York, $70,000,000; Los Angeles, California, $55,000,000; San Diego, California, $45,500,000; and Seattle, Washington, $35,000,000; and notwithstanding any other provision of law, $82,000,000 shall be available for Rouge River National Wet Weather Demonstration Project grants, not to exceed 85 per centum of total project costs, to be awarded by the Administrator, who is authorized to make such grants to Wayne County, Michigan, such grants to be for the construction of sanitary sewers and retention basins, for the repair and maintenance of wastewater treatment plants and collection systems, and for the investigation of commercial and industrial facilities and storm sewer connections to implement the Rouge River National Demonstration Project for Wet Weather Flows; and notwithstanding any other provision of law, $40,000,000 shall be for making grants under title II of the Federal Water Pollution Control Act, as amended, to the appropriate instrumentality for the purpose of constructing advanced sewage treatment facilities to serve Baltimore, Maryland, in furtherance of the objectives of the Chesapeake Bay Agreement; and notwithstanding any other provision of law, $19,000,000 shall be for making a grant under title II of the Federal Water Pollution Control Act, as amended, to the Ocean County Utilities Authority, in the State of New Jersey for necessary modifications and replacements to the Carver-Greenfield sewage treatment plant; and notwithstanding any other provision of law, $7,000,000 shall be for making a grant under title II of the Federal Water Pollution Control Act, as amended, to the appropriate instrumentality for necessary work to remove and reroute the existing sewer lines at the Centennial Olympic Stadium site in the City of Atlanta, Georgia; and notwithstanding any other provision of law, from sums previously appropriated under this heading for grants under title II of the Federal Water Pollution Control Act, as amended, and reserved by the South Dakota Department of Environment and Natural Resources, the Administrator shall make a grant, not to exceed 55 per centum of total project costs, to the Town of Pollock, South Dakota for necessary reconstruction of Pollock's wastewater treatment facility, consistent with the approved facility plan of October 1990; and sums heretofore, herein or hereafter appropriated under this heading for the District of Columbia, either allotted for title VI capitalization grants and pursuant to Public Law 101-144 as amended by Public Law 101-302 authorized to be used for title II construction grants, or title II construction grants, may be used for title II construction grants for any activities eligible under title VI, and sections 201(g)(1) and 204(a)(5) of the Federal Water Pollution Control Act, as amended, do not apply to these grants: *Provided*, That, notwithstanding any other provision of law, from sums appropriated under this paragraph and allotted to, under title VI, the State of Texas under section 205 of the Federal Water Pollution Control Act, as amended, the State of Texas is authorized to set aside, at the discretion of the Governor, up to $50,000,000 for grants or for deposit in the special revolving fund authorized by Public Law 101-144 for loans for the purpose of improving wastewater treatment in colonias in that State, such funds to be matched in accordance with section 602(b)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That, notwithstanding any other provision of law, from sums appropriated under this paragraph and allotted to, under title VI, the State of California under section 205 of the Federal Water Pollution Control Act, as amended, the State of California is authorized to set aside, at the discretion of the Governor, up to $10,000,000 to make loans or grants for projects in the vicinity of New River, California and from sums appropriated under this paragraph and allotted to, under title VI, the State of Arizona under section 205 of the Federal Water Pollution Control Act, as amended, the State of Arizona is authorized to set aside, at the discretion of the Governor, up to $5,000,000 to make loans or grants for projects in the vicinity of Nogales, Arizona, such funds shall be available only for architectural, engineering, and design and related activities in connection with sewage facilities, whose purpose is to control municipal sewage from Mexico, shall become available only upon the successful conclusion of an appropriate minute of the International Boundary and Water Commission, and shall be matched in accordance with section 602(b)(3) of the Federal Water Pollution Control Act, as amended.

Notwithstanding any other provision of the Federal Water Pollution Control Act, as amended, $80,000,000 of fiscal year 1992 and 1993 funds for San Diego allocation for coastal cities shall be available only for the construction of the San Diego wastewater treatment facilities included in the consent decree lodged in the *United States and California v. City of San Diego*, Civil Action #88-1101 (S.D. Cal.). The Federal share for construction of these projects will be 55 per centum. Nothing in this provision shall be interpreted or is intended to modify the commitments made by the city of San Diego in the above referenced consent decree.

Notwithstanding section 307(b)(1) of the Federal Water Pollution Control Act, the following limitation to the Gulf Coast Waste Disposal Authority on applicability of pretreatment standards shall apply:

(a) If the conditions of subsection (b) are met, the pretreatment standards promulgated pursuant to section 307(b)(1) of the Federal Water Pollution Control Act shall not apply with respect to any treatment works operated by Gulf Coast Waste Disposal Authority and industrial users of such works.

(b) Subsection (a) shall only be in effect with respect to a treatment works if—

(1) the mass removal of pollutants by such works is equivalent to the removal which would be achieved if the industrial users of such works discharged such pollutants into waters of the United States other than through a publicly owned treatment works and such discharges complied with applicable effluent limitations; and

(2) The Gulf Coast Waste Disposal Authority has, and is in compliance with, a permit issued under section 402 of the Federal Water Pollution Control Act containing sludge quality numerical limitations for each of the pollutants for which such limitations are established and which would otherwise be required to be treated under the pretreatment standards established under section 307(b) of such Act (or where numerical limitations are not available, a design, equipment, management practice, operational standard, or combination thereof for each such pollutant) developed in accordance with the applicable requirements of section 405(d) of such Act.

ADMINISTRATIVE PROVISIONS

The Administrator of the Environmental Protection Agency shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

During fiscal year 1993, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 56 workyears for the Immediate Office of the Administrator, (2) 51 workyears for the Office of Congressional and Legislative Affairs, (3) 78 workyears for the Office of Communications, Education, and Public Affairs, (4) 192 workyears for the Office of General Counsel, and (5) 1,477 workyears for the Office of Administration and Resources Management.

The Administrator of the Environmental Protection Agency shall conduct a multimedia risk assessment study of radon consistent with the January 29, 1992 recommendations of the Science Advisory Board of the Environmental Protection Agency (EPA-SAB-RAC-COM-92-003): *Provided*, That such study shall neither modify nor be the basis for an extension of any statutory or court-ordered deadline for the promulgation of any national primary drinking water regulation for radionuclides under the Safe Drinking Water Act.

POLLUTION PREVENTION ACT IMPLEMENTATION

(a) Notwithstanding the Paperwork Reduction Act of 1980 or any requirements thereunder:

(1) The Environmental Protection Agency Toxic Chemical Release Inventory Form R and instructions, revised 1991 version issued May 19, 1992, (OMB Form 2070-0093) shall be effective for reporting under section 6607 of the Pollution Prevention Act of 1990 (Public Law 101-508) and section 313 of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) until such time as the Administrator of the EPA promulgates revisions to the Form.

(2) The Administrator may continue to promulgate any guidance or policies to assist in interpreting the requirements of OMB Form 2070-0093 and accompanying instructions.

(b) The Administrator may promulgate any such revisions only after appropriate consultation with representatives of industry, states, and public interest groups. Any communication between government agencies and third parties pertaining to such revisions shall be a matter of public record.

(c) Any revisions to the Form and instructions may not take effect unless the revised Form and instructions are mailed to affected parties at least 90 days before the statutory deadline for reporting under section 313 of the Superfund Amendments and Reauthorization Act.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $875 for official reception and representation expenses, and hire of passenger motor vehicles, $2,560,000.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,446,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

THE POINTS OF LIGHT FOUNDATION

For necessary expenses for carrying out title III of the National and Community Service Act of 1990 (Public Law 101-610), relating to The Points of Light Foundation's promotion of social problem-solving through voluntary community service, $5,000,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $292,095,000, of which not to exceed $95,000 may be transferred to the disaster assistance direct loan program account for administrative expenses and subsidies for direct loans provided under section 319 of such Act, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

Funds provided to this account are available to subsidize gross obligations for the principal amount of direct loans not to exceed $40,000,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $156,409,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $2,974,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $255,543,000.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $109,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $13,978,000 shall be transferred as needed to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $48,092,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1994. In fiscal year 1993, no funds in excess of (1) $32,000,000 for operating expenses, (2) $221,000,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a schedule of fees applicable to persons subject to the Federal Emergency Management Agency's Radiological Emergency Preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1993 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its Radiological Emergency Preparedness program. The schedule of fees shall be fair and equitable, and shall reflect the full amount of direct and indirect costs incurred through the provision of regulatory services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1993.

The Federal Emergency Management Agency may store, stockpile, or access stocks of Meals, Ready-to-Eat (MREs) declared surplus by the Department of Defense, or otherwise made available, for the purpose of providing assistance in situations of disaster or emergency. In addition, the Federal Emergency Management Agency may make available, at the discretion of the Director, MRE stocks to the Interagency Council on the Homeless for purposes of domestic, civilian assistance.

Notwithstanding any other provision of law, no funds provided in this Act or in any other Act for the Federal Emergency Management Agency may be used for the purpose of chauffeuring employees.

During fiscal year 1993, notwithstanding any other provision of law, the number of individuals employed by the Federal Emergency Management Agency in other than "career appointee" positions shall not exceed 20.

During fiscal year 1993, notwithstanding any other provision of law, average employment in the headquarter's offices of the Federal Emergency Management Agency shall not exceed: (1) 6 workyears for the Office of the Director, (2) 20 workyears for the Office of General Counsel, (3) 192 workyears for the Office of the Executive Director, (4) 90 workyears for Financial Management, (5) 25 workyears for Information Services, (6) 5 workyears for Regional Liaison, (7) 105 workyears for Regional Executive Direction, and (8) 20 workyears for External Affairs.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,026,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $6,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1993 shall not exceed $2,367,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1993 in excess of $6,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,159,000: *Provided*, That notwithstanding any other provision of law, that Office may solicit, accept and deposit to this account, during fiscal year 1993, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials; may expend up to $1,100,000 of those gifts for those purposes, in addition to amounts otherwise appropriated; and the balance shall remain available for expenditure for such purposes to the extent authorized in subsequent appropriations Acts.

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11311–11319), $1,300,000, to remain available until September 30, 1994: *Provided*, That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; $6,670,650,000, to remain available until September 30, 1994: *Provided further*, That none of the funds made available in this Act may be used to award, implement, or administer any contract for a High Speed Processor—3 for the Numerical Aerodynamic Simulator as defined in RFP 2–33570 (RCO).

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for, in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, lease, charter, maintenance and operation of mission and administrative aircraft; $5,226,500,000, to remain available until September 30, 1994.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $525,000,000, to remain available until September 30, 1995: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses for personnel and related costs, including uniforms or allowances therefore, as authorized by law (5 U.S.C. 5901–5902) and travel expenses, $1,600,027,000: *Provided*, That contracts may be entered into under this appropriation for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $14,925,000.

ADMINISTRATIVE PROVISIONS

Notwithstanding any other provision of law, the National Aeronautics and Space Administration shall establish user fees for its exercise facilities. The fees shall be comparable to those charged by the Department of Housing and Urban Development at its headquarters location.

The NASA Administrator shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6))), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1993, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1993 shall not exceed $964,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $1,879,000,000, to remain available until September 30, 1994: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That notwithstanding section 104 of the National Science Foundation Authorization Act of 1988 (Public Law 100–570), no funds appropriated to the National Science Foundation under this Act may be transferred among appropriations accounts: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

ACADEMIC RESEARCH FACILITIES AND INSTRUMENTATION

For necessary expenses in carrying out an academic research facilities and instrumentation program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $33,000,000, to remain available until September 30, 1994.

UNITED STATES ANTARCTIC RESEARCH ACTIVITIES

For necessary expenses in carrying out the research and operational support and for reimbursement to other Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; services as authorized by 5 U.S.C. 3109; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $163,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further*, That no funds in this account shall be used for the purchase of aircraft other than ones transferred from other Federal agencies.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); acquisition, maintenance, and operation of aircraft for research and operations support; improvement of environmental practices and enhancements of safety; $63,360,000, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

EDUCATION AND HUMAN RESOURCES ACTIVITIES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $465,000,000, to remain available until September 30, 1994: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

CRITICAL TECHNOLOGIES INSTITUTE

For necessary expenses for support of the Critical Technologies Institute as authorized by section 822 of the National Defense Authorization Act for Fiscal Year 1991, as amended (42 U.S.C. 6686), $1,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $115,500,000: *Provided*, That contracts may be entered into under salaries and expenses in fiscal year 1993 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,625,000.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $29,476,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $28,616,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further*, That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System: *Provided further*, That the aforementioned funds shall not be obligated at a rate in excess of the current rate for the period October 1, 1992 through March 31, 1993: *Provided further*, That the aforementioned funds shall not be obligated at a rate in excess of 75 percent of the current rate for the period April 1, 1993 through September 30, 1993, unless the President submits to the Congress a statement that continued registration is in the interest of national defense.

Mr. TRAXLER (during the reading). Mr. Chairman, I ask unanimous consent that title III, through page 85, line 6, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any points of order to be made against any portion of title III?

POINTS OF ORDER

Mr. SWIFT. Mr. Chairman, I have a point of order, I believe, at this point in the bill, although I might ask for the Chair's advice. I am concerned about a point of order beginning on line 2, page 55.

The CHAIRMAN. The Chair would advise the gentleman that that is an eligible point of order.

Mr. SWIFT. Then I make a point of order with regard to that provision.

The CHAIRMAN. Does the Chair understand that that is the proviso beginning on line 2?

Mr. SWIFT. It is the proviso beginning on line 2 and ending on line 7 of the same page, which we believe is legislation in an appropriations bill.

The CHAIRMAN. Does the gentleman wish to state his point of order?

Mr. SWIFT. The point of order is that this is legislation in an appropriations bill in violation of rule XXI, clause 2. The provision is not granted any waiver under the rule adopted by the House for this bill. The Energy and Commerce Committee has before it H.R. 5492, the Indian Environmental Assistance Program Act, which was jointly referred to the Interior and Insular Affairs Committee and our committee. That bill provides for such assistance. In addition, amendments were added to the Clean Air Act of 1990 regarding assistance for Indians. This proviso does not appear to be consistent with those legislative provisions. I insist on my point of order.

The CHAIRMAN. Does the gentleman from Michigan [Mr. TRAXLER] wish to respond to the gentleman's point of order?

Mr. TRAXLER. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. BEILENSON). The gentleman concedes the point of order, and the Chair sustains the gentleman's point of order.

Mr. SWIFT. Mr. Chairman, I have a further point of order.

The CHAIRMAN. The gentleman will please state his point of order.

Mr. SWIFT. I have a point of order against the proviso beginning on line 11, page 65, ending on line 10, page 66, relating to contracts for socially and economically disadvantged persons and limitations on EPA personnel, which is legislation in an appropriations bill.

Mr. TRAXLER. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. BEILENSON). The gentleman concedes the point of order, and the point of order is sustained.

Mr. CLAY. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will please state his point of order.

Mr. CLAY. Mr. Chairman, I raise a point of order against the language beginning with the word "provided" on page 52, line 9, through the word "rates" on page 52, line 17. Mr. Chairman, I raise a point of order against this language on the ground that it constitutes legislation in an appropriations bill and, therefore, violates clause 2 of rule XXI. The language in question would authorize the Commission on National and Community Service to appoint 17 individuals to the staff of the commission without regard to the provisions of title V, United States Code, governing appointments in the competitive service, classification of positions, and general schedule pay rates. By authorizing exemptions from the provisions of title V, United States Code——

Mr. TRAXLER. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order, and the Chair sustains the point of order.

Mr. MONTGOMERY. Mr. Chairman, I make a point of order against the language on page 85, lines 1 through 6, on grounds that it violates clause 2 of rule XXI, and ask to be heard on my point of order.

Mr. TRAXLER. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order, and the point of order is sustained.

Mr. DANNEMEYER. Mr. Chairman, I make a point of order against the provisions beginning on line 21, page 66, through line 22, page 67, in title III regarding the Pollution Prevention Act implementation, which is legislation in an appropriations bill in violation of rule XXI, clause 2, of the rules of the House.

The CHAIRMAN. Does the gentleman from Michigan wish to respond to the gentleman's point of order?

Mr. TRAXLER. Mr. Chairman, if the gentleman will talk a little bit longer, we will find that page and number.

Mr. DANNEMEYER. The provision is not granted any waiver under the rule adopted by the House for this bill. The Pollution Prevention Act of 1990 originated in and was reported by—

Mr. TRAXLER. Mr. Chairman, if the gentleman would yield, I concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order, and the point of order is sustained.

Are there additional points of order on title III?

Mr. BROWN. Mr. Chairman, I have a point of order against the provisions of the bill on page 68, lines 21 through 24, for the same reasons as previously raised.

Mr. TRAXLER. Mr. Chairman, we concede the point or order.

The CHAIRMAN. The point of order is conceded, and it is sustained.

The Chair would ask once more, are there further points of order against any portions of the title III of the bill?

Mr. BROWN. Mr. Chairman, I raise a point of order against the provisions of the bill beginning on page 77, line 14, through page 78, line 5, as constituting legislation on an appropriations bill.

The CHAIRMAN. The gentleman from Michigan?

Mr. TRAXLER. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained by the Chair.

Are there any further points of order?

Mr. BROWN. Mr. Chairman, I am not going to raise all the points of order in this bill, because some of them I agree strongly with, but on page 80, line 8, beginning with the word "provided," through line 18, this provision would amend and override section 104 of the National Science Foundation Authorization Act of 1988 and, as such, constitutes legislation in an appropriations bill.

The CHAIRMAN. What is the response of the gentleman from Michigan?

Mr. TRAXLER. Mr. Chairman, the response is that we concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order, and the point of order is sustained.

Mr. BROWN. Mr. Chairman, my last point of order is against the provision of the bill beginning on line 18, page 82, beginning with the word "provided." This provision amends the NSF Authorization Act by lowering the funding amounts provided for in the authorization bill and constitutes legislation on an appropriations bill.

□ 1600

Mr. TRAXLER. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Are there further points of order to any portions of title III to the bill before us?

AMENDMENT OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Chairman, I offer an amendment printed in part 1 of the report of the Committee on Rules. I offer it on behalf of myself, the gentleman from New York [Mr. GREEN], the gentleman from Illinois [Mr. DURBIN], the gentleman from Indiana [Mr. ROEMER], the gentleman from New Jersey [Mr. ZIMMER], the gentleman from Michigan [Mr. WOLPE], the gentleman from Massachusetts [Mr. ATKINS], the gentleman from Minnesota [Mr. PENNY], and the gentleman from Connecticut [Mr. SHAYS].

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendent offered by Mr. TRAXLER: On page 76, line 6, strike "$6,670,650,000" and insert in lieu thereof "$5,470,650,000".

The CHAIRMAN. Pursuant to the rule, the amendment is not subject to amendment.

The gentleman from Michigan [Mr. TRAXLER] will be recognized for 1 hour, and a Member opposed will be recognized for 1 hour.

Is the Chair correct in understanding that the gentleman from California [Mr. LOWERY] will control the time in oppostion?

Mr. LOWERY of California. I will, Mr. Chairman, and I will yield half the time to the gentleman from California [Mr. BROWN].

The CHAIRMAN. Each of the gentlemen, therefore, will control 30 minutes of time.

Mr. TRAXLER. Mr. Chairman, I will yield 20 minutes of my time to the distinguished gentleman from New York [Mr. GREEN].

The CHAIRMAN. Then the gentleman from Michigan [Mr. TRAXLER] will be recognized for 40 minutes.

The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. As I understand it, Mr. Chairman, we have 2 hours of debate now on the amendment.

The CHAIRMAN. The gentleman is correct.

Mr. TRAXLER. Mr. Chairman, I rise in support of the amendment which reduces the space station program by $1.2 billion. These savings are not being shifted to any other program. If this amendment is successful, the funds will be applied mainly to deficit reduction or, eventually, some combination of deficit reduction and modest program enhancements.

My colleagues will hear on the floor today a dozen arguments for why we must fund the space station, and they will sound attractive in some ways. But I implore my colleagues to think a moment about what is going on here and what we are doing.

The fact is, Mr. Chairman, that the space station program, as it was sold to the Congress, could never deliver on the goods. That original station concept has been revived a number of times, and so what we see today is not what we saw 10 years ago. Certainly it cannot be delivered for the $8 billion that was promised; no, not $8 billion, or $15 billion, or the $25 billion.

But we have got to give credit where credit is due. Over the past 8 years, the agency has done an excellent job in descoping the original design of the station, and the station design is a reasonable approach as it now stands. It was done basically at the request of this committee, and NASA was fully cooperative.

The problem, Mr. Chairman, is that we cannot afford it.

Now let me stress that again. The problem is we cannot afford it.

People are going to tell us on the floor today that the decision will not damage other programs in this bill. Well, I want to assure my colleagues they are dead wrong. All we have to do is look at the results.

We have been forced to cobble together an appropriations bill which, although it places the highest priority on veterans medical care, does not begin to do justice to the problems facing the 172 VA hospitals across this Nation or America's veterans. Care in those hospitals is marginal, and in some cases it is outright sad. We have been funding VA medical care at roughly 7 to 8 percent increases for the past 10 years, while medical care costs have gone up on the average of 11 to 12 percent annually.

Now what about the environmental programs? How does this impact there? This bill does not begin to meet the requirements that this Congress, in passing dozens of authorizations and scores of environmental laws, has mandated, or to fund the personnel needed to provide for the enforcement of those environmental acts.

If anybody we hear today says that the space station is not going to damage science, they are wrong, and I mean basic science at the individual investor level. The 1993 President's request for the National Science Foundation was increased by 18 percent over 1992. Well, what can we declare about our actions concerning the authorization that was given to this subcommittee? We delivered zero, absolutely zero. That is terrible.

But let me tell my colleagues what hurts me most. I did not get a whimper of protest from anyone that the National Science Foundation was held to zero growth, and it was at the 1992 levels.

But I am going to tell my colleagues something: my door got kicked in, and a number of other members on the subcommittee got their doors kicked in, by demands that we fund station. That is the priority. That is the priority of many Members. I am saddened by that because I think it is wrong. I think we are hurting science. I think we are damaging our future Ph.D. candidates. We are damaging our higher education institutions, and I am saddened.

In order to fund VA medical care at the President's requested $1.1 billion, my colleagues, we had to make use of more than $300 million of so-called outlay enhancers. Those outlay enhancers have been knocked out on points of order—knocked out. So, this bill is now $300 million above the committee's 602(b) budget authority and outlay allocation. Unless we are successful in restoring those enhancers plus adding another $300, $400, or $500 million to them, the space station will have to shrink more, and yes, VA medical care may have to give up some of the increases approved. The fact is we cannot fund the space station at $2 or $2.2 billion under this allocation without seriously damaging other programs in this bill. In my judgment, my colleagues, we cannot even fund it at $1.7 billion.

Now some are going to argue today that our priorities are wrong; some will argue that we funded ASRM; some will say we have too many Member projects; and so on, and so on, and so on. But this is pure and simple hogwash. All the Member projects in this bill do not begin to solve our outlay problem.

The bottom line is we do not have enough money. We cannot afford $30 billion to build a space station and, over 30 years, $100 billion.

"Did you get that number?" I ask my colleagues, $100 billion over the next 30 years to man and to service it. That is $100 billion.

I say to my colleagues, "Your kids and grandkids are going to be paying the interest on the borrowed money to do those things." I am a strong believer in doing basic research in space to advance our materials knowledge and, perhaps more importantly, our biomedical knowledge. But, my colleagues, we could get those things done with a lot less money than it is going to cost for the space station and its capabilities. That is the key.

I wonder whether anyone here realizes that we will have appropriated nearly $10 billion for the space station. What do we have to show for it at this point? Very, very little. Very little. That is a lot of money. If we had started in 1984 with the concept of building a simpler man-tended space station, we would have it in orbit today functioning with up to 60 days of staying time using an extended duration orbiter. What a wonderful concept that is. But nobody wanted to do that. The agency wanted the big enchilada because they are going to the Moon, Mars, and the next stage, which will be to the planets beyond the Earth, light-years away.

□ 1610

You can see the glitter in their eye already. The story is look up, America; don't look around you. Forget what you see in your cities, in the rural areas. Forget the poverty, the deprivation, the breaking down of our Nation's physical infrastructure. Don't look at that. Look up. Look up. Spend $130 billion over the next 30 years. Feel good. You see that glimmer up in the sky? It has got eight people up there. Isn't that wonderful? Go for it. Go for it.

Nonsense. The simple, straightforward fact is that this is a program on the drawing board today, but it is not viable at any amount of money in my judgment. It is unviable at $1.7 billion. We know that.

But, my friends, it is not viable at $2 billion. It is not even viable at the requested level of $2.25 billion because there are not any reserves for the program. When it runs into trouble, and it will, NASA will come back and say, "We want more money." I am fearful you are going to give it to them. You always have.

So the program is flawed, and it has been flawed from the beginning.

More than half of the money spent is on overhead. For almost 10 years we have been working with the Rube Goldberg management scheme that has three or four contractors involved with three of four NASA centers.

Now, you all love the NASA centers. They are tied together by support service contractors.

Mr. Chairman, if my friends were to sit down and try to design a way to spend money more foolishly than this program has, I would challenge them to do it. I challenge them to do that—$10 billion. The space station program is nothing more than a jobs bill. And with $400 billion deficits, we cannot afford that kind of narrow approach. Only specific little areas of the Nation receive these jobs are paying $50,000 to $75,000 each.

If you want a jobs program, let us enact one. I would support one that would benefit all of America.

Now, that is an unusual concept. We are going to do something to benefit the entire country and the Nation's people.

If you want a jobs program, do not do one that is $50,000 or $75,000 per employee. Do one that will reach out into every town and hamlet in America at much less cost per employee. How about $18,000 or $20,000?

Let us do a building-the-infrastructure program. Let us do our roads, bridges, sewers, water treatment plants, and water lines. Let us fix the holes in our roads.

That is a revolutionary idea. I propose it to Members. Fix the potholes; make the bridges safe; run some water lines to people that have grossly polluted water such as they have in parts of Texas, the colonials.

Yes, there is money if you dump the station. If you have the courage, say no and do what is right for the country. Begin to reinvest those moneys where the people and the future of the country are: our youth and deficit reduction.

Can we do some deficit reduction? I want to yield to my friend, the gentleman from Indiana [Mr. BURTON]. I know of no one that has pursued that with more vigor.

Mr. BURTON of Indiana. Mr. Chairman, the case the gentleman is making for spending money on the infrastructure is a very strong one. However, there are many of us that are very concerned about the deficit and where we are going.

I would like to know if the gentleman could give us some insight into how much of this cut, this $1.2 billion cut, would go for deficit reduction should it pass?

Mr. TRAXLER. Mr. Chairman, let me say that the gentleman from Indiana [Mr. BURTON] and I have discussed this point. It would be my intention that we would move in the conference to apply as much as possible, a substantial number.

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman will yield further, can the gentleman be a little more definitive? I would like to have some idea what the gentleman is talking about.

Mr. TRAXLER. Mr. Chairman, since we do not have authorizing legislation in place to allow us to create and rebuild our infrastructure and education programs nationwide, we would probably put a substantial figure in deficit reduction, which means, in my judgment, in the area of anywhere from 60 to 75 percent.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding.

Mr. TRAXLER. Mr. Chairman, I thank the gentleman for his question.

Mr. Chairman, we have a large number of speakers. I have a lot more to say on this, but I do not want to take the time of other Members.

Let me just conclude by saying: Please, for the future of the Nation and its people, vote yes on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LOWERY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Traxler-Green amendment and in support of the space station *Freedom* program.

I have great respect for the chairman and ranking minority member of the subcommittee. The gentleman from Michigan [Mr. TRAXLER] has been a great friend, and I will miss the gentleman when he and I have concluded service in this Congress at the end of this session. The gentleman has been a most fair chairman.

The gentleman from New York [Mr. GREEN] is one of the most knowledgeable and dedicated Members of this body. Although there are some thing I will not miss about this body, votes on the Journal, for instance, I will certainly miss continuing to serve with the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] on this subcommittee.

Mr. Chairman, as a member of the Subcommittee on Veterans, HUD, and Independent Agencies, I do not agree with all the decisions in the bill, but I have to say overall the chairman has done an admirable job under the difficult conditions imposed by the spending caps.

The top priority for the subcommittee was to protect veterans and that was accomplished.

The VA is receiving a 5-percent increase over fiscal year 1992, and VA medical care will get the full request—an 8-percent increase of $1.1 billion. HUD homeless and traditional housing programs also did extremely well—an 18-percent increase in community development block grants and a 19-percent increase in funding for HUD's programs for the homeless.

Unfortunately, the main bill payer in this legislation is NASA, which will receive 2 percent less this current year than the current fiscal year in funding.

As part of this reduction, the space station was cut by over a half billion dollars. NASA does not like these cuts, but is more than willing to meet the funding challenges set for it. By this Congress.

The amendment before us seeks to terminate space station *Freedom*. Despite my respect for the chairman and Mr. GREEN, we are in profound disagreement on this issue. I urge the defeat of the Traxler-Green amendment. I am a strong supporter of the space station *Freedom* program and I believe a large majority of my colleagues in the House—on both sides of the aisle—continue to support this program.

In four votes over the past 5 years, the Members of this House have consistently expressed their support for the space station. And in these times when the United States is facing economic and technological leadership challenges and our employment base is deteriorating, the House should do so again. This is an investment in America's future. We cannot afford not to make this investment.

Mr. Chairman, today's debate is occurring at a particularly significant time for our Nation. The American people are reflecting on their beliefs and what the future of our Nation should be. Americans are concerned about some fundamental issues: The effectiveness of Government programs; how we will create good jobs; the need to invest in new technologies; how to increase our Nation's competitiveness; education; and, perhaps most importantly—to clarify our long-term goals and establish a vision for the future that will inspire and motivate the American people.

In important ways, the debate over space station *Freedom* involves all these issues. During this debate my colleagues and I will explain the space station's importance to our Nation on the issues of jobs; investment in new technologies; competitiveness; international cooperation; education; and the need for vision on issues of importance to the future of our Nation.

Mr. Chairman, we will make the case for space station *Freedom*. I urge my colleagues to defeat this amendment, because a vote against this amendment is a vote for jobs for Americans right here on Earth, right now.

Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I want to associate myself with the remarks of the gentleman from California [Mr. LOWERY]. I rise in opposition to the amendment as well. I understand the chairman and the distinguished ranking minority member's reasons, but I think this is not the time to terminate the space station. We have moved forward and should continue to move forward in it.

Mr. Chairman, I rise in opposition to the pending amendment. As my colleagues know, I have served on either the authorizing or the appropriations committees for NASA for the past 22 years. Before coming to Congress, as some of my colleagues may not know, I was in the business of making some of the very first solid rocket propellant casings designed, literally, on the back of envelopes shortly after Sputnik went up in 1957. So it has been a long and loving relation with the space program which taught me a great lesson in the need to move forward on things.

And I believe the new team at NASA is doing just that. It is moving forward and I think it should be supported.

My problem with the space station last year was with the inability to place its construction within our Nation's space objectives. First and foremost on my mind was, how would the station fit within NASA's road map to the future?

Since last year's House vote, I have come to the conclusion that the station does indeed fit within our Nation's road map to the future.

By being a multipurpose, continuously habitable facility in low Earth orbit, I am now convinced that space station *Freedom* will:

Serve as a permanent outpost where we will learn to live and work productively in space;

Provide an advanced research laboratory to explore space, employ its resources for the benefit of humanity, and conduct life sciences and microgravity research; and

Provide the opportunity to learn to build, operate and maintain systems in space.

Many today are arguing about the station's cost. Is the space station costly? Of course it is. But space station *Freedom* is hardly the budgetary predator some would have you believe. Just using the figures contained in the bill today we see that funding for veterans benefits and medical care is more than five percent over last year's level, HUD appropriations more than two percent, and the NSF's recommendation runs roughly five percent over last year's level.

Meanwhile, NASA's funding level, including the station, is less than the 1992 level. Budgets are tight but it is simply not true that money for space station *Freedom* comes at the expense of other programs.

Quite simply, cancelling the station will not guarantee higher funding levels for veterans or non-space related scientists. The funding constraints facing the Congress are the result of years of overspending on failed programs being supported by special interest lobbies.

The constraints we face have been exasperated by the failure of Congress to even try Presidential proposals to shift money away from programs that clearly don't work, the failure to increase support for different government-sponsored approaches like the Administration's HOPE housing program, and the failure to consider change.

The real budgetary black hole confronting the country is the money we have to spend each year just to service the national debt. The black hole is not the station and those who would have you believe differently are simply not dealing with reality.

I therefore strongly urge support for the space station.

Mr. LOWERY of California. Mr. Chairman, I reserve the balance of my time.

Mr. GREEN of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not rise here today to say that the space station is a boondoggle or pointless or worthless, a jobs program only for certain Members fortunate enough to have NASA facilities or the developers of the space station in their districts. But my case is basically that as the space station has evolved, it simply is not worth what we are paying for it, and at a time of budget stringency, when we are facing a one-third of a trillion dollar deficit during the current fiscal year, it just does not make sense to invest in a program like this where the payoff is so limited for the vast dollars for which the program calls.

□ 1620

When this program first came before our subcommittee, we were told that the space station was going to fulfill all sorts of objectives at NASA, that it would be an astronomical observatory, that its look down facilities would be an important part of mission to planet Earth, that it was essential for materials research, for life sciences, that it would be the takeoff point for returning to the Moon and going on to Mars and on and on. The gentleman from New Jersey [Mr. ZIMMER] presented us the full list a couple of hours earlier.

Very few of these have panned out. As the astronomical community looked at what it wanted from NASA, nothing that it wanted from NASA could be put on the space station. So astronomy is gone.

As the mission to planet Earth team at NASA developed that program, they saw that it requires polar and geosynchronous orbits, and the station, of course, is in a near-equatorial orbit. So this highest priority program at NASA can no longer use station.

The materials processing. Yes, it can do some materials processing, but principally only during the time when it is not permanently manned. Dr. Bromley, the Science Adviser to the President, testified before us that at the time when the station is permanently manned and starting to do life science experiments and there are animals prancing about, and a centrifuge whining away, the microgravity capacity of the space station would be seriously degraded.

In any event, NASA's own studies have shown that the overwhelming bulk of the microgravity research could just as well be done with the extended duration orbiters that we have provided for, possibly supplemented by platforms that would be visited by an orbiter from time to time.

What we get down to is the life sciences. That, plainly, is the heart of the station program. And even there, in order to meet the budget requirements, NASA has compromised the life science capability of the station. It does not currently provide for a centrifuge large enough to have a large primate in the centrifuge and, thus, from a life sciences point of view, the station is an inferior life sciences piece of equipment.

So in the end, we are going to pay $30 billion or $40 billion in terms of construction costs out to the time of permanent occupancy. And from that point on, we are talking well over $100 billion in terms of total life cycle costs.

Now, we are going to be given all sorts of excuses as to why we ought to do this. We have already heard some of them. "This is going to be a wonderful laboratory, if we want to move ahead with materials processing. We have got to have the space station."

Well, Mr. Chairman, on March 20, 1991, in testimony before our subcommittee, Norman Augustine, chairman of the Augustine Commission, was asked where our Nation had benefited from investments in NASA R&D. And after describing the importance that the R&D spillover had had to the communications satellite industry, he went on, however, to say, and I quote:

> I would respectfully submit, to build the justification for the space program on what it did for the commercial world is perhaps the wrong reason. If you want to improve research on semiconductors, spend money on semiconductors. Don't spend money on space.

And again, we have heard in past debates on the space station that we are going to cure cancer through investing in the space station. "We are going to cure osteoporosis by investing in the space station." No snake oil salesman has ever had a better spiel for how we are going to cure all human ills with his nostrum than have the space station advocates.

But now we have a letter, dated July 28, from Dr. Bernadine Healy, Director of the National Institutes of Health, to Mr. Daniel Goldin, Administrator of NASA. And what did she say? She said:

> I am concerned that recent newspaper articles have presented a distorted view of the essential nature of the recent memorandum of understanding that was signed by the NIH and NASA. I am particularly disturbed by the implication that NIH views future space experiments as critical to the overall success of the biomedical research enterprise. Moreover, your draft letter of July 22 intended to go to Members of Congress might be further misconstrued to reinforce this notion.

Let me skip over much in the same vein because I only have so much time.

> It is not as clear precisely how the unique space environment might be used as an experimental tool to advance research on conventional health problems. We are, in fact, continuing our attempt to determine ways in which the space environment might be exploited to best advantage in biomedical research. This has been the NIH position since the signing of the initial memorandum of understanding with NASA in 1988.

Skipping again:

> And we continue to believe that it is too early to determine the true value of space research in contributing to the solution of conventional health problems encountered on Earth. I would urge NASA to make every effort to convey a balanced assessment of the future of space research in the national biomedical research system in order to avoid a serious disservice that will result through the creation of unrealistic expectations and overpromise.

In short, Mr. Chairman, those, like Norman Augustine, who took a hard look at the space program and said science should be its No. 1 priority, those like Dr. Healy, the head of the National Institutes of Health, who has looked at what might be gained from space by way of health research, have told us there is a lot of smoke and mirrors here. If you want better semiconductors, put the money into semiconductors. If you want better health research, put the money into NIH. Don't pretend that putting money into the space station is going to buy the kind of research that is needed to move forward this Nation's health enterprise or to move forward this Nation's science enterprise.

I repeat, what we get from the space station simply is not worth the $30 billion, $40 billion and over $100 billion, depending on how Members want to look at it, that we are being asked to invest in it.

We are getting a facility with very little capacity that simply is not worth those kinds of dollars at a time of one-third of a trillion dollar a year deficits.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. BEVILL], chairman of the Subcommittee on Energy and Water Development.

Mr. BEVILL. Mr. Chairman, I rise in strong opposition to my friend and colleague's amendment to terminate space station *Freedom*.

The space station is an essential element of our civilian space program and must be continued if this Nation expects to be the world leader in space exploration.

Space station *Freedom* will provide a world-class space based laboratory for carrying out important research. It will contain the potential for breakthroughs in the life-sciences and medical fields.

The space station provides over 75,000 American jobs and is crucial to maintaining the technical job base that is required in this country. The station will help insure that the United States remains competitive in the 21st century.

I urge my colleagues to continue to make this investment in the future of our children and our Nation. Support space station *Freedom*.

□ 1630

Mr. BROWN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. CHAPMAN], a member of the subcommittee.

Mr. CHAPMAN. Mr. Chairman, I rise today to join many of my colleagues in opposition to the Traxler-Green amendment, and I rise in support of the space station *Freedom*.

When we make this choice today, Mr. Chairman, we will decide whether or not we make an investment in our future. It is my judgment that there are many reasons why we should not abandon the over $10 billion investment that has already been made in this project, including some $2 billion of resources from our foreign partners. Space station *Freedom* is an investment in our children and our future. It is an investment in science and space research. It is an investment in international cooperation. Space station *Freedom* is an investment in our people, in 75,000 jobs across this country. Space station *Freedom* is the centerpiece, the heart and soul of America's space program.

Many opponents argue that we cannot afford the program within the budgetary constraints that we face. As one of my colleagues from Florida said earlier today, "It is my judgment we cannot afford not to move forward with this vital program."

I am a member of the subcommittee, and I participated in the decisions in the crafting of this bill. I know that is was tough to set the priorities. Veterans' programs were the top priority in the subcommittee's deliberations this year, and received a generous increase; of course, not as much as we would like to have done, but we funded the veterans' program at the request of the President 100 percent.

Who suffered in this bill? Who paid the price? Who was, as someone said, the bill payer? It was NASA, it was NASA, cut nearly $1 billion from the President's request.

Space station *Freedom* is the future of science and space technology in this country. I urge a "no" vote on the Traxler-Green amendment, and support for the future of a strong space program.

Mr. GREEN of New York. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. DELAY], a member of the Committee on Appropriations.

Mr. DELAY. Mr. Speaker, space station *Freedom* is not a destination, it is a destiny. It is the point of departure for this civilization to utilize and explore space and the nearby planets. It is a beginning, not an end.

Twenty-three years ago this month the first humans set foot on the Moon. It is not the end of one journey, it is the beginning of many journeys to come.

We are about to vote not only on the space station but to ratify the decades of experience we have achieved. Space has been an inspiration to each and every civilization on planet Earth. The wonder of the heavens is timeless. How could the opponents be so bold, be so arrogant, to kill off our reach, to deny the undeniable in every human being since the dawn of man?

Let me say to my fellow conservatives, if they want to kill America's ventures in space, that is one thing. But if they are interested in keeping our efforts in space at a more efficient level, then the station has been cut by 23 percent, as has been mentioned before, while increasing nonproducing programs by over 7 percent. Do not play their game by killing producing programs and increasing nonproducing programs.

Nobody can doubt that the 20th century has been the American century. From every vantage point America has led the world through an era that put a man on the Moon and conquered totalitarian ideas on Earth. Keep the space station. Vote "no" on Traxler.

Mr. GREEN of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this is a difficult vote for me. The gentleman from Pennsylvania [Mr. WALKER] is not only one of my dear friends but he has been one of my cohorts over the past several years in trying to cut pork and waste out of government, so it is very difficult for me to oppose him and his colleagues on the Committee on Science, Space, and Technology on this bill.

However, I really believe what I have been telling my colleagues. I really believe that we are going to have a $13.5 trillion national debt in less than 7 years, and I really believe the interest on the debt is going to be $1.2 trillion a year, which is about as much as we are bringing in tax revenues. I believe that that is going to cause a fiscal calamity in America if we do not start making hard choices.

I want the space station. I want space exploration. However, the fact of the matter is I do not believe we can afford it right now. Economic chaos in the next 5, 6, or 7 years is not worth the price we are going to have to pay for this space station today.

It is not because I am not for it. I would like to be the first country to visit Mars or go to the other universes. The fact of the matter is, if we do not get our economic house in order now, we are going to suffer severe consequences in the not-too-distant future.

Let me just give the Members a few facts. When we first proposed this space station the estimated cost was $8 billion. We have already spent $7.3 billion in developing the space station. The space station has been redesigned at least five times, and the program has been plagued by delays and cost overruns. The first pieces will not go into orbit until late 1995, and by 1995 it will have cost approximately $40 billion to build, according to the General Accounting Office.

Finally, over the 30-year lifetime of the space station it will cost somewhere, we estimate, between $100 and $120 billion. If we had the money, I would say spend it. It would be a great thing for us to do. The fact of the matter is we do not have the money, and we are spending our children's inheritance into the ground.

We have to get control of spending. When the constitutional amendment to balance the budget failed by nine votes just a few short weeks ago, the gentleman from California [Mr. PANETTA] said that we all need to have some guts and to get control of spending. I am for the space program and the space station, but in my opinion we cannot afford it right now. So I say to my Democrat friends, and I want them to listen to me because this is a hard vote for me. Will they start voting to cut pork? They know what I am talking about. Will they vote to put caps on entitlements?

Entitlements are out of control. Every single appropriation bill is $20 billion, $25 billion above last year. We have to do something about that. We need to cap them at 2-percent or 3-percent growth, no more. Will the Members vote to make sure that in 7½ years we do not face this fiscal calamity? I am willing to bite the bullet. Are they?

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. STOKES] will, at least for the moment, control the time that was allotted to the gentleman from Michigan [Mr. TRAXLER].

There was no objection.

Mr. STOKES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have in my hand a book which is exhibit A on why it is so difficult to cut spending around here. I find space exploration as inspiring as the next person. I am thrilled by the idea of space exploration. But the fact is that this space station is going to cost $30 to $40 billion to build. It is going to cost about $80 billion to operate. Lord knows how much it is going to cost us if this is used as the first window on an opening for an eventual trip to Mars, anywhere between $200 to $400 billion.

I love it all. I love the idea of it, but the fact is that I do not love it so much if we have to pay for it with borrowed money. That is what we are going to do if we do not support the Traxler amendment.

This book is a very nice book. It is prepared by the Wisconsin Space Business Round Table. It contains a letter from our Governor indicating why we ought to support this package, even though we are concerned about the deficit. It contains a listing of all of the universities and all of the businesses who have been brought into this or bought off by it, to the point where they are supporting it. Why? Because they get a piece of the action.

NASA has successfully salted enough contracts all around the country so that they have got this thing going on in over 218 congressional districts. That is a majority. That is how they think they can continue to save this program, even though we cannot afford it. And these expenditures threaten some of the other basic science projects which we ought to be proceeding with.

I simply want to say that I think space exploration is wonderful, but the fact is that we have got to learn to stand up to the agencies and to stand up to the White House, which has successfully built this flying pork machine.

□ 1640

We have to stand up to them and vote no. That is the only way we are going to get the budget under control.

And for all of you who just voted a few minutes ago to cut $19 million out of the administrative end of this budget so that people who are supposed to run these agencies efficiently are now going to have more difficulty doing so in the field offices, I want to say if you want to save real money, this is where you will go in this bill. This is where you can save the real money.

This book I received from my State I find very interesting. They have a lot of interesting stories about programs that have been conducted in schools, for instance, to excite kids about the idea of space. I think this is all terrific. But I would respectfully ask this question: Were those same kids asked whether or not they would prefer to see us spend money on this program or whether they would prefer to see us spend money on a program to help them go to college. I think we know what the answer would be.

Mr. LOWERY of California. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], ranking member of the Committee on Science, Space, and Technology.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise in strong opposition to the Traxler amendment which is basically an amendment to kill 70,000 high-technology jobs in this country, something that I do not think we can afford to do at the present time.

As I prepared for the debate I was struck by the credibility gap in the arguments of the amendment supporters on several fronts. First, those who present this amendment as a deficit reduction move are totally naive. Anyone who honestly thinks there is any chance of this bill coming back from conference below the allocation just has not been paying close attention to the arguments. I have seen "Dear Colleague" letters from the amendment sponsors which claim that killing the space station will be a solid first step toward deficit reduction, and then in the next sentence say that if space station is continued, veterans, housing, and other programs will suffer. Well I do not know which argument they are supporting today, but they cannot have it both ways.

The supporters of this amendment have managed to come up with some interesting figures based upon an artificially constructed argument that somehow funding of space station forced cuts in other programs. They claim they have a CBO report that purports to show that the funding of the space station would result in reducing outlays for science, veterans' medical care, housing, and other programs.

Well, it turns out that the CBO never issued such a report or a study on the effects of the space station spending on other programs. CBO merely did some calculations based upon certain assumptions given to them by the Members requesting the study. And according to the CBO Director, these do not represent CBO's projections.

Then we had a group of them who also told us that there were several scientific societies who have a position against space station. They went so far as naming those particular groups. We now have letters from those groups telling us that they strongly support space station.

I think that we have to be very careful here in accepting the arguments of Members who I think have gone overboard in some of their arguments.

We have also heard a series of money figures out here given to us. For example, we have had said that there is a $30 billion figure now as compared to an $8 billion figure of just a few years ago. That is comparing apples and oranges. The $8 billion figure was the design and development of the space station. That figure, if you take it exactly where we are today, it is $11.2 billion in constant year dollars, it is $12 billion based upon real dollars compared to $16 billion or almost $17 billion. And all of that growth in cost has been because Congress has not funded the space station according to the plan, and so we are largely responsible for the fact that we have had that growth.

Now it is true that if you did all of the rest of the costs of transportation and all that you get to the $30 billion figure. That figure is not inflated from $8 billion. That is a figure that was $27 billion when NASA originally came to the Hill. And so we have added about $3 billion in costs because of what we have done. But the fact is that this is not a space station which is running wildly out of control in terms of costs.

Now if Members take a look also at who the winners and losers are in this bill, they will find out that veterans' medical care was funded fully, the National Science Foundation got more than last year's levels, mostly to go to Antarctica for those of you who think we ought to be spending money here at home. The Department of Housing and Urban Development was increased by $1.4 billion. Community development block grants were increased.

Who are the losers? The losers are across the board research and development and NASA.

Turn down this amendment.

Mr. BROWN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise in strong opposition to this amendment to H.R. 5679—fiscal year 1993 appropriations for VA, HUD, and independent agencies—which would strip funds from the space station *Freedom* program.

Mr. Chairman, our space program today is no longer driven by a cold war race to the Moon, but by the race to compete economically with everyone from Japan to the European Space Agency to the People's Republic of China.

Our distinguished Speaker of the House, TOM FOLEY of Washington, knows that the positive international impact of space station *Freedom* is essential to the American space program.

And at this point, Mr. Chairman, I will include in the CONGRESSIONAL RECORD a statement by Speaker FOLEY in strong support of space station *Freedom*.

The Speaker, like so many of us in this Chamber, knows that a first-rate American space program is a competitive necessity, made more so by the fact that aerospace employment in the United States is now approaching 7 percent of all American manufacturing jobs.

Mr. Chairman, it was no accident that the most dramatic growth in our Nation's high-technology industries paralleled the years of NASA's greatest activity and accomplishment.

As a result, American aerospace is today one of our most important industries, and one of the few in which we enjoy a positive balance of trade. In fact, the trade surplus in aerospace leads all other industrial sectors in our economy.

According to the Department of Commerce, the aerospace trade surplus in 1990 was $27.2 billion. And as defense spending declines in the years ahead, many high-technology industries will find themselves in jeopardy unless the United States commits itself—as I believe it should—to use those resources for our civilian space program.

Mr. Chairman, the space station *Freedom* program alone will directly and indirectly employ 70,000 Americans—which includes the professional services of more than 2,000 businesses in 39 States.

These jobs will contribute to new ideas, new knowledge, and new products to our economy.

In the past, either directly or indirectly, NASA programs brought about cardiac pacemakers, digital watches, compact disc recordings, and cellular telephones, among many others.

Each of these innovations have greatly influenced America's ability to compete economically in the world marketplace and improve our quality of life here at home.

Unfortunately, in the years ahead, our space program and its many resulting benefits will be at risk unless we lay the groundwork today for precisely where we want to go—and why—in the future.

Mr. Chairman, I believe that human exploration of our solar system and the universe is both desirable and inevitable.

I also believe that the United States must be at the forefront of this effort. But that can only occur if we achieve permanent manned capability aboard space station *Freedom*.

And perhaps it is this point which needs the most reinforcement to the American people.

On April 28, 1992, writer James A Michener testified before the House Budget Committee Task Force on Defense, Foreign Policy and Space. Mr. Michener described the need for space exploration by stressing, and I quote:

> I believe that there are moments in history when challenges occur of such a compelling nature that to miss them is to miss the whole meaning of an epoch. Space is such a challenge.

Mr. Chairman, how can we even consider shortchanging future generations of Americans by ignoring the vast opportunities of space exploration?

The answer is, I do not believe we can.

And for this reason, and all the others I have mentioned here today, I strongly urge my colleagues to defeat this amendment.

Mr. Chairman, the statement by Speaker FOLEY in support of space station *Freedom* previously referred to is as follows:

> Mr. Chairman, I support the funding in this bill for space station *Freedom*.
>
> At the outset, I want to commend Chairman Traxler and Ranking Minority Member Green who have crafted a bipartisan bill which addresses the difficult issue of balancing the needs of so many important projects in a time of shrinking budgetary resources. Although the Appropriations Committee significantly cut both the overall NASA budget and funding for *Freedom* from current year levels due to these fiscal constraints, I am pleased that the Committee saw fit to include some funds to allow the United States to continue to honor its commitment to the development of the space station.
>
> *Freedom* is the largest international cooperative science and technology venture ever undertaken. In 1988, the United States signed Intergovernmental Agreements with Canada, Japan, and 10 of the member states of the European Space Agency to form a partnership for the development and operation of the space station. Canada has been developing the Mobile Servicing System; the European Space Agency is working on the Attached Pressurized Module; and Japan continues to develop the Japanese Experiment Module. How do we explain to our allies, who are facing their own budgetary pressures, that the United States has abandoned this high-profile, cooperative program? Much of the important science and technology work needed in the coming decades will only be feasible through international collaboration. The success of space station *Freedom* will be crucial if this spirit of cooperation is to be successfully furthered.
>
> Since the signing of the Intergovernmental Agreements, cooperative opportunities with the Russian Federation have surfaced which could further reduce or avoid costs associated with the space station. However, the United States must first show itself to be a reliable partner and honor the commitments it has already made to its international allies. A decision to terminate this pioneering project at this critical juncture would strain relations, impede future cooperative opportunities, and discredit U.S. leadership in this critical technology area.
>
> Eliminating funding for space station *Freedom* will not solve the Nation's fiscal problems. However, termination of this project would signal the end of U.S. leadership in space and set international cooperative exploration back decades.

Mr. BROWN. Mr. Chairman, I yield 2½ minutes to my distinguished friend, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of the space station *Freedom* program. The Johnson Space Center in Houston, TX, is located in my congressional district. I have been supporting and closely following NASA since it started. These years of study convinced me that we must continue building space station *Freedom* to enable the United States to not only safely continue mankind's epic journey into space but also to maintain our international leadership position on Earth. The space station will provide us with invaluable scientific research in areas including—but not limited to—medicine, engineering, aerospace, and exploration. It will have equal or even greater value in the areas of competitiveness, and international cooperation. Proper funding of this program will keep the United States in the appropriate role of leading the worldwide partnership of the United States, Canada, Japan, and the European nations in building the station. We have already allowed other countries to supersede us in the manufacture of automobiles, electronic equipment, farm equipment, and so forth. We cannot allow the space program to be another set of technologies which the United States originated and then allowed to be exported for other countries' perfection and exploitation. We are already falling behind our international competitors in our investment in research and development, and canceling the station will only hasten that trend. The space station represents the largest single civilian research and development investment made by the United States. To be competitive in the 21st century, we need research and development in this decade. Our budget problems are serious, and naturally the belt-tightening should hit everyone, but among the agencies funded in this bill, NASA shoulders a real decrease compared to fiscal year 1992 levels—which itself was a $1 billion cut from the administration's request—while all other agencies are either increased or funded at roughly the fiscal year 1992 levels, some at 17 percent alone. The space station alone represents thousands of jobs for Americans in 39 States and NASA operates in all 50 States. If you kill the space station, you kill our space industry. We need to secure and preserve our technological superiority and our pride in this country. Let us defeat this meat ax approach and fully fund space station *Freedom*.

□ 1650

Mr. STOKES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I want to start by recognizing the hard work and leadership of Mr. TRAXLER and Mr. GREEN and their colleagues on the Appropriations Committee for bringing this debate before us today. I also must again commend Chairmen BROWN and HALL for their dedication to NASA issues, and my fellow freshman Members BUD CRAMER and JIM BACCHUS for their energy and commitment to our space program.

Mr. Chairman, so much of our country's future depends on what we in Congress do today. We are in the unenviable position of trying to meet the greatest amount of need ever in very lean fiscal times—times that will continue into the foreseeable future. And I do not believe the American people want to hear that we are spending over $120 billion so that we can say that "we're No. 1."

And it makes no sense to argue that we've already spent several billion dollars, so we are obligated to spend over $100 billion more. We should not be throwing good money after bad.

At least $120 billion will be spent to build and maintain *Freedom*. This does not include the $500 million for each of the 17 shuttle flights it will take to construct the space station in orbit. Nor does it include the cost of insulating or redesigning the station for protection against space debris.

Between the space station, the cost of the space shuttle flights, and the cost of insulating *Freedom* from space debris, we are looking at a price tag that might well exceed $120 billion.

Mr. Chairman, I would ask my colleagues to consider what kind of money we're talking about here. This $120 billion is more than four times what the Federal Government will spend on education this year. It would also pay this years's Government health care bill, or our Medicare bill, with enough left over to cover many of the health costs for the 37 million Americans without insurance.

Based on fiscal year 1992 predictions, for the cost of the space station, we could pay our foreign aid bill for 8 years, or we could pay our housing assistance bill for 6 years.

And certainly, we could use $120 billion to take a bite out of the Federal deficit, and finally make a reduction that is not merely a drop in the bucket.

Space station *Freedom* will hurt veteran's programs, housing, and other important people priorities. Not only does this year's budget need to be elastic to make room for *Freedom*, but future budgets may well sink as the costs of building and running the space station grow beyond expectations.

This amendment is not an attack on NASA or its mission. Our space program has long been acknowledged as important to our security and economic well-being. But for too long, this country has stood in awe of massive technology programs that do not always merit their equally massive price tags. This cost-of-doing-business attitude must stop, and I hope Congress will start with making some tough decisions.

The space station is a perfect example of throwing good money after bad. Enormous opposition to the original planned project ended in massive cuts to the space station agenda. Instead of eight programs, there are now only one or two; and many scientists believe these two can be conducted without a space station.

The tremendous expense of a megaproject, such as the space station, is devouring NASA's basic science and research budget. According to the Congressional Budget Office, NASA's three largest projects consumed 16 percent of its budget in 1990, and will eat up 25 percent by 1996. And in order to give the space station the $1.9 billion it is to receive in this fiscal year, all other NASA programs had to be frozen at fiscal year 1991 levels.

Supporters assert that we must complete the project since upwards of $7 billion have already been spent. The idea that over 100 billion good dollars need to follow $7 billion bad ones is a misguided priority and terrible policy.

It is high time the Congress became responsible with our stewardship of the American taxpayer's money, and stopped funding the high-technology boondoggles such as the space station.

NASA needs our help. The space station project, like so many ambitious Federal projects, has gotten out of control. The costs continue to skyrocket, while the expected benefits decrease. We need to redirect the priorities of our space agenda so that small, important science does not continue to be diminished or eliminated by *Freedom*. After all, it is these projects that are largely responsible for the myriad of side benefits that NASA has given the general public.

Space station *Freedom* is certainly the product of noble thoughts, intentions, and dreams. It is not the product of good science, good policy, or good economics. And it is perhaps the biggest drain by one single product on the Federal budget.

It is time to come down to earth.

Vote for this amendment, for common sense, and for America. End the space station's stranglehold of NASA. It is the right thing to do.

Mr. LOWERY of California. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I rise in opposition to this amendment which would kill funding for the space station *Freedom*, and I would hope that the American people are aware of what it is we are talking about zeroing out as we put it around here.

The space station *Freedom* represents the future for our country, not only in our ability to compete in global technology, but in the quality of our lives in the 21st century and beyond.

There's no question, the American people want us to eliminate wasteful spending, of which there is plenty. But, they don't want us to eat our seed corn for the future in the process.

In yesterday's Washington Post, NASA Administrator, Daniel Goldin, offered a compelling defense for the program, as well as a very enlightening detail about the cost of this investment in our future. Of the $14 billion annual budget for NASA, $2 billion is for the space station. That works out to a cost of 2 cents a day for each citizen.

Now my questions are these:

Would you pay 2 cents a day to possibly find the cure for such diseases as hypertension, osteoporosis, cancer, heart failure, and immune system deficiencies? I would.

Would you give 2 cents to develop new heart pacemakers that can be reprogrammed and fine tuned by a doctor without surgery. I would.

Would you pay 2 cents to enhance safety with a new flame-resistant lightweight material that is strongly resistant to ignition? I would.

Would you pay 2 cents to learn how to make our environment cleaner with combustion processes that are cleaner and more efficient? I would.

Would you give 2 cents for advanced forms of metals, glasses, and ceramics essential to jet engines and electro-optical devices? I would.

Would 2 cents be a good price for enhancing our Nation's productivity and competitiveness through robotic advances with such spinoffs as remote observation of hazardous conditions and vastly improved manufacturing, agriculture, and medicine? I think it is a bargain.

Finally, would you invest 2 cents daily toward the education of our children in math and sciences? Today's school children have cut their teeth on a scenario that included a walk on the Moon—and I am not talking about Michael Jackson's Moon walk—which was, you'll recall, a backward glide. Are we to tell our children that the Moon was the last stop on our journey to the future? Are we going to do backward glide in our exploration of the universe? I hope not.

Mr. Chairman, this is only a partial list of the countless types of research that has been and will be carried out in space. The investment we make in the space station *Freedom* is one of the best we will ever make. And if we scratch it, future historians will shake their heads and say, "Given all they had to gain, why did they cut and run?"

And, Mr. Chairman, let me add that there is a good management team in place for the space station *Freedom*. They are integrating the efforts of five major work packages in the United States and three in other countries. And, they are meeting all their deadlines. Attempts to cut funding for the space station disrupt the good work of the current team at NASA. This could hurt the U.S. space program and ultimately could weaken this country as we enter the 21st century.

Mr. BROWN. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I voted earlier this year against funding of the space station, although I had supported it for years in the past.

This is a difficult decision for me, because on the one hand I have had great concern about the station, about its mission, and about its cost. I have felt that it was not as well managed and organized, the relationship between the contractor and the Government was not as good as it should be. But on reflection, I have decided to oppose this amendment and support the station.

I do so for several reasons. One is that I am convinced that the new Administrator is competent, is caring, and is responsible and wants to focus this program better than has been done in the past both in terms of mission and in terms of cost.

More importantly, I wanted to know if this burden on my shoulder could be accepted by me very well; did I want to be a party to effectively kill manned space exploration. That is the bottom line here. And I decided that as problematic as the station has been that by killing it today we effectively kill manned space exploration in the United States.

I then get to the next question: Did I want to be a party to ensure that Japan and Europe would dominate manned space exploration in the future and would dominate the technology that would spin off to jobs in aerospace, and medicine, and materials, and I decided I did not want to do that either.

So on reflection, I decided to vote against this amendment.

I believe the station does have problems. We in Congress and the administration need to work to fix those problems. But as the Bible says, without vision, the people perish. This is a classic example of that in our vote today. The proper vision is to support the station, warts and all, and to oppose the amendment.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, in listening to the debate on the space station, I think many of us are forgetting an important lesson of the space program so far. The value of our space program is not so much the end products of our labors as what we learn along the way.

I have heard many opponents of the space station argue that it will not do all we would like it to do. They have said that its capabilities will not justify its costs. This misses the point entirely in my opinion. Through the space program, we are driven to improve on our best technologies on a daily basis. The space program provides us with a focal point for research and development in many different fields; the space station provides a focal point for the space program.

Mr. Chairman, the Wright brothers did not build a 747 or an F-15. They built a machine which had little obvious use; it could not fly very far, it was not very safe, and it had no obvious defense or transportation application. And yet they built it because the conquest of the air seemed a worthy goal in itself, and all aerospace technology has sprung from their determination.

Today we discuss the conquest of space; it may seem difficult to see what the use of the space station may be, but from our previous investment in the space program, we have gained a wealth of technologies already. As previous speakers have said, NASA has provided us with breakthrough technologies in health care, aerospace, computers, materials science, and many other areas. If we forsake our commitment to this today, we walk away from three things: A source of national pride and identity, the culmination of our commitment to the conquest of space, and a potential hotbed of technologies with broad application. I urge my colleagues to oppose the amendment.

□ 1700

Mr. STOKES. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Oregon [Mr. AuCOIN].

Mr. AuCOIN. Mr. Chairman, once upon a time, we were told we could cut taxes massively for the superrich, finance history's largest military buildup—and have a balanced budget within 4 short years.

It was the voodoo economic policy of the Reagan-Bush era. And after 12 years of those failed policies running our economy into the ground and running people out of work, Americans are saying: "Enough, already." They are saying they want a fundamental change in economic direction.

If we are really going to turn this economy around, we have got to change today this Government's spending priorities. And that for starters, means the space station must go.

Today in America, families are being broken up by rising unemployment. Men and women are trying to raise families, who want to work, and are being told there is no work.

Well, one reason there is no work is because George Bush would rather build a space station in the sky—would rather build infrastructure in space than build infrastructure right here in America to put our people back to work.

Talk about out of touch.

I say, Earth to Bush. Earth to Bush. Folks are hurting here at home in America. Our priorities are down here, on terra firma.

If some of our so-called leaders do not seem to get it, the American people clearly do.

They know we are not in just another recession. They look around and see manufacturing giants pulling up stakes in America and setting up shop in countries to exploit wages of 50 cents an hour.

They see United States-based Japanese companies buying their parts back in Japan, shutting out United States producers. They see schools failing, bridges decaying, and roads crumbling—and they know this Government is not spending our money to prepare our economy in America to work for working people in the 21st century.

Today is judgment day, my friends: The recession and deficit have conspired to force choices on us. It is about time.

I do not even call this a tough choice. For the vast majority of Oregonians, and certainly for myself, this is easy. It works like this: We will never develop water and sewer systems for economic development in rural America or urban America affordable housing or job skill development if we are sending $1.2 billion into orbit.

It is as simple as that. Let us cut the space station. Let us invest in rebuilding this country.

I urge my colleagues to vote "yes" on the Traxler-Green amendment, and bring our priorities back home.

Mr. BROWN. Mr. Chairman, I yield myself 1 minute for the purpose of responding to the distinguished gentleman in the well.

I very much regret that the gentleman chose to put this debate in partisan terms. I think he knows that the candidate of the Democratic Party as well as the candidate of the Republican Party both are supporting the space program and the space station, and for him to speak in these terms does a disservice to the Democratic Party.

I might say that the space program from its inception has been bipartisan. It has been aimed at expanding the universe, breaking new frontiers for all the people of the Earth.

The gentleman's remarks disparage that kind of motivation, and while they may look good in his Senate candidacy in Oregon, they do a disservice to the Democratic Party.

POINT OF ORDER

Mr. AuCOIN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. AuCOIN. Mr. Chairman, are there rules in the House that work against a Member, a colleague raising questions about motive on the part of another colleague in the argument that another colleague may be making?

The CHAIRMAN. The rules are that Members should refrain from speaking to the motives of other Members.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield to me?

Mr. BROWN. I am happy to yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding to me. I have great respect for the gentleman from California. I have never known him to question the motives of another Member of this body on either side of the aisle before.

If the gentleman will yield further, since he did question my motives, I would say to the gentleman that though there have been Democrats as well as Republicans who have supported space programs, never in my judgment have I seen a budget crisis the likes of what were are in today. Never have I seen human programs here on Earth being squeezed as they are being squeezed today, while at the same time billions of dollars are being argued for space.

Mr. BROWN. Reclaiming my time, Mr. Chairman, if the gentleman interprets my remarks as questioning his motives, I regret that. My remarks were entirely factual. I intended to correct the record insofar as the support of the Democrats for the space program over the years.

Mr. AuCOIN. Mr. Chairman, if the gentleman will yield further, he referred to an endeavor in which I am engaged. The endeavor that I am standing in the well to advance today is to change this Government's spending priorities. I do not think we ought to be building infrastructure in space. We ought to be building it here on the ground. I do not care who agrees or disagrees with me.

Mr. LOWERY of California. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the Subcommittee on Space of the Committee on Science, Space, and Technology.

Mr. SENSENBRENNER. Mr. Chairman, I rise in strong opposition to the Traxler amendment and in support of space station *Freedom*.

I stand before the committee tonight as the one who has been ranked No. 1 by the National Taxpayers' Union for voting against spending programs.

This space station is an investment in the future and nobody can come before the House in the future and complain about the exodus of American jobs to Japan, Europe, and elsewhere, who votes to kill the space station *Freedom*, because jobs are a direct spinoff from research and development and if we wreck the aerospace industry in America today by voting to kill the space station, those jobs are going to be going overseas, and I do not want to hear any crybabies come to this floor in the future after having voted to do that.

Second, killing the space station is not going to reduce the Federal budget deficit. Many of the people who are supporting the Traxler amendment today have very poor records from the National Taxpayers' Union. Their priorities are to spend the money elsewhere.

Now, I have a chart here before me that shows where our Federal budget dollars go. Discretionary spending is 36 percent of the total Federal budget, of which NASA is 3 percent of total discretionary spending.

The space station appropriation in this bill is probably about 10 or 11 percent of NASA's 3 percent of discretionary spending, so by the time we zero out the space station, should this amendment be drafted, there really is not going to be very much money for significant deficit reduction.

What it will do is create a hole under the discretionary spending cap which people who have got other priorities are going to rush in to spend those dollars 10, 20, or 50 times over.

Vote against the Traxler amendment, keep the space station on track and keep those jobs in the aerospace industry that are dependent upon the technology that will be developed in America.

The CHAIRMAN. The Chair again wishes to advise the two gentlemen from California that unless they are reserving large blocks of time to themselves to close debate, they have much more time remaining than do the proponents, and the Chair wishes to call upon the gentleman from California [Mr. LOWERY] and the gentleman from California [Mr. BROWN] so that they may yield to some of their speakers.

Mr. BROWN. Mr. Chairman, I am more than happy to accommodate the Chair, if he wishes.

The CHAIRMAN. The Chair does.

Mr. BROWN. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, it occurs to me that the debate that is going on today would better have gone on 4 or 5 years ago when we decided on the space station, and indeed it did go on 4 or 5 years ago when we approved the space station program, and it has gone on a number of times, at least three I believe this year, and each time this House has voted to support the space station.

Over that period of time, space station *Freedom* has really become the centerpiece of the NASA space program. It cannot be removed without a catastrophic impact on our own space agency.

Further, and the point I would like to speak to this afternoon, is that space station *Freedom* is the centerpiece of NASA's international cooperative efforts.

Mr. Chairman, it strikes me that many of our colleagues voice their opposition to the space station as if NASA operates in a vacuum. It does not. I would like to remind these colleagues of the global perspective of space station *Freedom*.

In 1988, the United States Government signed intergovernmental agreements with Canada, Japan, and 10 nations of the European Space Agency to develop space station *Freedom*.

Our international partners have committed over $8 billion to the space station.

□ 1710

And it is the centerpiece of their respective space programs.

Right today it is the centerpiece. The Japanese experiment module is the centerpiece of their space program and one-third of their annual space budget. The attached pressurized module is an integral part of the European Space Agency's program. During difficult fiscal times for ESA, the Europeans have made every effort to insure that they maintain their commitment to the United States and their other partners to the international space station *Freedom*.

The mobile servicing system represents 50 percent of Canada's space program, and the Italian contribution of the minipressurized logistic modules is integral to Italy's space agenda.

Mr. Chairman, the United States needs to wake up. There is no question that global trends are forcing increasing international cooperation on large challenges of science and technology. Now is not the time to send the world a message that we are not a reliable partner and that we are not prepared to lead.

Mr. Chairman, I rise in opposition to this amendment. I urge our colleagues let us keep our space program going.

Mr. LOWERY of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the space station and in opposition to the amendment.

Mr. Chairman, there is not enough money to do everything that Congress has voted for in the past—"affordability" has not been the primary concern of this body and it is past time to reexamine all programs funded by the taxpayer. On this point I agree with those who stand here today and ask us to reevaluate the merit of space station *Freedom*—no program should be exempt from the inquiries of "How much does it cost?" and "Who pays?"

After much consideration and consultation with leaders from NASA, the Aerospace industry, and the scientific community, I have concluded that space station *Freedom* is a worthwhile investment. This investment is currently yielding nearly 75,000 American jobs, and solidifying American leadership in technological research and development. The long term benefits will bring more economic gain, more medical and scientific breakthroughs, and it will bring us closer to the infinite resources and opportunities available in space.

Today we have heard that *Freedom* is a "black hole, sucking away funds from NASA's other programs." Mr. Chairman, we have already reduced NASA funding by $279 million from last year's level, $955 million under the President's request. These are tough cuts, but they are necessary given the expected deficit of $400 billion for fiscal 1993. While I agree that more money could be saved, I also believe that specifically targeting the space station is irresponsible.

The space station is a cornerstone—NASA administrator Daniel S. Goldin has describe it as, "A vital link in the fabric of the (space) agency"—to terminate *Freedom* would be to undermine the entire space program. It is time for Congress to end its micromanaging habit; let's allow NASA and its new administrator to decide how to spend NASA's already severely reduce budget.

Mr. LOWERY of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, and colleagues, Presidents and Presidential candidates can talk about vision, but it is here in the Congress of the United States where we make visions come true. It is here where we provide the resources and the ideas to see to it that we secure our future for ourselves and for our children.

Certainly, we must address today's problems, the needs of our veterans, housing for the disadvantaged, medical care of the elderly, for the poor, and education for our children.

But we must not allow today's problems to cause us to neglect tomorrow's opportunities and tomorrow's promise. We cannot let tomorrow's problems prevent us from creating a world of excitement and promise for our children.

Our parents, our parents stole from their todays to provide for our tomorrows.

Let us not steal from our children's tomorrows to provide for our todays. They will not thank us for it.

Mr. STOKES. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in support of the Traxler-Green amendment to strike the space station funds. I do so with some very mixed emotions. I come from a city, Cleveland, OH, which has a NASA center. Specifically, it is the Lewis Research Center which employs a significant number of people in the Cleveland area.

A few years ago I was one of the leaders from our area who fought and successfully acquired the designation of Lewis Research Center as the lead center for the electrical work on station. I have also voted on numerous occasions over the years in support of NASA programs.

Today, as a matter of conscience, I cannot support NASA and the continuation of funding for the space station. The Lewis Research Center which I have supported sits in Cleveland, OH, a major American city, with all the problems of every major city in America.

Cleveland, like Los Angeles, CA, has all the ingredients to go up in smoke, any given day, at any given hour, on the slightest provocation. It is a city beset with the dubious distinction over the last 2 years with the highest black unemployment rate in the Nation.

A few days ago a report issued by Cleveland officials revealed that a lead screening program documented that 50 percent of the 300 youngsters in the Glenville neighborhood had enough lead in their blood to be considered lead poisoned under current Federal guidelines. These children are destined to be permanently retarded in learning and intelligence. In Cleveland, while the Lewis Research Center sits on a hill, above the fray, in the center of Cleveland, the mayor's task force has just boarded up more than 200 crack houses. Cleveland, a major city, is today a crime-ridden, poverty-stricken city.

Public housing, where the poorest of the poor live, in this budget is $418 million less than what will be needed for public housing operating subsidies. What happens to people in public housing when this occurs? They continue to suffer with bare bones maintenance. Lights aren't replaced. Toilets are not fixed in a timely way, security improvements are deferred, and trash is not picked up. These are the realities of life in America while NASA has the luxury of exploring the universe.

Lastly, my decision of conscience today is based upon the continuous refusal of NASA to employ minorities in an equitable manner throughout their agency.

Mr. Chairman, for more than 20 years I have been plagued by problems relating to job discrimination as it relates to minorities at Lewis Research Center. On numerous occasions I have been joined by my colleague, MARY ROSE OAKAR, where meetings have been held in her office, in my office, and the Lewis Research Center, where we have begged, pleaded, and implored them to be fair and equitable in the hiring and promotion of minorities and women in an agency run with taxpayer funds, Federal dollars.

What is happening at Lewis Research Center is not isolated. NASA, from the top down, has few minorities in meaningful, policy positions anywhere in its Agency. In short, NASA is run as though it were a white male, old boys country club. I believe that the current Administrator, Dan Goldin, wants to change this.

In a recent speech to the National Contract Management Association he expressed the great pain he encountered as he watched the Los Angeles riots on television. He told the contractors:

> I have made a personal commitment to increasing cultural diversity in the workplace and to increasing the contracting opportunities for small and small disadvantaged businesses.

I have talked personally with Administrator Goldin and I believe that his commitment is sincere. Whether he can change the recalcitrance of this agency in terms of its past policies remains to be seen.

Today, I have to be concerned about the poverty, the hopelessness, the despair and disillusionment that exists in our cities across America. My vote has to be for them and their future on Earth. I urge my colleagues to vote to strike the funds for the space station. Let's vote for the Earth first.

Mr. BROWN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank my friend, the gentleman from California [Mr. BROWN], the chairman of the House Committee on Science and Technology, for yielding this time to me.

I want to begin by apologizing to my friend, the gentleman from Michigan [Mr. TRAXLER], the chairman of the subcommittee, who is not on the floor at the moment. We have had a long and positive and friendly relationship, and it is difficult for me to dissent from the position he has taken on the space station, but I do so now because I think we have to conclude that it is very, very important to the future of scientific research in this country, not just physical and biological systems.

We are talking about advanced composites, laser technology, and a whole host of yet-unknown areas that will accompany the development of this system as has happened with other space ventures in the past.

But I think most of all, I need to indicate how strongly I feel about the erosion of our aerospace industry in this country, and the decline in our industrial base generally.

Mr. Chairman, we are laying off people at a rapid rate in this area of the economy—50,000 jobs in 1991. Next year an additional 65,000 layoffs are expected.

If we cancel the space station, we will add 75,000 job losses to that total. That is roughly 200,000 in one industry in just 2 years.

I think to cancel the space station at this time is indicative of a society that simply cannot fix its priorities, stick to them, and achieve them. I realize that any project that takes this long to develop and to build will inevitably acquire legitimate critics. I do not think this is going to be an exception. They are all over the floor today, and some of the points are valid.

But we have got to show the resolve that we have shown in the past with our space program. We have to not only set goals, we have to work toward attaining them. We cannot allow this very basic industry, which is central to the future competitiveness of this country, to be eviscerated because we have competing priorities that we cannot fully fund year after year.

Mr. Chairman, I am sympathetic with my colleagues' concerns about the deficit and competing priorities in this bill but the problem is not going to be solved by killing the space station in this manner. The long-term negative impact on this vital industry may well cost us more over time if we fail to make investments in the aerospace sector.

So, Mr. Chairman, I rise in opposition to the amendment.

Clearly, valid arguments have been made on both sides of this debate. In years past, this Congress has continually demonstrated its support for continuing an aggressive space program including the development of a space station. Yet, we must come back year after year to defend the program.

We have demonstrated that the space station does not take funding from other programs funded through the VA, HUD, or Independent Agencies appropriations bill. Veterans programs, housing programs, and the National Science Foundation all receive an increase over the fiscal year 1992 funding level in this bill. Only NASA and the EPA—to a small extent—received funding reductions. Within NASA, the space station took a 15-percent reduction, while other space science funding received a 4-percent increase. Thus, there is room in the NASA budget for both the space station and increased space science research. And, there is room in this bill to fund the space station and the other programs that we all support.

The space station is very important to scientific research. As one professor of physiology from my district conveyed to me,

> The role of gravity in both physical and biological systems is only partially understood. The space station is an essential component of our future in these areas of research.

The space station also has important implications for biomedical research, advanced composites, laser technologies, and a whole host of yet unknown areas that have always accompanied new space ventures.

In addition to the scientific and technological merits of the space station, it is vital that we look at the space station in the broader context of reductions in aerospace programs, particularly in light of defense budget reductions. In this regard, we have a complete lack of overall vision for aerospace. Due to a lack of leadership from the White House on a comprehensive industrial policy, we have been relegated to enforcing a de facto industrial policy on a project-by-project and year-by-year basis. Not surprisingly, the consequences for the U.S. aerospace industry are devastating.

A recent Wall Street Journal article highlighted the fact that while our overall economy is in recession, the aerospace industry is in a depression. In 1991, the aerospace industry lost 50,000 jobs. This year and next, we expect an additional 65,000 layoffs.

By canceling the space station, we will add 75,000 job losses to that total. This would result in roughly 200,000 layoffs in one industry in just 2 years. By canceling the space station, we are dismantling our domestic aerospace industry at an unprecedented rate—an industry that has been at the forefront of technological advancement and a leader in U.S. competitiveness overseas.

For the budgetary, scientific, and economic reasons I have outlined above, I remain convinced that the space station must move forward. Mr. Chairman, the space station is important for our future, it is important for our present, and it is consistent with the great advances we have made through our space program in the past.

I urge my colleagues to support the space station, and vote against the Traxler amendment.

Mr. BROWN. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. McMILLEN].

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in strong support of the space station *Freedom.*

I rise today in support of space station *Freedom* and opposed to the amendment offered by the gentleman from Michigan.

The main reason for developing the space station is to determine the unknown opportunities that space offers. By having a manned outpost in space, we can find out the possibilities space may offer to biomedical research, biotechnology experiments, materials processing, and for further human exploration of the solar system.

We just may find out that space allows for the growth of human tissues that could create entirely new medical applications. We may also find out that the space environment may allow for crystal growth and solidification that advances new optical communications systems, improved computer memory technology, and enhanced sensors and solar cells. These are the high-technology building blocks necessary for an advanced economy in the 21st century.

Who would have thought that the Apollo Program of the 1960's would affect our lives in so many ways in the 1990's. As we now see in our everyday lives—from computers to long distance telephone service to laser surgery to automatic teller machines—the work of NASA and space research has enhanced our lives far beyond what could have ever been imagined.

However, we will never know the unlimited possibilities of space if we never establish an outpost in space. The cost for determining these possibilities comes down to one-tenth of 1 percent of our entire Federal budget. The potentials and risks are worth this cost.

In these difficult economic times and as we draw down our military spending, we must continue to maintain our investments in advanced technology. The space station *Freedom* offers us the chance to discover the unknown opportunities of space and the guaranteed advancement of our Nation's technological capabilities. I urge my colleagues to support the space station and reject this amendment.

Mr. LOWERY of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong opposition to the short sighted Traxler-Green amendment to delete funding for space station *Freedom.*

In listening to this debate, I find myself amazed at the arguments. The opponents of *Freedom* are trying to have it both ways. They want this money to go to other programs in this bill, but then hide behind a transparent budget argument.

We should not let ourselves be fooled by budget arguments—the opponents in *Freedom* simply want the money to spend elsewhere.

In addition, a favorite argument is that we cannot afford *Freedom* until we solve other problems. In my view, these problems are exactly why we need *Freedom.*

Our space program has been a major reason for our $30 billion trade surplus in aerospace, which, in turn, has led to over a million jobs. These are good high paying jobs.

The argument that we should use the Russian *Mir* station is also unsound. First, we have already signed an agreement to utilize *Mir* to gather data that will save time and money on *Freedom.*

Second, *Mir* is approaching the end of its design life and will be operating off technology decades old.

Third, *Freedom* will provide almost twice the work space and three times the electric power of *Mir.*

Even the Russians realize the value of *Freedom.* In fact, they are studying ways to get involved as a partner. If *Mir* was so great, do you not think they would use it?

Mr. Chairman, we have the opportunity today to prove Congress can address long-term programs and that we can put aside political concerns for our children.

After all, it is our children and grandchildren who will benefit from space station *Freedom.* Let us give them a chance to learn.

Support space station *Freedom.*

Mr. LOWERY of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise in support of the amendment and in opposition to the space station.

Mr. Chairman, this Member rises in support of the amendment to delete funding for NASA's proposed space station.

At a time of huge budget deficits, unmet domestic needs, and more appropriate NASA priorities, like the national aerospace plane, construction and operation costs of this big science project are roughly projected to reach an incredible and unacceptable $120 billion by the time all development, implementation, and operation costs have been included. Already, $8 billion has been poured into this black hole. Yet, the tangible benefits of this project are quite unpredictable and recent discoveries also have revealed countless obstacles to the project's successful completion and operation.

As the distinguished gentlemen from New York [Mr. GREEN], the subcommittee's ranking minority member has indicated earlier in the debate, the benefits are simply not worth the cost. He pointed to the dramatic reduction of objectives the space station was originally planned to meet. A few of the many obstacles, space debris, astronaut muscle loss, and the recent problems dramatized by the much-heralded satellite rescue which cost more than it saved, seriously undermine the practicality and feasibility of a manned space station.

Since the unveiling of the space station project, proposed missions have been cut or rejected, while costs have increased dramatically. Many professional and academic societies, including the American Physical Society, the American Geophysical Society, the American Chemical Society, the Carnegie Institution of Washington, the Institute of Electrical and Electronics Engineers and the Council of Scientific Society Presidents—whose own interests are the pursuit of research and sciences—oppose the station.

In addition, Mr. Chairman, problems here on Earth are proving formidable enough and worthy of proper funding; however, this appropriations bill cuts environmental funding for our national Clean Water Program by $245 million, Superfund by $1.4 billion, and the Earth Observing System by $75 million. Housing funding is reduced by $900 million. Clearly, continuation of the lofty goal of a manned space station will drain much needed funds from these and many other important projects.

Supporters of big science projects like the superconducting super collider and the space station criticize opponents for abandoning science, but in fact, opponents of big science projects may be America's science savior. Instead of focusing attention on several projects with little in guaranteed benefits, opponents of big science projects are placing their science bets on more numerous, innovative projects with prospects for far greater returns for the money spent.

Mr. Chairman, in conclusion I would cite from a recent op-ed piece in the July 27, 1992 edition of the Washington Post entitled, "Who Needs a Space Station?" The article, written by Maxine F. Singer, president of the Carnegie Institution of Washington, and Donald D. Brown, president of the American Society for Cell Biology, presents a strong case against funding the space station.

I quote one of the numerous important points:

> Scientists have in recent years been asked to set forth their priority on federal funding

for major scientific undertakings. Most of us do not support the funding that would be necessary for the space station. The voyages of men and women into space are dramatic testimony to the imagination and skill of scientists and dreamers. We are all thrilled by them. But for now, our hands, minds and dreams, as well as our money, are needed on our own great space ship, Earth.

Mr. Chairman, this Member urges his colleagues to support the Traxler amendment to delete funds for the space station, a glamorous project whose costs this nation cannot afford financially and in alternative benefit losses from other projects. It is a well-intended, exciting project that is now clearly a costly boondoggle which is primarily supported for parochial geographic, employment, and industrial reasons.

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Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise today in strong support of the Traxler-Green amendment to terminate funding space station *Freedom*. This Congress must come back down to Earth and focus on domestic issues, and the real work to be done here at home. Quite simply, the space station is a luxury item the United States cannot afford when the Federal Government is facing a $400 billion annual deficit. The scientific rationale is dubious at best. This is a pork barrel that we should jettison today. I urge my colleagues in the House of Representatives to examine their priorities and to vote for fiscal responsibility in government.

Even at the reduced funding level of $1.725 billion for fiscal year 1993, the space station is taking desperately needed funding away from other science programs, environmental protection, housing needs, emergency food and shelter programs, veterans programs, and deficit reduction. Annual costs for space station development are expected to rise to $2.25 billion, or more, by the end of the decade, and total development costs are expected to reach $40 billion.

Proponents of the space station argue that it is a gift for future generations. Unfortunately, the space station's greatest gift to future generations is its contribution to our Nation's enormous Federal debt, while we starve essential domestic programs that will improve the quality of life for all Americans.

Proponents argue cutting the space station will have no significant effect on deficit reduction. Such an argument misses the point, however. The fact remains $1.725 billion is a lot of money. It is money the Federal Government does not have. It is money that could be used for veterans health care, the HOME Investment Partnership Program, or environmental protection and cleanup. It is money that is desperately needed here on Earth.

Proponents argue canceling the space station would undermine the United States' credibility as an international partner. When have Japan, Canada, and the European Community put the needs of the United States before the needs of their own people? Let us stop this charade and start taking care of Americans first.

Congress can no longer afford to spend $1.725 billion per year on the space station, or any other superfluous projects, when so many problems here on Earth demand immediate attention.

Mr. Chairman, this Congress must be responsible and terminate the space station before more Federal taxpayers' money is squandered. I strongly urge my colleagues to support the Traxler-Green amendment.

Mr. BROWN. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in strong opposition to this amendment. America is at a crossroads right here on Earth. Either we maintain our industrial and technological base, or, Mr. Chairman, we lost it. Japan and France are waiting in the wings to take over another industry of ours. We do not even manufacture our own typewriters today, my colleagues.

A vote for this amendment is a vote to lose, according to the machinists union, 100,000 jobs. Another million private sector jobs plug into the aeronautical area. If we lose these jobs, it will devastate our economy and add to the deficit. We get a 3-to-1 ratio of return of taxpayer's dollars for the space program.

Now I heard one of the Members say that this is not necessarily a scientific project. Take a look at the spinoffs from the space program: The advancement of computers, satellite communication, materials such as teflon, the new technologies for efficient aircraft. Go into any intensive care unit and look at the devices used to monitor the bodily functions, the breath analyzers, the heart monitors, laser surgery, cataract surgery, pacemakers. They are all spinoffs of the space program, and, yes, we do want to have pharmaceuticals purified on the space lab because we know that they are close to arresting diabetes, cancer, cardiovascular disease, and other diseases by having this purification which can only be done in outer space. We want to understand biomedical technology—we want to find a cure for osteoporosis.

Mr. Chairman, America must be competitive. Last year the U.S. aerospace industry hit a net export record of $3.8 billion in the aerospace industry, and I say to my colleagues, "Look at my own State. Five thousand people walk through the gate at Lewis Research Center every day, and, yes, I have worked with Congressman STOKES to enhance the employment of that center for women and minorities, and I know we're going to do better, and we must do better. But take a look at the 210 businesses that will close down if we don't have this program." Let me submit the following list and how it impacts on my State of Ohio and the people of my district. Lewis Research Center is an anchor of economic opportunity for our State. It has the energy propulsion lead for the space station.

IMPORTANCE OF SPACE STATION AND NASA TO OHIO

Note: It is important to remember that the space station is *not* a discreet program within NASA which can be considered analogous to a defense-related program within the Defense Department or a human service program within another agency. Rather, the space station is the heart and soul of NASA to which many other NASA programs are connected. Consequently, if the space station is canceled, many other NASA programs will be negatively affected. This, in turn, will cause NASA, including NASA-Lewis, to experience many long-term difficulties.

1. For Fiscal Year 1992, the space station project employs 235 private sector jobs directly, and 588 workers indirectly for a total of 823 Ohio private sector jobs (based upon economic multiplier effect of 2.5). In addition, 535 civil service jobs are connected to the space station. This is a total of 1357 Ohio jobs affected by the space station program.
2. The total dollar value of all Ohio contractors' and civil service employees' salaries and benefits connected to the space station equals over $60 million annually.
3. The total dollar value of space station contracts that will be awarded to Ohio firms during the construction of the space station is $500 million.
4. The dollar value of space station contracts awarded to Ohio firms for Fiscal Year 1992 is over $33 million.
5. At least 210 Ohio business firms are expected to take part in contract awards as contractors or suppliers to contractors. See attached lists of contractors and suppliers which may be located in your district. Over 2100 contractors nationwide are directly employed developing the electrical power system for the station.
6. If NASA experiences long-term problems due to the cancellation of the space station, the Ohio Aerospace Institute (OAI) will also be adversely affected.
7. OAI is a consortium of 9 Ohio universities, 17 Ohio firms, NASA and the Air Force which is dedicated to the scientific and high technology education of Ohio's higher education students. OAI awarded almost $2 million in fellowships, scholarships and research funds during its first academic year, 1990–1991.
8. Ohio universities taking part in OAI include: Toledo University, Case Western University, Ohio State University, University of Akron, Wright State University, University of Dayton, Ohio University, the University of Cincinnati and Cleveland State University. OAI provides an opportunity for Ohio students to "network" with industry and government officials as well as to gain important exposure to high technology laboratories and knowledge.

In closing, let me reiterate my strong support for NASA, the space station project and all of the workers at NASA-Lewis and throughout the agency. NASA is the crown jewel in our Nation's quest for advanced technology and international competitiveness. I ask for the positive consideration of all Members of Congress when they cast their votes on the space station project. This is a vital project for our people and our future. Vote against this amendment. Save the space station and vote for America's future.

Mr. STOKES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise as a cosponsor of the Traxler-Green amendment. In the time available to me I want to discuss the three arguments that have been advanced today by the proponents of the space station.

First, we are told, the space station has something to do with the advancement of America's science mission.

Earlier I cited a statement that was issued to the Members of Congress by 74 of our own Nation's most preeminent space scientists saying that the space station lacks justification not only from a science standpoint, but the space station does not make any sense even from the standpoint of manned space exploration because it is so ill-conceived.

If that testimony does not have sufficient weight, Mr. Chairman, I would draw attention as well to the statements, the unprecedented statements, from scientists from three different continents, from their professional societies, who have all come together to plead with Members of Congress to understand that the space station program, rather than advancing critical scientific goals and purposes of our society and of their own nations, will undermine those goals and purposes by diverting resources down a tremendous rathole. This venture has nothing to do with science.

The second argument advanced has been: "Well, it's about vision, it's about NASA and it's about our technological future, and, if we don't build the space station," we are told, "America's whole industrial base will collapse all around us."

My colleagues, nothing could be further from the truth. NASA is an agency in deep trouble. For the past 2 years, as chairman of the Subcommittee on Investigations and Oversight of the Committee on Science, Space, and Technology, I have held several oversight hearings on NASA. This is an agency in deep trouble. It has no focused mission. It has little contractor accountability. Yes, Mr. Goldin, the administrator, is a fine individual. I happen to have enormous respect for his purposes and for his direction. But Mr. Goldin inherited a massive albatross known as space station *Freedom*.

Mr. Chairman, I say to my colleagues, "If you really are serious about turning NASA around, remove that albatross from Mr. Goldin's neck. Continuing the space station will make impossible the kind of genuine reform that would allow NASA to get about its real business of space science and effective exploration of space."

The reality is that NASA needs to be saved from itself. A vote to kill the space station, rather than undermining NASA and America's space program, is going to save NASA and advance America's space program, and that is the truth as it is being told to us by those scientists closest to the space mission.

Finally, Mr. Chairman, when the science argument does not work and the vision argument does not work, than finally we hear the more candid and real argument that keeps this monstrous boondoggle afloat. The jobs that would be put at risk by the project's termination. When all is said and done, the space station has become nothing more than a jobs program for the aerospace industry. And what an expensive jobs program it has become! With 20,000 people directly employed by the space station, the $2 billion appropriation being requested this year works out to $100,000 per job. That's one heckuva costly jobs program.

Mr. Chairman, the truth is that if it is a jobs program we seek, there are ways of spending $2 billion this year, and $118 billion over the life-cycle of this program that can produce many more jobs at far lower cost per job, and that would be far more beneficial to our society as a whole.

Mr. Chairman, it is time to stop this horrendous waste of taxpayer dollars. I urge support for the Traxler-Green amendment.

Mr. BROWN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Louisiana [Mr. HUCKABY], a member of the Committee on the Budget.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman from California [Mr. BROWN] for yielding this time to me, and I rise in strong support of the space station.

Mr. Chairman, I rise because I am concerned that if we cancel space station *Freedom*, we will be closing the door to our Nation's future.

Space station *Freedom* has for too long been a political football. We in Congress have kicked the space station around until it bears little resemblance to the original program.

Many of the changes Congress demanded were for the better. Some of the changes we can argue about. But the basic fact remains that we in Congress took a hand in shaping space station *Freedom*. We have become active partners in this enterprise. NASA has accommodated our every change, and with full funding this past year the program has made tremendous progress. And yet there are those that want us to walk away from our creation.

If we cancel space station *Freedom* we would be walking away from our manned space program. The space station is the cornerstone for a future that takes us into our solar system. We have done about all we can without it. If you say you want to cancel it, what you are really saying is that you want to cancel the manned program.

We would be walking away from global leadership. Space station *Freedom* is America's marker, a symbol of our determination that we will retain our technological leadership in an increasingly competitive world.

We would be walking away from jobs. Space station *Freedom* currently provides jobs for about 75,000 Americans. And these are high-technology jobs, jobs that Americans work with pride and true craftsmanship. Just ask the United Auto Workers or the International Association of Machinists. They'll tell you. If you ask, they will tell you that the space station jobs are the kind of jobs that we here in Congress keep complaining that we are losing to our overseas competitors.

We are walking away from our responsibilities to our children. Space station *Freedom* is a bridge between us and the next generation of Americans. The space station is a torch that we will pass to our children. It is a positive endeavor that will inspire our children and stimulate their interest in math, science, and engineering.

Cancel space station *Freedom* and we walk away from this. And more. We walk away from exploration. We walk away from pushing back the unknown. That is not the way of America and it should not be the way of this Congress.

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Mr. LOWERY of California. Mr. Chairman, I yield 14½ minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman, I hear the arguments that funding the space station will hurt veterans' programs. This is simply not true.

I stand here today as a veteran and a supporter of space station *Freedom*. In this bill, we are funding veterans' programs while at the same time investing in our future. In fact, we've actually increased funding for veterans' medical care: Compensation and pensions, readjustment benefits, and medical facilities.

Yet, funding for NASA overall was cut 2 percent from last year, while funding for the space station has been reduced by 10 percent.

We now have a new administrator at NASA who understands a tight budget situation and for the first time the NASA Director, Dan Goldin, is reviewing NASA programs and looking for better ways to do the job at less cost. We in Congress should recognize leadership and work with Mr. Goldin and NASA to advance America's leadership in space and aviation activities.

Recently, Goldin answered station critics when he said:

> [Congress] ought to take a look at the total NASA budget. [Does Congress] want the NASA budget to be $15 billion, $13 bil-

lion, or $2 billion? Decide. Why [is Congress] picking on the space station? Why don't they ask the NASA Administrator how he might balance his budget?

The space station is a bridge to our future. Don't stop building this bridge when we are halfway there. Space science has made America the world's most productive Nation and given our citizens the highest standard of living in the world.

Look around you. The space program has given us advances in computers, new technologies for manufacturing and materials, environmental monitoring, improvements in health care through pharmaceuticals and life sciences advances, faster and safer aviation transportation—all areas of life have been affected.

I urge my colleagues to show their support for the space station and vote against the amendment offered by the gentleman from Michigan [Mr. TRAXLER].

Mr. BROWN. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, I rise in opposition to the Traxler amendment and in support of the new knowledge, technological spinoff, jobs, and other benefits that the space station will present.

Mr. Chairman, modern democracy was not conceived of a naive belief in the omniscience of the people, but rather in a skepticism of what had long been held to be virtue and knowledge. Democracy was born of doubt. Its prescription is to experiment, to try new approaches. It is a call to explore both physically and metaphorically.

If the United States is to continue to play its catalytic role in the world, if it is to continue to stir mankind, we must keep alive the exploring spirit. We must continue to accept new challenges and push back new frontiers—whether they be social, scientific, technological, or physical.

The newest frontier is that of space, and space station *Freedom* is the next logical step in our 30-year effort to explore the solar system and beyond.

To those who say we are not capable of building space station *Freedom,* I simply say that there has hardly been a technological achievement in our time, from splitting the atom to landing humans on the moon, that the so-called experts did not solemnly pronounce to be impossible. It is important to remember their expertise bounds their horizons. It is up to us, the layman, the policymakers, to see the potential of what lies beyond the present.

To those who say we can explore with unmanned vehicles, I agree up to a point. There are many interesting things we can do in space without humans. However, there are many interesting things that only humans can do.

The distinction between discovery and exploration is important. Discovery is when you locate something you knew or expected to be there. For such things, unmanned probes make sense. Exploration, on the other hand, refers to encountering and wandering through the unknown. To explore you must be intelligent, flexible, and adaptable. You must be human.

We explore not because it is in our genes. We explore because it is in our culture. President Kennedy understood this when he asked the Congress and the American public to support Project Mercury. His question of why people climb the highest mountain was not simply rhetorical. It goes to the heart of the matter—it touched our exploring spirit. As Shelley has said:

I love all waste
And solitary places; where we taste
The pleasure of believing what we see
Is boundless, as we wish our souls to be.

For most of human history, mankind not only feared the unknown, they eschewed it. They stood in awe of remote and desolate mountain tops. The unknown and the forbidden were thought to be the same—a realm of death and devils.

People did not travel to the unknown. However, in their quest for the known they might stumble across something new. They might make a discovery, but they did not explore. Exploration requires a fundamentally different cultural framework.

While the discovery uncovers, the explorer opens. While the discoverer concludes search, it is the explorer who begins it. The discoverer is the expert at what is thought to be there. The explorer on the other hand is willing to take chances. He is an adventurer who risks uncertain paths to the unknown.

It is the American experience that stirred mankind from discovery to exploration. It was the experience of a nation willing to take a chance, willing to face the unknown both geographically and politically, that moved mankind from the cautions quest for what we knew—or thought we knew—to an enthusiastic reaching to the unknown. And that is exactly the spirit that Kennedy touched in every American.

He tapped what is uniquely American. Democracy requires constant questioning and invention. It requires intelligence, flexibility, and adaptability. It requires us to face the unknown. It requires the exploring spirit.

Space station *Freedom* is the key to the next phase of human exploration. It is the key to nurturing our exploring spirit and that of our children. And for this reason, along with the new knowledge, technological spinoffs, jobs, and the host of other benefits, space station *Freedom* is surely worth the cost.

Mr. LOWERY of California. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise today to express my support for a program which holds great things for the future of this country, space station *Freedom.*

Since the introduction of the space station in 1984, Congress and the American people have made a great commitment to this valuable project. We have made a commitment to our past and current taxpayers through the $7 billion which we have already spent on their behalf. We have made a commitment to the 70,000 men and women in 40 States who have dedicated their workdays to the space station.

To our international partners in this project, the European Space Agency, Japan, and Canada, we have also made a great commitment. These nations have already spent more than $2.6 billion of the $8 billion which they have pledged to space station *Freedom.*

Unfortunately, there are some Members of this Congress who are willing to ignore all of the time, money, energy, and commitments which this country has made. However, we must not ignore the most important commitment which Members of Congress must honor—this commitment is the one which we make to the future generations of this country. As past generations have done for this generation, we must do for the next.

Space station *Freedom* does not represent government spending, it represents government investment. It represents a dedication to improving the quality of life for those who will be here in 20 or 50 years. Many of the technologies which we enjoy today were derived from earlier breakthroughs achieved through our efforts in space. It is my hope that future generations of this Nation will have the benefit of breakthroughs achieved through the research programs of space station *Freedom,* which hold great promise in the fields of medicinal research, life science research, and material sciences research.

As a result of our past investments, the aerospace industry of the United States currently holds a $30 billion trade surplus while other industries run deficits. For every dollar invested, NASA programs have returned $7 of economic benefit. Our space program has provided great returns for this country, both economically and socially, and I believe that space station *Freedom* will continue to uphold this productive tradition.

In addition to these tangible results, there are also a great number of intangible benefits. To many of our Nation's youth, the space station will be a symbol of the greatness of the United States. It will excite them about the potential which human beings have to work together toward positive, lasting achievements. It will fill their minds with curiosity for the great feats of engineering and science involved in such a project. And perhaps many of our youth will devote their educations to learning more about science and engineering. The benefits which space station *Freedom* holds in these areas must not be underappreciated.

Education, through exploration and discovery, is the best stimulant for the young mind. In our Nation's scientific classrooms, from our universities to our secondary schools to our elementary schools, space exploration is serving as an educational inspiration.

Space programs have always been an important impetus for the youth of our

Nation, linking their imagination and sense of adventure to the practical study of mathematics and basic sciences. For example, in 1961, when President Kennedy challenged this country to embark on the Apollo Moon Program, he inspired thousands of students to pursue studies in science and engineering. And by 1969, when *Apollo 11*'s lunar lander touched down in the Sea of Tranquility, the number of science and engineering doctorates awarded in the United States had jumped 150 percent.

The Apollo Program successfully stimulated our Nation's young people to learn science and engineering. For today's youth, who have no personal knowledge of the Apollo Program, space station *Freedom* has become a critical and powerful catalyst for stimulating academic interest and enthusiasm in space and science.

The space station is capturing the imaginations of American students and is helping guide many of them to careers in technically demanding fields, such as math, science, and engineering, which are necessary to maintain a workforce capable of competing in the global marketplace. We in Congress have all recognized that there is a dwindling source of graduates in these areas from our Nation's school systems.

Conceived by, and constructed during our generation, the real beneficiaries of space station *Freedom*'s unique laboratory environment will be our future generations. Listen to just a sampling of some of our youth speaking out in a recent survey on the importance of space station to their generation:

"[Space station *Freedom*] is important for it may hold the key to surviving in the future. The results obtained may change the outcome of our lives here on Earth and benefit those in the future."

And; "[space station *Freedom*] will help further our knowledge of life on Earth. And it may give us the ability to improve our life as we know it."

Mr. Chairman, we must all understand that the key to our Nation's continued preeminence in space lies in the future of our youth. A continuous supply of scientific talent is necessary to sustain our technological and economical competitiveness in the world. Our ability to lead in space, our quality of life, and the very security of our Nation is at stake. Space station *Freedom* can be an important link in achieving all of these objectives.

I urge my colleagues to oppose this amendment and continue investing in our next generation by supporting space station funding.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise today in support of the Traxler-Green amendment.

I am here today as the chairman of the congressional urban caucus and as a representative of the city of Philadelphia.

It would be exciting to spend this money to explore space. But we just cannot afford it, not when our cities are hurting like they are. People in our cities cannot afford to look toward the heavens when they are having a hard enough time making ends meet here on Earth.

Funding the space station means cuts in funding for good and vital programs designed to help Americans get back on their feet here on Earth.

This year, it means cuts in programs to provide emergency food and shelter for our homeless. It means cuts in environmental protection programs.

And how will we pay for the program next year? Cuts in the community development block grant which is a program to redevelop our inner-city neighborhoods? More cuts for public housing? Cuts in veterans programs? Let us put an end to it.

Urban America does not want to pay for this pie-in-the-sky program.

Just ask the people in south-central Los Angeles who are trying to rebuild their lives.

Just ask a young steamfitter in Philadelphia who is struggling to find and keep a reasonable place to live.

Just ask the homeless family in New York that needs to find shelter.

Just ask the parents of children who are poisoned by asbestos—because Boston's schools cannot restore the buildings.

Just ask the Vietnam vet in Texas who does not receive the medical care he deserves.

I urge my colleagues to support Traxler-Green, and bring that money home to our communities where we need it most.

Mr. GREEN of New York. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. I thank the gentleman for yielding.

Mr. Chairman, many Members have said today that we should kill the space station so we can spend all the money on social programs instead here on Earth. I am not one of them. I am cosponsoring the Traxler-Green amendment because I agree with the leading scientific authorities that the space station simply is not worth its price tag. It will increase the deficit and it will divert money from more cost effective space and science programs.

The proponents of the space station argue that we are not going to be able to reduce the deficit by voting for this amendment. They say the money is going to be spent on some other programs.

We have heard the prime sponsor of this amendment assure us that 60 to 75 percent of the savings will go to deficit reduction. I just wonder why some of the proponents of the space station who are among the leading fiscal conservatives in the House of Representatives do not trust that to be the case, when in fact they sponsor and vote for, and I often vote with them, cuts in appropriations day after day, week after week.

Why is this cut different from all those other cuts that we have supported? I do not think there is a significant difference. The proof is that the leading deficit reduction organizations, Citizens Against Government Waste and the National Taxpayers Union, both enthusiastically endorse the Traxler-Green-Roemer-Zimmer amendment.

The proponents of the space station argue with some validity that there is no guarantee that the money that is saved from eliminating the space station will find its way into other science and space programs. However, the converse of this has been shown to be true, because the money that has been used to salvage the space station has come out of NASA's programs.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, first let me salute the sponsors of this amendment, and particularly the chairman of the subcommittee. This is the gentleman's last term here and I think it is typical of the kind of wisdom in which he has handled this debate that he had offered this amendment and given Members the choice of whether to have the space station or not. My choice is not to have it.

Mr. Chairman, I would say that this amendment is far more important than whether we build a space station or not. The theme of the 1992 Presidential campaign is about keeping America No. 1, about American growth, about where we are going as a nation. Let me say, Mr. Chairman, that that takes some very hard decisions and some very hard choices.

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We can sort of pull at our heartstrings, have wishful thinking, nostalgia for the good old days.

Well, America answered the Sputnik. We had the first man on the Moon. And therefore, we should have the space station.

In fact, recently, the NASA Administrator Goldin quoted President John F. Kennedy arguing that the space station decision today is the moral equivalent of JFK's decision to go to the Moon in the 1960's.

Well, to paraphrase a recent Vice Presidential candidate, I knew Jack Kennedy's Moon program. This space station is no John F. Kennedy space program.

Mr. LOWERY of California. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to the Traxler amendment. I do it for a whole variety of reasons, but primarily because I kind of like the idea of retaining the No. 1 position for the United States of America in technological preeminence in the global marketplace. It is a pretty good idea to me. I kind of like the idea of enhancing a program that deals with my favorite four-letter word, and do not get nervous, we can use this in polite company, that favorite four-letter word is "jobs," jobs for Americans.

Earlier in the debate, we heard some comparison between the SSC and the space station. I have known the SSC, and I have worked with the SSC. And the space station is no SSC.

Let us look at the differences. I say that in a very positive way. For openers, the SSC project has never been authorized by the Congress. Year after year the space station has. It has been subjected to the closest scrutiny and time after time we have said, yes, let us go forward for America.

The SSC promises continually that we will get foreign investment, foreign support for that project. Not the first dime yet. But the space station, from all around the globe investment has come to America, more than $8 billion foreign investment, the Japanese, the Italians, the Germans, the French, the Canadians. They all look at this magnificent project and say it is worthy of their investment.

My colleagues, it is worthy of our investment. For all the right reasons, I urge opposition to the Traxler amendment. I urge us to go forward for America, for our technological preeminence in the global marketplace, for jobs for our people. Vote "yes" for the space station.

Mr. STOKES. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I rise in support of the Traxler-Green amendment to eliminate funding for the space station.

The space station has been heralded by its supporters as essential to the advancement of science. As a scientist myself, however, I cannot ignore the serious questions about the station's ability to contribute to scientific advancement. A shocking number of our Nation's top academic figures have stated openly that the space station, as presently designed, has virtually no relevance to the space science disciplines that it is supposed to support.

In the area of microgravity research, the station has been revealed to be inadequate because of basic insufficiencies in its planned design—insufficiences in such areas as data handling systems, research volume capabilities, and crew accommodation capabilities. The biomedical advancement potential of the space station is tenuous at best, especially when the costs of the forgone research on Earth that could be done for the same price are taken into account. It is difficult to justify how we can say "yes" to the space station because of its potential for future medical research at a time when we are saying "no" to increased funding for ground-based research that we already know is promising.

Another justification offered for the space station is that it is needed to serve as a base for life sciences research in support of future human space exploration. For that scientific purpose too, however, the current version of the proposed station has been literally ridiculed by members of the scientific community as inadequate in size, power, and facilities. In other words, it will not even be able to serve the function most closely related to NASA's primary mission.

If the space station cannot contribute to our Nation's long-range space goals, then we obviously do not need it, especially at its projected total price tag. In short, this project is bad science, foolish economics, and a poor way to set our national priorities.

Mr. LOWERY of California. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, the gentleman from Michigan referred to the space station as an albatross. Then he praised Dan Goldin. Dan Goldin considers the space station as the heart of the space program. And if we remove the heart of a new administrator's agency, what are we doing to his chances of succeeding?

I think he is going to give us great leadership there. We have spent, to date, about, this includes our international partners, about $10 billion on the space station *Freedom*. That is about a third of the total cost of the project. Would it not be ludicrous for us to waste $10 billion by killing it today?

I spent 25 years in the medical field. I would like to quote from Dr. Wainerdi, who spent spent 40 years in biomedical research. This is what he said:

> No program in the history of this country, not the military program, not the atomic energy program, no program has been so beneficial to medical and health care developments as the space program of this country.

Dr. DeBakey made this statement:

> The only way you are going to provide a reduction in the cost of medical care is to get new knowledge to prevent the diseases that are so costly for today.

I have visited the space research centers of this country within the last several months. And in the briefing, I have come to the conclusion that if we are to find a cure and a control for AIDS, it would be in space.

Mr. Chairman, there is one topic which has fixed this Congress' attention: the economy. Time, energy, and ideas have been devoted to the state of our Nation's economy in the post-cold-war era. We have debated the good and the bad. The most encouraging debate I participated in was how to spur economic growth in this country.

The center of all of our economic debates were about one thing: jobs. At the heart of our economic growth debate was how do we best encourage the creation of jobs and the expansion of economic enterprise. At the heart of our unemployment debate was helping those Americans who don't have jobs.

Now in the midst of some trying economic times, Congress is faced with some tough choices. Funding the space station *Freedom* is a choice we have to make in order to fuel America's competitiveness in the future. Funding the space station *Freedom* today ensures the creation of jobs and growth of industries in the future.

As a representative from southern California, I am particularly adamant about the space station. A vote against the space station means that we actively put people in the unemployment line. This means they are not contributing to the economy, and they are not paying taxes. This also means we consign America to second-rate status among the global powers. We must invest now to reap the benefits later.

California has long been the home of defense and aerospace industries. Now, in the post-cold-war era, we must not allow this powerful economic engine to atrophy. We must harness its awesome power and redirect our energies. America risks its status as a leader and an innovator if we do not take the active step of funding the space station. Simply stated: a vote for the space station *Freedom* is a vote for jobs and for America's competitiveness.

I urge my California colleagues to realize that a "yes" vote is a vote for jobs in California. California will benefit from the space station *Freedom*, as the Nation will benefit from this investment in our future. I urge my colleagues to vote for space station *Freedom*, and thus spark a flame that will light us into the next century.

Mr. LOWERY of California. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in support of the space station *Freedom* and against this amendment. I could talk about jobs lost, but I want to talk about technology that might never have been developed. Technology like CAT scans, pacemakers, laser heart surgery, scratch-resistant lenses, personal cooling systems for people who are born without sweat glands, ingestible toothpaste for people who have oral facial paralysis.

I want to talk about the scalp cooler, something that probably no one has focused upon, but it is very important to me because my mother was recently diagnosed with cancer. The good news is my mother will be 100 percent curable, but she has gone through a terrible chemotherapy treatment. One of the worst parts of chemotherapy is the loss of hair. A technology has been developed that water is circulated under a plastic covering and the results have been phenomenal for that water that is regulated as to temperature. Sixty percent of the patients lost no hair. To me that is exciting technology, and it demonstrates the practicality of going forward with this very important research. Because if we do not go forward, we are going to lose technology like this that will never be developed.

Mr. Chairman, I rise today in fervent opposition to the amendment offered by my distinguished colleagues, Mr. TRAXLER and Mr. GREEN, to strike funding for NASA's space station *Freedom.*

Today, I expect we will hear the same old tireless and distorted arguments about why this country should abandon its commitment to our future in space. I wonder what it will take for the opponents of the space station to concede that the American people really do want this project.

As debate over the space station *Freedom* escalates, I find it both interesting and unfortunate to note that a few of my colleagues continue to speak of this project as if it were merely an intangible, unrealistic idea in the mind of some ivory tower scientist. These Members of Congress suggest that scrapping the space station would consist of nothing more than crumpling up a few pieces of paper and lobbing them into the trash. My colleagues, this project is far greater than simply a dream or a myth. It is a reality.

As of now, there are at least 75,000 Americans who are directly employed as a result of the space station. These hard-working, dedicated, and industrious citizens reside in 40 of the 50 States represented by this body, and span almost every technological industry imaginable.

And while this large number of people stands significant on its own, it still fails to take into account the countless number of other Americans whose jobs would likewise be indirectly affected by the unwarranted and utterly irrational proposed termination of the space station. At a time of rising unemployment and general economic malaise, can we afford, as Members of Congress, to displace close to 100,000 hard-working American citizens, to whom we have committed steady employment? The answer should be obvious. Unfortunately, to some, it is not.

But while these occupational commitments alone justify our continuing involvement in the space station *Freedom,* let us not fail to take into account the $7 billion that have already been invested in the space station by the United States alone. This large but worthwhile investment, accompanied by the $3 billion invested by other foreign countries, is far too great to simply abandon at the whim of a few confused or misinformed Members of Congress. Can we allow other countries to take the lead in global space technology? And perhaps the most important question of all: can we afford to simply throw away the $10 billion that we have already invested in the space station, which, I might add, is one-third of the way completed? I can assure you that the American people will not look kindly upon such unjustified vacillation with their hard-earned tax dollars.

But in spite of these compelling reasons, some Members of Congress still fail to see beyond their own hidden agendas. Not only do they ignore the high economic cost of abandoning our commitment to this project, but they also refuse to acknowledge the practical technological spinoffs that will arise as a result of this highly specialized and technologically advanced endeavor. Dr. Michael E. Debakey, the renowned heart surgeon, recently made the following comments about the skepticism which has been displayed by some of his colleagues:

> I am familiar with the fact that there are some scientists who have expressed reservations and even hostility to the whole concept of the space station. I find this extraordinary in a scientist to be perfectly honest with you, when the whole history of science clearly demonstrates that you do not know when you start working on any subject what is going to come out of it. That is why research is so important. That is why research has demonstrated historically the value of doing research: to get new knowledge.

Can we afford to abandon a project that would undoubtedly contribute even more to the 30,000 spinoffs already made possible by our Nation's Space Program? Would it be wise to forsake the Space Program, which has already brought us such revolutionary technological spinoffs as CAT scans, lasers, pacemakers, and communications satellites? Technology spinoffs have always been a tangible reward for the scientific endeavors of space exploration.

Mr. Chairman, it is my opinion that we simply cannot afford to abandon these commitments. Especially when there is so little to lose, and everything to gain. I urge my colleagues to defeat the Traxler-Green amendment. Hopefully, after a fifth resounding vote in support of the space station, opponents will get the message that this project is here to stay.

Mr. BROWN. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I rise in strong support of space station *Freedom* and in opposition to the amendment to terminate the program.

Space station *Freedom* simply will not cost what station opponents have put forth. In 1984 Congress asked that NASA provided an estimate, in constant dollars, for the development of a space station. That estimate was $8 billion. With inflation considered, the cost estimate was $12 billion to develop the station, but that estimate was based on just a preliminary understanding of what the project would involve.

Between 1984 and 1988, NASA completed its engineering and cost analysis. As they refined the design, the cost of the station rose to $18 billion. This was partly caused by the failure of the Congress to fully fund the program. For example, in 1988 funding was 50 percent of what was necessary.

Inadequate funding caused the schedule to slip and the costs to increase.

Since 1988, the space station's cost has remained constant. In fact, the current estimate for development has decreased to $16.9 billion due to the congressionally mandated design in 1990.

Station's opponents will tell you that the program has grown from $8 billion to $30 billion or even $40 billion. This is a distortion of fact.

NASA has estimated that total development, deployment, and operational cost through 1999 will be $30 billion. This investment will develop the station, deploy it in 1996 and operate it, including its science mission, through 1999.

Do not confuse apples with oranges. This is not a cost growth. These figures include cost that NASA would otherwise incur on other activities, even if the station did not exist.

Space station *Freedom*'s missions are exceptional. We will be able to perform life science and materials research on the station beginning with man-tended capability in late 1996.

The space station envisioned in 1984 contained capabilities that are not currently planned on the restructured station.

Congress has to share the blame for this, since the station budget has been reduced in 6 of the last 7 years.

All of the capabilities envisioned in 1984, however, are either provided for on the current station or can be incorporated when the funding is made available.

None of the original capabilities is precluded in the current design of the space station.

I urge my colleagues to vote against the Traxler-Green amendment and in favor of space station *Freedom.*

Mr. BROWN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ANDREWS].

□ 1750

Mr. ANDREWS of Texas. Mr. Chairman, the challenges against the space program continue to mount. Once again, our commitment not just to the space station, but to our entire civil space program is being tested. However, efforts to kill the space station are extremely shortsighted. The station is the linchpin of America's future in space. Killing the space station means stopping the space program dead in its track.

Some of the greatest breakthroughs in medical science have occurred as a result of the manned space program. Many of the technologies developed during various space projects became progenitors of some remarkable, even revolutionary, new methods to diagnose and treat human diseases and disabilities.

As a result of NASA technology in the Mercury Program, we now have the advanced pacemaker. During the earliest days of NASA, small bioelectrical signal conditioners were developed to transmit data about the cardiac and respiratory performance of the Mercury astronauts. These were the precursors of the advanced cardiac pacemaker that has saved the lives of more than 1 million Americans who suffer from heart attacks each year. As a result of this technology, we now have programmable pacemakers with two-way communications capability that allow physicians to monitor and interact with the pacemaker from remote sites. They are able to fine-tune the performance of the pacemaker to fit the changing need of the patient without surgery—even without seeing him.

NASA technology also developed the advanced defibrillator by taking it out of the emergency room and making it portable. The model that I am holding up is an implantable device that continuously monitors the heart and stimulates the heart whenever the heartbeat exceeds the programmed ceiling level. The entire circuitry for this device was developed by NASA.

Just consider some of the other extraordinary breakthroughs NASA technology has developed: materials for the artificial heart valve, a laser treatment that enables doctors to eliminate arterial fat deposits without invasive surgery, the CAT scan and magnetic resonance imaging [MRI].

The truth is, many advances, both economic and scientific, that future generations will take for granted will be developed aboard the space station in our lifetime. Let us not be the Congress that stops the progress of our country's space program. Let us not be the Congress that says to the world that America is no longer interested in leading the world in the grand adventure of space exploration.

Mr. STOKES. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Ohio [Mr. STOKES].

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PANETTA) having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, had come to no resolution thereon.

POSTPONING RECORDED VOTES ON AMENDMENTS TO H.R. 5679, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993, IN THE COMMITTEE OF THE WHOLE TODAY

Mr. STOKES. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 5679, the Chairman of the Committee of the Whole House on the State of the Union may postpone until a time not earlier than 8:30 p.m. this evening any recorded votes that may be requested on amendments after the vote on the pending amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I do not intend to object, I just want to make certain of one thing. There are going to be amendments to amendments, so I would inquire what happens in that kind of a situation.

The SPEAKER pro tempore. Is the gentleman from Pennsylvania [Mr. WALKER] addressing the question to the Chair, or to the gentleman from Ohio [Mr. STOKES]?

Mr. WALKER. To the gentleman from Ohio, who has made the request.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Speaker, I would assume that those would also be accomplished within the timeframe that we have referenced.

Mr. WALKER. In other words, the amendment to the amendment would have to be waited upon and then we would have to go back and complete the amendment later on, is that correct?

Mr. STOKES. If the gentleman will continue to yield, yes, that is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

Mr. STOKES Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. STOKES].

The motion was agreed to.

□ 1753

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5679, with Mr. BEILENSON in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, pending was the amendment offered by the gentleman from Michigan [Mr. TRAXLER].

The gentleman from Ohio [Mr. STOKES] has 10 minutes remaining, the gentleman from New York [Mr. GREEN] has 2 minutes remaining, the gentleman from California [Mr. BROWN] has 7½ minutes remaining, and the gentleman from California [Mr. LOWERY] has 8½ minutes remaining.

The Chair recognizes the gentleman from California [Mr. LOWERY].

Mr. LOWERY of California. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. MICHEL], the distinguished Republican leader.

Mr. MICHEL. Mr. Chairman, I rise in support of the continued funding for the space station *Freedom* and in opposition to this amendment to cut its funding.

On June 6, 1991, I came to the House floor to urge my colleagues to support an amendment restoring funding for the space station. I said that we should continue to support this vital program because it enhances our competitiveness, extends our world leadership, and expands our scientific knowledge. That is what I said last year.

All those reasons are as relevant today as they were yesterday. Let me cite for the Members another reason we must continue to support the space station. That is the word health, h-e-a-l-t-h, the health of our economy today, the health of all Americans in the future, and the health of the American spirit now and into the next millennium.

I believe it is appropriate to mention that in my home State of Illinois, which is not generally recognized as a space station State, it has been estimated that for each direct dollar spent by this program the State indirectly receives eight in return, so we cannot discount the impact of the program on job creation and the economy.

As one outside expert put it, "The economic benefits of NASA's programs are greater than generally recognized, and the main beneficiaries may not even realize the source of their good fortune."

Freedom will also contribute to the future health of the American people. I am not a doctor, as the Members all know, nor am I an astrobiologist, so I cannot explain in adequate detail the kinds of experiments that have the people over at NIH all excited, but I can say that increasing our knowledge of life sciences will have a direct impact on how we battle such scourges as cancer and AIDS in the next several decades.

Finally, space station *Freedom* says a great deal about the health of the American spirit. Are we the decrepit, bankrupt, and feeble nation that some of our naysaying colleagues will have us believe, or are we the leader of the free world, the strong, vibrant democracy that first put a man on the Moon and today will lead mankind in its exploration of the heavens?

I believe we are, and we will continue to be a country that leads with our strength, not a nation that follows meekly behind. That is why I support the space station *Freedom*. It is vital for the economic, physiological, and spiritual health of the Nation. I would urge my colleagues to join me in opposing this amendment and supporting the space station.

I will include with my remarks a letter addressed to me by the President today, under date of July 29, obviously reaffirming his strong support of this space station and its full funding.

THE WHITE HOUSE,
Washington, DC, July 29, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: When Members of the House take up the Fiscal Year 1993 Appropriations bill for the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies, they will be asked to make a choice that is critical to America's future.

An amendment will be offered to strike all but termination funding for Space Station Freedom, the centerpiece of America's civil space program. The adoption of such an amendment would signal a major retreat from American leadership: in research and exploration, in international scientific cooperation, and in civil space activities. It would represent a devastating blow to America's entire space program.

Space Station Freedom holds the promise of new advances in research, in life sciences, and in blazing a trail for America's future presence in space. It is not only the logical next step in space—it is the vital next step.

I urge Members to vote against the amendment and in favor of Freedom.

Sincerely,

GEORGE BUSH.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. ATKINS] a member of the committee.

Mr. ATKINS. Mr. Chairman, I rise in support of the Traxler-Green amendment to eliminate funding for the space station and to reduce our budget deficit. We need a fiscal reality check. This debate is not just about how we can afford to spend another $30 or $40 billion to construct the space station, it is about how we can afford the $100 billion that it will cost us over the life of the station to operate and to support the station.

The space station is a huge public works project. It is not a science project. It is not at the forefront of knowledge and the forefront of research and technology, the way Apollo and the Mercury missions were. It has a very limited science that will come out of it. It is not supportable as a science project, it is an engineering project. That is why all of the talk of the great benefits to science from the space program are by and large not applicable to the expenditure on space station.

This year our deficit is growing at a pace of $350 billion a year, or $11,000 per second. Our debt is out of control, and so are the cost estimates of the space station.

In 1983 a high capacity space station was supposed to cost $8 billion. Today the cost estimate of a much, much slimmer model is $40 billion. Even holding the constant dollars from 1983, the station is still 50 percent over budget. Does anybody believe that the cost estimates will stay where they are?

The latest problem is orbital debris. It is going to cost us billions and billions of dollars to deal with the problem of the thousands of pieces of junk that we have left in orbit and what happens with the station.

□ 1800

The exploration of space is something we all support, but that fully is something that can wait. Space station *Freedom* is really space station fiscal bondage. Generations of Americans yet unborn will be paying the debt service on the borrowing to fund the space station.

Mr. LOWERY of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, I rise in opposition to the amendment and in support of further development of space station *Freedom*.

Mr. Chairman, I would like to quote from a speech recently given by NASA Administrator Dan Goldin to the employees of the Langley Research Center:

> Technology is the fuel that fires the furnace of our Nation's economy and NASA is a critical element of our Nation's investment in technology.
>
> I salute you for 75 years of excellence and I challenge you to work with me to turn the dreams of today into the realities of tomorrow.
>
> There are many challenges on the horizon—but I am convinced that we can overcome these challenges and that we can rekindle America's support and enthusiasm for our space and aeronautics programs.

Mr. Chairman, I agree with Administrator Goldin that technology is the fuel that drives the Nation's economy. We should not turn our backs on manned space exploration by our Nation. Space station *Freedom* is an investment in our nation's future. It is an investment in technology, science, education, and in America's economic competitiveness and technological leadership. I urge the House to reject this amendment to terminate space station *Freedom*.

In this same speech, Administrator Goldin announced that NASA would be returning to the use of its old logo. I want to take this opportunity to commend the lasting contributions made to NASA—and its image—by my good friend, Jim Modarelli.

In 1959, Jim—a retiree from NASA's Lewis Laboratory—responded to a suggestion for an appropriate seal and insignia for the Nation's aspiring space program. Jim, who headed Lewis' illustration section, joined the effort. His design entry for NASA—depicting the planet, space, and stars, as well as wings symbolizing aeronautics—was elected by the agency and officially approved by President Dwight Eisenhower.

The design served the agency until 1975 when a more contemporary logo was adopted. NASA has decided to return to Modarelli's design, which is a tremendous tribute to a talented artist and dedicated public servant. Jim—who worked at Lewis from 1949 to 1979—is understandably proud of his contributions to the space program and its image. I am, likewise, proud to bring his artistic contributions to the attention of the Congress and offer my sincerest appreciation for his excellent work on behalf of a grateful Nation.

Mrs. COLLINS of Illinois. I rise today to support the amendment to the Veterans Affairs [VA], Housing and Urban Development [HUD] and independent agencies appropriations bill offered by my colleagues from Michigan and New York, Representative BOB TRAXLER and Representative BILL GREEN. This amendment is both crucial and commendable—it would eliminate the $1.2 billion in funding for the space station *Freedom* so that we can use this money where we need it most—here at home.

At another time or under different circumstances, I might find myself opposing such an amendment. Continued advancement in space research is of interest and importance to all Americans. But the simple reality is that, here, today, we cannot in any way afford such a project and I cannot in any way support its funding.

My district in Chicago and Cook County, IL, is a disaster zone for too many reasons. There are thousdnad of children living in inexcusable third-world-type poverty conditions. Everywhere you look there are bright, young teenagers who have no chance of receiving a decent education from their public high school or any opportunities to go to college or find a job. The unemployment offices are filled with mothers and fathers who have been laid off and can't find work and don't know how they will make ends meet in the days ahead.

Because of these crisis conditions in my district and in other congressional districts around the country, I fully support the Traxler-Green amendment. A billion dollar research center in space will mean nothing if, here in our own country, we have fallen apart. So instead of shooting $1.2 billion into space, let's keep it here on the ground and launch a new campaign to save our children, save our cities, and save America.

Mr. McDADE. Mr. Chairman, let me express my admiration and great respect for the gentleman from Kentucky [Mr. NATCHER] and the distinguished gentleman from Mississippi [Mr. WHITTEN] for their usual efficient and courteous manner in guiding the committee.

I want to recognize the significant accomplishments of the distinguished and multi-talented gentleman from Michigan, subcommittee chairman, BOB TRAXLER. His many contributions to America's veterans, low-income housing and the homeless, the environment, and the advancement of space and science deserve our special thanks. We all wish him the very best of health and happiness in all of his future endeavors. We will also greatly miss our two other colleagues who have served so well on the subcommittee, the gentleman from Pennsylvania, LARRY COUGHLIN and the gentleman from California, BILL LOWERY—two remarkable and excellent members of the committee who have both contributed so very much to our efforts in the committee.

Mr. Chairman, let me now turn to the VA/HUD bill. This bill is acknowledged as one of our committees most important but difficult tasks to manage. Through the years Chairman BOB TRAXLER, ranking Republican BILL GREEN, and the talented Members and their staff have managed the subcommittee and its divergent programs with fairness and expertise. This year's bill is no exception. However, this year's VA–HUD bill presents still more difficult obstacles and challenges than have prior years. At the outset the subcommittee was confronted with severely constrained budget allocations. For example, while outlay allocations increased by $2.350 billion over 1992, only $350 million was actually available to fund any and all program increases. Total spending in this bill for domestic programs at $64.9 billion in new outlays, is only slightly over the subcommittee's budget allocations, but falls slightly below the allocations for budget authority. The subcommittee did a remarkable job in walking the tightrope.

On the plus side, the subcommittee has been able to actually meet a strong priority need in approving an almost $1 billion increase in critical Veterans medical care—the same amount requested in the President's budget.

Unfortunately, Mr. Chairman in our present environment of very limited domestic spending resources, there will be some winners and losers, as well as some controversial issues. The winners in this bill as I view it are the increases provided for veterans health care, certain HUD programs like CDBG, and the National Science Foundation core programs. The losers are most of the NASA programs—including space station cuts—EPA, FEMA, and the smaller but important independent agencies. Most agency administrative accounts are essentially frozen or reduced to well below last year or the 93 budget. I strongly recommend to all of my House colleagues who voted with us last year to preserve at least the same level of funding in the bill of $1.725 billion or more allocated for the space station. In order to maintain our commitment and responsibility to keep America first in space and science exploration, I would recommend voting against the termination of space station.

Within the HUD program accounts, I am disappointed that we were not able to increase funds for the HOPE and HOME programs. I plan to support an amendment which will be offered to increase funds for the HOPE Program. I am grateful that the committee was able to include $300 million for the HUD section 108 Loan Guarantee Program, the amount of my request.

I would like to express my appreciation for the inclusion of at least the start-up costs for the promising FDIC/new Bank Enterprise Program established by our colleagues from the Banking Committee, Representatives TOM RIDGE and FLOYD FLAKE. I hope to secure full funding for the program next year.

I am disappointed that we were not able to find the resources to maintain at least the $134 million provided last year for the efficient and vital FEMA Emergency Food and Shelter Program.

Mr. Chairman, I must advise, however, we do have several serious problems to work out before this bill will be signed by the President. The administration has indicated several problems with the bill in its present state and, unfortunately, will recommend a Presidential veto if we are not able to establish a middle ground. Despite the list of program concerns expressed by the administration about this bill, I firmly believe if we are successful in voting down the amendment to terminate space station *Freedom*, which will be hotly debated later, we will have found that middle ground for an acceptable bill which the President will then sign into law.

Ms. PELOSI. Mr. Chairman, I rise today in support of the Traxler-Green-Durbin amendment to H.R. 5679, the VA–HUD appropriations bill for fiscal year 1993. This important amendment would delete $1.2 billion in funding for the development of the space station.

We hear from supporters of funding the space station that the project directly and indirectly employs 75,000 people in 39 States. I would like my colleagues to stop for a moment and think about a different set of statistics. The National Homeless Coalition estimates that 500,000 children were homeless in 1990. According to official statistics, in 1989, there were 156,000 homeless children in the State of California alone. The General Accounting Office estimated that on every night in 1989, 68,000 children were homeless. These numbers are indefensible.

And how do we end up paying for the space station? By cutting funding for affordable housing and veterans' benefits. The burden of paying for the space station is sitting squarely on the backs of the very people who can least afford it.

We also hear from its supporters that the space station is essential to our future. Many of the same people who are ardent supporters of the space station argue vociferously that the budget deficit is burdening our children's future. We have a serious budget crisis and a rapidly growing domestic and urban crisis. We simply cannot afford at this point to fund a project that even according to the Science, Space and Technology Committee's own report, is "deemed to be discretionary in nature."

In a letter I received today, Daniel Goldin, the Administrator of the National Aeronautics and Space Administration [NASA] said, "We can either invest in our future and that of our children or we can abrogate our leadership in space technology * * *." Mr. Chairman, our children cannot have a future if they do not have a present.

I heartily endorse many efforts to explore the skies. However, when our children are homeless, hungry and undereducated, they cannot reach for the stars. I urge my colleagues to support this amendment.

Mr. HOYER. Mr. Chairman, I rise in support of the amendment offered by chairman TRAXLER, deleting funds from H.R. 5679 for continuing development of the space station.

Mr. Chairman, I am a strong proponent of space exploration, and it is important to note that the long-term economic benefits of space exploration and research are not what this debate is about. This debate is about how much we can afford to spend, and how we will arrange our priorities—getting the most bang for the American taxpayers' buck. The intangible benefits of space exploration, including manned exploration, or the final frontier are meaningful and important.

International leadership, international cooperation, the research data, and the "challenge" itself are all reasons offered for supporting continued development of the space station.

Those are also good, rational, and compelling reasons for supporting and protecting the other ongoing and projected programs administered by the National Aeronautics and Space Administration to which $12 billion of NASA's $14 billion budget is devoted.

I, for example, have a particular interest in EOS, the earth observing system currently under development at NASA.

EOS involves a network of unmanned satellites intended to provide critically important data about the earth—data that is increasingly important as we become more aware of humanity's impact on our environment.

EOS will help us understand the consequences, both intended and unintended, of daily living which may determine the health of the planet that must sustain us and future generations.

The real issue before us is the question of priorities. Space station *Freedom* is, at this point, only a fraction of the NASA budget. But at $1.73 billion, that fraction is approximately one-seventh of the total, and I've seen estimates that it will consume as much as $40 billion to develop and cost $120 billion over its lifetime to operate.

NASA's entire budget is just over $14 billion today. As noted in the report accompanying H.R. 5679, veterans medical care required at least an additional $1.119 billion for fiscal year 1993.

Veterans medical care is the most important priority within this bill, and the committee deserves praise for making the tough decisions required to meet our commitment to our Nation's veterans. Even though funding for the VA has increased by 10 percent in constant dollars during the last decade, medical costs increase 117 percent during the same period.

There are those who argue that chairman TRAXLER, Mr. GREEN, Mr. STOKES, and the other members of the subcommittee have solved this problem; that since they have increased funding for some of the veterans programs while maintaining funding for the station, this massive budget project somehow does not impact other funding priorities.

The American public, not versed in budget arcana, knows better. Yes, the space station is in; community development block grants are in, and the shelter plus care homeless initiative is in, as well. But, as the gentleman from Arizona, Mr. KOLBE has pointed out, the Home Ownership and Opportunity Program is funded at $649 million below the President's request; the Home Investment Partnership Program for acquiring, rehabilitating, and constructing affordable housing is $900 million below the level provided in fiscal year 1992; the Emergency Shelter Grants Program is $55 million below the level provided in fiscal year 1992; and the EPA is $388 million below the request in the President's budget.

NASA, itself, is $278 million below the level provided in fiscal year 1992. There is no doubt that more than $1 billion in this bill for the space station may have otherwise been allocated to other pressing priorities, including some within NASA.

Mr. Chairman, the House approved the Labor, Health and Human Services and Education appropriations bill yesterday afternoon. That bill provided important increases for Head Start, Job Corps, and Foster Care Services, but at the expenses of energy assistance for poor people, community and maternal and child health care services, and other programs. Those were the choices we made yesterday, Mr. Speaker. We must make a similar choice today, as well.

In January, I hope that a new administration and a new Congress can re-evaluate Federal priorities outside the straightjacket of the budget agreement that makes deficit reduction the peculiar burden of domestic discretionary spending—the 15 percent of the Federal budget that has actually decreased in size.

We must have a serious effort to evaluate the entire budget because that is the only deficit reduction effort that can realistically succeed. Until we reach that level of crisis or leadership, we must husband our resources, investing in our human capital while maintaining leadership in space exploration at least cost.

I urge my colleagues to support the Chairman's amendment.

Mr. LOWERY of California Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, detractors of the space station are practicing national defeatism.

Have we lost so much confidence that this signal achievement in space, symbolizing so much of the pioneer greatness of America, must be sacrificed on the altar of welfare, failed programs, income redistribution, and out-of-control entitlements?

Now, in particular when we need to shift from sophisticated defense industry jobs to civilian high-technology endeavors, some would eliminate the one program which can provide the best possible opportunities for transition. Jobs, commercial opportunities, value-added products, and international markets have always emerged from America's space program. Manufactured products at the cutting edge, global economic leadership, that is what we sacrifice if we knock out the space station.

Some say we cannot afford it. I say we cannot afford not to do it.

Mr. LOWERY of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

When great countries end their efforts to push back the frontiers of knowledge, they cease to be great.

And that is what will happen to the United States if it fails to build space station *Freedom* and open the frontiers of space.

Space station *Freedom* is not about jobs, although the jobs it has created are significant. It is about expanding the horizons of human knowledge and promising to give our Nation a more productive future. A future as the world leader in the new industries of the 21st century.

One of America's most accomplished astronauts, John Young, said:

> America is in a war on poverty, a war on drugs and a war on crime. But the war we need to win if we are going to be successful in the next century is the war that nobody realizes we are in—and that's the war on ignorance.

We have an opportunity today to vote whether America should continue to push back the frontiers of knowledge that has made America the most powerful nation in the world.

Vote against the Traxler amendment and for America's future.

Mr. BROWN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Chairman, this debate reminds me of the wistful words of Judge Holmes in his last years.

"In our youth, our hearts were touched by fire."

In my youth my heart was touched by the creative fire of the space program, by Mercury, by Apollo, by an abiding belief that humankind can reach beyond the bounds of Earth and find a great destiny not only here on Earth but also in the stars.

Many of my colleagues were inspired by that same belief. I ask: Where has it gone? Are we so weary of struggle and strife that we can no longer feel that youthful fire? Are we so mired in the mud of our own uncertainty that we can no longer look up and reach for the stars? Are we so old in our ways that we can no longer see the new ways that will light the way to the future?

I represent the men and women who will build space station *Freedom*. They took us to the Moon. They launched the shuttle. They can continue to do great deeds if we give them the chance. They are still touched by the fire of our imagination and our youth, and they still seek a great destiny.

Do we?

Mr. LOWERY of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise in opposition to the amendment. I say to my friend, the gentleman from California [Mr. BROWN], I rise in strong support of the Bush-Clinton space station. Seventy-five thousand jobs versus unemployment and welfare is not bad in a recession, and international investment and revenue is a necessity, and education benefits are a plus.

The environment, looking at the ozone, and the platform to study clear air is also a plus.

Biotech is good. Why? Right now on Earth we developed literally a two-dimensional cell. In space we will develop a three-dimensional cell.

What does that mean? Well one thing we found out is that astronauts have a rapid loss of white blood cells. Right now there is ongoing research as far as the study of leukemia and its cures.

AIDS. Can Members imagine the dollars that we are going to spend on AIDS in the future, and research into three-cell biotech evaluations?

I ask my colleagues to support this space station which is the future for life, jobs, and the future of the planet and in education.

Mr. BROWN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. HALL], the chairman of the Subcommittee on Space.

Mr. HALL of Texas. Mr. Chairman, I rise of course in opposition to the amendment. As chairman of the Space Subcommittee who has attended the schools and visited with the young people all over this country and listened to the people, I can tell Members that the American people have no idea that the space station is in jeopardy here tonight, and they are going to come unbuckled if it happens.

I just say to Members, do not turn your back on the young who attend the Marshall Space Center and go back to their schools and share their knowledge. Do not turn your back on our international partners who have spent and pledged billions of dollars for this space station. Do not turn your back on those wasting away in hospitals. With the space station there is at least some hope that they might escape a cancer ward, or the viciousness of diabetes. Do not turn your back on those who took up the torch from John F. Kennedy who answered the beep-beep of the satellite and brought us to this point.

Ladies and gentlemen, let us keep the space station. Cut it back, but do not cut it out.

Mr. LOWERY of California. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to the Traxler amendment.

The question we are going to answer today is; do we as Americans want to have a vibrant, competitive aerospace industry? That is what this debate is all about.

The aerospace industry is our leading manufacturing export industry in the United States of America. It is a vital component of our economy. It is now in transition from the cold war to a more competitive world.

By defunding the space station we are going to derail the aerospace industry forever. We are not just talking about jobs. We are talking about a fundamental American industry that will no longer exist.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I have listened closely to this debate over several years, and I would suggest that my colleagues who come before us and attempt to justify the space station in the name of medical research are misstating the case. Cancer cures are indeed the last refuge of budgetary boondoggles.

In their dying budgetary gasp, supporters of the super collider stood in this well and argued that the SSC project was going to cure cancer. Throughout the debate on the space station we have heard promises that if you will just spend $40 billion to put this piece of hardware up in space, we will find a cure for AIDS, cancer, diabetes, anemia, osteoporosis. And yet take a look at professional medical groups across America. Where are they? They are in favor of spending the money here on Earth to find cures for these diseases.

Yesterday we passed the HHS appropriation. We cut back on the President's request for the National Institutes of Health, the group which leads Federal medical research and funds one-third at best of the applications that are approved to find cures for these diseases.

What we are saying is we do not have the money to adequately fund medical research on Earth, and the supporters of the space station are grabbing this brass ring of medical research and saying this is what we can promise you in space. It just does not work.

Let me also say to my friends who believe that all of those who are opposed to the space station are opposed to NASA or to space science, we are not. But you read headlines like this one in the Chicago Tribune that Boeing loses to Europe's Aerobus in the United Airline deal and you realize it is, because the Europeans are putting their money into aeronautical research. We are shifting it to the space station at the expense of aeronautical research, and that is where the jobs are. That is where the future will be.

But instead, we take a project that was supposed to cost $8 billion, is now going to cost $40 billion, and continue to fund it year in and year out.

I tell Members this: I am one who supports the space program. I believe it has been important for America. But space station *Freedom* has been shown time and again by preeminent scientists across the United States to not be a good investment of America's limited resources.

□ 1810

Mr. LOWERY of California. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I could not disagree more strongly with the gentleman from Illinois. I rise in strong support of space station *Freedom*. In fiscal year 1993 we will spend $1.7 billion for this program, but we have already seen the benefits of our expenditures in past NASA programs as they have resulted in the creation of 325,000 new jobs due to technology transfers. Continued funding is key to our continued leadership in aerospace products.

In 1990 we exported $39.1 billion in aerospace products and enjoyed a positive balance of trade of $27 billion. In 1991 we enjoyed a $31 billion positive balance of trade. But if we fail to move forward on the space station, we fail to ensure continued leadership in the aerospace field. Our 90-percent global market share has already dwindled to 68 percent in the face of European competition, and the Russians, Japanese, and Taiwanese are poised to enter into this critically important arena. This industry employs 600,000 men and women, many in Connecticut, and the sophistication and skill of these people is a resource of great value to our country.

Furthermore, Russia has now agreed to work with us to accomplish our space station goals at lower costs and more efficiently. If we desert the project, Russia will certainly yield to French joint venture entreaties, bringing the European space capabilities up to ours by enhancing their aerospace knowledge and gaining control of cutting edge discoveries in the future. We cannot carelessly give away our aerospace leadership and all the economic consequences of it by not funding the space station.

Some maintain that there are better investments with the same technological payoffs. I disagree.

Space station *Freedom* will create a permanently manned presence in space and will develop the science base for the major, new product development in the future.

Second, for those who are concerned with the competitiveness of the U.S. manufacturer, the space station program imposes new, challenging requirements upon engineers and developers. SSF is designed to last 30 years in space. The astronauts on the space station cannot call a repairman if the air conditioning or the plumbing fails. Therefore the engineers who construct everything from toilets to environments control systems must build complex, self-regulating systems that will not break down. The space station requires a level of excellence in design and construction that, when transferred to our auto industry, will increase our global competitiveness.

Third, new products designed for the SSF are commanding new markets in Europe and Japan and creating the products that will be procured by European and Japanese space programs. Hamilton Standard in my district has the market cornered for space toilets. If you don't think toilets are very high technology, just imagine life with no gravity and the recycling challenges involved. In fact, the environmental systems that must recycle every ounce of air and moisture—from sweat to all other bodily fluids—into clean water and air for 30 years without break, are also going to help us clean up, for example, underground pollution at Superfund sites and enable us to support research in hostile areas such as our oceans and deserts.

I urge you to support continued funding of space station *Freedom*. It is critical to our continued leadership in the aerospace industry, to the manufacturing processes that will assure our competitiveness, and to addressing the environmental cleanup and waste management challenges that face our Earth.

Mr. BROWN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. TORRICELLI], a very valuable member of the Committee on Science, Space, and Technology.

Mr. TORRICELLI. Mr. Chairman, people tell me that just before a farm fails, the farmer sometimes will eat, in a last desperate act, his seed corn, and the price of that last meal is any chance for a future.

For most of our history, science has been America's seed corn. Some nations produce their wealth from the ground, oil, and coal, others produce their wealth from cheap labor. For America it has always been science and learning.

Space programs for this generation have been our answer to that tradition. Sixty years ago it began with simple contracts for hauling mail. Today, this investment in aerospace has grown to 1¼ million people, the most successful industry in our Nation's history.

Today, we debate no less than the future of that industry, and make no mistake, if we fail today and cancel the space station, we are jeopardizing the future of our aerospace in America.

And I ask only this: Make that judgment today with the future in mind, and make it once and for all. We have asked nations around the world to commit $8 billion to the space station, and yet we return year in and year out to make this decision again and again. Our credibility is at issue.

Others will go forward with or without us. But we must make this decision once and for all.

And know this: Someone will make the decision, and they will find the products that will dictate the future.

Support the space station. Go forward with space station *Freedom.*

Mr. STOKES. Mr. Chairman, may I inquire as to the status of the time?

The CHAIRMAN. The gentleman to whom the Chair is speaking has 6 minutes remaining. His friend, the gentleman from New York [Mr. GREEN], has 2 minutes remaining. The gentleman from California [Mr. BROWN] has 3½ minutes remaining, and the gentleman from California [Mr. LOWERY] has 1½ minutes remaining. There is a total of 5 minutes in opposition and 8 minutes for the proponents, and the opponents are entitled to close.

Mr. STOKES. Am I correct that the Traxler amendment supporters have the right to close?

The CHAIRMAN. The Chair has examined the precedents and would advise the gentleman that the gentleman from California [Mr. LOWERY] has the right to close. The proponent of an amendment is entitled to close controlled debate thereon unless the Member in opposition to the amendment represents the position of the committee of jurisdiction. It is the opinion of the Chair that the Member in opposition represents the committee of jurisdiction.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise in support of the Traxler-Roemer amendment to cut $1.2 billion in funding for the development of the space station.

In April 1992, just a few months ago, I voted for the authorization of the space station. I cannot in good faith vote for the appropriation today. It is too expensive. It has already been pointed out that the cost has risen from $8 billion to $40 billion.

We are not debating the issue whether we support NASA or not. We are not debating the issue whether we ought to have missions such as the colonization of the Moon or whether we should have a space mission to Mars or whether we are going to have manned flight to continue. Many of us believe in space exploration and believe in the importance of it.

But also we have to look at the cost. I remember just a few months ago when we debated the issue of a constitutional amendment on the budget, which I supported and many of you did as well, but we were asked the question at that particular time: Do we or do we not have discipline? Do we or do we not have the ability to cut costs?

Every one of us, every one of us has different priorities about what we think is important for America.

Well, we do have a choice. Do we fund a $120 billion novelty at the expense of our Nation's veterans, our Nation's homeless, our Nation's 5.5 million hungry children, and the responsibility we have to provide our children with a decent education, or do we fund a program where the dividends will be minimal?

Vote for the Traxler and Roemer amendment.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, let me give the top 10 reasons to vote against the space station.

No. 10. The space station has a limited mission. It's the Edsel of the space program, not a stepping stone for space exploration. The only value gained is studying the effects of long-term space flight on humans. We can do this elsewhere.

We cannot afford the space station.

No. 9. The space station won't help cure diseases. As Maxine Singer, president of Carnegie Institution said: "The sick people in our world are sick for earthly reasons. * * * We are many times more likely to achieve significant knowledge here on the planet than in space, and to do so a lot more cheaply."

We cannot afford the space station.

No. 8. The space station crowds out other science programs, including those science research programs at NASA itself. Researchers from throughout the country are being curtailed in their efforts due to the drop in National Science Foundation funding.

We cannot afford the space station.

No. 7. The space station costs have grown exponentially. We have already spent the $8 billion that was originally projected as the cost of the entire project. Instead, we will spend $40 billion to build the station and approximately $118 billion to operate.

We cannot afford the space station.

No. 6. The space station can't be had for pennies a day. NASA Director Goldin says space station costs 2 cents per person a day—that's the space station costs for this year alone—but it does not reflect total construction costs. Compare that to $3.17 per day every man, woman and child in the United States would have to pay to cover the amount of interest on our $400 billion annual deficit or the $43.83 a day per person in interest on the national debt the space station adds to the deficit.

We cannot afford the space station.

No. 5. Space station does squeeze out other programs in this bill like VA health. To those who say it doesn't, explain why the appropriations committee had to come up with an additional $300 million in enhancers just to meet its obligations—including the $1.725 billion for the space station. Now that those enhancers have been taken out by the point of order, we have a tighter budget squeeze.

We cannot afford the space station.

No. 4. The space station funding may force further cuts. Chairman TRAXLER will be compelled to offer a 2 percent across the board cut in all accounts except VA health care if the space station remains in the bill.

We cannot afford the space station.

No. 3. The space station will continue to soak up resources from all accounts in the VA-HUD-independent agencies bill not only in this year but for the future. That's why veterans groups have stood tall against the station funding even without any promises of reprogramming of funds. American Legion, Amvets, DAV, PVA, VFW, VVA have all indicated their opposition to space station. It is fair to say that this vote affects 27 million veterans.

We cannot afford the space station.

No. 2. The space station is a very expensive jobs program. Do we need to spend $40 billion for 75,000 jobs? don't believe that is a good investment.

We cannot afford the space station.

No. 1. The space station mortgages our future—we simply can't afford it.

Mr. BROWN. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Ohio [Mr. APPLEGATE].

☐ 1820

Mr. APPLEGATE. Mr. Chairman, I was asked to come up here to express my concern about the veterans' budget. This is not a contest between the space station and the veterans' budget.

Yes, I do have some concerns about the veterans' budget, but this is not a contest. The compensation benefits, the health benefits, and other benefits are still intact.

Yes, there are some problems. They are not going to be addressed here, and cutting the space station is not going to restore any cuts in the Veterans Administration.

So I say that I do oppose this amendment. I think America has to move forward. We are talking about America's future. We are talking about millions of jobs down the road.

I tell you budget balancers who talk about it, you cannot balance the budget unless you have money coming in to the Federal coffers. You have got to have jobs to pay taxes. That is what we need is jobs, but this is not just an American proposition. This is for all of mankind.

I think it has been stated time and time again here that of all the benefits from the space program and having a space station, America's R&D is in decline and if anything ever made American free enterprise what it is today, it is research and development, and we are giving it away to other countries of the world.

So I am just saying that this is not a good amendment, and I would suggest you vote against it.

Mr. GREEN of New York. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. GREEN] is recognized for 2 minutes.

Mr. GREEN of New York. Mr. Chairman, we have been told by proponents of the space station that the space station is necessary for the future of health research in our country, but the head of the National Institutes of Health says that is nonsense. The NIH does not view future space experiments as critical to the overall success of the biomedical research enterprise.

We have been told that it is critical in terms of materials processing in microgravity conditions, but we have been told by Norman Augustine, whose Commission looked into what the space program could do, that if you want to build a better chip, put the money into chips, not into space.

I should now like to address the last argument that we have been hearing for these 2 hours and that is the argument that you need this for the aerospace industry and that somehow it is helping the industry if we support the station. Quite the opposite is true. We are killing the long-term future of the aerospace industry if we go ahead with the station.

The station has swept up the funds that otherwise would be going and ought to be going to the national aerospace plane. That program aims at the second generation and the third generation of civil aviation technology that our aircraft industry is going to need if we are going to remain competitive with the Europeans and the Japanese.

Someone talked of eating seed corn. That is what you are doing with the space station. You are eating the seed corn of the aeronautics industry by denying NASA the funds it needs to do its traditional role of providing scientific leadership for our aeronautics industry.

You are doing a tremendous disservice to the long-term future of the aeronautics industry and manufacturing in this country if you oppose this amendment.

We are trying to save NASA from itself and to enable it to have the resources to do the job it needs to do.

Finally, I must remind everyone again, we have one-third of a trillion dollars deficit, one-third of a trillion dollars deficit. I cannot repeat it often enough. We have got to solve it, and this amendment is one way to begin.

Mr. STOKES. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment and for the space station.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman and my colleagues, I rise in support of this amendment and commend the chairman and the ranking member for their courage in offering this amendment and forcing the debate that we have just had.

Obviously, we hear a lot of lectures about the problem of the deficit and concern about the deficit. The problem we have is that we never make decisions to really reduce the deficit. So we always look for easy ways to deal with it. We talk about finding growth in our economy. We talk about finding waste, fraud and abuse. We talk about constitutional amendments.

The fundamental decision has to be one that we make on the priorities of this Nation. One Member's priority is always another Member's waste.

Every Member believes that his particular program, their particular project is so important that it cannot be taken from the budget. Ronald Reagan talked about the importance of the deficit, but he liked defense spending. George Bush talks about the deficit, but he does not want to cut foreign aid spending, and we talk about the deficit and whether it is programs involved in the discretionary area or in the entitlement area, we also find reasons why we cannot find sufficient savings.

I recognize the importance and the legitimacy of programs like this. Sure, it is an exciting idea, but the fundamental question you do have to ask is can we afford it at this point in time in this country. Can we afford $30 billion over 10 years, perhaps $100 billion on top of that over 30 years?

I would remind you that when we have disasters in this country, we have to borrow the money and call it an emergency. When we have a savings and loan crisis, we have to add it to the deficit. When we have problems related to urban aid, to education, we have got to try to find the money to pay for it, and we cannot do that.

So the fundamental question is, yes, can we afford it?

The vision that I am most concerned about for my children today is not so much the vision of "Star Trek" or of "Star Wars." It is the vision of whether or not my children will have a society that is willing to make judgments, that is willing to make decisions, that is willing to manage our resources and that is willing to commit to the needs of our society.

The fundamental crisis right now is a crisis of confidence. People do not want to be lied to anymore. They want change. This is a chance to vote for that change.

Mr. LOWERY of California. Mr. Chairman, I understand the only remaining speakers would be myself and the gentleman from Missouri [Mr. GEPHARDT]. I would ask for the remaining 1½ minutes that I control.

The CHAIRMAN. The gentleman from California [Mr. LOWERY] is recognized.

Mr. LOWERY of California. Mr. Chairman and my colleagues, this is the fifth vote in 5 years that this House will be asked to reaffirm its support for space station *Freedom*.

I shudder to think that Congresses back in the early sixties, had they not made a similar bold leap in investment in the space program, where we would be and the billions, the trillions of dollars in jobs which would never have been created because we would not have advanced those technologies.

Every dollar spent on the station is spent here on Earth. Every dollar spent employs Americans now, today, here in the United States.

This is an investment in our future. It will continue to employ Americans with technologies we today have not even dreamed of.

You could have asked 23 years ago, what value was there in landing a man on the Moon? Well, billions and billions of new jobs, that is the answer.

I am glad that President Kennedy at Rice University on May 25 challenged the Nation on the Manned Space Program, to put a man on the Moon within 10 years.

He said in that speech:

> For while we cannot guarantee that we shall one day be first, we can guarantee that any failure to make this effort will make us last.

Mr. Chairman, if we do not make the effort now, we will lose thousands, hundreds of thousands of jobs in the future.

Support space station *Freedom*. I urge the defeat of the Traxler-Green amendment.

Mr. BROWN. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I rise in strong support of the station.

Mr. BROWN. Mr. Chairman, I yield the remaining time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

The CHAIRMAN. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 2 minutes.

Mr. GEPHARDT. Mr. Chairman, and members of the committee, Members of the House, I urge you to vote to continue the space station.

I have the greatest respect for Chairman PANETTA and others who have talked about the budget and the urgency of getting our deficit down. All of us understand that. All of us believe that, but what I want to say today is that I think we have a need in our country to have different budgets than we have had in the last 12 years, and especially the last 3 years.

I think we need a new President. I think we are going to have a new President come November of this year.

□ 1830

And I want the space station kept because I think we are going to have new leadership to make new priorities in our budget. We have needed leadership to make greater cuts in defense and put in programs like space; we have needed leadership to cut health care costs, which are absorbing now 13 percent on their way to 20 percent of our GNP, to put into programs like the space station.

Mr. Chairman, I was at a rally last Wednesday in St. Louis, and I saw people in the street in front of Bill Clinton and AL GORE, who were excited like people were excited in the early 1960's with John Kennedy because they felt there was hope, that we could move this country in a new direction.

We have to do Government research that the private sector will never do, to provide the technology of the future so that we have the high-skill, high-wage jobs that we want in this country. We must not compete with China and with Mexico for manufacturing jobs; we have to be out in front with the technology.

So I urge Members, let us stick with this program that we have spent millions of dollars on already, let us see it through to completion, let us bring new leadership in this country, let us have new budget priorities, and let us continue the technological progress that our people want and need, and let us give excitement to this country again that we can lead in the proper way.

Mr. FEIGHAN. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, I welcome the debate on the merits of the space station program. I believe the House should once again be allowed to work its will on this legislation, just as we did last year when we voted overwhelmingly to continue our commitment to this program.

As they consider this amendment, Members must ask themselves if anything has occurred since last year that would merit such a dramatic reversal in the direction of our space program. Many critics of the space station will point to the recent vote on the super collider as evidence that we simply cannot afford to spend the money.

I submit that we can't afford not to spend the money.

With the end of the cold war, our country's ability to be a world leader depends on our ability to create high-technology, high-wage jobs that make us competitive in the global economy.

This amendment is about jobs. Space station *Freedom* will provide 75,000 to 100,000 high-technology and manufacturing jobs across the country. But this amendment is not just about jobs. It's about our commitment to carrying out the challenge of space exploration. The space station is an integral part of our manned space program. But this amendment is not just about space exploration.

This amendment is about whether or not we want this country to be the economic superpower that shapes the history of the next century.

If the answer is "yes," then we simply cannot afford to walk away from this Government's commitment to civilian research and technological development—the very areas that have been the engines of economic growth and prosperity for every generation that has come before us.

Many of our colleagues are concerned about the costs of the space station *Freedom*, especially when we face so many other pressing domestic needs. That's a false choice. We need affordable housing. We need to support our veterans. And we need the benefits of the space station. These are all priorities and they should not be played off against each other—especially when there are more sensible solutions. Given the changes in world, it makes far more sense to make a few less B–2 bombers in order to preserve the space station.

Three decades ago, President Kennedy challenged an earlier generation of lawmakers to rise to the challenge of being the first nation to put a man on the Moon. Today, we are being asked to respond to a similar challenge—to make sure that we pass on to our children the challenge of space exploration and the benefits of a prosperous high-technology, high-wage economy.

We must respond to that challenge. We must vote "no" on the Traxler amendment.

Mr. CHANDLER. Mr. Chairman, I rise to express my strong opposition to the Traxler-Green amendment. I am dismayed by the fact that we are here today again debating the merits of space station *Freedom*.

Our vote today will determine our nation's future role in the competitive space arena. For the past three decades, America has been the leader in exploring the heavens. The Apollo Program, the Shuttle Program, and now, the space station *Freedom* are just some of the examples. Funding of the *Freedom* space station represents a key investment in this Nation's future.

The United States has been the leading economic and military power for most of this century. That is because we have invested in futuristic research and exploration. Think of the millions of jobs which have been created by just the space program since its inception in the early 1960's. We need to recall the vision of President John Kennedy and ask whether it is time to turn America from a Nation of pioneers to a timid risk avoider.

I've heard some of my colleague argue that eliminating the space station is critical to reducing the deficit. This debate is not about applying the savings to reduce the deficit. Every one of the Traxler-Green supporters are waiting to siphon off these funds for other domestic programs—not for deficit reduction as they want us to believe.

Let me say something to my friends who would kill the space station—you showed your true colors when votes were cast against a balanced budget amendment. Stop trying to fool the American people. Shortsighted arguments are a bad cover for Congress's inability to make the tough funding decisions.

Again, I would urge my colleagues to demonstrate our commitment to manned-space exploration. Vote for space station *Freedom* and against the Traxler-Green amendment.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the amendment deleting funds for the space station *Freedom*. There are three solid reasons why this amendment should be defeated.

First, we are in the early stages of recovery from a serious recession. Passage of this amendment will send absolutely the wrong signal to the markets, and to the world, about our economic future.

Unemployment in California today is 9.5 percent, two points higher than the rest of the Nation. Over 100,000 aerospace and defense jobs have been lost in California. Well over 25 percent of the funds budgeted for the space station in fiscal year 1993 will be spent in California, and this program sustains about 100,000 jobs nationwide. If you pass this amendment, you might as well sit down and write out 100,000 pink slips to American workers.

But saving American jobs is not the only reason for saving *Freedom*. *Freedom* is not a pointless make-work project. It is a program designed to open the door to the markets of the 21st century for the coming generation of American workers. And that's the second reason for building it. Funds invested in the space station now will pay enormous dividends over the next three decades, just as funds invested in the space program over the past 30 years have yielded dividends far beyond its cost.

Every time you use a computer, make a long-distance call, watch television or use an automatic teller machine, you are using technology developed in our space program. Every time your child has a CAT scan, your spouse undergoes arthroscopic or laser surgery, or you enter an intensive care ward, you owe something to NASA. Space-based research in life sciences, in biotechnology, and materials processing aboard *Freedom* will revolutionize our way of life—and the jobs in which we earn our living—in the next century.

Space station *Freedom* is an integral part of NASA's long-range program, including the two other major NASA missions slated for the 21st century: Mission to Planet Earth and the Moon-Mars Initiative. *Freedom* will provide an unmatched platform for sustained observation of the Earth and its air, water, land, and forest resources. And it will provide the biological and technological foundation for lunar and planetary exploration. Killing the space station is throwing away the opportunity to advance our knowledge of how the human body works and how the Earth itself works—along with the opportunity to learn how to cure the ailments of both.

Nor will the benefits be entirely in the field of science. The economy of the 21st century will be based on technology, and the nation which leads in technology will be the leader in the world economy.

And that's the third reason why we need space station *Freedom*. Canada, Japan, and the European Space Agency are already joint builders, and users, of *Freedom* with the United States. Canada created its space program specifically for the space station. Space station *Freedom* provides us with an unparalleled opportunity to develop international cooperative agreement in space. Even Russia is interested. Instead of competing for scarce dollars, we will be working together for the advancement of knowledge, and for solutions to international problems facing us right here on Earth such as global warming, ozone layer depletion, deforestation, and ocean pollution.

Mr. Speaker, 500 years ago, Christopher Columbus couldn't interest his own nation in funding a voyage of discovery to the New World. So he went instead to Spain and the rest, as they say, is history. Let's not let our Nation slip into the backwaters of scientific knowledge and exploration, the second rank of nations, the followers instead of the leaders in international cooperation. Vote for space station *Freedom*—it will be the best investment we make in the next century.

Mr. CONYERS. Mr. Chairman, I rise in strong support of the amendment.

Mr. Chairman, as chairman of the Committee on Government Operations, I know a boondoggle when I see one. Space station *Freedom* has been hampered by cost overruns, schedule slippages, and technical problems. The General Accounting Office projects it to cost more than $40 billion just to complete its construction; operating expenses over the life of the program will add another whopping $80 billion to the program's cost. That's $120 billion for this endeavor. GAO also points out that there is a 36-percent chance that a piece of flying space junk could do catastrophic damage to the space station during its first decade in orbit. Still NASA searchers for ways to justify the expense of billions of taxpayer dollars for it.

NASA's latest justification for the space station: medical research. Our colleague, Mr. DURBIN, recently pointed out that opinion polls indicate that 49 percent of those polled considered medical research important. In contrast, space research was supported by 3 percent. So NASA is learning. Advocates of the space station promise cures for everything from AIDS to arthritis to cancer and heart disease if the space station is put into orbit.

What they are not hearing is the utter disbelief of the hundreds of researchers who are fighting these diseases here on Earth, who say that these funds could be much better spent here on the planet—if the true motivation of space station supporters was finding a cure for these scourges. Tellingly, the space station's 11-percent Presidential budget increase is more than twice the increase for the National Institutes of Health.

Neither NASA nor America's technological edge will be compromised if the space station is canceled. According to the National Academy of Sciences, the experiments to be conducted on the space station serve no pressing scientific need whatsoever. Even without the space station, NASA budgets will likely continue to remain around $15 billion or more for a number of years—providing plenty of research opportunities for scientists here on Earth or on more cost-efficient projects in space. The true cost of this project will be other scientific research ventures that will have to be sacrificed on the space station's altar.

Let's see the space station for what it really is: It won't contribute to scientific research; it won't find cures for AIDS or other diseases that could not be found sooner here on Earth with the proper financial commitment; it won't enhance the Nation's prestige in space, here or abroad. It will continue to cause significant reductions in programs here at home for veterans, the environment, and the homeless—programs that need investment before we build outposts in Earth's orbit.

The space station is, quite frankly, a thinly veiled, multibillion-dollar attempt to bail out the troubled defense industry, and we should put a stop to it—now. I urge my colleagues to support this amendment.

Mr. DOWNEY. Mr. Chairman, I rise today in support of space station *Freedom*. Funding the space station is a good investment for our country.

How ironic, that in the year we are celebrating the 500th anniversary of the explorations of Christopher Columbus, we stand here today debating the future of exploration. If anyone doubts the interest Americans have in exploration, I invite them to take a walk down the street to the Smithsonian Air and Space Museum. It is always the most crowded museum, and is probably one of the most popular museums in the world. On any given day, you will see thousands of families, especially children, admiring the exhibits in awe. They are there because even today, 500 years after Columbus, Americans want to explore the unknown.

Space station *Freedom* will help foster this desire to explore. It will also encourage our children to learn more about science, space, and technology. This body has expressed a strong desire to improve American students' performance in science and math. Having a permanent manned space station will go even further toward getting our children interested in math and science. This will clearly help America in the future.

Most importantly, space station *Freedom* will help us in the present. It will provide an avenue for the highly trained workers who have previously worked in the defense field to use their expertise in the development of the space station. They will also be in a position to help develop and perfect the spin off technologies that will be developed as a result of the space station. The Defense authorization bill stressed the importance of giving defense businesses and workers the opportunity to diversify into nonmilitary ventures. Making a solid investment in space is another step toward providing the companies that won the cold war an opportunity to diversify. These companies, and the highly trained men and women that work for them, can help continue our leadership role in space.

My colleagues, I know we are faced with very difficult budget choices this year. We must very carefully examine ways to trim the budget. We must eliminate wasteful spending. The space station is worth spending our limited resources. It is an important investment in science, technology, and the future. I urge my colleagues to support space station *Freedom*.

Mr. REED. Mr. Chairman, I rise in strong support of the Traxler-Green amendment to delete funding for space station *Freedom*.

In my 19 months in Congress, I have voted 3 times to cut funding for the space station, and today I will vote for a fourth time to cancel this program.

I believe that we are sent here to make choices, tough choices, and represent the people of our districts. The choice today is to vote against a costly, untested, and scientifically dubious project, the space station. The choice is to invest here on Earth in jobs, education, health care, and infrastructure.

Not only does the space station mean less for investment here on Earth, it means less for basic scientific research. Indeed, I have been contacted by a number of Rhode Island scientists who are opposed to space station *Freedom* because this concentration on big science has meant less and less for basic research in a time of extremely tight Federal State, and academic budgets.

I wish we had funds for the space station. I wish we had money for high-speed trains like our economic competitors had. I wish we had the dollars for a better health care system. I wish we had funds for greater infrastructure investment and job creation. Even more, I wish we had the funds to house, educate, and care for every American who is down on their luck. However, these are unfortunately only wishes—there is no money. And what money there is available; namely the defense budget, which is locked away until next year when the budget walls come down.

So today I will vote to kill the space station. It is not what I would do in a perfect world, but it is the right thing do in light of the space station's effect on domestic spending.

Mr. SHAYS. Mr. Chairman, I do not know who is to blame for our annual budget deficits: Is it the President for not submitting balanced budgets to Congress? Is it Congress for not returning a budget to the President that is balanced? Is it the President for not vetoing the unbalanced budgets he receives from Congress? Or is it the Members of Congress, on both sides of the aisle, who vote for programs again and again, year-in and year-out, without providing the funds to pay for them.

What I do know is this: This year our budget deficit will be nearly $400 billion. Next year, this year's budget deficit will cost U.S. Taxpayers $22 billion in interest payments, and $22 billion the year after that, and $22 billion the year after that, and $22 billion the year after that, for this year's deficit, ad infinitum.

In the last 12 years, our national debt has gone from $800 billion to $4,000 billion, or $4 trillion. And the cost of paying the interest on the national debt now accounts for 18 percent of our entire Federal budget.

The United States is in danger of becoming a third-rate nation if it continues to allow annual deficits to drain our precious resources. We need to get our financial house in order and balance the Federal budget.

Mr. Chairman, a few weeks ago 280 Members of Congress voted for House Joint Resolution 290, the balanced budget constitutional amendment. I was one of them. But a few days before that, only 90 Members were willing to vote for the Dellums amendment to cut the defense budget a mere 10 percent.

What about today? What about this afternoon? Is it business as usual? We vote overwhelmingly for balanced budget constitutional amendment and then continue to vote for programs we cannot afford. We vote for programs which make our annual deficits larger which in turn has created a monstrous national debt.

Mr. Chairman, we need to vote yes for the Traxler-Green amendment, to stop the space station and begin to get our financial house in order. And we need to do it this afternoon. We need to do it now.

As others have pointed out, space station *Freedom* is a project looking for a mission. It's NASA's flagship, but if its built like our four battleships now being returned to mothballs, I believe space station *Freedom* will meet a similar fate.

To date, $9.9 billion has been spent on the space station. I hear now is not the time to eliminate funding for the space station. When is it time? Will it be time when we've spent $12 billion, $18 billion, $24 billion?

Now is the time.

Now, before we spend a nickel more, is the time to shut down this very expensive public works project.

The vote on the Traxler-Green amendment to stop the space station is first and foremost a budget vote. A vote to stop a project we cannot afford. A vote to begin to reduce the deficit.

Mr. LEVINE of California. Mr. Chairman, I rise in opposition to the Traxler-Green amendment and in support of the space station *Freedom.*

I understand the budget constraints which have led to efforts to terminate the space station. We need to make dramatic reductions in the deficit and increase spending for a number of worthwhile domestic programs. However, this is the wrong place to accomplish those praiseworthy goals.

At a time when American technological preeminence is under intense challenge from Europe and Asia, we should not throw in the towel in an area where America is the technological leader.

The past benefits of the space program are too numerous to mention. Many of them we have come to take for granted in our everyday lives.

Many leading scientists believe that the space station holds the potential for major advances in bioscience, our understanding of our solar system, and even our ability to protect our own environment here on Earth.

Passage of this amendment could eliminate 75,000 to 100,000 high-technology jobs. In my own State of California, where unemployment is nearing 10 percent, termination of the space station would be devastating. We simply cannot afford to lose these jobs in an industry which is already reeling from the pressure of massive job cuts and layoffs.

The civilian space program can serve as a means to help the aerospace industry transition from its defense-based past to a healthy non-defense base for the future. It would be a tragedy if this promise were to be dashed by Congress in a shortsighted effort to cut the deficit or find funds for other programs.

Space station *Freedom* also presents us with an unprecedented opportunity for international cooperation rather than confrontation. By encouraging greater cooperation among scientists throughout the world, we can demonstrate that the nations of the world can work together to benefit mankind. Just as we put together a great coalition to fight a challenge in the Middle East, we should be working to assemble a coalition to prepare for the challenges of the 21st century.

Space station *Freedom* is a great adventure and a great opportunity. I urge my colleagues to join with me and oppose the Traxler-Green amendment.

Mr. FRANKS of Connecticut. Mr. Chairman, today I rise in opposition to the Traxler-Green amendment which would cut $1.2 billion in funding for NASA's space station *Freedom.*

This amendment not only cuts the space station but it also cuts away at the future of our country.

It was President Kennedy who first helped our Nation realize the importance of space exploration and the positive asset it is to the well-being of our country. Since that time, our Nation has been at the forefront of space exploration and technology advancement. We have gained valuable assets in all aspects of life from space age technology.

For instance, just walk into a hospital and see what our space research has yielded thus far. Many of the sophisticated medical devices which save lives every day have been realized because of space age technology.

The space station will expand on this medical research by providing valuable insights on how the body functions in space. This will lead to new gains in the fight against cancer and such diseases as osteoporosis.

Space station *Freedom* will not only improve the health of individuals across this land, but it will also contribute to the health of our Nation's economy.

Mr. Chairman, with the downsizing of our defense and the subsequent decline in our defense industrial base, we cannot afford to abandon the aerospace industry. Space station *Freedom* will help balance the industrial base and provide a useful transition to our peacetime economy.

In addition, by taking these funds from space station *Freedom*, we look to take away up to 75,000 jobs from hardworking individuals across this country. I do not believe our economy can sustain this type of loss anymore.

In my State of Connecticut alone, we have many people whose livelihoods depend on ensuring that space station *Freedom* is funded. We cannot turn our back on these workers. My State has lost too many jobs already and we cannot afford to lose any more.

Furthermore, by funding space station *Freedom* we will continue our course of being the leading space exploration country in the world. At the same time this has allowed us to also stay technologically advanced. However, some countries have already surpassed us in technology because of our unwillingness to fund certain technological innovations. We have left these innovations on the shelf for other countries to pick up and use to their advantage. We cannot allow this trend to continue, especially in the aerospace industry where we enjoy a positive market share.

In closing, Mr. Chairman, when we are in the process of celebrating the 500th anniversary of Columbus' quest to discover the New World, it is counterproductive to side with the critics in Congress who still think the world is flat.

We must continue our quest in space and advance our country into the next century realizing gains we receive from exploring and researching space in order to provide a better life for the next generation.

I support the space station *Freedom* and oppose the Traxler-Green amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. TRAXLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GREEN of New York. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 237, not voting 16, as follows:

[Roll No. 334]

AYES—181

Abercrombie
Ackerman
Andrews (ME)
Anthony
Atkins
AuCoin
Ballenger
Beilenson
Bennett
Bereuter
Bilbray
Bilirakis
Blackwell
Bruce
Burton
Camp
Clay
Clement
Coble
Collins (IL)
Condit
Costello
Cox (IL)
Coyne
Crane
DeFazio
Dellums
Derrick
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Duncan
Durbin
Dwyer
Early
Eckart
Espy
Evans
Ewing
Fawell
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gonzalez
Goodling
Gordon
Grandy
Green
Hamilton
Hastert
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Horn

Hoyer
Hughes
Hutto
Jacobs
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Kolbe
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Long
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Mazzoli
McCloskey
McDermott
McHugh
Mfume
Miller (CA)
Mink
Moakley
Molinari
Montgomery
Moody
Murphy
Murtha
Neal (NC)
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease

Pelosi
Penny
Peterson (MN)
Porter
Poshard
Price
Pursell
Ramstad
Rangel
Ravenel
Ray
Reed
Rinaldo
Roemer
Rogers
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Shuster
Sikorski
Skaggs
Skelton
Slaughter
Smith (IA)
Snowe
Solomon
Spratt
Staggers
Stark
Stokes
Studds
Swett
Synar
Traxler
Unsoeld
Upton
Vento
Visclosky
Washington
Weiss
Wheat
Williams
Wolpe
Wyden
Yates
Zimmer

NOES—237

Allard
Allen
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin

Bacchus
Baker
Barnard
Barrett
Barton
Bateman
Bentley
Berman
Bevill
Bliley

Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown

Bryant
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Cardin
Carper
Carr
Chandler
Chapman
Clinger
Coleman (MO)
Coleman (TX)
Combest
Cooper
Coughlin
Cox (CA)
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Dickinson
Dicks
Dixon
Dornan (CA)
Downey
Dreier
Dymally
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Fascell
Fazio
Feighan
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goss
Gradison
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hefley
Herger
Hobson
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (TX)
Jones (NC)
Kennelly
Klug
Kolter
Kopetski
Kyl
Lagomarsino
Laughlin
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Manton
Martin
Martinez
Matsui
Mavroules
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Mollohan
Moorhead
Moran
Morella
Morrison
Mrazek
Myers
Nagle
Natcher
Neal (MA)
Nichols
Oakar
Ortiz
Oxley
Packard
Paxon
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Quillen
Rahall
Regula
Rhodes
Richardson
Ridge
Riggs
Ritter
Roberts
Roe
Rohrabacher
Rose
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Sisisky
Skeen
Slattery
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Sundquist
Swift
Tallon
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Whitten
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NOT VOTING—16

Alexander
Boxer
Campbell (CO)
Collins (MI)
Conyers
Hatcher
Hayes (LA)
Hyde
Jefferson
Savage
Solarz
Stallings
Tauzin
Thomas (GA)
Towns
Valentine

□ 1852

Messrs. GAYDOS, PETERSON of Florida, BREWSTER, KOLTER, RICHARDSON, and RIGGS changed their vote from "aye" to "no."

Messrs. JACOBS, ESPY, SWETT, OWENS of Utah, and ROYBAL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. TRAXLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to advise Members that this was an excellent debate on the amendment. We will be going to conference on this bill. The House has given the subcommittee a clear direction as to what it wants done. Members can be assured we will follow through on the directive that the House has given.

Mr. Chairman, I would like to advise Members that I will be making a motion for the Committee to rise only so that the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], can file two rules.

We will then come back into the Committee of the Whole and proceed with the bill with votes rolled over until at least 8:15.

Mr. SOLOMON. Mr. Chairman, if the gentleman will yield, there are several things that Members have obligations to do, as we all know. Do we have any way to knowing which amendments are going to be called up? I realize they are going to be rolled.

Mr. TRAXLER. Mr. Chairman, under the rule it is very open in terms of any amendments the Members want to offer. We have no knowledge as to how many there are or where they are. I hope there are only none.

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman will yield, I have two amendments. I know of no others on this side. There may be some. I understand that we are going to hold the votes until after 8:30.

Mr. TRAXLER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SERRANO) having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. VALENTINE. Mr. Speaker, I was unable to be present for rollcall vote 334, the Traxler amendment to the VA/HUD and independent agencies appropriations. I would like the RECORD to show that had I been present, I would have voted "nay."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5191, SMALL BUSINESS AND EQUITY ENHANCEMENT ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–754) on the resolution (H. Res. 531) providing for the consideration of the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4318, MISCELLANEOUS TARIFF ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–755) on the resolution (H. Res. 532) providing for the consideration of the bill (H.R. 4318) to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

The SPEAKER pro tempore. Pursuant to House Resolution 529 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5679.

□ 1858

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Michigan [Mr. TRAXLER] had been disposed of, and title III was open for amendment at any point.

Are there further amendments to title III of the bill?

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida: Page 65, after line 10, insert the following new undesignated paragraph:

Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of up to $2,500,000 from funds deobligated and recovered under section 205 of the Act from the State of Florida's allotments to Dixie County, Florida, for a 100 percent grant for the construction of a publicly owned treatment works for the community of Suwannee, Florida.

Mr. SMITH of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SMITH of Florida. Mr. Chairman, I offer this amendment on behalf of the Florida Department of Environmental Regulation. This amendment would simply obligate $2.5 million of Florida's deobligated funds for construction of a wastewater facility in Dixie County. The area's failing septic system is polluting the Suwannee River, and this facility is needed to handle this ecological crisis. The amendment does not add any new spending to the bill; it simply gives the State of Florida legislative authority to use funds it already possesses. I have cleared this amendment with the Public Works Committee, and they have expressed their support.

I yield to the gentleman from Michigan [Mr. TRAXLER].

□ 1900

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I have no objection to the gentleman's amendment. It is a good one. I urge its adoption.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, as I read the gentleman's amendment, this does not take funds from other States to give them to Florida. It strictly takes money that is already allocated to Florida under the EPA formula and uses it for a purpose within Florida.

Mr. SMITH of Florida. Mr. Chairman, that is absolutely correct.

Mr. GREEN of New York. Mr. Chairman, I thank the gentleman.

Mr. SMITH of Florida. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ATKINS

Mr. ATKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ATKINS: Page 84, strike line 3 and all that follows through line 6 on page 85.

The CHAIRMAN. The gentleman from Massachusetts [Mr. ATKINS] is recognized for 10 minutes in support of his amendment.

Mr. SOLOMON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New York [Mr. SOLOMON] will be recognized for 10 minutes in opposition to the amendment.

Mr. ATKINS. Mr. Chairman, I yield 2½ minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, we will soon hear proponents of continued draft registration try to sell it today as cheap insurance.

Yes, cheap insurance, if we are talking about the quality of insurance it offers. No one would buy insurance if they know that it would never, ever pay off.

Registration does not improve readiness. Registration gives at best a false sense of security. Selective Service lists are in such bad shape, according to the GAO and other reports, that they would land in court the day they tried to use them to start up a draft.

The fastest route, if we ever needed conscription in a national emergency, would be to scrap the database, scrap the Selective Service System as it now exists, and start over again from scratch.

Finding conscripts will not be the choke point, if we ever again have a national mobilization emergency. Training capacity is.

In fact, we are cutting back further on our training capacity. At the end of the gulf war, 6 months after mobilization, there were still thousands of reservists waiting for training slots. Conscripts would be even months behind them.

The military needs trained National Guard and Reserve Forces for our anticipated emergencies, not green conscripts.

Registration is morally wrong. In 1980, Ronald Reagan said, and I quote:

> Perhaps the most fundamental objection to draft registration is moral. Only in most severe national emergency does the Government have a claim to the mandatory service of its young people. In any other time, a draft or draft registration destroys the very values that our society is committed to defending .

Draft registration is a symbol, reinstituted by President Carter because of the Soviet invasion of Afghanistan, a symbol that is now aimed at a country that no longer exists.

After World War II, we did away with the Rationing Board. We did not need it anymore. The cold war is over. We can get by without peacetime draft registration and save $28 million.

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I really have to take exception with what the previous speaker in the well said. Ever since he came to this Congress, with all due respect to him, he has been trying to abolish the Selective Service System. And the Selective Service System, ever since it was reinstituted back in the Korean war, has stood this country in good stead.

The gentleman mentioned that the Selective Service System list is not in good condition. That just is not so.

As a matter of fact, this body, back in 1983, passed the Solomon amendment, which said that any young man who fails to register for the draft is not entitled to any college loans or grants. And do my colleagues know what happened back in those days? There was only about a 75-percent compliance with the law.

After that amendment was passed and upheld by the U.S. Supreme Court by a vote of, I think, 5 to 2, the compliance with the draft registration jumped to 98.4 percent. That is what it is today.

We all know what happened with the Desert Shield, Desert Storm situation. At that time, when we had to mobilize, we really needed to depend on our Reserves. But I would like to point out one thing, the Selective Service System today is an inexpensive hedge against the unknown.

It is very cost effective and efficient with a small staff. With its unique database and tested procedures, Selective Service capitalizes upon its tiny resources to provide both a fair and equitable standby program.

But most importantly, and the point I really want to make, is that as the size of our military is reduced, and we are reducing it every budget now, it becomes even more essential to retain our ability to reconstitute forces rapidly to meet any threat to our Nation. Perhaps more than ever before this agency must be ready to mobilize quickly and fulfill its vital role in any downsized force situation.

This program helps to ensure military readiness. Selective Service at a very small cost to the taxpayer is fully prepared to carry out its mission.

I guess the most important thing of all is, when I was up in the Committee on Rules and the Committee on Appropriations came before our committee, we found out that there had been no hearings by the Committee on Armed Services. The Committee on Armed Services is opposed to this amendment. It is legislating in an appropriations bill. And until the gentlewoman from Maryland [Mrs. BEVERLY BYRON], who heads up the Subcommittee on Military Personnel and Compensation, until the gentleman from Wisconsin [Mr. ASPIN] who is chairman of the full committee, until they have had time to call for a hearing and examine this, we certainly cannot just arbitrarily just abolish the Selective Service System. That is why I oppose it.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New York and just point out, as I was just getting some information from the gentleman from New York [Mr. GREEN], that when the Selective Service Act was passed, I think right at the beginning of World War II, just before World War II, it was passed by one vote. I think it is a dangerous thing to repeal this legislation or this law right now, when we may have an unexpected need for Selective Service in the future. And we will not have the time or the inclination, maybe, to pass it through this body.

Mr. SOLOMON. Mr. Chairman, I reserve the balance of my time.

Mr. ATKINS. Mr. Chairman, I yield 3½ minutes to the gentleman from California [Mr. STARK].

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, if I could have the attention of my good friend, the gentleman from New York, I understand his view that it is important that we maintain the capacity to reinstitute the draft, if necessary.

I would just wonder, at this point there is an exclusion regarding the military; that is, gay men would not be allowed to serve.

I wonder, if we reinstituted the draft under this scheme, would gay men be the only people in the country who were otherwise physically fit who would be exempted from that requirement in time of national need?

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I do not know what men would be excluded. As the gentleman knows, the draft only includes men today. I think that is the way it should be, but I do not know.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will continue to yield, right now the policy, as I understand it, is that gay men are not allowed to serve in the military. I would wonder, if we got the draft and people were required to go and serve their country, whether we would be saying that the only people exempted from that requirement would be gay men?

Mr. SOLOMON. Mr. Chairman, if the gentleman will continue to yield, under the present policy of the Defense Department and this administration, I think they are excluded. And I support that position.

Mr. FRANK of Massachusetts. Mr. Chairman, I would note that it did seem to me a little strange that we would be talking about the requirement in time of national security to levy against everybody and to make people sacrifice. And to say to one group that they would be exempted from this requirement seems to me to be conferring, frankly, a form of special privilege which in other circumstances people would find somewhat upsetting.

Mr. SOLOMON. Mr. Chairman, perhaps the gentleman would like to discuss that with the Committee on Armed Services and maybe they want to hold hearings on it.

Mr. STARK. Mr. Chairman, reclaiming my time just to say at the beginning, as the coauthor of this amendment, that the Selective Service Commission has done a great job. For those in the room old enough to remember World War II, when older men than us drafted young people to do our work for us, the Selective Service was a good system. But I think the time of old men recruiting and conscripting young people to do their fighting for them is past.

□ 1910

The cold war is past, World War II is past, and no longer is it needed. As a matter of fact, there are people who would now like to stay in the service who are being cashiered. The military is downsizing, laying off people who are well-trained, who would like to stay. Recruiting offices are jammed.

Even though the data base may exist, it is not accurate. We send a million names a year to the Justice Department. They do nothing; $28 million a year, for example, would bail out the hospitals in Puerto Rico, just to give the Members an example of how important $28 million might be to some citizens who are suffering at this time.

Mr. Chairman, I urge adoption of the amendment.

Mr. SOLOMON. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs. The gentleman is one of the most distinguished, valuable Members of our body.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I certainly rise in opposition to this amendment. The adoption of the Atkins amendment will in effect terminate the Selective Service System. It is over with. The Selective Service System is inexpensive and it is really an insurance policy in case we do have an emergency.

Mr. Chairman, if the Selective Service System is turned down this next year it will be 2 to 3 years before they can restart again, getting people to register, getting their files up to date, 2 or 3 years. This would be a disaster.

Listen to this. The compliance rate, Mr. Chairman, the problem is with Members. The young men in this country are complying by 98 percent. I think the other 2 percent just do not get the word, so the problem is maybe with parents and with Members of Congress. It does not have anything to do with the young men. They are proud to serve their country. They are proud to have their names on a list if they have to be called up.

Mr. Chairman, I would like to say that the amendment is opposed by the American Legion, the Non-Commissioned Officers Association, the VFW, and the Fleet Reserve Association.

My colleagues, this would be a disaster if we pass this amendment. I am on the Committee on Armed Services, I am ranking member, and I am on the Subcommittee on Personnel. We have had no hearings, nobody has been to see us, and all of a sudden to see this amendment is just shameful.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I am glad to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, let me just say to the gentleman, when we were in Boy Scouts we were taught the Boy Scout motto, which was "Be Prepared." This is a very uncertain world. The Bible always says, "There will be wars and rumors of wars," and we must be prepared.

If it takes 3 years to restart the Selective Service System and we do away with it today, what are we going to do if we need it in the future? I think the gentleman in the well is absolutely correct, we should not pass this amendment today. It would be a tragedy.

Mr. MONTGOMERY. The Selective Service System is one of the best buys the taxpayers get. It costs $28 million a year, less than one Apache helicopter. Here we are getting ready to do away with a defense item that we need.

I certainly hope the Members will vote against the amendment.

Mr. ATKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in strong support of this amendment to delete $28.6 million from the Selective Service System for fiscal year 1993.

The Selective Service is a useless relic of a bygone era. It is expensive clutter and should be swept away without misgivings by those who supported military conscription and by those who opposed it.

Historically, our country only turned to the draft during times of severe national emergency, during declared wars and in two of the four decades of cold war.

For those who mistakenly believe that the draft is a conservative or even Republican institution, let us note today that the draft was strongly opposed by the likes of Senator Barry Goldwater, Ronald Reagan, Milton Friedman and a host of other conservative notables. Let us also note it was

President Richard Nixon who ended the draft and launched the all-volunteer military.

What leads to the misconception that conservatives support the draft is that people often relate conscription to support for a strong national defense. Mr. Chairman, one does not lead to the other.

Conscription, except in cases of severe national emergency, is far more consistent with the heritage of authoritarian—not democratic—nations, especially with American values which stress individual freedom.

Draft registration was reinstituted by a Democrat-controlled Congress in 1980, over the objections of Ronald Reagan. I have with me a letter from then-candidate Reagan I'd like to share portions of:

> DEAR SENATOR HATFIELD: I want to take this opportunity to express my concern over the proposal to register young men for the draft. I believe this proposal is an ill-considered one, and should be rejected.
>
> Our national security demands an adequate reserve that can be called up at a moment's notice, and a skilled, experienced, all-volunteer force, that can handle sophisticated equipment. Only an increase in the reward for serving—not a draft—will do so.
>
> Perhaps the most fundamental objection to draft registration is moral. Only in the most severe national emergency does the Government have a claim to the mandatory service of its young people. In any other time, a draft or draft registration destroys the very values that our society is committed to defending.

Mr. Chairman, as a member of the White House staff at the time, I can tell you that in the early days of the Reagan administration there was considerable internal debate over the draft. Many thought it necessary as part of our effort to rebuild America's national defenses. However, President Reagan put an end to this debate when, in a speech at West Point, he criticized a peacetime draft as contrary to American tradition.

President Reagan opted for building a well-paid professional military manned by patriotic citizens who wanted to serve, rather than by conscripts. That decision ensured the spirit of those in our armed services and the success of the All-Volunteer Forces. We had no shortage of volunteers, even when the economy boomed, and we attracted bright, courageous young people, the pride and joy of our country.

The other half of the equation has been building a well-equipped and well-trained Reserve. This is the strategy that worked in Desert Storm and will provide America a cost-effective defense to meet the challenges in the years ahead, in a post-cold-war world.

Only the crackdown by the Soviet Union on Poland early in the Reagan administration prevented that conservative President from eliminating draft registration then.

Well, the Soviet threat is disintegrating. And just as we sent a message to the Communists in the early 1980's by keeping draft registration, we should now send a message to all of the people of the world, including those in democratic Russia, by eliminating draft registration now.

The cold war is over. This $29 million expenditure is no longer justified in any way. Draft registration is a relic, an anachronism, and we should waste no more of our scarce tax dollars on it.

Mr. SOLOMON. Mr. Chairman, I yield myself 1 minute, just to point out to the gentleman in the well who just spoke that there was also somebody else opposed to the draft. His name was Goldwater. Unfortunately, it was Barry Goldwater, Jr. His father was ashamed of him, and so was I, and told him so when he was a Member of this body here.

Mr. BURTON of Indiana. Mr. Chairman, let me just say if we have to mobilize, and we do not know what the world is going to be like in 3 or 4 years, if we need to mobilize and have a 2 million-man Army in a very short time, if we do not have those records available, how are we going to get those people drafted?

This is a terrible, terrible step that the Member is talking about taking here today. We need to have those people recorded. There is no damage to them for being recorded under the Selective Service Act. If we need them, we know how to get them and how to mobilize them in a short period of time. It is the prudent thing to do: Be prepared, and you will not have to worry about a war.

Mr. ATKINS. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from Massachusetts [Mr. ATKINS] is recognized for 2½ minutes.

Mr. ATKINS. Mr. Chairman, just to set the record straight, Barry Goldwater, Sr., in his book "Conscience of a Conservative" clearly came out against draft registration and conscription.

In 1980, 8 years after the draft and draft registration ended, President Carter, prompted by the Soviet invasion of Afghanistan, sent to Congress legislation to begin draft registration anew. At the time it was a very controversial move, opposed by then-Presidential candidate Ronald Reagan, but it passed and became law.

Now it is 1992. Who would have guessed in 1980 that Afghanistan would survive and the Soviet Union would be gone? Who would have guessed that draft registration would outlive the Warsaw Pact? My amendment deletes $28.6 million from the VA-HUD bill for the Selective Service and applies that money to reduce the Federal deficit.

Mr. Chairman, we simply do not need and cannot afford a standby draft organization that we have not used in 20 years. It makes no sense to continue spending tens of millions of dollars to register young men when we are scheduled to reduce our military personnel by over 500,000 by 1997.

We have a situation, and it is a clear situation, where we do not need draft registration. We could not train, even if we drafted the people, because we do not have the training facilities.

We have a situation now where the Selective Service has been a good organization, it has fulfilled its mission well, but it was never meant to last forever. Let their last patriotic mission be to help reduce our staggering national debt, the single greatest threat that we face to our national security.

At $1 billion a day, $11,000 per second, our deficit is eating away at the strength of this country. We can cut it by $28.6 million today. We can stop the deficit clock from ticking for 44 minutes and eliminate a Selective Service System which is nothing but a massive mailing list of 18-year-old males in this country.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. SOLOMON], who has 3 minutes remaining.

Mr. SOLOMON. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP], the senior minority member on the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Chairman, I rise in strong opposition to cutting funding for the Selective Service System. Prudent people are always prepared.

The Selective Service, like an insurance policy, is something you do not need most of the time. But when the unexpected happens, prudent people are prepared. They have contingency plans and they have insurance, because they know the unexpected can happen.

Our national defense is just this kind of situation. We cannot be unprepared, because the consequences of being unprepared are too terrible to contemplate. Despite the unexpected collapse of the Soviet Union and the unexpected Persian Gulf war, the world remains a very dangerous place. At this very moment, there are many armed conflicts raging, terrorists still plot, nuclear proliferation continues, and ICBM technology is being acquired by unstable Third World countries.

We cannot as a Nation be prepared for the unexpected without the Selective Service. Without it, we cannot quickly and fairly expand our all-volunteer armed services in the event of a future national crisis. Once a crisis arises, it is too late. Once the Selective Service has been closed down, it would take 2 to 3 years to restart the mobilization process.

The Selective Service costs about $28 million a year. It is insurance our Nation simply cannot afford to be without. To shut down the Selective Service would be to flirt with national tragedy.

Mr. Chairman, I urge my colleagues in the strongest possible terms to reject this amendment.

□ 1920

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for his statement.

Mr. Chairman, let me say that I have a great deal of respect for every Member in this Chamber, and certainly do not question what they say, even with my good friend, the gentleman from Massachusetts [Mr. ATKINS], when he says he wants to cut this $18 million and apply it to the deficit.

But you know, we have to live by our record. And I am just looking at the National Taxpayers Union, and they rate our good friend, Mr. CHESTER G. ATKINS, along with a number of other Democrats from the State of Massachusetts, as the biggest spenders in the Congress. And I look at all of these appropriation bills.

Mr. ATKINS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am more than glad to yield to my friend, the gentleman from Massachusetts.

Mr. ATKINS. Mr. Chairman, I would inform the gentleman from New York that I have a plan which I have sent to his office, 66 separate cuts and revenue measures whereby we could balance the Federal budget in 4 years. We could eliminate $1 trillion in Federal deficit. I would be delighted to have the gentleman join me. This is one first step, 44 minutes of deficit eliminated.

Mr. SOLOMON. I would ask the gentleman to prove it with his vote. I say that to every Member without being disparaging in any way.

Let me point out one thing. Did anybody here ever hear of Cuba; did anybody here ever hear of North Korea; did anybody here ever hear of Vietnam? Do Members know how many people live there, and how many are still Communist?

And then put on top of that the 1 billion people in the People's Republic of China, and China is the only country today in the world that is increasing its defense budget, by 13 percent. Why? And you mean to tell me we do not need to be ready?

But we have to be ready at any time to defend this country. Read the preamble to the Constitution of this country. This Republic of States was formed for the sole purpose of providing a common defense for our States. We have to be ready, and that is why we have to defeat this amendment, with all due respect to the sponsors.

I ask all Members to vote against the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. ATKINS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ATKINS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN Pursuant to the order of the House of earlier today, further proceedings on this request for a recorded vote are postponed until not earlier than 8:30 p.m.

PARLIMENTARY INQUIRY

Mr. SOLOMON. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will please state his parliamentary inquiry.

Mr. SOLOMON. Mr. Chairman, the inquiry is, once we come back at 8:15 and we take up these postponed votes, is it necessary for some Member in opposition to ask for a recorded vote again, or is that automatic?

The CHAIRMAN. It is not automatic, the Chair would advise his friend, the gentleman from New York. It has to be ordered at that time.

Mr. SOLOMON. If that were the case them, Mr. Chairman, I would ask that we vacate the proceedings and that we would order the vote now. It was understanding that we would have recorded votes on any votes that were postponed at 8:30.

The CHAIRMAN. The House has already conferred authority to postpone requests for recorded votes until not earlier than 8:30, and at that time the gentleman's request for a recorded vote will be pending.

Mr. SOLOMON. Mr. Chairman, the point is that that is what we do not want. As the Chair knows, there are Members that have to attend a very important wake this evening, and we agreed to this for the reason that these votes would be postponed and taken.

I would ask unanimous consent that this vote be automatic when we return at 8:30.

The CHAIRMAN. The Chair would state that the full House has already imposed this order and recorded votes when requested cannot be ordered prior to 8:30.

Mr. TRAXLER. Mr. Chairman, I want to be helpful to the gentleman because I think what we need to do is just kind of set this up so that the votes occur without any further parliamentary movements as such. So the question I think that would be appropriate for the Chair would be, can we order the vote right now to be held at that time? Every Member here wants a vote on the gentleman's amendment. We are all standing. For that reason, is that permissible?

Mr. SOLOMON. Mr. Chairman, everyone is in agreement. I do not think either proponents or opponents would oppose this.

The CHAIRMAN. The Chair would advise the gentleman and his colleagues that the order of the House is that requests for votes will be postponed until not earlier than 8:30. That was the order of the full House.

Mr. MCCURDY. Mr. Chairman, may I be recognized?

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma.

Mr. MCCURDY. Mr. Chairman, would it be appropriate that a Member who did not offer the amendment or was in opposition, who will be here at that time, request that this be taken by recorded device at the appropriate time? It does not have to be one of the proponents of the amendment, or opponents?

The CHAIRMAN. Any Member may request a recorded vote at the appropriate time when the question is put.

Mr. MCCURDY. Could the chairman of the subcommittee, the gentleman from Michigan, request that?

The CHAIRMAN. The Chair would advise the gentleman that any Member can place that request at the appropriate time.

Mr. SOLOMON. Mr. Chairman, if we might have that kind of an assurance, as the Chair knows, several weeks ago we had a situation where the gentleman from Alaska [Mr. YOUNG] had expected a vote to be taken, and then it was not. Could we have the assurances of my good friend, the gentleman from Michigan [Mr. TRAXLER] and the other managers that they will ask for that vote regardless of whoever is on the floor?

The CHAIRMAN. The Chair would advise his friend that the Chair will see to it that that request is pending.

Mr. SOLOMON. I thank the Chair.

Mr. SWIFT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me begin by thanking the gentleman from Oklahoma [Mr. MCCURDY] for the courtesy of letting me proceed at this time, just before his amendment.

Mr. Chairman, I voted against a proposal to have the National Academy of Science study wetlands, last year, even though I am always uncomfortable opposing the development of information. Too much of this controversial issue has been a religious war rather than an evaluation of solid data. This is an opportunity to develop useful data.

But we all know that the National Academy of Science answers the questions asked it. So how those questions are asked is vital.

Answers to those questions could help us determine appropriate levels of regulatory protection for different varieties of wetlands. If certain wetlands provide high levels of the benefits mentioned above, it would be appropriate to apply a high level of regulatory protection for them. If, however, we reach a point of diminishing environmental return by strictly regulating another type of wetland that provides less environmental benefits, it may be appropriate to apply to it less stringent regulation. But without scientific information on which we can base these kinds of judgments, the challenge of creating an environmentally and socially responsible wetlands policy is practically overwhelming.

Would it be the Chairman's intent to ask the National Academy of Science to evaluate the specific environmental benefits associated with different values of wetlands?

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield, yes, that is my intent.

Mr. SWIFT. Would the subcommittee chairman agree to put instructions in the conference report ensuring such a response?

Mr. TRAXLER. Yes; I would agree to include such instructions on this issue in the conference report accompanying this bill, and I thank the gentleman for his comments.

Mr. SWIFT. Mr. Chairman, I thank the gentleman for this colloquy.

AMENDMENT OFFERED BY MR. MCCURDY

Mr. MCCURDY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BURTON of Indiana. Mr. Chairman, are we going back and forth unless someone is a member of the committee, or are we just going to stay on the Democrat side all night? We have had three straight amendments from the Democrat side.

The CHAIRMAN. The Chairman appreciates the gentleman's statement and apologizes if in fact he was not paying adequate attention to the gentlemen over here. We will get to the gentleman next.

Mr. BURTON of Indiana. I thank the Chair.

The CHAIRMAN. The gentleman has had several opportunities to speak and offer amendments today, and I am sure he will have more.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCURDY: Page 76, line 6, strike "$6,670,650,000" and insert $6,670,649,000".

Mr. MCCURDY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Oklahoma [Mr. MCCURDY] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, I rise today to offer an amendment with my colleagues, DAN GLICKMAN and TOM LEWIS, which will strike $1,000 from this appropriation so that we may bring to the floor a direction to supersede the committee report. This amendment will place the House on record for a national priority over a parochial interest. Our amendment directs NASA to spend $33,499,000 on the national aerospace plane instead of a satellite information program called CIESIN, a program that has never been requested by NASA and which has yet to use all of its previously allocated funds.

The appropriations committee has eliminated NASA funding to the national aerospace plane. At the same time they have suggested that $33.5 million be allocated in research and development plus $50 million for construction to an obscure program called the consortium for International Earth Sciences Information Network [CIESIN]. A vote for this amendment will direct NASA to allocate the CIESIN research and development funding to the national aerospace plane.

Our amendment provides less than half the requested and authorized level for NASP and it does not kill the CIESIN program. CIESIN will still receive $50 million from this appropriations bill for a building in Saginaw, MI, and it will receive $6.7 million in research and development funds that have been approved by the House through appropriations to other agencies. To date, CIESIN has only obligated half of the $24 million appropriated to it last year.

NASP is a revolutionary program of advanced technologies. It will provide significant long-term economic benefits for the United States and has already resulted in significant advancements in materials and computational fluid dynamics technologies. Two main areas which would profit tremendously are the environment and the overall economy.

NASP's research and usage of a form of hydrogen known as slush hydrogen represents a significant contribution to reducing the amount of pollutants in our environment. Slush hydrogen produces no combustible products. Its only exhaust is water vapor. This innovative technology could eventually be applied to other forms of transportation such as automobiles. Therefore, the technology used in the NASP could be used to eliminate air pollution caused by fuel emissions and could potentially reduce the high costs of health care and emission control resulting from air pollution.

In addition to a reduction in environmental costs, national studies show that the NASP promotes an improved overall economy for the United States.

NASP will help us sustain our preeminence in the aerospace industry. Last year, in spite of defense cutbacks, the aerospace industry has a $30 billion trade surplus. This trade surplus resulted in a total economic output of $70 billion and over 1 million jobs.

Mr. Chairman, we need to demonstrate to the American people that it is no longer business as usual in the House. We are not attacking an individual Member with this amendment. We are attacking the practice of sacrificing national priorities while we ask taxpayers to fund monuments to ourselves.

I urge Members to support the McCurdy, Glickman, Lewis amendment and support investment in the future.

□ 1930

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member who rises in opposition?

Mr. TRAXLER. Mr. Chairman, I do.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the most unusual procedure that has probably ever occurred on the floor. There is an effort on the part of my distinguished colleague, the gentleman from Oklahoma, to rewrite House precedents, rules, and procedures. Obviously there is no connection between a $1,000 amendment and what he attempts to do or says he is doing.

But let me address the issue of what is, in my judgment, a frivolous, meaningless amendment. Let me talk to you about CIESIN. CIESIN is an exceptionally fine consortium of universities from the east coast and the west coast. Its home is in Michigan, and it is a program that is very essential to the Earth Observation System.

The gentleman is correct, CIESIN is funded not only by NASA, but also by the EPA, the Department of Agriculture, the Department of Defense, and is authorized at a level above what the committee funded it at. I am very appreciative to the Committee on Science, Space, and Technology for realizing the value of CIESIN.

I did have a conversation with the Director of NASA yesterday, and he recognizes the importance of CIESIN. We do have some difference about the funding levels for CIESIN which will be resolved before we get to conference with the other body.

I say to the Members that CIESIN is providing an effort and service that is found nowhere else throughout the science community. It is a critical factor in the storage, interpretation, and dissemination of the EOSDIS information.

It is one thing to do the hardware. It is another thing to intelligently gather the information, make it available in readable and usable form, and disseminate that to researchers across the United States and around the world.

CIESIN was, to my knowledge, the only federally funded agency that was at the Rio summit. It represented the United States adequately in something we all should take some pride in, because unfortunately the United States did receive some bashing there from most other countries.

The CIESIN effort was extremely well received. You are really getting your money's worth here, and I would say that the gentleman's amendment is out of place and inappropriate.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am happy to yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, I thank the gentleman for yielding.

I am puzzled by this amendment not only because obviously it cannot accomplish what it seeks to do under the rules of the House, but also that the proponents of the amendment seem to have a great misconception of what the CIESIN effort is all about.

It is not a Member's parochial kind of program. The fact of the matter is that in their past scientific efforts, NASA and NOAA have accumulated vast warehouses of data which, in the words of your party's candidate for President, have never triggered a single human synapse. There are vast, vast warehouses of data that no one uses.

Mr. Chairman, we are determined that this not happen in the Mission to Planet Earth Program. The Mission to Planet Earth Program is going to generate enormous amounts of data. At one point, it was an advisory committee which estimated that every 3 days it would generate as much data as the entire database of the Internal Revenue Service. If we are to get the value that we are paying for in the Mission to Planet Earth, the EOS Program, we have to develop some way of capturing that data and making it available to the world to help us with the policy decisions on global warming and other issues that are the reason we are undertaking this program.

CIESIN is a significant part of that effort as to involving universities around the country to build up a system to enable that data to be made available to those who can use it and those who will make policy, and to those in Congress who will undoubtedly be citing that data in future years as we are debating what to do about global climate change.

So I really do think that the gun is wrongly aimed.

Mr. TRAXLER. Mr. Chairman, I reserve the balance of my time.

Mr. McCURDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I want to make it clear that they cannot trivialize this amendment. This amendment was made in order by the Committee on Rules. It had to be procedurally in order to address the intricacies of this bill the way they hide money.

Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, this amendment is done the way it is because of the crazy appropriations process. You cannot offer amendments en bloc. You cannot pull money out of one section and add it into another section. The gentleman from Michigan, the gentleman from New York, and all the members of the Committee on Appropriations cleverly create a process that prevents us from doing anything other than what we are doing right now.

This is a very important subject. Let me tell my colleagues what this committee has done. Apparently they needed some money for this CIESIN Program. It may be a great program.

So they put in $33.5 million for basic research and $50 million for a building to house it, coincidentally in the hometown of the chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER]. I am glad that it is there, but that is where it is. So that is $83.5 million.

Then where did they find that $83.5 million? They take $80 million of it, in my judgment, and I cannot speak for their intent, but that is the way it looks to me, out of something called the national aerospace plane, which is a high-tech program, which is a high-tech program designed to produce long-term technology for aviation, for the aerospace industry, for materials, for propulsion.

□ 1940

This is the old Orient Express concept, a proposal to produce a high-speed airplane that can fly commercial passengers around the world very quickly.

Well, nobody is talking about building airplanes here. We are talking about doing the basic long-term research to make sure our aerospace industry stays alive and competitive. Now, that has been zeroed out, and ironically about the same amount of money has been added to this Earth Science Building, a big part of it is going to a building in the congressional district of the gentleman from Michigan [Mr. TRAXLER].

I mean, it is a pretty good deal if you happen to live in the district of the gentleman from Michigan [Mr. TRAXLER].

But what is it going to do to the aviation industry? What is it going to do to the long-term competitiveness of the Boeings, of the McDonnell-Douglases, of the Lockheeds, of the General Dynamics, of the tens of thousands, if not hundreds of thousands of workers in this country who rely on aviation?

So the purpose of the amendment is to try to restore at least some of those funds back into the aerospace plane.

Mr. Chairman, I urge adoption of the McCurdy amendment.

Mr. TRAXLER. Mr. Chairman, I am pleased to give 1 minute to my distinguished colleague, the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, I rise in opposition to the McCurdy amendment and in support of the Consortium for International Earth Science Information Network [CIESIN]. CIESIN is a network for important global information. It is a 21st century library, so to speak, on global environmental data.

CIESIN is gaining the recognition of the scientific community and governments around the world. In fact, CIESIN played an important role in global change discussions during the Earth Summit in Rio last month.

The Nation and the world are constantly facing serious environmental challenges. CIESIN is an information link between scientists, not just in the middle part of Michigan or the United States, but with scientists around the world working to meet these challenges and those involved in research, policy, education, health, and our economy.

CIESIN will provide the necessary information we need to make the best decisions about our future. CIESIN needs our support today. I urge my colleagues to oppose the McCurdy amendment.

Mr. McCURDY. Mr. Chairman, I yield 2½ minutes to my friend and distinguished colleague, the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong support of the McCurdy-Lewis-Glickman amendment to allow a transfer of funds from the CIESIN consortium to the national aerospace plane, known as the NASP Program.

Last year, despite defense cutbacks, the United States had a $30 billion trade surplus in aerospace, the largest of any industry.

This trade surplus resulted in total economic output of $70 billion and well over 1 million jobs, and is a direct result of investment in aerospace and aviation research in decades past.

NASP is absolutely crucial to maintaining our leadership in this vital area. It has already led to important breakthroughs in materials, propulsion, aerodynamics, and computer fluid dynamics, to mention but a few.

These would not have occurred without NASP, and the likelihood of future breakthroughs will be severely limited if this program is cancelled.

There is no doubt technology for a single stage to orbit air breathing vehicles is within reach.

This is evidenced by the fact that the Japanese, the French, the British, the Germans, and former Soviet Union all have programs. In fact, the Russians recently successfully tested a hypersonic scramjet engine, which is the same type being planned for NASP.

Although the Russian effort brings the exciting possibility of the United States having the opportunity to buy this technology from the Russians, it also raises the disturbing scenario of another nation, such as Japan, acquiring this technology and overtaking a suddenly dormant United States technological effort.

Many of us have supported this program for a significant amount of time and strongly believe cancellation would deal a severe blow to America's competitiveness and cause the loss of hundreds of thousands of jobs.

This view is backed by scientists and engineers across the country—even those not involved in the project.

In contrast, CIESIN is unrequested, over its authorization, and supported by virtually no one who will not benefit by the Federal funds in this special earmark.

I congratulate the gentleman from Oklahoma [Mr. McCURDY] for his hard work on behalf of NASP, and I urge my colleagues to support this amendment.

It is most important that we continue this high degree of technology and keep our country's competitiveness, or we are going to give it away, as we have given away others.

Mr. TRAXLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, we are debating an amendment that does not exist and cannot exist under the rule. Nothing in this amendment transfers any money to NASP, not 1 red cent.

Moreover, there is no special provision in the rule that makes the amendment mean anything other than what the amendment says it does, which is to cut $1,000 from one account. That is all this amendment does.

People can talk about NASP as much as they want, but there is not anything in this rule that somehow translates that $1,000 cut into an $80 million appropriation for NASP. It is not possible under the rules. It is not in the rule, and everyone should understand that fact.

Mr. McCURDY. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding this time.

Let us just make on thing clear. CIESIN is not authorized. The authorizing committee's bill has not yet passed the Congress. There is no authorization.

On the other hand, it is not authorized, and if it were, under the provisions of the bill it is a title II program as compared with a title I program. All title I programs had to be funded fully for title II programs to be eligible.

So NASP would have had to be funded in order for CIESIN to be authorized under our authorization.

So this amendment is attempting to put into effect that which the authorizing bill said. So this is very much in line with the authorization bill, and I am a little disappointed to have the committee out here basically talking against what the authorizing committee tried to do.

Also, the NASP Program is very important. It is an exciting program that promises great technology for the future. It will help build the hydrogen economy and produce the fuels for the future, and it is a technology driver that helps not only in things like the aerospace plane, but things like single-stage orbit technology.

This is a very important program in terms of technology, but it is wrong to suggest that it should not go forward, because CIESIN is not authorized.

Mr. TRAXLER. Mr. Chairman, this is a drill in absurdity. There is nothing that is happening here that is real. Nothing as a consequence of this amendment would put one nickel in NASP, nothing. They know that. There is no question about that. Neither will the next amendment that follows put one nickel in NASP.

I have no comprehension as to what they are doing, or why they are doing it.

It would seem to me that the way to help NASP, if that is the real intent, would be to seek assurances from the committee that in the course of the conference, the committee would do what is within its power to see that monies become available for NASP. That would be the intelligent approach.

Apparently, they are not really serious about funding NASP.

I do not know what more to say, Mr. Chairman. I might conclude by saying again that CIESIN has the support of NASA. It has the support of Friends of the Earth. It is important to the EOS effort.

To strip money out of CIESIN is hurtful to the EOSDIS.

Environmentalists and scientists will be deeply distressed with this. What is going on here makes no sense to me whatsoever.

At the appropriate time, I hope you all will vote "no" on the amendment.

Mr. McCURDY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER], and as the gentleman approaches I want to indicate to the Chair that floor debate establishes legislative history, just as the committee report does, which is not law.

Mr. Chairman, this obfuscation by the committee is one of the reasons this House is in trouble.

The CHAIRMAN. The gentleman from California [Mr. ROHRABACHER] is recognized for the remainder of the minute that is left.

Mr. ROHRABACHER. Mr. Chairman, an Earth Science Center in the home district of a subcommittee chairman with leverage and a national aerospace plane defunded. Our aerospace industry is under attack. It is the one manufacturing industry we have left that exports.

□ 1950

It is the one industry that is providing high-technology jobs, and we are defunding that in order to have an Earth science center in the hometown of a subcommittee chairman with leverage.

I hope all of the unemployed aerospace workers and everyone else who is unemployed who services those people, who visit Saginaw and visit the Earth Science Center and enjoy the scenery and the pleasantry from the employed people there.

Our country's competitive edge, its security, its future is being given away as being maneuvered away for an Earth science center for something an industry—we have an industry, the aerospace industry, which is so vital to the security and well-being of our country, and it is losing out.

Mr. Chairman, the VA–HUD bill as reported out by the Appropriations Committee essentially guts NASP, the National Aerospace Plane Program. NASP has been eviscerated to fund a legislative earmark; a program with little to do with the main thrust of NASA's mission. The McCurdy-Glickman-Lewis amendment, however, will help to ease some of the adverse effects of this legislative action. It will not fully fund NASP at the level it ought to be funded, but it will at least keep NASP alive.

Mr. Chairman, again and again I have come to the floor to talk about the importance of NASP to the future of America's aerospace industry. Again and again others, such as Mr. LEWIS, and Mr. GLICKMAN, and Mr. McCURDY, have put forward the same arguments in support of NASP. The reasons for supporting NASP haven't changed. But the case that we have all tried to make seems to have fallen on deaf ears. Let me try to boil it down: The only two American industries left that routinely have a positive effect on our balance of payments are agriculture and aerospace. We are in danger of losing our leads in both. Now NASP won't help American agriculture, but it will assure that our aerospace industry remains second to none.

Mr. Chairman, I urge my colleagues to help to keep the American aerospace industry healthy. I urge my colleagues to pass the McCurdy-Glickman-Lewis amendment, and to support and fund NASP.

The CHAIRMAN. Does the gentleman from Michigan [Mr. TRAXLER] yield back the balance of his time?

Mr. TRAXLER. Mr. Chairman, I do, yes.

The CHAIRMAN. Under the rule, all time has expired.

The question is on the amendment offered by the gentleman from Oklahoma [Mr. McCURDY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. McCURDY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of earlier today, further proceedings on this request for a recorded vote are postponed until not earlier than 8:30 p.m. this evening.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 77, line 4, strike "$525,000,000" and insert "$467,000,000".

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] will be recognized for 10 minutes in support of his amendment.

Mr. BURTON of Indiana. I thank the chairman.

Mr. Chairman, I yield myself such time as I may consume.

I might point out that if the previous amendment were to pass prior to my amendment being voted upon, we would have to change my amendment by $1.000. I would like to make that clear to the Chair so that we have duplicate amendments up there; it is $1,000 less than the other.

Mr. Chairman, my amendment deals with two projects, and I believe they are both pork barrel projects.

I have talked numerous times on the floor of the House about the deficit, so I will not go into all the reasons why we should be taking a close look at all these spending proposals in this bill.

There are two that I think need to be removed. One is $8 million for the Delta College Learning Center at Delta Community College in University Center, MI. This money is for a Challenger Center Planitarium.

Now, the money was supposed to come out of a fund for the Challenger Center Foundation. There is a foundation, and it generates about $1 million in interest annually; on a specifically designated Federal trust fund to go to the Challenger Center Foundation. Individual Challenger centers apply for funding through this foundation, and they are expected to raise matching funds on their own.

This $8 million circumvents that process. It does not mandate that these matching funds be garnered from private sources.

So it is $8 million that should not be spent for this project. It is a pork barrel project in Michigan, and it should be removed.

Now, the second part of this amendment is $50 million for the Consortium for International Earth Science Information, or CIESIN, which was just discussed a few moments ago. It is a headquarters building in Saginaw, MI. I congratulate the chairman of the committee for working so hard to get that in there.

But the fact of the matter is CIESIN does research on environmental issues and land-use issues, and NASA did not request funding the CIESIN in fiscal 1993. It is not a NASA priority. It was not authorized and will not be authorized, I understand, by the authorizing committee in a way that would allow the funding.

Finally, I believe $50 million for this headquarters is just too much money for a headquarters building.

So I would just like to say to my colleagues the total of these two is $58 million. I believe these are pork barrel projects that should be removed from the bill, especially at a time when we are suffering the fiscal problems we are having right now.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I would be happy to yield to the gentleman from Oklahoma.±

Mr. McCURDY. I thank the gentleman for yielding.

Mr. Chairman, I would like to clarify that Mr. Golden, the NASA administrator, yesterday informed me that although this has not been requested, they saw, even if it were appropriated by the Congress, that there is no need for more than $10 million in the research and development, or the building, and that having the building add $50 million for a headquarters distributing information, as opposed to a program that is creating technology and jobs and expanding our ability to compete in the world, is ridiculous. It is not a NASA priority. CIESIN may have some merit, but not at the levels and not at the expenditures that this committee has appropriated.

Mr. BURTON of Indiana. I thank the gentleman for his contribution. I would like to say that I concur wholeheartedly with what he said. I would like to congratulate the chairman of the committee. I believe it is in his district, if I am not mistaken—it is not in your district?

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Chairman, regrettably, as the gentleman knows, I am leaving the Congress.

The project involves several universities. The headquarters is at Saginaw Valley University, which on January 1 is in the district of the distinguished gentleman from Michigan [Mr. CAMP]. It is really his child.

Mr. BURTON of Indiana. Well, the fact of the matter is it is in the general vicinity up there.

Mr. TRAXLER. Yes.

Mr. BURTON of Indiana. I would like to say to my colleague that $10 million probably should not be appropriated because it was not authorized, but certainly not $50 million for a new building that is not necessary.

I would like to say that these two projects, this $58 million combined, are pork barrel projects in the truest sense of the word and should be removed.

Mr. McCURDY. Mr. Chairman, will the gentleman yield further?

Mr. BURTON of Indiana. I yield to the gentleman from Oklahoma.

Mr. McCURDY. I thank the gentleman for yielding further.

Mr. Chairman, let us set the record straight because it is hard to get a straight answer tonight. In fact, Saginaw, MI, is currently in Mr. TRAXLER'S district. After reapportionment, it will be in Mr. CAMP'S district.

Mr. BURTON of Indiana. I see. Well, I congratulate the gentleman from Michigan [Mr. TRAXLER] for his ability to obfuscate the issue.

Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, first of all I would like to comment on the Delta College Learning Center in Michigan. Again, we have the same pattern. Here is something that was unauthorized, it was not the subject of hearings, it was unasked for. In fact, as I understand it, when the Delta College Learning Center first appeared, NASA did not know what it was supposed to be. I am told it could have been worse, that the proponents of this line item originally wanted even more money.

Reportedly, they wanted a full-blown educational center under the Challenger Center trust fund. Instead, they settled for $750,000 in last year's budget and $8 million in this year for a planetarium.

Now, I do not think anyone could argue NASA needs construction funds to repair its infrastructure, but still the initial budget estimate for construction facilities in this title was $319.2 million. This submittal is $205.8 million over that estimate, and all that increase is attributable to construction funds for ASRM, CIESIN, and for the Delta College Learning Centers, all three projects that the space agency does not need and has not asked for.

Mr. Chairman, this just does not make any sense at all.

I would agree with the gentleman's remarks on the CIESIN construction project. I also had an amendment to strike not only this but the full program as well, and for many of the same reasons. You have something unauthorized, unasked for, no hearings held on it. All of a sudden they just kind of appear in the chairman's district. I just think this is bad business for the Congress.

The CHAIRMAN. The Chair now recognizes the gentleman from Michigan [Mr. TRAXLER] for 10 minutes in opposition to the amendment.

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and members of the committee, I do not understand the authorization process. Apparently, CIESIN was in the authorization bill at some $34 million. That bill passed this House.

Earlier this year in our annual hearing with the Office of Science and Technology Policy, the President's science adviser, Dr. Bromley, went out of his way to praise the subcommittee and the Congress for its initiative in setting up the CIESIN group. CIESIN is a consortium of universities, including the University of California-Santa Barbara, New York Poly Tech, University of Michigan, and Michigan State.

Also, there is an organization called ERIM, which has done extensive work over the years on sensors and remote-sensing devices with DOD.

□ 2000

The current president of CIESIN is a scientist whose experiment will be flown on the next shuttle mission. That is the tethered satellite. The chief science officer for CIESIN is one of the foremost experts in the world. At the NASA budget hearing the associate administrator for NASA space, science, and applications said that CIESIN has a very unique niche in the EOS Program because it deals with the human dimension of global change and the socioeconomic issues that tie into the human causes and impacts of global change. It is on schedule, and we have high expectations for it.

Mr. Chairman, I suppose for some of my colleagues it is incomprehensible that the Congress could initiate a valuable and a worthwhile program that aids in determining the future of this planet. Well, all knowledge and wisdom on science and space does not reside in the Science and Technology Committee; let me assure my colleagues of that. This is a valuable program that has done great service and will do great service to this Nation, to the Earth observation system, and EOSDIS.

Mr. Chairman, I know many of my colleagues would load the sky with satellites as long as they are made in their districts or near them. The problem that we have, my colleagues, is not gathering data. The problem we have is storing the data and making it available across this country to scientists at every university, businesses, and underdeveloped countries around the world.

That is the mission of CIESIN, and they are doing a darn fine job. The problem is that some of the Members want to place their priority at the top of the list. Their difficulty is they do not have it funded. They think this approach is going to fund it. It is nonsense.

We could debate and discuss NASP. I have suggested to the gentleman on his amendment that the appropriate approach would be to discuss with the committee how to accommodate his concerns. I have gotten no response.

I am totally amazed that this is supposed to make money available for NASP. It is not going to, under any circumstance.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, I just want to address one point, and that is that somehow in this program we are taking money away from high technology.

I should like to suggest that high technology is not all bending metal. The fact of the matter is that handling the data that will be generated by mission to planet Earth is going to push the frontiers of data management, and that happens to be an area where our country has a technological lead. I think we need to increase that technological lead, and I think that we are going to increase that technological lead with the kind of work that CIESIN and the other components of the information system that must go with mission to planet Earth are going to accomplish. The amounts of data, as I earlier indicated, are going to be enormous, and they are going to be coming in with great rapidity. We have to be able to handle it, and what we do to handle it can be of enormous benefit to the American computer industry and the American data processing industry.

So, Mr. Chairman, just because we are not bending metal does not mean we are not push the frontiers of knowledge and increasing American technology.

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE], a member of the Committee on Science, Space, and Technology.

Mr. WOLPE. Mr. Chairman, I thank the gentleman from Michigan [Mr. TRAXLER] for yielding this time to me.

Mr. Chairman, I simply want to say that it is very important to understand that all the environmental data that we want to collect through the Earth observing system program will have absolutely no meaning unless it can be collated, collected, and distributed effectively and efficiently. This initiative is a critical element of the data information system—and has been widely praised for its potential utility for a wide variety of analytic applications. This is an important environmental venture. It is important to the science that we seek to facilitate through this legislation.

So, Mr. Chairman, I hope that we will not err by killing this very critical initiative. Such an action diminishes the value of many of the science and environmental programs that are being undertaken right now at NASA.

I urge a "no" vote on the McCurdy amendment.

Mr. BURTON of Indiana. Mr. Chairman, I yield 15 seconds to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I thank the gentleman from Indiana [Mr. BURTON] for yielding this time to me.

On October 2, 1991, the gentleman from Michigan [Mr. TRAXLER] quoted to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology, and one of the things that the gentleman from California said in his 5 minutes was, and let me quote from him:

> It includes continued funding for a consortium of universities and consultants in the Saginaw, MI area which somehow has emerged as the center for environmental research over the past 3 years. Total funding for this project, called CIESIN, is now over $41 million all awarded without adequate competition and virtually no congressional oversight. NASA itself has little idea where this funding is going.

I thank the gentleman for yielding.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. WALKER. Mr. Chairman, will the gentleman yield briefly?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman from Michigan said he did not understand the authorization process. He wants to quote an authorization and then does not want to deal with the bill. The bill had title I and title II. The $34 million he speaks of is in title II. Title I has to be fully funded. The priorities determined by the Committee on Science, Space, and Technology have to be fully funded before these programs can be funded. The gentleman only wants to look at one portion of the bill. He wants to ignore the process of the bill.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. WALKER] for his contribution.

Let me just say that earlier today I voted for the gentleman's amendment to cut the space program, the space station *Freedom*, and it was $1.2 billion, and in my remarks I said to my dear Democrat friends,

> Will you start voting to cut pork? Will you start voting to cut caps on entitlements? Will you start voting to make sure that we do not have a $13½ trillion debt in 6 or 7 years?

Now the gentleman is retiring, and he is leaving $50 million in pork for a possible $10 million building in his own district, and I submit that is exactly the problem I was talking about. The gentleman from Michigan [Mr. TRAXLER] is a valued Member of this body, but he knows, and I know, and everybody knows, this is a pork barrel project he is leaving behind as he leaves Congress, and the other $8 million is the same thing.

Mr. Chairman, we ought to pass my amendment and cut this $58 million out. It is a small step toward getting fiscally responsible around here, but the College of Cardinals, we call them, the chairmen of the subcommittees on appropriations, get this stuff for their districts all the time. A pork barrel project here and a pork barrel project there, and, before you know it, we are into the billions of dollars, and here is a perfect example of what the College of Cardinals is doing.

Mr. Chairman, I submit to my colleagues that they should be fiscally responsible on this amendment; $58 billion ought to be cut out of this bill because it is pure unadulterated pork.

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume.

Look. Obviously anything in any appropriations bill could be called pork. It could be executive pork, some Member's pork, or it could be the doorman's pork.

This agency has been funded for 3 years by this body, and it is funded by a number of other agencies as well. The facility is universally acclaimed for the work it is doing. That is the point. It is not pork; it is doing the job that the Earth Sciences Committee, an intergovernmental committee of this Government, said should be done. It is doing it very well, and now, because it is successful and because it is receiving accolades, the gentleman says this is pork.

Where would the gentleman, where would anyone, propose to locate this? Where? Where is it supposed to go? I know that some want to go to the Moon. Maybe they would put it on the Moon. Maybe that would please them.

□ 2010

It is a legitimate function of this Government to find a way to record, store, translate, and disseminate the vast amount of data that we will accumulate from the EOS system. The critical part is not collection. We have been doing that for 35, 40, 50 years, throughout the whole cold war. What we have to do is make it intelligent and available in an easy fashion to the university and business people, not only in America, but also in the developing countries. That is what was said down in Rio. That is why we stood out there, because we had a plan and program.

My gosh, what an opportunity and what a wonderful, wonderful program. And you want to eliminate it. Why?

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, the fact of the matter is no one here is trying to eliminate CIESIN. CIESIN is funded in a number of areas. What is before us today is the question of the $50 million building.

Would the gentleman from Michigan [Mr. TRAXLER] care to explain what he can buy with a $50 million building for distribution of information?

Mr. TRAXLER. Mr. Chairman, reclaiming my time, first off I thank the gentleman for the question. An immense amount of research is needed regarding how you store the information, make it available, and disseminate it all across this country. CIESIN is currently in a temporary facility which is already inadequate for their needs. They need a facility.

Let me say to the gentleman from Oklahoma [Mr. McCURDY], I do not necessarily know that $50 million is an appropriate number, because we are still in the process of settling that out. It may be $39.4 million, it may be $41 million. There will be a responsible number there, I pledge to the gentleman, irrespective of what happens today. We are going to discuss that fully.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appear to have it.

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House earlier today, further proceedings on this request for a recorded vote on the amendment offered by the gentleman from Indiana [Mr. BURTON] will be postponed until not earlier than 8:30 p.m. this evening.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am deeply concerned, as are a number of other Members from throughout the Great Lakes States, about the future of the scientific work being conducted now by Federal scientists at the Environmental Research Laboratory at Duluth and the additional work that is affected by the termination of various contracts between the Environmental Protection Agency and the contractor, AScI.

We understand that there are contracting problems at EPA which have been the subject of an extensive oversight hearing by the Committee on Energy and Commerce. However, we also are concerned about both the scientific research program at the laboratory and the fate of the contract employees who have lost their jobs there and who will suffer economic hardship while EPA reforms and recompetes those contracts.

Our understanding and reading of the bill now before us is that it provides sufficient funding to allow EPA to hire a number of scientists to continue to perform work which previously was done under contract. We hope, through the provisions of your bill, Mr. Chairman, that EPA will be able to expeditiously resume its important research by hiring employees in Duluth so that this important scientific work can continue, at both the Duluth and Grand Isle labs, with as little interruption as possible.

The work being conducted there is work on toxic sediments and the food chain throughout the Great Lakes region. We also would hope that the 80 AScI scientists at the Duluth lab and those in similar circumstances elsewhere would be eligible to apply for Federal employment with EPA.

Mr. Chairman, I would like to ask the gentleman from Michigan [Mr. TRAXLER] for his comment on my understanding of the issue and the problem between EPA and its contractor, AScI.

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield, the gentleman from Minnesota [Mr. OBERSTAR] is correct. The bill provides sufficient funding for the EPA staffing levels for Duluth.

I understand quite well the problems surrounding the Duluth laboratory and the difficulties that occurred there between the contractor and EPA employees. I urge EPA to expeditiously resolve those contracting problems and to move very quickly to provide resources to continue the work that has been slowed due to termination of those contracts. It is important work and needs to go forward.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, I thank the gentleman from Michigan [Mr. TRAXLER] for his comment and for his support. I would just like to conclude by saying that there are serious problems in the EPA-AScI contracting. The contracts have been terminated. But unlike other such situations, the product delivered under those contracts was superb scientific work, acclaimed by scientists all across the country. The Government got what it contracted for. The contracting was done in an improper fashion, but what happened afterward was like the neutron bomb. It went off, destroyed the people—in this case, the scientists, and left the buildings intact.

What we want is the scientists to continue, to find some other way to engage their services through reforming the relationship with the Federal Government, an approach to which Mr. Reilly, Administrator of EPA, essentially gave his assent in the course of the Committee on Energy and Commerce hearing. He recognizes the scientific work as solid and that it is vital if we are going to clean up the toxic hot spots in the Great Lakes.

Mr. Chairman, if we can proceed along the lines that the chairman of the subcommittee and I have just discussed, I would be very pleased and so would the entire environmental community.

Mr. Chairman, in my remaining time I would like to make just one comment about the debate just preceding this one.

I found it very amusing—I should not even call it amusing—very curious that many of those same Members who rose, except for one gentleman, the gentleman, from Indiana [Mr. BURTON], who rose in opposition to the CIESIN project were the very ones earlier who were supporting the space lab project, which did not seem to be a pork barrel project to its supporters.

That project, that boondoggle is space, was held up as great science and great work while the CIESIN project on Earth is being derided because it just happens to be located in an area in northern Michigan.

Mr. Chairman, I continue to be astonished by that viewpoint. The work being proposed under the manned orbiting laboratory has little, if any, utility to anything going on on Earth, while the project named CIESIN has everything to do with quality of life now and in the future on Earth and is the kind of science we ought to be supporting.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. OWENS of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah: Page 76, line 21, strike "$5,226,500,000" and insert "$4,961,500,000".

The CHAIRMAN. The gentleman from Utah [Mr. OWENS] is recognized for 10 minutes.

Mr. OWENS of Utah. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I have an amendment which will cut a program that virtually every objective source says is wasteful and unneeded. It is the advanced solid rocket motor.

I would read initially from a statement of the administration on its policy on this bill which very clearly calls for its defeat.

The administration objects to the provision of $480 million in unrequested funding to continue development of the advanced solid rocket motor and construction of related facilities. This program, which would develop a new solid motor for the space shuttle, has been proposed for cancellation because of its high remaining cost, over $2.5 billion for the ASRM to reach flight status no earlier than 1997. Unlike other NASA projects competing for these scarce resources, alternatives exist to offset the loss of the ASRM capability. The existing motor, which entered service after the ASRM program was initiated, has performed successfully in all 23 of the shuttle missions to date.

Not only does President Bush oppose this program, NASA does as well, of course, and NASA's Aerospace Safety Advisory Panel has also recommended that it be canceled.

The Congressional Budget Office says that we will save $2.2 billion. The President's statement, of course, says that we would save $2.5 billion. A whole array of budget conscious, budget watchdog groups, have opposed ASRM as well and support the purpose of this amendment.

□ 2020

Citizens against Government Waste, Citizens for a Healthy Environment, Citizens for a Sound Economy, National Resource Council, the National Taxpayers Union, all these groups support cancellation of ASRM.

Let us look at the facts. This is a program which is absolutely unnecessary. NASA did not ask for it. The President does not want it. CBO said we could save $2.2 billion by canceling it. Reputable scientific groups declare it inadvisable, and all the major budget watchdog groups agree it is cost efficient to terminate it and urge us to do so.

So why is it, Mr. Chairman, that the Congress seems determined absolutely to stuff ASRM down the Nation's throat against every credible objective critic?

The House voted several months ago in its authorization bill, which is not yet law, not to fund ASRM unless the appropriations process reached $15.253 billion. That has been totally ignored, of course, by the Committee on Appropriations, whose total budget is $14,036,000,000, and yet that decision by the House was totally ignored by the committee and, I suspect, this evening will be totally ignored by the entire House.

Let us face the truth, Mr. Chairman. Whether the ASRM will be built is being determined by where it will be built. The argument needs to be made out loud. Should our affection, our respect, and our gratitude for the gentleman from Mississippi, Chairman WHITTEN, lead us to build a useless, unnecessary, and costly $3 billion rocket motor for his district?

Mr. Chairman, a vote against the ASRM is not a vote against the space station. Let me make that clear. It is a vote for common sense.

Mr. Chairman, I think we all know what this amendment is about. It is as simple as it is rational. I am proposing to my colleagues to cut the advanced solid rocket motor, an unneeded, expensive, and wasteful program.

I initially sought to cut ASRM funds and reallocate the money to veterans' medical benefits. But the rule does not permit that amendment. The true cost of funding programs like the ASRM is that you must cut other worthy programs. Do not be fooled; by cutting funds for the ASRM, we can free up more money that can be used better elsewhere in America's space program, programs which are genuinely needed and which contribute to space exploration, perhaps in a restructured, less costly space station. Or perhaps to programs to improve veterans health care, which is why the American Legion is strongly supporting my amendment.

Frankly, Mr. Chairman, the ASRM is reminiscent of the superconducting super collider, except the ASRM is almost totally devoid of any scientific value. This House took the fiscally prudent step and canceled the SSC. Today, I am asking my colleagues to take a similarly courageous step, and cancel the ASRM—an unjustifiable, costly program that, except for the institutional politics behind it, totally defies logic.

The proponents of the ASRM contend that to terminate it will cost more than to continue it, and that the ASRM is needed to avert another tragedy, like the *Challenger* explosion 6 years ago. Some even claim that the ASRM is needed for the space station.

Well, here are the facts. No mission requires the ASRM. The space station does not need the ASRM. And according to Citizens Against Government Waste, the National Taxpayers' Union, and Citizens for a Sound Economy, terminating the ASRM is cost-effective and is fiscally sound. The CBO estimates a savings of $2.2 billion over the next 5 years if the ASRM is canceled.

With regard to safety, don't take my word for it, as NASA's own Aerospace Safety Advisory Panel, which recently certified that the existing solid rocket motors are performing reliably, safely, and successfully. This coming Friday, space shuttle *Atlantis* will be launched. Powering it will be NASA's dependable big booster rocket, the redesigned solid rocket motor [RSRM], the redesigned solid rocket motor meets or exceeds all safety, reliability, and performance specifications. All 23 flights since the *Challenger* tragedy have been flawless.

It is working; therefore, as the motto sometimes goes around here, let's fix it. It is to be fixed, of course, with the ASRM, a whole, new, unproven, and costly program. What force drives us, Mr. Chairman? When we get a system working perfectly, why do we feel a need to build a newer one when no logic, except hometown, pork driven politics, can explain it?

The President's statement on the ASRM is categorical: He doesn't want it because of its high cost—over $2.5 billion.

The President acknowledges that safe, reliable alternatives exist to the ASRM.

Mr. Chairman, it doesn't take a rocket scientist to figure this one out. There is only one reason that ASRM has been funded in this bill and we all know what it is. But it is precisely that reasoning, that modus operandi, that must be overcome and changed if we are to get our financial house back in order and regain the confidence of the American people. The ASRM Program is 2 years behind schedule and nearly $1 billion over budget. Additionally, because it incorporates many untested features, it is the safest bet in town that the ASRM Program will cost even more money and lag even farther behind schedule.

In its most recent testimony, NASA's Aerospace Safety Advisory Panel, recommended that the ASRM be canceled because it diverts scarce resources from NASA's important safety programs.

Additionally, a report issued just a few months ago by the reputable National Research Council [NRC], an arm of the National Academy of Science, urged NASA to rely on the existing rocket motor system and to discard the ASRM. The NRC raised serious questions aboutst the design, manufacturing and cost elements of the ASRM, which are likely to cause further delays, cost more money and increase the likelihood of an accident.

If that were all, Mr. Chairman, our choice would already be clear. But there's more. The ASRM poses a serious environmental threat. Static testing of the ASRM at Stennis Space Flight Center will violate the Clean Air Act and spew tons of toxic fallout over the region. This fallout contains poisons that are known to cause ozone depletion, acid raid, and shower other toxic particulates around the area. Hundreds of citizens living around the test center have organized Citizens for a Healthy Environment to fight ASRM testing and protect themselves. In addition, two lawsuits have been filed by surrounding landowners who fear permanent damage to water, wildlife, soil, fish, and wetlands.

To space station supporters I make the following plea. We have just voted to continue the space station, an expensive proposition, but in the judgment of the House, a wise investment. Now, I ask you to make another judgment. Is the ASRM a wise investment? Should we fund the ASRM on top of the space station?

NASA does not need the ASRM to build and deploy the space station. If it did, NASA would have requested the ASRM. NASA did not and we should not!

Finally, Mr. Chairman, my amendment does not delete all of the construction funds for the ASRM plant. These funds will continue to be available so that NASA and the committee can continue to seek a new or ongoing project to place in the facility.

Look at the facts. NASA didn't ask for it, the President doesn't want it, CBO said we could save $2.2 billion by canceling it, two reputable scientific groups declared it inadvisable and all the major budget watchdog groups agree it is cost-effective to terminate it and urge us to do so.

And yet Congress seems determined to stuff ASRM down the Nation's throat against every credible, objective critic. Let us face the truth. Whether the ASRM will be built is being determined by where it will be built.

The argument needs to be made out loud: Should our affection and our respect and our gratitude for Chairman Whitten lead us to build a useless, unnecessary and costly $3 billion rocket motor in his district?

Mr. Chairman, a vote against the ASRM is not a vote against the space station. It is a vote for common sense. It is a vote for making priorities and sticking with them. Support this amendment, we will save $2.2 billion.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAXLER. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. TRAXLER] is recognized for 10 minutes in opposition to the amendment.

PARLIAMENTARY INQUIRY

Mr. TRAXLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. TRAXLER. Mr. Chairman, the gentleman from Utah [Mr. HANSEN], as I understand it, has an amendment to the amendment. Will he be able to offer his amendment and will he have some time independently by and of himself?

The CHAIRMAN. The total of 20 minutes time, as suggested in the rule, applies to the original amendment and all the amendments thereto. So the time for the gentleman to describe and to argue on behalf of his amendment or others to speak against it comes out of the original 20 minutes; 10 controlled by the gentleman from Utah [Mr. OWENS], 10 controlled by the gentleman from Michigan [Mr. TRAXLER].

The gentleman may yield, the Chair would advise him, to the gentleman from Utah in order to allow him to offer his amendment, if he wishes.

Mr. TRAXLER. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. HANSEN].

AMENDMENT OFFERED BY MR. HANSEN TO THE AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. HANSEN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Hansen to the amendment offered by Mr. OWENS of Utah: Strike "$4,961,500,000, to remain available until September 30, 1994" and insert in lieu thereof $5,136,500,000, to remain available until September 30, 1994".

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] is recognized for 1 minute in support of his amendment.

Mr. HANSEN. Mr. Chairman, let me give a quick abbreviation of what I wanted to say.

This amendment would take $175 million from ASRM and earmark it for the space station, bringing space station funding up to minimum levels of $1.9 billion as per the request from NASA.

It would also leave $50 million for the ASRM Program itself while cutting $90 million from this account.

This amendment recognizes the ASRM as a low-priority program. This amendment respects the priorities of the space program to support space station.

Mr. TRAXLER. Mr. Chairman, I yield myself 1 minute.

ASRM is necessary, in my view, and I am opposed to both the amendment, and the amendment to the amendment. ASRM is necessary for a number of reasons.

The most important one is that we want the solid rockets to be made in a NASA facility where NASA, if necessary, can substitute contractors. We learned this lesson as a consequence of the tragedy of *Challenger*. We do not want contractors to own the building and, therefore, have total claim on the contract.

We want to have our own facilities, take bids, and put the best qualified contractor into the facility. If he goofs up, we want to be able to throw him out and replace him. That is a very important safety factor in my mind.

I would encourage every Member to reject the amendment to the amendment, and the amendment.

Mr. Chairman, I yield such time as he may consume to my good friend, the distinguished chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the advanced solid rocket motor [ASRM] was developed after the *Challenger* shuttle tragedy in 1986, on the recommendation of the Presidential Commission on the space shuttle *Challenger* accident and NASA.

The recommendation was made to improve shuttle safety; improve shuttle reliability; increase shuttle payload by 30 percent—12,000 pounds; eliminate the need to throttle shuttle engines; and to replace all asbestos materials.

NASA also told us it was essential to build a Government-owned facility to ensure quality control over manufacturing processes.

The baseline plan for Air Force/NASA heavy lift launch vehicle calls for use of the ASRM.

Mr. Chairman, I respectfully ask the House to consider these facts. This is terribly sound. The location came after all these decisions had been made.

The site, Yellow Creek, in northeast Mississippi, was chosen because it was already owned by the Government; it already had roads, power, water, and other utilities in place; and it was adjacent to the waterway transportation system.

Those factors saved a year and $100,000,000.

The ASRM is cost effective—it will cost one-third less than the present motor—10 flights with ASRM can carry the load that now takes 13 flights.

Mr. Chairman, the reasons given for starting this program are still valid. We still need ASRM for reliability, safety, and payload.

I ask that this amendment be defeated, for the proposition that we have included in the bill is sound and solves a real problem. It is needed to keep us traveling at a high level as far as competition with the rest of the world is concerned.

This project is thoroughly sound. It was sited on a sound basis, and all the complaints about where it is located are groundless, if we study the facts. We had the land and we had all the things that go with it. We saved a year's time for production and $100 million in money.

I respectfully request that my colleagues defeat the amendment that is pending.

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Mr. OWENS of Utah. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. NAGLE], a distinguished member of the Committee on Science, Space, and Technology.

Mr. NAGLE. Mr. Chairman, I have the honor of being a member of the Committee on Science, Space, and Technology, and I voted for the space station, so I would like to address this to my colleagues who voted for the space station, to clearly have them understand this.

As I understand it, the ASRM in no way really ultimately assists the deployment of the space station. The reality is that we are fixing the wrong thing. The RSRM has now proven to be a reliable vehicle. That is the replacement of the RSM, the one that blew up, of course, and destroyed the *Challenger*.

Every year the AASAP [the Association of Aerospace Safety Advisory Panels] comes in and says, "Fix the main engine, fix the main engine before you have a disaster." There are major design flaws with the main engine. That is where we ought to be putting our money.

Instead, we are putting our money into fixing a problem that we have already solved. That gives us absolutely no additional enhanced capability to bring that space station into being, because if we accept NASA's figure that this has a 12,000-pound life capability, only by scrambling the flight manifest are we able to find a reason to possibly use this thing. If we use it, we are still constrained by the fact that the cargo bay is not any larger.

Lastly and probably most importantly, when we put a new solid rocket, the ASRM, into the mixture, we enhance the dangers—not the safety but the dangers—while we go through what the engineers would describe as a learning curve.

I would urge support for this amendment, one, because it is not needed; two, because it is dangerous; three, because the problems in the shuttle operation are in the main engine of the shuttle itself, and not on the solid rocket boosters that are on the sides.

To put this money and build this thing with the idea that somehow we are going to enhance the program when it comes on line so late, to my mind is exactly the wrong direction to go. Many experts in the field will tell the Members that the ASRM—as much respect as I have for the chairman, the ASRM is the wrong route to go, the wrong road to go, and in fact, the program should be, reluctantly, I admit, terminated.

Mr. TRAXLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I thank the gentleman for yielding time to me.

I speak to you today in support of the Advanced Solid Rocket Motor Program [ASRM].

The ASRM was initiated on the recommendation of the Presidential Commission on the Space Shuttle *Challenger* accident and NASA in order to improve space shuttle safety and reliability and to increase the shuttle payload by 30 percent. The original objectives of the ASRM Program are as important today as they were when the program was first conceived. The ASRM incorporates major improvements in design and materials to reduce the potential for catastrophic failure. It is a significant improvement over the existing space shuttle solid rocket motors. Also, the added payload ability of the ASRM is essential to place in orbit a fully outfitted space station *Freedom* and to preclude adding several shuttle flights for service and resupply.

There has been great progress in the ASRM Program during the past 2 years. All of the major manufacturing facilities are now well under construction and nearly two-thirds of the plant equipment has been ordered. Also, the motor design is well advanced and the manufacturing of the motor casing has already started. Moreover, several development tests have been successfully accomplished. With continued good progress and full funding in the coming years, the ASRM will be available on schedule to deploy the space station.

The ASRM is also serving as a catalyst for optimism for communities in Alabama, Mississippi, and Tennessee and is giving these areas hope for a brighter future. The project's economic impact has been uniformly positive and diverse. It has touched on such areas as new jobs, business opportunities for large and small firms, new home construction, an increased tax base, new service industries and more business for existing ones, new schools, a new hospital, a modern utilities infrastructure, and a regionwide NASA education initiative. Also, communities in the tristate area have made major investments of their own to accommodate the sudden growth due to the ASRM.

Termination of the ASRM would have a devastating economic impact on this historically depressed region as well as the hundreds of employees whose livelihood is tied, directly or indirectly, to the project. However, the ASRM is not just important to this tri-State region. The project has significant contracts in 38 States around the country and more than 50 percent of its construction contracts have been awarded to small and disadvantaged businesses.

For all of the above reasons, I believe it would not be reasonable or responsible to discontinue the ASRM Program at this stage of its development.

I urge my colleagues to oppose this amendment.

Mr. OWENS of Utah. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I thank my colleague, the gentleman from Utah [Mr. OWENS] for yielding time to me.

Mr. Chairman, it should be understood and clear on the record that the overall amount for the space flight and date control amount be reduced by $90 instead of the $265 that the Owens amendment would do. My intent would be to make it clear on the record that only $50 million of the remaining $1.3 billion be used from this account for the ASRM Program.

It is also my intent that $175 million in this account be allocated to the space station *Freedom*, so it will bring the space station up to a minimum level of $1.9 billion. This is the minimum NASA says is needed.

The point is, the space station has survived yet another attack, and Congress continues to support it. We should make certain it has the minimum amount of funding to ensure that costly schedule delays are avoided in the future. We should build the space station and do it right.

It does not make much sense, Mr. Chairman, that we have two motors that work. The redesigned rocket motor has successfully gone 25 times into space, with one failure. I would challenge almost anyone in this House to name one other system that has been that flawless and performed that well.

Mr. Chairman, as we have one, and we talk about saving money, the redundancy that we are talking about by building another one when the redesigned rocket motor will do the job of the ASRM really does not make any sense.

Mr. Chairman, I feel this is a good amendment. It is one we should support. I think it will save us a lot of money, and it will, now that we have voted for the space station, it will take care of the problem which we have.

Additionally, this motor is built by the most reliable firm that we have, one that has proven the best in the world for what they have been able to perform, compared to others who have not had that experience. We have no way of knowing if the ASRM will even work, and we have to go through all that R&D, and it makes very little sense to me.

Mr. TRAXLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to the amendment from the gentleman from Utah [Mr. OWENS]. What is at issue is whether we will throw away our $1.2 billion investment in the advanced solid rocket motor for the space shuttle. I say we would be very foolish and shortsighted to do so.

I will tell my colleagues up front that I have an interest in this issue. The ASRM is being produced at Iuka, MS, which is 7 miles from my district in Tennessee. I will be candid with you in saying the ASM project is important to my constituents an to the economy of several of the counties I represent.

I would hope that my colleague from Utah would be equally candid in explaining to you that his district is home to the company which today is the sole supplier of shuttle booster rocket motors, and that their product will necessarily be rendered obsolete when the ASRM is brought on line in 1997.

I respect the gentleman for going to bat for his constituents, but I must point out that the arguments offered against the ASRM are simply wrong.

You have been told that the ASRM has no mission other than to power the shuttle on three or four space station assembly flights. This is not so. The ASRM will be the rocket motor that powers the shuttle on all of its missions well into the 21st century. It is the most advanced and environmentally safe propellant currently available. It is a safer and more reliable product than the one now in use, and it will provide the space shuttle with the additional payload capability necessary for space station missions.

The ASRM is also cost effective. The production cost of an ASRM flight set is 33 percent less than the production cost of the current motors. And the greater payload capability of the ASRM will enable the shuttle to carry as much in 10 flights as it can currently carry in 13.

And contrary to what you have heard, the ASRM is on schedule and with its budget.

We have already made a very considerable investment in the ASRM. And we voted to fund the space station—a project which will require ASRM technology.

I understand the urgent interest that Morton-Thiokol and its workers in Utah have in continuing as NASA's sole provider of rocket motors. And I respect my colleague for standing up for his district's interest. But the facts tell us that the ASRM is a better product, at a better price, better suited to the long-term missions we, as a body, have endorsed for NASA. I urge rejection of the gentleman's amendment.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I rise in support of the ASRM, and in opposition to the amendment and the amendment to the amendment.

Mr. Chairman, I oppose the gentleman's amendment to delete ASRM funding from the VA, HUD appropriations bill.

The advanced solid rocket motor was conceived following the tragic *Challenger* accident to produce a safer, more reliable solid rocket motor for the space shuttle. What could be a more worthy program than one that will reduce the chance of another catastrophic accident?

Not only will the ASRM reduce the likelihood of another shuttle accident, but it will provide greater lift capability for shuttle. The shuttle will be able to lift at least 12,000 pounds more payload, or a 30-percent increase.

This increased payload capacity is vital to the space station program. The ASRM is required on several station assembly flights. The ASRM will allow the United States, European, and Japanese laboratory modules, as well as the United States habitation module to be deployed fully integrated.

Lets look at the actual termination costs and associated expense to the taxpayer. Termination of the ASRM contract itself will require $300 million immediately. Fixing the redesigned solid rocket motor asbestos problem will take $73 million. Three additional space station assembly flights will be required at $50 million each. Space station deployment will be delayed 9 months, estimated to cost $1.5 billion. The total of these costs is in excess of $2.0 billion. This is more than the amount required to complete the ASRM Program. Without ASRM these modules will have to be outfitted in space. This is precisely the type of activity this Congress insisted on eliminating when the space station was restructured 2 years ago.

Opponents of the ASRM have suggested that canceling the program will save significant amounts of money. Nothing could be further from the truth.

We have already spent $1.2 billion on the ASRM. The completed program, which includes the first six flight sets of the motor, will require an additional $1.8 billion.

We must also consider the annual operating expense increase for NASA if the ASRM is not available. Each flight set of ASRM motors will cost NASA $15 million more than an ASRM set. With an average of nine shuttle flights each year, NASA will spend $135 million more annually. An additional space station logistics flight each year will be needed if the ASRM is not flying. This will cost another $50 million for a total operating cost increase for NASA every year of $185 million.

Clearly, it is more expensive to terminate the ASRM than to complete the program. This analysis indicates that the fiscally responsible approach is to fund ASRM and gain the benefits it will produce.

I urge my colleagues to oppose this irresponsible amendment to terminate the advanced solid rocket motor.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, I rise in strong opposition to the amendment and the amendment to the amendment, and hope my colleagues will defeat both of these amendments.

I thank the gentleman from Michigan for yielding time to me.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am pleased to yield to the gentleman from New York [Mr. GREEN], the distinguished ranking minority member.

Mr. GREEN of New York. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I think we are debating an amendment to an amendment that does not do what we have heard here on the floor. The amendment to the amendment simply cuts this account by a lesser amount than does the amendment in chief. It is the hope, of course, of the sponsor of the amendment to the amendment that at some point somehwere in this process that money will be used as he has suggested, but it should be understood that that is not provided for by his amendment, and it cannot be provided for by his amendment under the rule which governs the consideration of this bill.

Mr. Chairman, I hope everyone will understand when they come to vote on this amendment, what this amendment in fact does is to cut by a lesser amount.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I rise in support of the position of the gentleman from Oklahoma [Mr. MCCURDY] on NASP.

Mr. Chairman, I rise in strong support of restoring funds to the National Aerospace Plane Program. I share the same concerns as my colleagues for the future of aeronautics, our primary export industry, if we starve leading edge aeronautical research under the pretense of thrift.

I agree with the Appropriations Committee report's conclusion I quote: "that the NASP effort is important to the country's future aeronautical preeminence." That statement is a direct contradiction to the statement that budget pressures force the NASP into a low priority. What should have a higher priority than the industry that makes the greatest contribution to our international trade balance?

Every American airplane that ever exceeded 1957 performance levels is now in a museum. This is not true in Russia, and it will not be in France and Japan. We cannot live in the past and watch our future developed overseas. I urge my colleagues to think hard on this matter before condemning another generation of Americans to going to museums to see the high point of American aviation.

Mr. TRAXLER. Mr. Chairman, I would ask the Chair how much time we have remaining.

The CHAIRMAN. The gentleman from Michigan [Mr. TRAXLER] has 2 minutes remaining, and the gentleman from Utah [Mr. OWENS] has 2 minutes remaining.

Mr. TRAXLER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I thank my colleague, the gentleman from Michigan, for yielding time to me.

Mr. Chairman, I simply want to support the committee's position on this. After the *Challenger* accident in 1986 after just 24 space shuttle flights, NASA determined it needed a new rocket that would be in position to take not only the heavier payloads of the space shuttle but other future payloads which are envisioned for the NASA program. Safety was obviously a major concern.

As a result, the advanced solid rocket motor was designed at the recommendation of the President's commission that investigated the accident.

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What we have today is the advocates of the older technology and the redesigned solid rocket motor fighting to continue to be participants at the NASA table. They oppose losing the contracts for the Utah-based contractor.

I think what we have to focus on is the bottom line. If we terminate the ASRM Program we will actually absorb additional costs beyond the cost of continuing with this program. In fact, the total cost of termination of ASRM exceeds $2.1 billion. That is greater than the total cost to complete the program and to provide the first six flights of the new motor by some $300 million.

It would be penny wise and pound foolish if we were to cancel this program at this point.

Mr. OWENS of Utah. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding me the time. I rise in support of the amendment of the gentleman from Utah [Mr. OWENS].

Whether one is a supporter or an opponent of the space station, it is frankly very difficult to understand the justification that has been offered for ASRM. I think it should be underscored that there are in fact serious safety questions that have been raised with respect to this technology. The National Research Council, an arm of the National Academy of Sciences, contends that ASRM may not be safe.

I am not aware that NASA is seeking funding for ASRM at this point. The President himself is not seeking it, and I think would be very comfortable with its termination. Again, as before, the real issue is one of priorities.

This is simply not a high-priority item. It will divert resources away from other much more significant, much more important ventures within NASA's program. I would urge support for the amendment of the gentleman from Utah.

Mr. OWENS of Utah. Mr. Chairman, I yield myself my final minute.

Mr. Chairman, the issue of safety has been raised, and yet NASA's own aerospace safety advisory panel recently certified that the existing solid rocket motors are performing reliably, safely, and successfully. The redesigned solid rocket motor meets or exceeds all safety, reliability, and performance specifications. All 23 flights since the *Challenger* tragedy have been flawless.

Now just a few minutes ago I voted against the space station. For the same reasons I voted to kill the space station, I support this effort to kill ASRM. I prefer my own amendment, but I will first accept the amendment of my colleague from Utah, Mr. HANSEN, to amend it.

The House has spoken. Space station *Freedom* will be built. By cutting the NASA account and stating legislative intent on the floor to slow down or stop ASRM, as my colleague from Utah, Mr. HANSEN, does in his amendment, we would work to terminate a wasteful $3 billion program, and that is the sole reason for my support of this amendment. I want to stop ASRM.

If my colleague's amendment is now successful, then I will work to try to get a vote on my own amendment as now amended.

Mr. Chairman, Members who have followed voting on defense programs know that I have opposed many major defense and some space programs which provide jobs in my own district or State. I have done so in the firm belief that until Members are willing to vote against unnecessary projects even when they provide jobs at home, there will be no progress on balancing the budget or controlling spending.

I have voted on numerous times to kill the C–17, which was scheduled to provide 300 jobs in my home town when I offered the amendment 5 years ago. I voted to kill the B–2, though it had several subcontracts in my district. Earlier, I opposed the MX and other missile projects being constructed in my district, which caused me political discomfort at home. My vote to kill space station *"Freedom"* and to try to force its restructuring, is particularly painful, but, Mr. Chairman, I firmly believe that we should kill programs which are unneeded for our defense or space future no matter where they provide jobs; if they are bad for America they are also bad for Utah.

My amendment to stop construction of the ASRM also has home State implications because the current solid rocket motor is produced in northern Utah. If the ASRM is allowed to continue, Utah would lose 4,000 jobs to Mississippi.

My colleagues can stop this job heist, however, for the same reason that I have voted to kill programs which provide jobs in Utah.

ASRM is unneeded and unnecessary. Virtually all of the objective experts have said as much. Budget watchdog groups agree.

Mr. Chairman, just a few minutes ago I voted against the space station. And for the same reasons I voted to kill space station, I support this effort to kill ASRM. I prefer my own amendment but I will accept to try my colleague's amendment first. The House has spoken; space station *Freedom* will be built. By cutting the NASA account and stating legislative intent on the floor to slow down and try to stop ASRM, we work to terminate a wasteful $3 billion program. That is the clear, sole reason for my support of this amendment. I want to stop ASRM.

Mr. TRAXLER. Mr. Chairman, I yield myself my final 1 minute.

Mr. Chairman, very few of us recognize the fact that the *Challenger* accident caused a serious erosion in shuttle payload capability, and the 12,000-pound ASRM enhancement will restore nearly all of that erosion. Incidentally, the erosion continues as the shuttle is made safer by adding parachutes for braking and handling the new turbine pumps in the main engines, which adds significant weight. The bottomline and the reason we are doing the ASRM is precisely to prevent the kind of situation that the gentleman would put us back to if we were to adopt his amendment.

We need the ASRM, and we need to make sure the shuttles are as safe as we can possibly make them. This is one of those steps. I urge a "no" vote on the amendment, and on the amendment to the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Utah [Mr. HANSEN] to the amendment offered by the gentleman from Utah [Mr. OWENS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HANSEN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of earlier today, further proceedings on this request for a recorded vote are postponed until not earlier than 8:30 p.m.

The point of no quorum is considered as having been withdrawn.

If a vote is requested on the underlying amendment, that will be postponed until subsequently as well.

Mr. OWENS of Utah. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it will be my intention to seek a vote on my amendment only if the amendment to the amendment fails.

PARLIAMENTARY INQUIRY

Mr. SUNDQUIST. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SUNDQUIST. Mr. Chairman, under the rules the gentleman cannot strike the last word before a vote. He is getting an extension of his time for debate.

The CHAIRMAN. The Chair would advise the gentleman that the votes on both amendments, if two are requested, have been postponed. No amendment is pending. The statement of the gentleman from Tennessee is not in order.

Mr. SUNDQUIST. Mr. Chairman, we did not have a second vote. We had one vote on the amendment of the gentleman from Utah [Mr. HANSEN].

The CHAIRMAN. The Chair will state that the question cannot be put on the original amendment of Mr. OWENS at this time. The Chair would advise the gentleman that that request will be in order at the proper time after the vote is later taken by the Committee on the Hansen amendment, after that amendment is voted on.

Does the gentleman from Utah [Mr. OWENS] wish to complete his statement?

Mr. OWENS of Utah. Mr. Chairman, I just wanted to explain to the House that I will seek a vote on my amendment if the vote on the amendment to the amendment is not successful.

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY: Page 76, after line 11, insert the following:

ELIMINATION OF FUNDS FOR CLASSROOM FOR THE FUTURE PROGRAM

The amount otherwise provided in this Act in the account RESEARCH AND DEVELOPMENT under the heading "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION" is reduced by $1,800,000.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this seems like small potatoes compared to the billions of dollars we have been talking about this evening. But I do think there is a principle involved here that I would like to speak to in a moment.

This amendment would delete $1.8 million which is earmarked for the continued support of the Classroom of the Future at Wheeling Jesuit College in West Virginia. Distinguished colleagues, give me a break. When $7.5 million for this project turned up in last year's budget, neither NASA nor the Jesuit college had any idea what the intended purpose was. The Jesuit college allegedly had just two computers on the campus at that time, yet they were being asked to be the showplace for computerized education.

Since then NASA has worked with the Jesuit college and has reportedly worked this classroom into something that it can support. I am not sure, however, given its other needs it would support an endowment of $1.8 million for the Classroom of the Future. As with CIESIN, this appropriation was not subject to any hearings, was not authorized by an authorizing committee, and was not asked for by NASA. It just appeared, and I do not think it is any surprise that it appeared in West Virginia.

Let me quote from Chairman BROWN's statement on October 2, 1991, when we were discussing this. Chairman BROWN of the Science, Space, and Technology Committee said,

> It includes $7.5 million in continued funding for the Wheeling, West Virginia Jesuit College. I do not believe anyone in Congress or in NASA knows what this will be used for.

Therefore, I move the amendment and ask that my colleagues support the deletion of these funds.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek recognition in opposition to the amendment?

Mr. TRAXLER. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. TRAXLER] is recognized for 10 minutes.

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say that this has been an ongoing program. If my recollection is correct, there was money in the budget for it this year, although not at the amount which the committee appropriated.

The program is one that I think has merits, and we want to bring it to fruition. It is one that obviously NASA believed had some merit, or they would not have put it in the budget. I do not understand the amendment, and urge every Member to vote no at the appropriate time.

□ 2050

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as far as we could tell, and we did query NASA extensively today about this, and no one at NASA could tell us that this was in the budget or that they wanted it or that they needed it or they thought it was important.

You know, I think if we are serious, even if this was the greatest project in the world, if this was the thing we really needed, if we are serious about getting control of our budget crisis in our country, we cannot continue to do our budget on an ad hoc basis like this where a few people on the Committee on Appropriations decide that these things ought to go in because it is from somebody's district. We need to do it through some kind of a logical process. Even if it goes though the authorizing process, that is not always as logical as some of us might like, but at least that is an established process to go through the authorizing to get a request for it, to have hearings on it, to decide whether it has merit, and then to make a logical objective decision, on whether this money needs to be spent.

This never had any of that kind of scrutiny.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 235, not voting 30, as follows:

[Roll No. 335]

AYES—169

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goss
Gradison
Grandy
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horn
Houghton
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
LaRocco
Leach
Lent
Lewis (FL)
Livingston
Long
Machtley
Marlenee
Martin
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Patterson
Pease
Penny
Petri
Porter
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Sanders
Santorum
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Skaggs
Skeen
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Walker
Weber
Weldon
Williams
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOES—235

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barton
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Costello
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Geren
Gibbons
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Harris
Hayes (IL)
Hoagland
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Jenkins
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle

Poshard
Price
Pursell
Rahall
Rangel
Reed
Richardson
Ritter
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schumer
Sikorski
Sisisky
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Spratt
Staggers
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (CA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—30

Alexander
Annunzio
Anthony
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Davis
Gephardt
Goodling
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
Manton
McDade
Savage
Serrano
Solarz
Stallings
Stark
Tauzin
Taylor (MS)
Thomas (GA)
Towns

□ 2111

Mr. DELAY, Mr. GUARINI, and Mrs. VUCANOVICH changed their vote from "aye" to "no."

Mrs. PATTERSON, and Messrs. CALLAHAN, SANDERS, DOOLEY, and GILLMOR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The chair wishes to make an announcement: The Chair wishes to advise Members as follows:

Mr. BURTON of Indiana. Mr. Chairman, it is very important that everybody know what all these amendments are for.

The CHAIRMAN. The amendments will be re-read at this time, the Chair would advise the gentleman.

AMENDMENT OFFERED BY MR. ATKINS

The CHAIRMAN. The pending business is the demand of the gentleman from Massachusetts, Mr. ATKINS, for a recorded vote on his amendment on which the Chair had announced that the noes prevailed on a voice vote.

The Clerk will re-report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ATKINS:

Page 84, strike line 3 and all that follows through line 6 on page 85.

The CHAIRMAN. Those in favor of taking the vote by recorded vote will rise and remain standing.

PARLIAMENTARY INQUIRIES

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SOLOMON. Mr. Chairman, I do not believe the membership knows what is going on. Would the Chair explain to us what is going on, seriously?

The CHAIRMAN. The Chair just stated the procedure to the committee.

The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts [Mr. ATKINS].

Mr. SOLOMON. Mr. Chairman, a further parliamentary inquiry: Is this a 15-minute vote to be followed by other votes?

The CHAIRMAN. That is correct, and the Chair, if not interrupted again, will make such an announcement.

Mr. SOLOMON. I thank the Chair.

The CHAIRMAN. Those in favor of taking this vote by a recorded vote will rise and remain standing until counted.

PARLIAMENTARY INQUIRIES

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Chairman, because of the outside activities this evening, many Members went to a funeral, I think it is important the Chair tell the body what is in the amendments before the vote is requested.

The CHAIRMAN. The Chair will state the question on each amendment as reported, and each amendment will be announced at the proper time.

Mr. SOLOMON. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. SOLOMON. Mr. Chairman, could the Chair inform the body whether this particular vote coming up passed or failed? We are entitled to know that.

The CHAIRMAN. The Chair already announced, he would say to his friend, the gentleman from New York, that the noes prevailed on a voice vote.

Mr. SOLOMON. I thank the Chair.

RECORDED VOTE

The CHAIRMAN. Those in favor of taking this vote by recorded vote will stand and remain standing.

Evidently, a sufficient number has arisen, and a recorded vote is ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 310, not voting 28, as follows:

[Roll No. 336]

AYES—96

Abercrombie
Ackerman
Andrews (ME)
Atkins
AuCoin
Blackwell
Cardin
Carr
Clay
Collins (IL)
Cox (CA)
Cox (IL)
Crane
DeFazio
DeLay
Dellums
Dingell
Dixon
Donnelly
Dooley
Dymally
Early
Eckart
Edwards (CA)
Flake
Foglietta
Ford (MI)
Frank (MA)
Gonzalez
Gradison
Green
Hayes (IL)
Horn
Johnson (CT)
Johnston
Jontz
Kennedy
Kildee
Kopetski
Kostmayer
LaRocco
Lehman (CA)
Levine (CA)
Lewis (GA)
Lipinski
Long
Markey
Matsui
McCandless
McDermott
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mrazek
Murphy
Neal (MA)
Oberstar
Obey
Olver
Orton
Owens (NY)
Panetta
Payne (NJ)
Pelosi
Perkins
Rangel
Rinaldo
Rohrabacher
Roybal
Russo
Sabo
Sanders
Sangmeister
Scheuer
Schroeder
Sensenbrenner
Sikorski
Stokes
Studds
Swett
Swift
Synar
Torres
Unsoeld
Vento
Washington
Waters
Waxman
Weiss
Wheat
Wolpe
Wyden
Yates
Zimmer

NOES—310

Allard
Allen
Anderson
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Carper
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coyne
Cramer
Cunningham
Dannemeyer
Darden
de la Garza
DeLauro
Derrick
Dickinson
Dicks
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (SD)
Johnson (TX)
Jones (GA)
Kanjorski
Kaptur
Kasich
Kennelly
Kleczka
Klug
Kolbe
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Marlenee
Martin
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth

Roukema
Rowland
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NOT VOTING—28

Alexander
Annunzio
Anthony
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Davis
Ford (TN)
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
Manton
McDade
Savage
Serrano
Solarz
Stallings
Stark
Tauzin
Thomas (GA)
Towns

☐ 2133

Mr. RAHALL and Mr. MARTINEZ changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair wishes to make an announcement. The Chair apologizes for misleading Members earlier, but was misadvised as to the procedure.

The Chair would like to advise Members as follows:

AMENDMENT OFFERED BY MR. MC CURDY

The pending business is the demand of the gentleman from Oklahoma [Mr. McCURDY] for a recorded vote on his amendment on which the Chair had announced that the noes prevailed on a voice vote.

The Clerk will rereport the amendment.

The Clerk read as follows:

Amendment offered by Mr. McCURDY: Page 76, line 6, strike "$6,670,650,000" and insert "$6,670,649,000".

RECORDED VOTE

The CHAIRMAN. Those in favor of taking this vote by recorded vote will stand and remain standing.

Evidently a sufficient number has arisen, and a recorded vote is ordered.

Pursuant to clause 2(c) of rule XXIII the Chair will reduce to not less than 5 minutes the time for any recorded vote that may be ordered on the remaining pending amendments without intervening business or debate.

The vote was taken by electronic device, and there were—ayes 207, noes 201, not voting 26, as follows:

[Roll No. 337]

AYES—207

Allard
Allen
Andrews (TX)
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Browder
Brown
Bryant
Bunning
Burton
Byron
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
DeFazio
DeLay
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Flake
Franks (CT)
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (GA)
Kasich
Kennelly
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Livingston
Luken
Machtley
Marlenee
Martin
Martinez
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Moody
Moorhead
Morrison
Murphy
Neal (NC)
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Ravenel
Ray
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roukema
Rowland
Sanders
Santorum
Saxton
Schaefer
Scheuer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Valentine
Volkmer
Walker
Weber
Weldon
Wolf
Wyden
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—201

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Applegate
AuCoin
Beilenson
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Broomfield
Bruce
Bustamante
Camp
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Costello
Cox (IL)
Coyne
Cramer
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Durbin
Dwyer
Dymally
Early
Eckart
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Green
Guarini
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Henry
Hoagland
Horton
Hoyer
Jacobs
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McGrath
McHugh
McNulty
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Panetta
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Slaughter
Smith (FL)
Smith (IA)
Snowe
Staggers
Stokes
Studds
Swift
Synar
Taylor (NC)
Thornton
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Yates
Yatron

NOT VOTING—26

Alexander
Annunzio
Anthony
Atkins
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Davis
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
McDade
Savage
Serrano
Solarz
Stallings
Stark
Tauzin
Towns

☐ 2151

Messrs. ABERCROMBIE, REED, LIPINSKI, BROOKS, and BROOMFIELD changed their vote from "aye" to "no."

Mr. GRADISON and Mr. BRYANT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

The CHAIRMAN. The pending business is the demand of the gentleman from Indiana [Mr. BURTON] for a recorded vote on his amendment on which the Chair had announced that the noes prevailed on a voice vote.

The Clerk will rereport the amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana:

Page 77, line 4, strike "$525,000,000" and insert "$467,000,000".

RECORDED VOTE

The CHAIRMAN. Those in favor of taking this vote by recorded vote will stand and remain standing.

Evidently a sufficient number has arisen, and a recorded vote is ordered.

The CHAIRMAN. The Chair would remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 182, noes 224, not voting 28, as follows:

[Roll No. 338]

AYES—182

Allard
Allen
Andrews (ME)
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Evans
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Horn
Houghton
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (SD)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Laughlin
Leach
Lewis (FL)
Lightfoot
Long
Luken
Machtley
Marlenee
Martin
Martinez
McCandless
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Murphy
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Patterson
Paxon
Pease
Penny
Peterson (FL)
Petri
Pickle
Porter
Poshard
Ramstad
Rangel
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roukema
Rowland
Sanders
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Walker
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—224

Abercrombie
Ackerman
Anderson
Andrews (NJ)
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Camp
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Costello
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Hall (OH)
Harris
Hayes (IL)
Henry
Hoagland
Hochbrueckner
Horton
Hoyer
Hughes
Johnson (CT)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Manton
Markey
Matsui
Mavroules
Mazzoli
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (MN)
Pickett
Price
Pursell
Quillen
Rahall
Reed
Richardson
Riggs
Rinaldo
Roe
Rogers
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Staggers
Stokes
Studds
Swift
Synar
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—28

Alexander
Annunzio
Anthony
Barton
Berman
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Coyne
Davis
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
McDade
Savage
Serrano
Solarz
Stallings
Stark
Tauzin
Towns

□ 2159

Mr. SKELTON and Mr. SAXTON changed their vote from "aye" to "no."

Mr. EVANS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HANSEN TO THE AMENDMENT OFFERED BY MR. OWENS OF UTAH

The CHAIRMAN. The pending business is the demand of the gentleman from Utah [Mr. HANSEN] for a recorded vote on his amendment to the amendment offered by the gentleman from Utah [Mr. OWENS], on which the Chair had announced that the noes prevailed on a voice vote.

The Clerk will rereport the amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN to the amendment offered by Mr. OWENS of Utah: Strike "$4,961,500,000, to remain available until September 30, 1994" and insert in lieu thereof "$5,136,500,000, to remain available until September 30, 1994".

RECORDED VOTE

The CHAIRMAN. Those in favor of taking this vote by recorded vote will stand and remain standing.

Evidently a sufficient number has arisen, and a recorded vote is ordered.

The CHAIRMAN. The Chair would remind Members that this, too, is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 181, noes 226, not voting 27, as follows:

[Roll No. 339]

AYES—181

Abercrombie
Ackerman
Allard
Allen
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Baker
Barrett
Barton
Bateman
Bennett
Bilbray
Bliley
Boehlert
Boehner
Borski
Boucher
Broomfield
Bruce
Bryant
Bunning
Burton
Callahan
Cardin
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Costello
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Eckart
Emerson
Evans
Ewing
Feighan
Fields
Franks (CT)
Gallegly
Gejdenson
Gekas
Gilchrest
Gingrich
Glickman
Goss
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Herger
Hobson
Hopkins
Horn
Horton
Houghton
Hubbard
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Lent
Lewis (FL)
Long
Manton
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
Meyers
Mfume
Michel
Miller (WA)
Moody
Moorhead
Morella
Murphy
Myers
Nagle
Neal (MA)
Neal (NC)
Nichols
Nowak
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Paxon
Petri
Poshard
Quillen
Rahall
Ravenel
Ray
Rhodes
Richardson
Riggs
Ritter
Roberts
Roemer
Rohrabacher
Roth
Sanders
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Spratt
Stearns
Stump
Swett
Synar
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Waters
Weber
Weldon
Wheat
Williams
Wilson
Wolf
Wolpe
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—226

Anderson
Applegate
Aspin
AuCoin
Bacchus
Ballenger
Barnard
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilirakis
Blackwell
Bonior
Brewster
Brooks
Browder
Brown
Bustamante
Byron
Camp
Campbell (CA)
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Cooper
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon

Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Fascell
Fawell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Hall (TX)
Harris
Hayes (IL)
Hefley
Henry
Hoagland
Hochbrueckner
Holloway
Hoyer
Huckaby
Jenkins
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morrison
Mrazek
Murtha
Natcher
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Pursell
Ramstad
Rangel
Reed
Regula
Ridge
Rinaldo
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Staggers
Stenholm
Stokes
Studds
Sundquist
Swift
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Weiss
Whitten
Wise
Wyden
Yates

NOT VOTING—27

Alexander
Annunzio
Anthony
Atkins
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Davis
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
McDade
Savage
Serrano
Solarz
Stallings
Stark
Tauzin
Torricelli
Towns

☐ 2209

Messrs. McDERMOTT, ORTIZ, SHAYS, MARTINEZ, PENNY, RINALDO, BUSTAMANTE and LEWIS of California changed their vote from "aye" to "no."

Mr. NEAL of Massachusetts and Mr. HUTTO changed their vote from "no" to "aye."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. OWENS].

The Clerk will rereport the amendment.

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah: Page 76, line 21, strike "$5,226,500,000" and insert "$4,961,500,000".

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OWENS of Utah. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This too will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 249, noes 159, not voting 26, as follows:

[Roll No. 340]

AYES—249

Abercrombie
Ackerman
Allard
Allen
Andrews (ME)
Andrews (NJ)
Archer
Armey
Aspin
AuCoin
Baker
Ballenger
Barrett
Beilenson
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Boehlert
Boehner
Borski
Broomfield
Bruce
Bunning
Burton
Byron
Camp
Cardin
Carper
Clay
Coble
Coleman (MO)
Collins (IL)
Combest
Condit
Costello
Cox (CA)
Cox (IL)
Coyne
Crane
Cunningham
Dannemeyer
DeFazio
DeLauro
DeLay
Dellums
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Dymally
Early
Eckart
Emerson
Engel
Evans
Ewing
Fawell
Feighan
Fields
Fish
Flake
Ford (TN)
Frank (MA)
Franks (CT)
Gallegly
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goss
Grandy
Guarini
Gunderson
Hamilton
Hancock
Hansen
Hastert
Hayes (IL)
Hefley
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Houghton
Hubbard
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Klug
Kolbe
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (FL)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Mavroules
McCandless
McCollum
McCrery
McDermott
McEwen
McMillan (NC)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mink
Molinari
Moody
Moorhead
Morella
Morrison
Murphy
Nagle
Neal (MA)
Neal (NC)
Nichols
Nussle
Oberstar
Obey
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Petri
Porter
Poshard
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sanders
Santorum
Sawyer
Schaefer
Scheuer
Schroeder
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Slattery
Slaughter
Smith (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Studds
Stump
Swett
Synar
Taylor (NC)
Thomas (CA)
Thomas (WY)
Unsoeld
Upton
Vander Jagt
Vento
Vucanovich
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—159

Anderson
Andrews (TX)
Applegate
Bacchus
Barnard
Barton
Bateman
Berman
Bevill
Blackwell
Bliley
Bonior
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Callahan
Campbell (CA)
Carr
Chandler
Chapman
Clement
Clinger
Coleman (TX)
Cooper
Cramer
Darden
de la Garza
Derrick
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Edwards (CA)
Edwards (OK)
Edwards (TX)
English
Erdreich
Espy
Fascell
Fazio
Foglietta
Ford (MI)
Frost
Gallo
Gaydos
Gephardt
Geren
Gibbons
Gonzalez
Goodling
Gordon
Gradison
Green
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hopkins
Horton
Hoyer
Huckaby
Jenkins
Kaptur
Kleczka
Kopetski
LaFalce
Laughlin
Lehman (FL)
Lent
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Matsui
Mazzoli
McCloskey
McCurdy
McGrath
McHugh
McMillen (MD)
McNulty
Michel
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moran
Mrazek
Murtha
Myers
Natcher
Nowak
Oakar
Olin
Ortiz
Parker
Pastor
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Pursell
Quillen
Regula
Ridge
Roe
Rogers
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Saxton
Schiff
Sensenbrenner
Sisisky
Skaggs
Skeen
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Stokes
Sundquist
Swift
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Valentine
Visclosky
Volkmer
Walker
Walsh
Whitten
Wilson
Wise

NOT VOTING—26

Alexander
Annunzio
Anthony
Atkins
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Davis
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
McDade
Savage
Serrano
Solarz
Stallings
Stark
Tauzin
Towns

☐ 2216

Messrs. SKAGGS, BLACKWELL, and VISCLOSKY changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any additional amendments to title III?

The Clerk will read.

The Clerk read as follows:

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1993 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1993, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, $2,622,000,000.

FDIC AFFORDABLE HOUSING PROGRAM

For the affordable housing program of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q), $10,000,000 to pay for any losses resulting from the sale of properties under the program, and for all administrative and holding costs associated with operating the program.

Notwithstanding any provisions of section 40 of the Federal Deposit Insurance Act or any other provision of law, the Federal Deposit Insurance Corporation shall be deemed in compliance with such section if, in its sole discretion, the Corporation at any time modifies, amends or waives any provisions of such section in order to maximize the efficient use of the available appropriated funds. The Corporation shall not be subject to suit for its failure to comply with the requirements of this provision or section 40 of the Federal Deposit Insurance Act.

BANK ENTERPRISE PROGRAM

For necessary expenses of issuing minimum requirements and guidelines under sections 232(a) and 233(a) of the Bank Enterprise Act of 1991, except for section 233(a)(1)(B) (12 U.S.C. 1834(a) and 1834a(a)), and in estimating the cost of allowing reduced assessment rates and assessment credits pursuant to such Act in future fiscal years, $1,000,000.

The appropriation herein provided shall not constitute authority for implementation of assessment needs or reduced assessments pursuant to the Bank Enterprise Act.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,510,000.

ADMINISTRATION PROVISION

The President of the Resolution Trust Corporation shall, to the fullest extent possible, ensure that at least 8 per centum of funding for prime and subcontracts awarded in support of authorized programs, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6))), including historically black colleges and universities. For the purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administration expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000, unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 517. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government to restructure, modify or renegotiate the assistance agreement; and

(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such actions.

SEC. 518. Notwithstanding any provision in this Act or any other provision of law, obligations in fiscal year 1993 for personnel compensation and benefits, travel, and the other object classifications of expense for all headquarters' offices for the Department of Veterans Affairs, the Department of Housing and Urban Development, the Environmental Protection Agency, the Federal Emergency Management Agency, the National Aeronautics and Space Administration, and the National Science Foundation shall not exceed the dollar amounts obligated for such activities in fiscal year 1992.

SEC. 519. Hereafter, for purposes of chapter 75 of title 31, United States Code (relating to requirements for single audits), the City of Walnut Creek, California, shall be permitted to conduct audits biennially.

Mr. TRAXLER (during the reading). Mr. Chairman, I ask unanimous consent that title V, through page 96, line 17, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any points of order against any portions of title V of the bill.

If not, are there any amendments?

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment made in order by the rule.

The Clerk read as follows:

Amendment offered by Mr. MORAN: Page 96, after line 17, insert the following new section:

SEC. 520. No Federal agency may plan, finance, construct, or permit a stadium complex at the Potomac Yard in Alexandria, Virginia, or any public improvement serving such stadium complex, until an environmental impact statement has been prepared by the Administrator of the Environmental Protection Agency (or another Federal agency designated by such Administrator) with respect to such proposed stadium complex in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). This section shall not apply to any action by the Environmental Protection Agency with respect to the cleanup of hazardous wastes and other pollutants at the Potomac Yard.

The CHAIRMAN. The gentleman from Virginia [Mr. MORAN] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

Mr. GINGRICH. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Georgia [Mr. GINGRICH] will be recognized for 10 minutes in opposition.

The Chair recognizes the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I yield myself such time as I may consume.

A few weeks ago thousands of residents of Alexandria, Arlington, and the Commonwealth of Virginia were shocked to hear Governor Wilder and Redskins owner Jack Kent Cooke unveil a plan to construct a 78,600-person football stadium complex at Potomac Yard in Alexandria, VA. They were even more shocked after hearing about the $130 million loan that Virginia residents would have to foot in order to construct this stadium.

While it is becoming obvious that this stadium may not be a great deal for the taxpayers of Virginia, we are also coming to the conclusion that it may not be a good deal for the Federal Government.

Even as we stand here the Environmental Protection Agency is overseeing a major cleanup of the area which for years has been the dumping ground for lead, arsenic, PCB's, oil byproducts, and other toxins which have saturated the soil of the former railroad switching station.

For example, in order to prevent weeds from growing in the yard the ground was regularly soaked with arsenic. Before Federal environmental regulations were in effect, toxic substances were routinely poured on the ground to soak into the soil.

As this project continues, many other agencies of the Federal Government will become involved. Construction of a new Metro station and expanded roads to serve the 78,600 ticket holders would likely require approval from the Department of Transportation and Federal Highway Administration. The Corps of Engineers would have to authorize permits for construction in the area which is bordered by wetlands and would have to require offsets for runoff pollution. Because this site is within a mile of the clogged runways of Washington National Airport, the Federal Aviation Administration will have to review height limitations and location of the stadium. The Department of Commerce may be involved with certain coastal zone management plans for the area. And, in the future, the Department of the Interior and National Park Service may be called upon to review access through their property to the George Washington Parkway.

Before we get the Federal Government involved in the costly project, I believe that a comprehensive environmental impact statement should be completed.

In 1991, the Department of the Interior completed an extensive Federal EIS regarding 40 acres of land adjacent to Potomac Yards which is referred to as Potomac Greens. This land was owned by the RF&P Corp. and was slated for large-scale development which would have included the construction of a major interchange on the George Washington Memorial Parkway. The Potomac Yards site is 320 acres, is also owned by RF&P, and poses even more severe environmental, infrastructure, and esthetic impacts on the area. The difference between these two projects is that where the Department of the Interior was involved 2 years ago in the proposed development of Potomac

Greens, numerous Federal departments and agencies will have to be involved in the development of Potomac Yards. Before we dedicate the time, resources, and funds of the Federal Government, we must know what we are getting into.

While the proposed Jack Kent Cooke Stadium at Potomac Yards may be a great deal for a billionaire, it could cost the Federal taxpayer dearly. A comprehensive study now may preclude the expenditure of countless Federal dollars later as this project slogs forward—possibly through the courts.

I would ask my colleagues to please support an environmental impact statement on this area so that we can assess the environmental impact of this stadium and the true cost of Federal involvement in this project. I urge my colleagues to support this amendment.

Mr. Chairman, I understand that the time delay and the problems exposed by this EIS will likely kill the possibility of constructing Jack Kent Cooke Stadium at Potomac Yards. But when that realization becomes apparent, such a result will be in the public interest.

Alexandria is not just any other place to be developed. Alexandrians today are the inheritors of a legacy. A legacy established by our first President, George Washington who originally surveyed the city, and lived in Alexandria. That legacy has been carried forward by two centuries of civic activists who have devoted much of their lives to protecting and preserving Alexandria's identity. A 78,600-seat stadium would do a severe disservice to that generational trust.

This stadium project would also do a disservice to the taxpayers of Virginia who are being asked to put up $130 million to subsidize this project after having experienced substantial cuts in needed State programs for the last 3 years.

And, Mr. Chairman, projects of such magnitude should not be imposed upon a citizenry who was never consulted or even informed of the plans and decisions that would so profoundly affect the character of their community. The local governing bodies of both Alexandria and Arlington have voted to oppose this project.

And lastly, Mr. Chairman, I personally believe the Washington Redskins belong in Washington, DC. They serve today as a powerful unifying force for the entire Washington region. A commonality of interest that transcends racial and economic barriers as well as the barriers that too often exist between the inner city and its suburbs.

It is clearly in the public's interest that this amendment be approved by this Congress.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I have reviewed the gentleman's amendment. I think it makes a lot of sense, and we accept it on this side.

Mr. MORAN. Mr. Chairman, I reserve the balance of my time.

Mr. GINGRICH. Mr. Chairman, I yield myself such time as I may consume.

Let me say, Mr. Chairman, I think this amendment is a perfect example of why the country is so fed up with the Congress.

Now, I understand there are a lot of people who are so used to being in Washington that this is a big deal for them, and I assume they just booed.

But let us talk about what happened today on this bill and this rule. A year ago on a bipartisan basis Democrats and Republicans alike won an amendment involving the HOPE Program which Secretary Kemp has fought for which involves real national policy and involves helping real people and giving them a choice.

Today we adopted a rule which made it impossible for that bipartisan coalition of Democrats and Republicans to vote on national policy.

"Oh, the Congress couldn't do that. The House couldn't do that." That might actually work. We might actually win on the floor.

Democrats and Republicans might actually pass something that was bipartisan.

So the Rules Committee apparently had its instructions. We were not allowed to make that in order. But what was made in order by the Rules Committee? An amendment which is the perfect modern example of how the word "bunk" was developed. The word "bunk" occurred when a gentleman from Bunkum County, NC, was speaking about 1812, and somebody at the back rail was complaining, and someone said, "Don't worry about that. That is for the folks back in Bunkum." It is just bunk.

In the first place, this amendment has no real standing. It will not have any real effect, because a project this large will get an environmental impact statement in any case, but that is not the point.

You have the House tonight, having refused to deal with Secretary Kemp's HOPE program, is now going to vote, and we are going to insist on a recorded vote, we are going to give you a chance to vote for this sucker, is now going to get up and say the Washington Redskin's stadium really matters to Members of Congress, because we are here so much, we are so involved here, it is such a big deal here, we have to vote on that.

I will just ask you to vote no, to just send a signal that it is outrageous to bring a neighborhood fight to the U.S. Congress to enact in a piece of basically public display for a freshman Member so that they can go back home and claim they accomplished something, but we cannot make in order a bipartisan amendment on behalf of Secretary Kemp's efforts to help the poor people of America have a chance to vote.

So I look forward to the rest of the debate.

Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding this time to me.

I would just point out that I think the gentleman has made the point very well. This really is a neighborhood fight that we are talking about, and it is very disappointing that the Congress of the United States is taking the time to deal with this when we cannot deal with something that could assist thousands, tens of thousands of lower income poor Americans to own their own homes, have an opportunity to own a piece of the American dream; but no, we cannot take the time to do that tonight. That is not important enough. It is more important that we deal with this little problem in our backyard here of a stadium that might get built that does not mean anything to the vast majority of the people in America.

This is not just Secretary Kemp's program. It is in the Democratic platform, home ownership for Americans, home ownership for low income and poor Americans. It is part of Governor Clinton's program, and all we asked the Rules Committee to do was make it in order to have a bipartisan vote, as we did last year on that very important program; but tonight instead we are going to take our time talking about a stadium down the road.

Mr. GINGRICH. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I thank the gentleman for yielding this time to me.

I think it is remarkable that the Rules Committee would make this amendment in order, but not an amendment to fund Project HOPE.

Where are our priorities? Homeownership is the desire of every American. Through Secretary Kemp's Project HOPE, those previously without hope could be afforded the opportunity for home ownership, and yet that is not in order for us to debate.

What is more important for this Congress, that the Washington Redskins play football or home ownership for disadvantaged Americans?

It is outrageous to deny a vote on HOPE, but allow a vote on this amendment to dictate where the Washington Redskins play football.

Mr. Chairman, the American people will be watching our vote on this amendment.

Mr. MORAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe this amendment was accepted because it was felt that it would not be controversial and would not take up the Members' very valuable time.

The gentleman from Arizona will recall that I was an original cosponsor of the HOPE amendment effort last year. I have no problems with that.

The point, though, is that this amendment deals with an action that occurred subsequent to committee markup. It has a profound impact upon the operation of the National Airport.

The environmental problems are substantial. The Corps of Engineers is involved. The Federal Highway Department is probably involved. It should not take up any of our time. It should not be a controversial amendment. I believe that is why the Rules Committee allowed it, rather than an amendment that surely would take up a substantial amount of the Members' time.

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So I do think we are comparing apples and oranges here. I regret the fact that this is being used for purposes extraneous to the substance of the amendment itself.

Mr. Chairman, I reserve the balance of my time.

Mr. GINGRICH. I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Just to make the observation that I appreciate the sponsorship last year of the gentleman from Virginia, but in the end he did not vote for it. Today I think, as you will recall, he did not vote to defeat the previous question so that this amendment on HOPE could be debated here today. So he did not think it was very important today. This one was important to be debated, but not home ownership for millions of Americans, oh, no, not home ownership for the poor, minority Americans. That is not important. But the Redskins stadium, that is important.

Mr. GINGRICH. One last thing and then I will yield back.

This is really a vote about whether we are a national Congress or a city council for the Washington area. I would urge a "no" vote.

Mr. Chairman, I yield back the balance of my time.

Mr. MORAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I have not noticed that the gentleman minds being a city councilman for the District of Columbia when it comes to attaching abortion amendments to our bill. Nor will I allow this matter to be trivialized as dealing only with keeping the stadium in the District of Columbia, as important as that is to me and my constituents.

We asked for a full environmental impact statement on this matter because thousands and thousands of people at one time, and players, may be exposed to extraordinary environmental hazards unless this Congress says that that shall not be the case. So if public health means as much to this Congress as it traditionally has, then it should apply here as it does elsewhere.

Mr. Chairman, I ask support of the Moran amendment.

Mr. Chairman, on behalf of the residents of the District of Columbia and others who are concerned about the health of the environment, I rise in strong support of this amendment to H.R. 5679. Mr. MORAN, my good colleague from Virginia, has wisely offered this amendment to ensure that environmental issues are not shunted to the side in the haste to promote business interests and develop a parcel of long neglected railroad property. This amendment to require the Environmental Protection Agency to prepare an environmental impact statement for the proposed football stadium complex at Potomac Yard is a necessary measure for this highly unusual situation.

Even before studies have been completed, we know that the Potomac Yard site contains a highly toxic array of pollutants that have spilled, seeped, been dumped, and have accumulated on the yard for years. No one disputes that lead, arsenic, polychlorinated biphenyls [PCB's], oil byproducts, and other toxins are definitely in the soil.

What we do not know is what may be most harmful—the extent of the contamination. Moreover, there are unresolved questions about whether the proposed development will violate the Chesapeake Bay Protection Act, legislation intended to protect one of our richest area waterways, which in turn affects the Potomac River.

Potomac Yard is already on a list of dangerous sites targeted for EPA investigation because the site has seen the pile up of the most dangerous toxins for many years. This proposed football stadium site may be one of the most contaminated sites in this region. Neither players nor huge crowds should be subjected to such a site until a disinterested party has said that it is not dangerous to your health to see or play a football game there. Given the magnitude of harm that could result, the only appropriate body to undertake such an effort is the agency entrusted by Congress with such authority, namely the EPA. Surely, environmental tests conducted by the rail yard's owner, who has a vested interest in the outcome in this case, cannot meet the standards of safety we require before a site to be opened to an unusually large public is certified to be safe.

Congress agrees on the need to vaccinate our people against potential diseases. Proper environmental assessment is a vaccination for the same community against dangerous conditions that ripen with time and can be arrested only now. We must weigh short-term gains against long-term and more vital interests. The potential health hazard to our community surely tips the scale in favor of public health. The people of Alexandria, the District, and this entire region deserve to know that games are not being played on dangerous terrain.

I urge my colleagues to vote in favor of Mr. MORAN's amendment.

Mr. MORAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 166, not voting 30, as follows:

[Roll No. 341]

AYES—238

Abercrombie
Ackerman
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Aspin
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hayes (IL)
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Roe
Roemer
Rose

Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Shays
Shuster
Sikorski
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spence
Spratt
Staggers
Stokes
Studds
Swett
Swift
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron

NOES—166

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Boucher
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Petri
Pickle
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Sisisky
Skaggs
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stenholm
Stump
Sundquist
Synar
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—30

Alexander
Annunzio
Anthony
Atkins
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Davis
Dorgan (ND)
Gaydos
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Ireland
Jefferson
Jones (NC)
Kolter
Lehman (FL)
Machtley
Savage
Serrano
Solarz
Stallings
Stark
Tauzin
Towns

□ 2249

Mr. ROTH changed his vote from "aye" to "no."

Mr. VOLKMER changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. UPTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. UPTON. Mr. Chairman, I wonder now that we have effectively blocked the Redskins from moving to Alexandria if it would be appropriate or germane to offer now an amendment that would block the Chicago Cubs from moving to the National League Western Division?

The CHAIRMAN. The Chair would respond, not tonight.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new sections:

SEC. . COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. . SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 10 minutes.

Mr. TRAFICANT. Mr. Chairman, this is a Buy American amendment that has been accepted on all the other appropriation bills.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I accept the amendment.

Mr. GREEN of New York. Mr. Chairman, if the gentleman will yield, I, too, have no objection.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 96, after line 17, insert the following new section:

SEC. 520. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 1 percent, except for the provisions regarding Veterans Health Administration medical care.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman of Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] is recognized for 10 minutes.

Mr. BURTON of Indiana. Mr. Chairman, this amendment I believe is going to be accepted by the chairman and ranking Republican and members of the committee. It amounts to a 1 percent across-the-board cut in discretionary spending, with the exception that the provisions of the Department of Veterans Affairs program are exempt.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, we accept the amendment of the gentleman from Indiana [Mr. BURTON]. It is well-crafted.

Mr. GREEN of New York. Mr. Chairman, if the gentleman will yield, it is my understanding that this amendment gets the subcommittee down to the 602(b) ceiling which it is obligated to meet. We had committed at the outset of this debate to do that at the end. I appreciate the gentleman from Indiana [Mr. BURTON] making that possible.

Mr. BURTON of Indiana. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment was agreed to.

Mr. McCURDY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I intend to be brief, but I think it is important to announce to the House tonight that after passage of my amendment previously offered by a vote of 207 to 201, I have been informed that the chair and the committee is going to ask for a separate vote on this when we come out of the Committee of the Whole.

Mr. Chairman, I thought I would take this opportunity to explain exactly what has happened. It is becoming readily apparent as Members have come to me and said that they are probably going to have to switch their vote because of concerns about projects in their districts and the like. But I think it should be made perfectly clear, Mr. Chairman, we did not kill the CIESIN program. There are sufficient research and development funds in the CIESIN program.

Mr. Chairman, even though it was not requested by NASA, we did not kill the $50 million building in the gentleman's district which was spared because the Burton amendment did not pass.

What we have now is I have been accused of retribution, as one Member going against another's district, by trying to reestablish the priorities, which is what NASA requested, which is what the Committee on Science, Space, and Technology authorized.

There have been statements tonight to individual Members that this will not affect their districts, even though this gentleman does not have a dime in the National Aerospace Program. It is the States of Connecticut, Texas, and California. It is the long-term research and development in aerospace we are talking about. Rather than have that killed tonight, which is what is going to happen if we reverse the vote, Members are going to kill the National Aerospace Program and we are going to fund a building.

Now, that may be appropriate, and I understand the risk that individuals take on votes such as this. But, my colleagues, it is wrong. It is wrong. And we wonder why this body is held in disrepute. We wonder why people come to us throughout the districts and say, "Why can't you save money? Why do you load these bills up?"

Now, it is not pleasant for me as a Member to go against anyone's program or project. But occasionally we have to do what is right.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there further amendments to title V?

Mr. GREEN of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would first like to point out once again that the McCurdy amendment does not add a red cent to NASP, and to urge Members to vote for his amendment because of NASP simply does not reflect what is in the amendment. It would save $1,000. That is what it would save. But that was not the purpose for which I sought the Chair's recognition. We have certainly debated the McCurdy amendment enough.

Mr. Chairman, the reason I sought recognition is to point out that in the midst of the wave of retirements in this House, this subcommittee will be suffering very grievously through the departure of three of its very valued members. One of them, the gentleman from California [Mr. LOWERY], has only been with us very briefly as time measured on the Committee on Appropriations, but certainly has been an extremely valued member, bringing us special interest and expertise in the area of the environment and aerospace. We shall certainly miss him.

The second departure is by my predecessor as ranking minority member of the Subcommittee on VA, HUD, and Independent Agencies, the gentleman from Pennsylvania [Mr. COUGHLIN]. Those who were around the House in 1981 may remember that at that time the gentleman from Pennsylvania [Mr. COUGHLIN] wanted to move over to the Subcommittee on Transportation because Drew Lewis from Pennsylvania was becoming Secretary of Transportation and the gentleman wanted to be able to work closely with and assist the new Secretary of Transportation. So he yielded the ranking position on the Subcommittee on VA, HUD, and Independent Agencies in order to go over and do the valuable service he has done on the Subcommittee on Transportation.

Mr. Chairman, I think it is the measure of LARRY COUGHLIN that even tonight, in the midst of his illness, he took time to get up from his sick bed and come over here in order to participate in the debate on the space station. The gentleman has kept up a vast and extremely useful interest in the work of this subcommittee, and I know all of us on the subcommittee are deeply grateful for the contributions he has made.

Mr. Chairman, finally, as we all know, the chairman of our subcommittee, the gentleman from Michigan [Mr. TRAXLER], is taking his leave also. I think every member can see as we have gone through the proceedings here today the constant good cheer and common sense with which the gentleman from Michigan has conducted the work of this subcommittee, the sense of understanding of the needs of all of the Members of this House, his personal courtesy to all of them, and, of course, his encyclopedic knowledge of the many programs for which this subcommittee is responsible.

□ 2300

So I know I speak for all the Members of this House when I express our appreciation to the gentleman from Michigan [Mr. TRAXLER] for his long service in this House and particularly for his service as chairman of the Committee on Appropriations Subcommittee on VA, HUD, and Independent Agencies. That service has been of great value to the Committee on Appropriations, to the Congress of the United States and to the people of the United States. We salute the gentleman for it, and we shall miss him.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993".

Mr. TRAXLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to express my heartfelt and deep appreciation to the Members of this body for the honor of having served with them and for the privilege of working with them over the years. I am very grateful.

To the people that sent me here, I am especially appreciative. It is the greatest honor that could ever befall any human being.

Mr. Chairman, in closing, I am opposed to the McCurdy amendment and encourage a no vote.

The CHAIRMAN. We are grateful to them for having sent the gentleman here, too.

Mr. TRAXLER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, pursuant to House Resolution 529, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment?

Mr. TRAXLER. Mr. Speaker, I demand a separate vote on the so-called McCurdy amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 76, line 6, strike "$6,670,650,000" and insert "$6,670,649,000".

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. McCURDY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 189, nays 219, not voting 26, as follows:

[Roll No. 342]

YEAS—189

Allard
Allen
Andrews (TX)
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Browder
Brown
Bryant
Bunning
Burton
Byron
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
DeFazio
DeLay
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (TX)
Johnston
Jones (GA)
Kasich
Kennelly
Klug
Kolbe
Kyl
Lancaster
Lantos
LaRocco
Lent
Lewis (FL)
Luken
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Moody
Moorhead
Morrison
Murphy
Neal (NC)
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Pallone
Patterson
Paxon
Payne (VA)
Penny
Peterson (FL)
Petri
Pickett
Pickle
Ravenel
Ray
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roukema
Rowland
Sanders
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Stump
Sundquist
Swett
Tanner
Thomas (CA)
Thomas (WY)
Torricelli
Valentine
Volkmer
Walker
Weber
Weldon
Wolf
Wyden
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—219

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Applegate
AuCoin
Beilenson
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Broomfield
Bruce
Bustamante
Camp
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Costello
Cox (IL)
Coyne
Cramer
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Green
Guarini
Hall (TX)
Hamilton
Harris
Hayes (IL)
Henry
Hoagland
Horton
Houghton
Hoyer
Jacobs
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lagomarsino
Laughlin
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McNulty
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Panetta
Parker
Pastor
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (MN)
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Skeen
Slaughter
Smith (FL)
Smith (IA)
Snowe
Stark
Stokes
Studds
Swift
Synar
Tallon
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Yates
Yatron

NOT VOTING—26

Alexander
Annunzio
Anthony
Atkins
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Davis
Gaydos
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
Lehman (FL)
Savage
Serrano
Solarz
Stallings
Tauzin
Towns

☐ 2320

Messrs. ESPY, RIGGS, and SARPALIUS changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 2322

The SPEAKER pro tempore (Mr. GEPHARDT). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

HOUR OF MEETING ON TOMORROW

Mr. BONIOR. Mr. Speaker, we had planned to be in at 9 a.m. tomorrow, but because of the lateness of the hour, and in consultation with the minority, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KOLBE. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KOLBE moves to recommit the bill, H.R. 5679, to the Committee on Appropriations with instructions to report the bill back forthwith with the following amendment:

On page 17, line 23, page 18, line 1 and page 18, line 5, strike "$161,000,000", "$95,000,000", and "$95,000,000", and insert in lieu thereof, "$261,000,000", "$145,000,000", and "$145,000,000", respectively.

Mr. KOLBE. Mr. Speaker, I thank the body for its indulgence here. The hour is late.

This motion to recommit is something that we have discussed during the course of the day, and I hope Members will just give us a moment to discuss this just a moment more.

This motion to recommit is to add $200 million to the HOPE, the home ownership program for low-income Americans.

The parliamentary situation is this, with the Burton 1 percent across-the-board cut, with the Owens amendment cutting from the advanced solid rocket motor, we have roughly $370 million under the 602 cap, so there is sufficient funds for this amendment.

But the substance of the amendment that I offer in this recommital motion is what I want to talk about. The substance is the issue here. HOPE is a program for home ownership for low-income Americans, a program that this body authorized and funded last year in the amount of $361 million. Tens of thousands of Americans who never could have dared to hope to own a piece of the American dream will have the opportunity to do so because of the HOPE Program. But thousands more will not have that opportunity. For every application that has been accepted, 10 have been turned down because there are not sufficient funds.

Mr. Speaker, in this bill we have more than $10 billion in assisted housing programs. We have less than 4 percent of that in a program to bring ownership to low-income Americans. The time has come for us to support these programs, programs not only from this administration but in the Democratic platform that calls for ownership for low-income Americans of their own homes.

Mr. Speaker, I yield to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I will be brief. With all due respect to the gentleman from Michigan [Mr. TRAXLER] and I do mean that, Mr. Speaker, I rise to support the gentleman's motion to recommit. I just want to tell this body that this is not a Republican idea, this is not just a Jack Kemp idea. This is a Bill Clinton idea because, Mr. Speaker, our candidate, and I mean this seriously, and I have worked with others on the platform drafting committee, and I want to tell this body that our candidate is out there running right now and working hard on the idea of empowering the poor, helping them to develop assets and savings so that they can grow their way out of poverty. And for those of us who have not noticed, he is running on that idea and he is doing very, very well.

Mr. Speaker, there is no greater asset, no greater tangible asset than the idea of home ownership. That is why we forgo about $60 billion in mortgage interest deduction because we believe that home ownership is a worthy goal.

By this gentleman's amendment he is just saying to put that goal in reach of the poor and not just the wealthy.

This program has moved beyond the experimental stage. It works. Twelve thousand poor families have already moved on to the home ownership rolls, and another 40,000, Mr. Speaker, are on their way.

This is not just a Republican idea, this is not just a Democratic idea. This is a good idea, and we need to pass it. I support the gentleman's motion to recommit.

Mr. STUMP. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Arizona.

Mr. STUMP. Mr. Speaker, I rise in opposition to this bill.

Mr. Speaker, I have the utmost respect for the gentleman from Michigan, BOB TRAXLER, and the gentleman from New York, BILL GREEN, for the late nights, hard work, and tough decisions they have had to make in drafting this bill. From discussions I have had with both of them, I am acutely aware of how they agonized about funding priorities within this bill and how frustrated they are about the results. I, too, am frustrated with the results and regret that I cannot support the bill.

Mr. Speaker, you have no doubt heard that this bill would increase the VA medical care budget $1.1 billion over the fiscal year 1992 level. Likewise, you have probably been told that veterans are unhappy about a billion dollar increase while they should be grateful. But, Mr. Speaker, let's first understand what this really represents. The billion dollar increase will not provide the same number of veterans the same amount of health care as last year. It is not a current services budget.

This budget would force the Department of Veterans Affairs to lengthen waiting times, forego the purchase of beneficial but costly new drugs, and again defer replacing over $800 million in medical equipment for the third consecutive year. The Committee on Veterans' Affairs constantly receives letters about long waiting times for appointments at VA medical centers. One letter informed us that a cardiology clinic had a waiting list that was 6½ months long. At another medical center, there was a 1-year delay for an opening in neurology. This is simply unacceptable.

Every Member in this body has received scores of letters from those on fixed incomes who cannot afford needed pharmaceuticals. Mr. Speaker, the VA is on a fixed income and it also cannot afford the high cost of prescription drugs. In the VA medical care community, the funding decisions in this bill mean that some clinically indicated prescriptions are never filled.

Any economist, chief financial officer, small businessman, farmer, or head of household will tell you that responsible budgeting is a matter of setting priorities and funding high priority programs to the exclusion of low priority ones. We on the Veterans' Affairs Committee subscribe to this basic rule of fiduciary responsibility. Last week, we reported a bill that provided offsets within areas of our own jurisdiction in order to put money toward higher priority veterans' needs. We ask that this body ensure that veterans' programs do not suffer cuts to be applied elsewhere.

This bill provides the President's request for VA medical care, although it is short of current services. We are not asking for major increases in veterans' programs, we are simply asking for basic funding for current services in VA medical and other programs. And this bill, instead, provides us with a shortfall. In this regard, it is unconscionable that savings from veterans' programs should be applied to offset the cost of other programs.

Veterans' programs did not receive current services funding, yet the HUD budget is over $2 billion more than the President's request, and the Neighborhood Reinvestment Corporation was allocated $1.5 million more than the President requested. Why aren't disabled veterans and their families worth a similar investment?

Part of the problem is that under the current appropriations structure, veterans are forced to compete with housing, science, and environmental programs. This body must make decisions on what is, or is not, a priority. Apparently, it is too difficult to prioritize between veterans, space, housing, and the environment under the current structure. I urge each Member to consider supporting House Resolution 204 to separate veterans' programs from this annual funding competition.

Mr. KOLBE. Mr. Speaker, I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, JOE MOAKLEY'S and JERRY SOLOMON'S wonderful Rules Committee has been beaten up quite a bit today, and it seems to me that we need to recognize the vote we are about to cast is not a procedural vote. It is not the previous question whereby the leadership holds Members of the majority to vote in favor of it.

This is the vote like the one that we had last year where 65 Members joined and 216 Members to 138 voted in favor of this HOPE Program, and 80,000 low-income Americans will have the opportunity to attain the American dream.

So I vote in favor of the effort of the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, to close the debate, I appreciate the comments of the gentleman from Mississippi. He and I have worked on this amendment together for the last 2 years, and it is one that very clearly benefits Americans everywhere, whether we are from the East, the West, the North, or the South, whether we represent districts that are well-to-do, or low-income, rural America or urban America. This is a program for Americans to own their own home, and own a piece of the American dream.

Mr. Speaker, last year this body passed this amendment, and I urge that we do so again this evening.

☐ 1130

The SPEAKER pro tempore (Mr. GEPHARDT). The gentleman from Michigan [Mr. TRAXLER] is recognized for 5 minutes.

Mr. TRAXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the motion to recommit, and with some pain for my dear friend from Mississippi.

Mr. Speaker, I would say the motion to recommit, to add funds, in my judgment, makes a mockery of the amendments that we just adopted to reduce funding. We just had an across-the-board that took out some $500 million, a very responsible amendment in view of our Budget Act. This amendment adds back the money we saved. About $200 million of that money comes back in, and it is rather confusing.

Further, in my assessment and my judgment, and I could spend a night on this, the whole program is a fraud and a deception. I could talk about this issue for half an hour. You are selling the seed corn. What you are doing is taking the Federal Government out of housing. That is the bottom line. That is what the goal is.

I would say that if you believe in the motions to bring the bill into conformity with the budget resolution when we saved that money, and we did that, please do not in the next vote add it back in. It defeats the purposes of what we were attempting to do in the Burton amendment.

Mr. Speaker, I yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me say that what this money will do is take the money out of deficit reduction and put it into the HOPE Program. Now, the HOPE Program is, indeed, a fraud. The only place it has worked, the only place it has worked they have put over $136,000 into each apartment.

If you think we should spend $136,000 per apartment to simply change a legal title so that someone moves from a renter to an owner but they do not own much because it is an apartment in a big, tall high-rise where there is a managing agent, and you think we should spend that money, all that money per apartment instead of reducing the deficit, then vote for this sham. But if you believe that the only way to deal with our housing crisis is not change the legal form of ownership but build new housing, then oppose this motion to recommit and put the money to deficit reduction where it belongs.

Mr. TRAXLER. Mr. Speaker, I yield to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise to oppose the motion to recommit.

Mr. Speaker, I join my colleagues in representing to this House that the HOPE Program is, indeed, a sham. There are any number of questions you can raise about this program.

First of all, we need to question why we give Jack Kemp the opportunity to use a lot of discretionary money, running around this country talking about an experimental program when, in fact, it is more a political program than it is a home ownership program.

We need also to question, after we have given money to those in public housing projects to purchase these programs, after 5 years who is going to repair the roof? Who is going to take care of the plumbing?

Mr. Speaker and Members, it would make good sense to me if we talked about assisting people with jobs and job training. It does not make good sense to me to talk about giving a grant to own a home to people who do not have a job.

This program is, indeed, a sham, and I would say to all of you that you need not support this motion to recommit if we want to talk about how we empower people in America; we will talk about how we will have an infrastructure program, public works program, and programs that will get people jobs so that they can, indeed, buy their own homes. And guess what, Mr. Speaker? If we do that, maybe the same people would want to buy a home next door to Jack Kemp instead of the housing project.

Mr. TRAXLER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. KOLBE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the passage of the bill.

The vote was taken by electronic device; and there were—yeas 198, nays 209, not voting 27, as follows:

[Roll No. 343]

YEAS—198

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Boucher
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Emerson
English
Espy
Ewing
Fawell
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Ireland
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (GA)
Kasich
Kennelly
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Moran
Morella
Morrison
Mrazek
Nichols
Nussle
Oxley
Packard
Pallone
Paxon
Payne (VA)
Petri
Pickle
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stearns
Stenholm
Stump
Sundquist
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wilson
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—209

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (TX)
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Glickman
Gonzalez
Goodling
Gordon
Green
Guarini
Hamilton
Harris
Hayes (IL)
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
Jenkins
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Price
Rahall
Rangel
Reed
Rose
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Stark
Stokes
Swett
Swift
Synar
Tallon
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—27

Alexander
Annunzio
Anthony
Boxer
Campbell (CO)
Collins (MI)
Conyers
Coughlin
Davis
Gaydos
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
Lehman (FL)
Roe
Savage
Serrano
Solarz
Stallings
Studds
Tauzin
Towns

☐ 2351

Mr. TORRICELLI and Mr. SWETT changed their vote from "yea" to "nay."

Mrs. KENNELLY and Mr. MILLER of Ohio changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GEPHARDT). The question is on the passage of the bill.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 314, nays 92, not voting 28, as follows:

[Roll No. 344]

YEAS—314

Abercrombie
Ackerman
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barrett
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Camp
Cardin
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hefley
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hutto
Ireland
James
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Scheuer
Schiff
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—92

Allard
Applegate
Archer
Armey
Baker
Barnard
Barton
Beilenson
Boehner
Broomfield
Burton
Callahan
Campbell (CA)
Combest
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Ewing
Fawell
Fields
Gallegly
Gekas
Gingrich
Goodling
Gradison
Grandy
Gunderson
Hancock
Hansen
Henry
Herger
Hughes
Hunter
Inhofe
Jacobs
Jenkins
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (FL)
McCandless
McEwen
Miller (OH)
Moody
Moorhead
Murphy
Myers
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Panetta
Pease
Penny
Petri
Ramstad
Roberts
Roemer
Rohrabacher
Roth
Roukema
Santorum
Schaefer
Schroeder
Schulze
Sensenbrenner
Shuster
Smith (OR)
Stark
Stump
Sundquist
Thomas (CA)
Thomas (WY)
Unsoeld
Walker
Weber
Wolf
Zeliff

NOT VOTING—28

Alexander
Annunzio
Anthony
Boxer
Campbell (CO)
Carper
Collins (MI)
Conyers
Coughlin
Davis
Gaydos
Hatcher
Hayes (LA)
Hefner
Hertel
Hyde
Jefferson
Jones (NC)
Kolter
Lehman (FL)
Mfume
Roe
Savage
Serrano
Solarz
Stallings
Tauzin
Towns

□ 2359

Mr. JOHNSON of Texas changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, there were several votes approaching midnight, procedural and otherwise, on VA and HUD appropriations which I was present for and voted on. However, on rollcall No. 344, final passage of the bill, I was not recorded on the electronic machine.

Let me just say for the RECORD that my vote was aye in support of the final passage of the bill, on the VA and HUD appropriations, rollcall No. 344.

□ 2400

PERSONAL EXPLANATION

Mr. STUDDS. Mr. Speaker, on the preceding motion to recommit with instructions I was detained on the telephone. Had I been present, I would have voted "no."

IRAQGATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. WOLPE] is recognized for 5 minutes.

Mr. WOLPE. Mr. Speaker, I have taken this special order to discuss one particularly outrageous element of the administration's policy toward Iraq and nuclear terrorism that has received almost no public attention.

As a result of the work of Chairman GONZALEZ, Chairman DINGELL, Chairman GEJDENSON, Chairman BROOKS, and others, two points are now unmistakably clear about the administration's policy in the gulf.

First, we now know that the administration played a major role in creating the monster that young Americans were then called upon to contain.

The administration shared intelligence with Iraq up until shortly before the invasion of Kuwait.

It provided Iraq with billions of dollars in agricultural credits at a time when Iraq was not credit-worthy and when voices within the administration itself warned that the Iraqis were using those credits for more than grain and tobacco.

It approved the export of nuclear components and other military technology to Iraq at a time when voices both inside and outside the administration counseled against doing so.

It provided covert support for the financing of Iraq's military buildup.

Mr. Speaker, the second unmistakable point is that the administration has been attempting to cover up the role it played in lending political support to Saddam Hussein and in facilitating Iraq's military buildup.

It has impeded both its own and congressional investigations into the BNL-Iraq weapons financing scheme.

It altered Commerce Department records of military exports to Iraq.

It has punished officials who have helped in congressional investigations.

And it continues to impede congressional investigations of administration policies toward Iraq prior to the gulf war.

But, Mr. Speaker, there is a third element of this tragic saga that has received very little public attention: amazingly, the administration—at the same time that it is talking tough about the Bully of Baghdad—is engaged in an ongoing, behind the scenes, effort to block legislation that seeks to prevent the emergence of future nuclear tyrants.

A large part of the threat which we tried to eliminate by sending over ½ million U.S. troops to the gulf, was Saddam Hussein's near-complete nuclear weapons capability. This capability was greatly strengthened by Iraq's ability to legally acquire nuclear related technology and know-how from the United States and other Western nations.

Mr. Speaker, current American law prohibits the export of nuclear fuel and reactors to nations that do not adhere to international standards or do not have formal nuclear cooperation agreements with America. The sales to Iraq went ahead because our export laws permit the export of nuclear technology that may have peaceful applications. This is a huge loophole that must be closed.

For the last 10 years—that's 10 years, Mr. Chairman—I, and others, have tried to close that loophole. In this Congress, Mr. MARKEY and I again introduced legislation which would close the dangerous nuclear trade loophole which is built into our laws.

This legislation has been passed by the House as title III of the Export Administration Act. It is now stuck in conference with the Senate because the administration does not want to see the nuclear trade loophole closed.

The administration has had the audacity to send this letter to the conferees, threatening to veto the export administration act if nuclear nonproliferation language remains in the bill.

The sheer arrogance of this threat is beyond words.

This letter states that if the nuclear export controls remain in the bill this will lead senior advisors to recommend that the President veto the bill. Let me quote:

> The administration is not prepared to accept a bill we believe undermines the President's foreign policy flexibility or that is inconsistent with our national security interests.

Mr. Speaker, is the President wholly incapable of learning from his mistakes? What will it take for President Bush to realize that our nuclear nonproliferation laws are broken and need fixing? It is clear that the administration helped create Saddam Hussein. It is clear that the administration has tried to cover up that assistance. It is also clear that George Bush has yet to comprehend one of the most important lessons of the gulf war: When our laws allow the export of dangerous nuclear technology, there will always be an international terrorist to buy it. It is time to close this loophole and end the nuclear arming of terrorists.

Mr. Speaker, I insert the entire text of the administration letter to the Export Administration Act conferees in the RECORD.

THE SECRETARY OF COMMERCE,
Washington, DC, February 3, 1992.

Hon. DONALD RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the House and the Senate Conferees on H.R. 3489, a bill to reauthorize the Export Administration Act, prepare to meet, we want to reaffirm the Administration's support for enactment of legislation renewing the EAA and to express appreciation for your efforts and those of your colleagues to address several Administration concerns. However, three provisions of the House-passed bill, the nuclear, encryption software, and telecommunications provisions, would, if presented in their current form, lead senior advisers to recommend that the President veto the bill. Administration concerns are detailed below.

The Administration has noted that several of the provisions in the House bill are contrary to U.S. national security interests and foreign policy objectives. Our goal, in working closely with Congress, is to ensure an effective and flexible system of export controls compatible with U.S. national security interests and that allow the Administration to target controls effectively and ensure they are consistent with and support our multilateral control efforts. It is essential that the legislation allow the United States flexibility to continue its leadership role in strengthening non-proliferation export controls, and to shape the response of COCOM to the rapidly moving events in the former Soviet Union and Eastern Europe.

Nuclear Provisions: The Administration and Congress share the objective of preventing proliferation of nuclear weapons. However, the Administration believes that these provisions undermine that objective and should be stricken entirely. They would place stringent requirements on peaceful U.S. nuclear activities that have no impact on nuclear weapons proliferation. These requirements would impede important U.S. projects including those promoting nuclear reactor safely in Eastern Europe and the former Soviet Union. The sanctions provisions could well result in mandatory sanctions against companies and nations that export benign commodities to safeguarded nuclear power facilities in full compliance with applicable foreign laws and international guidelines irrespective of whether those exports contribute to a nuclear weapons program in the recipient country. These broad sanctions would severely undermine very encouraging progress in our ongoing initiatives to develop multilateral dual-use export controls and to persuade supplier states to require full-scope safeguards as a condition of major nuclear supply. Finally, the requirement that the Administration report to Congress annually on International Atomic Energy Agency (IAEA) inspection results and arrangements would seriously weaken IAEA safeguards because the confidentiality of IAEA safeguards inspections has been an essential prerequisite for member states to accept safeguards.

Software with Encryption: This section, which would prohibit controlling mass market software with encryption under the Arms Export Control Act (AECA), is of particular national security concern and should be deleted in conference. The provision would require the automatic removal of all such software from the AECA to the EAA. The proliferation of software with sophisticated encryption undermines the effectiveness of activities critical to United States security. EAA provisions risk gaps in control on mass market software with encryption, which would be seriously detrimental to the effectiveness of achieving critical U.S. security activities. The Administration is actively working with industry to pursue refined controls and procedures that maintain U.S. competitiveness by providing expeditious commodity jurisdiction review when appropriate, and consistent license review, while ensuring that security is not compromised.

Telecommunications: The intent of the telecommunications provisions is to liberalize significantly the control levels applicable to exports of telecommunications products to the former Soviet Union. Levels established for the former Soviet Union reflected the collective judgment of the U.S. and its 16 COCOM partners as the most appropriate means to protect our security interests while enabling the former Soviet Union to improve its telecommunications infrastructure. With the demise of the Soviet Union, there are new issues that are under consideration by COCOM, and we and our allies intend to have new rules ready for approval at the next COCOM High Level Meeting. There must be flexibility to determine the export control levels that will both satisfy continuing national security concerns and support democracy and economic reform in the Republics. The telecommunications provision would, if unaltered during conference, preclude such U.S. flexibility and thereby put at risk the interests of the U.S. and its COCOM partners.

The enclosed appendix outlines several additional provisions to which the Administration objects. We request that the Conference carefully consider Administration views and modify these provisions as well. The cumulative content of the bill will significantly influence recommendations to the President.

The Administration will continue to work with Congress in an effort to reach acceptable language to reauthorize the EAA. As this letter points out, significant changes must be made to the bill during Conference before the President's senior advisers will be able to recommend that he sign it. The Administration is not prepared to accept a bill we believe undermine the President's foreign policy flexibility or that is inconsistent with our national security interests.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Conferees and that, unless modified as noted above, enactment of H.R. 3489 would not be in accord with the President's program.

Sincerely yours,
ROCKWELL A. SCHNABEL,
Acting Secretary of Commerce.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ROTH (at the request of Mr. MICHEL), for between 3 and 4 p.m. today, on account of attending funeral services;

Mr. PETRI (at the request of Mr. MICHEL), for between 3 and 4 p.m. today, on account of attending funeral services;

Mrs. MORELLA (at the request of Mr. MICHEL), for between 3 and 4 p.m. today, on account of attending funeral services;

Mr. MCCOLLUM (at the request of Mr. MICHEL), for between 3 and 4 p.m. today, on account of attending funeral services; and

Mr. SERRANO (at the request of Mr. GEPHARDT), for today after 8 p.m., on account of family emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 60 minutes, on July 30.

Mr. BROOMFIELD, for 60 minutes, on August 3.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. TRAFICANT for 60 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN, in committee, today, in support of Mr. STOKES on minority hiring and contracting practices.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. STARK.
Mr. CAMPBELL of Colorado.
Mr. MAVROULES.
Mr. HEFNER.
Mr. HAMILTON.
Mr. SARPALIUS.
Mr. HOYER.
Mr. ANDREWS of Texas.
Mr. TORRICELLI.
Mr. TORRES.
Mr. SMITH of Florida.
Mr. MAZZOLI in two instances.

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. WELDON.
Ms. ROS-LEHTINEN.
Mr. CRANE in two instances.
Mr. PORTER.
Mr. DAVIS.
Mr. BROOMFIELD in three instances.
Mr. BEREUTER.
Mrs. MORELLA.
Mr. SMITH of New Jersey.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2321. An act to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3001. An act to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes; to the Committee on Agriculture.

S. 3090. An act to expand the membership of the Commission on Immigration Reform, and for other purposes; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini;

H.R. 3836. An act, to provide for the management of Federal lands containing the Pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the Pacific yew; and

H.R. 5059. An act, to extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 295. An act for the relief of Mary P. Carlton and Lee Alan Tan;

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1992;

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes;

S.J. Res. 92. Joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day"; and

S.J. Res. 310. Joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day."

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 8 minutes a.m.), under its previous order the House adjourned until today, Thursday, July 30, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4029. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend titles 10 and 37, United States Code, to authorize credit for certain periods of active service performed concurrently as a member of the Senior Reserve Officers' Training Corps; to the Committee on Armed Services.

4030. A letter from the Secretary of Energy, transmitting a report on the demonstration and assessment of energy conservation standards for new commercial and multifamily high rise residential buildings, pursuant to 42 U.S.C. 6833(a)(1); to the Committee on Energy and Commerce.

4031. A letter from the Administrator, Environmental Protection Agency, transmitting notification of EPA's projected schedule for promulgation of regulations to improve the control of evaporative emissions from motor vehicles; to the Committee on Energy and Commerce.

4032. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

4033. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4034. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4035. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4036. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act and other statutes to clarify, make technical corrections to, and repeal laws, relating to acquisition and loss of citizenship, special immigrant status and immigrant visa applications; and to increase penalties for the use of fraudulently obtained U.S. travel documents; to the Committee on the Judiciary.

4037. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, sections 8101(2) and 8109(h), United States Code, to delete the references therein to "working drawings" and substitute therefor the words "construction documents," and to further delete the references therein to "preliminary plans" and to substitute therefor the words "design development"; to the Committee on Veterans' Affairs.

4038. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide an additional opportunity to enroll for educational assistance to certain individuals who receive voluntary separation incentives upon separation from active duty in the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5013. A bill to promote the conservation of exotic wild birds; with an amendment (Rept. 102–749 Pt. 1). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5658. A bill relating to the treatment of certain distributions made by Alaska Native corporations (Rept. 102–750). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4244. A bill to amend title 38, United States Code, to increase, effective as of December 1, 1992, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans; with an amendment (Rept. 102–752). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALL of Ohio: Committee on Rules. House Resolution 531. Resolution providing for the consideration of the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes (Rept. 102–754). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 532. Resolution providing for the consideration of the bill (H.R. 4318) to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes (Rept. 102–755. Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5194. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; with an amendment (Rept. 102–756). Referred to the Committee on the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5087. A bill to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes; with an amendment; referred to the Committee on Armed Services for a period ending not later than August 7, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(c), rule X. (Rept. 102–751, Pt. 1). Ordered to be printed.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5008. A bill to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, and for other purposes; with amendments; referred to the Committee on Armed Services and Ways and Means for a period ending not later than August 7, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(c) and (v) rule X, respectively. (Rept. 102–753, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN:

H.R. 5709. A bill to eliminate the Medicare peer review system; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 5710. A bill to apply laws relating to part-time career employees, fair labor standards, and occupational safety and health to the Congress; jointly, to the Committees on House Administration, Education and Labor, and Post Office and Civil Service.

By Mr. HAMMERSCHMIDT:

H.R. 5711. A bill to amend title 49, United States Code, relating to procedures for resolving claims involving unfiled, negotiated transportation rates, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HAYES of Louisiana:

H.R. 5712. A bill to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. NORTON (for herself, Mr. Blackwell, Mrs. Collins of Michigan, and Mr. Towns):

H.R. 5713. A bill to establish limitations on relocations of professional sports franchises and to provide communities with a right to purchase such franchises under certain conditions; to the Committee on Energy and Commerce.

By Ms. OAKAR:

H.R. 5714. A bill to extend until January 1, 1995, the existing suspension of duty on p-Nitro-o-anisidine; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 5715. A bill to suspend until January 1, 1995, the duty on ortho aminophenol; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself and Mr. Hughes):

H.R. 5716. A bill to extend for 2 years the authorizations of appropriations for certain programs under title I of the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

By Mr. SCHUMER:

H.R. 5717. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. STARK:

H.R. 5718. A bill to amend title 37, United States Code, to provide that circulars and other similar unsolicited mailings may not be entered as third-class mail unless they meet certain disclosure requirements relating to the manner in which the recipient's name or address was obtained; to the Committee on Post Office and Civil Service.

By Mr. HUCKABY:

H.R. 5719. A bill to designate the lock numbered 5 on the Red River Waterway in Louisiana as the "Joe D. Waggonner, Jr. Lock"; to the Committee on Public Works and Transportation.

By Mr. SMITH of Texas:

H.J. Res. 531. Joint resolution designating October 30, 1992, as "Refugee Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 75: Mr. Jefferson.

H.R. 78: Mr. Geren of Texas.

H.R. 118: Mr. Kopetski, Mr. Brown, Mr. Allard, and Mr. Sundquist.

H.R. 299: Mr. James.

H.R. 786: Mr. Bustamante and Mrs. Collins of Illinois.

H.R. 856: Mr. McDermott, Mr. Towns, and Mr. Guarini.

H.R. 1348: Ms. Molinari.

H.R. 1430: Mr. Campbell of Colorado.

H.R. 1645: Mr. Frank of Massachusetts.

H.R. 1987: Mrs. Mink.

H.R. 2126: Mr. Ravenel.

H.R. 2880: Mr. Owens of Utah.

H.R. 3373: Mr. Ireland, Mr. Thomas of Georgia, and Mr. McCollum.

H.R. 3486: Mr. Swett.

H.R. 3487: Mr. Ballenger.

H.R. 3583: Ms. Slaughter.

H.R. 3781: Mr. Kostmayer, Mr. Hughes, Mr. Emerson, Mr. Lightfoot, Mr. Upton, and Mr. Duncan.

H.R. 3850: Mr. Gillmor, Mr. Skelton, Mr. Jones of Georgia, Mr. Zeliff, and Mr. Traficant.

H.R. 4114: Mr. Stark and Mr. Bryant.

H.R. 4175: Mr. Guarini.

H.R. 4178: Mr. Shays.

H.R. 4207: Mr. Owens of Utah.

H.R. 4244: Mr. Holloway, Mr. Hammerschmidt, Mr. Jenkins, Mr. Hefner, Mr. Richardson, Mr. Stenholm, Mr. Payne of Virginia, Mr. Parker, Mr. Harris and Mr. de Lugo.

H.R. 4294: Mr. Johnson of South Dakota.

H.R. 4305: Mr. Campbell of California.

H.R. 4543: Mr. Lancaster.

H.R. 4593: Mr. Zeliff and Mr. Campbell of California.

H.R. 5008: Mr. Blaz, Mr. Hamerschmidt, Mr. Jenkins, Mr. Hefner, Mr. Richardson, Mr. Stenholm, Mr. Payne of Virginia, Mr. Parker, Mr. Harris, and Mr. de Lugo.

H.R. 5019: Mr. Zimmer.

H.R. 5087: Mr. Hammerschmidt, Mr. Jenkins, Mr. Hefner, Mr. Richardson, Mr. Stenholm, Mr. Payne of Virginia, Mr. Parker, Mr. Harris, and Mr. de Lugo.

H.R. 5140: Mr. Johnson of South Dakota.

H.R. 5216: Mr. Pallone.

H.R. 5250: Mr. Hammerschmidt.

H.R. 5282: Mr. Packard.

H.R. 5317: Mr. Oberstar.

H.R. 5396: Mr. Schaefer.

H.R. 5416: Mr. McNulty.

H.R. 5476: Mr. Bacchus, Mr. Conyers, Mr. Gallo, Mr. Levine of California, Mr. Markey, Mr. McCloskey, Mr. Murtha, Mr. Owens of Utah, Mr. Roe, Mr. Valentine, Mr. Washington, Mr. Whitten, Mr. Yatron, Mr. de Lugo, Mr. Faleomavaega, Mr. Mineta, and Mr. Bryant.

H.R. 5542: Mr. Doolittle.

H.R. 5572: Mr. Hughes, Mr. Young of Alaska, Mr. Lantos, Mr. Boehlert, Mr. Green of New York, Mr. Natcher, Mr. Pickett, Mr. Rangel, Mr. Roe, Mr. Durbin, Mr. Rose, Mr. Gilman, Mrs. Boxer, Mr. Walsh, Mr. Rahall, Mr. Serrano, Mr. Richardson, and Mr. Mfume.

H.R. 5592: Mr. Goss.

H.R. 5593: Mr. Jacobs.

H.R. 5610: Mr. Lewis of Florida, Mr. Clinger, and Mr. Schiff.

H.R. 5626: Mr. Guarini, Mr. Walsh, and Mr. Olin.

H.R. 5680: Mr. Owens of Utah, Mr. Downey, Mr. Horton, Mr. Vento, and Mr. Jacobs.

H.R. 5681: Mr. KOLTER.

H.J. Res. 336: Mr. MURPHY, Mr. MORAN, Mr. ANDREWS of New Jersey, and Ms. HORN.

H.J. Res. 422: Mr. STUDDS, Mr. COLEMAN of Missouri, Mr. CLINGER, Mr. PICKETT, Mr. NAGLE, Mr. LEWIS of Florida, Ms. OAKAR, and Mr. MOODY.

H.J. Res. 453: Mr. ANDREWS of New Jersey.

H.J. Res. 455: Mr. BERMAN, Mr. MILLER of California, and Mr. KLECZKA.

H.J. Res. 461: Mr. ROSE, Ms. HORN, and Mr. BILIRAKIS.

H.J. Res. 469: Mr. GEREN of Texas, Mr. PRICE, Mr. SAXTON, Mr. HERTEL, Mr. CARPER, Mr. KANJORSKI, Ms. SNOWE, Mr. OWENS of New York, and Mr. ENGEL.

H.J. Res. 483: Mr. LANCASTER.

H.J. Res. 489: Mr. DIXON, Mr. GREEN of New York, Mr. GUARINI, Mr. VANDER JAGT, Mr. WALSH, Mr. WOLF, Mr. PERKINS, and Ms. SNOWE.

H.J. Res. 506: Mr. KOSTMAYER.

H. Con. Res. 11: Mrs. VUCANOVICH.

H. Con. Res. 84: Mr. MOODY.

H. Con. Res. 92: Mr. LENT, Mr. BONIOR, Ms. SLAUGHTER, Mr. LEHMAN of California, Mr. CHANDLER, Mr. MACHTLEY, and Mr. MCMILLEN of Maryland.

H. Con. Res. 337: Mr. HAMILTON, Mr. MCCLOSKEY, Mr. PETERSON of Minnesota, Ms. KAPTUR, and Mr. EVANS.

H. Con. Res. 345: Mr. EVANS, Mrs. MORELLA, Mr. ENGEL, Mrs. BOXER, and Mr. TOWNS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5678

By Mr. SOLOMON:

—On page 83, after line 11, insert the following new title:

TITLE VII—EXPEDITED RESCISSION CONSIDERATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Expedited Consideration of Proposed Rescissions Act of 1992.

SEC. 702. MODIFICATION OF RESCISSION PROCESS.

(a) CONTENTS OF SPECIAL MESSAGE.—Subsection (a) of section 1012 of the Impoundment Control Act of 1974 (2 U.S.C. 683(a)) is amended by striking out "and" at the end of paragraph (4), by striking out the period and inserting "; and" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) in the case of budget authority proposed to be rescinded or reserved (including entitlement programs), language amending the law authorizing such programs to allow the programs to continue to function at the proposed new level of budget authority.".

SEC. 703. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

(a) IN GENERAL.—Part B of title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY.—In addition to the method of rescinding budget authority specified in section 1012, the President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriations Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) Not later than 3 days after the date on which the President approves an appropriation Act, the President may—

"(A) transmit to the Congress a special message proposing to rescind amounts of budget authority provided in that Act; and

"(B) transmit with that special message a draft bill or joint resolution that, if enacted, would rescind that budget authority.

"(2) In the case of an appropriations Act that includes more than one of the regular 13 appropriations Acts, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill or joint resolution for each of the regular appropriations Acts contained therein.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the matters referred to in paragraphs (1) through (6) of section 1012(a).

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) On the date on which a special message is transmitted to the Congress under section (b), or as soon thereafter as possible, the majority leader or minority leader of the House of the Congress in which the appropriation Act involved first originated shall introduce (by request) the draft bill or joint resolution accompanying that special message. If the bill or joint resolution is not introduced as provided in the preceding sentence, then any Member of that House may introduce the bill or joint resolution.

"(B) The bill or joint resolution shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the end of the period (not to exceed 7 days) established for consideration of the bill or joint resolution by the Speaker of the House of Representatives or the majority leader of the Senate, as the case may be. A committee failing to report the bill or joint resolution within such period shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill or joint resolution shall be taken in that House on or before the close of the 10th calendar day of continuous session of the Congress after the date of the introduction of the bill or joint resolution in that House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of the Congress on the same calendar day on which the bill or joint resolution is agreed to.

"(2)(A) A bill or joint resolution transmitted to the House of Representatives or the Senate pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the end of the period (not to exceed 7 days) established for consideration of the bill or joint resolution by the Speaker of the House of Representatives or the majority leader of the Senate, as the case may be. A committee failing to report the bill or joint resolution within such period shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed upon the appropriate calendar.

"(B) A vote on final passage of a bill or joint resolution transmitted to that House shall be taken on or before the close of the 10th calendar day of continuous session of the Congress after the date on which the bill or joint resolution is transmittted. If the bill or joint resolution is agreed to in that House, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated, together with a statement of the action taken by the House acting under this paragraph.

"(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill or joint resolution under this section shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable and shall require an affirmative vote of two-thirds of the Members voting, a quorum being present. It shall not be in order to move to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

"(C) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives applicable to other bills and joint resolutions in similar circumstances.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to recommit a bill or joint resolution under this section is not in order.

"(d) AMENDMENTS PROHIBITED.—No amendment to a bill or joint resolution considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded in a special message transmitted to the Congress under subsection (b) shall be made available for obligation after the date on which the Congress fails to pass the bill or joint resolution transmitted with that special message.

"(f) APPROPRIATION ACT DEFINED.—For purposes of this section, the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.".

(b) EXERCISE OR RULEMAKING POWERS.—Section 904 of such Act (2 U.S.C. 621 note) is amended—

(1) by striking out "and 1017" in subsection (a) and inserting in lieu thereof "1013, and 1018"; and

(2) by striking out "section 1017" in subsection (d) and inserting in lieu thereof "sections 1013 and 1018"; and

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 1011 of such Act (2 U.S.C. 682(5)) is amended—

(A) by striking out "1012, and" and inserting in lieu thereof "1012, the time periods referred to in subsections (d) and (e) of section 1013, and";

(B) by striking out "1012 during" and inserting in lieu thereof "1012 or 1013 during";

(C) by striking out "of 45" and inserting in lieu thereof "of the applicable number of"; and

(D) by striking out "45-day period referred to in paragraph (3) of this section and in section 1012" an inserting in lieu thereof "period or periods of time applicable under such section".

(2) Such section is further amended—

(A) in paragraph (4), by striking out "1013" and inserting in lieu thereof "1014"; and

(B) in paragraph (5)—

(i) by striking out "1016" and inserting in lieu thereof "1017"; and

(ii) by striking out "1017(b)(1)" and inserting in lieu thereof "1018(b)(1)".

(3) Section 1015 of such Act (as redesignated by section 3(a)) (2 U.S.C. 685) is amended—

(A) by striking out "1012 or 1013" each place it appears and inserting in lieu thereof "1012, 1013, or 1014";

(B) in subsection (b)(1), by striking out "1012" and inserting in lieu thereof "1012 or 1013";

(C) in subsection (b)(2), by striking out "1013" and inserting in lieu thereof "1014"; and

(D) in subsection (e)(2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by striking out "1013" in subparagraph (C) (as so redesignated) and inserting in lieu thereof "1014"; and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and".

(4) Section 1016 of such Act (as redesignated by section 3(a)) (2 U.S.C. 686) is amended by striking out "1012 or 1013" each place it appears and inserting in lieu thereof "1012, 1013, or 1014".

(d) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of such Act is amended—

(1) by redesignating the items relating to sections 1013 through 1017 as items relating to sections 1014 through 1018; and

(2) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions.".

SEC. 704. APPLICATION.

Section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 3) shall apply to amounts of budget authority provided by appropriation Acts (as defined in subsection (f)(2) of such section) that are enacted after the date of the enactment of this Act.

SEC. 705. TERMINATION.

The authority provided by section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 3) shall terminate effective on the date in 1994 on which the Congress adjourns sine die.

H.R. 5679

By Mr. DORGAN of North Dakota:

—Page 36, line 13, strike "$717,088,000" and insert "$698,027,000".

EXTENSIONS OF REMARKS

A TRADE WAR THAT NEEDN'T BE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. BROOMFIELD. Mr. Speaker, I've long been an advocate of free trade. I certainly couldn't improve on the arguments developed by economists on this issue over the last 200 years or so, but I would note that the economists have been virtually unanimous in their endorsement of free trade and in their opposition to those nations that would try to shield their own industries from fair competition.

The key word here is "fair." It does no good to compete when the system is rigged, and that's why I have also been an advocate of a tough U.S. trade policy. We shouldn't unfairly throw around our weight in international markets, but we shouldn't be so afraid of misusing our economic power that we go to the opposite extreme and become the world's patsy.

That's why I fully support the decision of our Government to impose a 50-percent import tax on beer being imported to the United States from Ontario. The attached editorial from the Detroit News spells out clearly and convincingly why the United States was forced into taking this position.

After Canada has signed the North American Free-Trade Agreement, the Province of Ontario seems to be playing us for the fool by imposing two nontariff barriers that clearly have no other real purpose than keeping American beer out of the homes and saloons of thirsty Canadians.

Ontario, and by extension Canada, has far more to lose in this trade war than America. More than 70 percent of Canada's exports are sold in United States markets; only a little more than 20 percent of America's exports are sold in Canada. That is also why Canadian officials have far more to gain by playing fair and square with us.

The Government of Ontario should consider backing down before this issue begins to undermine popular support for the Free-Trade Agreement.

The sooner the better. On this year of the 500th anniversary of the discovery of the Americas, I would hope that Canadians and Americans would be able to reach across the border, beer mugs in hand, and celebrate all those things that bring us together rather than those things that pull us apart.

I insert the Detroit News editorial, "Ontario Brews a Tariff War," in the RECORD:

[From the Detroit News, July 28, 1992]

ONTARIO BREWS A TARIFF WAR

The U.S. and Canadian governments last week imposed 50 percent import taxes on beer going in and out of Ontario. The retaliatory moves came after Ontario's provincial government ignored the spirit of an international agreement reached in April and imposed a tax that effectively serves as a tariff on U.S. beer within its borders. The move by Ontario serves as a bad example as Canadian, U.S. and Mexican negotiators are struggling to come to agreement on a wider North American Free Trade Agreement that ultimately should produce benefits for all three countries.

Certainly the United States does not have clean hands in trade disputes with Canada. There have been wrangles over cross-border tariff in lumber, autos, steel and agricultural commodities since Washington and Canada's national government in Ottawa began a free-trade pact on Jan. 1, 1989. But the tax action by Ontario's provincial government in Toronto is blatant. On May 25, Ontario imposed a 10-cent "environmental" tax on every aluminum can containing an alcoholic beverage and a $2.13 per case warehousing fee for imports. The tax moves in the opposite direction from the spirit of a Canadian-U.S. agreement to open Canadian markets to U.S. beer companies by September 1993. Toronto's taxes made U.S. beer more expensive than most Canadian brands because nearly 80 percent of Canadian beer comes in glass bottles while most U.S. beer is shipped to Canada in lighter, non-breakable aluminum cans.

Ontario makes a recycling argument in favor of the can tax. But that is hard to believe since Ontario already recycles 80 percent of its cans. Ontario officials argue that since the bottle return rate is 99 percent, why not try to get the can rate just as high. If that was the real reason, however, it seems likely the provincial government would have put the 10-cent tax on soft drink cans as well.

When efforts failed to get Ontario to rescind its tariffs, the United States imposed the 50 percent duty tax on beer imported from Ontario—primarily to Michigan and New York. Canada responded with a 50 percent duty on two U.S. brands, Stroh and Heileman, imported to Ontario. Both moves, fortunately, appear to be efforts to localize the problem to Ontario without hurting the rest of the beer trade between the two countries.

Nevertheless, this provincial show of power weakens the credibility of Canadian trade officials currently meeting with U.S. and Mexican trade ministers to negotiate a North American Free Trade Agreement.

It is not the place of Americans to tell the Toronto government what to do, but it is fair for American negotiators to ask if Canada's national government in Ottawa has sufficient authority to conduct a trade policy.

MEDICAL RESEARCH: THE NATIONAL INSTITUTES OF HEALTH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 29, 1992, into the CONGRESSIONAL RECORD:

MEDICAL RESEARCH: THE NATIONAL INSTITUTES OF HEALTH

The United States conducts more advanced medical research than any other country in the world today. A large part of this research is undertaken by the National Institutes of Health (NIH), which is part of the federal government's Department of Health and Human Services. Even in a day when governments spending is attacked vehemently and confidence in the efficiency of government programs is low, I do not recall any Hoosier advising me of his or her opposition to NIH funding.

WHAT IS NIH?

Since NIH's beginning as a one-room laboratory over 100 years ago in 1887, its mission has been to improve the health of the American people. NIH investigates diseases ranging from the common cold, to heart disease, to the rarest genetic disorder. NIH also supports training for scientists and their staffs.

The modern NIH is a vast complex with more than 40 buildings located on over 300 acres in Bethesda, Maryland—several miles outside Washington, D.C. This year's budget for NIH exceeds $8.9 billion, which supports direct research on the NIH campus, as well as nearly 22,000 independent projects at over 1,000 universities and institutions. NIH is less than 1% of federal spending.

The federal government supports over 40% of all national health care research; by itself, NIH conducts roughly 30% of the medical research. Private business finances almost half of all research. Private education, non-profit groups, and state and local government efforts make up the rest.

ONGOING NIH RESEARCH

NIH consists of a host of separate institutes and centers, each with a different medical mission. Here is a brief outline of several areas of NIH research.

Heart Disease: Heart disease is the number one cause of death in the United States, claiming over 730,000 Americans each year. Roughly 19 million Americans today suffer from heart disease, despite the fact that lifestyle changes and medical research have helped to lower the death rate from heart disease by roughly 45% since the early 1970s. NIH will spend more than $660 million this year for research into treatment and prevention of heart disease.

Cancer Research: Cancer is the second leading cause of death among Americans. Each year there are over 1.1 million new cases, and over five million Americans have cancer. NIH will spend almost $2 billion this year in efforts to improve our medical knowledge of how to detect, prevent, and treat cancer.

Head Trauma: Head injuries or disorders (such as strokes and hemorrhages) are the third leading cause of death in the U.S. NIH will spend roughly $580 million this year researching diseases related to head trauma and the nervous system such as Parkinson's disease, epilepsy, multiple sclerosis, muscular dystrophy, spinal cord injuries, and stroke.

Child Health and Human Development: NIH scientists are looking at the causes of birth defects and mental retardation during

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

pregnancy or early childhood. Recent efforts have focused on ways to reduce infant mortality by improving prenatal and postnatal care of low birthweight, premature, and drug affected babies.

Aging: Scientists are exploring ways to prevent, delay, and deal with long-term illnesses and disabilities. Over 6.5 million Americans require long-term care because of one or more disabilities. The number of Americans who need supervised care is expected to increase to over 19 million within 35 years. Alzheimer's disease, which affects roughly four million Americans, is a major focus of current research.

Diabetes, Digestive, and Kidney Diseases: Diabetes remains one of the leading causes of death in America. NIH works on a variety of treatments including human insulin, liver transplants, and dialysis.

Genetic Research: NIH researchers are attempting to map and detail the human genetic code, which is the blueprint of each human being's characteristics. Disorders within the genetic code affect over 15 million Americans. Examples include spina bifida, hemophilia, cystic fibrosis, and Downs sydrome. Once scientists have mapped and understood the genetic code, they could seek possible cures for genetic disorders by replacing defective genes with their healthy counterparts. Although there have been great advances, only a small portion of the genetic code is well understood today.

AIDS: Together with the Centers for Disease Control (CDC), NIH conducts almost all of the AIDS research done by the federal government. Federal research on AIDS is over $2 billion. Scientists know how to prevent AIDS, but have not discovered a cure. More than one million Americans are believed to be infected with the human immunodeficiency virus (HIV) which causes AIDS, and the disease is expected to cause over 340,000 deaths by the end of the next year.

Other fields of NIH research include lung disease, allergies, eye care, dental health, environmental and occupation health sciences, musculoskeletal and skin diseases, deafness, nursing, and improvement of laboratory equipment and techniques. In addition, NIH maintains the National Library of Medicine, the finest medical science library in the world, and supports medical libraries, universities, and institutions across the country.

PRIORITIES FOR NIH RESEARCH

While NIH research is one of the most strongly and widely supported federal programs, there is always some contention about which diseases should receive priority. Each disease, whether it be cancer, lung disease, or AIDS, has its own constituency which supports research in that field before all others. Recent debate within NIH and Congress has focused on the cost of AIDS research and whether this will impair other NIH research efforts. In addition, there has been a recent effort to increase women's health research, which has been neglected by NIH in the past.

No matter what the outcome of this debate, NIH will continue to lead the world in medical research. This research has enabled us to lead longer and healthier lives, and NIH is a sound immediate and long-term investment in the health and productivity of the American people.

A TRIBUTE TO SOUTH FLORIDA CAR DEALERS RENE ARGUELLO AND JOEL HAMILTON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to pay tribute to two of my constituents, Mr. Rene Arguello and Mr. Joel Hamilton. These gentlemen have recently joined their years of car dealing experience and opened their own car dealership, Lakes Lincoln-Mercury. Though car sales had slipped in the past, these businessmen saw that this was the best time to invest, as auto franchises could be purchased for much less than they would be worth in a surging market.

Mr. Arguello and Mr. Hamilton's combined experience in the auto business is probably their greatest asset. Mr. Hamilton has been in the car dealing business for 25 years, and Mr. Arguello for 12. They both have extensive contacts in the south Florida area, and are confident that this, combined with their promise of good service, will bring them success.

They intend to build a strong service base, making it the core of their dealership. They understand that due to the state of the economy, people are keeping their cars longer and need to have more repairs. Providing a dependable service center proves to be profitable for both the auto dealers and the consumers.

On this day I ask my colleagues to join me in recognizing the work of these south Florida businessmen. I commend Mr. Arguello and Mr. Hamilton on their initiative, and wish them much success with their new venture.

HONORING GLORIA VARGAS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual and dedicated public servant, Ms. Gloria Vargas, a retired educator from Bassett Unified School District.

In 1944, Gloria graduated from Lincoln High School in Los Angeles and in 1974, she earned her bachelor of arts degree in sociology from California State University, Los Angeles.

In 1966, Gloria began her career in education as a social worker of the Head Start Program for Basset Unified School District. From 1973 to 1977, she served as a career development consultant for the Los Angeles County School District. In 1977, Gloria was promoted to community relations specialist of the Title VII Bilingual Program for Bassett Unified School District. She served in this capacity for 11 years, until she retired in 1988.

In addition to her professional accomplishments, Gloria is active in countless community organizations including, the Adult Day Care Planning Council of Los Angeles County; the West Covina Women's Club; the La Puente Community Mental Health Center, and the American Heart Association. She also serves as the producer and host of "Senior Scene," a cable television program for seniors and she is a commissioner on the West Covina Senior Citizens Commission. Recently she was selected to serve as a member of the Los Angeles County Grand Jury for 1992–1993.

Gloria also has been the recipient of numerous awards including the Golden Apple Award; La Puente Valley "Woman of the Year"; Los Angeles County Women's Commission Award, and this year she was honored as West Covina's Older American of the Year.

Since 1991, Gloria has served as a member of my U.S. Service Academy Review Board. The board meets annually to interview and screen applicants who are seeking admission to a U.S. Service Academy. The dedicated work performed by Gloria and the other members of the board is an indispensable contribution to me in selecting my nominees. Their work ensures that high standards are maintained for our Nation's future officer corps.

Mr. Speaker, it is with pride that I rise to recognize my friend and adviser, Gloria Vargas, and I ask my colleagues to join me in saluting her for her outstanding commitment to the defense of our Nation and for her record of unselfish service to the residents of the 34th Congressional District.

EARLY TRADE BETWEEN INDIANS AND NON-INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 [S.J. Res. 217, H.J. Res. 342], Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a recollection of a member of the Menominee Tribe, as published in a book entitled *Native American Testimony*. The editorial comment which precedes the articles is provided also.

THUNDER, DIZZYING LIQUID, AND CUPS THAT DO NOT GROW

The white man's magical offerings—guns and metal utensils and liquor—all play a part in this Menominee folktale. The time is around the 1660s; the "sea" in the story is probably Lake Michigan; the Frenchmen are very likely traders who followed in the wake of the French missionary-explorer Jean Nicolet; the speaker is named Waioskasit.)

(As their trade with the French blossomed, the Menominee exchanged their sedentary life, contentedly cultivating wild rice, for a seminomadic existence as fur trappers. This bound them more tightly to the French, who encouraged them to buy goods on credit against future payment in furs. Yet the partnership strengthened by extensive intermarriage, also made the Menominee a dominant power in the Great Lakes area.)

When the Menominee lives on the shore of the sea, they one day were looking out across the water and observed some large vessels, which were near to them and wonderful to behold. Suddenly there was a terrific explosion, as of thunder, which startled the people greatly.

When the vessels approached the shore, men with light-colored skin landed. Most of them had hair on their faces, and they carried on their shoulders heavy sticks ornamented with shining metal. As the strangers came toward the Indians, the latter believed the leader to be a great manido [spirit], with his companions.

It is customary, when offering tobacco to a manido, to throw it into the fire, that the fumes may ascend to him and that he may be inclined to grant their request; but as this light-skin manido came in person, the chief took some tobacco and rubbed it on his forehead. The strangers appeared desirous of making friends with the Indians, and all sat on the ground and smoked. Then some of the strangers brought from the vessel some parcels which contained a liquid, of which they drank, finally offering some to the Menominee. The Indians, however, were afraid to drink such a pungent liquor indiscriminately, fearing it would kill them; therefore four useless old men were selected to drink the liquor, and thus to be experimented on, that it might be found whether the liquid would kill them or not.

The men drank the liquid, and although they had previously been very silent and gloomy, they now began to talk and to grow amused. Their speech flowed more and more freely, while the remainder of the Indians said, "See, now it is beginning to take effect!" Presently the four old men arose, and while walking about seemed very dizzy, when the Indians said, "See, now they are surely dying!" Presently the men dropped down and became unconscious; then the Indians said to one another, "Now they are dead; see what we escaped by not drinking the liquid!" There were sullen looks directed toward the strangers, and murmurings of destroying them for the supposed treachery were heard.

Before things came to a dangerous pass, however, the four old men got up, rubbed their eyes, and approached their kindred, saying, "The liquor is good, and we have felt very happy; you must try it, too." Notwithstanding the rest of the tribe were afraid to drink it then, they recalled the strangers, who were about to return to their boats.

The chief of the strangers next gave the Indians some flour, but they did not know what to do with it. The white chief then showed the Indians some biscuits, and told them how they were baked. When that was over, one of the white men presented to an Indian a gun, after firing it to show how far away anything could be killed. The Indian was afraid to shoot it, fearing the gun would knock him over, but the stranger showed the Indian how to hold it and to point it at a mark; then pulling the trigger, it made a terrific noise, but did not harm the Indian at all, as he had expected. Some of the Indians then accepted guns from the white strangers.

Next the white chief brought out some kettles and showed the Indians how to boil water in them. But the kettles were too large and too heavy to carry about, so the Indians asked that they be given small ones—cups as large as a clenched fist, for they believed they would grow to be large ones by and by.

The Indians received some small cups, as they desired, when the strangers took their departure. But the cups never grew to be kettles.

WAIOSKASIT. Menominee.

PROSECUTE THOSE RESPONSIBLE FOR THE DEATH AND DESTRUCTION IN THE FORMER YUGOSLAV REPUBLICS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. HOYER. Mr. Speaker, we watch daily—with frustration, anger and horror—as shells and bullets rain down on the people of Sarajevo and elsewhere in Bosnia-Hercegovina, flooding their beleaguered communities with blood and rubble. Bosnia-Hercegovina once encapsulated perhaps the grandest blend of Europe's diverse cultural heritage; today, it is the most recent setting for the extreme hatred and intolerance that has all too frequently exploded with violence on the European stage over the centuries.

We now contemplate, with an utmost seriousness in the face of this tragic situation, what we can do to bring this to a halt. This is a question to which the international community has thus far not found any easy answers but, increasingly, two difficult possibilities: to intervene directly and forcefully with some multilateral and limited peacemaking effort, or to stand by and watch as the combatants annihilate each other and the innocent people in their way, as they most certainly will. There are certain risks with any direct involvement, but they must be weighed against our country's strong national interest in peace in the Balkans, as well as our moral obligation as a world power to take effective action when masses of people are being so senselessly slaughtered.

One thing we can do, must do, and should all be able to agree to do, regardless of any other action we may or may not take, is to seek to hold those responsible for what we have seen in the past year personally accountable, through an international tribunal, for their actions which constitute violations of international humanitarian law.

Less than 1 month ago, President Bush and the leaders of the 50 other countries belonging to the Conference on Security and Cooperation in Europe—the CSCE—convened a summit in Helsinki which adopted a lengthy document seeking to provide answers to the many problems plaguing today's Europe and the Central Asian republics of the former Soviet Union. Most critical of these problems has been the political crisis and civil conflict in the former Yugoslavia. In the document that they adopted, the CSCE States committed themselves, among other things, to ensure respect for international humanitarian law, including the protection of civilian populations. In particular, they also reiterated their commitment that those who violate international law will be held personally accountable.

This view was evident in statements adopted specifically in regard to the Yugoslav conflict. In January of this year, for example, the foreign ministers of the CSCE, meeting in Prague, collectively warned "all those responsible for acts of violence and for violations of ceasefire agreements that under international law they are personably accountable for their actions that are in contravention of the revelant norms of international humanitarian law." As far back as October of last year, CSCE senior officials expressed their "conviction that those responsible for the unprecedented violence against people in Yugoslavia, with its ever-increasing loss of life, should be held personally accountable under international law for their actions."

As chairman of the Helsinki Commission, mandated to monitor and encourage compliance with the principles and provisions of the CSCE, I strongly believe that an international effort should therefore be taken—immediately—to investigate violations of international legal standards in the former Yugoslav Republics, to seek to take into custody those responsible and to establish an international tribunal where they could be tried and, if found guilty, given commensurate punishment. Such a tribunal could be established under United Nations auspices, perhaps with the assistance of the European Community, the Council of Europe, and the CSCE as regional bodies that could be vested with authority in this matter.

It is, Mr. Speaker, an understatement to say that World War II represented a turning point in the history of relations between states, and between states and individual citizens. Until that war, aggression was often viewed as an acceptable means to pursue national policies, with few if any rules governing the way in which a state might engage in combat. A state's treatment of its own citizens, moreover, was considered strictly an internal matter. The one thing which most marks the advance of human civilization in the past half-century is the effort to change this situation, and to develop an international legal system that allows us to consider as criminals those who revert to the inhumane activity of the past.

Following World War II, the Nuremberg Charter, which set guidelines for the punishment by international tribunal of those responsible for the mind-boggling annihilation that was the Holocaust, established three crimes that would fall into its reach. First, there were crimes against peace, including the planning, preparation, and initiation of a war of aggression. Second, there were actual war crimes, including the murder of prisoners of war and innocent hostages, plunder of property, and the wanton destruction of cities, towns, and villages. Finally, there were crimes against humanity, including the murder or other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial, or religious grounds in execution of or in connection with crimes against peace or war crimes.

Unfortunately, these crimes, as I have just described them, bring instant images of exactly what has been taking place in several of the former Yugoslav Republics during the past year, from the invasion of Slovenia, to the conflicts in Croatia and Bosnia-Hercegovina, to the repression in Kosovo. Fortunately, these crimes have also been codified in several international treaties which allow us to do something about them, namely to seek punishment of their perpetrators.

For example, the so-called fourth Geneva Convention, which provides for the protection of civilians in times of conflict or occupation. This convention prohibits wilful killing, torture, and the taking of hostages and extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly. It also bars individual or mass forcible transfers, as well as deportations of protected persons from occupied territory, regardless of the motive. In addition, the Genocide Convention provides for the punishment of those who commit acts intended "to destroy, in whole or in part, a national, ethnical, racial or religious group, as such," regardless of whether these perpetrators are "constitutionally responsible rulers, public officials or private individuals."

I cannot list here, Mr. Speaker, all the suspects for whom investigation and arrest would be warranted, but no one side would necessarily be immune from prosecution, and taking orders would be no excuse. First among those of whom I would suggest strong consideration and investigation for action in this regard is Slobodan Milosevic, the Serbian leader who seems most responsible for the violence and repression that goes on daily in the region. Other members of the Serbian Government deserve priority investigation for their activities in this war as well.

Others who could be brought to trial include individuals known or believed to have participated in international crimes as leaders or members of paramilitary groups, the Yugoslav military, the Serbian police, the Croatian police and army, and even Moslem military units, especially those responsible for the injuring, torturing, or killing of innocent civilians, including a number of journalists. Close examination should be given to those who are taking part in the reprehensible ethnic-cleansing which is being carried out in Bosnia-Hercegovina and to a certain extent, according to reports, in parts of Croatia and Vojvodina as well. Members or former members of the respective Republic and Federal Governments who have allowed or perhaps ordered these acts might also be brought before an international tribunal.

Groups such as Helsinki Watch and Amnesty International have been seeking to document these abuses, and the results of their efforts could be of invaluable assistance. Also put to use should be evidence the United Nations peacekeeping forces claims to have regarding militants who, in breaking agreed ceasefires, committed the hideous act of attacking civilians of their own ethnic group to make the opposing side appear as the culprit. The United Nations, the European Community, and the International Committee of the Red Cross may have evidence of who attacked their clearly identified personnel, vehicles, and convoys in violation of specific provisions of international obligations. There are also many witnesses to these crimes among the more than 2 million refugees and displaced persons this war has created.

A first task of an international tribunal could be to offer an alternative to the sham justice currently being meted out. In Belgrade, for example, military courts are sentencing Croatian National Guard members to long prison sentences and even to death. Why is a military court trying these people? Did the defendants receive genuine due process? Were confessions obtained under duress and perhaps, by torture? If the new prime minister of the new and self-proclaimed Yugoslavia, Milan Panic, is sincere in his pronouncements of peace, he should immediately act to secure the release of these individuals, even if they indeed have committed crimes, and hand them over to an internationally authorized body to determine their guilt or innocence. Mr. Panic should also arrest and turn over those who may be responsible for horrible crimes that find safe harbor in Serbia and Montenegro, such as Vojislav Seselj, Ratko Mladic, Mirko Jovic, Radovan Karadzic, and Zeljko Raznjatovic, more popularly known as "Arkan."

An international tribunal would also provide a more viable alternative to the questionable justice carried out in Croatia, where political motivations and ethnic discrimination may guide law enforcement, with the result that some remain free despite the illegal acts they commit while others are sentenced without equal protection of the law as administered by an impartial court.

It is obvious, Mr. Speaker, that the international effort I am describing here would be difficult. However, even if we cannot actually bring to justice all those who are guilty of crimes specified under international law, we must at least try and, in so doing, forever shackle them with the fear of getting caught.

Why should we do this? First and foremost, we have an obligation to those countless, often unknown and now silent victims of heinous crimes to see that justice is done. Second, and related to the first, if we can remove from the scene some of those responsible for crimes related to the conflict in the former Yugoslavia, we very well could be saving a few precious lives, and perhaps, deter even those we cannot catch from continuing their villainous acts.

Third, we need to send a clear message to those elsewhere in the world, and particularly in some of the new states emerging from the former Soviet Union, that in this new political era waging war against civilians will have serious consequences. As Walter C. Clemens, Jr., of Boston University asked in material he recently sent to the Helsinki Commission, "why not warn the warring tribes in the Balkans, the Caucuses, and other cauldrons that their leaders will be sought out and tried for crimes against humanity?"

Finally, Mr. Speaker, we need to undertake this effort because where there is not justice, vengeance will most certainly reside. A thirst for vengeance from past wrongs has given strong impetus to the violence we have seen emerge from what once seemed to be the warm and spirited Yugoslav peoples. This violence, I am sad to say, is now passing on a desire for vengeance to new generations that otherwise might have proceeded to build free and prosperous societies. Thus, without giving them both the satisfaction—and the deterring example—of justice now, we can be virtually assured that there will be more violence in the future. We cannot, Mr. Speaker, allow this to happen.

MEDIA PERSON CREATES INCIDENT WITH PRESIDENT BUSH

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. BEREUTER. Mr. Speaker, in light of the controversy and apparent misinformation conveyed by the major American electronic news media sources about a recent occurrence when President George Bush addressed the National League of Families of American Prisoners and Missing in Southeast Asia, this Member calls his colleagues' attention to the following paid message which appeared in the July 29, 1992, issue of the Washington Post;

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA,
Washington, DC.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: At the direction of the elected board of directors and on behalf of the vast majority of family members who comprise the League, I am writing to express our deepest apologies. The rude and disrespectful behavior of a small but organized minority was both undeserved and outrageous.

The strong support, commitment and dedication to principle you have demonstrated are well known. Most of the families find it incomprehensible that these few could attempt to destroy answers for the many. Your response was justified and understood.

We are also very disturbed by the media's reporting that you are being criticized for telling a family member to "shut up" and want you to know that we know it was a member of the press corps, interested in other issues, who was responsible for that episode, as witnessed by several family members.

Knowing that you recognize the nature of this public outburst, we are confident that you and your administration will continue to stand firm on the policies you have established to ensure that our missing loved ones, and those of the few misinformed participants in this outrage, are accounted for as fully as possible.

Although the League is a non-profit, humanitarian organization and takes no positions on political questions, we recognize fully that your policy of highest national priority to resolve the POW/MIA issue was established in a Republican administration in 1982, one in which you played an active role. We also recognize that you have continued the priority and policy since you assumed the Presidency. In the spirit of bipartisanship, you should also know that we have requested the position of the Democratic Party since early this year, thus far without success. We also invited Governor Clinton and received no response.

We are in you debt, and we are grateful. We are also deeply sorry that the League's 23rd Annual Meeting was manipulated in an effort to embarrass you, as President of the United States, the Presidency itself, and the National League of Families. Please accept our sincere apologies.

Respectfully,

ANN MILLS GRIFFITHS,
Executive Director.

LEADVILLE: MATCHLESS COLORADO COMMUNITY

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise to insert in the RECORD a copy of a story that recently appeared in one of the hill's most read newsletters—Western Resources Wrap-Up.

The story discusses what I always knew to be true. That is, people who choose to live in Colorado's small mountain communities, in towns that haven't yet become tourist meccas, appreciate what most of us take for granted. These people have a common bond that comes from a shared hardship that isn't the result of war or natural catastrophe, but a hardship based on geographical surroundings. While some joke about trudging through the knee-deep snow to school, these folks have all done it!

I am concerned about the fate of all small towns and about their ability to attract and retain people who are dedicated not only to their own survival and economic gain, but to the endurance of a way of life.

These folks are also dedicated to protecting what keeps them in place—their environment. Sure, in a mining town like Leadville most are concerned about their access and ability to mine the mountains for ore, but they're also quick to commend the scenery to any visitor.

I am fortunate because I represent many towns like Leadville. But, while I am only able to visit each of them for a short time, several times a year, their resident's always make me feel right at home.

THERE WILL ALWAYS BE A LEADVILLE, PROCLAIMS MAYOR ZAITZ

WASHINGTON.—"There will always be a Leadville," proclaims Leadville Mayor Robert J. (Bob) Zaitz, whose last name is synonymous with Leadville's longevity, on being told the town looks great.

"You haven't seen Colorado if you haven't seen Leadville," proclaims a playbill of Leadville's famous Tabor Opera House.

But finding, holding and keeping a full-time job in Leadville is tough these days, as this historic old mining town, famed for mining gold, silver, cooper, lead, zinc and molybdenum, tries to become a prime tourist town, because few hardrock metal mines are still operating in the area. Zaitz told this Western Resources Wrap-up (WRW) editor on July 10 the last census in 1990 found only 2,026 people were living in Leadville and only about 3,000 were living in Lake County, of which Leadville is the county seat. That is less than half the number living in Leadville in 1980. "Leadville has become the bedroom community for many people who work at Vail, Breckenridge and Copper Mountain," Zaitz said. Many Leadville residents work at tourist jobs during the summer and at ski operations in the winter at those famous resorts, but they live in Leadville where housing is cheaper, several told WRW. Zaitz said many elderly long-time residents continue to live in Leadville, despite Leadville's long cold winters and its high altitude, because it's home. At more than 10,000 feet above sea level, Leadville is the highest incorporated town in the country.

With jobs so hard to come by in Leadville, why do residents stay? "It's the quality of life here," proudly notes Mickey Hackett, fire chief for Leadville and Lake County. William (Bill) Nelson, maintenance staffer for the newly renovated Delaware Hotel, agrees. Nelson told WRW on June 8 he had grown up in Colorado Springs under Pikes Peak. But when he come to Leadville and saw Mt. Elbert, highest peak in the Continental Divide, and Mt. Massive, second highest peak, to the west, he was hooked on Leadville. "Where else can you match the scenery?" asked Nelson. He and his wife Connie have put down roots. They are buying a nine-room house in Leadville. Leadvillites have a particular affinity for Mt. Massive, that great father mountain and sentinel to the West that has figuratively put under its protection thousands of Leadville kids over time. Pictures of Mt. Massive are on the walls of ex-Leadvillites around the world.

The scenery is superb, especially in the fall, after the first fall snow and the aspens have turned to gold. Mrs. Mary M. Chicca of Waldorf, MD., who was in Leadville on July 7–10, suggested the Leadville Chamber of Commerce and local merchants should organize tours of the Leadville area for senior citizens in the fall. Leadville can also capitalize on its dozen museums, and unique books and toys. This WRW editor bought several gifts for kids at the gift shop of the National Mining Hall of Fame in Leadville. The response was terrific. Brian Walsh, 11, wrote, "Thanks for the books . . . My favorite story was 'Baby Doe holds on to the Matchless (mine)' . . . When my Dad's father was a kid he used to go hunting. He would take rabbits and other animals to Baby Doe." Julia Ann Carpineti, 8, wrote, "Thanks for the books," and she and her mother delivered homemade cookies to me! Kris Turner, 3, told me by phone, "Thanks for my donkey. I like it a lot."

STICKING UP FOR FAMILY FARMERS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, today, I would like to report to farmers in my own State of North Dakota, as well as to farm families everywhere, about work some of us here in Congress have been doing, on matters of trade, health care, tax fairness, rural development, alternative fuels, and other issues that are critical to the economic future of rural America.

CANADIAN DURUM IMPORTS—WORKING TOWARD FAIR TRADE

Ever since the Congress approved the United States-Canada Free-Trade Agreement in 1988 over strong objections by me and a few others, I have been trying to stem the tide of subsidized Canadian durum wheat exports that have been flooding across our border, depressing market prices for our durum growers.

After 3 years of repeated demands that the U.S. Trade Representative take action to try to stop these unfair trade practices, and after I arranged a congressional hearing chaired by Congressman SAM GIBBONS, we were finally able to convince our Government to take formal action. The U.S. Trade Representative has now called upon Canada to arbitrate the way Canada is subsidizing durum exports to the United States at prices below the cost of production. A formal dispute settlement panel has been set up, and is to make its determination before the end of the year. I hope this will finally settle this matter.

PROTECTING THE INTEGRITY OF THE EXPORT ENHANCEMENT PROGRAM

The flood of Canadian durum and, more recently, spring wheat, into this country has created another problem that the United States-Canada Free-Trade Agreement did not foresee; and I and Congressman COLLIN PETERSON recently were successful in getting legislation passed to correct it.

The presence of foreign grain in our domestic market pipeline makes it difficult to ensure that we are not spending part of our Export Enhancement Program dollars to reexport foreign grain with bonuses provided by U.S. taxpayers. To prevent this, we worked to get provisions into the U.S. House's major trade bill to require an end-use certificate on imported grain, designating the destination of foreign grain marketed in the United States. With the huge influx of Canadian wheat and durum coming into this country, it is likely that foreign grain would be blended with United States grain in our export programs unless we take steps, such as the end-use certificates, to clearly identify foreign grain.

HEALTH INSURANCE DEDUCTION FOR FARMERS AND OTHER SELF-EMPLOYED

The House Ways and Means Committee accepted my amendment in June to extend the 25 percent income tax deductibility for farmers and other self-employed business people's health insurance premiums. That health insurance deduction was then passed by Congress as part of a tax and economic growth plan that was vetoed by the President. Now, we have put the extension again into another piece of legislation, which I am optimistic will again pass Congress and this time be signed by the President.

I am continuing the fight to make these same health insurance premiums 100 percent deductible for farmers and small business. Corporations are able to deduct 100 percent of their health care premium costs, and there is no justification for not allowing an identical deduction for self-employed business people and farmers.

CAPITAL GAINS TAX FAIRNESS FOR FARMERS

An economic growth package that was vetoed earlier this year, included my provision to treat farmers more fairly in the way capital gains applies to the sale of their houses. Current law allows a $125,000 one-time exclusion on the capital gain when a homeowner sells his or her personal residence after age 55. I was able to persuade the House to expand that provision so that, in the case of an active farmer, the exclusion applies to all real property on the farmstead home, including up to 160 acres of land. The current practice by the IRS is unfair to farmers. The value of the farm home is related to the value of the home quarter section of land on which the house sits. I will try again to include that provision in future legislation.

ECONOMIC GROWTH THROUGH RURAL INVESTMENT ZONES

When the Ways and Means Committee took up the President's proposal for urban enterprise zones, I was joined by Congressman FRED GRANDY in insisting that rural communities be included in any national policy to spur economic growth. The so-called urban enterprise zone proposal used high unemployment as the key criteria for helping cities. In rural America, towns are hurting, but unemployment figures are low. That is because in rural States like North Dakota, when people can't find work, they leave the State to find a job. The proposal I wrote with Congressman GRANDY, called rural development investment zones, provides tax incentives for investment in rural areas whose economies have been hard hit.

Our efforts resulted in half the 50 zones targeted for economic development to be located in rural areas. The legislation has passed the House and now awaits action in the Senate.

BUILDING DEMAND FOR ETHANOL FUELS

Last fall I and others were able to secure an amendment requiring all Federal agencies to buy ethanol-blended gasoline for their vehicles whenever the price is competitive with gasoline. The Federal Government is now implementing these provisions, which means that in the future 400,000 Federal vehicles will burn gasohol much of the time.

Just recently the U.S. House also adopted, as part of its far-ranging energy bill, related provisions offered by Minnesota Congressman COLLIN PETERSON and me, from my original bill, requiring Federal employees to buy ethanol. These provisions will require Federal employees who use Government fuel credit cards to buy gasohol when the price is the same or lower than gasoline prices.

Our legislation to boost ethanol use not only makes sense in extending our energy supply, but it also is a clean-burning fuel that will help the environment and it creates new markets for agricultural products. It makes good sense to me.

FREEING UP CANADIAN RAILROAD CARS FOR UNITED STATES SERVICE

One benefit of the United States-Canada Free-Trade Agreement is supposed to be a freer flow of railroad grain cars across the United States-Canada border so that cars can be delivered to where they are most needed. We found that Canadian railroads could rent available United States cars with little difficulty, but a special kind of customs fee, called a merchandize processing fee, has been keeping United States railroad companies from bringing Canadian cars into the United States for temporary use. With support from farm groups, country elevators and railroad companies, I was successful in including the termination of that fee in the trade bill recently passed by the House.

SOMETHING AMISS WITH GRAIN PRICES

These are some of the areas I have been working on affecting family farmers. I am also beginning to investigate what has happened to grain prices. Carryover stocks in wheat and other grains have been down substantially, but grain prices have not risen as would have been expected. Something is wrong with current pricing and I am asking the GAO to do a study to find out what is happening to depress grain prices. When carryover stocks are high, prices always collapse. So why then, when stocks are low, do we not see stronger prices. Something is wrong with the current movement of grain prices, and farmers are paying a heavy price for it. I want to get to the bottom of it.

HUMAN CAPITAL: AMERICA'S GREATEST ASSET

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. SMITH of Florida. Mr. Speaker, whenever the President is asked about his plans for economic reform, he chants his magical phrase: "Cut the taxes on capital gains." This is all he has to say; cutting the tax on capital gains is not a policy—it is a mantra.

Well, magical incantations may be the stuff of voodoo economics, but the American people are desperate for hard answers. After 12 years of economic legerdemain from Presidents Reagan and Bush, working Americans have grown tired of waiting for a miracle to trickle down.

The worst failure of Reaganomics is its obsession with money. Not simply the making of money—our children will be paying the price of the go-go 1980's until they're nearing retirement—but the centrality of money. The President and his advisers would do well to remember that the term "economics" is a modern formulation; throughout the 19th century, the proper term was "human economics."

It was understood then that money cannot be separated from the people who create it. It was understood that every economic decision affects human lives. The Bush administration's obsession with capital gains, and its unconcern with the people who create the wealth, betrays an intellectual and moral weakness that is disturbing indeed.

In the July 27, 1992 issue of Business Week, Alan S. Blinder, the Gordon S. Rentschler Memorial professor of economics at Princeton University, asserts that we "should focus on human capital, not capital." He argues convincingly that investments in better education, on-the-job training, and greater access to college pay stunningly high rates of return. These dividends stay at home. They facilitate the rapid improvement of the quality of life. Far more members of society benefit from investments in human capital than from additional breaks for capital gains.

Mr. Speaker, I ask that Professor Blinder's article be included in the RECORD, and I commend it to my colleagues.

WE SHOULD FOCUS ON HUMAN CAPITAL, NOT CAPITAL

(By Alan S. Blinder)

Lest anyone has forgotten, Presidential elections are supposed to be national referendums on policy. This time the central economic issue should be how to raise the nation's anemic long-term growth rate. Reducing the much ballyhooed budget deficit is but a means toward the end.

There are three ways to boost output per hour—what economics call productivity. The sweetest way is to improve our technology. As the songwriter said: Nice work if you can get it—and we should certainly try. But economists probably know more about pursuing the other two routes: accumulating more private capital and improving the quality of our work force. Public-infrastructure capital can and should be a useful adjunct to either, but it cannot play the leading role.

Let's be clear. This is not an either-or choice. We must work on both our capital and labor resources. But since no nation can do everything at once, the emphasis matters. Shall we concentrate on augmenting our private capital or on enhancing our human resources? Which will be the engine of growth and which the caboose?

TIRED CLICHE?

President Bush has a straightforward answer: Emphasize capital formation by cutting the taxes that investors pay on their capital gains. This, he argues, will lead to more capital formation and thence to faster productivity growth. This "trickle down" argument should by now be familiar enough to give Americans the willies. It is, after all, the tried-and-untrue policy of the 1980s. That it failed so miserably either to accelerate capital formation or improve productivity growth should give us pause.

Governor Clinton's economic plan offers a clear alternative. While neither denigrating nor forgetting the role of capital, this challenger is placing most of his bets on human investments—with a little badly needed public infrastructure thrown in. He wants more and better education, more on-the-job training, greater access to college, and so on.

The advantages of the Clinton approach are many. Let's start with arithmetic. Since labor inputs account for roughly 70 percent of gross domestic product and capital inputs for just 30 percent, a 10 percent increase in the amount of capital per worker would boost productivity 3 percent. But a 10 percent increase in labor quality would gain us 7 percent. Each of these is a tall order, to be sure. But look at the difference in what we gain if we succeed.

The mere fact that 70 percent is more than 30 percent would be a debator's point if we knew how to make the capital medicine work but were in the dark about how to apply the human-resource medicine. The truth, however, is closer to the reverse. Tax incentives for saving and investment proliferated in the 1980s, and almost all failed. While the details are in dispute, two salient facts are not: There was no substantial rise in the share of gross domestic product saved or invested, and there was no burst of productivity growth.

In stark contrast, there is mounting evidence that rates of return on human investments are high. One obvious example is that wage gaps between more- and less-educated workers are now near historic highs. But we continue to underinvest shamefully in early education programs, such as Head Start, despite stunningly high rates of return.

SPECTATOR SPORT

As against this, where is the evidence that we can spur productivity growth by reopening the same old tax loopholes that gave us, among other things, all those empty office buildings and shopping malls? To my knowledge, none has been offered. Instead, we are to take it on faith that reducing the capital-gains tax will get America's entrepreneurial juices flowing again.

The case for a human-resource-based strategy doesn't end there. Americans may recall that the policies of the 1980s were not very kind to the lower 80 percent—or was it the lower 95 percent—of the population. Some additional income inequality is more or less inherent in the approach. Tax breaks for saving and investment directly benefit only those who hold substantial capital—a small minority even in our great capitalist democracy. Others gain only from what trickles down. Thus the Reagan-Bush growth strategy was bound to exacerbate income inequalities, as it did, and make economic growth a spectator sport for most Americans.

A growth strategy built around human resources has precisely the opposite effects. Almost all of us sell our labor, and the middle class gets the most of its income that way. When human investments are the engine of growth, almost everyone gets to play in the economic game. These policies are also more likely to narrow income gaps than to widen them.

Finally, much has been made of the increasingly global economy around which information, goods, and capital freely fly. But labor is far less mobile than capital. American labor, in particular, rarely leaves the country. So, if the U.S. government showers tax breaks on capital, some of the benefits will inevitably flow abroad. But if we spend public funds on improving our human resources, virtually all the benefits will stay at home.

There is a choice in this Presidential election between two very different growth strategies. Let the voters decide.

HOFFMAN ESTATES' CHILDREN'S ADVOCACY CENTER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. CRANE. Mr. Speaker, I would like to take a moment to congratulate Mayor O'Malley and the residents of Hoffman Estates on the completion of the Children's Advocacy Center. The center is a shining example of unselfish dedication toward improving the lives of our children. The community of Hoffman Estates has worked very hard to create a safe place for sexually molested children so that their special needs can be met.

The completion of this project is credited to the many different groups who rallied together for its success. Under the direction of Mayor O'Malley, government, unions, and local businesses worked together. Hoffman Estates officials have agreed to rent the facility to the Advocacy Center for $1 a year which will allow the social service agency to hire an additional full-time social worker. Laborers from the various Cook County building trades have volunteered their time to work on the center free of charge while local businesses have donated the necessary materials.

The center provides services for children and other family members when sexual and physical abuse has been suspected. In addition, the center also helps obtain evidence for the police and court officials through interviews coordinated between the child and a social worker that can be viewed through two-way mirrors. This allows for the child to tell their story only once and thus avoid the stress of interviewing with multiple strangers.

I commend Hoffman Estates for their accomplishment and applaud their generosity and dedication to this worthy cause.

CONGRATULATIONS TO WILLIAM "BILL" GOODE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address you all here today, for I rise to extend my heartiest congratulations and warmest best wishes to William "Bill" Goode, just recently elected to the high office of State junior vice commander of the VFW.

Bill Goode began serving his country with the 40th Infantry in Korea from 1952–53. For 30 years, Bill has been a dedicated member of the Petersilge-Velock Post 809 VFW in Little Ferry. As post commander in 1987, he attained the title of all State post commander. In addition to receiving the high title of all American district commander, Bill was named the co-captain of the all American district commanders team in 1990. He was also elected to the office of judge advocate of the Department of New Jersey VFW in June 1991. Just 2 months ago, Bill was chosen by acclamation at the State convention in Wildwood to the prestigious position of State junior vice commander.

Bill Goode's tireless efforts toward helping his fellow veterans have been admirable and inspirational. He has exhibited tremendous leadership qualities and great dedication throughout all of his endeavors. Not only has Bill shown a strong commitment to his fellow veterans, but he has also displayed an everlasting commitment to his country.

I am proud to join in paying tribute to Bill Goode. I am sure he will continue to provide invaluable service to his community and truly make a difference in society. I extend my best wishes to him on this most special occasion.

LOUISVILLE, KY, OPERATION BRIGHTSIDE PROGRAM WINS TAKE PRIDE IN AMERICA AWARD

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. MAZZOLI. Mr. Speaker, I wish to call to the attention of our distinguished colleagues the Operation Brightside Program in my district in Louisville, KY, which was recently honored with a national Take Pride in America Award.

Operation Brightside, initiated in the city of Louisville by Mayor Jerry E. Abramson in 1986, has lived up to its name from the very start. This public/private venture is an outstanding example of how Government can work together with the private sector to achieve several mutually beneficial goals.

Operation Brightside is divided into several distinct project areas which come together to form a successful whole. Project Paperchase is an environmental education program for elementary and secondary schoolchildren. Project Blitz coordinates spring and fall neighborhood cleanups, and Project Brightside plants trees, upgrades landscaping, and recycles Christmas trees. The Summer Youth Program involves disadvantaged youths in these activities as a form of summer employment. This combination of education, action, and involvement of people throughout the community is what makes Operation Brightside the success it is.

At the request of Ms. Brenda N. Bush, Operation Brightside School Program Manager, I was pleased and honored to accept the Take Pride In America award on behalf of Operation Brightside.

Ms. Anne House Quinn, director of Take Pride in America, noted that the three Kentucky winners of the national award, the U.S. Army Corps of Engineers/Carr Fork Cleanup Committee, Logan Aluminum, and Operation Brightside, are the kind of projects in which the people of Kentucky can take pride.

In fact, the people of Kentucky are what really make these awards possible in the first place, largely through the untiring volunteering of their time and talents. These awards show that environmental projects can be beneficial not only to the planet, but to the people who participate in them, and to the community where they take place.

Operation Brightside is a marvelous example of the kind of community effort that is needed to improve America.

INTRODUCTION OF THE POSTAL PRIVACY PROTECTION ACT OF 1992

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. STARK. Mr. Speaker, today I am introducing a bill that would compel all mailers using mailing lists to place disclaimers on their mailings that explain how and where they got the addressee's name and address. The Postal Privacy Protection Act of 1992 would clear up the confusion that exists with so many Americans over how their name gets into the hands of so many junk mailers. This knowledge would give Americans greater control over who has information about their person.

Everyday, millions of Americans come home and are forced to ask an angry question. After unlocking their door, after maybe exchanging a word or two with their cat, after maybe kissing their loved ones, and, finally, after sorting through their mail, many Americans are left with an unanswered question that is probably muttered softly, but with real anger: "How did they get my name?!" I have a hope that Congress can offer an answer to the question of why catalogs, fliers, and sweepstakes announcements co-exist in America's mailboxes along with letters, birthday cards, and bills.

Right now, I can begin to give Americans a general idea of how the direct mailing houses get their name, address, likes, dislikes, and spending patterns. Many have moved fairly recently. In addition to packing all their dishes and clothes, most movers file a change of address form with the U.S. Postal Service. The USPS sells this fact to 23 companies that have licenses for this kind of purchase. A few of these companies then create a new movers list that include the names of people who have recently moved. The mailing houses target these people as potential customers for curtains, gardening equipment, kitchen appliances, and other products most often bought by people who have changed residence.

Many have also recently made a purchase with their credit card. Their credit card company then went to the trouble of looking at what they bought, how much they spent, and where they made the purchase. The credit card company plugged these facts into a computer, crunched a few numbers, and, soon, these credit card customers may be in store for other fliers about items that fit into the same formula that their last purchase matched.

Some have recently decided to subscribe to an auto magazine to keep up-to-date on the latest cars. Many magazines sell their subscription list to other related companies. Soon, these subscribers will probably receive coupons for mufflers, announcements for car shows, and advertisements for old Buicks.

To sum this all up, Mr. Speaker, there are many, many ways to get junk mail. Americans are certain of this fact—their names and formulaic approximations to their tastes, likes, and dislikes, are being bought, sold, and bartered like no more than a side of beef. Unfortunately, Americans are still very vague on how their names travel from one organization to the next. Which businesses sell their names without asking permission, which businesses offer a negative check-off box to opt out of these sales, and which businesses abstain from this practice entirely is left a mystery.

Studies have shown that the American public is growing more and more concerned about the explosion in cataloging and distribution of personal information. A recent Time Magazine poll on privacy reports that 76 percent of its respondents were concerned about the amount of information that businesses and government collect and store with computers. People were more alarmed by the sale of this information. Ninety percent responded that the sale of data based on household income should be prohibited; 86 percent on bill-paying history; 83 percent on medical history; and, 68 percent on product purchases.

Proposals exist that try to answer these fears. Some, of course, are more sensible than others. One might have us force companies that use direct mail marketing to seek permission of every person they add to their mailing list. Others might suggest that businesses be forced to pay each person on the mailing list a small renters fee for using their private, personal information.

The legislation that I am introducing today will begin to clear up this hazy maze of an information network in a more straightforward way. If each mailing came with a clear, short description of how the mailer got the name and address, then confusion could become understanding, bewilderment could become enlightenment, and a mailbox filled with unexpected and unwanted mail could become clean. All it would take would be a full disclosure printed in plain written english about the source of an individual's private information.

The Postal Privacy Protection Act of 1992 will create a new afterwork ritual. After the banter with the cat and the hello from the family, our householder will now open the mail with an enriched understanding. "Oh, my environmental organization sold my name to other groups trying to save the planet—just like I told 'em to." "Oh, my credit card company has just sold my name to a luggage company—I didn't know they could sell my name and buying habits without my permission. I'll cancel that membership!" The possibilities are endless.

TO CELEBRATE 30TH ANNIVERSARY OF BIG ROCK POINT NUCLEAR POWER PLANT IN CHARLEVOIX, MI

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. DAVIS. Mr. Speaker, on August 5, 1992, Consumers Power Co. will celebrate the 30th anniversary of the Big Rock Point Nuclear Powerplant in Charlevoix, MI, now the Nation's oldest operating commercial reactor. I am pleased to congratulate Big Rock's record over three decades of producing safe, economical, and reliable power to the citizens of northern Michigan. This safety record includes 15 years without any lost-time accident.

I regret that I am unable to personally join in the festivities marking this milestone, but I send my best wishes to the employees of the Big Rock Point plant.

RICK RODRIGUEZ: EMPLOYEE OF THE MONTH HONOR AWARD FOR REGION 2

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. SMITH of New Jersey. Mr. Speaker, I would like to call the attention of the House to the achievements of Ricardo "Rick" Rodriguez of the Toms River, NJ Social Security Office.

The Social Security Administration has recognized Rick Rodriguez with its "Employee of the Month Honor Award for Region 2."

According to the Department of Health and Human Services announcement:

> The award was presented by Raymond P. Purrelli, Area Director, on behalf of H.H.S. Secretary Louis Sullivan. "This award is in recognition of your efforts to promote awareness of the Social Security program by all Ocean County residents, young and old", stated Purrelli. Toms River manager Ken Jones noted the appropriateness of the award being presented during national Public Service Recognition Week.
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> The award honored Rodriguez for his work as a field representative and for his community service work. He is chairman of the Garden State Hospital Council of Advisors, president of the Jackson Township High School Scholarship Fund Inc., and is a member of the Ocean County Human Services Advisory Council, Ocean County Tourism Advisory Council, Board of Directors, Jackson Township Chamber of Commerce, Jackson Township Adult School Advisory Board, Board of Directors, Jackson Cities and Schools, Inc., and Jackson Township Historical and Cultural Commission. Risk is also recipient of the Ocean County Council of Agencies JoAnn Beths Humanitarian Award for his voluntary activity in Human Services here in Ocean County.

Finally, I would also like to thank E. Larry St. Laurent, director of the Ocean County Veterans Service Bureau, for helping to bring the fine work of Rick Rodriguez to our attention.

A TRIBUTE TO A COURAGEOUS AMERICAN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mrs. MORELLA. Mr. Speaker, I rise today to pay tribute to an act of heroism that claimed the life of a courageous American, Barry S. Castiglione, a constituent of mine from Montgomery County, MD.

While on assignment to the American Embassy in El Salvador, Mr. Castiglione found himself in a most harrowing situation. A fellow Embassy officer was at risk of drowning. In an instant, Mr. Castiglione surveyed the situation and quickly plunged into the Pacific Ocean to save his coworker. Mr. Castiglione fully understood what he faced. While stationed at Subic Bay in the Philippines, he had earned a scuba diving certificate and taken a course in advanced lifeguarding.

In the midst of fighting the strong current, Mr. Castiglione and a fellow worker managed to reach their colleague. However, in returning from this daring rescue, he faced an increasingly difficult ocean current and drowned. This act of bravery serves as a shining example of a man's willingness to sacrifice his life for that of a fellow American.

Mr. Castiglione served his Government and country for approximately 13 years. From 1977 to 1980, he was an active member of the Marine Corps. He performed various duties for his marine detachment and attained the rank of corporal. In addition, Mr. Castiglione served in the Marine Corps Reserves until 1983. Shortly thereafter, he became an administrative officer and worked in Cairo, Manila, and finally El Salvador.

I extend my deepest sympathies to his wife, Diane, and his 5-month-old son, Michael. Mr. Speaker, Barry Castiglione and his act of selfless bravery should be saluted and remembered by all.

LEA LOVELESS OF CRESTWOOD, NY, CAPTURES OLYMPIC MEDAL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mrs. LOWEY of New York. Mr. Speaker, it is a special privilege to congratulate my constituent Lea Loveless, on her Olympic bronze-medal performance in the 100-meter backstroke yesterday. I join her family and friends in Crestwood, her teammates on Rye's Badger Swim Club, and the citizens of Westchester and the entire country in extending congratulations to Ms. Loveless.

Ms. Loveless has been swimming competitively since the age of 6, and last night's performance was certainly the culmination, to date, of her 15-year career. Her perseverance over the years has paid off with glory that most can only dream of. In winning her bronze medal, she was among the leaders throughout the race, and she finished less than 1 second behind the world-record holder in this event.

I am especially glad that her parents, Gene and Mary Ellen, and many members of her family were able to be in Barcelona to watch her swim, to encourage her and to share in this tremendous accomplishment. I am sure that the support of her family members and the banner they displayed, signed by her Badger Swim Club teammates, helped inspire Lea to her winning performance.

The Olympics is an opportunity for athletes from all over the globe to compete in the spirit of sportsmanship. It is exciting to watch this competition, and particularly thrilling to see the success which American athletes are achieving. In swimming especially, our athletes have shown excellence.

Our athletes deserve our respect for the hard work and dedication which have gone into training for competitive sports. We all can take pride in the accomplishments of our Olympic athletes. U.S. fans at the Olympics showed this pride by giving Ms. Loveless an American flag as she walked away from the pool after receiving her medal.

Mr. Speaker, the performances of our Olympians make all Americans proud and serve as a source of inspiration. We should all strive to mirror their dedication as we take on the challenges we face individually and as a nation. I know that my colleagues join me and the people of Westchester in wishing the best to Lea Loveless and her Olympic teammates.

TRIBUTE TO MICHAEL TETI

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. WELDON. Mr. Speaker, I rise today to recognize and commend Michael Teti of Upper Darby, PA. Mike is an accomplished member of the United States rowing team and will soon represent the United States at the Olympic games in Barcelona, Spain.

Mike started rowing in 1973 at Monsignor Bonner High School in Upper Darby, PA. He continued competitive rowing during his 4 years at St. Joseph's University in Philadelphia where he earned a sociology degree in 1978.

Some of his more recent accomplishments include first place in the World Championships for the Men's Eight in 1987, first in the National Championships for the Men's Eight in 1988, third in the Olympic games for Men's Eight in 1988, eighth in the World Championships for Men's Eight and first in the U.S. National Championships for Men's Eight in 1991. Among numerous other awards Mike was named Male Athlete of the Year in 1987 by U.S. Rowing, the single governing body for all recreational and competitive rowing in the United States.

I congratulate Mike, whose tireless dedication in pursuit of the Olympic dream is well-deserving of our support. I wish him and the entire Olympic team good luck in Barcelona.

TRIBUTE TO MRS. JEANNE MARIE HYDE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. CRANE. Mr. Speaker, it is with sincere sadness that we note the passing of Mrs. Jeanne Marie Hyde, wife of our good colleague and fellow Illinois Representative, HENRY HYDE. Our friendship with Jeanne and HENRY goes back decades, to those days before HENRY and I joined forces here in the House of Representatives.

Jeanne Hyde was a lovely lady, a loving wife and loving mother of three sons and a daughter.

She was a vivacious member of the Republican National Women's Federation of Illinois, the Republican Congressional Wives Club, the Park Ridge, IL Women's Republican Club, and the International Neighbors Club, No. 2, here in Washington.

Jeanne Hyde was a friend who will be missed. We extend our sincerest sympathies on his great loss to our good friend and colleague, HENRY, and to his children.

AGRICULTURAL DISASTER FUNDS

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. SARPALIUS. Mr. Speaker, yesterday, I sent a letter to President Bush urging that he release $755 million in previously appropriated agricultural disaster funds.

At the end of last year, Congress appropriated $1.75 billion for crop disaster assistance. Unfortunately, the President would only release $995 million of those funds.

I'd like to think that the President simply doesn't recognize the extent of the weather-related losses suffered by the American farmer—both in yield and in quality.

Anyone who thinks that the $995 million adequately compensates producers for their weather-related losses is seriously out-of-touch with the American farmer. In the 13th District alone, 80 percent of the cotton crop has been lost to weather-related disasters.

Current estimates of the cotton crop are that only about 1 million bales of cotton will be harvested, compared to 2.3 million bales that were harvested last year following an early freeze.

Producers of other crops—both program and nonprogram crops—would also qualify for additional disaster assistance. This would help fruit and vegetable growers as well as wheat, peanut, and sugar beet producers.

In Chicago, an unthinking city bureaucrat flooded the city, and President Bush released all of the appropriated disaster funds. In Los Angeles, riots created millions of dollars worth of damage, and President Bush released all of the disaster funds there too.

In the high plains of Texas, weather—not riots or human error—damaged millions of dollars of crops, but President Bush thought that a little over half the money appropriated was plenty. I hope the President doesn't award disaster funds based on the number of registered voters in a given area.

My letter urges the President to recognize the plight of many farmers and ranchers and release these previously approved funds.

I sincerely hope the President recognizes the urgent need for the release of these additional funds—the American farmer is depending on it.

THE CUBAN-AMERICAN ARTISTS FOUNDATION RAISES FUNDS FOR "THE ARTIST HOME"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to commend the Cuban-American Artist Foundation for their efforts to establish "La Casa del Artista"—The Artists' Home. The Foundation's president, Mr. Homero Gutierrez, organized a telethon to raise funds for the establishment of this home.

The Artists' Home is intended to serve as a haven for retired Hispanic artists. It would go beyond providing the medical services of most senior citizens' homes, by allowing these individuals to remain in the company of their peers once they are out of the limelight. These individuals have devoted their lives to entertainment, and their contributions have not gone by unnoticed. By establishing the Artists' Home, the younger generation of artists is thanking their predecessors for inspiration, guidance and support, in hopes that the favor will be returned by generations to come.

The artistic community as a whole takes this project very seriously. Their loyalty to one another is apparent in the great number of individuals that devoted their time and talent to make the telethon a success. Among the many stars present were: Libertad Lamarque, María Marta Serra Lima, Flor de Loto La Rúa, Olga Guillot, Xiomara Alfaro, and Tomás de San Julián. Also present were Concha Valdes Miranda, Oskel Ramírez, Elsa Valladares, Néstor Cabell and Idania Villegas, Marta Flóres, Carlos Alvarez del Castillo, Rolando Ochoa and Tito Hernández. The combined efforts of these and many other talented individuals made the telethon the success that it was. The artists' eagerness to participate in this fundraiser illustrates the unity of South Florida's artistic community.

Mr. Speaker, I commend Homero Gutierrez and Elsa Valladares, as well as the rest of the Cuban-American Artistic Foundation's executive board and all artists involved. It is essential that all communities look out for each other as this one has, providing for their tomorrows by sharing their talents today. I ask all of my colleagues to join me in giving them hearty congratulations and wishing the Cuban American Artist Foundation continued success with the establishment of The Artists' Home.

SPACE STATION: BUILD IT FOR AMERICA

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. ANDREWS of Texas. Mr. Chairman, I am submitting Administrator Daniel Goldin's editorial featured in yesterday's Washington Post to be included in the CONGRESSIONAL RECORD.

[From the Washington Post, July 28, 1992]

SPACE STATION: BUILD IT FOR AMERICA

(By Daniel S. Goldin)

The Post argued recently that "if new large projects have to be deferred at a time of weak economic growth, the space station must be a candidate" [editorial, June 24].

But in fact over the past 30 years NASA and the space program have paid huge dividends, and Space Station Freedom will be no exception. Despite The Post's suggestion, this program, whose future is being debated in Congress, is not expendable.

The space station is an integral element of a balanced space program and a vital link in the fabric of the agency. America needs Space Station Freedom so scientists can learn how to protect the health of human beings living and working in space in order to permit human exploration of the solar system and to use this understanding and technology to improve the quality of life for everyone on Earth.

The recent space shuttle mission provides a taste of the kind of research we can expect in space. Scientists need to determine the molecular structure of proteins that perform key functions in our bodies so they can design specific drugs to treat diseases and viruses. This is a complex process, but space offers the unique advantage of microgravity research.

According to preliminary information, a pharmaceutical company that had an experiment aboard the shuttle flight achieved results in two weeks that would probably have taken two years to produce on Earth. Just imagine the possibilities for research with a full-time, state-of-the-art laboratory aboard Space Station Freedom.

To enhance space-based research, NASA just signed a historic agreement with the National Institutes of Health. In future months, scientists on Earth will be able to take greater advantage of the unique opportunities for experimentation on shuttle flights and the space station. And NASA will be able to draw on the world-class resources at NIH to meet its mission goals.

TAKING EXCEPTION

"Many Americans make the mistake of assuming that space research has no value here on Earth," John F. Kennedy said. "Nothing could be further from the truth. Our effort in space is not . . . a competitor for the natural resources that we spend to develop the Earth. It is a working partner and coproducer of these resources."

Kennedy realized, despite the hard economic times of the early '60s, that the country needed investment to keep moving forward.

President Bush also sees the importance of investing in the future while balancing the obligations of today. Yes, we need affordable housing, good health care and excellent schools. But Americans also need hope and opportunity. The investment in NASA research and technology today creates the jobs and industries of tomorrow.

Today there is hardly a sector of the economy that has not been touched by spinoffs from the space program of the past 30 years. Ever time someone operates a computer, makes a long-distance call, watches television or uses an automatic teller machine, the benefits of space technology are being felt. Every time someone undergoes a CAT scan, has arthroscopic or laser surgery or enters intensive care at a hospital, he or she benefits from NASA work.

The space station program is not new. It began in 1984 and employs tens of thousands of people. And it will create even more jobs in the future, when the results of research on Space Station Freedom work their way into our economy. Space-based research in life sciences, biotechnology and materials processing on the space station will revolutionize our way of life in the 21st century, much as Apollo made possible our way of life today.

Moreover, the United States is not the only country that has made a commitment to the project. In addition to the more than $7 billion spent by this country, more than $2 billion has been expended by Canada and Japan, as part of their $8 billion commitment. Turning back on this international partnership would risk our status as the world's leader in space at a time when our competitiveness is being challenged as never before.

Today the United States invests a little more than $14 billion a year in NASA—or one percent of the federal budget. Approximately $2 billion per year of that is for the space station. That sounds like a lot, and it is. Yet Americans spend $4.3 billion per year on potato chips and $1.4 billion on popcorn. In concrete terms, the space station costs each of us about two cents a day. The evidence is clear that we will get much more than our two cents' worth out of it.

Space Station Freedom should not be categorized as large science, but rather as an engineering feat. It will be a laboratory in space where small science will be performed like the last space shuttle mission, which included more than a hundred experiments from researchers nationwide.

The day before he died, President Kennedy said: "In 1990, the age of space will be entering its second phase. . . . When some meet here in 1990, they will look back on what we did and say we made the right and wise decisions." Let us hope that a future generation will be able to look back to the 1990s and say the same.

KOSOVO: A TARGET OF SERBIAN OPPRESSION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. BROOMFIELD. Mr. Speaker, the world continues to watch with great anguish the ongoing tragedy in the former Yugoslavian Republic of Bosnia. In that besieged republic, over 8,000 innocent human beings have been killed, 1.2 million people displaced, and the infrastructure ravaged to levels exceeding $100 billion. Slavic Muslims and others are being killed, tortured, and starved to death as part of President Slobodan Milosevic's shameful policy of ethnic cleansing. In his efforts to build a greater Serbia, the Serbian madman has ruined the lives of millions of men, women, and children and has produced chaos in that society that has not been seen since World War II.

Before most of us learned about Milosevic's plans to devastate Bosnia, Croatia, and Slovenia, I watched that nationalist Serbian leader massively violate human rights in the Province of Kosovo and strip that province of its autonomy. Kosovo has become a police state occupied by thousands of Serbian troops and security personnel who continually intimidate the Kosovo community. Since Milosevic began this policy in 1989, more than 100 ethnic Albanians have been killed in the unrest there.

Dr. Ibrahim Rugova, the clandestinely elected ethnic Albanian leader of Kosovo, has wisely urged civil disobedience instead of demonstrations which could lead to police violence against demonstrators. I am concerned that Serbian oppression of the ethnic Albanian community in Kosovo will increase and that a revolt will result. Many Europeans share my concerns. In an effort to diffuse the potentially dangerous situation, the Conference on Security and Cooperation in Europe recently decided to send a mission to Kosovo. I can only hope that Milosevic will see the folly of his ways and that the civil war in the former Yugoslavia will not spread to Kosovo.

I recommend to my colleagues in the Congress the following Financial Times article on Serbian oppression in Kosovo:

[From Financial Times, July 13, 1992]

SERBIAN AUTHORITIES STEP UP PRESSURE IN KOSOVO

(By Judy Dempsey)

Until October 26, 1990, Dr. Alush Gashi was Professor of Anatomy at Pristina University, Kosovo. He has no idea when he will be free to lecture again.

"That morning, three armed Serbian policemen came into my office. They dragged me out in front of the patients. They were angry because, as an ethnic Albanian, I had refused to leave my job," said 40-year-old Mr. Gashi.

The former visiting professor at the University at California now spends his time documenting cases of human rights abuses in the southern province of Kosovo, which was forcibly reintegrated into Serbia in 1990.

Since March 1990, when Serbia, under President Slobodan Milosevic, issued a decree called "The programme of the Republic of Serbia to colonise Kosovo", thousands of professional ethnic Albanians have been sacked.

According to Belgrade's policy of colonising Kosovo, the decree stipulated how favourable credits would be granted to those Serbs and Montenegrins willing to settle in Kosovo, and how ethnic Albanians would be excluded from holding any positions of influence.

"Last autumn, 25,000 teachers, on all levels, were sacked; 865 lecturers and professors were dismissed; over 2,000 doctors and medical staff now have no jobs. About 85,000 workers have been expelled from the factories," explains Mr. Gashi.

"Serbia wants to reverse the ethnic distribution in Kosovo," says Mr. Ibrahim Rugova, elected president of Kosovo in elections banned by Belgrade two months ago.

Ethnic Albanians make up 90 per cent of the province's 2m population. The remainder are Serbian, Montenegrin and ethnic Turkish communities.

More recently, human rights organizations in Kosovo reported that Serb authorities last month sacked 60 ethnic Albanian workers from a car parts factory in Istoq, western Kosovo, and 350 ethnic Albanians from an engineering plant in Glogovac, south-west of Pristina, capital of Kosovo.

In response to the sackings, ethnic Albanians have begun to establish their own parallel society and institutions. Since February, ethnic Albanian children have gathered in private houses to be taught by teachers sacked from the primary, secondary and university schools throughout Kosovo.

"We are determined to educate our children. It is crucial to preserve a continuity in education and in our cultural traditions," says Mr. Rugova.

In another extension of this parallel society, sacked doctors are setting up private, charitable clinics throughout the province.

Before the medical profession was ethnically cleansed, the main gynaecological centre in Pristina was delivering between 50 and 55 babies a month.

"Now the centre is delivering only five or six infants. Because the ethnic Albanians have been sacked, the women do not trust the Serb doctors. They are now giving birth at home. We try to help as much as possible," says Mr. Gashi.

The summary dismissal of so many ethnic Albanians has made life even harder in a province which last year was recording 40 percent unemployment, the highest throughout the former Yugoslavia.

Some ethnic Albanians cope by returning to the land. Some seek help from ethnic Albanians working abroad in Germany or Switzerland. Others rely on a special "Solidarity Fund" set up by the Democratic League of Kosovo, which won an overwhelming majority in the recent unofficial elections. This fund is financed by the diaspora.

Mr. Rugova says the parallel society will continue as long as Serbia continues to repress the ethnic Albanians.

"Ethnic Albanians are picked up every day by the police. They are beaten, detained, and held without warrant. Their houses are searched. Intimidation prevails," he explains.

"It is clear Belgrade is not willing to compromise with the ethnic Albanians at the moment," a US diplomat says.

"Even if Milosevic, or any other Serb leader, decides to give back autonomy to the ethnic Albanians, it will be too late. The entire province is radicalised as a result of the repression."

Despite the repression, Mr. Rugova says ethnic Albanians will not be provoked into rising up against Serbian repression. "That is exactly what Belgrade wants. It would end up being a massacre because we have no weapons. That is why we need a United Nations presence here before it is too late," he says.

Western diplomats said last week's decision at the Helsinki summit meeting of the 51-nation Conference on Security and Co-operation in Europe to send a mission to Kosovo may be the first, tentative step towards recognising that the war in the former Yugoslavia must be prevented from spreading.

THE MARCH FOR DISABILITY INDEPENDENCE IN MANHATTAN, NY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1992

Mr. OWENS of New York. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

SPEECH DELIVERED BY CONGRESSMAN MAJOR R. OWENS ON THE OCCASION OF THE MARCH FOR DISABILITY INDEPENDENCE IN MANHATTAN, NY, ON JULY 26, 1992

Today we celebrate the anniversary of your Declaration of Independence—the Americans With Disabilities Act. ADA declared that all people are created equal including people with disabilities. On July 26, 1990, citizens with disabilities took their place as full citizens of this country.

ADA was the product of a new movement within the disability comunity—a product of that same spirit which in the 1960's inspired the civil rights movement—and which is alive as we meet today to discuss the next phase of the struggle.

ADA is a noble document which does not beg for anything. ADA makes the statement that we are the people. We are an important part of the electorate and we deserve the rights and benefits enjoyed by all Americans. We deserve equal rights and we have the power to preserve equal rights. We must not sleep—already there are two bills in Congress to gut or repeal the act, and there are still others spreading misinformation about what the bill does and will mean for the 43 million Americans it is designed to protect. Action and vigilance is necessary to hold what we have and to expand the beachead of disability rights and benefits. There are still issues such as insurance and workman's compensation that we need to deal with if this part of the act will ever be more than words on paper.

During the time when ADA was moving through Congress, I noted many comparisons between the passage of this legislation and the historic civil rights bills of the 1960's. I termed the ADA "the next great struggle in the American civil rights movement." We who lived that struggle drew strength from that experience. Centuries of being denied your full human and civil rights teaches you some things. When they don't want to give you your rights they play the fear game. In the 1960's they told us that the country wasn't ready for equality; they told us that the country couldn't afford equality, and then they told us that the remedies we proposed would exacerbate the problem, not remedy it. Do we recognize the game? We need to understand that those who oppose the full extension of civil rights in this country basically fear freedom; they perceive our freedom as a threat to their own freedom. Each time the Nation extends civil rights to another group, it forces every American to recognize that all people are human beings with hearts and minds and souls. It is easier to view people who are different as less than human; as not whole, as not deserving of your attention, much less your respect or acceptance.

The physical barriers that the ADA is intended to remove are less important than these barriers of entrenched negative attitudes. If the ADA is to succeed it must confront myth with fact; stereotypes with knowledge and information.

At present the Government is doing a poor job getting the word out as to what ADA means. A Harris poll conducted last May and June found that only 18 percent of 1,257 adults polled knew about the law. Too many high priced consultants are exploiting the public's ignorance and frightening businesses with the notion that "reasonable accommodation" means massive investments in expensive equipment, when we know that the average costs are less than $500. Some tremendous things have already happened as a result of this historic piece of legislation and we should do a better job of highlighting those success stories. We need to promote the considerable amount of good will toward the act that exists among the Nation at large. The New York Times reports that employers are showing significantly increased interest in employing people with disabilities. Tomorrow—July 27—"just one break"—job—which has some remarkable success in placing people with disabilities, will hold their annual rally at the New York Hilton in Manhattan—23 companies have contributed $2,500 for the chance to interview 110 applicants with disabilities.

Many studies show that people with disabilities are at least as good employees as others. A recent survey quoted in the New York Times, notes the fact that DuPont supervisors of 811 workers with disabilities rate them well above their coworkers in attendance. Now if we can only get health insurers to recognize that people with disabilities are as healthy as their coworkers.

With these facts it is hard to fathom any opposition within New York City to including people with disabilities within the goals and timetables for other minorities. It is a phony distinction to suppose that there is some kind of categorical difference between the need to promote outreach efforts to hire African-Americans, women, and other minorities, and the need to do the same for people with disabilities. The unwillingness to include people with disabilities in such timetables is borne of fear and hysteria.

The law sets out a timetable for the Nation. It establishes when certain accommodations must be made and in an orderly sequential way. We are asking the city of New York to do no less in their own affirmative action plan than what was done for other minorities and women. We are requesting the city to demonstrate their commitment to not only the letter of the law, but the spirit of the law, by developing a plan for the hiring and promotion of people with disabilities. Let New York City take the lead. New York City must become the model for the employment of people with disabilities.

We are entering a new era. It was not a coincidence that the Americans With Disabilities Act was signed into law at the end of a decade that saw the fall of the Berlin Wall and the dismantling of totalitarian systems across the world. We have a new opportunity in this decade to ride the forces of freedom, democracy, and inclusion. For those who choose not to ride that train or even derail it, the price must be made heavier than before. We are not beggars. Forty-three million Americans can vote. We have new opportunities to participate in the global economy and so realize our economic as well as our political strength. The ADA has provided a new sense of confidence concerning our impact on the political system—a confidence no one can take back or diminish. We must go forward with the knowledge that our cause is the cause of the future and we cannot fail.

In the new world order, people with disabilities demand power. The power of people with disabilities will help to shape the new world order.

In the new world order we demand health insurance for all, including the disabled. In the new world order we demand housing with access for all. We demand educational opportunity for all. We demand employment for all. In the new world order, we will use our power to guarantee, life, liberty, and the pursuit of happiness for all.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 30, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 31

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nominations of Clarence H. Albright Jr., of Virginia, to be General Counsel of the Department of Housing and Urban Development, C. C. Hope Jr., of North Carolina, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation, and James D. Jameson, of California, to be an Assistant Secretary of Commerce.

SD-538

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine the U.S. response to the drought in southern Africa.

SD-628

10:30 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on proposed legislation to conserve exotic, wild birds, including S. 1218, to provide financial assistance for projects for research, conservation, management, or protection of exotic birds, and S. 1219, to direct the Secretary of the Interior to issue regulations requiring the marking of exotic birds and to prohibit a person from importing exotic birds without a license.

SD-406

AUGUST 4

9:00 a.m.

Select on POW/MIA Affairs

To resume hearings to examine unanswered questions and United States efforts with regard to U.S. prisoners of war and soldiers missing in action, focusing on live sightings.

SH-216

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine the structure and activities of Asian organized crime groups in the United States, focusing on the international aspects of organized crime and its connections to the United States.

SD-342

Select on Indian Affairs

To hold hearings on S. 2617, to provide for the maintenance of dams located on Indian lands in New Mexico by the Bureau of Indian Affairs or through contracts with Indian tribes.

SR-485

Joint Printing

To resume hearings on the proposed consolidation of the Department of Defense printing services.

2237 Rayburn Building

10:00 a.m.

Foreign Relations

To hold hearings on the Treaty with the Russian Federation concerning the Encouragement and Reciprocal Protection of Investment (Treaty Doc. 102-33), the Treaty with the Czech and Slovak Federal Republic concerning the Reciprocal Encouragement and Protection of Investment (Treaty Doc. 102-31), the Treaty with Sri Lanka concerning the Encouragement and Reciprocal Protection of Investment (Treaty Doc. 102-25), the Treaty with Tunisia concerning the Reciprocal Encouragement and Protection of Investment (Treaty Doc. 102-6), and the Treaty with the People's Republic of the Congo concerning the Reciprocal Encouragement and Protection of Investment (Treaty Doc. 102-1).

SD-419

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2577, to provide for the exchange of certain Federal lands within the State of Utah, between the State of Utah and the Secretary of the Interior.

SD-366

Judiciary

To hold hearings on pending nominations.

SD-226

5:00 p.m.

Joint Inaugural Ceremonies

To hold an organizational meeting.

H-204, Capitol

AUGUST 5

9:00 a.m.

Select on POW/MIA Affairs

To continue hearings to examine unanswered questions and United States efforts with regard to U.S. prisoners of war and soldiers missing in action, focusing on live sightings.

SH-216

10:00 a.m.

Finance

To resume hearings to examine the state of U.S. trade policy, focusing on proposed legislation to open foreign markets to U.S. exporters and to modernize the operations of the U.S. Customs Service.

SD-215

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

Labor and Human Resources

To hold hearings to examine the use of television as a means of facilitating school readiness programs for preschool and elementary children.

SD-430

Veterans' Affairs

Business meeting, to resume markup of S. 2575, to revise certain pay authorities that apply to nurses and other health care professionals, and other pending calendar business.

SR-418

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of Kent N. Brown, of Virginia, to be Ambassador to the Republic of Georgia, Richard Monroe Miles, of South Carolina, to be Ambassador to the Republic of Azerbaijan, Mary C. Pendleton, of Virginia, to be Ambassador to the Republic of Moldova, David Heywood Swartz, of Virginia, to be Ambassador to the Republic of Byelarus, Henry Lee Clarke, of California, to be Ambassador to the Republic of Uzbekistan, William H. Courtney, of West Virginia, to be Ambassador to the Republic of Kazakhstan, Stanley T. Escudero, of Florida, to be Ambassador to the Republic of Tajikistan, Joseph S. Hulings III, of Virginia, to be Ambassador to the Republic of Turkmenistan, and Edward Hurwitz, of the District of Columbia, to be Ambassador to the Republic of Kyrgyzstan.

SD-419

AUGUST 6

9:00 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold oversight hearings on high-speed ground transportation.

SR-253

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on the activities and programs of the Defense Commissary Agency, Department of Defense.

SD-342

Select on Indian Affairs

To hold hearings on proposed legislation to revise the Tohono 'Oodham Water Rights Settlement Act of 1982.

SR-485

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2890, to provide for the establishment of the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas, H.R. 2109, to direct the Secretary of the Interior to conduct a study of the feasibility of including Revere Beach, located in the city of Revere, Massachusetts, in the National Park System, S. 2244, to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the

Armed Forces who served in World War II and to commemorate U.S. participation in that conflict, H.R. 3665, to establish the Little River Canyon National Preserve in Alabama, S.J. Res. 161, to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in D.C. or its environs, and S. 2549, to establish the Hudson River Artists National Historical Park in New York.

SD-366

AUGUST 7

9:30 a.m.

Governmental Affairs

To hold hearings to examine the health risks posed to police officers who use radar guns.

SD-342

AUGUST 11

2:00 p.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on proposed legislation authorizing funds for activities of the Independent Counsel Law of the Ethics in Government Act of 1978.

SD-342

AUGUST 12

9:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2762, to assure the preservation of the northern spotted owl and the stability of communities dependent on the resources of the public lands in Oregon, Washington, and northern California.

SD-406

9:30 a.m.

Select on Indian Affairs

To hold oversight hearings on Indian trust fund management.

SR-485

POSTPONEMENTS

JULY 30

10:00 a.m.

Foreign Relations

International Economic Policy, Trade, Oceans and Environment Subcommittee

To hold hearings to examine how the Middle East is cooperating with environmental concerns.

SD-419

JULY 31

10:00 a.m.

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings to examine the financial strength of the Pension Benefit Guaranty Corporation (PBGC), which insures retirement benefits for American workers.

SD-215

HOUSE OF REPRESENTATIVES—*Thursday, July 30, 1992*

The House met at 10 a.m.

The Reverend Eugene B. Green, Trinity C.M.E. Church, Decatur, IL, offered the following prayer:

Almighty God, who dost govern the world in righteousness, and whose judgments are true and righteous altogether: Grant, O Father, that those who rule over us, and who legislate for us, be of one mind to lead us we pray, in the ways of justice and peace; inspire us to break down tyranny and oppression, to gain for everyone his due reward, and from every man his due service, that each may live for all, and all may care for each other in our pursuit of "life, liberty, and happiness." In His name, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WELDON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WELDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The gentleman from Pennsylvania [Mr. WELDON] demands a vote on the Speaker's approval of the Journal.

Accordingly, the Chair will postpone the vote on the approval of the Journal in accordance with rule I. The vote on the Journal will occur at the end of the legislative day.

MOTION TO ADJOURN

Mr. WELDON. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WELDON moves that the House do now adjourn.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 11, nays 366, not voting 57, as follows:

[Roll No. 345]

YEAS—11

Allard
Armey
Boehner
Crane
DeFazio
Dreier
Dwyer
Hancock
Kanjorski
Rohrabacher
Thomas (WY)

NAYS—366

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chandler
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hayes (IL)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weldon
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NOT VOTING—57

Anthony
Barton
Boxer
Campbell (CO)
Chapman
Collins (MI)
Condit
Conyers
Coughlin
Cox (CA)
DeLay
Dixon
Dymally
Edwards (OK)
Ford (TN)
Gekas
Gingrich
Hall (OH)
Hatcher
Hayes (LA)
Herger
Hyde
Inhofe
Ireland
Jenkins
Kleczka
Kolter
Lehman (CA)
Lowery (CA)
Marlenee
Martin
McCrery
Miller (WA)
Mrazek
Neal (NC)
Parker
Pease
Porter
Reed
Riggs
Roberts
Rose
Sanders
Savage
Solarz
Staggers
Stallings
Tauzin
Torres
Towns
Traxler
Washington
Waters
Weiss
Wheat
Williams
Young (AK)

□ 1026

Messrs. EDWARDS of California, FISH, HUGHES, COSTELLO, WYLIE, DERRICK, and THOMAS of Georgia,

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and Mrs. MINK changed their vote from "yea" to "nay."

Mr. KANJORSKI and Mr. ALLARD changed their vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MFUME). Will the gentlewoman from Illinois [Mrs. COLLINS] please come forward and lead the House in the Pledge of Allegiance.

Mrs. COLLINS of Illinois led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4026. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1216. An act to modify the boundaries of the Indian Dunes National Lakeshore, and for other purposes, and

H.R. 5487. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5487) "An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BURDICK, Mr. BUMPERS, Mr. HARKIN, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. COCHRAN, Mr. KASTEN, Mr. SPECTER, Mr. NICKLES, Mr. BOND, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2344) "An act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CRANSTON, Mr. ROCKEFELLER, and Mr. SPECTER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titled, in which the concurrence of the House is requested:

S. 225. An act to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, and

S. 2563. An act to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to announce that the Chair will receive up to 20 1-minutes on each side.

REV. EUGENE B. GREEN

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, I would like to welcome our guest chaplain this morning, the Reverend Eugene B. Green.

Dr. Green is a native of Chicago, having attended the public schools there, and as a young man deciding early in his life to enter the ministry.

Reverend Green received his college education at UCLA and Roosevelt University. He has a broad and diverse background in his theological training, having studied at a consortium of universities, including Northern Baptist Theological Seminary, the Lutheran School of Theology, the McCormick School of Theology, and the Garret Evangelical School of Theology.

Mr. Speaker, the Reverend and Mrs. Dorothy Green have two sons, Edward and Steve, and reside in Decatur, IL, where Reverend Green is the pastor of the Trinity Christian Methodist Episcopal Church.

He served as president of the Decatur Interdenominational Ministerial Alliance as a member of the Evangelical Ministers Association and as a member of the Decatur Human Relations Committee. He is active in many community service organizations and devotes hundreds of hours to the betterment of his community each year through these organizations.

On behalf of the gentleman from Illinois, Congressman DICK DURBIN, and myself, we welcome the Reverend Green to the U.S. House of Representatives.

PSYCHIATRY: CASTRO'S TOOL OF REPRESSION

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, in Castro's dictatorship, not even the mind is beyond the reach of the state. Castro has perverted the healing art of psychiatry into the ultimate tool of repression. Some 30 cases of torture, thinly disguised as treatment, have been documented in "The Politics of Psychiatry in Revolutionary Cuba" by Armando Lago and Charles Brown.

The incidents recounted in this book include the case of 16-year-old Jose Alvarado who, for seeking political asylum in the Colombian Embassy, was subjected to electroshocks and mind destroying drugs; or the case of Amaro Gomez, a film writer also subjected to torture, camouflaged as treatment.

One human rights activist, Roberto Bahamonde, was picked up by the Cuban police and taken for treatment by electroshock and psychotropic drugs. When his family finally located him and complained about the appalling conditions he was housed in, the director said he could do nothing because that ward was under the control of Castro's political police.

The only solution is to aid the people of Cuba in toppling this dictator and his thugs in white coats.

□ 1030

READ HIS LIPS

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, around this time last year, Mr. Bush told the American people to read his lips.

Ever since then the public, particularly American women, have been doing just that; and they have concluded that he talks a good game.

His lips said that he supported health research that would benefit all Americans, but when the Congress passed legislation to support that research with the women's health-NIH authorization he vetoed it.

His lips said that he wanted to promote family values, but when the Congress passed the Family Medical Leave Act, a piece of legislation that would help young families take care of their children, he vetoed it.

His lips said that he wanted to be the education President, but when the Congress approved funds for the Head Start Program and for Pell grants, programs that would improve on the ability of American kids to receive a good education, he vetoed them.

Mr. Speaker, the women of America have read his lips, but in their limitless wisdom they have concluded that actions speak louder than words. And he ain't done nothing yet.

LIBERAL SPENDING CONTINUES

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, on June 11, the House of Representatives narrowly defeated the balanced budget amendment. This would have forced Congress to not spend more than it brings in.

Unfortunately, by just nine votes, this Congress failed its responsibility to the American people.

Just this week, Congress will pass four appropriations bills which increase Federal spending by $28.2 billion over last year's levels.

Now that is a shopping spree even Leona Helmsley would be impressed with. But of course, she is in jail now.

I want to make it perfectly clear that I am not opposed to all Federal spending. I believe we must continue important projects such as medical research, job training, and technology development. However, the Congress must find offsets to these worthwhile expenditures.

I remember when the amendment was debated. One of my colleagues stated that he would support it because there is no alternative plan.

Well, I have a plan for all those who supported the amendment—back up your words with action. Do not claim support for a balanced budget, and then continue liberal spending.

Mr. Speaker, when will the Members of this House have the courage to say enough is enough.

FAMILY VALUES

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, the children's initiative, H.R. 5600 I rise today in support of the children's initiative, H.R. 5600, and urge all of my colleagues to support this very important bill when it comes to the floor next week.

It is in vogue this political season to tout family values, and well we should, if we mean what we say.

H.R. 5600 will help families and children succeed, it is an opportunity to put your vote where your rhetoric is. H.R. 5600 will help families in crisis stay together as well as improve the quality and availability of out-of-home services when children must be removed from their families.

H.R. 5600 extends to children and their families an essential benefit that older and disabled food stamp recipients already receive—the cost of housing will be deducted when the food stamp calculation is made—no longer will families choose whether to feed or whether to shelter their children.

Now, too many families end up homeless and too many children are at too great a risk of being separated from their families.

This legislation can make a real difference for families in this country.

Next week's vote on H.R. 5600 gives us a chance to prove that we not only uphold family values—we also value families.

NINE SEATS AND WE CAN CHANGE THE DIRECTION OF THE COUNTRY

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I think it is a little tragic that we spent an hour this morning beating up on the President so that we could spend billions of dollars after midnight, as we did last night. Perhaps we ought to rearrange our priorities here, but then why should we expect that a Democratic Congress controlling this institution for 38 consecutive years would have really any interest in doing what is good for the Nation as opposed to what is good for politics? If they did, perhaps the President's economic growth package, which he has sent to this Congress three different times and asked us to pass, would get seriously addressed. If they really were concerned about the country, perhaps we would pass a health care reform package, as the President asked us to in his State of the Union. If we really were concerned about the future of this country, probably we would have passed the President's education reform initiative, his crime initiative, or his energy initiative.

Mr. Speaker, the hard and cold reality is the President came up here in his State of the Union Address to the Nation in January where he listed 43 specific agenda items he asked this Congress to respond to. It is now July 30. The tragedy is we have not passed one of those initiatives and sent it to the President for his signature.

But then, perhaps, a balanced budget, the line-item veto and the HOPE project yesterday will change when we pick up just nine seats. That is all we need, nine seats, and we can change the direction of this country.

DON'T BE FOOLED AGAIN

(Mr. SKAGGS asked and was given permission to address the House for 1 minute.)

Mr. SKAGGS. Mr. Speaker, 4 years ago, George Bush ran his campaign on a slogan—"read my lips, no new taxes." But this absolutely firm statement, as it turned out, meant absolutely nothing. Candidate Bush gave his word, President Bush broke it.

The 1988 Bush campaign was long on symbol, and the Bush administration has been short on substance. The victims are credibility and progress. The Bush campaign gave us Willie Horton to divide us, but the Bush administration has never given us a program to unite us. The Bush campaign gave us tours of flag factories, but the Bush administration has never given us a plan to maintain our Nation's position of preeminence on the world stage. Those lips have yet to utter a coherent economic program.

Today, the Bush campaign gives us Murphy Brown instead of Willie Horton; the mantra of "family values" takes the place of flag factories; and those lips now stammer for some new, glib, election-year phrase, like "Message—I care."

Mr. Speaker, the American people deserve programs that will produce real, substantive change, not more pressing of political hot buttons. We were fooled once by that glibness. But we will not get fooled again.

IF THE DEMOCRATS CANNOT RUN THE HOUSE OF REPRESENTATIVES, HOW CAN THEY RUN THE COUNTRY?

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, I want to spend a minute talking about scheduling in this House and the effect of scheduling on families on this side of the aisle. We heard a couple weeks ago that we talk about families, but we seem to abuse our own families. We were here until after midnight last night, so today we are in at 10 o'clock, and what are we doing here at 10 o'clock? We are going to have 40 1-minutes, essentially have 1-minutes, so a few people can beat up on the President and talk about his lack of domestic agenda when in fact the reason that he does not have a domestic agenda is because it is bottled up in this House.

Mr. Speaker, I ask, "Why don't we address the line-item veto? Why don't we talk about health care reform? Why don't we talk about job formation instead of coming in here and giving 1-minutes after we've been up late, and then tomorrow, when we ought to be going back to our districts at noon, we're going to be here late, and we're all going to miss our planes? What kind of a scheduling operation is that, and how can a party think they can run the country when they can't even run the House of Representatives?"

TRUST ME, TRUST ME NOT

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the gentleman who just preceded me in the well should be well advised to realize that of the 40 1-minutes, the first 25 were taken up by his side asking for a vote on a motion to adjourn that meant nothing, that got 11 votes. If he wants to talk about wasted time, he should put the blame where it belongs, right over there.

□ 1040

Mr. Speaker, the Bush campaign has a new slogan, "trust me."

Can you imagine that? We trust our mothers. But trust President Bush? Well, I do not know about that.

Trust the President who twice vetoed unemployment benefits at the height of the recession? Trust the President who let special interests tear holes in the Clean Air Act? Trust the President who called Clarence Thomas the most qualified candidate he could find for the Supreme Court? Trust the President who tells POW-MIA families to "Sit down and shut up"?

As Bill Clinton reminded us yesterday in New Orleans, the President who said, "read my lips, no new taxes," should not be using "trust me" as a campaign theme.

Mr. Speaker, the President needs a new slogan. Why not "Honey, I shrunk the economy"? It is honest, it is hip, it is truthful, and it just might work. "Trust me not, trust me not, read my lips, trust me not."

TRIBUTE TO CONGRESSMAN CRAIG JAMES, BONE MARROW DONOR

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, I am not here to criticize anyone this morning, and especially not Congress. To the contrary, I am here to praise Congress.

For a long time Members have heard me speak of the modern miracle of bone marrow transplantation and how it gives an opportunity for life to people who have terminal diseases.

Today I am here to pay tribute to one of our own, who in our recruiting drive for Members of Congress in April of 1990 was one of the first to have his blood taken to be tested and have his marrow typed. That man is Congressman CRAIG JAMES, a Member of Congress from Florida.

There is no political advantage to CRAIG because he is retiring from political life this year. But CRAIG JAMES just very recently was a bone marrow donor. He gave another human being an opportunity to live, another human being who was dying of a terminal disease but who now has a real second chance for life.

I am proud of CRAIG JAMES for many, many reasons. I am proud of him because he is one of our heroes. In his comments yesterday about being a marrow donor, CRAIG said, "It didn't hurt." And the fact that he gave another human being an opportunity to live is something that changed his life. He will never be the same because it is something that no one could ever take away from him. God bless you Congressman CRAIG JAMES, you are a real hero.

NEW SCORECARD REVEALS THAT BUSH RECORD IS HOSTILE TO FAMILIES

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, George Will yesterday called on President Bush to withdraw from the race. He said a Bush candidacy is "pointless" because Bush has no agenda for this Nation other than his own personal quest for office.

The best thing that George Will said about George Bush is that "he means well feebly."

Mr. Speaker, George Will is wrong.

Today, I am joining Senator AL GORE in revealing that our President does have an agenda—an agenda that is unmistakably hostile to the families, women, and children of this Nation.

This scorecard demonstrates that, on issue after issue, when families cried out for positive change, the President stood ready with his veto pen, poised to shatter their dreams.

He vetoed unpaid leave for families with new children or family members facing serious illness.

He vetoed essential women's health research.

He vetoed overturning the gag rule.

And he has threatened to veto essential legislation to protect a woman's right to choose.

Mr. Speaker, the problem is not that the President has no agenda, but that his agenda is tragically robbing our families of a better future.

The President does not mean well feebly—he harms families badly.

COSPONSORSHIP SOUGHT ON BILL TO REPEAL WITHHOLDING ON CERTAIN PENSION DISTRIBUTIONS

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, today Members will receive a "Dear Colleague" from me asking their cosponsorship on a bill that I am introducing next week. This bill would repeal the 20-percent withholding on lump-sum pension distributions that was included in the extended unemployment benefits bill Congress recently adopted.

When the House overwhelmingly adopted the bill, I don't think Members were made fully aware of all of the changes this provision made in preexisting law. However, it has become clear to me that our attempts to aid the unemployed during this recession were financed on the backs of those who are changing jobs or taking an early retirement, and need to move their pension funds from one plan to another, or to an IRA.

Under preexisting law, if one took his or her pension funds out of a previous employer's plan in a lump sum, they had 60 days to roll those funds over into another plan or IRA. If this rollover was not within that timeframe, a 10-percent penalty was assessed to the lump-sum amount, in addition to the funds being subject to Federal taxes. Since July 3, when the unemployment benefits extension bill was signed into law, a new 20-percent withholding has been added to the 10-percent penalty, for anyone who touches their own pension money. Unless the lump sum is moved directly from pension fund to pension fund or IRA through a trustee to trustee transfer 20 percent is withheld from the lump-sum distribution. The individual can get the money back when he files his taxes at the end of the year, but in the meantime he must come up with that 20 percent to ensure the full amount of his original lump-sum distribution would be deposited in his IRA. Anything less would land him with the 10-percent penalty tax.

Mr. Speaker, I strongly support pay as you go and the budget firewalls, but this funding mechanism is very unfair. I would hope the Ways and Means Committee could develop an alternative funding mechanism to pay for the unemployment benefits, or perhaps impose across-the-board cuts in Federal programs.

I urge my colleagues to join as cosponsors of this legislation.

RULE BY VETO GIVES PRESIDENT CONTROL OVER LEGISLATION

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. President, George Bush has done to the country in 4 years what the Republicans think the Democrats have done in 38. George Bush blames Congress for all of his problems. He says that the Democrats control spending and that they control legislation.

The fact of the matter is that he has more control over legislation than the Democrats do. If he wants legislation that the Democrats do not want, all he needs is a simple majority. But if the Democrats want legislation that George Bush does not want, we have to have a two-thirds majority to get it through. He rules by veto, and all we have to do is take a look at what has happened to the country in the past 4 years. He has not learned from his mentor, Ronald Reagan, who had a coalition of Republicans and Democrat boll weevils. He was able to put those together to just get a simple majority to pass all that legislation that has demeaned the integrity of this country.

So who rules and who is at fault? Well, I guarantee you that this November the people will let us know.

POINT OF ORDER

Mr. DREIER of California. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MFUME). The gentleman will state his point of order.

Mr. DREIER of California. Mr. Speaker, are Members supposed to address the Speaker or the President of the United States when they are speaking in the well?

The SPEAKER pro tempore. All remarks should be addressed to the Speaker. The gentleman is correct.

Mr. DREIER of California. I thank the Chair.

URGING ACTION BY THE HOUSE ON REFUGEE CRISIS IN SLOVENIA AND CROATIA

(Mr. WOLF asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, today's New York Times points out that there are now 2.3 million refugees that have been moved out of Bosnia-Hercegovina that are now in Slovenia and Croatia. There is an ethnic cleansing there. What has gone on there is similar to what the Nazis did during World War II.

This Congress is quiet, and I do not understand that. Is it because they are Moslems? Is it because they are perhaps people we cannot quite understand or do not know anything about?

I would plead with the Speaker and ask that the Speaker direct the Ways and Means Committee to report out legislation that would take away most-favored-nation status from Serbia. Second, I would plead with the Speaker to direct the chairman of the House Foreign Affairs Committee to hold hearings before we adjourn whereby this Congress can do something to let the people in those refugee camps know that this Congress and the American people care.

Mr. Speaker, the Senate has acted, the administration has acted; the House has done nothing.

FREE TRADE AGREEMENT WITH MEXICO THREATENS FUTURE OF MANUFACTURING IN THE UNITED STATES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the trade deficit was almost $8 billion last month. In fact, American companies are literally hiring U-Hauls and taking their equipment to Mexico. And guess what, folks? In all these big boardrooms, all the big shots are pushing and pushing and pushing for a free-trade agreement with Mexico.

I say that if that agreement is passed, there will not be a manufacturing job left in America in 10 years. In fact, American companies will look like Olympic sprinters heading for the border. And what is even worse is that President Bush has made the free-trade agreement the cornerstone of his candidacy.

My question, Mr. Speaker, is: Where is George Bush running, in America or Mexico? American workers need an American President to take a look at American interests, and when it comes time to vote, American voters are going to vote in this election.

□ 1050

FREEDOM SUPPORT ACT WILL SLOW DOWN MOVEMENT TOWARD DEMOCRACY IN SOVIET UNION

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, next week we are scheduled to take up something called the Freedom Support Act. It never ceases to amaze me that people can think up wonderful names for the worst of bills. This is a massive foreign aid package for the former Soviet Union.

Mr. Speaker, this comes at a time when our own Nation is $4 trillion in debt and losing $1 billion a day every day on top of that.

Among other things we are being asked to increase our contribution to the International Monetary Fund by $12 billion to aid the former Soviet States.

Milton Friedman, the well-known and well-respected economist, writing in the July 6, National Review, said he was appalled at this proposal.

Mr. Friedman said that the International Monetary Fund lost the function for which it was established in 1971 and should have been abolished at that time. However, because it is almost impossible to abolish a Government agency, that was not done.

However, Professor Friedman wrote in the National Review that the International Monetary Fund has mainly "strengthened central governments and enabled them to continue antidemocratic and antimarket policies."

Mr. Speaker, we cannot afford to bail out the Soviet States and, in addition, if we do we will slow down the movement toward freedom and democracy there.

THE BUSH ADMINISTRATION'S NEGLECT OF WOMEN'S ISSUES

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, this afternoon we will see President Bush's scorecard on families, women, and children, and it will show the women of America in stark black and white terms what they have felt in their hearts and pocketbooks for the past 4 years—that the Bush administration just does not care.

When the women of America asked President Bush not to force them to choose between their jobs and their families, the so-called Family Values President answered with a veto.

When the women of America—46,000 of whom will die this year of breast cancer—asked President Bush for breast cancer research, he answered with a veto.

When we asked for equal opportunities in higher education, and programs to prevent domestic violence, the kinder, gentler President answered with a veto.

The women juggling jobs and sick children, the women being beaten up in their own homes, and the women who are dying have been slapped in the face too many times by the Bush veto. It is time for an administration that will do more for American families than wield a veto and brandish some rhetoric about family values. It's time for an administration which values the lives of American women.

WHAT DOES CHANGE REALLY MEAN?

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, we have heard a lot of talk about change from the Democrats lately.

Gov. Bill Clinton says the answer to gridlock in Washington is change. He is right—sort of. The problem is he advocates change in the White House. But the numbers point to the need for change down at the other end of Pennsylvania Avenue. The numbers point right here to this building.

The Federal deficit is proof positive that the Democrats who control Congress just can't get the numbers to add up right. And now, we see that their Presidential nominee seems to be distancing himself from the Democratic-controlled Congress. Let me explain what I mean.

Once President Bush completes his second term, the White House will have been controlled equally by both parties since 1931, 32 years for the Democrats, 32 years for the Republicans.

But to date, Congress has been controlled by the Democrats for 56 years compared to our 4 years.

Yes, Mr. Speaker, America needs a change. America needs a Republican Congress.

PRESIDENT'S SIGNATURE OF FAMILY AND MEDICAL LEAVE ACT WOULD ENHANCE FAMILY VALUES

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, our policies need to be adapted to our changing work force. With single- and two-parent working families comprising a much larger percentage of the work force, we must address what happens when a parent, or a child, becomes seriously ill. Without the Family and Medical Leave Act, too often parents are forced to choose between the job they need and the child they love. These same working parents then are forced to draw millions of dollars in social benefits per year. In fact, one study indicates that the lack of medical leave costs taxpayers $4.3 billion a year. Every other industrialized country in the world grants some form of family leave.

The President says we cannot afford the Family and Medical Leave Act, while the facts show that our country can no longer afford not to have family leave legislation.

Mr. Speaker, the President is again prepared to veto the Family and Medical Leave Act, as he did in 1990, and force parents to choose between their job and their children. If the President really wants to assist the families of our Nation, and promote family values, he should sign the Family and Medical Leave Act into law.

BUSH IS NOT THE WOMEN'S RIGHTS PRESIDENT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, it has become clear that the environmental President, the education President, the no new taxes President will soon attempt to convince American women that he is also the women's rights President. Like education and the environment, and taxes, the President's record fails to live up to this billing. That is a line American women are too smart to fall for.

The fact is, Mr. Speaker, that if we looked at the administration's report card on its support for women it would include a bold, red, "F" scrawled across the top. The President has blocked every policy initiative of importance to women since he took office—family leave, the gag rule, family planning, freedom of choice, and women's health. There is little excuse for this record.

In the area of women's health, especially, the administration has demonstrated its lack of understanding. When presented with legislation that would have established a women's health research office at the NIH, demanded the inclusion of women in clinical trials, and provided vitally needed funding for research on breast and ovarian cancer—the President said no. Worse, he called these projects unnecessary. When it comes to women, the President just doesn't get it.

It is time for a change. The President can be sure that American women will not allow a failing grade to pass another time. Lip service is not enough. We need leadership as well as words.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS TO SIT TODAY DURING THE 5-MINUTE RULE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance, and Urban Affairs may be permitted to sit for consideration of legislation to extend the charter of the Export-Import Bank while the House is reading for amendment under the 5-minute rule today.

Mr. Speaker, I have cleared this with the minority, both with the gentleman from Ohio [Mr. WYLIE] and the gentleman from Iowa [Mr. LEACH].

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request to the gentlewoman from Ohio?

There was no objection.

DEMOCRATS PRACTICE PARTISANSHIP OVER COMPASSION AND POLITICS OVER REFORM

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Well, Mr. and Mrs. America, Congress worked late last night. You might want to know what they did. A powerful Democratic subcommittee chairman managed to take $50 million from hypersonic research, research that is essential for a viable competitive aerospace industry in the next century, and where did that money go? It went to construct a Government building—guess where? In the subcommittee chairman's district.

Well, last night we also managed to take, very admirably, $300 million from a wasteful program. Republicans attempted to fund with that money the HOPE Program which is aimed at making homeowners out of poor Americans who live in our inner cities.

The Democrats, so inconsistent with their own Presidential candidate who supports this program, voted it down, in yet another example of partisanship over compassion, of politics over reform.

Mr. Speaker, we hear a lot of criticism of President Bush, but the liberal Democrats who run this Congress, want to run this country.

Come on, give us a break.

PRESIDENTIAL LEADERSHIP LACKING ON SAVINGS AND LOAN PROBLEM

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the President, a day ago, sent a letter to Congress saying we ought to act on the S&L problem, send more money to the RTC, because it is costing us $6 million a day.

Mr. Speaker, I would ask where has the President been? Back last winter, when some of us asked the President to take a leadership role on this to avoid the problem we now face, he was nowhere to be found.

□ 1100

And then, in the ultimate act of political chutzpa, he blames the Congress when he cannot even get enough votes on his own side to pass the bill.

Democrats have told the President, "We will get a majority of our side to vote for this difficult bill if you can get a majority on your side." The President has been nowhere to be found. Yes, indeed, my colleagues, this is a metaphor for the campaign: The President is nowhere to be found, let the problem grow and grow and grow. And then, at the last minute, when the chickens have come home to roost, he blames the Congress when he cannot even control his own party in Congress.

If the President cannot get his own party to vote for this, how is he going to run the Congress in any way at all?

HISTRIONICS IN THE WELL

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I find it fascinating that so many of my colleagues on the other side of the aisle have chosen to resort to histrionics, pointing the finger down to the White House rather than looking at our opportunity to deal with some of the most serious challenges that we face in this country by responding favorably to some of the very good proposals which the President has requested and which the American people desperately want.

We have tried time and time again to try and implement the line-item veto, providing the President with an opportunity to blue pencil out wasteful pork barrel spending programs.

What has happened? This place has resoundingly defeated the attempt to put into place the line-item veto.

Yesterday we had two tries here to try and give 80,000 low-income Americans the opportunity to attain the American dream of home ownership, a very integral part of the President's package for economic growth. What happened?

This place defeated it. It seems to me that rather than pointing the finger from the House of Representatives, what we should be doing is looking from within.

ADMINISTRATION POLICY TOWARD HAITIAN REFUGEES

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, I rise to commend the decision handed down yesterday by the U.S. Court of Appeals in New York which ruled that the Bush administration's policy on Haitian refugees is illegal. The court sent a clear message to President Bush and gave him the opportunity to reverse a policy that has brought shame on our country in the eyes of the world and amongst our own people here at home.

But regrettably, instead of changing his disgraceful course, the President has today announced that he will appeal the decision to the Supreme Court. This appeal only furthers a policy of turning freedom-loving Haitian men and women back into the arms of Haitian dictators.

This is not the American way. It is just wrong. It violates our country's principle of freedom of asylum.

Today I call once again on the Bush administration to provide refuge on our soil to the Haitian people until freedom and democracy is restored in their country.

Mr. President, it is time to live up to your kinder and gentler promise. Let us at this time work within the international community for stronger sanctions against the Haitian dictators.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair will remind all Members that remarks should be directed to the Chair.

GOVERNOR CLINTON'S RECORD

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, we have heard a lot about President Bush this morning; not a whole lot about Governor Clinton who wants to do for America what he has done for Arkansas.

I think we need to look at some of the things he has done for Arkansas.

During his tenure as Governor 128 separate tax and fee increases were enacted into law, including regressive sales and gasoline taxes. Arkansas is just one of a handful of States that still taxes groceries. Money magazine ranked Arkansas's overall tax burden as 17th highest in the Nation.

His economic plan, which he unveiled recently, calls for $154 billion in new taxes and $220 billion in additional spending, double the taxes and three times the Government spending of Walter Mondale and Michael Dukakis.

Mr. Speaker, I do not think America can afford what Governor Clinton did for Arkansas.

THE NEXT 4 YEARS

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, I recently returned from the Democratic Convention, where we saw an extraordinary array of women who led us to declare it the Year of the Woman.

Well, the very least we can do is to have a Year of the Woman to come from the 12-year sabbatical Reagan, and Bush, and QUAYLE have taken from vital women's issues.

Then we will need a Year of the Family to make up for 12 years when family values were hyped and family legislation was vetoed. And then we will need a Year of Family Health to begin to repair the damage done when health costs and health care went in opposite directions.

And then we will need a Year of the Child to recover from the shame of national child neglect.

Add that up, and we get 4 years for a new administration to turn our upside down agenda right side up again. Women, children, and a new administration are a good place to start.

CONGRESS DENIES AMERICANS THE AMERICAN DREAM

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, last night we stayed here to extraordinary hours to spend money on programs that sometimes are in doubt but yet to deny the American people the American dream to own their own home. That was done under the cloud of the midnight hours so today we can stand before this House and carry on the political chicanery that goes on and on and on in this body. And we have heard words like "chutzpah," from the other side.

That is a term, I guess, that says a person has audacity.

I think there is audacity when we start to talk about family values and the Year of the Children and what we have to do for the American family when that same group of Members want to take away the viability of the life of a child before he is born. The very basis of families. It is chutzpah when we talk about trying to balance the budget over here but yet deny the line-item veto and the balanced budget amendment.

I think it is time that we get down to business and pass legislation that is good for the American people and let us leave the politics out of it.

CONGRESS MUST ACT ON CHILDREN'S INITIATIVE

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, nothing is more important to fulfill the American dream than to have a job for the breadwinner in the family. Nothing can more strengthen values than for the breadwinner to have a job. They cannot buy a house unless they have a job. But nothing is more important for our future than our children.

I believe our Nation cannot afford to delay action on proposals to deal with the problems of childhood, childhood hunger, child abuse and neglect, and family disintegration. That is why I support H.R. 5600, the children's initiative.

I strongly urge my colleagues to support this legislation. The scope of the Mickey Leland bill which was approved by the House Committee on Agriculture has been reduced and incorporated into H.R. 5600, which has the needed revenues to address the issue.

I thank my colleagues, and I urge them to support H.R. 5600.

DEMOCRATS ARE THE PROBLEM, NOT THE WHITE HOUSE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, my colleagues on the Democrat side of the aisle have spent a lot of time this morning lambasting President Bush and saying that he is the cause of the economic problems we are having in this country. I guess there is enough blame to go around, but the fact of the matter is, on the first six appropriation bills we have had this year, they have increased spending by $42 billion. And that is on top of a $400 billion deficit from last year.

We have tripled the amount of tax revenues from $500 billion to almost $1.3 trillion in the last 7 or 8 years. And yet they are still $400 billion behind in spending, digging us into that hole. And they have added another some $40 billion to the deficit this year over and above last year.

They are digging a terrible hole for our kids to deal with. We are going to have a $13.5 trillion deficit in about 6 or 7 years, and we will not even be able to pay the interest on it. Yet they complain about the President.

They are the ones that are raising the interest costs in this country. They are the ones who are taking the money, the capital away from the private sector so that they cannot provide jobs. They are the ones who are providing all the mandates that business cannot deal with so they are leaving the country and leaving the employees here. They have to stop the big spending, and they have to stop the mandates. They are the problem, not the White House.

□ 1110

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5678, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 530 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 530

Resolved, That during consideration of the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, all points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. The amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution and all amendments thereto shall be debatable for thirty minutes equally divided and controlled by the proponent of the printed amendment and an opponent. Debate under the five-minute rule on each other amendment to the bill, including amendments thereto, shall be limited to twenty minutes. Points of order under clause 2 of rule XXI against the amendment printed in part 2 of the report are waived.

The SPEAKER pro tempore (Mr. MFUME). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. All time yielded during the debate on House Resolution 530 is yielded for the purpose of debate.

Mr. Speaker, House Resolution 530 is a rule which will expedite and facilitate the consideration of H.R. 5678, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year 1993. The rule waives all points of order against certain provisions of the bill for failure to comply with clauses 2 or 6 of rule XXI and makes provision for the consideration of amendments to the bill.

The Committee on Rules has recommended the waivers of clause 2 and clause 6 of rule XXI because H.R. 5678 contains a number of provisions which have not yet been authorized including programs in the Departments of Commerce and Justice, and various independent commissions and agencies. And, in order to expedite the consideration of the bill under the 5-minute rule, the Committee on Rules has recommended that debate on all amendments, and amendments thereto, be limited to 20 minutes. The rule does provide for, however, one exception to the 20-minute time limit. The exception is provided for an amendment which is printed in part 1 of the report accompanying House Resolution 530. This amendment, which seeks to delete reference in the bill to television broadcasting to Cuba and to provide a $12 million funding reduction, and the rule provides that it, and all amendments thereto, shall be debatable for 30 minutes, to be equally divided and controlled by the proponent and opponent of the printed amendment. The rule also provides that all points of order under clause 2 of rule XXI are waived against the amendment printed in part 2 of the report accompanying House Resolution 530. This amendment, to be offered by the gentleman from Mississippi [Mr. TAYLOR] seeks to prohibit the use of funds in the bill for the repair or modernization of NOAA vessels outside the United States.

Mr Speaker, H.R. 5678 recommends appropriations of $22 billion in new budget authority for fiscal year 1993 for the Departments of Commerce, Justice, and State, the Judiciary, and 21 related agencies. Mr. Speaker, in light of the sever budget constraints under which the committee has been working, it is to be commended for bringing a bill to the House which is $1.3 billion below the administration's request. I commend House Resolution 530 to my colleagues in order that the House may take up and consider this most important appropriation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule. It is a bad rule. It is unfair. It protects bad policies. It prohibits important amendments. Simply put, it should be defeated.

Mr. Speaker, the gentleman from Texas [Mr. FROST] has outlined the provisions of House Resolution 530 and what it does. It waives clause 2 and clause 6 of rule XXI against the entire bill. That means that all of the rules that apply, saying that people sitting on the appropriations committee should not return the entire Government and do the authorizations, notwithstanding the rules of the House, we are going to ignore them, and that all the legislative language in this appropriation bill and all the unauthorized appropriations are hereby protected by the Committee on Rules.

The rule limits debate to 20 minutes per amendment, that is 10 minutes per side, with the exception of the Alexander amendment, which is very generously given 15 minutes per side.

Finally, clause 2 of rule XXI is waived for an amendment to be offered by the gentleman from Mississippi [Mr. TAYLOR]. This is an especially bad rule because it protects legislative language in the bill which essentially makes H.R. 2039, the Legal Services reauthorization bill, the authorizing law for Legal Services funding. The rule short circuits the process.

It treats a bill which was able to pass the House but cannot get through the Senate and cannot be signed by the President, it says that notwithstanding that the law has not been passed by the Congress and it has not been signed by the President, that it shall hereby, as a result of this rule and as a result of this appropriation, be the authorizing language.

Just stop and think about that. Notwithstanding the fact that the authorizing bill has not been written, has not been approved, has not been passed, has not been signed, we are just going to say it is going to be that way anyway.

As we all know, passage of a bill by the House is just the first legislative hurdle. H.R. 2039 is not authorizing law, and this appropriations bill should not treat it as such. The administration has stated that it would veto H.R. 2039 if it was presented to the President in this condition. Their statement of administration policy threatens a veto of this appropriations bill if this Legal Services language is not changed.

The gentleman from Florida [Mr. MCCOLLUM] came before the Committee on Rules requesting the right to offer an amendment which would make the bill comply with House rules and would do what the law of the land says it should. That was common sense. It was a constitutionally sound amendment. Therefore, it was defeated.

It simply said that the current law will apply to Legal Services Corporation funds until new reauthorization language is enacted into law. That sounds logical enough to me. However, the McCollum amendment said, "Follow the law until you change the law." I do not know how we can argue with that. However, the Committee on Rules denied the gentleman from Florida [Mr. MCCOLLUM] the opportunity to offer his amendment on a party-line vote.

If he could not offer his amendment to the Legal Services legislation, the gentleman from Florida [Mr. MCCOLLUM] asked if he would be able to make a point of order against the language which permits Legal Services funds to be used for abortion litigation. This rule, however, protects that abortion litigation language. Therefore, notwithstanding the fact that it is a violation of the rules, the gentleman from Florida was not allowed to either make an amendment or to make a point of order.

Mr. Speaker, I repeat, the administration is threatening a veto over this matter alone. I will place in the RECORD at this point a statement of the administration policy:

STATEMENT OF ADMINISTRATION POLICY

H.R. 5678—DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1993

This Statement of Administration Policy expresses the Administration's views on H.R. 5678, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, as reported by the House Committee.

Legal Services Corporation

The Administration strongly opposes language in Title IV requiring that none of the funds appropriated for the Legal Services Corporation (LSC) be spent in a manner contrary to the provisions of H.R. 2039, the House-passed LSC reauthorization bill. The President's senior advisers have recommended that the President veto H.R. 2039 for a number of reasons, including concerns about: the unconstitutionality of the Corporation's structure; inadequate restrictions on abortion-related and redistricting-related activities; inadequate controls on lobbying; the lack of competitive bidding for grants; and undue restrictions on the Corporation's ability to monitor the use of funds by grantees.

If, at the time this appropriations bill were presented to the President, the provisions of H.R. 2039 as passed by the House were to govern the operation of the LSC, the President's senior advisers would recommend that he veto this appropriations bill.

Budget priorities

The Administration strongly opposes the bill's distribution of domestic discretionary funds. The Administration believes that it is unreasonable to fund programs whose missions have been completed, or whose objectives are no longer critical. Continued funding for these programs is at the expense of higher national priorities, such as the war against crime and drugs and programs that would spur national competitiveness.

Based on preliminary OMB scoring, the Committee's recommended overall $8.9 billion funding level for the Department of Justice is more than $1.0 billion below the President's request and $0.4 billion below the fiscal year 1992 enacted level. This level of funding would seriously undermine the Administration's ability to combat crime and drug abuse. Key effects of the Committee's proposed reductions include:

Contraction of efforts to combat violent crime. In particular, the requests for the FBI and the U.S. Attorneys are reduced. As a result, the Government would be unable to apprehend and prosecute criminals who threaten our citizens.

Impairment of drug law enforcement efforts, reducing a decade-long trend of upgrading the war on drug abuse. Because the requests for the Drug Enforcement Administration and the Organized Crime Enforcement Task Forces are reduced, drug seizures and apprehension of drug dealers would decline, leading to a probable increase in drug use.

Inability to apprehend, detain, and deport criminal aliens on a timely basis. As a result of the reduced funding for the Immigration and Naturalization Service, the growing problem of illegal and criminal aliens would not be addressed adequately.

The Administration also objects to the Committee's proposed reductions in critical Department of Commerce programs. Most objectionable are the reductions in trade promotion and export enhancements activities, and those that would undermine improvements in the nation's statistics, especially the planning for the next census. Weather forecasting modernization and technology transfer programs would also be affected adversely.

The bill contains unwarranted increases for other programs. Among the funding that the Administration believes could be reduced or eliminated are the following: $248 million for the Economic Development Administration; $21 million for Public Telecommunications facilities grants; $58 million for narrow categorical National Oceanic and Atmospheric Administration projects; and $80 million for Small Business Administration programs.

The Committee has not included a legislative provision requested by the Administration that would permit the charging of fees to sentenced offenders in Federal prisons to cover the costs of the first year of incarceration. The Administration believes that the Committee should include the fiscal year 1993 fee proposal that would require those offenders who have the means to contribute to the cost of their care in prison. This proposal would yield about $50 million in receipts.

The Committee has assumed that authorizing committees of Congress will enact legislation to provide fee revenues to cover substantial portions of base funding for certain programs. Primary examples include the Securities and Exchange Commission (SEC), for which $92 million in fee collections is assumed, and the Federal Communications Commission (FCC), for which $71 million in fee collections is assumed. Both the FCC and the SEC would be severely under-funded if the fee legislation were not enacted by Congress.

United Nations peacekeeping

The Administration commends the Committee for continuing to fund fully the United States contribution to the United Nations, including peacekeeping activities and other international organizations.

Additional Administration concerns with the Committee bill are contained in the attachment.

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding levels

Department of Justice

Anti-Drug-Abuse Related Resources. The Administration is particularly concerned with the effect of the funding provided by the Committee on drug control programs. Drug-related funding recommended by the Committee is over $400 million below the request level. The Committee's reduction is about 10 percent of total drug funding requested for the Department of Justice in fiscal year 1993. This lower level of resources would severely disrupt vital investigations, resulting in more cocaine on America's streets.

Legal Resources (U.S. Attorneys, Antitrust Division, and General Legal Activities). The Committee has not provided $127 million requested for tax collection, collection of the Government's debt, representation of the Government as a creditor in the growing number of bankruptcies, and expanded litigation against defense procurement fraud. The Committee has failed to fund any of the Administration's initiatives in civil rights litigation, such as employment discrimination litigation under the Americans with Disabilities Act, prosecution of civil rights crimes, and fair housing testing.

The Committee's funding level for the U.S. trustees is $13 million below the request. With this reduction, case backlogs would continue to grow. Not funding this request would leave the door open to fraud and abuse of the bankruptcy system.

Detention and Prisons (Salaries and Expenses, Buildings and Facilities, National Institute of Corrections (NIC), Federal Prison Industries, Support of Prisoners). The Committee has reduced the request for prison operations by $192 million. These reductions would exacerbate the problem of prison overcrowding. New prisons ready to open would stand empty. In addition, despite a prison overcrowding rate of 45 percent, the request for new prison construction has been reduced by $246 million. As a result, no new prisons would be constructed.

Justice Inspector General. The Committee provides $29 million, a reduction of $2.5 million, or eight percent, from the President's request for the Office of the Inspector General (OIG). This reduction would seriously affect the ability of the OIG to conduct legislatively mandated audits of financial statements as well as audits and investigations of high risk areas and other priority issues. Audits of high risk areas such as those listed in the President's budget for U.S. Marshals and INS' financial management and accounting systems and security of Departmental ADP systems and sites could be curtailed, and essential oversight over high risk areas may be reduced significantly.

General Administration. The Committee provides $113.6 million, a reduction of $19.2 million, or 14.5 percent, from the President's request for General Administration. This reduction could seriously affect the ability of the Chief Financial Officer to conduct legislatively mandated responsibilities for financial management at the Department. Work on high risk areas such as those listed in the President's budget for the Department of Justice, including work on financial litigation and debt collection, could be curtailed, and essential oversight of these high risk areas may be reduced significantly.

Department of Commerce

NOAA Satellites and Weather Service. NOAA would be unable to continue production of the GOES satellites as a result of the Committee's $16 million reduction. This reduction could delay the launch of GOES–I for six months or more. The Committee has provided only 90 percent of the request for weather service operations. Full funding is needed to avoid permanent reductions to current weather services to the public. Reduced funding levels for systems now in procurement (e.g., NEXRAD and ASOS) could complicate contractual agreements and would add costs in the out-years.

In addition, the contractual schedule for delivery of NEXRAD radars is contingent upon facilities availability. The Committee's $10.7 million reduction to the Facilities construction account would seriously compromise NEXRAD deployment. The Committee has recommended these reductions in high priority areas while providing funding for projects throughout NOAA that the Administration considers to be of lower priority or has proposed for termination.

National Telecommunications and Information Administration (NTIA). The allocation for the National Telecommunications and Information Administration Salaries and expenses account is inadequate. If NTIA had to operate with funding below the fiscal year 1992 enacted level, it would be unable to improve its management of the Federal radio spectrum or to ensure the transfer of Federal radio spectrum to the private sector.

Statistics: Census and the Economic Statistics Administration. The Committee has provided $337 million for statistical activities, $49 million less than the request. The Committee has denied all increases and cut the base for the Economic Statistics Administration, the agency most critical in developing measures of the state of the economy. These reductions would undermine efforts to update and improve the nation's most vital measures of economic performance. They would also prevent the Bureau of Economic Analysis from moving from its current quarters, which fails to meet building and environmental codes, when its lease expires in fiscal year 1993.

The Committee has also reduced the request for the Census Bureau, which would deprive the Bureau of funds needed for the Economic Censuses and Census 2000 planning, thereby jeopardizing these key governmental functions.

U.S. Competitiveness (NIST and the Technology Administration). In an increasingly competitive international marketplace, U.S. industry must rapidly absorb new technology and translate it into new marketable products. NIST has a long-standing and highly successful record of working effectively with industry in developing measurement standards and test methods, as well as advanced research and development, all of which are rapidly transferred to industry.

These activities make an important contribution to the competitiveness of U.S. industry. The Committee has provided $62 million less than the request for NIST and the Technology Administration at a time when our nation's firms are being challenged at home and abroad on a daily basis.

Commerce Inspector General. The Committee provides $15.5 million, a reduction of $2.7 million, or 14.7, percent from the President's request for the Office of Inspector General (OIG). This reduction would seriously affect the ability of the OIG to conduct legislatively mandated audits of financial statements as well as audits and investigations of high risk areas. Audit of high risk areas such as those cited in the President's budget for the National Weather Service and the Department's consolidated accounting systems could be curtailed, and essential oversight over high risk areas may be reduced significantly.

General Administration. The Committee provides $31.7 million, a reduction of almost $4.3 million, or 12 percent, from the President's request for the Salaries and Expense appropriation for General Administration. This reduction could seriously affect the ability of the Chief Financial Officer to conduct legislatively mandated responsibilities for financial management at the Department. Work on high risk areas such as those listed in the President's budget for the Department of Commerce, including development of an adequate departmental financial management system, could be curtailed and essential oversight of these high risk areas may be reduced significantly.

Commerce Department International Activities

International Trade Administration (ITA). Exports have provided a major source of economic growth for the U.S. economy over the last five years. ITA provides much needed regional and sectoral expertise to support international trade negotiations and to enforce trade laws and agreements. The Committee has reduced ITA's budget by $8 million and further reduced ITA's available resources by earmarking funds for several trade promotion programs that are not a high priority for ITA.

Export Administration. The Committee has reduced the request for the Bureau of Export Administration (BXA) by $3.7 million, or over 8.5 percent. BXA would be required to promulgate a reduction-in-force at this funding level.

Commission on Civil Rights

Salaries and Expenses. The Committee has reduced funding by $2.2 million, or 21.5 percent, below the President's request. This decrease would reduce the scope and delay the timing of Commission hearings and related reports (including Los Angeles and Miami hearings on racial tension), and decrease the Commission's ability to monitor Federal Civil Rights enforcement efforts.

Equal Employment Opportunity Commission (EEOC)

Salaries and Expenses. The Administration urges the House to restore funding for the EEOC to the requested level of $242.8 million. The $24.2 million reduction proposed by the Committee is almost 10 percent below the level requested by the Administration. The resulting level of $218.7 million is only four percent above the fiscal year 1992 appropriation level. This level of funding would be barely sufficient to meet even the uncontrollable cost increases for Federal pay raises and related benefit costs.

The Administration's request recognized that enforcement of the recently enacted Americans with Disabilities Act and the Civil Rights Act will require additional staff and funding for the EEOC. The Committee mark would not allow the EEOC to maintain even current staffing levels and, at a minimum, would result in hiring freezes in fiscal year 1993. Further, the time it takes to resolve complaints would increase substantially.

Small Business Administration (SBA)

SBA Inspector General. The Committee provides $10.6 million, a reduction of $2.8 million, or 21.1 percent, from the President's request for the Office of Inspector General (OIG). This reduction would seriously affect the ability of the OIG to conduct legislatively mandated audits of financial statements as well as audits and investigations of high risk areas and other priority issues. The President's budget identifies several high risk areas such as the Small Business Development Program, and Small Business Investment Corporations (SBICs). Audits of these high risk areas could be curtailed and essential oversight over high risk areas may be reduced significantly.

B. Objectionable language provisions

Department of Justice

INS. The Committee bill includes language that would deny funds for payment of 1931 Act overtime for INS inspectors. At a time when both Congress and the Administration recognize the necessity of facilitating traffic across land borders, seaports, and airports as a means of facilitating trade and tourism, the Committee is eliminating a means of providing an acceptable level of service.

This provision would also exacerbate a retention and recruitment problem that INS currently faces with its inspection work force. The basic benefit and salary package offered by local, State, and other Federal law enforcement agencies exceeds that offered to INS inspectors.

Inspectors from the U.S. Customs Service and INS staff share the same ports of entry and, at land border ports, are "cross designated" to perform the inspection functions for the other agency. Failure to maintain compensation parity for the inspection work force of each agency would have catastrophic impact on recruitment and retention of staff for the disadvantaged agency. In this case, it is likely that INS would lose its inspector work force to the U.S. Customs Service.

Department of Transportation

Maritime Administration Operations and Training. The Administration objects to a provision of the Committee bill that would expand the use of proceeds derived from the sale or disposal of National Defense Reserve Fleet (NDRF) vessels collected and retained by the Maritime Administration. The provision would allow the use of proceeds for purposes other than the maintenance and acquisition of vessels into the NDRF and the Ready Reserve Force.

Commission on Civil Rights

Salaries and Expenses. The Administration objects to the restrictions in the Committee bill on the use of funds for: regional offices and civil rights monitoring activities; consultants and Schedule C, exempted service employees; and the number of billable days allowed for each Commissioner.

Small Business Administration (SBA)

Small Business Development Centers. The Committee bill would prohibit the SBA from adopting, implementing, or enforcing any regulation for the Small Business Development Centers program or from changing any policy that was in effect on October 1, 1987. The Administration opposes this prohibition because new regulations are needed to prevent possible abuses of the program.

Federal Trade Commission (FTC)

FTC oversight of Federal Deposit Insurance Corporation (FDIC), FDIC Improvement Act (FDICIA) of 1991. The Administration supports the amendment added by the Committee that would prohibit fiscal year 1993 appropriations from being used to implement section 151(a)(1) of the FDICIA of 1991. The Administration has transmitted legislation that would repeal section 151 and provide for a short study of the problems that section 151 attempts to address. Pending the outcome of that study or other legislative changes to section 151, the Administration believes it would be appropriate to delay implementation of section 151.

Mr. Speaker, if that is not bad enough, the rule does not permit the House to consider two very important amendments that we should debate and vote on today. It prohibits the gentleman from New York [Mr. SOLOMON] from offering his line-item veto rescission process amendment, which would permit the President to rescind budget authority in appropriations bills through the end of the 103d Congress. The Solomon amendment would mandate that the Congress consider legislation approving the President's rescissions within 20 days. If either House fails to pass the bill, then the money would be obligated.

Mr. Speaker, in the name of fiscal responsibility, the House must be given the opportunity to at least consider the Solomon amendment. Millions of Americans around the country understand that spending should be brought under control if we are to reduce the deficit. They support giving the President a line-item veto of some sort, and they are starting to get the word that the Solomon line-item veto rescission authority is the way to do it. The Committee on Rules is repeatedly gagging the gentleman from New York [Mr. SOLOMON].

Unfortunately, these rules are becoming important fiscal responsibility votes, and the American people are getting the word that these rule votes against the Solomon amendment are votes in support of continued runaway spending. By the way, Mr. Speaker, among the millions of Americans who believe that the President should have line-item veto, two stand out. Of course, we all know President Bush has repeatedly asked for line-item veto authority. So has Governor Clinton of Arkansas. On June 22, Governor Clinton said he wanted the President to have line-item veto authority, and claimed that he could save $10 billion using it.

This is an excellent opportunity to support a Bush-Clinton proposal. Let us show that the bipartisan calls for a line-item veto are more than just rhetoric. We have a chance to line up and support a line-item veto expedited rescission authority right now.

Finally, Mr. Speaker, the gentleman from Arizona [Mr. KOLBE], one of the most respected members of the Committee on Appropriations, asked to be able to offer an amendment dealing with the Independent Counsel statute. His amendment would do three things.

First, and most importantly, the amendment of the gentleman from Arizona [Mr. KOLBE] would delete the permanent and indefinite appropriation for the independent counsel. Congress made a severe mistake when it created this legal monster in the dead of night on the final day of the session in December 1987, and now is the time to correct it.

□ 1120

Second, it would withhold any funds for the independent counsel after September 15, 1992, if the GAO has not completed an audit. I would note, Mr. Speaker, that the GAO was supposed to audit the independent counsel every 6 months for the past 5 years. They are now 5 years late.

No one has any idea how much money is being spent and to whom and, in fact, I believe that if we are going to have an independent counsel, the time has come to appoint an independent counsel to investigate the expenditures of the Independent Counsel's office over the last 5 years, which is now amounting to millions and tens of millions of dollars. I recommend they work overtime to get the audit done.

Third, the Kolbe amendment would apply this law to Congress.

To no surprise, the Kolbe amendment was defeated by a party-line vote in the Rules Committee.

I would like to repeat: Since 1987, the Independent Counsel has been totally unchecked and totally unsupervised. Millions and millions of taxpayer dollars have been spent without any oversight.

Even worse, scores of "Young Turk" lawyers, out to make names for themselves, now run roughshod over individual rights knowing that they have a bottomless Federal pocketbook with which to bankrupt and coerce potential adversaries.

It is no mystery, Mr. Speaker, that the Special Prosecutor for the Iran-Contra Investigation is the worst example of this abusive system. It is the most political of these investigations.

That single independent prosecutor has thrown up to $50 million of taxpayer money away, with no tangible results. In particular, this case has become an entitlement for young lawyers. The pathetic indictment of the distinguished and honorable Caspar Weinberger, a man with one of the longest and most acclaimed record of service in Washington, is just the latest and most horrible example.

We hear so much about change. Well, in this case, it certainly is time for a change.

The endless Iran-Contra investigation really shows us how poorly crafted this bill is to allow these kinds of people to do this to distinguished Americans and how out of control these counsels have become. This should spur us to act not tomorrow, not tonight, right now.

The Kolbe amendment should be made in order.

Mr. Speaker, I oppose this rule for these and other reasons.

I urge all Members to join with me in standing for fiscal responsibility, for sound public policy.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

(By unanimous consent, Mr. FROST was allowed to speak out of order.)

Mr. FROST. Mr. Speaker, the Rules Committee plans to meet on Tuesday, August 4, to take testimony on the Housing and Community Development Act of 1992. A request may be made for a structured rule, which would permit only those floor amendments designated in the rule.

Earlier today, the committee circulated a "Dear Colleague" that requests all amendments to the bill be submitted to the Rules Committee no later than 3 p.m. on Monday, August 3, 1992.

In order to ensure Members' right to offer amendments under the rule that may be requested, they should submit 55 copies of each amendment, together with a brief explanation of each amendment, to the committee office at H-312, the Capitol, by 3 p.m. on Monday, August 3.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

I have not seen the letter that is being circulated, but I have some concerns.

Is there a committee report on this bill available, and, if so, how long has it been available?

Mr. FROST. It is my understanding that it is being filed today.

Mr. SOLOMON. It is being filed sometime today?

Mr. FROST. That is my understanding.

Mr. SOLOMON. Well, you know, I will say to the gentleman for whom I have a great deal of respect that the House is going to be in for a short time tomorrow, as I understand it. I also understand there are not going to be any votes on Monday, and many Members, such as those who come from California, will have a difficult time getting back.

I am concerned about these requests for prefiling amendments that seem to be coming more often now. It is one thing to prefile amendments. It is another thing not to have time to even look at the committee report.

I am not objecting here. I know the leadership on the Democrat side is trying to accommodate the Republicans because of our convention that is coming up, and we are trying to get legislation off the calendar for the week after next and onto next week's calendar instead.

I just urge the gentleman to pass on to his leadership that we are concerned about not having enough time to look at committee reports.

Mr. FROST. Mr. Speaker, I reserve my time.

Mr. McEWEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. SOLOMON], the distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank my colleague for yielding and for his support today and over the years for giving the President the line-item veto.

As my colleagues will recall, 2 days ago we had a previous question fight on this floor on the rule for the supplemental appropriations bill. At that time I urged the defeat of the previous question so that I could amend the rule to make in order a legislative line-item veto rescission amendment to that bill.

We narrowly lost that fight by a vote of 207 to 199, with 28 Members not voting. A switch of just five votes would have given this House a chance to vote on an amendment to give the President a legislative line-item veto, something the overwhelming majority of the American people want us to do.

Mr. Speaker, today I want to give my colleagues another chance to express themselves on this issue. I am urging defeat of the previous question so that I can amend the rule to make in order a slightly different amendment. I would hope that the Members not only have on the floor but back in their offices, wherever they might be, would listen so that they will know what they will be voting on—a slightly different line-item veto rescission amendment.

After Tuesday's vote, some Members especially from the other side of the aisle, Democrat Members who voted not to allow my amendment, told me they would have voted for it, except that it went too far by requiring a two-thirds vote to reverse a rescission.

In other words, if the President vetoed the bill that reversed his rescission, a two-thirds majority would be needed to override the President's veto.

While the amendment only required a majority vote to pass a disapproval resolution, if the President vetoed that resolution, the Constitution requires two-thirds of both Houses to override the veto.

Mr. Speaker, I was urged by Members on the other side of the aisle, about 15 that I can recall, to take another look at the approach being offered by the gentleman from Delaware [Mr. CARPER] and others who have worked with him and me on this line-item-veto approach for now so many years now and I certainly commend the gentleman from Delaware [Mr. CARPER] for his efforts.

His bill is H.R. 2164 and is entitled the "Expedited Consideration of Proposed Rescissions Act." It differs from my earlier approach in that it simply mandates House and Senate consideration and a vote on bills approving rescissions proposed by the President.

What that means is that if both Houses pass a Presidential rescission bill or resolution, the President would sign it, because it is his bill so there would be no two-thirds override vote involved. A simple majority of both Houses would be needed to approve the rescissions. If either House did not pass a rescission bill, the rescissions would be disapproved.

So listen back in your offices, that means we are not talking about a two-thirds override at all.

My amendment differs from the Carper bill in just one respect: While his bill limits the amounts the President could rescind to the difference between the current and previous year appropriation, or 25 percent of new programs, my amendment allows the President in true line item fashion, to rescind up to the full amount of the budget authority approved.

In short, Mr. Speaker, the Carper approach truly does expedite the rescission process and allow for an up-or-down vote on the President's proposals.

His amendment minimizes the kinds of games that can be played with rescission bills by blocking amendments and various procedural shenanigans that we are all subject to from time to time.

Nothing in the Carper amendment prevents the House from passing its own rescissions, but the main thrust of this approach is to give the Congress a clear shot at voting on what the President proposes in the way of cutting wasteful and unnecessary spending.

□ 1130

Mr. Speaker, I think I have addressed myself to the substantive aspects of this amendment, but let me clarify this slightly different approach to a line-item veto just one more time.

If we defeat the previous question, I will offer the Carper line-item rescission amendment that simply requires Congress to vote up or down on the President's request not to spend money. This requires only a simple majority vote.

If Congress approves the request not to spend the money, the money will not be spent. That is the end of it.

If the Congress votes by a simple majority to kill the President's rescissions, the rescissions are dead.

The only difference between the Carper and the Solomon approach is the amount of money the President can request to be rescinded.

I think all of you know, who support the line-item veto on the Democrat side, the Carper bill says that the President would only be able to request to reduce spending for new programs by 25 percent and only reduce spending on old programs to last year's level. That is the only difference between his approach and mine.

So for those of you who really believe in the line-item veto, we have reached a tremendous compromise here that you can vote for. It should be something that this House can support overwhelmingly on both sides of the aisle. At the appropriate time I will try to defeat the previous question, and I hope that all those who voted yesterday on this issue will support us again, plus those whom we have accommodated.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to make a brief statement in response to the gentleman from New York [Mr. SOLOMON]. Also, there is another Member on the Rules Committee here on the floor who I think would also be prepared to take questions, if the gentleman from New York [Mr. SOLOMON] wishes to direct them.

The gentleman from South Carolina [Mr. DERRICK], who chairs the Subcommittee on the Legislative Process of the Committee on Rules, announced earlier this week that his subcommittee is planning to hold hearings after the August recess on all the line-item enhanced rescission bills pending in the subcommittee.

I understand the subcommittee chairman is working out the hearing dates with his ranking Member at this time. I also understand the subcommittee intends to have at least two hearings, one for the sponsors of the various bills pending in the subcommittee and other interested Members, and another for other agencies and outside experts.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from South Carolina [Mr. DERRICK] for agreeing to hold the hearings. He also agreed to postpone them from the week that we Republicans are going to be in Houston for our convention. We hated to have a postponement because it has been postponed so many times now; but the truth of the matter is that the gentleman from South Carolina [Mr. DERRICK] agreed on March 10, 1991, to hold these hearings. We finally are getting around to doing it.

In the meantime, the President will not have the line-item veto. The rescission authority I am proposing today is almost identical to existing law, except that it requires this Congress to really have the guts and the backbone to do what the American people want. They want a vote on the line-item veto issue. That is why I hope we can defeat the previous question today.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from South Carolina [Mr. DERRICK], who chairs the Subcommittee of the Committee on Rules that will consider the matter we have just been discussing.

Mr. DERRICK. Mr. Speaker, I thank the gentleman from Texas for yielding me this time, and I thank the gentleman from New York for his kind words, and he is correct.

We are going to have hearings on all of the line-item veto bills and enhanced rescission bills that are before the Subcommittee on the Legislative Process of the Committee on Rules, which I chair. We were prepared to do that before we went on the break, but in consideration of the gentleman from New York and the fact that he will be at the convention, we have postponed them until September.

I certainly do not dispute the gentleman at all, but I do not recall having agreed to hold such hearings in 1991.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield on that point, because I was in error.

Mr. DERRICK. Yes; I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just would like to clarify something. The bill giving the President a line-item veto was referred to the subcommittee which the gentleman chairs on March 10, 1991.

Mr. DERRICK. I think we also have to understand, Mr. Speaker, that this is a very important matter that really could change the balance of power between the executive and the legislative branch and would have a great deal to do with our Government as originally conceived, in my opinion, by our Founding Fathers, not necessarily the version the gentleman is suggesting today, but the line-item veto generally.

I think it behooves us not to rush into this precipitously. We need to have hearings. We need to get the opinions not only of our colleagues in the House, but also from academics, people in the professional community with experience, and so forth. I do not think it is something that we can rush.

Now, as far as the motion to order the previous question today is concerned, I for one feel, and I am a supporter of one of the bills as the gentleman well knows, that given a properly structured vote on the substance of it, I would expect to vote for it.

But I will say I do not think the previous question on a rule is the proper place to bring up a matter of such great importance.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. MFUME). The time of the gentleman from South Carolina [Mr. DERRICK] has expired.

Mr. FROST. Mr. Speaker, I yield 2 additional minutes to the gentleman from South Carolina.

Mr. DERRICK. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, now that the gentleman has the 2 minutes, I thank the gentleman for yielding the time to me.

Mr. DERRICK. Well, Mr. Speaker, I would appreciate it if the gentleman did not take all the time, but I am glad to yield whatever time he needs.

Mr. DREIER of California. Mr. Speaker, I do this simply to say that I am very concerned about the fact that we probably would not have considered this legislation had pressure not continually been applied from this side by the amendments offered by the gentleman from Tennessee [Mr. DUNCAN] and the gentleman from New York [Mr. SOLOMON] and others.

I think my friend is right. We do not want to move into this precipitously, but is seems to me that as we have had, as my friend, the gentleman from Ohio just said, 206 years to consider it, we really do want to move ahead and address a concern which over 70 percent of the American people seem to support, and that is the ability for the President to blue-pencil out a lot of this wasteful pork barrel spending that we have seen.

So I would just like to say that I am concerned that we probably would not even be discussing this issue, which in March 1991, was referred to the gentleman's subcommittee, if we had not continued to insist on it here on the floor, and I thank my friend again for yielding the time.

Mr. DERRICK. Mr. Speaker, I thank the gentleman. We are having hearings in part because of the interest of the minority, particularly the gentleman from California [Mr. DREIER] and the gentleman from New York [Mr. SOLOMON]. The gentleman should not criticize us because we are going to do what the gentleman wants us to do.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield on that point?

Mr. DERRICK. Yes; I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I have a great deal of respect for the gentleman. The gentleman mentioned that if my amendment were enacted today it could have a profound impact on the relationship——

Mr. DERRICK. I was not referring to the gentleman's amendment specifically, but I am talking about the line item veto generally.

Mr. SOLOMON. Yes, and that is why, if the gentleman will continue to yield, that I did accommodate members on the gentleman's side of the aisle to take away the two-thirds veto override issue, because the gentleman is right. Under that circumstance, a line-item veto does have a profound impact on the relationship between the executive branch and the Congress. But, in accommodating the Democrats on the gentleman's side of the aisle, those who have some reservations about going the entire two-thirds route, we have now simply required a simple majority vote on rescissions. So there is no opportunity now to have such a profound impact. What I am proposing today simply means that we are going to have to vote on the President's rescissions here on the floor as we do on any other legislation that comes before the House.

That is why I want the Members to understand what I am offering today. I take away that profound impact the gentleman is talking about.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. DERRICK] has expired.

Mr. FROST. Mr. Speaker, I yield 1 additional minute to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I would say to the gentleman from New York that I agree with him, at least partially. This is not as offensive—maybe offensive is not the correct word, but the gentleman's proposal does not affect the balance of power to the extent that the two-thirds requirement would, but it still does affect that balance because at least to a large degree it puts the executive branch in the position of vetoing items on a individual basis without two-thirds.

□ 1140

I do not consider the line-item veto as necessarily a Republican or a Democratic matter. There are a lot of Democrats who certainly support some of those bills. I am one of them. But I do not think that considering this issue in the context of a procedural vote, as we are about to do today, is the proper way to proceed.

Mr. MCEWEN. Mr. Speaker, I yield 4 minutes to the Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to this rule, and I am going to skip over my normal routine about the importance of democratic debate. Quite obviously, such appeals fall on deaf ears on the majority side.

I would simply focus my remarks on one particular amendment that I feel should have been included in this discussion of the Commerce, State, Justice appropriation bill. This amendment that was to be offered by our colleague, the gentleman from Arizona [Mr. KOLBE], would have ended the independent counsel's permanent appropriation until the statute is reauthorized.

Now, it would have also insured that Members of Congress would be included under the statute. And it would have prohibited any new independent counsels until the General Accounting Office had completed its federally mandated audits.

It has become abundantly clear that the independent counsel statute is significantly flawed. The Congress has no oversight role, and the GAO has failed utterly in its responsibilities to audit these independent counsels.

Mr. Speaker, our form of government is predicated upon the system of checks and balances, but there are not sufficient checks on the power of the independent counsels. As a result, these counsels have run amok, the closest we have come in a democracy to an absolute monarch.

And today we have a simple choice: Either we make critical changes to the independent counsel statute, or we suspend its permanent appropriation.

It does not look like we will be making any changes to the statute, so the only check currently available to the Congress is the suspension of the permanent appropriation.

Only then will we be able to hold these independent counsels accountable for their expenditures and activities.

Now, I realize that many on the majority side hope that we just let this statute expire without taking up the tough questions of where the statute went wrong and how we can fix it.

I happen to believe we should take up those questions, we ought to debate them and let the chips fall where they may.

First, we should question both the GAO and the independent counsels about where the taxpayers' money is going. It might be quite revealing finding that out specifically. By suspending the permanent appropriation, we will have the opportunity to find out the answers to those questions.

Mr. Speaker, this rule, as it is presently crafted, of course precludes us from offering the Kolbe amendment and engaging in an important debate.

So, for my part, that is cause enough and reason enough for me to oppose this rule, and I would hope we would be able to somehow vote down the previous question, get an opportunity to have the Kolbe amendment considered in an open debate.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. I thank the leader for yielding.

Mr. Speaker, as the minority leader knows, I have been spending a great deal of time looking into this special counsel issue. Some of the things that I have uncovered are becoming more curious and more curious all the time. For starters, listen to this, the Walsh investigation has spent $5.6 million for office space. The budget also shows that $650,000 has been spent on what is called per diem and subsistence.

I have discovered that up to $300,000 of this amount was paid to Judge Walsh and his chief deputy, Craig Gillen, for personal living expenses incurred here in Washington. And there has been no GAO audit on this thing at all. I think the minority leader makes a great point. This is something that has got to be looked into. It is a disgrace to the taxpayers of this Nation.

Mr. MICHEL. I thank the gentleman for his contribution. I simply underscore again we are leaving this thing all to chance, and while the act does not have to be reauthorized until December, you know, let us face it, we are going to be adjourned here and we ought to make up our minds one way or the other what we are going to do.

This is the vehicle in the interim period of time that gives us an opportunity to get something in motion, to get the answers not only for us but, I think, for the American people as to the validity of the independent counsels, period. And more particularly, for this appropriation bill. How much are they spending, where is it going? Just like we ask those critical questions of every other individual in Government today.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank the gentleman for this time.

Mr. Speaker, there has been some discussion and some papers circulated regarding the effect of this appropriation on the Legal Services Corporation.

I want to just discuss how we got to where we are.

First, Members should understand this bill does reference what the House did on the Legal Services Corporation. Let me remind Members, Mr. Speaker, that we are talking about a series of eight rollcalls and 2 days of debate which this House had just about 3 months ago. In other words, when we reference a House-passed bill on Legal Services, we are not talking ancient history.

When I became chairman of the Subcommittee on Administrative Law of the Committee on the Judiciary and received jurisdiction over Legal Services, I stood on the floor of the House in June 1991, when this bill last came before the House, and pledged that we would get an authorization bill through. We had a colloquy involving various members of the subcommittee and I invite Members to read that colloquy.

What we said was we would bring a bill to the House, and there appeared to me to be general agreement that the Appropriations Committee would be guided by what the House did. It was suggested they would be guided by what the Judiciary Committee did. That was rejected. The decision was we would be guided by what the House did.

Now, the House brought a bill to the floor. There were a number of amendments. Virtually every aspect of that was debated in April, I believe it was, and we had eight rollcalls. What the bill before us today does is simply reflect decisions made by the House after very full debate and eight rollcalls a few months ago.

Now, some people have said, "No, we should reject that." But if we reject it at this point, the House having decided, we go back to existing law. That is your choice: What the House did, or existing law.

Understand what that means: If you go back to existing law.

Members critical of Legal Services had argued that there was some ambiguity as to whether or not the misappropriation of Legal Services funds was a Federal crime. We quite explicitly, in the bill we passed, said that it was. So if you reject being guided by what we said we were going to be guided by, you may be decriminalizing again, from the Federal standpoint, stealing those funds.

We put in some timekeeping requirements because Legal Services Corporation grantees can have several sources of funds. They can have Legal Services funds, they can have State funds, they can have private funds. People said how do we know which funds are going for what? How do we know they are not using the Federal funds for purposes they should not be using?

We said, "Good point. Let us have strict requirements for timekeeping." Reject that bill, and you go back to the old bill. Indeed, the old bill some Members might be wanting to go back to is what they used to complain about.

Previously, they used to point to all the inadequacies in that. So here is what happened: We had inadequacies, and I agree we did. The House then decided to make some improvements. We did not go as far as some Members wanted us to go. But every single major issue in that bill was decided by the eight rollcalls. Having had the eight rollcalls, they now want to discard all of that, some of them, and go back to the old rules. Well, the old rules are the loose rules they have been complaining about: no criminalization of Federal funds; looser requirements on lobbying.

There is one area where I think change is necessary. I believe, as I look over, that we committed an oversight with regard to abortion. There was an inadvertent, at least on my part, loosening of the abortion language. The current law, before we voted a few months ago, said that no Legal Services funds could go for abortion. There was an amendment that said, "No, only Legal Services funds could go for therapeutic abortions." We reverted back to some area language. I think that is too loose.

The other body has already passed an appropriation and passed the bill out of committee that restores the tighter language on abortion. I believe it is the intention of the gentleman from Iowa, and it would be certainly my intention when we go to conference, we would accept that. That is, we think our language on abortion ought to be tightened to comply with the other body. If we have an authorization conference, I would agree to it. If we have an appropriations conference, the gentleman would agree to it. Therefore, we can acknowledge that that ought to be tightened.

☐ 1150

If we go further, Mr. Speaker, we loosen all of the safeguards the gentleman put in.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Kentucky.

Mr. ROGERS. Assuming that what the gentleman says occurs, and the Senate, the other body, puts in the language which he said they did, we still have the prohibition in the 1977 authorization that prohibits, and is the law now, that prohibits private contributions from the Legal Services Corporation from being used for abortion purposes.

Mr. FRANK of Massachusetts. My answer to the gentleman on that is that we had a vote on the floor of the House dealing with that. The amendment by the gentleman from Pennsylvania [Mr. GEKAS], the ranking minority member, would have removed that, and the House voted by about a 50-vote majority not to remove it. So, where the House did not vote, I think we should loosen the abortion language, and I would agree, and the gentleman from Iowa agrees, that we would go the Senate.

But the point the gentleman is now talking about, as I understand it, was involved in an amendment that was offered, and we were going by what the House said on an amendment.

Mr. ROGERS. If the gentleman would yield further, the bottom line is, if we do as the gentleman suggests and adopt in the authorizations bill the Senate language, we are in effect repealing the 1977 prohibition on the use of private funds for abortion by Legal Services Corporation and, in place of that, allowing private contributions to Legal Services Corporation to be used for abortion.

Is that correct?

Mr. FRANK of Massachusetts. As I understand and I would say to the gentleman, yes; as the House voted by a majority. The gentleman's quarrel is not with this bill. It is with a rollcall of a majority of the House of Representatives in April, and, having lost that vote, he apparently wants to relitigate it. I can understand that. But we had a 50-vote majority on the floor of the House rejecting the amendment of the gentleman from Pennsylvania [Mr. GEKAS] which would have done what the gentleman wanted.

Mr. ROGERS. The only thing I wanted to know is if it is correct we would have a change in law then.

Mr. FRANK of Massachusetts. Yes; if the House voted for it by a majority of 50 votes.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. Speaker, I plan to offer an amendment to delete the funds for TV Marti when the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of H.R. 5678, the appropriations bill for Commerce, Justice, State, and I ask unanimous consent that I may be permitted to include extraneous material during the debate on my amendment in support of my proposition.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Arkansas?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, would it be possible for the gentleman to provide those so we can take a look at them? I will not object; I would just like to see them.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I will be pleased to provide copies of any material that I have available. Some of the material will have to be copied prior to offering it to the gentleman.

Mr. BURTON of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there further objection to the request of the gentleman from Arkansas [Mr. ALEXANDER]?

There was no objection.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, once again it is no wonder that the Democrats' Presidential candidate wants to keep the Democrats at arm's length who serve in the Congress, and preferably two or three States away, if he possibly can. This rule once again demonstrates why Bill Clinton wants to have nothing to do with what the Democrats are doing and proposing on Capitol Hill.

Mr. Speaker, the Democrats are so afraid that their positions would not stand scrutiny that they have to abandon the 5-minute rule, and so in this particular rule they limit the amount of debate on amendments rather than allowing the House to proceed as we traditionally have done on appropriations bills, under the 5-minute rule which allows for full debate. The only reason for that can be that the Democrats do not think that their views can withstand the scrutiny.

And then they make certain amendments in order and certain amendments not. I mean when Republicans want to offer amendments on the independent counsel, we are not allowed to offer that. However, if Democrats want to offer an amendment to release the pressure on Cuba, why that gets made in order.

Now I wonder if their Presidential candidate is for releasing the pressure on Cuba. The Democrats in the Committee on Rules have decided that that is a good amendment to have on the floor and have voted on, one that says, "Let's not have as much pressure against the communist regime in Cuba."

Well, that we have got to consider out here on the House floor. I wonder what Mr. Clinton thinks about that. My guess is he is probably not going to promote that on the campaign trail. He wants to keep those kinds of things at arm's length.

The Democrats have consistently in the past week abandoned their Presidential candidate when it comes to policymaking on the floor.

Yesterday the majority of Democrats voted against the space station. We have a bipartisan majority that ultimately passed it. But the majority of Democrats in voting voted against space station despite the fact that their Presidential candidate is for it.

The majority of Democrats voted against home ownership for poor people despite the fact it is part of their platform and their Presidential candidate is running around the country supporting it.

Mr. Speaker, the Democrats are constantly lining up against line-item veto. On vote after vote they will get another chance today, despite the fact that their Presidential candidate supports it.

On issue after issue, policy after policy, the Democrats are saying, "Bill Clinton, you're out there by yourself," and of course Bill Clinton is very happy to be out there by himself because he does not want to associate with the kinds of views that he sees being demonstrated here in the Congress.

So, Mr. Speaker, this rule is one more example, one more case, where Democrats and their Presidential candidate are at odds. Bill Clinton does not want to come to this town, does not want to be seen with the Capitol in the background, does not want to be seen with Members of Congress who are Democrats because he is afraid that the image they portray day after day on the House floor with the policies they present are simply not electable policies nationwide.

We are seeing that happen once again in this rule. It is a good reason, probably, for turning down this rule, turning down the previous question, allowing the vote on the line-item veto and allowing Republicans to get some amendments in the bill that actually speak to real concerns of the American people.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Kentucky [Mr. ROGERS], the ranking member of the subcommittee of the Committee on Appropriations.

Mr. ROGERS. Mr. Speaker, I thank the gentleman from Ohio [Mr. MCEWEN] for yielding this time to me.

Mr. Speaker, I oppose this rule, and I do so reluctantly because the bill is important to our Nation. But there are two problems.

First, Mr. Speaker, we have a veto threat on this bill because of the provision regarding the Legal Services Corporation which would have the House-passed LSC authorization govern legal services funding if an authorization is not actually enacted into law. The authorization that passed the House contains many controversial provisions, not the least of which is a removal of existing prohibitions on abortion-related activities by legal service lawyers.

In the Committee on Rules the gentleman from Ohio [Mr. MCEWEN] offered a reasonable substitute that LSC funding would be subject to law, either existing law or an authorization enacted into law. The Committee on Rules protected the committee's provision, but not the right of the gentleman from Ohio [Mr. McEWEN] to replace it, to fix a problem, to help us all by avoiding a veto. We may have a vote on this later, but a sound solution was denied an opportunity in this rule.

Finally, Mr. Speaker, while we're meddling with authorization issues of the Judiciary Committee on the one hand, the Rules Committee turned away another authorization matter it could not stomach. Our leader, the gentleman from Illinois [Mr. MICHEL], and the gentleman from Arizona [Mr. KOLBE], a member of the subcommittee, sought the right to address the independent counsel statute, which expires in December of this year.

The independent counsel has open-ended funding, and that arrangement has produced some very expensive, we think, although we do not know because no audit has been performed in 5 years. Some very expensive political fishing expeditions are taking place, the most recent and most expensive of which is the never-ending Walsh investigation. He's been there for nearly 6 years—longer than a majority of the Members of Congress have been here.

The House should act on the statute, act on the fact that GAO financial reviews have never been performed in spite of the fact the law authorizing Independent Counsel requires it every 6 months. Not one in 5 years. No one knows how much money they have spent because GAO has not performed a single audit in those 5 years. And we should act on the question of applying this act to the Members of this body, as it should have been at the outset.

So, Mr. Speaker, I urge defeat of the previous question so as to allow these amendments to be offered and against the rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Delaware [Mr. CARPER].

□ 1200

Mr. CARPER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, in 1974, when the Budget Act was adopted, rescission powers were put in place whereby the President could recommend that spending and certain appropriations could be reduced or eliminated. The way the law works, the President signs an appropriation bill and he sends us a rescission, and we have 45 days during which to consider that rescission. If we have taken no action within those 45 days, the rescission for all intents and purposes disappears as if it were never offered.

Since that time, over the last almost two decades, there has been a considerable amount of debate in these Chambers over whether or not we should provide a line-item veto power for the President, much stronger than what he is afforded in the 1974 Budget Act.

I think in recent years, certainly in recent weeks, maybe even in recent hours, we have seen a significant narrowing of our differences on this issue. Initially, there was a hue and cry over whether or not we needed to amend the Constitution to provide the President with greater rescission powers, and I think for the most part a majority of us would say, no, that is not called for. I think a majority of us are comfortable with making statutory changes in the 1974 Budget Act.

Initially, there were those who thought a two-thirds vote should be required to overrun a Presidential rescission. I am happy to see that again I think a majority of us agree, no, that is not really necessary, that while a two-thirds vote might be appropriate to override the veto of an entire bill, to say that to overturn a rescission needs a simple majority would be quite satisfactory.

We have also seen the apparent nominees of both parties come to some consensus, as has been alluded to on the other side. Governor Clinton on our side supports the notion of line-item veto, and certainly the President supports the approach as well.

A coalition of Democrats and Republicans came together in the last Congress, and that included the gentleman from South Dakota [Mr. JOHNSON], the gentlewoman from South Carolina [Mrs. PATTERSON], the gentleman from Kansas [Mr. GLICKMAN], the gentleman from Texas [Mr. ARMEY], and former Congresswoman Lynn Martin, and what we crafted was an approach that was described earlier today by the gentleman from New York [Mr. SOLOMON]. We retain the current rescission power for the President. We do not amend that at all; we retain that power. The President could still send a rescission and we would have 45 days during which to act, and after no action the rescission would go away. That would not be changed.

What could change, though, is that the President could sign an appropriation bill, send us a rescission, and we would protect somewhat authorized programs. We would not permit the President to rescind 100 percent of authorized programs, but we would permit him to rescind as much as 100 percent of unauthorized programs. We would have to vote once the rescission message were received here. We would have 10 days during which to vote. A simple majority would defeat the rescission. But if we approve it, it goes to the Senate, and they would have 10 days during which to vote. They would have to vote. If they decided to turn it down, then it is a dead letter. We would require the vote. A simple majority would be sufficient to override that rescission.

The gentleman from South Carolina [Mr. DERRICK], a member of the Rules Committee who chairs the subcommittee of jurisdiction over our proposal, has agreed to hold hearings. My hope is that by the middle of August the Speaker would agree. We have consulted with the Speaker in the last 24 hours, and I do not want to misrepresent his position, but I have asked him for the assurance of a vote next month on a rescission bill. I think we will get that. We are not going to have it this morning, but I believe we will get that assurance eventually, and I will continue to push for it.

Again, Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. McEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I rise primarily to salute the efforts by the gentleman from New York [Mr. SOLOMON], the gentleman from California [Mr. DREIER], and the gentleman from Ohio [Mr. McEWEN] on behalf of the line-item veto. I think their work on behalf of this issue has been valiant, and I commend them for all the work they have done.

Also, as has been mentioned by the gentleman from Pennsylvania [Mr. WALKER] and also by the gentleman from Delaware [Mr. CARPER], Governor Clinton, the Democrats' nominee for President, supports the line-item veto. President Bush supports the line-item veto. In addition to that, the National Taxpayers Union, and Americans for a Balanced Budget, the Citizens for a Sound Economy, the Americans for Tax Reform, the U.S. Business and Industrial Council, the Citizens Against Government Waste, and the National Association of Manufacturers have all come out in favor of the line-item veto. In addition to that, the Governors of 43 of our States would be very upset indeed if we tried to take away the line-item veto power from them. Also, 199 Members of this body voted for a line-item veto measure 2 days ago on the floor of this House.

Most important of all, the polls show that over 70 percent of the American people support the line-item veto power. The Wall Street Journal 2 days ago had a lengthy front-page article about the national mood of pessimism. The American people are scared today; they are worried about our economy; they are in fear of their future economically. They know we are $4 trillion in debt, and even worse, that we are losing $1 billion a day on top of that every day at this time. They know that this is like a chain around the neck of our economy, and they know we are going to crash economically if we do not bring spending under control.

I wish we did not need a line-item veto, I wish we did not need a balanced budget amendment to the Constitution, but the fact is an overwhelming majority of this body finds it too enjoyable to spend other people's money, and we have been unable or unwilling to bring spending under control ourselves.

Mr. Speaker, we need a line-item veto power, and I support the efforts of the gentleman from New York [Mr. SOLOMON] on the previous question.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding me this time, and I rise in strong support of the effort which the gentleman from Tennessee [Mr. DUNCAN] has led since January 3, 1991, and which is now being led by the gentleman from New York [Mr. SOLOMON], calling for the line-item veto.

I compliment my friend, the gentleman from Delaware [Mr. CARPER] for explaining very clearly the issue of the 1974 Budget Act. It is obvious that since passage of that act, from my perspective, I would say, we have really abrogated our responsibility to deal with the fiscal challenges that this Nation faces. One of the things that has concerned me over the years, Mr. Speaker, is that Members of Congress will often stand in their districts and argue in behalf of motherhood, apple pie, a balanced budget, and the line-item veto. Then they come to Washington and vote against motherhood, apple pie, a balanced budget, and the line-item veto.

We know that on the Democratic side they like to use this previous question battle as simply a procedural party line vote, and if you are going to support the Democratic Party, you are going to vote in favor of the previous question so that we can move ahead with the rule and move ahead with the legislation. As members of the minority, we know the only opportunity we have to deal with some of these tough issues is on the previous question battle. So we urge those members of the majority who truly want to do what they say at home they want to do, to vote against the previous question.

Mr. Speaker, I compliment my friend, the gentleman from South Carolina [Mr. DERRICK] for agreeing to hold these hearings and for acknowledging that it has been encouragement from the minority side that has led him in part to hold these hearings. The fact of the matter is that we have had many different hearings that have been held on this issue. We can go back to 1986 and find that the Rules Committee held hearings on this matter. Three committees of the House, the Committee on the Budget, the Committee on Government Operations, and the Committee on Rules, have over the years held a number of hearings on this issue.

So let us move ahead with this today. Let us begin to meet what I believe is our constitutional responsibility to deal with spending. Let us defeat the previous question so that we can bring about a very balanced bipartisan line-item veto and enhanced rescission authority.

The SPEAKER pro tempore (Mr. MFUME). The Chair wishes to state that the gentleman from Ohio [Mr. MCEWEN] has 3 minutes remaining and the gentleman from Texas [Mr. FROST] has 8 minutes remaining.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I have no further requests for time at this point, and I reserve the balance of my time. I would ask that the gentleman from Ohio [Mr. MCEWEN] proceed and then we will close debate on our side.

Mr. MCEWEN. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE], a member of the subcommittee of the Committee on Appropriations.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I agree with my colleagues about the need to deal with the line-item veto issue, but today I want to just mention very briefly in the time I have the other issue that has been discussed here today. I believe the Congress has an obligation to also provide for legislative oversight of independent counsels, most particularly independent counsel Lawrence Walsh.

□ 1210

Independent counsels have been operating with a permanent indefinite appropriation. That means no oversight by Congress. In 1987, Congress passed a law requiring GAO audits of independent counsels. But not a single audit has been undertaken.

The amendment that I offered in the Committee on Rules which was not made in order simply would have repealed the permanent indefinite appropriation that has allowed Lawrence Walsh to spend $40 million.

My amendment also would have required the GAO to comply with the law. If the law was not complied with funding for the independent counsels would have been suspended.

Finally, my amendment would have applied the independent counsel statute to Members of Congress. I believe these are reasonable provisions.

I know my amendment is considered legislation on an appropriation bill, but heaven knows, we do enough of that around here. It seems to me, however, this issue ought to be debated and it ought to be debated now before we have the expiration of the independent counsel statute in December of this year.

Mr. Speaker, I urge a "no" vote on the rule.

Mr. MCEWEN. Mr. Speaker, with the assurance that the other side has no additional speakers, I yield 1 minute to the gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, last night we saw something happen on this floor that made me sick to my stomach. I am still sick to my stomach about it. We saw a very useful McCurdy amendment pass this House by a substantial margin, and 45 minutes later we saw the House reverse its vote on the McCurdy amendment and defeat it.

We saw Democrats changing their vote and voting no. We saw some Republicans, and that made me more sick than anything, changing their votes and voting no; Members threw away their conscience vote, because they were pressured and threatened.

I feel like the same thing is happening on this line-item rescission vote today. Let me just explain it again. If those Members who supported me 2 days ago vote for my way again, we are going to pass a rescission amendment. If we defeat the previous question, I will offer the modified Carper amendment that simply requires Congress to vote up or down on the President's request not to spend money. If Congress approves the request, that is the end of the spending. If Congress votes by a simple majority to kill the President's rescission request, that means the rescissions are dead. This procedure does not go to the President for his veto. That is normal House procedure and we will give the American people what they want.

Mr. Speaker, I recently made a decision to run again. I came within 1 day of not running. Sometimes I wonder if I made the right decision, when I see what goes on around this place. It is heartbreaking sometimes.

Mr. MCEWEN. Mr. Speaker, it is my understanding that the gentleman from Texas [Mr. FROST] is prepared to close debate at this point.

Mr. FROST. Mr. Speaker, that is correct.

Mr. MCEWEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in opposition to this rule and in support of defeating the previous question for five reasons.

No. 1, as we mentioned earlier, this rule permits new language to go into the Legal Service Commission that has not been authorized. It does away with the current abortion prohibition, and the antichoice position or the pro-life position would be to vote no and defeat the previous question if you believe in maintaining the current restrictions on the Legal Service Commission.

No. 2, there is a prohibition in this rule that does not allow the Carper-Solomon amendment to be offered whereby we could vote on the line-item veto. So a vote to force this over top of our efforts, to defeat the previous question, is a vote against the line-item veto.

Also the independent counsel that was discussed, having spent $50 million without a single audit, that the effort to allow certain constraints on the independent counsel, just to make the amendment, is prohibited for in this rule. Those are three reasons we should vote against it.

Two more, it waives all points of order, so the rules of the House do not apply, and it starts down this road of doing away with the 5-minute rule for Members who wish to speak on amendments. It limits all amendments to 10 minutes per side.

Mr. Speaker, those are five reasons that we should defeat the previous question now.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all before I close I would like to say that I am glad that my friend and colleague, the gentleman from New York [Mr. SOLOMON] decided to stay, to not leave the House. The gentleman is a constructive member of the Committee on Rules and brings a lot to the discussion. We do not always agree, but the gentleman is a hardworking member of our committee.

Second, this is a fairly straightforward issue today. This is the last of the 13 appropriations bills to be considered by this House, the last opportunity to consider an appropriations matter. We will have completed the work in a timely manner. It will now be up to the U.S. Senate once this bill is passed to pass the various appropriations bills so that we may go about the business of the country.

Mr. Speaker, the gentleman from South Carolina [Mr. DERRICK] has adequately explained his intention to hold hearings in a prompt manner on the question of the line-item veto, the issue that has been aired today. The gentleman from South Carolina is a subcommittee chairman of the Committee on Rules. The gentleman from South Carolina [Mr. DERRICK] is a respected Member on our side of the aisle who has given his word to the House that there will be prompt hearings on this matter as soon as we get back from the August recess.

Mr. Speaker, that is the appropriate way to resolve this question. That is the appropriate time and the appropriate place.

Mr. Speaker, I urge adoption of the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MFUME). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 240, nays 176, not voting 18, as follows:

[Roll No. 346]

YEAS—240

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Hutto
Jefferson
Jenkins
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—176

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Inhofe
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Murphy
Myers
Nichols
Nussle
Oxley
Packard
Pallone
Paxon
Penny
Petri
Porter
Poshard
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Visclosky
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Barton
Boxer
Collins (MI)
Conyers
Coughlin
Hatcher
Hefley
Hunter
Hyde
Ireland
Lowery (CA)
Martin
Mrazek
Savage
Solarz
Stallings
Towns
Traxler

□ 1236

Mr. NUSSLE changed his vote from "yea" to "nay."

Messrs. MILLER of California, KOSTMAYER, ENGLISH, and CHAPMAN changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MFUME). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 162, not voting 22, as follows:

[Roll No. 347]

AYES—250

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—162

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Paxon
Petri
Porter
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Barton
Berman
Boxer
Collins (MI)
Conyers
Coughlin
Cunningham
Hatcher
Hefley
Hyde
Ireland
Lowery (CA)
Martin
Mavroules
Meyers
Mrazek
Pursell
Savage
Solarz
Stallings
Towns
Traxler

□ 1254

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO ADJOURN

Mr. DORNAN of California. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. MFUME). The Clerk will report the motion.

The Clerk read as follows:

Mr. DORNAN of California moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from California [Mr. DORNAN].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DORNAN of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 13, nays 380, not voting 41, as follows:

[Roll No. 348]

YEAS—13

Allard
Bentley
Cox (CA)
Crane
Dornan (CA)
Dreier
Ford (TN)
Hancock
Marlenee
McEwen
Pastor
Sabo
Taylor (NC)

NAYS—380

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (NJ)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari

Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—41

Andrews (ME)
Andrews (TX)
Barton
Boxer
Broomfield
Collins (MI)
Conyers
Dickinson
Dymally
Glickman
Hall (OH)
Hatcher
Hoyer
Hunter
Hyde
Ireland
Jones (NC)
Kolter
Lancaster
Lehman (FL)
Lowery (CA)
Martin
Mavroules
McCandless
Meyers
Mrazek
Olin
Pelosi
Perkins
Rangel
Sanders
Savage
Schiff
Solarz
Stallings
Towns
Traxler
Washington
Waxman
Weber
Wise

☐ 1313

Mr. LEVIN of Michigan changed his vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MFUME). The gentleman from Iowa.

PRIVILEGES OF THE HOUSE—RESOLUTION REQUIRING IMMEDIATE IMPLEMENTATION OF H.R. 4104 AND DIRECTING COMMITTEE ON HOUSE ADMINISTRATION TO PROHIBIT PAYMENT FOR THE PURPOSE OF CERTAIN MASS MAILINGS

Mr. THOMAS of California. Mr. Speaker, I rise to a question of privileges of the House, and I offer a privileged resolution (H. Res. 533).

The SPEAKER pro tempore (Mr. MFUME). The Clerk will report the resolution.

The clerk read as follows:

H. RES. 533

Whereas, the House of Representatives acted on April 8, 1992 and passed by a vote of 408-8 a motion to recommit the conference report on the bill S. 3 instructing conferees to include the provisions of the bill HR 4104 and;

Whereas, the House voted on June 24, 1992, by a margin of 417-2 to include HR 4104 in the Legislative Branch appropriations for FY 1993 and;

Whereas the US Court of Appeals has on July 30, 1992 declared section 3210(d)(1)(B) of Title 39 of the US Code unconstitutional under the First and Fifth Amendments thereby removing the authority of members of Congress to frank mass mailings to areas outside the district from which the member was elected, and;

Whereas, members of the House have engaged in activities now declared by the courts as unconstitutional and;

Whereas such activities impugn the integrity of the proceedings of the House now therefore be it resolved:

Resolved, That the House of Representatives directs the Committee on House Administration to prohibit payment from any account for the purpose of mass mailings franked outside the district from which the member was elected and further that the provisions of HR 4104 be implemented immediately.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Mr. Speaker, listening to the resolution, as I understand, the gentleman is offering this as a privileged resolution.

The SPEAKER pro tempore. That is correct. The Chair is examining the resolution.

Mr. VOLKMER. As a privileged resolution?

The SPEAKER pro tempore. The gentleman will suspend while the resolution is examined. The gentleman's parliamentary inquiry will be addressed.

Mr. VOLKMER. Because I raise a question whether it is a privileged resolution of a Member of the House; not appropriate.

The SPEAKER pro tempore. The Chair will rule. The Chair's understanding is that the resolution essentially directs a rules change by immediate implementation of an introduced bill which then is not a question of privilege. The resolution does not constitute a question of privilege.

The gentleman may proceed.

REQUEST OF MEMBER TO ADDRESS THE HOUSE FOR 5 MINUTES

Mr. THOMAS of California. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MILLER of California. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that I be permitted to include tabular material——

The SPEAKER pro tempore. Without objection, the request is granted.

Mr. THOMAS of California. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. SMITH of Iowa, Mr. Speaker, I withdraw the request.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 253, nays 148, not voting 33, as follows:

[Roll No. 349]

YEAS—253

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio

Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morrison
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
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Obey
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Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
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Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
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Pelosi
Penny
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Pickle
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Price
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Rahall
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
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Vento
Visclosky
Volkmer
Waters
Waxman
Weiss
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Whitten
Williams
Wilson
Wolpe
Wyden
Yates
Yatron

NAYS—148

Allard
Allen
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
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Franks (CT)
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James
Johnson (CT)
Johnson (TX)
Klug
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Lightfoot
Livingston
Machtley
Marlenee
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—33

Barton
Boxer
Broomfield
Clay
Collins (MI)
Conyers
Dickinson
Gingrich
Hall (OH)
Hatcher
Hyde
Ireland
Kolter
Lancaster
Lowery (CA)
Martin
Matsui
Mavroules
McCandless
Montgomery
Mrazek
Murtha
Perkins
Pickett
Rangel
Roukema
Savage
Solarz
Stallings
Towns
Traxler
Washington
Wise

☐ 1337

So the motion was agreed to.

The result of the vote was announced as above recorded.

☐ 1340

COURT OF APPEALS RULING AFFECTING MEMBERS' FRANKED MAIL ACCOUNT

Mr. ROSE. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from North Carolina?

Mr. THOMAS of California. Mr. Speaker, reserving the right to object, what is the subject matter?

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, the subject matter is the matter that the gentleman from California [Mr. THOMAS] was trying to bring up just a few minutes ago.

Mr. THOMAS of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the gentleman from North Carolina [Mr. ROSE] is recognized for 5 minutes.

There was no objection.

Mr. ROSE. Mr. Speaker, I would like to make a brief statement, and then I will yield to my colleague.

The Court of Appeals for the District of Columbia has, within the last few hours or minutes even, ruled that it is unconstitutional for Members of Congress to use their franked mail account to mail outside the district to which they have been elected to serve.

The gentleman from California [Mr. THOMAS] and I have agreed to engage in a colloquy about that. We think Members need to be aware of that, that if they were to mail outside with their franked mail account, they would be committing an unconstitutional act based on that court decision.

Members should also know that the House overwhelmingly voted in the legislative appropriations bill that upon enactment of that bill that the same rule would apply. In other words, that there would be no franking of either postal patron or mass mailings outside the district.

So the gentleman from California [Mr. THOMAS] and I would like to inform the Members of the House of that and to say that we will not approve, henceforth from today, any expenditure of public funds from the franked mail account to mail mass or bulk or postal patron mailings outside of Members' congressional districts.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding to me.

The gentleman might recall that in January, H.R. 4104 was introduced, which would do just that. The Committee on House Administration and the Committee on Post Office and Civil Service refused to hold a hearing on the bill.

On April 8, by a vote of 408 to 8, this House attached H.R. 4104 to a bill which passed this House. On June 24, H.R. 4104 was attached to the legislative branch appropriations bill for 1993 to be effective upon enactment.

On June 25, in the Committee on House Administration, we once again requested an administrative application of the statute, and we were denied. Twelve Democrats said no.

Ten Republicans and one Democrat said yes.

On June 26, the district court upheld the statute, and then today the appellate court said that it was unconstitutional.

It seems to be that the statement of the gentleman from North Carolina that the Committee on House Administration will administratively implement H.R. 4104 beginning today is the only prudent thing for the House to do because any mail sent out today or tomorrow or any day henceforth would, in fact, be unconstitutional and illegal.

I appreciate the gentleman finally deciding that we ought to stop this practice. The House should have done it in February.

Mr. Speaker, I include for the RECORD a copy of the appellate court decision.

[U.S. Court of Appeals for the District of Columbia Circuit, No. 92-5239]

COALITION TO END THE PERMANENT CONGRESS, ET AL., APPELLANTS *v.* MARVIN T. RUNYON, ET AL., DONALD K. ANDERSON, ET AL.

(Appeal from the United States District Court for the District of Columbia. Before:

Wald, Silberman, and Randolph, Circuit Judges)

JUDGMENT

This cause came to be heard on the record on appeal from the United States District Court for the District of Columbia, and was briefed and argued by counsel. On consideration thereof, it is

Ordered and adjudged, by this Court, that 39 U.S.C. §3210(d)(1)(B) is unconstitutional under the First and Fifth Amendments, and therefore the judgment of the District Court is hereby reversed. The provision at issue, 39 U.S.C. §3210(d)(1)(B), part of the congressional franking statute, allows incumbents to send free mass mailings to persons in areas added to their districts by redistricting. Appellants, including several challengers running for seats in the upcoming elections, contest the law as an unconstitutional subsidy that aids incumbents at taxpayer expense in winning reelection. Appellees, officials of the House of Representatives, contend that the law encourages incumbents to provide information to these redistricted voters, whose current representative may have less incentive to serve them because of redistricting. In a June 26, 1992, memorandum opinion and order granting appellees' motion for summary judgment, the District Court held that the justification for the law had a rational basis which survived constitutional scrutiny. On July 16 this Court granted appellants' motion for an expedited appeal.

A summary form of Judge Silberman and Judge Randolph's opinions concurring in the judgment are attached hereto, as well as a summary of Judge Wald's dissent. Expanded opinions will issue at a later date.

Coalition To End the Permanent Congress, et al. v. Runyon, et al., No. 92–5239:

Silberman, Circuit Judge: Unlike the general franking statute upheld in Common Cause v. Bolger, 574 F. Supp. 672, aff'd mem., 461 U.S. 911 (1983), the specific provision here, relating to redistricting, operates only in contemplation of congressional elections. To be sure, the statute may have a rational non-election basis of encouraging congressmen seeking re-election in a newly constructed district to provide information to redistricted voters. That purpose, however, serves only to emphasize the connection of the statute to election campaigns and requires us to consider the provision as a law focused on elections. Any such statute, which provides financial support to an incumbent against a major-party challenger, Buckley v. Valeo, 424 U.S. 1, 98 (1976), must receive some degree of heightened scrutiny under the First and Fifth Amendments to determine whether the burden placed on the rights of candidates and their supporters, Burdick v. Takushi, 112 S. Ct. 2059, 2063–64 (1992), is justifiable. Anderson v. Celebrezze, 460 U.S. 780, 789 (1983); Buckley, supra, at 93–98. Otherwise Congress could grant incumbents extra travel allowances or increased salary during election years, as long as it justified such action as enhancing service to constituents.

Appellees have not met heightened scrutiny. Whatever Congress' motive in passing the disputed provision, there is no showing of a substantial government interest in financing this sort of communication with voters. The voters presumably will continue to receive mass mailings from their present representatives. Although I do not give legal significance to the recent House vote to repeal the disputed provision, it is worth noting that the only explanation advanced by the House for that repeal was that §3210(d)(1)(B) is a "taxpayer financed, indirect way to campaign at taxpayer expense." 138 Cong. Rec. H5146 (June 24, 1992). That statement underscores the lack of any substantial government interest in that section of the statute.

Randolph, Circuit Judge: Whether the standard of review is heightened scrutiny or rational basis, 39 U.S.C. §3210(d)(1)(B) violates the equal protection component of the Due Process Clause by unlawfully discriminating between incumbent and non-incumbent candidates. The statute's purpose is said to be apprising citizens of the workings of Congress. But identifying a legitimate purpose is not enough even under the rational basis test, Nordlinger v. Hahn, 60 U.S.L.W. 4563, 4566 (U.S. June 18, 1992). Allowing otherwise-prohibited mass mailings to a class of citizens that comes into existence once a decade, in selected locations across the country, and from only those Members of Congress electable by the recipients in the next election, is not rationally related to the goal of informing citizens. Counsel for the House protests that redistricted representatives have a strong incentive to communicate with "new" voters, and so the statute rationally advances the legitimate goal. But the incentive itself stems from the interest of a Member as a candidate, not as a representative. It is no different from a provision giving every incumbent $100,000 to hold campaign rallies in the new area, which would also inform citizens. In both cases government funding of the communication promotes the incumbent's reelection, without enhancing his capacity to serve his constituents, and is therefore impermissible under Common Cause v. Bolger, 574 F. Supp. 672 (D.D.C. 1982) (three-judge panel), aff'd mem., 461 U.S. 911 (1983). Since §3210(d)(1)(B) fails even a rational basis test, it also fails the "something more than * * * rational basis" (Buckley v. Valeo, 424 U.S. 1, 293 (1976) (Rehnquist, J., concurring in part and dissenting in part)) test Judge Silberman applies.

Mr. ROSE. Mr. Speaker, let me say that we are not talking about individual letters that Members send to people outside their congressional districts. We are talking about the postal patron mailings and the bulk or the mass mailings.

Mr. THOMAS of California. Mr. Speaker, if the gentleman will continue to yield, no one is attempting to deny the ability to anyone to communicate directly with a Member of Congress, whether that Member represents them or not. What we are attempting to prohibit is the thinly veiled mass mailing appeals to people who Members have never represented and may never represent.

If the gentleman will continue to yield, does this mean then that this practice, the mass mailing outside a Member's district, ceases and desists as of now with no ifs, ands, or buts?

Mr. ROSE. Mr. Speaker, yes, it does.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I just want to address that question because I do not understand. Maybe I have to wait and read the decision.

But to say that a mailing of 500 pieces outside of a Member's district is unconstitutional but a mailing of 10 pieces today is not unconstitutional, if I have 10 people outside my district that write to me, that is constitutional to write back to them. Or if I want to address, let us say, send a letter to all the Governors of the United States, 50 States, there is not one within my district. That would be unconstitutional or constitutional?

Mr. ROSE. Mr. Speaker, I will be happy to consult with the gentleman, and if he thinks this needs a memo around to the Members, we will be glad to do that.

Mr. VOLKMER. Mr. Speaker, if the gentleman will continue to yield, I think we better take time and review this decision.

Mr. ROSE. Mr. Speaker, we will, but we want Members to understand that the district court of appeals says that postal patron mailings outside a Member's district, and we are saying, we are adding to that mass mailings outside the Members' districts, we are not going to be able to pay for them anymore.

The SPEAKER pro tempore. The time of the gentleman from North Carolina [Mr. ROSE] has expired.

Mr. ROSE. Mr. Speaker, I ask unanimous consent to proceed for 1 additional minute.

The SPEAKER pro tempore. Without objection, the gentleman from North Carolina [Mr. ROSE] will be recognized for 1 additional minute.

There was no objection.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I would like to get a definition on the business of mass mailing. Does that include 500 pieces that may be individually addressed, that use the CD-ROM system, and some others?

Mr. ROSE. Mr. Speaker, yes. We have already said Members cannot use CD-ROM to mail.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, so this does not apply to just postal patrons, if a Member is doing mass mailings of over 500 outside their district, even if they are individually addressed, they would be prohibited by the committee at this point?

Mr. ROSE. Mr. Speaker, exactly.

□ 1348

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED APPROPRIATIONS ACT, 1993

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, with Mr. BROWN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The Chair recognizes the gentleman from Iowa [Mr. SMITH] for 1 hour.

Mr. SMITH of Iowa. Mr. Chairman, for purposes of general debate on this bill, I yield 30 minutes to the gentleman from Kentucky [Mr. ROGERS], and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN].

□ 1350

Mr. WHITTEN. Mr. Chairman, our subcommittee chairman, the gentleman from Iowa [Mr. SMITH], and the ranking minority member, the gentleman from Kentucky [Mr. ROGERS], and members of this subcommittee have done a fine job in putting together a good bill. I commend my fellow subcommittee members for their effort and rise in support of the bill.

This bill provides for the major crime fighting and drug enforcement agencies of the Government—the Federal Bureau of Investigation, the Drug Enforcement Administration—and for the prison system and the judiciary. While we may not provide all some would like for these important programs, we did the best we could under the budget ceiling.

The bill also includes funds for economic development and for small business assistance. We need these programs to help get our economy moving again.

Mr. Chairman, again I commend the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS], along with their associates; for developing this bill. This is a good bill, and I urge it be adopted.

Mr. Chairman, today also represents an important milestone for this House—for this bill is the last of the 13 regular 1993 appropriations bills to be considered by this body.

Mr. Chairman, we all can take great pride in the work of the 59 members who serve on the Committee on Appropriations, along with our fine staff. All the members and staff of our committee put in extremely long hours and give much time and thought to the difficult decisions we must make. And they do it with little fanfare.

Mr. Chairman, our Committee began holding hearings on January 23—6 days before the budget was submitted. We took testimony from over 5,300 witnesses during 246 days of hearings. Our bills are below our allocations again this year. This continues our record of being a total of $188.8 billion below the total requested by Presidents since 1945 while, at the same time, providing for important national programs that are essential to the well being of our country.

Mr. Chairman, I think it is a credit to the fine members of your Committee on Appropriations and to all our colleagues in the House who have been cooperative in believing us in getting the job done. I also want to thank the leadership for their cooperation. We have tackled the issues and once again brought bills to the floor that, in total, have been below the President's 1993 budget request by $18.9 billion, have been below the total of the 1993 statutory budget caps by $20.7 billion, and have been below the 1993 congressional total discretionary budget allocation—the 602(a) allocation—by $8.9 billion.

At the same time, our bills are taking care of the most vital needs for our country.

Appropriations bills invest in the future of America through programs which help our economy grow such as highway construction, airports, bridges, water and sewer facilities, rural electrification, housing and community development grants, dams and harbors, and many other important capital investments.

Appropriations bills enable our country to look to a brighter future through science and space research, development of new and more efficient energy sources, research of oceans and our climate, development of better strains of plants and animals for our agricultural base, support of our basic science and mathematics education programs, and development of new technology to keep America a leader into the 21st century.

Appropriations bills enable us to better protect our people's health through cancer research, AIDS research, child immunization programs, heart research, and many other important programs. Our bills take care of our country's nutrition needs through the WIC programs, FDA research and regulation, and many other important efforts.

Mr. Chairman, appropriations bills enable us to protect our environment through the cleanup programs of the EPA, and many research efforts to identify and eliminate hazardous materials.

Appropriations bills also provide valuable support for education—all the way from preschoolers through the Head Start Program to providing financial support to postgraduate students. Our bills also support the retraining of our work force as our economy continues to change and we have to make adjustments.

Appropriations bills, such as the bill we bring to the floor today, fight crime and continue the war on drugs.

Appropriations bills provide for a strong defense of our country, particularly by stressing proper training and a strong guard and reserve.

Appropriations bills help protect and develop our Nation's parks and natural resources which are the pride of all Americans.

Mr. Chairman, in addition to the 13 regular appropriations bills, we have completed action on a $8.2 billion rescission bill, a $1.1 billion dire emergency supplemental bill, and a regular supplemental bill.

Mr. Chairman, I am proud of the work we have done, and I wish to thank all my colleagues for their cooperation and understanding. Again, I refer to what we have done in our appropriation bill for the service of the people of this Nation.

Year after year the hard decisions are made and the work gets done. I want to take this time to commend all the members and staff of the Appropriations Committee—on both sides of the aisle—for their hard work in producing all these appropriations bills. They do a fine job.

I also want to thank the Members of the House for their support. I particularly want to thank my friend, the gentleman from Kentucky [Mr. NATCHER] for his special support this year.

Again, at this time I wish to thank the leadership and the staff of the Committee on Appropriations for their cooperation and help, which have enabled us to continue to do a good job. We have stayed below the budget; we have tried to meet the basic needs. We have held appropriation hearings and used the expert knowledge of our members and our staff to produce what I consider a very good bill, while keeping the pace set by our leaders.

Mr. Chairman, I thank all of the Members who are listening to us. We have a great country and we are trying to do our part to see that it continues that way. From a grateful heart, I thank them for their cooperation in doing an important job that means so much to all of us.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I want to commend all of the members of the committee and the staff for their work on this bill. This has been the most difficult bill we have ever handled since I have been subcommittee chairman, and in fact, in my memory. This is the last appropriations bill to be considered by the House, and this bill is within the 602(b) allocations, even though the allocations are very, very low. It is all within the allocations.

This bill is the last one because it was so difficult to mark up. On an overall basis, the domestic discretionary accounts in here are only 93 percent of the level necessary to maintain services at the fiscal year 1992 level, plus a maximum of 25 percent of the program increases that OMB has approved for special needs.

That does not mean that I think that all of the requests were not all necessary or that the committee did not think so. I think that many of those special needs were justified, and OMB was justified in approving them, but we just simply do not have the money within our allocation to fund them.

The bill includes funding under three budget functions. It is under the defense function, the international function, and the domestic function. Those have walls between them under the summit agreement that do not permit transfer of funds between them.

The funding under the defense function in this bill is essentially the amount that they need.

Within the international function, there is a decrease from the administration's request of $42,934,000.

□ 1400

It is over the fiscal year 1992 level, but changes and shifts in the world situation mean we need more diplomatic services now in place of some of the military services we had before. We have new relationships with the new countries of the former Soviet Union and Eastern Europe and new U.N. needs, new exchange programs, and we think that they are justified.

It is the programs under the domestic functions that get hit very, very hard. In the programs under the domestic functions in this bill we are $551,533,000 below the fiscal year 1992 level. We are $1,440,214,000 below the request of the administration.

There are some exceptions to this 93 percent of current services rule. We were able to increase some of the crime and drug programs, not such as was requested, but we got the FBI to 98 percent of current services, DEA to 95 percent, and the Federal prison systems' salaries and expenses accounts to 95 percent. And I might say that there are five new prisons to be opened, but we cannot open them all within the money that is in this bill. We are assuming that some of them will not be opened until later in the fiscal year. But this is just an example of why you cannot hold to last year's dollar level when you have new prisons coming on line and they need personnel to operate them.

The bill restores a few of the programs which are annually left out of administration proposals—budget items like economic development programs, coastal preservation, environmental programs under NOAA, the Regional Information Sharing System that helps local law enforcement needs, juvenile justice programs that deal with juveniles and public telecommunications facilities grants. But these are things that the House has voted on time and time again that they wanted, and this is a very stringent bill.

But I might explain that the reason we had to be so far below the administration's budget request is that in submitting their budget request they also assumed that we could increase fees and taxes by about $4 billion in the House, which the House is not about to do. They assume some other things. The budget resolution followed that, and it assumed some of the same kinds of things, the so-called administrative changes, and savings, and also some fees that cannot be levied. Both raised expectations on some of these programs we would like to increase up to the administration's level. But we are just simply not able to do it in this bill. We have a very stringent bill. There will be RIF's in some of the departments under this bill. I cannot imagine any kind of amendment to cut this bill that would be justified.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Commerce-Justice-State appropriations bill for 1993 is a significant piece of legislation in two ways.

First, this is the last of the 13 general spending bills our Committee brings to the floor this year. It closes a chapter on the need to get essential services of the Federal Government primed for next year.

Second, it opens a new chapter on Federal spending in very, very austere times. You've heard 12 chairmen and ranking members spell out the impact of the Budget Act—and the spending caps—on many important programs.

Well, this is the final exhibit of what this committee, and the Congress must do—and can do—to spend less when times are hard.

And these are hard times, Mr. Chairman.

This is a tough, lean bill. And I hope that as you consider what's in it, and any amendments to it, you'll bear in mind the following:

First, the bill is $1.3 billion—over 8 percent—below the President's request;

Second, this bill is below our allocation in budget authority—by $1.1 billion;

Third, for domestic programs, the bill is $551 million below the 1992 levels. That is below 1992.

Having said all that, I will add this: Some of the cuts we had to make are not some of our prouder achievements.

But we have made tough decisions. And the approach used in the bill is an eminently fair one.

For domestic programs, the bill cuts 7 percent, right off the current services top, to achieve the administrative and overhead savings many Members want to see. These are reductions this bill already imposes.

The bill does not eliminate programs—but it streamlines them, we hope, as a result of our actions.

And in preserving programs that both our administration, and many Members support, we ask that you support the bill.

Those programs include law enforcement, a fundamental function of the Federal Government.

The bill continues funding for the war on drugs, for the investigations and prosecution of bank and savings and loan crimes, an effort that's produced 2,300 convictions since 1988.

Earlier this year, the Director of the FBI and the Attorney General took bold action to shift 350 FBI agents from counterintelligence cases, and let'em loose on violent crime offenders as well as perpetrators of fraud in the health care industry.

The results are already in: Operation Goldbill and Operation Catscam are reining in abusers of a massive health care industry—and hopefully deterring others from similar crimes. We want this work to continue under our bill.

This bill also makes every possible effort to help U.S. exporters—thru trade promotion and import regulation programs in the Department of Commerce.

We have included money needed for the continued development of new technologies, and for the programs that will turn these technologies into valuable products.

For weather services operations, again we have made special efforts to keep vital stations open. And, we continue funding the weather service modernization—for better and faster warnings of severe weather across the country.

The international programs in the bill fall under a separate spending cap. We've generally limited these to current services, except for new post openings and peacekeeping contributions.

Mr. Chairman, while I support this bill and intend to vote for it, I am extremely concerned about one particular provision.

The bill includes a provision for the Legal Services Corporation which I oppose, and which could very well result in this bill being vetoed.

The Legal Services Corporation was created to perform a basic and very important mission: To help poor people with civil legal problems. And for many years—more than I like—we've disputed and fenced over a number of restrictions and provisions covering the LSC, in our bill.

This year, though, we don't have to carry that ball. The House has passed an LSC authorization. The Senate is moving its own. The authorization process is working now, for the first time in about 14 years.

But this bill, Mr. Chairman, muddies that process up. It ties LSC funding to the terms of the House bill or an enacted authorization. If an authorization is not enacted into law, the House authorization—not an enacted law—would govern spending by LSC attorneys.

This is a controversial matter. And it does not belong in this bill, a year when we have an authorization moving. It's a move to draw the authorization process into our conference with the Senate, and I oppose that.

I also oppose the House-passed authorization, which among other things, allows LSC attorneys to use Federal funds or private funds on abortion-related litigation or lobbying. That is a big change and a big mistake. And, there are other problems with this authorization, as other Members would point out.

Now, Mr. Chairman, I do not want LSC lawyers taking time away from representing the poor, and devoting time to lobbying us, or anyone else, on abortion or redistricting, or LSC funding for that matter. But most of all, I want these issues settled by the authorizers, outside of the process for this bill.

If that doesn't happen, I predict trouble on the conference report for this bill, not to mention what happens when it hits the President's desk. And we can avoid that. We should avoid that.

So with that one admonition, Mr. Chairman, I support this bill and I ask all Members to support it, so we can move funding for these vital agencies.

In closing, let me thank the members of the subcommittee, who labored as part of a pretty grueling exercise this year. And let me thank NEAL SMITH, our chairman. He has been fair to all the Members, and we should appreciate the work he has put into the bill before you.

□ 1410

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I wish to compliment the chairman and the ranking member and members of this committee for staying within the budget ceilings under very difficult circumstances. This is probably the most difficult bill that we have brought to the floor in terms of staying within the budget requirements imposed upon us by the Committee on the Budget.

It is with that thought that, of course, I support the bill, and I recommend to other Members that they do so with one exception. Because of the constraints we have on money and the need to find additional funds with which to support worthy projects, I will offer an amendment to strike $12.6 million that is within the bill for the purpose of continuing a useless cold war relic program known as TV Marti.

When I take time to explain the amendment, I will go into the various details of that amendment, but since time is limited, I thought I would introduce the fact that I planned to offer that amendment together with the gentleman from New Jersey [Mr. ANDREWS], the gentleman from Massachusetts [Mr. ATKINS], the gentleman from Tennessee [Mr. CLEMENT], the gentleman from New Jersey [Mr. HUGHES], the gentleman from California [Mr. MILLER], the gentleman from West Virginia [Mr. MOLLOHAN], the gentleman from North Carolina [Mr. NEAL], the gentlewoman from California [Ms. PELOSI], and the gentleman from Washington [Mr. SWIFT].

Essentially the objections that I have to TV Marti have nothing to do with the intended purpose of the program but with the practicality of the management of that program. The fact is that TV Marti simply does not work, it is a waste of money. We have obligated through this year, $46.4 million to broadcast to an audience that is not there to see the broadcasts because it operates from 3:30 a.m. to 6 a.m. and is jammed by the Cuban Government.

I believe that we need to conserve this $12.6 million in this budget to use for other worthy projects that we can see the immediate results from, that are at home that produce results here in the United States.

Furthermore, I would like to add one other quick fact. By continuing this useless spending on TV Marti, we are, in effect, reducing the availability of news and information by other broadcasts to Cuba, because TV Marti produces jamming from the Cubans which restricts the access of United States broadcasts to that island from other sources, namely, Radio Marti.

I will, of course, offer the amendment, together with supporting material, but let me conclude this remark by saying that the U.S. Advisory Commission on Public Diplomacy said in its report in 1991, "* * * TV Marti * * * is not cost-effective." That is the thrust of my argument. That is the reason for my amendment.

It has nothing to do with ideology. It has nothing to do with Castro. It has nothing to do with anything except trying to save money at a very important time.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCDADE], the very able and distinguished ranking member of the full committee.

Mr. MCDADE. Mr. Chairman, I thank the gentleman for yielding me this time and for his kind introduction and recognition.

Mr. Chairman, I rise in support of the bill and want to offer my sincere and deep commendation to the chairman of the committee, the gentleman from Iowa [Mr. SMITH], who has done such a super job on a very difficult bill. He and my dear friend from Kentucky have worked hand in hand to bring this bill here today under very difficult circumstances. You have heard them say it and, I want to underline it. All the members of this subcommittee have worked extraordinarily to bring this bill before you today. It is a bill that all of you can support with pride.

It is well under the 602's and, as has been mentioned, it is below what was available for last year.

I hope everybody will support their work product enthusiastically, because that is what it deserves, enthusiastic support.

Mr. Chairman, I want to take a second to talk about a section in the accompanying report involving the special prosecutor's office.

In December 1987, the fiscal year 1988 Commerce, Justice appropriation was enacted, carrying a provision establishing a permanent indefinite appropriation for independent counsels.

During consideration of this bill, there was vast concern over the issue of fiscal responsibility and consequently, GAO was required to prepare and submit semiannual financial reviews to the House and Senate Appropriations Committees.

Last week, the Republican leader discovered that GAO has failed to submit one audit. On July 9, 1992, he wrote to GAO seeking copies of the audits that GAO is statutorily obligated to conduct. On July 20, 1992, GAO informed the leader that there were no such audits.

Somehow this thing has dropped through the cracks. There has not been one audit ever of these offices. As a result of having been noticed by the Republican leader, I offered language to the committee report, which was very graciously accepted by my dear friend from Iowa and my friend from Kentucky, which said to the GAO, "Look, we do not cast any stones, but get going. You have not done one audit since 1987." And so we said, "Get them all done by September 1, 1992."

As Members know, the statute is scheduled to expire unless reauthorized in December, and the Congress needs to have the information of its audit arm in order to make some important judgments about what we ought to do.

Now, I spoke with the General Accounting Office today.

They have now placed top priority on completing the required audits. But it may not be possible to meet the September 1, 1992, completion date. While they cannot, at this time, provide us with a firm completion date, the Acting Comptroller General has assured me: That they are expediting the work;

that they will provide us with a work schedule as soon as possible, and will consult with us on the size of the effort, resources and timetable; and that they will report to us on their progress on September 1, 1992, with final reports to be provided no later than sine die adjournment of the Congress.

Mr. Chairman, this data must be available to the people's branch before we adjourn for the year so that we can make informed judgments and understand where we are on this issue.

Mr. Chairman, I urge support of the bill.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of this appropriations bill. This is the last of the 13 annual appropriations bills to be considered by the House.

It is $1.1 million below the level on discretionary budgetary authority and $57 million below the outlays set by the subdivision for the subcommittee.

Because this is the last appropriations bill, I also want to provide an overall wrap up on all of the appropriations bills. We have had a lot of discussion about additional savings. We have had some disputes as to whether we could achieve more savings, but I do want to tell Members that when it comes to comparing it to the budget resolution on BA, all of the appropriations bills are almost $6 billion below on BA and almost $4.5 billion below on outlays.

If you look at the spending caps set by the budget agreement, which adds another savings of about $11 billion on BA and $7 billion on outlays, the total below the spending caps established by the budget agreement of all of the appropriations bill is $17 billion below on budget authority and $11.5 billion on outlays.

I think that is a tribute to the committee and the House. It is a job well done, and I hope that the conference report reflects the same savings.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Massachusetts.

□ 1420

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding to me. It had been my intention to offer a revenue neutral amendment today on behalf of myself and my colleagues from California, Ms. PELOSI and Mr. PANETTA, to correct some of the funding shortfalls for certain high priority coastal programs that are of substantial importance to us.

We also made a serious effort to identify reductions in certain low-priority areas within the NOAA account that could be used to offset the increases.

At the chairman's request, we have decided to refrain from offering the amendment, with the understanding that the chairman will make every effort to increase certain funding levels as the bill proceeds to conference.

The first area of our concern involves funding for the Coastal Zone Management Act. Is it correct that it was not the intent of the committee to cut funding for this program by 21 percent, and that the chairman will seek to restore funding for these grants to 1992 levels if at all possible?

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, the gentleman is correct.

Mr. STUDDS. It is also terribly important to us that the Coastal Nonpoint Pollution Control Program, which the committee has provided less than last year's level, be more generously funded.

I would yield briefly to the gentleman from California [Mr. PANETTA] if he wants to make an observation on that subject.

Mr. PANETTA. Mr. Chairman, I would wholeheartedly support the request by the gentleman from Massachusetts, and also ask the gentleman from Iowa [Mr. SMITH] for some additional help to increase funding for the National Marine Sanctuaries Program during the conference committee.

As the gentleman knows, the Monterey Bay National Marine Sanctuary will be designated in September, and I believe that the gentleman from Massachusetts [Mr. STUDDS] has a large new sanctuary off Massachusetts.

We simply cannot adequately manage these areas without a bigger budget, and in this important year it is critical that we match or improve the President's request.

Is there any way that funding for this program can be raised to the $8 million requested by the President, during the conference?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, as the gentleman from California knows, we have a very limited allocation, but I certainly assure the gentleman that we will do all that is possible to secure additional funds for the Coastal Zone Management and Marine Sanctuaries Programs.

Mr. STUDDS. Mr. Chairman, if the gentleman from California will continue to yield, I want to thank the gentleman for that emphasis on the marine sanctuaries programs. As the gentleman indicated, not only for his coast in California, but for the Stellwagen Bank Marine Sanctuary about to be designated off the coast of Massachusetts. This is of vital importance to us.

Very briefly if I may in the time remaining, Mr. Chairman, we have suggested several offsets, including elimination of the National Ocean Planning Office, a reduction in surplus and unnecessary funding for implementation of an observer program that is due to expire in any case, a reduction in funding for the NMC computer acquisition, and eliminating the line item for Vents research, as the gentleman knows.

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield further, I believe we can accept $5 or $6 million of these proposed offsets, maybe not in the dollar amounts proposed for all of them, but we will use these suggestions when we go to conference on this bill. We do appreciate the gentleman pointing to areas of higher priorities and we will try to accommodate your recommendations.

Mr. STUDDS. Mr. Chairman, the committee chairman. I know I speak for my colleagues in saying that these are relatively modest sums. We know every dollar is scarce and counts. We have done our best to be responsible in suggesting ways in which these can be offset. They are very important to the people of coastal America and we look forward to working with the chairman as this bill progresses.

Mr. PANETTA. Mr. Chairman, if the gentleman will yield further, I also want to join the gentleman from Massachusetts in thanking the committee chairman for his cooperation and really urging him to meet these requests as much as possible.

Mr. Chairman, I rise in support of H.R. 5678, Departments of Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill for fiscal year 1993. This is the last of the 13 annual appropriations bills to be considered by the House.

The bill provides $21.599 billion in discretionary budget authority and $21.715 billion in discretionary outlays. I am pleased to note that the bill is $1.105 million below the level of discretionary budget authority and $57 million below the outlays as set by the subdivision for this subcommittee.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each bill compares to the budget resolution.

I look forward to working with the Appropriations Committee on its other bills.

[Factsheet]

H.R. 5678, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1993 (H. REPT. 102–709)

The House Appropriations Committee reported the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill for Fiscal Year 1993 on Thursday, July 23, 1992. This bill is scheduled for floor action on Thursday, July 30th, subject to a rule being adopted.

COMPARISON TO THE 602(B) SUBDIVISIONS

The bill provides $21.599 million in total discretionary budget authority, $1.105 million less than the Appropriations subdivision for this subcommittee. The estimated total discretionary outlays in the bill are $21.715 million, $57 million less than the subcommittee's outlay subdivision.

The bill provides $15.321 million of domestic discretionary budget authority, $751 million less than the Appropriations subdivision for this subcommittee. The bill is $10 million under the subdivision for estimated discretionary outlays:

COMPARISON TO DOMESTIC DISCRETIONARY SPENDING ALLOCATIONS

[In million of dollars]

	Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under(−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	15,321	15,625	16,072	15,635	−751	−10
Mandatory[1]	661	654	661	654	....	....
Total	15,982	16,279	16,733	16,289	−751	−10

[1] Conforms to the Budget Resolution estimates for existing law.

Note.—BA—New budget authority; O—Estimated outlays.

The bill provides $5,619 million of international discretionary budget authority for the State Department and related activities, $76 million less than the Appropriations subdivision for this subcommittee. The bill is $19 million under the subdivision for estimated discretionary outlays:

COMPARISON TO INTERNATIONAL DISCRETIONARY SPENDING ALLOCATIONS

	Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under(−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	5,619	5,492	5,695	5,511	−76	−19

The bill provides $659 million of defense discretionary budget authority for the ready reserve force within the Department of Transportation—Maritime Administration, the radiation exposure compensation program, and the FBI, $278 million less than the Appropriations subdivision for this subcommittee. The bill is $28 million under the subdivision for estimated discretionary outlays:

COMPARISON TO DEFENSE DISCRETIONARY SPENDING ALLOCATIONS

[In million of dollars]

	Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under(−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	659	598	937	626	−278	−28

The House Appropriations Committee reported the Committee's subdivisions of budget authority and outlays on July 21, 1992. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102–529, the Conference report to accompany H. Con. Res. 287, Concurrent Resolution on the Budget for Fiscal Year 1993, as adopted by the Congress on May 21, 1992.

The following are the major program highlights for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill for FY 1993, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Justice Department:		
Office of Justice Assistance	627	138
General administration	114	103
General legal activities	385	335
Japanese American reparation payments (mandatory)	250	250
Antitrust Division	45	37
U.S. attorneys	730	642
U.S. trustees	57	49
U.S. marshals	314	282
Support of U.S. prisoners	230	138
Organized Crime Drug Enforcement Task Force	379	189
Radiation exposure compensation	173	173
Federal Bureau of Investigations	1,781	1,406
Federal Bureau of Investigations (defense-related)	130	98
Drug Enforcement Administration	703	527
Immigration and Naturalization, salaries and expenses	940	752
Federal Prison System, salaries and expenses	1,704	1,448
Federal Prison System, buildings and facilities	93	9
Commerce:		
National Institute of Standards and Technology	251	161
National Oceanic and Atmospheric Administration; operation, research and facilities	1,452	871
Bureau of the Census	307	260
International Trade Administration	194	136
Patent and Trademark Office	89	49
Economic Development Administration, programs	235	24
EDA, salaries and expenses	26	24
The Judiciary:		
Court of Appeals, District Courts and other judicial services	1,964	1,807
Defender services	215	204
Court security	81	53
Administrative Office of the Courts	46	41
Federal Judicial Center	18	14
Federal Communications Commission	69	64
Equal Employment Opportunity Commission	219	194
Legal Services Corporation	364	320
Securities and Exchange Commission	157	129
Federal Maritime Administration	426	265
Small Business Administration, salaries and expenses	234	172
SBA Business Loans Program account	367	247
SBA Disaster Loans Program account	159	105
State Department:		
Salaries and expenses	2,171	1,780
Acquisition and maintenance	527	105
Contributions to international organizations	913	897
Contributions for international peacekeeping activities	456	392
U.S. Information Agency	1,142	801

Mr. SMITH of Iowa. Mr. Chairman, I do thank the gentleman, and I do want to mention that it is possible that maybe we can get a little higher allocation in the Senate and that would help us accommodate this matter.

Mr. ROGERS. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. KOLBE], a very hard-working member of our subcommittee.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding this time to me. I appreciate his remarks and I would return them both to the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS] for the hard work and diligence they have done this year, as well as the staff on both sides of the aisle, in bringing what is a very difficult bill, the 1993 Commerce, Justice, State and judiciary appropriations bill to this floor.

As a member of the subcommittee, I sat through many hours of testimony this year from a variety of individuals.

We have already heard about how tough this bill is this year. Every domestic account is reduced, and cumulatively domestic spending in this bill is lower for fiscal year 1993 than it was in fiscal year 1992.

No other bill we will vote on this year will have such a disparity of interests. This bill addresses issues related to trade policy, the war on drugs, the end of the cold war, and the functioning of our courts.

In addition, several developments in the past year will actually increase costs for agencies covered in the bill.

The end of the cold war means additional post openings in former Soviet Republics which in turn increases expenses for the State Department. Also, the end of the cold war and the resulting increase in international cooperation has already required greater peacekeeping requirements for the United Nations and thus the United States.

As the only remaining superpower, I believe we have an obligation to try to keep the peace abroad. This bill does that.

The implementation of the Americans With Disabilities Act and other new laws will require increased legal and representation services from the Justice Department, the Equal Employment Opportunity Commission, and other agencies covered under this bill.

I am not completely satisfied with this bill this year—but neither is the chairman or any of us who serve on the subcommittee. We had to make very difficult decisions this year, and I think for the most part they were made fairly.

In the domestic accounts, the bill is lower than last year by $551 million, and lower than the request by $1.44 billion.

As a result, all of the domestic accounts took a significant hit in their funding. This bill funds most domestic accounts at 93 percent of current services plus 25 percent of program increases.

These figures will cause significant problems for some agencies. For example, the U.S. Trade Representative's office will not be able to attend every trade negotiation abroad. In fact, Ambassador Carla Hills told me this morning that under this appropriation, her office will face drastic consequences. Options she is considering include a 20-day furlough for all U.S. Trade Representative employees, or a 20-percent reduction in travel to trade talks.

These options would devastate our Nation's ability to participate in trade talks. The U.S. Trade Representative is currently in the midst of the NAFTA talks and the Uruguay round of the GATT negotiations. Regardless of the outcome of those talks, surely we would not want to jeopardize our seat at the table due to funding considerations. I would like to see a higher funding level for the U.S. Trade Representative's office.

Another example is the Bureau of Export Administration, which may have to let some people go if the figures in this bill today are the final figures for fiscal year 1993. These cuts will have a detrimental impact on export licensing and thus U.S. exports as a whole.

Other examples abound throughout this bill. The FBI, DEA, and other law enforcement agencies will not be able to provide needed program increases to combat illegal drugs. Some new prisons will not open.

I wish this were not the case, but this bill, like every appropriations bill this year, contains tough choices.

Let me highlight a few other areas of the bill that I believe are worth noting.

In the Justice accounts, I am pleased that we were able to fund the administration's $10 million request for the Weed and Seed Program.

Weed and Seed is the natural progression of the war on drugs. This war started with increased public awareness and more funding for law enforcement. It progressed with increased coordination between local, State and Federal law enforcement agencies, and increased cooperation between the United States and our Latin American neighbors to target the production, shipping, and peddling of deadly narcotics.

Weed and Seed will tie together the complicated relationship between supply and demand. While the weed component will continue to bolster law enforcement, the seed component will provide assistance in addressing the underlying economic and social problems that lead to drug use and dependency.

I believe it is too early at this stage to declare Weed and Seed a success—but I do believe it is a significant initiative that deserves support from Congress.

I also support report language accompanying the bill that directs the Immigration and Naturalization Service to use additional reimbursement moneys from the examinations fee account for 100 additional land border inspectors.

This past year, INS has requested a total of 500 additional Border Patrol agents but not one additional inspector. However, during testimony before our subcommittee, Commissioner McNary admitted that INS was at least 300 inspectors understaffed at the southwest border. Given the booming trade with Mexico, and the promise of a North American Free-Trade Agreements, I would strongly urge the INS to reorder its priorities.

Illegal aliens are a problem. But the primary mission of the INS is to facilitate legal immigration and legal border crossings. I hope INS will remember this when its budget for fiscal year 1994 is submitted next year.

The Federal Bureau of Investigation will receive a very tight funding allocation under this bill. I am not sure if the Bureau will be able to fund program increases.

I would urge the Bureau, however, to continue to take all necessary action to combat health care fraud. Billions of dollars in health care fraud robs this Nation of vital resources to provide insurance and care for needy Americans.

Attorney General Barr and Director Sessions earlier this year allocated additional resources to this effort by shifting agents from foreign counterintelligence efforts.

I lent my wholehearted support to this effort. In addition, I introduced legislation to provide Federal law enforcement with asset seizure and forfeiture authority to assist in combating health care fraud.

I believe my bill, combined with increased resources from the Justice Department, will go a long way toward eradicating this $40 to $120 billion a year problem.

Also in the Justice account is an appropriation you will not see. That is the permanent indefinite appropriation for the Independent Counsels.

Essentially, permanent indefinite means that the independent counsels can basically spend whatever they want with no accountability, either by Congress or the executive branch.

And spend they have.

The most notorious independent counsel is Lawrence Walsh, who is on a witch hunt that will not end until President Reagan is forced to defend himself in the Walsh star chamber.

According to figures I have from the Justice Department, Lawrence Walsh has directly or indirectly cost the U.S. taxpayer more than $40 million since fiscal year 1987.

Compare that to some other independent counsels, such as the Adams Counsel that has been investigating the HUD scandal since fiscal year 1990. Arlin Adams has spent only $3.4 million, less than 10 percent of the Walsh total.

In rent costs alone, Lawrence Walsh has spent $5.6 million for his plush office in Columbia Square on 13th Street.

And when asked how many lawyers he knew how to hire when the Counsel was created, in 1988 he said, "Well, you pick a number from 1 to 10—I picked 10!"

Lawrence Walsh has perpetrated fraud on the American public, and this Congress has done nothing to stop it.

I went to the Rules Committee with an amendment to this bill to address the independent counsel statute—which, my colleagues should know—expires on December 15, of this year.

My amendment had four parts:

First, it repealed this disastrous permanent indefinite appropriation that has allowed Lawrence Walsh to spend more than $40 million.

Second, my amendment said that no funds could be spent by an independent counsel after September 15, unless the Comptroller General complies with the 1987 law establishing the permanent indefinite appropriation.

That law says,

> The Comptroller General shall perform semiannual financial reviews of expenditures from the independent counsel permanent indefinite appropriation, and report their findings to the Committees on Appropriations of the House and the Senate.

This reporting requirement has never been complied with by GAO.

Minority leader MICHEL recently wrote to the Comptroller General requesting that information. Essentially, his request was disregarded.

Third, the amendment said that no additional independent counsels could be appointed after September 15, unless the GAO completes its reviews.

If no new moneys can be spent due to lack of GAO compliance, then it makes no sense to appoint still more independent counsels until GAO complies with the law.

Finally, I included Congress in the list of those individuals covered by the law.

The same principle that guided the creation of the independent counsel for the executive branch is applicable to the Congress. Investigations of wrongdoing within government should be conducted independently of any politics that may interfere.

This year especially has proven that Congress is incapable of policing itself. This is a political body, and is thus not able to conduct a completely independent investigation of wrongdoing.

My amendment simply said that it is again time that Congress be subjected to the laws it passes.

The independent counsel statute expires on December 15. But, ironically, with a firm lead in the Presidential polls, Democrats who in years past led the charge for the independent counsel statute are suddenly getting cold feet about reauthorizing the independent counsel law.

I believe it is clear that the Democrats in Congress are waiting to see what the outcome of the election will be before deciding what to do with this law. This is a double standard that the so-called independent counsel statute cannot withstand.

My amendment would have given the Congress the opportunity to fully debate the statute before its expiration.

It was ruled out of order by the Rules Committee—and understandably so.

I recognize and concede that the Commerce, Justice, State, and Judiciary appropriations bill is not the proper place to debate the independent counsel statute. But the Democrats left the Congress with few other options, and they are legislating in other areas of this bill. So I believe it was fair and just to have my amendment made in order.

Finally, Mr. Chairman, let me turn my attention to the international accounts in this bill.

The Senate has passed its version of the bill, and in doing so adopted what I believe is a very onerous amendment.

The Senate amendment would freeze administration costs for the Departments of Justice, Commerce, and State at the fiscal year 1992 level.

Under normal circumstances, I would not necessarily be opposed to such action. But, these are not normal circumstances. The State Department funds the conduct of foreign affairs out of its administration account, which receives a dramatic increase in this bill.

The reason for the increase is obvious. The breakup of the Soviet Union has required the State Department to move aggressively to open new posts in the Commonwealth of Independent States. In addition, other posts are required in Cambodia and Eastern Europe.

Our subcommittee chose to increase the State Department's administration of foreign affairs account by more than $80 million for this expressed purpose.

We had the international account allocation to afford this increase, and I believe it is for a vital purpose.

Freezing this account at fiscal year 1992 levels would be very detrimental to this Nation's ability to conduct foreign affairs in these new-found states.

I was in Moscow at the beginning of this year, and I was astounded by the number of nationalities represented in the hotels and other places of commerce. Our new posts are needed so that the United States will not be left behind.

Mr. Chairman, I have many other comments about this bill. Suffice it to say that I will support it—and gladly. Chairman SMITH and Representative ROGERS have again been exceedingly fair in the treatment of this bill.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Chairman, I appreciate the courtesy of the gentleman from Iowa [Mr. SMITH] in yielding this time to me for a brief colloquy, similar to the one which the gentleman just engaged in with the gentleman from Massachusetts [Mr. STUDDS].

I, and the ranking minority member of the Committee on Science, Space, and Technology, would like to respectfully request that in the event the opportunity arises in conference the House conferees would consider the priorities that our committee has established for two very important programs, the Weather Service modernization and the gore program of the Old Bureau of Standards, now called NIST. Basically, we would like the gentleman from Iowa to be flexible in conference, if he can, to help adjust some of the admittedly low figures that we have.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Pennsylvania to comment on this.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me. I want to note for the RECORD that it is the statutory policy of the Congress, as stated in Public Law 102-245, the American Technology Preeminence Act, signed into law by President Bush earlier this year, and I quote:

> It is the sense of the Congress that the intramural scientific and technical research and services activities of the National Institute of Standards and Technology should share fully in any funding increases provided to the Institute.

That policy is not yet fulfilled in this bill.

Mr. BROWN. Mr. Chairman, I agree with the gentleman from Pennsylvania [Mr. WALKER] that while the external programs have been given an increase, the internal core programs have not received such increase, and I hope that the chairman will be willing to work for remedying that in conference.

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield further, I want to say that the committee fully agrees with both gentlemen, from the Committee on Science, Space, and Technology, and we will try to work with you. We think it is highly important that the United States be more competitive in the world market.

The core NIST research program and extramural research programs are both very important to us.

I do want to mention, however, that the core programs are funded at 93 percent of current services, plus more than 25 percent of requested program increases, while the external programs were only funded at 93 percent of current services, plus 25 percent of requested program increases.

□ 1430

Mr. BROWN. May I inquire if the distinguished ranking member of the minority concurs in the statement that the chairman has made?

Mr. ROGERS. It is my intention, I say to the gentleman from California [Mr. BROWN] in conference to see to it that the core program gets increased as much as the grant programs. That would be my desire and goal.

Mr. BROWN. I thank the Chair and the ranking minority member.

Mr. Chairman, with regard to the Weather Service, we do note that the Service got a $6 million increase, but this is considerably less than the request, and it is considerably less than the Senate has put in their bill and less than the authorizing, of course.

We would hope that the matter can be improved in conference.

Let me yield to the gentleman from Pennsylvania [Mr. WALKER] again on this point.

Mr. WALKER. I thank the gentleman for yielding.

I also mentioned that NOAA has requested an enormous increase in the Weather Service operations due to its burdensome interpretation of the certification process to transition from the old system to the new.

We, on the Science Committee, have tried to remedy that by clarifying the certification process in discussions with the Senate on the NOAA authorization bill.

While insuring public safety before offices are closed, it would not require the duplication now budgeted for by NOAA. With this legislative intent clarified, perhaps funding requirements could be adjusted to concentrate on modernization.

Mr. SMITH of Iowa. This clarification of the legislative intent on this matter should be helpful, and we share the authorizers' view as to the importance of the modernization of the Weather Service.

Again, we will try our best to cooperate with both of these gentlemen.

Mr. ROGERS. If the gentleman would yield further to me, I concur in what my chairman just said.

Mr. BROWN. Mr. Chairman, the gentleman from Pennsylvania [Mr. WALKER] and I both want to thank Chairman SMITH and ranking member ROGERS for their consideration. We understand the difficulties that they face, and we merely want them to do the best that they can when they get to conference.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to another hard-working member of our subcommittee, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding. I think the previous speakers have covered this pretty well.

I just want to point out that we are entering a period of very challenging competitiveness in the world marketplace. Jobs are at stake. Some of the front-line troops in this effort are involved in this bill in terms of Federal agencies. I regret that we cannot do more for the U.S. Trade Ambassador and the USTR agency, because they have many treaty negotiations with which to deal, GATT, NAFTA, and so on. Likewise, Commerce is a front-line agency in the efforts to increase exports. One of the bright spots in our economic picture is the fact that we are still the world's No. 1 exporting Nation. We would like to enhance that as much as possible. It is these agencies that are out there providing advice, counsel, scientific evidence, to our exporting companies. So, hopefully, in the process with the other body in conference, we can ensure that these agencies will be adequately funded.

The same thing is true of the International Trade Administration and the International Trade Commission because many dumping cases are presently pending. The steel industry alone has filed several dumping cases. These need to be dealt with expeditiously as a matter of equity and to ensure that American jobs are not put at risk by unfair trade practices.

Therefore it is important that they have adequate funding to meet those needs.

Likewise in another area, in the drug enforcement program, I think we are all convinced that you have to start at an early age to discourage drug usage. We do fund in this bill the DARE Program, which has had a lot of success in teaching young people at an early age to dare to say "no."

Likewise the McGruff program is designed to get the young people away from and aware of the dangers of drugs. I think it is vitally important that we start on drug enforcement and understanding and education at an early age, and this bill helps to meet that challenge.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I would like to engage the chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH], in a colloquy.

Mr. SMITH of Iowa. I would be glad to.

Mr. VISCLOSKY. Mr. Chairman, regarding the Coastal Zone Management Act [CZMA] funds provided in H.R. 5678, is it correct that the intent of the committee is to provide 93 percent of the fiscal year 1992 level of funding for the entire CZM grant program, including section 305 program development grants?

Mr. SMITH of Iowa. The gentleman is correct.

Mr. VISCLOSKY. Is it also true that only those coastal States that currently do not have coastal zone management programs in place are eligible for section 305 program development grants of up to $200,000, and that Indiana is one of those States?

Mr. SMITH of Iowa. The gentleman is correct. The State of Indiana qualifies.

Mr. VISCLOSKY. Is it also true that the conference report on the fiscal year 1992 Commerce, Justice, State, and Judiciary Appropriations Act provided up to $600,000 for section 305 grants and specified that three States—Texas, Ohio, and Minnesota—should receive those grants?

Mr. SMITH of Iowa. The gentleman is correct.

Mr. VISCLOSKY. Therefore, as of this year, it appears that of the six coastal States not participating in the coastal zone management program, only three, including Indiana, have not yet been designated to receive a section 305 grant.

Mr. SMITH. That is correct.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to a distinguished chairman of the full committee, the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Chairman, at the heart of global efforts to prevent the spread of nuclear weapons is the International Atomic Energy Agency [IAEA], founded in 1957. Through a system of international safeguards, the IAEA seeks to ensure that nuclear material used in civilian programs is not diverted for nonpeaceful purposes. U.S. participation in IAEA is funded through this bill.

Over the last several years, the IAEA has been asked to assume ever greater responsibilities in the area of nuclear nonproliferation, including the dismantlement of Iraq's newly uncovered nuclear weapons program and the implementation of new safeguards agreements with South Africa, North Korea, Brazil, Argentina, Russia, Ukraine, and several other nations. In the area of safety, aging Soviet-built nuclear energy reactors throughout Eastern Europe demand immediate attention.

In addition, since the discovery of Iraq's clandestine nuclear weapons program, IAEA authority has been enhanced to allow for challenge or surprise inspections so that inspectors can go anywhere undeclared material or activities are suspected to exist. This type of inspection is expensive but essential if we are to hope to prevent a similar situation from developing such as occurred in Iraq.

Despite the growing and urgent mandate of IAEA, the agency's budget has been held to zero-growth since 1984. To compound IAEA's budget woes, the United States is perpetually delinquent in paying our assessed contribution, due to a practice begun years ago whereby we defer payment of our assessed contribution to international organizations until the beginning of each subsequent fiscal year. Thus, for calendar year 1991, we pay the IAEA at the beginning of fiscal year 1992. While this practice began essentially as a budget trick by OMB and the State Department to make 1 year's budget outlays look better, it has evolved into a practice that seriously hampers the ability of international organizations to operate effectively. In the case of IAEA, this is absolutely unacceptable, given the critical U.S. security and nuclear nonproliferation interests served by the IAEA.

Today, I simply urge OMB and the Department of State to pay the assessed contribution of the IAEA as promptly as possible at the start of the fiscal year to help it avoid a financial crisis. Many other nations have paid their assessment early so as to help IAEA balance its accounts for 1991 and 1992 despite the inability of the ex-Soviet States to pay their 12-percent share. It is my understanding that the other body has, in fact, increased the appropriation for our IAEA contribution by $15 million for 1993. I urge those who will be House conferees to take a careful look at this issue and to help the IAEA during this critical period for preventing the proliferation of nuclear weapons.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding to me, and I would like to engage the chairman in a colloquy.

Mr. SMITH of Iowa. I would certainly be pleased to participate.

Mr. HOYER. Like you, Mr. Chairman, I have been a strong advocate for funding the provision of information and technical assistance to implement the Americans With Disabilities Act.

ADA required that public accommodations be made accessible to people with disabilities by January 1992, and prohibits employers with 25 or more employees from discriminating against people with disabilities as of July 26.

Did the committee provide more than $11 million to the EEOC and the Department of Justice for fiscal year 1992 in the regular and 1991 supplemental appropriations bills, and was not this total funding level higher than requested by the administration?

Mr. SMITH of Iowa. The gentleman from Maryland is correct.

Mr. HOYER. Is it also the case that the subcommittee provided additional funds for ADA educational and technical assistance in the fiscal year 1992 supplemental appropriations bill approved by the House on July 28 as well as in the fiscal year 1993 appropriations bill now before the House?

Mr. SMITH of Iowa. The supplemental appropriations bill included an additional $1 million for EEOC. H.R. 5678 includes more than $8 million more for EEOC than in the current fiscal year, and the committee included these additional funds specifically to help cover increased workload associated in part with the ADA employment provisions.

□ 1440

Mr. HOYER. Mr. Chairman, I understand that the House Education and Labor Committee and the Subcommittee on Employment Opportunities may consider proposals to establish a technical assistance revolving fund at EEOC. Do you expect that EEOC will have additional funds to support ADA activities if the administration pursues this option?

Mr. SMITH of Iowa. That is correct.

Additional funds would be available to EEOC, and the subcommittee would be supportive of this idea should the administration decide to pursue its enactment.

Mr. HOYER. Mr. Chairman, I want to thank the subcommittee for the considerable effort which they have made to fund ADA education and implementation, even though you were forced to make up serious shortfalls in other accounts in the budget request.

I would like to request, however, that the subcommittee provide additional funds to EEOC before the appropriations process is complete, as well as administrative authority and flexibility to ensure adequate resources are available to implement the ADA.

Mr. SMITH of Iowa. Mr. Chairman, I want to give the gentleman every assurance that the subcommittee regards the implementation of the ADA as a very high priority. We will make every effort, to the extent possible under our budget allocation, to provide these agencies with the resources and flexibility to fulfill their responsibilities under the ADA prior to completing the legislative process.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Iowa [Mr. SMITH] for his support and for his assurances.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the very able gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Chairman, I thank the gentleman for yielding and also for his work and the work of the distinguished chairman and ranking member in bringing this bill to the floor.

Mr. Chairman, I rise with concern for the level of funding for the International Trade Administration within the Department of Commerce. First, I would like to mention the results of a GAO report dated June 1992 and entitled "Export Promotion: A Comparison of Programs in Five Industrialized Nations." The GAO report is one my colleague from Georgia, DOUG BARNARD, and I requested in order to find out how U.S. export promotions programs compare to our major European trading partners. The report found that we lag far behind our competitors in committing resources, dedicating staff, and offering financial support to smaller companies looking for the means to export.

A year and a half ago, France spent $1.99 per $1,000 for nonagricultural exports, Italy spent $1.77, and the United Kingdom spent $1.62 per $1,000 of nonagricultural exports. The United States, several times the population and economy of these European countries, spent only .59 cents per $1,000 of nonagricultural exports. I am afraid of what the GAO would have found had the study included Asian countries.

The International Trade Administration and, in particular, the branch called the U.S. and Foreign Commercial Service, serves the crucial function of helping nonagricultural U.S. businesses find markets overseas and export their services and merchandise.

My colleagues and I on the Government Operations Committee and on the Commerce, Consumer, and Monetary Affairs Subcommittee have examined for years the problems and progress of this small but vital entity in the Commerce Department. Earlier this year, in a letter signed by seven members of the Government Operations Committee, both Democrat and Republican, we asked appropriators to carefully consider the funding of our export promotion programs in Commerce. We noted the tremendous strides taken by the U.S. and Foreign Commercial Service in the past 2 years to become a more productive and efficient service to American firms.

If we pass the legislation as it currently stands, the International Trade Administration stands to receive a cut of over $13 million from last year's appropriation level. Since the U.S. and Foreign Commercial Service receives approximately half of the ITA budget, it is clear that a decrease in funding of this amount would force a drastic course of action. They would have to close offices domestically and abroad. And since over half of our foreign commercial offices are staffed by just one commercial officer, that means losing U.S. market representation for entire countries. And it means that we can forget all efforts to try and expand our markets into strategic areas such as Eastern Europe and the former Soviet Union.

Thankfully, I am not alone in my concern for funding for our trade promotion activities. I will quote from page 49 of the report accompanying this legislation:

> The Committee recognizes that the trade development and promotion and import administration programs carried out by ITA are of the highest priority because of their impact on the continuing expansion of the U.S. position in the global economy. The Committee will do its best to direct additional resources to these high priority areas should additional amounts become available in the Subcommittee's overall allocation prior to final action on this appropriations bill.

I am encouraged that the chairman shares the view that an additional allocation is entirely appropriate given the global changes we have undergone in the past several years.

I am also encouraged that Members of the Senate also see the value in our trade promotion programs at Commerce. In their version of the Commerce appropriations bill, the International Trade Administration would get an increase to about $215 million, nearly covering the expenses for the programs the President requested.

Obviously, trade promotion is critical. No one can overemphasize the importance of exports as an essential means of expanding the economy, narrowing our trade gap and reducing the overall budget deficit. At a time when the United States is struggling to revitalize our economy and maintain a competitive edge with other industrialized countries, a strong export promotion program should be a priority. Slashing the budget of this vital arm of our Government provides a classic example of cutting off our nose to spite our face. Let us rethink and reevaluate the consequences of our action on this legislation.

I will close by strongly urging the full Committee on Appropriations to expand the subcommittee's allocation so as to be able to accommodate the Senate version of this bill. I believe it would be a mistake to do otherwise.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in reluctant support of this bill. I say my support is reluctant not because of any deficiency on the part of the chairman of the Appropriations Subcommittee or Committee. To the contrary, I commend them on the fine job they have done under the circumstances. My reluctance is due to the fact that budget constraints prevent this bill from funding law enforcement and drug control to the extent that I, and the two chairmen, believe is necessary.

This is indeed an austerity appropriations bill. But the fact of the matter is that it is the best we can do. I am very pleased that within the constraints imposed by the budget agreement, the committee has fashioned a bill that puts special emphasis on law enforcement and drug control. The funding formula for the DEA, FBI, and organized crime drug enforcement, for example, is higher than most other accounts.

I would like it to be even higher. There also were a number of specific programs in drug abuse and crime prevention that I felt merited direct funding that could not be. That is unfortunate.

Let me make one last point. My colleagues on the other side of the aisle will say that this bill does not represent the increases in funding that the President requested. That may be true. But it is equally true that the President was able to recommend those overall increases by proposing substantial cuts in certain law enforcement accounts that he doesn't like, such as juvenile justice, knowing full well that Congress would reject these cuts and they would be funded.

Yesterday this House voted to spend billions on a space station that we do not need. Today, we vote on a bill that does not provide enough resources for critical needs at home. I will support the bill but look forward to the day when we get our priorities straight.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I want to point out one deficiency in this bill, and that is the inadequate appropriation for the National Institute of Standards and Technology, or NIST. In NIST we have the sole Federal entity that actually helps advance American industrial technology directly. The ways NIST helps American industry are not speculation, they are fact. The ways that NIST helps American industry are not indirect, they result from direct, specific research—often with industrial funding—on problems of immediate concern to American industry. And the ways that NIST helps American industry are not just supposition about the future, they have been proven by the work that NIST has been doing since its founding as the National Bureau of Standards way back in 1901.

What does NIST do? It performs in-house research on industrial problems;

it promotes quality control through the Malcolm Baldrige Quality Award; it finances cutting-edge industrial research through the Advanced Technology Program; and it helps small businesses around the country modernize their plants through the manufacturing technology centers and the State Technology Extension Program. In short, NIST helps the entire range of American industry through traditional and innovative programs.

Put that under the heading of enhanced competitiveness for America.

So how could any Member of this House be against fully funding this essential laboratory? All of us who have voted to support scientific megaprojects because they might help American industry ought to support NIST. All of us who have opposed such projects because we doubted that such megaprojects would achieve our priority of building industrial competitiveness ought to support NIST. I don't think that leaves anyone out.

Yet the bill before us provides only about $251 million for the lab next year—a whopping 19-percent cut from the President's proposal of about $311 million. Surely we can find a way to fund such a relatively inexpensive investment in the Nation's industrial future. If we don't, NIST will not only be unable to expand, it will be forced to lay off scientific personnel. Didn't we just vote for the space station because we wanted to avoid wasting such human capital, especially during a period of slow economic growth?

The other body has fully funded NIST, and I hope the conference will do the same. If we want to spinoff commercial advances instead of just spinning off tales about them, NIST is the place we should be putting our money.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I rise in support of H.R. 5678, the fiscal year 1993 Commerce, Justice, State, Judiciary, and related agencies appropriations bill. I would like to commend Chairman SMITH for bringing this legislation forward.

I realize that fiscal constraints have made an especially strong impact on the House appropriations process this year. While I know the problems the Appropriations Committee has faced and understand why the choices have been made, I am disappointed that the proposed fiscal year 1993 funding levels for the programs of the Technology Administration are substantially below both the administration's request and the Science Committee's authorization.

For example, the appropriations proposed for the National Institute of Standards and Technology's important intramural scientific programs is $23 million below the administration's request, and $43 million below the Science Committee's authorization. This is of particular concern because NIST has a key role to play in furthering the economic competitiveness of U.S. industry. NIST's research and standards development activities make possible American high-technology products manufactured with world-class precision.

Of equal concern is the proposed appropriations for the industrial technology for the industrial technology services appropriations, which is $19 million less than the administration's request, and $60 million less than the Science Committee's authorization.

With proper support, the advanced technology program could become a major civilian alternative funding source for advanced technologies, and the regional manufacturing centers could provide an outreach mechanism to help U.S. manufacturers compete successfully at home and abroad. Investment in these programs is vital to the future of our economy.

Also, we are disappointed in the lack of funding recommended for the upgrading of NIST's facilities. The 25-year-old Gaithersburg, MD, campus and the 35-year-old Boulder, CO, laboratory have proven to be sorely in need of renovation and modernization. At a minimum, the Science Committee supports the administration's request of $23 million for this project. Our authorization bill recommended $35 million for the facilities' upgrading.

I understand that the Senate this week has been able to be much more generous to NIST largely because its allocation for this appropriations bill was higher and provided more flexibility. I hope that the gentleman from Iowa and the other House conferees on this legislation will also be given the flexibility to fund these programs which are the seed corn for our high-technology future.

Although I realize that budgetary constraints must be considered, I also think we must come to grips with our competitiveness priorities before it is too late.

□ 1450

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in support of H.R. 5678, the Commerce-Justice-State appropriations bill for fiscal year 1993. The bill which is before the House today reflects a really first-rate job done by Chairman SMITH and ranking member ROGERS in reconciling competing demands with a constrained allocation. Many of the hard choices discussed in the abstract here on the House floor in recent weeks were in fact made in putting together this bill. The consequences in some cases will be painful, but I appreciate the hard work of the chairman and the subcommittee members in dealing with their extremely difficult situation.

For international affairs, this bill provides appropriations for the accounts authorized by Public Law 102-138, the fiscal year 1992-93 Foreign Relations Authorization Act, and Public Law 102-311, the International Peacekeeping Act of 1992. Both of these bills originated in the Foreign Affairs International Operations Subcommittee which I chair, and it is from this perspective that I rise in strong of the bill before us.

H.R. 5678 represents a responsible, budget-conscious response to truly extraordinary international affairs demands. With one notable exception, the fiscal year 1993 authorized totals for the accounts in question represented no more than current-services funding. For the aggregate of its international accounts excluding peacekeeping, H.R. 5678 is below authorized levels, and therefore below current services, by nearly $40 million.

The peacekeeping operations which this bill would make possible are of the utmost importance to the foreign policy of the United States. Having won the cold war, we ought to ensure that our victory produces a just and lasting peace. News reports from Sarajevo remind us daily of this critical need. Congress only last month passed the bill authorizing appropriation of these funds. This bill appropriates the needed dollars. Failure to do so will only compound the threat to international stability, and hence to our national security. Our taxpayers have invested trillions of dollars in our cold war victory; it is incumbent on us to protect their investment with payment of what amounts to a comparatively small insurance premium.

The great part of the funds appropriated will be used for the United Nations transitional authority in Cambodia [UNTAC], where the United Nations plan offers that country's only hope for political consolidation without further civil war. In the case of Yugoslavia, where a significant portion of the balance of the funds will be used, the consequences of continued civil war and suffering can only undermine whatever gains might have been made by the demise of communism.

The amounts in the bill for peacekeeping are consistent with the President's request, authorization ceilings, Budget Enforcement Act caps, and budget resolution stipulations. No emergency declaration, statutory, or procedural waiver is needed. This is not supplemental funding.

Neither is peacekeeping foreign aid, nor a contribution to the regular U.N. budget, but rather payment for services. The money is paid to the United Nations either as a pass-through directly to countries which contribute troops to peacekeeping forces, to offset a share of the costs of maintaining those troops, or directly to the United Nations for its peacekeeping costs.

Elsewhere, the bill provides vitally needed funds for new post openings in Eastern Europe and the former Soviet Union. A further $22.9 million has been reserved for post openings pending authorization, which Chairman FASCELL expects to bring to the floor shortly. I cannot overemphasize the importance, to U.S. national security and business, of providing this minimal funding to establish a government presence in the newly independent former Soviet States.

Finally, I cannot conclude without thanking Chairman SMITH, and his staff, for their part in what I feel has been an exceptional relationship between authorizers and appropriators in our case. The bill before us is scrupulous in its adherence to its underlying authorizing legislation for international affairs. The appropriators in this case have gone to great lengths to honor the authorizers' identification of foreign policy priorities. Chairman SMITH and I, as well as our respective staffs, consulted regularly and constructively during both the authorization and appropriations processes. As a result of this two-way consultation, differences between the authorizing and appropriating bills are slight. The product of that 2-year relationship before us is a sound bill, a fiscally responsible bill, and I strongly urge my colleagues to support it.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA], a very able and hard-working member.

Mrs. MORELLA. Mr. Chairman, I rise in support of the Commerce-Justice-State appropriations bill. I would like to commend Chairman SMITH and Mr. ROGERS for their leadership and efforts on behalf of this bill. In this very difficult fiscal climate, the Appropriations Committee has acted with fairness and deliberation.

However, I must draw attention to the funding level appropriated for one of our Nations's outstanding technical agencies, which is headquartered in my district—the national Institute of Standards and Technology. I greatly appreciate that the chairman and ranking minority member of the subcommittee hold NIST in the same high regard as I do, and I know they have been working hard to minimize any adverse effects on NIST in this bill.

I am grateful for their special consideration. Through their efforts, NIST funding has been restored to bring its appropriation level above that provided by the committee's formula of 93 percent of current services and 25 percent of requested increases. Nevertheless, this funding level would impair NIST's ability to fully meet its mission. NIST extramural programs would be severely impacted, employees would be RIF'd, and modernization of vital laboratories in both Gaithersburg and Boulder, CO, would be delayed.

Under the reduced funding provided by this appropriation, NIST will find itself in the position of having to go forward with reduction-in-force in order to operate at the reduced levels and generate the necessary savings to comply with the appropriation level. Opportunities to move forward to support industrial quality control and productivity, and to support industry's ability to compete in international markets, will be lost as NIST activities are forced to move backward.

NIST's extramural programs will be severely impacted. It is unlikely that a planned competition under the Advanced Technology Program in fiscal year 1993 can be undertaken. And with the levels provided in this appropriation, NIST's contributions to the five existing and two new manufacturing centers will have to be cut.

Also, the committee was forced to cut maintenance funds for the NIST Gaithersburg and Boulder facilities, and the committee was unable to fund the request for badly needed renovations and modernization of those facilities. During the 25 years since NIST's Gaithersburg laboratories were completed, scientific laboratory facilities have changed dramatically. An independent architectural and engineering assessment of the NIST laboratories concluded that "the technical obsolescence at NIST is significant, near term, and extensive" and that the "overwhelming majority" of laboratory space at NIST "will fail to meet operational requirements of programs in the current decade." The deterioration of NIST facilities has already made it impossible for them to provide some United States manufacturers with services on a par with our Japanese and European competitors. And the deterioration of these facilities is continuing at an alarming rate.

Mr. Chairman, the Senate has just concluded consideration of their version of this bill and, due to differences in budget allocations, has been able to provide NIST with an increase above the President's budget request. I urge the chairman and ranking minority member to give every consideration during the House-Senate conference to accommodating the additional Senate increases NIST.

We simply cannot afford to let NIST drift into second-rate status. NIST is the only Federal laboratory explicitly charged with helping U.S. industry, it is one of our Government's most important instruments to bolster our international competitiveness, and it plays a critical role in our Nation's health and well-being. Unfortunately, the urgency of providing full funding for NIST's fiscal year 1993 budget request cannot be overstated.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I would like to engage the chairman in a colloquy. While H.R. 5678 contains no new funds for the construction of Federal prison facilities, the committee's report recommends priority funding for the Yazoo City, MS, and Forrest City, AR, facilities should additional funds become available. I am pleased that the committee recognizes the regional economic impact that these facilities will have on the Lower Mississippi Delta region, reflecting the 1990 report of the Lower Mississippi Delta Development Commission.

Mr. Chairman, this area of Mississippi has an unemployment rate of 11 percent. The creation of 600 temporary construction jobs and 250 permanent jobs would have an enormous positive impact.

The Senate-passed version of this bill included $79.6 million for the Yazoo City facility and I believe the same amount of funds for the facility in Forrest City, AR. I would like to urge the chairman to favorably consider the Senate treatment of this matter.

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, I fully appreciate the importance of this project to the constituents of the gentleman from Mississippi [Mr. ESPY], and the Nation. Depending on the funding allocation we receive in the conference, I will attempt to do whatever I reasonably can to assure funding for this high-priority item.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. ESPY. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, based on the conversations we have had and what has happened in the other body, I would expect funds to be available for the construction in Yazoo City, MS, and Forrest City, AR. I can assure the gentleman I will work in conference to achieve that goal.

The CHAIRMAN. The Chair would inform the gentleman from Iowa [Mr. SMITH] he has no time remaining. The gentleman from Kentucky [Mr. ROGERS] has 5 minutes remaining.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I want to highlight one area of funding in this bill which is urgently needed. This bill contains the United States assessed contribution to the International Atomic Energy Agency [IAEA]. However, our contribution is too little too late.

Concerns about nuclear proliferation grow. The Republics of the former Soviet Union and Eastern Europe desperately seek help on the safety of their nuclear powerplants. The IAEA is the only international agency with the capability and mandate to deal with these expanding problems.

But the IAEA has been held to a zero-growth budget for the last 8 years. Making matters worse, the Soviet

Union was unable to pay its $20 million contribution for 1991, and it appears the former Soviet Republics of Russia, the Ukraine, and Belarus will be unable to pay their 1992 dues. These contributions account for over 10 percent of IAEA's funding.

As IAEA's funding sources decrease, its assignments have expanded. In the last year, new safeguard agreements, which mandate IAEA inspections of facilities, have been signed in Brazil, Argentina, and South Africa. These are not activities IAEA chooses to do, these are activities which IAEA must do as mandated by international treaty. And these are vitally important activities.

Further, countries in Eastern Europe and the former Soviet Union, ranging from Bulgaria to Lithuania to Russia, have asked for help in inspecting and making safe their nuclear power facilities. The United States has been supportive of conducting all of these urgently needed tasks. Clearly, the IAEA is needed now more than ever.

But the United States must back up its verbal support with financial support. To its credit, the administration has found between $1 and $2 million to give to IAEA in 1992. But this is not enough. The United States needs to increase its contribution to the IAEA. This bill contains our usual $47 million assessed contribution. But this payment comes 10 months into IAEA's fiscal year. The United States should pay its contribution immediately rather than waiting until the end of the year. We must get the United States back on schedule in paying its contribution.

In addition, the United States should increase its contribution, whether it be in this bill as part of our assessed contribution or in the foreign operations bill as part of our voluntary contribution. In fact, the President stated at the G–7 summit that the United States will support increases in the IAEA's safeguards budget. We must back that promise with real money.

Congress can also be helpful by passing this bill and sending it to the President in a timely manner. If we wait to send this bill to the President at the end of the session sometime in October, it will be too late. IAEA will be out of money by then. Congress and the President must act responsibly to ensure that nuclear proliferation is checked and dangerous nuclear powerplants are made safe or closed down.

□ 1500

Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, it is deeply regrettable that the bill before us reverses a longstanding policy to allow Legal Services Corporation grantees to use public and private funds to engage in abortion-related activities. The committee has unwisely jettisoned the rider which has been part of these appropriations bills since 1986 which would prevent LSC grantees from litigating abortion cases.

Most LSC grantees receive a significant amount of private funds as well as Federal funds. These funds, in the tens of millions, are also held to the same standards of use as Federal funds because the Corporation was created by the Federal Government and the activities of LSC grantees are carried out under the auspices of the Federal Government. Section 1010(c) of the LSC Act explicitly states that these private funds "shall not be expended by recipients for any purpose prohibited by this title." (42 U.S.C. §2996i.)

If this bill were enacted, Mr. Chairman, the Legal Services Corporation, as a Government established corporation, could once again engage in litigation to overturn State and Federal laws related to abortion.

Under this bill, LSC grantees would be able to use public and private funds to challenge parental notification and parental consent laws—laws that enjoy overwhelming support in America.

Under this bill, LSC grantees could use public and private funds to challenge State laws requiring informed consent for abortion.

Under this bill, LSC grantees could use public and private funds to challenge waiting periods for abortion.

Under this bill, LSC grantees could use public and private funds to challenge State and Federal conscience clause laws which protect unwilling individuals and institutions from being forced to participate in abortions.

Under this bill, LSC grantees could use public and private funds to challenge State and Federal Hyde amendment laws which restrict taxpayer funding of abortions.

Currently, the LSC Act when combined with the FY92 appropriation's rider prohibit LSC grantees from using Federal or private funds for abortion-related activities. The LSC Act states that LSC funds may not be used for the provision of:

> Legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. (42 U.S.C. §2996f.)

This language, however, was not sufficient to stop LSC grantees from engaging in abortion-related activities. An earlier interpretation by some grantees was that, if a woman sought an abortion for any reason, it was assumed to be needed and therefore "therapeutic." Because of this broad loophole, the DeWine-Humphrey amendment was added to the fiscal year 1986 Commerce/Justice/State appropriations bill to reinforce Congress' original intent that LSC not engage in abortion litigation of any kind. This rider states:

> None of the funds appropriated under this act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion. * * *

This rider was incorporated by reference in the current, fiscal year 1992, appropriations bill.

H.R. 5678, as reported to the House by the Committee on Appropriations incorporated a rider which does not contain the DeWine-Humphrey amendment or similar language restricting funding for abortion-related activities. Rather, it references H.R. 2039, the pending LSC reauthorization legislation which does not include a rider restricting abortion activities. Thus, if H.R. 5678 is enacted in its current form, LSC grantees could begin engaging in abortion-related litigation with both public and private funds. With the huge number of cases expected as States pass waiting period and informed consent statutes, LSC supported abortion litigation represents a bonanza for the abortion lobby. And of course, money devoted to the promotion of baby killings is money unavailable for legal services for the poor in our Nation.

Ms. HORN. Mr. Chairman, I rise today to note the funding levels for the National Institute of Standards and Technology [NIST] in the bill before us. The total NIST funding in this bill is $250,869,000, considerably less than the administration's requested level of $310,677,000 and much less than the $596,978,000 passed in the Senate Commerce appropriation. It is also far below the authorized levels of $382 million approved by the Science, Space, and Technology Committee.

The technical programs at the National Institute of Standards and Technology, particularly the industrial technology services such as the Advanced Technology Program [ATP], the manufacturing technology centers, and the State extension program, have helped our Nation's manufacturing and high technology firms compete in the global marketplace. They are indispensable to continuing progress in the critical technologies outlined by every panel convened to look at the future of U.S. competitiveness.

As recognized by Members in the Appropriations Committee report, "the core and external research activities of NIST are critical to the enhancement of U.S. manufacturing technologies and global competitiveness." If these programs are critical to competitiveness, it makes sense to ensure that they are adequately funded. We cannot afford to shortchange investment in technology and manufacturing. Continued advances in these areas are vital to the future competitiveness of our country, and the products, quality jobs, and higher standard of living that result from world-class basic industries.

Hopefully, this will be remedied in conference so that we do not shortchange investments in our Nation's competitiveness.

Mr. EMERSON. Mr. Chairman, I rise in opposition to this appropriations bill. I am particularly opposed to the provisions concerning the Legal Services Corporation. This bill incorporates reference to a bill which has not even been enacted, essentially giving a bill that has not been enacted—and which will not likely be enacted because of a likely veto—the force of law. This is a questionable practice in itself. But I am specifically concerned with one effect of this back-door legislating, this bill will effectively allow the LSC grantees to begin engaging in abortion-related litigation.

The LSC has been prohibited from using taxpayer dollars to litigate abortion issues since 1985. But this bill would drop this language. Without this important restriction, the

Federal Government will be paying lawyers to challenge State statutes concerning abortion. Considering just how controversial the topic of abortion is, allowing the LSC to pursue an abortion-related agenda is nothing short of social engineering. Unfortunately for the poor, it will be social engineering at their expense. Let's keep government lawyers out of the abortion business.

We could avoid all of this controversy if we simply restructured the LSC to truly help low-income folks with their legal problems. We could pattern the corporation after the judicare system in southern Missouri, for example. This is really another debate for another time, but in the meantime, we must work with what we have. If the Congress really wants to enact the legal services bill, we should do it directly, going through the entire veto and override process. This Congress is trying to use the appropriations process to circumvent a likely Presidential veto. It won't work, and I urge my colleagues to vote against back-door legislating. Vote "no" on this bill.

Mr. OWENS of Utah. Mr. Chairman, I rise in support of H.R. 5678, legislation to appropriate funding for the Departments of Commerce, Justice, State, and related agencies.

However, I wish to express my hope that the Senate and conferees will see fit to match the President's request for the Minority Business Development Agency [MBDA]. H.R. 5678 appropriates $37.9 million for MBDA. The administration requested $44 million.

Minorities are entering the small business field at a rapid rate, and the rate of return on each dollar of MBDA investment has skyrocketed in the past decade. The MBDA office in Salt Lake City has been instrumental in the development of minority-owned businesses in my district. In fiscal year 1990, it engaged in nearly 2,000 hours of management and technical assistance and general counseling, over 2 million dollars' worth of financial packages and over $11 million worth of contracts.

It was instrumental in the establishment of my area's Hispanic Chamber of Commerce, and is critical for future business development in Utah's African-American, native American, and rapidly growing Hispanic community. MBDA has also done much to help the nonprofit groups dedicated to providing opportunities to Utah's minority entrepreneurs.

Again, I hope that our counterparts in the Senate, and conferees from this side of the aisle, will at least split the difference between today's MBDA appropriation and the level requested by the administration.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 5678, the bill that will fund the Commerce, Justice, and State Departments, the Federal judiciary, and related agencies for fiscal year 1993.

Due to reduced funding, the subcommittee was forced to make very difficult decisions when it came to allocating money for the important domestic programs that are in this bill. However, Chairman SMITH and the members and staff of the subcommittee have made the necessary hard choices and set good priorities. The result is a well-balanced bill. Although there is no increased funding for the Department of State and related agencies, and overall Justice Department funding had to be restricted, certain key programs—such as those targeted for the war on crime and drugs—were given priority status. For example, Federal prison salaries and expenses and the FBI's anticrime programs, as well as efforts to combat organized crime's involvement in drugs, received funding over and beyond the funding guidelines and restrictions under which other programs fell. Yet, the bill is still $1.3 billion below the President's budget request.

At this time, I would like to thank the subcommittee for its priority consideration of one program in particular—northern California's efforts in protecting and accelerating the recovery of the threatened winter run Chinook salmon. The subcommittee has supported the winter run Chinook salmon captive breeding program, which will help protect the run from extinction and speed its eventual recovery. The Sacramento winter run chinook are one of two runs of salmon currently listed as threatened under the Endangered Species Act. The purpose of the captive breeding program is to protect the run from extinction and speed the recovery process; 1,000 fish will be raised to maturity at two locations: Steinhart Aquarium in San Francisco and the University of California's Marine Laboratory at Bodega Bay.

The goal is for these fish to produce a minimum of 100,000 progeny to be returned to the wild, with another 1,000 juveniles taken from the hatchery from the previous season's spawn for the next captive breeding brood cycle. The program has a proposed 10-year life, and it is our intention that approximately $411,000 be made available for this purpose from within the $5,487,000 provided in the bill for Pacific salmon research.

The Bureau of Reclamation has already made available $100,000 in previously appropriated drought relief funds to launch the captive breeding program, and reduced the amount that will be needed in fiscal year 1993 from the National Marine Fisheries Service by a like amount. And, the State of California, through its own drought relief program and the California salmon stamp fund, is making $125,000 available in this first year to get the program off the ground.

Mr. Chairman, this program has the broad support of commercial and sport fishing organizations, the agriculture community and environmental organizations. It's a good program, and I appreciate the chairman's and committee's support for this effort.

An example of the emphasis that H.R. 5678 places on our ongoing war against crime is its support for the efforts of SEARCH, the National Consortium for Justice Information and Statistics. This is the organization that, at no cost, assists State and local criminal justice agencies in their use of automated information systems to combat crime. SEARCH not only helps individual police departments improve their use of their systems, it also enables different departments across the country to share their successful applications with each other.

In California, SEARCH assistance takes on a variety of forms—site visits, over-the-phone consultations, and presentations at SEARCH's headquarters in Sacramento. Within the last year and a half, SEARCH has given the Woodland Police Department technical assistance with their crime analyst's computer program. It has also helped the Sacramento County Sheriff's Department design a database to track information in a serial homicide investigation, and provided information to the Davis Police Department regarding electronic mail privacy issues.

H.R. 5678 also maintains ongoing support for the Juvenile Justice Programs, whose efforts are targeted at reducing drug abuse, delinquency, child abuse and gangs among American youth. Along the same lines, H.R. 5678 sustains both the Missing Children Program and the Missing Alzheimer Patient Alert Program, and encourages support for the proposal to use retired law enforcement professionals as volunteers to assist in protecting children.

The National Weather Service's fruit frost warnings and fire and agricultural weather forecasting programs are also included in H.R. 5678. All of these are very important to California, particularly in this year of severe drought and fire hazard. These programs are also important to farmers because they monitor weather patterns that are potentially devastating to California crops.

Funding for the Small Business Administration [SBA]—including the SBA loan guarantee program—is also in H.R. 5678. American small businesses continue to suffer under a serious credit crunch; our small business owners have great difficulty obtaining long-term loans at reasonable rates. But the SBA loan guarantee program both subsidizes loans and provides direct lending services to this critical segment of our Nation's economy.

Additionally, H.R. 5678 funds the advanced technology program that supports industry-led research efforts to develop new technologies that increase American competitiveness in this global economy, and our membership in international organizations, like the United Nations, the North Atlantic Treaty Organizations and the Organization of American States.

The programs in H.R. 5678 are programs that help ensure our quality of life as Americans. They safeguard our children, neighborhoods and communities, and preserve our resources. They protect our industries, both locally and globally, and help us maintain our position as an international leader—economically, socially and politically. I urge my colleagues to support these programs by voting for final passage of this bill.

Mr. DICKS. Mr. Chairman, I rise to bring to the attention of the House the important funding in H.R. 5678, the State, Justice, and Commerce appropriations bill for the International Atomic Energy Agency.

As we face the postcold war world, the danger of nuclear proliferation represents the most pressing potential danger to world peace and stability. While we debate funding and approach to deal with potential proliferation in the SDI program, it is critical that we give equal priority to international efforts to stop this league before it can take hold. The IAEA is the key to success in these efforts.

The funds provided in the bill are modest in comparison to weapons programs, just $46.9 million, but they have the potential to be far more effective. The workload at IAEA has never been greater. They are not only actively involved in assuring that Iraq lives up to the terms of the peace agreement that requires elimination of their inventory of weapons of mass destruction and their ability to ever produce such weapons again. They are also taking the lead in steps to assure that North Korea does not join the nuclear club, to curb proliferation in the emerging republics of the former Soviet Union and Eastern Europe, and to halt the trade in nuclear materials.

The Agency is also taking a lead role in facing up to what is an equally serious problem, assuring the safety of nuclear reactors in the former Soviet Union and Eastern Europe. IAEA is in the process of completing a comprehensive assessment of this danger, which informed observers have characterized as having the potential to produce 40 Chernobyls. I have been worked to deal with the issue including an amendment I offered to the defense appropriations bill that will allow use of $50 million in Defense Department funds to address the problem.

In the past, we have experienced problems with the administration with respect to timely release of U.S. contributions to this Agency. I am pleased that in a recent letter to the Congress, National Security Adviser Brent Scowcroft has pledged that the administration is expediting the payment of our full assessment to the IAEA and that all outstanding arrearages have been cleared. I am also pleased to note that $2.1 million is being provided to the Agency in 1992 above our normal assessed and voluntary contributions including $1 million in-kind assistance from the Department of Energy and bilateral assistance from ACDA.

The proliferation stakes facing the world in the current environment demands priority attention and action. I am pleased that at long last it appears that the administration is facing up to these stakes and I intend to continue to monitor developments to assure that this pledge is fulfilled.

Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 5678, appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies. Programs within the National Oceanic and Atmospheric Administration [NOAA] within the Department of Commerce are of immense importance to New Jersey's coastal economy and the health of New Jersey's marine ecosystem; therefore, I will concentrate my remarks on NOAA appropriations.

This bill appropriates a total of $1.541 billion for NOAA in fiscal year 1993. Important programs funded through NOAA include the National Ocean Service, National Marine Fisheries Service, the oceanic and atmospheric research programs, the National Environmental and Satellite, Data and Information Service, and the National Weather Service.

I am particularly pleased to see an appropriation of $500,000 to continue the site selection, engineering design and begin construction of a multispecies aquaculture facility in New Jersey.

The major factor limiting aquaculture development in New Jersey—and in most other States—is the lack of demonstration facilities that serve the function of experimental farms. This facility will operate as a cooperative between Rutgers University and Cumberland County College in collaboration with several other colleges. It will be multipurpose and flexible to allow research and demonstration of both finfish and shellfish and will support development of small-scale culture operations and larger commercial ventures.

After the initial phase, the demonstration component will operate very similar to an experimental farm of the Agriculture Extension Service. The hatchery will be capable of conducting industry-sponsored research and development projects. This system will introduce new ideas, technology, and equipment which will benefit the aquaculture industry in New Jersey, the mid-Atlantic, and nationwide.

This facility will assist in reversing the trend of economic depression in south Jersey caused by the decimation by disease of the once very viable oyster industry, overfishing and pollution. Indeed, I am very excited about the multispecies aquaculture facility—it will benefit New Jersey and advance aquaculture throughout our Nation.

I am also pleased that the committee has retained funding for the National Undersea Research Program. NUPR is a highly competitive and progressive program which assists leading scientists with research in the Great Lakes, the oceans, and on the sea floor using the most modern technology and undersea habitats.

There are six NUPR centers located throughout the country, including the recently established New York Bight Center in New Jersey. The focus of NUPR research is the identification, distribution and impact of contaminants in the marine environment, sediment dynamics, and recruitment of economically important fish and invertebrates.

The fiscal year 1993 appropriation of $15.9 million will ensure that the program continues to provide opportunities for the scientific community to conduct research not possible within the limit of traditional ship-based research and laboratiories.

Finally, I am pleased to see funds appropriated to continue the important work of several other programs that are crucial to maintaining and improving our marine environment. These programs include the National Sea Grant College Program, National Marine Sanctuary Program, National Coastal Research and Development Institute, and the Coastal Zone Management Program.

Despite these austere times and the necessary budget cuts, this bill reflects NOAA'S strong commitment to marine science and to the preservation and protection of the coastal, ocean and Great Lakes environments and their associated living marine resources. This is a rational bill and I urge my colleagues' support for its passage.

Mr. DOOLEY. Mr. Chairman, I rise in support of H.R. 5678 and I would like to commend the gentleman from Iowa [Mr. SMITH] for his leadership in bringing this legislation to the floor.

I realize that the committee was faced with extremely difficult decisions in determining the funding levels for the various domestic programs in this bill and I commend the committee for working within the parameters set by the 1990 budget summit agreement.

I would like to focus my remarks on a highly effective program, the Minority Business Development Agency, whose funding would be reduced under this bill by $2.6 million as compared to fiscal year 1992.

I applaud this Agency's work in my district and throughout the Nation. It has helped to finance millions of dollars for minority businesses, created thousands of jobs, and produced millions of dollars in contract opportunities.

I want to stress the importance of this program in meeting the needs of minority-owned businesses across the country and I respectfully request that when members of the conference committee meet, funding be restored to at least the 1992 level.

Mr. OWENS of Utah. Mr. Chairman, as the House author of the Radiation Exposure Compensation Act, for which the radiation exposure trust fund was established, I want to express my gratitude to the Appropriations Subcommittee on Commerce, Justice, State, and Judiciary Subcommittee and the full Appropriations Committee for providing full funding for the program this year. In particular, I want to thank Chairman SMITH of the subcommittee and Chairman MURTHA of the Defense Appropriations Subcommittee, whose cooperation was essential and deeply appreciated.

The $173 million requested by the administration, and provided by the committee, is powerful evidence of the Federal Government's determination to right, as much as is possible, the terrible wrongs done to people in the Southwest who were involuntary sacrifices in the cold war in our nuclear weapons programs, both from above-ground testing, and unsafe underground uranium mining.

Money will never make things right, but it—and, more importantly, the apology offered by the Federal Government—will alleviate suffering and restore confidence in our Government's care for its citizens.

I thank the committee sincerely for its generosity and its support. We still have a few problems we are trying to iron out in the administration of this program, but I am confident that we can work them out and that this money will be distributed fairly and efficiently to those deserving families.

Mr. SWIFT. Mr. Chairman, on July 28 the House passed H.R. 5677, the Labor, Health, and Human Services, and Education, and related agencies appropriations bill for fiscal year 1993. This comprehensive piece of legislation provides funding for a multitude of important federal programs. In particular, I wanted to comment on the funding for the Low-Income Home Energy Assistance Program [LIHEAP].

We all know how expensive it is to heat a home in the winter. There are countless Americans across this country—ranging from the elderly to the young to the disabled—who face tremendous hardship during severe weather even though they may have what is considered to be adequate shelter. For many, the question becomes whether to pay the heating bill or the grocery bill and that is a choice that no one should have to make. LIHEAP has been enormously successful in helping thousands of families and individuals avoid having to make that most difficult choice.

For nearly a dozen years, LIHEAP has provided critical funding to States for energy assistance payments, energy crisis intervention and energy conservation. It has allowed thousands all across this country to remain warm during the cold winters and cool during the hot summers. Last year in Washington State alone, LIHEAP assisted nearly 100,000 households with energy or crisis assistance and yet there are over 275,000 households eligible for the assistance. In addition, approximately 2,700 homes in Washington State received weatherization assistance; however, the Washington State Department of Community Development estimates that 165,000 homes need such assistance. And the folks that LIHEAP assists are the most needy in our country—three-quarters of Washington State LIHEAP recipients had annual incomes of less than $8,000.

Snohomish County, for example, in my own Second Congressional District has been able to assist nearly 5,000 homes with energy assistance—a large portion, 43 percent of those were households which had children under the age of 6. Unfortunately, it is estimated that LIHEAP is only reaching a third of those eligible in Snohomish County.

The appropriations bill passed by the House contains $891 million in nonemergency funding for LIHEAP which is a dramatic reduction—$609 million—over last year. Our budget situation has forced the Appropriations Committee to make some difficult decisions and I recognize that there were several other worthwhile programs which also received less funding than last year. However, at a time when we have more folks out of work because of the devastating effects of the recession and at a time when energy prices continue to go up, I strongly believe that we need to continue to support the Low-Income Home Energy Assistance Program to the greatest extent possible. I am hopeful that sufficient funding for LIHEAP will be restored in conference so that we can take care of one of the most basic of human needs—having a home that is dry in the rain, cool in the summer, and warm in the winter.

The CHAIRMAN. Without objection, all time for general debate has expired.

There was no objection. Pursuant to the rule, the amendment printed in part 1 of House Report 102–748, and any amendments thereto, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

Debate under the 5-minute rule on each other amendment to the bill, including amendments thereto, shall be limited to 20 minutes.

The Clerk will read.

The Clerk read as follows:

H.R. 5678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE AND RELATED AGENCIES

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, $86,269,000, to remain available until expended, of which $475,000 of the funds provided under the Missing Children's Program shall be made available as a grant to a national voluntary organization representing Alzheimer patients and families to plan, design, and operate a Missing Alzheimer Patient Alert program.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, including salaries and expenses in connection therewith, $463,571,000, to remain available until expended, of which: (a) $441,671,000 shall be available to carry out subpart 1 and chapter A of subpart 2 of part E of title I of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; (b) $900,000 shall be available to carry out part N of title I of said Act, for Grants for Televised Testimony of Child Abuse Victims, as authorized by section 241(c) of Public Law 101–647 (104 Stat. 4814); and (c) $21,000,000 shall be available to the Director of the Federal Bureau of Investigation for the National Crime Information Center 2000 project, as authorized by section 613 of Public Law 101–647 (104 Stat. 4824): *Provided,* That $12,000,000 of the funds made available under chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, shall be available to carry out the provisions of chapter B of subpart 2 of part E of title I of said Act for Correctional Options Grants: *Provided further,* That funds made available in fiscal year 1993 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $70,875,000, to remain available until expended, as authorized by section 261(a) of part D of title II, of said Act (42 U.S.C. 5671(a)), of which $3,200,000 is for expenses authorized by section 281 of part D of title II of said Act.

In addition, and notwithstanding section 214(b) of title II of Public Law 101–647 (104 Stat. 4794), $1,450,000, to remain available until expended, for a grant to the American Prosecutor Research Institute's National Center for Prosecution of Child Abuse for technical assistance and training instrumental to the criminal prosecution of child abuse cases, as authorized in section 213 of Public Law 101–647 (104 Stat. 4793).

In addition, and notwithstanding section 224(b) of title II of Public Law 101–647 (104 Stat. 4798), $450,000, to remain available until expended, for a grant to the National Council of Juvenile and Family Court Judges to develop model technical assistance and training programs to improve the handling of child abuse and neglect cases, as authorized in section 223(a) of Public Law 101–647 (104 Stat. 4797).

In addition, $4,300,000, as authorized in section 501 of Public Law 99–603, for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1992, through September 30, 1993, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1993, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1993, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340).

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $113,626,000; of which not to exceed $1,650,000 is for the Facilities Program 2000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $29,222,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

QUANTICO TRAINING CENTER

For necessary expenses for planning, construction, and purchase of equipment for an expanded law enforcement training center at the FBI Training Academy at Quantico, Virginia, $7,700,000 to remain available until expended, to be expended at the direction of the Attorney General.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $9,053,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $384,501,000; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1994: *Provided,* That of the funds available in this appropriation, not to exceed $35,213,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further*, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further*, That notwithstanding 31 U.S.C. 1342, the Attorney General may accept on behalf of the United States, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1993.

In addition, for expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $1,860,000 to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $58,494,000: *Provided*, That notwithstanding any other provision of law, not to exceed $13,500,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1993, so as to result in a final fiscal year appropriation estimated at not more than $44,994,000: *Provided further*, That any fees received in excess of $13,500,000 in fiscal year 1993 shall remain available until expended, but shall not be available for obligation until fiscal year 1994.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys; $730,040,000, of which not to exceed $2,500,000 shall be available until September 30, 1994 for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: *Provided*, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until September 30, 1994: *Provided further*, That of amounts available in this account in fiscal year 1993 for intergovernmental agreements to fund pilot projects pertaining to the investigation and prosecution of violent crime and drug offenses, not to exceed $20,000,000 shall remain available until expended.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $57,221,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554): *Provided*, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $898,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; $313,768,000, of which not to exceed $6,000 shall be available for official reception and representation expenses.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General; $230,075,000, to remain available until expended; of which not to exceed $14,000,000 shall be available under the Cooperative Agreement Program: *Provided*, That, unless a notification as required under section 606 of this Act is submitted to the Committees on Appropriations of the House and Senate, none of the funds in this Act for the Cooperative Agreement Program shall be available for a cooperative agreement with a State or local government for the housing of Federal prisoners and detainees when the cost per bed space for such cooperative agreement exceeds $50,000, and in addition, any cooperative agreement with a cost per bed space that exceeds $25,000 must remain in effect for no less than 15 years.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $81,010,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; and of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $26,106,000, of which not to exceed $18,198,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96–422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96–422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act: *Provided further*, That to expedite the outplacement of eligible Mariel Cubans or other aliens from Bureau of Prisons or Immigration and Naturalization Service operated or contracted facilities into Community Relations Service contracted hospital and halfway house facilities, the Attorney General may direct reimbursements to the Cuban Haitian Entrant Program from "Federal Prison System, Salaries and Expenses" or "Immigration and Naturalization Service, Salaries and Expenses": *Provided further*, That if such reimbursements described above exceed $500,000, they shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $93,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

Radiation Exposure Compensation

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,722,000.

PAYMENT TO THE RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $170,750,000 as authorized by section 3(e) of the Radiation Exposure Compensation Act (Public Law 101–426), as amended.

Interagency Law Enforcement

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $378,954,000, of which $50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in the succeeding fiscal year, subject to the reprogramming procedures described in section 606 of this Act.

Federal Bureau of Investigation

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,670 passenger motor vehicles of which 2,075 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,910,777,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1994; of which $130,000,000 is for necessary expenses of the Federal Bureau of Investigation for special programs in support of the Nation's security; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; of which not to exceed $5,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism and drug investigations; of which $48,000,000, to remain available until expended, shall only be available to defray expenses for the automation of fingerprint identification services and related costs; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Identification Division and the automation of fingerprint identification services: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,054 passenger motor vehicles of which 730 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $702,933,000 of which not to exceed $1,800,000 for research shall remain available until expended; and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, not to exceed $2,000,000 for technical and laboratory equipment, and not to exceed $10,300,000 for purchase of aircraft and equipment, shall remain available until September 30, 1994: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 788 of which 652 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $940,019,000, of which not to exceed $400,000 for research and $11,800,000 for construction shall remain available until expended: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further*, That none of the funds provided in this Act shall be available to pay overtime pay at a rate which exceeds that established by 5 U.S.C. 5542(a) to persons performing duties in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles arriving in the United States from a foreign port.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 531 of which 344 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $1,703,966,000: *Provided*, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1994.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $9,941,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $92,807,000, to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act: *Provided further*, That not to exceed $14,000,000 shall be available to construct areas for inmate work programs.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,066,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. A total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) During fiscal years 1993, 1994, and 1995, with respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading of "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration for fiscal years 1993, 1994, and 1995, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) Notwithstanding paragraph (1), it shall not be necessary to obtain such certification for an undercover operation in order that proceeds or other money—

(A) received by an undercover agent from or at the direction of a subject of an investigation, or

(B) provided to an agent by an individual cooperating with the Government in an investigation, who received the proceeds or money from or at the direction of a subject of the investigation,

may be used as a subject of the investigation directs without regard to section 3302 of title 31 of the United States Code: *Provided*, That the Director of the Federal Bureau of Investigation or the Administrator of the Drug Enforcement Administration, or their designees, in advance or as soon as practicable thereafter, make a written determination that such a use would further the investigation: *And provided further*, That the financial audit requirements of paragraphs (5) and (6) shall apply in each investigation where such a determination has been made.

(3) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of paragraph (1), or under paragraph (2) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(5)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal years 1993, 1994, and 1995—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(6) For purposes of paragraph (5)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later.

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Pursuant to the provisions of law set forth in 18 U.S.C. 3071–3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

SEC. 107. Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.

SEC. 108. Notwithstanding 28 U.S.C. 1821, no funds appropriated to the Department of Justice in fiscal year 1993 or any prior fiscal year, or any other funds available from the Treasury of the United States, shall be obligated or expended to pay a fact witness fee to a person who is incarcerated testifying as a fact witness in a court of the United States, as defined in 28 U.S.C. 1821(a)(2).

SEC. 109. The Attorney General shall promote neighborhood revitalization by developing a plan for the use of federal funds appropriated for selected activities in the Departments of Labor, Education, Health and Human Services, Transportation, Agriculture, and Housing and Urban Development. The Attorney General shall solicit from State and local governments plans to revitalize neighborhoods using programs administered by such agencies. The Attorney General shall review and approve such plans in consultation with the Federal agency to which funds are appropriated.

SEC. 110. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in title I of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased or decreased by more than 5 percent by any such transfers: *Provided*, That this section shall not apply to any appropriation made available in title I of this Act under the heading, "Office of Justice Programs, Justice Assistance": *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $7,979,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities authorized by section 5 of Public Law 98–183: *Provided*, That not to exceed $20,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $25,000,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, $218,682,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901–02); not to exceed $450,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $68,536,000, of which not to exceed $300,000 shall remain available until September 30, 1994, for research and policy studies.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $17,429,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $82,700,000: *Provided*, That notwithstanding any other provision of law, not to exceed $13,500,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1993, so as to result in a final fiscal year appropriation estimated at not more than $69,200,000: *Provided further*, That any fees received in excess of $13,500,000 in fiscal year 1993 shall remain available until expended, but shall not be available for obligation until fiscal year 1994: *Provided further*, That none of the funds in this Act shall be available for obligation for expenses authorized by section 151(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2284).

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $157,485,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel or transportation to or from such meetings, and (iii) any other related lodging or subsistence.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100–690 (102 Stat. 4466–4467)), $13,550,000 to remain available until expended: *Provided*, That not to exceed $2,500 shall be available for official reception and representation expenses.

This title may be cited as the "Department of Justice and Related Agencies Appropriations Act, 1993".

TITLE II—DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $178,583,000, to remain available until expended, of which not to exceed $2,618,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Regional Centers for the Transfer of Manufacturing Technology and the Advanced Technology Program and, notwithstanding any other provision of law, the State Extension Services Program of the National Institute of Standards and Technology, $66,986,000, to remain available until expended.

FACILITIES

For expenses incurred, as authorized by the Act of September 2, 1958 (15 U.S.C. 278c–278e), in the acquisition, construction, improvement, alteration, or emergency repair of buildings, grounds, and other facilities, $5,300,000, to remain available until expended, of which not to exceed $33,000 may be transferred to the "Working Capital Fund".

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,452,139,000, to remain available until expended and in addition, $33,104,000 shall be derived from the Airport and Airway Trust Fund as authorized by 49 U.S.C. app. 2205(d); and in addition, $54,208,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided*, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $500,000.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 6209 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), $7,800,000 for projects and grants authorized by 16 U.S.C. 1455, 1455a, and 1455b, notwithstanding the provisions of 16 U.S.C. 1456a(b)(2).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $51,316,000, to remain available until expended.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the construction, acquisition, leasing, or conversion of vessels, including related equipment to maintain the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $2,000,000, to remain available until expended.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,306,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $1,025,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100-627) and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $565,000, to remain available until expended.

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including but not to exceed $3,000 for official entertainment, $31,712,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $15,470,000.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $125,125,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $181,689,000, to remain available until expended.

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $39,353,000, to remain available until September 30, 1994.

International Trade Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $194,149,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further*, That the number of Commercial Service Officers accorded such diplomatic title at any time shall not exceed twelve: *Provided further*, That funds shall be available to carry out export promotion programs notwithstanding the provisions of section 201 of Public Law 99-64.

Export Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $25,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $39,159,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

Minority Business Development Agency

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $37,889,000 of which $23,816,000 shall remain available until expended: *Provided*, That not to exceed $14,073,000 shall be available for program management for fiscal year 1993.

United States Travel and Tourism Administration

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 501, 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for official representation expenses abroad; $14,132,000, to remain available until expended.

Patent and Trademark Office

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $89,129,000, to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided*, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

Technology Administration

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $4,311,000.

National Technical Information Service

NTIS REVOLVING FUND

For establishment of a National Technical Information Service Revolving Fund, $8,000,000 without fiscal year limitation: *Provided*, That unexpended balances in Information Products and Services shall be transferred to and merged with this account, to remain available until expended. Notwithstanding 15 U.S.C. 1525 and 1526, all payments collected by the National Technical Information Service in performing its activities authorized by Chapters 23 and 63 of Title 15 of the United States Code shall be credited to this Revolving Fund. Without further appropriations action, all expenses incurred in performing the activities of the National Technical Information Service, including modernization, capital equipment and inventory, shall be paid from the fund. A business-type budget for the fund shall be prepared in the manner prescribed by 31 U.S.C. 9103.

National Telecommunications and Information Administration

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $17,198,000, to remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,320,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided*, That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further*, That notwithstanding the provisions of section 391 of the Communications Act of 1934 as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I know of no amendment until after line 21, page 47. Therefore, I ask unanimous consent that the bill, through line 21, page 47, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order against the material contained in the section of the bill? If not, are there any amendments?

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the last word. I urge my colleagues to vote against the Alexander amendment because TV Marti may very well turn out to be an important tool in helping to bring about the liberation of Cuba and it should not be shut down.

The critics of TV Marti believe that the cold war is over. But my friends, let me assure you that the cold war is very much alive in Cuba. The people of Cuba are being brutalized every day by the ruthless Communist dictator, Fidel Castro. The people of Cuba should not be forgotten or abandoned by this Government.

Getting uncensured news and information to the Cuban people is the least we can do for these brave souls. We need to continue arming the Cuban people with accurate information, just like we did for Eastern Europe. Even though Castro is trying to jam TV Marti, we should not be discouraged because we did not stop transmitting in Europe when the Communists tried to jam broadcasts by the free world.

One need only look at the recent developments in the Communist world to be reminded of the benefits of the different freedom broadcast that the free world has transmitted for over 40 years. If our predecessors had not had the endurance to stand tough and continue transmitting to the freedom loving people in the Communist world for over 40 years, the Iron Curtain may never have come down.

I urge my colleagues to not put out this light of hope we are sending to the Cuban people and vote down this bad amendment.

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the full 5 minutes, but I am the author of the amendment to which the gentlewoman from Florida referred a minute ago. We will debate that amendment at the proper point in the bill.

The rule provides that that amendment shall have 30 minutes for debate. I will not debate the amendment at this time except to say that the amendment has very little or nothing to do with the policy toward Cuba. It has little or nothing to do with Castro.

It merely has to do with the fact that we are wasting about $18 million a year broadcasting to a limited, or no, audience at all. We will get to that point during the debate, but I wanted to reply to the statement of the gentlewoman in order to clear up any misimpression that may have resulted as a result of her remarks.

The CHAIRMAN pro tempore (Mr. FRANK of Massachusetts). Are there further amendments to that portion of the bill up to line 21 of page 47? If not, the Clerk will read.

The Clerk read as follows:

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants under the Trade Adjustment Assistance Program, as authorized by 19 U.S.C. 2024, and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, the Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, $235,462,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That during fiscal year 1993, the Economic Development Administration shall not make any reduction in individual grant amounts to university centers which would result in grants below 93 per centum of the individual grant amounts made to university centers in fiscal year 1992, except on the basis of failing to conform to the EDA grant agreements in place for fiscal year 1993.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 47, strike out line 23 and all that follows through line 16, page 48.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. BURTON] is recognized for 10 minutes. Is there a Member in opposition to the amendment who wishes to claim the time in opposition?

Mr. SMITH of Iowa. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 10 minutes in opposition.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

First of all, I want to compliment the committee for doing a pretty good job.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, did the gentleman say just "a pretty good job" is all?

Mr. BURTON of Indiana. Mr. Chairman, the gentleman knows I am giving him faint praise. And that is better than most.

Let me just say that I think the committee has done a pretty good job. However, there are some things in here that I think should be looked into and should be cut.

The administration, in their budget estimate for 1993 in the committee report, wants to zero out the funds for the economic development assistance programs. That totals $235 million. The Senate has partially acceded to the wishes of the White House by cutting that portion of the bill to $150 million.

I mentioned to the ranking Republican and to the chairman of the committee that I thought we ought to cut this, I would like to cut it all out, but I was willing to make a compromise. Unfortunately, they were not of a mind to do so.

Let me just say that we have severe fiscal problems facing this Nation. I have said time and again and will continue to say on this floor that unless we get control of spending, we are likely to see an economic disaster unparalleled in American history in the next 5, 6, 7 years.

The deficit is $400 billion approximately now. If we look at the projections over the next few years, it is going to go up and up and up. And the national debt, according to the Federal Reserve Board, by the year 2000 will be $13.5 trillion. And 10 years ago it was $1 trillion.

☐ 1510

Think about that. It went from $1 to $4 trillion in 10 years. It took us 200 years to get to $1 trillion in debt and 10 years to get to $4 trillion in debt, and in 7½ years we will be $13.5 trillion in debt, at least.

The bottom line is, we will not even have enough tax revenues coming in to pay the interest on the debt, so what we will have to do is allow the Federal Reserve Board to monetize at least part of the debt. That means print money to pay off part of the debt. That means there will be more and more money in circulation chasing fewer and fewer products. What that means is that we are going to see bread at $25 or $30 a loaf, milk at $25 or $30 a carton for a quart. We will have to deal with that.

I say to my colleagues, this is an amendment that we should pass. This is something we can do without. The administration has not asked for it. They want to zero out this $235 million. It is pork, for the most part.

Let me just tell the Members what is in here. In the report language it allows for the expansion of the Worcester, MA, Centerum arena and exhibition hall. This should be taken care of by the local government, not by the Federal Government. Why should we be dealing with the Worcester, MA Centerum arena and exhibition hall? Yet there are millions of dollars in here for that.

There is money in here for planning a study for the biotechnology center in Boston, MA. Why should we be paying for that, the taxpayers from across the country? There is money in here for a planning study for a biotechnology medical center in St. Louis, MO, and it goes on and on and on.

These are pork barrel projects for specific Congressmen who want to go back to their districts and tell their constituents, "Look what I did for you," at the expense of the taxpayers in other parts of the country. The bottom line, Mr. Chairman, as I have said before, is we need to cut out the fat, the waste, the pork in these spending bills.

This is only a small amount, $235 million, but I submit to my colleagues that it is something that we should do. If we do that and cap the entitlements at some point in the future, which is another major problem we are going to face, then we could come to grips with the deficit and maybe head off the economic disaster that I think is out there in the future if we do not deal with the problem.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, let me say at the outset that we are all indebted to the gentleman from Indiana [Mr. BURTON] for his efforts at trying to cut spending, and while we all generally support that effort, I must say on the Economic Development Administration, this is an agency that attempts to help the most distressed portions of the country deal with not only the general hard economic times that they are generally always in, but especially now in these very difficult recessionary times, they are suffering worse than ever.

The money in the Economic Development Administration generally have gone to communities to help them help themselves. That is what I believe we should be standing for, seed money to help communities develop industrial parks, to recruit jobs to those communities, grants for sewer development, for water districts, for the general things that help build up a region economically in order that it can become tax-producing, and, therefore, bring the money back into the Treasury.

There is no way we can quantify this, but I think I can safely say, Mr. Chairman, that the money that we invest in the EDA that in turn are being invested in the communities, producing jobs, in turn produce revenues, and I dare say that the Federal Government makes money off of this seed money that it invests in the betterment of our communities, not to mention the pride that comes from that person going off welfare into a paying job in which he or she earns their upkeep. That sense of pride, that sense of self-independence, that sense of self-respect that comes from employment, gainful employment that cannot be purchased except through, in my judgment, the investment that we are making in the EDA.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume. First of all, let me say that the gentleman from Kentucky [Mr. ROGERS], for whom I have the highest respect, indicated that this money was going for needy communities who are having a difficult time of it, and we were getting our money back several times over.

I wish the gentleman would explain to me how the expansion of a Worcester, MA, Centerum arena and exhibition hall is solving an impoverished area's problems. Give me a break. A planning study for a biotechnology center in Boston, MA? Give me a break. A planning study for a biomedical technology center in St. Louis, MO? Give me a break.

The Members know this is Federal money going for a special pork barrel project that is in this report language that we cannot get at, hardly, to help the guys back home. It is just more pork, and we should take it out. The administration, in their budget request, has zeroed this out. They do not have anything in it for this purpose. The Senate has already cut it from $235 million down to $150 million, so they can see the handwriting on the wall.

All I am saying is that this should be cut entirely, but at the very least, it should be cut at least proportionate to the other expenses in the bill.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I was just flipping through the 1991 list for the State of Indiana, and there are grants for Jeffersonville, IN; Ferdinand, IN; Huntingburg, IN; Loogootee, IN; Bloomington, IN.

Mr. BURTON of Indiana. Loogootee, IN.

Mr. ROGERS. If the gentleman will continue to yield, Loogootee, IN.

The CHAIRMAN. And it is Worcester, MA.

Mr. ROGERS. Francesville; Versailles, IN; Scott/Washington, IN; Carlisle, IN; Terre Haute, IN; and so forth.

I would ask the gentleman, are those communities in need of these projects, like the water and sewer expansions in Carlisle; the revolving loan fund for small business in Scott County?

Mr. BURTON of Indiana. Mr. Chairman, I think the gentleman has made his point, if I might reclaim my time. I stand by what I said earlier. Whether it is Indiana or Kentucky or Missouri or Massachusetts, the Federal Government should not be dealing with these projects right now. We are in a fiscally tight situation. This is $235 million that has not been asked for by the administration. The Senate has already cut it to $150 million. We have a terrible deficit problem facing this country.

The Members know the deficit is over $4 trillion, a 400-percent increase, and they know that according to the Fed, that we are heading to a $13.5 trillion debt in just 10 years, and that is going to cause economic chaos. We need to prioritize spending. Whether it is Indiana or Kentucky or wherever, we are going to have to prioritize spending.

Mr. Chairman, I would say to my colleague that I stand by what I said. We ought to cut this $235 million out. We have to make hard choices around here.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, it is impossible in 2 minutes to separate all the apples and oranges and bananas that have been displayed in this debate, but I have a town in my district named Cotton Plant. It is in a county, Woodruff, that has double-digit chronic unemployment, over 22 percent, as I recall.

That town has applied for an EDA grant with which to build a new sewage system to receive the effluent from a new catfish processing plant that will hire 60 people. That money will make money if it is granted. That money will pay for itself in a very short period of time, because we have unemployed people receiving unemployment that will be employed as a result of this grant. We save money from unemployment; we make money from income from taxes paid on earnings.

It is true all over this country. There are many deserving projects like the Cotton Plant project, way off in Arkansas, which the Members probably never heard of, that are waiting for the opportunity to put people to work with a small investment from the Federal Government that is provided by the Economic Development Administration.

Mr. Chairman, I oppose this amendment. I think it is ill conceived. We need to try to encourage employment; and in order to produce jobs, sometimes we need to invest money to make money.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Chairman, I rise in opposition to the Burton amendment. I am really, quite frankly, surprised that he is offering this amendment, because we are doing him a favor, as we are doing the President a favor. With our bill here, we are providing funds. We are providing jobs—needed jobs—for the laborer, for the cement finisher, the carpenter, the electrician. This is far more than some of the Members are doing.

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Really, I say to the gentleman from Indiana [Mr. BURTON], I think we are doing everybody a favor here with our bill. So I would ask the membership here to vote in opposition to the Burton amendment.

Mr. SMITH of Iowa. Mr. Chairman, I have the right to close debate. Does the gentleman from Indiana have any further requests for time?

Mr. BURTON of Indiana. I will close the debate on our side.

The CHAIRMAN pro tempore (Mr. FRANK of Massachusetts). The gentleman from Indiana [Mr. BURTON] is recognized for 3 minutes.

Mr. BURTON of Indiana. Mr. Chairman, I go to the well practically every day we have an authorization or an appropriation bill up, and every time I try to cut spending for any kind of a program, I do not care what it is, there are 900 good reasons that we should not cut it. As a result, we continue to see the deficit climb, not because we are not raising enough tax revenues, because 10 years ago we brought in $500 million in tax revenues, and today we are bringing in $1.3 trillion. We have almost tripled the amount of tax revenues, and yet I go down to that well every time we have an authorization or an appropriation bill and everybody says this is something we cannot do without. And even though we have tripled the tax revenues, tripled the tax revenues, we are still $400 billion short, and we have the largest debt in U.S. history by 400 percent over what it was 10 years ago. We know according to projections that it is going to be $13.5 trillion, $13.5 trillion in about 6½ or 7 years.

Now, I would just like to ask my colleagues when are we ever going to have something that you think we ought to cut? The people across this country, the taxpayers, want us to get control of spending. It is costing jobs, it is running businesses overseas. The mandates we are putting on their backs are killing the economy, and yet we just continue to do it.

So I say to my colleagues, if not now, when? If not this, what? When are you going to go along with some kind of cuts, some kind of reductions?

The appropriation bills we have had so far this year are $42 billion above last year's, $42 billion above last year's, and we had a $400 billion deficit then. When are we going to start cutting?

I submit this is a good place to start.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. EARLY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Massachusetts.

Mr. EARLY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes the perfect case so far as the deficit has gone from $1 trillion in 10 years to $4 trillion because of a Republican President, and then he comes on the floor and he talks about growth. If you are going to grow out of problems anywhere, it is in EDA where it creates jobs and puts people to work.

The gentleman just wants to make a political speech day in, day out about cutting. He should be cutting things like the space station and the super collider that are billions and billions of dollars, but the gentleman will not do that. The gentleman wants to talk, and talk, and talk, and do nothing.

This deficit has gone, as he states, from $1 trillion to $4 trillion in 10 years. Who has been President in those 10 years? Ronald Reagan and President Bush. We will make our correction in the deficit when we change the Presidency, and the gentleman from Indiana will lead the fight to make that change.

I want to thank the gentleman for yielding.

Mr. BURTON of Indiana. Mr. Chairman, I did not yield back my time, and how much time did I have remaining?

The CHAIRMAN. The gentleman from Indian has 1 minute remaining.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself my remaining 1 minute.

Mr. Chairman, let me just say in answer to the gentleman from Massachusetts, and he probably thought I was out of time, but surprise: The fact of the matter is that I did vote to cut the super collider and I did vote to cut the space station, so do not give me that stuff.

But the second thing I say to the gentleman from Massachusetts is all spending originates in the U.S. House of Representatives, this place, not the White House. And so you cannot pass the buck. We appropriate, we raise the taxes, and we spend the money. All he can do is veto it. So do not give the American people that kind of bunk that the White House is to blame. We are the ones who spend the money and appropriate it.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, let me say to the gentleman from Indiana I agree with him on what he said about authorizations. Members come over here and vote for authorization bills, but when it comes to the appropriations they do not want to back them up with funding. Authorizations should not be voted on, expectations should not be raised unless Members intend to fully support providing funding for these programs.

In the case of the EDA, we have had several votes on the House floor and have supported the EDA authorizations. In my judgment, we have the EDA at about the lowest level possible to continue to use it as a seed program and have it as a national program. I might also mention that the administration was recently anxious to use the EDA title IX program after the Los Angeles riots.

As the gentleman from Kentucky said very well, it is just seed money. There are many communities that have the ability to create jobs, but they need just a little more for a planning study, or to get the ability to float bonds to finance a project. That is all we have been doing in EDA recently, just using it for seed money.

This is a time of high unemployment. Small businesses cannot go out and buy a tract of land and develop it themselves. They have to depend upon municipalities and any encouragement that they get for their development projects.

This is just seed money, and I think that of all times this is a bad time to cut out the seed money. The gentleman's amendment would cut out all of the seed money I mentioned in here for EDA.

We have voted several times in the House to support EDA, and I ask Members to support it again today by voting against the amendment of the gentleman from Indiana.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 76, noes 339, not voting 19, as follows:

[Roll No. 350]

AYES—76

Allard
Andrews (TX)
Archer
Armey
Atkins
Baker
Ballenger
Barrett
Bereuter
Bilirakis
Bunning
Burton
Callahan
Coble
Combest
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dingell
Doolittle
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Fields
Gingrich
Goss
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Holloway
Hopkins
Hunter
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Laughlin
Lewis (FL)
McCollum
Miller (WA)
Moorhead
Nussle
Oxley
Packard
Penny
Petri
Porter
Ramstad
Rhodes
Rohrabacher
Roth
Schaefer
Schulze
Sensenbrenner
Smith (OR)
Solomon
Stearns
Stump
Taylor (NC)
Thomas (CA)
Walker
Wylie
Young (FL)
Zimmer

NOES—339

Abercrombie
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zeliff

NOT VOTING—19

Ackerman
Barton
Boxer
Broomfield
Collins (MI)
Conyers
Gaydos
Guarini
Hatcher
Hyde
Lowery (CA)
Martin
Mavroules
Mrazek
Savage
Solarz
Stallings
Towns
Traxler

☐ 1548

Messrs. McCANDLESS, ZELIFF, AND KLECZKA changed their vote from "ayes" to "no."

Mr. RHODES and Mr. HALL of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. McDADE. Mr. Chairman, I ask unanimous consent that between the hours of 4 and 5 o'clock all votes be postponed until 5 o'clock in order that Members can conclude their business. There are a lot of meetings going on in the Capitol.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. McDADE] has made a request which the Chair does not have the authority to grant in the Committee of the Whole.

PARLIAMENTARY INQUIRIES

Mr. McDADE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. McDADE. Mr. Chairman, is there any way we can make the request, other than rising?

The CHAIRMAN. The Chair is unaware of any.

Mr. McDADE. Mr. Chairman, could we ask to suspend the rules by unanimous consent and do the unanimous-consent request?

The CHAIRMAN. The gentleman cannot even do that in the Committee of the Whole. The gentleman can move that the Committee rise and request it in the House.

☐ 1550

Mr. McDADE. Would it be agreeable, Mr. Chairman, that we rise for 10 seconds, do the unanimous-consent request, and postpone all voting to roll it over until 5 o'clock?

Mr. SMITH of Iowa. If the gentleman would include in his unanimous-consent request that that will also conclude all debate on all amendments and amendments thereto. We should be done by then. There is no excuse to be here after that.

Mr. McDADE. I so amend my unanimous-consent request.

The CHAIRMAN. The Chair would remind the gentleman that he has just told the gentleman he cannot entertain that unanimous-consent request.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise temporarily.

The CHAIRMAN. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. VOLKMER) having assumed the chair, Mr. BROWN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, had come to no resolution thereon.

REQUEST FOR PERMISSION TO LIMIT DEBATE IN COMMITTEE OF THE WHOLE ON AMENDMENTS TO H.R. 5678 AND TO ROLL VOTES UNTIL A TIME CERTAIN

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that debate on the bill and all amendments and all amendments thereto end at 5:15 and also that all requests for recorded votes be rolled over until 5:15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ROGERS. Mr. Speaker, reserving the right to object, we have, as I understand it—and maybe we can quickly recap here—the Murtha amendment coming up next; as I understand it, we have the Stark-Penny amendment following that, both of which I assume will take some time, with perhaps a vote; then we have the TV Marti amendment, which will be debated and, I assume, voted. Then we have the Taylor and Dorgan-Penny, which I assume will take some time, and then perhaps one other amendment that perhaps will not take time. So we have three or four amendments that will take some time and a vote or two. I am not sure we can finish in the time that the gentleman has indicated.

Mr. SMITH of Iowa. If the gentleman would yield, first the TV Marti amendment is protected on their debate time, as I understand it. We intend to accept the Taylor amendment plus another amendment. So I think that we have only one or two amendments other than TV Marti that we are concerned about.

Mr. ROGERS. Mr. Speaker, I withdraw my reservation of objection.

Mr. DELAY. Mr. Speaker, reserving the right to object, I was wondering how many votes the chairman anticipates.

Mr. SMITH of Iowa. I cannot guarantee anything. All I know is TV Marti, and there are a couple of other amendments I know that may have votes on them.

Mr. DELAY. Let me ask the chairman under my reservation——

Mr. SMITH of Iowa. I am just doing this to accommodate the gentleman from Pennsylvania [Mr. MCDADE].

Mr. DELAY. I am not going to object, Mr. Speaker, I just want to point out something that happened last night that I hope, when we start rolling these votes, will not happen again today. I mean that we have a 15-minute vote, then we have another 15-minute vote, and then we roll a couple of other votes, and Members are confused about the 5-minute vote procedure. I want to be assured, under my reservation, that if we roll these votes into 5-minute votes, we have one 15-minute vote and then several 5-minute votes following.

Mr. SMITH of Iowa. That is not in my pay grade to answer that.

Mr. DELAY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ALEXANDER. Mr. Speaker, reserving the right to object, I have an amendment which is protected under the rule, and I ask in what order votes will occur? I am interested primarily in my own amendment which I plan to offer. I think it is the third one up as we now stand in the proceedings on this bill.

My question is: Will votes occur on that amendment following the debate on the TV Marti amendment?

The SPEAKER pro tempore. If the unanimous-consent request is agreed to without objection, then the votes could occur in the order in which the votes are postponed. It depends. Those would occur only after 5:15.

In any event, the Chair cannot say when the vote of the gentleman from Arkansas [Mr. ALEXANDER] will occur in Committee of the Whole.

Mr. ALEXANDER. Mr. Speaker, the question is: Will the vote occur following the debate on the amendment in the regular order?

The SPEAKER pro tempore. The Chair cannot answer that at this point. Maybe the gentleman from Iowa could restate his unanimous-consent request.

Mr. SMITH of Iowa. Mr. Speaker, under the unanimous-consent request made, as I understand it, all the votes would occur at 5:15 on all amendments that have been adopted or not adopted.

Mr. FAZIO. Mr. Speaker, reserving the right to object——

The SPEAKER pro tempore. Before the Chair recognizes the gentleman, the Chair would like to clarify something for the chairman of the subcommittee. Does the gentleman's unanimous-consent request include the debate on the amendment of the gentleman from Arkansas in the overall time limit on which the House has to this point guaranteed 30 minutes of debate?

Mr. SMITH of Iowa. It does. But my understanding is it is protected in the rule, so he is going to get the half-hour debate anyway.

Mr. ALEXANDER. I understand that.

Mr. Speaker, further reserving the right to object, my question concerns the order of votes on the amendments. In what order would the votes occur on the amendments debated that are protected by the rule?

The SPEAKER pro tempore. The Chair could not state when the vote on the amendment offered by the gentleman from Arkansas would occur, or when any individual amendment vote would occur, in the Committee of the Whole.

The Chair can only state under the unanimous-consent request that no recorded vote would occur prior to 5:15. Recorded votes would occur after 5:15. And the votes would occur in the order in which the votes are requested on the amendments as debated.

The FAZIO. Mr. Speaker, reserving the right to object——

Mr. ALEXANDER. Mr. Speaker, further reserving the right to object, would the gentleman from Pennsylvania yield? Would the gentleman from Pennsylvania amend his unanimous-consent request to permit my amendment to occur first, in the first order of the amendments that began voting at 5:30?

The SPEAKER pro tempore. The Chair would like to correct the gentleman from Arkansas [Mr. ALEXANDER]. The Chair would remind the membership that it is the request of the gentleman from Iowa [Mr. SMITH] that is now before the House.

Mr. ALEXANDER. Would the gentleman from Iowa permit that?

Mr. SMITH of Iowa. I personally do not care, but I do not think it is worth all this if somebody is going to object anyway. Is somebody going to object anyway?

Mr. FAZIO. I may well object. I have not had a chance to communicate with the chairman. Let us go to work, and I would be happy to work with the gentleman.

The SPEAKER pro tempore. Does the gentleman from Arkansas continue on his reservation?

Mr. ALEXANDER. Mr. Speaker, the gentleman from California [Mr. FAZIO] has objected?

Mr. FAZIO. I have not, but I may if it is required. I wanted to be certain that we were not going to cluster votes, that we were simply going to proceed until 6:30, taking up issues as they come, as they would in the normal procedure, and not have any clustered votes, not have any votes at any given time. I will object if that is the intent.

Mr. SMITH of Iowa. Well, Mr. Speaker, we are certainly not going to 5:15 on one of these amendments. We should get three of them out of the way by that time.

Mr. FAZIO. So there would be clustered votes?

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1559

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5678, with Mr. BROWN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Indiana [Mr. BURTON] had been disposed of and the bill had been read through page 48, line 16.

The Clerk will read.

The Clerk read as follows:

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $26,487,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1993, of which no more than two positions shall be designated as National Economic Development Representatives: *Provided further*, That such positions shall be maintained within an organizational structure that provides at least one full-time EDR in each State to which a full-time EDR was assigned as of December 31, 1987.

In addition, for administrative expenses of the guaranteed loan program authorized by the Public Works and Economic Development Act of 1965, as amended, $250,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in title II of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased or decreased by more than 5 percent by any such transfers: *Provided*, That this section shall not apply to any appropriation made available in title II of this Act under the following headings: "National Oceanic and Atmospheric Administration, Operations, Research, and Facilities; and "Economic Development Administration, Economic Development Assistance Programs": *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

This title may be cited as the "Department of Commerce Appropriations Act, 1993".

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $20,820,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,070,000, of which $800,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $11,254,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $10,345,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $1,964,472,000 (including the purchase of firearms and ammunition); of which not to exceed $90,000,000 shall remain available until expended for space alteration projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,053,000 to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $215,043,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $68,820,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $81,253,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $45,927,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,947,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund as authorized by 28 U.S.C. Sec. 377(o), $8,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), and in addition to the Claims Court Judges' Retirement Fund, as authorized by 28 U.S.C. 178(1), $520,000.

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Judicial Discipline and Removal, $443,000, as authorized by title IV, subtitle II of Public Law 101–650 (104 Stat. 5124).

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,556,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in title III of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased or decreased by more than 5 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

The title may be cited as "The Judiciary Appropriations Act, 1993".

TITLE IV—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $225,000,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $71,570,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies: *Provided further*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I know of no other amendments through line 3 on page 59.

Mr. Chairman, I ask unanimous consent that the remainder of the portion of the bill through page 59, line 3, be considered as read, printed in the RECORD, and open to amendment at any point.

□ 1600

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, I oppose this amendment, and strongly believe that ending TV Marti would be a crucial misstep in our foreign policy.

It is ironic that the sponsors of this amendment cite Castro's jamming of TV Marti as a reason for ending the program. The fact that the Cuban dictator is devoting scarce resources to jamming it illustrates just how much of a threat TV Marti poses to his stranglehold on the flow of information to the Cuban people.

It was not too long ago that Communist dictators in the Soviet Union and Eastern Europe were jamming Radio Free Europe and Radio Liberty. But we didn't use their jamming as an excuse to end those important broadcasts, and we were right. Many leaders of the new democracies in that region now tell us that the free flow of information through RFE-RL helped facilitate the transition to democracy in their countries.

As communism falls around the world, we have the opportunity—and the obligation—to help bring about the downfall of communism in Cuba and establish democracy there. TV Marti is an integral part of our efforts to help the Cuban people achieve freedom and democracy.

I oppose this amendment because the timing is wrong, the reason is wrong, and it sends the wrong signal. We need to send the right signal—instead of curtailing TV Marti, we should be expanding it into prime time.

Mr. CHANDLER. Mr. Chairman, I rise in opposition to the Alexander amendment to terminate TV Marti. It is important to understand that this amendment is destructive. It would not reform TV Marti or make it more effective. I support efforts to make TV Marti more effective in the struggle for Cuban democracy. The Alexander amendment does not work toward this end. Instead, it would terminate TV Marti and silence the flow of information; sheathing democracy's sword in the battle against tyranny.

It is crucial that we understand how passage of this amendment will be interpreted in Cuba. It will not be viewed as belt tightening. It will be viewed as a victory for Castro and an abandonment of the Cuban people in their struggle for freedom. Passage of this amendment would be a blow to liberty and triumph for tyranny.

I trust that my colleagues will use this occasion to send a very different message to Castro. Vote to reject the Alexander amendment and make Castro understand that the United States remains committed to democracy in Cuba. Vote to make Castro understand that his dictatorship cannot continue. Vote to continue the struggle for Cuban democracy. Vote "no" on the Alexander amendment.

The CHAIRMAN. Are there points of order for that portion of the bill?

If not, are there any amendments to that portion of the bill?

The Clerk will read.

The Clerk read as follows:

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $356,000,000, to remain available until expended: *Provided*, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

AMENDMENT OFFERED BY MR. MURTHA

Mr. MURTHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURTHA: On Page 59, after line 11, insert the following:

MILITARY USEFUL VESSEL OBLIGATION GUARANTEES

For the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, $50,000,000: *Provided*, That the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of serving as a naval and military auxiliary in time of war or national emergency.

In addition, for administrative expenses to carry out the guaranteed loan program, $2,800,000, which may be transferred to and merged with the Operations and Training appropriations for the Maritime Administration.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MURTHA] is recognized for 10 minutes.

Mr. MURTHA. Mr. Chairman, the proposed amendment provides loan guarantees for construction of vessels in the U.S. shipyards which could be of use to the Department of Defense. The $50 million proposed could support construction of up to 16 ships and a billion dollars worth of construction.

This program will help with the rebirth of commercial ship construction in the United States; that will directly translate into more jobs and lower costs to U.S. Navy ships currently in construction.

I want to compliment the gentleman from California [Mr. CUNNINGHAM] for his work on this amendment, and his dedication to it, also the gentleman from Arkansas [Mr. ALEXANDER] and the work that he has done on this amendment and the many other people that have talked to me about the amendment.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman from Pennsylvania [Mr. MURTHA] has spoken to me about this a number of times. As the gentleman knows, we had trouble with the scoring of this program. There was a problem as to whether it will be scored under the defense function or under domestic discretionary. We think, at least temporarily, that the problem has been resolved.

I just have to say though, that if the scoring is not resolved in favor of putting this program under the defense function, we will not be able to finance it; but, under that assumption, I have no objection to the amendment.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I want to commend my colleague, the gentleman from Pennsylvania [Mr. MURTHA], for the amendment sponsored by my friend, the gentleman from California [Mr. CUNNINGHAM], and the gentleman from Arkansas [Mr. ALEXANDER], and the members of the committee because it is an excellent amendment. He has cleared it with us, and we are ready to accept it on this side of the aisle.

Mr. MURTHA. Mr. Chairman, I appreciate the help of the gentleman from Pennsylvania [Mr. McDADE] and his work on this amendment.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank the gentleman from Arkansas [Mr. ALEXANDER], and I do not have that much opportunity to work with this committee, but, if we could work this way throughout the House on every committee, this House would be much better off, and I appreciate it. But I have seen the Democratic Party work with the Republicans, I have seen labor work with business, the majority leadership work with the administration, and I cannot tell my colleagues how good that that is.

Mr. Chairman, shipyards are guaranteed loans for the environment. We have got dual-hull tankers so we will not have more Valdezes and protect our shorelines, and the best thing is we are creating jobs for Americans.

I would ask that in the same manner that the CRP be taken a look at in the conference report, if that is possible, Mr. Chairman, and I want to say to the gentleman from Iowa [Mr. SMITH], the chairman, It's been an extreme pleasure working with you and your committee, and I commend your efforts. Thank you.

Mr. Chairman, I rise in strong support of this amendment. The gentleman from Pennsylvania has offered language identical to an amendment which I submitted earlier this week. This amendment provides funding for the Title XI Ship Loan Guarantee Program as required by the Federal Credit Reform Act.

The Murtha-Cunningham amendment is quite simple. It provides modest funding for the Title XI Loan Guarantee Program. Title XI of the Merchant Marine Act of 1936 authorizes the Secretary of Transportation, through a program administered by the Maritime Administration, to guarantee the financing of the construction or conversion of U.S.-flag vessels in private U.S. shipyards. This program was the key to the development of the U.S. merchant marine and a way to provide ships required for national defense at substantially lower cost than outlays from the defense budget.

The Credit Reform Act now requires that all Federal loan guarantee programs receive appropriations up front. MarAd now has applications under review that cannot be approved without this appropriation. The funding under this program is the cost of the risk factor of the loan guarantee and the program administration. For example, under Credit Reform, an appropriations to this program of just $10 million will guarantee the construction of a $200 million vessel in a U.S. shipyard. The $50 million in the Murtha-Cunningham amendment will cause the construction of up to $1 billion in new ships in U.S. shipyards.

This amendment provides that the Secretary of Defense will make a request to the Secretary of Transportation for a loan guarantee on a particular type of vessel. The Secretary of Defense, in consultation with the Secretary of Transportation, will make a further determination that the vessel is capable of serving as a naval and military vessel in time of war or national emergency.

This amendment will ensure that the Defense Department will have militarily useful vessels available in time of war, vessels that will be U.S.-flag, U.S. owned, and U.S. crewed. In 1990, Congress passed major environmental legislation. This legislation, known as the Oil Pollution Act of 1990 provided that all new tankers be built with double hulls. Without title XI, we will never have new double hulled tankers in our domestic trades. Operators will continue to use their existing vessels until the statutory deadline and then move them to the foreign trades.

Mr. Chairman, can you imagine how many U.S. jobs will be saved by $1 billion in new ship construction?

I want to thank the gentleman from Pennsylvania [Mr. MURTHA] and the members of the Appropriations Committee, particularly Chairman SMITH, Mr. ROGERS, and Mr. McDADE for their assistance. I also would like to thank Rusty Johnston, George Pence, and Margherita Woods of the Merchant Marine Committee for their help in putting this amendment together.

Finally, Mr. Chairman, this amendment has the support of every shipbuilder in the United States. It has the support of maritime labor. It has the support of the administration and was added in the Senate by Senators HOLLINGS and BREAUX. I urge my colleagues to take positive action for the maritime industry and the economy and support the Murtha-Cunningham amendment.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I associate myself with the gentleman who has offered the amendment, compliment him for bringing this important amendment to the floor.

As I understand it, some of these ships might be used in offshore energy production that could convert wasted flared natural gas into methanol which will bring clean fuel to an economy that needs to comply with the Clean Air Act, and I compliment the gentleman.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, let me offer quick congratulations and thanks to the gentleman from California [Mr. CUNNINGHAM] for his long and devoted work on this, and I might say very effective, as my colleagues can see, efforts on behalf of this provision, and I join in support for it under the proviso the chairman of my subcommittee mentioned, that the scoring would come from DOD, because otherwise, we just do not have the ability to do it. But congratulations to the gentleman from California [Mr. CUNNINGHAM] for a good job. Well done.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I think the most important group I left out in thanking is their superior staff, and the kids out there have worked hard, and I would like to pay them a compliment, sir.

Mr. DAVIS. Mr. Chairman, I rise in strong support of the Murtha amendment to H.R. 5678. It provides funding for the title XI loan guarantee program as required by the Credit Reform Act. As Mr. MURTHA noted, $50 million will build up to $1 billion in new ships, that in all likelihood will be double-hulled tankers. Unless we start work soon on shipbuilding in the United States, we will lose as many as 180,000 skilled jobs in the next 5 years. Not only can these jobs be retained, but the vessels could well be the first vessels built to comply with the Oil Pollution Act of 1990. We can simply not wait any longer to fund this most critical of programs.

Finally, I want to say that we have received a statement from the administration within the last several hours supporting Mr. MURTHA's amendment. I thank the administration for their diligence and foresight on this issue.

Mr. MURTHA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURTHA].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

Mr. KOLBE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take this time to talk about a provision in the bill that you cannot even find in the bill. What I am referring to is the permanent indefinite appropriation for independent counsels. We had some discussion on this subject during the dabate on the rule, but I want to raise it again.

Since 1987, the permanent indefinite provision in the independent counsel statute has allowed taxpayer-funded attorneys to be funded with no oversight by Congress or the executive branch. In 1987, Congress did provide for some oversight in the form of audits by the General Accounting Office. Mysteriously, although they claim it is an administrative oversight, the General Accounting Office has never performed a single audit as required by the law.

Minority Leader MICHEL and Majority Leader DOLE asked the Comptroller General for a reason why these audits had not been done. He has now said that he will have it done by the end of the year. I do not think that is adequate, Mr. Chairman. Further, I do not think Members should consider that adequate when it has been the law since 1987. The GAO is the investigative arm of Congress. But, the GAO said, according to their letter back to Senator DOLE, they lost track of their legal responsibility in their computers.

Aside from the GAO's irresponsibility, let us turn to the substance of the independent counsel issue. The independent counsel statute expires on December 15 of this year. The expiration of the statute however, does not affect any independent counsel which is currently in existence. Even when the law expires, currently operating independent counsels, such as Mr. Walsh, will go on indefinitely. And there is no accountability for the bills that they charge. Lawrence Walsh simply sends the bills to the Treasury, and they are paid without any question or comment.

Because of the Presidential election, my colleagues on the other side of the aisle have suggested that maybe Congress should take a look at the independent counsel law. That is one good thing that may result from the Walsh fiasco. Perhaps in a bipartisan way Congress can take a look at the law that we passed many years ago and look for ways to reform it.

I personally believe that we should have an independent counsel law. I believe it should be reformed, however. With expiration looming, now is the time that we should begin to take a look at this law.

Mr. Chairman, the amendment that I took to the Committee on Rules would have provided that no further funding be provided for independent counsels until the General Accounting Office complies with the law and conducts an audit. In addition, it would have eliminated the permanent indefinite appropriation. Finally, my amendment would have applied the independent counsel statute to Congress.

To me, Mr. Chairman, those provisions seemed reasonable. Other Members may disagree, but the time has come for Congress to address the independent counsel statute in order to decide what role it ought to play. Above all, Congress must act to retain some control over the spending by independent counsels. Now that Lawrence Walsh has spent more than $40 million in taxpayer dollars, our constituents are demanding a change. No longer should independent counsels be allowed to spend money with a total lack of supervision.

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If we do not give a permanent indefinite appropriation to the Supreme Court or any other part of the court system, Congress reviews those appropriations every year, and we do it in this subcommittee. It is time we did the same for the independent counsels.

As I mentioned, Mr. Walsh has spent close to $40 million over the last several years. I say the time has come for us to ask what has the Nation gotten for that $40 million? We should compare that figure to the $3.4 million that has been spent by the investigation done by Mr. Adams on the HUD scandal.

Mr. Chairman, the time has come for us to regain our authority to provide the oversight function for the independent counsel. If we cannot do it in this bill, as my amendment would have done, then I urge Congress to act on these issues in reauthorization legislation before we adjourn for the year.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I chair the subcommittee of the Committee on the Judiciary which has had responsibility for the independent counsels, and I would like to say a few words since the subject has now come up.

First, historically, and I have been reminded of this by the staff who have watched it, the permanent appropriation came about in response to a request by the administration in 1988. That was to protect the Justice Department's appropriation. That is why we have a permanent appropriation.

There is another reason why we do it this way. That is a decision that independence is very important.

Yes, we should know how much is spent. I would point out that among those who have criticized the independent counsel investigation in Iran-Contra, they have clearly demonstrated that we know what is being spent. The have been able to specify in great detail what is being spent in terms of per diems, et cetera. That is an example where we know what is being spent.

The question is, How do you change things without impinging on the independence of that counsel?

I was pleased that the gentleman from Arizona [Mr. KOLBE] mentioned the investigation into HUD headed by former Judge Arlen Adams, because there is an example of the importance of the independent counsel statute.

We have had, not from the gentleman who just spoke, but from others, unfounded accusations that somehow the independent counsel statute was a politicized one. The gentleman did say maybe things are changing because the election is coming up.

I would point out the independent counsel statute was established by a Democratic Congress under a Democratic President. The independent counsel statute was created in the late seventies under President Carter by a Democratic Congress in both Houses, who indeed later decided that it had been too harsh during the Democratic Presidency and raised the threshold .under a Republican President in 1982. That is, we made it harder to get an independent counsel under President Reagan than it was under President Carter.

The history clearly refutes any suggestion of partisanship. It was at its harshest by a Democratic Congress under a Democratic President.

Under President Reagan the law was changed to make it harder to get one, and also it was required to pay the legal expenses of any subject who was not indicted. Many have been paid. In fact, the independent counsel has done as an institution a very good job of indicating people who should have been vindicated. It has also gotten indictments and convictions.

The Iran-Contra has been more expensive for a number of reasons. First of all, it has been dealing with security. Physical arrangements and other arrangements have been much more difficult. The HUD investigation is a more garden variety corruption one.

I would point out, by the way, on independent counsel, that the Attorney General at the time, Mr. Thornburgh, declined to do any investigating. It was only because of the majority of members of the Judiciary Committee, as the statute provides, insisting in bringing this to Mr. Thornburgh that an independent counsel was appointed. He made it very clear he did not think one should be appointed.

That independent counsel has since gone on to get real movement. We have had a conviction, we have had some indictments. We are talking here about corruption, but there were not elements of national security. There were not the complications that were faced in the Iran-Contra situation.

Mr. Chairman, yes, anything can be looked at and improved, but we ought to be very clear that the independent counsel statute first has no trace of partisanship about it and was created by, as I said, Democrats under a Democrat President.

In fact, the independent counsel, the current two named who are functioning are both I believe Republicans who were former judges appointed by Republicans.

This is an institution that has served us well. I would like to look at the way the money is spent, but the essential point is to keep that from being impinged upon.

To have adopted an amendment that would have curtailed the spending until the GAO acted would have been to say to potential felons that the failure of the GAO to do an audit could have relieved them of any responsibility for answering for any potential crimes. I think that the committee acted wisely in not allowing that.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $205,000, to remain available until December 31, 1993, as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with the chairman and my colleague and fellow cochair of the congressional competitiveness caucus, JIM KOLBE.

Mr. Chairman, I would like to bring to the attention of the body the activities and mandate of the Competitiveness Policy Council. The Competitiveness Policy Council is a relatively new bipartisan national council created by the Omnibus Trade and Competitiveness Act of 1988. It is comprised of 12 members from business, labor, government, and the public to make major contributions to improving the country's economic and competitiveness policies. The Council's first report to the President and the Congress was well received both in the press and in government. We look to the Council for important guidance on competitiveness policy.

I would like to bring to the attention of this body the fact that the committee has used a specific formula to fund councils, using as a base fiscal year 1992 funding levels. However, the Competitiveness Policy Council has no relevant base in the fiscal year 1992 budget. It only began operations last fall and only launched the activities mandated by Congress in the last few months. Although the committee funded the Council at $1.2 million, that is actually a cut from current annual services levels of $2.5 million and will severely hamper their ability to serve the needs of Congress.

Mr. KOLBE. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I appreciate the gentlewoman yielding.

I would just like to associate myself with the remarks the gentlewoman has made and agree with her as the cochair of the competitiveness caucus that I do understand the importance of the Competitiveness Policy Council.

Mr. Chairman, the Competitiveness Policy Council has created eight important subcouncils that are now developing detailed blueprints on each of the key competitiveness issues that they have identified, and it is these subcouncils that have accounted for the majority of the increase in the budgetary costs. Those have only become operational in the last few months. That is what has taken the current services level of the Council to about $2.5 million and accounts for the fact that it finds itself in the great budget difficulty it does today.

Mr. Chairman, I appreciate the gentlewoman from Ohio [Ms. KAPTUR] bringing this to our attention.

Ms. KAPTUR. Mr. Chairman, I would say I would like very much to work with the gentleman to see that the Competitiveness Policy Council is funded to the level relevant to its full operating budget in conference.

Mr. SMITH of Iowa. Mr. Chairman, if the gentlewoman will yield, we do have a difference of opinion concerning some of the figures. The Council had a $1.5 million carryover into fiscal year 1992. I am told they may have a substantial carryover into 1993. So these figures that show up in tables do not really tell the whole story.

Mr. Chairman, we are impressed with the organization, and the presentation they made to our subcommittee was very impressive. Of course we will work with them during the conference on this matter.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for his receptiveness.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $578,000, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $1,102,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by section 5209 of the Omnibus Trade and Competitiveness Act of 1988, $1,223,000 to remain available until expended.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $1,218,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $19,742,000 of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $364,000,000; *Provided*, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) H.R. 2039 as passed by the House of Representatives on May 12, 1992 unless paragraph (2) applies;

(2) authorizing legislation for fiscal year 1993 for the Legal Services Corporation as enacted into law.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 101-574, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $234,417,000 of which $67,000,000 is for grants for performance in fiscal year 1993 or fiscal year 1994 for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided*, That not more than $500,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further*, That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further*, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee, except as otherwise provided in this Act: *Provided further*, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, nothing herein shall preclude the Small Business Administration from preparing or formulating, but not publishing in the Federal Register, proposed rules, nor shall anything herein apply to uniform common rules applicable to multiple Federal departments and agencies, including the Small Business Administration; nor may any of the funds provided in this paragraph restrict in any way the right of association of participants in such program.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $10,623,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $16,813,000, and for the cost of guaranteed loans, $253,438,000, as authorized by 15 U.S.C. 631 note: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $97,101,000, of which not to exceed $97,101,000 may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans, $80,657,000 authorized by 15 U.S.C. 631 note, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That none of the funds provided in this or any other Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the community in which the disaster has occurred.

In addition, for administrative expenses to carry out the direct loan program, $78,000,000, of which not to exceed $78,000,000 may be transferred to and merged with the appropriations for Salaries and Expenses.

In addition, for the cost of emergency disaster loans and associated administrative expenses, $75,000,000, to remain available until expended: *Provided*, That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 only (1) to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Budget Enforcement Act of 1990; and (2) if the amounts annually appropriated under this heading, but not designated as emergency requirements pursuant to section 251(b)(2)(D) of the Budget Enforcement Act, have been at least equal to the most recent ten-year historical average, less any enacted cost saving program reforms: *Provided further*, That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D).

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $13,020,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, $2,170,333,000; and in addition not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717, and in addition not to exceed $1,148,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246), and in addition not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $24,055,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $5,080,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,814,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $526,819,000, of which not to exceed $140,000,000 is available for construction of chancery facilities in Moscow, Russian Federation, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $8,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

In addition, notwithstanding any other provision of law, funds appropriated to the Emergencies in the Diplomatic and Consular Service appropriation in Public Law 102–27, Emergency Supplemental Appropriations Act, Fiscal Year 1991, are available for any and all unforeseen emergencies that may rise in fiscal year 1992 and thereafter, pursuant to the requirements of 31 U.S.C. 3526(e).

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $624,000, as authorized by 22 U.S.C. 2671: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in Section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $193,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $15,543,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $119,082,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $913,214,000, of which not to exceed $92,719,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, $457,592,000 of which not to exceed $21,992,000 is available to pay arrearages.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C.

5102, $5,600,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $11,265,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $13,854,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $9,000 for representation expenses incurred by the International Joint Commission, $4,403,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $13,757,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, $4,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $16,368,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

RUSSIAN, EURASIAN, AND EAST EUROPEAN RESEARCH AND TRAINING PROGRAM

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98–164, $4,961,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 501. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 502. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in title V of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased or decreased by more than 5 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided, for arms control and disarmament activities, including not to exceed $100,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $45,863,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871–2883), $220,000,000 of which not to exceed $52,000 may be made available for official reception and representation expenses.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public law 99–83, section 1303.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $45,152,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,250,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

□ 1620

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that the bill be considered as read through line 23, page 75, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order with regard to this section under consideration? If not, are there any amendments to the section under consideration?

If not, the Clerk will read.

The Clerk read as follows:

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $741,893,000: *Provided*, That not to exceed $1,285,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further*, That not to exceed $1,700,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535–1536: *Provided further*, That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further*, That up to $1,250,000 shall be available for the operation of International Book Exchange Fund, Inc., to distribute books to libraries, educational institutions, and individuals in Eastern Europe and the Commonwealth of Independent States.

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STARK: Page 76, line 18, strike "$741,893,000" and insert "$726,693,000".

The CHAIRMAN. The gentleman from California [Mr. STARK] is recognized for 10 minutes.

Mr. STARK. Mr. Chairman, I ask unanimous consent that I be permitted to yield 5 minutes of my 10 minutes to the gentleman from Ohio [Mr. KASICH] and allow him to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Chairman, I yield myself such time a I may consume.

Mr. Chairman, this amendment will cut funding for the U.S. Information Agency—the USIA—by $15.2 million, or about 2 percent of total allocated for salaries and expenses.

The purpose of this cut is to eliminate the $15.2 million of the taxpayers money the USIA spends every year for libraries and reading rooms in Western Europe, Japan, and Australia.

We are drowning in $4 trillion in debt—money our children and grandchildren will have to pay back. Why are we spending millions of dollars a year for USIA libraries in France, Germany, Britain, Holland, Australia, Japan, Canada, and other rich, advanced industrialized countries?

Forty years ago, when these countries were less politically and economically stable and the Soviet Union was right on their doorstep, this program made sense. It still makes sense to have libraries in poorer, Third World nations which have less exposure to the United States.

But Canada? Germany? Australia? France? This is a nice little program, but we just can't afford it. We're $400 billion in the red this year, and this is as good a place to cut as any.

Will Western Europe and Japan be culturally isolated without USIA libraries? Hardly. These countries have excellent educational systems of their own. Many of their citizens speak good English and some know more American history than some of our own citizens. Moreover, these countries are inundated with American culture through television, movies, and music. CNN is in almost every home and Time magazine is found on nearly every corner newsstand. It's hard to find a Norwegian under 40 that doesn't speak good English.

Here's a few facts about the libraries supplied by the USIA itself:

In fiscal year 1991, 64,000 people visited USIA libraries in Japan, which cost about $2.8 million to run. That's about $44 a visit.

In Germany it was $53 a visit and in Australia $88.

In France, all of 4,157 people visited libraries in 1991—that's $101 a visit.

Then there's Canada. In fiscal year 1991, we spent $241,000 on USIA libraries in Canada. This allowed 568 curious Canadians to learn more about that faraway, distant land, called the United States. That's $424 a visit.

Finally, there is the $188,000 we spend on USIA libraries in Sweden and Switzerland. You know how many people visited those libraries? Zero. None. Those facilities really helped educate a lot of Swiss and Swedes about American culture.

How about the salaries we pay the foreign nationals who staff these libraries. Do you realize that the average German employee in a USIA library makes $67,000.

The USIA has many purposes, but being a jobs program for our rich competitors should not be one of them.

The proponents of this program might argue that these libraries are not real libraries, that they do not exist to educate the general public of the host country. They might argue that the libraries exist to promote cultural and intellectual exchanges between our elites and their elites to further U.S. policy.

Fine. But we already have embassies and consulates to promote U.S. policies. Why do we need these expensive libraries, with their overpaid employees, little used collections, and hundreds of unread subscriptions?

This year's Commerce, Justice, State appropriation bill boosts USIA funding by $54 million. Supposedly, this substantial increase is to pay for increased program activities in Eastern Europe and the former Soviet Union. Fine. That's a logical use of the USIA's programs. But remember, we have a record size Federal budget deficit. Instead of increasing USIA spending overall, why don't we cut other USIA programs which aren't really necessary.

Our constituents are forced to make hard choices every day on spending. Earlier this year, we took a step in the right direction, cutting funding for both Congress and the White House. The USIA can do its part. Pick the programs that are most vital and keep those running, and let's shut down the rest. It's the only responsible thing to do.

Mr. Chairman, there is nothing sinister or pernicious about USIA libraries in Western Europe, Japan, Australia, and Canada. I have no doubt that other Members here will point out all of their tremendous value. But there is also value in spending the taxpayers money wisely and in not running our economy into the ground under a horrendous weight of debt. I urge you to vote for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] is recognized for 10 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

To start with, these libraries were not merely funding for fighting the cold war. They have a much, much broader purpose.

In addition to that, I want to say that the severance pay that would be required for the employees if this amendment passes would cost a third of what is in the amendment. So the amendment does not save the $15.2 million in fiscal year 1993 that the gentleman is talking about.

These libraries and high-technology information dissemination centers. They are very valuable in some cases, and they have been cut back. And they are going to be cut back because we are increasing exchange programs.

But, for example, in Germany and Japan, where there were 30 libraries and 9 reading rooms in 1957, there are now 14 libraries and no reading rooms. In 1957, we had 71 libraries and 23 reading rooms in the OECD countries. Now we have 44 libraries and 1 reading room.

The program is being adjusted. I was in the one in Sapporo, Japan last August. I can tell my colleagues that these libraries are very valuable for Americans who want to export to Japan. It is not the number of visitors to the libraries we have, and I do not know about those figures or where they come from, but it is not the number of visitors. The key point is whether or not they get information, a good share of which is by telephone or fax or other means.

We do not have that kind of information in other places in those countries. The libraries are a part of the U.S. Mission to those countries. There is no magic in making the libraries come under the State Department or the Commerce Department instead of USIA. The USIA contingent in these countries is really a part of our embassy.

The USIA libraries in Berlin, Leipzig, and Hamburg in Germany are jointly funded by the United States and Germany. So they are not just funded by the United States, alone.

I have visited the USIA libraries in Budapest, Romania, Pakistan, and some of those in other Eastern European countries before the end of the cold war. Leaders in those countries told me the libraries were very valuable. We saw people risking their own lives to go into these libraries. So we will be cutting back anyway; we will be cutting back money for all the libraries, not just those in certain specific places.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, it is my understanding that it is common in appropriations legerdemain that where we have mentioned these countries, USIA understands which countries we mean and that the funds would only be cut, I have a list of them here, but for advanced and developed nations. So that the nations that the gentleman mentioned, such as Romania and the emerging nations, would not have the reduction in these libraries.

Mr. SMITH of Iowa. Mr. Chairman, generally speaking, that would be true. But I say, we are already cutting back and we are already making an analysis of where they can be cut back so that we can transfer money to exchange programs.

So this really cuts USIA funds by $15 million. It cannot be reprogrammed. So it is a cut in USIA funds.

Mr. Chairman, I reserve the balance of my time.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, I thank the gentleman for yielding time to me.

I sat with my heart breaking as I was hearing how the people in Japan and Germany have to struggle to get into libraries and how we need to finance that. And I look at the libraries in my district that can only be open 3 hours a day because there is not enough funding for them to stay open and how we have closed libraries in such deserted mill towns as Braddock and Homestead because they do not have funding to run libraries to educate our children.

□ 1630

I cannot help but shed a tear for those people overseas to whom we are just not sending enough money to them so there are enough libraries. We have had to cut back libraries in Japan, and what a tragedy that really is, when we cannot even keep libraries in our own country open.

This is a 99-percenter in America. If we take this to the American public, 99 percent of them will say, "Why are we even bothering to debate this issue? This is an issue that is a closed book. We should not be doing this." They would just scratch their heads.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Chairman, I thank the gentleman from yielding time to me.

Mr. Chairman, I, too, agree that this is a no-brainer. I rise in support of the amendment offered by the gentleman from California [Mr. STARK] to cut $15.2 million from the U.S. Information Agency. I cannot imagine that during tough economic times here in the United States, that we are even considering to pay for libraries that are never used in other countries.

A couple of weeks ago we voted down the balanced budget amendment. During the debate it was stated that the amendment was unnecessary because we could make budget cuts to return fiscal responsibility to Congress without such an amendment. We now have that opportunity to keep our word. We can eliminate this misuse of our resources by supporting this amendment. I hope the Members will agree with me that we do not need to spend $424 per person for USIA libraries in Canada to expose Canadians to our culture. There is no justification in spending American dollars on this relic from the cold war. It is purely wasteful spending, and therefore, it needs to be eliminated now.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment by the gentleman from California [Mr. STARK].

I certainly share the concerns about the budget deficit—who could not. We should all seek to cut Government spending to help reduce it. However, care should be taken as to where we choose to cut funding. Some would ask why we should fund USIA libraries in the wealthier OECD countries—countries that are among our staunchest allies. I would reply these friendships are certainly strong, but they should not be taken for granted. We need to make certain that the United States will continue to enjoy their support in this changing world.

USIA libraries have an important niche in the array of public diplomacy tools we use to tell the world about ourselves, our beliefs, and our policies. In some of the poorer countries, they serve as a lending library to help supplement information about the United States through books, film, exhibits, and speakers.

In the developed OECD countries, addressed by this amendment, these libraries go beyond this traditional role and serve as both a high-technology information dissemination center, and one of the U.S. missions' primary means of contact with local policy centers. They provide access to U.S. data bases, U.S. Government documents, and individualized outreach services. Typically, they answer hundreds of reference questions per day in Germany and Japan.

For instance, the USIA London library offers a dial-up service with immediate delivery by fax. During the Persian Gulf war, the Prime Minister's office regularly used texts obtained through this fax for speeches in Parliament. The USIA library in Fukuoka, Japan served as the source of news analyses for all the major news organizations in southern Japan during the recent violence in Los Angeles. This was of particular interest in Asia, because of some of the anti-Asian overtones.

Mr. Chairman, at this time when the world is going through such changes, we should preserve this important element of our public diplomacy effort in one of these countries so important to our national interests. I therefore urge our colleagues to vote against this amendment that seeks to cut funding for the USIA libraries in the OECD countries.

Mr. STARK. Mr. Chairman, would the distinguished gentleman yield?

Mr. GILMAN. Mr. Chairman, I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I thank my distinguished colleague for yielding to me.

Mr. Chairman, I know the gentleman is concerned about spreading good works throughout the countries. He is quite right. He knows well that these would only be cut in well-developed nations, but I am sure he realizes that we spent $343,000 for that library in London, and less than 500 people showed up. That is $600 a visit.

I would suggest to the Members that we could fax that information directly from C Street, from the State Department, for less money. I am not suggesting that we do not inform people, but why do we spend a couple of hundred thousand dollars for Switzerland and Sweden and nobody used the libraries? These are anachronisms. They are no longer needed. The State Department has brilliantly well-trained people, they have on-line computer access to all of the same news services that we have here. We have to get into the 20th century before the 21st century is upon us.

Mr. GILMAN. Mr. Chairman, would the gentleman from Iowa continue to yield?

Mr. SMITH of Iowa. I yield 1 more minute to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I would say to the gentleman, having a resource at one's fingertips is far better than having to go through the bureaucracy of finding the proper person, getting the facts, maybe waiting days before one gets the information.

Let me point out further that the Sapporo, Japan, USIA library provided extensive information on United States agriculture to Hyogo-Ken, the largest prefectural agricultural cooperative in Japan, which wants to import our United States agricultural products, something we have been trying to pressure Japan to do. The libraries in Berlin, in Leipzig and Hamburg, Germany, are recognized by the local governments as being so important to mutual interest and understanding that they supply half of the basic funding for those libraries. That is how important they consider them. Our USIA libraries in Western Europe also give vital support to USIS posts and CIS in East Europe by providing data and personnel training which are not available locally.

So again, I urge my colleagues to give consideration to this measure before cutting funding.

Mr. KASICH. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I hope everybody in their office is listening to this. This is unbelievable. Could the Members imagine that we are using American tax money to put libraries in Canada, Germany, Australia, and Paris, France, so that they can learn about the United States? This is absurd that this program even exists.

The gentleman from Iowa [Mr. SMITH], who I have great respect for, said this can serve as an export resource.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I neglected to mention also that the travel industry uses the library facilities also.

Mr. KASICH. Mr. Chairman, for travel and export, is what the gentleman from Iowa said.

In the Commerce Department, Mr. Chairman, a department that we ought to review and figure out whether it even ought to exist after the January election, there are two functions that happen. One is the Export Administration Act. I am not quite sure whether they do anything at all over there. The other one is travel, where they actually have offices in capitals in other countries whose job it is to put out some kind of literature saying, "This is St. Louis."

Mr. Chairman, this is a $15 million cut to cut back on the libraries that we put in Paris so that Parisians can wander in in the middle of the afternoon, after having a nice meal, and study about America. I do not know how many of the Members have ever been to Paris, but if they have ever gone over there, and I have not had this experience, but if they do go over there, I am told one cannot even go into a restaurant because they dislike us so much. So I do not know what they are doing when they are coming into the library. Maybe they are trying to figure out how we can book better reservations in their restaurants. I do not know what it is all about, but it is crazy.

Mr. Chairman, we passed the Barney Frank amendment, we passed the Kasich-Panetta amendment to the defense bill, which said we ought to stop all this burden sharing. This burden sharing is not only in defense, I am finding out, it is in everything. This is just crazy that the United States of America is spending money to build libraries in France and Japan. The Japanese are spending all their time trying to figure out how to steal our jobs. We ought not to be building them a library. We ought to be building our own libraries to try to figure out how to get our jobs back into the United States. Let us pass this amendment overwhelmingly, and send a clear message that we just do not have money to pass around to the whole rest of the world.

Mr. STARK. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, this amendment, as stated earlier, would cut $15 million in funding for USIA libraries in Western Europe, Canada, Australia, and Japan. Setting aside the question of whether we need libraries in those particular countries, the second issue is, these are not terribly efficient, cost-efficient libraries

□ 1640

Cost per visitor in Canada, for example, is $424, in the UK, $597. The number of visitors in Canada, 468; the number of visitors in the UK 494. Not much better statistics for other facilities.

I urge a "yes" vote on the amendment.

Mr. STARK. Mr. Chairman, I yield myself my final 30 seconds.

Mr. Chairman, I too see libraries closed in my district to young American children who are trying to learn the ways of our life and learn about the Congress, and learn about the administration and politics. They are getting paid to work in our libraries with vouchers that the banks will not cash, but we are paying $67,000 a year to German nationals to work in libraries that we support in Germany. It is a bad image. It may be, if we had a lot of extra money, a nice thing to do, but I urge Members to support the amendment and show the American people that we are interested in helping them here at home, in our neighborhoods, before we send this money overseas.

Mr. SMITH of Iowa. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I can appreciate the position of a lot of Members who just want to get off the world because we have troubles at home, and we all do. We also are part of the world. We cannot change that either. I want to say that my colleagues who are in the middle of campaigns and who are trying to communicate with their people, you use every method of communication you can possibly use to get the message, first to your friends, and then, if you are lucky, you start persuading people who have not been committed.

Now libraries are not a bottom line efficiency proposition. You do not measure the level of intelligence by the cost that went in to create that intelligence, because if we just use that as a criteria a lot of us would not be here. You have to think more in the long term of what it is that our communication requirements are and why we are trying to talk, and listen, and have the capability for other people to be interested in the United States as a country of American people who have values.

It does not mean we can solve all our domestic problems, but it does not mean either that we give up on the rest of the world because we have problems at home. Let us face reality. We cannot do it that way.

I am familiar with the argument, and it is a good one, and it appeals to a lot of people. But I urge Members not to cut in the USIA any place, any possibility that gives this country the ability to talk overseas to its friends, whether it is radio, television, libraries, or cultural exchanges. You are cutting off your arms not to get what you want in your own community. You are entitled to get the same in your own community, and we ought to do everything that is possible, and I will join you to get the libraries or whatever it is in your community. But do not take it away from the country.

Mr. ROEMER. Mr. Chairman, since the time of ancient Greece, libraries have offered wisdom and enlightenment to those who seek greater knowledge. History shows that accessible information is the hallmark of any democratic society, for if knowledge cannot be freely gained, freedom of thought and action is severely shackled.

However, it troubles me to report that while this Nation's educational institutions, and particularly its libraries, continue to be victimized by insufficient funding and general neglect, we are spending millions of dollars every year on libraries operated overseas by the U.S. Information Agency that American children will rarely use.

Inadequate funding has prevented libraries across the Nation from providing needed services to our citizens. In my own State of Indiana, school libraries continually have had trouble providing new books for their pupils. Because nearly half of their nonfiction books are over 20 years old, Hoosier children are prevented from learning relevant facts about a rapidly changing world. For example, in the area of space exploration, over 50 percent of the books were written before the United States landed a man on the Moon. In the area of geography, most books show the world as it existed almost 40 years ago. Children cannot even get current information about career opportunities, since outdated materials fail to include women in many professions except formerly traditional ones, such as teaching and nursing.

Many school libraries in my State also suffer from gross understaffing. One Indianapolis high school has only a single librarian for a student body of 2,400, and another high school in Fremont, IN, is unable to employ any professionally certified personnel for its library. Because inadequate funding forces Indiana schools to cut back on professional librarian services, students lose out on a variety of educational opportunities.

For some Americans, a decrease in library services may be seen only as a lost luxury. But for others, a closed library is more than an empty building. To the underprivileged, it represents another door that has slammed shut—a lost opportunity to improve one's status in society. For those who endeavor to enlighten their minds, it is like an unlit candle that leaves them in the dark.

Mr. Chairman, is it any wonder that the educational test scores of American children lag behind the rest of the industrialized world in light of the deplorable state of library facilities in this country? We can no longer afford not to fund libraries in this country, but we certainly must stop spending millions of dollars on libraries overseas.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. STARK].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 345, noes 63, not voting 26, as follows:

[Roll No. 351]

AYES—345

Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (IL)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fawell
Fazio
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Geren
Gibbons
Gilchrest
Gillmor
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Myers
Natcher
Neal (MA)
Nichols
Nussle
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Ramstad
Rangel
Ravenel
Ray
Reed
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Rowland
Sanders
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Traficant
Unsoeld
Upton
Valentine
Vento
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—63

Abercrombie
Alexander
Applegate
Beilenson
Berman
Brown
Carr
Coleman (TX)
Downey
Dymally
Engel
Fascell
Feighan
Gekas
Gilman
Gingrich
Green
Hamilton
Hammerschmidt
Henry
Hertel
Hoyer
Johnston
Kennedy
LaFalce
Lantos
Leach
Levine (CA)
McCurdy
McHugh
Meyers
Miller (WA)
Mink
Mollohan
Murtha
Nagle
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Pease
Pelosi
Porter
Regula
Rogers
Ros-Lehtinen
Roybal
Russo
Sabo
Sawyer
Scheuer
Schulze
Serrano
Skaggs
Smith (FL)
Smith (IA)
Smith (TX)
Torricelli
Visclosky
Waxman
Whitten
Wolpe

NOT VOTING—26

Ackerman
Barton
Boxer
Broomfield
Campbell (CO)
Collins (MI)
Conyers
Dwyer
Early
Gaydos
Gephardt
Hatcher
Hyde
Lowery (CA)
Martin
Mavroules
Mrazek
Olin
Olver
Rahall
Savage
Solarz
Towns
Traxler
Vander Jagt
Yatron

□ 1704

The Clerk announced the following pair:

On this vote:

Mr. Rahall for, with Mr. Solarz against.

Messrs. SMITH of Texas, ABERCROMBIE, NEAL of North Carolina, KENNEDY, OBERSTAR, and FEIGHAN changed their vote from "aye" to "no."

Mr. GEJDENSON and Mrs. JOHNSON of Connecticut changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3), and in accordance with the provisions of 31 U.S.C. 1105(a)(25), $4,390,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $202,847,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which $200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated to be derived from interest and earnings from the Eisenhower Exchange Fellowship Program Trust Fund as authorized by section 5 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454), $300,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS–18 of the Classification Act of 1949, as amended; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Nonprofit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1993, to remain available until expended.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $101,180,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $28,531,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

AMENDMENT OFFERED BY MR. ALEXANDER

Mr. ALEXANDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALEXANDER: Page 79, beginning on line 21, strike "and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa at seq.)".

Page 79, line 24, strike "and television".

Page 79, line 26, strike "and television".

Page 80, line 1, strike "$28,531,000" and insert "$15,873,000".

Page 80, line 2, strike the colon and all that follows through "equipment" on line 6.

Mr. ALEXANDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The gentleman from Arkansas [Mr. ALEXANDER] will be recognized for 15 minutes, and a Member opposed to the amendment will be recognized for 15 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, in offering this amendment to eliminate more than $12.6 million in spending on a wasteful, ineffective cold war relic, I am joined by nine of our colleagues.

They are Mr. ANDREWS of New Jersey, Mr. ATKINS, Mr. CLEMENT, Mr. HUGHES, Mr. MILLER of California, Mr. MOLLOHAN, Mr. NEAL of North Carolina, Ms. PELOSI, and Mr. SWIFT.

This amendment leaves in the bill all of the funding the Committee recommended for Radio Marti broadcasting to Cuba. It eliminates all of the funding for TV Marti television broadcasting to Cuba.

My objections to TV Marti are not based on politics, but practicality. TV Marti doesn't work. It doesn't reach its audience.

TV Marti jeopardizes the ability of the United States to protect our own commercial radio broadcasters from international interference.

It gobbles up money which we can use in more effective ways here at home. It is estimated that TV Marti will have obligated $46.4 million by the end of this fiscal year.

TY Marti's operations have effectively reduced the availability of news and information broadcasts originating outside Cuba.

Prior to the initiation of TV Marti broadcasts, Radio Marti had essentially been broadcasting to Cuba without interference. With the advent of TV Marti broadcasts, the Cuban Government began jamming Radio Marti broadcasts, as well as TV Marti broadcasts.

The U.S. Advisory Commission on Public Diplomacy said, in its 1991 report, that "* * * TV Marti * * * is not cost effective * * *."

The President's Task Force on U.S. Government International Broadcasting, in its December 1991 report, "* * * if it is not possible to change and extend the—TV Marti—hours to reach a larger audience, the service should be terminated * * *."

A report released by the American Foreign Service Association yesterday said, "* * * TV Marti's experiment with taxpayers' dollars must end."

In a resolution adopted in 1989, the International Association of Broadcasting Board of Directors said TV Marti would "* * * establish a dangerous precedent in the broadcasting environment * * *" and would violate "* * * rules and regulations governing international broadcasts as established by the International Telecommunications Union * * *."

USIA has acknowledged that it can provide no reliable data on the number of viewers who see TV Marti broadcasts. In its August 9, 1990, report titled "Broadcasts to Cuba: TV Marti Surveys Are Flawed," the GAO said that USIA's 1990 estimates of the number of Cuban households receiving TV Marti broadcasts were based on flawed methodology and that the audience estimates used by USIA differed widely from information reported by the United States interests section located in Havana, Cuba.

Under the broadcasting to Cuba law, TV Marti is required to comply with the Voice of America broadcast standards. In its report titled "TV Marti Costs and Compliance with Broadcast Standards and International Agreements," the General Accounting Office reported that:

Two of the three consultants GAO employed to evaluate TV Marti broadcasts "* * * believed that the broadcasts related to Cuba and the Cuban-American community lacked balance and did not meet established Voice of America standards."

The other consultant "* * * believed that the broadcasts generally met standards but that improvements were needed."

Both of TV Marti's "* * * in-house critics also observed that some broadcasts might not meet standards."

In addition two of the three GAO consultants criticized TV Marti broadcasts for using words which do not exist in the Spanish language.

The existence of TV Marti broadcasts on a channel assigned to Cuba has caused difficulties for United States commercial radio broadcasts license holders and jeopardizes the ability of the United States Government to protect American broadcasters under international agreements from Cuban interference.

The most recent examples of this occurred this spring. In mid-April the Federal Communications Commission [FCC] received complaints from United States commercial radio stations about Cuban interference apparently resulting from a change in TV Marti operations. On behalf of six stations, FCC filed interference complaints with the International Frequency Registration Board. At approximately the same time, the Cuban Government filed with the Board complaints relating to TV Marti operations.

The U.S. stations involved in the FCC complaints include: WWMO-AM, Eden, NC; WHO-AM, Des Moines, IA; WYFX-AM, Boynton Beach, FL; WWWE-AM, Cleveland, OH; WAMB-AM, Donaldson, TN; and KGOL-AM, Humble, TX.

In late April, GAO was advised that the Board would consider these complaints in the near future, probably in the month of May. However, as of July 23, the Board had not acted.

Spending for TV Marti is wasteful spending. We can not afford it. I urge that the House promptly adopt this amendment which I offer for myself and the nine other Members who have joined in its sponsorship.

Mr. Chairman, I yield 3½ minutes to the gentleman from Washington [Mr. SWIFT], our resident expert on the subject of broadcasting.

Mr. SWIFT. Mr. Chairman, sometimes I really miss Rube Goldberg. If you call something a Rube Goldberg idea anymore, nobody under 30 knows what you are talking about. Maybe we should change that in the American language to a TV Marti idea.

Rube Goldberg used to draw cartoons of those wonderful, extravagant, complicated, silly machines that did something very simple. That pretty well describes TV Marti.

There is a difference, however. Rube Goldberg's extravagant, silly machines, worked, and TV Marti does not.

It was an idea that was flawed to begin with. Somebody got the bright idea that if you had Radio Marti that would send information into Cuba that was useful, then why would it not be better if you had TV Marti; but whoever thought of that idea did not understand anything about broadcasting.

AM signals follow the curvature of the Earth. They go from southern Florida into Cuba. Television signals go in a straight line, and the curvature meant that the signals would not get there from a land-based transmitter anywhere in this country, and I am not kidding you.

They built a balloon and they put the balloon up in the air with a great long tether so it would not float away, and from the bottom of the balloon they hung a transmitter, and that way they got a straight line into Cuba.

□ 1710

Well, there is your Rube Goldberg contraption, but Rube Goldberg's worked. This, on a good day, does not cover all of Cuba. On a good day it covers some of Havana. And, alas, it is very, very easy for the Cubans to jam it on reception, which they do.

Mr. Chairman, I have no brief for the current Cuba Government. Its human rights record in particular is very poor, and it has not had a democratic election in over 30 years. But sending a television signal into Cuba only to have it easily jammed at the point of reception will not give us a new channel of communications to the Cuban people.

Rather, we have put at risk exactly those channels of communication that have proved successful in reaching Cuba. And that has been the case, we now see retaliatory jamming of Radio Marti and other south Florida commercial Spanish-language AM radio signals that could be heard—not just intermittently when the atmospheric conditions are just right, at 3 a.m. in a few locations around Havana—but radio signals that can effectively be heard throughout Cuba.

We can all agree that the free flow of information into Cuba—or any other nation that practices government censorship—is a laudable goal. It would be ironic, however, that by insisting upon TV Marti we put in jeopardy through retaliatory jamming exactly those radio signals that are received effectively in Cuba.

TV Marti is just a bad deal for the American taxpayer. We spend millions for a signal that is seen by no one. And we put at risk those lines of communication that have proved effective in getting the outside world into Cuba. Let us pull the plug on this boondoggle.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe this is the last amendment that Members can expect a rollcall vote on. There are three other amendments that, to the best of my knowledge, will probably be by voice vote. So, possibly, if we could expedite this matter, we could get this bill out of here before 6:30 p.m.

Mr. Chairman, 41 percent of this bill is not authorized, 41 percent. This program is authorized.

Now, I opposed this program until it was authorized. The TV program, Radio Marti, until they were authorized, I said to the authorizing committees, "You have to get them authorized." Well, they were authorized. They were voted on by a very substantial majority of the House.

So it is the obligation of our subcommittee, I think, to provide the money that the authorization anticipated.

Now, this does not just set a level of funding. That would be a different thing. It says no funding. So that is the same thing as a deauthorization.

So, actually, what we are back to is a question now: Do you want to deauthorize this program?

Now, I have some questions about the program, but there is one thing that has influenced me somewhat in the last 2 or 3 years. What if something does happen to Castro? It would be worth a lot to have immediate communication of every kind we can get with that island. It would be worth an awful lot to have many kinds of communication with that island, not just radio.

Radio Marti seems to be working good. That is the best argument for it. But anyway, this is an authorization matter.

Mr. Chairman, it is for that reason that I ask unanimous consent that I be permitted to yield 12 minutes of my 15 minutes to the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], the authorizing committee, with the right to reallocate the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. ALEXANDER. Mr. Chairman, may I propose a parliamentary inquiry?

The CHAIRMAN. First, is there objection to the request offered by the gentleman from Iowa [Mr. SMITH]?

Mr. SMITH of Iowa. To explain it, Mr. Chairman, I want to yield 12 minutes to the gentleman from Florida [Mr. FASCELL] and reserve some time for myself.

Mr. ALEXANDER. Mr. Chairman, reserving the right to object, does the chairman of the subcommittee yield all of his time to the gentleman from Florida?

Mr. SMITH of Iowa. No; all but whatever time I have left——

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] has 13 minutes left.

Mr. SMITH of Iowa. So that would leave me with 1 minute remaining.

Mr. ALEXANDER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] will be recognized for 12 minutes.

Mr. ALEXANDER. Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio [Mr. REGULA], a member of the committee.

Mr. REGULA. Mr. Chairman and Members of the Committee, I think the gentleman from the State of Washington described this project very well when he said it was a Rube Goldberg.

First of all, it is only telecast in the wee hours of the morning, which means very few people see it. Second they have had a number of technical difficulties with the balloon.

So there is no continuity. In terms of priorities, by an overwhelming majority this body just rejected money for USIA libraries. For college students, future opinion leaders of the Nation, can go to USIA libraries and learn about the United States. On the last vote, we said we are going to close down access to those libraries.

I have to say that I have visited many of the libraries overseas with USIA. I find they get a lot of action.

Yet we have decided that we should take that money out. They have been authorized also, but we said we cannot afford it. Here we are talking about essentially the same amount of money, $12.6 million for something that is totally ineffective.

The National Broadcasters Association sent a very strong letter supporting this amendment because many of their stations in the United States have problems with the jamming exercise by the Castro Government. They point out in here that for $20,000 Castro has been able to jam $40 million worth of American equipment. It is clear this is not effective.

Mr. Chairman, I support Radio Marti, I think this is something where they could put a radio under the table or in the closet or wherever and pick up the broadcast on a clandestine basis. It is pretty hard to have a TV set to receive Television Marti without the Government knowing about it.

So, obviously, it is not going to reach very many of the people. Certainly, it is not worth it.

Obviously, we are not getting our money's worth. If this body wants to save money, this is a far better place to save $12.6 million than what we have just done, by a very large vote, in the case of the USIA libraries.

Mr. Chairman, I urge Members to support this amendment. I think it makes a lot of sense. If anything, we should encourage an amplification of radio because radio reaches the people. That is what the objective is in telling the story of America.

Mr. FASCELL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would have ordinarily been amused at the characterization of both the equipment and the program at some other time. I do not find it particularly amusing today. If it is a Rube Goldberg contraption that broadcasts to people and is such a failure that the Cuban Government would not begin to spend a nickel to jam it and put all of the people that it has at work to jam it or fly the airplanes to keep the jammers aloft or to keep anybody from getting straight news, program news that has the acceptance that the United States broadcasting has both in radio, television, and other forms of communication, then why spend all that jamming money and create all the political turbulence that the Castro government has created if this Rube Goldberg proposition doesn't work and is only broadcast at night and nobody sees it?

The best way to kill the project would be for him to take the jammers off and let it fall on its own face.

So it is having a direct impact, people are seeing it. If they are not seeing it, then they want to see it. If they do not get the message from totally controlled media in their own country, they seek any way they can to get what is happening not only in their own country but outside their own country, whether it is by radio, television, dropped leaflets, or telephones, any way they can get the right information, because anybody with half a brain knows they are not getting it from their own Government.

Mr. Chairman, this would be the wrong time, after all the debate over all the years on this subject, to stop this program.

□ 1720

Mr. ALEXANDER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise in support of the Alexander-Neal-Miller-Clement amendment. This amendment will get rid of a program which is simply not working, however good its intentions.

I believe that we, as Members of Congress, should vigorously seek out programs which are ineffective or inefficient. In today's world of high budget deficits, we simply cannot afford such programs. We need to have very strict guidelines for Government programs—guidelines which ensure that for every dollar spent, there is a definite, substantial benefit. TV Marti, however, does not fit within these guidelines. In fact, Mr. Chairman, I can see absolutely no benefit of TV Marti. Broadcasting shows such as "Lifestyles of the Rich and Famous" in Spanish to Cuba between 3:30 and 6 a.m. at the taxpayers expense does not help to topple a dictator as deeply entrenched as Castro. The truth is, Mr. Chairman, that almost no one in Cuba has actually seen TV Marti. Clearly, it is not effective.

Mr. Chairman, I commend the gentleman from Arkansas for his leadership in this area. Let us pass the Alexander-Neal-Miller-Clement amendment, and show where our priorities really are—with the American people.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, the President originally requested that funding for TV Marti be set at $18.9 million. This was slashed to $12.7 million by the committee. I understand the budgetary restraints that we face, and believe cutting 33 percent from TV Marti is fiscally responsible under the circumstances.

With the collapse of the Soviet Union we tend to forget that there are ruthless dictators still alive and well in the world today from Slobodan Milosevic in Serbia, to Saddam Hussein in Iraq, to Fidel Castro in Cuba. No matter where they are they pose a threat to freedom and democracy and ultimately to the Nation's vital interests.

TV Marti is an integral part of our efforts to bring democracy to Cuba. For years and years the Soviet Union and the countries of Eastern Europe jammed American broadcasts to that region. We did not end our broadcasts there because of the interference. The Soviets and the Communist governments of Eastern Europe were forced to admit by their efforts to jam our broadcasts that their systems lacked the legitimacy and flexibility to withstand accurate descriptions and analysis of world events.

Our broadcasts to Cuba will place Castro in this same, unenviable position. His regime lacks legitimacy and he knows that if his people hear something other than his own worn out propaganda, his legitimacy will erode even faster.

I urge my colleagues to reject this amendment.

Mr. ALEXANDER. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise today in support of the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER] to delete the funding for Television Marti.

Mr. Chairman, the time has come to pull the plug on this failed enterprise. There was some merit to the program at its inception, but now the arguments in favor of eliminating this program are good ones. First of all, it does not work. It is a waste of money, $12.6 million that is badly needed for other purposes. Second, Mr. Chairman, it does not reach its intended audience if only 10 percent of the country can receive its signal, and, even then, only in the darkness of the predawn hours. A television station that is only on the air between 3 a.m. and 6 a.m. is hardly reaching any audience at all.

The President's own task force on U.S. Government international broadcasting, chaired by John Hughes, argued that unless the hours of broadcast could be changed, the broadcasts should be terminated.

It's time to put this money to good use, Mr. Chairman. Vote "yes" on the Alexander amendment.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER].

Mr. Chairman, the USIA has already agreed to a 33-percent cut, and the funds in this bill will allow the operation to continue and will allow TV Marti to be further developed into a vital information link to the Cuban people. The jamming will not continue forever because Castro will not have the backup he needs to continue to jam.

Mr. Chairman, Radio Marti has been very successful in reaching the Cuban people with valuable information, and TV Marti can be equally as successful. The Cuban people desperately want to see that freedom-loving people of the United States will not turn down an opportunity to reach out and help.

My colleagues, let us not cut off that lifeline, that ray of hope. Let us let the Cuban people know that we understand their plight and we will do all that we can to help bring about freedom, democracy, and justice to this enslaved island.

Mr. ALEXANDER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER].

The Federal Government spends almost $1½ trillion a year, so the competition for the most ridiculous, wasteful, Federal program is fierce. But clearly TV Marti takes the prize.

Mr. Chairman, TV Marti is the Peter Sellars-inspired plan to overthrow Cuba by broadcasting TV sitcoms between 3:30 and 6 in the morning. Virtually no one in Cuba watches our broadcasts of "Kate and Allie," "Cheers," and "Fama y Fortuna," the Spanish language version of "Lifestyles of the Rich and Famous." Why? Because at 4 a.m. even the 10 percent of Cubans who have TV sets are asleep.

When the United States tried to broadcast during the daylight hours, Mr. Chairman, Castro easily jammed us. Castro does not jam the broadcasts at 4 a.m. because he does not care, and why should he?

TV Marti is a turkey, an international joke. Eventually Castro will be overthrown because the Cubans hate him, because the Cuban economy is in shambles. But it will be no thanks to the wasteful, ridiculous, and useless TV Marti.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Chairman, as the only Member of Congress who lived under both a Communist and Fascist dictatorship, and fought against both, I am appalled at one mindless vote after another. We have closed down libraries in all the countries that had been democratic for many years, but we kept them open, and we are about to close off one means of communication to Castro's Cuba.

Mr. Chairman, Castro is going to have a happy day. He will light a big cigar because one avenue of free information to the people of Cuba suppressed by this Communist dictator will now be chopped off by the U.S. Congress.

It is high time we recognize that the Iron Curtain fell, the Communist governments collapsed, because of the flow of information which we are in the process of cutting off for the long-suffering people of Cuba.

Mr. ALEXANDER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, members of the Committee, I rise in strong support of this amendment.

Perhaps it is best summarized by a letter to us from the American Foreign Service Association that represents over 10,000 Foreign Service personnel of the State Department when they said in a recent report on international broadcasting that their report presents the view that TV Marti, since it cannot be seen by the Cuban populace and since it, in fact, has the effect of blocking the popular Radio Marti programs from reaching the Cuban public, has proven to be a worthwhile, but a failed, experiment. It is not that we were wrong for trying. It is not that we should not have tried. We tried, Mr. Chairman, and it simply has not worked.

This, as they have said, the people involved in the ongoing negotiations, is a failed experiment. The question my colleagues must ask themselves now is: "Do you want to invest more of your taxpayers' dollars, $12 million this year, $50 million over the last 2 years, into an acknowledged failed experiment?"

It is not reaching the people, not with the subject matter that is important, and I think that any of my colleagues know that, if we brought up any other governmental program that failed to meet its goal to the extent that this one has, it would not take my colleagues a nanosecond to cut that program.

☐ 1730

Go home and tell your taxpayers what you have done for them. You deserve to do it for this program because it simply is not working. It was a worthwhile attempt, and we appreciate that, but you cannot continue to fund the operation.

Mr. Chairman, I rise in support of the amendment to end funding for TV Marti.

This amendment has nothing to do with our feelings about communism, or Fidel Castro, or Cuban refugees. This amendment has to do with what makes sense for taxpayers.

We have spent nearly $50 million over the past 2 years to create and operate this telecommunications white elephant. Fewer than 10 percent of Cubans, according to TV Marti's own estimates, have ever watched the station, which broadcasts second-rate U.S. situation comedies as much as hard news or propaganda.

I find it bizarre that many of those who stand on the floor and ask us to spend another $12.7 million on broadcasts to nowhere are the very same people who are demanding a cut in support for public radio and public television—broadcasts that entertain and inform tens of millions of people right here in the United States.

Let's consider the best arguments of those who support TV Marti—Citation: Dear Colleague of July 28, 1992.

Castro opposes it.

I'm sure he does. I do not think we should decide to spend millions of U.S. tax dollars based on what Fidel Castro likes or does not like.

The President agreed to a cut of 33 percent in TV Marti's budget.

But the President still wants nearly $13 million. Not a lot by congressional standards. But the average taxpayer, who pays less than $500,000 in taxes during an entire lifetime of work, may have a different idea. I do. Let's save another $13 million by stopping this silly exercise once and for all

It costs Cuba a lot of money to successfully jam TV Marti, and "the Cuban people pay with frequent blackouts and power shortages."

Well, it also costs us a lot of money to broadcast TV Marti—nearly $50 million in the last 2 years alone. That investment doesn't seem to be paying off, since few people ever watch the station. And are we truly winning the hearts and minds of the Cuban people by forcing their Government to impose further hardships on them?

A Federal program with this record of spectacular underachievement wouldn't stand a chance on this floor if its intended beneficiaries were poor children or other disadvantaged Americans. But because we are beating up on old Fidel, fighting the electronic struggle against the last bastion of bankrupt communism, we are supposed to bow and scrape and for over $13 million.

If some Members want to continue the ideological battle against communism with Fidel Castro, that's fine; but don't use taxpayer money we desperately need for better uses to finance the obsession. Communism will fail in Cuba as it has failed everywhere, but not because of television. And the Cuban people don't need our propaganda and our reruns to know they are dissatisfied with their Government.

Supporting legitimate, effective efforts to promote democracy makes sense: Spending millions of dollars to broadcast TV signals to nowhere is absurd.

What's next? TV Mars?

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is a most destructive amendment to a process that has been going forward. Several of the speakers and my colleague from Florida [Mr. FASCELL] stated it very concisely and summarily in saying if this was such a benign type of broadcast that was not doing us any good, why in the world is Mr. Castro so upset about it? That is the only litmus test that we should have in this body to oppose this destructive amendment.

Mr. Castro's days are definitely limited. The American influence and the American model of democracy is going to again rise in Cuba. It is so important that we keep TV Marti alive and that we do continue to support it and oppose this most destructive amendment.

Mr. ALEXANDER. Mr. Chairman, might I inquire how much time is remaining for both sides?

The CHAIRMAN. The gentleman from Arkansas [Mr. ALEXANDER] has 4 minutes remaining, and the gentleman from Florida [Mr. FASCELL] has 6 minutes remaining.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, during the closing years of the cold war, tired of years of conflict, discouraged because the Soviets were jamming our broadcasts into Russia, there are those who would have closed Radio Free Europe. This House rejected those voices, and when the end of communism in Russia came, on that morning those broadcasts were there to broadcast the truth.

Well, as certainly as you sit here today, one morning soon you will arise and the end of the Castro dictatorship will be here. On that day, if good judgment prevails in this House, Radio and Television Marti will be there to broadcast the truth.

I know when Members think of Castro's jamming, they think of empty screens today. That is not what they see in Cuba. When they see those screens they see a Castro who is afraid, afraid of the truth.

Mr. Chairman, that broadcast matters. Keep Television Marti. Do not give Fidel Castro a headline that is a victory for him tomorrow. Let him live in fear of the truth that will be on that broadcast.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I thank the gentleman for yielding time.

Mr. Chairman, I rise in strong opposition to the amendment and very strong support for TV Marti, the channel of choice in Cuba.

Mr. Chairman, Fidel Castro's long hold over Cuba is beginning to crack. Since the dissolution of the Soviet-dominated Eastern bloc, whose handouts propped up Castro's regime over the past 33 years, Cuba's Socialist economy has contracted dramatically. Severe shortages of fuel and other basic items have caused regular blackouts across the island, long lines for food, and even forced the cancellation—for the first time since the Communist takeover—of Fidel's annual July 26 speech.

Now is not the time to ease our pressure on Cuba. TV Marti has the potential to be a valuable communication link with the people of Cuba, providing uncensored views of the outside world. At the moment, Castro is expending his increasingly scarce energy resources on jamming TV Marti's broadcasts. Whether or not it is being jammed, TV Marti strains Castro's grip over Cuba.

Mr. Chairman, the Appropriations Committee has already cut the requested budget for TV Marti by 33 percent—this is a large reduction, but one which is justifiable in terms of affordability. Let us not relax our efforts to speed the demise of the dictator Fidel Castro, and the formation of a democratic system of government for Cuba.

Mr. ALEXANDER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the amendment because we would be better off just taking the $12.6 million and putting it into a sinkhole rather than wasting all the energy on stuff that never gets seen by anybody.

Mr. Chairman, the cold war may be over, but the cold warriors will not yield until every last Communist is sought out and converted.

TV Marti is the perfect weapon to convert those "late night Communists" who happen to tune into TV Marti's broadcasts between 3:30 and 6 a.m. in the morning. But for the rest of the Central Committee which is usually asleep during that time, TV Marti is a cold war joke.

The U.S. Government has wasted $50 million to maintain this fiasco, and now this administration is requesting $18 million more. It is embarrassing, and ridiculous.

This $50 million could be used to educate children in this country. It could be used to feed or clothe the poor, or shelter sick and elderly Americans.

Or it could be used as an olive branch, to feed the thousands of starving and sick Cubans who are the unintended victims of the cold war.

By eliminating this program, we have the opportunity to invoke a change in this futile and worthless policy. We can let the Cuban people know that we are interested in a mutual end to the years of hostility. And we can stand up to those who cannot fathom that times have changed.

Mr. FASCELL. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] has the right to close.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent to yield my last 1 minute to the gentleman from Florida [Mr. FASCELL] so he can close.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] has 5½ minutes remaining, and the gentleman from Arkansas [Mr. ALEXANDER] has 4 minutes remaining.

Mr. ALEXANDER. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, this is one of those schemes that causes people back in the small town cafes to ask what are you thinking about, Mr. President? What are you thinking about, Members of Congress? We are choking on debt in this country and you want to spend $12 million or $13 million to send television signals to sleeping Cubans. What on Earth are you thinking about?

It is time to stop this spending on things that do not work. We are spending money we do not have on things we do not need. This is a classic example. If the Congress cannot cut this, it will not be able to cut much of anything.

We ought to stop this program, end this program now, and give people in this country some confidence that we can spend our money wisely, not sending television signals to countries where people are not able to watch because the signals go in at 3 to 5 a.m. in the morning.

Mr. Chairman, I support the Alexander amendment.

The CHAIRMAN. The gentleman from Arkansas [Mr. ALEXANDER] has 3 minutes remaining, and the gentleman from Florida [Mr. FASCELL] has 5 minutes remaining, which the gentleman is holding to close.

Mr. ALEXANDER. Mr. Chairman, I would like to know if the gentleman from Florida [Mr. FASCELL] will use all of his 5 minutes to close debate?

Mr. FASCELL. Mr. Chairman, as of right now, yes. I just have one speaker who is going to close.

Mr. ALEXANDER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, it is highly appropriate that this facility is situated so close to Disney World, because no one could believe that it could be situated elsewhere. It is as useful as side pockets on a cow. It broadcasts between 3:30 and 6:00 o'clock in the morning.

The GAO has reviewed this matter. They have found that it does not work. It reaches no one, it accomplishes nothing.

Beyond that, our diplomats in Havana have listened. They have never heard this between 3:30 and 6:00 a.m. in the morning.

The programming is not prime time, it is "Kate and Allie." It is "Cheers."

Now, the Vice President I think had a suggestion. If we really want to degrade the quality of life and family values in Cuba, then maybe he should have seen to it that we put on "Murphy Brown."

No one in Cuba gets up to listen to this thing. The hard fact of the matter is that the most noteworthy accomplishment made by this silly balloon, which does not broadcast anything to anybody, was its breaking loose in a storm one time and falling in the Everglades. That is the only attention that this device has ever attracted in the news media.

Now, Radio Marti is useful. The other voices and services of the U.S. Information Agency contribute greatly. If you want to put money in something like that, I say we should put the money there. But to put money that we do not have into programming that is of no value, seen by no one, contributes nothing, at great cost to the taxpayer, is one of the very foolish things that we can do.

Mr. Chairman, I support the amendment. I urge my colleagues to get rid of this asinine abomination for good and all. Let us terminate a service which is seen by no one and contributes nothing to the policies and services of the United States. The GAO says it. It does nothing. Let us get rid of it.

□ 1740

Mr. ALEXANDER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, TV Marti has been reviewed by virtually every responsible broadcasting association. The American Foreign Service Association says in its report, "At a time when USIA is suffering serious budget difficulties, it makes no sense to spend more than $18 million annually on a broadcast service that has no audience."

The U.S. Advisory Commission on Diplomacy says in its report, "The Commission finds that TV Marti at present is not cost effective, when compared to other public diplomacy programs of proven value."

The President's own Commission on Government International Broadcasting says, "We have determined that the effective operation of Television Marti is impeded because, among other things, it is forced to broadcast during a time when no one watches."

The National Association of Broadcasters says, TV Marti has failed, and it is a waste of money.

The General Accounting Office says that TV Marti has violated the regulations of Voice of America and challenges the integrity of USIA.

Let us end this waste. It has no value. It does no service. It is just a waste of taxpayers' money that is needed here at home. Vote for my amendment.

Mr. FASCELL. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

If my colleagues in the Chamber would indulge me, I would like to give them the truth, since they have heard just about everything else from some of the proponents of this amendment. And I do not mean that facetiously or critically. They just have not given the truth because they stopped talking about the issue somewhere around March of this year, even though they are recounting it on the floor today.

The truth is that TV Marti has begun to broadcast during the day. On April 1, 1992, pursuant to the GAO report which some of the speakers have been waving around in their hands, TV Marti went on the air at 1:30 in the afternoon. It began a prime time broadcast to Cuba and repeated the program for the following 8 days at a different time each day.

The topic was not a sitcom. The topic was not entertainment. The program reviewed the fall of communism in Eastern Europe, information about which has been totally denied to all of the total close to 15 million people on the island of Cuba because they read only Communist newspapers. They watch only Communist television. They listen, aside from Radio Marti, to only Communist radio.

No free press; no free media; no free speech. And by the way, not a single free election in 33 years, not even to elect the local mayor.

Now, the broadcast which they put on for 8 days, the truth is, is watched by an awful lot of people. No 1, because we interview the refugees who have been coming from Cuba, and they tell us that they have seen the television programs and contrary to the information we have received from some of the speakers who preceded me, they go up at 3:30 in the morning because, frankly, they will get up at any time of the day or night, as we learned in Eastern Europe and in the Soviet Union, to get the truth about what is going on in the rest of the world.

Now, let me tell my colleagues that we know it is watched beyond the fact that the people who are coming here also tell us they watch it. And I will tell my colleagues why. Because in an angry response to the unexpected afternoon broadcast about these dramatic changes in Eastern Europe and the Soviet Union, this is a direct quote from Fidel Castro, "It has made a terrible impression on me, terrible. It is only another imperialist maneuver." He went on to say, "That action was very aggressive," that is, putting the television show on, "was very aggressive, extremely aggressive, extremely treacherous, with the intention of making us use fuel at that hour of the day," because he has to jam the broadcast, like the Russians jammed Radio Free Europe and Radio Liberty, like the Poles jammed it, like the Czechs jammed it, like the Albanians and the Bulgarians jammed it.

But it worked. In East Germany they jammed it, too. But it was getting through, slowly but surely. And we helped bring down the Berlin Wall with those broadcasts, and we are going to help bring down Castro, who is scared to death of it by his own words. We are going to bring him down with TV Marti as well.

The Committee on Appropriations has cut the allocation from last year of $18 million to $12½ million in recognition of the fact that, number one, we have a budgetary problem and, number two, there is existing at the time some sufficient carryover funds to make up the shortfall. So there has been a cut, as the gentlewoman from Florida [Ms. ROS-LEHTINEN] said, 33⅓ percent.

Now, there was a response. There was no jamming. And that is what TV Marti is all about. Bringing news at times when they choose to put these broadcasts on and can get it to the public.

This business about Rube Goldberg is silly. My colleagues might think Rube Goldberg is also a tower that we had to build 75 or 200 or 300 feet in the air to beat the jamming we encountered in Eastern Europe and the Soviet Union. But the point was, while there were easier ways to do it, we had to comport with the problems that we found on the receiving end. But we know from the Soviet refugees that have come out over the years that they would listen to that radio day and night, waiting for a broadcast, waiting for any slippage in the jamming so that they could hear news of the outside world.

That is what happens on this island of Cuba. All I can tell my colleagues is this, there is truth in what is being done here. The people of Cuba deserve this truth. They deserve hearing it. It is a good program. It is working partially, and it will work better as we get better on it.

What we did in Eastern Europe and the Soviet Union is what we are now doing in Cuba. Give democracy a chance to get rid of Fidel Castro. For 33 years nothing else has worked. This is beginning to crack the block. Vote against this very bad amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Arkansas [Mr. ALEXANDER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALEXANDER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 194, not voting 34, as follows:

[Roll No. 352]

AYES—206

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Anthony
Applegate
Atkins
AuCoin
Ballenger
Barrett
Bateman
Beilenson
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brown
Bruce
Bustamante
Byron
Camp
Cardin
Carr
Chapman
Clay
Clement
Coble
Collins (IL)
Combest
Condit
Costello
Cox (IL)
Dannemeyer
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Eckart
Edwards (CA)
Espy
Evans
Ewing
Flake
Ford (MI)
Frank (MA)
Franks (CT)
Gejdenson
Gilchrest
Glickman
Gonzalez
Goodling
Gradison
Green
Hall (OH)
Hancock
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hobson
Hochbrueckner
Hopkins
Horn
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Marlenee
Matsui
McCandless
McCloskey
McDermott
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Nagle
Neal (MA)
Neal (NC)
Nowak
Nussle
Oberstar
Obey
Olver
Orton
Owens (NY)
Panetta
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickett
Pickle
Poshard
Pursell
Quillen
Ramstad
Rangel
Ravenel
Reed
Regula
Roe
Roemer
Rogers
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shuster
Sikorski
Skaggs
Slattery
Slaughter
Smith (OR)
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tanner
Taylor (MS)
Taylor (NC)
Thomas (WY)
Thornton
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Williams
Wolpe
Wyden
Wylie
Yates
Zimmer

NOES—194

Allen
Andrews (NJ)
Andrews (TX)
Annunzio
Archer
Armey
Aspin
Bacchus
Baker
Barnard
Bennett
Bentley
Bereuter
Berman
Bilirakis
Bliley
Boehner
Brewster
Brooks
Bryant
Bunning
Burton
Callahan
Campbell (CA)
Carper
Chandler
Clinger
Coleman (MO)
Coleman (TX)
Cooper
Coughlin
Cox (CA)
Coyne
Crane
Cunningham
Darden
Davis
de la Garza
DeLay
Dooley
Doolittle
Dornan (CA)
Dreier
Dymally
Edwards (TX)
Emerson
Engel
English
Erdreich
Fascell
Fawell
Feighan
Fields
Fish
Foglietta
Frost
Gallegly
Gallo
Gekas
Geren
Gibbons
Gillmor
Gilman
Gingrich
Gordon
Goss
Grandy
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Henry
Herger
Hertel
Hoagland
Holloway
Horton
Houghton
Hoyer
Hubbard
Hunter
Hutto
Inhofe
Ireland
James
Jenkins
Johnson (TX)
Jones (GA)
Kaptur
Klug
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Machtley
Mazzoli
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McNulty
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murtha
Myers
Natcher
Nichols
Oakar
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Porter
Price
Ray
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Rose
Roth
Rowland
Santorum
Saxton
Schaefer
Schiff
Schulze
Shaw
Shays
Sisisky
Skeen
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres

Torricelli
Traficant
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—34

Ackerman
Barton
Bevill
Boxer
Broomfield
Browder
Campbell (CO)
Collins (MI)
Conyers
Cramer
Dwyer
Early
Edwards (OK)
Fazio
Ford (TN)
Gaydos
Gephardt
Harris
Hatcher
Huckaby
Hyde
Kolter
Levine (CA)
Lowery (CA)
Martin
Martinez
Mavroules
Mrazek
Rahall
Savage
Solarz
Towns
Traxler
Yatron

□ 1809

The Clerk announced the following pair:

On this vote:

Mr. Rahall for, with Mr. Solarz against.

Mrs. LLOYD and Messrs. McDADE, PAXON, ROWLAND, JOHNSON of Texas, and GORDON changed their vote from "aye" to "no."

Messrs. HANCOCK, HOBSON, SPRATT, and SERRANO changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN (Mr. BROWN). The Clerk will read.

The Clerk read as follows:

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $25,306,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act for 1991, (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $8,700,000 to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $28,380,000, to remain available until expended.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1993".

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD through line 11 on page 83, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order against this section of the bill?

Are there any amendments to this section of the bill?

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota: Page 83, after line 11, insert the following new section:

SEC. 607. The amounts otherwise provided in this Act for the following accounts and activities are hereby reduced by the following amounts:

DEPARTMENT OF STATE AND RELATED AGENCIES

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Expenses, $19,000,000.

The CHAIRMAN. The gentleman from North Dakota [Mr. DORGAN] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will be mercifully brief. Hopefully we can conclude this in a minute or a minute and a half.

This simply cuts $19 million from State Department funds for overhead expenditures.

Mr. Chairman, I join with my colleagues Mr. PENNY, Mr. SMITH of Texas, Ms. HORN, Mr. UPTON, Mrs. BOXER, and Mr. GLICKMAN in offering an amendment to reduce State's domestic administrative budget. The amendment will produce savings of $19 million in overhead expenses for such times as travel, printing, supplies and materials, and consulting fees.

On Tuesday, the Senate passed a more expansive amendment offered by Senator BOB GRAHAM to freeze administrative expenses for the Departments of Justice, State, and Commerce at 1992 levels. Our amendment also reduces overhead costs in the bill.

However, there is key difference. As a result of consultations with the State Department, we have modified our amendment so that it focuses cuts in the "Domestic Administration" account within the "Salaries and Expenses" budget of State. It does not affect the overall salaries and expenses of the Department, as in the Graham amendment. Our amendment reduces State's salaries and expenses account by $19 million. It holds the Domestic Administration to just under the fiscal year 1992 level.

This amendment focuses on a key deficit-fighting strategy: reducing overhead costs in Government. This amendment would cut approximately $19 million from the overhead accounts in the Commerce-Justice-State bill—less than a fraction of 1 percent of the overall bill total. It would cut domestic administrative accounts for State by $19 million. This amendment only reduces the increase that the State Department will receive.

Even with this amendment, State's overall budget grows by over one-half billion dollars. The salaries and expenses account itself will still grow by $135 million. This is more than sufficient to accommodate the $88 million in new funding for embassies in nations of the former Soviet Union and to provide adequate security, passport, and medical services in the State Department.

The amendment avoids accounts dealing with law enforcement, drug enforcement, trade administration, the Civil Rights Commission, Economic Development Administration, or other agencies, programs or projects. It does not affect accounts dealing with protection of foreign missions and officials, acquisition and maintenance of buildings abroad, or foreign service emergencies. The amendment is specifically targeted and responsible.

This amendment cuts spending similar to those passed during the Agriculture, Energy and Water, Military Construction, Treasury-Postal Service, Interior and HUD-VA Appropriations debates. As before, this amendment is not directed at people, programs or service, but only at the overhead costs involved in delivering those services. We firmly believe the Federal Government needs to do some belt-tightening as so many families and businesses have had to do during the difficult recession. The Departments can accommodate the freeze required by this amendment by limiting the rise in overhead costs by an average of 4 percent in each Department.

In conclusion, I urge the support of my colleagues to trim $19 million in overhead spending from the Commerce-Justice-State appropriations bill.

Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is simply a $19 million cut in overhead expenses at the Department of State. It does not affect any of the foreign embassies or agencies, and for that reason, there should be little controversy with the amendment.

We would ask for favorable consideration.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 15 seconds to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, we have made similar cuts to programs affecting domestic programs, overhead on agencies here at home. It makes sense to make similar cuts with respect to the State Department.

I urge support for the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I rise as a cosponsor of this amendment and urge my colleagues to support it.

Objections initially were raised to this amendment because of its impact on the State Department. In the last 24 hours those objections have been addressed.

Members should know that concerns about the potential impact of reductions on security programs and the conduct of the Nation's foreign affairs have been resolved in negotiations between the sponsors of this amendment and the State Department.

The amendment as offered does not include the original $155 million cut in State Department "Salaries and Expenses" but instead is based on a total reduction of $19 million to the "Domestic Administration" account only.

No reductions are made nor intended in any of the other accounts included under the amended line item.

These other accounts include critical activities that directly impact the conduct of our foreign affairs and the safety and physical well-being of Americans serving overseas.

They are left untouched.

Our negotiations resulted in a compromise that all parties—including the State Department—can accept.

My thanks to all who made it possible to bring a responsible, responsive amendment to the floor to reduce Government overhead expenses.

Reductions made by this amendment cut back administrative expenses to 1992 levels in the central, administrative accounts.

These reductions can be achieved without impacting programs, projects, personnel, or salaries.

They are another step down the path to bringing Government overhead costs under control.

Mr. Chairman, I urge adoption of the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. UPTON], a cosponsor of the amendment.

Mr. UPTON. Mr. Chairman, I would just rise briefly to say that as we try to put this deficit genie back in the bottle, we have got to do something, and that something we have got to start off with is focusing on reducing overhead costs.

I rise in strong support of this amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, this amendment will pass overwhelmingly. There is no need to have a rollcall vote on it, nor to have any more debate. Everybody knows what it is. Then we will have two quick amendments that will be accepted, and then we should be ready for final passage of the bill.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, we have seen this amendment. There have been substantial changes. As the gentleman says, there is no need for a rollcall vote. The House can work its will on a voice vote.

Ms. HORN. Mr. Chairman, this amendment is a continuation of what Mr. DORGAN, Mr. PENNY, myself, and others have been doing on the last 12 appropriations bills—to cut administration and overhead costs throughout the Federal Government. While this amendment will cut $19 million from the administration accounts for Commerce, Justice, and State, we had initially planned to cut $159 million, which would have frozen the State Department salaries and expenses account at 1992 levels. The other body took action to freeze this account at 1992 levels and I am hopeful that the conferees will support the action taken in the other body.

This is the last appropriations bill this body will debate. It has been my privilege to have worked with Mr. DORGAN, Mr. PENNY, and others who have come to this floor over the past couple of weeks to ask you to support amendments aimed at cutting overhead waste. Their efforts have removed close to one and a half billion dollars in unnecessary spending from the appropriations bills. I thank them and their staffs for the fine work they have done and for the consideration they have shown me and my staff.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 83, after line 11, insert before the short title provision the following new section:

SEC. 607. It is the sense of the Congress that entities purchasing goods or services with funds available under this Act should, to the maximum extent feasible where available, purchase only American-made equipment, products, and services.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a buy American amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, we have examined this amendment, and we think we ought to accept it at this point.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, we have no objection.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Mississippi: Page 83, after line 11, insert the following new section:

SEC. 607. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

The CHAIRMAN. The gentleman from Mississippi [Mr. TAYLOR] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, we have no objection on this side to this amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, we have examined the amendment, and we think it is a good one and agree to it.

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR].

The amendment was agreed to.

Mr. HERTEL. Mr. Chairman, I rise in support of H.R. 5678, the Commerce, Justice, and State, the Judiciary and related agencies appropriations bill for fiscal year 1993. I support the amendment of the gentleman from Mississippi.

As chairman of the Subcommittee on the Merchant Marine and Fisheries Committee that authorizes and oversees our national oceanographic research programs, I have authored legislation to support the implementation of NOAA's Fleet Replacement and Modernization Program.

On August 3, 1992, the House is scheduled to debate H.R. 5324, authorizing the first 5-year phase of the 15-year NOAA Fleet Replacement and Modernization Program.

The Fleet Replacement and Modernization Program comprises detailed plans for revitalizing the capability and capacity of NOAA's oceanographic research fleet. Seven comprehensive studies have been undertaken since I have been chairman of the subcommittee. Each study has recommended that replacement and modernization of the fleet is justified and long overdue.

Revitalizing the NOAA fleet requires measured installments toward a major capital investment. This fiscal year 1993 appropriations guarantees that the Fleet Program will move forward.

The amendment of the gentleman from Mississippi places a contingency of 1993 funds available to the Fleet Modernization Program. Accordingly, no funds could be used for NOAA fleet construction or repair contracts to shipyards outside the United States.

There is no Member of Congress more respectful of the need to create and maintain job opportunities for Americans than I am. Over the past 4 years, in every authorization bill for the NOAA fleet, I have insisted on strict "Buy America" language similar to the language the gentleman is offering.

I understand clearly the need to keep our shipyards alive and vibrant with new technology. I have worked with the administration, modifying language in H.R. 5324, to incorporate the final negotiated language on excess subsidies of our trade representative.

Even with this accommodation, it is possible that this administration will continue to object—very simply—to promoting jobs for Americans; to creating new opportunities for U.S. shipyards, and to fostering new maritime engineering and construction technologies at home. Perhaps the administration would prefer to perpetuate the damaging consequences of its current policies that—export taxpayer dollars for Federal Government contracts; and compromise the livelihood of Americans through the long wornout promises of a level playing field in trade matters.

I agree with the gentleman from Mississippi that every opportunity for assuring that American ship architects, engineers, construction and repair crews, and workers in the variety of other associated occupations, are put back to work. The only honorable promise we can make to Americans looking for work is a promise fulfilled.

I support this amendment.

Mr. DAVIS. Mr. Chairman, I rise in strong support of the amendment offered by Mr. TAYLOR to H.R. 5678. The bill before us is very simple. It requires that all vessel modifications to NOAA vessels be done in U.S. shipyards. This is a slight change to a provision in legislation that was reported out of the Merchant Marine and Fisheries Committee. It is a slight change in language, but certainly not in intent. The authoring committee language had the same net effect as the Taylor amendment by prohibiting vessel repair work in any foreign shipyard that provides a subsidy. The authoring language was simply a way to highlight the fact that our shipyards are at a terrible disadvantage until such a time as we force other countries to eliminate their subsidies. It is for that reason that I strongly supported the Gibbons bill and likewise strongly support Mr. TAYLOR's effort today.

Mr. LAFALCE. Mr. Chairman, I rise in reluctant support of H.R. 5678, the Commerce, Justice, State Appropriations Act for fiscal year 1993.

Mr. Chairman, although it is only a fractional part of the monies provided by this bill, this is the legislation which provides the funding for the Small Business Administration and its programs which are designed to assist the Nation's small businesses.

Every time we consider a small business bill, speaker after speaker stresses the role of the small business sector of our economy as a job creator. Certainly this role is very important, but we all need to understand that small businesses cannot create or preserve jobs unless they have access to capital.

The credit crunch confronting our economy is acutely impacting the small business sector. Many of these firms which are now unable to obtain private sector financing are turning to the SBA program for assistance. The original 7(a) loan level for this year proved wholly inadequate and we managed to augment it by shifting funds from another SBA program which was not being fully utilized, and we also were able to provide a substantial increase in the dire supplemental appropriations bill which was enacted earlier this summer.

Thus, although the loan program level for the 7(a) guarantee program is being funded under this bill at 93 percent, it is very important to note that it is at 93 percent of the original appropriated level for 1992. This original level subsequently was increased by almost 50 percent. Thus, in reality, the program is being reduced by over 35 percent as compared to the amount made available and which is being used in the current fiscal year. It is possible, however, that not all of this year's money will be used and whatever is not used may be carried forward under the terms of the supplemental bill, and I want to compliment the Appropriations Committee for crafting the supplemental bill to carry forward any amounts unused.

I want to make clear that I am not being critical of the Appropriations Committee which was forced to reduce domestic discretionary spending, and this includes funding for the Small Business Administration. The 1990 Budget Agreement imposed caps upon Federal spending and it is these caps which are frustrating our ability to appropriate needed funds to allow the small business sector to lead us out of the current economic doldrums.

Earlier this year, the House defeated legislation which would have modified the existing domestic discretionary spending caps and which would have allowed some of the defense savings to be shifted and used for domestic purposes, including the SBA. I was a cosponsor of this legislation and strongly support it and want to take this opportunity to point out to my colleagues that our inability to fund SBA is a direct result of the House rejecting this legislation.

Possibly as Members see the impact of their failure to approve this needed bill, they will reconsider their previous actions.

In any event, I do wish to compliment the gentleman from Iowa and the other members of the Appropriations Committee for an initiative which is included in the funding made available to SBA. The bill provides $3 million to begin the process of holding a White House Conference on Small Business.

Unfortunately, the administration has not requested funding for this conference and even more unfortunately has not taken any steps to appoint commissioners to oversee and plan for this conference. It has been almost 2 years since the President signed the authorizing legislation on October 5, 1990, as Public Law 101-409.

This conference is expected to be very beneficial to the Nation's small businesses and hopefully will result in the development of recommendations for legislation to assist the Nation's small businesses.

I urge the President to immediately act to implement the convening of this conference and, again, Mr. Speaker, I compliment the Appropriations Committee for facilitating it by taking the initiative to begin the appropriations process to fund it.

Finally, I want to address the issue of funding for the Competitiveness Policy Council which began work this past year under the chairmanship of C. Fred Bergsten, and is doing a great job of bringing some real intellectual analysis to the problems confronting American industry.

The budget for the Council this year is $2,250,000, and it has been worth every penny.

The House figure contained in this bill is, unfortunately, far below current operating bills. I want to go on record as strongly urging the members of the Appropriations Committee to look very carefully at this issue in conference, and to accept the higher Senate appropriation for the Competitiveness Policy Council, which would still constitute a significant reduction from present levels.

Mr. McCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time simply to point out to my colleagues a deficiency or two that are in this bill and to urge a no vote against it.

Many of you may not be aware that the Legal Services Corporation is reauthorized in this bill through language that many of us voted against on the House floor just a few weeks ago.

The Senate has not yet acted, but we understand they are. We really should not, in my judgment, and I think in most others, be putting into language an authorization provision that passed on this floor which is going to generate, if it becomes a part that goes down to the White House, a veto. There is definitely a veto threat on this bill as well as on the Legal Services authorization bill for the simple reason that the procedure and the provisions in that bill currently weaken the hands of the existing board and do a lot of other things that I think are quite detrimental.

□ 1820

I am not going to go in and readdress the Legal Services question with you tonight.

I would also point out that the bill before us tonight that you are about to vote on contains $1 billion, that is $1 billion with a "B" less in money for crime fighting and crime provisions, the FBI, and so forth, than the President requested.

It also undermines, because of the INS funding levels being low, the ability of our Immigration and Naturalization Service to apprehend criminal aliens at the border.

For those concerned, it does not do what many of us hoped it would do and address the special prosecutor issue.

There are a number of other matters that are deficient with the bill.

So for those who are opposed to reauthorizing the Legal Services in the manner we voted on the other day, with all the provisions it contains, including the abortion-related matters and the question of weakening the ability of our Legal Services Corporation folks to be able to do anything with the law that they have today, I would certainly urge a no vote to demonstrate that feeling on the final; passage of this bill.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from Texas.

Mr. STENHOLM. Just briefly, Mr. Speaker, I, too, will reluctantly be voting against this bill on final passage because of the inclusion of the Legal Services legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would just say that the gentleman from Texas and others urged us to bring an authorization to the floor. We brought an authorization bill to the floor. We had nine rollcall votes on that authorization bill, and what is referenced in this bill is the authorization bill that this House voted on after nine rollcalls last May, only 3 months ago.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, I would just like to point out that while this may be what we voted on, it would be perfectly acceptable if we had in this bill a provision which said that if it is enacted into law, it will be the law; otherwise, it should be the existing law because we have only done it in the House.

Mr. Chairman, I urge a "no" vote on the bill.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, let me say this. We have got another shot at this matter when it comes back from conference with the Senate. Now, if when the conference report comes back, if it still contains the abortion language that many of us think is in the bill right now, I will vote "no" and support the gentleman on the veto sustaining; but for the moment, I think we can vote for this bill. By the time we get to conference with the Senate on this bill, hopefully the authorizers will have worked something out and we could just avoid it.

Mr. McCOLLUM. Mr. Chairman, I yield back the balance of my time.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hate to take the time of the committee, but because we were denied an open rule and denied the opportunity to offer legislation to this bill which would have required an annual appropriation for the chief counsel, I just have to call this to the attention of the membership.

A lot of people are wondering how an independent counsel's investigation can run up a tab of $30, $40, and $50 million. It was this kind of concern that prompted Congress to include a provision in the Independent Counsel Act that requires a General Accounting Office audit of these investigations every 6 months. If we had the 8 or 10 GAO studies of the Walsh investigation that should have been finished by now, we might not have as many questions as we do, and I would not be standing here right now.

Since the GAO is evidently unable, or unwilling, to fulfill its legal responsibilities and to conduct periodic audits of the Walsh investigation, I have been forced to do some auditing of my own, and I have come up with some interesting and curious findings, which I think everybody on both sides of this aisle will be interested in.

For starters, let us consider this item: The Walsh investigation has spent $5.6 million for office space—taxpayers' money.

The offices for the Walsh investigation are at this location, just listen, 555 13th Street, NW., at the corner of 13th and F Streets. That building is known as "Columbia Square". Ever hear of it? It is one of the newest, most luxurious and most expensive office buildings in this town; but there is something very strange in all this, my colleagues. The budget shows that $655,000 has been spent on what is called "per diem and subsistence."

Do you know what that is? You do not get it here in Washington.

I have discovered that up to $300,000 of this amount was paid to Judge Walsh and his chief deputy, Craig Gillen, for personal living expenses incurred here in Washington.

How can this be? Wait a minute. It gets worse, my colleagues.

How can this be? Well, I have discovered something else, something more curious. The travel vouchers for Judge Walsh list his principal duty station as Oklahoma City; and Gillen, his full-time deputy, who really has taken over this whole operation, his full-time deputy here in Washington, lists his principal duty station—where? Atlanta. Atlanta, GA, that is.

Now, what is so curious about that is this. There is no—I repeat—no independent counsel office in Atlanta, and there is only a part-time office in Oklahoma City, which is staffed only on those occasions when Judge Walsh decides to get some work done there.

Now, let me just say this to you. When Mr. Walsh chooses to come to Washington, he stays at the Watergate Hotel, a venue that is as expensive and luxurious as the office space he rents, all at taxpayer expense.

Mr. Speaker, I know it sounds kind of funny and hilarious, but I am very serious about this.

Now, just listen to this, because this aggravates me no end.

Travel vouchers confirm that Walsh and Gillen have a taste for the good life, especially when taxpayers are footing this bill. Records show, and I have got the records in case any of you want to see them, records show that Judge Walsh invariably orders a $17 room service breakfast when he stays at the Watergate, at taxpayers' expense.

By my calculations, and the Members know me, by my calculations the taxpayers have already paid for $25,000 worth of room service breakfasts for one man.

After a grueling day at his luxury office suite, Walsh is chauffeured back to the Watergate where he routinely orders a taxpayer-paid room service dinner costing between $25 and $40.

Now, Mr. Speaker, this really is not funny. By my calculations, the taxpayers have already paid for at least $40,000 worth of room service dinners for Judge Walsh alone.

You know, that is $25,000 for breakfasts, $40,000 for dinners. What was that guy's name from Illinois that said, "Pretty soon you're talking about a lot of money." Everett Dirksen.

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for an additional 3 minutes.)

Mr. SOLOMON. Mr. Speaker, let me speed this up.

Let us just take a quick look for a moment at Gillen's per diem and subsistence. Gillen has collected, by my calculations again, at least $100,000 in living and travel expenses above his legally-established salary while working full-time here in Washington. Now, think about that. If Walsh and Gillen had not listed other cities as being their principal duty station, neither man would have been eligible to receive any money at all, not this kind of supplement.

□ 1830

To my knowledge, Walsh and Gillen are the only Federal employees who have worked in Washington for years while collecting per diem and subsistence allowances.

Mr. Chairman, that is what is wrong here. I am going to ask the appropriate authorities to review the travel logs and other financial transactions between the office of Judge Walsh and his deputy to determine if they are in full compliance with the law covering Federal employees which you and I are living by.

I also understand Walsh and Gillen received special consideration from the corporation that owns the Watergate Hotel. These considerations should also be reviewed to determine whether they represent an improper supplementation of salary.

It seems to me they do, but we will give them the benefit of the doubt.

Time does not permit me to even list all these curious items I have discovered in a quick review of the Walsh/Gillen transactions. Incidental expenses, $881,000, that is incidental expenses; maintenance of office equipment—I do not know what equipment—but 401,000 just for maintenance; miscellaneous contractual services, $698,000. For what? And the list goes on and on and on.

Mr. Speaker, I intend to ask the inspector general of the Department of Justice to review the Walsh/Gillen transactions to determine the nature and propriety of these enormous expenses.

Personally, I think it is the biggest ripoff of the taxpayers that I have seen in the 14 years I have been here.

Thank you for your indulgence; have a nice weekend.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may cited as the "Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993".

Mr. SMITH of Iowa. Mr. Chairman, I move the committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BONIOR) having assumed the chair, Mr. BROWN, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 5678) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment?

Mr. BLILEY. Mr. Speaker, I demand a separate vote on the so-called Alexander amendment.

The SPEAKER pro tempore. It a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 79, beginning on line 21, strike "and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa at seq.)".

Page 79, line 24, strike "and television".

Page 79, line 26, strike "and television".

Page 80, line 1, strike "$28,531,000" and insert "$15,873,000".

Page 80, line 2, strike the colon and all that follows through "equipment" on line 6.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 215, not voting 38, as follows:

[Roll No. 353]

AYES—181

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Applegate
Atkins
AuCoin
Barrett
Bateman
Beilenson
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brown
Bruce
Bustamante
Byron
Camp
Cardin
Carr
Clement
Coble
Collins (IL)
Combest
Condit
Costello
Cox (IL)
Dannemeyer
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Duncan
Durbin
Eckart
Edwards (CA)
Espy
Evans
Flake
Ford (MI)
Frank (MA)
Franks (CT)
Gejdenson
Glickman
Gonzalez
Gradison
Green
Hall (OH)
Hayes (IL)
Hayes (LA)
Hobson
Hochbrueckner
Horn
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
LaRocco
Lehman (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Marlenee
Martinez
Matsui
McCloskey
McDermott
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Morella
Morrison
Murphy
Nagle
Neal (MA)
Neal (NC)
Nowak
Nussle
Oberstar
Obey
Olver
Orton
Owens (NY)
Panetta
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickett
Pickle
Poshard
Pursell
Quillen
Ramstad
Rangel
Reed
Regula
Ritter
Roemer
Rogers
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shuster
Sikorski
Skaggs
Slattery
Slaughter
Smith (OR)
Staggers
Stallings
Stark
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tanner
Taylor (MS)
Thomas (WY)
Thornton
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Williams
Wolpe
Wyden
Wylie
Yates
Zimmer

NOES—215

Allen
Andrews (NJ)
Andrews (TX)
Annunzio
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Bennett
Bentley
Bereuter
Berman
Bilirakis
Bliley
Boehner
Brewster
Brooks
Bryant
Bunning
Burton
Callahan
Campbell (CA)
Carper
Chandler
Chapman
Clinger
Coleman (MO)
Coleman (TX)
Cooper
Coughlin

Cox (CA)
Coyne
Crane
Cunningham
Darden
Davis
de la Garza
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Dymally
Edwards (TX)
Emerson
Engel
English
Erdreich
Ewing
Fascell
Fawell
Feighan
Fields
Fish
Foglietta
Frost
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Gordon
Goss
Grandy
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hunter
Hutto
Inhofe
Ireland
James
Jenkins
Johnson (TX)
Jones (GA)
Kaptur
Kasich
Klug
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Machtley
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Moran
Murtha
Myers
Natcher
Nichols
Oakar
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Petri
Porter
Price
Ravenel
Ray
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Roberts
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Shaw
Shays
Sisisky
Skeen
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Swett
Tallon
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—38

Ackerman
Anthony
Barton
Bevill
Boxer
Broomfield
Browder
Campbell (CO)
Clay
Collins (MI)
Conyers
Cramer
Donnelly
Dwyer
Early
Edwards (OK)
Fazio
Ford (TN)
Gaydos
Gephardt
Harris
Hatcher
Huckaby
Hyde
Kolter
Levine (CA)
Lowery (CA)
Markey
Martin
Mavroules
McCrery
Mrazek
Olin
Rahall
Solarz
Towns
Traxler
Yatron

☐ 1851

The Clerk announced the following pair:

On this vote:

Mr. Rahall for, with Mr. Solarz against.

Messrs. McCANDLESS, LAUGHLIN, and MOODY changed their vote from "aye" to "no."

Messrs. APPLEGATE, MATSUI, and SERRANO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BONIOR). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 242, nays 153, not voting 39, as follows:

[Roll No. 354]

YEAS—242

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Berman
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown
Bryant
Bustamante
Byron
Camp
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Dooley
Downey
Durbin
Dymally
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gejdenson
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Grandy
Green
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Machtley
Manton
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Pastor
Patterson
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickett
Pickle
Porter
Poshard
Price
Rangel
Reed
Regula
Richardson
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schiff
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slaughter
Smith (FL)
Smith (IA)
Smith (TX)
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NAYS—153

Allard
Allen
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Bereuter
Bilirakis
Bliley
Boehner
Bruce
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dellums
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Eckart
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes (IL)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hubbard
Hunter
Hutto
Inhofe
Jacobs
James
Johnson (TX)
Jontz
Kasich
Klug
Kyl
Lagomarsino
Leach
Lent
Lewis (FL)
Lightfoot
Livingston
Luken
Marlenee
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (OH)
Molinari
Montgomery
Moorhead
Murphy
Nichols
Nussle
Packard
Pallone
Paxon
Peterson (MN)
Petri
Pursell
Quillen
Ramstad
Ravenel
Ray
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rohrabacher
Roth
Roukema
Santorum
Sarpalius
Savage
Saxton
Schaefer
Schroeder
Schulze
Sensenbrenner
Shaw
Shuster
Skelton
Slattery
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Stark
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—39

Ackerman
Barton
Bevill
Boxer
Broomfield
Browder
Campbell (CO)
Collins (MI)
Conyers
Cramer
Donnelly
Dwyer
Early
Edwards (OK)
Fazio
Ford (TN)
Gaydos
Gephardt
Harris
Hatcher
Horton
Huckaby
Hyde
Kolter
Levine (CA)
Lowery (CA)
Markey
Martin
Mavroules
McCrery
Mrazek
Myers
Olin
Payne (NJ)
Rahall
Solarz
Towns
Traxler
Yatron

☐ 1909

The Clerk announced the following pair:

On this vote:

Mr. Fazio for, with Mr. Broomfield against.

Mr. SMITH of Texas changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5678, and that I be permitted to include tabulations, charts, and other extraneous material.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentleman from Iowa?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of approving the Speaker's approval of the Journal.

The question is on the Chair's approval of the Journal.

The Journal was approved.

PROVIDING FOR CONSIDERATION OF H.R. 5191, SMALL BUSINESS EQUITY ENHANCEMENT ACT

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 531 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 531

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Small Business now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee on the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as having been ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 531 is an open rule providing for the consideration of H.R. 5191, the Small Business Equity Enhancement Act of 1992. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business.

The rules also makes in order the Small Business Committee amendment in the nature of a substitute now printed in the bill as an original text for the purpose of amendment under the 5-minute rule. Each section shall be considered as having been read. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 5191 is intended to reinvigorate the Small Business Investment Company [SBIC] Program operated by the Small Business Administration. The program encourages venture capital to go to small businesses and also assists socially and economically disadvantaged individuals. As a result of the program structure and the overall state of the economy, the program has run into problems, essentially cash flow related.

Mr. Speaker, this legislation proposes to create a new instrument, called a participating security, through which the Government could provide matching capital funds to SBIC's. It would help the SBIC's while providing benefits to our Government. This new mechanism is being proposed on a pilot basis with an initial program level of $100 million in fiscal year 1993, gradually increasing until it reaches $700 million in guarantees in 1997. The bill contains other provisions, including new requirements to provide greater safety and soundness on the Government's guarantees.

Mr. Speaker, H.R. 5191 is a carefully crafted bill which was reported out of the Small Business Committee 39 to 0. I am pleased that we have an open rule which received unanimous support in the House Rules Committee. I urge my colleagues to adopt it.

Mr. DRIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my good friend, the gentleman from Ohio, for yielding me this time.

Mr. Speaker, I have to say that it is with a great deal of pleasure that I stand here in support of what the gentleman from New York [Mr. LAFALCE] requested before the Committee on Rules, an open rule. I always love the very rare occasions that I have to argue on behalf of an open rule. Why? Because the process itself is not controversial, but what it does is, it gives Members the opportunity to work their will on the floor of this House.

We all want to see the small business sector of our economy thrive. I have had the privilege of serving with the gentleman from New York [Mr. LAFALCE] in the Committee on Small Business before I joined the Committee on Rules, and I am very pleased with the movement of this legislation.

Mr. Speaker, I am going to ask that this statement of administration policy be submitted for the record and printed at this time. It is one sentence, Mr. Speaker. It says, "The administration supports enactment of H.R. 5191."

STATEMENT OF ADMINISTRATION POLICY

H.R. 5191—SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992

The Administration supports enactment of H.R. 5191.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PUBLICATION OF ROUTES ON FLIGHT CHARTS TO GUIDE PILOTS OPERATING UNDER CERTAIN RULES

Mr. OBERSTAR. Mr. Speaker, call up from the Speaker's table the bill (H.R. 3243) to direct the Administrator of the Federal Aviation Administration to publish routes on flight charts to safety guide pilots operating under visual flight rules through and in close proximity to terminal control areas and airport radar service areas, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I certainly will not object, I yield to the distinguished chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation to explain his request.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the distinguished ranking member of the full Committee on Public Works and Transportation for yielding to me.

Mr. Speaker, this is good, constructive legislation that will make significant improvements in the way in which general aviation operates in and around the complex air space surrounding our metropolitan areas.

The bill directs the FAA to provide for the charting of specific routes to be used by general aviation pilots in order to transit or operate to and from airports in the vicinity of busy, complex air space. These routes are flown without the need for general aviation pilots to be in communications with air traffic controllers.

Hearings of the Subcommittee on Aviation of the Committee on Public Works and Transportation held last December underscored the safety and operating benefits of the establishment of such clearly identified corridors on charts. The FAA has taken steps to see that charts of this type are developed, but, regrettably, the agency has taken a rather minimalist approach, and has not pushed the development of these charts along as rapidly or as indepth as we would like.

□ 1920

In short, the bill, therefore, directs the FAA to get on with the business that it is its particular responsibility and give this issue the priority it deserves.

Mr. Speaker, I would like to commend the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the gentleman from Pennsylvania [Mr. CLINGER], the ranking member on the Subcommittee on Aviation, and the gentleman from Oklahoma [Mr. INHOFE], who first brought this issue to our attention, and by his persistence in underscoring the importance of developing these charts brought the issue to the point of hearing, consideration by the FAA, and hopefully soon to the point of passage through this body. The gentleman from Pennsylvania [Mr. CLINGER] and our staff on both sides have worked very diligently to shape what ought to have been a relatively modest and simple issue. But it has taken quite a bit of time, in fact, to bring it to this point, and a great deal of persistence on the part of all to resolve and bring this measure to hopefully passage this evening.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I will yield in a moment to the gentleman from Oklahoma [Mr. INHOFE], a member of our committee. But before I do I want to say that he is one of the most valuable and hardworking members of the Public Works and Transportation Committee with a great interest in general aviation. He is the first Member of Congress to fly around the world in a general aviation airplane, which he did just about a year ago in a vintage Cessna 414. And because of his great interest is why he initiated this legislation, H.R. 3243.

Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Oklahoma [Mr. INHOFE], a member of the committee.

Mr. INHOFE. Mr. Speaker, I thank the distinguished leader of the Public Works and Transportation Committee for yielding. Let me extend my gratitude to the distinguished chairman of the Aviation Subcommittee, the gentleman from Minnesota [Mr. OBERSTAR]. When he mentioned this was something that was a long time in the making, it has now been 5 years since we first started talking about it, and I think that since we are making a major change in the way we are approaching the controlled airspace and how it affects not only general aviation pilots, but also commerical pilots, commercial airlines, and how it is our belief, after extended hearings and discussions on this will be saving lives of many Americans, the deliberative process we went through is certainly one that is worthwhile, and I sincerely appreciate the cooperation of the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from Minnesota [Mr. OBERSTAR], in developing this piece of legislation.

Historically this goes back to 1987 when a man named Barry Schiff, a TWA pilot out in California, probably the most prolific writer on general aviation issues in America today, came up with a very simple answer to a complex problem. That was to chart a system that will allow general aviation pilots who may not be quite as qualified as some others to go in and out of congested airspace, ARSA's, TCA's in a way that is completely safe and that offers segregation between that airplane and commercial aircraft.

Unfortunately, the system that we have been using all of these years, which has been referred to as the upside down wedding cake is one that is very complicated. I have some 7,000 hours, and I have been flying for 35 years, and I have gone into airspace where you have to really think it through. And quite frankly, I am afraid there are pilots out there who have gone through and not completely complied with the requirements. We remember out in Cerritos in California on two different occasions where there were very serious accidents that caused the lives of many people involving airlines and general aviation.

Mr. Schiff came through with this idea, and in order to be sure that this was going to work effectively, in the wisdom of the committee, we tried it out in various areas of the country and found that it was something that was not only met with much acceptance, but also something that unquestionably is going to end up saving lives in the future.

To have worked with JOHN PAUL HAMMERSCHMIDT, who is one of the most decorated heroes of World War II, having flown 217 combat missions in C–47's during the war, someone who has had an indepth understanding of what airspace is all about, has certainly been a pleasure.

The only comment I would make further about this is we went through a hearing process, and during this process not only did we have Barry Schiff come and testify to us on the idea that he had that we put together, but we also had AOPA and EAA, GAMA, and all of the other organizations that represent pilots, aircraft, and anything having to do with aviation. It was well attended. We had long, deliberative sessions.

This particular type of approach will offer for the first time on a consistent basis that will be expanded throughout the Nation to all congested airspace a system of planning the airspace so that a person, a pilot will know what he can do and not what he cannot do.

Second, it is optional.

Third, and this is very significant to those who are aware of the complex system, these corridors that will be established throughout the country will be established in consultation with the flying public. We have talked to controllers, we have talked to pilot associations. They will all be involved with the FAA in developing this system.

So I thank the gentleman from Arkansas and the gentleman from Minnesota on the spirit of cooperation in doing something that I think is going to be singularly one of the greatest safety efforts in all of our dealings with airspace.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, specifically, the bill would direct the FAA to arrange for the publication of routes on flight charts. Private pilots could follow these routes to guide them through congested areas. It is my understanding that the FAA is already moving to do this.

I would like to congratulate Mr. INHOFE for taking the initiative in this area and I would like to thank the chairman and the ranking member, Mr. CLINGER, for their willingness to bring this bill before the House today. It could make an important contribution to air safety and I support it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VISUAL FLIGHT RULE DEPARTURE AND ARRIVAL ROUTES.

Section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)) is amended by adding at the end the following new sentence: "In carrying out clause (3), the Administrator shall publish and update clearly defined arrival and departure routes leading to and from airports located within and in close proximity to terminal control areas and airport radar service areas. Such routes shall be for the optional use of pilots operating under visual flight rules and shall be developed in consultation with pilots and other users of the affected airports.".

SEC. 2. DEFINITIONS.

(a) AIRPORT RADAR SERVICE AREA. Section 101 of the Federal Aviation Act of 1958 (49

U.S.C. App. 1301) is amended by redesignating paragraphs (10) through (41), and any references thereto, as paragraphs (11) through (42), respectively, and inserting after paragraph (9) the following new paragraph:

"(10) 'Airport radar service area' means an area surrounding an airport and consisting of controlled airspace extending upward from the surface or higher to specified altitudes within which all aircraft are subject to the operating rules and equipment requirements promulgated by the Administrator and listed in subpart L of part 71 of title 14 of the Code of Federal Regulations.".

(b) TERMINAL CONTROL AREA. Section 101 of such Act (as amended by subsection (a) of this section) is further amended by redesignating paragraphs (41) and (42), and any references thereto, as paragraphs (42) and (43), respectively, and inserting after paragraph (40) the following new paragraph:

"(41) 'Terminal control area' means an area surrounding an airport and consisting of controlled airspace extending upward from the surface or higher to specified altitudes within which all aircraft are subject to the operating rules and pilot and equipment requirements promulgated by the Administrator and listed in subpart K of part 71 of title 14 of the Code of Federal Regulations.".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

H.R. 3243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VISUAL FLIGHT RULE ROUTES FOR COMPLEX TERMINAL AIRSPACE AREAS.

Section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)) is amended by adding at the end the following: "In carrying out clause (3), the Administrator shall update and arrange for publication of clearly defined routes for navigating through a complex terminal airspace area, and to and from an airport located within such an area, where the Administrator determines that publication of such routes would promote safety in air navigation. Such routes shall be for the optional use of pilots operating under visual flight rules and shall be developed in consultation with pilots and other users of affected airports.".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to amend the Federal Aviation Act of 1958 to direct the Administrator of the Federal Aviation Administration to arrange for publication of certain air routes for the use of pilots operating under visual flight rules."

A motion to reconsider was laid on the table.

CLINTON'S HEAVY BAGGAGE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, last week in the Senate they wasted about 4 hours of precious debate time, back and forth, back and forth, defending the President of the United States, bashing him, attacking the Governor of Arkansas, Mr. Clinton, and bashing him. Each side gave as good as they got.

Well, I think we had better have some ground rules here about what the majority is going to do using this well, Mr. Speaker, to bash the President of the United States, because a Democratic consultant said that he could not conceive of the arrogance of someone like the Governor of Arkansas, Mr. Clinton, coming to the primary process carrying as much baggage as he did.

Mr. Speaker, he was referring to the angelic use of marijuana without inhalation; he was referring to a series of affairs in the Jennifer Flowers mess, with tape recordings discussing various kinky types of sex; he was talking also about draft dodging.

Mr. Speaker, here is the letter that Clinton wrote to the colonel in his deceitful summer of deception, 1969. Keep in mind, my colleagues, that three young men from Hot Springs, AR, three young men stood up and went into the military for Mr. Clinton. He said he compulsively ate until he dropped. Ask PETE PETERSON on this side of the aisle or SAM JOHNSON if they ever went to sleep in Hanoi for 7 years without an ache in their stomach on the edge of starvation.

Clinton is an arrogant fraud. Do not start a battle in this well about your draft dodging adulterer.

Here is the disgraceful and deceitful letter from Bill Clinton to Col. Eugene Holmes, former commander of the University of Arkansas ROTC unit concerning Clinton's draft status. Read and hang your head. This is the first draft dodger in American history to run for Commander in Chief.

UNIVERSITY COLLEGE,
Oxford, England, December 3, 1969.

DEAR COL. HOLMES: I am sorry to be so long in writing. I know I promised to let you hear from me at least once a month, and from now on you will, but I have had to have some time to think about this first letter. Almost daily since my return to England I have thought about writing, about what I want to and ought to say.

First, I want to thank you, not just for saving me from the draft, but for being so kind and decent to me last summer, when I was as low as I have ever been. One thing which made the bond we struck in good faith somewhat palatable to me was my high regard for you personally. In retrospect, it seems that the admiration might not have been mutual had you known a little more about me, about my political beliefs and activities. At least you might have thought me more fit for the draft than for ROTC.

Let me try to explain. As you know, I worked for two years in a very minor position on the Senate Foreign Relations Committee. I did it for the experience and the salary but also for the opportunity, however small, of working every day against a war I opposed and despised with a depth of feeling I had reserved solely for racism in America before Vietnam. I did not take the matter lightly but studied it carefully, and there was a time when not many people had more information about Vietnam at hand than I did.

I have written and spoken and marched against the war. One of the national organizers of the Vietnam Moratorium is a close friend of mine. After I left Arkansas last summer, I went to Washington to work in the national headquarters of the Moratorium, then to England to organize the Americans here for demonstrations here Oct. 15 and Nov. 16.

Interlocked with the war in the draft issue, which I did not begin to consider separately until early 1968, for a law seminar at Georgetown I wrote a paper on the legal arguments for and against allowing, within the Selective Service System, the classification of selective conscientious objection, for those opposed to participation in a particular war, not simply to "participation in war in any form." From my work I came to believe that the draft system itself is illegitimate. No government really rooted in limited, parliamentary democracy should have the power to make its citizens fight and kill and die in a war they may oppose, a war which even possibly may be wrong, a war which, in any case, does not involve immediately the peace and freedom of the nation. The draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight, if the nation was to survive, for the lives of their countrymen and their way of life. Vietnam is no such case. Nor was Korea, an example where, in my opinion, certain military action was justified but the draft was not, for the reasons stated above.

Because of my opposition to the draft and the war, I am in great sympathy with those who are not willing to fight, kill, and maybe die for their country (i.e., the particular policy of a particular government) right or wrong. Two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year. One of my roommates is a draft resister who is possibly under indictment and may never be able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity.

The decision not to be a resister and the related subsequent decisions were the most difficult of my life. I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability within the system. For years I have worked to prepare myself for a political life characterized by both practical political ability and concern for rapid social progress. It is a life I still feel compelled to try to lead. I do not think our system of government is by definition corrupt, however dangerous and inadequate it has been in recent years. (The society may be corrupt, but that is not the same thing, and if that is true we are all finished anyway.)

When the draft came, despite political convictions, I was having a hard time facing the prospect of fighting a war I had been fighting against, and that is why I contacted you. ROTC was the one way left in which I could possibly, but not positively, avoid both Vietnam and resistance. Going on with my education, even coming back to England, played no part in my decision to join ROTC. I am back here, and would have been at Arkansas Law School because there is nothing else I can do. In fact, I would like to have been able to take a year out perhaps to teach in a small college or work on some community action project and in the process to decide whether to attend law school or graduate school and how to put what I have learned to use.

But the particulars of my personal life are not nearly as important to me as the principles involved. After I signed the ROTC letter of intent I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been, because I had no interest in the ROTC program in itself and all I seemed to have done was to protect myself from physical harm. Also, I began to think I had deceived you, not by lies—there were none—but by failing to tell you all the things I'm writing now. I doubt that I had the mental coherence to articulate then.

At that time, after we had made our agreement and you had sent my 1-A deferment to my draft board, the anguish and loss of self respect and self confidence really set in. I hardly slept for weeks and kept going by eating compulsively and reading until exhaustion brought sleep. Finally, on September 12, I stayed up all night writing a letter to the chairman of my draft board, saying basically what is in the preceding paragraph, thanking him for trying to help me in a case where he really couldn't and stating that I couldn't do the ROTC after all and would he please draft me as soon as possible. I never mailed the letter, but I did carry it on me every day until I got on the plane to return to England. I didn't mail the letter because I didn't see, in the end, how my going in the army and maybe going to Vietnam would achieve anything except a feeling that I had punished myself and gotten what I deserved. So I came back to England to try to make something of this second year of my Rhodes Scholarship.

And that is where I am now, writing to you because you have been good to me and have a right to know what I think and feel. I am writing too in the hope that my telling this one story will help you to understand more clearly how so many fine people have come to find themselves still loving their country but loathing the military, to which you and other good men have devoted years, lifetimes, of the best service you could give. To many of us, it is no longer clear what is service and what is disservice, or if it is clear, the conclusion is likely to be illegal.

Forgive the length of this letter. There was much to say. There is still a lot to be said, but it can wait. Please say hello to Col. Jones for me.

Merry Christmas.

Sincerely,

BILL CLINTON.

☐ 1930

THE MPV ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

Mr. JONTZ. Mr. Speaker, tomorrow the House will consider a very important piece of legislation, the Miscellaneous Tariffs Act.

One of the provisions in this bill would reverse a ruling by the Treasury Department that unilaterally reduces tariffs on imported multipurpose vehicles from 25 percent to 2½ percent by reclassifying these vehicles as cars instead of trucks.

What the legislation does that we will consider tomorrow will restore the classification of these imported multipurpose vehicles as trucks.

This situation comes to the Congress because in 1989 Treasury overruled the findings of a year-long Customs Service investigation that four-door multipurpose vehicles imported into this country are trucks. The regrettable situation is that this Treasury ruling came as a result of intense foreign lobbying pressure on our Government.

The situation with regard to these imported multipurpose vehicles is that by all other agencies of our Government these vehicles are considered as trucks. They are considered as trucks by EPA, they are considered as trucks by the Department of Transportation, and they are considered as trucks with regard to the gas-guzzler tax, but when it comes to tariffs, these vehicles are considered as cars.

The argument that I think must be kept in mind is that if the importers of these vehicles wish to enjoy the benefits of their classification as trucks for all of these other purposes, then they ought to also be classified as trucks for the purpose of the tariff.

The situation with regard to the classification so far as the impact on the Treasury of our country is that the United States loses about $220 million a year in Customs revenue to the decision.

I would argue that this decision does not benefit consumers, that the manufacturers of these companies have pocketed the earnings, and the statistics show that in fact savings have not been passed on to customers.

It is regrettable that the United States unilaterally gave away a very valuable bargaining chip in trade negotiations by making this reclassification, and that is a situation that we can correct tomorrow.

Mr. Speaker, I mentioned that this ruling by the Treasury Department is the consequence of some foreign lobbying pressure, and to buttress that argument, I want to cite a letter which was sent by William von Raab, who was the U.S. Commissioner of Customs at the time of the original Customs Service ruling, and I think this letter from Mr. von Raab very clearly explains the situation. He notes that on January 4, 1989, following investigation of some duration, that the Customs Department ruled that these sport utility vehicles and small vans would be classified as light trucks.

Mr. von Raab argues that, based on all historic precedents, that was the proper classification. And, of course, under our country's law, the Customs Service has the responsibility for making these determinations concerning the classification of vehicles for tariff purposes.

Mr. von Raab notes, however, that a month later, in response to what he calls unprecedented action and an unprecedented action in response to foreign political pressure, the Treasury Department reversed this Customs ruling and concluded that four-door multipurpose vehicles would be classified as passenger cars.

I think that the legislation before us tomorrow properly restores the classification which would only be fair for tariff purposes given the classification of these trucks or these vehicles as trucks for other reasons. I would argue that this is one small step that we can take in the Congress to ensure that there is a level playing field for the products of our farms and factories to compete in global markets. That ought to be the objective of our trade policy. That is what will be accomplished with regard to multipurpose vehicles if the Miscellaneous Tariffs Act is passed and signed by the President.

I hope that all the Members of the body will support the legislation tomorrow.

NEW HOPE FOR PEACE IN NORTHERN IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCCLOSKEY] is recognized for 5 minutes.

Mr. MCCLOSKEY. Mr. Speaker, hope springs anew for peace in Northern Ireland as strand two of the current and historic Anglo-Irish talks recessed last Friday until September after achieving modest success in the last 3 months.

As chairman of the Friends of Ireland in the House, I know I speak for all my colleagues in hoping for lasting progress to be achieved by all participants.

From 1969 through 1990, over 3,000 people were killed in terrorist incidents in Northern Ireland, with 55 percent of those killed being civilians. We know that the vast majority of both Protestant and Catholic communities in Northern Ireland support constitutional political parties that firmly reject violence as a means of expressing political demands. However, terrorist attacks are carried out in both communities; by members of Irish Republican Army [IRA] factions and by loyalist paramilitary groups.

To put an end to this conflict, the four constitutional Nationalist and Unionist Parties of Northern Ireland, the British Government, and the Irish Government engaged, on April 29, 1992, in a complicated process of three strands of talks. The Taoiseach of the Republic of Ireland, Mr. Albert Reynolds, and British Prime Minister John Major labeled the talks "an historic opportunity to make lasting political progress."

Strand two, which began on July 1, 1992, is the continuation of this process. This strand of talks addresses the relationships between any future political arrangements in Northern Ireland and the Dublin government. The negotiators have not resolved yet proposals for a new local government in Northern Ireland. However, it is also accepted by all parties that nothing will be regarded as finally agreed in any particular strand until everything is agreed in the talks as a whole.

The talks are taking place within an agreed gap in meetings of the intergovernmental Anglo-Irish conference which was established by the 1985 Anglo-Irish agreement. This historic agreement gave the Republic of Ireland a highly symbolic consultative role in Northern Irish affairs. It also affirmed in its first article "That any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland."

The parties have shown patience, understanding, and courage to be able to hold the talks which are a complex and difficult process. The current talks give the opportunity for an open, constructive, and far-reaching dialog. The negotiations did not collapse, as have all previous efforts, and are thus a historical breakthrough in this sense. It is our sincerest hope that these laudable efforts will achieve significant political progress and will unlock Northern Ireland from the tragic cycle of violence which continues to afflict it.

Mr. Speaker, I am submitting the statement by the Irish and British Governments which was issued on July 6, 1992, on the occasion of the opening of strand two of the talks and, the Irish Times editorial of the July 7, 1992, issue on the significance of the meeting for the RECORD.

JOINT STATEMENT BY THE TAOISEACH, MR. ALBERT REYNOLDS TD AND THE BRITISH PRIME MINISTER, MR. JOHN MAJOR ON THE OCCASION OF THE OPENING OF STRAND TWO OF THE TALKS ON NORTHERN IRELAND, 6 JULY, 1992

The talks process in which the two Governments and the four Northern Ireland parties are now engaged offers an historic opportunity to make lasting political progress. We have together set out to achieve a new beginning for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands.

As heads of the Irish and British Governments, we have consistently made clear the great importance which we attach to these talks and our wholehearted support for them. We reaffirm this support, and send our warmest wishes to all the participants, on the occasion of the opening of Strand Two of the talks.

We owe a particular debt of gratitude to the independent Chairman of Strand Two, Sir Ninian Stephen. He was pointed to this role by the two Governments a year ago, following consultation with the four parties and with the approval of the Australian Government. We are deeply appreciative of his willingness to assume this responsibility and expect that we will have further cause to be grateful to him for the way in which he will discharge it.

Everyone who is involved in the talks process understands the complexity of the issues which are being addressed and the sincerity with which conflicting views are held by different participants. An opportunity now exists for open, constructive and far-reaching dialogue both on the issues which divide the two main traditions in Ireland and on those which unite them. All of us share a common commitment to the values of constitutional politics and a total rejection of violence as a means of achieving political progress.

We reaffirm the readiness of the two Governments, as the signatories of the Anglo-Irish Agreement, to consider a new and more broadly based agreement or structure if this can be arrived at through direct discussion and negotiation between the parties concerned.

We do not underestimate the difficulty of the task which lies ahead. But we know that all concerned will participate in good faith and make every effort to achieve progress. We wish the participants in Strand Two every success in this historic endeavor.

[From the Irish Times, July 7, 1992]

TOUCHED BY HISTORY

Mr. Albert Reynolds and Mr. John Major spoke of an historic opportunity to make lasting progress, but to those taking part in the discussions on a possible new Irish-British agreement in London yesterday it was an occasion for modestly hedged expectations. Mr. John Wilson, leading the delegation of Irish Ministers, relied on a well-worn "cautiously optimistic." Sir Patrick Mayhew, for the British side, hoped for "a sensible and workmanlike" approach all round; and the Northern parties—SDLP unionists and Alliance—made their inscrutable ways to and from Lancaster House.

But of this there was no doubt: the first day of the second strand of the current talks more than 70 years after nationalist, unionist and British representatives had last discussed the future of all Ireland, was touched by history. Even at Sunningdale, where a power-sharing executive was formally ratified in 1973, there was a missing dimension: the two governments, the SDLP and the (official) unionists took part: the Rev Ian Paisley and his supporters stayed away. Yesterday there was an encouragingly full house. (Sinn Fein would say that it, too, ought to have been present, with its unquestioning support of the IRA, it is the author of its own execution.)

The procedure being followed is complex enough to invite comparison with a Chinese puzzle. But there is merit in the complexity which allows the participants to switch from strand to strand, secure in the knowledge that nothing is agreed until everything is agreed, so that time is not wasted raking over the sticking-points. In such a process, the participants get to know each other, there are opportunities for the erosion of groundless fears and suspicions: time for a closer understanding of points of view that may have seemed impenetrable.

Nor is the scope for discussion limited to constitutional issues on which attempts at mutual understanding have foundered. In their joint statement yesterday the Taoiseach and the Prime Minister said: "Everyone who is involved in the talks process understands the complexity of the issues which are being addressed and the sincerity with which conflicting views are held by different participants. An opportunity now exists for open constructive and far-reaching dialogue both on the issues which divide the two main traditions in Ireland and on those which unite them."

Open, constructive and far-reaching dialogue is what many, North and South, have long urged of their public representatives. Now, there seems little doubt that it is what a majority of people on this island hope for, instead of the waste of life and resources, the spread of fear and desperation and the obscenity of their version of justice on which the paramilitaries thrive.

[From the New York Times International July 29, 1992]

ULSTER TALKS GAIN MAJOR GOAL: TO KEEP GOING

(By James F. Clarity)

DUBLIN, July 27.—The latest attempt at a negotiated settlement of the civil strife in Northern Ireland has achieved modest success in the last three months.

Leaders of the Northern Ireland political parties, both Protestant and Roman Catholic, and Senior officials of the British and Irish Governments have agreed not to discuss the talks publicly.

But they say behind the scenes that at least the negotiations, which recessed Friday until September, did not collapse, as have all previous efforts, in anger and frustration. And they say the negotiations are thus a historical breakthrough in a sense.

[Senior British and Irish officials met in Dublin for more than four hours on Tuesday to review their progress, Reuters reported.]

The talks are part of a major British initiative, begun last year, to end the violence that has killed nearly 3,000 people since 1969 and to restore home rule of some sort to the British province, which has been run directly from London since 1974.

The violence in the province, which has 950,000 Protestants and 650,000 Roman Catholics, began with Catholic protests over discrimination in jobs and housing. This gave rise to a guerrilla campaign by the Irish Republican Army to end British control of the province and its 30,000-member security force, which include about 12,000 British Army troops.

The negotiators represent the Governments in Dublin and London and the four major political parties in Northern Ireland. Sinn Fein, the political arm of the I.R.A., has been excluded because it refuses to denounce violence. Sim Fein holds about 2 percent of the vote in overwhelmingly Catholic Ireland, and 29 percent of the Catholic vote in Northern Ireland.

In the current negotiations, the most significant event was the presence of hard-line Protestant unionist leaders, who insist that Northern Ireland must remain part of Britain. Such leaders had not met with members of the Dublin Government since the 26 southern counties of Ireland became independent in 1922, leaving the six northern counties part of Britain.

THE QUESTION OF GOVERNMENT

The negotiators discussed—but did not resolve—proposals for a new local government in Northern Ireland.

The main Catholic group, the Social Democratic and Labor Party, proposed an executive appointed by Britain, Ireland and the European Community, a concept highly unlikely to gain Protestant agreement.

The Protestant unionists proposed a new elected assembly and a committee system for sharing executive power, a concept likely to be found inadequate by Catholics.

The discussion also involved demands by the northern Protestants that Dublin delete from its Constitution language that says Ireland has claim to power in the north. This is a major problem in the talks, even though the policy of Ireland and Britain, explicitly stated in a 1985 agreement, is that no political changes will take place in Northern Ireland without consent of the majority.

Some officials feel that most encouraging aspect of the talks is that the fiery leader of the Democratic Unionist party, the Rev. Ian Paisley, attended the talks and did not walk out when proposals that he detests were made. If the talks go as scheduled, Mr. Paisley will attend meetings in Dublin in the fall.

He has never hidden his scorn for Irish Governments and recently referred to Ireland, which was neutral in World War II, as the place where people kept their lights on so German bombers could find their way to Belfast.

He also represents one of the principal fears of Protestants: that they would be smothered, culturally and religiously, if they became part of a country that is 95 percent Roman Catholic, where there is no divorce and where the church has a heavy influence on national life. In 1988, Mr. Paisley was ejected from the European Parliament, where he is a member, for interrupting a speech by Pope John Paul II.

A REVIEW OF THE TASKS AND RESOURCES OF THE BORDER PATROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, today we had a hearing in the Committee on Government Operations in which the INS and the Border Patrol appeared, and we reviewed the policy of high-speed chase, due to the tragedy that occurred at Temecula, CA, about 60 miles north of the international border in an area where a car that was driven by illegal aliens was pursued by a Border Patrol car. At one point the Border Patrol broke off the chase, and about a mile later the car, in a very tragic incident, collided with a car in which a number of schoolchildren were present, resulting in a number of deaths. It was a very tragic incident.

Because of that, there were hearings today on the pursuit policy that is employed by the Border Patrol and other governmental agencies.

I think it is appropriate at this time, since the Border Patrol was in town, and a number of these people who spend their life on the line were out here, to expand the picture a little bit and look not only at the chase policies but look at what the Border Patrol has done with a meager amount of resources, few personnel, not a great deal of equipment, and much of its equipment not very well kept, highly used, and what they have done in trying to hold back literally an army of illegal immigrants who each evening mass on the international border just south of the border, and as it grows dark, move across the border up various channels and highways into the interior of the United States.

□ 1940

Now, it is interesting that along with interdicting literally hundreds of thousands of illegal aliens, the Border Patrol now has become one of the most effective agencies with respect to interdicting narcotics. Over the last year or so, the amount of cocaine that they have interdicted has gone up 10 times what it was in 1991. They interdicted last year about 694 pounds of cocaine and this year it is over 6,900 pounds of cocaine.

Just yesterday, in fact while Gus de la Vina who does a very good job as the Border Patrol chief in the San Diego sector, while he was flying out here his agents seized some 3,033 pounds of marijuana worth an estimated $4 million after chasing a pickup near Del Zuro, which is in San Diego County.

The Border Patrol includes a number of unrecognized heroes. I thought it would be appropriate also to review a few of the cases in light of the fact that we are reviewing this tragedy, to review a few of the cases that do not make headlines and do not make the evening news, but nonetheless in which Border Patrol agents show great bravery and dedication to duty.

One of those cases that happened on November 8, 1990, was when agent Frank Galvan heard gunshots coming from Mexico and observed two men being chased by four assailants. He immediately drove his service vehicle to a position between the assailants and victims and pulled the victims to cover behind his vehicle. The victims, incidentally, were illegal aliens. He pulled them behind his vehicle even as gunfire was being directed toward the victims. Pulling his weapon, he prudently held fire to avoid hitting innocent people directly behind the assailants. After the assailants fled, agent Galvan immediately called for emergency assistance and rendered first aid to one of the victims, who sustained a gunshot wound to the chest. On January 5, 1991, agent James Ford jumped from a moving vehicle on the highway into an unmanned vehicle that was moving down the highway after the driver had bailed out. He jumped, John Wayne style, from one moving vehicle to another and brought that vehicle to a stop; again a hero in the Border Patrol whose heroism did not make page 1, did not make the evening news, but nonetheless reflected the very best public service.

On March 17, 1992, agent Mickey McQuire responded to a call and saved lives of people who were drowning in the Tijuana Slew, which is immediately north of the Mexican Border. Again, a Border Patrol hero who did not make page 1, but nonetheless showed great heroism in his acts.

So the Border Patrol right now, Mr. Speaker, is undermanned, underequipped. It is a small cadre of people who face an overwhelming army of illegal aliens, and a very effective paramilitary unit of drug smugglers, and yet they are doing a superb job on the southern border, and never in our recent history with respect to a domestic agency have so many Americans owed so much to so few men and women.

THE NORTH AMERICAN FREE-TRADE AGREEMENT (NAFTA)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN of Texas. Mr. Speaker, earlier this week the distinguished majority leader, RICHARD GEPHARDT, addressed the Institute for International Economics regarding the status of the North American Free-Trade Agreement [NAFTA]. This speech represents an important contribution to the debate surrounding a potential NAFTA, and I wanted to discuss some of the issues raised in the majority leader's remarks.

I agree with the general thrust of the majority leader's comments: We must address the broad range of issues related to a trade agreement with Mexico and Canada. The issues of infrastructure development, environmental concerns, and job training and retraining are critical to the United States-Mexico border area. We border-Democrats who support free-trade negotiations, have been communicating that message to the President over the last 14 months. Those messages largely have been ignored by the administration. The President's State of the Union speech provided no leadership or guidance to the Congress. His fiscal year 1993 budget request reflected no priorities for the border regions of our country.

It is certainly in the long-term best interest of both the United States and Mexico to have a trade treaty ratified. The prospects for long-term economic growth and the creation of jobs are promising. Mexico is the United States' third-largest trading partner after Canada and Japan. Nearly 400,000 new jobs related to trade have been created in the United States since 1985, and United States exports to Mexico have doubled in the same time period. Mexico's economic reform has accelerated since President Salinas took office in 1988. Some of his initiatives are unprecedented in Mexican history, and our neighbors are experiencing real economic growth for the first time in several years.

As the Representative from El Paso, TX, the largest city on the United States border with Mexico, I represent a community which will be directly impacted by the proposed agreement. My constituents have expressed great interest and concerns about NAFTA. The question they ask of me which I have posed to the administration is: How can we as a nation prepare for increased commerce with Mexico when we do not have the infrastructure, environmental safeguards, or personnel to process the current level of trade?

The United States border with Mexico reflects stark contrasts. On one side of the border is an industrial power and on the other a developing nation. The majority leader is correct in saying that "the goal of marrying diverse economics * * * requires agreement on a broad range of issues that have not typically been at the center of traditional trade negotiations."

Border infrastructure development is at a critical juncture. The international ports of entry, surface transportation, air and rail connections, and water delivery systems are all in need of attention. While these are competing for Federal dollars nationwide, the administration and Congress must recognize the importance of prioritizing these needs in the border region. As the chairman of the congressional border caucus, I have worked with members from other border districts to help identify projects which must be considered in the context of implementing legislation associated with NAFTA. The proposals have included housing, health clinics, and classrooms in addition to border crossings, roads, and bridges. The priorities should also include the personnel necessary to carry out the important functions associated with trade and commerce. Additional customs and immigration inspectors are needed along with the resources and facilities to permit them to do their jobs.

The majority leader argues the case of poverty and environmental problems on both sides of the border. He cites San Elizario, TX, in my congressional district as an example of a situation where children have critical health problems related to the lack of potable water and sewage systems. These unincorporated areas of the county, known as colonias, exist all along the border with Mexico and house approximately 350,000 United States citizens and residents in conditions typical of Third World nations. These conditions existed long before the negotiations on NAFTA began, and the Federal Government must work with State and local governments to address these problems whether or not we reach an accord with Mexico. Cholera bacteria recently has been identified in Ciudad Juarez, a few hundred yards across the border from El Paso, and it may be just a matter of time before the disease is found across Texas and other parts of the United States.

President Salinas has committed a $460 million multiyear program to address environmental infrastructure issue along the northern Mexican border with the United States. This is an extraordinary commitment given the lack of resources in Mexico. Moreover, it is a situation which has gone unmatched by the United States. The Environmental Protection Agency [EPA] has proposed an integrated environmental plan for the Mexican-United States border area, but even if fully funded does not go far enough in addressing environmental infrastructure initiatives. While I applaud the administration for this beginning, I urge its long-term commitment to the border region.

Another area of immediate need includes additional enforcement personnel for EPA and technology-sharing with its counterparts in Mexico. I authored and passed legislation which authorizes a joint air-monitoring project in the United States and Mexico. This initiative has begun the process of sharing information and addressing problems associated with mutual airsheds and bodies of water in the border region. In addition, I have introduced legislation which calls for the creation of an EPA regional office directly on the border. The current offices with responsibility for the border regions are located in Dallas and San Francisco. I maintain that understanding our problems directly on the border requires a day-to-day understanding of how actions in Mexico City and Washington, DC, affect our daily lives. I have never been convinced that people in offices hundreds of miles away appreciate their impact.

In another area of concern articulated by my constituents, that of job training and retraining, I believe the majority leader's comments are right on target. I agree with him that we need a comprehensive training program which "recognizes that our Nation's most important asset is our people." Any such program should utilize resources already in place in the region such as community college and university programs dedicated to the needs of the area's labor assets and sensitive to its cultural diversity.

The retail industry in my community has expressed its concern over the impact of NAFTA on its businesses. This has been echoed by textile workers who are concerned about the loss of jobs to Mexico. Consumers in El Paso have raised questions about prices of goods under NAFTA. All of these issues are legitimate ones and properly reflect concerns about the future under NAFTA.

Given the budget constraints currently facing our country, the majority leader correctly stated that a funding source be identified for worker training, infrastructure development, and environmental protection. However, I respectfully disagree that we need to impose a cross-border transaction tax for businesses involved in trade with Mexico. This proposed tax will negatively impact border economic development and unfairly burden those businesses located on the border. This area of the United States is economically depressed, and such a tax would only serve to exacerbate this situation.

Last month's unemployment figure in El Paso was nearly 12 percent. The unemployment rate for the State of Texas jumped to 8.3 percent, its highest level since 1988. In these recessionary times, it is important to consider the impact of additional taxes to businesses located in States along the border. We must consider alternative funding sources which achieve the same objective as the cross-border transaction tax and reward investment.

The majority leader has made some interesting proposals with respect to the maquiladora industry, including accountability for environmental, health and safety standards. We should also consider the Mexican social security model in terms of worker benefits, hospitalization, maternal and parental leave, and pension and disability income. I also am encouraged by the leader's endorsement of a Joint Border Commission to assist the border region in developing a comprehensive plan to address border-related problems. Several members have advanced this idea which recognizes the uniqueness of the United States-Mexico border region. I have introduced such legislation over the past four teams which would permit the border region to compete for funds with other hard pressed sections of the United States, like Appalachia and the Mississippi Delta. There will be a short-term price to pay and those of us along the United States-Mexico border are willing to pay our fair share of this cost. We also insist that we get our fair share of Federal attention to basic human needs in order to assure a quality of life for ourselves that all Americans have come to expect.

In closing, I think it is important to view our negotiations with Mexico and Canada from a position of mutual respect for our friendship, family and cultural ties, and other common interests we share with our neighbors. This is important if we as a region are to compete in an increasingly global economy. As I said last year, it is not in my country's best interests to keep Mexico poor. Similarly, it is in no one's interest to pursue a fair trade agreement without ensuring we make the proper preparations for the increased population and commerce that will result along the border.

CONGRESS AND HOME RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 60 minutes.

Ms. NORTON. I have, Mr. Speaker, just walked this minute over from the Chambers of the other body where the appropriations for the District of Columbia was being considered.

I want to speak to this body about its action, for that bill will come to this body and it will have to be reconciled in conference.

Last night when we were in session late, a Member complained when an amendment was offered to the HUD/VA appropriation bill that the House was acting as if it were the city council of the District of Columbia. I regret to say that the Congress acts when it considers matters affecting the District of Columbia as if it were the council of the District of Columbia.

I respect that existing law allows the Congress to have a say in the affairs of the District of Columbia. My complaint is that the Congress is not abiding by its own Home Rule Act which gives to the residents of the District of Columbia the right to make laws for the District of Columbia. When this body seeks to overturn a law passed by the District of Columbia which does not violate the Constitution, which does not violate the Charter of the District of Columbia and which does not violate the Federal presence, then the Congress itself is violating its own home rule law.

I am here to ask that the Congress first respect its own law giving the citizens of the District of Columbia the right to pass their own laws and then that you respect the residents of the District of Columbia themselves.

There are several measures attached to our appropriations which we will have to consider. One I consider particularly gratuitous. I am grateful that a Member who offered a similar measure here was willing to withdraw it in light of the willingness of the District of Columbia City Council to consider it. That was a measure which would legalize Mace which the council had voted to bar some years ago.

A Member was concerned that there are tourists and staff who carry Mace in this city, as in others, because of fear of crime and that given the incidence of crime that we now see in our country, these people should not feel themselves outside the law if they feel they must have Mace to protect myself.

When I learned that a Member was going to offer that amendment, I called the Chair of the city council, Mr. John Wilson, and asked him if he would introduce such a measure.

The fact is that when mace was barred in the District of Columbia, we had a lower incidence of crime.

My major concern was that I understood that a Member of this House did not want his own staff and visitors from his home State to have Mace confiscated and to feel they were in violation of the law.

At the same time, I understand why Mace was barred in the District of Columbia. The reason, of course, is beyond the problems associated with handling such a chemical. The reasons are that mace may be more dangerous than having no weapon at all.

In fact, I want to take this opportunity, Mr. Speaker, to say to you and all who are within sound of my voice, that I hope that if anyone comes up to a person in this or any other city demanding her money or otherwise about to embark upon a criminal act, I caution that probably the best thing to do is what the police tell us to do, which is to give up your money.

The notion that somebody can come up with a gun or an assault weapon and ask for your money and then you mace him seems to me to be living in a delirious dream.

So I hope people if ever confronted with such a thug would take the course of least resistance, given how vicious the criminals are out here.

Yet I understand the concern of the Member that a person carrying mace not feel herself outside the law and it might give her a sense of confidence even to have it there.

And so instantly, that was as I recall it a Thursday or a Friday, at the beginning of the next week the council Chair himself had introduced a bill that would legalize mace and he has some considerable weight with his own council members. If I had to guess, I would guess that we pass the D.C. Council, and yet this House is going to get in conference a provision not from this House, but from the other body which would bar mace.

I regard that as a gratuitous insult to home rule, since the council has already moved and is taking all deliberate action.

Then there was the Health Benefit Expansion Act, Mr. Speaker, where the residents of the District of Columbia chose to try to expand health benefits that this body has not done to those who live in extended families with D.C. employees. Normally those are, for example, mothers who have a grown son living in the house. In my own African-American community, nonrelatives living in the house is often the case; but because among those living in the same house and unrelated by blood are sometimes people who are gay men or lesbians, this matter actually had to come to the floor of this House and be voted on.

□ 1950

I am pleased that the matter was voted down but believe that this matter will once again have to be faced by this House in conference. This matter becomes before us only as a violation of our own Home Rule Act passed almost 20 years ago. This year, when crime has flourished across the United States of America, we see new interest in imposing the death penalty in the District of Columbia.

It is a very interesting idea, given the fact that the reason there is such concern is that people want to do something about crime. I live in this town, I go into areas that are full of crime. I very much want to do something about crime. But the last thing I would do would be to proffer a suggestion that I knew would do nothing about crime.

That is where the death penalty leaves us. Even those who favor the death penalty, scholars who favor it, will concede that all of the data show that the death penalty does not deter a homicide. So if I am concerned about homicide—and I certainly am as a resident, native Washingtonian—then it seems to me one ought to look for something that would do something about homicide.

Of all the things that would do something about homicide, we know that the death penalty will not. Of the top 20 killing States, 18 have the death penalty. So much for its deterrent effect.

The figures are even more compelling if we look at the States which have carried out executions since 1977. Here we are talking about States where the death penalty is carried out, so if you would expect there to be any deterrent effect, you would expect it to be in States where indeed residents have seen that the State is willing to kill if you kill.

Yet in States which have carried out executions since 1977, the average murder rate is higher than in States which have death penalty statutes but have had no executions, and higher still than in States which have abolished the death penalty.

States which have carried out the executions since 1977 have an average murder rate of 9.7; States which had the death penalty but no executions have an average murder rate far less, 6. States which have abolished the death penalty have the lowest murder rate yet. Compelling, Mr. Speaker, compelling.

The highest average murder rate in the United States is in the State of Louisiana, Mr. Speaker. Louisiana, 17.2; Texas, 14.1; Mississippi, 12.2; and Georgia, 11.8. Mr. Speaker, I note these are all from the same part of the country.

Alabama, 11.6; South Carolina, 11.2; these are States which have carried out executions since 1977. These are States which have the highest homicide rates in the United States.

South Carolina, Florida, North Carolina, Illinois, Arkansas, Nevada, Missouri, Virginia, Oklahoma, Indiana, Delaware, Wyoming, and Utah, those are the States which have carried out executions since 1977. Their murder rates seem not to have been affected.

I notice, Mr. Speaker, an extraordinary correlation between those who favor the death penalty in this body and those who oppose gun control—the one thing we know about gun control is that it does affect homicides. Until the advent of assault weapons, for the dozen or so years after the District had a handgun law, the murder rate decreased on the average of 36 murders per year less than in the comparable period. Only when assault weapons were allowed to come on the streets did that cease, about 1988.

Am I glad that the State of California had a handgun control—or a gun control law at the time of the Los Angeles riots. If not, it seems clear that Los Angeles would have become a shootout town instead of a town where there was riotous rebellion.

There was, when the riot began, a rush to the gun stores to purchase guns of every kind, handguns, assault weapons. But in the State of California, Mr. Speaker, there was and is a 15- or 20-day waiting period.

So people were not able to arm themselves, go into the streets. People who had no experience with guns, people who had only fear.

So the people who ultimately were killed were those who got into the fray the most often, those who were involved in the looting, and citizens who were not and are not able to get handguns stayed out of it, and there were, I wager, fewer deaths in Los Angeles than there might have been without the gun control legislation in effect.

I do not see how, Mr. Speaker, a Member can favor the death penalty and oppose gun control. Gun control is the best crime control weapon we have.

I could perhaps understand why a Member could favor the death penalty and also be for gun control. Some people favor the death penalty because they believe in retribution.

So they concede it will not deter but somebody kills somebody, they ought to be killed too.

I regard that as decidedly un-Christian, but that is not how everybody interprets the Gospel.

What I cannot understand, however, is one can then move over to gun control and say, "Let the guns fly, let's take no action to see that guns are taken off the streets."

Of course, that is what the people of the District of Columbia have tried to do. The people of the District of Columbia have tried their very best to deal with crime.

Mr. Speaker, I want to say that they have done at least as well as the people of any other city or State. I do not see a city or a State that can stand up with pride and look you in the eye and say, "We are doing something about crime. Why don't you in the District of Columbia do something about crime?"

The fact is we are all perplexed and befuddled with the rise of crime in the United States, in small hamlets, big cities, rich suburbs, inner cities, downtowns; it is pervasive.

We do not know why. We do know that the presence of guns out here encourages people to deal with their problems by shooting them out, that people who would punch them out, who would have done so 10 years ago, now shoot it out. We know guns are advertised in magazines, and kids see them and regard a gun as part of the ritual of becoming a man. And yet when the residents of the District of Columbia passed an assault weapon provision in order to take these vicious guns, which are not supported by sportsmen and sportswomen across the country, the attempt has been made to overturn that law which we know would be effective. That law was passed by referendum in every ward of the city by an overwhelming vote of the people of the District of Columbia, of every race, religion, background, class.

□ 2000

It was an attempt, a brave attempt, an innovative attempt, to try to get assault weapons at their source. No other Member had come forward with a better way. No Member has residents who are affected in any substantial way by this law. No one has a vested interest in having machine guns on the streets, and yet there is still an attempt to overturn this law passed by the residents of the District of Columbia.

Mr. Speaker, let us assume that this was the new state of Russia, with Moscow as its capital, and that Moscow passed a law that would extend health care benefits to the employees of the Muscovite government, and let us assume that the new Parliament in the new Russia got up and said, "This is the capital city. We've got to regard it as our territory, not just yours, and we now vote to overturn the health benefits extension act of the city of Moscow."

Mr. Speaker, Members would rush to this floor, to condemn the new Russia, to say that the new Russia is not yet democratic because the new Russia grants democracy everywhere except under its nose in its own capital city, and we would shake our fingers and hands in the faces of the new Russian elite, and we would say, "You're not going to get any loans or loan guarantees from us until you give the people of the city of Moscow the same rights that every other people have the right to demand, and we won't send you food, and we won't send you medicine until you do precisely that."

Well, Mr. Speaker, there are 650,000 Americans who live in this city who do not intend to be treated worse than the residents of Moscow or worse than the residents of any other American city. Until this body decides to give us the statehood, which would give us our full rights, at the very least this body should respect the grant of rights it has indeed given us, and that is the right to enact our laws.

Now this body has the right to overturn our laws. It should do so, most agree, only if the laws are unconstitutional, violate the charter, or violate the Federal presence. But it certainly should not do so by legislating on an appropriation, and it certainly should not do so in order to curry favor with their own constituents back home.

Nobody in this body was elected by the people of the District of Columbia except me, and I do not regard it as my prerogative to overturn a law of the city council of the District of Columbia because I was not elected to the city council of the District of Columbia. I have been elected only to the Congress of the United States, and I have no more right than you, Mr. Speaker, or any other Member of this body has to overturn the locally passed laws of a jurisdiction.

Mr. Speaker, this is a federalist republic. A federalist republic is one that believes in and gives local control. We do not try to control what a city council does or even what a State legislature does. This is a very carefully worked out compact between the National Government and the people of the States and the cities. It applies to everybody except us, and yet, Mr. Speaker, and yet, the District of Columbia residents are third per capita in Federal taxes paid to the Treasury.

Mr. Speaker, that means that my constituents have paid more, paid more in Federal taxes, than virtually any other constituents of the Members of this body, and I say to my colleagues, "When you put our local taxes together with our Federal taxes, we are No. 1 per capita in taxes in the United States."

Mr. Speaker, we are very fortunate that, despite the large pockets of poverty that have much to do with crime in the District, this is a very middle class city, or else we could never afford to pay these taxes. We have the highest educational level in the United States, and we have one of the very highest average income levels. We have the largest black middle class in the United States, and when that is put together with our white middle class, we have a very high income city, and it is extracted from us.

Let me say to you, Mr. Speaker, that we are the only jurisdiction under the flag of our country which pays taxes and has no voting representation in this body or in the Senate.

I am one of five Delegates. There is a great difference between the other four and myself. Like me, they have no vote in this House. They have the same privileges, otherwise, that I have, privileges for which I am grateful: the privilege to vote in committee, to introduce legislation, to speak before this body, as I am now. Virtually every other privilege, except the final vote on the floor, however, Mr. Speaker, for them there is a quid pro quo. They have no vote on this floor, and those four territories: Guam, American Samoa, the Virgin Islands, and Puerto Rico, they pay no Federal income tax.

Imagine the consternation of the people I represent who pay more income taxes than most of the people you represent, and yet there is neither voice, nor vote, in the body from which I have just come which was considering our appropriation, and there is only voice here. If that is not an un-American state of affairs, I have never heard them. It must be corrected.

Mr. Speaker, we cannot continue to prance throughout the world shaking our fingers at other countries and saying we will have nothing to do with them unless they become full democracies and countenance the absence of democracy here in the seat of the greatest democracy in the world. I am willing to work for statehood until it comes. In the meantime, Mr. Speaker, this body should at the very least hold faith with the laws it has passed, and those laws mean that when you decide what your laws shall be, we may disagree, but you are Americans, just like the rest of us, and, therefore, we will respect your laws the way you respect our laws.

Mr. Speaker, I am a fourth generation Washingtonian. My people were here before the Civil War. My great-grandfather, Richard Holmes, walked across the Virginia line, a fugitive slave, to the District of Columbia which had abolished slavery in 1850, and that is how we got to stay here. If they had found him, he would have been back where he came from in Virginia, and yet his grandson, my father, Colman Holmes, was the first member of my family who would vote for President of the United States, and that occurred in 1964, after I was a grown woman.

If the election had come into the House this time, it was not altogether clear that, despite the 23d amendment, I could even cast the vote for the residents of the District of Columbia for President even though this Congress gave them that right and the people of America gave them that right through the 23d Amendment. No American should be denied these rights.

At the Democratic National Convention when we spoke to delegations about statehood and gave them to understand these facts, we found that Democrats were appalled. They did not know that when the Persian Gulf war was before us in my first week in the Congress that the District of Columbia at that moment, before we had voted yea or nay, was already fourth per capita in the Persian Gulf. They did not know that when the time came to call that roll up there, Mr. Speaker, my name could not be called. My people had already said yes. They had already said yes in the best way. They had volunteered to go there before this Congress had said yes.

□ 2010

How long are we going to countenance a difference in rights between Americans based on where they happen to live? The District of Columbia is 200 years old. It has had a population for all of that time. Only in 1973 was the right for limited home rule granted. That was very late in the century.

We cannot go much longer and hold our heads up denying the residents of the District of Columbia the right that they have fought for people around the world to have. When the District of Columbia appropriations comes to this body, I hope that the Members will hold to the rule that has normally been respected in this House.

I am so proud to be a Member of this House. The House normally respects the laws of the District of Columbia and its own Home Rule Act, the act passed by this body. In almost 20 years this body has overturned only three acts of the District of Columbia, and two of them arguably implicated the Federal presence. When those two were passed, I believe the Council felt they were not in violation of the Federal presence, but arguably they were, and those two were overturned. Given the present home rule charter I can see those. There was one that was simply partisan politics and never should have been overturned.

But what it means is that in almost by now 2,000 acts this great body has respected democracy almost always. And when the other body puts on to our appropriations a matter not approved by the District of Columbia, normally this body does in fact remove such legislation on an appropriation, and I hope and pray that this time this body will live up to its own high standards as well.

The residents of the District of Columbia are proud Americans. They love their country. They have met every obligation of their country. They have fought through peaceful means to become full citizens of the country where they were born.

I ask that this body consider the subjugated status of almost 650,000 Americans in our borders and on your front steps, and that ultimately you do what is going to have to be done, and that is to grant statehood to these 650,000 people, the only way to treat them as others are treated.

But in the meantime, there is an existing obligation, an obligation under law, under law passed by this body, and that obligation is to respect democracy, so much of it as you have granted in the District of Columbia; to see to it that a law barring mace is not barred by this body, but the council of the District of Columbia is given the opportunity it has now taken to overturn its previous vote on that issue; not to overturn our Health Benefits Expansion Act, because it is the will of the District of Columbia that people who live in the same household have the opportunity to go on the same health insurance police; that you not impose the death penalty, the most controversial penalty any government can sanction on people who have decided that they will be among the 20 or so States who do not sanction the death penalty.

Mr. Speaker, if I came to Texas, if I went to New York, if I came to Louisiana, and said, "Your murder rate is much too high, Louisiana. You have got the first highest. Texas, you have got the second. Mississippi, you have got the third. You folks really ought to strengthen your death penalty. You already have the death penalty, but you ought to strengthen it. If you won't strengthen it, we are going to go up from Washington and we are going to pass a law that forces you to strengthen your death penalty."

Mr. Speaker, or suppose instead what you had were a bunch of anti-death-penalty Senators and Representatives who believe that the death penalty should not be imposed. After all, it does not deter. It is barred in all but a half dozen of the most oppressive countries in the world. You only have the death penalty in countries like China and Saudi Arabia. The first thing that the burgeoning democracies do is get rid of the death penalty because it is always used against the powerless in any society, the dissenters, the people that do not count to that society, or the people that that society wants to get.

So the people that oppose the death penalty could, it seems to me, say, "Louisiana, you have an average murder rate of 17.2. That is the highest in the country. Texas, you are at 14.1. Mississippi, you are at 12.2. You are among the highest in the country, and you have got the death penalty. The death penalty hasn't done you any good. Therefore, you States," and I could go on and call the roll, "for you States who cannot show that the death penalty deters we are going to go up in Washington and try to pass a law to abolish the death penalty in your State."

Well, Mr. Speaker, this Chamber would be crowded with Members coming to the floor to deplore any attempt on the part of Members of this body who did not live in the State of Mississippi or the State of Alabama telling those States what to do about criminal sanctions.

Mr. Speaker, we ask for the same respect for the people of the District of Columbia. We ask for it, we demand it, and we will accept no less. But we know, Mr. Speaker, that our colleagues give no less.

So I close by asking that only this body abide by the custom of the body. The custom of the body, Mr. Speaker, has been to respect local democracy in the District of Columbia. This body has almost always done that. For that I deliver to you the appreciation of the 650,000 residents of the District of Columbia, and I ask you to see that that remains the custom of this body.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. INHOFE) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 60 minutes each day, on August 4, 5, and 6.

Mr. HUNTER, for 5 minutes, today.

Mr. DELAY, for 60 minutes, today.

Mr. MOORHEAD, for 60 minutes each day, on August 5 and 6.

(The following Members (at the request of Mr. JONTZ) to revise and extend their remarks and include extraneous material:)

Mr. MCCLOSKEY, for 5 minutes, today.

Mr. COLEMAN of Texas, for 5 minutes, today.

Mr. PICKLE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LAFALCE, for 20 minutes, today and on July 31.

Ms. NORTON, for 60 minutes, today.

Ms. NORTON, for 60 minutes, on July 31.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. INHOFE) and to include extraneous matter:)

Mrs. MORELLA.
Mr. DOOLITTLE.
Mr. GEKAS.
Mr. CAMP in two instances.
Mr. MCCOLLUM.

(The following Members (at the request of Mr. JONTZ) and to include extraneous matter:)

Mr. MFUME.
Ms. LONG.
Mr. TALLON.
Mr. ACKERMAN.
Mr. MAZZOLI, in two instances.
Mr. ORTIZ.
Mr. MOAKLEY.
Mr. FALEOMAVAEGA.
Mr. FEIGHAN.
Mr. BORSKI.
Mr. BARNARD.
Mr. BENNETT, in two instances.
Mr. JACOBS.
Mr. HALL of Ohio.
Mr. BOUCHER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 225. An act to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, VA; to the Committee on Interior and Insular Affairs.

S. 2563. An act to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Ms. NORTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 18 minutes p.m.) the House adjourned until tomorrow, Friday, July 31, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4039. A letter from the Secretary of Defense, transmitting the 1992 joint military net assessment produced jointly by the Department of Defense and the Intelligence community, pursuant to 10 U.S.C. 113(j); to the Committee on Armed Services.

4040. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-280, "Alcoholic Beverage Control Amendment Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4041. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-281, "Closing of G Street, NW. North of Square 625 and the Public Alleys in Square 625, S.O. 85-226, Act of 1992," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

4042. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Saudi Arabia (Transmittal No. DTC-10-92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4043. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Walter Scott Light, of Texas, to be Ambassador to the Republic of Ecuador; also of Nicola Miklos Salgo, of Florida, to be Ambassador to Sweden, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4044. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1997 resulting from passage of S. 2780, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations..

4045. A letter from the Chairman, Federal Maritime Commission, transmitting a report on activities under the Freedom of Information Act during calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4046. A letter from the Secretary of Transportation, transmitting the final report on the long-term airport capacity needs study, pursuant to 49 U.S.C. app. 2203 note; to the Committee on Public Works and Transportation.

4047. A letter from the Secretary of Energy, transmitting the annual update on the ocean thermal energy conversion program and comprehensive program management plan, pursuant to 42 U.S.C. 9002(d); to the Committee on Science, Space, and Technology.

4048. A letter from the Chairman, International Trade Commission, transmitting the Commission's 70th quarterly report on trade between the United States and China, the former Soviet Union, Central and Eastern Europe, the Baltic nations, and other selected countries; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans Affairs. H.R. 3236. A bill to improve treatment for veterans exposed to radiation while in military service; with an amendment (Rept. 102-757). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3486. A bill to amend the Marine Mammal Protection Act of 1972 to provide for examination of the health of marine mammal populations and for effective coordinated response to strandings and catastrophic events involving marine mammals; with amendments (Rept. 102-758). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5350. A bill to establish the Great Lakes fish and wildlife tissue bank; with an amendment (Rept. 102-759). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 5334. A bill to amend and extend certain laws relating to housing and community development, and for other purposes; with an amendment (Rept. 102-760). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BILIRAKIS:

H.R. 5720. A bill to amend title 39, United States Code, to exempt veterans' organizations from regulations prohibiting the solicitation of contributions on postal property; to the Committee on Post Office and Civil Service.

By Mr. HUNTER:

H.R. 5721. A bill to amend the Internal Revenue Code of 1986 to allow accelerated depreciation for equipment used to manufacture advanced materials or to develop advanced technologies and to impose a minimum tax on foreign and foreign-owned corporations operating in the United States; to the Committee on Ways and Means.

By Mr. OWENS of Utah:

H.R. 5722. A bill to amend the Internal Revenue Code of 1986 to encourage the removal of older, polluting passenger automobiles from use by providing a tax credit for removing such automobiles, and for other purposes; to the Committee on Ways and Means.

By Mr. PERKINS (for himself and Mr. OLVER):

H.R. 5723. A bill to improve the skills of the work force and the transition from school to work in the United States, and for other purposes; to the Committee on Education and Labor.

By Mr. RIGGS:

H.R. 5724. A bill to promote and assist in the removal of State and local barriers and policies inhibiting the development and availability of affordable housing, to provide for the restructuring of public housing, and to provide assistance for troubled multifamily housing, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VOLKMER:

H.R. 5725. A bill to amend title XVIII of the Social Security Act to treat nebulizers as inexpensive or routinely purchased items of durable medical equipment for purposes of part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BOUCHER (for himself, Mr. MARKEY, Mr. DINGELL, Mr. ECKART, Mr. COOPER, Mr. WYDEN, Mr. LEHMAN of California, Mr. HARRIS, and Mr. SYNAR):

H.R. 5726. A bill to amend the Investment Advisers Act of 1940 to improve the supervision of investment advisers, to provide additional investor protections, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MCEWEN:

H.R. 5727. A bill to designate the dam on the Ohio River near Gallipolis, OH, as the "Clarence E. Miller Locks and Dam"; to the Committee on Public Works and Transportation.

By Mr. BORSKI (for himself, Mr. HORTON, Mr. ESPY, Mr. LENT, Mr. LIPINSKI, Mr. KASICH, Mr. COYNE, Mr. SOLARZ, Mr. MCNULTY, Mr. KILDEE, Mr.

McDade, Mr. Rangel, Mr. Atkins, Mr. Bonior, Mr. Bliley, Mr. Hughes, Mr. Hertel, Mr. Coughlin, Mr. Saxton, Mr. Owens of Utah, Mr. Price, Mr. Mavroules, Mr. Kostmayer, Mr. Pallone, Mr. Ritter, Mr. Walsh, Mr. Hefner, Mr. Wolf, Mr. Nowak, Ms. Norton, Mr. Kleczka, Mr. Jacobs, Mr. Annunzio, Mr. Foglietta, Mr. Rinaldo, Mr. LaFalce, Mr. Towns, Mr. McGrath, Mr. Kopetski, Mrs. Lowey of New York, Mr. Guarini, Mr. Applegate, Ms. Slaughter, Mr. Lagomarsino, Mr. Murtha, Mr. Kanjorski, Mr. Waxman, Mr. Boehlert, Mr. Hayes of Illinois, Mr. Levin of Michigan, Mr. Schumer, Mr. Vander Jagt, Mrs. Meyers of Kansas, Mr. Engel, Mr. Hoagland, Mr. Stark, Mr. McDermott, Mr. Roe, Mr. Bustamante, Mr. Gonzalez, Mr. Clement, Mr. Ackerman, Mr. Gilman, Mr. Bilirakis, Mr. Rostenkowski, Mr. Yates, Ms. Kaptur, Mr. Obey, Mr. Quillen, Mr. Paxon, Mr. Yatron, Mr. Smith of New Jersey, Mr. Stallings, Mr. Synar, Mr. Studds, Mrs. Patterson, Mr. Cox of Illinois, Mr. Murphy, Mr. McHugh, Mr. Cardin, Mr. Serrano, Mr. Neal of Massachusetts, and Mr. Hall of Ohio):

H.J. Res. 532. Joint resolution designating October 1992 as "Polish-American Heritage Month"; to the Committee on Post Office and Civil Service.

By Mr. BUSTAMANTE:

H.J. Res. 533. Joint resolution designating May 1993, as "Karate Kids Just Say No to Drugs Month"; to the Committee on Post Office and Civil Service.

By Mr. THOMAS of California:

H. Res. 533. Resolution requiring the House to immediately implement H.R. 4104, pursuant to a ruling of the Court of Appeals.

By Mrs. BENTLEY (for herself, Mr. Spratt, and Mr. Weldon)

H. Res. 534. Resolution expressing the sense of the House of Representatives that the President, with the advice and consent of the Senate, should posthumously advance Rear Adm. Husband E. Kimmel to the grade of admiral on the retired list; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ABERCROMBIE introduced a bill (H.R. 5728) for the relief of the Persis Corp.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 123: Mr. Hobson and Mr. McMillen of Maryland.

H.R. 213: Mr. Hayes of Illinois.

H.R. 875: Mr. Ackerman.

H.R. 1147: Mr. Leach.

H.R. 1472: Mr. Bustamante.

H.R. 1531: Mr. McCrery and Mr. Lancaster.

H.R. 2854: Mr. Towns.

H.R. 2872: Mr. Saxton.

H.R. 2945: Mr. Clement.

H.R. 3236: Mr. Stump, Mr. Applegate, and Mr. Spence.

H.R. 3468: Mr. Campbell of Colorado.

H.R. 3526: Mr. Mfume.

H.R. 3578: Mr. Zimmer.

H.R. 3780: Mr. Reed.

H.R. 3781: Mrs. Schroeder.

H.R. 3942: Mrs. Mink, Mr. Towns, Mr. Faleomavaega, Mr. Lipinski, Mr. Cardin, Ms. Norton, and Mr. Swift.

H.R. 4027: Mr. Aspin.

H.R. 4130: Mr. Baker.

H.R. 4275: Mr. McMillen of Maryland, Mr. Sanders, and Mr. Cardin.

H.R. 4360: Mr. Coleman of Texas.

H.R. 4430: Mr. Ewing.

H.R. 4836: Mr. Jontz.

H.R. 5014: Mr. Emerson.

H.R. 5020: Mr. Bonior, Ms. Slaughter, Mr. Spence, Mr. McGrath, Mr. Emerson, Mr. Visclosky, and Mrs. Lowey of New York.

H.R. 5024: Mr. Ridge, Mr. Engel, Mr. Bilirakis, and Mr. Swett.

H.R. 5125: Mr. Condit.

H.R. 5155: Mr. Dorgan of North Dakota.

H.R. 5208: Mr. Gunderson.

H.R. 5216: Mr. Baker and Mr. Engel.

H.R. 5250: Mr. Bruce.

H.R. 5307: Mr. Bilirakis, Mr. Dornan of California, Mr. Cox of California, Mr. Goss, Ms. Ros-Lehtinen, Mr. Ortiz, Ms. Kaptur, and Mr. James.

H.R. 5357: Mr. Boucher, Mr. Poshard, Mr. Staggers, and Mr. Markey.

H.R. 5389: Mr. Jontz, Mr. Evans, and Mr. Bacchus.

H.R. 5456: Mr. LaFalce, Mr. Towns, Mr. Dellums, and Mr. Atkins.

H.R. 5506: Mr. Foglietta and Mr. Hayes of Illinois.

H.R. 5530: Mr. Frost and Mr. Ireland.

H.R. 5542: Mr. Chandler, Mr. Lightfoot, and Mr. Baker.

H.R. 5547: Mr. Atkins.

H.R. 5571: Mr. Dickinson and Mr. Burton of Indiana.

H.R. 5577: Mrs. Johnson of Connecticut and Mr. Atkins.

H.R. 5600: Mr. Derrick, Mr. Lehman of Florida, Mr. Gejdenson, Mr. DeFazio, Mr. Sabo, Mr. Towns, Ms. Horn, and Ms. Slaughter.

H.R. 5672: Mr. Andrews of Texas.

H.R. 5681: Mr. Yatron, Mr. Foglietta, and Mr. Andrews of Maine.

H.J. Res. 336: Mr. Jones of North Carolina, Mr. Levin of Michigan, Mr. Ford of Tennessee, Mrs. Mink, and Mr. Swett.

H.J. Res. 351: Mr. Bonior.

H.J. Res. 378: Mr. Borski and Mr. Coughlin.

H.J. Res. 399: Mr. Baker.

H.J. Res. 422: Mr. Oberstar, Mr. Ravenel, Mr. Regula, Mr. Valentine, Mr. Tauzin, and Mr. Thomas of California.

H.J. Res. 458: Mr. Bacchus, Mr. Fawell, Mr. Hamilton, Mr. Pickle, Mr. Rose, and Mr. Stokes.

H.J. Res. 463: Mr. Berman, Mrs. Boxer, Mr. Dellums, and Mr. Rose.

H.J. Res. 476: Mr. Durbin, Mr. Synar, Mr. Shays, Mr. Solarz, and Mr. Jacobs.

H.J. Res. 489: Mr. Hall of Ohio, Mr. Sawyer, and Mr. Ballenger.

H.J. Res. 492: Mrs. Morella, Mr. Smith of Texas, Mrs. Unsoeld, Mr. Sundquist, Mr. Whitten, Mr. Dreier of California, Mr. Jefferson, Ms. Oakar, Mr. Gunderson, Mr. Borski, Mr. DeFazio, Mr. Andrews of Maine, Mr. Bilirakis, Mr. Scheuer, Mr. Levine of California, Mr. Lantos, Mr. Valentine, Mr. Gephardt, Mr. Towns, Ms. Kaptur, Mr. McGrath, Mr. McDermott, Mr. Ireland, Mr. Hubbard, Mr. Dorgan of North Dakota, Mr. Rose, Mr. Vander Jagt, Mr. Smith of New Jersey, Mr. Andrews of New Jersey, and Mr. Saxton.

H.J. Res. 508: Mr. Hertel.

H. Con. Res. 223: Mr. Chandler, Mr. Machtley, Mr. Moody, Mr. Olver, Mr. Skaggs, and Mr. Weldon.

H. Con. Res. 257: Mr. Bateman.

H. Con. Res. 298: Mr. McCandless, Ms. Slaughter, Mr. Campbell of Colorado, and Mr. Sisisky.

H. Con. Res. 337: Mr. Tanner.

H. Con. Res. 344: Mr. Torricelli, Mr. Valentine, Mrs. Johnson of Connecticut, and Mr. Wyden.

H. Con. Res. 347: Mr. Hertel, Mr. Engel, Mrs. Morella, Mr. Lancaster, Mr. Bennett, Mr. Bacchus, and Mr. Lagomarsino.

H. Con. Res. 350: Mr. Wyden, Mr. Stark, Mr. Rose, Mrs. Unsoeld, Ms. Pelosi, Mr. Yates, Mr. Engel, Mr. Serrano, Mr. Gejdenson, Mr. Frank of Massachusetts, Mr. Waxman, Mr. Towns, Mrs. Collins of Illinois, Mr. Bonior, Mr. Hayes of Illinois, Mr. Kopetski, Mr. Swett, Mr. Johnston of Florida, Mr. Andrews of New Jersey, Ms. Norton, and Ms. Slaughter.

H. Res. 129: Mr. Penny, Mr. Campbell of Colorado, Mr. Applegate, and Mr. Yates.

H. Res. 428: Mr. Engel.

H. Res. 515: Mr. Sikorski, Mr. Ford of Tennessee, Mr. Levine of California, Mr. Frost, Mr. Jacobs, and Mr. Dymally.

PETITIONS, ETC.

Under clause 1 of rule XXII,

171. The SPEAKER presented a petition of the Common Council of the Civil City of New Albany, IN, relative to workers exercising the legal right to strike; which was referred jointly to the Committees on Education and Labor and Energy and Commerce.

SENATE—*Thursday, July 30, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come now, and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.—Isaiah 1:18.

Gracious God, perfect in love, we are amazed as we hear the word of the prophet Isaiah, speaking on behalf of the Lord, inviting us to "reason together." Isaiah reminds us that Thou art a forgiving God, Thou dost love us because Thou art love. There is nothing we can do to make You love us more than You do, and there is nothing we can do to make You love us less than You do. You love with a perfect love. No good works that we do will increase Your love for us, and no sin is so great that it can reduce Your love for us.

Eternal God, help us understand that when we confess our need, our failure, our sin, we are forgiven, and guilt is removed. When we refuse to confess, guilt is compounded in our hearts. You have promised, "If we confess our sin you are faithful and just to forgive us our sin and to cleanse us from all unrighteousness." Help us not to hide from Thee, to acknowledge our need and receive divine absolution.

In the name of Him who is incarnate Love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 30, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, at 10 this morning the Senate will return to consideration of the energy bill. It is my hope that we can complete action on that measure today. It is a very important measure, necessary for our country's economic future, and it is imperative that we complete action on it so that the matter can go to conference with the House of Representatives in time to permit final action before the end of the year.

Following that, the Senate will take up one of the appropriations bills now pending on the calendar. There will be several more of those that we hope to take up in the next few days. Votes are expected throughout the day and into the evening today, as will be the case every day between now and the time the Senate breaks in mid-August.

I encourage all Senators who wish to offer amendments to be present on the floor, and to do so promptly, so as not to cause delay, and therefore require the Senate to be in session later in the evening than would otherwise be necessary.

I thank my colleagues for their cooperation.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is now reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, parliamentary inquiry. Was there a special order entered into for time for the Senator from Vermont?

The ACTING PRESIDENT pro tempore. The Senator from Vermont is authorized to speak for up to 15 minutes under the special order.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 3098 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LOTT addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Mississippi [Mr. LOTT] for up to 15 minutes.

Mr. LOTT. Under the order, I do have up to 15 minutes: Is that correct, Mr. President?

The ACTING PRESIDENT pro tempore. That is correct.

GOVERNMENT WORKING TOGETHER

Mr. LOTT. Mr. President, as I go back to my home State of Mississippi, quite often people look at me in amusement, in a way, and they say, "What is the problem in Washington? Where is the gridlock?" I know that Senators from all over the country hear that question. People want more positive action; they want the Government to work together.

So the question quite often is, "Where is the problem?" A lot of the candidates across America today are saying, "It is the President, or the Presidents; it is President Bush; it is President Reagan or even President Carter. Blame the Presidents."

Mr. President, every day when I walk onto the floor of the Senate, I am looking at the problem. The problem is the Congress. The Congress is not doing its job. It is not the President, President Bush or other Presidents. It is the Congress. For 20 years, I have watched this problem; as a House Member for 16 years, serving in the leadership in the House, and now as a Senator for the past 4 years. This is the problem. As Walt Kelly so eloquently said, "We have met the enemy, and he is us."

Just to begin this discussion, since we are going to be debating the energy bill later on today, I remind my Senate colleagues that 18 months ago we had a problem in the Persian Gulf. The American people were concerned about

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

being dependent on oil from that part of the world—Kuwait, Saudi Arabia, Iran—wherever it might be. There was a real feeling that we needed to, at long last, do something about energy policy and energy independence. Once again we were given a chance to do something, to address the needs in America for energy development, energy exploration, energy conservation, energy alternatives. Well, that was over 500 days ago, Mr. President, President Bush came to the Congress with a very good, broad energy policy, and the Congress has been systematically chipping away at it ever since, taking away good parts, narrowing it down, adding bad parts. The bill has been balled up the last few days, or maybe even weeks, over an unrelated issue, really, having to do with coal pension funds. This issue is not going to produce any more energy. Maybe it is a legitimate issue, but it has been tangling up the energy bill.

President Bush sent a very good energy strategy bill to the Congress in 1991, some 515 days ago. Finally, after the passions of the Persian Gulf have dwindled, the Senate is perhaps going to today pass—no, it is going to stagger toward maybe passing—a national energy policy. That is exhibit A of where the problem is.

The problem is the Congress.

Now, President Bush has been accused of all kinds of things in the past few months: He has no domestic policy; he only has one eye; he only looks at foreign policy. I heard that discussion in debate in the Senate a few weeks ago bashing the President for only having one eye, and I sat here and gritted my teeth, thinking it would never end. Somebody called to my attention a great quote—I am not sure where it is from, but it said, "In the kingdom of the blind the one-eyed man is king." In this instance, it is the President.

Whether the President only has an eye for foreign policy or not, at least he has an eye for something. The Congress does not seem to have an eye for anything. It is blind to the problems the American people are suffering with and dying over.

I submit the President does have both eyes, and he is working to give Congress proposals that we should take up, debate briefly, and pass.

Let me just give you the list of proposals that President Bush has sent to the Congress over the past 3 years which address every major problem America faces today. I call the attention of my colleagues to this chart: Bush Initiatives Held Hostage By Congress. The days are calculated as of July 28, 1992.

First, the Educational Excellence Act introduced April 5, 1989, in the House by Congressman GOODLING, a former teacher and a leader in education policy. That education excellence bill has been held hostage over 1,210 days. If the Congress is so interested in education, why, in over 1,200 days, could we not at least take this issue up and seriously debate it?

Ladies and gentlemen, we cannot make education better in America by doing the same old thing and just pouring more money into it. We have to look outside the normal circle and find a better way of presenting education and providing learning for our children in America. Then, the Savings and Economic Growth Act of 1990 was introduced by Senator PACKWOOD, February 6, 1990, providing incentives for savings and investments to stimulate economic growth. It was referred to the Finance Committee. It has never been passed there—it is 908 days old. It has been held hostage also for almost 1,000 days.

The Crime Control Act of 1989, was introduced by the distinguished Senator from South Carolina [Mr. THURMOND] on June 20, 1989. We have passed a pretty good crime bill in the Senate. It went to the House. They decimated it. We went to conference, and on a weekend, in the still of the night, the Senate caved into the House and destroyed a good crime bill. It is still languishing in the Senate while people are being raped and killed in the streets of Washington, DC; Milwaukee, WI; Jackson, MS. Yet we just wait. We have held the crime control bill hostage for 774 days. How long is enough, Mr. President?

The Enterprise Zone and Jobs Creation Act of 1991 introduced May 9 of 1991 by Senator DANFORTH, designated not 25, like the Finance Committee did yesterday, but 50 enterprise zones to seriously try to address the problems of depressed areas. It provides tax incentives for job creation. Once again, we find it has been delayed 519 days.

The national energy strategy, which I mentioned earlier, is the next issue.

Line-item veto legislation, a constitutional amendment, was introduced by Senator COATS, January 14, 1991. As the Presiding Officer knows, 43 State Governors have that authority. The President would like to have it, too. It is not a partisan issue. There are Democrats for it, Republicans for it, Democrats against it and Republicans against it. But the American people, I will tell you, would like to see the President have this. One candidate for President, Bill Clinton, has endorsed the concept. He understands it. The Congress does not understand it. The Congress is the problem. For 460 days this issue has been delayed, held hostage without action.

Next, health liability and quality care. When I go home, people are more concerned with health care than any issue other than the deficit. The people ask, "What about health care affordability and accessibility? Can we get it in rural areas? How much is it going to cost? Will you do something?"

Senator HATCH, on May 22, 1991, introduced a bill that encourages States to reform medical tort laws, eliminate adversarial patient health care provider relationships, and other good things. This bill has not seen the light of day. It has been held hostage 440 days.

Last on this list, which I assure you it is not a complete list, is not just a short-term political fix, but the Long-Term Economic Growth Act of 1992, introduced in February of this year by Senator DOLE. This was a fantastic package, providing incentives for long-term growth; proposing the President's comprehensive proposals, a number of which I will get into in more detail in a minute; and including an entitlement growth rate cap. Once again, that legislation languishes, and it has been doing so for well over 180 days.

Mr. President, the problem is the Congress.

These are past-due bills, overdue accounts. The American people understand this. They want to know why this list is not being addressed. But these past-due bills languish while we frolic in the aisles with long-winded speeches.

If the American people want to do something about the gridlock in Washington, then they should do something about the Democratically controlled Congress. Give us a Republican Congress, and I am going to give you a list of what we would do at the conclusion of my remarks.

In my limited time remaining, let me go to the next chart: "Initiatives * * * the unlegislated Bush agenda." In terms of broad categories, what is the President proposing on economic opportunity, economic growth, energy policy, trade initiatives? He has addressed these categories with bills in each instance.

To promote economic opportunities, he proposed the Enterprise Zone—Jobs Creation Act of 1991 and the Community Opportunity Act of 1991.

To restore economic growth, he proposed the Savings and Economic Growth Act of 1990 and the Long-Term Economic Growth Act of 1992. If we had passed that bill in March the economy today would not be so sluggish. One of the most astonishing things to me is the President made a proposal to the Congress to find incentives for growth with tax incentives. Yes, tax breaks to the American people. After all, it is their money. Congress turned it into a $100 billion tax increase, and they took out the $5,000 tax credit for first-time homeowners. I do not understand the economics of that. I cannot understand the politics of that. If we had passed the President's package then, we would be having some serious growth now in the economy.

Let me again mention energy policy. The distinguished Senator from Louisiana has done yeoman's work on this bill. So has the Senator from Wyoming [Mr. WALLOP]. They have tried and tried again, while their colleagues played games with the national energy policy.

For 18 months we have failed to act in energy policy, but it is not the fault of the leaders of the committees. They have tried. It is because the boys and girls of the Congress will have their fun.

To improve our trade imbalances and create jobs here in America, the President proposed the Enterprise for Americas Initiative Act of 1991. I am frankly not a total free trader. In my head, I guess I know it is what we ought to do, but in my heart I have real problems with it. I want to be fair trade. But this is clearly something we should address. It is a world market. We have to get in it. Yet we cannot get this bill through the Congress because the Congress is in gridlock.

Let me go to the specifics of the President's short-term economic growth proposal now because I am running out of time. This is, I think, the most important area.

The President made a proposal in his State of the Union Address to the Congress to get the economy moving. He gave us a challenge: do it in a limited number of days. Of course, we dropped that ball. We will be lucky if we pass even parts of it in 200 days after he asked for it. These were not insignificant proposals.

I believe the capital gains tax rate reduction is particularly important. The Finance Committee marked up tax legislation yesterday, and the committee would not even give that capital gains break to the depressed areas for enterprise zones. They were afraid it might benefit the people creating jobs instead of people wanting to get jobs. When will we wake up?

This past weekend, I was in Port Gibson, MS. A guy says: "I have 60 acres of timber, and I am not going to sell one tree until you reduce that capital gains tax on timber. I am not going to give up what I have worked for years to try to live on in retirement to taxes."

In Liberty, MS, at the drugstore I met with people—man, woman, black, white, young, old. I asked them, "Do you think we ought to have a capital gains tax cut?" Without any details, every hand went up. They have it figured out in Liberty. We do not have it figured out here. Capital gains tax rate reductions would help the economy and create jobs.

First-time home buyer tax relief: Home building is the engine that pulls the economy. When home building is flat, the economy is flat. When you build homes, you give people the opportunity for the American dream, rich and poor, young and old. Timber is cut. The economy grows. Yet, we will not give that to the first-time home owner.

The alternative minimum tax rules are clearly depressing the economy, and keeping business and industry from doing some things they need to do such as investing in productive machinery. Simplification of these rules is critical.

Individual retirement account flexibility is needed. To show that we need this, just yesterday the Finance Committee changed the rules on that in the committee-reported tax bill. Taxpayers will again be allowed to have a $2,000 a year deduction for contributions to IRA's and will be granted additional flexibility for penalty-free early withdrawals.

Where have they been? We made that mistake in the tax bill when we took it away a few years ago. IRA flexibility would clearly encourage people to save, and give them a chance to use their savings for homes, medical care, and college tuition. The Finance Committee has figured it out. But it took them a couple of extra years.

The investment tax allowance, and passive loss relief were also included in the package the Finance Committee is going to be bringing to the full Senate. Why did we not do that 200 days ago, I ask my colleagues in the Senate?

Finally, real estate investment by pension funds, clearly modification of the rules governing these investments is something that would help the economy.

So anybody that wants to say the President has not tried has not looked at the record. The President did suggest initiatives for the Congress. The Congress would not act.

How much time do I have?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LOTT. Mr. President, would it be appropriate for me to ask unanimous consent to extend my time for an additional 5 minutes?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Thank you very much.

Mr. President, let me shift again to some other areas. I want to talk a little bit about the reform agenda. Do we need reform? Of course we need reform. Do we need change? Yes. But not change just for the sake of change. We need well thought out initiatives. The President has sent a reform agenda to Congress.

We have had banking reform proposals including: Financial Safety and Consumer Choice Act of 1991 and Credit Viability and Regulatory Relief Act. Do we need regulatory relief? Absolutely. The regulators are running wild. Bureaucrats are running wild all over the country. There are career service people down in the woodwork, termites that are continuing to eat at the fabric of America. We need regulatory relief.

Crime reform: There have been a couple of good bills in that area. Do we need to reform habeas corpus, give law enforcement people more assistance? Absolutely. Do we need the death penalty? Yes. Do we need laws on the books that punish the criminals and try to help the victims? Yes. Why has not the Congress acted? This is where the gridlock is.

Education reform: Look, I am not wedded to this bill or that bill. I am wedded to the idea that education in America is not getting the job done. Let us change it. I have some radical ideas on what I think we ought to do in that area. I do not think teaching every high school senior physics is necessarily a good idea. I think they would be better off in a lot of cases taking computer science, or a vocational training program, or music. We ought to ask ourselves: What are we doing in education in America?

Government reform: I have already mentioned the line-item veto.

Health care reform: clearly this is an area we need to be addressing, and judicial reform. Do you want to make the American people mad? Ask them about what is happening with tort liability and medical malpractice. Ask them what they think about lawyers in America bringing frivolous lawsuits and taking 40 percent of the judgment for a person that has been hurt. Do they want reform? Absolutely. The President has made proposals. The problem is the Congress has not acted.

I want to talk just briefly about health care reform. The President has made a good proposal. Is it socialism? No. Is it national health insurance, or pay-or-play? No. Is it anything that would let the Federal Government run health care in America? No. If you like the way the Postal Service works, you would love the way Government would run health care. Look at what a mess we are making. Medicare, Medicaid—the cost is astronomical; running through the ceiling.

The President has a very well thought out proposal. It offers a market-based solution, expands health care coverage, controls costs, improves quality, provides low- and moderate-income Americans with tax credits or deductions to purchase health insurance. There are a lot of people that cannot get insurance. A self-employed entrepreneur cannot get coverage. We need to make sure that they have deductions or credit so they can have it. It gives Americans long-term security and the President's plan pays for itself.

I watched the Democratic Convention in New York. Yes, let us have more money for infrastructure, for health care. More money here, more money there. Everybody get on the wagon. We could all ride. Somebody has to pull the wagon, Mr. President. It is not going to be the Congress. The Congress will not even be paying for it.

Let me conclude by a list here of what would be going on now with a Republican Congress. Americans would have modernized their financial system to attract needed capital to create jobs, and to encourage economic growth. We would have reformed habeas corpus rules, toughened up crime provisions to lock up violent criminals, giving all of us safer neighborhoods.

Americans would have enterprise zones. Instead of limiting it to 25, or so, let us set out some categories for eligibility for enterprise zones, and then anybody that qualifies should be able to get it. I am not going to vote for a bill that just gives enterprise zones to help Los Angeles, Chicago, or San Francisco. It will have to be made available to Greenville, MS, Clarksdale, MS, Biloxi, MS, and places in Nevada. All across America—they have to have a shot at it.

Americans would have family savings incentives and home buyer deals to generate real economic growth. Americans would be allowed to choose the best schools for their children, they would have reduced domestic oil consumption, and they would not be so dependent on foreign imported oil. There would be an opportunity for the line-item veto, just as 43 State Governors have that opportunity. We would have improved delivery and efficiency of health care. Americans would have market-type incentives to provide solutions to problems and not always resort to litigation.

Americans would have stimulated trade with our other American trading partners and would produce 20,000 new jobs with every $1 billion in exports.

Let me just conclude, Mr. President. President Bush has a domestic policy, but the Congress will not act on it. In my part of the country, we have a lot of sayings, or cliches, I guess, but one that I have always liked is this: Mr. President, "This dog won't hunt." I used to go fox hunting with my grandfather. If you had a hound that would not hunt the fox, you penned him up, and you made a change. This Congress will not hunt. The American people need to know where the blame should go, and it should go on the Democratic Congress and the lack of leadership and the failure to pass these initiatives.

Mr. President, I yield the floor.

REPEAL OF LUXURY TAX ON BOATS

Mr. KASTEN. Mr. President, I applaud last night's approval by the Finance Committee of legislation containing repeal of the 10-percent excise tax on boats.

The so-called luxury excise tax completely backfired. Because of this tax over 19,000 boat workers lost their jobs, many of them in Wisconsin. I voted against the tax in 1990 when it was enacted, and I have been leading the fight to repeal it ever since. This tax ranks as one of the most foolish actions taken by Congress in many years.

Although Congress has chosen to delay repeal of this tax for nearly 2 years, victory is now at hand. I urge the full Senate to swiftly approve repeal so that we can move on to conference and the President's signature before the August recess.

The boating industry is extremely important to Wisconsin. We have 180 marine manufacturers, 735 marine dealers, and over 480,000 boatowners.

I have been working with and I have toured boat builders in Oconto, Pulaski, Strugeon Bay, and Milwaukee.

I saw first hand the extraordinary damage that this tax was doing to one of our Nation's finest manufacturing industries. In 1990—before the luxury tax was imposed, Cruisers Inc., employed 500 people in Oconto. One year later after the tax, only 170 people were employed.

As I met with boat workers they shared with me their intense frustration with Congress for imposing a tax that had jeopardized so many of their jobs.

And it is not just those who work for this industry that are hurt. The tax base of both Oconto and Pulaski has been severely impacted as dozens of small businesses in these communities have suffered the ripple effect of job losses in the boat building plants.

Last September, following my tour of boat manufacturers, I chaired a Small Business Committee hearing to examine the impact of the luxury tax on boats. Several Wisconsin witnesses testified. On September 17, I introduced Senate Resolution 181 calling for the repeal of the excise tax on boats.

On November 21, the Senate overwhelmingly approved the resolution by a rollcall vote of 82–14.

This vote was the catalyst that put the Senate firmly on the road to repeal. And I am proud to have fought to save these middle-class jobs in Pulaski, Oconto, Sturgeon Bay, and other boat-building communities throughout Wisconsin.

One of the greatest ironies of this tax is the fact that it is costing the Government money. While the Congressional Joint Committee on Taxation initially claimed the tax would raise money, a study by staff on the Joint Economic Committee showed that when job loss is factored in, the tax is actually a significant drain on the Treasury.

While the tax brought in $7.3 million in 1991, $16.1 million was lost in lower tax payments from workers who lost their jobs because of the tax, and an additional $2.1 million in unemployment payments from the Government were necessitated. The net effect was therefore a loss of nearly $11 million in tax revenue.

The luxury tax never harmed the rich, they just bought other products. The workers who build the boats are the ones who have paid this tax; they paid for it with their jobs.

Since the tax took effect at the start of 1991 there has been an extraordinary 70-percent decline in the sale of boats subject to the tax. This decline is continuing and every day that Congress fails to approve final repeal ensures further damage and job loss.

It is critical that the tax bill be acted on next week and sent to the President. The boat workers of Wisconsin and around this country are sick and tired of the inaction of Congress. I ask my colleagues to join with me in working to ensure that the job gets done now.

AN APPEAL TO HUD

Mr. DIXON. Mr. President, I call to the attention of the Senate an article, "Regents Park: HUD's Towering Mess," which appeared in the Chicago Tribune on July 27, 1992. I also call the article to the attention of the Secretary of the Department of Housing and Urban Development, Jack Kemp, and appeal to him to revisit this issue.

Regents Park is a 1,000-apartment complex in the city of Chicago. It has the enthusiastic support of the Hyde Park community, which includes the University of Chicago, and the support of the mayor of Chicago.

Unfortunately, Regents Park is entangled in a dispute between its owner, who has turned this once troubled development around, and HUD, whose officials have reneged on its agreement with the Regents Park owner to revise the HUD-insured mortgages.

Mr. President, the issues surrounding HUD and Regents Park were first called to my attention as far back as 1986. I am particularly concerned and frustrated that those same issues continue to be unresolved today.

Unless this towering mess of HUD's is resolved soon, a well-run housing complex in my State is headed for disaster. This would adversely impact the Hyde Park community, the University of Chicago community, the city of Chicago, and many of my constituents.

Mr. President, I ask that the text of the article to which I have referred be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REGENTS PARK: HUD'S TOWERING MESS

(By R.C. Longworth)

Bruce Clinton knew Regents Park was a disaster the first time he saw it.

"Turkeys," Clinton says of the duplex's two huge buildings. "I drove down to Hyde Park and looked at them and thought. 'This is just like Cabrini-Green.' Clothes hung out of the windows. I could see the red rust down the concrete—and this was on a new building."

"While I watched, a chunk of concrete fell off one corner and smashed into the street. There were a dozen kids playing football in the front drive. That concrete fell near them, and they didn't even bat an eye."

This was in 1975. In the 17 years since, a story has evolved of a skilled and stubborn property manager who rescued a rotting development, a university that backed him, a Chicago neighborhood that desperately needs him to succeed, and a federal government that seems determined to foil them all.

Foot-dragging and political timidity within the Department of Housing and Urban Development, apparently fueled by an old vendetta, are threatening to force Regents Park back into foreclosure, Clinton into bankruptcy, and a prime corner of Hyde Park into a slum.

"I'm very disgusted," said Mayor Richard Daley, who has made three trips to Washington to lobby Secretary Jack Kemp to end HUD's war with Clinton. "Regents Park . . . is a success story, and success stories are very few in HUD's history."

Despite Daley's interventions, HUD has not budged, and the saga of Regents Park remains a case study of government in gridlock.

Clinton had no idea of what lay ahead when he first saw the crumbling buildings.

The apartments, originally built by a Chicago developer as a tax writeoff, were less than half filled. Barely three years after the first building went up in the complex at 5050 S. Lake Shore Drive, concrete peeled off and rain poured through the window jambs. Prostitution and drug dealing were rife.

The two-building complex, then called Chicago Beach Towers, had gone bankrupt. The buildings, 36 and 35 stores high and holding 1,038 apartments, were the biggest structures in Hyde Park. The University of Chicago, Hyde Park's powerful anchor, was terrified that the blight would spread and drag the fragile neighborhood down to the level of surrounding ghettos. It wanted the whole thing torn down.

But HUD has insured the $26 million mortgage and stood to lose it all. It desperately wanted someone to take over the complex and turn it around.

It was a long shot. But if Beach Towers could be saved, the government would sell it to the savior. This would give the new owner control of a potentially lucrative complex overlooking Lake Michigan, with a guaranteed stream of tenants from the university.

Clinton, who specializes in running big apartment buildings, took over management of the bankrupt buildings. He renamed them Regents Park, cleaned them, added a swimming pool and other amenities, kicked out the worst tenants and, using his own money, turned an eyesore into an ornament.

Almost evenly split between black and white, the current tenants range from graduate students to senior citizens. More than half are connected with the university, including doctors from the university hospitals. A two-bedroom apartment rents for about $1,000 a month.

Was HUD grateful? Not that you'd notice.

Ten years after HUD promised to negotiate a new mortgage that would let Clinton make a profit, the promise remains unkept. Instead, HUD insists that Clinton take over a mortgage whose debt has grown to twice the buildings' value because of years of insufficient interest payments.

At least 10 potential agreements have been frustrated by last-minute HUD demands, and the department and Clinton are locked in a lawsuit over whether HUD even has to negotiate a new mortgage.

Although Clinton owns the buildings, he is getting nothing from them but a management fee because HUD has refused the new mortgage and has kept the case tied up in court. In other words, Clinton has all the obligations and none of the benefits of ownership.

Even some past and present HUD officials have argued that Clinton is right and the department is wrong. One of those officials in the Chicago office found himself summarily transferred to Detroit 17 days after he backed Clinton in a dispute with a HUD bureaucrat in Washington.

Meanwhile, Clinton can't afford to make the long-term repairs the complex needs. Tenancy at Regents Park, once at 98 percent, is about 85 percent and falling.

The university, terrified of a new threat to Hyde Park, is pulling every political string it can. Yet agreement seems no closer. HUD, instead of rewarding the manager who saved their buildings, is talking about foreclosure again, leaving Clinton with a huge tax bill and possible bankruptcy.

This is a problem for Clinton. It is a bigger problem for Hyde Park.

"That's a part of Hyde Park where a lot of people live," said University of Chicago law professor Douglas Bair, a Clinton supporter. "It's one of the anchors of the neighborhood. If it goes to hell, it makes Hyde Park an even chancier place to live.

"It's a complete scandal."

What's going on? HUD refused to comment, but to Daley, who attributes many of Chicago's problems to the federal government's inattention to urban concerns, the case of Regents Park is a classic example.

"HUD has had so many scandals in its past that it's afraid to come to a decision," the mayor said. "This shows the paralysis of the federal bureaucracy."

To most others, including Clinton, the problem is a "vendetta" against him by HUD bureaucrats he has crossed.

By his own admission, Clinton, a bearded and burly 57-year-old, is a combative and inflexible man who suffers bureaucrats badly.

Clinton has filed suit against HUD bureaucrats. At one point, he said, he was accused by his chief antagonist, former HUD deputy secretary Thomas Demery, of trying to delay Senate confirmation of his appointment.

"I don't recall" the details of that incident, Demery says.

Those personal battles may have created what University of Chicago Vice President Jonathan Kleinbard calls "a vindictive witchhunt" against Clinton.

To John Waner, former head of the HUD regional office in Chicago and the man who persuaded Clinton to take on Regents Park, it's pure Chicago politics. Other developers are waiting to take over when Clinton falters.

"Nothing ever happens in Chicago—everything is brought about," said the crusty Waner, 78. "Something is holding it up. It's quite obvious that some interests in town are looking to acquire it.

"I think Jack Kemp is one hell of a guy, but he depends on a lot of bureaucrats who all came out of the private sector, and they got their own friends. After this [Regents Park] became viable, everybody had their eyes on it."

Complicating the case are the HUD scandals during the Reagan administration that have tarnished Clinton's friends and foes.

Demery and one of Clinton's supporters, Deborah Gore Dean, former executive assistant to the HUD secretary, are under indictment for conspiracy in connection with influence peddling within the department. And one of Clinton's pet documents is a letter of praise from Dean's boss, former HUD Secretary Samuel R. Pierce Jr., himself disgraced by the scandals.

"What do you do if everybody you're dealing with in government is crooked?" Baird asked.

Because of the earlier bankruptcy, Regents Park is so deeply in debt that HUD will never get all its money back. But Clinton said he thinks the HUD administration, made gunshy by the scandals, is too frightened of writing off any debt to make a deal with him.

"I'm not accusing them of being corrupt," Clinton said. "This current bunch has a different agenda, which is extreme political sensitivity."

"On the merits," said Frank Kruesi, Daley's policy adviser, "there's no reason he should be getting jerked around the way he has."

Even Clinton says Regents Park never should have been built.

Much too big for its site, it was built in 1972–74 by Chicago developer and mortgage broker Paul Reynolds, backed by investors who took advantage of tax writeoffs to make a quick killing. HUD got into the act when the Federal Housing Administration insured the mortgage from LaSalle National Bank.

"The thing was due to fail from the day they stuck the first spade into the ground," Clinton said. "The commercial lender must have known this, but it didn't care so long as there was FHA insurance. Everybody got fat from the deal."

Clinton called the construction "the worst I've seen in my life."

The builders, in a rush, diluted the concrete, which crumbled, exposing steel connecting rods to the rain. The rods began rotting the building from inside, according to court records.

The university stopped housing students or faculty in the complex. Occupancy never reached 50 percent.

By 1975, the complex was in default and HUD, guarantor of the loan, held the bag. Clinton, an experienced manager of Florida property, had his eye on another bankrupt building in Chicago, a basically sound property on the North Side that also had been insured by HUD. But Waner told him he could have it only if he also took on the Hyde park properties.

Clinton looked at the two buildings, swallowed hard, and accepted.

Within a year, the North Side building—now Park Place, at 655 Irving Park Rd.—was restored to prosperity and Clinton made a bid to buy it, submitting what he thought was the highest bid. The building went instead, he said, to a company in which one of the partners was a son-in-law of Mayor Richard J. Daley.

Clinton exploded.

"I thought there's a fundamental injustice not to sell the building to the highest bidder who happened to be the guy who'd turned it around," he said.

Clinton sued. The court battle lasted two years. At the end, he sued two HUD bureaucrats by name. Neither is involved in Clinton's current troubles, but both he and his supporters believe the suits incurred the everlasting enmity of HUD.

"There are people who believe now that this was one of the monumentally bad business decisions of all time and the source of all my problems," said Clinton, who lost the suits and the North Side building.

By this time, Clinton had stabilized Regents Park. He asked HUD to let him buy the complex. HUD, angered by the suits, tried to foreclose instead. A federal court blocked the foreclosure and opened the buildings to bidding, which Clinton won.

In January 1981, Clinton had title to the buildings. But his battle had just begun. HUD still held the mortgage. The debt, counting the original default, was $36 million, far more than the buildings were worth or that Clinton could pay. Yet HUD wanted to get as much of the taxpayers' money back as it could, though it has lost much more on many other foreclosed buildings, such as Chicago's Presidential Towers.

So a deal was struck in 1982. It was called a Provisional Workout Agreement, or PWA, and it worked like this:

Clinton promised a five-year rehab program, at his own expense, to end the window leakage, paint and coat the concrete, repair the heating, enlarge the lobby, and carry out 13 tasks in all. All rents were to go to HUD. Clinton would get a management fee equal to 4.75 percent of the rents.

HUD promised that once this was done, it would "agree to either capitalize the then existing interest arrearages or negotiate further workout arrangements."

What this implied was that HUD would rewrite the mortgage on Regents Park. The property carried so much debt that, without a rewritten mortgage, Clinton would face a mortgage far higher than the building's true worth. A mortgage reflecting the true value would enable him to run it as an ordinary business.

Clinton complained that this promise was too vague. HUD officials told him this was as specific as HUD got. But in negotiations in the department's Chicago office, HUD's regional housing director, James T. Albrecht, and its regional counsel, Richard J. Flando, promised Clinton verbally that the department would "deal in good faith and enter into a realistic, commercially reasonable, financially viable, long-term restructuring of the mortgage."

All this is confirmed in affidavits filed by Flando and Albrecht, praising Clinton and condemning HUD's behavior.

Flando said he and Albrecht promised Clinton that the eventual deal would guarantee him "a reasonable return." The whole thing, Flando said, "was highly advantageous to HUD" and HUD's stonewalling "violates HUD's express commitments to Clinton."

Albrecht confirms Clinton's contention that Clinton went along with the PWA only "because of my assurances to him."

This is still the key argument. Clinton insists that HUD backed its vague written commitment with a strong verbal promise and then broke it. HUD said the original PWA, which was kept vague at HUD's insistence, is too vague to enforce. The current trial is the third attempt to settle the issue in court.

Clinton, assuming he had a deal, went to work and finished the 13 tasks in less than three years, spending $1.8 million. He has since added a swimming pool with snack bar, a grocery, a security system, workout rooms, a children's playground, and even a 58,000-square-foot park, complete with duck ponds, on the roof of the parking garage between the two buildings.

"All this with no money and no help and at no cost to the government," Clinton said.

In 1986, Clinton came back to HUD to get his new mortgage. The buildings, worth only $12 million when Clinton took them over, were last appraised in 1987 at $23.3 million. At the time, unpaid interest had raised the debt to $36 million. Since then Clinton, under agreement with HUD, has paid the government only two-thirds of the interest, and this has raised the indebtedness on Regents Park to $46 million, or roughly twice what it's worth.

Clinton insisted on a mortgage based on Regents Park's true value. As he noted, anyone would be crazy to buy the buildings for twice what they're worth. At one point, HUD agreed with this but then reneged and said that a $23 million mortgage would amount to "debt forgiveness" that would cost the government some $23 million.

Technically, this is true. But Clinton argues that any loss is HUD's own fault, for guaranteeing the mortgage in the first place.

Besides, according to Waner, HUD never "expected to recover its investment in full" because of the debt backlogged from the original default.

"In 1986, we made a proposal, and HUD turned it down flat," Clinton said. "They threw a sea of auditors at us. In 1986 to '88, we poured hundreds of thousands of dollars into studies and reports only to be told, 'No deal.'"

During this time, Demery was nominated to be assistant HUD secretary. Sen. Alan Dixon (D-Ill.), who had earlier lobbied HUD on behalf of Regents Park, was a member of the Senate Housing Committee and told Demery that he expected a fair and reasonable deal for the project.

Demery agreed, but Clinton says Demery later "flew into a rage and took the position that I was trying to postpone his confirmation. That's preposterous. But Demery told people that he was out to get me."

Clinton and officials from the city and the University of Chicago blame Demery for stalling action on Regents Park. Since Demery's indictment, they say, the stalling has been led by a Demery protége, Donald Kaplan, until recently HUD's director of multifamily housing. Kaplan is a former Chicago HUD official whom Demery brought to Washington.

Over the last six years, according to Clinton, the University of Chicago and others involved in the case, one proposal after another has been shot down.

Demery, in a telephone interview, denied he blocked an agreement and said he "couldn't begin to answer" questions about Regents Park's problems.

"I never told anybody not to go forward," he said. "If the Secretary wanted to resolve something, they'd resolve it.

In 1987, Pierce wrote Dixon acknowledging that Clinton had fulfilled his obligations under the PWA and saying that HUD "accepts the owner's [Clinton's] proposal for restructing the mortgage."

But nothing happened.

Kleinbard said that later in 1987, the then-assistant HUD secretary, Hunter Cushing, told him that the university should "relax and let the building go to foreclosure" and they buy it.

"I was shocked and offended," Kleinbard said in an affidavit. He said Cushing's comment was part of the evidence that "convinced me that HUD never had any intention to enter into an agreement with Clinton, no matter how much Clinton was willing to cooperate."

In 1991, Kaplan asked Robert J. Turner, director of housing management in HUD's Chicago office, to analyze Clinton's finances and demands. Turner, a 12-year HUD veteran in Chicago, said he concluded that "the Clinton Company is an excellent manager which turned the project around physically and socially."

Kaplan, unsatisfied, asked for a second and then a third analysis. Turner, who calls Clinton's turnaround of Regents Park "a miracle," confirmed his original findings. Then Kaplan phoned Turner and had the following conversation, reported by a HUD source and confirmed by Turner.

Kaplan: "I want this done in a professional manner."

Turner. "That's exactly the way we did it—professionally and with integrity."

Kaplan: "Look, Bob, you know what we want."

Turner. "You're damned right I know what you want, and we're not going to do it."

Seventeen days later, Turner was transferred to Detroit, to a job that he says has less authority than his job here.

"No one ever told me why I was being transferred," Turner said.

Clinton said that in February 1991, Ronald Rosenfeld, then deputy assistant secretary at HUD, offered him a deal that would have enabled him to make a quick profit by ignoring long-term improvements: The budget for capital repairs would go into Clinton's pocket instead.

"It was a very tempting deal," Clinton said, "but no amount of money you could pay me would lead me to tell the university that I'd taken all this over these years and then turned around and sold out the community."

The comment illustrates Clinton's mixed motives. A businessman, he craves profit. But he also feels a debt to Hyde Park. And he is a stubborn man who is determined to win.

The next month, according to a letter from Daley to Kemp, Rosenfeld told Daley "that a change of ownership, with adequate financial support from HUD, would be feasible." Daley replied that any change, with the delays and confusion involved, would be "unnecessary and dangerous" and urged Kemp to settle with Clinton instead.

Earlier this year, another negotiation failed at the last moment when HUD made seven last-minute demands and Clinton, under urging by the university and his attorney, William J. Kunkle Jr., capitulated on them all.

But then HUD, having won all its demands, turned down the entire deal, according to Clinton and the university.

Rosenfeld, now deputy assistant treasury secretary, denied having the conversations with Clinton and Kunkle and said he "completely refutes" allegations of bad blood between Clinton and HUD.

Kleinbard said was phoned by HUD attorney Clarence "Bud" Albright, who told him he had advised Kemp and Assistant Secretary Arthur Hill to settle with Clinton "under terms that Clinton has now agreed to."

But Hill later told Kleinbard that HUD lawyers were advising the department to fight it out in court. Kleinbard replied that Albright had told him just the opposite. Hill, according to Kleinbard, hung up on him.

Albright and Hill refused to comment.

Meanwhile, Clinton said, the uncertainty about the future of Regents Park "keeps us from mounting a consistent (repair) program."

The buildings are still making money, he said, but "we've spent considerably north of a million bucks [in legal fees] just to get these guys to live up to their promises."

Demery accuses Clinton of hanging on not out of principle but because he faces a huge tax bill if he sells. Clinton's top aide, Barry Boggio, says Clinton would indeed be strapped, because HUD's refusal to rewrite the mortgage would make him liable for taxes for the total paper value—$46 million, including the buildings and the debt—of Regents Park.

In other words, HUD has driven Clinton to the point where he can't give up Regents Park without bankrupting himself.

"He has a real tar baby on his hands," Baird said.

If HUD forces Clinton out, "Regents Park is going to go to hell in a haywagon," the U. of C. law professor said. "But if he loses, he's not going to roll over and play dead. He's not going to give it up without a fight."

Clinton, who has stopped most of his other projects to concentrate on Regents Park, agrees, even though another fight could doom the Hyde Park development.

"I'll never quit," he said. "They've got to carry me out of here."

PUBLIC HEALTH SERVICE ACT TECHNICAL AMENDMENTS ACT

Mr. HATCH. Mr. President, the ADAMHA Reorganization Act (Public Law 102-321), signed into law by President Bush on July 10, 1992, moves our Nation aggressively forward with new and expanded initiatives for mental health and substance abuse research and services.

This important public law provides for the merger of outstanding mental health and substance abuse research; that is, the programs conducted by the National Institute of Mental Health, the National Institute of Drug Abuse, and the National Institute of Alcohol Abuse and Alcoholism, with the stellar scientific research of the National Institutes of Health. At the same time, this law increases the focus and quality of services for Americans who suffer from mental illnesses or addictions to alcohol and other drugs by creating a new agency responsible for these programs, the Substance Abuse and Mental Health Services Administration.

This law also brings about more targeted and equitable distribution of funds through separate block grants for mental health and substance abuse and through a variety of specifically targeted funding programs for populations with special needs, including pregnant and postpartum women, mentally disturbed children, and the children of substance abusers.

I am happy to join my distinguished colleague, Senator EDWARD M. KENNEDY, in sponsoring this Technical Amendments Act. This bill will correct various technical errors or omissions and will clarify and improve this vital public law, one of the most important legislative accomplishments of this session of Congress.

Thank you, Mr. President.

PROHIBITING SEXUAL DISCRIMINATION BY ARMED FORCES

Mr. METZENBAUM. Mr. President, in behalf of myself and Senators KENNEDY, CRANSTON, HARKIN, WIRTH, ADAMS, KERRY of Massachusetts, AKAKA, and WELLSTONE I, on the day before yesterday, introduced legislation to overturn the Pentagon's ban on homosexuals serving in the military.

The bill that we introduced S. 3084, is identical to the measure introduced in the House by Representative SCHROEDER and 70 of her colleagues.

The Pentagon's prohibition of gay men and lesbians serving in the military is as senseless and cruel today as it was when it was first conceived 50 years ago.

It is Government-sanctioned discrimination that has no place in our society.

It is discrimination against a distinct group of individuals who repeatedly and throughout history have shown that they are every bit as capable, hardworking, brave and patriotic as their heterosexual counterparts.

The fact is, the performance of homosexuals in the military has been superb.

Last month I stood here on the Senate floor, and spoke about the incredible cost of the military's prejudice against homosexuals.

I mentioned the case of Lt. Tracy Thorne, the 25-year-old navigator-bombardier who finished first in his flight training classes, received top honors from the Navy and then was busted out of the service for being gay.

Did he do anything wrong? Did he sexually assault or harass somebody?

No. He merely said he was gay.

Forget the fact that the U.S. taxpayers paid $2 million to train him to be a naval aviator.

Last month the Army dismissed Col. Margarethe Cammermeyer, one of the finest nurses in the military.

Colonel Cammermeyer served 14 months in Vietnam. She won a Bronze Star, and was named the Veterans' Administration Nurse of the Year in 1985.

Her only crime was to acknowledge during an interview that she is a lesbian.

Lieutenant Thorne and Colonel Cammermeyer are just the most recent casualties of a policy that has destroyed thousands of careers and lives.

The Pentagon's argument used to be that you could not have homosexuals in the military because they presented a security risk that they were vulnerable to blackmail.

Two separate studies of the issue the Navy's 1957 Crittendon report and DOD's 1991 Perserec report debunked that old canard.

Neither study found any statistical data that homosexuals present a security risk.

Now the Pentagon has a new rationale to use as a basis for discriminating against homosexuals.

Now the military says simply that "homosexuality is incompatible with military service."

And that homosexuals "adversely affect the ability of the military services to maintain discipline, good order, and morale. * * *"

How do they make those claims? Where is the evidence?

The fact is, there is not any evidence.

Defense officials freely admit that the policy is not based on scientific or empirical data.

They say it is based on "considered, professional military judgment based on years of experience."

I call it baseless prejudice founded on fears and ignorance.

How does the military explain the tens of thousands of homosexuals in the military right now excelling in their jobs.

They are the pilots, the ships gunners, the foot soldiers. Gay people serve in the military, just like they serve in every other Government agency and walk of life. They do their jobs just like everyone else.

In fact, the Pentagon has never contended that homosexuals do not perform as well on the job as heterosexuals.

In fact, the records of the people they bust out of the service speak for themselves. In nearly every case, their performance records are above average.

Mr. President, the American public does not support the Pentagon's policy of discrimination against homosexuals.

According to a Penn and Schoen 1991 public opinion poll, 8 in 10 Americans believe that homosexuals should not be discharged from the military solely because of their sexual orientation.

Most people do not realize how much it costs the taxpayers to investigate and discharge homosexuals from the military.

According to a brand new General Accounting Office report, between 1980 and 1990, 17,000 service men and women were discharged because of homosexuality.

Just the recruiting and training costs associated with the replacement of these personnel totals $28,226 for each enlisted person and $120,772 for each officer.

That totals approximately $491 million over the last 10 years, not counting the investigative, legal and administrative costs associated with the actual discharge proceedings.

There is another grim aspect of this issue that I wish to highlight, Mr. President.

That is the fact that the ban on gays is applied much more ruthlessly against some groups than others specifically against women and against enlisted personnel.

According to the GAO, women constituted 23 percent of all discharges for homosexuality, yet they represent just 10 percent of all military personnel.

Officers constituted 14 percent of all those serving in the military, yet they represented just 1 percent of those discharged for homosexuality.

With respect to women, it is simply sexual harassment in another form.

Servicewomen who refuse romantic or sexual advances of their commanders or colleagues find themselves the subject of investigations into their sexuality.

It is outrageous.

Let us be frank, Mr. President.

This is a political issue for the administration.

This administration is too afraid of the far right to change its anti-gay policy—even though it knows it is wrong.

This administration pays constant homage to a group of small narrow minded people who insist that everyone must look, think and live his or her life as they do.

It is the same mindset that resulted in the exclusion of millions of black Americans, and millions of women and other minorities from serving their country in the military for so many years.

In the 1940's, conservatives used all the same arguments—they said that admitting black Americans into the military would be bad for morale—that whites would not serve alongside blacks.

Compare this 1941 Navy memorandum outlining the basis of the military's exclusion of African-Americans with the Pentagon's exclusion of homosexuals today.

> The close and intimate conditions of life aboard ship, the necessity for the highest possible degree of unity and esprit-de-corps; the requirement of morale all these demand that nothing be done which may adversely affect the situation. Past experience has shown irrefutably that the enlistment of negroes (other than for mess attendants) leads to disruptive and undermining conditions.

Here are excerpts from the anti-gay policy today:

> The presence of—homosexuals—adversely affects the ability * * * to maintain discipline, good order * * *—and—to facilitate assignment and worldwide deployment of members who frequently must live and work under close conditions affording minimal privacy. * * *

The arguments are all the same. Only the players have changed.

President Truman knew the Pentagon was wrong. He integrated the military, and our Armed Forces took the lead in welcoming minorities and promoting equal opportunity ever since—save for one small exception—homosexuals.

So let us not obfuscate the issue by talking about discipline and morale.

Nothing is better for morale than a military that knows how to get the job done. What is important when the bullets are flying is whether the soldier or sailor or officer is brave, smart, and well trained. Heroes come from every race, gender, and sexual orientation.

Look at the experience of our allies.

Denmark, France, Germany, Italy, Japan, the Netherlands, Norway all permit homosexuals to serve in the military.

Mr. President, it is time to put an end to the Pentagon's discrimination against gay men and lesbians.

If President Bush is unable to do the right thing, then it is up to the Congress.

I urge my colleagues to support this effort.

SAM HULETT

Mr. SIMON. Mr. President, yesterday morning I read in The Washington Post the very moving story of the funeral of 6-year-old Sam Hulett in Springfield, IL. Sam was the son of Tim Hulett, a native of Springfield, a former Chicago White Sox player, and today an infielder for the Baltimore Orioles.

Just a few months ago Sam completed kindergarten. Last week he was struck down when he ran into the path of a car while walking home with his brothers from a playground in suburban Baltimore.

According to the National Highway Traffic Safety Administration, what happened to young Sam Hulett last week happened to sixty 6-year-olds last year.

Mr. President, I am sure we would all agree that there is no event more unsettling and difficult to reduce to mere words than the death of a child. If the Hulett family's tragedy can have any benefit it will be to help remind us that the exuberance and innocence of childhood are ever so fragile and that we must do everything we can to prevent injury and death from pedestrian motor vehicle crashes.

We must make our streets and crosswalks as safe as they can be. We must teach and reteach pedestrian safety. We must tune up our own senses behind the wheel and be on the lookout for the unexpected and unwary pedestrian.

In the meantime, our thoughts, and the thoughts of Springfield, baseball fans, and parents everywhere are with the Hulett family in the weeks and months ahead.

I ask that the article from the Washington Post "Mourners Remember Sam Hulett's Sweetness" be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOURNERS REMEMBER SAM HULETT'S SWEETNESS

(By Stephen Beaven)

SPRINGFIELD, IL, July 28.—The men and women who filled Calvary Temple this afternoon wore black and gray. The girls wore flower print dresses, and the boys' hair was slicked back. Except for a few whispers, everyone was silent.

And for a somber half-hour or so before 6-year-old Sam Hulett's funeral, about 150 people listened to the catchy Christian pop music of Michael W. Smith. The synthesizers were sweet, and the bass lines were snappy—not the sort of music usually associated with funerals.

But it was Sam's favorite tape, the Rev. Mark Johnson told the mourners. That made it fitting for a boy described today as sweet and smart and devoted to his church.

Sam, the son of Baltimore Orioles infielder Tim Hulett, a Springfield native, died Thursday, a day after he ran into the path of a car near the family's summer home in Cockeysville, Md. Sam was returning from a playground with his three brothers when he was hit.

"He had a very tender heart about [the word] of God," said Kathie Ames, Sam's kindergarten teacher at Calvary Academy during the past school year. "If you don't write anything else about him, I want people to know he had a tender heart toward God."

Sam was obedient and close to his family, Ames said. All the Hulett boys, who range in age from 4 to 9 years old, missed their father during spring training, she said. This year, Sam was especially anxious as Tim fought for a spot on the Orioles roster.

"He'd say, 'We have to pray for Dad and make sure he made the team,'" Ames recalled. When she asked when the family would know if Tim had made the team, Sam always answered "next Thursday."

"I think that was his stock answer," Ames said.

Family and friends, including pitcher Rick Sutcliffe—who represented the Orioles players—paid their respects at Calvary Temple, the church Tim and Linda Hulett and their boys attend in the offseason. Before the funeral, Tim Hulett and Sutcliffe embraced near the altar.

In his eulogy, the Rev. Johnson preached a message of hope in the face of heartache. He called on mourners to reach down for their faith in God, even if they don't understand why Sam died.

Christ was sent to Earth, Johnson said, "so that at an hour like this we can have hope. So that we can understand that . . . it's not the end when we come to a moment like this."

He also assured the congregation that Sam "had begun a new life."

"There's not a word to be said to take way the pain." Johnson said, adding that "faith has its most meaning when there's nothing else to stand on."

After the funeral, a procession of cars several blocks long wound west out of Springfield on country roads, past cornfields and beanfields and grain silos.

A brief graveside service was held in the Old Salem Cemetery, a 157-year-old burial ground surrounded by cornfields and pasture land. There, under a tarp and a sweltering sun, the Hulett family thanked their friends for their support and invited them back to the church for another service.

Like the Huletts, George Staab and family attend Calvary Temple. As cars pulled out of the cemetery, Staab, whose funeral home handled the arrangements, called Sam "a real good boy.

"There's no replacing him. Real sweet boy."

INJUSTICE IN THE FEDERAL COURTS OF APPEALS

Mr. KENNEDY. Mr. President, the tragic events in Los Angeles this past May reminded all of us of the high price we pay when any part of the population loses confidence in the fundamental fairness of society. One of the most destructive factors in shaking public confidence is the perception that the Federal judiciary is a closed club, where racial minorities are now welcome.

The Federal courts of appeals have the last word in the vast majority of cases in the Federal system. As such, they wield vast authority in hundreds of decisions each year interpreting the Constitution and many Federal laws. In a compelling op-editorial in yesterday's New York Times, Judge Leon

Higginbotham, a highly respected senior judge and former chief judge of the U.S. Court of Appeals for the Third Circuit, criticized the extraordinarily poor record of President Reagan and President Bush in appointing African-Americans to the Federal appellate courts. Only 2 of the 115 persons nominated to these over the past 12 years are African-Americans. By contrast, President Carter nominated nine African-Americans to the courts of appeals during his 4 years in office.

Judge Higginbotham's article is a searing indictment of the record of the past two administrations in making judicial nominations fairly. I believe that all of us in the Senate will find it of interest, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 29, 1992]

THE CASE OF THE MISSING BLACK JUDGES

(By A. Leon Higginbotham)

PHILADELPHIA.—Suppose someone wanted to steal back past achievements, rein in present gains and cut off future expectations among African-Americans about participation in the judicial process. That person would have found it difficult to devise a better plan than nominating Clarence Thomas to the Supreme Court while decreasing the number of African-American judges on the Federal bench.

The confirmation of Clarence Thomas forced the nation to pay attention to many issues, from the Senate's role in confirming Supreme Court Justices to sexual harassment of women in the workplace. But the Thomas confirmation proceedings diverted our attention from one vital issue: Thanks to Presidents Ronald Reagan and George Bush, African-American judges on the United States Courts of Appeals have been turned into an endangered species and are now on the edge of extinction.

For more than 99 percent of Federal litigants, the 13 Courts of Appeals are effectively the courts of last resort. Last term, the Supreme Court heard slightly more than 100 cases. In the same period, the Courts of Appeals decided 41,000 cases; in addition, they had 32,000 cases pending on their dockets at the end of the year.

For 145 years, the Federal courts in the continental United States—the Supreme Court, Courts of Appeals and District Courts—were entirely made up of white males. The first woman, Florence Allen, was appointed by Franklin D. Roosevelt, in 1934, and the first African-American, William H. Hastie, in 1949, by Harry S. Truman.

During his eight years in office, Dwight D. Eisenhower, however, did not appoint a single African-American to any Federal court in the continental U.S. As for the Courts of Appeals, John F. Kennedy appointed one African-American, Thurgood Marshall, and Lyndon B. Johnson appointed two, Spottswood W. Robinson 3d and Wade H. McCree Jr. Neither Richard Nixon nor Gerald R. Ford appointed any African-Americans to the Courts of Appeals.

Presidents Nixon and Ford did appoint a total of nine African-Americans to the District Courts. President Reagan appointed six, and President Bush has appointed nine. By contrast, Jimmy Carter appointed 28 to these same courts. He appointed more African-Americans in four years than Presidents Nixon, Ford, Reagan and Bush combined appointed in the course of nearly 20 years.

President Carter also took significant steps in his appointments to the Courts of Appeals. When he became President in 1977, there were only two African-American judges on the Courts of Appeals. In four years in office, he appointed nine, including the first African-American woman, Amalya L. Kearse. Their presence made the Federal judiciary far stronger that it otherwise would have been.

Moreover, to the extent that the appointment of judges is a barometer of a President's feelings about placing historically excluded groups in positions of power, Jimmy Carter showed that he had complete confidence in African-Americans.

President Reagan apparently felt otherwise and President Bush apparently does, too. On taking office, they both asserted that they wanted a far more "conservative" Federal court system. In that, they have succeeded admirably. But in the process they have turned the Courts of Appeals into what Judge Stephen Reinhardt of the Court of Appeals for the Ninth Circuit has called "a symbol of white power."

In eight years of office, out of a total of 83 appellate appointments, Ronald Reagan found only one African-American whom he deemed worthy of appointment, Lawrence W. Pierce. President Bush's record is just as abysmal. Of his 32 appointments to the Courts of Appeals, he also has been able to locate only one African-American he considered qualified to serve: Justice Clarence Thomas.

Since Justice Thomas moved from the Court of Appeals to the Supreme Court, no African-Americans appointed by President Bush remain on the Courts of Appeals. As Judge Reinhardt has said: "In President Bush's view, Clarence Thomas is apparently all there is out there. Clarence Thomas is black America to our President."

By 1993, six of the 10 African-Americans sitting on the Courts of Appeals will be eligible for retirement. As the African-American judges appointed by President Carter have retired, Presidents Reagan and Bush have replaced them largely with white judges in their 30's and early 40's. Why is it important for the Federal bench to be pluralistic? Pluralism, more often than not, creates a milieu in which the judiciary, the litigants—indeed, our democratic system—benefit from the experience of those whose backgrounds reflect the breadth of the American experience.

I do not want to be misunderstood. Pluralism does not mean that only a judge of the same race as a litigant will be able to adjudicate the case fairly. Rather, by creating a pluralistic court, we make sure judges will reflect a broad perspective. For example, speaking of Justice Thurgood Marshall, Justice Sandra Day O'Connor said: "At oral arguments and conference meetings, in opinions and dissents, Justice Marshall imparted not only his legal acumen but also his life experiences, pushing and prodding us to respond not only to the persuasiveness of legal argument but also to the power of moral truth."

Judicial pluralism is important for another reason. It is difficult to have a court that in the long run has the respect of most segments of the population if the court has no or minuscule pluralistic strands. Of course, pluralism does not absolutely and forever guarantee an effective and fair judiciary. Nothing really does. However, pluralism is a sine qua non in building a court that is both substantively excellent and respected by the general population. In other words, judicial pluralism breeds judicial legitimacy. Judicial homogeneity, by contrast, is more often than not a deterrent to, rather than a promoter of, equal justice for all.

Many Americans have rightly condemned South Africa's wretched system of apartheid. But we should also ask ourselves: How is it that in President F.W. de Klerk's less than three years in office, one of his 31 appointments to South Africa's courts is a black lawyer while of the 115 Bush and Reagan appointments to the Courts of Appeals in 12 years, only two have been African-American?

I am forced to conclude that the record of appointments of African-Americans to the Courts of Appeals during the past 12 years demonstrates that, by intentional Presidential action, African-American judges have been turned into an endangered species, soon to become extinct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. REID). Morning business is closed.

COMPREHENSIVE NATIONAL ENERGY POLICY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 776, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 776) to provide for improved energy efficiency.

The Senate resumed consideration of the bill.

Pending:

(1) Wellstone amendment No. 2789, to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

(2) Dodd amendment No. 2790 (to amendment No. 2789), in the nature of a substitute.

Mr. JOHNSTON. Mr. President, we are back at ground zero now. The difference between yesterday where we waited around some 3 hours or so on quorum calls, waiting for people to bring up their amendments, is that we have run out of time, and that people are not going to receive any more protection. We just cannot go on ad infinitum waiting for people to bring in their amendments.

We are particularly waiting for the Dodd-Gramm problem to be resolved. I tell those Senators that theirs is the pending amendment, and it will come up automatically for a vote—I guess, a voice vote—unless they are here to either oppose it or tell us what the status is. I have heard nothing about that status.

So I hope, Mr. President, that in the next 15 to 20 minutes, that we would have some word and, hopefully, have this bill passed that quickly, because we are ready for final passage. I know of no amendments that will actually require action, but we will soon find that out.

So I will tell Senators that we will put in a quorum call, and I hope that in the next 15 minutes we can get this bill resolved.

Mr. WALLOP. Mr. President, let me just echo the words of the Senator from Louisiana, and also inform him that Senator STEVENS is expected to be here to offer his amendment sometime between now and half past 10. He is on his way. Then we will get it started.

I share with him the hope that we can settle these outstanding amendments, either by vote or by acceptance, one way or the other, and get this bill to conference, where it belongs.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, there is a pending amendment, the Dodd-Wellstone amendment, and we are having trouble finding out whether the parties are for that, oppose it, intend to bring it up or intend to vote on it or intend to negotiate.

I would tell those Senators who have any interest in that matter unless they wish the managers to dispose of it as we would like, they should come and communicate with us. This bill is being held up by Senators who are presently incommunicado as far as we can tell. So unless they wish us to deal with it either by a motion to table or unanimous consent for time limitation or something like that, they should tell us what their intentions are.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BOND pertaining to the introduction of S. 3099 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. BOND pertaining to the submission of S. Res. 327 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BOND. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator having suggested the absence of a quorum, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I rise to speak on the current energy bill pending before the body.

I thank my colleagues on both sides of the aisle for the action taken last night, where two of my amendments were accepted.

The first amendment was an amendment requiring an analysis of the economic benefits associated with opening the Arctic National Wildlife Reserve to oil development.

The second was an amendment that would require an analysis of all projects nationwide that could aid the economy and produce jobs.

And, as a consequence of that comparison, Mr. President, at about the end of the first quarter of next year this body is going to have a base of information. It is going to be a base of information that I think will clearly show the tremendous impact on the economy that opening ANWR could provide to this Nation, not only in jobs but also as a significant contribution to offsetting the balance-of-payments deficit. One only has to look at the balance-of-payments deficit to recognize that two-thirds of our deficit in the balance of payments is the cost of importing oil.

The necessity of that continuing is, of course, dependent upon actions by this body and the House of Representatives relative to the authorization to initiate the authority for lease sales in domestic areas of identified petroleum resource ANWR certainly fits into that category.

So what we have done is set up a criterion that, as a consequence of the analysis, will show a comparison between identified economic activities associated with new jobs emerging from projects that are planned throughout the country, that identify over 2,500 new jobs, and a comparison on what development might mean with regard to the Arctic National Wildlife Refuge.

The stage is set, Mr. President, and my accompanying remarks are in support of a national energy strategy, which this Nation sorely needs. It is really time we wake up and smell the aroma of the coffee which surrounds us. The American people are screaming, and we are not hearing the message. You can hear it in the Congress. You can hear it in the headlines. You can watch it on the evening news. The American poeple are questioning the attainability of the American dream. They are concerned. They are scared. They are frightened. They are anxious.

They are concerned that our economy is sinking, that they will wake up without jobs, that our children will lack the opportunity to have challenges, to own their own homes; the recognition that many of our jobs are going overseas and that our politicians do not seem to care. They are concerned the Japanese and the Europeans are taking our jobs, buying our property, taking over our technology, outcompeting us in every industry that really matters, industries that were basically the center of American ingenuity.

The people are telling us, but we do not hear the message. Somehow we are not listening—listen or get out. That is the message. We hear it time and time again. Some suggest anything is better than what we have. We have all heard the anti-incumbency concerns expressed by the media.

This bill before us, this so-called comprehensive energy plan and the debate we are having, is exactly what many Americans are concerned about. And they are concerned that we do not get the point. We have before us a scaled-down bill. It is a worthwhile bill. But the bill itself avoids the major questions of reducing dependence on foreign sources for our oil. The reason, of course, for this dilemma is that we do not have the intestinal fortitude, the guts, to make tough decisions.

This bill has almost nothing in it to stimulate the domestic production of oil and gas. Why? This is the energy bill. It seems we would rather ram through the easy stuff and go home claiming victory. After the elections, well, maybe that is when we will talk about ANWR, that is when people will again talk about CARE standards. It is no wonder the American people are anxious, concerned, and discouraged.

Mr. President, let me tell you what I hear people saying. They are saying they want jobs. They want American jobs. They want an expansion of the economy. They are also saying no blood for oil. We went through that effort in the Persian Gulf. Make no mistake about why we were over there. We were over there to keep the flow of oil available to the Western world.

The American people are saying no more billion-dollar trade deficits. They are saying let us import less; let us produce more domestically. They are saying no more exporting of American jobs. Why are we sending our jobs overseas with our investment when we could be developing our own domestic energy resources in this country? What is Congress saying, Mr. President? Congress is saying we are not even going to have at this time an up/down vote on ANWR.

It is unfortunate we are not going to have this debate of the one issue which means 735,000 new jobs throughout America, the largest single jobs issue identified in the Nation at this time. This body is not even going to debate the merits. My colleagues on the other side of the aisle who have indicatd a support for ANWR say we simply cannot address the issue at this time because of the political realities.

Mr. President, the political realities are very simple. The Democratic Presidential team does not support the opening of ANWR and the leasing thereof. The Vice Presidential candidate on the other side, my colleague and good friend, Senator GORE, not only opposes ANWR, but he proposes putting ANWR in a wilderness in perpetuity, which would foreclose this Nation from developing what has been identified as North America's largest potential oil reserve.

It is, indeed, unfortunate we are not going to discuss the fact that in May alone this Nation spent $4.1 billion on imported oil. We are not going to discuss the three-quarters of a million troops we sent to fight in the Persian Gulf to protect oil supplies when we could be producing oil here at home. It simply does not make sense.

The unfortunate part is that we cannot seem to overcome the environmental opposition. Where is American ingenuity? Where is American technology that has been able to meet the challenges ahead? Can we not encourage America's environmental community to come aboard, help us make ANWR development safer? Reduce the footprint? Reduce the impact on the environment by using new technology? Of course, we can. But for reasons unknown to me in exact terms, the environmental community has yet to come aboard and say let us make a contribution to America's energy independence by reducing dependence on imported oil and gas by developing ANWR. And let us do it better, let us do it with U.S. jobs, with U.S. ingenuity, with sound science as opposed to emotion that so often carries the day in this body. More often than not, individuals who make the most eloquent argument prevail on an emotional basis. Decisions are made that have no sound scientific basis.

Mr. President, the question of ANWR is not about Caribou, it is not about footprints in the wilderness, it is not about a 200-day supply of oil. It is about jobs. It is about creating jobs and keeping jobs in America. It is about stimulating the economy. It is about supplying ourselves with energy that we need so we do not have to fight wars against despots abroad. It is about wiping out half of our trade deficit.

Mr. President, Congress is going to pass this bill. I am going to support this bill. We are going to go home and declare some kind of a victory to our constituents, but what a hollow victory cry that will be.

Let me explain a little bit further on why this is going to be a hollow victory. While this body avoids meaningful legislation to encourage domestic oil exploration and development, let us look around the world and see what is happening. Oil imports are at their highest levels since 1978. We currently import nearly 7.5 million barrels of crude oil a day. It is the highest level of imports since the winter of 1978. Domestic production is decreasing steadily and has fallen to a low of 7.2 million barrels a day. That is what the level was in 1968. My State of Alaska provides 25 percent of America's domestic oil production, but it, too, is beginning to decline at nearly 10 percent a year.

What are we going to do in 5 years? What are we going to do in 9 years? We are going to be importing more oil.

Make no mistake about it, Mr. President, we must and can and are doing a better job of conservation, but there is an expansion of our economy and as a consequence, there is a tremendous demand and will be for the foreseeable future for crude oil. Alternatives will be developed, but they must be economically competitive and currently they are not and will not be for the foreseeable future.

So, Mr. President, imports are, again, over 50 percent. The number of active oil and gas rigs hit the lowest level ever recorded. Last month the rig count was 596. Imagine that, 596 compared with 1981 when there were 4,531 rigs drilling in the United States, rigs using American labor, providing jobs, providing for the economic vitality of the industry as well as the communities where those industries were located.

Offshore drilling in the United States fell by 41 percent this year alone. Refinery employment is on a major decline. The feeling in the industry is that the domestic oil industry is struggling to survive. America is over regulated and the most promising areas for new domestic production are closed—they are closed to exploration, Mr. President—by the Congress of the United States.

There is little hope expressed for recovery within the industry and that is unfortunate, Mr. President, because the American oil industry is moving overseas before the very eyes of this body. American jobs are being filled in other countries and this body's inability to make tough decisions is allowing this to happen. When I mention this body, I am obviously including the House of Representatives as well.

Last year, investment in America by 30 large oil and gas companies fell by 4 percent, while overseas investment increased by 27 percent. Total capital expenditures was 50 percent higher overseas than in America. In the past 5 years, U.S. oil companies have spent $30 billion more developing foreign resources than they have in developing domestic oil fields in this country.

Mr. President, the gap is increasing. The industry is going to other promising areas in countries eager to develop their resources: Russia, South America, Southeast Asia, Africa, to name a few. More than 60 Western oil companies are negotiating now joint ventures with the former Soviet Republics. That is happening right now: Chevron is in Kazakhstan, Marathon in Sakhalin, Unocal in Thailand, BP in Columbia, and Apache is in Burma.

Other countries encourage oil exploration and development. The United States simply shuts its door on the most promising areas. Endless layers of Federal regulatory hurdles inhibit exploration and development both onshore and offshore.

Mr. President, no new refiners have been built in America in recent years, and the prospects for new ones have been killed by the cost of compliance with the Clean Air Act. But new refineries are being constructed in other countries. Where is the balance? Cannot America come together with responsible environmental oversight and challenge America's technological capability with engineering techniques that can induce this country to build new efficient refineries that can compete with refineries overseas? If not, Mr. President, the handwriting is on the wall. We are simply going to import not only crude but we will increase our import dependence on refined products.

Mr. President, a lot of people seem to say, oh, well, that is all right. How does that oil come in, how does that refined product come? It comes in in foreign tankers, owned by foreign nationals, foreign crewmen who do not have the same oversight that U.S. tankers have. Where is our own self-interest, Mr. President? I find it baffling and I think the American people find it unacceptable.

The United States is the only country in the world with drilling moratoriums on its coastal waters, including some of the most promising areas off the coasts of California, North Carolina, and Florida. We recognize there can be a risk in drilling and have excluded drilling from the most sensitive areas, like Bristol Bay, as we should, because clearly the value of the renewable red salmon resource far surpasses the potential value of the oil.

But there are many other areas where we do not have that resource risk; in the Chukchi and Beaufort Seas in Alaska I support OCS drilling.

So the question is balance. We cannot eliminate all areas. We have to measure the environmental impact, use discretion and use technology to reduce the element of risk. I will speak more on this later.

Mr. President, how does the decline of the domestic oil industry affect America? We talked a little bit about jobs, but the petroleum industry in the United States has lost 350,000 jobs in the last 10 years. The number of industry jobs has been cut in half over the last 10 years. These, Mr. President, are more jobs lost in the petroleum industry than in the automobile industry, the steel industry, the textile industry, the chemical industry or the electronics industry. We have lost more jobs in America's petroleum industry than in the other areas I mentioned.

These are real jobs. AMOCO laid off 8,500, 15 percent of the company; Mobil, 2,000 jobs; Unocal, 1,000; 1,500 jobs are going to be lost in my State of Alaska. Nationwide over 50,000 jobs are going to be lost in the petroleum industry this year. Job layoffs spin out in the economy, real estate values drop, stores close, banks fail, and more people lose their jobs.

Let us look at the balance of trade, Mr. President. In the past 10 years, America has spent $500 billion on imported oil. Imagine what we could do in this Nation with $500 billion in our economy? That is a challenge to the responsibility of this body.

In 1991, our Nation spent $43 billion on imported oil. Our total trade deficit in 1991 was $66 billion. This means, Mr. President, two-thirds of our total trade deficit is for imported oil.

We talk about offsetting a trade deficit. We talk about our trade with other countries. Let us focus on where the priority is. It is the cost of importing oil. We are doing it at the expense of our domestic industry by driving them out. And when you drive them out, Mr. President, what you set up is an increased dependence on imports because American capital goes overseas and the petroleum industry develops oil fields for American consumers. It comes back in the form of crude oil for refining in the United States, or it is going to come back more and more in the refined product, in foreign ships, with foreign crews, to be consumed by Americans.

Why not cut out the middleman? Can we not conceivably address the incentives within our own industry? Can we not meet with America' environmental community in a responsible manner to reduce this dependence? Certainly we can if we have the will to do it, and the will to do it is within the legislative body.

Make no mistake about it, Mr. President. The President of the United States, George Bush, supports domestic energy production expansion. The President has gone on record nine times supporting the opening of ANWR.

On the other hand, as I have noted, the Democratic Presidential candidate not only opposes ANWR, he wants to put it into wilderness in perpetuity.

Mr. President, in May of this year we spent $4.1 billion on imported petroleum products; $3.2 billion of that was for importing crude oil, and that is in 1 month. That is greater than our May trade deficit with Japan. Think of that: May, $4.1 billion on imported petroleum products, and $3.2 billion of that was for importing crude oil.

(Mr. SIMON assumed the chair.)

Mr. MURKOWSKI. Mr. President, as we debate the status of the energy bill, we are faced with the reality that we have before us a bill which does not include the most promising area in North America, namely ANWR, nor does it open any new areas for oil exploration in the United States. This body has failed, and failed miserably, to make the tough decisions to benefit the hardworking men and women of America. Development of ANWR would encourage America's oil production, independence, preserve American dollars, and create 735,000 American jobs in 50 States. This would be the largest single jobs project ever placed before the Congress, and the Congress has the authority, it has the power, to open it for competitive leasing.

These would be jobs, as I have stated, spread to every State in the Nation: 80,000 in California, 60,000 in Texas, 34,000 in Florida, 22,000 in New Jersey, 10,000 in Colorado, 2,000 even in the small State of Delaware. These are real jobs, for men and women of America. For unemployed workers, these are sound jobs. They are not handouts: jobs for engineers, welders, truckers, manufacturers, construction workers of all types. Because to open that area for production is going to require pipe, valves, insulation, and on, and on.

ANWR is a chance for this body to do something to actually create domestic jobs, to spur economic development. We talk about jump-starting the economy. What have we done? ANWR development alone would boost the U.S. gross national product by $50.4 billion. ANWR development would provide billions of dollars in taxes and royalties to the Federal and State governments each year. These are real dollars.

The proof of that, Mr. President? Well, let us go back and take a look at reality. Prudhoe Bay oil is consumed solely in the United States as required by law, because when this body passed the authorization for the pipeline to be built, the 800-mile pipeline from Prudhoe Bay to Valdez, it mandated that the oil flowing through the pipeline must be consumed in the United States. None of that oil goes to Japan or overseas.

Mr. President, the State of Alaska produces about 23 to 25 percent of the total crude oil produced in this Nation.

If we look at Prudhoe Bay since 1977, Alaska's North Slope oil companies have made direct purchases of supplies and services from every State in the Nation, totaling in excess of $47 billion. The total contribution to the U.S. economy to date from existing Prudhoe Bay oil development is $300 billion.

ANWR development could well be of a similar magnitude, it is potentially that big and large a project.

The huge boost to the economy resulting from ANWR development can be realized without, Mr. President, costing the U.S. Government one penny. We do not have to subsidize it. We do not have to make special provisions. All we have to do is authorize it for leasing and let the private sector go in there, put in their bids, and initiate exploration. If the reserves that are hoped to be there are there, by develop the field we will have a huge resource of domestic oil which will produce jobs and spur the economy. The huge boost to the economy resulting from ANWR development can be realized without costing the Government one penny. The lease sales, the bonus bids, the royalties will raise billions of dollars for the Federal Treasury.

Mr. President, where is the base of support? I am pleased to say a large number of my colleagues have continued to support the opening of ANWR. They say it is perhaps not the right time; we have to wait until we get over the political gridlock that we are in; that we cannot embarrass the Democratic candidate for Vice President. The labor community says that they are supporting candidates-elect Clinton and Gore; that they cannot move on it until the political process is over. We are in gridlock.

So what is new, Mr. President? We are in gridlock. We cannot move on it. Well, the amendments that were passed last night keep the momentum alive. I have said earlier the first requires an analysis of the economic benefits of opening ANWR to oil development, and that is solely an ANWR comparison. The second one considers all projects associated with creating more than 2,500 new jobs in any area of the United States. When we look at the two together, ANWR is going to make such an outstanding comparison that the focus will be on opening ANWR and the realization that we can do it safely.

Mr. President, as I have stated, if ANWR was developed, $250 billion would not be sent overseas. It could cut the trade deficit in half.

So why are we not moving, Mr. President? We know we are in an economic crisis. We are going to have to address the reality of reaping what we have sown. For far too long we have seen the elitist defeatists have the ear of the majority of this Congress. Their pessimism and fear have sown the seeds of weeds, so to speak. They do not believe in the American spirit of ingenuity or the ability of the U.S. industry to safely develop resources that make our country strong. They say we cannot do it. We should lock up things.

Mr. President, we sent a man to the Moon. We can open up ANWR safely. The comparison that we have made in technology has been in evidence. Extension of the Prudhoe Bay field into the development of the Endicott field is an outstanding standing example. The Endicott field came in last February. It came in as the 10th largest producing field in the United States. Today, it is the sixth largest, at 120,000 barrels a day. But it is only 55 acres; that is the physical size of the area.

People might say, we do not like oil fields. That is fine if you do not like oil fields, but we are dependent on oil. The Prudhoe Bay field is the best field in the world. We can be proud of it. Endicott and the technology used there is so far advanced and points to the technology that it can be used to open up ANWR safely.

What are we talking about? We are talking about a huge area. There are 18 million acres in the ANWR area. Half has been set aside in wilderness in perpetuity. That is fine. Out of the remaining 8½ million acres, we are proposing to lease 1½ million acres. They say if development takes place in that 1½ million acres, the actual footprint, the concentration of development will be about 12,500 acres. That is an area the size roughly of Dulles International Airport.

So it is a persuasive argument. We have to overcome this "can't do" philosophy that has succeeded in driving our industries out of the country. We have to do it now.

Mr. President, some of the areas that I think we have to reflect on are proof of the advancements that have been made. We had a terrible accident in Prince William Sound with the *Exxon Valdez* grounding—never should have occurred. But it did.

But what has happened since then?

Well, let us look at facts. We have had record salmon returns in the Prince William Sound. They swamped the market last year. This could be another record year because of the successful hatchery program. We had to dump 2½ million salmon at sea simply because there was no way to harvest those salmon in the short length of time available, and they were clogging the mouth of the streams. They simply had to be disposed of. There was no other alternative. The potential impact of pollution would have been too great.

We use the argument of the caribou in northwestern Alaska. Twenty years ago we had 64,000 in one area. Now we have over half a million. There are too many to count.

Mr. President, advances in drilling and production technology will further minimize the footprint of development, many of which have been pioneered from my State of Alaska. These include directional drilling, reinjection of drill muds and cuttings, reductions in well spacing, consolidation of support facilities, and drill pad size reduction. As I have indicated, Endicott field is proof—only 55 acres—and we can expect the advance of that technology.

Alaska's West Sak oil field contains somewhere in the area of 15 to 25 billion barrels of oil. But it is too heavy and too cold to produce under current technology. It is locked in the sand. But we are researching recovery technology at the University of Alaska in Fairbanks. It is going to take a few more years to bring this on line. Would it not be a shame if we lost the pipeline because we did not keep it open with oil from a new source after Prudhoe Bay declines? And Prudhoe Bay is declining at 10 percent a year.

Eventually we are going to have to remove that pipeline, Mr. President, if it is not operated at a level that is economically feasible.

How long will this body refuse to consider opening the coastal plain of ANWR? How high must the price of gas go up? How dependent do we have to become on the Mideast countries?.

Are we going to have gas lines again or another war in the Mideast? The battle over ANWR is not about the loss of a mystical wilderness value or manipulated rumors of environmental destruction. It is about real people, working people, real jobs, people who are out of work, people who are concerned for their future, people who are concerned for their children. It is about having gas in our cars, turning on our lights in the schools, putting our food on the table.

Mr. President, I am convinced, just as the people of my State are convinced, that ANWR is essential to our Nation's economy and that ANWR can be developed safely.

This body and the House of Representatives must put the defeatist attitude aside, make the tough decisions for the benefit of American men and women, use the new technology to overcome old procedures, use our engineering capability, our planning capability, and our environmental capability.

If we can put a man on the Moon, Mr. President, we can open up the coastal plain of ANWR to oil and gas development in an environmentally safe manner.

Mr. President, it is an affront to my State that we have reached this stalemate and this gridlock, and I know to many of my fellow Members of this body.

Mr. President, we have seen the advancement of this legislation. We have seen it through the Energy Committee. We have seen it structured as a partisan issue. We have seen it in the Presidential political arena that we are in.

Specifically, Mr. President, we have seen a situation where we are in a gridlock, and are going to have to await a new Congress to address the issue of ANWR with some finality.

That is indeed unfortunate, Mr. President. But nevertheless, that is the position that we are in.

Mr. President, I have gone on for some time. I see the floor manager who has been most patient, and I want to compliment him. I have further remarks, but I am going to ask unanimous consent that those remarks be entered into the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair. I wish my colleagues a good day.

Mr. JOHNSTON. Mr. President, I thought we had an amendment cleared by Mr. STEVENS, but I understand Mr. STEVENS wants to do the amendment himself and have some words to say. If the Senator from Alaska would like to resume his comments, he is free to do so until his colleague comes.

Mr. MURKOWSKI. Mr. President, I would be happy to. I thank my friend from Louisiana. I will continue not at length but there are a couple more points that I feel should be made.

I would like the record to reflect the action of the Energy Committee on the issue of ANWR. In May of 1991, there was a motion to strike ANWR leasing from the energy bill. I was a member of that committee. The motion to strike ANWR leasing from the energy bill failed by a vote of 8 to 11.

I am pleased to say that all members of our side of the aisle voted against striking ANWR, and we had two members of the other side with us, and as a consequence, we were able to prevail on an 8-to-11 vote. On May 23, passage of the energy bill including ANWR—I think it is important to note that the bill at that time did include ANWR—the vote in favor of passage in the committee was 17 to 3.

So in May 1991, the Energy Committee voted out ANWR as part of the energy bill. We had 9 Republicans and 8 Democrats for which I am eternally grateful. Of course, we had the chairman of the Energy Committee as well.

Then we went to the floor in November 1991, with a cloture vote on the motion to proceed to the consideration of the entire energy bill. Sixty votes were required to invoke cloture. The Senate failed to invoke cloture. We got 50 votes and 44 against. Again, it is interesting to note the partisanship on the vote; 32 Republicans and 18 Democrats voted for cloture; 9 Republicans and 35 Democrats against cloture. That was the end of ANWR in the bill. We could not prevail. We needed 60 votes.

On February 4, 1992, we had a second cloture vote on the motion to proceed to the energy bill without ANWR or CAFE. Well, that was not a vote of any consequence because clearly ANWR had been stricken under the motion to proceed.

However, in February 1992, a unanimous-consent agreement proposed by the junior Senator from Alaska before this body to allow an up-or-down vote on ANWR was taken both to the Republican and Democratic caucuses. It was a unanimous-consent agreement that could be stopped by only one person's objection. The Republican leader announced on the floor that there was no objection on the Republican side; hence, prospects for an up-or-down vote were dependent on the other side.

Later that afternoon, on February 4, 1992, a Member of the other side objected on behalf of six Senate Democrats, opposing the unanimous-consent agreement to grant an up-or-down vote on the ANWR amendment.

Well, that is the reality, Mr. President. We are in a gridlock, political gridlock, with the elections, and ANWR has moved up not just to be an energy issue, but it is going to be an issue in the Presidential debate, because it divides the two sides. I think that is indeed unfortunate, because I think it sells America short on its technology and its ingenuity. I think America should recognize that the environmental community is not anxious to get aboard on ensuring how ANWR can be opened safely. They see this as an issue thousands of miles away from their membership—an idealistic issue.

I took members up there, both of the environmental community and Members of this body. One member got off the plane and looked around and said, "Where is the wilderness?" This is the wilderness, Mr. President.

The point is that some of the irresponsible environmental groups look upon this as an issue to keep their membership growing, to bring in funding, not as an issue to try and come aboard and address the concerns and the reality that is in the interest of America's energy security, to reduce our dependence on imported oil, to reduce the export of American jobs, and to address the stimulation of this economy by the most identifiable means available. This is a challenge to industry and a challenge to the environmental community; but the environmental community is hard and fast against it, because they can continue to raise money. Nobody can afford to go up to ANWR and look at it, except a few environmental elitists. It would cost a $5,000 bill to go up there.

So it is tied up in Presidential politics, as I have indicated. Presidential candidate Clinton opposes ANWR development, and on February 7, 1992, he stated:

> I support legislation expanding wilderness designation in the ANWR area to include the 1.5 million acre coastal plain.

Well, Mr. President, that speaks for itself. Vice Presidential nominee GORE is a cosponsor of Senate bill 39, a bill to designate ANWR coastal plain as a wilderness. Those are the facts, Mr. President.

Mr. President, there is an area of this bill that I am sensitive to. It is an important provision missing from the language that we are considering today, providing for cancellation of certain oil leases in the Bristol Bay area. I am pleased that the other body included them in their version of the bill. This is going to come up in the conference.

I know the leadership is discouraging amendments and, after considering the issue carefully, I have concluded that focusing on this matter when the bill reaches conference is a strategy that will succeed. So I am not going to pursue the Bristol Bay lease buyback at that time. But the reality is that I have addressed it with my colleagues. The priority is on the wild salmon resource, which is renewable. I, along with virtually all Alaskans, feel that this area should be bought back.

Mr. President, it is important to remind my colleagues that one very important provision is missing from the language we are considering today. That is language providing for the cancellation of certain oil leases in Alaska's Bristol Bay.

I am pleased to note, however, that such a provision is in the energy bill passed by the other body, and the cancellation of these leases will come up in the conference on this bill. During that conference, Mr. President, I will extend every effort to ensure that my colleagues agree to it.

Candidly, Mr. President, I would have preferred to have language dealing with this sale in the Senate's substitute as well as in the bill sent over by the other body, but circumstances have simply not permitted. Initially, there were questions about the Energy Committee's jurisdiction over OCS issues. Later, when we debated the Senate energy bill on this floor, there was concern that including it would jeopardize other, legitimate leasing plans. Today, the leadership is discouraging amendments, and after considering this issue carefully, I have concluded that focusing on this matter when the bill reaches conference is the strategy most likely to succeed.

Mr. President, Bristol Bay is the foremost producer of wild salmon in the entire world, and a major reason why Alaska contributes a full one-third to the world supply of salmon. Its dominant fish, the famous Alaska red salmon, or sockeye, is considered one of the world's finest. For Alaskans it represents a major economic factor, as thousands of fishermen, processing workers, and others depend on it for a major share of their livelihood. The Bristol Bay fishery is often called the "billion-dollar fishery," and there is a great deal of truth in that name.

Despite what some preservationist groups would like the American people to believe, Alaskans have an excellent record of carefully husbanding the resources of our State. We believe deeply in conservation—the wise use of our resource wealth.

The Bristol Bay question is an example of exactly this approach. The area's tremendous natural potential is an eloquent argument for the cancellation of these leases.

Some years ago, when the Bristol Bay lease sale was initially proposed, the suggested sale area was vastly larger than the area actually leased. It was through the efforts of concerned Alaskans that approximately 80 percent of the original area was eliminated. Mr. President, I was proud to play a substantial role in achieving that reduction.

Now, it is time we take the final step, and I intend to press for conclusive action on this sale with all my strength in conference.

I thank the Chair, and I feel quite certain that the action taken by my colleagues on the amendments which they approved last evening will show ANWR in its true light, and in the national security interests of our Nation.

I thank the Chair and yield the floor.

AMENDMENT NO. 2793

(Purpose: To provide for equitable treatment of taxpayers entitled to credits on account of payments into the trans-Alaska pipeline liability fund)

Mr. WALLOP. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS, the Senator from Alaska, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Wyoming [Mr. WALLOP], for Mr. STEVENS, proposes an amendment numbered 2793.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the bill, add the following new section:
>
> **SEC. . TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX OFFSET.**
>
> Subsection (d) of 26 U.S.C. 4612 is amended by inserting the following new sentence before the last sentence of such subsection (d): "If a taxpayer who has paid into such Trans-Alaska Pipeline Liability Fund can not use such credit on account of the operation of any provision of section 4611(f), then such credit may be taken to offset taxes otherwise due under section 11, in each year to the extent which would have been permissible had the Oil Spill Liability Trust Fund financing rate imposed by section 4611 not lapsed pursuant to 4611(f)(2) or expired pursuant to section 4611(f)(1), provided that no such credit taken under this sentence may be carried back to previous tax years.".

Mr. WALLOP. Mr. President, this amendment by Senator STEVENS has been approved by both sides of the Finance Committee, and by the Senator from Louisiana and myself. It is an amendment whose purpose is to provide for equitable treatment of taxpayers entitled to credits on accounts of payments into the trans-Alaska pipeline liability fund and has been cleared on both sides by both committees.

I ask unanimous consent that an explanation of the amendment by Senator STEVENS be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF TRANS-ALASKA PIPELINE LIABILITY FUND AMENDMENT

Under current law (26 U.S.C. 4611), an excise tax is imposed on crude oil received at a United States refinery, and on petroleum products entering the United States for consumption, use, or warehousing. A portion of this tax, 5 cents per barrel, is dedicated to the Oil Spill Liability Trust Fund (the "Oil Spill Fund").

Section 4612(d) allows a credit against a taxpayer's liability for the Oil Spill Fund tax equal to the amounts paid by the taxpayer before January 1, 1987, into the Trans-Alaska Pipeline Liability Fund (TAPLF), because those funds are to be transferred into the Oil Spill Fund. (The TAPLF is a privately owned entity created by Federal statute.) However, the credit only kicks in when the TAPLF funds are actually transferred, and this transfer will occur only when all outstanding claims against the TAPLF are paid.

Issue: The TAPLF transfer will not take place until late 1993 at the earliest, so the credit will not be available until late 1993. However, the 5-cent tax against which the credit is applied is now expected to be automatically suspended in early 1993 when the Oil Spill Fund reaches $1 billion. Therefore, under current law, the oil companies will receive no TAPLF credit when the TAPLF funds are transferred into the oil spill fund, because the tax against which the credit applies, will have lapsed. Taxpayer companies believe this is unfair, because contributors to other Funds—the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund—have received credits when those Funds were rolled into the Oil Spill Fund, but contributors to the TAPLF—which is a private fund—will not receive similar credits.

The amendment would allow taxpayer companies to take a credit against corporate income taxes following the TAPLF transfer, notwithstanding suspension of the 5-cent tax due to the billion dollar cap *and* continuing beyond expiration of the 5-cent tax as if that tax had remained in effect. This provision does not permit any carryback application of the credit and would not apply the credit against the Alternative Minimum Tax.

PROPOSED AMENDMENT

At the appropriate place in the bill, add the following new section:

SEC. . TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX OFFSET.

Subsection (d) of 26 U.S.C. 4612 is amended by inserting the following new sentence before the last sentence of such subsection (d):

"If a taxpayer who has paid into such Trans-Alaska Pipeline Liability Fund can not use such credit on account of the operation of any provision of section 4611(f), then such credit may be taken to offset taxes otherwise due under section 11, in each year to the extent which would have been permissible had the Oil Spill Liability Trust Fund financing rate imposed by section 4611 not lapsed pursuant to 4611(f)(2) or expired pursuant to section 4611(f)(1), provided that no such credit taken under this sentence may be carried back to previous tax years."

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2793) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, we are down to a very narrow selection of amendments that remain. My understanding, after conversations with the Republican leader, is that most all of ours will have been worked out, or will be ripe for offering in the next little while, which will leave us, the Senate, confronted with a nongermane, irrelevant argument between folks on the Banking Committee, as standing between the Senate and its long-awaited energy policy bill going to conference.

It is my hope—and I am certain it is the hope of the Senator from Louisiana—that it is resolved. Whatever its merits, it has no business on the energy bill. Whatever its merits, it has no business tying us up with other things with equally little merit, and that is certain to be the case.

So it is my hope that the parties involved in that will find a way to settle their argument. The Senator from Louisiana has worked on this for 18 years, and I for 16, along with many others, for most of their Senate careers as well. We have come too far to be distracted by irrelevant and nongermane amendments to energy strategy.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed for a few minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

(The remarks of Mr. SIMON pertaining to the introduction of S. 3102 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

QUORUM CALL

Mr. SIMON. Mr. President, if no one else seeks the floor, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3]

Dixon
Johnston
Mitchell
Simon

The PRESIDING OFFICER (Mr. SIMON). A quorum is not present. The clerk will call names of the absent Senators.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER. (Mr. LIEBERMAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 84, nays 10, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—84

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—10

Breaux
Fowler
Garn
Gramm
Kasten
Lott
McCain
McConnell
Murkowski
Smith

NOT VOTING—6

Burdick
Cranston
Gore
Helms
Jeffords
Symms

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The Chair recognizes the Senate majority leader.

Mr. MITCHELL. Mr. President, I commend the Senators from Louisiana and Wyoming for their efforts to move this bill forward, through a great deal of adversity and a lot of unanticipated obstacles.

In order to enable the Senate to complete action on the many important measures that face us, it is imperative that we proceed promptly with this and other bills we must take up.

I ask those Senators who have an interest in this bill to remain in the Senate Chamber so that we can work out those interests.

The problem that the managers have encountered——

Mr. WALLOP. Mr. President, can we have order?

The PRESIDING OFFICER. The Senator from Wyoming is correct. The Senate is not in order. Will Senators please clear the aisles, please take their conversations out of the Chamber?

The majority leader has the floor.

Mr. MITCHELL. Mr. President, the problem that the managers have encountered, and the reason for this rare procedural vote, was to get Senators to come to the Senate floor so that they could then conduct and complete whatever negotiations are necessary to permit the managers to proceed with the bill.

There is an old saying that the only things certain in life are death and taxes. But their is a third thing that is certain in the Senate, and that is at about 8 o'clock this evening, 10, 12, 20, or 25 Senators will come up to me and ask why it is we must do business between 8 p.m. and 10 p.m.? The reason is, of course, we did not do any business between 10 a.m. and noon.

Mr. JOHNSTON. And between 6 p.m. and 10 p.m. last night.

Mr. MITCHELL. So we simply have to proceed, and the managers have exhibited great patience and perseverance over a very long course over the consideration of this bill, which stretches back now on calendar time over several months.

So I encourage all of those Senators who have an interest. We have only a few matters remaining. They are important. But they are few in number, and it is my hope that we can complete action later today and in time to enable us to proceed to other business.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5517

Mr. MITCHELL. Mr. President, it is my intention that following completion of this bill the Senate proceed to consideration of the D.C. appropriations bill, and I ask unanimous consent that, upon disposition of the pending measure, the Senate proceed to consideration of Calendar No. 559, H.R. 5517, an act making appropriations for the government of District of Columbia.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I now hope that the managers will be able to complete action on this measure shortly so that we can proceed to the D.C. appropriations bill.

Mr. JOHNSTON. Mr. President, I am very pleased to say that we now have one of the biggest stumbling blocks worked out. Senator BENTSEN has said that he has no objection to the D'Amato amendment. So we are now prepared to take the D'Amato amendment.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, on behalf of myself and Senator MOYNIHAN, I send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment? Without objection, it is so ordered.

AMENDMENT NO. 2794

(Purpose: To amend the Tariff Act of 1930 to prevent circumvention of antidumping and countervailing duty orders)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. MOYNIHAN, proposes an amendment numbered 2794.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

SEC. . AMENDMENT TO SECTION 781(a)(1)B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

In section 781(a)(1)(B), the phrase "produced in the foreign country with respect to which such order or finding applies" is deleted and the following new text is inserted in lieu thereof: "supplied by an exporter or producer in the foreign country with respect to which the order or finding applies, from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer, or from parts or components supplied by any party in any foreign country on behalf of such an exporter or producer".

SEC. . AMENDMENT TO SECTION 781(a)(2)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(2)(B)).

In section 781(a)(2)(B), the phrase "produced in the foreign country with respect to which such order or finding described in paragraph (1) applies" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. . AMENDMENT TO SECTION 781(a)(2)(C) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(2)(C)).

In section 781(a)(2)(C), the phrase "produced in the foreign country" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. . AMENDMENT TO SECTION 781(a)(1)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

The following phrase is inserted after the language of section 781(b)(1)(B)(ii): "or (iii) is supplied by the exporter or producer in any foreign country with respect to which such order or finding applies, or from suppliers that have historically supplied the parts or components to that exporter or producer,".

Mr. D'AMATO. Mr. President, I am pleased to propose an amendment that deserves the immediate attention of this body. It is necessary in order to give the 875 workers in Cortland, NY, and other American workers, a second chance at a level playing field.

I want to thank the managers of the bill who recognize the urgency of the situation.

Without action on this amendment and without a strong commitment to our U.S. fair trade laws, companies and workers from all across this Nation will end like Smith Corona—out on the street. I am joined by my colleague Senator MOYNIHAN.

The necessity and urgency of our amendment is highlighted by a true tragedy in our attempt to be not only globally, but domestically, competitive. It is without question, an amendment that will strengthen all U.S. companies ability to compete in a fair marketplace. The tragedy is that of the Smith Corona Corp. and the last American factory of the last American manufacturer of consumer typewriters. It is also a story, not so uncommon, about how we fail to provide a competitive environment right here in our own backyard. It is not about investment in capital or research. It is about U.S. fair trade laws and the exploitation of those laws by foreign countries and foreign companies.

It is also about fairness. While I support free trade goals and believe they are admirable, they must be balanced with the realities of the overall trade environment. Smith Corona has attempted for more than a decade to utilize U.S. fair trade laws to protect themselves from foreign companies who import to the United States and sell well below product cost, a practice known as dumping. We all know that in a free market, companies cannot sell below cost and survive over the long run. Smith Corona, operating in the realities of a free-market economy, has been forced to bring numerous antidumping cases before the U.S. Government. They won with an affirmative decision eight different times. Their main Japanese competitor, Brother, Inc. was found to be selling well below product cost. For example in 1980, the Commerce Department found that Brother was selling portables below cost and called for duties of 48.7 percent. Last August, Commerce again found that Brother was guilty of dumping and imposed duties of close to 60 percent. Those are not insignificant violations intended by our U.S. fair trade laws. They are obscene and outrageous. But, foreign importers have found a way to avoid paying them.

The 1988 trade bill created a new anticircumvention law to prohibit foreign manufacturers from avoiding duties by setting up U.S. plants. But, foreign countries found a loophole that restricted duties only to the original country of import, not to third-party countries from which parts can be imported.

By setting up an assembly operation in the United States and importing from a third-party country, they can totally avoid paying the antidumping duties. Importers can then afford to continue pricing their products below fair market value and drive competitive American manufacturers from our own, free, market. In the end, we have traded manufacturing jobs for often temporary assembly jobs. Thus, we weaken our economic base further.

This amendment is a much narrower version of the legislation that I introduced last Friday and is intended to deal with the problem facing Smith Corona. More specifically, this amendment is needed to close a loophole in the sourcing of third-country parts from historical suppliers that permit foreign manufacturers to evade antidumping duty orders. Under existing law, the value of these third-country parts is counted against circumvention because the parts do not originate from the original exporting country subject to the order, notwithstanding the fact that such party may have always been supplied by third-party countries.

This has led to the anomalous result that merchandise is taken outside the scope of an antidumping order through the transplant of a simple assembly operation even though there has been absolutely no change in the mix or sourcing of the covered merchandise's component parts. This amendment will provide the Department of Commerce with the statutory authority to reach circumvention patterns of this nature which current law does not address.

While we work every day to level the playing field and open markets abroad, loopholes in our own U.S. trade laws undercut our competitive position right here in our own backyard. It may not be too late to help Smith Corona's 875 employees. It is also not too late to help the thousands of other U.S. companies who are prayed upon by foreign competition.

We must not delay this action to look out for the best interest of U.S. industry and U.S. jobs. Our U.S. industries should be investing in research, development and capital, not in court battles. We must strengthen the law in order to ensure that our companies do not continue to be undercut by unfair trade practices.

Mr. President, I ask for the urgent support of all my colleagues. Nothing is more important today than an American job.

Mr. President, let me thank the chairman of the Finance Committee, Senator BENTSEN the Republican leader and the managers of this bill. Because what we are attempting to do here, by way of this legislation, is to deal with the inequity and the manipulation of the trade rules that unfairly, illegally impacts American workers.

In this particular case it involves the workers at a plant located in New York. But it is just as apt to be a plant located in any place in America. Smith Corona is the last American typewriter manufacturer left. What is taking place is that a foreign competitor is unfairly using predatory pricing tactics, cutting its costs below what it cost to produce, and violating the law time after time after time. And yet, through a subterfuge, it continues to do that. This amendment attempts to deal with that very serious loophole.

I am pleased to offer this amendment on behalf of Senator MOYNIHAN and myself. It is my hope that we would and will have the ability to close this loophole, and possibly even save these jobs. I ask unanimous consent that a statement by the president of Smith Corona on July 23, 1992 be included in the RECORD.

Mr. President, I thank the chairman and the Republican leader for his help.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF G. LEE THOMPSON, CHAIRMAN, SMITH CORONA CORP. BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, JULY 23, 1992

Mr. Chairman, members of the committee, my name is G. Lee Thompson. I am chairman of Smith Corona Corp. Thank you for the opportunity to testify before you today on U.S. competitiveness.

U.S. businesses can compete with anyone. Our companies are competitive in the production of goods and services across a broad spectrum of business endeavors.

What is competitiveness? The President's Commission on Industrial Competitiveness put forward a useful definition in 1985:

"Competitiveness for a nation is the degree to which it can, under free and fair market conditions, produce goods and services that meet the test of international markets while simultaneously maintaining or expanding the real incomes of its citizens."

"Competitiveness is the basis for a nation's standard of living."

Note the important qualifier: "Under free and fair market conditions." This is where I want to put the emphasis of my statement today. And it is where I have the most direct experience.

Today Smith Corona stands as the Nation's last remaining manufacturer of portable electric typewriters and word processors.

In the coming months, however, Smith Corona will join the ranks of so many of our Nation's former domestic manufacturing concerns—headquartered in the United States, but forced to move manufacturing operations offshore to compete against foreign competitors who compete on terms inconsistent with fair trade.

The prospect of losing U.S. manufacturing in the typewriter industry to low wage foreign sources may seem a small footnote to "globalization"—where borders are coming down and the production engine is fueled by the lowest costs, most efficient inputs, and open competition. While this idea seems to represent what is best about the hope and opportunity inherent in the United States, it also represents a naive, simplistic and destructive approach to real-world public policy making.

Domestic manufacturing is the driving force behind much of the growth and expansion in our economy. Based on quantitative information, the chamber of commerce figured the importance of domestic manufacturing and its contributions to a community's economy to be an additional 64 nonmanufacturing jobs for every 100 manufacturing jobs. These jobs range from wholesale and retail trade, to transportation, finance business services, and so forth. Aggregate personal income associated with additional manufacturing jobs was sufficient to spawn seven new retail establishments. Maintaining domestic manufacturing is clearly a key to global competitiveness and our continued economic success.

While pursuing a fuzzy notion of global free trade, our Government has missed its real effects on American manufacturing. I fear, Mr. Chairman, that our current trade and competition policy will lead to the eventual demise of U.S. manufacturing, competitiveness and opportunity, and destroy all that led companies like Smith Corona to become world leaders.

Smith Corona is a valid illustration of both the success of U.S. competitiveness and the failure of our Government to sustain a competitive marketplace.

For more than 100 years, Smith Corona has been the world leader in the manufacturing of portable typewriters; first manual, then electric, then electronic, leading us to word processing. The typewriter industry has long been driven by design ingenuity, features, consumer needs, and market dynamics such as pricing. In the mid-1970's our foreign competitors took a new approach—unfair pricing. This divergence from fair competition sent the industry on a race to the bottom.

Just 2 days ago we announced the eventual relocation of our manufacturing operations to Mexico, costing 775 of our employees their jobs. Intense predatory pricing recharacterized the whole nature of our business. Were this pricing based on features, quality, performance or most importantly—efficiencies—the market would have been enhanced for both consumer and producer. However, our foreign competition did not have better costs of production, efficiencies or other means to reduce prices.

Rather, a protected home market permitted them to set upon the U.S. market, knowing that barriers to price competition protected them at home.

To wit, the managing director of our Japanese competitors recently admitted in the June 22 "Financial Times" article—article attached—that his company, Brother Industries, has tolerated losses in its U.S. operations to secure market share. Put another way, they circumvented U.S. laws and continued dumping their products to increase sales at the expense of U.S. manufacturers. As each of you must know, U.S. companies cannot survive by selling below cost over time.

To our Government, I say, wake up—this is the real world of competition. If companies cannot turn to their Government to provide conditions of fair competition, predatory pricing will force U.S. companies out of business or offshore.

In an effort to end the dumping, Smith Corona initiated actions to obtain relief through the fair trade regime mandated by Congress. Since 1979, we have prevailed in 8 separate antidumping decisions.

Despite this string of successes, the dumpers have never been forced to comply with the dumping orders. Instead, the targets of our action have persistently, cleverly and with the support of our Government, circumvented U.S. antidumping trade laws.

In 1988 Congress responded by creating an anticircumvention law. It was intended to be black and white, with just enough gray to give the administrators at the Commerce Department the flexibility to address new types of avoidance. Yet, Mr. Chairman, as we have experienced time and again, discretion divorced from a focus on the statutory purpose too often results in bad decisions and lost jobs.

For example, after passage of the 1988 Trade Bill, foreign manufacturers found that shifting the base of a company's assembly operations would allow them to evade dumping duties. By establishing a phantom factory, where virtually no value is added other than mere assembly, a dumper can claim that the U.S.-assembled typewriter is no longer the object of a dumping order—even when the final product is the same identical product subject to an order.

Does this make sense? It does if your intention is to circumvent U.S. trade laws. Is it good public policy? Only if we wish to displace U.S. manufacturing with assembly line work.

Assembly operations do not generate the high wages, high tech jobs created by real manufacturing. The level of related activity in other sectors I mentioned earlier does not occur. Even recognizing the positive spin-off from a few assembly positions in a transplant operation, the assembly-only operation obviously requires far fewer workers per unit of production.

For more than a dozen years Smith Corona has fought at the front lines, using every legal and political weapon in the arsenal available to U.S. manufacturers. Yet, we have consistently come up empty. The laws do not move fast enough to keep up with new techniques designed to attack manufacturers; Government officials charged with enforcing our laws have unfortunately too often exercised discretion to let the dumping continue. The natural interest of shareholders in maximizing return on investment says you play Don Quixote only so long.

Mr. Chairman, from the front lines of U.S. manufacturing, I have witnessed the ravages of unfair trade and noted the inability of administrative discretion to support the advancement of U.S. industry. As vice president of Sylvania Television, and then as president of Singer Sewing Machine, industry's calls for fair trade were dismissed as protectionist. There is no longer a U.S. sewing machine or T.V. industry, with the exception of Zenith.

In their wake, we clearly see that a failure to act leads to the wholesale devastation of entire industries and a further erosion of the U.S. commercial base. My experiences have revealed to me certain basic shortcomings in American competitiveness.

First, Americans fail to understand or appreciate the substantial importance of manufacturing. To many, investment in America is investment, without regard to its source or character. The continuing thirst for capital investment has led many of our communities and their political leaders to race to the bottom, willing to displace manufacturing with assembly jobs, so long as the job lands in their community. We ignore national interests in our pursuit of the parochial.

Second, I am concerned about the failure of Government to respond in a timely fashion. By the time relief comes to industry, or even the prospect of relief, it may be too little too late, such as with Smith Corona.

In pursuing relief, we frequently heard the claim that adequate discretion existed to remedy our problem. But, how useful is discretion if it is in the hands of those who for whatever reason choose not to act?

Political leaders need to reflect on why it matters if a manufacturing job is displaced with assembly. Where does the manufacturing go? Where will the skilled labor reside? Where is the value and what are the wages? Does foreign ownership matter? Of course, who will make the decisions of where we manufacture, do our engineering and design, high technology, and, where will the profits go?

Do these phantom factories represent the future of American manufacturing? To claim them as manufacturing is an exaggeration, to encourage their growth is a national resignation to low wages and decline.

In closing, let me underscore that Smith Corona has pursued every available means to ensure fair trade and secure a competitive marketplace for U.S. manufactured goods. The successive failure of our Government to respond in a timely and effective manner has denied us the opportunities for competitiveness and forced us to join other U.S. manufacturers offshore.

Thank you very much for your time.

[From Financial Times, June 22, 1992]

BROTHER SLIMS DOWN BLOATED PRODUCT RANGE

In the foyer of the Brother Industries building, a smiling photograph of Mr. Juan Antonio Samaranch, president of the International Olympic Committee, congratulates the Japanese company on sitting at the top table of Olympic corporate sponsors along with Coca-Cola, 3M, Philips and a few others.

Having already paid for its high profile, Brother should be able to bask in Olympic year publicity. Instead, the year of Barcelona has become an important test of strength for the maker of information equipment, sewing machines and other household electric appliances.

With profits under pressure, Brother has just announced a restructuring plan that could become commonplace among Japanese manufacturers, many of which are burdened by too broad a product range and struggling in overcrowded consumer and business equipment markets.

Another problem not unique to Brother is the side-effect of having achieved the admirable aim of producing high-quality goods at reasonable cost—the company has consistently reported poor operating profits and has been dependent on non-operating items, such as profits on stock sales, to boost its earnings.

The weakness of Japanese stock prices has not only increased the cost of capital for manufacturers such as Brother, which lifted it long-term institutional borrowing from zero to Y3bn ($23.8m) last year, but it has also denied the traditional easy profits on marketable securities.

For Brother, these circumstances were behind a mediocre operating profit of Y486m last year, down from Y2.35bn. The company would have reported a loss were it not for a change in pension plan accounting that produced an operating gain of Y669m.

Sales for the year were down from Y166bn to Y165.2bn. Net profit rose slightly from Y3.2bn to Y3.6bn, thanks mainly to a Y1.1bn increase in gains on property and equipment sales, and an extra Y699m in gains on stocks sold.

In response, Brother plans to cut its product range by about 30 per cent to 700 items, transfer 10 per cent of its 5,300 Japanese workers to new ventures, increase the percentage of parts produced in-house, and make research and development operations more market sensitive.

Mr. Tamotsu Shimizu, the company's managing director, said a slowing economy had forced the restructuring. Office automation equipment and industrial machinery markets, already overflowing with competitors, were made all the more difficult by capital spending cuts. Meanwhile, sales of its old mainline product, home sewing machines, rose by 16 per cent.

He reckons that reducing the product line by 30 per cent will reduce sales by only 10 per cent, as the items to be discarded are clearly not Brother's best sellers.

At the same time, the company is hoping that a focus on successful products will eventually lead to an increase in sales and most importantly, stronger profits.

"If it's not contributing to profits, we will no longer make it. Sometimes you continue to produce a loss-making item because it is something that your customers want and you have to keep their loyalty," Mr. Shimizu said. Items to be pruned, he says, will include white goods and older-style sewing machines.

Asked whether the company had tolerated losses in order to secure market share, tilted his head back, closed his eyes and said: "Yes, that's true." He explained, for example, that US discount stores wanted high-volume, low-cost deals that sometimes force a company to take losses.

Mr. Shimizu pointed to a curious contradiction that Brother was trying to resolve. Its international sales division is wholly owned and tends to produce good-quality market research material for product developers, while market trends are less well-tracked at home, where sales are handled by an affiliate of the company.

"Within Japan, we have been product-driven and we have got to become more market oriented," Mr. Shimizu said. Again, Brother is one of many Japanese manufacturers reaching this conclusion, as the boom years of the late 1980s—when GNP expanded at 6 per cent and 7 per cent and the stock market soared—gave over-confident producers the impression that virtually anything would sell.

During this period, companies rapidly introduced slight variations on existing producers and also attempted to squeeze into new markets. The steel companies elbowed their way into electronics, the camera makers attempted to re-establish themselves as office equipment companies, and the consumer electronics makers launched hundreds of new items each year.

Times have changed. Japanese car makers are at least talking about slowing the flow of their new releases, while Hitachi, the consumer and commercial electronics company, wants to lengthen the life-cycle of its products to reduce expenditure on research and development.

But, in spite of weak earnings and murmurings about reform, most companies are yet to bite the bullet, and there are doubts as to whether Brother's changes go far enough.

For example, the planned shift in parts sourcing only aims to increase in-house components from 12 per cent to 13 per cent of all parts. The company also wants to maintain Japanese production at 80 per cent of the total, though it hints that south-east Asian and Chinese factories will probably take a larger share if profits continue to falter.

Mr. Shimizu is confident that the success of new ventures will allow the company to soak up excess labour, making redundancies unnecessary. One of those new ventures is a *karaoke* (singing machine) systems company, Joysound, of which he is a director.

Brother plans to provide *karaoke* hardware and software in Japan, and would eventually like to go international. However, the company could find the karaoke room as crowded as the white goods market and, in two years the company may be reckoning as to whether the start-up funds could have been better spent shoring up its position in information equipment, which accounts for about 40 per cent of sales.

The company is genuinely reassessing the cost of being an Olympic star, and contemplating whether to be a corporate front-runner again at the 1996 games in Atlanta.

"They want a lot more money for Atlanta," explained Mr. Shimizu, aware that Brother's presence in the main stadium is less important than its survival in the market.

Mr. JOHNSTON. Mr. President, we are prepared to accept the amendment.

Mr. MOYNIHAN. Mr. President, I am pleased to join with my colleague Senator D'AMATO in offering an amendment to the U.S. trade laws that will make it harder for foreign producers to evade U.S. antidumping and countervailing penalty tariffs. And, hopefully, the enactment of this change will cause the management of Smith Corona to reverse their decision to shut down all manufacturing operations in Cortland, NY.

We need to hear from the administration that the President will support such a change in the law. And we need to hear from Smith Corona that it will keep the plant open.

At a minimum, the change in the law offered by Senator D'AMATO and me today will, we hope, provide some relief for other U.S. manufacturers who win dumping cases against foreign imports, only to see the foreign companies find new ways to circumvent the penalty tariffs that they must pay.

This is one more step in a long line of efforts that I have made to assist Smith Corona to get the relief it has been entitled to. I had to change the law in the 1988 Trade Act to get the administration to stop dumped typewriters from Japan, and today I am trying to do it again.

We thank the chairman and ranking member of the Finance Committee for their assistance on this measure.

Mr. ROCKEFELLER. Mr. President, I support this amendment—it is identical to a provision in S. 3046, which I introduced earlier this month—and action on it is long overdue.

This amendment deals with circumvention—deliberate efforts by importers or foreign producers to avoid the consequences of unfair trade practice penalties by shifting the location of their production or the composition of their product.

There are a growing number of examples of circumvention, and the Senator from New York has described one of the most blatant—and tragic—situations involving Smith Corona. I would like to provide another example—in my judgment, an even clearer case of circumvention—that might help explain this complex matter to Senators.

In brief, there is presently outstanding an antidumping duty order against silicon metal, a substance used in making aluminum, among other things. Silicon metal is generally defined as containing more than 96 percent silicon, and the antidumping duty order contains that specification.

To no one's surprise, except perhaps the Commerce Department, after the domestic industry won this case, one of the foreign producers began shipping material that was 94 percent or 95 percent silicon, apparently to the same customers it had previously, and presumably for the same purposes. To my mind, this is an obvious case of circumvention, and one which our amendments to the law in 1988 were intended to address. Commerce Department lawyers, in contrast, argue that those amendments do not give them authority to revise the existing antidumping duty order to include these new imports. In other words, if the lawyers get their way, the foreign producers will get away with what can only be regarded as a deliberate effort to circumvent U.S. law.

Mr. President, I have written Secretary of Commerce Barbara Franklin on this matter, and I ask that the text of my letter be printed in the RECORD at the conclusion of my remarks.

This amendment is intended to deal with situations like the silicon metals case and the Smith Corona case, which were not anticipated in 1979, when we last made major revisions in the law. It should come as no surprise that over 13 years importers and foreign manufacturers have learned a great deal about our law, including its loopholes, and have discovered how to exploit those gaps to their advantage. The trend toward globalization of production has also contributed significantly toward the problem by making it easier for producers to move their production or assembly from place to place to stay ahead of anti-dumping duty orders.

At the most obvious level, circumvention is fraud, and we already have adequate provisions in our law to address it, provisions which I discussed in greater detail when I introduced S. 3046. Even with the law, however, sufficient enforcement resources will always be a problem in cases of this kind. It is not hard for a determined importer consistently to stay ahead of customs enforcement authorities.

The pending amendment is intended to deal with more complicated situations, such as when the product in question is in some fashion transformed in a second country, thus permitting the argument that the import is no longer of the dumping country's origin. Often that also involves a Customs Service decision as to whether the product has been sufficiently altered or sufficient value has been added in the second country to transfer origin.

The Smith Corona case involves the most complicated situation when assembly of a finished product is moved into the United States. In that case, the dumped end product is no longer being imported, but most or all of its component parts are, for assembly here. Since both U.S. law and GATT rules limit attaching dumping duties to the like product, the duties cannot simply and easily be transferred from the finished product to its parts.

The solution to the problem where final assembly is in the United States and the components are imported from countries other than that covered by the initial duty order, the amendment would apply the existing order in cases where the same company was involved in the assembly in the United States and the parts came from historic suppliers. This is the same approach as that proposed by Congressman ROSTENKOWSKI, the chairman of the Ways and Means Committee, in H.R. 5100, his recently passed omnibus trade bill.

Mr. President, this is a balanced amendment that deals with an important trade law problem. I urge its adoption.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 24, 1992.

Hon. BARBARA H. FRANKLIN,
Secretary of Commerce, Washington, DC.

DEAR MADAM SECRETARY: I am writing to comment on an important decision your Department is considering regarding enforcement of the circumvention provisions of our antidumping law. The case in question is Silicon Metal from the People's Republic of China, Case No. A–570–806.

In brief, the petitioners in this case are arguing that the PRC is circumventing the existing dumping duty by shipping metal that is 94–95 percent silicon rather than the 96 percent silicon which was the industry standard for silicon metal at the time the petition was filed, and which is the composition specified in the dumping order. It is seeking modification of the scope of the order to include the 94–95 percent silicon metal now being imported, which it contends is either a minor alteration of the class or kind of merchandise covered by the order or a later-developed product.

While this appears to me to be as a clear a case of circumvention as I have seen based on the facts presented to me, and I cannot understand the Department's reluctance to move quickly to modify the order, I particularly want to comment on Congressional intent with respect to the provision of law at issue in this case. As you may know, I served on the Finance Committee when the circumvention language in the law, section 781 of the Tariff Act of 1930, was adopted as part of the Omnibus Trade and Competitiveness Act of 1988, and I followed the debate on these provisions closely.

The later-developed products provision in particular came initially from the Senate and was intended to apply to merchandise that was similar to that covered by the order with respect to general physical characteristics, expectations of the ultimate purchasers, ultimate use, channels of trade, and advertisement and display; all criteria which my understanding of the facts in this case tell me are being met.

There is no question that Congress clearly intended in cases like this, whether covered by the minor alterations provision or the later-developed products provision, that the order be applied to products that are circumventing it. Your legal staff seems to be under the impression that the phrase "clarify the scope of the order," which appears at a few points in the legislative history, limits the authority of the Department to expand an order beyond its original terms. To the contrary, this language refers not to what the Department is permitted to do under the circumvention provisions, but rather, to what Congress did in enacting the circumvention provisions, i.e. clarify that orders are to cover minor alterations, newly developed products, and other forms of circumvention when the statutory criteria are met. The Department's current interpretation, which is contrary to what I understood was intended at the time, renders section 781 virtually useless in fighting circumvention. Indeed, this interpretation allows foreign producers to continue the very practices that section 781 was intended to prevent.

Congress was concerned that foreign producers could "technically transform" merchandise so that it would fall outside the scope of an antidumping order. For that reason, Congress required the Department to disregard such technical transformations, and analyze circumvention using "practical measurements," including "such criteria as the overall characteristics of the merchandise, the expectations of ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported product." (S. Rept. 100-71, p. 100).

I would also note that your Department itself has recognized that the circumvention provisions require it to conduct a circumvention investigation even where "the descriptions of the merchandise, along with the Department and the ITC's final determinations in the original petition, make clear that [the merchandise] is not within the scope of the antidumping duty order." Brass Sheet and Strip From Germany: Final Negative Determination of Circumvention of Antidumping Order. In that case, the Department concluded that the allegedly circumventing merchandise did not fall within the scope of the existing order, but it nevertheless, "independently evaluated each of the five criteria under the minor alterations provision as set forth in the legislative history." In doing so, the Department recognized that circumvention cases require a different inquiry—and it conducted that inquiry. Similar circumstances exist in the silicon metal case.

I am also concerned that the Department appears to be suggesting that because it had previously rejected a request to expand the scope of this investigation to include material that contained as little as 90 percent or less silicon, it is now precluded from including within the scope of the order material containing 94-95 percent silicon. That is tantamount to saying that because the Department made one mistake, it is required to make another one in order to be consistent, even though the facts of the second request, as well as its legal basis, are different from the first. The suggestion that the proper form of relief in such circumstances is to sue the Department forces on the petitioners the most expensive and time-consuming path open to them. I would certainly hope, in the interest of minimizing the administrative burden, that the Department will not end up taking the position that it will never change its mind unless forced to by the courts!

From the standpoint of the law, in addition, such an interpretation appears to me to suggest that petitioners should have the burden of anticipating every possible variation of the product in question in advance of the investigation, even though section 781 clearly encompasses situations that develop during, after, or as a result of the investigation. That interpretation would also render this provision effectively moot.

I understand that the Department has not yet made its decision in this matter. I am confident that your decision will be in accord with the law and Congressional intent. I hope the foregoing comments will help clarify that intent.

Sincerely,

JOHN D. ROCKEFELLER IV.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, we are happy to accept the amendment.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment offered by the Senator from New York.

The amendment (No. 2794) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Connecticut [Mr. DODD], 2790, to amendment No. 2789 offered by the Senator from Minnesota [Mr. WELLSTONE].

Mr. JOHNSTON. Mr. President, may I direct an inquiry to the Senator from Connecticut? Does the Senator wish to vote on that matter at this point?

Mr. DODD. Mr. President, first of all, I say to the distinguished Senator from Louisiana, this is a matter that is being worked on right now. We are trying to see if we can come up with some resolution of this issue in terms of how the matter will be disposed of. That is an ongoing process at this particular moment. I will not press for the vote at this particular moment on the issue.

Mr. JOHNSTON. I thank the Senator. As I understand the Senator, there is hope that the matter will be worked out soon.

Mr. DODD. Hope springs eternal. I am hoping that will be the case.

Mr. JOHNSTON. Mr. President, that leaves three other amendments. I wonder if Senator DOLE'S amendment regarding ethanol and Senator GRASSLEY'S ethanol amendment will be offered.

Mr. WALLOP. Mr. President, I ask unanimous consent that the two referenced amendments, Dole ethanol, Grassley ethanol, be dropped from the list in the consent agreement propounded last night.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, that leaves Senator DOLE'S solid waste disposal, phosphoric acid process amendment.

There is the one remaining amendment, other than the Dodd amendment, which is the phosphoric acid amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the one clear message that the American public and the Congress are sending to the President this year is that they are not happy with the direction of this country. They are demanding change. More than any other legislation in the Congress, or in recent history, for that matter, the National Energy Security Act—this energy bill now pending—has the potential to bring about that change. It promises far-reaching changes that will have a profound and positive impact on the American economy, on the environment, and on the daily lives of the American people.

The energy policy of the past two decades has led us to an ever-increasing reliance upon foreign sources of oil, the devastation of the domestic oil and gas industry, and the export of tens of thousands of American jobs, and tens of billions of American dollars.

With this vote today, we are taking a monumental step toward changing that failed policy of the past, replacing it with a made-in-America energy policy for the future.

With this vote, we are telling the American people that we get the message. We are willing to rise above partisan politics to tackle one of the most difficult and complex problems facing our country. We are capable, Mr. President, of delivering the changes needed to promote America's energy security.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

LDC BYPASS PROVISIONS

Mr. FOWLER. Mr. President, I would like to commend the distinguished Senator from Louisiana for his dedication and persistence to the pending national energy legislation. I would like to ask a question concerning one of the more contentious items addressed in the legislation which deals with the subject of natural gas local distribution company [LDC] bypass.

I had the occasion some years ago to chair one of the Energy and Natural Resources Committee hearings which was dedicated to this topic. I am well aware of the strong views held on both sides of the matter, and I believe it to be in the best interest of all to adopt the language in S. 2166, which states that neither the so-called optional certificate nor the enhanced section 311 procedures can be used to accomplish a LDC bypass if the LDC objects.

Although the language in the Senate bill does not fully satisfy the consumer groups, State public utility commissions, and LDC's, it does seem to strike a politically realistic balance in that the new, streamlined, and enhanced regulatory procedures will not be available for bypass while the traditional Natural Gas Act section 7 procedures will remain available.

I would like to direct an inquiry to my distinguished colleague, the chairman of the Energy Committee, as to what his intentions are during the conference with the House with regard to the bypass language embodied in the Senate bill?

Mr. JOHNSTON. LDC bypass is one of a number of issues addressed in the natural gas provisions of the Senate and House energy bills where the two Houses have taken somewhat different approaches. In order to reconcile the differences between the two bills in conference, some compromises and tradeoffs will be necessary.

Therefore, while I cannot assure the Senator from Georgia that the Senate bypass language will emerge from conference intact, I can give him my assurances that in negotiating with the House I will do my best to preserve the balance and protect the interests that are reflected in the provision of the Senate bill.

Mr. FOWLER. I thank the chairman for his cogent response.

MURKOWSKI STUDY AMENDMENT NO. 2791

Mr. WIRTH. Mr. President, Senator MURKOWSKI believes very strongly that we should open the Arctic National Wildlife Refuge to oil drilling. I happen to believe that this is exactly the wrong thing to do. Now, I happen to think we have already had a lot of study of this proposal, but I am not averse to having it studied a little more. If nothing else, that might help bring some of the worst hyperbole about the benefits of drilling in the Arctic refuge under rein.

Back at the beginning of the year, administration officials began tossing around rather large estimates of the number of jobs that would be created by oil development in the Arctic refuge.

The President's budget message put this number at around 200,000. Others in the administration claimed 735,000 new jobs. My colleague from Alaska quoted the 735,000 figure on this floor.

The American Petroleum Institute bought full page ads using this figure. The really striking thing about this ad is the breakdown of how many jobs will supposedly be created in each State. California supposedly will reap 80,000 new jobs. Florida and Illinois get about 30,000 new jobs.

But Alaska only gets about 13,000 jobs, Mr. President. The State where all this massive industrial development is to take place only gains 13,000 new jobs according to this study. All the construction crews, the drilling crews, all the people involved to transporting all that equipment to the Arctic Circle, the people needed to feed, clothe, and house those workers—all the real jobs that would be created if oil was even found—amount to only 13,000 jobs.

Please remember that Interior Secretary Hodel asserted that the chance of even a minimum amount of producible oil—not the billions of barrels figures we always hear, but just a few hundred thousand barrels—was 19 percent. In other words, Hodel thought the odds were 4 to 1 that no oil development would take place.

In fact, Mr. President, the Department of the Interior's environmental impact statement on oil development in the Arctic refuge states that the actual number of people who will be employed for oil development in the Arctic refuge for the boom cycle of a few years of construction would be about 6,000 people; 6,000 jobs, or 13,000 jobs, is nothing to sneeze at. But here we are asked to believe that in the rest of the country; in Hawaii, Vermont, Kentucky, and every other State in the Nation, 700,000 other jobs would be created. These absurdly inflated job estimates come from a study commissioned by the American Petroleum Institute back in 1990. We did not hear much about it back then, Mr. President, because the study is embarrassingly flawed. But now job creation is the new political hot potato—so this study was resurrected.

These numbers are not based on real jobs which might be created in construction or in the oil industry. They are, instead, based on a projection that finding oil in the Arctic would have a major effect on the whole national economy. But that projection, and the conclusion that opening the Arctic would create 700,000 jobs, is founded on two assumptions which we know are simply not true.

The first false assumption is that oil from the Arctic refuge would reduce world oil prices by $3.60 a barrel. That is simply wrong. ANWR production—if there was any—would range from 0.1 percent to 2.2 percent of total world demand. So it is not very much in the context of the world market.

But even more important to remember is that the Middle Eastern nations have the ability to swamp any effect that ANWR might have with their own ability to turn production up or down. Kuwait and Iraq produced nearly 10 percent of the world's oil, but their removal from the world market was quickly replaced by their OPEC neighbors.

According to a February 1992 report by the Congressional Research Service's Economics Division, the likely effect of additional supplies from ANWR would be that, "OPEC may cut output * * * to offset the supply effect of ANWR, as it usually has in similar situations."

The result of that, Mr. President, would be little or no change at all in oil prices.

The second false assumption is that lower oil prices create jobs. In the first place, lower oil prices can cost us as many or more jobs as it may create. It is low oil prices that have cost us 400,000 real jobs in oil and gas production over the past decade.

And if you think that low oil prices cause the general economy to boom, why is our economy in the shape it is in, at a time when oil prices have been stuck lower than they were before Desert Storm started?

In December 1990 oil prices were about $26 a barrel. Today, they are $6 lower than that—about $20 a barrel. Has that added thousands of jobs to our economy? Does our economy look more robust now than it did a year ago?

The price drop over the past 14 months is twice what the authors of this study claim would produce 735,000 jobs. But where are the jobs, Mr. President? Right now, low oil prices are costing us jobs, as those low prices strangle our domestic oil and gas industry. The Senate just voted by an overwhelming margin to change the tax rules to give a billion dollars' worth of tax relief to oil and gas producers precisely because lower prices have decimated the oilpatch.

Mr. President, there are many other faulty assumptions that went into this job projection. The study simply assumes that we will find oil in ANWR, even though the Department of the Interior says the odds are that we will not. Then it assumes that we will find every potential oilfield there chock full of oil—something the Department of the Interior says has less than a 1 in a 100 chance.

Then, Mr. President, we should not forget that any jobs created by opening ANWR would not, for the most part, happen until sometime after the year 2000. The oil industry has testified that the earliest we could get oil from the

Arctic Refuge is 10 years after leasing—and that it could take even longer. Members should know, too, that there is lots of oil available outside the Arctic Wildlife Refuge on Alaska's North Slope. There are several very large known fields, fields with literally billions of barrels of oil in them, just sitting there. Why are they sitting? Because today's low oil prices make producing them unprofitable. The same could well happen in the Arctic Refuge.

In short, Mr. President, talk of opening the Arctic refuge creating thousands upon thousands of jobs is unsupported by any reasonable analysis.

Of course oil development would create some jobs, as would OCS development off California or the Florida Keys, or damming the Grand Canyon to provide cheap hydroelectric power. But that does not mean we should do these things.

If we are lucky, the study Senator MURKOWSKI has proposed will take these facts into account, and help rein in the wild and incredible projections that have been bandied about on this issue.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, I will shortly ask for a unanimous-consent agreement on the Dodd amendment. It has been worked out, although we are adding one final clause.

I thank the Senator from Connecticut and the Senator from Texas [Mr. GRAMM] for working out this very difficult and contentious matter. It is not finally worked out to the satisfaction of either one because the issue has not been disposed of, but at least this unanimous-consent agreement will give a measure of procedure to deal with this.

So, Mr. President, I ask unanimous consent that when the Senate next receives from the House a message on S. 2733, the GSE bill, and the Senate has disposed of the motion to disagree to the House amendment, that the Senate be deemed to have agreed to either a motion to request a conference with the House or have agreed to the House request for a conference, without any intervening action or debate, and that the Chair be authorized to appoint conferees on the part of the Senate; provided further, that no amendment dealing with the subject of limited partnership rollups will be in order to any legislation prior to the Senate reconvening on September 8, 1992.

Mr. President, before I put that unanimous consent I yield to Senator DODD.

Mr. DODD. Mr. President, I thank the Senator for yielding.

Let me add that I have made an assurance to Senator GRAMM of Texas that I will notify him a day in advance of the day which I plan on offering an amendment dealing with the topic of limited partnerships.

This is not necessarily part of the unanimous-consent agreement but as a statement to be included in the context of the unanimous-consent request that is now pending by the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I now put the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that I may be able to withdraw the Wellstone amendment.

Mr. JOHNSTON. As amended by the Dodd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2789) was withdrawn.

Mr. DODD. Mr. President, I withdraw my own amendment (No. 2790) as well.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2790) was withdrawn.

Mr. DODD. Mr. President, if I could just take 30 seconds, I want to personally thank Senator JOHNSTON and Senator WALLOP, as managers of the legislation, for their great patience and for the consideration they have shown to me, both yesterday evening and today. I also want to thank my colleague from Minnesota, Senator WELLSTONE, who offered the underlying rollup amendment on my behalf last night, so that I could offer a second-degree amendment to that amendment. I thank him for his willingness to accommodate me on a procedural matter.

Mr. President, I am willing to withdraw my amendment today, in order to help my friend from Louisiana advance this legislation. I also believe the unanimous-consent agreement we've worked out will greatly advance the prospects for seeing the rollup provisions adopted as part of the GSE legislation.

As my colleagues know, the rollup measure was passed overwhelmingly by the Senate just a few weeks ago, as part of the bill to reform Government-sponsored enterprises. Eighty-seven Members of this body voted against a motion to table the amendment. That's 87 Senators who supported this measure. And yet, my friend from Texas decided that the wishes of 87 of his colleagues—and, I might add, the wishes of millions of investors througout this country—should be disregarded, because he does not like the measure.

He has indicated in the past that he would do everything possible to prevent rollup reform from becoming the law of the land. And, so, he raised procedural roadblocks to a much-needed bill to reform Government-sponsored enterprises—a bill which passed by a vote of 77 to 19, and which also contains provisions on lender liability and a host of other carefully developed provisions supported by our colleagues.

Mr. President, I felt I had no other choice but to offer this amendment again last night, and let the Senate work its will yet another time. But, as my colleagues know, last night, after I offered the amendment, my friend from Texas indicated that he would offer the crime bill and other matters to the energy bill—again in an effort to thwart the will of the Senate and prevent the rollup bill from becoming law.

We made an attempt to work on the problems he identified in the bill, and last night, I thought we had an agreement. But this morning, my staff was advised that Senator GRAMM had asked that the entire dissenters rights provisions of the bill be dropped—and made into a study. It was represented to us, quite simply, that the case had not been made. I would remind my colleague that the dissenter's rights provisions are the provisions designed to prevent limited partners who vote against a rollup from having a bad deal literally crammed down their throats. No one can say, after reviewing the record of abuses in these transactions, that the case has not been made for protections in this area. So, of course, I could not agree to drop these important provisions.

Mr. President, the Limited Partnership Rollup Reform Act was introduced over a year ago. There are now 74 Senate cosponsors.

My colleagues and I have received thousands of letters on this issue. Our constituents—not special interests, but small investors in our States—have documented a long record of abuse in limited partnership rollups. They have been ripped off, they are mad and they are upset. They have asked for our help.

And, yet, we are told, the case has not been made for action.

Mr. President, I am deeply disappointed that we have not been able to enact this measure at this time. However, I want it to be clear that this issue will not go way.

I believe that the action we took today will advance considerably the chances of enacting this bill.

I am satisfied that with this unanimous-consent agreement, we will be able to revisit this legislation before adjournment this year and pass this legislation, which goes a great distance to protect small investors. There are approximately 8 million small investors in limited partnerships, many of whom have invested a great share of their savings in these arrangements. Many of those people are in jeopardy today, and until we pass some legislation that offers protection to them, they will remain in jeopardy.

I will do my very best to see that the legislation is adopted, and the unanimous-consent agreement provides us the chance of doing that.

Again, I want to thank my two good friends from Louisiana and Wyoming and apologize for causing them any delay in the consideration of a very good bill that they have brought to the floor. I hope we will be able to pass this energy bill very briefly and move on to other matters. I thank them for their patience and consideration and for their help in bringing us to the point where we have been able to adopt this unanimous-consent agreement.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I thank the Senator from Connecticut very much and strongly support him in his rollup legislation.

Mr. President, I have made some study of this rollup legislation, and I can tell him that it is, in my judgment, an outrage the kind of skin game that is going on with some of those who wish to take advantage of rolling up, that is, combining, collating these real estate partnerships, putting them together under one partnership and using it for the benefit of the corporate head who takes it over rather than for the benefit of the stockholders.

I will certainly help him on another piece of legislation wherever it may be. But I thank him for working out the procedure by which he will consider that matter on another bill.

Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the committee substitute to H.R. 776.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I wonder if I might engage in a colloquy with the chairman of the committee regarding jurisdiction of the EPW Committee with respect to EPW issues in the House bill. There are provisions in the House energy bill which very directly deal with the jurisdiction not of the Energy Committee but of the Environment and Public Works Committee.

I compliment the chairman on his bill for going the extra mile to come up with a bill basically staying with the jurisdiction of the Energy Committee. I am wondering if the chairman of the committee would consent to the two EPW members—which I know the chairman has already agreed to with respect to the nuclear provisions, the jurisdiction of the EPW committee—to also agree that those two members, the chairman of the committee, Chairman BURDICK, and Senator CHAFEE will be conferees with respect to—and I can name them here—several sections of the House bill which deals directly with the jurisdiction of Environment and Public Works Committee. I could read the sections, but they have to do essentially with carbon dioxide emissions controls, language taken directly from the Clean Air Act, also in the House bill legislation, which is essentially language in a bill introduced on this side which was referred to the EPW committee.

I can go over the sections with the chairman if he would like to. But I would just like to ask the chairman what he intends to do with respect to those provisions.

Mr. JOHNSTON. Mr. President, first of all, as the Senator from Montana, my good friend, knows, I have made every effort to fully cooperate with both him and the Environment and Public Works Committee.

Just to recount, we had a waste oil provision that we felt strongly about on the committee but that the Senator from Montana also felt strongly about. He asked that we drop that, and we did. There was another provision with regard to WEPCO, which was in the bill and had cleared the committee but the Senator felt strongly about that and we dropped that.

I mention that simply to point out our desire in passage of the bill to accommodate the EPW Committee. Now that the bill has passed—and by the way, Mr. President, we have appreciated very much the leadership of the Senator from Montana and his help on the committee. He has been very helpful. It has been really a team effort in that respect.

Now when it came to conferees, Mr. President, the usual procedures on a conference is that the committee who has handled the bill, the one to which the bill has been referred, appoints the conferees. But because we had received a request from the Environment and Public Works Committee, as well as the Commerce Committee and the Banking Committee, who had a great interest in the bill, I had agreed—I had not spoken for the Republican minority, but from my own standpoint as chairman—to have a member appointed, the chairman and ranking minority member of each of those committees, to serve on the conference and was not going to contest that at all. And as a matter of fact, I think that their presence there will be helpful. I have suggested that not out of recognizing their right to do so,—because even though matters might be in their jurisdiction, it is not necessarily a custom to do that—but I think it is a good custom to do it and it has been followed in some cases.

Now with respect to the particular matters at issue, for example, the so-called global warming matter is a highly contentious matter. The question of where that jurisdiction resides is, I do not know whether it is disputed or whether it is joint between the Energy Committee and the Environment and Public Works Committee, but in any event it is not in the Senate bill. And the House provision is a rather innocuous provision, as I recall. It may still be highly contentious, but from my standpoint it is rather innocuous.

Suffice it to say that I could not agree to that particular measure without, in my view, having a big fight over a relatively small matter. Since it is not in the Senate bill, I do not think it is any precedent; in other words, I am not attempting to resolve that question of whether you have jurisdiction or do not have jurisdiction over that particular measure. But I hope the Senator would let us go forward with the up-front offer of the chairman and ranking minority member on those principal measures in which he has an interest and let us go forward without global warming.

Believe me, global warming is so exceedingly contentious. Frankly, I do not understand why it should be so contentious. I would be willing to do some things in global warming perhaps that my other colleague from Montana would not be willing to do. But we are not going to solve or prevent from solution the global warming problems in this measure. My guess is that global warming will not end up in the final report. That is just my guess, because it is not worth fighting over and would probably provoke a good big fight.

So what I am asking of my dear friend, who has been so helpful on this bill, is that I hope he will recognize that I had tried my best to be cooperative with EPW. And I hope that is a relationship that will continue, and I am sure it will, at least from our standpoint, and I am sure it is from the standpoint of the senior Senator from Wyoming. But I hope he will let us move forward without provoking what I think might be a difficult sticking point over a small matter.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Montana.

Mr. BAUCUS. Mr. President, I appreciate what the chairman of the committee has just said. I must say, these are not innocuous, small matters. Let me read the provision of the House bill, on page 485, section 1317. The title "Early Banking of Emissions Credits for Efficiency Improvements from the Application of Clean Coal Technologies." It goes on to say:

> The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations within 18 months after the date of enactment of this section to establish baseline emissions of carbon dioxide from existing utility sources that apply clean coal technologies. For purposes of the preceding sentence, baseline emissions for sources subject to title IV of the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance * * *.

That is the Clean Air Act. That is pretty basic, to establish baseline emissions of carbon dioxide. If anything is in the Environment and Public Works Committee, it is the Clean Air Act—anything in the jurisdiction of the committee. This is language referring directly to the Clean Air Act.

I can go on. The other sections are 1604 and 1605 with respect to CO_2 and global warming. Again, it directly refers to the Clean Air Act and emissions trading which is the heart—one of the cornerstones of the Clean Air Act we just passed not too long ago. I am not saying they are not partially within the jurisdiction of the Energy Committee. I am not competent to address that question. I certainly am competent to address the question of whether they are in the jurisdiction of the EPW Committee. It is clear they are. In fact, the language, which I will read if the Senator would like me to read it with respect to sections 1604 and 1605, is language in a bill which was referred to the Environment and Public Works Committee.

I am not asking for more conferees. I am just asking that the two conferees from the EPW Committee be able to conference not only on the nuclear energy portions with respect to the jurisdiction of the EPW Committee but also conference on these issues. I mean the chairman—he may be the chairman of the conference. I do not know. Certainly, the chairman of the Senate conferees.

There will be other conferees there in addition to the two conferees from the Environment and Public Works Committee, which is to say the chairman will certainly have more than his say in the conference, as it should be. We are just asking the chairman of the committee and the ranking member of the committee at least be able to sit down and attend the conference with respect to issues within the jurisdiction of their committee.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I would say to my friend from Montana, one of the things he well recognizes about the bill and its passage through this House in the first place was that we tried very hard to make it an energy bill, energy conservation, energy production bill. And we tried equally hard and equally successfully to keep it from being a Clean Air Act, a Clean Water Act, or any such thing. It was an energy policy bill.

I have to say if this bill should come back from conference with carbon dioxide credit systems and global warming and other kinds of things, we will not have, as close as we have come, an energy policy. I just feel that strongly about it.

This bill should come from conference as it goes to conference from the Senate, as an energy policy bill and not an environmental bill. To confuse those things will be to dilute the efforts that we have so steadfastly pursued in trying to make a balanced bill both from the standpoint of production and conservation.

There are environmental benefits from the conservation provisions of this bill. Make no mistake about it—enormous environmental consequences to the benefit of the country. But for us to get wandering off into the Clean Air Act, Clean Water Act, or other agencies of Government, would be a dreadful mistake, and it would mean for the first time that the Senate and the House, the Congress, got close to making energy policy and sought to sacrifice that on some other alter.

So I just lay down my strong opposition to the request of the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I do not quite understand the Senator from Wyoming. On the one hand, I hear the Senator from Wyoming saying he wants this to be an energy bill, not an environmental bill.

On the other hand, the Senator is saying he objects to EPW being a member of the conference with respect to EPW matters.

Mr. WALLOP. If the Senator would yield, we have agreed to a level of involvement for the Environment and Public Works Committee here. That has been crafted by the Senator from Louisiana and I presume with the chairman of the Environment and Public Works Committee.

Mr. BAUCUS. Mr. President, might I ask the chairman and ranking member of the committee if they might be interested in an alternative course here? That is to state they will resist in conference these provisions of the House bill? That is those that deal with jurisdiction of the Environment and Public Works Committee? That would be, essentially, sections 1317 dealing with CO_2 emissions banking; sections 1604 and 1605 with respect to carbon dioxide and global warming, emissions; and portions of section 2121 dealing with pollution prevention.

Mr. WALLOP. That has an absolute commitment from the Senator from Wyoming on those issues.

Mr. JOHNSTON. Mr. President, I am becoming reacquainted here with those sections. We have a provision in our bill with respect to least cost planning. The Secretary would prepare a least cost plan, taking into consideration CO_2 emissions. I think that is more of a general—that is no baseline for the Clean Air Act, that is for least cost planning for utilities, I believe, and for the Nation as a whole.

So that part is in the Senate bill. And I think that part was within our jurisdiction and I do not believe would be within your jurisdiction.

I think those other matters with regard to Clean Air Act, it would certainly be my inclination, not understanding them very well, but, clearly, to resist those as I have said earlier. In other words, I have no agenda to seek those out and pass those. That is my inclination. If you will trust me that I am not fully acquainted with all of the intricacies of them—that is my general feeling.

And my friend from Wyoming, you have heard him state in very clear terms—I think he probably is more acquainted with these provisions than I. If he feels very strongly about it, I am sure that means we would both resist them.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. If the Senator from Montana would yield again, it is clear that these are public parts of that legislation, and the Senator's view on them is easily transmitted to either of us. I appreciate particularly the view that I just heard expressed by the Senator from Montana on those particular issues.

So my own recommitment is yes, I will resist that.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, with the commitments given by the Senator from Wyoming, and as I understand the commitment given by the Senator from Louisiana, namely, to resist those sections in the House bill that I mentioned particularly insofar as they refer to the jurisdiction of the Environment and Public Works Committee—and I do believe that is the understanding that I have from him, the Senator from Louisiana—I would be inclined to no longer resist the Senate going forward with this bill.

Might I again clarify the intention of the Senator with respect to those sections? Is the Senator saying in conference he will resist those sections that I indicated?

Mr. JOHNSTON. Mr. President, I am not trying to hedge my response. I am simply trying to tell the Senator I do not fully understand the three provisions.

But it is my feeling at this point that is exactly what I would do; that is, resist those. Let me put it this way: If there would be any change in attitude, I would certainly consult with the Senator from Montana. And I do not know why there would be a change in attitude. Also, you have to understand that, in a conference, I do not know how strongly the other side would be pushing for these matters and whether it would be a deal breaker if we did not go along with some language. I am sure that is not the case. But with that caveat, I can say, yes, the Senator has accurately stated my position.

Mr. BAUCUS. Mr. President, with that understanding, and I appreciate the comments of the Senator from Wyoming and the Senator from Louisiana, I will not resist the Senator going further on this bill. But it is important to realize that if the House were to press these issues that the Senate conferees do resist them. And I also understand the chairman will consult with me, and appropriate members of the committee.

Mr. WALLOP. If the Senator will yield, should it be we cannot resist forcefully enough and they come back here with it, I will join with the Senator.

Mr. BAUCUS. I thank both Senators.

The PRESIDING OFFICER. Is there further debate?

Mr. WALLOP. Mr. President, I ask unanimous consent that the one remaining amendment that was part of the unanimous-consent agreement entered into last night, the amendment from the Republican leader, Mr. DOLE, on solid waste disposal and phosphoric acid, be dropped from that list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, let me begin by expressing my appreciation to the chairman and ranking minority members of the Senate Finance Committee and the Senate Energy Committee for their leadership and cooperation during the Senate consideration of H.R. 776. They have successfully navigated a comprehensive energy package through the Senate, one which now includes some important tax provisions to complement the Senate's action earlier this year on S. 2166.

Of particular importance are the provisions of title XIX, the new Finance Committee provisions, which assist energy conservation and renewable energy technologies. These provisions extend existing tax credits which expired at the end of June, and authorize new tax incentives for both renewable energy and energy efficiency technologies. Earlier this year, I joined with a number of my colleagues in urging the Finance Committee to adopt these provisions because of their critical importance to the continued existence of a renewable energy industry in our country.

The provisions in title XIX regarding coal miners health care also of particular importance to me. The efforts of my distinguished colleagues from West Virginia and Kentucky—Senator ROCKEFELLER, Senator BYRD, and Senator FORD—in securing positive action to protect the health care benefits of retired miners and their dependents has resulted in a major accomplishment. I strongly encourage the Senate conferees to insist on retaining these provisions in the final legislation.

Mr. President, despite these positive accomplishments, this legislation still retains many negative features. Earlier this year, I expressed my concerns with the provisions of S. 2166 which are now incorporated into H.R. 776. At that time, I explained my vote against final passage of the bill at some length. In part, I explained:

> When all is said and done, I believe that while this bill has been improved, it still retains serious flaws. It violates many of the principles I believe are important, principles of public participation in decisionmaking, principles of protecting the consumer and taxpayer, principles of preserving due process for farmers and ranchers. Further, on balance S. 2166 proposes too much support for nuclear power and coal, and too little for renewable energy and efficiency. Finally, I cannot defend this legislation as representing an energy policy which responds to our most urgent problem—global climate change.

In deciding how to cast my vote today, I take particular note of the new provisions which are before the Senate for the first time—the provisions reported by the Senate Finance Committee. Again, I believe that in deciding my final vote I should examine these provisions in their totality.

While the Finance Committee's title has some very positive provisions, on balance it still represents a continuation of the status quo—it supports continued use of fossil fuels more than a transition to renewable energy sources. It provides some $400 million in tax incentives for renewable energy sources, but gives new tax breaks to the oil and gas industry worth over $1.5 billion—tax breaks which I joined Senator BRADLEY in trying to strike from this bill. The tax benefits for the oil and gas industry counterbalance all of the title XIX's provisions for solar energy, windpower, biomass fuels, alternative fuels, energy conservation, and increased transit ridership combined.

These new tax provisions will effectively make a bad situation somewhat worse. A study conducted by the Center for Renewable Resources in 1985 concluded that existing Federal laws, particularly the tax laws, provide major subsidies for nuclear power and fossil fuels and far less support for renewable energy sources. That study concluded, for example, that the annual subsidies for nuclear power amounted to some $15.56 billion, those for oil production totaled $8.58 billion annually, while renewable energy sources received only $1.7 billion per year.

In its totality, therefore, this bill's provisions continue to support fossil fuels and nuclear energy more than energy efficiency and renewable energy sources. For this reason, I will cast my vote against H.R. 776 on final passage.

Perhaps in the future, the Congress will see fit to begin unraveling the complex laws which subsidize fossil fuels and undermine investments in energy efficiency and renewable resources. This bill does contain a provision which I believe could lay the groundwork for progress in this direction.

An amendment I offered to S. 2166 which was adopted by unanimous consent, and which Representative SIKORSKI successfully offered to the House bill, requests that the National Academy of Sciences conduct a complete study of how the government distorts the energy marketplace.

Specifically, this provision directs DOE to contract with the National Academy of Sciences to prepare a study quantifying past and present direct and indirect subsidies for different energy resources. This study grew out of the response I received last summer to questions I had submitted to the Department of Energy.

In testimony before the Senate, Energy Goals Act Hearing July 18, 1991, the Department of Energy agreed that a broad range of Government actions impact the production and consumption of energy. But, DOE has not conducted a study of energy subsidies, nor has it updated earlier studies. Yet, DOE criticized earlier studies for their very biased view of Government action in the energy marketplace.

What those previously attempting the task of quantifying energy subsidies have concluded is quite astonishing. In the 1970's the Battelle Memorial Laboratory conducted a study of energy subsidies which concluded that $252 billion was allocated to energy producers between 1921 and 1978—the bulk of which subsidized fossil fuels. In the 1980's, the Rocky Mountain Institute concluded that there were over $40 billion in annual subsidies from various laws and regulations, and again they concluded that fossil fuels received the lion's share.

These studies demonstrate the critical importance of embarking upon this discussion. The energy bill before us today might amount to several billion dollars of programs and incentives over the next 5 years. For all of our labors in producing this 1,000-page-plus new energy bill, the sum total of its influence on the marketplace will only be a fraction of what studies indicate existing subsidies already exert. In fact, the influence of existing subsidies may exceed the impact of this bill by a factor of 5, 10, or even more.

Given tight Federal budget—budgets which cannot find the money to fund essential health, education, and other programs—it is time for Congress to begin the hard job of making new energy policy by unraveling existing subsidies instead of simply adding more subsidies to the mix. If previous studies are correct, it should be more cost-effective, and more influential upon the marketplace, for Congress to address the tens of billions of dollars in existing subsidies rather than creating a few new programs to promote energy policy priorities.

To begin this process, Congress needs a starting point—that is what I hope this National Academy Study will provide. An inherent problem for any study of subsidies to overcome is the fact that what one person may view as a subsidy another person will view as a legitimate business expense. Therefore, it is imperative that any such study be conducted by an impartial group, one which takes no ideological stance for or against on energy source or fuel. Impartiality is essential if any such study is to be an effective policy instrument. In my view, the National Academy of Sciences has such a track record of impartiality and its work product will have widespread credibility. Moreover, a thorough examination of energy subsidies will require a great deal of sophistication. Unraveling the actual market distortion of various tax provisions, regulatory laws, agency programs, and other Government actions will demand the type of expertise which the Academy embodies.

Mr. President, virtually every energy interest group testifying before the Senate Energy Committee told us they only wanted a level playing field. In fact, I believe that if one took the time to look back through the Energy Committee's hearings over the past decade one would find they have been asking us to give them a level playing field for many years. This provision, therefore, may be the only provision of this bill which responds to the requests of every interest group. This amendment will give us the information we need to discover where the level playing field really lies.

While I cast my vote against this bill because the tax provisions continue subsidizing fossil fuels over renewable energy sources, I do wish to call to the attention of my colleagues this important provision. A provision which I hope will help future Congresses begin to make a fundamental change in energy policy, to begin a transition away from fossil fuels and toward energy efficiency and renewable energy technologies, and to do so in a fiscally responsible and economically efficient way.

Mr. BRADLEY. Mr. President, when we moved to the energy bill yesterday, there was circulated a long list of amendments. While these amendments covered the widest variety of issues, both relevant and irrelevant to the underlying bill, one area not covered was natural gas prorationing. This issue, which sounds technical and arcane, is anything but. It's volatile, intensely controversial, and has spawned—unknown to many of my colleagues—some of the sharpest vitriol associated with this bill.

At the center of the energy bill is a new and greater commitment to natural gas. We streamline pipeline siting and promote natural gas vehicles. We open the door for increased gas use in electric utilities and industry. Wherever you look and however you analyze it, you will see in this bill an endorsement of natural gas as a fuel of choice for America's future.

Mr. President, this bill represents a logical step. The Congress has for almost 15 years pushed to create competitive markets for gas. With each legislative step, we've dismantled another part of the huge regulatory machine that controlled gas markets for decades. Today, we're doing things much differently than we did even a decade ago. We don't have price controls. We don't have the Fuel Use Act. We have a gas transportation system that's open access. We have direct price negotiation between the customer and the producer. We have competition between gas producers for market share. We have abundant supply. We have low prices.

It is in this context that I first became aware and, ultimately, alarmed about the issue of natural gas prorationing. Prorationing is an issue that, although esoteric, is as old as the oil business. In the dawn of the oil business, wellfields in Pennsylvania and Ohio were quickly drained by oil producers who had no way to protect their fields. Under the rules of capture which governed property rights, mineral production was a use-it-or-lose-it proposition, with each driller racing to exhaust a shared reserve. Prorationing, which established and protected correlative rights, was a natural and appropriate response to this oilfield free for all. And the same, legitimate rationale for prorationing is applicable still.

The problem that I discovered, however, had three aspects. First, a series of so-called reforms in prorationing were proposed last fall. Some of these reforms were implemented this past spring. Three States—Oklahoma, Texas, and Louisiana—were in the forefront. These three States also represent over 50 percent of domestic natural gas supply.

Second, the rhetoric and public statements of many officials and oilmen were unambiguous and threatening. When the Energy Committee held a hearing on this on June 18, I submitted for the RECORD some 12 pages of quotes from the press that stated that the prorationing effort had a simple goal. Accordingly to one headline, all these reforms were, "motivated purely by price."

Third, the gas market itself seemed to back up this tough talk. Prices were historically low in January and February. Four warmer than expected winters and a national recession had taken a toll. Most analysts pointed to an anemic spring market, since almost without exception the slackened demand that accompanies warmer weather means even lower prices. But this did not happen. In fact, the opposite, the improbable occurred: prices shot up. The price for May deliveries of gas shot up 30 percent in just 6 days in mid-April.

Naturally, the thought of State-sanctioned price controls is abhorrent. We have not worked for 15 years to free markets for gas so that they can be manipulated by a few States. Mr. President, these concerns were not mine alone. Last May, 34 Senators endorsed an investigation of these developments. In the House, the Markey-Scheuer amendment was adopted by a strong majority of Members. This amendment attempts to balance Federal and State powers and make price manipulation by States illegal.

I know there has been a lot of interest as to whether I would pursue a similar amendment here on the Senate floor. Given my interest and obvious concerns, such an action would be a natural event. But I will state today that I will forego at this time the pursuit of any such legislative remedy.

Let me state quite clearly why I have made this decision. For the record, I remain skeptical. First, I believe the Oklahoma prorationing law is bad for gas producers, and consumers. It targets only large wells and all large wells. It also targets seasonal purchases by utilities that are trying to buy gas in the period of lowest prices and demand. Second, I remain concerned that should these three States begin to coordinate cutbacks, we could easily see price manipulation that could threaten our national interest and consumers. Lastly, I am not convinced that existing law provides a legal remedy for aggressive actions taken by the producing States' regulators. Following last month's Energy Committee hearing, I sent a detailed set of questions to the Department of Energy on this issue. I have not received a reply.

Mr. President, my concerns remain. But I'm willing to hold off. As a result of my involvement with prorationing, I have had extensive conversation with the key regulators. While the threat of many States working together remains, I cannot conclude—given the direct conversations I have had—that this is the goal or intention of many of those involved. The chairman of the Texas Railroad Commission, Lena Guerrero, and I have discussed this at length. I respect her and I trust her. Her words have made an impact on me. She could not be stronger or more clear. She has stated forcefully the position of the TRC: Their prorationing reforms are not targeted at the consumer, as indeed there are many gas consumers in Texas. Rather, she is certain that the adopted regulations—as opposed to some of the proposals that have been discussed at times—will remain a straightforward and necessary updating of Texas prorationing authorities.

I have had conversations with other legislators. Shortly after the Oklahoma statute was enacted, Congressman SYNAR called me directly to address my concerns. I believe he and others will work to see that we don't backslide into a system of production controls or a natural gas cartel.

On account of this reassurance, I do not see a reason to push ahead at this time. As I said, I do have some remaining skepticism. I have concerns. But I will wait both to see how the conference committee deals with the issue, and to see how the producing States implement their prorationing proposals. For the moment, at least, the advocacy of their representatives leads me to give them the benefit of my doubts.

REINSURANCE EXCISE TAX

Mr. SYMMS. Mr. President, during the Finance Committee markup of the energy bill, an amendment was added which would increase the tax on reinsurance purchased from foreign companies. U.S. insurance companies have opposed similar amendments over the past 2 years and are opposed to this amendment. The rate increase will raise the cost of reinsurance sold to consumers. In the current economic climate, there is no justification for Federal action which would increase insurance costs.

I am also concerned about the impact of the amendment on our relations with foreign countries. The United States has negotiated waivers of the excise tax with more than a dozen countries. Those treaties reduce the rate to zero on our treaty partners. However, a foreign reinsurer would nonetheless pay a 1 percent tax, not zero, even if it qualified under the new rules. More recent treaties provide a waiver of the tax, but reduce the benefit of the waver if a foreign reinsurer places reinsurance in third countries that do not have similar waiver in their U.S. tax treaties. The amendment would add a new three-part test for loss of the treaty benefit, in place of the one negotiated in the treaties.

If foreign governments are to rely upon these treaties, we must respect and abide by the terms of the treaty. Adopting a new test after ratification of these treaties will disrupt relations with our trading partners, and impair the ability of the U.S. Treasury to negotiate favorable terms for our multinational companies doing businesses abroad.

Only a few jurisdictions appear to be the target of this measure. But we have no assurance that they are the only ones affected. I am very reluctant to impose a legislative solution to a problem which may be of very limited dimension. I am even more wary of adopting a measure that disrupts relations with our major trading partners.

An energy bill is a strange place to impose a tax on insurance companies. Indeed, the proposal originated in a recently introduced House tax bill, which was just the subject of hearings in the House and never in the Senate. In the view of the strong objections of U.S. insurers, we ought not act in haste, without fully understanding the impact of these actions. I urge the conferees to reject this proposal so that we do not adversely affect domestic companies and their policyholders.

EXEMPT BOND VOLUME CAP FOR HIGH SPEED RAIL PROJECTS

Mr. MACK. Mr. President, high-speed rail technology has proven itself in many industrialized countries throughout the world today. In fact, both the French and the Japanese have developed and currently run high-speed trains. High-speed rail offers a clean, efficient alternative to other forms of mass transit. Yet, the United States, which formerly has enjoyed the status as leader in transportation technology, now finds itself not only lagging behind our foreign neighbors but hindering our States ability to fund such public projects.

The bond volume cap amendment does not ask for any unique or unprecedented exception to law or policy. It simply extends the same benefits available to States for funding other public projects such as airports, seaports, and solid waste disposal facilities to high speed rail projects.

This change makes sense and is long overdue. I am pleased that my colleagues have joined in support of this amendment.

INCREASING THE TAX-DEDUCTION FOR THE SELF-EMPLOYED

Mr. MACK. Mr. President, I wish to clarify my position in support of Senator SPECTER's amendment offered yesterday on the floor which would permanently increase the tax deduction for health insurance costs for the self-employed from 25 to 100 percent. This increase makes insurance more affordable for self-employed individuals and their families by granting them the same 100 percent deduction for health benefit costs currently granted to large businesses.

I have consistently supported this provision which provides for fairness in the business community. This measure is contained in S. 1936, the Senate Republican health care task force bill of which I am an original cosponsor. In addition, this provision is included in the small business bill I introduced, S. 2727.

I want to make one thing clear about my support of this amendment, however. I find it troubling that this body has forced upon itself rules which hamstring our ability to enact good policy. My vote in support of this amendment reflects my support for raising the health insurance deduction as opposed to the revenue provisions used to pay for it.

COAL HEALTH BENEFITS PROVISION—AMENDMENT NO. 2787

Ms. MIKULSKI. Mr. President, I am glad to see that the Senate has reached a compromise that will protect retired coal miners' health benefits without imposing an unfair tax on the coal industry. This compromise is good for the retirees, but it also is good for coal miners in Maryland and elsewhere who were threatened by the original tax that was proposed.

Coal mines in Maryland were clearly threatened by a planned tax of up to $1/hour, possibly more, on nonsignatory companies that would help pay for retirees' benefits. That proposal was unfair: it asked companies that were treating their employees fairly and keeping their promises to pay for someone else's problem. And if it went through, it would have hurt Maryland's coal mines and cost us jobs—both in western Maryland and in the Port of Baltimore, through which coal is shipped.

That's why I worked with Senator ROCKEFELLER this spring to help Maryland get a fair deal. I told him I wanted to help him protect the retired miners in Maryland and across the country. But I also told him that I could only back him up if he promised to help the nonsignatory mines in Maryland. These mines never were involved in the agreement that the Bituminous Coal Operators Association made to their employees, and they shouldn't have to take on an unfair share of the burden to help the BCOA keep its promises.

Senator ROCKEFELLER did help Maryland and other States, and has crafted a proposal that is fair to all coal mines and their workers. I want to congratulate Senator ROCKEFELLER for his dedication and his hard work. Without him and without his genuine concern, 120,000 coal miners and their families would be losing their health care next year. I'm happy to endorse this new agreement, and to see that coal miners will keep the benefits they earned. I'm also glad that no coal-related jobs are threatened in Maryland or elsewhere.

I support this compromise and I encourage the House of Representatives to join in endorsing it.

ETHANOL USE AND THE FUTURE

Mr. KERREY. Mr. President, I am pleased to announce that the percentage of gasoline sold in Nebraska containing ethanol reached an all-time high in 1991. This represents the highest State average in the Nation. By volume, over 350 million gallons of 10-percent ethanol blended fuel were sold in Nebraska in 1991, accounting for 45 percent of all gasoline sales, according to the Nebraska Gasohol Committee.

Nationally, ethanol blended fuels accounted for over 8 percent of all gasoline sold in 1991.

This is a good indication of consumer acceptance of ethanol blended gasolines and a recognition of the environmental and economic benefits of ethanol.

This good news comes at a time that we are awaiting a decision by the U.S. Environmental Protection Agency [EPA] on Clean Air Act regulations concerning reformulated fuel standards and oxygenate requirements. The proposed rule could seriously hamper the use of ethanol in ozone nonattainment areas, and thereby limit the use of domestically produced renewable fuel.

In recent months, I have joined other Senators and thousands of citizens from the Midwest and elsewhere in an effort to ensure that EPA follow through on Congress' intent in writing the Clean Air Act amendments that ethanol qualify under these programs.

Recently, even the President indicated that he was supportive. We are still awaiting an EPA decision and I hope that the Congress will not have to readdress this issue in the coming year to ensure that the administration follows through on our intent.

I am pleased that the Senate today passed the Comprehensive National Energy Policy Act (H.R. 776), which includes a provision authored by Senator DASCHLE that would encourage the use of ethanol to meet oxygenate requirements mandated by the Clean Air Act of 1990. Currently, the excise tax exemption of 5.4 cents per gallon is limited to fuels containing 10-percent ethanol by volume. Under the bill's provision, ethanol blenders would be allowed a 4.1-cent-per-gallon tax exemption for a 7.7-percent-by-volume ethanol blend, and a 3-cents-per-gallon exemption for a blend of 5.7-percent-by-volume ethanol blend. This will partially respond to some of the concerns raised about whether ethanol will be able to participate in the Clean Air Act's programs as Congress clearly intended, though it by no means removes the regulatory obstacles faced by ethanol. I urge the conferees to work to see that this provision is included in the final version of this energy legislation.

A VOTE FOR UMWA RETIREES

Mr. WARNER. Mr. President, the national energy strategy legislation now pending Senate passage contains a landmark financing package for the troubled retiree health insurance program of the United Mine Workers of America [UMWA].

This is good new for nearly 10,000 Virginia retirees and their families. As recently as 3 weeks ago, a related financing scheme for an industrywide coal tax was dead in the water. With the active support of President Bush, however, we have reached a new funding agreement.

Under the legislation, UMWA retiree health costs will be assigned to both present and former members of the Bituminous Coal Operators Association [BCOA], depending on the length and time of employment as recorded by the Social Security Administration. For those orphan retirees for whom former employers no longer exist, they too well be assigned on a proportional basis.

Major financial support will come immediately to the UMWA health funds by a transfer of $210 million from the UMWA pension fund over the next 3 years. Additional costs for 1996 and beyond will be covered by transfer payments from the Federal abandoned mine lands [AML] fund.

Virginia UMWA retirees should sleep better tonight knowing that the Federal Government has stepped in to restore their health insurance program. In the long term, the entire coal industry will be sacrificing to assure the continued delivery of these benefits. We revere those who have worked in the coalfields, however, and the 40-year promise of these benefits has been our overriding concern.

Mr. WALLOP. Mr. President, so far as I know, with resolution of the issue of rollups, there are now no further amendments that can come before us. I say to my friend that I hope he does, and if he does not, I will, ask for the yeas and nays on this bill. I think Senators are entitled to it. I will have just a few remarks after the chairman before we go to a vote.

Mr. JOHNSTON. Mr. President, I had previously made some remarks about this bill in one of those many down times we had, which the press is free to quote from as if I said them at this more propitious time.

In any event, Mr. President, it has been, of course, a pleasure working with my distinguished ranking minority member and with the staff. I will not go further with congratulations than that, since we have had so many fits and starts in this bill and since the conference will be a long and difficult one.

There are well over a thousand pages in this bill. I would not want to count the number of pages that finally come out of this bill as finally passed, but there are well over a thousand pages. There are many highly contentious matters. There are some potential deal breakers in this bill.

I say that not to reflect pessimism at all, because I also think, on the other hand, that the demand of the country for an energy policy is very, very strong. The President of the United States is for this bill, the Speaker of the House is for this bill, the majority leader of the Senate is for this bill, the Democrats are for it, the Republicans are for it, the country needs it, and I say woe to him who stands in the way of passing this bill which is strongly needed by the American people.

I do not believe people are going to try to stand in the door of progress in this bill. And, on the other hand, I sound the alarm of concern that we have a long way to go to get this bill passed.

From my standpoint, Mr. President, I hope we can have a first meeting of the conference early next week, if that meets with the schedule and desires of the distinguished Senator from Wyoming.

I hope that meets with his schedule. We plan to get this bill out, I hope, quickly and decisively for the American people.

I thank all Senators and especially the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I obviously return my thanks and admiration to the Senator from Louisiana, the chairman of the committee, who has done an absolutely masterful job, not once now, but twice on this floor getting us to this point. The bill was balanced when it passed the Senate the first time 94 to 4. I believe that we have preserved that balance after the current debate and perhaps even strengthened it with some of the Finance Committee provisions.

I am confident that we can maintain that balance through the conference. I commit to doing it, and I say that it is extremely important to maintain that balance.

I am confident, as is the chairman, that we can reach agreement, if the philosophy is to produce a consensus agreement in the national interest and not to produce a political statement

We have not allowed partisan politics to dictate what we have accomplished, and that is one of the rare accomplishments, I say to my friend from Louisiana, that he has managed to do. We have, even through it has been an election year, been able to achieve that, and we must assure that the result of the conference is as bipartisan as has been the result of the separate debates that have taken place in this House.

I say to my friend also, and those who were involved in the most contentious issues, this Senator, for an entirely different reason, is extraordinarily grateful that we were able to resolve this matter. I say to my friend in the Chair, who understands these things quite well, on tomorrow I go back to my home State of Wyoming to celebrate with the rest of my family our centennial on our ranch in Wyoming. For us, hat was a matter of such import that, had we not settled the energy bill, I still would have gone. So I am most grateful to have been a part of this final thing. I will not delay it any longer lest somebody contrives some genius senatorial way to get in our way.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that a list of acknowledgements of the majority and minority staff who have worked so diligently be printed in the RECORD, as well as two members of my personal staff who have been so instrumental in achieving this.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COMMITTEE

Rob Wallace, Gray Ellsworth, Richard Grundy, Jim Beirne, Marian Marshall, Judy Pensabene, Howard Useen, Jim O'Toole, Gerry Handy, Carol Craft, Gigi Beall, Kelly Fischer.

Michael Hoon and Jodi Brayton, personal staff, and the majority staff.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—93

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wirth
Wofford

NAYS—3

Durenberger
Smith
Wellstone

NOT VOTING—4

Burdick
Helms
Jeffords
Symms

So the bill (H.R. 776) as amended, was passed.

Mr. WALLOP. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I ask unanimous consent that the Senate amendment to H.R. 776, the energy bill, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed:

From the Committee on Energy and Natural Resources, for all titles except title XIX of H.R. 776 and title XX of the Senate amendment (Revenue provisions): Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. BINGAMAN, Mr. WIRTH, Mr. CONRAD, Mr. SHELBY, Mr. WALLOP, Mr. HATFIELD, Mr. DOMENICI, Mr. MURKOWSKI, Mr. NICKLES, and Mr. BURNS.

From the Committee on Governmental Affairs, conferees for subtitle B of title VI of the Senate amendment (Federal energy management): Mr. GLENN and Mr. STEVENS.

From the Committee on Commerce, Science, and Transportation, conferees for subtitles A, B, and C, of title XII of the Senate amendment (Outer Continental Shelf revenue sharing), pipeline safety issues (as contained in Senate amendment No. 2785): Mr. HOLLINGS and Mr. DANFORTH.

From the Committee on Banking, Housing and Urban Affairs, conferees for title XV of the Senate amendment (Public Utility Holding Company Act reform): Mr. RIEGLE and Mr. GARN.

From the Committee on Environment and Public Works, conferees for the following provisions of H.R. 776: section 2481 (trans-shipment of plutonium); title XXVIII (Nuclear Plant Licensing); subtitle A of title XXIX (below regulatory concern); section 3009 (exemption from annual charges): Mr. BURDICK and Mr. CHAFEE.

From the Committee on Veterans' Affairs, conferees on sections 6101 and 6102 of title VI of the Senate amendment (building energy efficiency): Mr. CRANSTON and Mr. SPECTER.

From the Committee on Finance, conferees on title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions): Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BOREN, Mr. DASCHLE, Mr. BREAUX, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, and Mr. CHAFEE, conferees on the part of the Senate.

Mr. JOHNSTON. Mr. President, with thanks to all I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent to address the Senate as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 3107 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. Mr. President, I yield the floor.

DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The PRESIDING OFFICER. Under the previous order the Senate will proceed to the consideration of H.R. 5517, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purpose.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments; as follows:

(The parts of the bill intended to be stricken are shown in brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I

FISCAL YEAR 1993 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1993, $624,854,400, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406(a).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000, *of which $26,035,000 shall be available October 1, 1993, notwithstanding D.C. Code 1-724(b)(1); and together with $1,992,000 which shall be available October 1, 1993.*

FEDERAL CONTRIBUTION FOR CRIME AND YOUTH INITIATIVES

For a Federal contribution for crime and youth initiatives in the District of Columbia, $30,798,600: *Provided,* That [this appropriation shall not be obligated or expended until the Committees on Appropriations of the House of Representatives and the Senate have approved a detailed plan as to the use of these funds] *the Mayor shall submit a detailed plan as to the use of these funds, to the Committees on Appropriations of the Senate and House of Representatives, concurrently with making the funds available for obligation.*

PRESIDENTIAL INAUGURATION

[For payment to the District of Columbia in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities, $5,514,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 1–1803).]

Notwithstanding D.C. Code 1–1131.1(d) the United States shall reimburse the District of Columbia for its actual and anticipated expenses in connection with Presidential inauguration activities in an amount not to exceed $5,514,000 as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended, (D.C. Code 1–1132): Provided, That there is established in the United States Treasury an account to receive payments from the Presidential Inaugural Committee and other sources to be available for payment of the District of Columbia's 1993 inaugural expenses: Provided further, That sums so deposited shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable for amounts actually expended or for amounts expected to be expended within 30 days of the request for transfer: Provided further, That the District shall request reimbursement of actual obligations concurrently with transfers of funds from the Treasury account: Provided further, That all reimbursements received by the District of Columbia government, from sources other than the Treasury fund, shall be deposited directly into the Treasury fund: Provided further, That the Director of the Office of Management and Budget shall, pursuant to D.C. Code 1–1132(a), ensure that there are sufficient sums available to satisfy each transfer requested by the District of Columbia government: Provided further, That any balance remaining in the fund at September 30, 1993 shall revert to the United States Treasury.

[METROPOLITAN POLICE DEPARTMENT

[For a Federal contribution to the District of Columbia for the Metropolitan Police Department, $400,000, of which $250,000 shall be for training and continuing education programs and $150,000 shall be for a summer youth program.]

BOARD OF EDUCATION

[For a Federal contribution to the District of Columbia, $83,000, of which $43,000 shall be for an adult literacy program and $40,000 shall be for a program to teach self-discipline, motivation, and respect in public schools.]

For a Federal contribution to the District of Columbia, $1,379,000, of which $779,000 shall be for the Center for Change; $350,000 shall be for the replication of the Options School; and $250,000 shall be for the Parents as Teachers program.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

For a Federal contribution to the Department of Housing and Community Development's Home Purchase Assistance Program to develop a "Nehemiah Housing Project" on the 14th Street corridor in the Columbia Heights neighborhood, $1,140,000.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

For a Federal contribution to the District of Columbia Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia, [$140,000] *$1,000,000.*

GEORGE WASHINGTON UNIVERSITY MEDICAL CENTER

For a Federal contribution to the Board of Trustees of The George Washington University for the construction and renovation of the George Washington University Medical Center, $250,000, pursuant to Public Law 101–590 (104 Stat. 2929), together with $24,875,000 to become available October 1, 1993, and $24,875,000 to become available October 1, 1994.

VERY SPECIAL ARTS

For a Federal contribution to the International Very Special Arts Festival, $500,000.

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center for a cost-shared National Child Protection Center, [$140,000] *$2,000,000.*

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $115,591,000: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That $10,200,000 of the revenues realized from the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992" shall be available for the Mayor's youth and crime initiative, but shall not be obligated or expended until the Mayor submits to the Council a plan for the allocation and use of the funds: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated from the earnings of the applicable retirement funds $10,292,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board[, of which not to exceed $400,000 of this appropriation, subject to the enactment of authorizing legislation, shall be used to reimburse the general fund for expenses incurred by the general fund during the fiscal year ending September 30, 1993, in rendering services related to the Retirement Board, including, but not limited to, determining retirement eligibility, calculating pension benefits, preparing and distributing pension checks, filing reports and related activities]: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, [$102,888,000] *$104,028,000*: *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the [general fund of the District of Columbia] *District of Columbia General Fund.*

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, [$945,951,000] *$945,551,000, together with $1,523,000 to be derived by transfer from the object classes providing personal services under the appropriation heading "Governmental Direction and Support"*: *Provided*, That the Metropolitan Police Department shall maintain a force of not less than 4,889 officers and members: *Provided further*, That $188,200,000 shall be allocated for the Police Officers and Fire Fighters' Retirement Fund and $4,300,000 shall be allocated for the Judges' Retirement Fund: *Provided further*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: [*Provided further*, That $299,000 of the amount appropriated under this heading shall be available at the discretion of the Chief of Police for outside training and continuing education programs for the Metropolitan Police Department: Provided further, that $150,000 of the amount appropriated under this heading shall be available for the Metropolitan Police Department for expenses necessary for the establishment and operation of a summer youth jobs program under the direction of the Chief of Police:] *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protection Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1993, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further*, That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Fire Fighting Division of the Department: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, [$713,675,000] *$714,971,000*, to be allocated as follows: [$513,635,000] *$514,931,000* for the public schools of the District of Columbia[, of which $43,000 shall be for the Washington Literacy Council and $40,000 shall be for the Joy of Discipline Program;] *of which $779,000 shall be for the Center for Change; $350,000 shall be for the replication of the Options School; and $250,000 shall be for the Parents as Teachers program;* $98,800,000 shall be allocated for the District of Columbia Teachers' Retirement Fund; $71,995,000 for the University of the District of Columbia, of which $2,000,000 shall be derived from revenues realized from the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992"; $20,978,000 for the Public Library, of which $200,000 shall be transferred to the Children's Museum; $3,527,000 for the Commission on the Arts and Humanities; $4,500,000 for the District of Columbia School of Law; and $240,000 for the Education Licensure Commission: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1993, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $886,777,000: *Provided*, That $19,015,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $227,622,000: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $13,250,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note; 91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $291,299,000.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,342,000, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102-106; D.C. Code, sec. 47-321(a)).

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,423,000.

INAUGURAL EXPENSES

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $5,514,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

FACILITIES RENT/LEASES

For the purpose of funding costs associated with the rental and leasing of facilities for governmental purposes, $16,682,000.

TRAUMA CARE FUND

To establish the Trauma Care Fund, $10,000,000, to be derived by a one time transfer from the Water and Sewer Enterprise Fund, to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year.

FURLOUGH ADJUSTMENT

Each agency, office, and instrumentality of the District, except the District of Columbia Courts, shall furlough each employee of the respective agency, office, or instrumentality for one day in each month of the fiscal year ending September 30, 1993, or a proportional number of hours for part-time employees. The personal services spending authority for each agency, office, and instrumentality subject to this section is reduced in an amount equal to the savings resulting from the employee furloughs required by this section, for a total reduction of $36,000,000. The Council shall enact legislation to implement this section which may include but shall not be limited to procedures to ensure that public health and safety functions are carried out.

WITHIN-GRADE SALARY ADJUSTMENTS

Notwithstanding any other provision of law, no employee of any agency, office, or instrumentality of the District shall receive within-grade salary increases during the fiscal year ending September 30, 1993, and no time during the fiscal year ending September 30, 1993 shall accrue toward the waiting period for advancement to the following rate within the grade. The spending authority for each agency, office and instrumentality is reduced in an amount equal to the savings resulting from the adjustments required by this section, for a total reduction of $13,000,000.

CAPITAL OUTLAY

For construction projects, [$333,639,000] *$393,639,000*, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, secs. 9–219 and 47–3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85–692; D.C. Code, sec. 40–805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91–143; D.C. Code, secs. 1–2451, 1–2452, 1–2454, 1–2456, and 1–2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That [$8,232,000] *$13,779,000* shall be available for project management and [a decrease of $2,734,000] *$12,749,000* for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1994, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1994: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $251,630,000, of which $39,602,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects, and $12,200,000 collected as payment in lieu of taxes pursuant to the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992" shall be transferred to the general fund to provide $10,200,000 for the Mayor's youth and crime initiative, and $2,000,000 for the University of the District of Columbia.

For construction projects, $45,908,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided*, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further*, That not to exceed $22,705,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $8,450,000, to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,500,000.

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.), of which $1,847,000 shall be transferred to the general fund: *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1994, shall be transmitted to the Congress no later than April 15, 1993.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided*, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. None of the Federal funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 115. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 116. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 117. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 118. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 120. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 121. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1992 shall be deemed to be the rate of pay payable for that position for September 30, 1992.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 122. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 123. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 124. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1993, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1993 revenue estimates as of the end of the first quarter of fiscal year 1993. These estimates shall be used in the budget request for the fiscal year ending September 30, 1994. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 125. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), as amended, is amended by striking "sold before October 1, 1992" and inserting "sold before October 1, 1993".

SEC. 126. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 127. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4-42; D.C. Code, secs. 1-299.1 to 1-299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1992, of the required reorganization plans, including but not limited to: the Office of Tourism, the Office of Banking and Financial Institutions, and the transfer of the functions of the Unclaimed Property Unit within the Department of Finance and Revenue to the Office of the Controller.

SEC. 128. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 129. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 130. Section 133(e) of the District of Columbia Appropriations Act, 1990, as amended, is amended by striking "December 31, 1992" and inserting "December 31, 1993".

SEC. 131. For the fiscal year ending September 30, 1993, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 132. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113 (d)).

SEC. 133. None of the funds made available in this Act may be used by the District of Columbia to operate, after June 1, 1993, the juvenile detention facility known as the Cedar Knoll Facility. The Mayor shall transmit a plan and timetable for closing the Cedar Knoll Facility to the Committees on Appropriations of the House of Representatives and the Senate by January 15, 1993.

SEC. 134. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1993 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 135. (a) None of the funds appropriated by this or any other Act may be used to issue or renew a registration certificate or identification tag for any motor vehicle if unpaid fines, penalities and other costs for traffic violations in the District of Columbia are outstanding against any registered owner of such vehicle or against any authorized user of any vehicle of such registered owner.

(b) Subsection (a) shall not apply to an issuance or renewal if the Director of the Department of Public Works of the District of Columbia—

(1) determines that special circumstances require a waiver of such subsection with respect to such issuance or renewal;

(2) issues such waiver in writing, setting forth such circumstances; and

(3) submits a written notification of such waiver and circumstances to the Committees on Appropriations of the House of Representatives and the Senate and to the governmental agency having authority to approve such issuance or renewal.

SEC. 136. None of the funds made available in this Act may be used by the District of Columbia to impose, implement, collect, administer, transfer, or enforce a payment in lieu of taxes on the Water and Sewer Utility Administration that would increase payments required of suburban jurisdictions in Maryland or Virginia under the Blue Plains Intermunicipal Agreement of 1985.

This title may be cited as the "District of Columbia Appropriations Act, 1993".

TITLE II

FISCAL YEAR 1992 SUPPLEMENTAL DISTRICT OF COLUMBIA FUNDS

Governmental Direction and Support

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $3,177,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 560), $5,427,000 are rescinded for a net decrease of $2,250,000: *Provided further*, That of the remaining funds, $1,724,000 shall be for the Mayor's youth and crime initiative in the City Administrator's Office, but shall not be obligated or expended until the Mayor submits to the Council a plan for the allocation and use of the funds, and $476,000 shall be for the Office of Personnel to conduct a management audit of personal and nonpersonal services: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated from the earnings of the applicable retirement funds an additional $1,694,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board[: *Provided further*, That of the $10,020,000 appropriated to the Retirement Board from the earnings of the applicable retirement funds, not to exceed $400,000 of this appropriation, subject to the enactment of authorizing legislation, shall be used to reimburse the general fund for expenses incurred by the general fund during the fiscal year ending September 30, 1992, in rendering services related to the Retirement Board, including, but not limited to, determining retirement eligibility, calculating pension benefits, preparing and distributing pension checks, filing reports and related activities].

Economic Development and Regulation

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $6,361,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 561), $5,094,000 are rescinded for a net increase of $1,267,000.

Public Safety and Justice

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $114,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 561), $22,356,000 are rescinded for a net decrease of $22,242,000: *Provided further, That of the funds remaining for the personal services of the Metropolitan Police Department, $1,000,000 shall be redirected to non-personal services of the Department for equipment purchases and contractual services: Provided further, That not to exceed $700,000 shall be available from this appropriation, and funds under this heading in Public Law 102–111 (105 Stat. 561) for the Chief of Police for the prevention and detection of crime.*

Public Education System

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $300,000, of which $260,000 is for the public schools of the District of Columbia and $40,000 is for pay-as-you-go capital projects for the public schools: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 563), $48,000 for the Education Licensure Commission are rescinded for a net increase of $252,000.

Human Support Services

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $45,565,000: *Provided*, That $2,196,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $3,405,000 are rescinded for a net increase of $42,160,000.

Public Works

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $31,308,000 are rescinded.

Washington Convention Center Fund

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $560,000 are rescinded.

Repayment of Loans and Interest

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $2,544,000 are rescinded.

Repayment of General Fund Deficit

For an additional amount for "Repayment of general fund deficit", $2,245,000.

Resizing

For the purpose of funding costs associated with the Temporary Appeals Board, downsizing, and early-outs, $5,510,000, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable.

Facilities Rent/Leases

For the purpose of funding costs associated with the rental and leasing of facilities for governmental purposes, $16,667,000.

Capital Outlay

For an additional amount for "Capital outlay", $11,000,000, to remain available until expended: *Provided*, That of the amounts appropriated under this heading in prior fiscal years for the Law School Facility, $10,000,000 are rescinded for a net increase of $1,000,000: *Provided further, That $150,000 shall be available for project management and $285,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.*

Water and Sewer Enterprise Fund

(INCLUDING RESCISSION)

For an additional amount for "Water and sewer enterprise fund", $62,327,000, of which $28,287,000 shall be transferred to the general fund to finance general fund operating expenses: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566), $35,820,000 are rescinded for a net increase of $26,507,000: *Provided further*, That $38,834,000 of the amounts available for fiscal year 1992 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $38,006,000 as provided under this heading in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566).

The following provision under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566) is repealed: "*Provided further*, That $25,608,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects."

Starplex Fund

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300); D.C. Code, sec. 2–321 et seq.), of which $584,000 shall be transferred to the general fund.

General Provisions

SEC. 201. Section 134 of the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (105 Stat. 571) is amended by inserting after subsection (c) the following new subsection:

"(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.".

SEC. 202. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1992.

This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1992".

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. ADAMS].

Mr. ADAMS. Mr. President, the District of Columbia appropriations bill that the committee recommends today contains a Federal payment of $624.5 million, along with a $30.8 million additional Federal amount to help fund the Mayor's crime and youth initiative.

With these two elements, we have provided the full Federal payment on which the city has based its balanced budget. They may have used a different method of calculation but these two figures do arrive at the same amount for balancing the District of Columbia's budget. In order to do that we had to take other drastic steps that are going to be painful for the District's Retirement Board. We are recommending that one-half of the Federal contribution for fiscal year 1993 be delayed until fiscal year 1994. I recognize this is bad policy and also bad government, but it is necessary if we re to keep the District's budget in balance, as we are required to do.

Mr. President, in many ways this has been a very difficult year to put together a series of recommendations. The realities of the Budget Act have required some very onerous choices. I want at this time, out of order an in the middle of my statement, to thank the Senator from Missouri [Mr. BOND] for his assistance as we have gone through this. This is a difficult year, because of the budget requirements.

The reality of the Budget Act has required that we make these choices. For instance, we have had to decide whether to delay one-half of the Federal payment to the District's retirement system or to cut $25 million from city services already reduced by the Mayor and Council. Neither of these options comes without a burden on the District government.

Some may say that we could eliminate some positions. Or that we should cut some other function. The Mayor testified that they have eliminated 1,450 people, not positions but people, from the payroll since she became Mayor. We should also note that under this budget proposal no city employee will get a raise; no city employee will get a step increase in their current pay grade; and every city employee, except policemen and firemen, will be furloughed for 1 day per month next year.

These are tough, bad medicine-type approaches but necessary to make this balanced budget. So we determined we just could not require further sacrifices of the city's work force in fiscal year 1993.

As you know, it is my personal opinion that the Congress should not be micromanaging the District government, that that is the job of the Mayor and city council, and they are doing this job. But I have reported this fully to the Congress here and now so they know what has been going on and what they have done. We just felt we could not ask further sacrifices from the District citizens in the form of reduced services.

Mr. President, often the District of Columbia government is portrayed as inefficient and ineffective, and certainly there is plenty of room for improvement, just as there is in the Federal Government. But just as often we fail to mention its successes, which in this case includes 9 balanced budgets of the last 11. Would that we could do so well.

The District was able to close fiscal year 1991 with a $2 million operating surplus, a reversal from a $118 million deficit in fiscal 1990. This is a small surplus, less than has occurred in more than a decade, but it is a surplus.

Mr. President, I feel very, very strongly that it is very important that the Congress help the Mayor with her initiative to attack the root causes of crime and violence. The first step is to stabilize the streets. And this Congress and this Mayor started on this 2 years ago. You will remember the initiatives that had been started by the administration and the Congress to attack street crime and drug violence. And as a part of this, they have taken a number of steps.

This initiative that I have just stated to put the $30.8 million into the Mayor's program on crime and violence is to help stabilize the streets and to continue these initiatives which include the following direct day-by-day, in-the-trenches steps: more officers on foot patrols, particularly around public housing, where most of the violent crime is happening.

Even more importantly, the Mayor has more than doubled the number of homicide investigators and sought the help of the Federal Bureau of Investigation. The Chief of Police has begun a program called Community Empowerment Policing or CEP. This approach to policing has proven successful in strengthening the ties between the police force and the community in other cities and will have the same effect here in time. This is putting policemen on the streets and in the communities, living in the communities, dealing with the communities so that they can deal with street crime.

Mr. President, I salute this philosophy of putting police officers closer to the communities that they patrol. In the District, this has translated into police substations in public housing, a community center in Mount Pleasant, the site of a large Hispanic population, and an innovative bicycle patrol in the sixth police district with bicycles donated by the Schwinn Co.

This has been a successful program in my home city, and I am hopeful it will have the same success here. As you can see, we are trying to put the police officers back into the neighborhoods to protect the citizens on a body-by-body basis. I commend the Mayor for this action and the chief of police.

Mr. President, there are other steps that the Congress is involved in to try to help stop the spread of violence, because there is virtually no family in this city that has not been touched in some way by the violence in the street, including, unfortunately, our congressional family.

There is separate legislation that gives the Capitol Police Department the same jurisdiction over the Hill that the U.S. Park Police have outside of the monuments and parks so that the Capitol Police can now begin to help patrol the neighborhoods around us. And there is pending presently in the Rules Committee and before the Congress other legislation which we have to pass to allow patrols in areas that are expended beyond the immediate Capitol, as well as expanded jurisdiction to arrest for all types of crime, as the Park Police have this type of authority.

As the Chair knows, because he is familiar with this city as I am, there are five separate police forces in this city.

What we are trying to do with all of them is get them on the streets and try to stem the homicides, the attacks and physical violence that is occurring.

I commend the chairman of the Rules Committee and other committees that are moving the Capitol Police out in those areas, also. They are now a well-trained force and we welcome them to help protect our congressional family.

As important as they are, crime and our response to it are not the only things worth talking about in this bill, because there is far more to a city then to try to prevent violence and crime to make it a delightful place to live than simply more police and more actions to stem violence.

The committee recommended $250,000 for a parents-as-teachers program that my colleague, Senator BOND, and others helped initiate last year. I support this program. It has been very well received, and I understand that these funds will allow them to serve the remaining target population, as well as add a bilingual component, which is very important because of the large Hispanic population that is now in the District as well as other language-type barriers that must be broken down within the District as people have moved into it.

Included is $350,000 to replicate the Options School. This is a program, which is a dropout prevention program, has been operating out of the National Children's Museum for the past 3 years. The data on the success rate of the kids who complete this program exceeds 80 percent, success of 80 percent. This means these kids are in school, making passing grades, not out on the streets.

Finally in area of education, we are providing $779,000 to the Superintendent's Center for Change to expand the program using computers to teach algebra I. These sound like small direct steps but they are just precisely that, to help the kids. This program has been operating as a part of the Anacostia for a year with good results and it is time to expand it to the other schools in the areas of the city. So it has had its test and we now want to see that all schools have it.

In addition, I am recommending $1,140,000 in Federal funds for the Department of Housing and Community Development to provide mortgage assistance to 57 low-income residents in Columbia Heights along the 14th Street corridor, just above Florida Avenue. This project, called the Nehemiah Project, will take four vacant parcels of land in a two- or three-block area and create new homes and retail space where for 25 years there has been broken promises and broken dreams.

Mr. President, I was in that neighborhood in 1968 when that riot took place and those burnings were occurring, and I drive in that neighborhood quite often. I think it is a tragedy that we, in the District government and Congress, have not moved to try to provide housing and stabilize this neighborhood. And the recent killing of a child up there near Lincoln Junior High is a tragedy we must avoid.

Mr. President, another fundamental area that has consumed much of the committee's time in recent years is the District's medical care infrastructure, both capital and human. The health care industry is a major factor in the District's economy, one-half of the employees at city hospitals live in the city, yet it is an ailing industry. In 1990 hospitals in Washington, DC, lost an average of 4.7 percent.

This reduced cash flow—because it had to come out of their cash flow—has caused hospitals to close or curtail services by closing a trauma center, to lay off employees, and to defer capital improvements.

Many in the Congress may not know that historically the Federal Government has played a leading role in providing for adequate facilities for the citizens—Members of the Congress, and others—for health care in the District of Columbia, so that all could receive medical care or that medical care was particularly available for traumas and emergencies. That service is in grave danger.

Mr. President, we are making two recommendations in this bill that will improve the adequacy of medical care to the District's citizens, which include many Members of the congressional family.

First, the committee is recommending to provide, over the next 3 years, the $50 million authorized by Public Law 101-590 for the renovation of George Washington University Hospital. As the Chair knows and many Members know, this is traditionally the hospital where Presidents have been taken in assassination attempts and also has served many Members of Congress, both House and Senate. We attempted to fund this project last year but were ultimately unsuccessful.

Another program that we attempted to establish last year but failed to convince our House colleagues of its merit was the trauma care fund. Last year we were concerned that uncompensated care had grown to $212 million in 1989.

By uncompensated care we mean that children or people are injured and they go into emergency rooms and they cannot pay, but they have to be serviced or they die. So this type of trauma care has grown, now, we find from $212 million to $228 million in 1990. The General Accounting Office has reported that urban trauma centers are closing because trauma care is expensive, and treatment costs usually exceed patient revenues in urban centers.

This is because many are wounds that are caused by gunshot or by other types of violence, and often these are victims.

Mr. President, the committee is recommending a one-time $10 million transfer from the water and sewer fund to establish the fund and hopes that the District will find a stable source of revenue for the fund in the future. Each hospital with a level one trauma center will be eligible to receive some reimbursement for the uncompensated trauma cases. As you can see, this will not even come close to covering these costs, but at least it may keep some more of the centers open so people can get to them when they are in dire emergency.

In closing, I thank all members of the subcommittee: the Senator from Nebraska [Mr. KERREY], the Senator from Georgia [Mr. FOWLER], and Senator GORTON, who is my junior colleague from the State of Washington—I deeply appreciate his help—and especially I want to mention again the Senator from Missouri, our ranking member, Senator BOND. Senator BOND has had a lot of experience as a Governor of the State and other local governmental experience. His advice and help has been invaluable. His contributions to this bill have been great. He has been a great part in bringing this bill to the floor. I cannot imagine a more cooperative relationship.

This is a difficult bill. We understand that. And, therefore, it has required comity, and that we have had.

I also want to thank the chairman of the Appropriations Committee, Senator BYRD, who was chairman of this subcommittee for 7 years. During that time I have had the privilege of serving on the committee he has offered crucial support at every turn. I will always be in his debt for the guidance and privilege of calling him colleague and for the assistance he has given me.

I could not finish saying my thank you's without a special expression of gratitude to the Senator from Oregon, ranking member and former chairman of the Appropriations Committee. I have had the honor of serving with MARK HATFIELD in this Congress and other public service for nearly 30 years. He is a personal friend and as fine a public servant as there could be.

Before yielding to the Senator from Missouri, I ask unanimous consent—and I want to be careful—I will be prepared to ask unanimous consent for the committee amendments to be agreed to en bloc. But this has not been completely cleared yet, so at this point I will yield to the Senator from Missouri [Mr. BOND].

Mr. BOND. I thank the chairman of the District of Columbia Appropriations Subcommittee, my good friend from Washington. I join with him in expressing thanks both to the chairman of the full committee and the ranking member, the Senator from Oregon [Mr. HATFIELD].

I want to express appreciation to Chairman ADAMS for bringing to the

Senate a fair and equitable bill which I hope my colleagues can support. I should note the budget authority and the outlays associated with the bill are within the subcommittee's 602 allocation and that the Federal funds appropriated will provide for a balanced District of Columbia budget.

As one who resides in the District of Columbia when not at my real home in Mexico, MO, I especially thank the chairman of the subcommittee for his many years of dedication and service to the city. He is known as a champion for the District of Columbia. He has spent much of his time in Congress working on and assisting the District with very difficult and challenging problems.

The Presiding Officer, Mr. ROBB, and I have gone through difficult times when we served as leaders, chief executives of our States. But I do not know that any State or local government has gone through more difficult times than has the District of Columbia. So it has been a great service to the District and to the people who live and work here, and the many millions of people who visit each year, to have had the very careful and thoughtful attention that Chairman ADAMS has brought to the affairs of the District.

As a special example of Senator ADAMS' legacy, there is the Nehemiah project contained in this bill. This project calls for the construction of 57 units of housing and 21,650 square feet of retail space on four sites in the Columbia Heights neighborhood. Funds provided will bring the sales price of these homes that will be created into the mortgage reach of lower income families. This obviously, as he has stated, will go a long way toward restabilizing the neighborhood and will be another very significant contribution by the chairman to this community.

The chairman of the subcommittee has highlighted the bill in his opening remarks. I see no need to take the time of the Senate to repeat the facts and figures.

I would mention just a couple of items of special interest. The payment of $10 million for supplementing the trauma care fund to be used by various D.C. hospitals which have been dramatically impacted by the number of patients who cannot pay for services rendered. This, obviously, is a crying need. It is an instance in which care cannot be refused, when death or serious permanent disabilities might result.

I am also very pleased that the Parents as Teachers Program which we have encouraged the District of Columbia to adopt is now under way. This would include an expansion of the program to allow bilingual services, and I believe the residents of the District would benefit from it. It also closes the Cedar Knolls Juvenile Detention Center in Prince Georges County, which has been plagued by breaches of security in recent months and has caused a great deal of concern to residents in the area.

This bill provides $655,653,000 for the Federal payment. This total payment includes $30,798,600 to support the Mayor's youth crime initiative.

As the chairman has previously said, the Federal payment is not a handout or a gift. It is in fact a payment in lieu of taxes to the District of Columbia from the Federal Government. It is estimated that some two-thirds of the local economy is beyond the city's taxing authority. So this payment represents the Federal Government making good on paying its taxes to the local government and supplementing those taxes that cannot be imposed on foreign governments which have businesses and representation here.

I must note I am concerned about the proposed delay of funds provided to the retirement fund of the District. The House has provided $52 million-plus for the Federal payment to the fund. The bill before us would provide exactly half of that, $26 million. By cutting it, we are not saving. We have the obligation to come up with that money. I agree with the chairman of the subcommittee that this is not good policy and I hope we can work this out in conference.

The bill before us also recommends a few small items to be funded with Federal dollars. Again all within the allocation of the subcommittee.

While the committee unanimously supported these items, I believe, as I did last year, we must be aware that future allocations to the District of Columbia for discretionary Federal dollars will be carefully reviewed as we face the reality of ever declining discretionary dollars available.

Mr. President, in conclusion, I again commend the chairman of the subcommittee for his cooperation in bringing this bill before the Senate. I extend my thanks again to him for his long care and concern for the District.

I further express, again, our appreciation to the chairman of the full committee, Senator BYRD, and ranking member, Senator HATFIELD, for their support of the District of Columbia bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I just ask the Senator to withhold. And I suggest the absence of a quorum, after the reporting of the amendment, which he is entitled to.

The PRESIDING OFFICER. The Chair reminds the Senator form Alabama that the amendment is not in order unless it is an amendment to the first committee amendment.

Mr. SHELBY. I withhold.

Mr. ADAMS. Mr. President, I state to the Senator from Alabama, we are not trying to block his amendment. We simply have to proceed with the committee amendments. When we finish with those, Senator LOTT, I know has an amendment, and Senator SHELBY has an amendment. I will not block either of them. I hope we can arrive at time agreements on both of them.

I am going to suggest the absence of a quorum so that we can proceed orderly. I think first, maybe, with Senator LOTT, and then Senator SHELBY's amendment, after I have done en bloc what we can agree to.

So, therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ADAMS. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the amendment on page 2, beginning on line 23; that the bill, as amended, be regarded for purposes of further amendment as original text; provided that no points of order shall be considered to have been waived if this request is agreed to.

And I ask unanimous consent that the Senator from Mississippi be recognized to offer an amendment, when he offers the amendment, that the language proposed to be inserted to the committee amendment on page 2, line 23; that during the pendency of the Lott amendment no amendment in the second degree to the Lott amendment or to the text proposed to be stricken or amendment to the underlying committee amendment be in order; that there be 1 hour of debate equally divided in the usual form; and, that, upon expiration or the yielding back of time, a vote occur on or in relation to the Lott amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I therefore want to inquire of the Chair. Now that the committee amendments have been agreed to en bloc, with the exception of the last amendment, that amendment is subject to an amendment by Senator LOTT to which there can be no second-degree amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. ADAMS. Mr. President, I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY].

Without objection, the remaining committee amendment will be set aside.

AMENDMENT NO. 2795

(Purpose: To make murder in the District of Columbia a Federal crime punishable by mandatory life imprisonment or death)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for himself, Mr. THURMOND, Mr. SEYMOUR, Mr. MCCONNELL, Mr. PRESSLER, Mr. HELMS, Mr. HOLLINGS, Mr. SYMMS, Mr. CRAIG, Mr. LOTT, and Mr. HATCH, proposes an amendment numbered 2795.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ____. MANDATORY LIFE IMPRISONMENT OR DEATH PENALTY FOR MURDER IN THE DISTRICT OF COLUMBIA.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

Mr. SHELBY. Mr. President, on behalf of the 248 people who have been murdered in the District of Columbia so far this year, I rise to offer an amendment to reinstate the death penalty in the District of Columbia for first-degree murder.

Mr. President, it is hard to know where to begin. I suppose I could talk about the historical arguments in favor of capital punishment: How man is responsible for the consequences of his own actions; how, historically, crime has increased as the penalty for murder has decreased; how the death penalty can be an effective deterrent when properly and fairly administered; how 40 States, including Virginia and Maryland, and the Federal Government have death penalty provisions.

I could try to morally justify capital punishment by pointing to biblical verses like Genesis (9:6) which states, "Whoso sheddeth man's blood, by man shall his blood be shed," or Leviticus (24:17) which states, "He who kills a man shall be put to death."

I could throw out statistics showing that 55 percent of the people living in the District of Columbia favor the death penalty for first-degree murder, or that 83 percent of Americans do not think criminals are sufficiently punished.

I could remind my colleagues of the constitutional obligation and authority we have as Senators to help govern the District of Columbia under article 1, section 8, clause 17 of the U.S. Constitution.

However, if I were to do all of that, it would detract from the true purpose behind my amendment to reimpose the death penalty for first-degree murder in the District of Columbia.

Instead, I would like to take a few minutes to put this issue into its proper perspective. To me, it appears as though the local government, citizens and law enforcement community in the District of Columbia have largely become immune to the violence that plagues our Nation's Capital. I am not sure that people around here appreciate what it is to murder someone anymore.

That worries me, and it worries a lot of people in America, including thousands in this city. It worries me because the acceptance of violence only serves to perpetuate and encourage further violence. Young people fail to develop a sense of respect and appreciation for the value of a human life when they are constantly surrounded by murder and violence. If we hope to salvage what is left of our Nation's Capital, we must get involved and send a strong message to those who are running out of control.

I remember vividly when the violence in the District of Columbia first began to escalate in the mid-1980's. It just so happens that the rise in violence coincided with the repeal of the District's death penalty provisions in 1982. Everyone was shocked to read about the latest killing's the drug-related violence, and the growing infusion of large-scale crime organizations. Today, on the other hand, the community as a whole has become accustomed to living in and around the "Murder Capital of the World." It is said mockingly that the District of Columbia really is the death capital. Others jest that the District of Columbia truly is "a district of Colombia", because of its drug activity. I used to hear these comments and dismiss them. That was before January 11, of this year.

As most of you know, one of my legislative assistants, Tom Barnes, was murdered just a few blocks from this Senate floor on that day. Tom was a long-time family friend from my hometown in Alabama with immeasurable potential. When I received the call that Tom had been shot, it changed my life and attitude about the violence in the District of Columbia forever.

My perspective is no longer from behind my desk with a cup of coffee and the Washington Post. While I regret that it took a tragic event to open my eyes to the realities of the situation in the District of Columbia, I now understand what thousands of other victims' families and friends have had to face over the last 10 years of violence in the District of Columbia. I regained an appreciation for the magnitude of the crime committed against Tom Barnes and others, his family and friends, that I had somehow lost over the years.

Tom Barnes' murder has encouraged me to do what I can to reduce the crime rate in the District of Columbia. However, Tom is not the only one for whom I am doing this. It is for all the victims of violence and their families. Too often, when we address the issue of capital punishment we tend to think more about the rights of the criminals and we forget about the victims. Therefore, I would like to take a few minutes to read the names of every murder victim in the District of Columbia in 1992, so far this year. When I first saw this list yesterday, there were 246 names on it. Today, there are 248.

(Mr. DIXON assumed the chair.)

Mr. SHELBY. As I read this list and share it with you, keep in mind that all of these murders have occurred in an area less than 100 square miles in size, and in less than 7 months. I apologize now for any mispronunciations of names, but I do want to share them with you.

The murder victims this year are as follows:

1. Ricco Neal, age 14;
2. Charles Marshall, age 38;
3. Wavely Pegram, age 27;
4. Benjamin Lumpkins, age 26;
5. Jermaine Kornegay, age 19;
6. Winston Palmer, age 22;
7. Andre Kenny, age 26;
8. Kweyisi Amoasi-Mensa, age 42;
9. Phillip Garrett, age 27;
10. Michael Moore, age 18;
11. Tracey Dew, age 32;
12. Ronald Lewis, age 20;
13. Earnest Williams, age 32;
14. Louis Franklin, age 32;
15. Darius Moore, age 18;

16. Sharon Streeter, age 30;
17. Mohammad Hemmatipour, age 36;
18. Ivan Gibson, age 21;
19. Tom Barnes, age 25;
20. Norman Davis, age 30;
21. Norberto Carrion, age 33;
22. Anthony Jackson, age 25;
23. Carlos Carter, age 22;
24. Willie Dalton, age 38;
25. Columbus Beatty, Jr., age 39;
26. Gary Cooper, age 18;
27. Marcus Greenfield, age 25;
28. Roosevelt Robinson, age 20;
29. Donavan Duncan, age 24;
30. Joseph Young, age 16;
31. Christopher Pryor, age 25;
32. Ellis Payne, age 66;
33. Milton White, age 26;
34. Theodis Johnson, age 34;
35. Arthur Stanley, age 28;
36. John Cohen, age 65;
37. Darwin Jones, age 30;
38. Maggie Comfort, age 1;
39. Leon Martino, age 19;
40. Brian Cooper, age 26;
41. Dennis Burroughs, age 30;
42. Daniel Morrison, age 25;
43. Richard Tate, age 40;
44. Calvin Johnson, Jr., age 20;
45. Calvin Hargrove, age 24;
46. Norman Hawkins, age 43;
47. Stephen Gass, are 29;
48. James Wilson, age 26;
49. Antwuan Glaspie, age 19;
50. Terry Wilkins, age 29;
51. George Tolson, Jr., 31;
52. Eric Gant, age 34;
53. Manual Stribling, age 53;
54. Phillip McCoy, age 31;
55. George Hutchinson, age 17;
56. Anthony Reel, age 20;
57. Kenneth Mobley, age 20;
58. Janelle Tilley, age 16;
59. Dannie Rogers, age 20;
60. Phillip Lewis, age 20;
61. Shawn Young, age 24;
62. Willie Simpson, age 37;
63. Russell Johnson, age 25;
64. Dwayne Lathan, age 31;
65. Ivan Wilson, age 36;
66. Mark Muskelly, age 23;
67. Timothy Gorham, age 33;
68. Kevin Vaughns, age 17;
69. Morgan Perry, Sr., age 51;
70. Juanita Eaddy, age 28;
71. Antwyone Rogers, age 27;
72. Marc Locust, age 21;
73. Robert Wilson, age 17;
74. Darius Brown, age 4;
75. Darryl Estes, age 28;
76. Monriko Hudgins, age 20;
77. Rolland Hayden, age 22;
78. Clarence Gilchrist, age 19;
79. Bruce Willis, age 35;
80. Kevin Wilson, age 26;
81. Sharon Bryant, age 32;
82. Oscar Gomez, age 24;
83. Timothy Coleman, age 18;
84. Michael Thompson, age 27;
85. John Mosses, age 26;
86. Clarence Warren, age 39;
87. Harold Cooper, age 32;
88. Jerry Harvey, age 36;
89. Wanda Koonce, age 36;
90. Nathan Duckett, age 19;
91. Anthony Stewart, age 22;
92. Anthony Frieson, age 28;
93. Bernard Davis, age 24;
94. Kenyatta Geeter, age 21;
95. Hezekiah Vaughn, Jr., age 20;
96. Alayo Oriolowa, age 36;
97. Thomas Robinson, age 31;
98. John Cassell, age 36;
99. Marquette Holston, age 18;
100. Keith Simms, age 28;
101. James Halloman, Jr., age 25;
102. Trevor Smith, age 34;
103. Andre Thompson, age 16;
104. Christie Hoyle, 23 years of age;
105. Nathaniel Murray, 34 years of age;
106. Antonio Harrison, 20 years of age;
107. Darnell Fouch, 27 years of age;
108. David Roy Jr., 21 years of age;
109. Haywood Marable, 39 years of age;
110. John Doe, 20 years of age;
111. Veronica Callahan, 29 years of age;
112. Duane Smallwood, age unknown;
113. Emmett Varnum, age unknown;
114. Ronald Wilkerson, 30 years of age;
115. James Reed, 78 years of age;
116. William Franz, 33 years of age;
117. Barbara Farmer, 29 years of age;
118. Ryan Phoenix, 18 years of age;
119. Jessie Zellars, 36 years of age;
120. Ammie Dickens, 61 years of age;
121. Darren Holsey, 23 years of age;
122. Johnnie Anderson, 21 years of age;
123. Tyrone Britton, 20 years of age;
124. Johnny Abraham, 18 years of age;
125. Ahmed Miller, 26 years of age;
126. Joseph Davidson, 24 years of age;
127. Kevin Sayles, 22 years of age;
128. James Elliot, 47 years of age;
129. Richard Johnson, 29 years of age;
130. Anthony Lanzone, 25 years of age;
131. Charles Craig, 16 years of age;
132. John Doe, an infant;
133. George Seaborn, 64 years of age;
134. Everett Marshall, 30 years of age;
135. Michael Anderson, 28 years of age;
136. Naomi Hamlet, 73 years of age;
137. Robert Butler, 25 years of age;
138. Gregory Jackson, 24 years of age;
139. Charles McQueen, 27 years of age;
140. Dwayne Jones, 28 years of age;
141. Clyde Moten Jr., 19 years of age;
142. Jose Alverengar, 33 years of age;
143. Tyrone Cole, 27 years of age;
144. Keith Kellums, 34 years of age;
145. Rachee Boyd, 19 years of age;
146. Rodney Jackson, 32 years of age;
147. Ravon Gray, 21 years of age;
148. Coy Weeks, 24 years of age;
149. Christopher Harrison, 28 years of age;
150. John Doe, 20 years of age;
151. Kobie Smith, 21 years of age;
152. Donte Reed, 19 years of age;
153. Valencia Anderson, 26 years of age;
154. Mark Waller, 28 years of age;
155. Clinton Frye, 21 years of age;
156. Louis McLean, 27 years of age;
157. Octavia Pressley, 37 years of age;
158. George Kilbourn, 46 years of age;
159. Theodore Lee, 41 years of age;
160. Willie Evans, 23 years of age;
161. John Doe, infant;
162. Jane Doe, infant;
163. Willie Corley, 40 years of age;
164. Calvin Tyler, 20 years of age;
165. Milton Brown, 40 years of age;
166. Ronald Sutter, 33 years of age;
167. Dominic Powell, 21 years of age;
168. Anthony Bell, 26 years of age;
169. Chet Mathews, 21 years of age;
170. Vincent Willis, 21 years of age;
171. Earl Blakley, 40 years of age;
172. James Logan, 45 years of age;
173. Joseph Baltimore, only 16 years of age;
174. Kim Jones, 58 years of age;
175. Jeffry Mason, 37 years of age;
176. Anthony Williams, 20 years of age;
177. Robert Hill, 52 years of age;
178. Michael McLeish, 27 years of age;
179. Thomas Liddell, 28 years of age;
180. Lawrence McEachin, 48 years of age;
181. Calvin Jones, 30 years of age;
182. Dontray Bradley, 2 years old;
183. Eric Dorsey, 46 years old;
184. Franklin Carter, 40 years old;
185. Hugh Small, 19 years old;
186. Eric Mathis, 25 years of age;
187. John Jay, 22 years of age;
188. Terrance Wooten, 25 years of age;
189. Charles Hickerson, 19 years of age;
190. Nathaniel Shelton, 24 years of age;
191. Damian Chisley, 23 years of age;
192. Tezia Allen, age 1;
193. Thomas White, 22 years of age;
194. Carlos Jordan, 17 years of age;
195. Larry Howard, 17 years of age;
196. James Russell, 16 years of age;
197. Araminta Coates, 22 years of age;
198. Joseph Curtis, 25;
199. David Hamilton, 34, and the 200th victim, as I go through this list, as I go through thus far, this year, Carl Martin, 20 years of age;
201. Richard Scott, 17 years of age;
202. Ronald Williams, 20 years of age;
203. Driscoll Hamilton, 21 years of age;
204. Raymond Brown, Mr. President, 26 years of age;
205. Antonio Ben, 23 years of age;
206. Bailey Hayes, 37 years of age;
207. Nakya Scott, age 1;
208. Michael Clemons, 25 years of age;
209. Gregory Pope, 22 years of age;
210. Aaron Wilson, 28 years of age;
211. Patrick Buckmon, 37 years of age;
212. Benjamin Donker, 24 years of age;
213. Lisa Todd, 24 years of age;
214. Thomas West, 36 years of age;
215. Lenny Harris, 25 years of age;
216. Stevie Ellington, 20 years of age;
217. Earl Royal, 60 years of age;
218. Tyrone Cross, 32 years of age;
219. Robert Thompson, 21 years of age;

220. Gregory Taylor, the 220th murder victim in the District of Columbia this year, 36 years of age;
221. Freddie Abney, 45 years of age;
222. Raymond Bowlding, 21 years of age;
223. Willie Berry, 75 years of age;
224. Alan Smith, 45 years of age;
225. Don Johnson, 20 years of age;
226. Jose Cruz, 17 years of age;
227. Donald Davis, 18 years of age;
228. Ronnie Waters, 25 years of age;
229. David Brown, Mr. President, 43 years of age;
230. Kenneth Brown, 29 years of age when he was murdered;
231. Michel Matasangakis, 36 years of age;
232. Dwayne Drake, 16 years of age;
233. Terrance Adamson, 35 years of age;
234. Christopher Lewis, 22 years of age;
235. John Doe, 19 years of age;
236. Calbert Channer, 28 years of age;
237. Robert Perris, 25 years of age;
238. Kim Valentine, 38 years of age;
239. Monte Glen, 18 years of age; and the 240th victim, Mr. President, Calvin Kennedy, 20 years of age;
241. Jesus Garcia, 45 years of age;
242. James Bentley, 46 years of age;
243. Thomas Dozier, Jr., 23 years of age;
244. Samuel Wells, 43 years of age;
245. Marvin Goodman, 31 years of age;
246. William Mitchell, 47 years of age;
247. James Buchanan, 50 years of age; and the 248th one that we have as of this morning, Paul G. Cano, 31 years of age.

Mr. President, I have just related to the Senate and to the Nation the names—and I hope they will not be forgotten—the 248 names of people who were murdered right here in the District of Columbia, right here for the most part within a few blocks of where we are at the moment.

Mr. President, I believe something must be done to stop this carnage. It is not going to be easy. While the death penalty alone may not stop all of the violence in the District of Columbia, I believe it makes a forceful and dramatic statement. It says we have had enough. It says we are more concerned about the victims and their families than about the vicious criminals. It says, Mr. President, that we are for sure and swift punishment that meets the crime committed.

Both myself and members of my staff have gotten actively involved, as many other people in the Senate and House have, in community efforts to try to save the District from destroying itself. We have talked with the Mayor's office about new programs and we have met with other local officials involved with and concerned about the rising death toll that I have just enumerated. Unfortunately, while many of their intentions are good, progress and implementation has been slow at best.

The current penalty for first degree murder in the District of Columbia is life with parole after 30 years. That punishment I believe, is not severe enough. It does not fit the crime of murder and it does not serve the good of the community.

A recent attempt to get the death penalty initiative on the ballot as a referendum in the District was blocked by Judge Rufus King III after the Washington office of the American Civil Liberties Union and other longtime opponents of capital punishment filed a technical objection. In essence, the opponents of the death penalty are working to deny the people of the District of Columbia the opportunity to vote on this matter, despite the fact that a majority of the District's residents, according to some polls, support the death penalty.

The next scheduled election in which the people of the District would be able to vote on the death penalty would not be, it is my understanding, until 1994. In my view, based on what has been going on and what I just related to the Senate, we cannot afford to wait. Over 1,000 people more—more people, Mr. President—will be murdered by that time if the present trend continues. Therefore, I believe it is time for Congress to take action, for Congress to step in.

Mr. President, we are prepared to give the District nearly $700 million through the D.C. appropriations bill; let us give it safe streets too. Let us think of the victims for a change. I ask my colleagues to join me in supporting my amendment, and I thank those who have already cosponsored this measure; namely, Senators THURMOND, LOTT, CRAIG, SEYMOUR, HOLLINGS, HELMS, MCCONNELL, PRESSLER, HATCH, and SYMMS.

I believe timing is everything, and this is the right time for this amendment.

Mr. THURMOND. Mr. President, I rise today to join my distinguished colleague from Alabama, Senator SHELBY, in offering an important amendment to the underlying bill. This amendment will establish the death penalty for the District of Columbia. It provides the necessary procedures for the imposition of the death penalty in the District of Columbia.

Capitol Hill was shocked when a young man who was working for Senator SHELBY was brutally murdered only blocks from where we stand. It is time for the District to punish these heinous murderers. I strongly support Senator SHELBY's effort to bring the District of Columbia in step with the rest of the Nation where 36 States now have a death penalty.

The D.C. death penalty is not a new issue for the Senate. Last year, the Senate passed a crime bill which contained a D.C. death penalty but it was dropped by the crime bill conference committee.

This amendment embodies legislation virtually identical to the District of Columbia death penalty provisions contained in S. 2305, the comprehensive crime bill I recently introduced. The procedures for implementation of the death penalty are the product of discussions between prosecutors here in the District of Columbia and the Department of Justice. These procedures are consistent with those contained in comprehensive Federal death penalty proposal in S. 2305. Yet, there are some differences which reflect the nature of the homicidal offenses and offenders in the District of Columbia.

There have been 248 murders in the District of Columbia this year. There have been over 2,000 murders in the District of Columbia since 1987. It is time that the murder capital of the Nation have a death penalty. The law abiding citizens and this Nation demand action and they demand it now.

In closing, I want to state the following so that there can be no doubt in any Senator's mind. A vote in favor of the Shelby amendment is a vote for law and order. A vote against this amendment is a vote for continuing the status quo here in the District where murders continue to go unpunished.

For these reasons, I urge my colleagues to support the Shelby amendment.

Mr. SIMPSON. Mr. President, I rise today in strong support of the amendment by my colleague, Senator SHELBY, to implement the death penalty in the District of Columbia.

He spoke of the many murders in this Capital City. These victims received their own "death penalty" at the hands of criminals. I would ask those who oppose this amendment: Where is the compassion for these people? It is the innocent victims and their families to whom we owe our allegiance, not to the criminals.

The courts and the Constitution protect the rights of criminals. The death penalty is constitutional. There is no question that the courts take the greatest pains to ensure that each and every right of an accused is protected—more often at the cost of excessive delay and phenomenal taxpayer expense in paying for endless appeals.

It is our job, Mr. President, to speak for the rights of innocent victims—past, present and, sadly, future—and their families. Mr. President, we must adopt this amendment. It is our certain duty. I commend Senator SHELBY and support him fully.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

AMENDMENT NO. 2796 TO AMENDMENT NO. 2795

(Purpose: To provide for a local initiative to increase the penalties for murder in the District of Columbia)

Mr. ADAMS. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 2796 to Amendment No. 2795.

Mr. ADAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by such amendment, insert the following:

SEC. . Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at the next general, special or primary election held at least 90 days after the enactment of this Act the following initiative.

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

Mr. ADAMS. Mr. President, I had the clerk read the amendment for the first few paragraphs so that everyone could understand what I am attempting to do by this second-degree substitute amendment. This amendment I am offering is in order to preserve the right of the District of Columbia residents to decide what laws they will be governed by. My substitute requires the District Board of Elections and Ethics to place Senator SHELBY'S amendment on the ballot as an initiative at the next primary, general, or special election in the District.

Mr. President I do this because I do not think there is any Senator in this body—and I do not think there is any Congressman over in the House—that would want the Congress of the United States to come to their State and tell them whether or not they should have a death penalty. I think this is up to the residents of the State, and I think that it should be up to the residents of the District of Columbia.

Such an initiative is being proposed and signatures are being gathered in the District. So, regardless of whether my amendment would pass, or Senator SHELBY'S, there would be such an amendment placed before the residents.

I do this, Mr. President, because in the United States there are 38 jurisdictions that have the death penalty. There are 15 without capital punishment, and I will read them so that Senators will understand whether or not their State has a provision for a death penalty. And I might state that each State's death penalty is very different. But most of them now comply with the U.S. Supreme Court's requirements.

And I have been informed by counsel—and I can only rely on counsel—that Senator SHELBY'S amendment conforms with the Supreme Court test for the death penalty. If it does not, that, of course, would be tested in court. But I am going on that assumption in my referring it to the District as an initiative.

The jurisdictions without capital punishment statutes are 15: Alaska, the District of Columbia, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, New York, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin.

Mr. President, I do this because I know the commitment and the passion which the Senator from Alabama, who like myself is a former U.S. attorney, brings to this matter. I know he does not offer his amendment to deny any rights to the citizens of the District or as an attack on home rule. It is a much more personal undertaking that he is engaged in.

There is not a Member of this body or a staff person on the Hill or a law-abiding citizen in this city that would not give everything they could to have spared him, his staff, and Mr. Barnes' family the terrible tragedy of this young person's death. It is equally as tragic that this anguish has occurred 489 times last year and, as the Senator pointed out in reading all of these names, more than 200 times so far this year in the District of Columbia.

But, Mr. President, I do not want to leave the impression by my placing this second-degree amendment as an initiative to the District that nobody in this city is doing anything about stopping murders and crime in the city. Great efforts are being made.

As I mentioned in my opening remarks, the mayor has more than doubled the number of homicide investigators and has begun a joint program with the Washington office of the Federal Bureau of Investigation to expand that investigative force. In addition, since she became mayor a year and a half ago, Mayor Kelly has signed at least 17 measures that have increased penalties, made pretrial detention easier, provided for greater witness protection, and to make it easier to confiscate the assets of criminals.

Most recently, just last week, on July 21, after the required congressional review period, D.C. Act 9-260 became law in the District of Columbia. This new emergency law expands the definition of felony murder and provides for the penalty of life imprisonment without parole upon the conviction of first-degree murder.

I know that the present occupant of the Chair, having also been involved in law enforcement through the prosecutor's offices, knows that adding felony murder to the other list of first-degree murder, which start, of course, with premeditated murder, means that you will have the life imprisonment without parole upon conviction of first-degree murder extended to crimes using assault weapons and other weapons where there is a felonious disregard for the lives of others.

Permanent legislation is currently under congressional review.

Mr. President, I have had many conversations with the mayor and I am convinced from the testimony by the mayor and the police chief that they are doing everything they can think of to combat the horrible killing that is going on in this city. In my opening remarks, I mentioned all of the changes that have taken place. This is on top of the city increasing the number of officers on the force, as the Congress authorized and funded previously.

I might state, one of the problems is recruitment of officers. Sending officers on foot or on bicycles out into these high crime areas requires that they be carefully trained professionals, or else their lives are in danger and the lives of the citizenry. This is a deep and critical problem that we are dealing with.

So what I have done with this amendment, and I am going to ask in a minute all of my colleagues that want to debate the death penalty to please come to the floor and do so, because I am hopeful that we can vote on my substitute which is to send an initiative to the residents of this District. Thereafter, if we cannot get a time agreement from those that are involved and interested in speaking on this, I hope that the Chair will call for a vote on my second-degree amendment. And then, if I lose that, I will move to table the amendment of the Senator from Alabama.

I will not try to raise a point of order on this. I will do those two things, so the Senator will have a fair and ample opportunity for vote upon it.

I want to be sure that everyone who wants to speak on this has that opportunity. But they should come promptly and make their speeches and make their comments, so we can move along.

I know this is a controversial subject, but it is not made any better by long periods of time being spent on it. It is not in the House bill. There will be, probably, another chance in conference.

So I hope my colleagues will support the substitute and allow this very important subject to be decided by the citizens of the District of Columbia, who are most affected by this crime, rather than by our actions here today.

So we have this situation. Senator SHELBY has offered an amendment that involves the death penalty. It amends the United States Code. I have not tried to raise a point of order.

Instead, I have asked this be referred by initiative to the District of Columbia residents to vote on it. The District of Columbia residents are already collecting signatures for such a vote, so I believe that a vote would occur, in any event.

I have said initiative, rather than sending it to the city council, because I think all citizens are interested in this, and I think they ought to have an opportunity.

When we were drafting the home rule bill, then-Representative Don Fraser—who is now mayor of the city of Minneapolis—and myself, specifically put in the initiative and referendum provisions that are like the broad-reaching-type referendum and initiative provisions used in Minnesota and Washington, so the citizens have an opportunity to vote on matters regardless of what the legislative body may or may not have done.

That is why I have made this type of an amendment. It is not to try to avoid a vote on Senator SHELBY's amendment. Because if I fail with my second-degree amendment, I will move to table that amendment.

I am stating this at this time so all the Members of this body, be they Democrats or Republicans, will have ample opportunity to come over right now and speak on this amendment, for or against it. But with the understanding that they know this Senator will move to table as soon as everybody has had their opportunity to speak on it.

And I hope we will be able to have a vote, first on my amendment, and then, if it fails, I will move to table Senator SHELBY's amendment.

I will state further to Senators that we have a time agreement with Senator LOTT on his amendment. I know of only one other amendment, by Senator MCCONNELL.

I call on all Senators who have any amendment to this bill to please come to the floor immediately, because we do not want another late-night session tonight.

I have discussed this with the majority leader. We should be able to finish this bill. We have had wonderful cooperation from Senator BOND, and from the Senators offering amendments. I hope we will have that from all of our colleagues.

We will not shut anybody off. But we do want to proceed with this bill as promptly as possible.

With that, I have offered my amendment, and I yield the floor.

The PRESIDING OFFICER. The senior Senator from Alabama.

Mr. SHELBY. Mr. President, the amendment that the distinguished Senator from Washington has offered, as I understand it, calls for a local initiative—in other words, a referendum—by the people of the District of Columbia. But it is my understanding from looking at this, it says that this would occur at the next general, special, or primary election held in the District of Columbia. That could be 1994.

I believe this amendment offered by the Senator from Washington is just to delay this. We have had, as I related earlier, 248 murders in the District of Columbia this year. I do not have a count on how many we have had since I have been in the Senate, this being my sixth year. I wish I could share it.

I do not have a count on how many murders have occurred since I have been in the Washington area, some 8 years in the House, and then 6 years in the Senate—14 years, but I think the time is now. The Senate should act on this. The Senate should adopt the Shelby amendment because it makes sense. I believe it would bring some order to this area.

This amendment offered by the Senator from Washington I believe is just to delay—if not to try to kill—what I have offered here. It is a delay. It might happen. It might not ever happen. But the timing is now.

And at the proper time—not now—I would move to table the amendment of the Senator.

But at the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, as you can see, this is a controversial subject. We have had a number of people who have indicated they wish to speak on this. I see now the Senator from Michigan [Mr. LEVIN] is on the floor. I want to stress to Senators that, if they do want to speak on this, to come to the floor.

I am hopeful they will support my second-degree amendment, which would refer this matter to the residents of the District of Columbia by initiative. I understand we have considerable support for this. If this carries, why, then, the matter would be placed in the hands of the citizens to decide. I think that is where it should be rather than a congressional decision.

But I fully recognize the right and the very deep feelings of many Members of this body regarding the death penalty.

So I am hopeful that all Senators who either have amendments or wish to speak on this will come forth because I do hope and expect that a motion to table will be used after a period of time. I see my good friend, the Senator from Michigan, is here. We want our colleagues to know we are ready to vote, but we certainly respect the wish to hear from our colleagues on this subject.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank my friend from Washington, and, indeed, I do have some thoughts I want to express on this subject. First, let me say to my good friend from Alabama that I share his anguish with both the crime rate and with the murder rate in the Nation's Capital. I have a similar crime rate in my home city. I know that he and his staff have been particularly touched by a recent tragedy. I think everybody in this Chamber shares the disgust and the dismay at the crime rate in this country.

There is some difference in this Chamber, as there has been historically, as to whether or not the death penalty will deter the kind of conduct which he has described and by which he and his staff have been personally touched. Let me say to him we share that anguish with him, and the sentiment about crime that he has expressed we share very deeply, indeed, with him.

The question that we face is really twofold: One is whether or not a death penalty provision belongs on an appropriations bill and the other is whether or not the people of the District of Columbia should make that decision for themselves as to whether they want the death penalty in the District of Columbia. Underneath that is the ongoing debate about the death penalty itself. This is not the first time that I have come to this floor to talk about the death penalty, and I am sure it will not be the last time. It is something I also feel strongly about, and I want to share my sentiments with our colleagues.

I opposed the death penalty over the years for a number of reasons, not the least of which is there is no evidence that it deters. Statistics are that States with the death penalty, in fact, have higher murder rates than States without the death penalty.

But I do not want to go into the deterrence issue yet. I want to first focus on another reason I have opposed the death penalty, based on my personal experience, may I say to my good friend from Alabama, and that is the possibility of a mistake.

We have all had experiences in our lives involving crime. There is no one who is untouched by it. I happened to represent a man who was convicted of a capital offense wrongfully, mistakenly. He served about 30 years in prison for a crime he did not commit. Somebody had identified, pointed him out in a lineup, and, if we had capital punishment in Michigan, he would have been executed. But we did not have capital punishment in Michigan, and he served about 30 years. Many Governors were willing to commute his sentence, and he refused until he could walk out of prison a free man, not with a commuted sentence but with a new trial and an acquittal.

Our office got involved in this case about 28 years or so after the conviction. We were able to get an investigator to go and look for that witness who identified him in the lineup. It was a young woman who identified him, pointed right to him in the lineup. Right in front of a jury she said, "That is the man," who then 28 years later said, "Sure, I did that because the detective told me that was the man. I could not have done that without the detective telling me that was the man. I did it because the detective said they were sure that was the man who killed my father." Her father was a storekeeper in a town called Hamtramck, MI, a little enclave surrounded by the city of Detroit. She was very open about it. She did not even realize the significance of what she was saying and willingly signed an affidavit. The judge, when he saw that, went into it and granted a new trial, and the man was acquitted.

We have other major mistakes. We are human. We are not perfect. And the problem with the death penalty is you cannot correct your mistakes. If we had a perfect judicial system which never made mistakes, it would be a stronger argument. But we are imperfect because we are human. That is why we read, year after year, headlines about somebody who served time in prison who then years later is found to have been innocent of a capital offense who would have been executed had execution been the means of punishment in that particular State, and then is found to have been convicted through error, by mistake—usually human error by the way, usually not purposeful or intentional or willful error, usually through human error. That is why we read, "Death Row Prisoner Goes Free." That is March 8, 1987. Joseph Green Brown, who came within 15 hours of being executed for a murder he said he did not commit, is free now. Brown was convicted in 1974. And then they go into the details. He was to be executed on a certain date in 1983 but this was stayed by a Federal judge, and then there was a new trial. Then he was acquitted.

And then we read another article, "Innocent Man Still Haunted By Death Row." This is a man who spent 3½ years on death row, named Earl Charles. He is a 29-year-old black man who sat on Georgia's death row for nearly 6 years—for a crime he did not commit. He was set free 3 days before Christmas last year.

In another newspaper article, "Death Row Inmate Freed on Bond Amid New Doubts in Murder Case." That is the case of Clifford Henry Bowen.

And then recently, "Judge Apologizes, Frees Two Men In 1973 Murder." Prosecutors in this one joined the defense seeking their release. That is for a 1973 murder. This is a 1992 article. Here is 20 years in prison for a crime they did not commit.

This goes on and on. And I have set forth in great detail in prior remarks on this floor, and I will again tonight, cases of error. But I want to focus on one case because people rightfully say, well, what about the person who pleads guilty? How about the most obvious case. How about someone who pleads guilty to murder where you cannot make a mistake?

This is not a situation then when it is based on identification testimony, or where it is based on circumstantial evidence, or where it is based on hair samples. How about a case where someone pleads guilty to murder. How about capital punishment?

Well, we have a recent case of a mistaken plea of guilty, where an innocent man pled guilty to murder. How about that one?

The case of the Commonwealth of Virginia versus David Vasquez. Here is the plea. I am going to read it. It is going to take some time but I am going to read this to you. This is not 1970's. This is not 1960's. This is not 1950's. This is mid-1980's, Virginia. America. It can happen anywhere. The fact that it is in Virginia is not relevant. It happened to happen in Virginia.

The Court says:

The COURT. All right. Now Mr. Hudson has presented to me here some papers that is called a plea agreement memorandum relating to these cases which were scheduled to come on for trial today with a jury. I would like to ask that the defendant and his attorneys stand please. Which of you gentlemen will be speaking for the defense? Mr. Bangs?

Mr. BANGS. Yes, Your Honor.

The COURT. All right. Mr. Bangs have you reviewed and read this agreement with the defendant?

Mr. BANGS. Yes, Your Honor.

The COURT. And does it state everything that should be in the agreement?

Mr. BANGS. Yes, Your Honor.

The COURT. And have you been over it with your client?

Mr. BANGS. Yes.

The COURT. Now I would like to ask the defendant this, do you read English?

Mr. BANGS. Yes.

The DEFENDANT. Yeah, but not too good.

The COURT. Not too good. Did you read this memorandum?

The DEFENDANT. I had them read it to me.

The COURT. Did you read it to him?

Mr. BANGS. Yes, Your Honor.

The COURT. When it was in its written form.

Mr. BANGS. I went over it line by line, Your Honor.

The COURT. And did you explain to him not only the meaning of the words that may be identified there that is the legal language, but also explain to him the legal implications that are printed in those words?

Mr. BANGS. Yes, Your Honor.

The COURT. All right and I would like to ask him have you been completely satisfied with the services of your attorneys?

The DEFENDANT. Yes.

The COURT. And you gentlemen are retained, is that correct?

Mr. BANGS. No Your Honor, court appointed.

The COURT. Court appointed.

Mr. BANGS. Yes, Your Honor.

The COURT. Both of you?

Mr. BANGS. Yes, Your Honor.

Mr. MCCUE. Yes sir.

The COURT. All right, now did you explain to him all of the offenses with which he is charged and that the Commonwealth must prove the offenses beyond a reasonable doubt in order to obtain a conviction in those offenses and that they must be proved beyond a reasonable doubt.

Mr. BANGS. Yes, Your Honor.

The COURT. Is that correct?

The DEFENDANT. Yes.

The COURT. And did he tell you all the facts about the case and the offenses so that you could prepare a defense for him?

Mr. BANGS. Yes, Your Honor.

The COURT. Now in this plea that I have been tendered here there are two offenses to which he is entering Alford pleas.

Mr. BANGS. Yes.

The COURT. Now the pleas to which he is entering an Alford plea I believe it comes from a United States Supreme Court case known as Alford against North Carolina.

Mr. BANGS. That is correct Your Honor.

The COURT. Now I would like to have this explained to him if he does not understand what I am saying. Then I want you to explain it to him what I am saying and that it is a tactical decision to enter this type of a plea by someone who believes that he did not commit the offense and does not know the facts of the case or claims that he does not know the facts of the case or this type of a plea is made by someone who feels that it is better to enter a plea than to put his case before a jury under these circumstances.

Mr. BANGS. Yes, Your Honor. I believe it is the second alternative.

The COURT. And did it appear to you in your discussions with him that he understood that he was entering a plea in this case, an Alford plea based on Alford against North Carolina?

Mr. BANGS. Yes, Your Honor.

The COURT. And that he intends to enter such a plea.

Mr. BANGS. Yes, Your Honor.

The COURT. Did you explain to him, however that a plea based on Alford against North Carolina is a plea.

Mr. BANGS. Yes, Your Honor.

The COURT. A plea under Alford versus North Carolina is no less of a plea because he is entering the plea under the doctrine of that case.

Mr. BANGS. Yes, Your Honor we explained to him that for all intent and purpose it is a straight plea.

The COURT. Regardless of its meaning or whatever reservations he may have with it.

Mr. BANGS. Yes, Your Honor.

The COURT. Now the plea agreement memorandum goes into great length as it should do about the rights that the defendant waives. One of the rights that he waives in a criminal case is a trial by jury.

Mr. BANGS. Yes, Your Honor we outlined them completely.

The COURT. There are three other rights however that I think are extremely important and I would like to mention those. He waives his right to have his case tried by a jury and by entering a plea he waives his right to a jury trial. Does he understand that?

Mr. BANGS. Yes he does.

The COURT. Do you understand that?

The DEFENDANT. Yes.

The COURT. You understand that.

The DEFENDANT. Yes I do.

The COURT. And also when entering a plea you waive your right not to give evidence against yourself, your right to remain silent under the Fifth Amendment. You waive that right when you enter a plea. Did you explain that?

Mr. BANGS. Yes, Your Honor.

Mr. MCCUE. Yes.

The COURT. And thirdly that you waive your right to an appeal that is if you were convicted on a plea of not guilty you would have a right to have your case heard by the Supreme Court of Virginia and if you were without funds to hire an attorney the state would appoint one for you if you were convicted on a plea of not guilty. However, there is no appeal. The case is final in the trial court. There is no review of either the conviction or the sentence. Both are final in this court. Do you understand that?

The DEFENDANT. Yes.

The COURT. Have you ever been sentenced to the penitentiary of Virginia before?

The DEFENDANT. No, Your Honor.

The COURT. And I ask the defendant the decision to enter these pleas albeit under the doctrine of Alford versus North Carolina it is your own decision after consultation with your attorneys.

The DEFENDANT. Yes.

The COURT. Is that correct?

Mr. BANGS. Yes, Your Honor.

Mr. MCCUE. Yes.

The COURT. All right the Court finds that in the case of C22215 wherein the defendant has entered a plea under the doctrine of Alford against North Carolina, the Court finds that the plea has been voluntarily and intelligently tendered to the offense of common law burglary.

In the case C22216 the Court finds that the defendant's plea has been voluntarily and intelligently tendered under the doctrine of Alford against North Carolina and the plea to that offense is that of second degree murder.

Do you care to proffer evidence?

Mr. HUDSON. Your Honor if the Court please I would like to have Detective Robert Carrig and Detective Shelton sworn as witnesses.

The COURT. Now is either one of you seeking a rule on witnesses?

They go into what they found at the scene. I think this is important because there is a lot of very sincere feeling on this floor about facts in criminal cases, and they are horrendous. And when you get into the facts of criminal cases it is very difficult to then render a judgment about whether or not you should, whether or not capital punishment deters, whether or not we makes mistakes as the facts are so overwhelming.

The horrors are so incredible that are inflicted on people that it makes it difficult to render a judgment as to whether or not capital punishment either deters or makes sense because of the possibility of a mistake.

So I want to read these facts because these facts occurred in a case where somebody pled guilty, somebody who was innocent.

I read as follows:

Q. You are Detective Robert H. Carrig of the Arlington County Policy Department.

A. Yes.

Q. You are in the Robbery-Homicide Squad and the detective assigned to investigate this case, is that correct?

A. Yes.

Q. Detective Carrig, directing your attention to the 25th of January 1984 did there come a time on that day that you were called to 4921 South 23rd Street in Arlington County?

A. Yes.

Q. Do you recall what time of the day it was?

A. I believe it was 1 p.m. in the afternoon.

Q. Had the scene already been secured by other Robbery-Homicide investigators?

A. Yes.

Q. And in what type of an area is 4921 South 23rd Street located?

A. A residential area, residential homes.

Q. And upon your arrival where did you initially direct your attention?

A. To the basement area of the house.

Q. What if anything did you observe in the basement area of the house when you arrived in that area?

A. I came down the stairs leading to the basement into a small rec room type of room. Off to the right there was a large rolled up rug with rope tied around it and on top of the carpet there was a knife.

Q. I would like to show you Commonwealth's Exhibit 1 and 2 and I ask you if you can identify the scene in the photographs.

A. Yes.

Q. What is depicted in the photographs?

A. It is the rolled-up carpet with the rope around it with an ankle coming out on the right.

Q. And what is depicted in Commonwealth's Exhibit 2?

A. It is likewise a closeup of the carpet with the rope around it and the knife leaning on top of the carpet.

Q. Now Detective, as you walked through the basement what if anything did you encounter?

A. As I turned towards the next room which is the laundry room I observed a white female nude lying on the floor facing the garage. Her hands were bound. She was lying on her back.

There was a rope around her neck extending up over a pipe and out towards the garage and it was tied to an automobile parked inside the garage.

The COURT. Are you going to move for the admission of any of these?

Mr. HUDSON. I will ask that they be admitted at the end of the hearing if it please the Court.

The COURT. All right.

Q. I show you what has been marked as Exhibit No. 3. Do you recognize the scene depicted in the photograph?

A. Yes.

Q. That is a picture of the victim lying on the floor in the laundry room.

Q. And let me show you Commonwealth's Exhibit No. 4. What does this depict?

A. This is a picture from another direction of the area showing the victim lying on the floor with the rope around her neck extending to the bumper of the vehicle.

Q. Let me show you Commonwealth's Exhibit No. 5.

A. This shows the garage area with the rope coming down where it is actually tied to the bumper of the vehicle inside the garage.

Q. I believe you mentioned Detective Carrig that the hands of the deceased had been bound, is that correct?

A. Yes.

Q. About how many times were her hands wrapped?

A. Her hands were wrapped about ten times sir.

Q. Now with respect to the garage area where was the car located?

A. It was right there when you opened the door to the garage.

Q. In what condition did you observe the doors?

A. The door in the garage through which the vehicle passed was down and secured. The side door was ajar.

Q. Now I believe you mentioned a laundry room area. What did you observe in the laundry room area?

A. I observed a washer and a dryer and a desk which was directly next to a small window leading to the outside. There was a hose from the dryer leading up to the window and there is a steel plate that holds the hose to the window. The hose passes out the window.

I observed that the hose and the hole in the window had been kicked and forced and had been removed from the window.

Q. Now with the respect to the dryer vent to which the hose had been attached, what did you observe about this area?

A. I observed the hose lying on top of the desk which was near the window.

Q. Was there anything particular about the hose that drew your attention?

A. Directly near the window the hose was lying on the wooden desk and I observed steps which appeared to be squashed down on it.

Q. And did you have occasion to examine the exterior of the window?

A. Yes I did.

Q. What conditions did you observe Detective Carrig?

A. Immediately below it appeared that the window had just been opened and the pieces of bolts that hold the plate in were sheared off.

Q. Did you have occasion to inspect the floor of the house?

A. Yes.

Q. Did you pass through the dining room area?

A. Yes.

Q. What if anything in the dining room area drew your attention Detective Carrig?

A. On the dining room table there was a box, a camera box. However there was no camera visible.

Q. And what type of a camera box was it?

A. Alpha.

Q. And did you have occasion to ask any of the people at the crime scene, police agents to examine the house for such a camera?

A. Yes.

Q. Who did you ask?

A. Some of the people at the scene to look to see if they could find the camera belonging to the box.

Q. Okay did you have an occasion during the course of your investigation to discuss the camera with any individuals who may have loaned it to Miss Hamm?

A. Yes I did.

Q. What did you learn from your discussions?

A. The camera had been borrowed so that the victim could take it on a trip to I believe South America. A couple of days thereafter we discovered she was due to leave.

Q. Now did you next after you finished the examination of the dining room area proceed to the living room area?

A. Yes I did.

Q. I show you Commonwealth's Exhibit No. 6 and I ask you whether or not you recall the scene in that photograph.

A. Yes.

Q. Now Detective Carrig directing your attention to the red robe and blue blanket. Does this photograph accurately reflect the condition of those items when you observed them?

A. Yes.

Q. Did you have occasion during the course of your investigation to transfer that blanket and robe to the Northern Virginia Crime Laboratory?

A. Yes I did.

Q. And did you also have occasion by court order to secure a sample of the defendant's pubic hairs?

A. yes.

Q. And what was the result of the examination?

A. The contents of the blanket and robe were compared with the pubic hairs of the defendant.

Q. And what was the result?

A. The pubic hairs found on the blue blanket were consistent with that of the defendant.

Mr. ADAMS. Will the Senator from Michigan yield for a question?

Mr. LEVIN. I am happy to yield for a question.

Mr. ADAMS. I wonder if we could enter into some kind of a time agreement on the second-degree amendment, so that Senator SHELBY might make some remarks, so that I might make some remarks, and Senator BOND, if he wishes to. Then if that amendment is adopted, why the matter would move out of this body. If it did not, then, of course, the Senator, I assume, would want to have his rights to address the Shelby amendment, and they would argue back and forth on that.

Mr. SHELBY. If the Senator from Michigan will yield, if the Senator from Washington proposes a time agreement on the second degree on the Adams amendment, I wonder if the Senator from Michigan will entertain that. Would he further entertain at the same time as part of the unanimous consent a time limit on the Shelby amendment on whether we could get an up-or-down vote on that?

Mr. LEVIN. I am unable to agree to a time agreement on the Shelby amendment, because I think there would be a number of people who would want to speak on the death penalty issue.

Mr. SHELBY. There might be a number of people, I do not know this, that might want to speak on the Shelby amendment, which is on the death penalty.

Mr. LEVIN. There would be a number of people who would want to speak on the Shelby amendment.

Mr. SHELBY. One way or another.

Mr. LEVIN. Sure, because I think that subject is a subject of great importance. And to put that subject on this appropriations bill is obviously going to produce a lengthy and spirited debate. I was not suggesting on one side or the other; on both sides.

So I am unable to agree to a time agreement on the first-degree amendment. I have no objection to a unanimous consent on the first-degree amendment, is the direct answer to the question.

Mr. ADAMS. Could I propose then a unanimous-consent agreement that there be 20 minutes equally divided between the Senator——

Mr. LEVIN. I do not wish to debate the second-degree amendment at all. So I do not need to control time.

Mr. ADAMS. You do not need any time on the second-degree amendment?

Mr. LEVIN. On the second-degree amendment.

Mr. ADAMS. Mr. President, I ask unanimous consent that there be 20 minutes, equally divided, on the second-degree amendment that I have offered, the time to be controlled in the usual fashion by the Senator from Washington and the Senator from Missouri, and I state to the Senator from Alabama, I will yield him half of my time.

The PRESIDING OFFICER (Mr. BREAUX). Is there objection to the unanimous-consent request?

Mr. BOND. Mr. President, I find myself on the same side as the chairman of the subcommittee, on the second-degree amendment.

Mr. ADAMS. Then, in that case, I ask unanimous consent that the time be equally divided between the Senator from Washington and the Senator from Alabama.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, and I will not, for the reason indicated. I will ask for a ruling of the Chair on, if I yield the floor now, whether or not my speech so far would count against the two-speech rule on the underlying first-degree amendment?

The PRESIDING OFFICER. The Chair will state to the Senator from Michigan that there will be two separate pending questions; that any speech on the second-degree amendment would not count on any speech pertaining to the first amendment.

Mr. LEVIN. Mr. President, I am wondering if I can get a ruling of the Chair on whether or not my remarks so far would count as speech related to the first-degree amendment or to the second-degree amendment.

The PRESIDING OFFICER. It is the Chair's understanding that the speech of the Senator from Michigan would be recorded as a speech on the second-degree amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. ADAMS. Mr. President, to make it very clear, I modify my unanimous-consent request. I ask unanimous consent that the speech of the Senator from Michigan on the second-degree amendment be considered on the second-degree amendment, and that it would be violative of the two-speech rule and, on the amendment itself, he would be entitled to his full rights as though he had not spoken at all.

The PRESIDING OFFICER. Is there objection to the pending unanimous-consent request of the Senator from Washington?

Without objection, it is so ordered.

Mr. ADAMS. I yield the floor to the Senator from Alabama.

Mr. SHELBY. Mr. President, as I said earlier, I oppose the amendment offered by the Senator from Washington [Mr. ADAMS], which is a second-degree amendment, which basically would call for a referendum in the District of Columbia on the death penalty. But when would that referendum occur?

It says in the Adams amendment that it would take place on the ballot, without alteration, at the next general or special or primary election held at least 90 days after the enactment of this amendment, if it were to become law. When would that be?

The earliest it would be, more than likely, would be in 1994.

So I submit that the Adams amendment is a dilatory tactic. It is trying to thwart my efforts to bring a straight-up vote on the death penalty.

So I submit to my colleagues here in the Senate that, if you vote for the Adams amendment, you would vote basically against the death penalty, because the underlying amendment, the amendment that the Senator from Alabama has offered, calls for a death penalty in the District of Columbia, which we would enact, and we would not put it off or wait for a referendum.

As I said earlier, there has been 248 murders in the District of Columbia this year, 1992.

Since 1987, Mr. President, there have been 2,008 murders—2,008 murders—in the District of Columbia, when the last class that is maturing this year came to the Senate, 6 years ago. There have been 2,008 murders since then. There have been 248 murders this year, 1992.

So I submit to my colleagues in the Senate that this is the time to stand up for the people, to stand up for the victims, and go ahead and vote for the death penalty for the District of Columbia now—not delay it, not put it off, not succumb to hysteria, but to do something for law and order, to do something for the victims, and the future victims. And there will be future victims if we do not do something about it. This is our opportunity, and at the proper time I will move to table the Adams amendment.

At this time, I reserve the remainder of my time.

Mr. ADAMS. Mr. President, I ask for the yeas and nays on the Adams amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ADAMS. Mr. President, I will yield the floor in a moment so my colleague from Missouri can address this.

But I take this time to state why I have offered the amendment to send this as an initiative to the people of the District of Columbia.

I ask unanimous consent to have printed in the RECORD the letter from the Mayor of the District of Columbia, dated July 30, 1992, which I am going to quote from.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DISTRICT OF COLUMBIA,
Washington, DC, July 30, 1992.

DEAR SENATOR: I am writing to urge you to support H.R 5517, the FY 93 District of Columbia Appropriations Bill, and oppose any amendments that would violate or undermine the principle of Home Rule.

Specifically, I would like to address the death penalty amendment that is being circulated by Senator Richard Shelby. Briefly, this proposal would amend the U.S. Code to make homicides committed in the District of Columbia federal crimes triable in the U.S. District Court. The bill would give the U.S. Attorney the unfettered discretion to try homicides, and any crimes committed in the same incident, in the U.S. District Court for the District of Columbia. In certain aggregated circumstances, the District Court would be authorized to impose the death penalty for homicide. To defenders of states rights and local autonomy, Senator Shelby's proposal is expansive in its reach and would paralyze the efficient operation of the U.S. District Court for the District of Columbia.

Quite apart from the audaciousness of the proposal—no other federal district court in the United States has ever been asked to assume the additional burden of trying murder cases and the garden-variety of crimes often associated with them. It fails to recognize the significant progress we are making in the District of Columbia to toughen our stance on violent crime. Several weeks ago I appeared before a House of Representatives committee to outline the bold steps that the Council of the District of Columbia and I have taken to combat crime. It is clear to me, however, that the efforts we are making and our progress to date have gone unnoticed on Capitol Hill. I would like to outline these steps once again:

1. We have passed a bail reform law in the District of Columbia to make it tougher for violent offenders to receive bail. This law is perhaps the toughest bail statute in the nation.

2. The Council of the District of Columbia has passed a bill imposing life imprisonment without parole under appropriate circumstances.

3. I have sent to the Council legislation which would try certain juveniles committing the most violent crimes in our jurisdiction to be tried as adults instead of in the juvenile system.

4. Also pending before the Council is legislation I submitted to make changes to the length of detention in a juvenile facility.

5. I also submitted legislation to change the category of and penalties for some crimes in order to speed up and free up judicial resources.

6. We have aggressively sought and developed a partnership with federal crime fighting agencies such as the Federal Bureau of Investigations, the Drug Enforcement Administration, and the Department of Defense in order to stem violent crime, and we are making significant progress towards that end.

7. We have increased the number of officers who are on foot patrols in the District of Columbia.

8. We have also developed a specialized crime fighting unit called the Rapid Deployment Unit, which in some instances may even use SWAT team tactics to combat crime.

9. Since the beginning of the summer, we have targeted 22 different areas in the city to fight crime, among them, Capitol Hill. Since that time, we have made over 1,900 arrests, issued hundreds of warrants, confiscated drugs and cash, and other paraphernalia associated with the drug trade.

10. Under my direction, we have also implemented stricter parole practices at our Board of Parole.

In addition to these significant measures, both the Senate and the House of Representatives have passed legislation extending the jurisdiction of the Capitol Police. This legislation, when enacted, will aid us in our efforts to beef up foot patrols and the visibility of law enforcement officers. I also believe, as one who is on the front line of battling crime on a daily basis, that punitive measures, harsher penalties, and longer sentences are only part of the answer to growing crime in our communities.

It is for that reason that we have moved aggressively on the prevention and the early detection side of the ledger. Children's advocates, law enforcement officials, families, social scientists, and other experts grappling with urban problems have universally hailed my initiatives as a clear and refreshing break with past philosophies and a giant leap forward to deal with crime on the front end rather than the back end. We have rearranged governmental priorities, reflected in our budget, to meet this challenge.

Finally, the Senate may be more helpful in our fight against crime if it would pass, and urge other jurisdictions also to pass, legislation making it difficult to purchase a firearm, particularly semi-automatic weapons. The District of Columbia has one of the most stringent gun control laws in the United States. We do not sell weapons here. However, the flow of guns from neighboring jurisdictions remains unchecked. As we confiscate weapons in many drug raids we have, we find weapons that are here that come from neighboring jurisdictions and far away states.

I understand well that Senator Shelby and others on Capitol Hill have been personally touched by the violence in our community. So have I. It is not easy to talk to grieving families and to mourn with them as they have lost a loved one. But, sadly, this has become part of my job description as Mayor of the District of Columbia. Any urban Mayor can tell you the same story. There is not a single community in the District of Columbia which has been spared the violence that is prevalent around this country. Violence is a cancer. It must stop and it will. But we must be given the chance to let the measures we have put in place work.

The District of Columbia, as you know, is not alone in this wave of violence; crime is still high in jurisdictions around the country, and yet these communities—communities you represent—are permitted the freedom to solve their problems without the kind of Congressional assistance represented by Senator Shelby's proposal. Federalizing homicide and imposing the death penalty, here or elsewhere, are not silver bullets. This problem did not occur overnight and it will not be solved that quickly either. I would ask, respectfully, that you afford me and my constituents the same level of grace that you afford yours in combatting this problem.

Sincerely,

SHARON PRATT KELLY.

Mr. ADAMS. Mr. President, the Mayor writes—and I will quote excerpts, and I have put in the full letter. I think it is important that Senator SHELBY hear her comments and understands that no one is either condoning or misunderstands the hurt that he has suffered, that his staff has suffered, and the families have suffered, and all of the 489 people who suffered from homicides last year.

She writes as follows:

DEAR SENATOR: * * * Specifically, I would like to address the death penalty amendment that is being circulated by Senator Richard Shelby. Briefly, this proposal would amend the U.S. Code to make homicides committed in the District of Columbia Federal crimes, triable in the U.S. District Courts. The bill would give the U.S. Attorney the unfettered discretion to try homicides, and any crimes committed in the same incident, in the U.S. District Court for the District of Columbia. In certain aggravated circumstances, the District Court would be authorized to impose the death penalty for homicide. To the defenders of States' rights and local autonomy, Senator Shelby's proposal is expansive in its reach and would paralyze the efficient operation of the U.S. District Court for the District of Columbia.

Quoting again:

I understand well that Senator Shelby and others on Capitol Hill have been personally touched by the violence in our community. So have I. It is not easy to talk to grieving families and to mourn with them as they have lost a loved one. But, sadly, this has become part of my job description as Mayor of the District of Columbia. Any urban Mayor can tell you the same story. There is not a

> single community in the District of Columbia that has been spared the violence that is prevalent around the country. Violence is a cancer. It must stop and it will. But we must be given a chance to let the measures we have put in place work.
>
> The District of Columbia, as you know, is not alone in this wave of violence; crime is high in jurisdictions around the country and, yet, these communities—communities you represent—are permitted the freedom to solve the problem without the kind of congressional assistance represented by Senator Shelby's proposal. Federalizing homicide and imposing the death penalty here or elsewhere, are not silver bullets. The problem did not occur overnight, and it will not be solved that quickly either. * * *

I quote one last portion, which is another argument in addition to the others I have made, and others have made, as to why this matter should be set by referendum to the District of Columbia, and let the citizens decide; and that is that if we pass this amendment that federalizes homicides in the District of Columbia. This will absolutely overrun the district courts in the District of Columbia. And, as that happens, it will also push these matters that have been heard elsewhere into the superior courts. So we have a really aggravated problem here and I am hopeful that we will let the initiative process go forward, let the people of the District of Columbia decide it.

If they do decide for the death penalty, which they very well may, and they already have a proposal out there—that is why I am placing this proposal as a second-degree amendment, so it would be certain to appear on the ballot right away; then the matter would be tried in the District superior courts as the cases are tried now, and if there is to be a death penalty it would be imposed by the superior courts and we would not go into the district courts here and completely overload them by federalizing them.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have been a supporter of the death penalty. As Governor of Missouri I recommended and signed into law death penalty measures for my State.

But death penalties are in all other States tried as State and local offenses, as are rape, robbery, burglary, and aggravated assault matters.

I am concerned on this matter, on this particular underlying amendment, that the U.S. district court already has a large and growing criminal backlog. It has the largest criminal case trial load of any U.S. district court in the country. If homicides in the District are made into Federal crimes, the district court would be inundated with as many new cases as are already backlogged. As I have already noted, it would allow any related charge under the D.C. Code also to be brought into the U.S. district court. Transforming the Federal district court into Federal D.C. Superior Court.

Mr. President, I am persuaded by the eloquence of my good friend from Alabama that there may well be support and apparently is support for a death penalty in the District of Columbia. I believe that, like the death penalties which exist at State levels, the death penalty and its administration should not be transferred to the Federal court but left in the city or the local jurisdiction, and that is why I believe that the second-degree amendment proposed by my colleague, the distinguished chairman of the subcommittee, is the appropriate way to go.

We should encourage and promote the initiative and I, for one, would be in favor of it, but I would be in favor of it being adopted by the citizens and the residents of the District of Columbia so that is would not be a matter for the U.S. district courts. That is why I would urge my colleagues to support the amendment by SENATOR ADAMS.

I reserve the time and I yield the floor.

Mr. SHELBY. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Alabama has 7 minutes and 14 seconds.

Mr. SHELBY. How much time remains for the Senator from Washington?

The PRESIDING OFFICER. Senator ADAMS has 2 minutes and 44 seconds.

Mr. SHELBY. Mr. President, I yield myself such time as I may consume.

Mr. President, I ask unanimous consent that Senators STEVENS, SMITH, and GRASSLEY be added as original cosponsors to the Shelby amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I will sum up my argument against the Adams amendment briefly. As I stated earlier, since 1987 there has been 2,008 murders in the District of Columbia. I think that might be the record. I do not know if it is the world record, but it has to be a record. As I said earlier today in my initial argument, there has been 248, Mr. President, 248 murders here in the District of Columbia in 1992 and August 1 is not quite here yet—248 murders?

So, I ask my colleagues in the Senate to think about this. Do you want to put off this, do you want to say, well, let us wait and see and let the people have a referendum on it in the District of Columbia? This is the Nation's Capital. This is our capital. It is a capital that the world looks at, every bit of news that comes out of here, good or bad. Are we going to delay this; are we going to vote on it now?

If you support the Adams amendment you would vote no on my motion to table that I will make in a few minutes. If you are for the death penalty, Mr. President, if you are for the death penalty, and if you believe that things have gotten out of hand, way out of hand in the District of Columbia as far as 2,008 murders since 1987, as well as 248 of them coming this year, now is the time to cast the vote for the victims and hope there will not be future victims, to cast a vote for law and order here in the District of Columbia, to send a message out all over the country that we are not going to just sit by and do nothing in the U.S. Senate.

Mr. President, I will yield back the remainder of my time if the Senator from Washington will consider the same.

Mr. ADAMS. I am pleased in a moment to do so. I just want to close.

Mr. President, I just want to close by saying my amendment would put this on the ballot this fall. That is its purpose; that is what is intended by it. If the citizens of the District of Columbia wish to put up another initiative on the death penalty they, of course, could do so. But this would assure that Senator SHELBY's amendment would go to the residents of the District of Columbia to be voted on this fall.

I think that is important that I make that point, because we have not, in my opinion, the time nor should we be trying to consider nuances of all the parts of the death penalty for a large city in the Congress of the United States. But I recognize very much the hurt that the congressional families have suffered.

I personally am not a person that is opposed to the death penalty as are many Members of this body. I have been a United States attorney. I have had to ask for the death penalty when I had the assassination of certain police officers by bank robbers. But I want to be certain that this matter is passed upon by the members of the community. This is really a States rights issue as well as a death penalty issue.

What I am concerned about—and this is my final remark and I will yield back the remainder of my time afterward—is if my amendment does not pass and then we go to Senator SHELBY's amendment, I am concerned we will have a filibuster about that, as there are people opposed to the death penalty, as happens each time. And I do not know how long we will be here. I hope we can vote on this, because I know of only one other amendment on which we have a time agreement and one other amendment we could accept and we could complete this bill by 6:30 tonight. I would be hopeful that we could do so.

With that, I ask for the yeas and nays. I know that Senator SHELBY has some time remaining. I am pleased to yield back the remainder of my time and go immediately to the vote on my amendment. We have had the yeas and nays ordered. I hope we will vote at this time. I say to Senator SHELBY I am prepared to yield back the remainder of my time and go immediately to a vote. We asked for the yeas and nays. They have been ordered. I would like to vote on the amendment.

Mr. SHELBY. I concur in that and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington yields back his time.

Mr. SHELBY. Mr. President, I move to table the Adams amendment.

The PRESIDING OFFICER. The question is on the motion to table the Adams amendment.

Mr. SHELBY. I ask for yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from Washington.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 45, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—50

Bentsen
Bingaman
Boren
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Conrad
Craig
D'Amato
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Fowler
Garn
Graham
Gramm
Grassley
Hatch
Heflin
Hollings
Johnston
Kasten
Lieberman
Lott
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Pryor
Reid
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—45

Adams
Akaka
Baucus
Biden
Bond
Bradley
Breaux
Chafee
Cohen
Cranston
Danforth
Daschle
Dodd
Durenberger
Glenn
Gorton
Harkin
Hatfield
Inouye
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lugar
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NOT VOTING—5

Burdick
Gore
Helms
Jeffords
Symms

So the motion to lay on the table the amendment (No. 2796) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Washington.

Mr. ADAMS. Mr. President, I have had some discussions with the author of this amendment. We have now had a vote on it. I am going to offer another second-degree amendment which would say that the election must be held on the initiative within 90 days after the enactment of this Act. So what I am trying to do is to have this matter decided by the people within a jurisdiction and not have it decided in this body.

I am hopeful that the Senator from Alabama will agree—the election must be held within 90 days after enactment, that means it has to be held this fall—with me as he has privately, and we will do this because, if not, what we are faced with in this body is the potential of a filibuster, that could last for a very long time, on the death penalty. This is a long-running issue of enormous importance to a number of people in this body and I understand that. I understand the personal feelings that are involved. My heart aches for a lot of people who are involved, and I am looking for a way out.

I will state to the Members who are here and those who are watching that Senator BOND and I are in agreement that we should send this for a vote to the District. Both of us happen to be people who are not fundamentally opposed to the death penalty. We have a number here who are fundamentally opposed. If we impose this as a Congress, they are going to filibuster.

I have an hour's time agreement with Senator LOTT, and we may not use all the time on his amendment. I said to Senator MCCONNELL—he wishes to offer his amendment—we are prepared to accept it, we are pleased to have him offer it and make a speech and it will not take long. We can be out of here by 6:30 or be into a filibuster. I will take it either way because that is what we all get paid for.

I am hopeful the Senator might be willing to go along with this: They vote within 90 days in the District on this matter and thereby have that vote and that would accomplish the fact—and I would not ask for the yeas and nays on it. We might be able to vote on it by voice vote and proceed, and he would have accomplished his purpose, having a vote and the people vote on it. If they do not vote on it, then you all can come in here in January and vote anything you want. But I am trying to get this bill to move in this fashion now. I am hopeful because the Senator from Missouri has been very kind to agree with me on this. I hope the Senator from Alabama can at this point. I send this amendment to the desk.

Mr. SHELBY. Will the Senator from Washington withhold and yield for just a couple minutes?

Mr. ADAMS. I am just going to send my amendment to the desk.

AMENDMENT NO. 2797 TO AMENDMENT NO. 2795

(Purpose: To provide for a local initiative to increase the penalties for murder in the District of Columbia.)

Mr. ADAMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 2797 to amendment No. 2795.

Mr. ADAMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

——. Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at the next general, special or primary election held within 90 days after the enactment of this Act the following initiative—

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

"*Be it enacted by the Electors of the District of Columbia*, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) Mitigating Factors.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) Mental Capacity.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) Duress.—The defendant was under unusual and substantial duress.

"(3) Participation in offense minor.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) Aggravating Factors.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) Killing in furtherance of drug trafficking.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) Killing in the course of other serious violent crimes.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) Multiple killings or endangerment of others.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) Involvement of firearm.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) Previous conviction of violent felony.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) Killing while incarcerated or under supervision.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) Heinous, cruel or depraved manner of commission.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) Procurement of the offense by payment.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) Commission of the offense for pecuniary gain.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) Substantial planning and premeditation.—The defendant committed the offense after substantial planning and premeditation.

"(11) Vulnerability of victim.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) Killing of public servant.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) Killing to interfere with or retaliate against witness.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) Notice of Intent To Seek Death Penalty.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) Judge and Jury at Capital Sentencing Hearing.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) Proof of Mitigating and Aggravating Factors.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) Findings of Aggravating and Mitigating Factors.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) Finding Concerning a Sentence of Death.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) Imposition of a Sentence of Death.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) Review of a Sentence of Death.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) Implementation of Sentence of Death.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) Special Bar To Execution.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) Conscientious Objection To Participation in Execution.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) Appointment of Counsel for Indigent Capital Defendants.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) Representation After Finality of Judgment.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) Claims of Ineffectiveness of Counsel in Collateral Proceedings.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) Time For Collateral Attack on Death Sentence.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) Stay of Execution.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) Finality of the Decision on Review.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) Definitions.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I would request of the Senator from Alabama and others that we might temporarily set aside this amendment and proceed with the amendments that we have agreed upon and the amendments on which we have a time agreement. I would ask unanimous consent that we might proceed first with the McConnell amendment, which the managers have indicated they would accept but he wishes to present, and immediately upon completion of the McConnell amendment we proceed with the Lott amendment, which we already have a time agreement of 1 hour upon, and that at the conclusion of the Lott amendment we return to the status where we are now which would be the Adams second-degree amendment.

Mr. LEVIN. Will the Senator withhold that request, because I would like to note the absence of a quorum and have the opportunity to discuss this with a number of people. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. I renew my unanimous-consent request that we proceed first with the McConnell amendment on the basis that I mentioned and then with the Lott amendment, then we would return to the second-degree amendment that I have offered and we would try to see if we can get an agreement on that which we will be negotiating while these amendments are being presented.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kentucky [Mr. McCONNELL] is recognized.

AMENDMENT NO. 2798

(Purpose: To repeal the prohibition in the District of Columbia on individuals carrying self-defense items such as Mace)

Mr. McCONNELL. Mr. President, on behalf of myself, Mr. BURNS, Mr. SMITH, Mr. CRAIG, Mr. NICKLES, Mr. McCAIN, and Mr. GORTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], for himself, Mr. BURNS, Mr. SMITH, Mr. CRAIG, Mr. NICKLES, Mr. McCAIN, and Mr. GORTON, proposes an amendment numbered 2798.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

That (a) section 2302 of title 6 of the District of Columbia Code is amended by—

(1) striking subparagraph (C) of paragraph (7); and

(2) redesignating subparagraphs (D) and (E) of paragraph (7) as subparagraphs (C) and (D), respectively.

(b) The amendments made by subsection (a) shall take effect on January 1, 1993.

Mr. McCONNELL. Mr. President, the amendment I am about to offer I understand is acceptable, but I would like to explain it to Members of the Senate.

I suppose one could object to this amendment on two grounds, one legislating on an appropriations bill, but of course as we all know we do that from time to time. And the other objection that could be lodged is that in some way interfering with concepts of home rule for the District of Columbia. Of course, that carries a good deal less weight these days given the fact that in the House of Representatives yesterday some of the strongest advocates for home rule were attempting to legislate where the Washington Redskins play football. So I think those reservations seem to me to carry less weight in this current environment.

Let me explain what my amendment would do. It would give the residents and the visitors in the Nation's Capital, and this is particularly important for women, a means of defending themselves against violent crime. It would restore to the residents and visitors in the District of Columbia the right to carry Mace, which is obviously an effective crime deterrent and means of self-defense. I might add parenthetically that the D.C. City Council has said off and on over the last 10 years that they were going to repeal the 1982 prohibition against the use of Mace but somehow they never get around to it. And so I think it is time for us to act because, after all, it is not just the people, the residents of the District who are incapable of defending themselves: it is also our constituents who visit here in large numbers every year.

Mr. President, it is not news that people in this city are in the grips of a violent crime epidemic. Residents, Members of Congress, staff, have been terrorized, brutalized, and even murdered, as Senator SHELBY has pointed out so graphically this afternoon.

People in every quadrant of the city are at risk, and thanks to the District government, they are virtually and legally defenseless.

Mr. President, women are particularly at risk from and concerned about random violence. For women who are approached by an assailant, losing cash and credit cards are the least of their concerns. They also experience incomprehensive fear of being raped.

Mr. President, our own staffs know only too well the danger everyone who enters the city finds themselves in—walking to the cars, going to the Metro, going home in the dark. It sort of goes with the job.

Senators who might question the merits of this amendment should ask the young women and men on their staffs how they feel about walking after dark with no defense to Union Station, to the Metro, or to the parking lot, or for that matter walking home to their houses here on Capitol Hill.

This amendment will give staff along with everyone else in the Nation's Capital a means of protecting themselves with something other than their car keys, ID cards, or fingernails.

Mr. President, Capitol Hill is frightening enough. We did not begin to comprehend the pure terror residents in other parts of the city experience day in and day out. The only time most of us go anywhere near the most dangerous parts of the cities is if we get lost. But there are others who come here.

I would like to bring to the Senate's attention a letter I received from a constituent who had recently made her first trip to the city. While touring here, her purse was searched at a security checkpoint, and the Mace she was carrying was seized. This young woman was told she was committing a crime and had the option of giving the Mace up to be destroyed or being arrested. As you might imagine, that experience is frightening and enraging. The worst result in her view was that "the law left me vulnerable," as she put it, in a city that, by its own admission, is perilous and crime ridden.

Mr. President, that about sums the situation up.

Another dramatic and tragic illustration of the need for this bill—a year and a half ago a man attacked a woman who was walking home from church in the District. He grabbed her from behind. She took the Mace from her purse, sprayed it on the assailant, and she escaped. As she was running to a phone to call the police, her sister, who was also walking home after church, saw a man rubbing his eyes. Not knowing her sister had maced him a few minutes earlier, she inquired as to whether he was OK.

Mr. President, she had nothing to defend herself with. He grabbed her, dragged her in an alley, and raped her. He was caught, convicted, and soon will be sentenced.

Mr. President, his victims have already been sentenced to a lifetime of coping with the physical and psychological trauma of rape. Granted this amendment is no panacea. It will not stop rape or random violence that terrorizes this city. It would, however, reverse the concerned situation whereby women in particular have been forced to give up one of the only means available to defend themselves, that is, short of carrying a gun which is also not legal in this city, of getting a black belt in martial arts, or of walking with a large protective dog.

I understand some women have even resorted to carrying Easy-Off oven cleaner in lieu of Mace as a means of their defense. There will now be a call to ban the sale of Easy-Off.

My amendment bolsters the efforts of the concerned city council members and citizens who are working to rescind the Mace ban. It gives D.C. officials until January 1, 1993, to act on their own to rescind the ban. If the local officials do not take the initiative, this bill would do it for them.

Mr. President, I have discussed this matter with the distinguished Senator from Washington, the manager of the bill, and I would like to ask him at this time if he would be willing to fight to retain this amendment in conference with the House.

Mr. ADAMS. Mr. President, I would be pleased to accept the amendment, and, yes, we do intend to hold this in conference and to fight for it. We will notify the Senator if we are having an impossible situation because the District council has under consideration legislation to accomplish this.

A hearing will be held shortly after Labor Day with final action planned December 18, 1992.

So the Senator's amendment would not take effect until January 1, 1993, after the calendar's final action. Therefore, the District will have had an opportunity to act on it independently, and will not have had to be imposed on by congressional mandate. But if they do not act, then it would take effect.

So I am prepared to fight for the amendment in conference, and Senator BOND and I will be in touch with the Senator if we are unable to accomplish that. We will accept the amendment.

Mr. MCCONNELL. Mr. President, I might just say in one further observation to my friends from Washington and Missouri, for 10 years this has been on the agenda at one time or another. That is why the amendment is necessary. We are hopeful that with the additional nudging, this issue, by this amendment, they will, in fact, act on time.

Mr. BOND. Mr. President, I can assure my friend from the State of Kentucky that we agree with the wisdom of his measure, and we will certainly do what we can and support it very strongly in the conference committee. I know of no objection on this side.

Mr. ADAMS. There is no objection, and I know of no further debate on this amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 2798) was agreed to.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ADAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi [Mr. LOTT] is recognized.

AMENDMENT NO. 2799

(Purpose: To prevent the District of Columbia from implementing a system of registration for unmarried, cohabiting homosexual, lesbian, and heterosexual couples in the Nation's Capital in order to sanction such relationships and to grant such unmarried couples certain rights and benefits traditionally reserved for couples who have entered into the legally enforceable bonds of matrimony)

Mr. LOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself, and Mr. COATS, Mr. SMITH, and Mr. BROWN, proposes an amendment numbered 2799.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

"No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.".

Mr. LOTT. Mr. President, I want to thank the distinguished Senator from Washington for his cooperation in making it possible for me to offer this amendment in such a way that it could get direct consideration.

I want to say, too, before I begin, how much I appreciate the very important and tough work that the two Senators that are handling this legislation have in bringing legislation to the Senate that does the job, and that we can support. I know it is difficult when you have a number of Senators who are offering amendments to this particular jurisdiction. But I feel that these amendments are very important.

It is like the amendment with which we were just dealing. It is vital. We have not only a right but a responsibility to address some of these problems in the District of Columbia.

But I do appreciate the job that the Senator from Washington and the Senator from Missouri are trying to do.

Mr. President, as I understand it, we have 1 hour, equally divided, in the time.

The PRESIDING OFFICER. That is correct.

Mr. LOTT. I know at this hour some of my colleagues who wanted to speak may be indisposed. We will just see how the time actually goes along.

Mr. President, this amendment, the gist of it, is to say that no funds made available pursuant to any provision of this act shall be used to implement or enforce any system of registration of unmarried cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

I offer this amendment because I oppose very strongly the implications of the District Domestic Partner Act, also called the District of Columbia Health Care Benefits Expansion Act of 1992, because I think it seriously undermines fundamental family values. It is fundamentally unfair, and there is a cost involved for the Federal Government if this is allowed to stay on the books of the District of Columbia.

Instead of providing incentives or support for the institution of marriage, it legitimizes and extends benefits to relationships outside of marriage. The District of Columbia Domestic Partnership Act sends the wrong message to families of the District of Columbia, and to the rest of the Nation.

It was passed under pressure from special interests, not as a result of broad support in the community. In fact, the reason I am involved in this issue today is because a group of six Washington ministers of the Gospel came to my office and asked me to work with them against this measure.

I do have a list of groups that are supporting this amendment which opposes the District of Columbia Domestic Partner Act. The list includes the District of Columbia Baptist Missionary Conference, representing 400 churches and 200,000 members and citizens of the District; Focus On the Family; Family Research Council; Coalition for Traditional Family Values; and the Southern Baptist Convention, which, of course, is the biggest Protestant denomination in the United States.

The local legislation would allow both heterosexual and homosexual couples to register with the city as domestic partners. Those who work for the District government would be able to extend health care benefits to their domestic partner.

The act would further erode the need to enter into a marital commitment and reduce the relevance of a traditional American family. It comes at a time when our Nation is crying out for strong family values and structure.

Consensus has emerged among social scientists and community leaders that the health of the family unit determines the overall health of our society. Our educators, business community, social services, law enforcement agencies, and the church, all cite the family as a key element for the societal problems we face, and for the problems that we would like to solve in the future.

From a public policy point of view, we can pass emergency supplemental appropriations; we can increase our police forces; we can create innovative educational programs; but if our homes are not in order, we will never succeed.

The public policy decisions we make should, more than anything else, support and undergird a strong family unit. They should provide incentives for marriage and commitment. Unfortunately, our policies have failed to do this. In fact, we have promoted policies that have discouraged permanence, commitment, and responsibility. Now we are reaping some of the consequences.

A destructive and vicious cycle has developed. Over the last 25 years, we have witnessed a steady deterioration of family values, a record divorce rate, children born out of wedlock and in poverty. We have witnessed the manifestations every day of rampant violent crime, not just here, but all across America; problems with drugs; educational failure, and a fragmented Nation.

We must begin to take a stand for the family. We must make the difficult moral decisions of right and wrong, and we must reach the conclusion, based on evidence and moral precepts, that all lifestyles are not equal. We must decide that the institution of traditional marriage is preferable and superior, and our policies should reflect that conclusion and its moral imperative.

So it is for that reason, and for the ministers in the District of Columbia struggling to strengthen and promote these values, those dealing with the effects of broken families every day, that I am offering this amendment.

I will get into some of the effects of this bill and what it will do in terms of unfairness. The District of Columbia bill defines "domestic partners" as any unmarried couple over 18 years of age and living together, although no specified period of time is given. So that is a major concern. You can come in, move in 1 day, register, and perhaps be eligible for benefits.

A person may register a new domestic partner after a waiting period of only 6 months. Thereby, a person could feasibly put two domestic partners onto his or her health plan every year for the rest of his or her life.

This bill has national implications. The Constitution requires all States to give full faith and credit to the laws of other States and the District. How, then, would our States respond to the legal recognition of unions between unmarried heterosexuals or other couples?

A constitutional lawyer, from Notre Dame, testified on this before one of the House committees. He expressed real concern about what impact this could have in the States in terms of marital laws and property rights.

Some Senators have said "This bothers me because it could affect Virginia, Maryland, Washington State, Mississippi." Any of us could very well be affected by this. The District of Columbia Domestic Partner Act could affect the marital laws and property rights in States all over this Nation.

In fact the domestic partner registration provisions are not limited to the residents of the District. Couples from all over the country could come into the District, register, and then use that legal recognition to challenge the laws in States all across the country.

The act is not about the expansion of health care benefits. That is how it has been explained: "We are trying to cover more people with health benefits." But, as a matter of fact, of the 38,000 full-time D.C. city employees, only 3,500 may be eligible. The bill is intended as a means to officially recognize and sanction gay unions and cohabitation outside of marriage. That is what the real impact is.

The bill would not truly expand health care access, but it would increase premiums by 15 to 20 percent. There is no other law on the books anywhere in America that comes close to this, but the one place where there is something similar is San Francisco. It clearly has driven up the cost of the health care benefits.

Let me cite some of the unfairnesses and inequities in this legislation. Only new employees—those employed by the District after October 1, 1987—will be eligible for health care benefits. Because only those employees are enrolled in the D.C. Employees Health Benefits Program. So right at the opening, it is unfair, because it is only applicable to new people, because others are on a completely different program.

The act would also provide a tax deduction for private sector employers who extend health benefits to domestic partners, if their employees reside in the District.

A lot of people work in the District, but they do not live there. If you live in West Virginia, Virginia, or Maryland, you would not be eligible for this. Another inequity. Only new employees, and only District residents.

As a health benefits extension plan for D.C. employees, the act discriminates against legally married people. Listen to this now: It actually discriminates against people that are—legally, married couples—and may violate the equal protection clause of the Constitution. I will give you one example of how that works.

Under the act, an unmarried mother may form a domestic partnership with her unemployed adult child, and thus extend health care coverage to that child. A married mother may not. It actually undermines and hurts and works against married couples.

The bill would make the District the only government in the country to offer tax breaks to private employers who insure domestic partners.

The argument will perhaps be made: that no Federal funds would be used to implement the District of Columbia Domestic Partner Act. We know that argument, and we also know money is fungible. While we may actually fund one activity and not another in this case, it is more than likely, that in most instances, you rob from Peter to pay Paul. If we have Federal funds that are used in certain areas, then the District can use the money in other areas such as the registration of domestic partners.

So the argument that it really would not allow funds from the Federal Government, from the people of all the States, to go to this program just does not hold water here.

I do not want to take all the time, and perhaps we will need to engage in some questions and some debate further. But let me just conclude with this: My name is LOTT. And there was a Lot in history whose wife looked back, and she became a pillar of salt. Do you ever wonder, or do you recall what she looked back to see? She looked back to see a situation like this law would not only allow, but promote.

When we talk in America about traditional family values and traditional families, I think we all know what we are talking about. This legitimizes homosexual and lesbian couples living together, as well as unmarried heterosexuals. It encourages them to register, and gives them benefits, to the outright detriment of those who live in wedlock.

This is wrong. When I heard this reported on a local radio station one morning when I was getting ready to come to work, I could not believe it.

I did not want to do this, but after checking into it and meeting with ministers of the District of Columbia, I see no other way to deal with this problem.

And therefore, I offer the amendment, and I urge my colleagues to consider it, and hopefully to pass it.

I reserve the remainder of my time.

Mr. ADAMS. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Washington has 30 minutes remaining, and the Senator from Mississippi has 17 minutes.

Mr. ADAMS. Mr. President, I do not know if we will use all of our time or not.

But this is yet another assault on home rule, where the Senator before had put in a sense-of-the-Senate resolution. And what we may want to think about this particular bill, or not, does not offend me as much as our putting in specific legislation.

But even more so, I want it understood that this is a health issue. This deals with health insurance. And in my remarks, I am going to outline why the District was doing this. It does not have to do with the Old Testament, where Lot's wife turns and looks back at Sodom and Gomorrah. That is something entirely aside from the problem that is being addressed here.

The people of the District of Columbia, who do not have a representative in this body, have tried to expand health care and family and medical leave. That is what they have tried to do with this legislation. And what I am saying to my colleagues is: How can we work to give Americans access to affordable health care with one hand, and plan to take it away from people in the District of Columbia with the other?

How can we pass a Family and Medical Leave Act overwhelmingly, and deny the residents of the District of Columbia the same rights? This is hypocritical. This is unfair.

The D.C. Health Care Benefits Act, passed by the D.C. City Council overwhelmingly in April, was passed after thorough review. And here is what the situation is in the District of Columbia, and it is a special and specific situation. But my guess is it probably also exists in the State of Mississippi, the State of the proponent of this piece of legislation.

The Commission surveyed some 40,000 District government employees, and it found that about one-half of the employees are either single parents, live in extended families—in other words, going back and having to live with their parents—or live with domestic partners.

Twenty percent of these groups do not have complete family health coverage. These are the people who are most in need of affordable health care, and that is what this legislation authorizes. They are most in need of family leave and medical leave. The act is a reasonable response to a serious problem.

In a moment, I am going to read some of the groups in support of this. They will include the clergy from the New York Avenue Presbyterian Church, the First Congregational Church of Christ, George Washington University, Saint Paul's Episcopal Church of Rock Creek, the Metropolitan Council of the AFL–CIO, the D.C. Nurses Association, and Gray Panthers.

Why are these groups in support of this? Because it allows District government employees to extend their health care coverage, at 100 percent self-financing, to another adult with whom they share residence and have a committed relationship.

What can that be? That is your mother that lives with you. And that happens very often here in the District, where the mother comes back and lives with the single mother to take care of the family.

I would hope that before people rush to a conclusion that this is Lot's wife and Sodom and Gomorrah, that they look at what the real facts are here. This is not that kind of legislation. This is the kind of thing that exists throughout the United States.

I am going to ask unanimous consent to print in the RECORD a list containing information of domestic partner recognition in the United States, with the States that recognize it and the cities that recognize it.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOMESTIC PARTNER RECOGNITIONS IN THE U.S.

In 1984, the city of Berkeley became the first municipality to enact domestic partner legislation. In the eight years since then, more than a score of other jurisdictions have enacted ordinances, rewritten policies, or issued executive orders recognizing non-traditional families.

As of March 1992, domestic partner organizing efforts are underway in the following jurisdictions: Chicago; Cambridge, MA; San Diego; Atlanta; Harrisburg, PA; New York City; Denver; Rochester, NY; and Wayne County, MI.

California Counties: Alameda,[1] San Mateo,[3] Santa Cruz.[2]

Cities: Berkeley,[2] [4] Berkeley Unified School District,[2] Los Angeles,[1] Oakland,[3] San Francisco,[2] [4] San Jose Unified School District,[1] Santa Cruz,[2] Santa Cruz Transit Employees,[2] West Hollywood.[2]

Texas, Travis County.[1]

Florida, West Palm Beach[1]

Delaware, Delaware State Personnel.[1]

Maryland, Takoma Park.[1]

District of Columbia.[1] [2] [4]

Massachusetts, Cambridge.[1]

New York, Ithaca,[4] New York City.[1]

Michigan, Ann Arbor,[4] East Lansing.[2] [6]

Wisconsin, Counties: Dane,[1] Dane County Regional Planning Commission.[1]

Cities: Madison,[1] Shorewood Hills.[5]

Minnesota, Minneapolis.[1] [4]

Washington, Seattle.[2]

Mr. ADAMS. Mr. President, what this act permits is to allow bereavement, sick, and parental leave. Private employers are not required to offer benefits to the domestic partners. But if they do, they are eligible for a local—local—tax deduction for the expense.

Overturning this law would deny self-financed health insurance coverage to grandparents, grandchildren, senior citizens, whose spouses have died, displaced homemakers, and the disabled who cannot live alone.

There are many people who are involved in committed relationships, who are adults that are living together, that are not involved in some type of relationship that people may or may not want to pass moral judgment on. I do not happen to want to pass moral judgment on it, but maybe other people do. But that is not what is involved here.

What the District was trying to do is extend family and medical leave, health insurance benefits, and a tax deduction not on the basis of some kind of sexual relationship, but on the basis of families that have to live together. Many families are living together in the District under the same roof, and they are trying to make ends meet. And they are trying, in this case, to have health coverage. And that is what we are trying to do.

This is a good idea that has been borrowed from cities like Seattle, Minneapolis, Ann Arbor, Ithaca, Los Angeles, and Santa Cruz, among many others. And a growing number of counties and local entities have similar laws: Alameda, San Mateo, and Santa Cruz, CA; Travis County, TX; Dane County and its Regional Planning Commission, in Wisconsin; and Delaware State personnel. In other words, this is spread all over the country.

The District's law will not cost the taxpayers a penny. If a District employee wants to add a domestic partner to his or her policy, the employee must pay 100 percent of the additional premium. So it is not our saving some kind of money in a funding bill, because this is required to be paid for by the individuals.

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[1] Bereavement/sick/parenting or other no cost benefit.

[2] Medical/dental/and other cost benefits.

[3] Dental (no medical) and other benefits.

[4] City-wide domestic partner registry.

[5] Non-traditional family discounts.

[6] East Lansing benefits passed by city council; facing court challenge in April 1992.

[7] New York City benefits enacted by executive order.

The District's law will not increase employers' costs. As I said earlier, it does not require employers to offer benefits, although if they do, they will be offered a local tax break—a local tax break.

The District's law will not discourage marriage. People do not marry for health insurance. At least, I am hopeful they are not marrying for health insurance. I am hopeful they are marrying for love, and many other reasons.

The District's law does not sanction homosexual marriages as addressed here. It deals only with specific health benefits.

In closing, I would like to say that a number of religious and other groups are on record in support of the District's Health Care Benefits Act, and I have read the list before.

But I will state again that there is no attempt in this to enter into some type of debate about theological or evangelical or various other types of churches or to say that is what this is all about.

What we are trying to do is to allow people and allow employers to meet a specific, difficult situation. It was found by a survey of District employees that a committed relationship in a home may, as I say, involve a grandparent, may involve a mother, a father, may involve extended family of various types. And that should not be overturned by this Congress.

So I hope that we will not.

Mr. President, I reserve the remainder of my time, so the Senator may speak further. And I will offer a motion to table at the end of my period of time for debate, because I do not know how many Senators may wish to speak on the Senator's side.

I am reserving my time, with the right to return for final argument.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I yield 5 minutes to the distinguished Senator from Indiana [Mr. COATS].

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, we obviously have a difference of opinion this evening over what the nature and intent of this particular policy is of the District of Columbia.

In my opinion, having followed this somewhat and observed the history of the way in which this has come about, this is not debate over health policy. What it is is a debate over definition of a family and its legal future.

I begin with the conviction that I believe is justified by tradition and our own experience, that the traditional family is the foundation of a healthy social order.

It transmits life, and it transmits values. The legal and moral commitment of marriage brings stability to our lives, to our children, and to our culture.

But when we trivialize this most fundamental commitment of our society, we attack the family, and cripple its essential work.

The District of Columbia's domestic partnership legislation—deceptively renamed the Health Care Benefits Expansion Act—is a direct attack on the family and its values. I think it undermines the legal importance of marriage, and I think we ought to look at this as an attempt to do that.

The registration of domestic partners is a form of official government recognition and encouragement. That is certainly how it is viewed by its most vocal supporters. As one advocate has stated, "social sanctioning of domestic partnerships, in and of itself, is valued by domestic partners, particularly by gay and lesbian couples. That is, partners value the ability of their relationship to be recognized by the State, even without the receipt of benefits."

This legislation says that a commitment less than marriage is legally binding. And this cannot help but undermine the institution of marriage, the institution of the traditional family, which is already suffering from a number of different laws and regulations and interpretations.

The District of Columbia, our Nation's Capital, has sanctioned homosexual unions and heterosexual couples living together outside marriage. It has attempted to create a form of legal legitimacy in opposition to what I believe are the best of our moral and legal traditions.

The effect on health of this measure is almost nonexistent. The District estimates that the number of people affected by the act could be as few as 25. Its tax incentives beyond District government are likely invalid under Federal law.

What this really is, and I believe what the intent really is, is a symbol—symbol of disdain for the traditional family. It was not passed for the purposes of providing health benefits. In my opinion, it was passed in the cause of an ideology, and I do not believe we should fund a cent of it with Federal money.

I commend the Senator from Mississippi for taking on what is a difficult and a controversial issue, but one that I think is an important issue. And I think most of us know exactly what the intent of the District of Columbia was in passing this ordnance and in establishing this so-called domestic partners legal validity, and I believe we should treat it as such.

I intend to support, and hope that my colleagues will support along with me, the amendment of the Senator from Mississippi.

I yield back, Mr. President, whatever remaining time the Senator has yielded to me.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I do not have any request for additional time at this moment.

Does the distinguished Senator from Washington have an additional request?

Mr. ADAMS. I have no additional request. I am prepared to yield back the remainder of my time and make a motion to table, if the Senator is almost finished.

Mr. LOTT. I thank the Senator. One is always concerned about dragging these things out and staying late at night. I am prepared to yield back my time after I make a few closing remarks.

Mr. ADAMS. I am prepared to yield back my time.

Mr. CRANSTON. Mr. President, I rise in opposition to the pending amendment.

Frankly, I am saddened to see this amendment proposed. I believe that the facts of family life in the District of Columbia today—indeed, the facts of family life in America as a whole—argue for making health care benefits available to persons who live together as domestic partners.

When the District of Columbia enacted its Health Care Benefits Expansion Act of 1992 it simply recognized reality, and reality is that less than one-quarter of all families nationwide are so-called traditional families—that is, husband, wife, and children living together. All across this country there are elderly persons who live together but are unmarried; disabled persons who cannot live alone, unmarried heterosexual couples, lesbian and gay couples, or a grandchild and a grandparent each taking care of the other. These nontraditional families can be property owners, they often have children, and they live together in mutual support. In short, they are families—and yet they are unable to obtain the employer-based health care coverage that is available to members of traditional families.

Under the D.C. Health Care Benefits Expansion Act, D.C. government employees can buy—at full cost—health coverage for their domestic partners and family members. The measure offers a tax incentive to private employers who provide health care benefits to their employees' domestic partners and family members, but the bill does not require employers to provide benefits. District employees must pay the full cost of the additional family coverage.

Mr. President, I stand with the District of Columbia on this issue. This law was adopted overwhelmingly by the D.C. Council and signed by the Mayor. The law does not violate the Constitution, it does not violate the

Home Rule Act, and it does not violate the Federal interest. In fact, the bill provides broad taxpayer relief, in that as more people are covered by health insurance, costs go down for the government—when insured domestic partners and their family members no longer rely on Medicaid or emergency room service or any other government program for coverage of uninsured health care costs.

The Senate should follow the lead of the House and reject this attempt to overturn this District of Columbia law.

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for supporting Senator LOTT'S amendment regarding the District of Columbia's Health Benefits Care Expansion Act of 1992.

The purported goal of the District's law is very laudable—expanding access to health insurance. But I have serious questions about the means that were chosen.

The District's act allows a couple to register with the city as domestic partners, giving D.C. employees access to family coverage under employer-provided health plans as if they were a married couple, and offering private sector employers a tax deduction for providing employees with this option.

We all know the severe dysfunctions of the health insurance market. Over 35 million Americans have no health insurance; 20 million of those are employed individuals. The problem is most acute for individuals who work parttime or in very small businesses. People who work for large companies or the Government often have access to more affordable and more comprehensive insurance plans. Thus, I can appreciate the reason for this domestic partner law. Indeed, the D.C. City Council may have thought that by providing broader health insurance benefits, it could reduce the enormous burden of uncompensated care that depletes the resources of city hospitals and clinics.

However, the definition of domestic partner is a troubling one for me. Under the D.C. statute, domestic partners are an unmarried couple who live under the same roof and share a committed relationship, characterized by mutual caring. Why limit insurance coverage to these particular, personal relationships? Why not extend benefits to all persons who share a mutual residence?

Even under the more limited D.C. domestic partners definition, there will be tremendous uncertainty for insurers. Economists call it moral hazard, where individuals could establish relationships purely for the purpose of acquiring insurance coverage. The insurance market is already unstable. This type of provision, while it is commendable in spirit, simply is unsustainable as a business proposition. However, I intend to interview members of the D.C. City Council, and others, to learn more about the underlying intentions of this approach, and about the insurance problems that the District faces.

I have been committed to health insurance reform for many years. I have several bills pending that would significantly improve the insurance market, particularly for small employers. I am not insensitive to these serious concerns, and I will continue to work to promote universal access to affordable health insurance for all Americans.

Mr. LEVIN. Mr. President, I oppose this amendment because it is a blatant invasion of home rule in the District of Columbia. It does not simply limit the manner in which the District can use Federal funds. It also limits how the District can use the revenue that it raises from its own residents. If the concept of home rule is to mean anything, it is that the District has the right to legislate in areas that involve its own tax revenues affecting its own residents. The Lott amendment violates that most basic element of home rule.

Mr. LOTT. Mr. President, I thank again the Senator from Indiana for his participation here today. As he noted, and I want to remind Senators, the original title for this bill in the D.C. City Council was the Domestic Partner Act and, as I understand it, came as a response to a judge's ruling that the District's marriage statute did not permit homosexual marriages—even though the city's statute did not explicitly state that couples had to be of the opposite sex. Of course, the bill's title was subsequently changed later to the Health Benefits Extension Act as part of a calculated effort to deflect widespread public opposition to the provision in the District itself by recasting the bill in the most favorable light possible by trying to convey it as a health issue.

But, the D.C. law is not about extending health benefits to underserved populations in Washington. Its real purpose is to serve as the first step toward officially sanctioning homosexual marriages or unions in the Nation's Capital and, indeed, across the country. This provision, if it stands, will mark the first time that the equivalent of a State legislature has officially endorsed this kind of relationship of couples living together outside of marriage.

If the bill were truly an attempt to extend health coverage to unserved segments of the District's population—which they certainly need—then its domestic partnership registration procedure would be expressly limited to use by residents of the District—which it is not. As the law is drafted, every unmarried, homosexual, lesbian, or heterosexual couple living together in the Nation may register their relationship in the District.

In addition, the provision in the D.C. Act that provides a tax deduction for private employers who extend health benefits to those who register as domestic partners appears to be preempted by a section in the Federal Employee Retirement Security Act of 1974 [ERISA] according to several precedents established in the Federal courts. Thus, private sector employees may not be able to take the tax deductions set out in the law, yet another indication that the bill is not well thought out as far as extending health benefits.

Let me just quote from a statement that was made by a coalition of ministers that have a great interest in this issue. They appeared before a House committee. It took courage by these residents of the District of Columbia to come forth and take a stand and say this is wrong. But let me just read you a couple of paragraphs, and I think you will have a better understanding of why they did it, why the ministers would do this:

> Recently, a criminologist from American University stated that the reason children are working as assassins is because they have no respect for traditional family values. Our great city is in a great crisis. How can we teach our children right from wrong if the city officials and, in fact, the Federal Government endorse immoral behavior?
>
> In addition, the District government is party to deceitful behavior by passing an act which is antifamily and provides special rights for homosexuals under the guise of health care. This act does not truly address the city's health care problems. It is a farce. We are not opposed to health care. However, this act is simply bad law.

That is a quote from the statement of the ministers in the District of Columbia.

Mr. President, this is an opportunity for this body to define what we mean by family. That is what this debate is about. It is not about extending and expanding health care benefits.

Late studies show that only 25 District employees will actually realistically be given extended benefits. Maybe it will be more, but that is information we have been provided. The object of the legislation is to officially sanction and legitimize relationships outside of marriage.

This is one of the most important issues that we will face, I think, this year in this body, and I urge the adoption of this amendment.

Mr. President, I have no further requests for time. I think we have made our points on this amendment. If the Senator would like, I am prepared now to yield back the remainder of our time.

Mr. ADAMS. I am prepared to yield back the remainder of my time.

Mr. LOTT. I yield back the remainder of my time.

Mr. ADAMS. I yield back the remainder of my time and I move to table the amendment.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Washington [Mr. ADAMS] to table the amendment of the Senator from Mississippi [Mr. LOTT]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Tennessee [Mr. GORE], and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS], the Senator from California [Mr. SEYMOUR], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 51, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—41

Adams
Akaka
Biden
Bingaman
Boren
Bradley
Breaux
Chafee
Cohen
Cranston
D'Amato
Dodd
Glenn
Gorton
Graham
Harkin
Hatfield
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—51

Baucus
Bentsen
Bond
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Craig
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gramm
Grassley
Hatch
Heflin
Hollings
Johnston
Kassebaum
Kasten
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Pryor
Reid
Roth
Sasser
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

NOT VOTING—8

Burdick
Conrad
Gore
Helms
Jeffords
Mikulski
Seymour
Symms

So the motion to table the amendment (No. 2799) was rejected.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

Mr. President, I believe the Senator from Missouri moved to reconsider.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Mississippi.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I do not require a rollcall on this, and I do not believe Senator Lott does.

The vote has been apparent, so if you want to put the question, why, we are prepared to vote by voice.

The PRESIDING OFFICER. Is there further debate on amendment No. 2799? If not, the question is on agreeing to the amendment.

The amendment (No. 2799) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I send a modification—Mr. President, I make a parliamentary inquiry. Mr. President, it is my understanding that we return now—

The PRESIDING OFFICER. If the Senator from Washington will yield for a moment, the question would now occur on the committee amendment, as amended, on page 2.

Mr. ADAMS. Parliamentary inquiry. I have a second-degree amendment which was pending, and we return to that.

The PRESIDING OFFICER. That will recur after we dispose of the committee amendment.

Mr. ADAMS. The committee amendment.

The PRESIDING OFFICER. That is correct.

Mr. ADAMS. That is correct. This is Senator LOTT's amendment to the committee amendment, so we are voting on the committee amendment now that he amended.

The PRESIDING OFFICER. That is correct.

Mr. ADAMS. I thank the Chair.

The PRESIDING OFFICER. Is there is no objection, the committee amendment, as amended, is agreed to.

AMENDMENT NO. 2797, AS MODIFIED.

Mr. ADAMS. Mr. President, it is my understanding, and I make a parliamentary inquiry, that we return now to the second-degree amendment which I had offered to the amendment of the Senator from Alabama [Mr. SHELBY] and I offer a modification to that amendment and send it to the desk.

The PRESIDING OFFICER. The Senator is correct. The amendment is so modified.

Mr. ADAMS. I ask that the clerk read the language so that the Senator from Alabama may hear it.

The PRESIDING OFFICER. The clerk will report.

Mr. LOTT. Mr. President, I move to reconsider.

Mr. WALLOP. I move to lay that motion on the table.

The PRESIDING OFFICER. The clerk will read the amendment.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will read the amendment.

Mr. WALLOP. Mr. President, parliamentary inquiry.

Is not the motion of the Senator from Mississippi in order prior to the reporting of the amendment?

Mr. ADAMS. Mr. President, if I may respond to the Senator, the amendment of the Senator—

The PRESIDING OFFICER. Will the Senator from Washington yield for a moment. The clerk will read the amendment.

Mr. WALLOP. Mr. President, parliamentary inquiry.

The Senator from Mississippi moved to reconsider the previous vote which would take precedence over reading the amendment that follows.

Mr. ADAMS. If the Senator will yield, the vote on the committee amendment was announced to have passed without objection.

Mr. WALLOP. Fair enough. I understand that and that was the vote which we were moving to reconsider.

Mr. ADAMS. The other one had already been ruled upon by the Chair and the Senator's amendment had been reconsidered and that motion had been tabled. So his amendment is in place.

The PRESIDING OFFICER. The Chair wants the Senator from Wyoming to know those motions were heard by the Chair.

Mr. LOTT. I thank the Chair.

The PRESIDING OFFICER. Is there is no objection, the clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 2797, as modified.

Mr. ADAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert.

——. Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special or primary election to be held within 90 days after the enactment of this Act the following initiative—

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This Initiative Measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) Imposition of a Sentence of Death.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) Review of a Sentence of Death.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) Implementation of Sentence of Death.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) Special Bar To Execution.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) Conscientious Objection To Participation in Execution.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) Appointment of Counsel for Indigent Capital Defendants.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) Representation After Finality of Judgment.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) Claims of Ineffectiveness of Counsel in Collateral Proceedings.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) Time for Collateral Attack on Death Sentence.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) Stay of Execution.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) Finality of the Decision on Review.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) Definitions.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

Mr. ADAMS. Mr. President, for the benefit of Members, I now wish to engage in a colloquy with the Senator from Alabama. After that, we are hopeful that we can put this amendment to a vote, and that it will be a voice vote. As I say, I recognize the rights of all Members, but I am trying to indicate what the managers are attempting to do. We would ask for a voice vote on that. Then the Senator from Missouri has an amendment which we have accepted which could go by voice vote. Then we are prepared to accept that the bill be voted by voice vote.

I recognize the rights of all Members to call for it, but that is the proposed course of action that the managers hope to follow, and we have cleared as best we can with all of the Members who have been involved.

Now I would yield the floor to the Senator from Alabama or I will stay on the floor to engage in a colloquy, whichever he prefers.

Mr. SHELBY. I appreciate the Senator from Washington yielding, Mr. President.

Mr. President, it is my intention, after consultation with the Senator from Washington and also the Senator from Missouri, the floor managers of this bill, that the technical amendment, the amendment that the Senator from Washington has offered to the Shelby amendment, would be calling for a referendum within the District of Columbia on the Shelby-proposed death penalty bill within 90 days—

Mr. ADAMS. That is correct.

Mr. SHELBY. Of the enactment. And further that the two managers on behalf of the Senate when they—if we were to adopt this, which we believe we will, as part of this bill—that when they go to conference they will do everything they can to keep this in the bill since we are going to let the people of the District of Columbia have a referendum on this bill. We are not going to at this time impose it on them. Is that your understanding?

Mr. ADAMS. That is correct. That is my understanding of this matter.

Mr. SHELBY. Is that the further understanding, if I could get the attention of the Senator from Missouri, the other manager of the bill? Is that his understanding of what he, too, would do on behalf of the Senate?

Mr. BOND. Mr. President, one point of clarification that I will request. The referendum is to be on a death penalty for the District of Columbia. As I understand it, it was not to include federalizing the jurisdiction of the death penalty in the District of Columbia. Is that assumption correct?

Mr. SHELBY. We have not discussed that. My bill would federalize it. It would let the people of the District of Columbia vote on it.

Mr. BOND. Mr. President, if I might suggest, there has been a referendum or an initiative, in the District of Columbia—

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Chamber.

Mr. BYRD. We cannot hear what the Senator is saying.

Mr. BOND. Mr. President, it was my understanding that there has been a proposal for a death penalty in the District of Columbia which had come from the council. My personal concern with the Shelby amendment was that it would establish Federal jurisdiction over the death penalty and change the jurisdiction significantly in the District of Columbia courts, the Federal courts for the District of Columbia.

The purpose, as I understood it, of the effort by the Senator from Alabama was to achieve, either through his bill initially, the death penalty, or to provide for a vote by the residents of the Districts of Columbia on a death penalty measure, which would not necessarily be a Federal crime. My real concern, I say to my friend from Alabama, is that we not overburden the U.S. district courts, allowing the criminal court system in the District of Columbia to administer such penalties as might be adopted by the voters in the District of Columbia.

Mr. ADAMS. Is that the understanding of the Senator from Alabama, that we are committed to uphold his proposal and his amendment but that the jurisdiction could be either in the superior court or the Federal district court?

Mr. SHELBY. That is right. We will do that.

Mr. ADAMS. That is our understanding.

Does that satisfy the Senator, that it would be in either court?

Mr. BOND. Yes. I have no problem. I wanted to clarify that we were not committing to necessarily retain Federal jurisdiction for the death penalty in conference.

With that caveat, I will support the amendment. I will support the position taken by the Senator from Alabama. I believe this is an appropriate resolution. I commend the chairman of the subcommittee and the Senator from Alabama for having worked out a very good compromise to the situation.

Mr. SHELBY. If the Senator from Missouri would yield, that would be my understanding from the colloquy we have been through.

Mr. ADAMS. That is my understanding. We are prepared to vote, Mr. President.

The PRESIDING OFFICER. Is there further debate?

Mr. LEVIN. Mr. President, just two quick points. One is that the vote in the Senate on the second-degree amendment here, and on the Shelby amendment, in effect was 50-45. That was the vote on tabling the second-degree amendment. It was a very close vote in the Senate, and I am sure the record will speak for itself about just how close the Senate was divided on that issue.

I happen to prefer the Adams substitute to the Shelby amendment as being the lesser of two evils, but we are still forcing on the District of Columbia a referendum. This is still a violation, I believe, of their basic home rule approach, which is that they decide when they will vote on ordinances, rather than the Congress of the United States forcing them to vote on an ordinance. I consider this still to be inconsistent with home rule.

On the other hand, it is preferable to the larger violation of home rule, which would be involved in adopting the underlying Shelby amendment, because then we would be adopting the substance of the capital punishment ordinance in and of itself for the District.

So for that reason, I think the Adams second-degree amendment, as modified, is preferable to the underlying amendment.

I have no objection.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the Adams amendment, No. 2797, as modified.

The amendment (No. 2797), as modified, was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I urge adoption of my amendment, as amended.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the Shelby amendment, No. 2795, as amended.

The amendment (No. 2795), as amended, was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. ADAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2800

(Purpose: To provide a mechanism for the Congressional Budget Office and the Office of Management and Budget to determine the expenditure of appropriated funds for different income categories)

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of the Senator from Colorado [Mr. BROWN] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. BROWN, proposes an amendment numbered 2800.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, after line 25, insert the following new section:

SEC. . (a) In the case of any applicant for assistance provided with funds appropriated under this Act, the applicant shall include the information described in section 6109 of the Internal Revenue Code of 1986.

(b) Any agency processing any application described in subsection (a) shall submit the information provided by the applicant (including the dollar value of the United States Government assistance to the applicant) to the Internal Revenue Service.

(c) On a written request from the Director of the Office of Management and Budget or the Director of the Congressional Budget Office, the Secretary of the Treasury shall furnish each such Office with—

(1) the dollar value of the United States Government assistance to the applicant; and

(2) any return or return information specified in the request, except any return or return information that can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

Mr. BOND. Mr. President, very briefly, this is an amendment that the Senator from Colorado suggested to implement the provisions of the 1993 budget resolution, which would allow the Director of OMB and the Director of the Congressional Budget Office to obtain information for applicants for assistance, provided with funds appropriated under the act.

In effect, this would provide information on the dollar value of the assistance to the applicant, and the information generically about the people who receive assistance.

This has been thoroughly discussed and debated in the budget considerations, and I believe it is not a controversial amendment. I do not believe there is any objection on this side.

Mr. ADAMS. Mr. President, I understand this amendment would make it possible for the Congressional Budget Office to get certain budget information that would be added to the other appropriations bills.

On that basis, we have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BYRD. Mr. President, if the Chair will withhold, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask that the amendment just previously submitted be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

The amendment (No. 2800) was withdrawn.

Mr. ADAMS. I have no further debate on this bill.

Mr. BOND. Mr. President, I say this is an effort to gain statistical information. Obviously, we need to discuss this further and rework it, and we will not offer that amendment on this measure. I think there has been the possibility of broad bipartisan consensus that we need this statistical information, but we will review the phrasing of and implementation of the budget resolution. I think that this is something that we can do at a later time. I will not pursue it at this time.

Mr. ADAMS. I thank the Senator.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. ADAMS. I yield.

Mr. BYRD. This may be a perfectly good amendment, but I cannot tell from the reading of it in the little time that we have here just what it does.

I only wanted to be sure that I understood what the amendment does before we proceed with it. As I say, it may be a perfectly good amendment, but I think under the circumstances, unless we understand exactly what it does, I would not want to go forward.

The Senator has withdrawn it. I thank him.

Mr. BOND. Mr. President, I look forward to working with our distinguished chairman as we explore how a similar amendment might work in the future.

Mr. DASCHLE. Mr. President, since coming to Congress, I have joined with the majority of my colleagues to support funding for the District of Columbia through the annual appropriations process. Since serving in Congress, I have never taken the time of either the House or the Senate to speak on these appropriations bills.

However, I intend to change that today. There is one issue facing all residents of the District of Columbia for which I feel compelled to discuss. That issue is the serious crime problem facing both residents and visitors in the Nation's Capital.

Mr. President, I speak to this issue not only because I live in the District, as do over 20 members of my staff, but also because I am concerned with the safety of the hundreds of South Dakotans who annually visit the Nation's Capital.

When my constituents contact my office for information on Washington, they question their safety. Regrettably, these questions are the norm rather than the exception. South Dakotans watch the crime reports from the Nation's Capital. They know about the fatalities. They know about the drug problems. They ask if it is safe to walk the streets of their Capital City. They ask for my guidance whether they can be safe seeking lodging in Washington or if they need to stay in the surrounding suburbs to be safe from crime.

This cannot continue, Mr. President. A visit to Washington should focus on questions of sightseeing, not safety. South Dakotans and all Americans should be planning their tours around the many benefits this city has to offer, not basing them on how they can most confidently assure their families' safety.

It is these concerns that brings me to the Senate floor. We have before us H.R. 5517, the fiscal year 1993 appropriations bill for the District of Columbia. Subcommittee Chairman BROCK ADAMS has done a commendable job of fashioning an appropriations bill which allocates scarce Federal dollars for the city in the most efficient and prudent manner possible.

Senator ADAMS' subcommittee has made it abundantly clear the crime issue must be brought under control and progress must be demonstrated. The committee's report references the results of a recent ward six survey by saying, "The picture that emerges from a survey of ward residents about crime in the city and the police response to it is one of fear and frustration. There is no higher priority for city officials than public safety and health." I rise to echo these comments.

A serious problem lies ahead in the capability of the District's Metropolitan Police Department to respond to this crisis. The legislation before us today addresses these needs by emphasing the importance the Senate attaches to a number of the programs already begun by Mayor Kelly and the department.

Continuing and strengthening the Community Empowerment Policing Program [CEP] is crucial. It should be obvious that the closer police officers get to the neighborhood residents they serve, the more effective and efficient this partnership can be in fighting crime. City residents and visitors need to be reassured CEP goes beyond responding to the political crisis of the moment by serving as an effective and ongoing partnership between the police and the people they serve.

Two problems facing the department may make it difficult to implement effective crime fighting programs. The first is referred to in the committee's report—the deficiency in the department's force strength. The second is the denial of adequate pay to police officers.

The leadership of this city must come to grips with the serious expected problem of police officer retirements. In part, because of recruiting, training, and morale problems, as noted by the subcommittee, the city's police department will face a tremendous crisis of available officers. Over 1,000 police officers are eligible to retire because they have reached more than 20 years of service.

Perhaps more crucial in explaining this problem is the serious pay deficiency received by these officers. An October 8, 1989, 3 percent increase was the last raise received by officers of the Metropolitan Police Department. Of the nine major jurisdictions surrounding the Washington area, the Washington Metropolitan Police Department starting pay scale is the lowest.

I have participated in meetings where Mayor Kelly described the serious financial problems facing the city's leaders. It is a problem of unquestionable magnitude. With this financial crisis in mind, the committee report references the difficulty of singling out any one group of employees for a raise.

While some may argue that those who wear bullet-proof vests as their uniform of necessity should be considered as a higher priority when it comes to the allocation of scarce resources, the difficulty of finding the necessary funds to address this problem is real.

However, one could have more confidence in the argument made by city leaders about the difficulty in choosing between city employees for raises if the Washington Post was no longer able to editorialize on waste in city programs, such as the District's public housing system. A recent editorial revealed this city has 888 employees in the public housing program. This is twice as many employees as the 477 employees the U.S. Department of Housing and Urban Development indicates a city of Washington's size should have. Incredibly, the Post editorial reported the District's housing program employs the equivalent of one supervisor for each employee.

Despite this bloated staffing arrangement, public housing program officials found it necessary to hire outside private contractors to undertake rehabilitation work in public housing and hired other outside consultants to monitor the contracts and their progress.

Mr. President, I understand that the savings from an efficiently operated public housing program would not necessarily translate to the war against crime. It is, however, a matter of priorities.

Officers charged with the responsibility of protecting the residents and visitors of this city should not be without emergency radios. However, they frequently find themselves in that position.

Officers charged with protecting the residents and visitors of this city should not be without computers in their automobiles. However, unlike other departments of comparable size, District police officers do not have these crime-fighting tools.

Officers charged with protecting the residents and visitors of this city should not be without adequate and safe police cruisers. However, they frequently find themselves in that position. Mr. Larry Brown, advisory neighborhood commissioner for ward 6A recently wrote in his constituent newsletter, "For over a year, half the police cars that patrol our area have been broken, leaving us in an extremely dangerous position." I have been advised no police cruisers were purchased last year, leaving many current vehicles with over 100,000 miles.

Officers charged with protecting the residents and visitors of this city should not be without adequate training. Because of misplaced priorities, they frequently find themselves in that position because the department's training budget for some 4,500 officers is a mere $49,000.

Mayor Kelly inherited a serious financial problem when she became the Mayor of this city. There is no mistaking that fact. She has taken some positive steps to correct these deficiencies for which I applaud her. For example, she has set in motion a management audit study of the Metropolitan Police Department. I will be surprised if the findings of this study do not reflect the problems I have identified.

This Senate must work to make certain the full available resources of the Federal Government are available to this city in order to take back the streets for the visitors and residents of Washington.

Senator ADAMS and ranking member BOND have taken a positive step by bringing this appropriation bill to the Senate floor. I commend them for their efforts. I intend to support this legislation because we must see progress in this battle. The streets must be safe for all of those who live in and visit Washington. I intend to continue to be involved in future appropriations bills to make certain the battle against crime is fought and progress is made to make the streets safe for all.

The PRESIDING OFFICER. Are there further amendments to the bill?

If not, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5517), as amended, was passed.

Mr. BOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ADAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. BOND, Mr. GORTON, and Mr. HATFIELD conferees on the part of the Senate.

Mr. ADAMS. Mr. President, I thank all those who have participated.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I want to pay a special thanks to the distinguished Senator from Washington, Mr. ADAMS, the chairman of the District of Columbia Subcommittee on Appropriations for his excellent work in shepherding the D.C. appropriations bill through the Senate in his usual, careful, and thorough manner.

I also want to thank the distinguished Senator from Missouri, Senator BOND, for his very able assistance and for his splendid cooperation and for the time that he has given to this difficult bill. And it is a difficult bill. Somebody has to do it. I know, I was chairman of the Appropriations Subcommittee for the District of Columbia for 7 years, and it is a tough task. But somebody has to shoulder the responsibility and these two Senators have done that.

As we all know, the senior Senator from Washington has announced he will retire at the end of this session. Senator ADAMS has had a long and distinguished career as a Member of the House of Representatives, where he served as chairman of the Budget Committee, and as Secretary of Transportation. We all know that he served during the Carter administration.

This will be the last time Senator ADAMS will manage the District of Columbia appropriations bill, a bill which he has ably overseen since he assumed the chairmanship of that subcommittee in 1989.

The Senator from Washington has always accepted his responsibilities willingly and graciously. He has been a hardworking, dedicated, loyal member of the Appropriations Committee during his career in the Senate. He has always been most helpful and most cooperative with me in matters that affected his committee and he has always been very supportive of me on that committee.

So, Mr. President, I am going to miss BROCK ADAMS in his handling of this legislation and, after this year, I am going to miss him on the committee, and I regret that.

Senator ADAMS and Senator BOND, the ranking member, both deserve credit for producing a bill that balances its concerns of this Federal City—there is only one, the Federal City—as well as the responsibilities of the Congress of the United States.

I yield the floor.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO REV. WILLIAM J. BYRON

Mr. LEAHY. Mr. President, after 10 years of service to the Catholic University of America as president, the Reverend William J. Byron has decided to move on. His departure ends an era for the university. Father Byron has brought much to the community both on and off his campus and will be greatly missed.

Father Byron grew up in Philadelphia and joined the Jesuit order in 1950 after service in the Army's 508th Parachute Infantry and attending St. Joseph's College. He holds degrees in philosophy, economics, and theology. Rev. Father Byron was the president of the University of Scranton and a dean at Loyola University of New Orleans.

Father Byron was inaugurated president of Catholic University in November 1982 and immediately set about making his mark. He initiated plans to renovate facilities, increased student aid, and enhanced teaching and research. He brought in new scholarship money, built new housing, and renovated Brookland Gymnasium which today houses design studios, galleries, and an auditorium. Today, a new law school building is in the works.

Father Byron has worked hard for the students of Catholic University. Most importantly, he has given them a vision. He gave them the freedom to explore, but reminded them that there were proper codes of behavior. Father Byron has increased diversity on the campus. He has found time to author three books.

Father Byron has been honored on nearly every level the world over. In 1986, he was selected as one of the "most effective" U.S. college presidents. He was received by Pope John Paul II in a private audience in October 1987. He has been named Washingtonian of the Year by Washingtonian magazine. Then, in 1989, Pope John Paul chose Father Byron as one of 17 U.S. delegates to consult with the Vatican on higher education. He has been received by King Juan Carlos of Spain in Madrid. The Washington Post recently ran a story on him and his work at Catholic University.

Catholic University is saying good bye to a wonderful man and one we can all admire. He has been a good friend and I have enjoyed my own association with him. We often joked that our Irish ancestry gave us both a facial resemblance and a resemblance in our hairline, but I think that his exemplary accomplishments makes him truly a unique person.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar 729, Philip Brunelle, to be a member of the National Council on the Arts. I further ask unanimous consent that the Senate proceed to the immediate consideration of the nomination; that the nominee be confirmed; that any statement appear in the RECORD as if read; that the motion to reconsider be laid upon the table; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Philip Brunelle, of Minnesota, to be a member of the National Council on the Arts for the remainder of the term expiring September 3, 1994, vice Phyllis Curtin, resigned.

STATEMENT ON THE NOMINATION OF PHILIP BRUNELLE

Mr. DURENBERGER. Mr. President, it is with great pleasure that I take the floor to speak enthusiastically for the President's outstanding nomination of Philip Brunelle to the National Council on the Arts. In so doing, the President recognizes a lifetime of achievement in music and adds a strong voice to the cause of national support for the arts.

I want to express my gratitude to Senator KENNEDY and my other colleagues on the Labor and Human Resources Committee for bringing this nomination to the floor expeditiously.

Mr. President, Minnesota ranks 21st in population among the States, but we are proud to be 3d in the Nation behind only California and New York in investment in the arts. We have proudly contributed a number of our citizens to the national effort to encourage all our citizens to do the same. Martin Friedman, former director of the Walker Art Center, was one such figure, whose commitment to the arts is matched by his ability to bring together the resources necessary to make them flourish. Ken Dayton also served on the NEA board from 1970 to 1976, as did Sandra Hale in 1980.

Philip Brunelle is affectionately known as "Minnesota's Mr. Music." He is a native of Austin, MN. His talent as a performer, composer, arranger, conductor, artistic director, and producer have earned him acclaim throughout Minnesota, the Midwest, America, and the world.

The span of his accomplishments—from his Plymouth Music Series, to the Minnesota Opera, to his 1989 Ovation Award for Best Opera Recording, to over 100 appearances on Garrison Keillor's original "Prairie Home Companion"—is remarkable. But perhaps his greatest lasting contribution will be the work he does encouraging young artists and getting their works performed for the first time.

He is a person of unusual talent, which is magnified by a global vision for the importance of the arts to the welfare of humankind. I am pleased his name is now before the Senate, and that soon his energy will be behind the Federal effort for the arts.

I thank the leadership for bringing this matter up without delay and urge all of my colleagues to support this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

REMOVAL OF INJUNCTION OF SECRECY

Mr. FORD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following two treaties transmitted to the Senate today by the President of the United States:

Protocol to the Treaty of Friendship, Commerce, and Consular Rights with the Republic of Finland (Treaty Document No. 102-34); and

Protocol to the Treaty of Friendship, Commerce and Navigation with Ireland (Treaty Document No. 102-35).

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to the Treaty of Friendship, Commerce, and Consular Rights Between the United States of America and the Republic of Finland of February 13, 1934, as modified by the Protocol of December 4, 1952, signed at Washington on July 1, 1991. I transmit also, for the information of the Senate, the report of the Department of State with respect to this protocol.

This protocol will establish the legal basis by which the United States may issue investor (E–2) visas to qualified nationals of Finland. The protocol modifies the U.S.-Finland friendship, commerce, and navigation (FCN) treaty to allow for entry and sojourn of investors. This is a benefit provided in the large majority of U.S. FCN treaties. It is also a benefit already accorded to U.S. investors in Finland who are eligible for visas that offer comparable benefits to those that would be accorded nationals of Finland under E–2 visa status.

As I reaffirmed in my December 1991 policy statement, the United States has long championed the benefits of an open investment climate, both at home and abroad. U.S. policy is to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. Finland also provides an open investment climate. Visas for investors facilitate investment activity and thus directly support our mutual policy objectives of an open investment climate.

I recommend that the Senate consider this protocol as soon as possible and give its advice and consent to ratification of the protocol at an early date.

GEORGE BUSH.

THE WHITE HOUSE, *July 30, 1992.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to the Treaty of Friendship, Commerce, and Navigation between the United States of America and Ireland of January 21, 1950, signed at Washington on June 24, 1992. I transmit also, for the information of the Senate, the report of the Department of State with respect to this protocol.

This protocol will establish the legal basis by which the United States may issue investor (E–2) visas to qualified nationals of Ireland. The protocol modifies the U.S.-Ireland friendship, commerce, and navigation (FCN) treaty to allow for entry and sojourn of investors. This is a benefit provided in the large majority of U.S. FCN treaties. It is also a benefit already accorded to U.S. investors in Ireland who are eligible for visas that offer comparable benefits to those that would be accorded nationals of Ireland under E–2 visa status.

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GEORGE BUSH.

THE WHITE HOUSE, *July 30, 1992.*

AUTHORIZING EXTENSION OF TIME LIMITATIONS FOR A FERC-ISSUED LICENSE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 533, S. 2725, a bill to authorize extension of time limitation for a FERC-issued license.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2725) to authorize extension of time limitations for a FERC-issued license, which had been reported from the Committee on Energy and Natural Resources with an amendment.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill to be inserted are shown in italic.)

S. 2725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee of FERC project numbered **[4652]** *4656* (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until March 26, 1999, the time required for the licensee to acquire the required real property and commence the construction of project numbered 4652. The authorization for issuing extensions under this Act shall terminate on March 26, 1999.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. If there is no objection, the committee amendment is agreed to.

AMENDMENT NO. 2801

(Purpose: To make a technical correction.)

Mr. BOND. Mr. President, I send a technical amendment on behalf of Senator CRAIG to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. CRAIG, proposes an amendment numbered 2801.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 6 strike "4652" and insert in lieu thereof "4656".

Mr. CRAIG. Mr. President, this amendment would correct a drafting error in S. 2725 as reported by the Committee on Energy and Natural Resources.

At the committee business meeting, a technical change was made to S. 2725. However, that change was not made in both places in the bill as intended. Instead the change was made in only one place in the bill.

This amendment, that is purely technical in nature, would correct this problem.

The PRESIDING OFFICER. Without objection, the floor amendment is withdrawn.

The amendment (No. 2801) was withdrawn.

Later, the following occurred:

VITIATION OF EARLIER ACTION ON AMENDMENT NO. 2801

The PRESIDING OFFICER. If the Senator will suspend for a moment, if there is no objection, the action on amendment No. 2801 is vitiated; and the amendment will be considered agreed to prior to the passage of S. 2725.

The Chair hears no objection. The withdrawal is indeed vitiated.

The amendment (No. 2801) was agreed to.

The PRESIDING OFFICER. If there is no objection, the bill is deemed read a third time and passed.

The bill (S. 2725), as amended, was deemed read the third time and passed, as follows:

S. 2725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee of FERC project numbered 4656 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until March 26, 1999, the time required for the licensee to acquire the required real property and commence the construction of project numbered 4656. The authorization for issuing extensions under this Act shall terminate on March 26, 1999.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL TIME TO NEGOTIATE SETTLEMENT OF LAND DISPUTE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5566, a bill to provide additional time to negotiate settlement of a land dispute in South Carolina, just received from the House; that the bill be deemed read three times, passed and the motion to reconsider laid upon the table; further, that a statement by Senator INOUYE and a colloquy between Senators HOLLINGS and THURMOND appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5566) was deemed read three times and passed.

Mr. INOUYE. Mr. President, I rise today in support of H.R. 5566, a bill to provide additional time to negotiate settlement of a land dispute in South Carolina. The dispute in question involves an action entitled "*Catawba Indian Tribe of South Carolina* v. *State of South Carolina, et al.*," Civil Action No. 80-2050 (D.S.C.). It was originally filed as a defendant class action, naming 76 defendants as representatives of a defendant class then estimated to number 27,500.

Among other reasons, the need for this legislation is necessitated by the slow movement of this lawsuit through the judicial system. The action was originally filed in 1980 and has barely progressed beyond the procedural stages—questions of standing to sue; questions of what law applies. The case has now been in litigation for 12 years. Even as we act, other procedural issues remain to be resolved, in particular a pending appeal on the question of certification of a defendant class. As a result of this slow movement in the courts, and the determination by the Supreme Court with respect to the application of the State statute of limitations, the Catawba Tribe fears that its right to bring actions against individual landowners within the claim area will expire on October 19, 1992, and intends to begin filing such claims in the immediate future.

There have been ongoing negotiations with the State of South Carolina to resolve this claim since at least 1975. Substantial progress has been made in these negotiations, but significant issues remain to be resolved. Because this claim is founded on Federal Indian law, and because the Constitution vests plenary authority over Indian affairs in the Congress of the United States, this claim cannot be resolved without an act of Congress. Even if the parties were to reach full agreement in the immediate future, there would not be sufficient time to enact ratifying or confirming legislation and thus avoid the filing of claims against as many as 35,000 to 40,000 individual defendants.

I have read with care the floor statement of Representative JOHN SPRATT who represents this district and is the principal sponsor of this legislation in the House. It is a detailed statement that describes the background of this case and reviews the judicial history of this claim. I believe it is a very fair statement and accurately reflects this situation. I would particularly commend Representative SPRATT for his candor in pointing out the fact that as a landowner in the claim area, he himself is a defendant in this case.

Mr. President, as JOHN SPRATT emphasized, nothing in this bill is intended to affect in any way the substantive claims or defenses any of the litigants may assert should the Catawba's land claim be litigated. Its only effect is to extend the time for the filing of claims against individual defendants from October 19, 1992, to October 1, 1993.

I have only one concern with the statement of Representative SPRATT. He stated that this bill—

> * * * does not state or imply whether the claimants, the Catawba Indian Tribe of South Carolina, are an Indian tribe today or were a tribe of South Carolina, are an Indian tribe today or were a tribe at any time relevant to their claim. Nor does the bill state whether any trust relationship even existed between the Catawbas and the federal government.

While I concur generally with Mr. SPRATT's characterization of the measure, it does appear that at least one major contention relating to these issues has been resolved. That is the interpretation to be given to the 1959 Catawba Division of Assets Act (Public Law 87-322; 25 U.S.C. 931 et seq.). Initially the defendants in this case argued that the Division of Assets Act extinguished the existence of the Catawba Tribe and any claim it had prior to the enactment of the act.

In addressing this argument, the Supreme Court in *South Carolina* v. *Catawba Indian Tribe*, 476 U.S. 498 (1986), stated:

> We do not accept petitioners' argument that the Catawba Act immediately extinguished any claim that the Tribe had before the statute bacame effective. Rather, we assume that the status of the claim remained exactly the same immediately before and immediately after the effective date of the Act, but that the Tribe there-after had an obligation to proceed to assert its claim in a timely manner as would any other person or citizen within the State's jurisdiction. 476 U.S. at 510.

I do not know what issues remain to be litigated on the question of the tribe's existence or its trust relationship with the United States. But it is clear, and I fully agree with the sponsors of this legislation, that nothing in this bill is intended to affect in any way the substantive claims or defenses that may be asserted by any party.

I believe it is particularly important to note that in its letter of June 24, 1992, to Senator THURMOND, Senator HOLLINGS, and Representative SPRATT, the Department of Justice informed the Congress of its opinion that this legislation is fully within the constitutional authority of the Congress to enact. The Native American Rights Fund, which represents the Catawbas in this litigation, concurs in this result. Based on this analysis and these conclusions, the Honorable Gilbert Blue, Chief of the Catawba Indian Tribe, in a letter to me dated July 22, 1992, has expressed the tribe's support for this legislation. I ask unanimous consent that this letter be printed in the RECORD immediately following the conculusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INOUYE. Mr. President, the Select Committee on Indian Affairs has developed settlement legislation for many tribes. I refer particularly to settlement of the claims of the Passamaquoddy and Penobscot Tribes in Maine, the Narragansett Tribe in Rhode Island, the Mashantucket Pequot Tribe in Connecticut, the Gay Head Wampanoag Tribe in Massachusetts, the Seminole Tribe in Florida, and the Puyallup Tribe in Washington. I look forward to working with the South Carolina delegation, the Catawbas and the State of South Carolina in resolving this claim. The whole purpose of this bill is to allow adequate time for this to occur.

Mr. President, I urge my colleagues to give their favorable consideration to this measure.

EXHIBIT 1

CATAWBA NATION,
Rock Hill, SC, July 22, 1992.

Re: S. 2989.

Hon. DANIEL K. INOUYE,
Chairman, Senate Select Committee on Indian Affairs, Washington, DC.

DEAR SENATOR INOUYE: On June 3, 1992, the Executive Committee of the Catawba Indian Tribe of South Carolina met and voted unanimously to support legislation that would suspend the running of limitations periods applicable to the Tribe's land claim. The Catawba Tribe has, since it first undertook to resolve this claim in 1977, sought to avoid disruptive litigation in favor of a consensual settlement. Our attorneys have reviewed S. 2989 and are satisfied that it is drafted in such a way as to provide as much protection to our claim as can be provided. Our support for S. 2989 is based on our understanding that Congress does have the authority to enact such legislation.

I will be happy to provide further information or comment if you desire. Thank you for your consideration.

Sincerely,

GILBERT BLUE,
Chief, Catawba Indian Tribe.

Mr. HOLLINGS. Mr. President, I would like to take a moment to express the intent of Congress regarding passage of H.R. 5566. This bill is not in any way meant to affect the substantive claims or defenses of either the Catawbas or the landowners should the legal proceedings in the Catawba's land claim continue. During the drafting of this legislation, it was specifically agreed by both sides that this bill would not touch the substantive merits of their claims.

This legislation merely suspends any period or statute of limitations until October 1, 1993, thus allowing additional time for negotiations to proceed. No other meaning should be drawn from this legislation by any party or court. Particularly, H.R. 5566 does not state or imply whether the Catawbas are now or were an Indian tribe at any time relevant to their claim. In addition, the bill makes no comment on whether any trust relationship ever existed between the Catawbas and the Federal Government. Congress believes that such issues are for the courts to resolve and does not speak to these or any other such issues in this legislation.

I invite my friend and colleague from South Carolina to comment on the accuracy of these statements.

Mr. THURMOND. Mr. President, I am in accord with the comments made by my colleague, Senator HOLLINGS, concerning H.R. 5566.

Along with Senator HOLLINGS, I introduced an identical bill, S. 2989, which would give the parties involved additional time to continue their negotiations.

Additionally, I ask unanimous consent that a letter which I received from the Department of Justice on this matter, stating that our legislation does not violate the principles of State sovereignty, separation of powers, or any other applicable constitutional principles, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 24, 1992.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: This is in response to your request for the views of the Department of Justice on the constitutionality of draft legislation affecting a claim by the Catawba Indian Tribe of South Carolina against approximately 27,500 landowners in South Carolina. The draft bill would have the effect of tolling the statute of limitations applicable to the Tribe's claims if the statute has not already run. We have briefly analyzed the draft bill in light of pertinent legal and constitutional issues. In our view, the legislation is constitutional.

The purpose of the proposed legislation is to preserve, for a brief period, the current legal status of the Tribe's claims under the applicable statute of limitations so that the parties have time to complete settlement discussions, and thereby avoid massive and burdensome litigation of the claims. The bill would provide that if the applicable statute of limitations has run by the date of its enactment, then all claims subject to it, filed or unfiled, will remain barred. However, if the applicable statute of limitations has not run by the date of enactment, then "any action by a plaintiff shall be treated as commenced on the date of the enactment of this Act if such action is commenced on or before April 15, 1993[,] and any amendment to an existing claim, if otherwise permissible, shall be treated as if commenced on April 15, 1993."

The fundamental issue is whether Congress has the power to alter the statute of limitations applicable in this case. We conclude that Congress has that power. First, the cause of action in the Catawba case is one "arising under" federal law for purposes of 28 U.S.C. 1331. The Fourth Circuit explicitly so held in *Catawba Indian Tribe v. South Carolina*, 865 F.2d 1444 (4th Cir. 1989) (en banc), and the Supreme Court so stated in *South Carolina v. Catawba Indian Tribe*, 476 U.S. 498, 507 (1985), although the issue was not squarely before the Supreme Court.

The Supreme Court first squarely recognized the federal character of such Tribal land claims in *Oneida Indian Nation* v. *County of Oneida*, 414 U.S. 661 (1974), and generally stated that the rules for decision of such claims were federal in character. *Id.* at 674. In a subsequent decision in that same case, the Court specifically ruled that state statutes of limitation do "not apply of their own force to Indian land title claims." *County of Oneida* v. *Oneida Indian Nation*, 470 U.S. 226, 240 n.13 (1985). Instead, such statutes are "borrowed and applied to the federal claim * * *" if the application of the state statute is not inconsistent with federal law. *Id.* at 240.[1]

This conclusion would appear to resolve two potential constitutional issues. First, it makes clear that the draft bill would effect no violation of the Tenth Amendment or other principles of state sovereignty. Congress clearly has the power under the Commerce Clause of Article I to regulate in this area. Tolling the statute of limitations applicable in this case would be merely an exercise of that power. It would do nothing more than alter a "borrowed" statute of limitations that, absent congressional action, has served as the applicable bar. The bill thus neither commandeers state legislative processes nor contains a direct mandate to states. *Compare New York* v *United States*, Slip Op. at 28–29 (Supreme Court, June 19, 1992) (invalidating federal statutory provision requiring states that do not provide for disposal of low-level radioactive waste generated in state to take title to and assume liability for that waste). *Cf*, *Hodel* v. *Virginia Surface Mining and Reclamation Association*, 452 U.S. 264 (1980) (exercise of federal powers that preempt state law does not impermissibly intrude on state sovereignty).

Second, the bill does not appear to create separation of powers problems by interfering with the judicial function. By changing the applicable statute of limitations, Congress in the draft bill is compelling a change in the law, rather than a particular result or finding under old law. The Supreme Court has upheld this type of congressional action where it has been challenged as improperly affecting pending litigation. *See Robertson v. Seattle Audubon Society*, 112 S.Ct. 1407 (1992). In *Robertson*, the Court upheld a federal statute that altered the legal standard required under certain environmental statutes with respect to certain timber sales in the Pacific Northwest. The Court rejected the plaintiffs' claim that the provision at issue was an impermissible "statutory directive," holding that "[a] statutory directive binds *both* the executive officials who administer the statute *and* the judges who apply it in particular cases * * *. Here, our conclusion [is] that what Congress directed—to agencies and courts alike—was a change in the law, not specific results under old law." *Id.* at 1414 (emphasis in original).

Because it is within Congress's plenary power to alter a federal statute of limitations, we do not believe that accomplishing that end through a "deeming" provision such as proposed section 2(b) would interfere with judicial powers in violation of Article III of the Constitution. Since Congress could state that "any statute of limitations that has not expired on the date of enactment of this bill is extended to April 15, 1993," it would not be problematic for Congress to provide that any claims subject to such an unexpired statute of limitations on the date of enactment of the bill shall be treated *as if* filed before the date of enactment.

In conclusion, in our view the draft bill would not violate any applicable constitutional principles. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

W. LEE REWLS,
Assistant Attorney General.

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[1] The Supreme Court in a variety of contexts has held that state statutes of limitations are "borrowed" in cases where gaps are left in federal law. These borrowed statutes of limitations thus apply as a matter of federal law, rather than of their own force and effect. The Supreme Court has applied this general "state borrowing" doctrine in countless cases, including the *Catawba* case. 476 U.S. at 507 & n. 18 (citing cases). *See also Lampf, Pleva, Lipkind, Prupis & Petgrow* v. *Gilbertson*, 111 S. Ct 2773, 2778–82 (1991) (recognizing borrowing rule but holding that state statute of limitations does not apply where Congress intended federal bar to apply); *Del Costello* v. *International Brotherhood of Teamsters*, 462 U.S. 151, 158–63 1983) (same).

CHILD NUTRITION IMPROVEMENT ACT OF 1992

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2759.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2759) entitled "An Act to amend the National School Lunch Act to improve the nutritional well-being of children under the age of 6 living in homeless shelters, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Nutrition Amendments of 1992".

TITLE I—NUTRITION IMPROVEMENT FOR HOMELESS CHILDREN

SEC. 101. HOMELESS CHILDREN'S FEEDING PROJECTS.

(a) IN GENERAL.—Section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) is amended—

(1) by inserting before "private nonprofit" each place it appears in paragraphs (2)(A), (2)(B), and (5)(A) the following: "State, city, local, or county governments, other public entities, or";

(2) in paragraph (3)(A), by adding at the end the following new sentences: "The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.";

(3) in paragraph (5)(A), by striking "and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994," and inserting "not less than $350,000 in each of fiscal years 1991 and 1992, not less than $650,000 in fiscal year 1993, and not less than $800,000 in fiscal year 1994,"; and

(4) by adding at the end the following new paragraph:

"(7) The Secretary shall advise each State of the availability of the projects established under this subsection for States, cities, counties, local governments and other public entities, and shall advise each State of the procedures for applying to participate in the project.".

(b) OTHER MEANS.—(1) The Secretary of Agriculture may conduct demonstration projects other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other effective means of providing food assistance to homeless children residing in temporary shelters.

(2) None of the funds provided under section 18(c)(5)(A) of the National School Lunch Act may be used by the Secretary of Agriculture to conduct a demonstration project under paragraph (1) of this subsection.

TITLE II—BREASTFEEDING PROMOTION AND IMPROVEMENT OF OTHER CHILD NUTRITION PROGRAMS

SEC. 201. BREASTFEEDING PROMOTION PROGRAM.

The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) is amended by adding at the end the following new section:

"SEC. 21. BREASTFEEDING PROMOTION PROGRAM.

"(a) IN GENERAL.—The Secretary, from amounts received under subsection (d), shall establish a breastfeeding promotion program to promote breastfeeding as the best method of infant nutrition, foster wider public acceptance of breastfeeding in the United States, and assist in the distribution of breastfeeding equipment to breastfeeding women.

"(b) CONDUCT OF PROGRAM.—In carrying out the program described in subsection (a), the Secretary may—

"(1) develop or assist others to develop appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting breastfeeding;

"(2) distribute or assist others to distribute such materials to appropriate public and private individuals and entities; and

"(3) provide funds to public and private individuals and entities, including physicians, health professional organizations, hospitals, community based health organizations, and employers, for the purpose of assisting such entities in the distribution of breastpumps and similar equipment to breastfeeding women.

"(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with Federal agencies, State and local governments, and other entities to carry out the program described in subsection (a).

"(d) GIFTS, BEQUESTS, AND DEVISES.—

"(1) IN GENERAL.—The Secretary is authorized to solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Secretary.

"(2) CRITERIA FOR ACCEPTANCE.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devices under paragraph (1), including criteria that ensure that the acceptance of any gifts, bequests, or devises would not—

"(A) reflect unfavorably on the ability of the Secretary to carry out the Secretary's responsibilities in a fair and objective manner; or

"(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.".

SEC. 202. CHILD CARE CLARIFICATION.

The second sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking "of the children" and all that follows through "services" and inserting the following: "of its enrolled children or 25 percent of its licensed capacity, whichever is less".

SEC. 203. EXTENSION OF DEMONSTRATION PROJECTS.

Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1994, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts.".

SEC. 204. INCLUSION OF HOMELESSNESS AND MIGRANCY AS NUTRITIONAL RISK CONDITIONS

Section 17(b)(8)(D) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)(D)) is amended by inserting before the period the following: ", homelessness, and migrancy".

TITLE III—REAUTHORIZATION OF PILOT PROGRAM

SEC. 301. REAUTHORIZATION OF PILOT PROGRAM.

Paragraph (1) of section 18(b) of the National School Lunch Act (42 U.S.C. 1769(b)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

TITLE IV—REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES

SEC. 401. REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES.

Section 3(a)(3)(E) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking "1992" and inserting "1996".

Amend the title so as to read: "An Act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.".

Mr. FORD. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER (Mr. BRYAN). The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, the Child Nutrition Amendments of 1992 S. 2759, are targeted on homeless children under age 6 living in emergency shelters. These are the innocent victims of the recession, of high unemployment rates, of parental neglect or parental drug abuse, of ill-fated programs, or just plain bad luck.

These children will never have a fair chance if Americans turn their backs on them. While other children play and learn, these children go hungry.

Making matters worse, the demand for emergency food assistance keeps growing. In New York City alone the number of emergency food providers—soup kitchens, food pantries, and the like—increased from 30 in 1981 to more than 700. This is an astonishing increase.

The spectacle of homeless American children standing in long lines at soup kitchens is shameful.

At the same time, this Nation is spending billions to pay off banks that guaranteed prewar loans to Saddam Hussein and to pay the debts of failed savings and loan institutions.

I am pleased that the Congress, with full bipartisan support, is requiring that a modest amount of the funds provided under the School Lunch Act be targeted to aid homeless children under age 6. While older brothers and sisters are fed wholesome meals in school—the younger children, too young to go to school, all too often must wait for scraps of food brought home from school.

The current pilot programs—which feed those younger children—work.

The USDA-issued report on the pilots, "Study of the Child Nutrition Homeless Demonstration," shows how well this program has worked. The report notes:

> The shelters were unanimous in reporting that the preschool children living in the shelters were now receiving meals that were more balanced, more nutritious, and more frequently included fresh fruit, milk, vegetables and full-strength juices. * * * Furthermore, [certain] children under age 6 * * * now received a warm and nutritious lunch whereas prior to the demonstration they did not receive any meal at all.

It was also reported that "mothers were very grateful, and were especially pleased that their children now got the milk they needed."

This bill helps. But it does not go far enough.

The GAO reports that a total of 68,000 children are homeless, living in homeless shelters, abandoned buildings, churches, or living on the streets. In addition, 186,000 children live in shared housing.

Equally distressing are the numbers of children under age 6 that are homeless. CBO estimates that close to 25,000 children under age 6 live in emergency shelters—this leaves out the thousands more living in abandoned buildings or in alleys. According to CBO, it would cost $20 million per year to fully fund this program for all those 25,000 children. The annual cost is low, per child.

Thus, while this act does not go far enough it is an important first step. It will help local governments and cities provide food assistance to these homeless children. For example, New York City has an immediate need for this assistance for its city administered facilities sheltering young children.

I need to raise one technical matter. The law as amended by this act provides that no organization can operate more than five sites. While it is clear from the text of the law, I want to emphasize that the reference to "Each such organization" in section 18(c)(2)(B) only refers to "private nonprofit organizations" and does not refer to the "State, city, local, or county governments, or other public entities" which are newly permitted to participate under this act.

That five-site limit imposed on organizations is relevant only to private nonprofit organizations and not to governments or other public entities. Imposing that limit on counties or cities is unnecessary and counterproductive in terms of the intent of this legislation.

For example, it would make no sense to encourage homeless families to crowd into just 5 of New York's 11 or so shelters so that their youngest children could obtain nutritious meals.

Note that many other cities—Los Angeles, CA; Flint, MI; Detroit, MI; New Orleans, LA—have also expressed an interest in this program. It is critical that the Secretary provide each State with the procedures for applying to participate in the program as required in section 18(c)(7).

As I mentioned, this act expands a current program, pilot tested in Philadelphia and some other locations, so that additional homeless children can be provided nutritious meals.

I want to again express my appreciation to the U.S. Catholic Conference, and to the Archdiocese of Philadelphia and its Nutritional Development Services, for all they have done regarding the pilot projects that tested this program. Certainly the Department would be expected to continue to support existing programs in Philadelphia and at the other locations operated by nonprofit private sponsors.

Several of the ideas contained in this act were taken from the experiences in Philadelphia, the USDA report on the pilot project, and from important concerns raised by New York City.

I need to make one additional point. Several million dollars of unused State administrative expense [SAE] funds are available under current law. These funds could be used to provide assistance to additional shelters. As of today I am not aware that the administration has used any of those funds for additional expansion.

I am working with the Department to develop legislative language to make that unused money available for fiscal year 1993. I certainly hope that the Senate can pass such legislation without objection to spend these already appropriated funds to address the needs of these homeless children.

I want to thank Congressmen FORD, KILDEE, and GOODLING and the other members of the House Education and Labor Committee. The chairmen, and ranking minority member, of the full committee and the subcommittee, and their staffs, have diligently worked on this effort. With a couple of exceptions noted in this statement, I agree with the points raised in their report, report 102–645. I intend to engage in a colloquy with the distinguished ranking minority member of the committee, Senator LUGAR, on these additional points.

Mr. President, I would like to address two aspects of that House report with Senator LUGAR and get his views on these matters. I have concerns with the extension of the commodity letter of credit [CLOC] program as discussed by the House report. The report notes that the CLOC Program should be thoroughly reviewed before reauthorization of the school lunch program. The program has already been very thoroughly studied and lengthy reports have been issued.

Second, there might be a conflict between the law, as amended by this act, and the report. The report directs the Secretary to increase the number of school districts receiving commodity letters of credit by five school districts. However, the law only permits participation by school districts that had participated on January 1, 1987.

While I have the highest respect for the views of the members of the Education and Labor Committee, I want to note that I join with the American School Food Service Association, and USDA, in not supporting expansion of the CLOC projects. Indeed, administrative cost savings and other school lunch benefits could be achieved by eliminating these projects. Both USDA and a SFSA support terminating these projects.

I am concerned that attempting to resolve this matter now would jeopardize passage of this bill this session. Thus, that issue is preserved in this act and will be addressed in the 1994 reauthorization of the school lunch program.

I would like to ask Senator LUGAR if he agrees with my concerns regarding the extension of the CLOC program and regarding the need to further study the CLOC program.

Mr. LUGAR. Yes, I agree with the views you have expressed.

Mr. LEAHY. I thank the Senator. On nutrition issues the Agriculture Committee has carried out, once again, its bipartisan tradition. I want to thank the ranking minority member Senator LUGAR for his assistance on these issues and again commend him for the nutrition award he received from the Food Research and Action Center for his outstanding efforts.

Senator DOLE continues to be a leader regarding protecting the nutritional well-being of America's children. Also, Senator MCCONNELL has been instrumental in continuing, in this act, a demonstration project in Kentucky and Iowa that assists child care centers. I am very supportive of that project and would hope to expand it nationwide if budgetary considerations permit.

As always, Senator HARKIN, as the chairman of the Nutrition Subcommittee, has been a tireless fighter and advocate for hunger programs. He is a tremendous asset to the committee.

THOMAS JEFFERSON COMMEMORATION ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 959.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 959) entitled "An Act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Jefferson Commemoration Commission Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson;

(2) as author of the Declaration of Independence, Thomas Jefferson conceived and executed

an affirmation of democratic government unequaled in both its eloquence and clarity;

(3) in an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people, to hold rulers continually responsible to the ruled, and to secure fundamental rights and liberties of free citizens;

(4) Thomas Jefferson was elected 3d President of the United States in 1801 and helped to establish the process by which ongoing political change is carried forward through public debate and free elections;

(5) with the Louisiana Purchase, Thomas Jefferson virtually doubled the size of the United States;

(6) the genius of Thomas Jefferson extended beyond the realm of politics and government to the adaptation of classic architecture, as exemplified by his home at Monticello and the grounds of the University of Virginia, which set an American standard of dignity, simplicity, and elegance;

(7) Thomas Jefferson encouraged American science in its infancy, and with his friend James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state;

(8) Thomas Jefferson also championed universal public education, believing such education essential to democratic government as well as to advancement of knowledge and the pursuit of happiness;

(9) it is appropriate to remember and renew the legacy of Thomas Jefferson for the American people and, indeed for all mankind, during a time when the light of democracy is again bursting upon the world; and

(10) as the Nation approaches the 250th anniversary of the birth of Thomas Jefferson, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned and coordinated by a national commission.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the Thomas Jefferson Commemoration Commission (in this Act referred to as the "Commission").

SEC. 4. DUTIES.

The Commission shall—

(1) plan and develop programs and activities appropriate to commemorate the 250th anniversary of the birth of Thomas Jefferson, including a limited number of projects to be undertaken by the Federal Government that harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) generally coordinate activities throughout the several States;

(3) honor historical locations associated with the life of Thomas Jefferson;

(4) recognize individuals and organizations that have significantly contributed to the preservation of Jefferson's ideals, writings, architectural designs, and other professional accomplishments, by the award and presentation of medals and certificates;

(5) encourage civic, patriotic, and historical organizations, and State and local governments, to organize and participate in anniversary activities commemorating the birth of Thomas Jefferson; and

(6) develop and coordinate any other activities relating to the anniversary of the birth of Thomas Jefferson as may be appropriate.

SEC. 5. MEMBERSHIP.

(a) Number and Appointment.—

(1) In general.—The Commission shall be composed of 21 members, including—

(A) the Chief Justice of the United States or such individual's delegate;

(B) the Librarian of Congress or such individual's delegate;

(C) the Archivist of the United States or such individual's delegate;

(D) the President pro tempore of the Senate or such individual's delegate;

(E) the Speaker of the House of Representatives or such individual's delegate;

(F) the Secretary of the Interior or such individual's delegate;

(G) the Secretary of the Smithsonian Institution or such individual's delegate;

(H) the Secretary of Education or such individual's delegate;

(I) the Chairman of the National Endowment for the Humanities or such individual's delegate;

(J) the Executive Director of the Thomas Jefferson Memorial Foundation or such individual's delegate; and

(K) 11 citizens of the United States who are not officers or employees of any government, except to the extent they are considered such officers or employees by virtue of their membership on the Commission.

(2) Appointments by President.—

(A) In general.—The individuals referred to in paragraph (1)(K) shall be appointed by the President. The individuals shall be chosen based on their distinctive qualifications or experience in the fields of history, government, architecture, the applied sciences, or other professions that would enhance the work of the Commission and reflect the professional accomplishments of Thomas Jefferson.

(B) Political affiliation.—Not more than 6 of the individuals appointed under subparagraph (A) may be affiliated with the same political party.

(C) Recommendations.—Of the individuals appointed under subparagraph (A)—

(i) 3 shall be appointed from among individuals who are recommended by the majority leader of the Senate in consultation with the minority leader of the Senate; and

(ii) 3 shall be appointed from among individuals who are recommended by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(b) Terms.—Each member of the Commission shall be appointed not later than 90 days after the date of the enactment of this Act for the life of the Commission.

(c) Vacancies.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Chairperson.—The President shall designate the chairperson of the Commission from among the individuals appointed under subsection (a)(2).

(e) Compensation.—

(1) Rates of pay.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) Travel expenses.—Each member of the Commission may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) Meetings.—The Commission shall meet at the call of the chairperson or a majority of its members.

(g) Approval of actions.—All official actions of the Commission under this Act shall be approved by the affirmative vote of not less than a majority of the members.

SEC. 6. POWERS.

(a) Advisory Committees.—The Commission may appoint such advisory committees as it determines to be necessary to carry out this Act.

(b) Delegation of Authority.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this Act.

(c) Contract Authority.—

(1) In general.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, in order to carry out this Act.

(2) Restriction.—The contracts, leases, or other legal agreements made or entered into by the Commission shall not extend beyond the date of termination of the Commission.

(3) Termination.—All supplies and property acquired by the Commission under this Act that remain in the possession of the Commission on the date of termination of the Commission shall become the property of the General Services Administration upon the date of the termination.

(d) Information.—

(1) In general.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the chairperson of the Commission, the head of the Federal agency shall furnish the information to the Commission.

(2) Exception.—Paragraph (1) shall not apply to any information that the Commission is prohibited to secure or request by another law.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 7. STAFF AND SUPPORT SERVICES.

(a) Executive Director.—The Commission shall have an executive director appointed by the chairperson of the Commission with the advice of the Commission. The executive director may be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(b) Staff.—The Commission may appoint and fix the pay of additional personnel as it considers appropriate, except that an individual so appointed may not receive pay in excess of the maximum rate of basic pay payable for GS-13 of the General Schedule.

(c) Applicability of Certain Civil Service Laws.—The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except as provided in subsections (a) and (b).

(d) Staff of Federal Agencies.—Upon request of the chairperson of the Commission, the head of any Federal agency may detail, on a nonreimbursable basis, any of the personnel of the agency to the Commission to assist it in carrying out its duties under this Act.

(e) Experts and Consultants.—The chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at a rate which does not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) Administrative Support Services.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8. CONTRIBUTIONS.

(a) Donations.—The Commission may accept donations of money, personal services, and property, both real and personal, including books, manuscripts, miscellaneous printed matter, memorabilia, relics and other materials related to Thomas Jefferson.

(b) Use of Funds.—

(1) In general.—Any funds donated to the Commission may be used by the Commission to carry out this Act. The source and amount of such funds shall be listed in the interim and final reports required under section 9.

(2) PROCUREMENT REQUIREMENTS.—In addition to any procurement requirement otherwise applicable to the Commission, the Commission shall conduct procurements of property or services involving donated funds pursuant to the small purchase procedures required by section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)). Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall not apply to such procurements.

(3) DEFINITION.—For purposes of paragraph (2), the term "donated funds" means any funds of which 50 percent or more derive from funds donated to the Commission.

(c) VOLUNTEER SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(d) REMAINING FUNDS.—Funds remaining upon the date of termination of the Commission shall be used to ensure the proper disposition of property donated to the Commission as specified in the final report required by section 9.

SEC. 9. REPORTS.

(a) INTERIM REPORT.—Not later than December 31, 1992, the Commission shall prepare and submit to the President and the Congress a report detailing the activities of the Commission, including an accounting of funds received and expended by the Commission, during the period beginning on the date of the enactment of this Act and ending not earlier than 30 days prior to the submission of the interim report.

(b) FINAL REPORT.—Not later than December 31, 1993, the Commission shall submit to the President and to the Congress a final report. The final report shall contain—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) the findings, conclusions, and recommendations of the Commission;

(4) specific recommendations concerning the final disposition of historically significant items donated to the Commission under section 8(a); and

(5) any additional views of any member of the Commission concerning the Commission's recommendations that such member requests to be included in the final report.

SEC. 10. AUDIT OF FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—The Inspector General of the General Services Administration shall audit financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards. In conducting an audit pursuant to this section, the Inspector General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as necessary to facilitate the audit, and shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(b) REPORTS.—Not later than December 31, 1992, the Inspector General of the General Services Administration shall submit to the President and to the Congress a report detailing the results of any audit of the financial transactions of the Commission conducted before such date. Not later than March 4, 1994, such Inspector General shall submit to the President and to the Congress a report detailing the results of any audit of the financial transactions of the Commission conducted during the period beginning on December 31, 1992, and ending on December 31, 1993.

SEC. 11. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the final report required by section 9.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $250,000 for fiscal year 1993 and $62,500 for fiscal year 1994.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

MAKING CERTAIN TECHNICAL CORRECTIONS TO THE PUBLIC HEALTH SERVICE ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3112, a bill to amend the Public Health Service Act to make certain technical corrections, and for other purposes, introduced earlier today by Senators KENNEDY and HATCH; that a statement by Senator KENNEDY be printed in the RECORD; that the bill be considered read three times, passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3112) was deemed read three times and passed, as follows:

S. 3112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Health Service Act Technical Amendments Act".

SEC. 2. TECHNICAL AMENDMENTS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 464H(a), by striking out "Institute of Alcohol" and inserting in lieu thereof "Institute on Alcohol";

(2) in section 464J(b), by striking out "702(2)" and inserting in lieu thereof "701(1)";

(3) in section 464L(d)(1), by inserting "other than section 464P," after "this subpart,";

(4) in section 464N(b), by striking out "701(2)" and inserting in lieu thereof "701(1);;'

(5) in section 464R(f)(1), by striking out "other than section 464P";

(6) in section 502(b)(3)(B), by striking out "and management" and inserting in lieu thereof "or management";

(7) in section 504(a), by striking out "by regulation";

(8) in section 1918(a)(5)(A)(iii) by striking out "25" and inserting in lieu thereof "45";

(9) in section 1918(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to fiscal years 1993 and 1994, an amendment equal to 20.6 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(10) in section 1927(b)(2)(B), by striking out "available" the first time such terms occurs;

(11) in section 1933(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(12) in section 1943(a)(3), by striking out "515" and inserting in lieu thereof "505"; and

(13) in section 1971(g), by inserting "substance abuse" before "treatment services".

(b) OTHER TECHNICALS.—

(1) CONDUCT OF CERTAIN RESEARCH PROJECTS.—Section 149 of the ADAMHA Reorganization Act is amended by striking out 464I, 464O, or 464T" and inserting in lieu thereof "464H, 464L, and 464R".

(2) PATH PROGRAM.—Section 163(a) of the ADAMHA Reorganization Act is amended by striking out paragraphs (1) and (3), and redesignating paragraph (2) as paragraph (1).

(c) REFERENCES.—Section 205 of the ADAMHA Reorganization Act is amended—

(1) in subsection (a)(2)(A)—

(A) by striking out "1916(c)(6)(A)" in the matter preceding clause (i) and inserting in lieu thereof "1916(c)(6)";

(B) by striking out "under clause (i) of such section 1916(c)(6)(A) for fiscal year 1991" in clause (i) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517"; and

(C) by striking out "under clause (ii) of such section 1916(c)(6)(A) for fiscal year 1991" in clause (ii) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517"; and (2) in subsection (b)(3)—

(A) by striking out "in compliance with clause (i) of former section 1916(c)(6)(A)" in subparagraph (E) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517";

(B) by striking out "in compliance with clause (ii) of former section 1916(c)(6)(A)" in subparagraph (F) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517";

(C) by redesignating subparagraph (F) as subparagraph (G); and

(D) by inserting after subparagraph (E), the following new subparagraph:

"(F) The term 'State' includes the territories of the United States.".

SEC. 3. EFFECTIVE DATE.

The amendments made by—

(1) subsection (a) of section 2, shall take effect immediately upon the effectuation of the amendments made by titles I and II of the ADAMHA Reorganization Act; and

(2) subsections (b) and (c) of section 2, shall take effect on the date of enactment of this Act. Passed the Senate July 30 (legislative day, July 23), 1992.

Mr. KENNEDY. Mr. President, I wish to offer a brief explanation of the Public Health Service Act Technical Amendments Act, a bill that Senator HATCH and I introduced today and that the Senate has passed by unanimous consent.

On July 10, President Bush signed into law S. 1306, the ADAMHA Reorganization Act, Public Law 102–321. This bipartisan, omnibus legislation contains many provisions designed to improve the Federal effort against mental illness and substance abuse. In my view, it is one of the most important public health bills we will enact this year.

One of the improvements brought about by the ADAMHA bill is the bifurcation of the current Alcohol, Drug Abuse and Mental Health Services block grant into separate substance abuse and mental health block grants. Both of these block grants will be distributed to the States according to new formulas.

The current bill makes a number of minor technical and clarifying changes to Public Law 102–321 with respect to the revised block grant program, and corrects several other technical errors in the bill as well. I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE PUBLIC HEALTH SERVICE ACT TECHNICAL AMENDMENTS ACT

Subsection 2(a)(1) corrects an incorrect reference to the National Institute on Alcohol Abuse and Alcoholism.

Subsections 2(a) (2) and (4) correct incorrect references to NIH construction authority.

Subsections 2(a) (3) and (5) moves an incorrectly placed reference to NIDA's medications development program from section 464R(f)(1) to 464L(d)(1).

Subsection 2(a)(6) clarifies that the members of SAMHSA Advisory Councils are not required to be leaders in all of the five fields enumerated in statute.

Subsection 2(a)(7) eliminates the necessity of promulgating regulations with regard to the peer review process. The new ADAMHA bill requires appropriate peer review for grant programs, but HHS officials have expressed concern that such regulations might not be promulgated in time to determine what form of peer review, if any, would be appropriate for the FY93 block grant applications. This determination must still be made, but it is unnecessary in this context to utilize the more formal regulation process to reach that decision.

Subsection 2(a)(8) corrects a typographical error in the mental health block grant formula.

Subsections 2(a) (9) and (11) provide that the territories are to receive the same "hold harmless" in fiscal years 1993 and 1994 that the states receive.

Subsection 2(a)(10) clarifies an ambiguity created by awkward grammar in section 1927(b)(2)(B) of the newly revised Public Health Service Act.

Subsection 2(a)(12) corrects an incorrect reference to SAMHSA's data collection authority.

Subsection 2(a)(13) clarifies that the maintenance of effort requirement in the new Capacity Expansion Grant Program applies specifically to substance abuse treatment activities in the state.

Subsection 2(b)(1) corrects incorrect statutory references.

Subsection 2(b)(2) eliminates unnecessary and misleading conforming references from Public Law 102–321.

Subsection 2(c)(1) clarifies Congress' intent regarding the intrastate allotment of FY 92 funds. Prior to the enactment of Public Law 102–321, the interaction of title XIX of the Public Health Service Act and the fiscal year 1991 Labor-HHS Appropriations bill mandated a specific "split" between substance abuse and mental health in each state. In passing the ADAMHA Reorganization Act, the Congress intended to mandate the same statutory split in FY92 as was mandated in FY91. The bill passed by the Senate today will ensure that result.

Subsection 2(c)(2) similarly clarifies Congress' intent regarding the intrastate allotment of FY93 and FY94 funds. Under section 205(b) of Public Law 102–321, states have the right to shift funds from mental health to substance abuse and from substance abuse to mental health in those two fiscal years, but Congress intended to permit a state to shift funds no further than its FY91 split. Subsection 2(c)(2) of the Technical Amendments bill makes clear that in exercising their authority under section 205, the states are to be constrained by their FY91 intrastate split. This section also makes clear that the authority provided by section 205(b) of the ADAMHA bill applies to territories as well as states.

Mr. GRAHAM. Mr. President, the bill before the Senate would make technical corrections to legislation recently passed by Congress and enacted into law, the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act.

I opposed this legislation when it came before the Senate because of provisions changing the allocation of funds for substance abuse and mental health services among States. I argued that the immediate effective date of the formula change would cause immediate and devastating cuts in programs that were making a real impact in preventing substance abuse and providing much-needed mental health services. The cost of this bill to the State of Florida was $16.5 million in lost treatment and prevention funds.

I fear, Mr. President, that my prediction has already been realized. I ask unanimous consent to print in the RECORD at the end of my statement an article from the July 19, 1992, Miami Herald "Cuts force 6 drug treatment centers to close."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, the Herald reports that funding for drug treatment in the Dade County area will drop by $2.5 million, denying help to 3,000 individuals, as a result of cuts in Federal and State funds.

During Senate debate on this issue, I also argued that the formula was based on factors which were not true measures of the need for these services in a particular geographic location. Measures currently being used include factors such as outdated estimates of rental costs for office space and wages for manufacturing jobs.

The new law includes a provision I supported which requires the Department of Health and Human Services [HHS] to contract with the National Academy of Sciences [NAS] to conduct a review of the appropriateness of these factors and to make recommendations as to how better we can measure need for substance abuse and mental health services.

It is my understanding that, although HHS has not entered into a formal agreement for this study with NAS, the Department intends to do so in the very near future.

Mr. President, I have received an assurance as to HHS' intentions in the form of a letter from the Acting Director of the Alcohol, Drug Abuse and Mental Health Administration, Dr. Elaine Johnson. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ALCOHOL, DRUG ABUSE, AND
MENTAL HEALTH ADMINISTRATION,
Rockville, MD, July 29, 1992.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: My staff have informed me of your interest in the study and report required by section 707 of P.L. 102–321, the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992.

The provision requires the Secretary of Health and Human Services to request the National Academy of Sciences (NAS) to enter into a contract to conduct a study of the formulas used for the distribution of the Mental Health and the Substance Abuse Block Grants authorized under section 1911 and 1921 of the Public Health Service Act. The study is to 1) assess the degree to which the formulas allocate funds according to the respective needs of the States; 2) review the relevant epidemiological research regarding the incidence of substance abuse and mental illness among various age groups and geographic areas; 3) the identification of factors not included in the formula that are reliable predictors of the incidence of substance abuse and mental illness; 4) an assessment of the validity and relevance of factors currently included in the formula, such as age, urban population and cost; and 5) any other information that would contribute to a thorough assessment of the appropriateness of the current formulas.

ADAMHA is committed to fulfilling its obligations with respect to the study. If there are any delays caused by either ADAMHA or NAS, we will inform Ann Hardison of your staff. If you have any questions, please call Joseph Faha, Director of Legislation, on (301) 443-4640.

Thank you for your interest in this organization and its programs.

Sincerely yours,
ELAINE M. JOHNSON, Ph.D.,
Acting Administrator.

Mr. GRAHAM. Mr. President, I am also pleased that the distinguished chairman of the Senate Committee on Labor and Human Resources, Senator KENNEDY, has written a letter assuring me that the committee will take a serious look at the NAS study soon after its receipt and take appropriate action on their recommendations. I ask unanimous consent that Senator KENNEDY's letter to me be printed in the RECORD. With these assurances, Mr. President, I am prepared to consent to passage of this technical corrections package.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON LABOR AND
HUMAN RESOURCES,
Washington, DC, July 29, 1992.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR BOB: During the recent Senate consideration of the ADAMHA Reorganization Act (S. 1306), there was considerable discussion about the new formula that will determine how the federal mental health and substance abuse block grants are apportioned among the states.

I remain confident that the formula set forth in the legislation is the best means of allotting funds based on the current available information. As you know, however, section 707 of the Act mandates that an independent study of this issue be submitted to Congress within six month of the date of enactment. This section was inserted in the bill, at your request, to ensure that the formula we have put in law is appropriate, and to determine if the formula can be improved in any fashion.

I can assure you that this study will receive serious and timely review by the Labor Committee. If a hearing to examine the results of the study seems warranted, we will convene such a hearing. We share the goal of ensuring that federal substance abuse and mental health resources are apportioned among the states in the most equitable manner possible.

Sincerely,

EDWARD M. KENNEDY.

[From the Miami Herald, July 19, 1992]

EXHIBIT 1

CUTS FORCE SIX DRUG TREATMENT CENTERS TO CLOSE

(By Dexter Filkins)

Pedro Romero checked into a county drug treatment center just in time.

Had he waited a few more weeks, Romero likely would have been shut out of a program that is shrinking because of budget cuts.

"If I were on a waiting list, I'd be dead," said Romero, who checked into the Bay House Residential Treatment Center eight weeks ago.

Metro-Dade has slashed its drug treatment budget, forcing the closing of six centers and denying help to as many as 3,000 people a year.

County manager Joaquin Aviño announced last week that funding for drug treatment would drop by $2.5 million. He said the money came from the federal and state governments, and the county wasn't obliged to fill the gap.

"That is not our responsibility," Aviño said.

The cut represents about 17 percent of the county's budget for drug treatment, which provides help to thousands of addicted adults, teens and jail inmates.

The human cost promises to be staggering, health officials say. About 3,000 fewer people will receive treatment. The county will no longer be able to accept addicts who walk in off the street.

Drug counselor say some—but not all—of the addicts can be absorbed by state-operated treatment centers.

"It's very sad," said Edris Jackson, a supervisor at the North Dade Regional Treatment Center in Miami. "People are really going to feel this."

The center where Jackson works closed for good Friday. It used to provide counseling and treatment to hundreds of people in the Wynwood section of Miami. Most of them were poor and couldn't afford private counseling.

"It's gloomy here," said Angel Muñiz, director of the county's drug treatment programs.

The county will shut down five other centers, most of them within walking distance for their clients. Three of them are residential centers, places where the most severe addicts come to live. Woods House in Northeast Miami, and Merrimac House and a short-term treatment center in Northwest Dade.

Together they comprise about a third of the beds allotted by the county for drug treatment outside of jails. Last year, the three centers helped about 400 people, said Dade budget analyst Bill Brown.

Also on the list for closing are two more clinics, like Jackson's, that treat addicts on an outpatient basis—one in South Dade and another in North Dade. Those out-patient centers provide treatment for about 2,500 people, Brown said.

The clinics stopped accepting patients last month.

The cuts are not final. Metro commissioners could alter Aviño's recommendation when they approve the county's budget in September. But that would require restarting programs that are now shutting down.

The cuts upset some law-enforcement officials.

"I think drug treatment is one of the most effective weapons we have," State Attorney Janet Reno said. "Every time we cut it, we end up with more people in jail."

Even before the cuts, the county's drug treatment centers were operating at maximum capacity. The waiting list now is several weeks and more than 200 people long, said Dr. Carolina Montoya, the assistant director of the county's office of rehabilitative services.

Romero, the recovering drug addict, said he fears for his friends on the street who may not be as lucky as he was.

"This has given me an opportunity to get a life, because I didn't have a life," Romero said. "I still have a lot to offer."

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 498, House Concurrent Resolution 192, a concurrent resolution establishing a joint committee on the organization of Congress.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 192) to establish a Joint Committee on the Organization of Congress.

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 2802

(Purpose: To propose a substitute)

Mr. FORD. Mr. President, on behalf of Senator BOREN, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BOREN, proposes an amendment numbered 2802.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT AND MEMBERSHIP.—There is established an ad hoc Joint Committee on the Organization of the Congress (referred to as the "Committee") to be composed of—

(1) 12 members of the Senate—

(A) 6 to be appointed by the Majority Leader; and

(B) 6 to be appointed by the Minority Leader; and

(2) 12 members of the House of Representatives—

(A) 6 to be appointed by the Speaker; and

(B) 6 to be appointed by the Minority Leader.

(b) EX OFFICIO MEMBERS.—The Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives shall be ex officio members of the Committee, to serve as voting members of the Committee. Ex officio members shall not be counted for the purpose of ascertaining the presence of a quorum of the Committee.

(c) ORGANIZATION OF COMMITTEE.—(1) A chairman from each House shall be designated from among the members of the Committee by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(2) A vice chairman from each House shall be designated from among the members of the Committee by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(3) The Committee may establish subcommittees comprised of only members from one House. A subcommittee comprised of members from one House may consider only matters related solely to that House.

(4)(A) No recommendation shall be made by the Committee except upon a majority vote of the members representing each House, respectively.

(B) Notwithstanding subparagraph (A), any recommendation with respect to the rules and procedures of one House which only affects matters related solely to that House may only be made and voted on by the members of the committee from that House, and, upon its adoption by a majority of such members, shall be considered to have been adopted by the full committee as a recommendation of the committee. Once such recommendation is adopted, the full committee may vote to make an interim or final report containing any such recommendation.

SEC. 2. STUDY OF ORGANIZATION AND OPERATION OF THE CONGRESS.

(a) IN GENERAL.—The Committee shall—

(1) make a full and complete study of the organization and operation of the Congress of the United States; and

(2) recommend improvements in such organization and operation with a view toward

strengthening the effectiveness of the Congress, simplifying its operations, improving its relationships with and oversight of other branches of the United States Government, and improving the orderly consideration of legislation.

(b) Focus of Study.—The study shall include an examination of—

(1) the organization and operation of each House of the Congress, and the structure of, and the relationships between, the various standing, special, and select committees of the Congress;

(2) the relationship between the two Houses of Congress;

(3) the relationship between the Congress and the executive branch of the Government;

(4) the resources and working tools available to the legislative branch as compared to those available to the executive branch; and

(5) the responsibilities of the leadership, their ability to fulfill those responsibilities, and how that relates to the ability of the Senate and the House of Representatives to perform their legislative functions.

SEC. 3. AUTHORITY AND EMPLOYMENT AND COMPENSATION OF STAFF.

(a) Authority of Committee.—The Committee, or any duly authorized subcommittee thereof, may—

(1) sit and act at such places and times as the Committee, or any duly authorized subcommittee thereof, determines are appropriate during the sessions, recesses, and adjourned periods of Congress; and

(2) require the attendance of witnesses and the production of books, papers, and documents, administer oaths, take testimony, and procure printing and binding.

(b) Appointment and Compensation of Staff.—(1) The Committee may appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable, but shall utilize existing staff to the extent possible.

(2) The Committee may utilize such voluntary and uncompensated services as it deems necessary and may utilize the services, information, facilities, and personnel of the General Accounting Office, the Office of Technology Assessment, the Congressional Research Service of the Library of Congress, and other agencies of the legislative branch.

(3) The members and staff of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Committee, other than expenses in connection with meetings of the Committee held in the District of Columbia during such times as the Congress is in session.

(c) Witnesses.—Witnesses requested to appear before the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in traveling to and from the places at which they are to appear.

(d) Expenses.—

(1) Senate.—(A) The Senate members of the Committee shall submit a budget of expenses allocable to the Senate to the Committee on Rules and Administration of the Senate. The Committee may expend for expenses allocable to the Senate not to exceed $250,000 from the Contingent Fund of the Senate subject to approval by the Committee on Rules and Administration until a Committee funding resolution is approved by the Senate or, if no funding resolution is approved, until March 1, 1993.

(B) The expenses of the Committee allocable to the Senate shall be paid from the contingent fund of the Senate, upon vouchers signed by the Senate chairman.

(2) House of Representatives.—Notwithstanding any law, rule, or other authority, there shall be paid from the contingent fund of the House of Representatives such sums as may be necessary for one-half of the expenses of the committee, with not more than $250,000 to be paid with respect to the second session of the One Hundred Second Congress. Such payments shall be made on vouchers signed by the House of Representatives cochairman of the committee and approved by the Committee on House Administration of the House of Representatives. Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration of the House of Representatives.

SEC. 4. COMMITTEE REPORT.

(a) Report.—The Committee shall report to the Senate and the House of Representatives the result of its study, together with its recommendations, not later than December 31, 1993.

(b) Recess or Adjournment.—If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(c) Referral.—All reports and findings of the Committee shall, when received, be referred to the appropriate committees of the Senate and the appropriate committees of the House of Representatives.

SEC. 5. CONDUCT OF COMMITTEE BUSINESS.

The Committee shall not conduct any business prior to November 15, 1992.

Mr. BOREN. Mr. President, today the Senate has helped open what will hopefully be a new and dynamic chapter in the history of Congress. With the passage of Senate Concurrent Resolution 57, Congress will finally be able to confront the organizational problems which have reduced its effectiveness.

As an institution, Congress is in trouble. The American people have described it as wasteful, inefficient, and compromised by the way it finances its campaigns. During this year's congressional campaigns, the American people have sent an unmistakable message to Congress: If you refuse to set your house in order, we will elect those who will do it for you.

Today, the Senate has taken a critical step toward setting our House in order. Indeed, this is perhaps the most important legislative step we have taken in this Congress. I applaud my colleagues in the House for having passed this resolution last month and I hope that we can quickly resolve the minor differences in the versions acted upon in the two Houses so that the committee can begin to organize.

This resolution would be ineffective without the solid and compelling bipartisan support that has brought it to verge of passage in both Houses so quickly. I thank Majority Leader Mitchell and Minority Leader Dole for the personal interest they have taken in the quick passage of this resolution. John Hilley and Robert Rozen of the majority leader's staff have worked tirelessly to see this resolution become law. I am also grateful to Chairman Ford and Senator Stevens of the Rules Committee for their quick and effective action on the resolution. Staff Director James King provided invaluable help in the Rules Committee work on the resolution. On my own staff, the efforts of John Deekan, Dan Webber, and Joe Harroz over the last 2 years have been indispensable in allowing us to reach this critical juncture.

This juncture is indeed a critical, even an historic one. The longer we delay the reform of this troubled institution, we allow it to slip deeper into bureaucratic disarray. It is not difficult to find areas in need of reform. In 1947, congressional staff numbered about 2,000 employees. That number has spiraled to 12,000 today. To justify their existence, these enormous staffs inundate their Members' agendas with legislative proposals—most of them inconsequential at best. These proposals get introduced as bills, further overloading and stalling an already sluggish system. As a result, a gridlocked Congress wastes precious time bickering over trivial legislation while important bills get lost in the shuffle.

Of the 6,973 bills introduced in the last Congress, only 3 percent were enacted—and those bills are longer and more encumbered with minutia than ever. The average bill is five times longer than it was in 1970 and many bills attempt to micromanage every area of government.

The committee system has also grown out of control. This unwieldy bureaucracy, with its fragmented and overlapping jurisdictions, makes the timely and effective consideration of bills next to impossible. In 1947, there were 38 House and Senate committees with parallel jurisdictions. Today there are almost 300 committees and subcommittees—and House and Senate committees rarely have coinciding jurisdictions for efficient handling of legislation. In 1947, there were almost no Senate subcommittees. Today there are 91 and the average Senator is a member of 12 full committees or subcommittees, spreading his or her time and attention too thin.

Procedural maneuvering further reduces the efficiency of Congress. A recent study showed that a full 25 percent of the Senate's legislative time—equal to 43 full legislative days—is consumed by quorum calls and other delaying tactics.

Senators are able to offer amendments to a pending bill whether it has anything to do with the bill or not. For example, an abortion amendment might be offered during consideration of an agriculture bill or a gun control measure might be dropped into a foreign operations bill. Diversionary tactics such as these slow the legislative to a crawl.

Furthermore, Congress has no guidelines to arrange priorities. It is possible to debate the same issue over and over again in the same Congress while crucial legislation such as budget bills are typically shunted to the end of a session. The budget process itself has become so arcane and complex that not even those who helped write the rules for it agree about what they mean.

Mr. President, the resolution passing the Senate today moves us significantly closer to creating the means by which we can confront and remedy the problems plaguing this institution. Of course, the resolution would not have gotten this far without the bipartisan leadership of my principal cosponsors: PETE V. DOMINICI in the Senate and LEE H. HAMILTON and WILLIS D. GRADISON in the House. I am particularly grateful to them for their earnest and tireless efforts for reform.

The resolution establishes a bipartisan committee with members drawn from both Houses which will work with a very small full-time staff with expert volunteer help under a strict time limitation to report back to the full Congress a proposal for comprehensive congressional reform. In order to avoid being politicized by the election season it will begin official business, including voting and the holding of hearings, after November 15, but I am assured by the Rules Committee staff that the language of the resolution would allow for organizing activities including the hiring of staff to commence immediately upon passage of the resolution.

When Congress does not function as it should, our democracy itself is at risk. The trust of the American people is at risk. Mr. President, by the passage of this resolution, we in Congress demonstrate our determination to live up our responsibilities as trustees of this great institution so that it can be passed on to the next generation—stronger and more able to perform its role in the democratic process.

Mr. GRAHAM. Mr. President, will the senior Senator from Oklahoma enter into a colloquy with me to answer some questions and clarify the joint committee's mandate.

Mr. BOREN. Mr. President, of course, I will be happy to answer any question the senior Senator from Florida might have.

Mr. GRAHAM. Mr. President, is it the understanding of the distinguished Senator from Oklahoma that the scope of the joint committee's study of the organization and operation of Congress is broad enough to include an analysis and recommendations with respect to the rules of the House of Representatives and of the Senate regarding requirements and procedures for closing meetings and for providing reasonable notice of the meetings?

Mr. BOREN. Mr. President, yes, that is my understanding. In crafting this resolution, we were careful to include within its scope such relevant and important matters. I share with my colleague from Florida a similar desire to serve timely notice and keep all possible meetings open to the public—in fact, as Governor of the State of Oklahoma, I signed into law sweeping sunshine laws.

Mr. GRAHAM. Mr. President, is it the understanding of the senior Senator from Oklahoma that the scope of the joint committee's mandate is broad enough to include an analysis and recommendations with respect to the rules of both Houses regarding the availability of records of any committee or subcommittee, including a conference committee, to Members and staff who are not on such committees or subcommittees, as well as to members of the general public?

Mr. BOREN. Mr. President, yes. The focus of this joint committee clearly warrants the consideration of such matters. The many meetings of so many committees, subcommittees and conference committees make attendance at more than even a small fraction of such meetings impossible. Access and a record of such meetings could be a valuable asset.

Mr. GRAHAM. Mr. President, I appreciate the opportunity to clarify the resolution's intent in this area and thank my colleague from Oklahoma for his assistance in this matter.

Mr. GRAHAM. Mr. President, the sponsors of this legislation, Senators BOREN and DOMENICI, should be commended for guiding it through the deliberative process.

One area of great concern that I want to ensure the Joint Committee on the Organization of Congress will address is openness in Congress.

Public access to congressional proceedings and records, and the assurance that Members of Congress and their staff have the requisite access necessary to perform their official responsibilities are needed steps in restoring the public's faith in Government.

Floridians have come to expect sunshine in Government. When two circuit court cases in the State held that Florida's sunshine law was inapplicable to the legislature, the voters turned to the constitution.

During the 1990 general election, Floridians approved an amendment to the State constitution which requires the rules of procedure of each house of the legislature to provide that all legislative committee and subcommittee meetings of each house and joint conference committee meetings be open and noticed.

Mr. President, you can imagine my constituents' shock and dismay when I explained to them that during conference negotiations on the surface transportation reauthorization bill which determined the redistribution of millions of gas tax dollars contributed to the Federal Government by Floridians I could not even get copies of the proposals being debated.

I was forced to use dilatory tactics prior to floor consideration of the $115 billion surface transportation bill so that I could review the conference report.

Mr. President, this is not the only time when I have not had sufficient access to the legislative process. Most recently, I was following the conference committee meeting on the dire emergency supplemental appropriations bill so that I could communicate to the conferees my support for particular provisions in the bill.

It was clear that the staff of the conferees were meeting to reconcile the differences between the House and Senate versions, but the accouncement that the members were formally meeting on the legislation came two hours before they actually met.

This time the outcome of the deliberations were positive. Next time, it may not be.

No constituent can afford that risk. Legislators must have access to the process, notice of meetings must be given in a reasonable amount of time, and materials must be openly distributed. Those that may be adversely impacted by changes made behind closed doors have limited recourse.

A careful review by the Joint Committee on the Organization of Congress of the rules and procedures of the House and Senate committees and recommendations for increased openness are steps in the right direction.

Mr. DOMENICI. Mr. President, I am pleased to join with my distinguished colleague, Senator BOREN, in supporting passage of House Concurrent Resolution 92, establishing a Joint Committee on the Organization of Congress.

This effort began in early 1991 when Senator BOREN, in the spirit of bipartisanship, asked me to join him in introducing this timely measure. The Senate version of this bill, Senate Concurrent Resolution 57, has 57 cosponsors. The House passed this resolution with 247 cosponsors, with a vote of 412 to 4.

I joined this effort enthusiastically. For me, it represents the best approach for institutional change. As important, it is an honest, straight-forward approach. In its very simplicity, it is the best vehicle I have seen for structural change. Among many reasons I cosponsored this measure, I would like to mention three of the most important:

First, it is bipartisan;

Second, its timeframe for completion of the work is reasonable; and

Third, its objective is to help make Congress more effective—to look at the way we conduct our business, for efficiency's sake, and for the sake of the public good.

The realities of any congressional reform effort have the potential of striking fear in the fearless. Regardless of individual agendas, and there are probably many, I believe the majority in both congressional bodies know the time has come to examine ourselves. Being ever optimistic, I had great expectations that this resolution would have been passed last year so we could have been close to completing this effort by now. However, at least we can begin now, and complete the work by next December.

With the goal of making Congress more efficient and more responsive, we must address the constraints that inhibit our effectiveness. Frankly, I believe that we are sometimes consumed with form over substance, or process over content. To alleviate our frustration levels of insufficient time to do the work, let alone do it well, I hope this joint committee will examine, at a minimum, several key institutional concerns.

First, it is imperative that we try to streamline the present system of three distinct processes for authorizations, appropriations, and the budget. My personal assessment is that we should analyze the possibility of moving to a 2-year budget and appropriations process over the annual system, with the first year devoted to the establishment of the funding levels and the second year devoted to oversight and program review.

Second, we should examine the multiplicity of committee and subcommittee assignments, including their cross-jurisdictional nature. There is enormous energy and talent in Congress, but few Members have time to devote to the immediate social and economic issues facing this country. Furthermore, I would suggest that there is negligible time left after we react to the immediate crisis du jour, to formulate any long-term policy objectives in such areas as U.S. competitiveness, science and technology reform, or infrastructure development. The concerns of our cities, the needs of our American families, and the education of our children, for example, certainly deserve more than piecemeal legislation; a complementary and strategic package of reform measures would be preferable. We can meet these goals far better if we have more time to spend on the issues and in fewer committees.

I want to stress emphatically that the intent of this reform effort is to focus on a few internal structural efforts, examine them thoroughly, and provide Congress with thoughtful, practical reform recommendations.

Congress bashing is a popular occupation, and there is no denying we have probably deserved some of the criticism. At the same time, we can do something about the problems. We, in Congress, know better than any commentator the magnitude of the problems and the constraints we need to address. I have every confidence we can do so in a professional and appropriate manner.

We are capable of effecting institutional changes to help us do our work better—to make us more effective. Unless one is an academician or a political voyeur, there are few who are interested in the day-to-day management, scheduling, or complex legislative processes of the Congress. However, this effort isn't about the headline grabbing issues of parking or other reported perks. This is about institutional reform that we know is needed.

As I have stated before, many say that what is needed is guts, courage, and willpower. However, we now have a system that minimizes the opportunity to be courageous, that diminishes the opportunity to lead, and that wilts the willpower to address tough issues. This system does not let us be as efficient or as effective as we can be, or as we must be.

I am, therefore, pleased that we can agree to start moving on this important, bipartisan congressional reform effort. It's time has come; in fact, it is past due. This undertaking can help us do our job better. Let us move quickly to establish the committee and set about the work we need to accomplish.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 2802) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 192) as amended was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the concurrent resolution, as amended, was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WAIVER OF PROVISIONS OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Senate Concurrent Resolution 131 submitted earlier today by Senators MITCHELL and DOLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 131) to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The concurrent resolution (S. Con. Res. 131) is as follows:

S. CON. RES. 131

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislation Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

Mr. FORD. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ENERGY BILL

Mr. SIMPSON. Mr. President, while we wait the results of knowledge of what tomorrow's activity may bring, let me speak for a few moments.

I want to express my strong personal admiration—I speak on the energy bill, which we passed here this afternoon—for the distinguished floor managers of this legislation. The senior Senator from Wyoming, MALCOLM WALLOP, a long-time dear friend of mine, as ranking member of the Energy Committee, and its chairman, Senator BENNETT JOHNSTON, another lovely friend, have worked tirelessly on this legislation.

This bill is a culmination of years—literally years—of hard work by all of the members of the Energy Committee and their fine staffs. I commend them all. In particular, the distinguished chairman, and our splendid senior Senator from Wyoming.

Mr. President, although no legislation is perfect, what we have before us today is, without question, an excellent bill, a consensus bill that represents the collective wisdom and views of the Congress of the United States and the administration.

Our distinguished colleagues on the Energy and Finance Committees have given us the map with which our energy policy will be charted for generations to come. I know we will get to conference, and I feel quite certain that the extraordinarily important parts, the salient features of the legislation of the House and Senate, will be borne in the final product.

This bill has been a roller coaster ride of activity, fraught with controversial germane and nongermane issues. Through it all, extremely contentious issues were dealt with openly and candidly, and above all, the extraordinary patience.

When Senators WALLOP and JOHNSTON thought the end was in sight, they were confronted then with the emotional and heated issue of the miners' health benefits.

The junior Senator from West Virginia [Mr. ROCKEFELLER] carried this issue with his usual dogged determination. Ultimately, with the leadership of the Energy and the Finance Committees, a reasonable compromise was forged that is now included in this legislation.

I commend all of those who were involved in that: Senator ROCKEFELLER, Senator WALLOP, Senator WENDELL FORD, and so many who have helped; and, of course, Senator JOHNSTON.

I would just say that I have watched and worked side by side with MALCOLM WALLOP for a span of nearly 30 years. The leadership he displayed on this bill is nothing new to me. The health benefits issue should not have been here. It threatened the progress of one of the most important pieces of legislation Congress has addressed during my career here.

Senator WALLOP tackled the issue with his typical statesmanship in order to save the underlying bill. He was able to help craft a compromise which was fair to the affected miners, and at the same time which protected the legitimate interests of the miners and coal mining companies that had "no dog in the fight."

This compromise, indeed, the success we see today in passing this first every national energy strategy, is due in large measure to the determination, compassion, leadership, and ability of my fine senior colleague, MALCOLM WALLOP.

Through MALCOLM'S leadership and the leadership of many of our fine colleagues, both in the Senate and the administration, who are able to set aside partisan politics, and we have begun to establish a true national energy policy.

So, Mr. President, I just want to say that I am very proud to serve with MALCOLM WALLOP. I came to the Wyoming Legislature in 1965. I came to know him then. And then we legislated together in later years, side by side, on many issues; not always agreeing. In fact, one of the great spirited debates of the Wyoming Legislature was the one where MALCOLM and I stood toe to toe for about 2 days.

But he has again demonstrated to me, who knows him so well—a man who knows him so well—and he has demonstrated to all that this important legislation would not have been without his perseverance and determination. He is a credit to the U.S. Senate, and a splendid representative of the great State of Wyoming.

I take note that in the Chamber tonight is Senator WALLOP's energy staff director, Rob Wallace. Rob and the rest of the Energy Committee staff did a superb job on this complicated legislation. I have known Rob all his life. He is an outstanding person, a true professional, a great asset to Senator WALLOP and the Energy Committee. His mother and I served together in the Wyoming Legislature. She and his father would be very proud of the work their son has done to bring this important bill to fruition.

I would also like to say a few words about the revenue provisions that are contained in this bill. These provisions represent the sort of bipartisan, thoughtful, productive efforts that is becoming increasingly rare in this election year.

One of the most critical provisions of the bill to the oil and gas industry was the alternate minimum tax relief. The alternate minimum tax was intended to prevent people from bucking the system during the good times. But it has proved to be a very dangerous double whammy during these most difficult times.

The relief in this bill is the single most important tax issue pertaining to our energy self-sufficiency, and once again, it was included in this bill because of the leadership of Senator WALLOP and others.

I would like at this point to commend Senator LLOYD BENTSEN of Texas for his constructive and bipartisan leadership with the Finance Committee, in its especially critical, important work with the alternate minimum tax. He has been open and responsive throughout this process, which is his wont. He has listed the concerns expressed by Senators on this side of the aisle, as well as the other, and the resulting tax package reflects that.

I trust the House and Senate conferees will take a careful look at the tax provisions of this bill, and note their importance for this Nation's energy lifeline, and rise above parochial interests or partisan politics and retain these provisions in the conference committee report.

These provisions represent a modest and effective approach to relieving some of the contorted tax burdens on our energy industry. It is not in any way a free ride, I can assure you.

Indeed, limits have been placed on the amount by which the repeal of the excess intangible drilling cost preference can reduce taxable income.

These tax provisions are measured, but will be effective, and we urge their support by the full conference committee.

Again, I thank the leadership and the fine floor managers of this critically important legislation. And it comes as a special tribute at a time when we desperately need it.

My predecessor, Cliff Hansen, spent 19 months of his life on a conference committee on energy, and I hope we never see that one again.

I thank the Chair.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries, transmitting treaties.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:32 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 295. An act for the relief of Mary P. Carlton and Lee Alan Tan;

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1992; and

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 7:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that it had passed the following bills:

H.R. 2694, An act to amend title 11, District of Columbia Code, to remove gender-specific references;

H.R. 5620. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 5622. An act to authorize an additional Federal contribution to the District of Columbia for fiscal year 1993 for youth and anti-crime initiatives in the District of Columbia;

H.R. 5623. An act to waive the period of Congressional review for certain District of Columbia acts; and

H.R. 5677. An act making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

MEASURE REFERRED

The following bills were read the first and second times, and referred as indicated:

H.R. 2694. An act to amend title 11, District of Columbia Code, to remove gender-specific references; to the Committee on Governmental Affairs;

H.R. 5622. An act to authorize an additional Federal contribution to the District of Columbia for fiscal year 1993 for youth and anti-crime initiatives in the District of Columbia; to the Committee on Governmental Affairs; and

H.R. 5623. An act to waive the period of Congressional review for certain District of Columbia acts; to the Committee on Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 30, 1992, he had presented to the President of the United States the following enrolled bills:

S. 295. An act for the relief of Mary P. Carlton and Lee Alan Tan;

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1992; and

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1625. A bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes (Rept. No. 102–349).

By Mr. LAUTENBERG, from the Committee on Appropriations, with amendments:

H.R. 5518. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–351).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1578. A bill to recognize and grant a Federal charter to the Military Order of World Wars.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2087. A bill to prohibit certain use of the terms "Visiting Nurse Association", "Visiting Nurse Service", "VNA", and "VNS".

By Mr. BYRD from the Committee on Appropriations:

Special report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution, Fiscal Year, 1993" (Report No. 102–350).

EXECUTIVE REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Henry Edward Hudson, of Virginia, to be Director of the United States Marshals Service.

Timothy E. Flanigan, of Virginia, to be an Assistant Attorney General.

Stephen H. Greene, of Maryland, to be Deputy Administrator of Drug Enforcement.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

Don J. Svet, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years.

John S. Simmons, of South Carolina, to be United States Attorney for the District of South Carolina for the term of four years.

Timothy D. Leonard, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

Lourdes G. Baird, of California, to be United States District Judge for the Central District of California.

Irma E. Gonzalez, of California, to be United States District Judge for the Southern District of California.

Rudolphe T. Randa, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself, Mr. KERRY, Mr. KERREY, Mr. KENNEDY, Mr. HATFIELD, Mr. JEFFORDS, Ms. MIKULSKI, and Mr. DECONCINI):

S. 3098. A bill to impose a one-year moratorium on the sale, transfer or export of anti-personnel landmines abroad, and for other purposes; to the Committee on Foreign Relations.

By Mr. BOND:

S. 3099. A bill to require the sine die adjournment of Congress by October 15 of each year; to the Committee on Governmental Affairs.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 3100. A bill to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM:

S. 3101. A bill to authorize a White House conference on juvenile justice; to the Committee on the Judiciary.

By Mr. SIMON:

S. 3102. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Finance.

By Mr. COATS:

S. 3103. A bill to suspend until January 1, 1995, the duty on exomethylene ceph v sulfoxide ester; to the Committee on Finance.

S. 3104. A bill to extend until January 1, 1995, the existing suspension of duty on (6R,7R)-7-(R)-2-Amino-2-phenylacetamido)-3-methyl-8-oxo-5-thia-1-azabicyclo(4.2.0)oct-2-ene-2-carboxylic acid disolvate; to the Committee on Finance.

S. 3105. A bill to extend until January 1, 1995, the existing suspension of duty on chemical intermediate; to the Committee on Finance.

By Mr. BINGAMAN:

S. 3106. A bill to extend the deadline for compliance with certain drinking water regulations, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 3107. A bill to provide for the protection of vertebrate paleontological resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 3108. A bill to amend title 38, United States Code, with respect to housing loans for veterans; to the Committee on Veterans Affairs.

By Mr. CRANSTON (by request):

S. 3109. A bill to amend title 38, United States Code, to authorize the creation of a Persian Gulf Registry Program; to the Committee on Veterans Affairs.

By Mr. BROWN:

S. 3110. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of such Act to germicides; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN (for himself, Mr. KASTEN, Mr. BRYAN, and Mr. MACK):

S. 3111. A bill to amend the Internal Revenue Code of 1966 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing federal tax relief for employment and investment; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 3112. A bill to amend the Public Health Service Act to make certain technical corrections, and for other purposes; considered and passed.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 3113. A bill to establish a Quinebaug and Shetucket Rivers Valley National Heritage Corridor; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Con. Res. 131. A concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31st; considered and agreed to.

By Mr. BOND:

S. Res. 327. A resolution to limit the number of Senate committee staff to the number employed at the beginning of the 103d Congress and to establish a procedure for the appointment of an independent commission composed of retired Federal judges to investigate allegations of ethics violations by Senators; to the Committee on Rules and Administration.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 3098. A bill to impose a 1-year moratorium on the sale, transfer or export of antipersonnel landmines abroad, and for other purposes; to the Committee on Foreign Relations.

ANTI-PERSONNEL LANDMINE MORATORIUM ACT

Mr. LEAHY. Mr. President, 6 years ago, when the Contra war was still going on in Nicaragua, I visited a

Contra camp in the Honduran jungle on a steamy hot day.

The helicopter I was in landed at the field hospital. It was a terrible place. There were tents and tin shacks and a hospital that was just a big warehouse with a dirt floor. I went through that makeshift hospital, and I met a young boy. He was probably 9 or 10 years old. He had a leg blown off. He was a good looking young man, very pleasant, hobbling around with a handmade crutch.

He was the son of a farmer, and he had stepped on a landmine walking along a path near where he lived. He had been at the camp for over 2 years. There was no other place for him to go. He had never had an artificial leg. He did not know where he could get one. He only had the handmade crutch. And in his country, with his background his future was pretty grim.

That boy did not know who had placed the landmine, which side of the war had put it there. But, really, what difference did it make? The fact was, his leg was gone and his future was blighted.

That boy was one of hundreds of thousands of people in dozens of countries, many of them children like him, who have lost a leg or an arm from a landmine. In poor Third World countries torn by civil war—like Afghanistan, Angola, Mozambique, Laos, Cambodia, El Salvador, and Nicaragua—landmines have become the weapon of choice. They are cheap; they are easy to carry, and they can make whole areas inaccessible. But they are weapons of terror, of indiscriminate terror, usually used against civilians.

In Afghanistan, an estimated 400,000 people have been maimed in the 14-year war—400,000 people. That is more than three-quarters of the population of my whole State of Vermont. And those are the lucky ones; another 200,000 have been killed by landmines.

In Cambodia, 20,000 people have lost limbs and another 60 people a month are being maimed by landmines. The overwhelming majority of them are noncombatant civilians. That is the insidious thing about landmines—they do not discriminate. They will maim or kill anyone who steps on them, civilian or combatant, but it is usually a civilian.

Let me show you what I am talking about. These pictures tell the story, of excruciating pain, of hope lost, of years of immense hardship in countries where life is a daily struggle even for those who are not crippled.

These women in Angola, and thousands of others like them, are waiting for artificial limbs. They each lost a leg from landmines. These are women who must care for children, walk miles for firewood, for food, for water. Work in fields, carry home what they produce or need, and do it with only one leg.

This boy from Mozambique, lost both his legs above the knee. His body was virtually torn in half by the explosion. He stepped on a kind of landmine that springs out of the ground and explodes at about waist level so it will do maximum damage.

This boy was not a combatant. He was not one of those who hoped to profit from war. But look at him. What future does he have?

Another victim of one of these landmines, an American, wrote about what happened to him. Let me read what he said:

> I was thrown violently through the air. When I threw my arms out in front of me, I saw in shocked amazement that my left arm was gone from above the elbow. A white splintered bone jutted out of a bloody stump of tangled and torn flesh. The flesh on my right arm had been blasted away from the elbow to the hand, and I could see both bones glistening white against bloody pulp. Grievous damage was also done to both my legs and feet.

Mr. President, the horror, the sheer horror of that statement, but hundreds of thousands of people around the world could write the same thing.

When I came back from Honduras 4 years ago, I established a new program in the Agency for International Development that has become known as the War Victims Fund. That fund provides artificial limbs and vocational training for civilian victims of war. In the past 3 years, AID has started projects in about a dozen countries, fitting thousands of landmine victims with artificial limbs and sending over American doctors and physical therapists to do training.

Two years ago, I visited one of the clinics supported by the War Victims Fund in Uganda. Before we got involved there was no sterile operating room in the entire country. We built one, and American surgeons have volunteered their time. We also provided equipment for a workshop to manufacture artifical limbs.

Another war victims program is operating now in Mozambique. There are programs in Laos, Sri Lanka, Lebanon, and other war torn countries.

In Angola, where there are 20,000 amputees, the War Victims Fund has built a hostel where amputees and their children can stay while they are being fitted for artificial limbs and given physical therapy.

These programs have helped the victims, but they have not stopped the killing and maining by landmines. Landmines are being used in increasing numbers. They remain buried and undetected for years, long after the fighting stops and the combatants leave. People are still being killed and mained in Laos and Vietnam because of mines strewn by United States forces 20 years ago. Afghanistan may never be rid of the millions of mines that litter the countryside and continue to cause untold suffering.

That is why today I am introducing legislation to impose a 1-year moratorium on the sale, transfer, or export of antipersonnel landmines by the United States.

The United States is one of some 35 countries that export landmines. However, our exports represent only an insignificant amount. In the past 10 years, the State and Defense Departments have licensed sales and exports of antipersonnel landmines valued at less than $1.9 million.

It is obvious that these sales are neither significant in terms of American jobs nor necessary for U.S. security. But they have terrible significance for the victims who are crippled for life, and for their families.

Ten years ago the United States joined 52 other countries in signing the landmine protocol, the second protocol to the United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons.

The landmine protocol to the convention seeks to regulate the use of mines to minimize their indiscriminate effect on noncombatant civilians.

At the time, the United States said:

> We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.

The convention called attention to the problem of indiscriminate killing and maiming of civilians by landmines, but it so far has accomplished little else. Ten years have passed and the administration has still not submitted the convention to the Senate for ratification.

And since then, we have seen the use of landmines skyrocket and hundreds of thousands of innocent people left crippled or dead. If we are ever going to stop the use of these deadly weapons the United States must show leadership.

This legislation is a first step. It does not ban the production of antipersonnel landmines. But it cuts off the export, sale, or transfer of U.S. landmines to other countries where they are used routinely against civilians.

The legislation also calls on the President to actively seek to negotiate an international agreement, or a modification of the convention, to prohibit the sale, transfer, or export of antipersonnel landmines. Such a binding international agreement would replace the unilateral U.S. moratorium on the export of landmines.

Mr. President, with the end of the cold war, we are seeing enormously important arms control agreements. We and the Russians are cutting back thousands of nuclear warheads, and destroying hundreds of ballistic missiles. We and the nations of Europe are reducing hundreds of thousands of troops, thousands of tanks, planes, and artillery.

Compared to those historic arms agreements, this 1-year moratorium on U.S. exports of landmines may seem small. But if it can set an example for other countries that produce and sell antipersonnel landmines, it can mean everything to the hundreds of thousands of legless and armless men, women, and children in countries too poor to care for them. With the cold war over, we can finally do something to begin to put an end to this senseless slaughter of innocent people.

Mr. President, it is my intention to offer this bill as an amendment to the Defense authorization bill, which I understand will come to the floor prior to the August recess. I hope the Senate will adopt my amendment by an overwhelming vote and send a message to the world.

Mr. President, I ask unanimous consent that the following Senators be listed as cosponsors of the bill I am introducing today. Senator BOB KERREY, Senator JOHN KERRY, Senator HATFIELD, Senator JEFFORDS, Senator KENNEDY, Senator MIKULSKI, and Senator DECONCINI.

I send to the desk the legislation I have referred to and ask that it be appropriately referred.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I want to mention two people who deserve special mention for their work to stop the use of landmines around the world. Jodie Williams, of Brattleboro, VT, and Robert Muller, executive director of the Vietnam Veterans of America Foundation, have started a global campaign to stop the use of landmines. They have already gained the support of half a dozen organizations around the world. I want to thank them for their support for this legislation, and for their commitment to this cause.

Mr. President, I ask unanimous consent that a letter from Robert Muller be printed in the RECORD and that an article from yesterday's New York Times about landmines in Afghanistan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VIETNAM VETERANS OF
AMERICA FOUNDATION,
Washington, DC, July 29, 1992.

Senator PATRICK LEAHY,
SR 443 Russell SOB,
Washington, DC.

DEAR SENATOR LEAHY: On behalf of the Vietnam Veterans of America Foundation, I would like to congratulate you on the leadership role you have taken with your introduction of legislation to impose a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

As you graphically point out, landmines are insidious weapons that do not discriminate—they kill and maim tens of thousands of civilians around the world long after the wars in which they were sown are over. This indiscriminate effect, which can last through decades of peace, is clearly not proportionate to any military gain of the moment.

The VVAF endorses this legislation as a first step toward ending this senseless slaughter. Further, it endorses the language that would set the policy of the United States to work toward the eventual "termination of production, possession or deployment of anti-personnel landmines."

The VVAF hopes that your leadership will be further by the U.S. Senate with the passage of this legislation as an amendment to the Defense Authorization bill.

Sincerely,

ROBERT O. MULLER,
Executive Director.

[From the New York Times International, July 29, 1992]

MINES IN AFGHANISTAN MAIM MANY REFUGEES

WASHINGTON, July 28.—Afghan refugees returning home are being maimed by land mines at a rate that alarms the International Committee of the Red Cross, an official of the organization says.

"Mines are a problem all over Afghanistan," said Urs Boegli, the committee's deputy delegate general for Asia. "It's not like Cambodia, where mining was confined to border areas."

Mr. Boegli said in a telephone interview from Geneva that mineclearing is "not on any scale compared to the size of the disaster."

Since April, when Kabul fell to guerrilla armies, the frequency of mine injuries—typically amputations—has tripled, according to records kept at three Red Cross hospitals, in Kabul and in Quetta and Peshawar, Pakistan.

Mr. Boegli said the Red Cross was fitting about 300 artificial limbs a month in Kabul and Peshawar, and there is a long waiting list.

Despite education programs in refugee camps, children are often tempted to pick up certain kinds of mines, especially "butterflies," which are small and bright green. Their hands are blown off in the detonation.

Mr. LEAHY. Mr. President, we can exert moral leadership here. We can ban the export of landmines. We can do it very easily. And then we can use that moral leadership to go to other countries that produce these terrible weapons and urge them to ban them too. Ask yourself, Mr. President, when you look at these pictures—and I could bring thousands more like this onto the Senate floor—what has any country gained in security by using weapon's that would do that to a child? What has any country gained by using weapons that would do that to innocent women? What does it say about our own moral leadership if we are party to this? These are not weapons that protect a country. These are weapons that enable warring factions to use terror to gain their way.

Mr. President, can we not ask ourselves, if the goals of those who would use such weapons of terror against innocent civilians are not suspect in the first place? Because if your goals can only be reached by such indiscriminate use of terror against innocent people, Mr. President, it cries to Heaven that those goals themselves are immoral.

Mr. HATFIELD. Mr. President, a great deal of my time here in the Senate has been devoted to ridding this earth of some of the most insidious weapons known to mankind: nuclear warheads, biological weapons, and chemical weapons. I have opposed these weapons because of their destructive capability and because their use could lead to the indiscriminate harm of innocent civilians.

This new campaign to end the use of antipersonnel landmines is the next step in this effort and it pleases me greatly to join Senator LEAHY in introducing legislation to impose a 1-year moratorium on the sale or export of these weapons.

The truth about landmines is tragic: landmines continue to threaten innocent civilians in several countries around the world, most notably Cambodia, Laos, Afghanistan, and Angola. These legacies of war are resulting in hundreds of thousands of casualties long after the cease-fires are in place. A preferred tool of insurgencies, these mines are scattered by the thousands on farmland and along main roads, lying in wait for unsuspecting individuals attempting to reclaim their homelands. All too often the victims of these weapons are children.

The United States is not a primary exporter of landmines. In fact, the number of U.S.-produced landmines is relatively small. Our country has shown leadership by signing the 1981 "Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects." This legislation we are introducing today builds upon that leadership by urging the President to submit this convention to the Senate for ratification, and by setting the example of not providing these weapons to anyone for 1 year.

We are closing the chapter on chemical weapons. The threat of nuclear war has never been more remote. Let us use this opportunity to rid the world of one more weapon of indiscriminate destruction by taking the lead in banning landmines.

By Mr. BOND:

S. 3099. A bill to require the sine die adjournment of Congress by October 15 of each year; to the Committee on Governmental Affairs.

SINE DIE ADJOURNMENT BILL

Mr. BOND. Mr. President, as I travel around Missouri, one comment I hear over and over is—you have to do something to clean up the mess in Washington. The budget deficit, partisan bickering, stalemate, indecision, finger-pointing on the economy and the many scandals have led to an ever declining respect for anything Congress says or does.

The House banking and post office scandals, the Keating Five, plus the weekly stories of other ethics troubles of Members and staff have led many Americans to conclude that Congress is just a bunch of do-nothing, spendthrifts who feel they are above playing by the rules.

I think that it is time to restore the faith of the American people in their government. Congress has got to start playing by the rules. We have to start being more ethically and fiscally responsible.

I particularly commend my colleagues, the Senator from Oklahoma, Senator BOREN, and the Senator from New Mexico, Senator DOMENICI, for the leadership that they have taken in proposing a study of the reforms necessary to make the Congress work efficiently, and to regain the trust and confidence of the American people.

Today I am introducing two measures to start the process and to start the discussion about how Congress does its business. I have set out what I think are three badly needed reforms.

First, we need to change radically the current factfinding process of the Senate Ethics Committee where members judge their own colleagues. Some have called it the fox guarding the chicken coop, but I believe that Senators who have violated the rules of ethical conduct should be punished, not have their actions covered up by their colleagues

Mr. President, the time has come to face the fact that the Senate Ethics Committee is not capable of one of the major jobs they have been assigned—the self-policing and judging of their own. Their actions have led to a loss of confidence by the public—thus their recommendations, both the fair and the unfair, have come under suspicion. This hurts not only the Congress as a whole, but also taints every innocent verdict made by the committee.

We are thus left in the untenable position of the public doubting the validity of any Ethics Committee action, even those where the answers are clear cut—and the downward spiral of public confidence continues.

Mr. President, this sorry state of affairs has led me to the conclusion that the only real solution is to wipe the slate clean and start over. This means relieving the Senate Ethics Committee of the job of judging Senators and transferring that responsibility to an Independent Senate Ethics Commission made up of three retired State or Federal judges.

No more political pressures brought to bear on colleagues to go lightly; no more partisan deal cutting to save some at the expense of others; and no more suspicion that the system can't work because of the tremendous pressures members feel when they have to judge their own colleagues and friends.

Instead, we need independent, outside jurists to take on the task of deciding whether or not a Senator has acted improperly and to make recommendations as to the appropriate sanctions. That way the innocent won't be held hostage to the guilty; and the guilty will receive their just punishment.

The recommendations of an ethics panel should not be based on, or colored by, the political ramifications of releasing the findings. I believe the only way we will get to this point is to create an independent, outside commission to handle ethics investigations.

In order to keep the independent Senate Ethics Commission as nonpartisan as possible, the majority leader and minority leader would each get to select one retired judge, and together the two nominees would select the third.

The members of the Commission would serve a term of 3 years and could be reappointed for two additional terms.

The Commission would take over the fact finding duties of the current Senate Ethics Committee and would therefore act when actual complaints are brought against a member. It would then make informal preliminary inquiries to determine whether a formal investigation is warranted.

If it finds that a formal investigation is warranted, it would conduct an investigation. In addition, it would have the authority to hold hearings and to appoint a special counsel for investigations.

At the conclusion of an investigation, the Commission would submit a report to the Senate stating its findings and making recommendations.

The American people do not want a rubber stamp for an ethics committee, and those of us in Congress who have high standards and want them upheld do not want it either. We think people who violate the standards of conduct in Congress ought to be dealt with.

Let us get a straight answer, the people deserve it and frankly, those of us in Congress who are outraged by ethical violations demand it as well.

Second, this legislation cuts committee staff and budgets by 25 percent by 1994. One of the headlines in last week's Roll Call read: one out of every 11 House committee staffers paid $100,000 or more annually.

This is outrageous. The American public has a right to be upset about the way we spend their tax dollars, and staff expense has become one of the fastest growing programs in the budget.

Congress has gotten too big and committee staffs have become so large that they are essentially unelected governments. Many seem to operate on their own—without any oversight and I believe this should be drastically curtailed.

On too many occasions staff has inserted complicated last minute provisions that nobody knows about or fully understands until the committee staffers themselves retire and go out into the private sector so they can make a fortune telling people what they meant.

On other occasions, the agenda of unelected staff seems to take precedence over the agenda of the members of the committee—an indication of bad management as much as anything, but the results remain the same. Reducing committee staff addresses both this problem as well as saving taxpayers' dollars. For if we cannot tighten our belts on the Hill, how can we expect the American people to believe us when we say we are serious about deficit reduction?

And finally, my legislation would set a mandatory adjournment date at October 15, and would prohibit Members from being paid after that date unless both Houses have adjourned sine die, or the President has used his constitutional authority to call the Congress back into session.

This would force Congress to take care of all of its business by October 15. This no-pay incentive should help us to finish our legislative work early enough to be able to spend more time among our constituents back home in our States.

Over the years it seems to me that Congress has gotten worse and worse in terms of wasting its time doing absolutely nothing for months and then, at the last minute trying to debate vital, controversial legislation. The result is often half thought out pieces of legislation, 1,000 page omnibus bills that are so large that the Members aren't even sure what they're voting on, and take-it or leave-it proposals.

State legislatures around the country have mandatory adjournment dates, Missouri being one of them—for the precise reason of forcing members to meet deadlines and get their work done. In Missouri, we have even shortened the state legislative session! I believe a little similar discipline might not be a bad idea because I know we can get all of our real business finished by October 15.

Mr. President, each of these reforms are good first steps toward making the Congress more accountable and more effective. For too many years—seemingly getting worse each year—I believe the goal has been shifting from policy achievements to political gains.

As a result, a congressional leader is measured by partisan victories or number of seats gained rather than by public policy gains or losses which occurred on their watch. Instead of working with colleagues and an administration in order to improve programs, try new ideas or shift priorities, the aim seems to be to score political points.

I believe that we must face up to these disquieting trends, and face the fact that we must reform the way Congress does business. The public is not well served by our current approach and their frustration and anger is well founded. That is why I believe these radical steps must be taken: eliminate unelected, committee staff fiefdoms; set a mandatory adjournment date; and create a credible ethics watchdog.

I have spoken to Senators DOMENICI and BOREN the coauthors of a congressional reform commission which will begin meeting later this year about these ideas. They both agree that real, meaningful reforms are vital, and I hope to work with them to see reforms are made. In follow-up to my discussion I will be sending a copy of this legislation along with several other congressional and budget reforms I believe we must make.

But Mr. President, we must start somewhere, and I believe the three steps I have outlined today are good first steps toward making the Congress an instrument of the people again.

Mr. President, I thank you and ask that a copy of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SINE DIE ADJOURNMENT OF CONGRESS BY OCTOBER 15 OF EACH YEAR.

Section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this subsection, basic pay for service in a position described in paragraph (1) shall not be payable for any day during the period beginning on October 16 of a year and ending on January 2 of the following year unless the day follows the sine die adjournment of the last regular session of Congress that began before the start of that period.

"(B) Subparagraph (A) does not apply with respect to any day on which—

"(i) a state of war exists pursuant to a declaration of war by the Congress; or

"(ii) the Congress is in session, having been convened by the President under article II, section 3 of the Constitution.".

By Mr. GRAHAM:

S. 3101. A bill to authorize a White House Conference on Juvenile Justice; to the Committee on the Judiciary.

WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE ACT OF 1992

• Mr. GRAHAM. Mr. President, today I rise to introduce legislation which would authorize a series of regional conferences, culminating in a White House conference, to address the need for comprehensive reform in our Nation's juvenile justice systems.

In 1974, Congress authorized the Juvenile Justice and Delinquency Prevention Act [JJDPA] which created the Office on Juvenile Justice and Delinquency Prevention in the Department of Justice. This office coordinates all Federal and State grant programs for juvenile justice and runaway and homeless youth and serves as a national center on missing and exploited children.

In traveling through my home State of Florida, I have spoken with women and men who have devoted their lives to the prevention and treatment of juvenile delinquency, serving as judges, State juvenile care providers, law enforcement officers, educators, social workers and other professionals.

These dedicated Floridians have conveyed to me the concerns that Federal juvenile law does not adequately address the issues of cause of juvenile delinquency or of effective intervention in the lives of at-risk juveniles.

They have identified three goals that a White House conference proposed by this legislation can achieve which existing Federal and State programs have not.

First, the conference will create a forum for information exchange. Certain States, most notably Massachusetts and Utah, operate innovative programs which have experienced demonstrable successes. Other States and the Federal Government can only benefit from exposure to such successes.

Second, a comprehensive, grassroots national strategy developed by local representatives at a national conference and implemented by local and State authorities must be initiated to properly address our Nation's troubled juveniles and the communities that are racked by youth violence. Only with such a strategy can we begin to address these issues throughout the country.

Third, an attempt must be made to change the way in which government and the public see juvenile justice and delinquency issues. All must understand that these are not discreet problems but are, rather, integral parts of the larger pattern of social breakdown which we as a Nation are currently attempting to address.

Mr. President, a White House Conference on Juvenile Justice bringing together juvenile justice and delinquency prevention experts from every State in the Nation is the only way to effectively rejuvenate national dialog and share ideas about Federal and local juvenile justice and delinquency prevention programs.

I urge my colleagues to join me in securing a timely passage of this legislation.

I ask unanimous consent that the text of the legislation be included in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "White House Conference on Juvenile Justice Act of 1992".

SEC. 2. WHITE HOUSE CONFERENCE AUTHORIZED.

(a) FINDINGS.—The Congress finds that—

(1) although the overall youthful crime rate dropped 18 percent in the decade between 1979 and 1989, the Nation's daily population of minors in juvenile facilities rose 45 percent during that same period;

(2) between 1989 and 1990 the number of youth arrests for Violent Crime Index offenses increased 16 percent;

(3) the rising rate of violent and drug-related juvenile crime plaguing many communities requires new efforts to understand and address juvenile delinquency so as to ameliorate the burden being borne by these communities;

(4) the explosion of the population of minors in juvenile facilities has led to overcrowding in over 50 percent of the juvenile training schools in the country;

(5) overcrowding in juvenile facilities has led to the employment of such controlling tactics as isolation and abusive restraint;

(6) the practice of trying juveniles in adult courts, or "adultification", has become more common in the last 10 years, resulting in growing numbers of minors serving sentences in adult jails;

(7) States and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency by providing community-based education and rehabilitation in addition to constructive punishment; and

(8) existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency.

(b) POLICY.—It is the policy of the Congress that—

(1) the Federal Government should work jointly with the States and with private organizations concerned with the issues and programs relating to juvenile justice and juvenile delinquency prevention to develop recommendations and plans for action to meet the challenges and needs of juvenile offenders and the overburdened juvenile justice systems of the States, consistent with the objectives of this Act; and

(2) in developing programs pursuant to this Act, emphasis should be directed toward individual, private, and public initiatives and resources aimed at preventing juvenile delinquency, juvenile recidivism, and at improving State juvenile rehabilitation programs.

SEC. 3. AUTHORIZATION AND PURPOSES OF THE CONFERENCE.

(a) IN GENERAL.—The President shall call and conduct a National White House Conference on Juvenile Justice (referred to as the "Conference") in accordance with the provisions of this Act.

(b) PURPOSES OF CONFERENCE.—The purposes of the Conference shall be—

(1) to increase public awareness of the problems of juvenile offenders and the juvenile justice system;

(2) to examine the status of minors currently in the juvenile and adult justice systems;

(3) to assemble individuals involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

(4) to create a forum in which such individuals and organizations from diverse regions may share information regarding successes and failures of policy in their juvenile justice and juvenile delinquency prevention programs; and

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problems of juvenile delinquency and juvenile justice.

(c) Schedule of Conferences.—Conferences under this Act shall be held at least once during each 5-year period, but not more often than once in each 3-year period. No conference shall be held during a Presidential election year. The first Conference under this Act shall be concluded not later than 18 months after the date of enactment of this Act.

(d) Prior State and Regional Conferences.—

(1) In general.—Participants in a Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the executive director of the Conference.

(2) Purpose of State and regional conferences.—State and regional conferences and activities shall be directed toward the consideration of the purposes of this Act. State conferences shall elect delegates to the National Conferences.

(3) Admittance.—No person involved in administering State juvenile justice programs, providing services to, or advocacy of, juvenile offenders may be denied admission to any State or regional conference.

SEC. 4. CONFERENCE PARTICIPANTS.

(a) In General.—The Conference shall bring together individuals concerned with the issues and programs, both public and private, relating to juvenile justice, and juvenile delinquency prevention.

(b) Selection.—

(1) State conferences.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences.

(2) Appointed delegates.—In addition to delegates elected pursuant to paragraph (1)—

(A) each Governor may appoint 1 delegate and 1 alternate;

(B) the Majority Leader of the Senate, in consultation with the Minority Leader, may appoint 10 delegates and 3 alternates;

(C) the Speaker of the House of Representatives, in consultation with the Minority Leader, may appoint 10 delegates and 3 alternates;

(D) the President may appoint 20 delegates and 5 alternates;

(E) the chief law enforcement official and the chief juvenile corrections official from each State may appoint 1 delegate and 1 alternate each; and

(F) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate and 1 alternate each. Only individuals involved in administering State juvenile justice programs, providing services to, or advocacy for, juvenile offenders shall be eligible for appointment pursuant to this paragraph.

(c) Participant Expenses.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed either from funds appropriated pursuant to this Act or the Juvenile Justice and Delinquency Prevention Act.

(d) No Fees.—No fee may be imposed on any person attending a Conference except a registration fee of not to exceed $10.

SEC. 5. STAFF AND EXECUTIVE DIRECTOR.

(a) In General.—The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The staff of the Conference may not exceed 20, including the executive director.

(b) Detailees.—Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

SEC. 6. PLANNING AND ADMINISTRATION OF CONFERENCE.

(a) Federal Agency Support.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) Executive Director of the Coalition of Juvenile Justice and Delinquency Prevention Advisory Committees.—In carrying out the provisions of this Act, the executive director of the Coalition of Juvenile Justice and Delinquency Prevention Advisory Committees—

(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels as authorized by section 3(d);

(2) is authorized to enter into contracts and agreements with public agencies, private organizations, and academic institutions to carry out the provisions of this Act; and

(3) shall assist in carrying out the provision of this Act by preparing and providing background materials for use by participants in the Conference, as well as by participants in State and regional conferences.

SEC. 7. REPORTS REQUIRED.

Not later than 6 months after the date on which a National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be made available to the public.

SEC. 8. OVERSIGHT.

The Office of Juvenile Justice and Delinquency Prevention shall report to the Congress annually during the 3-year period following the submission of the final report of a Conference on the status and implementation of the findings and recommendations of the Conference.

SEC. 9. AVAILABILITY OF FUNDS.

(a) In General.—There are hereby authorized to be appropriated not to exceed $3,000,000 for each National Conference and associated State and regional conferences under this Act. Such sums shall remain available until expended. New spending authority or authority to enter contracts as provided in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(b) Use of Other Funds Prohibited.—No funds appropriated to the Juvenile Justice and Delinquency Prevention Act shall be made available to carry out the provisions of this Act other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference, including submission of the report pursuant to section 7, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.●

By Mr. SIMON:

S. 3102. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Finance.

CORPORATE DEDUCTION ALLOWANCES AMENDMENTS ACT

Mr. SIMON. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to limit the interest deduction allowed corporations and to allow a deduction for dividents paid by corporations.

Our current system of taxation encourages American businesses to use debt, rather than equity, to provide needed financing.

My proposal would be revenue neutral, though in the long run it should add to revenue because it helps the economy. I propose that, with some exceptions, 20 percent of the interest payments of all but the smallest corporations—including farm corporations—should not be deductible, but that 50 percent of dividends should be deductible.

We have been working these days in the Senate on the question of the Federal debt. It is unbelievably bad. We have to deal with it. If tomorrow we pass the balanced budget constitutional amendment—which, unfortunately, we are not going to do tomorrow—while we will have helped the economy significantly, much more will remain to be done, because it is not only the Federal Government that has piled up debt. Individuals have, and corporations have. We live in a culture of debt. Like any good thing, debt can be valuable and helpful if taken in small quantities. However, like an alcoholic, we have overimbibed to the point that we threaten the economic future of our Nation and of our children and generations to come.

This proposal is one piece of a mosaic to respond to our problems.

I offer it not as a conclusive answer about what should be done, but I offer it urging that my colleagues on the Senate Finance Committee study it. I am sending a copy of my remarks, together with the bill, to all members of the Finance Committee. I ask them to look at the concept carefully, a concept that is sound.

If a corporation—and by way of clarification for those of you who are listening, what I am suggesting, again, is that 20 percent of a corporation's interest is not deductible, but that 50 percent of dividends would be deductible.

If a corporation borrows money to acquire another company or to buy equipment or for any other purpose, the interest on that debt is deductible, even though the debt can—and often does—put the corporation in a precarious position. But if the same corporation issues stock, and then pays dividends, there is no deduction. The tax laws favor debt.

That same corporation, if it cannot meet the payments of principal and interest, will have to sell itself or go bankrupt, neither of which are desirable goals. But if that corporation issues stock, and there is a dip in the economy, the only penalty the corporation must pay is that it cannot issue dividends. It can continue to thrive, employ people, and be a productive part of our society.

In the 1980's, we saw a great increase in corporate indebtedness, Mr. President. The aggregate debt of U.S. nonfinancial firms was $800 billion in 1980; by the end of the decade the aggregate debt had increased to a little over $2 trillion. This resulted in many of our businesses declaring bankruptcy, and it resulted in massive leveraged buyout activity.

The tax laws were not the only cause. But tax laws have encouraged corporations and banks and law firms to make the fast buck, rather than do the slow, solid things that are necessary to build their business and the economy of this Nation. I favor tax laws that give corporations deductions for research, for creating jobs, for adding to the productivity of the Nation. But our tax laws have encouraged corporations to gobble each other up, diminishing the productive capacity of the Nation, rather than building it.

There also are other factors, including a national administration that was an indifferent observer to all of this, an administration that thought if you simply let the market run wild, everyone would be well served. The icing on the cake was anemic enforcement of antitrust laws.

All of this was compounded by the Federal deficit, which has sent real long-term interest rates higher, causing an overvalued dollar, and which in turn caused exports to drop, imports to rise, and plants to be built outside the United States.

The plague of business bankruptcies has continued into the 1990's, with a number of large firms going into bankruptcy within the past 6 months.

While there are other factors involved, our current tax policy certainly has encouraged the increase in borrowing and merger activity, and it would be unwise to allow this policy to continue.

The objective of my bill is to reduce the incentives for corporate debt rather than equity. My bill does this by disallowing 20 percent of a corporation's interest deductions while providing a 50-percent deduction for dividends paid by corporations.

I have sounded out the idea with a few business executives, and the general reaction has been highly favorable. The same is true among economists I have consulted.

I have exempted small corporations and farming businesses from my bill. But there may have to be some other exceptions, such as firms that deal in real estate—though businesses like these also have much to gain under this proposal, because less demand for lending will mean lower interest rates. And that helps almost all businesses, particularly these. I hope that Senate Finance Committee hearings on this bill will illuminate those problems. If necessary, appropriate exceptions to the interest deduction limitations could be drawn, in addition to the ones included in the bill.

Corporations that pile up huge debt eventually have to pay that debt or go into bankruptcy. When one corporation goes into bankruptcy, other businesses that depend on it may face the same prospect. Pension funds, where much of the debt financing originates, get hurt, as do the employees who have no knowledge of what is happening to their retirement base.

If there can be a gradual shift to equity financing, bankruptcies will diminish, and because of the lowered demands on borrowing, interest rates should decline—helping the Nation in many ways, including making it easier to finance through equity. The Nation's business community, thrift institutions, and pension funds will have greater stability, and the Nation's economy will be stronger.

Mr. President, I hope my colleagues will join in supporting this needed legislation. It is not written in concrete. The idea here is sound, but I recognize that it needs to be refined. I hope that the refinement can take place, that we can encourage equity financing more than debt financing, and that the Nation can gradually move away from the quicksand of excessive debt, both in the public sector and in the private sector.

By Mr. BINGAMAN:

S. 3106. A bill to extend the deadline for compliance with certain drinking water regulations, and for other purposes; to the Committee on Energy and Natural Resources.

DEADLINE EXTENSION FOR CERTAIN REGULATIONS ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to provide short-term relief for our Nation's small water systems, which are struggling to comply with EPA regulations issued under the 1987 amendments to the Safe Drinking Water Act. Although Congress did not intend the Safe Drinking Water Act to have a punitive effect on small communities struggling to provide economical, safe drinking water to their citizens, the cost of compliance with some of these rules is proving to be prohibitively high. All over New Mexico, and in many other States as well, small water systems are faced with a terrible choice that is really no choice at all: Going broke, or being fined by EPA or their State environment departments for failure to comply with Safe Drinking Water Act regulations.

Mr. President, this is simply an economies of scale problem. The lead and copper rule and the phase II and phase V rules for synthetic organic and inorganic chemicals will require these small systems to test for over 100 contaminants on a frequent basis. But small, particularly rural, water systems do not have the means to make these tests themselves, and will have to contract with laboratories or larger municipalities. The cost to these small water systems could run into the thousands of dollars every year. These costs would ultimately be borne by the water users, and result in large increases to individual water bills.

Mr. President, the intended benefits of the Safe Drinking Water Act will be negated if implementation of the regulations forces the shutdown of community water systems and drives families back to unsafe water sources. I am not advocating a rollback of standards necessary to ensure safe drinking water. But these small systems need a temporary reprieve to buy the necessary time for EPA and Congress to address the economics of safe drinking water.

The bill I am introducing today directs the Administrator to extend the deadline for compliance with the national primary drinking water regulations for lead and copper by 1 year. It makes a similar direction for the phase II regulations for 26 synthetic organic chemicals and 7 inorganic chemicals; and the phase V regulations for 18 synthetic organic chemicals and 5 inorganic chemicals. These rules have already been promulgated, Mr. President; my amendment just extends the deadline for implementation for 1 year.

This legislation also requires the Administrator, during the course of that year, to conduct research on the degree of health risks from noncompliance with the regulations by small and medium-size water systems, and the economic cost of compliance with the regulation. It is not at all clear, Mr. President, that it makes sense for all of the Nation's drinking water systems to test for all of these contaminants, all of the time. Based on these findings, the Administrator will present a report, complete with recommendations for any legislative changes that may help small communities, to Congress.

Mr. President, this is not intended to be the final, comprehensive solution to the compliance problems of small water systems. It is intended to provide short-term relief until Congress can take up the Safe Drinking Water Act in the 103d Congress. This legislation will also buy EPA some time to work with communities on innovations and compromises that will remove the immediate threat of penalties and fines. These efforts notwithstanding, it is also incumbent upon the Federal Government to fully fund the Safe Drinking Water Supply Program. We must give the States the means to comply with the laws that Congress passes.

In conclusion, Mr. President, I note that my colleague from New Mexico, Mr. DOMENICI, has also introduced a bill related to the Safe Drinking Water Act regulations. He has had a longstanding concern about this issue and has made very constructive contributions to dealing with the problems. It is my hope that we can work together to address the needs of small water systems.

By Mr. BAUCUS:

S. 3107. A bill to provide for the protection of vertebrate paleontological resources, and for other purposes; to the Committee on Energy and Natural Resources.

VERTEBRATE PALEONTOLOGICAL RESOURCES PROTECTION ACT

Mr. BAUCUS. Mr. President, today I am introducing legislation that will protect one of our country's most valuable historical and scientific resources from a growing problem of commercial exploitation.

Recently, the oldest, most complete skeleton of a juvenile allosaur dinosaur was found in Greybull, WY. It was named "Big Al." And while most of us would be inspired by the scientific wonders of such an important discovery, unfortunately, there are some who see little more than dollar signs.

These fossils are an important aspect of our national heritage and have tremendous scientific and educational value. They are a priceless source of information about our past, our environmental history, and the lifestyles of these ancient creatures.

Yet there are increasing examples of vandalism and commercial pressure for exploitation of these fossils, doing, irreparable damage to their scientific value.

Their rarity and recent rise in popularity have fueled a highly competitive commercial market not only in the United States, but abroad. For example, it has been estimated that if Big Al had been sold on the open market, it could have commanded $500,000, or even more, for its discoverer.

Some commercial collectors may defer to the historical and scientific value of their discoveries. But many do not. I believe that we must ensure that important fossil resources found on Federal land remain in the public domain, not locked away in some private collection.

If we continue to allow these public resources to be sold to the highest bidder, we stand to lose crucial sources of scientific research and public education.

And we also run the risk that these treasures may never be placed in a public collection for the enjoyment and education of all our citizens. Many American museums and educational institutions simply do not have the financial resources to compete in this type of seller's market.

As an example, in my State of Montana the Museum of the Rockies in Bozeman houses Big Al, along with a tyrannosaurus rex from Montana. The Museum of the Rockies provides a unique, world acclaimed collection of fossil remains.

The ongoing research at this institution provides extensive public education about the environment in which dinosaurs and other fossil vertebrates lived. Yet, I doubt that this museum, or many others could afford $½ million for one fossil. In which case a tremendous educational resource could be lost to the American public.

There are many commercial opportunities available on Federal lands, but selling these historical national treasures should not be one. We manage these lands as a public trust for all the people.

However, current Federal law does not provide the comprehensive protection these fossils need.

The bill I am introducing today would fill this gap and eliminate much of the confusion that currently exists. This bill will protect paleontological resources much as archaeological resources on Federal land are now protected.

It would require a permit for the exploration and collection of paleontological resources on public land. Permits would be issued for scientific, educational, and public display uses. Amateur collectors also can apply for permits and continue their activities.

While some collectors endanger the very resource they profess to value, it is important to note that there are many amateur and private collectors who perform a vital role for the scientific and educational communities. This bill allows these individuals to continue to collect fossils on Federal land.

Likewise, the bill also allows reputable commercial collectors to continue their operations. In order to encourage expert handling in the removal of fossil resources, suitable institutions, as defined in the bill, can contract for commercial excavation services.

In this way, commercial collectors with high ethical standards and skills can continue to market their services. But the resource itself must still not be sold out of the public domain.

Let me emphasize one point. Permits would not be issued for commercial collecting and resale. Individuals who knowingly violate the intent of this act will face criminal and civil penalties. However, since this bill only affects fossils found on public land, millions of acres of private land would still be available for commercial collecting.

This bill also confirms that all scientifically significant vertebrate fossils found on Federal lands will remain the property of all the people. These fossils will be catalogued and maintained in institutions that have established policies for the preservation of these resources. And they will be accessible for scientific study and for educational purposes.

Equally important, this legislation directs Federal land managers to establish programs to increase public awareness of the significance of the paleontological resources located on public lands. Paleontological societies are also strongly encouraged to develop educational programs to share information with private landowners and collectors.

Mr. President, I hope this bill will be the starting point for a dialog that will bring consensus on how to protect fossil remains on Federal land. I encourage all interested individuals and organizations to add their voice to this public debate. The preservation of these invaluable national historic resources for future generations can be accomplished if we begin now.

By Mr. CRANSTON:

S. 3108. A bill to amend title 38, United States Code, with respect to housing loans for veterans; to the Committee on Veterans' Affairs.

VETERANS HOME LOAN PROGRAM REVITALIZATION ACT OF 1992

Mr. CRANSTON. Mr. President, as chairman of the Senate Committee on Veterans' Affairs, I have introduced today S. 3108, the proposed Veterans Home Loan Program Revitalization Act of 1992. Joining me as original cosponsor is committee member DANIEL K. AKAKA.

Mr. President, home loans guaranteed by the Department of Veterans' Affairs have been providing housing opportunities for our Nation's veterans since Congress enacted the VA home-loan program as part of the Servicemen's Readjustment Act of 1944. VA-guaranteed home loans have been especially helpful to veterans who, because of their military service, have been unable to save enough money to make a downpayment on a home or to establish the credit history necessary to obtain a loan without one. Since 1944, VA has guaranteed approximately 13,300,000 loans totaling more than $375 billion.

Mr. President, in 1989, Congress enacted major changes to the loan-guaranty program, in title III of the Veterans' Benefits Amendments of 1989, Public Law 101-237, that strengthened the program's financial stability.

The 1989 law has helped to control losses in the program, but it was not designed to address the continuing decline in the use of VA-guaranteed home loans. The market share that VA-guaranteed mortgages represent has dropped from over 10 percent in 1983 to under 3 percent today. The declining market share largely results from the program's failure to keep pace with a changing and increasingly complex mortgage market.

Most disturbing, Mr. President, the declining market share reflect the declining value of this veterans benefit. Congress must act to reverse this trend and restore the value of this vital program.

Mr. President, to help achieve this goal, the bill I am introducing today would authorize VA to guarantee adjustable rate mortgages, establish a pilot program of energy efficient mortgages, and allow veterans to bargain for better interest rates and sales prices during a 2-year test of negotiated interest rates.

NEGOTIATED INTEREST RATES

Mr. President, the negotiated interest rate provision in the bill is a fair, limited test of eliminating administratively set interest rates on VA loans. This test is long overdue.

Under current law, VA administratively establishes a national maximum interest rate for VA-guaranteed loans. Veterans are prohibited from paying discount points on a VA loan in order to obtain a lower interest rate. This means that when a buyer wants to use a VA-guaranteed loan, the seller must pay all of the points.

To illustrate, in January, the VA interest rate was 8 percent, but the market rate was increasing. Just before VA finally raised its rate to 8.5 percent, lenders were charging 4.5 points for an 8-percent VA-guaranteed loan. It is obvious from this example that when the administered rate lags behind the market rate, lenders are willing to make VA-guaranteed loans only if they can receive a substantial up-front premium in the form of discount points. Since, under current law, the seller always pays the points when a VA-guaranteed loan is involved, sellers typically make up the difference by requiring a higher purchase price from veterans desiring to use a VA loan.

Veterans also suffer in a declining market. On July 6, 1992, VA lowered the maximum rate from 8.5 to 8 percent. Immediately prior to this change, most lenders were charging no points for 8.5-percent VA-guaranteed loans, since that interest rate had become higher than the market rate. But when the VA rate dropped to 8 percent, sellers suddenly were required to pay 1 or 2 points to complete the transaction. According to testimony at our committee's July 22 hearing, this caused many sellers to cancel sales involving a VA-guaranteed loan.

Mr. President, at the recent conference in Denver of VA loan guaranty officers [LGO's] from VA regional offices across the country, virtually all LGO's strongly supported going to a negotiated rate, even though the Department officially opposed this provision in the draft of this bill at our July 22 hearing.

Almost without exception, the LGO's cited the lack of a negotiated rate as the single feature most responsible for the decline of the VA housing program's market share. They said that many sellers, and even some realtors, refused to deal with anyone who planned to use a VA-guaranteed loan, because the seller is required to pay the points.

Sellers who are willing to deal with VA-guaranteed loans are less willing to bargain on price because they know their part of the closing costs will be higher. This means veterans often pay higher prices for homes when they use a VA-guaranteed loan and it means they often forego using their VA entitlement.

Mr. President, for the next 2 years, this bill would make it possible for VA to put these veterans on a level playing field with potential purchasers who plan to use conventional, FHA-insured, or other types of mortgage loans. Veterans who want to use their VA-guaranteed home-loan entitlement would not start at a disadvantage when they bid for a house against other potential purchasers.

Those who are apprehensive about negotiated rates say that the administered rate acts as a drag chute on volatile interest rates. Certainly that is one of the goals of the administered rate. But there are no data to support the conclusion that the administered rate has that effect, and in the modern mortgage market, veterans suffer when the VA-set rate is even slightly out of synch with market rates.

Mr. President, in the highly competitive mortgage lending industry, I believe that the interest rate competition that this bill would allow ultimately will reduce veterans' costs for housing.

At the committee's July 22 hearing, VA opposed this provision, but Deputy Secretary Anthony J. Principi, who is very knowledgeable about VA housing programs and always has an open mind, promised to take a second look at the issue. Some veterans organizations opposed the provision, but others did not. Organizations, representing realtors, lenders, and homebuilders strongly support negotiated rates.

In recognition of the concerns of some veterans organizations, I have incorporated several important limits into this provision. First, it would authorize negotiated rates only for the next 2 years, after which Congress could evaluate the experience with negotiated rates before deciding whether to reauthorize the procedure. Second, it provides a safety value to allow the Secretary to return to an administered rate if he believes that veterans are being harmed by the negotiated rate.

Mr. President, I am convinced that veterans will not be gouged by lenders as a result of this provision. In this highly competitive market, it clearly is against a lender's interest to require an exorbitant interest rate on VA-guaranteed loans. Nevertheless, the Secretary has the power to take action to prevent gouging if it occurs.

ADJUSTABLE RATE MORTGAGES

Mr. President, this bill also would provide authority for VA to guarantee adjustable rate mortgages for the first time. VA-guaranteed loans are the only segment of the single-family mortgage market that does not offer adjustable rate mortgages.

I have been very cautious about pushing VA into this product because it is inherently more risky for both the borrower and the backer—American taxpayers. In the first years that adjustable rate mortgages were offered, abuses were rampant and default rates were high.

The market for ARM's has matured, however, and limitations placed on interest rate adjustments have brought defaults down to reasonable levels, although ARM's still have default rates somewhat higher than fixed rate mortgages.

Typical ARM's in the conventional mortgage market limit annual interest rate adjustments to no more than 2 percentage points up or down and limit the rate at any time during the term of the loan to no more than 6 percentage points above the initial rate. This 2/6 limitation dampens the wide swings in monthly payments that could occur with some early versions of ARM's.

ARM's insured by the Federal Housing Administration of the Department of Housing and Urban Development are even more conservative. The annual adjustment cap for FHA-insured loans is 1 percent up or down and the life time cap is 5 percent. FHA also imposes strict underwriting requirements to ensure that a borrower will remain able to make monthly payments even if those payments increase significantly as a result of annual interest rate adjustments. FHA also requires disclosure to loan applicants of the maximum increases that could occur under the adjustable rate mortgage.

The 5-year ARM pilot program that this bill would establish for VA generally adopts the very conservative limitations that apply to FHA-insured ARM's. The bill itself expresses these limits, so VA could not adopt more liberal standards.

Mr. President, the reports that the bill would require will at the end of the 5-year trial period, place Congress in a well-informed position to decide whether ARM's should be a permanent part of the VA-guaranteed home loan program and, if so, whether the ARM product in this bill contains the appropriate limitations and requirements.

During the committee's July 22, 1992, hearing on a draft of this legislation, I was pleased to hear the administration support a pilot ARM program for the first time. Veterans organizations and housing industry representatives also strongly supported VA-guaranteed ARM's.

ENERGY EFFICIENT MORTGAGES

Mr. President, the bill would establish a new pilot program of energy efficient mortgage to encourage veterans who buy existing homes to incorporate energy-saving improvements into the home. The program would allow veterans to finance the greater of $4,000 or 5 percent of the home's price up to $8,000 as part of the original loan for the property. The additional amount of the guaranty would not count against the veteran's entitlement or against the regular guaranty limits.

Mr. President, the true value of energy efficiency often goes unrecognized in traditional appraisals of a property's value. Especially when the measures are innovative and relatively uncommon, such as solar heating, appraisers often cannot find the traditional three comparable recent home sales against which they can compare the value of the house with energy efficiency improvements.

Thus, the appraisal might not support the additional financing necessary to make the improvements, even when it is easy to show that the improvements immediately would reduce energy costs by more than the amount of the associated increase in mortgage payments.

VA already has one of the most successful EEM programs among Government housing programs. Unfortunately, relative success in this field is measured in tiny numbers. VA estimates that it has averaged less than 10 EEM's nationwide each year since the program started in 1980. But VA also claims that its procedures for tracking EEM's is so faulty that the number of EEM's is severely underreported.

In my view, the problem with the current VA program is the appraisal situation I just described. Although current VA EEM underwriting rules allow a lender to consider energy savings in determining whether a veteran can afford the loan, VA procedures still require a supporting appraisal for significant energy efficiency improvements. The procedural requirement has made current EEM's impractical and inconvenient. Many veterans—and lenders—are unaware that the lender can consider potential energy savings that would result from energy efficiency improvements financed as part of the original loan. Indeed, very few veterans know that VA EEM's are available, or how to apply for one, before they learn about them in the course of obtaining a VA-guaranteed loan.

Mr. President, this bill would create a streamlined process for obtaining one of the pilot program EEM's. Where the applicant can demonstrate that the energy savings will exceed the increased monthly mortgage costs, the bill would eliminate the need for an appraisal that specifically supports the energy efficiency improvements. In short, these new EEM's would substitute an energy efficient standard for an appraised value standard for the portion of the loan that would finance the energy efficiency improvements.

The bill would approach this new idea cautiously, establishing limitations on the 2-year pilot program and keeping VA's existing EEM intact. The bill would allow VA to guarantee only 1,250 new-style EEM's and would let the Secretary stop the pilot program if the incremental costs exceed a total of $2 million for the 2-year period.

Mr. President, this bill would be consistent with the national energy policy adopted by the Senate when it passed S. 2166, which contained a similar provision, in section 6102, that applied to both FHA-insured and VA-guaranteed home loans. Also, as chairman of the Housing and Urban Affairs Subcommittee of the Banking Committee, I simultaneously am pursuing a separate, similar program for FHA-insured home loans, which is included in section 943 of S. 3031 as reported by the Banking Committee on July 23, 1992.

Mr. President, veterans organizations and housing industry representatives strongly supported this energy efficient mortgage pilot program during the committee's July 22 hearing. VA testified that it would prefer to update the dollar limits of its current EEM program, rather than creating a new program based on different standards. Although I was disappointed that VA could not support the pilot program, I was pleased to hear VA pledge at that hearing to update its current program regardless of the outcome of this legislation.

CONCLUSION

Mr. President, Congress must not allow VA-guaranteed home loans to become obsolete. The improvements I am proposing today will restore and increase the value of this benefit by making VA-guaranteed loans a more competitive, modern tool to help veterans achieve the American dream of home ownership. I urge all of my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill and a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Home Loan Program Revitalization Act of 1992".

SEC. 2. ADJUSTABLE RATE MORTGAGE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program under this section during fiscal years 1993 through 1997 to demonstrate the feasibility of guaranteeing mortgages that provide for periodic adjustments by the mortgagee in the effective rate of interest charged. A mortgage may be guaranteed under this section only if it meets the requirements of chapter 37 of title 38, United States Code, except as those requirements are modified by this section.

(b) ADJUSTMENTS AUTHORIZED.—Interest rate adjustments or a mortgage guaranteed under this section shall—

(1) correspond to a specified national interest rate index approved in regulations by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis on the anniversary of the date on which the loan was closed;

(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

(c) UNDERWRITING STANDARDS.—The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(d) REGULATIONS.—The Secretary shall issue regulations requiring that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first 5 years of the mortgage term.

(e) LIMITATIONS.—The aggregate number of mortgages and loans guaranteed under this section, may not exceed 10 percent of the aggregate number of mortgages and loans guaranteed by the Secretary under chapter 37 of title 38, United States Code, during the preceding fiscal year.

(f) REPORTS.—Not later than 1 year after the date on which the Secretary first exercises the authority to guarantee loans under this section, and for each of the four years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pilot program under this section. Each report shall contain a summary of loan activity for loans guaranteed under this section, including information pertaining to defaults and comparisons with the default rates for fixed-rate loans guaranteed under chapter 37 of title 38, United States Code, fixed-rate and adjustable rate loans insured under title II of the National Housing Act, and loans made in the conventional mortgage market.

SEC. 3. ENERGY EFFICIENT MORTGAGES.

(a) In General.—The Secretary of Veterans Affairs shall carry out a pilot program under this section during fiscal years 1993 and 1994 to demonstrate the feasibility of guaranteeing mortgages for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling. A mortgage may be guaranteed under this section only if it meets the requirements of chapter 37 of title 38, United States Code, except as those requirements are modified by this section.

(b) Improvements Authorized.—The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not—

(1) exceed the greater of—

(A) $4,000; or

(B) an amount that is equal to 5 percent of the value of the dwelling before installation of the energy efficiency improvements but does not exceed $8,000; or

(2) increase the monthly payment for principal and interest by an amount greater than the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

(c) Guarantee.—The Secretary shall guarantee a loan under this section in the same proportion as the guaranty that would be provided under section 3703(a)(1)(A) of title 38, United States Code, for the dwelling without the energy efficiency improvements. The amount of a veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of title 38, shall not be affected by the incremental amount of the guaranty provided for the portion of the loan necessary to finance the energy efficiency improvements.

(d) Regulations.—The Secretary shall issue such regulations as may be necessary to carry out this section.

(e) Limitations.—The pilot program under this section shall be carried out in not fewer than 5 nor more than 10 States. The aggregate number of mortgages and loans guaranteed under this section, may not exceed 1,250 during fiscal years 1993 and 1994.

(f) Outreach.—The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors in the States in which the pilot program will be carried out of the availability of loan guarantees under this section and the procedures and requirements that apply to the obtaining of such guarantees.

(g) Termination.—If the Secretary finds that the aggregate incremental cost of the pilot program under this section will exceed a total of $2,000,000 during fiscal years 1993 and 1994, the Secretary may terminate the program under this section prior to the close of fiscal year 1994.

(h) Reports.—Not later than 1 year after the date on which the Secretary first exercises the authority to guarantee loans under this section, and for each of the 5 years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pilot program under this section. Each such report shall contain information pertaining to default rates on the mortgages guaranteed under this section and information on the effect of energy efficiency improvements on resale values and home utility consumption and costs.

(i) Effect on Other Law.—This section does not supersede or otherwise affect the guarantee authority under section 3710(a)(7) of title 38, United States Code.

SEC. 4. NEGOTIATED INTEREST RATES.

(a) In General.—Section 3703(c) of title 39, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for" and inserting "applicable to"; and

(B) by striking all that follows "(12 U.S.C. 1709(b))" and inserting a period; and

(2) by adding at the end the following:

"(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary shall elect to require that such loans bear interest at a rate that is—

"(i) agreed upon by the veteran and the mortgagee; or

"(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

"(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

"(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

"(D) This paragraph shall expire on December 31, 1994.".

(b) Report.—Not later than March 1, 1994, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points. If the Secretary has implemented that authority, the Secretary shall include in the report an assessment of the effect of that action on—

(1) the ability of veterans to obtain guaranteed and insured loans;

(2) the interest rates applicable to the loans bearing negotiated rates; and

(3) the prices paid by veterans for homes securing the loans bearing negotiated rates.

SEC. 5. EXTENSION OF ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h) of title 38, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

Summary of Provisions

ADJUSTABLE RATE MORTGAGE PILOT PROGRAM

1. Establish a pilot program, in FYs 1993 through 1997, of VA-guaranteed home loans bearing an adjustable interest rate.

2. Require annual adjustments in the interest rate, on the anniversary date of the loan closing, based on an index specified in regulations promulgated by the Secretary. The value of the index at any time must be readily accessible to mortgagors from generally available published secures.

3. (a) Limit the annual interest-rate adjustment to no more than 1 percentage point higher or lower than the interest rate of the loan at the time of the adjustment, and (b) limit the interest rate at any time during the term of the loan to no more than 5 percentage points above the initial rate.

4. Not limit the initial rate lenders can offer.

5. Require that the Secretary promulgate underwriting requirements for these loans that take into account (a) the interest rate derived from the most recent VA-specified index available at the time the underwriting decision is made, regardless of the actual initial rate offered by the lender, (b) the maximum and likely increases in mortgage payments that the loans would require, (c) the underwriting standards that apply to FHA adjustable rate loans, and (d) any other factors specified by the Secretary.

6. Limit the number of ARMs VA may guarantee each fiscal year to no more than 10 percent of the total number of all loans VA guaranteed during the previous fiscal year.

7. (a) Provide the same general "pilot-program" requirements as section 3 of H.R. 939 (which authorizes ARMs during FYs 1993 and 1994) but require the Secretary to submit to the Veterans' Affairs Committees five annual reports on the program, beginning one year after the date on which VA guarantees the first loan under this program, and (b) require that the reports contain information about defaults, including comparisons with the default rates for fixed-rate VA-guaranteed home loans and both fixed- and adjustable-rate loans either insured by FHA or made under conventional terms for single-family homes.

ENERGY EFFICIENT MORTGAGES

1. Establish a pilot program of energy efficient mortgages (EEMs) under which the Secretary would be authorized to guarantee not more than a total of 1,250 EEMs during FYs 1993 and 1994 in at least five, but not more than 10, States.

2. Allow EEMs for existing (but not newly constructed) homes for which the energy efficiency measures being financed are likely to reduce the monthly cost of energy used in the home by at least as much as the amount by which the energy efficiency measures would increase the borrower's monthly payments of principal and interest on the EEM, without specific regard to the reasonable (i.e., appraisable) value of the energy efficiency improvements themselves.

3. Require VA to guaranty the loan for the energy efficiency improvements in the same proportion as the guaranty that VA would provide for the underlying loan (without the energy efficiency improvements), provided that the cost of the energy efficiency measures is no more than the greater of (a) $4,000, or (b) 5 percent of the value of the home without the energy efficiency improvements, not to exceed $8,000.

4. Provide that the portion of the guaranty attributable to energy efficiency measures may be in addition to the current applicable maximum guaranty by the amount specified above (item 3) and shall not affect the loan-guaranty entitlement to which the borrower otherwise is entitled.

5. Require the Secretary to report to the Committees on Veterans' Affairs on the program one year after VA guarantees the first EEM under the program and annually thereafter for five more years, including information on the default rates for EEMs and the effects (if any) of the energy efficiency measures on resale values and home utility consumption and costs.

6. Require VA to encourage participation in the program by notifying eligible veterans, participating lenders, and interested realtors in the States in which the pilot program will be carried out about the availability of loan guaranties under the pilot program and the procedures and requirements to obtain these loans.

7. Provide the Secretary with authority to halt the demonstration project if the Secretary estimates that the total incremental costs attributable to the two-year pilot program, using accounting methods consistent with the Credit Reform Act of 1990, will exceed $2 million.

8. Require that the underwriting for EEMs take into account the likely utility-cost savings attributable to the energy efficiency measures and other factors the Secretary finds appropriate.

9. Not affect the VA EEM program currently operated under the authority of 38 U.S.C. §3710(a)(7).

AUTHORITY TO ALLOW NEGOTIATED INTEREST RATES

1. During FYs 1993 and 1994, require the Secretary to establish either (a) a uniform maximum interest rate and general prohibition on a borrower paying discount points, as required under current section 3703(c) of title 38, United States Code, or (b) procedures for allowing interest on VA-guaranteed loans at rates negotiated between borrowers and lenders.

2. Authorize the Secretary to change between uniform maximum rates and negotiated rates at any time.

3. (a) Provide that, if the Secretary allows negotiated interest rates, the Secretary shall allow a borrower to pay reasonable discount points on the loan, as negotiated between the borrower, the seller, and the lender, but (b) prohibit the discount points from being financed as part of the VA-guaranteed loan.

4. Require the Secretary to notify the Committees on Veterans' Affairs within 10 days after exercising the authority to provide for negotiated rates and discount points or returning to a uniform maximum rate and provide with that notification an explanation of the reasons for the change in policy.

5. Require the Secretary to report to the Committee on Veterans' Affairs, no later than March 1, 1994, on whether the Secretary has implemented negotiated interest rates and discount points under the authority of this legislation and, if so, the effects of this policy on borrowers' ability to obtain VA-guaranteed loans and on the interest rates at which borrowers were able to obtain the loans.

EXTENSION OF ENHANCED LOAN ASSET SALE AUTHORITY

Extend from December 31, 1992, to December 31, 1995, the expiration date of section 3720(h) of title 38, United States Code, which authorizes VA to provide a full-faith-and-credit government guaranty on VA securities backed by VA vendee loans.

By Mr. CRANSTON (by request):

S. 3109. A bill to amend title 38, United States Code, to authorize the creation of a Persian Gulf Registry Program; to the Committee on Veterans' Affairs.

PERSIAN GULF REGISTRY ACT

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 3109, the proposed Persian Gulf Registry Act. The Secretary of Veterans Affairs submitted this legislation by letter dated July 14, 1992, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF VETERANS AFFAIRS,
Washington, DC., July 14, 1992.

Hon. DAN QUAYLE,
President of the Senate, Washington DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, United States Code, to authorize the creation of a Persian Gulf Registry Program." We request that it be referred to the appropriate committee for prompt consideration and enactment.

Between August 2, 1991, and the present, well over a half-million American men and women served in the Persian Gulf area during Operation Desert Shield, Operation Desert Storm, and the aftermath of those hostilities. Concern has been expressed in many quarters that those men and women may have been exposed to environmental risks and hazards which could result in the onset of various diseases or disabilities. To allay these concerns, and to provide a body of baseline health-care data about Persian Gulf veterans, this draft bill would establish a Persian Gulf veteran health care registry.

To establish the registry, the draft bill would authorize the VA to conduct a comprehensive mental and physical examination, including laboratory testing, on any Persian Gulf veteran who requests such an examination. Following the exam, VA health-care personnel would discuss the results with the veteran, and make recommendations regarding the need for further care if the exam shows the presence of a disease or disability. The bill would also authorize additional examination and testing at a later date if that was deemed necessary. For example, if a VA researcher were attempting to study a group of veterans over a period of time, examinations could be conducted on volunteers at regular intervals. Information obtained from the examinations would be retained in a computerized registry.

In addition to authorizing conduct of examinations, the bill would authorize the Secretary to undertake outreach efforts to inform Persian Gulf veterans of the opportunity to participate in the registry. Veterans participating in the registry would receive the initial examination, and any subsequent examinations, without charge. However, for those individuals who are on active duty in the Armed Forces at the time they are examined, the Department of Defense would be responsible for reimbursing VA for the expense of the exam.

It is only in recent years that we have learned about the latent heath effect resulting from wartime experiences, and from the environmental hazards which service persons are exposed to during conflict. Years passed after the Vietnam War before questions were raised regarding the effects of exposure to Agent Orange and other environmental hazards during that conflict. Similarly, post-traumatic stress disorder did not become officially accepted as a disability until years after the end of the Vietnam conflict. Also, service persons who witnessed nuclear weapons testing were for many years unaware of the potential problems associated with exposure to ionizing radiation.

At this time, there is no evidence that large numbers of Persian Gulf veterans are experiencing adverse health problems as a result of their service in the Middle East. However, there have been numerous anecdotal reports of problems, and the VA and Department of Defense have learned that some veterans incurred the parasitic disease known as leishmaniasis while serving in the Gulf area. A registry of the type this bill would authorize could alleviate veteran's fears, and provide a valuable source of information for learning more about diseases and disabilities as yet unknown which may arise as a result of service in the Gulf.

VA estimates that enactment of this draft bill would result in costs of $1.05 million in Fiscal Year 1993, and $3.85 million over five fiscal years.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

S. 3109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. This Act may be cited as the "Persian Gulf Registry Act."

SEC. 3(a). Chapter 17 is amended by inserting after section 1724 the following new section:

"§ 1725. Persian Gulf Registry Program

"(a) The Secretary shall establish a Persian Gulf Registry Program to examine and determine the current health status of veterans who served in the Armed Forces in Southwest Asia during the Persian Gulf War, and to identify possible disabilities which may result from such service.

"(b) Individuals eligible to participate in the program authorized by subsection (a) are veterans who served on active duty in the Armed Forces in the Persian Gulf area (as determined by the Secretary) during the period beginning on August 2, 1990, and ending on the date that the President proclaims as the end of the Persian Gulf War.

"(c) To carry out the purposes of subsection (a), the Secretary:

"(1) May provide a comprehensive mental and physical examination of individuals eligible under subsection (b), and subsequent mental and physical examinations if determined necessary by a VA physician or other VA health care official;

"(2) May provide follow-up consultation with any individual who received an examination under paragraph (1) to explain the results of the examination; and

"(3) May undertake outreach efforts to further the purposes of the program.

"(d) Nothing in this section shall be construed as authorizing the Secretary to provide individuals participating in the registry with hospital or nursing home care, or outpatient medical services for the treatment of diseases or disabilities identified in an examination authorized by subsection (c).

"(e) Application for an examination under subsection (c) shall not be construed as an application for any other benefit under this title.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 224 the following new item:

"1725. Persian Gulf Registry Program.".

SECTION-BY-SECTION ANALYSIS OF PROPOSED BILL

Section 2 of the draft bill cites the Act as the "Persian Gulf Registry Act."

Section 3(a) of the draft bill would add a new section 1725 to chapter 17, of title 38, titled "Persian Gulf Registry Program."

Subsection (a) of the new section 1725 would authorize the Persian Gulf Registry Program and state that its purpose is to examine veterans who served in the Persian Gulf area to determine their current health status, and to identify disabilities which may have resulted from such service.

Subsection (b) of the new section 1725 would state that those eligible to participate in the Registry Program are veterans who served on active duty in the Armed Forces in the Persian Gulf area between August 2, 1990, and the date that the President proclaims as the end of the Persian Gulf War. The bill provides that the Secretary shall determine what constitutes the "Persian Gulf area, which would likely include Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, Yemen, and waters of the Persian Gulf, Arabian Sea, Red Sea, and the Gulfs of Aden and Oman.

Subsection (c) of the new section 1725 would authorize the Secretary to provide those eligible for the program with a comprehensive mental and physical examination, and subsequent follow-up examinations if needed. It also would authorize follow-up consultations to explain the results of the examination, and it would authorize VA to undertake outreach to veterans eligible to participate in the program.

Subsection (d) of the new section 1725 would state that the section does not authorize VA to provide health care benefits to veterans for the treatment of diseases or disabilities identified on examinations conducted as part of the Registry Program. To receive care, for such diseases or disabilities, veterans must be eligible for care under other sections of title 38 which authorize VA to provide care and treatment.

Subsection (e) of the new section 1725 would clarify that application for an examination under subsection (c) does not constitute application for any other benefits under title 38, United States Code.

Section 3(b) of the draft bill would amend the table of sections in chapter 17 of title 38 to add the new section 1725.

By Mr. LIEBERMAN (for himself, Mr. KASTEN, Mr. BRYAN, and Mr. MACK):

S. 3111. A bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investment; to the Committee on Finance.

ENTERPRISE ZONE—JOBS CREATION ACT OF 1992

Mr. LIEBERMAN. Mr. President, I rise today to introduce the Enterprise Zone—Job Creation Act of 1992. I am pleased to be joined in this effort by Senators KASTEN, BRYAN, and MACK.

Mr. President, if there is any good news—or silver lining—to bring from the recent riots in Los Angeles, they have focused this administration and this Congress on the desperate conditions which exist in many of America's inner cities—the urban decline, the crime, the poverty, the drugs, the unemployment, and the homelessness have gone untreated for far too long.

As we attempt to craft a solution to the economic problems faced in America's inner cities I believe it is necessary to first identify some of the causes. They are really no great mystery. Manufacturing and industry, which used to be the centerpiece of economic activity and employment in our inner cities, have largely disappeared. With the loss of manufacturing went—in this order—good jobs, wholesale trade, retail businesses, and a large source of local tax revenues. At the same time we saw a rise in poverty, crime, drug use, homelessness, and illiteracy. With a shrinking tax base, cities needed to provide more services with less revenue. As a result, cities were forced to raise revenue from sources such as residential property taxes, which added to the outward migration of many middle-class residents and homeowners. Finally, infrastructure continued to decline, and crime rates rose, making cities even less attractive to businesses and residents.

In many regards, the Federal Government has ignored this cycle of decay for most of the decade of the 1980's. Indeed what happened in Los Angeles is a symptom of that inaction. Mr. President, I believe that enterprise zones offer us an opportunity to break this cycle.

At the State level, 36 States plus the District of Columbia have adopted enterprise zone programs. I am proud to say that the State of Connecticut led the Nation in establishing enterprise zones in 1982, offering a wide range of State and local incentives, as well as administrative support to help develop distressed urban areas. We have now had more than 10 years worth of experience with this program and we know they work. In total, State enterprise zones have created more than 250,000 jobs and have attracted more than $28 billion in capital investments. This has all been obtained without Federal incentives, which are critical to the maximum possible enterprise zone success. It is true that some zones have not been as effective as others, but overall there is a strong pattern of success. In general, the State experience suggests that there is a strong correlation between the strength of the incentives and the success of the zone.

Among others, enterprise zones have been endorsed by the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors.

The State experience provides evidence that, if properly designed, enterprise zones will help convince businesses to build and grow in poor neighborhoods. They will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals. They will create jobs and stimulate entrepreneurship. Perhaps most importantly they will help restore the tax base to communities that have been forced to provide increasing social services with decreasing sources of revenue.

Mr. President, I believe the State experience has taught us how to design an effective enterprise zone program.

First, in my opinion, the objective of the enterprise zone program is to use tax incentive—and other forms of public policy—to direct investment and employment opportunities to distressed urban and rural areas that would otherwise not occur. The increased investment and employment, spurred by the package of incentives should promote the revitalization, over time, of these distressed areas. Therefore in order for the program to achieve its desired results, the package of incentives, including State and local incentives, must be of a strong enough and practical enough nature to attract the necessary business and investment activity. The package of incentives must also reduce both labor and capital costs to a sufficient level that a firm would be willing to forgo other factors that impact location decisions including access to markets, quality infrastructure, efficient transportation, a skilled labor force, quality of life, and security.

There must be a Federal, State, and local partnership. It is clear that no one level of government can provide the incentives necessary to be effective. Rather, the three levels of government should strive to provide complementary incentives. The goal should be the net effect of the entire package, not of the individual incentives.

There should be a process for maximizing State and local nonfinancial incentives. The best way to achieve this would be through a competitive designation process where States and localities compete for designation of the basis of their contribution to the package, taking into account fiscal ability. This would have the result of creating the strongest possible package of incentives.

The program must focus on newer and smaller businesses. Small businesses have been and continue to be the primary source of job creation and economic growth in this country. They are more agile and more likely to respond to well-crafted incentives. It is also clear that smokestack chasing—the process of using incentives to encourage major employers to relocate into enterprise zones—is indeed a zero sum game.

Capital incentives must be a component of any program and should be targeted towards small businesses. They should encourage equity over debt. And, they should be focused on seed capital and cash flow—two of the most common barriers to small business creation. Labor incentives alone will not be sufficient to attract business investment.

The program must focus on providing jobs and opportunities for zone residents and economically disadvantaged individuals. Many opponents of enterprise zones also argue that firms are not likely to hire residents of impoverished zones. There are ways to target the tax incentives to encourage resident hiring. I believe any enterprise zone proposal must include wage credits to encourage the hiring of economically disadvantaged individuals and targeted programs for job training.

Finally, this program can not be viewed in isolation. It must be part of a larger economic development and social strategy including job training, education, health care, housing, and transportation.

In summary, Mr. President, enterprise zones are designed to directly counter the most important cause of urban decline—namely the reduction of business activity, and therefore, investment and jobs.

Mr. President, last night the Senate Finance Committee under the able leadership of Senator BENTSEN marked up an enterprise zone initiative. The initiative provides $2.5 billion worth of incentives to 25 urban and rural communities around the country. Assuming equal distribution of the incentives, this proposal provides $100 million worth of tax benefits to each enterprise zone. No one can argue that these enterprise zones will not be successful.

Chairman BENTSEN has a mix of important and valuable incentives in his bill. On the capital side, I believe the expensing provisions are particularly significant. The chairman has been an important proponent of the enterprise zone concept; his recent hearings on enterprise zones were an important step in advancing this concept.

I do note, Mr. President, that there are some areas of the Finance bill that we should continue to consider. And I introduce this legislation in the spirit of furthering this dialog.

For example, under the Finance proposal my State, which has 3 of the 10 poorest cities in the country, and has had a number of successful and proven enterprise zones for a decade, might, at very best, qualify for 1 of the 15 Federal urban enterprise zones. And we would have to compete for that zone among at least 1,000 applications. Other States have the same problem. The legislation I am introducing today says that for the same $2.5 billion we can reach a significantly larger number of communities. How do we accomplish this task? Simply, we designate more smaller zones rather than fewer large zones.

Let me explain: The bill we are introducing focuses the enterprise zone size on smaller, identifiable geographic areas, based on census tract data, that suffer most from poverty and that are most in need of revitalization. By focusing on smaller segments of urban areas and population segments with the greatest poverty, the zones are better targeted, I believe, to where the need is greatest. And a larger number of zones can be reached, since business activity levels are most affected by area and population size.

Mr. President, it is time to do something substantial on a national scale about urban decay and chronic unemployment. Unemployment and decay that not only encompasses whole sections of every one of our inner cities but also, in too many cases, spans generations. It is a cloud over our Nation's future. The unemployed and the poverty stricken, whether they are in the South Bronx, East St. Louis, New Orleans, Chicago, Bridgeport, or Watts are in need of our help and they all deserve our help. This proposal provides such help in a long term, meaningful way.

The Finance Committee proposal is a very important step forward. It means that we are now in the posture of not fighting for the concept of enterprise zones but refining the best possible approach. I have joined by colleagues in introducing this legislation in an effort to encourage this process and look forward to continuing to work with Chairman BENTSEN.

To conclude, Mr. President, it is clear that enterprise zones are not the whole cure for the social and economic ills plaguing our inner cites. We must provide access to education, break the cycle of welfare, supply housing for the homeless, and rid our cities of crime and drugs. But, Mr. President, as we develop a longer term response to the tragedy in Los Angeles, we must recognize that any response that does not include a mechanism to attract jobs, businesses, and investment back into our inner cities is simply a response destined for failure.

Mr. KASTEN. Mr. President, Today I join with Senator LIEBERMAN in introducing an enterprise zone proposal that responds aggressively to the economic crisis in America's inner-cities and rural towns. The Lieberman-Kasten proposal will empower those who are still living without hope. This proposal is in stark contrast to either the watered-down version that has passed the House of Representatives or the version that is likely to be approved by the Senate Finance Committee. The Senate Finance Committee version is of particular concern since it may contain as few as 25 enterprise zones for the entire Nation—15 urban, 8 rural, and 2 on Indian reservations. This is not a serious response to the urban crisis in our cities. And while the House-passed version contains 50 zones, there is certainly room for improvement in that package.

The crisis in Los Angeles showed us that this is not a time for timid and half-hearted proposals. Our enterprise zone proposal provides real tax incentives to promote entrepreneurship, job creation, and economic empowerment. Most important, our bill provides up to 300 enterprise zones for roughly the same $2.5 billion cost as the Ways and Means and Finance Committee bills.

Every city that meets the criteria in the Lieberman-Kasten proposal will be able to have an enterprise zone within the tax expenditure cap. Our proposal permits many more zones than H.R. 11 or the Finance Committee draft because it creates a large number of small zones—the typical zone has a population of 12,000, compared to 43,000 in H.R. 11—and because the tax incentives selected cost the Treasury a small amount in the initial years but provide a substantial long-term payoff for successful zone investors, businesses, and employees.

The key incentive in the Lieberman-Kasten proposal is a zero capital gains rate on investment in a zone business. The capital gain is not subject to the alternative minimum tax, and a capital loss can be deducted against ordinary income. This is in sharp contrast to the complete absence of a capital gains cut in the Finance Committee draft, and the 50 percent exclusion in the House bill for assets held over 5 years.

Only when businesses are growing and creating new jobs will there be any capital gains tax component of the Lieberman-Kasten proposal. Investors will benefit only when the zones are successful, only when there is business expansion and job creation will there be any tax benefit provided. Any cost from the zero capital gains provision that may be shown under static revenue models is clearly offset by the successful businesses that there will be paying taxes, and the individuals working in the new jobs who will be paying income and payroll taxes.

The Lieberman-Kasten proposal provides a wage incentive that goes directly to the worker, in the form of a refundable tax credit, similar to the earned income tax credit. The credit would be available to enterprise zone workers who are not currently eligible for the EITC—single, predominantly young workers. This contrasts with H.R. 11 and the Finance Committee proposal which provides the tax credit to the employer.

H.R. 11 also creates a zone czar for each enterprise zone. This person is designated to select the companies that will be eligible to have its investors qualify for stock expensing. The Lieberman-Kasten proposal contains no zone czar. Under our proposal individual entrepreneurs, investors, and consumers will decide who will succeed and who will fail.

Additional incentives in our proposal include an increase in the section 179 small business capital expensing provision—boosting this from $10,000 to $50,000. And businesses that prefer can use a capital recovery schedule that indexes depreciation to provide present-value equivalent of expensing for equipment and machinery purchases. This is referred to as the neutral cost recovery system or NCRS.

Tax exempt financing is available for zone businesses under the exempt facilities rules and volume cap, up to $5 million per business. In addition, as an alternative to the zero capital gains tax rate, an investor may choose to expense the purchase of stock in an enterprise zone business, up to $20,000 per year, with a $100,000 lifetime cap.

The Lieberman-Kasten proposal provides meaningful tax incentives for entrepreneurs and small business owners to create jobs. This bill will help bring the unemployed into the economic mainstream and give them a boost up the economic ladder. This bill represents the aggressive and bold response that is warranted by the lack of economic opportunity in America's inner cities and depressed rural areas. I ask unanimous consent that the text of the bill and accompanying explanatory documents be placed in the RECORD at the end of my remarks.

There being no objection the material was ordered to be printed in the RECORD as follows:

ENTERPRISE ZONE COMMUNITIES UNDER THE LIEBERMAN/KASTEN PROPOSAL

This is a list of communities that would qualify to have enterprise zones, under the Lieberman/Kasten Senate proposal. Each zone consists of one or more Census tracts. Most zones are built around tracts with a 50 percent poverty rate, 10 percent unemployment, and 10 percent of population receiving welfare. Some city zones have a 35 percent poverty rate, 10 percent unemployment, and 30 percent of population receiving welfare. Some rural zones are designated based on high rate of population loss (at least 10%) in states where no rural areas have a 50 percent poverty rate.

There are over 200 cities that would qualify to have an enterprise zone. There are over 100 rural counties that would qualify to have an enterprise zone.

ALABAMA

Cities: Anniston, Bessemer, Birmingham, Florence, Huntsville, Mobile, Montgomery, Phenix City, Tuscaloosa.

Counties: Dallas (Selma), Escambia, Greene, Lowndes, Perry, Sumter, Talladega, Wilcox.

ALASKA

Census Areas: Dillingham.

ARIZONA

Cities: Phoenix, Tucson.

Counties: Apache, Cochise, Coconino, Gila, Graham, Navajo, Pinal.

ARKANSAS

Cities: Fort Smith, Little Rock, North Little Rock, Pine Bluff, Texarkana, West Memphis.

Counties: Chicot, Desha, Lee, Phillips.

CALIFORNIA

Cities: Bakersfield, Chico, Compton, East Los Angeles, Florence-Graham, Fresno, Long Beach, Linda, Los Angeles, Merced, Modesto, Napa, Oakland, Oroville, Porterville, Richmond, Sacramento, San Bernardino, San Diego, San Francisco, Stockton, Visalia, Westmont, Willowbrook.

Counties: Humboldt.

COLORADO

Cities: Denver.

Counties: Bent.

CONNECTICUT

Cities: Bridgeport, Hartford, New Britain, New Haven, New London.

Counties: Windham.

DELAWARE

Cities: Wilmington.

Counties: Kent.

DISTRICT OF COLUMBIA

Cities: Washington, D.C.

FLORIDA

Cities: Cocoa, Daytona Beach, Fort Lauderdale, Goulds, Jacksonville, Miami, Orlando, Tallahassee, Tampa.

Counties: Putnam.

GEORGIA

Cities: Albany, Atlanta, Athens, Augusta, Columbus, Macon, Savannah.

Counties: Laurens, Ware.

HAWAII

Cities: Honolulu.

Counties: Hawaii.

IDAHO

Counties: Shoshone.

ILLINOIS

Cities: Chicago, Chicago Heights, Decatur, East St. Louis, Kankakee, Peoria, Rockford, Rock Island, Springfield.

Counties: Jackson, Jefferson.

INDIANA

Cities: Evansville, Gary, Hammond, Indianapolis.

Counties: Wayne (Richmond).

IOWA

Cities: Davenport, Waterloo.

Counties: Decatur.

KANSAS

Cities: Kansas City, Kansas; Wichita.

Counties: Osborne.

KENTUCKY

Cities: Lexington, Louisville, Newport.

Counties: Bell, Breathitt, Clay, Knox, Lawrence, Magoffin, McCracken, McCreary, Morgan, Owsley, Warren, Whitley, Wolfe.

LOUISIANA

Cities: Alexandria, Baton Rouge, Houma, Lafayette, Lake Charles, Marrero, Monroe, New Orleans, Shreveport.

Parishes: Concordia, East Carroll, Evangeline, Lincoln, Madison, Natchitoches, Pointe Coupee, St. Landry, St. Mary, Tangipahoa, Tensas, Vermillion.

MAINE

Cities: Portland.

Counties: Penobscot.

MARYLAND

Cities: Baltimore.

Counties: Wicomico.

MASSACHUSETTS

Cities: Boston, Holyoke, Lawrence, Lowell, New Bedford, Springfield, Worcester.

Counties: Berkshire.

MICHIGAN

Cities: Ann Arbor, Battle Creek, Beecher, Benton Harbor, Detroit, Flint, Grand Rapids, Highland Park, Jackson, Kalamazoo, Lansing, Muskegon, Muskegon Heights, Pontiac, Saginaw, Taylor.

Counties: Luce.

MINNESOTA

Cities: Minneapolis, St. Paul.

Counties: Traverse.

MISSISSIPPI

Cities: Biloxi, Jackson.

Counties: Adams, Bolivar, Coahoma (Clarksdale), Forrest (Hattiesburg), Holmes, Humphreys, Jefferson, Leflore, Sunflower, Tunica, Washington (Greenville), Yazoo.

MISSOURI

Cities: Kansas City, Springfield, St. Louis.

Counties: Mercer.

MONTANA

Counties: Big Horn, Glacier.

NEBRASKA

Cities: Lincoln, Omaha.

Counties: Keya Paha.

NEVADA

Cities: Las Vegas, North Las Vegas.

Counties: Elko.

NEW HAMPSHIRE

Counties: Grafton.

NEW JERSEY

Cities: Bridgeton, Camden, Elizabeth, Jersey City, Newark, Paterson, Trenton.

NEW MEXICO

Cities: Albuquerque.

Counties: Cibola, Lea, McKinley, Sandoval, San Juan.

NEW YORK

Cities: Binghamton, Buffalo, Elmira, New York City, Niagara Falls, Rochester, Syracuse, Utica, Yonkers.

Counties: Clinton.

NORTH CAROLINA

Cities: Charlotte, Durham, Fayetteville, Raleigh, Wilmington, Winston-Salem.

Counties: Lenoir, Pasquotank, Wilson.

NORTH DAKOTA

Counties: Rolette.

OHIO

Cities: Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Hamilton, Lima, Lorain, Toledo, Warren, Youngstown.

Counties: Scioto (Portsmouth).

OKLAHOMA

Cities: Lawton, Oklahoma City, Tulsa.

Counties: McCurtain.

OREGON

Cities: Portland.

Counties: Harney.

PENNSYLVANIA

Cities: Bethlehem, Chester, Erie, Harrisburg, Lancaster, Philadelphia, Pittsburgh, Reading, Williamsport.

Counties: Indiana.

RHODE ISLAND

Cities: Providence.

Counties: Newport.

SOUTH CAROLINA

Cities: Charleston, Columbia, Florence, Spartanburg.

Counties: Orangeburg.

SOUTH DAKOTA

Counties: Jackson, Shannon, Todd, Ziebach.

TENNESSEE

Cities: Chattanooga, Jackson, Knoxville, Memphis, Nashville.

Counties: Crockett.

TEXAS

Cities: Abilene, Amarillo, Austin, Beaumont, Brownsville, Corpus Christi, Dallas, Edinburg, El Paso, Fort Worth, Galveston, Harlingen, Houston, Laredo, Lubbock, McAllen, Mercedes, Mission, Pharr, San Angelo, San Antonio, Texarkana, Tyler, Victoria, Waco, Weslaco, Wichita Falls.

Counties: Dimmit, Frio, Maverick, Presidio, Starr, Val Verde, Willacy, Zavala.

UTAH

Cities: Clearfield, Salt Lake City.
Counties: San Juan.

VERMONT

Counties: Orleans.

VIRGINIA

Cities: Newport News, Norfolk, Portsmouth, Richmond.
Counties: Bath.

WASHINGTON

Cities: Seattle, Spokane, Tacoma, Yakima.
Counties: Whitman.

WEST VIRGINIA

Cities: Charleston, Huntington.
Counties: McDowell.

WISCONSIN

Cities: Eau Claire, Milwaukee, Racine.
Counties: Menominee.

WYOMING

Counties: Fremont.

Provisions:

1. Zero capital gains rate on any investment in an enterprise zone business. The capital gain is not subject to the alternative minimum tax. Also, a capital loss can be deducted against ordinary income.

2. All communities—city neighborhoods and rural areas—can have enterprise zones if they meet the objective criteria specified in the bill. (The main criterion is a 50% poverty rate; in some states, rural population loss is also a basis for being an enterprise zone.) About 300 communities (200 urban, 100 rural) will be eligible to have enterprise zones, and will be able to.

3. Total cost in "tax expenditures" is $2.5 billion over 5 years. This will be capped; if the cost as calculated by Treasury reaches $2.5 billion, no more zones will be designated.

4. A wage credit for employees of zone businesses who aren't now eligible for the Earned Income Tax Credit. Each employee without a dependent would receive a 5% credit, up to a total of $900. Like the EITC, the wage credit is refundable and goes to the employee.

5. Capital equipment purchased by small businesses in enterprise zones can be expensed up to $50,000 per year, instead of $10,000 as is now permitted under Section 179.

6. Alternatively, a business can use a different depreciation schedule that allows the equivalent of expensing over period of years (the "neutral cost recovery system").

7. As an alternative to the zero capital gains tax rate, an investor may choose to expense the purchase of stock in an enterprise zone business, up to $20,000 per year, with a $100,000 lifetime cap.

8. A zone resident or worker who invests in a zone business can receive both the stock expensing and the zero capital gains rate.

9. Tax exempt financing is available for zone businesses under the exempt facilities rules and volume cap, up to $5 million per business. A broader range of zone businesses would be eligible for tax exempt financing than under the exempt facilities rules applying to the nation as a whole.

10. A qualified enterprise zone business must have one-third of its employees as zone residents, and must do most of its business within the zone.

SUMMARY OF ENTERPRISE ZONE PROPOSALS

Summary	Lieberman/Kasten proposal (supported by administration)	House passed H.R. 11	Senator Bentsen's mark (Some provisions not yet fully specified)
Number of zones	Approximately 300 zones: 200 cities/100 rural communities, including Indian reservations.	50 zones: 25 cities/25 rural communities, including at least one Indian reservation.	25 zones: 15 cities/8 rural communities/2 Indian reservations.
Selection process	All urban and rural areas meeting objective criteria are eligible. Minimum local commitment (course of action) required.	Intense competition among eligible zones, based on local commitments and conditions in zones. Course of action is part of competition.	Very intense competition among eligible zones.
Capital gains tax	Zero capital gains tax on tangible and intangible zone property and investments.	50 percent gains exclusion; defers capital gains tax on tangible property reinvested.	No relief from capital gains tax.
Stock expensing	Non-zone investors may elect to expense $20,000 worth of stock in zone businesses ($100,000 lifetime) instead of zero capital gains. Zone residents and workers get both.	Investors can expense ($250,000 lifetime).	$25,000
Wage incentives	Refundable wage credit worth up to $900 extended to unemployed youth and other low-income persons not now receiving earned income tax credit: provided to low-income employees.	Wage credit tax break for employers equal to $3,000 per zone resident employee. Provided to employer for each employee regardless of income..	Wage credit provided to employer for each employee who is a zone resident, extension and expansion of the targeted jobs tax credit, and credit to employers for training and apprenticeship programs.
Plant and equipment expensing.	Expensing of plant and equipment in the form of a neutral cost recovery system. Small businesses can elect immediate expensing of up to $50,000 of equipment annually (current limit is $10,000).	Small businesses can expense up to $20,000 of equipment annually.	Accelerated depreciation for large businesses and increased expensing of equipment for small businesses.
Zone czar	None	50 local government officials certifying up to $30 million per zone for stock expensing.	None.
Tax-exempt financing for zone businesses.	Available under exempt facilities volume cap. Wider range of businesses eligible than under current rules.	Same. Only 50 percent charged against volume cap.	Available to small businesses.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 3113. A bill to establish a Quinebaug and Shetucket Rivers Valley National Heritage Corridor; to the Committee on Energy and Natural Resources.

QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR ACT OF 1992

• Mr. DODD. Mr. President, I rise today to introduce legislation to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor. I am pleased to be joined in this effort by my colleague from Connecticut, Mr. LIEBERMAN. The legislation we introduce today is companion legislation to H.R. 5423, legislation introduced by Congressman SAM GEJDENSON to protect and preserve this beautiful and historic region of Connecticut.

Few could make a case that Connecticut, as a State, has been overlooked during the past several years—between the fiscal crises in our State's cities, our new State income tax and the *Seawolf* submarine, we have not lacked for national press.

But there is another side to Connecticut, beyond the Defense industry and beyond the common view of Connecticut as an extended suburb of New York City.

The Quinebaug and Shetucket Rivers Valley extends the length of southeastern Connecticut. The Quinebaug and Shetucket Rivers flow along a valley that is beyond compare in beauty and history in our region. The valley, which was settled by Indians during precolonial times, is now filled with farms and beautiful small towns, founded during the colonial period, touched by the Revolution, and transformed by the industrial revolution.

Mr. President, this area is unmatched in its natural and cultural resources. Looking at any one aspect of the valley—just its beauty, just its historic mills, or just its archaeological remains—one might conclude that other areas are more nationally significant. But when considering this region as a whole, the Quinebaug and Shetucket Rivers Valley is unsurpassed in its potential.

This region offers beautiful landscapes for trails, rivers for canoeing and fishing, historic mills for learning and exploration, the birthplace of Revolutionary War hero, Nathan Hale, and the Prudence Crandall School, established as the first teacher training school for black women in 1833. The valley is also the site of numerous Native American and precolonial archaeological sites and was the site of the famous battle between the Mohegan and the Narragansett Indians, commemorated in James Fenimore Cooper's book, "The Last of the Mohicans."

While not lacking in potential, this region is lacking in parklands. The northeast averages nearly 300 acres of public recreation land for each thousand residents; Connecticut has less than a hundred acres per thousand residents. Connecticut, with one national park, Weir Farm which totals 2 acres, ranks last in the Nation in Federal land set aside for national parks, forests, recreation, or wildlife areas.

And clearly there is demand for such parklands. Congressman GEJDENSON has held field hearings providing documentary evidence of local concerns about preserving open spaces and unique resources. Connecticut's Governor has made the establishment of greenways in our State one of his top environmental priorities. But beyond local needs, the Quinebaug Shetucket Rivers valley falls within easy driving distance of some of the northeast's largest cities—New York, Boston, Hartford, Bridgeport, and Providence.

The Quinebaug Shetucket Rivers valley has the potential to meet these needs. However, its natural and cultural resources lack a cohesive focus—the focus a national heritage corridor designation would give the region.

The national heritage corridor designation, while unfamiliar to many, is not a new concept for the Park Service. There are currently national heritage corridors in Pennsylvania, along the Lehigh and Delaware Canal, in Michigan and Illinois along their historic canal, and in the Blackstone River valley. Under this program, communities and the State are provided with a management framework for the establishment of the corridor. The corridor concept has been very successful as it provides communities with the flexibility to tailor their needs to those of the corridor.

The heritage corridor designation is not only innovative, it is also cost-effective. It does not rely on the wholesale purchase of privately owned or State-held land—instead it establishes a Federal-State-local and private partnership to work cooperatively to find ways to protect the area's important resources. These groups can work together to develop land management plans to preserve the unique resources of the region, enhance recreational potential and develop a cohesive plan for land use ensuring preservation as well as development.

It is a concept of great appeal in the Northeast. My State and others in the region are densely populated. It would be difficult, perhaps impossible to establish a traditional national park within the bounds of my State. However, there is widespread support for the idea of the Quinebaug Shetucket Rivers Valley National Heritage Corridor.

Many in the community have joined together in an advisory committee and have worked for 3 years exploring this idea. They have held corridor walks, talked to local, State, and Federal officials, and met with various members of their communities to request their input. Normally, one would expect that the enthusiasm for such a proposal would die down and perhaps there would be some opposition, but thus far the corridor idea has only become more popular. Within its flexible framework and with the assistance of the Department of the Interior, the towns and communities are confident that they could develop a plan to preserve and enhance the important natural and cultural resources of the Quinebaug Shetucket Rivers valley.

Mr. President, a unique crosssection of the historical and cultural development of our Nation exists along the Quinebaug and Shetucket Rivers in Connecticut. This is not a history I am willing to see overrun by development or deteriorate through lack of care. This legislation will ensure that it is protected, that access to the rivers are preserved, and that our children and grandchildren will enjoy this special part of our Nation. I urge my colleagues to join me in support of this important legislation.●

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1578, supra.

S. 2236

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

S. 2244

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2373

At the request of Mr. BOREN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2373, a bill to amend the Job Training Partnership Act to establish a community works progress program, and a national youth community corps program, and for other programs.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2526

At the request of Mr. PACKWOOD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2526, a bill to amend the Congressional Budget Act of 1974 to provide for truth in budgeting with respect to intragovernmental transactions involving trust funds.

S. 2560

At the request of Mr. SIMON, the name of the Senator from Oklahoma

[Mr. BOREN] was added as a cosponsor of S. 2560, a bill to reclassify the cost of international peacekeeping activities from international affairs to national defense.

S. 2682

At the request of Mr. WARNER, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2707

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

S. 2773

At the request of Mr. DANFORTH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2773, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring tax provisions, and for other purposes.

S. 2808

At the request of Mr. MITCHELL, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2808, a bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1993 provided certain conditions are met.

S. 2814

At the request of Mr. RIEGLE, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2814, a bill to ensure proper and full implementation by the Department of Health and Human Services of Medicaid coverage for certain low-income Medicare beneficiaries.

S. 2835

At the request of Mr. HATCH, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Vermont [Mr. JEFFORDS], the Senator from Indiana [Mr. COATS], the Senator from Idaho [Mr. SYMMS], the Senator from Washington [Mr. GORTON], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2835, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish provisions regarding the composition and labeling of dietary supplements.

S. 2873

At the request of Mr. BREAUX, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 2873, a bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits.

S. 2942

At the request of Mr. HATCH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2942, a bill to institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, and for other purposes.

S. 2973

At the request of Mr. CRANSTON, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 2973, a bill to amend title 38, United States Code, to improve the care and services furnished to women veterans who have experienced sexual trauma, to study the needs of such veterans, to expand and improve other Department of Veterans Affairs' programs that provide such care and services, and for other purposes.

S. 2977

At the request of Mr. DASCHLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2977, a bill to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes.

S. 3008

At the request of Mr. ADAMS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 3008, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

SENATE JOINT RESOLUTION 265

At the request of Mr. SEYMOUR, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to designate October 9, 1992, as "National School Celebration of the Centennial of the Pledge of Allegiance and the Quincentennial of the Discovery of America by Columbus Day."

SENATE JOINT RESOLUTION 315

At the request of Mr. SEYMOUR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 315, a joint resolution to designate September 16, 1992, as "National Occupational Therapy Day."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE RESOLUTION 301

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Vermont [Mr. LEAHY], the Senator from Georgia [Mr. FOWLER], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Resolution 301, a resolution relating to ongoing violence connected with apartheid in South Africa.

SENATE CONCURRENT RESOLUTION 131—RELATING TO LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 131

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91–510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

SENATE RESOLUTION 327—RELATING TO COMMITTEE STAFF LIMITATION AND TO ESTABLISH A COMMISSION TO INVESTIGATE ETHICS VIOLATIONS

Mr. BOND submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 327

Resolved,

SECTION 1. LIMIT ON NUMBER OF SENATE COMMITTEE STAFF.

(a) 103D CONGRESS.—During the 103d Congress—

(1) the number of persons employed by each committee of the Senate shall not exceed the number that is 85 percent of the number of persons employed by that committee on the date of the sine die adjournment of the 102d Congress; and

(2) the amount of funds that may be disbursed to pay compensation of the employees of each committee of the Senate in any year shall not exceed 85 percent of the amount required to be disbursed to pay one year's compensation to the employees of that committee who are employed on the date of the sine die adjournment of the 102d Congress, adjusted by such amount as is necessary to provide appropriate adjustments in employee compensation.

(b) SUBSEQUENT CONGRESSES.—During the 104th and subsequent Congresses—

(1) the number of persons employed by each committee of the Senate shall not exceed the number that is 75 percent of the number of persons employed by that committee on the date of the sine die adjournment of the 102d Congress; and

(2) the amount of funds that may be disbursed to pay compensation of the employees of each committee of the Senate in any year shall not exceed 75 percent of the amount required to be disbursed to pay one year's compensation to the employees of that committee who are employed on the date of the sine die adjournment of the 102d Congress, adjusted by such amount as is necessary to provide appropriate adjustments in employee compensation.

SEC. 2. INVESTIGATION OF ALLEGATIONS OF ETHICS VIOLATIONS.

(a) DEFINITIONS.—In this section:

"Ethics Commission" means the Independent Senate Ethics Commission established by subsection (b).

"Officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of the Office of Legislative Counsel;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

(b) ESTABLISHMENT OF COMMISSION.—

(1) IN GENERAL.—There is established a commission to be known as the Independent Senate Ethics Commission.

(2) MEMBERSHIP.—The Ethics Commission shall be comprised of 3 members, each of whom is a retired judge of a Federal or State court, of whom—

(A) 1 shall be appointed by the majority leader;

(B) 1 shall be appointed by the minority leader; and

(C) 1 shall be appointed jointly by the majority leader and minority leader on the recommendation of the members so appointed;

(3) TERMS.—(A) A member of the Commission shall serve a term of 3 years and may be reappointed for 2 additional terms.

(B) In the case of the death or resignation of a member of the Commission a successor shall be appointed in the same manner as the member was appointed to serve until the end of the term of that member.

(4) REMOVAL.—A member of the Commission may be removed by resolution of the Senate.

(5) DUTIES.—It shall be the duty of the Commission to—

(A) receive requests for review of an allegation described in subsection (c)(1);

(B) make such informal preliminary inquiries in response to such a request as the Commission deems to be appropriate;

(C) if, as a result of those inquiries, the Commission determines that a formal investigation is not warranted, submit a report pursuant to subsection (c)(4); and

(D) if, as a result of those inquiries, the Commission determines that a formal investigation is warranted, conduct an investigation pursuant to subsection (d).

(6) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(7) STAFF.—(A) The Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform its duties.

(B) The Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(C) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(D) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(E) Except at a time when additional personnel are needed to assist the Commission in its review of a particular request for review under subsection (c), the total number of staff personnel employed by or detailed to the Commission under this subsection shall not exceed 5.

(8) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(c) REVIEW OF ALLEGATIONS OF MISCONDUCT.—

(1) REQUEST FOR REVIEW.—Any person may present to the Commission a request to review and to consider the propriety of conducting a formal investigation of an allegation of misconduct described in subsection (e).

(2) SWORN STATEMENT.—A request for review under paragraph (1) shall be accompanied by a sworn statement, made under penalty of perjury under the laws of the United States, of facts within the personal knowledge of the person making the statement alleging improper conduct or a violation described in subsection (e).

(3) PUBLIC DISCLOSURE.—(A) The contents of a request for review and sworn statement submitted under paragraphs (1) and (2), all proceedings of the Commission, and all facts that come to the knowledge of the Commission during its inquiries shall be made available to the public except as provided in subparagraph (B).

(B) The Commission may withhold information from public disclosure if the Commission, in its sole discretion, determines that the public interest in disclosure is outweighed by—

(i) harm that may be caused to the reputation of a person; or

(ii) prejudice that may be caused to the rights of a person.

(4) DETERMINATION NOT TO CONDUCT FORMAL INVESTIGATION.—(A) If, after making preliminary inquiries, the Commission determines not to conduct a formal investigation pursuant to subsection (d), the Commission shall submit to the members of the Senate a report that—

(i) states findings of fact made as a result of the inquiries;

(ii) states any conclusions that may be drawn with respect to whether there is substantial credible evidence that improper conduct or a violation of law may have occurred; and

(iii) states its reasons for concluding that further investigation is not warranted.

(B) After submission of a report under subparagraph (A), no action may be taken in the Senate to impose a sanction on a person who was the subject of the Commission's inquiries on the basis of any conduct that was alleged in the request for review and sworn statement.

(C) If the Commission determines that any part of a sworn statement presented to it under paragraph (2) may have been a false statement made knowingly and willfully, the Commission may refer the matter to the Attorney General for prosecution.

(d) FORMAL INVESTIGATION.—

(1) IN GENERAL.—If, after making preliminary inquiries, the Commission determines that—

(A) there is substantial credible evidence that improper conduct or a violation described in subsection (e) may have occurred; and

(B) in view of the seriousness of the allegation and other relevant considerations, a full investigation of the alleged misconduct or violation is warranted,

the Commission shall conduct a formal investigation.

(2) GENERAL AUTHORITIES.—(A) In conducting a formal investigation, the Commission may—

(i) make such expenditures;

(ii) hold such hearings;

(iii) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, documents, or other records of any kind;

(iv) administer such oaths;

(v) take such testimony orally or by deposition; and

(vi) employ and fix the compensation of such counsel, investigators, technical assistants, consultants, and clerical staff,

as the Commission deems advisable.

(B) The Commission may procure the temporary services (not in excess of 1 year) or intermittent services of consultants by contract as independent contractors or by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation that may be paid to a regular employee of the Committee on Rules and Administration.

(3) USE OF SERVICES, FACILITIES, INFORMATION, AND EMPLOYEES.—(A) With the consent of the department or agency concerned, the Commission may—

(i) use the services, facilities, and information of any department or agency of the United States; and

(ii) employ on a reimbursable basis or otherwise the services of such personnel of such a department or agency as the special counsel deems advisable.

(B) With the consent of the committee, subcommittee, or office concerned, the Commission may use the services, facilities, and information of any committee, subcommittee, or office of the Senate when the Commission determines that to do so is necessary and appropriate.

(4) OPPORTUNITY TO BE HEARD.—The Commission shall provide a person that is the subject of an investigation notice of the in-

vestigation and a full opportunity to respond orally and in writing and submit evidence in response to allegations made concerning the person.

(5) Special counsel.—(A) If the Commission determines that, in view of the extent or nature of allegations requiring investigation, it would be desirable to appoint counsel to assist the Commission in conducting the investigation, the Commission may appoint a special counsel for that purpose.

(B)(i) The Commission shall appoint as special counsel a person who has appropriate experience and who undertakes to conduct the investigation in a prompt, responsible, and cost-effective manner and to serve to the extent necessary to complete the investigation.

(ii) The Commission may not appoint as special counsel a person who holds any office of profit or trust under the United States.

(C) A special counsel shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(D)(i) At the time that the Commission appoints a special counsel, the Commission shall describe with specificity in the appointment the subject matter with respect to which the investigation shall be conducted.

(ii) The Commission may enlarge the subject matter with respect to which a special counsel is to conduct an investigation—

(I) at the recommendation of the special counsel, based on facts that come to the knowledge of the special counsel during an investigation; or

(II) in response to a request for review and sworn statement alleging new facts that is presented to the Commission by any person prior to the conclusion of an investigation.

(E) The Commission may delegate to a special counsel such authorities of the Commission under this section as the Commission deems necessary or appropriate to enable the special counsel to conduct an investigation.

(6) Report and recommendation.—(A) At the conclusion of an investigation, the Commission shall submit to the members of the Senate a report that—

(i) states findings of fact made in the investigation;

(ii) states any conclusions that may be drawn with respect to whether improper conduct or a violation of law has occurred; and

(iii) recommends an appropriate sanction for any improper conduct or violation of law that is found to have occurred.

(B) A sanction recommended by the Commission in a report under subparagraph (A) may include—

(i) in the case of improper conduct or a violation of law by a member of the Senate, censure, expulsion, or recommendation to the appropriate party conference regarding the member's seniority or position of responsibility; and

(ii) in the case of improper conduct or a violation of law by an officer or employee of the Senate, suspension or dismissal from employment by the Senate.

(C) At any time at which the Commission finds facts that give reason to believe that a violation of law has occurred, the Commission shall report those facts to the appropriate Federal or State law enforcement authorities.

(7) Senate action.—After a report is submitted under paragraph (6), any member of the Senate may introduce a resolution proposing that the Senate adopt the report of the Commission with or without modification and impose an appropriate sanction.

(8) Payment of expenses.—Expenses of the Commission and compensation and expenses of a special counsel shall be paid out of the contingent fund of the Senate.

(e) Matters for Review by the Commission.—

(1) In general.—Allegations of misconduct of the kinds described in paragraph (2) may be the subject of a request for review by the Commission under subsection (c)(1).

(2) Kinds of misconduct.—An allegation of misconduct is described in this paragraph if it is an allegation of—

(A) improper conduct that may reflect upon the Senate;

(B) a violation of law;

(C) a violation of the Senate Code of Official Conduct (rules XXXIV, XXXV, XXXVII, XXXVIII, XXXIX, XL, XLI, and XLII of the Standing Rules of the Senate); or

(D) a violation of a rule or regulation of the Senate,

relating to the conduct of a person in the performance of his or her duties as a member, officer, or employee of the Senate.

(f) Technical Amendment.—Senate Resolution 338, 88th Cong., 2d Sess., 100 Cong. Rec. 16939 (1964), is amended—

(1) in the first section by striking subsection (e);

(2) in section 2—

(A) in subsection (a) by striking "to—" and all that follows through the end of the subsection and inserting "to recommend to the Senate, by report or resolution, such rules or regulations as the Select Committee shall determined to be necessary or desirable to ensure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities."; and

(B) by striking subsections (b), (c), (d), (e), (f), (g), and (h) and redesignating subsection (i) as subsection (b); and

(3) in section 3 by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(The Statement of Mr. Bond relating to S. Res. 327 and S. 3099 may be found in today's Record under "Statements on Introduced Bills and Joint Resolutions".)

AMENDMENTS SUBMITTED

NATIONAL ENERGY EFFICIENCY ACT OF 1991

STEVENS AMENDMENT NO. 2793

Mr. WALLOP (for Mr. Stevens) proposed an amendment to the bill (H.R. 776) to provide for improved energy efficiency, as follows:

At the appropriate place in the bill, add the following new section:

SEC. . TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX

Subsection (d) of 26 U.S.C. 4612 is amended by inserting the following new sentence before the last sentence of such subsection (d): "If a taxpayer who has paid into such Trans-Alaska Pipeline Liability Fund can not use such credit on account of the operation of any provision of section 4611(f), then such credit may be taken to offset taxes otherwise due under section 11, in each year to the extent which would have been permissible had the Oil Spill Liability Trust Fund financing rate imposed by section 4611 not lapsed pursuant to 4611(f)(2) or expired pursuant to section 4611(f)(1), provided that no such credit taken under this sentence may be carried back to previous tax years."

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 2794

Mr. D'AMATO (for himself and Mr. Moynihan) proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place insert:

SEC. . AMENDMENT TO SECTION 781(a)(1)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

In section 781(a)(1)(B), the phrase "produced in the foreign country with respect to which such order or finding applies" is deleted and the following new text is inserted in lieu thereof: "supplied by an exporter or producer in the foreign country with respect to which the order or finding applies, from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer, or from parts or components supplied by any party in any foreign country on behalf of such an exporter or producer".

SEC. . AMENDMENT TO SECTION 781(a)(2)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

In section 781(a)(2)(B), the phrase "produced in the foreign country with respect to which such order or finding described in paragraph (1) applies" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. . AMENDMENT TO SECTION 781(a)(2)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(2)(C)).

In section 781(a)(2)(C), the phrase "produced in the foreign country" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. . AMENDMENT TO SECTION 781(a)(1)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

The following phrase is inserted after the language of section 781(b)(1)(B)(ii): "or (iii) is supplied by the exporter or producer in any foreign country with respect to which such order or finding applies, or from suppliers that have historically supplied the parts or components to that exporter or producer,".

SHELBY (AND OTHERS) AMENDMENT NO. 2795

DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT—FISCAL YEAR 1993

Mr. SHELBY (for himself, Mr. Thurmond, Mr. Seymour, Mr. McConnell, Mr. Pressler, Mr. Helms, Mr. Hollings, Mr. Symms, Mr. Craig, Mr. Lott, Mr. Hatch, Mr. Stevens, Mr. Smith, and Mr. Grassley) proposed an amendment to the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. MANDATORY LIFE IMPRISONMENT OR DEATH PENALTY FOR MURDER IN THE DISTRICT OF COLUMBIA.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) Imposition of a Sentence of Death.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) Review of a Sentence of Death.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) Implementation of Sentence of Death.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) Special Bar To Execution.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) Conscientious Objection To Participation in Execution.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) Appointment of Counsel For Indigent Capital Defendants.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) Representation After Finality of Judgment.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) Standards For Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) Claims of Ineffectiveness of Counsel in Collateral Proceedings.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) Time For Collateral Attack on Death Sentence.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) Stay of Execution.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) Finality of the Decision on Review.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) Definitions.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section

929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

ADAMS AMENDMENT NO. 2796

Mr. ADAMS proposed an amendment to the bill H.R. 5517, supra, as follows:

In lieu of the matter proposed to be inserted by such amendment, insert the following:

SEC. . Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at the next general, special or primary election held at least 90 days after the enactment of this Act the following initiative.

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section

2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

ADAMS MODIFIED AMENDMENT NO. 2797

Mr. ADAMS proposed an amendment, as modified, to the bill H.R. 5517, supra, as follows:

Strike all after the first word and insert.

.——. Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special or primary election to be held within 90 days after the enactment of this Act the following initiative—

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This Initiative Measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) Representation After Finality of Judgment.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) Standards For Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) Claims of Ineffectiveness of Counsel in Collateral Proceedings.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) Time For Collateral Attack on Death Sentence.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) Stay of Execution.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) Finality of the Decision on Review.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) Definitions.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) Technical Amendment.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

McCONNELL (AND OTHERS) AMENDMENT NO. 2798

Mr. McCONNELL (for himself, Mr. Nickles, Mr. Burns, Mr. Smith, Mr. McCain, and Mr. Gorton) proposed an amendment to the bill H.R. 5517, supra, as follows:

At the appropriate place insert:

That (a) section 2302 of title 6 of the District of Columbia Code is amended by—

(1) striking subparagraph (C) of paragraph (7); and

(2) redesignating subparagraphs (D) and (E) of paragraph (7) as subparagraphs (C) and (D), respectively.

(b) The amendments made by subsection (a) shall take effect on January 1, 1993.

LOTT (AND OTHERS) AMENDMENT NO. 2799

Mr. LOTT (for himself, Mr. Coats, Mr. Smith, and Mr. Brown) proposed an amendment to the bill H.R. 5517, supra, as follows:

At the appropriate place, insert the following:

"No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.".

BROWN AMENDMENT NO. 2800

Mr. BOND (for Mr. Brown) proposed an amendment to the bill H.R. 5517, supra, as follows:

On page 37, after line 25, insert the following new section:

Sec. . (a) In the case of any applicant for assistance provided with funds appropriated under this Act, the applicant shall include the information described in section 6109 of the Internal Revenue Code of 1986.

(b) Any agency processing any application described in subsection (a) shall submit the information provided by the applicant (including the dollar value of the United States Government assistance to the applicant) to the Internal Revenue Service.

(c) On a written request from the Director of the Office of Management and Budget or the Director of the Congressional Budget Office, the Secretary of the Treasury shall furnish each such Office with—

(1) the dollar value of the United States Government assistance to the applicant; and

(2) any return or return information specified in the request, except any return or return information that can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

CRAIG AMENDMENT NO. 2801

Mr. BOND (for Mr. CRAIG) proposed an amendment to the bill H.R. 5517, supra, as follows:

On page 2, line 6 strike "4652" and insert in lieu thereof "4656".

BOREN AMENDMENT NO. 2802

Mr. FORD (for Mr. BOREN) proposed an amendment to the bill H.R. 5517, supra, as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT AND MEMBERSHIP.—There is established an ad hoc Joint Committee on the Organization of the Congress (referred to as the "Committee") to be composed of—

(1) 12 members of the Senate—

(A) 6 to be appointed by the Majority Leader; and

(B) 6 to be appointed by the Minority Leader; and

(2) 12 members of the House of Representatives—

(A) 6 to be appointed by the Speaker; and

(B) 6 to be appointed by the Minority Leader.

(b) EX OFFICIO MEMBERS.—The Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives shall be ex officio members of the Committee, to serve as voting members of the Committee. Ex officio members shall not be counted for the purpose of ascertaining the presence of a quorum of the Committee.

(c) ORGANIZATION OF COMMITTEE.—(1) A chairman from each House shall be designated from among the members of the Committee by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(2) A vice chairman from each House shall be designated from among the members of the Committee by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(3) The Committee may establish subcommittees comprised of only members from one House. A subcommittee comprised of members from one House may consider only matters related solely to that House.

(4)(A) No recommendation shall be made by the Committee except upon a majority vote of the members representing each House, respectively.

(B) Notwithstanding subparagraph (A), any recommendation with respect to the rules and procedures of one House which only affects matters related solely to that House may only be made and voted on by the members of the committee from that House, and, upon its adoption by a majority of such members, shall be considered to have been adopted by the full committee as a recommendation of the committee. Once such recommendation is adopted, the full committee may vote to make an interim or final report containing any such recommendation.

SEC. 2. STUDY OF ORGANIZATION AND OPERATION OF THE CONGRESS.

(a) IN GENERAL.—The Committee shall—

(1) make a full and complete study of the organization and operation of the Congress of the United States; and

(2) recommend improvements in such organization and operation with a view toward strengthening the effectiveness of the Congress, simplifying its operations, improving its relationships with and oversight of other branches of the United States Government, and improving the orderly consideration of legislation.

(b) FOCUS OF STUDY.—The study shall include an examination of—

(1) the organization and operation of each House of the Congress, and the structure of, and the relationships between, the various standing, special, and select committees of the Congress;

(2) the relationship between the two Houses of Congress;

(3) the relationship between the Congress and the executive branch of the Government;

(4) the resources and working tools available to the legislative branch as compared to those available to the executive branch; and

(5) the responsibilities of the leadership, their ability to fulfill those responsibilities, and how that relates to the ability of the Senate and the House of Representatives to perform their legislative functions.

SEC. 3. AUTHORITY AND EMPLOYMENT AND COMPENSATION OF STAFF.

(a) AUTHORITY OF COMMITTEE.—The Committee, or any duly authorized subcommittee thereof, may—

(1) sit and act at such places and times as the Committee, or any duly authorized subcommittee thereof, determines are appropriate during the sessions, recesses, and adjourned periods of Congress; and

(2) require the attendance of witnesses and the production of books, papers, and documents, administer oaths, take testimony, and procure printing and binding.

(b) APPOINTMENT AND COMPENSATION OF STAFF.—(1) The Committee may appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable, but shall utilize existing staff to the extent possible.

(2) The Committee may utilize such voluntary and uncompensated services as it deems necessary and may utilize the services, information, facilities, and personnel of the General Accounting Office, the Office of Technology Assessment, the Congressional Research Service of the Library of Congress, and other agencies of the legislative branch.

(3) The members and staff of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Committee, other than expenses in connection with meetings of the Committee held in the District of Columbia during such times as the Congress is in session.

(c) WITNESSES.—Witnesses requested to appear before the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in traveling to and from the places at which they are to appear.

(d) EXPENSES.—

(1) SENATE.—(A) The Senate members of the Committee shall submit a budget of expenses allocable to the Senate to the Committee on Rules and Administration of the Senate. The Committee may expend for expenses allocable to the Senate not to exceed $250,000 from the Contingent Fund of the Senate subject to approval by the Committee on Rules and Administration until a Committee funding resolution is approved by the Senate or, if no funding resolution is approved, until March 1, 1993.

(B) The expenses of the Committee allocable to the Senate shall be paid from the contingent fund of the Senate, upon vouchers signed by the Senate chairman.

(2) HOUSE OF REPRESENTATIVES.—Notwithstanding any law, rule, or other authority, there shall be paid from the contingent fund of the House of Representatives such sums as may be necessary for one-half of the expenses of the committee, with not more than $250,000 to be paid with respect to the second session of the One Hundred Second Congress. Such payments shall be made on vouchers signed by the House of Representatives cochairman of the committee and approved by the Committee on House Administration of the House of Representatives. Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration of the House of Representatives.

SEC. 4. COMMITTEE REPORT.

(a) REPORT.—The Committee shall report to the Senate and the House of Representatives the result of its study, together with its recommendations, not later than December 31, 1993.

(b) RECESS OR ADJOURNMENT.—If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(c) REFERRAL.—All reports and findings of the Committee shall, when received, be referred to the appropriate committees of the Senate and the appropriate committees of the House of Representatives.

SEC. 5. CONDUCT OF COMMITTEE BUSINESS.

The Committee shall not conduct any business prior to November 15, 1992.

NOTICE OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, July 30, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building on S. 2481, reauthorization of the Indian Health Care Improvement—Alcohol and Substance Abuse Program.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

SUBCOMMITTEE ON OVERSIGHT AND GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Thursday, August 6, at 9:30 a.m., in room 342 of the Dirsken Senate Office Building, on oversight of the Defense Commissary Agency.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, August 11, 1992, beginning at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills currently pending before the subcommittee:

S. 2505, to amend the Land and Water Conservation Fund Act of 1965 to provide for the establishment of the America the Beautiful Passport to facilitate access to certain Federally administered lands and waters, and enhance recreation and visitor facilities thereon, to authorize the Secretary of the Interior and the Secretary of Agriculture to enter into challenge cost-share agreements, and for other purposes;

S. 2723 and H.R. 4999, to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

S. 3100, to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes; and

H.R. 4276, to amend the Historic Sites, Buildings, and Antiquities Act to place certain limits on appropriations for projects not specifically authorized by law, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information regarding the hearing, please contact Tom Williams at (202) 224–7145 or David Brooks at (202) 224–9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 30, 1992, at 2 p.m. to hold a hearing on interpreting the Pressler amendment: commercial military sales to Pakistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, July 30, 1992, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, July 30, 1992, to hold a hearing on efforts to combat fraud and abuse in the insurance industry: Part 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday, July 30, 1992, at 9:30 a.m. in SR–332 to conduct a hearing on cosmetic standards and presticide use on fruits and vegetables.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Thursday, July 30, 1992, at 2:30 p.m. on S. 2644 and rail-highway grade crossing safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMERS

Mr. FORD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 30, 1992, 9:30 a.m. on telemarketing fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday July 30, at 10 a.m. to hold a hearing on Capcom, money laundering, and BCCI.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on July 30, 1992, at 10 a.m. to hold a hearing on the President's recommendation that China continue to receive most-favored-nation [MFN] status.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 30, at 4:30 p.m. to hold a closed hearing on military options in Yugoslavia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 30, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building on S. 2481, reauthorization of the Indian Health Care Improvement—Alcohol and Substance Abuse Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 50TH ANNIVERSARY OF THE POLISH HOME ARMY

• Mr. RIEGLE. Mr. President, the State of Michigan will be the site for the 50th anniversary of the Polish Home Army, or Armia Krajowa [A.K.] during the month of August. On August 7, 8, and 9 thousands of Polish Americans and their friends will pay tribute to the gallant efforts of those who defended the Polish homeland against Nazi invaders during World War II.

From the very start of that war, units of armed resistance emerged in Poland to protect the nation and its people from both Nazi and Communist aggression. Living under constant terror and threat of imprisonment and death, men and women conducted underground activities on behalf of their nation. Among these individuals were many who at the time had not even reached their teenage years. Children acted as couriers and proudly wore the arm bands of the A.K. Indeed, many ultimately became martyrs for this cause.

Throughout the duration of the Nazi occupation of Poland, the A.K. Army was consistently one of the most difficult elements with which the invaders had to deal. In fact, Nazi commanders were forced to keep very large numbers of troops in Poland due to the activities of this valiant group of patriots. Moreover, the home army's presence prevented many Nazi divisions from being deployed to other parts of Europe during WWII. The home army's endeavors benefited not only the Polish people but all Europeans in the battle against Nazi aggression.

History has recorded many acts of bravery and heroism resulting from A.K. campaigns, but one stands out as highly significant. In 1944, the Armia Krajowa rose up against the Nazi invaders in the city of Warsaw. For 63 days, with arms minimal in comparison to the heavy artillery of Germany, thousands of soldiers fought for the salvation of their capital. Unfortunately, in full view of the Russian Army that did nothing to assist those fighting in defense of Warsaw, the uprising failed with a death toll of more than 250,000. Warsaw was then totally destroyed.

The dreams and aspirations of the Polish Home Army, however, were not shattered with the Polish capital. A.K. soldiers continued to work for the freedom of their country during the years of Communist rule.

For the members of the Armia Krajowa, the war did not end in 1945. They paid dearly for their efforts at the hands of the Communist Party after World War II. The Party randomly arrested and imprisoned those who so selflessly gave of themselves to free their country from Nazi occupation. Tragically, many died in the same postwar Poland that they worked so hard to set free.

As the Polish Home Army gathers in Michigan for its 50th anniversary, there is a pride felt throughout the State in their heroism. And, America, itself, feels a deep sense of gratitude and affection toward the many men and women who came to the United States after the war, sharing their talents and ideals with their new home. I honor them for their dedication to their traditional homeland and salute them for their contribution they have given to their new country. In the words of Polish writer Kazimierz Wierzynsk: "Nic sie nie zmienilo. W legendzie bedziemy umilowanym echem zyjacej przeszlości. I tak jak uśmiech znajduje prawdziwa harmonie w drugim uśmiechu * * * tak dusza polaczy sie ostatecznie z pokrewnymi duszami." (Nothing has changed. In legend we will be a loved echo of the living past. And like a smile finds harmony in another smile, souls join in the end with other souls.)

It is my fond hope that the gathering of the Polish Home Army in the State of Michigan be an occasion of celebration and happiness. The experiences of each and every soldier enrich the lives of those who reside in our State. To all of those will gather, I offer my sincere best wishes. Zycze wszystkim wszystkiego najlepszego.

Sto Lat!•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for R.J. Short, a member of the staff of Senator THURMOND, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Mr. Short in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Brent Erickson, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from July 4–19, 1992.

The committee has determined that participation by Mr. Erickson in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Timothy Galvin, a member of the staff of Senator KERREY, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE], from July 12–15, 1992.

The committee has determined that participation by Mr. Galvin in this program, at the expense of the CCE, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Daniel Bob, a member of the staff of Senator ROTH to participate in a program in Tokyo, sponsored by the Association for Communication of Transcultural Study [ACT], from July 5–12, 1992.

The committee has determined that participation by Mr. Bob in this program, at the expense of the ACT, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Rick Carnell, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the U.S.-Asia Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Mr. Carnell in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Leslie Tucker, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from August 15 September 1, 1992.

The committee determined that participation by Ms. Tucker in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Senator and Mrs. SIMPSON, to participate in a program in Turkey, sponsored by the Turkish-American Businessmen's association of Izmir and the American-Turkish Friendship Council, Inc., from May 25–30, 1992.

The committee determined that participation by Senator and Mrs. SIMPSON in this program, at the expense of the sponsors, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Dennis Burke, a member of the staff of Senator DECONCINI, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from July 13–17, 1992.

The committee has determined that participation by Mr. Burke in this program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Amy Dunathan, a member of the staff of Senator CHAFEE, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from July 13–17, 1992.

The committee has determined that participation by Ms. Dunathan in this program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Tim Bernstein, a member of the staff of Senator MOYNIHAN, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from July 13–18, 1992.

The committee has determined that participation by Mr. Bernstein in this program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Linda McIntyre, a member of the staff of Senator WOFFORD, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from July 13–17, 1992.

The committee has determined that participation by Ms. McIntyre in this program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Stewart Smith, a member of the staff of Senator SARBANES, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 17-29, 1992.

The committee has determined that participation by Mr. Smith in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Mary Irace, a member of the staff of Senator SARBANES, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs and the Far East Studies Institute, from July 4-19, 1992.

The committee has determined that participation by Ms. Irace in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Jo Ellen Urban, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 17-30, 1992.

The committee has determined that participation by Ms. Urban in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Brett N. Francis, a member of the staff of Senator HATCH, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 15-30, 1992.

The committee has determined that participation by Mr. Francis in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for J. Caleb Boggs, a member of the staff of Senator ROTH, to participate in a program in China, sponsored by the Soochow University, from July 5-11, 1992.

The committee has determined that participation by Mr. Boggs in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Dr. Robert McArthur, a member of the staff of Senator COCHRAN, to participate in a program in China, sponsored by the Soochow University, from July 5-11, 1992.

The committee has determined that participation by Dr. McArthur in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Peter Galbraith, a member of the staff of Senator PELL, to participate in a program in Germany, sponsored by the Hochschule Bremen, from June 25-26, 1991.

The committee determined that participation by Mr. Galbraith in this program, at the expense of the Hochschule Bremen, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Jessica Gavora, a member of the staff of Senator MURKOWSKI, to participate in a program in China and Hong Kong, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from July 4-19, 1992.

The committee has determined that participation by Ms. Gavora in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Senator CONRAD BURNS and his wife to participate in a program in the Republic of China, sponsored by the Chinese National Association, from July 13—18, 1992. At the conclusion of this trip, Senator and Mrs. BURNS have been invited by Fuji America Co. to attend a program in Tokyo, from July 18-20, 1992.

The committee has determined that participation by Senator BURNS and his wife in these programs, at the expense of the Chinese National Association and Fuji America Co., respectively, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Cynthia M. Faulkner, a member of the staff of Senator COHEN, to participate in a program in Taiwan, sponsored by the Soochow University, from July 4-11, 1992.

The committee has determined that participation by Ms. Faulker in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Tom Fulton and Jack Ramirez, members of the staff of Senator CONRAD BURNS, to participate in a program in the Republic of China, sponsored by the Chinese National Association, from July 13-18, 1992. Mr. Fulton and Mr. Ramirez have also been invited to participate in a program in Tokyo, sponsored Fuji America Co., from July 18-20, 1992.

The committee has determined that participation by Tom Fulton and Jack Ramirez in these program, at the expense of the Chinese National Association and Fuji America Co., respectively, is in the interest of the Senate and the United States.•

TRIBUTE TO ELKTON

• Mr. MCCONNELL. Mr. President, I rise today to recognize the town of Elkton in Todd County.

Unlike many of today's small-town public squares, Elkton's town center is still a viable commercial district. The shops have remained while the courthouse has moved. It is a charming and historic downtown where only two buildings do not hold a spot on the National Historic Register of Historic Places.

Agriculture is the driving force behind the economy of bucolic Todd County. The county continually ranks near the top in wheat, barley and tobacco production.

But not all residents of Todd County have been farmers; it has been home to some notable residents who did not work the rich, rolling farmlands. Elkton's Benjamin Helm Bristow was a noted lawyer who founded the American Bar Association. Another Elkton lawyer was U.S. Supreme Court Justice James Clark McReynolds. Novelist and poet Robert Penn Warren, winner of three Pulitzer Prizes and the Nation's first poet laureate is another of Todd County's favorate sons.

The person who left the biggest mark on the landscape of Todd County is Jefferson Davis, President of the Confederacy, whose birthplace and achievements are memorialized in a 351-foot tall obelisk.

The good people of Elkton are well prepared to meet the changes of tomorrow without forgetting the roots of their past.

Mr. President, I would like the following article from the Louisville Courier-Journal to be submitted into the CONGRESSIONAL RECORD.

The article follows:

ELKTON

(By Cynthia Crossley)

In 1979, the writer Robert Penn Warren returned to his native Todd County to attend ceremonies honoring a Todd County native of another era, Jefferson Davis.

Elkton, Warren wrote after the trip, was "a rather charming old town, not yet undone by time and progress."

That's still true today.

There is no stoplight in all of Todd County. Nor is there a hospital, a new-car dealer or a place for a man to buy a suit.

"You could have taken me to India and it wouldn't have been as big a culture shock," said Joy Bale Boone of her reaction when she moved from Elizabethtown to Elkton in 1975 after marrying George Street Boone, a lawyer and former state legislator who is now vice chairman of the Kentucky Bicentennial Commission.

Along Elkton's public square, time has largely stopped. All but two of the buildings are on the National Register of Historic Places. Now, when property owners plan to renovate, they are encouraged to return the buildings to their original appearance.

In the center of things sleeps the old country courthouse, which is one of the oldest in Kentucky. Two tales are told as to how the now-empty, two-story building came to be built in 1835. According to the more widely reported story, the project supervisor hired four bricklayers and assigned each of them to build a wall; the man who did the best work was to be rewarded with a gold watch.

The walls went up, and the south wall, laid by a mason named H.H. Shemwell, was deemed best. For some reason, Shemwell's prize turned out to be an overcoat rather than a gold watch. Not to worry. Years later, a son of Shemwell was quoted as saying the winner greatly treasured his overcoat, and wore it only on special occasions.

According to the other tale, the supervisor was heard boasting about his own bricklaying skills and was challenged to a contest. He became one of the four contestants, and won with his work on the building's west wall.

However, it appeared that judgment to be wrong. In 1988 a large crack appeared in the west wall. An investigation determined that a drought had caused a drop in the water table, which led to a partial collapse of some caverns beneath the building.

County government vacated the courthouse in 1976 for a new building three blocks away. On the first floor of the empty building, a visitor would find four old fireplaces, the circuit clerk's old black vault and the reinforcement rods that crisscross overhead to hold the structure together.

But while the courthouse is empty, the stores on the square surrounding it are not. Nothing has come to Todd County to threaten the survival of the two corner drugstores, the hardware store, the women's clothing store, the Dollar General store, the bank, the little "Cash Grocery" store, the beauty parlor, the two eateries and the several offices that line the square.

When something can't be found in Todd County, a shopper has a choice of stores in Russelville, Hopkinsville, and the mall in Clarksville, Tenn. The big city offerings of Nashville are about an hour away.

"People say, 'What you need in here is a Wal-Mart,' " said Mayor Bryan Blunt. "Well, there are three Wal-Marts within 20 miles of this square. I don't ever expect a Wal-Mart store here."

When progress does intrude on the public square, it comes with the rumbling of trucks and other traffic passing to and from Hopkinsville, Russelville and Bowling Green on U.S. 68-KY 80.

"It surprises me, all the traffic going around the square," said accountant Robert Martin, who has an office across from the courthouse. "Sometimes I think 'Where do all these people come from?' "

Not from tiny Elkton. The traffic invades a town whose population has grown very little and a county whose population has declined over the decades. In 1930, the census counted 13,520 souls in Todd County; by the 1990 census, that number had declined to 10,940.

Many townsfolk say someone needs to build more houses in Elkton to try to halt that decline. But one breath later they'll tell you there is no land in the city limits for a subdivision, and that they think most of Todd County's farmers would be unwilling to sell their land. Agriculture still has a strong hold on the county: in 1988, farms accounted for 72 percent of Todd's 367 square miles.

Farming's prominence in Todd County produced a major controversy—an argument over the location of the proposed U.S. 68-KY 80 bypass, which would direct those rumbling trucks away from the square.

Plans called for the bypass to loop south of town, but irate farmers protested, saying the route ran through some of the best cropland in Kentucky. Given the influence of the farm community, the complaints carried weight. In 1990, Todd County ranked third in Kentucky for wheat and barley production, fifth for both dark-fired and air-cured tobacco, and seventh in cash receipts—$28 million that year—for farm crops, said Bill Jones, Todd County executive director for the federal Agriculture Stabilization and Conservation Service.

"Farming is what puts the bread and butter on the table here," Jones said.

So now the bypass is supposed to loop north of town, where shallow and rocky soils make farming trickier.

Forests and cliffs have created prime hunting lands in Northern Todd County, especially for deer and turkey. That draws a lot of hunters in the fall.

Some farmers see that as a mixed blessing. On one hand, they say, since deer can damage crops, the hunters help farmers by thinning the herds. On the other hand, some hunters "will shoot the cows and horses too," said farmer Jack Cross.

When those folks come to Elkton, "I don't go hunting. It makes me nervous to walk around," said Dallas Orr, a retired state trooper.

Cross and Orr were having coffee recently with some of the regulars at the South Fork restaurant, at the long table where "the UK-Duke game was replayed, about 50 times," Cross said.

The talk turned to an influx of another kind—the growing number of Amish and Mennonite farmers who have been moving from Pennsylvania and Ohio to several southern Kentucky counties, including Todd and neighboring Christian County. Many Todd Countians aren't sure what to make of their new neighbors.

South Fork's coffee drinkers weren't keen about the Mennonites' practice of driving steel-wheeled tractors over county roads. Indeed, it is hard to drive south from Elkton on KY 181 without coming up behind a tractor being driven by an impassive young man with a beard wearing a straw hat, a pastel shirt, black pants and suspenders.

The Mennonites are also famous for the goodies available at Schlabach's Bakery, located about seven miles south of town. Todd Countians stock up there on the bakery's popular sweet rolls, breads, cookies and pies.

But food aside, the jury seems to be out on what to make of the newcomers. Jo Tribble of Trenton still shakes her head when she recalls how an Amish family bought a house from her, then proceeded to rip up the carpeting and pull out the electrical wires and telephone lines. But she also admits that she will rush to the window if she notices a line of buggies going by on their way to an Amish funeral or wedding.

In some ways, "they don't add a lot to your community," said Tribble, a receptionist at the Todd County Standard. "They don't send their children to public schools; they don't buy a lot of things from the stores; they're pretty self-contained.

"But they make us look sick when it comes to going to other areas to help with causes," such as cleaning up after natural disasters, Tribble said.

Perhaps the Mennonite and Amish experience in Todd County will become fodder for some of the writers Todd County seems to produce. So far, poet and novelist Robert Penn Warren—whose childhood home in Guthrie has been restored and is now open—has been the most widely known, but there have been others.

Joy Bale Boone and George Street Boone spoke of gatherings in Todd County and in Clarksville in the first half of the century that drew writers such as Dorothy Dix, Caroline Gordon, Allen Tate and Katharine Ann Porter.

George Street Boone recalled how the community had always been interested in education, and that the town was once the site of three academies, including one started as a prep school by Vanderbilt University. In addition to the community's writers, the academies also produced some of Todd County's prominent legal minds.

Although the academies are gone, there seems to be little on the horizon that will change the shape of Elkton or its slow pace.

However visible the Mennonites and the Amish may be, they still don't amount to anything like a population boom for Todd County. That's fine, because no one seems to be pushing for much growth.

Mayor Blount, who also runs the industrial foundation, said he would like to add one or two factories. But he said he wants the Elkton area "to expand just a little."

Joy Bale Boone said it's easy to appreciate Elkton's charms.

"I like the idea that I can walk to the post office," she said recently. "Why try to be a big city when you're lucky enough to have all the little town advantages?"

Population [1990]: Elkton 1,789; Todd county 10,940.

Per Capita Income (Todd County, 1989): $11,061, or $2,762 below the State average.

Jobs (Todd County 1990): Manufacturing, 1,327 employees; wholesale/retail, 487; Surface, 147; State local government, 432; contract construction, 45.

Big employers (Todd County) 1992; Flynn Enterprise (four plants), 695; Ardco Inc., 230; Banfcor Corp., 137; Guthrie Garment Co, about 100.

Medial; Newspapers—The Todd County Standard (weekly). Radio—WFKJ [Christian FM]; WERT [Gospel AM]. Television—cable available.

Transportation: Air—Standard Field, 3,500-feet grass strip one mile southwest of Elkton. Commercial scheduled air service available in Tennessee at Nashville International Airport, 66 miles southeast of Elkton. Rail—CSK Transportation and R.J. Coman Railroad Co. Truck—27 truck lines serve Todd County. Water—No transportation available.

Education: Todd County Public Schools (1,020). No colleges. From Elkton, Austin Peay State University in Clarksville, Tenn., is 25 miles southwest; Western Kentucky University in Bowling Green is 45 miles east; Vanderbilt University plus seven other colleges and universities in Nashville, Tenn., are 60 miles southeast; Hopkinsville Community College is 20 miles west, and Madisonville Community College is 52 miles north.

Topography: Rich, rolling farmland in southern Todd County gives way to some prime hunting grounds on the hilly, rocky land to the north. Lake Malone is in the northeast corner of county.

FAMOUS FACTS AND FIGURES

Todd County, which is only about 12 to 15 miles wide and 30 miles long, is named for Col. John Todd, who was killed at the Battle of Blue Licks in August 1782.

Elkton's Benjamin Helm Bristow was the first U.S. solicitor general (1870), a U.S.

Treasury secretary (1874) and an unsuccessful candidate for the Republican presidential nomination in 1876. Later, he was an adviser to three U.S. presidents and a founder of the American Bar Association. He died in 1896.

Elkton was home to a U.S. Supreme Court Justice, James Clark McReynolds. Before his 1914 appointment to the court, McReynolds was a U.S. attorney general. McReynolds died in 1946, five years after retiring from the court.

Not all prominent Todd Countians were lawyers. Novelist, and poet Robert Penn Warren, winner of three Pulitzer Prizes and the nation's first poet laureate, was born in Guthrie. Warren is probably best known for his novel about Louisiana's Huey Long, "All the King's Men." Although Warren spent most of his life outside Kentucky, his work often drew on his native state's history. He died in 1989.

And there's the Todd Countian with the monument, Jefferson Davis. The president of the Confederacy spent the first three years of his life in Fairview before his family moved to Mississippi in 1811. In 1917, 28 years after Davis died, the United Daughters of the Confederacy started work on a cast-concrete obelisk to honor him. The work stopped during World War I and the 351-foot tall memorial was dedicated in 1929.•

OMB RISK/RISK ANALYSIS

• Mr. GLENN. Mr. President, as chairman of the Governmental Affairs Committee, I have been working for the past several years to establish a fair and open process by which the President can oversee the Federal regulatory process and by which the American public can be assured of meaningful participation in Federal agency rulemaking decisions.

As many of my colleagues know, this effort has been frustrated in several ways. The most significant impediment to openness is the secret review process run by the Council on Competitiveness. Another problem is the questionable validity of many of the review decisions made by OMB's Office of Information and Regulatory Affairs [OIRA].

Three and a half months ago, we witnessed what must have been the most crazy logic to date of OMB's regulatory reviewers.

OMB stopped OSHA from working on an air contaminants rule because OMB said that the worker health protection rule would actually hurt more workers than it would help. OMB's idea was that industry compliance costs would be passed on to workers through lower wages, and since poorer people generally have poorer health, those workers would end up worse off than they would be from breathing poisoned air. OMB called this way of thinking, "risk-risk analysis."

Within a few days of the announcement of OMB's decision, I convened a hearing of the Committee on Governmental Affairs. OMB officials appeared and confirmed that indeed they thought their logic made sense. They also said that risk-risk analysis was a new kind of cost-benefit analysis that should and would be imposed on all regulatory agencies. Other witnesses disagreed, saying:

There is no empirical evidence to support the analysis;

Even theoretically, observing a general correlation between income and health does not amount to and cannot be transformed into a matter of causation in a specific regulatory instance; and

Whatever its academic validity, cost-benefit analysis cannot be considered in OSHA health standards. This is the law, and it has been upheld by Federal courts.

Within a few days of the hearing, OMB backed down and allowed the OSHA rulemaking to go forward. OMB, however, maintained its insistence that risk-risk analysis is an appropriate tool for OSHA and other agencies to use in reaching rulemaking decisions.

Given OMB's position, I asked the General Accounting Office to examine OMB's assertions about risk-risk analysis. GAO has now completed its review and, just as I said 3 months ago, OMB's risk-risk analysis makes no sense, and for OSHA health standards, is illegal, as well.

GAO interviewed OMB officials and those individuals cited by OMB as supporting risk-risk analysis. It also convened a panel of independent experts to examine OMB's analysis. GAO came to the following conclusions about risk-risk analysis:

First, OMB directed OSHA to break the law—OMB's analysis, no matter what it is called, involves balancing benefits to worker health against compliance costs. This is cost-benefit analysis, which the courts have said OSHA may not do in the case of health standards;

Second, risk-risk analysis is a pipe dream—despite OMB's assertions to the contrary, there is no established causal relationship between wealth and health. Moreover, there is insufficient data to even attempt to draw that conclusion; and

Third, OMB misused its own theory—even if it could work, OMB misapplied the underlying model originally proposed by Prof. Ralph Keeney. Professor Keeney actually told GAO investigators that OMB had not applied his model accurately.

GAO's report is a well-though-out and documented evaluation of OMB's misdirected idea. I commend it to all my colleagues and ask unanimous consent that it be placed in the RECORD

GAO's findings confirm to me how out of control this administration's regulatory review scheme has become.

I believe that the President has the right to review agency rules. I also believe that it makes sense for regulatory review to be done in a central office like OMB, that has staff with the clout to help agencies eliminate unnecessary or duplicative rules, streamline existing rules, and argue against overly burdensome rules.

But that review process should not be a secretive politicized avenue to help special interests or ideological extremists control agency decisionmaking. I shouldn't need to remind anyone here that when Congress passes legislation, which is then signed into law by a President, the authority to make the decisions necessary to implement that law is given to an agency head. That authority is not given to unnamed and unknown political operatives in the White House.

But, sadly, that is the case today. The Council on Competitiveness is running a secret process for granting favors to special interests and political supporters. And OMB seems to have become the final home for ideological extremists who would even flunk the classes of the academics they look to for guidance.

This has gone on too long. I have spent more than a year trying, without success, to get answers from the Council on Competitiveness about what rules it is reviewing and who it is meeting with. Before that, I spent another year working with OMB trying to come up with a fair and reasonable process to govern OMB regulatory review.

I must report that attempts at compromise have failed. It is time the Senate took up my bill, the Regulatory Review Sunshine Act, to give the American people the open and fair regulatory process they deserve. And it is time we tell this administration that if regulatory review will not be opened to the light of day, then it should be stopped.

The House has voted to strike funding for the regulatory review activities of the Council on Competitiveness. When the comparable appropriations bill comes to the floor of the Senate, I am prepared to offer an amendment to do the same. Maybe then this administration will get the message, that Government must operate fairly and openly. Americans will not have faith in their Government so long as they think that it operates unfairly and in secret to serve special interest.•

TRIBUTE TO KENTUCKY'S OLYMPIANS

• Mr. McCONNELL. Mr. President, I rise today to salute the men and women representing the Commonwealth of Kentucky at the Olympics in Barcelona.

Kentucky will not only be represented by the athletes attempting to bring home the gold, but Olympic administrators, coaches, and trainers will play key, behind the scenes, roles in the 1992 Barcelona Olympic games.

I am proud of these Kentuckians who have worked hard to achieve their positions on the Olympic team and I assure you, Mr. President, that they will do their best to be the best. These Olympians are:

John Brucato, of Maysville, is the coach to U.S. swimmer Megan Kleine.

Mike Buncic, who graduated from the University of Kentucky in 1985, will throw the discus for the U.S. track and field team.

Sean Dollman, a resident of Bowling Green, will be representing Ireland in the 10,000-meter run.

Dr. David N. Caborn, of Lexington, is the team physician for the Moroccan National Federation Track and Field Team.

Mark Hamilton, of Louisville, will race in the four-man kayak, 1,000-meters competition.

Tom Hammond, of Lexington, will be announcing the diving and track and field events.

Micki King Hogue, of Lexington, will be in Barcelona as a representative of the governing body of U.S. diving.

Dr. Mary Lloyd Ireland, of Lexington, is on the U.S. medical staff. She is assigned to women's gymnastics, women's basketball, and backup duties at an urgent treatment unit.

Megan Kleine, of Lexington, will be swimming the 100-meter breaststroke.

Mary T. Meagher, of Louisville, will be an athlete liaison at the Olympic Games.

C.M. Newton, of Lexington, will be in Barcelona as chairman of the USA Basketball Games Committee and vice president of USA Basketball.

Ellen McGrath Owen, of Louisville, will be diving in the 10-meter platform event.

Mark Schubert, who graduated from the University of Kentucky in 1971, is head coach of the U.S. women's swim team.

Dorothy Trapp, of Lexington, will be riding in the equestrian 3-day event.

Molokai, of Paris, will be ridden in the 3-day event.

Leo White, who graduated from Cumberland College in 1980, will be competing in judo in the 95-kilogram weight class.

I applaud their achievements and wish them the best of luck at the Olympic games.

Mr. President I would like the following article from the Lexington Herald-Leader to be reprinted in the CONGRESSIONAL RECORD.

The article follows:

KENTUCKIANS AT THE OLYMPICS

(By Mark Maloney, Chuck Green, and Maryjean Wall)

Kentucky will be represented at the Barcelona Olympics in the water (swimming), on the water (kayaking) and into the water (diving).

The Bluegrass Connection on land will include athletes in track and field, judo and the equestrian Three-Day Event.

Besides athletes, Kentucky will be represented by officials, coaches, doctors, and a broadcaster. The total comes to 15 people and a horse—of course, of course.

Here are brief introductions of each.

JOHN BRUCATO

Event: Personal coach to Megan Kleine, U.S. women's swim team.

Age: 30

Residence: Maysville

Hometown: Fort Wright

School: Covington Catholic High School and Northern Kentucky University

Occupation: Coach, Wildcat Aquatics Swim-Club

Greatest accomplishment: Coaching Megan Kleine, 1992 Olympian

Where he was four years ago: Assistant coach at Nashville Aquatics Club, which sent three swimmers to the 1988 U.S. Olympic Trials

Quote: "Everything has been geared to swimming to (Megan's) maximum potential in Barcelona. She knows that she's going to need to be probably somewhere between a mid-1:08 to 1:09-low to be able to medal, but once she gets there she's going to be ready to swim her fastest."

MIKE BUNCIC

Event: Track and field, discus

Age: Turns 30 on Saturday

Residence: Campbell, Calif.

Hometown: Fair Lawn, N.J.

Height: 6-4

Weight: 245

School: University of Kentucky (education, 1985)

Occupation: Sports training research analyst

Greatest accomplishments: Ranked No. 1 in the U.S. and No. 4 in the world in 1989, and No. 1 in the U.S. and No. 4 in the world in 1991; two-time Olympian (1988, 1992)

Chances to medal: Questionable. Buncic is capable—his throw of 227 feet, 7 inches was the world's best in 1991—but a hamstring injury has held him back this season. He placed fifth in last year's World Championships at Tokyo.

Where he trains: San Jose, Calif.

Where he was four years ago: He placed 10th in the Seoul Olympic Games.

Quote: "I don't plan on being a tourist in Barcelona. Last time, just to be an Olympian was almost enough, but this time it's not."

SEAM DOLLMAN

Event: Track and field, 10,000 meter run (representing Ireland)

Age: 23

Residence: Bowling Green

Hometown: Johannesburg, South Africa. (Note: Dollman holds dual citizenship with Ireland and South Africa. His mother is Irish, his father is South African.)

Height: 6-2

Weight: 140

School: Western Kentucky University (history and government undergraduate, 1991; public administration master's, December 1992)

Occupation: Student

Greatest accomplishments: Won the NCAA Division I Cross Country Championships last fall, and in the spring captured the 10,000-meter run in the NCAA Outdoor Track and Field Championships. Has qualified in the 10,000 for the 1993 World Championships at Stuttgart, Germany

Chances to medal: Long shot. Dollman ran the race of his life, cutting 24 seconds from his personal best, to meet the Olympic qualifying standard in the July 4 * * * Games at Oslo, Norway. He finished 13th in that race with a time of 27 minutes, 56.34 second.

Where he trains: Bowling Green.

Where he was four years ago: Training on the roads in Bowling Green

Quote: From Curtis Long, Dollman's coach at Western Kentucky: "He has been someone who is organized and disciplined in what he does. He is consistent, so when it's a day to rest, he's resting; when it's a day to be working, he's working; when it's a day to run easy, he runs easy. . . . He was doing the workouts called for, and he was doing it in the manner called for."

DR. DAVID N. CABORN

Event: Team physician for Morocco National Federation Track and Field Team

Age: 35

Residence: Lexington

Hometown: Edinburgh, Scotland

School: St. Andrews University of Scotland (undergraduate); Emory University and Manchester University of England (graduate); Duke University and Greenville, S.C. Memorial Medical Center (residency), and University at Pittsburgh (fellowship)

Occupation: Assistant professor of orthopedic surgery section of sports medicine and directory of sports medicine, University of Kentucky Chandler Medical Center

Greatest accomplishment: Won 1989 Grandfather Mountain (N.C.) Marathon.

Where he was four years ago: Orthopedic surgery resident at Greenville, S.C. Memorial Medical Center

Quote: "I'll be essentially treating overuse injuries and an occasional acute injury * * * It's always high pressure because everyone wants a gold medal, so they're usually teetering on the edge of their limits."

MARK HAMILTON

Event: Kayak, K-4 1,000 (fourman kayak, 1,000 meters.

Age: 34

Residence: Costa Mesa, Calif.

Hometown: Louisville

Height: 6-3

Weight: 185

School: St. Xavier High School and University of Kentucky (1983 graduate)

Occupation: Administrative analyst for public relations and marketing for the City of Orange, Calif. (Hired through the Olympic Job Opportunities Program)

Greatest accomplishment: Qualifying for 1988 and 1992 Olympic Games; Seventh in K-4 1,000 at 1991 World Championships

Chances to medal: Considered strong or outside chance to medal.

Where he trains: Newport Beach, Calif.

Where he was four years ago: Seoul Olympic Games as an alternate in the K-4 1,000 and K-2 1,000. Did not compete

Quote: "The American public continues to focus only on the gold medals. Any time you medal—period—regardless of the color, It's a tremendous achievement, especially given the fact that we don't have a professional level to our sport. So this is the very highest level for us."

TOM HAMMOND

Event: Broadcaster (diving and track and field)

Age: 48

Residence: Lexington

Hometown: Lexington

School: University of Kentucky (bachelor's and master's in equine genetics)

Occupation: Broadcasting and video production (NBC Sports, Jefferson Pilot)

Greatest accomplishments: 1984 Eclipse Award for coverage of Breeders' Cup, Englehard Award for excellence in broadcasting thoroughbred racing, 1988 and 1992 Olympics broadcaster, host of Breeder's Cup broadcast

Where he works: Based in Lexington, traveling the world

Where he was four years ago: Broadcasting the Seoul Olympics for NBC-TV

Quote: "I don't draw attention to myself. I think this television business often rewards style over substance. I like to think I've got a little more substance over style."

MICKI KING HOGUE

Event: Will be in Barcelona as a representative of the governing body of U.S. diving

Age: 48

Residence: Lexington

Hometown: Pontiac, Mich.

School: University of Michigan (majored in journalism and physical education)

Occupation: University of Kentucky professor of aerospace studies, commander of UK Air Force ROTC program

Greatest accomplishments: Won gold medal in 3-meter springboard diving in 1972 Summer Games in Munich, Germany; became first woman to teach physical education at the U.S. Air Force Academy; was named the Academy's assistant athletic director in 1983

Where she was four years ago: Was team leader/manager of the U.S. diving team in Seoul, helping with training and practices

Quote: "Getting caught up in the color and glamor of the Olympics is something every athlete there will do, regardless of how much their coach wants them not to. You're one of the best athletes in the world, surrounded by other great athletes, and to be asked to ignore that fact is impossible."

DR. MARY LLOYD IRELAND

Event: Physician, U.S. medical staff, assigned to women's gymnastics, women's basketball and backup duties at urgent treatment unit

Age: 39

Residence: Lexington

Hometown: Lexington

School: Sayre High School; Memphis State (undergraduate); Tennessee-Memphis (medical)

Occupation: Orthopedic surgeon, Kentucky Sports Medicine Clinic; team physician, University of Kentucky and Eastern Kentucky University

Greatest accomplishments: 1992 U.S. Olympic medical staff, and head physician, 1990 U.S. Olympic Festival. A former competitive swimmer, she swam the 100-meter breaststroke in the 1973 World University Games in the Soviet Union

Where she was four years ago: Practicing orthopedic surgery and traveling with women's U.S. basketball team at Jones Cup in Taipei, Taiwan

Quote: "It's one of those situations where you'd like to go over there and not be busy at all, but you get psyched up to take care of most any problem."

MEGAN KLEINE

Event: Swimming, 100-meter breastroke

Age: 17

Residence: Lexington

Hometown: Lexington

Height: 5-6

Weight: 116

School: Henry Clay High School

Occupation: Student

Greatest accomplishment: Placing second in U.S. Olympic Trials

Chances to medal: Long shot. Kleine's time of 1:10.08 in the U.S. Trials is nearly 1½ seconds off the 1988 bronze-medal time of Germany's Slike Hoamer.

Where she trains: Woodland Park and University of Kentucky's Lancaster Aquatics Center.

Where she was four years ago: Watching the Olympics on TV and participating with the Brookhill Swim Club.

Quote: "If you win, that's great. But no matter what happens, I'm still going to have a wonderful time."

MARY T. MEAGHER

Event: Athletes' liaison

Age: 27

Residence: Louisville

Hometown: Louisville

School: Sacred Heart Academy; Cal-Berkeley

Occupation: Conducts swimming camps and clinics; motivational speaker; volunteer for U.S. Olympic Committee

Greatest accomplishments; World records in 100- and 200-meter butterfly; triple gold-medalist in 1984 Olympics, bronze-medalist in 1988 Olympics.

Where she was four years ago: At the Seoul Olympic Games, Meagher was bronze-medalist in the 200-meter butterfly and seventh in the 100-meter butterfly. She swam in preliminaries only for the silver-medal 4 x 100 medley team.

Quote: "I've been out of the sport for four years, but really it was 13 years ago that I reached the top, and I guess now I've really realized that there were things that I did do differently that helped me become as good as I did, and there were things along the way that hindered my progress as well. Now I have the opportunity to go back and try to instill in younger kids some of that philosophy, some of that motivation, those ideals and goals and things along those lines."

C.M. NEWTON

Event: Will be in Barcelona as chairman, USA Basketball Games Committee; vice president, USA Basketball

Age: 62

Residence: Lexington

Hometown: Fort Lauderdale, Fla.

School: University of Kentucky (1952 bachelor's, 1957 master's)

Occupation: Athletic Director, University of Kentucky

Greatest accomplishments: U.S. Olympic basketball team assistant, 1964 gold medalists; 609–375 record in 32 seasons as a college coach, including Southeastern Conference Coach of the Year awards in five different seasons; lettered on UK's 1961 NOAA championship basketball team

Where he was four years ago: Chairman of USA Basketball's (Olympic) Player Selection Committee and treasurer of USA Basketball, but did not travel to Seoul Olympics because of recruiting duties as coach at Vanderbilt University

Quote: "The thing I'm most proud of is that the (selection) process was never compromised. It was fair, it was void of politics and we picked a heck of a team, recognizing that we would be second-guessed and so on. You can second-guess the team, but you can't second-guess the process."

ELLEN (MC GRATH) OWEN

Event: Diving, 10-meter platform

Age: 29

Residence: Bellevue, Wash.

Hometown: Louisville

Height: 5-2

Weight: 108

School: Male High School, University of Alabama (advertising, 1955)

Occupation: Ford Motor Co., Lincoln Quality Care Manager

Greatest accomplishment: Winning 1991 national outdoor platform championship, 1992, U.S. Olympic Trials platform

Chances to medal: Possible, while her main competition from China and the former Soviet Union can score big with some difficult dives, Owen's forte is consistency.

Where she trains: Federal Way, Wash.

Where she was four years ago: Working for Ford in Seattle

Quote: "I think if I dive well (and) if Mary Ellen Clark, my teammate, dives well, and everybody else does about what they usually do, we have a real good shot at being first, second or third. . . . It's just whether or not you put it together on that day."

MARK SCHUBERT

Event: Head coach, U.S. women's swim team

Age: 43

Residence: Austin, Texas

Hometown: Akron, Ohio

School: University of Kentucky (1971 education)

Occupation: Head coach, University of Texas woman's swim team through July 31. Effective Aug. 1: head coach University of Southern California men's team.

Greatest accomplishments: Winning two NCAA women's team championships at Texas; coaching Mary T. Meagher to three gold medals in 1984 Olympics, and Brian Goodell to two golds in 1978 Olympics; U.S. Olympic assistant coach 1980, '84 and '88

Where he was four years ago: Seoul Olympic Games, as assistant coach of U.S. swim team

Quote: "Because (Americans) have been so successful in the past I think that helps our confidence. And I think it actually helps us on the starting blocks in that people expect us to do well—and the athletes expect to do well. It's tradition."

DORTHY TRAPP

Event: Equestrian, Three-Day Event

Age: 30

Residence: Lexington

Hometown: Lexington

Height: 5-9½

Weight: 130

School: Sayre High School, University of Kentucky

Occupation: Equestrian, part-time horse broker and riding instructor

Greatest accomplishment: 1992 U.S. Olympic team member

Chances to medal: Long shot. One of the four team horses must fail to pass veterinary check before she can ride as an alternate.

Where she trains: Florida, Virginia and Kentucky

Where she was four years ago: Louisville, teaching riders and beginning to train Molokai

Quote: (Ten years ago, Trapp wrote out an "Olympic plan" for her lifelong dream.) "For each year I'd listed what I thought I could do. I wrote that the first year I thought I could make the team would be 1992."

MOLOKAI

Event: Equestrian, Three-Day Event

Age: 9

Residence: Anywhere his rider travels

Hometown: Paris

Height: 16.2 hands.

Weight: About 1,000 pounds

Breeder: Steeple Hill Farm, Paris

Personal: Bay thoroughbred gelding

Occupation: Three-Day Event horse (and ex-racehorses)

Greatest accomplishment: 1992 Olympic team member

Chances to medal: If he gets a chance to compete, his great speed and soundness are expected to be advantageous

Where he was four years ago: Left the racetrack; unable to win, and began training as Three-Day Event horse

Quote: "Neigh!"

LEO WHITE

Event: Judo, 95-kilogram (200-pound and under) class

Age: 34

Residence: Newport News, Va.

Hometown: Seaside, Calif.

Height: 6-0

Weight: 220

School: Cumberland College (1980 business administration)

Occupation: Captain, U.S. Army, stationed at Fort Eustis, Va.

Greatest accomplishment: Four-time World Military champion; U.S. Military Athlete of the Year (1983); a record 13 U.S. national titles; three Pan American Games bronze medals (1979, '83, '87) and one silver (1991), and qualifying for 1984 and 1992 Olympic Games

Chances to medal: Excellent. White has beaten: the 1984 Olympic gold-medalist five times in as many tries; the 1968 Olympic gold-medalist twice in five tries with White's wins coming in their last two meetings, and the 1991 World Championships silver and bronze medalists.

Where he trains: Virginia Beach, Newport News and Fort Eustis, Va.

Where he was four years ago: A Seoul Olympic alternate, White "ripped out my back" soon after the U.S. trials and would have been unable to compete.

Quote: "I'm getting a medal. I just don't know what color it's going to be. It depends on how much I train and how I have my head screwed on. Some hardware's coming home to the States, though."•

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Friday, July 31; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately after the Chair's announcement, the Senate proceed to the consideration of calendar No. 570, H.R. 5373, the Energy and Water Appropriations Bill.

Mr. President, I am authorized to state that this has been cleared by the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:37 p.m., recessed until Friday, July 31, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 30, 1992:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PHILIP BRUNELLE, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 3, 1994.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

RELIGION IN A FREE SOCIETY

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. DOOLITTLE. Mr. Speaker, Elder M. Russell Ballard delivered a powerful address at the Freedom Festival Devotional on Sunday, July 5 entitled "Religion in a Free Society."

Given recent Supreme Court decisions, I believe that Elder Ballard raises an extremely valid point: a simple constitutional prohibition of a State-sponsored church has evolved into court-ordered bans against the slightest mention of God in the public square. Surely our forefathers cannot have intended such a dangerous lurch toward State-sanctioned amorality.

I commend the following text to my colleagues' attention:

RELIGION IN A FREE SOCIETY

(Address by Elder M. Russell Ballard)

Two hundred sixteen years ago, the Continental Congress adopted the Declaration of Independence. Of that event John Adams said, "I am apt to believe that it will be celebrated by succeeding generations as the great anniversary festival. It ought to be commemorated as the day of deliverance, by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bells, bonfires, and illuminations from one end of this continent to the other, from this time forward forevermore" (The Second Letter to Abigail Adams, July 3, 1776). This Provo Utah Freedom Festival surely fits John Adams' vision of our day.

At the outset please know that I do not represent myself to be an expert on religion in a free society, the subject of my talk tonight. I gratefully acknowledge the thoughtful suggestions of those who are experts and who have shared with me their thoughts, some of which I have included in what I will say.

I do, however, believe that I have some expertise as a father of our seven married children who have given to my wife and me the experience of being grandparents to their thirty-three children. It is because of my love for them, and my deep concern that they and others like them be able to enjoy all of the privileges of religious liberty that I express my thoughts this evening.

The breeze of freedom is blowing today with greater velocity throughout the world than perhaps at any other time in history. However, a gathering like this would still not be legally permissible in many places. We are meeting here on the Brigham Young University campus where The Church of Jesus Christ of Latter-day Saints freely supports this great institution.

Recently a group of religious and political leaders and scholars from all around the world met in Budapest, Hungary to discuss the practical challenges faced by the former communist nations that are moving toward some form of religious liberty. The concept of religious freedom is revolutionary for many countries, and they are struggling with many potentially divisive issues: To what extent should public schools recognize and teach religion? How much should the state regulate a church's charitable activities? Should churches be exempted from general laws? To what degree should church and state be separated? Should there be an official state church?

Do those issues sound familiar? They should. Our Founding Fathers wrestled with them more than 200 years ago, and they continue to be serious topics of discussion and debate to this very day.

The latitude we have for disagreement and discourse more than 200 years after the United States Constitution and its Bill of Rights were enacted is a remarkable testimony to the enduring nature of those precious documents. The principles and philosophies upon which our constitutional law is based are not simple the result of the best efforts of a remarkable group of brilliant men. They were inspired by God, and the rights and privileges guarantee in the Constitution are God-given, not man-derived. The freedom and independence afforded by the Constitution and Bill of Rights are divine rights—sacred, essential and inalienable. In the 98th Section of "The Doctrine and Convenants" the Lord indicates that "the law of the land which is constitutional, supporting that principal of freedom in maintaining rights, and privileges, belongs to all mankind, and is justifiable before me" (D&C 98:5).

I focus my comments this evening on sixteen significant words found in the very First Amendment to the Constitution: "Congress shall makes no laws respecting an establishment of religion or prohibiting the free exercise thereof."

These words are simple and direct. Their message and meaning appear to be clear. But through the years presidents, Congress, and the courts have interpreted them in so many different ways that many people today have no sense of the perspective upon which they were based.

Believe it or not, at one time the very notion of government had less to do with politics than with virtue. According to James Madison, often referred to as the father of the Constitution: "We have staked the whole future of American civilization not upon the power of the government—far from it. We have staked the future of all of our political institutions upon the capacity of each and all of us to govern ourselves according to the Ten Commandments of God." (Walton, Russ," Biblical Principles of Importance to Godly Christians," New Hampshire: Plymouth Foundation, 1984, p. 361).

George Washington agreed with his colleagues James Madison. Said Washington: "Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle." (Richardson, James D., "A Compilation of the Messages and Papers of the Presidents, 1789-1897," published by authority of Congress, 1899, Vol. 1, p. 220).

Nearly 100 years later, Abraham Lincoln responded to a question about which side God was on during the Civil War with this profound insight: "I am not at all concerned about that, for I know that the Lord is always on the side of the right. But it is my constant anxiety and prayer that I and this nation should be on the Lord's side" ("Abraham Lincoln's Stories and Speeches," J.B. McClure, editor; Chicago: Rhodes and McClure Publishing Co., 1896, p. 185-186).

Madison, Washington and Lincoln all understood that democracy cannot possible flourish in a moral vacuum, and that organized religion plays an important role in preserving and maintaining public morality. Indeed, John Adams, another of America's Founding Fathers, insisted: "We have no government armed with power capable of contending with human passions unbridled by morality and religion." (Adams, John, "The Works of John Adams, Second President of the United States," Charles F. Adams, 1854).

Yet that is precisely the position we find ourselves in today. Our government is succumbing to pressure to distance itself from God and religion. Consequently, the government is discovering that it is incapable of contending with people who are increasingly "unbridled by morality and religion." A simple constitutional prohibition of a state-sponsored church has evolved into court-ordered bans against (1) representations of the ten Commandments on government buildings, (2) Christmas manger scenes on public property, and (3) prayer at public meetings. Instead of seeking the "national morality" based on "religious principle" that Washington spoke of, many are actively seeking a blind standard of legislative amorality, with a total exclusion of the mention of God in the public square.

Such a standard of religious exclusion is absolutely and unequivocally counter to the intention of those who designed our government. Do you think that mere chance placed the freedom to worship according to individual conscience among the first freedoms specified in the bill of Rights—freedoms that are destined to flourish together or perish separately? The Founding Fathers understood this country's spiritual heritage. They frequently declared that God's hand was upon this nation, and that He was working through them to create what Chesterton once called "a nation with the soul of a church" (Newhaus, Richard John, "A New Order for the Ages," a speech delivered to the Philadelphia Conference on Religious Freedom, May 30, 1991). While they were influenced by history and their accumulated knowledge, the single most influential reference source for their work on the Constitution was the Holy Bible. Doubtless they were familiar with the Lord's counsel to the children of Israel as they struggled to become a great nation:

"And it shall come to pass, if thou shalt hearken diligently unto the voice of the Lord thy God, to observe and do all his commandments which I command thee this day, that the Lord thy God will set thee on high above all nations of the earth: And all these blessings shall come on thee, and overtake thee, if thou shalt hearken unto the voice of the Lord thy God. Blessed shalt thou be in the

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

city, and blessed shalt thou be in the field. Blessed shall be the fruit of thy body, and the fruit of thy ground, and the fruit of thy cattle, the increase of thy kine, and the flocks of thy sheep. Blessed shall be thy basket and thy store. Blessed shalt thou be when thou comest in, and blessed shalt thou be when thou goest out.

"The Lord shall cause thine enemies that rise up against thee to be smitten before thy face; they shall come out against thee one way, and flee before thee seven ways. The Lord shall command the blessing upon thee in thy storehouses, and in all that thou settest thine hand unto; and he shall bless thee in the land which the Lord thy God giveth thee. The Lord shall establish thee and holy people unto himself, as he hath sworn unto thee, if thou shalt keep the commandments of the Lord thy God, and walk in his ways" (Deuteronomy 28:1-9).

In other words, that nation that keeps God's commandments and walks in His ways will prosper. The framers of our Constitution knew that, and they tried to lay a solid moral foundation for a society that could be so blessed. As they did so, perhaps they thought of Roger Williams and others like him who made an heroic fight for religious freedom.

Roger Williams, as you know, was one of the most courageous leaders of the Puritan movement. He began his ministry in England where his zealous work to free the church from the influence of the king brought the wrath of the government upon him. Eventually he and his young wife were forced to flee to the New World. But instead of finding himself among like-minded reformers in America, he encountered much of the same resistance and persecution until he established a new colony called Providence in Rhode Island. Here America had its first taste of true religious freedom, and the success of the Providence colony convinced many that the concept tasted good.

The Founding Fathers very likely were aware of the experiences of Roger Williams and others when they wrote in the First Amendment that the government cannot impede the free exercise of religion. They wrote that the church and the state were to be separate, independent entities, not to eliminate morality and God's law but to make sure that the power of government could never be used to silence religious expression or to persecute religious practice. Once again quoting George Washington: "If I could have entertained the slightest apprehension that the Constitution, framed in the convention where I had the honor to preside, might possibly endanger the religious rights of any ecclesiastical society, certainly I would never have placed my signature to it" ("Maxims of Washington," New York: D. Appleton and Company, 1894, p. 370-371).

What would Washington have thought if he could have foreseen our day? Would he have signed the document?

I believe he would have been troubled to see a time when citizens are forbidden to pray in public meetings; when people claim that "you can't legislate morality," as if any law ever passed did not have at its heart some notion of right and wrong; when churches are called intruders when they speak out against public policy that is contrary to the commandments of God; when many people reject the correcting influence of churches if it infringes on daily living; when religion is accepted as a social organization but not as an integral part of national culture; when people bristle if churches speak in any forum except from the pulpit.

Indeed, some people now claim that the Founding Fathers' worst fear in connection with religion has been realized; that we have, in fact,a state-sponsored religion in America today. This religion does not have an identifiable name, but it operates just like a church. It exists in the form of doctrines and beliefs, where morality is whatever a person wants it to be, and where freedom is derived from the ideas of man and not the laws of God. Many people adhere to this concept of morality with religious zeal and fervor, and courts and legislatures tend to support it.

While you may think I am stretching the point a bit to say that amorality is the new state-sponsored religion, I believe you would agree that we do not have to look far to find horrifying evidence of rampant immorality that is permitted if not encouraged by our laws. From the plague of pornography to the devastation caused by addiction to drugs, illicit sex and gambling, wickedness rears its ugly head everywhere, often gaining its foothold in society by invoking the powers of constitutional privilege. We see a sad reality of contemporary life when many of the same people who defend the right of a pornographer to distribute exploitive films and photos would deny freedom of expression to people of faith because of an alleged fear of what might happen from religious influence on government or public meetings. While much of society has allowed gambling to wash over its communities, leaving broken families and individuals in its soul-destroying wake, it reserves its harshest ridicule for those who advocate obedience to God's commandments and uniform, inspired standards of right and wrong.

As M.J. Sobran recently wrote, "A religious conviction is now a second-class conviction, expected to step deferentially to the back of the secular bus, and not to get uppity about it" (Sobran, M.J., "Human Life review," Summer 1978, p. 58-59).

There are probably many reasons for the change in public attitudes toward religion. Certainly we've had too many wolves posing as shepherds, prompting a natural skepticism toward any who profess to represent God on earth. Of course the news media, which rarely report on the good things churches are doing in the world, almost never miss an opportunity to tell people when active church members do wrong. We read about crimes that are committed by former Sunday School teachers, ministers, or missionaries. But when was the last time you read that a crime was committed by someone who hasn't stepped inside a church in 40 years?

For that matter, when was the last time you saw religion or people of faith portrayed positively in any film or television program? For the most part Hollywood's attitude toward religion is typified by the expression of cartoon character Bart Simpson, whose meal-time grace consisted of these words: "Dear God, we pay for all this stuff ourselves, so thanks for nothing." In fact, noted film critic Michael Medved accuses Hollywood of a deliberate attempt to undermine organized religion. According to Medved: "A war against standards leads logically and inevitably to hostility to religion, because it is religious faith that provides the ultimate basis for all standards" (Medved, Michael, "Popular Culture and the War Against Standards, a speech delivered at Hillsdale College November 18, 1990).

Organized religion finds itself increasingly on the defensive. Not only are people questioning the right of the church—any church—to be involved in matters of public policy, but some are even beginning to wonder whether the church is entitled to exert any kind of meaningful influence in people's lives. As one church-goer recently said on a radio talk show: "I think the world of my minister—as long as he doesn't try to tell me how to live my life."

Is it any wonder, then, that religion now finds itself under attack in legislative assemblies and in the courts? In fact, the United States Supreme Court recently discontinued the time-honored judicial standard that gave considerable legal latitude to the free exercise of religion. Allowing people of faith to practice their religion free from the burdening effects of public policy is, according to the court, "a luxury that can no longer be afforded." While the justices acknowledged that the ruling would "place at a relative disadvantage those religious practices that are not widely engaged in" they said it was "an unavoidable consequence of a democratic government" ("Oregon Employment Division v. Smith" 1990).

I do not promote the religious practice that was in question in that case but I am concerned with the long-term implications of the decision. Wherever religious groups are in the minority and are not considered part of the mainline religious community, the potential for state intrusion upon their religious practices is real. With legislative bodies responding most often to the will of the majority, the free exercise of religion by minority faith groups is in peril.

The Religious Freedom Restoration Act (HR 2797) is presently before Congress. This important piece of legislation is designed to restore the protections for religious freedom that existed before this recent Supreme Court decision placed those protections in jeopardy. Because the Religious Freedom Restoration Act is necessary for the preservation of the free exercise of religion, it demands our support.

The constitutional provisions relating to government and religion were not intended to control the religious rights of people. Rather, they were intended to expand them and eliminate the fear of government intrusion. These provisions were meant to separate religion and government so that religion would be independent. The experiences of Roger Williams and other reformers provided our constitutional fathers with important facts to help them deal with the potential risks of a state religion corrupted by politics. Consequently, they drafted an article in the Bill of Rights to guarantee religious freedom from government as opposed to government freedom from religion.

In fact, the framers of the Constitution probably assumed that religious freedom would establish religion as a watchdog over government, and believed that free churches would inevitably stand and speak against immoral or corrupt legislation. To do so, churches not only have the right to speak out on public moral issues, but they have the solemn obligation to do so. Religion represents society's conscience, and must speak out when government chooses a course that is contrary to the laws of God. To remove the influence of religion from public policy simply because some are uncomfortable with any degree of moral restraint is like the passenger on a sinking ship who removes his life jacket because it is restrictive and uncomfortable.

We live in a day of political and social unrest. People are beginning to understand that more money and new government programs do not solve the problems of disintegrating morality in our homes and communities. People in the land have a feeling that things are not right. Voters everywhere are looking for a great leader to come along and straighten everything out.

The buzz words family values are being incorporated in almost every politician's favorite 30-second sound bite. But what does that phrase really mean? Whose values are we going to embrace: The values of politicians? The values the media tell us we should cherish? The values of special interest groups and organizations? The values of rank-and-file Americans, as determined by scientific survey? Obviously, it would not be politically expedient to say that the values that our Founding Fathers drew upon are eternal, unchanging values. But that is a fact. The values that made us great are, in reality, the commandments of God. They provide the foundation upon which our republic was built. And if American democracy seems shaky today, it's only because that foundation has been eroded and weakened under the guise of separation of church and state.

Now that I think about it, maybe Washington really was speaking of our day when he said, "If I could conceive that the general government might ever be so administered as to render the liberty of conscience insecure, no one would be more zealous than myself to establish effectual barriers against the horrors of spiritual tyranny and every species of religious persecution" ("Maxims of Washington," New York: D. Appleton and Company, 1894, p. 371).

Samuel Adams, who is sometimes called the father of the American Revolution, wrote: "I thank God that I have lived to see my country independent and free. She may long enjoy her independence and freedom if she will. It depends upon her virtue" (Wells, "the Life of Samuel Adams, 3:175").

That means it depends on us. If we would maintain the independence and freedom the Founding Fathers intended, we must work to preserve and protect the moral foundation upon which they built our government. We must stand boldly for righteousness and truth, and must defend the cause of honor, decency, and personal freedom espoused by Washington, Madison, Adams, Lincoln, and other leaders who acknowledged and loved God. Otherwise, we will find ourselves in the same predicament President Lincoln observed in 1863.

Said Lincoln: "We have grown in numbers, wealth and power as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which preserved us in peace and multiplied and enriched and strengthened us; and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us!" (Lincoln, Abraham, "A Proclamation ("to designate and set apart a day for National prayer and humiliation")

On this occasion of celebration, let us resolve to make our own families truly free by teaching them that God holds us all accountable. His laws are absolutes; breaking them brings misery and unhappiness; keeping them brings joy, happiness, and the blessings of heaven. Let us teach our families and others the importance of moral responsibility based on the laws of God. Let us all resolve to listen to moral voices from churches and to those who speak in moral absolutes based on the commandments of God. Let us never support legislation or legislators that sponsor laws contrary to the laws of God.

The freedom we give thanks for tonight is at stake—for ourselves and for our posterity. No nation or people that rejects God or His commandments can prosper or find happiness. History and the scriptures are filled with examples of nations that rejected God. Let us be wise and remember the source of our blessings and not be timid or apologetic in sharing this knowledge with others.

There is no better place in this precious land of America than the great State of Utah for a people to embrace and declare that our trust is in God, and that we will look to His commandments and teachings for values that will fortify and give direction to our families. Only these values can insure true happiness, lasting peace, and joy. May the churches of America and the churches of Utah be allowed to help guide this nation and state to the basic principles espoused and fought for by the Founding Fathers of this great nation. That is my prayer for all of us—but most especially, for my grandchildren. And I offer it in the name of God's own Son, even Jesus Christ our Lord. Amen.

A HYMN OF THANKS

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. SHAYS. Mr. Speaker, today I am pleased to submit for the RECORD a poem written by a constituent of mine, Dr. Arthur Koffler, called "A Hymn of Thanks."

On November 20, 1974, Dr. Arthur Koffler and his wife, Shirley Koffler, were driving in Santa Monica, CA at about 8:30 p.m. when they wee involved in an automobile accident. Their car was set on fire.

That evening, David Kozell, an employee of the telephone company, who had been taking an evening college course, gave his professor a ride home. This was far out of the way he ordinarily would drive. They came upon the accident, stopped, and David was mobilized into action. A muscular man, he approached the burning car, broke through the window and lifted both Arthur and Shirley Koffler from the burning vehicle. Shortly thereafter the car exploded.

Shirley died in the emergency room of the Santa Monica Hospital. Dr. Koffler was a patient there for more than 2 months and was then taken to the Stamford Hospital in Stamford, CT for further treatment, where he stayed for more than a month.

This poem of three stanzas embodies the crystallization of Dr. Koffler's feelings of these almost 18 years, and is a hymn of thanks and praise.

David Kozell was given the telephone company award for bravery, a congressional citation, nominated for the Carnegie Medal and awarded the Connelly Medal for bravery by the International Kiwanis Club.

A HYMN OF THANKS

To David:

March 21, 1992: The cadence is right, the cadence is right and I use these hallowed words. From the setted sun, alone he came and plucked me from a fiery tomb so I might stay. I will to say how wondrous, that I, a Jew, so far away, knowing none—he, another Jew—had come upon—and yes with strength unknown tore me away to live to see another day. I would it had been she, but thus, by Power above it was meant to be. I thank thee Lord! I thank thee!

March 28, 1992: When David Kozell told me he understood not why he wasn't burned by the fire from which he tore me, it came to me that stand he did in the blazing shadow of Moses, as "A bush burned with fire, yet not consumed." Again, I thank thee, God.

March 31, 1992: And so with darkness upon the land David rose to help another man known not to him but to God alone. That man could just as well a Christian, Arab, Chinese, Black or Hindu be. He was just a fellow man.

ARTHUR.

WHO ARE THE VETERANS OF WORLD WAR II?

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Ms. LONG. Mr. Speaker, in Indiana's Fourth Congressional District we are fortunate to have an individual who typifies much that is good about any great nation. Dr. Jack Gren, consultant, educator, and lecturer is a true patriot. As a young man, Dr. Gren served in the Air Force during World War II, flying the "Hump" between India and China. He witnessed many of his brave comrades lose their lives so that this Nation could remain free. Dr. Gren's rich and varied experiences have been captured in a poem entitled "Who Are the Veterans of World War Two?" I am inserting this poem in the RECORD so that others may be inspired by it:

WHO ARE THE VETERANS OF WORLD WAR TWO?

(By Jack Gren)

Who are the veterans of World War Two?
 People proud of the red, white and blue.
When the war broke out we got right in
 Knowing somehow we'd eventually win.

The average age was twenty-six
 But there certainly was a full range mix.
Some were the old guys at thirty-five
 Fighting to keep our country alive.

A few of us were kids, still in our teens
 Sincere and eager and full of dreams.
Joined the Air Force, Army, Marines and Navy too
 There was an important job we had to do.

We took all the training and it was rough
 But that's what taught us how to be tough.
Yes, we were tough when we had to be
 But only out of necessity.

The rest of the time we were gentle and kind
 Just winning the war was first in our mind.
We fought all over the world day by day
 And every night found time to pray.

We fought in Europe with all our might
 We knew that we had to make things right.
The battles were fierce in the Africa campaign
 And even there we did sustain.

We fought throughout the Pacific Islands
 From jungle swamps up the highlands.
We fought in China, Burma and India as well
 Now that was real living hell.

We thought about our loved ones way back home
 And sometimes felt so terribly alone.

We cared for our buddies quite a bit
And it tore us apart when they got hit.

Casualties occurred in many different ways
Sometimes it put us in kind of a daze.

It was difficult seeing wounded in terrible pain
And no way to help was hard to explain.

But worse was to see friends lie dying
It was all we could do to keep from crying.
Whether killed in a plane, a ship or a tank
It was then we thought the whole war stank.

But that was the way it had to be
And we kept on fighting till the world was free.

Yes, we did our duty and did it with pride
Some of us lived while others died.

Then came the year of '45
The war was over and we were alive.
First Victory in Europe, then VJ Day
Thank you, God, we knelt to pray.

Then we came home to start once more
Hoping there'd not be another war
We went to college or learned a skill
Thinking never again we'd have to kill.

We married, had children and that was nice
But like everything else we paid a price.
We struggled as we tried to build a career
And many a night shed a silent tear.

Some attitudes changed, it was hard to understand
Why certain people didn't appreciate this land.
When other wars started and some people fled
We remembered the ones who fought and bled.

Then along came those who defiled our flag
They spit on it, burned it, an called it a rag.
They called it free expression, that it was their right
Something given to them without struggle or fight.
They insulted the veterans who came home lame
For their outrageous actions they ought to feel shame.
And some people still try to get a free ride
It's through self-achievement that we earn our pride.

Now our children are grown and out on their own
And once again we're all alone.
If we're lucky we still have a loving wife
It's really been an interesting life.

We've seen the world change and it's hard to explain
Why there are wars, turmoil and pain.
When will people heed the message from above
And learn to live in peace and love.

Yes, Worid War Two was long ago
Will the veterans forget it, the answer is no.
For some 'old guys' in the war, their journey is done
They lived the good life and the battles were won.

We who were kids, then still in our teens
Are now in our sixties and accomplished our dreams.
We attend military reunions, reminisce with the guys
And occasionally a thought brings tears to our eyes.

We look around, observe and it's easy to see
There aren't as many of us left as there used to be.
But if a terrible war came, heaven forbid
We'd probably do the same thing as we once did.
We'd join in the fray with all our might
And do what we could to make things right.
For we still love this country, the red, white and blue
And that, by God, is the best we can do.

EARLY TRADE BETWEEN INDIANS AND NONINDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we, as a Congress, have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues, a recollection of an anonymous American Indian, as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also.

GIVE US GOOD GOODS

(Trade often led to a dependency on white goods. Indians could not turn away from such conveniences as brass kettles and cloth once they became accustomed to them, or such pleasures as sugar and liquor once they had been tested. And guns and knives became essential to the Indians' very survival. Many tribes came to be at the mercy of the trader, as reflected in this 1743 pea to a Hudson's Bay dealer named Isham, who copied down the chief's words in his journal.)

You told me last year to bring many Indians. You see I have not lied. Here is a great many young men come with me. Use them kindly! Use them kindly I say! Give them good goods, give them good goods I say!

We lived hard last winter and in want, the [gun] power being short measure and bad, I say. Tell your servants to fill the measure and not to put their fingers within the brim. Take pity on us, I say!

We come a long way to see you. The French sends for us but we will not go there. We love the English. Give us good black tobacco, moist and hard twisted. Let us see it before opened.

Take pity of us, take pity of us, I say! The guns are bad. Let us trade light guns small in the hand, and well shaped, with locks that will not freeze in the winter. * * *

Let the young men have roll tobacco cheap, kettles thick and high for the shape and size, strong ears [handle loops], and the baile [handle] to lap [fall] just upon the side.

Give us good measure in cloth. Let us see the old measures. Do you mind me!

The young man loves you by coming to see you, take pity, take pity I say! And give them good, they love to dress and be fine. Do you understand me!

ANONYMOUS,
Tribe unknown.

A TRIBUTE TO DR. BARBARA McCLINTOCK, GENETICIST

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to honor a distinguished pioneer of genetic biology, Dr. Barbara McClintock. Dr. McClintock recently celebrated her 50 year of affiliation with the Cold Spring Harbor Laboratory, and her 90th birthday.

Although Dr. McClintock modestly avoids the fame which her work might easily have brought her, there is nothing modest about her achievements. She worked alone, in a field of corn, for decades, and revolutionized genetic science by providing that individual genes can jump, rather than being rigidly placed within the genetic code. This discovery was so far ahead of its time as to predate Dr. James Watson's discovery of the structure of DNA. Dr. McClintock was awarded the Nobel Prize for Physiology or Medicine in 1983.

Dr. McClintock also pioneered the very participation of women in genetic science, entering the field at a time when most women were not allowed to major in it. Genetics was a field so misunderstood at the time of her discoveries that they brought questions about her sanity long before she received her due credit. Her perseverance against obstacles both of social convention and of scientific theory stands as a model to us all.

[From The New York Times, July 26, 1992]

ABOUT LONG ISLAND: A VERY PRIVATE LEGEND

(By Diane Ketcham)

Her colleagues rank her with Galileo and Mendel. Yet few Long Islanders know of the living legend in their midst.

Dr. Barbara McClintock is the Greta Garbo of the Cold Spring Harbor Laboratory. The outside world rarely sees her or hears about her. That suits her fine. She may share a place in history with Marie Curie, having won the Nobel Prize single-handedly, but you will not hear the story from her. This Long Islander shies away from publicity.

In a field of corn she changed the science of genetics. A few hundred yards from that field she still lives and works. Quietly, assumedly. With nary a word to Barbara Walters or The National Enquirer.

"Dr. McClintock is a very private person," Nathaniel Comfort of the laboratory said. "But reporters leap from private to her being lonely and not having any friends. That's not true. She has loads of friends."

They just don't happen to be reporters. So the public may not be aware that Dr. McClintock recently celebrated her 90th birthday and 50th year at Cold Spring Harbor.

"It was a very quiet intimate birthday party," said a friend and nextdoor neighbor at the lab, Joan Pesek. "We could have invited 600 people, but Barbara would have hated it. So there was about 30 people. But it was such a special party, because she got the book."

For her birthday a collection of essays from her friends and colleagues was put together in "The Dynamic Genome." The 400-page book, a mixture of science and sentiment, is heavy on science, which is how Dr. McClintock's life has been.

But strong sentiments abound when talking to those who know her. She declines to do her own talking. She sees no reason to give interviews. "She is honestly a very humble person," Mr. Comfort said.

There is so much to be proud of, her supporters say. "She succeeded as a woman when none were supposed to succeed," Ms. Pesek said.

40 YEARS OF PERSEVERANCE

Dr. McClintock made a career in plant genetics when many women were not even allowed to major in it. She went about her experiments entirely by herself. She had no lab assistant. It was just her and her field of maize. Her findings were so revolutionary that some of her colleagues thought she was a bit daft.

"She persevered for 40 years," Ms. Pesek said. "She was in her 80's when she finally got the recognition she deserved."

In 1983, Dr. McClintock was awarded the Nobel Prize in the category of Physiology or Medicine. The award was given for the work she had done decades earlier. When asked why the recognition took so long, the tell-it-like-it-is geneticist replied: "When you know you're right, you're right. You don't care. You can't be hurt. You just know that sooner or later it will come out in the wash."

Understanding the impact that Dr. McClintock has made on science is a bit like taking a chemistry exam. There are words like genome and cytogenetics to learn. Then there is the lab to visit. For the lay person, the bastion of molecular-biology research can be intimidating. The junior spokesman has a master's in neurobiology.

In scientists' offices are the proverbial blackboards with equations and drawings. On one was a jumble of notations. Did that mean that the mind of Dr. Rob Martienssen was that complex? "No, it means the erasers don't work," he said.

In simple terms Dr. McClintock discovered that genes jump. "Before McClintock, everyone thought genetics worked in a nice precise mathematical way," Mr. Comfort said. "They thought of it as bits of code strung along like beads on a string, a static picture like a ticker tape. McClintock shattered that whole rigid concept. She discovered bits of DNA could move around."

That was before her colleague and the head of the lab, Dr. James Watson, discovered the structure of DNA. He received the Nobel Prize in 1962.

Dr. McClintock's work was like refining the wheel before someone thought of making the cart. "She was ahead of her time by 30 years," Mr. Comfort said. And she did that work with no high-technology equipment. Just intellect and ears of corn. The credit goes to the corn, she told the press.

"You know she won't eat corn," Ms. Pesek said.

Because of all those years working with it?

"No, I think it's because she doesn't like the taste," Ms. Pesek said.

Dr. McClintock spends many evenings savoring Ms. Pesek's cooking. The geneticist, who never married, lives alone at the lab. Her apartment in a building from the whaling days of the 1850's, overlooks the harbor. Next door live Ms. Pesek and her husband, Dan Marshak, a scientist at the lab.

"My husband's father, Alfred, was a good friend of Barbara's at Cornell," Ms. Pesek said. "So I think she felt comfortable with us."

Although there is more than a 50-year age difference, Ms. Pesek and Dr. McClintock have become close friends. "Age is not a factor with Barbara," Ms. Pesek said. "She is ageless. She may be physically frail, but you don't see that. You see the fire, the spunk, the feistiness. You think she could take on the world."

She still takes on the younger scientists at the lab. "She serves as a source of information and ideas to everybody," said Dr. Venkatesan Sundaresan. Dr. Sundaresan, with a Ph.D. from Harvard, is one of three scientists continuing Dr. McClintock's maize-genetics work.

Until a few months ago she worked seven days a week. "I would pass by at 9 or 10 at night and see her light on," Dr. Sundaresan said.

An illness has slowed her, but retirement is not in Dr. McClintock's vocabulary.

"I learn from her all the time," Dr. Sundaresan said. "She was one of the most important reasons I came here."

Imagine being able to work with a legend. Having Shakespeare help with writing or Beethoven giving piano lessons.

"It is such an honor to work with her," said Dr. Martienssen, who has a Ph.D. from Cambridge. "She is the greatest 20th-century geneticist. It's amazing to me what an exceptionally normal person she is. She has a special relationship with the younger scientists. She really does inspire."

But at 90 surely Dr. McClintock's scientific input has peaked. "We took her to the field last week," Dr. Martienssen said. "She still educates you. What she sees is incredible, and that's with failing eyesight."

"She's the ideal scientist, intensely curious about her work, but fame and glory mean almost nothing to her," Dr. Sundaresan said. "It's what I think a scientist should be.

"Some scientists love the competing for Nobel Prizes and other awards. It's what motivates them. But you grow up reading about legends like Galileo. He wasn't out to get anything. He just wanted to do his work. She fits that image."

Accounts of Dr. McClintock's scientific curiosity abound. "We went out to see the corn field, and there was a new crack in the wall in the storage building," Dr. Sundaresan said. "I took two seconds to look at it and I thought, 'Well the door must have blown open.' She looked at it and said, 'Where did this come from?' We spent 20 minutes on that crack, feeling it and looking at it. And after that time she deduced that a small tornado or low pressure had caused the crack. She utterly convinced me that's what had happened."

"She sees life different than the rest of us," Ms. Pesek said. "We look in a mirror and we see our reflection. It's as if she is looking from the other side of the mirror."

In science?

"In life, too," Ms. Pesek said.

ONE OF THE 3 M'S IN GENETICS

Dr. McClintock's life is totally interwoven into Gold Spring Harbor. It is as if the lab has become her cocoon. "She's truly one of our treasures," Mr. Comfort said.

"She did a historic piece of work at the lab," Dr. Watson said. "There are the 3 M's in genetics, Mendel, Morgan and McClintock."

Gregor Mendel had his peas. Thomas Hunt Morgan had his fruit flies, and Dr. McClintock had her corn. The field of corn at the lab is now down the road, at Uplands Farm. Unfortunately it is a draw for raccoons, which are more interested in food than science. "We've tried everything to stop them," Dr. Martienssen said. "They always seem to take the most important ear."

If you can't lick them then feed them, the scientists decided. "We surrounded our corn field with a border of sweet worn," Dr. Martienssen said. "The raccoons eat that and leave our maize alone."

As the younger scientists have taken over the field, Dr. McClintock keeps busy with fan mail. Scientists ask for her autographs or pictures. High school students write and ask her help with questions.

She spends nights visiting lab personnel or watching television, "Barbara likes McNeil-Lehrer," Ms. Pesek said, "and 'The Golden Girls.'"

The Golden Girl of genetics has not been using her lab lately. But administrators have no plans to offer the space that she has been using for 50 years to someone else.

"Give away her space?" Mr. Comfort said. "Who could move into McClintock's lab? I think it will have to be retired, like a baseball jersey."

VATICAN, ISRAEL MOVE TOWARD TIES

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. FEIGHAN. Mr. Speaker, yesterday the Vatican and the State of Israel announced the formation of a permanent commission for the purpose of achieving full diplomatic relations. The commission will be headed jointly by the apostolic delegate to Jerusalem and Israel's Ambassador to Italy and will meet regularly to discuss bilateral issues.

I want to take this opportunity to applaud the leadership in Jerusalem and at the Holy See for taking this important step towards establishing full diplomatic ties.

During each of the last five Congresses, I have introduced a sense-of-the-Congress resolution calling upon the Vatican to recognize Israel and establish full diplomatic relations with that country. I am pleased to report that nearly 100 of our colleagues have co-sponsored this resolution.

Informal visits to the Vatican by Israel's leaders and Pope John Paul's 1986 visit to a Rome synagogue have helped build momentum toward normalization of relations. It now appears that the two parties have charted a course that will lead to the establishment of full diplomatic relations.

These are welcome developments: it opens a new chapter in Vatican-Israel relations; it can only have a salutary effect on the ongoing Middle East peace process and for Catholics and Jews around the world, it helps build bridges of understanding between our two religions.

I applaud these developments and look forward to the announcement of full diplomatic relations between the Vatican and Israel in the very near future.

I insert a copy of the article from today's Washington Post in the RECORD with my statement:

VATICAN, ISRAEL MOVE TOWARD TIES

(By Philip Pullella)

VATICAN CITY, July 29.—The Vatican and Israel pledged today to work toward diplomatic ties in a first step that could end decades of chilly relations between the Roman Catholic Church and the Jewish state.

The two sides said they had set up a high-level permanent commission, to be headed by the Vatican's apostolic delegate to Jerusalem and Israel's delegate to Jerusalem and Israel's ambassador to Italy, and that it would meet regularly to discuss bilateral issues.

Its mission will be "achieving a normalization of relations," chief Vatican spokesman Joaquin Navarro-Valls said in a written statement.

Avi Pazner, Israel's ambassador to Italy and the head of Jerusalem's side of the new commission, said establishment of the panel marked "a historic day."

"This is the first time an Israeli delegation has entered the Vatican for official talks. We want to reach diplomatic relations and will work hard to reach this," he said.

Diplomatic sources said the first meeting of the commission is expected to take place in Jerusalem in November.

Although only a beginning, the creation of the commission was a breakthrough in the often cool relations between the Vatican and Israel.

Many Jews have asked for formal ties, saying that would help Middle East peace and dismiss the notion of some Arab states that Israel is not a permanent part of the region.

Navarro-Valls said it is premature to predict how long the commission will have to work before diplomatic ties could be established. He called it "a first clear and optimistic" step that both sides hope will lead to ties.

The Vatican recognizes Israel's right to exist within secure borders. But in the past it has insisted that before establishing ties it wanted a solution to the Palestinian issue and international guarantees for Jerusalem as a city sacred to Christians, Muslims and Jews.

Vatican officials have also privately expressed concern that diplomatic ties with Israel could affect minority Roman Catholic communities in some Arab countries.

Navarro-Valls said, however, that the commission will concentrate on bilateral problems, particularly the legal status of the Catholic Church and its institutions in the Holy Land.

"When a peace process begins—with a clear willingness on all sides to reach a conclusion—it's clear that this helps the discussion of various problems," he said.

He said it was also "premature" to talk in detail about other questions such as the status of Jerusalem, which Israel in 1980 declared its "united and eternal capital."

Lack of diplomatic ties has often strained religious relations between Catholics and Jews.

Inter-religious relations, however, greatly improved after the 1965 Second Vatican Council rejected the notion of collective Jewish guilt for the death of Jesus. They were further boosted in 1986 when Pope John Pall II made a historic visit to Rome's synagogue.

INTRODUCTION OF THE INVESTMENT ADVISER REGULATORY ENHANCEMENT AND DISCLOSURE ACT OF 1992

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. BOUCHER. Today I am introducing legislation that addresses a matter of great importance to consumers who have entrusted their financial decisionmaking, and often their life savings, to financial planners. In this bill, we are providing consumers with the means to learn more about the financial planner with whom they choose to deal, about their education and business background and about whether the advice they are giving is objective or has been influenced by the financial interest of the planner.

More and more people are using financial planners to help plan for their children's education and for their retirement years. Since 1981, the financial planning industry has grown dramatically from 5,100 to 17,500 registered investment advisers. The assets managed by financial planners and investment advisers have grown from $450 billion in 1981 to more than $5 trillion today.

Meanwhile, the number of SEC personnel devoted to oversight of the financial planning industry has declined, from an inadequate 64 in 1990 to an even more inadequate 46 staff members today.

The number of consumers who are using financial planners has increased. So too has the number of consumers who are losing their savings. Avoidable losses may be as high as $1 billion annually. These losses occur in a variety of ways. Some are simply the result of outright theft. Other losses are the result of the churning of client accounts which exhausts the funds through unnecessary expenses.

A more typical form of abuse is self-dealing, which occurs when a planner encourages a client to purchase a financial product for which the planner receives a special fee or commission when the product is sold, but which may be totally unsuitable for the client. Financial planners hold themselves out to be objective advisers, but some of them are more product salespersons than they are objective sources of information. Often the consumer does not know the extent of the commissions or other incentives that the planner is receiving for offering this supposedly objective advice.

The legislation we are introducing today, the "Investment Adviser Regulatory Enhancement and Disclosure Act of 1992," addresses these problems in a number of ways.

First, we provide additional resources for investment adviser supervision by the SEC through the payment of a modest annual fee by investment advisers. Currently, a one-time $150 registration fee is charged. The new fee will range from $300 to $7,000 depending upon the assets which the adviser has under management. The additional resources provided by these annual fees will be used by the SEC to fund more frequent inspections of registered investment advisers, which is so desperately needed.

Second, we require the SEC to conduct inspections of newly registered advisers within approximately 1 year of their registration, as well as periodic inspections of registered investment advisers based on enumerated risk factors and followup inspections of advisers who have been found to have deficiencies. We also require the SEC to conduct surveys to determine the extent of, and reasons for, the failure to register of persons required to do so under the Investment Advisers Act of 1940, and to report to Congress on the results of those surveys.

Third, we impose a suitability requirement to ensure that the investment products advisers recommend are suitable for the clients to whom they are being recommended. We require investment advisers to maintain records that may be used by the SEC to verify suitability determinations.

Fourth, we require investment advisers to disseminate to prospective clients information concerning their education and business background, compensation arrangements, nature of the services they are offering, and their business practices. They also must disclose any conflicts of interest which could reasonably be expected to impair the rendering of disinterested advice. In addition, they must inform prospective clients about how they may obtain information concerning their disciplinary history and registration status. We also require advisers to prominently disclose in the brochure whether they receive sales commissions and that remedies may be available to clients with respect to disputes arising out of the investment adviser-client relationship.

Fifth, we require an investment adviser to disclose to his clients before a purchase or sale is effected the amount of sales commissions and fees they will be charged, whether the adviser will receive all or a portion of those commissions and fees, and whether the adviser will receive any third party payments, such as fees from the issuer of a security, for each transaction the adviser recommends. This disclosure may be made orally, but it must be confirmed in writing after the sale or purchase is executed. The SEC may, by rule, permit a client to waive, in writing, the right to the oral disclosure; the written confirmation may not be waived.

Sixth, investment advisers must provide their clients with periodic written reports that include the sales commissions and fees paid by the clients, as well as any other amounts received by the adviser with respect to his clients' accounts. The purpose of this provision is to provide investors with a document they can use to compare the costs charged by the investment adviser they are using with those charged by other advisers for comparable services.

Seventh, to protect consumers from unscrupulous advisers who embezzle or steal their assets, we require investment advisers who have custody of client assets or who exercise investment discretion to obtain a fidelity bond.

Eighth, in another effort to protect consumers from unscrupulous advisers, we prohibit anyone who has been convicted of a felony within the last 10 years from registering as an investment adviser.

Ninth, we provide consumers with the assurance that the financial information they provide to their investment adviser will not be disclosed without their consent. We do create exceptions for the disclosure of information as needed to effect transaction for clients, as well as for the provision of such information to the SEC and State securities regulators.

Finally, we authorize the SEC to cooperate with State securities regulators in order to achieve greater effectiveness and uniformity in the regulation of investment advisers.

I am pleased to be joined by eight of my colleagues on the Energy and Commerce Committee, including the full committee chairman, Mr. DINGELL, and the Telecommunications and Finance Subcommittee Chairman, Mr. MARKEY, in introducing this legislation. The bill was approved unanimously earlier today by the subcommittee.

I hope my colleagues will join me in supporting this measure. It will substantially improve the regulation of financial planners and investment advisers and will provide consumers with the types of protections they need to protect their assets.

SUSQUEHANNA RIVER BASIN FLOOD WARNING SYSTEM

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. GEKAS. Mr. Speaker, I rise today in support of funding for the Susquehanna River Basin Flood Warning System under the Department of Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill for fiscal year 1993. I would like to recognize and commend the members of the House Appropriations Committee who exercised resourceful discretion in providing funds for this much needed program in such difficult fiscal times.

The $648,000 provided for the Susquehanna River Basin Flood Warning System provides 97 percent of last year's budget to preserve the safety and well-being of those communities along the Susquehanna River from potentially disastrous flooding. This is money well spent to prevent the high cost of physical damage which is the unfortunate consequence of flooding.

Flood forecasting in the Susquehanna River Basin is critical. A fact sheet released February 20, 1992, by the National Oceanic and Atmospheric Administration reveals that flood damage nationwide exceeds $2 billion annually. Seventy-five percent of all Presidential disaster declarations are flood related. Additionally, about 10 percent of all national flood damage occurred in the Susquehanna River Basin. The National Weather Service's own cost/benefit update cited annual flood damage savings of $13.2 million and a 20-year savings of $264 million. Certainly, this represents an extremely significant economic reason for maintaining the system.

After years of deadly flooding in the Susquehanna River Basin, most notoriously the massive hurricane Agnes flood of 1972, it was determined that an updated flood warning system was critically needed if weather forecasters and emergency personnel were to be able to appropriately determine and react to flood conditions. There should be no doubt that state-of-the-art flood forecasting is critical to Central Pennsylvania.

I would like to thank House Appropriations Committee Chairman JAMIE L. WHITTEN and the ranking minority member, JOSEPH M. MCDADE, for their leadership in this legislation. I would also like to thank Chairman NEAL SMITH and Ranking Minority Member HAROLD ROGERS of the House Appropriations Subcommittee on Commerce, Justice, State, and Judiciary for their efforts as well.

I would also like to recognize the Susquehanna River Basin Commission for its work in providing accurate and reliable flood forecasting in the face of budgetary cuts to their operations. It is through the Commission that we are able to reduce the damage to both life and property that results from the colossal flooding that has occurred in the past.

Again, I express my thanks to the members of the House Appropriations Committee and restate my support for the Susquehanna River Basin Flood Warning System.

VETERANS HEALTH CARE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. CAMP. Mr. Speaker, today I am voting in support of the VA, HUD, and independent agencies appropriations package. This package will provide over $34 billion for the VA, including $14 billion for veterans medical care. While I support these programs, which provide needed assistance for our Nation's veterans, I am very disappointed that this bill includes an extension of the VA prescription drug copayment program.

This copayment charge is wrong. America's veterans have already sacrificed much for our country and requiring them to pay this fee is unfair. I was not a Member of this distinguished body when this copayment was agreed to as part of the 1990 Budget Act.

The Appropriations Committee report states that if this funding provision is not adopted, money to provide the much needed increase in veterans health care funding will have to be found elsewhere. I do not agree with forcing this cost on veterans in order to provide them with the quality health care they deserve.

As a cosponsor of the legislation that would repeal this unnecessary fee, I call on my colleagues to act and remove this unfair burden on our Nation's veterans. Mr. Speaker, it is unfortunate that a bill that provides so much for veterans also continues to coerce them into paying this unwarranted expense. I am voting for H.R. 5679, but I am doing so with this reservation.

AIR FORCE SERGEANTS ASSOCIATION CONVENTION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. JACOBS. Mr. Speaker, the Air Force Sergeants Association will hold its 1992 international convention in Indianapolis, August 22 through 26.

The Air Force Sergeants Association is a not-for-profit organization which serves professional and personal interests of almost 200,000 active duty and retired enlisted members of the Air Force, as well as the Air National Guard, and Reserve. The association has an auxiliary to which families of Air Force sergeants can belong.

The organization was begun in 1961, and has earned the respect of congressional and Pentagon leaders for its unstinting role as the "Voice of the Air Force Enlisted." It was instrumental in the establishment of the survivor benefit plan which brought about something closer to parity in pay for hazardous duties between commissioned and noncommissioned officers. It also played a major role in achieving equity with regard to unemployment compensation and was instrumental and most helpful to SONNY MONTGOMERY in passage of the Montgomery GI bill. True to its tradition, AFSA played a significant role in the effort to assure Persian Gulf war veterans just compensation for their service in the categories of combat pay, family separation pay, and death gratuity payments.

At the vanguard of the effort to achieve cost-of-living adjustments for military retirees, one found the Air Force Sergeants Association. This was true with respect also to basic allowance for subsistence, and the involuntary and voluntary separation pay incentive packages for the so-called current draw down of personnel.

The Air Force Sergeants Association has been a reliable and excellent source of information for the legislative process at the national level.

This fine organization dedicated to duty, honor, and country has adopted for its 1992 convention theme, "Into the Future With Enthusiasm." That's not a bad notion for all Americans.

TRIBUTE TO RETIRING BETHESDA-CHEVY CHASE PRINCIPAL NANCY POWELL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mrs. MORELLA. Mr. Speaker, I rise today in recognition of Nancy Powell, who has spent three decades improving the quality of education in Montgomery County, MD.

As principal of three local junior and senior high schools, Mrs. Powell played a critical role in improving our county's education system. During her 5-year tenure at Bethesda-Chevy Chase High School, she continually maintained high standards of academic excellence. For example, Mrs. Powell organized a Russian-American exchange program, which provided B-CC students with the opportunity to discover and forge strong bonds with a foreign culture.

Mrs. Powell also served as the principal of Magruder High School 4 years and Redland Middle School 4 years, where she successfully motivated her students to strive for excellence.

Mr. Speaker, I applaud and thank Nancy Powell for her service to the Montgomery County community. Her contribution has left an indelible mark upon the lives of many students. I am sure that my colleagues join me in wishing her continued success in her future endeavors.

PROMISING SOLUTION TO PRESCRIPTION DRUG ABUSE AND ILLEGAL DRUG TRAFFICKING OF CONTROLLED SUBSTANCES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. STARK. Mr. Speaker, on a national scale, 1.6 billion prescriptions are written each year for all drugs. Controlled substances account for roughly 15 percent of that total, or between 200 and 250 million prescriptions per year. These medications, while designed for legitimate medical purposes, are also responsible for a growing trend of abuse and illegal drug trafficking. Whether abuses to seniors in nursing homes, the misuse of Ritalin to kids for attention deficit disorder, or the Valium for crack market in our urban cities, or abuses involving Halcion or Xanax, America's other drug problem is a national problem.

I recently introduced legislation, H.R. 5051, the Prescription Accountability and Patient Care Improvement Act, which calls for demonstration projects run by State health agencies in at least 10 States, building on the Bush administration's sponsorship of similar programs in Oklahoma, Massachusetts, and Hawaii.

The programs currently funded by the Bush administration—Oklahoma and Hawaii received Bureau of Justice Administration [BJA] grants of $200,000 and $100,000 respectively; Massachusetts received an HHS grant of $300,000 in 1991—cover schedule II controlled substances only. Oklahoma has had its program, called OSTAR, fully operational since January 1, 1991, under the authority of the State Bureau of Narcotics Enforcement; Massachusetts Department of Health received an HHS grant in mid-1991 and expects to be operational in mid-1992. Hawaii's Bureau of Narcotics Enforcement received notice of its grant in February 1992, and hopes to transition its existing multiple copy prescription program to an electronic program, with the pharmacists in the State volunteering to provide the data.

Oklahoma matched the Federal grant with $70,000 from their forfeited assets fund. They expect to receive a 20-fold return on investment due to their enhanced ability to arrest and convict the scam artists—the Medical mills, script doctors, pill mills, and professional doctor shoppers which drive the waste, fraud, and abuse of these drugs. in other words, Federal and State investments in these programs pay off.

ACCEPTANCE BY OKLAHOMA MEDICAL SOCIETY

The Oklahoma Medical Society has been critical to the success of the Oklahoma BNE OSTAR Program. They were instrumental in developing practice parameters that protect legitimate medical practice and the legitimate needs of patients. These practice parameters help distinguish, for example, the difference between the legitimate cancer patient, the narcoleptic, the AIDS-related pain patient, and the professional doctor shopper.

It's important to note that the State of Oklahoma Bureau of Narcotics Enforcement and the Oklahoma Medical Society have received no complaints to this date from any doctor in the entire State. There have been no violations of privacy under this program. According to the General Accounting Office [GAO], there has never been a privacy violation by the 9 States which run multiple copy prescription programs, despite the erroneous claims of critics of these programs.

THE PROMISE OF THE OKLAHOMA OSTAR PROGRAM

For example, in the first week of the Oklahoma program, the computer identified one patient who went to four doctors in 3 days to receive four different prescriptions of methamphetamine, codeine, Dilaudid, and Percodan. This patient, based on the Oklahoma Medical Society's practice parameters, was a doctor shopper, probably intending to sell the $25 dollar controlled substance prescription on the street for as much as $1,500 in 1 day. The State's ability to identify this doctor shopper, investigate, and arrest him could not have happened without the advent of the computer system.

Quoting from the New York Times:

> Early results have been promising, said narcotics bureau officials. Since the system was established, Oklahoma narcotics officials have made 20 arrests and assisted local law enforcement agencies in 35 additional arrests. The bureau, for instance, arrested a man in Norman who had seen 12 doctors, received prescriptions and visited 17 pharmacies over a 45- to 60-day period.

Continuing, the article states:

> The practice of visiting several doctors for prescription drugs, called doctor-shopping, is the most prevalent form of obtaining prescription drugs for illegal sale on the street. The drugs, some of which cost about 70 cents a tablet by prescription, are illegally sold for as much as $35 to $40 a pill, their value enhanced by the fact that they are considered more reliable than drugs made in illegal labs, said Oklahoma narcotics officials.

LOW COSTS AND IMPROVED EFFICIENCY

These prescription accountability programs are not prohibitively expensive—the infrastructure at the point-of-sale already exists and all States have large-scale computer systems for Medicaid and other health programs. The primary costs are incurred in the transmission of the data, and those costs diminish with economies of scale.

Insurance companies which require electronic transmission of prescription drug claims from pharmacies report to me that each data transmission costs less than 10 cents per claim under a on-line, real-time system. In other words, the computer at the point-of-sale—the pharmacy—accesses the centralized computer at the insurance company to verify eligibility for the patient for each attempted purchase. The insurance company's computer data base verifies the patient's eligibility and the pharmacist is informed to make the sale and bill the insurance company. All this, for less than 10 cents per transmission.

Under my proposal, the pharmacist would be required to transmit less than 100 data variable of information—no names, no addresses, only numbers—in electronic formats every 2 weeks for every sale of a schedule II, III, or IV prescription. That's a software change, but no change in the practice of pharmacy. The format under my proposal is the pharmacists choice of transmission, for example either on-line, real time, batch processing, diskette, computer tape, or even a universal claims form, as long as it's compatible with the computer of the designated State health agency.

WHY COVER SCHEDULES II, III, AND IV?

Take for example, the most recent case in Pennsylvania and Halcion, a powerful sleeping pill manufactured by Upjohn. It's a classic case of how a computer can identify serious abuse and misuse, and appropriate intervention can result in improved health care for patients.

Quoting from another New York Times article, "Elderly Become Addicts of Drug-Induced Sleep," from February 2, 1992:

> * * * a recent report from the Pennsylvania Department of Aging provides a window on a problem experts say is nationwide.
>
> Because Pennsylvania uses money from its lottery to pay for prescription drugs for low-income people over age 65, it is in a unique position to monitor sleeping pill use by the elderly. According to statistics, the typical person in the program is a 79-year old white widow who lives alone.
>
> By analyzing records of all prescriptions—by computer—filled by the 375,000 people in the program, the state uncovered evidence that sleeping pills are not only overused by many old people but also abused—taken for far too long and in alarmingly high doses.
>
> According to study, 14,578 people in the program were taking Halcion, a sleeping pill made by the Upjohn Company. And 85 percent of them had exceeded the maximum cumulative dose. More than 70 percent had far exceeded the recommended duration of no more than two to three weeks, with some taking the drug for a year or longer.

In other words, more than 12,000 poor- or low-income seniors in Pennsylvania, or 1 in 30 seniors, had exceeded the maximum cumulative dose; more than 10,000 had far exceeded the recommended duration of no more than 2 to 3 weeks.

HOW A PENNSYLVANIA STATE COMPUTER IMPROVED HEALTH CARE

In late January 1991, the Pennsylvania Department of Health sent notices to all participating physicians in the prescription drug benefit program, informing them the Department would no longer reimburse "for more than a 2 weeks' supply and would not pay for doses that were too high unless the doctors could make a convincing case that an exception be granted." In February 1991, 5,766 seniors had received a Halcion prescription and had been covered under the program. After the directive from the Department of Aging, paid claims for Halcion for 1 year later, February 1992, fell to just 229 claims. Once Upjohn's recommended maximum cumulative dosage or recommended duration were strictly enforced, the computer managed to help improve 5,500 seniors' health care by weaning them from needless addiction.

Sadly, though, it appears many Pennsylvania doctors continue to write Halcion prescriptions, despite the warning and fully aware of potential threats to seniors' health care. In February 1992, 2,029 seniors attempted to file a claim for Halcion with the Department of Aging, but were rejected at the pharmacy since either the maximum cumulative dose or the recommended duration of 2 weeks had been exceeded. Their doctors had simply written the prescription without consideration of Upjohn's package insert recommendation.

The Pennsylvania Department of Aging plans to begin a comprehensive physician education program directed at the proper use of Halcion and other axiolytics, tranquilizers, and sedatives.

THREATS TO SENIORS' HEALTH CARE FROM HALCION

What are the effects on seniors abusing Halcion? The Times is clear:

> By overdosing on sleeping pills and similar drugs, old people can set themselves up for a devasting chain of events that can land them in a nursing home.
>
> But because sleep deteriorates in the elderly, many old people think they need sleeping pills for a quick fix. They may be unaware that the pills can cause side effects that look like psychosis or dementia. This is especially so when the pills are taken for long periods in high doses, which is what often happens with old people. Side effects are also more likely in older people, who are less able to metabolize drugs and who often are taking other medications that can interact with sleeping pills and heighten their effects.

When drug-induced senility sends a senior to a nursing home needlessly, it shifts the $30,000 a year cost on to the patient, or on the taxpayer in the form of Medicaid or Medicare.

JOURNAL OF AMERICAN MEDICAL ASSOCIATION [JAMA] STUDY INDICATES SHIFTING

In 1991, the drug manufacturer Hoffmann-LaRoche attempted to undermine the idea that Valium and other benzodiazepines can be subject to misuse or illegal diversion. Specifically, the drug company sought to attack evidence from the State of New York's multiple copy prescription program covering schedule IV benzodiazepines that showed an annual savings of $18 million to the State's Medicaid Program. In the 3 years of the New York State multiple copy prescription program, more than $50 million in taxpayer savings has resulted to the State's Medicaid Program.

First, Hoffmann-LaRoche hired a Washington-based firm, Lewin-ICF, to study the effects of the New York State multiple copy prescription program. Lewin-ICF ultimately agreed the New York State Medicaid Program did indeed save taxpayers millions in Medicaid funds by cutting out waste, fraud, and abuse.

Hoffman-LaRoche then hired a team from the University of Rochester, paying them at least $100,000 to also analyze New York's multiple copy program. The study is commonly referred to as the Weintraub study, after its leader, Dr. Michael Weintraub. One of the goals of the study was cost analysis but, strangely, the study doesn't take into account inflation.

An October 1991 Journal of American Medical Association [JAMA] article, resulting from the Rochester study paid for by Hoffmann-LaRoche, boldly concludes that if a State implements a schedule IV multiple copy prescription program, many doctors will simply shift their practices to noncovered drugs which are less efficacious and more dangerous. For example, if a State covers benzodiazepines, some doctors would shift to meprobamate or chloral hydrate. The study showed that for every 100 number decrease in benzodiazepine prescriptions in New York State after the regulation went into effect in 1989, there was a shift of 10 prescriptions to meprobamate, chloral hydrate, Prozac, or Buspar.

Clearly, the JAMA article was an indictment of a certain number of New York State physicians. While acknowledging $15 million in Medicaid savings, the Hoffmann-LaRoche effort leads to an obvious conclusion: If a State is to implement a prescription monitoring systems, and a small but measurable number of doctors will sadly shift their prescribing practices to avoid being covered, the simple answer is to cover all drugs subject to abuse.

COMMENDATION TO THE MEXICAN MUTUAL SOCIETY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. ORTIZ. Mr. Speaker, I rise today to commend the Mexican Mutual Society, Sociedad Mutualista Mexicana, an organization in Pontiac, MI that has steadfastly fought to combat racial discrimination by promoting Mexican cultural awareness since its founding in 1943.

The Mexican Mutual Society was founded in 1943 by a group of seven Mexican-American men. These courageous individuals collectively organized themselves as both a political and social organization in a community that had not initially welcomed them with open arms. The Society has dedicated itself to preserving those inalienable equal rights which all Americans, regardless of race, color, or creed, cherish so deeply. From its earliest battle and victory to demand equal opportunity of public housing for minorities, to its creation and successful incorporation of the women's auxiliary, the Mexican Mutual Society has valiantly labored to foster a society of mutual respect, celebration, and understanding.

The early efforts of the society were concentrated on educating and promoting equal rights for all Hispanics. Additionally, the society served as a meeting place for the then few Mexican-American families in the Pontiac, MI area. For Mexican-American families, this was one of the only agencies to offer moral and financial support to a disenfranchised community.

With the advent of the Civil Rights Act of 1964 and improvement in race relations among society in general, the Mexican Mutual Society was able to progress into other areas of interest. With this evolution came the inauguration of one of the more significant events of vital importance to the society, the Annual Mexican Festival. Recognized as one of the most successful events in the State of Michigan, the Mexican Festival highlights the dance, music, food, and livelihood of a culture rich in tradition and diversity.

Having reached a pinnacle since its inception, the Mexican Mutual Society continues to ingeniously develop programs to continue its proud legacy. Please join me in saluting a most stellar organization.

TRIBUTE TO ST. JOHN CANTIUS CHURCH

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. BORSKI. Mr. Speaker, I rise today in recognition of the 100th Anniversary of St. John Cantius Church of Philadelphia.

In May of 1892, the Polish community in the Bridesburg section of Philadelphia petitioned Archbishop Patrick J. Ryan for permission to organize a parish. St. John Cantius parish's first mass was celebrated on October 2, 1892, by Rev. Marian Kopytkiewicz, who served the parish until 1932.

St. John Cantius has been blessed with a succession of outstanding pastors, including Rev. Ladislaus A. Grynia, Father Casimir Lawniczak, Father Joseph Klosinski, Father Honorowski, Msgr. Adam Bydlon, and the current pastor Msgr. Bernard Witkowski. These fine men of the cloth have helped the church to flourish over the last century.

On October 25, 1952, His Excellency, Bishop Carol J. McCormick, Auxiliary Bishop of Philadelphia, consecrated St. John Cantius Church. St. John Cantius has provided a school, convent, and fine place of worship for the people of Bridesburg for generations. It has been a cornerstone of the neighborhood.

Mr. Speaker, I join my fellow Polish Americans in Philadelphia in saluting St. John Cantius for a century of service to the entire community.

CONGRATULATIONS TO MAURA ELIZABETH MURPHY

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. MOAKLEY. Mr. Speaker, I rise to share with my colleagues an essay that I found extremely thought provoking. I would like to also take a moment to recognize the author, Maura Elizabeth Murphy. Maura is a resident of Boston and a sophomore at Fontbonne Academy in Milton, MA. She was recently named the Massachusetts State winner in the 1992 Voice of Democracy Scripwriting Contest sponsored by the Veterans of Foreign Wars of the United States and its ladies auxiliary. Maura's essay was selected from thousands for its unique vision of "Meeting America's Challenge." Maura intends to pursue a career in Government and I strongly hope that she does. Her award winning script is as follows:

MEETING AMERICA'S CHALLENGE

> About two years ago when I was in the eighth grade, there was an exchange student from Germany in my math class. She sat next to me so that when we received back our Math tests at the end of each week, I could see her paper. She would always have the highest mark in the class. One day when I was gloomily looking over my math test (that I had failed), I glanced over at her paper, and, in bright red ink was written 100%. In exasperation I asked her, "Why do you always do so well in math?" To which

she replied, "I had this math two years ago in the sixth grade." I was amazed at her answer. It made me wonder why American schools were so far behind. It bothered me.

True there were other matters bothering me—and other Americans: such as the deadly threat of AIDS, the sagging economy, the increasing population of homeless people, and the growing number of teen pregnancies. Yet I feel that many of these problems have to do with the poor educational system in our country. Statistics have shown that Japan, Germany, France, Italy, Canada, Ireland score higher in most areas.

Just recently, Newsweek published a study of the ten best schools in the world. The U.S. led only in two areas: art and the graduate schools. New Zealand led in reading; Japan in science; Germany in Math; the Netherlands in foreign languages; and so on. "We are long on leisure and short in studies," the report concluded. Every American is alarmed at our educational system. President Bush wants to improve our schools. To which end he has proposed the year 2000 as the goal year for excellence in math and science.

A few of the causes of the decline of our educational system may have to do with television. Most American children, when they get home from school, drop their bags on the floor and their bodies on the couch. Another reason may have to do with the fact that a majority of teenagers have after-school jobs. When they get home from their jobs, its too late for them to do their homework or study.

Today America's teen idols aren't George Washington or Florence Nightingale, but Michael Jackson and Madonna. How do you pull a Michael Jackson fan away from a Bull's game? Well, we do have to find a way.

Kids today do not have enough self-discipline. They have to train themselves to want to learn and succeed. And those responsible for their education—parents and teachers—must set up programs for them. They need to be firm and demanding of students, and stop excusing youth because of dysfunctional families or ethnic background. America has to challenge her youth more.

Last week I read in a national newspaper that publishing companies were "dummying up" textbooks. Educators and textbook companies need to challenge students more, not make learning too easy. How does America expect to compete with other countries if America's textbooks and educational tools are not demanding enough? Schools should not shortchange youth, but, on the other hand, young people should do their part by studying and making a commitment to their school work. It is an investment in their future.

Meeting America's challenge in education today will not be an easy task. The problems which I mentioned earlier, such as homelessness, teen pregnancies, AIDS, and the economy can only be met by a well-educated, well-informed group of young Americans.

LEGISLATION TO IMPROVE THE NATION'S AIR QUALITY

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. OWENS of Utah. Mr. Speaker, I rise today to introduce legislation to improve our Nation's air quality.

Despite the passage of the Clean Air Act Amendments in 1990, the air in many regions of our country remains dirty, and in some cases has even deteriorated. And it is not simply the residents of America's urban areas who are breathing polluted air. In my home state of Utah, nearly 63 percent of the population live in areas that do not meet Federal health standards. The long-range plans of the Clean Air Act clearly provide hope for progress down the road. But unless we act soon, that road will be smog filled and congested.

One of the greatest contributors to our Nation's air pollution is the fleet of pre-1980 automobiles, so-called clunkers, which are not fitted with the stringent air pollution controls of later models. Mile for mile, these older vehicles are some of the worst polluters on the road. According to the Office of Technology Assessment, there are some 25 million pre-1980 automobiles on the road which emit over 1 million tons of hydrocarbons per year. In comparison, the Nation's fleet of over 180 million automobiles emits between 4 and 5 million tons of hydrocarbons every year. The Clean Air Act amendments of 1990 do place limits on future model years, but there is no means to limit the emissions of these earlier model years.

My bill would fill that void by encouraging the voluntary removal of these automobiles from service. The bill provides a $100 tax credit to the owner of one of these cars when it is removed from service in accord with regulations that the Environmental Protection Agency would establish. Similar approaches have been tested before. The Unocal Co. initiated a pilot project in southern California aimed at removing pre-1971 cars from the road and succeeded in permanently eliminating 8,400 high-polluting cars from the road and nearly 13 million pounds of pollutants from the air. My bill takes this program to a national level so that the entire Nation can reap the air quality benefits of junking clunkers.

This program would be financed by a tax on an ozone depleting chemical, HCFC–22, that is not currently taxed. This bill would serve the dual purpose of limiting air pollution and discouraging the use of this ozone destroying chemical.

My bill represents an efficient and inexpensive approach to cleaning up the country's air. I urge my colleagues to support this legislation which would eliminate a major source of air pollution and help protect the ozone layer.

CHILDREN'S INITIATIVE

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. HALL of Ohio. Mr. Speaker, no parents in this country should be forced to choose between paying the rent or making sure their kids are getting enough to eat. No mother should be forced to put her baby's health at risk by watering down formula to make it stretch. The potential of no child should be lost because he or she is poorly nourished and, consequently, can't keep up in school.

But these conditions plague the lives of millions of parents and children across the Nation. We know how to put a stop to this travesty, but we have yet to exercise the political will to do so.

Mr. Speaker, I am honored to be an original sponsor of H.R. 5600, the "Children's Initiative." This bill promises the empowerment of parents to provide for their children. It enables us to protect our children from hunger and neglect. And it achieves these goals through a financing mechanism that also channels monies toward deficit reduction.

We don't get many opportunities to repair our mistakes, but H.R. 5600 gives us the chance to provide the nurturing, support and care for our children that we should have all along. I hope my colleagues will join me in supporting this crucial legislation.

STATEMENT OF UNIVERSITY HEALTH SERVICES

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. BARNARD. Mr. Speaker, on June 24, 1992, the Subcommittee on Investment, Jobs, and Prices of the Joint Economic Committee held a hearing on hospital mergers and joint ventures. Following is a statement from University Health Services, Inc., a nonprofit health care organization located in Augusta, GA, regarding their attempt to work out a combination and exchange of assets between University Hospital and St. Joseph Hospital. The consolidation of these two hospitals was encouraged by an overwhelming amount of support from the Augusta community as it was believed the transaction would reduce duplicative health care spending. The FTC intervened, however, and not only denied the proposed merger but also placed further sanctions against University for the next 10 years.

Although University Health Services did not submit testimony to the subcommittee's hearing, their experience provides significant insight into the effects of FTC intervention and will certainly be useful to the subcommittee as debate on hospital mergers continues.

UNIVERSITY HOSPITAL,
July 14, 1992.

In 1990, University Health entered into an agreement with Health Care Corporation of the Sisters of St. Joseph of Carondelet, a Catholic health system headquartered in St. Louis, to acquire the then 169-staffed bed St. Joseph of Augusta, Georgia, Inc. The agreement arose out of the Sisters of St. Joseph Hospital of Carondelet unsolicited offer to sell its acute care facility to University Health Services, Inc. The Sisters made the offer after they determined that St. Joseph Hospital's future financial viability was extremely questionable and that the mission of the Sisters would be better served by redirecting the assets invested in their acute care hospital to other health care services in the community.

The proposed acquisition has been enjoined—and the transaction subsequently abandoned by the parties—as a result of a complaint initiated by the Federal Trade Commission under Section 7 of the Clayton Act. The acquisition was enjoined by a federal appeals court in the face of overwhelming support from the Augusta community, including employers and other purchasers of hospital services, and after a U.S. District Court, following a hearing on the matter, refused to enter a preliminary injunction as requested by the FTC.[1]

We understand that testimony presented to the Committee on June 24 by representatives of the Federal Trade Commission made extensive reference to the FTC's action against University Hospital and may have presented a distorted view of the evidence in the case. We believe, therefore, it would be appropriate to bring to the Committee's attention certain facts concerning the proposed merger and the impact of the FTC's intervention.

The proposed acquisition resulted from both parties' commitment to reduce hospital costs in the Augusta area. Like many communities, Augusta has a surplus of hospital resources[2] and a declining demand for inpatient hospital services.[3] The declining demand for inpatient hospital services is especially troubled for an institution like St. Joseph Hospital, whose limited scope and intensity of services cripple its ability to acquire managed care contracts. The Sisters of St. Joseph, in the face of continued deterioration of St. Joseph Hospital's ability to cost-effectively provide inpatient hospital care and a consequent decline in the Hospital's market position, determined that their ministry would be better served by refocusing their efforts in the areas of rehabilitation services, hospice care, home health care, and other non-acute services. It was with this goal that the Sisters approached University Health in 1990. St. Joseph and University share similar values in the delivery of health services and had experience in cooperative health care ventures, including the operation of a rehabilitation hospital. The proposed transaction was structured to give the Sisters sole ownership of the rehabilitation hospital and other non-acute services operated individually and jointly by the two organizations, while transferring control of the St. Joseph Hospital assets to University.

In the course of this proceeding against the acquisition, and before this Committee, the FTC staff has continually made representations that it "uncovered" a document showing that the purpose of the transaction was to reduce competition. In fact, the document to which the FTC alludes was a "White Paper" prepared specifically for and furnished voluntarily to the Commission during the statutory pre-merger waiting period. The particular passage which so concerned the FTC was contained in the following paragraph:

In addition to the fact that the proposed transaction will have no significant adverse effect on price competition—to the extent it exists—in the Augusta area, the transaction also will produce substantial welfare—enhancing benefits to consumers. Those benefits will exist in three areas. First, there will be a reduction in cost increasing non-price competition. As confirmed by empirical analysis, such a result is associated with lower long-run prices for hospitals in Georgia. Second, University, Hospital and St. Joseph Hospital will be able to avoid, through consolidation, significant capital and operating costs which they otherwise would be required to incur. Third, the integration and consolidation of inpatient operations will produce efficiencies in both clinical and administrative areas, which will reduce community health care costs.

There can be no question that the context of the "admission" that non-price competition would be reduced was the parties' belief that the consolidation of the two hospitals would reduce wasteful (that is, economically inefficient) expenditure in the community. Indeed, the statement was followed by a full discussion of the "medical arms race" and the absence of consumer benefit from hospital competition based primarily on duplication of services, technology, and amenities. University and St. Joseph knew that the Augusta community could benefit from a reduction in the wasteful duplication of expensive hospital resources.[4]

The motivations of this proposed transaction were not merely the perceptions of hospitals. The Augusta business community—that is, those who pay the medical bills for the employed population and their dependents—lined up solidly behind the proposal. Testimony of those employers submitted to the Commission and before the District Court clearly indicated their conclusion that the reduction of needless duplication of equipment and services was an important step in the process of controlling health care cost increases. The loss of this "competition" did not trouble them, nor did it trouble Georgia Blue Cross and Blue Shield, which likewise stood in support of the merger. Indeed, before the District Court, the FTC could produce no complaining buyers of hospital care. The witnesses for the Commission consisted of two physicians (whose testimony reflected a significant degree of economic self-interest), the president of a small health plan with a long-term contractual obligation to a competing hospital (who, on cross-examination, disavowed any past or future interest in obtaining competitive bids from Augusta hospitals), and an economic expert who conceded that she intereviewed no employers or other purchasers in the Augusta market.

The FTC has claimed before this committee and in other forums that the hospitals had no proof of any economic efficiencies resulting from the proposed acquisition. This statement is simply untrue. The hospitals obtained expert analyses of both capital investment and operating efficiencies which could be achieved through consolidation. Those studies documented annual operating savings of $7–13 million, and capital cost savings over five to eight years of $19–22 million. Thus, the employers' perceptions that the merger would result in economic benefit to them and the community was well-founded. The FTC simply refused to consider this evidence, relying on its premise that the reduction of "competition", wasteful or otherwise, was not in the community's best interests.

The irony of the FTC's position is that ample hospital competition would have existed after the proposed consolidation. Three other strong hospitals operate in the Augusta market, and the evidence was clear that those hospitals have provided intense competition for University and St. Joseph in the past, and would provide even greater competition in the future. Major federal facilities in Augusta provide further acute care alternatives to veterans, military members, military retirees, and the dependents of active and retired military.

Illustrative of the copetitive strength of other hospitals in the market is the situation of the Medical College of Georgia Hospital. MCG is a 500-bed teaching hospital renowned for its specialty referral services. At present, MCG is embarked upon a $37 million campaign to renovate and expand its inpatient and outpatient capabilities. Through its faculty and residents, MCG is the only Augusta hospital fully capable of offering managed care contracts covering both hospital and physician services. There is no question that MCG is equivalent to University in terms of the scope and intensity of services offered. It is physically located less than half a mile from University Hospital and within two miles of the St. Joseph Hospital. The FTC, however, discounted MCG as a competitor due to the FTC's misperception that MCG was merely an indigent referral hospital for the State of Georgia. The President of MCG has repeatedly stated that MCG is not the state's chairty hospital. Nevertheless, the FTC apparently reasoned that MCG was undesirous of obtaining private-pay patients from Augusta, and that private patients would not use MCG. In fact, testimony before the District Court showed that MCG viewed the acquisition of a greater share of the private-pay markets as an economic imperative, and that University perceived MCG as a significant competitor. The District Court thus concluded that "the threat of competition from the Medical College of Georgia [is] an increasing, and indeed a welcome one." Moreover, it has come to light since the time of the trial that the State's funding of MCG's expansion project was expressly contingent on the hospital's commitment to seek out a greater share of the private-pay market.[5]

Another hospital in the Augusta market is Humana Hospital-Augusta, a 324-bed general acute care facility located in an affluent suburban area less than ten miles from University Hospital. The Humana facility has one of the premier burn care services in the Southeast United States and has consistently been one of Humana's most profitable hospitals. While the FTC proceeding against University Hospital was pending, Humana announced its plans to invest $40 million in improvements to the hospital.

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[1] University filed pre-merger notification forms on November 30, 1990. On May 6, 1991, the Court of Appeals directed that a preliminary injunction be issued. At that point, faced with the prospect of two years' additional proceedings before a final decision would be reached (i.e., a full hearing before the Commission's hearing examiner and likely appeals to the Commission and the U.S. Court of Appeals), the parties mutually agreed to abandon the proposed transaction. In particular, it was clear that St. Joseph Hospital, which had entered into the agreement based on concern for its competitive future, could not afford to maintain the status quo for the duration of the proceedings. This, in itself, illustrates a significant problem in antitrust enforcement. Once the enforcement agencies obtain preliminary relief, that relief is often tantamount to a permanent injunction. Indeed, the more urgent the merger, the more likely it is that the one or both parties will be unwilling or unable to withstand the time and expense of protracted litigation.

[2] The area covered by the FTC consent order recently published in the Federal Register contains 2,281 Licensed acute care beds, of which 1,829 are staffed and operating, plus an additional 399 psychiatric beds. The market area also contains 1,024 veterans administration hospital beds and an Army Regional Medical Center with 384 beds.

[3] This conclusion was reached during St. Joseph's strategic analysis which preceded its offer to sell to University Health Services. Analysis of utilization rates and demographics lead to the conclusion that, even without considering the effects of the VA hospitals, the Army hospitals, or the several small hospitals in the surrounding counties, the three-county area covered by the FTC consent order has approximately 450 excess staffed acute care beds. The Georgia State Health Planning Agency has identified Richmond County as having a significant excess of acute care beds.

[4] For the benefit of the Committee, we have attached the two White Papers submitted by the parties to the FTC, as well as our Non-binding Statement filed in the FTC proceedings.

[5] This fact may have been known to the FTC staff at the time of the FTC's complaint and the District Court proceedings, as the administrator of MCG was deposed by the Commission's staff but refused to talk with counsel for University and the Sisters. In any event, the FTC did not call MCG's administrator as a witness in the proceedings.

The third major competitive force is Hospital Corporation of America's Aiken Regional Medical Center in Aiken, S.C. The HCA hospital is located near growing Augusta suburbs in Aiken County, and is a clear alternative for hospital care for many Augusta area residents. HCA began a $19 million expansion of its hospital and several other multi-million dollar projects during the pendency of the FTC proceedings. While the FTC maintained that Aiken was out of reach geographically for Augusta residents, the District Court understood that Aiken and Augusta, 20 miles apart, are economically linked. Indeed, the Central Savannah River Area, which includes both Augusta and Aiken, is a regional economic planning area and the largest employer of Augusta residents (the Savannah River site) is actually closer to Aiken than Augusta. The inclusion of Aiken County within the FTC approved consent order dramatically demonstrates that the FTC became convinced that HCA Aiken and University Hospital are competitors in the same market.

The FTC's intervention has not been well received in Augusta. The community supported the consolidation of St. Joseph's and University and believed in the ability of the consolidation to reduce wasteful health care spending and help control future increases in health services and health insurance costs. Those benefits now are lost and the opportunity will not soon return. The FTC's enforcement policy is out of touch with the economic realities of the health care marketplace. More particularly, the FTC appears to favor black-letter "rules" (that is, their rules) regarding market concentration over the clear evidence regarding purchaser attitudes and the functioning of the particular market in which the acquisition will occur.[6]

What should most trouble the Committee about the result in Augusta, however, is the chilling effect it has had, and will continue to have, on collaboration among hospitals in the Augusta area and elsewhere. The terms of the consent order now pending in this matter prohibit University from acquiring the assets of any existing hospital in the area (including acquisitions in the form of joint ventures) for a period of 10 years from the date on which the Consent Order is finally approved. (We note that the better part of a year passed before the Commission even published the proposed Consent Order for public comment; the Order thus will effectively operate for 11 years.) Also, for a period of 10 years, University is prohibited from entering into many types of joint ventures with other area hospitals for the purpose of developing new hospital or medical services without prior notification to the FTC. This result is all the more difficult to accept given that the Sisters' and University's only "offense" was their audacity to propose this collaboration in the first instance. For merely proposing it, and playing by the Commission's rules, University has been branded as a likely future violator of the antitrust laws, and placed under ten years' supervision by the Commission staff. In the absence of any evidence of an intent to harm consumers, this surely is a harsh result. Since few geographic areas the size of the Augusta market contain a significantly greater number and quality of acute care hospitals and most contain markedly less, the FTC's position with its specter of monstrous litigation expenses and intractable delays must cast a dark shadow that reaches out from Augusta across the entire nation. The University Hospital case sends the message that engaging in consolidation is playing Russian roulette.

We urge the Committee to continue exploring ways in which local, state, and federal interests in reducing excessive health care expenditures through collaboration among hospitals can be accommodated under the federal antitrust enforcement policy. If we can provide additional information regarding our experiences to the Committee, please do not hesitate to contact the undersigned.

Sincerely,

DONALD C. BRAY,
President/CEO.
LEVI W. HILL, III,
Past Chairman,
University Health Services, Inc.
T. RICHARD DANIEL,
Chairman,
University Health Services, Inc.

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[6] It should be noted that the Commissioners were not unanimous in their decision to issue a complaint against University. Also, we believe that there were views within the Bureau of Economics staff that were opposed to the Bureau of Competition's hard line approach.

PACIFIC YEW OFFERS HOPE TO WOMEN IN THEIR FIGHT AGAINST CANCER

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. MAZZOLI. Mr. Speaker, as we enter a critical stage in the ongoing struggle to discover effective cancer-fighting drugs, I wish to highlight one legislative initiative which offers hope and promise in the fight against ovarian and breast cancer—H.R. 3836, the Pacific Yew Act, which the House approved on July 7 with my strong support.

H.R. 3836 strikes a balanced and positive compromise between the legitimate concerns of environmentalists over the type of harvesting and use of the Pacific Yew tree—from whose bark can be processed the substance taxol, which appears to have cancer-fighting potential—and the legitimate, ever-compelling interests of women who suffer from breast and ovarian cancers and their doctors to have abundant supplies of the Pacific Yew bark available for testing and treatment.

Taxol has been acclaimed by experts at the National Cancer Institute as one of the most important anticancer drugs developed in the past 15 years, and one with special properties for addressing breast and ovarian cancer.

Over the past decade the number of women suffering and dying from breast cancer has grown alarmingly. Today, one out of every nine women will contract breast cancer, 46,000 women will die in 1992 of breast cancer. Another 12,000 will die from ovarian cancer. Most women live in fear of contracting these deadly diseases. We should mitigate these fears by doing all within our power to fund preventive therapies and cures for these diseases.

In H.R. 3836, we have a measure which allows for the efficient management and sustainable harvesting of bark from the Pacific Yew tree from which taxol is produced. The bill also encourages further research to locate other sources, synthetic or natural, for taxol so even more of the substance will be available to our researchers.

I am pleased to support H.R. 3836. I hope that Congress soon sends the President a bill he can and will sign into law. And then perhaps, we will not be far from the day when the women of America and the world can live healthier, happier, less fearful lives.

TRIBUTE TO SOL L. FRIEDMAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. PALLONE. Mr. Speaker, on Sunday, August 2, 1992, Mr. Sol L. Friedman of Long Branch, NJ, will be honored by his comrades in the Long Branch Post 316 of the Jewish War Veterans of the U.S.A. The ceremony will take place at Congregation Brothers of Israel in Long Branch.

Mr. Friedman has served as post commander for 11 years in an exemplary manner. He has displayed outstanding leadership and service for veterans of all faiths. His personal commitment to his country and community is one of total dedication and loyalty.

Mr. Friedman served his country during the years 1943–46 in the U.S. Army Air Force, and was honorably discharged. Since then, he has devoted considerable time to a variety of veterans causes, both through the Jewish War Veterans and the Veterans of Foreign Wars. In 1951 he was appointed lieutenant of the Long Branch Police Reserves, was appointed captain the following year, was honored as the Reserves' Man of the Year in 1957 and 1966 and ultimately served as chief between the years 1955 and 1973.

The list of Sol Friedman's other affiliations and community service contributions is indeed a long one. He has given of his time and energy to such worthy causes as the Muscular Dystrophy fundraising drive and he received a Papal blessing for his work through the St. Gerard Guild in aiding victims of the 1976 earthquake in Italy. He has also had great success as a businessman in Long Branch, exhibiting the same level of hard work and dedication that he has brought to his community service endeavors.

Mr. Speaker, it is indeed an honor and a privilege to pay tribute to such a fine citizen—and a good friend—as Mr. Sol L. Friedman.

THE SCHOOL-TO-WORK TRANSITION AND SKILL STANDARDS DEVELOPMENT ACT OF 1992

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. PERKINS. Mr. Speaker, today I am introducing the School-to-Work Transition and Skill Standards Development Act of 1992. The

United States is at an economic crossroad, faced with a choice between creating a high-skills, high performance work force able to adapt to the constantly evolving market and technological advances, or a low-skills, low performance work force unable to compete with other industrial nations. In order for the United States to be competitive in the 21st century, we need to revolutionize the way we educate and train our workers. Currently the United States is losing economic ground each day to foreign competitors because of a poorly trained, under-utilized work force. Germany, Japan, and every other industrial nation have a structured system designed to enable youths to make the transition from the classroom to the jobsite. In our country for the 80 percent who do not attend or may not complete college, there is no defined path to a job or career, only a hodgepodge of want ads, dead-end jobs, and career counseling with no link to the job market or the needs of employers. High quality school-to-work transition programs have the potential to vastly increase the productivity of American workers and upgrade the performance of American industry.

Another area in which the United States lags far behind its international competition is in the area of voluntary national skill standards for industries and occupations. While there has been much discussion recently about the need for world-class standards in education, little attention has been paid to the dire need for the same type of standards for our workers and employers. Too many of our existing work force are stuck in low-skill, low-pay jobs, rendered immobile by their own educational deficiencies or the lack of opportunity and a career path within the industry. America's single greatest resource is its people, and unless we hitch our wagon to the American workers and give them goals to shoot for and high standards to attain, our Nation will fade as an economic power.

The legislation I am introducing today, the School-to-Work Transition and Skill Standards Development Act of 1992, addresses these two vital issues, first, by laying the groundwork for the creation of a uniquely American school-to-work transition system to bring the majority of our young people, our noncollege bound youth, into the work force, and second, by the development of voluntary national skill standards in industries and occupations, so we can establish world-class standards for American workers and employers.

Other distinguished colleagues of mine in both the House and the other body have introduced legislation with similar goals. However, as result of several hearings and input from both the public and the private sector, I believe this legislation is substantially different and merits consideration. Based on input from employers, labor representatives, Governors, State employees and educators, I found the single greatest contributing factor to the success of any State or local school-to-work transition program was the active recruitment and early inclusion of the three key groups: Employers, workers, and educators. Without the active participation and feedback of these three groups, it was difficult if not impossible to plan and implement a successful school-to-work transition program.

Another major finding was the wide variety of programs taking place across the country. Exciting things are happening at the State, local, and individual business or union level, and these new school-to-work programs take many different shapes and forms, from the Manufacturing Technology Partnership in Flint, MI, to the Youth Apprenticeship Program being created in Maine. Even among the States, there is a wide gap between those on the cutting edge like Arkansas, Wisconsin, and Oregon, and other States such as my own State of Kentucky which are just beginning to examine this important issue. My bill is the first to distinguish between the needs of States which have existing infrastructure and programs, and those States still in the planning stage. School-to-work transition is too new and important an idea to mandate a specific model to be duplicated. Everyone agrees there are many ways to skin a cat when it comes to establishing a good program, and my legislation allows States and local consortia the freedom to tailor programs to meet their own labor market and industry needs.

Only from observing the successes and failures of individual State and local projects can we begin to create our own national plan. An American school-to-work transition system must be based on experiences at home, not on programs abroad and is not something to be done hastily, or in a panic. We need to see further testing and experimentation and use State and local projects to measure what would be the best national plan. My bill calls for an outline for an American school-to-work plan based on careful evaluation of the State and local projects.

While other legislation draws from systems in Germany and other parts of Europe, my legislation attempts to take advantage of the only group in America with a century old history of operating apprenticeship programs and bringing youths into the work force through work-based learning—labor organizations. Union-operated apprenticeships have a proven track record of excellence and have met the demands of the market for generations, and to deny States, localities, and employers the benefit of their experience and expertise would be shortsighted and detrimental to the development of an American school-to-work system.

Another area in which my legislation differs from others which have been introduced is in who has the responsibility for developing skill standards. The development of voluntary national industry and occupation skill standards must be benchmarked to world class standards, the highest possible existing levels of performance. Who would best know what the highest levels of performance should be? The Government or a government entity, or the actual employers and workers in the industry or occupation? The answer is easy, the only people who can identify and formulate truly representative national skill standards are the recognized leaders in the industry or occupation. In order for these standards to be taken seriously by employers and employees they must be seen as coming from the business community, and from the workers themselves, not the Federal Government.

My legislation attempts to bring these components together: the development of voluntary national skill standards; the creation of new State school-to-work transition systems and the expansion of existing State programs; the funding of a wide variety of local plans; and the development a uniquely American school-to-work transition system.

SUMMARY OF THE SCHOOL-TO-WORK TRANSITION AND SKILL STANDARDS DEVELOPMENT ACT OF 1992

TITLE II

Title II would create a National Commission on a High Skills Workforce to award grants to industry and occupation groups to develop voluntary national skill standards, as well as to award grants to states and local consortia for the creation of innovative school-to-work transition programs. The Commission would be made up of 20 members, with 6 representatives from business, 6 from labor, 6 from education and the Secretaries of Labor and Education. The 18 appointed members will be from among those nominated by the President, the Speaker of the House, and Majority Leader of the Senate.

TITLE III

The Commission will award 3-year grants under Title III for the development of voluntary national industry and occupation skill standards. The grants require the identification of world class standards within the industry as the benchmark for the new skill standards. The grant also requires the development of curriculum and training materials to achieve these high standards, and a plan to train teachers and instructors. An assessment and certification process must also be created which establishes multiple levels of mastery which utilizes performance and oral tests in addition to traditional written ones. Finally the grant requires an evaluation component to measure the implementation of the skill standards within the industry or occupation and a dissemination plan to get this vital information out into the field where it can be applied.

To apply for a grant, the applicant must have representatives from: a. a business or industry association; b. a labor organization or worker representative group; and c. an educational institution or training organization. The legislation leaves the formulation of the application group up to the businesses and workers in each field. The Commission is required to give priority to applicants with demonstrated expertise in the industry or occupation, and who reflect a broad cross-section of the field. Applicants must contribute matching funds. This title authorizes $15 million per year for FY 1993–1997, and sets a ceiling of up to $250,000 or 5% of the amount appropriated for any single grant.

TITLE IV

Under Title IV, the Commission would award 3-year grants to states for the development of school-to-work transition programs which provide students with the skills and training to enter the workforce with a strong foundation in basic academic subjects and an appropriate background in general workplace skills, including specific industry or occupation training. The states are required to maintain any existing spending levels, as well as contribute state funds on a progressive scale each year. States are required to work with existing apprenticeship organizations in developing new school-to-work programs, and also create links to these existing apprenticeships.

The legislation draws a distinction between Leadership States, those with existing school-to-work infrastructure, and Developmental States, those that are just beginning to explore this area. Leadership States are given more leeway in the application process, in an attempt to build off their existing programs, and encourage their efforts. The grant section for Leadership states is authorized at $25 million per year for FY 1993–1997, and sets a ceiling of $350,000 or %5 of the amount appropriated for any single grant.

The grants to Developmental states are in two parts, the first being Initial Planning grants which require them to set up a Workforce Quality Council and two-thirds of its representatives from industry and labor, and one-third from the state agencies of education, employment and training. The 1-year Initial Planning grant requires the Workforce Quality Council to establish a comprehensive state plan which integrates school-based and work-based learning to provide a structured link between secondary education and college or advanced training. It also requires the participation of employers and employees in providing work opportunities and training linked directly to academic course work accompanied by the acquisition of recognized, portable academic and occupational skills. This grant is authorized at $10 million per year for FY 1993–1997 and limits the individual grant amount to $100,000 or 5% of the amount appropriated.

The Workforce Quality Councils in these Developmental states have one year to create the state plan and then submit them to the Commission. After receiving back the Initial Planning grants, the Commission will review them and to those it deems satisfactory, award Implementation grants so the states, in conjunction with the Workforce Quality Council, can implement their state plans. Each state is required to submit an annual report containing relevant statistics such as participants served and placement rates. This grant is authorized at $25 million per year for FY 1993–1997, and sets a ceiling of $350,000 or 5% of amounts appropriated for any single grant.

TITLE V

Title V establishes grants awarded by the Commission to local consortia with representatives from business, labor, and education, to develop model school-to-work transition programs. These programs will provide students with increased options for career and educational opportunities to better prepare such students to succeed in the workforce. Applicants must describe their proposed program, as well as outline the curriculum, targeted participants, and the industry need for such a program. Local programs are also required to contribute matching funds. This grant program is authorized at $25 million per year for FY 1992, with a ceiling of $100,000 or 5% of amounts appropriated for any single grant.

TITLE VI

Title VI establishes a National Information Clearinghouse on a High Skills Workforce for the collection and dissemination of school-to-work transition data. The Clearinghouse will act as an information source for all interested states, local entities and individuals. All grant recipients under the Act must appoint a liaison to the Clearinghouse to insure the exchange of current data. The Clearinghouse will be operated out of the Department of Labor, and will provide technical assistance in teacher training and curriculum development. The Clearinghouse will also contain a Industry Worker Training Databank to compile statistics on worker training offered nationwide in each industry, occupation and job classification. $1 million is authorized per year for FY 1993–1997.

TITLE VII

The final title deals with ensuring that no workers will be displaced or denied employment or promotion as the result of any programs funded under the Act. While we want to encourage the formation of exciting new programs, we must take great pains to protect the rights of our current workforce. This section also protects the rights of existing apprenticeship programs from being infringed upon or duplicated without their consent by any programs funded under this Act.

Mr. Speaker, I insert the attached section-by-section, and the full text of the School-to-Work Transition and Skill Standards Development Act immediately following my remarks.

SECTION-BY-SECTION ANALYSIS OF THE SCHOOL-TO-WORK TRANSITION AND SKILL STANDARDS DEVELOPMENT ACT

Sec. 1—Short Title; Table of Contents.

Sec. 2—Definitions.

The term "school-to-work transition" is defined as the process by which students acquire academic and occupational skills and work experience to assist in the transition from school to employment. "National Industry and Occupational Skills Standards" is defined as industry-based occupational proficiencies that establish the skills that are required by an industry, which shall be marked to world class levels of industry performance and tied to measurable performance-based outcomes that can be readily assessed, and are comparable across industries, similar occupations, and States. Definitions of "world class standards", "worker representative group", "pre-apprenticeship program", and other terms are also included.

TITLE I—FINDINGS AND PURPOSE

Sec. 101—Findings.

Industries in the United States will not be able to meet the challenges of a 21st century global economy without a high skills, high performance work force. The United States is the only major industrialized nation without a formal system to help the 80% of youth who do not receive a postsecondary education make the transition from school to work. High quality school-to-work transition programs have demonstrated the ability to increase the productivity and performance of industries in the United States by producing well-trained, high-skilled workers.

Sec. 102—Purpose.

To develop school-to-work transition programs which provide students with the skills and training to enter the workforce; to establish a clear link between achievement in school and success in the workplace; and to foster a positive environment in which representatives of industry, education, labor, and the public sector can work together to create school-to-work systems.

TITLE II—NATIONAL COMMISSION ON A HIGH SKILLS WORKFORCE

Sec. 201—Establishment.

Sec. 202—Membership.

The Commission will be composed of 20 members, with six representatives from business, six from labor, six from education and the Secretaries of Labor and Education. The eighteen appointed members will be appointed by the President and six will be nominated by the Speaker of the House, six nominated by the Majority Leader of the Senate, and six nominated by the President.

Sec. 203—Director and Staff.

The Chairperson of the Commission shall appoint a director. The Secretary of Education and the Secretary of Labor may provide the staff and support services necessary for the Commission to carry out its duties.

Sec. 204—Duties.

The Commission will make grants under titles III, IV and IV, and in consultation with the National Council on Education Standards and Testing, the National Commission on Employment Policy, the Federal Committee on Apprenticeship, and the National Advisory Commission on Work-Based Learning develop a national school-to-work transition system based on the standards developed under title III and the programs provided under titles IV and V. Provide for the dissemination of the skill standards developed under title III to employers, employees and the general public. Establish safeguards to provide for the health, safety and proper supervision of participants in any program funded under this Act.

Sec. 205—Powers.

Outlines the Commission's ability to obtain official data, and the use of mails, administrative support services, and contract authority.

Sec. 206—Report.

The Commission shall submit a report to Congress containing an initial outline of a national school-to-work transition system within one year of its initial meeting.

Sec. 207—Termination.

The Commission terminates on January 1, 1998.

Sec. 208—Authorization of Appropriations.

$1,000,000 is appropriated per year for FY 1993–1997.

TITLE III—GRANTS TO DEVELOP VOLUNTARY NATIONAL INDUSTRY AND OCCUPATIONAL SKILLS STANDARDS

Sec. 301—Authorization.

The Commission shall make 3-year grants to eligible entities for the purpose of developing voluntary national industry and occupation skills standards.

Sec. 302—Application.

To receive a grant, an eligible applicant will submit an application to the Commission which contains assurances that the entity has or will develop a plan for the projects described under section 303. The plan will be developed in consultation with representatives from a cross-section of the industry, which shall include representatives from business and labor, and may include representatives from education or training organizations. The applicant will submit a report containing the voluntary national industry and occupation skills standards within one year. Applicants must contribute non-federal funds of 20% for the first year, 30% for the second year, and 40% for the third year. Federal Funds will be used to supplement, not supplant non-Federal funds.

Sec. 303—Use of Funds.

Grants made under section 301 may only be used to: identify world class standards; develop voluntary national industry and occupation skill standards that are linked to existing pay rates and wage increases; promote a workforce free of discrimination; promote the entry of women into nontraditional occupations; create curricula and training materials which are usable by a variety of service providers; devise an assessment and certification system with multiple levels of mastery and a variety of testing methods; and develop an evaluation component and a dissemination plan for such skill standards.

Sec. 304—Selection Requirements.

The Commission shall give priority to applicants which: have expertise in the field in which the skills standards will be developed; represent a broad cross-section of the industry or occupation; and demonstrate input from existing apprenticeship and other training organizations. The Commission shall not select applicants that would develop skill standards less stringent than existing standards for that occupation or industry.

Sec. 305—Allocation Requirement.

The Commission may not make grants to a grant recipient for more than 5 percent of amounts appropriated under section 309 or $250,000, whichever is greater.

Sec. 306—Report.

In each fiscal year that the Commission makes grants, the Commission will submit a report to Congress containing a compilation of the information in the grant recipients' reports and an evaluation of the effectiveness of the grant program.

Sec. 307—Evaluation of Standards.

The Commission will hold public hearings to review the voluntary national industry and occupation skills standards contained in the reports. The Commission shall certify those skill standards determined to be appropriate.

Sec. 308—Eligible Entity Defined.

An "eligible entity" is a consortium consisting of representatives from: a. a business or industry association; b. a labor organization or worker representative group; c. an educational institution or training organization.

Sec. 309—Authorization of Appropriations.

$15,000,000 is appropriated per year for FY 1993–1997.

TITLE IV—GRANTS TO STATES TO IMPROVE SCHOOL-TO-WORK TRANSITION SERVICES

Sec. 401—Purpose.

To encourage the development and implementation of comprehensive state plans to improve the transition of students from school to the workforce. To encourage and expand postsecondary options for non-college bound students.

Sec. 402—Definitions.

A "Developmental state" is defined as a state which lacks an existing school-to-work transition infrastructure. A "Leadership state" is defined as a state which has an existing school-to-work transition infrastructure, including a council or alternative entity consisting of representatives from labor, industry, and education, or a state agency which provides school-to-work transition services.

Sec. 403—Grants to Leadership States.

Authorizes grants to Leadership states for improving and expanding existing school-to-work transition services. To receive a grant, a Leadership state must submit an application including: a description of existing school-to-work services; statistics relating to education levels, poverty, and unemployment; assurances that the state shall provide non-federal funds equal to 20% the first year, 30% the second year and 40% the third year; assurances the state will use skill standards developed under title III and that the State will maintain existing expenditures on school-to-work services.

Requires school-to-work transition services to: combine school-based and work-based learning and link secondary education with postsecondary education or advanced training; provide, in consultation with employers and employees, work opportunities and broad-based training linked to academic course work; develop recognized, portable academic and occupational skill standards; develop curricula and instructional materials; and designate a liaison to the National Clearinghouse on a High Skills Workforce.

Limits amount of any individual grant to 5% of amount allocated or $350,000, whichever is greater. The Commission shall submit a report to Congress containing a compilation of state statistics and an evaluation of the grant program. Authorizes appropriations of $25,000,000 per year for FY 1993–1997.

Sec. 404—Initial Planning Grants to Developmental States.

The Commission will provide Initial Planning grants to Developmental states for the purpose of establishing a state plan to develop school-to-work transition services. An application for such a grant must include: a description of the council to be named; statistics relating to education levels, poverty and unemployment rates; assurances that the State will not use federal funds to supplant non-federal funds or use more than 5 percent of funds for administrative purposes; assurances of a state matching non-federal funds of 20%; the maintenance of any existing expenditures on school-to-work transition services; and a report on the use of the funds within a year.

Content of State plan to be developed

Uses of Amounts: to establish a Workforce Quality Council with ⅓ of the members from industry or employers, ⅓ from labor or worker's groups, and ⅓ from state agencies of education, employment and training. The Commission may approve an existing similar entity as a substitute for the council.

Requires school-to-work transition services to: combine school-based and work-based learning and link secondary education with postsecondary education or advanced training; provide, in consultation with employers and employees, work opportunities and broad-based training linked to academic course work, and career planning and awareness programs for elementary and secondary students; develop recognized, portable academic and occupational skill standards; develop curricula and instructional materials; integrate school-to-work programs with existing apprenticeships; and designate a liaison to the National Clearinghouse on a High Skills Workforce.

The council, with the consent of a majority of the labor component, must use at least 15 percent of grant funds to integrate existing apprenticeship programs with the school-to-work transition programs. Any existing voluntary national industry or occupation skill standards must be utilized. School-to-work transition services must be coordinated with all applicable federal, state, and local education and training programs.

The Commission shall give priority to states: with high numbers or percentages of individuals who have not completed a secondary or postsecondary education; which target urban and rural areas with high poverty and unemployment as areas to implement school-to-work programs; and which have policies to promote the entry of women into nontraditional occupations and minorities into the workplace.

Limits amount of individual grant award to 5% of amounts awarded or $100,000, whichever is greater. Authorizes appropriations of $10,000,000 per year for FY 1993–1997.

Sec. 405—Implementation Grants to Developmental States.

The Commission will provide 3-year Implementation grants to Developmental states which have received a grant under section 404 to carry out the school-to-work transition program established under that section. In order to receive a grant, a Developmental state must submit an application including assurances that: federal funds will not be used to supplant non-federal funds and that existing expenditures on school-to-work services will be maintained; not more than 5% of the funds will be used for administrative purposes; the state will contribute non-federal funds amounting to 10% the first year, 20% the second year, and 30% the third year; and an annual report will be submitted detailing the uses of the funds and appropriate statistics, including job placement rates and graduation rates.

The Developmental state will use all grant funds to carry out the school-to-work transition program developed under section 404. In choosing states to receive grants, the Commission will give priority to states which: have or will develop programs to encourage secondary students to enroll in traditional apprenticeships; provide staff or teacher training in work-based learning techniques; have developed alternative learning programs; and which have assessed the future workforce needs of the State.

Limits amount of any single grant to 5% of amounts appropriated or $350,000, whichever is greater. Authorizes appropriations of $25,000,000 per year for FY 1993–1997.

TITLE V—GRANTS TO LOCAL CONSORTIA TO IMPROVE SCHOOL-TO-WORK TRANSITION SERVICES

Sec. 501—Purpose.

To enable students to succeed in the workforce by expanding the postsecondary options and opportunities available. To provide for the dissemination of information on successful programs and to promote their replication.

Sec. 502—Authorization.

The Commission will provide 3-year grants to eligible entities to develop school-to-work transition programs which provide students with increased options for career and educational opportunities at the local level.

Sec. 503—Application.

To receive a grant, an entity must submit an application including: A description of a local school-to-work transition program; the program goals; the activities and services provided under the program; a description of the collaborative efforts of business, labor and education; the curriculum and instructional materials to be used; the population to be served; and a general assessment of the future workforce needs of the area.

Assurances must also be provided that the entity will: provide adequate representation from business and labor; coordinate projects described with existing federal programs; will use federal funds to supplement, not replace, non-federal funds; and will contribute non-federal funds in the amount of 10% the first year, 20% the second year, and 30% the third year.

Sec. 504—Use of Funds.

Grants awarded under section 502 will be used to: combine school-based and work-based learning and link secondary education with postsecondary education or advanced training; provide, in consultation with employers and employees, work opportunities and broad-based training linked to academic course work; develop recognized, portable academic and occupational skill standards; develop curricula and instructional materials; designate a liaison to the National Clearinghouse on a High Skills Workforce.

Discretionary uses include: establishing job training programs for teachers, labor organizations, and employers; parental involvement activities; guest speaker programs and other activities.

Sec. 505—Selection Requirements.

In awarding grants, the Commission will give priority to those entities which have labor, business, and educational organizations represented and are located in areas with high poverty or unemployment. The Commission will attempt to equitably distribute grants between rural and urban areas.

Sec. 506—Allocation Requirement.

Limits amount of any single grant to 5% of the amounts appropriated or $100,000, whichever is greater.

Sec. 507—Report.

An entity which receives a grant must submit a report to the Commission containing a description of projects, the number of individuals served, and an evaluation of the project.

Sec. 508—Eligible Entity Defined.

An eligible entity is defined as a consortium with representatives from: a. a business or industry association; b. a labor organization or worker representative group; c. an educational institution or training organization. The consortium may also include: a community-based organization; a private industry council; a public or vocational school; and a township, county or municipality.

Sec. 509—Authorization of Appropriations.

Authorizes appropriations of $25,000,000 per year for FY 1993–1997.

TITLE VI—NATIONAL INFORMATION CLEARINGHOUSE ON A HIGH SKILLS WORKFORCE

Sec. 601—Purpose.

To establish a National Information Clearinghouse on a High Skills Workforce for the collection and dissemination of school-to-work transition data.

Sec. 602—Establishment.

Directs Secretary of Labor, in consultation with the Secretary of Education, to establish a Clearinghouse within the Department of Labor.

Sec. 603—Duties.

The Clearinghouse shall: gather and compile information on different school-to-work transition programs; establish and operate a national database; provide training and technical assistance; create an Industry Worker Training Databank to compile statistics on worker training offered nationwide in each industry; and compile information on health, safety, and pension laws relating to school-to-work transition.

Sec. 604—Report.

The Secretary of Labor shall submit an annual report containing a compilation of the information received by the Clearinghouse and an evaluation of its effectiveness.

Sec. 605—Authorization of Appropriations.

Authorizes appropriations of $1,000,000 per year for FY 1993–1997.

TITLE VII—NONDUPLICATION, NONDISPLACEMENT, NONDISCRIMINATION AND OTHER REQUIREMENTS

Sec. 701—Nonduplication.

Prohibits assistance under the Act to a private non-profit entity to conduct identical or equivalent services provided by a state or local government in which the entity is located. Prohibits the use of funds to establish a school-to-work program in an occupation if there is an existing apprenticeship program for that occupation in the same metropolitan statistical area, without the consent of the existing apprenticeship.

Sec. 702—Nondisplacement.

An employer participating in a program under this Act shall not displace an employee or position, including partial displacement, or infringe in any manner on the promotional opportunity of an employee.

A participant under this program shall not: engage in any services assigned to another employee; perform services which will supplant the hiring of a full-time worker; perform any duties formerly assigned to a full-time worker.

Sec. 703—Nondiscrimination.

All standards, activities and programs funded under this Act shall be free of discrimination and bias.

Sec. 704—Other Requirements.

None of the amounts appropriated under this Act may be used by states to attract or induce existing businesses to relocate from another state. Programs funded under this Act shall not impair existing contracts or collective bargaining agreements.

MISTAKE TO REDUCE FUNDING FOR U.S. TOURISM PROMOTION

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. TALLON. Mr. Speaker, I have been proud for the past 3 years to chair the Congressional Travel and Tourism Caucus. Tourism is America's second largest export that generates $330 billion annually in revenue and is the Nation's largest employer.

Yet, we as a Nation are ranked about 64th in terms of how much we invest in tourism promotion.

The House Appropriations Committee has approved a budget of $14.1 million for our national tourist office—the U.S. Travel and Tourism Administration [USTTA]. This is $3.3 million less than the administration request and $3.4 million less than the fiscal year 1992 budget. As tourism continues to help improve our Nation's balance of trade and bring dollars into our economy, it is certainly not cost effective to decrease the funding for the agency that plays a tremendous role in bringing these visitors to our country.

My home State of South Carolina has been involved with Delta Airlines in an innovative marketing campaign to the United Kingdom. This is being done in conjunction with USTTA, which just completed their historic promotional campaign in the United Kingdom featuring a video invitation from the President inviting the Brits to our shores.

USTTA's calculations are that, as a result of their campaign, British "intent to travel" to the United States, strictly as a result of this campaign, is up by a whopping 37 percent. Even by conservative estimates this will result in an additional $240 million in receipts from international travel to the United States. This is proof positive that the benefits from USTTA's work is multiplied several times over in producing economic activity and jobs that our economy needs.

I heartily urge our conferees to live up to our commitment to the future of our economy and adopt the administration's request of $17.45 million for USTTA's work.

IS THE ADMINISTRATION GIVING AWAY THE U.S. SUPER COMPUTER INDUSTRY?

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. CONYERS. Mr. Speaker, I recently chaired a series of hearings by the legislation and National Security Subcommittee on U.S. Government efforts to protect the United States supercomputer industry from unfair predatory Japanese trade practices. These hearings confirmed my worst fears, both about Japan's intentions and the United States Government's willingness to respond. The United States is in danger of losing our super computer industry to the Japanese.

It is clear that Japan has targeted our supercomputer industry for elimination and has embarked on a carefully crafted, long-term, predatory campaign to replace the United States as the world's leading supplier of supercomputers. This campaign threatens not only U.S. supercomputer suppliers but the entire Nation. I am convinced that the maintenance of a domestic supercomputer industry is essential to U.S. national security and our overall industrial competitiveness. As part of its strategy, Japan has virtually closed its government supercomputer market to United States competition and unleashed one of its supercomputer firms on a predatory campaign in the United States to compete for crucial United States Government procurements.

The United States Government cannot afford to stand idly by and watch Japan destroy yet another world-class American industry. The administration apparently agrees. Unfortunately, despite an arsenal of tough new trade remedies, the administration has responded by trotting out the same weak trade strategies that could not protect the American auto, consumer electronics, color television, and semiconductor industries from Japanese economic aggression. These same weak trade strategies have contributed to depressed communities, joblessness, and a host of other social problems that plague the United States.

I was disturbed to learn that, despite 5 years of negotiations, led by the Trade Representative's office, and two United States-Japan supercomputer agreements, Japanese Government agencies continue to discriminate against United States competition. An agreement reached in 1987 was a failure. The Japanese Government did not purchase even one supercomputer using the procedures contained in that agreement. Further, industry experts tell me that the Japanese Government does not appear to be complying with a 1990 expansion of the 1987 agreement.

The administration also lacks a supercomputer acquisition policy to deal with the threat to national security posed by this new Japanese competition. It appears that, in the absence of a clear and rational policy, the Trade Representative's office has used its influence to derail NASA efforts to protect national security by using an "industrial mobilization" exemption to exclude Japanese firms from its Marshall EADS II and Ames HSP–3 supercomputer procurements. As a result, NASA is currently conducting an unrestricted procurement for the Marshall supercomputer and a distributor of Japanese supercomputers is participating in the Ames procurement and may gain access to highly sensitive information on aeronautics research and high-performance computing.

I am deeply concerned about what I have learned and plan to work with the administration to strengthen our responses to the Japanese threat in both the areas of international trade and United States Government procurement. As a first step, I have written a letter to

Japanese Ambassador Takakazu Kuriyama urging Japan's compliance with the 1990 United States-Japan Supercomputer Agreement. I will continue to monitor the situation and act as appropriate, and I urge my colleagues to become active in this matter of crucial importance to our Nation's security and industrial competitiveness.

TRIBUTE TO PATRICIA K. WHITE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly special individual, Ms. Patricia White, from Clare, MI. Pat is being honored by her peers, and the Clare Kiwanis Club in recognition of 17 demanding years of service as a circus animal trainer. Truly this is a very special occasion for Pat. Pat's involvement in family entertainment is especially noteworthy at a time when the family is increasingly experiencing hardships from many different directions. Pat's ability to fascinate and dazzle audiences has provided a temporary reprieve for many families over the years.

Pat is a genuinely exceptional person, who has given unselfishly of herself to provide decent, wholesome entertainment to families across the Nation. Pat has endured 17 years of grueling work, often performing two shows a day, 7 days a week. This reveals the commitment and enthusiasm that Pat has shown for her work and the families she has captivated.

The wholesome form of entertainment she provided was an indispensable escape for families. I commend Pat for her many years of service to family entertainment. I know you will join me and the citizens of Clare in congratulating Pat on her retirement and wish her continued success in future endeavors.

TRIBUTE TO THE EARL W. GERSTACKER FAMILY

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. CAMP. Mr. Speaker, it is with a great sense of pleasure that I rise today to honor the Earl W. Gerstacker family. The Gerstacker family is celebrating the Centennial celebration of their family farm, a truly special occasion. The Gerstacker family farm was recently declared a Centennial farm by the Michigan Historical Commission. This rare honor is in tribute to the Gerstacker family who have farmed for a remarkable 100 years. It is the first Centennial farm in the township of Larkin.

The Gerstacker story is one that epitomizes the wonderful opportunities that America has unfolded and laid before its citizenry to grasp. Earl Gerstacker's immigrant grandparents first settled on the family farm in 1892 after purchasing the traditional 40 acres. Nineteen years later they purchased 40 more acres. During the Depression the Gerstacker family worked additional jobs as a means of supplementing the farm. Through thoughtful planning and endless hours of hard work Earl Gerstacker and his family continued to expand the farm to its current size of 775 acres. The arduous work ethic developed from this agricultural background, and passed from one generation to the next has allowed the Gerstacker's to remain successful in the same occupation that their parents and grandparents chose an astounding 100 years ago.

The perseverance and commitment exhibited by the Gerstacker family as well as the success and prosperity of their farm is truly an uplifting story. I know you will join with me and the citizens of Midland County in congratulating the Gerstacker family for achieving the rare distinction of a Centennial farm.

HUMAN RIGHTS IN IRAN

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. McCOLLUM. Mr. Speaker, I rise to bring to Members attention Iran's current internal situation. Iranian troops are rounding up people and putting them in jail, shooting into crowds, and hanging protestors. European papers have reported that in the last 6 weeks rioting has taken place in the Iranian cities of Arak, Dezful, Sheiraz, Mashhad, Bukan, and most recently Tabriz. Over 300 people have been killed by the Government, with 21 protestors hanged in the Iranian city of Mashhad.

The Revolutionary Guard, which is the primary force in Iran, was too sympathetic with the protestors and could not be trusted to fire on the crowds. Instead, the government used the Ashura division, a group of religious zealots brainwashed to follow any command of the Khomeini cause.

Dr. Assad Homayoon, a leading exiled Iranian leader with many followers both in Iran and around the world, explained that Iran's tense internal situation is the result of two things: First, a desperate economic situation that the people see no relief from under the current government, and, second, the lack of freedom and numerous human rights violations. Amnesty International has documented cases of Iranian torture, executions, and political imprisonment and called on the Rafsanjani government to "halt persistent gross violations of human rights."

It is an outrage that while European and Arab papers are condemning the Iranian Government for the brutal treatment of their own people, three is not any mention or apparent interest of this in the American press.

The people in Iran need to see that they have international support, that we, in America, are aware and outraged at the brutality of the Government in Iran. In California, 3,000 Iranians gathered to express solidarity with their brethren in Iran that are under such desperate conditions.

TRIBUTE TO THE JOEL E. WARNER TOP OF THE CIRCUS FANS OF AMERICA

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 30, 1992

Mr. CAMP. Mr. Speaker, it is with a great sense of admiration that I rise today to recognize a truly extraordinary group of people, Michigan's chapter of Circus Fans of America, the Joel E. Warner Top. This spirited group of individuals plan to honor the American family in a celebration that will take place in Clare, MI, on August 21. This chapter proudly proclaims the importance of families.

The circus, one of the greatest traditions of family entertainment, has a special place in the hearts of these devoted and caring individuals. Performances that can amuse, electrify, and captivate an entire family are especially rare at a time when sound family entertainment is increasingly difficult to find. The uniqueness of this entertainment is that it offers something for every age in a true family atmosphere. Chapter members are appropriately calling their extravaganza the celebration of the family. The upright, wholesome entertainment provided by the circus and its performers is without doubt a family event that can be enjoyed and savored by all.

The tireless work of those making the celebration possible illustrates their commitment and important contributions to the very meaningful work of providing quality family entertainment. I know you will join with me and the citizens of Michigan in congratulating the Joel E. Warner Top of Circus Fans of America for their unyielding commitment and allegiance to the institution of the family.